

Development application—decision under delegated authority

Development Permit for Reconfiguring a lot - Boundary Realignment (2 into 2 lots) at 345 Cockings Road, Dundarra on land described as lot 104MZ277 and 23MZ294—Code assessable development application under the Planning Act 2016

Application reference: DA230016

1 Proposal summary

- (1) The applicant seeks a Development Permit for Reconfiguring a Lot - Boundary Realignment (2 into 2 lots) at 345 Cockings Road, Dundarra; land described as lot 104MZ277 and 23MZ294.
- (2) The stated objective of the proposal is to realign the boundaries to provide lots that are consistent with the outcomes of the rural zone.
- (3) The proposed development results in an improved layout as both lots will have access to a formed road.
- (4) The site is used for pastoral purposes. The existing lot 104 accommodates an agricultural building.
- (5) The Council must assess the application against the assessment benchmarks, having regard to those matters set out in the *Planning Act 2016* and *Planning Regulation 2017*, and decide the application in accordance with the decision rules in s60(2) and s60(5). The attached Statement of reasons sets out the rationale for deciding to approve the application.

2 Recommendations

- (1) That the Council or its delegate, having regard to the matters set out in the Statement of reasons, decide the application under s60(2) of the *Planning Act 2016* by approving all of it subject to conditions.
- (2) That the Council notify the applicant of its decision in accordance with the attached Decision Notice.
- (3) That the Council publish the Decision Notice, including the Statement of reasons, on its website.
- (4) Council can no longer issue a charges notice in accordance with its Charges Resolution (No. 2) 2015 as it did not make a Local Government Infrastructure Plan by 1 July 2018.

3 Decision

I concur with the above recommendations—please issue the Decision Notice as recommended.

for 

Rachael Duncan
Acting Planning and Environment Manager
(Delegate of North Burnett Regional Council)

24 May 2023

Date

4 Statement of reasons

This statement explains the reasons for the assessment manager's decision in relation to a development application for Reconfiguring a Lot - Boundary Realignment (2 Into 2 Lots) at 345 Cockings Road, Dundarra; land described as 104MZ277 and 23MZ294. The statement is required under **section 63 Notice of decision** of the *Planning Act 2016*.

4.1 Facts and circumstances

- (1) The application was deemed properly made on 4 April 2023
- (2) Council did not issue a confirmation notice as it was not required under s2.2 of the Development Assessment Rules
- (3) The application does not trigger any referrals.
- (4) The application included insufficient information and it was necessary to issue an information request on 5 May 2023. The applicant responded on the 10 May 2023.
- (5) The following matters have been key considerations for the assessment manager—
 - (a) material about the application, including the proposal plans and the applicant's report;
 - (b) the North Burnett Regional Planning Scheme 2014 v1.4 (amendments commenced 17 August 2020), to the extent relevant; and
 - (c) the SPP, to the extent that it is not appropriately integrated in the planning scheme.

4.2 Category of assessment

- (1) The site is in the rural zone (intensive agriculture precinct) and is surrounded by other rural lots.
- (2) The proposal is identified as code assessable against reconfiguring a lot (boundary realignment) and associated operational works
- (3) The proposed also requires assessment against the following overlay code—
 - (a) Bushfire hazard overlay code; and
 - (b) Natural features or resources overlay code.
- (4) In accordance with s60(2) of the Planning Act 2016, to the extent the application involves development that requires code assessment, the Council—
 - (a) must decide to approve the application to the extent the development complies with all of the assessment benchmarks;
 - (b) may decide to approve the application even if the development does not comply with some of the assessment benchmarks; and
 - (c) may, to the extent the development does not comply with some or all the assessment benchmarks, decide to refuse the application only if compliance cannot be achieved by imposing development conditions.

4.3 Assessment benchmarks

4.3.1 State planning instruments

- (1) *Regional plan*—the Wide Bay Burnett Regional Plan is appropriately integrated in the planning scheme and does not require further or separate consideration for Council to decide the application.
- (2) *State planning policy*—there are no State interest statements, policies or benchmarks relevant to this application.

4.3.2 Assessment against the planning scheme

- (1) The application is generally compliant to the reconfiguring a lot (boundary realignment) and associated operational works code, bushfire hazard overlay code and natural features and

resources overlay code. Parts of the codes are not applicable to the application with characteristics of the site remaining the same.

- (2) A more comprehensive assessment against the performance outcomes has been done, however in summary, as to the proposed boundary change enhances the usefulness and access, the proposal would comply with the relevant performance outcomes.
- (3) As the Council's assessment is limited to the performance outcomes, any conditions must only relate to those assessment benchmarks

4.3.3 Reconfiguring a lot (boundary realignment) and associated operational works code

- (1) The proposal complies with the reconfiguring a lot (boundary realignment) and associated operational works code—
 - (a) it achieves the purpose and overall outcomes of the code;
 - (b) it complies with the performance outcomes of the code, specifically—
 - (i) rearranging the lots supports the intent of the rural zone by providing more useable land and road frontage for both lots.
 - (ii) revised layout maintains areas of farmable land within two (2) appropriately sized rural parcels ensuring that the land is sustainably managed whilst maintaining the character, visual amenity and rural landscape character;
 - (iii) a safe, lawful and practical access to Cockings Road is available to both lots (with suitable accesses existing).
 - (iv) proposed layout provides building envelopes outside of constrained areas in contrast to the current layout.

4.3.4 Overlay codes

- (1) The proposal complies with the *Bushfire Hazard overlay code* as—
 - (a) it achieves the purpose and overall outcomes of the code;
 - (b) it complies with the performance outcomes of the code;
 - (c) the proposed use will not increase the risk to people or property. There is suitable area on both proposed lots for a dwelling to be constructed with the buffer zone or outside of the bushfire hazard zone;
 - (d) dams and water sources exist on the site containing a quantity of water that is suitable given the level of development;
 - (e) any future dwelling would be assessable against the bushfire hazard code if it does not comply with the acceptable outcomes of the bushfire hazard code.
- (2) The proposal complies with the *Natural Features and Resources overlay code* as—
 - (a) it achieves the purpose and overall outcomes of the code;
 - (b) it complies with the performance outcomes of the code
 - (c) the proposed realignment will consolidate the agricultural land classified as Class A or B therefore reducing the existing fragmentation,
 - (d) suitable sites are available for future structures to be built outside of the mapped MSES area and as such infrastructure will not affect the identified MSES areas.

4.4 Consultation

4.4.1 Internal stakeholder comments

- (1) Internal review by Civil Works, Water and Waste Water, Disaster Management teams was not required due to the minimal risks and assessment requirements for the existing use.

4.4.2 External stakeholder comments

- (1) The application did not require referral to SARA under Schedule 10 of the *Planning Regulation 2017*.

4.4.3 Public consultation

- (1) The application did not require public notification.

4.5 Key issues for this application

- (1) The assessment manager considers that the following matters have been instrumental in its decision—
 - (a) *Compliance with the assessment benchmarks*—the proposal is compliant with the relevant assessment benchmarks;
 - (b) *Intensity and scale*—the proposed realignment is compatible with the rural character of the locality and considers all site constraints;
 - (c) *Infrastructure*—the site has access to a constructed road;
 - (d) *Hazards*—the proposed use would not alter existing hazards with all structures located to mitigate associated risks;
 - (e) *Natural features and resources*—proposal will have minimal impact on environmental values and has the capacity to enhance the usefulness of the good quality agricultural land; and
 - (f) Compliance with the assessment benchmarks—the proposal complies with the relevant assessment benchmarks.

4.6 Decision rules under the *Planning Act 2016*

- (1) The assessment manager—
 - (a) must approve if the proposal complies with all the assessment benchmarks;
 - (b) may approve if the proposal does not comply with some assessment benchmarks;
 - (c) may impose conditions;
 - (d) may refuse the application only if the proposal does not comply with some of the benchmarks and conditions cannot achieve compliance;
 - (e) may give a preliminary approval for all or part of the proposal.
Section 60(2) of the Planning Act 2016 sets out the decision rules for code assessment.
- (2) Development conditions must—
 - (a) be relevant to but not an unreasonable imposition; and
 - (b) be reasonably required as a consequence of the development.
Section 65 of the Planning Act 2016 limits the nature of approval conditions.
- (3) Having regard to the above matters and after assessing the application against the assessment benchmarks, the assessment manager decides to approve the application and impose conditions in accordance with the decision rules.