

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 (5 lots into 4 lots) at Cania Road and Youlambie Road, Three Moon on land described as Lot 86 on RP809461; Lot 87 on RW169; Lot 92 on RW555; Lot 93 on RW159 and Lot 1 on RP809461 and Building Works Not Associated With A Material Change of Use on lot 93 on RW159.. The statement is required under **section 63 Notice of decision** of the *Planning Act 2016*.

4.1 Facts and circumstances

- (1) The site is in and surrounded by lots in the Rural zone—Intensive Agricultural and Hinterland precinct.
- (2) The application was lodged on the 10 September 2019 and deemed properly made on 24 September 2019.
- (3) A notice about change to development application was received on the 20 September 2019 and confirmation notice was issued on the 24 September 2019
- (4) The application required referral to State Assessment Referral Agency as a new access point for lot 93 is proposed onto Cania Road, which is a state controlled road. SARA issued a confirmation notice on 27 September 2019 and Decision Notice on 28 October 2019. An information request was not issued.
- (5) Although the site contain matters of state environmental significance being regulated vegetation, the application does not require referral under Schedule 10 of the *Planning Regulation 2017* as the size of any lot created would not be 25ha or less and clearing was not proposed.
- (6) The application included sufficient information and it was not necessary to issue an information request.
- (7) 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, 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 proposal is identified as Code assessable against the Reconfiguring a lot (boundary realignment) and associated operation work code.
- (2) The proposal also requires assessment against the following overlay codes—
 - (a) Bushfire hazard overlay code as the site is within a very high to medium hazard bushfire risk area;
 - (b) Flood hazard overlay code as the allotments are within a flood hazard area;
 - (c) Infrastructure overlay code as the site adjoins a state controlled road;
 - (d) Natural features or resources overlays code as the site contains Matters of State Environmental Significance—Regulated vegetation and agricultural land classification Class A and B.
- (3) 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

- (1) A basic assessment against the assessment benchmarks for the boundary realignment is provided in the report and associated documentation submitted with the application. The building works not associated with a Material Change of Use has more in-depth detail.

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 States interests, policies or benchmarks relevant to this application¹. Due to the nature of the proposal and insignificant departure of the SPP from the planning scheme, compliance with the planning scheme is considered appropriate.

4.3.2 North Burnett Regional Planning Scheme

4.3.2.1 Reconfiguring a lot (boundary realignment) and associated operational work code

- (1) The proposal complies with the Reconfiguring a lot (boundary realignment) and associated operational work 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 area and frontage of lots 92, 93 and 87 would exceed the minimum area and road frontage requirements prescribed by Table 9.4.10;
 - (d) the proposed area for lot 1 does not meet the minimum area requirements, but it exceeds the requirement for road frontage as prescribed by table 9.4.10.
 - (e) the lots would have a suitable building envelope with safe, lawful and practical access to a constructed road, and be outside identified hazard areas;
 - (f) the new lot layout would be compatible with other development in the locality considering the area, proportion, orientation and road frontage.
 - (g) the new lot layout allows all of the quarry use to be amalgamated on one lot, without alienating the rural land use for agricultural purposes.

4.3.2.2 Overlay codes

- (1) The proposal complies with 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) all lots would contain suitable building envelopes and vehicle access areas that are outside identified hazard areas.
- (2) The proposal complies with the Flood 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) all of lot 93 would be within an identified flood hazard area except for the hill on the southern boundary, and has suitable building envelope. Vehicle access would be achievable with a 5%AEP.
 - (d) all other lots have building envelopes and vehicle access points that are outside the identified hazard area.
- (3) The proposal complies with the Infrastructure overlay code as—
 - (a) it achieves the purpose and overall outcomes of the code;
 - (b) it complies with the performance outcomes of the code

¹ When the planning scheme commenced on 3 November 2014 it appropriately integrated all aspects of the State Planning Policy then in force. The SPP that commenced on 3 July 2017 is quite similar, however the *Planning Act 2016* requires the assessment manager to assess the application against the SPP Part E (State Assessment Benchmarks) because the planning scheme does not identify it as having been 'appropriately integrated' into the scheme.

- (c) the proposal would have minimal impact on state controlled road (Cania Road), as there is not an intensification of the existing uses and one new driveway access proposed onto Cania Road, which triggered referral to WBB SARA.
- (4) The proposal complies with the Natural features or resources overlays code as—
 - (a) it achieves the purpose and overall outcomes of the zone code;
 - (b) it complies with the performance outcomes of the zone code; and
 - (c) impacts on the environmental values are avoided as the new boundary across existing lot 86 is already fenced therefore identified MSES areas will not be impacted. All other lots are divided by existing boundaries or road corridor.

4.4 Consultation

4.4.1 Internal stakeholder comments

- (1) The application was referred to Consultant Engineer and Environmental Health team. Officers did not raise any objections to the proposal and do not require any special conditions to be included in any decision notice.

4.4.2 External stakeholder comments

- (1) The application required referral to State Assessment Referral Agency under Schedule 10, Part 9, Division 4, Subdivision 2, Table 1, Item 1 of the *Planning Regulation 2017*.

4.4.3 Public consultation

- (1) The application did not require public notification as it was code assessable.

4.5 Key issues for this application

- (1) The assessment manager considers that the following matters have been instrumental in its decision—
 - (a) *Land use configuration*—all lots would be compatible with other development in the locality considering the area, proportion, orientation and road frontage. The quarry will be located onto one lot. The majority of good quality agricultural land has been amalgamated into one lot, therefore reducing existing fragmentation.
 - (b) *Hazards*—all lots would contain an appropriate building envelope and vehicle access that are outside identified bushfire and flood hazards.

These matters have been derived from the 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.