

Development application—decision under delegated authority

Building Work Assessable against the Planning Scheme—Dwelling at 968 Cahalane Road, Monal Q 4631 on land described as Lot 66 on RW129—Code assessable development application under the *Planning Act 2016*

Application reference: 168/19

1 Proposal summary

- (1) The applicant seeks a development permit for building work assessable against the planning scheme—dwelling at 968 Cahalane Road, Monal Q 4631 on land described as Lot 66 on RW129.
- (2) The lot is in the Rural Zone – Intensive Agricultural Precinct and is identified as being within the flood hazard overlay. The site currently does not have a dwelling, and as such the application requires code assessment against the flood hazard overlay code.
- (3) The dwelling would be the only dwelling located on the allotment. The use will also include storage of car/s, onsite wastewater system and rainwater tanks.
- (4) 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 attached 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 Notice of decision.
- (3) That the Council publish the Notice of decision, including the Statement of reasons, on its website.

3 Decision

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

Jeff Miles

Planning & Environmental Manager
(Delegate of North Burnett Regional Council)

16-9-19
Date

4 Statement of reasons

This statement explains the reasons for the assessment manager's decision in relation to a development application for building work assessable against the planning scheme—dwelling at 968 Cahalane Road, Monal on land described as Lot 66 on RW126. The statement is required under **section 63 Notice of decision** of the *Planning Act 2016*.

4.1 Facts and circumstances

- (1) The lot is in the Rural zone, and is identified in the intensive agricultural precinct and flood hazard overlay. The lot is surrounded by lots in the rural zone – intensive agricultural and hinterland precinct.
- (2) The application was deemed properly made on 2 September 2019.
- (3) Council did not issue a confirmation notice as per s2.2 of the Development Assessment Rules—is not required.
- (4) The application did not require referral to state agencies.
- (5) The applicant stated they agree to accept an information request, but the application included sufficient information and it was not necessary to issue an information request.
- (6) 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 relevant code outcomes for development involving a dwelling house and the flood hazard overlay code.

4.3 Assessment benchmarks

- (1) The application is not compliant to the Flood Hazard Overlay Code AO1.2, AO3.1 and AO4.1, though applicant was able to demonstrate that the dwelling habitable room floor levels can achieve the 1%AEP flood levels.

4.3.2 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 application¹.

4.3.3 Dwelling House code

- (1) The proposal complies with the dwelling house 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) it would not adversely affect the character, setting or appearance of the rural zone.

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.

4.3.4 Flood Hazard Overlay Code

- (1) The proposal complies with the flood hazard overlay code as—
 - (a) demonstrated to meet the purpose and overall outcomes of the overlay code;
 - (b) it complies with the performance outcomes of the overlay code.

4.4 Consultation

4.4.1 Internal stakeholder comments

- (1) This application was reviewed by a consultant engineer. In summary, the NBRC flood hazard mapping is likely to be conservative if it is based off the Queensland Reconstruction Authority mapping. The Department of Natural Resources, Mines and Energy Floodcheck site has a newer map as part of a study done in 2015 by KBR which shows some different extents for the property. The report prepared by the surveyors provides a reasonable basis for allowing the Flood Floor Level as requested.

4.4.2 External stakeholder comments

- (1) No external stakeholders were invited to comment on the application, and it would not require referral to the chief executive under Schedules 9 or 10 of the *Planning Regulation 2017*.

4.4.3 Public consultation

- (1) The application did not require public notification and Council did not receive any submissions about the application.

4.5 Key issues for this application

- (1) The assessment manager considers that the following matters have been instrumental in its decision—

Location of dwelling— The proposed development satisfies the performance and acceptable outcomes subject to conditions. It is noted that an alternative house position was available above 1%AEP (280AHD) however the owners had chosen an alternate position at 1%AEP. The owners had engaged an Licensed Surveyor to review available flood data and anecdotal evidence to seek assessment against the Performance and Acceptable Outcomes of the Code. The Surveyor's methodology was reviewed by a Professional Registered Engineer (Qld) and was considered appropriate.

Habitable rooms floor flood level— Surveyor's report nominates the 1% AEP as 280AHD. The proposed floor level of habitable rooms will be 280.3 AHD providing 300mm freeboard. Engineering advice confirms methodology used. There to proposal satisfies AO1.2(c).

Location of services infrastructure— House location site is at 1%AEP. Electrical and telecommunication infrastructure will be compromised at road level. On-site rainwater and wastewater systems will be located at 1%AEP.

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 approves the application and imposes conditions in accordance with the decision rules.**