

# Development application—decision under delegated authority

Reconfiguring a Lot at 4 Bunce Street, Mundubbera on land described as Lot 1 on RP84892—Code assessable development application under the *Planning Act 2016*

Application reference: 125-18

## 1 Proposal summary

- (1) The applicant seeks a Development Permit for Reconfiguring a Lot at 4 Bunce Street, Mundubbera (described as Lot 1 on RP84892).
- (2) The stated objective of the proposal is to subdivide the site into two compliant-sized lots.
- (3) The site has an area of 2046m<sup>2</sup>.
- (4) The Council must assess the application against the assessment benchmarks, and 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.
- (4) That the Council issue a charges notice in accordance with its Charges Resolution (No. 2) 2015.

## 3 Decision

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



R Burton  
Interim Chief Executive Officer  
(Delegate of North Burnett Regional Council)

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 at 4 Bunce Street, Mundubbera on land described as Lot 1 on RP84892. 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 the General residential zone and is surrounded by other General residential lots.
- (2) The application was deemed properly made on 15 June 2018.
- (3) The application does not trigger any referrals.
- (4) Council issued the Confirmation notice on 18 June 2018.
- (5) The application included sufficient information in the application 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 plan and the applicant's report;
  - (b) the SPP, to the extent that it is not appropriately integrated in the planning scheme;
  - (c) development approvals and the lawful use of adjacent land.

### 4.2 Category of assessment

- (1) The proposed reconfiguring is Code assessable requiring assessment against the Reconfiguring a lot (except excluded reconfiguration) code, Infrastructure and operational work code and the purpose of the General residential zone code.
- (2) The site is partly within scheme overlays and is therefore also assessable against the following overlay codes—
  - (a) Flood hazard overlay code.

### 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*—the State's interests were relevant to deciding this application to the following extent<sup>1</sup>—
  - (a) *Water quality*—the development outcomes associated with the proposal do not conflict with or are consistent with the State's interests in protecting the environmental values of Queensland waters; the assessment benchmarks do not apply to the proposed development (ie. the site is not 2500m<sup>2</sup> or greater and six or more lots will not result);

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<sup>1</sup> 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.

- (b) *Natural hazards, risk and resilience*—the development outcomes associated with the proposal do not conflict with or are consistent with the State’s interests in avoiding or mitigating risks associated with natural hazards to protect people and property; the assessment benchmarks do not apply to the subject site (ie. the new lot would provide a reasonable potential building envelope outside the flood hazard area).

#### **4.3.2 Zone code**

- (1) The proposal complies with the purpose of the General residential zone code as—
  - (a) it achieves the purpose and overall outcomes of the zone code – i.e. provides for residential activities.

#### **4.3.3 Overlay codes**

- (1) The proposal complies with the Planning Scheme 8.2.3 Flood hazard overlay code as—
  - (a) proposed Lot 3 would have sufficient area outside the Flood hazard overlay area for a reasonably sized potential building envelope;
  - (b) any new dwelling on proposed Lots 3 and 4 is required by the Decision Notice to have a minimum habitable floor level at least 300mm above the 2013 flood level;
  - (c) no material change of use or works proposed or required, including within the Flood hazard overlay area.

#### **4.3.4 Other development codes**

- (1) The proposed realignment complies with the Planning Scheme 9.4.4 Reconfiguring a lot (except excluded reconfiguration) code as—
  - (a) the area and frontage of each new lot exceed the minimum 800m<sup>2</sup> and 18m prescribed by 2014 Planning Scheme Table 9.4.10 Minimum areas and frontages for lots for General residential (if not a rear lot) lots;
  - (b) proposed Lot 3 would have a suitable building envelope above the 2013 flood level;
  - (c) the site does not contain any significant natural features or resources.
- (2) The proposed realignment complies with the Planning Scheme 9.4.3 Infrastructure and operational work code as—
  - (a) the new lots can readily connect to the reticulated water supply and sewerage and overhead electricity infrastructure existing along the frontage of each new lot.

### **4.4 Consultation**

#### **4.4.1 Internal stakeholder comments**

- (1) Council’s Technical Services identified appropriate conditions of the approval.
- (2) No other officers were invited or commented on the application

### **4.5 Key issues for this application**

- (1) The assessment manager considers that the following matters have been instrumental in its decision—
  - (a) the size and dimensions of the new lots comply with the minimum lot sizes prescribed for General residential zone lots;
  - (b) the new lots can be readily serviced by existing and/or modified infrastructure connections.

*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.