

Development application—decision under delegated authority

Development permit for Reconfiguring a lot – one lot into two lots at 7 Cordelia Street, Gayndah on land described as Lot 3 on SP242011—Code assessable development application under the *Planning Act 2016*

Application reference: DA220031

1 Proposal summary

- (1) The applicant seeks a development permit for reconfiguring a lot—one (1) lot into two (2) lots, located at 7 Cordelia Street, Gayndah on land described as Lot 3 on SP242011.
- (2) The objective of the proposal is to create one additional lot being proposed lot 3 with an approximate area of 2,544m² with 34.1m frontage to Cordelia Street and 57m frontage to Frances Street.
- (3) The proposed reconfiguration satisfies the minimum lot size and frontage requirements for land in the General Residential zone.
- (4) Proposed lot 2 will retain the existing house and shed, with the intention for proposed lot 3 to be developed with a future residential activity.
- (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) of the *Planning Act 2016*. The 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 

David Rowland

**Interim Planning & Environment Manager
(Delegate of North Burnett Regional Council)**

25 November 2022

Date

4 Statement of reasons

This statement explains the reasons for the assessment manager's decision in relation to a development application for a development permit for Reconfiguring a lot (1 lot into 2 lots) at 7 Cordelia Street, Gayndah on land described as lot 3 on SP242011. The statement is required under section 63 Notice of decision of the *Planning Act 2016*.

4.1 Facts and circumstances

- (1) The application was properly made on 28 July 2022.
- (2) Council issue a Confirmation notice 4 August 2022.
- (3) The application included insufficient information and it was necessary to issue an information request. Council issued an Information request on 16 August 2022. The applicant responded on the 14 October.
- (4) 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 SPP, to the extent that it is not appropriately integrated in the planning scheme;
 - (c) That there is sufficient building envelope for the construction of buildings and structures to avoid existing or planned infrastructure.

4.2 Category of assessment

- (1) The site is in the General Residential zone and is surrounded by general residential land on three sides and industrial land that is separated by Frances Street.
- (2) The proposal is identified as code assessable against the Reconfiguring a lot (except excluded reconfiguring).
- (3) In accordance with s60(S) 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 of the assessment benchmarks, decide to refuse the application only if compliance cannot be achieved by imposing development conditions.

4.3 Assessment benchmarks

A basic assessment against the assessment benchmarks is provided in the report and associated documentation submitted with the applications. Such assessment confirms that the matter is relatively straight forward and it is not necessary to carry out a more detailed assessment for compliance

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 Planning Policy is appropriately integrated in the planning scheme and does not require further or separate consideration for Council to decide the application.

4.3.2 Reconfiguring a lot (exempt excluded reconfiguring)

- (1) The proposed subdivision complies with the relevant acceptable outcomes and performance outcomes of reconfiguring a lot (except excluded reconfiguring) code as—
- (a) It achieves the purpose of the code;
 - (b) It complies with the performance outcomes of the code, specifically—
 - (i) the proposed lots are regular in shape and meet the minimum lot size and frontage requirements for land in the General Residential Zone;
 - (ii) sewer connection location for existing dwelling is to be located and if required moved so that each lot's connection point is solely within the individual lots;
 - (iii) suitable building envelope is available on proposed lot 3 without need to encroach on the setbacks to sewerage infrastructure that traverses the centre of the proposed lot. To prevent future building encroachment an easement over the sewer infrastructure with 1.2m either side of the main alignment is required; and
 - (iv) a safe, lawful and practical access to Cordelia or Frances Street is to be provided for proposed lot 3 and is existing for lot 2.

4.3.3 Infrastructure and Operational Works Code

- (1) The proposed subdivision complies with the relevant acceptable outcomes and performance outcomes of infrastructure and operational works code as—
- (a) It achieves the purpose of the code
 - (b) It complies with the performance outcomes of the code, specifically—
 - (i) the separation distance between the proposed new lots to the industrial land nearby is comparable with other residential uses in the area. Therefore, separation distance is sufficient, and landscaping is not required.
 - (ii) sewer connection location for existing dwelling to be located and if required moved so that each lot's connection point is solely within the individual lot.
 - (iii) water and sewer connection is existing for lot 2 and possible for proposed lot 3;
 - (iv) telecommunication and electricity infrastructure is existing for lot 2 and available for proposed lot 3.
 - (v) lawful discharge of stormwater infrastructure to Cordelia and Frances street, existing curb and channel exists;
 - (vi) street lighting is existing;
 - (vii) road infrastructure is of appropriate design and capacity; is safe, efficient, and maintains the safety of all users.

4.3.4 Purpose of the General Residential Zone Code

- (1) The proposal complies with the purpose of the general residential zone code—
- (a) It achieves the purpose and overall outcomes of the zone code, as proposed use of the lots is to remain as residential in nature.

4.3.5 Overlay codes

- (1) The proposal did not trigger assessment against overlay codes.

4.4 Consultation

4.4.1 Internal stakeholder comments

- (a) Water and Wastewater Services provided the following--
 - (i) proposed lot 3 to include an easement over sewerage infrastructure to protect from future building encroachment.
 - (ii) Identification of existing water and sewer connection location and internal line infrastructure so that each lot's connection point is solely within the individual lot.

4.4.2 Referral agency response

- (a) The application did not require referral to DSDMIP under Schedule 10 of the Planning Regulation 2017.

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) *Lot configuration & Access* – both lots would be compatible with other land uses in the locality considering the locality, orientation and constraints. Both lots are regular in shape, with suitable access and exceed the minimum lot size requirement of the zone.
 - (c) *Appropriate land use* – each lot is able to accommodate any use that is exempt or self-assessable;
 - (d) *Infrastructure (non-trunk) works* – water, sewer, electricity, and telecommunication connection access is readily available, albeit with the sewer easement requirement to protect build encroachment.

Decision rules under the *Planning Act 2016*

- (2) The assessment manager—
 - (a) may approve all or part of the application;
 - (b) may refuse the application;
 - (c) may give a preliminary approval for all or part of the proposal;
 - (d) may impose conditions.

Section 60(3) of the Planning Act 2016 sets out the decision rules for impact assessment.

- (3) 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.

- (4) Having regard to the above matters and after assessing the application against the assessment benchmarks, the assessment manager decides to approve all of the application and impose conditions in accordance with the decision rules.