

# Development application—decision under delegated authority

Development Permit for Material change of use - Multiple dwelling (5 Units) at 22 Dalgangal Road, Gayndah on land described as Lot 21 on SP203242—Code assessable development application under the Planning Act 2016

Application reference: DA230040

## 1 Proposal summary

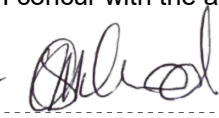
- (1) The applicant seeks a development permit for Material change of use - Multiple dwelling (5 units) at 22 Dalgangal Road, Gayndah; land described as Lot 21 on SP203242.
- (2) The stated objective of the application is to gain approval for Multiple dwelling (5 units).
- (3) The site is an undeveloped, grass-covered site with no significant vegetation.
- (4) The proposed multiple dwelling consists of 5x3 bedroom units with a total site cover of 47.4%. Each unit contains a 4x4m private open space (POS) area directly accessible from the living area.
- (5) Extensive landscaping is featured throughout the site including a 4.2m wide landscape strip at the site frontage exclusive of the driveway area. Landscaping is also proposed at site boundaries, the visitor carparking area and unit frontages.
- (6) Access is proposed from Dalgangal Street via a sealed crossover and following driveway area. A single garage is provided per unit and three (3) visitor carparking spaces are provided with one incorporated toward the site frontage and two at the rear of site.
- (7) Front, rear and side setbacks meet or exceed minimum setback requirements.
- (8) 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 

Kim Mahoney  
General Manager Corporate & Community  
(Delegate of North Burnett Regional Council)

29/11/2023

Date

## 4 Statement of reasons

This statement explains the reasons for the assessment manager's decision in relation to a development application for Material Change of Use - Multiple dwelling (5 units) at 22 Dalgangal Road, Gayndah; land described as Lot 21 on SP203242. 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 19 July 2023.
- (2) Council issued a Confirmation Notice on 31 July 2023.
- (3) The application triggered referral to State Assessment Referral Agency (SARA).
- (4) The application included insufficient information and it was necessary to issue an information request on 15 August 2023. The applicant responded on the 13 October 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 Centre zone situated opposite a caravan park and is mostly surrounded by residential lots (detached dwellings) apart from a commercial use adjoining to the west (service station) that appears to be vacant at present.
- (2) The proposal is identified as code assessable against the—
  - (a) Higher density residential code;
  - (b) Infrastructure and operational work code.
- (3) The proposal does not require assessment against any overlay codes.
- (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

- (1) A basic assessment against the assessment benchmarks is provided in the applicant's report and associated documentation submitted with the application. This assessment confirmed that the matter is relatively straightforward, and it is not necessary to carry out a more detailed assessment for compliance.
- (2) A review of the applicant's planning report confirms that it is a reasonable assessment against the assessment benchmarks and the development mostly complies with all outcomes or compliance may be achieved through appropriate conditions.

#### 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 application.

#### 4.3.3 Higher density residential code

- (1) The proposal complies with the Higher density residential code as—
  - (a) it achieves the purpose and overall outcomes of the code;
  - (b) it complies with the performance outcomes of the code, specifically—
    - i. The site can be accessed in a safe and integrated manner via a sealed constructed road and the proposed vehicle crossover will be designed and constructed in accordance with applicable standards.
    - ii. As a single storey building, the building site cover does not exceed 50% (proposal is only 47.4%).
    - iii. Front, rear and side setbacks meet or exceed the minimum setback requirements.
    - iv. All units provide a sufficient POS area with each unit incorporating a 4x4m POS area (inclusive of covered outdoor balcony).
    - v. The proposed development contributes to an attractive streetscape and softens the appearance of the built form by incorporating extensive landscaped areas throughout the site including a landscaping strip 4.2m wide along the street frontage (excluding driveways) which exceeds the requirement specified in the code.
  - (c) The proposal does not comply with POS outcome described in AO7.1(b), however—
    - i. A landscaping strip at least 1m wide adjacent all side and rear boundaries is required under AO7.1(b). Whilst the rear boundary meets this requirement, the eastern side boundary landscaping strip is proposed at 0.538m wide, below the specified requirement. Despite this shortfall, there is sufficient landscaping throughout the site with additional landscaping at unit frontages adjacent to the driveway area and visitor carparking areas exceeding requirements. The concession on the eastern side boundary in this case is considered acceptable.
    - ii. On balance the development meets the intent of the performance outcome PO6.

#### 4.3.4 Infrastructure and operational work code

- (1) The proposal complies with the Infrastructure and 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) performance outcomes of the code, specifically—
    - i. The development is located where it can readily connect to existing infrastructure services with reticulated sewer, water, telecommunications, electricity and a sealed constructed road all available to site.
    - ii. The development is setback so neighbouring premises retain reasonable visual and acoustic privacy. Appropriate landscaping and fencing along site boundaries are conditioned to further assist in preserving visual and acoustic privacy for both users of the development and adjoining uses.
    - iii. A pedestrian footpath is required at the site frontage in accordance with PO12 of the Planning Scheme. This provides connectivity with a footpath on the opposite

side of Dalgangal Road and affords pedestrian access to the proposed units from the street, particularly for any visitors that choose to park at the site frontage.

- iv. Stormwater from the proposed development is proposed to incorporate stormwater detention to mitigate peak post-development flow rates from the site. The stormwater is proposed to drain to the existing kerb on Dalgangal Road (lawful point of discharge) which flows west (40m) to an inlet pit on the eastern corner of Dalgangal Road. A Stormwater Management Plan (SWMP) prepared by Empire Engineering was submitted in response to a request for more information (RFI) issued by SARA. The plan was reviewed and approved by SARA.
- v. The lot has access to a fully constructed and sealed state-controlled road (Dalgangal Road). A new access crossover designed to the applicable standard would provide access to the site. The applicant has demonstrated suitable turning and manoeuvring and ensures all vehicles enter and exit in a forward gear. Adequate passing opportunities within the site are demonstrated as part of a response to Council's RFI.
- vi. Each unit is provided with one (1) carparking space per unit and three (3) visitor carparking spaces which complies with the requirement specified in Table 9.4.8 of the *Planning Scheme*.
- vii. Standard erosion and sediment controls will be implemented to avoid degradation and adverse impacts on stormwater quality.

## 4.4 Consultation

### 4.4.1 Internal stakeholder comments

- (1) Internal review by Civil Works, Water and Waste Water was undertaken and relevant conditions are attached.

### 4.4.2 External stakeholder comments

- (1) The application required referral to SARA under Schedule 10 of the *Planning Regulation 2017*.
- (2) SARA responded by letter dated 23 October 2023 recommending the development for approval subject to imposition of conditions.
- (3) The decision notice must include the SARA response.

### 4.4.3 Public consultation

- (1) The application was code assessable and 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 or meets the intent of the relevant assessment benchmarks even having regard to AO7.1(b) of the Higher residential density code.
  - (b) *Intensity and scale*—the proposed use is consistent with expectations for a multiple dwelling development in the Centre zone. The proposed development has a total site cover of 47.4% and is compatible with the surrounding residential and commercial development in the locality.
  - (c) *Infrastructure*—the site has access to a sealed, constructed, state-controlled road, Dalgangal Road.
  - (d) *Hazards*—no applicable hazards were identified on site.
  - (e) *Infrastructure (non-trunk) works—Parking, access, and service connections*—Suitable access to the site via Dalgangal Road would be designed and constructed per the relevant standard stipulated in the *Planning Scheme*. The proposed development has

access to connect to all urban services including reticulated water, sewer, telecommunications and electricity. Sufficient car parking would be provided on site in accordance with Table 9.4.8. Plans demonstrate sufficient turning and manoeuvring area on site and vehicles can enter and exit in a forward gear.

- (f) *Landscaping*—extensive landscaping is provided throughout the proposed development enhancing the streetscape and softening the built form.
- (g) *Private open space*—Sufficient private open space is provided to each unit complying with applicable standards in the *Planning Scheme*.
- (h) *Vehicle manoeuvrability*—A request for further information (RFI) was issued to the applicant on the 15 August 2023 identifying a potential vehicle manoeuvrability issue in relation to the driveway width. The applicant was asked to provide further information that demonstrated how safe vehicle passing opportunities were to occur within the development due to the restricted driveway width. The applicant responded with an additional vehicle manoeuvrability plan which demonstrated adequate passing opportunities by utilising the spaces adjacent to Unit 1/2 and 3/4 garages.

#### 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.