

# Development application—decision under delegated authority

Development Permit for Reconfiguring a lot - 1 lot into 2 lots at 6 Macdonald Street, Eidsvold on land described as lot 1 on MPH22732—Code assessable development application under the Planning Act 2016

Application reference: DA230038

## 1 Proposal summary

- (1) The applicant seeks a development permit for Reconfiguring a lot - 1 lot into 2 lots at 6 Macdonald Street, Eidsvold; land described as lot 1 on MPH22732.
- (2) The stated objective of the application is to create one additional lot with the purpose of separating two existing buildings (a Dwelling house and Dual occupancy) on site, so each use has its own title.
- (3) The site has a frontage to Macdonald Street and Shield Avenue, with both existing dwellings accessed from MacDonald Street.
- (4) The site has access to all urban services with the existing dwellings connected to water, sewer, electricity, and telecommunications.
- (5) Proposed Lot A containing the Dwelling house (known as 6 Macdonald Street) has an approximate area of 1,600m<sup>2</sup> and approx. 33m frontage to Macdonald Street. Proposed Lot B containing the Dual occupancy (known as 19 Shield Avenue) has an approximate area of 2400m<sup>2</sup> and approx. frontages of 60m to Macdonald Street and 50m to Shield Avenue.
- (6) The proposed reconfiguration satisfies the minimum lot size and frontage requirements for land in the General Residential Zone.
- (7) The site is used for residential activities with two (2) existing dwellings on site, proposed to be contained on new lots respectively.
- (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 

-----  
Kym Mahoney  
**General Manager – Corporate and Community**  
**(Delegate of North Burnett Regional Council)**

7 September 2023

-----  
*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 - 1 lot into 2 lots at 6 Macdonald Street, Eidsvold; land described as lot 1 on MPH22732. 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 17 July 2023
- (2) Council did not issue a confirmation notice as it was not required under s2.2 of the Development Assessment Rules
- (3) The application does not trigger any referrals.
- (4) The application included sufficient information and it was not necessary to issue an information request.
- (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 condition of existing accesses servicing each proposed lot/existing dwelling;
  - (d) existing dwellings have individual service connections (namely water and sewerage);
  - (e) 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 general residential zone and is surrounded by other general residential lots.
- (2) The proposal is identified as Code assessable against the purpose of the General residential zone code as well as the Reconfiguring a lot (except excluded reconfiguration) code, and Infrastructure and operational work code.
- (3) The proposed development 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 report and associated documentation submitted with the application. Such assessment confirms that the matter is relatively straightforward, however a more detailed assessment for compliance is attached.

#### 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 Purpose of the General residential zone**

- (1) The proposal complies with the purpose of the General residential zone codes as –
- (a) The development provides for residential uses consistent with the locale;
  - (b) The development would maintain residential amenity – i.e proposed lots contain existing residential uses (a Dwelling House and Dual Occupancy) that are both predominately low-intensity residential scale, form and character connected to all available urban services.

#### **4.3.4 Reconfiguring a lot (excluded reconfiguration) code**

- (1) The proposal complies with the reconfiguring a lot (except excluded reconfiguration) code—
- (a) it achieves the purpose and overall outcomes of the code;
  - (b) it complies with the performance outcomes of the code, specifically—
    - i. proposed lots are of regular rectangular shape and exceed the minimum 800m<sup>2</sup> lot size and 18m frontage prescribed in Table 9.4.10 of the Planning Scheme;
    - ii. the existing residential buildings are to be setback from the new boundary in accordance with Table 6.3.1 of the Planning Scheme;
    - iii. lots are found suitable for residential use and already contain established residential uses;
    - iv. lots are connected to all available urban services (such as reticulated water, sewer, telecommunications, and electricity); and
    - v. adequate vehicular access to proposed lots is available from Macdonald Road. Existing vehicular accesses are to be reconstructed to meet current residential standards outlined in SC6.2 Design and construction standards for development works policy.

#### **4.3.5 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, specifically—
    - i. necessary reticulated infrastructure (water, sewer, telecommunications, electricity) is available to site with established connections to existing dwellings in place. Water and waste services advised that it is yet to be confirmed whether two (2) separate water connections are available to each proposed lot. An application for a new connection is required to be submitted to Council to ensure each lot has a separate connection if two individual connections are not already established;
    - ii. the proposal will not alter stormwater drainage;
    - iii. existing vehicular access is provided to each lot from Macdonald Street. Civil works advised that these accesses are required to be reconstructed as they do not meet current residential standards. This is to be in accordance with SC6.2 Design and construction standards for development works policy;
    - iv. Civil works did not advise any required upgrades required to the local infrastructure or road network.

## 4.4 Consultation

### 4.4.1 Internal stakeholder comments

- (1) Water and waste services advised that due to the uncertainty of the current water connection arrangement on site, a condition to be included to ensure two (2) separate water connections are provided to each lot, if not already established. This involves an application to be submitted to Council (fees apply) for a new connection with the applicant responsible for plumbing and assuring there are no cross-connections.
- (2) Civil works provided comment on the development in relation to vehicular access and driveway crossovers. The advice confirmed that the existing vehicular accesses to both proposed lots are to be reconstructed as they do not meet current residential access standards. Technical services advised that a standard concrete access crossover is required for both lots. The access crossovers are to be designed, constructed, and approved by Council's Civil Works Manager in accordance with—
  - (a) the *Infrastructure and operational work code*;
  - (b) Council's adopted standards; and
  - (c) Local laws

### 4.4.2 External stakeholder comments

- (1) The application required referral to SARA under Schedule 10 of the *Planning Regulation 2017*.

### 4.4.3 Public consultation

- (1) The application 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 fully complies with the relevant assessment benchmarks;
  - b) *Reconfiguring a lot – vehicular access* – the existing access crossovers do not meet the required residential standard and therefore are required to be reconstructed in accordance with the applicable residential standard outlined in Schedule 6.2 Design and construction standards for development works policy;
  - c) *Infrastructure*—the site has access to a constructed road with both road frontages, McDonald Street and Shield Avenue, sealed bitumen. Access to both lots is obtained via Macdonald Street;
  - d) *Infrastructure (non-trunk) works* – water, sewer, electricity, and telecommunications access – Existing dwellings on site are connected to water, sewer, electricity, and telecommunications. The application was referred to water and waste services who advised that due to the uncertainty of the current water connection arrangement on site, a condition be included to ensure two (2) separate water connections are provided to each lot, if not already established.

## 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.