

# Development application—decision under delegated authority

Development Permit for Material Change Of Use - Multiple Dwelling (3 units) at 94 Meson Street, Gayndah on land described as lot 10G1345—  
Code assessable development application under the Planning Act 2016

Application reference: DA230045

## 1 Proposal summary

- (1) The applicant seeks a Development Permit for Material Change of Use - Multiple Dwelling (3 Units) at 94 Meson Street, Gayndah; land described as lot 10G1345.
- (2) The stated objective of the application is to gain approval for Multiple Dwelling (3 units).
- (3) The proposal contributes positively to the character of the locality by providing a modern low-rise built form that is sensitive to site constraints, contributes positively to the streetscape and that is commensurate with nearby development.
- (4) The subject site has available connections to all of Council's reticulated services and can be provided with an appropriate level of infrastructure including water, sewerage, electricity, stormwater, on-site parking and kerb side collection.
- (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). 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 and Community  
(Delegate of North Burnett Regional Council)

30 October 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 (3 Units) At 94 Meson Street, Gayndah; land described as lot 10G1345. 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 18 September 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 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 rural lots.
- (2) The proposal is identified as code assessable against higher density residential code and infrastructure and operational works code
- (3) The proposed also required assessment against the Infrastructure overlay code.
- (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

#### 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*—there are no State interest statements, policies or benchmarks relevant to this application.

#### 4.3.2 Assessment against the planning scheme

- (1) The application is generally compliant to the higher density residential code, infrastructure and operational works code and infrastructure overlay code.
- (2) A more comprehensive assessment against the performance outcome has been completed.
- (3) As the Council's assessment is limited to the performance outcomes, any conditions must only relate to those assessment benchmarks.

### 4.3.3 Higher density residential code

- (1) The proposal complies with the higher density residential code—
  - (a) it achieves the purpose and overall outcomes of the code;
  - (b) it complies with the performance outcomes of the code, specifically—
    - (i) the modern low-rise built form provides an attractive living option consistent with surrounding uses and positively contributes to the amenity of the locality,
    - (ii) site is suitably sized to mitigate nuisance and is consistent with expectations for development in the general residential zone,
    - (iii) a safe, lawful and practical access location to Meson Street is available to the lot,
    - (iv) the development is appropriate and suitable infill development,
    - (v) the proposal results in a permanent resident base in proximity to community and allied health care and a short distance from the CBD that provides access to commercial and community services.

### 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, specifically—
    - (i) the provision of landscaping proposed and suitably conditioned for the development,
    - (ii) the development is setback so neighbouring premises retain reasonable visual and acoustic privacy,
    - (iii) the proposal includes connection to urban services and infrastructure in accordance with the community's expectations,
    - (iv) the development incorporates a reliable power supply and will meet the design, construction and operational standards of the operator/provider,
    - (v) suitable vehicular access and movement areas are provided on site,
    - (vi) vehicle parking, manoeuvring areas and traffic generated by the use do not adversely affect amenity or result in an environmental nuisance,
    - (vii) standard erosion and sediment controls will be implemented to avoid degradation and adverse impacts on stormwater quality, and
    - (viii) the premises incorporates access and parking for people with disabilities or mobility impairment.

### 4.3.5 Overlay codes

- (1) The proposal complies with the *Infrastructure overlay 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 proposal adjoins a locally significant road, only one property access point/cross-over is proposed, and
    - (ii) landscaping at the front of the property and buildings are setback seven (7) metres from the street frontage.

## 4.4 Consultation

### 4.4.1 Internal stakeholder comments

- (1) Internal review by Civil Works, Water and Wastewater, Environment Health teams was conducted.

#### 4.4.2 External stakeholder comments

- (1) Not applicable—the application did not require referral.

#### 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 is compliant with the relevant assessment benchmarks;
  - (b) *Intensity and scale*—the existing use is consistent with expectations for general residential zone and higher density residential code. The development is compatible with the character of the locality and considers site constraints;
  - (c) *Infrastructure*—the site has access to all urban infrastructure services;
  - (d) *Infrastructure (non-trunk) works*—Parking, access, and service connections. Access to the site is via Meson Street, which is a bitumen sealed street. The development will provide connections to telecommunications, electricity, water and wastewater disposal to support the proposed use. Suitable access and parking to be provided.

### 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.