

# Development application—decision under delegated authority

Reconfiguring a Lot—Subdivision (1 lot into 2 lots) at 58 Gordon Street, Gayndah on land described as Lot 194 on MZ235—Code assessable development application under the *Planning Act 2016*

Application reference: 11-20

## 1 Proposal summary

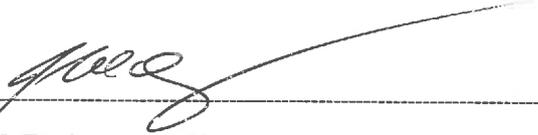
- (1) The applicant seeks a Development permit for Reconfiguring a Lot—Subdivision (1 lot into 2 lots) at 58 Gordon Street, Gayndah on land described as Lot 194 on MZ235.
- (2) The stated objective of the application is to create one additional lot.
- (3) The site has an area of 15.3ha and a road frontage to Gordon Street of abt 372m. Lot 8 would be abt 1.3ha area and abt 116m road frontage; Lot 9 would be abt 14ha and abt 256m road frontage. Lot 8 would be vacant; Lot 9 would contain existing improvements.
- (4) Lot 8 is to the site's north and largely follows existing boundaries and fencelines. The new south-eastern common boundary would be abt 25m from the improvements and yard in proposed Lot 9.
- (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.
- (6) 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.

## 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.

## 3 Decision

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

  
Jeff Miles  
Planning & Environment Manager  
(Delegate of North Burnett Regional Council)

13-2-20  
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—Subdivision (1 lot into 2 lots) at 58 Gordon Street, Gayndah on land described as Lot 194 on MZ235. The statement is required under **section 63 Notice of decision** of the *Planning Act 2016*.

### 4.1 Facts and circumstances

- (1) The application fee was paid on 21 January 2020. The application was deemed properly made on 31 January 2020 upon lodgement of the application.
- (2) The site is in the General residential zone and adjacent to other lots in the General residential zone as well as lots in the Rural residential zone and Rural zone—Intensive agricultural precinct.
- (3) The application does not require referral under Schedule 10 of the *Planning Regulation 2017*.
- (4) Council did not issue a confirmation notice as it was not required under s2.2 of the Development Assessment Rules.
- (5) The application included sufficient information 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 North Burnett Regional Planning Scheme, 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 application was properly made prior to the adoption of the current North Burnett Regional Planning 2014 v1.3 (Amendments incorporated to 3 February 2020). Assessment is therefore under the superseded North Burnett Regional Planning Scheme 2014 v1.2, with weight given to the current planning scheme where considered relevant and appropriate.
- (2) The proposal is identified as Code assessable against the purpose of the *General residential zone code*, *Reconfiguring a lot (except excluded reconfiguration) code*, and *Infrastructure and operational work code*.
- (3) The proposal also requires assessment against the following overlay codes—
  - (a) *Infrastructure overlay code* as the site is adjacent to the stock route network;
  - (b) *Natural features or resources overlays code* as the site contains MSES areas. As such, Schedule 12 of the *Planning Regulation 2017* does not apply.
- (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 and it is not necessary to carry out a more detailed assessment for compliance.

### 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 interests, policies or benchmarks relevant to this application<sup>1</sup>.

### 4.3.3 Purpose of the General residential zone code

- (1) The proposal complies with the purpose of the *General residential zone code* as—
  - (a) it would contribute to the range of household densities and forms available in Gayndah’s General residential zone;
  - (b) it would maintain the current prevailing neighbourhood character south of South and Gordon Streets, being low-intensity residential density on larger lots;

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

- (1) The proposal complies with the *Reconfiguring a lot (except excluded reconfiguration) code* as—
  - (a) it achieves the purpose and overall outcomes of the code;
  - (b) it complies with the performance outcomes of the code, specifically—
  - (c) the lots would be regularly configured with Lot 8 compatibly aligned with the improvements on Lot 9;
  - (d) both lots’ proposed areas and frontages exceed the minimum 800m<sup>2</sup> area and 18m road frontage requirements prescribed by Table 9.4.10;
  - (e) Lot 8 would have a suitable building envelope free from any site constraints including natural hazards (with Lot 9 already built upon);
  - (f) a safe, lawful and practical access to Gordon Street is available to Lot 8 (with a suitable access existing to proposed Lot 9). Provision of an access to Lot 8 is appropriately deferred to time of building given the length of frontage;
  - (g) no additional potential conflict of use would be introduced with the new boundaries locating minimum 320m approximately from Rural zoned land;
  - (h) new boundaries would be distant from identified MSES.

### 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—
  - (c) suitable on-site infrastructure would be provided to meet the anticipated needs of users;
  - (d) given the size of Lot 8 and the site locating outside the water service area, it would be appropriate for Lot 8 to be supplied by on-site means. This has been confirmed

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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.

- by Technical Services who advised the infrastructure to the site is not a designated water main;
- (e) similarly, it would be appropriate for Lot 8 to treat and dispose of its effluent and other wastewater on-site given no reticulated sewerage infrastructure exists near the site and the size of Lot 8 is adequate. An application currently with Council over the site demonstrates suitable soil properties for septic percolation. This has been confirmed by Technical Services;
  - (f) Technical Services did not advise any required upgrades required to the local road network;
  - (g) Technical Services did not advise any stormwater concerns with no changes to current stormwater drainage characteristics are anticipated with the site generally falling to the south;
  - (h) Lot 8 will be required to be connected to the reticulated electricity network;
  - (i) Lot 8 will not be required to be connected to fixed-line telecommunications with current access to the nbn broadband access network by fixed wireless connection deemed reasonable and aligned with general community expectations.

#### **4.3.6 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;
  - (c) the realignment would not compromise the stock route with only one additional lot and no material change of use proposed.
- (2) The proposal complies with the *Natural features or resources overlays code* as—
  - (a) it achieves the purpose and overall outcomes of the code;
  - (b) it complies with the performance outcomes of the code, specifically—
  - (c) significant impacts on environmental values would be avoided with new boundaries distant from identified MSES areas.

### **4.4 Consultation**

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

- (1) Technical Services provided comment on the development in relation to water and wastewater expectations for the new lots.

#### **4.4.2 External stakeholder comments**

- (1) The application did not require referral to DSDMIP 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 is fully compliant with the relevant assessment benchmarks;
  - (b) *Future urban subdivision potential*—adverse impact upon the site's future urban subdivision potential was contemplated given the site's General residential zoning. Potential impact was assessed as acceptable given only a minor area (8.5% of the site area) will be excised. Lapsed Negotiated Decision Notice Approval 301-08

dated 4 August 2009 for the subdivision of adjacent Lot 195 on MZ308 to the east into 150 lots is noted. Further, any subdivision to realise the minimum lot size of 800m<sup>2</sup> is reliant upon reticulated sewerage infrastructure being extended to the site. In conjunction with the local market demand, urban subdivision is not anticipated in the near future.

## 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.