

DEVELOPMENT APPLICATION – DA11-2022-2023 – 87 THISTLE STREET, BLACKALL**EXECUTIVE SUMMARY**

The Applicant, Blackall-Tambo Regional Council C/- Murray & Associates (QLD) Pty Ltd, seeks a Development Permit for Reconfiguring a Lot (1 lot into 2 lots) involving land at 87 Thistle Street, Blackall, formally described as Lot 2 on RP611230.

The proposal involves the creation of two new lots. The existing house will be retained on a lot that gains access from Thistle Street and will have an area of 1,003m². The lot with frontage to Petunia Street will have an area of 1,308m².

Under the *Blackall-Tambo Region Planning Scheme 2020* (the Planning Scheme), the subject site is in the Township Zone. Reconfiguring a lot in the Township is subject to Code assessment.

Based on an assessment of the proposal in accordance with the Code Assessment process articulated in the *Planning Act 2016*, this decision report recommends approval of the development application, subject to the conditions stated herein.

RECOMMENDATION

THAT Blackall-Tambo Regional Council approves the application for a Development Permit for Reconfiguring a Lot (1 lot into 2 lots) involving land at 87 Thistle Street, Blackall, formally described as Lot 2 on RP611230 subject to the following conditions:

1.0 ENDORSEMENT OF SURVEY PLAN

1.1 Council will not endorse or release the survey plan for this development until such time as:

- (a) All conditions attached to this development approval for Reconfiguring a Lot have been fully satisfied;
- (b) A statement demonstrating compliance with all conditions attached to this development approval has been submitted to Council; and
- (c) All outstanding rates and charges relating to the site have been paid.

2.0 APPROVED PLANS AND DOCUMENTS

- 2.1 The approved development must be completed and maintained generally in accordance with the approved plan of development Proposed Reconfiguration of a Lot with reference ROL-01 and dated 18 January 2023 (received date).
- 2.2 Where there is any conflict between the conditions of this approval and the details shown on the approved plans and documents, the conditions of approval must prevail.

3.0 ACCESS

- 3.1 A crossover must be installed to Council's satisfaction for Proposed Lot 2, between Petunia Street and the approved lot.
- 3.2 The crossover to Proposed Lot 1 from Thistle Street must be maintained.

4.0 SEWERAGE AND WATER

- 4.1 Proposed Lot 2 must be connected to Council's reticulated water and sewerage network.
- 4.2 All works must be designed, constructed and maintained in accordance with the approved plans (refer to Condition 2.1), the *Plumbing and Drainage Act*, *Water Services Association of Australia (WSAA)*,

2011, "WSA 03-11 Water Supply Code of Australia" Version 3.1 and Queensland Department of Energy and Water Supply, 2010, Planning Guidelines for Water Supply and Sewerage.

- 4.3 Remove all redundant water supply and sewerage infrastructure, including but not limited to pipes and connection points.

5.0 TELECOMMUNICATION AND ELECTRICITY SUPPLY

- 5.1 Proposed Lot 2 must be connected to electricity and telecommunication services in accordance with the standards and requirements of the relevant service provider.
- 5.2 Maintain the electricity and telecommunication services to Proposed Lot 1.

6.0 STORMWATER WORKS

- 6.1 Undertake the development such that all stormwater, except for rainwater captured on-site in rainwater tanks, is to be drained from the site to a lawful point of discharge and carried without causing annoyance or nuisance to any person or property. All works must be designed, constructed and maintained in accordance with the *Queensland Urban Drainage Manual*.

7.0 FLOODING

- 7.1 Any future dwelling constructed on Proposed Lot 2 is to be located a minimum 300mm above the defined flood level of Blackall (282m AHD).

8.0 PUBLIC UTILITIES

- 8.1 The applicant is responsible for the cost of any alteration to public utilities as a result of complying with conditions of this Development Permit.
- 8.2 Any alteration of any public utility or other facilities necessitated by the development of the land or associated construction works external to the site shall be at no cost to Council.
- 8.3 Any damage caused to any public utility during the course of construction shall be repaired to the satisfaction of Council's Delegated Officer and at no cost to Council prior to the sealing of the Survey Plan.

ADVISORY NOTES

- A. The Developer and his employee, agent, contractor or invitee is responsible for ensuring compliance with the conditions of this development approval.
- B. Where these Conditions refer to "Council" in relation to requiring Council to approve or to be satisfied as to any matter, or conferring on the Council a function, power or discretion, that role may be fulfilled in whole or in part by a delegate appointed for that purpose by the Council.
- C. Prior to commencing any construction activities, the applicant/developer will be required to obtain further development permits for building work, and plumbing and drainage work, as required under relevant legislation for this work.
- D. This approval does not negate the requirement for compliance with all other relevant Local Laws and other statutory requirements. Any provisions contained in this approval relating to the enforcement of any of the conditions shall be in addition to all other rights, powers and privileges that the Council may possess or obtain, and nothing contained in these conditions shall be construed so as to prejudice, affect or otherwise derogate or limit these rights, powers and privileges of the Council.
- E. General environmental duty under the Environmental Protection Act 1994 prohibits unlawful environmental nuisance caused by noise, aerosols, particles, dust, ash, fumes, light, odour or smoke beyond the boundaries of the development site during all stages of the development including earthworks, construction and operation.

1.0 DEVELOPMENT APPLICATION SUMMARY

TABLE 1 – OVERVIEW OF THE DEVELOPMENT APPLICATION

PROPERTY DETAILS	
Site address	87 Thistle Street, Blackall
RPD	Lot 2 on RP611230
Site Area	2,310m ²
Landowner	Blackall Tambo Regional Council
Existing use of land	Dwelling house
APPLICATION DETAILS	
Application No.	DA 11-2022-2023
Applicant	Blackall Tambo Regional Council
Application description	Development Application seeking Development Permit for Reconfiguring a Lot (1 lot into 2 lots)
Date application was made	22 November 2021
Decision due date	27 January 2023 (extended by applicant agreement)
Proposal	Subdivision of one (1) lot into two (2) lots
Main Issues/Resolution	Nil
STATUTORY DETAILS	
Mapped matters of interest under PR 2017	Natural Hazards Risk and Resilience <ul style="list-style-type: none"> Flood hazard area – Local Government flood mapping area
State agency referrals	Not required
State Planning Policy	State Planning Policy (July 2017)
Regional Plan	Central West Regional Plan (September 2009)
Planning Scheme	Blackall-Tambo Region Planning Scheme 2020
Zone	Township Zone
Overlays	Flood hazard
Level of Assessment	Code Assessment

2.0 PROPOSAL BACKGROUND

Application lodged	22 November 2022
Application properly made	22 November 2022
Minor change to application	18 January 2023
Decision Due	27 January 2023

3.0 SITE AND SURROUNDS DESCRIPTION

The site is located at 87 Thistle Street, Blackall, formally described as Lot 2 on RP611230 (refer **Figure 1**).

The subject site contains an existing dwelling and ancillary shed, with the dwelling house being orientated Thistle Street frontage. At the rear of the existing lot is a large open area generally devoid of vegetation. The rear of the site has frontage to Petunia Street which is currently unformed.

The site is adjoined to the east and west by dwelling houses, Thistle Street to the south and Petunia Street to the north. The surrounding locality is predominantly made up of dwelling houses.



Figure 1 – Aerial of Subject Site (QLD Government DAMS Mapping)

4.0 DESCRIPTION OF PROPOSAL

The proposed reconfiguration of a lot will result in the creation of two (2) lots. Following approval of the proposed development, the following areas will apply for each newly created allotment:

Proposed lot	Area
1	1,003m ²
2	1,308m ²

The existing dwelling will be retained on Proposed Lot 1 and is already connected to all the required urban services. Proposed Lot 1 will maintain the existing access from Thistle Street and

Proposed Lot 2 will require new access from Petunia Street.



Figure 2 – Proposed Lot Layout (Applicant supplied)

The plan recommended for approval in the conditions is provided in **Attachment A** to this report.

5.0 PLANNING ASSESSMENT

In accordance with section 45 (3) of the *Planning Act 2016*, Code Assessment is an assessment that must be carried out only –

- (a) Against the **assessment benchmarks in a categorising instrument** for the development; and
- (b) Having regard to **any matters prescribed by regulation** for this paragraph.

This framework for assessing Code assessable applications is explained as follows –

Code assessment is a 'bounded assessment' which means only the applicable assessment benchmarks and matters can be considered by Council in deciding the application.

The categorising instrument for the development is the *Blackall-Tambo Region Planning Scheme 2020*, under which the applicable assessment benchmark is the Reconfiguring a Lot Code and the Township Zone Code.

The regional plan is identified as being appropriately integrated in the Planning Scheme and therefore, does not require further assessment. The assessment of the proposal against the Planning Scheme in section 5.1 below also functions as an assessment of the Regional Plan.

The State Planning Policy

The State Planning Policy (July 2017) (SPP) has been identified as being appropriately integrated with the Planning and Scheme and therefore an assessment against the Planning Scheme is considered to be an assessment against the SPP.

The Local Government Infrastructure Plan

There is no Local Government Infrastructure Plan in place for the Council Area and Council ceases to charge Adopted Infrastructure Charges for any new development. In turn, these assessment benchmarks do not apply to the development and an Infrastructure Charges Notice does not form part of this recommendation.

Schedules 9 and 10 of the Planning Regulation

Schedules 9 and 10 of the Planning Regulation are not relevant to this application.

Approval history / lawful use of the premises

It is considered that the existing dwelling house is a lawfully constructed building with existing use rights.

Common material

All material about the application that Council has received since lodgement has been considered in this report.

Minor change

On 18 January 2023, the applicant gave notice under s52(1) of the Planning Act 2016 requesting to change the application before the application was decided. The change resulted in a reduction in lots from the creation of three lots to the creation of two lots. The change has no effect on the development assessment process. The change will result in all lots complying with the minimum lot size requirements. Proposed Lot 2 will now also have a greater area that is flood free.

The following sections consider the above assessment benchmarks and matters to the extent relevant to the application.

5.1 BLACKALL-TAMBO REGION PLANNING SCHEME 2020

Under the Planning Scheme the development is defined as Reconfiguring a Lot. Under the *Planning Act 2016* (the Planning Act), the definition of Reconfiguring a Lot relates to (emphasis added):

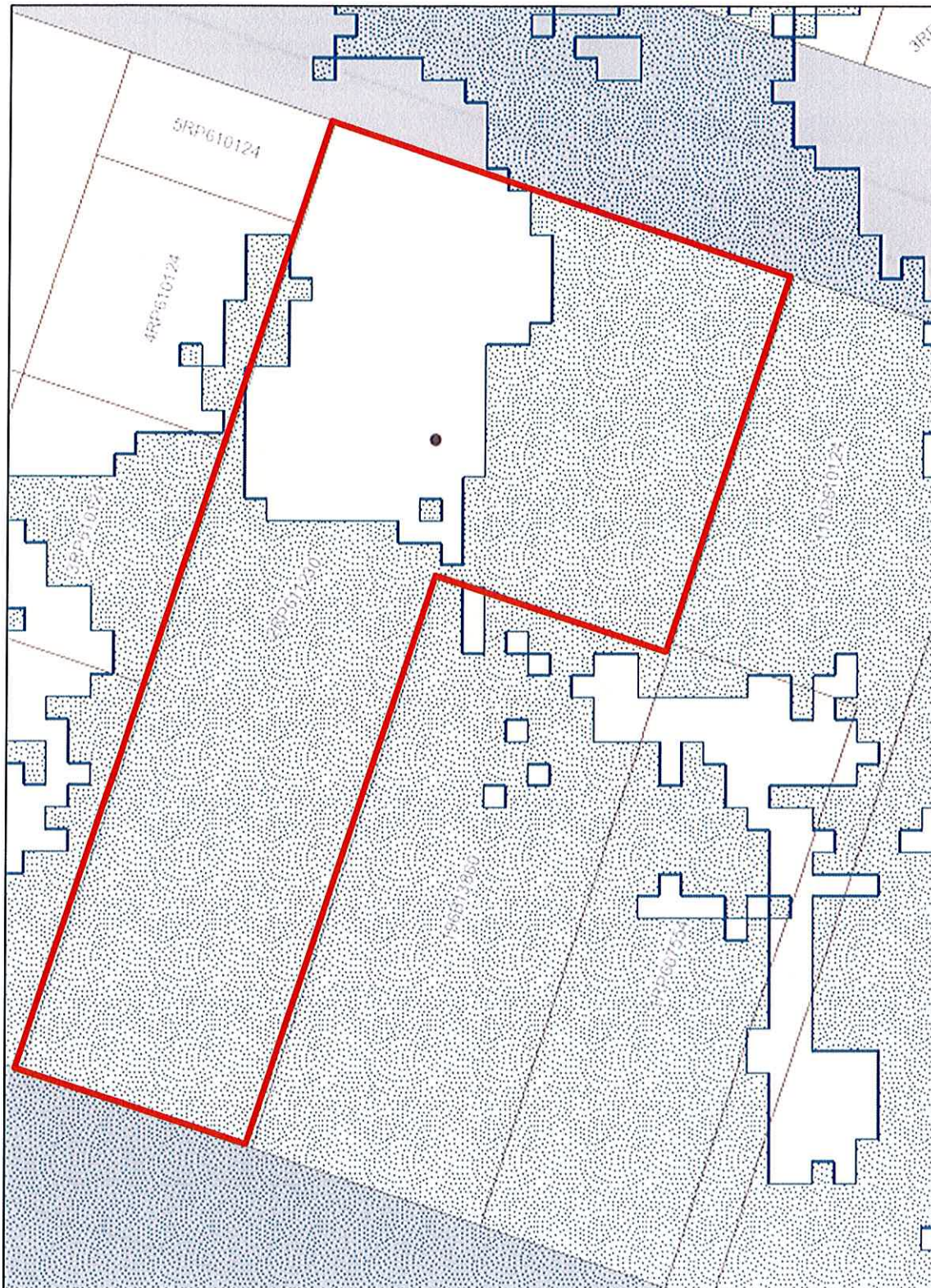
- (a) **Creating lots by subdividing another lot;** or
- (b) *Amalgamating 2 or more lots;*
- (c) *Rearranging the boundaries of a lot by registering a plan of subdivision under the Land Act or Land Title Act; or*
- (d) *Dividing land into parts by agreement rendering different parts of a lot immediately available for separate disposition or separate occupation, other than by an agreement that is:*
 - (i) *A lease for a term, including renewal options, not exceeding 10 years; or*
 - (ii) *An agreement for the exclusive use of part of the common property for a community titles scheme under the Body Corporate and Community Management Act 1997; or*
- (e) *Creating an easement giving access to a lot from a constructed road.*

In accordance with Table 4.5.1 of the Planning Scheme, the relevant assessment benchmarks for the development application include the Reconfiguring a Lot Code and Township Zone Code.

The development complies with the purpose, performance outcomes and acceptable outcomes of the Reconfiguring a Lot Code. The purpose of the Code is encompassed by a set of outcomes prescribed under section 6.3.2 of the Planning Scheme. The proposed development does not compromise the purpose of the Code in that:

Reconfiguring a Lot Code

- The proposed lots meet the minimum lot size requirements for new lots in the Township zone
- Proposed Lot 1 is already serviced by existing urban infrastructure and the access to Thistle Street has been conditioned to be maintained
- Proposed Lot 2 has been conditioned to provide reticulated water and sewer, electricity and telecommunications services and access from Petunia Street
- A condition has been included to ensure all lots can appropriately manage stormwater
- The proposal avoids impacts on biodiversity
- The subject site is located on the outer extent of the flood hazard area. It is noted that the existing dwelling on Proposed Lot 1 contains an undercroft area which will allow water to pass through in the event of a flood. Proposed lot 2, although affected by the flooding, will have a substantial area that is flood free (Figure 3 below). It is considered that any future dwelling on Proposed Lot 2 can be located 300mm above the flood level. A condition has been included to ensure any future dwelling is located 300mm above the defined flood level of Blackall.
- The site is not affected by bushfire hazard.



The development complies with the purpose, performance outcomes and acceptable outcomes of the Township Zone Code. The purpose of the Code is encompassed by a set of outcomes prescribed under section 5.2.1.2 of the Planning Scheme. The proposed development does not compromise the purpose of the Code in that:

Township Zone Code

- The proposed lots are of a size and dimension that will allow for future uses which are compatible with existing residential uses in the area
- The proposal will allow the future lots to be used for residential type uses or other uses that consistent with the Township zone.

In summary, this planning assessment concludes that the proposal is consistent with the Reconfiguring a Lot Code and Township Zone Code, being the applicable assessment benchmarks under the Planning Scheme. Conditions of approval reflect the elements of the assessment benchmark to ensure on-going compliance in terms of land use and amenity.

6.0 REFERRALS

6.1 INTERNAL

Council was contacted to discuss the pavement treatment of Petunia Street. Council advised that Petunia Street will be sealed. As Council intends to seal Petunia Street, a condition was not imposed.

6.2 EXTERNAL

The development application did not require referral to the State Assessment and Referral Agency.

7.0 CONCLUSION

This Code Assessable Development Application for a Development Permit for Reconfiguring a Lot (1 lot into 2 lots) involving land at 87 Thistle Street, Blackall, formally described as Lot 2 on RP611230, is recommended for approval, subject to the conditions outlined in this report.

This recommendation is based on an assessment of the proposal in accordance with the *Planning Act 2016* for applications requiring code assessment, which demonstrates the proposal's consistency with relevant matters and assessment benchmarks.

In accordance with the requirements for a decision notice under section 63 the Act, the notice must state the reasons for the decision. For this development, the statement of reasons, being the grounds for approval, will feature on the decision notice as follows:

- a) The proposed lots meet the minimum lot size requirements for new lots in the Township zone
- b) The subdivided lots will continue to be consistent with the subdivision pattern of the locality and have sufficient area to accommodate existing and future dwellings and ancillary outbuildings.
- c) All proposed lots can be appropriately serviced by urban services.
- d) A condition has been imposed to ensure any future dwelling house on Proposed Lot 2 is a minimum 300mm above the defined flood level of Blackall.
- e) The proposal does not conflict with the needs of the local community or the reasonable development expectations for the subject site and land within the Township zone.

Assessment Officer (Author): Tim O'Leary Principal Planner (Reel Planning) 19 January 2023	Reviewed and Authorised by Assessment Manager Delegate: Chief Executive Officer [insert date]
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Proposed Reconfiguration of a Lot
Reference - ROL-01
Received date - 18/01/2023