



**GLADSTONE**  
REGIONAL COUNCIL

**GENERAL MEETING NOTICE  
AND AGENDA**

**TO BE HELD AT THE COUNCIL CHAMBERS – CIVIC CENTRE  
101 GOONDOON STREET, GLADSTONE**

**On Tuesday 3 October 2023**

**Commencing at 9.00am**

**Leisa Dowling  
CHIEF EXECUTIVE OFFICER**

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**G/1. MAYORAL STATEMENT OF CURRENT ISSUES**

## **G/2. CONFIRMATION OF MINUTES**

### **G/2.1. CONFIRMATION OF GENERAL MEETING MINUTES FOR 19 SEPTEMBER 2023**

**Responsible Officer:** Chief Executive Officer

**Prepared By:** Executive Secretary

**Council Meeting Date:** 3 October 2023

**File Ref:** CM7.2

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#### **Purpose:**

Confirmation of the minutes of the General Meeting held on 19 September 2023.

#### **Officer's Recommendation:**

That the minutes of the General Meeting of Council held on 19 September 2023 be confirmed.

#### **Attachments:**

1. Minutes of the General Meeting of Council held on 19 September 2023.

**G/3. DEPUTATIONS**

## G/4. OFFICERS' REPORTS

### G/4.1. DEVELOPMENT APPLICATION DA/12/2023 FOR RECONFIGURATION OF A LOT - 1 LOT INTO 2 LOTS LOCATED AT 3 SEASPRAY DRIVE, AGNES WATER QLD 4677

**Responsible Officer:** General Manager Customer Experience

**Prepared By:** Principal Planning Lead, Acting

**Council Meeting Date:** 3 October 2023

**File Ref:** DA/12/2023, DB1.10

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#### Development Application:

<b>Application Number:</b>	DA/12/2023
<b>Applicant:</b>	John Boynton Hamilton & Rachel Hamilton C/- Zone Planning Group
<b>Owner:</b>	John Boynton Hamilton & Rachel Hamilton
<b>Date Of Receipt:</b>	23 March 2023
<b>Location:</b>	3 Seaspray Drive, Agnes Water
<b>RPD:</b>	Lot 28 RP 803327
<b>Area:</b>	858m <sup>2</sup>
<b>Current Use of Land:</b>	Vacant allotment
<b>Zoning:</b>	Low Density Residential Zone
<b>Proposal:</b>	Reconfiguring a Lot (1 Lot into 2 Lots)
<b>Public Notification:</b>	Reconfiguring a Lot (1 Lot into 2 Lots)
<b>Number Of Submissions:</b>	Eleven (11) properly made submissions

#### Purpose:

The purpose of this report is to decide Development Application 12/2023 for Reconfiguring a Lot (1 lot into 2 lots) on land at 3 Seaspray Drive, Agnes Water against the *State Planning Policy July 2017*, and the *Our Place Our Plan Gladstone Regional Council Planning Scheme Version 2* under the *Planning Act 2016*.

#### Executive Summary:

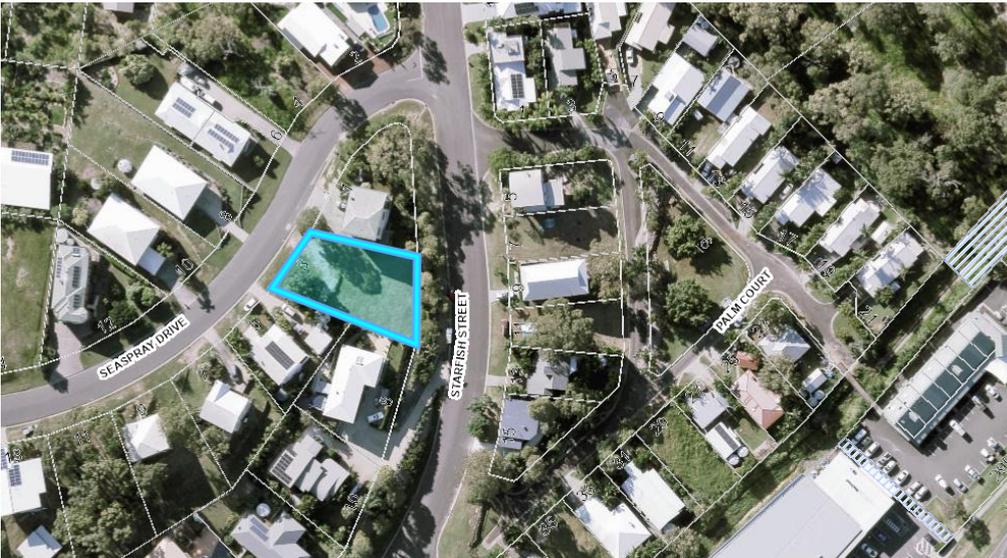
Development Application for Reconfiguring a Lot (1 lot into 2 lots) was considered properly made on 23 March 2023 with a Confirmation Notice issued on 24 March 2023. The application was prepared by Zone Planning Group on behalf of John Boynton Hamilton and Rachel Hamilton. An Information Request Notice was issued for the Development Application on 11 April 2023 to which the Applicant provided a response on 15 May 2023.

The proposal was categorized as Impact Assessable within the Low Density Residential Zone against the relevant provisions of *Our Place Our Plan Gladstone Regional Council Planning Scheme, Version 2* (the Planning Scheme). Assessment was also conducted against the relevant provisions of the State Planning Policy – July 2017 (the SPP) and requirements detailed under the *Planning Act 2016* (the Act). Based on the information accompanying the application, referral was not required to the Department of State Development, Infrastructure, Local Government and Planning (DSDILGP) or any other agencies. The Applicant advised that Public Notification requirements were undertaken between 23 May 2023 to 13 June 2023 with eleven (11) properly made submissions received during this time.

It is considered that the proposal is generally inconsistent with the provisions of the Planning Scheme and has been unable to clearly demonstrate that the lots proposed are appropriate for their intended use and character of the zone. It is therefore recommended that the Development Application for Reconfiguring a Lot (1 lot into 2 lots) at 3 Seaspray Drive, Agnes Water, be refused.

**Subject Site:**

The subject site is a vacant allotment located at 3 Seaspray Drive, Agnes Water and formally known as Lot 28 RP 803327. The site is 858m<sup>2</sup> with dual frontage to Seaspray Drive and Starfish Street. The site is of an irregular shape with a steep topography sloping from western (primary frontage) boundary at 32m AHD to the eastern (secondary frontage) boundary at 25m AHD.



**Figure One: Aerial Image of Subject Site**

The site is located within the Low Density Residential Zone and has the ability to connect to Council infrastructure. Furthermore, the lot is burdened by existing sewer and stormwater infrastructure at the south-eastern corner as illustrated in Figure Two below.



**Figure Two: Council's reticulated water, sewer and stormwater infrastructure**



Figure Three: Zoning of the Subject Site (Low Density Residential Zone)

### Background:

PL/29/2022

There are no previous development approvals for the site. However, on 25 October 2022, a pre-lodgement meeting was held to discuss the proposal for a subdivision of the subject site into two individual lots of size 400m<sup>2</sup> and 455m<sup>2</sup>.

At the meeting, the Applicant sought from Council clarification on the following matters:

- Feedback on the proposed lot sizes
- Confirmation regarding proposed access arrangement
- Advice regarding the mapped Steep Land and Council's position on constructing building pads as part of the subdivision
- Confirmation of required supporting information for the application

Council officers stated the importance of creating lots that are fit for their residential dwelling purpose and raised concerns with whether the proposed lot sizes were big enough to address the steep land overlay, allow for easements and facilitate the creation of a non-standard driveway over steep land. With regards to feedback on the reduced lot sizes, Council considered that the proposal would only be supported should the new lots be configured in a manner that facilitates the achievement of the outcomes expressed in the Low Density Residential Zone Code.

The Applicant was advised to demonstrate a proposed building footprint/pad which would justify the development in terms of setbacks, site cover, vehicle access, parking provision, private open space and respond to on-site and surrounding features such as topography, utility services, vegetation and adjoining land uses demonstrating compliance with Performance Outcome 1 of the Reconfiguring a Lot Code.

Current Application

Development Application for Reconfiguring a Lot (1 lot into 2 lots) was properly made on 23 March 2023 with a Confirmation Notice issued on 24 March 2023. The application was prepared by Zone Planning Group on behalf of John Boynton Hamilton and Rachel Hamilton. An Information Request Notice was issued for the Development Application on 11 April 2023 regarding the following:

- Provision of amended plans demonstrating a building envelope for the rear allotment (Proposed Lot 2), with a minimum dimension of 15m x 20m, exclusive of the area for proposed stormwater and sewer easements, and compliant with setback requirements of Queensland Development Code MP1.2.
- Demonstration of proposed connection to Council’s reticulated sewerage system for proposed Lot 1
- Provision of a Site Based Stormwater Management Plan (SBSMP)
- Provision of amended plans demonstrating proposed cut and fill heights, location, and size of retaining walls.

The Applicant provided a response to Council’s Information Request on 15 May 2023. As there were no referral for the application, the Applicant conducted Public Notification between 23 May 2023 to 13 June 2023. During this Public Notification Period, eleven (11) properly made submissions received.

**Proposal:**

The proposal seeks a Development Permit to carry out Reconfiguration of a Lot (1 lot into 2 lots) for the abovementioned site which is defined under the Act as:

*Reconfiguring a lot means—*

- a) creating lots by subdividing another lot; or*
- b) amalgamating 2 or more lots; or*
- 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.*

Based on the Town Planning report, the development summary is as listed in Table One.

**Table One: Development Summary**

<b>Description</b>	<b>Existing</b>	<b>Proposed</b>
Lot Sizes	858m <sup>2</sup>	Lot 1 - 400m <sup>2</sup>  Lot 2 - 458m <sup>2</sup>
Road Frontage (Seaspray Drive)	20.5m	Lot 1- 16m  Lot 2 - 4m

Figure Four illustrates the proposed subdivision.

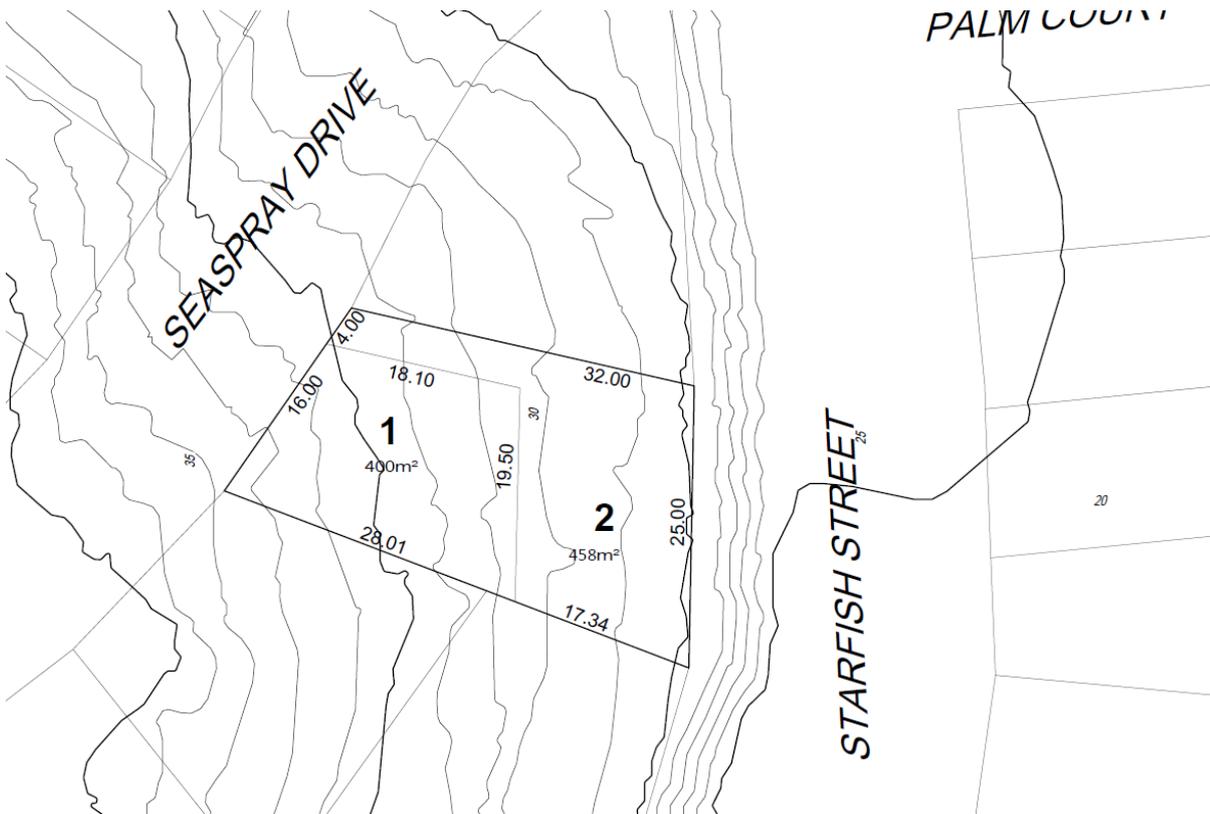


Figure Four: Proposed Subdivision Plan

**Adopted Infrastructure Charges Notice:**

Existing		Proposed		
Zone	Lot/s	Zoning	Lot/s	Charge
Low Density Residential Zone	1	Low Density Residential Zone		\$28,311.20 per additional lot

An Adopted Infrastructure Charge credit is applicable for the existing vacant lot in the amount of \$28,311.20. Under the Adopted Infrastructure Charges Resolution (no. 1), if approved, the proposed development would attract an adopted infrastructure charge of \$28,311.20 (\$56,622.40 - \$28,311.20).

**Referral:**

Based on the information accompanying the lodged application, referral was not required to any referral agencies.

**Assessment:**

**State Planning Policy - July 2017**

The State Planning Policy (SPP) articulates the State Interests that have been identified as critical to protecting and enhancing Queensland and delivering developments. The provisions of the SPP have been well integrated into the Planning Scheme except for matters regarding Infrastructure Integration. Given that the proposed development, does not trigger Infrastructure Integration matters, no further assessment against the SPP is required.

***Our Place Our Plan Gladstone Regional Council Planning Scheme, Version 2***

In accordance with the Planning Scheme Table of Assessment, the proposal triggers Impact Assessment against the whole of the Planning Scheme including the following Planning Scheme provisions:

- Strategic Framework;
- Steep Land Overlay Code;
- Low Density Residential Zone Code;
- Reconfiguring a Lot Code;
- Development Design Code; and
- Landscaping Code.

*Strategic Framework 3.4. – Community Living*

Strategic Outcome 3.4.1 (1) states that:

*New housing is located with ready access to employment and services, providing affordable living options in the region.*

Strategic Outcome 3.4.1 (6) states that:

*Low density dwelling houses occur in existing suburban neighbourhoods and to a lesser extent rural and coastal places and rural residential areas.*

The subject site is able to connect to Council infrastructure as well as being located approximately 300m from the Centre Zone which provides small-scale localised employment options and lower order services for residents. Therefore, the proposed development is able to facilitate the provision of housing with ready access to employment and services. Additionally, the proposed development leads to the future location of low density dwelling houses within an existing suburban neighbourhood. The proposal is there deemed as compliant with Strategic Framework 3.4 – Community Living.

*Strategic Framework 3.6 – Building it better: Our Urban Areas*

Strategic Outcome 3.6.1 (6) states that:

*Existing suburban areas remain as low density suburban neighbourhoods dominated by dwelling houses. Residential development must maintain the prevailing low density suburban character of these areas.*

Strategic Element 3.6.2 - Building it better: Existing suburban areas requires that:

*Existing suburban areas represent well established low density residential neighbourhoods in the region's major urban areas. They are dominated by dwelling houses on medium to large residential lots located in the Low density Residential zone.*

The proposed development leads to the creation of small lots (under 600m<sup>2</sup>) for the purpose of future dwelling houses. The proposed small lots are not consistent with the established low density residential neighbourhood. The small lots therefore do not comply with the Strategic Framework 3.6. – Building it better: Our Urban Areas.

Steep Land Overlay Code

Acceptable Outcome 1.1 (AO1.1) requires that:

*Development is not located on that part of the land identified on the Steep land overlay;*

whereas Acceptable Outcome 1.2 (AO1.2) specifies that

*Where development is located on land identified on the Steep land overlay, a site-specific geotechnical report is provided that certifies:-*

- a) the stability of the site, including associated buildings and infrastructure, will be maintained during both the construction and operational life of the development;*
- b) the site is not subject to risk of landslide activity originating from other land, including land above the site; and*
- c) the development will not increase the risk of landslide on the other land.*

Performance Outcome (PO1) also requires that:

*Development:*

- a. ensures people and property are protected from landslide hazard originating from inside or external to the site*
- b. ensures the long-term stability of the land*
- c. ensures access is not at risk from being permanently impeded by a landslide event*
- d. does not increase the risk of landslide to adjoining properties, and*
- e. incorporates appropriate building types and structures that minimise disturbance to the land.*

The entire subject site is encumbered by the steep land overlay which is illustrated in Figure Five below. The proposed development is for a subdivision and does not include any further development proposals. Although, the Applicant has identified the future intent for each proposed lot as a single dwelling house.

The Applicant did not provide a site-specific geotechnical report to demonstrate that the site's stability would be maintained and that the risk of landslide would not be increased. The justification of this was based on the fact that risk associated with landslides would be assessed as part of any future developments.

Given the absence of a site-specific geotechnical report, it is difficult to assess the stability of the sites including the construction and operational life of the new allotments (including associated buildings). The proposal is therefore not compliant with AO1.2 and PO1.

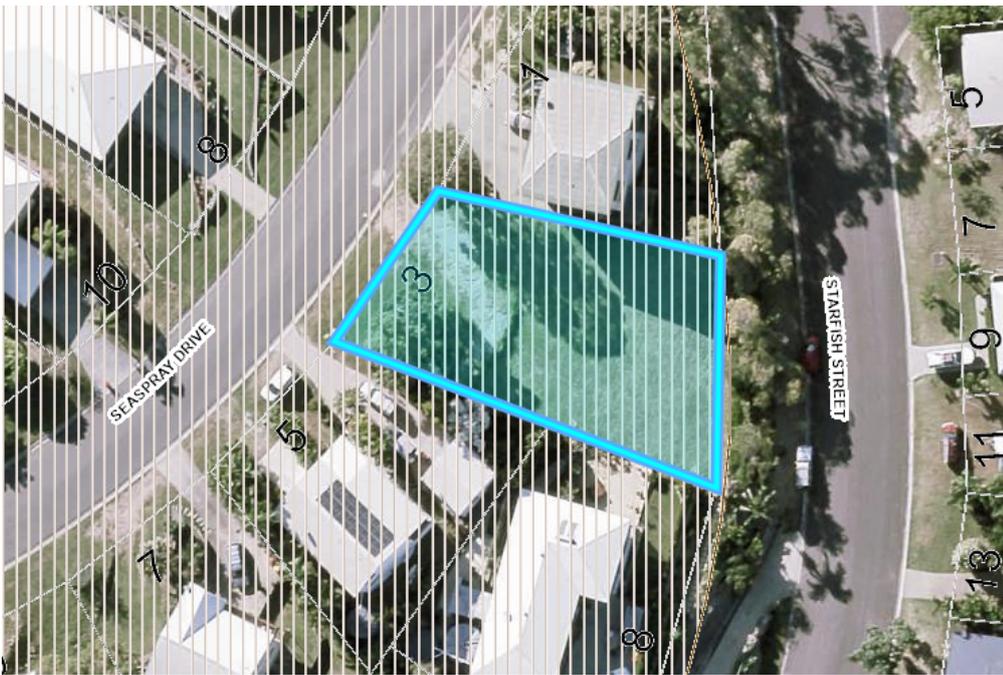


Figure Five: Steep Land Overlay

Acceptable Outcome 2.1 (AO2.1) requires that:

*Paths, driveways and roads do not traverse land with a slope exceeding 25% whereas Acceptable Outcome 2.2 states that paths, driveways and roads are sealed with asphalt, concrete or another type of hardstand where traversing a slope greater than 10%.*

The proposed access handle for Lot 2 is located between 30m AHD and 28m AHD. The slope percentage calculation (rise = 2.5m AHD; run = 11.4m) leads to 11.05% which complies with AO2.1. In relation AO2.2, should approval be given for this proposal, a condition can be included in the decision package to ensure that the proposed driveway is sealed with a hardstand given the slope being greater than 10%.

Acceptable Outcome 3.1 (AO3.1) requires that:

*Earthworks do not: (a) change the ground level more than 1m at any point; (b) occur within 1.5m of any property boundary, and (c) result in retaining walls located within 3m of a property boundary, other than where retaining walls are less than 1m in height on a continuous vertical plane.*

The topography of the subject site ranges from 32m AHD on the western boundary (frontage of site) to 25m AHD on the eastern boundary (rear of the site) as illustrated in Figure Six below. The Applicant has advised that it is likely that earthworks would be required to establish the access handle of proposed lots. Upon initial assessment of the proposal, it was considered likely that works may occur within 1.5m of the property boundary. Additionally, given the site's topography and the proposed lot sizes, it was also considered likely that retaining walls greater than 1m may occur within 3m of property boundary.



Figure Six: Site Contour

Further clarification was sought in the Information Request dated 11 April 2023 regarding building envelope requirements and information on proposed retaining walls (if required). Council requested amended plans demonstrating a building envelope with minimum dimension of 300m<sup>2</sup> exclusive of any required easements and compliant with QDC MP1.2 setback requirements. The Applicant submitted revised plans, illustrated in Figure Seven below, demonstrating a building envelope of size 180m<sup>2</sup> deemed by the Applicant as adequate in facilitating a single storey or larger 2-storey Dwelling House with ancillary structures and outdoor space. The revised plan also demonstrated the provision of a 4m wide easement along the southern boundary. The Applicant also advised of 2m side boundary setbacks and 4m reduced front boundary setback. As a site-specific geotechnical report was not provided by the Applicant, it is difficult to ascertain the suitability of the proposed building envelope on Proposed Lot 2.

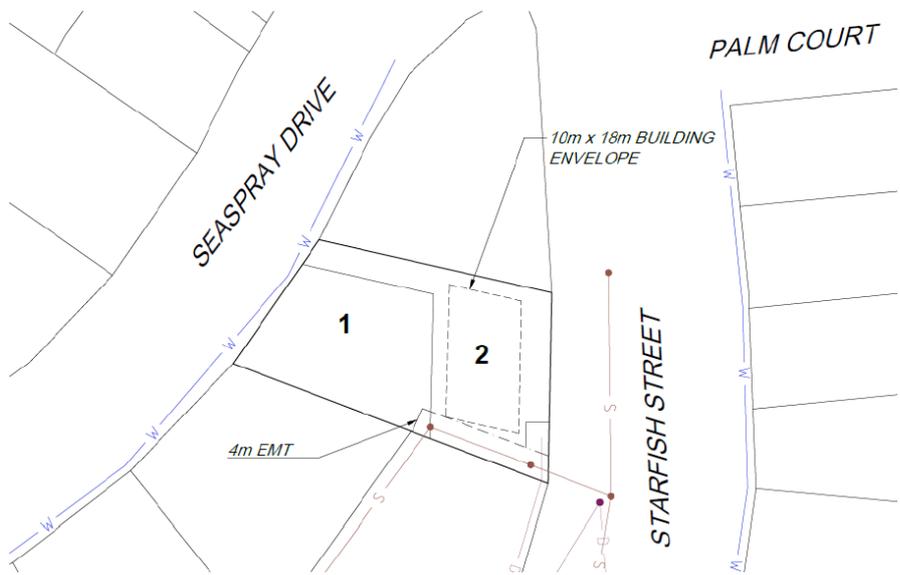


Figure Seven: Revised Site Plan

Regarding clarification on retaining walls, Council has requested revised plans illustrating the proposed cut and fill heights, location, and size of retaining walls. The Applicant responded by stating that *the proposed subdivision does not intend to conduct any major earthworks that would result in the need for retaining walls throughout each proposed allotment. Additionally, any future Dwelling House/s will be required to address the sloping allotment and potential earthworks in accordance with the Planning Scheme prior to Building Works. This approach will assist in reducing significant building pads with substantial retained areas to accommodate a slab on ground built form outcome; which is generally avoided in the Agnes Water region.*

The Applicant's response is considered unsatisfactory and does not address the requirements of Acceptable Outcome 3.1 given amended plans detailing proposed cut and fill heights, location, and size of retaining walls were not provided. Therefore, Council is unable to determine compliance with AO3 or PO3 (provided as follows).

Performance Outcome 3 requires that:

*Earthworks: (a) minimises disturbance to the natural contours of the site and adjoining properties, and (b) do not increase the risk of landslide inside or external to the site.*

It is noted that the proposal is for a Reconfiguring of a Lot where the assessment of a potential landslide risk is required during consideration of a subsequent Material Change of Use application. However, it is important to ensure that the lots created are fit/practical for their intended residential purpose. There is a possibility for the requirement of earthworks to facilitate proposed building pads which may further encumber the site's ability to house dwelling houses that indeed allow for compliant setbacks, private open space, vehicle access and parking and servicing areas. Performance Outcome 3 could be assessed upon receipt of plans detailing proposed cut and fill heights, location, and size of retaining walls. The proposal is therefore deemed as non-compliant with Performance Outcome 3 of the Steep Land Overlay Code.

Acceptable Outcome 4.1 (AO4.1) requires that:

*Development is in accordance with a Reconfiguring a Lot Development Permit in which there is a Plan of subdivision and associated Operational Works (Earthworks) approval.*

Whilst the proposal is for a Reconfiguring of a Lot and does not include a Material Change of Use application, the Applicant has identified the future intent of proposed lots as Dwelling Houses. It is therefore important to assess the proposed development against AO4.1 to ensure that the proposed lots can adequately house future development. Given absence of plans detailing proposed cut and fill heights, location, and size of retaining walls, assessment against Performance Outcome 4 is required.

Performance Outcome 4 (PO4) requires that:

*Development must have sufficient size to accommodate a dwelling house, outdoor recreation area and an on site wastewater treatment system.*

The proposed development is considered to not adequately demonstrate the provision of lots that are fit for their intended purpose given the proposed lot size and the additional site constraints in relation to topography, existing and required services as well as potential earthworks and retaining walls. The Applicant has failed to adequately demonstrate how the proposed development responds to topographical issues through the provision of a site-specific geotechnical report. Additionally, there are concerns with the stormwater management impacts which have not been duly addressed by the Applicants. Furthermore, potential earthworks may further encumber the site's ability to house dwelling houses that indeed allow for compliant setbacks, private open space, vehicle access and parking and servicing areas. The proposal is therefore deemed as non-compliant with Performance Outcome 4 of the Steep Land Overlay Code.

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Assessment against the Overall Outcomes of the Steep Land Overlay Code is undertaken below in relation to non-compliance with relevant Performance Outcomes.

Overall Outcome (a) to (d) require that:

*Development is compatible with the level of risk associated with the landslide hazard.*

*Development is adequately protected from landslide hazard.*

*Development does not increase the extent or severity of landslide hazard risk.*

*Development provides for a useable and accessible building envelope and safe access.*

As detailed under assessment of the relevant Acceptable and Performance Outcomes, the lack of information provided by the Applicant regarding proposed cut and fill heights, location, and size of retaining walls makes it difficult to adequately determine whether the development is compatible with the level of risk associated with the landslide hazard for Overall Outcome (a) as well all other identified Overall Outcomes. Furthermore, the absence of a site-specific geotechnical report leads to uncertainty regarding proposed building envelope and its ability to provide a useable and accessible development area. The proposal is therefore deemed as non-compliant with Overall Outcome (a) to (d) of the Steep Land Overlay Code.

### Low Density Residential Zone Code

Acceptable Outcome 5 (AO5) requires that:

*Vehicle access is provided through a: (a) single driveway for a dwelling house; (b) one paired driveway for dual occupancy (where not on a corner lot).*

Both lots are proposed to gain access from Seaspray Drive with proposed Lot 2 gaining access through a battle-axe handle. Should approval be given for this proposal, the provision of compliant vehicle access for both lots can be conditioned to occur prior to the signing and sealing of the survey plan.

Performance Outcome 10 (PO10) requires that:

*Development responds sensitively to on-site and surrounding topography, coastal foreshores, waterways, drainage patterns, utility services, access, vegetation and adjoining land use, such that: (a) any hazards to people or property are avoided; (b) any earthworks are minimised; (c) the retention of natural drainage lines is maximised; (d) the retention of existing vegetation is maximised, and (e) there is adequate buffering, screening or separation to adjoining development.*

In the Information Request dated 11 April 2023, Council requested the Applicant to identify the lawful point of discharge and demonstrate that there is a non-worsening of stormwater discharge for both lots. Council also requested the Applicant to demonstrate that both proposed lots are adequate for purpose with the provision of revised plans illustrating proposed cut and fill heights, location, and size of retaining walls.

On 15 May 2023, the Applicant provided a response to stormwater management requirements by stating that *proposed Lot 1's Lawful Point of Discharge will be Seaspray Drive Road infrastructure while Proposed Lot 2 can connect into the existing stormwater pipe located along the rear property boundary. These two identified points for Lawful Point of Discharge for a residential allotment can demonstrate compliance with Acceptable Outcome 5.1 of the Development Design Code.* In response to proposed earthworks and retaining wall details, the Applicant stated that *the proposed subdivision does not intend to conduct any major earthworks that would result in the need for retaining walls throughout each proposed allotment.*

The Applicant's response is considered insufficient to address the requirements of Performance Outcome 10. There is a possibility for the requirement of earthworks to facilitate proposed building pad and access arrangement for Lot 2 given the slope of the land, as advised by the Applicant. Furthermore, it is difficult to understand how proposed Lot 1 will discharge stormwater to Seaspray Drive (the identified lawful point of discharge) given the slope of the land without reference to a stormwater management plan. Based on these considerations, it is considered that the proposal is non-compliant with Performance Outcome 10 (PO10). Assessment against the Purpose and Overall Outcomes of the Low Density Residential Zone Code is undertaken below.

The Purpose of the Low Density Residential Zone Code is to *provide for predominantly detached dwelling houses within existing suburban areas supported by some community uses and small-scale services and facilities that cater for local residents. Development is low rise, consistent with the low density character of the region's existing suburban areas. The purpose of the zone will be achieved through the following overall outcomes:*

Overall Outcome (a) requires that

*A range of housing predominantly detached dwelling houses and some dual occupancy, on appropriate lot sizes.*

Additionally, Overall Outcome (e) requires that:

*Development responds to land constraints, including but not limited to bushfire, flooding and minimising changes to natural topography.*

It is important to ensure that the proposed development reflects the low density character of the region's existing suburban areas. The identified minimum lot size for the low density residential zone is 600m<sup>2</sup> with a minimum frontage of 17m which is deemed as suitable in maintaining the character of the zone. The proposed development leads to the creation of lots of sizes 400m<sup>2</sup> and frontage of 16m for proposed Lot 1 and approximately 390m<sup>2</sup> (excluding access handle) and 4m frontage to Seaspray Drive for proposed Lot 2. These would create some of the smallest lot sizes in this existing neighbourhood, with the exception of some smaller lots on Palm Court located on land with a less steep topography and in more 'regular' shaped lots.

The proposal is considered as leading to inappropriate lot sizes further encumbered by constraints in relation to topography, stormwater management and potential earthworks. The site is also encumbered by sewer and stormwater infrastructure at the south-eastern corner. The Applicant provided a revised plan demonstrating the provision of a 4m wide easement along the southern boundary to cover the sewer and stormwater infrastructure. However, the concerns relating to potential earthworks compounded by the steepness of the land and stormwater management are not considered to be adequately addressed by the Applicant. The proposal is therefore deemed as non-compliant with the Purpose and Overall Outcome (a) and (e) of the Low Density Residential Zone Code.

#### Reconfiguring a Lot Code

Acceptable Outcome 1 (AO1) requires that:

*Lots comply with the minimum lot size and dimensions specified for its zone in Table 9.3.7.3.2—Minimum lot size and dimensions.*

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The Code prescribes minimum lot size and frontage for lots within the Low density Residential Zone as 600m<sup>2</sup> and 17m respectively. The proposed development leads to lot sizes of 400m<sup>2</sup> and frontage of 16m for proposed Lot 1 and approximately 390m<sup>2</sup> (excluding access handle) and 4m frontage to Seaspray Drive for proposed Lot 2. Assessment against Performance Outcome 1 is required given non-compliant lot sizes and frontage widths.

Performance Outcome 1 (PO1) requires that:

*Reconfiguration creates lots that are of a sufficient size, shape and dimension: (a) that are consistent with the character of the zone; (b) to accommodate development commensurate with the required building footprint, setbacks, private open space, vehicle access and parking and servicing areas for the zone; (c) that does not compromise the future development potential of land in the emerging community zone for urban purposes, and (d) are sufficient to protect areas with significant ecological values.*

The proposed building envelope of 180m<sup>2</sup> is considered as insufficient in size to accommodate a typical dwelling in character with this neighbourhood. It is evident that the opportunity cost for providing compliant setbacks as well as required easements over Council's sewer and stormwater infrastructure, is the provision of a reduced size, non-complaint building envelope. Additionally, the topography of the site and the absence of a geo-technical report leads to additional uncertainty of the functionality and useability of the proposed 180m<sup>2</sup> building envelope. This poses the question of whether the proposed subdivision is truly feasible in this location as well as facilitating the achievement of the sustainable urban outcomes expressed in the Low Density Residential Zone. A building envelope with minimum dimension of 300m<sup>2</sup> is identified by the Planning Scheme as adequate in promoting the purpose of a single dwelling house and ensuring that the amenity of adjoining lots would not be detrimentally affected as outlined in Performance Outcome 2 of the Reconfiguring a lot Code.

With regards to consistency with the zone character, there is uncertainty of the built form outcome for the proposed development given the absence of cut and fill plans or house plans. The Applicant has advised of the proposal leading to similar built form/density outcomes as a dual occupancy development. However, the constraints on the site override the benefits associated with said density outcomes. The topography of the site and the potential requirement for earthwork and stormwater management as well as the presence of sewer and stormwater services encumbering the site make it questionable as to the appropriateness of the proposed lots. Additionally, it is important to note that a dual occupancy development presents different impacts than a two-lot subdivision in relation to access to infrastructure and services. It is considered that the proposal is not compliant with Performance Outcome 1 of the Reconfiguring a Lot Code. Assessment against Overall Outcomes is required.

Overall Outcomes (a), (b), (c) and (d) require that:

The purpose of the code will be achieved through the following overall outcomes:

*(a) New lots are of a size and shape appropriate for their intended use and the character of the applicable zone.*

*(b) New lot reconfiguration is responsive to topography, natural drainage systems, vegetation and habitat corridors and protects the landscape character of the locality.*

*(c) Lots ensure the amenity of and minimise impacts on adjoining land.*

*(d) Each new lot is provided with a suitable level of infrastructure, services and access.*

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As addressed in the above paragraphs, the proposed size is not considered as adequate for the intended use and the Applicant is not considered to have adequately addressed concerns in relation to topography and stormwater management. The proposal is therefore deemed as non-compliant with Overall Outcome (a) to (d) of the Reconfiguring a Lot Code.

Acceptable Outcome 2.3 (AO2.3) requires that:

*The minimum size of a rear lot, excluding its access handle is: a) the same as the minimum lot size for the relevant zone in accordance with Table 9.3.7.3.2—Minimum lot size and dimensions, and b) is capable of containing a building envelope having minimum dimensions of 15m x 20m.*

In the Information Request Response dated 15 May 2023, the Applicant provided revised plans illustrating a 180m<sup>2</sup> building envelope and also identified that proposed Lot 2 has frontage to Starfish Street and as such is not considered as a rear lot. Despite proposed lot 2 having frontage to Starfish Street, access is provided via an access handle from Seaspray drive and the lot layout represents a battle-axe or front and rear lot layout where lot 2 sits behind lot 1 gaining access from the same frontage. An access from Starfish Street frontage would not be compliant with Capricorn Municipal Design Guidelines. See Figure Eight below for street view of proposed lot from Starfish Street. Given the consideration of Proposed Lot 2 as functioning as a rear lot, the Applicant's proposal of a 180m<sup>2</sup> building envelope is non-compliant with Acceptable Outcome 2.3 and is to be assessed against Performance Outcome 2 of the Reconfiguring a Lot Code.



Figure Eight: Starfish Street View

Performance Outcome 2 (PO2) requires that:

*Rear lots are only created where: (a) they are for the purpose of a single dwelling house; (b) the topography of the land or other physical features ensure that the amenity of adjoining lots would not be detrimentally affected; (c) the circumstances of the particular case are such that it would not be desirable or practical to provide full frontage lots; (d) the safety of the frontage road is not adversely affected (including for waste collection), and (e) the access handle has sufficient width to provide vehicular access and services to the rear lot.*

The Applicant has identified that the proposed lots are created for the purpose of future dwelling and has advised Council in Information Request Response dated 15 May 2023 of the provision of 2m side boundary setback and 4m reduced front boundary setback for proposed Lot 2. In this circumstance, it is not desirable to provide full frontage to Starfish Street given the slope of the land. The proposed 4m wide access handle to Seaspray Drive is considered to have sufficient width to provide vehicular access and services to the rear lot. The Applicant, however, has not submitted revised plans that illustrate cut and fill heights and location and size of retaining walls nor provided a Site-Specific Stormwater Management Plan. As such, it is difficult to assess whether amenity of adjoining lots would be detrimentally affected or not. On the basis that Council is unable to determine the impacts on amenity of adjoining lots, due to the lack of supporting information provided, it is considered the application has not satisfied PO2.

Performance Outcome 5 (PO5) requires that:

*The layout of lots, streets and infrastructure avoids or minimises impacts on environmental features by: a) following the natural topography and minimising earthworks; b) avoiding crossing or otherwise fragmenting waterways, wetlands, habitat areas, ecological corridors or steep land, and c) maintaining natural drainage features and hydrological regimes.*

Given limited details regarding cut and fill heights and location and size of retaining walls as well as a Site-Specific Stormwater Management Plan have been given as part of the applicant material, it is difficult to assess whether earthworks are being minimised or whether the development maintains natural drainage features and hydrological regimes. It is considered that the proposal is able to demonstrate compliance with Performance Outcome 5 of the Reconfiguring a Lot Code.

Acceptable Outcome 20.1 (AO20.1) to 20.4 (AO20.4) relate to infrastructure and service provision such as reticulated water and sewer, stormwater infrastructure, electricity, and telecommunication for proposed lots. On the basis that Council is unable to determine potential stormwater management impacts due to the lack of supporting information provided, the proposal is considered as non-compliant with Acceptable Outcome 20.2 of the Reconfiguring a Lot Code.

Assessment against Overall Outcomes has been undertaken within the above paragraphs where it has been determined that the proposal is not compliant given the lack of information and specialist reports.

Acceptable Outcome 22 requires that

*Lots are designed to achieve safe vehicle and pedestrian access in accordance with the Engineering Design Planning Scheme Policy.*

Should approval be given for this proposal, compliance with current standards could be conditioned accordingly.

Performance Outcome 27 (PO27) requires that *reconfiguring a lot development: (a) manages the stormwater quality, quantity and velocity flow characteristics from the lot to maintain or improve the pre-development levels, and (b) where practicable incorporates stormwater re-use.* In Information Request dated 11 April 2023, Council required the Applicant to identify the lawful point of discharge and demonstrate that there is a non-worsening of stormwater discharge for both lots through a Site Based Stormwater Management Plan (SBSMP). The Applicant did not provide the required information. It is therefore considered that the proposal is not compliant with Performance Outcome 27 of the Reconfiguring a Lot Code.

Assessment against Overall Outcomes has been undertaken within the above paragraphs where it has been determined that the proposal is not compliant given non-provision of required information.

Development Design Code

Water

Acceptable Outcome 1.1 (AO1.1) requires that

*Development is connected to Council's reticulated water supply network, including the installation of easily accessed water meters, in accordance with the Engineering Design Planning Scheme Policy.*

Figure Nine below illustrates existing water infrastructure in relation to the subject site. Should approval be given for this proposal, connected of proposed lots to Council's reticulated water supply network could be conditioned accordingly.



Figure Nine: Existing Water Infrastructure at Seaspray Drive frontage

Sewer

Acceptable Outcome 2.1 (AO2.1) requires that *development is connected to Council's reticulated sewerage treatment system, in accordance with the Engineering Design Planning Scheme Policy.* Figure Ten below illustrates existing sewer infrastructure in relation to the subject site. In the Information Request dated 11 April 2023, Council requested the Applicant to demonstrate the proposed connection to Council's reticulated sewerage system for proposed Lot 1. The Applicant responded highlighting that *the proposed common boundary between Lot 1 and 2 had been strategically positioned to allow the existing manhole to be located in Lot 1 with an associated easement.* The Applicant considered that the portion of the existing sewer network could provide adequate sewer service without the need to extend the infrastructure. Should approval be given for this proposal, connection of the proposed lots to Council's reticulated sewerage network could be conditioned accordingly.

With reference to the Local Government Act and Water Supply Act, Council has the rights to access and maintain infrastructure such as sewer network. To clearly outline the responsibilities related with the infrastructure located on the subject site and any other future development of the subject site, an easement is required over existing sewer main. Additionally, Capricorn Municipal Design Guidelines (CMDG) – Sewerage System (D12) requires that *all sewerage infrastructure within private allotments shall be required to be covered by an easement as shown in Table D12.08.01 Minimum Width of Easements Over Sewer Mains unless otherwise approved by the Sewerage Service Provider. For Gladstone Regional Council, 4.0m with the sewer main to be located within a central zone in the easement which is at least 1m from the edge of the easement.* Should approval be given for this proposal, an additional condition is recommended to ensure compliance with easement requirements.



Figure Ten: Existing Sewer Infrastructure

Stormwater

Acceptable Outcomes 5.1, 5.2 and 6 (AO5.1, 5.2 and AO6) relate to stormwater management. Figure Eleven below illustrates existing stormwater infrastructure in relation to the subject site. In the Information Request dated 11 April 2023, Council required the Applicant to identify the lawful point of discharge and demonstrate that there is a non-worsening of stormwater discharge for both lots through a Site Based Stormwater Management Plan (SBSMP).



Figure Eleven: Existing Stormwater Infrastructure

As previously mentioned, a Stormwater Management Plan was not provided by the Applicant. As such, the requirements of Acceptable Outcomes 5.1, 5.2 and 6 are considered as unaddressed. The proposal is therefore unable to demonstrate compliance with Acceptable Outcomes 5.1 and 6. Assessment against Performance Outcome 5 and 6 of the Development Design Code is undertaken below.

Performance Outcome 5 requires that:

*Stormwater management is designed and operated to: (a) ensure that adjoining land and upstream and downstream areas are not adversely affected through any ponding or changes in flows, and (b) direct stormwater to a lawful point of discharge through competently designed and constructed outlet works in a manner that reflects the predevelopment status.*

Performance Outcome 6 requires that:

*Stormwater drainage network elements are designed and constructed with the capacity to control stormwater flows under normal and minor system blockage conditions for the applicable defined flood event ensuring there is no damage to property or hazards for motorists.*

There are concerns regarding potential impacts of stormwater discharge such as ponding and mitigation measures such as detention basins that have not been addressed by the Applicant. Mitigation measures to address stormwater discharge or influx, could potentially lead to further encumbrance on the proposed lots further limiting the developable area of the lot for a future dwelling house.

Assessment of the impacts of stormwater could be duly considered through the provision of a Site Based Stormwater Management Plan (SBSMP). Given that the Applicant did not provide this, the proposal is considered as unable to demonstrate compliance with Performance Outcome 5 and 6 of the Development Design Code. Assessment against the Overall Outcomes of the Development Design Code is undertaken below.

Overall Outcomes (a), (f), (g) require that:

*Development is adequately serviced by utility and access infrastructure including roads, water, waste water, power, telecommunications, stormwater management and waste management.*

*Public health and safety are protected, and damage or nuisance caused by stormwater is avoided.*

*Stormwater is designed to maintain or recreate natural hydrological processes and minimise run-off.*

As addressed in the above paragraphs, the Applicant is not considered to have adequately addressed concerns in relation to stormwater management. The proposal is therefore deemed as non-compliant with Overall Outcome (a), (f) and (g) of the Development Design Code.

Additionally, an easement would be required over the existing stormwater main as identified in Capricorn Municipal Design Guidelines (CMDG) – Stormwater Drainage Design (D5) which states that *all drainage infrastructure (including overland flow paths) within private property shall be encumbered by drainage easements. Each easement shall include a deed of agreement that outlines each party's rights as the grantor and the grantee.* Should approval be given for this proposal, a condition could be recommended to ensure compliance with easement requirements.

#### Earthworks and retaining walls

Acceptable Outcome 8 (AO8) provides requirements regarding earthworks and retaining structures. In Information Request dated 11 April 2023, Council required the Applicant to demonstrate that both the proposed lots are adequate for purpose and required the Applicant provide revised plans illustrating proposed cut and fill heights, location, and size of retaining walls. The Applicant did not provide the requested information. The proposal is therefore unable to satisfy Acceptable Outcomes 8 or Performance Outcome 8 of the Development Design Code (provided below)

Performance Outcome 8 requires that:

*Development is designed such that earthworks and any associated retaining structures:*

- (a) result in a landform that is stable,*
- (b) maintain as far as practical, and minimise alteration to, the existing landforms,*

- (c) minimise height of batter faces and retaining structures,*
- (d) do not unduly impact on the amenity or privacy for occupants of the site or on adjoining land,*
- (e) do not unduly impact on the amenity of the streetscape,*
- (f) achieves a high level of visual amenity,*
- (g) does not prevent or obstruct the function of adjacent sites including land in Council ownership;*  
*and*
- (h) are designed and constructed so that they do not cause unintentional ponding (i.e. ponding not associated with stormwater control) on the site or on nearby land.*

Without sufficient information detailing earthworks, there is a possibility for the requirement of earthworks to facilitate proposed building pad and access handle for proposed Lot 2. However, given the limited detail provided by the applicant, it is difficult to assess what the cut and fill heights, location, and size of retaining walls would be and whether there would be any visual amenity impacts especially when viewing the subject site from the Starfish Street frontage. Therefore, the proposal is considered non-compliant with Performance Outcome 8 of the Development Design Code. Assessment against the Overall Outcome and Purpose of the Development Design Code is undertaken below.

Purpose (d) of the Development Design Code is to:

*Ensure adverse impacts of development on the environment and the amenity of the locality are avoided.*

To adequately assess whether the amenity of adjoining properties and the locality as a whole are impacted, cut and fill heights, location, size and proposed treatment of retaining walls is required. As this information has not been approved by the Applicant, the proposal is deemed as non-compliant with Purpose (d) of the Development Design Code.

#### Access driveway

Acceptable Outcome 11.1 (AO11.1) requires that *access driveways are: a) designed and constructed in accordance with the Engineering Design Planning Scheme Policy, and b) in accordance with AS2890 as amended, and c. certified by a Registered Professional Engineer of Queensland* and Acceptable Outcome 11.2 (AO11.2) requires that *access driveways allow vehicles (with the exception of dwelling house and dual occupancy) to enter and exit the site in a forward gear.* Both lots are proposed to gain access from Seaspray Drive with proposed Lot 2 gaining access through a battle-axe handle. Should approval be given for the proposal, a condition to ensure the provision of compliant vehicle access for both lots prior to the signing and sealing of the survey plan could be included.

#### Footpath

Acceptable Outcome 13 (AO13) requires that:

*Footpaths are: (a) provided to the full road frontage and designed in accordance with the Engineering Design Planning Scheme Policy; (b) connected to the existing footpath network; and (c) certified by a Registered Professional Engineer of Queensland.*

As identified by the Applicant, the subject site is located within an established area that does not include pedestrian connectivity (ie. Footpaths) presently. As such, a proposed footpath along the frontage of Seaspray Drive would not facilitate a connection into an existing network. Additionally, the topography of both road formations may also restrict compliant footpath connections. The proposal is therefore considered as compliant with Acceptable Outcome 13 of the Development Design Code.

Landscaping Code

Acceptable Outcome 3.1 (AO3.1) requires that *street trees are provided at the rate whichever is the lesser of: (a) one street tree per lot frontage or one tree per 10 linear metres of road frontage or (b) a minimum of 1 tree per 400m<sup>2</sup> of site area.* Should the proposal be approved, compliance with the provision of street trees along the frontage of the development footprint could be conditioned.

## Public Notification and Submissions:

Public Notification was triggered as the application is Impact Assessable as prescribed by the Planning Scheme. As the Development Application seeks only a Development Permit for a Reconfiguration of a Lot, public notification was required for a minimum of 15 business days (as prescribed in the Act). The public notification period occurred between 23 May until 13 June 2023.

During this period, Council received a total of eleven (11) submissions against the proposed development. The Applicant provided a response to submissions on 29 August 2023. The below table provides a summary of the received submissions, Applicant's response and officer response.

Submission	Applicant's Response	Officer's Response
<b>Lot size</b>		
<p>The intended block size of Lot 2 with the exclusion of the unusable drive handle is only 390m<sup>2</sup>, in a low-density zoning area requiring minimum block size of 600m<sup>2</sup>. This is a 35% reduction to low density zoning regulations. And the 2nd lot (Lot 1) is again well under the zoning sizing, being 33% less than minimum allowable.</p> <p>The other blocks in the area they have identified under 600m<sup>2</sup>, and long-standing excising subdivisions, and are still above 500m<sup>2</sup>, and are not adjoining properties larger in size, and have not impacted the surrounding character of dwellings.</p>	<p>The proposed subdivision will result in lots under the prescribed minimum lot size of 600m<sup>2</sup> when located in the Low Density Residential Zone. The proposed lot design has considered the access handle design to ensure a future dwelling can feasibly be located on future lot 2.</p>	<p>As advised in pre-lodgement meeting between Council and the Applicant dated 25 October 2022, the proposed lot sizes would only be supported provided the new lots were configured in a manner that facilitated the achievement of the sustainable outcomes expressed in the Low Density Residential Zone Code.</p> <p>The Applicant was required to demonstrate that any proposed building footprint/pad would lead to a compliant development in terms of setbacks, site cover, vehicle access, parking provision, private open space and response to on-site and surrounding features such as topography, utility services, vegetation and adjoining land uses demonstrating compliance with Performance Outcome 1 of the Reconfiguring a Lot Code.</p>
<p>Development plans clearly show the minimum building envelope does not meet minimum size of 15m x 20m required, and only a 10m x 18m would be possible while requiring relaxation of setbacks, and frontages, with little access to easement over Council assets. Further to this, Private Open Space, vehicle access, and parking will be impacted due to such a small, inaccessible block, and proposed footprint.</p>	<p>The building envelope example submitted within the Information Request Response included the necessary offsets from the existing infrastructure located along the western boundary of the property. It is further acknowledged that Council will require the Applicant to execute an easement to stipulate the rights to protect the existing infrastructure.</p> <p>The building envelope example</p>	<p>The proposed building envelope of 180m<sup>2</sup> is considered as insufficient in size. A building envelope with minimum dimension of 300m<sup>2</sup> is identified by the Planning Scheme as adequate in promoting the purpose of a single dwelling house and ensuring that the amenity of adjoining lots would not be detrimentally affected as outlined in Performance Outcome 2 of the Reconfiguring a lot Code.</p>

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	<p>included the necessary offsets to the established infrastructure, however sought a relaxation to the Starfish frontage. Given the natural embankment and vegetation within the road corridor, it is considered this relaxation could demonstrate compliance with the applicable QDC requirements.</p>	
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<b>Submission</b>	<b>Applicant's Response</b>	<b>Officer's Response</b>
<b>Future Development</b>		
<p>Reduced/Relaxation of frontage is requested for both Lot 1 and Lot 2 with Seaspray access of 16m for lot 1, and 4m for lot 2 in this submission vs 17m in council regulations. However, the response from planning company engaged on behalf of the applicant goes on to state, for flexibility further additional relaxation on frontage may be sought once future house plans are developed, as this is stated, it should be included in this proposal as addition relaxation and a Material Change of Use will be requested once initial proposal is approved.</p>	<p>Proposed Lot 1 seeks a minor relaxation of the minimum frontage by 0.6m. Furthermore, proposed Lot 2 technically achieves the minimum frontage given the lot abuts Starfish Street with a frontage of 25m.</p> <p>Following the pre-lodgement meeting with Council, the previously suggested access from Starfish Street was considered inappropriate given the topography and requirement to introduce retaining walls, regardless of the established access points further to the west of the site. As such, the design has now included an access handle compliant with the minimum width of 4m in accordance with scheme and engineering policy.</p>	<p>As advised in pre-lodgement meeting between Council and the Applicant dated 25 October 2022, the proposed access to Seaspray Drive was considered as a better alternative given the slope of the land from Starfish Street frontage. The proposed 4m wide access handle to Seaspray Drive is considered to have sufficient width to provide vehicular access and services to the rear lot as per the Planning Scheme requirements.</p> <p>It is important to note that the Development Application in question is a Reconfiguring a Lot application only and must be assessed as such. Future Material Change of Use for a Dwelling House applications may be required depending on the design and characteristics of any future dwellings.</p> <p>Council's role as Assessment Manager is ensure the Reconfiguring a Lot application leads to the creation of lots that are fit for purpose.</p>
<p>The planning company states that future dwelling plans are not yet developed. However, it would be clear that with the detail within the proposed planning application, the future dwelling plans would have been developed, however these are likely withheld as not to jeopardise the current proposal reconfiguration of lots. Obviously, the applicant is unwilling to show these plans to prove the proposed lots are adequate for purpose, as no revised plans illustrating cut/fill, heights, locations, and use of retaining walls, and what the future request of relaxation of setback will be required.</p>	<p>As the application only seeks to create two freehold tiles via Reconfiguring a Lot permit, no supporting house plans have been submitted as these would be subject to a future Material Change of Use. During the design stage of the future Dwelling House, the building pad and access will need to consider the topography of the subject site.</p>	<p>It is important to note that the Development Application in question is a Reconfiguring a Lot application only and must be assessed as such. Future Material Change of Use for a Dwelling House applications may be required depending on the design and characteristics of any future dwellings.</p> <p>Council's role as Assessment Manager is to ensure the Reconfiguring a Lot application leads to the creation of lots that are fit for purpose.</p>

Submission	Applicant's Response	Officer's Response
<b>Stormwater Management</b>		
<p>The proposed handle driveway to access Lot 2 will likely cause erosion to the steep vegetated bank on Starfish St frontage. This will be caused by the increase of velocity of rainwater running down a steep gradient on the proposed hardstand and not being able to be drained sufficiently as the council storm water access point is on the opposite side of block, and difficult to access, and drainage gradient will not be sufficient. This water will pool at low part of lot, and pour over the high embankment, and cause erosion, and potential instability of the ground, embankment, and other unknown issues.</p>	<p>The proposed access handle design and treatment will be required to consider overland flow to ensure non-worsening can be achieved.</p>	<p>The Applicant has not included specific details to demonstrate compliance with the relevant stormwater requirements of the Low Density Residential Zone Code, the Reconfiguring a Lot Code and the Development Design Code.</p> <p>It has not been demonstrated how proposed Lot 1 will discharge stormwater to Seaspray Drive given the slope of the land. It is considered likely, that the natural movement of overland flow will be towards the eastern boundary of the site which may lead to potential ponding of proposed Lot 2 as well as adjoining properties.</p>
<b>Earthworks</b>		
<p>Unknown extent of earthworks required to address either the gradient to allow Lot 2 Drive to proceed, or dwelling pads, parking, and other unknowns can be studied again without future plans submitted, the extent is unknown, and could be material in nature.</p>	<p>As the application only seeks to create two freehold tiles via Reconfiguring a Lot permit, no supporting house plans have been submitted as these would be subject to a future Material Change of Use. During the design stage of the future Dwelling House, the building pad and access will need to consider the topography of the subject site.</p>	<p>The Applicant has not included specific details to demonstrate compliance with the relevant earthwork requirements of the Steep Land Overlay Code, Low Density Residential Zone Code, Reconfiguring a Lot Code and Development Design Code.</p>
<p>The applicant is unwilling to show plans to prove the proposed lots are adequate for purpose, as no revised plans illustrate cut/fill, heights, locations, and use of retaining walls.</p>		<p>It is noted that the proposal is for a Reconfiguring of a Lot where the assessment of a potential landslide risk is required during consideration of a subsequent Material Change of Use application. However, it is important to ensure that the lots created are fit for their intended purpose when considering their reduced lot size for the typical 600m<sup>2</sup> minimum. There is a possibility for earthworks to facilitate proposed building pad which may further encumber the site's ability to house dwelling houses that indeed allow for compliant setbacks, private open space, vehicle access and parking and servicing areas.</p>

Submission	Applicant's Response	Officer's Response
<b>Low Density Character</b>		
<p>Furthermore, the proposed outcome will be significantly different to all other lots and dwellings along Seaspray Dr, Northern side of Starfish</p>	<p>The proposed subdivision reflects blocks adjoining Starfish Street along Palm Court which have an average lot size of 450m<sup>2</sup>. Additionally, the</p>	<p>With regards to consistency with the zone character, there is uncertainty of built form outcome for the proposed development given the</p>

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<p>St, and other surrounding streets. This will not retain the low-density nature of the surrounding prevailing low density suburban character of this area.</p>	<p>future built form outcome will represent the established character of the adjoining site to the west being two dwellings situated either side along Seaspray Drive and Starfish Street. Furthermore, as acknowledged in the pre-lodgment meeting with Council Officers and further noted in the application submission. The zone code prescribes a minimum of one dwelling per 400m<sup>2</sup>. The subject site achieves this requirement which further supports that the proposed subdivision will achieve a low residential density at the site.</p>	<p>absence of cut and fill plans or house plans.  The lots at Palm Drive are of a more regular layout, are not battle axe lots and are located on land outside of the steep land overlay. It is noted that the density of one dwelling per 400m<sup>2</sup> does not directly translate to a minimum lot size.</p>
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<b>Vegetation</b>		
<p>It is stated that there is no mature vegetation throughout the site, however there is a group of trees including a large tree on Lot 1 frequently used by two migrating Channel billed cuckoos plus a habitat for many other birds.</p>	<p>Proposed Lot 1 does not propose to remove the existing tree. However, the future Dwelling House may require this tree to be removed, which can be facilitated for residential purposes.</p>	<p>PO10 (e) of the Low Density Residential Zone Code requires that the retention of existing vegetation is maximized. As such, it is important for development to be designed in a manner that responds sensitively to onsite and surrounding vegetation. No information has been given regarding the retention of existing vegetation however given the size of the lots, it is reasonable to expect vegetation would have to be removed to accommodate any construction.</p>

<b>Submission</b>	<b>Applicant's Response</b>	<b>Officer's Response</b>
<b>Traffic, Access, and Parking</b>		
<p>There is a concern for vehicles exiting Lot 1 and Lot 2 onto Seaspray Drive. These vehicles have to cross to the opposite side of the road into oncoming traffic travelling down the very steep curving gradient as well as avoiding traffic turning the sharp corner up into Seaspray Drive from Starfish Street.</p>		<p>The proposed frontage width for both lots are considered as adequate in facilitating compliant access arrangement in accordance with current standards.</p>
<p>Further to this, the application is also seeking the opportunity for a 2nd driveway permit for Lot 1, again not in this proposal.</p>	<p>The proposed development will result in two freehold lots that will obtain access from Seaspray Drive within their respective lot frontage. This is permitted in accordance with the planning scheme and Capricorn Municipal Development Guidelines (CMDG).</p>	<p>The proposed frontage width for both lots are considered as adequate in facilitating compliant access arrangement in accordance with current standards.</p>
<b>Precedence</b>		
<p>This subdivision, if approved, will set a precedent for other block owners or</p>		<p>Each application for subdivision would be assessed against the</p>

<p>developers to carve up their land into small lots which would not suit the surrounding dwelling area. When entering Agnes Water, the current standard of dwellings and spacious blocks enhance the hillside of this small seaside town with its ocean outlook. This entrance is an important drawcard for the town's future development growth.</p>		<p>Planning Scheme requirements based on its own merit and supporting information.</p>
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## Conclusion

The proposed development fails to demonstrate compliance with several requirements of the Planning Scheme (as summarised in the table below) and raises significant questions regarding site suitability. These issues are unable to be addressed by reasonable and relevant conditions, therefore the application is recommended for refusal.

Planning Scheme Provision	Non-Compliance
Strategic Outcome 3.6.1	<ul style="list-style-type: none"> <li>Development leads to the creation of small lots that are inconsistent with the established low density residential character of the suburban area.</li> </ul>
Steep Land Overlay Code	<ul style="list-style-type: none"> <li>Absence of a site-specific geotechnical report to assess stability of site.</li> <li>Absence of plans detailing proposed cut and fill heights, location, and size of retaining walls to assess the extent of required earthworks and retaining walls</li> <li>Absence of sufficient information regarding the useability of proposed building envelope.</li> </ul>
Low Density Residential Zone Code	<ul style="list-style-type: none"> <li>Absence of site-specific stormwater management plan to demonstrate non-worsening of stormwater discharge for both proposed lots.</li> <li>Creation of small lots that are inconsistent with the established low density residential character of the suburban area.</li> </ul>
Reconfiguring a Lot Code	<ul style="list-style-type: none"> <li>Creation of small lots that are considered as insufficient in size appropriate for the intended use and the character of the zone.</li> <li>Uncertainty of the built form outcome for the proposed development due to absence of cut and fill plans or house plans</li> <li>Inadequate response to topography, natural drainage systems and vegetation of the site.</li> <li>Uncertainty of the amenity and impacts on adjoining land.</li> </ul>
Development Design Code	<ul style="list-style-type: none"> <li>Absence of site-specific stormwater management plan to demonstrate non-worsening of stormwater discharge for both proposed lots.</li> <li>Absence of plans detailing proposed cut and fill heights, location, and size of retaining walls to assess the extent of required earthworks and retaining walls</li> </ul>

## Anticipated Completion Date:

Should the application be determined at the General Meeting, the Decision Notice will be issued within 5 business days.

**Officer's Recommendation:**

That the request for a Development Permit for Reconfiguring a Lot (1 lot into 2 lots) located at 3 Seaspray Drive, Agnes Water, be refused on the following grounds:

1. The proposal involves the creation of small lots that are considered insufficient in size appropriate for the intended use and are not consistent with the character of the zone.
2. Insufficient supporting material has been provided to demonstrate compliance with the Steep Land Overlay Code (Absence of a site-specific geotechnical report to assess stability of site). The application therefore does not achieve compliance with the purpose of the Steep Land Overlay Code.
3. Insufficient supporting material has been provided to ensure the proposal is responsive to the topography of the land to ensure that the amenity of adjoining lots and the locality would not be detrimentally affected. (Absence of plans detailing proposed cut and fill heights, location, and size of retaining walls to assess the extent of required earthworks and retaining wall/s)
4. Insufficient supporting material has been provided to ensure the development is provided with appropriate infrastructure with respect to managing stormwater (absence of site-specific stormwater management plan to demonstrate non-worsening of stormwater discharge for both proposed lots).

**Attachments:**

1. Information Request Notice dated 11 April 2023
2. Information Request Response dated 15 May 2023
3. Properly made submissions 1 – 11
4. Applicants response to Submissions

**G/5. COUNCILLORS REPORT**

**G/6. URGENT BUSINESS**

**G/7. NOTICE OF MOTION**

**G/8. CONFIDENTIAL ITEMS**