

Submission for 71 Eleanor Street Carina - A007025301

Dear Mr Nicholas Cudicio,

Please see Submission attached in Support of DA A007025301.

I would request that my details are kindly withheld from public if possible.

Yours sincerely,

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SUBMISSION IN SUPPORT OF DEVELOPMENT APPLICATION A007025301

Application number	A007025301
Site address	71 Eleanor Street, Carina QLD 4152
Real property description	Lot 102 on RP74135
Proposal	Development Permit for Reconfiguring a Lot (Subdivision of 1 lot into 2 lots)
Applicant	Adrian Fisher (C/- Gaskell Planning Consultants Pty Ltd)
Category of assessment	Impact assessable
Nature of this submission	SUPPORT. The application should be APPROVED.

Dear Mr Cudicio

I make this submission under section 18 of the Development Assessment Rules in relation to development application A007025301 at 71 Eleanor Street, Carina. I write **in support** of the application and respectfully ask that Council approve it, subject to reasonable and relevant conditions. I am a Brisbane resident with an interest in how the city accommodates housing growth.

1. The proposal is an efficient use of well located, already serviced urban land

Brisbane is in a sustained housing shortage. The most efficient housing the city can deliver is housing on land already inside the urban footprint, already connected to reticulated water, sewer, power and telecommunications, and already served by existing roads, schools and public transport. A dwelling added on such land imposes no material new infrastructure burden on Council or the wider community. In practical terms it is the cheapest additional dwelling Brisbane can produce.

This application delivers exactly that outcome. It creates one additional residential allotment on an existing 721m² lot in an established Carina street. It requires no new trunk infrastructure, does not extend the urban footprint, and does not convert land from any other purpose. The land is residential now and remains residential.

This is the form of development that *ShapingSEQ 2023 (South East Queensland Regional Plan)* directs into established areas. The Regional Plan sets substantial infill targets for Brisbane on the basis that consolidation within the existing urban area is more sustainable, more infrastructure efficient and less costly than greenfield expansion. Those targets are not met by large projects alone. In the Low density residential zone they can only be met through the accumulation of modest, incremental subdivisions of this kind.

Carina is a well serviced middle ring suburb roughly 8km from the CBD, with established bus services, schools and shops. It is the kind of location where an additional dwelling is most appropriate and least disruptive.

2. The subdivision pattern is conventional and avoids the outcomes that ordinarily justify refusal

Concerns about infill subdivision in low density areas usually rest on poor lot design. The features that cause genuine planning problems are rear lots, battle axe handles, shared driveways and irregular allotment shapes that sit awkwardly against the street. None of those features is present here.

- Both proposed lots are regular in shape, with a 10.058m frontage and 35.848m depth.
- Both lots have direct, independent frontage to Eleanor Street. No rear lot or access handle is created.
- No shared driveway or reciprocal access arrangement is required.

- Existing street trees in the Eleanor Street verge are retained, with separation between each crossover and the nearest tree exceeding the 2m requirement.
- Crossovers are designed to Council standard drawing BSD2022, and the 12.6m separation between them preserves capacity for at least two on street parking spaces.

The result is a legible street front subdivision in which each future dwelling addresses Eleanor Street with its own pedestrian entry, vehicle access, landscaping and waste collection frontage. This maintains the established rhythm of the street rather than disrupting it.

3. The building envelope shown on the plans is a test of capability, not a proposed building

It is important that the notional 9m by 15m rectangle shown on the subdivision plan is understood for what it is. Under the Subdivision code, that rectangle exists to demonstrate that a lot is physically capable of accommodating a dwelling of reasonable dimensions. It is a test of lot adequacy. It is not an application for a building, it is not a proposed footprint, and it does not fix the setbacks of any future dwelling.

No dwelling is proposed by this application. Reading the demonstration rectangle as though it were a development proposal, and then assessing the streetscape consequences of that imagined building, assesses something that is not before Council and that could not lawfully be built without a separate approval.

The actual setbacks, height, site cover, garage width, street presentation and landscaping of any future dwelling will be determined at the building stage against the applicable codes, on the merits of an actual design.

4. Built form and amenity outcomes remain fully controlled at the building stage

Approving a reconfiguration does not release future development from assessment. It does the opposite. It creates lots to which a further and more specific layer of control then attaches.

Because each proposed lot is below 450m², any future dwelling will be assessable against the Dwelling house (small lot) code in addition to the general dwelling house provisions of City Plan. That code exists precisely to manage the built form risks associated with narrower lots. It regulates boundary setbacks, site cover, building separation, garage and driveway presentation to the street, private open space and landscaping. The outcome that concerns people about narrow lots, being continuous built form across the frontage with little relief and an expanse of driveway, is the outcome that code is designed to prevent.

The site is also mapped within the Dwelling house character overlay. This application seeks no demolition and no building work, so the overlay is not engaged now, and it is not weakened by approval. It continues to apply in full to any future building work on either lot.

Amenity impacts on adjoining properties, including overshadowing, access to daylight and ventilation, and boundary treatment, are matters properly assessed when a dwelling is designed and a building application is made. At that point Council can assess a real building against real criteria. Those protections survive this application intact.

5. Character is assessed across the locality, and the locality accommodates a range of lot sizes

Neighbourhood character under City Plan is a question about the locality, assessed against the outcomes the planning scheme seeks, rather than a requirement that every new lot replicate the dimensions of its immediate neighbours. If the latter were the test, no established area could ever change, and the infill objectives of both City Plan and the Regional Plan would be incapable of being achieved anywhere.

The wider Carina locality is not uniform. It contains a range of allotment sizes, dwelling ages and built form outcomes, including traditional residential lots, narrower frontage lots and contemporary infill housing.

Within that context, two regular lots presenting directly to the street with independent access are a recognisable and unremarkable residential form.

It is also relevant that the proposal changes the use of the land not at all. The land is used for detached residential purposes today and will be used for detached residential purposes after approval. What changes is the number of households on the land, by one.

6. Non compliance with an acceptable outcome is not, in itself, a basis for refusal

City Plan is a performance based planning instrument. Acceptable outcomes describe one way of achieving the corresponding performance outcome. They are not mandatory standards, and a proposal that meets a performance outcome by another means complies with the code. The relevant question for lot size is whether each lot is of a dimension and configuration capable of accommodating a dwelling with appropriate access, parking, open space and amenity. The plans demonstrate that it is.

More fundamentally, this is impact assessment, and the framework governing it is set by the *Planning Act 2016*. Under section 45(5), impact assessment is carried out against the assessment benchmarks and may have regard to any other relevant matter. Under section 60(3), the assessment manager may approve an application even if the development does not comply with some of the assessment benchmarks. The discretion is broad and evaluative.

The earlier statutory test, under which an assessment manager could not approve a development that conflicted with a planning scheme unless there were sufficient grounds to justify the decision despite the conflict, was deliberately removed when the *Planning Act 2016* replaced the *Sustainable Planning Act 2009*. The Court of Appeal confirmed this in *Abeleda v Brisbane City Council [2020] QCA 257*. There is no longer a threshold of conflict that must be overcome before approval becomes available. Council weighs the relevant considerations and reaches a balanced decision. An argument that this application must first demonstrate grounds sufficient to overcome a conflict applies a test that no longer exists in Queensland planning law.

Assessed the way the Act actually requires, the balance here favours approval. The proposal delivers a housing outcome the planning framework expressly encourages, on serviced land, with a conventional lot layout, no infrastructure impost and no built form consequences that are not separately controlled.

7. Precedent is not a proper basis for refusal

Every development application in Queensland is decided on its own merits, against the benchmarks applying to that site at that time. An approval here does not bind Council in respect of any other land, does not create an entitlement for any other landowner, and does not diminish Council's discretion to refuse a future application that is unsuitable. Any subsequent proposal would be assessed on its own facts, including its own lot dimensions, topography, street context and impacts.

Refusing an application that is otherwise acceptable, in order to forestall applications that have not been made and cannot be assessed, would decide this application on something other than its merits. If the concern is genuinely about the cumulative pattern of subdivision across the zone, that is a question about the content of the planning scheme, and it is properly addressed through the scheme amendment process rather than through the refusal of an individual application that complies with the framework as it presently stands.

8. Existing street conditions are not a reason to refuse an additional dwelling

Where an established street has existing operational constraints, those constraints are a product of how the street was built and how it is currently managed. They are not created by this application, and refusing one additional dwelling would not remedy them. The proper response to a street level servicing or safety issue is

for Council to address it through its own asset management and operational programs, which are available to Council whether or not this application is approved.

The incremental effect of this proposal is one additional household. The plans retain both existing street trees and, through the 12.6m separation between crossovers, retain capacity for at least two on street parking spaces. Waste collection, driveway construction, verge treatment and vehicle access are all matters Council can regulate through conditions of approval. Where an impact can be managed by condition, the Act contemplates that it should be managed by condition rather than by refusal.

Detailed engineering matters such as earthworks, retaining and drainage design are likewise resolved at the operational works stage, where they are supported by full design documentation and assessed against Council standards. It is neither usual nor necessary for a reconfiguration application to carry that level of detail.

9. Conclusion

This is a modest, orderly and conventional infill subdivision. It maintains the residential use of the land, creates two regular street front allotments capable of accommodating future dwelling houses, retains existing street trees, avoids rear lot and battle axe arrangements, and makes efficient use of land and infrastructure the community has already paid for.

Every matter that might be raised against it, including built form, boundary setbacks, overshadowing, streetscape presentation, landscaping, earthworks and drainage design, is a matter that remains subject to separate assessment and to Council's conditioning powers. None of them is put beyond Council's reach by approving this reconfiguration.

I therefore respectfully request that Council **approve** development application A007025301, subject to reasonable and relevant conditions.

Thank you for the opportunity to make a submission.

Yours sincerely

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