

Development application—decision under delegated authority

Material Change of Use at 18416 Burnett Highway, Binjour QLD 4625 on land described as Lot 177 on BON270—Code assessable development application under the *Planning Act 2016*

Application reference: DA210013

1 Proposal summary

- (1) The applicant seeks a Development Permit for Material Change of Use at 18416 Burnett Highway, Binjour QLD 4625 (described as Lot 177 on BON270).
- (2) The stated objective of the application is to establish a new mobile phone base station at 18416 Burnett Highway, Binjour. The proposed scope of works includes—
 - The installation of a new 10.1m slim line pole;
 - The installation of one (1) omni antenna;
 - The installation of one (1) satellite dish at the base of the pole;
 - The installation of one (1) equipment cabinet at the base of the pole;
 - The installation of one (1) GPS antenna on the roof of the cabinet;
 - The installation of associated ancillary equipment including transceivers, amplifiers, antenna mounts, cable trays, feeders, cabling, combiners, diplexers, splitters, couplers, jumpers, filters, electrical equipment, signage, fence and other associated equipment.
- (3) The property is currently used for cropping and a dwelling house.
- (4) The Council must assess the application against the assessment benchmarks, having regard to those matters set out in the *Planning Act 2016* and *Planning Regulation 2017*, and decide the application in accordance with the decision rules in s60(2) and s60(5). The attached Statement of reasons sets out the rationale for deciding to approve the application.

2 Recommendations

- (1) That the Council or its delegate, having regard to the matters set out in the Statement of reasons, decide the application under s60(2) of the *Planning Act 2016* by approving all of it subject to conditions.
- (2) That the Council notify the applicant of its decision in accordance with the attached Decision Notice.
- (3) That the Council publish the Decision Notice, including the Statement of reasons, on its website.
- (4) Council can no longer issue a charges notice in accordance with its Charges Resolution (No. 2) 2015 as it did not make a Local Government Infrastructure Plan by 1 July 2018.

3 Decision

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

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

12-7-21

Date

4 Statement of reasons

This statement explains the reasons for the assessment manager's decision in relation to a development application for Material Change of Use at 18416 Burnett Highway, Binjour QLD 4625 on land described as Lot 177 on BON270. The statement is required under **section 63 Notice of decision** of the *Planning Act 2016*.

4.1 Facts and circumstances

- (1) Council issued the Confirmation notice on 01 June 2021.
- (2) The application triggers referral to the State in relation to—
 - (a) infrastructure—state-controlled roads
Burnett Highway is a State-controlled road and part of the development site is closer than 25 metres. Under Schedule 10 of the *Planning Regulation 2017* the application requires referral as a Material change of use of premises near a State transport corridor or that is a future State transport corridor.
- (3) The application included sufficient information and it was not necessary to issue an information request. The applicant provided an amended site plan upon request.
- (4) The following matters have been key considerations for the assessment manager—
 - (a) material about the application, including the proposal plan/s and the applicant's report;
 - (b) the North Burnett Regional Planning Scheme 2014 v1.4 (amendments commenced 17 August 2020), to the extent relevant; and
 - (c) site suitability, including remnant vegetation; and,
 - (d) the SPP, to the extent that it is not appropriately integrated in the planning scheme.

4.2 Category of assessment

- (1) The site is in the Rural (hinterland) zone and is surrounded by rural lots.
- (2) The proposal is identified as Code assessable against the Rural zone code, and Infrastructure and operational work code.
- (3) The proposed also requires assessment against the following overlay codes—
 - (a) Infrastructure overlay code;
 - (b) Natural features or resources overlays code.
- (4) In accordance with s60(2) of the *Planning Act 2016*, to the extent the application involves development that requires code assessment, the Council—
 - (a) must decide to approve the application to the extent the development complies with all of the assessment benchmarks;
 - (b) may decide to approve the application even if the development does not comply with some of the assessment benchmarks; and
 - (c) may, to the extent the development does not comply with some or all the assessment benchmarks, decide to refuse the application only if compliance cannot be achieved by imposing development conditions.

4.3 Assessment benchmarks

- (1) A basic assessment against the assessment benchmarks is provided in the report and associated documentation submitted with the application. Such assessment confirms that the matter is relatively straight forward and it is not necessary to carry out a more detailed assessment for compliance.

4.3.2 State planning instruments

- (1) *Regional plan*—the Wide Bay Burnett Regional Plan is appropriately integrated in the planning scheme and does not require further or separate consideration for Council to decide the application.
- (2) *State planning policy*—there are no State interest statements, policies or benchmarks relevant to this application.

4.3.3 Rural zone code

- (1) The proposal complies with the Rural zone code as—
 - (a) it achieves the purpose and overall outcomes of the zone code;
 - (b) it would maintain rural amenity through its limited scale and discreet position on the site.
 - (c) it would not increase risk or exposure to natural hazards and would enhance telecommunications services to the surrounding area.

4.3.4 Infrastructure and operational work code

- (1) The proposal complies with the *Infrastructure and operational work code* as—
 - (a) it achieves the purpose and overall outcomes of the code;
 - (b) it complies with the performance outcomes of the code, specifically—
 - (i) Additional landscaping is not considered relevant to the proposed use.
 - (ii) The development is setback so neighbouring premises retain reasonable visual and acoustic privacy.
 - (iii) The proposal will not require connection to stormwater and will not alter stormwater runoff.
 - (iv) The development incorporates a reliable power supply and will meet the design, construction and operational standards of the operator/provider.
 - (v) On-site infrastructure would be provided in accordance with the anticipated needs of users—the site would only require persons onsite during occasional maintenance.
 - (vi) Suitable vehicular access and movement areas are provided on site.
 - (vii) Technical Services did not advise any required upgrades required to the local infrastructure network.
 - (viii) Standard erosion and sediment controls will be implemented to avoid degradation and adverse impacts on stormwater quality.

¹ When the planning scheme commenced on 3 November 2014 it appropriately integrated all aspects of the State Planning Policy then in force. The SPP that commenced on 3 July 2017 is quite similar, however the *Planning Act 2016* requires the assessment manager to assess the application against the SPP Part E (State Assessment Benchmarks) because the planning scheme does not identify it as having been 'appropriately integrated' into the scheme.

4.3.5 Overlay codes

- (1) The proposal complies with the *Infrastructure overlay code* as—
 - (a) it achieves the purpose and overall outcomes of the code;
 - (b) it complies with the performance outcomes of the code, specifically —
 - (i) Adequate separation from Burnett Highway has been considered with existing vegetation providing buffering to the highway.

- (2) The proposal complies with the *Natural features or resources overlays code* as—
- (a) it achieves the purpose and overall outcomes of the code;
 - (b) it complies with the performance outcomes of the code, specifically—
 - (i) significant impacts on environmental values would be avoided with the new use distant from identified MSES areas—
 - a) The site is intersected by MSES regulated vegetation Category B along the eastern boundary. The development site is located over 50 metres from the regulated vegetation areas and is not expected to have any effect on the related vegetation.
 - (ii) The proposal does not involve vegetation clearing and will not generate considerable opportunity for spread of non-native pest species.

4.4 Consultation

4.4.1 Internal stakeholder comments

- (1) Technical Services did not provide comment on the development.

4.4.2 External stakeholder comments

- (1) The application did require referral to DSDILGP under Schedule 10 of the *Planning Regulation 2017*. The application was referred to Department of State Development, Infrastructure, Local Government and Planning under Schedule 10, Part 19, Division 4 of the *Planning Regulation 2017* as it involves a material change of use of premises near a State transport corridor or that is a future State transport corridor. The Department of Transport and Main Roads has provided conditions to be included in any development permit.

4.4.3 Public consultation

- (1) The application did not require public notification. The applicant advised that Telstra was conducting non-statutory consultation according to its protocol.

4.5 Key issues for this application

- (1) The assessment manager considers that the following matters have been instrumental in its decision—
- (a) *Compliance with the assessment benchmarks*—the proposal fully complies with the relevant assessment benchmarks;
 - (b) *Rural zone - Safe operation without interference with incompatible uses* - considering appropriateness and potential impact of use, it was concluded the use will have minimal impact on surrounding sensitive uses. Condition of radiation and emissions protections is required.
Infrastructure (non-trunk) works – electricity supply & erosion controls.
Considering existing electrical supply, it was concluded that an upgrade to current supply point/s is required to support the proposed use. The development must ensure reliable supply of electricity is available to support the proposed use.
Construction activities must avoid degradation and adverse impacts on stormwater quality through the implementation of standard erosion and sediment controls.

4.6 Decision rules under the *Planning Act 2016*

- (1) The assessment manager—
- (a) must approve if the proposal complies with all the assessment benchmarks;
 - (b) may approve if the proposal does not comply with some assessment benchmarks;
 - (c) may impose conditions;

- (d) may refuse the application only if the proposal does not comply with some of the benchmarks and conditions cannot achieve compliance;
- (e) may give a preliminary approval for all or part of the proposal.

Section 60(2) of the Planning Act 2016 sets out the decision rules for code assessment.

(2) Development conditions must—

- (a) be relevant to but not an unreasonable imposition; and
- (b) be reasonably required as a consequence of the development.

Section 65 of the Planning Act 2016 limits the nature of approval conditions.

(3) Having regard to the above matters and after assessing the application against the assessment benchmarks, the assessment manager decides to approve the application and impose conditions in accordance with the decision rules.