

Development application—decision under delegated authority

Material Change of Use at 1204 Airport Rd & Baileys Rd, Mulgildie on land described as Lots 19 & 20 on RW88 & Environmentally Relevant Activity ERA 3 (3) pig keeping > 8,000 SPU—Code assessable development application under the *Planning Act 2016*

Application reference: DA210010

1 Proposal summary

- (1) The applicant seeks a Development permit for Material Change of Use for Intensive Animal Industry (expansion to piggery 20,000 to 40,000 SPU) and an Environmentally Relevant Activity ERA 3 (3) pig keeping > 8,000 SPU at 1204 Airport Rd & Baileys Rd, Mulgildie on land described as Lots 19 & 20 on RW88.
- (2) The stated objective of the application is to increase the productive capacity of the existing piggery (BCP Farming Pty Ltd 'Homestead site').
- (3) The site is currently used for intensive animal industry (piggery – 20,000 SPU) and accommodates supporting infrastructure and other buildings/structures.
- (4) The applicant seeks to expand the Homestead Site to include one new farrow-to finish unit (Homestead Unit 2) which will be identical to the existing Homestead Unit 1. The total capacity of the combined piggery will be increased to 40,000 SPU. The expansion will allow for effluent from the combined piggery to be treated in a central Covered Anaerobic Pond (CAP). All improvements would be fully contained within Lots 19 & 20 on RW88.
- (5) The Council must assess the application against the assessment benchmarks, having regard to those matters set out in the *Planning Act 2016* and *Planning Regulation 2017*, and decide the application in accordance with the decision rules in s60(2) and s60(5). The attached Statement of reasons sets out the rationale for deciding to approve the application.

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.

2 November 2021

Jeff Miles

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

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 1204 Airport Rd & Baileys Rd, Mulgildie on land described as Lots 19 & 20 on RW88. The statement is required under **section 63 Notice of decision** of the *Planning Act 2016*.

4.1 Facts and circumstances

- (1) The application was deemed properly made on 19 May 2021.
- (2) Council issued the Confirmation notice on 25 May 2021.
- (3) The application triggers referral to the State in relation to—
 - (a) environmentally relevant activities; ERA 3 (3) Piggery Schedule 10, Part 5, Division 4, Table 2 of the Planning Regulation 2017. Non-devolved environmentally relevant activities
 - (b) infrastructure—state transport infrastructure, Schedule 10, Part 9, Division 4, Subdivision 1, Table 1 of the Planning Regulation 2017. Material Change of Use that exceeds the threshold for development in local government area 2—stated in schedule 20, column 3.
- (4) The application did not include sufficient information and it was necessary to issue an information request. A request for further information was made to the applicant on 11 June 2021.
- (5) The following matters have been key considerations for the assessment manager—
 - (a) material about the application, including the proposal plans and the applicant's report;
 - (b) the North Burnett Regional Planning Scheme 2014 v1.4 (amendments commenced 17 August 2020), to the extent relevant;
 - (c) the extent of remnant vegetation and natural hazards;
 - (d) site access, vehicle manoeuvring and parking;
 - (e) the effect of traffic along Airport Road and Baileys Road and potential impacts on local roads;
 - (f) the environmental effects have been considered by the State in assessing and deciding the ERA aspect of the application.

4.2 Category of assessment

- (1) The site is in the Rural (Hinterland) zone and is surrounded by other Rural (Hinterland and standard) lots.
- (2) The proposal is identified as Code assessable against the intensive animal uses code as well as the infrastructure and operational work code.
- (3) The proposed development also requires assessment against the following overlay codes—
 - (a) Bushfire hazard overlay code;
 - (b) Flood hazard overlay code;
 - (c) 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 straightforward, and it is not necessary to carry out a more detailed assessment for compliance.

4.3.2 State planning instruments

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

4.3.3 Intensive animal uses code

- (1) The proposal complies with the Intensive animal uses 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) the site is a sufficient size to accommodate suitable on-site service connections and adequate buffering from sensitive uses.
 - (ii) additional structures are setback further from sensitive receptors than the existing piggery.
 - (iii) the proposed separation distances are compliant with the relevant industry standards.
 - (iv) the existing separation from identified MSES areas and vegetation will be retained.
 - (v) the proposed separation distances have been considered by the State in assessing and deciding the ERA aspect of the application.

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) suitable on-site infrastructure will be required to be provided to meet the anticipated needs of users;
 - (ii) given the size of the site and the site locating outside the water service area, it would be appropriate for the site to be supplied by on-site means.
 - (c) similarly, it would be appropriate for the disposal and treatment of effluent and other wastewater occur on-site given no reticulated sewerage infrastructure exists near the site. The subject site is also a suitable size to accommodate effluent

- disposal and treatment. Technical Services did not advise of any concerns for effluent disposal or treatment;
- (d) Technical Services did not advise any required upgrades required to the local road network;
 - (e) Technical Services did not advise any stormwater concerns with no changes to current stormwater drainage characteristics are anticipated with the site generally falling to the south;
 - (f) The development will not be required to be connected to fixed-line telecommunications with current access to the nbn broadband access network by fixed wireless connection deemed reasonable and aligned with general community expectations.

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 *Bushfire hazard overlay code* as;
 - (a) it achieves the purpose and overall outcomes of the code;
 - (b) it complies with the performance outcomes of the code;
 - (c) the development has been located in the area of the lowest hazard. Elements of the proposal building work least susceptible to fire are located closest to the hazard areas.

- (2) The proposal complies with the *Flood hazard overlay code* as;
 - (a) it achieves the purpose and overall outcomes of the code;
 - (b) it complies with the performance outcomes of the code;
 - (c) the development would not increase risks or exposure to the flood hazard.

- (3) The proposal complies with the *Natural features or resources overlays code* as—
 - (a) it achieves the purpose and overall outcomes of the code;
 - (b) it complies with the performance outcomes of the code, specifically—
 - (c) significant impacts on environmental values would be avoided with suitable effluent treatment systems proposed.
 - (d) the existing separation from identified MSES areas and vegetation will be retained.
 - (e) the environmental effects have been considered by the State in assessing and deciding the ERA aspect of the application.

4.4 Consultation

4.4.1 Internal stakeholder comments

- (1) Technical Services provided comment on the development in relation to services, access and parking. Request/s were made to "see the design of the access for suitability of the planned design vehicles together with details of how the export of material onto the Airport Road surface was going to be mitigated". Further comments were provided indicating 'an appropriately designed and approved sealed access between the boundary and Airport Road would be required. Plans should indicate the onsite parking arrangements and any vehicle wash-down facilities. The applicant should also demonstrate how they were managing any biosecurity risk associated with the transport operations'.

4.4.2 External stakeholder comments

- (1) The application did require referral to SARA under Schedule 10 of the *Planning Regulation 2017*.

4.4.3 Public consultation

- (1) The application is code assessable and did not require public notification.

4.5 Key issues for this application

- (1) The assessment manager considers that the following matters have been instrumental in its decision—
 - (a) *Compliance with the assessment benchmarks*—the proposal is fully compliant with the relevant assessment benchmarks;
 - (b) environmental impacts and biosecurity;
 - (c) erosion and sediment controls;
 - (d) effluent disposal and treatment;
 - (e) adequate separation distances and buffering from sensitive uses
 - (f) the effect of traffic along Airport Road and Baileys Road and impacts on local roads;
 - (g) adequate loading/unloading areas and vehicle parking

4.6 Decision rules under the *Planning Act 2016*

- (1) The assessment manager—
 - (a) must approve the application 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.