

Development application—decision under delegated authority

Material change of use—Retirement Facility (Eighteen (18) detached dwellings plus communal indoor and outdoor facilities) at 53 Edward Street, Biggenden on land described as Lot 4 on RP15917—Code assessable development application under the *Planning Act 2016*

Application reference: DA210027

1 Proposal summary

- (1) The applicant seeks a Development permit for Material change of use — Retirement Facility (Eighteen (18) detached dwellings plus communal indoor and outdoor facilities) at 53 Edward Street, Biggenden on land described as Lot 4 on RP15917
- (2) The site is situated on the western end of Edward Street, Biggenden.
- (3) The site is in the general residential zone and currently vacant.
- (4) The site adjoins a state controlled road being Edward Street.
- (5) The stated objective of the application is to establish a retirement living facility under the *Manufactured (Residential Parks) Act 2003*. The development will comprise of eight (8) one (1) bedroom detached dwellings; ten (10) two (2) bedroom detached dwellings, a community building or clubhouse and an outdoor shelter barbeque area.
- (6) 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) of the *Planning Act 2016*. The Statement of reasons sets out the rationale for deciding to approve the application.

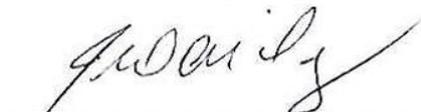
2 Recommendations

- (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.

18 November 2021



Jeff Miles

Date

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

4 Statement of reasons

- (1) This statement explains the reasons for the assessment manager's decision in relation to a development application for Material change of use— Retirement Facility (Eighteen (18) detached dwellings plus communal indoor and outdoor facilities) at 53 Edward Street, Biggenden on land described as Lot 4 on RP15917. The statement is required under **section 63 Notice of decision** of the *Planning Act 2016*.

4.2 Facts and circumstances

- (1) The application was lodged on 30 June 2021.
- (2) The application was deemed properly made on 30 June 2021.
- (3) The application triggered referral to State Assessment and Referral Agency under schedule 10, Part 9, Division 4, Subdivision 2. Table 4 of the Planning Regulation 2017 for a material change of use of premises near a state transport corridor or that is a future state transport corridor.
- (4) The applicant requested an extension to the date to referral the application to SARA. Application was properly referred on 13 August 2021.
- (5) SARA issued a decision to approve the application subject to conditions on the 10 September 2021.
- (6) A further advice notice was issued to the applicant on 5 October 2021, subsequent to the issuing of the further advice notice the applicant requested Council “stop the clock” on 5 October 2021 for 60 days.
- (7) Applicant requested assessment recommence on 21 October 2021 without submitting any further information as requested in the further advice notice.
- (8) 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;
 - (c) the nature and scale of the use as well as stormwater management, waste management, landscaping, vehicle manoeuvring, access and parking, emergency services access and lighting; and
 - (d) the SPP, to the extent that it is not appropriately integrated in the planning scheme.

4.3 Category of assessment

- (1) The site is in the General residential zone.
- (2) The proposal is identified as Code assessable against the purpose of the *General Residential zone code* as well as the *Infrastructure and operational works code*, and *Infrastructure overlay code*.
- (3) 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.

4.4 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, however a more detailed assessment for compliance is attached.

4.4.2 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*—the State Planning Policy is appropriately integrated in the planning scheme and does not require further or separate consideration for Council to decide the application.

4.4.3 General Residential zone code

- (1) The proposal complies with the purpose of the *General Residential zone code* as—
 - a) the development would support a variety of uses to service the LGA through provision of affordable residential accommodation for aged persons;
 - b) it complies with the performance outcomes of the code, specifically—
 - (i) support for ongoing business activities near the main street and along adjoining significant local roads.

4.4.4 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) the proposal does not include sufficient detail regarding compliance with landscaping requirements. Given the location of the site, it is appropriate to include a condition that an operational work permit be submitted with a detailed landscape plan prepared in accordance with planning scheme policy SC6.5
 - (ii) the proposal does not include sufficient detail regarding compliance of stormwater discharging to a lawful point. Given DTMR's approval conditions requires that stormwater not be discharged onto Edward Street and the viability of the project due to stormwater management. Council has conditioned that stormwater management plans to be issued to Council prior to the lodgement of building applications.
 - (iii) suitable on-site infrastructure including water, sewerage, and electricity would be required to be provided to meet the anticipated needs of users;
 - (iv) suitable vehicular access, parking and manoeuvring areas will be required to be provided for the development in accordance SC6.2 Design and construction standards for development works policy;

4.4.5 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—significant impacts to premises caused by the road corridor would be avoided through landscaping along the road frontage and the speed zone being 60km/hr.

4.5 Consultation

4.5.1 Internal stakeholder comments

- (1) Technical Works did not provide specific requirements on the development in relation to water, sewerage and overland stormwater flow.
- (2) Civil Works provided comment on the development in relation to vehicular access and manoeuvring. No specific requirements were provided.

4.5.2 External stakeholder comments

- (1) The application required referral to the Chief Executive under Schedule 10 of the Planning Regulation 2017 for state infrastructure impacts as the site adjoins a state-controlled road and change for access to the site. A decision has been issued by Department of Transport and Main Roads on 10 September 2021.

4.5.3 Public consultation

- (1) The application did not require public notification.

4.6 Key issues for this application

- (1) The assessment manager considers that the following matters have been instrumental in its decision—
 - a) *Strategic framework*—provision of housing diversity that gives choice in housing type, tenure, location and cost that enables residents to remain in their communities as they move through their life cycle;
 - b) *Compliance with the assessment benchmarks*—the proposal generally complies with the relevant assessment benchmarks;
 - c) *Appropriate use*—considering the type and scale of planned use/s and the site's location within the General Residential Zone;
 - d) *Stormwater management*—considering the topographical aspects of the site and
 - e) *Vehicular access, parking, and manoeuvring*—considering the entry/exit locations as well as configuration and manoeuvring area/s for intended vehicles; and
 - f) *Infrastructure (non-trunk) works*—water, sewer and electricity – considering the site can be readily serviced by suitable infrastructure connections.

4.7 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.