

Development application—decision under delegated authority

Material Change of Use for ‘Short term accommodation’ at 45 North Branch Road, Mount Perry QLD 4677 on land described as Lot 74 on BON361—
Code assessable development application under the *Planning Act 2016*

Application reference: DA210031

1 Proposal summary

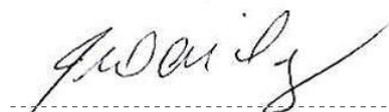
- (1) The applicant seeks a Development Permit for Material Change of Use at 45 North Branch Road, Mount Perry QLD 4677 (described as Lot 74 on BON361).
- (2) The stated objective of the application is to establish short term accommodation. The proposed scope of works includes—
 - (a) establishment of eight accommodation units using two renovated shipping containers; and
 - (b) establishment of an all-weather structure as a common space between the buildings.
- (3) The property is currently used for grazing, in conjunction with adjoining lots, 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 November 2021

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 45 North Branch Road, Mount Perry QLD 4677 on land described as Lot 74 on BON361. The statement is required under **section 63 Notice of decision** of the *Planning Act 2016*.

4.1 Facts and circumstances

- (1) The application was properly made on 19 August 2021.
- (2) The application does not trigger referral to the State.
- (3) The application included insufficient information and it was necessary to issue an information request. The applicant responded to the information request on 11 October 2021.
- (4) On 4 November 2021, the applicant submitted a further revision to the site plan to remedy proposed encroachments onto the Elmhirst Road reserve. The original proposal included the building and parking area partly within the road reserve and the septic tank entirely within the road reserve. In the latest plan, all proposed works would be within the subject lot.
- (5) 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) site suitability, amenities, water supply and waste management; 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 zone – intensive agriculture precinct 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 site includes land mapped within the Bushfire hazard overlay area. The proposal subsequently requires assessment *against the Bushfire hazard overlay 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 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 support rural uses through provision of visitor accommodations and would not increase environmental impacts or exposure to natural hazards.

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 and site.
 - (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.
 - (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.

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, specifically—
 - (c) the proposed development is located within the periphery of the bushfire hazard - medium potential bushfire intensity and potential impact buffer, with these areas quarantined by large break areas;

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.

4.4 Consultation

4.4.1 Internal stakeholder comments

Technical Services provided comment on the development in relation to road alignment, waste management, floor plan, amenities, water storage and wastewater disposal.

Request/s were made for further information regarding plans for waste management, amended site plans and details of the water and wastewater disposal locations. Technical Services provided further, specific requests for information addressing 'how visitors using the accommodation will be serviced with the appropriate amenities'. The requests were addressed through the applicant's information request response and have subsequently been addressed within the development conditions.

4.4.2 External stakeholder comments

- (1) The application did not require referral to SARA under Schedule 10 of the *Planning Regulation 2017*.

4.4.3 Public consultation

- (1) The application 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 fully complies with the relevant assessment benchmarks;
 - (b) *Infrastructure (non-trunk) works—Parking, access, and service connections*
Access to the site is via Elmhurst Road, which is constructed only to a single lane gravel standard and includes crossing grids. The development must ensure reliable service connections including electricity, water and wastewater disposal are available to support the proposed use.
Suitable access and parking would be provided and therefore avoid degradation, adverse environmental impacts, and nuisance;
 - (c) *Suitability for a rural locality*—the site is in the Rural zone and would be at a relatively low density having regard to—
 - (i) its location towards the end of the trafficable section of Elmhurst Road, and the larger landholding of the applicant;
 - (ii) the site abuts the Mount Perry National Park although the proposed works would be approximately 800 metres from the eastern boundary of the national park;
 - (iii) there is unlikely to be any reverse amenity issues;
 - (iv) a recommended condition that limits the use to accommodating not more than eight persons at any one time—this number being based on the application's assumptions about waste generation and management.
 - (d) *The location of the works in relation to the Elmhurst Road reserve*—the revised plan submitted 4 November 2021 shows all activities and works entirely within the subject lot. A recommended condition requires suitable setbacks from Elmhurst Road.
 - (e) *Hazard mitigation (Bushfire)*—adequate water supply for firefighting purposes
The recommended development conditions include a requirement to provide water supply for firefighting purposes.

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.