

Development application—decision under delegated authority

Material change of use—Service Industry at 50 Leichhardt Street, Mundubbera on land described as Lot 8 on M589—Code assessable development application under the *Planning Act 2016*

Application reference: DA210036

1 Proposal summary

- (1) The applicant seeks a Development permit for Material change of use —Service Industry at 50 Leichhardt Street, Mundubbera on land described as Lot 8 on M589.
- (2) The site is a corner lot situated between Bouverie Street and Leichhardt Street. The Bouverie Street frontage is approximately 58 metres long and the Leichhardt Street frontage is approximately 35m long.
- (3) The site is in the Centre zone and currently vacant.
- (4) The stated objective of the application is to establish an office and warehouse to support an electrical service industry use. The customer entrance to the building will contain a reception area, four offices, meeting room, storeroom, toilet and shower facilities as well as a lunchroom. Four full height roller doors provide vehicular access to the warehouse. Vehicular access to the site will be provided via entry along Bouverie Street and exit along Leichhardt Street.
- (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) 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.



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

3 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—Service Industry at 50 Leichhardt Street, Mundubbera on land described as Lot 8 on M589. The statement is required under **section 63 Notice of decision** of the *Planning Act 2016*.

4.1 Facts and circumstances

- (1) The application was lodged on 17 September 2021.
- (2) The application was deemed properly made on 17 September 2021.
- (3) The application did not trigger any referrals.
- (4) An information request was issued to the applicant on 30 September 2021 and was addressed on 30 September 2021.
- (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) the nature and scale of the use as well as stormwater management, waste management, landscaping, vehicle parking and manoeuvring, building form and design, lighting; 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 Centre zone, adjacent to and near other Centre zone lots and General residential zoned lots.
- (2) The proposal is identified as Code assessable against the purpose of the Centre *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.

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

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 interests, policies or benchmarks relevant to this application¹.

4.3.3 Centre zone code

- (1) The proposal complies with the purpose of the *Centre zone code* as—
- (a) the development would support a variety of uses to service the LGA through provision of electrical supplies and material storage. The use varies from those adjacent to the subject site;
 - (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.

4.3.4 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) the proposal does not include sufficient detail regarding compliance with landscaping requirements. Given the central location of the site, it is appropriate to include a condition that a detailed landscape plan be prepared in accordance with planning scheme policy SC6.5. and submitted priority to the commencement of the use;
 - (ii) suitable on-site infrastructure including water, sewerage, stormwater, electricity and telecommunications would be required to be provided to meet the anticipated needs of users;
 - (iii) suitable vehicular access, parking and manoeuvring areas will be required to be provided for the development in accordance Council's Design and construction standards for development works policy;
 - (iv) Council's Civil Works Manager did not advise of any required upgrades required to the local road network.

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—significant impacts to premises caused by the road corridor would be avoided through the proposed material change of use through adequate road boundary setback and landscaped buffer along both road frontages.

4.4 Consultation

4.4.1 Internal stakeholder comments

- (1) Technical Services provided comment on the development in relation to vehicular access and manoeuvring. No specific requirements were provided.

4.4.2 External stakeholder comments

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

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.

4.4.3 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) *Appropriate use*—considering the type and scale of planned use/s and the site’s location within the Centre Zone;
 - c) *Amenity and aesthetics*—visual amenity and nuisance;
 - d) *Landscaping*—a detailed landscape plan will be required to be provided to ensure adequate planting, drainage and surface treatments;
 - e) Vehicular access, parking, and manoeuvring – considering the entry/exit locations as well as configuration and manoeuvring area/s for intended vehicles;
 - f) *Infrastructure (non-trunk) works* – water, sewer, electricity, and telecommunications access – considering the site can be readily serviced by suitable infrastructure connections.

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.