

Development application—decision under delegated authority

Material Change of Use— Rooming accommodation at 19 Seeney Street on land described as Lot 23 on RP32450- code assessable development application under the *Planning Act 2016*

Application reference: 51/19

1 Proposal summary

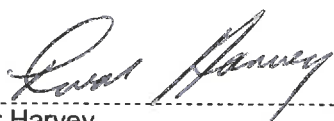
- (1) The applicant seeks a development permit for a material change of use for rooming accommodation at 19 Seeney Street, Gayndah on land described as Lot 23 on RP32450.
- (2) The subject site is located within the general residential zone and an material change of use for rooming accommodation is code assessable against the following codes from the North Burnett Regional Council Planning Scheme:
 - Higher Density Residential Code
 - Infrastructure and Operational Work Code
- (3) The stated objective of the application is to provide rooming accommodation for orchard workers, which the owner of 19 Seeney Street, Gayndah also employs in the Gayndah district. The workers will reside there for a period of 5-8 months.
- (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 attached 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 Notice of decision.
- (3) That the Council publish the Notice of decision, including the Statement of reasons, on its website.

3 Decision

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



Trevor Harvey
General Manager Strategy, Innovation and Assets
On behalf of Gary Rinehart
Chief Executive Officer
(Delegate of North Burnett Regional Council)

29-5-2019

Date

4 Statement of reasons

This statement explains the reasons for the assessment manager's decision in relation to a development application Material Change of Use – Rooming Accommodation at 19 Seeney Street, Gayndah on land described as lot 23 on RP32450.. The statement is required under **section 63 Notice of decision** of the *Planning Act 2016*.

4.1 Facts and circumstances

- (1) The site is in the general residential zone and is surrounded by residential dwellings in the same zone.
- (2) The application does not trigger any referrals.
- (3) In accordance with section 2.2 of the Development Assessment (DA) Rules, Council was not required to give a Confirmation Notice.
- (4) The application included sufficient information in the application and it was not necessary to issue an information request.
- (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, to the extent relevant; and
 - (c) the SPP, to the extent that it is not appropriately integrated in the planning scheme.

4.2 Category of assessment

- (1) The proposed material change of use is code assessable requiring assessment against the *Higher Density Residential and Infrastructure and Operational Work Codes*.
- (2) The site is not within any other scheme overlays and therefore does not require further assessment against the relevant codes.

4.3 Assessment benchmarks

- (1) The application is compliant to the Higher Density Residential Code and the Infrastructure Operational Work Code. Much of the codes are not applicable to the application as its an existing domestic dwelling with characteristic of the site remaining the same. As such that the assessment is relatively straightforward.

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 application¹.

4.3.3 Higher Density Residential Code

- (1) The proposal complies with the higher density residential and infrastructure and operational works codes as—
 - (a) it achieves the purpose and overall outcomes of the codes;
 - (b) it complies with the performance outcomes of the codes; and

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.

- (c) it would not adversely affect the character, setting or appearance of the general residential zone.

4.4 Consultation

4.4.1 Internal stakeholder comments

- (1) No officers were invited to comment on the application, considering the minor nature of the proposal.

4.4.2 External stakeholder comments

- (1) No external stakeholders were invited to comment on the application, and it would not require referral to the chief executive under Schedules 9 or 10 of the *Planning Regulation 2017*.

4.4.3 Public consultation

- (1) The application did not require public notification and Council did not receive any submissions about the application.

4.5 Key issues for this application

- (1) The assessment manager considers that the following matters have been instrumental in its decision—
 - (a) *Building size and scale*—As the accommodation building will not change in external characteristics or size and it is compliant to all acceptable outcomes in the codes. It will have the same impact as any other dwelling in the general residential zone.
 - (b) *Amenity to general residential area*—The dwelling used for rooming accommodation in the general residential zone triggers code assessment. As stated previously due to the dwelling not changing in any external characteristics this use will not appear any different than a domestic dwelling.
 - (c) *Infrastructure impacts*— as the dwelling is in an established residential area, and as it is for a low volume rooming accommodation there is will be not further impact of the infrastructure network already in place for the existing dwelling.

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 approves the application and imposes conditions in accordance with the decision rules.