

# Development application—decision under delegated authority

Material change of use—Agricultural supplies store at 9-11 Lyons Road, Mundubbera on land described as Lot 4 on SP226159—Code assessable development application under the *Planning Act 2016*

Application reference: 183/19

## 1 Proposal summary

- (1) The applicant seeks a Development permit for a Material change of use—Agricultural supplies store at 9-11 Lyons Road, Mundubbera on land described as Lot 4 on SP226159.
- (2) The applicant currently operates out of their premises in Bundaberg. Due to increased product demand from customers within the North Burnett region, they are seeking to provide more easily accessible products and services closer to their existing customer area, in turn providing a better and more local service, and reducing delivery timeframes.
- (3) The proposal would have a total GFA of 384m<sup>2</sup>, a building height of 9m above ground level, and 6 car parking spaces. Approximately 56m<sup>2</sup> would be used for the administration, reception and amenities purposes, while the remaining GFA would be used for the storage and sale (direct to the public) of agricultural supplies. It would initially employ 2-3 staff (with potential for more as business increases), and hours of operation would ordinarily be Monday to Friday, 7am to 4:30pm.
- (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.
- (5) 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.

## 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.

  
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Jeff Miles  
Planning & Environment Manager

  
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Date

## 4 Statement of reasons

This statement explains the reasons for the assessment manager's decision in relation to a development application for a Material change of use—Agricultural supplies store at 9-11 Lyons Road, Mundubbera on land described as Lot 4 on SP226159. 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 and surrounded by lots in the Centre zone.
- (2) The application was lodged on 30 September 2019, and Council issued an action notice on 8 October 2019. The applicant complied with all the required actions on 18 October 2019, and Council issued a confirmation notice on 22 October 2019.
- (3) The application does not require referral under Schedule 10 of the *Planning Regulation 2017*.
- (4) Council issued an information request on 29 October 2019 and a further advice letter on 6 November 2019. Council sought additional information on vehicle movements and waste management. The applicant provided all the information requested on 15 November 2019.
- (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 proposal is identified as Code assessable against the Centre zone code and Infrastructure and operational work code.
- (2) The proposal also requires assessment against the Infrastructure overlay code as development is within 25m of an identified road corridor—significant local road.
- (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 detailed assessment against the assessment benchmarks is provided in the report and associated documentation submitted with the application.

#### 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 States interests, policies or benchmarks relevant to this application<sup>1</sup>.

#### **4.3.3 Centre zone code**

- (1) The proposal complies with the Centre zone code as—
- (a) it achieves the purpose and overall outcomes of the code;
  - (b) it complies with the performance outcomes of the code;
  - (c) it would increase the mix of business activities in the CBD and reinforce the centre as the dominant “main street role”;
  - (d) it would have a high level of amenity and provide the community with an appealing, convenient and safe pedestrian-friendly environment; and
  - (e) it would present an appealing façade to the street and Archer Park by incorporating variations in materials, roof heights, glazing, and awnings—consistent with SC6.7 *Building form for the Centre zone policy*.

#### **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 zone code;
  - (b) it complies with the performance outcomes of the zone code;
  - (c) suitable non-trunk, on-site infrastructure would be available to meet the anticipated needs of users whilst not creating any significant adverse environmental effects; and
  - (d) relevant and reasonable conditions would be imposed to maintain the safety and efficiency of Lyons Street and Bauer Street, having regard to articulated vehicles reversing into the site.

#### **4.3.5 Infrastructure overlay code**

- (1) The proposal complies with Infrastructure overlays 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 safety and efficiency of Bauer Street would be maintained by requiring the installation of a ‘Stop’ sign for vehicles in Lyons Street facing Bauer Street.

### **4.4 Consultation**

#### **4.4.1 Internal stakeholder comments**

- (1) The application was referred to Council’s Tech Services and Environmental departments.
- (2) Council’s Environmental department raise no objections to the proposal and do not require any special conditions to be included in any decision notice.
- (3) Council’s Tech Services department considers that proposed traffic arrangements are not acceptable, but acknowledge the traffic environment is a slow speed area. The manoeuvring diagrams show certain traffic conflicts with significant road space required for the reversing movement, and the forward exit movement taking up both lanes. The following matters are required to balance Council’s consideration—
- (a) The planning scheme does not require a development application to use the existing buildings. As such, the existing buildings on site could be used for an agricultural supplies store (or other uses) without Council approval, which could have deliveries by an articulated vehicle. Such a situation may be worse for safety than what is proposed here;

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<sup>1</sup> 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

- (b) Deliveries, according to the application documents, would generally be weekly and a relatively low frequency;
  - (c) Redesigning the proposal to include a drive-through arrangement so that service vehicles exit via Lyons Street would potentially create problems for pedestrian amenity and safety in the main shopping street.
  - (d) The adjacent Schmidt Motors workshop operates in a way that involves trucks reversing across the Bauer Street footpath.
- (4) Conditioning the approval is likely to mitigate the safety risk. Reasonable and relevant conditions would include the requirement to—
- (a) provide a traffic safety monitor when service vehicles are reversing across the street frontage;
  - (b) submit to Council for approval a Traffic Management Plan; and
  - (c) installing a stop sign and relevant road markings at the corner of Lyons Street and Bauer Street—to ensure traffic turning left into Bauer Street have a clear view to any service vehicle reversing onto the site.

#### 4.4.2 External stakeholder comments

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

#### 4.4.3 Public consultation

- (1) The application did not require public notification as it was code assessable.

### 4.5 Key issues for this application

- (1) The assessment manager considers that the following matters have been instrumental in its decision—
- (a) *Traffic safety*—reasonable and relevant conditions would be included in any decision notice to address potential safety concerns for service vehicles accessing the site.
  - (b) *CBD character and amenity*—the proposal would increase the mix of business activities in the CBD and reinforce the centre as the dominant “main street role”.

*These matters have been derived from the assessment benchmarks.*

### 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.