Development application—decision under delegated authority

Material Change of Use – Workers Accommodation at 141 Carlaws Road, Reids Creek Q on land described as Lot 6 on SP168296 - code assessable development application under the *Planning Act 2016*

1 Proposal summary

(1) The applicant seeks a development permit for a material change of use for rooming accommodation at 141 Carlaws Road, Reids Creek on land described as Lot 6 on SP168296.

(2) The subject site is located within the rural zone and an material change of use for workers accommodation is code assessable against the following codes from the North Burnett Regional Council Planning Scheme:
Rural Zone Code
Flood hazard Overlay Code
Natural Features and Resources Overlay Code

(3) The stated objective of the application is to provide workers accommodation for orchard workers, which the owner of 141 Carlaws Road, Reids Creek also employs on this property and other properties owned in the Gayndah district.

(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.

_____   5-12-19
Jeff Miles   Date
Planning & Environment Manager

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 for rooming accommodation at 141 Carlaws Road, Reids Creek on land described as Lot 6 on SP168296. 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 rural zone within the intensive agriculture precinct and is surrounded by rural land used for orchards or grazing in the same zone though some are with the intensive agricultural precinct others in the hinterland precinct.

(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 *rural zone code, flood hazard overlay and natural features and resources overlay codes.*

(2)   The site is not within any other scheme overlays and therefore does not require further assessment against any other relevant codes.

4.3   Assessment benchmarks

(1)   The application is compliant to the Rural Zone Code, Flood Hazard Overlay Code and the Natural Features and Resources Overlay Code. Parts of the codes are not applicable to the application as it is 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 application[1].

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;

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[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.

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(b)   it complies with the performance outcomes of the codes; and

(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 most acceptable outcomes in the codes. It will have the same impact as any other dwelling in the rural zone.

(b)   *Amenity to rural area*—The dwelling will be used for worker accommodation in the rural 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)   *Flood impacts*—All of the allotment is identified within the flood hazard area including the existing dwelling. The dwelling was constructed prior to the flood hazard overlay and as such is not required to be moved, or raised. The site access and 400m of Carlaws road near the property access point is also flood affected. As a standard dwelling can house up to 6 unrelated persons, but has no restriction on the number of related persons residing in the dwelling. Having a limit of 12 unrelated persons staying in the dwelling will limit the number of people possibility affected by any flooding. A natural hazard management plan and evacuation plan have been conditioned to be prominently displayed in the 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.

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(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.

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