

Development application—decision under delegated authority

Material Change of Use—Warehouse at 7 Killala Drive, Mundubbera on land described as Lot 5 on SP228634—Code assessable development application under the *Planning Act 2016*

Application reference: 04-20

1 Proposal summary

- (1) The applicant seeks a Development permit for Material Change of Use—Warehouse at 7 Killala Drive, Mundubbera on land described as Lot 5 on SP228634.
- (2) The stated objective of the application is to develop an additional shed with 22 mini storage units. The proposal seeks to expand the existing on-site operations by constructing a new shed containing 22 mini storage units. The new shed would be constructed with vertical colorbond cladding walls and zinalume profiled roof sheeting, with pre-painted metal roller doors.
- (3) The site has an area of 3785 sqm and the proposed additional shed being 378 sqm. The total building area is 1262.4 sqm, making the total building site cover 33%.
- (4) The application is code assessable.
- (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) and s60(5). The attached Statement of reasons sets out the rationale for deciding to approve the application.
- (6) 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.



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

25/02/2020

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—Warehouse at 7 Killala Drive, Mundubbera on land described as Lot 5 on SP228634. 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 the 7 January 2020 and Council issued an action notice on the 21 January for the application fee to be paid. The application was deemed properly made when the application fee was paid on 30 January 2020.
- (2) The site is in the Industry zone and surrounded by lots in the Industry zone, as well as one lot in the General residential zone (vacant).
- (3) No planning scheme overlays affects the site.
- (4) The application does not require referral under Schedule 10 of the *Planning Regulation 2017*.
- (5) Council did not issue a confirmation notice as it was not required under s2.2 of the Development Assessment Rules.
- (6) The application included sufficient information and it was not necessary to issue an information request.
- (7) The application is code assessable and does not require public notification.
- (8) The following matters have been key considerations for the assessment manager—
 - (a) material about the application, including the proposal plan and the applicant's report;
 - (b) the North Burnett Regional Planning Scheme, to the extent relevant;
 - (c) the SPP, to the extent that it is not appropriately integrated in the planning scheme; and
 - (d) the previous development approval for the site and the use of the existing buildings.

4.2 Category of assessment

- (1) The application was properly made prior to the adoption of the current North Burnett Regional Planning 2014 v1.3 (Amendments incorporated to 3 February 2020). Assessment is therefore under the superseded North Burnett Regional Planning Scheme 2014 v1.2, with weight given to the current planning scheme where considered relevant and appropriate.
- (2) The proposal is identified as Code assessable and requires assessment against the *Industry zone code*, and *Infrastructure and operational work 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 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 interests, policies or benchmarks relevant to this application¹.

4.3.3 Purpose of the Industry zone code

- (1) The proposal complies with the *Industry zone code* as—
 - (a) it achieves the purpose and overall outcomes of the zone code;
 - (b) it complies with the performance outcomes of the Industry zone code, specifically—
 - (i) there is an existing 1.8m high solid fence along all boundaries and existing 3 metre wide landscaping buffer along front boundary to protect nearby sensitive land uses from the impacts of loading and unloading activities and otherwise operate in a manner that does not significantly interfere with the visual and acoustic amenity of users of adjoining premises;
 - (ii) the height scale and bulk of the building would be similar to the existing development on the site and would create an attractive presentation to the street whilst not adversely affecting the amenity of the surrounding areas;
 - (iii) Shed E is set back a sufficient distance from the road frontage (6m) to accommodate landscaping and vehicular entries to create an attractive presentation to the street; and,
 - (iv) the layout, design and character of Shed E reflects the industry function and does not compromise the efficient and safe access to the site.

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) there is an existing steel and wire security fence (1.8m high) and landscape buffer along front boundary (3m wide);
 - (ii) suitable on-site infrastructure would be provided to meet the anticipated needs of users;
 - (iii) the type and scale of a storage facility is consistent with the capacity of the infrastructure on the premises and allows for safe and efficient operation of infrastructure;
 - (iv) the use of the building would not generate the need for on-site parking due to it only being used for storage purposes, people only visit the site occasionally to load and unload then vacate the site;
 - (v) Council's consultant engineer advised the layout is consistent with the existing shed configuration and satisfactory in terms of manoeuvring areas.
 - (vi) Council's Technical Services do not require upgrades for the site's water supply and sewerage infrastructure;
 - (vii) Council's Technical Services do not require upgrades to the local road network;

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.

- (viii) Technical Services advised Shed E needs to be connect to the existing stormwater drainage network located within the internal driveways and did not advise any further stormwater concerns with no changes to current stormwater drainage characteristics are anticipated with the site.

4.4 Consultation

4.4.1 Internal stakeholder comments

- (1) Technical Services provided comment on the development in relation to water and wastewater expectations for the additional 22 mini storage units.
- (2) Council's consultant engineer provided comment on the development in relation to stormwater and vehicle manoeuvring expectations for the additional 22 mini storage units.

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 and Council did not receive any submissions.

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) *Compliance with previous DA 212-09*—Condition 5 of DA 212-09 prescribes the hours of operation as 7am-7pm Monday to Saturday. Condition 7 of DA212-09 prescribe acceptable noise levels and times for 'a noise sensitive place'. Section 66(2) of the *Planning Act 2016* requires "a development condition must not be inconsistent with a development condition of an earlier development approval in effect for the development..." As such, these conditions will be reimposed for this development application despite the current planning scheme limiting the hours of operation and change in acceptable noise and lighting limits.
 - (c) *Landscaping*—the existing 3m wide vegetation buffer at the primary frontage of the lot is considered sufficient landscaping and is consistent with the previous approval (Condition 24 of DA 212-09). The required 3m wide landscaping is not accurately displayed on the Site Plan, as the drawing only allows for a 1.5m buffer. The correct landscaping area is marked in red on the Site Plan and must be retained to comply with previous approval.
 - (d) *Stormwater*—Water is disposed at a legal point of discharge into the Killala Ck, as per the previous approval. Shed E is conditioned to be connected to the existing stormwater drainage network located within the internal driveways.
 - (e) *Parking, access and movement*—Vehicle manoeuvring is considered consistent with previous approval. Due to the nature of the use (storage facility), the proposed development does not require designated parking areas as people only frequent the site occasionally to load or unload then vacated immediately afterwards. The site is sufficiently sized for vehicles to park in front of their storage shed to load and unload without affecting vehicle manoeuvrability.
 - (f) *Lighting*—Shed E has been conditioned to set lighting limits outlined in the Decision Notice. All other lighting will remain consistent with the previous approval (Condition 6 of DA 212-09).

- (g) *Noise*—Onsite noise is only generated from vehicle traffic movements and loading and unloading from storage sheds. This is considered unlikely to adversely affect the amenity of the surrounding locality. Noise limits will remain consistent with the previous approval (Condition 7 of DA 212-09).

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.