

# Development application—decision under delegated authority

Development permit for Material Change of Use for Tourist Park and Function Facility at 873 Mill Road, Monogorilby on land described as Lot 20 on NT189, Lot 24 on NT202, and Lots 201 and 202 on A9141—Code assessable development application under the *Planning Act 2016*

Application reference: 36/20

## 1 Proposal summary

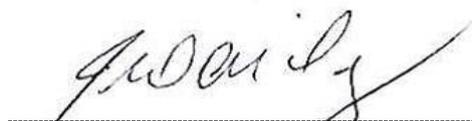
- (1) The applicant seeks a development permit for Material Change of Use for Tourist Park and Function Facility at 873 Mill Road, Monogorilby on land described as Lot 20 on NT189, Lot 24 on NT202, and Lots 201 and 202 on A9141.
- (2) The proposal includes accommodation within existing cabins, a camping and caravan/RV area, a function facility and ancillary arts and craft displays, retail sales and food and drink services.
- (3) The site has an area of approximately 14.5 hectares, and is located in the Rural zone and Hinterland Precinct.
- (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) 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.



Rachel Cooper **Chief Executive Officer**  
(Delegate of North Burnett Regional Council)

27 November 2020

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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 development permit for Material Change of Use for Tourist Park and Function Facility at 873 Mill Road, Monogorilby on land described as Lot 20 on NT189, Lot 24 on NT202, and Lots 201 and 202 on A9141. 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 and Hinterland precinct is surrounded by other Rural zoned land.
- (2) Lot 20 on NT189 and Lot 24 on NT202 on the Environmental Management Register (EMR) as the sites have been subject to wood treatment and preservation, which is a notifiable activity or hazardous contaminant. There is no site suitability statement for these lots.
- (3) An Action notice was issued on 9 March 2020.
- (4) The application was properly made on 26 March 2020.
- (5) A Confirmation notice was issued on 26 March 2020, as it was required under s3.4 of the Development Assessment Rules.
- (6) The application did not trigger any referrals.
- (7) The application did not include sufficient information for assessment, and an Information request was issued on 3 April 2020. The matters raised in the Information request included—
  - (a) Further information about the proposed activities;
  - (b) Adequate plans or drawings for the proposal;
  - (c) Clarification of the proposed land uses;
  - (d) A report addressing onsite wastewater disposal;
  - (e) Information regarding the dam;
  - (f) A traffic impact assessment;
  - (g) Waste management plan;
  - (h) Information regarding water supply;
  - (i) Information regarding encroachments of the road reserve;
  - (j) Information about the management of contaminated land;
  - (k) Bushfire management plan.
- (8) The applicant provided a partial response to the Information request on 14 May 2020.
- (9) The draft conditions were provided to the applicant on 2 June 2020.
- (10) The applicant stopped the decision period a number of times to prepare additional information regarding the proposed development.
- (11) Additional information was provided on 4 November 2020. The applicant did not withdraw the notice to stop the current period.
- (12) A revised set of draft conditions were provided to the applicant on 20 November 2020.
- (13) The applicant accepted the revised set of draft conditions on 23 November 2020.
- (14) 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 SPP, to the extent that it is not appropriately integrated in the planning scheme;
  - (c) development approvals and lawful use of adjacent land.

## 4.2 Category of assessment

- (1) A tourist park is identified as accepted subject to requirements, and a function facility is identified as code assessable. The proposal is therefore code assessable, requiring assessment against the *North Burnett Regional Planning Scheme 2014* (version 1.3), with the relevant codes being—
  - (a) Rural zone code.
  - (b) Bushfire hazard overlay code.
  - (c) Flood hazard overlay code.
  - (d) Natural features or resources overlay code.
  - (e) Infrastructure and operational work code.

## 4.3 Assessment benchmarks

### 4.3.1 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*—the State Planning Policy is appropriately integrated in the planning scheme and does not require further or separate consideration for Council to decide the application.

### 4.3.2 Rural zone code

- (1) The proposal complies with the Rural zone code as—
  - (a) it achieves the purpose and overall outcomes of the code;
  - (b) it generally complies with the performance outcomes of the code;
  - (c) while the development proposes more than six caravan or camping sites for every 100 hectares of site area, the proposal will maintain the high level of scenic amenity of the area;
  - (d) the existing caretaker's accommodation is not included in the development application, as it is not contained on the subject site. This matter can be addressed via an explanatory note;
  - (e) the development is suitably setback from other premises to protect privacy and amenity of nearby rural residents;
  - (f) the proposal is located in cleared areas and would not impact areas of environmental significance;
  - (g) conditions can be imposed to ensure operating hours are appropriate to the locality;
  - (h) conditions can be imposed to ensure a basic level of infrastructure appropriate to rural areas that is safe, efficient and sustainable is provided;
  - (i) conditions can be imposed to ensure protection of people and premises from natural hazard (ie. bushfire).

### 4.3.3 Bushfire hazard overlay code

- (1) The proposal complies, or can be conditioned to comply, with the Bushfire hazard overlay code as—
  - (a) it generally achieves the purpose and overall outcomes of the zone code;
  - (b) it generally complies with the performance outcomes of the zone code.
- (2) The Bushfire Management Plan (BMP) states the following with regard to evacuation during a bushfire emergency—
  - (a) Evacuation via Mill Road is recommended in the first instance.
  - (b) *“Allies Road is considered problematic to act as an evacuation route in the event of a bushfire. Due to the relatively isolated nature of the road, and dense in-tact*

*vegetation adjacent the road on both sides, spot fires or multiple potentially unknown fire fronts may lead to potential entrapment for site evacuee via Allies Road, and it is therefore not recommended unless directed to do so by Queensland Emergency Services.”*

- (c) The BMP recommends that site evacuation routes, assembly points, water sources are clearly signed on site.
- (3) The BMP states that the proposed development is on a dedicated ‘Town Water’ supply, and the water supply is stored in water tanks around the site. The BMP concludes that the site’s water supply is “more than sufficient to support the protection of people and property in the event of a bushfire emergency”.
- (4) Conversely, the Site Based Water Security Plan(SBWSP) states that the water supply is via rainwater harvesting and is for showering, toilet flushing, consumption, hand-washing and kitchen purposes. The SBWSP has not identified the use of the water supply for fire fighting purposes.
- (5) The SBWSP states that during dry rainfall years and weddings and corporate functions, demand may exceed supply. The report suggests three options for backup water supply being trucking in water, use of the dam water supply and reduction of activity on the site.
- (6) The SBWSP also recommends the preparation of a Water and Wastewater Operation Manangement Plan to ensure that visitors have access to a safe potable water supply.
- (7) It is considered that the development application materials have not adequately demonstrated that the development has access to an adequate water supply for the use, as well as for fire fighting purposes. Despite this, conditions can be imposed requiring access to water for firefighting purposes.

#### **4.3.4 Flood hazard overlay code**

- (1) The proposal complies with the Flood hazard overlay code as the portion of the site subject to development is located outside of the mapped flood hazard overlay area.

#### **4.3.5 Natural features or resources overlay code**

- (1) The proposal complies, or can be conditioned to comply, with the Natural features or resources overlay code as—
  - (a) it generally achieves the purpose and overall outcomes of the zone code;
  - (b) it generally complies with the performance outcomes of the zone code;
  - (c) the proposal is located in cleared areas and the watercourse has been dammed, meaning the site has limited (if any) environmental values remaining;
  - (d) the site was previously used for saw milling and worker’s accommodation, and there would be no irreversible impact on its current or potential use for agriculture; and
  - (e) The State Planning Policy Interactive Mapping System identifies the following on the site:
    - MSES - Wildlife habitat (endangered or vulnerable)
    - MSES - Regulated vegetation (category R)
    - MSES - Regulated vegetation (intersecting a watercourse).

It appears that the State Planning Policy Interactive Mapping System may be erroneous, given the extent of clearing that has been previously undertaken on the site, and that the watercourse has been dammed.

#### **4.3.6 Infrastructure and operational work code**

- (1) The proposal complies, or can be conditioned to comply, with the Infrastructure and operational work code as—
  - (a) it generally achieves the purpose and overall outcomes of the zone code;
  - (b) it generally complies with the performance outcomes of the zone code;
  - (c) The proposal does not include any landscaping. Given the remote location of the site, its existing vegetation and surrounding land uses, it is appropriate to include a

condition can be included requiring landscaping in accordance with planning scheme policy SC6.5.

- (d) The Site Based Water Security Plan(SBWSP) states that the water supply is via rainwater harvesting and is for showering, toilet flushing, consumption, hand-washing and kitchen purposes. The SBWSP has not identified the use of the water supply for fire fighting purposes.

The SBWSP states that during dry rainfall years and weddings and corporate functions, demand may exceed supply. The report suggests three options for backup water supply being trucking in water, use of the dam water supply and reduction of activity on the site.

The SBWSP also recommends the preparation of a Water and Wastewater Operation Manangement Plan to ensure that visitors have access to a safe potable water supply.

It is considered that the development application materials have not adequately demonstrated that the development has access to an adequate water supply for the use, as well as for fire fighting purposes. Despite this, conditions can be imposed to address this matter.

- (e) The applicant states that the subject site is connected to the electricity and telecommunications networks.
- (f) Relevant and reasonable conditions would be imposed for the matters of:
- (i) Erosion and sediment control during construction to avoid degradation of the site and avoid or minimise adverse impacts on stormwater quality.
  - (ii) Vehicle access and parking.
  - (iii) On-site wasterwater disposal.
  - (iv) Stormwater drainage system.
  - (v) Waste management.

## 4.4 Consultation

### 4.4.1 Internal stakeholder comments

- (1) Development and Building Services provided advice on the proposal and supporting reports throughout the development process, and the key issues have been discussed above. Conditions were provided on 13 November 2020.

### 4.4.2 Referral agency response

- (1) Not applicable—the application did not require referral.

### 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) Appropriateness of intensity and scale of development—the proposal would not detrimentally impact the scenic amenity of the locality;
  - (b) Adequacy of building separation distances—the proposal would be sufficiently clear of existing property boundaries;
  - (c) Impacts of vehicular parking and movement—the proposal can accommodate sufficient car parking spaces and manouvring areas on the site;
  - (d) Provision of a suitable level of infrastructure—access to Mill Road would be maintained for the proposal, and conditions can be imposed to ensure the proposal can be suitably serviced with infrastructure appropriate to its location;

- (e) Management of the risk of bushfire hazard—the proposal can be conditioned to ensure that people and property can be protected in the event of a bushfire;
- (f) Maintenance of environmental values—the proposal would be located in areas disturbed by the previous sawmill development;

*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 all of the application and impose conditions in accordance with the decision rules.