

Development application—decision under delegated authority

Material change of use—Utility Installation (Mundubbera Landfill Extension) at 385 Mundubbera Durong Road, Boynewood on land described as Lot 2 on MZ347—Code assessable development application under the *Planning Act 2016*

Application reference: DA65-20

1 Proposal summary

- (1) The applicant seeks a Development permit for a Material change of use—Utility Installation (Mundubbera Landfill Extension) at 385 Mundubbera Durong Road, Boynewood on land described as Lot 2 on MZ347
- (2) The proposal objective is to expand the existing land fill site to the western side of the existing use area. It is intended that the Mundubbera Waste Management Facility will become the centralised landfill facility for the North Burnett local government area.
- (3) The proposed lateral expansion will increase the useful life of the site from three years to fifty years.
- (4) Minimal impact on infrastructure is proposed. Infrastructure upgrades will not be required as the existing infrastructure is able to service the expansion into the future.
- (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.

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.



16 December 2021

Lyn McLeod
Development Officer
(Delegate of North Burnett Regional Council)

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 a Material change of use—Utility Installation (Mundubbera Landfill Extension) at 385 Mundubbera Durong Road, Boynewood on land described as Lot 2 on MZ347. 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 Rural zone – intensive agricultural precinct and bordered on the western side by Mundubbera-Durong Road and eastern side by Middle Boynewood Road.
- (2) The application was deemed properly lodged on 26 May 2020.
- (3) Council issued a confirmation notice on the 9 June 2020.
- (4) The application required referral to the State Assessment Referral Agency in relation to—
 - (a) Infrastructure—material change of use near a state transport corridor (Mundubbera-Durong road)
 - (i) Mundubbera-Durong road is a state controlled road and the site is within 25 metres of the state controlled road. Under Schedule 10, Part 9, Division 4, Subdivision 2, Table 4 of the Planning Regulations the application required referral.
 - (b) Environmentally relevant activities—non-devolved environmentally relevant activity
 - (i) The application involves waste disposal, 2: operating a facility for disposing of, in a year, the following quantity of waste mentioned in subsection (1) (b), (d) more than 10,000t but not more than 20,000t. Under Schedule 10, Part 5, Division 4. Table 2 of the Planning Regulations the application required referral.
- (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 Rural zone code, and the Infrastructure and operational work code.
- (2) The site is affected by the Infrastructure Code, Natural Features and Resources Overlay Code, and the Flood Hazard Overlay 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 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 State interests, policies or benchmarks relevant to this application¹.

4.3.3 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 complies with the performance outcomes of the code;
 - (c) it is site has existing services in terms of transport, electricity, telecommunications, other associated infrastructure and workforce;
 - (d) it would have a scale, character and built form that does not adversely affect the surrounding rural landscape and intensive agricultural uses;
 - (e) it is a use that is difficult to locate within the community facilities zone and the next most appropriate zone is the rural zone; and
 - (f) when the previous two (2) planning schemes were adopted in 2004 and 2014 Council had inappropriately zoned the land as rural in place of special purposes or community facility zone with the existing land fill already on located on 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;
 - (c) suitable non-trunk, on-site infrastructure would be available to meet the anticipated needs of use whilst not creating any significant adverse environmental effects;
 - (d) relevant and reasonable conditions would be imposed to maintain the amenity of the area through landscaping; and
 - (e) stormwater management has been conditioned within referral agency approval and the environmental relevant activity permit EPPR00453513.

4.3.5 Infrastructure Code

- (1) The proposal complies with the infrastructure 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 waste facility is designed to provide high standard of health and safety for people and the community;
 - (d) the development will have minimal impact of the state-controlled road corridor and no access from the site to the state-controlled road is permitted and traffic intended for the facility will use local government road; and
 - (e) there will be minimal amenity impact to surrounding land uses.

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.

4.3.6 Flood Hazard Code

- (1) The proposal complies with the flood hazard code as—
 - (a) it achieves the purpose and overall outcomes of the code;
 - (b) it complies with the performance outcomes of the code; and
all combustible liquids under AS1940 in packages larger than 50 litres are to be stored outside of the flood and inundation areas as identified in flood overlay maps, only exception to this is waste oil and chemclear storage in the designated resource recovery area.

4.3.7 Natural Features and Resources Overlay Code

- (1) The proposal complies with the flood hazard 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 site contains regulated vegetation along the southern boundary and a watercourse traversing the south-east corner. The development will not adversely affect the matters of environmental significance as the landfill and associated resource recovery area continues to comply with environmental conditions; and
 - (d) additional vegetation adopting mounded planting will be included along the western boundary fronting the State-controlled road to maintain the rural amenity.

4.4 Consultation

4.4.1 Internal stakeholder comments

- (1) The application was referred to Council's Civil Works, Water and Waste Water and Environmental departments.
- (2) Council's internal departments did not raise objections to the proposal and do not require any special conditions to be included in any decision notice.

4.4.2 External stakeholder comments

- (1) The application required 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) *Strategic framework*—the Planning Scheme states as an overarching strategic outcome that the North Burnett region is to benefit from well-planned, readily accessible, reliable and sustainable physical infrastructure, services and facilities that uses land efficiently, minimising adverse impacts on the environment, making better use of existing infrastructure that is close to town centres, and appropriately managing our resources.
 - (b) *The planning scheme definition and the category of assessment*—The site was developed in the 1990s as a waste disposal site and was zoned “Special Purposes” and “Rural” under the Mundubbera Town Planning Scheme (1980) enabling the development to occur. The Town Planning Scheme was subsequently replaced in (2004) zoning the entire site as “Rural”. The North Burnett Regional Planning Scheme (2014) again nominated the site as “Rural” Therefore any intensification or site change of use would become code assessable under the new planning scheme.

- (c) *Future-proofing waste infrastructure*—the Mundubbera Waste Management Facility will become the centralised landfill facility for the North Burnett local government area. The proposed lateral expansion will increase the useful life of the site from three years to fifty years.
- (d) *Minimal impact on infrastructure*—Infrastructure upgrades will not be required as the existing infrastructure is able to service the expansion into the future;
- (e) *No access to Mundubbera-Durong Road*—the applicant shows no vehicular access to Mundubbera-Durong Road all vehicle access is via Middle Boyne Road
- (f) *Environmental Matters*—a state environmentally significant area is identified to the south of the property, it will be protected and used as a permanent buffer;

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.