

Development application—decision under delegated authority

Material Change of Use – Rural Workers Accommodation and Non-Resident Workforce Accommodation at 1015 Mt Debatable Road, Dirnbir Q on land described as Lot 1 on RP210873- code assessable development application under the *Planning Act 2016*

Application reference: DA200173

1 Proposal summary

- (1) The applicant seeks a minor change development permit for a material change of use for rural workers accommodation (reclassifying the building to a class 1b) at 1015 Mt Debatable Road, Dirnbir on land described as Lot 1 on RP210873 for the use to include non-resident workforce accommodation and to change the applicant name.
- (2) The subject site is located within the Intensive Agricultural Precinct rural zone and an material change of use for rural workers accommodation is code assessable against the following codes from the North Burnett Regional Council Planning Scheme:
 - Rural Zone Code;
 - Flood Hazard Overlay Code;
 - Bushfire Hazard Overlay Code; and
 - Natural Resources and Resources Overlay Code.

The stated objective of the application is to provide workers accommodation for orchard workers on site. With a habitable area of about 154m² for a maximum of 12 non-related persons.

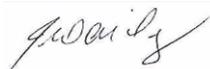
- (3) The Council must assess the application against the assessment benchmarks, having regard to those matters set out in the *Planning Act 2016* and *Planning Regulation 2017*, and decide the application in accordance with the decision rules in s60(2) and s60(5). The attached Statement of Reasons sets 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.



Jeff Miles
Environmental Services Manager
On behalf of Rachel Cooper
Chief Executive Officer
(Delegate of North Burnett Regional Council)

9 December 2020

Date

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 – Rural Workers Accommodation and Non-resident Workforce Accommodation at 1015 Mt Debatable Road, Dirnbir on land described as Lot 1 on RP210873. The statement is required under **section 83 Notice of decision** of the *Planning Act 2016*.

4.1 Facts and circumstances

- (1) The site is in the Intensive Agricultural Precinct rural zone and is surrounded by orchards of the same zone.
- (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

- (a) The proposed material change of use is code assessable requiring assessment against the *Rural Zone Code*
 - (b) *Natural features or resource overlays code* as the lot contains a regulated vegetation area classification R, regulated vegetation intersecting a watercourse; wildlife habitat and agricultural land classification class A and B.
 - (c) *Flood hazard overlay code* as the lot is identified within the flood hazard area.
 - (d) *Bushfire hazard overlay code* as the lot is identified within the medium bushfire hazard area.
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- (2) The site is not within any other scheme overlays and therefore does not require further assessment against relevant codes.

4.3 Assessment benchmarks

- (1) The application is compliant with the Rural Zone Code; Natural Features and Resource Overlay Code; Flood Hazard Overlay Code and the Bushfire Hazard Overlay Code. Much of the code is not applicable to the application as it's an existing domestic dwelling with characteristic of the site remaining the same. As such 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 application¹.

¹ When the v1.3 of the planning scheme commenced on 3 February 2020 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.

4.3.3 Rural Zone Code

- (1) The proposal complies with the rural zone code codes as—
 - (a) it achieves the purpose and overall outcomes of the codes;
 - (b) it complies with the performance outcomes of the codes; and
 - (c) it would not adversely affect the character, setting or appearance of the rural zone.

4.3.4 Flood Hazard Code

- (1) The proposal complies with the rural zone code codes as—
 - (a) it achieves the purpose and overall outcomes of the codes;
 - (b) it complies with the performance outcomes of the codes; and
 - (c) there is no increased exposure to flood hazards for life or property as the dwelling is outside of the flood hazard area.

4.3.5 Bushfire Hazard Code

- (1) The proposal complies with the rural zone code codes as—
 - (a) it achieves the purpose and overall outcomes of the codes;
 - (b) it complies with the performance outcomes of the codes; and
 - (c) there is no increased exposure to bushfire hazards for life or property as the dwelling is buffer area for bushfire hazard.

4.3.6 Natural Features and Resources Hazard Code

- (1) The proposal complies with the rural zone code codes as—
 - (a) it achieves the purpose and overall outcomes of the codes;
 - (b) it complies with the performance outcomes of the codes; and
 - (c) the development will not adversely affect the matters of environmental significance and it will enhance the use of the good quality agricultural land.

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 all acceptable

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

- (b) *Amenity to the rural zone area*—The dwelling used for workers 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) *Natural hazards*—the existing class 1a dwelling is outside of the mapped flood hazard area and within the buffer zone for bushfire. Due to location the risk to life and property is minor.

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 approves the application and imposes conditions in accordance with the decision rules.