

Development application—decision under delegated authority

Material change of Use at 707 Mundubbera Durong Road, Boynewood on land described as Lots 1 and 2 on RP103603—Code assessable development application for Rural workers' accommodation under the *Planning Act 2016*

Application reference: DA220005

1 Proposal summary

- (1) The applicant seeks a Development Permit for material change of use for Rural workers accommodation at 707 Mundubbera Durong Road, Boynewood on land described as Lot 1 and 2 on RP103603.
- (2) The stated objective of the application is to obtain retrospective planning approval for the existing rural workers accommodation.
- (3) The site is used for the residential activity of Rural workers' accommodation as well as for cropping. The site accommodates a dwelling and other agricultural buildings and structures. All residential improvements would be fully contained within Lots 1 and 2 on RP103603.
- (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 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.



10 May 2022

Lyn McLeod

Date

Development Officer
(Delegate of North Burnett Regional Council)

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 at 707 Mundubbera Durong Road, Boynewood on land described as Lots 1 and 2 on RP103603. The statement is required under **section 63 Notice of decision** of the *Planning Act 2016*.

4.1 Facts and circumstances

- (1) The application was deemed properly made on 21 February 2022.
- (2) Council issued the Confirmation notice on 4 March 2022.
- (3) The application triggers referral to the State in relation to—
 - (a) infrastructure—state-controlled roads
 - (b) Mundubbera Durong Road is a State-controlled road and part of the development site is closer than 25 metres. Under Schedule 10 of the Planning Regulation 2017 the application requires referral as a Material change of use of premises near a State transport corridor or that is a future State transport corridor.
 - (c) The application included insufficient information and it was not necessary for the State to issue an information request.
 - (d) The State Assessment and Referral Agency provided their decision on 22 April 2022.
- (4) The application included sufficient information 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 2014 v1.4 (amendments commenced 17 August 2020), to the extent relevant; and
 - (c) the extent of remnant vegetation and identified agricultural land classification area;
 - (d) the SPP, to the extent that it is not appropriately integrated in the planning scheme.

4.2 Category of assessment

- (1) The site is in the Rural zone (Intensive Agricultural Precinct) and is surrounded by other Rural lots.
- (2) The proposal is identified as Code assessable against the Rural zone code,
- (3) The proposed also requires assessment against the following overlay codes—
 - (a) *Natural features or resources overlay code*;
- (4) 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.
- (2) A review of the applicant's planning report confirms that it is a reasonable assessment against the assessment benchmarks.

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.

4.3.3 Rural zone code

- (1) The proposal complies with the Rural zone code —
- (2) it achieves the purpose and overall outcomes of the code;
- (3) it complies with the performance outcomes of the code, specifically—
 - (a) site is suitably sized to mitigate nuisance and is consistent with expectations for development in the Rural zone;
 - (b) a safe, lawful and practical access to Mundubbera Durong Road is available to the site (with suitable existing access);
 - (c) no additional structures are proposed; and
 - (d) all structures are distant from identified MSES and would not affect infrastructure.
- (4) The proposal does not comply with the density outcome described in AO2.2, however—
 - (a) the proposal includes significant boundary setbacks
 - (b) building density is consistent with other farms and rural character in the locality
 - (c) it, therefore, complies with the relevant performance outcome, PO2.

4.3.4 Overlay codes

- (1) The proposal complies with the Natural features and resources overlay code as—
 - (a) it achieves the purpose and overall outcomes of the code;
 - (b) it complies with the performance outcomes of the code; and
 - (c) the proposed use would not affect identified agricultural land with no additional structures proposed.

4.4 Consultation

4.4.1 Internal stakeholder comments

- (1) A review by Technical Services was not required due to the proposal not affecting any of Council's infrastructure or assets
- (2) There are negligible risk and infrastructure-related assessment requirements for the use.

4.4.2 External stakeholder comments

- (1) The application required referral to SARA under Schedule 10 of the *Planning Regulation 2017*.
- (2) The decision notice must include the SARA response.

4.4.3 Public consultation

- (1) The application did not require public notification.

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 is fully compliant with the relevant assessment benchmarks, even having regard to the proposal not complying with AO2.2 of the Rural zone code;
 - (b) Intensity and scale—the existing use is consistent with expectations for rural workers accommodation development. The development is compatible with the rural character of the locality and considers all site constraints;
 - (c) Infrastructure—the site has access to a constructed road and;
 - (d) Hazards and natural features—the proposed use would not be affected by natural hazards or natural features as all structures.

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.