

Development application—decision under delegated authority

Material Change of Use at 121 Zipfs Road & 106 Reinkes Road, Derri Derra on land described as Lots 1 & 2 on SP166671—Code assessable development application under the *Planning Act 2016*

Application reference: 39-18

1 Proposal summary

- (1) The applicant, Mitchell Blokland, seeks a Development Permit for Material Change of Use and Concurrence Environmentally relevant activity at 121 Zipfs Road and 106 Reinkes Road, Derri Derra (described as Lots 1 and 2 on SP166671).
- (2) The stated objective of the proposal is to establish a 2500 standard cattle unit (SCU) feedlot on the site.
- (3) The site has an area of 516 hectares. The feedlot is proposed on Lot 2 on SP166671 and will use the access and water supply easements that respectively benefit and encumber Lot 1 on SP166671.
- (4) The applicant has agreed to amalgamate Lots 1 and 2 on SP166671 to eliminate any potential conflict of use.
- (5) The applicant has agreed to Council's conditions for usage of Beeron and Zipfs Roads and internal and external roadworks.
- (6) The Council must assess the application against the assessment benchmarks, and 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.
- (4) That the Council issue a charges notice in accordance with its Charges Resolution (No. 2) 2015.

3 Decision

I concur with the above recommendations—please issue the Notice of decision as recommended.



MJP Pitt

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

08/05/2018

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 at 121 Zipfs Road and 106 Reinkes Road, Derri Derra on land described as Lots 1 and 2 on SP166671. The statement is required under **section 63 Notice of decision** of the *Planning Act 2016*.

4.1 Facts and circumstances

- (1) The site has a total area of 516ha and is in the Hinterland precinct of the Rural zone. It is surrounded by other Rural lots in the Hinterland and Intensive agricultural precincts.
- (2) The site comprises two lots – both used for 'Dwelling house'. Lot 2 on SP166671 is also used for rural uses of animal husbandry and cropping.
- (3) The material change of use application is for a 2500 standard cattle unit (SCU) feedlot which is defined as "Intensive animal industry".
- (4) The application is essentially a re-lodgement of a lapsed application (reference 54/17).
- (5) The application was deemed properly made on 14 March 2018.
- (6) The application triggers referral to the State in relation to—
 - (a) environmentally relevant activity 2 Intensive animal feedlotting 1(b) Cattle feedlotting: >1000-10,000 SCU;
 - (b) state transport infrastructure as the total facility capacity exceeds 2000 head of cattle.
- (7) Council issued the Confirmation notice on 16 March 2018.
- (8) The application included a response to Council's 54/17 information request of 8 May 2017. This was considered sufficient without need for a further information request from Council.
- (9) Department of State Development, Manufacturing, Infrastructure & Planning (DSDMIP) confirmed the applicant's referral on 27 March 2018. DSDMIP provided its response on 30 April 2018.
- (10) The following matters have been key considerations for the assessment manager—
 - (a) the potential release of emissions that would impact on the environment and surrounding land uses is the jurisdiction of the Department of Environment and Heritage Protection and has been considered by that department as part of the concurrence ERA;
 - (b) material about the application, including the proposal plans and the applicant's report;
 - (c) the SPP, to the extent that it is not appropriately integrated in the planning scheme;
 - (d) development approvals and the lawful use of adjacent land.

4.2 Category of assessment

- (1) The proposed Material change of use is Code assessable requiring assessment against the Intensive animal uses code and Infrastructure and operational work code.
- (2) The site is partly within scheme overlays and is therefore also assessable against the following overlay codes—
 - (a) Bushfire hazard overlay code;
 - (b) Flood hazard overlay code; and
 - (c) Natural features or resources overlays code.

4.3 Assessment benchmarks

4.3.1 State planning instruments

- (1) *Regional plan*—the planning scheme appropriately integrates the Wide Bay Burnett Regional Plan and does not require further or separate consideration by Council in deciding the application.
- (2) *State planning policy*—the State's interests were relevant to deciding this application to the following extent¹—
 - (a) *Agriculture*—the development outcomes associated with the proposal do not conflict with or are consistent with the State's interests in promoting and enhancing agricultural development opportunities in Important agricultural areas and protecting Agricultural land classification land for sustainable agricultural use. There are no assessment benchmarks for this State interest.
 - (b) *Water quality*—the development outcomes associated with the proposal do not conflict with or are consistent with the State's interests in protecting the environmental values of Queensland waters. The assessment benchmarks do not apply to the proposed development.
 - (c) *Natural hazards, risk and resilience*—the development outcomes associated with the proposal do not conflict with or are consistent with the State's interests in avoiding or mitigating risks associated with natural hazards to protect people and property. The development complies with the assessment benchmarks.

4.3.2 Zone code

- (1) The proposal complies with the Rural zone code as—
 - (a) it achieves the purpose and overall outcomes of the zone code including providing for a wide range of rural uses including intensive animal industries;
 - (b) it complies with the performance outcomes of the zone code.

4.3.3 Overlay codes

- (1) Table 26 of the proposal report demonstrates compliance with the Planning Scheme 8.2.2 Bushfire hazard overlay code, principally that vegetation has already been cleared thus mitigating any bushfire risk.
- (2) Table 27 of the proposal report demonstrates compliance with the Planning Scheme 8.2.3 Flood hazard overlay code, principally that the MCU area is distant from the Boyne River and hence from the flood area.

4.3.4 Other development codes

- (1) The proposal complies with the Planning Scheme 9.3.8 Intensive animal uses code as—
 - (a) the site is not in the Intensive agricultural precinct;
 - (b) all minimum separation distances prescribed by Planning Scheme 9.3.9 and 9.3.10 are complied with except the feedlot being 150m (ie. less than the minimum 200m) from Zipfs Road frontage. No sensitive receptor (dwelling house) is identified on the other side of Zipfs Road. Adverse impact upon the local visual amenity is lessened with the narrow/short end of the development orientated to Zipfs Road;
 - (c) the total site area is 516ha, greater than the minimum required 100ha;
 - (d) no referable wetlands are identified in vicinity to the site.

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.

- (2) The proposal complies with the Planning Scheme 9.4.5 Infrastructure and operational work code as—
 - (a) the applicant has agreed to Council’s conditions limiting usage of Beeron and Zipfs Roads; and
 - (b) the applicant has agreed to undertake upgrade works to Beeron-Zipfs Road intersection, Zipfs Road and internal access.

4.4 Consultation

4.4.1 Internal stakeholder comments

- (1) Council’s Technical Services identified appropriate conditions and supports approval of the application.
- (2) No other officers were invited or commented on the application

4.4.2 Referral agency response

- (1) DSDMIP has conditioned that the development must be carried out generally in accordance with *Development Application for 2500 SCU Feedlot Proposed Feedlot Layout* prepared by FSA Consulting, 18.09.2017, Dwg No. 1026 Masterplan, Revision B.

4.5 Key issues for this application

- (1) The assessment manager considers that the following matters have been instrumental in its decision—
 - (a) the amalgamation of Lots 1 and 2 on SP166671 eliminates any potential for conflict of use (including separation of dwelling house on Lot 1 on SP166671 from the feedlot) if each lot was under different ownership at some future time;
 - (b) the amalgamation will cause two dwelling houses to be located on one lot but the dwelling house currently on Lot 1 on SP166671 can be considered as either a secondary dwelling (which is accepted development in the Rural zone) or Caretaker’s accommodation (which is also accepted development as it complies with the relevant acceptable outcomes of the Rural zone code);
 - (c) the road works external to the site will ensure the local network is of an appropriate standard to accommodate the development traffic;
 - (d) the restricted/conditional use of Zipfs Road and Beeron Road and the road works internal to the site will ensure the safe function of the local road network is not adversely impacted upon by the development traffic.

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.
- (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 60(2) of the Planning Act 2016 sets out the decision rules for code assessment.

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.