

Development application—decision under delegated authority

Development application for building work (new domestic storage shed) assessable against the planning scheme at 2 Downing Street, Gayndah on land described as Lot 4 on SP301504—Code assessable development application under the *Planning Act 2016*

Application reference: 215/18

1 Proposal summary

- (1) The applicant seeks a development permit for building work (new domestic storage shed) assessable against the planning scheme at 2 Downing Street, Gayndah (described as Lot 4 on SP301504).
- (2) The proposal seeks to relocate the existing shed and construct a new 308m², 14m wide, 22m long and 5.4m high colorbond shed for the storage of domestic vehicles. The new shed would be located 26.7m from the front boundary, 1.5m from the side and rear boundaries, and on an existing concrete slab.
- (3) The site is in the General residential zone. The proposal is identified as accepted subject to requirements, but in accordance with 5.3.3 (4) (a) of the Planning scheme it becomes code assessable as it does not comply with one or more of the nominated acceptable outcomes in the Dwelling house code and Flood hazard overlay code. The assessment benchmarks are limited to the acceptable outcomes that were not complied with.
- (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 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.



Gary Rinehart
Chief Executive Officer
(Delegate of North Burnett Regional Council)

2.11.18

Date

4 Statement of reasons

This statement explains the reasons for the assessment manager's decision in relation to a development application for building work (new domestic shed) assessable against the planning scheme at 2 Downing Street, Gayndah on land described as Lot 4 on SP301504. 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 General residential zone.
- (2) The application was deemed properly made on 24 October 2018. Council did not issue a confirmation notice as per s2.2 of the Development Assessment Rules as it was not required.
- (3) The application does not require referral under Schedule 10 of the *Planning Regulation 2017*. Although it is within 100m of a road that intersects with a State-controlled road, building work does not require referral.
- (4) The applicant stated they agree to accept an information request, but the application included sufficient information and it was not necessary to issue an information request. Amended plans were submitted as the applicant was advised that the proposal would be located over an existing sewer manhole.
- (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 accepted subject to requirements, but in accordance with 5.3.3 (4) (a) of the Planning scheme it becomes code assessable as it does not comply with one or more of the nominated acceptable outcomes in the Dwelling house code and Flood hazard overlay code. The assessment benchmarks are limited to the acceptable outcomes that were not complied with.
- (2) The site is partly within the flood hazard area and the proposal is also assessable against the Flood hazard overlay code. This overlay does not change the level of assessment.

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.

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 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.

4.3.3 Dwelling house code

- (1) The proposal complies with most of the acceptable outcomes of the Dwelling house code, except for AO3.2. The table below compares the proposal against the requirements of AO3.2—

AO3.2—Dimensions for domestic outbuildings		Proposal
Max GFA	110m ²	308m ²
Max site cover	20%	26%
Max height	4m	5.4m
Max horizontal dimension	12m	22m

- (2) The proposal complies with the relevant associated performance outcome as—
- (a) the large site area would reduce the overall visual impact of the proposal as the low intensity and mostly open character of the area would be maintained. The majority of the site would contain vegetation and be free from development;
 - (b) it would still allow adequate light and ventilation to habitable rooms of buildings on adjoining lots as it would be sufficiently clear of surrounding dwelling houses. In particular, it would be south of the dwelling house on adjoining Lot 20 on SP268154;
 - (c) it would not adversely impact on the amenity and privacy of residents on adjoining lots as it would not contain habitable rooms, and only be used for the storage of domestic vehicles; and
 - (d) the outlook and views from surrounding premises would still be maintained.

4.3.4 Flood hazard overlay code

- (1) The proposal complies with most of the acceptable outcomes of the Flood hazard overlay code, except for AO1.1. AO1.1 requires “new buildings without habitable rooms to be above the defined flood level for the DFE”. The proposal, however, would be within the flood hazard area and below the DFE
- (2) The proposal complies with the relevant performance outcome as it would be for storage purposes only. People on the site would still be relatively safe from flood waters as it would not unduly change the flood characteristics of the site. No filling or excavation would be required as the proposal would be built on an existing concrete slab.

4.4 Consultation

4.4.1 Internal stakeholder comments

- (1) Council's Technical Services were invited to comment on the application due to its proximity to the existing sewer manhole. They raise no objections to the proposal, and they require conditions to be included in any development permit.

4.4.2 Referral agency response

- (1) No external stakeholders were invited to comment on the application, and it would not require referral to the chief executive under Schedule 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) *visual amenity*—the proposal would maintain the low intensity and mostly open character of the area as the site would have sufficient open space and vegetated areas.
- (b) *flood hazard*—the proposal would be located on the highest part of the site to increase flood resilience, and there would be no intensification of residential uses below the DFL as the proposal would be used for storage purposes only.
- (c) *building over Council's sewerage infrastructure*—a sewer line traverses the site, and a manhole is located within close proximity to the proposal. The proposal would meet the requirements of the QDC in relation to being the correct distance away from the sewer manhole.

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 the application and impose conditions in accordance with the decision rules.