

Development application—decision under delegated authority

Development application (MCU—Intensification of Community Use) at 8 Edward Street, Biggenden on land described as Lot 5 on CK3511—Impact assessable development application under the *Planning Act 2016*

Application reference: 219-18

1 Proposal summary

- (1) The applicant seeks a development permit for a material change of use—intensification of community use (new blacksmith shop display as part of the Biggenden Museum) at 8 Edward Street, Biggenden (described as Lot 5 on CK3511).
- (2) The proposal seeks to construct a 6m x 4m x 2.8m shed to be used as a display area for a blacksmith shop. The existing hours of operation for museum are Tuesday and Thursday, 9am to 3pm, with approximately 3-7 volunteers on-site to guide visitors; the proposal would not change this.
- (3) The Biggenden Museum building functioned as the Biggenden Courthouse until the latter half of the 20th century, and was donated to the Biggenden Historical Society in 1980. The Biggenden Museum building is important in demonstrating the pattern of the region's history, particularly the mining settlements and relocation/reuse of buildings from abandoned towns in the region. The large, low-set single storey timber structure on stumps has a corrugated iron hipped roof and exposed framework, with a wrap-around verandah.
- (4) The application is impact assessable.
- (5) 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*. Assessment may also "...be carried out against, or having regard to, any other relevant matter other than a person's personal circumstances, financial or otherwise". [PA16 s45(5)(b)]
- (6) The Council must and decide the application in accordance with s60(3) and s60(5) of the *Planning Act 2016*.

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(3) of the *Planning Act 2016* by approving all of it subject to conditions.
- (2) That the Council notify the applicant and referral agency 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



Date

4 Statement of reasons

This statement explains the reasons for the assessment manager's decision in relation to a development application for a material change of use—intensification of community use (new blacksmith shop display) at 8 Edward Street, Biggenden on land described as Lot 5 on CK3511. The statement is required under **section 63 Notice of decision** of the *Planning Act 2016*.

4.1 Facts and circumstances

- (1) The lot is in the General residential zone and surrounded by lots in either the Centre zone, Community facilities zone, General residential zone, Industry zone or Recreation and open space zone.
- (2) The application was lodged on 11 October 2018, and a confirmation notice was issued on 25 October 2018.
- (3) The application included sufficient information and Council did not issue an information request.
- (4) The application would normally require referral to the Department of State Development, Manufacturing, Infrastructure and Planning under Schedule 10 of the *Planning Regulation 2017* as it involves development within 25 of a State railway corridor, but the Department issued an exemption certificate on 5 October 2018.
- (5) The application required public notification, and it was publicly notified for 15 business days from 9 November 2018 to 29 November 2018. Notice of public notification compliance was issued to Council on 30 November 2018. Council did not receive any properly made submissions.
- (6) 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;
 - (c) the SPP, to the extent that it is not appropriately integrated in the planning scheme; and
 - (d) development approvals and lawful use of the land and adjacent land.

4.2 Category of assessment

- (1) The proposal is Impact assessable, requiring assessment against the entire planning scheme to the extent relevant. The proposal has been assessed against the following assessment benchmarks as these are most appropriate for Council's determination—
 - (a) Strategic framework;
 - (b) General residential zone code;
 - (c) Infrastructure and operational work code;
 - (d) Infrastructure overlays code.

4.3 Assessment benchmarks

- (1) A full and detailed assessment against the assessment benchmarks is provided in the material submitted with the application. Such report represents a balanced assessment.

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 statement, policies or benchmarks relevant to this application¹. Due to the nature of the proposal and insignificant departure of the SPP from the planning scheme, compliance with the planning scheme is considered appropriate.

4.3.3 North Burnett Regional Planning Scheme

4.3.3.1 Strategic framework

- (1) The proposal complies with the Strategic framework as—
- (a) Strong rural economy and futures—the proposal would continue to make the North Burnett Region a competitive domestic tourist destination;
 - (b) Community strength and wellbeing—the proposal would conserve the heritage and character values of the region and enhance the architectural and historic values of the site;
 - (c) Settlement pattern—the proposal would efficiently use land to minimise adverse impacts on the environment, and maintain a variety of employment possibilities;
 - (d) Infrastructure, services and facilities—the proposal would be provided with appropriate infrastructure.

4.3.3.2 General residential zone code

- (1) The proposal complies with the General residential zone code as—
- (a) it complies with the purpose and overall outcomes of the zone code;
 - (b) it complies with the performance outcomes of the zone code;
 - (c) the site is already occupied by the Biggenden Museum which provides a local custom to residents and tourists, and the proposal would be a small-scale community use that continues to provide this service;
 - (d) it would have a predominately low intensity scale, form and character, which would be achieved through managing hours of operation loading/unloading timeframes, and building setbacks, size and use. Although the total use area would be more than 60m² and 6% of the area of the site, the proposal would maintain the domestic scale, form and character of the area as a large portion of the site would not contain structures;
 - (e) it would be compatible with the heritage and character values of the heritage place.

4.3.3.3 Infrastructure and operational work code

- (1) The proposal complies with the Infrastructure and operational work code as—
- (a) it complies with the purpose and overall outcomes of the code;
 - (b) it complies with the performance outcomes of the code;
 - (c) it would be provided with infrastructure that meets the needs of development;
 - (d) given the low-intensity nature of the site and hours of operation, additional car parking spaces would not be required.

4.3.3.4 Infrastructure overlays code

- (1) The proposal complies with the Infrastructure overlays code as—
- (a) it complies with the purpose and overall outcomes of the code;
 - (b) it complies with the performance outcomes of the code;
 - (c) it would maintain the safety and efficiency of the adjoining State railway corridor.

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.

4.4 Consultation

4.4.1 Internal stakeholder comments

- (1) No officers were invited to comment on the application, given its minor nature.

4.4.2 External stakeholder comments

- (1) The application would normally require referral to the Department of State Development, Manufacturing, Infrastructure and Planning under Schedule 10 of the *Planning Regulation 2017* as it involves development within 25 of a State transport corridor, but the Department issued an exemption certificate on 5 October 2018. As such, the Department raise no objections to the proposal.

4.4.3 Public notification

- (1) The application was publicly notified for 15 business days from 9 November 2018 to 29 November 2018. Council did not receive any properly made submissions.

4.5 Key issues for this application

- (1) The assessment manager considers that the following matters have been instrumental in its decision—
 - (a) *overall amenity*—the site is in the General residential zone and is surrounded by sensitive land uses. As such, the proposal must protect such uses and minimise any potential impacts on the surrounding environment and community from noise, traffic and visual matters.
 - (b) *consistency with the planning scheme*—the proposal is consistent with all relevant provisions of the planning scheme.

These matters have been derived from the assessment benchmarks.

4.6 Decision rules under the *Planning Act 2016*

- (1) The assessment manager—
 - (a) may approve all or part of the application;
 - (b) may refuse the application;
 - (c) may impose conditions.

Section 60(3) of the Planning Act 2016 sets out the decision rules for impact 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 all of the application and impose conditions in accordance with the decision rules.