

Development application—decision under delegated authority

Development application for a Material change of use—Warehouse at 13-31 Cordelia Street, Gayndah on land described as Lot 10 on SP191226—Code assessable development application under the *Planning Act 2016*

Application reference: DA263-18

1 Proposal summary

- (1) The applicant seeks a development permit for a material change of use—warehouse at 13-31 Cordelia Street, Gayndah (described as Lot 10 on SP191226).
- (2) The site is occupied by Brown's Citrus Transport, who are a local company that stores citrus and freights it interstate. The proposal seeks to expand the existing on-site operations by constructing a new 30m x 24m x 8.7m shed for storage purposes. The new shed would be constructed with vertical colorbond cladding to match the existing building. The proposed hours of operation would be 7am to 5pm, Monday to Saturday.
- (3) The application is code assessable.
- (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.

Jeff Miles

Environmental Health Manager
On behalf on Gary Rinehart
Chief Executive Officer

23-1-2019
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—warehouse at 13-31 Cordelia St, Gayndah on land described as Lot 10 on SP191226. 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 the Industry zone and surrounded by lots in the Industry, General residential zone or Community facilities zone.
- (2) The application was lodged on 17 December 2018 and properly made on 18 December 2018. A confirmation notice was not issued as it was not required under s2.2 of the *Development Assessment Rules*.
- (3) The application does not require referral under Schedule 10 of the *Planning Regulation 2017*.
- (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.
- (5) The application is code assessable and does not require public notification.
- (6) The following matters have been key considerations for the assessment manager—
 - (a) the North Burnett Regional Planning Scheme, to the extent relevant;
 - (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 the land and adjacent land.

4.2 Category of assessment

- (1) The proposal is identified as Code assessable and requires assessment against the *Industry zone code* and *Infrastructure and operational work code*. It does not require assessment against any relevant overlay code.

4.3 Assessment benchmarks

- (1) A basic assessment against the assessment benchmarks is provided in the 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 application. Due to the nature of the proposal and insignificant departure of the SPP from the planning scheme, compliance with the planning scheme is considered appropriate¹.

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 North Burnett Regional Planning Scheme

4.3.3.1 Industry zone code

- (1) The proposal complies with the code as—
 - (a) it achieves the purpose and overall outcomes of the code;
 - (b) it complies with the performance outcomes of the code;
 - (c) it would provide for a low impact industrial use that avoids significant adverse impacts on the natural environment and adjacent non-industrial land;
 - (d) hours of operation would be managed, and sufficient boundary landscaping would be provided, to protect the amenity of nearby sensitive land uses; and
 - (e) the height, scale and bulk of buildings would be similar to existing development to create an attractive presentation to the street whilst not adversely affecting the amenity of the surrounding areas.

4.3.3.2 Infrastructure and operational work code

- (1) The proposal complies with the code as—
 - (a) it achieves the purpose and overall outcomes of the code;
 - (b) it complies with the performance outcomes of the code;
 - (c) it would be provided with suitable infrastructure that meets the needs of development; and
 - (d) the use of the building would not generate a high need for on-site parking due to it only being used for storage purposes. As such, 12 car parking spaces would be sufficient.

4.4 Consultation

4.4.1 Internal stakeholder comments

- (1) Given the minor nature of the application, no officers were invited or commented on the application.

4.4.2 Referral agency response

- (1) No external stakeholders were invited to comment on the application, and it would not require referral 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) *Overall amenity*—the site is in the Industry zone and surrounded by lots in the Industry, General residential zone or Community facilities zone. As such, the proposal must protect these uses and minimise any potential impacts on the surrounding environment and community from noise, traffic and visual matters.
 - (b) *Consistency with previous DA 2403/06*—Condition 3 of DA 2403/06 limits the hours of operation to 7am—5pm Monday to Saturday, and condition 5 of DA 2403/06 requires 12 car parking spaces be provided. Section 66(2) of the *Planning Act 2016* requires “a development condition must not be inconsistent with a development condition of an earlier development approval in effect for the development...”. As such, these conditions will be reimposed for this development

application despite the current planning scheme limiting the hours of operation on Saturday.

- (c) *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) 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;
- (b) be reasonably required as a consequence of the development; and
- (c) not be inconsistent with a development condition of an earlier approval in effect for the development, unless—
 - (i) the same person imposes the condition; and
 - (ii) the application agrees in writing to the later condition applying; and
 - (iii) if the applicant is not the owner of the premises when the later development application is made—the owner agrees in writing to the later condition applying.

Sections 65 and 66 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.