

Development application—decision under delegated authority

Building Works Assessable Against the Planning Scheme at 22 Brookes Street, Biggenden on land described as lot 42 on RP62329—Code Assessable Development Application For Building Work Assessable Against the Planning Scheme for a Shed Under the *Planning Act 2016*

Application reference: DA220052

1 Proposal summary

- (1) The applicant seeks a Development Permit for building works assessable against the planning scheme for a shed in the General Residential zone.
- (2) The stated objective of the application is to obtain approval to build an a shed that is over 110m², greater than 12m in length and within the Queensland Development Code MP1.2 setbacks from side and rear property boundary..
- (3) The site is primarily used for residential purposes and is zoned general residential.
- (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.

for 

David Rowland
Interim Planning & Environment Manager
(Delegate of North Burnett Regional Council)

2 December 2022

Date

4 Statement of reasons

This statement explains the reasons for the assessment manager's decision in relation to a development application for Building works assessable against the planning scheme at 22 Brookes Street, Biggenden on land described as Lots 42 on RP62329. 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 30 November 2022.
- (2) Council did not issue a confirmation notice, as the application was considered properly lodged
- (3) The application did not require referral to any other agencies.
- (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 General Residential zone and is surrounded by general residential zoned land.
- (2) The proposal is identified as code assessable Building Works Assessable Against the Planning Scheme Dwelling House code and the Queensland Development Code.
- (3) 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 assessment benchmarks
- (4) A basic assessment against the assessment benchmarks and confirms that the matter is relatively straightforward, and it is not necessary to carry out a more detailed assessment for compliance.

4.2.2 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.

4.2.3 Dwelling house code

- (1) The proposal complies with the Dwelling House code as—
 - (a) It achieves the purpose and overall outcomes of the code;
 - (b) It complies with the performance outcomes of the code;
 - (c) The proposed oversized shed will not affect habitable rooms of buildings on adjoining lots or adversely impact on the amenity or privacy of residents.

4.2.4 Queensland development code

- (1) The proposal complies with the Queensland Development Code as
 - (a) it complies with the performance outcomes of the code
 - (b) the proposed setback from the side and rear boundary is to be 500mm and the construction material to be maintenance free.
 - (c) The proposed oversized shed will not affect habitable rooms of buildings on adjoining lots or adversely impact on the amenity or privacy of residents.

4.2.5 Overlay codes

- (1) There were no overlay codes relevant to the assessment.

4.3 Consultation

4.3.1 Internal stakeholder comments

- (1) The application was not referred internally.

4.3.2 External stakeholder comments

- (1) The application did not require referral to external referral agencies

4.3.3 Public consultation

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

4.4 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 compliant with the relevant assessment benchmarks.
 - (b) *Intensity and scale*—the existing use is consistent with expectations for the general residential zone. The development is compatible with the character of the locality and considers all site constraints.
 - (c) *Infrastructure*—the site has access to a constructed road.

4.5 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.

(f)

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.