

Development application—decision under delegated authority

Material change of Use for Rural Workers Accommodation at 1079 Mount Debatable Road, Gayndah on land described as Lot 2 on RP64743—Code assessable development application under the *Planning Act 2016*

Application reference: DA220053

1 Proposal summary

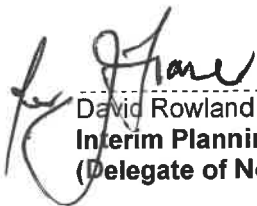
- (1) The applicant seeks a Development Permit for Material Change of Use at 1079 Mount Debatable Road, Gayndah on land described as Lot 2 on RP64743.
- (2) The stated objective of the application is to gain approval for the rural workers accommodation within an existing dwelling on site.
- (3) The site is used for the residential activities (existing dwelling) and orchard with associated structures and sheds
- (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.



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

13 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 material change of use on land described as Lot 2 RP64743. 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 7 December 2022.
- (2) Council did not issue a confirmation notice as it was not required under s2.2 of the Development Assessment Rules.
- (3) The application does not trigger any referrals.
- (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 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 Rural zone (Intensive Agricultural Precinct) and is surrounded by other rural lots.
- (2) The proposal is identified as code assessable against the Rural zone code,
- (3) The proposed also requires assessment against the following overlay codes—
 - (a) Flood hazard overlay code;
 - (b) Bushfire hazard overlay code; and
 - (c) Natural features and resources overlay code.
- (4) 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.

4.3 Assessment benchmarks

- (1) The application is generally compliant to the rural zone code, flood hazard overlay code, bushfire hazard overlay code and natural features and resources overlay code. Parts of the codes are not applicable to the application as it is an existing domestic dwelling with characteristics of the site remaining the same.

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.

4.3.3 Rural zone code

- (1) The proposal complies with the Rural zone code —
 - (a) it achieves the purpose and overall outcomes of the code;
 - (b) it complies with the performance outcomes of the code, specifically—
 - (c) boundary setbacks and building density are consistent with other developments and rural character in the locality
 - (d) site is suitably sized to mitigate nuisance and is consistent with expectations for development in the rural zone
 - (e) a safe, lawful and practical access to Mount Debatable Road is available to the lot (with a suitable access existing).
 - (f) no additional structures are proposed
 - (g) all structures are outside of the mapped MSES area and as such infrastructure will not affect the identified MSES area.

4.3.4 Overlay codes

- (1) The proposal complies with the *Flood Hazard overlay 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 development is not located within the flood hazard overlay area and does not pose any additional risk in the event of flooding.
- (2) The proposal complies with the *Bushfire Hazard overlay 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 use will not increase the risk to people or property as development is to be contained within the existing dwelling that is outside of the bushfire buffer area.
- (3) The proposal complies with the *Natural Features and Resources overlay 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 development is not located within the identified mapped MSES area and does not pose any additional impact on the MSES area.
 - (d) The proposed development will not cause any additional loss or fragmentation of agricultural land classified as Class A or B as it is to be contained within the existing dwelling.

4.4 Consultation

4.4.1 Internal stakeholder comments

- (1) Internal review by Civil Works was not required due to the minimal risks and assessment requirements for the existing use.

4.4.2 External stakeholder comments

- (1) The application did require referral to SARA under Schedule 10 of the *Planning Regulation 2017*.

4.4.3 Public consultation

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

4.5 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 rural workers accommodation development. The development is compatible with the rural character of the locality and considers all site constraints;
 - (c) *Infrastructure*—the site has access to a constructed road and;
 - (d) *Hazards*—the proposed use would not alter existing hazards with all structures located to mitigate associated risks.

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.