

# Development application—decision under delegated authority

Development Permit for Material change of use - Home-based Business (Mechanic) at 10 Barrow Street, Gayndah on land described as lot 1RP117146—Code assessable development application under the Planning Act 2016

Application reference: DA230046

## 1 Proposal summary

- (1) The applicant seeks a Development Permit for Material Change of Use - Home-Based Business (Mechanic) at 10 Barrow Street, Gayndah; land described as lot 1RP117146.
- (2) The stated objective of the application is to gain approval for Home-based Business (Mechanic) within an existing dwelling on site.
- (3) The site is used for the residential activities (existing dwelling). The site accommodates a dwelling and shed/garage.
- (4) The stated objective of the application is to establish a home-based business for mechanical repairs to vehicles under 4 tonne.
- (5) The hours of operation are Monday to Friday 8am to 5pm.
- (6) 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 

Kim Mahoney  
General Manager – Corporate and Community  
(Delegate of North Burnett Regional Council)

13 September 2023

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 - Home-Based Business (Mechanic) At 10 Barrow Street, Gayndah; land described as 1RP117146. 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 17 August 2023
- (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 general residential zone and is surrounded by other rural lots.
- (2) The proposal is identified as code assessable against home-based business 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.

### 4.3 Assessment benchmarks

#### 4.3.1 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.

#### 4.3.2 Assessment against the planning scheme

- (1) The application is generally compliant home-based business code.
- (2) The proposed development is only assessable against the performance outcomes in the home-based business code of the planning scheme due to the effect of section 5.3.3(4)(a)(ii).
- (3) A more comprehensive assessment against the performance has been completed, however in summary, due to the nature of the proposed business inconsistencies with the home-based business code are able to be appropriately conditioned.

- (4) As the Council's assessment is limited to the performance outcomes, any conditions must only relate to those assessment benchmarks

#### **4.3.3 Home-base business code**

- (1) The proposal complies with the home-based business code—
- (a) it achieves the purpose and overall outcomes of the code;
  - (b) it complies with the performance outcomes of the code, specifically—
    - (i) site is suitably sized to mitigate nuisance and is consistent with expectations for development in the general residential zone,
    - (ii) the hours of operation are limited to 8am to 5pm Monday to Friday, excluding public holidays,
    - (iii) storage of goods outside of the garage is only for waste oil in a pod and waste mechanical parts for a short time until lawful disposal.
    - (iv) Servicing of vehicles up to 4 tonnes onsite and only two (2) vehicles parked on-site at any on time.
    - (v) Commercial quantities of chemicals, gases and other hazardous materials not associated to normal residential use is not permitted
    - (vi) no additional structures are proposed

### **4.4 Consultation**

#### **4.4.1 Internal stakeholder comments**

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

#### **4.4.2 External stakeholder comments**

- (1) Not applicable—the application did not require referral.

#### **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 home-based applications. The development is compatible with the general residential use of the locality and considers all site constraints;
  - (c) *Infrastructure*—the site has access to a constructed road;
  - (d) *Hazards*—the proposed use would not alter existing hazards with all structures are existing and located to mitigate associated risks.
  - (e) Compliance with the assessment benchmarks—the proposal fully complies with the relevant assessment benchmarks;
  - (f) Infrastructure (non-trunk) works—Parking, access, and service connections. Access to the site is via Barrow Street, which is constructed bitumen standard. Suitable access and parking is available and therefore will avoid degradation of the street surface and surrounds, adverse environmental impacts, and nuisance;
  - (g) Suitability for a residential locality—the site is in the general residential zone and would be at a relatively low impact having regard to—

- (i) its location towards the end of the Barrow Street and opposite the caravan park;
- (ii) hours of operation are limited to 8am to 5pm Monday to Friday, excluding public holidays;
- (iii) a recommended condition that limits the parking of two vehicles

#### **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.