

Development application—decision under delegated authority

Material change of use—Low impact industry (packing facility—washing, packing and distributing fruit) **and Operational Work (landscaping and driveway)** at Jack Parr St, Mundubbera on land described as Lots 13 and 14 on RP883244—Code assessable development application under the *Planning Act 2016*

Application reference: DA200171

1 Proposal summary

- (1) The applicant seeks a Development permit for a Material change of use—Low impact industry (packing facility—washing, packing and distributing fruit) **and Operational Work (landscaping and driveway)** at Jack Parr St, Mundubbera on land described as Lots 13 and 14 on RP883244.
- (2) The proposal involves the washing, packing and distributing of fruit in a proposed new industrial building. The proposal is a seasonal activity during a five-month period annually. During peak season, approximately 45 persons will be employed at the packing facility. The hours of operation range between a minimum of eight hours per day for five days per week during early and late season, and eleven hours every day during mid-season. Generally, employees will be bused to the packing facility.
- (3) 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.

Rachel Cooper
Chief Executive Officer
(Delegate of North Burnett Regional Council)

Date

4 Statement of reasons

This statement explains the reasons for the assessment manager's decision in relation to a development application for a Development permit for a Material change of use—Low impact industry (packing facility—washing, packing and distributing fruit) and **Operational Work (landscaping and driveway)** at Jack Parr St, Mundubbera on land described as Lots 13 and 14 on RP883244. 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 and surrounded by lots in the Industry zone, other than Rural zoned land on the southern side of McIndoes Road.
- (2) The application was lodged on 1 December 2020.
- (3) The application does not require referral under Schedule 10 of the *Planning Regulation 2017*.
- (4) 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; and
 - (c) the SPP, to the extent that it is not appropriately integrated in the planning scheme.

4.2 Category of assessment

- (1) The proposal is identified as Code assessable against the Industry zone code and Infrastructure and operational work code.
- (2) The site is not affected by any overlay.
- (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

- (1) A detailed assessment against the assessment benchmarks is provided in the report and associated documentation submitted with the application.

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 interests, policies or benchmarks relevant to this application¹.

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

4.3.3 Industry zone code

- (1) The proposal complies with the Industry zone 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 is able to be sufficiently serviced in terms of transport, water, sewerage, electricity, telecommunications, other associated industries and workforce;
 - (d) it would have a scale, character and built form that contributes to a high standard of visual amenity;
 - (e) it would protect the viability of existing and future industry activities from the intrusion of incompatible uses.

4.3.4 Infrastructure and operational work code

- (1) The proposal complies with the Infrastructure and operational work code as—
 - (a) it achieves the purpose and overall outcomes of the code;
 - (b) it complies with the performance outcomes of the code;
 - (c) suitable non-trunk, on-site infrastructure would be available to meet the anticipated needs of users whilst not creating any significant adverse environmental effects; and
 - (d) relevant and reasonable conditions would be imposed to maintain the amenity of the area through landscaping, the safety and efficiency of Jack Parr Street, having regard to site access and on-site car parking, and waste management.

4.4 Consultation

4.4.1 Internal stakeholder comments

- (1) The application was referred to Council's Civil Works, Water and Waste Water and Environmental departments.
- (2) Council's Environmental department raise no objections to the proposal and do not require any special conditions to be included in any decision notice.

4.4.2 External stakeholder comments

- (1) The application did not require referral to DSDMIP under Schedule 10 of the *Planning Regulation 2017*.

4.4.3 Public consultation

- (1) The application did not require public notification as it was code assessable.

4.5 Key issues for this application

- (1) The assessment manager considers that the following matters have been instrumental in its decision—
 - (a) *Traffic generation*—the proposal does not generate traffic at a level that would warrant any addition works to Jack Parr Street;

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.

- (b) *Manoeuvring of heaving vehicles*—the proposal would have adequate space for articulated vehicles to access the site via the eastern driveway and exit via the western driveway;
- (c) *No access to McIndoes Road*—the applicant shows no vehicular access to McIndoes Road as the standard of its construction is not suitable for heavy vehicular traffic;
- (d) *Presentation to the street*—the building elevation is consistent with or an improvement on other development in Jack Parr Street and the proposal complies with such code provisions as the building entrance being visible and accessible from the street;
- (e) *The planning scheme definition and the category of assessment*—the proposal could be misconstrued as ‘High impact industry’ if the activity was regarded as processing food. A more appropriate interpretation is that the use is not ‘processing food’ but merely taking primary produce and washing, packing and distributing it. That activity does not fundamentally process the fruit into a different product, nor is the activity akin to any other identified activity listed in the thresholds for High impact industry in Table SC1.2.1 Industry thresholds.

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; 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.