

DEVELOPMENT APPLICATION – DA 24-2022-2023 – 186-188 SHAMROCK STREET, BLACKALL**EXECUTIVE SUMMARY**

The Applicant, Sean Maddison, seeks a Development Permit for a Material Change of Use for a Food and Drink Outlet over land 186-188 Shamrock Street, Blackall formally described as Lot 18 on RP905064.

The proposal involves the reuse of an existing building for a Food and drink outlet. The existing building is known as the Big Red and this name is intended to be retained for the new business. The Food and drink outlet will be a fast food restaurant specialising in kebabs and pizzas.

The site adjoins a state-controlled road and required referral to the State Assessment and Referral Agency (SARA). SARA has provided a referral agency response with no requirements.

Under the Blackall-Tambo Region Planning Scheme 2020 (the Planning Scheme), the subject site is in the Recreation and Open Space Zone. The defined use that has been applied for, being a Food and Drink Outlet, is subject to Code Assessment in the Recreation and Open Space Zone.

Based on an assessment of the proposal in accordance with the Code Assessment process articulated in the *Planning Act 2016*, this decision report recommends approval of the development application, subject to the conditions stated herein.

RECOMMENDATION

THAT Blackall-Tambo Regional Council approves the application for a Development Permit for Material Change of Use for a Food and Drink Outlet over land at 186-188 Shamrock Street, Blackall, formally described as Lot 18 on RP905064, subject to the following conditions:

1.0 PARAMETERS OF APPROVAL

- 1.1 The Developer is responsible for ensuring compliance with this development approval and the conditions of the approval by an employee, agent, contractor or invitee of the Developer at all times unless otherwise stated.
- 1.2 Where these conditions refer to “Council” in relation to requiring Council to approve or be satisfied as to any matter, or conferring on the Council a function, power or discretion, that role of the Council may be fulfilled in whole or in part by a delegate appointed for that purpose by Council.
- 1.3 All conditions, works, or requirements of this development approval must be undertaken and completed prior to commencement of the use and to Council’s satisfaction, unless otherwise stated in a development condition.
- 1.4 The cost of all works associated with the construction of the development including services, facilities and/or public utility alterations required are met at no cost to the Council or relevant utility provider, unless otherwise stated in a development condition.
- 1.5 The developer is required to have repaired any damage to existing infrastructure that may have occurred during any works carried out for the development. To the extent the damage is deemed to create a hazard to the community, it must be repaired immediately.
- 1.6 Unless otherwise stated, all works must be designed, constructed and maintained in accordance with the relevant Council policies, guidelines and standards.

2.0 APPROVED PLANS AND DOCUMENTS

2.1 The approved development must be completed and maintained generally in accordance with the approved plans and documents, except where amended by the conditions of this permit:

Plan/Document Name	Plan/Document Number	Revision Number	Date
Building Layout	SK1	-	14/03/2023 (Received date)
Site Plan 2	372_BLA_2	-	03/05/2006

2.2 Where there is any conflict between the conditions of this approval and the details shown on the approved plans and documents, the conditions of approval must prevail.

3.0 HOURS OF OPERATION

3.1 The Food and Drink Outlet is permitted to operate between 7:00am – 10:00pm Monday to Sunday.

4.0 ROOF AND ALLOTMENT DRAINAGE

4.1 Discharge of all roof and allotment drainage such that it does not restrict, impair or change the natural flow of runoff water or cause a nuisance to adjoining properties or infrastructure from the pre to the post-development condition.

5.0 SEWERAGE AND WATER

5.1 Maintain the existing connections to Council's reticulated water and sewerage network.

6.0 TELECOMMUNICATION AND ELECTRICITY SUPPLY

6.1 Maintain the electricity and telecommunication services in accordance with the standards and requirements of the relevant service provider.

7.0 WASTE MANAGEMENT

7.1 Store all waste within a waste storage area (for example, general waste, recyclable waste, pallets, empty drums etcetera). The waste storage area must be:

7.1.1 Designed to not cause nuisance to neighbouring properties;

7.1.2 Screened from any road frontage or adjoining property;

7.1.3 Of a sufficient size to accommodate a waste bin/s suitable to service the Short-term accommodation.

8.0 AMENITY AND ENVIRONMENTAL HEALTH

8.1 Undertake the approved development so there is no environmental nuisance or detrimental effect on any surrounding land uses and activities by reason of the emission of noise, vibration, odour, fumes, smoke, vapour, steam soot, ash, wastewater, waste products, oil or otherwise

8.2 Install and operate all outdoor lighting to comply with AS4282 – 1997 "Control of the Obtrusive Effects of Outdoor Lighting".

9.0 ASSET MANAGEMENT

- 9.1 Any alteration necessary to electricity, telephone, water mains, sewerage mains, and/or public utility installations resulting from the development or in connection with the development, must be undertaken and completed at no cost to Council.

10.0 CONSTRUCTION ACTIVITIES

- 10.1 All construction materials, waste, waste skips, machinery and contractors' vehicles must be located and stored or parked within the development site, unless otherwise approved in writing by Council.
- 10.2 Construction activity and noise must be limited to the hours of 06:30 to 18:30 Monday to Saturday, with no work to occur on Sundays or public holidays.

ADVISORY NOTES

- A. Prior to commencing any construction activities, the applicant/developer will be required to obtain further development permits for building work, and plumbing and drainage work, and potentially for operational work, as required under relevant legislation for this work.
- B. This approval does not negate the requirement for compliance with all other relevant Local Laws and other statutory requirements. Any provisions contained in this approval relating to the enforcement of any of the conditions shall be in addition to all other rights, powers and privileges that the Council may possess or obtain, and nothing contained in these conditions shall be construed so as to prejudice, affect or otherwise derogate or limit these rights, powers and privileges of the Council.
- C. General environmental duty under the Environmental Protection Act 1994 and subordinate legislation prohibits unlawful environmental nuisance caused by noise, aerosols, particles, dust, ash, fumes, light, odour or smoke beyond the boundaries of the development site during all stages of the development including earthworks, construction and operation.
- D. This development approval does not authorise any activity that may harm Aboriginal cultural heritage. It is advised that under section 23 of the Aboriginal Cultural Heritage Act 2003, a person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal cultural heritage (the "cultural heritage duty of care").

1.0 DEVELOPMENT APPLICATION SUMMARY

TABLE 1 – OVERVIEW OF THE DEVELOPMENT APPLICATION

PROPERTY DETAILS	
Site address	186-188 Shamrock Street, Blackall QLD 4472
RPD	Lots 18 on RP905064
Site Area	3,238m ²
Landowner	Rob Shrimp
Existing use of land	Commercial premises (vacant)
Existing development approval	Yes - MCU – Commercial Premises (Hairdressing salon)
APPLICATION DETAILS	
Application No.	DA24-2022-2023
Applicant	Sean Maddison
Application description	Development Application for a Development Permit for Material Change of Use for a Food and Drink Outlet
Decision due date	15 May 2023
Main Issues/Resolution	Nil
STATUTORY DETAILS	
Planning Scheme	Blackall-Tambo Region Planning Scheme 2020
Overlays	N/A
Zone	Recreation and Open Space Zone
Land use definition	Food and Drink Outlet
Category of Assessment	Code Assessment

2.0 PROPOSAL BACKGROUND

TABLE 2 – OVERVIEW OF DEVELOPMENT ASSESSMENT PROCESS

Application lodged	14 March 2023
Confirmation notice	17 March 2023
SARA referral confirmation	28 March 2023
SARA referral agency response	05 April 2023
Decision due	15 May 2023

3.0 SITE AND SURROUNDS DESCRIPTION

The subject site is located at 186-188 Shamrock Street, Blackall, formally described as Lot 18 on RP905064. The subject site has an area of 3,238m² and has a 40m frontage to Shamrock Street.

The site is adjoined to the:

- North by Shamrock Street
- South by the Barcoo River
- East by Albert Park
- West by two removable buildings.



Figure 1 – Aerial of subject site (Source: QLD Government DAMS Mapping)

4.0 DESCRIPTION OF PROPOSAL

The proposal involves the reuse of an existing building for a Food and drink outlet. The existing building is known as the Big Red and this name is intended to be retained for the new business. The Food and drink outlet will be a fast food restaurant specialising in kebabs and pizzas.

There is currently no formed access to the site. There is a wide parking lane in front of the site that can be used by customers.

Attachment A provides a copy of the proposal plans referenced in the recommendation.

5.0 PLANNING ASSESSMENT

In accordance with section 45 (3) of the *Planning Act 2016*, Code Assessment is an assessment that must be carried out only –

- (a) Against the **assessment benchmarks in a categorising instrument** for the development; and
- (b) Having regard to **any matters prescribed by regulation** for this paragraph.

This framework for assessing Code assessable applications is explained as follows –

Code assessment is a 'bounded assessment' which means only the applicable assessment benchmarks and matters can be considered by Council in deciding the application.

The categorising instrument for the development is the *Blackall-Tambo Region Planning Scheme 2020*, under which the applicable assessment benchmark is the General Development Code.

The Central West Regional Plan and the State Planning Policy

The Regional Plan and SPP are identified as being appropriately integrated in the Planning Scheme and therefore do not require further assessment. The assessment of the proposal against the Planning Scheme in section 5.2 below also functions as an assessment of these State Planning Instruments.

The Local Government Infrastructure Plan

By Council resolution, there is no Local Government Infrastructure Plan in place for the Council Area and Council ceases to charge Adopted Infrastructure Charges for any new development. In turn, this assessment benchmark does not apply to the development and an Infrastructure Charges Notice does not form part of this recommendation.

Schedules 9 and 10 of the Planning Regulation

Schedule 9 relates to building work under the Building Act, which is not relevant to this application for material change of use but may be relevant to a subsequent building work application for the construction of the development.

The site is located within 25m of a state-controlled road being Shamrock Street (Landsborough Highway) and therefore required referral to the State Assessment and Referral Agency (SARA). SARA provided a Referral Agency Response on 5 April 2023 with no requirements.

Approval history / lawful use of the premises and adjoining premises

The site has contained a commercial building since the mid-1990s.

In 2006 Council approved an application for a Commercial premises (hairdressing salon). This use was either not started or has since ceased.

The proposal will be undertaken in the existing building onsite and will not impact how the site operates.

Common material

The application material and subsequent correspondence with Council officers and the applicant has been considered in the preparation of this recommendation.

The planning assessment of the development considers the above assessment benchmarks and matters to the extent that the assessment benchmark and matter is relevant to the development.

5.1.1 Internal Officer Comments

The application was not internally referred to Council as the proposal involves the reuse of an existing building that is serviced by necessary urban services.

5.2 BLACKALL-TAMBO REGION PLANNING SCHEME 2020

Under the Planning Scheme the development constitutes a Material Change of Use, which is defined in the Planning Act as:

- a) the start of a new use of the premises;**
- b) the re-establishment on the premises of a use that has been abandoned;*
- c) a material increase in the intensity or scale of the use of the premises.*

The reuse of the building for a Food and Drink Outlet will result in the start of a new use. Under the Planning Scheme, the defined use relevant to the proposal is Food and Drink Outlet:

Food and Drink Outlet means the use of premises for—

- (a) preparing and selling food and drink for consumption on or off the premises; or*
- (b) providing liquor for consumption on the premises, if the use is ancillary to the use in paragraph (a).*

In accordance with Table 4.4.2 of the Planning Scheme a Food and Drink Outlet in the Recreation and Open Space Zone is subject to Code Assessment.

5.2.1 Assessment of Codes

The following code is relevant to the proposed development.

General Development Code

The development complies or can be conditioned to comply with the purpose, performance criteria and acceptable solutions of the General Development Code. In particular:

- The proposal results in the reuse of an existing building therefore there are no changes in site cover, setbacks or building height
- The site is adjoined by a wide parking lane than can be utilised by customers
- The level of traffic expected for the use can be managed appropriately
- Conditions have been imposed to manage amenity impacts, in any case the site is not located in close proximity to sensitive uses
- The site is serviced by existing reticulated water and sewer as well as electricity and telecommunications services
- A condition has been imposed to ensure stormwater is appropriately managed
- The entire site is in a mapped flood area, however the proposal is for the reuse of an existing building with no building work proposed therefore not creating a flood hazard.

In summary, this planning assessment demonstrates that the development is consistent with the relevant assessment benchmark of the Planning Scheme. Conditions of approval reflect the elements of the assessment benchmarks to ensure on-going compliance in terms of land use, amenity and servicing.

6.0 CONCLUSION

Development Permit for a Material Change of Use for a Food and Drink Outlet over land 186-188 Shamrock Street, Blackall formally described as Lots 18 on RP905064, is recommended for approval, subject to the conditions outlined in this report.

This recommendation is based on an assessment of the proposal in accordance with the Planning Act for applications requiring Code assessment, which demonstrates the proposal's consistency with the Planning Scheme and other relevant assessment matters.

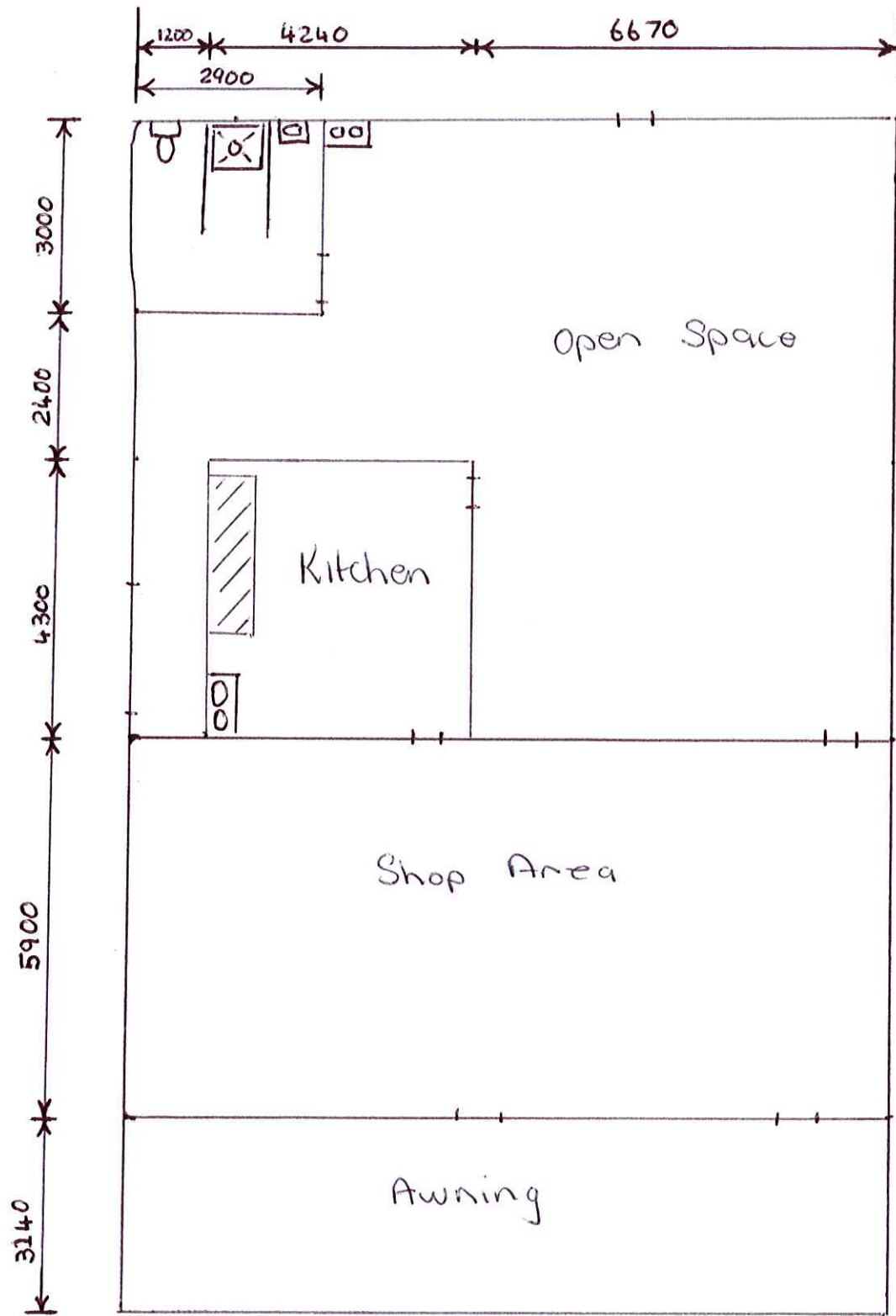
In accordance with the requirements for a decision notice under section 63 the Act, the notice must state the reasons for the decision. For this development, the statement of reasons, being the grounds for approval, will feature on the decision notice as follows:

- a) The Food and Drink Outlet is an acceptable use in the Recreation and Open Space Zone;
- b) The proposal involves the reuse of an existing commercial building;
- c) The site is sufficiently serviced and has access to telecommunications, electricity, reticulated water and sewer;
- d) Development does not conflict with the State Planning Policy 2017 and Central West Regional Plan 2009.

Assessment Officer (Author): Tim O'Leary Principal Planner (Reel Planning) 11 April 2023	
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Attachment A – Proposal Plans

Attachment B – SARA Referral Agency Response



186-188 Shamrock Street
Blackall



186-188 SHAMROCK STREET, BLACKALL
LOT 18 ON RP905064, PARISH OF BLACKALL

