

**DEVELOPMENT APPLICATION – DA 12-2022-2023 – 65 ARTHUR STREET, TAMBO****EXECUTIVE SUMMARY**

The Applicants, Joshua and Denae Phelps, seek a Development Permit for a Material Change of Use for a Warehouse over land 65 Arthur Street, Tambo formally described as Lots 8 and 10 on T15032.

The proposal involves the construction of a 360m<sup>2</sup> shed that will be used for storage purposes, in particular the storage of hay.

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.

Under the Blackall-Tambo Region Planning Scheme 2020 (the Planning Scheme), the subject site is in the Mixed Used Precinct of The Township Zone. The defined use that has been applied for, being Warehouse, is subject to Code Assessment in the Mixed Used Precinct of The Township 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 Warehouse over land at 65 Arthur Street, Tambo, formally described as Lots 8 and 10 on T15032, 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
Site Plan	DA12-2022-2023	-	07/02/2023

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 PARAMETERS OF USE

3.1 The wholesale of goods is permitted, provided it remains ancillary to the Warehouse use.

## 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 STORMWATER WORKS

5.1 Undertake the development such that all stormwater, except for rainwater captured on-site in rainwater tanks, is to be drained from the site to a lawful point of discharge and carried without causing annoyance or nuisance to any person or property. All works must be designed, constructed and maintained in accordance with the *Queensland Urban Drainage Manual*.

## 6.0 ACCESS AND PARKING WORKS

6.1 Design, construct and maintain the Albert Street crossover in accordance with the approved plans (see Condition 2.1) and generally in accordance with the standard drawing, Figure 1 or 2, from the General Development Code of the Blackall-Tambo Region Planning Scheme.

6.2 Maintain a minimum of four (4) car parking spaces on-site. All car parking spaces must be clearly delineated by either line-marking or signage.

## 7.0 SEWERAGE AND WATER

7.1 The premises must be connected to Council's reticulated water and sewerage network.

7.2 All works must be designed, constructed and maintained in accordance with the approved plans (refer to Condition 2.1), the *Plumbing and Drainage Act, Water Services Association of Australia (WSAA), 2011, "WSA 03-11 Water Supply Code of Australia" Version 3.1* and *Queensland Department of Energy and Water Supply, 2010, Planning Guidelines for Water Supply and Sewerage*.

7.3 Remove all redundant water supply and sewerage infrastructure, including but not limited to pipes and connection points.

## 8.0 TELECOMMUNICATION AND ELECTRICITY SUPPLY

8.1 The premises must be connected to electricity and telecommunication services in accordance with the standards and requirements of the relevant service provider.

## 9.0 WASTE MANAGEMENT



- 9.1 Store all waste within a waste storage area (for example, general waste, recyclable waste, pallets, empty drums etcetera). The waste storage area must be:
- 9.1.1 Designed to not cause nuisance to neighbouring properties;
  - 9.1.2 Screened from any road frontage or adjoining property;
  - 9.1.3 Of a sufficient size to accommodate a waste bin/s suitable to service the Short-term accommodation.

## **10.0 AMENITY AND ENVIRONMENTAL HEALTH**

- 10.1 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
- 10.2 Install and operate all outdoor lighting to comply with AS4282 – 1997 “Control of the Obtrusive Effects of Outdoor Lighting”.

## **11.0 LANDSCAPING**

- 11.1 Establish and maintain landscaping throughout the site.
- 11.2 The landscaping must predominantly contain species consisting of native, drought tolerant groundcovers, shrubs, small trees and trees.

## **12.0 SITE WORKS AND EROSION AND SEDIMENT CONTROL**

- 12.1 Site works must be constructed such that they do not, at any time, in any way restrict, impair or change the natural flow of runoff water, or cause a nuisance or worsening to adjoining properties or infrastructure.
- 12.2 Prepare and implement an Erosion and Sediment Control Strategy (ESCS) in accordance with the *IECA 2008 Best Practice Erosion and Sediment Control* (as amended).
- 12.3 Implement the ESCS for the duration of the construction phase and until such time all exposed soils areas are permanently stabilised (for example, turfed, hydro mulched, concreted or landscaped).

## **13.0 ASSET MANAGEMENT**

- 14.1 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.

## **14.0 CONSTRUCTION ACTIVITIES**

- 14.1 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.
- 14.2 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	65 Arthur Street, Tambo QLD 4478
RPD	Lots 8 and 10 on T15032
Site Area	2,092m <sup>2</sup>
Landowners	Joshua and Denae Phelps
Existing use of land	Storage
Existing development approval	N/A
APPLICATION DETAILS	
Application No.	DA12-2022-2023
Applicant	Joshua and Denae Phelps
Application description	Development Application for a Development Permit for Material Change of Use for a Warehouse
Decision due date	17 February 2023
Main Issues/Resolution	Nil
STATUTORY DETAILS	
Planning Scheme	Blackall-Tambo Region Planning Scheme 2020
Overlays	N/A
Zone	Township zone (Mixed use precinct)
Land use definition	Warehouse
Category of Assessment	Code Assessment

## 2.0 PROPOSAL BACKGROUND

TABLE 2 – OVERVIEW OF DEVELOPMENT ASSESSMENT PROCESS

Application lodged	1 December 2022
SARA referral confirmation	3 January 2023
SARA referral agency response	4 January 2023
Decision due	17 February 2023

## 3.0 SITE AND SURROUNDS DESCRIPTION

The subject site is located at 65 Arthur Street, Tambo, formally described as Lots 8 and 10 on T15032. The subject site has an area of 2,092m<sup>2</sup> and has a 43m frontage to Albert Street. The site also adjoins the road reserve of Arthur Street (Landsborough Highway), however there is no formed access to Arthur Street.

The site is on the western edge of the Tambo township.

The site is adjoined to the:

- North by Albert Street
- South by road reserve
- East by an industrial type uses
- West by vacant land.





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

#### 4.0 DESCRIPTION OF PROPOSAL

The proposal involves the construction of a warehouse for storage purpose, specifically for the storage of hay. The shed will be a 360m<sup>2</sup> and have the following dimensions:

- 24m in length
- 15m in width
- 4m eaves height.

Wholesale sale of goods are permitted provided they are ancillary to the warehouse use.

There is currently no formed access to the site. Access will be required from Albert Street.

**Attachment A** provides a copy of the proposal plan 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 benchmarks are the General Development Code and Township 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 Albert Street (Landsborough Highway) and therefore required referral to the State Assessment and Referral Agency (SARA). SARA provided a Referral Agency Response on 4 January 2023 with two conditions relating to not causing stormwater nuisance to the Landsborough Highway (Arthur Street) and that no direct access is permitted to the Landsborough Highway (Arthur Street).

#### Approval history / lawful use of the premises and adjoining premises

The site contains an existing shed and carport. Both buildings are considered to have been lawfully established. The carport will be used for parking.

#### 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 internally referred to Council to confirm whether the site has existing services. Council advised that the site is connected to water and can be connected to sewer. The site also has existing access from Lot 10. Conditions have been included to ensure that services are either maintained or provided in accordance with Council standards.

## **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 addition of a new warehouse will result in the start of a new use. Under the Planning Scheme, the defined use relevant to the proposal is Warehouse:

**Warehouse** means the use of premises for—

- (a) storing or distributing goods, whether or not carried out in a building; or
- (b) the wholesale of goods, if the use is ancillary to the use in paragraph (a).

In accordance with Table 4.4.2 of the Planning Scheme a Warehouse in the Mixed use precinct of the Township Zone is subject to Code Assessment.

### **5.2.1 Assessment of Codes**

The following codes are 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 proposed warehouse building will result in a site cover less than 50%
- The proposed warehouse will provide setbacks that comply with Building Code and QDC
- A condition has been included to ensure landscaping is provided
- The height of the proposed warehouse will not exceed 8.5m
- The proposal will not lead to unmanageable increases in local traffic
- The site contains an existing carport that will be utilised for parking
- Conditions have been included to manage any amenity impacts
- The site has access to telecommunications and power supply
- The site contains an existing water supply and is able to be connected to the Tambo reticulated sewer network
- Conditions have been included to manage stormwater, in particular that it does not cause nuisance and is piped to a lawful point of discharge
- The site is not affected by bushfire or flooding impacts
- No vegetation will be removed as part of the proposal.

#### **Township Zone Code**

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

- The proposal is located on the western edge of the Tambo township and will not impact on surrounding residential uses further to the east
- Conditions have been included to ensure the proposal will not have adverse impacts on residential amenity. It is noted that the closest dwelling house to the site is approximately 80m to the east
- The proposal involves the storage of hay only and hours of operation are not applicable
- Caretakers' accommodation is not proposed
- A condition has been included to ensure waste storage is screened.

In summary, this planning assessment demonstrates that the development is consistent with the relevant assessment benchmarks 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 Warehouse over land 65 Arthur Street, Tambo formally described as Lots 8 and 10 on T15032, 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 Impact 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 design of the proposed warehouse will be sympathetic to surrounding development;
- b) The proposal incorporates compliant site cover and boundary setbacks;
- c) The site is sufficiently serviced and has existing access, telecommunications, electricity, reticulated water and access to reticulated sewer;
- d) Development does not conflict with the State Planning Policy 2017 and Central West Regional Plan 2009.

Assessment Officer (Author):  Tim O'Leary <b>Principal Planner (Reel Planning)</b> 07 February 2023	
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Attachment A – Proposal Plan

Attachment B – SARA Referral Agency Response





Site Plan  
DA12-2022- 2023  
07/02/2023  
Source: Queensland  
Globe





SARA reference: 2212-32676 SRA  
 Council reference: DA12-2022-2023  
 Applicant reference: -

4 January 2023

Chief Executive Officer  
 Blackall Tambo Regional Council  
 PO Box 21  
 BLACKALL QLD 4472  
 admin@btrc.qld.gov.au

Attention: Kathy Dendle

Dear Sir/Madam

## SARA response—65 Arthur Street, Tambo

(Referral agency response given under section 56 of the *Planning Act 2016*)

The development application described below was confirmed as properly referred by the State Assessment and Referral Agency (SARA) on 23 December 2022.

### Response

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Outcome:	Referral agency response – with conditions.
Date of response:	4 January 2023
Conditions:	The conditions in <b>Attachment 1</b> must be attached to any development approval.
Advice:	Advice to the applicant is in <b>Attachment 2</b> .
Reasons:	The reasons for the referral agency response are in <b>Attachment 3</b> .

### Development details

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Description:	Development permit	Material change of use for Development of a storage shed and/or warehouse.
SARA role:	Referral Agency.	
SARA trigger:	Schedule 10, Part 9, division 4, subdivision 2, table 4 (Planning Regulation 2017) Development application for a material change of use within 25m of a state-controlled road	

SARA reference: 2212-32676 SRA  
Assessment Manager: Blackall Tambo Regional Council  
Street address: 65 Arthur Street, Tambo; 65 Arthur Street, Tambo  
Real property description: 8T15032; 10T15032  
Applicant name: Joshua and Denae Phelps  
Applicant contact details: Jynoomali, Langlo Rd  
Tambo QLD 4478  
jdpgrazing@gmail.com

State-controlled road access permit: This referral included an application for a road access location, under section 62A(2) of *Transport Infrastructure Act 1994*. Below are the details of the decision:

- Refused
- Reference: TMR23-038294
- Date: 3 January 2023

If you are seeking further information on the road access permit, please contact the Department of Transport and Main Roads at [gerard.j.arthur@tmr.qld.gov.au](mailto:gerard.j.arthur@tmr.qld.gov.au)

## Representations

An applicant may make representations to a concurrence agency, at any time before the application is decided, about changing a matter in the referral agency response (s.30 Development Assessment Rules) Copies of the relevant provisions are in **Attachment 4**.

A copy of this response has been sent to the applicant for their information.

For further information please contact Carl Porter, Principal Planning Officer, on 07 4924 2918 or via email [RockhamptonSARA@dsdilgp.qld.gov.au](mailto:RockhamptonSARA@dsdilgp.qld.gov.au) who will be pleased to assist.

Yours sincerely



Luke Lankowski  
Manager, Planning – Wide Bay Burnett

cc Joshua and Denae Phelps, [jdpgrazing@gmail.com](mailto:jdpgrazing@gmail.com)

enc Attachment 1 - Referral agency conditions  
Attachment 2 - Advice to the applicant  
Attachment 3 - Reasons for referral agency response  
Attachment 4 - Representations provisions



## Attachment 1—Referral agency conditions

(Under section 56(1)(b)(i) of the *Planning Act 2016* the following conditions must be attached to any development approval relating to this application) (Copies of the plans and specifications referenced below are found at Attachment 5)

No.	Conditions	Condition timing
<b>Material change of use</b>		
Schedule 10, Part 9, division 4, subdivision 2, table 4 (Planning Regulation 2017)—The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of Department of Transport and Main Roads to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following condition(s):		
1.	(a) Stormwater management of the development must ensure no worsening or actionable nuisance to the state-controlled road. (b) Any works on the land must not: <ul style="list-style-type: none"> <li>(i) create any new discharge points for stormwater runoff onto the state-controlled road;</li> <li>(ii) interfere with and/or cause damage to the existing stormwater drainage on the state-controlled road;</li> <li>(iii) surcharge any existing culvert or drain on the state-controlled road;</li> <li>(iv) reduce the quality of stormwater discharge onto the state-controlled road.</li> </ul>	At all times.
2.	Direct access is not permitted between the Landsborough Highway (Arthur Street) and the subject site.	At all times.

## Attachment 2—Advice to the applicant

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General advice	
1.	Terms and phrases used in this document are defined in the <i>Planning Act 2016</i> its regulation or the State Development Assessment Provisions (SDAP) v3.0. If a word remains undefined it has its ordinary meaning.



## **Attachment 3—Reasons for referral agency response**

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(Given under section 56(7) of the *Planning Act 2016*)

### **The reasons for SARA's decision are:**

- The proposed development is for a shed or warehouse
- The site adjoins a State-controlled road (Arthur Street) and also a local road (Albert Street).
- Access can be gained from the local road.
- Likely stormwater impact of the proposed development is minimal and can be addressed by a condition.
- The proposed development complies with the relevant parts of State Code 1 of the SDAP with the application of conditions.

### **Material used in the assessment of the application:**

- The development application material and submitted plans
- *Planning Act 2016*
- Planning Regulation 2017
- The *State Development Assessment Provisions* (version 3.0)
- The Development Assessment Rules
- SARA DA Mapping system

## **Attachment 4—Change representation provisions**

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