

Development application—decision under delegated authority

Development Application for Reconfiguring a lot—boundary realignment at 1 Newton Street known as lot 14 on RP217965, 7-9 Newton Street known as lot 25 on RP217965, 9 Newton Street known as lot 215 on M7471 & 40 Lister Street known as lot 213 on M7471

Application reference: DA210018

1 Proposal summary

- (1) The applicant seeks a development permit for Reconfiguring a lot—boundary realignment at 1 Newton Street known as lot 14 on RP217965, 7-9 Newton Street known as lot 25 on RP217965, 9 Newton Street known as lot 215 on M7471 & 40 Lister Street known as lot 213 on M7471.
- (2) The objective of the proposed realignment of boundaries between lots 14 & 25 on RP217965 & Lot 215 on M7471 by extending the boundary of lot 25 into lot 215 is to correct a boundary alignment issue that currently exists where buildings are not contained solely within their property boundaries
There is no vehicular access to the rear of Lots 14 & 25 for servicing deliveries therefore an easement access will be place to align with an existing driveway on Lot 213 to provide access to the rear of these lots.
- (3) All subject lots are located in the Centre Zone.
- (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) of the *Planning Act 2016*. The 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.



Jeff Miles
Planning & Environment Manager
(Delegate of North Burnett Regional Council)

20 August 2021

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 Reconfiguring a lot (boundary realignment) at 1 Newton Street known as lot 14 on RP217965, 7-9 Newton Street known as lot 25 on RP217965, 9 Newton Street known as lot 215 on M7471 & 40 Lister Street known as lot 213 on M7471. 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 the Centre zone and is surrounded by other Centre zoned land.
- (2) The application was properly made on 4 June 2021.
- (3) The applicant stated that they agree to accept an information request, but the application included sufficient information and it was not necessary to issue an information request.
- (4) Council issued a Confirmation notice 18 June 2021 as the application required referral to the State Assessment and Referral Agency (SARA) under Schedule 10, Part 9, Division 4, Subdivision 2 of the *Planning Regulation 2017* as it involves development within 25m of a State transport corridor and the development will result in a new or changed access to the State controlled road. The application was referred on 18th June 2021. The Department issued a concurrence agency response on 23rd July 2021.
- (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 SPP, to the extent that it is not appropriately integrated in the planning scheme;
 - (c) development approvals and lawful use of adjacent land.

4.2 Category of assessment

- (1) The proposed reconfiguring is code assessable requiring assessment against the *North Burnett Regional Planning Scheme 2014* (version 1.4), with the relevant codes being—
 - (a) Reconfiguring a lot (boundary realignment) and associated operational work code.
- (2) The site is within planning scheme overlays and is therefore also assessable against the following overlay codes—
 - (a) Infrastructure overlay code.

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*—the State Planning Policy is appropriately integrated in the planning scheme and does not require further or separate consideration for Council to decide the application.

4.3.2 Overlay codes

- (1) *Infrastructure overlay code*—while the subject site is located on a state controlled road, the proposal is for a boundary realignment that does not increase the number of lots accessing the state controlled road, nor included any new buildings work or alter any road setbacks. The subject site being located with the designated street frontage area within the Centre zone, the existing businesses on the site will not be detrimentally impacted by traffic amenity.

4.3.3 Other development codes

- (1) The proposed subdivision complies with the relevant acceptable outcomes and performance outcomes of Planning Scheme 9.4.4 *Reconfiguring a lot (boundary realignment) and associated operational work code* as—
- (a) The new realigned boundaries will correct a boundary alignment issue that currently exists where the buildings are not contained solely within their individual property boundaries and will not impact on building setbacks. Table 6.3.1 does not specify setbacks in the Centre zone. However, under the Building Code of Australia, the existing buildings will need to comply with the relevant fire resistant level. This matter has been conditioned.
 - (b) The existing buildings are connected to Council's water supply and sewerage network.
 - (c) Telecommunications infrastructure is available in Monto should the property owners wish to connect to the network.
 - (d) Stormwater management is to be discharged to a legal point of discharge.
 - (e) No new driveway access is proposed. The existing driveway to lot 213 (40 Lister Street) is proposed to service lots 14 & 25 (1 Newton and 7-9 Newton Street) via an access easement at the rear of these lots.

4.4 Consultation

4.4.1 Internal stakeholder comments

- (a) No internal advise was sought

4.4.2 Referral agency response

- (a) Transport and Main Roads issued a concurrence agency response on 23rd July 2021.

4.5 Key issues for this application

- (1) The assessment manager considers that the following matters have been instrumental in its decision—
- (a) Adequacy of boundary clearances—whether the proposed boundaries are sufficiently clear of existing building;
 - (b) Impacts of vehicular access if lawful, safe and practical to the existing road network via an access easement;
 - (c) The rationale for the proposal to realign boundaries which will correct the boundary issue that currently runs through the timber building so that it is contained within its own lot and will secure ownership of the various properties. There is no legal access to the rear of Lots 14 & 25 for servicing deliveries therefore an easement access will be surveyed through an existing driveway to access the rear of the two lots;
 - (d) No new buildings are proposed;
 - (e) The reconfigured lots are suitable for the continuation of their current uses in Monto township;

These matters have been derived from the assessment benchmarks.

4.6 Decision rules under the *Planning Act 2016*

- (1) The assessment manager—
- (a) may approve all or part of the application;
 - (b) may refuse the application;
 - (c) may give a preliminary approval for all or part of the proposal;

(d) may impose conditions.

Section 60(3) of the Planning Act 2016 sets out the decision rules for impact 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 all of the application and impose conditions in accordance with the decision rules.