

Development application—decision under delegated authority

Development permit for Reconfiguring a lot—boundary realignment at 25 & 33-35 Lyons Street, Mundubbera on land described as Lot 65 on M586 and Lot 1 on RP73598—Code assessable development application under the *Planning Act 2016*

Application reference: DA200165

1 Proposal summary

- (1) The applicant seeks a development permit for Reconfiguring a lot—boundary realignment at 25 & 33-35 Lyons Street, Mundubbera on land described as Lot 65 on M586 and Lot 1 on RP73598.
- (2) The stated objective of the proposal is to realign the common boundary between Lot 65 on M586 and Lot 1 on RP73598 to formalise the current lease arrangements on these lots.
- (3) The site has an area of 1548m², and is 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.



26 November 2020

Jeff Miles

Date

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

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 25 & 33-35 Lyons Street, Mundubbera on land described as Lot 65 on M586 and Lot 1 on RP73598. 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 and General Residential zoned land.
- (2) The application was properly made on 9 October 2020.
- (3) The application does not trigger any referrals.
- (4) Council did not issue a Confirmation notice as it was not required under s2.2 of the Development Assessment Rules.
- (5) The application included sufficient information and it was not necessary to issue an information request. The Council advised the applicant on 9 October 2020 that it would not be issuing an information request.
- (6) 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 partly 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) The assessment benchmarks in Planning Scheme 8.2.4 Infrastructure overlay code are not applicable to the proposed development. While the subject site is located on a significant local road, the proposal is for a boundary realignment and does not include any new buildings. As the subject site is in the Centre zone, the existing businesses on the site will not be detrimentally impacted by traffic noise, headlights and streetlights.

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 boundary will not cause building setback issues, as 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 can be conditioned.
It would be unreasonable to include a condition requiring the fibro building on proposed lot 1 be demolished and reconstructed to achieve fire separation distances required by the Building Code of Australia (refer to 4.4.1(1)(b)).
 - (b) The development proposal can be conditioned to connect to Council's water supply and sewerage network if the lots are not already connected.
 - (c) Telecommunications infrastructure is available in Mundubbera should the property owners wish to connect to the network.
 - (d) In regards to stormwater management on proposed lot 65, a condition has been included to ensure that the site drains to a point of discharge in Lyons Street kerb and channel, so that there is no drainage nuisance created to proposed lot 1.
 - (e) No new driveway access is proposed.
 - (f) The proposal does not include any earthworks.

4.4 Consultation

4.4.1 Internal stakeholder comments

- (1) Development and Buildings Services advised on 12 October 2020 that—
 - (a) The timber building on proposed lot 1 needs to be fully contained on the site (including footings, gutters, downpipes, etc);
 - (b) The fibro buildings on proposed lot 1 and proposed lot 65 will need to be fire separated (refer to discussion at Section 4.3.3(1)(a));
 - (c) Stormwater drainage for lot 65 will need to drain to point of discharge in Lyons Street.

4.4.2 Referral agency response

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

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 parking and movement—whether the proposed reconfiguring worsens car parking and servicing arrangements on the site;
 - (c) The rationale for the proposal is to formalise the current lease arrangements over the lots;
 - (d) No new buildings are proposed;
 - (e) The reconfigured lots are suitable for the continuation of their current uses in Mundubbera township;
 - (f) Access to Lyons Street will be maintained for the proposed lots, and the lots can be suitably serviced with infrastructure appropriate to its location in Mundubbera 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.