

Development application—decision under delegated authority

Reconfiguring a Lot—Boundary Realignment (2 Lots into 2 Lots) at George Street and Yeoman Street, Mount Perry on land described as Lots 192 & 193 on RP191729—Code assessable development application under the *Planning Act 2016*

Application reference: 8/18

1 Proposal summary


- (1) The applicant seeks a Development Permit for Reconfiguring a Lot—Boundary Realignment (2 Lots into 2 Lots) at George Street and Yeoman Street, Mount Perry on land described as Lots 192 & 193 on RP191729.
- (2) Both existing lots have an area of 1012m² and an east-west orientation. Existing Lot 193 does not have frontage to a constructed road, but the proposal would realign the common boundary to give both lots frontage to George Street and a north-south orientation; the area of each lot would remain the same.
- (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.
- (4) That the Council issue the charges notice in accordance with Council's Charges Resolution (No.2) 2015.

3 Decision

I concur with the above recommendations—please issue the Notice of decision as recommended.



MJP Pitt
Chief Executive Officer
(Delegate of North Burnett Regional Council)

09.02.2018

Date

4 Statement of reasons

This statement explains the reasons for the assessment manager's decision in relation to a development application for Reconfiguring a Lot—Boundary Realignment (2 Lots into 2 Lots) at George Street and Yeoman Street, Mount Perry on land described as Lots 192 & 193 on RP191729. The statement is required under **section 63 Notice of decision** of the *Planning Act 2016*.

4.1 Facts and circumstances

- (1) The lots are in and surrounded by lots in the general residential zone.
- (2) The application was deemed properly made on 31 January 2018.
- (3) The application does not require referral under Schedule 10 of the *Planning Regulation 2017*.
- (4) Although existing Lot 193 is adjacent to a Queensland Heritage Place (St Patricks Church—Place ID600764), referral to the chief executive is not required as the proposal does not meet the criteria listed in Part 8, Division 2, Subdivision 3 of the Regulation. The realignment would not affect the heritage value associated with the heritage place as the church building is more than 30m from the southern boundary of the subject site.
- (5) Council did not issue a confirmation notice as per s2.2 of the Development Assessment Rules (DAR)—none was necessary.
- (6) The applicant stated they do not agree to accept an information request, so the application will be assessed and decided based on the information provided. The application included sufficient information and it was not necessary to request further advice under s35 of the DAR.
- (7) The proposal is the same as one approved by Council in 2011 (DA 346-10). The applicant did not arrange for the plan to be sealed or registered before the approval lapsed in 2013.
- (8) 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 Reconfiguring a lot (boundary realignment) and associated operational work code.
- (2) The proposal does not require assessment against any overlay code.

4.3 Assessment benchmarks

- (1) A basic assessment against the assessment benchmarks is provided in the report and associated documentation submitted with the application. Such assessment confirms that the matter is relatively straightforward and it is not necessary to carry out a more detailed assessment for compliance.

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 interest statements, policies or benchmarks relevant to this application¹.

¹When the planning scheme commenced on 3 November 2014 it appropriately integrated all aspects of the State Planning

4.3.3 Reconfiguring a lot code

- (1) The proposal complies with the Reconfiguring a lot (boundary realignment) and associated operational work code as—
 - (a) it achieves the purpose and overall outcomes of the zone code;
 - (b) it complies with the performance outcomes of the zone code;
 - (c) both lots would comply with the minimum area (800m²) and road frontage (18m) requirements for lots in the general residential zone;
 - (d) existing Lot 193 does not have frontage to a constructed road, and the proposal would allow both lots to have frontage to George Street;
 - (e) the reconfigured lots would be an improvement on the current situation; and
 - (f) both lots would have an appropriate size to accommodate necessary on-site infrastructure.

4.4 Consultation

4.4.1 Internal stakeholder comments

- (1) No officers were invited or commented on the application, considering the minor nature of the proposal.

4.4.2 Public consultation

- (1) The application did not require public notification and Council did not receive any submissions about the application.

4.5 Key issues for this application

- (1) The assessment manager considers that the following matters have been instrumental in its decision—
 - (a) *Land use configuration*—both lots would be regular in shape and be compatible with other development in the locality considering the area, proportion, orientation and road frontage;
 - (b) *Infrastructure*—both lots would have frontage to a constructed road; and
 - (c) *Adjoining development*—both lots would not interfere with the significance of the adjoining Queensland Heritage Place.

4.6 Decision rules under the *Planning Act 2016*

- (1) The assessment manager—
 - (a) must approve the application if the proposal complies with all the assessment benchmarks;
 - (b) may approve the application 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

Policy then in force. The SPP that commenced on 3 July 2017 is quite similar, however the *Planning Act 2016* requires the 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) 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.