

**DELEGATED REPORT**

**SUBJECT:** L & J FINN - RECONFIGURING A LOT - BOUNDARY REALIGNMENT (3 LOTS INTO 3 LOTS) - LOTS 1 & 2 ON RP714909 AND LOT 42 ON M3565 - 39 BYRNES STREET & 94 WALSH STREET, MAREEBA - RAL/21/0025

**DATE:** 5 January 2022

**REPORT OFFICER'S TITLE:** Senior Planner

**DEPARTMENT:** Corporate and Community Services

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**APPLICATION DETAILS**

APPLICATION		PREMISES	
<b>APPLICANT</b>	L & J Finn	<b>ADDRESS</b>	39 Byrnes Street and 94 Walsh Street, Mareeba
<b>DATE LODGED</b>	24 December 2021	<b>RPD</b>	Lots 1 & 2 on RP714909 and Lot 42 on M3565
<b>TYPE OF APPROVAL</b>	Development Permit		
<b>PROPOSED DEVELOPMENT</b>	Reconfiguring a Lot - Boundary Realignment (3 lots into 3 lots)		

<b>FILE NO</b>	RAL/21/0025	<b>AREA</b>	Lot 1 - 253m2 Lot 2 - 759m2 Lot 42 - 1,012m2
<b>LODGED BY</b>	Twine Surveys Pty Ltd	<b>OWNER</b>	Lots 1 & 2 - L & J Finn Lot 42 - R & R Cater
<b>PLANNING SCHEME</b>	Mareeba Shire Council Planning Scheme 2016		
<b>ZONE</b>	Medium Density Residential zone		
<b>LEVEL OF ASSESSMENT</b>	Code Assessment		
<b>SUBMISSIONS</b>	n/a		

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**ATTACHMENTS:** 1. Proposal Plan/s

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**EXECUTIVE SUMMARY**

Council is in receipt of a development application described in the above application details.

The application is code assessable and was not required to undergo public notification.

It has been assessed against the relevant statutory planning instruments, including the Regional Plan and the Planning Scheme and does not conflict with any relevant planning instrument.

It is recommended that the application be approved in full with conditions.

## OFFICER'S RECOMMENDATION

1. That in relation to the following development application:

APPLICATION		PREMISES	
APPLICANT	L & J Finn	ADDRESS	39 Byrnes Street and 94 Walsh Street, Mareeba
DATE LODGED	24 December 2021	RPD	Lots 1 & 2 on RP714909 and Lot 42 on M3565
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Reconfiguring a Lot - Boundary Realignment (3 lots into 3 lots)		

and in accordance with the Planning Act 2016, the applicant be notified that the application for a development permit for the development specified in (A) is:

Approved by Council in accordance with the approved plans/documents listed in (B), subject to assessment manager conditions in (C), assessment manager's advice in (D), relevant period in (E), further permits in (F), and further approvals from Council listed in (G);

And

The assessment manager does not consider that the assessment manager's decision conflicts with a relevant instrument.

(A) APPROVED DEVELOPMENT: Development Permit for Reconfiguring a Lot - Boundary Realignment (3 lots into 3 lots)

(B) APPROVED PLANS:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
8819 Lot Layout	Plan of Lots 1-3 Cancelling Lots 1 & 2 on RP714909 and Lot 42 on M3565	Twine Surveys Pty Ltd	26.03.2021

(C) ASSESSMENT MANAGER'S CONDITIONS (COUNCIL)

(a) Development assessable against the Planning Scheme

1. Development must be carried out generally in accordance with the approved plans and the facts and circumstances of the use as submitted with the application, and subject to any alterations:
  - found necessary by the Council's delegated officer at the time of examination of the engineering plans or during construction of the development because of particular engineering requirements; and

- to ensure compliance with the following conditions of approval.

2. Timing of Effect

- 2.1 The conditions of the development permit must be complied with to the satisfaction of Council's delegated officer prior to the endorsement of the plan of survey, except where specified otherwise in these conditions of approval.

3. General

- 3.1 The applicant/developer is responsible for the cost of necessary alterations to existing public utility mains, services or installations required by works in relation to the proposed development or any works required by condition(s) of this approval.

- 3.2 All payments or bonds required to be made to the Council pursuant to any condition of this approval must be made prior to the endorsement of the plan of survey, or alternative documentation as approved by the Land Title Act and at the rate applicable at the time of payment.

- 3.3 The developer must relocate (in accordance with FNQROC standards) any services such as water, sewer, drainage, telecommunications and electricity that are not wholly located within the lots that are being created/serviced where required by the relevant authority, unless approved by Council's delegated officer.

- 3.4 Where utilities (such as sewers on non-standard alignments) traverse lots to service another lot, easements must be created in favour of Council for access and maintenance purposes. The developer is to pay all costs (including Council's legal expenses) to prepare and register the easement documents.

- 3.5 All works must be designed, constructed and carried out in accordance with FNQROC Development Manual requirements (as amended) and to the satisfaction of Council's delegated officer.

3.6 Charges

All outstanding rates, charges, and expenses pertaining to the land are to be paid in full.

(D) ASSESSMENT MANAGER'S ADVICE

- (a) A number of other charges or payments may be payable as conditions of approval. The applicable fee is set out in Council's Fees & Charges Schedule for each respective financial year.

(b) Endorsement Fees

Council charges a fee for the endorsement of a Survey Plan, Community Management Statements, easement documents, and covenants. The fee is set out in Council's Fees & Charges Schedule applicable for each respective financial year.

(c) Compliance with applicable codes/policies

The development must be carried out to ensure compliance with the provisions of Council's Local Laws, Planning Scheme Policies, Planning Scheme and Planning Scheme Codes to the extent they have not been varied by a condition of this approval.

(d) Environmental Protection and Biodiversity Conservation Act 1999

The applicant is advised that referral may be required under the *Environmental Protection and Biodiversity Conservation Act 1999* if the proposed activities are likely to have a significant impact on a matter of national environmental significance. Further information on these matters can be obtained from [www.environment.gov.au](http://www.environment.gov.au).

(e) Cultural Heritage

In carrying out the activity the applicant must take all reasonable and practicable measures to ensure that no harm is done to Aboriginal cultural heritage (the “cultural heritage duty of care”). The applicant will comply with the cultural heritage duty of care if the applicant acts in accordance with gazetted cultural heritage duty of care guidelines. An assessment of the proposed activity against the duty of care guidelines will determine whether or to what extent Aboriginal cultural heritage may be harmed by the activity. Further information on cultural heritage, together with a copy of the duty of care guidelines and cultural heritage search forms, may be obtained from [www.datsip.qld.gov.au](http://www.datsip.qld.gov.au).

(F) RELEVANT PERIOD

When approval lapses if development not started (s.85)

- Reconfiguring a Lot – four (4) years (starting the day the approval takes effect);

(G) OTHER NECESSARY DEVELOPMENT PERMITS AND/OR COMPLIANCE PERMITS

- Nil

(H) OTHER APPROVALS REQUIRED FROM COUNCIL

- Nil

## THE SITE

The subject site comprises of the following allotments:

- Lot 1 on RP714909, situated at 39 Byrnes Street, Mareeba, having an area of 253m<sup>2</sup> and a frontage of approximately 5 metres to Byrnes Street;
- Lot 2 on RP714909, situated at 39 Byrnes Street, Mareeba, having an area of 759m<sup>2</sup> and a frontage of approximately 15 metres to Byrnes Street; and
- Lot 42 on M3565, situated at 94 Walsh Street, Mareeba, having an area of 1,012m<sup>2</sup> and a frontage of approximately 20 metres to Walsh Street.

Both Byrnes Street and Walsh Street are constructed to bitumen sealed standard with kerb and channel on both sides.

Lots 1 and 2 are developed for commercial purposes with office space, storage and driveway covering the entire area. Mareeba Community Centre Inc is the current tenant.

Lot 42 is currently vacant with a previous long standing dwelling house having been demolished in 2014.

The subject land and all adjoining lots are zoned Medium Density Residential. All urban services are connected to the site.



**Map Disclaimer:**

Based on or contains data provided by the State of Queensland (Department of Environment and Resource Management) (2009). In consideration of the State permitting use of this data you acknowledge and agree that the State gives no warranty in relation to the data (including accuracy, reliability, completeness, currency or suitability) and accepts no liability (including without limitation, liability in negligence) for any loss, damage or costs (including consequential damage) relating to any use of the data. Data must not be used for direct marketing or be used in breach of the privacy laws.



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## BACKGROUND AND CONTEXT

Nil

## PREVIOUS APPLICATIONS & APPROVALS

Development Permit MCU/20/0016 for material change of use - multiple dwelling (4 x 2 bedroom units) remains in effect over Lot 42 on M3565.

The boundary realignment will not impact on the ability of the owner of Lot 42 (proposed Lot 3) to undertake the multiple dwelling development.

## DESCRIPTION OF PROPOSED DEVELOPMENT

The development application seeks a Development Permit for Reconfiguring a Lot - Boundary Realignment (3 lots into 3 lots) in accordance with the plans shown in **Attachment 1**.

An identification survey has recently been undertaken to facilitate the development of multiple dwellings on Lot 42 on M3565. This survey has established that the commercial buildings on Lots 1 and 2 on RP714909 encroach approximately 20mm into Lot 42.

To resolve this encroachment, the application proposes to move the common boundary to exclude approximately 6m<sup>2</sup> of land from Lot 42 and include this area into Lots 1 and 2.

The realigned lots will be as follows:

- Lot 1 - area of 254m<sup>2</sup>, approximately 5 metres to Byrnes Street;
- Lot 2 - area of 763m<sup>2</sup>, approximately 15 metres frontage to Byrnes Street; and
- Lot 3 - area of 1,006m<sup>2</sup>, approximately 20 metres frontage to Walsh Street.

Access and servicing arrangements for the reconfigured lots will remain unchanged.

## REGIONAL PLAN DESIGNATION

The subject site is included within the Urban Footprint land use category in the Far North Queensland Regional Plan 2009-2031. Mareeaba is identified as a Major Regional Activity Centre in the Regional Plan. The Regional Plan Map 3- 'Areas of Ecological Significance' does not identify the site as being of any significance.

## PLANNING SCHEME DESIGNATIONS

Strategic Framework:	<b>Land Use Categories</b> <ul style="list-style-type: none"> <li>• Residential Area</li> </ul> <b>Transport Elements</b> <ul style="list-style-type: none"> <li>• State controlled road</li> <li>• B-double route</li> <li>• Principal Cycle Network</li> </ul>
Zone:	Medium Density Residential zone
Overlays:	Airport Environs Overlay Transport Infrastructure Overlay

## RELEVANT PLANNING INSTRUMENTS

Assessment of the proposed development against the relevant planning instruments is summarised as follows:-

### (a) Far North Queensland Regional Plan 2009-2031

Separate assessment against the Regional Plan is not required because the Mareeba Shire Council Planning Scheme appropriately advances the Far North Queensland Regional Plan 2009-2031, as it applies to the planning scheme area.

### (b) State Planning Policy

Separate assessment against the State Planning Policy (SPP) is not required because the Mareeba Shire Council Planning Scheme appropriately integrates all relevant aspects of the SPP.

### (c) Mareeba Shire Council Planning Scheme 2016

#### Relevant Development Codes

The following Development Codes are considered to be applicable to the assessment of the application:

- 6.2.7 Medium density residential zone code
- 7.2.2 Mareeba local plan code
- 9.4.2 Landscaping code
- 9.4.3 Parking and access code
- 9.4.4 Reconfiguring a lot code
- 9.4.5 Works, services and infrastructure code

The application did not include a planning report and assessment against the planning scheme. An officer assessment has found that the application satisfies the relevant acceptable outcomes (or performance outcome where no acceptable outcome applies) of the relevant codes set out below, provided reasonable and relevant conditions are attached to any approval

Relevant Codes	Comments
Medium density residential zone code	The application can be conditioned to comply with the code's relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).
Mareeba local plan code	The application can be conditioned to comply with the code's relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).

Landscaping code	The application can be conditioned to comply with the code's relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).
Parking and access code	The application can be conditioned to comply with the code's relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).
Reconfiguring a lot code	The application can be conditioned to comply with the code's relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).
Works, services and infrastructure code	The application can be conditioned to comply with the code's relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).

**(e) Planning Scheme Policies/Infrastructure Charges Plan**

The following planning scheme policies are relevant to the application:

Planning Scheme Policy 4 - FNQROC Regional Development Manual

All development works will be conditioned to be designed and constructed in accordance with the FNQROC Development Manual.

**(f) Adopted Infrastructure Charges Notice**

The application is for a boundary realignment only. No additional vacant lot will be created.

**REFERRALS**

This application did not trigger referral to a referral agency.

**Internal Consultation**

Not applicable.

**PLANNING DISCUSSION**

Nil

**Date Prepared:** 5 January 2022

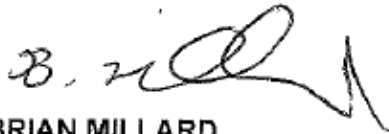


## DECISION BY DELEGATE

## DECISION

Having considered the Senior Planner's report detailed above, I approve, as a delegate of Council, the application subject to the conditions listed in the report.

Dated the *5<sup>TH</sup>* day of *JANUARY* 2022



**BRIAN MILLARD  
SENIOR PLANNER**



**ANTHONY ARCHIE  
MANAGER DEVELOPMENT & GOVERNANCE**

MAREEBA SHIRE  
AS A DELEGATE OF THE COUNCIL

PROPOSAL PLANS

