

1 July 2020

Your Reference:  
 Our Reference: DA135/20

W & G Kelly  
 PO Box 95  
 MONTO QLD 4630

Dear Sir/Madam

**CONCURRENCE AGENCY RESPONSE**

30707 BURNETT HIGHWAY, MONTO Q 4630  
 (Given under section 56(4) of the *Planning Act 2016*)

Thank you for your concurrence agency referral for the following premises which was properly referred on 11 June 2020. The North Burnett Regional Council has assessed the referral against the relevant matters of its jurisdiction and has made a decision as follows:

**Applicant details**

Applicant name: W & G Kelly  
 Applicant contact details: PO Box 95  
 MONTO QLD 4630  
 Email: billngeorgie@bigpond.com  
 Phone:  
 Mobile: 0400 863 001

**Site details**

Street address: 30707 BURNETT HIGHWAY, MONTO  
 Real property description: LOT 1 on RP207588

**Application details**

Application No: DA135/20  
 Proposed development: Development Permit for Building Works

**Aspects of development and type of approval being sought**

Nature of Development	Approval Type	Brief Description of Proposal
Building Work	Development Permit	Removal House (IN)

## Referral triggers

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The development application was referred to the Council under the following provisions of the *Planning Regulation 2017*

Referral trigger	Schedule 9 – Building work assessable against the <i>Building Act</i> Part 3 Division 2 Table 1 Particular class 1 and 10 building and structures involving possible amenity and aesthetic impact Schedule 9 – Building work assessable against the <i>Building Act</i> Part 3 Division 2 Table 7 Building work for removal or rebuilding
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## Decision

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Decision Details:	The North Burnett Regional Council advises the assessment manager that; The development approval must be subject to stated development conditions set out in <u>Attachment 1</u> .
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## Conditions

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This approval is subject to the conditions in Attachment 1.

The North Burnett Regional Council advises the assessment manager that the conditions must be attached to any development approval for the application in accordance with section 56 of the *Planning Act 2016* and that under section 62(b) of the *Planning Act 2016*. The assessment manager must attach this response to any approval for the development.

## Reasons for decision to impose conditions

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Under section 56 (7)(c) of the *Planning Act 2016*, the North Burnett Regional Council is required to set out reasons for the decision to impose conditions. These reasons are set out in Attachment 2.

## Approved Plans and Specifications

Document No./ Reference	Title (prepared by)	Date
PRO735 Sheet A-03 Rev B	Site plan by Evoke Architects	10.06.2020
PRO735 Sheet A-02 Rev B	Location Plan by Evoke Architects	10.06.2020
PRO735 Sheet A-04 Rev B	Proposed Floor Plan by Evoke Architects	10.06.2020
PRO735 Sheet A-06 Rev B	Proposed Elevations 1 by Evoke Architects	10.06.2020
PRO735 Sheet A-07 Rev B	Proposed Elevations 2 by Evoke Architects	10.06.2020

## Giving of the Notice

Under section 56(4) of the *Planning Act 2016*, this notice of referral agency response has been issued (where applicable) to the applicant and the assessment manager of the application.

Should you require any further assistance in process, please contact Council's Development Services Department on 1300 696 272.

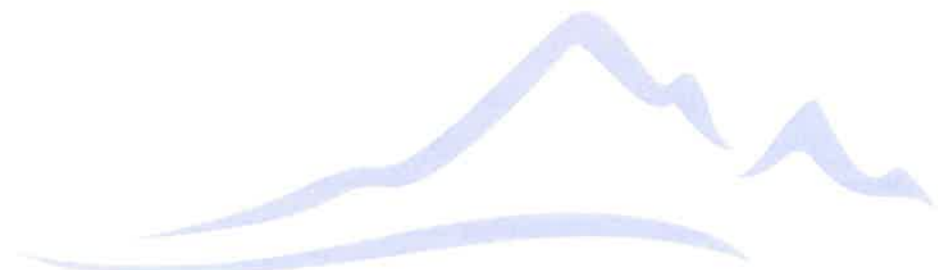
Yours faithfully



Jeff Miles

**Planning and Environment Manager**

Enc: Attachment 1-conditions to be imposed  
Attachment 2-reasons for decision to impose conditions  
Attachment 3-appeal rights  
Attachment 4-plans



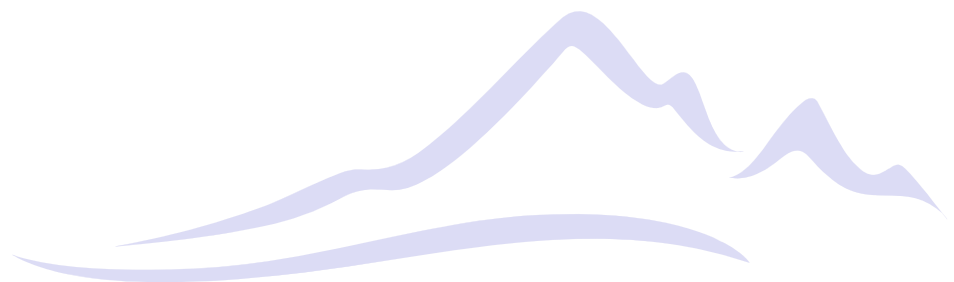
## Attachment 1 – Conditions to be imposed by Concurrence Agency

No.	Conditions
<b>General</b>	
1.	Unless otherwise stated in a particular condition, all conditions must be completed prior to the completion of building works, or issue of a final certificate, whichever is the sooner, unless otherwise agreed to in writing by the Concurrence Agency.
<b>Design and Siting</b>	
2.	The approved dwelling must be sited a minimum 10 metres from the Burnett Highway property boundary and a minimum 10 metres from side boundary, with all setbacks measured from the outermost projection of the structure.
3.	The floor area of the approved dwelling must be in accordance with the endorsed plans.
4.	The height of the approved dwelling must not be below the height above natural ground shown on the endorsed plan. Any earthworks required for the development must be undertaken in such a way as to ensure that the height of the building complies with this condition.
5.	Utilise colours in the development that are sympathetic to the surrounding environment and avoid excessive brightness, contrast, colour intensity, and reflectivity. In this regard, materials/colours on the roof and wall of the structures must not reflect glare into the habitable rooms of any dwelling on surrounding allotments.
<b>Use</b>	
6.	The approved dwelling is to be used for private/domestic purposes only.
<b>Removal/Resiting of a Dwelling or Other Structure</b>	
7.	Complete all external works associated with the relocated dwelling within 12 months from the date of the development approval, or as otherwise approved in writing by the Concurrence Agency.
8.	The ground surface must be returned to a level state and must not contain trip hazards or excavations likely to be a safety risk.
<b>Security</b>	
9.	Provide a security to the Concurrence Agency to the amount of \$12,000.00 in the form of a cash bond, or an irrevocable bank guarantee that is to be maintained until such time as the Concurrence Agency provides written advice that the security (or part of the security) can be released. This security must be provided to the Concurrence Agency prior to the issue of the development approval for building works.
<b>Works to be completed before Release of any Bond</b>	
10.	All conditions of the Amenity and Aesthetics approval are to be completed prior to issue of Form 21.
11.	Replace or make good all exterior wall cladding material so as to be free of any visible or performance related defects.
12.	Complete all external wall finishes so as to provide a surface that is free of flaking paint, stains or rust. Wall finishes are to be renewed or replaced so as to match the colour and finish of surrounding wall areas of the building or structure.
13.	Replace or make good all roof cladding materials so as to be free of any visible or performance related defects including rust, flaking paint or broken tiles.

14.	<p>Provide a copy of Form 21 Final Certificate/s covering all building works carried out under this approval to ensure that the dwelling is fully compliant with the <i>Building Act 1975</i> including, but not limited to the following works:</p> <ul style="list-style-type: none"> <li>a. Relocation and restumping of dwelling including all foundations; and</li> <li>b. Frame, bracing and tie down whether new, or required for upgrade; and</li> <li>c. Any new works whether renovations, additions, or other to bring the structure up to required NCC Classification compliance.</li> </ul>
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**Attachment 1B – Advice Notes**

A.	This Concurrence Agency Response does not represent a development approval for Building Works under the <i>Building Act 1975</i> .
B.	All building works the subject of this notice can only proceed once a development permit for building works is issued by a Building Certifier.
D.	Prior to any alteration or modification of a building, it is recommended that an inspection be undertaken of the resite/removal dwelling or building by a qualified person/s to determine the existence of Asbestos Cement Material (ACM), Asbestos Cement Products (ACP) or any other material not deemed as an acceptable construction material as defined in the Australian Standards or the Building Code of Australia.

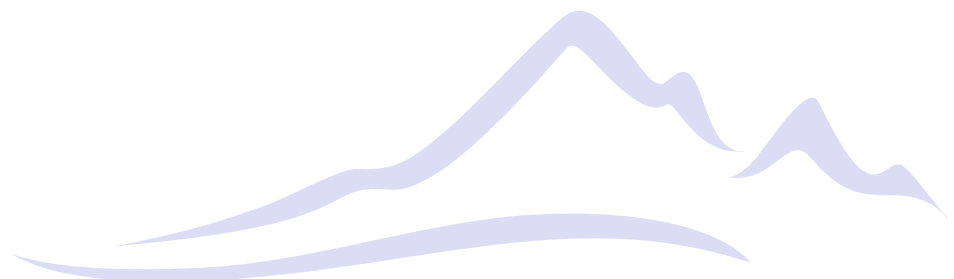


## **Attachment 2 – Reasons for decision to impose conditions**

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The reason for this decision are:

- To ensure the development is carried out generally in accordance with the plans of development submitted with the application.
- Under *Planning Regulations 2017* Schedule 9, Division 2, Table 7, Council can set an amount for security of the works and the *Building Act 1975* s93 allows for the security to be release. The amount of this security bond has been set by the North Burnett Regional Council under Council resolution adopted on the 15 June 2016.
- The currency period for a resited structure is legislated by the *Building Act 1975* s71(3)
- The Amenity and Aesthetics policy adopted by North Burnett Regional Council on the 4 November 2016 states that matters for consideration are to be the architectural style, building form, construction materials and physical condition of the proposed dwelling complements existing houses in the locality and surrounding pattern of development.



## Attachment 3 – Planning Act 2016 Extract Appeal Rights

### CHAPTER 6, PART 1 APPEAL RIGHTS

#### 229 Appeals to tribunal or P&E Court

- (1) Schedule 1 states—
  - (a) matters that may be appealed to—
    - (i) either a tribunal or the P&E Court; or
    - (ii) only a tribunal; or
    - (iii) only the P&E Court; and
  - (b) the person—
    - (i) who may appeal a matter (the **appellant**); and
    - (ii) who is a respondent in an appeal of the matter; and
    - (iii) who is a co-respondent in an appeal of the matter; and
    - (iv) who may elect to be a co-respondent in an appeal of the matter.
- (2) An appellant may start an appeal within the appeal period.
- (3) The **appeal period** is—
  - (a) for an appeal by a building advisory agency—10 business days after a decision notice for the decision is given to the agency; or
  - (b) for an appeal against a deemed refusal—at any time after the deemed refusal happens; or
  - (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises—20 business days after a notice is published under section 269(3)(a) or (4); or
  - (d) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
  - (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given—30 business days after the applicant gives the deemed approval notice to the assessment manager; or
  - (f) for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

*Note*—See the P&E Court Act for the court’s power to extend the appeal period.
- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
- (5) If an appeal is only about a referral agency’s response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.
- (6) To remove any doubt, it is declared that an appeal against an infrastructure charges notice must not be about—
  - (a) the adopted charge itself; or
  - (b) for a decision about an offset or refund—
    - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
    - (ii) the cost of infrastructure decided using the method included in the local government’s charges resolution.

#### 230 Notice of appeal

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that—
  - (a) is in the approved form; and
  - (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar, must, within the service period, give a copy of the notice of appeal to—
  - (a) the respondent for the appeal; and
  - (b) each co-respondent for the appeal; and
  - (c) for an appeal about a development application under schedule 1, table 1, item 1—each principal submitter for the development application; and
  - (d) for an appeal about a change application under schedule 1, table 1, item 2—each principal submitter for the change application; and
  - (e) each person who may elect to become a co-respondent for the appeal, other than an eligible submitter who is not a principal submitter in an appeal under paragraph (c) or (d); and
  - (f) for an appeal to the P&E Court—the chief executive; and
  - (g) for an appeal to a tribunal under another Act—any other person who the registrar considers appropriate.

- (4) The **service period** is—
  - (a) if a submitter or advice agency started the appeal in the P&E Court—2 business days after the appeal is started; or
  - (b) otherwise—10 business days after the appeal is started.
- (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
- (6) A person elects to be a co-respondent by filing a notice of election, in the approved form, within 10 business days after the notice of appeal is given to the person.
- (7) Despite any other Act or rules of court to the contrary, a copy of a notice of appeal may be given to the chief executive by emailing the copy to the chief executive at the email address stated on the department's website for this purpose.

#### **SCHEDULE 1 APPEALS (section 229)**

##### **1. Appeal rights and parties to appeals**

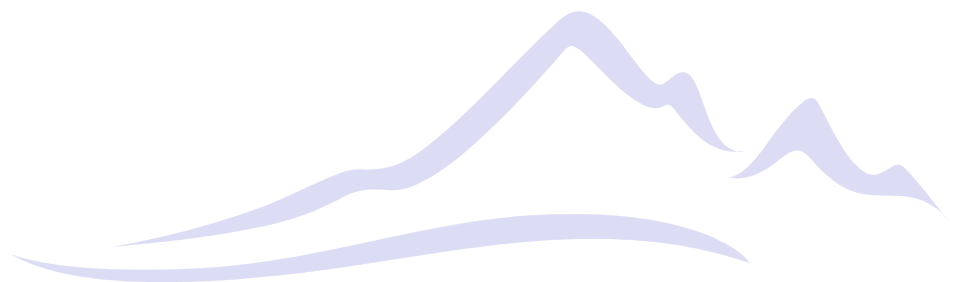
- (1) Table 1 states the matters that may be appealed to—
  - (a) the P&E court; or
  - (b) a tribunal.
- (2) However, table 1 applies to a tribunal only if the matter involves—
  - (a) the refusal, or deemed refusal of a development application, for—
    - (i) a material change of use for a classified building; or
    - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
  - (b) a provision of a development approval for—
    - (i) a material change of use for a classified building; or
    - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
  - (c) if a development permit was applied for—the decision to give a preliminary approval for—
    - (i) a material change of use for a classified building; or
    - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
  - (d) a development condition if—
    - (i) the development approval is only for a material change of use that involves the use of a building classified under the Building Code as a class 2 building; and
    - (ii) the building is, or is proposed to be, not more than 3 storeys; and
    - (iii) the proposed development is for not more than 60 sole-occupancy units; or
  - (e) a decision for, or a deemed refusal of, an extension application for a development approval that is only for a material change of use of a classified building; or
  - (f) a decision for, or a deemed refusal of, a change application for a development approval that is only for a material change of use of a classified building; or
  - (g) a matter under this Act, to the extent the matter relates to the Building Act, other than a matter under that Act that may or must be decided by the Queensland Building and Construction Commission; or
  - (h) a decision to give an enforcement notice—
    - (i) in relation to a matter under paragraphs (a) to (g); or
    - (ii) under the Plumbing and Drainage Act; or
  - (i) an infrastructure charges notice; or
  - (j) the refusal, or deemed refusal, of a conversion application; or
  - (k) a matter prescribed by regulation.
- (3) Also, table 1 does not apply to a tribunal if the matter involves—
  - (a) for a matter in subsection (2)(a) to (d)—
    - (i) a development approval for which the development application required impact assessment; and
    - (ii) a development approval in relation to which the assessment manager received a properly made submission for the development application; or
  - (b) a provision of a development approval about the identification or inclusion, under a variation approval, of a matter for the development.
- (4) Table 2 states the matters that may be appealed only to the P&E Court.
- (5) Table 3 states the matters that may be appealed only to the tribunal.
- (6) In each table—
  - (a) column 1 states the appellant in the appeal; and
  - (b) column 2 states the respondent in the appeal; and
  - (c) column 3 states the co-respondent (if any) in the appeal; and
  - (d) column 4 states the co-respondents by election (if any) in the appeal.
- (7) If the chief executive receives a notice of appeal under section 230(3)(f), the chief executive may elect to be a co-respondent in the appeal.
- (8) In this section—
 

**storey** see the Building Code, part A1.1.



**Extract of Schedule 1 of the Planning Act 2016**

<b>Table 1</b>			
<b>Appeals to the P&amp;E Court and, for certain matters, to a tribunal</b>			
<p>1. Development applications For a development application other than an excluded application, an appeal may be made against—</p> <p>(a) the refusal of all or part of the development application; or</p> <p>(b) the deemed refusal of the development application; or</p> <p>(c) a provision of the development approval; or</p> <p>(d) if a development permit was applied for—the decision to give a preliminary approval.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The applicant	The assessment manager	If the appeal is about a concurrence agency's referral response—the concurrence agency	<p>1 A concurrence agency that is not a co-respondent</p> <p>2 If a chosen assessment manager is the respondent—the prescribed assessment manager</p> <p>3 Any eligible advice agency for the application</p> <p>4 Any eligible submitter for the application</p>
<p>2. Change applications For a change application other than an excluded application, an appeal may be made against—</p> <p>(a) the responsible entity's decision on the change application; or</p> <p>(b) a deemed refusal of the change application.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
<p>1. The applicant</p> <p>2. If the responsible entity is the assessment manager—an affected entity that gave a pre-request notice or response notice</p>	The responsible entity	If an affected entity starts the appeal—the applicant	<p>1 A concurrence agency for the development application</p> <p>2 If a chosen assessment manager is the respondent—the prescribed assessment manager</p> <p>3 A private certifier for the development application</p> <p>4 Any eligible advice agency for the change application</p> <p>5. Any eligible submitter for the change application</p>
<p>3. Extension applications For an extension application other than an extension application called in by the Minister, an appeal may be made against—</p> <p>(a) the assessment manager's decision on the extension application; or</p> <p>(b) a deemed refusal of the extension application.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
<p>1 The applicant</p> <p>2. For a matter other than a deemed refusal of an extension application—a concurrence agency, other than the chief executive, for the application</p>	The assessment manager	If a concurrence agency starts the appeal—the applicant	If a chosen assessment manager is the respondent—the prescribed assessment manager



<b>Table 3</b> <b>Appeals to a tribunal only</b>			
1. Building advisory agency appeals An appeal may be made against giving a development approval for building work to the extent the building work required code assessment against the building assessment provisions.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A building advisory agency for the development application related to the approval	The assessment manager	The applicant	1. A concurrence agency for the development application related to the approval. 2. A private certifier for the development application related to the approval
2. Inspection of building work An appeal may be made against a decision of a building certifier or referral agency about the inspection of building work that is the subject of a building development approval under the Building Act.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The applicant for the development approval	The person who made the decision.	—	—
3. Certain decisions under the Building Act and the Plumbing and Drainage Act An appeal may be made against— (a) a decision under the Building Act, other than a decision made by the Queensland Building and Construction Commission, if an information notice about the decision was given or required to be given under that Act; or (b) a decision under the Plumbing and Drainage Act, part 4 or 5, if an information notice about the decision was given or required to be given under that Act.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A person who received, or was entitled to receive, an information notice about the decision.	The person who made the decision	—	—
4. Local government failure to decide application under the Building Act An appeal may be made against a local government's failure to decide an application under the Building Act within the period required under that Act.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A person who was entitled to receive notice of the decision	The local government to which the application was made	—	—

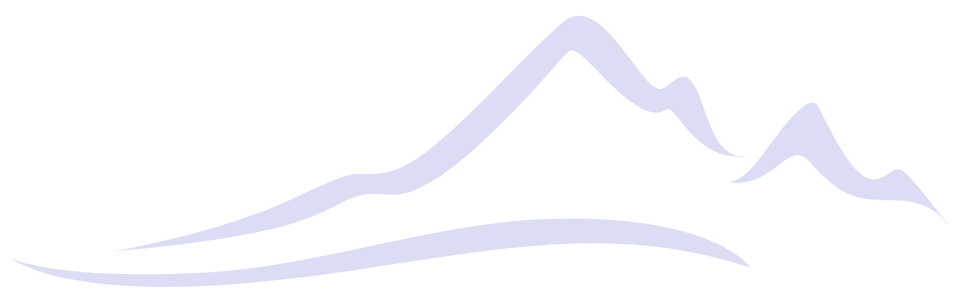


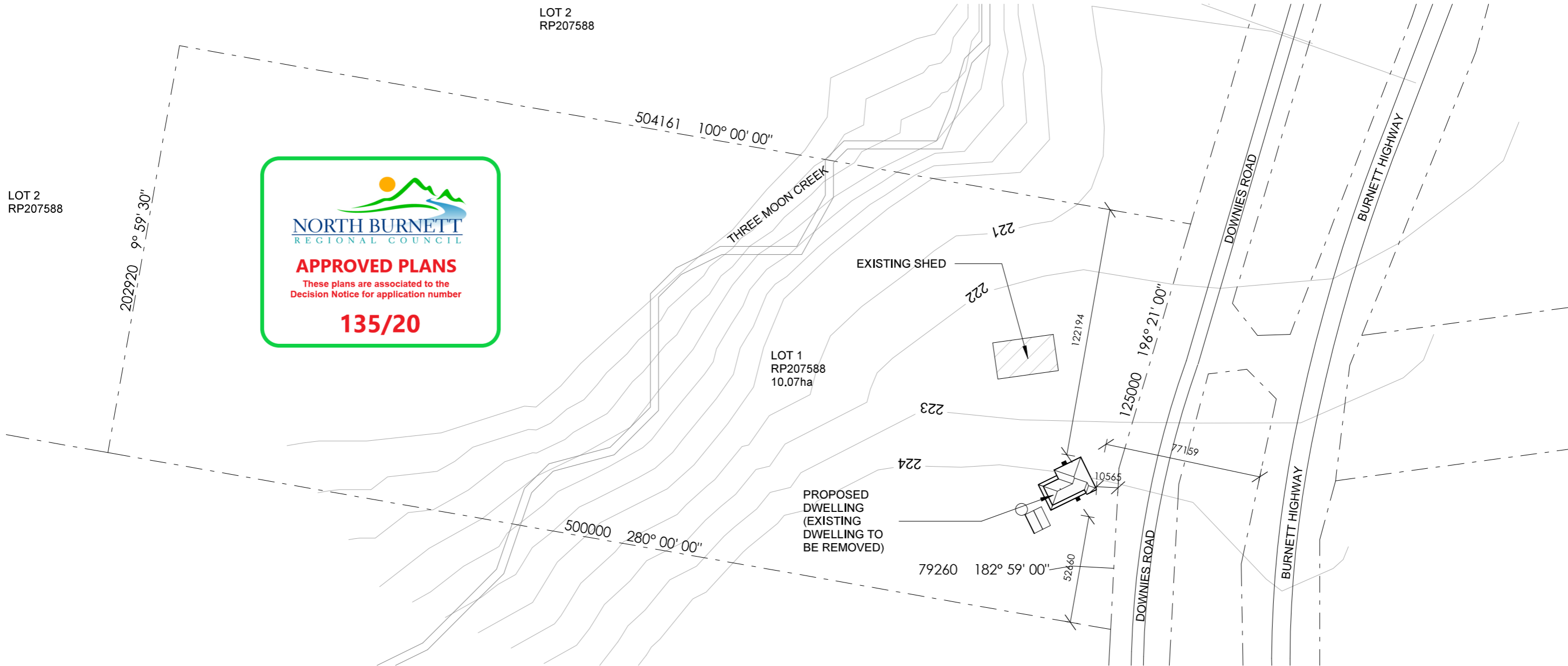


Mailing Address: PO Box 390, Gayndah Qld 4625  
Street Address: 34-36 Capper Street, Gayndah Qld 4625  
Telephone: 1300 696 272  
Facsimile: (07) 4161 1425  
Email: [admin@northburnett.qld.gov.au](mailto:admin@northburnett.qld.gov.au)  
Web: [www.northburnett.qld.gov.au](http://www.northburnett.qld.gov.au)  
ABN: 23 439 388 197

## **Attachment 4 – Approved Plans**

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**1** **LOCATION PLAN**  
1 : 2000 @A3

ALL CONSTRUCTION TO BE IN ACCORDANCE WITH THE NCC & RELEVANT AUSTRALIAN STANDARDS. FULL STRUCTURAL CERTIFICATION IS REQUIRED. DO NOT SCALE FROM DRAWINGS. CONFIRM ALL DIMENSIONS ON SITE PRIOR TO COMMENCING ANY FABRICATION, SETOUT OR WORK. ANY COSTS ARISING FROM INCORRECT DIMENSIONING IS THE RESPONSIBILITY OF THE CONTRACTOR IF EVOKE ARCHITECTS IS NOT CONTACTED PRIOR TO CONSTRUCTION. VERIFY LOCATION OF EXISTING SERVICES BEFORE COMMENCEMENT OF WORK.

DATE	DESCRIPTION	REV
08.06.2020	PRELIMINARY	A
10.06.2020	REVISED HOUSE LOCATION	B

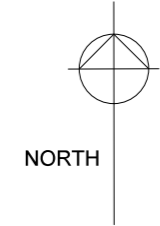
  

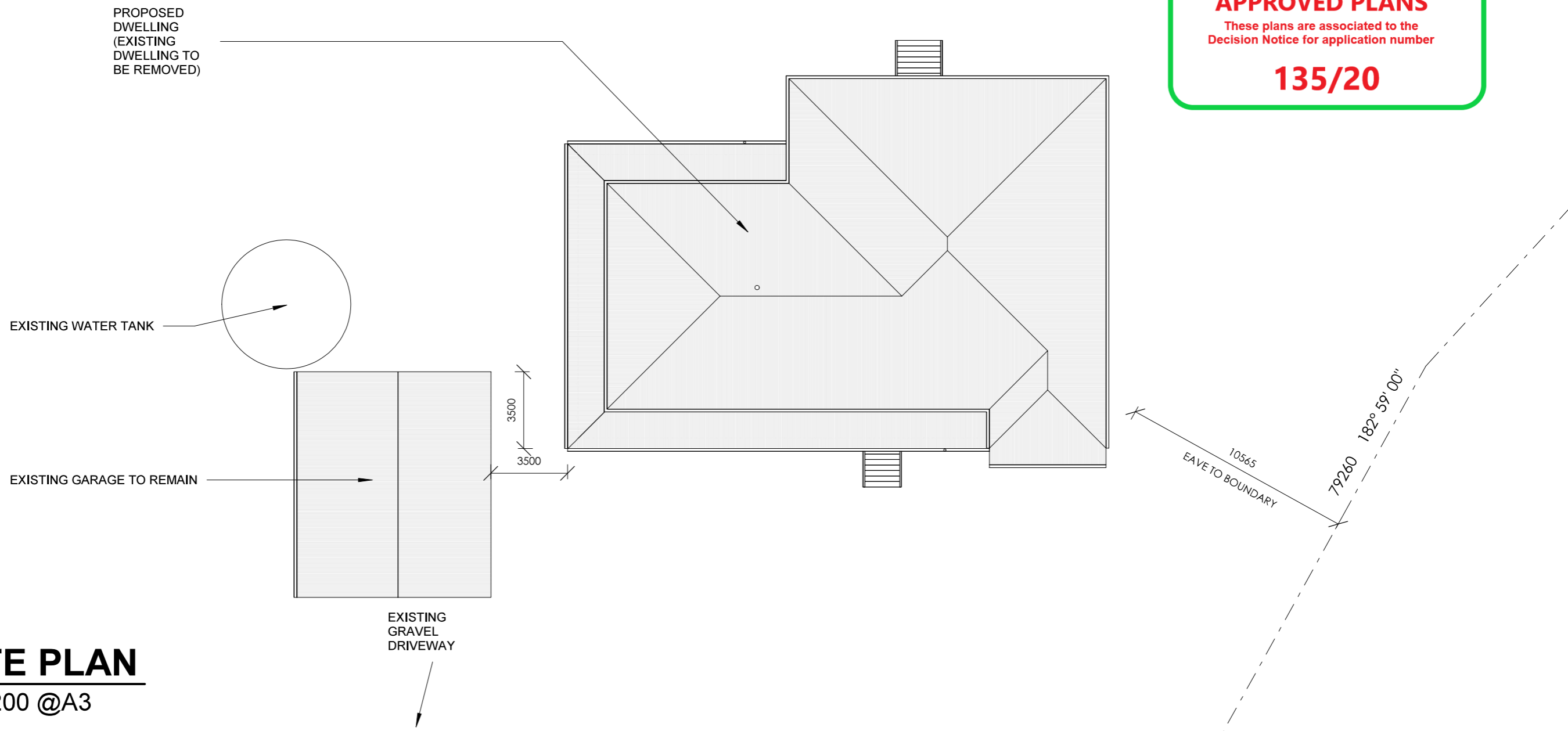
PRO 735	SHEET NUMBER A - 02	REV B
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CLIENT NAME:  
**BILL AND GEORGINA KELLY**

PROJECT ADDRESS:  
**30707 BURNETT HIGHWAY, THREE MOON, QLD, 4630.**

SHEET NAME:  
**LOCATION PLAN**





**1** **SITE PLAN**  
1 : 200 @A3

ALL CONSTRUCTION TO BE IN ACCORDANCE WITH THE NCC & RELEVANT AUSTRALIAN STANDARDS. FULL STRUCTURAL CERTIFICATION IS REQUIRED. DO NOT SCALE FROM DRAWINGS. CONFIRM ALL DIMENSIONS ON SITE PRIOR TO COMMENCING ANY FABRICATION, SETOUT OR WORK. ANY COSTS ARISING FROM INCORRECT DIMENSIONING IS THE RESPONSIBILITY OF THE CONTRACTOR IF EVOKE ARCHITECTS IS NOT CONTACTED PRIOR TO CONSTRUCTION. VERIFY LOCATION OF EXISTING SERVICES BEFORE COMMENCEMENT OF WORK.

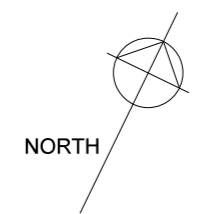
DATE	DESCRIPTION	REV
08.06.2020	PRELIMINARY	A
10.06.2020	REVISED HOUSE LOCATION	B

PRO 735      SHEET NUMBER A - 03      REV B

CLIENT NAME:  
**BILL AND GEORGINA KELLY**

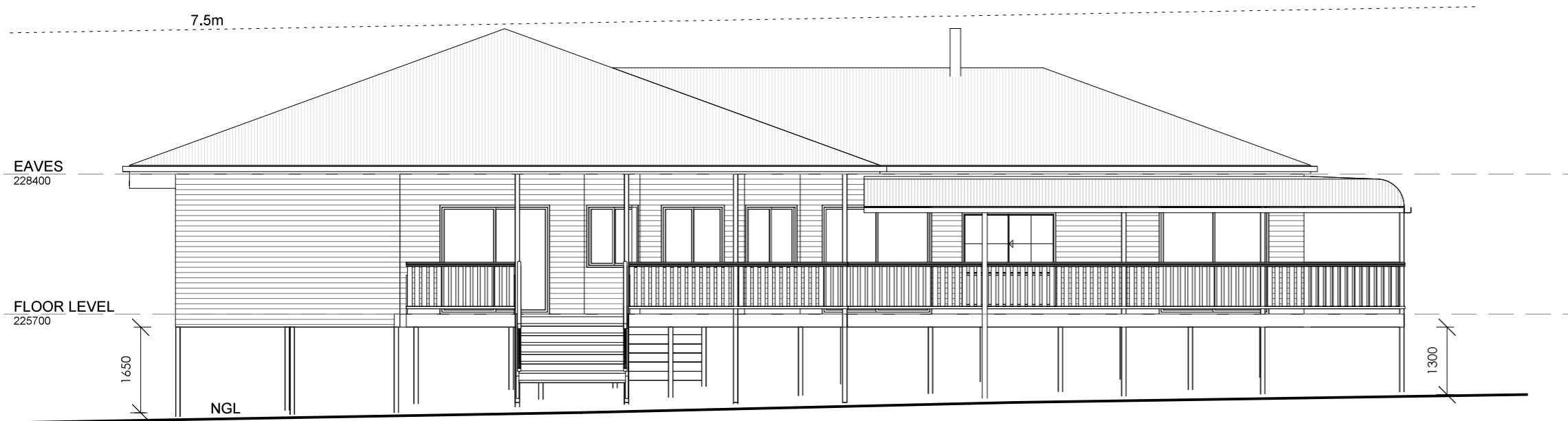
PROJECT ADDRESS:  
**30707 BURNETT HIGHWAY, THREE MOON, QLD, 4630.**

SHEET NAME:  
**SITE PLAN**









**NOTES:**

- ALL DRAWINGS AND DIMENSIONS FOR HOUSE RELOCATION ONLY. CHECK ALL DIMENSIONS BEFORE COMPLETING OTHER BUILDING WORK.
- FINAL FLOOR RL TO BE CHECKED AND CONFIRMED ON SITE BY CLIENT OR SURVEYOR
- LOCAL COUNCIL HEIGHT LIMIT NOT TO BE EXCEEDED

**1 01 NORTH ELEVATION**  
1 : 100 @A3



**2 02 EAST ELEVATION**  
1 : 100 @A3

ALL CONSTRUCTION TO BE IN ACCORDANCE WITH THE NCC & RELEVANT AUSTRALIAN STANDARDS. FULL STRUCTURAL CERTIFICATION IS REQUIRED. DO NOT SCALE FROM DRAWINGS. CONFIRM ALL DIMENSIONS ON SITE PRIOR TO COMMENCING ANY FABRICATION, SETOUT OR WORK. ANY COSTS ARISING FROM INCORRECT DIMENSIONING IS THE RESPONSIBILITY OF THE CONTRACTOR IF EVOKE ARCHITECTS IS NOT CONTACTED PRIOR TO CONSTRUCTION. VERIFY LOCATION OF EXISTING SERVICES BEFORE COMMENCEMENT OF WORK.

DATE	DESCRIPTION	REV
08.06.2020	PRELIMINARY	A
10.06.2020	REVISED HOUSE LOCATION	B

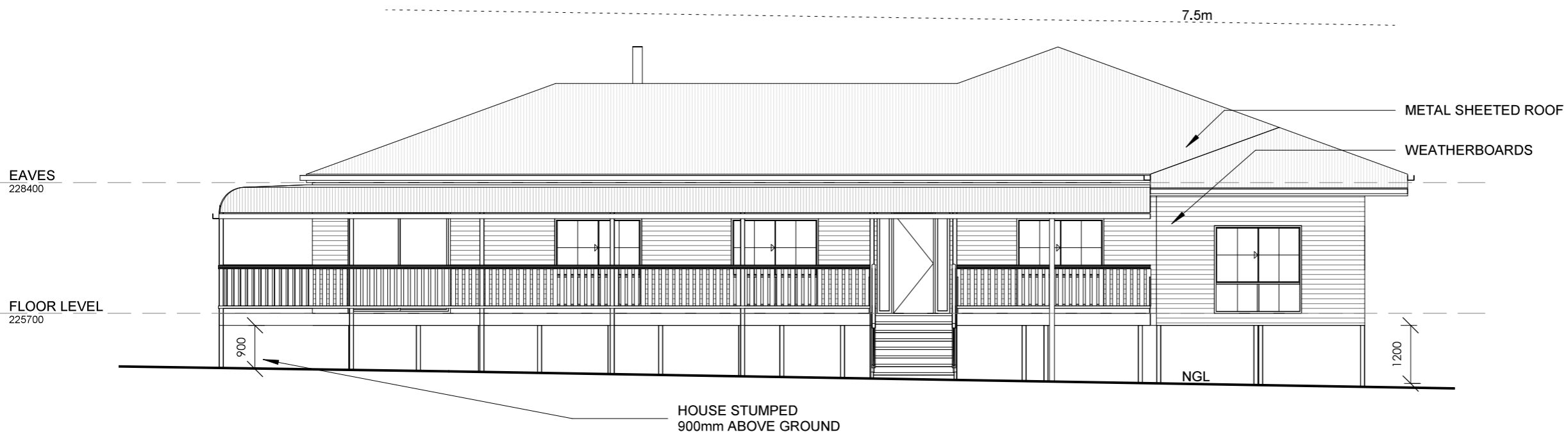
PRO 735 SHEET NUMBER A - 06 REV B

CLIENT NAME:  
**BILL AND GEORGINA KELLY**

PROJECT ADDRESS:  
30707 BURNETT HIGHWAY, THREE MOON, QLD, 4630.

SHEET NAME:  
PROPOSED ELEVATIONS 1

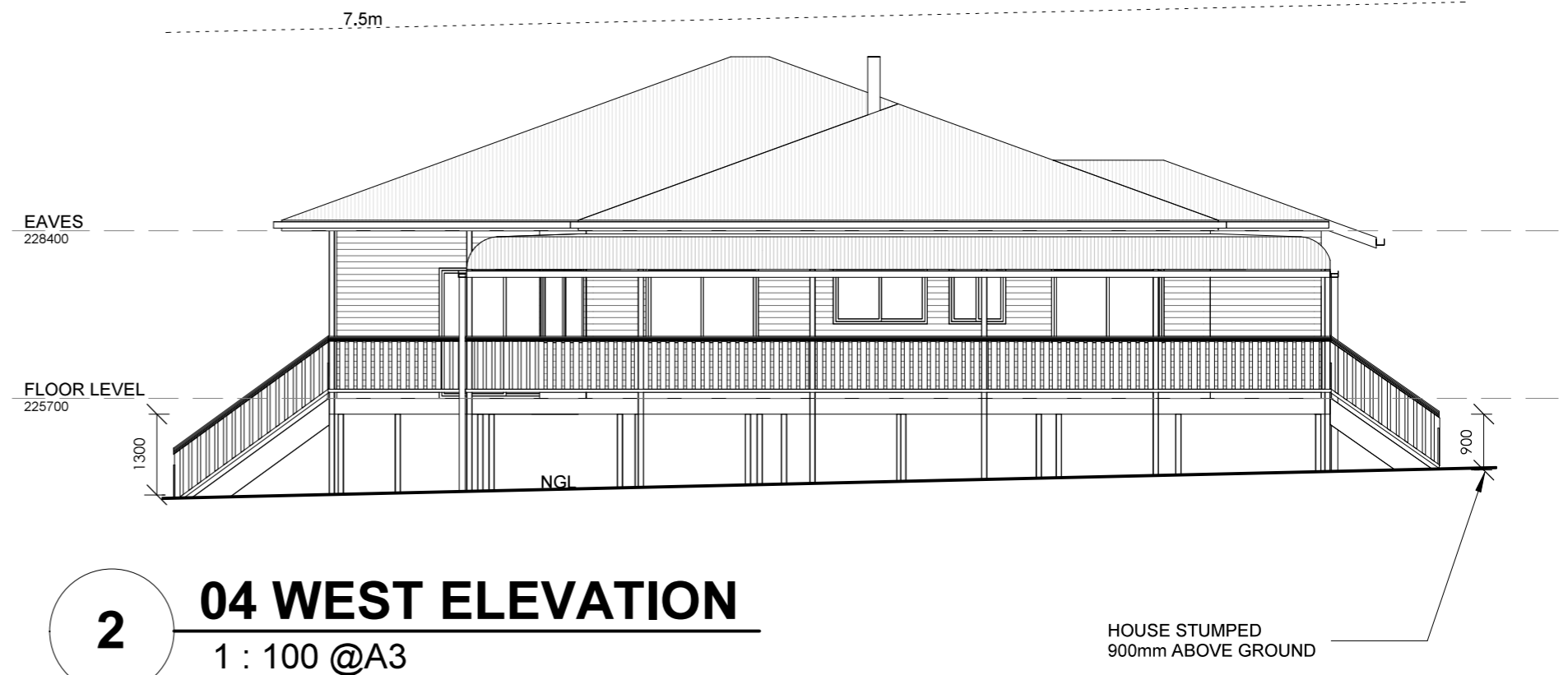




**1** **03 SOUTH ELEVATION**  
1 : 100 @A3

**NORTH BURNETT**  
REGIONAL COUNCIL

**APPROVED PLANS**  
These plans are associated to the  
Decision Notice for application number  
**135/20**



**2** **04 WEST ELEVATION**  
1 : 100 @A3

HOUSE STUMPED  
900mm ABOVE GROUND

ALL CONSTRUCTION TO BE IN ACCORDANCE WITH THE NCC & RELEVANT AUSTRALIAN STANDARDS. FULL STRUCTURAL CERTIFICATION IS REQUIRED. DO NOT SCALE FROM DRAWINGS. CONFIRM ALL DIMENSIONS ON SITE PRIOR TO COMMENCING ANY FABRICATION, SETOUT OR WORK. ANY COSTS ARISING FROM INCORRECT DIMENSIONING IS THE RESPONSIBILITY OF THE CONTRACTOR IF EVOKE ARCHITECTS IS NOT CONTACTED PRIOR TO CONSTRUCTION. VERIFY LOCATION OF EXISTING SERVICES BEFORE COMMENCEMENT OF WORK.

DATE	DESCRIPTION	REV
08.06.2020	PRELIMINARY	A
10.06.2020	REVISED HOUSE LOCATION	B

PRO 735 SHEET NUMBER A - 07 REV B

CLIENT NAME:  
**BILL AND GEORGINA KELLY**

PROJECT ADDRESS:  
**30707 BURNETT HIGHWAY, THREE MOON, QLD, 4630.**

SHEET NAME:  
**PROPOSED ELEVATIONS 2**

**EVOKE**  
ARCHITECTS

www.evokearchitects.com  
QLD REG# 4782