

13 February 2019

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
Web: www.northburnett.qld.gov.au

ABN: 23 439 388 197

Our Reference: 89/18

Doc Id: 917593

Burnett Country Certifiers Pty Ltd 12/58 Newton Street MONTO QLD 4630 via email: rick@burnettcc.com.au

# Change to an Existing Approval Planning Act 2016

Dear Rick,

RE: CHANGE APPLICATION FOR DA 5/11—MATERIAL CHANGE OF USE FOR FUNERAL PARLOUR (MORTUARY EXTENSION) AND CARETAKER'S ACCOMMODATION AT 43A AND 43B DALGANGAL ROAD, GAYNDAH ON LAND DESCRIBED AS LOTS 3 & 4 ON SP241998

Thank you for your request under section 78 of the *Planning Act 2016* to make a change to existing approval DA 5/11, decided by Council on 25 February 2011. On 6<sup>th</sup> February 2019, Council decided to approve your requested changes.

Please find attached the amended Decision Notice. This replaces the previous development approval issued.

Please quote Council's application number: 5/11 and 89/18 in all subsequent correspondence relating to this development application. Should you require any clarification regarding this matter or wish to schedule a meeting, please contact Council's Development Services team on 1300 696 272.

Yours sincerely,

Jeff Miles

**Environmental Services Manager**On behalf of Gary Rinehart

**Chief Executive Officer** 



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# Amended Decision notice — change application

(Given under section 83 of the Planning Act 2016)

Thank you for request under section 78 of the Planning Act 2016, received by the North Burnett Regional Council on 27 April 2018, to make a change to existing approval DA 5/11. The North Burnett Regional Council has assessed your application and decided it as follows:

#### **Location details**

Street address:

43A and 43B Dalgangal Road

GAYNDAH QLD 4625

Real property description:

Lots 3 & 4 on SP241998

Local government area:

North Burnett Regional Council

#### Details of original approval

Application for:

Material change of use—community oriented activity (mortuary extension)

Date of approval:

25 February 2011

Application number:

5/11

#### Details of the proposed development

Application for:

Material change of use-funeral parlour (mortuary extension) and

caretaker's accommodation

Application number:

89/18

#### **Decision for change application**

Date of decision:

6 February 2019

Decision details:

Approved the change. These amendments are set out in Schedule 1. Changes

approved are in **bold red** text.

#### The changes agreed to are:

- Update the approved plans in section 5 of the decision notice
- Amend Conditions 1, 4, 6, 7, 8, 15, 18, and 25
- Include new Conditions 1a, 13a, 13b, and 18a
- Delete Condition 11
- Include new advice note

#### Rights of appeal

The rights of applicants to appeal to a tribunal or the Planning and Environment Court against decisions about a development application are set out in chapter 6, part 1 of the *Planning Act 2016*. For particular applications, there may also be a right to make an application for a declaration by a tribunal (see chapter 6, part 2 of the Planning Act 2016).

#### Schedule 1 - Decision notice

#### 1. Applicant's details

Name:

**Burnett Country Certifiers Pty Ltd** 

Postal Address:

12/58 Newton Street

MONTO QLD 4630

Email:

rick@burnettcc@hotmail.com

#### 2. Location details

Street address:

43A and 43B Dalgangal Road

GAYNDAH QLD 4625

Real property description:

Lots 3 & 4 on SP241998

Local government area:

North Burnett Regional Council

#### 3. Decision

Application number:

89/18

Date of decision:

6 February 2019

Decision details:

Approved in full subject to conditions. These conditions are set out in

Attachment 1 and are clearly identified to indicate whether the assessment

manager or a concurrence agency imposed them.

#### 4. Details of proposed development

	Planning Regulation 2017 reference	Development Permit	Preliminary Approval
Development assessable under the planning scheme, a temporary local planning instrument, a master plan or a preliminary approval which includes a variation approval – Material change of use			

#### 5. Approved plans

Copies of the following plans are enclosed in Attachment 3 and amended in red where necessary.

Drawing title	Prepared by	Date	Reference no.	
Existing site plan	Blueprint Drafting Services	1/2/11		
Proposed site plan	Blueprint Drafting Services	30/11/10	10-1252-SPY	
Floor plan	Blueprint Drafting Services	30/11/10	10-1252-SPY	
Elevations	Blueprint Drafting Services 30/11		10-1252-SPY	
Proposed office and caretaker's residence	John Poulsen Building Design	15/8/18	PD 2157	
Extra views	John Poulsen Building Design	15/8/18	PD 2157	
Site plan	John Poulsen Building Design	15/8/18	PD 2157	
			1	

Floor plan	John Poulsen Building Design	15/8/18	PD 2157
Elevations	John Poulsen Building Design	15/8/18	PD 2157

#### 6. Referral agencies

The referral agencies for this application are—

Name of referral agency	For an application involving	
Department of State Development, Manufacturing, Infrastructure and Planning State Assessment and Referral Agency (SARA)  E: WBBSARA@dsdmip.qld.gov.au  P: PO Box 979 Bundaberg QLD 4670	State transport corridor—Schedule 10, Part 9, Division 4, Subdivision 2 of the <i>Planning Regulation 2017.</i>	

#### 7. Conditions

This approval is subject to the conditions in <u>Attachment 1</u>. These conditions are clearly identified to indicate whether the assessment manager or concurrence agency imposed them.

#### 8. Further development permits

The following development permits are required to be obtained before the development can be carried out—

- Building work
- Plumbing and drainage work

#### 9. Properly made submissions

One properly made submission was received. The name and address of the principal submitter is as follows—

Name of principal submitter	Address	
Leisa and Kevin Maddern	41 Dalgangal Road, Gayndah QLD 4625	

#### 10. Currency period for the approval

This development approval will lapse at the end of the period set out in section 85 of *Planning Act 2016*.

- (1) A part of a development approval lapses at the end of the following period (the *currency period*)—
  - (a) for any part of the development approval relating to a material change of use—if the first change of use does not happen within—
    - (i) the period stated for that part of the approval; or
    - (ii) if no period is stated—6 years after the approval starts to have effect;
  - (b) for any part of the development approval relating to reconfiguring a lot—if a plan for the reconfiguration that, under the Land Title Act, is required to be given to a local government for approval is not given to the local government within—
    - (i) the period stated for that part of the approval; or
      - ii) if no period is stated—4 years after the approval starts to have effect;
  - (c) for any other part of the development approval—if the development does not substantially start within—
    - (i) the period stated for that part of the approval; or
    - (ii) if no period is stated—2 years after the approval starts to take effect.

#### 11. Rights of appeal

The rights of applicants to appeal to a tribunal or the Planning and Environment Court against decisions about a development application are set out in chapter 6, part 1 of the *Planning Act 2016*. For particular applications, there may also be a right to make an application for a declaration by a tribunal (see chapter 6, part 2 of the *Planning Act 2016*).

A copy of the relevant appeal provisions is included in Attachment 2.

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

Yours faithfully

Jeff Miles

**Environmental Services Manager** 

On behalf of Gary Rinehart

**Chief Executive Officer** 

Enc: Attachment 1

Part A-Conditions imposed by the assessment manager

Part B-Conditions imposed by the referral agency

Attachment 2-Appeal rights

Attachment 3-Plans



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### Attachment 1 – Part 1A: Conditions Imposed by Assessment Manager

#### General

- Carry out the approved development generally in accordance with the approved plans identified in section 5 "Approved plans" of the decision notice approval, except as modified by the conditions of this approval as relevant. That development of the subject land proceed generally in accordance with the following proposal plans, except where amended in accordance with these conditions—
  - titled 'Existing Site Plan', prepared by Blueprint Drafting Services, sheet 1 of 4, project number 10-1252-SPY, revision A, dated 1/02/2011, and submitted to Council as part of the development application; and
  - titled 'Proposed Site Plan', prepared by Blueprint Drafting Services, sheet 2 of 4, project number 10-1252-SPY, revision A, dated 1/02/2011, and submitted to Council as part of the development application; and
  - titled 'Floor Plan', prepared by Blueprint Drafting Services, sheet 3 of 4, project number 10-1252-SPY, revision A, dated 1/02/2011, and submitted to Council as part of the development application; and
  - titled 'Northern, Eastern & Southern Elevations', prepared by Blueprint Drafting Services, sheet 4 of 4, project number 10-1252-SPY, revision A, dated 1/02/2011, and submitted to Council as part of the development application.
- 1a) Where there is any conflict between conditions of this approval and details shown on the approved plans, the conditions prevail.
- 2) Undertake dust prevention measures to ensure that dust does not cause a nuisance to occupiers of adjacent premises, during and after construction or during operation of approved use.
- 3) Maintain the site in a clean and orderly state at all times.
- 4) Construction shall only occur between the hours of 6am to 7pm Monday to Saturday inclusive.

  Unless otherwise approved in writing by the assessment manager, do not undertake building work in a way that makes audible noise:
  - On a business day or Saturday, before 6:30am or after 6:30pm; or
  - On any other day, at any time.
- 5) Complete all works, including the relocation or installation of services (electricity, telecommunications, sewerage, etc.) as a result of this approval, including these conditions, at no cost to Council.

#### Vehicle Parking, Access and Manoeuvring

- Provide seven (7) on-site customer car parking spaces and three (3) on-site staff car parking spaces within the 3-bay garage. as per the requirements of Schedule 1, Division 2: Standards for Roads, Carparking, Manoeuvring Areas and Access, Section 2.2(1)(a) of the Gayndah Shire Planning Scheme.
- 7) Construct a sealed 5.5m wide driveway along Easement A from the road frontage to the three-bay garage in the Caretaker's accommodation two-way access driveway at the rear of the

- building. The driveway is to extend to the full width of the three-bay garage two-way access driveway. The driveway must be constructed and sealed with bitumen, asphalt, concrete or approved pavers.
- 8) Design, construct and maintain all parking areas and internal driveways in accordance with AS2890.1 Parking facilities—Off-street carparking and AS2890.2 Parking facilities—Off-street commercial vehicle facilities Schedule—1, Division—2: Standards for Roads, Carparking, Manoeuvring Areas and Access, Section 2.2(1)(b) of the Gayndah Shire Planning Scheme.
- 9) Vehicle parking or manoeuvring areas are not to increase erosion or sediment run-off from the site.
- 10) Conduct at all times the loading and unloading of vehicles associated with the approved uses from within the boundaries of the subject site. Under no circumstances is the loading or unloading of goods on the public roadway system permitted.
- 11) Prior to the commencement of work, submit to Council for compliance assessment, a revised car parking layout plan that complies with AS2890.1 and AS2890.2. Council will issue a compliance certificate for the approved layout and associated work.

#### **Water Supply**

12) The building extension is to be connected to Council's reticulated water supply system.

#### **Sewerage Disposal**

- 13) The building extension is to be connected to Council's reticulated sewerage disposal system.
- 13a) Provide to Council an Engineers Design and Certification (Form 15 Certificate), signed by an RPEQ, to meet compliance with QDC MP1.4, Performance Criteria P1.
- 13b) Perform a sewer CCTV survey of the sewer main before and after construction works to ensure the sewer main was not damaged during construction. The video must be provided to Council. Any defects in the sewer main prior to construction must be reported to Council immediately.

#### **Stormwater Drainage**

- 14) The development must not make material changes to the pre-development location, duration, frequency or concentration of overland stormwater flow at the point of discharge to all downstream properties including road reserves. In the event that a material change to the pre-development stormwater flows will occur, the applicant is to produce evidence to Council's satisfaction of a legal right as to the method for stormwater discharge over the downstream land.
- 15) Stormwater infrastructure is to be designed, constructed, collected and discharged in accordance with Planning scheme policy SC6.2 Design and construction for non-trunk infrastructure works.

  Schedule 1, Division 5: Standards for Stormwater Drainage, Section 5.1 of the Gayndah Shire Planning Scheme.

#### Lighting

- 16) External lighting is to be designed and installed in accordance with AS4282-1997: "Control of the Obtrusive Effects of Outdoor Lighting" so as not to cause nuisance to nearby residents or passing motorists.
- 17) Any external lighting is not to exceed 8.0 lux at 1.5m beyond the boundary of the site.

#### Noise

18) All noise produced by the use must not exceed the requirements of the *Environmental Protection (Noise) Policy 2008*. All prolonged noise associated with the use is to be limited to—

**NOISE LIMITS AT A NOISE SENSITIVE PLACE** 

Period	Noise Level at a Noise Sensitive Place (ie a residence) Measured as the Adjusted Maximum Sound Pressure Level
	LAmax adj, T
<del>7 am - 10 pm</del>	Background noise level plus 5 dB(A)
<del>10 pm - 7 am</del>	Background noise level plus 3 dB(A)
<b>NOISE LIMITS AT</b>	A COMMERCIAL PLACE
<del>Period</del>	Noise Level at a Commercial Place measured as the
	Adjusted Maximum Sound Pressure Level
	<del>LAmax adj, T</del>
<del>7 am - 10 pm</del>	55 dB(A)
<del>10 pm - 7 am</del>	55 dB(A)
<b>NOISE LIMITS AT</b>	AN INDUSTRIAL PLACE
Period	Noise Level at an Industrial Place measured as the
	Adjusted Maximum Sound Pressure Level
	LAmax adj, T
<del>7 am - 10 pm</del>	65 dB(A)
<del>10 pm - 7 am</del>	65 dB(A)

18a) Unless otherwise approved in writing by the Assessment Manager, the hours of the approved use are limited to 8am to 6pm.

#### **Solid Waste Storage and Disposal**

- 19) Ensure that you provide a sufficient number of approved waste containers to contain all waste produced on site.
- 20) Store all waste on-site within an area that is screened from the road frontage, and remove the waste to an approved waste disposal facility by an approved transporter.

#### Screening / Landscaping

- 21) Extend the 1.2m garden bed along the full frontage of the site to screen the use from the road frontage.
- 22) Prior to commencing work, provide a detailed landscaping plan to Council for approval.
- 23) Carry out landscaping in accordance with the plan approved by Council under Condition 22.
- 24) Prior to commencing the use, construct a 1.8m screen fence along the western and southern boundaries of the site, and a 1.2m fence along the full road frontage. The full cost associated with the materials and construction of the fence is the responsibility of the developer.

#### **Soil Erosion and Sediment Control**

25) During construction, soil erosion and sediment is to be controlled in accordance with **the** *Urban* **Stormwater Quality Planning Guidelines 2010** standards contained in Schedule 1, Division 1: Standards for Construction Activities, Section 1.1 of the Biggenden Shire Planning Scheme.

#### Advice to the applicant

- Unless otherwise explicitly identified, all conditions of this development permit must be completed to Council's satisfaction prior to commencement of the use.
- This development approval does not authorise any activity that may harm Aboriginal cultural heritage. Under the Aboriginal Cultural Heritage Act 2003 you have a duty of care in relation to such heritage. Section 23(1) provides that "A person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal cultural heritage." Council does not warrant that the approved development avoids affecting Aboriginal

cultural heritage. It may therefore be prudent for you to carry out searches, consultation, or a cultural heritage assessment to ascertain the presence or otherwise of Aboriginal cultural heritage. The Act and the associated duty of care guidelines explain your obligations in more detail and should be consulted before proceeding.



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Attachment 1 - Part 1B: Conditions Imposed by Referral Agency

# **Intentionally left blank**

Please refer to the following pages for conditions imposed by a referral agency



Our ref Your ref TMR18-024712

Enquiries Donna Coy

11 October 2018

Department of Transport and Main Roads

# Decision Notice – Permitted Road Access Location (s62(1) Transport Infrastructure Act 1994)

This is not an authorisation to commence work on a state-controlled road

Development application reference number 89/18, lodged with North Burnett Regional Council involves constructing or changing a vehicular access between Lots 3SP241998 and 4SP241998 the land the subject of the application, and Gayndah-Monto Road (locally known an Dalgangal Road) (a state-controlled road).

In accordance with section 62A(2) of the *Transport Infrastructure Act 1994* (TIA), this development application is also taken to be an application for a decision under section 62(1) of TIA.

#### **Applicant Details**

Name and address Burnett Country Certifiers Pty Ltd

12/58 Newton Street Monto QLD 4630

**Application Details** 

Address of Property 43A Dalgangal Road, Gayndah QLD 4625

Real Property Description 3SP241998 and 4SP241998

Aspect/s of Development Material Change of Use for Extensions to Mortuary and

Caretaker's Accommodation

#### Decision (given under section 67 of TIA)

It has been decided to approve the application, subject to the following conditions:

No.	Conditions of Approval	Condition Timing
1	The permitted road access for both Lots 3 and 4 SP241998 is via easement No. 713703482 burdening Lot 3 SP241998 with the road access location at the north west of the easement where Lot 3 SP241998 adjoins the neighbouring Lot 67 RP836016 and the Burnett Highway (Gayndah-Monto), locally known as Dalgangal Road, (the state-controlled road), in accordance with:  a) Site Plan prepared by John Poulsen Building Design dated 15 August 2018 reference PD 2157 Page 3 of 8.	At all times.

Please refer to the further approvals required under the heading 'Further approvals'

No.	Conditions of Approval	<b>Condition Timing</b>
	Note: Existing road access works are suitable to cater for proposed uses. Ongoing maintenance of the road access works in a safe operational condition between the edge of the road carriageway and the property boundary is the responsibility of the landowner/occupier.	
2	Direct access is prohibited between the Burnett Highway (Gayndah-Monto) and Lots 3 and 4 SP241998 at any other location other than the permitted road access location described in Condition 1.	At all times.

#### Reasons for the decision

The reasons for this decision are as follows:

- a) the management of access between a state-controlled road, Burnett Highway (Gayndah-Monto) and adjacent land is managed by the Department of Transport and Main Roads under the *Transport Infrastructure Act 1994*.
- b) to ensure access only occurs from the approved access location.
- c) to ensure the road access location to the state-controlled road from the site does not compromise the safety and efficiency of the state controlled road.
- d) to ensure the development does not adversely impact the safety, function and operational efficiency of the state-controlled road network.

Please refer to **Attachment A** for the findings on material questions of fact and the evidence or other material on which those findings were based.

#### Information about the Decision required to be given under section 67(2) of TIA

- 1. There is no guarantee of the continuation of road access arrangements, as this depends on future traffic safety and efficiency circumstances.
- 2. In accordance with section 70 of the TIA, the applicant for the planning application is bound by this decision. A copy of section 70 is attached as **Attachment B**, as required, for information.

#### Further information about the decision

- 1. In accordance with section 67(7) of TIA, this decision notice:
  - a) starts to have effect when the development approval has effect; and
  - b) stops having effect if the development approval lapses or is cancelled; and
  - c) replaces any earlier decision made under section 62(1) in relation to the land.
- 2. In accordance with section 485 of the TIA and section 31 of the *Transport Planning and Coordination Act 1994* (TPCA), a person whose interests are affected by this decision may apply for a review of this decision only within 28 days after notice of the decision was given under the

- TIA. A copy of the review provisions under TIA and TPCA are attached in **Attachment C** for information.
- 3. In accordance with section 485B of the TIA and section 35 of TPCA a person may appeal against a reviewed decision. The person must have applied to have the decision reviewed before an appeal about the decision can be lodged in the Planning and Environment Court. A copy of the Appeal Provisions under TIA and TPCA is attached in **Attachment C** for information.

If further information about this approval or any other related query is required, Ms Donna Coy, Program Support Officer should be contacted by email at <a href="https://www.wbb.ld.gov.au"><u>WBB.IDAS@tmr.qld.gov.au</u></a> or on (07) 4154 0205.

Yours sincerely

12-1

Adam Fryer

Principal Advisor (Corridor & Land Management)

Attachments: Attachment A - Decision evidence and findings

Attachment B - Section 70 of TIA Attachment C - Appeal Provisions

Attachment D - Permitted Road Access Location Plan

#### Attachment A

#### **Decision Evidence and Findings**

Findings on material questions of fact:

- 1. The objective of the *Transport Infrastructure Act 1994* requires the establishment of a road regime that is safe and efficient.
- 2. Section 62 of the *Transport Infrastructure Act 1994* allows the Department of Transport and Main Roads to make decisions about permitted road access locations between particular/adjacent land and a state-controlled road.
- 3. The proposed development is for a Material Change of use extnsions to a mortuary and construction of caretaker's accommodation which can be effectively implemented using the approved access strategy. This will intensify use of the existing access.
- 4. The existing standard of access currently in place is suitable for use by the anticipated traffic that will be generated by the development. As such no road access works are required at this time to upgrade the approved access point to the Burnett Highway (Gayndah-Monto).
- 5. Section 62(1)(g) of the *Transport Infrastructure Act 1994* allows the Department of Transport and Main Roads to make a decision about road access works being a stated type, standard or extent or be constructed in a stated way.

Evidence or other material on which findings were based:

Title of Evidence / Material	Prepared by	Date	Reference no.	Version/Issue
Confirmation Notice	North Burnett Regional Council	23 May 2018	89/18	
Request for Technical agency assessment	SARA	26 September	1805-5561 SRA	
Town Planning Report	Burnett Country Certifiers	17 April 2018		1
SDAP response – State Code 1 (v2.2)	Burnett Country Certifiers	April 2018	SDAP response – State Code 1 (v2.2)	
DA Form 1	Burnett Country Certifiers	April 2018	DA Form 1	
Plans of proposed Office and Caretakers Residence	John Poulsen Building Design	15 August 2018	PD 2157 Pages 1-8	

Attachment B

Section 70 of TIA

# 70 Offences about road access locations and road access works, relating to decisions under s 62(1)

- (1) This section applies to a person who has been given notice under section 67 or 68 of a decision under section 62(1) about access between a State-controlled road and adjacent land.
- (2) A person to whom this section applies must not—
  - (a) obtain access between the land and the State-controlled road other than at a location at which access is permitted under the decision; or
  - (b) obtain access using road access works to which the decision applies, if the works do not comply with the decision and the noncompliance was within the person's control; or
  - (c) obtain any other access between the land and the road contrary to the decision; or
  - (d) use a road access location or road access works contrary to the decision; or
  - (e) contravene a condition stated in the decision; or
  - (f) permit another person to do a thing mentioned in paragraphs (a) to (e); or
  - (g) fail to remove road access works in accordance with the decision.

Maximum penalty—200 penalty units.

(3) However, subsection (2)(g) does not apply to a person who is bound by the decision because of section 68.

#### **Attachment C**

#### **Appeal Provisions**

Transport Infrastructure Act 1994 Chapter 16 General provisions

#### 485 Internal review of decisions

- (1) A person whose interests are affected by a decision described in schedule 3 (the *original decision*) may ask the chief executive to review the decision.
- (2) The person is entitled to receive a statement of reasons for the original decision whether or not the provision under which the decision is made requires that the person be given a statement of reasons for the decision.
- (3) The Transport Planning and Coordination Act 1994, part 5, division 2—
  - (a) applies to the review; and
  - (b) provides—
    - for the procedure for applying for the review and the way it is to be carried out;
       and
    - (ii) that the person may apply to QCAT to have the original decision stayed.

#### 485B Appeals against decisions

- (1) This section applies in relation to an original decision if a court (the appeal court) is stated in schedule 3 for the decision.
- (2) If the reviewed decision is not the decision sought by the applicant for the review, the applicant may appeal against the reviewed decision to the appeal court.
- (3) The Transport Planning and Coordination Act 1994, part 5, division 3—
  - (a) applies to the appeal; and
  - (b) provides—
    - (i) for the procedure for the appeal and the way it is to be disposed of; and
    - (ii) that the person may apply to the appeal court to have the original decision stayed.
- (4) Subsection (5) applies if-
  - (a) a person appeals to the Planning and Environment Court against a decision under section 62(1) on a planning application that is taken, under section 62A(2), to also be an application for a decision under section 62(1); and

- (b) a person appeals to the Planning and Environment Court against a decision under the Planning Act on the planning application.
- (5) The court may order—
  - (a) the appeals to be heard together or 1 immediately after the other; or
  - (b) 1 appeal to be stayed until the other is decided.
- (6) Subsection (5) applies even if all or any of the parties to the appeals are not the same.
- (7) In this section—

original decision means a decision described in schedule 3.

reviewed decision means the chief executive's decision on a review under section 485.

#### 31 Applying for review

- (1) A person may apply for a review of an original decision only within 28 days after notice of the original decision was given to the person under the transport Act.
- (2) However, if-
  - (a) the notice did not state the reasons for the original decision; and
  - (b) the person asked for a statement of the reasons within the 28 days mentioned in subsection (1)

the person may apply within 28 days after the person is given the statement of the reasons.

- (3) In addition, the chief executive may extend the period for applying.
- (4) An application must be written and state in detail the grounds on which the person wants the original decision to be reviewed.

#### 32 Stay of operation of original decision

- (1) If a person applies for review of an original decision, the person may immediately apply for a stay of the decision to the relevant entity.
- (2) The relevant entity may stay the original decision to secure the effectiveness of the review and any later appeal to or review by the relevant entity.
- (3) In setting the time for hearing the application, the relevant entity must allow at least 3 business days between the day the application is filed with it and the hearing day.
- (4) The chief executive is a party to the application.
- (5) The person must serve a copy of the application showing the time and place of the hearing and any document filed in the relevant entity with it on the chief executive at least 2 business days before the hearing.
- (6) The stay—
  - (a) may be given on conditions the relevant entity considers appropriate; and
  - (b) operates for the period specified by the relevant entity; and
  - (c) may be revoked or amended by the relevant entity.
- (7) The period of a stay under this section must not extend past the time when the chief executive reviews the original decision and any later period the relevant entity allows the applicant to enable the applicant to appeal against the decision or apply for a review of the decision as provided under the QCAT Act.

- (8) The making of an application does not affect the original decision, or the carrying out of the original decision, unless it is stayed.
- (9) In this section—

#### relevant entity means-

- (a) if the reviewed decision may be reviewed by QCAT-QCAT; or
- (b) if the reviewed decision may be appealed to the appeal court—the appeal court.

#### 35 Time for making appeals

- (1) A person may appeal against a reviewed decision only within-
  - (a) if a decision notice is given to the person—28 days after the notice was given to the person; or
  - (b) if the chief executive is taken to have confirmed the decision under section 34(5)—56 days after the application was made.
- (2) However, if-
  - (a) the decision notice did not state the reasons for the decision; and
  - (b) the person asked for a statement of the reasons within the 28 days mentioned in subsection (1)(a);

the person may apply within 28 days after the person is given a statement of the reasons.

(3) Also, the appeal court may extend the period for appealing.



Department of
State Development,
Manufacturing,
Infrastructure and Planning

# Department of State Development, Manufacturing, Infrastructure and Planning Statement of reasons for application 1805-5561 SRA

(Given under section 56 of the Planning Act 2016)

Departmental role:

Referral Agency

**Applicant details** 

Applicant name:

**Burnett Country Certifiers Pty Ltd** 

Applicant contact details:

12/58 Newton Street MONTO QLD 4630 rick@burnettcc.com.au

Location details

Street address:

43A Dalgangal Road, and 43B Dalgangal Road GAYNDAH

Real property description:

Lot 3 on SP241998, and Lot 4 on SP241998

Local government area:

North Burnett Regional Council

**Development details** 

Development permit

Change Application (Other) to a Development Permit for Material Change of Use for Funeral Parlour and Caretaker's Accommodation

#### Assessment matters

Aspect of development requiring code assessment	Applicable codes
	State Code 1: Development in a State Controlled Road Environment, State Development Assessment Provisions (SDAP), Version 2.2

#### Reasons for the department's decision

The reasons for the decision are:

- The development does not create a safety hazard for users of the State controlled road.
- The development does not result in a worsening of the physical condition or operating performance of the State controlled road and surrounding network.
- The development does not impose traffic loadings on the State controlled road which could be reasonably accommodated on the local road network.

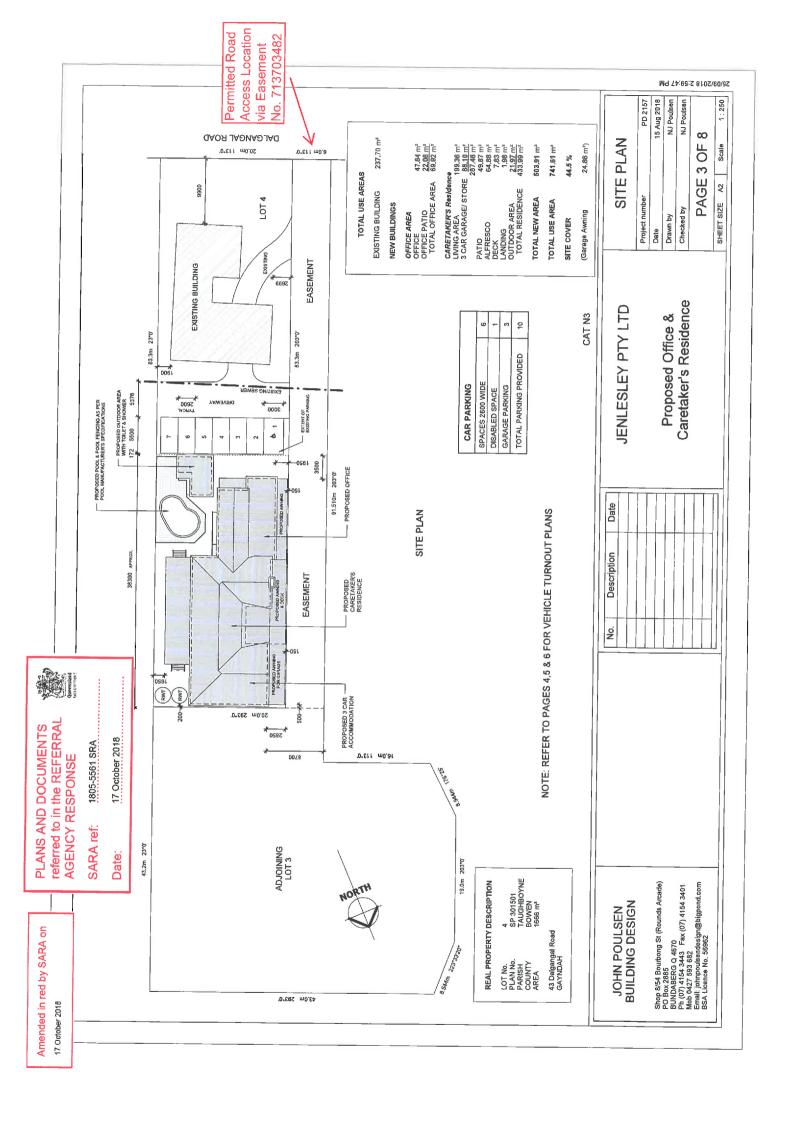
#### Decision

- The development application is a Change Application (Other than a Minor Change) to a
  Development Permit for Material Change of Use for Funeral Parlour and Caretaker's
  Accommodation.
- The concurrence agency response was issued 17 October 2018.

#### Relevant Material

Development application common material

- Information request response received 25 September 2018
- State Development Assessment Provisions (SDAP) published by the Department of State Development, Manufacturing, Infrastructure and Planning
- Transport Infrastructure Act 1994
- Development Assessment Rules (DA Rules) published by the Department of State Development, Manufacturing, Infrastructure and Planning
- Planning Act 2016
- Planning Regulation 2017





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## Attachment 2 – Appeal Rights Planning Act 2016

#### **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—
  - 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.

#### SCHEDULE 1 APPEALS

#### 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-
    - 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
    - (ii) the Plumbing and Drainage Act, part 4 or 5; or
  - (h) a decision to give an enforcement notice in relation to a matter under paragraphs (a) to (g); or
  - (i) a decision to give an infrastructure charges notice; or
  - (j) the refusal, or deemed refusal, of a conversion application; or
  - (k) a matter that, under another Act, may be appealed to the tribunal; or
  - (l) 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 corespondent in the appeal.
- (8) In this section
  - storey see the Building Code, part A1.1.

Extract of Schedule 1 of the Planning Act 2016

#### Table 1

## Appeals to the P&E Court and, for certain matters, to a tribunal

1. Development applications

An appeal may be made against-

- (a) the refusal of all or part of the development application; or
- (b) the deemed refusal of the development application; or

(c) a provision of the development approval; or

if a development permit was applied for—the decision to give a preliminary approval.

(d) in a development permit was applied to —the decision to give a preliminary approval.				
Column 1	Column 2	Column 3	Column 4	
Appellant	Respondent	Co-respondent (if	Co-respondent by election (if any)	
		any)		
The applicant	The assessment manager	If the appeal is about a concurrence agency's referral response—the concurrence agency	A concurrence agency that is not a co-respondent     If a chosen assessment manager is the respondent—the prescribed assessment manager     Any eligible advice agency for the application     Any eligible submitter for the application	

2. Change applications

For a change application other than a change application made to the P&E Court or called in by the Minister, an appeal may be made against—

(a) the responsible entity's decision on the change application; or

b) a deemed refusal of the change application.

(b) a deciried rollds of the change application.				
Column 1	Column 2	Column 3	Column 4	
Appellant	Respondent	Co-respondent (if any)	Co-respondent by election (if any)	
The applicant If the responsible entity is the assessment manager—an affected entity that gave a prerequest notice or response notice	The responsible entity	If an affected entity starts the appeal— the applicant	1 A concurrence agency for the development application 2 If a chosen assessment manager is the respondent—the prescribed assessment manager 3 A private certifier for the development application 4 Any eligible advice agency for the change application 5 Any eligible submitter for the change application	

3. Extension applications

For an extension application other than an extension application called in by the Minister, an appeal may be made against—

(a) the assessment manager's decision on the extension application; or

(b) a deemed refusal of the extension application.

Column 1	Column 2	Column 3	Column 4
Appellant	Respondent	Co-respondent (if any)	Co-respondent by election (if any)
The applicant For a matter other than a deemed refusal of an extension application— a concurrence agency, other than the chief executive, for the application	The assessment manager	If a concurrence agency starts the appeal—the applicant	If a chosen assessment manager is the respondent—the prescribed assessment manager

4. Infrastructure charges notices

An appeal may be made against an infrastructure charges notice on 1 or more of the following grounds—

(a) the notice involved an error relating to-

(i) the application of the relevant adopted charge; or

Examples of errors in applying an adopted charge-

- · the incorrect application of gross floor area for a non-residential development
- · applying an incorrect 'use category', under a regulation, to the development
  - (ii) the working out of extra demand, for section 120; or
  - (iii) an offset or refund; or
- (b) there was no decision about an offset or refund; or
- (c) if the infrastructure charges notice states a refund will be given—the timing for giving the refund; or
- (d) for an appeal to the P&E Court—the amount of the charge is so unreasonable that no reasonable relevant local government could have imposed the amount.

Column 1	Column 2	Column 3	Column 4
Appellant	Respondent	Co-respondent (if any)	Co-respondent by election (if any)
The person given the infrastructure charges notice	The local government that gave the infrastructure charges notice	——————————————————————————————————————	
5. Conversion applications An appeal may be made agai (a) the refusal of a conv (b) a deemed refusal of			
Column 1	Column 2	Column 3	Column 4
Appellant	Respondent	Co-respondent (if any)	Co-respondent by election (if any)
The applicant	The local government to which the conversion application was made	_	

	Appeals to	Table 2 the P&E Court only	
	inst a decision of a tribunal in law on the part of the trib		under section 252, on the ground of—
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A party to the proceedings for the decision	The other party to the proceedings for the decision	_	_

2. Eligible submitter appeals

For a development application or change application other than an application decided by the P&E Court or called in by the Minister, an appeal may be made against the decision to approve the application, to the extent the decision relates to—

(a) any part of the development application or change application that required impact assessment; or

(b) a variation request.

Column 1	Column 2	Column 3	Column 4
Appellant	Respondent	Co-respondent (if any)	Co-respondent by election (if any)
For a development application—an eligible submitter for the development application     For a change application—an eligible submitter for the change application	For a development application—the assessment manager     For a change application—the responsible entity	1 The applicant 2 If the appeal is about a concurrence agency's referral response—the concurrence agency	Another eligible submitter for the application

3. Eligible submitter and eligible advice agency appeals

For a development application or change application other than an application decided by the P&E Court or called in by the Minister, an appeal may be made against a provision of the development approval, or a failure to include a provision in the development approval, to the extent the matter relates to—

(a) any part of the development application or change application that required impact assessment; or

(b) a variation request.

Γ	Column 1	Column 2	Column 3	Column 4
l	Appellant	Respondent	Co-respondent	Co-respondent by election (if any)
	<ol> <li>For a development application—an eligible submitter for the development application</li> <li>For a change application—an eligible submitter for the change application</li> <li>An eligible advice agency for the development application</li> </ol>	1 For a development application—the assessment manager 2 For a change application—the responsible entity	Co-respondent (if any)  1 The applicant 2 If the appeal is about a concurrence agency's referral response—the concurrence agency	Another eligible submitter for the application
	agency for the			

		Table 3	
1 Building advisory agency	Appeals	to a tribunal only	
required code assessment a	ainst giving a development	approval for building v	vork to the extent the building work
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 wor	k		
work that is the subject of a	bullulrig development appro	oval under the Building	ency about the inspection of 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  3. Certain decisions under the	The person who made the decision.		-
An appeal may be made aga (a) a decision under the Commission, if an in (b) a decision under the	ainst— e Building Act, other than a nformation notice about the	decision made by the decision was given or	Queensland Building and Construction required to be given under that Act; or ormation notice about the decision was
Column 1	Column 2	Column 3	Column 4
Appellant	Respondent	Co-respondent (if any)	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	_	
<u>berioù requireu under that Ac</u>	inst a local government's fa ct.	the Building Act allure to decide an app	lication under the Building Act within th
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		_



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ABN: 23 439 388 197

**Attachment 3 – Approved Plans** 

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Please refer to the following



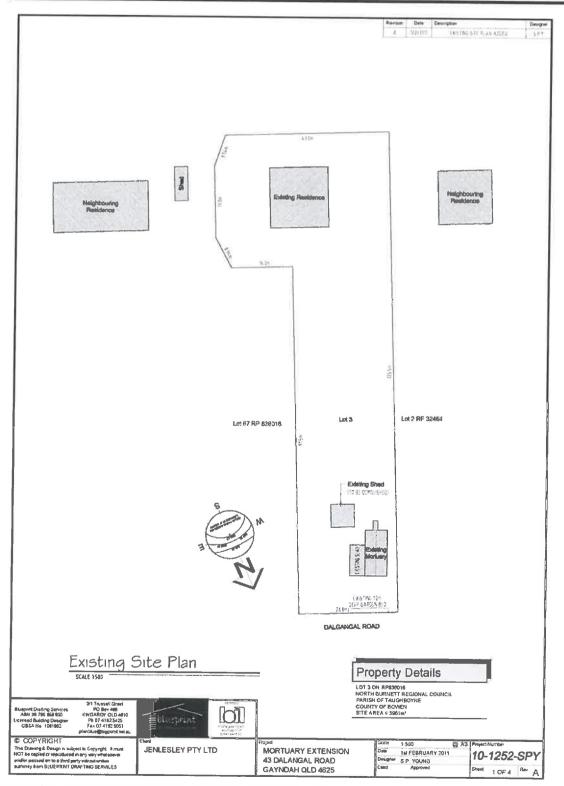
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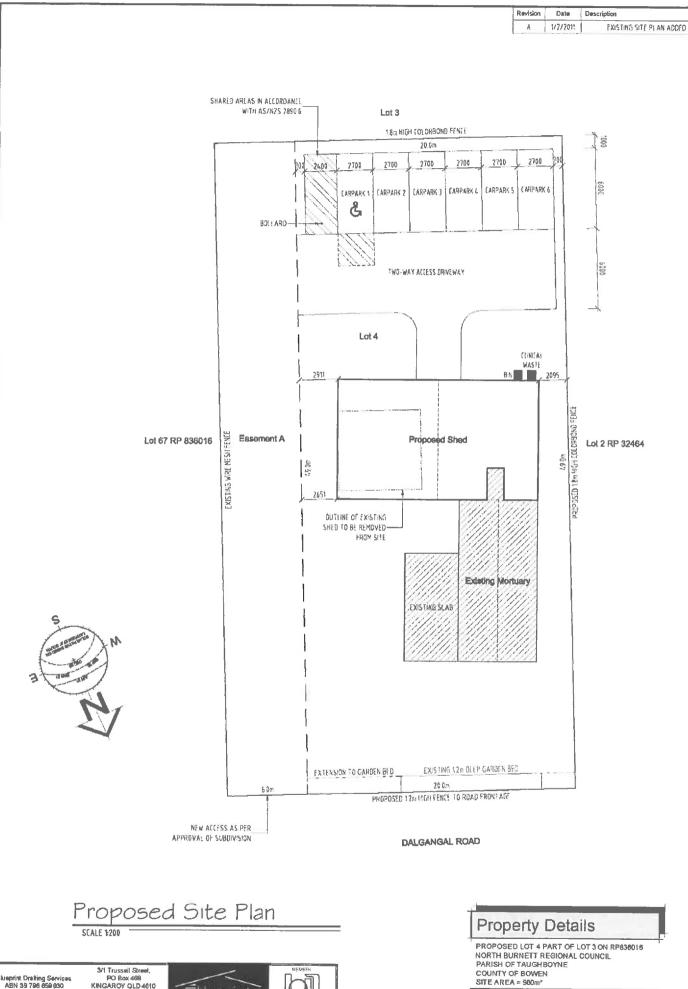
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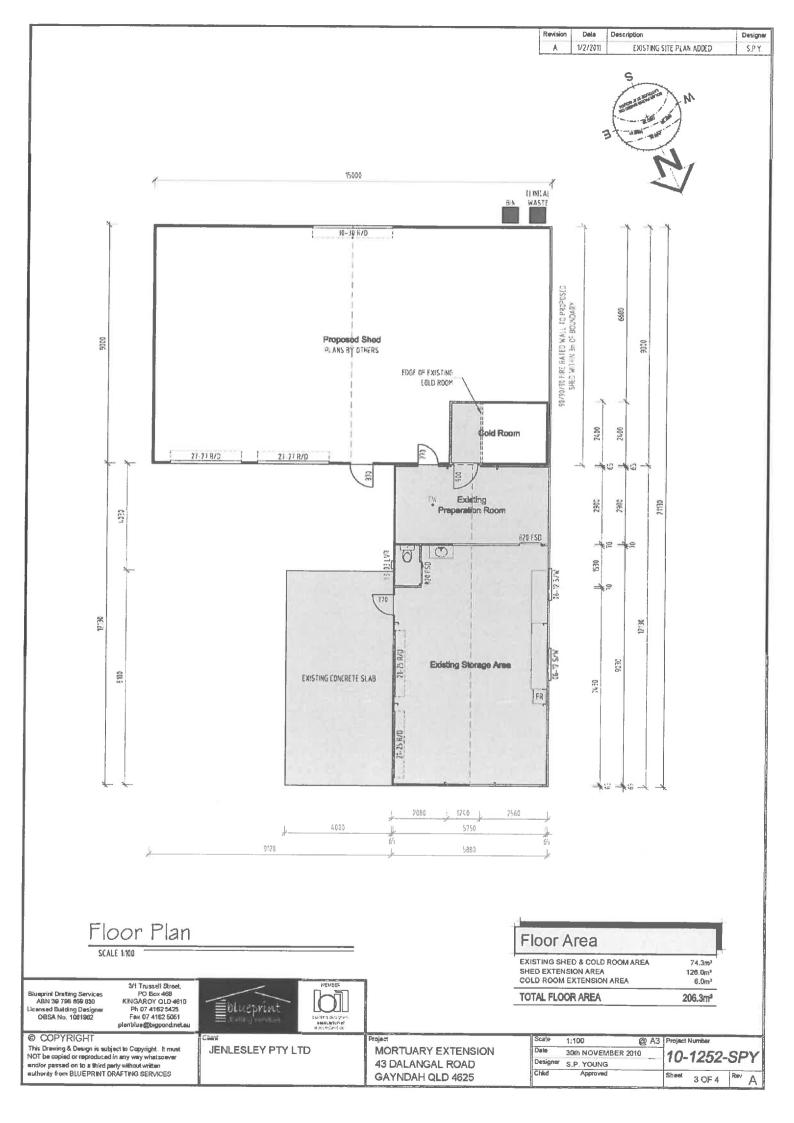
MORTUARY EXTENSION 43 DALANGAL ROAD GAYNDAH QLD 4625

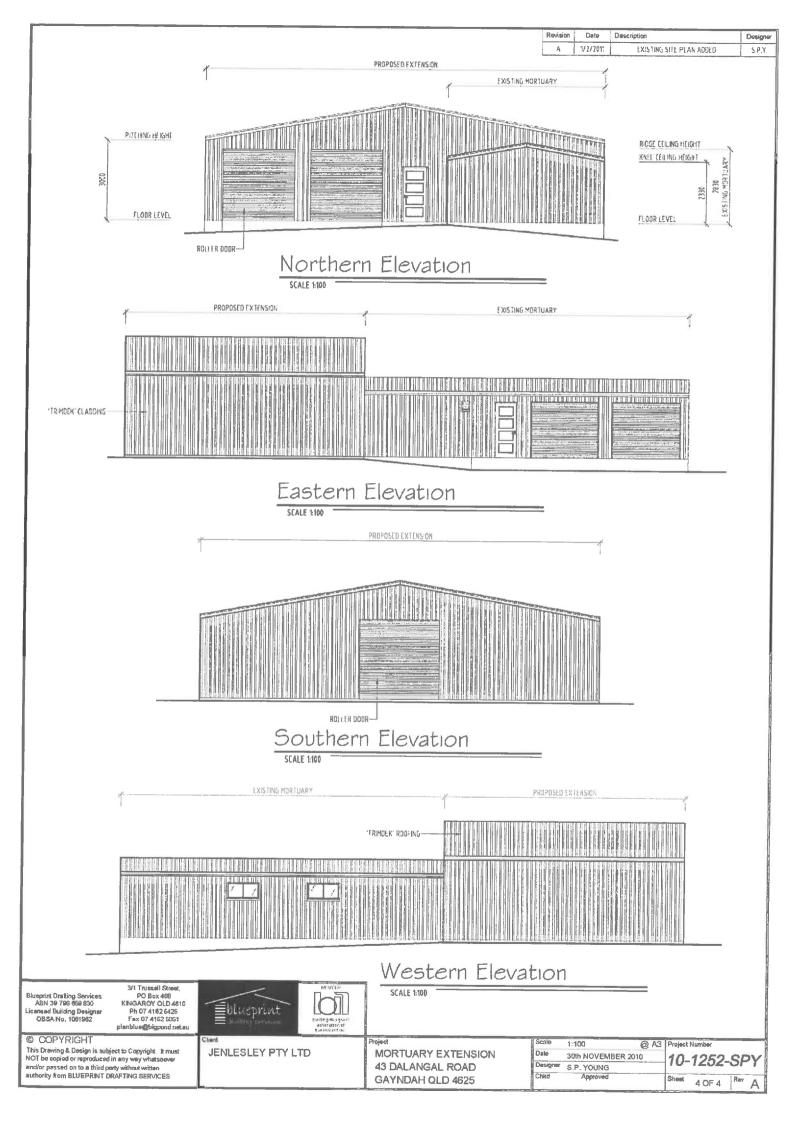
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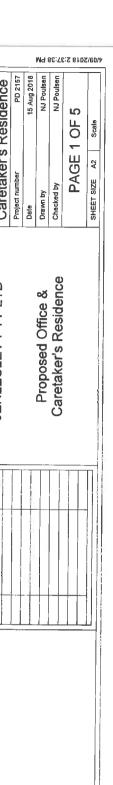
Designer

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PROPOSED OFFICE & CARETAKER'S RESIDENCE FOR Jenlesley Pty Ltd 43 Dalgangal Road GAYNDAH

DRAWING LIST

SHEET No.	SHEET NAME
+	PROPOSED OFFICE & CARETAKER'S RESIDENCE
2	EXTRA VIEWS
3	SITE PLAN
4	FLOOR PLAN
2	ELEVATIONS

BACK VIEW (EAST ASPECT)

FRONT VIEW (WEST ASPECT)

Date Description S N

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Caretaker's Residence Proposed Office &

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