

Statement of reasons

Change application (other change) at 43A & 43B Dalgangal Road, Gayndah on land described as Lots 3 & 4 on SP241998—Impact assessable development application under the *Planning Act 2016*

Application reference: 89/18

1 Proposal summary

- (1) The applicant, Burnett Country Certifiers Pty Ltd, seeks to make a change to DA 5/11: MCU for community oriented activity (mortuary extension) at 43A & 43B Dalgangal Road, Gayndah (described as Lots 3 & 4 on SP241998). DA 5/11 was approved by Council on 25 February 2011.
- (2) This proposal is to provide new caretaker's accommodation and office for the funeral parlour. The caretaker's accommodation would include two bedrooms, kitchen/living/dining area, parking for three vehicles, outdoor area, and an attached office to be used as part of the funeral parlour.
- (3) The application is impact assessment.
- (4) The Council must assess and decide the application under s82 of the *Planning Act 2016*.

2 Assessment summary

This statement explains the reasons for the assessment manager's decision in relation to a change application (other change) for material change of use—extensions to funeral parlour and caretaker's accommodation at 43A & 43B Dalgangal Road, Gayndah on land described as Lots 3 & 4 on SP241998. The statement is required under **section 83 Notice of decision** of the *Planning Act 2016*.

2.1 Facts and circumstances

- (1) The subject lots are in the Centre zone and adjacent lots are also within the Centre zone with there being General residential zone lots proximate to the site. Lot 3 is occupied by a dwelling house, while Lot 4 is occupied by a funeral parlour; both lots are accessed via a shared easement.
- (2) The application was lodged on 27 April 2018, and an action notice was issued on 3 May 2018. The applicant provided the requested information on 22 May 2018. A confirmation notice was issued on 24 May 2018.
- (3) The applicant stated they agree to accept an information request, but the application included sufficient information and it was not necessary to issue an information request. The applicant advised Council on 15 June 2018 that they intend to make a minor change to the application, and Council received amended plans on 4 September 2018.
- (4) The application required referral to the Department of State Development, Manufacturing, Infrastructure and Planning under Schedule 10, Part 9, Division 4, Subdivision 2 of the *Planning Regulation 2017* as the site is within 25m of a State-controlled road. The application was referred on 30 May 2018. The Department requested additional information on 13 June 2018, and additional information was provided on 4 September 2018. The Department provided a response on 17 October 2018.
- (5) The application required public notification, and it was publicly notified for 16 business days from 26 October 2018 to 16 November 2018. Notice of public notification compliance was issued to Council on 19 November 2018. Council received one properly made submission.
- (6) The following matters have been key considerations for the assessment manager—
 - (a) material about the application, including the proposal plans and the applicant's report;
 - (b) the North Burnett Regional Planning Scheme;

- (c) the SPP, to the extent that it is not appropriately integrated in the planning scheme; and
- (d) development approvals and lawful use of the land and adjacent land.

2.2 Category of assessment

- (1) The proposal is identified as Impact assessable, and as such requires assessment against the entire planning scheme to the extent relevant. It has been assessed against the following assessment benchmarks as these are most suitable for determination—
 - (a) Strategic framework;
 - (b) Centre zone code;
 - (c) Infrastructure and operational work code;
 - (d) Flood hazard overlay code;
 - (e) Infrastructure overlay code

2.3 Assessment benchmarks

- (1) A full and detailed assessment against the assessment benchmarks is provided in the report and associated documentation submitted with the application.

2.3.2 State planning instruments

- (1) *Regional plan*—the Wide Bay Burnett Regional Plan is appropriately integrated in the planning scheme and does not require further or separate consideration for Council to decide the application.
- (2) *State planning policy*—there are now State interest statement, policies or benchmarks relevant to this application¹.

2.3.3 North Burnett Regional Planning Scheme—Strategic framework

2.3.3.1 Strategic framework

- (1) The proposal complies with the Strategic framework as—
 - (a) Strategic intent—it would be appropriate for the area and not interfere with the role and function of the Gayndah CBD activity centre.
 - (b) Natural environment and sustainability—it would not impact biological or ecological systems as it would not generate harmful noise, odour or air emissions.
 - (c) Settlement pattern—it would expand the services available to the Gayndah CBD and surrounding areas.
 - (d) Infrastructure, services and facilities—it would be provided with appropriate infrastructure.

2.3.3.2 Centre zone code

- (1) The proposal complies with the Centre zone code as—
 - (a) it complies with the purpose and overall outcomes of the code;
 - (b) it complies with the performance outcomes of the code;
 - (c) it would provide a secondary role to the core retail area by accommodating a use that would not readily suit a town centre location;
 - (d) it would not locate or operate in a way likely to conflict with the amenity of the surrounding properties; and

¹ When the planning scheme commenced on 3 November 2014 it appropriately integrated all aspects of the State Planning Policy then in force. The SPP that commenced on 3 July 2017 is quite similar, however the *Planning Act 2016* requires the assessment manager to assess the application against the SPP Part E (State Assessment Benchmarks) because the planning scheme does not identify it as having been 'appropriately integrated' into the scheme.

- (e) The caretaker's accommodation would meet the essential management and operational requirements of the funeral parlour whilst providing an acceptable level of amenity, privacy and comfort for habitation.

2.3.3.3 Infrastructure and operational work code

- (1) The proposal complies with the Infrastructure and operational work code as—
 - (a) it complies with the purpose and overall outcomes of the code;
 - (b) it complies with the performance outcomes of the code;
 - (c) appropriate infrastructure and services would be provided to meet the anticipated needs of users; and
 - (d) it would not interfere with existing sewerage infrastructure traversing the site and appropriate conditions have been imposed to protect Council's infrastructure in the event that future works are required. Any Building works application would require referral to Council as it involves development carried out on a lot that contains a sewer main.

2.3.3.4 Overlay codes

- (1) The proposal complies with Flood hazard overlay code as—
 - (a) it complies with the purpose and overall outcomes of the code;
 - (b) it complies with the performance outcomes of the code;
 - (c) it would be sited and designed to maintain the safety and comfort for people and property during flood events; and
 - (d) it would not worsen the existing flooding situation.
- (2) The proposal complies the Infrastructure overlay code as—
 - (a) it complies with the purpose and overall outcomes of the code;
 - (b) it complies with the performance outcomes of the code;
 - (c) it would not interfere with the function of the State road infrastructure; and
 - (d) it would be appropriately located and designed to mitigate the potential adverse impacts cause by the road corridor, including traffic, headlights and streetlights.

2.4 Consultation

2.4.1 Internal stakeholder comments

- (1) Council's Technical Services Department were invited to comment on the application. Officers support approval of the application, subject to reasonable conditions being included in any development permit.

2.4.2 Referral agency response

- (1) The application was referred to the Department of State Development, Manufacturing, Infrastructure and Planning under Schedule 10 of the *Planning Regulation 2017*. The Department raised no objections to the proposal, subject to relevant conditions being included in any development permit.

2.4.3 Properly made submissions

- (1) The application required public notification, and Council received one properly made submission. The submission raised concerns about—
 - (a) *additional service vehicles, customers and visitors accessing the site using one driveway that currently serves a funeral parlour and two dwelling houses—the use contains approximately three part-time staff, and people attend the site via appointment to arrange funeral services; no services or gatherings are held on-site. This scale of use would not have a detrimental impact on the use of the easement and associated driveway.*

- (b) *the use of the caretaker's accommodation could become a permanent residence in the future*—caretaker's accommodation and dwelling unit in the Centre zone are 'accepted subject to requirements' and 'code assessable' respectively and are therefore uses anticipated by the zone.
- (c) *privacy for the dwelling house adjacent to the eastern boundary*—providing a 1.8m high fence in accordance with AO1.1 of the Centre zone code would be an appropriate response to the submitter's concerns. **It would be unreasonable to require a fence along the entire eastern boundary as the existing funeral parlour has been operating for multiple years, and the extent of new development is confined to the southern portion of the site.** The impacts generated by the use of the office are not increased, the proposed fence would mitigate the impact of moving the office closer to the sensitive receptor and protect the privacy of the adjoining dwelling.
- (d) *there is no kerb and channelling out the front*—the existing infrastructure would be suitable for the nature, intensity and scale of proposed development.
- (e) *stormwater disposal into the State-controlled road*—this matter is out of Council's control and the Department did not impose any conditions relating to stormwater management or disposal.

2.5 Key issues for this application

- (1) The assessment manager considers that the following matters have been instrumental in its decision—
 - (a) *Overall amenity*—the site is in the centre zone, but the surrounding area is predominately occupied by sensitive land uses. As such, the proposal must protect such uses from the adverse impacts of ongoing operations.
 - (b) *Consistency with the planning scheme*—the proposal is consistent with all relevant provisions of the planning scheme.

2.6 Decision rules under the *Planning Act 2016*

- (1) The assessment manager—
 - (a) may approve all or part of the application;
 - (b) may refuse the application;
 - (c) may give a preliminary approval for all or part of the proposal;
 - (d) may impose conditions.

Section 60(3) of the Planning Act 2016 sets out the decision rules for impact assessment.
- (2) Development conditions must—
 - (a) be relevant to but not an unreasonable imposition; and
 - (b) be reasonably required as a consequence of the development.

Section 65 of the Planning Act 2016 limits the nature of approval conditions.
- (3) Having regard to the above matters and after assessing the application against the assessment benchmarks, the assessment manager decides to approve all of the application and impose conditions in accordance with the decision rules.