

**Your Reference:**

**Our Reference:** KH: RR: mw: 20-05 (FID86627, RAL010-19/20, 12123-00000-000, ID1543380, ID11553287)

**Contact:** Rentia Robertson

27 May 2020

Wilmack Pty Ltd and L & I Verschaeren  
C/- Capricorn Survey Group (CQ) Pty Ltd  
PO Box 1391  
ROCKHAMPTON QLD 4700

Dear Sir/Madam

**Decision Notice – Approval**

*(Given under section 63 of the Planning Act 2016)*

**Application Number:** RAL010-19/20  
**Description:** Boundary Realignment  
**Level of Assessment:** Code Assessable  
**Site Address:** 6-10 DAWSON HIGHWAY, BILOELA, HARRIS STREET, BILOELA  
**Lot & Plan Details:** Lot 2 on RP912778, Lot 5 on RP620651

On 26 May 2020, under delegated authority, the above development application was approved in full subject to conditions. The conditions of this approval are set out in Attachment 1. These conditions are clearly identified to indicate whether the assessment manager or a concurrence agency imposed them.

**1. Details of Approval**

The following approval is given:

	<b>Planning Regulation 2017 reference</b>	<b>Development Permit</b>	<b>Preliminary Approval</b>
Reconfiguring a Lot	s20	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**2. Approved Plans**

The approved plan for this development approval are listed in the following table:

<b>Plan/Document number</b>	<b>Plan/Document name</b>	<b>Date</b>
7662-01-ROL Issue A	Reconfiguration Plan (2 lots into 2 lots Realignment) - Lot 2 on RP912778 & Lot 5 on RP620651 prepared by Capricorn Survey Group CQ	02-04-2020

### 3. Further Development Permits

Please be advised that there are no further development permits required.

### 4. Conflict with relevant instrument and reasons for the decision despite the conflict.

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

### 5. Currency Period for the Approval

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

### 6. Statement of Reasons

<b>Description of the development</b>	Reconfiguring a Lot for the purpose of a Boundary Realignment 2 lots into 2.
<b>Assessment Benchmarks</b>	Rural Zone Code, Town Zone Code, Reconfiguring a Lot Code, Development Standards Code, Economic Resources Overlay Code, Natural Features and Conservation Area Overlay Code
<b>Reasons for Decision</b>	<u>Rural Zone Code</u> The proposal complies with or has been conditioned to comply with all applicable performance outcomes. <u>Town Zone Code</u> The proposal complies with or has been conditioned to comply with all applicable performance outcomes. <u>Reconfiguring a Lot Code</u> The proposal is consistent with all the Performance Outcomes. <u>Development Standards Code</u> The proposal complies with or has been conditioned to comply with all applicable performance outcomes. A condition has been imposed on PO10 in relation to the requirement for an easement over the existing sewer main and manhole. <u>Economic Resources Overlay Code</u> The proposal is consistent with all the Performance Outcomes. <u>Natural Features and Conservation Area Overlay Code</u> The proposal complies with all applicable performance outcomes, as the proposal is not creating additional lots nor is there a requirement for on-site waste water system.

## 7. Appeal rights

The rights of an applicant to appeal to a tribunal or the Planning and Environment Court against a decision 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).

### Appeal by an applicant

An applicant for a development application may appeal to the Planning and Environment Court against the following:

- the refusal of all or part of the development application
- a provision of the development approval
- the decision to give a preliminary approval when a development permit was applied for
- a deemed refusal of the development application.

An applicant may also have a right to appeal to the Development tribunal. For more information, see schedule 1 of the Planning Act 2016.

Attachment 2 is an extract from the Planning Act 2016 that sets down the applicant's appeal rights and the appeal rights of a submitter.

The Planning and Environment Court appeals database lists all the appeals lodged in the Planning and Environment Court since 15 March 2008, which the department has been notified of. It contains information about the appeal, including the appeal number, site address, local government area, and a copy of the appeal notice, including grounds for the appeal. The appeal database is an easy way for anyone to obtain information about an appeal or check if an appeal has been lodged for a specific development application or approval.

The appeal database is available at <https://planning.dsdmip.qld.gov.au/planning/our-planning-system/dispute-resolution>.

Should you require further assistance in relation to this matter, please do not hesitate to contact Council's Development Services section on (07) 4992 9500, quoting you application number of RAL010-19/20.

Yours Sincerely



Dr Keith Halford  
**MANAGER ENVIRONMENT & PLANNING**

Enc    Attachment 1 – Part A Conditions imposed by the Assessment Manager  
Attachment 1 – Part B Assessment Manager Notes  
Attachment 2 – Appeal Rights  
Attachment 3 – Approved Drawings

# RAL010-19/20 Attachment 1

## *Part A - Conditions imposed by the Assessment Manager*

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### General

- 1 The reconfiguration is to be completed generally in accordance with the following approved plans, as attached to this Decision Notice, except where modified by the conditions below–

<b>Plan/Document number</b>	<b>Plan/Document name</b>	<b>Date</b>
7662-01-ROL Issue A	Reconfiguration Plan (2 lots into 2 lots Realignment) Lot 2 on RP912778 & Lot 5 on RP620651 prepared by Capricorn Survey Group CQ	02-04-2020

- 2 Comply with all of the conditions of this Development Approval prior to the submission of the Subdivision Plan for compliance assessment, unless otherwise stated.
- 3 All works required by the conditions of this Development Approval are to be completed prior to the submission of the Subdivision Plan for compliance assessment, unless otherwise stated.
- 4 Complete all associated works, including any relocation or installation of services, at no cost to Council.
- 5 At the time of submitting the Subdivision Plan for endorsement, provide a report demonstrating compliance with all conditions of this Development Approval.
- 6 A noting will be placed on the Councils rate card for both properties confirming that:
- Proposed Lot 5 is outside Councils water and sewer area and these services will not be extended to service the property;
  - Proposed lot 2 is located adjacent to existing rural farming land and owner's and future purchasers should be aware of the potential impacts and issues (including noise, odour, lights and chemical spray drift) that may arise from the adjoining properties lawful use.

## **Easement**

- 7** The applicant / developer is to establish an easement of 4 metres wide that is centrally located over the existing sewer main and manhole within the newly created lot for 6-10 Dawson Highway. The easement is to be for the entire length of the sewer main within this lot.
- 8** No permanent structure or part of a structure is to be located within the easement.
- 9** All easements must be shown on the Subdivision Plan, and associated documentation prepared and registered at no cost to Council.

## **Flood Level**

- 10** The finished floor level of any future structure on proposed Lot 2 must be above the flood level for the site. It is the responsibility of the applicant/developer to determine the flood level of the site.

# **RAL010-19/20 Attachment 1**

## *Part B – Assessment Manager Notes*

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- A** In carrying out the activity or works associated with the development, all reasonable and practical measures are to be taken to minimise releases and the likelihood of releases of contaminants to the environment, except as otherwise provided by the conditions of this development approval.
- B** All works required pursuant to these conditions shall be undertaken and completed in accordance with Council's Standards (Capricorn Municipal Development Guidelines) at the Applicant's expense.
- C** The applicant is responsible for ensuring Queensland Fire Services requirements are met with respect to this development which may include but not be limited to the installation/upgrade of holding tanks or pumps as necessary to meet flow and pressure requirements.
- D** Failure to ensure ongoing compliance with the conditions of this Development Approval including conditions relating to the ongoing use of the premise, and the design and layout of the development may constitute an offence under the Planning Act.
- E** Where further development is proposed it is the applicant's / developer's responsibility to ensure further approvals are sought as required by the Banana Planning Scheme.
- F** The approved development must comply with Council's current Local Laws under the Local Government Act 2009.
- G** In carrying out the activity or works associated with the development, all reasonable and practical measures are to be taken to minimise releases and the likelihood of releases of contaminants to the environment, except as otherwise provided by the conditions of this development approval.
- H** Building works are to comply with the *Building Act 1975*, the Building Code of Australia and other relevant authorities.

### **Engineering**

- A** All damage incurred to existing roads, services or street furniture as a result of the proposed development shall be repaired within a reasonable period at the developer's expense.

- B** All works required pursuant to these conditions shall be undertaken and completed in accordance with Council's Standards – Capricorn Municipal Development Guidelines ([www.cmdg.com.au](http://www.cmdg.com.au)) at the Applicant's expense.

### **Cultural Heritage**

- A** 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.

### **Declared Pests/Plants**

- A** A landowner has an obligation to take reasonable steps to keep their land free of invasive plants and animals in accordance with the Biosecurity Act 2014. Consideration should be given to appropriate treating of invasive plants, where necessary, in the construction and operational phases of the proposed development to meet the obligations under this Act.

### **Mosquito breeding**

- A** The site is required to be appropriately drained so that water is not allowed to accumulate or pond in a manner that may allow mosquito breeding, as required under the Public Health Regulation 2005.

### **General Environmental Duty**

- A** The Environmental Protection Act 1994 places a general environmental duty on everyone. Activity that causes or is likely to cause environmental harm must not be carried out unless all reasonable and practicable measures are taken to prevent or minimise the harm. Anyone becoming aware of serious or material environmental harm being caused or threatened by an activity they are involved in, has a duty to report that harm.



## **Property notes**

- A** The following property notes will be recorded against proposed lot 5 at the time the subdivision plan is lodged with Council for Compliance Assessment:
- a. Building Setback - Any future structure built on proposed lot 5 are required to have a minimum of 10 metres from the road frontage and 10 metres to other boundaries.
  - b. Building Height - Buildings and other structures in the rural zone on lots more than 1 ha in area is to have a maximum height of 15m.

## **Attachment 2**

# **Planning Act 2016 Extract on Appeal Rights**

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### **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.

**Attachment 3**  
**Approved Drawings**

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Banana Shire Council  
PLANNING APPROVAL

26 MAY 2020

RAL010-19/20



**IMPORTANT NOTE**

This plan was prepared to accompany an application to Banana Shire Council and should not be used for any other purpose.

The dimensions and areas shown hereon are subject to field survey and also to the requirements of council and any other authority which may have requirements under any relevant legislation.

In particular, no reliance should be placed on the information on this plan for any financial dealings involving the land.

This note is an integral part of this plan.

client  
**Willmack Pty Ltd & L. Verschaeren**

project  
**6-10 Dawson Highway, Biloela**

plan of  
**Reconfiguration Plan  
(2 Lots into 2 Lots Realignment)  
with Ortho Underlay**

rp  
**Lot 2 on RP912778 & Lot 5 on RP620651**

lga  
**Banana Shire Council**

issue	date	details	authorised
A	2-04-2020	Initial Issue	RJKF

created  

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scale  
**1:2500 @ A3**

sheet no.  
**1 of 1**

plan no.  
**7662-01-ROL-A**

datum  
**QLD Globe**

cad file  
**7662-01-ROL-A**

issue  
**A**

