

**Your Reference:**

**Our Reference:** CW: RR: mw: 20-06 (FID86661, RAL011-19/20, 16351-00000-000, ID1545883, ID1560016)

**Contact:** Rentia Robertson

23 June 2020

Fredriksen Maclean & Associates  
Attn: Alan Maclean  
PO Box 1245  
GLADSTONE QLD 4680

Dear Sir/Madam

**Decision Notice – Approval**

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

**Application Number:** RAL011-19/20  
**Description:** Boundary Realignment  
**Level of Assessment:** Code Assessable  
**Site Address:** NIPAN ROAD, KIANGA, THEODORE MOURA ROAD,  
KIANGA  
**Lot & Plan Details:** Lot 41 on DW132, Lot 12 on DW55

On 23 June 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 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 is listed in the following table:

<b>Plan/Document number</b>	<b>Plan/Document name</b>	<b>Date</b>
5246-2-1_P Revision 0	Proposed Boundary Realignment prepared by Fredriksen Maclean & Associates Consulting Surveyors	13/2/20

### 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. Submissions

Not applicable (Public Notification not required)

### 6. 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*.

### 7. 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, Development Standards Code, Reconfiguring a Lot Code, Economic Resources Overlay Code, Natural Disaster Overlay Code, Major Utilities Code
<b>Reasons for Decision</b>	<p><u>Rural Zone Code</u> - The proposal complies with or has been conditioned to comply with all applicable performance outcomes.</p> <p><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 PO6 and PO18 in relation to the requirement for fencing between two properties. Conditions imposed at PO9 and PO11 in relation to proposed lot 12 regarding water supply and on-site effluent disposal system.</p> <p><u>Reconfiguring a Lot</u> - The proposal is consistent with all the Performance Outcomes.</p> <p><u>Economic Resources Overlay Code</u> - The proposal is consistent with all the Performance Outcomes.</p> <p><u>Natural Disaster Overlay</u> - The proposal complies with or has been conditioned to comply with all applicable performance outcomes. A condition has been imposed on PO4 in relation to storing hazardous materials.</p> <p><u>Major Utilities Overlay Code</u> - The proposal is consistent with all the Performance Outcomes.</p>

## 8. 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.

The timeframes for starting an appeal in the Planning and Environment Court are set out in section 229 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 RAL011-19/20.

Yours Sincerely



Chris Welch

**COUNCIL DIRECTOR COUNCIL SERVICES**

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

# RAL011-19/20 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>
5246-2-1_P Revision 0	Proposed Boundary Realignment prepared by Fredriksen Maclean & Associates Consulting Surveyors	13/2/20

- 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 the properties confirming that:
- The properties are outside Councils water and sewer area and these services will not be extended to service the property;
  - Owner's and future purchasers of Proposed Lot 12 should be aware that connections for electricity and telecommunications to any future dwelling or use are the responsibility of the owner of land at the time such connections are required.
  - The property, proposed Lot 12 is located adjacent to existing mining resources extraction and owner's and future purchasers should be aware of the potential impacts and issues (including dust, noise, and lights) that may arise from the adjoining properties lawful use.

### **Building Setbacks**

- 7 Any future structure built on proposed Lot 12 is required to have a minimum boundary setback of 10 metres from Nipan Road frontage and 10 metres from the rear and eastern side boundary of the lot.
- 8 Proposed Lot 12 is to be provided with an approved on-site wastewater treatment system that complies with the Queensland Plumbing and Wastewater Code 2013, or any subsequent update, prior to the issuance of a Certificate of Classification for a residence. A property note will be placed on the Council rate system to this effect.
- 9 Proposed Lot 12 is to be provided with a separate water supply either in the form of an approved water extraction licence or water tanks with a minimum capacity of 47,000 litres prior to making a building application for a residence. A property note will be placed on the Council rate system to this effect.

### **Safety fencing and signage**

- 10 Maintain fencing in accordance with the Construction Specification C265 – Boundary Fencing of the Capricorn Municipal Development Guidelines along the boundary separating proposed lot 41 and 12 to prevent accidental public entry and restrict unauthorised access.
- 11 Maintain industry standard warning signage on all boundaries of the site, at regular intervals, warning of the safety hazards associated with the approved use.

### **Environmental**

- 12 Ensure that all reasonable and feasible avoidance and mitigation measures are employed so that the noise, dust and other emissions generated by the operation of the haulage activities on the road do not cause a nuisance at any sensitive land use.

### **Hazardous material**

- 13 The applicant is responsible for ensuring that commercial or bulk volumes of hazardous materials are stored and handled in an area that has low bushfire intensity. The storage, handling or manufacturing of any hazardous materials in commercial quantities are not permitted within a medium or high Bushfire hazard area.

END OF CONDITIONS

# RAL011-19/20 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 2016*.
- 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** Prior to the commencement of construction a Minor Works on Roads application will need to be submitted to Council, for approval, for any crossovers/driveways proposed to be installed at a later date for the newly created lot(s).

## **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.

## **Regulated Vegetation**

- A** The *Vegetation Management Act 1999* regulates the clearing of vegetation in Queensland. No interference or clearing of vegetation is to be undertaken (unless the clearing is exempt, a development approval authorising the clearing has been obtained or the clearing is authorised in accordance with a code). Contact the Department of Natural Resources, Mines and Energy should you require any further information on these matters.

## **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*.



## Property Notes

**A** The following property notes will be recorded against Proposed Lot 12 at the time the subdivision plan is lodged with Council for Compliance Assessment:

- A low voltage main power supply may not be available to Proposed Lot 12. Intending purchasers should be aware of the cost and other implications prior to purchase and make their own enquiries to the relevant electricity supply entity on the matter.
- Telecommunications may not be available to Proposed Lot 12. Intending purchasers should be aware of the cost and other implications prior to purchase and make their own enquiries to the relevant telecommunications supply entity on the matter.
- Any future houses or habitable structures must be at least 50 metres from land that has a Medium Bushfire Severity.
- Building Setback - Any future structure built on proposed Lot 12 are required to have a minimum of 10 metres from the road frontage and 10 metres to other boundaries.
- 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.

END OF NOTES

## **Attachment 2**

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

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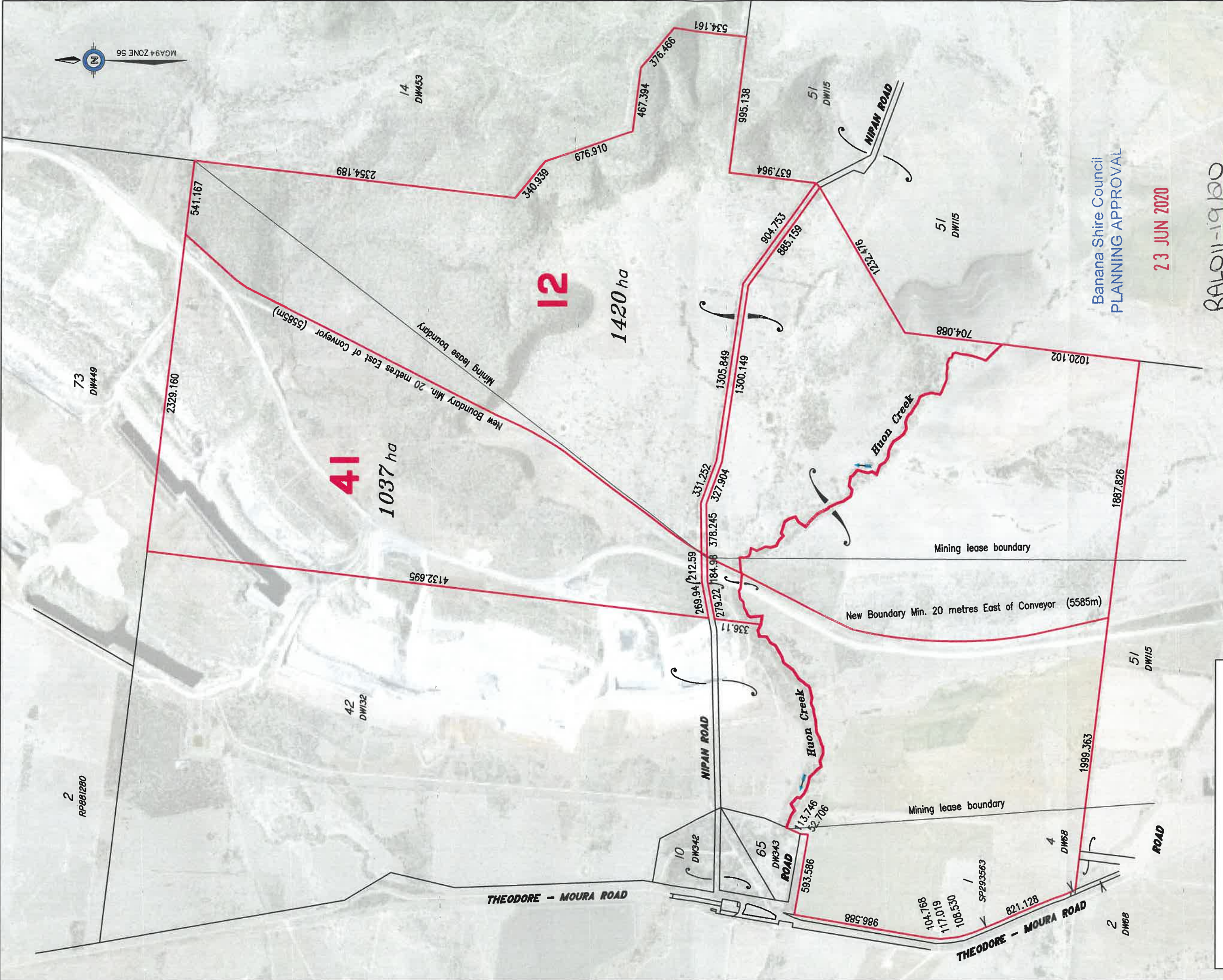
### **Part 1 Appeal rights**

#### 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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NOTES:  
 -AREAS AND DISTANCES SUBJECT TO SURVEY.  
 -PLAN COMPILED FROM SURVEY PLANS AND IMAGERY.

Banana Shire Council  
**PLANNING APPROVAL**  
 23 JUN 2020  
 RAL011-19100

THIS PLAN HAS BEEN PREPARED TO CLIENT SPECIFICATIONS AND SHOULD NOT BE USED FOR ANY OTHER PURPOSE WITHOUT CONFIRMING THAT THE DATA IS FIT FOR THE INTENDED USE BY CONTACTING FREDRIKSEN MACLEAN & ASSOCIATES

<b>FREDRIKSEN MACLEAN &amp; ASSOCIATES</b> CONSULTING SURVEYORS CLAUDESTON, BILOELA & MOURA HEAD OFFICE 9 DREWE STREET PH (07)49725677 P.O. BOX 1245 EMAIL: mail@fredmcc.com.au		PROPERTY DESC. LOCALITY: KANGA BANANA SHIRE COUNCIL LOCAL AUTHORITY: BANANA SHIRE COUNCIL LEVEL DATUM: MGA94 ZONE 56 [PLANAR] HORIZONTAL DATUM: MGA WIDE SP293563 MERIDIAN: PM 125861 HORIZONTAL ORIGIN: E: 189750.85 N: 7256766.209		SCALE: 1:25,000/A3 SURVEYED: [ ] F. BOOKS: [ ] DRAFTED: [ ] CHECKED: [ ] APPROVED: [ ]		CLIENT: Anglo Coal (Dawson) P/L TITLE: Proposed Boundary Realignment PROJECT: Holyrood/Amaroo, NIPAN		SHEET 1 OF 1 SHEETS DRAWING NUMBER: 5246-2 -1_P REVISION: 0	
LOT 12 ON CP DW55 & LOT 41 ON CP DW132 KANGA BANANA SHIRE COUNCIL		MGA94 ZONE 56 [PLANAR] MGA WIDE SP293563 PM 125861 E: 189750.85 N: 7256766.209		DATE: 13/2/20 ISSUE: DETAILS AMENDMENTS:		DATE: 13/2/20 ISSUE: DETAILS AMENDMENTS:		DATE: 13/2/20 ISSUE: DETAILS AMENDMENTS:	