

Your Reference: 5246
Our Reference: RR: jw: 19-05 (FID85671, RAL003-18/19, 16321-00000-000, 16320-00000-000
ID1467575, ID1470782, ID1471735)
Contact: Rentia Robertson

30 May 2019

M L & M L Lang, Anglo Coal (Dawson Management) Pty
C/- Fredericksen, Maclean & Associates
PO Box 1245
GLADSTONE QLD 4680

Dear Sir/Madam

Decision Notice – Approval
(Given under section 63 of the Planning Act 2016)

Application Number: RAL003-18/19
Description: Reconfiguring a Lot (2 into 3)
Level of Assessment: Code Assessable
Site Address: 170 Gibihi Road, Kianga & 3032 Theodore Moura
Road, Kianga
Lot & Plan Details: Lot 35 on DW486 & Lot 36 on DW468

On 30 May 2019, 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:

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

2. Approved Plans

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

Plan/Document Number	Plan/Document name	Date
5246-1-01P Rev B	Reconfiguration of Lot 36 into Lots 1 & 2 (Part A)	12/09/18
5246-1-01P Rev B	Reconfiguration of Lot 36 into Lots 1 & 2 (Part B)	12/09/18

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

Description of the development	Reconfiguring a lot (Subdivision 2 lots into 3) - Code assessment
Assessment Benchmarks	Rural Zone Code, Reconfiguring a Lot Code, Development Standards Code, House Code, Economic Resources Overlay code,

Reasons for Decision	Rural Zone Code- The development complies or has been conditioned to comply with all applicable Acceptable Outcomes
	Reconfiguring a Lot Code - The development complies or has been conditioned to comply with all applicable Acceptable Outcomes
	Development Standards Code - The development complies or has been conditioned to comply with all applicable Acceptable Outcomes
	House Code - The development complies with all applicable Acceptable Outcomes
	Economic Resources Overlay code - The development complies or has been conditioned to comply with all Acceptable Outcomes.

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.

Appeal by a submitter

A submitter for a development application may appeal to the Planning and Environment Court against:

- any part of the development application for the development approval that required impact assessment
- a variation request.

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 RAL003-18/19.

Yours Sincerely



Chris Welch

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
Attachment 4 – Environmental Obligations

RAL003-18/19 Attachment 1

Part A - Conditions imposed by the Assessment Manager

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–

Plan/Document number	Plan/Document name	Date
5246-1-01P Revision B	Reconfiguration of lot 36 into lots 1 & 2 (Part A)	12/09/18
5246-1-01P Revision B	Reconfiguration of lot 35 into lots 2 & 3 (Part B)	12/09/18

- 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 Lots 2 and 3 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 properties are 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.

Services and Utilities

- 7 Prior to the occupancy of any future house on Proposed Lots 2 and 3 an adequate potable water supply (minimum 45,000 litre capacity) including a dedicated 5000 litre firefighting storage and on site effluent and wastewater disposal system must be provided to the satisfaction of the Assessment Manager.

Building Setbacks

- 8 Any future structure built on proposed Lots 2 and 3 is required to have a minimum boundary setback of 10 metres from Gibihi Road frontage and 10 metres from the rear and eastern side boundary of the lot.

Crossover and Driveways (for Lot 2 only)

9. Prior to the granting of any building approval for Proposed Lot 2 obtain an approval by a Minor Works in Road application for a rural access as per the following:
CMDG Design Specifications – Drive Ways – D15.11. Rural and Rural Residential Property Access; and
CMDG Standard Drawing CMDG-R-040 – Rural Road Access and Property Access over Table Drains.
- 10 The access is to be constructed so as to provide stormwater drainage which will accommodate a storm event for an ARI of two (2) years.
- 11 The Department of Natural Resources and Mining is to be notified of any clearing outside of three (3) metres from the edge of the road formation that may be required during the construction of the new access.
- 12 The works required for the construction of the proposed rural access are to proceed with a minimal interruption to traffic and any necessary steps for the protection of traffic and the public during construction should be undertaken at no cost to Council.

Electricity

- 13 Prior to making a building application for a residence over proposed Lot 2, the owner must provide the Assessment Manager with a Subdividers Power Supply Agreement from the relevant service provider to ensure that electricity is available to the lot. A property note will be placed on the Council rate system to this effect.

Safety fencing and signage

- 14** Maintain fencing in accordance with the Construction Specification C265 – Boundary Fencing of the Capricorn Municipal Development Guidelines along the boundary separating proposed lot 2 from proposed lot 1 and 3 to prevent accidental public entry and restrict unauthorised access.
- 15** Maintain industry standard warning signage for proposed lot 2 on all boundaries of the site, at regular intervals, warning of the safety hazards associated with the approved use.

RAL003-18/19 Attachment 1

Part B – Assessment Manager Notes

Assessment Manager Notes

- 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** Please note the advice surrounding the applicants 'Environmental Obligations' contained in an attachment to the Decision Notice.
- C** 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.
- D** Due to the creation of the new proposed Lot 2 a Rural Addressing Action Request application will need to be submitted to Council for this lot.
- E** 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.
- F** 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.
- G** 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.
- H** The approved development must comply with Council's current Local Laws under the Local Government Act 2009.

Road

- A** The location of the access to be provided to Lot 2 is to provide an adequate sight distance as to accommodate an 80 kph speed environment.
- B** Any works on roads shall be conducted in accordance with the Queensland Department of Transport and Main Roads, manual of Uniform Traffic Control Devices – Part 3".

- C** 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.
- D** 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) 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** The applicant/developer is responsible for ensuring that all declared plants are treated as required by the provisions of the Land Protection (Pest and Stock Route Management) Act 2002.

Property Notes

- A** The following property notes will be recorded against proposed lot 2 at the time the subdivision plan is lodged with Council for Compliance Assessment:
- Building Setback - Any future structure built on proposed lot 2 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.
 - A low voltage main power supply may not be available to Proposed Lot 2. 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.

End of Notes

Attachment 2

Planning Act 2016 Extract on Appeal Rights

Part 1 Appeal rights

229 Appeals to tribunal or P&E Court

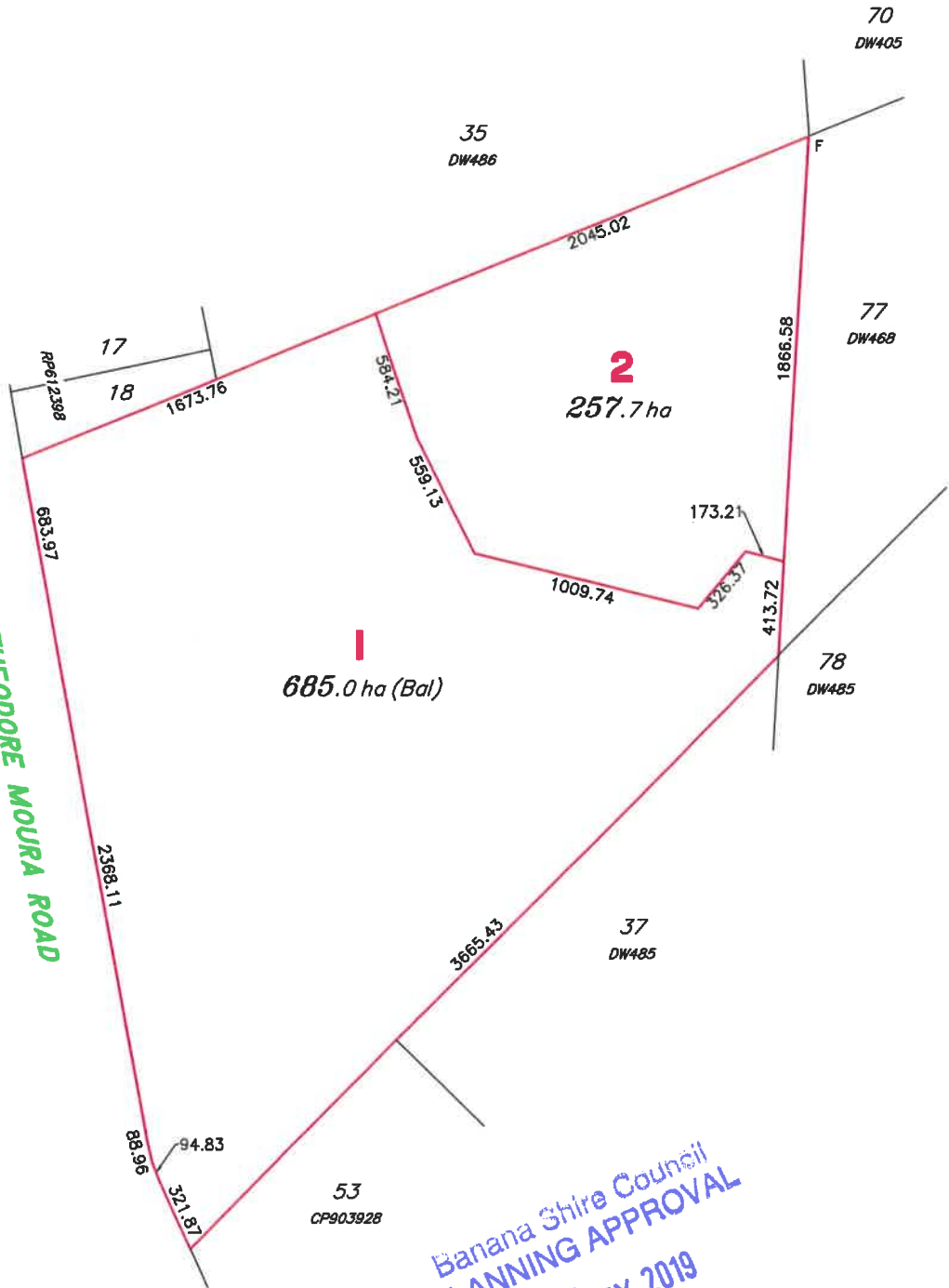
- (1) Schedule 1 states—
 - (a) matters that may be appealed to—
 - (i) either a tribunal or the P&E Court; or
 - (ii) only a tribunal; or
 - (iii) only the P&E Court; and
 - (b) the person—
 - (i) who may appeal a matter (the appellant); and
 - (ii) who is a respondent in an appeal of the matter; and
 - (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



THEODORE MOURA ROAD

PROPERTY DESCRIPTIONS
36 ON DW468



Banana Shire Council
PLANNING APPROVAL
30 MAY 2019

NOTES:
-BOUNDARY TO PLOT ACCURACY ONLY. DIMENSIONS SHOWN ARE ABOUT AND ARE SUBJECT TO SURVEY.
-PLAN COMPILED FROM SURVEY AND COUNCIL RECORDS.

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

FREDRIKSEN MACLEAN & ASSOCIATES
CONSULTING SURVEYORS



GLADSTONE, BILOELA & MOURA
HEAD OFFICE
9 DREWE STREET
PH (07)40725877
P.O. BOX 1245
EMAIL: mol@fredmac.com.au

PROPERTY DESC.
LOCALITY LOCAL AUTHORITY
LEVEL DATUM
LEVEL ORIGIN
HORIZONTAL DATUM
MERIDIAN
HORIZONTAL ORIGIN

KIANGA
BANANA SHIRE COUNCIL

SCALE
1:20,000/A3
SURVEYED -
F. BOOKS
DRAFTED RAB
CHECKED ASM
APPROVED ASM

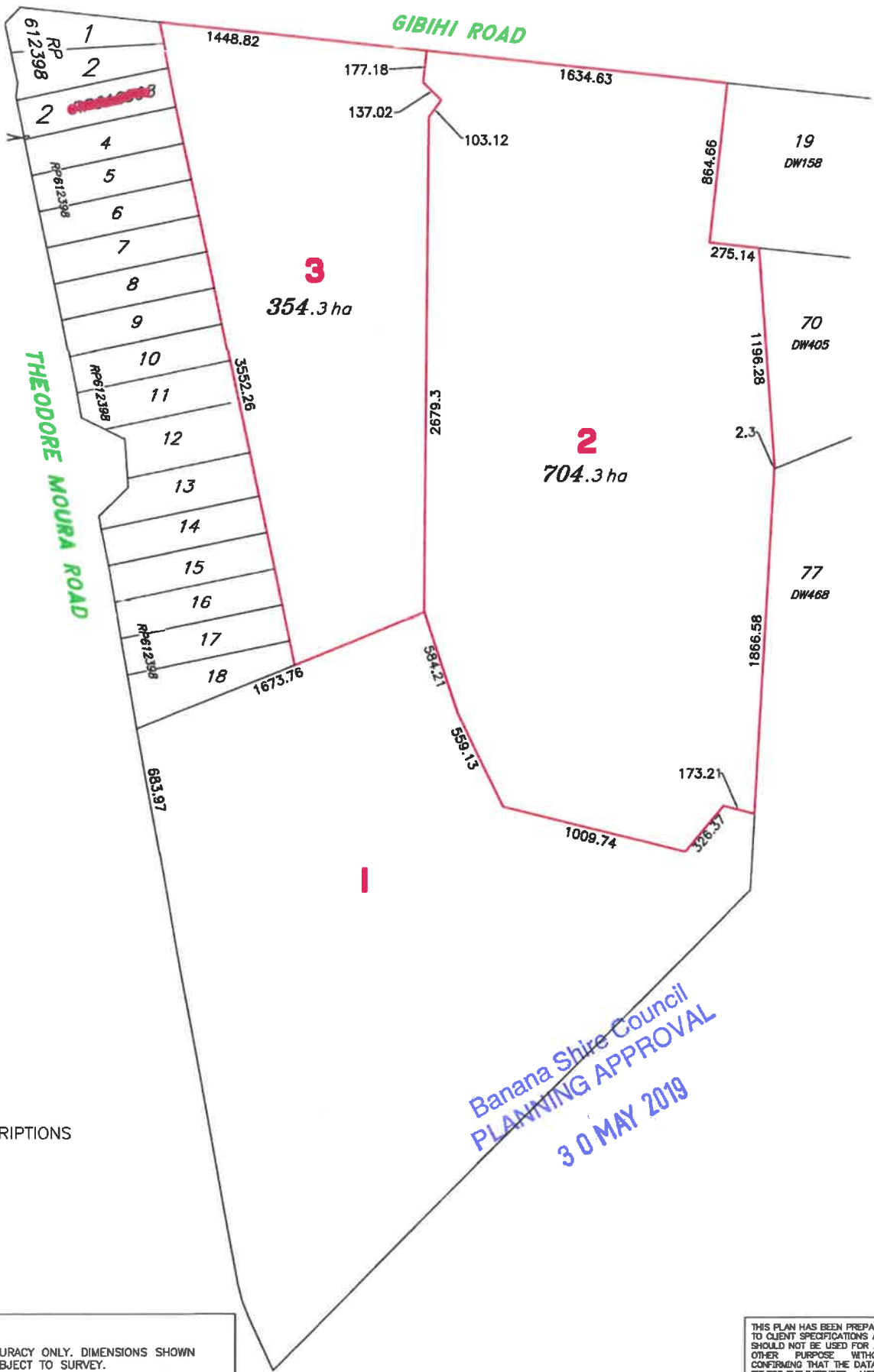
DATE	12/09/18	ISSUE	DETAILS
DATE		AMENDMENTS	

CLIENT
ANGLO COAL (DAWSON MANAGEMENT)
TITLE
RECONFIGURATION OF LOT 36 INTO LOTS 1 & 2 (PART A)
PROJECT
RAL 2 INTO 3

SHEET 1 OF 2 SHEETS
DRAWING NUMBER
5246-1-01P
REVISION
B



1&2
RP617587



Banana Shire Council
PLANNING APPROVAL
30 MAY 2019

PROPERTY DESCRIPTIONS
35 ON DW486

NOTES:
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EMAIL: mail@fredmac.com.au

PROPERTY DESC.	
LOCALITY	KIWINGA
LOCAL AUTHORITY	BANANA SHIRE COUNCIL
LEVEL DATUM	
LEVEL ORIGIN	
HORIZONTAL DATUM	
MERIDIAN	
HORIZONTAL ORIGIN	

SCALE	1:20,000/A3
SURVEYED	-
F. BOOKS	
DRAFTED	RAB
CHECKED	ASN
APPROVED	ASN

DATE	1.209/18	LEASUE	ZCS
DATE		DETAILS	UNT.
AMENDMENTS			

CLIENT	ANGLO COAL (DAWSON MANAGEMENT)
TITLE	RECONFIGURATION OF LOT 35 INTO LOTS 2 & 3 (PART B)
PROJECT	RAL 2 INTO 3

SHEET 2 OF 2 SHEETS	
DRAWING NUMBER	5246-1-01P
REVISION	B

Attachment 4

Environmental Obligations

Environmental Obligations

SCHEDULE A – General

- A1 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.
- A2 It is an offence under the *Environmental Protection Act 1994* to cause environmental nuisance. Environmental nuisance includes unreasonable interference caused by noise, dust, fumes, odour, smoke, aerosols, particles or light.
- A3 All reasonable precautions must be taken to avoid or minimise nuisance to adjacent premises or other property during construction work on the site, to the satisfaction of Council. Such precautions are to be discussed and agreed to by Council prior to construction commencing and will form part of the Construction Site Management Plan.

SCHEDULE B - Noise

- B1 Activities must be managed such that noise emissions from the premises do not cause harm or nuisance to adjoining residents and comply with the requirements of the *Environmental Protection Act 1994* and *Environmental Protection (Noise) Policy 2008*.
- B2 Noise must not be emitted outside the hours specified below-

Noise Source	Allowable Hours
Building work <i>(Builders and owner-builders, including excavation. For home renovations or other uses refer to regulated devices)</i>	6:30am and 6:30pm Monday to Saturday, excluding public holidays.
Regulated devices <i>(eg mowers, power tools, compressors, leaf blowers, nail guns etc)</i>	7:00am to 7:00pm Monday to Saturday 8:00am to 7:00pm Sundays and public holidays
Amplifier devices <i>(other than indoor venues and open air events)</i>	7am to 10pm Business days 8am to 6pm Other days

- B3 All noise producing machinery and equipment (including air conditioners, compressors and cooling systems) are to be fitted with noise attenuation features so that noise at the boundary of the site does not exceed the levels indicated in the table below-

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 (LA_{max adj, T})
7 am – 10 pm	Background noise level plus 5 dB(A)
10 pm – 7 am	Background noise level plus 3 dB(A)
Sundays and Public Holidays	Background noise level plus 5 dB(A)
NOISE LIMITS AT A COMMERCIAL PLACE	
Period	Noise Level at a Commercial Place measured as the Adjusted Maximum Sound Pressure Level (LA_{max adj, T})
7 am - 10 pm	Background noise level plus 10 dB(A)
10 pm - 7 am	Background noise level plus 8 dB(A)
Sundays and Public Holidays	Background noise level plus 8 dB(A)

SCHEDULE C – Air and Light

- C1 Air and light emissions must be appropriately managed to prevent environmental nuisance beyond the boundaries of the property during all stages of the development including earthworks and construction.
- C2 Suitable dust suppression should be used and/or screens or barriers should be erected, where required during excavation and building works, to reduce the emission of dust or other such emissions from the site.
- C3 All artificial illumination is to be designed and installed so as not to cause a nuisance to occupants of nearby premises and any passing traffic. Security and flood lighting is to be directed away from adjacent premises to minimise the protrusion of light outside the site.

SCHEDULE D – Water and Stormwater

- D1 It is an offence under the *Environmental Protection Act 1994* to discharge sand, silt, mud and other such contaminants to a stormwater drain, roadside gutter or a water course.
- D2 During construction, stockpiles and areas of bare soil or earth that are likely to become eroded must be adequately protected – by upslope surface water diversion, downslope sediment fencing and/or temporary surface coverings.
- D3 It is an offence under the *Environmental Protection Act 1994* to discharge oils, chemicals, cement or concrete, paint, thinner, degreaser, rubbish and other such contaminants to a stormwater drain, roadside gutter or a water course.
- D4 Any spills of oils, paints, chemicals etc must be contained and cleaned up as soon as possible.

- D5 Concrete, paint or thinner waste must not be washed out near a drain, gutter or anywhere waste could end up in a water course – appropriate containment and disposal should be used rather than discharging to the ground.

SCHEDULE E – Waste Management

- E1 It is an offence under the *Waste Reduction and Recycling Act 2011* to leave litter behind or allow litter to blow from site. All waste must be appropriately contained on site prior to removal.
- E2 All waste should be collected by a licensed contractor and taken to an approved waste disposal facility by an approved transporter.
- E3 Trap Gully Landfill is the only approved waste facility within the Banana Shire for the disposal of commercial waste. No commercial waste is to be deposited at other Banana Shire landfills or transfer stations without prior written approval from Council.
- E4 It is an offence under the *Environmental Protection Regulation 2008* to fail to comply with signage or directions at a waste facility.
- E5 Any building repairs involving asbestos material must be undertaken in accordance with Workplace Health and Safety requirements.
- E6 Regulated waste (including asbestos) is only to be disposed of at Trap Gully Landfill and an application form must be completed and approved prior to disposal.
- E7 Council will not enter onto private property to service wheelie bins, any bins to be serviced by Council will be required to be placed at the kerbside for collection.

SCHEDULE F – Land

- F1 A landowner has an obligation to take reasonable steps to keep their land free of declared pests in accordance with the *Land Protection (Pest and Stock Route Management) Act 2002*. Consideration should be given to appropriate treating of declared pest plants, where necessary, in the construction and operational phases of the proposed development to meet the obligations under this Act.