

Your Reference:

Our Reference: RR: mw: 22-03 (FID88216, RAL002-21/22, 16061-00000-000, ID1703518)
Contact: enquiries@banana.qld.gov.au

17 March 2022

C/- Capricorn Survey Group (CQ) Pty Ltd
PO Box 1391
ROCKHAMPTON QLD 4700

Dear Sir/Madam

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

Application Number: RAL002-21/22
Description: Boundary Realignment
Level of Assessment: Code Assessable
Site Address: 81 BARALABA KOOEMBA ROAD, KOKOTUNGO
Lot & Plan Details: Lot 49 on MPH14611, Lot 1 on MPH32220, Lot 2 on MPH32220 & Lot 5221 on MPH15767

On 16 March 2022, under delegated authority, your request for a Negotiated Decision Notice, received by Council on 22 February 2022, was approved to the extend detailed in this Notice. This Negotiated Decision Notice replaces the Decision Notice previously issued and dated 18 February 2022, approved 17 February 2022 under delegated authority.

The nature of the changes are listed below and clearly shown in the Negotiated Decision Notice and Attachment 1 (as strikethrough bold text):-

- Condition 6 - Amended

1. Details of Approval

The following approval/s is/are given:

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

2. Approved Plans

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

Plan/Document number	Plan/Document name	Date
4980-01-ROL Issue: C	Reconfiguration Plan (4 Lots into 4 Lots Realignment)	26-11-2021

3. Further Development Permits

Please be advised that the following development permits are required to be obtained before the development can be carried out:

- Operational Works

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 for the purposes to of a boundary realignment 4 lots into 4 lots.
Assessment Benchmarks	Rural Zone Code, Reconfiguring a Lot Code & Development Standard Code
Reasons for Decision	<u>Rural 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 complies with or has been conditioned to comply with all applicable performance outcomes.

	<p><u>Development Standard Code</u></p> <p>The proposal complies with or has been conditioned to comply with all applicable performance outcomes.</p> <p>A condition has been imposed on PO2 in relation to vehicular access and driveway crossovers.</p> <p>A condition has been imposed on PO9 and PO11 in relation to water supply and effluent disposal requirements at building application stage for a residence.</p>
	<p><u>Economic Resources Overlay</u></p> <p>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 RAL002-21/22.

Yours Sincerely



Rentia Robertson
TOWN PLANNER

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

RAL002-21/22 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
4980-01-ROL Issue: C	Reconfiguration Plan (4 Lots into 4 Lots Realignment)	26-11-2021

- 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 Planning Body Approval – Form 18B, provide a report demonstrating compliance with all conditions of this Development Approval.

Building envelopes

- 6 **(AMENDED 16 MARCH 2022) Nominated Building Location Envelopes (BLE) within each lot are to be identified on a Building Location Envelope Plan (BLEP) generally in accordance with the approved plan is to be submitted to Council. BLE are to be identified by dimensions, metes and bounds, including setbacks to adjacent lot boundaries. The BLEP will be retained by Council and made available on request to potential purchasers of the approved lots. ~~shown on each lot by way of permanent markers installed by a licensed surveyor prior to the submission of the Subdivision Plan for compliance assessment.~~**

~~Any proposed dwelling is to be located within the designated building envelopes as indicated on the approved plan – Reconfiguration Plan (4 Lots into 4 Lots Realignment) dated 26-11-2021 prepared by Capricorn Survey Group.~~ All future dwellings are to be located within the BLE as indicated on the BLEP for each lot.

Access

- 7 A Minor Works on Road application must be submitted for approval prior to the installation of any new access points. Works are to be completed at no cost to Council.
- 8 All newly constructed driveways must be constructed in accordance with the Capricorn Municipal Development Guidelines (CMDG), Standard Drawing CMDG-R-040 and Design Guideline D15. Variations to the documents will require a design provided by a Registered Profession Engineer of Queensland (RPEQ).
- 9 All driveways shall maintain minimum of two-meter offset from side boundaries.
- 10 All driveways must be constructed prior to the transfer of title or the sale of the property, or prior to the granting of any building approval.
- 11 Any damage to the existing road surface, services or furniture as a result of construction work is to be repaired to the pre-existing condition at no cost to Council.
- 12 The existing access for proposed Lot 4 is to comply with the requirements of the Capricorn Municipal Development Guidelines (Standard drawing CMDG-R-040).

Water supply

- 13 Proposed Lots 1, 2 and 3 are 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.
- 14 Proposed Lots 1, 2 and 3 are 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.

END OF CONDITIONS

RAL002-21/22 Attachment 1

Part B – Assessment Manager Notes

- A** The approved development must also comply with Council's current Local Laws under the Local Government Act 2009.
- B** 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.
- 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** 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.
- E** 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.
- F** The applicant and or owner/s of the land and the person/s responsible for the management of the premise is/are to ensure ongoing compliance with conditions of this Development Permit including Conditions relating to the ongoing use of the premise, and the design and layout of the development.
- G** Pursuant to section 75 of the *Local Government Act 2009*, Council's written approval is required to carry out works on a road, or interfere with a road or its operation. This requirement applies to all Council-controlled roads within its local government area. The process for obtaining approval is set out in Council's *Local Law No. 1 (Administration) 2011*. Approval must be obtained prior to the commencement of the works.

Engineering

- A** Works required to be undertaken for the installation of a new access(es) are to proceed with a minimal interruption to traffic and any necessary steps for the protection of traffic and the public during construction are to be undertaken at no cost to Council.
- 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 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 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.

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.

General Environmental Duty

- A The *Environmental Protection Act 1994* lists obligations and duties to prevent environmental harm, nuisances and contamination. The two primary duties that apply to everyone in Queensland are:

general environmental duty – which means a person must not carry out any activity that causes or is likely to cause environmental harm, unless measures to prevent or minimise the harm have been taken; and

duty to notify of environmental harm – to inform the administering authority and landowner or occupier when an incident has occurred that may have caused or threatens serious or material environmental harm.

Nature Conservation

- A It is an offence under section 335 of the Nature Conservation (Animals) Regulation 2020 to remove, or tamper with, an animal breeding place that is being used by a protected animal to incubate or rear the animal's offspring. Animal breeding places include obvious structures such as bird nests and tree hollows, as well as more cryptic places such as amphibian or reptile habitat where breeding takes place. Where activities are likely to impact on an animal breeding place, the applicant should contact the Queensland

Department of Environment and Science to discuss if additional actions are required to be undertaken to meet obligations under the *Nature Conservation Act 1992*.

Biosecurity

- A** Section 23 of the *Biosecurity Act 2014* outlines the General Biosecurity Obligation. All landowners have a General Biosecurity Obligation (GBO) for managing biosecurity risks that are under their control and that they know about or should reasonably be expected to know about. All individuals and organisations whose activities pose or is likely to pose a biosecurity risk must:
- a. take all reasonable and practical measures to prevent or minimise the biosecurity risk
 - b. minimise the likelihood of causing a biosecurity event and limit the consequences if such an event occurs
 - c. prevent or minimise the harmful effects a biosecurity risk could have
 - d. not do anything that might make any harmful effects of a biosecurity risk worse

A biosecurity risk exists when you deal with any pest, disease, weed or contaminant. This includes moving an animal, plant, turf, soil, machinery and/or equipment that could carry a pest, disease, weed or contaminant.

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 Queensland Department of Resources should you require any further information on these matters.

Clearing of vegetation

- A** The clearing of vegetation for the establishment of new fencing (internal or boundary) may require the applicant to obtain additional development approval(s) authorising the clearing. Contact the Queensland Department of Resources should you require any further information on these matters.

Property Notes

- A** *The following property notes will be recorded against Proposed lot 1, 2 and 3 at the time the subdivision plan is lodged with Council for Compliance Assessment:*

A noting will be placed on the Councils rate card for all properties confirming that:

- The properties are outside Councils water and sewer area and these services will not be extended to service the property.
- A low voltage main power supply may not be available to Proposed Lot 1, 2 and 3. 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.
- Owner's and future purchasers of Proposed Lot 1, 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.
- Prior to the granting of any building approval, sale, or ownership for Proposed Lot 1, 2 or 3, requires the construction of an access to the Capricorn Municipal Development Guidelines standard. Each new access requires a 2 m sealing from the edge of Baralaba Kooemba Road.

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



River

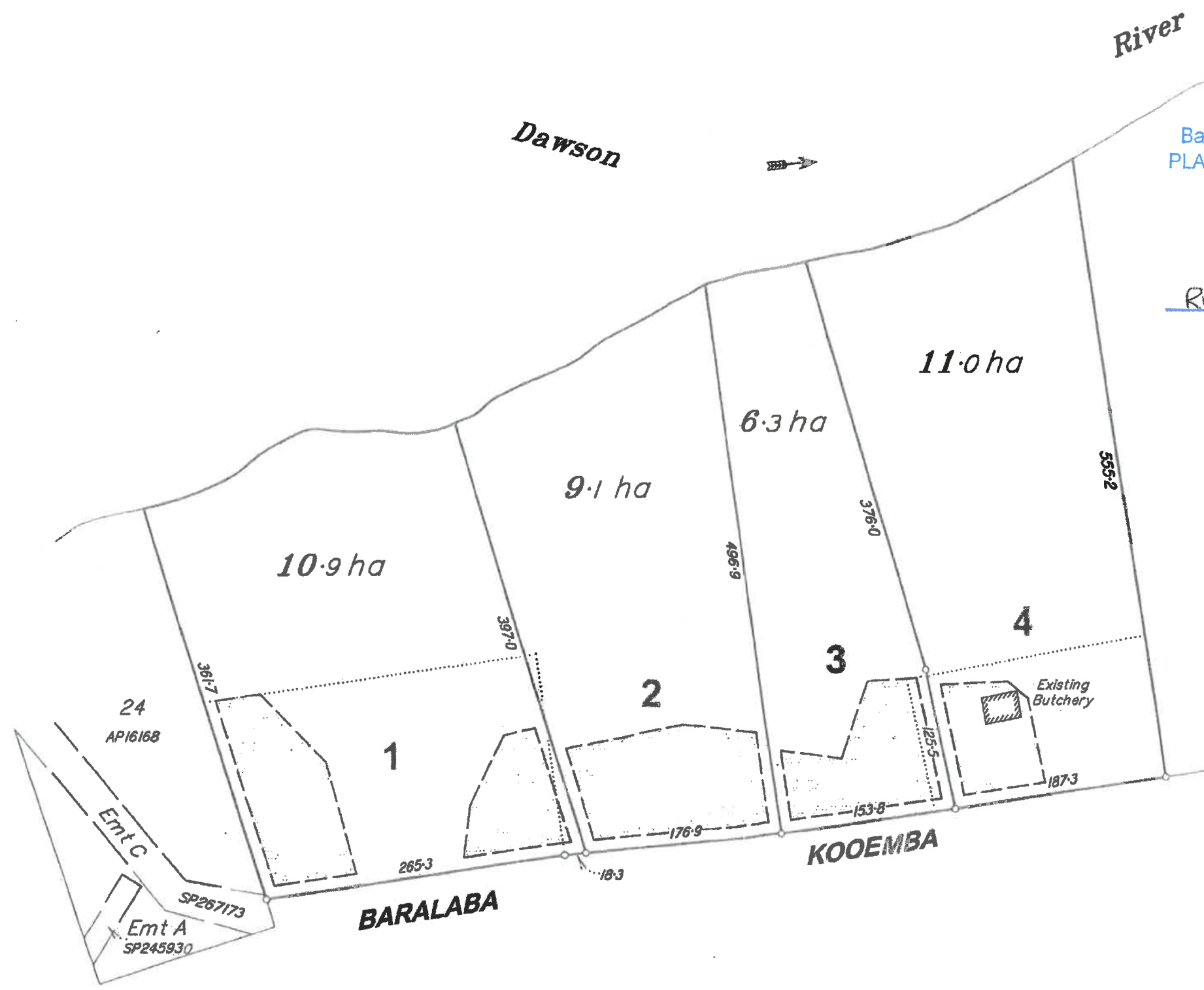
Dawson

Banana Shire Council
PLANNING APPROVAL

17 FEB 2022

RAL002-21/22

51
MPH14611



Denotes Proposed Building Location Envelope
Denotes Current Boundaries

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.

project
Baralaba Kooemba Road, Kokotungo

plan of
Reconfiguration Plan
(4 Lots Into 4 Lots Realignment)

rd
**Lot 49 on MPH14611,
Lots 1 & 2 on MPH3220 &
Lot 5221 on MPH15767**

ign
Banana Shire Council

issue	date	details	authorised
A	28-08-2021	initial issue	RMF
B	4-09-2021	Proposed building location envelopes added	RMF
C	28-11-2021	Proposed layout amended, 1 lot removed	RMF

created
 capricornsurveygroup.com.au
SURVEYING & PLANNING SOLUTIONS



scale
1:4000 @ A3
sheet no.
1 of 1
plan no.
4980-01-ROL

datum
QLD Globe
cad file
4980-01-ROL-C
issue
C