

**Your Reference:**

**Our Reference:** KH : RR: mw: 19-12 (FID86208, RAL004-19/20, 13818-00000-000, ID1507715)

**Contact:** Rentia Robertson

19 December 2019

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:** RAL004-19/20  
**Description:** Boundary Realignment 2 into 2  
**Level of Assessment:** Code Assessable  
**Site Address:** 2 THIRD AVENUE, THEODORE & 32 THE BOULEVARD, THEODORE  
**Lot & Plan Details:** Lot 21 on T7767 & Lot 22 on T7767

On 18 December 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:

	<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 is listed in the following table:

<b>Plan/Document number</b>	<b>Plan/Document name</b>	<b>Date</b>
5363-1	Proposed Boundary Realignment between Lot 21 & 22 of T7767	Received 18/10/2019

### 3. Further Development Permits

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

- Building 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

<b>Description of the development</b>	Reconfiguring a Lot - Boundary Realignment (2 lots into 2)
<b>Assessment Benchmarks</b>	Village Zone Code Development Standards Code Reconfiguring a Lot Code House Code Economic Resources Overlay Code
<b>Reasons for Decision</b>	Village Zone Code The proposal complies with all applicable performance outcomes.  Development Standards Code The proposal complies with or has been conditioned to comply with all applicable performance outcomes.  Reconfiguring a Lot Code The proposal is consistent with all the performance outcomes.  Economic Resources Overlay Code The proposal is consistent with all the Performance 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.

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 RAL004-19/20.

Yours Sincerely



Keith Halford  
**CONSULTANT 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

# RAL004-19/20 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–

Plan/Document number	Plan/Document name	Date
5363-1	Proposed Boundary Realignment between Lot 21 & 22 of T7767	Received 18/10/2019

- 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.

### Sewer Main

- 6 Establish an easement over the existing sewer main traversing the property in favour of Council for the purposes of access and maintenance. The easement is to be centred on the existing main and extend for a distance of 2m on either side.
- 7 The easement area is to be clear of all improvements, structures and the like, except where as approved by Council.
- 8 All easements must be shown on the Subdivision Plan, prepared and registered at no cost to Council.

# **RAL004-19/20 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** Please note the advice surrounding the applicants 'Environmental Obligations' contained in an attachment to the Decision Notice.

### **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.

## **Attachment 2**

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

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#### **Part 1 Appeal rights**

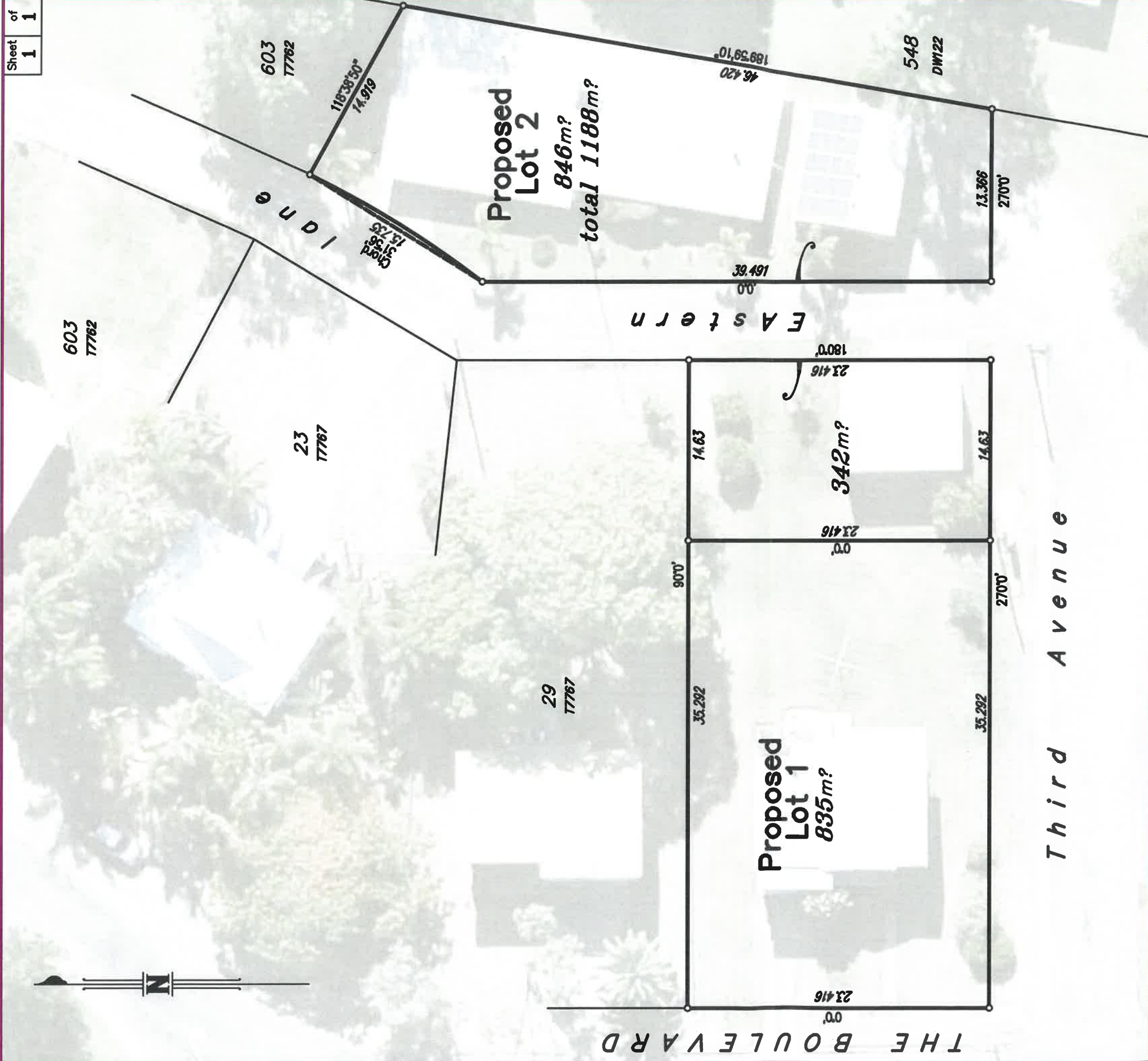
##### 229 Appeals to tribunal or P&E Court

- (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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-SOME INFORMATION IN TURNED OFF LAYERS.  
-BOUNDARY TO PLOT ACCURACY ONLY. DIMENSIONS SHOWN ARE ABOUT AND ARE SUBJECT TO SURVEY.

Banana Shire Council  
**PLANNING APPROVAL**  
18 DEC 2019



**FREDRIKSEN MACLEAN & ASSOCIATES**  
CONSULTING SURVEYORS

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Scale: 1:300  
Format:  
150mm  
100mm  
50mm  
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**Proposed Boundary Realignment**

*Between Lot 21 & 22 of T7767*

LOCAL GOVERNMENT: BANANA SHIRE LOCALITY: Theodore

Meridian: Survey Records:

5363-1

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**Attachment 4**  
**Environmental Obligations**

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## ***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 any 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 2019*.
- B2 Noise must not be emitted outside the hours specified below-

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

- 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 a sensitive receptor does not exceed the levels indicated in Schedule 1 of the *Environmental Protection (Noise) policy 2019* as follows -

## Schedule 1 Acoustic quality objectives

Column 1	Column 2	Column 3		
Sensitive receptor	Time of Day	Acoustic quality objectives (measured at the receptor dB(A))		
		$L_{Aeq,adj,1hr}$	$L_{A10,adj,1hr}$	$L_{A1,adj,1hr}$
residence (for outdoors)	daytime and evening	50	55	65
residence (for indoors)	daytime and evening	35	40	45
	night-time	30	35	40
library and educational institution (including a school, college and university) (for indoors)	when open for business or when classes are being offered	35		
childcare centre or kindergarten (for indoors)	when open for business, other than when the children usually sleep	35		
childcare centre or kindergarten (for indoors)	when the children usually sleep	30		
school or playground (for outdoors)	when the children usually play outside	55		
hospital, surgery or other medical institution (for indoors)	visiting hours	35		
hospital, surgery or other medical institution (for indoors)	anytime, other than visiting hours	30		
commercial and retail activity (for indoors)	when the activity is open for business	45		
protected area or critical area	anytime	the level of noise that preserves the amenity of the existing area or place		
marine park	anytime	the level of noise that preserves the amenity of the existing marine park		
park or garden that is open to the public (whether or not on payment of an amount) for use other than for sport or organised entertainment	anytime	the level of noise that preserves the amenity of the existing park or garden		

## 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 2019* 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 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:

- take all reasonable and practical measures to prevent or minimise the biosecurity risk
- minimise the likelihood of causing a biosecurity event and limit the consequences if such an event occurs
- prevent or minimise the harmful effects a biosecurity risk could have
- 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.