

Decision Notice

Planning Act 2016

30th June, 2020.

Attention: Dale Atkinson
Atkinson & Booy Surveys
PO Box 1479
Thuringowa Central. Q4817

Dear Sir,

I refer to your application and advise that Development Application No. **RAL20/0007** was assessed and approved in full subject to conditions. The decision was made by the Assessment Manager on the date below.

Details of decision are as follows:

Application Details

Application Number:	RAL20/0007
Street Address:	98 Seaforth and Roncato Roads, Jarvisfield
Real Property Description:	Lot 148 on SP314326 & Lot 1 on RP705528
Planning Scheme	Burdekin Shire IPA Planning Scheme

Decision Details

Type of Decision:	Approval with conditions
Type of Approval:	Development Permit for Reconfiguring a Lot – Boundary Realignment (2 into 2 lots)
Date of Decision:	26 th June, 2020.

Currency Period of Approval

Section 85 of the *Planning Act 2016* establishes when an approval lapses.

Please note that in terms of the Planning Act, the currency period can only be extended if the request is received before the approval lapses (see Section 85 “Lapsing of approval at end of currency period”)

Infrastructure

Not Applicable.

Assessment Manager Conditions

GENERAL

- 1.1 The Council will not release the formal Plan of Reconfiguration until all rates and charges in arrears in respect of the land, the subject of the application, are paid in full.
- 1.2 Pay the sum of \$77-30 calculated on the basis of a charge per lot to be levied on the Council by the Department of Natural Resources, Mines and Energy for each new valuation.

ROADWORKS

2. The construction of any crossovers to give access to the land is to be the owner's responsibility and to the satisfaction of the Chief Executive Officer.

PROPOSAL PLAN

3. The reconfiguration of the land must be carried out generally in accordance with:-
 - (a) (i) the Atkinson & Booy Surveys proposal plan numbered P20-026a.dwg;
 - (ii) the plans, specifications, facts and circumstances as set out in the application submitted to Council;
 Except where modified by the conditions of approval and any approval issued there under; and
 - (b) any approval issued under this approval; and
 - (c) any development permit for operational works relating to the reconfiguring of a lot;

DRAINAGE/STORMWATER

4. The approved development and use(s) must not interfere with the natural flow of stormwater in the locality in such a manner as to cause ponding or concentration of stormwater on adjoining land or roads.

PUBLIC UTILITY SERVICES

5. The developer must at its own cost undertake all necessary alterations to public utility mains and services as are rendered necessary by the carrying out of any required external works or other works associated with the approved development.

Referral Agencies

Referral Status	Referral Agency and Address
Concurrence	NQSARA, PO Box 5666, Townsville, Q4810 Email: NQSARA@dsdmip.qld.gov.au

Approved Plans

The following plans are Approved plans for the development:

Approved Plans

Plan No.	Plan Name	Date
P20-026a.dwg	<i>PROPOSED RECONFIGURATION Lots 1 & 148 prepared by Atkinson & Booy Surveys</i>	23/3/2020.

Referenced Documents

Not Applicable

Property Notes

ADVICE (Note: These are not conditions)

- *Unless otherwise specified by these conditions, the conditions must be complied with prior to approval of the Plan of Survey.*
- *Any future on-site sewerage treatment and disposal on the proposed lots must be in accordance with the On Site Sewerage Code and AS/NZS 1547:2000.*
- *A Development Application for building works which include habitable rooms may have to include a 1% AEP Flood Certificate. N.B. this applies in Localised and River Flood areas as identified in Burdekin Shire Councils mapping.*

Variation Approval

Not Applicable.

Further Development Permits Required

Not Applicable.

Submissions

Not Applicable

Rights of Appeal

You are entitled to appeal against this decision. A copy of the relevant appeal provisions from the *Planning Act 2016* is attached.

During the appeal period, you as the applicant may suspend your appeal period and make written representations to council about the conditions contained within the development approval. If council agrees or agrees in part with the representations, a "negotiated decision notice" will be issued. Only one "negotiated decision notice" may be given. Taking this step will defer your appeal period, which will commence again from the start the day after you receive a "negotiated decision notice".

Assessment Manager Signature:



Date: 30th June, 2020.

Enc: Approved Plans/Documents

Appeal Rights

Statement of Reasons

Concurrence Agency Response – NQSARA

Appeal Rights

Planning Act 2016 & The Planning Regulation 2017

Chapter 6 Dispute resolution

Part 1 Appeal rights

229 Appeals to tribunal or P&E Court

- (1) Schedule 1 of the *Planning Act 2016* 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.

(Refer to Schedule 1 of the Planning Act 2016)

- (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.

230 Notice of appeal

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that-
 - (a) is in the approved form; and
 - (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar must, within the service period, give a copy of the notice of appeal to –
 - (a) the respondent for the appeal; and
 - (b) each co-respondent for the appeal; and
 - (c) for an appeal about a development application under schedule 1, table 1, item 1 – each principal submitter for the development application; and
 - (d) for an appeal about a change application under schedule 1, table 1, item 2 – each principal submitter for the change application; and
 - (e) each person who may elect to become a co-respondent for the appeal, other than an eligible submitter who is not a principal submitter in an appeal under paragraph (c) or (d); and
 - (f) for an appeal to the P&E Court – the chief executive; and
 - (g) for an appeal to a tribunal under another Act – any other person who the registrar considers appropriate.

- (4) The *service period* is –
 - (a) if a submitter or advice agency started the appeal in the P&E Court – 2 business days after the appeal has started; or
 - (b) otherwise – 10 business days after the appeal is started.
- (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
- (6) A person elects to be a co-respondent by filing a notice of election, in the approved form, within 10 business days after the notice of appeal is given to the person.

231 Other appeals

- (1) Subject to this chapter, schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.
- (2) The *Judicial Review Act 1991*, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- (3) A person who, but for subsection (1) could have made an application under the *Judicial Review Act 1991* in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.
- (4) In this section –
 - decision* includes-
 - (a) conduct engaged in for the purpose of making a decision; and
 - (b) other conduct that relates to the making of a decision; and
 - (c) the making of a decision or failure to make a decision; and
 - (d) a purported decision ; and
 - (e) a deemed refusal.
 - non-appealable*, for a decision or matter, means the decision or matter-
 - (a) is final and conclusive; and
 - (b) may not be challenged, appealed against, reviewed, quashed, set aside or called into question in any other way under the *Judicial Review Act 1991* or otherwise, whether by the Supreme Court, another court, a tribunal or another entity; and
 - (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, a tribunal or another entity on any ground.

232 Rules of the P&E Court

- (1) A person who is appealing to the P&E Court must comply with the rules of the court that apply to the appeal.
- (2) However, the P&E Court may hear and decide an appeal even if the person has not complied with the rules of the P&E Court.

Statement of Reasons

Planning Act 2016 & The Planning Regulation 2017

This Notice is prepared in accordance with s63(5) and s83(7) of the Planning Act 2016 to inform the public about a decision that has been made in relation to a development application. The purpose of the Notice is to enable a public understanding of the reasons for the planning decision, specifically having regard to:

- the relevant parts of the Planning Scheme and Assessment Benchmarks against which the application was assessed; and
- any other information, documents or other material Council was either required to, or able to, consider in its assessment.

All terms used in this Notice have the meanings given them in the Planning Act 2016.

Assessment Benchmarks

The following assessment benchmarks applied to the proposed development:

- Rural Zone Code
- Reconfiguring a Lot Zone Code

REASONS FOR THE DECISION

Following an assessment of the development application against all of the assessment benchmarks listed above, it was determined the proposed development:

- The proposal is consistent with relevant codes and provisions of the Planning Scheme;
- Does not detract from the rural amenity of the area;
- It is unlikely that the proposed reconfiguration will result in any detrimental outcomes to the continuation of existing farming practices on the land.



Queensland Treasury

RA6-N
SARA reference: 2005-16737 SRA
Council reference: RAL20/0007, 234
Applicant reference: 20/026

2 June 2020

Chief Executive Officer
Burdekin Shire Council
PO Box 974
AYR Qld 4807
enquiries@burdekin.qld.gov.au

Attention: Mr Dale Atkinson

Dear Mr Atkinson

SARA response—98 Seaforth and Roncato Roads, Jarvisfield QLD

(Referral agency response given under section 56 of the *Planning Act 2016*)

The development application described below was confirmed as properly referred by the State Assessment and Referral Agency on 15 May 2020.

Response

Outcome:	Referral agency response – with conditions.
Date of response:	2 June 2020
Conditions:	The conditions in Attachment 1 must be attached to any development approval.
Advice:	Advice to the applicant is in Attachment 2 .
Reasons:	The reasons for the referral agency response are in Attachment 3 .

Development details

Description:	Development permit Reconfiguring a lot (2 into 2 lots)
SARA role:	Referral Agency
SARA trigger:	Schedule 10, Part 17, Division 3, Table 5, Item 1 (Planning Regulation 2017)
	Development permit for reconfiguring a lot in a coastal management district

SARA reference: 2005-16737 SRA
Assessment Manager: Burdekin Shire Council
Street address: 98 Seaforth and Roncato Roads, Jarvisfield
Real property description: Lot 148 on SP314326; Lot 1 on RP705528
Applicant name: Mr Dale Atkinson
Applicant contact details: PO Box 1479
THURINGOWA CENTRAL QLD 4817
dale@atkinsonsveys.com.au

Representations

An applicant may make representations to a concurrence agency, at any time before the application is decided, about changing a matter in the referral agency response (s.30 Development Assessment Rules) Copies of the relevant provisions are in **Attachment 4**.

A copy of this response has been sent to the applicant for their information.

For further information please contact Monica Pollock, Senior Planning Officer, on 4758 3471 or via email NQSARA@dsdmip.qld.gov.au who will be pleased to assist.

Yours sincerely



Graeme Kenna
Manager (Planning)

cc Mr Dale Atkinson, dale@atkinsonsveys.com.au

enc Attachment 1 - Referral agency conditions
Attachment 2 - Advice to the applicant
Attachment 3 - Reasons for referral agency response
Attachment 4 - Representations provisions
Attachment 5 - Approved plans and specifications

Attachment 1—Referral agency conditions

(Under section 56(1)(b)(i) of the *Planning Act 2016* the following conditions must be attached to any development approval relating to this application) (Copies of the plans and specifications referenced below are found at Attachment 5)

No.	Conditions	Condition timing
Reconfiguring a lot		
Schedule 10, Part 17, Division 3, Table 5, Item 1—The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Environment and Science to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following condition(s):		
1.	<p>The development must be undertaken generally in accordance with the following plans:</p> <ul style="list-style-type: none"> Proposed Reconfiguration Lots 1 & 148, prepared by Atkinson & Booy Surveys, dated 23/03/2020, reference P20-206a.dwg. 	Prior to submitting the Plan of Survey to the local government for approval

Attachment 2— Advice to the applicant

General advice	
1.	Terms and phrases used in this document are defined in the <i>Planning Act 2016</i> its regulation or the State Development Assessment Provisions (SDAP) [v2.6]. If a word remains undefined it has its ordinary meaning.

Attachment 3— Reasons for referral agency response

(Given under section 56(7) of the *Planning Act 2016*)

The reasons for the department's decision are:

The development complies with the State Development Assessment Provisions (SDAP), State code 8: Coastal development and tidal works. Specifically, the development is appropriately designed and located to:

- protect life, buildings and infrastructure from impacts of coastal erosion
- maintain and conserve coastal processes
- maintain appropriate public use of, and access to and along, state coastal land
- account for the projected impacts of climate change
- avoids impacts on matters of state environmental significance and where it can't be avoided, the development minimises and mitigates impacts

Material used in the assessment of the application:

- The development application material and submitted plans
- *Planning Act 2016*
- Planning Regulation 2017
- The *State Development Assessment Provisions* (version [2.6]), as published by the department
- The Development Assessment Rules
- SARA DA Mapping system

Attachment 4— Change representation provisions

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Development Assessment Rules—Representations about a referral agency response

The following provisions are those set out in sections 28 and 30 of the Development Assessment Rules¹ regarding **representations about a referral agency response**

Part 6: Changes to the application and referral agency responses

28 Concurrence agency changes its response or gives a late response

- 28.1. Despite part 2, a concurrence agency may, after its referral agency assessment period and any further period agreed ends, change its referral agency response or give a late referral agency response before the application is decided, subject to section 28.2 and 28.3.
- 28.2. A concurrence agency may change its referral agency response at any time before the application is decided if—
- (a) the change is in response to a change which the assessment manager is satisfied is a change under section 26.1; or
 - (b) the Minister has given the concurrence agency a direction under section 99 of the Act; or
 - (c) the applicant has given written agreement to the change to the referral agency response.²
- 28.3. A concurrence agency may give a late referral agency response before the application is decided, if the applicant has given written agreement to the late referral agency response.
- 28.4. If a concurrence agency proposes to change its referral agency response under section 28.2(a), the concurrence agency must—
- (a) give notice of its intention to change its referral agency response to the assessment manager and a copy to the applicant within 5 days of receiving notice of the change under section 25.1; and
 - (b) the concurrence agency has 10 days from the day of giving notice under paragraph (a), or a further period agreed between the applicant and the concurrence agency, to give an amended referral agency response to the assessment manager and a copy to the applicant.

¹ Pursuant to Section 68 of the *Planning Act 2016*

² In the instance an applicant has made representations to the concurrence agency under section 30, and the concurrence agency agrees to make the change included in the representations, section 28.2(c) is taken to have been satisfied.

Part 7: Miscellaneous

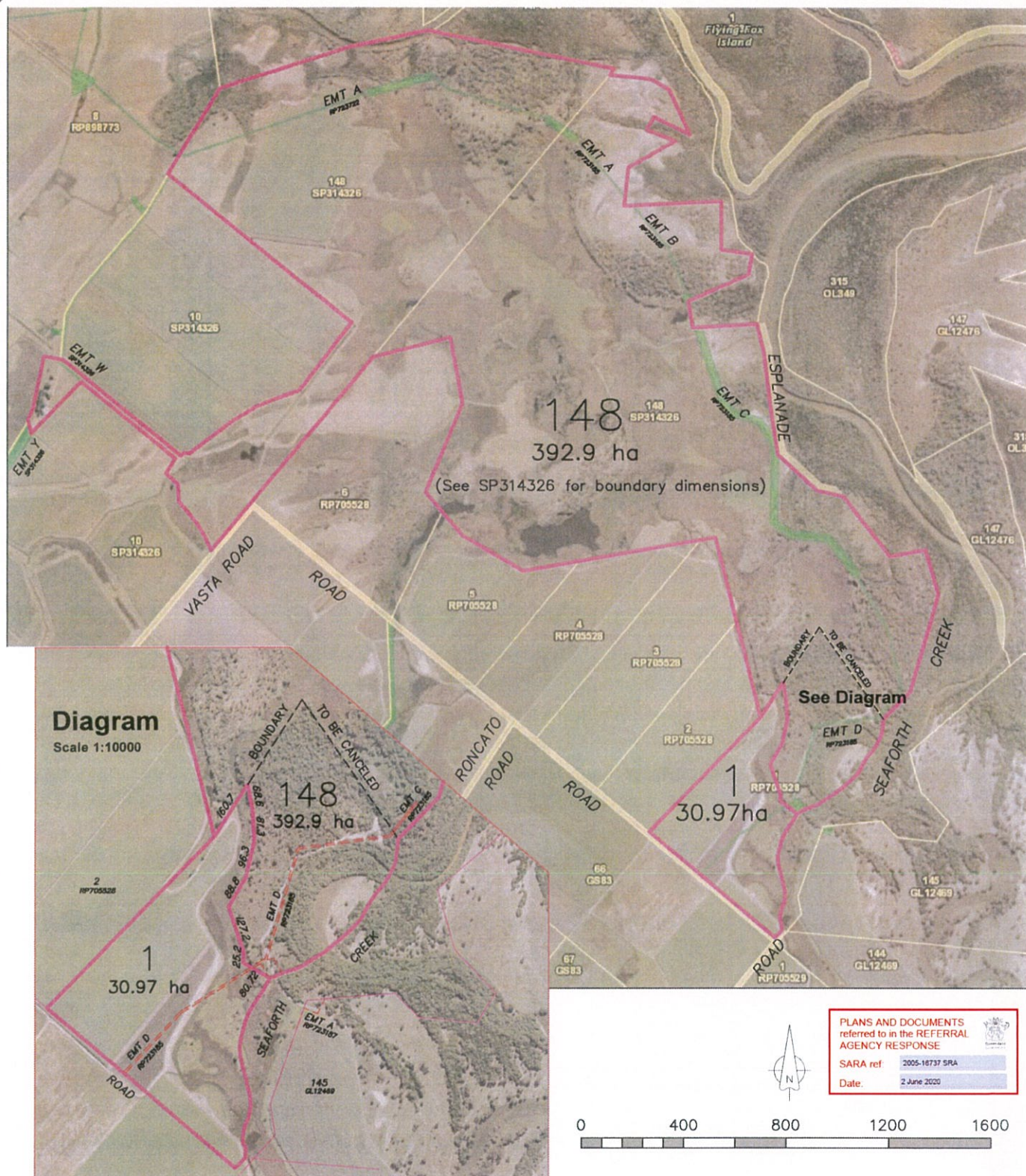
30 Representations about a referral agency response

- 30.1. An applicant may make representations to a concurrence agency at any time before the application is decided, about changing a matter in the referral agency response.³

³ An applicant may elect, under section 32, to stop the assessment manager's decision period in which to take this action. If a concurrence agency wishes to amend their response in relation to representations made under this section, they must do so in accordance with section 28.

Attachment 5— Approved plans and specifications

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This plan was prepared for the purpose and exclusive use of
PAUL RONCATO
to accompany application to
BURDEKIN SHIRE COUNCIL

for approval to rezone/subdivide the land described in this plan. This does not infer in any way that council will approve this subdivision. This plan is not to be used for any other purpose or by any other person or corporation without the written approval of the producer. Atkinson & Booy Surveys accepts no responsibility for any loss or damage suffered howsoever arising to any person or corporation who may use or rely on this plan in contravention of the terms of this clause or the clauses below.

The dimensions, area, size and location of improvements, flood information (if shown) and number of lots shown on this plan are approximate only and may vary.

This plan may not be reproduced unless the above notes are included.

PROPOSED RECONFIGURATION Lots 1 & 148

Cancelling Lot 1 on RP705528
& Lot 148 on SP314326

CLIENT

PAUL RONCATO

LOCAL GOVERNMENT

BURDEKIN SHIRE COUNCIL

DATE

23/3/2020

FILE

N/A

SCALE

1:150000 @ A3

SURVEYOR REF.

20-026

FIELDBOOK

Toughbook

DRAWN:

IWF

LOCALITY: JARVISFIELD

**Atkinson
& BOOY SURVEYS**

56 Thuringowa Drive, Kirwan QLD 4817
Phone: (07) 47234885

CADASTRAL SURVEYS

P20-026a.dwg

Sheet 1 of 1

Form 1.4