

Negotiated Decision Notice

Planning Act 2016

Enquiries to: Planning and Development
Our Reference: RAL26/0007
Your Reference: 55475-017-01



Address all communications to
The Chief Executive Officer

PO Box 974, Ayr QLD 4807
T (07) 4783 9800
E planning@burdekin.qld.gov.au
www.burdekin.qld.gov.au

24 September 2026

Clinton Southern
C/- Brazier Motti Pty Ltd
595 Flinders Street
Townsville QLD 4810
Via email: emma.staines@braziermotti.com.au

Attention: Emma Staines – Town Planner

Dear Emma,

Development Application: RAL26/0007

Negotiated Decision Notice – Development Permit for Reconfiguring a Lot – Boundary Realignment (Two Lots into Two Lots) on land located at 272 Airdmillan Road and 272 Ferguson Road, Airdmillan (Lot 1 on SP307179 and Lot 5 on SP330991)

I refer to your development application made on behalf of Clinton Southern, seeking a Development Permit for Reconfiguring a Lot – Boundary Realignment (Two Lots into Two Lots), on land as described above.

Your development application was assessed by relevant officers, and Council approved the proposed development on **1 September 2026**, subject to reasonable and relevant conditions. Representations on Council's Decision Notice were received on 9 September 2026 and have been considered by Council as per discussions with yourself. Council's Negotiated Decision Notice addressing the representations is **enclosed**.

This notice outlines the development's conditions of approval, currency period, approved plans, and includes relevant extracts from the *Planning Act 2016*. These extracts contain information relating to the making of representations regarding conditions, the suspension of the appeal period, negotiated decisions, and the lodgement of an appeal, should you wish to do so.

Yours sincerely,

A handwritten signature in black ink, appearing to be "JT", with a horizontal line underneath.

Julian Tickle
Acting Director Infrastructure, Planning and Environmental Services

Encl: **Attachment A – Negotiated Conditions of Approval**
Attachment B – Approved Documentation

Negotiated Decision Notice

Section 76 of the Planning Act 2016

Application Details

This Decision Notice relates to the below Development Application:

Application Number:	RAL26/0007
Applicant Details:	Clinton Southern C/- Brazier Motti Pty Ltd 595 Flinders Street Townsville QLD 4810 Via email: emma.staines@braziermotti.com.au
Owner Details:	Jim Allan Southern and Rachel Maria Southern
Street Address:	272 Airdmillan Road and 272 Ferguson Road, Airdmillan
Real Property Description:	Lot 1 on SP307179 and Lot 5 on SP330991
Proposal:	Development Permit for Reconfiguring a Lot – Boundary Realignment (Two Lots into Two Lots)
Planning Scheme:	<i>Burdekin Shire Planning Scheme 2022</i>
Level of Assessment:	Impact

Negotiated Decision Details

The information below outlines the specifics of any approval or refusal issued by the Assessment Manager resulting from development assessment as per the provisions of the *Planning Act 2016*.

Type of Decision:	Approval with conditions
Decision History:	- Original Decision Notice issued 2 September 2026 - Negotiated Decision Notice issued 24 September 2026
Decision Type:	Development Permit
Deemed Approval:	The Development Permit is not a deemed approval under Section 64 of the <i>Planning Act 2016</i>
Submissions:	None received

Nature of Change

In relation to the request to amend conditions under Section 75 of the *Planning Act 2016*, Council decided under Section 76 of the *Planning Act 2016* to issue a Negotiated Decision Notice. The nature of the change to the conditions of approval is listed below:

- Condition 4.1 – Amended to require reliable on-site water supply for each lot prior to the commencement of any future use and clarify the timing of delivery of water connection for each lot.

*Note: Changes to the conditions of approval are made with ~~strike through~~ indicating removal and **bold text** indicating amendments and/or insertions.*

Negotiated Conditions of Approval

The Negotiated Conditions of Approval are set out in **Attachment A** of this Negotiated Decision Notice.

Approved Plans and Documents

The approved development must be completed and maintained generally in accordance with the approved plans and documents, except as amended by the conditions of this permit. The approved plans are included in **Attachment B** of this Decision Notice.

Referral Agencies

Not applicable.

Further Approvals Required

As listed in the Advice Section of the Conditions of Approval at **Attachment A**.

Infrastructure Charges

The proposal is not a development type that triggers infrastructure charges to be applied, as per Council's Charges Resolution.

Rights of Appeal

The rights of an Applicant to appeal to 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*. There may also be the right to make an application for a declaration by Tribunal (refer Chapter 6, Part 2 of the *Planning Act 2016*).

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.

The timeframes for starting an appeal in the Planning and Environment Court are set out in Section 229 of the *Planning Act 2016*. A copy of the relevant appeal provisions from the *Planning Act 2016* is **enclosed**.

Approval Currency Period

Pursuant to Section 85 of the *Planning Act 2016*, the Reconfiguring a Lot component of the Development Approval will lapse four (4) years after the approval starts to have effect, unless otherwise conditioned. The currency period can only be extended if the request is received before the approval lapses.

Notice About Decision – Statement of Reasons

This notice is prepared in accordance with Section 63(5) 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 material Council was either required, 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
- Development Works Code
- Reconfiguring a Lot Code
- Flood Hazard Overlay Code

Compliance with Assessment Benchmarks and Reasons for the Decision

The proposed development was assessed against all assessment benchmarks listed above and complies with the exception of the following listed. Reasons for approval despite non-compliance are listed below.

Assessment Benchmarks	Reason for approval despite non-compliance with Assessment Benchmark
Rural Zone Code	
Protecting rural production	
PO16 Other than for public infrastructure, non-agricultural development within priority agricultural areas does not result in a net loss to agricultural production. Editor's note – A net loss is one that results in widespread or irreversible impacts to existing or future agricultural activities, such as a significant reduction in the supply of raw product or altering resources.	Complies with purpose and overall outcomes of the code. The development will result in the transfer of agricultural land comprising 1.249% of the total site of agricultural land from Lot 5 to proposed Lot 1. This land may or may not be farmed in the future. The development is considered to comply with the purpose and overall outcomes of the code as it improves the management of the existing cropping operation.

Council exercises its discretion to approve the application even though the development may not strictly comply with an aspect of the assessment benchmarks, as the proposed development complies, or can be conditioned to comply with the outcomes sought by the relevant parts of the planning scheme/Strategic Framework and the intent of the relevant codes that apply including the Rural Zone Code, Flood Hazard Overlay Code, Development Works Code, and Reconfiguring a Lot Code.

Properly Made Submissions

Council did not receive any properly made submissions during the public notification period. Council must consider all properly made submissions in the assessment process in accordance with the provisions of the *Planning Act 2016* and the Development Assessment Rules and has conditioned the Development Permit appropriately, to minimise effects upon the existing amenity of the area and possible nuisance concerns as a result of the development.

Appeal Rights

Planning Act 2016 and 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 a decision of the Minister, under [chapter 7, part 4](#), to amend the registration of premises to include additional land in the affected area for the premises—20 business days after the day a notice is published under [Section 269A\(2\)\(a\)](#); or
 - (e) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
 - (f) 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
 - (g) for an appeal relating to the [Plumbing and Drainage Act 2018](#)—
 - a. for an appeal against an enforcement notice given because of a belief mentioned in the [Plumbing and Drainage Act 2018, Section 143\(2\)\(a\)\(i\)](#), (b) or (c)—5 business days after the day the notice is given; or
 - b. for an appeal against a decision of a local government or an inspector to give an action notice under the [Plumbing and Drainage Act 2018](#)—5 business days after the notice is given; or
 - c. for an appeal against a failure to make a decision about an application or other matter under the [Plumbing and Drainage Act 2018](#)—at any time after the period within which the application or matter was required to be decided ends; or
 - d. otherwise—20 business days after the day the notice is given; or
 - (h) 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, Section 1](#), table 1, item 1—each principal submitter for the application whose submission has not been withdrawn; and
 - (d) for an appeal about a change application under [schedule 1, Section 1](#), table 1, item 2—each principal submitter for the application whose submission has not been withdrawn; and
 - (e) each person who may elect to be a co-respondent for the appeal other than an eligible submitter for a development application or change application the subject of the appeal; 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 to an appeal by filing a notice of election in the approved form—
- a. if a copy of the notice of appeal is given to the person—within 10 business days after the copy is given to the person; or
 - b. otherwise—within 15 business days after the notice of appeal is lodged with the registrar of the tribunal or the P&E Court.
- (7) Despite any other Act or rules of court to the contrary, a copy of a notice of appeal may be given to the chief executive by emailing the copy to the chief executive at the email address stated on the department's website for this purpose.

231 Non-appealable decisions and matters

- (1) Subject to this chapter, [Section 316\(2\)](#), [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, any tribunal or another entity; and
 - (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, any 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.

Attachment A – Negotiated Conditions of Approval

Condition	Reason	Timing
1 General and Administration <u>Compliance with Conditions</u> 1.1 The Applicant (and any contractor, agent, employee or invitee of the Applicant) is responsible for carrying out the approved development and ensuring compliance with this development approval, the conditions of the approval and the relevant requirements in accordance with: 1.1.1 The specifications, facts and circumstances as set out in the application submitted to Council, including recommendations and findings confirmed within the relevant technical reports. 1.1.2 The development must comply in full with all conditions of this approval, and is to be designed, constructed and maintained in accordance with relevant Planning Scheme requirements, Council policies, guidelines and standards (except as otherwise specified by any condition) to Council's satisfaction, and best practice engineering. 1.2 Where a discrepancy or conflict exists between the written condition(s) of the approval and the approved plans, the requirements of the written condition(s) of the development approval will prevail. 1.3 Where these conditions refer to 'Council' in relation to requiring Council to approve or be satisfied, the role of the Council may be fulfilled in whole or in part by an officer acting under appropriate delegation. <u>Works – Applicant's Responsibility/Expense</u> 1.4 The cost of all works associated with the development and construction of the development including services, facilities and/or public utility alterations required are met by the Applicant, at no cost to the Council. 1.5 The Applicant must repair any damage to existing infrastructure (e.g. kerb and channel, footpath or roadway) that may occur during any works undertaken as part of the development. Any damage that is deemed to create a hazard to the community must be repaired immediately. <u>Infrastructure Conditions</u> 1.6 All development conditions contained in this development approval relating to infrastructure under Chapter 4 of the <i>Planning Act 2016 (the Act)</i> , should be read as being non-trunk infrastructure conditioned under section 145 of the Act, unless otherwise stated.		At all times.
2. Approved Plans and Documents <u>Approved Plans & Documents</u> 2.1 The proposed development must be completed, comply with and maintained generally in accordance with the drawings/ documents	The development must comply with all planning scheme requirements as approved and conditioned by this development permit.	At all times.

Attachment A – Negotiated Conditions of Approval

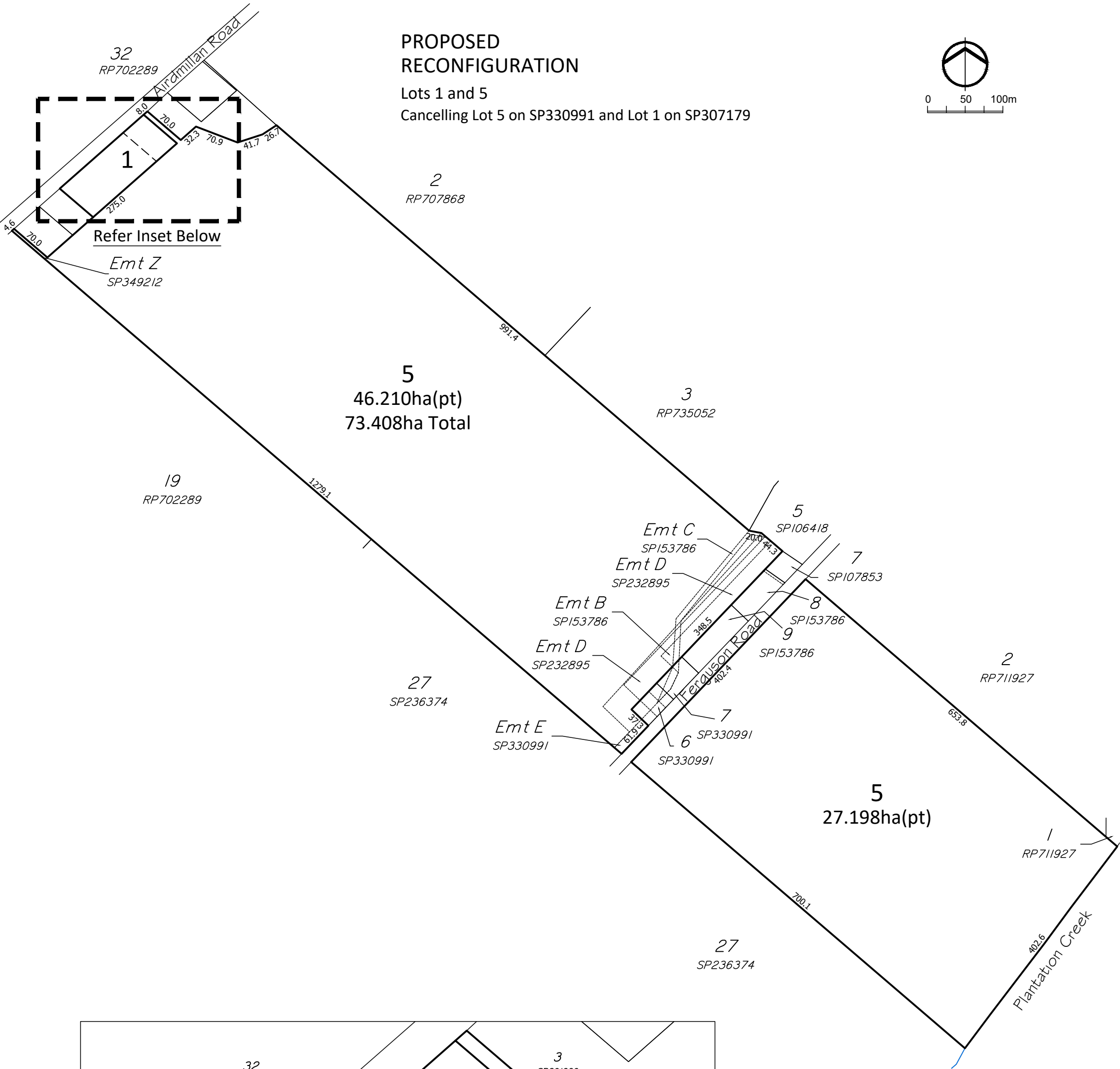
Condition		Reason	Timing
identified below, except as otherwise specified and/or amended by any condition of this approval.			
2.2	The development must be constructed in the position and at the levels identified on the approved plans or as stipulated by a condition of this approval, noting that all boundary setback measurements are taken from the real property boundary and not from such things as road bitumen or fence lines.		
2.3	Where there is any conflict between the conditions of this approval and the details shown on the approved plans and documents, the conditions of approval must prevail.		
Approved Plans			
Drawing Title		Drawing/Revision	Date
Proposed Reconfiguration Lots 1 and 5 Cancelling Lot 5 on SP330991 and Lot 1 on SP307179		55475/017 B	25 March 2026
3. Payment of Rates, Charges and Expenses		Confirmation to be provided to Council prior to the release of the Plan of Survey.	
3.1 Prior to signing the Plan of Survey, payment is required of any outstanding rates or charges levied by the Council or any expenses being a charge over the subject land.			
3.2 Pay the sum calculated at the current charge per lot to be levied on Council by the Department of Resources, for each new valuation.			
4. Services and Infrastructure		To ensure the development is appropriately serviced in accordance with relevant code/s and policy direction.	4.1 Prior to Council approval of the Plan of Subdivision and for the life of the development. 4.2 Prior to the commencement of any future use on the lot.
Water connection			
4.1 Each lot must be provided with a reliable on-site water connection.			
4.1 Lot 5 must retain the existing reliable on-site water connection.			
4.2 Lot 1 must be provided with a reliable on-site water connection.			

Attachment A – Negotiated Conditions of Approval

Condition	Reason	Timing
5. Confirmation of Existing Services 5.1 The existing services for each lot must be contained within the individual allotments unless otherwise conditioned.	To ensure the development is appropriately serviced in accordance with relevant code/s and policy direction.	Confirmation to be provided to Council prior to the release of the Plan of Survey.

Advice

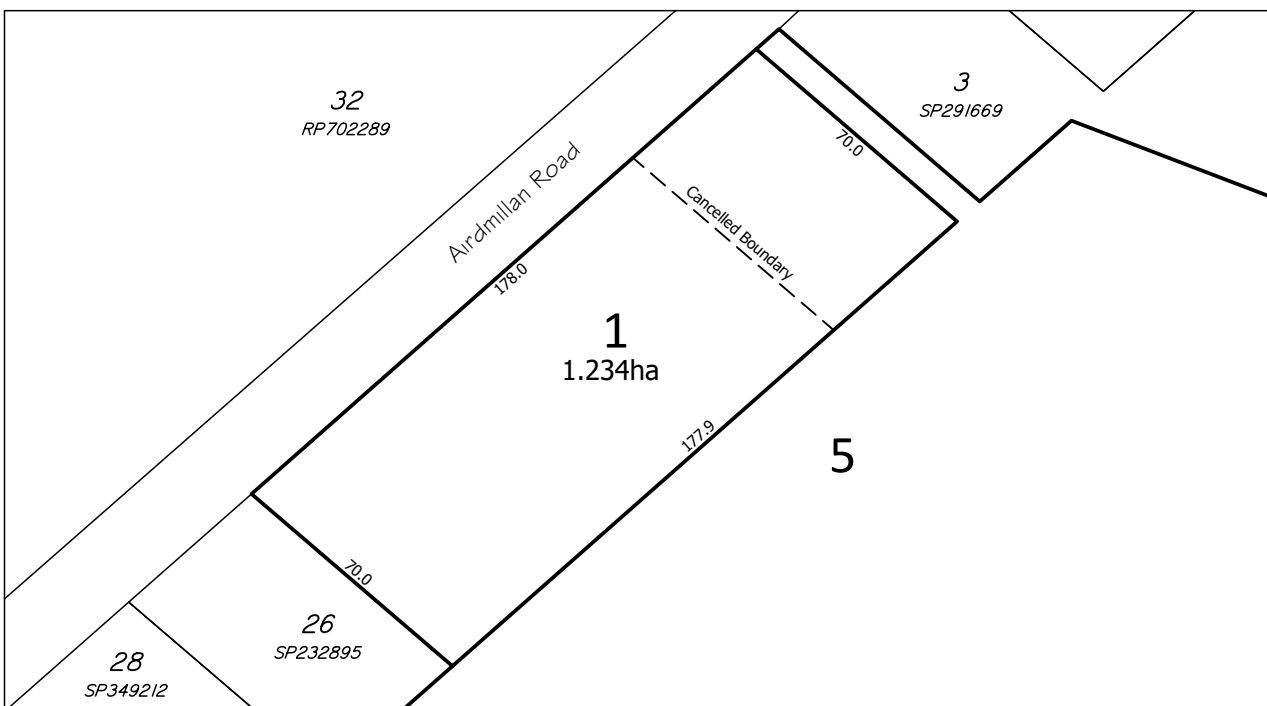
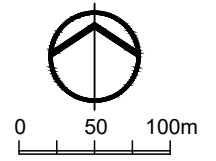
1. Compliance with Conditions Unless otherwise specified by these conditions, the conditions must be complied with prior to Council's endorsement of the Plan of Survey.
2. Acid Sulfate Soils Should the presence of acid sulfate soils or potential acid sulfate soils be detected, an Acid Sulfate Soils Management Plan may be required to be prepared and submitted to Council for approval.
3. Amenity Impacts Use of the site is to be operated in a way that protects the values of the existing environment and will not cause unacceptable impacts on surrounding areas as a result of dust, odour, noise or lighting, in accordance with the <i>Environmental Protection Act 1994</i> .
4. Earthworks Earthworks are not approved as part of this Development Permit. If any earthworks are required and deemed assessable development, an operational works development application is to be lodged with Council for assessment in accordance with relevant code/s and policy direction.
5. Miscellaneous The Applicant is reminded of their obligations under the <i>Aboriginal Cultural Heritage Act 2003</i> and the <i>Torres Strait Islander Cultural Heritage Act 2003</i> . Further information and databases are available from the Department of Aboriginal and Torres Strait Islander Partnerships at: www.datsip.qld.gov.au . If any item of cultural heritage is identified during site works, all work must cease, and the relevant State Agency must be notified. Work can resume only after State Agency clearance is obtained.



PROPOSED RECONFIGURATION

Lots 1 and 5

Cancelling Lot 5 on SP330991 and Lot 1 on SP307179



Inset - 1:2000



Date: 25th March, 2026	A3
Scale: 1:5000	
Drawn: MRS	
Job No: 55475/001-01	
Plan No: 55475/017 B	

braziermotti

braziermotti.com.au

SURVEYING
TOWNPLANNING
PROJECT MANAGEMENT
MAPPING & GIS



This plan is conceptual and for discussion purposes only. All areas, dimensions and land uses are preliminary, subject to investigation, survey, engineering, and Local Authority and Agency approvals.