

22 April 2014

**File Ref:** DA/12/0035  
**Our Ref:** BM:kt

Jumrum Rainforest Pty Ltd  
C/ Planning Far North  
PO Box 7801  
CAIRNS QLD 4870

## Decision Notice

# Approval

*Sustainable Planning Act 2009 s334 and s335*

Dear Applicant/s

**APPLICATION FOR RECONFIGURING A LOT - SUBDIVISION (1 INTO 83 LOTS)**  
**LOT 72 RP 903071**  
**SITUATED AT 1593 KENNEDY HIGHWAY, KURANDA**

I wish to advise that, at Council's Ordinary Meeting held on *16 April 2014* the above development application was -

- Approved in full with conditions.

The conditions relevant to this approval are detailed in **section 6** of this notice. These conditions are clearly identified to indicate whether the Assessment Manager or a Concurrence Agency imposed them.

### Approval under Section 331

This application **has not** been deemed to be approved under Section 331 of the Sustainable Planning Act 2009 (SPA).

#### 1. Details of the approval -

- Development Permit for Reconfiguring a Lot - Subdivision of 1 lot into 83 lots in nine (9) stages

#### 2. Other necessary development permits and/or compliance permits -

Listed below are other development permits and/or compliance permits that are necessary to allow the development to be carried out:

- Development Permit for Operational Works

**3. Other approvals required from Council -**

- NIL

**4. Submissions -**

Not applicable

**5. Conflict with a relevant instrument and reasons for the decision despite the conflict -**

The assessment manager does/does not consider that the assessment manager's decision conflicts with a relevant instrument.

**6. Conditions -****(A) ASSESSMENT MANAGER'S CONDITIONS (COUNCIL)****(a) Development assessable against the Planning Scheme****1. Development must be carried out substantially in accordance with the approved plans and the facts and circumstances of the use as submitted with the application, subject to any alterations:**

- found necessary by Council's delegated officer at the time of examination of the engineering plans or during construction of the development because of particular engineering requirements; and
- to ensure compliance with the following conditions of approval.

**2. Timing of Effect**

- 2.1** The conditions of the development permit must be complied with to the satisfaction of Council's delegated officer prior to the endorsement of the plan of survey, except where specified otherwise in these conditions of approval.

**3. General**

- 3.1** The applicant/developer is responsible for the cost of necessary alterations to existing public utility mains, services or installations required by works in relation to the proposed development or any works required by condition(s) of this approval.
- 3.2** All payments or bonds required to be made to the Council pursuant to any condition of this approval or the Adopted Infrastructure Charges Notice must be made prior to the endorsement of the plan of survey and at the rate applicable at the time of payment.
- 3.3** The developer must relocate (in accordance with FNQROC Development Manual standards) any services such as water, sewer, drainage, telecommunications and electricity that are not wholly located within the lots that are being created/serviced where required by the relevant authority, unless approved by Council's delegated officer.
- 3.4** Where utilities (such as sewers on non-standard alignments) traverse lots to service another lot, easements must be created in favour of Council for access and maintenance purposes. The developer is to pay all costs (including Council's legal expenses) to prepare and register the easement documents.
- 3.5** Where approved existing buildings and structures are to be retained, setbacks to any new property boundaries are to be in accordance with Planning Scheme requirements for the relevant structure and/or Queensland Development Code.

A plan demonstrating compliance must be submitted prior to endorsement of the plan of survey.

3.6 Prior to the endorsement of the plan of survey the applicant must provide a letter from any Concurrence Agencies confirming that their conditions have been complied with and/or that they have no objection to Council's endorsement of the plan of survey.

3.7 All works must be designed, constructed and carried out in accordance with FNQROC Development Manual requirements (as amended) and to the satisfaction of Council's delegated officer.

3.8 Flood Immunity

The applicant/developer must provide a plan showing the extent of a 100 ARI year flood event, certified by a RPEQ (Registered Professional Engineer of Queensland). Where a proposed lot is impacted by the 100 ARI year flow, a building envelope of at least 1000m<sup>2</sup> (minimum dimensions of 20m x 15m) must be provided at least **300mm** above 100 ARI year flood levels.

3.9 No filling is to occur below the 100 ARI flood level unless approved as part of a subsequent development permit for operational works.

3.10 Environmental Covenant

The applicant shall be responsible for the preparation and registration of a statutory covenant with Council pursuant to S97A of the Land Title Act for the purposes of preserving native animals, plants and their habitat.

The covenant area shall comprise all parts of each lot excluding the building envelopes identified on Drawing Number 1180 SK14-34 Amdt B and the areas required for approved operational works infrastructure, to the satisfaction of Council's delegated officer.

The covenant must stipulate that the covenant area must be protected, preserved and conserved, including by strictly adhering to the following non-exhaustive conditions (which may be varied by written agreement between the parties):-

- (a) no existing living vegetation or hereafter existing in the covenant area, may be cut down, damaged or destroyed;
- (b) no buildings or fences may be erected in the covenant area;
- (c) no native animals within the covenant area shall be killed or interfered with;
- (d) no other acts may be carried out on or in respect of the covenant area which, in the opinion of the Council, acting reasonably may have a detrimental impact on the covenant area;

Notwithstanding clause (a) to (d), if any living or dead vegetation on the covenant area poses a risk to human safety:-

- (e) The vegetation may be cut down or trimmed with the prior written consent of the Council, not to be unreasonably withheld, so as to remove the risk;

Notwithstanding clause (a) to (e), if any native or indigenous animal on the covenant area poses a risk to human safety the native or indigenous animal may

be removed with the prior written consent of the Council and any other approvals which might be required by law.

The covenant agreement shall be signed by the registered owner prior to endorsement of the survey plan by Council and the signed covenant shall be jointly lodged for registration with the survey plan, in the Department of Natural Resources & Mines.

The covenant document shall be to the satisfaction of Council's delegated officer, and the applicant shall be responsible for the cost of preparation and registration of the covenant.

### 3.11 Bushfire Management

#### Buildings and Structures

- are sited in locations of lowest hazard within the lot;
- achieve setbacks from hazardous vegetation of 1.5 times the predominant mature canopy tree height or 10 metres, whichever is the greater;
- are 10 metres from any retained vegetation strips or small areas of vegetation;
- are sited so that elements of the development least susceptible to fire are sited closest to the bushfire hazard; and
- are connected to a reticulated water supply with a minimum flow and pressure of 10 litres a second and 200kPa.

#### Bushfire Management Plan

A Bushfire Management Plan will be prepared in accordance with Appendix 8 of State Planning Policy 1/03 - Mitigating the Adverse Impacts of Flood, Bushfire and Landslide to the satisfaction of Council's delegated officer.

The approved use will comply with the requirements of the Management Plan at all times.

### 3.12 Landslide

For each building envelope containing a slope of 15% or greater, the developer must provide site-specific geo-technical report prepared by a suitably qualified Registered Professional Engineer of Queensland (RPEQ) that certifies:

- The long term stability of the building envelope; and
- The building envelope will not be adversely affected by landslide activity originating on sloping land above the development site.

### 3.13 Charges

All outstanding rates, charges and expenses pertaining to the land are to be paid in full.

## 4. Infrastructure Services and Standards

### 4.1 Access

Access must be provided/constructed to each allotment in accordance with the FNQROC Development Manual, to the satisfaction of Council's delegated officer.

A bitumen sealed or concrete driveway shall be provided within each battleaxe lot access handle to the satisfaction of Council's delegated officer. Each driveway will:

- have a minimum formation width of 3 metres
- be constructed for the full length of the access handle
- be formed with one-way crossfall to cater for stormwater drainage such that any stormwater runoff is contained within the access strip
- service and utility conduits are to be provided for the full length of the concrete or sealed driveway constructed within the access handle of the battle axe allotment(s).

#### 4.2 Easements

An easement must be provided over the access handle for Lot 63 in favour of Lots 61 and 62 for the purposes of access/drainage/maintenance.

A bitumen sealed or concrete driveway shall be provided within the access easement to the satisfaction of Council's delegated officer. The driveway will:

- have a minimum formation width of 3 metres
- be constructed for the full length of the access handle
- be formed with one-way crossfall to cater for stormwater drainage such that any stormwater runoff is contained within the access strip
- service and utility conduits are to be provided for the full length of the concrete or sealed driveway constructed within the access handle of the battle axe allotment(s).

Where Council is party to a proposed easement and/or if the proposed easement is in favour of Council the applicant/developer is to pay all costs (including Council's legal expenses) to prepare and register the easement documents, using Council's standard form of easement. The approved easement documents must be submitted at the same time the applicant/developer seeks endorsement of the plan of survey and must be lodged and registered in the Department of Natural Resources & Mines in conjunction with the plan of survey.

#### 4.3 Stormwater Drainage/Water Quality

- (a) As part of any subsequent application for Operational Works, the applicant must submit a Stormwater Management Plan and Report prepared and certified by a suitably qualified design engineer (RPEQ) that meets or exceeds the standards of design and construction set out in the Queensland Urban Drainage Manual (QUDM) and the FNQROC Development Manual to the satisfaction of Council's delegated officer.
- (b) That Stormwater Management Plan will deal with the entire site, and will also generally be in accordance with the plan prepared by Jim Papas Drafting Pty Ltd on 16 April 2013, and must ensure a non-worsening effect on surrounding land as a consequence of the development, and must take all reasonable and practicable measures to ensure discharge occurs in compliance with the Queensland Urban Drainage Manual (QUDM) and the FNQROC Development Manual.
- (c) As part of any subsequent application for operational works the applicant must also provide:
  - A Stormwater Quality Management Plan and Report prepared and certified by a suitably qualified design engineer (RPEQ) that meets or exceeds the standards of design and construction set out in the

Urban Stormwater Quality Planning Guideline and the Queensland Water Quality Guideline to the satisfaction of Council's delegated officer;

- The Stormwater Quality Management Plan must include an Erosion and Sediment Control Plan that meets or exceeds the Soil Erosion and Sedimentation Control Guidelines (Institute of Engineers Australia) to the satisfaction of Council's delegated officer; and
  - A demonstration of compliance against the Filling and Excavation Code.
- (d) All stormwater channels through private property must be registered, with the easement for drainage purposes in favour of Council. All documentation leading to the registration of the easement must be completed at no cost to Council.
- (e) Construction of drainage must be to FNQROC standards (section D4), including the provision for an ARI 100 year overland flow through open space areas, or, easements within the balance area.
- (f) All stormwater drainage must be collected from site and discharged to an approved legal point of discharge, being the proposed retention basins in this instance.
- (g) The applicant must video (at their cost) all stormwater lines and submit the video for inspection by Council's delegated officer prior to the development being taken "off maintenance" to ensure that no defects have occurred during the 12 month maintenance period.
- (h) Detention basins that are constructed within existing creeks and gullies and that are within the Environmental Covenant areas (Condition 3.10) shall be left in the natural condition as much as practicable. Any detention basins that are not within the Environmental Covenant areas shall be constructed such that they are capable of being mowed where necessary, landscaped and maintained. Batter slopes within areas intended for park will be a maximum of 1 in 6 for park road frontages, and 1 in 4 in all other cases.
- (i) Any necessary temporary drains and associated drainage easements within the balance area will be provided as part of the relevant stage works and survey plans.

#### 4.4 Earthworks

As part of a subsequent application for Operational Works, an earthworks plan is to be submitted, prepared by a suitably qualified RPEQ demonstrating compliance with the Filling and Excavation Code including the following detail:

- Maintenance of access roads to and from the site such that they remain free of all fill material and are cleaned as necessary
- Preservation of all drainage structures from the effects of structural loading generated by the earthworks;
- Protection of adjoining properties and roads from ponding or nuisance from stormwater.

All site earthworks, drainage and pavement construction are to be designed and supervised by a RPEQ. Testing is to be carried out by NATA Registered Laboratories and results submitted as part of the As Constructed information. The Supervising Engineer must submit a certificate demonstrating that all work

has been satisfactorily completed to the quality control criteria for the site and in accordance with AS3798 (as amended).

#### 4.5 Roadworks – External Construction

The developer is required to construct the following works, designed in accordance with FNQROC Development Manual standards to the satisfaction of Council's delegated officer.

- (i) In Stage 1, the construction of frontage works on Fallon Road generally in accordance with Jim Papas Drafting Pty Ltd Drawing number 1180 C04 Amdt B.
- (ii) In Stage 2A, the reconstruction of the 90 degree corner on Fallon Road (adjacent to Lot 3 on RP857692) with improved vertical alignment, and improved horizontal alignment to the extent achievable within the existing road reserve.
- (iii) In Stage 2A, the construction of kerbing on the southern side of Fallon Road from the end of the kerb constructed under 4.5(i), up to about Chainage 25 on Fallon Road as shown on Jim Papas Drafting Pty Ltd Drawing number 1180 C04 Amdt B.
- (iv) The value (as agreed by Council's delegated officer) of the external works required under Condition 4.5 (ii) and (iii), shall be credited towards any contribution required under Mareeba Shire Planning Scheme Policy No. 6: Augmentation of the Road Network Contribution.

Prior to works commencing, plans for the works described above must be approved as part of an Operational Works application.

#### 4.6 Roadworks – Internal

Internal Road A must be constructed to Minor Collector Road standard in accordance with FNQROC Development Manual standards to the satisfaction of Council's delegated officer.

All other internal roads must be constructed to Access Street standard in accordance with FNQROC Development Manual standards to the satisfaction of Council's delegated officer.

A temporary turnaround area, with gravel surface, must be provided at the end of the new road construction adjacent to the balance area of the overall subdivision to allow traffic manoeuvring.

#### 4.7 Water Supply

- (a) Where the existing reticulated water supply does not currently service the site or is not at an adequate capacity, the developer is required to extend or upgrade the reticulated water supply infrastructure to connect the site to Council's existing infrastructure at a point that has sufficient capacity to service the development in accordance with FNQROC Development Manual standards (as amended). The water reticulation shall be constructed generally in accordance with the Jim Papas Drafting Pty Ltd Drawing Number 1180 SK14-70(A).
- (b) Specific water supply infrastructure requirements:

- (i) Stage 1, 2A and 2B, up to a maximum of 33 lots, is to be supplied by a minimum of 150 mm nominal bore water main connected to Council's existing water infrastructure within Fallon Road;
  - (ii) Before or during the development of a 34<sup>th</sup> lot, a second water main of an appropriate size agreed to by Council's delegated officer is to be constructed from Masons Road to the development, extending to and connecting with the main constructed under (b)(i).
  - (iii) Council suggests that the applicant seek an easement through a neighbouring allotment such as Lot 0 on SP111147 to facilitate the second connection required under (b)(ii). Any easement must be created in favour of Council for water supply purposes.
  - (iv) The value (as agreed by Council's delegated officer) of the works associated with the second water main described in (b)(ii) including acquiring, surveying and registering the easement, design, construction and connection of the water main, shall be credited towards any contribution under Mareeba Shire Planning Scheme Policy 2 - Headworks Charges for Water Supply and Sewerage.
- (c) A water service connection must be provided to each proposed lot in accordance with FNQROC Development Manual standards (as amended) to the satisfaction of Council's delegated officer.

#### 4.8 On-Site Wastewater Management

At the time of building construction an on-site effluent disposal system must be constructed on each lot generally in accordance with the report prepared by Golder Associates and received at Council on 12 April 2013 in compliance with the latest version On-Site Domestic Wastewater Management Standard (ASNZ1547) to the satisfaction of the Council's delegated officer.

#### 4.9 Electricity provision/supply

The applicant/developer must ensure that an appropriate level of electricity supply is provided to each allotment in accordance with FNQROC Development Manual standards (as amended) to the satisfaction of Council's delegated officer.

Written advice from an Electricity Service Provider is to be provided to Council indicating that an agreement has been made for the provision of **underground** power reticulation.

#### 4.10 Telecommunications

The applicant/developer must enter into an agreement with a telecommunication carrier to provide telecommunication services to each allotment and arrange provision of necessary conduits and enveloping pipes.

#### 4.11 Pathway linking Road D to Road C - Stage 3E

- (a) A 2m wide pedestrian/cycle concrete path will be provided generally in accordance with the requirements of the FNQROC Development Manual, and to the satisfaction of Council's delegated officer.
- (b) A plan of the pedestrian/cycle path will be submitted prior to lodgement of an application for Operational Works for Stage 3E.

#### 4.12 Lighting



Street lighting must be provided to all roads in accordance with FNQROC Development Manual requirements (as amended) and to the satisfaction of Council's delegated officer.

#### 4.13 Street Tree Planting

Street tree planting must be provided in accordance with FNQROC Development Manual requirements (as amended) and to the satisfaction of Council's delegated officer. The plan depicting species must be submitted to Council's delegated officer for approval. The street trees must be planted in accordance with the approved plan.

#### 4.14 Building Envelope

- (a) All buildings and associated firebreak and effluent disposal areas for each allotment must be located within the approved Building Envelope for the respective allotment as identified on Drawing Number 1180 SK14-34 Amdt B - Plan of Building Envelopes dated August 2012.
- (b) No vegetation is to be removed for the purposes of a dwelling and development ancillary to a dwelling, including for on-site effluent disposal, from outside the designated building envelope.
- (c) The two (2) isolated areas of building envelope on proposed Lots 10 and 11 within the Q100 inundation area as identified on Drawing 1180 SK14-34 Amdt B must be restricted to non-habitable uses that are without walls, such as barbeque shelters and pavilions.

#### 4.15 Landscaping / Site Maintenance

Landscaping / site maintenance carried out as per this approval, and in accordance with the FNQROC Manual, shall be maintained for all areas, including parks, covenants, easements, noise mounds, traffic islands, medians, roundabouts and road verges as follows:

- replacement of trees / shrubs / plantings as required
- landscaping / site maintenance shall include mowing / slashing of all areas outlined above
- landscaping / site maintenance is to be continued throughout the Defects Liability Period until date of Final Acceptance

**Contrary to Section D9.23 Paragraph 7 of the FNQROC Manual, the maintenance period for irrigation works and landscaping shall be a minimum of twelve months.**

#### (B) ASSESSMENT MANAGER'S ADVICE

- (a) An Adopted Infrastructure Charges Notice has been issued with respect to the approved development. The Adopted Infrastructure Charges Notice details the type of infrastructure charge/s, the amount of the charge/s and when the charge/s are payable.
- (b) The Adopted Infrastructure Charges Notice does not include all charges or payments that are payable with respect to the approved development. A number of other charges or payments may be payable as conditions of approval. The applicable fee is set out in Council's Fees & Charges Schedule for each respective financial year.
- (c) Easement Documents

The Mareeba Shire Council has developed standard easement documentation to assist in the drafting of formal easement documents for Council easements. Please contact the Regional Land Use Planning Group for more information regarding the drafting of easement documents for Council easements.

(d) Endorsement Fees

Please be advised that Council charges a fee for the endorsement of a Survey Plan, Community Management Statements, easement documents, and covenants. The fee is set out in Council's Fees & Charges Schedule applicable for each respective financial year.

(e) Compliance with applicable codes/policies

The development must be carried out to ensure compliance with the provisions of Council's Local Laws, Planning Scheme Policies, Planning Scheme and Planning Scheme Codes to the extent they have not been varied by a condition of this approval.

(f) Notation on Rates Record

A notation will be placed on Council's Rate record with respect to each lot regarding the following conditions:

- a registered covenant
- an approved building envelope plan
- conditions regarding bushfire management
- an approved bushfire management plan
- a registered easement over the subject site
- flood immunity
- An on-site effluent disposal system must be constructed in accordance with the approved site and soil evaluation report
- Department of Transport and Main Road conditions and Department of Natural Resources and Mines conditions.

(g) Transportation of Soil

All soil transport to or from the site must be covered to prevent dust or spillage during transport. If soil is tracked or spilt onto the road pavements as a result of works on the subject site, it must be removed prior to the end of the working day and within four (4) hours of a request from a Council Officer.

(h) Environmental Protection and Biodiversity Conservation Act 1999

The applicant is advised that referral may be required under the *Environmental Protection and Biodiversity Conservation Act 1999* if the proposed activities are likely to have a significant impact on a matter of national environmental significance. Further information on these matters can be obtained from [www.environment.gov.au](http://www.environment.gov.au).

(i) Cultural Heritage

In carrying out the activity the applicant must take all reasonable and practicable measures to ensure that no harm is done to Aboriginal cultural heritage (the "cultural heritage duty of care"). The applicant will comply with the cultural heritage duty of care if the applicant acts in accordance with gazetted cultural heritage duty of care guidelines. An assessment of the proposed activity against the duty of care guidelines will determine whether or to what extent Aboriginal cultural heritage may be harmed by the activity. Further information on cultural heritage, together with a copy of the duty of care guidelines and cultural heritage search forms, may be obtained from [www.datsima.qld.gov.au](http://www.datsima.qld.gov.au).

**7. IDAS referral agencies -**

The IDAS Referral Agencies applicable to this application are:

For an application involving	Name of referral agency	Status	Address
<p>Clearing Vegetation If the reconfiguration involves any lot with an area of 2 ha or larger AND the size of any lot to be created is 25 ha or smaller AND</p> <p>On any lot created, additional exempt operational work, other than operational work that is only the clearing of regulated regrowth vegetation can be carried out</p>	Department of Natural Resources and Mines	Concurrence	<p>Administration Officer Permit and Licence Management Implementation &amp; Support Unit Department of Environment &amp; Heritage Protection GPO Box 2454 CITY EAST QLD 4001</p>
<p>Reconfiguring a lot on land relating to a State-controlled road unless: (a) the total number of lots is not increased; and (b) the total number of lots abutting the State-controlled road is not increased</p>	Department of Transport & Main Roads	Concurrence	<p>Department of Transport &amp; Main Roads Assets &amp; Operations Far North Region (Cairns) PO Box 6185 CAIRNS QLD 4870 Attn: Senior Planner</p>

**8. Approved Plans -**

The approved plans and/or documents for this development approval area listed in the following table:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
1180 SK14-32 Amdt C	Dimensions of Proposed Lots	Jim Papas Drafting Pty Ltd	29.01.13
1180 SK14-33 Amdt B	Lot Layout, Building Envelopes and Extent of Clearing	Jim Papas Drafting Pty Ltd	29.01.13
1180 SK14-34 Amdt B	Plan of Building Envelopes	Jim Papas Drafting Pty Ltd	29.01.13
1180 SK14-36 Amdt B	Proposed Road Layout and Stormwater Drainage	Jim Papas Drafting Pty Ltd	29.01.13
1180 SK14-37 Amdt B	Water and Soil Management Plan	Jim Papas Drafting Pty Ltd	29.01.13
1180 SK14-38 Amdt A	Plan of Building Envelopes overlaying Existing Contours and Slope Analysis	Jim Papas Drafting Pty Ltd	28.01.13
1180 C04 Amdt B	Roadworks and Stormwater Drainage Plan	Jim Papas Drafting Pty Ltd	28.02.11

**9. When approval lapses if development not started (s341)**

This development approval will lapse in accordance with Section 341 of the Sustainable Planning Act 2009 if development does not start within relevant period as stated below:

- Reconfiguring a Lot requiring Operational Works – four (4) years (starting the day the approval takes effect);

If there is one (1) or more subsequent related approvals' for a development approval for a Material Change of Use or a reconfiguration, the relevant period for the approval will be taken to have started on the day the latest related approval takes effect.

**10. Appeal rights –*****Applicant may make representations about decision***

The applicant may make written representations to the assessment manager about: -

- (a) a matter stated in the decision notice, other than a refusal or a matter about which a concurrence agency told the assessment manager under section 287(1) or (5); or
- (b) the standard conditions applying to a deemed approval.

However, the applicant can not make representations under subsection (1)(a) about a condition attached to an approval under the direction of the Minister.

**Attachment 3** is an extract from SPA which contains details regarding making representations about the decision.

***Appeals by applicants***

An applicant for a development application may appeal to the Planning and Environment Court against the following:

- the refusal, or refusal in part of the development application
- any condition of a development approval, another matter stated in a development approval and the identification or inclusion of a code under section 242 of SPA
- the decision to give a preliminary approval when a development permit was applied for
- the length of a period mentioned in section 341
- a deemed refusal of the development application.

The timeframes for starting an appeal in the Planning and Environment Court are set out in section 461(2) of SPA.

Applicants may also have a right to appeal to the Building and Development Dispute Resolution Committee. For more details, see SPA, chapter 7, part 2.

***Appeals by submitters***

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

- the part of the approval relating to the assessment manager's decision about any part of the application requiring impact assessment
- the part of the approval relating to the assessment manager's decision under section 327.

Details about submitter appeal rights for the Planning and Environment Court are set out in sections 462, 463 and 464 of SPA.

Submitters may also have a right to appeal to the Building and Development Dispute Resolution Committee. For more details, see SPA, chapter 7, part 2.

**Attachment 4** is an extract from SPA which details the applicant's appeal rights and the appeal rights of any submitters regarding this decision.

**11. When the development approval takes effect -**

This development approval takes effect:

- from the time the decision notice is given, if there is no submitter and the applicant does not appeal the decision to the court

**OR**

- subject to the decision of the court, when the appeal is finally decided, if an appeal is made to the court.

Should you require any further information please contact Council's **Senior Planner, Brian Millard** on the above telephone number.

Yours faithfully

**BRIAN MILLARD  
SENIOR PLANNER**

**Enclosures:**

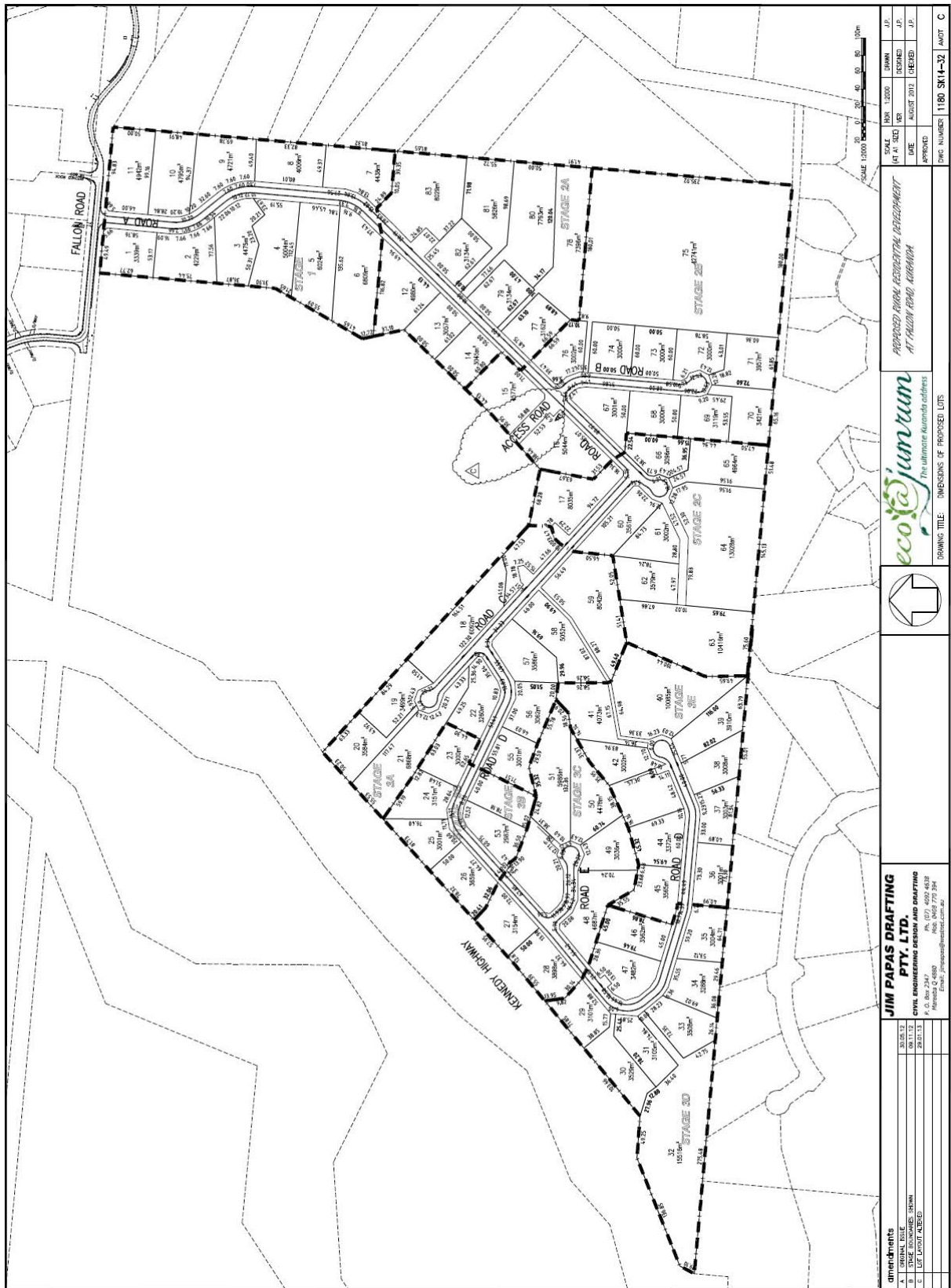
**Attachment 1 - Approved Plans of Development  
Attachment 2 - Concurrence Agency Conditions  
Attachment 3 - SPA Extract - Making Representations about Decision  
Attachment 4 - SPA Extract on Appeal Rights**

**Copy:**

**SARA Cairns  
Department of Transport and Main Roads  
REF: TMR12-004751 (500/371)  
[CairnsSARA@dsdip.qld.gov.au](mailto:CairnsSARA@dsdip.qld.gov.au)**

**SARA Cairns  
Department of Natural Resources and Mines  
REF: Ecotrack:512454 / eLVAS: 2013/000437  
[CairnsSARA@dsdip.qld.gov.au](mailto:CairnsSARA@dsdip.qld.gov.au)**

ATTACHMENT 1 - APPROVED PLANS OF DEVELOPMENT (DWS VS 3259063)

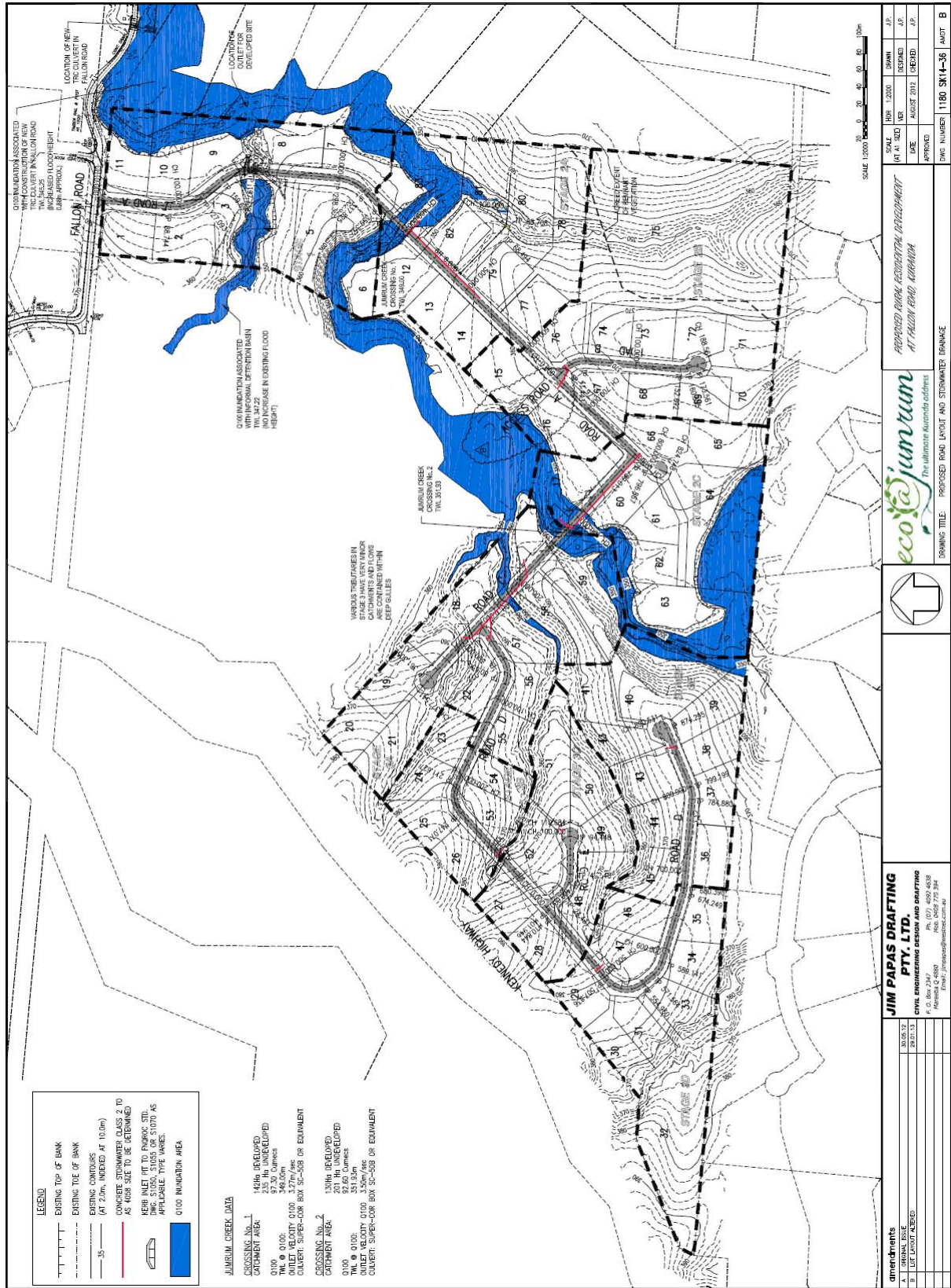












**LEGEND**

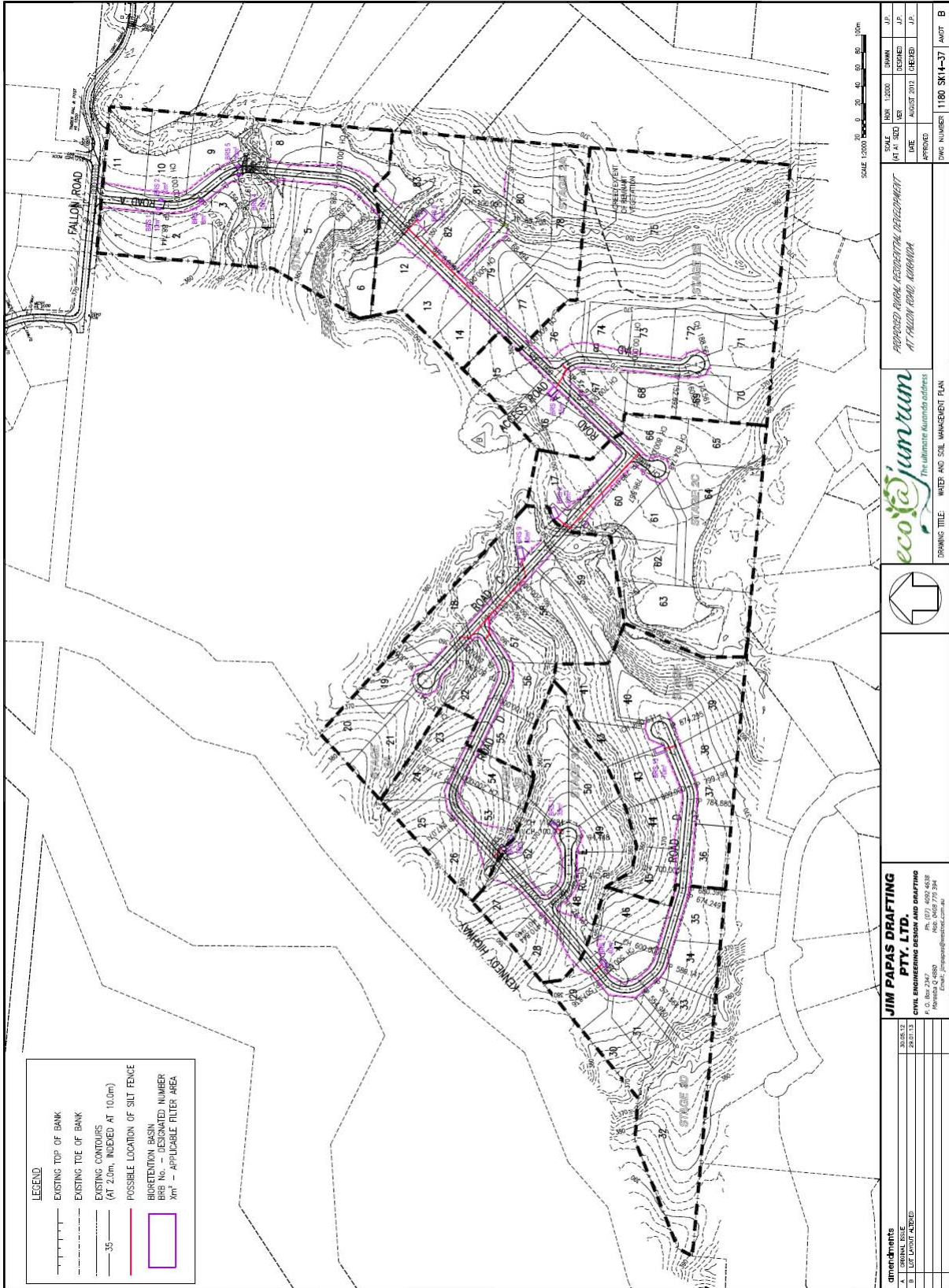
- EXISTING TOP OF BANK
- EXISTING TIE OF BANK
- EXISTING CONTOUR (1/2m, INDEXED AT 10.0m)
- CONCRETE STORMWATER CLASS 2 TO AS 4008 SIE TO BE DETERMINED
- KERR INLET (FIT TO FINISH STD. AS 4008 TO 45)
- APPLICABLE TIE MARKS
- 0100 INUNDATION AREA

**JUMBURUM CREEK DATA**

**CROSSING No. 1**  
 CATCHMENT AREA: 141ha (DEVELOPED)  
 0100: 47.30 Cumecs  
 TIE @ 0100: 146.00m  
 INLET VELOCITY: 0.45  
 CULVERT: SUPER-COR BOX 300x300 OR EQUIVALENT

**CROSSING No. 2**  
 CATCHMENT AREA: 131ha (DEVELOPED)  
 0100: 201 Ha (UNDEVELOPED)  
 0100: 61.05 Cumecs  
 INLET VELOCITY: 0.45  
 CULVERT: SUPER-COR BOX 300x300 OR EQUIVALENT

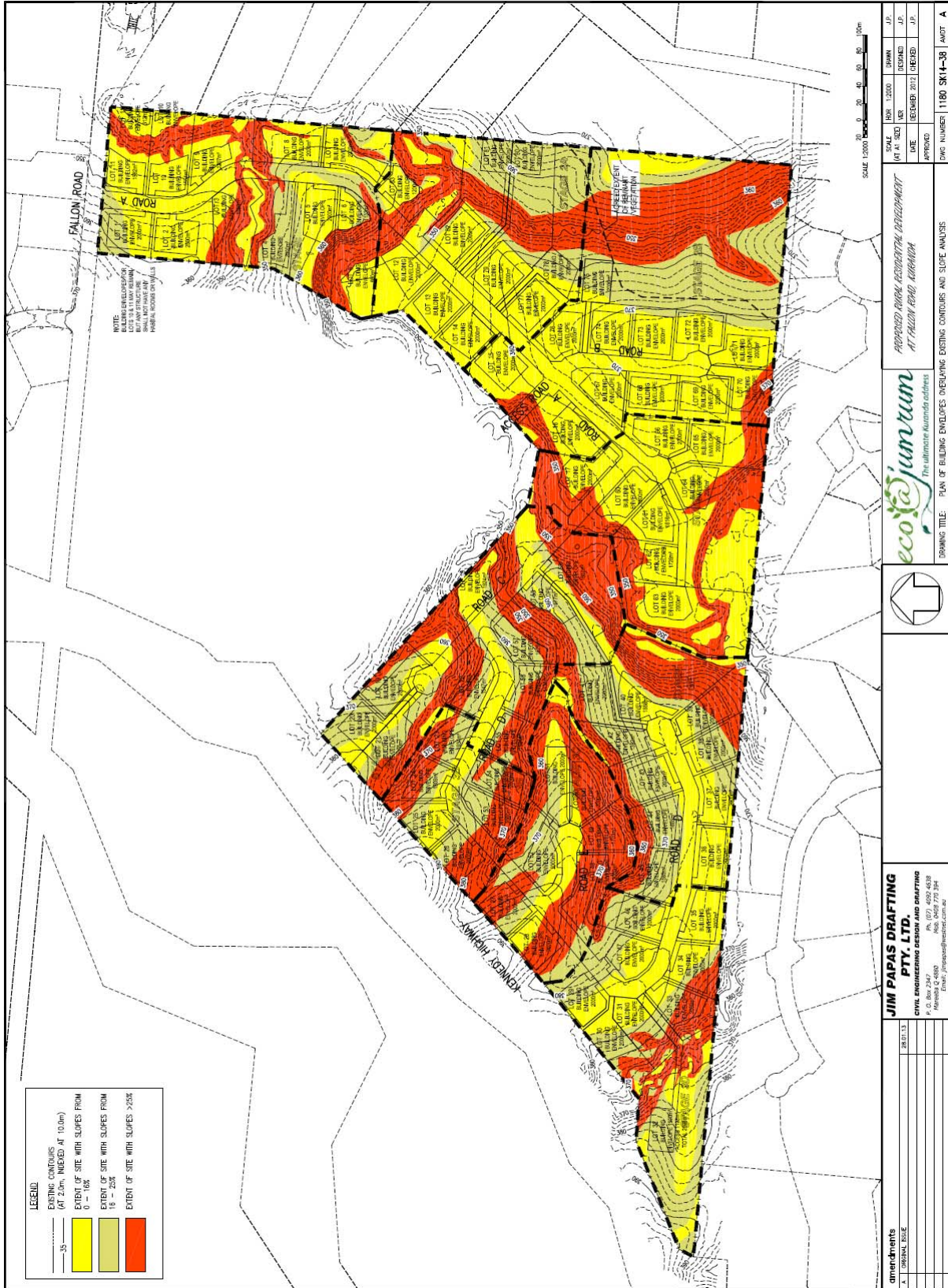
<b>JIM PAPAS DRAFTING</b>		<b>APPROVED BANK RECONSTRUCTION DEVELOPMENT AT FALLON ROAD, ABERNETHY</b>	
PTV. LTD.		ecoviva jumburum	
CIVIL ENGINEERING DESIGN AND DRAFTING		The ultimate Queensland address	
10/1100 FALLON ROAD, ABERNETHY QLD 4800		DRAWING TITLE: PROPOSED ROAD LAYOUT AND STORMWATER DRAINAGE	
Ph: (07) 5577 394		DRAWING NO: 1180 SK14-36	
Fax: (07) 5577 394		AWOT: B	
Email: j.papas@papasdrafting.com.au		DATE: AUGUST 2013	
		CHECKED: J.P.	
		DESIGNED: J.P.	
		DRAWN: J.P.	
		SCALE: 1:1000	
		DATE: AUGUST 2013	
		DRAWN: J.P.	
		CHECKED: J.P.	
		DESIGNED: J.P.	
		DRAWN: J.P.	

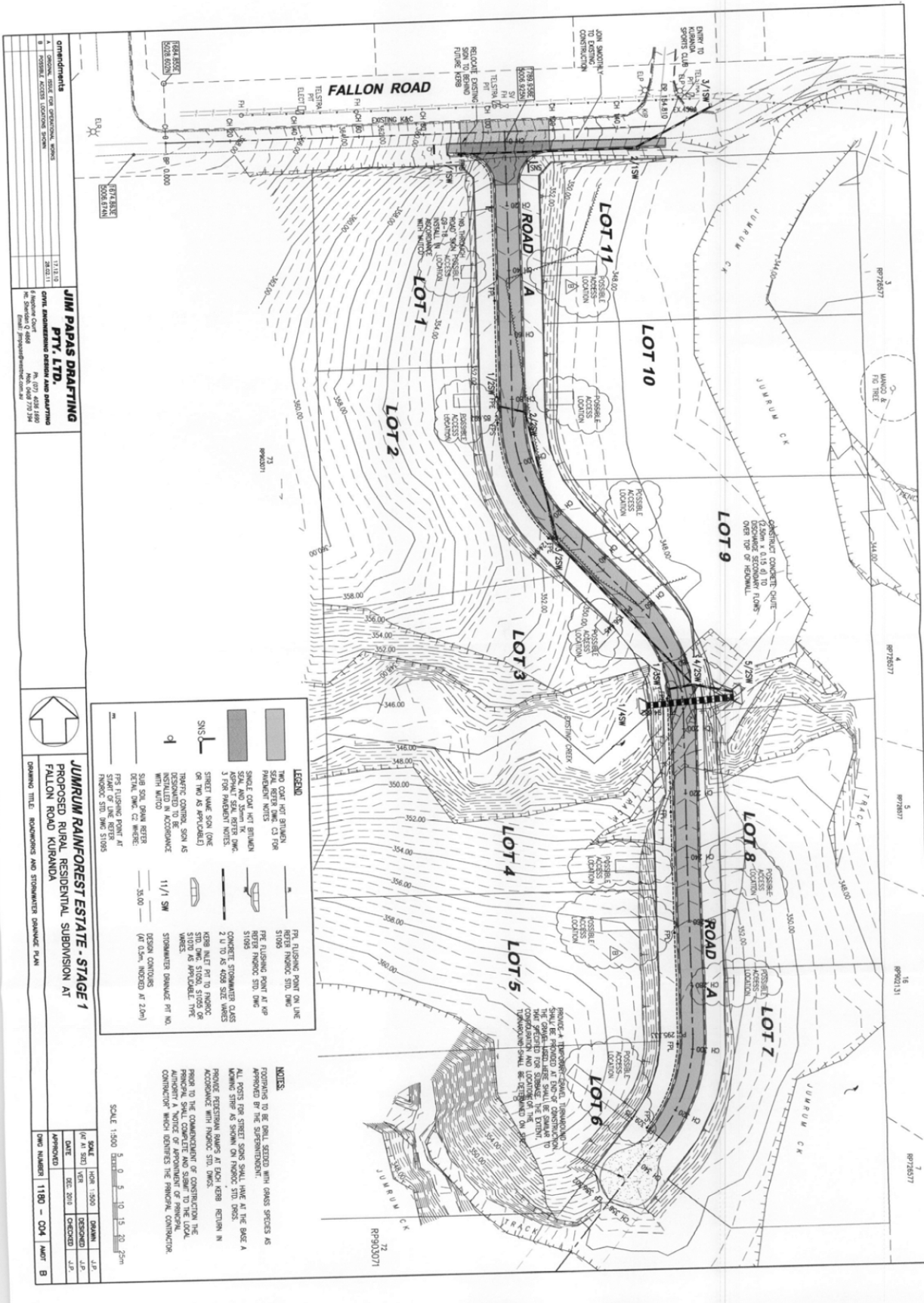


LEGEND	
	EXISTING TOP OF BANK
	EXISTING TOE OF BANK
	EXISTING CONTOURS (AT 2.0m, INDEXED AT 10.0m)
	POSSIBLE LOCATION OF SILT FENCE
	BIORETENTION BASIN
	APPLICABLE FILTER AREA

<p><b>JIM PAPAS DRAFTING</b>  <b>PTY. LTD.</b>          CIVIL ENGINEERING DESIGN AND DRAFTING          P.O. Box 214600          Auckland          Email: j.papas@imaster.com.au</p>		<p><b>eco@junior</b>          The ultimate education address          DRAWING TITLE: WATER AND SOIL MANAGEMENT PLAN</p>													
<p>amendments</p> <table border="1"> <tr> <td>NO.</td> <td>DATE</td> <td>BY</td> <td>REASON</td> </tr> <tr> <td>1</td> <td>2013.12</td> <td>...</td> <td>...</td> </tr> <tr> <td>2</td> <td>2014.01</td> <td>...</td> <td>...</td> </tr> </table>		NO.	DATE	BY	REASON	1	2013.12	...	...	2	2014.01	...	...	<p>APPROVED PARK ECOLOGICAL INTERPRETATION          AT FALLON ROAD, MAREEBA</p>	
NO.	DATE	BY	REASON												
1	2013.12	...	...												
2	2014.01	...	...												
<p>DATE: 10/04/2014          DRAWN: J.P.          CHECKED: J.P.          DATE: 10/04/2014          DESIGNED: J.P.          DATE: 10/04/2014          DECIDED: J.P.          DATE: 10/04/2014          APPROVED: J.P.</p>		<p>DWG NUMBERS: 1180 SK(4-37) AMOT B</p>													







ATTACHMENT 2 - CONCURRENCE AGENCY CONDITIONS

URP - ROC  
IT Planning



26 November 2012

The Chief Executive Officer  
Tablelands Regional Council  
PO Box 573  
ATHERTON QLD 4883

Attention: Brian Millard

THE ORIGINAL OF THIS DOCUMENT  
CAN BE FOUND ON PHYSICAL FILE  
DA/12/0035  
LOCATION: IT Planning



Dear Sir

**CONCURRENCE AGENCY RESPONSE – CONDITIONS**

**Proposed Development:** DEVELOPMENT PERMIT for RECONFIGURATION OF LOT (83 LOTS & NEW ROADS)  
**Real Property Description:** Lot 72RP903071  
**Street Address:** 1593 Kennedy Highway, Kuranda QLD 4881  
**Assessment Manager ref.:** DA/12/0035(M)-(REC/08/0064)  
**Local Government Area:** Tablelands Regional Council

Reference is made to the referral agency material for the development application described above which was received by the Department of Transport and Main Roads (the department) under section 272 of the *Sustainable Planning Act 2009* (SPA) on 23 November 2012.

An assessment of the proposed development has been undertaken against the purposes of the *Transport Infrastructure Act 1994* for state-controlled roads. Based on this jurisdiction, the department provides this concurrence agency response under Section 285 of the SPA in accordance with the following submitted material:

Name of Report/ Plan Title	Author/ Consultant	Report/ Plan Number & Version	Report/Plan Date
Town Planning Report	Planning Far North	C12-033	November 2012
Lot Layout, Building Envelopes & Extent of Clearing	Jim Papas Drafting	1180 SK14-33 Amdt A	August 2012

Department of Transport and Main Roads  
Program Delivery and Operations  
Far North Region  
Cairns Corporate Tower, 15 Lake Street Cairns Queensland 4870  
PO Box 6185 Cairns Queensland 4870

Our ref TMR12-004751 (500/371)  
Your ref DA/12/0035(M)-(REC/08/0064)  
Enquiries Malcolm Hardy  
Telephone +61 7 4050 5511  
Facsimile +61 7 40505429  
Website www.tmr.qld.gov.au  
Email Malcolm.R.Hardy@tmr.qld.gov.au

The department advises the assessment manager that it requires conditions to attach to any development approval for the application. The department would also like to provide advice about the application to the assessment manager under Section 287(6) of the SPA.

Under Section 325(1) of the SPA, the assessment manager must therefore attach this response, including the enclosed Department of Transport and Main Roads Concurrence Agency Conditions and Statement of Reasons, to any approval for the application.

The department may change its concurrence agency response in accordance with Section 290(1)(b) of the SPA.

The department must be provided with a copy of the assessment manager's decision notice regarding the application within five (5) business days after the day the decision is made in accordance with Section 334 of the SPA.

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

If you have any questions or wish to seek clarification about any of the details in this response, please contact Malcolm Hardy, Senior Town Planner (Corridor Management) on 07 4050 5511.

Yours sincerely



Malcolm Hardy  
**Senior Town Planner (Corridor Management)**

Enc. Department of Transport and Main Roads Agency Conditions and Statement of Reasons

C/c Jumrum Rainforest Pty Ltd  
C/- Planning Far North Pty Ltd  
PO Box 7801  
Cairns QLD 4870



Our ref.: TMR12-004751 (500/371)  
Your ref.: C12-033

C/c Jumrum Rainforest Pty Ltd  
C/- Planning Far North Pty Ltd  
PO Box 7801  
Cairns QLD 4870

Attention: Bruce Hedley

Please find attached correspondence for your information and action as required. Should you wish to discuss this correspondence, please contact Malcolm Hardy, Senior Town Planner (Corridor Management) on 07 4050 5511.

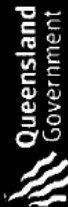
Yours sincerely

A handwritten signature in black ink that reads "Malcolm Hardy".

Malcolm Hardy  
**Senior Town Planner (Corridor Management)**

26 November 2012

Enc. Department of Transport and Main Roads Agency Conditions and Statement of Reasons



**Department of Transport and Main Roads  
Concurrence Agency Conditions and Statement of Reasons**

**Proposed Development:** DEVELOPMENT PERMIT for RECONFIGURATION OF LOT (83 LOTS & NEW ROADS)  
**Real Property Description:** Lot 72RP903071  
**Street Address:** 1593 Kennedy Highway, Kuranda QLD 4881  
**Assessment Manager ref.:** DA/12/0035(M)-(REC/08/0064)  
**Local Government Area:** Tablelands Regional Council

No.	Conditions of Development	Condition Timing	Jurisdiction and Reasons
1	<p><b>Development Permit - Reconfiguring a Lot (83 Lots &amp; New Roads)</b></p> <p>Development must be carried out generally in accordance with the following plan and report, except as modified by these concurrence agency conditions:</p> <ul style="list-style-type: none"> <li>• Jim Papas Drafting Lot Layout, Building Envelopes &amp; Extent of Clearing, 1180 SK14-33 Amdt A, dated August 2012</li> <li>• Planning Far North Town Planning Report C12-033, dated November 2012</li> </ul>	<p>Prior to submitting the Plan of Survey to the local government for approval</p>	<p>The purposes of the Transport Infrastructure Act 1994.</p> <p>The Department of Transport and Main Roads' assessment of the development application was undertaken on the basis of the cited plan/s and/or report/s which depict how the proposed development will be carried out.</p>
2	<p>The permitted road access location for the development is between Lot 72 on RP903071 and the Kennedy Highway generally in accordance with the Lot Layout, Building Envelopes &amp; Extent of Clearing, that is via Fallon Road.</p>	<p>Prior to submitting the Plan of Survey to the local government for approval</p>	<p>The purposes of the Transport Infrastructure Act 1994 (TIA).</p> <p>Vehicular access at the permitted road access location minimises impacts on the safety and efficiency of the state-controlled road network.</p>



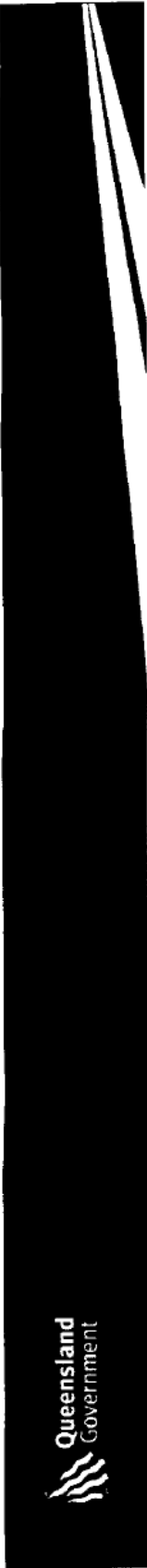


No.	Conditions of Development	Condition Timing	Jurisdiction and Reasons
-----	---------------------------	------------------	--------------------------

- |   |   |   |  |
|---|---|---|--|
| 3 | Direct access is not permitted between the Kennedy Highway and the subject site at any location other than the permitted road access location.  | Prior to submitting the Plan of Survey to the local government for approval | The purposes of the Transport Infrastructure Act 1994.<br><br>Vehicular access at the permitted road access location minimises impacts on the safety and efficiency of the state-controlled road network.  |
| 4 | <p>(a) The development must incorporate noise attenuation measures in building design and setback from the Kennedy Highway frontage.</p> <p>(b) The relevant building certifiers for proposed Lots 20, 21 and 24 to 32 must provide certification that the development has been designed and constructed in accordance with part (a) of this condition.</p> | Prior to building certification on proposed Lots 20, 21 and 24 to 32        | <p>The purposes of the Transport Infrastructure Act 1994 (TIA).</p> <p>The development is creating a noise sensitive area in proximity to a state-controlled road.</p> <p>Comments or additional information<br/>Mandatory Part (MP) 4.4 of the Queensland Development Code (QDC) commenced on 1 September 2010 and applies to building work for the construction or renovation of a residential building in a designated transport noise corridor. MP4.4 seeks to ensure that the habitable rooms of Class 1, 2, 3 and 4 buildings located in a transport noise corridor are designed and constructed to reduce transport noise. Transport noise corridor means land designated under</p> |



No.	Conditions of Development	Condition Timing	Jurisdiction and Reasons
5	Any landscaping on the subject land that is within 5 metres of the road frontage with the Kennedy Highway must be retained and planted in accordance with the Department of Transport and Main Roads' Road Landscape Manual 2004, section C5 – Safety Requirements and Landscape Design.	At all times	Chapter 8B of the Building Act 1975 as a transport noise corridor. Information about transport noise corridors is available at state and local government offices. A free online search tool can be used to find out whether a property is located in a designated transport noise corridor. This tool is available at the Department of Local Government and Planning website ( <a href="http://www.dlgp.qld.gov.au/building/transport-noise-corridor-search-tool.html">http://www.dlgp.qld.gov.au/building/transport-noise-corridor-search-tool.html</a> ) and allows searches on a registered lot number and/or property address to determine whether and how the QDC applies to the land.
			The purposes of the Transport Infrastructure Act 1994 (TIA).
			Landscaping or other objects can impact on sight distance visibility along the state-controlled road, affecting the safety of the state-controlled road network. Landscaping should be retained in a predominantly natural setting found at the Kennedy Highway, Kuranda



<p><b>Advice for state-controlled roads</b></p> <p>Under section 43 of the <i>Transport Infrastructure Act 1994</i>, a local government must obtain the Department of Transport and Main Roads' approval if it intends to approve the erection, alteration or operation of an advertising sign or other advertising device that would be visible from a state-controlled road; and beyond the boundaries of the state-controlled road; and reasonably likely to create a traffic hazard for the state-controlled road.</p>
<p>An application for a Road Corridor Permit is required for any ancillary works and encroachments on the state-controlled road under section 50(2) and Schedule 6 of the <i>Transport Infrastructure Act 1994</i> and Part 5 and Schedule 1 of the <i>Transport Infrastructure (State-Controlled Roads) Regulation 2006</i>. Please contact the Department of Transport and Main Roads on 4050 5451 (Ron Kaden) to make an application for a Road Corridor Permit. Ancillary works and encroachments include but are not limited to advertising signs or other advertising devices, paths or bikeways, buildings/shelters, vegetation clearing, landscaping and planting.</p>
<p>Pursuant to Section 580 of the <i>Sustainable Planning Act 2009</i> it is a development offence to contravene a development approval, including any condition in the approval.</p>
<p>Pursuant to Section 80 of the <i>Transport Infrastructure Act 1994</i>, the construction, augmentation, alteration or maintenance of a public utility plant on a state-controlled road reserve, must be in accordance with the Department of Transport and Main Roads' requirements.</p>

**INFORMATION ATTACHMENT TO CONCURRENCE AGENCY RESPONSE****Representations on Referral Agency Response**

If the applicant intends to make a representation to the Department of Transport and Main Roads (the department) regarding the attached concurrence agency response, the applicant needs to do this before the assessment manager decides the application. The assessment manager cannot decide the application before 10 business days after receiving the final concurrence agency response, pursuant to section 318(5) of the *Sustainable Planning Act 2009* (SPA).

The applicant will need to give the assessment manager written notice under section 320(1) of SPA to stop the decision-making period to make a representation to the department and subsequently contact the department to make the representation. The decision making period cannot be stopped for more than 3 months.

**Planning and Environment Court Appeals**

If an appeal is lodged in the Planning and Environment Court in relation to this application, the appellant must give written notice of the appeal to the department under Section 482(1) of the SPA. This notice should be forwarded to the Planning Law Team, Planning Management Branch, Department of Transport and Main Roads, GPO Box 213, Brisbane QLD 4001 within 2 days if the appeal is started by a submitter, or otherwise within 10 business days after the appeal is started.

URP-20L  
F URP

## Notice

### Concurrence Agency Response

This notice is issued by the Department of Natural Resources and Mines (DNRM) pursuant to section 287 (concurrence agency response) of the Sustainable Planning Act 2009 (the Act).

Chief Executive Officer  
Tablelands Regional Council  
PO Box 573  
ATHERTON QLD 4883

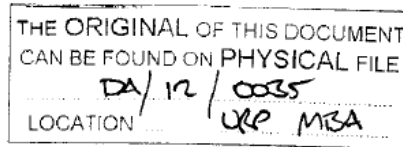
Attn: Mr Brian Millard

Your reference: DA/12/0035(M)-(REC/08/0064)

cc. Jumrum Rainforest Pty Ltd  
c/- Planning Far North Pty Ltd  
PO Box 7801  
CAIRNS QLD 4870

Attn: Bruce Hedley

Applicant reference: C12-033



Our reference: Ecotrack: 512454  
eLVAS: 2013/000437

#### Re: Concurrence Agency Response

##### 1. Application Details

Assessment Manager reference:	DA/12/0035(M)-(REC/08/0064)
Date application properly referred to DNRM:	18 January 2013
Development approval applied for:	Development permit
Aspect of development:	Reconfiguring a Lot – Clearing Vegetation Sustainable Planning Regulation 2009 – Schedule 7, table 2, item 4
Development description:	Reconfiguring a Lot – 1 into 83
Property/Location description:	Lot 72 on RP903071, 1593 Kennedy Highway, Kuranda – Tablelands Regional Council

2. The Chief Executive, Department of Natural Resources and Mines (DNRM) concurrence agency response for the concurrence agency referral jurisdiction for the aspect of development involved with the application the subject of this Notice is to tell the assessment manager as follows.
- (a) Conditions must attach to any development approval, and those conditions are attached to this Notice.

**Notice**  
**Concurrence Agency Response**

**3. Approved plans / specifications**

Document No.	Document Name	Date
RARP 2013/000437	Referral Agency Response (Vegetation) Plan RARP 2013/000437	11/10/2013

**4. General advice to assessment manager**

Pursuant to sections 334 and 363 of the Act, a copy of a decision notice or negotiated decision notice issued by the assessment manager must be forwarded to DNRM as a referral agency for the relevant application at Vegetation Management Unit, DNRM, PO Box 156 Mareeba Qld 4880 OR PO Box 5318 Townsville Qld 4810 and an electronic copy to [palm@ehp.qld.gov.au](mailto:palm@ehp.qld.gov.au).

The State's Native Title Work Procedures provide that responsibility for assessment of native title issues for an IDAS application rests with the assessment manager. Therefore, DNRM as a referral agency for the relevant application has not provided notification to native title parties.

**6. Additional information for applicants****Cultural Heritage**

A search has been performed on the inventory of recorded Aboriginal cultural heritage sites over Lot 72 on RP903071 and no Aboriginal cultural heritage notings were found. Under section 23 of the *Aboriginal Cultural Heritage Act 2003* a person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal cultural heritage (the "cultural heritage duty of care"). Maximum penalties for breaching the duty of care are \$1,000,000 for a corporation and \$100,000 for an individual.

Applicants will comply with the duty of care in relation to Aboriginal cultural heritage if they are acting in accordance with cultural heritage duty of care guidelines gazetted under the *Aboriginal Cultural Heritage Act 2003*, available on the Department of Aboriginal and Torres Strait Islander and Multicultural Affairs website, or in accordance with an agreement with the Aboriginal party for the area or a cultural heritage management plan approved under part 7 of the *Aboriginal Cultural Heritage Act 2003*.

Applicants are also encouraged to undertake a search of the Aboriginal Cultural Heritage Database and the Aboriginal Cultural Heritage Register, administered by the Cultural Heritage Coordination Unit, Department of Aboriginal and Torres Strait Islander and Multicultural Affairs. Application forms to undertake a free search of the Cultural Heritage Register and the Database may be obtained by contacting the Cultural Heritage Coordination Unit on 13 74 68 or on the Department of Aboriginal and Torres Strait Islander and Multicultural Affairs website [www.multicultural.qld.gov.au](http://www.multicultural.qld.gov.au).

**Other legislation**

This notification refers to the provisions of the *Vegetation Management Act 1999* and Sustainable Planning Regulation 2009 only and is based on the information you have provided regarding the proposed activities on the land. Should any issue subsequently emerge on site that requires further consideration by the department, it is the responsibility of the landholder to contact the department. Other legislation, including

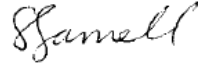
**Notice**  
**Concurrence Agency Response**

the acts listed below may affect clearing activities. You should contact the business units below to determine if your clearing activity will be affected.

It should be noted that all native plants in Queensland are protected under the *Nature Conservation Act 1992*. You must contact the nature conservation area of the Queensland Government on the details below before clearing vegetation.

Act(s)	Agency	Contact details
<ul style="list-style-type: none"> <li>Aboriginal Cultural Heritage Act 2003</li> <li>Torres Strait Islander Cultural Heritage Act 2003</li> </ul>	Department of Aboriginal and Torres Strait Islander and Multicultural Affairs	General enquiries: 13 QGOV (13 74 68) Permit and Licence Management: 1300 130 372
<ul style="list-style-type: none"> <li>Soil Conservation Act 1986</li> <li>Water Act 2000</li> </ul>	Department of Natural Resources and Mines	
<ul style="list-style-type: none"> <li>Coastal Protection and Management Act 1995</li> <li>Environmental Protection Act 1994</li> <li>Queensland Heritage Act 1992</li> <li>Wild Rivers Act 2005</li> </ul>	Department of Environment and Heritage Protection	
<ul style="list-style-type: none"> <li>Nature Conservation Act 1992</li> </ul>	Department of Environment and Heritage Protection Department of National Parks, Recreation, Sport and Racing	General enquiries: 13 25 23
<ul style="list-style-type: none"> <li>Forestry Act 1959</li> </ul>	Department of Natural Resources and Mines Department of Agriculture, Fisheries and Forestry	
<ul style="list-style-type: none"> <li>Fisheries Act 1994</li> </ul>	Department of Agriculture, Fisheries and Forestry	Contact your nearest local government office
<ul style="list-style-type: none"> <li>Local Government Act 1993</li> <li>Sustainable Planning Act 2009</li> </ul>	Local Government	
<ul style="list-style-type: none"> <li>Environment Protection and Biodiversity Conservation Act 1999</li> </ul>	Department of Sustainability, Environment, Water, Population and Communities	General enquiries: (02) 6274 1111

**Notice**  
**Concurrence Agency Response**



**Delegate**  
Shannon Farrell  
Senior Vegetation Management Officer  
Delegate, Chief Executive administering the *Vegetation Management Act 1999*

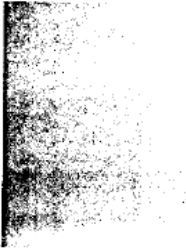
18/10/2013

**Enquiries:**  
Edina Losonczi-Gorshtein  
Vegetation Management Officer  
Department of Natural Resources  
and Mines  
187-209 Stanley Street,  
Townsville QLD 4810  
PO Box 5318, Townsville QLD  
4810  
Phone: 4799 7052  
Email: edina.losonczi-gorshtein  
@dnrm.qld.gov.au

**Attachment(s)**

DNRM Permit No. SPCC05147313  
Referral Agency Response (Vegetation) Plan 2013/000437





**Sustainable Planning Act 2009**

**DNRM Permit <sup>1</sup> number: SPCC05147313**

<b>Assessment manager reference:</b>	DA/12/0035(M)-(REC/08/0064)
<b>DNRM reference:</b>	eLVAS: 2013/000437; Trackjob: IC0113WAL0001; Ecotrack application: 512454
<b>Date application properly referred:</b>	18 January 2013
<b>Permit type:</b>	Concurrence agency response
<b>Date of decision:</b>	18 October 2013
<b>Decision:</b>	The application satisfies the <i>Concurrence Agency Policy for Reconfiguring a Lot (RaL) 21 October 2009</i> - subject to the conditions set out in Schedule 1
<b>Relevant laws and policies:</b>	<i>Vegetation Management Act 1999</i> <i>Sustainable Planning Act 2009</i> Sustainable Planning Regulation 2009 <i>Concurrence Agency Policy for Reconfiguring a Lot (RaL) 21 October 2009</i>
<b>Jurisdiction(s):</b>	Reconfiguring a Lot – Clearing Vegetation Sustainable Planning Regulation 2009 – Schedule 7, table 2, item 4

**Development Description(s)**

Property/Location		Development
1593 Kennedy Highway, Kuranda	72 RP903071	Reconfiguring a lot

<sup>1</sup> Permit includes licences, approvals, permits, authorisations, certificates, sanctions or equivalent/similar as required by legislation administered by the Department of Natural Resources and Mines.



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DNRM Permit number: SPCC05147313

**Reason(s) for inclusion of conditions**

In accordance with section 289 of the *Sustainable Planning Act 2009*, the reason(s) for inclusion of conditions stated in this permit required by the concurrence agency response for the application are detailed in Schedule 2.



**Delegate**

Shannon Farrell

Delegate, Chief Executive administering the *Vegetation Management Act 1999*  
Department of Natural Resources and Mines

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DNRM Permit number: SPCC05147313

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## Schedule 1 – CONDITIONS

1. No clearing as a result of reconfiguring Lot 72 RP903071 is to occur within the area shown as Area A on the attached Referral Agency Response (Vegetation) Plan, RARP 2013/000437.
2. No infrastructure is to be established or located within the area shown as Area A on the attached Referral Agency Response (Vegetation) Plan, RARP 2013/000437.
3. No lot boundaries are permitted within the areas shown as Area A or Area B on the attached Referral Agency Response (Vegetation) Plan, RARP 2013/000437.
4. No infrastructure – except fences, roads and underground services – is to be established or located within the areas shown as Area B and Area C on the attached Referral Agency Response (Vegetation) Plan, RARP 2013/000437.
5. All lots within 20 metres of Area A must include a building envelope which must be located outside of the areas shown as Area A, Area B and Area C on the attached Referral Agency Response (Vegetation) Plan, RARP 2013/000437.
6. These conditions do not prevent vegetation being cleared for a purpose described in Schedule 24 of the Sustainable Planning Regulation 2009 or if cleared in accordance with any subsequent development approval.

### Definitions

Where terms used in this decision are not specifically defined but are defined in the VMA; *Sustainable Planning Act 2009* (SPA); and the relevant Regional Vegetation Management Code, the definitions that are in these Acts and the code apply.

## END OF CONDITIONS



DNRM Permit number: SPCC05147313

## Schedule 2 - Statement of Reasons

### Department of Natural Resources and Mines – Referral Agency Response Application to clear for Reconfiguring a Lot Jumrum Rainforest Pty Ltd

The following Statement of Reasons is provided

#### Introduction

1. The Department of Natural Resources and Mines (DNRM) received an application from Jumrum Rainforest Pty Ltd on 12 December 2012 which was properly referred on 18 January 2013
2. The application is to clear for Reconfiguring a lot on Lot 72 on Plan RP903071 – Tablelands Regional Council
3. An Information Request was sent to applicant on 4 February 2013
4. The Information Request response period was extended by 10 business days on 2 August 2013
5. A response to the Information Request was received by DNRM on 16 August 2013
6. Referral Agency assessment period was extended by 20 business days to 14 October 2013
7. Request for Applicant agreement to further extend assessment period by 14 business days sent on 10 October 2013
8. Agreement from applicant to further extend assessment period was received on 11 October 2013
9. An Assessment Report was sent to the Delegate of the Chief Executive, Shannon Farrell, Senior Vegetation Management Officer on 15 October 2013.
10. The Delegate determined the Decision on 18 October 2013.

#### Evidence

1. Application dated 12 December 2012
  - a) Completed IDAS Forms 1, 7 and 11
  - b) Property Vegetation Management Plan
2. *Sustainable Planning Act 2009* and Sustainable Planning Regulation 2009
3. *Vegetation Management Act 1999*
4. Department of Natural Resources and Mines *Concurrence Agency Policy for Reconfiguring a Lot-version 2, 21 October 2009*
5. Sustainable Planning Act Delegation (No.2) 2012
6. Regional Ecosystem mapping (version 6.1)
7. Vegetation Information Network (VIN) Database Remnant RE Summary
8. 2011 orthophoto imagery
9. Tablelands Regional Council planning scheme (Mareeba Shire Planning Scheme 2004)
10. eLVAS case (2008/004305)
11. Assessment Report dated 15 October 2013
12. Regional Ecosystem Description Database

#### Findings of fact

1. The subject lot contains non-remnant areas and least concern remnant vegetation also mapped as essential habitat.
2. The subject lot is in an area of low fire risk and the vegetation described as having low flammability. Therefore, a reduced firebreak width of 20m was assessed around proposed infrastructure which is consistent with previous assessments on the subject lot.
3. Clearing will occur within part of the remnant vegetation mapped as a least concern regional ecosystem under an existing exemption that allows clearing for routine management – establishing a necessary fence, road or vehicular track for a maximum width of 10 metres – as per part 2, schedule 24 of the Sustainable Planning Regulation 2009.
4. The conditions will restrict any further clearing to non-remnant areas for the development or for fire protection and maintenance of infrastructure resulting from the development.

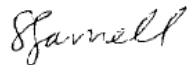
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DNRM Permit number: SPCC05147313

5. As a result, the application was assessed against and met Criteria Table B of the *Concurrence Agency Policy for Reconfiguring a Lot, 21 October 2009*.

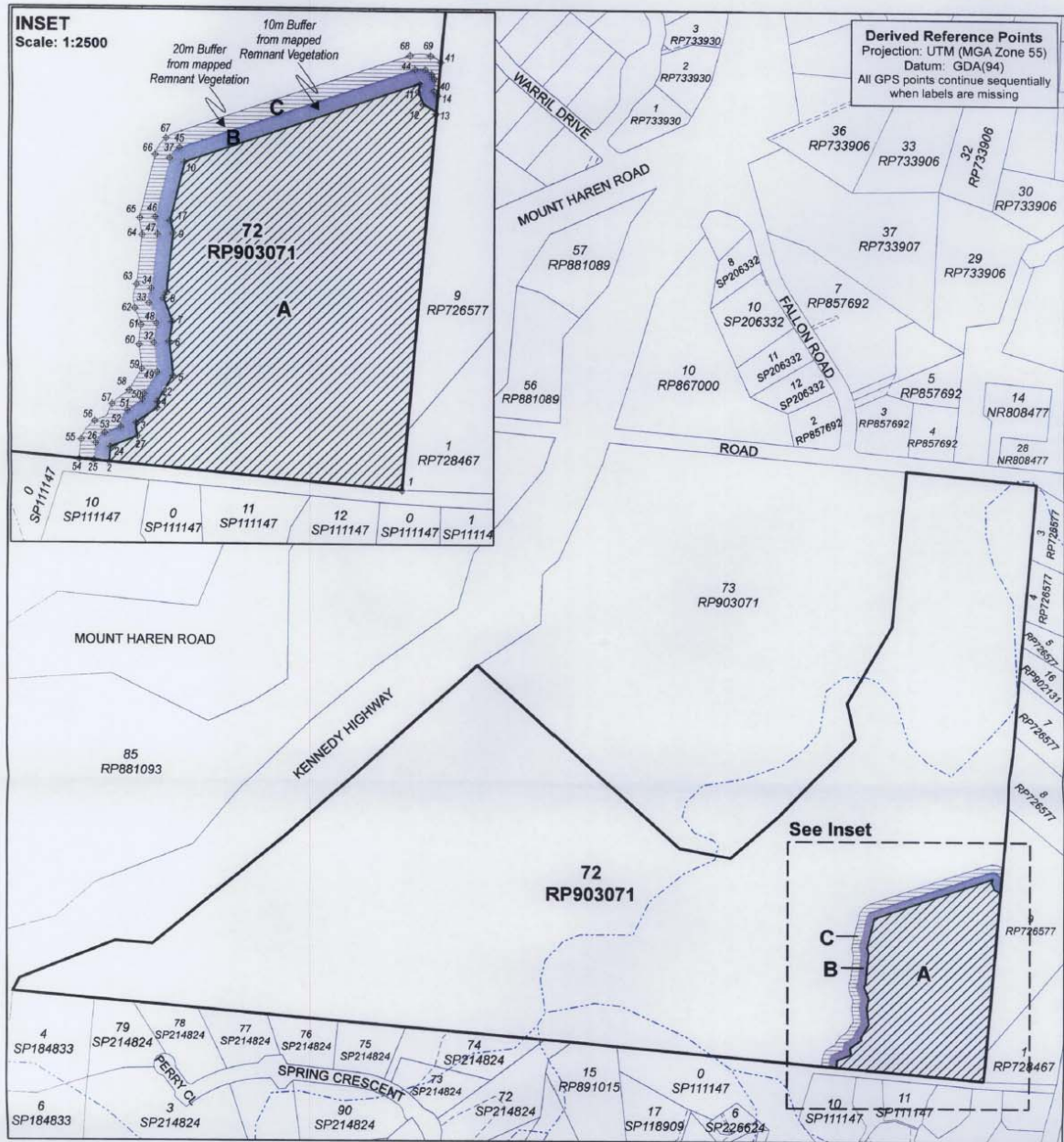
**Decision**

It is considered by the assessing officer that this application meets the requirements of the *Concurrence Agency Policy for Reconfiguring a Lot (21 October 2009)*.



Shannon Farrell  
**Senior Vegetation Management Officer**  
**North Region**

18/10/2013



**INSET**  
Scale: 1:2500

**Derived Reference Points**  
Projection: UTM (MGA Zone 55)  
Datum: GDA(94)  
All GPS points continue sequentially when labels are missing

0 50 100 200 300 400 500 m  
1:5000 @ A3 size  
Projection: UTM (MGA Zone 55) Datum: GDA94

Note: Derived Reference Points are provided to assist in the location of the Referral Agency Response boundaries. Responsibility for locating these boundaries lies solely with the landholder and delegated contractor(s).


The property boundaries shown on this plan are APPROXIMATE ONLY. They are NOT an accurate representation of the legal boundaries.

Note: This plan must be read in conjunction with Referral Agency Response 2013/000437

<p><b>LEGEND</b></p> <ul style="list-style-type: none"> <li>◆ Derived Reference Points for GPS</li> <li>□ Subject Lot(s)</li> <li>▨ Area A</li> <li>▩ Area B</li> <li>▧ Area C</li> <li>~ Watercourse</li> </ul>	<p><b>Referral Agency Response (Vegetation) Plan</b> <b>Plan of Areas A, B &amp; C in Lot 72 on RP903071</b></p>			
	<p>CENTRE: TOWNSVILLE LOCALITY OF KURANDA</p>			<p>REGION: NORTH LOCAL GOVT: TABLELANDS</p>
	<p>Map Reference: 8064</p>			<p>Compiled from: DCDB, PVMP &amp; VMO Notes</p>
	<p>File Reference: 2013/000437</p>			<p>Prepared by: EMR Date: 11 October 2013</p>
<p><b>RARP</b> <b>2013/000437</b> <b>Sheet 1 of 2</b></p>				

**Derived Reference Points**  
Projection: UTM (MGA Zone 55)  
Datum: GDA(94)  
All GPS points continue sequentially  
when labels are missing

Point	Parcel	Easting	Northing	Point	Parcel	Easting	Northing
1	A1	353430	8137318	35	B1	353268	8137487
2	A1	353236	8137336	36	B1	353266	8137498
3	A1	353255	8137353	37	B1	353276	8137538
4	A1	353268	8137372	38	B1	353437	8137598
5	A1	353278	8137393	39	B1	353448	8137595
6	A1	353276	8137416	40	B1	353450	8137584
7	A1	353278	8137429	41	C1	353454	8137603
8	A1	353272	8137444	42	C1	353452	8137580
9	A1	353278	8137488	43	C1	353450	8137592
10	A1	353285	8137535	44	C1	353439	8137598
11	A1	353441	8137588	45	C1	353282	8137545
12	A1	353443	8137575	46	C1	353266	8137498
14	B1	353452	8137580	47	C1	353268	8137487
13	A1	353451	8137568	48	C1	353267	8137427
15	B1	353439	8137583	49	C1	353268	8137395
16	B1	353285	8137535	50	C1	353259	8137381
17	B1	353276	8137496	51	C1	353248	8137370
18	B1	353274	8137452	52	C1	353244	8137359
19	B1	353278	8137429	53	C1	353233	8137355
20	B1	353276	8137416	54	C1	353226	8137338
21	B1	353278	8137393	55	C1	353218	8137351
22	B1	353268	8137376	56	C1	353227	8137363
23	B1	353254	8137362	57	C1	353238	8137374
24	B1	353237	8137346	58	C1	353249	8137383
25	B1	353226	8137337	59	C1	353257	8137397
26	B1	353227	8137348	60	C1	353256	8137413
27	B1	353244	8137359	61	C1	353257	8137426
28	B1	353248	8137370	62	C1	353253	8137437
29	B1	353259	8137380	63	C1	353253	8137450
30	B1	353268	8137395	64	C1	353258	8137486
31	B1	353266	8137414	65	C1	353256	8137498
32	B1	353267	8137427	66	C1	353266	8137540
33	B1	353262	8137441	67	C1	353273	8137551
34	B1	353264	8137452	68	C1	353434	8137607
				69	C1	353448	8137607

<p>Projection: UTM (MGA Zone 55) Datum: GDA94</p> <p>Note: Derived Reference Points are provided to assist in the location of the Referral Agency Response boundaries. Responsibility for locating these boundaries lies solely with the landholder and delegated contractor(s).</p>	<p><b>Referral Agency Response (Vegetation) Plan</b> <b>Plan of Areas A ,B &amp; C in Lot 72 on RP903071</b></p>	
<p><i>The property boundaries shown on this plan are APPROXIMATE ONLY. They are NOT an accurate representation of the legal boundaries.</i></p> <p>Note: This plan must be read in conjunction with Referral Agency Response 2013/000437</p>	<p>CENTRE: TOWNSVILLE LOCALITY OF KURANDA</p> <p>REGION: NORTH LOCAL GOVT: TABLELANDS</p> <p>Map Reference: 8064 File Reference: 2013/000437</p> <p>Compiled from: DCDB, PVMP &amp; VMO Notes Prepared by: EMR Date: 11 October 2013</p>	<p><b>RARP</b> <b>2013/000437</b> <b>Sheet 2 of 2</b></p>



**ATTACHMENT 3 - MAKING REPRESENTATIONS ABOUT DECISION****PART 8 - DEALING WITH DECISION NOTICES AND APPROVALS****DIVISION 1 CHANGING DECISION NOTICES AND APPROVALS DURING APPLICANT'S APPEAL PERIOD****360 APPLICATION OF DIV 1**

This division applies only during the applicant's appeal period.

**361 APPLICANT MAY MAKE REPRESENTATIONS ABOUT DECISION**

- (1) The applicant may make written representations to the assessment manager about—
  - (a) a matter stated in the decision notice, other than a refusal or a matter about which a concurrence agency told the assessment manager under section 287(1) or (5); or
  - (b) the standard conditions applying to a deemed approval.
- (2) However, the applicant can not make representations under subsection (1)(a) about a condition attached to an approval under the direction of the Minister.

**362 ASSESSMENT MANAGER TO CONSIDER REPRESENTATIONS**

The assessment manager must consider any representations made to the assessment manager under section 361.

**363 DECISION ABOUT REPRESENTATIONS**

- (1) If the assessment manager agrees with any of the representations about a decision notice or a deemed approval, the assessment manager must give a new decision notice (***the negotiated decision notice***) to—
  - (a) the applicant; and
  - (b) each principal submitter; and
  - (c) each referral agency; and
  - (d) if the assessment manager is not the local government and the development is in a local government area—the local government.
- (2) Before the assessment manager agrees to a change under this section, the assessment manager must consider the matters the assessment manager was required to consider in assessing the application, to the extent the matters are relevant.
- (3) Only 1 negotiated decision notice may be given.
- (4) The negotiated decision notice—
  - (a) must be given within 5 business days after the day the assessment manager agrees with the representations; and
  - (b) must comply with section 335; and
  - (c) must state the nature of the changes; and
  - (d) replaces—



- (i) the decision notice previously given; or
  - (ii) if a decision notice was not previously given and the negotiated decision notice relates to a deemed approval—the standard conditions applying to the deemed approval.
- (5) If the assessment manager does not agree with any of the representations, the assessment manager must, within 5 business days after the day the assessment manager decides not to agree with any of the representations, give written notice to the applicant stating the decision about the representations.

**364 GIVING NEW INFRASTRUCTURE CHARGES NOTICE OR REGULATED INFRASTRUCTURE CHARGES NOTICE**

- (1) This section applies if the development approved by the negotiated decision notice is different from the development approved in the decision notice or deemed approval in a way that affects the amount of an infrastructure charge or regulated infrastructure charge.
- (2) The local government may give the applicant a new infrastructure charges notice under section 633 or regulated infrastructure charges notice under section 643 to replace the original notice.

**365 GIVING NEW REGULATED STATE INFRASTRUCTURE CHARGES NOTICE**

- (1) This section applies if the development approved by the negotiated decision notice is different from the development approved in the decision notice or deemed approval in a way that affects the amount of a regulated State infrastructure charge.
- (2) The relevant State infrastructure provider may give the applicant a new regulated State infrastructure charges notice under section 669 to replace the original notice.

**366 APPLICANT MAY SUSPEND APPLICANT'S APPEAL PERIOD**

- (1) If the applicant needs more time to make the representations, the applicant may, by written notice given to the assessment manager, suspend the applicant's appeal period.
- (2) The applicant may act under subsection (1) only once.
- (3) If the representations are not made within 20 business days after the day written notice was given to the assessment manager, the balance of the applicant's appeal period restarts.
- (4) If the representations are made within 20 business days after the day written notice was given to the assessment manager—
  - (a) if the applicant gives the assessment manager a notice withdrawing the notice under subsection (1)—the balance of the applicant's appeal period restarts the day after the assessment manager receives the notice of withdrawal; or
  - (b) if the assessment manager gives the applicant a notice under section 363(5)—the balance of the applicant's appeal period restarts the day after the applicant receives the notice; or
  - (c) if the assessment manager gives the applicant a negotiated decision notice—the applicant's appeal period starts again the day after the applicant receives the negotiated decision notice.

**ATTACHMENT 4 - APPEAL RIGHTS****DIVISION 8 APPEALS TO COURT RELATING TO DEVELOPMENT APPLICATIONS AND APPROVALS****461 APPEALS BY APPLICANTS**

- (1) An applicant for a development application may appeal to the court against any of the following—
  - (a) the refusal, or the refusal in part, of the development application;
  - (b) any condition of a development approval, another matter stated in a development approval and the identification or inclusion of a code under section 242;
  - (c) the decision to give a preliminary approval when a development permit was applied for;
  - (d) the length of a period mentioned in section 341;
  - (e) a deemed refusal of the development application.
- (2) An appeal under subsection (1)(a), (b), (c) or (d) must be started within 20 business days (the ***applicant's appeal period***) after—
  - (a) if a decision notice or negotiated decision notice is given—the day the decision notice or negotiated decision notice is given to the applicant; or
  - (b) otherwise—the day a decision notice was required to be given to the applicant.
- (3) An appeal under subsection (1)(e) may be started at any time after the last day a decision on the matter should have been made.

**462 APPEALS BY SUBMITTERS—GENERAL**

- (1) A submitter for a development application may appeal to the court only against—
  - (a) the part of the approval relating to the assessment manager's decision about any part of the application requiring impact assessment under section 314; or
  - (b) the part of the approval relating to the assessment manager's decision under section 327.
- (2) To the extent an appeal may be made under subsection (1), the appeal may be against 1 or more of the following—
  - (a) the giving of a development approval;
  - (b) any provision of the approval including—
    - (i) a condition of, or lack of condition for, the approval; or
    - (ii) the length of a period mentioned in section 341 for the approval.
- (3) However, a submitter may not appeal if the submitter—
  - (a) withdraws the submission before the application is decided; or
  - (b) has given the assessment manager a notice under section 339(1)(b)(ii).

- (4) The appeal must be started within 20 business days (the **submitter's appeal period**) after the decision notice or negotiated decision notice is given to the submitter.

#### **463 ADDITIONAL AND EXTENDED APPEAL RIGHTS FOR SUBMITTERS FOR PARTICULAR DEVELOPMENT APPLICATIONS**

- (1) This section applies to a development application to which chapter 9, part 7 applies.
- (2) A submitter of a properly made submission for the application may appeal to the court about a referral agency's response made by a prescribed concurrence agency for the application.
- (3) However, the submitter may only appeal against a referral agency's response to the extent it relates to—
- (a) if the prescribed concurrence agency is the chief executive (environment)—development for an aquacultural ERA; or
  - (b) if the prescribed concurrence agency is the chief executive (fisheries)—development that is—
    - (i) a material change of use of premises for aquaculture; or
    - (ii) operational work that is the removal, damage or destruction of a marine plant.
- (4) Despite section 462(1), the submitter may appeal against the following matters for the application even if the matters relate to code assessment—
- (a) a decision about a matter mentioned in section 462(2) if it is a decision of the chief executive (fisheries);
  - (b) a referral agency's response mentioned in subsection (2).

#### **464 APPEALS BY ADVICE AGENCY SUBMITTERS**

- (1) Subsection (2) applies if an advice agency, in its response for an application, told the assessment manager to treat the response as a properly made submission.
- (2) The advice agency may, within the limits of its jurisdiction, appeal to the court about—
- (a) any part of the approval relating to the assessment manager's decision about any part of the application requiring impact assessment under section 314; or
  - (b) any part of the approval relating to the assessment manager's decision under section 327.
- (3) The appeal must be started within 20 business days after the day the decision notice or negotiated decision notice is given to the advice agency as a submitter.
- (4) However, if the advice agency has given the assessment manager a notice under section 339(1)(b)(ii), the advice agency may not appeal the decision.