

1 April 2009

**File Ref:** REC/08/0064  
**Our Ref:** LJE

D S Reffold  
C/- BT Town Planning Consultancy  
33 Hodel Street  
WHITFIELD QLD 4870

# Negotiated Decision Notice Approval

*Integrated Planning Act 1997 S 3.5.17*

Dear Sir

**APPLICATION FOR RECONFIGURING A LOT – ONE (1) LOT INTO EIGHTY-FOUR (84) LOTS  
LOT 72 ON RP903071  
SITUATED AT FALLON ROAD, KURANDA**

I wish to advise that at Council's Ordinary Meeting held *Wednesday, 25 March 2009*, a decision was made to issue a negotiated decision notice. This negotiated decision notice replaces the decision notice previously issued and dated *13 November 2008*. The above development application was –

- Approved in part with conditions, (preliminary approval rather than development permit).

The conditions relevant to this approval are included in section 5 of this notice. These conditions are clearly identified to indicate whether the assessment manager or a concurrence agency imposed them.

## 1. Nature of the changes

The nature of the changes are – *Amend Condition (4)(i), (4)(ii), (4)(iv).*

## 2. Details of the approval

The type of approval is a **(Preliminary approval)** for **Reconfiguring a Lot – One (1) lot into Eighty-four lots made assessable by the Mareeba Shire Planning Scheme 2004.**

## 3. The relevant period for the approval -

The relevant periods stated in section 3.5.21 of the *Integrated Planning Act 1997* (IPA) apply to each aspect of development in this approval, as outlined below—

- Reconfiguring a lot- ~~two (2) years;~~

If there is one (1) or more subsequent related approvals<sup>1</sup> 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.

#### 4. The approved plans -

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

Plan / Document Number	Plan / Document Name	Date
1099-SK1 Amdt C	Proposed Rural Residential Subdivision at Fallon Road, Kuranda	October 2007

#### 5. Conditions –

##### (A) DETAILS OF PREMISES AND APPROVED USE

LOCATION: Fallon Road, Kuranda

PROPERTY DESCRIPTION: Lot 72 on RP 903071, Parish of Cairns

AREA OF LAND: 45.73 hectares

RECONFIGURING A LOT: Preliminary Approval for 1 lot into 84 lots

##### (B) ASSESSMENT MANAGER'S CONDITIONS (COUNCIL)

- (1) All applications for Development Permits must be substantially in accordance with Drawing No. 1099-SK1 Amdt C dated 30 October 2007, subject to any alterations:
  - (a) found necessary by the Chief Executive Officer at the time of examination of the engineering plans or during construction of the development because of particular engineering requirements; and
  - (b) to ensure compliance with the following conditions of approval.
- (2) The conditions of this preliminary approval must be complied with prior to the issue of any Development Permit for reconfiguring a lot and operational works, except where specified otherwise in these conditions of approval.
- (3) The levels of assessment and applicable codes for all applications for development permits will be assessed in accordance with the Rural Residential zone of the Mareeba Shire Planning Scheme 2004 and the FNQROC Development Manual will be applicable to all code and self assessable development. In addition, impact assessable development will be assessed against all provisions of the Mareeba Shire Planning Scheme 2004.
- (4) Prior to the issue of any Development Permit for reconfiguring a lot and operational works, the applicant must enter into an infrastructure agreement addressing:
  - (i) Water supply infrastructure requirements in accordance with a Water Reticulation Analysis Report detailing (staged) water demand analysis (including but not limited to peak hour demand) to be provided as part of the infrastructure agreement, Mareeba Shire Planning Scheme Policy No 2 and the FNQROC Development Manual.

<sup>1</sup> For the meaning of 'related approval', refer to section 3.5.21(7) of IPA

~~The planning for water supply infrastructure must take into account the potential development of other zoned land in the locality.~~

- (ii) Stormwater infrastructure in accordance with a stormwater management plan which demonstrates water sensitive urban design principles in roads, drainage channels, detention basins and the following:

- (a) The stormwater management plan shall ensure that there will be no net increase in the discharge rate of stormwater from the site and that with the development layout proposed, the necessary stormwater management measures required to control quantity and quality of runoff can be accommodated to the satisfaction of Council's delegated officer. The stormwater drainage shall be incorporated and designed as a landscape feature within the site.
- (b) The stormwater management plan must ensure no net increase in the rate of discharge from the subject site and the Q100 flows emanating upstream and external to the site can be safely accommodated during the passage through the subject land.

The applicant shall indicate the staging of implementation of works within the storm water management plan.

Stormwater infrastructure must be designed and constructed in accordance with the current versions of the Queensland Urban Drainage Manual and FNQROC Development Manual and certified by a suitably qualified engineer.

- (iii) The dedication and improvement of open space in accordance with the Mareeba Shire Planning Scheme 2004;
- (iv) Road infrastructure being the reconstruction and widening of Fallon Road between the Kennedy Highway and Mason Road in accordance with the FNQROC Development Manual and Augmentation of the Road Network contributions in accordance with Planning Scheme Policy No 6.

Road infrastructure is to include:

- (i) In Stage 2, the widening of Fallon Road between the Kennedy Highway and the proposed internal road to an overall width of ten (10) metres.
  - (ii) In Stage 3, the widening of Fallon Road between the proposed internal road and Mason Road to an overall width of seven (7) metres.
  - (iii) In Stage 2, the reconstruction of the 90 degree corner on Fallon Road (adjacent to Lot 3 on RP857692) with improved horizontal and vertical alignments.
  - (iv) The value (as agreed by Council's delegated officer) of the external works required under Condition 4(iv) (i),(ii) and (iii), shall be credited towards any contribution required under Mareeba Shire Planning Scheme Policy No. 6: Augmentation of the Road Network Contribution.
- (5) All internal works to the development must be designed and constructed in accordance with the FNQROC Development Manual.
  - (6) The approved plans (referred to in condition 1) must be amended to:
    - (i) provide for a road connection to Lot 73 on RP 903071.

(7) On Site Effluent Disposal

Prior to the issue of a development permit for reconfiguring a lot, the developer shall provide a Site and Soil Evaluation Report prepared by a suitably qualified Registered Professional Engineer acceptable to Council, for the proposed development. The report shall be prepared in accordance with the requirements of AS1547.2000 and shall specifically address those issues pertaining to the subdivision of land. The developer shall warrant that each lot within the proposed subdivision is of sufficient size and soil classification to dispose of wastewater generated by any development consistent with the zoning of the land without impacting on any adjoining lands. The report will include a detailed investigation of problem lots within the development. AS1547.2000 provides direction on the preparation of such a report and guidance on the minimum level of testing required to produce such a report.

(8) Building Envelopes

- (a) A plan to scale must be provided which designates a building envelope and access on each lot. The building envelope and access must not exceed 2,000 square metres in area.
- (b) A geotechnical assessment prepared and certified by a suitably qualified person, is to be submitted for each building envelope proposed on a slope of 15 percent or greater. The geotechnical assessment must demonstrate that the proposed building envelope is stable and not prone to landslide.

(9) Waterway Buffer

A ten (10) metre wide buffer is to be provided on both sides of Jumrum Creek. A statutory covenant/s shall be entered into between Council and the owner/s of all lots to ensure the ongoing retention and maintenance of vegetation within the buffer. The covenant/s shall be lodged prior to registering of the plan of survey.

(C) REFERRAL AGENCY RESPONSE

Department of Main Roads conditions dated 20 May 2008 (attached).

Department of Natural Resources & Water conditions dated 13 June 2008 (attached).

(D) ASSESSMENT MANAGER'S ADVICE

- (1) 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 help 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.nrw.qld.gov.au](http://www.nrw.qld.gov.au).
- (2) Council wishes to advise the applicant of the Environment Protection and Biodiversity Conservation Act 1999 which may impact on this development."

## 6. Other necessary development permits -

Listed below are other development permits that are necessary to allow the development to be carried out –

- Development Permit for Operational Works

## 7. IDAS referral agencies –

The IDAS Referral Agencies applicable to this application are –

For an application involving	Name of referral agency	Status	Address
<b>RECONFIGURING A LOT</b>			
On land contiguous to a <b>State-controlled road</b> if –  (i) The total number of lots is increased; and  (ii) The number of lots abutting the State-controlled road is increased	Department of Main Roads	Concurrence	Department of Main Roads Peninsula District PO Box 6185 CAIRNS QLD 4870
If the reconfiguring involves land over 2 ha in area, 2 or more lots are created and the size of any lot created is 25 ha or smaller, and the land contains–  (i) A category 1, 2 or 3 area shown on a property map of assessable vegetation; or  (ii) <b>Remnant vegetation</b>	Department of Natural Resources & Water	Concurrence	Department of Natural Resources & Water PO Box 210 ATHERTON QLD 4883

## 8. Submissions -

Not applicable

## 9. Appeal rights –

In accordance with the *Integrated Planning Act 1997* you may appeal to the Planning and Environment Court. A copy of the **Implementation Note, Note 20 – Appeal and Declaratory Powers under the IPA** and the form 'Notice of Appeal' is enclosed for your information.

## 10. 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.

This approval will lapse if—

- for a Material Change of Use, the first change of use under the approval does not start within the relevant period stated in section 2 of this decision notice;
- for a reconfiguration, a plan for the reconfiguration is not given to the local government within the relevant period stated in section 2 of this decision notice;
- for a development approval other than a Material Change of Use or reconfiguration, the development does not substantially start within the relevant period stated in section 2 of this decision notice.

Note that in the case of a development approval for a Material Change of Use or for Reconfiguring a Lot, if there is one or more subsequent related approvals the relevant period for the Material Change of Use or reconfiguration will restart from the date of the related approval taking effect. Please refer to section 3.5.21 of IPA for further information.

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

Yours faithfully

**BRETT NANCARROW**  
**MANAGER URBAN & REGIONAL PLANNING**

Enclosures: Approved plan/s of development, Implementation Note, Note 20 – Appeal and Declaratory Powers under the IPA and the form 'Notice of Appeal'

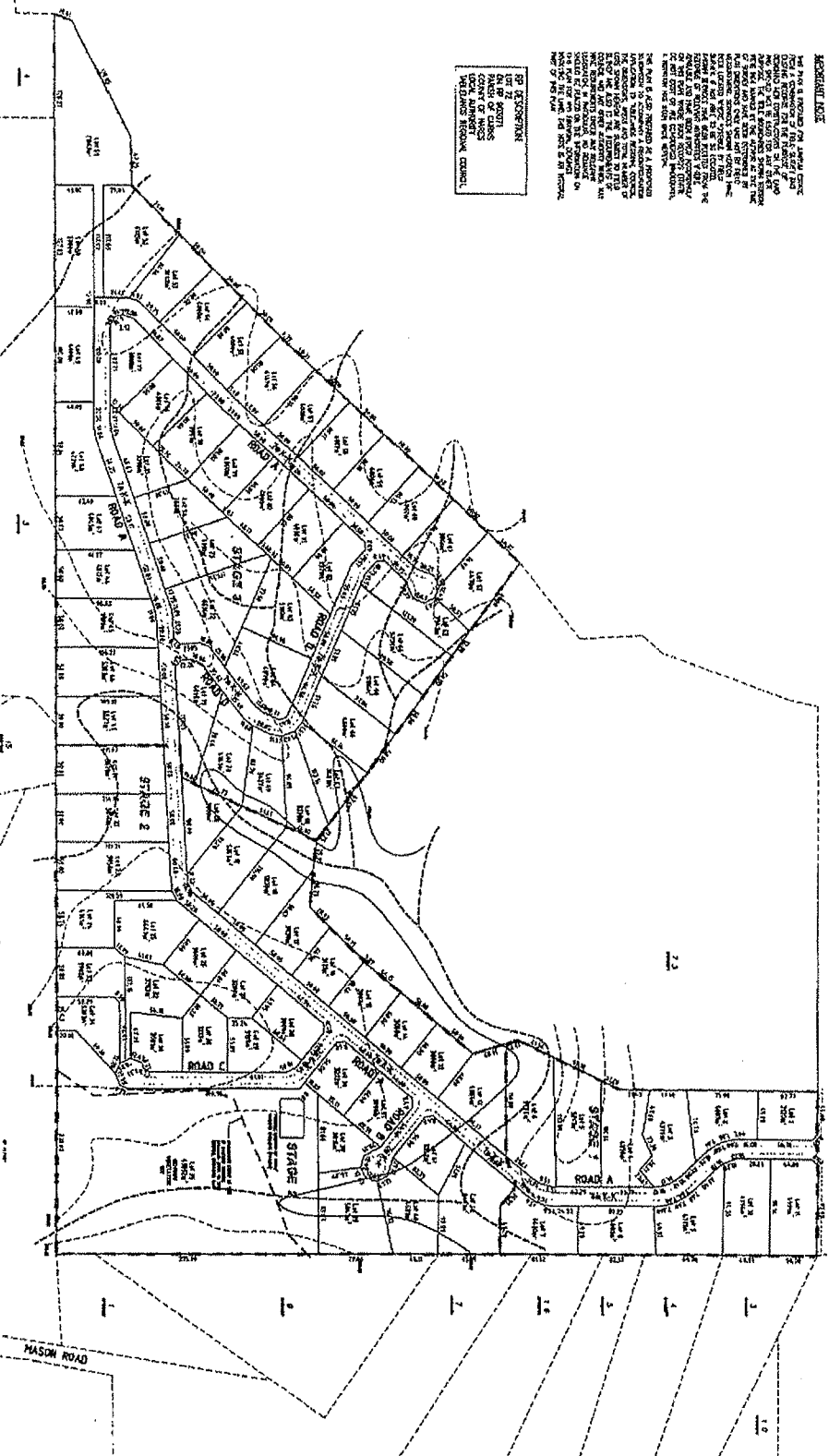
**Copy:**           **Mr Malcolm Hardy**  
                      **Department of Main Roads**  
                      **Peninsula District**  
                      **PO Box 6185**  
                      **CAIRNS QLD 4870**

**Department of Natural Resources & Water**  
**Administration Officer**  
**Planning & Environment**  
**PO Box 5318**  
**TOWNSVILLE QLD 4810**

Enclosures: Approved plan/s of development, Implementation Note, Note 20 – Appeal and Declaratory Powers under the IPA and the form 'Notice of Appeal'

✓ B. 28

SP DESCRIPTION  
LOT 72  
DA PP 40071  
PARISH OF CUBES  
COUNTY OF MADRID  
LOCAL AUTHORITY  
WORLDWIDE REGIONAL COUNCIL



MASON ROAD

SCALE (MAY 1972)	MADE 1:2000	DRAWN	J.P.
	WTR	DESIGNED	J.P.
DATE	DEC 2009	CHECKED	J.P.
APPROVED			
DRG NUMBER	1059 - SK1	ASMT	G

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CAN BE FOUND ON PHYSICAL FILE

REC/08/0064

LOCATION PLANNING

Queensland  
Government

20 May 2008

Department of Main Roads

Mr Ian Church  
 I/Chief Executive Officer  
 Tablelands Regional Council  
 PO Box 154  
 Mareeba Qld 4880

Dear Mr Church



Tablelands Regional Council : Kennedy Highway (Cairns-Mareeba)  
 Situated about 700m south of Fallon Road intersection, Kuranda  
 Lot 72 on RP 903071, Parish of Cairns

Jumrum Estate

Proposed Reconfiguration of a Lot (84 Rural Residential Allotments & New Roads) Application  
 Notification of Changed Conditions of Development (DMR as Referral Agency)

I refer to:

- the above application received at the Department 7 May 2008 requesting consideration of the above development,
- the Department's letter of conditions of development dated 12 May 2008, and
- written representations from the applicant's consultant received at the Department 20 May 2008 seeking the deletion of conditions 2 and 3.

The Department has reviewed the application and is able to delete conditions 2 and 4.

In accordance with section 3.3.17 of the *Integrated Planning Act 1997*, the Queensland Department of Main Roads, as a Concurrence Agency, has reviewed the impact of the proposed development on the State-controlled road network and requires that Council include the following amended conditions of development for the subject application:

#### A. AMENDED CONDITIONS OF DEVELOPMENT

##### 1. Permitted Road Access Location

- Access between the Kennedy Highway and the subject land shall be via Fallon Road, to the satisfaction of the Tablelands Regional Council.
- No direct access between the subject land and the State-controlled road (i.e. Kennedy Highway) is permitted.

##### 3. Advertising

No advertising device for the proposed development is permitted within the State-controlled road reserve (i.e. Kennedy Highway).

Roads Business Group  
 Far North Regional Office  
 Floor 4 Cairns Corporate Tower 15 Lake Street  
 PO Box 6185 CAIRNS Queensland 4870  
 ABN 67 836 727 711

Our ref 264/32A/102(966.03)  
 Your ref REC/08/0064  
 Enquiries MALCOLM HARDY  
 Telephone +61 7 4050 5511  
 Facsimile +61 7 4050 5438



## Reasons

The reasons and information used in the setting of conditions detailed above include:

- Department of Main Roads Access Policy,
- Department of Main Roads Involvement in Development Applications Referrals and Assessment Guide, and
- Mareeba Shire Planning Scheme.

## B. GENERAL DISCUSSION

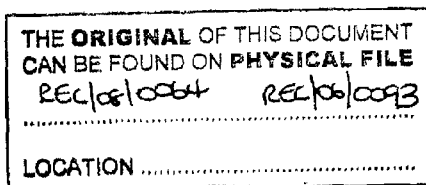
Council is requested to reflect the above conditions on its Rates Record, to ensure that the planning intentions of the conditions are secured.

This Department would appreciate a copy of Council's decision notice regarding the application.

A copy of this letter has been sent to the applicant.

Yours sincerely

Malcolm Hardy  
**SENIOR PLANNER FAR NORTH**



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**Queensland  
Government**

Author : Lisa Collins  
File / Ref number : 2008/004305:441299  
Recfind No: MBA/000544  
Trackjob No: IC0508MBA0011  
Unit : Vegetation Management Unit  
Phone : (07) 4048 4719

Department of  
**Natural Resources and Water**

13 June 2008

Chief Executive Officer  
Tablelands Regional Council  
PO Box 154  
Mareeba Qld 4880

Attention: Mr Brian Millard

Dear Sir

**Application for Reconfiguring a Lot on Lot 72 RP903071 - Tablelands Regional Council – Referral Agency Response**

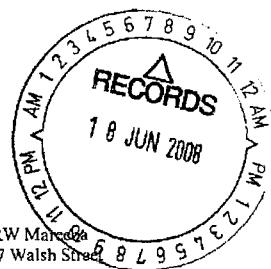
The Department of Natural Resources and Water (acting as a Concurrence Agency), has completed the assessment of the above application against the purposes of the Vegetation Management Act 1999 in accordance with the Concurrence Agency Policy for RaL (Concurrence-Single Issue).

The Referral Agency Response, prepared pursuant to section 3.3.16(1) of the *Integrated Planning Act 1997*, is enclosed. I look forward to receiving a copy of the decision notice for the application in due course.

Should you have any questions about the above, please contact Ms Lisa Collins, vegetation management officer, north region on telephone number (07) 4048 4719, quoting the above reference number.

Yours sincerely

Daniel Gillinder  
Senior Vegetation Management Officer  
13/6/2008  
Att. Referral Agency Response- Reconfiguring a Lot



NRW Mareeba  
167 Walsh Street  
Mareeba  
PO Box 156  
Mareeba Qld 4880  
Telephone 40484602  
Facsimile 40922366  
Website [www.nrw.qld.gov.au](http://www.nrw.qld.gov.au)  
ABN 83 705 537 586

## Department of Natural Resources and Water – Referral agency response

Given under Section 3.3.16 of the *Integrated Planning Act 1997*

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### 1. Application details

- |                                   |  |
|-----------------------------------|--|
| 1.1. Applicant's name             | Jumrum Estate  |
| 1.2. Property description         | Lot 72 RP903071  |
| 1.3. Development type             | Reconfiguring a Lot (RaL)  |
| 1.4. Assessment manager           | Tablelands Regional Council – Mr Brian Millard                       |
| 1.5. Assessment manager reference | REC/08/0064  |
| 1.6. Referral date                | 7 May 2008   |
| 1.7. Our references               | eLVAS –2008/004305<br>RecFind –MBA/000544<br>TrackJob –IC0508MBA0011 |

### 2. Concurrence agency response

The chief executive of the Department of Natural Resources and Water (NRW) directs the assessment manager to include the following conditions in any development approval given for the above mentioned application—

- 2.1. The reconfiguration of Lot 72 on RP903071—including establishment of infrastructure and allotment boundaries—must remain consistent with the submitted plan: 1099 – SK1 – AMDT C. The submitted plan forms part of this referral agency response—see 4. *Submitted plan*.
- 2.2. No clearing of native vegetation is to occur as a result of the reconfiguration of Lot 72 on RP903071. Any future clearing of native vegetation will require a development approval, unless the clearing of native vegetation is exempt under Schedule 8 of the *Integrated Planning Act 1997*.

### 3. Reasons for the concurrence agency response

NRW has assessed the application against the *Concurrence Agency Policy for Reconfiguring a Lot (RaL) 23 August 2007* (RaL Policy) and has determined that the application meets the requirements of Criteria Table A, because clearing as a result of the RaL will not occur within assessable vegetation.

The chief executive of NRW has directed the assessment manager to include conditions in any development approval given for the above mentioned application to ensure that—

- Clearing as a result of the RaL does not occur within assessable vegetation; and
- The application remains consistent with the RaL Policy.

### 4. Submitted plan

- |                |   |
|----------------|---|
| 4.1. Title     | Jumrum Estate; proposed rural residential subdivision at Fallon Road, Kuranda |
| 4.2. Date      | 30 October 2007   |
| 4.3. Author    | Jim Papas Drafting Pty Ltd  |
| 4.4. Reference | 1099 – SK1 AMDT C   |

Note: This plan is not to scale and is indicative of the original only.

#### 5. Aboriginal cultural heritage advice

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 that the activity does not harm Aboriginal cultural heritage (the 'cultural heritage duty of care'). Maximum penalties for breaching the cultural heritage duty of care are \$750 000 for a corporation and \$75 000 for an individual.

Applicants will comply with the cultural heritage duty of care in relation to Aboriginal cultural heritage if they are acting in compliance with the cultural heritage duty of care guidelines gazetted under the *Aboriginal Cultural Heritage Act 2003*, available on the NRW 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 should also undertake a search of the Aboriginal Cultural Heritage Database and the Aboriginal Cultural Heritage Register, administered by the Cultural Heritage Coordination Unit, NRW. Application forms to undertake a free search of the Aboriginal Cultural Heritage Database and the Aboriginal Cultural Heritage Register may be obtained by contacting the Cultural Heritage Coordination Unit on (07) 3238 3838 or on the NRW website—  
[www.nrw.qld.gov.au/cultural\\_heritage](http://www.nrw.qld.gov.au/cultural_heritage).

#### 6. Delegated officer signature



Mr Daniel Gillinder  
**Senior Vegetation Management Officer**  
**North Region, NRW**

13 June 2008

13/6/2008