



DEVELOPMENT CONSENT AUTHORITY

KATHERINE DIVISION

MINUTES

MEETING No. 173 – WEDNESDAY 6 MARCH 2019

**DIPL CONFERENCE ROOM
1ST FLOOR GOVERNMENT CENTRE
5 FIRST STREET
KATHERINE**

MEMBERS PRESENT Suzanne Philip (Chair), Allan Domaschenz, Peter Gazey and Alan Sprigg (via videoconference)

APOLOGIES: Fay Miller and John Zellely

OFFICERS PRESENT: Alana Mackay, Julie Bennett, Sally Graetz and Alexander Deutrom (Development Assessment Services)

COUNCIL REPRESENTATIVE: None present

Meeting opened at 10.15 am and closed at 10.40 am

THE MINUTES RECORD OF THE EVIDENTIARY STAGE AND THE DELIBERATIVE STAGE ARE RECORDED SEPARATELY. THESE MINUTES RECORD THE DELIBERATIVE STAGE. THE TWO STAGES ARE GENERALLY HELD AT DIFFERENT TIMES DURING THE MEETING AND INVITEES ARE PRESENT FOR THE EVIDENTIARY STAGE ONLY.

ITEM 1 **ALTERATIONS AND ADDITIONS TO AN EXISTING SERVICE STATION**
PA2018/0480 **WITHIN A DEFINED FLOOD AREA**
APPLICANT **NT PORTION 2512 (7) GILLARD CRESCENT, COSSACK**
LIBERTY OIL CORPORATION PTY LTD C/O HUMAN HABITATS

DAS tabled further information submitted by Human Habitats.

Mr Robert Williams (Human Habitats) and Mr Mario Lo Bianco from Stephen D'Andrea Pty Ltd attended via phone link on behalf of the applicant.

RESOLVED That, pursuant to section 53(a) of the *Planning Act*, the Development Consent
18/19 Authority consent to the application to develop NT Portion 2512 (7) Gillard
Crescent, Cossack for the purpose of alterations and additions to an existing
service station, subject to the following conditions:

CONDITIONS PRECEDENT

1. Prior to the endorsement of plans and prior to commencement of works (including site preparation), amended plans to the satisfaction of the consent authority must be submitted to and approved by the consent authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and generally in accordance with the plans submitted with the application but modified to show:
 - a) a detailed landscaping plan identifying proposed plant species and quantities and provision of an in ground irrigation system to all landscaped areas;
 - b) swept path diagrams for the design vehicle (includes maximum length and width of vehicles accessing the site including towing trailers, with references to the Australian Standard and/or Austroad Guide); and
 - c) access and egress to the site and access lanes clearly marked to show the direction of traffic, upon the advice of Katherine Town Council, to the satisfaction of the consent authority.

2. Prior to the commencement of works, an operational environmental management plan for the site must be submitted to and approved by the consent authority on the advice of the Environment Division, Department of Environment and Natural Resources. The plan should provide appropriate maps and sufficient detail of all agreements, structures, processes and management related to stormwater, contaminated waters, wastes and effluent, to demonstrate the proponent has a full understanding and control of its systems which should ensure the protection of offsite water quality. All management plans should be kept current, complied with, retained and made available to authorised officers upon request to confirm compliance with these requirements.

GENERAL CONDITIONS

3. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
4. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage and electricity facilities to the development shown on the endorsed plan in accordance with the authorities requirements and relevant legislation at the time.
5. Appropriate erosion and sediment control measures should be effectively implemented throughout the construction stage of the development and all disturbed soil surfaces must be satisfactorily stabilised against erosion at completion of works, to the satisfaction of the Consent Authority. Information can be obtained from the IECA Best Practice Erosion and Sediment Control Guidelines 2008 available at www.austieca.com.au and the NTG website <https://nt.gov.au/environment/soil-land-vegetation>.
6. Dust control measures must be employed throughout the construction stage of the development to the requirements of the NT EPA, to the satisfaction of the consent authority.
7. Before the use or occupation of the development starts, the area(s) set-aside for the parking of vehicles and access lanes as shown on the endorsed plans must be:
 - (a) constructed;
 - (b) properly formed to such levels that they can be used in accordance with the plans;
 - (c) surfaced with an all-weather-seal coat;
 - (d) drained;
 - (e) line marked to indicate each car space and all access lanes; and
 - (f) clearly marked to show the direction of traffic along access lanes and driveways to the satisfaction of the consent authority.Car spaces, access lanes and driveways must be kept available for these purposes at all times.

NOTES:

1. The Power and Water Corporation advises that the Water and Sewer Services Development Section (landdevelopmentnorth@powerwater.com.au) and Power Network Engineering Section (powerconnections@powerwater.com.au) should be contacted via email a minimum of 1 month prior to construction works commencing in order to determine the Corporation's servicing requirements, and the need for upgrading of on-site and/or surrounding infrastructure.
2. The Northern Territory Environment and Protection Authority has advised that the proponent must comply with their General Environment Duty provided by section 12 of the *Waste Management and Pollution Control Act*.

REASONS FOR THE DECISION

1. Pursuant to section 51(a) of the *Planning Act*, the consent authority must take into consideration the planning scheme that applies to the land to which the application relates.

The proposal has been assessed against the relevant clauses of the Northern Territory Planning Scheme (NTPS) and complies.

The proposal is for alterations and additions to an existing service station within a defined flood area in Zone GI (General Industry). *The primary purpose of Zone GI is to provide for general industry.*

The NTPS defines 'service station' as premises used for the sale by retail of fuels, oils and other products for use in connection with the operation of motor vehicles, whether or not it includes convenience shopping, but does not include a fuel depot, motor repair station or motor body works.

The purpose of Clause 6.14 (Land Subject to Flooding and Storm Surge) *is to reduce risk to people, damage to property and costs to the general community caused by flooding and storm surge.*

The Katherine Town Area Floodplain Map identifies the site as being within a Defined Flood Area. The applicant has advised that the development will be designed and constructed to withstand a potential flooding event in accordance with the relevant guidelines. Specifically, the application states:

"The new bowsers are designed and will be constructed to comply with relevant guidelines and include appropriate mechanisms to stop fuel leaks in the event of flooding or storm surge. These would include water proofing measures such as seals. The convenience store will also be designed and constructed to meet the standards of the Australian Building Code and will require engineering certification to confirm compliance and allow operation.

The existing fuel depot is also appropriately designed and constructed to withstand flooding and storm surge events through similar design features."

No habitable rooms are included as part of the proposal. The use of fill is not proposed.

The purpose of Clause 8.14 (Service Stations) *is to ensure that service stations do not, because of appearance or the emission of fumes or noise, unreasonably affect the use and enjoyment of adjacent land.*

The proposed fuel bowsers will be more than 20m from any residential or commercial development. The appropriate setbacks have been provided on site and the crossovers comply with the requirements set out in the clause. Fuel storage tanks are wholly contained within the site and the applicant has advised that all development will comply with the relevant standards and guidelines.

The Authority raised concerns around vehicular movement on site, specifically with large trucks. A condition precedent requiring swept path diagrams be submitted to the satisfaction of the consent authority has been placed on the permit to address this.

2. Pursuant to section 51(j) of the *Planning Act*, the consent authority must take into consideration the capability of the land to which the proposed development relates to support the proposed development and the effect of the development on the land and on other land, the physical characteristics of which may be affected by the development.

The subject land is considered capable of supporting the proposed development. The Department of Environment and Natural Resources have confirmed the parcel is affected by flooding from Katherine River of 1% Annual Exceedance Probability (AEP) with approximate inundation level of 106.25-106.5m AHD. The applicant has advised that all proposed development will be to the relevant guidelines and will include the appropriate mechanisms to stop fuel leaks in the event of flooding or storm surge. It is noted that no habitable rooms are proposed as part of the development.

3. Pursuant to section 51(m) of the *Planning Act*, the consent authority must take into consideration the public utilities or infrastructure provided in the area in which the land is situated, the requirement for public facilities and services to be connected to the land and the requirement, if any, for those facilities, infrastructure or land to be provided by the developer for that purpose.

The proposal was circulated to Katherine Town Council, Power and Water Corporation, the Transport and Civil Services Division of the Department of Infrastructure, Planning and Logistics, and the Department of Environment and Natural Resources (DENR). There were no objections made by service authorities and all issues raised have been addressed in the recommended conditions and notations. Notably, DENR raised concerns about the ongoing management of stormwater, contaminated waters, waste and effluent. A condition precedent has been placed on the permit requiring an operational environmental management plan be submitted and approved by the Consent Authority, on the advice of DENR, prior to the commencement of works.

4. Pursuant to section 51(n) of the *Planning Act*, the consent authority must take into consideration the potential impact on the existing and future amenity of the area in which the land is situated.

The proposal is for alterations and additions to an existing service station. The land is zoned GI (General Industry) to facilitate industrial development. There are a number of vehicle and logistics related businesses in the area including Katherine Auto Electrics, Tuff Tyres and a BP service station.

The proposed development will increase the visual amenity and functionality of the site, as well as provide additional services to the area. It is noted that there are no residentially zoned properties in the

immediate vicinity. As such, the proposal is not expected to negatively impact on the existing or future amenity of the area.

ACTION: Notice of Consent and Development Permit

**ITEM 2
PA2018/0366
APPLICANT**

**CLEARING OF NATIVE VEGETATION
NT PORTION 7012 (450) FLORINA ROAD, COSSACK
KSI LAND AND WATER PLANNING**

Mr Ian Lancaster (KSI Land and Water Planning) attended via videolink.

**RESOLVED
19/19**

That, pursuant to section 53(a) of the *Planning Act*, the Development Consent Authority consent to the application to develop NT Portion 7012 (450) Florina Road, Cossack for the purpose of clearing of native vegetation, subject to the following conditions:

CONDITIONS PRECEDENT

1. Prior to the endorsement of plans and prior to commencement of works (including site preparation), amended plans to the satisfaction of the consent authority must be submitted to and approved by the consent authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and two copies must be provided. The plans must be generally in accordance with the plans submitted but modified to show the location and dimension of firebreaks outside of boundary buffers and polygons to be cleared identified as "permitted clearing".
2. Prior to the commencement of works, a Weed Management Plan (WMP) is to be submitted and approved by the Consent Authority on the advice of the Department of Environment and Natural Resources (DENR).

GENERAL CONDITIONS

3. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
4. The clearing of native vegetation is to be undertaken only in the areas identified on the endorsed drawing as "Permitted Clearing". All remaining native vegetation is to be maintained to the satisfaction of the consent authority.
5. The permit holder must ensure that the clearing operator has a copy of the permit, including the endorsed drawing, at all times during the clearing operation.
6. Before the vegetation removal starts, the boundaries of all vegetation stands to be removed and retained must be clearly marked on the ground or marked with tape or temporary fencing to the satisfaction of the consent authority.
7. Appropriate erosion and sediment control measures are to be employed throughout the clearing and establishment phases of the development to the satisfaction of the consent authority, including (but not limited to): retention of buffer zones where appropriate and measures to address seasonal timing

of works; management of groundwater and minimisation of bare ground; crop layout and maintenance of natural sheet flow patterns; avoidance or removal of soil windrows or other surface modifications that create concentrated flow paths for run-off; and installation of erosion controls on access tracks, fencelines and firebreaks where appropriate. Information regarding erosion and sediment control is available on the NTG website at: <https://nt.gov.au/environment/soil-land-vegetation>.

NOTES:

1. Professional advice regarding implementation of soil erosion control and dust control measures to be employed throughout the construction phase of the development are available from the Department of Environment and Natural Resources. Information can be obtained from the IECA Best Practice Erosion and Sediment Control Guidelines 2008 available at www.austieca.com.au and the NTG website <https://nt.gov.au/environment/soil-land-vegetation>.
2. A permit to burn is required from the Regional Fire Control Officer, Department of Environment and Natural Resources, prior to the ignition of any felled vegetation on the property. Fire prevention measures are to be implemented in accordance with the requirements of the *Bushfires Act*.
3. There are statutory obligations under the *Weeds Management Act* to take all practical measures to manage weeds on the property. For advice on weed management please contact the Department of Environment and Natural Resources.

REASONS FOR THE DECISION

1. Pursuant to section 51(a) of the *Planning Act*, the consent authority must take into consideration the planning scheme that applies to the land to which the application relates.

The primary purpose of the clearing of native vegetation is to use and develop part of the land for hay production, a use which is consistent with Zone A (Agriculture) and Zone R (Rural).

The application ensures the land is suitable for the intended use and the proposal does not unreasonably contribute to environmental degradation of the locality due to retention of adequate native vegetation buffers. The property contains priority environmental management areas including drainage lines, wetlands, sinkholes and rainforest. The applicant has applied appropriate buffers to minimise impacts on waterways, sinkholes and environmentally significant vegetation. Threatened species surveys were undertaken to demonstrate that the potential impact on wildlife is likely to be low and the findings have been supported by the Department of Environment and Natural Resources (DENR).

Clause 10.3 (Clearing of Native Vegetation – Performance Criteria) of the Northern Territory Planning Scheme (the Scheme) specifies the matters to be taken into account in assessing an application for the clearing of native vegetation including the Land Clearing Guidelines, which are a reference document under Clause 2.8 (Reference to Guidelines) of the Scheme.

The Land Clearing Guidelines recommend minimum native vegetation buffers along boundaries of 200m wide and the proposal includes a buffer along the western boundary of 55m. A reduction in the buffer width is supported based on advice from DENR that the remaining uncleared property is likely to adequately function as a wildlife corridor and is unlikely to have a significant impact on flora and fauna of the region or pose a significant risk to biodiversity values on the property or adjacent areas.

2. Pursuant to section 51(j) of the *Planning Act*, the consent authority must take into consideration the capability of the land to which the proposed development relates to support the proposed development and the effect of the development on the land and on other land, the physical characteristics of which may be affected by the development.

The area proposed to be cleared consists of arable and non-arable marginal country potentially suited to surface established semi-improved pastures at low stocking rates. Areas with slopes in excess of 2% and rocky terrain are typically avoided. Irrigation is not required to support the proposed hay production.

The land is capable of supporting hay production with minimal impact on other land anticipated.

3. Pursuant to section 51(n) of the *Planning Act*, the consent authority must take into consideration the potential impact on the existing and future amenity of the area in which the land is situated.

There is minimal potential for impact on existing and future amenity associated with the clearing as there is significant distance and established native vegetation between the proposed clearing, public roads and established dwellings on the adjoining properties.

4. Pursuant to section 51(r) of the *Planning Act*, the consent authority must take into consideration any potential impact on natural, social, cultural or heritage values, including, for example, the heritage significance of a heritage place or object under the *Heritage Act*.

The location of the clearing in the north-west corner of the property adjoining Kintore Caves Conservation Reservation has potential to impact on the natural values of the reserve, for example, through the introduction of weeds and intensified and prolonged flooding of caves resulting from increased run-off. The applicant amended the proposal to include a buffer at least 200m wide to the boundary adjoining the reserve and is preparing a weed management plan.

The Department of Environment and Natural Resources advised that the risks to threatened species are considered low. In addition, the proposal is to retain large trees, due to their size and potential for hollows, may provide suitable habitat for wildlife, further reducing the potential impact on natural values.

The clearing avoids a restricted work area around recorded sacred sites to minimise the potential impact on cultural values in the area.

ACTION: Notice of Consent and Development Permit

**ITEM 3
PA2018/0331**

CHANGES TO CARAVAN PARK APPROVED THROUGH DP13/0049 TO DELETE THE CARAVAN SITES AND AMEND CABIN LOCATIONS, PLUS THE ADDITION OF A HOSTEL AND MULTIPLE DWELLING IN TWO SINGLE STOREY BUILDINGS

APPLICANT

**NT PORTION 3165 (100) LANSDOWNE ROAD, LANSDOWNE
JASON HILLIER**

DAS tabled a letter by the Katherine Town Council.

The applicant did not attend the meeting.

**RESOLVED
20/19**

That, pursuant to section 46(4)(b) of the *Planning Act*, the Development Consent Authority defer consideration of the application to develop NT Portion 3165 (100) Lansdowne Road, Lansdowne for the purpose of changes to caravan park approved through DP13/0049 to delete the caravan sites and amend cabin locations, plus the addition of a hostel and multiple dwelling in two single storey buildings, to enable to applicant to provide the following additional information that the Authority considers necessary in order to properly consider the application:

- Additional information, including suitably amended plans, which detail all proposed changes to the approved caravan park and the reasons for the change.
- Re-inclusion on the plans of the landscaping along the eastern boundary, as approved by DP13/0049.
- Additional information, including suitably amended plans, which address the identified compliance issues with the requirements of Clause 7.5 (Private Open Space), 7.6 (Communal Open Space) and 7.7 (Landscaping for Multiple Dwellings, Hostels and Supporting Accommodation) of the NT Planning Scheme. The Authority note that the requirements of these clauses may be addressed in terms of the development area, rather than as a percentage of the site area.
- Confirmation of the current/ proposed waste water treatment arrangements for the site.
- Confirmation that an appropriate source of potable water is available to service the development.

**RESOLVED
21/19**

That pursuant to section 86 of the *Planning Act*, the Development Consent Authority delegates to the Chair, or in the Chair's absence any one of the other members of the Katherine Division the power under section 53 of the Act, to determine the application to develop NT Portion 3165 (100) Lansdowne Road, Lansdowne for the purpose of changes to caravan park approved through DP13/0049 to delete the caravan sites and amend cabin locations, plus the addition of a hostel and multiple dwelling in two single story buildings.

REASONS FOR THE DECISION

1. Pursuant to section 51(a) of the *Planning Act*, the consent authority must take into consideration the planning scheme that applies to the land to which the application relates.

The application relates to NT Portion 3165, 100 Lansdowne Road, Lansdowne which is identified on the property title as being within Zone A (Agriculture) of the NT Planning Scheme. The application is for changes to the caravan park approved through DP13/0049 to delete the caravan sites and to amend cabin locations, plus the addition of a hostel and a multiple dwelling in two single storey buildings.

Having considered the application, together with the technical assessment and assessment report prepared by Development Assessment Services, the Authority determined that the land had been developed with a caravan park (which comprises of 5 cabins), a seven-bed hostel and multiple dwellings (comprising the main residence and second dwelling). It did not accept the position held by DAS that the site is developed with seven dwellings and instead determined that the multiple dwellings, for the purpose of the Scheme, are limited to the residence and staff accommodation only. The Authority considered that the site was developed with only two multiple dwellings and therefore complied with Clause 7.1.1 (Residential Density Limitations) of the Scheme. It further acknowledged that, despite the information before it, additional clarification and/or information was required regarding the extent or potential extent of compliance with Clauses 7.5 (Private Open Space), 7.6 (Communal Open Space) and 7.7 (Landscaping for Supporting Accommodation, Hostels and Supporting Accommodation) of the Scheme. In the absence of the applicant attending the hearing, the Authority was unable to seek clarification regarding the matters raised in the assessment report and was therefore of the opinion that deferral of the application was necessary to enable further consideration to occur.

2. Pursuant to 46(4)(b) of the *Planning Act*, if the consent authority considers additional information is necessary to enable it to consider the application properly, it may require the applicant to provide the information and defer the application. For the reasons provided above, the consent authority considered that deferral of the application was required.

ACTION: Notice of Deferral

RATIFIED AS A RECORD OF ATTENDANCE AND DETERMINATIONS MADE AT THE MEETING

SUZANNE PHILIP
Chair

14 March 2019