



## **DEVELOPMENT CONSENT AUTHORITY**

### **KATHERINE DIVISION**

### **MINUTES**

**MEETING No. 200 – WEDNESDAY 5 APRIL 2023**

**AUDITORIUM REAR MEETING ROOM  
GODINYMAYIN YIJARD RIVERS ARTS & CULTURE CENTRE  
LOT 3238 STUART HIGHWAY  
KATHERINE**

**MEMBERS PRESENT:** Suzanne Philip (Chair), Allan Domaschenz, Marg Chamberlain (via video link), Lis Clark and Jeffrey Trembath

**APOLOGIES:** Nil

**LEAVE OF ABSENCE:** Nil

**OFFICERS PRESENT:** George Maly and Steven Kubasiewicz (via video link) (Development Assessment Services)

**COUNCIL REPRESENTATIVE:** Nil

Meeting opened at 11.30 am and closed at 12.15 pm

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 TIME DURING THE MEETING AND INVITEES ARE PRESENT FOR THE EVIDENTIARY STAGE ONLY.

**ITEM 1  
PA2020/0419 CLEARING OF NATIVE VEGETATION**

**APPLICANT NT PORTION 2887 (1110) FLORINA ROAD, COSSACK**

Kelly & Lucy Daley Graziers Pty Ltd

Applicants representative - Helen Groves (Magnat Agri Services) attended via video link

**RESOLVED  
3/23**

That, pursuant to section 53(a) of the *Planning Act 1999*, the Development Consent Authority consent to the application to develop NT Portion 2887 (1101) Florina Road Cossack for the purpose of clearing native vegetation, subject to the following conditions:

**CONDITION 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 must be generally in accordance with the plans submitted with the application but modified to show the location of the Heritage area as identified by the Heritage Branch Heritage of the Libraries and Sport Division of the NT Department of Tourism, Sport and Culture.

**GENERAL CONDITIONS**

2. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
3. 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.
4. 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.
5. 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.
6. Appropriate erosion and sediment control measures are to be employed throughout the clearing and establishment phases of the development, to the satisfaction of the Development Consent Authority. These should include (but not be limited to): retention of buffer zones where appropriate

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and measures to address seasonal timing of works, management of groundcover and minimisation of bare ground, maintenance of natural sheet flow patterns, avoidance or removal of soil windrows or other surface modifications that create concentrated flow paths, and installation of erosion controls on access tracks, fence lines and firebreaks where appropriate. Information regarding erosion and sediment control is available on the NTG website.

### NOTES

1. There are statutory obligations under the *Waste Management and Pollution Control Act 1998* (the Act), that require all persons to take all measures that are reasonable and practicable to prevent or minimise pollution or environmental harm and reduce the amount of waste. The proponent is required to comply at all times with the Act, including the General Environmental Duty under Section 12 of the Act. There is also a requirement to obtain an authorisation prior to conducting any of the activities listed in Schedule 2 of the Act. Guidelines to assist proponents to avoid environmental impacts are available on the Northern Territory Environment Protection Authority website at <http://ntepa.ntg.gov.au/waste-pollution/guidelines/guidelines>.

The proponent is advised to take notice of the SCHEDULE OF ENVIRONMENTAL CONSIDERATIONS provided by DEPWS. The Act, administered by the Northern Territory Environment Protection Authority, is separate to and not reduced or affected in any way by other legislation administered by other Departments or Authorities. The Environment Operations Branch of the Environment Division may take enforcement action or issue statutory instruments should there be non-compliance with the Act.

2. There are statutory obligations under the *Weeds Management Act 2001* to take all practical measures to manage weeds on the property. For advice on weed management please contact the Department of Environment, Parks and Water Security.
3. The permit holder is advised that it is an offence to disturb or destroy prescribed archaeological places without consent under the *Heritage Act 2011*. Should any heritage or archaeological material be discovered during the clearing operation, cease operation and please phone Heritage Branch of the Department of Territory Families, Housing and Communities.
4. The Aboriginal Areas Protection Authority recommends that the permit holder obtain an Authority Certificate to indemnify against prosecution under the *Northern Territory Aboriginal Sacred Sites Act 1989*. For advice on how to obtain a certificate please contact the Aboriginal Areas Protection Authority.
5. The Flora and Fauna division of the Department of Environment, Parks and Water Security recommend that the applicant consider not installing new fencing that have barbed wire as the top strand the fence. If barbed wire

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is proposed the applicant should consider installing bunting to increase the visibility or alternatively consider installing barbless safe twist wire.

### REASONS FOR THE DECISION

1. Pursuant to section 51(1)(a) of the *Planning Act 1999*, the consent authority must take into consideration the planning scheme that applies to the land to which the application relates.

The NT Planning Scheme 2020 applies to the land and clearing of native vegetation requires consent under Clause 1.8 (When development consent is required). It is identified as *Impact Assessable* under Clause 1.8 (1) (c) (ii) therefore the strategic framework (Part 2 of the Scheme, including Katherine Land Use Plan 2014 and the zone Purpose and Outcomes of Zone R (Rural) need to be considered.

These clauses have been considered and it is found that the proposal complies with the relevant requirements of the Planning Scheme.

2. Pursuant to Clause 1.10 (Exercise of Discretion by the Consent Authority), subclause 5 of the NT Planning Scheme 2020, the consent authority may consent to a proposed development which is not in accordance with a requirement set out in Parts 3, 5 or 6 only if it is satisfied that the variation is appropriate having regard to:
  - (a) The purpose and administration clauses of the requirement; and
  - (b) The considerations listed under Clause 1.10(3) or 1.10(4).

The proposal has been found to be in accordance with the relevant requirements.

3. Pursuant to section 51(1)(e) of the *Planning Act 1999*, the consent authority must take into consideration any submission made under Section 49 , and any evidence or information received under Section 50 in relation to the development application.

One public submission was received. The comments made by the submitter included reference to the cumulative impacts of clearing and the proposed used of Jarra Grass for hay production.

In consideration of the comments the consent authority notes that the proposed clearing complies with the requirements of the Northern Territory Planning Scheme and that DEPWS have raised no objection to Jarra Grass being use for hay production.

4. Pursuant to section 51(1)(j) of the *Planning Act 1999*, 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.

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No land capability issues have been identified by DEPWS with regard to the proposed land clearing or the use of the cleared area to grow Jarra Grass for hay production. The crop is not to be irrigated.

5. Pursuant to section 51(1)(n) of the *Planning Act 1999*, 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 consent authority took into consideration that parts of the land and adjoining land have already been cleared. The area proposed to be cleared is significantly removed from the public domain and the retention of extensive buffer areas. The proposal to establish the cleared areas with hay production is consistent with the amenity that can reasonably be expected within a rural environment.

6. Pursuant to section 51(1)(r) of the *Planning Act 1999*, 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 consent authority noted the comment of the Heritage Branch that there are no declared heritage places on the land but that there is a historical Aboriginal archaeological site within the proposed area. In consideration of this and the recognition of the site by the applicant, amended plans have been requested that identify the site on the plans to be endorsed. Conditions are recommended that the site be identified on the ground and not disturbed.

The consent authority also noted the comments of the Aboriginal Areas Protection Authority (AAPA) advising that it had no information of sacred sites on the land and recommends that an Authority Certificate be obtained prior to the clearing.

In consideration of this advice, a note will be placed on any permits granted, advising the applicant to seek an Authority Certificate from AAPA.

**FOR: 3**

**AGAINST: 0**

**ABSTAIN: 2**

**ACTION:** Notice of Consent and Development Permit

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

**SUZANNE PHILIP**

**Chair**

11 April 2023