



DEVELOPMENT CONSENT AUTHORITY

KATHERINE DIVISION

MINUTES

MEETING No. 181 – WEDNESDAY 4 DECEMBER 2019

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

MEMBERS PRESENT Suzanne Philip (Chair) and Trevor Dalton (via videoconference),
Marg Chamberlain, Peter Gazey and Fay Miller

APOLOGIES: John King

OFFICERS PRESENT: Julie Hillier (Development Assessment Services)

COUNCIL REPRESENTATIVE: Nil

Meeting opened at 10.35 am and closed at 10.50 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

**PA2019/0177 CLEARING OF NATIVE VEGETATION
NT PORTION 6264 (135) MCADAM ROAD, EMUNGALAN
APPLICANT/S COOLIBAH CROCODILE PARK**

DAS tabled comments from the Department of Environment and Natural Resources dated 3 December 2019.

Mr Owen Pugh (landowner) attended.

**RESOLVED
102/19**

That, pursuant to section 53(a) of the *Planning Act 1999*, the Development Consent Authority consent to the application to develop NT Portion 6264 (135) Mcadam Road, Emungalan for the purpose of clearing of 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 removal of the native vegetation buffer between the eastern boundary and the permitted clearing area (excluding that area within the wildlife corridor).

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 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>.

NOTES:

1. The Department of Environment and Natural Resources recommend the landowner seek advice from a suitably qualified professional in erosion and sediment control to remediate the existing gullies close to the proposed southern clearing polygon. 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. 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 Tourism and Culture.
3. 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.
4. 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 Management Act 2016*.
5. 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 pollution, environmental harm, and reduce the amount of waste.

Proponents should also be made aware there is a requirement to obtain an authorisation prior to conducting any of the activities in Schedule 2 of the Act.

The proponent is required to comply at all times with the *Waste Management and Pollution Control Act 1998* including the General Environmental Duty under Section 12 of the Act. Environmental legislation administered by the Northern Territory Environment Protection Authority is separate to, and not reduced or effected in any way, by legislation administered by the Department of Infrastructure, Planning and Logistics.

The Environmental Operations Branch reserves the right to take enforcement action should there be confirmed failure to comply the Act. This could lead to the issuing of one or more of the environmental instruments under the Act and it could also lead to prosecution for more serious matters of non-compliance.

6. 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 and Natural Resources.

REASONS FOR THE DECISION

1. Pursuant to section 51(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 Northern Territory Planning Scheme applies to the land to which the application relates. The application was assessed against Clauses 2.7 (Reference to Policy), 2.8 (Reference to Guidelines), 5.20 (Zone R – Rural), 10.2 (Clearing of Native Vegetation in Zones H, A, RR, RL, R, CP, CN, RD and WM and on Unzoned Land), 10.3 (Clearing of Native Vegetation – Performance Criteria).

The purpose of clause 5.20 (Zone R – Rural) is to provide for a range of activities including residential, agricultural and other rural activities. The larger lot sizes in this zone facilitate the separation between potentially incompatible uses and restrict closer settlement. The clearing is intended to support the use of the land for grazing, which is an existing use of the land, and is consistent with the purpose of Zone R.

The Agricultural Classes of the Land Resources of the Daly Basin classifies the part of the land intended for clearing as within Class CW, which is land with seasonal waterlogging and/or inundation limitations. The proposed use of the land is for pasture production and grazing and a selection of pasture species are proposed, including Pangola and Humidicola, which tolerate several months of waterlogging and a wide variety of soil types.

The Land Clearing Guidelines recommend native vegetation buffers to boundaries of 200m wide, however the advice from the Department of Environment and Natural Resources recommended a minimum 60m buffer to the east, west and south for erosion and sediment control purposes. The applicant proposes a 5m buffer to the east, a varied 40m to 60m setback to the west and 10m to the south.

The Authority takes into account the impracticality of complying with the recommended 200m buffer width along all boundaries in this instance and supports the proposed reduced buffers as conditioned for the following reasons:

- clearing is unlikely to have adverse impacts on the flora and fauna in the area;
- the soils are suitable for the proposed use;
- the permit is conditional on the permit holder implementing erosion and sediment controls over the permitted clearing area throughout the period of the permit;

- the applicant amended the application to retain a wildlife corridor of approximately 120m wide (minimum) to reduce the impact of clearing and support habitat connectivity;
- the clearing is intended to be selective and is necessary to effectively improve the ground cover for erosion control and grazing; and
- the landowner has demonstrated a clear plan of management to address the land management issues currently impacting the land including weed infestation, erosion and lack of ground cover.

The Katherine Land Use Plan 2914 (KLUP) is a reference document in the NT Planning Scheme and provides detailed planning specific to the Katherine region. The KLUP includes land use policy to manage growth and guide the interpretation of the NT Planning Scheme.

Priority Environmental Values mapping in the KLUP identifies part of the subject site as containing potentially significant vegetation. The applicant has amended the application to reduce the impact on this area which is characterised by poor drainage and regular inundation.

A focus of the land use plan is the identification and protection of prime agricultural land resources for that use. The site is located in an identified for Rural Lifestyle area adjacent Agriculture. Rural lifestyle objectives of the KLUP include “to maintain or enhance the amenity of established localities”. The proposal to clear native vegetation is consistent with the surrounding land use pattern in the area and is consistent with the rural lifestyle objective of the KLUP.

2. Pursuant to section 51(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 clearing of approximately 92ha in two patches for improved pasture in Zone R (Rural) is unlikely to impact on the existing or future amenity of the area, which careful management of disturbed soils. The adjoining parcel to the north is unzoned. Parcels to the east and west are within Zone R and used for cattle grazing and hay production. To the south the parcel is partly within Zone R and Zone H (Horticulture). The nearest dwelling is in excess of 500 m from the proposed clearing footprint. In the context of the existing land use pattern, the proposal would facilitate use of land that is consistent with the established amenity of the area and the future use as illustrated in the Katherine Land Use Plan 2014.

3. Pursuant to section 51(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 2011*.

The archaeological potential of the area is generally considered moderate to high, particularly near watercourses and areas of rocky outcrops. The Heritage Branch, Department of Tourism, Sport and Culture does not recommend an archaeological survey however the

permit includes a note directing the landowner to report any archaeological sites located during the development.

There are no records of sacred sites within the area of the land. The Aboriginal Areas Protection Authority recommend the permit holder obtain an Authority Certificate under the *Northern Territory Aboriginal Sacred Sites Act 1989*, and as such there is a note on the permit holder to refer to this advice.

The natural values of the existing native vegetation is impacted by the previous land use which introduced weeds and reduced ground cover. The proposal includes the retention of mature trees as part of the land management practise. As amended, there is limited impact of significant vegetation resulting from the clearing proposal.

ACTION: Notice of Consent and Development Permit

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

SUZANNE PHILIP
Chair

05 December 2019