



DEVELOPMENT CONSENT AUTHORITY

KATHERINE DIVISION

MINUTES

**MEETING NO. 203 – WEDNESDAY 4 OCTOBER 2023 AT 11:00
AM**

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

MEMBERS PRESENT: Suzanne Philip (Chair), Annabel McLarty, Denis Coburn, Elisabeth Clark
(Apology - left during hearing of Item 1 and did not otherwise participate in
the Meeting)

APOLOGIES: Allan Domaschenz and Jeremy Trembath (Conflict of Interest)

LEAVE OF ABSENCE: Nil

OFFICERS PRESENT: George Maly, and via teams Steven Kubasiewicz, Eponine Richardson and
Joshua Larder (Development Assessment Services)

COUNCIL REPRESENTATIVE: Apology

Meeting opened at 11:00 am and closed at 1:10 pm

ITEM 1 **UNDEFINED USE INCORPORATING HELICOPTER SERVICING, SCENIC TOURS, AGRICULTURAL SUPPORT SERVICES, ANCILLARY OFFICE AND ROOMING ACCOMMODATION WITHIN LAND SUBJECT TO FLOODING, FOR A PERIOD OF TWO YEARS**

PA2023/0110 **N.T. PORTION 6100 (135) FLORINA ROAD, COSSACK**

Applicant Will Johnson via teams

Sam Chisolm (landowner) in attendance

Submitters in attendance Jay & Caroline Pattison, Jason Rapley, Luke Haddow, Steven McCombes, Gary Hickey and Shane Harms

Submitters via teams Ben Rossiter and Dirk Ambjerg-Pedersen.

Interest parties in attendance Bob Holt, Jens Ambjerg-Pedersen, Candice McCombes and Brenton Gorman

RESOLVED
13/23

That, pursuant to section 53(a) of the *Planning Act 1999*, the Development Consent Authority consent to the application to develop NT Portion 6100 (135) Florina Road, Cossack for the purpose of helicopter servicing, scenic tours, agricultural support services, ancillary office and rooming accommodation within land subject to flooding, for a period of two years, subject to the following conditions:

Conditions Precedent

1. Prior to the commencement of the use, an operational management plan (OMP) shall be prepared, to the satisfaction of the consent authority, covering the full extent of the proposed use. When approved, the OMP will be endorsed and will then form part of the permit. The OMP must be generally in accordance with the plans submitted with the application and include the following information:
 - a) A copy of the permit and endorsed plans;
 - b) Hours of operation of the use (including helicopter engine warm up and cool down periods, take-offs and landings and helicopter servicing) limited to 7am-6pm on weekdays and 8am-6pm on weekends, with the exception of flights made for emergency purposes.
 - c) The location and total capacity of flammable liquids storage for the purposes of the approved use is not to exceed 10,000 litres meeting all relevant Australian Standards and indicating the storage area will be outside of land affected by a Q100 flood event.
 - d) A flight log showing relevant flight categories, including but not limited to, scenic, agricultural and emergency flights, which will demonstrate that, with the exception of emergency flights, the frequency of flights will not exceed 4 flights per day (being 8 movements in total – not average over a period of time). The flight log should include a brief methodology of how this commitment will be achieved over the two-year period taking into account seasonal variation of demand for services.
 - e) A 'Community Engagement Strategy' (CES), prepared to the satisfaction of the consent authority. The CES will:

- Provide sufficient detail of the operational aspects of the proposal approved by this permit including, but not limited to:
 - (a) Approved Flightpaths
 - (b) Approved Hours of operation
 - (c) Proposed storage of fuel and its management including refuelling procedures.
- Set out the form of community consultation and an ongoing engagement with the potentially affected land owners in the locality with respect to the use, in connection with the ongoing operation of the development;
- Set out the process for the reporting of, and responding to complaints, providing an opportunity for a regular ongoing feedback from the surrounding land owners, during the operation of the helicopter tours; and
- Conclude the consultation process through the preparation of a final summary report which may be lodged with an application for an extension to the duration of the permit and include:
 - A summary of consultation activities undertaken prior to commencement and during the two year period of the permit;
 - Consultation participation levels;
 - Summary of key themes arising from the ongoing engagement;
 - Any issues of concern or that require further consideration by DAS; and
 - Summary of how, any issues raised by the community, were addressed.

Conditions

2. The works carried out under this permit shall be in accordance with the drawings numbered 2023/0110/01 through to 2023/0110/06, endorsed as forming part of this permit.
3. The permit shall expire two years from the date this permit is issued.
4. The owner of the land must enter into agreements with the relevant authorities for the provision of electricity to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.

Please refer to notations 1 for further information. Any developments on or adjacent to any easements on site shall be carried out to the requirements of the relevant service authority to the satisfaction of the consent authority.

3. Vehicular access to the site is to meet the technical standards of the Katherine Town Council, to the satisfaction of the consent authority.
4. Stormwater is to be collected and discharged into the drainage network to the technical standards of and at no cost to the Katherine Town Council, to the satisfaction of the consent authority.
5. The use and development must be managed so that the amenity of the area is not detrimentally affected, through the:
 - (a) transport of materials, goods or commodities to or from the land
 - (b) appearance of any building, works or materials
 - (c) emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil
 - (d) presence of vermin
6. Appropriate erosion and sediment control measures (dust minimisation) must be effectively implemented throughout the construction phase of the development (including clearing and early works) and all disturbed soil surfaces must be

satisfactorily stabilised against erosion at completion of works, to the satisfaction of the consent authority. Information resources are available on the IECA website www.austieca.com.au and the Department of Environment, Parks and Water Security ESCP Standard Requirements 2019 and Land Management Factsheets available at <https://nt.gov.au/environment/soil-land-vegetation>. For further advice, contact the Land Development Coordination Branch: (08) 8999 4446. No discharge of contaminated water to groundwater or surface waters.

7. The use shall operate in accordance with the operational management plan (OMP) at all times for the duration of the permit.
8. The flight path plan, forming part of the endorsed plans, shall be adhered to at all times for the duration of the permit, to the satisfaction of the consent authority.
9. The proponent is to implement the 'Community Engagement Strategy', prior to the commencement of the use to the satisfaction of the consent authority.

Notes:

1. The Power and Water Corporation advises that the Water and Sewer Services Development Section (waterdevelopment@powerwater.com.au) and Power Network Engineering Section (powerdevelopment@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. An open A road Permit is required from Katherine Town Council before commencement of any work within the road reserve, which would include creation of any driveway crossover connecting to Katherine Town Council's road network.
3. Katherine Town Council's current Fees and Charges may apply to the conditions. Additional information can be found at www.katherine.nt.gov.au.
4. For the purposes of best practice land management and environmental protection it is recommended that a Type 1 Erosion and Sediment Control Plan (ESCP) be developed in accordance with the Department of Environment, Parks and Water Security ESCP Standard Requirements 2019 available at <https://nt.gov.au/environment/soil-land-vegetation>. The ESCP should be prepared prior to commencement of works and implemented during the construction phase (including clearing and early works); and all disturbed soil surfaces should be satisfactorily stabilised against erosion at completion of works. For further advice, contact the Land Development Coordination Branch: (08) 8999 4446.
5. A groundwater extraction licence may be required under the Water Act 1992 for any bore used for purposes other than rural stock and domestic water supply. For advice on water extraction licences please contact the Water Licensing and Regulation Branch of the Department of Environment, Parks and Water Security.
6. Noise levels from the premises must comply with the latest version of the NT EPA Northern Territory Noise Management Framework Guideline available online.
7. 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 in their comments dated 12 May 2023.

8. Defence recommends that the proponent liaise with the Royal Australian Air Force (RAAF) in relation to airspace issues. The RAAF point of contact in relation to this matter is contactable via email at 452SQNTdlflt@defence.gov.au.

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 helicopter servicing (motor repair station), scenic tours, agricultural support services, ancillary office and rooming accommodation within land subject to flooding requires consent under Clause 1.8 (When development consent is required) and pursuant to Clause 3.6 LSF (Land Subject to Flooding).

The proposed land use is identified as Impact Assessable under Clause 1.8 (1) (c) (i) and (jj), therefore the strategic framework (Part 2 of the Scheme, including the Katherine Land Use Plan 2014, (which is relevant to this application), zone purpose and outcomes of Clause 4.21 (Rural), and Clauses 3.2 (Clearing of Native Vegetation) and 3.6 (Land Subject to Flooding) need to be considered. Although not prescribed, Clauses 5.2.1 (General Height Control), 5.2.4.1 (Car Parking Spaces), 5.2.4.4 (Layout of car parking areas), 5.2.5 (Loading Bays), 5.2.6 (Landscaping in Zones other than CB), 5.2.7 (Setbacks for Development Adjacent to Land in Zones LR, LMR, MR or HR), 5.4.3 (Building Setbacks for Residential Buildings and Ancillary Structures), 5.4.8 (Residential Building Design), 5.2.7 (Communal Open Space), 5.4.17 (Building Articulation) and 5.4.16 (Helicopter Landing Sites) were considered under discretion and used to guide the assessment.

These clauses have been considered and it is found that the proposal can operate in a manner consistent with the Katherine Land Use Plan 2014, the outcomes of Zone R (Rural), Part 3 requirements as well as the relevant requirements of Part 5 of the Planning Scheme, subject to conditions which restrict hours of operation, number of flights per day and flight paths directing air traffic away from residential development.

Katherine Land Use Plan 2014

The proposal accords with the key objectives of the Katherine Land Use Plan 2014 which require rural activities to be developed in a manner that preserves agricultural land whilst minimising impact on the amenity of competing rural residential uses. The subject site is not currently used for agriculture but the proposal facilitates agricultural activities in the locality by operating helicopter flights for the purpose of mustering and agricultural spraying. Impacts on the residential amenity of the locality can be managed by conditioning operating hours and restricting flight paths away from residential development. With these precautions in place, the proposal complies with the strategic vision of the Katherine Land Use Plan 2014.

Overlays

The proposal complies with the requirements of Clause 3.2 (Clearing of Native Vegetation) and Clause 3.6 (Land Subject to Flooding) of the NT Planning Scheme 2020. No native vegetation will be removed. The risk of contamination from fuel and other hazardous material entering flood waters can be minimised as all hazardous material will be stored outside the defined 1% AEP flood level and managed in accordance with an Operational Management Plan. For these reasons, the proposal complies with the requirements of both overlays.

Zone R (Rural)

The purpose statement of the rural zone envisages residential, horticultural, agricultural and other rural activities on large lots to provide separation between potentially incompatible uses and restrict closer settlement in areas where access to reticulated water and sewerage may not be available.

A reasonable separation distance is achieved from adjoining residential development within Zone R (Rural). The Consent Authority, however, notes that the locality also includes adjoining residential land in Zone RL (Rural Living). The helicopter pad is situated 65.5 metres from the northern boundary and 116.5 metres from the southern boundary. The proposed flight path of the helicopters is in a western direction away from residential development in the locality. The proposal can be compatible with the existing rural character of the locality if the endorsed flight paths plan is adhered to and the use of the helicopters is consistent with the operational management plan.

Part 5 Requirements

Due to the undefined nature of the use, Part 5 requirements were considered under discretion and used to guide the assessment of the proposal. The primary clause considered is Clause 5.4.16 (Helicopter Landing Sites).

To align with the hours of operation for helicopter landing sites required for personal use in a residential locality, the Consent Authority, with the applicant's consent, altered the start of operating hours from the proposed 7am to 8am on weekends.

The Consent Authority sought clarification from the applicant regarding the tourism component of the business, to determine whether the car parking arrangements and onsite infrastructure are capable of facilitating the anticipated number of people for scenic flights. The applicant confirmed scenic flights will operate on an ad-hoc basis and are ancillary to the use of the helicopters for agricultural purposes. The total number of flights is capped at four flights per day (8 movements) but this number is not delineated into specific types of flights and any tourism use must fit within those parameters. The car parking arrangements are considered satisfactory for the intended use of the site.

A two year time limit for the permit has been instigated in recognition of the sensitivities regarding the anticipated noise resulting from the helicopter operations. During the two-year time frame approval of the operation, the proponent must, in addressing a condition of approval, implement and adhere to the operational management plan which requires the proponent to record all flights operating from the subject land and includes a requirement to produce and implement a 'Community Engagement Strategy', which provides a mechanism for community feedback regarding noise impact on the rural residential amenity over a period of two years. The contents of the Community Engagement Strategy can

then be considered in subsequent considerations of the proposed use if an application is received to allow the use to operate beyond the two years.

With these mechanisms and conditions in place, the proposal complies with the relevant Part 5 requirements of the Scheme.

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

Seventeen submissions were received during the public submission timeframe. The submissions include seven letters of support and ten letters of opposition.

Submissions in support of the proposal highlight that the business will provide an essential service to the community, flights will land and take off in a direction away from nearby residential development and noise impacts can be managed by suitable flight paths and hours of operation.

Submissions in opposition to the proposal raise concerns that include, but are not limited to, the impact of noise pollution from the use of the helicopters on nearby residents and animals, hours of operation, loss of privacy, the number of helicopters operating from the site and the use of helicopters facilitating agricultural activities that create spray drift.

Several submitters presented to the Consent Authority on the day, reiterating concerns about noise impacts on the residential amenity of the locality. Submitters expressed concern regarding the level of ambiguity with the number of emergency flights operating from the subject site and the potential lack of certainty that the use will operate within the parameters and conditions of a permit, including operating hours and the maximum number of flights.

The Consent Authority reiterated that there are mechanisms within the *Planning Act 1999* to pursue enforcement action if conditions of a permit are breached or a use is operating contrary to the *Planning Act 1999*. The likelihood of a proponent adhering to the conditions of a permit is not a reasonable consideration in determining whether a permit should be issued in the first instance. On this basis, the Consent Authority considered this particular concern as not relevant to its decision making process.

It was brought to the attention of the Consent Authority that, contrary to the application which states that no fuel is stored on site, there are at least three fuel storage containers currently on the site. The Consent Authority noted this and in seeking to address this concern requires the proponent to include the management of fuel for the proposed use to be included in the Operational Management Plan, together with a requirement for the fuel and other risk based aspects of the use to be appropriately managed to relevant applicable Australian Standards.

The Consent Authority considered the merit of submissions in support of and opposition to the proposal, particularly in relation to the impact of the use on the rural residential amenity of the locality and whether the scale of operations is suitable on land in Zone R (Rural) that is developed for rural residential purposes. The Consent Authority considers that the proposed uses can operate in a manner that is suitable on land in Zone R (Rural), subject to conditions, including but not limited to restricting operating hours and limiting the permit to a period of two years.

3. Pursuant to section 51 (1) (h) of the *Planning Act 1999*, the consent authority must take into consideration the merits of the proposed development as demonstrated in the application;

The consent authority noted the activity has operated in the Katherine locality in various forms over a number of years and as such has become an important and integral part of agricultural, tourism and emergency recovery operations in the region. The Consent Authority also took into account the views of concerned resident on the proposed use of the site, the location of the site, its zoning, configuration and proximity to other uses in the area, including rural residential lots in the locality. In balancing the information provided, the Consent Authority formed a view that the proposed use of the land should be provided with an opportunity to trial the operation for the period of two years.

The trial is to be subject to a number of specific and standard conditions of approval, including conditions requiring detailed monitoring of helicopter movements in the locality and an active engagement with the surrounding community on the impacts of the proposed use. These conditions of approval will provide further information on the potential impact of helicopter use on the subject site, in the context of the uses expected in the rural zone generally and in relation to the airspace above, being used by military and other aircraft operations and which affect the locality through aircraft noise.

Approving the proposal on a trial basis is not likely to materially affect the applicant's use of the site as no development is proposed. The trial will allow the applicant the opportunity to demonstrate that the use will not negatively impact on other uses in the locality.

An approval of the proposal for a limited time will also provide the applicant with an option to relocate to an alternative location (such as, for example, within the airport land where aviation facilities may be developed over time, or to another site further away from residential uses). The approval requires an operational management plan including a suitable engagement strategy for the residents and occupants of surrounding land parcels allowing them to monitor and inform the pattern of use approved by the Consent Authority and provide the applicant and neighbouring land users with the opportunity to gather evidence on the suitability of the use on this site.

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.

The application is for the use of the land rather than for the construction of buildings. All structures that are to be utilised for the proposed use are existing, including the existing helipad. The subject land has no topographic features that would impact or restrict the proposed use and the existing building footprint where the proposed uses will occur, is outside of the 1.0% AEP flood level.

Reticulated water and sewerage are unavailable. There are two bores on the property with a license able to supply the required capacity for water supply. The western portion of the site is subject to flooding but the proposed development is outside of the mapped flood area.

For these reasons, the land is considered capable of supporting the proposed use.

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 impact on the amenity of the locality forms the essence of the planning assessment of the proposal against the Katherine Land Use Plan 2014, the purpose and outcomes of Zone R (Rural) and the Part 5 requirements of the NT Planning Scheme 2020. Noise pollution resulting from the operation and maintenance of the helicopters is the primary concern regarding an amenity impact.

For the purpose of Section 51(1)(n), "amenity" is defined in Section 3 in relation to a locality or building, as meaning "any quality, condition or factor that makes or contributes to making the locality or building harmonious, pleasant or enjoyable". The locality includes land situated east of the subject site in Zone RL (Rural Living) and is characterised by residential development in the form of dwelling-single/s and associated domestic uses. There is a residential aged care facility within Zone RL (Rural Living) located within 500m of the development. Noise pollution resulting from the operation and maintenance of the helicopters is the primary amenity impact. As the structures are existing, there is no change to the visual amenity of the site and the locality as a result of the proposal.

As was noted in the Supreme Court decision of *Farris v Development Consent Authority [2017] NTSC 44*, in determining the impact of helicopter operations in the context of a rural (or semi-rural) area - 'It is a question of fact and degree. A noisy truck or piece of agricultural equipment may make more noise, and cause greater and more prolonged disruption of semi-rural serenity, than a helicopter taking off and landing several times a week.' That case concerned the private use of a helicopter from land zoned RL. The present application is for commercial activities far beyond that envisioned in *Farris v Development Consent Authority*.

An acoustic report, conducted by way of a desk audit and lodged as part of the application, evaluates amenity impacts and identifies the predicted noise levels resulting from the operation of the helicopters. The acoustic report concludes the proposed use meets the relevant standards specified in the NT Noise Management Framework Guideline and should not unreasonably impact on the residential amenity of the locality. The proposed flight path of the helicopters is in a western direction away from residential development located east of the subject site. The Consent Authority considers that amenity impacts can be managed through compliance with the flight path plan and by conditioning hours of operation. As noted previously, in order to properly assess the amenity implications of the proposed use, the Consent Authority considers that a time-limited permit with an operational management plan, including provision for community engagement, is appropriate.

FOR: 3

AGAINST: 0

ABSTAIN: 0

ACTION: Notice of Determination

ITEM 2

**OFFICES IN 3 X 1 STOREY BUILDINGS AND ANCILLARY WAREHOUSE IN 1 X 1 STOREY BUILDING
LOT 3472 (13) CHARDON STREET, KATHERINE EAST, TOWN OF KATHERINE**

PA2023/0289

Applicant George Dakis via Teams

**RESOLVED
14/23**

That, the Development Consent Authority vary the requirements of Clause 5.6.1 (Setbacks and building design requirements in zones LI, GI and DV) of the Northern Territory Planning Scheme 2020, and pursuant to section 53(b) of the *Planning Act 1999*, alter the proposed development and consent to the proposed development as altered to develop Lot 3472 (13) Chardon Street, Katherine East for the purpose of Offices in 3 x 1 single storey buildings and ancillary warehouse in 1 x 1 storey building, subject to the following conditions:

Conditions Precedent

1. Prior to the endorsement of plans and prior to commencement of works, 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:
 - (a) All loading bays having a minimum height clearance of 4m (with a specific reference to the loading bay adjacent to carparks numbered 13 and 24).
 - (b) A relocated bin enclosure away from the drainage swale, to the satisfaction of the consent authority.
 - (c) A stormwater management plan demonstrating the onsite collection of stormwater and its discharge into the Katherine Town Councils stormwater drainage system to the satisfaction of the consent authority.

Conditions

2. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
3. 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) plans;
 - (b) surfaced with an all-weather-seal coat;
 - (c) drained;
 - (d) line marked to indicate each car space and all access lanes; and
 - (e) clearly marked to show the direction of traffic along access lanes and driveways to the satisfaction of the consent authority.

Car parking spaces, access lanes and driveways must be kept available for these purposes at all times.

4. The car parking shown on the endorsed plan(s) must be available at all times for the exclusive use of the occupants of the development and their (visitors/ clients).
5. Stormwater is to be collected and discharged into the drainage network to the technical standards of and at no cost to the Katherine Town Council/Transport and Civil Services Division of the Department of Infrastructure to the satisfaction of the consent authority.
6. Any developments on or adjacent to any easements on site shall be carried out to the requirements of the relevant service authority to the satisfaction of the consent authority.

7. Before the use/occupation of the development starts, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the consent authority.
8. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the consent authority, including that any dead, diseased or damaged plants are to be replaced.
9. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage, electricity and telecommunication networks to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
10. Where unfenced, the Stuart Highway Road frontage is to be appropriately fenced in accordance with the Transport and Civil Services Division of the Department of Infrastructure, Planning and Logistics' standards and requirements to the satisfaction to the consent authority.
11. No temporary access for construction purposes shall be permitted from the Stuart Highway road reserve. Construction and delivery vehicles shall not be parked on the Stuart Highway road reserve.
12. Appropriate erosion and sediment control measures must be effectively implemented throughout the construction phase of the development (including clearing and early works) and all disturbed soil surfaces must be satisfactorily stabilised against erosion at completion of works, to the satisfaction of the consent authority. Information resources are available on the IECA website www.austieca.com.au and the Department of Environment, Parks and Water Security ESCP Standard Requirements 2019 and Land Management Factsheets available at <https://nt.gov.au/environment/soil-land-vegetation>. For further advice, contact the Land Development Coordination Branch: (08) 8999 4446.
13. Consent is required from Council prior to establishing the car parking spaces in the road reserve.

Notes:

1. The Power and Water Corporation advises that the Water and Sewer Services Development Section (waterdevelopment@powerwater.com.au) and Power Network Engineering Section (powerdevelopment@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. Power and Water Corporation advise that prior to initial reviews and assessments being undertaken to determine Power and Water Corporations servicing requirements, the developer should submit an Expression of Interest (EoI) form via email to remotedevelopment@powerwater.com.au.
2. A "Permit to Work Within a Road Reserve" may be required from The Katherine Town Council or Transport and Civil Services Division of the Department of Infrastructure, Planning and Logistics before commencement of any work within the road reserve
3. 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>.

4. This development permit is not an approval to undertake building work. You are advised to contact a Northern Territory registered building certifier to seek a building permit as required by the Northern Territory Building Act 1993 before commencing any demolition or construction works.
5. Any proposed works which fall within the scope of the Construction Industry Long Service Leave and Benefits Act 2005 must be notified to NT Build by lodgement of the required Project Notification Form. Payment of any levy must be made prior to the commencement of any construction activity. NT Build should be contacted via email (info@ntbuild.com.au) or by phone on 08 89364070 to determine if the proposed works are subject to the Act
6. All land in the Northern Territory is subject to the Weeds Management Act 2001 (WM Act). The WM Act describes the legal requirements and responsibilities that apply to owners and occupiers of land regarding declared weeds. Section 9 general duties include the requirement to take all reasonable measures to prevent land being infested with a declared weed and to prevent a declared weed from spreading. There are additional duties including a prohibition on buying, selling, cultivating, moving or propagating any declared weed and the requirement to notify the Weed Management Branch of a declared weed not previously present on the land within 14 days of detection.

Should you require further weed management advice contact the weed management branch by phone on (08) 8999 4567 or by email to weedinfo@nt.gov.au.

7. 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.

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 offices in 3 x 1 single storey buildings and ancillary warehouse in 1 x 1 story building requires consent under Clause 1.8 (When development consent is required). It is identified as Impact assessable under Clause 1.8.(1) (c) (i), therefore the strategic framework (Part 2 of the Scheme including the Katherine Land Use Plan 2014 and the Katherine East Area Plan 2020), the purpose and requirements of Overlay 3.8 LARD (Land adjacent to a designated road), The purpose and outcomes of Clause Zone GI (General Industry), the purpose and outcomes of Clause 4.15 Zone GI (General Industry), the zone purpose, administration and requirements of Clause 5.21. (General height requirements), Clause 5.2.4.1 (Carparking spaces), Clause 5.2.4.4.(Layout of carparking spaces), 5.2.5 (Loading bays), 5.2.6 (Landscaping), Clause 5.2.7 (Setback for developments adjacent to land zoned LR, LMR, MR and

HR) and Clause 5.6.1 (Setbacks and building design in zones LI, GI and DV), 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 except for Clause 5.2.5 (Loading bays) and Clause 5.6.1 (Setbacks and building design requirements in zones LI, GI and DV) need to be varied.

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 not to be in accordance with Clause 5.2.5 (Loading Bays), because the proposal will result in one loading bay not satisfying the required height clearance of 4m. The proposal only provides a maximum clearance of 3.4m.

It is considered that a variation to this clause is inappropriate in this instance because the proposed loading bay will be limited functionally. Amended plans showing a loading bay adjacent to carparks numbered 13 and 24, with the required height will achieve compliance with the NT Planning Scheme and improve the functionality of the loading bay.

The proposal also has been found not to be in accordance with Clause 5.6.1 (Setbacks and building design requirements in Zones LI, GI and DV) because the proposal will result in a rear boundary setback of 3m where 5m is required.

It is considered that a variation to this Clause is appropriate in this instance because:

- (a) The purpose of Clause 5.6.1 is to ensure that buildings are sited and designed to facilitate the development of a safe, attractive and legible industrial zone. Administrative Clause 1 to Clause 5.6.1 allows for the consent authority to vary a setback requirements provided that it is satisfied that it is consistent with the purpose of Clause 5.6.1 and the zone purpose and is appropriate to the site having regard to such matters as its location, scale and impact on the safety and amenity of the of the locality and adjoining property. In consideration of varying the rear setback from 5m to 3m, it is noted that the rear boundary abuts an unsurveyed parcel that was part of the former rail corridor. In effect the rail corridor, with its extensive area of native vegetation screens the subject land and the Stuart Highway from each other. A reduction to the rear setback requirement is consistent with the purpose of the Clause 5.6.1 as it results in a well sited and designed buildings that contribute to the visual amenity of development in the zone without impacting on the safety and amenity of the locality and adjoining properties.
- (b) The considerations listed under Clause 1.10(4) have been given regard to and it has been found that the proposal complies with all relevant requirements of the NT Planning Scheme 2020, except for Clause 5.6.1 (Setbacks and building design requirements in Zones LI, GI and DV) as identified above

3. 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. No land capability constraints have been identified. The subject land is not impacted by a 1% AEP flood event. The proposed development is to be connected to available reticulated services.

4. 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 design of the development will contribute to the current and future amenity of the locality.

FOR: 3

AGAINST: 0

ABSTAIN: 0

ACTION: Development Permit and Notice of Consent

**ITEM 3
PA2023/0187**

**SUBDIVISION TO CREATE EIGHT LOTS
NT PORTION 6794 (340) FLORINA ROAD, COSSACK**

Applicant Cameron Judson in attendance

Landowner Rob Holt in attendance

**RESOLVED
15/23**

That, pursuant to section 46(4)(b) of the *Planning Act 1999*, the Development Consent Authority defer the application to develop NT Portion 6794 (340) Florina Road, Cossack for the purpose of a subdivision, to create eight lots, to enable the proponent to provide the following additional information that the consent authority considers necessary in order to enable proper consideration of the application:

1. A report prepared by suitably qualified professional/s in groundwater supply and water quality assessment, which demonstrates that there is an adequate supply of ground water from the Jindukin Aquifer on each proposed lot, and, that the water is suitable for purposes of stock and domestic use, as described under section 14 of the *Water Act*.
2. Demonstrate that the proposed separation (buffer) distance between proposed Lot 4 and the rural stock yard (feedlot) located on the NT Portion 7012, adjacent to the subject lot and next to the proposed Lot 4, reflects the provisions of the "Recommended Land Use Separation Distances Guideline" (NT EPA (V1.0; October 2017), which specifies suitable separation distances between cattle feed lots and other (including residential) land uses. A suitable separation distance recommendation must be based on the maximum number of the head of cattle approved for the feedlot on NT Portion 7012.

Reasons for Deferral:

1. Section 14 of the *Water Act 1992* provides the statutory right for an allotment to access ground water for domestic use and sub-clause 5 of Clause 6.3.4 (Infrastructure for Subdivision in Zones RL, R and Unzoned Land) of the NTPS2020 requires an application to demonstrate that an adequate supply of groundwater is available for domestic purposes. The suitability of groundwater for stock and domestic use from the Jinduckin Formation that would be available to each of the newly created parcels has not been adequately demonstrated.

2. Section 51 (t) of the Planning Act 1999 requires the Consent Authority to consider any other matters it thinks fit. The subject land abuts NT Portion 7012 (450) Florina Road, Cossack and a portion of this land immediately adjacent to the proposed lots 4 and 5 is currently developed for purposes of a feedlot. NT EPA guidelines ("Recommended Land Use Separation Distances Guideline" (NT EPA (V1.0; October 2017)) recommend separation distances between cattle feedlots (based on the head of cattle) and other land uses, to minimise amenity impact resulting from conflicts between incompatible land uses, particularly in regard to odour. The Authority has formed a view that potential impact of the odour from the cattle-feed lot on future residents on the proposed lots is a potential reverse sensitivity issue, which needs to be considered further.

FOR: 3

AGAINST: 0

ABSTAIN: 0

ACTION: Notice of Deferral

**RESOLVED
16/23**

That, pursuant to section 86 of the Planning Act, the Authority delegates to the Chairman, or in the Chairman'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 6794 (340) Florina Road, Cossack for the purpose of a subdivision, to create eight lots, subject to:

1. A report prepared by suitably qualified professional/s in groundwater supply and water quality assessment, which demonstrates that there is an adequate supply of ground water from the Jindukin Aquifer on each proposed lot, and, that the water is suitable for purposes of stock and domestic use, as described under section 14 of the Water Act.
2. Demonstrate that the proposed separation (buffer) distance between proposed Lot 4 and the rural stock yard (feedlot) located on the NT Portion 7012, adjacent to the subject lot and next to the proposed Lot 4, reflects the provisions of the "Recommended Land Use Separation Distances Guideline" (NT EPA (V1.0; October 2017), which specifies suitable separation distances between cattle feed lots and other (including residential) land uses. A suitable separation distance recommendation must be based on the maximum number of the head of cattle approved for the feedlot on the NT Portion 7012.
3. Further conditions as determined by the delegate.

FOR: 3

AGAINST: 0

ABSTAIN: 0

ACTION: Advice to Applicant

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

**SUZANNE PHILIP
Chair**

18 October 2023