



## **DEVELOPMENT CONSENT AUTHORITY**

### **LITCHFIELD DIVISION**

### **MINUTES**

**MEETING No. 272 – FRIDAY 16 SEPTEMBER 2022**

**AGORA ROOM, HUDSON, BERRIMAH, 4 BERRIMAH ROAD, BERRIMAH**

**MEMBERS PRESENT:** Suzanne Philip (Chair), Keith Aitken, Adam Twomey, Emma Sharp and Rachael Wright

**APOLOGIES:** Nil

**LEAVE OF ABSENCE:** Nil

**OFFICERS PRESENT:** George Maly, Joshua Larder, Breanna Lusty (Development Assessment Services)

**COUNCIL REPRESENTATIVE:** Nil

**Meeting opened at 10.50 am and closed at 12:30**

MINUTES RECORD THE EVIDENTIARY STAGE AND THE DELIBERATIVE STAGE 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**                      **PONTOON AND WALKWAY ADDITION FOR A TOURIST OPERATION**  
**PA2022/0273**                **PART SECTION 1614 (3202) ARNHEM HIGHWAY, WAK WAK, HUNDRED OF**  
**GUY**

**APPLICANT**                One Planning Consult

Israel Kgosiemang (One Planning Consult) attended

Operators of Hunter Safaris Adam Bowman, Morgan Bowman, Harry Bowman, Damien Mumforti and Sean Daly attended

Submitters Tony Blums and Wes Field attended.

**RESOLVED**                That, pursuant to section 53(a) of the Planning Act 1999, the Development Consent  
**86/22**                            Authority consent to the application to develop Section 1614 (3202) Arnhem  
Highway, Wak Wak, Hundred of Guy, for the purpose of a pontoon and walkaway  
addition to a tourist operation, subject to the following conditions:

**CONDITIONS PRECEDENT**

1. Prior to the commencement of works, amended plans demonstrating the site access, linking the parking area with the site and the extent of physical works proposed to be undertaken as part of establishment of the proposed berthing facility shall be submitted to and approved by the consent authority.
2. Prior to the commencement of works, an Erosion and Sediment Control Plan (ESCP) must be submitted to and approved by the consent authority on advice from the Department of Environment, Parks and Water Security. The ESCP must be developed by a suitably qualified and experienced professional in erosion and sediment control and the IECA Best Practice Erosion and Sediment Control Guidelines 2008 should be referenced as a guide to the type of information, detail and data that should be included in the ESCP. The plan should detail methods and treatments for minimising erosion and sediment loss from the site during the construction and post construction phases.
3. Prior to the commencement of works, an unrestricted pedestrian access to the site shall be provided on the advice of the Crown Land Estate to the satisfaction of the consent authority.

**GENERAL CONDITIONS**

4. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.

5. 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.
6. Works are to be undertaken during the dry season only (May-October) when the risk of seasonal inundation is low.
7. All works relating to this permit must be undertaken in accordance with the Endorsed and Sediment Control Plan (ESCP) to the requirements of the consent authority on the advice of the Department of Environment, Parks and Water Security. Should the endorsed ESCP need to be amended, the revised ESCP should be submitted for acceptance to Development Assessment Services via email: [das.ntg@nt.gov.au](mailto:das.ntg@nt.gov.au).
8. All reasonable and practicable measures must be undertaken to prevent: erosion occurring onsite, sediment leaving the site, and runoff from the site causing erosion offsite. Appropriate erosion and sediment control measures must be effectively implemented throughout the construction and post 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 on the advice of the Department of Environment, Parks and Water Security.
9. At completion of works, clearance should be sought from the Department of Environment, Parks and Water Security regarding satisfactory implementation of permanent erosion and sediment control measures and site stabilisation. To arrange a clearance site inspection, email the Development Coordination Branch at: [Developmentassessment.depws@nt.gov.au](mailto:Developmentassessment.depws@nt.gov.au).

## NOTES

1. 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 confirmation from a qualified engineering professional that any works and structures are structurally sound as required by the Northern Territory Building Act 1993 before commencing any demolition or construction works.
2. Litchfield Council's current Fees and Charges may apply to the above conditions. Additional information can be found at [www.litchfield.nt.gov.au](http://www.litchfield.nt.gov.au).
3. Information regarding erosion and sediment control can be obtained from the IECA Best Practice Erosion and Sediment Control 2008 books available at [www.austieca.com.au](http://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 Development Coordination Branch: (08) 8999 4446.
4. Any development must be undertaken in accordance with NT Work Safety standards and procedures.

## 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 the construction of the pontoon and walkway addition to a tourist operation, 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 the Darwin Regional Land Use Plan 2015 and the Litchfield Subregional Land Use Plan 2016, which are relevant to this application), purpose and requirements of Clause 3.2 (CNV – Clearing of Native Vegetation), zone purpose and outcomes of Clause 4.20 (Zone A – Agriculture), and Clauses 5.2.1 (General Height Control), 5.2.4 (Vehicle Parking), 5.2.4.4 (Parking Layout) and 5.8.9 (Excavation and Fill) 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. The Authority noted that there are no parking requirements prescribed by the Scheme applicable to this application and that parking for this, and other tourist operator sites operating in the area, is provided in a public carpark owned by Transport and Civil Services Division of the Department of Infrastructure, Planning and Logistics (TCSD). In those circumstances it is not appropriate for the Authority to require or regulate parking on such land. The Authority was advised, however, that TCSD has indicated that it has no objection to the use of the public carpark to access the proposed berthing facility. The Authority noted that access to the site is via a walkway running along the rear of the other tour operator's sites. While that walkway is outside the subject site, a condition precedent has been required to ensure that pedestrian access to the site has been procured. A further condition precedent requires amended plans demonstrating site access and the extent of physical works proposed to be undertaken as part of establishment of the proposed berthing facility

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.

The application was placed on public exhibition from 5 August 2022 to 19 August 2022. Four public submissions were received under section 49(1) of the Planning Act 1999, with one person submitting three separate public submissions. Both submitters attended the Meeting and spoke to their submissions.

The Authority carefully considered the oral and written submissions which raised concerns relating to the lack of amenities, car parking and

utility services for tourists and visitors; environmental impacts and constraints; safety impacts; and commercial competition.

The Authority noted that the proposal involves the establishment of a berthing facility on the western bank of the Adelaide River, to be used for boarding of river-cruise vessels. The facility consists of a retractable floating pontoon, a pontoon storage area and a 1.5m path across the site. It is not an application for the establishment of a use requiring consent from the Authority. The application relates solely to the construction of the berthing facility. The facility will be developed and operated under an Occupational Licence (OL) granted by Crown Lands for a period of approximately 5 years. Such licence imposes conditions including some, to ensure the operation has minimal disturbance on the environment. The application was submitted to Litchfield Council and the relevant service authorities, including Power and Water Corporation, Transport and Civil Services Division and Department of the Environment, Parks and Water Security (DEPAWS), none of which raised concerns. DEPAWS required inclusion of a conditions relating to appropriate erosion and sediment control measures. The Authority has included a precondition requiring an Erosion and Sediment Control Plan (ESCP).

In determining a planning application the Authority is obliged to consider only relevant planning matters, such matters to be found in the Planning Act 1999, particularly Section 51(1), and the NTPS 2020. Economic competition is not a relevant planning consideration. Nor is it appropriate for the Authority to seek to impose requirements or standards from separate and distinct statutory regimes. Such matters do not meet the test of a planning purpose. The issues raised from the public submissions, while recognised, are beyond the scope of the consent authority control and have no bearing on the recommendation or the approval of the proposed development which is limited to the construction of a berthing facility.

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.

The proposal will retain much of the existing native vegetation within the proposed 2000m<sup>2</sup> Occupational Licence area, with a minimal amount of vegetation to be removed for the proposed access walkway. Conditions of approval relating to the employment of appropriate soil erosion control measures during the construction stage and the use of the development have been imposed on the proposed use to ensure that the riverbank is suitably managed. The land is otherwise considered capable of accommodating the development as proposed.

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.

No adverse impacts on the existing and future amenity of the area are foreseen as a result of the proposed development. The pontoon and walkway are considered to be of a transient nature and a low impact form of development. The proposal retains most of the existing vegetation, which ensures minimal disturbance to the area. The locality contains similar forms of the development and as such unlikely to adversely impact on the amenity of the area while supporting the tourism sector in the Northern Territory.

**FOR: 5**

**AGAINST: 0**

**ABSTAIN: 0**

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

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

**SUZANNE PHILIP**

Chair

20 September 2022