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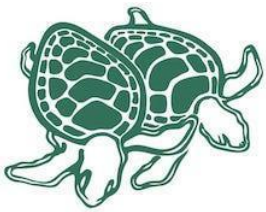

13 June 2025

Consent Authority C/o
Development Assessment Services

By email to:
Development Assessment Services: das@nt.gov.au

Copy to:
Minister Joshua Burgoyne: Minister.Burgoyne@nt.gov.au
Northern Territory Environment Protection Authority: NTEPA@nt.gov.au

To Whom it May Concern,

Application to Clear Native Vegetation on NT Portion 2255, 9120 Stuart Hwy, Elsey

1. The Environment Centre NT (ECNT) is the peak community sector environment organisation in the Northern Territory of Australia, raising awareness amongst community, government, business, and industry about environmental issues, assisting people to reduce their environmental impact, and supporting community members to participate in decision-making processes and action.

2. We refer to an application seeking consent under 46(3) of the Planning Act 1999 (NT) (the Act) by an unnamed applicant (which we believe to be the Northern Territory Land Corporation) to clear 984.2 hectares of land on NT Portion 2255, 9120 Stuart Hwy, Elsey (the application).

3. Thank you for the opportunity to provide a comment on the application.

4. ECNT has considered the matters the Consent Authority is required to consider in making its determination of the application under section 51 of the Planning Act 1999 (NT) (the Planning Act). Having reviewed the application and taking those matters into consideration, ECNT submits that:
a. The application lacks merit;
b. The application lacks critical information that the Consent Authority would require to

engage with the section 51 factors;
c. The granting of the application is contrary to the public interest.

5. We submit that the Consent Authority should determine to refuse to consent to the proposed 1 development under section 53(c) of the Planning Act for the following reasons:

a) The application will impact 18 Threatened Species, 16 Migratory Species and one Threatened Ecological Community, which have been detected on or near the land in question;
b) The proposed clearing sites named in this application are near to a Site of Conservation Significance and proceeding with this development could impact this area;
c) The owner of the land subject to this proposed development is not named on this application;
d) We have identified several conflicts of interest that exist with regards to the application. Full disclosure of any perceived or actual conflicts of interest is required before this application can be properly assessed.
e) The proposed clearing sites contain significant vegetation

6. In the alternative, we submit that the Development Consent Authority must refer the development proposal for environmental assessment under the following legislation:

a) Under Part 4, Division 3 of the Environment Protection Act 2019 (NT) (Environment Protection Act) as the proposed development has the potential to have a significant impact on the environment; and
b) Under section 69 of the Environment Protection and Biodiversity Conservation Act 1999 (Cth) (EPBC Act) as the proposed development has the potential to have a significant impact on a number of matters of national environmental significance.

7. Further information in relation to these reasons is provided below:

Significant impact on listed threatened species under the NT TPWCA and EPBC Act

8. ECNT submits that the application should be refused due to its likely significant impact on listed threatened species under the NT Territory Parks and Wildlife Conservation Act 1979 and Federal EPBC Act which have been detected on or near the land in question. An NR Maps search uncovers a high density of threatened fauna within or near to the proposed clearing area, including 43 records of Northern Brush-tailed Possums.

Species or species habitat <u>known</u> to occur in the proposed clearing area:

Gouldian Finch – Endangered
Red Goshawk – Endangered
Northern Blue-tongued Skink – Critically Endangered
Mertens' Water Monitor – Critically Endangered

Oriental Cuckoo
White-bellied Sea-eagle

Species or species habitat <u>likely</u> to occur in the proposed clearing area:

Grey Falcon – Vulnerable
Crested Shrike-tit – Vulnerable
Masked Owl – Vulnerable
Northern Quoll – Endangered
Ghost Bat – Vulnerable
Northern Brushed-tail possum – Vulnerable
Mitchell's water monitor – Critically Endangered
Fork-tailed Swift
Salt-water crocodile
Osprey

Species or species habitat <u>may</u> to occur in the proposed clearing area:
Sharp-tailed sandpiper – Vulnerable
Curlew sandpiper – Critically endangered
Australian Painted Snipe – Endangered
Northern Brush-tailed Phascogale – Vulnerable
Bare-rumped Sheath-tailed Bat – Vulnerable
Gulf Snapping Turtle – Endangered
Freshwater Sawfish – Vulnerable
Red-rumped Swallow
Barn Swallow
Yellow wagtail
Oriental Reed-Warbler
Sharp-tailed Sandpiper – Vulnerable
Curlew Sandpiper – Critically Endangered
Pectoral Sandpiper
Oriental Plover
Oriental Pratincole
Oriental Reed-Warbler
Common Sandpiper
Magpie Goose
Cattle Egret
Black-eared cuckoo
Barn swallow
Rainbow bee-eater
Grey wagtail

Yellow wagtail

9. ECNT raises serious concerns about the impacts of the proposed development on six species in particular:

Gouldian finch

10. The Clearing Actions would result in nearly 1,000 hectares of land clearing, in an area containing likely foraging, breeding and roosting habitat for listed threatened species. The scale of this clearing proposal will likely have significant impacts on regional biodiversity.

11. This iconic species is listed as vulnerable under the TPWC Act and endangered under the EPBC Act. The Application notes that there are 18 records of this species within or near the proposed clearing site.

12. One of the main threats to the Gouldian Finch is a lack of suitable nest hollows. Clearing nearly 1000 hectares of native vegetation will likely present a significant risk to the survival of the Gouldian Finch in this area.

13. Despite the importance of the species and the proximity of the clearing extent to critical habitat, and the fact that the woodland savanna vegetation is potential habitat, there seems to have been no on-ground survey to ascertain if there are any current populations of the Gouldian Finch in the proposed clearing area.

14. Further survey effort and assessment would be required to support any claim that the impact to this species is 'low', and to support a view that there is not likely to be a potentially significant impact on this species.

Ghost bat

15. The proposed development is only about 4km from Cutta Cutta caves, known habitat for this species. Cutta Cutta Caves is a known maternity roost for ghost bats. There are numerous records of ghost bats on NR Maps in close proximity to the development area. It is therefore very likely that the proposed development area contains foraging habitat for Ghost Bats.

16. The ghost bat (*Macroderma gigis*) is listed as vulnerable under both the EPBC Act and the Territory Parks and Wildlife Conservation Act 1976 (NT). Furthermore, modification to foraging habitat has been identified as a key threatening process for the ghost bat in the Conservation Advice for the species.

16a. ECNT submits that the Application meets seven of the significant impact criteria for vulnerable species under the EPBC Act Significant Impact Guidelines (at p10), that is, there is a real chance or possibility that the action will:

- lead to a long-term decrease in the size of an important population of a species;

- reduce the area of occupancy of an important population;
- fragment an existing important population into two or more populations;
- adversely affect habitat critical to the survival of a species;
- disrupt the breeding cycle of an important population;
- modify, destroy, remove or isolate or decrease the availability or quality of habitat to an extent that the species is likely to decline; and
- interfere substantially with the recovery of the species.

16b. The Application's proposed clearing is also directly contrary to the management actions outlined in the EPBC Conservation Advice for the Ghost Bat, namely:

- protecting land with significant colonies, and
- protecting roosts and surrounding foraging areas from disturbance, including the loss of habitat quality.

Red Goshawk

17. The species has declined significantly across eastern Australia and is likely locally extinct in many regions. It is estimated the Red Goshawk has disappeared from 34% of its breeding range over the last four decades, and probably persists at extremely low density, if at all, over an additional 29.7% of its breeding range. These results demonstrate the species' declining population trajectory at multiple scales.

Northern Blue-tongued Skink

18. It is highly likely this species occurs within the proposed clearing footprint. Similar to the threats to the Merten's and Mitchell's Water Monitors, in addition to habitat loss from land clearance, projects that use or draw-down surface or groundwater beyond sustainable levels are a threat to the integrity and existence of GDEs that provide critical habitat for the northern blue-tongue skink.

Mitchells Water Monitor and Mertens' Water Monitor

19. The proposed clearing area is highly likely to be current habitat for the critically endangered Mitchell's Water Monitor and the endangered Merten's Water Monitor. Mitchell's Water Monitor has been listed as Critically Endangered due to a very severe and sustained population reduction over the last three generations, which is predicted to continue.

20. The proposed clearing area is 'Habitat critical to survival' for this species. Habitat critical to survival of Mitchell's water monitor includes all areas where this species persists following the establishment of cane toads, anywhere habitat occurs or can be restored (Varanus mitchelli Conservation Advice, DCCEEW 2023)

21. Remnant subpopulations of Mitchell's water monitor that persist in cane toad impacted areas are likely to have suffered severe declines and fragmentation, and therefore be far less

resilient to other threats that damage or destroy riparian and wetland habitat (e.g. land clearance, severe fire, development projects, trampling and overgrazing, water drawdown).

22. The primary objective is to stabilise and then increase this species' population size and area of occupancy by:
1) Detecting subpopulations in areas where cane toads occur, and supporting them to recover.
2) Maintaining habitat integrity and connectivity to support population expansion into areas that have become temporarily unoccupied – or declined to the point of being undetectable – due to cane toad impacts.

23. In addition, there is a dearth of biodiversity data in the NT. Wildlife records are virtually non existent in some remote areas, particularly on pastoral and unzoned land. This is evident in the current list of 34 affected threatened species under the current clearing applications, with no invertebrates or plants listed, and almost no reptiles; reflecting the poor flora and fauna records available in the NT.

Northern brush-tail possum

23a. The application discloses that there are 43 records of northern brush-tail possums in close proximity to the development area. The very high number of records indicates that the area is a likely biodiversity hotspot for this species, which was recently listed as vulnerable under the EPBC Act. The Conservation Advice for the subspecies' indicates that its preferred habitat is subject to continuing clearance for agriculture, forestry and mining, particularly in more settled areas of the NT mainland. The clearing of large hollow-bearing trees is of particular concern, as the Northern Brushtail Possum is dependent on these for nesting.

Referral under the EPBC ACT

24. For the reasons outlined above, we submit that there is compelling evidence for the Consent Authority and/or the applicant to refer the application for assessment under the EPBC Act. The application makes several references to the presence of threatened species and as outlined above, ECNT submits that a number of threatened species rely on the habitat proposed to be cleared and there is significant risk to a number of species listed under the EPBC Act if the development application were granted.

25. Under sections 18 and 20 of the EPBC Act, it is an offence for a person to take an action that will or is likely to have a significant impact on a listed threatened or migratory species if that person does not have approval to undertake that action.

26. The development application applies to the clearing of a large area of native vegetation crucial to the habitation and breeding of these species. The proposal could also impact the health of water bodies, and a number of these species rely on the health of rivers. We submit that as the species listed above rely on the native vegetation proposed to be cleared

for habitation and breeding and rely on the health of the neighbouring water bodies which are at risk of contamination due to the project, the Consent Authority must conclude that the application has the potential to significantly impact threatened and migratory species. ECNT submits that the action must be referred to the Commonwealth Minister for the Environment to determine whether it is a controlled action requiring approval. As an agency of a self-governing Territory, the Consent Authority can exercise its discretion to refer a proposal to the Minister for a decision on whether or not the action is a controlled action.

27. We submit that the Consent Authority should refer the application under the EPBC Act for a decision on whether the proposed development is a controlled action requiring assessment.

Biodiversity

28. The reference photos provided in the application show that the native vegetation in the clearing footprint is high quality, intact habitat including many large old hollow-bearing trees.

29. Large hollow-bearing trees are key habitat structures in the tropical savannas of northern Australia, providing a critical resource for most taxa, including small mammals which have undergone catastrophic population declines, and are continuing to decline across the NT.

30. Hollows of differing sizes are a critical resource for many different taxa. Typical vertebrate fauna using small hollows could include arboreal geckos, tree frogs, arboreal skinks and small insectivorous bats. Medium hollows may be utilised by some small birds such as the striated pardalote and the Gouldian finch, larger frogs, small goannas and small mammals including many insectivorous bats, fawn antechinus and sugar gliders. Large hollows will likely be used by many birds; including Australian owlet-nightjar, northern rosella, red-winged parrot, rainbow lorikeet, dollarbird and mammals; including northern brush-tailed phascogale, brush-tailed rabbit rat and the northern quoll. Very large hollows are scarce, and sought after by large-bodied bird species (e.g. radjah shelduck, red-tailed black-cockatoo, sulphur-crested cockatoo, blue-winged kookaburra and masked owl); and some medium-sized mammals such as the Northern Brushtail Possum and black-footed tree-rat. Hollows may also provide the shelter requirements for many invertebrates, including native bees, a very significant cultural asset in northern Australia (Woinarski and Westaway, 2008).

31. Hollows in tropical eucalypt forests should be viewed as a critical resource for fauna, and that sites with abundant large hollows and large trees form an important resource for conservation (Woinarski and Westaway 2008). As per the Land Clearing Guidelines referred under the NT Planning Act; trees with hollows should be avoided. Large hollow-bearing habitat trees are evident in most reference photos in this application, providing clear evidence of the importance of this area as high-value habitat.

32. Finally, the 'Scientific review into the impacts of land clearing on threatened species in Queensland[1], while based on savanna woodland in Queensland, is applicable to savanna woodlands and the land types and vegetation described within this Application. This scientific review found that broad-scale land clearing may lead to drastic population declines that culminate in the elimination of local and regional populations, and this may eventually lead to the total extinction of a species. Most plants and animals die at the time of clearing, but many animals that manage to escape during the clearing process soon die from stress, starvation or predation. Mobile species that manage to reach remaining areas of vegetation are frequently repelled by the resident fauna resulting in diminished breeding opportunities and/or having to compete for limited food and resources, which again leads to increased levels of stress, starvation, and predation. Many animals have a high level of attachment to a site and will remain and eventually die in degraded habitats that can no longer support them.

Proximity to Sites of Conservation Significance

33. Cutta Cutta Caves is very close by (approximately 4km from the outer edge of the development) and is an outcrop of the Tindall Limestone Aquifer (an ecologically sensitive area). Clearing this land could result in run-off/sediment into the cave system and into groundwater.

Cumulative Impacts

34. Land clearing is a fundamental pressure on the environment. It results in the loss, fragmentation and degradation of native vegetation, and a variety of impacts on soils (for example, erosion, salinity, loss of nutrients and acidification) and disrupts essential ecosystem processes.[2] Threats to biodiversity from land clearing and habitat loss are one of the greatest threats to threatened species in Australia, and to the environment more generally[3]. Land clearing is recognised as a key threatening process to threatened species (including in the Northern Territory) under the EPBC Act[4]. Habitat loss and fragmentation, including due to land clearing, has long been recognised by the Northern Territory Government as a key threat to the Northern Territory's biodiversity[5].

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[1] Neldner et al. 2017. Scientific review of the impacts of land clearing on threatened species in Queensland. Queensland Government, Brisbane. See: https://www.qld.gov.au/__data/assets/pdf_file/0024/209517/land clearing-impacts-threatened-species.pdf

[2] State of the Environment Australia 2016. "Land Theme: Regional and landscape-scale pressures: Land clearing". See: https://soe.environment.gov.au/theme/land/topic/2016/regional-and-landscape-scale pressures-land-clearing

[3] https://www.dcceew.gov.au/environment/biodiversity/threatened/key-threatening-processes/land clearance

[4] https://www.dcceew.gov.au/environment/biodiversity/threatened/key-threatening-processes/land clearance

[5] https://nt.gov.au/__data/assets/pdf_file/0009/204210/vegetation-management-habitat-loss-fragmentation english.pdf

35. ECNT draws the Consent Authority's attention to recent research which indicates that Northern Australia's tropical savannas are one of 19 ecosystems in Australia that meet the criteria of being under collapse[6]. Bergstrom et al suggest that it is imperative to understand how different threatening processes combine cumulatively (acting in what they term "threat webs") to further threaten Australia's collapsing ecosystems. As habitats become increasingly fragmented, populations become more vulnerable to other threatening processes, such as climate change, changes in stream flow regimes, predation by invasive species and destructive fires, and they lose the ability to recolonise suitable habitat. The risks identified by this research and the mitigation of these threats are not referred to in the application.

36. The Northern Territory Government's own published guidance material makes clear that, while Northern Australia has the largest and most intact tropical savanna system in the world, this value could be "readily compromised by excessive removal of native vegetation"[7]. Further, this guidance makes clear that the highly seasonal environment of Northern Australia means that it is more important to retain a higher proportion of native vegetation in the landscape than for a less seasonal environment. The guidance refers to research undertaken for the Department in 2009 which showed significant impacts on biodiversity at a landscape scale (approximately 3000ha) if more than 50% of native vegetation is cleared. In particular, the research notes that clearing of this extent "may reduce the diversity of plants and animals to a point where some populations may fall to unsustainable levels"[8].

Referral under Environment Protection Act

37. ECNT notes that the Consent Authority is required to consider whether or not an action meets the threshold of having a significant impact on the environment under section 48 of the Environment Protection Act (and whether it thus requires referral). Section 10 defines impact to include impacts that are cumulative and may occur over time. The NTEPA's guidance on referring a proposed action under the Environment Protection Act also takes a broad view of the threshold test for referral under the legislation. In particular, this guidance states: "… it is important for proponents to examine all potential impact sources that relate to the action, and the potential impact pathways between the source of an impact and sensitive receptors and environmental values that may be impacted. These need to be

[6] Bergstrom et al. 2021. "Combating ecosystem collapse from the tropics to the Antarctic." Global change biology 27(9):1692-1703.

[7] 22 https://nt.gov.au/__data/assets/pdf_file/0009/204210/vegetation-management-habitat-loss-fragmentation english.pdf

[8] https://nt.gov.au/__data/assets/pdf_file/0009/204210/vegetation-management-habitat-loss-fragmentation english.pdf ,referring to: "Landscape design for maintaining ecosystem services in tropical agricultural landscapes: the response of fauna and flora to landscape mosaics and implications for land clearing policy" Griffiths, A.D, Stewart, A.J., Calnan, T, Venn, S, Brooks, K,& Rankmore, B, (2009) Report to Land and Water Australia. Department of Natural Resources, Environment, the Arts and Sport, Darwin.

considered for the life of the proposed action, both in isolation and cumulatively with other reasonably foreseeable proposals and approved actions."

48. If the land clearing proposed in the application is assessed cumulatively with other threatening processes in the region, the possible impact of the application on the environment is likely to be highly significant and meets the referral threshold under the Environment Protection Act.

39. The limited availability of ecological information in the NT provides a poor foundation for extrapolating to the vast landscapes of the Northern Territory. They provide a poor foundation for evaluating ecosystem response to major or even subtle changes in land use.

40. In the NT, basic vegetation mapping is not up to standard. The only Territory wide vegetation map available is at the 1:1000000 scale. Regional ecosystem mapping has not been undertaken, so unique regional ecosystems are possibly being bulldozed without knowledge of what we are losing. This lack of baseline ecosystem mapping is perhaps the biggest detriment to the Territory's opportunities for effective conservation. If vegetation can only be broadly classed as 'eucalypt woodland' across the entirety of the Top End, it is almost impossible to assess the cumulative impacts of new proposals on critical habitat for threatened species.

41. This lack of baseline data means it is essential that governments take a precautionary approach to approvals that could significantly impact the environment. In this case, the Consent Authority referring the development application for full environmental assessment would be the most precautionary approach.

Greenhouse Gas Emissions

42. The applicant has estimated the emissions from the clearing to be 121,890 tons of carbon dioxide. The estimated emissions solely relate to land clearing and do not consider emissions created through land use. In 2020, Agriculture contributed 17.3% of the Territory's total greenhouse gas emissions.

43. Given the agriculture industry's significant impact on the NT's overall emissions, it is inadequate that the estimated emissions do not include the emissions of the proposed land use.

44. According to the NT Government's 'Greenhouse Gas Emissions Management for New and Expanding Large Emitters' the land use project threshold of 500 000 tonnes of Emissions has been determined in consideration of historical and predicted land clearing activities in the Territory, and in recognition of the potential avoidance and mitigation techniques available to different types of projects and the timeframes over which emissions are generated by a project.'

45. However, in accordance with the Mathison Station Referral advice, there are no approved offset methodologies for land clearing in the Northern Territory.

46. We submit that the environmental impact of Greenhouse Gas Emissions is not adequately considered. Therefore, this application should be referred to the NT EPA under the Environment Protection Act NT.

Cultural heritage and sacred sites

47. An authority certificate granted under the Northern Territory Sacred Sites Act 1989 (NT) should be a mandatory requirement, otherwise there is a significant risk that sacred sites may be damaged in breach of the legislation. Although the application shows correspondence with the Heritage Branch, it does not a provide the results from a Register of Sacred and Significant Sites search from the Aboriginal Areas Protection Authority (AAPA) with relation to the location of any sacred sites within the proposed clearing footprint. The application should be resubmitted with this documentation attached.

Applicant is not named

48. The owner of the land subject to this proposed development is Northern Territory Land Corporation. However, NT Land Corporation is not named on the application. The application should be withdrawn and resubmitted with the name NT Land Corporation clearly named as the applicant.

Conflicts of Interest

49. Ms Joanne Townsend is a director of the Northern Territory Land Corporation and has overarching responsibility for a number of planning and environmental approvals as the CEO of the Department of Lands, Planning and the Environment, and a delegate under various pieces of legislation (including the Planning Act).

50. David Ritchie is a director of the NT Land Corporation and is a member of the NT Environment Protection Authority.

51. These positions would appear to give rise to significant and multiple perceived or actual conflicts of interest including with respect to the current land clearing application, and the power of the NTEPA to call in this application under the Environment Protection Act 2019 if it meets the threshold of having the potential to have a significant impact on the environment (which we say it does).

52. Full disclosure of any perceived or actual conflicts of interest is required, including relating to the above matters. Furthermore, the proposed management of these conflicts of interest should be publicly disclosed.

Summary

53. ECNT has considered the matters the Consent Authority is required to consider in making its determination of the application under section 51 of the Planning Act 1999 (NT) (the Planning Act). Having reviewed the application and taking those matters into consideration, ECNT submits that:
a. The application lacks merit;
b. The application lacks critical information that the Consent Authority would require to engage with the section 51 factors, including a water impact assessment and a land suitability assessment; and
c. The granting of the application is contrary to the public interest.

54. We submit that the Consent Authority should determine to refuse to consent to the proposed development under section 53(c) of the Planning Act for the following reasons:

f) The application will impact no less than 18 Threatened Species, 16 Migratory Species and one Threatened Ecological Community, which have been detected on or near the land in question;
g) The proposed clearing sites named in this application are near to Sites of Conservation Significance and proceeding with this development could cause damage to these areas;
h) The owner of the land subject to this proposed development is not named on this application;
i) We have identified several conflicts of interest that exist with regards to the application. Full disclosure of any perceived or actual conflicts of interest is required before this application can be properly assessed.
j) The proposed clearing sites contain significant vegetation

55. In the alternative, we submit that the Development Consent Authority must refer the development proposal for environmental assessment under the following legislation:
a. Under Part 4, Division 3 of the Environment Protection Act as the proposed development has the potential to have a significant impact on the environment; and
b. Under section 69 of the EPBC Act as the proposed development has the potential to have a significant impact on a number of matters of national environmental significance.

If you have any questions, please do not hesitate to contact Kirsty Howey on kirsty.howey@ecnt.org.

Yours faithfully,

Kirsty Howey
Executive Director Environment Centre NT