

11.3.2 APPLICATION FOR DEVELOPMENT APPROVAL: PROPOSED ACCESS TRACK FOR CATTLE YARDS - LOT 702 BOODARIE STATION ACCESS ROAD AND LOT 364 GREAT NORTHERN HIGHWAY, BOODARIE

Author: Senior Planner
Authorising Officer: Director Regulatory Services
Disclosure of Interest: The Author and Authorising Officer declare that they do not have any conflicts of interest in relation to this item.

OFFICER'S RECOMMENDATION

That Council grant development approval for the proposed access track on Lot 702 Boodarie Station Access Road and Lot 364 Great Northern Highway, Boodarie, subject to the following conditions and advice notes:

Conditions:

1. Development shall be in accordance with the following plans and documents and any mark-ups, except where minor modifications are approved in writing by the Chief Executive Officer prior to commencement of works: :
 - a. DRW 1 of 1, Site plan and cross-section, 12 May 2021.
2. Prior to the commencement of works, tenure shall be secured over Lot 702 to provide legal access to Lot 364, to the satisfaction of the Town.
3. Prior to the commencement of works, the developer shall consult the lessee of Lot 364 (Melreef Pty Ltd) with regards to the planned works programme. Details shall be agreed to, including but not limited to:
 - a. Days and hours of works;
 - b. Location of stored materials, machinery and plant;
 - c. Dust and noise mitigation measures;
 - d. Access to, from and within the site;
 - e. Any preventative biosecurity measures;
 - f. Induction of personnel; and
 - g. Maintaining access to and from the site.

Both parties shall act in good faith to address these matters within a timely and reasonable manner. If no agreement can be reached, development proposed over Lot 364 is not required to be constructed under this approval.

4. Upon completion of the works, the developer shall obtain the written consent from the Town that works have been completed in accordance with the approved plans. Works shall be completed to the specification and satisfaction of the Town.
 5. The developer shall maintain a defects liability period for the works for a period of not less than one full wet season, from November to April. Should any defects
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occur, these shall be rectified to the specification of the development approval or to the satisfaction of the Town, acting reasonably and having regard to the track being located within a flood risk area.

6. Upon completion of the defects liability period, being one full wet season, the developer shall obtain the written consent from the Town that the works are in a satisfactory condition. If works are not in a satisfactory condition, remedial works shall be completed by the developer to the specification of the development approval or to the satisfaction of the Town, acting reasonably and having regard to the track being located within a flood risk area.

Advice Notes:

1. This is a development approval issued under the Town of Port Hedland Local Planning Scheme No. 7 only. It is not a building permit or an approval to commence or carry out development under any other law. It is the responsibility of the applicant/owner to obtain any other necessary approvals and to commence and carry out development in accordance with all other laws.
2. This approval relates to the details provided in the application; to undertake the development in a different manner to that stated in the application, a fresh application for planning approval must be submitted to the Town of Port Hedland.
3. All works in the road reserve, including but not limited to the construction of a crossover and other streetscape works and works to the road carriageway must be to the specification and satisfaction of the Town. The applicant and owner should liaise with the Town's Technical Services and Town Planning and Development Services in this regard.
4. The landowner is reminded this is a Planning Approval only and does not obviate the responsibility of the landowner to comply with all relevant building, health and engineering requirements.
5. Please note that the proposed development is in close proximity to high-pressure water and gas pipelines. It is recommended that the precise location of these are obtained prior to the commencement of works.
6. Following the defects liability period referred to in Condition 5, the Town of Port Hedland shall maintain the access track within both Lot 702 and Lot 364 for the duration of the current lease.

SIMPLE MAJORITY VOTE REQUIRED

PURPOSE

The purpose of this report is for Council to consider a development application for a proposed access track, connecting the Hedland export depot cattle yards to Boodarie Station Access Road.

DETAIL

Background

Lot 364 Great Northern Highway, Boodarie, is a Reserve (No. 33593) vested to the Town with the power to lease. It is located approximately 4.5 kilometres south-west of the South Hedland town centre and measures 6.8831 hectares in area (**Attachment 1 – Location context plan**).

It is currently leased to Melreef Pty Ltd (the lessee) for the purposes of operating a cattle stock holding yard. The lessee originally held a lease for the site in July 2007 and renewed it again in November 2015 (backdated to 1 July 2015) for a period of 10 years. Improvements to the site include fencing, cattle run and loading ramp.

Boodarie Station Access Road upgrades

Development WA are undertaking road and intersection upgrades to the Boodarie Station Access Road, to allow large trucks safe access to and from the Great Northern Highway (the Highway). This will allow for the development of the Boodarie Strategic Industrial Area estate.

Upon receiving an application from Development WA for intersection works, Main Roads and the Water Corporation raised concerns about the cattle stock holding yard at Lot 364.

Main Roads WA concerns - access from Highway

Vehicles, including but not limited to A-Triple road trains (53.4m long truck combinations), have historically been accessing the property directly from the Highway. To access the loading ramps, trucks have been undertaking unsafe manoeuvres on the Highway and park within the road reserve, according to Main Roads. Trucks access the lease area through an informal dirt access track that is not designed or constructed to Highway specifications (see **Attachment 2 – Site context plan**).

This section of road is signposted as a 110km/h zone and receives approximately 3,000 vehicles per day. Main Roads have expressed concerns that a traffic accident may one day occur as:

- Access to the cattle yards is not designed and constructed correctly; and
- The access point is too close to the planned intersection upgrades, which form part of the new industrial estate.

When creating a new access point onto the Highway, users are required to obtain Main Roads approval to construct a crossover and driveway to certain specifications. This was not done by the lessee.

Water Corporation concerns - access and parking over water pipeline

Trucks have also been driving over and parking on a Water Corporation reserve. This contains a high-pressure underground water pipeline (Reserve 33016). This pipeline supplies water to Port and South Hedland from a bore field to the south-west. When accessing and parking vehicles over a water pipeline, users are required to obtain the Water Corporation's approval.

Should approval be granted, this generally requires protection works to ensure that the pipeline is safe from damage.

The lessee has not obtained any approvals from the Water Corporation to access this reserve and the pipeline is not protected to the specification and satisfaction of the authority. There are concerns that the large vehicles may damage the pipeline and disrupt the water supply to the Town.

Proposed development

Development WA and the Town have discussed these issues with the lessee and several state government agencies with the view to provide alternative access. The solution deemed most appropriate for all parties was decided upon a looped access track to and from Boodarie Station Access Road. Details of this are contained within **Attachment 3 – Proposed site plan**.

Development WA has lodged a development application with the Town to construct this access track. A summary of key details are provided below and include, but are not limited to:

- Proposed over two properties, being Lot 702 Boodarie Station Access Road and Lot 364 Great Northern Highway.
- Lot 702 is land vested (managed) by the Department of Planning, Lands and Heritage.
- Lot 364 is land vested (managed) by the Town.
- It is nine-metres wide and 150mm thick, consisting of compacted gravel.
- Is designed to accommodate RAV 10 vehicles (largest vehicle combination), such as A-Triple road trains, which are frequently used by the lessee.
- Includes a sealed crossover, culverts and headwalls.

The application does not include the track on the eastern side, within the water pipeline and Highway reserve (eastern side of Lot 364). A separate development approval will be sought over this land once tenure is resolved with the Water Corporation.

LEVEL OF SIGNIFICANCE

In accordance with Policy 4/009 'Significant Decision Making', this matter is considered to be of medium significance, because the alternative access will ensure safer passage along the Highway and protect the Port and South Hedland water pipeline.

CONSULTATION

Internal

- Chief Executive Officer
- Director Regulatory Services
- Manager Town Planning and Development
- Project Engineer

No objections were raised with the above staff members and conditions have been recommended where requested.

External Agencies

External agencies including the Water Corporation, Main Roads and Department of Planning, Lands and Heritage have been consulted early in the process and agreed to this design, prior to Development WA lodging a development application.

Community

The proposal was advertised to both the lessee and the operator of the adjoining power plant on Lot 365 (No. 32) Boodarie Station Access Road (Newcrest Mining). Notifications were sent via email, inviting comments for a period of 21 days. An objection was received from the lessee and no submission was received from Newcrest Mining. A summary of the objection is contained below, along with officer responses. The full version of the submission can be found in **Attachment 4 – Lessee objection**.

Summary of objections raised by lessee and officer responses	
Points of objection	Officer response
The construction of the access track within and outside of the lease area will create a detrimental financial impact due to the future maintenance costs.	<p>Officers from the Town have agreed in principle to assist with the maintenance of the track on Lot 702 and Lot 364 for the duration of the current lease. It is not anticipated that this will cost much in either time or resources. A grader can be made available to regrade the track once a year.</p> <p>However, this will depend on the reason/source of damage. E.g. normal wear and tear, for the term of this lease, may be covered. Malicious damage may not.</p> <p>This is more than what the current lease requires, whereby the maintenance of all tracks are the responsibility of the lessee within the lease boundaries.</p>
The construction of the access track within the subject site without the approval of Melreef Pty Ltd will be in breach of the current lease.	<p>Not a planning consideration.</p> <p>Should the objector’s comments be true or of concern, the approval can be amended to remove the access track from within the subject site.</p>
The design of the access track does not consider the topography and natural drainage. There are no culverts and/or drainage under the track.	The design has taken into consideration these factors and is designed to sit relatively flush with the existing topography where possible. This design allows for overland flow from the elevated land in the south-east, across to the lower lying north-west. This will ensure that the track does not act as a dam and will limit water ponding across the subject site. Where the track is elevated, it includes culverts and a concrete flood way.
Melreef Pty Ltd has not received any financial compensation.	<p>Not a planning consideration.</p> <p>It is not understood why the matter of financial compensation is raised.</p> <p>The proposed access track will provide safe and legal access for the lessee.</p> <p>This will be provided at no cost to the lessee.</p>

	<p>This will guarantee continued access for the lessee. Whereas, the current unauthorised access could be blocked by either Main Roads or Water Corporation.</p> <p>No land is being sterilised or lost as a result.</p> <ul style="list-style-type: none"> • The proposed track is 9m in width. • A truck only requires 2.5m. • It is designed to function as a 3m wide firebreak, which is required by law.
<p>There is no warranty period or defects period.</p>	<p>A condition is recommended stipulating a defects period of one full wet season (November to April).</p>
<p>There is no warranty for unfettered future access.</p>	<p>The current access and parking (directly off the Highway and on the water pipeline) are not guaranteed and may be closed at any time by either Main Roads or the Water Corporation.</p> <p>Development WA in conjunction with the Town, is seeking to guarantee legal access to the lessee through this access track.</p> <p>Tenure is currently being dealt with by Development WA and the Town for access over Lot 702 and the Water Corporation reserve. Obtaining tenure over one or more of these properties will guarantee future legal access.</p>
<p>Melreef Pty Ltd should not be financially impacted by the provision of the access track, especially given our current access causes no financial detriment.</p>	<p>The current access arrangements are unauthorised and are not guaranteed.</p> <p>Should a vehicle cause damage to the water pipeline or result in an incident on the Highway, the lessee may be subject to significant financial liability.</p> <p>The Water Corporation or Main Roads could physically block/close access via the informal track at any point. This could cause significant operational disruption and financial impact to the lessee.</p> <p>It is not understood how the lessee is financially impacted, given they will enjoy the benefits of guaranteed legal access and be the recipient of a new access track, worth \$1.5 million. This is being fully funded by the state government.</p>
<p>The Town is a proponent of the Highway and Boodarie Station Access Road upgrades and is funding the works. This makes the Town responsible for causing detriment to Melreef Pty Ltd and is responsible for any financial damages.</p>	<p>Not a planning consideration.</p> <p>The Town is not a proponent of the Highway/Boodarie Station Access Road upgrades. The Town is not funding or arranging the works, which is being completed by Development WA.</p> <p>Noted.</p>

<p>Melreef Pty Ltd reserves the right to protect its legal rights and commercial interest through legal action should the Town fail to remedy the issues raised.</p>	
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LEGISLATION AND POLICY CONSIDERATIONS

- *Planning and Development Act 2005*;
- *Planning and Development (Local Planning Schemes) Regulations 2015*; and
- Town of Port Hedland Local Planning Scheme No. 7.

FINANCIAL AND RESOURCES IMPLICATIONS

As raised by the lessee in the objection, lawyers may be engaged to challenge a decision of Council that may affect the lease. This may require Council to engage the services of a lawyer to respond to any legal encounter, which would be absorbed through the standard legal services budget.

STRATEGIC AND SUSTAINABILITY IMPLICATIONS

The following sections of the Town's Strategic Community Plan 2018-2028 are applicable in the consideration of this item:

- 2.d.2 The development of industry specific value chains are encouraged and supported
- 3.b.1 The present and future needs for serviced land and infrastructure provision are identified, planned and developed

There are no significant identifiable environmental, social or economic impacts relating to this item.

RISK MANAGEMENT CONSIDERATIONS

There is a financial risk associated with this item because the lessee may choose to launch legal action against a decision of Council. The risk rating is considered to be medium (8), which is determined by a likelihood of likely (4) and a consequence of minor (2).

Third party reviews of planning decisions do not exist in Western Australia, therefore any action taken by the lessee would not be in relation to the development approval, including the conditions.

OPTIONS

Option 1 – Adopt officer's recommendation

Option 2 – Amend officer's recommendation

In regards to the point made by the lessee, that granting development approval on site may cause detriment to the lease, the Council may wish to amend the officer's recommendation.

To alleviate the lessee's concerns, one option may be to grant development approval only on Lot 702 (adjoining state land) and exclude approval located on Lot 364 (lessee's site).

This will mean that alternative access is still provided to the lessee's site and that the lessee can arrange their own access internally, to their own specification.

Option 3 – Do not adopt officer's recommendation

CONCLUSION

It is paramount that alternative access is provided to Lot 364, given the concerns raised by Main Roads and the Water Corporation. Having Development WA offer to fund and undertake this project whilst they are undertaking the Boodarie Station Access Road and Highway intersection upgrades is advantageous to resolving this issue. This application has several benefits including:

- Safer passage for Highway users;
- Protection of the Port and South Hedland water supply; and
- Guaranteeing access rights to the lessee of Lot 364 Great Northern Highway.

Given the above, it is recommended that Council approve this application.

ATTACHMENTS

1. Attachment 1 - Location plan (under separate cover)
2. Attachment 2 - Site context plan (under separate cover)
3. Attachment 3 - Site plan (under separate cover)
4. Attachment 4 - Lessee objection (under separate cover)