



Proposed Nature Based Park

Lot 49 (No. 45) Jakattah Road, Muckenburra

April 2024

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Document Version Control

Ver.	Date	Description	Author	Reviewed
1	25/03/2024	Initial	JR	
2	08/04/2024	Final version	JR	BL

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1.0 Background

1.1 Purpose

This submission has been prepared by Altus Planning on behalf of Cornelia and Stephannes Labuschagne (**landowners and Applicants**) to provide planning justification for a proposed tourism development (**proposal**) at Lot 49 (No. 45) Jakattah Road, Muckenburra (**subject land or site**) under the relevant planning framework.

In addition to this written justification, the following is included with this application in accordance with the Shire of Gingin's (**Shire**) requirements:

- Shire of Gingin Development Application Form;
- Certificate of Title;
- Site Plan;
- Operational Management Plan;
- Bushfire Attack Level Report and Contour Plan; and
- Bushfire Management Plan.

1.2 Site Description

The subject land measures 37.35ha and is located approximately 15 kilometres west of the Gingin townsite. The site is bound by Jakattah Road to the east, Gingin Brook Road to the south and Murray Road to the west. No. 62 Murray Road and No. 47 Jakattah Road bound the site to the north.

The site has been used for pasture and agistment, and currently features an existing dwelling, two outbuildings, a rainwater tank and three paddocks in the north-east corner. The remainder of the site comprises of grassland and scattered vegetation with a lake located in the middle of the property. The general locality consists of mostly rural lots for residential, farming, and agricultural purposes.

An aerial image of the subject land and the surrounds is provided in Figure 1 overleaf.



Figure 1 : Aerial/cadastral of subject site and surrounds (Source: Landgate 2023).

1.3 Proposal

The Applicants are seeking development approval for a 'Nature Based Park'. This can be defined in the Nature Based Parks: Licencing guidelines for developers and local government, as follows:

Nature based park means a facility in an area that:

- a) is not in close proximity to an area that is built up with structures used for business, industry or dwelling-houses at intervals of less than 100 metres for a distance of 500 metres or more; and*
- b) has been predominately formed by nature; and*
- c) has limited or controlled artificial light and noise intrusion*

The proposal features six (6) camping sites with no built form or services, other than means of access. This provides opportunity for patrons to stay on a short-term basis, in a simple and self-sufficient manner to enjoy the natural setting that the site provides.

The key elements of the proposal have been summarised below and detailed further in the Operational Management Plan.

- The six (6) camp sites are separated by a minimum distance of approximately 110 metres.
- Means of access to the camp sites will be via an internal access road. The entry point is obtained via Murray Road at the north-west corner of the site.
- The camp sites border the existing lake and are located a minimum of 25 metres (approximately) from the top of the bank of the lake.
- The camp sites will be secluded from one another, obscured by existing forest trees.
- There will generally be no more than 4 persons per site for a maximum of 24 persons on the site at any one time.
- Camp sites will not operate during the bushfire season (Shire of Gingin from 1 December to 30 March every year) and camp fires/open fires will be restricted in the restricted burning period (Shire of Gingin from 1 October to 16 May).
- The typical duration of the stay will be between 1-3 days. The duration of stay will be managed by the proprietor and will not exceed 28 days within a 3 month period.
- Patrons are allocated a designated camping site. Ablutions, power and water supply are not available to each camp site.
- The site is within the Telstra 4G network ensuring mobile connection is available for patrons.
- The proposal involves a 'pack it out policy' which requires patrons to capture and remove litter and effluent in self-contained systems; consistent with the 'leave no trace' principles.

2.0 Planning Framework

2.1. Metropolitan Region Scheme

The site is not zoned under the provisions of the Metropolitan Region Scheme (**MRS**).

2.2 Shire of Gingin Local Planning Scheme No. 9

Pursuant to the Shire's Local Planning Scheme No. 9 (**LPS9**), the site is zoned 'General Rural'. Clause 3.27 of LPS9 provides the following objectives for the zone:

- a) manage land use changes so that the specific local rural character of the zone is maintained or enhanced;*
- b) encourage and protect broad acre agricultural activities such as grazing and more intensive agricultural activities such as horticulture as primary uses, with other rural pursuits and rural industries as secondary uses in circumstances where they demonstrate compatibility with the primary use;*
- c) maintain and enhance the environmental qualities of the landscape, vegetation, soils and water bodies, to protect sensitive areas especially the natural valley and watercourse systems from damage; and*
- d) provide for the operation and development of existing, future and potential rural land uses by limiting the introduction of sensitive land uses in the General Rural zone.*

It is submitted that the proposal is consistent with the General Rule zone objectives for the following reasons:

- Pursuant to Local Planning Policy No. 3.1 (**LPP 3.1**), the nature-based camp sites are considered a low impact proposal, ensuring the local rural character is maintained.
- The scale and intensity of the proposal is minor and will not impact upon the existing residential land use on site and will not adversely affect the adjoining properties.
- The proposal capitalises on the natural amenity and environmental quality of the site. The proposal does not involve any permanent built form and therefore, maintains the environmental qualities of the environment.
- Tree removal is not required to facilitate the camp sites. Each camp site will provide adequate vehicle parking space that does not impact upon any existing tree cover.

- The camp sites are located a minimum of 25 metres (approximately) from the top of the bank of the lake. This is considered a sufficient distance to protect the water course from damage.
- The proposal occupies a small percentage of the property and therefore, the proposal does not impact upon the operation of existing, future, and potential rural land uses on the sites and operations in the broader vicinity.

It is noted that the proposal is not defined, nor aligns with a specific land use under LPS9 and is therefore considered a 'Use Not Listed', pursuant to clause 3.4.2. Such use is capable of approval where it is determined that it is consistent with the objectives of the zone; this has been addressed above.

Furthermore, the local government may initiate advertising, pursuant to Schedule 2 ("Deemed Provisions") of the Planning and Development (Local Planning Schemes) Regulations 2015 (**LPS Regulations**) in considering an application for development approval. If this is the case, the Applicants wish to be engaged in this process to be afforded the ability to respond to any commentary from the adjoining landowners.

The proposal is not considered a 'Caravan Park' defined under the Caravan Parks and Camping Grounds Act 1995 as:

An area of land on which caravans, or caravans and camps, are situated for habitation ;

In the absence of a power and water supply to each camp site, and the surface from the internal access road to each camp site, caravans are not suitable for use on the site. The proposal is better defined as a 'Nature Based Park', pursuant to the Caravan Parks and Camping Grounds Regulations 1997 (**Camping Regulations**), that has been outlined under section 1.3 of this report.

It is noted that this approach has been taken by the Shire previously with a Nature Based Park proposal located at Lot 1001 (No. 51) Boobabbie Road, Caraban.

2.3 Local Planning Policy No. 1.4 – Foreshore Reserves along Water Courses

Local Planning Policy No. 1.4 (**LPP 1.4**) as adopted 15 January 2013, applies to all land in the Shire abutting water courses, with the objective to protect the margins and

foreshores of water courses from future development. LPP 1.4 therefore applies to the subject land due to the presence of the lake.

Policy Statement 3.1 of LPP 1.4 is of relevance, and reads as follows:

With the exception of land that has an existing foreshore reserve with a minimum width of 30 metres from the water course, the building line for all development adjacent to a water course shall be 50 metres measured from the top of the bank of the water course.

The proposal does not seek approval for any buildings as such. Rather, when in use, camp sites will feature patrons' vehicles, camping equipment and other items necessary for the activities. The typical duration of the stay will be between 1-3 days and managed by the proprietor.

The proposed camp sites are located a minimum of 25 metres from the top of the bank of the lake. The proprietor will enforce a 'pack it out policy', whereby patrons are to capture and remove litter and effluent in self-contained systems; consistent with the 'leave no trace' principles for minimum impact practices for anyone visiting the outdoors.

In the absence of any permanent built form, the encroachment will not create any environmental impact upon the lake. Patrons will be prohibited from entering the lake and restricted from partaking in any recreational activities in close proximity to the top of the bank. This is detailed further in the Operational Management Plan.

Policy Statement 3.2 of LPP 1.4 is also of relevance, and reads as follows:

A water course for the purpose of this policy shall be confined to water courses that have had a name approved by the Geographic Names Committee of the Department of Land Administration.

The lake on the subject land, better described as a water course, does not have a name approved by the Geographic Names Committee of the Department of Land Administration. Therefore, the Applicant submits that LPP 1.4 does not have any practical application to the subject land and any associated development.

2.4 Local Planning Policy No. 3.1 – Tourist Development in Rural Areas

LPP3.1 applies to the General Rural zone and the proposal. The policy objective of LPP 3.1 is as follows:

To provide guidelines for the development of tourist facilities in General Rural areas to strengthen the economic base while enhancing the rural character of the area.

Developments in rural areas fit for tourism purposes are considered in either one of the two categories:

*(a) high impact proposals involving significant capital investment or having the potential to conflict with surrounding land uses; and,
(b) low impact proposals not involving significant capital investment and unlikely to conflict with adjoining land uses.*

The proposed tourism development is considered a low impact proposal for the following reasons:

- The proposal does not involve significant capital investment. Investment into the proposal will primarily relate to the provision of access and ongoing maintenance of the nature based park for the benefit of the users.
- Given the minor scale of the proposal, it is unlikely to conflict with any existing land uses on site. The proposal occupies a reasonably small percentage of the property considering the site is over 37 hectares.
- Clause 3.3 of LPP 3.1 states that low impact proposals should generally accommodate less than 10 people. However, the clause states that small service establishments may be permitted in the zone, at the discretion of Council.
- The proposal in its very nature, poses a low impact and can be considered a small service establishment. Patrons are dispersed across the six camp sites which are separated by a minimum distance of approximately 110 metres. The proposal is of a lesser impact than tourist development such as chalets, boarding houses, or an accommodation type where patrons are agglomerated.

- Further to the above, the Nature Based Parks: Licencing guidelines for developers and local government states that the local government should consider that nature based parks are meant to be low-cost, small-scale tourist accommodation when requesting further information from the operator.
- The proposal incorporates and makes use of the existing landscaping elements. The camp sites are spread around the lake and secluded from one another by forest trees.

2.5 Caravan Parks and Camping Grounds Regulations 1997

Upon review of the Camping Regulations, the proposal is considered to comply with the relevant provisions pertaining to nature based parks as follows:

- Clause 34 (4): No rigid annexes are proposed as part of the nature based park;
- Clause 39 (3): No carports or pergolas are proposed;
- Clause 40 (3): No storage sheds are proposed as part of the nature based park;
- Clause 51: The proposal does not exceed 50m² per camp site;
- Schedule 7, Clause 5A: Patrons will not exceed a 28 night stay within a 3 month period;
- Schedule 7, Clause 11 (4): No new permanent buildings or structures are proposed as part of the nature based park; and
- Schedule 7, Clause 16 (A): The proposed site plan illustrates internal access to the surrounding road network and the individual camp sites. The road will be unsealed and constructed to the specified requirements outlined in State Planning Policy 3.7 (**SPP 3.7**).

2.6 State Planning Policy 3.7 – Planning in Bushfire Prone Areas

The subject land is within a declared bushfire prone area. Accordingly, the development is required to be assessed for its compliance with SPP 3.7 and the bushfire protection criteria described in the Guidelines v1.4 (**Bushfire Guidelines**).

The proposed development is classed as a 'vulnerable' land use because guests at the accommodation may be unfamiliar with the locality. A Bushfire Management Plan (**BMP**) has therefore been prepared for the use of land (not buildings) and to provide emergency management with a Bushfire Emergency Evacuation Plan addressing the use of the land.

Pursuant to SPP 3.7 and as further detailed in the bushfire reporting, the proposal is considered to provide acceptable solutions to satisfy Element 5 (camping ground only or nature-based park) of the Bushfire Guidelines.

Based on the above, the proposal meets SPP 3.7 and the associated Bushfire Guidelines, subject to the implementation of the BMP.

2.7 Planning and Development (Local Planning Schemes) Regulations 2015

Clause 67(2) of the Deemed Provisions contained in Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* sets out the relevant matters for consideration that the local government is to have due regard to in determining an application for development approval.

The following matters are considered relevant to the proposed development and are addressed in the following table.

Table 1: Clause 67 Assessment

Clause 67(2) Matter for Consideration	Justification
(a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;	The proposal is considered a use not listed pursuant to the Scheme and is capable of approval as it is deemed consistent with the objectives of the zone.
(b) the requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> or any other proposed planning instrument that the local government is seriously considering adopting or approving;	This Report has demonstrated the proposal's compliance with the applicable local and State planning framework documents.

Clause 67(2) Matter for Consideration	Justification
(c) any approved State planning policy;	As required by the provisions of LPS9, the proposal demonstrates compliance with the applicable provisions of SPP 3.7.
(g) any local planning policy for the Scheme area;	Sections 2.3 and 2.4 of this Report have demonstrated the proposal's consistency with the Shire's Foreshore Reserves along Water Courses LPP and Tourist Development in Rural Areas LPP.
(m) the compatibility of the development with its setting, including — (i) the compatibility of the development with the desired future character of its setting; and (ii) the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;	The proposal in its very nature, poses a low impact and is compatible with the character of the rural setting in which it is located. The scale and intensity of the proposal is minor with virtually no built form. Therefore, there will be no impact upon the adjacent land uses or those within the broader locality.
(n) the amenity of the locality including the following – (i) Environmental impacts of the development; (ii) The character of the locality; (iii) Social impacts of the development;	In the absence of any permanent built form associated with the proposal other than means of access, the environmental impact is kept to a minimum. The low impact nature of the proposal ensures the local rural character is maintained. Consistent with the Shire's LPP 3.1, the proposal provides a tourism opportunity to strengthen the economic base while enhancing the rural character of the area. The social impact of the proposal is therefore positive.
(o) the likely effect of the development on the natural environment or water resources and any means that are	The effect of the proposal on the water source (lake) is mitigated as the camp sites

Clause 67(2) Matter for Consideration	Justification
proposed to protect or to mitigate impacts on the natural environment or the water resource;	<p>are located a minimum of 25m from the top of the bank of the lake.</p> <p>Further measures to protect the natural environment have been detailed as part of the Operational Management Plan.</p>
(q) the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bush fire, soil erosion, land degradation or any other risk;	<p>Notwithstanding bushfire, the subject land is not considered to be at risk of the natural hazards mentioned.</p> <p>Bushfire risk has been assessed by a qualified bushfire consultant, and the proposal is considered to meet the relevant framework, subject to the implement of the bushfire management plan.</p>
(r) the suitability of the land for the development taking into account the possible risk to human health or safety;	The land is considered suitable for the proposal, with regard to human health and safety. The Camp Manager will ensure that the Operational Management Plan and Emergency Evacuation Plan (when required) are enforced to ensure the safety of patrons.
(s) the adequacy of – (i) the proposed means of access to and egress from the site; and (ii) arrangements for the loading, unloading, manoeuvring and parking of vehicles;	<p>The proposal involves the construction of an internal access road providing an adequate means of access to each camp site.</p> <p>Camp site locations have been selected in areas of little obstruction to ensure adequate vehicle manoeuvrability.</p>
(t) the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;	Given the low-scale nature of the proposal, there is considered to be no adverse impact on the traffic flow along roads external to the site.

3.0 Conclusion

The Applicants are seeking development approval for a proposed tourism development, specifically, a nature based park on the site at No. 45 Jakattah Road, Muckenburra.

The proposal seeks to utilise the existing natural features of the site, providing six nature based camp sites with no built form or services, other than means of access. Considered a low impact proposal, the camp sites will allow patrons to stay on site on a short-term basis in a self-sufficient manner.

The proposal is considered appropriate for the General Rural zoning and compatible with both the existing activities on site and other land uses within the broader locality. In addition to the Shire's Scheme, the proposal is consistent with the provisions of LPP 1.4, LPP 3.1, the Camping Regulations, and SPP 3.7. Accordingly, it is submitted that the proposal warrants approval.

We trust that this information is to your satisfaction and welcome the opportunity to review a draft suite of conditions of approval. We otherwise look forward to your prompt and favourable determination.

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