



MINISTER FOR LANDS AND PLANNING

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Dear Sir/Madam

INFORMATION NOTICE UNDER THE *HERITAGE ACT*

Thank you for making a submission in relation to the proposed heritage listing of the Kulaluk Lease Area.

I wish to inform you that after receiving advice from the Heritage Council, and pursuant to section 35(1) of the *Heritage Act*, I have decided not to permanently declare the Kulaluk Lease Area as a heritage place.

The *Heritage Act* requires that I provide you with an information notice in relation to this matter, which is attached to this letter.

If you have any queries in relation to this matter, please contact Mr Michael Wells, Director Heritage Branch, Department of Lands, Planning and the Environment, on 8999 5036 or at michael.wells@nt.gov.au.

Yours sincerely

DAVID TOLLNER

29 APR 2016

INFORMATION NOTICE

I am providing this information notice in accordance with sections 35 and 94 of the *Heritage Act*.

The decision

Pursuant to section 35(1) of the *Heritage Act*, I have decided not to permanently declare the Kulaluk Lease Area as a heritage place.

In making this decision, I have considered:

- the Heritage Council's recommendation in this matter;
- the statement of heritage value provided by the Heritage Council;
- the submissions made during the public submission period; and
- the purposes and role of the *Heritage Act*, and the role of other relevant legislation.

I note that the following relevant matters were raised by many of those who made a submission supporting the proposed declaration:

- the need to protect the whole of the Lease Area by permanently declaring it as a heritage place;
- the ecological value of the site, in particular the coastal mangroves;
- the 'natural beauty' of the site and its role as a 'green belt' in an urban area; and
- concern that burial sites in the area will be affected by development.

I note that the following relevant matters were raised by those who made a submission objecting to the proposed declaration:

- that aspects of the statement of heritage value are open to debate;
- the current leaseholder is acting as a custodian for the cultural values of the site and is working with the Aboriginal Areas Protection Authority to protect sacred sites;
- the Lease was granted on terms that contemplated future development, and not on the basis that the land would be kept in its state as at the time of the grant; and
- heritage listing of the Lease Area would be administratively problematic, and that it would not be good policy to list an area where the understanding as to what, if any, physical characteristics are to be preserved is not commonly understood.

Reasons for the decision

These are the reasons for my decision:

1. Areas of natural significance within the Lease Area (including the coastal mangrove community) and places of cultural significance (including sacred sites and human burials) can be adequately conserved and protected by the *Heritage Act* and other applicable legislation, noting that:
 - the vast majority of the Lease Area is zoned 'Conservation' under the terms of the *NT Planning Scheme*, and that the purpose of this zone is "to conserve and protect the flora, fauna and character of natural areas"; and
 - all Aboriginal archaeological places and objects (including human skeletal remains) are automatically protected under sections 17 and 18 of the *Heritage Act*; and that all sacred sites are protected under the terms of the *Northern Territory Aboriginal Sacred Sites Act*.
2. Concerns about what constitutes appropriate development within the Lease Area can be dealt with and adequately addressed under the terms of the *Planning Act* and other relevant legislation such as the *NT Planning Scheme*.
3. Given the protections noted above, the relevant areas of the Lease Area can be adequately conserved and protected without permanently declaring the whole Lease Area as a heritage place.

Right of appeal

1. As an affected person within the meaning of section 93(2) of the *Heritage Act*, you may appeal against my decision to the Supreme Court on a question of law only.
2. Under Order 83 of the *Supreme Court Rules*, you must commence any appeal from my decision within 28 days after the date on which this notice is given to you.
3. An appeal is started by filing a notice of appeal in the Supreme Court in accordance with applicable rules of court.

For further information regarding the appeal process, please refer to Part 4.2 of Chapter 4 of the *Heritage Act*.