

Submission on the referral

KTT Investment Pty Ltd – North One Hotel and Apartments

This submission is made under regulation 53 of the Environment Protection Regulations 2020

Government authority: Aboriginal Areas Protection Authority (the Authority / AAPA)

Section of Referral	Theme or issue	Comment
Main Report Table ES-4 and section 7.5.4.1	Culture & Heritage – sacred sites	<p>The referral document acknowledges that there is potential for impacts to culturally significant sites, including restricted access and potential disturbance or destruction. It is acknowledged that there is a known, registered sacred site in the vicinity of the proposal, in the Little Mindil Creek area. The referral does not give any explanation of the significant cultural values of sacred sites in the vicinity of the proposal or acknowledge previous controversy around how these cultural values have been affected by prior development in the area.</p> <p>The referral outlines the primary mitigation measures for the proposal including participatory planning with Larrakia people, presence of a Larrakia representative to monitor excavation work, developing procedures for the case that an archaeological site is encountered during excavation, and obtaining an AAPA certificate prior to ground disturbance. Another mitigation measure (section 7.5) is the rezoning of the Little Mindil Creek area to Public Space.</p> <p>The Authority provides the following comments in relation to the cultural values associated with sacred sites in the vicinity of the proposal and the proposed mitigation measures:</p> <ol style="list-style-type: none"> 1. The registered sacred site 5073-89 located in the creek at Little Mindil is integrally related to the registered sacred site 5073-5 which encompasses the Casino lawns and the Mindil Beach market site, and includes the sand dunes and coastal fringe in this area. These sacred sites and the broader area constitute an Aboriginal burial ground that was used well into the 1930s by Larrakia, Tiwi and other Aboriginal people resident in Darwin. The status of these registered sacred sites arises from the ritual and ceremonial practices associated with the general area. Between 1977 and 1980 these sites, and the general location, were subject of significant public controversy when ancestral remains were uncovered as the casino was constructed. A coronial inquest was conducted into the identity of ancestral remains that were unearthed, finding that the deceased were of Aboriginal and mixed descent, and that the burials were in accordance with traditional Aboriginal mortuary practices. The ancestral remains were reburied at sacred site 5073-89, which was created as a memorial island and as a resolution to the controversy that had occurred. In 1991 further ancestral remains were unearthed by works undertaken by Darwin City Council at Mindil Beach. These events have caused enduring distress for custodians of these sacred sites and broad community concern. Over many years the Aboriginal Areas Protection Authority has worked with custodians to protect these sacred sites and the general area in a context of increasing

		<p>development pressure. Custodians are acutely aware of the potential and cumulative impacts of all development in this area and the potential degradation of their cultural values. In particular custodians are extremely concerned about the desecration of the resting place of the deceased, many of whom have been buried at this location in living memory. The Authority has received numerous enquiries from Larrakia and Tiwi individuals and organisations who have expressed concerns about the potential impacts of the proposed development on the sanctity of their sacred sites. There is a very high expectation amongst custodians and the Authority that these concerns will be accommodated.</p> <ol style="list-style-type: none"> 2. The proponent's stakeholder engagement and participatory planning, and potentially monitoring of excavation work, should involve broader groups than the Larrakia, and include Tiwi people, and should be subject to appropriate authorisations from the AAPA and the Heritage Branch. 3. The proponent should apply for an Authority Certificate well ahead of any intended ground disturbance and early in the planning process to enable design and works that comply with conditions on the Authority Certificate to protect sacred sites. It is anticipated that such an application would be complex as there are numerous issues to work through and multiple individuals and families would need to be consulted. The Authority has written to the proponent urging them to apply for an Authority Certificate. A previous application for an Authority Certificate for this development (202102927) was submitted in March 2021 and withdrawn on 27 September 2021. There is currently no active application for an Authority Certificate before the Authority. 4. The rezoning of Little Mindil Creek area is not a complete or appropriate mitigation measure, especially as maps indicate that the public space will be subject to landscaping. Any ground disturbing works have the potential to impact on sacred sites and will need to be designed/planned to comply with conditions on the Authority Certificate. <p>The Authority considers that if the proponent obtains and complies with an Authority Certificate for the proposal, potentially significant impacts to sacred sites will be avoided.</p>
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