



**ACT**  
Government

Chief Minister, Treasury and  
Economic Development

## Freedom of Information Publication Coversheet

The following information is provided pursuant to section 28 of the *Freedom of Information Act 2016*.

FOI Reference: CMTEDDFOI 2022-387 to 394

Information to be published	Status
1. Access application	Published
2. Decision notice	Published
3. Documents and schedule	Published
4. Additional information identified	No
5. Fees	N/A
6. Processing time (in working days)	54
7. Decision made by Ombudsman	Varied
8. Additional information identified by Ombudsman	N/A
9. Decision made by ACAT	N/A
10. Additional information identified by ACAT	N/A

**From:** [no-reply@act.gov.au](mailto:no-reply@act.gov.au)  
**To:** [CMTEDD FOI](#)  
**Subject:** CMTEDDFOI 2022-387 - Freedom of Information request  
**Date:** Saturday, 10 December 2022 8:47:56 AM

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Please find online enquiry details below. Please ensure this enquiry is responded to within fourteen working days.

### Your details

**All fields are optional, however an email address OR full postal address must be provided for us to process your request. An email address and telephone contact number will assist us to contact you quickly if we need to discuss your request.**

Title:

First Name:

Last Name:

Business/Organisation:

Address:

Suburb:

Postcode:

State/Territory:

ACT

Phone/mobile:

Email address:

### Request for information

**(Please provide as much detail as possible, for example subject matter and relevant dates, and also provide details of documents that you are not interested in.)**

Under the Freedom of Information Act 2016 I want to access the following document/s (\*required field):

The controlled activity order, CMTEDD reference 13093 dated 20/08/2020 (CMTEDD FOI 2020-159 refers to a number of controlled activity orders issued by Access Canberra, this is one of them).

I do not want to access the following documents in relation to my request::

Thank you.

Freedom of Information Coordinator

**From:** [no-reply@act.gov.au](mailto:no-reply@act.gov.au)  
**To:** [CMTEDD FOI](#)  
**Subject:** CMTEDDFOI 2022-388 - Freedom of Information request  
**Date:** Saturday, 10 December 2022 8:47:13 AM





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Title:   
First Name:   
Last Name:   
Business/Organisation:  
Address:  
Suburb:  
Postcode:  
State/Territory: ACT  
Phone/mobile:  
Email address: 

### Request for information

**(Please provide as much detail as possible, for example subject matter and relevant dates, and also provide details of documents that you are not interested in.)**

Under the Freedom of Information Act 2016 I want to access the following document/s (\*required field): The controlled activity order, CMTEDD reference 8264 dated 18/06/2020 (CMTEDD FOI 2020-159 refers to a number of controlled activity orders issued by Access Canberra, this is one of them).

I do not want to access the following documents in relation to my request::

Thank you.  
Freedom of Information Coordinator

**From:** [no-reply@act.gov.au](mailto:no-reply@act.gov.au)  
**To:** [CMTEDD FOI](#)  
**Subject:** CMTEDDFOI 2022-389 - Freedom of Information request  
**Date:** Saturday, 10 December 2022 8:46:30 AM

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### Your details

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Title:

First Name:

Last Name:

Business/Organisation:

Address:

Suburb:

Postcode:

State/Territory:

ACT

Phone/mobile:

Email address:

### Request for information

**(Please provide as much detail as possible, for example subject matter and relevant dates, and also provide details of documents that you are not interested in.)**

Under the Freedom of Information Act 2016 I want to access the following document/s (\*required field):

The controlled activity order, CMTEDD reference 10512 dated 05/06/2020. (CMTEDD FOI 2020-159 refers to a number of controlled activity orders issued by Access Canberra, this is one of them).

I do not want to access the following documents in relation to my request::

Thank you.

Freedom of Information Coordinator

**From:** [no-reply@act.gov.au](mailto:no-reply@act.gov.au)  
**To:** [CMTEDD FOI](#)  
**Subject:** CMTEDDFOI 2022-390 - Freedom of Information request  
**Date:** Saturday, 10 December 2022 8:45:36 AM





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### Your details

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Title:   
First Name:   
Last Name:   
Business/Organisation:  
Address:  
Suburb:  
Postcode:  
State/Territory: ACT  
Phone/mobile:  
Email address: 

### Request for information

**(Please provide as much detail as possible, for example subject matter and relevant dates, and also provide details of documents that you are not interested in.)**

Under the Freedom of Information Act 2016 I want to access the following document/s (\*required field): The controlled activity order, CMTEDD reference 7157 dated 18/03/2020. (CMTEDD FOI 2020-159 refers to a number of controlled activity orders issued by Access Canberra, this is one of them).

I do not want to access the following documents in relation to my request::

Thank you.  
Freedom of Information Coordinator

**From:** [no-reply@act.gov.au](mailto:no-reply@act.gov.au)  
**To:** [CMTEDD FOI](#)  
**Subject:** CMTEDDFOI 2022-391 - Freedom of Information request  
**Date:** Saturday, 10 December 2022 8:43:56 AM

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### Your details

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Title:

First Name:

Last Name:

Business/Organisation:

Address:

Suburb:

Postcode:

State/Territory:

ACT

Phone/mobile:

Email address:

### Request for information

**(Please provide as much detail as possible, for example subject matter and relevant dates, and also provide details of documents that you are not interested in.)**

Under the Freedom of Information Act 2016 I want to access the following document/s (\*required field):

The controlled activity order, CMTEDD reference 6284 dated 26/04/2019 (CMTEDD FOI 2020-159 refers to a number of controlled activity orders issued by Access Canberra, this is one of them).

I do not want to access the following documents in relation to my request::

Thank you.

Freedom of Information Coordinator

**From:** [no-reply@act.gov.au](mailto:no-reply@act.gov.au)  
**To:** [CMTEDD FOI](#)  
**Subject:** CMTEDDFOI 2022-392 - Freedom of Information request  
**Date:** Saturday, 10 December 2022 8:42:49 AM





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Please find online enquiry details below. Please ensure this enquiry is responded to within fourteen working days.

### Your details

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Title:   
First Name:   
Last Name:   
Business/Organisation:  
Address:  
Suburb:  
Postcode:  
State/Territory: ACT  
Phone/mobile:  
Email address: 

### Request for information

**(Please provide as much detail as possible, for example subject matter and relevant dates, and also provide details of documents that you are not interested in.)**

Under the Freedom of Information Act 2016 I want to access the following document/s (\*required field): The controlled activity order, CMTEDD reference 6196 dated 19/12/2018. (CMTEDD FOI 2020-159 refers to a number of controlled activity orders issued by Access Canberra, this is one of them).

I do not want to access the following documents in relation to my request::

Thank you.  
Freedom of Information Coordinator

**From:** [no-reply@act.gov.au](mailto:no-reply@act.gov.au)  
**To:** [CMTEDD FOI](#)  
**Subject:** CMTEDDFOI 2022-393 - Freedom of Information request  
**Date:** Saturday, 10 December 2022 8:41:55 AM





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Please find online enquiry details below. Please ensure this enquiry is responded to within fourteen working days.

### Your details

**All fields are optional, however an email address OR full postal address must be provided for us to process your request. An email address and telephone contact number will assist us to contact you quickly if we need to discuss your request.**

Title:   
First Name:   
Last Name:   
Business/Organisation:  
Address:  
Suburb:  
Postcode:  
State/Territory: ACT  
Phone/mobile:  
Email address: 

### Request for information

**(Please provide as much detail as possible, for example subject matter and relevant dates, and also provide details of documents that you are not interested in.)**

Under the Freedom of Information Act 2016 I want to access the following document/s (\*required field): The controlled activity order, CMTEDD reference 6272 dated 13/12/2018. (CMTEDD FOI 2020-159 refers to a number of controlled activity orders issued by Access Canberra, this is one of them).

I do not want to access the following documents in relation to my request::

Thank you.  
Freedom of Information Coordinator

**From:** [no-reply@act.gov.au](mailto:no-reply@act.gov.au)  
**To:** [CMTEDD FOI](#)  
**Subject:** CMTEDDFOI 2022-394 - Freedom of Information request  
**Date:** Saturday, 10 December 2022 8:40:18 AM





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Please find online enquiry details below. Please ensure this enquiry is responded to within fourteen working days.

### Your details

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Title:   
First Name:   
Last Name:   
Business/Organisation:  
Address:  
Suburb:  
Postcode:  
State/Territory: ACT  
Phone/mobile:  
Email address: 

### Request for information

**(Please provide as much detail as possible, for example subject matter and relevant dates, and also provide details of documents that you are not interested in.)**

Under the Freedom of Information Act 2016 I want to access the following document/s (\*required field): The controlled activity order, CMTEDD reference 5877 dated 31/10/2018. (CMTEDD FOI 2020-159 refers to a number of controlled activity orders issued by Access Canberra, this is one of them).

I do not want to access the following documents in relation to my request::

Thank you.  
Freedom of Information Coordinator



**ACT**  
Government

Chief Minister, Treasury and  
Economic Development

Our ref: CMTEDDFOI 2022-387 to 394

[REDACTED]  
via email: [REDACTED]

Dear [REDACTED]

## FREEDOM OF INFORMATION REQUEST

I refer to your application under section 30 of the *Freedom of Information Act 2016* (the Act), received by the Chief Minister, Treasury and Economic Development Directorate (CMTEDD) on 10 December 2022.

Specifically, you are seeking:

- *The controlled activity order, CMTEDD reference 5877 dated 31/10/2018.*
- *The controlled activity order, CMTEDD reference 6272 dated 13/12/2018.*
- *The controlled activity order, CMTEDD reference 6196 dated 19/12/2018.*
- *The controlled activity order, CMTEDD reference 6284 dated 26/04/2019.*
- *The controlled activity order, CMTEDD reference 7157 dated 18/03/2020.*
- *The controlled activity order, CMTEDD reference 10512 dated 05/06/2020.*
- *The controlled activity order, CMTEDD reference 8264 dated 18/06/2020.*
- *The controlled activity order, CMTEDD reference 13093 dated 20/08/2020.*

### Authority

As an appointed Information Officer under section 18 of the Act, I am authorised to make a decision on access or amendment to government information in the possession or control of CMTEDD.

### Timeframes

In accordance with section 40 of the Act, CMTEDD is required to provide a decision on your access application by 11 January 2023 however, following on from an extension and third party consultations, the due date is now **2 March 2023**.

### Decision on access

Searches were completed for relevant documents and eight documents were identified that fall within the scope of your request.

I have included as **Attachment A** to this decision the schedule of relevant documents. This provides a description of the documents that fall within the scope of your request and the access decision for those documents.

I have decided to grant partial access to eight documents.

My access decisions are detailed further in the following statement of reasons and the documents released to you are provided as **Attachment B** to this letter.

In accordance with section 54(2) of the Act a statement of reasons outlining my decisions is below.

### **Statement of Reasons**

My reasons for deciding not to grant access to the identified information are as follows:

#### Public Interest

The Act has a presumption in favour of disclosure. As a decision maker I am required to decide where, on balance, public interests lies. As part of this process I must consider factors favouring disclosure and non-disclosure.

In *Hogan v Hinch* (2011) 243 CLR 506, [31] French CJ stated that when ‘used in a statute, the term [public interest] derives its content from “the subject matter and the scope and purpose” of the enactment in which it appears’. Section 17(1) of the Act sets out the test, to be applied to determine whether disclosure of information would be contrary to the public interest. These factors are found in subsection 17(2) and Schedule 2 of the Act.

Taking into consideration the information contained in the document found to be within the scope of your request, I have identified that the following public interest factors are relevant to determine if release of the information contained within the document is within the ‘public interest’.

#### Factors favouring disclosure in the public interest:

- a) disclosure of the information could reasonably be expected to do any of the following:*
- (i) promote open discussion of public affairs and enhance the government’s accountability.*

Having considered the factors identified as relevant in this matter, I consider that release of the information contained in the documents would reasonably contribute to greater understanding of decision-making in relation to the controlled activity orders that fall within the scope of your request.

#### Factors favouring nondisclosure in the public interest:

- (a) disclosure of the information could reasonably be expected to do any of the following:*
- (ii) prejudice the protection of an individual’s right to privacy or any other right under the Human rights Act 2004.*

Having reviewed the documents, I consider that the protection of an individual’s right to privacy, is a significant factor as the parties involved have provided their personal information for the purposes of working with the ACT Government. This, in my opinion, outweighs the benefit which may be derived from releasing the personal identities of the individual’s involved.

Individuals are entitled to expect that the personal information they have supplied as part of this process will be dealt with in a manner that protects their privacy. Considering the type of information to be withheld from release, I am satisfied that the factors in favour of release can still be met while protecting the personal identities of the individuals involved. I therefore weight the factor for non-disclosure more highly than the factor in favour of release in this instance. As a result, I have decided that release of this information could prejudice their right to privacy under the *Human Rights Act 2004*.

Having applied the test outlined in section 17 of the Act and deciding that release of personal information contained in the documents is not in the public interest to release, I have chosen to redact this specific information in accordance with section 50(2). Noting the pro-disclosure intent of the Act, I am satisfied that redacting only the information that I believe is not in the public interest to release will ensure that the intent of the Act is met and will provide you with access to the majority of the information held by CMTEDD within the scope of your request.

#### **Access to documents**

Pursuant to section 38(6) of the Act, I am required to **defer access to some of the information** identified as of concern by some of the affected third parties.

Third parties affected may apply for review of my release decision within 20 working days, or a longer period allowed by the Ombudsman. I will write to you to advise when access is no longer deferred for this information.

#### **Charges**

Processing charges are not applicable for this request because the number of pages to be released to you is below the charging threshold of 50 pages.

#### **Online publishing – Disclosure Log**

Under section 28 of the Act, CMTEDD maintains an online record of access applications called a disclosure log. Your original access application, my decision and documents released to you in response to your access application will be published on the CMTEDD disclosure log after 3 days after the date of my decision. Your personal contact details will not be published.

You may view CMTEDD disclosure log at <https://www.cmtedd.act.gov.au/functions/foi>

#### **Ombudsman Review**

My decision on your access request is a reviewable decision as identified in Schedule 3 of the Act. You have the right to seek Ombudsman review of this outcome under section 73 of the Act within 20 working days from the day that my decision is published in CMTEDD disclosure log, or a longer period allowed by the Ombudsman.

We recommend using this form [Applying for an Ombudsman Review](#) to ensure you provide all of the required information. Alternatively, you may write to the Ombudsman at:

The ACT Ombudsman  
GPO Box 442  
CANBERRA ACT 2601

Via email: [actfoi@ombudsman.gov.au](mailto:actfoi@ombudsman.gov.au)

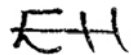
**ACT Civil and Administrative Tribunal (ACAT) Review**

Under section 84 of the Act, if a decision is made under section 82(1) on an Ombudsman review, you may apply to the ACAT for review of the Ombudsman decision. Further information may be obtained from the ACAT at:

ACT Civil and Administrative Tribunal  
Level 4, 1 Moore St  
GPO Box 370  
Canberra City ACT 2601  
Telephone: (02) 6207 1740  
<http://www.acat.act.gov.au/>

Should you have any queries in relation to your request please contact me by telephone on 6207 7754 or email [CMTEDDFOI@act.gov.au](mailto:CMTEDDFOI@act.gov.au).

Yours sincerely



Emma Hotham  
Information Officer  
Information Access Team  
Chief Minister, Treasury and Economic Development Directorate

2 March 2023



**ACT**  
Government

Chief Minister, Treasury and  
Economic Development

## FREEDOM OF INFORMATION REQUEST SCHEDULE

### WHAT ARE THE PARAMETERS OF THE REQUEST

### Reference NO.

Controlled Activity Orders: • reference 13093 dated 20/08/2020; • reference 8264 dated 18/06/2020; • reference 10512 dated 05/06/2020; • reference 7157 dated 18/03/2020; • reference 6284 dated 26/04/2019; • reference 6196 dated 19/12/2018; • reference 6272 dated 13/12/2018; • reference 5877 dated 31/10/2018.

CMTEDDFOI 2022- 387 to 394

Ref No	Page number	Description	Date	Status	Reason for Exemption	Online Release Status
1	1-4	CAO 5877	31 Oct 2018	Partial release	Sch 2 s2.2 (a)(ii)	Yes
2	5-10	CAO 6196	19 Dec 2018	Partial release	Sch 2 s2.2 (a)(ii)	Yes
3	11-15	CAO 6284	26 Apr 2019	Partial release	Sch 2 s2.2 (a)(ii)	Yes
4	16-18	CAO 7157	18 Mar 2020	Partial release	Sch 2 s2.2 (a)(ii)	Yes
5	19-21	CAO 8264	18 Jun 2020	Partial release	Sch 2 s2.2 (a)(ii)	Yes
6	22-24	CAO 10512	5 Jun 2020	Partial release	Sch 2 s2.2 (a)(ii)	Yes
7	25-27	CAO 13093	2 Aug 2020	Partial release	Sch 2 s2.2 (a)(ii)	Yes
8	28-34	CAO 6272	13 Dec 2018	Partial release	Sch 2 s2.2 (a)(ii)	Yes
<b>Total No of Docs</b>						
8						



**ACT**  
Government

Chief Minister, Treasury and  
Economic Development

## CONTROLLED ACTIVITY ORDER

This is a Controlled Activity Order (Order) made under section 355 of the *Planning and Development Act 2007* (PDA)

### Part 1. THIS ORDER IS DIRECTED TO

Sch 2.2(a)(ii)

### Part 2. PREMISE IN WHICH THIS ORDER RELATES (THE LAND)

Sch 2.2(a)(ii)

### Part 3. GROUNDS ON WHICH THIS ORDER IS MADE

1. Sch 2.2(a)(ii) are the lessees and registered proprietors of the land as identified in Part 2, which is leased from the Commonwealth under Crown lease registered Sch 2.2(a)(ii) (the lease)
2. The lessees are conducting the following controlled activity/ies:-
  - (i) having a building or structure that was constructed without approval required by this Act, chapter 7 (Development approvals)
3. The above activities are listed in Schedule 2 of the PDA and are subject to the controlled activity order process under the PDA.

### Part 4. THIS ORDER DIRECTS THE ENTITY OUTLINED IN PART 1 TO

1. By close of business 31 December 2018 to have lodged a development application for the secondary class 10a structure (structure) attached to the first classed 10a structure (garage), and
2. Complete any building work or alterations to the structure within 6 months from date of the signed notice of decision relating to this development application, and
3. Remove any all parts of the attached structure from the neighbour property brick wall, and
4. Make good all repairs to the neighbouring property brick wall as a result of the attached structure, and
5. Obtain a certificate or written statement from a licenced certifier or building surveyor stating that the altered structure complies with the Building Code of Australia.

**OR**

6. Within 3 months of deemed refusal from the notice of decision you are to demolish the secondary class 10a structure.

### Part 5. THIS ORDER TAKES EFFECT

This Order takes effect on 31 October 2018 (TWO WORKING DAYS AFTER THE DATE IN PART 8)

### Part 6. PERIOD FOR COMPLIANCE WITH THE ORDER

The entity identified in Part 1, from the date identified in Part 8, comply with the directions outlined in Part 4.

### Part 7. ENDING OF ORDER

THIS ORDER OPERATES UNTIL IT IS REVOKED

**Part 8. EXECUTION**

Sch 2.2(a)(ii)

Daniel Curtin  
Delegate under the Planning and  
Development Act 2007  
26 October 2018

**Part 9. CONTACT OFFICER**

Dominic Hides Inspector	CONTACT NUMBER 62054306 Dominic.hides@act.gov.au
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## Important Information

### REVIEW OF THE DECISION

The following notes are provided in accordance with regulation 7 of the *ACT Civil and Administrative Tribunal Regulation 2009*.

### CONTACT DETAILS

The review authority is the ACT Civil and Administrative Tribunal (ACAT).

Location	Contact details
ACT Civil and Administrative Tribunal Level 4, 1 Moore Street CANBERRA CITY ACT 2601	Website: <a href="http://www.acat.act.gov.au">www.acat.act.gov.au</a> Email: <a href="mailto:tribunal@act.gov.au">tribunal@act.gov.au</a> Telephone: (02) 6207 1740 Facsimile: (02) 6205 4855 Post: GPO Box 370, CANBERRA, ACT, 2601

### POWERS OF THE ACAT

The ACAT is an independent body. It can review on their merits a large number of decisions made by ACT Government ministers, officials and statutory authorities. The ACAT can agree with, change or reject the original decision, substitute its own decision or send the matter back to the decision maker for reconsideration in accordance with ACAT recommendations.

### APPLICATIONS TO THE ACAT

To apply for a review, obtain an application form from the ACAT. You can also download the form from the ACT Legislation Register <http://www.legislation.act.gov.au/af/2009-278/current/pdf/2009-278.pdf>.

If you are applying on behalf of an organisation or association of persons, whether incorporated or not, the Tribunal in deciding whether to support this application will consider the effect of the decision being reviewed on the interests of the organisation or association in terms of its objects or purposes. A copy of the relevant documents will be required to be lodged with the Tribunal.

### TIME LIMITS FOR APPLICATIONS

The time limit to make a request for a review is 28 days from the date of this Notice of decision. The time limit can be extended in some circumstances (refer to sections 10 (2), 10(3), 25(1)(e) and 25(2) of the *ACT Civil & Administrative Tribunal Act 2008*; section 7 of the *ACT Civil and Administrative Tribunal Procedure Rules 2009 (No 2)*).

### FEES

Applications to the ACAT, including an application to be joined as a party to a proceeding, require payment of a fee of not less than \$184 (the Tribunal Registry will advise of the current fee), unless you are receiving legal or financial assistance from the ACT Attorney-General. You can apply to have the fee waived on the grounds of hardship, subject to approval (refer to section 22T of the *ACT Civil and Administrative Tribunal Act 2008*). Decisions to grant assistance are made on the grounds of hardship and that it is reasonable, in all the circumstances, for the assistance to be granted. Write to: The Chief Executive, Justice and Community Safety Directorate, GPO Box 158, CANBERRA ACT 2601. Ask the ACAT for more details.

### TIME LIMITS FOR REVIEWS OF DECISIONS

The ACAT is required to decide appeals in land and planning and tree protection cases within 120 days after the lodging of the appeal, unless that period is extended by the ACAT upon it being satisfied that it is in the interests of justice to do so.

## FORMS OF LEGAL, FINANCIAL AND OTHER ADVICE AND ASSISTANCE

The following organisations can provide advice and assistance if you are eligible:

- ACT Attorney-General, write to The Chief Executive, Justice and Community Safety Directorate, GPO Box 158, CANBERRA, ACT, 2601;
- the ACT Legal Aid Office, telephone 1300 654 314;
- Legal Advice Bureau, telephone (02) 6247 5700;
- ACT Council of the Ageing, telephone (02) 6282 3777;
- Welfare Rights and Legal Centre, telephone (02) 6218 7977; and
- Environmental Defender's Office (ACT), telephone (02) 6243 3460.

## AWARDING OF COSTS

You will have to pay any costs involved in preparing or presenting your case. The ACAT also has the power to award costs against a party if the party contravenes a direction of the ACAT and the ACAT considers it in the interests of justice to make such an order. This power is in addition to the power of the ACAT to strike out a party and to dismiss an application for failure to comply with the ACAT's directions.

## ACCESS TO DOCUMENTS ABOUT THE DECISION

You may apply for access to any documents you consider relevant to this decision under the *ACT Freedom of Information Act 1989*. Information about Freedom of information requests is available on the planning and land authority's web site ([www.actpla.act.gov.au](http://www.actpla.act.gov.au)) or by contacting us by phone on (02) 6207 1923.

## PROCEDURES OF THE ACAT

The procedures of the ACAT are outlined on the ACAT's website, including in the Guide to the Land and Planning Division and the Guide to the Hearing. Contact the ACAT for alternative ways to access information about the ACAT's procedures.

## TRANSLATION AND INTERPRETER SERVICES

The ACT Government's translation and interpreter service runs 24 hours a day, every day of the week. Telephone 131 450.

ENGLISH	If you need interpreting help, telephone:
ARABIC	: إذا احتجت لمساعدة في الترجمة الشفوية، إتصل برقم الهاتف:
CHINESE	如果你需要传译员的帮助，请打电话:
CROATIAN	Ako trebate pomoć tumača telefonirajte:
GREEK	Αν χρειάζεστε διερμηνέα τηλεφωνήστε στο
ITALIAN	Se avete bisogno di un interprete, telefonate al numero:
MALTESE	Jekk għandek bżonn l-għajnuna t'interpretu, ċempel:
PERSIAN	: اگر به ترجمه شفاهی احتیاج دارید به این شماره تلفن کنید:
PORTUGUESE	Se você precisar da ajuda de um intérprete, telefone:
SERBIAN	Ako vam je potrebna pomoć prevodioca telefoniрајте:
SPANISH	Si necesita la asistencia de un intérprete, llame al:
TURKISH	Tercümana ihtiyacınız varsa lütfen telefon ediniz:
VIETNAMESE	Nếu bạn cần một người thông-ngôn hãy gọi điện-thoại:

### **TRANSLATING AND INTERPRETING SERVICE**

# **131 450**

Canberra and District - 24 hours a day, seven days a week



**ACT**  
Government

Chief Minister, Treasury and  
Economic Development

## CONTROLLED ACTIVITY ORDER

This is a Controlled Activity Order (Order) made by the Planning and Land Authority (Authority) under section 355 of the *Planning and Development Act 2007* (PDA)

### Part 1. THIS ORDER IS DIRECTED TO

Sch 2.2(a)(ii)

### Part 2. PREMISE IN WHICH THIS ORDER RELATES (THE LAND)

Sch 2.2(a)(ii)

### Part 3. GROUNDS ON WHICH THIS ORDER IS MADE

1. Sch 2.2(a)(ii) is one of the lessees and registered proprietors of the land as identified in Part 2, which is leased from the Commonwealth under Crown lease registered Volume 641 Folio 11 (the lease).
2. The lessees are conducting the following controlled activity:-
  - (i) having a building or structure that was constructed without approved required by this Act, chapter 7 (development approvals), namely, for having a shipping container located in the front yard.
3. The above activity are listed in Schedule 2 of the PDA and are subject to Part 11.3 of the PDA.
4. The *Planning and Development Regulation 2008* states that a temporary building or structure – including a temporary, portable or demountable building – must be for use for a development or an event such as a fair, circus, carnival, celebration, market, show, concert, display, exhibition, competition, training event, recreational event or publicity event or similar activity. Further, the building or structure is removed before the end of the longer of the following periods:
  - (i) 1 year after the day the designated development for the building or structure begins; or
  - (ii) if the planning and land authority extends, in writing, the 1-year period—the period as extended.
5. The shipping container has been located at the front of the premise since August 2016. Two other shipping containers have since been removed.
6. The lessee was advised in writing on 19 May 2016 and 1 December 2016 that a development application was required for the shipping containers, or the shipping containers required removal from the premise. No development application was forthcoming.
7. The lessee advised advised Access Canberra on 1 March 2018 that they were in the process of lodging an online development application for the remaining one shipping container in the front yard. No development application was forthcoming.
8. Access Canberra (on behalf of the Authority) identified through a series of inspections on 17 July 2018 and 18 September 2018 and 17 December 2018 that the shipping container has remained in the front of the premises.
9. The Authority issued a show cause notice on 7 November 2018 to the lessees for having a building or structure that was constructed without approved required by this Act, chapter 7 (development approvals), namely, for having a shipping container in front of the premises.
10. The lessee emailed the Authority on 5 December 2018 in response to the show cause notice, requesting until 31 March 2019 in which to remove the shipping container.
11. Since May 2016 the lessee has been directed to lodge and obtain development approval for the shipping

container/s located in the front yard, or to remove the shipping containers from the premises. To date one shipping container remains located on the front yard. Development approval has not been lodged to permit this use.

12. See attached Annexure A – ACTmapi block image and Annexure B – Site inspection photo
13. I am satisfied on evidence provided in reply to the show cause and evidence of building inspectors that there is sufficient information and background for me to make a Controlled Activity Order under section 355 of the Act.

**Part 4. THIS ORDER DIRECTS THE ENTITY OUTLINED IN PART 1 TO**

1. To demolish a building or structure, or part of a building or structure, that has been constructed without development approval or permission required under a territory law,  
  
(a) NAMELY, by removing the shipping container from the front of the premise.

**Part 5. THIS ORDER TAKES EFFECT**

This Order takes effect on 21 DECEMBER 2018

**Part 6. PERIOD FOR COMPLIANCE WITH THE ORDER**

The entity identified in Part 1, must BY 31 MARCH 2019, comply with the directions outlined in Part 4.

**Part 7. ENDING OF ORDER**

THIS ORDER REMAINS IN FORCE UNTIL REVOKED.

**Part 8. EXECUTION**

Sch 2.2(a)(ii)

Dan Curtin  
Delegate under the Planning and Development  
Act 2007  
19 December 2018

**Part 9. CONTACT OFFICER**

Jo Howard  
Inspector  
[Jo.Howard@act.gov.au](mailto:Jo.Howard@act.gov.au)

6207 6319

## Important Information

### REVIEW OF THE DECISION

The following notes are provided in accordance with regulation 7 of the *ACT Civil and Administrative Tribunal Regulation 2009*.

### CONTACT DETAILS

The review authority is the ACT Civil and Administrative Tribunal (ACAT).

Location	Contact details
ACT Civil and Administrative Tribunal Level 4, 1 Moore Street CANBERRA CITY ACT 2601	Website: <a href="http://www.acat.act.gov.au">www.acat.act.gov.au</a> Email: <a href="mailto:tribunal@act.gov.au">tribunal@act.gov.au</a> Telephone: (02) 6207 1740 Facsimile: (02) 6205 4855 Post: GPO Box 370, CANBERRA, ACT, 2601

### POWERS OF THE ACAT

The ACAT is an independent body. It can review on their merits a large number of decisions made by ACT Government ministers, officials and statutory authorities. The ACAT can agree with, change or reject the original decision, substitute its own decision or send the matter back to the decision maker for reconsideration in accordance with ACAT recommendations.

### APPLICATIONS TO THE ACAT

To apply for a review, obtain an application form from the ACAT. You can also download the form from the ACT Legislation Register <https://www.legislation.act.gov.au/af/2016-6/> .

If you are applying on behalf of an organisation or association of persons, whether incorporated or not, the Tribunal in deciding whether to support this application will consider the effect of the decision being reviewed on the interests of the organisation or association in terms of its objects or purposes. A copy of the relevant documents will be required to be lodged with the Tribunal.

### TIME LIMITS FOR APPLICATIONS

The time limit to make a request for a review is 28 days from the date of this Notice of decision. The time limit can be extended in some circumstances (refer to sections 10 (2), 10(3), 25(1)(e) and 25(2) of the *ACT Civil & Administrative Tribunal Act 2008*; section 7 of the *ACT Civil and Administrative Tribunal Procedure Rules 2009 (No 2)*).

### FEES

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### TIME LIMITS FOR REVIEWS OF DECISIONS

The ACAT is required to decide appeals in land and planning and tree protection cases within 120 days after the lodging of the appeal, unless that period is extended by the ACAT upon it being satisfied that it is in the interests of justice to do so.

### FORMS OF LEGAL, FINANCIAL AND OTHER ADVICE AND ASSISTANCE

The following organisations can provide advice and assistance if you are eligible:

- ACT Attorney-General, write to The Director General, Justice and Community Safety Directorate, GPO Box 158, CANBERRA, ACT, 2601;
- Legal Aid ACT, telephone 1300 654 314;
- Legal Advice Bureau, telephone (02) 6274 0300;
- Council of the Ageing ACT, telephone (02) 6282 3777; and
- Canberra Community Law (formerly Welfare Rights and Legal Centre), telephone (02) 6218 7977.

#### AWARDING OF COSTS

You will have to pay any costs involved in preparing or presenting your case. The ACAT also has the power to award costs against a party if the party contravenes a direction of the ACAT and the ACAT considers it in the interests of justice to make such an order. This power is in addition to the power of the ACAT to strike out a party and to dismiss an application for failure to comply with the ACAT's directions.

#### ACCESS TO DOCUMENTS ABOUT THE DECISION

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#### PROCEDURES OF THE ACAT

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#### TRANSLATION AND INTERPRETER SERVICES

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ITALIAN	Se avete bisogno di un interprete, telefonate al numero:
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**131 450**

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# Sch 2.2(a)(ii)

Notes:

**Annexure A:  
identified brown  
coloured  
shipping  
container -**

Sch 2.2(a)(ii)

1: 250



**DISCLAIMER**

*The map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current or otherwise reliable.*

19-Dec-2018

Page 1 of 1



**ACT**  
Government





**ACT**  
Government

Chief Minister, Treasury and  
Economic Development

## **CONTROLLED ACTIVITY ORDER**

This is a Controlled Activity Order (Order) made by the Planning and Land Authority (Authority) under section 351 of the *Planning and Development Act 2007* (PDA)

### **Part 1. THIS ORDER IS DIRECTED TO**

Sch 2.2(a)(ii)

### **Part 2. PREMISE IN WHICH THIS ORDER RELATES (THE LAND)**

Sch 2.2(a)(ii)

### **Part 3. GROUNDS ON WHICH THIS ORDER IS MADE**

1. Sch 2.2(a)(ii) are the lessees and registered proprietors of the land as identified in Part 2, which is leased from the Commonwealth under Crown lease registered Volume 28 Folio 2708 (the lease)
2. The lessees are conducting the following controlled activity:-
  - (i) Having a building or structure that was constructed without approval required by this Act (the PDA), chapter 7 (Development Approvals)
3. The above activities are listed in Schedule 2 of the PDA and are subject to the controlled activity order process under the PDA.

### **Part 4. THIS ORDER DIRECTS THE ENTITY OUTLINED IN PART 1 TO**

1. Apply for a Development Approval for a building or structure, or part of a building or structure that has been constructed without building approval or;
2. Demolish a building or structure, or part of a building or structure that has been constructed without development approval or permission required by territory law.
3. Obtain Development Approval, Building Approval and/or an Exemption Notice for all currently unapproved structures on the block, as required by Territory Law or by demolishing all unapproved structures.

### **Part 5. THIS ORDER TAKES EFFECT**

**This Order takes effect on 26th April 2019 (TWO WORKING DAYS AFTER THE DATE IN PART 8)**

**Part 6. PERIOD FOR COMPLIANCE WITH THE ORDER**

**Part 7. ENDING OF ORDER**

<p>The entity identified in Part 1, must within, 35 days from the date identified in Part 8, comply with the directions outlined in Part 4.</p>	<p><b>THIS ORDER OPERATES UNTIL CERTIFICATE OF OCCUPANCY AND USE IS ISSUED FOR ALL UNAPPROVED STRUCTURES WHICH APPROVALS ARE REQUIRED AND/OR EXEMPTION NOTICES ARE RECEIVED FOR EXEMPT STRUCTURES. OR CONFIRMATION OF DEMOLITION OF THE STRUCTURES IS RECEIVED.</b></p>
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**Part 8. EXECUTION**

**Part 9. CONTACT OFFICER**

<p>Sch 2.2(a)(ii) Daniel Curtin Delegate under the <i>Planning and Development Act 2007</i> 24/04/2019</p>
--

<p>Douglas Farr Inspector</p>	<p>(02) 6207 8152</p>
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## Important Information

### REVIEW OF THE DECISION

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If you are applying on behalf of an organisation or association of persons, whether incorporated or not, the Tribunal in deciding whether to support this application will consider the effect of the decision being reviewed on the interests of the organisation or association in terms of its objects or purposes. A copy of the relevant documents will be required to be lodged with the Tribunal.

### TIME LIMITS FOR APPLICATIONS

The time limit to make a request for a review is 28 days from the date of this Notice of decision. The time limit can be extended in some circumstances (refer to sections 10 (2), 10(3), 25(1)(e) and 25(2) of the *ACT Civil & Administrative Tribunal Act 2008*; section 7 of the *ACT Civil and Administrative Tribunal Procedure Rules 2009 (No 2)*).

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**TRANSLATING AND INTERPRETING SERVICE**

**131 450**

Canberra and District - 24 hours a day, seven days a week



**ACT**  
Government

Chief Minister, Treasury and  
Economic Development

## CONTROLLED ACTIVITY ORDER

This is a Controlled Activity Order (Order) made by the Planning and Land Authority under section 355 of the *Planning and Development Act 2007* (PDA)

### Part 1. THIS ORDER IS DIRECTED TO

Sch 2.2(a)(ii)

### Part 2. PREMISE IN WHICH THIS ORDER RELATES (THE LAND)

Sch 2.2(a)(ii)

### Part 3. GROUNDS ON WHICH THIS ORDER IS MADE

1. Sch 2.2(a)(ii) is the lessees and registered proprietor of the land as identified in Part 2, which is leased from the Commonwealth under Crown lease registered Volume 2178 Folio 35 (the lease)
2. The lessee is conducting the following controlled activity/ies:-
  - (i) Schedule 2, item 3 of the Act, undertaking a development for which development approval is required —
    - (a) without development approval; or
    - (b) other than in accordance with the development approval
3. Rule 20 of the current Residential Zones – Single Dwelling Housing Development Code R181 requires that: The maximum cut or fill within 1.5M of side and rear boundaries is 1.5m.
4. Rule 20 of the current Residential Zones—Single Dwelling Housing Development Code (R232) requires that: The total change in ground level resulting from cut or fill must not exceed 1.5m within 1.5m of a side or rear boundary.
5. On 26 November 2019, Access Canberra Inspectors conducted an inspection at Sch 2.2(a)(ii). This inspection confirmed that a section of the site cut along the southern common boundary, which is being retained by a sandstone wall, has a Finished Ground Level deeper than 1500mm below Natural Ground Level (NGL). At the deepest point, the site cut (represented by the height of the retaining wall) was measured at approximately 1900mm below NGL. The top of the wall encroaches the neighbouring block between 100mm and 200mm at various points along the eastern most section. identified that the block had been excavated greater than 1.5m within 1.5m of the south boundary in contravention of Rule 20 of the Residential Zones—Single Dwelling Housing Development Code.
6. The above activities are listed in Schedule 2 of the PDA and are subject to the controlled activity order process under the PDA.

### Part 4. THIS ORDER DIRECTS THE ENTITY OUTLINED IN PART 1 TO

1. Within 45 days from the date the order comes into effect; remove the development, or alter the development in such a way as to make the development comply with rule 20; or
2. Make a development application for the whole development as constructed and comply with the following timeframes:
  - a) The development application is to be of sufficient detail to pass the completeness check and be accepted for assessment within 28 days from the date the order takes effect;
  - b) Any further information requested by the Planning and Land Authority is to be submitted within 14 days of being requested;

- c) Should the development application be approved subject to conditions, those conditions must be met within 28 days from the date the development is approved;
- d) Should the development application be refused, you must carry out the direction in paragraph 1 above within 45 days of the refusal or if a merits review of the decision is sought and the decision to issue a Controlled Activity Order is upheld, within 45 days from the day which the ACAT publishes its decision.

**Part 5. THIS ORDER TAKES EFFECT**

18 March 2020

**Part 6. PERIOD FOR COMPLIANCE WITH THE ORDER**

The entity identified in Part 1, must comply with the directions and timeframes outlined in Part 4.

**Part 7. ENDING OF ORDER**

THIS ORDER OPERATES UNTIL the Delegate is satisfied that Part 4 of this Notice is complied with.

**Part 8. EXECUTION**

Sch 2.2(a)(ii)

NAME: Lyndell Hudson  
 Delegate under the Planning and Development Act 2007  
 18/03/2020

**Part 9. CONTACT OFFICER**

NAME: Andrew Sheargold  
 Inspector

CONTACT NUMBER  
 02 6207 3918

**Important Information**

Provided in accordance with s 7 of the *ACT Civil and Administrative Tribunal Regulation 2009*

**REVIEW OF THE DECISION BY THE ACT CIVIL AND ADMINISTRATIVE TRIBUNAL**

You may apply to the ACT Civil and Administrative Tribunal (**ACAT**) for administrative review of this decision.

CONTACT DETAILS

Location	Contact details
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APPLICATIONS TO THE ACAT

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TIME LIMITS FOR APPLICATIONS

The time limit to make a request for a review is 28 days from the date that you receive this Notice of Decision.

FEES

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## CONTROLLED ACTIVITY ORDER

This is a Controlled Activity Order (Order) made by the Planning and Land Authority under section 355 of the *Planning and Development Act 2007* (PDA)

### Part 1. THIS ORDER IS DIRECTED TO

Sch 2.2(a)(ii)

### Part 2. PREMISE IN WHICH THIS ORDER RELATES (THE LAND)

Sch 2.2(a)(ii)

### Part 3. GROUNDS ON WHICH THIS ORDER IS MADE

1. Sch 2.2(a)(ii) are the lessees and registered proprietors of the land as identified in Part 2, which is leased from the Commonwealth under Crown lease registered Volume Volume 1328 Folio 4 (the lease)
2. The lessees are conducting the following controlled activity:  
  
Item 3 of the Act, undertaking a development for which development approval is required (a) without development approval. Specifically, the unapproved structure that encloses the approved pool.
3. The above activities are listed in Schedule 2 of the PDA and are subject to the controlled activity order process under the PDA.

### Part 4. THIS ORDER DIRECTS THE ENTITY OUTLINED IN PART 1 TO

- Demolish the unapproved structure within 3 months of the date of the Order; or
- Within 3 months make a development application which is paid for, and accepted for assessment and, comply with any further requests for information by the planning and land authority for the building or structure, or part of the building or structure, that has been constructed without development approval; and,
- If approval is granted, comply the conditions of the approval within 3 months of the date of approval; or,
- If the approval is refused, the unapproved structure must be demolished within 1 month of the refusal unless one or more of the decision is subject of an ACT Civil and Administrative Tribunal (ACAT) merits review proceeding, in which case, 14 day after the day on which the ACAT publishes its decision in respect of those merit review application/s.

### Part 5. THIS ORDER TAKES EFFECT

This Order takes effect on 20 June 2020

### Part 6. PERIOD FOR COMPLIANCE WITH THE ORDER

The entity identified in Part 1, must within 3 months from the date referenced in Part 8, comply with the directions outlined in Part 4.

### Part 7. ENDING OF ORDER

THIS ORDER OPERATES UNTIL IT IS REVOKED

**Part 8. EXECUTION**

Adam Pascoe  
 Delegate under the Planning and Development  
 Act 2007  
 18 June 2020

**Part 9. CONTACT OFFICER**

Mathew Bond  
 Inspector

6207 6853

**Important Information**

Provided in accordance with s 7 of the *ACT Civil and Administrative Tribunal Regulation 2009*

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**ACT**  
Government

Chief Minister, Treasury and  
Economic Development

## CONTROLLED ACTIVITY ORDER

This is a Controlled Activity Order (Order) made by the Planning and Land Authority under section 355 of the *Planning and Development Act 2007* (PDA)

### Part 1. THIS ORDER IS DIRECTED TO

Sch 2.2(a)(ii)

### Part 2. PREMISE IN WHICH THIS ORDER RELATES (THE LAND)

UNIT 1 & 4	BLOCK 13	SECTION 8	DIVISION of REID
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### Part 3. GROUNDS ON WHICH THIS ORDER IS MADE

- Sch 2.2(a)(ii) you are the lessee and registered proprietor of the land as identified in Part 2, which is leased from the Commonwealth under Crown lease registered Unit 1 Volume 1467 Folio 1 & Unit 4 Volume 1467 Folio 4 (the lease)
- The lessee is conducting the following controlled activities:
  - Undertaking a development for which development approval is required, without development approval.
  - Item 4 of the Act, having a building or structure that was constructed without approval required by this Act, chapter 7 (Development approvals).
- The above activities are listed in Schedule 2 of the PDA and are subject to the controlled activity order process under the PDA.

### Part 4. THIS ORDER DIRECTS THE ENTITY OUTLINED IN PART 1 TO

- Demolish the unapproved structures within 3 months of the date of the Order; or
- Within 3 months, make a development application which is paid for, and accepted for assessment and, comply with any further requests for information by the planning and land authority for the building or structure, or part of the building or structure, that has been constructed without development approval; and,
- If approval is granted, comply the conditions of the approval within 3 months of the date of approval; or,
- If the approval is refused, the unapproved structure must be demolished within 1 month of the refusal unless one or more of the decision is subject of an ACT Civil and Administrative Tribunal (ACAT) merits review proceeding, in which case, 14 day after the day on which the ACAT publishes its decision in respect of those merit review application/s.

### Part 5. THIS ORDER TAKES EFFECT

This Order takes effect on 5 June 2020

### Part 6. PERIOD FOR COMPLIANCE WITH THE ORDER

The entity identified in Part 1, must within, 3 Months from the date identified in Part 8, comply with the directions outlined in Part 4.

### Part 7. ENDING OF ORDER

THIS ORDER OPERATES UNTIL IT IS REVOKED

**Part 8. EXECUTION**

Adam Pascoe  
 Delegate under the Planning and Development  
 Act 2007  
 5 June 2020

**Part 9. CONTACT OFFICER**

Mathew Bond  
 Inspector

6207 6853

**Important Information**

Provided in accordance with s 7 of the *ACT Civil and Administrative Tribunal Regulation 2009*

**REVIEW OF THE DECISION BY THE ACT CIVIL AND ADMINISTRATIVE TRIBUNAL**

You may apply to the ACT Civil and Administrative Tribunal (**ACAT**) for administrative review of this decision.

CONTACT DETAILS

Location	Contact details
ACT Civil and Administrative Tribunal Level 4, 1 Moore Street CANBERRA CITY ACT 2601	Website: <a href="http://www.acat.act.gov.au">www.acat.act.gov.au</a> Email: <a href="mailto:tribunal@act.gov.au">tribunal@act.gov.au</a> Telephone: (02) 6207 1740 Facsimile: (02) 6205 4855 Post: GPO Box 370, CANBERRA, ACT, 2601

APPLICATIONS TO THE ACAT

To apply for a review, obtain an application form from the ACAT. You can also download the [Application for review of a decision](#) form from the ACAT website.

TIME LIMITS FOR APPLICATIONS

The time limit to make a request for a review is 28 days from the date that you receive this Notice of Decision.

FEES

Applications to the ACAT, including an application to be joined as a party to a proceeding, require payment of a fee. You can apply to have the fee waived on the grounds of hardship, subject to approval (refer to section 22T of the *ACT Civil and Administrative Tribunal Act 2008*).

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## CONTROLLED ACTIVITY ORDER

This is a Controlled Activity Order (Order) made by the Planning and Land Authority under section 355 of the *Planning and Development Act 2007* (PDA)

### Part 1. THIS ORDER IS DIRECTED TO

Sch 2.2(a)(ii)

### Part 2. PREMISES IN WHICH THIS ORDER RELATES (THE LAND)

Sch 2.2(a)(ii)

### Part 3. GROUNDS ON WHICH THIS ORDER IS MADE

1. Sch 2.2(a)(ii) is the lessees and registered proprietors of the land as identified in Part 2, which is leased from the Commonwealth under Crown lease registered [REDACTED] (the lease).
2. The lessees are conducting the following controlled activity:
  - (i) Having a building or structure that was constructed without approval required by this Act, chapter 7 (Development approvals).
3. The above activities are listed in Schedule 2 of the PDA and are subject to the controlled activity order process under the PDA.

### Part 4. THIS ORDER DIRECTS THE ENTITY OUTLINED IN PART 1 TO

- Remove the unapproved structure, specifically the wire/metal fencing within 3 months of the date of the Order; or,
- Within 3 months of the date of the Order, make a development application which is paid for, and accepted for assessment and, comply with any further requests for information by the planning and land authority for the building or structure, or part of the building or structure, that has been constructed without development approval; and,
- If approval is granted, comply the conditions of the approval within 3 months of the date of approval; or,
- If the approval is refused, the unapproved structure must be demolished and removed within 1 month of the refusal unless one or more of the decision is subject of an ACT Civil and Administrative Tribunal (ACAT) merits review proceeding, in which case, 14 day after the day on which the ACAT publishes its decision in respect of those merit review application/s.

### Part 5. THIS ORDER TAKES EFFECT

This Order takes effect on Thursday 20 August 2020

### Part 6. PERIOD FOR COMPLIANCE WITH THE ORDER

The entity identified in Part 1, must within, 35 days from the date identified in Part 8, comply with the directions outlined in Part 4.

### Part 7. ENDING OF ORDER

THIS ORDER OPERATES UNTIL IT IS REVOKED

**Part 8. EXECUTION**

<b>Sch 2.2(a)(ii)</b>
Nick Lhuede Delegate under the Planning and Development Act 2007 20/08/2020

**Part 9. CONTACT OFFICER**

Mathew Bond Inspector	6207 6853
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**Important Information**

Provided in accordance with s 7 of the *ACT Civil and Administrative Tribunal Regulation 2009*

**REVIEW OF THE DECISION BY THE ACT CIVIL AND ADMINISTRATIVE TRIBUNAL**

You may apply to the ACT Civil and Administrative Tribunal (**ACAT**) for administrative review of this decision.

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APPLICATIONS TO THE ACAT

To apply for a review, obtain an application form from the ACAT. You can also download the [Application for review of a decision](#) form from the ACAT website.

TIME LIMITS FOR APPLICATIONS

The time limit to make a request for a review is 28 days from the date that you receive this Notice of Decision.

FEES

Applications to the ACAT, including an application to be joined as a party to a proceeding, require payment of a fee. You can apply to have the fee waived on the grounds of hardship, subject to approval (refer to section 22T of the *ACT Civil and Administrative Tribunal Act 2008*).

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**TRANSLATING AND INTERPRETING SERVICE**

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## CONTROLLED ACTIVITY ORDER

This is a Controlled Activity Order (Order) made under section 355 of the *Planning and Development Act 2007* (PDA)

### Part 1. THIS ORDER IS DIRECTED TO

Sch 2.2(a)(ii)

### Part 2. PREMISE IN WHICH THIS ORDER RELATES (THE LAND)

Sch 2.2(a)(ii)

### Part 3. GROUNDS ON WHICH THIS ORDER IS MADE

1. Sch 2.2(a)(ii) is a lessee and registered proprietor of the land as identified in Part 2, which is leased from the Commonwealth under Crown lease registered Volume 399 Folio 43 (the lease)
2. The lessee is conducting the following controlled activity/ies:-
  - (i) failing to keep a leasehold clean; and
  - (ii) having a building or structure that was constructed without approval required by this Act, chapter 7 (Development Approvals)
3. The above activities are listed in Schedule 2 of the PDA and are subject to the controlled activity order process under the PDA.
4. Between 2005 and 2018, the authority has documented eight (8) separate controlled activity complaints relating to this unclean leasehold. The regulatory action to date has included multiple site inspections, advice, direction and warning letters, and has attempted to work with the lessees to assist them to achieve compliance through engagement and education.
5. On 4 October 2018, two building inspectors viewed the land from the street directly outside Sch 2.2(a)(ii) and observed an unclean leasehold.
6. Photographs taken from the street on 4 October 2018 are shown at **Attachment B**.
7. An unclean leasehold is defined in current policy as that containing items covering greater than 30 percent of the area of leased land clearly visible from the street. That is, the area of land not occupied with approved or exempt structures.
8. The site inspection on 4 October 2018, identified approximately 80 percent of the vacant area of the leasehold land visible from the street was covered by items (shown in the photographs at **Attachment B**) and a structure (shown in image 2 of **Attachment A**) that is unapproved and not exempt from requiring approval under the Act. Items included Sch 2.2(a)(ii)
9. Failing to keep a leasehold clean is a controlled activity under Schedule 2, Item 2 of the Act.
10. During the site inspection, a demountable building structure was located in line with the building line at the front of the existing residence. The structure is fully enclosed, roofed and has a floor.
11. Habitable buildings and structures require building approval, and may require development approval under Territory laws.
12. Non-habitable, roofed, enclosed, class 10a buildings include a shed, workshop and storeroom and are generally exempt from requiring development approval if they have a plan area of less than 10 square

metres and are behind the building line for the block.

13. Having a structure that was constructed without approval required by the Act is a controlled activity under Schedule 2, Item 4 of the Act.
14. On 2 November 2018 the show cause controlled activity order was deemed served upon the leasees, Sch 2.2(a)(ii).
15. On 9 November 2018 building inspectors (Senior Management) attended Sch 2.2(a)(ii) and spoke to the leasee, Sch 2.2(a)(ii) at his request following receipt of the notice.
16. Sch 2.2(a)(ii) said that he expected he would be able to clean up his front yard within 6 months but would like to be afforded some additional time. Sch 2.2(a)(ii) showed the inspectors his front yard and the amount of materials on it; it was clear that removing all of the materials would take some time as it would involve arranging third parties to remove, buy or store the materials. The removal of the unapproved shed in particular would take some time because the materials in and around the shed would need to be removed prior to the shed being dismantled. It was agreed that a longer period for compliance would be reasonable. Sch 2.2(a)(ii) did not dispute that the lease required cleaning.
17. I am satisfied on evidence provided in reply to the show cause and evidence of building inspectors that there is sufficient information and background for me to make a Controlled Activity Order under section 355 of the Act.

#### Part 4. THIS ORDER DIRECTS THE ENTITY OUTLINED IN PART 1 TO

1. By close of business 17 December 2019, clean up the leasehold in such a manner that the items\* are removed from the block so that at least 30% of the undeveloped portions of the block which are visible from the public realm (marked in red on image 1 of Part 10) are no longer covered in items, and
  2. Keep the leasehold clean, such that at least 30% of the undeveloped portions of the block which are visible from the public realm remain uncovered by items, and
- OR**
3. By close of business 17 December 2019, obtain certification from a licenced surveyor or certifier, that the unapproved structure (marked in red on image 2 of Part 10) is exempt from requiring approval
- OR**
4. By close of business 17 December 2019, submit the required approval for the unapproved structure (marked in red on image 2 of Part 10) the *Planning and Development Act 2007* and related laws of the Territory,
- OR**
5. By close of business 17 December 2019 demolish the unapproved structure (marked in red on image 2 of Part 10) such that it complies with the *Planning and Development Act 2007* and related laws of the Territory.

\*items stored in this area on 4 October 2018 included two white utility vehicles, a caravan, three large trucks, a small truck, two flatbed trailers containing various items, whitegoods, furniture, bicycles, rubbish bins, car parts, milk crates, an unapproved demountable building structure, and building materials.

#### Part 5. THIS ORDER TAKES EFFECT

This Order takes effect on 17 December 2018 (TWO WORKING DAYS AFTER THE DATE IN PART 8)

#### Part 6. PERIOD FOR COMPLIANCE WITH THE ORDER

The entity identified in Part 1, comply with the directions outlined in Part 4 by 17 December 2019.

#### Part 7. ENDING OF ORDER

THIS ORDER OPERATES UNTIL IT IS REVOKED

**Part 8. EXECUTION**

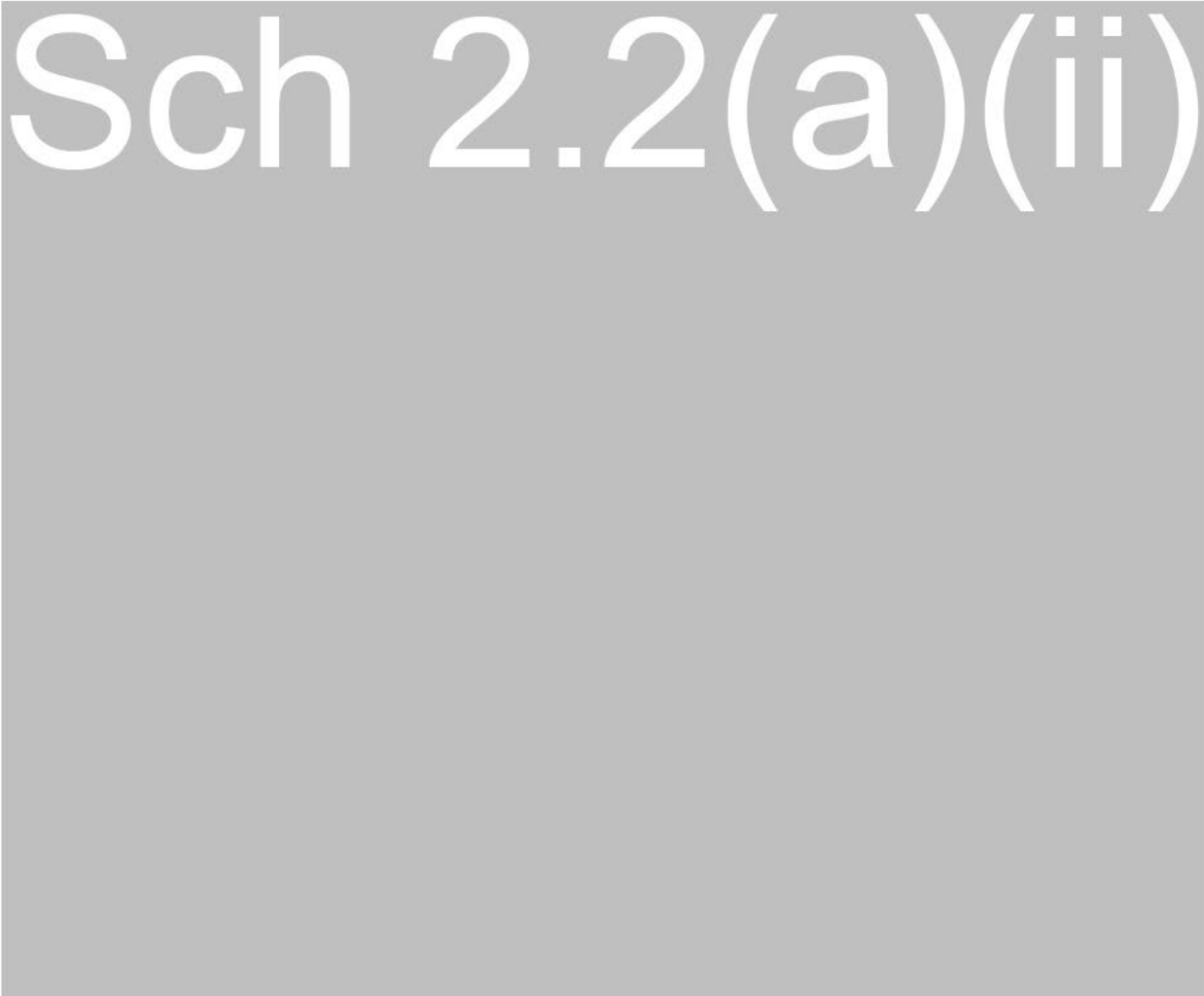
Sch 2.2(a)(ii)

Dan Curtin  
Delegate under the Planning and Development  
Act 2007  
13 December 2018

**Part 9. CONTACT OFFICER**

Dominic Hides Manager / Inspector <a href="mailto:Dominic.hides@act.gov.au">Dominic.hides@act.gov.au</a>	(02) 620 54306
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**Attachment A:**



**Image 1:** Aerial photograph taken in mid-2018. The area inside the blue line is crown lease land of Sch 2.2(a)(ii). The area inside the Red line is *the vacant area of the leasehold visible from the street*. The area inside the dashed yellow line is public unleased Territory Land, and does not form part of the crown lease land of Sch 2.2(a)(ii).

Sch 2.2(a)(ii)

**Image 2:** Aerial photograph taken in mid-2018. The area inside the blue line is crown lease land of Sch 2.2(a)(ii) [redacted]. The area inside the Red dashed line is an **unapproved structure**.

**Attachment B**

Thirteen (13) photographs of ***the vacant area of the leasehold visible from the street*** of Sch 2.2(a)(ii) [redacted] taken from the street on 4 October 2018.

Sch 2.2(a)(ii)

Sch 2.2(a)(ii)

Sch 2.2(a)(ii)

## Important Information

### REVIEW OF THE DECISION

The following notes are provided in accordance with regulation 7 of the *ACT Civil and Administrative Tribunal Regulation 2009*.

### CONTACT DETAILS

The review authority is the ACT Civil and Administrative Tribunal (ACAT).

Location	Contact details
ACT Civil and Administrative Tribunal Level 4, 1 Moore Street CANBERRA CITY ACT 2601	Website: <a href="http://www.acat.act.gov.au">www.acat.act.gov.au</a> Email: <a href="mailto:tribunal@act.gov.au">tribunal@act.gov.au</a> Telephone: (02) 6207 1740 Facsimile: (02) 6205 4855 Post: GPO Box 370, CANBERRA, ACT, 2601

### POWERS OF THE ACAT

The ACAT is an independent body. It can review on their merits a large number of decisions made by ACT Government ministers, officials and statutory authorities. The ACAT can agree with, change or reject the original decision, substitute its own decision or send the matter back to the decision maker for reconsideration in accordance with ACAT recommendations.

### APPLICATIONS TO THE ACAT

To apply for a review, obtain an application form from the ACAT. You can also download the form from the ACT Legislation Register <https://www.legislation.act.gov.au/af/2016-6/> .

If you are applying on behalf of an organisation or association of persons, whether incorporated or not, the Tribunal in deciding whether to support this application will consider the effect of the decision being reviewed on the interests of the organisation or association in terms of its objects or purposes. A copy of the relevant documents will be required to be lodged with the Tribunal.

### TIME LIMITS FOR APPLICATIONS

The time limit to make a request for a review is 28 days from the date of this Notice of decision. The time limit can be extended in some circumstances (refer to sections 10 (2), 10(3), 25(1)(e) and 25(2) of the *ACT Civil & Administrative Tribunal Act 2008*; section 7 of the *ACT Civil and Administrative Tribunal Procedure Rules 2009 (No 2)*).

### FEES

Applications to the ACAT, including an application to be joined as a party to a proceeding, require payment of a fee of not less than \$184 (the Tribunal Registry will advise of the current fee), unless you are receiving legal or financial assistance from the ACT Attorney-General. You can apply to have the fee waived on the grounds of hardship, subject to approval (refer to section 22T of the *ACT Civil and Administrative Tribunal Act 2008*). Decisions to grant assistance are made on the grounds of hardship and that it is reasonable, in all the circumstances, for the assistance to be granted. Ask the ACAT for more details.

### TIME LIMITS FOR REVIEWS OF DECISIONS

The ACAT is required to decide appeals in land and planning and tree protection cases within 120 days after the lodging of the appeal, unless that period is extended by the ACAT upon it being satisfied that it is in the interests of justice to do so.

### FORMS OF LEGAL, FINANCIAL AND OTHER ADVICE AND ASSISTANCE

The following organisations can provide advice and assistance if you are eligible:

- ACT Attorney-General, write to The Director General, Justice and Community Safety Directorate, GPO Box 158, CANBERRA, ACT, 2601;
- Legal Aid ACT, telephone 1300 654 314;
- Legal Advice Bureau, telephone (02) 6274 0300;
- Council of the Ageing ACT, telephone (02) 6282 3777; and
- Canberra Community Law (formerly Welfare Rights and Legal Centre), telephone (02) 6218 7977.

#### AWARDING OF COSTS

You will have to pay any costs involved in preparing or presenting your case. The ACAT also has the power to award costs against a party if the party contravenes a direction of the ACAT and the ACAT considers it in the interests of justice to make such an order. This power is in addition to the power of the ACAT to strike out a party and to dismiss an application for failure to comply with the ACAT's directions.

#### ACCESS TO DOCUMENTS ABOUT THE DECISION

You may apply for access to any documents you consider relevant to this decision under the *ACT Freedom of Information Act 2016*. Information about Freedom of information requests is available on the Chief Minister, Treasury and Economical Development Directorate's website ([www.cmtedd.act.gov.au](http://www.cmtedd.act.gov.au)) or by contacting us by phone on (02) 6207 1923.

#### PROCEDURES OF THE ACAT

The procedures of the ACAT are outlined on the ACAT's website, including in the Guide to the Land and Planning Division and the Guide to the Hearing. Contact the ACAT for alternative ways to access information about the ACAT's procedures.

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