



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 2018-0147

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	Waived
6. Processing time (in working days)	40
7. Decision made by Ombudsman	N/A
8. Additional information identified by Ombudsman	N/A
9. Decision made by ACAT	N/A
10. Additional information identified by ACAT	N/A

From: [REDACTED]
Sent: Tuesday, 19 June 2018 5:38 PM
To: EPSDFOI <EPSDFOI@act.gov.au>
Subject: FOI request

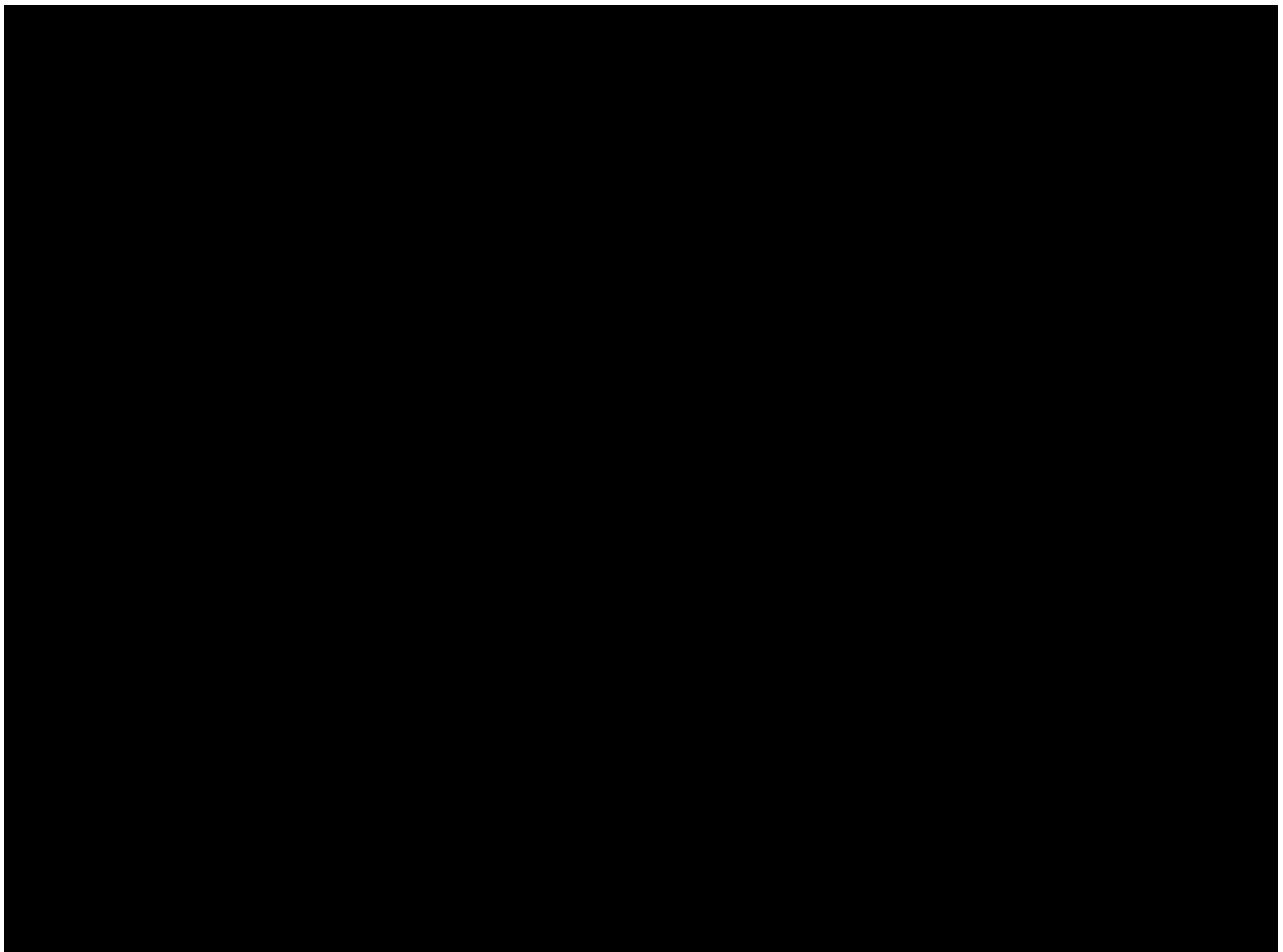
FOI – Information Management Team
Environment, Planning and Sustainable Development Directorate
GPO Box 158
CANBERRA ACT 2601

Dear Madam or Sir:

I write to request under the *Freedom of Information Act 2016* (FOI Act) documents generated or received by the ACT Government in relation to contamination from toxic chemicals at the former Charnwood fire station site. These would include but not be limited to the following:

- results of testing for all per-and poly-fluoroalkyl substances (PFASs, including PFOS and PFOA) at this site;
- advice or recommendations made in response to these results;
- any protection or mitigation measures recommended by the Environment Protection Agency (either alone or jointly with any other government department, such as the Health Protection Service) in relation to PFASs at this site;
- protection or mitigation measures that have been completed;
- and, if different, all remediation conditions put into place on the site's recent development application that were required by the Environment Protection Agency (either alone or jointly with any other government department).

I make this request pursuant to section 30 of the FOI Act.

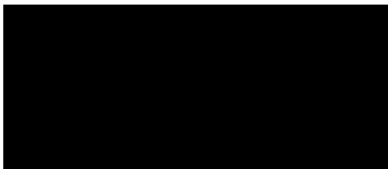




ACT
Government

Chief Minister, Treasury and
Economic Development

Our ref: CMTEDDFOI 2018-0147



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 19 June 2018, in which you sought access to documents generated or received by the ACT Government in relation to contamination from toxic chemicals at the former Charnwood fire station site.

Specifically you are seeking access to:

- results of testing for all per-and poly-fluoroalkyl substances (PFASs, including PFOS and PFOA) at this site;
- advice or recommendations made in response to these results;
- any protection or mitigation measures recommended by the Environment Protection Agency (either alone or jointly with any other government department, such as the Health Protection Service) in relation to PFASs at this site;
- protection or mitigation measures that have been completed; and
- if different, all remediation conditions put into place on the site's recent development application that were required by the Environment Protection Agency (either alone or jointly with any other government department).

On 20 June 2018 [REDACTED] confirmed you are only seeking documents in relation to PFAS substances.

On 9 August 2018 [REDACTED] advised that you do not require any duplicate documents already provided to you by the Health Directorate. I have identified 3 duplicate documents within the scope of the CMTEDD access request. The first two reports are authored by Arcadis titled "Soil PFAS Investigation – 17268" dated 23 October 2017 and "Operational Environmental Management Plan (OEMP)" dated 27 February 2018. The third report is authored by AECOM titled "Block 6, Section 97 Charnwood, ACT – Summary of Previous Investigations and Site Suitability Status" dated 17 July 2015. These reports have been removed from the scope of your request.

Authority

I am an Information Officer appointed by the Director-General of CMTEED under section 18 of the Act to deal with access applications made under Part 5 of the Act.

Timeframes

In accordance with section 40 of the Act, CMTEED is required to provide a decision on your access application by **15 August 2018**. I note that this timeframe includes an extension of time which was agreed by your office on 20 July 2018.

Third Party Consultation

In making this decision, I completed consultation in accordance with section 38 of the Act. The views of identified third parties were taken into account in making this decision.

Decision on Access

Searches were completed for relevant documents and 11 documents were identified that fall within the scope of your request.

I have decided to grant full access to 2 documents and partially release the remaining 9 documents as I consider the redacted information would, on balance, be contrary to the public interest to disclose under the test set out in section 17 of the Act.

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

I have decided to grant partial access to all relevant documents. 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 decision is below.

Statement of Reasons

In reaching my access decision, I have taken the following into account:

- the Act;
- the content of the documents that fall within the scope of your request;
- the submissions made by the relevant third party; and
- the *Human Rights Act 2004*.

Exemption Claimed

My reasons for deciding not to grant full access to the identified documents and components of these documents are as follows:

Information Contrary to 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.

Factors favouring disclosure (Schedule 2.1)

Taking into consideration the information contained in the documents 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 these documents is within the 'public interest':

- (a) *disclosure of the information could reasonably be expected to do any of the following:*
 - (i) *contribute to positive and informed debate on important issues or matters of public interest;*
 - (xi) *reveal environmental or health risks or measures relating to public health and safety.*

Having considered the factors identified as relevant in this matter, I consider that release of information contained in these documents may contribute to positive and informed debate on important issues or matters of public interest and may reveal environmental or health risks or measures relating to public health and safety by allowing you to have a more complete record of the interactions between various parties and the ACT Government and the steps taken to report and address the PFAS contamination issue in relation to the former Charnwood fire station site.

Factors favouring non-disclosure (Schedule 2.2)

Taking into consideration the information contained in the documents found to be within the scope of your request, I have also identified the following public interest factors in favour of non-disclosure are relevant to determine if release of the information contained within these documents is within 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.*

When considering the documents and factors in favour of non-disclosure, I have considered the personal information contained in the documents, including names, signatures and contact information. I am satisfied that the names, signatures, and contact information of employees in their signature blocks should be released as these staff members were acting in their official capacity and the personal information being released is done so in relation to these individuals exercising their delegations in a work related capacity. I do not consider the release of this information is unreasonable or could prejudice their right to privacy.

However, I consider it unreasonable to release the identifying features (names, email addresses) of all non-ACT Government employees as this is personal information. I have also removed a reference to the type of leave taken by an ACT Government employee. I am of the opinion that release of this information may prejudice the protection of the individual right to privacy or any other right under the *Human Rights Act 2004*. I am satisfied that this factor favouring non-disclosure should be afforded significant weight as it relates to individual privacy.

Noting the pro-disclosure intent of the Act, I am satisfied that redacting only the information that is not in the public interest to release, while releasing the rest of the documents will ensure the intent of the Act is met and will provide you with access to the majority of information held by CMTEDD within the scope of your request.

Accordingly, I have chosen to redact parts of folios 1, 8, 9, 10, 14, 17, 20, 43, 44, 45, 46 and 59 of the documents within Attachment B.

Charges

Pursuant to *Freedom of Information (Fees) Determination 2017 (No 2)* processing charges are applicable for this request because the total number of pages to be released to you exceeds the charging threshold of 50 pages. However, the charges have been waived in accordance with section 107 (2)(e) of the Act.

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 in the CMTEDD disclosure log after 21 August 2018. Your personal contact details will not be published.

The CMTEDD disclosure log is at <http://www.cmd.act.gov.au/functions/foi/disclosure-log>.

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.

If you wish to request a review of my decision you may write to the Ombudsman at:

The ACT Ombudsman
GPO Box 442
CANBERRA ACT 2601
Via email: actfoi@ombudsman.gov.au

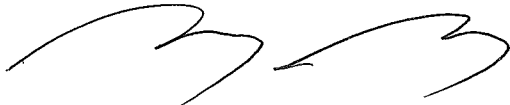
ACT Civil and Administrative Tribunal (ACAT) Review

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.

Yours sincerely,



Daniel Riley
Information Officer
Information Access Team
Chief Minister, Treasury and Economic Development Directorate

5 August 2018



ACT
Government

Chief Minister, Treasury and
Economic Development

FREEDOM OF INFORMATION REQUEST SCHEDULE

NAME	WHAT ARE THE PARAMETERS OF THE REQUEST	Reference NO.
	Documents generated or received by the ACT Government in relation to contamination from toxic chemicals at the former Charnwood fire station site	CMTEDDFOI2018-0147

Ref No	Page number	Description	Date	Status	Reason for Exemption	Online Release Status
1	1	Edorsement Summary Report	10 Aug 2015	Partial Release	Schedule 2.2(a)(ii)	Yes
2	2-7	Email - RE: DA231430-S141A & B-22/97 CHARNWOOD - ACT HEALTH Comments - release of Demo Plan	21 Aug 2017	Full Release	N/A	Yes
3	8	Email (22/97 – Charnwood)	19 Sep 2017	Partial Release	Schedule 2.2(a)(ii)	Yes
4	9-10	Email – Health Development Application	10 Nov 2017	Partial Release	Schedule 2.2(a)(ii)	Yes
5	11-15	Email RE: DA2017314430-22/97 Charnwood - HPS comments - Demo plan released	4 Dec 2017	Partial Release	Schedule 2.2(a)(ii)	Yes
6	16-42	EmailRE: DA2017314430-22/97 Charnwood - HPS endorsement and release of plans with attachments	6 Dec 2017	Partial Release	Schedule 2.2(a)(ii)	Yes
7	43-44	Email – Formal Correction with attachment	6 Dec 2017	Partial Release	Schedule 2.2(a)(ii)	Yes
8	45-46	Emails - 22/97 Charnwood	19 Dec 2017	Partial Release	Schedule 2.2(a)(ii)	Yes
9	47-58	Emails RE: Block 22 Section 97 Charnwood (Ex fire station site) - proposed childcare centre	20 Dec 2017	Full Release	N/A	Yes
10	59-60	Letter - ENDORSEMENT OF OPERATIONAL ENVIRONMENTAL MANAGEMENT PLAN BLOCK 22 SECTION 97 CHARNWOOD BELCONNEN	27 Feb 2018	Partial Release	Schedule 2.2(a)(ii)	Yes
Total No of Docs						
10 (60 pages)						



ACT
Government

Chief Minister, Treasury and
Economic Development

File Ref: 02/2664

Sch 2.2(a)(ii)

AECOM
Level 2, 60 Marcus Clarke Street
Canberra City ACT 2601

Dear **Sch 2.2(a)(ii)**

**ENDORSEMENT OF SUMMARY REPORT -
BLOCK 6 SECTION 97 CHARNWOOD BELCONNEN**

The Environment Protection Authority (EPA) has reviewed the report titled "Block 6, Section 97 Charnwood, ACT - Summary of Previous Investigations and Site Suitability Status" dated 17 July 2015 by AECOM Australia Pty Ltd.

The EPA has assessed the report and on the basis of the findings supports the consultant's conclusions that the site is "capable of supporting a CFZ land use with potential for a child care" from a contamination perspective subject to the following condition:

- a site specific unexpected finds protocol must be developed by a suitably qualified environmental consultant and implemented during development works at the site.

The works have been generally undertaken to the satisfaction of the EPA in accordance with the Contaminated Sites Environment Protection Policy 2009 and associated guidelines.

This letter of endorsement must be read in conjunction with the above report.

This should not be taken as a warranty by the Environment Protection Authority or the Territory that the land is fit for any particular purpose.

Yours sincerely

Christopher Collier
Environment Protection Authority

10 August 2015

From: [Rogers, Keith \(Health\)](#)
To: [Pradhan, Jyoti](#)
Subject: RE: DA231430-S141A & B-22/97 CHARNWOOD - ACT HEALTH Comments - release of Demo Plan [SEC=UNCLASSIFIED]
Date: Monday, 21 August 2017 8:43:52 AM
Attachments: [image001.png](#)
[image008.png](#)
[image010.jpg](#)
[image003.png](#)
[image004.png](#)
[image005.jpg](#)
[image007.png](#)

Hi Jyoti,

I spoke with the applicant last week about the requirements of our condition within the NOD. They believed they had already complied hence they missed it completely, but after speaking with me they have been set on the right track which is confirmed by this request to release the demo plan.

Thanks for including us in the release of documents – this one is simple as no construction will result.

We will be in contact later in the process.

Have a great week.

Keith.

Keith Rogers | Senior Public Health Officer / Environmental Health
Health Protection Service | health.act.gov.au
Phone (02) 6205 1716 | Mobile 0401 134 072

From: Pradhan, Jyoti
Sent: Monday, 21 August 2017 8:33 AM
To: Rogers, Keith (Health) <Keith.Rogers@act.gov.au>
Subject: RE: DA231430-S141A & B-22/97 CHARNWOOD - ACT HEALTH Comments - release of Demo Plan [SEC=UNCLASSIFIED]

Hi Keith,

Thanks for confirming. Appreciate your quick response.

Regards,
Jyoti

Jyoti Pradhan

Assessment Officer | DA Merit Assessment - Commercial
(Working hours - Monday to Friday 8.00am - 2.30pm)
Phone 02 6207 1649 | Fax 02 6207 1856 |
Planning Delivery Division | Environment, Planning and Sustainable Development Directorate | **ACT Government**
Dame Pattie Menzies House, Challis Street, Dickson | GPO Box 1908 Canberra ACT 2601 | www.actpla.act.gov.au

From: Rogers, Keith (Health)
Sent: Monday, 21 August 2017 8:32 AM
To: Pradhan, Jyoti <Jyoti.Pradhan@act.gov.au>
Cc: Gell, Chris <Chris.Gell@act.gov.au>
Subject: RE: DA231430-S141A & B-22/97 CHARNWOOD - ACT HEALTH Comments - release of Demo Plan [SEC=UNCLASSIFIED]

Hi Jyoti,

Makes sense and is fine with me.

Thanks,

Keith Rogers | Senior Public Health Officer / Environmental Health
Health Protection Service | health.act.gov.au
Phone (02) 6205 1716 | Mobile 0401 134 072

From: Pradhan, Jyoti
Sent: Monday, 21 August 2017 8:30 AM
To: Rogers, Keith (Health) <Keith.Rogers@act.gov.au>
Cc: Gell, Chris <Chris.Gell@act.gov.au>
Subject: RE: DA231430-S141A & B-22/97 CHARNWOOD - ACT HEALTH Comments - release of Demo Plan [SEC=UNCLASSIFIED]

Good morning Keith,

The applicant has requested to release the Demolition Plan so that they can undertake demolition of the existing building. This is required so that they can get BA approval of the building in order to complete the soil testing to meet the conditions of the NOD.

In regards to the above, the authority has no objection in releasing the Demolition Plan, as construction cannot commence unless all conditions of approval are met. All other design plan will only be released once the HPS endorsement is received.

I hope this is fine by you. Please confirm.

Regards,
Jyoti

Jyoti Pradhan

Assessment Officer | DA Merit Assessment - Commercial
(Working hours - Monday to Friday 8.00am - 2.30pm)
Phone 02 6207 1649 | Fax 02 6207 1856 |
Planning Delivery Division | Environment, Planning and Sustainable Development Directorate | **ACT Government**
Dame Pattie Menzies House, Challis Street, Dickson | GPO Box 1908 Canberra ACT 2601 | www.actpla.act.gov.au

From: Rogers, Keith (Health)

Sent: Friday, 28 July 2017 10:21 AM

To: Pradhan, Jyoti <Jyoti.Pradhan@act.gov.au>

Subject: RE: DA231430-S141A & B-22/97 CHARNWOOD - ACT HEALTH Comments - condition of approval [SEC=UNCLASSIFIED]

Good morning Jyoti,

I discussed this with Conrad yesterday afternoon and we are happy to take your preferred approach and include our requirements as conditions of approval.

As we have requested further soil testing across the site to quantify the extent of the site which may be affected, it may be that the proponent can design a centre using appropriate mitigation measures to eliminate the risk of soil consumption by children.

Our endorsement therefore may be of suitable mitigation measures they propose to eliminate/reduce the risk to children.

Kind regards,

Keith Rogers

Senior Public Health Officer | Environmental Health

Health Protection Service | Population Health Protection and Prevention | ACT Health

25 Mulley Street Holder ACT | Locked Bag 5005 Weston Creek ACT 2611

T 02 6205 1716 | M 0401 134 072 | E keith.rogers@act.gov.au | www.health.act.gov.au |

Keith Rogers | Senior Public Health Officer / Environmental Health

Health Protection Service | health.act.gov.au

Phone (02) 6205 1716 | Mobile 0401 134 072

From: Pradhan, Jyoti

Sent: Thursday, 27 July 2017 11:23 AM

To: Rogers, Keith (Health)

Cc: Barr, Conrad (Health)

Subject: DA231430-S141A & B-22/97 CHARNWOOD - ACT HEALTH Comments - condition of approval [SEC=UNCLASSIFIED]

Importance: High

Good morning Keith,

Thank you for your comments in regards to the proposed child care centre at the above mentioned site in Charnwood.

I've discussed the matters raised in your letter with a senior officer. We acknowledge that the applicant must provide the requested information to HPS and all issues must be addressed prior to the construction of the proposed centre.

However, it is preferred (from the DA assessment point of view) that the HPS requested information is included as 'conditions of approval' in the Notice of Decision, which will require the applicant to provide all the information/test reports etc to HPS and seek endorsement. And

unless and until the applicant provides the authority a copy of the HPS endorsement on the suitability of the site for the proposed use of a child care centre, the authority will not release approved stamped drawings to the applicant and construction cannot commence on site.

We trust the above course of action is acceptable.

Regards,
Jyoti

Jyoti Pradhan

Assessment Officer | DA Merit Assessment - Commercial

(Working hours - Monday to Friday 8.00am - 2.30pm)

Phone 02 6207 1649 | Fax 02 6207 1856 |

Planning Delivery Division | Environment, Planning and Sustainable Development Directorate | **ACT Government**

Dame Pattie Menzies House, Challis Street, Dickson | GPO Box 1908 Canberra ACT 2601 | www.actpla.act.gov.au

From: Moroney, Rebecca (Health)

Sent: Wednesday, 26 July 2017 5:02 PM

To: Pradhan, Jyoti

Cc: Barr, Conrad (Health); Krsteski, Radomir (Health); Rogers, Keith (Health); Smith, Cathie (Health)

Subject: FW: REFERRAL-ACT HEALTH-201731430-S141A & B-22/97 CHARNWOOD-comments overdue [SEC=UNCLASSIFIED]

Importance: High

Good Afternoon Jyoti

Please see attached comments from HPS for this DA.

Our comments were originally sent on the 24th July, unfortunately to the incorrect email address which is why you did not receive them.

It is very important that you receive these comments as HPS does not agree to this application.

Rebecca Moroney

PA to Conrad Barr - ED HPS

Phone : 02 6205 4402

From: Moroney, Rebecca (Health) **On Behalf Of** Barr, Conrad (Health)

Sent: Wednesday, 26 July 2017 4:55 PM

To: Moroney, Rebecca (Health)

Subject: FW: REFERRAL-ACT HEALTH-201731430-S141A & B-22/97 CHARNWOOD-comments overdue [SEC=UNCLASSIFIED]

Thank you - Bec ☺

Rebecca Moroney

PA to Conrad Barr - ED HPS

Phone : 02 6205 4402

From: Pradhan, Jyoti

Sent: Wednesday, 26 July 2017 4:12 PM
To: Barr, Conrad (Health)
Subject: FW: REFERRAL-ACT HEALTH-201731430-S141A & B-22/97 CHARNWOOD-comments overdue [SEC=UNCLASSIFIED]

Good afternoon Mr Barr,

I refer to the subject DA for proposed childcare centre in Charnwood.

The applicant has provided further information in response to the concerns raised in the HPS advice. The information was referred to HPS on 3 July 2017 for further comments.

The comments are now overdue. Could you please check the attached info and provide your comments asap, preferably by Friday please.

Please note that EPA has supported the proposed development.

Regards,
Jyoti

Jyoti Pradhan

Assessment Officer | DA Merit Assessment - Commercial

(Working hours - Monday to Friday 8.00am - 2.30pm)

Phone 02 6207 1649 | Fax 02 6207 1856 |

Planning Delivery Division | Environment, Planning and Sustainable Development Directorate | **ACT Government**

Dame Pattie Menzies House, Challis Street, Dickson | GPO Box 1908 Canberra ACT 2601 | www.actpla.act.gov.au

From: EPD, Customer Services

Sent: Monday, 3 July 2017 9:45 AM

To: HPS

Subject: REFERRAL-ACT HEALTH-201731430-S141A & B-22/97 CHARNWOOD-01 [SEC=UNCLASSIFIED]

PLEASE IGNORE PREVIOUS EMAIL

DEVELOPMENT APPLICATION NO: 201731430 S141A & B

BLOCK: 22 **SECTION:** 97 **DIVISION:** CHARNWOOD

S141 Further Information prior to decision – PROPOSAL FOR NEW COMMERCIAL DEVELOPMENT - demolition of the existing buildings and construction of a childcare centre and pre-school, landscaping, surface car park, services infrastructure, signage and associated site works.

Pursuant to Section 148(1) of the Planning and Development Act 2007 the ACT Planning and Land Authority requests that you consider the above mentioned development application and provide any written advice no later than 15 working days after the date of this notice **(24/07/2017)**.

In accordance with Section 150 of the Planning and Development Act 2007 If advice is not received within the prescribed time it will be taken that you have supported the application.

Please forward any written advice via email to Customer Services

EPDcustomerservices@act.gov.au

Please use the following format in the subject line of the email when providing advice:

COMM-Agency Name-20080XXXX-Block XX Section XX SuburbXXXXX-01

Example: COMM-Heritage-200801234-Block 10 Section 10 Dickson-01

Kind Regards

Customer Services

Phone 02 6207 1923

Access Canberra | ACT Government

Dame Pattie Menzies House, Challis Street, Dickson | GPO Box 158 Canberra ACT 2601

Access Canberra is an ACT Government service that brings together customer and regulatory services, including the former Environment and Planning Directorates Customer Services Team. Access Canberra has been set up to make it easier for business, community organisations and individuals to work with ACT Government and deliver a more seamless experience.

www.planning.act.gov.au | EPDcustomerservices@act.gov.au

From: [Heckenberg, Mark](#)
To: **Sch 2.2(a)(ii)**
Cc: [Clayton, Des](#); [EPD, Customer Services](#); [HPS](#)
Subject: RE: 22/97 - Charnwood (Former fire station) [SEC=UNCLASSIFIED]
Date: Tuesday, 19 September 2017 8:37:00 AM
Attachments: [image001.jpg](#)

Hi **Sch 2.2(a)(ii)**,

ACT Health have raised concerns over potential contamination associated with the former use of firefighting foams at the site. I would recommend that you contact the DA Merit Assessment - Commercial team from EPSD and the Health Protection Unit of ACT Health for further information.

Regards

Mark Heckenberg | Manager, Contaminated Sites | Environmental Quality
Phone: 02 6207 2151 | Email: mark.heckenberg@act.gov.au
Construction, Environment and Workplace Protection | Access Canberra | ACT Government
GPO Box 158 Canberra ACT 2601 | <http://www.act.gov.au/accesscbr>

From: **Sch 2.2(a)(ii)**
Sent: Tuesday, 19 September 2017 8:11 AM
To: Clayton, Des <Des.Clayton@act.gov.au>
Cc: Environmental Standards <Environmental.Standards@act.gov.au>
Subject: FW: 22/97 - Charnwood (Former fire station)

Hi Des,

Are you able to give me any info or concerns for this site.

I believe there has been issues with the chemical fire retardant sprayed on the site.

The owner is pushing for the demolition and has no EPA information.

Regards,

Sch 2.2(a)(ii)



From: [Mills, David \(Health\)](#)
To: Sch 2 s2.2(a)(ii) [REDACTED]
Subject: Health-Development Application - 201731430-22-97-CHARNWOOD-01-Applicant Response
Date: Friday, 10 November 2017 3:21:11 PM
Attachments: [Health-Development Application - 201731430-22-97-CHARNWOOD-01-Applicant Response.pdf](#)
Importance: High

Please see attached response from the Health Protection Service.

Regards

Health Protection Service

Sch 2.2(a)(ii)

Health-Development Application – 201731430-22-97-CHARNWOOD-01- Applicant Response

Dear Sir,

Thank you for the report titled 'SOIL PFAS INVESTIGATION – 172678, Block 22 Section 97, Charnwood ACT ' received by the Health Protection Service (HPS) on 23 October 2017 regarding a proposed childcare centre in Charnwood.

The Health Protection Service (HPS) notes that the report was undertaken following HPS comments in relation to Development Application 20131430-22-97-Charnwood, which included the construction of a single storey, childcare centre and a playground at the site of a former Fire Brigade Depot.

The HPS had concerns regarding the potential exposure of children at the proposed childcare centre to contaminants such as Per-and polyflurinated Alkyl Substances (PFAS) present in spoil at the site. This contamination stemmed from the historic use of the site as a Fire Brigade Depot.

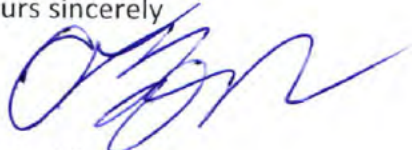
The HPS has reviewed the report and is satisfied additional sampling was undertaken to provide a more complete assessment of the site. The HPS also notes the mitigation measures proposed within the report would provide barriers over soil on the site to prevent exposure to soil and sever the potential exposure pathway to PFAS.

The HPS supports all mitigation measures proposed within the report. However, prior to the HPS providing support for the proposed development, it is requested the applicant provide the HPS details of where each proposed mitigation barrier will be implemented across the site.

The HPS also will require an onsite inspection undertaken by HPS officers following the installation of mitigation measures. This will be a condition of HPS support for the development.

Please contact Andrew Stedman on (02) 6205 4404 if you require any further information.

Yours sincerely



Conrad Barr
Executive Director
Health Protection Service

10 November 2017

From: [Pradhan, Jyoti](#)
To: [Heckenberg, Mark](#); [Hudson, Lyndell \(Health\)](#)
Cc: [EPAPanningLiaison](#); [Gell, Chris](#)
Subject: RE: DA2017314430-22/97 Charnwood - HPS comments - Demo plan released [SEC=UNCLASSIFIED]
Date: Monday, 4 December 2017 11:25:06 AM
Attachments: [RE DA231430-S141A B-2297 CHARNWOOD - ACT HEALTH Comments - release of Demo Plan SECUNCLASSIFIED.msg](#)

Good morning Mark and Lyndell,

The Demolition Plan was endorsed and released to allow the applicant to get the soil testing done to meet HPS conditions in relation to possible contamination. A confirmation was received from Keith Rogers before the Demolition Plan was dispatched. Please refer attached email.

Hope this helps.

Regards,
Jyoti

Jyoti Pradhan

Assessment Officer | DA Merit Assessment - Commercial

(Working hours - Monday to Friday 8.00am - 2.30pm)

Phone 02 6207 1649 | Fax 02 6207 1856 |

Planning Delivery Division | Environment, Planning and Sustainable Development Directorate | **ACT Government**

Dame Pattie Menzies House, Challis Street, Dickson | GPO Box 1908 Canberra ACT 2601 | www.actpla.act.gov.au

From: Heckenberg, Mark

Sent: Monday, 4 December 2017 10:53 AM

To: Hudson, Lyndell (Health) <Lyndell.Hudson@act.gov.au>

Cc: EPAPanningLiaison <EPAPanningLiaison@act.gov.au>; Pradhan, Jyoti <Jyoti.Pradhan@act.gov.au>

Subject: FW: DA2017314430-22/97 Charnwood - HPS comments

Importance: High

Hi Lyndell,

I hope all is well.

Back in June the attached letter was forwarded to the EPA Planning Liaison Officer by EPSDD. The attachment was subsequently forwarded to me for EPA records.

I remember chatting with one of your officers (sorry I can't recall who but it wasn't Faith) on a couple of occasions about the site around that time and offered to review any reports that were submitted to HPS on potential PFAS contamination at the site and have heard nothing more.

Can you tell me whether the potential risks in relation to PFAS contamination raised in the attached letter have been resolved to HPS's satisfaction? During a site inspection on Friday I noted that demolition works had commenced at the site.

Thanks Mark

Mark Heckenberg | Manager, Contaminated Sites | Environmental Quality
Phone: 02 6207 2151 | Email: mark.heckenberg@act.gov.au
Construction, Environment and Workplace Protection | Access Canberra | ACT Government
Ground Floor TransACT House, 470 Northbourne Avenue, Dickson 2602
GPO Box 158 Canberra ACT 2601 | <http://www.act.gov.au/accesscbr>



EPDcustomerservices@act.gov.au

Referral-Health-Development Application – 201731430-22-97-CHARNWOOD-03

Dear Sir/Madam,

Thank you for the documentation received on 12 May 2017 regarding a proposed childcare centre in Charnwood.

The Health Protection Service (HPS) notes that the proposed development will include:

- a. demolition of an existing building
- b. construction of a single storey, 1217 square meter childcare centre
- c. construction of 1157 square meter playground, site works and fencing.

The development proposes construction of a kitchen. The applicant is required to submit a food business registration and fit-out assessment application (with suitably detailed plans) to the HPS for the food business prior to construction. The applicant is advised to contact the HPS for further information.

The HPS supports the Environment Protection Authority's (EPA) endorsement of the report conducted by AECOM Australia Pty Ltd, but seeks further information regarding the results of the perfluorooctane sulphonate and perfluorooctanoic acid analysis of soil.

HPS also supports the EPA's recommendation that a site specific unexpected finds protocol be developed by a suitably qualified environmental consultant and implemented during development works at the site.

There are no other public health concerns in relation to the proposed development.

Please contact Faith Bvirakare on (02) 62059616 if you require any further information.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Conrad Barr'.

Conrad Barr
Executive Director
Health Protection Service

2 June 2017

From: [Hudson, Lyndell \(Health\)](#)
To: [Heckenberg, Mark](#); [Pradhan, Jyoti](#)
Cc: [EPAPanningLiaison](#); [Gell, Chris](#)
Subject: RE: DA2017314430-22/97 Charnwood - HPS comments - Demo plan released [SEC=UNCLASSIFIED]
Date: Tuesday, 5 December 2017 10:47:02 AM
Attachments: [17267_RP01_V03.pdf](#)
[Health-Development Application - 201731430-22-97-CHARNWOOD-01-Applicant Response.msg](#)
[image001.png](#)
[image003.png](#)

Hi Mark

Nice to hear from you, I am slowly getting back across all the issues since returning in October **Sch 2.2(a)(ii)**. I am sorry you were not kept in the loop following discussions with Keith Rogers.

I have attached the latest soil report we received and our letter supporting the mitigation measures.

The applicants has further provided information on the type and location of each mitigation barrier and we require an inspection to be conducted to ensure the final development matches their proposal.

Please let me know if you have any questions.

Regards,

Lyndell Hudson | Manager Environmental Health
Health Protection Service | health.act.gov.au
Phone (02) 6205 0956 | Mobile 0408 663 116

From: Heckenberg, Mark
Sent: Monday, 4 December 2017 11:33 AM
To: Pradhan, Jyoti <Jyoti.Pradhan@act.gov.au>; Hudson, Lyndell (Health) <Lyndell.Hudson@act.gov.au>
Cc: EPAPanningLiaison <EPAPanningLiaison@act.gov.au>; Gell, Chris <Chris.Gell@act.gov.au>
Subject: RE: DA2017314430-22/97 Charnwood - HPS comments - Demo plan released [SEC=UNCLASSIFIED]

Thanks Jyoti.

That's a good outcome.

Regards Mark

Mark Heckenberg | Manager, Contaminated Sites | Environmental Quality
Phone: 02 6207 2151 | Email: mark.heckenberg@act.gov.au
Construction, Environment and Workplace Protection | Access Canberra | ACT Government
Ground Floor TransACT House, 470 Northbourne Avenue, Dickson 2602
GPO Box 158 Canberra ACT 2601 | <http://www.act.gov.au/accesscbr>

From: Pradhan, Jyoti

Sent: Monday, 4 December 2017 11:25 AM

To: Heckenberg, Mark <Mark.Heckenberg@act.gov.au>; Hudson, Lyndell (Health) <Lyndell.Hudson@act.gov.au>

Cc: EPAPanningLiaison <EPAPanningLiaison@act.gov.au>; Gell, Chris <Chris.Gell@act.gov.au>

Subject: RE: DA2017314430-22/97 Charnwood - HPS comments - Demo plan released [SEC=UNCLASSIFIED]

Good morning Mark and Lyndell,

The Demolition Plan was endorsed and released to allow the applicant to get the soil testing done to meet HPS conditions in relation to possible contamination. A confirmation was received from Keith Rogers before the Demolition Plan was dispatched. Please refer attached email.

Hope this helps.

Regards,
Jyoti

Jyoti Pradhan

Assessment Officer | DA Merit Assessment - Commercial

(Working hours - Monday to Friday 8.00am - 2.30pm)

Phone 02 6207 1649 | Fax 02 6207 1856 |

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Cc: EPAPanningLiaison <EPAPanningLiaison@act.gov.au>; Pradhan, Jyoti <Jyoti.Pradhan@act.gov.au>

Subject: FW: DA2017314430-22/97 Charnwood - HPS comments

Importance: High

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Thanks Mark

From: [Pradhan, Jyoti](#)
To: [Hudson, Lyndell \(Health\)](#)
Cc: [EPAPlanningLiaison](#); [Gell, Chris](#); [Heckenberg, Mark](#)
Subject: RE: DA2017314430-22/97 Charnwood - HPS endorsement and release of plans [SEC=UNCLASSIFIED]
Date: Wednesday, 6 December 2017 2:23:10 PM
Attachments: [Health-Development Application - 201731430-22-97-CHARNWOOD-01- Landscape.....pdf](#)
[NOTICE OF DECISION-201731430-SIGNED.pdf](#)
[image001.png](#)
[image003.png](#)
Importance: High

Hi Lyndell,

I've just received the attached endorsement letter (dated 17 November 2017) from the applicant.

Noting Mark's comments below, I wanted to confirm, if it is okay for me to consider that this endorsement letter satisfies Condition A1 of the Notice of Decision (copy attached) and therefore I can release the stamped plans.

I would appreciate your response at your earliest please. I'm going away on leave from Friday till end of January 2018 and if I need to stamp the plans, I have only tomorrow to do it.

Regards,
Jyoti

Jyoti Pradhan

Assessment Officer | DA Merit Assessment - Commercial

(Working hours - Monday to Friday 8.00am - 2.30pm)

Phone 02 6207 1649 | Fax 02 6207 1856 |

Planning Delivery Division | Environment, Planning and Sustainable Development Directorate | **ACT Government**

Dame Pattie Menzies House, Challis Street, Dickson | GPO Box 1908 Canberra ACT 2601 | www.actpla.act.gov.au

From: Heckenberg, Mark
Sent: Wednesday, 6 December 2017 7:40 AM
To: Hudson, Lyndell (Health) <Lyndell.Hudson@act.gov.au>; Pradhan, Jyoti <Jyoti.Pradhan@act.gov.au>
Cc: EPAPlanningLiaison <EPAPlanningLiaison@act.gov.au>; Gell, Chris <Chris.Gell@act.gov.au>
Subject: RE: DA2017314430-22/97 Charnwood - HPS comments - Demo plan released [SEC=UNCLASSIFIED]

Hi Lyndell,

Thanks for the update and for the work your team have done on this.

To ensure the enforceability of the environmental management plan (EMP) recommended by the consultant I would recommend that the site's lease be updated prior to occupancy to include a requirement that it be managed in accordance with this EMP until the HPS and EPA agree in writing that management is no longer required.

Regards Mark

Mark Heckenberg | Manager, Contaminated Sites | Environmental Quality
Phone: 02 6207 2151 | Email: mark.heckenberg@act.gov.au
Construction, Environment and Workplace Protection | Access Canberra | ACT Government
Ground Floor TransACT House, 470 Northbourne Avenue, Dickson 2602
GPO Box 158 Canberra ACT 2601 | <http://www.act.gov.au/accesscbr>

From: Hudson, Lyndell (Health)
Sent: Tuesday, 5 December 2017 10:47 AM
To: Heckenberg, Mark <Mark.Heckenberg@act.gov.au>; Pradhan, Jyoti <Jyoti.Pradhan@act.gov.au>
Cc: EPAPanningLiaison <EPAPanningLiaison@act.gov.au>; Gell, Chris <Chris.Gell@act.gov.au>
Subject: RE: DA2017314430-22/97 Charnwood - HPS comments - Demo plan released
[SEC=UNCLASSIFIED]

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Subject: RE: DA2017314430-22/97 Charnwood - HPS comments - Demo plan released
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Cc: EPAPlanningLiaison <EPAPlanningLiaison@act.gov.au>; Gell, Chris <Chris.Gell@act.gov.au>
Subject: RE: DA2017314430-22/97 Charnwood - HPS comments - Demo plan released [SEC=UNCLASSIFIED]

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Jyoti

Jyoti Pradhan

Assessment Officer | DA Merit Assessment - Commercial
(Working hours - Monday to Friday 8.00am - 2.30pm)
Phone 02 6207 1649 | Fax 02 6207 1856 |
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Cc: EPAPlanningLiaison <EPAPlanningLiaison@act.gov.au>; Pradhan, Jyoti <Jyoti.Pradhan@act.gov.au>
Subject: FW: DA2017314430-22/97 Charnwood - HPS comments
Importance: High

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Thanks Mark

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Sch 2.2(a)(ii)

Health-Development Application – 201731430-22-97-CHARNWOOD-01- Landscape Ground Surfaces Plan

Dear Sir,

Thank you for the Charnwood Childcare Centre – *Landscape Ground Surfaces Plan and details*, received by the Health Protection Service (HPS) on 10 November 2017.

The Health Protection Service (HPS) notes that mitigation measures proposed within the report '**SOIL PFAS INVESTIGATION – 172678**, Block 22 Section 97, Charnwood ACT' have been incorporated into the ground surfaces plan.


The HPS supports the release of plans by the Environment Planning and Sustainable Development Directorate for the proposed development, on condition that an onsite inspection is undertaken by HPS officers following the installation of all mitigation measures in accordance with the *Landscape Ground Surfaces Plan and details*.

Please contact Andrew Stedman on (02) 6205 4404 if you require any further information or to arrange for an inspection of installed mitigation measures.

Yours sincerely



Conrad Barr
Executive Director
Health Protection Service

 November 2017



ACT
Government

Environment, Planning and
Sustainable Development

Notice of decision

Under Part 7 of the *Planning and Development Act 2007*

Merit track

DA NO: 201731430 201731430/A – S141 201731430/A – S141	DATE LODGED: 1 May 2017 18 June 2017 22 June 2017	
DATE OF DECISION: 3 August 2017		
BLOCK: 22	SECTION: 97	SUBURB: CHARNWOOD
STREET NO AND NAME: 35 Lhotsky Street Charnwood		
APPLICANT: Kasperek Architects		
LESSEE: Childcare Investments Aus Pty Limited		

THE DECISION

This application was lodged in the merit track. Pursuant to section 113(2) of the *Planning and Development Act 2007* (Act), the application must be assessed according to the provisions relevant to merit track applications.

I, Jyoti Pradhan, delegate of the planning and land authority, pursuant to section 162 of the Act, hereby **approve subject to conditions** the proposal for:

- **removal of existing nineteen (19) regulated trees** (as indicated on the Tree Management Plan (Project No 1607, Drawing No. DA17 issue B, dated 1/06/2017) prepared by Kasperek Architects)
- **relocation of existing driveway verge crossing and construction of a new driveway verge crossing;**
- **three on-street car parking spaces along Lhotsky Street;**
- **demolition of existing building and associated structures;**
- **construction of a new single storey child care centre for 120 child care spaces and comprising of:**
 - **nursery rooms with attached cot rooms, toddler rooms and pre-school rooms;**
 - **office/admin area;**
 - **kitchen; and**
 - **outdoor play areas;**
- **new surface carpark for minimum 44 car parking spaces;**
- **two illuminated Wall Signs and**
- **associated infrastructure, paving, landscaping and other site works,**

in accordance with the plans, drawings and other documents and items submitted with the application for approval and endorsed as forming part of this approval.

This decision is subject to the conditions of approval at **PART 1** being satisfied.

PART 2 sets out the Reasons for the Decision

PART 3 is Public Notification and Entity Advice.

PART 4 contains administrative information relating to the determination.

DELEGATE



Jyoti Pradhan
Delegate of the planning and land authority
Environment Planning and Sustainable Development Directorate
3 August 2017

CONTACT OFFICER

Jyoti Pradhan
Phone: (02) 6207 1649
Email: Jyoti.Pradhan@act.gov.au

PART 1 CONDITIONS OF APPROVAL

This application is approved subject to the following conditions being satisfied. Some conditions of approval will require attention before the approved drawings will be released, others before work commences or before the completion of building work.

A. ADMINISTRATIVE / PROCESS CONDITIONS

A1. APPROVAL NOT TO TAKE EFFECT

This approval shall not take effect and works shall not commence on site until an endorsement from Health Protection Service (ACT Health Directorate) confirming the suitability of the proposed child care centre, is provided to the authority.

B. CONDITIONS FROM ENTITIES

B1. ACT HEALTH DIRECTORATE - HEALTH PROTECTION SERVICES (HPS)

The applicant/lessee **must** address the concerns raised by HPS in their letter dated 24 July 2017 (Refer to **Attachment A**).

***Note:** Stamped plans will not be released till HPS confirms their support for the proposed development.*

B2. CONSERVATOR OF FLORA and FAUNA – TREE PROTECTION AUTHORITY

The development proposal shall comply with the following conditions to the satisfaction of the Conservator as noted in the advice dated 21 July 2017.

- (a) All proposed tree removal and tree protection works must be in accordance with the following plans as submitted:
- Demolition Plan, (Project No 1607, Drawing No. DA16 issue B, dated 1/06/2017, prepared by Kasperek Architects);
 - Site Plan & External Lighting (Project No 1607, Drawing No. DA04 issue C, dated 22/06/2017, prepared by Kasperek Architects.)
 - Tree Management Plan (Project No 1607, Drawing No. DA17 issue C, dated 1/06/2017, prepared by Kasperek Architects.); and
 - Stormwater Management Plan (Job No. 17PEACH1, Drawing No. DA04 issue C, dated 6/06/2017, prepared by Pierre Dragh Consulting Engineers Pty Ltd).

B3. ENVIRONMENT PROTECTION AUTHORITY (EPA)

Applicant must comply with the conditions of approval imposed by the Environment Protection Authority, **prior to works commencing** on site.

Please refer to the conditions of approval at **C1** below.

B4. CUSTODIAN OF THE LAND – TRANSPORT CANBERRA AND CITY SERVICES (TCCS)

Verge Crossing

- (a) The verge crossing must be constructed in accordance with TCCS Design Standards;
- (b) The levels on the verge must not be altered as a result of the new constructed verge crossing;

- (c) Any infrastructure assets such as street lighting, mini-pillars, signage etc must be a minimum of 1.5m away from the closest edge of the driveway. In case of stormwater sumps this minimum distance must be 1.2m;

Pedestrian Network

- (d) The pedestrian footpath must take precedence over the verge crossings so pedestrians have right of way over vehicles;

Verge

- (e) The verge must be protected at all times during construction;
- (f) There must be no encroachments on Unleased Territory Land;
- (g) All excavation within the tree protection zones of the verge trees must be carried out through hand digging, hydro excavation or any other recommended methods to ensure minimal damage to the tree roots;
- (h) Any new services located within tree protection zones (canopy plus 2m) must be installed by using trenchless methodology beneath tree root systems (i.e. under-boring beneath 650mm);
- (i) A Landscape Management and Protection Plan (LMPP) must be submitted to Development Review & Coordination and approved prior to commencement of works;
- (j) A dilapidation report for all government assets adjacent to the site must be submitted to Development Review & Coordination prior to commencement and on completion of works;

Waste

- (k) Waste Truck Dimensions must not exceed 3.4m long and 2.4m in height;

On-Street Parking

- (l) On-street parking spaces must comply with TCCS requirements for on-street parking;
- (m) Any proposed parking signs and line-marking must be as per the Australian Standards, AS 1742.11; and
- (n) Compliance with the above must be demonstrated at the Design Acceptance Stage.

Note: See further advice from TCCS under **Part 3: ENTITY ADVICE** below.

B5. ACT EDUCATION DIRECTORATE – CHILDREN'S EDUCATION AND CARE ASSURANCE (CECA)

The applicant/lessee/service provider must contact CECA for further details and information regarding the proposed child care centre design and operations **prior to final design and works commencing on site.**

C. PRIOR TO CONSTRUCTION AND/OR DEMOLITION

C1. ENVIRONMENT PROTECTION AUTHORITY (EPA)

1. Contaminated Sites:

- (a) a site specific unexpected finds protocol must be developed by a suitably qualified environmental consultant and implemented during development works at the site;

- (b) All soil subject to disposal from site must be assessed in accordance with Environment Protection Authority Information Sheet 4 - Requirements for the reuse and disposal of contaminated soil in the ACT; and
- (c) No soil is to be disposed from site without EPA approval.

2. Hazardous Materials:

- (a) A hazardous materials survey prepared by a suitably qualified consultant in accordance with section 8.1 of the Authority's Hazardous Materials Environment Protection Policy November 2010 must be submitted to and be endorsed by the Environmental Quality Unit prior to works commencing.

The survey must identify all potential hazardous materials associated with the alteration of the structure and any residues or wastes remaining within the structure. The survey must identify all hazardous material including fuel tanks, asbestos, lead, PCB containing materials, Synthetic Mineral Fibre (SMF), Ozone Depleting Substances etc..

- (b) Appropriately ACT licensed contractors must be engaged for the removal, transport and disposal of all hazardous materials found on the site.

3. Environment Protection:

- (a) Construction and development works should be in accordance with "Environment Protection Guidelines for Construction and Land Development, 2011".

Construction/development on a site of 0.3 hectares or greater is an activity listed in Schedule 1 of the Environment Protection Act 1997 as a Class B activity.

Therefore, the contractor/builder proposing to develop the site must hold an Environmental Authorisation or enter into an Environment Protection Agreement with the EPA in respect of that activity **prior to final design and works commencing on site.**

- (b) A site specific unexpected finds protocol must be developed by a suitably qualified environmental consultant and implemented during development works at the site.

C2. SEDIMENT AND EROSION CONTROL

That prior to any work on the site commencing, the applicant/lessee must submit two copies of the Sediment and Erosion Control Plan to Environment Protection Authority for approval

C3. DESIGN REVIEW

A Letter of Design Review is required for all off-site works from the Senior Manager, Development Review and Coordination, TCCS, prior to the construction.

C4. TEMPORARY TRAFFIC MANAGEMENT (TTM)

A TTM plan approval is required from the Manager, Traffic Management & Safety, Roads ACT, TCCS. All times during construction the site and surrounds shall be managed in accordance with a Temporary Traffic Management Plan, prepared by a suitably qualified person and approved by the Manager, Traffic Management & Safety. This plan is to address, as a minimum, measures to be employed during construction to manage all traffic, including construction traffic, in and around the site, provision of safe pedestrian movement around the site, the provision of parking for construction workers, and associated traffic control devices.

C5. LANDSCAPE MANAGEMENT & PROTECTION PLAN (LMPP)

LMPP approval is required from the Senior Manager, Development Review and Coordination, TCCS. During construction, all existing vegetation (trees, shrubs and grass) located on the verge and unleased Territory land immediately adjacent to the development shall be managed, protected and maintained in accordance with the LMPP approved by the Senior Manager, Development Review and Coordination, TCCS. This plan is to be implemented before the commencement of works, including demolition on the site and is to be in accordance with *TCCS Guidelines for the Protection of Public Landscape Assets Adjacent to Development Works-REF-04*.

C6. NOTICE OF COMMENCEMENT OF CONSTRUCTION

Notice of Commencement of Construction shall be submitted to the Senior Manager, Development Review and Coordination, TCCS one week prior to the commencement of works. The Notice shall also include the confirmation of any protective measures installed in accordance with the approved LMPP and programmed implementation of the TTM.

C7. USE OF VERGES OR OTHER UNLEASED TERRITORY LAND

In accordance with the *Public Unleased Land Act 2013*, road verges and other unleased Territory land must not be used for carrying out of works, including storage of materials or waste, without prior approval of the Territory. Such approval can be obtained from Licensing and Compliance, City Services, Parks and Territory Services, TCCS.

C8. REPAIR OF DAMAGE TO PUBLIC ASSETS

The applicant/lessee is held responsible for all damages to ACT Government assets (including footpaths) caused by the development and they must properly repair any damages to those assets. Before work commences, the applicant/lessee must notify TCCS of any existing damage to public facilities.

C9. TREE PROTECTION

Tree protection fencing, if required, shall be erected prior to the commencement of any work on the site.

D. DURING CONSTRUCTION AND/OR DEMOLITION**D1. LANDSCAPE MANAGEMENT AND PROTECTION**

During any work undertaken on the site, all existing vegetation (trees, shrubs and grass) located on the verge and unleased Territory land immediately adjacent to the development shall be managed, protected and maintained in accordance with the approved Landscape Management and Protection Plan (LMPP) approved by the Senior Manager, Development Review and Coordination, TCCS.

D2. TREE PROTECTION

The applicant/lessee shall protect and maintain all existing trees and shrubs located on the subject site, on adjoining blocks overhanging the subject site, on the verge and unleased Territory land immediately adjacent, except for those specifically identified for removal in the approved drawings and a Tree Management Plan.

D3. TRAFFIC MANAGEMENT

At all times, the site and surrounds shall be managed in accordance with the approved Temporary Traffic Management (TTM) Plan.

D4. SEDIMENT AND EROSION CONTROL

All unsurfaced entry and exit points must be consolidated with crushed aggregate or similar extending from the road kerb to the building line.

Temporary sediment controls – comprising, as a minimum, geotextile silt fencing along the lowest points of the site and hay bale filters as required – are to be installed and maintained at least daily to prevent sediment from reaching the stormwater mains system.

D5. WASTE MANAGEMENT

All building waste is to be stored on the site in suitable receptacles and collected regularly. The lessee is to take all reasonable steps to ensure that waste, particularly wind borne litter, does not affect adjoining or adjacent properties.

E. **ADVISORY NOTES**

This application is approved with the following advisory notes. It is recommended that careful consideration be given to advisory notes prior to commencing work.

E1. ENVIRONMENT PROTECTION

(a) All rain water that enters the site and pools in excavations during a rain storm event would be considered as a sediment control pond, and must meet the following conditions.

1. No discharge from dam. All stormwater must be pumped out and disposed in at an approved location.
2. No discharge from pond unless sediment level is less than 60mg/litre. If sediment level is greater, then prior to discharge, the dam must be dosed with either Alum or Gypsum and allowed to settle until the sediment is less than 60 mg/litre.

E2. EXTERNAL LIGHTING

All external lights must comply with Australian Standards *AS4282 Control of the obtrusive effects of outdoor lighting*.

E3. ACT HEALTH DIRECTORATE- HEALTH PROTECTION SERVICES (HPS)

Prior to work commencing on site the applicant/lessee must submit a 'Food Business Registration and Fit-Out Assessment' application (with suitably detailed plans) for approval by HPS.

E4. ACT EMERGENCY SERVICES AGENCY (ESA)

Prior to commencing work on site the applicant/lessee must consider and address the advice from ESA in their letter dated 18 May 2017 (Refer to **Attachment B**).

E5. ICON Water

The proposal must comply with the Statement of Conditional Acceptance dated 10 May 2017, by ICON Water (Refer to **Attachment C**).

E6. ACTEWAGL:

- (a) The proposal must comply with the Statement of Conditional Compliance dated 23 May 2017, by Actew – Electricity Networks Division (Refer to **Attachment D**).
- (b) The proposal must comply with the Statement of Conditional Compliance dated 16 May 2017, by Actew AGL - Gas Networks Division (Refer to **Attachment E**).

E7. ENTITY ADVICE

The applicant is advised to carefully consider all the relevant advice (in addition to the conditions imposed) from each of the entities stated in **PART 3 PUBLIC NOTIFICATION AND ENTITY ADVICE** of this Notice of Decision throughout the process of development (prior to, during & post construction) as applicable.

Refer to **Appendix 1** for information about approvals that may be required for construction.

PART 2 REASONS FOR THE DECISION

The application satisfactorily meets the requirements for approval. The application was approved because, based on the documentation and in the form modified by the imposed conditions, it was considered to meet:

- the relevant codes, being
 - the Charnwood Precinct Map and Code;
 - the Community Facility Zone Development Code;
 - the Community and Recreation Facilities Location Guidelines General Code; and
 - the Signs General Code.
- the advice of the Conservator of Flora and Fauna in relation to the proposal.

The key issues identified in the assessment are in relation to,

1. Suitability of Site for a Child Care Centre – HPS requirements:

HPS advised that the EPA endorsement of the site investigation report conducted by AECOME Australia Pty Ltd is supported. However, HPS requested further information from the applicant in relation to the results of the perfluorooctane sulphonate (PFOS) and perfluorooctanoic acid analysis of the soil.

EPA also confirmed that the above additional information, be requested from the applicant.

In response, the applicant advised that the information requested was not made available to them at the time of purchase of the site from the Land Development Agency (LDA). The applicant also confirmed that all works on site would be carried out in accordance with the EPA requirements and relevant Australian Standards.

Further to receiving this response from the applicant, HPS has advised that the results obtained through LDA has provided evidence that PFOS contamination levels on site is considered unacceptable due to its potential health impact on children. HPS has raised concerns in relation to the suitability of the site for the proposed child care centre.

HPS has advised the applicant to provide a complete and up-to-date assessment of the site, focusing on areas likely to be exposed (including playgrounds and landscaped areas). HPS requires that the applicant demonstrates suitable mitigation measures to eliminate the exposure of (PFOS) to vulnerable populations (refer to **Attachment A**).

Condition of approval has been included to provide HPS endorsement confirming the suitability of the proposed child care centre. Refer **PART 1 CONDITIONS OF APPROVAL** for more details.

2. Removal of Existing Regulated Trees and Tree Damaging activity:

The subject development includes removal of nineteen (19) regulated trees. The development also includes tree damaging activity under the canopy of existing regulated trees on site.

The Conservator of Flora and Fauna - Tree Protection Authority did not support the proposed removal of regulated trees. The advice stated that the trees proposed for removal were of low to medium quality. However, the trees did not meet the Tree Protection Criteria for removal pursuant to the Section 82 of the *Tree Protection Act 2005* and therefore need to be considered for removal on development grounds.

To consider the removal of trees on development grounds pursuant to section 119 (2) of the Act, the applicant was advised to provide additional information on any realistic alternatives to the development proposed or aspects of it.

Applicant provided drawings and further information, which was also referred back to the Tree Protection Authority for further review.

On 21 July 2017, the Conservator liaison advised that the proposed removal of the regulated trees identified for removal on the Tree Management Plan (Project No 1607, Drawing No. DA17 issue B, dated 1/06/2017, prepared by Kasperek Architects) was supported pursuant to conditions of approval. Refer **PART 1 CONDITIONS OF APPROVAL** for details.

3. Entity requirements:

- Environment Protection Authority;
- Transport Canberra and City Services (TCCS);
- ACT Education Directorate;
- ICON Water;
- Actew AGL – Electricity Networks Division; and
- Actew AGL – Gas Networks Division.

Conditions have been imposed to address the key issues and ensure that the proposal is consistent with the Territory Plan and the *Planning and Development Act 2007*.

EVIDENCE

Application No. 201731430

File No. 1-2017/07672

The Territory Plan Zone – CFZ Community Facility Zone

The Development Codes – Community Facility Zone Development Code

Community and Recreation Facilities Location Guidelines
General Code

Signs General Code

The Precinct Codes – Charnwood Precinct Map and Code

Current Crown Lease – Volume 2270 Folio 56

Representations – No representations received

Entity advice – ACT Health Directorate – Health Protection Services

Conservator of Flora and Fauna

Tree Protection Authority

Environment Protection Authority

Custodian of the Land - Transport Canberra and City Services

ACT Education Directorate

Emergency Services Agency

ICON Water

ActewAGL

– Electricity Networks Division

– Gas Networks Division

PART 3 PUBLIC NOTIFICATION AND ENTITY ADVICE

PUBLIC NOTIFICATION

Pursuant to Division 7.3.4 of the Act, the application was publicly notified from 8 May 2017 to 26 May 2017. No written representations were received during public notification.

ENTITY ADVICE

Pursuant to Division 7.3.3 of the Act, the application was referred to entities and advice was received. The referral entities' comments are as follows. A response to the advice is provided as appropriate.

ACT HEALTH DIRECTORATE - HEALTH PROTECTION SERVICES (HPS)

1. On 5 June 2017 advice was received from HPS in relation to the proposal. The advice stated that,
 - (a) The applicant is required to submit a 'Food Business Registration and Fit-Out Assessment' application (with suitably detailed plans) for approval, prior to commencement of construction; and
 - (b) Further information is required in relation to the results of the perfluorooctane sulphonate (PFOS) and perfluorooctanoic acid analysis of the soil.
 - In response to item (b), the applicant advised that the above results were not available to them but confirmed that all works will be in accordance with EPA requirements.
2. On 26 July 2017 further advice was received from HPS in relation to the proposal. The advice states that the applicant must provide a more complete and up-to-date site assessment and to demonstrate suitable mitigation measures to eliminate the exposure of PFOS to vulnerable populations.

Response:

Matters noted have been incorporated as **conditions of approval and advice**.

A copy of the HPS advice is included at **Attachment A**.

CONSERVATOR OF FLORA and FAUNA

On 18 May 2017 advice was received from the Conservator liaison in relation to the proposal. The advice states that,

Dasyurus Macalatus (Spotted tail quolls) are a largely solitary animal that have a large home range and are highly mobile. At some point in the past a quoll was seen in the vicinity and the works proposed would not impact on that species.

Response:

Matters noted have been incorporated as **advice to the applicant**.

CONSERVATOR OF FLORA and FAUNA – TREE PROTECTION AUTHORITY

1. On 22 May 2017 advice was received from the Conservator liaison in relation to the proposed removal of regulated trees on the site.

The advice stated that the trees proposed for removal were of low to medium quality.

However, the trees did not meet the Tree Protection Criteria for removal pursuant to the Section 82 of the *Tree Protection Act 2005* and therefore need to be considered for removal on Development Grounds

- The applicant provided drawings and further information, which was also referred back to the Tree Protection Authority for further review.
2. On 21 July 2017 further advice was received from the Conservator liaison in relation to the proposal. The advice states that the proposal is supported provided all works are in accordance with the following plans as submitted for assessment:
- Demolition Plan, (Project No 1607, Drawing No. DA16 issue B, dated 1/06/2017, prepared by Kasperek Architects);
 - Site Plan & External Lighting (Project No 1607, Drawing No. DA04 issue C, dated 22/06/2017, prepared by Kasperek Architects.)
 - Tree Management Plan (Project No 1607, Drawing No. DA17 issue C, dated 1/06/2017, prepared by Kasperek Architects.); and
 - Stormwater Management Plan (Job No. 17PEACH1, Drawing No. DA04 issue C, dated 6/06/2017, prepared by Pierre Dragh Consulting Engineers Pty Ltd).

Response:

Matters noted have been incorporated as **conditions of approval**.

ENVIRONMENT PROTECTION AUTHORITY (EPA)

1. On 30 May 2017 advice was received from EPA in relation to the proposal. The advice states that the proposal is supported subject to conditions of approval.
2. On 3 July 2017 further advice was received from EPA in relation to the proposal. The advice states that the proposal is supported as per the conditions of approval provided previously.

Conditions:

Contaminated Sites:

- (a) a site specific unexpected finds protocol must be developed by a suitably qualified environmental consultant and implemented during development works at the site;
- (b) All soil subject to disposal from site must be assessed in accordance with Environment Protection Authority Information Sheet 4 - *Requirements for the reuse and disposal of contaminated soil in the ACT*; and
- (c) No soil is to be disposed from site without EPA approval.

Hazardous Materials:

- (d) A hazardous materials survey prepared by a suitably qualified consultant in accordance with section 8.1 of the *Authority's Hazardous Materials Environment Protection Policy November 2010* must be submitted to and be endorsed by the Environmental Quality Unit prior to works commencing.
- (e) The survey must identify all potential hazardous materials associated with the alteration of the structure and any residues or wastes remaining within the structure. The survey must identify all hazardous material including fuel tanks, asbestos, lead, PCB containing materials, Synthetic Mineral Fibre (SMF), Ozone Depleting Substances etc.

- (f) Appropriately ACT licensed contractors must be engaged for the removal, transport and disposal of all hazardous materials found on the site.

Environment Protection:

- (g) Construction and development works should be in accordance with "*Environment Protection Guidelines for Construction and Land Development, 2011*".

Construction/development on a site of 0.3 hectares or greater is an activity listed in Schedule 1 of the *Environment Protection Act 1997* as a Class B activity. Therefore, the contractor/builder proposing to develop the site must hold an Environmental Authorisation or enter into an Environment Protection Agreement with the EPA in respect of that activity **prior to works commencing**.

- (h) A site specific unexpected finds protocol must be developed by a suitably qualified environmental consultant and implemented during development works at the site.

Response:

Matters noted have been incorporated as **conditions of approval and advice**.

Note: *Relevant EPA conditions and advice has been included under **PART 1 CONDITIONS OF APPROVAL**.*

CUSTODIAN OF THE LAND – TRANSPORT CANBERRA AND CITY SERVICES (TCCS)

1. On 23 May 2017 and 25 May 2017 advice was received from TCCS in relation to the proposal. The advice states that the proposal is supported subject to conditions of approval.
2. On 24 July 2017 further advice was received from TCCS in relation to the proposal. The advice states that the proposal is supported (as per the conditions of approval provided previously).

Conditions:

Verge Crossing

- (a) The verge crossing must be constructed in accordance with TCCS Design Standards;
- (b) The levels on the verge must not be altered as a result of the new constructed verge crossing;
- (c) Any infrastructure assets such as street lighting, mini-pillars, signage etc must be a minimum of 1.5m away from the closest edge of the driveway. In case of stormwater sumps this minimum distance must be 1.2m;

Pedestrian Network

- (d) The pedestrian footpath must take precedence over the verge crossings so pedestrians have right of way over vehicles;

Verge

- (e) The verge must be protected at all times during construction;
- (f) There must be no encroachments on Unleased Territory Land;
- (g) All excavation within the tree protection zones of the verge trees must be carried out through hand digging, hydro excavation or any other recommended methods to ensure minimal damage to the tree roots;

- (h) Any new services located within tree protection zones (canopy plus 2m) must be installed by using trenchless methodology beneath tree root systems (i.e. under-boring beneath 650mm);
- (i) A Landscape Management and Protection Plan (LMPP) must be submitted to Development Review & Coordination and approved prior to commencement of works;
- (j) A dilapidation report for all Govt. assets adjacent to the site must be submitted to Development Review & Coordination prior to commencement and on completion of works;

Waste

- (k) Waste Truck Dimensions must not exceed 3.4m long and 2.4m in height;

On-Street Parking

- (l) On-street parking spaces must comply with TCCS requirements for on-street parking;
- (m) Any proposed parking signs and line-marking must be as per the Australian Standards, AS 1742.11; and
- (n) Compliance with the above must be demonstrated at the Design Acceptance Stage.

Standard Conditions:

(a) Certificate of Design Review and Operational Acceptance

In accordance with the *Public Unleased Land Act 2013* no work is to be undertaken on road verges and other unleased Territory Land without the approval of the Territory. Such approval must be obtained from the Senior Manager, Development Review and Coordination, TCCS by the ways of:

1. A Letter of Design Review prior to the commencement of any work; and
2. A certificate of Operational Acceptance on completion of all works to be handed over to TCCS.

A Letter of Design Review is required for all off-site works from the Senior Manager, Development Review and Coordination, TCCS, prior to the construction.

In order to obtain the Letter of Design Review, fully detailed drawings (civil, landscape) prepared by suitably qualified persons for all off-site works including roads, driveways, footpaths, street lighting, storm water, landscaping (and any other issues that may be found by audit of the plans) and a design report in accordance with Ref No 06: "Requirements for Design Review Submissions", must be certified by a Chartered Engineer/Landscape Architect and submitted to the Senior Manager, Development Review and Coordination, TCCS.

A Certificate of Operational Acceptance on completion of the works is required from the Senior Manager, Development Review and Coordination, TCCS, prior to the issue of a Certificate of Occupancy.

Similarly a Chartered Engineer/Landscape Architect should certify compliance with TCCS Ref No 08: "Requirements for Works as Executed Quality Records Requirements" when the request for Operational Acceptance is made to the Senior Manager, Development Review and Coordination, TCCS on completion of all off-site works.

A Waste Management Plan in accordance with the Development Control Code for Best Practice Waste Management in the ACT should also be included if not approved at the Development Application stage.

(b) Temporary Traffic Management (TTM)

A TTM plan approval is required from the Manager, Traffic Management & Safety, Roads ACT, TCCS. All times during construction the site and surrounds shall be managed in accordance with a Temporary Traffic Management Plan, prepared by a suitably qualified person and approved by the Manager, Traffic Management & Safety. This plan is to address, as a minimum, measures to be employed during construction to manage all traffic, including construction traffic, in and around the site, provision of safe pedestrian movement around the site, the provision of parking for construction workers, and associated traffic control devices.

(c) Landscape Management & Protection Plan (LMPP)

LMPP approval is required from the Senior Manager, Development Review and Coordination, TCCS. During construction, all existing vegetation (trees, shrubs and grass) located on the verge and unleased Territory land immediately adjacent to the development shall be managed, protected and maintained in accordance with the Landscape Management Protection Plan (LMPP) approved by the Senior Manager, Development Review and Coordination, TCCS. This plan is to be implemented before the commencement of works, including demolition on the site and is to be in accordance with *TCCS Guidelines for the Protection of Public Landscape Assets Adjacent to Development Works-REF-04*.

(d) Use of Verges or other Unleased Territory land

In accordance with the *Public Unleased Land Act 2013*, road verges and other unleased Territory land must not be used for carrying out of works, including storage of materials or waste, without prior approval of the Territory. Such approval can be obtained from Licensing and Compliance, City Services, Parks and Territory Services, TCCS.

(e) Repair of Damage to Public Assets

The applicant/lessee is held responsible for all damages to ACT Government assets (including footpaths) caused by the development and they must properly repair any damages to those assets. Before work commences, they should notify TCCS of any existing damage to public facilities.

(f) Notice of Commencement of Construction

Notice of Commencement for the Works in Unleased Territory Land shall be submitted to the Senior Manager, Development Review and Coordination, TCCS one week prior to the commencement of works. The Notice shall also include the confirmation of any protective measures installed in accordance with the approved LMPP and the programmed implementation of TTM.

Response:

Matters noted have been incorporated as **conditions of approval**.

Note: *Relevant TCCS conditions and advice has been included under **PART 1 CONDITIONS OF APPROVAL**.*

ACT EDUCATION DIRECTORATE – CHILDREN'S EDUCATION AND CARE ASSURANCE (CECA)

1. On 3 May 2017 advice was received from Education Directorate in relation to the proposal requesting further information on feasibility, needs analysis and the selection of an approved provider to operate the proposed child care centre.
 - The applicant provided additional information, which was also referred back to the CECA for further review.

2. On 26 July 2017 further advice was received from CECA supporting the proposal in principle with following condition of approval:
- (a) The applicant/lessee/service provider must contact CECA for further details and information regarding the proposed child care centre design and operations **prior to final design and works commencing on site.**

Response:

Matters noted have been incorporated as **conditions of approval.**

EMERGENCY SERVICES AGENCY (ESA)

On 23 May 2017 advice was received from ESA in relation to the proposal. The advice states that the proposal is supported with advice included in the letter dated 18 May 2017.

Response:

Matters noted have been incorporated as **advice to the applicant.**

A copy of the letter is included at **Attachment B.**

ICON WATER

On 10 May 2017, a Statement of Conditional Acceptance was issued by ICON WATER in relation to the proposal.

Response:

Matters noted have been incorporated as **advice to the applicant.**

A copy of the Statement is included at **Attachment C.**

ACTEWAGL

Electricity Networks Division

On 23 May 2017, a Statement of Conditional Compliance was issued by ActewAGL – Electricity Networks Division in relation to the proposal.

Response:

Matters noted have been incorporated as **advice to the applicant.**

A copy of the Statement is included at **Attachment D.**

Gas Networks Division (Jemena)

On 16 May 2017, a Statement of Conditional Compliance was issued by ActewAGL – Gas Networks Division (Jemena) in relation to the proposal.

Response:

Matters noted have been incorporated as **advice to the applicant.**

A copy of the Statement is included at **Attachment E.**

PART 4 ADMINISTRATIVE INFORMATION

DATE THAT THIS APPROVAL TAKES EFFECT

Unless a condition of approval provides for otherwise this approval is effective from the day after the date of this notice. The effective-date for development applications approved subject conditions could also be adjusted if the approval is reconsidered by the planning and land authority or if an application is made to the ACT Civil and Administrative Tribunal.

Pursuant to section 184 of the Act, this approval will expire if:

- the development or any stage of the development is not started within two years after the day the approval takes effect;
- the development is not finished two years after the day the development begins; or
- the development approval relates to land comprised in a lease that requires the development to be completed on a stated date – the date stated in the lease for completion of the development, or the approval is revoked under section 189 of the Act.

Under section 184 of the Act, the applicant may apply to the planning and land authority to extend the prescribed period to finish the development, but such an application must be made within the original period specified for completion.

A development approval, to which section 184 of the Act applies, continues unless the approval ends under sections 184, 185, 186 or 187 of the Act.

INSPECTION OF THE APPLICATION AND DECISION

A copy of the application and the decision can be inspected between 8:30am and 4:30pm weekdays at the Environment, Planning and Sustainable Development Directorate (EPSDD) Dickson Customer Service Centre at 16 Challis Street, Dickson, ACT.

RECONSIDERATION OF THE DECISION

If the applicant is not satisfied with the decision to approve the application subject to conditions, they are entitled to apply to the planning and land authority for reconsideration within 20 working days of being told of this decision or within any longer period allowed by the planning and land authority.

To submit an application for reconsideration, documents must be provided electrically by email to epdcustomerservices@act.gov.au or provided at the customer service centre on a CD/DVD. The delegate of the Authority reconsidering the decision must be different from, and senior to, the original decision maker. An application for reconsideration does not prevent an application for a review of the same decision being made to the ACT Civil and Administrative Tribunal. Application forms and further information about reconsideration are available from the planning and land authority's website and Customer Service Centres.

REVIEW BY THE ACT CIVIL AND ADMINISTRATIVE TRIBUNAL (ACAT)

Decisions that are reviewable by the ACAT are identified in Schedule 1 of the *Planning and Development Act 2007*, except for those precluded under Schedule 3 of the *Planning and Development Regulation 2008* – Matters exempt from third-party ACAT review.

APPENDIX 1

CONTACT DETAILS OF RELEVANT AGENCIES

Health Directorate - health protection	Website: www.health.act.gov.au Telephone: (02) 6205 1700
Environment, Planning and Sustainable Development Directorate (EPSDD) <i>Planning and land authority</i> - list of certifiers for building approval - demolition information - asbestos information <i>Environment Protection Authority</i> - environment protection - water resources - asbestos information <i>Conservation, Planning and Research</i> - threatened species/wildlife management	Website: www.planning.act.gov.au Telephone: (02) 6207 1923 Website: www.environment.act.gov.au Telephone: (02) 6207 6251 Website: www.environment.act.gov.au Telephone: (02) 6207 1911
Transport Canberra and City Services Directorate - tree damaging activity approval - use of verges or other unleased Territory land - works on unleased Territory land - design acceptance - damage to public assets	Website: www.tccs.act.gov.au Telephone: 132 281 Telephone for asset acceptance: (02) 6207 7480
Utilities - Telstra (networks) - TransACT (networks) - ActewAGL - Electricity reticulation	Telephone: (02) 8576 9799 Telephone: (02) 6229 8000 Telephone: 1100 Telephone: (02) 6293 5738

ADVICE TO APPLICANT

SUBMISSION OF REVISED DRAWINGS AND DOCUMENTATION

If a condition of approval requires the applicant to lodge revised drawings and/or documentation with the planning and land authority for approval under section 165 of the *Planning and Development Act 2007* the submission shall be made by:

- Completing an application for S165 Satisfying Conditions of Approval and submitting the documentation online using edevelopment. More information on edevelopment can be found at http://www.actpla.act.gov.au/tools_resources/e-services/edevelopment

For further information regarding the lodgement of this information please contact Customer Service Centre by Phone: (02) 6207 1923, Email: epdcustomerservices@act.gov.au or on the planning and land authority website at www.planning.act.gov.au.

FURTHER APPROVALS FOR CONSTRUCTION

The Notice of Decision grants development approval, but does not cover building approval or approvals which may be required during construction, which commonly include the following.

BUILDING APPROVAL

Most building work requires building approval to ensure it complies with building laws such as the Building Code of Australia. If this applies to this proposal, the lessee should engage a private building certifier to assess and approve the building plans before construction begins. A list of licensed certifiers and information about building approval is available from the planning and land authority's website and Customer Service Centres.

PERMITTED VARIATIONS TO APPROVED DEVELOPMENT

Under section 35 of the *Planning and Development Regulation 2008* the development as built may vary from the approved development in accordance with section 35 and the permitted construction tolerances and other permitted variations identified in Schedule 1A of that regulation.

Note 1 The development may still need building approval, or further building approval, under the *Building Act 2004*

Note 2 The development must also comply with the lease for the land on which it is carried out.

"TREE DAMAGING ACTIVITY" APPROVAL

A Tree Management Plan under the *Tree Protection Act 2005* is required for approval where it is proposed to undertake groundwork within the tree protection zone of a protected tree or likely to cause damage to, or remove, any trees defined as protected trees by that Act. More information is available from the Transport Canberra and City Services (TCCS).

USE OF VERGES OR OTHER UNLEASED TERRITORY LAND

In accordance with the *Public Unleased Land Act of 2013*, road verges and other unleased Territory land must not be used for the carrying out of works, including the storage of materials or waste, without prior approval of the Territory. Approval can be obtained from the Transport Canberra and City Services (TCCS).

WORKS ON UNLEASED TERRITORY LAND – DESIGN AND OPERATIONAL ACCEPTANCE

In accordance with the *Public Unleased Land Act of 2013*, no work can be undertaken on unleased Territory land without the approval of the Territory. Such approval must be obtained from the Manager Asset Acceptance, Asset Services Group, TCCS by way of:

1. a certificate of design acceptance prior to the commencement of any work and
2. a certificate of operational acceptance on completion of all works to be handed over to TCCS.

Works on unleased Territory land may include the construction or upgrading of driveway verge crossings, public footpaths, roads, street lighting, stormwater works, waste collection amenities, street signs and line marking, road furniture and landscaping.

A certificate of compliance under s296 of the *Planning and Development Act 2007* may not be issued unless a certificate of design acceptance **AND** a certificate of operational acceptance has both been obtained from TCCS.

CONSTRUCTION REQUIREMENTS

The following information are some key requirements that apply to building work in the Territory. Other requirements may apply to this development.

DEMOLITION AND ASBESTOS MANAGEMENT

Demolition and asbestos management must be undertaken in accordance with the *Building Act 2004* (including the Building Code of Australia) and the *Dangerous Substances Act 2004*. Information about demolition and asbestos management is available from the planning and land authority's web site and Customer Service Centres.

ENVIRONMENT PROTECTION

All building work must be undertaken in accordance with the *Environment Protection Act 1997*, particularly but not exclusively in relation to noise and pollution control. More information is available from the Environment Protection Authority.

REPAIR OF DAMAGE TO PUBLIC ASSETS

The applicant/lessee is held responsible for all damage to ACT Government assets (including footpaths) caused by the development and they must properly repair any damage to those assets. Before work commences, they should notify the Transport Canberra and City Services (TCCS) of any existing damage to public facilities.

UTILITY ASSETS RETENTION

The lessee should obtain a plant location advice from ActewAGL to avoid conflict with existing plant or electrical easements. The lessee will be responsible for the costs associated with the relocation of assets, if necessary. The lessee is to ensure that the water service and water meter are retained in position and in good condition. ActewAGL water meters are accountable items and must not be removed from the site or otherwise disposed of.

REVIEW OF THE DECISION

The following notes are provided in accordance with regulation 7 of the *ACT Civil and Administrative Tribunal Regulation 2009*. Refer to the Review by the ACT Civil and Administrative Tribunal (ACAT) section of the Notice of Decision for information about its relevance to this development application.

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: www.acat.act.gov.au Email: tribunal@act.gov.au 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)*; and section 409 of the *Planning and Development Act 2007*).

FEES

Applications to the ACAT, including an application to be joined as a party to a proceeding, require payment of a fee (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 654314;
- Legal Advice Bureau, telephone (02) 6247 5700;
- ACT Council of the Ageing, telephone (02) 6282 3777;
- Welfare Rights and Legal Centre, telephone (02) 6247 2177; and
- Environmental Defender's Office (ACT), telephone (02) 6247 9420.

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 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 τηλεφωνήσετε 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	Ако вам је потребна помоћ преводиоца телефонирајте:
SPANISH	Si necesita la asistencia de un intérprete, llame al:
TURKISH	Tercümana ihtiyacımız 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

From: Sch 2.2(a)(ii)
To: [EPD Customer Services](#); [Pradhan, Jyoti](#)
Cc: Sch 2 s2.2(a)(ii); Sch 2 s2(a)(ii); Sch 2 s2.2(a)(ii)
Subject: RE: FORMAL CORRECTION-201731430-22/97 CHARNWOOD [SEC=UNCLASSIFIED]
Date: Wednesday, 6 December 2017 2:05:25 PM
Attachments: [image002.jpg](#)
[image003.jpg](#)
[Health-Development Application - 201731430-22-97-CHARNWOOD-01- Landscape.pdf](#)
Importance: High

Dear Jyoti,
Find attached letter from Health Protect Services authorising the release of the DA plans.
If you have any questions please do not hesitate to contact me.

Please reply to this message to confirm your receipt, a simple OK will do.

Regards

Sch 2 s2.2(a)(ii)

KASPAREK ARCHITECTS PTY LTD

kasperek-wide-logo-web-address



7/25 Jerrabomberra Ave.
Narrabundah, ACT 2604



Sch 2 s2.2(a)(ii)



Sch 2 s2.2(a)(ii)

From: Breitkopf, Katherine [mailto:Katherine.Breitkopf@act.gov.au] **On Behalf Of** EPD,
Customer Services

Sent: Wednesday, 9 August 2017 3:11 PM

To: Sch 2.2(a)(ii) >

Cc: Sch 2.2(a)(ii)

Subject: FORMAL CORRECTION-201731430-22/97 CHARNWOOD [SEC=UNCLASSIFIED]

Good **Afternoon**,

Please see attached **Notice the Formal Correction** for Block 22 Section 97
Suburb CHARNWOOD
Development Application No: **201731430**

For further information please contact **Jyoti Pradhan** on **6207 1649** or by email
Jyoti.Pradhan@act.gov.au

Kind Regards

Katherine
Phone 6207 1923

EPDCustomerService@act.gov.au

www.act.gov.au/accesscbr

Access Canberra | ACT Government

16 Challis Street, Dickson | GPO Box 158 Canberra ACT 2601

Sch 2.2(a)(ii)

Health-Development Application – 201731430-22-97-CHARNWOOD-01- Landscape Ground Surfaces Plan

Dear Sir,

Thank you for the Charnwood Childcare Centre – *Landscape Ground Surfaces Plan and details*, received by the Health Protection Service (HPS) on 10 November 2017.

The Health Protection Service (HPS) notes that mitigation measures proposed within the report '**SOIL PFAS INVESTIGATION – 172678**, Block 22 Section 97, Charnwood ACT' have been incorporated into the ground surfaces plan.


The HPS supports the release of plans by the Environment Planning and Sustainable Development Directorate for the proposed development, on condition that an onsite inspection is undertaken by HPS officers following the installation of all mitigation measures in accordance with the *Landscape Ground Surfaces Plan and details*.

Please contact Andrew Stedman on (02) 6205 4404 if you require any further information or to arrange for an inspection of installed mitigation measures.

Yours sincerely



Conrad Barr
Executive Director
Health Protection Service

 November 2017

From: Sch 2 s2(a)(ii)
To: [Heckenberg, Mark](#)
Cc: Sch 2.2(a)(ii)
Subject: RE: 22/97 Charnwood
Date: Tuesday, 19 December 2017 11:50:45 AM

Good morning Mark,

Thanks for getting in contact.

Arcadis was commissioned to perform an up to date assessment of the site (22/97, Charnwood) focusing on areas likely to be exposed and accessible by site receptors to soil (e.g. playgrounds and landscaped areas). The directive from our client was to address the concerns of Health Protection Services with regards to soil exposure and to present suitable mitigation measures to eliminate the exposure pathway between soil (with PFAS) and site occupants.

As groundwater was not considered to be a direct risk to on-site receptors with the exposure pathway being incomplete, further groundwater assessment was not undertaken.

Please contact myself if you have any further questions or comments.

Regards,

Sch 2 s2(a)(ii)

From: Heckenberg, Mark [mailto:Mark.Heckenberg@act.gov.au]
Sent: Tuesday, December 19, 2017 7:25 AM
To: Sch 2.2(a)(ii)
Cc: Sch 2.2(a)(ii)
Subject: 22/97 Charnwood

Hi Sch 2 s2(a)(ii),

The Health Protection Service has forwarded a copy of your PFAS assessment of the above site for EPA records. Is there a reason that a groundwater assessment of the site wasn't considered necessary given that PFAS was detected in surface samples?

Thanks Mark

Mark Heckenberg | Manager, Contaminated Sites | Environmental Quality
Phone: 02 6207 2151 | Email: mark.heckenberg@act.gov.au
Construction, Environment and Workplace Protection | Access Canberra | ACT Government
Ground Floor TransACT House, 470 Northbourne Avenue, Dickson 2602
GPO Box 158 Canberra ACT 2601 | <http://www.act.gov.au/accesscbr>

This email, and any attachments, may be confidential and also privileged. If you are not the intended recipient, please notify the sender and delete all copies of this transmission along with any attachments immediately. You should not copy or use it for any purpose, nor disclose its contents to any other person.

From: [Heckenberg, Mark](#)
To: Sch 2.2(a)(ii)
Cc: Sch 2.2(a)(ii)
Subject: 22/97 Charnwood
Date: Tuesday, 19 December 2017 7:24:00 AM

Hi [redacted],

The Health Protection Service has forwarded a copy of your PFAS assessment of the above site for EPA records. Is there a reason that a groundwater assessment of the site wasn't considered necessary given that PFAS was detected in surface samples?

Thanks Mark

Mark Heckenberg | Manager, Contaminated Sites | Environmental Quality
Phone: 02 6207 2151 | Email: mark.heckenberg@act.gov.au
Construction, Environment and Workplace Protection | Access Canberra | ACT Government
Ground Floor TransACT House, 470 Northbourne Avenue, Dickson 2602
GPO Box 158 Canberra ACT 2601 | <http://www.act.gov.au/accesscbr>

From: [Ramesh, Meena](#)
To: [Heckenberg, Mark](#)
Cc: [Brown, Robin](#); [Gell, Chris](#); [Chappell, Hazel](#); [Sare, Irma](#); [Zamora-Pullin, Joshua](#); [Sullivan, Susan](#); [Hudson, Lyndell \(Health\)](#); [Karuppiah, Naga](#)
Subject: RE: Block 22 Section 97 Charnwood (Ex fire station site) - proposed childcare centre [SEC=UNCLASSIFIED]
Date: Wednesday, 20 December 2017 3:30:05 PM

Thanks Mark. I will save this email with your changes as the minutes of the meeting on our file.

Regards

Meena

From: Heckenberg, Mark
Sent: Wednesday, 20 December 2017 2:08 PM
To: Ramesh, Meena <Meena.Ramesh@act.gov.au>; Hudson, Lyndell (Health) <Lyndell.Hudson@act.gov.au>; Karuppiah, Naga <Nagappan.Karuppiah@act.gov.au>
Cc: Brown, Robin <Robin.Brown@act.gov.au>; Gell, Chris <Chris.Gell@act.gov.au>; Chappell, Hazel <Hazel.Chappell@act.gov.au>; Sare, Irma <Irma.Sare@act.gov.au>; Zamora-Pullin, Joshua <Joshua.Zamora-Pullin@act.gov.au>; Sullivan, Susan <Susan.Sullivan@act.gov.au>
Subject: RE: Block 22 Section 97 Charnwood (Ex fire station site) - proposed childcare centre [SEC=UNCLASSIFIED]

Hi Meena,

A few minor changes in red below.

Regards

Mark Heckenberg | Manager, Contaminated Sites | Environmental Quality

Phone: 02 6207 2151 | Email: mark.heckenberg@act.gov.au

Construction, Environment and Workplace Protection | Access Canberra | ACT Government

Ground Floor TransACT House, 470 Northbourne Avenue, Dickson 2602

GPO Box 158 Canberra ACT 2601 | <http://www.act.gov.au/accesscbr>

From: Ramesh, Meena
Sent: Wednesday, 20 December 2017 1:46 PM
To: Hudson, Lyndell (Health) <Lyndell.Hudson@act.gov.au>; Karuppiah, Naga <Nagappan.Karuppiah@act.gov.au>
Cc: Heckenberg, Mark <Mark.Heckenberg@act.gov.au>; Brown, Robin <Robin.Brown@act.gov.au>; Gell, Chris <Chris.Gell@act.gov.au>; Chappell, Hazel

<Hazel.Chappell@act.gov.au>; Sare, Irma <Irma.Sare@act.gov.au>; Zamora-Pullin, Joshua <Joshua.Zamora-Pullin@act.gov.au>; Sullivan, Susan <Susan.Sullivan@act.gov.au>

Subject: RE: Block 22 Section 97 Charnwood (Ex fire station site) - proposed childcare centre [SEC=UNCLASSIFIED]

Lyndell

Please find below the minutes of yesterday's meeting regarding this development.

Naga,

FYI - Please call me if you wish to discuss.

Attendees

Robin Brown & Mark Heckenberg -EPA

Hazell Chappell & Joshua Pullin -Suburban Land Agency (SLA)

Irma Sare -DA Leasing

Chris Gell & Meena Ramesh -Merit Assessment

Background

The development application (DA) for a 176 place childcare centre was approved subject to conditions in August 2017. The DA was circulated to Health Protection Service (HPS), Children's Education and Care Assurance (CECA) and Environment Protection Authority (EPA).

Comments provided by HPS on 24 July 2017 in relation to the DA stated that previous tests of the site had indicated presence of perfluorooctane sulphonate (PFOS) on site and therefore the applicant must undertake an assessment of the site and provide suitable mitigation measures to eliminate exposure to PFOS. A condition was included in the decision to meet HPS requirements and this HPS advice was included in the decision as ATTACHMENT A.

The lessee's consultant undertook this assessment required by HPS in October 2017 and provided a report to HPS. This report recommended mitigation measures in the form of permanent barriers to prevent exposure to soil on site. On 10 November 2017, HPS supported the mitigation measures subject to a condition that HPS required a site inspection following installation of these mitigation measures and requested details of where each proposed mitigation barrier will be implemented across the site.

The applicant submitted a plan titled *Landscape Ground Surfaces Plan and details* to HPS. On 17 November 2017, HPS supported the release of approved plans for the development lodged as part of the DA subject to a condition that an onsite inspection is undertaken by HPS officers following the installation of all mitigation measures in accordance with the

Landscape Ground Surfaces Plan and details.

Subsequently, on 6 December 2017, EPA advised that to ensure enforceability of the environmental management plan (EMP) recommended by the consultant, EPA recommends that the site's lease be updated "prior to occupancy" to include a requirement that it be managed in accordance with this EMP until HPS & EPA agree in writing that the management is no longer required. This recommendation was supported by HPS.

Discussion/outcomes

- EPA requirement for the EMP (ongoing management plan) to be in the lease requires a new DA along with public notification. Irma confirmed we cannot do a formal correction to the decision to include this as a condition nor can we force the lessee to lodge a new DA for lease variation. It was agreed that Merit Assessment should raise this matter with the applicant in the first instance. If the lessee does not agree, Irma suggested a Miscellaneous Application Encumbrance (MAE) for the site can be registered by the EPA against the title, but this matter needs to be explored further and also requires the lessee to produce the title. Mark advised that it is EPA's preference that it be in the lease. It was agreed that the lessee be advised to lodge the lease variation DA at its own cost along with the valuation report, site assessment report, previous endorsements from HPS, the EMP, *Landscape Ground Surfaces Plan and details* and any other relevant supporting documentation. Irma confirmed that the DA description needs to just request a clause be inserted in the lease to include the ongoing EMP. DA Leasing will then finalise the condition in consultation with HPS & EPA.
- EPA confirmed that the EMP is yet to be prepared and is to be endorsed by both HPS and EPA noting that final say will be with HPS. The lessee should be asked to prepare the EMP at its own cost.
- It was agreed that any clauses regarding monitoring of the mitigation measures needs to be included in the EMP along with the endorsed *Landscape Ground Surfaces Plan and details*. Mark did not see any need to formal regular certification by a consultant, however, this would need to be confirmed by the consultant and included in the EMP. Instead he suggested the lessee can do a visual inspection every 6 months or one year and only if any issues are identified contact the EPA – again this would need to be confirmed by the consultant responsible for preparing the EMP.
- The meeting noted that the assessment undertaken by the lessee did not explore the option to completely remove the contaminant from the site. While removal of the highly mobile contaminant (PFOS) is a far better outcome, Mark advised that the associated costs may be high. Alternatively Mark suggested the contaminated soil be cut out and placed under the building to avoid exposure. It was agreed that the lessee must explore these options in consultation with their environmental consultant.
- It was noted that the Landscape Ground Surfaces Plan and details endorsed by

HPS has not been submitted to Merit Assessment and will not be part of the approved DA plans which includes a Landscape Plan as well. It was agreed that the lessee should be asked to submit this as part of the lease variation DA.

- Mark advised that EPA does not have **endorsed** standards yet for PFOS. ~~and therefore has no basis to act.~~ On the basis of the results of assessments undertaken to date there are no triggers for the EPA to take formal action requiring reassessment/remediation of the site under the *Environment Protection Act 1997*. He also emphasised that it was HPS which required the PFAS assessment and as such approval of all documents should fall to HPS in the first instance. The EPA offered its services to review any further assessment reports and/or the EMP. The EPA does not dispute the consultant's advice that subject to the mitigation measures identified in the site assessment report being implemented & the ongoing implementation of the EMP, the site is suitable for use as a childcare centre. Mark confirmed subject site will not go on the Register of Contaminated Sites.
- It was noted that it is likely that the lessee will raise costs associated in relation to site assessment, implementation of mitigation measures; preparation & implementation of the ongoing management plan; the new DA preparation & DA fees; lease variation registration costs, etc. or wish to hand back the site. SLA to seek their own legal advice on the matter of costs or handback of site. SLA may refer the matter to JACS the original custodian of this block. **Merit Assessment will not enter into any discussions with the lessee regarding costs and will ask the lessee to seek their own legal advice on the matter.**
- Mark agreed that approved DA plans can be released since there is no legislative basis to hold the plans **from the EPA's perspective.** **Landscape plan will need to be revised consistent with the *Landscape Ground Surfaces Plan and details by the applicant.*** Both these plans need to be endorsed by CECA as well.

Suggested condition

The site is to be managed in accordance with the approved "Environmental Management Plan (EMP)" endorsed by the HPS & EPA until the lessee provides written evidence to the planning and land authority that the HPS and EPA agree in writing that management is no longer required.

Follow up action

- Meet with the applicant on 20 December 2017 to outline the outcomes above in blue.
- Merit assessment to brief HPS who were unable to attend the meeting and CECA on the outcomes of the meeting.

Regards

Meena Ramesh

(Mon- Fri - 9am -3pm)

Senior Assessment Officer | Merit Assessment - Commercial Team

Phone 02 62076174 | Fax 02 62071856 |

Planning Delivery Division | ACTPLA | Environment, Planning & Sustainable Development

Directorate | **ACT Government**

Dame Pattie Menzies House, Challis Street, Dickson | GPO Box 1908 Canberra ACT 2601 |

www.environment.act.gov.au

From: [Ramesh, Meena](#)
To: [Hudson, Lyndell \(Health\)](#); [Karuppiah, Naga](#)
Cc: [Heckenberg, Mark](#); [Brown, Robin](#); [Gell, Chris](#); [Chappell, Hazel](#); [Sare, Irma](#); [Zamora-Pullin, Joshua](#); [Sullivan, Susan](#)
Subject: RE: Block 22 Section 97 Charnwood (Ex fire station site) - proposed childcare centre [SEC=UNCLASSIFIED]
Date: Wednesday, 20 December 2017 1:46:21 PM

Lyndell

Please find below the minutes of yesterday's meeting regarding this development.

Naga,

FYI - Please call me if you wish to discuss.

Attendees

Robin Brown & Mark Heckenberg -EPA

Hazell Chappell & Joshua Pullin -Suburban Land Agency (SLA)

Irma Sare -DA Leasing

Chris Gell & Meena Ramesh -Merit Assessment

Background

The development application (DA) for a 176 place childcare centre was approved subject to conditions in August 2017. The DA was circulated to Health Protection Service (HPS), Children's Education and Care Assurance (CECA) and Environment Protection Authority (EPA).

Comments provided by HPS on 24 July 2017 in relation to the DA stated that previous tests of the site had indicated presence of perfluorooctane sulphonate(PFOS) on site and therefore the applicant must undertake an assessment of the site and provide suitable mitigation measures to eliminate exposure to PFOS. A condition was included in the decision to meet HPS requirements and this HPS advice was included in the decision as ATTACHMENT A.

The lessee's consultant undertook this assessment required by HPS in October 2017 and provided a report to HPS. This report recommended mitigation measures in the form of permanent barriers to prevent exposure to soil on site. On 10 November 2017, HPS supported the mitigation measures subject to a condition that HPS required a site inspection following installation of these mitigation measures and requested details of where each proposed mitigation barrier will be implemented across the site.

The applicant submitted a plan titled *Landscape Ground Surfaces Plan and details* to HPS. On 17 November 2017, HPS supported the release of approved plans for the development lodged as part of the DA subject to a condition that an onsite inspection is undertaken by

HPS officers following the installation of all mitigation measures in accordance with the *Landscape Ground Surfaces Plan and details*.

Subsequently, on 6 December 2017, EPA advised that to ensure enforceability of the environmental management plan (EMP) recommended by the consultant, EPA recommends that the site's lease be updated "prior to occupancy" to include a requirement that it be managed in accordance with this EMP until HPS & EPA agree in writing that the management is no longer required. This recommendation was supported by HPS.

Discussion/outcomes

- EPA requirement for the EMP (ongoing management plan) to be in the lease requires a new DA along with public notification. Irma confirmed we cannot do a formal correction to the decision to include this as a condition nor can we force the lessee to lodge a new DA for lease variation. It was agreed that Merit Assessment should raise this matter with the applicant in the first instance. If the lessee does not agree, Irma suggested a Miscellaneous Application Encumbrance (MAE) for the site can be registered by the EPA against the title, but this matter needs to be explored further and also requires the lessee to produce the title. Mark advised that it is EPA's preference that it be in the lease. It was agreed that the lessee be advised to lodge the lease variation DA at its own cost along with the valuation report, site assessment report, previous endorsements from HPS, the EMP, *Landscape Ground Surfaces Plan and details* and any other relevant supporting documentation. Irma confirmed that the DA description needs to just request a clause be inserted in the lease to include the ongoing EMP. DA Leasing will then finalise the condition in consultation with HPS & EPA.
- EPA confirmed that the EMP is yet to be prepared and is to be endorsed by both HPS and EPA noting that final say will be with HPS. The lessee should be asked to prepare the EMP at its own cost.
- It was agreed that any clauses regarding monitoring of the mitigation measures needs to be included in the EMP along with the endorsed *Landscape Ground Surfaces Plan and details*. Mark did not see any need to formal regular certification by a consultant. Instead he suggested the lessee can do a visual inspection every 6 months or one year and only if any issues are identified contact the EPA.
- The meeting noted that the assessment undertaken by the lessee did not explore the option to completely remove the contaminant from the site. While removal of the highly mobile contaminant (PFOS) is a far better outcome, Mark advised that the associated costs may be high. Alternatively Mark suggested the contaminated soil be cut out and placed under the building to avoid exposure. It was agreed that the lessee must explore these options.
- It was noted that the Landscape Ground Surfaces Plan and details endorsed by HPS has not been submitted to Merit Assessment and will not be part of the approved DA

plans which includes a Landscape Plan as well. It was agreed that the lessee should be asked to submit this as part of the lease variation DA.

- Mark advised that EPA does not have standards yet for PFOS and therefore has no basis to act. He also emphasised that it was HPS requirements. However, EPA does not dispute the consultant's advice that subject to the mitigation measures identified in the site assessment report being implemented & the ongoing implementation of the EMP, the site is suitable for use as a childcare centre. Mark confirmed subject site will not go on the Register of Contaminated Sites.
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- Mark agreed that approved DA plans can be released since there is no legislative basis to hold the plans. [Landscape plan will need to be revised consistent with the Landscape Ground Surfaces Plan and details by the applicant.](#) Both these plans need to be endorsed by CECA as well.

Suggested condition

The site is to be managed in accordance with the approved "Environmental Management Plan (EMP)" endorsed by the HPS & EPA until the lessee provides written evidence to the planning and land authority that the HPS and EPA agree in writing that management is no longer required.

Follow up action

- Meet with the applicant on 20 December 2017 to outline the outcomes above in blue.
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Regards

Meena Ramesh

(Mon- Fri - 9am -3pm)

Senior Assessment Officer | Merit Assessment - Commercial Team

Phone 02 62076174 | Fax 02 62071856 |

Planning Delivery Division | ACTPLA | Environment, Planning & Sustainable Development
Directorate | **ACT Government**

Dame Pattie Menzies House, Challis Street, Dickson | GPO Box 1908 Canberra ACT 2601 |

From: [Karuppiah, Naga](#)
To: [Ramesh, Meena](#); [Hudson, Lyndell \(Health\)](#)
Cc: [Heckenberg, Mark](#); [Brown, Robin](#); [Gell, Chris](#); [Chappell, Hazel](#); [Sare, Irma](#); [Zamora-Pullin, Joshua](#); [Sullivan, Susan](#)
Subject: RE: Block 22 Section 97 Charnwood (Ex fire station site) - proposed childcare centre [SEC=UNCLASSIFIED]
Date: Thursday, 21 December 2017 9:45:52 AM

Hi Meena

CECA has confirmed that soil remediation is required as part of the Service Approval Application and please liaise with CECA from hereon.

Thank you

Kind regards,

Naga Karuppiah | Assistant Manager

Ph: 02 6207 5373 | e-mail Nagappan.Karuppiah@act.gov.au

Planning & Analytics Branch | Education Directorate | ACT Government

Level 1, 220 Northbourne Avenue | GPO Box 158 Canberra ACT 2601 | www.det.act.gov.au

From: Ramesh, Meena
Sent: Wednesday, 20 December 2017 1:46 PM
To: Hudson, Lyndell (Health) <Lyndell.Hudson@act.gov.au>; Karuppiah, Naga <Nagappan.Karuppiah@act.gov.au>
Cc: Heckenberg, Mark <Mark.Heckenberg@act.gov.au>; Brown, Robin <Robin.Brown@act.gov.au>; Gell, Chris <Chris.Gell@act.gov.au>; Chappell, Hazel <Hazel.Chappell@act.gov.au>; Sare, Irma <Irma.Sare@act.gov.au>; Zamora-Pullin, Joshua <Joshua.Zamora-Pullin@act.gov.au>; Sullivan, Susan <Susan.Sullivan@act.gov.au>
Subject: RE: Block 22 Section 97 Charnwood (Ex fire station site) - proposed childcare centre [SEC=UNCLASSIFIED]

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Naga,

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against the title, but this matter needs to be explored further and also requires the lessee to produce the title. Mark advised that it is EPA's preference that it be in the lease. It was agreed that the lessee be advised to lodge the lease variation DA at its own cost along with the valuation report, site assessment report, previous endorsements from HPS, the EMP, *Landscape Ground Surfaces Plan and details* and any other relevant supporting documentation. Irma confirmed that the DA description needs to just request a clause be inserted in the lease to include the ongoing EMP. DA Leasing will then finalise the condition in consultation with HPS & EPA.

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Suggested condition

The site is to be managed in accordance with the approved “Environmental Management Plan (EMP)” endorsed by the HPS & EPA until the lessee provides written evidence to the planning and land authority that the HPS and EPA agree in writing that management is no longer required.

Follow up action

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Regards

Meena Ramesh

(Mon- Fri - 9am -3pm)

Senior Assessment Officer | Merit Assessment - Commercial Team

Phone 02 62076174 | Fax 02 62071856 |

Planning Delivery Division | ACTPLA | Environment, Planning & Sustainable Development

Directorate | **ACT Government**

Dame Pattie Menzies House, Challis Street, Dickson | GPO Box 1908 Canberra ACT 2601 |

www.environment.act.gov.au



Sch 2.2(a)(ii)

Arcadis Australia Pacific Pty Limited
Unit 5, 9 Beaconsfield Street
Fyshwick ACT 2609

Dear **Sch 2.2(a)(ii)**

**ENDORSEMENT OF OPERATIONAL ENVIRONMENTAL MANAGEMENT PLAN -
BLOCK 22 SECTION 97 CHARNWOOD BELCONNEN**

The Environment Protection Authority (the Authority) has reviewed the document titled "Operational Environmental Management Plan (OEMP) Block 22 Section 97, Charnwood ACT" dated 27 February 2018 by Arcadis Australia Pacific Pty Limited.

The EPA has assessed the document and supports the plan for the ongoing management of the identified residual contamination at the above site subject to the following conditions:


- Initial induction into the implementation of the Operational Environmental Management Plan (OEMP) must be provided by a suitably qualified environmental consultant (SQEC). Subsequent inductions can then be performed by senior site staff previously inducted by the SQEC;
- All revisions to the OEMP must be approved by the Authority;
- No soil is to be disposed or reused off-site without the Authority's approval.

On the basis of the above review the Authority would support occupancy of the site subject to the following conditions:

- Prior to occupancy of the site an application for a variation to the site's Crown Lease under the *Planning and Development Act 2007* must be requested and approved to include an additional provision which requires the site to be managed in accordance with the OEMP;
- A copy of the varied Crown Lease must be forwarded to the Authority for its records;
- A letter from a suitably qualified environmental consultant confirming that the mitigation measures required by the OEMP have been successfully installed must be forwarded to the Authority;
- The site is managed in accordance with the requirements of the OEMP until the Authority agrees in writing that management is no longer required.

This should not be taken as a warranty by the Environment Protection Authority or the Territory that the land is fit for any particular purpose.

Yours sincerely

A handwritten signature in black ink, appearing to read 'N Sargent', written in a cursive style.

Narelle Sargent
Environment Protection Authority

15 March 2018