



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 2018-0190

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)	21
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: Wednesday, 1 August 2018 12:52 PM

To: EPSDFOI <EPSDFOI@act.gov.au>

Subject: Freedom of Information Request - Controlled Activity Order relating to 12 Bulwarra Close, O'Malley

Dear Sir/Madam,

RE: FREEDOM OF INFORMATION REQUEST

I write to request under the *Freedom of Information Act 2016* (FOI Act) documents generated or received by the ACT Government in relation to any and all Controlled Activity Orders relating to Block 20 Section 16 in the division of O'Malley, also known as 12 Bulwarra Close. These documents may include the original Controlled Activity Order request(s) and supporting documents, internal and external correspondence relating to it, and/or notes or records of meetings with interested parties.

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

[REDACTED]

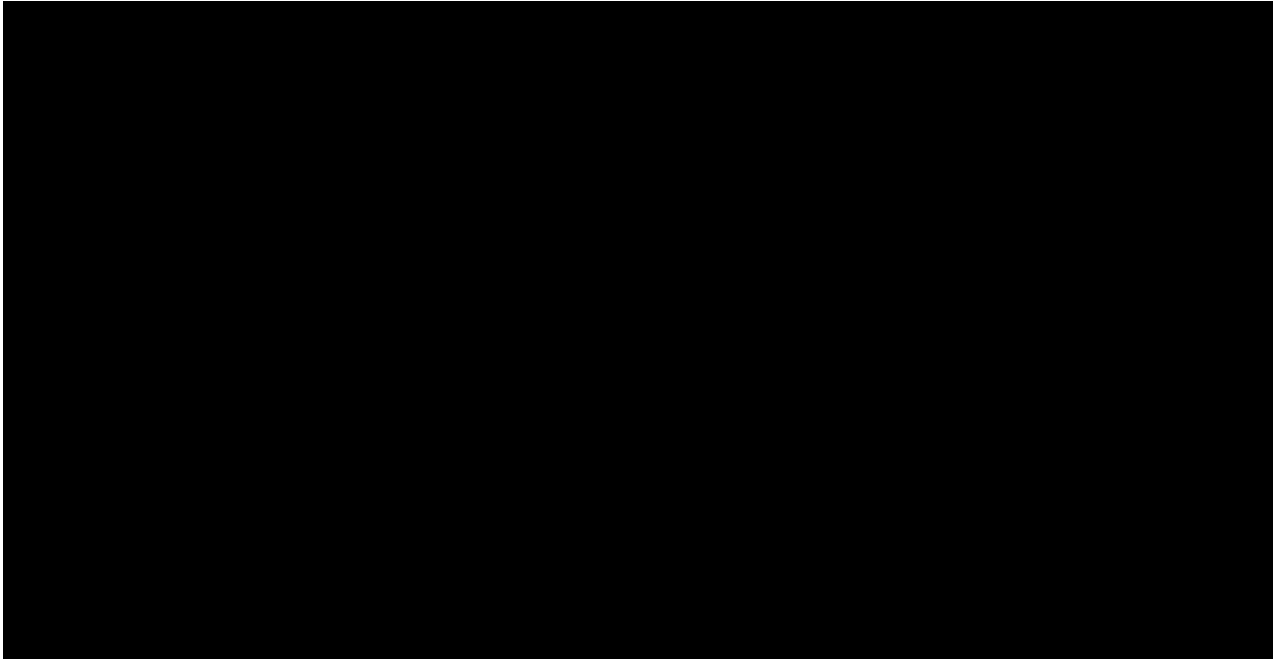
[REDACTED]

Should you require any further information or clarification about my request, please contact [REDACTED]

[REDACTED]

Kind regards,

[REDACTED]

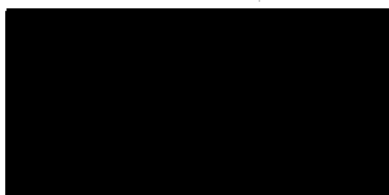





ACT
Government

Chief Minister, Treasury and
Economic Development

Our ref: CMTEDDFOI 2018-0190



via email: 

Dear 

FREEDOM OF INFORMATION REQUEST

I refer to your application received by the Environment, Planning and Sustainable Development Directorate (EPSDD) on 1 August 2018 seeking to access information under the *Freedom of Information Act 2016* (the Act).

Specifically you are seeking “documents generated or received by the ACT Government in relation to any and all Controlled Activity Orders relating to Block 20 Section 16 in the division of O’Malley”.

Authority

I am an Information Officer appointed by the Director-General of CMTEDD 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, CMTEDD is required to provide a decision on your access application by 19 September 2018.

Decision on access

Searches were completed for relevant documents and 34 documents were identified that fall within the scope of your request.

I have decided to grant full access to 7 document and partial access to 27 documents. The information redacted in the documents I consider to be information that 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.

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

In accordance with section 54(2) of the Act a statement of reasons outlining my 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 *Health Records (Privacy and Access) Act 1997*;
- the views of relevant third parties; and
- the *Human Rights Act 2004*.

Exemption claimed

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

Access to Medical Records

Access to some of the information contained in folio 135 is subject to section 12 of the Act as the information within this folio contains details of a medical condition. This information therefore falls within the definition of 'health record' pursuant to the *Health Records (Privacy and Access) Act 1997*. Section 12 of the *Freedom of Information Act 2016* prevents me from releasing this information as part of an access request made under section 30.

Public Interest

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

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

Taking into consideration the information contained in the 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'.

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; and*
 - (viii) *reveal the reason for a government decision and any background or contextual information that informed the decision.*

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 by allowing you to have a complete record of the documents generated or received by the ACT Government in relation to any and all controlled activity orders relating to Block 20 Section 16 in the division of O'Malley. This includes issues taken into consideration and the steps taken to address these issues. I am satisfied the information contained within these documents is within the public interest to release as they reveal the reason for a government decision and any background or contextual information that has formed that decision.

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.*

Having reviewed the documents, I have considered the impact that releasing the personal information contained in the documents, being the personal details of the applicant of the controlled activity order, other complainants and the details of the owner of the property subject to the controlled activity order and the views of their representative may have on these individuals. I am of the opinion that release of this information may prejudice the protection of these individuals' 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 individuals privacy. Accordingly, I have decided to withhold from disclosure all information associated to private individuals and non ACT Government employees contained within the documents including names, signatures, private home addresses or identifying features of a home address, postal addresses, emails addresses, mobile phone numbers and parts of a signature block and various vehicle number plate details and some private payment receipt details.

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

Accordingly, I have chosen to redact parts of folios 1, 5, 7 12-21, 23-24, 34-37, 39-44, 46-48, 50-51, 53-63, 65-72, 74-75, 77, 83, 86, 107-110, 116-117, 119, 131-141, 144-145, 147 and 149-154 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 5 September 2018. Your personal contact details will not be published.

You may view CMTEDD disclosure log at:

<https://www.cmtedd.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

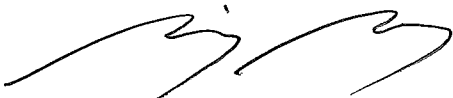
ACT Civil and Administrative Tribunal (ACAT) Review

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

30 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.
[REDACTED]	Documents generated or received by the ACT Government in relation to any and all Controlled Activity Orders relating to Block 20 Section 16 in the division of O'Malley, also known as 12 Bulwarra Close. These documents may include the original Controlled Activity Order request(s) and supporting documents, internal and external correspondence relating to it, and/or notes or records of meetings with interested parties.	CMTEDDFOI2018-0190

Ref No	Page number	Description	Date	Status	Reason for Exemption	Online Release Status
1	1	Certificate of Occupancy or Use	24 Aug 1993	Partial Release	Sch 2 s2.2 (a)(ii)	Yes
2	2-4	Record of Inspection	19 Oct 2017	Full Release	N/A	Yes
3	5-6	Controlled Activity Letter	25 Oct 2017	Partial Release	Sch 2 s2.2 (a)(ii)	Yes
4	7-8	Show Cause Notice	5 Dec 2017	Partial Release	Sch 2 s2.2 (a)(ii)	Yes
5	9-11	Title Search	5 Dec 2017	Full Release	N/A	Yes
6	12-19	Email – Parking Issues at Bulwarra Close, O'Malley	7 Dec 2017	Partial Release	Sch 2 s2.2 (a)(ii)	Yes
7	20-24	Email – Parking Issues at Bulwarra Close, O'Malley	7 Dec 2017	Partial Release	Sch 2 s2.2 (a)(ii)	Yes
8	25-32	Document – O'Malley Precinct Map and Code	8 Dec 2018	Full Release	N/A	Yes
9	33	Mention to Regulatory Advisory Committee	8 Dec 2018	Full Release	N/A	Yes
10	34	Complaint	12 Dec 2017	Partial Release	Sch 2 s2.2 (a)(ii)	Yes
11	35-37	Email – Complaint	12 Dec 2017	Partial Release	Sch 2 s2.2 (a)(ii)	Yes
12	38-40	Email – Fence Dispute	26 Feb 2018	Partial Release	Sch 2 s2.2 (a)(ii)	Yes

13	41-53	Email – UAE Embassy Location	7 Mar 2018	Partial Release	Sch 2 s2.2 (a)(ii)	Yes
14	54	Email – Please Call – Debbing Errington Complaint	19 Mar 2018	Partial Release	Sch 2 s2.2 (a)(ii)	Yes
15	55-62	Email – UAE Embassy Location in residential street	20 Mar 2018	Partial Release	Sch 2 s2.2 (a)(ii)	Yes
16	63-69	Application for a Controlled Activity Order	6 Apr 2018	Partial Release	Sch 2 s2.2 (a)(ii)	Yes
17	70	Email –Controlled Activity Order	9 Apr 2018	Partial Release	Sch 2 s2.2 (a)(ii)	Yes
18	71-73	Letter – Show Cause Notice	11 May 2018	Partial Release	Sch 2 s2.2 (a)(ii)	Yes
19	74-131	Notice of Decsion – Controlled Activity Order with attachments	25 May 2018	Partial Release	Sch 2 s2.2 (a)(ii)	Yes
20	132-135	Email – Response to show cause notice with attachment	29 May 2018	Partial Release	Sch 2 s2.2 (a)(ii), Section 12	Yes
21	136	Email – Controlled Activity Order	30 May 2018	Partial Release	Sch 2 s2.2 (a)(ii)	Yes
22	137	Email – Controlled Activity Order	31 May 2018	Partial Release	Sch 2 s2.2 (a)(ii)	Yes
23	138	Email – DA 201733142	5 June 2018	Partial Release	Sch 2 s2.2 (a)(ii)	Yes
24	139	Letter – Decision on Application for Order	22 Jun 2018	Partial Release	Sch 2 s2.2 (a)(ii)	Yes
25	140	Letter – Decision on Application for Order	25 Jun 2018	Partial Release	Sch 2 s2.2 (a)(ii)	Yes
26	141	Letter – Decision on Application for Order	25 Jun 2018	Partial Release	Sch 2 s2.2 (a)(ii)	Yes
27	142-143	Email - omalley	29 Jun 2018	Full Release	N/A	Yes
28	144-146	Email – Controlled Activity Order	11 July 2018	Partial Release	Sch 2 s2.2 (a)(ii)	Yes
29	147-148	Email – Controlled Activity Order	11 July 2018	Partial Release	Sch 2 s2.2 (a)(ii)	Yes
30	149-150	Email – Controlled Activity Order	19 July 2018	Partial Release	Sch 2 s2.2 (a)(ii)	Yes
31	151-152	Email – Controlled Activity Order	23 July 2018	Partial Release	Sch 2 s2.2 (a)(ii)	Yes

32	153-154	Email – Controlled Activity Order	24 July 2018	Partial Release	Sch 2 s2.2 (a)(ii)	Yes
33	155	Email – parking issues Bulwarra Cl O'Malley	24 July 2018	Full Release	N/A	Yes
34	156-163	Photos	undated	Full Release	N/A	Yes
Total No of Docs						
34						



Department of Urban Services
ACT Building Control

Certificate of Occupancy or Use

Pursuant to Part V of the Building Act 1972, the Building works consisting of

COMPLETION OF NEW RESIDENCE & GARAGES

Situated at

Suburb

Section

Block

Unit

O'MALLEY

16

20

-

and

Approved Plan No.

Type of Construction*

78060 AND 78060/A/B/C/D

N/A

Class of Occupancy*

Permit No.

Name of Permit Holder

1 AND 10(A)

12367

Sch 2.2(a)(ii)

*as defined under the Building Act 1972

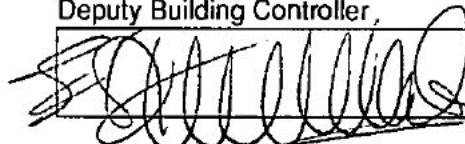
is considered to be in accordance with the prescribed requirements and is certified as

- fit for occupancy or use pursuant S 53(2)
- fit for occupancy or use pursuant S 53(3)
- fit for occupancy or use pursuant S 53(4) subject to the endorsements listed below
- fit for occupancy or use of part of the building pursuant to S 53(6)
- completed pursuant to S 53(10)
- completed pursuant to S 53(11)

Endorsements pursuant to notice under Section 53(4)

87843

Deputy Building Controller

 24/8/1993

The issue of this Certificate does not affect the liability of a person to comply with the provisions of a law of the Territory (including the Building Act) relating to the building work nor does it authorise the use of the land contrary to a provision, covenant or condition of lease.

**This is a valuable document
keep it in a safe place**



ACT
Government

Chief Minister, Treasury and
Economic Development

Record of Inspection

Block: 20 **Section:** 16 **Division:** O'Malley

Date of Inspection: 19 October 2017

Time Inspection Commenced: 10.45 am

Time Inspection Completed: 10.45am

Did you access leased land?: No

If you accessed leased land, under what authority?: Consent to entry under Section 389(1)(b) of the Planning and Development Act , Section 131 Building Act, Section 130 Building Act

Photographic Evidence: 2

Photo No.	Photo Name	Taken From
1	Metal fence and guard box at entrance for the property	Public domain
2	Fencing along front of the block	Public domain

Purpose: Peter Apps conducted an inspection in regard to an allegation that a metal style fence has been erected around the boundary and forward of the building line on the above property without approval and not compliant to regulation.

Findings and Facts: On inspection found that there has been a metal styled security fence has been erected around the boundary of the property along with a guard box near the drive way entering the property.

Peter Apps
Inspector
Construction, Environment and Workplace Protection

19 October 2017







ACT
Government

Chief Minister, Treasury and
Economic Development

Sch 2.2(a)(ii)

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

Block 20 Section 16 O'Malley – Controlled Activity

Access Canberra Officers from Construction, Environment and Workplace Protection conducted an inspection at the above property. The inspection identified that a controlled activity under *Planning and Development Act 2007*, has/is being undertaken.

The controlled activity identified is:

Undertaking a development for which development approval is required without development approval. Specifically the construction of a metal fence around and forward of the building line of the above property.

Within **30** working days from the date of this letter you are required to:

- lodge a development application (DA) to seek approval for the structure(s) or
- remove the structure(s) from the land.

Information on how to lodge a DA is available from the Environment and Planning (EPD) website <http://www.planning.act.gov.au/home> . If you require any technical assistance you can contact a technical officer by telephone on 6207 1923 or visit the Dickson Customer Service Centre, 16 Challis Street Dickson, between 8.30am and 4.30pm Monday to Friday (excluding public holidays).

You should be aware that failing to comply with this request may result in a show cause notice and a subsequent Controlled Activity Order being issued. Failure to comply with a Controlled Activity Order is an offence and may result in a penalty. It is therefore important that you comply with this notice as a matter of priority.

If you believe you have grounds for seeking an extension of time to comply with this request or, wish to dispute this matter, you must provide your reasons to me, in writing, no later than **8 December 2017**. You should also include the estimated length of time you require in order to comply with this request.

Should you require any further information regarding this matter please contact me on telephone 6207 7898 or via email at accesscanberracmt@act.gov.au.

Yours sincerely

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

Peter Apps
Inspector
Enforcement Unit

25 October 2017



ACT
Government

Chief Minister, Treasury and
Economic Development

Sch 2.2(a)(ii)

Show Cause Notice

Block 20 Section 16 in the division of O'Malley

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

Under section 353 of the *Planning and Development Act 2007* (the Act), Construction, Environment and Workplace Protection (CEWP) gives **Lessee/Occupants Name** (lessee) notice that it intends to make a controlled activity order (order) relating to **Block 20 Section 16, in the division of O'Malley** in the Australian Capital Territory, comprised in Certificate of Title Volume 1106 Folio 19 (land).

Controlled Activity to which this Notice Relates

This notice relates to the following controlled activities prescribed under schedule 2 of the Act.

Schedule 2, Item 4 having a building or structure that was constructed without approval required by this Act, chapter 7 (Development approvals)

Specifically a metal fence has been constructed forward of the building line of the property not in accordance with Schedule 1 section 1.51 (2) (a) (ii) and (b) of the Planning and Development Regulation 2008. Also the removal of the marquee at the rear of the property not in accordance with Schedule 1 section 1.31 of the Planning and Development Regulation 2008.

Persons to whom the order would be directed

If made, the order would be directed to the Lessee, **Sch 2.2(a)(ii)** which is/who are the registered proprietor/s of the crown lease of the land.

Notes

1. Each person given this show cause notice may, not later than 10 working days after the day this show cause notice is given, give CEWP written reasons explaining why an order should not be made against them.
2. A written response can be sent to CEWP at GPO Box 158 Canberra City ACT 2601 or via email to csbinvestigations@act.gov.au;
3. CEWP's offices are located at Dame Pattie Menzies House, 16 Challis Street Dickson in the Australian Capital Territory.
4. CEWP will consider any written reasons given by each person to whom an order would be directed, before making a decision to:
 - (a) make the order in relation to a controlled activity mentioned in this show cause notice; or
 - (b) not to make the order mentioned in this show cause notice.
5. Under section 354 of the Act CEWP is taken to have decided not to make the order should a decision not be made 20 working days after the end of the 10 working day period within which the lessee may give CEWP written reasons under the Act, section 353 (4) (a). However, this does not prevent CEWP from giving a further show cause notice in relation to the controlled activity identified in this notice.

Should you require any further information in relation to this matter please contact me via email at accesscanberracmt@act.gov.au or on telephone 132281.

Yours sincerely

NAME
Delegate of the
ACT Planning and Land Authority

December 2017

uate in the City area in the Australian Capital Territory co
or thereabouts and being Block — 20 —
lineated on Deposited Plan Number — 7402 — in the offic
shown by pink colour on the plan annexed hereto RESERVE
m of ninety-nine years commencing on the — SIX —
usand nine hundred and — eighty eight — (herein
see for residential purposes only YIELDING AND PAYING
when demanded

Commonwealth as follows -

the Commonwealth at Canberra in the said Territory the rent h
e by the Commonwealth relating thereto and served on the

months from the date of the commencement of the lease or wi
th for that purpose commence to erect one private single dw
on the said land at a cost not less than the sum of ten thousa
the Lessee and previously submitted to and approved in w

elve months from the date of the commencement of the lea
Commonwealth complete the erection of the said building
nce with every Statute Ordinance or Regulation applicable

welve months from the date of the commencement of the lea
Commonwealth provide facilities on the said land to a standard ac
s and wires to be installed underground,

during the said term maintain repair and keep in repair all bui
onwealth

her term and at such rent and subject to such conditions as m

nt demand consent or other communication to be given to or se
given or served if signed by or on behalf of the Commonweal
ne said land or at the usual or last-known address of the Lessee

r and or remedy conferred on the Commonwealth or the M
Commonwealth or the Minister as the case may be by —

e of the Commonwealth for the time being administering th
e substituted therefor or the Member of the Executive Coun
es of such Minister,

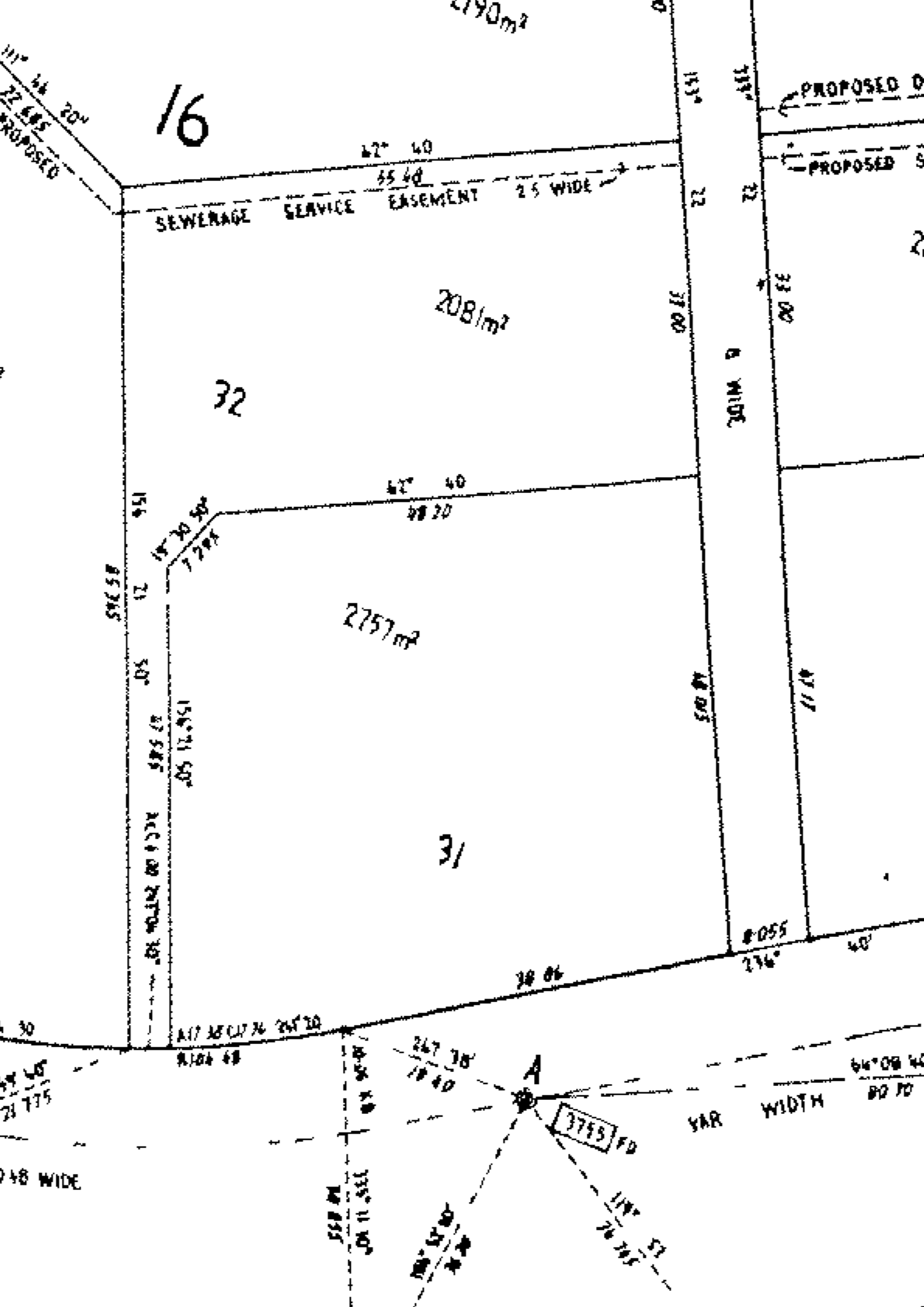
on for the time being authorised by the Minister of State refer
of the Commonwealth or the Minister, or

the Minister of State referred to in (i) above has delegated all
nce 1936 or any Statute or Ordinance in substitution therefo

n the word 'Lessee' shall where the context so admits or requ
tors and assigns of the Lessee

e persons the word 'Lessee' shall where the context so admits o
the said persons and each of them and their and each of their ex
y be deemed to include the said persons and each of them and th
ssigns of the survivor of them,

word 'Lessee' shall where the context so admits or requires b
ns



16

208/m²

32

2757 m²

31

SEWERAGE SERVICE EASEMENT 2.5 WIDE

PROPOSED D
PROPOSED S

8 WIDE

A

3795 FD

8 WIDE

117° 44' 20"
22.685
PROPOSED

42° 40'

55.68

2.5 WIDE

153° 22'

733° 22'

156° 21' 50"

405.00
12.00

42° 40'

48.20

156° 21' 50"

27.585
ACROSS
210.00

267° 38'

18.40

40'

38.06

8055
276° 40'

30

117° 44' 20"
22.685

156° 45'
21.775

748 WIDE

156° 45'
21.775
156° 11' 40"
26.835

156° 45'
21.775

117° 44' 20"
22.685

64° 08' 40"
80.70

From: Alford, Robert
Sent: Thursday, 7 December 2017 11:13 AM
To: Apps, Peter
Cc: Muir, Richard
Subject: FW: Parking Issues at Bulwarra Close, O'Malley [SEC=UNCLASSIFIED]
Attachments: 171207 Letters from Residents re Parking.pdf; IMG_6482.jpg; IMG_6489.png; IMG_6480.png

Hi Peter

More for filing.

PS the house didn't sell at auction on the weekend.

Bob

From: Sch 2.2(a)(ii)
Sent: Thursday, 7 December 2017 10:59 AM
To: Paunovic, Slobodan <Slobodan.Paunovic@act.gov.au>; Sch 2 s2(a)(ii) Alford, Robert <Robert.Alford@act.gov.au>
Subject: Parking Issues at Bulwarra Close, O'Malley

Good morning Bob,

Many thanks for coming out to Bulwarra Close yesterday to discuss the parking issues with the residents of our street.

We acknowledge the proposed restricted parking in Bulwarra Close has been rejected by the UAE Embassy (whose representatives attended the meeting).

For clarity, we would like to point out that the commercial nature of business conducted by the UAE Embassy and the Kuwait Cultural Centre (not represented at the meeting) are the sources of the parking woes in our street AND that they are also tenants residing in these two leased properties. I respectfully suggest that as tenants, (residing in a residential property zone of O'Malley) that their opinion is therefore irrelevant. You will see from the attached photographs the extent of the parking issues in this street.

At the meeting yesterday, the owners who attended made it quite clear that they want to have no parking on the EVEN side of the street and timed parking on the odd side of the street.

I note based on this new proposal by the owners, your intention is to now re-run another consultation process in the neighbourhood. The owners view this new consultation process as a waste of time thereby delaying the process of remedying the dangerous traffic conditions in our street.

I can confirm that the owners of the following properties want restricted parking on the EVEN side of the street with timed 2 hour parking limits on the Odd numbered side of the street:

Sch 2.2(a)(ii)

The owners of ^{Sch 2.2(a)} Bulwarra Close were unable to attend and add their concerns to this meeting due to a previous engagement. They did however, stop long enough to say that their vehicle has suffered damage as a result of an illegally parked vehicle across their driveway. They also cite concerns over the road safety of their 3 young grand children when visiting their property.

I provide copies of emails from Sch 2.2(a)(ii)
Sch 2.2(a)(ii)
Sch 2.2(a)(ii) Bulwarra Close, documenting their support for the proposal for no parking on the EVEN side of the street and timed parking on the odd side of the street.

There are two other owner/occupiers who were unable to attend the meeting yesterday who also support no parking on the EVEN side of the street with timed parking on the odd side of the street.

Yesterday, you canvassed the idea that the whole street may not need restricted parking. The owners strongly reject this proposal. Most weekdays there are some 40 or so vehicles parked the entire length of Bulwarra Close, with another 20 odd parked in the front yard of number 16 Bulwarra Close (The Kuwait Cultural Centre). Delivery drivers, visitors and couriers routinely park on the even side of the street (forcing us to drive in the centre of the roadway). They park on the verge, or worse on our driveways to deliver packages to the UAE Embassy and the Kuwait Cultural Centre. It was noted that the UAE Embassy driveway, which in the past was used for deliveries now restricts non-Embassy visitors to “staff only”, thereby not permitting any vehicular standing on their driveway at all.

We look forward to urgent action from the ACT Government to bring order to the congestion and chaos in Bulwarra Close.

Kind regards,

Sch 2.2(a)(ii)

Sch 2.2(a)(ii)

Sent: Wednesday, 22 November 2017 12:25 PM
To: 'slobodan.paunovic@act.gov.au'
Cc: 'kim.gamis@act.gov.au'
Subject: Parking- Bulwarra Close OMalley

Thank you for your letter of 8 November proposing parking restrictions in Bulwarra Close.
Your action is timely because this once quiet street now has frequent congestion and restricted flows .
We have lived at Sch 2.2(a)(ii) and have become well aware of the problems, and their cause.

Restricted traffic flows are caused by all day parking , mostly along the "odd number " side of the road, which leaves only one laneway for traffic, or visitor parking.
The vast majority of the problem is caused by all day parking by employees at the UAE (12 Bulwarra) . It is normal for over 18 cars to be so parked from 9-30 until 4-30 each business day.
This is compounded by the fact that the adjoining Kuwait cultural mission usually has 15 plus cars parked within its grounds or on the footpath.
Frequent business day deliveries and visits to these embassies forces delivery trucks, couriers or callers to stop on the even side of the road, as there is nowhere else to park- so blocking traffic.
The UAE embassy does not seem to offer access to its grounds for short term parking.

The obvious solution is to ask the UAE embassy to provide off street all day parking for its employees (either on their grounds or nearby), which would largely resolve the problem.
They have a large embassy site, and a large vacant site nearby (reserved for a proposed new embassy) which could perhaps be used for this purpose.

The next best solution is to limit parking to 2 hours on the currently used odd number side of the street, with a No Parking restriction on our even number side of the street (the opposite to your proposal).
Realistically this may not resolve the problem , as all day parkers can easily shuffle parking spots every 2 hours.
However, it is much better than doing nothing.
As the great majority of traffic enters Bulwarra Close from our north eastern junction with Culgoa Circuit, providing for No Parking on our "even " side of the street will better facilitate traffic flow.

On another matter, there is a potential accident risk nearby which we draw to your attention. The frequency of through traffic on Culgoa has greatly increased during peak traffic times- as people cut out 2 traffic lights by using the Tyagarah/ Culgoa /Kareelah/ Numerella route between Hindmarsh and Yamba. Frequently these vehicles travel at speed.

The Bangladesh embassy is located on a major corner of Culgoa, and frequently has 15 or more vehicles parked short term on both sides of Culgoa, within walking distance- despite parking solid lines .
It is a very busy embassy in terms of visitors and functions. Clearly, there is accident risk with the combination of a sweeping corner with restricted visibility, cars at speed, parking on both sides of the road, and regular pedestrian traffic.

Thank you for giving us the opportunity to comment on traffic issues in Bulwarra Close .We look forward to hearing of your actions to resolve them.

Your Faithfully

Sch 2.2(a)(ii)

Sch 2.2(a)(ii)

Parking along Bulwarra Close, O'Malley ACT - C17-93

Sch 2.2(a)(ii)

Tue 14/11/2017 23:09

To: kim.gamis@act.gov.au <kim.gamis@act.gov.au>;

Sch 2.2(a)(ii)

Dear Mr Gamis,

I refer to our conversation earlier today regarding my comments on the parking arrangements proposed along Bulwarra Close, O'Malley.

May I say that some form of parking restrictions is long overdue along Bulwarra Close and it is pleasing to note that your office is proposing to provide a remedy to road congestion which occurs when cars are parked on both sides of the street. This situation has become most apparent since the UAE Embassy became ensconced at 12 Bulwarra Close and where its staff avail themselves of street parking. Perhaps you might ask that Embassy whether it could make more staff parking available on the Embassy grounds.

In regard to your proposal itself, currently most cars are parked along the 'ODD' side of the street, ie on the North side and were parking restrictions to apply along similar lines to the ones you propose, then I suggest the two hour limit be on the 'ODD' side and 'NO Parking' on the south side, rather than the converse as proposed in you note.

On another matter, street parking on Calgoa Circuit outside the Bangladesh Embassy often leads to rather dangerous driving conditions, especially as such parking is alongside double white lines and in an area where the road curves and visibility is impeded. You may say that parking on roads with double white line marking is a traffic infringement; however, might I suggest that the perpetrators might not be as conversant with road rules as you and I. Might I also suggest that 'No Parking' signs in the area in question might not go astray. I look forward to hearing what definite measures your Office is taking to rectify the present unsatisfactory situation.

Yours faithfully,

Sch 2.2(a)(ii)

From: Sch 2.2(a)(ii)



Sch 2.2(a)(ii)

Sch 2.2(a)(ii)



S



From: Alford, Robert
Sent: Thursday, 7 December 2017 11:11 AM
To: Apps, Peter
Cc: Muir, Richard
Subject: FW: Parking and other issues at Bulwarra Close, O'Malley [SEC=UNCLASSIFIED]

Hi Peter

More info and email for filing.

Bob

From: Sch 2.2(a)(ii)
Sent: Thursday, 7 December 2017 10:12 AM
To: Alford, Robert <Robert.Alford@act.gov.au>
Subject: Fwd: Parking and other issues at Bulwarra Close, O'Malley [SEC=UNCLASSIFIED]

Hi Robert,

Just keeping you in the loop. Please see email from the NCA for your info.

Kind regards,
Sch 2.2(a)(ii)

----- Forwarded message -----
From: Sch 2 s2(a)(ii)
Date: 7 December 2017 at 10:07
Subject: RE: Parking and other issues at Bulwarra Close, O'Malley [SEC=UNCLASSIFIED]
Sch 2.2(a)(ii)

Security: UNCLASSIFIED

Good morning Sch 2.2(a)(ii)

Thank you for your email relating to the issues at Bulwarra Close and the respective photo's.

I will advise the DFAT Protocol Officer of your concerns noting that Roads ACT are reviewing the parking issues and ACTPLA are aware of the illegal structures.

I have also asked DFAT to confirm if there are any lease restrictions related to the renting of residential premises to Diplomatic missions in O'Malley.

I will advise accordingly once I have a response back from DFAT.

Regards [redacted]

Sch 2 s2(a)(ii)

From: [redacted]
Sent: Thursday, 7 December 2017 6:02 AM
To: [redacted]
Subject: Parking and other issues at Bulwarra Close, O'Malley

Hi [redacted],

Hi [redacted],

Many thanks for taking the time to come out to Bulwarra Close to meet with the concerned residents and discuss the issues associated with the operations of embassies in Bulwarra Close.

As we discussed, the growth of the UAE Embassy and the Kuwaiti Cultural Centre have had a negative impact on the immediate area. These properties are both rented from individual owners within the residential zone of O'Malley. Yet, as tenants, they have conducted property developments and commercial operations without proper consideration or approvals. The

increased volume of workers, visitors and couriers to these commercial operations has caused significant change to the nature of the zoned residential environment. The impacts include, but are not necessary limited to:

- Illegal parking resulting in dangerous traffic and pedestrian conditions in Bulwarra Close
- Illegal building structures
- Excessive refuse that litters the street
- Adverse impacts on property values

Illegal Parking. The parking issue is perhaps the most evident consequence of the increased commercial footprint. The increased volume of traffic has been reported to the ACT Government by a number of residents, copies of which are attached. The lack of parking control results in vehicles restricting or blocking access to residents' homes, increased volume of through-traffic, increased near misses and collisions. The Kuwaitis park up to 20 cars in the front yard and on the verge of their cultural centre every day. Please see attached photos.

Illegal Building Structures. The streetscape has been permanently and negatively altered by the construction of an unapproved fence and guard post at the UAE Embassy. Moreover, the UAE has erected a large marquee at the rear of the property, which has been in place for some two years and is supplied with power from the main dwelling. This unsightly structure, which exists in varying states of disrepair, is a terrible eyesore. It diminishes the outlook in our front yard and has contributed to a devaluing of our property. It also represents a fire hazard.

These illegal structures have been formally reported to the ACT Government – Robert Alford Senior Manager, Enforcement and Compliance at the Chief Minister Treasury and Economic

Development Directorate has conduct of the issue regarding the illegal fencing currently in process. His direct number is Sch 2.2(a)(ii) or 6205 4261. Please see attached photographs. Records of the formal complaints are also attached.

Excessive Refuse. The increased size of the UAE Embassy operations has resulted in the addition of some 20 refuse bins and extra Sulo bins to manage their commercial waste. Also, there has been an increase in the negligent disregard of litter laws with many instances of workers and visitors to the locations dumping rubbish from their vehicles. The Kuwaitis often leave their bins exposed (one of which has no lid) to the elements and fauna that rat through the bins and distribute the contents in the street. This is both unsightly and unhealthy and I have had to clean their mess on many occasions. I have written to the Kuwaiti Ambassador about these issues but have had no response. Please find a copy of the letter and photos attached.

Property Values. We have tried unsuccessfully to market our property twice this year, with two different agents, and have not received one offer. The agents respectively have advised that the collective impacts from the UAE and Kuwaitis are key contributing factors.

We have reports from our agents who indicate adverse comments have been made about the UAE Embassy's fence, tent and parking in the street. Unfortunately, it is impossible to convince prospective purchasers that the tent is not a permanent structure.

I confirm the following residents were in attendance or have expressed concerns at the meeting on 6 December:

Sch 2.2(a)(ii)

Sch 2.2(a)(ii)

There also are two other owner/occupiers who were not able to attend the meeting, who have also voiced their concerns and are in favour of restricted parking measures for Bulwarra Close.

The environmental impact of these embassies' operations has not properly considered owner/occupiers in the vicinity. The lack of consultation, and failure to follow proper process, which would have highlighted deviations from regulations and thus avoided the current problems, is the primary contributing factor. We are now in a situation that requires rectification.

We thank you for your time yesterday and we look forward to your further advice in these matters.

Kind regards,

Sch 2.2(a)(ii)



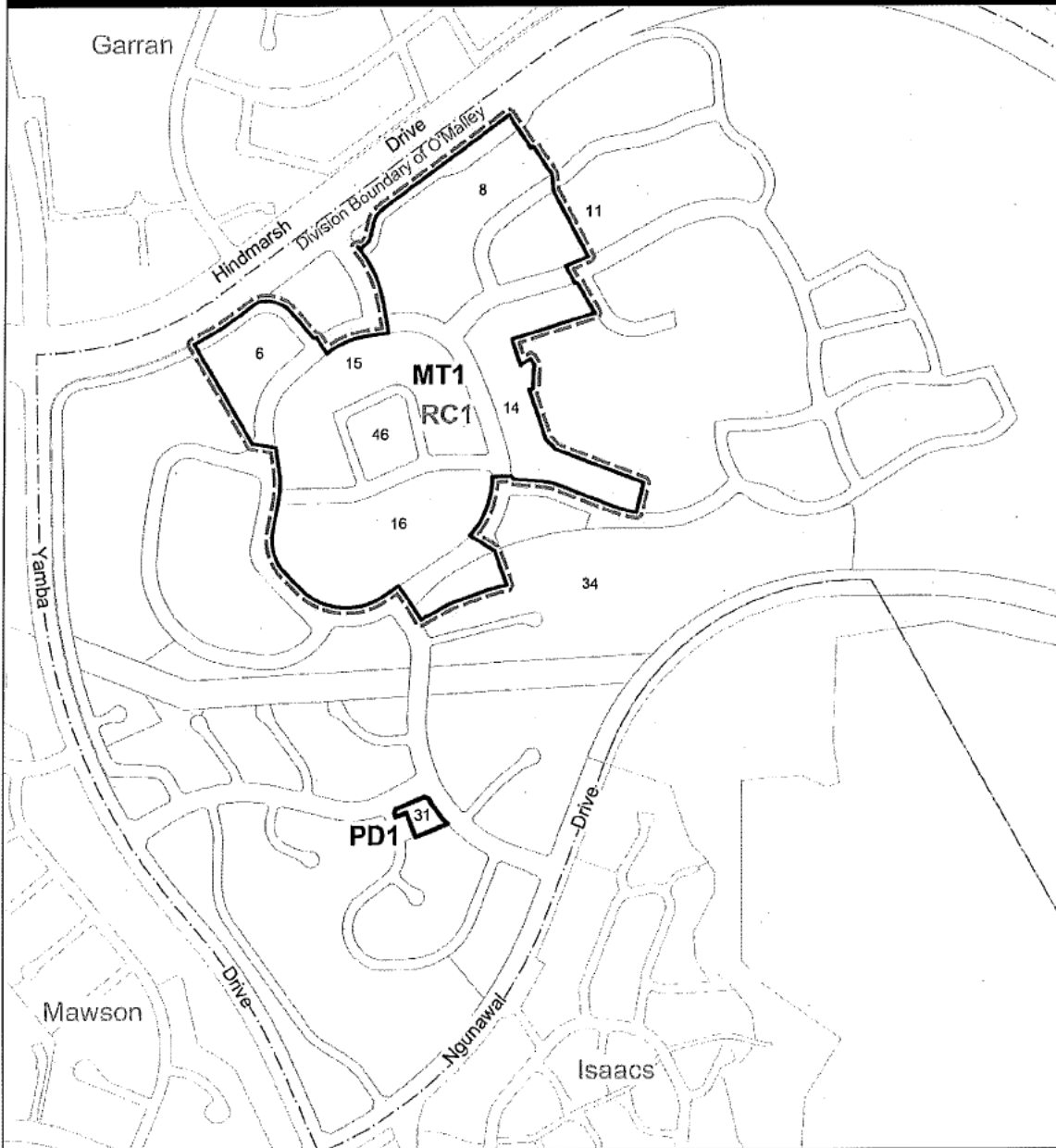
ACT
Government

Environment and
Sustainable Development

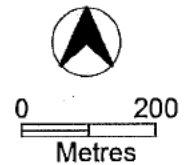
O'Malley Precinct Map and Code

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O'Malley Precinct Map



- PDn** Additional prohibited development applies see Table 1
- MTn** Additional merit track development applies see Table 2
- RCn** Additional rules and criteria apply see O'Malley Precinct Code



Assessment Tracks

The following tables identify the additional prohibited development and additional merit track development for blocks and parcels shown in the O'Malley Precinct Map (identified as PDn or MTn). Development that is exempt from requiring development approval, other prohibited development and the minimum assessment track applicable to each development proposal is set out in the relevant zone development table.

The following tables constitute part of the relevant zone development table.

Table 1 – Additional prohibited development

Additional prohibited development		
Suburb precinct map label	Zone	Development
PD1	CFZ	<i>retirement village supportive housing</i>

Table 2 – Additional merit track development

Additional merit track development that may be approved subject to assessment		
Suburb precinct map label	Zone	Development
MT1	RZ1	<i>chancellery diplomatic residence</i>

O'Malley Precinct Code

Contents

Introduction.....	4
Additional rules and criteria.....	6
RC1 – Residential zone additional provisions.....	6
Element 1: Buildings.....	6
1.1 Chancellery and diplomatic residence.....	6

Introduction

Name

The name of this code is **O'Malley Precinct Code**.

Application

The code applies to the Division of O'Malley.

Purpose

This code provides additional planning, design and environmental controls for specific areas or blocks and may also contain references to provisions in other codes.

In conjunction with other relevant codes it will be used by the *Authority* to assess development applications and offer guidance to intending applicants in designing development proposals and preparing development applications.

Structure

This code contains additional rules and/or criteria for particular blocks or parcels identified as areas RCn on the precinct map, to be read in conjunction with the relevant development code. It may also contain sub-parts.

Each element has one or more rules and, unless the respective rule is mandatory, each rule has an associated criterion. Rules provide quantitative, or definitive, controls. By contrast, criteria are chiefly qualitative in nature.

In some instances rules are mandatory. Such rules are accompanied by the words "This is a mandatory requirement. There is no applicable criterion." Non-compliance with a mandatory rule will result in the refusal of the development application. Conversely, the words "There is no applicable rule" is found where a criterion only is applicable.

Code hierarchy

Under the *Planning and Development Act 2007*, where more than one type of code applies to a development, the order of precedence if there is inconsistency of provisions between codes is: precinct code, development code and general code.

If more than one precinct code applies to the site, the most recent precinct code takes precedence to the extent of any inconsistency.

Definitions

Defined terms, references to legislation and other documents are italicised.

Definitions of terms used in this code are listed in part 13 of the Territory Plan or, for terms applicable only to this code, associated with the respective rule.

Acronyms

ACTPLA	Planning and Land Authority within the ACT Environment and Sustainable Development Directorate
EPA	ACT Environment Protection Authority

ESA	ACT Emergency Services Agency
ESDD	ACT Environment and Sustainable Development Directorate
NCA	National Capital Authority
P&D Act	Planning and Development Act 2007
TAMS	ACT Territory and Municipal Services Directorate

Additional rules and criteria

This part applies to blocks and parcels identified in the O'Malley Precinct Map (RCn). It should be read in conjunction with the relevant zone development code and related codes.

RC1 – Residential zone additional provisions

This part applies to blocks and parcels in area RC1 shown on the O'Malley Precinct Map.

Element 1: Buildings

Rules	Criteria
1.1 Chancellery and diplomatic residence	
<p>R1</p> <p>Development involving one or more of the following uses</p> <ul style="list-style-type: none"> a) <i>chancellery</i> b) <i>diplomatic residence</i> <p>complies with all relevant provisions of the <i>Single Dwelling Housing Development Code</i>.</p> <p>Note: Relevant provisions include, but are not limited to: the following:</p> <ul style="list-style-type: none"> a) building envelope b) <i>setback</i> c) <i>height of building</i> 	<p>This is a mandatory requirement. There is no applicable criterion.</p>
<p>There is no applicable rule.</p>	<p>C2</p> <p>Development involving one or more of the following uses</p> <ul style="list-style-type: none"> a) <i>chancellery</i> b) <i>diplomatic residence</i> <p>is to achieve all of the following:</p> <ul style="list-style-type: none"> a) consistency with the <i>desired character</i> b) reasonable solar access to <i>dwelling</i>s on adjoining <i>residential blocks</i> and their associated <i>private open space</i> c) compatibility of exterior building materials with existing buildings in the locality

Mention to Regulatory Advisory Committee

Title/ Reference # Security fencing erected around the boundary and unapproved structures on the property of 12 Bulwarra Close O'Malley leased by the United Arab Emirates Embassy

Team unit: Enforcement

Project staff: Peter Apps

Date: 6 December 2017

Description of Proposed Action: Issuing of a Show Cause notice to the lessee for non-complying construction of a metal fence forward of the building line not in accordance with the Planning and Development Regulations 2008. Schedule 1 Sec 1.51 2 (a) (ii)

Key decisions/dates: 1st Warning letter issued 25 October 2017 to the lessee requesting that they either remove the fencing or obtain development approval. Inspection of the property has been conducted.

Attachments/points of consideration/purpose:



O'Malley Precinct
code.obr



Bulwarra
O'Malley.obr



20171207 - FW_NCA
input re Parking and c



20171207 - FW_
Roads ACT Parking Is:



20171019 - RIO
O'Malley.obr

Date of recommendation:

RAC Chair:

RAC Members:

RAC Attendees:

Recorded by:

Discussion and recommendation of the Committee: Agreed / Noted /Disagreed

The Committee

12/12/2017 11.26 PM

Sch 2.2(a)(ii)

I am writing as a neighbour to a property at 12 and 16 Bulwarra Close O'Malley.

I purchased Sch 2.2(a)(ii) Bulwarra close O'Malley in Sch 2.2(a)(ii) and noted the presence of the UAE embassy at number 12 Bulwarra close and the Kuwait Cultural Office at number 16 Bulwarra close O'Malley.

More than 3 years later I note they are still occupying these premises.

They are occupying residential buildings and from what I know as a neighbour and property manager, the UAE Embassy has occupied number 12 for more than 12 years and the Kuwait Cultural Office for more than 8 years. Apparently both premises are leased as residential and yet they are conducting businesses at the properties and in Breach of the use of the Crown lease.

They have been in the properties in excess of the allowed time of 3 years.

In addition we have seen our streetscape change with in excess of 20 cars parked in the street everyday, a 2.5 metre steel spiked illegal fence be constructed both in front of the building and on neighbouring boundaries.

A tent, which has been powered has been set up in the grounds, this was originally for Ramadan in 2015, but 2.5 years later it is still there.

There is a security guard box at the front of the property.

The guards litter in the street, told my son he was not allowed to ride his skate board in front of the embassy as it was disrespectful.

We have no footpaths and the guards yell at us if we walk on the grass in front of the embassy at number 12.

The permanent residents and owners in the street have met with the owner's son for 12 Bulwarra close and he refuses to remove the fences nor guard box. He has never asked for permission from DFAT to have an embassy located at this location.

Our residential street has turned into a compound. In a street with 14 properties we have 7 embassies/cultural offices. Please do something about this immediately.

These are two blatant examples of breach of the use of residential land/crown lease.

From: Alford, Robert
Sent: Tuesday, 12 December 2017 9:54 AM
To: Apps, Peter
Subject: FW: 12 DECEMBER 2017 COMPLAINT: 1. BREACH OF PRIVACY - SECURITY CAMERA
2. BREACH OF... [Incident: 171212-000010] [SEC=UNCLASSIFIED]

Hi Pete

For filing in objective.

Bob

From: Sch 2.2(a)(ii)
Sent: Tuesday, 12 December 2017 9:23 AM
To: ^{Sch 2 s2(a)(ii)} Alford, Robert <Robert.Alford@act.gov.au>; Paunovic, Slobodan
<Slobodan.Paunovic@act.gov.au>
Subject: Fwd: 12 DECEMBER 2017 COMPLAINT: 1. BREACH OF PRIVACY - SECURITY CAMERA 2. BREACH OF...
[Incident: 171212-000010]

Hi ^{Sch 2 s2(a)(ii)},

Thank you for your advice yesterday and confirmation that DFAT has been made aware of the issues occurring in Bulwarra Close.

We welcome news that DFAT has clarified the (3 year rule issue) and has confirmed that Chanceries set up on ACT Government land must re-apply for permission to continue to operate in the same location, (after the initial 3 year period has elapsed) and that this hasn't happened in the case of the UAE. We look forward to receiving advice from DFAT who have sought clarification from ACT Leasing.

As suggested, I have now lodged a formal complaint (171212-000010) regarding the breaches of our privacy via the ACT Government portal. We note that the AFP and DFAT have been informed of our privacy concerns and we await their response in due course.

Thank you for your continuing assistance with these matters.

Regards,
Sch 2.2(a)(ii)

----- Forwarded message -----

From: **Access Canberra Customer Services** <accesscanberra@act.gov.au>

Date: 12 December 2017 at 06:27

Subject: 12 DECEMBER 2017 COMPLAINT: 1. BREACH OF PRIVACY - SECURITY CAMERA 2. BREACH OF... [Incident: 171212-000010]

To: **Sch 2.2(a)(ii)**

You recently contacted the ACT Government and an enquiry has been submitted. Below is a summary of your correspondence.

Subject

12 DECEMBER 2017 COMPLAINT: 1. BREACH OF PRIVACY - SECURITY CAMERA 2. BREACH OF...

Correspondence

Auto-Response By (Administrator) (12/12/2017 06.27 AM)

Thank you for your correspondence which has been received and referred to the relevant ACT Government business unit.

If you have requested a response you should expect to be contacted within 10 working days.

Your reference number is: #171212-000010

Customer By CSS Web **Sch 2.2(a)(ii)** (12/12/2017 06.27 AM)

12 DECEMBER 2017

COMPLAINT: 1. BREACH OF PRIVACY - SECURITY CAMERA 2. BREACH OF CROWN LEASE PROVISIONS

This complaint arises from the conduct of the tenant (UAE Embassy) who have installed three security cameras on the rear of the dwelling they occupy at 12 Bulwarra Close, O'Malley. Two of the security cameras face into our front yard. We own and reside **Sch 2 s2(a)(ii)** at ^{Sch 2.2(a)}Bulwarra Close which at the rear of 12 Bulwarra Close. This property's Crown Lease states that the property is to be used for residential purposes. Please find attached a copy for your info.

The cameras have been erected without any consultation with us and they look directly into our front yard. Our privacy and that of our friends and family are being impinged upon.

For your information this is another issue in a series of complaints which are ongoing and are the subject of current action by ACTPLA for breaches relating to unapproved structures at 12 Bulwarra Close. You also need to be aware that there is currently an active complaint raised by another home owner and other long term concerned owners with the ACT Transport team regarding the daily illegal parking and dangerous traffic conditions occurring in Bulwarra Close.

There are also formal complaints regarding rubbish being routinely thrown onto the Street.

As Bulwarra Close is zoned for residential purposes, the UAE Embassy has occupied the property for more than 10 years (way past the DFAT maximum 3 year rule). They are conducting commercial activities that are having a negative impact on all of Bulwarra Close. DFAT is aware of the issues and is investigating UAE's compliance.

I would suggest that if the Crown Lease provisions were enforced, the ongoing formal complaints by the residents of Bulwarra Close, would cease to exist.

Additional Details

Reference #: 171212-000010

Date Created: 12/12/2017 06.27 AM

Status: Unresolved

Category: Construction/Licensing Complaints

Type of Correspondence: Complaint

Incident Address: 14 Bulwarra Cl, O'Malley ACT 2606, Australia

Your Details

First Name: Sch 2.2(a)(i)

Last Name: Sch 2.2(a)(i)

Email Address: Sch 2.2(a)(ii)

Phone Number: Sch 2.2(a)(ii)

You can [update or track your correspondence](#) on our website.

From: Apps, Peter
Sent: Monday, 26 February 2018 11:33 AM
To: Middlemiss, David
Subject: RE: Fence Dispute - 12 Bulwarra Close, O'Malley [SEC=UNCLASSIFIED]

Hi Dave

I have advised the complainants that a DA has been submitted and that it is still going through the assessment process and will be advised accordingly when the notification will commence for them to make comments. DA area have advised me that they are waiting on further information from the applicant relating to a survey report and more detailed plans for the fence and pergola.

cheers

Peter Apps | Building & Compliance Inspector | Enforcement Unit
Phone 02 6207 7898 | Mobile 0466 471209 * Email peter.apps@act.gov.au
Construction, Environment and Workplace Protection | Access Canberra | ACT Government
Dame Pattie Menzies House, Challis Street, Dickson
GPO Box 158 Canberra ACT 2601 | www.act.gov.au/accesscbr

From: Middlemiss, David
Sent: Monday, 26 February 2018 11:10 AM
To: Apps, Peter <peter.apps@act.gov.au>
Cc: Corrigan, Megan <Megan.Corrigan@act.gov.au>
Subject: FW: Fence Dispute - 12 Bulwarra Close, O'Malley [SEC=UNCLASSIFIED]
Importance: High

Hi Peter, in light of recent activity (and your email from Friday with the Canberra Times article), can you check progress on the DA with planning, expected timings and contact the complainants identified below, then mark in CRM the recent contact details.

Thanks, Dave.

From: Alford, Robert
Sent: Friday, 23 February 2018 12:08 PM
To: Middlemiss, David <David.Middlemiss@act.gov.au>; Zarak, Marko <Marko.Zarak@act.gov.au>
Cc: Apps, Peter <peter.apps@act.gov.au>; Gray, Jennifer <Jennifer.Gray@act.gov.au>
Subject: FW: Fence Dispute - 12 Bulwarra Close, O'Malley [SEC=UNCLASSIFIED]
Importance: High

Hi Dave and Marko

The Bulwarra Close O'Malley residents –v- UAE embassy is gaining some traction with the media. I am of the understanding that a DA has been lodged by the owner of the property. However I do not know the current status.
Peter will have some information in relation to the current status.

Can you please make contact with Ian and Debbie Errington to advise of the current status and estimated timeframes.

Happy to discuss my involvement if required however Peter has plenty of knowledge in relation to this matter.

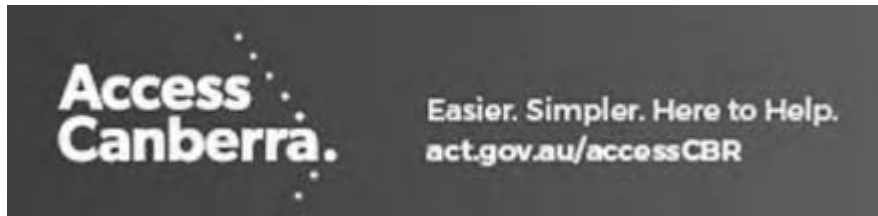
Kind Regards

Bob Alford | Senior Manager - Enforcement & Compliance

Phone: 02 6205 4261 | Mobile: 0434 85 11 39 | Email: robert.alford@act.gov.au

Access Canberra | Chief Minister Treasury and Economic Development Directorate | ACT Government (this line bold)

GPO Box 158 Canberra ACT 2601 | www.act.gov.au/accessCBR



From: Sch 2.2(a)(ii)
Sent: Friday, 23 February 2018 11:19 AM
To: Alford, Robert <Robert.Alford@act.gov.au>
Subject: Fence Dispute - 12 Bulwarra Close, O'Malley

Hi Robert,

I am writing to you with regard to the article in this morning's Canberra Times.

As you can see from this article there are now a number of other property owners who are very unhappy with the current state of affairs in Bulwarra Close.

<http://www.canberratimes.com.au/act-news/a-tall-fence-cameras-cars-everywhere-embassy-neighbours-speak-out-20180214-h0w2rm.html>

I reiterate my concern that this matter is dragging on. I would like to know what is happening at this point in time with my complaint.

I note also that my other complaints regarding the security guard post and security cameras and breaches of the Crown Lease remain unaddressed with ACTPLA. You will remember that it was you who suggested that I lodge separate complaints about these issues.

Can you please advise whether my concerns that the Crown Lease provisions are being breached, (as the property is listed for the specified purpose as a residential dwelling) have been highlighted to the relevant ACT Government Authority?

I expect to be notified, and I further expect that a copy of any DA consultations with regard to the fence at 12 Bulwarra Close be forwarded for our acting Solicitors **Sch 2.2(a)(ii)** the details of which you have already been provided with.

I seek your urgent advices.

Kind regards,
Sch 2.2(a)(ii)

From: Apps, Peter
Sent: Wednesday, 7 March 2018 4:18 PM
To: Sch 2.2(a)(ii)
Subject: RE: UAE Embassy location in residential street [SEC=UNCLASSIFIED]
Attachments: 20180307154532525.pdf

Hi Ian

Please find attached a copy of the Precinct map and code for O'Malley. As you will see the shaded area is where chancellery and diplomatic residences can be located within the primary zone outside of this they would require special approval to do so.

I trust this information answers you're query.

Regards

Peter Apps | Building & Compliance Inspector | Enforcement Unit
Phone 02 6207 7898 | * Email peter.apps@act.gov.au
Construction, Environment and Workplace Protection | Access Canberra | ACT Government
Dame Pattie Menzies House, Challis Street, Dickson
GPO Box 158 Canberra ACT 2601 | www.act.gov.au/accesscbr

From: Sch 2.2(a)(ii)
Sent: Tuesday, 6 March 2018 6:02 PM
To: Apps, Peter <peter.apps@act.gov.au>
Subject: Re: UAE Embassy location in residential street [SEC=UNCLASSIFIED]

Dear Mr Apps,

Thank you for your advice. I remain uncertain about the use of 12 Bulwarra and 16 Bulwarra Close. I accept your definitions but can you confirm that the dwellings in Bulwarra Close are in fact within the designated embassy/diplomatic precinct? My understanding is they are not and I would appreciate your formal advice if there has been a change to this, or my understanding -- provided by the NCA -- is incorrect. This is the core issue, of course, and brings into question the Crown Lease provisions. If the embassies are outside the Diplomatic zone and operating in the Residential zone then they should be curtailed, and they should be directed to conform to the use of these as Residential dwellings. Moreover, any negative impact they have had on the residents in that zone should be rectified to meet the standards set out in the appropriate legislation.

Thank you again for your attention to this issue. Unfortunately, the longer it takes to get clarity around the key issues, the more frustrated everyone will become. I remain concerned about the retrospectivity of the DA currently under review by your department. Your earliest advice in this regard will be very much appreciated.

Regards,
Sch 2.2(a)(ii)

Regards,

Sch 2.2(a)

Sch 2.2(a)(ii)

On 6 March 2018 at 15:13, Apps, Peter <peter.apps@act.gov.au> wrote:

Dear Sch 2.2(a)(ii)

Please be advised that Robert Alford is no longer the senior manager of the Enforcement Unit. The Enforcement Unit now falls under the management of the Construction Occupations Registrar, Construction Compliance and the senior manager is David Middlemiss.

In relation to other issues you have raised please be advised that a decision on the DA is still pending and you will be notified accordingly.

As for the non-compliance to the Crown lease I have obtained advice from the leasing area of EPSDD that the area in which all embassies are located is defined as being for the use of embassy and chancellery which is permitted under the Territory Plan O'Malley precinct code.

Under the definitions of the Territory Plan

Chancellery means an *office* attached to an embassy, high commission, consulate, legation or *diplomatic residence* which is

specifically for diplomatic use, which is non-retail commercial use.

Diplomatic residence means a dwelling specifically for the residential use of diplomatic staff of an embassy, a high commission, a legation or a consulate.

As for the terms an embassy can occupy or operate from a residence is not written under ACT legislation.

I trust this information is of assistance for you.

Regards

Peter Apps | Building & Compliance Inspector | Enforcement Unit
Phone 02 6207 7898 | Email peter.apps@act.gov.au

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

Dame Pattie Menzies House, Challis Street, Dickson

GPO Box 158 Canberra ACT 2601 | www.act.gov.au/accesscbr

From: Sch 2.2(a)(ii)
Sent: Monday, 5 March 2018 10:54 PM
To: Apps, Peter <peter.apps@act.gov.au>; Alford, Robert <Robert.Alford@act.gov.au>; Develin, Liam <Liam.Develin@parliament.act.gov.au>; Sch 2.2(a)(ii)
Subject: UAE Embassy location in residential street

Dear Mr Alford and Mr Apps

I am writing to find out what is being done further to numerous complaints you have received from residents of Bulwarra Close regarding the breaches of the crown lease that are occurring from the continued leasing of properties to the UAE embassy and the Kuwait cultural office at 12 and 16 Bulwarra close. We have been on the front page of the Canberra Times, we have emailed you and lodged complaints on the Access Canberra website and we have received very little response and the respinses we have received have been extremely condescending. The fact you are considering a restrospective DA from the current owners is atrocious and in breach of the crown lease. Reminder as you seem to forget the crucial part of these complaints is the breach of crown lease legislation. The residents of O'Malley are rallying and we

have decided, given your lack of attention, we will be taking this matter to ACAT, ACT government and Parliament. When a:

- * residential lease breaches the crown lease and is rented as a commercial building without the owner declaring a residential building is being used as a commercial building and paying the applicable rates and taxes; and
- * an embassy has exceeded their allowable DFAT 3 year residential lease;
- * when the owner's son has stated there is only one security camera at the property and we have photos proving there are more;
- * when the property has an illegal height unapproved fence, with no prior DA application nor consultation with the neighbours; just installing the fence and hoping no one will say anything!;
- * when the property has an illegal security guard box, with security guards who verbally attack the neighbours and children in the street;
- * as per your rulings on the access canberra website, which i hereby attach, failure to comply with a lease condition and undertaking development without approval or in a manner contrary to conditions of a DA.

The owners of number 12 Bulwarra have continued to develop on the property without any approval or consultation with the neighbours, for you to consider a retrospective DA when there are breaches of the crown lease would be illegal. We look forward to a timely response from you before we take this to ACAT, Julie Bishop and other Judicial systems.

We must stop property owners throughout Canberra from doing whatever they wish and breaching crown lease and getting away with it.

Regards

Sch 2.2(a)(ii)

[Home](#)[Pay online](#)[Fix my Street](#)[Your a](#)[Penalties](#)[Actions to comply](#)[Related resources](#)[Contact options](#)

Overview

Conducting a controlled activity can result in the making of a controlled activity order requiring cessation and remedying of the controlled activity.

Access Canberra, on its own initiative or as a result of a complaint or application, can issue a controlled activity order.

Controlled activities include:

- failure to comply with a lease condition;
- failure to keep leasehold clean;
- undertaking development without required development approval or in a manner contrary to the conditions of a development approval;
- having a building or structure that was constructed without approval required by Chapter 7 of the *Planning and Development Act 2007* (the Act);
- using unleased Territory land in a way that is not authorised by a licence under the Act or permit under the *Public Unleased Land Act 2013*;
- managing land in a rural lease other than in accordance with the land management agreement;
- failure to enter into a land management agreement as required under section 286 of the Act.

A controlled activity order may be issued to require a person to cease a controlled activity or to remedy damage done by a controlled activity.

A controlled activity order can be directed to one or more of the following:

- a lessee or occupier of a place and/or
- anyone by whom or on whose behalf a controlled activity was, is being, or is to be, conducted.

[Next section](#)

Updated 15/08/2018

Was this answer helpful?

Yes

No

Published Answers

- Complying with residential land use conditions

Sent from my iPad

Begin forwarded message:

From: Sch 2.2(a)(ii)
Date: 15 février 2018 17:12:44 UTC+11
To: "liam.develin@act.gov.au" <liam.develin@act.gov.au>
Subject: Fwd: UAE Embassy location in residential street [DLM=For-Official-Use-Only]

Sent from my iPad

Begin forwarded message:

From: "Alford, Robert" <Robert.Alford@act.gov.au>
Date: 6 février 2018 08:22:35 UTC+11
To: Sch 2.2(a)(ii)
Cc: Sch 2.2(a)(ii)
Sch 2.2(a)(ii) "Middlemiss, David"
<David.Middlemiss@act.gov.au>, "Apps, Peter" <peter.apps@act.gov.au>
Subject: RE: UAE Embassy location in residential street [DLM=For-Official-Use-Only]

Dear Sch 2.2(a)(ii)

I have recently changed roles in Access Canberra.

However the new Manager taking over for the interim until the position is backfilled is Deputy Director David Middlemiss.

I will ensure David is provided a full handover of the situation and the problems experienced by all the residents in Bulwarra Close.

Peter Apps still remains the case officer with David now overseeing the matter as manager.

Kind Regards

Bob Alford | Senior Manager - Enforcement & Compliance

Phone: 02 6205 4261 | **Sch 2.2(a)(ii)** | Email: robert.alford@act.gov.au

Access Canberra | Chief Minister Treasury and Economic Development Directorate | ACT Government (this line bold)

GPO Box 158 Canberra ACT 2601 | www.act.gov.au/accessCBR

From: **Sch 2.2(a)(ii)**
Sent: Monday, 5 February 2018 10:45 PM
To: Alford, Robert <Robert.Alford@act.gov.au>
Cc: **Sch 2.2(a)(ii)**
Subject: Fwd: UAE Embassy location in residential street [DLM=For-Official-Use-Only]

Dear Mr Alford

I am forwarding an email I sent in reply to **Sch 2.2(a)(ii)** email. We, the residents, of Bulwarra close invite you to please come out and meet us to see how this breach of crown leases are impacting on our lives.

This morning I sat in the street and counted 43 cars which arrived and parked on either Bulwarra close or parked on land at the Kuwait Cultural office. I counted more than 25 people/employees enter the UAE embassy and seven delivery cars/vans arrived and blocked the street.

Last night I walked down the road and there was no rubbish, this evening I walked around the block and picked up 7 plastic bottles disposed of in the gutter in front of the Embassy by embassy staff. There is no respect given to us as residents and I am certain we would be fined if we behaved the same way in their country.

Please call me to arrange a meeting with the owners of residential buildings in the street and see what this residential house and street have turned into.

I hope to hear from you soon

Regards

Sch 2.2(a)(ii)

Sent from my iPad

Begin forwarded message:

From: Sch 2.2(a)(ii)
Date: 31 janvier 2018 22:05:51 UTC+11
To: Sch 2.2(a)(ii)
Subject: Re: UAE Embassy location in residential street
[DLM=For-Official-Use-Only]

Dear Mr Sch 2.2(a)(ii)

Thank you very much for your reply. The residents in the street would dearly love to believe the UAE Embassy are planning to relocate and secure new accommodation elsewhere, however, the recent illegal additions to the building lead us to believe otherwise.

** There has been the installation of an air conditioner at the security box (illegal structure for a residential building and not approved by the ACT government.

** the installation of a generator which powers away 24/7 even when the building is empty of the 20+ workers who arrive daily, however, has been installed at a residential building and can be heard by the neighbouring properties. This was installed about 7-14 days ago.

** the installation of additional security cameras around the back of the building, installed in the last 8 weeks and face onto the battle axe property behind. With the planning to install another 50 security cameras according to a former employee, the plans of which are sitting with the ambassador.

** the flood lights which are rigged up on balconies with extension cables which can be seen from neighbouring properties and are on from dusk til dawn. In addition when neighbouring properties make noise in our gardens late at night the security guards patrol the grounds and point torches into our properties. When we walk in the street at night the guards come out of the box and watch us and tell us to get off the reserve in front of the UAE embassy.

On top of this we have to endure :

20-25 cars parked in our residential street on a daily basis;

Driveways being blocked by workers at the residential building;

15-20 delivery trucks and vans coming to the property to make deliveries and blocking the street, as delivery persons are not allowed to enter the property;

The illegal front and side boundary fences, which the embassy, owner and security guards have told us have been approved by DFAT;

The security guards who tell our children not to ride their bikes or skateboards on the residential street in front of the embassy as it is incredibly disrespectful;

The sounds of the twenty rubbish bins and hoppers being collected 3-4 times per week.

The main issue is we need to ensure no residential leases are renewed as they are breaching the rules of the crown lease and rules according to DFAT that embassies are to remain in residential buildings for 3 years, with extensions to be made upon approval by DFAT. The UAE embassy has been conducting a business in a residential building for 11-12 years. The UAE embassy were given three blocks of land in Culgoa Circuit more than 7 years ago. During a recent street meeting with all of the residents of Bulwarra close, the UAE embassy, NCA, ACT government (December 2017) I asked the embassy delegate if they had plans to build on Culgoa circuit blocks and the answer was we have no plans and do not wish to.

We, the residents of Bulwarra close, implore on DFAT to insist the UAE can no longer extend their lease and must vacate the premises at the end of their lease. Please give us back our residential street.

We have the support of all of the residents and land owners in the street and everyone is passionate about the street and the deterioration of the street over the past 2 years. Some of our land owners have been residents in the street for 20-30 years

of age and are very distressed about what is going on. We are not giving up.

Regards

Sch 2.2(a)(ii) on behalf of residents and owners of properties in Bulwarra close

Sent from my iPad

On 31 janv. 2018, at 10:59, Sch 2.2(a)(ii)
Sch 2.2(a)(ii)

For-Official-Use-Only

Dear Sch 2.2(a)(ii)

Thank you for your message.

We note the concerns you are expressing about the neighboring UAE Embassy.

We understand that the Embassy is now undertaking active efforts to secure new accommodation elsewhere. This is likely to lead to a change in the situation soon.

Please note also that the ACT Environment, Planning and Sustainable Development Directorate has responsibility for residential land in O'Malley.

Kind regards,

Sch 2.2(a)(ii)

Out of Scope

-----Original Message-----

From: Sch 2.2(a)(ii)
[REDACTED]

Sent: Tuesday, 30 January 2018 6:36 PM

Sch 2.2(a)(ii)

Subject: UAE Embassy location in residential street

Dear sir

I am writing as a neighbour to a property at 12 and 16 Bulwarra Close O'Malley. I purchased number ^{Sch 2} [REDACTED] Bulwarra close O'Malley in 2014 and noted the presence of the UAE embassy at number 12 Bulwarra close and the Kuwait Cultural Office at number 16 Bulwarra close O'Malley. More than 3 years later I note they

are still occupying these premises. They are occupying residential buildings and from what I know as a neighbour and property manager, the UAE Embassy has occupied number 12 for more than 12 years and the Kuwait Cultural Office for more than 8 years. Apparently both premises are leased as residential and yet they are conducting businesses at the properties and in Breach of the use of the Crown lease. They have been in the properties in excess of the allowed time of 3 years.

In addition we have seen our streetscape change with in excess of 20 cars parked in the street everyday, a 2.5 metre steel spiked illegal fence has been constructed both in front of the building and on neighbouring boundaries. There is a security guard box at the front of the property. The guards litter in the street, told my son he was not allowed to ride his skate board in front of the embassy as it was disrespectful. We have no footpaths and the guards yell at us if we walk on the grass in front of the embassy at number 12. The permanent residents and owners in the street have met with the owner's son for 12 Bulwarra close and he refuses to remove the fences nor guard box. Our residential street has turned into a compound. In a street with 14 properties we have 7 embassies/cultural offices. Please do something about this immediately. These are blatant examples of breach of the use of residential land/crown lease.

The UAE has been allocated 3 blocks on Culgoa and yet more than 7 de years later have still not commenced building. Another breach of rules when they are supposed to commence building within 18 months.

Even according to your website you expect foreign officials and their dependants, missions, posts and offices to respect Australian laws and regulations. This is not being done in O.Malley, please could we have some response.

Regards

Sch 2.2(a)(ii) on behalf of residents of
Bulwarra close O'Malley

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: Borrett, Samantha
Sent: Monday, 19 March 2018 1:24 PM
To: Apps, Peter
Cc: Tetley, Glenys
Subject: PLEASE CALL - **Sch 2 s2(a)(ii)** complaint 171212-000010 and 170710-000422
[SEC=UNCLASSIFIED]

Importance: High

Good afternoon Peter,

Sch 2.2(a)(ii) called chasing up her two complaints for 12 Bulwurra Close O'Malley, I believe these are assigned to you.

Are either you or Glenys able to call her and discuss her complaints, I spoke to her for over an hour on Thursday last week and she wants an officer to call her back as she feels her complaint has not been completed to her satisfaction.

Her contact number **Sch 2.2(a)(ii)**, are you able to confirm once you have called so I can close off my job?

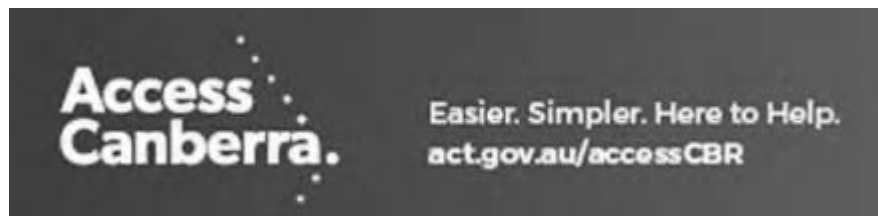
Kind Regards,

Samantha | Supervisor - Customer Coordination

Phone: 02 6207 **Sch 2.2(a)(ii)** | Email: epdcustomerservices@act.gov.au

Access Canberra | Chief Minister Treasury and Economic Development Directorate | ACT Government

16 Challis Street Dickson, ACT 2601 | GPO Box 158 Canberra ACT 2601 | www.act.gov.au/accessCBR



From: Apps, Peter
Sent: Tuesday, 20 March 2018 1:08 PM
To: Sch 2.2(a)(ii)
Subject: Re: UAE Embassy location in residential street [SEC=UNCLASSIFIED]

Dear Sch 2.2(a)(ii)

Please answers belong to your questions.

Regards Peter

Sent from my iPad

On 7 Mar 2018, at 4:39 pm, Sch 2.2(a)(ii) wrote:

Dear Peter,

Thanks for the advice, but I remain unclear still. This zoning is different to the NCA's map and advice. Also, what approvals to cover the for MT1 developments have been given? I don't recall any consultation in this regard since the effective date of the map and regulations you sent.

What is annoying is that we can't get a straight answer. You should be able to advise me as a tax- and rate-payer exactly what the situation is in relation to the formal concerns I have raised with your office. I accept your processes take time, but these issues have had more than a reasonable amount of time to be resolved and I think I've been appropriately patient. However, I would like some straight answers and references to the issues raised:

- Is the fence height along my boundary within legal limits? If not, what will the ACT government do to rectify it and by what date?
- Is the fence height in front of 12 Bulwarra Close within legal limits? If not, what will the ACT government do to rectify it and by what date?

Boundary fences on residential blocks can be to a height of 2.3 metres without requiring approval though fences can not forward of the building to the property without development approval. As previously advised

the lessee has submitted a DA for the fence and other structures.

- Is the use of 12 Bulwarra Close as the UAE Embassy legal? If not, what will the ACT government do to rectify it and by what date?

As previously advised embassies and other associated diplomatic uses are permitted in the chancellery zone.

- Is the use of 16 Bulwarra Close as the Kuwaiti Cultural Centre legal? If not, what will the ACT government do to rectify it and by what date?

As above

- Was there any consultation conducted with residents of the subject area prior to any planning approvals to develop these sites as embassies, chanceries, or diplomatic residences? If not, what will the ACT government do to rectify it and by what date?

You will have to contact someone in EPSDD on 62071923 to best answer this.

- What is the ACT government going to do about the traffic congestion in Bulwarra Close?

Contact RoadsACT on 132281 in regards to traffic congestion.

- What consultation do you intend having with the residents of Bulwarra Close in relation to these matters?

AS previously advised the lessee has submitted a DA for the fence and other structures on the block. Once this has been finalised you will be notified accordingly for you and other residents to make comments on the proposal. If you require further information to the DA process call 62071923 and speak to technical officer.

I look forward to your response.

Regards,
Sch 2.2(a)(ii)

Regards,

Sch 2.2(a)

Sch 2.2(a)(ii)

On 7 March 2018 at 05:18, Apps, Peter <peter.apps@act.gov.au> wrote:

Hi Sch 2.2(a)

Please find attached a copy of the Precinct map and code for O'Malley. As you will see the shaded area is where chancellery and diplomatic residences can be located within the primary zone outside of this they would require special approval to do so.

I trust this information answers you're query.

Regards

Peter Apps | Building & Compliance Inspector | Enforcement Unit
Phone 02 6207 7898 | * Email peter.apps@act.gov.au

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

Dame Pattie Menzies House, Challis Street, Dickson

GPO Box 158 Canberra ACT 2601 | www.act.gov.au/accesscbr

From: Sch 2.2(a)(ii)

Sent: Tuesday, 6 March 2018 6:02 PM

To: Apps, Peter <peter.apps@act.gov.au>

Subject: Re: UAE Embassy location in residential street [SEC=UNCLASSIFIED]

Dear Mr Apps,

Thank you for your advice. I remain uncertain about the use of 12 Bulwarra and 16 Bulwarra Close. I accept your definitions but can you confirm that the dwellings in Bulwarra Close are in fact within the designated embassy/diplomatic precinct? My understanding is they are not and I would appreciate your formal advice if there has been a change to this, or my understanding -- provided by the NCA -- is incorrect. This is the core issue, of course, and brings into question the Crown Lease provisions. If the embassies are outside the Diplomatic zone and operating in the Residential zone then they should be curtailed, and they should be directed to conform to the use of these as Residential dwellings. Moreover, any negative impact they have had on the residents in that zone should be rectified to meet the standards set out in the appropriate legislation.

Thank you again for your attention to this issue. Unfortunately, the longer it takes to get clarity around the key issues, the more frustrated everyone will become. I remain concerned about the retrospectivity of the DA currently under review by your department. Your earliest advice in this regard will be very much appreciated.

Regards,

Sch 2.2(a)(ii)

Regards,

Sch 2.2(a)(ii)

Sch 2.2(a)(ii)

On 6 March 2018 at 15:13, Apps, Peter <peter.apps@act.gov.au> wrote:

Dear Sch 2.2(a)(ii)

Please be advised that Robert Alford is no longer the senior manager of the Enforcement Unit. The Enforcement Unit now falls under the management of the Construction Occupations Registrar, Construction Compliance and the senior manager is David Middlemiss.

In relation to other issues you have raised please be advised that a decision on the DA is still pending and you will be notified accordingly.

As for the non-compliance to the Crown lease I have obtained advice from the leasing area of EPSDD that the area in which all embassies are located is defined as being for the use of embassy and chancellery which is permitted under the Territory Plan O'Malley precinct code.

Under the definitions of the Territory Plan

Chancellery means an *office* attached to an embassy, high commission, consulate, legation or *diplomatic residence* which is

specifically for diplomatic use, which is non-retail commercial use.

Diplomatic residence means a dwelling specifically for the residential use of diplomatic staff of an embassy, a high commission, a legation or a consulate.

As for the terms an embassy can occupy or operate from a residence is not written under ACT legislation.

I trust this information is of assistance for you.

Regards

Peter Apps | Building & Compliance Inspector | Enforcement Unit
Phone 02 6207 7898 | Email peter.apps@act.gov.au

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

Dame Pattie Menzies House, Challis Street, Dickson

GPO Box 158 Canberra ACT 2601 | www.act.gov.au/accesscbr

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To: Apps, Peter <peter.apps@act.gov.au>; Alford, Robert <Robert.Alford@act.gov.au>; Develin, Liam <Liam.Develin@parliament.act.gov.au>; Sch 2.2(a)(ii)
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* residential lease breaches the crown lease and is rented as a commercial building without the owner declaring a residential building is being used as a commercial building and paying the applicable rates and taxes; and

* an embassy has exceeded their allowable DFAT 3 year residential lease;

* when the owner's son has stated there is only one security camera at the property and we have photos proving there are more;

* when the property has an illegal height unapproved fence, with no prior DA application nor consultation with the neighbours; just installing the fence and hoping no one will say anything!;

* when the property has an illegal security guard box, with security guards who verbally attack the neighbours and children in the street;

* as per your rulings on the access canberra website, which i hereby attach, failure to comply with a lease condition and undertaking development without approval or in a manner contrary to conditions of a DA.

The owners of number 12 Bulwarra have continued to develop on the property without any approval or consultation with the neighbours, for you to consider a retrospective DA when there are breaches of the crown lease would be illegal. We look forward to a timely response from you before we take this to ACAT, Julie Bishop and other Judicial systems.

We must stop property owners throughout Canberra from doing whatever they wish and breaching crown lease and getting away with it.

Regards

Sch 2.2(a)(ii)

<image001.png>

Sent from my iPad

Begin forwarded message:

From: **Sch 2.2(a)(ii)**
Date: 15 février 2018 17:12:44 UTC+11
To: "liam.develin@act.gov.au" <liam.develin@act.gov.au>
Subject: Fwd: UAE Embassy location in residential street [DLM=For-Official-Use-Only]

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To: Sch 2.2(a)(ii)
Cc: Sch 2.2(a)(ii)
Sch 2.2(a)(ii)
"Middlemiss, David" <David.Middlemiss@act.gov.au>,
"Apps, Peter" <peter.apps@act.gov.au>
Subject: RE: UAE Embassy location in residential street
[DLM=For-Official-Use-Only]

Dear Sch 2.2(a)(ii)

I have recently changed roles in Access Canberra.

However the new Manager taking over for the interim until the position is backfilled is Deputy Director David Middlemiss.

I will ensure David is provided a full handover of the situation and the problems experienced by all the residents in Bulwarra Close.

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Kind Regards

Bob Alford | Senior Manager - Enforcement & Compliance

Phone: 02 6205 4261 | Mobile: 0434 85 11 39 | Email:
robert.alford@act.gov.au

Access Canberra | Chief Minister Treasury and Economic Development
Directorate | ACT Government (this line bold)

GPO Box 158 Canberra ACT 2601 | www.act.gov.au/accessCBR



Planning and Development Act 2007 S425

Application for a Controlled Activity Order

The Planning and Development Act 2007 requires that the following information be kept on a public register:

- the place to which an order relates; and
- should the order be made, the directions in the order and whom the order is directed;

The name of the applicant for a controlled activity order will not be placed on the public register. However a copy of your application and any attachments will be sent to the lessee/occupier of the land on which the activity is occurring and to other appropriate Government agencies. The lessee/occupier of the land on which the activity is occurring may make submissions to Access Canberra.

Lease/Site Details *Please Print*

Block Section Suburb Unit No.

Street Address

Applicant Details *Please Print*

Surname First Name

Company Name if applicable

Postal Address

Suburb State Postcode

Phone Number Business Hours Mobile

EMAIL ADDRESS

Details of the Person/s on whom the Order is to be Directed *Please Print* Please See Attached Sheet

Surname First Name

Postal Address

Surname First Name

Postal Address

If more than two people please provide details on a separate sheet

Controlled Activity

Schedule 2 of the *Planning and Development Act 2007* provides that the following controlled activities are activities subject to order. Please tick the relevant box for the activity you wish a controlled activity order to be made.

- Failure to comply with:
 - (a) a lease; or
 - (b) if a lease is granted subject to the lessee entering into a development agreement and the lessee has entered into such an agreement – the development agreement.
- Managing land held under a rural lease other than in accordance with the land management agreement that applies to it.
- Using unleased Territory land in a way that is not authorised by a licence under the *Planning and Development Act 2007* or permit under the *Roads and Public Places Act 1937*.
- Failing to keep a leasehold clean
- Undertaking a development for which development approval is required
 - (a) without development approval; or
 - (b) other than in accordance with the development approval.
- Having a building or structure that was constructed without approval required by the *Planning and Development Act 2007*, Chapter 7 (Development Approvals).
- Failing to enter into a land management agreement as required under Section 286 of the *Planning and Development Act 2007*.

Controlled Activity Order Direction

Please See Attached

The directions below are those which the Planning and Land Authority can make. Please tick the space adjacent to the order you are seeking in relation to the activity selected in part 4.

- Not to begin a development without development approval.
- Not to carry out a development without development approval.
- To carry out a development in accordance with a condition under the development approval that approved the development.
- To demolish a building or structure, or a part of a building or structure, that has been constructed without development approval or permission required under a territory law.
- To demolish a building or structure, or a part of a building or structure, that encroaches onto, over or under unleased territory land without approval granted under a Territory law.
- To replace with an identical building or structure any Building or structure that has been demolished without development approval or permission required under a territory law.
- To clean up a leasehold and keep it clean.
- Not to undertake a controlled activity other than a development.
- If the person to whom the order is directed is bound by a land management agreement – to comply with the land management agreement.
- To apply for development approval for a building or structure, or part of a building or structure, that has been constructed without development approval.
- To restore any land, building or structure that has been altered without development approval or permission required under a territory law
- To comply with the terms of a development approval to undertake development.

Activity Description

Fully describe the activity that is occurring and why you believe the Authority should make the controlled activity order.

Please See Attached

Sch 2.2(a)(ii)

26 March 2018

Mr David Middlemiss
Acting Deputy Director
ACT Government Environment, Planning & Land
GPO Box 1908,
CANBERRA ACT 2601.
Email: David.Middlemiss@act.gov.au

Dear Mr Middlemiss

APPLICATION FOR CONTROLLED ACTIVITY ORDER

Reference:

A. Planning and Development Act 2007, A2007-24, Republication No 77 Effective 1 January 2018

I am writing to apply formally for a Controlled Activity Order relating to Block 20 Section 16 Division O'Malley – known as 12 Bulwarra Close, O'Malley.

I have previously made a formal Complaint (No. 171212-000010) about breaches of the provisions of the Crown Lease, relevant to this property, to the ACT Government via Access Canberra. However, the actions resulting from this complaint have neither rectified the original issues nor been satisfactory in explanation. Non-compliance with the Crown Lease provisions should have been identified by ACTPLA when I first raised the issues in an earlier Complaint No. 170710-000422 of 10 July 2017.

I now seek the following Orders that:

1. the Lessee cease breaching the Crown Lease at 12 Bulwarra Close, O'Malley;
2. the Lessee remove the unapproved structures (front fence, gate and security guard post); and
3. the ACT Government order that 12 Bulwarra Close, O'Malley is no longer used as commercial office accommodation.

It is requested that you, or the relevant ACT Government authority, direct to the Lessee and the tenant/occupants of 12 Bulwarra Close, O'Malley, a Controlled Activity Order under Chapter 11 of the ACT Planning and Development Act 2007 (effective 01/01/18) as follows:

Sch 2.2(a)(ii)

Sch 2.2(a)(ii)

AND TO:

The Ambassador
and the Diplomatic Mission of the United Arab Emirates
12 Bulwarra Close,
O'Malley, ACT 2606

I seek this Controlled Activity Order on the grounds that the Lessee (and their tenants/occupants) is in breach of the following Rules and Regulations:

Australian Capital Territory Planning and Development Act 2007 (Effective: 01/01/18)

- **Chapter 9, Leases & Licenses:** Part 9.2 Grants of Leases generally,
 - Section 247 - Use of land for leased purpose; and
 - Section 251(1)(a) Restrictions on dealings with certain leases.

And, further, that the Lessee (and their tenants/occupants) is likely in breach of the Rules contained in **Chapter 7, Development Approvals** Part 7.4 Developments without Approval, Sections 199 and 200 of this Act.

Also, I refer to the Department's obligations under Chapter 11, Part 11.3 Division 11.3.1 Section 350(3) of this Act. In particular, I request you issue written notice to the Lessee to show cause in relation to the breaches of the Crown Lease, and inform the tenants/occupants of 12 Bulwarra Close, O'Malley accordingly. I would request this matter be expedited and further delays avoided.

I would appreciate your immediate attention to the matters raised in this Application, and I request your formal advice as to the progress of this Application and, if necessary, prompt elevation and review and action by the appropriate senior decision maker.

Sincerely,

Sch 2.2(a)(ii)



Applicant Declaration

I/we declare that all the information given on this form and its attachments is true and correct.

If signing on behalf of a company, organisation or Government agency:-

I/we the undersigned, declare I/we have the appropriate delegation or authority to sign on behalf of the company, organisation or Government agency.

Applicant Name(s) **Sch 2.2(a)(ii)**

Applicant Signature (s) **Sch 2.2(a)(ii)**

Date **26 March 2018**

An application fee is payable at the time of lodgement. The current Fees and Charges booklet can be found on the Access Canberra website www.accesscanberra.act.gov.au

Privacy Notice

The personal information on this form is provided to Access Canberra to enable the processing of your application. The collection of personal information is authorised by the *Building Act 2004*. If all or some of the personal information is not collected Access Canberra cannot process your application. The personal information you provide may be disclosed to Australian Bureau of Statistics, ACT Revenue Office and the Taxation Office. The information may also be disclosed where authorised by law or court order, or where the Directorate reasonably believes that the use or disclosure of the information is reasonably necessary for enforcement-related activities conducted by, or on behalf of, an enforcement body. Access Canberra's Information Privacy Policy contains information about how you may access or seek to correct your personal information held by Access Canberra, and how you may complain about an alleged breach of the Territory Privacy Principles. Access Canberra Information Privacy Policy can be found at www.act.gov.au/accesscbr

Contact Details:

Access Canberra
Customer Coordination
GPO Box 158, Canberra City 2601
8 Darling Street Mitchell, ACT 2911
16 Challis Street Dickson ACT 2602
Business Hours: 8.30am to 4.30pm weekdays (excluding Public Holidays)
Phone: (02) 6207 1923 TTY: (02) 6207 2622
Email: epdcustomerservices@act.gov.au Website: www.act.gov.au/accesscbr

From: Apps, Peter
Sent: Friday, 6 April 2018 9:47 AM
To: Sch 2.2(a)(ii)
Subject: Application for Controlled Activity Order [SEC=UNCLASSIFIED]
Attachments: 2016-68.pdf

Dear Sch 2.2(a)(ii)

Please find attached the application for a Controlled Activity Order along with charges that are applicable in regards to submitting a controlled activity order. Once the order and payment has been submitted I can start the process in issuing the order against the lessee. The form and fees are a mandatory requirement under current legislation.

Orders

Application for Controlled Activity Order

Residential Zone 1.....	\$172.00
Residential Zone 2.....	\$229.00
Residential Zone 3.....	\$344.00
Residential Zone 4.....	\$459.00
Residential Zone 5.....	\$574.00
Commercial and industrial.....	\$402.00

Regards

Peter Apps | Building & Compliance Inspector | Enforcement Unit
Phone 02 6207 7898 | Mobile 0466 471209 * Email peter.apps@act.gov.au
Construction, Environment and Workplace Protection | Access Canberra | ACT Government
Dame Pattie Menzies House, Challis Street, Dickson
GPO Box 158 Canberra ACT 2601 | www.act.gov.au/accesscbr



ACT
Government

Receipt

Sch 2.2(a)(ii)

ABN: 68 367 113 536

Receipt Reference: Sch 2.2(a)(ii)

Date: 09-Apr-2018 8:36

Cashier: EE

Counter: Counter 5

Location: Access Canberra EPL

Receipt Item:	Amount
ABN: 16 479 763 216 - Controlled Activity Order Sch 2.2(a)(ii)	\$172.00
Total	\$172.00
Payment Details: Sch 2.2(a)(ii)	\$172.00

Sch 2.2(a)(ii)

From: Apps, Peter
Sent: Monday, 9 April 2018 1:54 PM
To: Sch 2.2(a)(ii)
Subject: RE: Controlled Activity Order - Block 20, Section 16 O'Malley [SEC=UNCLASSIFIED]

Dear Sch 2.2(a)(ii)

Can you please provide a copy of the receipt for the order as I will need to place it on file. Thank you

Regards

Peter Apps | Building & Compliance Inspector | Enforcement Unit
Phone 02 6207 7898 | Mobile 0466 471209 * Email peter.apps@act.gov.au
Construction, Environment and Workplace Protection | Access Canberra | ACT Government
Dame Pattie Menzies House, Challis Street, Dickson
GPO Box 158 Canberra ACT 2601 | www.act.gov.au/accesscbr

From: Sch 2.2(a)(ii)
Sent: Monday, 9 April 2018 9:46 AM
To: Corrigan, Megan <Megan.Corrigan@act.gov.au>
Subject: Controlled Activity Order - Block 20, Section 16 O'Malley

Dear Megan,

I am writing to advise that there is a typographical error in the Controlled Activity Order Application I submitted. Please note that the address for service of the Notice to Show Cause should be directed to the Lessees care of Sch 2.2(a)(ii) NOT number Sch 2.2(a)(ii)

I have now paid the requisite fee and look forward to your advice as to what the next steps are in this matter.

I look forward to hearing from you.

Kind regards,
Sch 2.2(a)(ii)



ACT
Government

Chief Minister, Treasury and
Economic Development

Sch 2.2(a)(ii)

Show Cause Notice Block 20 Section 16 — O'Malley

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

I am writing to notify you that Access Canberra (AC) has received an application for a Controlled Activity Order (CAO) in accordance with Section 350 of the *Planning and Development Act 2007* (the Act). The application for order relates to Block 20 Section 16 in the division of O'Malley (the property) in the Australian Capital Territory, comprised in Certificate of Title Volume 1106 Folio 19, and is sought to be directed against you as the lessee of the property.

Under section 350 of the Act a person may apply for a controlled activity order to be directed against another person. When a person makes this application the Act requires AC to give a Show Cause Notice (notice) to each person whom the controlled activity order is sought to be directed. Under the Act AC must investigate the allegations made by the applicant for the CAO and consider any reasons given by the respondent to the notice.

A CAO, if issued, may direct a lessee to undertake certain functions in order to bring their land, or buildings contained within their property, into compliance with the Act.

Controlled activity to which this notice relates

This notice relates to the a controlled activity prescribed under schedule 2 of the Act, referenced at Schedule 2, Item 3 of the Act, which is undertaking a development for which development approval is required.

Background

1. On 10 July 2017 complaint lodged in relation to a security fence having been constructed around the perimeter of the subject block along with other unapproved structures.
2. On dates from 11 July 2017 until 26 July 2017 the complainant submits further information and photos to Access Canberra Complaints Management Team (CMT).

3. On 19 October 2017 an inspection of the property was conducted. A copy of this inspection report is at **Attachment A**.
4. On 25 October 2017 a first warning letter was issued to you as the lessee requesting they seek development approval for the fence and other unapproved structures or have them removed from the property. A copy of this letter is at **Attachment B**.
5. On 6 April 2018, AC received an application for a Controlled Activity Order (CAO) from **Sch 2.2(a)(ii)** (Applicant).
6. The application for the order is at **Attachment C**.

Persons to whom the order would be directed

If made, the order would be directed to you as the lessee and registered proprietor of the crown lease of the land.

Directions

7. You may, not later than 10 working days after the day this notice is given, give AC written reasons explaining why an order should not be made against you.
8. A written response must be sent to AC at GPO Box 158 Canberra City ACT 2601 or via email to accesscanberracmt@act.gov.au.
9. AC will consider any written reasons given by you before making a decision to make the order in relation to a controlled activity mentioned in this show cause notice or to not to make the order mentioned in this show cause notice.
10. Under section 354 of the Act, if a decision is not made within 20 working days by AC (after the end of the 10 working day period given to the respondent by the notice) then the order is taken to not be made. However, this does not prevent AC from giving a further show cause notice in relation to the controlled activity identified in this notice.
11. AC will consider any written reasons given by each person to whom an order would be directed, before making a decision to
 - a) make an order of the kind sought; or
 - b) make an order (including a different kind of order) that is not more burdensome than the order sought; or
 - c) not to make the order.
12. Under section 351 of the Act, AC is taken to have refused to make the order applied for under section 350, if a decision is not made 20 working days after the end of the 10 working day period within which the lessee may give AC written reasons under

the PDA. However, this does not prevent AC from issuing a show cause notice on its own initiative in relation to the controlled activity identified in this notice.

Should you require any further information in relation to this matter please contact Peter Apps via email at peter.apps@act.gov.au or on telephone 6207 7898.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Daniel Curtin', with a long horizontal line extending to the right.

Daniel Curtin
Delegate
Access Canberra
11 May 2018

Attachment A: Copy of the inspection report dated 19 October 2017

Attachment B: Copy of the warning letter issued to lessee dated 25 October 2017

Attachment C: Copy of the application for Controlled Activity Order dated 6 April 2018



ACT
Government

**Access
Canberra.**

NOTICE OF DECISION - CONTROLLED ACTIVITY ORDER
SECTION 350 PLANNING AND DEVELOPMENT ACT 2007

BLOCK/SECTION: block 20/section 16	SUBURB: O'Malley
LESSEE: Sch 2.2(a)(ii)	
DATE OF APPLICATION: 9 April 2018	
DATE OF DECISION: 25 June 2018	
APPLICANT NAME: Sch 2.2(a)(ii)	

THE DECISION

I, Reuben Gaze, Delegate of the Planning and Land Authority, have determined that pursuant to section 351(4) of the *Planning and Development Act 2007* (the Act), the Planning and Land Authority is taken to have refused not to make the Controlled Activity Order.

PART 1 sets out the facts and the reasons for the decision

PART 2 Part 3 contains administrative information relating to the decision

DELEGATE

Reuben Gaze
Delegate of the Planning and Land Authority
Access Canberra

CONTACT OFFICER

Peter Apps
Phone: (02) 6207 8096
Email: peter.apps@act.gov.au

FACTS

1. On 10 July 2017, **Sch 2.2(a)(ii)** lodged a complaint with Access Canberra regarding consular activities and associated structures at block 20 section 16 O'Malley, being 12 Bulwarra Close (the premises). The complaint related to a security fence being erected around the premises along with other unapproved structures.
2. **Sch 2.2(a)(ii)** is the Lessee of the premises and has subleased the premises to United Arab Emirates (UAE) for approximately 15 years. The UAE uses the property as their embassy in Australia.
3. On 19 October 2017, Mr Peter Apps, Planning Inspector appointed under section 387 of the Act, conducted an inspection of the premises from public land and observed that the frontage had been fully enclosed by a metal transparent type fence, and that a small enclosed structure (guard box) had been erected next to the driveway in the front yard. Signage located at the front of the property indicates the property is the location of the Embassy of the United Arab Emirates Consular Section.

A copy of that record of inspection, with photographs, is at **Annexure A**.

4. On 25 October 2018, Mr Apps wrote to the lessee, **Sch 2.2(a)(ii)**, alleging that having the fence around and forward of the building line is a controlled activity under the Act, and requested either a development approval be obtained for the structure or the structure be removed.

A copy of the letter from Mr Apps is at **Annexure B**.

5. On 13 December 2017, the Lessee lodged development application DA-201733142 for purposed fencing with gate, security office and pergola. This development application is currently available on the public register.

A copy of the development application and associated plans are at **Annexure C**.

6. On 9 April 2018, **Sch 2.2(a)(ii)** lodged an application for a controlled activity order under section 350 of the Act in relation to block 20 section 16 O'Malley.

Sch 2.2(a)(ii) sought an order that:

1. the Lessee cease breaching the Crown Lease at 12 Bulwarra Close, O'Malley;
2. the Lessee remove the unapproved structures (front fence, gate and security guard post); and
3. the ACT Government order that 12 Bulwarra Close, O'Malley is no longer used as commercial office accommodation.

A copy of the application for controlled activity order is at **Annexure D**.

7. On 11 May 2018, Mr Daniel Curtin, delegate of the Planning and Land Authority, issued a show cause notice (the notice) in relation to the controlled activity order application to the Lessee of the property under section 350 of the Act.

A copy of the notice is at **Annexure E**.

8. On 24 May 2018, Mr Sam Hosseini, Development Assessment officer of the Environment and Sustainable Development Directorate, wrote to the applicant for DA-201733142 and indicated that the application would likely be refused unless matters pertaining to the Crown lease, specifically the chancellery use, were addressed.

A copy of the crown lease is at **Annexure F**.

A copy of the email from Mr Hosseini is at **Annexure G**.

9. On 25 May 2018, King and Wood Mallesons, acting on behalf of the lessee, responded to the show cause notice. Points raised include that the fence was erected in response to a previous security breach at the embassy, and that steps were being taken by the lessee to seek approval for the structures and the use of the premises as a chancellery.

A copy of the King and Wood Mallesons response is at **Annexure H**.

10. On 29 May 2018, the lessee lodged an amendment to the development application, under section 144B of the Act, to include:

1. Addition of Lease variation to include Diplomatic and Chancellery use

A copy of the s144B application and associated plans are at **Annexure I**.

11. At the time of making this decision, DA-201733142 and its related amendment have not been decided.

REASONS

12. Under section 351 (4) of the Act:

(4) The planning and land authority is taken to have refused to make the controlled activity order applied for under section 350 if the authority fails to decide the application before the end of the period prescribed by regulation.

13. Section 301 of the *Planning and Development Regulation 2008* (P&D Regulation) states the following:

301 Period for deemed refusal of application for controlled activity order if development application approved- Act, s 351 (4)

- (1) This section applies if-
- (a) an activity is a controlled activity mentioned in the Act, schedule 2, item 1, 3 or 4; and
 - (b) a development application has been made in relation to the controlled activity within 20 working days after the day the planning and land authority gives a show cause notice under the Act, section 350 (3); and
 - (c) the development application is approved.
- (2) the period is 10 working days after the day the approval takes effect.

14. Section 302(1)(b) is in the same terms as 301(1)(b).

15. Subsection 301(1)(b) and 302(1)(b) only relate to development applications which were made within 20 working days after the day the Planning and Land Authority gives a show cause notice.

16. The development application was made on 13 December 2017. This would mean that the development application was not "made" "within" the 20 working days "after the day" the show cause notice was given.

17. This would mean that neither sections 301 or 302 of the P&D Regulation can apply.

18. For controlled activities other than an activity mentioned in ss 301 or 302, s 300 of the P&D Regulation applies (see s 300). Pursuant to s 300(2), the period for deemed refusal of

an application for a controlled activity order is 20 working days after the end of the 10-working day period within which the lessee may give the planning and land authority written reasons under the P&D Act, s 350(4)(b).

19. The show cause notice was emailed on 11 May 2018. The total of 10 working days and 20 working days means that a deemed refusal for the application occurred on **22 June 2018**. This means that under s 351(4) of the P&D Act, the Planning and Land Authority is taken to have refused to make the controlled activity order applied for by **Sch 2.2(a)(ii)** **Sch 2.2(a)(ii)** under section 350 of the P&D Act.
20. The decision to refuse to make a controlled activity order is a "reviewable decision". Given that you were not previously made aware of this deemed refusal decision, you have 28 days from the date of receiving this decision to make an application to the ACT Civil and Administrative Tribunal. Information on making such an application is at part 2 of this notice.
21. This does not prevent a delegate of the Planning and Land Authority from making a controlled activity order at their own initiative under section 353 of the *Planning and Development Act 2007*. Nor does it prevent the applicant from making a new application for controlled activity order.
22. In accordance with section 351 (4) of the *Planning and Development Act 2007*, I have decided not to make a controlled activity order at this time.

Reuben Gaze
Delegate of the Planning and Land Authority.

4 August 2018

PART 2 ADMINISTRATIVE INFORMATION

REVIEW BY THE ACT CIVIL AND ADMINISTRATIVE TRIBUNAL (ACAT)

Decisions that are reviewable by the ACAT are identified in the *Planning and Development Act 2007*.

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

REASONS

If a decision has been made and you, as the entity to whom the decision relates, have not already been given reasons for the decision, you are entitled to apply for a statement of reasons to explain why the decision was made. If you wish to obtain a full statement of reasons you must make your request within 28 days of the date of this decision. Applications should be made to the Construction Occupations Registrar, Environment and Planning Directorate, GPO Box 1908, CANBERRA ACT 2601.

CONTACT DETAILS

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

<p><u>Location:</u> ACT Civil & Administrative Tribunal 4/1 Moore Street CANBERRA CITY ACT 2601</p>
<p><u>Contact details:</u> 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</p>

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.

TIME LIMITS FOR APPLICATIONS

The time limit to make a request for a review is 28 days from receiving this Notice of decision. The time limit can be extended in some circumstances. Check with the ACAT for more details.

FEES

Applications to the ACAT, including an application to be joined as a party to a proceeding, require payment of a fee of not less than \$290 (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, ACT Department of Justice and Community Safety, GPO Box 158, CANBERRA ACT 2601. Ask the ACAT for more details.

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, ACT Department of Justice and

Community Safety, 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; and
- Welfare Rights and Legal Centre, telephone (02) 6247 2177.

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 ACT 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. 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	Ako vam je potrebna pomoć prevodioca telefoniрајте:
SPANISH	Si necesita la asistencia de un intérprete, llame al:
TURKISH	Tercümana ihtiyacınız varsa lütfen telefon ediniz:
VIETNAMESE	Nếu bạn cần một người thông-ngôn hãy gọi điện-thoại:

TRANSLATING AND INTERPRETING SERVICE
131 450
Canberra and District - 24 hours a day, seven days a week



ACT
Government

Chief Minister, Treasury and
Economic Development

Record of Inspection

Block: 20 **Section:** 16 **Division:** O'Malley

Date of Inspection: 19 October 2017

Time Inspection Commenced: 10.45 am

Time Inspection Completed: 10.45am

Did you access leased land?: No

If you accessed leased land, under what authority?: Consent to entry under Section 389(1)(b) of the Planning and Development Act , Section 131 Building Act, Section 130 Building Act

Photographic Evidence: 2

Photo No.	Photo Name	Taken From
1	Metal fence and guard box at entrance for the property	Public domain
2	Fencing along front of the block	Public domain

Purpose: Peter Apps conducted an inspection in regard to an allegation that a metal style fence has been erected around the boundary and forward of the building line on the above property without approval and not compliant to regulation.

Findings and Facts: On inspection found that there has been a metal styled security fence has been erected around the boundary of the property along with a guard box near the drive way entering the property.

Peter Apps
Inspector
Construction, Environment and Workplace Protection

19 October 2017







ACT
Government

Chief Minister, Treasury and
Economic Development

Sch 2.2(a)(ii)

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

Block 20 Section 16 O'Malley – Controlled Activity

Access Canberra Officers from Construction, Environment and Workplace Protection conducted an inspection at the above property. The inspection identified that a controlled activity under *Planning and Development Act 2007*, has/is being undertaken.

The controlled activity identified is:

Undertaking a development for which development approval is required without development approval. Specifically the construction of a metal fence around and forward of the building line of the above property.

Within **30** working days from the date of this letter you are required to:

- lodge a development application (DA) to seek approval for the structure(s) or
- remove the structure(s) from the land.

Information on how to lodge a DA is available from the Environment and Planning (EPD) website <http://www.planning.act.gov.au/home> . If you require any technical assistance you can contact a technical officer by telephone on 6207 1923 or visit the Dickson Customer Service Centre, 16 Challis Street Dickson, between 8.30am and 4.30pm Monday to Friday (excluding public holidays).

You should be aware that failing to comply with this request may result in a show cause notice and a subsequent Controlled Activity Order being issued. Failure to comply with a Controlled Activity Order is an offence and may result in a penalty. It is therefore important that you comply with this notice as a matter of priority.

If you believe you have grounds for seeking an extension of time to comply with this request or, wish to dispute this matter, you must provide your reasons to me, in writing, no later than **8 December 2017**. You should also include the estimated length of time you require in order to comply with this request.

Should you require any further information regarding this matter please contact me on telephone 6207 7898 or via email at accesscanberracmt@act.gov.au.

Yours sincerely

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

Peter Apps
Inspector
Enforcement Unit

25 October 2017

Planning and Development Act 2007

Development Application

Application Number: **201733142**

Before Starting

PLEASE NOTE: This wizard will time out if left inactive for a period of more than two hours, after which time you will lose your application and be required to complete a new wizard. It is recommended you **save** this session if it is to be left inactive for an extended period of time.

Please ensure that your screen is set to the highest resolution (e.g. 1280 by 1024 pixels) to ensure all content in the wizard is visible

Type of Application

The type of application you are applying for is a **New Application**

Are you applying for a:

Development Application

Has a pre-application meeting been held in relation to this proposal?

No

Lease/Site Details

Site Number: 1

If your rural property is identified by a Block/Section/Suburb, please select the "Urban" radio button.

Urban

Suburb

O'MALLEY

Section

16

Block Number

20

Unit Number

Street Address

O'MALLEY

Applicant Details

What type of applicant are you:

Business

ACN or ABN

115060761

Company Name

Architects Ring & Associates

Position held / Title

architect

Salutation

None

First Name

Martin

Surname

Fok

Postal Address 1

PO Box 3299

Postal Address 2

Postal Address 3

Suburb

Manuka

State/Territory

ACT

Postcode

2603

Country

Australia

Phone Number

Fax Number

Mobile Number

Email

araa@araa.com.au

Lessee (Property Owners) Details

Lessee Number: 1

Is the Lessee a:

 Standard lessee

Salutation

Mr

First Name

Sch 2.2(a)(ii)

Surname

Sch 2.2(a)(ii)

Postal Address 1

Sch 2.2(a)(ii)

Postal Address 2

Postal Address 3

Suburb

Kingston

State/Territory

Postcode

2603

Country

Phone Number

Sch 2.2(a)(ii)

Fax Number

Mobile Number

Sch 2.2(a)(ii)

Email

Sch 2.2(a)(ii)

Notice of Decision and Plans

Please specify the delivery method for the return of plans. Unless otherwise specified, your Notice of Decision and/or plans will be returned via email.

 Email

Are you applying for an *Estate Development Plan* OR *Home Business*?

No

Zone

Please specify which zone applies to this application (please select one zone only). Please click [here](#) to access ACTMAPi and locate the zone.

RZ1 Suburban zone

If more than one zone is applicable to your application, please specify them below:

Development/Precinct Code

Please specify which development code applies to this application.

Residential Zones - Single Dwelling Housing Development Code

Please specify all relevant precinct code/s applied to your proposal

Single dwelling code

Residential Boundary Fences General Code

Loose-Fill Asbestos

Is this a loose-fill asbestos affected ("Mr Fluffy") block?

No

Fully Describe Your Proposal

Please provide a full description of your proposal (Note: This must accurately describe all aspects of your proposal and include any lease changes being applied for.)

Proposed fencing with gate, security office and pergola.

Proposed Use of the Land

Describe the use of the development. **Example:** Residential purposes for a single dwelling (Note: Please refer to the Territory Plan definitions for land use definitions. Please also consider what is permitted under any Crown Lease for the site.)

Embassy of the United Arab Emirates

Is the proposed use consistent with the current Crown lease?

Yes

Assessment Track

Please indicate which assessment track applies to this Development Application: (If you are not sure which assessment track applies, please contact Environment, Planning and Sustainable Development Directorate on (02)62071923)

Merit

For more information about which track your development application will be assessed in, please click [here](#). *Please note, the Environment, Planning and Sustainable Development Directorate may refuse to accept a development application made in an incorrect assessment track. If the Environment, Planning and Sustainable Development Directorate assesses an application made in the incorrect assessment track it must refuse the application (S.114 (3)).*

Type of Development

Please indicate which type of development applies to this development application.

Single Dwelling

Single Dwelling

Please select a Single Dwelling sub type:

Other

Please specify

Proposed Fencing and pergola

Gross Floor Area (GFA) and Cost of Works

Please ensure that all values contain a decimal point followed by two digits

Gross Floor Area Calculation

A - Gross Floor Area (existing) (m²)

B - Gross Floor Area to be demolished (m²)

C - Gross Floor Area to be added (m²)

D - Total Gross Floor Area of development (A-B+C)(m²)

E - COST OF WORKS (\$)

Other Area Calculation (not already included in the areas provided above)F - Area of other BCA class 10 structures (e.g. metal garage, metal carport, pergola, deck, verandah, etc) (m²)

G - COST OF WORKS at F* (\$)

Cost of Associated Works

H - Cost of all associated work such as landscaping (\$)

I - Cost of all public works and/or off site works (\$)

J - TOTAL COST OF WORKS (E+G+H+I) (\$)

*Cost of works **MUST** be calculated in accordance with the current version of Building (General) (Cost of Building Work) Determination OR a summary of costs from a bill of quantities prepared by a quantity surveyor supplied with application. A summary of costs from a bill of quantities MAY be requested for proposals where cost of work is between \$0 and \$10 million. A summary of costs from a bill of quantities **MUST** be provided for proposals where cost of work is over \$10 million.

Demolition, Trees, Waste Management

Demolition

Is the *Demolition* item relevant to your proposal? No

Trees

"Protected tree" is defined under the Tree Protection Act 2005.

In accordance with section 148 of the Planning and Development Act 2007, where the development proposal requires groundwork within the tree protection zone of a protected tree, or is likely to cause damage to or removal of, any protected trees, the application is to be accompanied by a Tree Management Plan

For more information about urban tree protection in the ACT, please click [here](#).

Is the Trees item relevant to your proposal?

No

Waste Management

NOTE: Only relevant for single dwelling housing where the development will generate a total of 20 cubic metres or greater of demolition and/or excavation waste

Is the Waste Management item relevant to your proposal?

No

Heritage

Heritage

Is the *Heritage* item relevant to your proposal?

No

Erosion and Sediment Control

Erosion and Sediment Control (for sites less than 0.3 of a hectare)

NOTE: All new dwellings (including in established areas) require a plan that provides details of the sediment and erosion control measures including: sediment control barrier, designated cutting area and wash area, stockpiles and stabilised access point.

Is the Erosion and Sediment Control (for sites less than 0.3 of a hectare) item relevant to your proposal?

No

For works such as class 10 structures, additions and alterations, and backyard swimming pools - a note on the plan that "the development will comply with the ACT Environment Protection Authority, Environment Protection Guidelines for Construction and Land Development in the ACT" is required. In circumstances where there is a reasonable risk that soil from the required earth works in the front of the block will impact on the stormwater system because the block slopes towards the street a separate Erosion & Sediment Control Plan will be required

Erosion and Sediment Control (for sites greater than 0.3 of a hectare)

Is the Erosion and Sediment Control (for sites greater than 0.3 of a hectare) item relevant to your proposal?

No

Servicing & Site Management, Utilities

Servicing and Site Management

Utilities

Subdivision (residential zones)

Subdivision (residential zones)

Is the Subdivision (residential zones) item relevant to your proposal?

No

Utilities Requirements - ActewAGL & Stormwater

For all developments involving construction, the location and nature of earthworks, utility connections, proposed buildings, pavements and landscape features must comply with utility standards, access provisions and asset clearance zones

Does this application comply with utility standards?

No

The application cannot be accepted

*For more information on Utility Requirements and Standards, Water, Electricity, Sewerage and gas, please contact ActewAGL on Ph: 62483555 or visit their web site. For more information on Stormwater Easements, please contact Asset Acceptance via Canberra Connect on Ph: 132281 or visit their web site. **Please carefully read the applicant declaration before submitting this form***

Driveways (For works on verge only)

PLEASE NOTE: For proposals that include construction or modification of a driveway this application **MUST** be signed by the land custodian (Government Land Custodian - Asset Acceptance) as the works will be undertaken on unleased land **EXCEPT FOR DUAL OCCUPANCY DEVELOPMENT PROPOSALS**. For more information on driveways, garages and carports, please click [here](#).

Does your proposal include construction or modification of driveway/s?

No

Survey Requirements - S.139(2)(I) - P & D Act 2007

If this application is for approval of a development that requires construction work to be carried out on land that has previously been developed and is not leased for rural purposes, a survey certificate for the land where the development is to be carried out (prepared and signed by a registered surveyor) must accompany this application unless exempt by Regulation 25 of the *Planning and Development Regulations 2008*

Do you have a *survey certificate* with this application?

Yes

Development Undertaken Without Approval - S.205 - P & D Act 2007

Is this application for development undertaken without approval?

Yes

*If YES - Under Section 139(2)(m) of the Planning and Development Act 2007, plans of the development signed by a registered surveyor confirming the location and dimensions of the development **must** be submitted with this application. The plans need to confirm the height, width and length dimensions of the development and the setback dimensions of the development from the block boundaries. The information may be provided on one plan or on a series of plans provided each plan is signed by a registered surveyor. Note: For all unapproved development involving construction the location and nature of earthworks, utility connections, proposed buildings, pavements and landscape features must comply with utility standards, access provisions and asset clearance zones. For more information on development exempt from approval, please [click here](#). For more information on development applications for developments undertaken without approval, please refer to S205 under the Planning and Development Act 2007*

Proposal previously determined exempt from development approval

Is this application for development being submitted to address a situation where an exemption from development approval was granted, but the development does not accord with the exemption provisions?

No

Exclusion from Public Inspection

In accordance with the requirements of Sections 28 and 30 of the *Planning and Development Act 2007*, the Environment, Planning and Sustainable Development Directorate must make the details and associated documents relevant to a development application available for public inspection.

If you wish to apply to have all or part of this development application excluded from public inspection, you must meet the requirements of Section 411(5) or 412(1) of the Planning and Development Act 2007

Are you requesting an exclusion from *Public Inspection*?

No

Conflict of Interest Declaration

Does the applicant or the lessee have any association with the Environment, Planning and Sustainable Development Directorate staff?

No

NOTE: There are penalties for deliberately giving false and misleading information. The Planning and Land Authority or Minister may revoke an approval if satisfied that the approval was obtained by fraud or misrepresentation

Applicant/Lessee Declaration

I/we hereby apply for approval to carry out the development described on the land specified in this application;

I/we declare that this application is accompanied by all of the required information or documents that address the relevant rules and/or relevant criteria for it to be considered for approval;

I/we understand that the information submitted with this application form will undergo a documentation check prior to the payment of fees and formal lodgement of the application. Further information may be required prior to the acceptance of the development application by the Directorate;

I /we understand that this application will be considered lodged once the relevant application fees have been paid;

I/we understand that if during the assessment of this application it is found to have been submitted in the incorrect assessment track the application will be refused and I/we will not be entitled to a refund or transfer of fees;

I/we understand that the documentation provided on CD/DVD or via the electronic lodgement process will be considered to be the relevant documentation associated with this application. All development application documentation will be made available for *public inspection* including via the Internet unless exclusion has been approved;

If the time for deciding the application (prescribed period) has ended and a decision has not been reached I/we understand that the application will be deemed refused and the Environment, Planning and Sustainable Development Directorate will not provide written advice of this decision.

I/we also understand that the Environment, Planning and Sustainable Development Directorate is able to still consider the application and make a decision after the expiration of the prescribed period;

I/we hereby authorise the Environment, Planning and Sustainable Development Directorate its servants and agents to erect sign/s on the subject property(s) as required and authorise ACT Government officers to access the subject property(s) for the purpose of evaluating the proposal(including the inspection of driveways and trees);

I/we(lessee) appoint the applicant whose signature appears in the attached *letter of appointment* to act on my/our behalf in relation to this Development Application. This authorises the applicant to pay all application fees, bonds and securities, liaise with the Environment, Planning and

Sustainable Development Directorate when required, alter, amend or provide further information as necessary and receive any communications relating to this Development Application;

I/we declare that information relating to utility standards, access provisions and asset clearance zones has been sought from the relevant utility providers and this development application has been prepared in accordance with their requirements;

I understand that costs associated with the relocation of any engineering services (light poles, storm water, sumps etc) will be at my expense and that I will indemnify the ACT Government, its servants and agents against any claims arising during the relocation of these services;

I understand that construction of any driveway associated with this application may not commence until the contractor has received endorsement by the relevant government entity;

I understand that a Certificate of Design Acceptance and a Road Opening Permit and Temporary Management Plan must be obtained from the relevant government agencies prior to the start of construction works;

I/we declare that all the information given on this form and its attachments is true and complete;

If lodging on behalf of a company, organisation or Government agency: -

I/we declare I/we have the appropriate delegation or authority to sign on behalf of the company, organisation or Government agency;

I declare that I am the person shown in this eDA form as the Applicant, and by clicking the ACCEPT button below I understand that this replaces my requirement to sign a hard copy of this application.

I accept the above declarations

Accept

Acceptance date

13 Dec 2017

Before Submitting

You have almost completed the first stage of your Development Application/Pre-Application request. **PLEASE ENSURE YOUR WIZARD SESSION IS SAVED BEFORE PROCEEDING.** This will enable you to resume your session in the event of a system outage or other interruption.

When you click on Finish below, you will be navigated to a new page which will enable you to upload any associated plans/documents prior to submitting to EPSDD for review.

Development applications (DAs) can be delayed unnecessarily because EPSDD does not have all the information it needs to undertake an assessment and make a decision.

To avoid delays ensure all required sections of the wizard are answered correctly and all required

documentation is uploaded. In particular:

1. A signed appointment letter from all lessee's must be provided if works are to performed on the verge, a signed endorsement letter must be provided by the relevant Government Custodian;
2. Public register plans for residential applications are included;
3. You **MUST** include a statement against the criteria for development applications that will be assessed in the Merit track;
4. If the application is for a single unit on a unit titled block body corporate authorisation is required if there is works on a common property

If you are still not sure how to proceed or want to ensure you have everything you need for your application, you can visit the EPSDD Customer Service Centre, 16 Challis Street, Dickson, or call us on 6207 1923 and ask to speak with a technical officer.

Privacy Notice

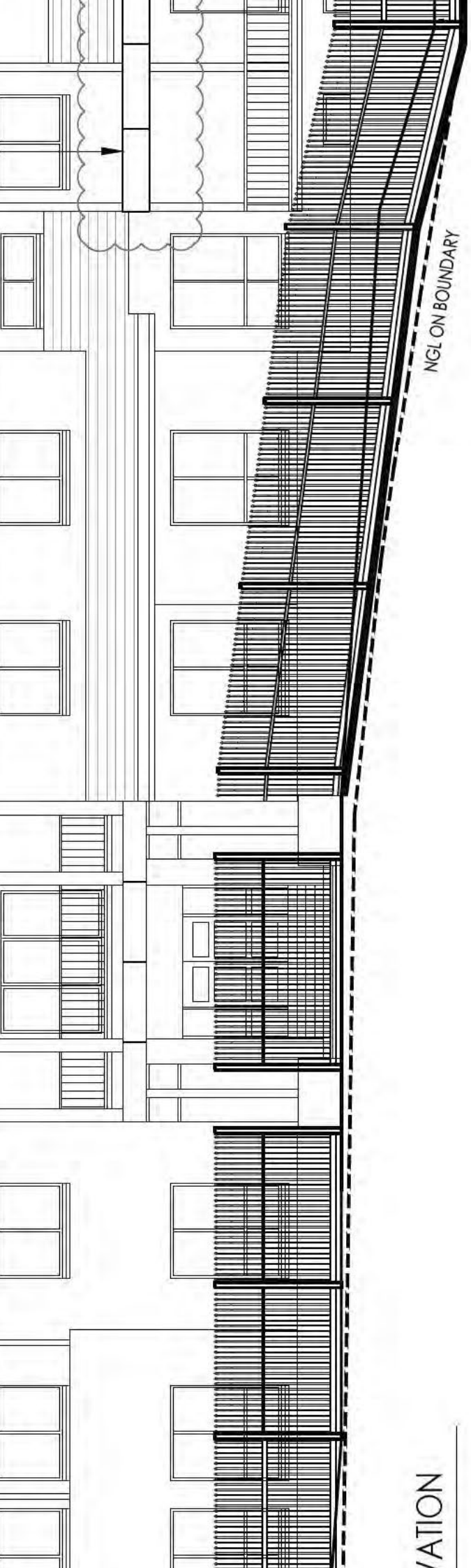
The personal information on this form is provided to the Environment, Planning and Sustainable Development Directorate (EPSDD) to enable the processing of your application. The collection of personal information is authorised by the Planning and Development Act 2007. If all or some of the personal information is not collected EPSDD cannot process your application. The Planning and Development Act 2007 requires the details of applications, decisions and orders to be kept on a register and made available for public inspection. Information and documentation relevant to a development application may be made available via the Internet. The personal information you provide may be disclosed to Australian Bureau of Statistics, ACT Revenue Office, the Registrar General's Office, ACTEW Corporation, ActewAGL, Territory and Municipal Services Directorate and other Government agencies with a direct interest in the development assessment process. The information may also be disclosed where authorised by law or court order, or where the Directorate reasonably believes that the use or disclosure of the information is reasonably necessary for enforcement-related activities conducted by, or on behalf of, an enforcement body. EPSDD's Information Privacy Policy contains information about how you may access or seek to correct your personal information held by EPSDD, and how you may complain about an alleged breach of the Territory Privacy Principles. The EPSDD Information Privacy Policy can be found at www.environment.act.gov.au

Does the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 (EPBC) affect your proposal?

The EPBC came into operation on 16 July 2000. It establishes an environmental assessment and approval system that is separate and distinct from the ACT system. It does not affect the validity of ACT development assessment and approval processes, but may affect the assessment track. The ACT cannot provide preliminary advice on whether a proposal falls within the definition of a controlled action, or requires referral to the Commonwealth. You should consult with the Commonwealth to determine if your proposal is a controlled action before seeking any approvals under the Planning and Development Act 2007. For information about the EPBC, including the referral process and when a referral should be made, contact: the Department of Sustainability, Environment, Water, Population and Communities, GPO Box 787, CANBERRA ACT 2601
Telephone: 62741111

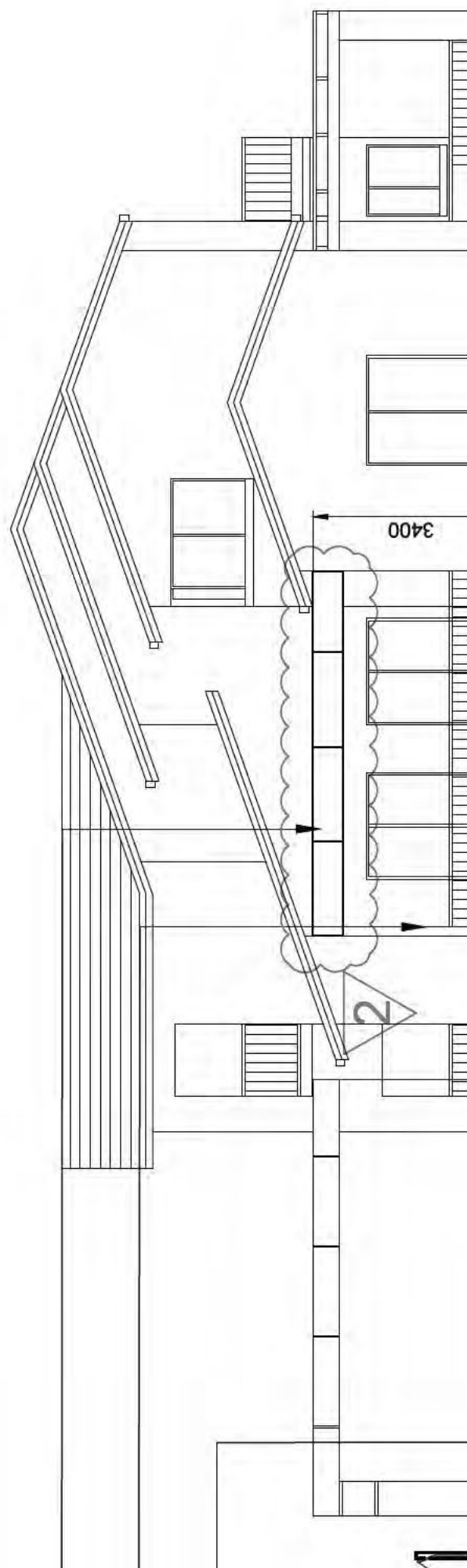
Contact Details: Environment, Planning and Sustainable Development Directorate Customer Service Centre GPO Box 158, Canberra City 2601 16 Challis Street, Dickson ACT 2602
Business Hours: 8.30am to 4.30pm weekdays (excluding Public Holidays) Phone: (02) 6207 1923

Email: epdcustomerservices@act.gov.au Website: www.environment.act.gov.au



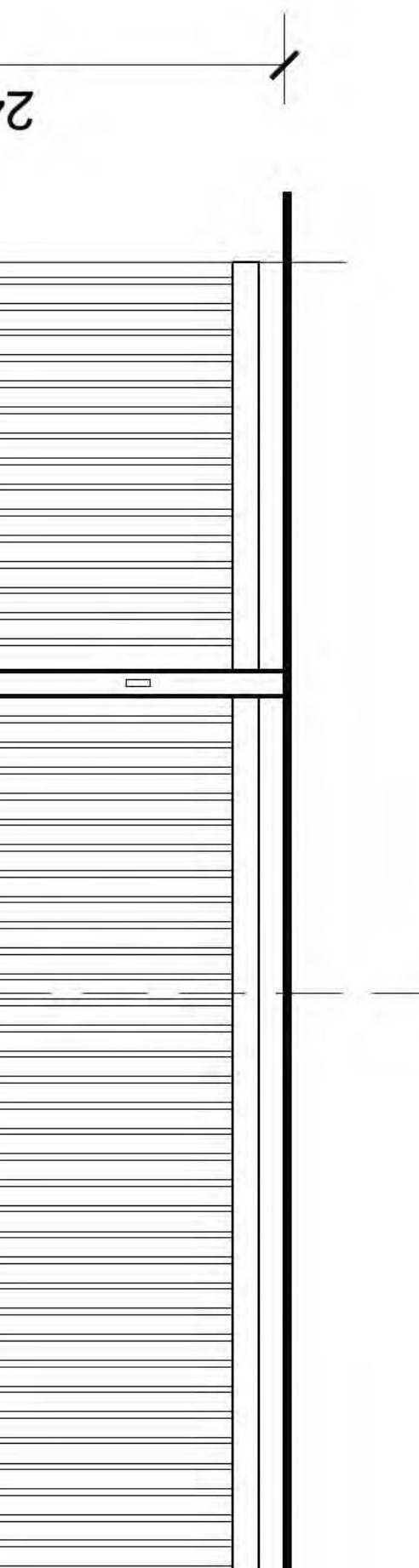
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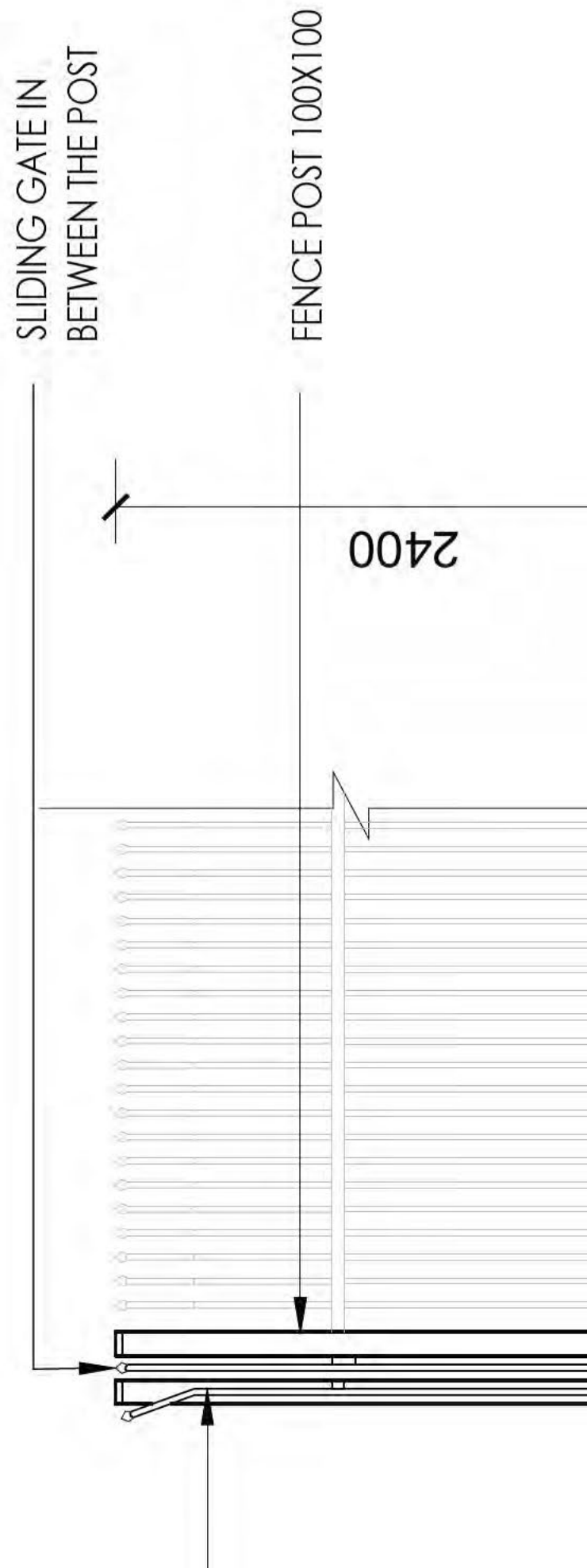
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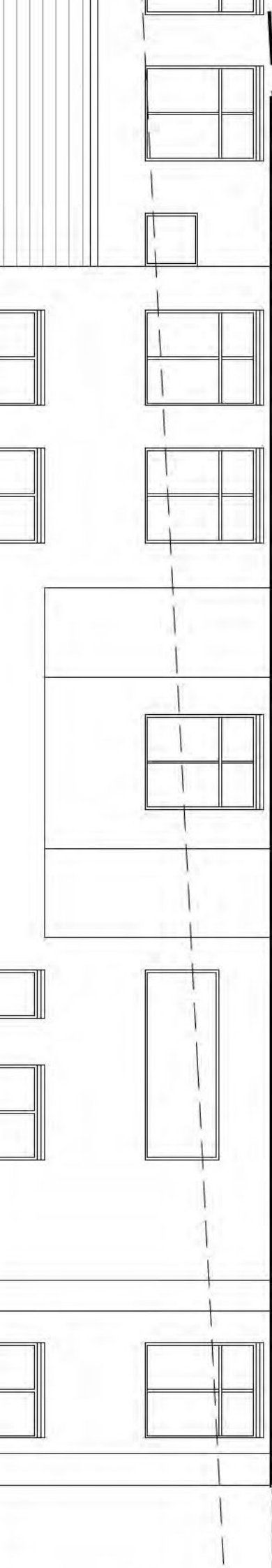
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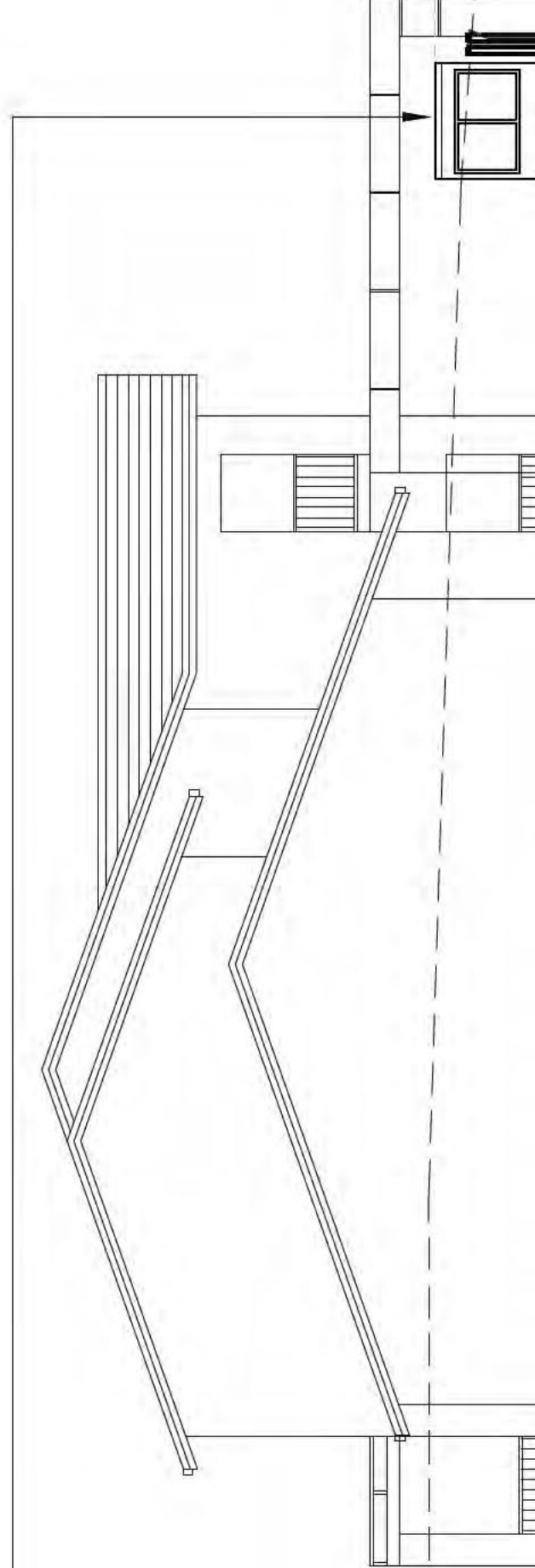
FRONT SLIDING GATE ELEVATION

NOT TO SCALE



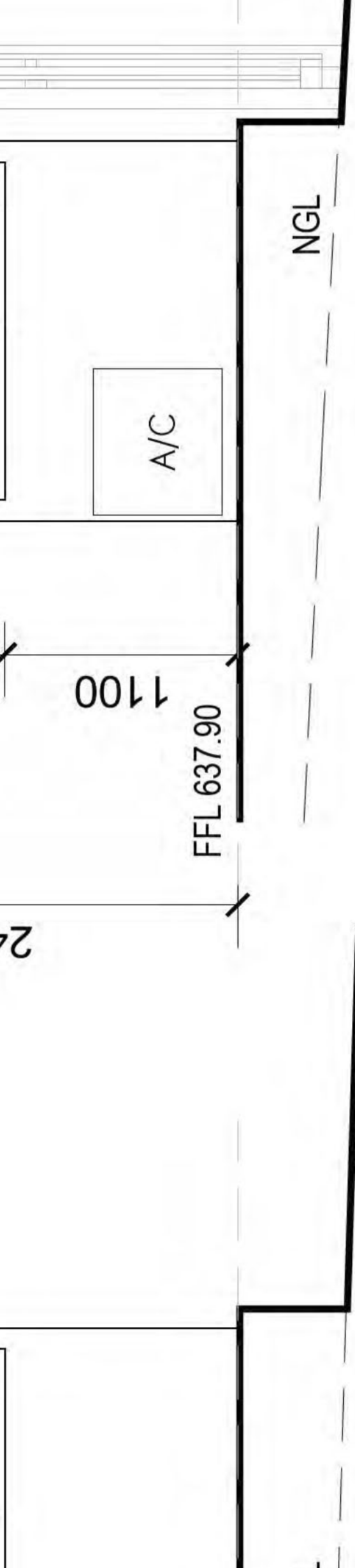


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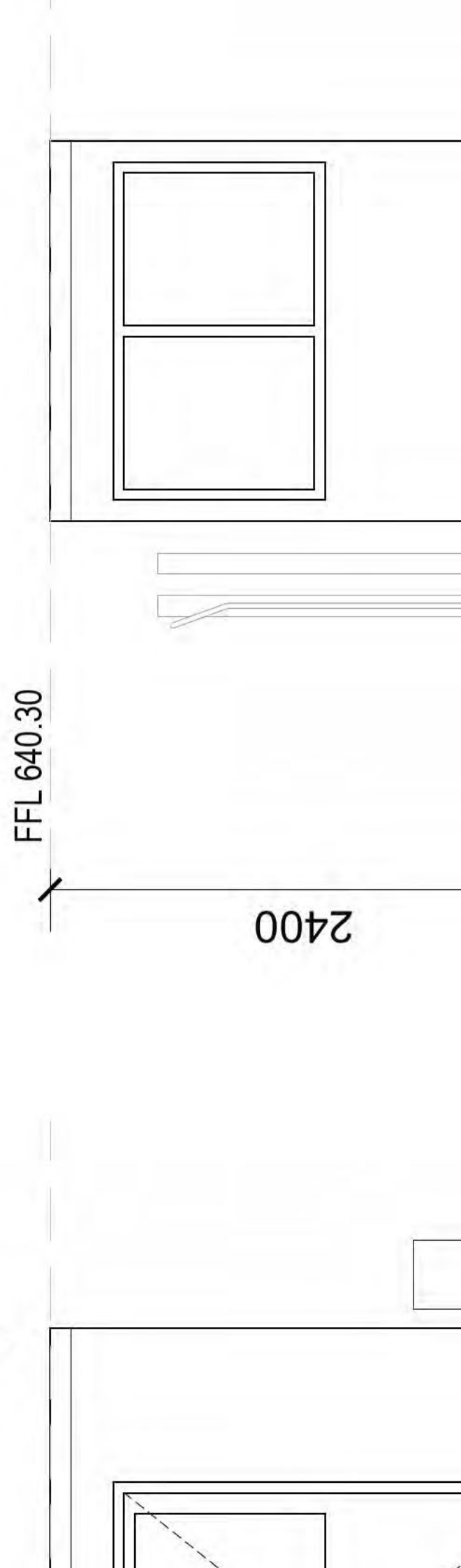
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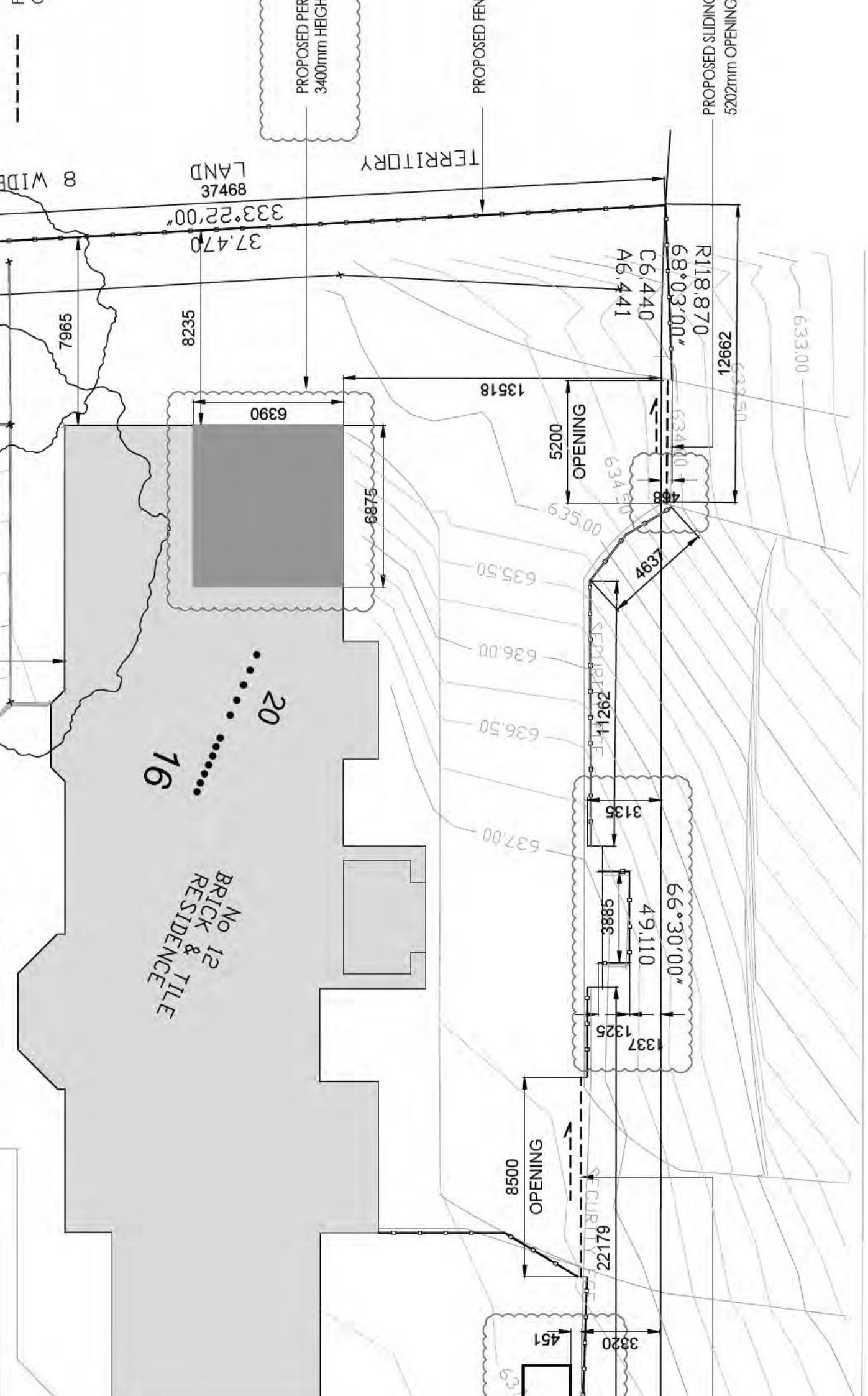
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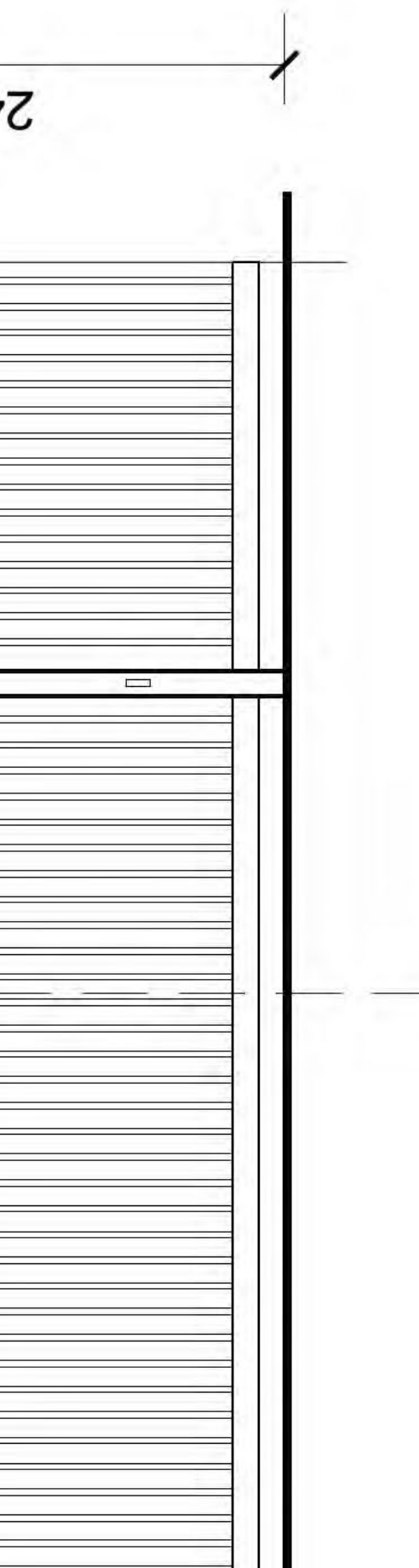
2 SECURITY OFFICE | WEST

1800



12 BULWARRA CLOSE



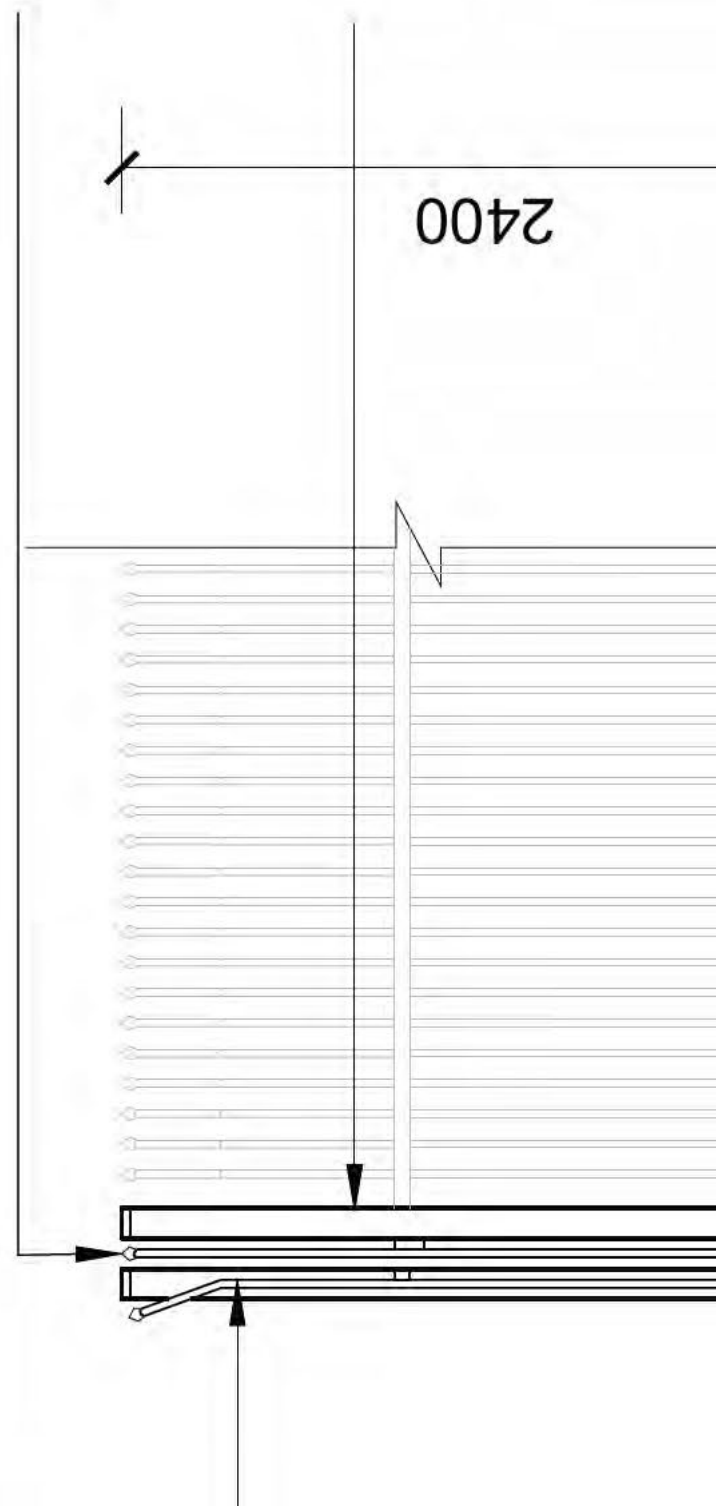


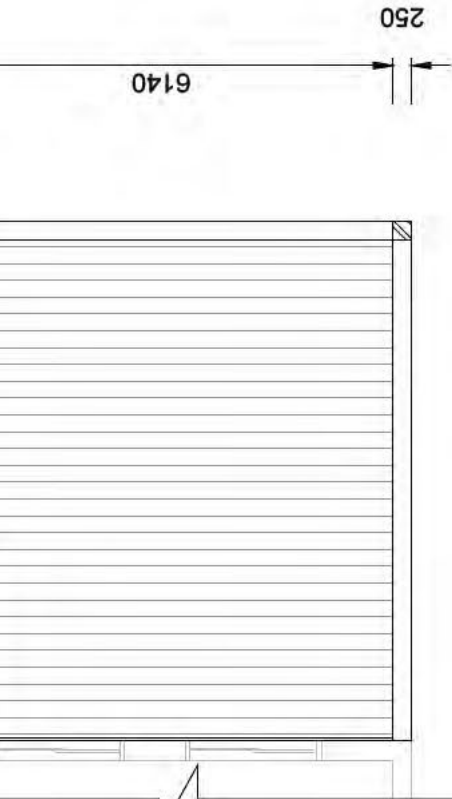
FRONT SLIDING GATE ELEVATION

NOT TO SCALE

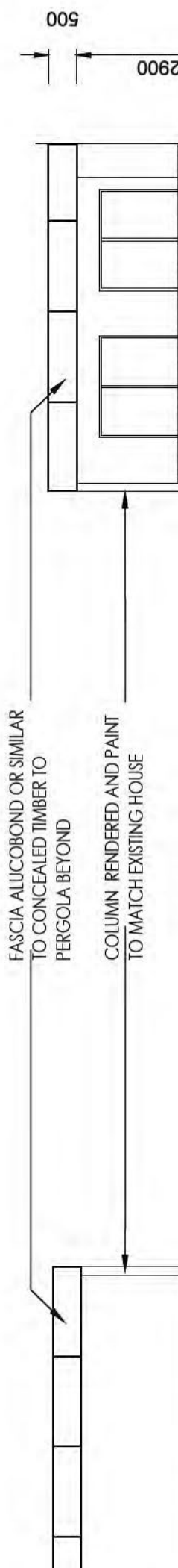
SLIDING GATE IN BETWEEN THE POST

STEEL FENCING POST 100X100mm





ENTRY PERGOLA PLAN



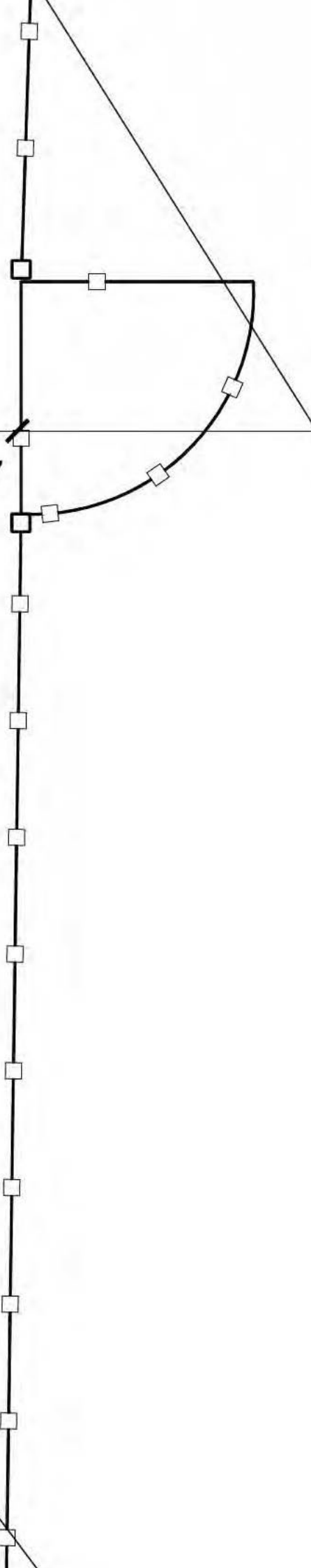
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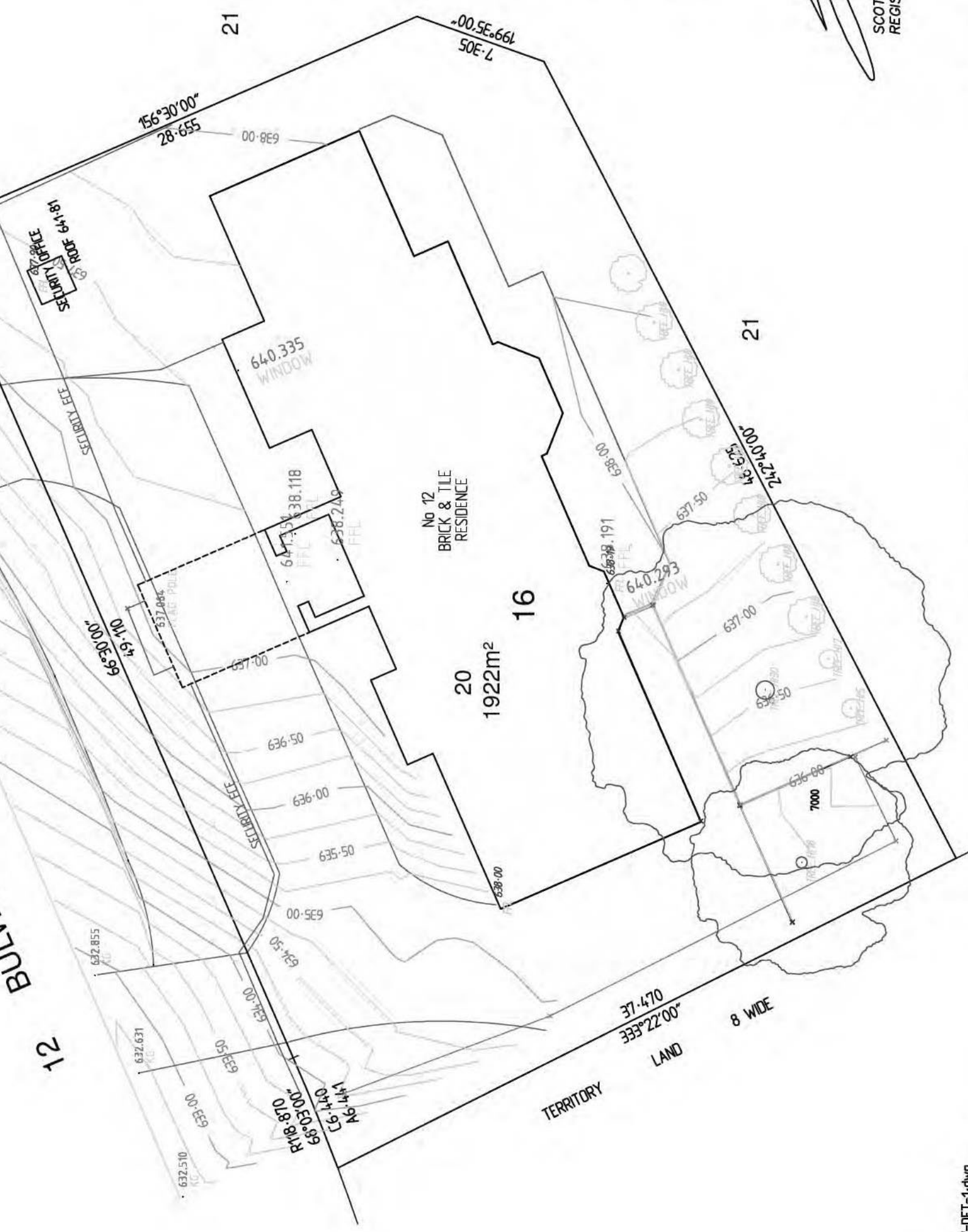
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LEGEND
 T T R H E T T S I R G S L P S S S S T G R R Q W

SCOTT DAVID
 REGISTERED S



21

21

16

20
1922m²

12

BULL

TERRITORY
 LAND
 8 WIDE

Sch 2.2(a)(ii)

26 March 2018

Mr David Middlemiss
Acting Deputy Director
ACT Government Environment, Planning & Land
GPO Box 1908,
CANBERRA ACT 2601.
Email: David.Middlemiss@act.gov.au

Dear Mr Middlemiss

APPLICATION FOR CONTROLLED ACTIVITY ORDER

Reference:

A. Planning and Development Act 2007, A2007-24, Republication No 77 Effective 1 January 2018

I am writing to apply formally for a Controlled Activity Order relating to Block 20 Section 16 Division O'Malley – known as 12 Bulwarra Close, O'Malley.

I have previously made a formal Complaint (No. 171212-000010) about breaches of the provisions of the Crown Lease, relevant to this property, to the ACT Government via Access Canberra. However, the actions resulting from this complaint have neither rectified the original issues nor been satisfactory in explanation. Non-compliance with the Crown Lease provisions should have been identified by ACTPLA when I first raised the issues in an earlier Complaint No. 170710-000422 of 10 July 2017.

I now seek the following Orders that:

1. the Lessee cease breaching the Crown Lease at 12 Bulwarra Close, O'Malley;
2. the Lessee remove the unapproved structures (front fence, gate and security guard post); and
3. the ACT Government order that 12 Bulwarra Close, O'Malley is no longer used as commercial office accommodation.

It is requested that you, or the relevant ACT Government authority, direct to the Lessee and the tenant/occupants of 12 Bulwarra Close, O'Malley, a Controlled Activity Order under Chapter 11 of the ACT Planning and Development Act 2007 (effective 01/01/18) as follows:

Sch 2.2(a)(ii)

Sch 2.2(a)(ii)

AND TO:

The Ambassador
and the Diplomatic Mission of the United Arab Emirates
12 Bulwarra Close,
O'Malley, ACT 2606

I seek this Controlled Activity Order on the grounds that the Lessee (and their tenants/occupants) is in breach of the following Rules and Regulations:

Australian Capital Territory Planning and Development Act 2007 (Effective: 01/01/18)

- **Chapter 9, Leases & Licenses:** Part 9.2 Grants of Leases generally,
 - Section 247 - Use of land for leased purpose; and
 - Section 251(1)(a) Restrictions on dealings with certain leases.

And, further, that the Lessee (and their tenants/occupants) is likely in breach of the Rules contained in **Chapter 7, Development Approvals** Part 7.4 Developments without Approval, Sections 199 and 200 of this Act.

Also, I refer to the Department's obligations under Chapter 11, Part 11.3 Division 11.3.1 Section 350(3) of this Act. In particular, I request you issue written notice to the Lessee to show cause in relation to the breaches of the Crown Lease, and inform the tenants/occupants of 12 Bulwarra Close, O'Malley accordingly. I would request this matter be expedited and further delays avoided.

I would appreciate your immediate attention to the matters raised in this Application, and I request your formal advice as to the progress of this Application and, if necessary, prompt elevation and review and action by the appropriate senior decision maker.

Sincerely,

Sch 2.2(a)(ii)



ACT
Government

Chief Minister, Treasury and
Economic Development

Sch 2.2(a)(ii)

via email: Sch 2.2(a)(ii)

Show Cause Notice Block 20 Section 16 — O'Malley

Dear Sch 2.2(a)(ii),

I am writing to notify you that Access Canberra (AC) has received an application for a Controlled Activity Order (CAO) in accordance with Section 350 of the *Planning and Development Act 2007* (the Act). The application for order relates to Block 20 Section 16 in the division of O'Malley (the property) in the Australian Capital Territory, comprised in Certificate of Title Volume 1106 Folio 19, and is sought to be directed against you as the lessee of the property.

Under section 350 of the Act a person may apply for a controlled activity order to be directed against another person. When a person makes this application the Act requires AC to give a Show Cause Notice (notice) to each person whom the controlled activity order is sought to be directed. Under the Act AC must investigate the allegations made by the applicant for the CAO and consider any reasons given by the respondent to the notice.

A CAO, if issued, may direct a lessee to undertake certain functions in order to bring their land, or buildings contained within their property, into compliance with the Act.

Controlled activity to which this notice relates

This notice relates to the a controlled activity prescribed under schedule 2 of the Act, referenced at Schedule 2, Item 3 of the Act, which is undertaking a development for which development approval is required.

Background

1. On 10 July 2017 complaint lodged in relation to a security fence having been constructed around the perimeter of the subject block along with other unapproved structures.
2. On dates from 11 July 2017 until 26 July 2017 the complainant submits further information and photos to Access Canberra Complaints Management Team (CMT).

3. On 19 October 2017 an inspection of the property was conducted. A copy of this inspection report is at **Attachment A**.
4. On 25 October 2017 a first warning letter was issued to you as the lessee requesting they seek development approval for the fence and other unapproved structures or have them removed from the property. A copy of this letter is at **Attachment B**.
5. On 6 April 2018, AC received an application for a Controlled Activity Order (CAO) from **Sch 2.2(a)(ii)** (Applicant).
6. The application for the order is at **Attachment C**.

Persons to whom the order would be directed

If made, the order would be directed to you as the lessee and registered proprietor of the crown lease of the land.

Directions

7. You may, not later than 10 working days after the day this notice is given, give AC written reasons explaining why an order should not be made against you.
8. A written response must be sent to AC at GPO Box 158 Canberra City ACT 2601 or via email to accesscanberracmt@act.gov.au.
9. AC will consider any written reasons given by you before making a decision to make the order in relation to a controlled activity mentioned in this show cause notice or to not to make the order mentioned in this show cause notice.
10. Under section 354 of the Act, if a decision is not made within 20 working days by AC (after the end of the 10 working day period given to the respondent by the notice) then the order is taken to not be made. However, this does not prevent AC from giving a further show cause notice in relation to the controlled activity identified in this notice.
11. AC will consider any written reasons given by each person to whom an order would be directed, before making a decision to
 - a) make an order of the kind sought; or
 - b) make an order (including a different kind of order) that is not more burdensome than the order sought; or
 - c) not to make the order.
12. Under section 351 of the Act, AC is taken to have refused to make the order applied for under section 350, if a decision is not made 20 working days after the end of the 10 working day period within which the lessee may give AC written reasons under

the PDA. However, this does not prevent AC from issuing a show cause notice on its own initiative in relation to the controlled activity identified in this notice.

Should you require any further information in relation to this matter please contact Peter Apps via email at peter.apps@act.gov.au or on telephone 6207 7898.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Daniel Curtin', is shown within a rectangular box. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Daniel Curtin
Delegate
Access Canberra
11 May 2018

Attachment A: Copy of the inspection report dated 19 October 2017

Attachment B: Copy of the warning letter issued to lessee dated 25 October 2017

Attachment C: Copy of the application for Controlled Activity Order dated 6 April 2018

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Commonwealth as follows -

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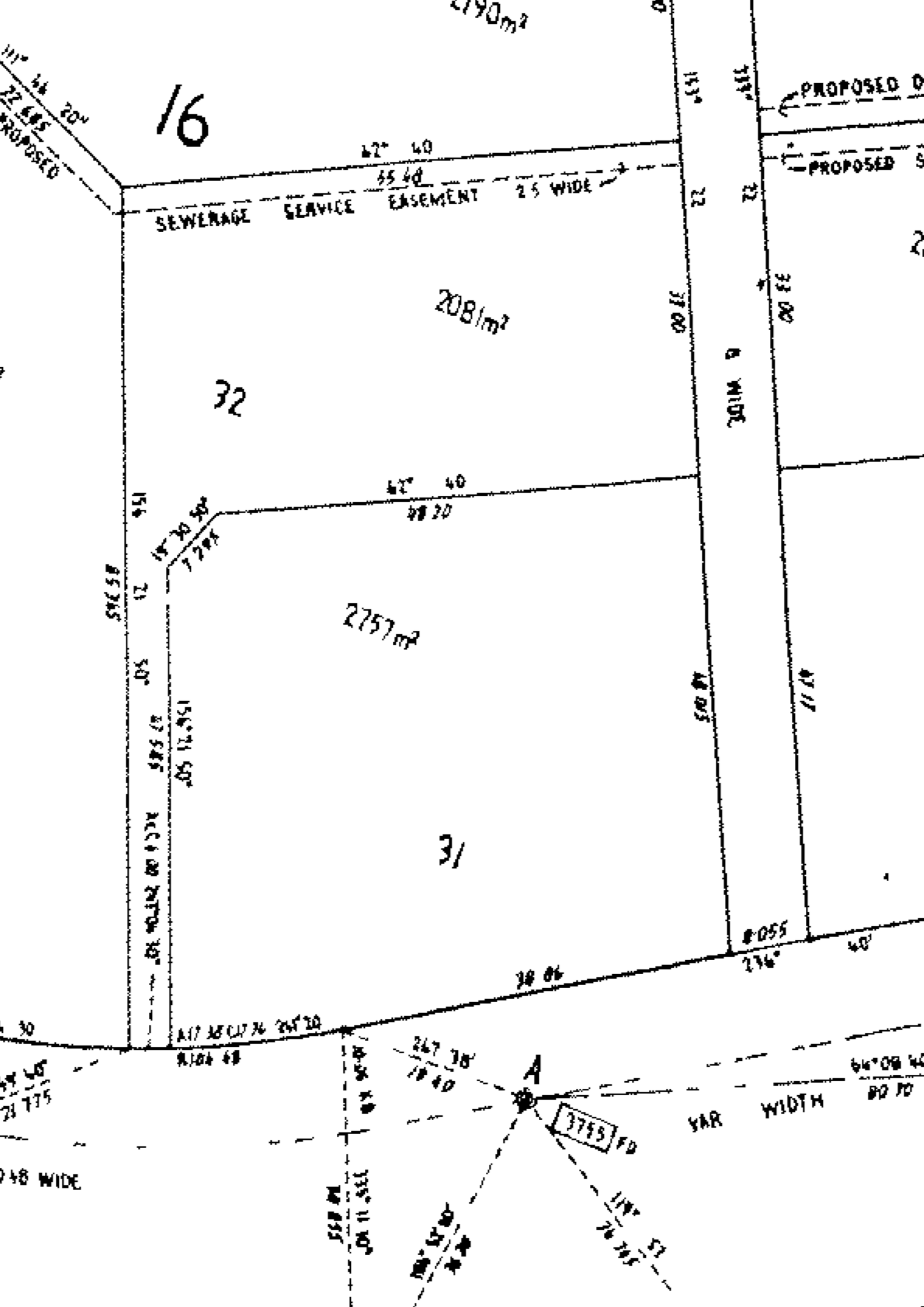
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ns



16

2081 m²

2757 m²

31

SEWERAGE SERVICE EASEMENT 2.5 WIDE

PROPOSED D
PROPOSED S

30' WIDE

153° 22'

133° 22'

33 00'

37 00'

42° 40' 48 20'

156'

85 24 85

21'

50°

27 54 85

ACCORDANT TO

117 38 07 74 24 5 20
91 04 68

38 06'

8 05 55
276° 40'

40'

A

267 38' 18 40'

3795 FD

YAR WIDTH 80 70'

117° 26 34 57

735° 11 40' 24 83 5

48 WIDE

44 65' 21 77 5

100 52 50 74 24

From: Hosseini, Sam
Sent: Thursday, 24 May 2018 2:26 PM
To: 'araa@araa.com.au'
Cc: 'Nicholas Sutherland'
Subject: DA201733142-16/20 O'Malley [SEC=UNCLASSIFIED]

Dear Martin

As discussed on the phone with Nicholas today, C10 of Residential Boundary Fences General Code (RBFGC) that permits fences on the front boundary applies to the block where the lease permits a diplomatic residence or chancellery. It is noted in the assessment of this application that the current lease only permits residential purposes. Accordingly, use of the land for embassy purpose, as it is declared in the application from, is not permitted.

In this circumstance, C10 of RBFGC will not apply to this proposal and the current application for approval of the constructed fence on the front boundary will be refused.

If you wish to apply for this specific criterion on your proposal, there are two following options available.

1-Withdraw the current application and apply for 'relief from crown lease'. Once the 'relief' is granted and the crown lease permits diplomatic chancellery, you may apply again for current design and siting application and this criterion would be applicable to the block then. Please note that 'relief from crown lease' is granted only for 3 years and once it is expired the front boundary fence is no longer permissible and whole the process should be applied again.

2-Apply for an amendment application under S144 of the Act to include a lease variation proposal in the current application. The advantage of this option is once the lease is varied, it will not expire and will be applicable for prospective diplomatic purposes.

A further information request has been sent to you for this application. Please disregard it at this stage if you wish to apply for option 1; however, should you wish to proceed with option 2 you have to provide the requested documents and submit them along S144 application.

The due date of this application is on Monday 18 June 2018. Please respond to this e-mail and apply for preferred option by not later than Monday 11 June 2018.

Regards

Sam Hosseini

Development Assessment Officer

Merit Assessment Section | Environment, Planning and Sustainable Development Directorate | ACT Government

Phone: 6205 4512 | Email: sam.hosseini@act.gov.au

Dame Pattie Menzies House 16 Challis Street Dickson | GPO Box 158 Canberra ACT 2601

www.environment.act.gov.au



25 May 2018

To Mr Daniel Curtin
Access Canberra
GPO Box 158
Canberra City ACT 2601

By email: accesscanberracmt@act.gov.au

Dear Sir

Show Cause Notice – Block 20 Section 16 – O'Malley

We refer to the show cause notice (**Notice**) issued by Access Canberra in relation to Block 20 Section 16 in the Division of O'Malley (**Property**).

We act on behalf of **Sch 2 s2(a)(ii)** the lessee of the Property, and are instructed to respond to the Notice on his behalf.

Background

For approximately 15 years, the Property has been subleased by our client and occupied by the Embassy of the United Arab Emirates (**Embassy**).

In or about early 2013 there was a security incident at the Property which involved a trespass and a hostile act against the government of the United Arab Emirates. Following this incident, and due to reasonably held concerns regarding appropriate security measures in place, the Embassy requested that our client erect a fence along the front of the Property, together with a security booth (**Works**). The Works were undertaken in or about 2015. Our client was not aware at the time the work was undertaken that specific development approval was required for the Works.

As you are aware, following receipt of a complaint, Access Canberra conducted an inspection of the Property on 19 October 2017 and determined that a controlled activity, being the construction of unapproved structures, had been undertaken.

We understand that, by letter dated 25 October 2017, Access Canberra notified our client that it had determined that a controlled activity had been undertaken, being the construction of unapproved structure, and requested that our client lodge a development application or remove the structures within 30 working days.

Following receipt of this letter, our client commenced to take steps to seek the appropriate planning approvals for the relevant structures. On 13 December 2017, our client lodged development application number 201733142 (**Application**) with the Environment and Planning Directorate (**EPD**) in relation to the Works. Further materials in support of the Application were subsequently collated and submitted, and the

Application was formally lodged by our client's architects, Ring & Associates, with payment made on 4 May 2018.

On 11 May 2018, Access Canberra issued the Notice to our client, after it received an application for a Controlled Activity Order.

On 24 May 2018, Ring & Associates received an e-mail from EPD raising certain issues with the Application, and requiring a response by 11 June 2018.

Response

As set out above, our client has now lodged a development application for approval of the Works that are subject to the Notice. Our client acknowledges that the Application was lodged outside of the timeframe set out in Access Canberra's letter dated 25 October 2017, and that no direct response to that letter has previously been provided.

We are instructed that the above delays and oversights are, in part, attributable to some significant health issues our client is currently experiencing. Our client has **Section 12** which has significantly impacted his ability to respond to Access Canberra's letter dated 25 October 2017 and engage in the development application process. **Sch 2 s2(a)(ii)** has recently become aware of the issues regarding the Property and the Works and is now assisting our client to progress the Application and to respond to the Notice.

In the circumstances, noting that the Application was lodged before our client received the Notice, it is our client's submission that it would not be appropriate for Access Canberra to make a controlled activity order directing our client to demolish all or part of the structures pursuant to section 358(3)(g) of the *Planning and Development Act 2007*.

Our client submits that Access Canberra should decline to make a controlled activity order in relation to the Works prior to our client providing his response to the notice received from EPD on 24 May 2018 (which is required to be provided by 11 June 2018), and to a final determination of our client's Application (or any amended application). In the event that the Application (or any alternative application for relief from crown lease) is ultimately rejected, it may be appropriate for Access Canberra to issue a further show cause notice at that time.

If any additional information is required in order to assist Access Canberra to make its decision, please let us know.

Sch 2 s2(a)(ii)

Planning and Development Act 2007

Development ApplicationApplication Number: **201733142S144B**

Type of Application

The type of application you are applying for is a S144 Amendment

Lease/Site Details

Site Number: 1

Suburb	Section	Block Number	Unit Number
O'MALLEY	16	20	
Street Address			
O'MALLEY			

Applicant Details

ACN or ABN			
115060761			
Company Name		Position held / Title	
Architects Ring & Associates		User	
Salutation	First Name	Surname	
None	Nicholas	Sutherland	
Postal Address 1		Postal Address 2	
PO Box 3299			
Postal Address 3			
Suburb	State/Territory	Postcode	Country
Manuka	ACT	2603	Australia
Phone Number	Fax Number	Mobile Number	
Email			
araa@araa.com.au			

Lessee (Property Owners) Details

Lessee Number: 1

Is the Lessee a

Standard

Salutation

None

First Name

Sch 2.2(a)(ii)

Surname

Sch 2.2(a)(ii)

Postal Address 1

Sch 2.2(a)(ii)

Postal Address 2

Postal Address 3

Suburb

Kingston

State/Territory

Postcode

2603

Country

Phone Number

Sch 2.2(a)(ii)

Fax Number

Mobile Number

Sch 2.2(a)(ii)

Email

Sch 2.2(a)(ii)

Type of Application

Will the development applied for after the amendment be substantially the same as the development applied for originally?

- Yes
 No

Will the assessment track for the application change if the application is amended?

- Yes
 No

List Amendments Being Satisfied

1. Addition of Lease variation to include Diplomatic and Chancellery use

Entity and/or Referral Requirements

Do the amendments to your proposal impact on entity requirements?

- Yes
 No

Applicant Declaration

I/we declare that this application is accompanied by all of the required information or documents that address the relevant rules and/or relevant criteria for it to be considered for approval;

I /we understand that this application will be considered lodged once any relevant application fees have been paid;

I/we understand that the documentation provided on CD/DVD or via the electronic lodgment process will be considered to be the relevant documentation associated with this application. All development application documentation will be made available for public inspection including via the Internet unless exclusion has been approved; I/we understand that an amendment may be notified in accordance with the requirements of the Planning and Development Act 2007.

I/we declare that all the information given on this form and its attachments is true and complete;

If signing on behalf of a company, organisation or Government agency: -

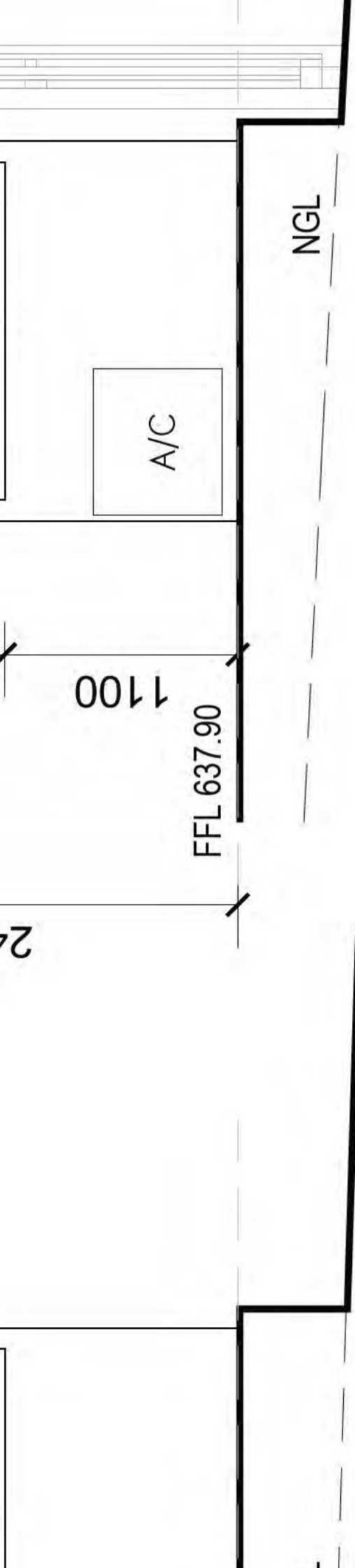
I/we the undersigned, declare I/we have the appropriate delegation or authority to sign on behalf of the company, organisation or Government agency.

I accept the above declarations:

Accept

Acceptance Date

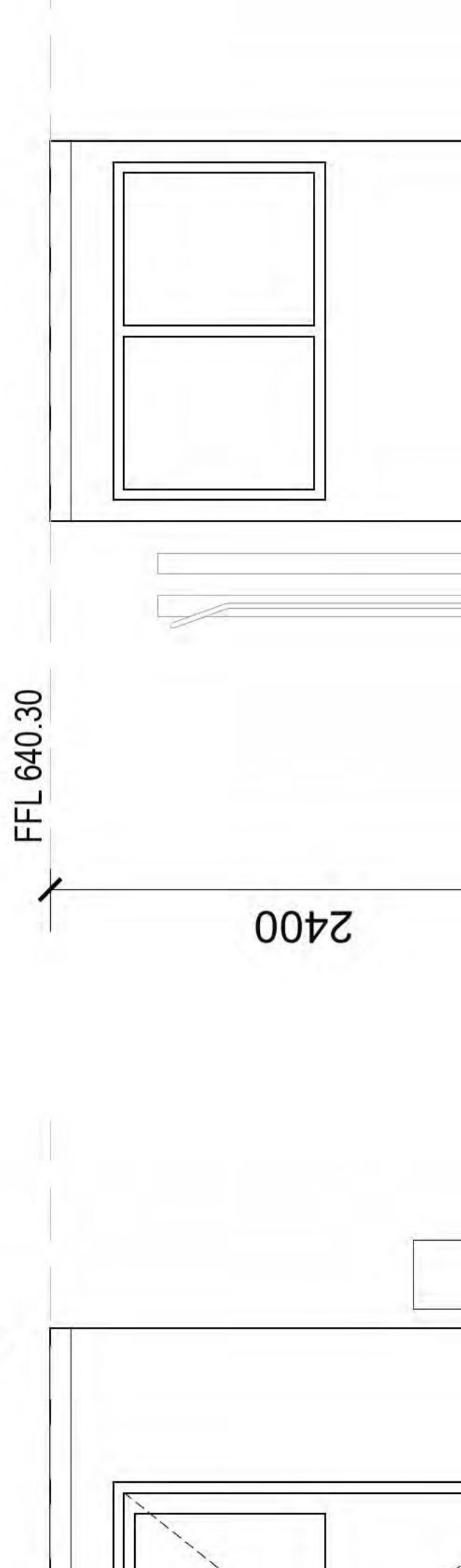
29/05/2018

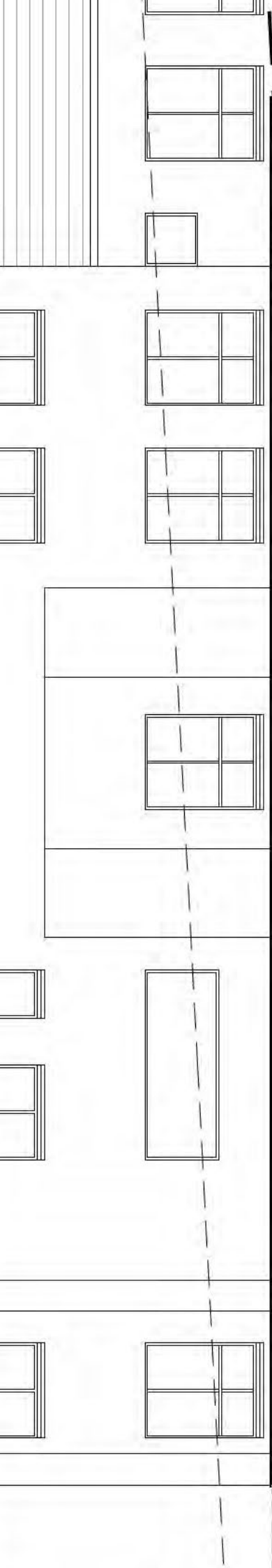


OFFICE | NORTH
STRUCTURE FOR APPROVAL

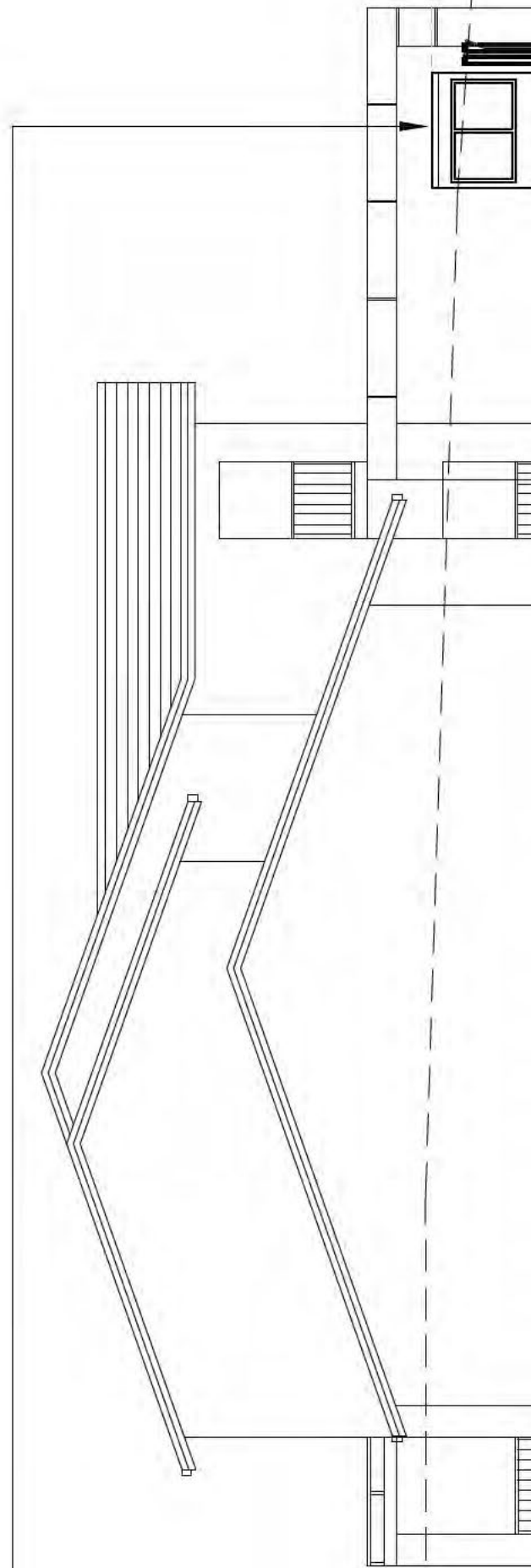
2 SECURITY OFFICE | WEST
EXISTING STRUCTURE FOR APPROVAL

1800



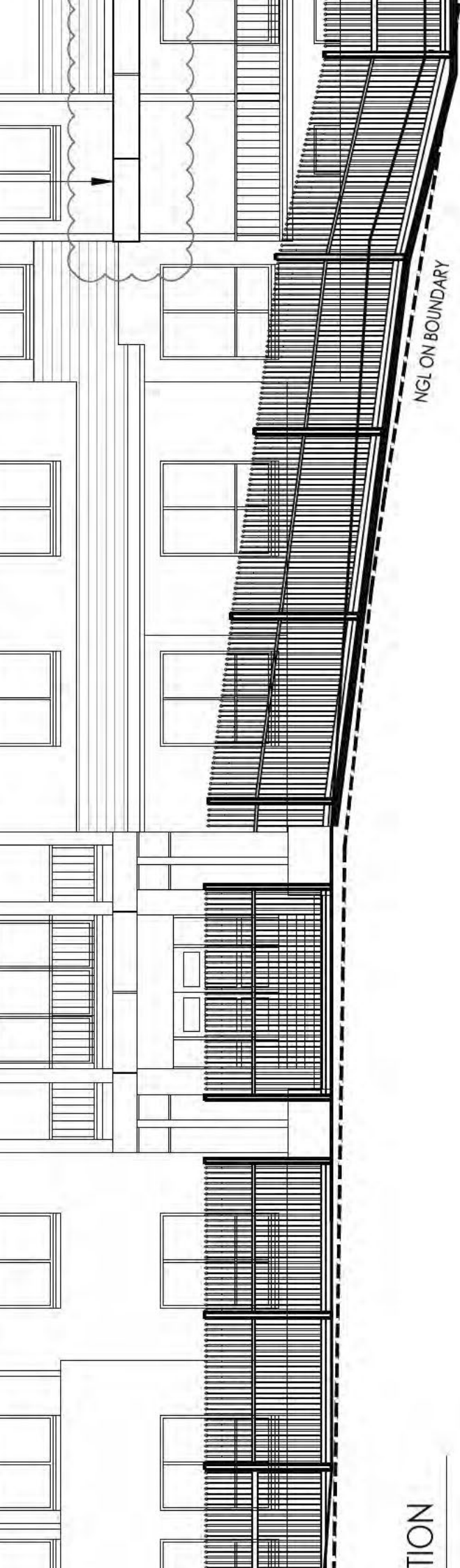


NGL ON BOUNDARY



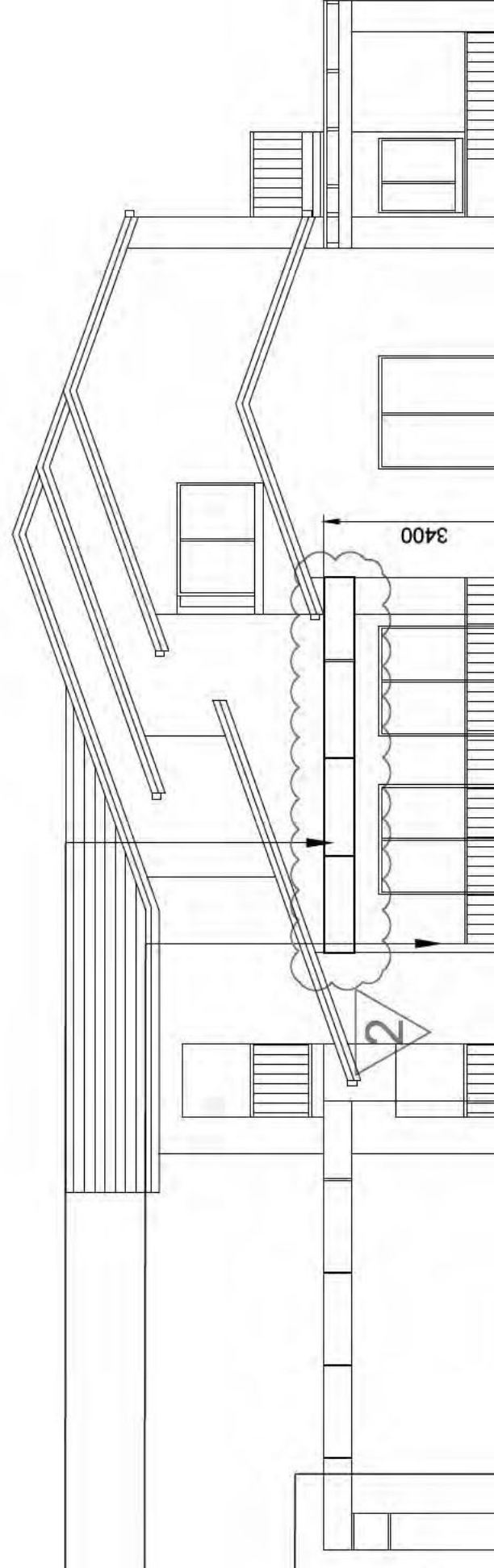
BOUNDARY

FFL 64



SECTION

NGL ON BOUNDARY

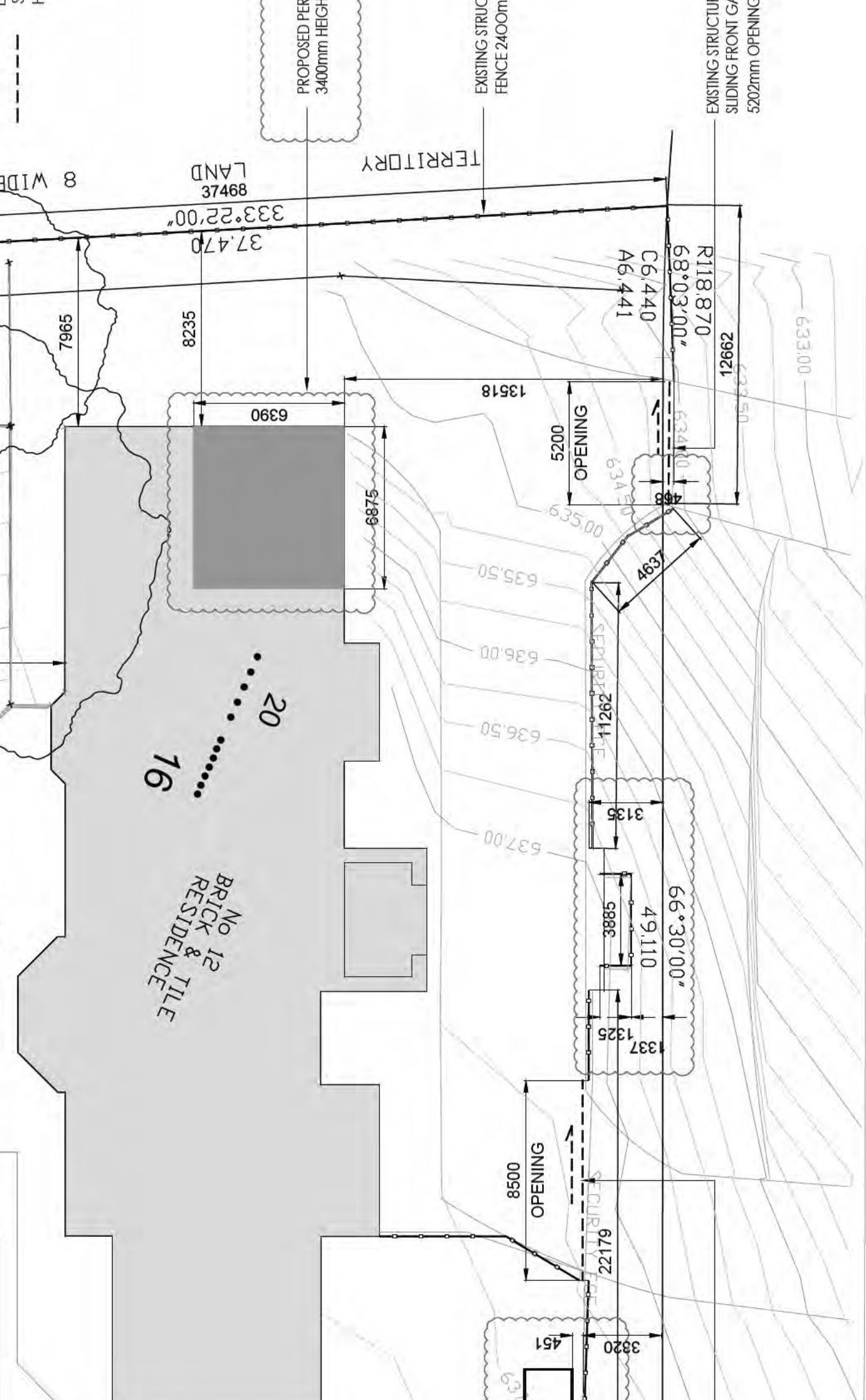


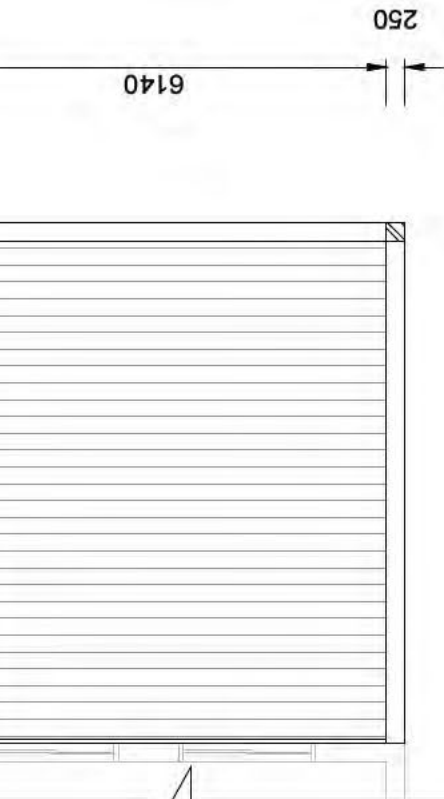
3400

2

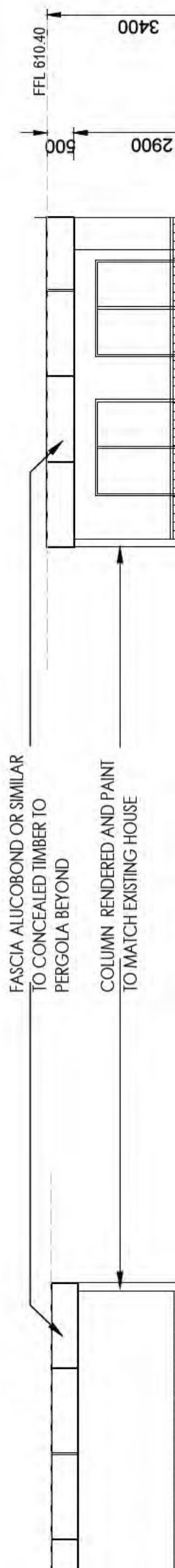
EXISTING STRUCTURE
FENCE 2400mm

12 BULWARRA CLOSE





PERGOLA ROOF





A R C H I T E C T S
RING & ASSOCIATES
ARCHITECTS INTERIOR DESIGN

BLOCK 20 | SECTION 16| O'MALLEY

PROPOSED LEASE VARIATION TO INCLUDE DIPLOMATIC AND CHANCELLERY USE

RZ1: SUBURBAN

Lease variation
General Code

PART A – Lease variations in the merit or impact track

Element 1: Variations - general

RULE	CRITERIA	COMMENT
1.1 Varying leases - general		
	C1	Criteria Met – uses are compliant with the O'Malley Precinct map and code

Element 3: Variations to add uses - general

RULE	CRITERIA	COMMENT
3.1 Adding uses generally		
	C3	<ul style="list-style-type: none"> i) Sufficient parking is provided on site refer to A007 site plan ii) The suburb of O'Malley is suited to the proposed use of the blocks as diplomatic purposes. Multiple blocks are already used for this purpose and they have minor impact on traffic of O'Malley streets iii) Post-occupancy waste management can be managed appropriately by service of onsite secure waste management. iv) Privacy issues for diplomatic residences are of high importance, minimal additional noise will be generated from the use. v) No unreasonable contamination will occur vi) No unreasonable odour will be produced on site. vii) A reasonable level of light emission will be maintained.

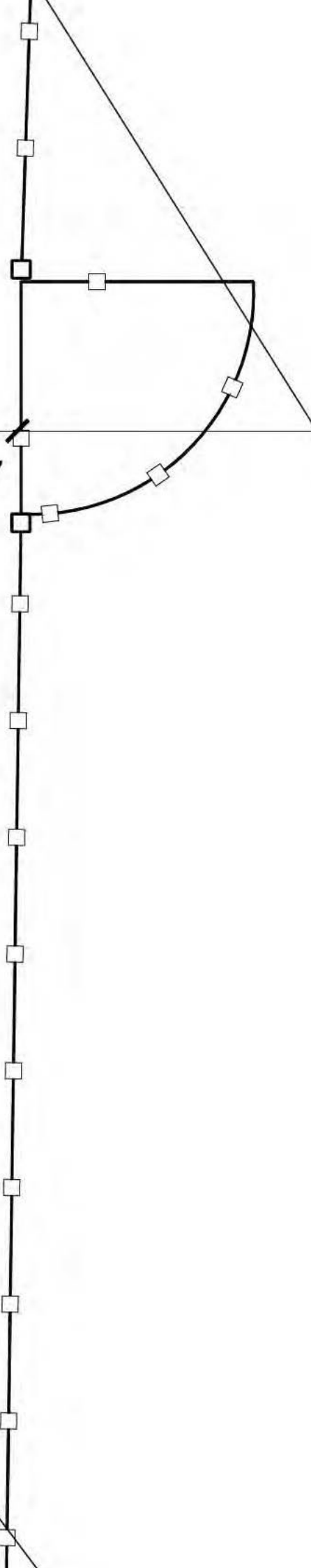
4219

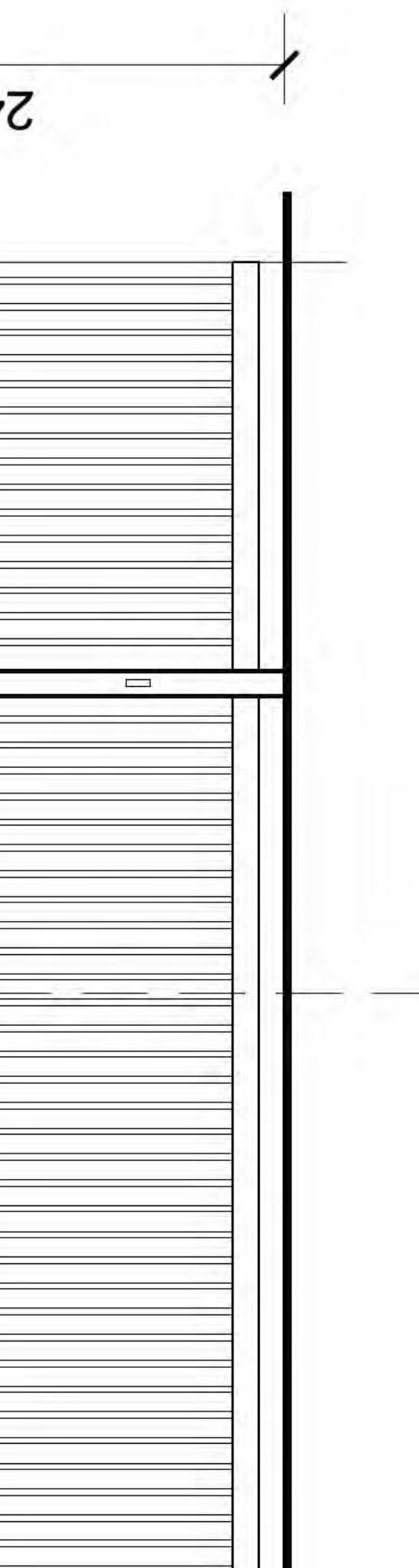
1800



1800

451



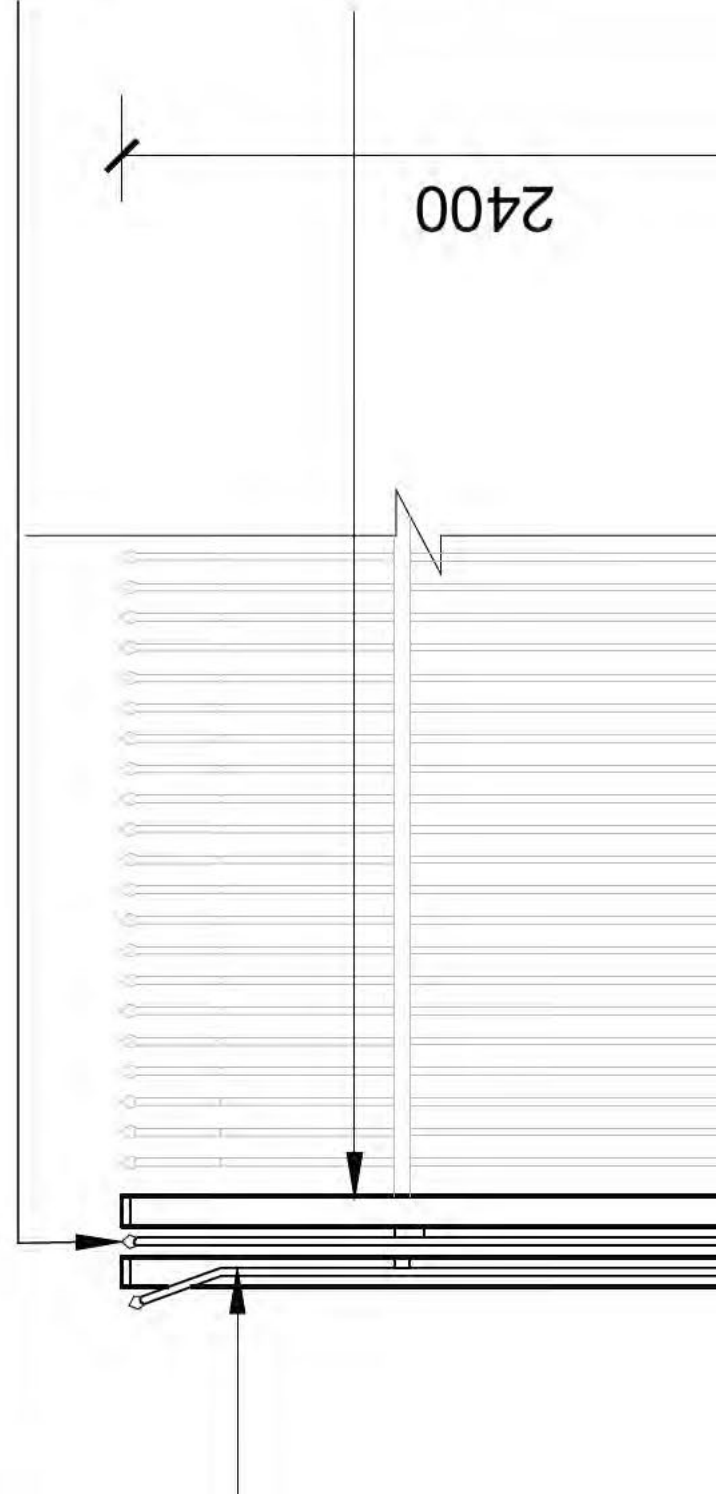


FRONT SLIDING GATE ELEVATION EXISTING STRUCTURE FOR APPROVAL

NOT TO SCALE

SLIDING GATE IN BETWEEN THE POST

STEEL FENCING POST 100X100mm



Annexure F

This is the communication thread between Access Canberra and Sch 2.2(a)(ii) from the CRM system, reproduced as follows:

[The timestamp from the reply to Sch 2 s2(a)(ii) was not reproduced, however it occurred on 29 June 2018]

Dear Sch 2.2(a)(ii)

In my last update on 27 June 2018, I incorrectly advised you that the Controlled Activity Order was deemed refused. This is not the case. Further, I find it more appropriate to delay making any decision in relation to your application until such time as the DA is decided. This is consistent with s301 and 302 of the Planning and Development Regulation 2008. The case officer, Mr Peter Apps, will continue to monitor this matter until such time as a decision is made. At this stage the due date for the DA decision is 9 July 2018, although these timeframes are expected and not statutory. To reiterate, no decision on your application has yet been made.

Kind regards

Reuben Gaze
Technical Coordinator | Building and Planning Compliance Team
Access Canberra

Response



Email

27/06/2018 03:17 PM

Reuben Gaze,
Dear Sch 2.2(a)(ii)

I write to you regarding the Application for controlled activity order that you submitted on 6 April 2018 regarding 12 Bulwarra Close, O'Malley. A decision to issue a Controlled Activity order is deemed to have been refused as the statutory timeframe within which the order must have been issued has expired with no order being issued. That being said I am in the process of documenting reasons for the decision and I expect that I will be able to provide you with a copy no later than COB tomorrow. The Notice of decision soon to be provided will help to inform you as to whether you wish to exercise your appeal rights with respect to this matter.

Yours sincerely

Reuben Gaze
Technical Coordinator | Building and Planning Compliance Team
Access Canberra

From: AccessCanberraCMT
Sent: Tuesday, 29 May 2018 9:52 AM
To: Apps, Peter; Fairbairn, Lisa
Subject: Response to show cause notice - Block 20 Section 16, O'Malley [DLM=Sensitive]
Attachments: Response to show cause notice.pdf

Hi Peter

Please see attached response to Show Cause Notice, Block 20 Section 16, O'Malley.

Lisa can you please create an objective container for this one.

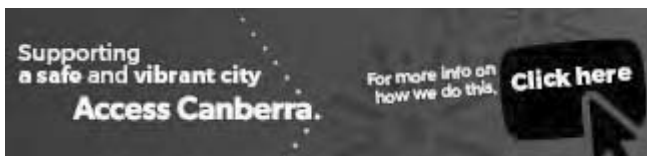
Many thanks
Gez

Gerard Hodshon | Complaints Management Team | Manager

Phone: 02 6205 1597 | Email : gerard.hodshon@act.gov.au

Access Canberra | Chief Minister Treasury and Economic Development Directorate | ACT Government

GPO Box 158, Canberra ACT 2601 | www.act.gov.au/accessCBR



From: Sch 2 s2(a)(ii)
Sent: Friday, 25 May 2018 3:27 PM
To: AccessCanberraCMT <AccessCanberraCMT@act.gov.au>
Cc: Sch 2 s2(a)(ii)
Subject: Response to show cause notice - Block 20 Section 16, O'Malley

Dear Sir

We act on behalf of Sch 2 s2(a)(ii), the lessee of Block 20 Section 16 in the Division of O'Malley.

Please find **attached** response to the show cause notice issued in relation to those premises.

Please let us know if you require any further information.

Kind regards

Sch 2 s2(a)(ii)
King & Wood Mallesons

Level 5, Tower B, 7 London Circuit, Canberra ACT 2601
T +61 2 6217 6135 | M +61 429 130 912 | F +61 2 6217 6999

Sch 2 s2(a)(ii)

This communication and any attachments are confidential and may be privileged.

King & Wood Mallesons in Australia is a member firm of the King & Wood Mallesons network.
See kwm.com for more information.

25 May 2018

To Mr Daniel Curtin
Access Canberra
GPO Box 158
Canberra City ACT 2601

By email: accesscanberracmt@act.gov.au

Dear Sir

Show Cause Notice – Block 20 Section 16 – O'Malley

We refer to the show cause notice (**Notice**) issued by Access Canberra in relation to Block 20 Section 16 in the Division of O'Malley (**Property**).

We act on behalf of **Sch 2 s2(a)(ii)** the lessee of the Property, and are instructed to respond to the Notice on his behalf.

Background

For approximately 15 years, the Property has been subleased by our client and occupied by the Embassy of the United Arab Emirates (**Embassy**).

In or about early 2013 there was a security incident at the Property which involved a trespass and a hostile act against the government of the United Arab Emirates. Following this incident, and due to reasonably held concerns regarding appropriate security measures in place, the Embassy requested that our client erect a fence along the front of the Property, together with a security booth (**Works**). The Works were undertaken in or about 2015. Our client was not aware at the time the work was undertaken that specific development approval was required for the Works.

As you are aware, following receipt of a complaint, Access Canberra conducted an inspection of the Property on 19 October 2017 and determined that a controlled activity, being the construction of unapproved structures, had been undertaken.

We understand that, by letter dated 25 October 2017, Access Canberra notified our client that it had determined that a controlled activity had been undertaken, being the construction of unapproved structure, and requested that our client lodge a development application or remove the structures within 30 working days.

Following receipt of this letter, our client commenced to take steps to seek the appropriate planning approvals for the relevant structures. On 13 December 2017, our client lodged development application number 201733142 (**Application**) with the Environment and Planning Directorate (**EPD**) in relation to the Works. Further materials in support of the Application were subsequently collated and submitted, and the

Application was formally lodged by our client's architects, Ring & Associates, with payment made on 4 May 2018.

On 11 May 2018, Access Canberra issued the Notice to our client, after it received an application for a Controlled Activity Order.

On 24 May 2018, Ring & Associates received an e-mail from EPD raising certain issues with the Application, and requiring a response by 11 June 2018.

Response

As set out above, our client has now lodged a development application for approval of the Works that are subject to the Notice. Our client acknowledges that the Application was lodged outside of the timeframe set out in Access Canberra's letter dated 25 October 2017, and that no direct response to that letter has previously been provided.

We are instructed that the above delays and oversights are, in part, attributable to some significant health issues our client is currently experiencing. Our client has **Section 12** which has significantly impacted his ability to respond to Access Canberra's letter dated 25 October 2017 and engage in the development application process. **Sch 2 s2(a)(ii)** has recently become aware of the issues regarding the Property and the Works and is now assisting our client to progress the Application and to respond to the Notice.

In the circumstances, noting that the Application was lodged before our client received the Notice, it is our client's submission that it would not be appropriate for Access Canberra to make a controlled activity order directing our client to demolish all or part of the structures pursuant to section 358(3)(g) of the *Planning and Development Act 2007*.

Our client submits that Access Canberra should decline to make a controlled activity order in relation to the Works prior to our client providing his response to the notice received from EPD on 24 May 2018 (which is required to be provided by 11 June 2018), and to a final determination of our client's Application (or any amended application). In the event that the Application (or any alternative application for relief from crown lease) is ultimately rejected, it may be appropriate for Access Canberra to issue a further show cause notice at that time.

If any additional information is required in order to assist Access Canberra to make its decision, please let us know.

Sch 2 s2(a)(ii)

From: Apps, Peter
Sent: Wednesday, 30 May 2018 3:21 PM
To: Corrigan, Megan
Subject: Re: Controlled Activity Order
Attachments: image001.png

Also I have marked in my calendar to within 20 working days for a decision to be made on the order as required.

Cheers

Sent from my iPad

On 30 May 2018, at 3:11 pm, Corrigan, Megan <Megan.Corrigan@act.gov.au> wrote:

Hi Pete

Can you please let me know if we have received a response from the show cause notice respondent?

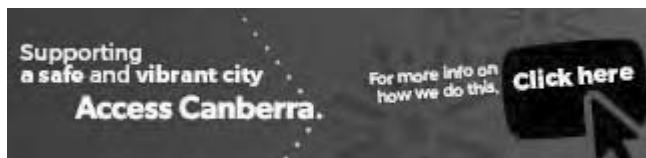
Thank you

Megan Corrigan | Manager, Building and Planning Compliance

Phone: 02 6207 7665 | Email: megan.corrigan@act.gov.au

Access Canberra | Chief Minister Treasury and Economic Development Directorate | ACT Government

Cosmopolitan Building, 21 Bowes Place, Woden ACT | GPO Box 1908 ACT 2601 | www.act.gov.au/accessCBR



From: Sch 2.2(a)(ii)]
Sent: Tuesday, 29 May 2018 9:43 AM
To: Corrigan, Megan <Megan.Corrigan@act.gov.au>
Subject: Controlled Activity Order

I write to you today to ascertain the status of the Controlled Activity Order I have made with your office. I note that the statutory time limit for the response was Friday 25 May 2018 and that this has now expired. Please advise in writing what the outcome is.

I look forward to hearing from you.

Regards

Sch 2.2(a)(ii)

From: Apps, Peter
Sent: Thursday, 31 May 2018 3:45 PM
To: Sch 2.2(a)(ii)
Subject: Controlled Activity Order [SEC=UNCLASSIFIED]

Dear Sch 2.2(a)(ii)

Please be advised that we have received a response from the lessee relating to the show cause notice being issued. You will be notified in due course on what action Access Canberra will be taking in relation to the order.

Regards

Peter Apps | Building & Planning Inspector | Construction Compliance
Phone 02 6207 7898 | Mobile 0466 471209 * Email peter.apps@act.gov.au
Construction, Community Business & Transport | Access Canberra | ACT Government
Cosmopolitan Building Bowles Place Woden
GPO Box 158 Canberra ACT 2601 | www.act.gov.au/accesscbr

From: Apps, Peter
Sent: Tuesday, 5 June 2018 3:31 PM
To: Sch 2.2(a)(ii)
Subject: DA 201733142 [SEC=UNCLASSIFIED]

Follow Up Flag: Follow up
Flag Status: Completed

Dear Sch 2.2(a)(ii)

Please be advised that any questions you wished answered regarding the DA please address all your concerns to epdcustomerservices@act.gov.au
I have noted that your comments relating to the DA have been received and recorded on file.

Regards

Peter Apps | Building & Planning Inspector | Construction Compliance
Phone 02 6207 7898 | Mobile 0466 471209 * Email peter.apps@act.gov.au
Construction, Community Business & Transport | Access Canberra | ACT Government
Cosmopolitan Building Bowles Place Woden
GPO Box 158 Canberra ACT 2601 | www.act.gov.au/accesscbr



ACT
Government

Chief Minister, Treasury and
Economic Development

Sch 2.2(a)(ii)

Dear Sch 2.2(a)(ii)

Block 20 Section 16 O'Malley – Decision on Application for Order

This letter is to advise you of the decision in relation to your application for order dated 11 April 2018 made against Sch 2.2(a)(ii).

Pursuant to section 351(2) of the *Planning and Development Act 2007*, I, Megan Corrigan, delegate to Access Canberra have decided to not make a controlled activity order. Please find attached the notice of decision.

If you are not satisfied with the decision you have the right of appeal to the ACT Civil and Administrative Tribunal (ACAT) for a review of the decision. Any such appeal should generally be made to the ACAT within 28 days of the date of the notice of decision.

Should you have any questions in relation to this matter please feel free to contact me on 132281.

Yours sincerely

Megan Corrigan
Delegate
Access Canberra

June 2018



ACT
Government

Chief Minister, Treasury and
Economic Development

Sch 2.2(a)(ii)

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

Block 20 Section 16 O'Malley – Decision on Application for Order

This letter is to advise you of the decision in relation to your application for a control activity order dated 9 April 2018 made against **Sch 2.2(a)(ii)**. I attach the notice of decision for you.

Should you have any questions in relation to this matter please feel free to contact the case officer outlined in the notice of decision.

Yours sincerely

Reuben Gaze
A/g Manager, Building and Planning Compliance
Access Canberra
25 June 2018



ACT
Government

Chief Minister, Treasury and
Economic Development

Sch 2.2(a)(ii)

via email Sch 2.2(a)(ii)

Dear Sch 2.2(a)(ii)

Block 20 Section 16 O'Malley – Decision on Application for Order

This letter is to advise you of the decision in relation to the application for an order which was made against you on 14 May 2018.

Pursuant to section 351(2) of the *Planning and Development Act 2007*, I, Reuben Gaze, delegate of the Planning and Land Authority, have decided to not make a controlled activity order. Please find attached the notice of decision.

Should you have any questions in relation to this matter please feel free to contact the case officer Mr Peter Apps on 6207 7898.

Yours sincerely

Reuben Gaze
A/g Manager, Building and Planning Compliance
Access Canberra

25 June 2018

From: Gaze, Reuben
Sent: Friday, 29 June 2018 11:03 AM
To: Saad, Monica
Cc: Apps, Peter
Subject: FW: omalley b20 s16 [SEC=UNCLASSIFIED]

Hi Monica

Is a DA required to amend the Crown lease to allow the UAE Chancellery? The Crown lease says single res only. It's in the right place re the precinct code. But is a DA still required?

Kind regards

Reuben Gaze | Technical Coordinator, Building and Planning Compliance Team
Phone: 02 62076282 | Email: reuben.gaze@act.gov.au
Access Canberra | Chief Minister and Economic Development Directorate | ACT Government
Transact House | GPO Box 158 Canberra ACT 2601 | www.act.gov.au/accesscbr



From: Apps, Peter
Sent: Friday, 29 June 2018 10:51 AM
To: Gaze, Reuben <Reuben.Gaze@act.gov.au>
Subject: Re: omalley [SEC=UNCLASSIFIED]

Hi

Yeah spoke to Monica Sasd in leasing and she confirmed that embassy's or chancellories are permitted to operate in the designated area as defined in the precinct code. Yes previous DA was for sign and pergola.

Cheers

Sent from my iPhone

On Jun 29, 2018, at 10:39 AM, Gaze, Reuben <Reuben.Gaze@act.gov.au> wrote:

Hi Pete

With regards to UAE embassy in O'malley

Is the use as an embassy approved? Who did you ask at epd? I saw a DA from 2012 that approved embassy signs and other works, so it should have been pretty obvious to the development assessment officer that this is an embassy.

Kind regards

Reuben Gaze | Technical Coordinator, Building and Planning Compliance Team

Phone: 02 62076282 | Email: reuben.gaze@act.gov.au

Access Canberra | Chief Minister and Economic Development Directorate | ACT Government

Transact House | GPO Box 158 Canberra ACT 2601 | www.act.gov.au/accesscbr

<image001.png>

From: Apps, Peter
Sent: Wednesday, 11 July 2018 10:06 AM
To: Gaze, Reuben
Subject: RE: Controlled Activity Order [SEC=UNCLASSIFIED]

Ok thanks

Peter Apps | Building & Planning Inspector | Construction Compliance
Phone 02 6207 7898 | Mobile 0466 471209 * Email peter.apps@act.gov.au
Construction, Community Business & Transport | Access Canberra | ACT Government
Cosmopolitan Building Bowles Place Woden
GPO Box 158 Canberra ACT 2601 | www.act.gov.au/accesscbr

From: Gaze, Reuben
Sent: Wednesday, 11 July 2018 10:01 AM
To: Apps, Peter <peter.apps@act.gov.au>
Subject: RE: Controlled Activity Order [SEC=UNCLASSIFIED]

Hi Pete

Everything is in CRM, including an update to **Sch 2.2(a)(ii)** send through CRM.
FYI We are seeking legal advice about whether we can issue a notice against embassy grounds (doubtful in my view).

Also the timeframe for a deemed refusal is different if there is a DA application in play, so we are still within time to make a decision until well after the DA is decided. I have started a draft decision but wait for the advice and the DA outcome.

Kind regards

Reuben Gaze | Manager, Rapid Response – Construction Audit Team
Phone: 02 62076282 | Email: reuben.gaze@act.gov.au
Access Canberra | Chief Minister and Economic Development Directorate | ACT Government
Transact House | GPO Box 158 Canberra ACT 2601 | www.act.gov.au/accesscbr



From: Apps, Peter
Sent: Wednesday, 11 July 2018 8:40 AM
To: Gaze, Reuben <Reuben.Gaze@act.gov.au>
Subject: Fwd: Controlled Activity Order [SEC=UNCLASSIFIED]

Hi
How are you progressing with this

Cheers Pete

Sent from my iPad

Begin forwarded message:

From: Sch 2.2(a)(ii)
Date: 11 July 2018 at 5:08:11 am AEST
To: "Apps, Peter" <peter.apps@act.gov.au>
Cc: "Corrigan, Megan" <megan.corrigan@act.gov.au>
Subject: Re: Controlled Activity Order [SEC=UNCLASSIFIED]

Dear Peter,

It has now been more than 3 months since I lodged my Application for a Controlled Activity Order. I seek an update as to what action your office has taken in relation to the Order.

Sincerely

Sch 2.2(a)(ii)

Regards,
Sch 2.2(a)(ii)

On 31 May 2018 at 15:45, Apps, Peter <peter.apps@act.gov.au> wrote:

Dear Sch 2.2(a)(ii)

Please be advised that we have received a response from the lessee relating to the show cause notice being issued. You will be notified in due course on what action Access Canberra will be taking in relation to the order.

Regards

Peter Apps | Building & Planning Inspector | Construction Compliance
Phone 02 6207 7898 | Mobile 0466 471209 * Email peter.apps@act.gov.au

Construction, Community Business & Transport | Access Canberra | ACT Government

Cosmopolitan Building Bowles Place Woden

GPO Box 158 Canberra ACT 2601 | www.act.gov.au/accesscbr

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From: Apps, Peter
Sent: Wednesday, 11 July 2018 3:27 PM
To: Sch 2.2(a)(ii)
Subject: RE: Controlled Activity Order [SEC=UNCLASSIFIED]

Dear Sch 2.2(a)(ii)

Please be advised that it would be more appropriate to delay making any decision in relation to your application for order until such time as DA (201733142) is decided. This is consistent with s301 and 302 of the Planning and Development Regulation 2008. I will continue to monitor this matter until such time as a decision is made. At this stage the due date for the DA decision was 9 July 2018, although these timeframes are expected and not statutory. To reiterate, no decision on your application has yet been made.

Regards

Peter Apps | Building & Planning Inspector | Construction Compliance
Phone 02 6207 7898 | Mobile 0466 471209 * Email peter.apps@act.gov.au
Construction, Community Business & Transport | Access Canberra | ACT Government
Cosmopolitan Building Bowles Place Woden
GPO Box 158 Canberra ACT 2601 | www.act.gov.au/accesscbr

From: Sch 2.2(a)(ii)
Sent: Wednesday, 11 July 2018 5:08 AM
To: Apps, Peter <peter.apps@act.gov.au>
Cc: Corrigan, Megan <Megan.Corrigan@act.gov.au>
Subject: Re: Controlled Activity Order [SEC=UNCLASSIFIED]

Dear Peter,

It has now been more than 3 months since I lodged my Application for a Controlled Activity Order. I seek an update as to what action your office has taken in relation to the Order.

Sincerely
Sch 2.2(a)(ii)

Regards,
Sch 2.2(a)(ii)

On 31 May 2018 at 15:45, Apps, Peter <peter.apps@act.gov.au> wrote:

Dear Sch 2.2(a)(ii)

Please be advised that we have received a response from the lessee relating to the show cause notice being issued. You will be notified in due course on what action Access Canberra will be taking in relation to the order.

Regards

Peter Apps | Building & Planning Inspector | Construction Compliance
Phone 02 6207 7898 | Mobile 0466 471209 * Email peter.apps@act.gov.au

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From: Apps, Peter
Sent: Thursday, 19 July 2018 10:42 AM
To: Corrigan, Megan
Subject: RE: Controlled Activity Order [SEC=UNCLASSIFIED]

Hi

I sent a reply email to them on 11 July relating to the below message

Peter Apps | Building & Planning Inspector | Construction Compliance
Phone 02 6207 7898 | Mobile 0466 471209 * Email peter.apps@act.gov.au
Construction, Community Business & Transport | Access Canberra | ACT Government
Cosmopolitan Building Bowles Place Woden
GPO Box 158 Canberra ACT 2601 | www.act.gov.au/accesscbr

From: Corrigan, Megan
Sent: Thursday, 19 July 2018 10:21 AM
To: Apps, Peter <peter.apps@act.gov.au>
Cc: Gaze, Reuben <Reuben.Gaze@act.gov.au>; Curtin, Daniel <Daniel.Curtin@act.gov.au>
Subject: FW: Controlled Activity Order [SEC=UNCLASSIFIED]

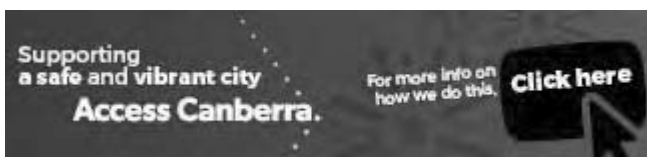
Hi Peter,

Can you confirm with the **Sch 2.2(a)(ii)** that they are receiving the correspondence (as per Reuben's last email) from the CRM?

If they are not can you please relay this information to them?

Thank you

Megan Corrigan | Manager, Building and Planning Compliance
Phone: 02 6207 7665 | Email: megan.corrigan@act.gov.au
Access Canberra | Chief Minister Treasury and Economic Development Directorate | ACT Government
Cosmopolitan Building, 21 Bowes Place, Woden ACT | GPO Box 1908 ACT 2601 | www.act.gov.au/accessCBR



From: **Sch 2.2(a)(ii)**
Sent: Wednesday, 11 July 2018 5:08 AM
To: Apps, Peter <peter.apps@act.gov.au>
Cc: Corrigan, Megan <Megan.Corrigan@act.gov.au>
Subject: Re: Controlled Activity Order [SEC=UNCLASSIFIED]

Dear Peter,

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Sincerely

Sch 2.2(a)(ii)

Regards,

Sch 2.2(a)(ii)

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Dear Sch 2.2(a)(ii)

Please be advised that we have received a response from the lessee relating to the show cause notice being issued. You will be notified in due course on what action Access Canberra will be taking in relation to the order.

Regards

Peter Apps | Building & Planning Inspector | Construction Compliance

Phone 02 6207 7898 | Mobile 0466 471209 * Email peter.apps@act.gov.au

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From: Sch 2.2(a)(ii)
Sent: Monday, 23 July 2018 9:26 PM
To: Gaze, Reuben
Subject: Controlled Activity Order - 12 Bulwarra Close, O'Malley

Dear Reuben

Thank you for your time today.

I am increasingly concerned with the progress of the DA in question and with ACTPLA's handling of this matter. Specifically, I am concerned at the evident lack of formal advice to me and other residents who have a direct interest the matter. This failure to keep surrounding residents informed has weakened our ability to make proper representation and has allowed an unfair advantage to the DA Applicant, effectively corrupting the process. Moreover, I am concerned at the departure from procedural timeframes that has also favoured the DA Applicant.

I appreciate your advice during our conversation today during which you explained that it was your decision to hold off executing the Controlled Activity Order awaiting the Lessee's DA Application No. 201733142 to be determined. As the DA is now outside the statutory time limit for determination I respectfully demand that your office now act in relation to the Controlled Activity Order I submitted to rectify the situation without any further delay.

I have become aware from ACTPLA that the Lessee of 12 Bulwarra Close has been advised by ACTPLA to seek a variation of the Crown Lease to allow commercial activities. Again, I was not advised of this significant and major change to the DA Application or this recommendation to the Lessee. It appears that this is an unethical manoeuvre designed to pave the way for an approval for the DA. Could you please confirm this will not occur and that your Office is not

complicit in this after-the-fact attempt to subvert the planning authorities rules and regulations.

I would also request that you direct immediately that no further construction works occur at 12 Bulwarra Close until this matter is resolved.

I look forward to hearing from you.

Sincerely

Sch 2.2(a)(ii)

From: Gaze, Reuben
Sent: Tuesday, 24 July 2018 4:53 PM
To: Sch 2.2(a)(ii)
Cc: Corrigan, Megan; Apps, Peter
Subject: RE: Controlled Activity Order - 12 Bulwarra Close, O'Malley [SEC=UNCLASSIFIED]

Dear Sch 2.2(a)(ii)

I note your concerns regarding the delay in making a decision with respect to your Application for Controlled Activity order, I will discuss your concerns with the Senior Manager of the area (Megan Corrigan) regarding whether it might be appropriate to make a decision prior to the development application being decided.

With regarding to seeking a retrospective approval, my understanding is that this is explicitly allowed under the Planning and Development Act 2007, although penalties and sanctions may also apply. I can't issue a blanket stop work notice unless there is some evidence of unlawful building work occurring. Please notify Access Canberra the moment you become aware of any such work and we will investigate.

Following up from our conversation yesterday, I attended Bulwarra Close this afternoon to get a better appreciation for your concerns. Certainly there were many cars parked on the street and also on the verge of a nearby embassy. I believe at least one of those cars was parked illegally. I have contacted Parking Operations notifying them of your concerns and asking if they might conduct a drive past at some point and issue infringement notices if appropriate, they have confirmed that they will come past tomorrow.

Megan is currently on leave returning next week. We will be back in touch with you next week with an update.

Kind regards

Reuben Gaze | Manager, Rapid Response – Construction Audit Team
Phone: 02 62076282 | Email: reuben.gaze@act.gov.au
Access Canberra | Chief Minister and Economic Development Directorate | ACT Government
Transact House | GPO Box 158 Canberra ACT 2601 | www.act.gov.au/accesscbr



From: Sch 2.2(a)(ii)
Sent: Monday, 23 July 2018 9:26 PM
To: Gaze, Reuben <Reuben.Gaze@act.gov.au>
Subject: Controlled Activity Order - 12 Bulwarra Close, O'Malley

Dear Reuben

Thank you for your time today.

I am increasingly concerned with the progress of the DA in question and with ACTPLA's handling of this matter. Specifically, I am concerned at the evident lack of formal advice to me and other residents who have a direct interest the matter. This failure to keep surrounding residents informed has weakened our ability to make proper representation and has allowed an unfair advantage to the DA Applicant, effectively corrupting the process. Moreover, I am concerned at the departure from procedural timeframes that has also favoured the DA Applicant.

I appreciate your advice during our conversation today during which you explained that it was your decision to hold off executing the Controlled Activity Order awaiting the Lessee's DA Application No. 201733142 to be determined. As the DA is now outside the statutory time limit for determination I respectfully demand that your office now act in relation to the Controlled Activity Order I submitted to rectify the situation without any further delay.

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I would also request that you direct immediately that no further construction works occur at 12 Bulwarra Close until this matter is resolved.

I look forward to hearing from you.

Sincerely

Sch 2.2(a)(ii)

From: Gaze, Reuben
Sent: Tuesday, 24 July 2018 3:50 PM
To: Parking Operations
Subject: parking issues Bulwarra CI O'Malley [SEC=UNCLASSIFIED]

Hello

Building and Planning Compliance team are dealing with a concern about one of the embassies, and the complainant also raised concerns regarding parking on Bulwarra Close O'Malley.

It is a residential area with a couple of embassy's. Lots of cars parked on the verge of Kuwait embassy, and lots on street. TCCS recently put in some street signage at the residents request preventing parking on one side, and some no standing signs. We drove past today and notice one car half in a no standing zone. Sorry no photo.

Not sure if you can drive past sometime and issue PINs if appropriate. I will advise the complainant that I have notified your area of her concerns. CRM case 151, or let me know if you need complainant contact details.

Kind regards

Reuben Gaze | Manager, Rapid Response – Construction Audit Team
Phone: 02 62076282 | Email: reuben.gaze@act.gov.au
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s2(a)(ii)