



**ACT**  
Government

Environment and  
Sustainable Development

# Notice of decision

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

## Merit track

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DA NO: 201120946		DATE LODGED: 16 December 2011
DATE OF DECISION: 16 April 2012		
BLOCK: 1	SECTION: 2	SUBURB: PIALIGO
STREET NO AND NAME: [REDACTED]		
APPLICANT: [REDACTED]		
LESSEE: [REDACTED]		

### THE DECISION

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

I, Ray Brown, delegate of the ACT Planning and Land Authority, pursuant to section 162 of the Act, hereby **approve subject to conditions** the proposal for:

- **the construction of a two storey single dwelling house with attached garage, swimming pool, pergolas, and associated landscaping, paving and other site works;**

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

*Note: the maximum number of dwellings permitted on the block is three (3). The proposed dwelling is the third dwelling on the block. The dwelling is approved for use as a single dwelling only unless otherwise separately approved.*

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

**PART 2** sets out the Reasons for the Decision.

**PART 3** is Public Notification and Entity Advice.

**PART 4** contains administrative information relating to the determination.

### DELEGATE

[REDACTED]  
Ray Brown  
Delegate of the ACT Planning and Land Authority  
Environment and Sustainable Development Directorate  
16 April 2012

### CONTACT OFFICER

Ray Brown  
[REDACTED]

## **PART 1**

### **CONDITIONS OF APPROVAL**

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

#### **A. ADMINISTRATIVE / PROCESS CONDITIONS**

##### **A1. CONTAMINATED SITES**

This development approval, with the exception of site remediation, does not take effect until the proposed development site is assessed and remediated, if necessary, by a suitably qualified environmental consultant to ensure it is suitable for the proposed land use and does not pose a risk to human health. The consultant's assessment report must be forwarded to the Environment Protection Unit (EPA) for review and endorsement prior to the commencement of works at the site.

##### **A2. EPA ENDORSEMENT**

The endorsement obtained from the EPA is to be submitted to the ACT Planning and Land Authority as evidence that the land is suitable for development.

##### **A3. LAND MANAGEMENT AGREEMENT**

That prior to the commencement of construction, the Land Management Agreement is amended to include requirements for on-going management and protection of the vegetative buffer.

##### **A4. LANDSCAPING BUFFER AND ASSOCIATED REPORT**

That the development is carried out in accordance with the Landscape Plan, DWG No. A0\_05, Revision D, dated MAR\_12; and the "Report on land-uses in Pialligo and the suitability to residential development at Block 1 Section 2 Division Pialligo" dated March 2012 by Michael Thomsett, provided by the CBRE on behalf of the applicant.

##### **A5. BUSHFIRE RISK MITIGATION**

The dwelling is to be constructed in accordance with the Building Code of Australia in relation to building in a bushfire prone area.

##### **A6. SPECIAL PURPOSE RESERVE**

The development must not encroach into the Special Purpose Reserve.

**B. PRIOR TO CONSTRUCTION AND/OR DEMOLITION**

B1. TREE PROTECTION

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

**C. DURING CONSTRUCTION AND/OR DEMOLITION**

C1. TREE PROTECTION

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

C2. WASTE MANAGEMENT

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

**D. ADVISORY NOTES**

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

D1. BUILDING APPROVAL

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

## **PART 2 REASONS FOR THE DECISION**

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

- the relevant code, being the Non-Urban Zones Development Code; and
- the management agreement for the land.

The key issues identified in the assessment are: suitability of the land; entity advice, in particular ensuring environment protection measures are carried out; ensuring the development does not affect the Special Purpose Reserve; and that construction is in accordance with the BCA for dwellings in a bushfire prone area. Conditions have been imposed to address the key issues and ensure that the proposal is consistent with the Territory Plan and the *Planning and Development Act 2007*.

### **EVIDENCE**

**Application No.** 201120946

**File No.** 1-2011/21478

**The Territory Plan zone** – NUZ1 Broadacre zone

**The Development Codes** – Non-Urban Zones Development Code

**Current Crown Lease** – Volume 1580 Folio 74

**Representations** – no representations received

**Entity advice** – EPA, TAMS, ACTEW, Heritage, NCA

## **PART 3 PUBLIC NOTIFICATION AND ENTITY ADVICE**

### **PUBLIC NOTIFICATION**

Pursuant to Division 7.3.4 of the Act, the application was publicly notified from 21 December 2011 to 27 January 2012. No written representations were received during public notification.

### **ENTITY ADVICE**

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

#### ENVIRONMENT PROTECTION AUTHORITY

On 17 January 2012 advice was received from the Environment Protection Authority (EPA), in relation to the proposal. The advice states:

#### **CONDITIONS:**

#### **CONTAMINATED SITES**

The proposed location of works at the site appears to be in an area which has undergone land cultivation. In the past orchards have included intensive application of various pesticides which may have resulted in elevated levels of residual pesticides and/or heavy metals in the soil.

The ANZECC 1992, Guidelines for the Assessment and Management of Contaminated Sites and the Contaminated Sites Environment Protection Policy (EPP), November 2009 lists agricultural/ horticultural activities, including orchards, as activities associated with land contamination which may present a risk to human health or the environment.

The ACT Government's "Strategic Plan for Contaminated Sites Management" (1995) specifically requires that potentially contaminated land be investigated at the earliest stages of the planning process to ensure a site is suitable for the proposed use.

If the new dwelling is to be used as a residence the works site must first be assessed and remediated, if necessary, by a suitably qualified environmental consultant to ensure it is suitable for the proposed land-use and does not pose a risk to human health. The consultant's assessment report must be forwarded to the Environment Protection Unit for review and endorsement prior to the commencement of works at the site.

#### **VEGETATIVE BUFFER**

The EPU has assessed the report and endorses the consultant's findings that whilst the risk from existing and future adjacent agricultural land-uses is low, the risks can be mitigated by the establishment of a buffer zone and plantings between the proposed residential development and the neighbouring property to the north as outlined in drawing No. A0.05, titled 'For the Environment Protection Authority Landscape Plan'. Specifically this comprises a 20 metre buffer, comprising a 15 metre vegetative buffer with specific plantings as detailed with an additional 5m buffer between this and the secondary building line.

The EPU would support the development application provided the Landscape Plan and supporting Report mentioned above are included as part of the development approval or conditions of approval. The approval will also need to address the on-going management and protection of the vegetative buffer from development.

**ADVICE:****Water Regulation**

If you wish to use non-potable water for construction purposes please contact Environment Protection (Water Regulation) via Canberra Connect on 132281.

**Water Quality**

If the development will require the importation of more than 100 cubic metres of soil then an Environmental Authorisation under the *Environment Protection Act 1997* must be obtained prior to this occurring. An application form is available on the website [www.environment.act.gov.au](http://www.environment.act.gov.au)

*ACTPLA comment:*

Matters raised have been incorporated as either conditions of approval or advice.

**TERRITORY AND MUNICIPAL SERVICES DIRECTORATE**

On 25 January 2012 advice was received from Territory and Municipal Services in relation to the proposal. The advice states that the DA is supported.

*ACTPLA comment:*

Matters raised have been incorporated as either conditions of approval or advice. Refer to Appendix 1, Further Approvals for Construction, for information about the use of verges or other Territory Land during construction.

**ActewAGL**

On 23 December 2011 advice was received from ActewAGL Water Division in relation to the proposal. The advice states that this application has been assessed by ActewAGL and complies with ACTEW's water and sewerage network protection and access requirements.

On 12 January 2012 advice was received from ActewAGL Electricity Networks Division in relation to the proposal. The advice states that the application has been assessed for compliance with ActewAGL's Electricity Network and conditionally complies with the Electricity Networks requirements.

On 12 January 2012 advice was received from ActewAGL Gas Networks in relation to the proposal. The advice states that the application has been assessed against legislation protecting ActewAGL's gas infrastructure and access to it and conditionally complies with the Gas Networks requirements.

*ACTPLA comment:*

Matters raised have been incorporated as either conditions of approval or advice.

**ACT HERITAGE**

On 12 April 2012 advice was received from the ACT Heritage Council in relation to the proposal. The advice states that due to the nature or minor scope of the works the proposed development is unlikely to detrimentally impact upon the heritage values of the place and a DETAILED ASSESSMENT IS NOT REQUIRED.

However, attention of the Applicant/Lessee is drawn to section 51 of the *Heritage Act 2004* concerning the requirements for reporting the discovery of Aboriginal places or objects. Any discoveries are to be reported to the ACT Heritage Council within 5 working days after the day of the discovery.

*ACTPLA comment:*

Matters raised have been incorporated as either conditions of approval or advice.

NATIONAL CAPITAL AUTHORITY

On 27 March 2012 advice was received from the National Capital Authority in relation to the proposal. The NCA have no comments in regards to the proposed development.

## **PART 4**

### **ADMINISTRATIVE INFORMATION**

#### DATE THAT THIS APPROVAL TAKES EFFECT

Subject to condition A1, this approval is effective from the day after the date of this notice. The effective date for development applications approved subject conditions could be adjusted if the approval is reconsidered by the ACT Planning and Land Authority or if an application is made to the ACT Civil and Administrative Tribunal.

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

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

#### Conditional Approval

This approval will expire if, in accordance with Section 165(3)(d) of the Act, a condition has deferred the effect of the development approval **and** imposed a time frame during which another approval must be revoked, amended or given, and the time frame has expired.

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

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

#### INSPECTION OF THE APPLICATION AND DECISION

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

#### RECONSIDERATION OF THE DECISION

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

Application forms and further information about reconsideration are available from the ACT Planning and Land Authority's website and Customer Service Centres. The delegate of the ACTPLA reconsidering the decision must be different from, and senior to, the original decision maker. An application for reconsideration does not prevent an application for a review of the same decision being made to the ACT Civil and Administrative Tribunal.

#### REVIEW BY THE ACT CIVIL AND ADMINISTRATIVE TRIBUNAL (ACAT)

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



# APPENDIX 1

## CONTACT DETAILS OF RELEVANT AGENCIES

<b>Health Directorate</b> - health protection	Website: <a href="http://www.health.act.gov.au/c/health">http://www.health.act.gov.au/c/health</a> Telephone: (02) 6205 1700
<b>Environment and Sustainable Development Directorate</b>  <i>ACT Planning and Land Authority</i> <ul style="list-style-type: none"> <li>- list of certifiers for building approval</li> <li>- demolition information</li> <li>- asbestos information</li> </ul> <i>Environment Protection Authority</i> <ul style="list-style-type: none"> <li>- environment protection</li> <li>- water resources</li> <li>- asbestos information</li> </ul> <i>Conservation, Planning and Research</i> <ul style="list-style-type: none"> <li>- threatened species/wildlife management</li> </ul>	Website: <a href="http://www.actpla.act.gov.au">www.actpla.act.gov.au</a> Telephone: (02) 6207 1923  Website: <a href="http://www.environment.act.gov.au">www.environment.act.gov.au</a> Telephone: (02) 6207 6251  Website: <a href="http://www.environment.act.gov.au">www.environment.act.gov.au</a> Telephone: (02) 6207 1911
<b>Territory and Municipal Services Directorate</b> <ul style="list-style-type: none"> <li>- tree damaging activity approval</li> <li>- use of verges or other unleased Territory land</li> <li>- works on unleased Territory land - design acceptance</li> <li>- damage to public assets</li> </ul>	Website: <a href="http://www.tams.act.gov.au">www.tams.act.gov.au</a> Telephone: 132 281 Telephone for asset acceptance: (02) 6207 7480
<b>Utilities</b> <ul style="list-style-type: none"> <li>- Telstra (networks)</li> <li>- TransACT (networks)</li> <li>- ActewAGL</li> <li>- Electricity reticulation</li> </ul>	Telephone: (02) 9397 2090 Telephone: (02) 6229 8000 Telephone: 1100 Telephone: (02) 6293 5738

## ADVICE TO APPLICANT

### SUBMISSION OF REVISED DRAWINGS AND DOCUMENTATION

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

- With a completed application Form 1I for Section 144 & 197 Amendments and Satisfying Conditions of Approval (S.165) or Form 1E Development application – estate development plan, Satisfying Conditions of Approval (S.165) for Estate Development Plans; or
- Submitting the documentation online using edevelopment. More information on edevelopment can be found at [http://www.actpla.act.gov.au/tools\\_resources/e-services/edevelopment](http://www.actpla.act.gov.au/tools_resources/e-services/edevelopment)

For further information regarding the lodgement of this information please contact Customer Service Centre by Phone: (02) 6207 1923, Fax: (02) 6207 1925 TTY: (02) 6207 2622, Email: [actpla.customer.services@act.gov.au](mailto:actpla.customer.services@act.gov.au) or on the ACT Planning and Land Authority website at [www.actpla.act.gov.au](http://www.actpla.act.gov.au).

## **FURTHER APPROVALS FOR CONSTRUCTION**

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

### **BUILDING APPROVAL**

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

### **PERMITTED VARIATIONS TO APPROVED DEVELOPMENT**

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

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

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

### **"TREE DAMAGING ACTIVITY" APPROVAL**

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

### **USE OF VERGES OR OTHER UNLEASED TERRITORY LAND**

In accordance with the *Roads and Public Places Act 1937*, road verges and other unleased Territory land must not be used for the carrying out of works, including the storage of materials or waste, without prior approval of the Territory. Approval can be obtained from the Territory and Municipal Services Directorate.

### **WORKS ON UNLEASED TERRITORY LAND – DESIGN AND OPERATIONAL ACCEPTANCE**

In accordance with the *Roads and Public Places Act 1937*, no work can be undertaken on unleased Territory land without the approval of the Territory. Such approval must be obtained from the Manager Asset Acceptance, Asset Services Group, TAMSD by way of:

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

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

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

## **CONSTRUCTION REQUIREMENTS**

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

### DEMOLITION AND ASBESTOS MANAGEMENT

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

### ENVIRONMENT PROTECTION

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

### REPAIR OF DAMAGE TO PUBLIC ASSETS

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

### UTILITY ASSETS RETENTION

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

### WATER RESTRICTIONS AND FILLING OF NEW POOLS, PONDS AND FOUNTAINS

Water restrictions or permanent water conservation measures may be in force in the ACT and may prohibit or affect the filling of new pools, ponds and fountains using potable (tap) water drawn from ACTEW Corporation Limited's potable water supply system. Applicants wishing to use water drawn from the potable water supply system to fill a new pool, pond or fountain are advised to first contact ACTEW's Water conservation office on (02) 62483131. Where water restrictions or permanent water conservation measures would otherwise prevent or affect the filling of a new pool, pond or fountain, it might be possible to obtain an exemption to fill the pool, pond or fountain using potable water.

### DRAINAGE

The Building Code of Australia contains provisions affecting surface drainage and the height of finished floor levels. These may apply to this proposal.

### BUSHFIRE MITIGATION MEASURES

This residential dwelling is located in an area where a bushfire risk assessment has identified that mitigation measures are required to reduce the impact of bushfires. The mitigation measures in this approval are to be maintained for the life of the residence. Special care needs to be exercised by the lessee to ensure that any future building works and modifications to the dwelling and additional landscaping does not compromise the mitigation measures imposed.

## REVIEW OF THE DECISION

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

### CONTACT DETAILS

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

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

### POWERS OF THE ACAT

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

### APPLICATIONS TO THE ACAT

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

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

### TIME LIMITS FOR APPLICATIONS

The time limit to make a request for a review is 28 days from the date of this Notice of decision. The time limit can be extended in some circumstances (refer to sections 10 (2), 10(3), 25(1)(e) and 25(2) of the *ACT Civil & Administrative Tribunal Act 2008*; section 7 of the *ACT Civil and Administrative Tribunal Procedure Rules 2009 (No 2)*; and section 409 of the *Planning and Development Act 2007*).

### FEES

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

### TIME LIMITS FOR REVIEWS OF DECISIONS

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

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

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

- ACT Attorney-General, write to The Chief Executive, Justice and Community Safety Directorate, GPO Box 158, CANBERRA, ACT, 2601;
- the ACT Legal Aid Office, telephone 1300 654314;
- Legal Advice Bureau, telephone (02) 6247 5700;
- ACT Council of the Ageing, telephone (02) 6282 3777;
- Welfare Rights and Legal Centre, telephone (02) 6247 2177; and
- Environmental Defender's Office (ACT), telephone (02) 6247 9420.

### AWARDING OF COSTS

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

### ACCESS TO DOCUMENTS ABOUT THE DECISION

You may apply for access to any documents you consider relevant to this decision under the ACT Freedom of Information Act 1989. Information about Freedom of information requests is available on the 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, including in the Guide to the Land and Planning Division and the Guide to the Hearing. Contact the ACAT for alternative ways to access information about the ACAT's procedures.

**TRANSLATION AND INTERPRETER SERVICES**

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

ENGLISH	If you need interpreting help, telephone:
ARABIC	: إذا احتجت لمساعدة في الترجمة الشفوية ، إتصل برقم الهاتف :
CHINESE	如果你需要传译员的帮助，请打电话：
CROATIAN	Ako trebate pomoć tumača telefonirajte:
GREEK	Αν χρειάζεστε διερμηνέα τηλεφωνήσετε στο
ITALIAN	Se avete bisogno di un interprete, telefonate al numero:
MALTESE	Jekk għandek bżonn l-għajjuna t'interpretu, ċempel:
PERSIAN	: اگر به ترجمه شفاهی احتیاج دارید به این شماره تلفن کنید:
PORTUGUESE	Se você precisar da ajuda de um intérprete, telefone:
SERBIAN	Ако вам је потребна помоћ преводиоца телефонирајте:
SPANISH	Si necesita la asistencia de un intérprete, llame al:
TURKISH	Tercümana 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

Environment and  
Sustainable Development

# Notice of decision

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

## Section 197 Amendment

DA NO: 201120946/A

DATE LODGED: 23 October 2012

DATE OF DECISION: 25 October 2012

BLOCK: 1

SECTION: 2

SUBURB: PIALLIGO

STREET NO AND NAME: [REDACTED]

APPLICANT: [REDACTED]

LESSEE: [REDACTED]

### THE PROPOSAL

Pursuant to section 197 of the *Planning and Development Act 2007*, approval is sought to amend development approval No. 201120946 dated 16/04/2012 by:

- (a) Adding a toilet at play area;
- (b) adding a bay window at Bedroom 2;
- (c) amending the GFA to include the additional toilet and bay window;
- (d) adding, removing and resizing windows;
- (e) changing the finished floor level; and
- (f) removing external columns.

### THE DECISION

I, Greta van Malenstein, delegate of the planning and land authority, pursuant to section 198 of the Act, hereby **approve** to amend the development approval, in accordance the application made under section 197 of the Act, in accordance with the plans, drawings and other documents and items submitted with the application and endorsed as forming part of this approval.

### PUBLIC NOTIFICATION

Pursuant to S198B of the *Planning and Development Act 2007*, the authority waived the requirement to publicly notify the amendment of the development approval.

The authority is satisfied that:

- (a) no-one other than the applicant will be adversely affected by the amendment; and
- (b) the environmental impact caused by the amendment will do no more than minimally increase the environmental impact of the development.

### ENTITY ADVICE

Pursuant to S198A of the *Planning and Development Act 2007*, the authority waived the requirement to refer the amendment of the development approval to agencies.

The authority is satisfied that the application for amendment does not affect any part of the development approval in relation to which the entity made a comment.

### REASONS FOR THE DECISION

In deciding whether to amend the development approval in accordance with the application under section 197 of the Act, I have considered the application and taken action in relation to the

application as if the development originally approved had been completed, and the application for the amendment was an application for approval of a development proposal to change the completed development to give effect to the amendment.

The application to amend the development approval satisfactorily meets the requirements for approval. The application was approved because, pursuant to section 198 of the Act, the changed development proposal and the original development proposal would not be in different assessment tracks, and the development after the amendment will be substantially the same as the development for which approval was originally given.

### **INSPECTION OF THE APPLICATION AND DECISION**

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

### **RECONSIDERATION OF THE DECISION**

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

Application forms and further information about reconsideration are available from the planning and land authority's website and Customer Service Centres. The delegate of the authority reconsidering the decision must be different from, and senior to, the original decision maker. An application for reconsideration does not prevent an application for a review of the same decision being made to the ACT Civil and Administrative Tribunal.

### **REVIEW BY THE ACT CIVIL AND ADMINISTRATIVE TRIBUNAL (ACAT)**

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

### **EVIDENCE**

**Application No. 201120946/A**

**File No. 1-2011/21478**

**TL File No. 251/2/1**

**The Territory Plan zone – NUZ1 Broadacre Zone**

**The Development Codes – Non-Urban Zones development Code**

**Current Crown Lease – Volume 1580 Folio 74**

### **DELEGATE**



Greta van Malenstein  
Delegate of the planning and land authority  
Environment and Sustainable Development Directorate

25 October 2012

### **CONTACT OFFICER**





# APPENDIX 1

## REVIEW OF THE DECISION

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### TRANSLATING AND INTERPRETING SERVICE

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# Notice of decision

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

## Section 197 Amendment

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DA NO: 201120946/C

DATE LODGED: 14-Oct-13

DATE OF DECISION: 06/11/2013

BLOCK: 1

SECTION: 2

SUBURB: PIALLIGO

STREET NO AND NAME: [REDACTED]

APPLICANT: [REDACTED]

LESSEE: [REDACTED]

### THE PROPOSAL

Pursuant to section 197 of the *Planning and Development Act 2007*, approval is sought to amend development approval No. 201120946 dated 16/04/2012 by:

- (a) Revised chimneys;
- (b) Modified window size and design;
- (c) Amended entrance portico design;
- (d) Added / shifted external windows in the garage area and the master bedroom;
- (e) Minor adjustment of GFA;
- (f) Amended pool / pond design;
- (g) Removed first floor balcony, and extended eaves;
- (h) Extended roof eaves over entrances to garages
- (i) Added decorative external columns in the eastern courtyard;
- (j) Added covered awnings to west side;
- (k) Added external door to the play area.

### THE DECISION

I, Raymond Brown, delegate of the planning and land authority, pursuant to section 198 of the Act, hereby **approve** to amend the development approval, in accordance the application made under section 197 of the Act, in accordance with the plans, drawings and other documents and items submitted with the application and endorsed as forming part of this approval.

### PUBLIC NOTIFICATION

Pursuant to S198B of the *Planning and Development Act 2007*, the authority waived the requirement to publicly notify the amendment of the development approval.

The authority is satisfied that:

- (a) no-one other than the applicant will be adversely affected by the amendment; and
- (b) the environmental impact caused by the amendment will do no more than minimally increase the environmental impact of the development.

## **ENTITY ADVICE**

Pursuant to S198A of the *Planning and Development Act 2007*, the authority waived the requirement to refer the amendment of the development approval to agencies.

The authority is satisfied that the application for amendment does not affect any part of the development approval in relation to which the entity made a comment.

## **REASONS FOR THE DECISION**

In deciding whether to amend the development approval in accordance with the application under section 197 of the Act, I have considered the application and taken action in relation to the application as if the development originally approved had been completed, and the application for the amendment was an application for approval of a development proposal to change the completed development to give effect to the amendment.

The list of amendments submitted with this application included a change to the location of a garden adjacent to the southern side of the dwelling, however the applicant subsequently advised that this amendment is no longer sought, and that amendment is not included in this approval.

The application to amend the development approval satisfactorily meets the requirements for approval. The application was approved because, pursuant to section 198 of the Act, the changed development proposal and the original development proposal would not be in different assessment tracks, and the development after the amendment will be substantially the same as the development for which approval was originally given.

## **INSPECTION OF THE APPLICATION AND DECISION**

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

## **RECONSIDERATION OF THE DECISION**

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

Application forms and further information about reconsideration are available from the planning and land authority's website and Customer Service Centres. The delegate of the authority reconsidering the decision must be different from, and senior to, the original decision maker. An application for reconsideration does not prevent an application for a review of the same decision being made to the ACT Civil and Administrative Tribunal.

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**Application No. 201120946/C**

**The Territory Plan zone – Broadacre**

**The Development Codes – Non-Urban Zones Development Code**


**The Precinct Codes – Pialligo Precinct Map and Code**

**Current Crown Lease – Volume 1580 Folio 74**

**Representations – N/A**

**Entity advice – N/A**

DELEGATE 




Raymond Brown  
Delegate of the planning and land authority  
Environment and Sustainable Development Directorate

06/11/2013

**CONTACT OFFICER**

Full name Raymond Brown



# APPENDIX 1

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# Notice of decision

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

## Merit track

DA NO: 201221537		DATE LODGED: 2/05/2012
DATE OF DECISION: 23 October 2012		
BLOCK: 393	SECTION: 0	SUBURB: GUNGAHLIN
STREET NO AND NAME: [REDACTED]		
APPLICANT: [REDACTED]		
LESSEE: [REDACTED]		

### THE DECISION

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

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

- a proposed new radio station with associated carparking and landscaping;
- construction of an additional mast (30 metre monopole); and
- a variation of the Crown Lease to increase the maximum Gross Floor Area to 1000 square metres and permit an additional mast.

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

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

**PART 2** sets out the Reasons for the Decision

**PART 3** is Public Notification and Entity Advice.

**PART 4** contains administrative information relating to the determination.

DELEGATE

[REDACTED]

Raymond Brown  
 Delegate of the planning and land authority  
 Environment and Sustainable Development Directorate

23 October 2012

**CONTACT OFFICER**

[REDACTED]



## **PART 1 CONDITIONS OF APPROVAL**

**Please note that this approval includes leasing requirements. THE APPROVAL WILL EXPIRE 2 YEARS AFTER THE APPROVAL TAKES EFFECT or otherwise in accordance with the conditions of approval.** In addition, there are legislative requirements that must be met prior to the registration of the instrument of variation. See Advisory Notes for further information about those legislative requirements.

The conditions to which a development approval for a merit track proposal may be given are as per section 165 of the Act. Standard conditions are in the Standard Conditions – Merit and impact track assessments document.

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

### **A. ADMINISTRATIVE / PROCESS CONDITIONS**

#### **A1. FURTHER INFORMATION**

Within 28 days from the date of this decision, or within such further time as may be approved in writing by the planning and land authority, the applicant shall lodge with the planning and land authority for approval:

- (a) Revised site plan, landscape plan and architectural drawings, based on the relevant drawings submitted as part of the application, showing:
  - (i) Provision for an electrical substation, to be located within the bounds of the proposed sediment and erosion control area, and located to satisfy the requirements of ActewAGL Electricity Networks Division;
  - (ii) A revised Striped Legless Lizard Management Strategy for ongoing management of Block 393 Gungahlin, to incorporate conditions 4, 5, 6, & 7 of the Environmental Significance Opinion of the Conservator of Flora and fauna dated 30 August 2012;
  - (iii) A turning template demonstrating how a 12.5 metre waste collection vehicle can manoeuvre and turn on the proposed sealed carpark;
  - (iv) Details of proposed stormwater drainage.

### **MANNER IN WHICH THE DEVELOPMENT PROPOSAL MUST BE UNDERTAKEN**

- A2. Clearance for the proposed development is to be limited to the development footprint;
- A3. Machinery and stockpiling of construction materials is to be contained within the area bounded by the silt fence. Machinery and / or materials are not permitted to be operated or stored beyond this area at any point.

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**CONDITIONS RELATING TO THE VARIATION OF A CROWN LEASE****A4. VARIATION TO THE CROWN LEASE**

No building work in relation to this Development Application is to commence on the site until the Instrument of Variation giving effect to this approval is registered at the Office of Regulatory Services.

**A5. REAPPRAISAL OF RENT FOR VARIED CROWN LEASE**

Prior to the registration of the Instrument of Variation at the Office of Regulatory Services, the lessee must pay any rent and additional rent due and payable under the lease up to the day of variation in accordance with the requirements of Sections 271 and 272 of the *Planning and Development Act 2007*.

**A6. INSTRUMENT OF VARIATION**

That the lessee accept the variation substantially in accordance with the draft Instrument of Variation at **Attachment 1** and shall do all that is necessary to ensure that the Instrument of Variation giving effect to this approval is registered at the Office of Regulatory Services within 28 days of being notified that the Instrument of Variation is available for registration, or within such further time as may be approved by the planning and land authority.

*See under Advisory Notes below for more information on the lease variation and rent.*

**B. PRIOR TO CONSTRUCTION AND/OR DEMOLITION****B1. SEDIMENT AND EROSION CONTROL**

That prior to any work on the site commencing, the sediment and erosion control measures shown on plan identified as RADIO2CC2CA Sheet 3 Issue D are to be put in place;

That prior to any work on the site commencing, the applicant/lessee must submit two copies of the sediment and erosion control plan to Environment Protection Authority for approval.

**B2. ENVIRONMENT PROTECTION**

Construction activities on sites of 0.3 hectares or greater is an activity listed in Schedule 1 as a Class B activity under the Environment Protection Act 1997. The contractor/builder proposing to develop the site must hold an Environmental Authorisation or enter into an Environment Protection Agreement with the Environment Protection Authority (EPA) in respect of that activity.

**B3. TREE PROTECTION**

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

**B4. VERGE MANAGEMENT**

This plan is to be approved and implemented before the commencement of any work on the site, and is to be in accordance with the *City Management Guidelines for the Protection of Public Landscape Assets Adjacent to Development Works-REF-04*.

**B5. TRAFFIC MANAGEMENT**

A Temporary Traffic Management (TTM) Plan shall be prepared by a suitably qualified person and approved by the Manager, Asset Acceptance, Operational Support,

Directorate Services, Territory and Municipal Services Directorate (TAMSD) prior to commencement of any work on the site. This plan is to address, as a minimum, measures to be employed during construction to manage all traffic, including construction traffic, in and around the site, provision of safe pedestrian movement around the site, the provision of parking for construction workers, and associated traffic control devices.

**B6. INTERIM VEHICLE ACCESS**

As a shared access arrangement to the subject and neighbouring blocks is not yet in place, the applicant/lessee is to liaise with Territory and Administrative Services Directorate (TaMSD) about a suitable form of interim access from Morisset Road to the site. Approval for the interim access arrangement is to be gained from TaMSD prior to commencement of construction on site. The interim access arrangement is to be at the applicant/lessee's expense.

**C. DURING CONSTRUCTION AND/OR DEMOLITION**

**C1. SEDIMENT AND EROSION CONTROL**

The sediment and erosion control measures shown on plan identified as RADIO2CC2CA Sheet 3 Issue D are to remain in place until all works are completed.

**C2. EXCAVATED SOIL**

All excavated soil from the site must be assessed by a suitably qualified environmental consultant in accordance with ACT EPA Information Sheet 4 prior to reuse offsite or disposal. No soil is to be disposed from the site or reused offsite without Environment Protection Unit (EPU) approval.

**C3. TREE PROTECTION**

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

**C4. VERGE MANAGEMENT**

During any work undertaken on the site, all existing vegetation (trees, shrubs and grass) located on the verge and unleased Territory land immediately adjacent to the development shall be managed, protected and maintained in accordance with a Landscape Management Plan approved by the Manager, Asset Acceptance, Operational Support, Directorate Services, Territory and Municipal Services Directorate, TAMSD.

**C5. TRAFFIC MANAGEMENT**

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

**C6. WASTE MANAGEMENT**

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

**C7. EXCAVATED SOIL**

All excavated soil from the site must be assessed by a suitably qualified environmental consultant in accordance with ACT Environment Protection Authority (EPA) Information Sheet 4 prior to reuse offsite or disposal. No soil is to be disposed from the site or reused

offsite without EPA approval.

#### **D. POST CONSTRUCTION AND/OR DEMOLITION**

- D1. Ongoing management of the site is to be in accordance with the revised Striped Legless Lizard Management Strategy referred to in Condition A1 (a) (ii).
- D2. Inner and Outer Asset Protection Zones as shown on plan identified as RADIO2CC2CA Sheet 1 Issue D are to be maintained.

#### **E. ADVISORY NOTES**

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

##### **E1. EXPIRY OF APPROVAL**

This approval will expire if the Instrument of Variation giving effect to the lease variation is not registered at the Office of Regulatory Services within 2 years from the date the approval takes effect. The lessee should arrange to pay all rent payable not less than 6 months prior to the date the approval will expire to allow sufficient time to process and register the variation to the Crown lease.

##### **E2. REAPPRAISAL OF RENT**

As required under the *Planning and Development Act 2007*, the Authority will reappraise the rent payable under the varied Crown lease in accordance with the provisions of Clause 3(b) of the Crown lease. The lessee will then be given written notice of the rent payable prior to and as a result of the variation.

To obtain advice on rent reappraisal, and/or to commence the process, you should contact the Manager, General Leasing – by telephone on (02) 6207 2112 or by email at [leasing@act.gov.au](mailto:leasing@act.gov.au).

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

## **PART 2 REASONS FOR THE DECISION**

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

- the relevant code, being the Non-Urban Development Code; and
- the Environmental Significance Opinion of the Conservator of Flora and Fauna in relation to the proposal.

The key issues identified in the assessment are protection of the endangered striped legless lizard and habitat for that species, and EMEs associated with the proposed works, the reappraisal and payment of any increase in rent, the registration of the Instrument of Variation. Conditions have been imposed to address the key issues and ensure that the proposal is consistent with the Territory Plan and the *Planning and Development Act 2007*.

### **EVIDENCE**

**Application No. 201221537**

**File No.**

**Territory Lease File No.**

**The Territory Plan zone – NUZ1 - Broadacre**

**The Development Codes – Non-Urban Zones Development Code**

**The Precinct Codes – Nil**

**Current Crown Lease – Volume 1080 Folio 25**

**Representations - Nil**

**Entity advice – Territory & Municipal Services Directorate; Actew Water;**

**ActewAGL Gas Networks; ActewAGI Electricity Networks; Environment**

**Protection Authority; Land and Infrastructure Group ESDD;**

**Other – Environmental Significance Opinion of the Conservator of Flora and Fauna**

## **PART 3 PUBLIC NOTIFICATION AND ENTITY ADVICE**

### **PUBLIC NOTIFICATION**

Pursuant to Division 7.3.4 of the Act, the application was publicly notified from 11 May 2012 to 01 June 2012. No written representations were received during public notification.

### **ENTITY ADVICE**

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

#### CONSERVATOR OF FLORA AND FAUNA

On date 14 May 2012 advice was received from the Conservator of Flora and Fauna in relation to the proposal. The advice states that:

The Conservation Planning and Research Section (CPR) does not support the above development application in its current form, as potentially significant environmental impacts, and means to mitigate impacts, have not been adequately identified or addressed.

The issue of concern is that the development site is located in moderate to high quality habitat of the striped legless lizard (*Delma impar*), with a lizard recorded in the immediate vicinity of the proposed works in spring 2011. The striped legless lizard is listed as vulnerable under both the *Nature Conservation Act 1980 (ACT)* and the *Environment Protection and Biodiversity Conservation Act 1999 (Cmwlth)*. The population size of this lizard in the general Kenny area, of which the proposed development site is a component, is amongst the highest recorded in the ACT.

The major habitat requirement for striped legless lizard is a tall tussock grass structure, which can include areas that are dominated by exotic grasses, such as Phalaris. In addition to the loss of habitat that will result from the construction of the radio station, carpark and monopole, habitat is also likely to be lost or significantly degraded as part of any requirement to establish fire asset protection zones around the new building, as these zones will require a shorter grass structure.

The Statement of Environmental Effects accompanying the development application does not mention the striped legless lizard nor the fire asset protection zones that are likely to be required. It proposes re-grassing areas surrounding the new building and car park with buffalo grass (*Stenotaphrum secundatum*) which will not provide habitat for the striped legless lizard and risks the spread of this invasive grass species into other parts of the block. While Block 393 Gungahlin is dominated by phalaris, the Statement of Environmental Effects is incorrect when it states that the block is cleared of any native vegetation. Tall corkscrew grass (*Austrostipa bigeniculata*) is a common element, and would be an appropriate species to utilise in any landscape restoration as it provides suitable habitat for the striped legless lizard.

Prior to any development approval, consideration of the impact of the development, including any requirement for fire asset protection zones, on the striped legless lizard needs to be undertaken. The Development Application 201221537 proposes that the Assessment Track is Merit Track. The applicable Assessment Track is Impact Track as the proposal could be likely to have a significant impact on a species that is vulnerable and may therefore trigger the requirement for an EIS under the Planning and Development Act, Schedule 4, Part 4.3, Item 1. It is also probable that the proposal will need to be referred to the Commonwealth under the EPBC Act, particularly if large fire asset protection zones need to be established around the building.

CPR's view is that the developed site could avoid a significant impact to the striped legless lizard provided: (a) disturbance during development is minimised (restricted to a small footprint), (b) an inner asset fire protection zone, if required, is restricted to 30 m around the building and (c) the remainder of the block (outside the 30 m fire protection zone) is managed in a way that is favourable to maintaining the habitat of the striped legless lizard. Such management is likely to resemble the current management of the block, and would include the requirement to not reduce grass height below 20 cm (by grazing or mowing). If mowing is used to manage grass on the site, then mowing should be infrequent (i.e. not more than once per month).

CPR also considers that if the development were to occur on the site then a condition of approval (and/or the lease) should be, in addition to the above requirements, that a short plan be written to cover issues such as grazing level, weed control, fire management and minimisation of physical disturbance.

The above issues should be addressed in the Statement of Environment Effects and the Development Application be re-submitted in the Impact Track. If the above issues are adequately addressed, it would be appropriate to seek an Environmental Significance Opinion (ESO) from the Conservator of Flora and Fauna.

#### ACTPLA Comment

The applicant was advised to undertake further investigatory work in respect of the Striped Legless Lizard. After a further report from the applicant's consultant was received, the applicant applied for an ESO.

On 30 August 2012, the Conservator provided an ESO that the proposal is not likely to have a significant adverse environmental impact provided that the works are undertaken with 7 conditions relating to limiting the extent of clearance and activity on the site, sediment and erosion control, and ongoing management of the site to maintain adequate habitat for the Striped Legless Lizard. The Conservator's conditions have been incorporated as conditions of approval for this development.

#### TERRITORY AND MUNICIPAL SERVICES DIRECTORATE

On date 10 May 2012 advice was received from Territory and Municipal Services in relation to the proposal. The advice states that further information is required, in particular;

1. A 12.5m waste vehicle turning template is required.
2. Stormwater plan is required.
3. The site will be accessible only after the proposed Morisset Road extension with future shared access to blocks 393, 738 and 601 are constructed. It is unknown from the documents submitted when the construction on block 393 is going to be started.

#### ACTPLA Comment

Matters raised have been incorporated as conditions of approval.

#### Actew Water

On 10 May 2012 advice was received from Actew Water in relation to the proposal. The advice states that the proposal complies with Actew's water and sewerage network protection and access requirements.

#### ACTPLA Comment

Matters raised have been incorporated as advice.

### ActewAGL Electricity Networks Division

On 29 May 2012 advice was received from ActewAGL Electricity Networks in relation to the proposal. The advice provides conditional compliance for the proposal, including a requirement to provide for a substation on site.

#### ACTPLA Comment

Matters raised have been incorporated as either conditions of approval or advice.

### ActewAGL Gas Networks

On date 10 May 2012 advice was received from ActewAGL (Jemena) Gas Networks in relation to the proposal. The advice provides conditional compliance for the proposal.

#### ACTPLA Comment

Matters raised have been incorporated as advice.

### ENVIRONMENT PROTECTION AUTHORITY

On 30 May 2012 advice was received from the Environment Protection Authority in relation to the proposal. The advice is as follows;

#### **Contaminated Sites:**

There is an historic uncontrolled builder's spoil landfill located on Block 440 Gungahlin which extends into Blocks 393 and 739 Gungahlin.

There is no information recorded for the landfill which impacts Block 440 Gungahlin other than references in documents held by the EPU to the Commonwealth establishing designated spoil sites in the Gungahlin area. The landfill may have been designated for this purpose. Due to the unknown nature of the material disposed of at these sites they are classified as uncontrolled dumps or landfill sites and an assessment would be required prior to any change in land use. The status and extent of the landfill detailed above is unknown with no records to indicate the site has been investigated.

The ANZECC 1992, Guidelines for the Assessment and Management of Contaminated Sites and the Contaminated Sites Environment Protection Policy (EPP), November 2000 list landfills as activities associated with land contamination.

All excavated soil from the site must be assessed by a suitably qualified environmental consultant in accordance with ACT EPA Information Sheet 4 prior to reuse offsite or disposal. No soil is to be disposed from the site or reused offsite without EPU approval.

#### **Environment Protection:**

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

All civil/building works are required to comply with the Environment Protection Act by ensuring that sediment and erosion controls are in place to prevent any pollution from leaving the site and entering the stormwater system and noise from the building work occurs during the permitted periods.



All pollution control measures should be installed in accordance with Environment Protection Guidelines for Construction & Land Development in the ACT, August 2007. Further to this, ensure all building works that generates noise is conducted within the time periods detailed in Schedule 2 of the Environment Protection Regulation 2005.

All builders and developers must meet their responsibilities under the Environment Protection Act 1997 & the Environment Protection Regulation 2005.

\* Construction activities on sites of 0.3 hectares or greater is an activity listed in Schedule 1 as a Class B activity under the Environment Protection Act 1997. The contractor/builder proposing to develop the site must hold an Environmental Authorisation or enter into an Environment Protection Agreement with the Environment Protection Authority (EPA) in respect of that activity prior to work commencing.

#### ACTPLA Comment

Matters raised have been incorporated as advice or conditions of approval.

#### LAND AND INFRASTRUCTURE GROUP

On date 14 May 2012 advice was received from the ESDD Land and Infrastructure Group in relation to the proposal. The advice states that:

(1) The application does not state if the proposal will have an effect on electromagnetic emissions (EME) from the block. There is no reference to new antennae as being transmitting or receiving and the power rating of each.

EMEs have previously been reviewed for this facility in relation the existing Bimberi Youth Justice Centre and future development at Kenny (located east of the subject block), which has found that EME are within acceptable limits. However new development has the potential to result in levels exceeding acceptable limits. Advice should be sought from the applicant.

(2) Recent surveys for Striped Legless Lizard (*Delma impar*) (SLL), a listed threatened species, have been undertaken on behalf of ESDD in the surrounding area and including the subject block. The study confirmed an occurrence of SLL on Block 393 and moderate quality habitat existing on part of the block. The application does not confirm the ecological conditions of the proposed disturbance area.

#### ACTPLA Comment

The applicant has provided a report explaining the new directional links and the limited intensity of EMEs, concluding that there are no adverse impacts.

Further discussion was undertaken with the applicant about the presence of SLL on Block 393, On the basis of further information from the applicant about the presence and potential for SLL on the site, and further advice from Conservation Planning and Research (CPR), the applicant was invited to apply for an Environmental Significance Opinion (ESO) from the Conservator of Flora and Fauna. On 30 August 2012, the Conservator advised that the proposal was not likely to have a significant adverse environmental impact on a species that is vulnerable, provided that works are carried out in a manner that limits the area of the site upon which construction activity can occur, and that the ongoing management of the block is undertaken in a way that preserves the habitat for the SLL.

The detailed conditions of the Conservator's ESO have been included as conditions of approval.

## **PART 4 ADMINISTRATIVE INFORMATION**

### DATE THAT THIS APPROVAL TAKES EFFECT

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

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

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

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

Pursuant to section 185 of the Act, this approval will expire if:

- the lease variation is not completed two years after the day the approval takes effect.

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

### INSPECTION OF THE APPLICATION AND DECISION

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

### RECONSIDERATION OF THE DECISION

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

Application forms and further information about reconsideration are available from the planning and land authority's website and Customer Service Centres. The delegate of the ACTPLA reconsidering the decision must be different from, and senior to, the original decision maker. An application for reconsideration does not prevent an application for a review of the same decision being made to the ACT Civil and Administrative Tribunal.

### REVIEW BY THE ACT CIVIL AND ADMINISTRATIVE TRIBUNAL (ACAT)

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



For further information regarding the lodgement of this information please contact Customer Service Centre by Phone: (02) 6207 1923, Fax: (02) 6207 1925 TTY: (02) 6207 2622, Email: [actpla.customer.services@act.gov.au](mailto:actpla.customer.services@act.gov.au) or on the planning and land authority website at [www.actpla.act.gov.au](http://www.actpla.act.gov.au).

## **FURTHER APPROVALS FOR CONSTRUCTION**

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

### BUILDING APPROVAL

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

### PERMITTED VARIATIONS TO APPROVED DEVELOPMENT

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

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

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

### "TREE DAMAGING ACTIVITY" APPROVAL

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

### USE OF VERGES OR OTHER UNLEASED TERRITORY LAND

In accordance with the *Roads and Public Places Act 1937*, road verges and other unleased Territory land must not be used for the carrying out of works, including the storage of materials or waste, without prior approval of the Territory. Approval can be obtained from the Territory and Municipal Services Directorate.

### WORKS ON UNLEASED TERRITORY LAND – DESIGN AND OPERATIONAL ACCEPTANCE

In accordance with the *Roads and Public Places Act 1937*, no work can be undertaken on unleased Territory land without the approval of the Territory. Such approval must be obtained from the Manager Asset Acceptance, Asset Services Group, TAMSD by way of:

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

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

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

## **CONSTRUCTION REQUIREMENTS**

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

### DEMOLITION AND ASBESTOS MANAGEMENT

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

### ENVIRONMENT PROTECTION

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

### REPAIR OF DAMAGE TO PUBLIC ASSETS

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

### UTILITY ASSETS RETENTION

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

### WATER RESTRICTIONS AND FILLING OF NEW POOLS, PONDS AND FOUNTAINS

Water restrictions or permanent water conservation measures may be in force in the ACT and may prohibit or affect the filling of new pools, ponds and fountains using potable (tap) water drawn from ACTEW Corporation Limited's potable water supply system. Applicants wishing to use water drawn from the potable water supply system to fill a new pool, pond or fountain are advised to first contact ACTEW 's Water conservation office on (02) 62483131. Where water restrictions or permanent water conservation measures would otherwise prevent or affect the filling of a new pool, pond or fountain, it might be possible to obtain an exemption to fill the pool, pond or fountain using potable water.

### DRAINAGE

The Building Code of Australia contains provisions affecting surface drainage and the height of finished floor levels. These may apply to this proposal.

## **REVIEW OF THE DECISION**

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

CONTACT DETAILS

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

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

POWERS OF THE ACAT

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

APPLICATIONS TO THE ACAT

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

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

TIME LIMITS FOR APPLICATIONS

The time limit to make a request for a review is 28 days from the date of this Notice of decision. The time limit can be extended in some circumstances (refer to sections 10 (2), 10(3), 25(1)(e) and 25(2) of the *ACT Civil & Administrative Tribunal Act 2008*; section 7 of the *ACT Civil and Administrative Tribunal Procedure Rules 2009 (No 2)*; and section 409 of the *Planning and Development Act 2007*).

FEES

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

TIME LIMITS FOR REVIEWS OF DECISIONS

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

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

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

- ACT Attorney-General, write to The Chief Executive, Justice and Community Safety Directorate, GPO Box 158, CANBERRA, ACT, 2601;
- the ACT Legal Aid Office, telephone 1300 654314;
- Legal Advice Bureau, telephone (02) 6247 5700;
- ACT Council of the Ageing, telephone (02) 6282 3777;
- Welfare Rights and Legal Centre, telephone (02) 6247 2177; and
- Environmental Defender's Office (ACT), telephone (02) 6247 9420.

### AWARDING OF COSTS

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

### ACCESS TO DOCUMENTS ABOUT THE DECISION

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

### PROCEDURES OF THE ACAT

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

**TRANSLATION AND INTERPRETER SERVICES**

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

ENGLISH	If you need interpreting help, telephone:
ARABIC	: إذا احتجت لمساعدة في الترجمة الشفوية ، إتصل برقم الهاتف :
CHINESE	如果你需要传译员的帮助，请打电话：
CROATIAN	Ako trebate pomoć tumača telefonirajte:
GREEK	Αν χρειάζεστε διερμηνέα τηλεφωνήσετε στο
ITALIAN	Se avete bisogno di un interprete, telefonate al numero:
MALTESE	Jekk għandek bżonn l-għajnuna t'interpretu, ċempel:
PERSIAN	: اگر به ترجمه شفاهی احتیاج دارید به این شماره تلفن کنید:
PORTUGUESE	Se você precisar da ajuda de um intérprete, telefone:
SERBIAN	Ако вам је потребна помоћ преводиоца телефонирајте:
SPANISH	Si necesita la asistencia de un intérprete, llame al:
TURKISH	Tercümana 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



**APPLICATION TO  
VARY A CROWN LEASE**

Form 044 - AVCL

Land Titles Act 1925

**IMPORTANT INFORMATION**

This form is to be used to lodge an application to vary a crown lease under the *Land Titles Act 1925* (the Act). You can access the Act at [www.legislation.act.gov.au](http://www.legislation.act.gov.au). You may also obtain further information and forms at [www.ors.act.gov.au](http://www.ors.act.gov.au).

**PRIVACY INFORMATION**

The Act authorises the Registrar-General to collect the information required by this form. The Registrar-General provides identifiable information to various agencies including, but not limited to, the ACT Environment and Sustainable Development Directorate, ACT Treasury Directorate, Canberra Connect and ACTEWAGL for conveyancing, municipal account administrative, statistical and valuation purposes. These agencies may also use this information to prepare and sell property sales reports to commercial organisations concerned with the development, sale or marketing of land.

**CONTACT INFORMATION**

Lodge in person at the **Office of Regulatory Services:** **255 Canberra Avenue, Fyshwick ACT 2609**  
Office Hours: **9:00am to 4:30pm Monday to Friday**  
General enquiries telephone number: **(02) 6207 0491**  
Website address: **[www.ors.act.gov.au](http://www.ors.act.gov.au)**

**INSTRUCTIONS FOR COMPLETION**

- The certificate of title or production of title consenting to the registration of this document is required for lodgement.
- All information should be typed or clearly printed. If completing this form by hand please use a solid black pen only.
- This office will not accept lodgement of this form if it is not completed in full.
- Any alteration to information provided on this form must be struck through with a black pen. Substitute information must be clear and all parties must sign in the margin. Do not use correction fluid or tape.
- Ensure all required documents are attached. If there is insufficient space in any panel, please use an Annexure Sheet.
- Execution by:
  - a) **A Natural Person** – Should be witnessed by an adult person who is not a party to the document.
  - b) **Attorney** – if this document is executed by an Attorney pursuant to a registered power of attorney, it must set out the full name of the attorney and the form of execution must indicate the source of his/her authority e.g. "AB by his/her attorney XY pursuant to Power of Attorney ACT Registration No..... of which he/she has no notice of revocation". (This execution requires a witness).
  - c) **Corporation** – Section 127 of the *Corporations Act* provides that a company may now validly execute a document with or without using a Common Seal if the document is signed by:
    - i. Two directors of the company;
    - ii. A director and a secretary of the company; or
    - iii. Where the company is a proprietary company and has a sole director who is also the sole company secretary, that director. (This execution does not require a witness).
- The following forms of execution are suggested –
  - a) **With A Common Seal**  
The common seal of ABC Pty Ltd/Ltd ACN.....  
was affixed in the presence of-  
.....(signature)  
.....(director/secretary)\*  
(\*repeat if necessary i.e. if two directors signing. If signing as sole director and sole secretary, state 'director/secretary') – (This execution does not require a witness).
  - b) **Without A Common Seal**  
Signed by ABC Pty Ltd/Ltd ACN.....  
.....(signature)  
.....(director/secretary)\*  
(\*repeat if necessary i.e. if two directors signing. If signing as sole director and sole secretary, state 'director/secretary') – (This execution does not require a witness).



**ACT**  
Government

Justice and Community Safety

LAND TITLES  
OFFICE OF REGULATORY SERVICES  
ACT Justice and Community Safety Directorate

**APPLICATION TO  
VARY A CROWN LEASE**

Form 044 - AVCL

Land Titles Act 1925

The Minister or the Delegate of the ACT Planning and Land Authority (the Authority) has agreed to vary the lease as described below, subject to the mortgages, encumbrances and other instruments affecting the land including any created by dealings lodged for registration prior to the lodging of this document. (Note – This form cannot be used to vary a Unit within a Registered Units Plan)

LODGING PARTY DETAILS		
Name	Postal Address	Contact Telephone Number

TITLE AND LAND DETAILS			
Volume & Folio	District/Division	Section	Block
1080:25	GUNGAHLIN		393

FULL NAME OF REGISTERED PROPRIETOR/S (Surname Last) (ACN required for all companies)	FULL POSTAL ADDRESS

LEGISLATIVE PROVISION TO VARY CROWN LEASE
I, INSERT NAME, being a delegate of the Planning and Land Authority, APPLY to you to register the variation which has been made to the Crown lease of the land described. An approval of the Variation of Lease is submitted herewith in accordance with Section 72A of the <u>Land Titles Act 1925</u>

DETAILS OF DELETED CLAUSES (no longer applicable after registration)
N/A

**DETAILS OF VARIATION**

**AUSTRALIAN CAPITAL TERRITORY  
PLANNING AND DEVELOPMENT ACT 2007  
VARIATION OF A LEASE**

Under the *Planning and Development Act 2007* I, insert name approve the variation of Crown lease specified hereunder:

**FORMER PROVISIONS**

- 4(e) That the total maximum gross floor area of all buildings on the land shall not exceed 100 square metres;
- 4(d) That two only masts shall be erected on the land and that no mast on the land shall exceed seventy metres;

**AMENDED PROVISIONS**

- 4(e) That the total maximum gross floor area of all buildings on the land shall not exceed 1,000 square metres;
- 4(d) That not more than three (3) masts shall be erected on the land and that no mast on the land shall exceed seventy metres;

**EXECUTION BY ACT PLANNING AND LAND AUTHORITY**

Signed by the person duly authorised by ACT Planning and Land Authority  
(Please print full name of authorised signatory)

Print full name and address of witness

PRINT NAME  
Senior officer Grade C  
Position No

Signature of witness

Dated -

Dated -

**OFFICE USE ONLY**

Lodged by		Certificate of title lodged	
Data entered by		Certificates attached to title	
Registered by		Attachments / Annexures	
Registration date		Production number	



**ACT**  
Government

Environment and  
Sustainable Development

# Notice of decision

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

## Merit track

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DA NO: 201323613		DATE LODGED: 31/05/2013
DATE OF DECISION: 19 November 2013		
BLOCK: 7	SECTION: 35	SUBURB: WRIGHT
STREET NO AND NAME: [REDACTED]		
APPLICANT: [REDACTED]		
LESSEE: [REDACTED]		

### THE DECISION

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

I, Raymond Brown, delegate of the planning and land authority, pursuant to section 162 of the Act, hereby **approve subject to conditions** the proposal for a **new single dwelling** in accordance with the plans, drawings and other documents and items submitted with the application and endorsed as forming part of this approval.

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

**PART 2** sets out the Reasons for the Decision

**PART 3** is Public Notification and Entity Advice.

**PART 4** contains administrative information relating to the determination.

### DELEGATE



Raymond Brown  
Delegate of the planning and land Authority  
Environment and Sustainable Development Directorate  
19/11/2013

### CONTACT OFFICER



## **PART 1**

### **CONDITIONS OF APPROVAL**

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

#### **A. ADMINISTRATIVE / PROCESS CONDITIONS**

##### **A1. BOUNDARY FENCING**

Pursuant to sub paragraph 165(3)(n)(ii) of the *Planning and Development Act 2007*, at the lessee's expense and before the completion of building work, fencing shall be erected to a height of 1.8m on the boundary between Block 7, Section 35, Wright and Block 8, Section 35, Wright. The lessee shall take all reasonable steps to obtain the written consent of the adjoining lessee(s) before the erection of new fencing. If there is no agreement, the fencing shall be to a standard acceptable to the planning and land Authority. Fencing is to comply with all relevant planning provisions.

#### **B. DURING CONSTRUCTION AND/OR DEMOLITION**

##### **C.1 LANDSCAPE MANAGEMENT**

During any work undertaken on the site, all existing vegetation (trees, shrubs and grass) located on the verge and unleased Territory land immediately adjacent to the development shall be managed, protected and maintained. All fencing must be placed so that the verge is protected but access to the pedestrian network is provided at all times.

##### **C.2 SEDIMENT AND EROSION CONTROL**

All works are to be in accordance with *Environment Protection Guidelines for Construction and Land Development in the ACT, March 2011*, available via [www.environment.act.gov.au](http://www.environment.act.gov.au) or by calling Canberra Connect: 13 22 81

##### **C.3 WASTE MANAGEMENT**

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

##### **C.4 STORMWATER SERVICES CONNECTION**

There shall be no alteration to the previously approved stormwater tie.

## **PART 2 REASONS FOR THE DECISION**

The application satisfactorily meets the requirements for approval. The application was approved because, based on the documentation and in the form modified by the imposed conditions, it was considered to meet the relevant code, being the Single Dwelling Housing Development Code.

Issues identified in the assessment included the privacy and amenity of residents of adjoining blocks. Conditions have been imposed to address these issues and ensure that the proposal is consistent with the Territory Plan and the *Planning and Development Act 2007*.

### **EVIDENCE**

**Application No. 201323613**

**File No. 1-2013/07062**

**The Territory Plan zone – RZ1 Suburban**

**The Development Codes – Single Dwelling Housing Development Code**

**The Precinct Codes – Coombs & Wright Concept Plan, Wright Precinct Code**

**Current Crown Lease – Volume 2092 : Folio 84**

**Representations – Two representations received**

**Entity advice – Environment Protection, Territory and Municipal Services,  
ActewAGL**

## **PART 3 PUBLIC NOTIFICATION AND ENTITY ADVICE**

### **PUBLIC NOTIFICATION**

Pursuant to Division 7.3.4 of the Act, the application was publicly notified from 6 June 2013 to 21 June 2013. One written representation was received during public notification.

Issues raised in the representation related to adverse impacts arising from departures from the relevant rules and criteria of the applicable development codes; specifically the *Single Dwelling Housing Development Code* and the *Coombs & Wright Concept Plan*. Reference was made to the *Statement against Relevant Criteria* submitted with the application.

Prior to receiving the representation, the Authority contacted the applicant advising that aspects of the proposal had been found not to comply with mandatory requirements of the Coombs & Wright Concept Plan. The applicant was invited to consider amending the application under section 144 of the Act.

An amended application was received and was publicly notified from 25 September 2013 to 10 October 2013. One written representation was received in relation to the amended application.

The representation acknowledged the amendments to the design but expressed objections to the amended proposal based on three key issues as follows.

#### Issue: Side Setback

There was opposition to the proposal due to an encroachment of the building into the side setback on the northern boundary. There was considered to be insufficient spatial separation between dwellings, adverse impacts on privacy, and adverse impacts on solar access.

In accordance with the Territory Plan, on a large block, a dwelling may be sited such that there is a 1.5 metre setback to either one or the other of the side boundaries. It may be concluded therefore, that a setback of 1.5 metres would provide adequate spatial separation in a suburban residential context. The proposed dwelling is sited at a distance of 1.5 metres (predominantly in the primary building zone) and 2.2 metres (in the rear zone) from the boundary.

The proposed setback is not considered to impact on solar access to the adjacent block, it being to the north of the subject block.

Analysis of sight-lines on the basis that a standard 1.8 metre boundary fence is a condition of this approval indicates little if any direct visual connection between habitable parts of either residence.

Having considered these issues, it is concluded that the proposed side setback is reasonable in the context. The proposed setback is in accordance with relevant Territory Plan criteria and the objectives of the zone.

It has been customary in certain circumstances, where approval is given for a new residential building, for the Authority to require the applicant to provide a 1.8m high fence to the boundary(s) of the subject block. This condition has been imposed on this approval in order to enhance the privacy and amenity of the adjoining block.

#### Issue: Front Setback

There was objection to the front setback on the grounds that the proposed setback would impact on views towards Mount Stromlo from Block 8 Section 35 Wright.

In considering this issue it must be noted that there is no criterion in any applicable development code that seeks to preserve specific views or outlooks from individual leases. Nevertheless, given the location of Mt Stromlo to the west and northwest of the abovementioned block, and the

location of the subject block to the south, with regard to this objection it is concluded that the relatively minor encroachment of part the proposed dwelling within the front setback would not unduly impact on the outlook from the adjoining block.

Issue: Building Envelope

Rule R63 of the *Coombs & Wright Concept Plan*, which is a *Precinct Code* for Section 93 of the Act, requires that dwellings be sited within a building envelope formed by planes projected over the subject block at (in this case) 32 degrees from a height of 1.8 metres above the northern boundary of the adjoining residential block. This is a mandatory rule.

Reference was made in the representation to what was perceived to be an encroachment on this building envelope (also known as a 'solar setback').

It was determined that the proposal contained no such encroachment.



## **ENTITY ADVICE**

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

### **ENVIRONMENT PROTECTION**

On 28 June 2013 advice was received from Environment Protection stating that all works are to be in accordance with *Environment Protection Guidelines for Construction and Land Development in the ACT, March 2011*.

Matters raised have been incorporated as a condition of approval.

### **TERRITORY AND MUNICIPAL SERVICES DIRECTORATE**

On 3 October 2013 advice was received from Territory and Municipal Services in relation to the proposal, stating that the proposal is supported with the following conditions:

1. *All works are to be inside the lease boundary.*
2. *The verge must be protected during construction.*
3. *There are to be no encroachments on Territory Land.*
4. *All fencing must be placed so that the verge is protected but access to the pedestrian network is provided at all times.*
5. *There should not be any changes to the stormwater tie for which approvals obtained during estate development.*

Matters raised have been incorporated as either conditions of approval or advice.

### **ACTEW WATER**

On 27 September 2013 advice was received from Actew Water in relation to the proposal. The advice states that the application is approved.

A copy of the advice is provided with this Notice of decision.

### **ACTEWAGL ELECTRICITY**

On 9 October 2013 advice was received from ActewAGL Electricity Networks in relation to the proposal. The advice states that the application is approved subject to conditions.

A copy of the advice is provided with this Notice of decision.

### **ACTEWAGL GAS**

On 9 October 2013 advice was received from ActewAGL Gas Networks in relation to the proposal. The advice states that the application is approved subject to conditions.

A copy of the advice is provided with this Notice of decision.

## **PART 4 ADMINISTRATIVE INFORMATION**

### DATE THAT THIS APPROVAL TAKES EFFECT

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

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

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

### Conditional Approval

This approval will expire if, in accordance with Section 165(3)(d) of the Act, a condition has deferred the effect of the development approval **and** imposed a time frame during which another approval must be revoked, amended or given, and the time frame has expired.

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

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

### INSPECTION OF THE APPLICATION AND DECISION

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

### RECONSIDERATION OF THE DECISION

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

Application forms and further information about reconsideration are available from the planning and land authority's website and Customer Service Centres. The delegate of the planning and land authority reconsidering the decision must be different from, and senior to, the original decision maker. An application for reconsideration does not prevent an application for a review of the same decision being made to the ACT Civil and Administrative Tribunal.

### REVIEW BY THE ACT CIVIL AND ADMINISTRATIVE TRIBUNAL (ACAT)

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

This Notice of decision has also been sent to all people who made representations in relation to the proposal.

# APPENDIX 1

## CONTACT DETAILS OF RELEVANT AGENCIES

<b>Health Directorate</b> - health protection	Website: <a href="http://www.health.act.gov.au">www.health.act.gov.au</a> Telephone: (02) 6205 1700
<b>Environment and Sustainable Development Directorate</b>  <i>Planning and land authority</i> <ul style="list-style-type: none"> <li>- list of certifiers for building approval</li> <li>- demolition information</li> <li>- asbestos information</li> </ul> <i>Environment Protection Authority</i> <ul style="list-style-type: none"> <li>- environment protection</li> <li>- water resources</li> <li>- asbestos information</li> </ul> <i>Conservation, Planning and Research</i> <ul style="list-style-type: none"> <li>- threatened species/wildlife management</li> </ul>	Website: <a href="http://www.actpla.act.gov.au">www.actpla.act.gov.au</a> Telephone: (02) 6207 1923  Website: <a href="http://www.environment.act.gov.au">www.environment.act.gov.au</a> Telephone: (02) 6207 6251  Website: <a href="http://www.environment.act.gov.au">www.environment.act.gov.au</a> Telephone: (02) 6207 1911
<b>Territory and Municipal Services Directorate</b> <ul style="list-style-type: none"> <li>- tree damaging activity approval</li> <li>- use of verges or other unleased Territory land</li> <li>- works on unleased Territory land - design acceptance</li> <li>- damage to public assets</li> </ul>	Website: <a href="http://www.tams.act.gov.au">www.tams.act.gov.au</a> Telephone: 132 281 Telephone for asset acceptance: (02) 6207 7480
<b>Utilities</b> <ul style="list-style-type: none"> <li>- Telstra (networks)</li> <li>- TransACT (networks)</li> <li>- ActewAGL</li> <li>- Electricity reticulation</li> </ul>	Telephone: (02) 9397 2090 Telephone: (02) 6229 8000 Telephone: 1100 Telephone: (02) 6293 5738

### ADVICE TO APPLICANT

#### SUBMISSION OF REVISED DRAWINGS AND DOCUMENTATION

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

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

For further information regarding the lodgement of this information please contact Customer Service Centre by Phone: (02) 6207 1923, Fax: (02) 6207 1925 TTY: (02) 6207 2622, Email: [actpla.customer.services@act.gov.au](mailto:actpla.customer.services@act.gov.au) or on the planning and land authority website at [www.actpla.act.gov.au](http://www.actpla.act.gov.au)

## **FURTHER APPROVALS FOR CONSTRUCTION**

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

### BUILDING APPROVAL

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

### PERMITTED VARIATIONS TO APPROVED DEVELOPMENT

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

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

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

### USE OF VERGES OR OTHER UNLEASED TERRITORY LAND

In accordance with the *Roads and Public Places Act 1937*, road verges and other unleased Territory land must not be used for the carrying out of works, including the storage of materials or waste, without prior approval of the Territory. Approval can be obtained from the Territory and Municipal Services Directorate.

### WORKS ON UNLEASED TERRITORY LAND – DESIGN AND OPERATIONAL ACCEPTANCE

In accordance with the *Roads and Public Places Act 1937*, no work can be undertaken on unleased Territory land without the approval of the Territory. Such approval must be obtained from the Manager Asset Acceptance, Asset Services Group, TAMSD by way of:

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

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

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

## **CONSTRUCTION REQUIREMENTS**

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

### ENVIRONMENT PROTECTION

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

### REPAIR OF DAMAGE TO PUBLIC ASSETS

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

**UTILITY ASSETS RETENTION**

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

**BUSHFIRE MITIGATION MEASURES**

This residential dwelling is located in an area where a bushfire risk assessment has identified that mitigation measures are required to reduce the impact of bushfires. The mitigation measures in this approval are to be maintained for the life of the residence. Special care needs to be exercised by the lessee to ensure that any future building works and modifications to the dwelling and additional landscaping does not compromise the mitigation measures imposed.

**REVIEW OF THE DECISION**

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

**CONTACT DETAILS**

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

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

**POWERS OF THE ACAT**

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

**APPLICATIONS TO THE ACAT**

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

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

**TIME LIMITS FOR APPLICATIONS**

The time limit to make a request for a review is 28 days from the date of this Notice of decision. The time limit can be extended in some circumstances (refer to sections 10 (2), 10(3), 25(1)(e) and 25(2) of the *ACT Civil & Administrative Tribunal Act 2008*; section 7 of the *ACT Civil and Administrative Tribunal Procedure Rules 2009 (No 2)*; and section 409 of the *Planning and Development Act 2007*).

**FEES**

Applications to the ACAT, including an application to be joined as a party to a proceeding, require payment of a fee (the Tribunal Registry will advise of the current fee), unless you are receiving legal or financial assistance from the ACT Attorney-General. You can apply to have the fee waived on the grounds of hardship, subject to approval (refer to section 22T of the *ACT Civil and Administrative Tribunal Act 2008*). Decisions to grant assistance are made on the grounds of hardship and that it is reasonable, in all the circumstances, for the assistance to be granted. Write to: The Chief Executive, Justice and Community Safety Directorate, GPO Box 158, CANBERRA ACT 2601. Ask the ACAT for more details.

TIME LIMITS FOR REVIEWS OF DECISIONS

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

FORMS OF LEGAL, FINANCIAL AND OTHER ADVICE AND ASSISTANCE

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

- ACT Attorney-General, write to The Chief Executive, Justice and Community Safety Directorate, GPO Box 158, CANBERRA, ACT, 2601;
- the ACT Legal Aid Office, telephone 1300 654314;
- Legal Advice Bureau, telephone (02) 6247 5700;
- ACT Council of the Ageing, telephone (02) 6282 3777;
- Welfare Rights and Legal Centre, telephone (02) 6247 2177; and
- Environmental Defender's Office (ACT), telephone (02) 6247 9420.

AWARDING OF COSTS

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

ACCESS TO DOCUMENTS ABOUT THE DECISION

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

PROCEDURES OF THE ACAT

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

TRANSLATION AND INTERPRETER SERVICES

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

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

**TRANSLATING AND INTERPRETING SERVICE****131 450**

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



**ACT**  
Government

Environment and  
Sustainable Development

# Notice of decision

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

## Merit track

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DA NO: 201323786	DATE LODGED: 12/08/2013	
DATE OF DECISION: 5 November 2013		
BLOCK: 2	SECTION: 50	SUBURB: FISHER
STREET NO AND NAME: [REDACTED]		
APPLICANT: [REDACTED]		
LESSEE: [REDACTED]		

### THE DECISION

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

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

- **Alterations to existing unapproved garage on western boundary of site involving removal of property boundary encroachment, and conversion to carport without doors.**

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

This decision is subject to the conditions of approval at **PART 1** being satisfied. Please note that plans will not be dispatched until all conditions are satisfied (if applicable).

**PART 2** sets out the Reasons for the Decision

**PART 3** is Public Notification and Entity Advice.

**PART 4** contains administrative information relating to the determination.

DELEGATE  
[REDACTED]

Ray Brown  
Delegate of the planning and land authority  
Environment and Sustainable Development Directorate  
05/11/2013

**CONTACT OFFICER**  
[REDACTED]

## **PART 1**

### **CONDITIONS OF APPROVAL**

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

#### **A. PRIOR TO CONSTRUCTION AND/OR DEMOLITION**

##### **A1. SEDIMENT AND EROSION CONTROL**

That prior to any work on the site commencing, the applicant/lessee must submit two copies of the sediment and erosion control plan to Environment Protection Authority for approval;

##### **A2. TREE PROTECTION**

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

##### **A3. VERGE MANAGEMENT**

This plan is to be approved and implemented before the commencement of any work on the site, and is to be in accordance with the *City Management Guidelines for the Protection of Public Landscape Assets Adjacent to Development Works-REF-04*.

#### **B. DURING CONSTRUCTION AND/OR DEMOLITION**

##### **B1. UTILITY ACCESS.**

The floor of the carport within the sewer easement/pipe protection envelope is to be a standard concrete slab (maximum depth of 100mm) with expansion joints.

##### **B2. SEDIMENT AND EROSION CONTROL**

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

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

##### **B3. TREE PROTECTION**

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

##### **B4. VERGE MANAGEMENT**

During any work undertaken on the site, all existing vegetation (trees, shrubs and grass) located on the verge and unleased Territory land immediately adjacent to the development shall be managed, protected and maintained in accordance with a Landscape Management Plan approved by the Manager, Asset Acceptance, Operational Support, Directorate Services, Territory and Municipal Services Directorate, TAMSD.

##### **B5. WASTE MANAGEMENT**



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

### **C. ADVISORY NOTES**

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

Attached are copies of the ActewAGL Statements of Conditional Compliance issued in response to referral of your application to this entity. Please ensure that you read and comply with the conditions specified in these notices.

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

## **PART 2 REASONS FOR THE DECISION**

The application satisfactorily meets the requirements for approval. The application was approved because, based on the documentation and in the form modified by the imposed conditions, it was considered to meet the relevant code, being the Single Dwelling Housing Development Code.

The key issues identified in the assessment are compliance with utility access requirements and criteria for reduced side setback and compatibility with associated dwelling. Conditions have been imposed to address the key issues and ensure that the proposal is consistent with the Territory Plan and the *Planning and Development Act 2007*.

### **EVIDENCE**

**Application No. 201323786**

**File No. 1-2013/09505**

**The Territory Plan zone – RZ1:Suburban Zone**

**The Development Codes – Single Dwelling Housing Development Code**

**Representations- Nil**

**Entity advice- ActewAGL Water and Sewerage Network, ActewAGL Gas Network, ActewAGL Electricity Network**

## **PART 3 PUBLIC NOTIFICATION AND ENTITY ADVICE**

### **PUBLIC NOTIFICATION**

Pursuant to Division 7.3.4 of the Act, the application was publicly notified from 21 August 2013 to 3 September 2013. No written representations were received during public notification.

### **ENTITY ADVICE**

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

#### ActewAGL Electricity Division

On 30 August 2013 advice was received from Actew AGL Electricity Division. A Statement of Conditional Compliance was issued on the condition that the development complies with the minimum clearances to overhead conductors referred to in drawing 3811-004.

A copy of the statement and drawing is attached and has been incorporated as advice.

On 27 September 2013 advice relating to the section 144 revised plans was received from ActewAGL Electricity Division. A Statement of Conditional Compliance was issued and an additional condition of approval was added that requires a minimum of 1.0M clearance for the Meter Box.

A copy of the statement is attached and has been incorporated as advice to the applicant.

#### ActewAGL Water and Sewerage Division

On 21 August 2013, advice was received from ActewAGL Water and Sewerage Division in relation to the proposal. The advice states that the application was not supported as adequate equipment access was not provided to permit ACTEW Water to maintain, repair or replace network assets. The structure was proposed with doors on each end of the garage. It was recommended that the design be modified to remove the infringement upon the easement.

On 26<sup>th</sup> September 2013, advice relating to the Section 144 revised plans was received from ActewAGL Water and Sewerage Division. A Statement of Conditional Compliance was issued on the condition that unobstructed 24 hour- 7day a week access a minimum of 1.5M wide is maintained across the land to the sewer maintenance structure towards the rear of the block. The revised design did not depict doors on the structure and has sufficient clearance between structural elements to be able to comply with this condition. Planned access is to be maintained through the designated structure. A condition of approval is also included specifying that only a standard concrete slab (maximum 100mm depth) with expansion joints is permitted within the sewer easement/pipe protection envelope.

A copy of the statement is attached and has been incorporated as advice to the applicant.

#### ActewAGL Gas Division

On 30<sup>th</sup> August 2013 and 26<sup>th</sup> September 2013 advice was received from ActewAGL Gas Division. On both occasions the application was assessed against the Gas Network requirements and a Statement of Conditional Compliance was issued.

A copy of the statement is attached and has been incorporated as advice to the applicant.

## **PART 4 ADMINISTRATIVE INFORMATION**

### **DATE THAT THIS APPROVAL TAKES EFFECT**

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

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

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

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

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

### **INSPECTION OF THE APPLICATION AND DECISION**

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

### **RECONSIDERATION OF THE DECISION**

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

Application forms and further information about reconsideration are available from the planning and land authority's website and Customer Service Centres. The delegate of the planning and land authority reconsidering the decision must be different from, and senior to, the original decision maker. An application for reconsideration does not prevent an application for a review of the same decision being made to the ACT Civil and Administrative Tribunal.

### **REVIEW BY THE ACT CIVIL AND ADMINISTRATIVE TRIBUNAL (ACAT)**

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

# APPENDIX 1

## CONTACT DETAILS OF RELEVANT AGENCIES

<b>Health Directorate</b> - health protection	Website: <a href="http://www.health.act.gov.au">www.health.act.gov.au</a> Telephone: (02) 6205 1700
<b>Environment and Sustainable Development Directorate</b>  <i>Planning and land authority</i>  - list of certifiers for building approval - demolition information - asbestos information  <i>Environment Protection Authority</i>  - environment protection - water resources - asbestos information  <i>Conservation, Planning and Research</i>  - threatened species/wildlife management	Website: <a href="http://www.actpla.act.gov.au">www.actpla.act.gov.au</a> Telephone: (02) 6207 1923   Website: <a href="http://www.environment.act.gov.au">www.environment.act.gov.au</a> Telephone: (02) 6207 6251   Website: <a href="http://www.environment.act.gov.au">www.environment.act.gov.au</a> Telephone: (02) 6207 1911
<b>Territory and Municipal Services Directorate</b> - tree damaging activity approval - use of verges or other unleased Territory land - works on unleased Territory land - design acceptance - damage to public assets	Website: <a href="http://www.tams.act.gov.au">www.tams.act.gov.au</a> Telephone: 132 281 Telephone for asset acceptance: (02) 6207 7480
<b>Utilities</b> - Telstra (networks) - TransACT (networks) - ActewAGL - Electricity reticulation	Telephone: (02) 9397 2090 Telephone: (02) 6229 8000 Telephone: 1100 Telephone: (02) 6293 5738

## ADVICE TO APPLICANT

### SUBMISSION OF REVISED DRAWINGS AND DOCUMENTATION

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

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

For further information regarding the lodgement of this information please contact Customer Service Centre by Phone: (02) 6207 1923, Fax: (02) 6207 1925 TTY: (02) 6207 2622, Email: [actpla.customer.services@act.gov.au](mailto:actpla.customer.services@act.gov.au) or on the planning and land authority website at [www.actpla.act.gov.au](http://www.actpla.act.gov.au).

## **FURTHER APPROVALS FOR CONSTRUCTION**

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

### **BUILDING APPROVAL**

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

### **PERMITTED VARIATIONS TO APPROVED DEVELOPMENT**

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

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

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

### **"TREE DAMAGING ACTIVITY" APPROVAL**

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

### **USE OF VERGES OR OTHER UNLEASED TERRITORY LAND**

In accordance with the *Roads and Public Places Act 1937*, road verges and other unleased Territory land must not be used for the carrying out of works, including the storage of materials or waste, without prior approval of the Territory. Approval can be obtained from the Territory and Municipal Services Directorate.

### **WORKS ON UNLEASED TERRITORY LAND – DESIGN AND OPERATIONAL ACCEPTANCE**

In accordance with the *Roads and Public Places Act 1937*, no work can be undertaken on unleased Territory land without the approval of the Territory. Such approval must be obtained from the Manager Asset Acceptance, Asset Services Group, TAMSD by way of:

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

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

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

## **CONSTRUCTION REQUIREMENTS**

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

### DEMOLITION AND ASBESTOS MANAGEMENT

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

### ENVIRONMENT PROTECTION

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

### REPAIR OF DAMAGE TO PUBLIC ASSETS

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

### UTILITY ASSETS RETENTION

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

### WATER RESTRICTIONS AND FILLING OF NEW POOLS, PONDS AND FOUNTAINS

Water restrictions or permanent water conservation measures may be in force in the ACT and may prohibit or affect the filling of new pools, ponds and fountains using potable (tap) water drawn from ACTEW Corporation Limited's potable water supply system. Applicants wishing to use water drawn from the potable water supply system to fill a new pool, pond or fountain are advised to first contact ACTEW's Water conservation office on (02) 62483131. Where water restrictions or permanent water conservation measures would otherwise prevent or affect the filling of a new pool, pond or fountain, it might be possible to obtain an exemption to fill the pool, pond or fountain using potable water.

### DRAINAGE

The Building Code of Australia contains provisions affecting surface drainage and the height of finished floor levels. These may apply to this proposal.

## **REVIEW OF THE DECISION**

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

CONTACT DETAILS

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

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

POWERS OF THE ACAT

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

APPLICATIONS TO THE ACAT

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

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

TIME LIMITS FOR APPLICATIONS

The time limit to make a request for a review is 28 days from the date of this Notice of decision. The time limit can be extended in some circumstances (refer to sections 10 (2), 10(3), 25(1)(e) and 25(2) of the *ACT Civil & Administrative Tribunal Act 2008*; section 7 of the *ACT Civil and Administrative Tribunal Procedure Rules 2009 (No 2)*; and section 409 of the *Planning and Development Act 2007*).

FEES

Applications to the ACAT, including an application to be joined as a party to a proceeding, require payment of a fee (the Tribunal Registry will advise of the current fee), unless you are receiving legal or financial assistance from the ACT Attorney-General. You can apply to have the fee waived on the grounds of hardship, subject to approval (refer to section 22T of the *ACT Civil and Administrative Tribunal Act 2008*). Decisions to grant assistance are made on the grounds of hardship and that it is reasonable, in all the circumstances, for the assistance to be granted. Write to: The Chief Executive, Justice and Community Safety Directorate, GPO Box 158, CANBERRA ACT 2601. Ask the ACAT for more details.

TIME LIMITS FOR REVIEWS OF DECISIONS

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



FORMS OF LEGAL, FINANCIAL AND OTHER ADVICE AND ASSISTANCE

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

- ACT Attorney-General, write to The Chief Executive, Justice and Community Safety Directorate, GPO Box 158, CANBERRA, ACT, 2601;
- the ACT Legal Aid Office, telephone 1300 654314;
- Legal Advice Bureau, telephone (02) 6247 5700;
- ACT Council of the Ageing, telephone (02) 6282 3777;
- Welfare Rights and Legal Centre, telephone (02) 6247 2177; and
- Environmental Defender's Office (ACT), telephone (02) 6247 9420.

AWARDING OF COSTS

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

ACCESS TO DOCUMENTS ABOUT THE DECISION

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

PROCEDURES OF THE ACAT

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

TRANSLATION AND INTERPRETER SERVICES

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

ENGLISH	If you need interpreting help, telephone:
ARABIC	: إذا احتجت لمساعدة في الترجمة الشفوية، إتصل برقم الهاتف
CHINESE	如果你需要传译员的帮助，请打电话：
CROATIAN	Ako trebate pomoć tumača telefonirajte:
GREEK	Αν χρειάζεστε διερμηνέα τηλεφωνήστε στο
ITALIAN	Se avete bisogno di un interprete, telefonate al numero:
MALTESE	Jekk għandek bżonn l-għajjuna t'interpretu, óempel:
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 telefonirajte:
SPANISH	Si necesita la asistencia de un intérprete, llame al:
TURKISH	Tercümana ihtiyacımız varsa lütfen telefon ediniz:
VIETNAMESE	Nếu bạn cần một người thông-ngôn hãy gọi điện-thoại:

**TRANSLATING AND INTERPRETING SERVICE****131 450**

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



**ACT**  
Government

Environment and  
Sustainable Development

# Notice of decision

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

## Impact track

DA NO: 201324063		DATE LODGED: 6 September 2013
DATE OF DECISION: 9 December 2013		
BLOCK: 1	SECTION: 2	SUBURB: DENMAN PROSPECT
BLOCK: 20	SECTION: -	DISTRICT: MOLONGLO VALLEY
STREET NO AND NAME: [REDACTED]		
APPLICANT: [REDACTED]		
LESSEE: [REDACTED]		

### THE DECISION

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

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

- PUBLIC WORKS-MAJOR ROAD. East West Arterial Road Stage 1 only. Stage 1 includes the length of road directly west of John Gorton Drive up to and including the first major intersection. The works are required to facilitate the installation of services from John Gorton Drive into the north of Denman Prospect
- The proposal includes associated landscaping, shared paths, traffic signals and other site works

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

This decision is subject to the conditions of approval at **PART 1** being satisfied. Please note that plans will not be dispatched until all conditions are satisfied.

**PART 2** sets out the Reasons for the Decision.

**PART 3** is Public Notification and Entity Advice.

**PART 4** contains administrative information relating to the determination.

### DELEGATE

[REDACTED]  
*Ray Brown*  
Delegate of the planning and land authority  
Environment and Sustainable Development Directorate  
9 December 2013

### CONTACT OFFICER

## **PART 1 CONDITIONS OF APPROVAL**

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

### **A ADMINISTRATIVE / PROCESS CONDITIONS**

#### **Design and Siting**

*Note: The following conditions must be satisfied prior to the release of approved plans to the proponent. These conditions may result in changes to plans or changes to documents associated with plans which will be stamped by the Authority.*

- A1. Within 28 days from the date of this decision, or within such further time as may be approved in writing by the planning and land authority, the applicant shall lodge with the planning and land authority for approval:
- (a) an Environmental Site Assessment Report endorsed by the Environment Protection Authority;
  - (b) plans which incorporate any revisions necessitated by the outcome of the endorsed Environmental Site Assessment Report.

### **B PRIOR TO CONSTRUCTION AND/OR DEMOLITION**

#### **Community Information and Involvement**

- B1. Prior to the commencement of construction works on site, the proponent shall ensure that the following are available for community enquiries and/or complaint for the duration of the project:
- (a) A telephone number on which complaints about construction activities at the site can be registered;
  - (b) A postal address to which written complaints may be sent; and
  - (c) An email address to which electronic complaints can be transmitted.
- B2. The telephone number, the postal address and the email address shall be displayed on the signs, placed in appropriate locations. A register of complaints shall be made available for inspection by ESDD upon request.

#### **Construction Environmental Management Plan**

- B3. A Construction Environment Management Plan (CEMP) must be submitted to and approved by the Environment Protection Authority prior to commencement of works on site. Please contact Robin Brown on 02 6207 5642 for any questions relating to the requirement for an endorsed CEMP prior to works. In addition to the requirements of the EPA, the CEMP should address as a minimum the following requirements from the s211 exemption report and be submitted to ESDD for approval prior to the commencement of any work on the site:
- (a) Measures to avoid impacts on areas outside of development footprints;
  - (b) Fencing off of areas of vegetation/trees to be retained;

- (c) Erosion and Sediment controls to be implemented during construction and remediation to mitigate impacts on water quality and sensitive areas;
  - (d) Contamination management plans for the handling of potentially contaminating materials and for the remediation of contaminated lands;
  - (a) Air quality and dust controls measures such as: watering, spray tack, hydro mulching, limiting work on windy days to limit air quality impacts from construction activities;
  - (b) Fauna management plans for breeding, injured or trapped wildlife;
  - (c) Waste management plans for construction activities;
  - (d) Workplace health and safety plans to protect workers and the public from harm;
  - (e) Tree management plans for trees to be removed, retained and trimmed/pruned. Should include details on timing of works to reduce impacts on bird species breeding;
  - (f) Unanticipated Discovery Protocols for the management of unexpected heritage object finds in accordance with condition B5 of this decision;
  - (g) Traffic management plans;
  - (h) Weed control measures to reduce ingress of weeds.
- B4. A Pollution Control Plan in accordance with Schedule 11.1 of Environment Protection Guidelines for Construction and Land Management in the ACT, March 2011, must be submitted to and endorsed by the Environment Protection Authority prior to the commencement of site works.

**NOTE:** *The CEMP may contain plans and management strategies listed elsewhere within the conditions of approval. Where these plans can be integrated into the CEMP, it must be clearly identified to which condition of approval the plan or management strategy applies.*

## Heritage

- B5. The Unanticipated Discovery Protocol contained in Section 9 of the document titled: *Molonglo Stage 2: Detailed Heritage Assessment -Aboriginal and Historical Heritage* by BIOSIS Research (2010) must be included in the Construction Environmental Management Plan and adhered to at all times during development.

## Environmental Authorisation/Agreement

- B6. Prior to the commencement of construction works on site, the following requirements are to be submitted to and approved by the EPA:

An Environmental Authorisation will be required by the site contractor prior to works for the activity of development of a site greater than 0.3 hectares.

## Asset Acceptance and Works on Unleased Territory Land

- B7. In accordance with the Roads and Public Places Act 1937, road verges and other unleased Territory land must not be used for carrying out of works, including storage of materials or waste, without prior approval of the Territory. Approval can be obtained from the Department of Territory and municipal Services.

Such approval must be obtained from Roads ACT, TAMS by the ways of:

1. A certificate of design acceptance prior to the commencement of any work; and
2. A certificate of Operational Acceptance on completion of all works to be handed over to TAMS.

Prior to the commencement of any work on the site, the following requirements be submitted to and approved by the Manager, Asset Acceptance, Operational Support, Directorate Services, TAMSD.

#### Design Acceptance

- (a) A Certificate of Design Acceptance is required from Roads ACT, Roads and Public Transport Division, TAMS, prior to the construction. The Certificate of Design acceptance will be issued for all civil works or, the updated version, approved by ACTPLA.

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

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

#### Notice of commencement of construction

- (b) That a Notice of Commencement of Construction be submitted to the Manager, Asset Acceptance TAMSD, one week prior to the commencement of construction works on site. Notice shall also include the confirmation of any protective measures installed in accordance with the approved Landscape Management Protection Plan and programmed implementation of the Temporary Traffic Management Plan.

#### Temporary Traffic Management (TTM)

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

#### Landscape Management & Protection Plan (LMPP)

- (d) LMPP approval is required from the Roads ACT, Roads and Public Transport Division, TAMS. During construction, all existing vegetation (trees, shrubs and grass) located on the verge and unleased Territory land immediately adjacent to the development shall be managed, protected and maintained in accordance with the Landscape Management Protection Plan (LMPP) approved by the Manager, Asset Acceptance. This plan is to be implemented before the commencement of

works, including demolition on the site and is to be in accordance with City Management Guidelines for the Protection of Public Landscape Assets Adjacent to Development Works-REF-04.

#### Protection of verges and public places

- (e) During construction, all existing vegetation (trees, shrubs and grass) located on the verge and unleased Territory land immediately adjacent to the development shall be managed, protected and maintained in accordance with the LMPP submitted to and approved by the Manager, AA, C&I, TAMSD prior to the commencement of construction works on site. This plan is to be implemented before the commencement of works, including the demolition/earthworks on the site and is to be in accordance with City Management Guidelines for the Protection of Public Landscape Assets Adjacent to Development Works-REF-04.

### C. DURING CONSTRUCTION AND/OR DEMOLITION

The following conditions are required to be implemented and maintained for the duration of any work on the site.

#### Environment Protection Authority

- C1. All works must be in accordance with Environment Protection Guidelines for Construction and Land Management in the ACT, March 2011, available by calling 132281.
- C2. Compliance with any requirements contained in the endorsed environmental site assessment report required under condition A1 of this decision, is required at all times during works.

#### Asset Acceptance and Works on Unleased Territory Land

- C3. The applicant is to comply with the requirements for which the design acceptance was obtained from RoadsACT.
- C4. That during any work undertaken on the site the following requirements must be initiated and maintained for the duration of construction:
- (a) At all times prior to completion of works on site, any work being undertaken on the site and surrounds must be managed in accordance with the plans required under condition B7 of this decision; and
- (b) All existing vegetation (trees, shrubs and grass) located on the verge and unleased Territory land immediately adjacent to the development be managed, protected and maintained in accordance with the LMPP approved in accordance with condition B7 of this decision.

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

#### Mount Stromlo Observatory

- C5. The proponent shall ensure that lighting installed does not result in the emission of light above 90 degrees in accordance with the requirements of ANU School of Astronomy and Astrophysics based at Mount Stromlo Observatory.

**NOTE:** Screening is not specifically required if this objective is met through other measures.

## **D POST CONSTRUCTION AND/OR DEMOLITION**

### **D1. Certificate of Operational Acceptance**

A Certificate of Operational Acceptance on completion of the works is required from the Roads ACT, Roads and Public Transport Division, TAMS, prior to the issue of a Certificate of Occupancy.

Similarly a Chartered Engineer/Landscape Architect should certify compliance with TAMS Ref No 08: "Requirements for Works as Executed Quality Records Requirements" when the request for Operational Acceptance is made to the Roads ACT, Roads and Public Transport Division, TAMS on completion of all off-site works.

### **D2. Repair of Damage to Public Assets**

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

### **D3. Where installed in accordance with Roads ACT requirements, directional signage or other wayfinding methods, e.g. tactile indicators, are to be in accordance with AS 1428.1 and AS 1428.4. Evidence to this effect.**

### **D4. To enable the creation of road reserve boundaries the Office of the Surveyor General is to be supplied with digital data showing design kerbs, centrelines, proposed reserve boundaries and surrounding block boundaries.**

## **E ADVISORY NOTES**

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

### **E1. Refer to the approval decision dated 20 December 2011 for the taking of actions in accordance with the *Molonglo Valley Plan for the Protection of Matters of National Environmental Significance*, ACT Government, September 2011, endorsed under the *Environment Protection and Biodiversity Conservation Act 1999*.**

Refer to Appendix 1 for information about approvals that may be required for construction and/or demolition.

## PART 2 REASONS FOR THE DECISION

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

- the relevant codes, being the Residential Zones Development Code and Transport and Services Zone Development Code;
- the advice of the Conservator of Flora and Fauna in relation to the proposal.

The key issues identified in the assessment are

1. That environmental matters are able to be addressed through relevant provisions within the Commonwealth approval under the EPBC Act and through conditions required in accordance with the development considerations within the *Planning and Development (Environmental Impact Statement-Molonglo Valley Stage 2- Urban Development, Infrastructure and Link Bridge) Exemption 2013*, assessment report.
2. Light emissions need to be managed in a manner which does not detrimentally effect the operations of the nearby Mount Stromlo Observatory. The decision is consistent with the advice received from the Observatory as it is a condition of consent that no light be emitted above 90 degrees and the proponent has indicated that the proposal complies with this requirement in its current form.
3. An environmental site assessment report endorsed by the EPA must be provided prior to the commencement of works.
4. Adequate assessment has been undertaken in relation to heritage related matters, an unanticipated discovery plan must be complied with during works.

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

### EVIDENCE

**Application No. 201324063**

**File No.**

**The Territory Plan zone** – TSZ1 Transport Zone, RZ4 Medium Density Residential Zone and RZ5 High Density Residential Zone.

**The Development Codes** – Residential Zones Development Code, Transport and Services Zone Development Code, Crime Prevention through Environmental Design General Code, Access and Mobility General Code.

**Exemption from EIS Titled:** *Planning and Development (Environmental Impact Statement-Molonglo Valley Stage 2- Urban Development, Infrastructure and Link Bridge) Exemption 2013* accepted by the Minister on 29 July 2013.

**Current Crown Lease** – unleased Territory land.

**Representations-** No representations were received in relation to this proposal.

**Entity advice-** Conservator Flora and Fauna, Territory and Municipal Services Directorate, ActewAGL Electricity, ActewAGL Gas, ActewAGL Water, ACT Health, Environment Protection Authority, ACT Fire and Rescue, ESDD City Planning, ESDD Infrastructure Policy, ANU Mount Stromlo Observatory, ACT Heritage Council, ESDD Survey, ESDD Transport Planning.

**Other-**Refer to the approval decision for the taking of actions in accordance with an endorsed plan under the Environment Protection and Biodiversity Conservation Act 1999- Molonglo Valley Plan For The Protection of Matters of National Environmental Significance, ACT Government, 2011.



## PART 3 PUBLIC NOTIFICATION AND ENTITY ADVICE

### PUBLIC NOTIFICATION

Pursuant to Division 7.3.4 of the Act, the application was publicly notified from 23 September 2013 to 15 October 2013. No written representations were received during public notification.

### ENTITY ADVICE

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

#### CONSERVATOR OF FLORA AND FAUNA

On 19 September 2013 advice was received from the Conservator of Flora and Fauna in relation to the proposal. The advice states:

*No apparent issues of concern though the proponent needs to ensure that Parks and Conservation Service are informed as soon as possible when works are to commence to ensure that the agistment licence that incorporates this area is adjusted accordingly.*

Additional advice was provided in relation to the Tree Protection Act as follows:

*The Tree Protection Act does not apply to these works.*

*Note that it would be helpful if Tree Assessment Reports etc that are submitted as part of a Development Application actually related to the works that are being applied for. It appears that the only trees being removed with these works are some regrowth of pinus radiata (pest species) though the Tree Assessment Report details some very significant trees.*

**Assessment note:** Matters raised have been incorporated as advice.

#### TERRITORY AND MUNICIPAL SERVICES DIRECTORATE-

On 1 October 2013 advice was received from Territory and Municipal Services Directorate in relation to the proposal. The advice states that:

*TAMS's position in regards to the above assessment is that this DA is: Supported With Conditions*

#### **Conditions:**

1. *The applicant is to comply with the requirements for which the design acceptance obtained from RoadsACT.*

*Following general conditions will apply as appropriate for Works on Territory Land in addition to the above:*

*In accordance with the Roads and Public Places Act 1937 no work is to be undertaken on road verges and other unleased Territory Land without the approval of the Territory. Such approval must be obtained from Roads ACT, TAMS by the ways of:*

1. A certificate of design acceptance prior to the commencement of any work and
2. A certificate of Operational Acceptance on completion of all works to be handed over to TAMS.

### **Design Acceptance and Operational Acceptance**

A Certificate of Design Acceptance is required from Roads ACT, Roads and Public Transport Division, TAMS, prior to the construction. The Certificate of Design acceptance will be issued for all off-site works or its updated version approved by ACTPLA.

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

A Certificate of Operational Acceptance on completion of the works is required from the Roads ACT, Roads and Public Transport Division, TAMS, prior to the issue of a Certificate of Occupancy.

Similarly a Chartered Engineer/Landscape Architect should certify compliance with TAMS Ref No 08: "Requirements for Works as Executed Quality Records Requirements" when the request for Operational Acceptance is made to the Roads ACT, Roads and Public Transport Division, TAMS on completion of all off-site works

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

### **Temporary Traffic Management (TTM)**

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

### **Landscape Management & Protection Plan (LMPP)**

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

### **Use of Verges or other Unleased Territory land**

In accordance with the Roads and Public Places Act 1937, road verges and other unleased Territory land must not be used for carrying out of works, including storage of materials or waste, without prior approval of the Territory. Approval can be obtained from the Department of Territory and municipal Services.

**Repair of Damage to Public Assets**

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

**Notice of Commencement of Construction**

*Notice of Commencement of Construction shall be submitted to the Manager Asset Acceptance one week prior to the commencement of works. The Notice shall also include the confirmation of any protective measures installed in accordance with the approved LMPP and programmed implementation of the TTM.*

**Assessment note:** Matters raised by TAMS have been incorporated as either conditions of approval or advice. There was discussion between ESDD and TAMS during the assessment of the application regarding compliance with provisions of the Estate Development Code. Resolution was reached that no specific conditions are required in relation to compliance with the Estate Development Code in accordance with the email from TAMS Asset Acceptance on 4 November 2013.

**ActewAGL- Electricity**

On 26 September 2013 advice was received from ActewAGL Electricity Networks Division in relation to the proposal. The advice states that:

*This application is approved subject to compliance with the following conditions:*

*Development is to comply with minimum separation requirements to underground assets. Ref ActewAGL Drawing 3832-018*

*Proponent is required to submit the Request for "Preliminary Network Advice" form to [enworks@actewagl.com.au](mailto:enworks@actewagl.com.au) (available on ActewAGL website) prior to commencement of any development activity to negotiate the connection of new and/or relocation of existing electricity assets.*

*Developer is required to include 6 x 125mm conduits along the east - west arterial and 3 x 125mm conduits along road 1 and road 2, extended into road crossing as per ActewAGL conduit technical standards.*

**Assessment note:** Matters raised have been incorporated as advice. Reference should be made to the attached advice from ActewAGL Electricity regarding their requirements.

**ActewAGL-Water**

On 24 September 2013 advice was received from ActewAGL Water Division in relation to the proposal. The advice states that:

*The design depicted in this application has been assessed by ActewAGL and complies with ACTEW's water and sewerage network protection and access requirements.*

**Assessment note:** Matters raised have been incorporated as advice. Reference should be made to the attached advice from ActewAGL Water regarding their requirements.

**ActewAGL-Gas**

On 20 September 2013 advice was received from Jemena on behalf of ActewAGL Gas Networks in relation to the proposal. The advice states that

*This application has been assessed against legislation protecting ActewAGL's gas infrastructure and access to it. This application is approved subject to compliance with the following conditions:*

*Development is to comply with minimum separation requirements to underground assets  
-300mm minimum clearance from major plastic and steel gas mains and steel gas services  
-150mm minimum clearance from other plastic gas mains and services.*

**Assessment note:** Matters raised have been incorporated as advice. Reference should be made to the attached advice from ActewAGL Gas regarding their requirements.

#### NATIONAL CAPITAL AUTHORITY

A Development Control Plan (DCP) is not applicable to this land.

On 18 September 2013 the DA was referred to the National Capital Authority (NCA).

The NCA did not provide any comments on the proposal.

**Assessment note:** The proposal is not inconsistent with the NCP.

#### ACT HEALTH

On 14 October 2013 advice was received from ACT Health in relation to the proposal. The advice states that

*The Health Protection Service has no health concerns regarding the development application.*

**Assessment note:** Matters raised have been incorporated as advice.

#### ENVIRONMENT PROTECTION AUTHORITY

Advice was received from the Environment Protection Authority in relation to the proposal on 15 October 2013, 19 November 2013 and 3 December 2013. The final advice states that:

*This DA has been assessed by the following:*

*-Contaminated Lands  
-Hazardous Materials  
-Sediment and Erosion Control  
-Noise  
-Water Regulation*

*And EPA provide the following recommend conditions of approval:*

*Conditions:*

*A Construction Environment Management Plan must be submitted to and approved by the Environment Protection Authority prior to works on site. Please contact Robin Brown on 02 6207 5642 for any questions relating to the requirement for an endorsed CEMP prior to works.*

*An Environmental Authorisation will be required by the site contractor prior to works for the activity of development of a site greater than 0.3 hectares.*

*A Pollution Control Plan in accordance with Schedule 11.1 of Environment Protection Guidelines for Construction and Land Management in the ACT, March 2011, must be submitted to and endorsed by Environment Protection prior to site works.*

*All works must be in accordance with Environment Protection Guidelines for Construction and Land Management in the ACT, March 2011, available by calling 132281.*

**Assessment note:** Matters raised have been incorporated as either conditions of approval or advice. In addition to the matters listed above conditions have been applied requiring that an environmental site assessment report endorsed by the EPA be submitted to ESDD and that compliance with that report is required during construction. The purpose of these additional conditions is to satisfy requirements under the Territory Plan.

### ACT FIRE AND RESCUE

On 9 October 2013 advice was received from ACT Fire and Rescue in relation to the proposal. The advice states that:

*ACTF&R has viewed the DA 201324063 information for stage 1 of the east west arterial road and has no concerns or comment at this stage.*

**Assessment note:** Matters raised have been incorporated as advice.

### ESDD CITY PLANNING

On 8 October 2013 advice was received from ESDD City Planning in relation to the proposal. The advice states that:

*The subject DA is for the section of the EWA immediately to the west of John Gorton Drive (JGD). The subject DA is located within the study area of the Molonglo Stage 2 Group Centre and Environs Concept Plan that ESDD is currently preparing. The Molonglo planning team has had several opportunities to provide comments on the EWA Stage 1 design in the process leading up to this DA.*

*On a related matter, it should be noted that ESDD's Molonglo planning team is currently undertaking a street design and traffic modelling study as part of the Molonglo Stage 2 Group Centre and Environs Concept Plan for section of the EWA that adjoins the subject DA and is immediately east of JGD through the Group Centre core. ESDD has been advised that the EWA is not currently planned to connect to the Tuggeranong Parkway for some years. As a result, ESDD is leading a process to seek in-principle agreement from directorates to interim and ultimate design solutions for this section of the EWA through the Group Centre core. The interim design solution that has been prepared for discussion with directorates comprises a two lane road (one traffic lane in each direction), with a perpendicular parking median. It is proposed that when the EWA ultimately connects to the Tuggeranong Parkway, it could be widened to four lanes (two lanes in each direction), with the additional lane accommodated by removing the perpendicular parking median. This study is being undertaken by ESDD in consultation with other directorates including TAMS, EDD and LDA.*

**Assessment note:** Clarification was sought as follows:

*To clarify, are you indicating that the current proposal can proceed at this time without change, or do you foresee that changes to this western section will be needed in order to link into the interim design on the eastern side of JGD?*

*If changes are needed do you think that can be addressed through a modification later once a firm interim design is in place? Or do you think it needs to happen prior to approval of this application?*

The following response was received from ESDD City Planning on 8 October 2013:

*The current proposal can proceed at this time with no change.*

*Just wanted to highlight that a related project is currently underway for a section of the EWA that adjoins Stage 1.*

Matters raised have been incorporated as advice.

### ESDD INFRASTRUCTURE PLANNING

On 2 October 2013 advice was received from ESDD Infrastructure Planning in relation to the proposal. The advice indicated that they had no comments.

Following the receipt of additional information the proposal was referred back to ESDD Infrastructure Planning and the following response was received on 15 November 2013:

*ESDD Infrastructure Planning have not seen or approved the stormwater master plan referred to as part of any other works.*

*Infrastructure Planning are satisfied that this response adequately addresses criteria 25 in the code.*

**Assessment note:** Matters raised have been incorporated as advice.

### ANU MOUNT STROMLO OBSERVATORY

On 11 October 2013 advice was received from the ANU School of Astronomy and Astrophysics based at Mount Stromlo Observatory in relation to the proposal. The advice states that:

*The intersection in question includes 4 pedestrian crossings which are lit using floodlights on 4 of the lighting poles. The lamps being used are all High Pressure Sodium (HPS) which are dark sky friendly. The street lighting luminaires are effectively full cut-off which is acceptable to RSAA. However the specified floodlights for the pedestrian crossings are described as having asymmetric light distribution but without some screening (which is available from the manufacturer) this may result in unnecessary light pollution. The latest pedestrian Crossing Standard (AS1158.4.2009) clearly states in Table 3.2 that there must be glare control at 90 deg. Of 0.cd which is our preferred outcome. Otherwise the proposed development meets our requirements.*

**Assessment note:** On 17 October 2013 a response was received from the applicant in relation to this advice. The response is summarised as follows:

*The crossing design complies with current Australian Standards including Category P1x (pedestrian crossings) as per the note on the drawings.*

*Our calculations confirm that no light (0 Candela) will be emitted above 86deg.*

*This is without the need for screening. Screening of the luminaire may actually render the installation non-compliant as it may modify the distribution.*

*Screening for pedestrian luminaire is only used as a last resort where site conditions mean that the column locations are limited.*

**Assessment note:** Matters raised have been incorporated as either conditions of approval or advice. The requirements for Mount Stromlo Observatory can be met through the application of a condition ensuring that no light is emitted above 90 degrees. The proponent has indicated that the current design meets this requirement without the need for screening.

### ACT HERITAGE COUNCIL

On 25 September 2013 advice was received from the ACT Heritage Council in relation to the proposal. The advice states that:

*Pursuant to s.148 (1) of the Planning and Development Act 2007 and s.60 of the Heritage Act 2004, the ACT Heritage Council advises that there are no perceived heritage issues with this application and a detailed assessment is not required.*

*Notes: This Development Application proposes the construction of Stage 1 of the Molonglo East West Arterial Road. It includes the length of road directly west of John Gorton Drive into the north of Denman Prospect. An isolated Aboriginal artefact was discovered and subsequently collected by BIOSIS Research in the due diligence heritage surveys completed in 2010. These studies were approved by the Heritage Council. There are no other recorded heritage places or objects in the vicinity of the development.*

*The Heritage Council does not oppose this Development Application, provided the following condition is written into the Notice of Decision:*

*The Unanticipated Discovery Protocol contained in Section 9 of the document titled: Molonglo Stage 2: Detailed Heritage Assessment -Aboriginal and Historical Heritage by BIOSIS Research (2010) must be included in the Construction Environmental Management Plan and adhered to at all times during development.*

**Assessment note:** Matters raised have been incorporated as either conditions of approval or advice.

### ESDD SURVEY

On 14 October 2013 advice was received from the Office of the Surveyor General in relation to the proposal. The advice states:

*Could I have digital data supplied showing the design kerbs/centrelines & block boundaries.*

**Assessment note:** This information is needed in order to create road reserve boundaries as a part of the project. Matters raised have been incorporated as conditions of approval.

### ESDD TRANSPORT PLANNING

On 1 November 2013 advice was received from ESDD Transport Planning in relation to the proposal. The advice states that:

*ESDD Transport Planning agrees with Marion Burgess's conclusions. Walls, especially if constructed of brick or masonry, should generally meet acoustic requirements. Acoustic treatments to doors and windows, with attention to the types and fitting of appropriate seals, will be important for any noise-sensitive developments, multi-unit or otherwise, which may be built adjacent to the major roads to which the ADFa acoustic report relates. Where set-back distance can be used to achieve other objectives (for example, relating to integrated landscaping solutions), it should be done as a means of wholly or partly reducing the acoustic treatments or barriers needed to achieve an acceptable acoustic environment.*

The assessing officer sought clarification as with the following question:

*Bearing in mind that the current application is for an arterial road, can you please confirm that you are indicating no specific attenuation measures are required in relation to this proposal?*

*In other words, you consider that appropriate noise attenuation can be achieved through setbacks and building construction methods which will be addressed in future applications for Estate Development Plans and Buildings?*

*The only condition I can think of which may be relevant is to stipulate that the road surface is to be Stone Mastic Asphalt as that was listed as an assumption in the report and used to reduce the impacts calculated accordingly.*

An additional response was received on 1 November 2013 as summarised below:

*ESDD Transport Planning agreement is in principle, and a proponent wishing to construct a building on the sites adjacent to the east-west arterial will be required to meet the requirements under the SDHDC or the MUHDC in respect of noise from external sources. For the forecast traffic volumes, provided proposals for single dwellings meet the set-back distance criteria in the SDHDC, currently normal building methods and glazing should ensure that additional attenuation measures are not necessary. That would apply to multi-unit dwelling facades adjacent to Road 1, but with Road 2 and the arterial, more detailed assessment may be required. (The forecast volume on Road 2 is, if correctly recalled, very close to 12,000 vehicles per day.) It will depend on the set-back achievable and the composition and design of the proposed structures.*

*Regarding stone mastic asphalt, ESDD Transport Planning is tending towards considering its use as a fall back in established areas, where road duplication may bring more stringent acoustic requirements into play. It would be preferable not to consider it as a primary means of achieving external noise attenuation in new areas where there is usually potential to use set-back and/or barrier treatments for at least some developments. The stone mastic treatment provides benefits, but a major issue is what that surface will be replaced with when maintenance of the road surface is due. Tight budgets for road maintenance will almost certainly result in some form of chip seal being used, with significant changes in the noise levels generated from the road surface (even after the seal is incorporated in the bitumen matrix over time).*



**Assessment note:** Matters raised have been incorporated as advice.

## **PART 4 ADMINISTRATIVE INFORMATION**

### DATE THAT THIS APPROVAL TAKES EFFECT

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

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

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

### CONDITIONAL APPROVAL

This approval will expire if, in accordance with Section 165(3)(d) of the Act, a condition has deferred the effect of the development approval **and** imposed a time frame during which another approval must be revoked, amended or given, and the time frame has expired.

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

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

### INSPECTION OF THE APPLICATION AND DECISION

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

### RECONSIDERATION OF THE DECISION

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

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

### REVIEW BY THE ACT CIVIL AND ADMINISTRATIVE TRIBUNAL (ACAT)

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

# APPENDIX 1

## CONTACT DETAILS OF RELEVANT AGENCIES

<b>Health Directorate</b> - health protection	Website: <a href="http://www.health.act.gov.au">www.health.act.gov.au</a> Telephone: (02) 6205 1700
<b>Environment and Sustainable Development Directorate</b>  <i>Planning and land authority</i>  - list of certifiers for building approval - demolition information - asbestos information  <i>Environment Protection Authority</i>  - environment protection - water resources - asbestos information  <i>Conservation, Planning and Research</i>  - threatened species/wildlife management	Website: <a href="http://www.actpla.act.gov.au">www.actpla.act.gov.au</a> Telephone: (02) 6207 1923   Website: <a href="http://www.environment.act.gov.au">www.environment.act.gov.au</a> Telephone: (02) 6207 6251   Website: <a href="http://www.environment.act.gov.au">www.environment.act.gov.au</a> Telephone: (02) 6207 1911
<b>Territory and Municipal Services Directorate</b> - tree damaging activity approval - use of verges or other unleased Territory land - works on unleased Territory land - design acceptance - damage to public assets	Website: <a href="http://www.tams.act.gov.au">www.tams.act.gov.au</a> Telephone: 132 281 Telephone for asset acceptance: (02) 6207 7480
<b>Utilities</b> - Telstra (networks) - TransACT (networks) - ActewAGL - Electricity reticulation	Telephone: (02) 9397 2090 Telephone: (02) 6229 8000 Telephone: 1100 Telephone: (02) 6293 5738

## ADVICE TO APPLICANT

### SUBMISSION OF REVISED DRAWINGS AND DOCUMENTATION

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

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

For further information regarding the lodgement of this information please contact Customer Service Centre by Phone: (02) 6207 1923, TTY: (02) 6207 2622, Email: [esddcustomerservices@act.gov.au](mailto:esddcustomerservices@act.gov.au) or on the ACT Planning and Land Authority website at [www.actpla.act.gov.au](http://www.actpla.act.gov.au).

## **FURTHER APPROVALS FOR CONSTRUCTION**

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

### **BUILDING APPROVAL**

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

### **PERMITTED VARIATIONS TO APPROVED DEVELOPMENT**

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

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

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

### **"TREE DAMAGING ACTIVITY" APPROVAL**

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

### **USE OF VERGES OR OTHER UNLEASED TERRITORY LAND**

In accordance with the *Roads and Public Places Act 1937*, road verges and other unleased Territory land must not be used for the carrying out of works, including the storage of materials or waste, without prior approval of the Territory. Approval can be obtained from the Territory and Municipal Services Directorate.

### **WORKS ON UNLEASED TERRITORY LAND – DESIGN AND OPERATIONAL ACCEPTANCE**

In accordance with the *Roads and Public Places Act 1937*, no work can be undertaken on unleased Territory land without the approval of the Territory. Such approval must be obtained from the Manager Asset Acceptance, Asset Services Group, TAMSD by way of:

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

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

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

## **CONSTRUCTION REQUIREMENTS**

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

**DEMOLITION AND ASBESTOS MANAGEMENT**

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

**ENVIRONMENT PROTECTION**

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

**REPAIR OF DAMAGE TO PUBLIC ASSETS**

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

**UTILITY ASSETS RETENTION**

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

**WATER RESTRICTIONS AND FILLING OF NEW POOLS, PONDS AND FOUNTAINS**

Water restrictions or permanent water conservation measures may be in force in the ACT and may prohibit or affect the filling of new pools, ponds and fountains using potable (tap) water drawn from ACTEW Corporation Limited's potable water supply system. Applicants wishing to use water drawn from the potable water supply system to fill a new pool, pond or fountain are advised to first contact ACTEW's Water conservation office on (02) 62483131. Where water restrictions or permanent water conservation measures would otherwise prevent or affect the filling of a new pool, pond or fountain, it might be possible to obtain an exemption to fill the pool, pond or fountain using potable water.

**REVIEW OF THE DECISION**

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

**CONTACT DETAILS**

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

Location	Contact details
ACT Civil and Administrative Tribunal Level 4, 1 Moore Street CANBERRA CITY ACT 2601	Website: <a href="http://www.courts.act.gov.au">www.courts.act.gov.au</a> Email: <a href="mailto:tribunal@act.gov.au">tribunal@act.gov.au</a> Telephone: (02) 6207 1740 Facsimile: (02) 6205 4855 Post: GPO Box 370, CANBERRA, ACT, 2601 Document exchange: DX 5691

## POWERS OF THE ACAT

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

## APPLICATIONS TO THE ACAT

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

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

## TIME LIMITS FOR APPLICATIONS

The time limit to make a request for a review is 28 days from the date of this Notice of decision. The time limit can be extended in some circumstances (refer to sections 10 (2), 10(3), 25(1)(e) and 25(2) of the *ACT Civil & Administrative Tribunal Act 2008*; section 7 of the *ACT Civil and Administrative Tribunal Procedure Rules 2009 (No 2)*; and section 409 of the *Planning and Development Act 2007*).

## FEES

Applications to the ACAT, including an application to be joined as a party to a proceeding, require payment of a fee (the Tribunal Registry will advise of the current fee), unless you are receiving legal or financial assistance from the ACT Attorney-General. You can apply to have the fee waived on the grounds of hardship, subject to approval (refer to section 22T of the *ACT Civil and Administrative Tribunal Act 2008*). Decisions to grant assistance are made on the grounds of hardship and that it is reasonable, in all the circumstances, for the assistance to be granted. Write to: The Chief Executive, Justice and Community Safety Directorate, GPO Box 158, CANBERRA ACT 2601. Ask the ACAT for more details.

## TIME LIMITS FOR REVIEWS OF DECISIONS

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

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

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

- ACT Attorney-General, write to The Chief Executive, Justice and Community Safety Directorate, GPO Box 158, CANBERRA, ACT, 2601;
- the ACT Legal Aid Office, telephone 1300 654314;
- Legal Advice Bureau, telephone (02) 6247 5700;
- ACT Council of the Ageing, telephone (02) 6282 3777;
- Welfare Rights and Legal Centre, telephone (02) 6247 2177; and
- Environmental Defender's Office (ACT), telephone (02) 6247 9420.

## AWARDING OF COSTS

You will have to pay any costs involved in preparing or presenting your case. The ACAT also has the power to award costs against a party if the party contravenes a direction of the ACAT and the

ACAT considers it in the interests of justice to make such an order. This power is in addition to the power of the ACAT to strike out a party and to dismiss an application for failure to comply with the ACAT's directions.

#### ACCESS TO DOCUMENTS ABOUT THE DECISION

You may apply for access to any documents you consider relevant to this decision under the ACT *Freedom of Information Act 1989*. Information about Freedom of information requests is available on the ESDD web site or by contacting us by phone on (02) 6207 1923.

#### PROCEDURES OF THE ACAT

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

#### TRANSLATION AND INTERPRETER SERVICES

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

ENGLISH	If you need interpreting help, telephone:
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ITALIAN	Se avete bisogno di un interprete, telefonate al numero:
MALTESE	Jekk għandek bżonn l-għajjuna 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 telefonirajte:
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



# Notice of decision

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

## Merit track

DA NO: 201324120		DATE LODGED: 25/08/2013
DATE OF DECISION: 19 December 2013		
BLOCK: 13	SECTION: 43	SUBURB: WRIGHT
STREET NO AND NAME: [REDACTED]		
APPLICANT: [REDACTED]		
LESSEE: [REDACTED]		

### THE DECISION

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

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

- SINGLE RESIDENTIAL - NEW DWELLING-SWIMMING POOL. Construction of a new two storey dwelling with attached garage and a swimming pool.

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

This decision is subject to the conditions of approval at **PART 1** being satisfied. Please note that plans will not be dispatched until all conditions are satisfied (if applicable).

**PART 2** sets out the Reasons for the Decision

**PART 3** is Public Notification and Entity Advice.

**PART 4** contains administrative information relating to the determination.

DELEGATE 

[REDACTED]  
Ray Brown  
Delegate of the planning and land authority  
Environment and Sustainable Development Directorate  
19/12/2013



## **PART 1**

### **CONDITIONS OF APPROVAL**

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

#### **A. PRIOR TO CONSTRUCTION AND/OR DEMOLITION**

##### **A1. TREE PROTECTION**

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

##### **A2. VERGE MANAGEMENT**

A landscape management plan is to be approved by the Manager, Asset Acceptance, Operational Support, Directorate Services, Territory and Municipal Services Directorate, TAMSD. The plan is to be implemented before the commencement of any work on the site, and is to be in accordance with the *City Management Guidelines for the Protection of Public Landscape Assets Adjacent to Development Works-REF-04*.

#### **B. DURING CONSTRUCTION AND/OR DEMOLITION**

##### **B1. SEDIMENT AND EROSION CONTROL**

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

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

##### **B2. TREE PROTECTION**

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

##### **B3. VERGE MANAGEMENT**

During any work undertaken on the site, all existing vegetation (trees, shrubs and grass) located on the verge and unleased Territory land immediately adjacent to the development shall be managed, protected and maintained in accordance with an approved Landscape Management Plan referred to in Condition A3.

##### **B4. WASTE MANAGEMENT**

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

#### **C. ADVISORY NOTES**

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

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

## **PART 2 REASONS FOR THE DECISION**

The application satisfactorily meets the requirements for approval. The application was approved because, based on the documentation and in the form modified by the imposed conditions, it was considered to meet the relevant code, being the Single Dwelling Housing Development Code.

The key issues identified in the assessment are accuracy of the drawings, compliance with the sun angle building envelope controls, and satisfaction of the setback criteria. Conditions have been imposed to address the key issues and ensure that the proposal is consistent with the Territory Plan and the *Planning and Development Act 2007*.

### **EVIDENCE**

**Application No. 201324120**

**File No. 1-2013/15815**

**The Territory Plan zone – RZ1: Suburban Zone**

**The Development Codes – Single Dwelling Housing Development Code**

**Representations- One**

**Entity advice- ActewAGL Electricity Division, ActewAGL Gas Division,  
ActewAGL Water and Sewerage Division.**

## PART 3 PUBLIC NOTIFICATION AND ENTITY ADVICE

### PUBLIC NOTIFICATION

Pursuant to Division 7.3.4 of the Act, the application was publicly notified from 30 August 2013 to 12 September 2013. One written representation was received during public notification.

The main issues raised were as follows. Comments are provided as appropriate.

- (a) Concern about proximity of the garage to the side boundary.  
*Concern was raised regarding the location of the garage and a 100mm encroachment into a side setback that was documented on the drawings. An error was made by the architect in illustrating an encroachment in this location.*

*In accordance with Rule 12 of the Single Dwelling Housing Development Code, a zero setback is permitted for garages on large blocks. A large block is defined by the Territory Plan as meaning a 'block with an area greater than 500 sqm'. The proposed development is rule compliant in this regard and sufficient spatial separation is considered to be provided.*

- (b) Upper floor level side setback encroachment in the rear zone towards the Northern boundary of the adjoining block.

*Concern was raised regarding the potential overshadowing of the adjoining residential property to the south of the subject site. Solar access to the dwelling on the adjoining residential block and their associated principal open space was taken into consideration during the assessment. Plans of the adjoining dwelling to the south were viewed by the assessing officer in order to gain an understanding of the context. The plans show the daytime living areas and the principal area of private open space of the dwelling to be north facing. With a dwelling designed as such, the concern for overshadowing is understandable.*

*The applicant was requested to provide additional information in order to accurately determine the extent of any potential overshadowing. It was demonstrated that the building was not going to cause any more overshadowing of the adjoining property than a standard 1.8 m boundary fence.*

*It should be noted that the concern for overshadowing was no doubt exacerbated by the documentation on the drawings that indicating a 'solar setback.' The solar setback is a simplified expression used by the Land Development Agency to assist buyers to understand that they will be required to comply with a sun angle building envelope contained within the Territory Plan.*

*Assessment against the Territory Plan was undertaken and the proposal was found to be able to provide reasonable solar access to the dwelling on the adjoining residential block, and the associated space.*

- (c) Accuracy of the drawings

The accuracy of the drawings was a matter identified by the assessing officer and the representor, and the applicant was asked to correct the discrepancies. Revised plans were received for assessment as further information in accordance with s141 of the Planning and Development Act 2007.

1. Discrepancy between parapet over Bed 1 illustrated on the north-east elevation and the south-west elevation.

*Parapet walls shown concealing the roof on the south east elevation were not drawn on the south west elevation. This error was corrected on revised plans received. The south west elevation now shows parapet walls facing the south east and north west.*

2. Roof over upper level study area and slope of roof over upper floor level. *This error has been corrected on revised plans. All elevations show direction of roof (even when concealed behind a parapet wall).*

3. Discrepancy between swimming pool roof slope illustrated on the upper floor level plan and the elevations.

*This error has been corrected on revised plans. The roof is to slope north and south from a ridgeline mid span, concealed by parapet wall when viewed from the south east.*

4. Accuracy of the sun angle building envelope and natural ground levels illustrated on the south east elevation and south west elevation.

*The applicant was asked to submit detailed information documenting the natural ground level and sun angle building envelope at the worst case locations along the boundary. The assessing officer compared survey information on record for the site and surrounding blocks and was satisfied that drawings demonstrated an appropriate degree of accuracy that could confirm compliance with the sun angle building envelope control.*

## **ENTITY ADVICE**

As there are no easements on the land and the Territory Plan does not require referral of the application to any entities, the application was not referred to entities at the Development Application stage.

## **PART 4 ADMINISTRATIVE INFORMATION**

### DATE THAT THIS APPROVAL TAKES EFFECT

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

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

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

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

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

The lessee **must** be aware that the building and development provisions in the Crown lease require the development to be commenced by **14th March 2014** and be completed by **14th March 2015**. This development approval will also expire if the building and development provisions are not complied with (please refer to s184(2)(f) of the *Planning and Development Act 2007*). In order to prevent expiration of this development application, you may wish to make an application seeking an extension to the building and development provisions. The application form for an extension is available from the ACTPLA website.

### INSPECTION OF THE APPLICATION AND DECISION

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

### RECONSIDERATION OF THE DECISION

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

Application forms and further information about reconsideration are available from the planning and land authority's website and Customer Service Centres. The delegate of the planning and land authority reconsidering the decision must be different from, and senior to, the original decision maker. An application for reconsideration does not prevent an application for a review of the same decision being made to the ACT Civil and Administrative Tribunal.

REVIEW BY THE ACT CIVIL AND ADMINISTRATIVE TRIBUNAL (ACAT)

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

This Notice of decision has also been sent to all people who made representations in relation to the proposal.

# APPENDIX 1

## CONTACT DETAILS OF RELEVANT AGENCIES

<b>Health Directorate</b> - health protection	Website: <a href="http://www.health.act.gov.au">www.health.act.gov.au</a> Telephone: (02) 6205 1700
<b>Environment and Sustainable Development Directorate</b>  <i>Planning and land authority</i> <ul style="list-style-type: none"> <li>- list of certifiers for building approval</li> <li>- demolition information</li> <li>- asbestos information</li> </ul> <i>Environment Protection Authority</i> <ul style="list-style-type: none"> <li>- environment protection</li> <li>- water resources</li> <li>- asbestos information</li> </ul> <i>Conservation, Planning and Research</i> <ul style="list-style-type: none"> <li>- threatened species/wildlife management</li> </ul>	 Website: <a href="http://www.actpla.act.gov.au">www.actpla.act.gov.au</a> Telephone: (02) 6207 1923  Website: <a href="http://www.environment.act.gov.au">www.environment.act.gov.au</a> Telephone: (02) 6207 6251  Website: <a href="http://www.environment.act.gov.au">www.environment.act.gov.au</a> Telephone: (02) 6207 1911
<b>Territory and Municipal Services Directorate</b> <ul style="list-style-type: none"> <li>- tree damaging activity approval</li> <li>- use of verges or other unleased Territory land</li> <li>- works on unleased Territory land - design acceptance</li> <li>- damage to public assets</li> </ul>	Website: <a href="http://www.tams.act.gov.au">www.tams.act.gov.au</a> Telephone: 132 281 Telephone for asset acceptance: (02) 6207 7480
<b>Utilities</b> <ul style="list-style-type: none"> <li>- Telstra (networks)</li> <li>- TransACT (networks)</li> <li>- ActewAGL</li> <li>- Electricity reticulation</li> </ul>	Telephone: (02) 9397 2090 Telephone: (02) 6229 8000 Telephone: 1100 Telephone: (02) 6293 5738

## ADVICE TO APPLICANT

### SUBMISSION OF REVISED DRAWINGS AND DOCUMENTATION

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

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

For further information regarding the lodgement of this information please contact Customer Service Centre by Phone: (02) 6207 1923, Fax: (02) 6207 1925 TTY: (02) 6207 2622, Email: [actpla.customer.services@act.gov.au](mailto:actpla.customer.services@act.gov.au) or on the planning and land authority website at [www.actpla.act.gov.au](http://www.actpla.act.gov.au).

## **FURTHER APPROVALS FOR CONSTRUCTION**

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

### **BUILDING APPROVAL**

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

### **PERMITTED VARIATIONS TO APPROVED DEVELOPMENT**

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

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

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

### **USE OF VERGES OR OTHER UNLEASED TERRITORY LAND**

In accordance with the *Roads and Public Places Act 1937*, road verges and other unleased Territory land must not be used for the carrying out of works, including the storage of materials or waste, without prior approval of the Territory. Approval can be obtained from the Territory and Municipal Services Directorate.

### **WORKS ON UNLEASED TERRITORY LAND – DESIGN AND OPERATIONAL ACCEPTANCE**

In accordance with the *Roads and Public Places Act 1937*, no work can be undertaken on unleased Territory land without the approval of the Territory. Such approval must be obtained from the Manager Asset Acceptance, Asset Services Group, TAMSD by way of:

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

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

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

## **CONSTRUCTION REQUIREMENTS**

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

### **WATER RESTRICTIONS AND FILLING OF NEW POOLS, PONDS AND FOUNTAINS**

Water restrictions or permanent water conservation measures may be in force in the ACT and may prohibit or affect the filling of new pools, ponds and fountains using potable (tap) water drawn from ACTEW Corporation Limited's potable water supply system. Applicants wishing to use



water drawn from the potable water supply system to fill a new pool, pond or fountain are advised to first contact ACTEW 's Water conservation office on (02) 62483131. Where water restrictions or permanent water conservation measures would otherwise prevent or affect the filling of a new pool, pond or fountain, it might be possible to obtain an exemption to fill the pool, pond or fountain using potable water.

### BUSHFIRE MITIGATION MEASURES

This residential dwelling is located in an area where a bushfire risk assessment has identified that mitigation measures are required to reduce the impact of bushfires. The mitigation measures in this approval are to be maintained for the life of the residence. Special care needs to be exercised by the lessee to ensure that any future building works and modifications to the dwelling and additional landscaping does not compromise the mitigation measures imposed.

### ENVIRONMENT PROTECTION

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

### REPAIR OF DAMAGE TO PUBLIC ASSETS

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

### UTILITY ASSETS RETENTION

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

### DRAINAGE

The Building Code of Australia contains provisions affecting surface drainage and the height of finished floor levels. These may apply to this proposal.

## **REVIEW OF THE DECISION**

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

### CONTACT DETAILS

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

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

## POWERS OF THE ACAT

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

## APPLICATIONS TO THE ACAT

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

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

## TIME LIMITS FOR APPLICATIONS

The time limit to make a request for a review is 28 days from the date of this Notice of decision. The time limit can be extended in some circumstances (refer to sections 10 (2), 10(3), 25(1)(e) and 25(2) of the *ACT Civil & Administrative Tribunal Act 2008*; section 7 of the *ACT Civil and Administrative Tribunal Procedure Rules 2009 (No 2)*; and section 409 of the *Planning and Development Act 2007*).

## FEES

Applications to the ACAT, including an application to be joined as a party to a proceeding, require payment of a fee (the Tribunal Registry will advise of the current fee), unless you are receiving legal or financial assistance from the ACT Attorney-General. You can apply to have the fee waived on the grounds of hardship, subject to approval (refer to section 22T of the *ACT Civil and Administrative Tribunal Act 2008*). Decisions to grant assistance are made on the grounds of hardship and that it is reasonable, in all the circumstances, for the assistance to be granted. Write to: The Chief Executive, Justice and Community Safety Directorate, GPO Box 158, CANBERRA ACT 2601. Ask the ACAT for more details.

## TIME LIMITS FOR REVIEWS OF DECISIONS

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

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

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

- ACT Attorney-General, write to The Chief Executive, Justice and Community Safety Directorate, GPO Box 158, CANBERRA, ACT, 2601;
- the ACT Legal Aid Office, telephone 1300 654314;
- Legal Advice Bureau, telephone (02) 6247 5700;
- ACT Council of the Ageing, telephone (02) 6282 3777;
- Welfare Rights and Legal Centre, telephone (02) 6247 2177; and
- Environmental Defender's Office (ACT), telephone (02) 6247 9420.

AWARDING OF COSTS

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

ACCESS TO DOCUMENTS ABOUT THE DECISION

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

PROCEDURES OF THE ACAT

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

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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-għajjnuna t'interpretu, ċempel:
PERSIAN	: اگر به ترجمه شفاهی احتیاج دارید به این شماره تلفن کنید:
PORTUGUESE	Se você precisar da ajuda de um intérprete, telefone:
SERBIAN	Ако вам је потребна помоћ преводиоца телефонирајте:
SPANISH	Si necesita la asistencia de un intérprete, llame al:
TURKISH	Tercümana 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

Environment and  
Sustainable Development

# Notice of decision

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

## Merit track

DA NO: 201324215		DATE LODGED: 22/10/2013
DATE OF DECISION: 09 December 2013		
BLOCK: 39	SECTION: 34	SUBURB: RIVETT
STREET NO AND NAME: [REDACTED]		
APPLICANT: [REDACTED]		
LESSEE: [REDACTED]		

### THE DECISION

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

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

- SINGLE RESIDENTIAL-ADDITION-GARAGE. Proposed construction of a new colourbond garage

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

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

**PART 2** sets out the Reasons for the Decision

**PART 3** is Public Notification and Entity Advice.

**PART 4** contains administrative information relating to the determination.

DELEGATE 

**Ray Brown**

Delegate of the planning and land authority  
Environment and Sustainable Development Directorate  
09/12/2013

CONTACT OFFICER  
[REDACTED]

## **PART 1**

### **CONDITIONS OF APPROVAL**

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

#### **A. PRIOR TO CONSTRUCTION AND/OR DEMOLITION**

##### **A1. TREE PROTECTION**

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

##### **A2. VERGE MANAGEMENT**

Landscape Management Plan is to be approved the Manager, Asset Acceptance, Operational Support, Directorate Services, Territory and Municipal Services Directorate, TAMSD and implemented before the commencement of any work on the site. This plan is to be in accordance with the *City Management Guidelines for the Protection of Public Landscape Assets Adjacent to Development Works-REF-04*.

#### **B. DURING CONSTRUCTION AND/OR DEMOLITION**

##### **B1. SEDIMENT AND EROSION CONTROL**

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

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

Development is to be carried out in a manner that complies with the Environment Protection Authority, *Environment Protection Guidelines for Construction and Land Development in the ACT*, August 2007.

##### **B2. TREE PROTECTION**

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

##### **B3. VERGE MANAGEMENT**

During any work undertaken on the site, all existing vegetation (trees, shrubs and grass) located on the verge and unleased Territory land immediately adjacent to the development shall be managed, protected and maintained in accordance with the approved Landscape Management Plan referred to in Condition A2.

##### **B4. WASTE MANAGEMENT**

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

## **C. ADVISORY NOTES**

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

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

## **PART 2 REASONS FOR THE DECISION**

The application satisfactorily meets the requirements for approval. The application was approved because, based on the documentation and in the form modified by the imposed conditions, it was considered to meet the relevant code, being the Single Dwelling Housing Development Code.

The key issues identified in the assessment are satisfaction of entity requirements and criteria relating to the side setback encroachment. Conditions have been imposed to address the key issues and ensure that the proposal is consistent with the Territory Plan and the *Planning and Development Act 2007*.

### **EVIDENCE**

**Application No. 201324215**

**File No. 1-2013/18241**

**The Territory Plan zone – RZ1: Suburban Zone**

**The Development Codes – Single Dwelling Housing Development Code**

**Entity advice- ActewAGL Electricity Division, ActewAGL Gas Division,  
ActewAGL Water and Sewerage Division.**

## **PART 3 PUBLIC NOTIFICATION AND ENTITY ADVICE**

### **PUBLIC NOTIFICATION**

Pursuant to Division 7.3.4 of the Act, the application was publicly notified from 28 October 2013 to 08 November 2013. No written representations were received during public notification.

### **ENTITY ADVICE**

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

#### TERRITORY AND MUNICIPAL SERVICES DIRECTORATE

On 30 October 2013 advice was received from Territory and Municipal Services in relation to the proposal. The advice states that the application is supported with conditions.

Matters raised have been incorporated as either conditions of approval or advice.

#### ActewAGL Electricity Networks Division

On 13 November 2013 advice was received from ActewAGL Electricity Networks Division in relation to the proposal. The advice states that the application is approved subject to compliance with the minimum clearances to overhead conductors outlined within ActewAGL Drawing 3811-004.

Matters raised have been incorporated as either conditions of approval or advice.

#### ActewAGL Gas Networks Division

On 13 November 2013 advice was received from ActewAGL Gas Networks Division in relation to the proposal. The advice states that the application is approved subject to compliance with standard conditions.

Matters raised have been incorporated as either conditions of approval or advice.

#### ActewAGL Water Division

On 13 November 2013 advice was received from ActewAGL Water and Sewerage Networks Division in relation to the proposal. The advice states that the application has been assessed and complies with ActewAGL's Water and Sewerage Networks.

Matters raised have been incorporated as either conditions of approval or advice.

## **PART 4 ADMINISTRATIVE INFORMATION**

### DATE THAT THIS APPROVAL TAKES EFFECT

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

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

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

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

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

### INSPECTION OF THE APPLICATION AND DECISION

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

### RECONSIDERATION OF THE DECISION

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

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

### REVIEW BY THE ACT CIVIL AND ADMINISTRATIVE TRIBUNAL (ACAT)

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



# APPENDIX 1

## CONTACT DETAILS OF RELEVANT AGENCIES

<b>Health Directorate</b> - health protection	Website: <a href="http://www.health.act.gov.au">www.health.act.gov.au</a> Telephone: (02) 6205 1700
<b>Environment and Sustainable Development Directorate</b>  <i>Planning and land authority</i>  - list of certifiers for building approval - demolition information - asbestos information  <i>Environment Protection Authority</i>  - environment protection - water resources - asbestos information  <i>Conservation, Planning and Research</i>  - threatened species/wildlife management	Website: <a href="http://www.actpla.act.gov.au">www.actpla.act.gov.au</a> Telephone: (02) 6207 1923  Website: <a href="http://www.environment.act.gov.au">www.environment.act.gov.au</a> Telephone: (02) 6207 6251  Website: <a href="http://www.environment.act.gov.au">www.environment.act.gov.au</a> Telephone: (02) 6207 1911
<b>Territory and Municipal Services Directorate</b> - tree damaging activity approval - use of verges or other unleased Territory land - works on unleased Territory land - design acceptance - damage to public assets	Website: <a href="http://www.tams.act.gov.au">www.tams.act.gov.au</a> Telephone: 132 281 Telephone for asset acceptance: (02) 6207 7480
<b>Utilities</b> - Telstra (networks) - TransACT (networks) - ActewAGL - Electricity reticulation	Telephone: (02) 9397 2090 Telephone: (02) 6229 8000 Telephone: 1100 Telephone: (02) 6293 5738

## ADVICE TO APPLICANT

### SUBMISSION OF REVISED DRAWINGS AND DOCUMENTATION

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

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

For further information regarding the lodgement of this information please contact Customer Service Centre by Phone: (02) 6207 1923, Fax: (02) 6207 1925 TTY: (02) 6207 2622, Email: [esddcustomerservices@act.gov.au](mailto:esddcustomerservices@act.gov.au) or on the planning and land authority website at [www.actpla.act.gov.au](http://www.actpla.act.gov.au).

## **FURTHER APPROVALS FOR CONSTRUCTION**

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

### **BUILDING APPROVAL**

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

### **PERMITTED VARIATIONS TO APPROVED DEVELOPMENT**

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

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

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

### **"TREE DAMAGING ACTIVITY" APPROVAL**

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

### **USE OF VERGES OR OTHER UNLEASED TERRITORY LAND**

In accordance with the *Roads and Public Places Act 1937*, road verges and other unleased Territory land must not be used for the carrying out of works, including the storage of materials or waste, without prior approval of the Territory. Approval can be obtained from the Territory and Municipal Services Directorate.

### **WORKS ON UNLEASED TERRITORY LAND – DESIGN AND OPERATIONAL ACCEPTANCE**

In accordance with the *Roads and Public Places Act 1937*, no work can be undertaken on unleased Territory land without the approval of the Territory. Such approval must be obtained from the Manager Asset Acceptance, Asset Services Group, TAMSD by way of:

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

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

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

## **CONSTRUCTION REQUIREMENTS**

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

### **DEMOLITION AND ASBESTOS MANAGEMENT**

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

### **ENVIRONMENT PROTECTION**

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

### **REPAIR OF DAMAGE TO PUBLIC ASSETS**

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

### **UTILITY ASSETS RETENTION**

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

### **WATER RESTRICTIONS AND FILLING OF NEW POOLS, PONDS AND FOUNTAINS**

Water restrictions or permanent water conservation measures may be in force in the ACT and may prohibit or affect the filling of new pools, ponds and fountains using potable (tap) water drawn from ACTEW Corporation Limited's potable water supply system. Applicants wishing to use water drawn from the potable water supply system to fill a new pool, pond or fountain are advised to first contact ACTEW's Water conservation office on (02) 62483131. Where water restrictions or permanent water conservation measures would otherwise prevent or affect the filling of a new pool, pond or fountain, it might be possible to obtain an exemption to fill the pool, pond or fountain using potable water.

### **DRAINAGE**

The Building Code of Australia contains provisions affecting surface drainage and the height of finished floor levels. These may apply to this proposal.

### **BUSHFIRE MITIGATION MEASURES**

This residential dwelling is located in an area where a bushfire risk assessment has identified that mitigation measures are required to reduce the impact of bushfires. The mitigation measures in this approval are to be maintained for the life of the residence. Special care needs to be exercised by the lessee to ensure that any future building works and modifications to the dwelling and additional landscaping does not compromise the mitigation measures imposed.

## REVIEW OF THE DECISION

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

### CONTACT DETAILS

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

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

### POWERS OF THE ACAT

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

### APPLICATIONS TO THE ACAT

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

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

### TIME LIMITS FOR APPLICATIONS

The time limit to make a request for a review is 28 days from the date of this Notice of decision. The time limit can be extended in some circumstances (refer to sections 10 (2), 10(3), 25(1)(e) and 25(2) of the *ACT Civil & Administrative Tribunal Act 2008*; section 7 of the *ACT Civil and Administrative Tribunal Procedure Rules 2009 (No 2)*; and section 409 of the *Planning and Development Act 2007*).

### FEES

Applications to the ACAT, including an application to be joined as a party to a proceeding, require payment of a fee (the Tribunal Registry will advise of the current fee), unless you are receiving legal or financial assistance from the ACT Attorney-General. You can apply to have the fee waived on the grounds of hardship, subject to approval (refer to section 22T of the *ACT Civil and Administrative Tribunal Act 2008*). Decisions to grant assistance are made on the grounds of hardship and that it is reasonable, in all the circumstances, for the assistance to be granted. Write to: The Chief Executive, Justice and Community Safety Directorate, GPO Box 158, CANBERRA ACT 2601. Ask the ACAT for more details.

TIME LIMITS FOR REVIEWS OF DECISIONS

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

FORMS OF LEGAL, FINANCIAL AND OTHER ADVICE AND ASSISTANCE

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

- ACT Attorney-General, write to The Chief Executive, Justice and Community Safety Directorate, GPO Box 158, CANBERRA, ACT, 2601;
- the ACT Legal Aid Office, telephone 1300 654314;
- Legal Advice Bureau, telephone (02) 6247 5700;
- ACT Council of the Ageing, telephone (02) 6282 3777;
- Welfare Rights and Legal Centre, telephone (02) 6247 2177; and
- Environmental Defender's Office (ACT), telephone (02) 6247 9420.

AWARDING OF COSTS

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

ACCESS TO DOCUMENTS ABOUT THE DECISION

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

PROCEDURES OF THE ACAT

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

TRANSLATION AND INTERPRETER SERVICES

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

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

**TRANSLATING AND INTERPRETING SERVICE****131 450**

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



# Notice of decision

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

## Merit track

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DA NO: 201324245		DATE LODGED: 15/10/2013
DATE OF DECISION: 17 December 2013		
BLOCK: 25	SECTION: 14	SUBURB: RIVETT
STREET NO AND NAME: [REDACTED]		
APPLICANT: [REDACTED]		
LESSEE: [REDACTED]		

### THE DECISION

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

I, Raymond Brown, delegate of the planning and land Authority, pursuant to section 162 of the Act, hereby **approve subject to conditions** the proposal for:

- **dual occupancy, being the construction of a new dwelling with attached garage to the rear of an existing single dwelling, and associated site works; the construction of a new detached garage; and minor alternations to the existing dwelling;**

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

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

**PART 2** sets out the Reasons for the Decision

**PART 3** is Public Notification and Entity Advice.

**PART 4** contains administrative information relating to the determination.

### DELEGATE



Raymond Brown  
Delegate of the planning and land Authority  
Environment and Sustainable Development Directorate  
17/12/2013

### CONTACT OFFICER



## **PART 1**

### **CONDITIONS OF APPROVAL**

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

#### **A. ADMINISTRATIVE / PROCESS CONDITIONS**

##### **A1. FURTHER INFORMATION**

To ensure the proposed development is capable of complying with requirements for subdivision, prior to the commencement of construction, the applicant shall lodge with the planning and land Authority for approval:

- (a) Information/plans to the satisfaction of Territory and Municipal Services Directorate (TAMSD) showing how independent stormwater ties will be provided for each new block; and
- (b) hydraulic servicing plans to the satisfaction of ACTEW Water demonstrating how the two new blocks will be separately serviced; and
- (c) in principle Design Acceptance from ACTEW Water for external services and off site works.

Contacts: TAMSD -- Ph: 13 22 81 | Actew Water -- Ph: 02 6248 3111

#### **B. DURING CONSTRUCTION AND/OR DEMOLITION**

##### **B1. ENVIRONMENT PROTECTION**

ACT licensed contractors shall be engaged for the removal, transportation and disposal of all hazardous materials found on the site.

##### **B2. TREE PROTECTION**

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

##### **B3. LANDSCAPE MANAGEMENT**

During any work undertaken on the site, all existing vegetation (trees, shrubs and grass) located on the verge and unleased Territory land immediately adjacent to the development shall be managed, protected and maintained in accordance with *City Management Guidelines for the Protection of Public Landscape Assets Adjacent to Development Works-REF-04*. All fencing must be placed so that the verge is protected but access to the pedestrian network is provided at all times.

##### **B4. SEDIMENT AND EROSION CONTROL**

All works are to be in accordance with *Environment Protection Guidelines for Construction and Land Development in the ACT, March 2011*, available via [www.environment.act.gov.au](http://www.environment.act.gov.au) or by calling Canberra Connect: 13 22 81

**B5. WASTE MANAGEMENT**

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

**C. POST CONSTRUCTION**

**C1. CERTIFICATE OF OPERATIONAL ACCEPTANCE**

On completion of the works, but prior to the issue of a Certificate of Occupancy, the applicant shall obtain a Certificate of Operational Acceptance from the Senior Manager, Asset Acceptance, Land Management and Planning, TAMSD.

**D. ADVISORY NOTES**

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

- D1. In addition to the above conditions of approval, prior to work commencing on site the applicant/lessee shall consider and address all the comments provided by entities. Refer to **PART 3 - PUBLIC NOTIFICATION AND ENTITY ADVICE** of this Notice of Decision.

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



## **PART 2 REASONS FOR THE DECISION**

The application satisfactorily meets the requirements for approval. The application was approved because, based on the documentation and in the form modified by the imposed conditions, it was considered to meet the relevant code, being the Multi-Unit Housing Development Code

The key issues identified in the assessment included the provision of separate site servicing in the event that there is a proposal to subdivide the block. Conditions have been imposed to ensure that the issues are adequately addressed and to ensure proposal is consistent with the Territory Plan and the *Planning and Development Act 2007*.

### **EVIDENCE**

**Application No. 201324245**

**File No. 1-2013/18735**

**The Territory Plan zone – RZ2 Suburban Core Zone**

**The Development Codes – Multi-Unit Housing Development code**

**The Precinct Codes – N/A**

**Current Crown Lease – Volume 320 : Folio 93**

**Representations – None received**

**Entity advice – TAMS, ESDD Leasing Administration, ActewAGL, Jemena,**

**Conservator of Flora & Fauna**

## **PART 3 PUBLIC NOTIFICATION AND ENTITY ADVICE**

### **PUBLIC NOTIFICATION**

Pursuant to Division 7.3.4 of the Act, the application was publicly notified from 21 October 2013 to 11 November 2013. No written representations were received during public notification.

### **ENTITY ADVICE**

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

### LEASING

On 30 October 2013 advice was received from Leasing Administration (ESDD) in relation to the proposal. The advice states that:

- 1. The proposed dual occupancy is consistent with the purpose clause of the Crown lease.**
- 2. Any application for subdivision will be subject to assessment against the relevant rules and criteria at that time.**
- 3. In the event of subdivision, the lessee must ensure that separate utilities services are provided to each dwelling.**

*Planning Authority Comments: Matters raised have been incorporated as advice.*

### CONSERVATOR OF FLORA AND FAUNA

On 23 October 2013 advice was received from the Conservator of Flora and Fauna in relation to the proposal. The advice states that there are no regulated trees on this or any adjoining sites.

*Planning Authority Comments: Matters raised have been incorporated as advice.*

### TERRITORY AND MUNICIPAL SERVICES DIRECTORATE

On 29 October 2013 advice was received from Territory and Municipal Services Directorate (TAMSD) in relation to the proposal. The advice states that the proposal is supported subject to the following conditions:

- 1. A minimum width of 2500mm must be provided through to the stormwater easement.**
- 2. Only one (1) stormwater tie for both dwellings is permitted for this development.**
- 3. There are to be no encroachments on Territory Land.**
- 4. All works are to be on or inside the lease boundary.**
- 5. The verge must be protected during construction.**
- 6. In the event of an application for subdivision of this block to create separate leases the applicant will need to show how independent stormwater ties and driveways will be provided for each block without impacting on street trees.**

*Planning Authority Comments: TAMSD has indicated that the requirement at point 2 pertains to this application in so far as the application does not include a proposal for subdivision. In the*

*event that subdivision is proposed, the requirement at point 6 will apply and is included in approval condition A1 of this Notice. Further advice from TAMSD should be sought.*

#### JEMENA (ACTEWAGL GAS NETWORKS)

On 1 November 2013 advice was received from Jemena in relation to the proposal. The advice states that the application is approved subject to conditions.

*Planning Authority Comment: A copy of the advice is included with this notice of decision*

#### ACTEWAGL ELECTRICITY

On 1 November 2013 advice was received from Actew AGL Electricity Networks in relation to the proposal. The advice states that the application is approved subject to conditions.

*Planning Authority Comment: A copy of the advice is included with this notice of decision*

#### ACTEW WATER

On 23 October 2013 advice was received from Actew Water in relation to the proposal. The advice states that the application is not approved. Further to this, Actew Water requires that:

- 1. Prior to any DA/BA Approval - *Design Acceptance for external services and off site works must be in principle design approved by ACTEW Water Hydraulic Assets. Phone ACTEW Water Asset Acceptance on ph: 02 6248 3111.***
- 2. Proposed subdivision of this block requires hydraulic servicing plans (approved by Actew water) demonstrating how the two new blocks will be serviced.**

*Planning Authority Comments:*

*The first of the above conditions has been incorporated in condition A1 of this Notice. Prior to the commencement of construction the applicant is required to provide to the planning and land Authority evidence that this requirement has been met.*

*The application does not include a proposal for subdivision; however in order to ensure that the proposal is consistent with site servicing requirements in the event of subdivision, the second of the above conditions is also imposed.*

## **PART 4 ADMINISTRATIVE INFORMATION**

### DATE THAT THIS APPROVAL TAKES EFFECT

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

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

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

### Conditional Approval

This approval will expire if, in accordance with Section 165(3)(d) of the Act, a condition has deferred the effect of the development approval *and* imposed a time frame during which another approval must be revoked, amended or given, and the time frame has expired.

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

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

### INSPECTION OF THE APPLICATION AND DECISION

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

### RECONSIDERATION OF THE DECISION

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

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

### REVIEW BY THE ACT CIVIL AND ADMINISTRATIVE TRIBUNAL (ACAT)

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

# APPENDIX 1

## CONTACT DETAILS OF RELEVANT AGENCIES

<b>Health Directorate</b> - health protection	Website: <a href="http://www.health.act.gov.au">www.health.act.gov.au</a> Telephone: (02) 6205 1700
<b>Environment and Sustainable Development Directorate</b>  <i>Planning and land Authority</i>  - list of certifiers for building approval - demolition information - asbestos information  <i>Environment Protection Authority</i>  - environment protection - water resources - asbestos information  <i>Conservation, Planning and Research</i>  - threatened species/wildlife management	Website: <a href="http://www.actpla.act.gov.au">www.actpla.act.gov.au</a> Telephone: (02) 6207 1923  Website: <a href="http://www.environment.act.gov.au">www.environment.act.gov.au</a> Telephone: (02) 6207 6251  Website: <a href="http://www.environment.act.gov.au">www.environment.act.gov.au</a> Telephone: (02) 6207 1911
<b>Territory and Municipal Services Directorate</b> - tree damaging activity approval - use of verges or other unleased Territory land - works on unleased Territory land - design acceptance - damage to public assets	Website: <a href="http://www.tams.act.gov.au">www.tams.act.gov.au</a> Telephone: 132 281 Telephone for asset acceptance: (02) 6207 7480
<b>Utilities</b> - Telstra (networks) - TransACT (networks) - ActewAGL - Electricity reticulation	Telephone: (02) 9397 2090 Telephone: (02) 6229 8000 Telephone: 1100 Telephone: (02) 6293 5738

## ADVICE TO APPLICANT

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

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

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

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

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

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1. a certificate of design acceptance prior to the commencement of any work and
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Works on unleased Territory land may include the construction or upgrading of driveway verge crossings, public footpaths, roads, street lighting, stormwater works, waste collection amenities, street signs and line marking, road furniture and landscaping.

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

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

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

### DRAINAGE

The Building Code of Australia contains provisions affecting surface drainage and the height of finished floor levels. These may apply to this proposal.

## **REVIEW OF THE DECISION**

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

### CONTACT DETAILS

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

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

### POWERS OF THE ACAT

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

### APPLICATIONS TO THE ACAT

To apply for a review, obtain an application form from the ACAT. You can also download the form from the ACT Legislation Register [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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

### TIME LIMITS FOR APPLICATIONS

The time limit to make a request for a review is 28 days from the date of this Notice of decision. The time limit can be extended in some circumstances (refer to sections 10 (2), 10(3), 25(1)(e) and 25(2) of the *ACT Civil & Administrative Tribunal Act 2008*; section 7 of the *ACT Civil and Administrative Tribunal Procedure Rules 2009 (No 2)*; and section 409 of the *Planning and Development Act 2007*).

### FEES

Applications to the ACAT, including an application to be joined as a party to a proceeding, require payment of a fee (the Tribunal Registry will advise of the current fee), unless you are receiving legal or financial assistance from the ACT Attorney-General. You can apply to have the fee waived on the grounds of hardship, subject to approval (refer to section 22T of the *ACT Civil and Administrative Tribunal Act 2008*). Decisions to grant assistance are made on the grounds of hardship and that it is reasonable, in all the circumstances, for the assistance to be granted. Write to: The Chief Executive, Justice and Community Safety Directorate, GPO Box 158, CANBERRA ACT 2601. Ask the ACAT for more details.

### TIME LIMITS FOR REVIEWS OF DECISIONS

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

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

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

- ACT Attorney-General, write to The Chief Executive, Justice and Community Safety Directorate, GPO Box 158, CANBERRA, ACT, 2601;
- the ACT Legal Aid Office, telephone 1300 654314;
- Legal Advice Bureau, telephone (02) 6247 5700;
- ACT Council of the Ageing, telephone (02) 6282 3777;
- Welfare Rights and Legal Centre, telephone (02) 6247 2177; and
- Environmental Defender's Office (ACT), telephone (02) 6247 9420.

### AWARDING OF COSTS

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

### ACCESS TO DOCUMENTS ABOUT THE DECISION

You may apply for access to any documents you consider relevant to this decision under the ACT Freedom of Information Act 1989. Information about Freedom of information requests is available on the planning and land Authority's web site or by contacting us by phone on (02) 6207 1923.

### PROCEDURES OF THE ACAT

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



to access information about the ACAT's procedures.

**TRANSLATION AND INTERPRETER SERVICES**

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

ENGLISH	If you need interpreting help, telephone:
ARABIC	: إذا احتجت لمساعدة في الترجمة الشفوية ، إتصل برقم الهاتف :
CHINESE	如果你需要传译员的帮助，请打电话：
CROATIAN	Ako trebate pomoć tumača telefonirajte:
GREEK	Αν χρειάζεστε διερμηνέα τηλεφωνήσετε στο
ITALIAN	Se avete bisogno di un interprete, telefonate al numero:
MALTESE	Jekk għandek bżonn l-għajjnuna t'interpretu, oċempel:
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 telefonirajte:
SPANISH	Si necesita la asistencia de un intérprete, llame al:
TURKISH	Tercümana ihtiyacımız varsa lütfen telefon ediniz:
VIETNAMESE	Nếu bạn cần một người thông-ngôn hãy gọi điện-thoại:

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



**ACT**  
Government

Environment and  
Sustainable Development

# Notice of decision

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

## Merit track

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DA NO: 201324253		DATE LODGED: 14/10/2013	
DATE OF DECISION: 25 November 2013			
BLOCK: 171	SECTION: 1	SUBURB: URIARRA VILLAGE	
STREET NO AND NAME: [REDACTED]			
APPLICANT: [REDACTED]			
LESSEE: [REDACTED]			

### THE DECISION

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

I, Raymond Brown, delegate of the planning and land Authority, pursuant to section 162 of the Act, hereby **approve subject to conditions** the proposal for a **new metal garage and associated site works** in accordance with the plans, drawings and other documents and items submitted with the application.

This decision is subject to the conditions of approval at **PART 1** being satisfied. Please note that plans will not be dispatched until all conditions are satisfied.

**PART 2** sets out the Reasons for the Decision

**PART 3** is Public Notification and Entity Advice.

**PART 4** contains administrative information relating to the determination.

### DELEGATE



Raymond Brown  
Delegate of the planning and land Authority  
Environment and Sustainable Development Directorate  
25/11/2013



## **PART 1**

### **CONDITIONS OF APPROVAL**

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

#### **A. ADMINISTRATIVE / PROCESS CONDITIONS**

##### **A1. FURTHER INFORMATION**

Within 28 days of the date of this approval, or within such further time as may be approved in writing by the planning and land Authority, the applicant shall lodge with the planning and land Authority for approval:

- (a) A landscape plan, based on the relevant drawings submitted as part of the application, showing:
- (i) Appropriate screen planting between the proposed garage and the western boundary, consisting of trees or shrubs the height of which when mature is a minimum of 6m.
  - (ii) Appropriate screen planting between the proposed garage and the southern boundary, consisting of trees or shrubs the height of which when mature is a minimum of 6m.

##### **A2. USE OF THE BUILDING**

This approval is only for the construction of a BCA class 10a building (garage) and associated landscaping, this being ancillary to the primary use of Block 1 of Section 171 Uriarra Village for the purposes of a single residence.

#### **B. DURING CONSTRUCTION AND/OR DEMOLITION**

##### **B1. SEDIMENT AND EROSION CONTROL**

Development is to comply with the *Environment Protection Authority, Environment Protection Guidelines for Construction and Land Development in the ACT, 2011*.

##### **B2. WASTE MANAGEMENT**

The management of construction waste is to comply with the *Development Control Code for Best Practice Waste Management in the ACT*. All building waste is to be stored on the site in suitable receptacles and collected regularly. The lessee is to take all reasonable steps to ensure that waste, particularly wind borne litter, does not affect adjoining or adjacent properties.

## **PART 2 REASONS FOR THE DECISION**

The application was approved because, based on the documentation and in the form modified by the imposed conditions, it was considered to meet the relevant codes, being the Non-Urban Zones Development Code, Coree District Precinct Code and Single Dwelling Housing Development Code.

Issues identified in the assessment relate to the maintenance of the generally rural character of Uriarra Village. Conditions have been imposed to address the key issues and ensure that the proposal is consistent with the Territory Plan and the Planning and Development Act 2007.

In accordance with the Territory Plan Non-Urban Zones Development Code, where a development is subject to Special Requirements under the National Capital Plan, or any relevant Development Control Plan prepared under the National Capital Plan, the development shall not be inconsistent with the Special Requirements or Development Control Plan. A Development Control Plan (DCP 171/04/0004) is applicable to this land. The proposal is not inconsistent with the Development Control Plan or the National Capital Plan.

### **EVIDENCE**

**Application No. 201324253**

**File No. 1-2013/18994**

**The Territory Plan zone – NUZ2 Rural**

**The Development Codes – Non-Urban Zones Development Code, Single Dwelling Housing Development Code**

**The Precinct Codes – Coree District Precinct Code**

**Current Crown Lease – Volume 1857 : Folio 79**

**Representations – One representation received**

**Entity advice – ActewAGL**

## PART 3 PUBLIC NOTIFICATION AND ENTITY ADVICE

### PUBLIC NOTIFICATION

Pursuant to Division 7.3.4 of the Act, the application was publicly notified from 21 October 2013 to 4 November 2013. One written representation was received during public notification.

The representation expressed concern about the scale, siting and overall appearance of the proposed building and its perceived effect on the landscape and character of the neighbourhood. Concern was also raised about the issue of possible noise impacts, should the building be used as a workshop.

The relevant sections of the Territory Plan that were considered in the assessment were the *Non-Urban Zones Development Code*, and the *Coree District Precinct Code*.

These codes, along with the *NCA Development Control Plan (DCP) for Uriarra Village (DCP 171/04/0004)* and the approved *Lease & Development Conditions (L&Ds)* seek to protect the unique rural character and setting and the established pattern of generally low-density development.

A response to the issues raised is provided as follows.

#### Scale and appearance of the building

In relation to the 'industrial' appearance of the building it should be noted that large shed-like structures of this kind are common in rural settings and are, in terms of their form and function, 'industrial' buildings. Although a height of 5.6m is above that of a typical single-storey building, it is below the typical two-storey height of 7 to 10m and presents a generally horizontal attitude. In terms of its overall appearance, the proposed building is considered not to be inconsistent with the notion of 'rural character'.

The colours proposed, 'Woodland Grey' and 'Neutral Cream' are in keeping with the 'neutral' and/or 'natural' palette referenced in the DCP and the L&Ds, and is not inconsistent with established development within Uriarra Village.

*Lease & Development Conditions* for Uriarra Village require that ancillary structures are adequately screened from streets and open spaces. It is a condition of this approval that the lessee establishes appropriate screen planting between the proposed garage and the open space on the western side of the proposed garage. Similar planting is also to be established on the southern side in order to enhance the surrounding landscape.

Shipping containers present on adjacent sites were identified as contributing to the undesirability of the proposed garage. A site inspection was conducted on 12 November 2013. The structures in question are not the subject of this application, however their presence in the landscape was considered. It was observed that the siting of these structures was generally in accordance with an informal pattern of development and was reflected in the siting of similar structures serving to establish the overall character of the area. It is concluded that whether or not these shipping containers were present, the proposed garage would not be inconsistent with this overall neighbourhood character.

#### Noise

Concern was raised in relation to the possibility that the proposed garage may be used as a workshop and that this may result in excessive noise. This approval is granted for the construction

of a garage in accordance with the *Planning and Development Act 2007*. This approval does not affect the lessee's duty under the *Environment Protection Act 1997* to prevent or minimise environmental harm or environmental nuisance.

Information about environmental noise is available from the Environment Protection Authority (EPA) [www.environment.act.gov.au](http://www.environment.act.gov.au)

Having considered the issues that were raised in the representation, it is concluded that – in the form modified by the imposed conditions – the proposal is consistent with the relevant Territory Plan codes, the approved Lease and Development Conditions for Uriarra Village, and the National Capital Plan.

## **ENTITY ADVICE**

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

### ActewAGL

On 25 October 2013 advice was received from Actew Water in relation to the proposal. The advice states that the application is approved subject to conditions. A copy of the advice is provided with this Notice of decision.

On 1 November 2013 advice was received from ActewAGL Electricity Networks in relation to the proposal. The advice states that the application is approved.

On 1 November 2013 advice was received from ActewAGL Gas Networks in relation to the proposal. The advice states that the application is approved subject to conditions. A copy of the advice is provided with this Notice of decision.

## **PART 4 ADMINISTRATIVE INFORMATION**

### DATE THAT THIS APPROVAL TAKES EFFECT

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

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

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

### Conditional Approval

This approval will expire if, in accordance with Section 165(3)(d) of the Act, a condition has deferred the effect of the development approval **and** imposed a time frame during which another approval must be revoked, amended or given, and the time frame has expired.

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

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

### INSPECTION OF THE APPLICATION AND DECISION

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

### RECONSIDERATION OF THE DECISION

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

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

### REVIEW BY THE ACT CIVIL AND ADMINISTRATIVE TRIBUNAL (ACAT)

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This Notice of decision has also been sent to all people who made representations in relation to the proposal.

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

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

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

### REPAIR OF DAMAGE TO PUBLIC ASSETS

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

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### DRAINAGE

The Building Code of Australia contains provisions affecting surface drainage and the height of finished floor levels. These may apply to this proposal.

The advice below needs to be added to any DA, residential or commercial, where L&Ds require bushfire mitigation measures. See the Lease and Development Conditions for the bushfire mitigation requirements specific to this block as required by the Territory Plan Guideline - Planning for Bushfire Risk Mitigation.

### BUSHFIRE MITIGATION MEASURES

This residential dwelling is located in an area where a bushfire risk assessment has identified that mitigation measures are required to reduce the impact of bushfires. The mitigation measures in this approval are to be maintained for the life of the residence. Special care needs to be exercised by the lessee to ensure that any future building works and modifications to the dwelling and additional landscaping does not compromise the mitigation measures imposed.

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GREEK	Αν χρειάζεστε διερμηνέα τηλεφωνήστε στο
ITALIAN	Se avete bisogno di un interprete, telefonate al numero:
MALTESE	Jekk għandek bżonn l-għajnuna t'interpretu, ċempel:
PERSIAN	: اگر به ترجمه شفاهی احتیاج دارید به این شماره تلفن کنید:
PORTUGUESE	Se você precisar da ajuda de um intérprete, telefone:
SERBIAN	Ако вам је потребна помоћ преводиоца телефонирајте:
SPANISH	Si necesita la asistencia de un intérprete, llame al:
TURKISH	Tercümana ihtiyacımız varsa lütfen telefon ediniz:
VIETNAMESE	Nếu bạn cần một người thông-ngôn hãy gọi điện-thoại:

**TRANSLATING AND INTERPRETING SERVICE****131 450**

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



**ACT**  
Government

Environment and  
Sustainable Development

# Notice of decision

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

## Merit track

DA NO: 201324373		DATE LODGED: 12/11/2013
DATE OF DECISION: 18 December 2013		
BLOCK: 3	SECTION: 21	SUBURB: WRIGHT
STREET NO AND NAME: [REDACTED]		
APPLICANT: [REDACTED]		
LESSEE: [REDACTED]		

### THE DECISION

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

I, Ray Brown, delegate of the planning and land authority, pursuant to section 162 of the Act, hereby **approve** the proposal for:

- a retaining wall along the eastern and southern boundary, and forward of the building line on the western boundary,

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

**PART 1** sets out the Reasons for the Decision

**PART 2** is Public Notification and Entity Advice.

**PART 3** contains administrative information relating to the determination.

DELEGATE/ [REDACTED]

Ray Brown  
Delegate of the planning and land authority  
Environment and Sustainable Development Directorate

18 December 2013

**CONTACT OFFICER**  
[REDACTED]

## **PART 1 REASONS FOR THE DECISION**

The application satisfactorily meets the requirements for approval. The application was approved because, based on the documentation, it was considered to meet:

- the relevant code, being the Single Dwelling Housing Development Code; and
- Coombs and Wright Concept Plan.

The key issues identified in the assessment are that:

- the development proposal is consistent with Criterion 12 of the Code with regard to side and rear setbacks;
- there is reasonable solar access to dwellings on the southern boundary and their associated principal private open space;
- there is reasonable privacy for principle private open space on adjoining residential blocks.

In reaching the decision, the proposal was considered to be consistent with the Territory Plan and the *Planning and Development Act 2007*.

### **EVIDENCE**

**Application No.** 201324373

**File No.** 1-2013/21476

**Territory Lease File No.** 1-2012/11634

**The Territory Plan zone** – RZ1 Suburban Zone

**The Development Codes** – Single Dwelling Housing Development Code

**The Precinct Codes** – Coombs and Wright Concept Plan

**Current Crown Lease** – Volume 2079 Folio 73

**Representations** – No written representations were received

**Entity advice** – Territory and Municipal Services Directorate

## **PART 2 PUBLIC NOTIFICATION AND ENTITY ADVICE**

### **PUBLIC NOTIFICATION**

Pursuant to Division 7.3.4 of the Act, the application was publicly notified from 22 November 2013 to 5 December 2013. No written representations were received during public notification.

### **ENTITY ADVICE**

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

### **TERRITORY AND MUNICIPAL SERVICES DIRECTORATE**

On date 20 November 2013 advice was received from Territory and Municipal Services in relation to the proposal. The advice states that the application is supported with the following conditions:

1. Road verge to be protected during construction.
2. All the works must be carried out inside the block boundary.
3. No encroachment onto unleased Territory Land.

Matters raised have been incorporated as advice.

## **PART 3 ADMINISTRATIVE INFORMATION**

### **DATE THAT THIS APPROVAL TAKES EFFECT**

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

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

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

# APPENDIX 1

## CONTACT DETAILS OF RELEVANT AGENCIES

<b>Health Directorate</b> - health protection	Website: <a href="http://www.health.act.gov.au">www.health.act.gov.au</a> Telephone: (02) 6205 1700
<b>Environment and Sustainable Development Directorate</b>  <i>Planning and land authority</i>  - list of certifiers for building approval - demolition information - asbestos information  <i>Environment Protection Authority</i>  - environment protection - water resources - asbestos information  <i>Conservation, Planning and Research</i>  - threatened species/wildlife management	Website: <a href="http://www.actpla.act.gov.au">www.actpla.act.gov.au</a> Telephone: (02) 6207 1923           Website: <a href="http://www.environment.act.gov.au">www.environment.act.gov.au</a> Telephone: (02) 6207 6251           Website: <a href="http://www.environment.act.gov.au">www.environment.act.gov.au</a> Telephone: (02) 6207 1911
<b>Territory and Municipal Services Directorate</b> - tree damaging activity approval - use of verges or other unleased Territory land - works on unleased Territory land - design acceptance - damage to public assets	Website: <a href="http://www.tams.act.gov.au">www.tams.act.gov.au</a> Telephone: 132 281 Telephone for asset acceptance: (02) 6207 7480
<b>Utilities</b> - Telstra (networks) - TransACT (networks) - ActewAGL - Electricity reticulation	Telephone: (02) 9397 2090 Telephone: (02) 6229 8000 Telephone: 1100 Telephone: (02) 6293 5738

## ADVICE TO APPLICANT

### SUBMISSION OF REVISED DRAWINGS AND DOCUMENTATION

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

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

For further information regarding the lodgement of this information please contact Customer Service Centre by Phone: (02) 6207 1923, Fax: (02) 6207 1925 TTY: (02) 6207 2622, Email: [esddcustomerservices@act.gov.au](mailto:esddcustomerservices@act.gov.au) or on the planning and land authority website at [www.actpla.act.gov.au](http://www.actpla.act.gov.au).



## **FURTHER APPROVALS FOR CONSTRUCTION**

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

### **BUILDING APPROVAL**

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

### **PERMITTED VARIATIONS TO APPROVED DEVELOPMENT**

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

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

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

### **"TREE DAMAGING ACTIVITY" APPROVAL**

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

### **USE OF VERGES OR OTHER UNLEASED TERRITORY LAND**

In accordance with the *Roads and Public Places Act 1937*, road verges and other unleased Territory land must not be used for the carrying out of works, including the storage of materials or waste, without prior approval of the Territory. Approval can be obtained from the Territory and Municipal Services Directorate.

### **WORKS ON UNLEASED TERRITORY LAND – DESIGN AND OPERATIONAL ACCEPTANCE**

In accordance with the *Roads and Public Places Act 1937*, no work can be undertaken on unleased Territory land without the approval of the Territory. Such approval must be obtained from the Manager Asset Acceptance, Asset Services Group, TAMSD by way of:

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

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

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

## **CONSTRUCTION REQUIREMENTS**

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

### DEMOLITION AND ASBESTOS MANAGEMENT

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

### ENVIRONMENT PROTECTION

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

### REPAIR OF DAMAGE TO PUBLIC ASSETS

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

### UTILITY ASSETS RETENTION

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

### WATER RESTRICTIONS AND FILLING OF NEW POOLS, PONDS AND FOUNTAINS

Water restrictions or permanent water conservation measures may be in force in the ACT and may prohibit or affect the filling of new pools, ponds and fountains using potable (tap) water drawn from ACTEW Corporation Limited's potable water supply system. Applicants wishing to use water drawn from the potable water supply system to fill a new pool, pond or fountain are advised to first contact ACTEW 's Water conservation office on (02) 62483131. Where water restrictions or permanent water conservation measures would otherwise prevent or affect the filling of a new pool, pond or fountain, it might be possible to obtain an exemption to fill the pool, pond or fountain using potable water.

### DRAINAGE

The Building Code of Australia contains provisions affecting surface drainage and the height of finished floor levels. These may apply to this proposal.

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