



**ACT**  
Government

Environment, Planning and  
Sustainable Development

# Notice of decision

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

## Merit track

DA NO: 201731656 201731656 S144C	DATE LODGED: 31/05/2017 31/10/2017	
DATE OF DECISION: 07 December 2017		
BLOCKS: 13 and 14	SECTION: 1	SUBURB: WEETANGERA
STREET NO AND NAME: 7 and 9 Smith Street Weetangera		
APPLICANT: AMC Architecture		
LESSEES: GAVIN PETER MALOUF, RHONDA GAIL MALOUF and MAUREEN SEYMOUR WATSON		

### THE DECISION

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

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

- the demolition of the existing two dwellings, outbuildings and associated development including tree removal as per the approved plans,
- the erection and use of 14 dwellings with attached garages with associated landscaping, servicing, verge and site works
- Consolidation of Block 13 Section 1 Division of Weetangera and Block 14 Section 1 Division of Weetangera; and
- A variation to the Crown lease purpose clause to permit a maximum of fourteen (14) dwellings;

in accordance with the plans, drawings and other documents and items submitted with the application for approval and endorsed as forming part of this approval and substantially in accordance with the draft Crown lease at Attachment 1.

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

Rumana Jamaly  
Delegate of the planning and land authority  
Environment, Planning and Sustainable Development Directorate

07/12/2017

Phone: (02) 6207 1923

Email: [richard.davies@act.gov.au](mailto:richard.davies@act.gov.au)

## 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.

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 landscape plan and architectural drawings, based on the relevant drawings submitted as part of the application, showing:
  - (i) Each dwelling to have a deciduous small to medium tree planted within the courtyard. Each tree is to be advanced stock (75 litre pots). The tree is to be positioned so it does not have a significant negative impact on the principal private open space (PPOS);
  - (ii) Replacement plantings within the common area. These are to be medium sized deciduous trees of advance stock (minimum 75 litres pot);
  - (iii) Species appropriate for hedging along the west and east boundaries of the property;
  - (iv) The relocation of Unit 5 water tank to within the private yard serving the dwelling;
  - (v) The provision of permeable paving for the car parking and turning bay adjacent to the most north west unit (labelled unit 15 on the S144C site plan)
  - (vi) Revised plans with sequential unit/dwelling numbering (1 to 14)
- (b) revised architectural drawings with Unit 1 living room window at 1.5m above the driveway or other agreed screening methods;
- (c) A Tree Management Plan prepared by a level 5 arborist to demonstrate how the regulated trees are to be preserved, will be managed and survive the proposed works.

Note: When submitting the revised plans (under S165 in e-development), please ensure all plans are consistent with one another and incorporate the above requirements.

---

A2. TRANSPORT CANBERRA AND CITY SERVICES (TCCS)

The development shall comply with the following conditions to the satisfaction of TCCS:

- a) The driveway must be constructed in accordance with TCCS Design Standards.
- b) The verge must be protected during construction.
- c) The proponent needs to engage a Landscape Architect or Consulting Arborist approved by TCCS Urban Treescapes to supervise and document all works within tree protection zones. Notes must be included in all relevant plans for works requiring tree protection measures and superintendence by Landscape Architect or Consulting Arborist for all works within the tree protection zones.
- d) All excavation within the tree protection zones of the verge trees must be carried out by hand digging, hydro excavation or other recommended methods to ensure minimal damage to the tree roots.

Note that a full copy of TCCS advice is provided in Part 3 of this Notice of Decision including "Standard Conditions" which may apply to this development.

A3. Environment Protection Authority (EPA)

The development shall comply with the following conditions to the satisfaction of the EPA:

- a) All works must be carried out in accordance with Environment and Sustainable Development Information Sheet 1 Prevent Pollution from Residential Building Sites, February 2014 and Environment Protection Guidelines for Construction and Land Development in the ACT, March 2011, available by calling 132281.
- b) Appropriately ACT licensed contractors must be engaged for the removal, transport and disposal of all hazardous materials found on the site.
- c) All hazardous materials found on the site must be disposed of at a facility suitably authorised/licensed to accept the waste.

A4. COMPLIANCE WITH ENTITY REQUIREMENTS

The applicant is advised to carefully consider all the relevant advice (in addition to the conditions imposed) from each of the entities stated in Part 3 of this decision throughout the process of development (prior to, during & post construction) as applicable.

A5. Fencing Condition

Pursuant to sub paragraph 165(3)(o)(ii) of the *Planning and Development Act 2007*, at the lessee's expense and before the completion of building work, the existing fence between Blocks 2, 3, 4, 12, 15, 29, 30, 31, 32 of Section 1 Weetangera, shall be replaced with a 1.8 m high timber lapped and capped fence, or to another standard acceptable to the subject lessee and the adjoining lessees. In the event the adjacent lessees do not wish to replace their respective fence the existing fence can be retained. The lessee must take all reasonable steps to obtain the written agreement of the respective lessees before the erection of any new fencing. New fencing shall not extend further forward than the new building line.

**B. CONDITIONS RELATING TO THE CONSOLIDATION OF CROWN LEASES****B1. LEASING ENTITY**

The existing Crown leases over Block 13 Section 1 Division of Weetangera - (Volume 423 :Folio 39) and Block 14 Section 1 Division of Weetangera - (Volume 574:Folio 31) must be held by a single entity or entities (“the new lessee/s”) prior to consolidation of the blocks and prior to undertaking any development in accordance with this approval.

**B2. COMMENCEMENT OF BUILDING WORK**

That no building work in relation to this Development Application except demolition is to commence on the site, and no approved plans other than demolition plans will be released, until the new consolidated Crown lease is registered at Access Canberra (Land Titles and Rental Bonds).

**B3. NEW BLOCK SURVEY**

That the applicant/lessee shall arrange for a survey of the consolidated block. When advised of the new block number, the applicant/lessee shall lodge the survey plan with the Environment, Planning and Sustainable Development Directorate for examination and clearance by the Surveyor-General, Surveying and Spatial Data Section, and pay the appropriate examination fee.

The new block survey must show:

- (i) the dimensioned location of the proposed boundaries for each of the new blocks generally in accordance with the approved consolidation plan (including the centreline of any party wall as constructed);
- (ii) the surveyed block size; and
- (iii) the location of all service easements in accordance with the requirements of the relevant service providers.

**B4. SURRENDER AND REGRANT**

That the lessee surrender the existing Crown leases over Block 13 Section 1 Division of Weetangera - (Volume 423 : Folio 39) and Block 14 Section 1 Division of Weetangera - (Volume 574 : Folio 31) and accept a new Crown lease substantially in accordance with the draft lease appearing at **Attachment 1**.

**B5. LEASE REGISTRATION**

That the lessee shall do all that is necessary to ensure that the new Crown lease is registered at Access Canberra (Land Titles and Rental Bonds) prior to the end of the approval for the variation of the Crown lease.

Please also see the Advisory Notes for additional information on lease variation.

**C. PRIOR TO CONSTRUCTION AND/OR DEMOLITION****C1. 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;

**C2. TREE PROTECTION**

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

**D. DURING CONSTRUCTION AND/OR DEMOLITION****D1. 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.

**D2. TREE PROTECTION**

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

**D3. WASTE MANAGEMENT**

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

**E. POST CONSTRUCTION AND/OR DEMOLITION**

Nil

**F. 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.*

**F1. LEASE VARIATION CHARGE**

Prior to the registration of the new Crown leases, the lessee must, as is required under the *Planning and Development Act 2007*, pay any assessed Lease Variation Charge. Once advised of the lease variation charge, the charge should be paid not less than 6 months prior to the expiration of this approval. This will ensure that sufficient time remains to enable the new Crown leases and new survey plan to be registered at Access Canberra (Land Titles and Rental Bonds) prior to expiry of this approval.

Note: this development application meets the requirements for the LVC to be assessed under Schedule 1 Items 1A, 1AA, 1B or 1BB of *Planning and Development (Lease Variation Charges) Determination 2017 (No 2) DI2017-208 (DI2017-208)*.

**F2. BLOCK NUMBER**

The new block number will not be provided until the Lease Variation Charge is paid. The new survey plan must be cleared by the Surveyor-General prior to the execution of the new Crown lease.

F3. EXPIRY OF APPROVAL

For approvals that include a lease variation, there is no provision under the *Planning and Development Act 2007* to extend the timeframe for compliance with the lease variation and consolidation conditions of the approval beyond 2 years after the date this approval takes effect.

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

F4. Environment Protection Authority

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

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

For further information please contact the Environment Protection Authority Planning Liaison on 02 6207 5642.

## **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 Multi Dwelling Housing Development Code and the Residential Zones Development Code.

The key issues identified in the assessment are compliance with the Territory Plan and Codes, representations, tree removal and landscaping, compliance with entity requirements, the suitability of the site for the proposed development, the payment of Lease Variation Charge, and the registration of the new Crown lease and new survey plan. Where appropriate, 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*.

The decision is inconsistent with advice from the Conservator. However, pursuant to section 119 (2) of the Act, the advice received has been considered, as well as the relevant guidelines and any realistic alternative to the development proposed or aspects of it. The applicant's pre-lodgement site constraints and response formed part of these considerations. This matter was considered by the authority in detail including the authority's internal Major Project Review Group. A decision to approve this application is consistent with the objectives of the Territory Plan, in particular, the objectives of the RZ2 zone.

### **Revised plans**

During the assessment of the application, the planning and land authority requested further information from the applicant to address the issues identified in the assessment.

In response to this, the applicant lodged amended plans and documentation under S144 of the *Planning and Development Act 2007*. In summary, this consisted of additional information and revised layout including relocation of the waste storage area, internal driveway, reduction in the number of dwellings (to 14), private open space area modifications and revised tree information.

Pursuant to S146 (3) of the Act, the requirement to publicly notify an amended DA can be waived, provided the requirements of 3(a) and 3(b) of s146 of the Act, that no-one other than the applicant will be adversely affected by the amendment and the environmental impact caused by the approval of the amendment will do no more than minimally increase the environmental impact of the development are met.

The planning and land authority considered that no-one other than the applicant will be adversely affected by the amendments and the revised proposal would not increase the environmental impact. Hence, the authority waived the requirement to publicly notify the amended DA. The revised proposal is considered to meet all relevant requirements of the Territory Plan.

### **EVIDENCE**

**Application No.** 201731656

**File No.** 1-2017/11329

**The Territory Plan zone** – RZ2

**The Development Codes** – Multi Dwelling Housing Development Code,  
Residential Zones Development Code

**The Precinct Codes** – Weetangera Precinct Map

**Current Crown Lease** – Volume 423 Folio 39 - Volume 574 Folio 31

**Representations** – eight (8) representations

**Entity advice** – ActewAGL, Jemena, Environment Protection Authority, Conservator for Flora and Fauna, Transport Canberra and City Services.

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

### **PUBLIC NOTIFICATION**

Pursuant to Division 7.3.4 of the Act, the application was publicly notified from 8 June 2017 to 29 June 2017. Eight (8) written representations were received during public notification. Two late representations were also received.

The main issues raised were as follows. Comments are provided as appropriate.

- (a) Scale of development, density, number of dwellings, impact of change (number of dwellings in street)
- The number of dwellings meets the requirements of the Territory Plan for the RZ2 zone and size of the combined blocks. There will be noticeable change from the existing two dwellings. The requirements of the Territory Plan and in particular the Multi Unit Housing Development Code do not provide for maximum change values compared to existing and proposed dwellings within a street. Redevelopment is controlled through rules and criteria including site coverage, number of dwellings, setbacks and other servicing provisions which the assessment has supported. The impacts beyond the blocks were considered and are discussed further below.

- (b) Parking, lack of visitor parking, minimal frontage
- The Parking and Vehicular Access General Code provides guidance for such developments including the number of vehicle parking spaces required. Each dwelling is provided with suitable (Code compliant) covered car parking spaces (garages) and the development proposes 6 visitor parking spaces.

This Code requires 2 spaces per dwellings and 3.5 (which would be rounded to 4) visitor parking spaces.

Representations also made reference to the limited frontage for overflow parking spaces. Such specifics are not directly covered within the Code however it is noted that over 20m frontage is available clear of the new verge crossing.

The development as proposed is considered to meet the requirements for car parking.

- (c) Noise
- The site is zoned RZ2 which permits redevelopment for residential purposes including multi-unit dwellings, as proposed. It is possible that changes will occur from the existing development in regards to noise impacts as density and number of dwellings change. Such impacts are however residential in nature and therefore reasonable for the zone and use.

The DA was also referred to the Environment Protection Authority (EPA) as the appropriate entity who provides advice in regards to noise impacts. The EPA provided recommended conditions of approval and advice in regards to the proposal – see also below.

- (d) Visual impact/Character
- The streetscape and visual impacts were considered by the authority. The street and neighbouring properties' interface was raised as potential issues for the development. The applicant responded with modified proposal under S144 proposing changes addressing such matters in particular a reduced rear boundary height difference and front development redesign.



The Territory Plan provides limited provisions in regards to the visual impacts however does provide other requirements controlling setbacks, height, scale, site coverage which help control or limit visual impacts of redevelopment. There are a number of references to the desired character in the Multi Unit Housing Development Code (MUHDC) which is also defined in the Territory Plan.

The character of the area is defined currently by mostly single dwelling housing. As permitted in the Territory Plan redevelopment is controlled by limiting the volume and scale in proportion to the block size. While this will have some noticeable impacts, the amount of change meets the Code requirements addressing such matters.

There will be a noticeable difference in regards to visual impacts between the existing development and to the proposed development, however the proposed development has been assessed as meeting the requirements of the Territory Plan and suitable for approval (subject to conditions).

- (e) Fencing  
A condition has been applied to require fencing at the developer's expense in regards to common boundary fencing. Refer to condition A5.
- (f) Road network ability/impacts/traffic report sufficiency  
The DA was referred to Transport Canberra and City Services (TCCS) as the Entity who controls unleased land including the road network. TCCS advised that the development is supported subject to conditions. All conditions recommended by TCCS have been included in the Notice of Decision – refer to Part 1 of the Decision.
- (g) Lack of footpath – existing pedestrian & bicycle users – safety, sufficiency of traffic report,  
The DA was referred to Transport Canberra and City Services (TCCS) as the Entity who controls unleased land including the road, verge and footpath network. TCCS advised that the development is supported subject to conditions. All conditions recommended by TCCS have been included in the Notice of Decision – refer to Part 1 of the Decision.
- (h) Cumulative impact with other developments  
The Territory Plan provides a range of rules and criteria to control potential redevelopment. The development site and nearby surrounds are within the RZ2 zone which permits a range of residential development. Individual DAs are assessed on their merits and compliance with the Territory Plan. The combined or cumulative impacts are controlled through the provisions of the Plan. The DA has no identified cumulative impacts which are considered require modification or give rise to a refusal.
- (i) Future ability for development  
Future DAs in the area will be assessed against the Territory Plan applicable at that time, on their merits. This DA is not considered to sterilise or place any significant limitations on future development or applications.
- (j) Limit development to lesser density/volume of dwellings  
The Territory Plan is made up of a number of rules and criteria to limit redevelopment. This is reflected in the RZ2 Zone Objectives. Representations have stated that a lesser number of dwellings would be more suitable than the development proposed. Rule 12 of the Multi Unit Housing Development Code (MUHDC) is one of the controls to limit redevelopment impacts. This mandatory rule permits a maximum of 16 dwellings for the consolidated block. Since notification occurred, the applicant has modified the proposed development to 14 dwellings which complies with R12. Other elements of the MUHDC and Territory Plan are considered to be addressed or complied with. The assessment of the application has concluded that the proposal can be approved subject to conditions at the proposed development density/volume of dwellings.

- (k) Streetscape – Appearance, density, ghetto, consistency  
The appearance of the development has been considered. It is noted that presentation to the street was raised with the applicant. In response a modification was proposed which amongst other changes, modified the presentation to the street. This Notice also requires planting outcomes for the streetscape. The assessment has found that the presentation to the street is approvable.
- (l) Asbestos concerns  
The two existing dwellings are not listed on the “Mr Fluffy” or surrendered residential blocks. The demolition of the dwellings will be subject to a Building Approval and any asbestos found will need to meet relevant asbestos removal methods and overseen by the relevant Building Certifier. No planning matters are applicable for this stage of the proposed development.
- (m) Heat island effect, open space requirement, stormwater infiltration,  
The site open space is controlled in Rule and Criterion 38 of the MUHDC. This matter was raised with the applicant. In response the S144 application increased the open space of the proposed development. The modified application has proposed an improved common area at the front of the development. Condition A1 requires additional planting which will offer additional shading in summer months. The conditions also require additional permeable paving for the parking which adds to the permeability. With the conditions, it is considered the Criterion has been satisfied.
- (n) Birdlife impacts  
The site is not identified as having significant environmental values. There will be a number of trees removed as part of the development however as conditioned in A1, additional trees than currently proposed will be required as part of the development. This will potentially provide some bird habitat into the future.
- (o) Maximum development with minimal regard for environment  
The Territory Plan provides limits in regards to potential redevelopment. The DA information as amended has been assessed as meeting the relevant requirements in regards to development density and impacts.
- (p) Tree removal – replacement trees provide minimal shade, scale of tree removal  
The additional trees as required in Condition A1 will provide additional shading when mature. A minimum pot size to provide advanced stock will minimise the time required to effect such shading.
- (q) PPOS make up, excessive paving, lack of size,  
The amendment has changed some of the development in regards to PPOS however some PPOS areas do not meet minimum dimension requirements. In assessing the development against the criteria, it is noted that all dwellings have an area greater than required in the Code, have reasonable to good solar access and are appropriately located in regards to the dwelling. The overall planting area requirement was assessed as being rule compliant.
- (r) Historical links of existing development  
The site is not listed as a site with Heritage significance. Accordingly there are no Territory Plan requirements to preserve the dwelling or other requirements applicable for the DA assessment.

- (s) **Statement of Planning Intent 2015 principle/Water/heat island impacts**  
The application has provided specialist consultant advice stating that the development meets the Code requirements in regards to water quality and water use reduction targets. The additional tree coverage as required will minimise the heat island impact of the development and it is noted that the planting area meets the Code's requirements. The development is considered capable of being approved subject to conditions in regards to these objectives and requirements.
- (t) **RZ2 Zone Objectives**  
The RZ2 zone objectives have been considered. The Code does limit the density and scale of development. In this instance, the larger block permits a proportionally larger scale of development which is considered consistent with the objectives.
- (u) **Emergency services**  
The DA was not referred to Emergency Services as there is no requirement for a development of such scale. The larger waste service turning template is used as a guide for larger emergency vehicles which are likely to be able to access the residential scale development as needed.
- (v) **Territory Plan & Code compliance**  
The assessment of the modified development has been carried out and it is considered that where rule compliance has not been achieved, the relevant criterion has been achieved. Other relevant Codes of the Territory Plan have been considered and where applicable the development has been found to be approvable against the Code.
- (w) **Turning path plan suitability/sufficiency – design of internal driveway/suitability/safety**  
The internal driveway has been assessed to meet the relevant requirements for suitable vehicle movements.
- (x) **Building separation**  
The buildings and development have been assessed as meeting the relevant criterion in regards to building separation.
- (y) **Previous tree removal issues**  
The tree removal has been considered based on the criterion available. On balance the tree removal has been supported with additional plantings as required in condition A1.
- (z) **Standard of DA information**  
The DA has been supported by sufficient information to make a suitable assessment and decision.

Late submission(s) – Items not raised in above representations:

- (aa) **History/sale of property/value of nearby properties**  
The purchase methods of the block(s) are not a planning consideration under the legislation or Territory Plan. Value of properties is not a planning consideration.

## 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 26/6/2017 and in subsequent advice, the Conservator of Flora and Fauna advised that the development was not supported. A summary of the advice is as follows:

Conditions/Comments/Advice:

- Trees, B, C, D, R, S, T will need a Tree Management Plan by a Level 5 Arborist to demonstrate how they will be managed and survive the development.
- Trees A, I, J, P, Q are trees of medium quality and would not be supported for removal as they don't meet criteria. All alternate design alternatives should be considered and the final decision should be referred to the Planning Authority.
- Trees F, H, K, L, M, N, O (*Pinus radiata*) are pest species and therefore not covered by the provisions of the Act.
- Trees E & G are low quality trees and are supported for removal.

The tree removal issue was considered by the authority's Major Projects Review Group which provided input into the assessment and decision. Conditions addressing the MPRG's concerns have been included in this Notice of Decision. Where trees to be preserved are applicable, the Conservator's advice above has been used.

### TERRITORY AND MUNICIPAL SERVICES DIRECTORATE

On 19/7/2017 advice was received from Territory and Municipal Services in relation to the proposal advising that the development is supported subject to compliance with conditions – refer below. All conditions have been applied in this Notice of Decision – refer to Part 1.

On 22/11/17 TCCS advised that the modified waste turning diagram had formed part of TCCS considerations.

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

TCCS advice:

#### **Conditions**

1. The driveway must be constructed in accordance with TCCS Design Standards.
2. The verge must be protected during construction.
3. The proponent needs to engage a Landscape Architect or Consulting Arborist approved by TCCS Urban Treescapes to supervise and documentation of all works within tree protection zones. Notes must be included in all relevant plans for works requiring tree protection measures and superintendence by Landscape Architect or Consulting Arborist for all works in the tree protection zones.
4. All excavation within the tree protection zones of the verge trees must be carried out by hand dig, hydro excavation or other recommended methods to ensure minimal damage to the tree roots.

#### **Standard Conditions**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Notice of Commencement of Construction**

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

ActewAGL

On 16/11/17 advice was received from ActewAGL in relation to the proposal. The advice states that the proposed development conditionally complies with their Electricity Networks requirements. A copy of their advice and Conditional Approval is attached to this Notice of Decision.

Jemena

On 16/11/17 advice was received from Jemena in relation to the proposal. The advice states that the proposed development conditionally complies with their Gas Networks requirements. A copy of their advice and Conditional Compliance Statement is attached to this Notice of Decision.

Icon Water (formerly ActewAGL Water)

On 6/11/2017 advice was received from Icon Water in relation to the proposal. The advice states that Design Acceptance in Principle has been issued.

A copy of the advice and Design Acceptance in Principle is attached to 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 takes effect 20 working days after the day this notice of decision is given to every person who made a representation on the application. 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.

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.

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

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

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

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 Planning 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.planning.act.gov.au">www.planning.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>Transport Canberra and City 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.tccs.act.gov.au">www.tccs.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>- Icon Water</li> <li>- Electricity reticulation</li> </ul>	Telephone: (02) 8576 9799 Telephone: (02) 6229 8000 Telephone: (02) 6248 3111 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.planning.act.gov.au/tools\\_resources/e-services/edevelopment](http://www.planning.act.gov.au/tools_resources/e-services/edevelopment)

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

### **FURTHER APPROVALS FOR CONSTRUCTION**

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

#### **BUILDING APPROVAL**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## **CONSTRUCTION REQUIREMENTS**

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

### DEMOLITION AND ASBESTOS MANAGEMENT

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

### ENVIRONMENT PROTECTION

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

### REPAIR OF DAMAGE TO PUBLIC ASSETS

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

**TRANSLATION AND INTERPRETER SERVICES**

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

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

**TRANSLATING AND INTERPRETING SERVICE**

**131 450**

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

