

Planning and Development (Approval of application – 201528509 Mugga Lane Landfill Expansion, Jerrabomberra) Notice 2016

Notifiable Instrument NI2016–129

made under the

Planning and Development Act 2007, s 170(4) (Notice of approval of application)

1 Name of instrument

This instrument is the *Planning and Development (Approval of application – 201528509 Mugga Lane Landfill Expansion, Jerrabomberra) Notice 2016*.

2 Impact track development approval notice

On 24 February 2016, pursuant to section 162 of the *Planning and Development Act 2007*, the planning and land authority approved, subject to conditions, in the impact track, development application 201528509, for:

- (1) demolition of an office and powerlines;
- (2) construction of 3 landfill cells; and
- (3) construction of a leachate pond and associated infrastructure.

3 The approval of development application 201528509 is in the schedule.

Dorte Ekelund
Chief Planning Executive
11 March 2016



ACT
Government

Environment and Planning

Notice of decision

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

Impact track

| | | | |
|--|--|---|--|
| DA NO: 201528509 201528509A 201528509B | | DATE LODGED: 18/11/2015 22/01/2016 17/02/2016 | |
| DATE OF DECISION: 24/02/2016 | | | |
| BLOCK: 2114 | | SECTION: 0 | |
| SUBURB: JERRABOMBERRA | | | |
| STREET NO AND NAME: 499 Mugga Lane | | | |
| APPLICANT: Canberra Town Planning Pty Ltd | | | |
| LESSEE: Australian Capital Territory C/- ACT NOWaste | | | |

THE DECISION

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

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

- **demolition of an office and powerlines**
- **construction of 3 landfill cells**
- **construction of a leachate pond and associated infrastructure**

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



Jonathan Teasdale
Delegate of the planning and land authority
Environment and Planning Directorate
24/02/2016

CONTACT OFFICER

Brodie Ferson
Phone: (02) 6205 4615
Email: brodie.ferson@act.gov.au

PART 1

CONDITIONS OF APPROVAL

This application is approved subject to the following conditions being satisfied. Some conditions of approval will require attention before the approved drawings will be released 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 must lodge with the planning and land authority for approval:
- a) revised drawings, endorsed by the Environment Protection Authority (EPA) based on the relevant drawings submitted as part of the application, showing that the proposed leachate pond and associated infrastructure has operational capacity to manage the increase in landfill.
 - b) the design and operation of the second leachate pond as detailed in Plan-201528509-CELL-1-3&4-LEACHATE-02 must be reviewed and endorsed by an environmental auditor and submitted to the EPA for assessment and approval before being provided to the planning and land authority.

Administrative Matters

- A2. All works must be undertaken in accordance with the requirements of the Commonwealth Department of the Environment's approval decision under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC 2011/5808 dated 18 March 2014).
- A3. The existing Environmental Authorisations held by the ACT Government and the Landfill operator are required to be updated with all relevant changes to the landfill design and operation including associated environmental management processes. The Environmental Authorisation requires the preparation of and adherence to a Construction Environment Management Plan (CEMP).

Compliance with ACTEWAGL Electricity

- A4. The applicant must comply with the requirements of ActewAGL Electricity's Statement of Conditional Compliance attached with this Notice of Decision.

B PRIOR TO CONSTRUCTION AND/OR DEMOLITION

B1. Construction Environment Management Plan

That a CEMP be submitted to EPD for approval prior to the commencement of any work on the site. The CEMP is required to cover all environmental aspects not covered by the

Environmental Authorisation. It should identify all activities that may have an adverse impact on the environment or the potential to cause environmental harm and detail mechanisms employed to prevent or minimise the impact of these activities.

The CEMP must include a "fauna rescue and clearing protocol" that includes, but is not necessarily limited to the following:

- trees are to be cleared prior to August 2016 to avoid bird breeding season;
- all trees containing hollows will be deemed 'habitat trees' and physically marked on two sides with a large, spray-painted white 'H';
- only surveyed non-hollow-bearing trees are to be cleared in the first 24 hours of clearing;
- pre-clearing ecological inspections are to be undertaken and preparation of procedures to be followed for wildlife rescue where hollow fauna salvage and relocation is not possible;
- prior to felling, trees should be knocked at the base to encourage fauna to relocate of their own accord. Once the tree is felled (as gently as possible), it should be inspected by the ecologist for any fauna, with any injured fauna rescued and taken to a wildlife carer or veterinarian;
- felled hollow-bearing trees are to be retained for 24 – 48 hours after being 'tapped' to allow fauna to relocate by themselves;
- any rescued fauna to be relocated to previously identified release locations; and
- information on the staff required to undertake the activities, such as ecologists and wildlife handlers.

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.*

B2. Construction In Accordance With Guidelines

The design and construction of the expansion cells 1, 3 & 4 must be in accordance with the endorsed guidelines, the Victorian Landfill Licensing Guidelines October 2014 (Vic EPA publication 788.2) and the Victorian Siting, Design, Operation and Rehabilitation of Landfills Best Practice Environmental Management (BEPM) October 2014 (Vic EPA publication 788.2). The liner design and performance of the proposed cells is required to meet that of a Type 2 landfill.

B3. Preparation By Environmental Auditor

Technical Specifications, the Construction Quality Assurance (CQA) and Construction Management Plan (CMP) for the proposed expansion must be prepared by an environmental auditor and submitted to the EPA for assessment and approval prior to construction.

B4. Hazardous Materials Survey

A hazardous materials survey must be prepared by a suitably qualified consultant for the site office to be demolished and prepared in accordance with section 8.1 of the EPA's Hazardous Materials Environment Protection Policy November 2010 and provided to the EPA Inspectorate for review and endorsement. The survey must identify all potential

hazardous materials associated with the demolition of the structure and any residues or wastes remaining within the structure prior to works commencing at the site. The survey must identify all hazardous material including fuel tanks, asbestos, lead, PCB containing materials, Synthetic Mineral Fibre and ozone depleting substances.

B5. Licensed Contractors

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

B6. Pollution Control Plan

A pollution control plan must be endorsed by the Environment Protection Authority prior to works commencing.

B7. Environmental Authorisation

As the site is greater than 0.3 hectares the construction 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. The existing Environmental Authorisation held between the landfill operator, Remondis and the EPA is to be updated as necessary for the expanded landfill.

B8. Workplace Health and Safety Plan

A Workplace Health and Safety Plan is to be prepared by the construction contractor prior to the commencement of construction.

B9. Odour Impact

Modelling is to be undertaken by a suitably qualified consultant to assess the potential odour impact of the planned expansions. The assessment must be submitted and be endorsed by the Environment Protection Authority prior to construction.

B10. Heritage

- The collection of surface artefacts from Aboriginal heritage site ML1 is required prior to the commencement of expansion works. This should be undertaken by a qualified archaeologist in consultation with RAOs.
- A report on the salvage of Aboriginal heritage site ML1 is to be submitted to, and approved by, the Council prior to the commencement of the expansion works.
- A conservation management plan is to be prepared for the salvage of the identified heritage items on the expansion site. The plan should draw on the preliminary work undertaken in the heritage investigations for the EIS.

B11. Unanticipated Discovery Protocol

Should any Aboriginal heritages places or objects be encountered during expansion works, the 'Unexpected Discovery' protocols described in Biosis (201) should be

implemented; with the exception that opportunity for RAO participation in heritage site recording, assessment and management is provided.

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.

C1. Traffic Management Plan (TMP)

At all times during construction the site and surrounds shall be managed in accordance with a TMP that outlines the traffic arrangements and controls to be implemented within the landfill site, such as directions of travel and speed restrictions. In addition to the on-site traffic management arrangements this plan should include a Temporary Traffic Management Plan (TTMP) if it is intended to use the alternative southern access point for construction activities. The TTMP should meet TAMSD's documentation requirements and is required to be approved and implemented before the alternative southern access is used.

C2. Trees

The large trees that will be felled within cells 1,3 and 4 must be transferred to the offset area and placed as fallen logs to improve the value of the offset area.

C3. Fencing

The expansion must be fenced, which will limit the possibility of vehicles inadvertently straying beyond the approved development area.

C4. Sediment and Erosion Control

Appropriate sediment and erosion controls must be installed and managed in accordance with the EPA's Environment Protection Guidelines for Construction and Land Development in the ACT, March 2011, during all expansion and construction works at the site.

C5. EPA Guidelines

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

C6. Unexpected Discovery Protocol

Should any Aboriginal heritage places or objects be encountered during expansion works, the 'Unexpected Discovery' protocols described in Biosis (2010) should be implemented; with opportunities for RAO participation in heritage site recording; assessment and management provided. The protocol should outline the steps to be followed and disclosure requirements to the Heritage Unit.

C7. ICON Water

Water and sewer networks must be protected in accordance with the ICON Water

checklist dispatched with this decision.

D POST CONSTRUCTION AND PRIOR TO LANDFILLING

D1 Repair of Damage to Public Assets

The applicant 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.

D2 Bushfire Management Plan

Prior to the commencement of landfilling, the bushfire management plan is to be updated and endorsed by the Emergency Services Agency (ESA) and the EPA, to ensure the ongoing protection of the landfill from bushfire threats. The plan should identify the asset protection zones, their management practices and schedule for the conduct of fuel reduction. The revised plan should be complimentary to the protection of natural and conservation values of adjacent lands.

D3 Emergency Response Procedures

Prior to the commencement of landfilling, the existing Emergency Response Procedure should be updated to the satisfaction of the ESA to inform the protocols to be implemented in the event of an emergency at the site.

D4 Vermin and Feral Animal Control Plan

Prior to the commencement of landfilling, a Vermin and Feral Animal Control Plan must be developed which outlines management actions to be undertaken on the monitoring and control of vermin and feral animals within the landfill. This plan is to set thresholds at which active controls must be implemented to control pest animal numbers to reduce pressure on surrounding lands. Species to be included are (but not limited to); European red fox, domestic cat, domestic dog, rats and mice (non-native) and pest birds. The plan is to include measures to protect non-targeted species from harm.

D5. Acceptance and Placement of Material

The acceptance and placement of material into the expansion cells 1, 3 & 4 is subject to the endorsement of the environmental auditor's final CQA audit report by the EPA and the submission of a revised Environment Management Plan (EMP) for the current land filling operations.

D6. Soil

All soil removed from the site works may be reused within the construction zone or disposed of within the active leachate control area of the landfill. No material is to be reused elsewhere on-site or reused/disposed off-site without EPA approval.

E POST LANDFILLING AND PRIOR TO CLOSURE

E1 Capping of Landfill Cells

The applicant is advised that in accordance with their commitments in the EIS that the capping of finished landfill cells is to incorporate 'phytocap' techniques. The applicant is to liaise with the National Capital Authority and other relevant agencies prior to capping the landfill.

A plan outlining the aims, methods, species, performance targets and monitoring is to be prepared and endorsed by the EPA to ensure that it is consistent with the Environmental Authorisation.

E2. CEMP updates

The Authorisation holder shall review the approved CEMP after any major improvement or change to the site/ activity or process or every 2 years from the date of the Environmental Authorisation to ensure that the document remains current/ relevant to activities undertaken on the site. The reviewed CEMP shall be submitted to the EPA within 3 months of any improvements and/ or changes or the anniversary date of the Environmental Authorisation or within 10 working days of a variation to the Environmental Authorisation.

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 Septic Systems

An application to install or alter a septic tank, composting toilet, sewage treatment plant must be submitted to the Health Protection Service and approved prior to the installation or alteration of the existing system.

F2 Greywater and leachate ponds

The design and construction of greywater and leachate ponds must minimise the potential for the ponds to become a local mosquito nuisance.

F3 Heritage

- Aboriginal heritage site ML2 is removed from the proposed expansion area, and will not be directly impacted by the construction of Cells 1, 3 and 4. The Council has previously approved the collections of surface artefacts from ML2, but recommends that collection does not occur until such time as development impacts are proposed to the ML2 site area.
- Rural Block 2114, Jerrabomberra, is included within a large-area natural heritage nomination to the ACT Heritage Register, the 'Savannah Woodland'. Advice on any ecological impacts of the proposed Mugga Lane expansion should be sought from the Conservator of Flora and Fauna or the ACT Government's Conservation Research Unit; if any advice has not yet been provided.

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 Statement of Strategic Directions from the Territory Plan;
- the Jerrabomberra District Precinct Code;
- the Non-Urban Zones Development Code; and
- the requirements of the Development Assessment Considerations of the Mugga Landfill Expansion Stage 5 of the Environmental Impact Statement Assessment Report.

This proposal was assessed against the Strategic Directions in the Territory Plan. The proposal provides an essential service supporting the economic and social development of the ACT. It also provides a cost-effective solution for managing waste services in the ACT.

The proposal is an important part of broader ACT government policies and has been proposed on a site tailored to this land use.

The selected site provides a suitable location for additional landfill space as the land is in the broadacre zone and the proposal is for an expansion of an existing landfill facility. Environmental plans and policies for the landfill will ensure the amenity of the surrounding areas is maintained.

The proposal meets the requirements of the Precinct Code and associated Development codes with conditions being imposed to ensure this is achieved.

Conditions have been imposed with reference to the Development Assessment Considerations of the Mugga Landfill Expansion Stage 5 Environmental Impact Statement Assessment Report. These are included in this notice of decision and ensure that management practices are undertaken to mitigate impacts.

The key ecological issue identified in the assessment was impacts on Box-Gum Woodland. These impacts were assessed through the EIS, with the entire expansion resulting in the loss of 9.8ha of the critically endangered Box-Gum Woodland. In March 2014 the Commonwealth approved the proposal subject to a range of conditions, including the requirement to establish an offset to compensate for the impacts on Box-Gum Woodland (EPBC 2011/5808). The offset was implemented to compensate for the whole of the Stage 5 expansion as assessed under the EIS.

The decision is made with the understanding that conditions imposed by the Commonwealth under the provisions of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) must be complied with. Conditions imposed under the EPBC Act are in addition to those listed in this decision.

The Commonwealth decision referenced as EPBC 2011/5808 applies to the proposed development.

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. 201528509

File No. 1-2015/24880

The Territory Plan zone – NUZ1 Broadacre

The Development Code – Non-Urban Zones Development Code

The Precinct Code – Jerrabomberra District Precinct Map and Code

The General Codes – Crime Prevention through Environmental Design, and
Water Use and Catchments General Code

EIS Titled: Proposed Mugga Landfill Expansion – Stage 5 accepted by the Minister on
16/12/2013

Representations - nil

Entity advice-*ACTEWAGL Electricity* – Supported with conditions

ACTEWAGL Gas – No assets on site, approval not required

Icon Water – Supported with conditions

Conservator of Flora and Fauna – No additional requirements to those in EIS

Territory and Municipal Services - Supported

Tree Protection – No regulated trees on site

Environmental Protection Agency – Recommends conditions of approval

ESA – No conditions or comments

ACT Heritage Council - Supported with conditions

ACT Health – No conditions, advice provided.

Other – Mugga Landfill Expansion – Stage 5 EIS Assessment Report, November 2013,
Major Projects Review Group meeting minutes, 23 December 2015

PART 3

PUBLIC NOTIFICATION AND ENTITY ADVICE

PUBLIC NOTIFICATION

Pursuant to Division 7.3.4 of the Act, the application was publicly notified from 26 November 2015 to 16 December 2015. One written representation was received during public notification. However, this was formally withdrawn on the 19 February 2016 and comments received from the original representation are not addressed in this Notice of Decision.

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 3 December 2015 advice was received from the Conservator of Flora and Fauna in relation to the proposal. The advice states that the proposal will result in the loss of a few hectares of native vegetation, a small area of low condition endangered woodland and will result in a slight trimming of a large and important woodland habitat patch. It will also result in the loss of around 40 hollow bearing trees.

The addition of high quality box-gum woodland to the nearby Isaacs reserve is an appropriate offset.

The advice also states that the large trees that will be felled within cells 1, 3 and 4 will be transferred to the offset area and as fallen logs will improve the habitat value of the offset area. The expansion area will also be fenced, which will limit the possibility of vehicles inadvertently straying beyond the approved development area.

The advice states that the CEMP for the project must include a "fauna rescue and clearing protocol" that includes information on the timing and method for felling trees.

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

TERRITORY AND MUNICIPAL SERVICES DIRECTORATE

On 10 December 2015 advice was received from Territory and Municipal Services Directorate in relation to the proposal. The advice states that the DA has been supported.

Assessment note: No action is required in response to this advice.

ENVIRONMENT PROTECTION AUTHORITY

On 11 December 2015 advice was received from the EPA in relation to the proposal. The advice states that further information is required (see Condition A1) to demonstrate efficacy of the existing leachate management system is sufficient to handle the additional loading the expansion will generate.

The advice also raises a range of issues related to sediment and erosion control measures, surveys and plans that need to be prepared before works commence and guidelines that must be complied with in undertaking works.

Further information was received on the 14/01/2016 which stated that modelling is to be undertaken to assess potential odour impacts.

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

ACTEWAGL ELECTRICITY

On 7 December 2015 advice was received from Actew Corporation in relation to the proposal. The advice states that the proposal was not supported.

Further information was sought from the applicant who provided a revised plan on 22 January 2016.

This was submitted to Actew Corporation who did not support the revised plan. Further information was requested from the applicant and received on 17 February 2016.

Conditional approval was granted by Actew Corporation on 18 February 2016.

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

ACTEWAGL GAS

On 15 December 2015 advice was received from Actew Corporation in relation to the proposal. The advice states that there are no Gas Networks assets within the vicinity of the development and as such no approval is required.

Assessment note: No action is required in response to this advice.

ICON WATER

On 26 November 2015 advice was received from Icon Water in relation to the proposal. The advice states that:

The application has been assessed against Icon Water's water and sewerage network access and asset protection requirements. A condition of acceptance was specified stating that protection of water and sewer networks must be in accordance with the checklist attached to the advice. A copy of the advice is dispatched with this decision.

Assessment note: Matters raised have been incorporated as a condition of approval.

ACT EMERGENCY SERVICES

On 07 December 2015 advice was received from ACT Fire & Rescue in relation to the proposal. The advice states that ACT Fire & Rescue have no special considerations or objections at this time.

Assessment note: No action is required in response to this advice.

ACT HERITAGE COUNCIL

On 10 December 2015 advice was received from the Heritage Council in relation to the proposal. The advice states that:

The proposed development will have a detrimental impact upon the heritage values of the place, as proposed construction of Cells 1,3 and 4 at the Mugga Landfill will directly impact Aboriginal heritage site ML1.

However, the Council has previously issued advice under Section 76 of the *Heritage Act 2004*, approving the salvage (surface collection) of Aboriginal heritage site ML1, to mitigate against the impacts of the Mugga Landfill expansion project.

The advice states that:

The collection of surface artefacts from Aboriginal heritage site ML1 is required prior to the commencement of expansion works and a report on the salvage is to be submitted to, and approved by, the Council prior to the commencement of the expansion works.

The advice also states that an unanticipated discovery protocol should be implemented.

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

TREE PROTECTION UNIT

On 10 December 2015 advice was received from Tree Protection Unit in relation to the proposal. The advice states that Blocks 2114 & 2247 Jerrabomberra are outside of the built up urban area and are not covered by the provisions of the *Tree Protection Act 2005*.

ACT HEALTH PROTECTION SERVICE

On 14 December 2015 advice was received from ACT Health in relation to the proposal. The advice states that:

The design and construction of greywater and leachate ponds must minimise the potential for the ponds to become a local mosquito nuisance, and that an application to install or alter septic tank; composting toilet; sewage treatment plant must be submitted to the HPS and approved prior to the installation or alteration of the existing system.

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

COMMONWEALTH DEPARTMENT OF ENVIRONMENT

On 27 January 2016 advice was received from the Commonwealth Department of Environment in relation to the proposal. The advice states that

'These conditions are consistent with the EPBC Act approval. On this basis the Department has no further comments on the proposed decision.'

PART 4

ADMINISTRATIVE INFORMATION

DATE THAT THIS APPROVAL TAKES EFFECT

This approval 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 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.

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

REVIEW BY THE ACT CIVIL AND ADMINISTRATIVE TRIBUNAL (ACAT)

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

APPENDIX 1

CONTACT DETAILS OF RELEVANT AGENCIES

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

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

FURTHER APPROVALS FOR CONSTRUCTION

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

BUILDING APPROVAL

Most building work requires building approval to ensure it complies with building laws such as the Building Code of Australia. If this applies to this proposal, the lessee should engage a private building certifier to assess and approve the building plans before construction begins. A list of licensed certifiers and information about building approval is available from the 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 *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 Territory and Municipal 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, 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. Icon Water's 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 Icon Water'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 Icon Water's 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: www.courts.act.gov.au Email: tribunal@act.gov.au 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*).

FEEES

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 EPD 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.

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| ENGLISH | If you need interpreting help, telephone: |
| ARABIC | إذا احتجت لمساعدة في الترجمة الشفوية، إتصل برقم الهاتف: |
| CHINESE | 如果你需要传译员的帮助，请打电话: |
| CROATIAN | Ako trebate pomoć tumača telefonirajte: |
| GREEK | Αν χρειάζεστε διερμηνέα τηλεφωνήστε στο |
| ITALIAN | Se avete bisogno di un interprete, telefonate al numero: |
| MALTESE | Jekk għandek bżonn l-għajnuna t'interpretu, ċempel: |
| PERSIAN | اگر به ترجمه شفاهی احتیاج دارید به این شماره تلفن کنید: |
| PORTUGUESE | Se você precisar da ajuda de um intérprete, telefone: |
| SERBIAN | Ako vam je potrebna pomoć prevodioca 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