

# Planning and Development (Approval of application – 201528441 Extension of Manning Clark Crescent, Gungahlin) Notice 2016

## Notifiable instrument NI2016–20

made under the

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

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### **1 Name of instrument**

This instrument is the *Planning and Development (Approval of application – 201528441 Extension of Manning Clark Crescent, Gungahlin) Notice 2016*.

### **2 Impact track development approval notice**

On 22 December 2015, 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 201528441, for:

- (a) the construction of Manning Clark Crescent between Flemington Road and Anthony Rolfe Avenue and associated landscaping works; and
- (b) minor alterations to the exiting Flemington Road / Manning Clark Crescent intersection and Anthony Rolfe Avenue / Manning Clark Crescent intersection.

### **3 The approval of development application 201528441 is in the schedule.**

Dorte Ekelund  
Chief Planning Executive  
19 January 2016



**ACT**  
Government

Environment and Planning

# Notice of decision

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

## Impact track

|  |              |                              |
|--|--------------|------------------------------|
| DA NO: 201528441<br>201528441 s144A<br>201528441 s144B |              | DATE LODGED: 23 October 2015 |
| DATE OF DECISION: 22 December 2015                     |              |                              |
| BLOCK: 1   | SECTION: 230 | SUBURB: GUNGAHLIN            |
| BLOCK: 1   | SECTION: 234 | SUBURB: GUNGAHLIN            |
| STREET NO AND NAME: MANNING CLARK CRESCENT             |              |                              |
| APPLICANT: Cardno                                      |              |                              |
| LAND CUSTODIAN: Land Development Agency and Roads ACT  |              |                              |

### 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:

- the construction of Manning Clark Crescent between Flemington Road and Anthony Rolfe Avenue and associated landscaping works; and
- minor alterations to the exiting Flemington Road / Manning Clark Crescent intersection and Anthony Rolfe Avenue / Manning Clark Crescent intersection

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

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

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

**PART 3** relates to Public Notification, Entity Advice and Commonwealth Advice.

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

### DELEGATE

Jonathan Teasdale  
Delegate of the planning and land authority  
Environment and Planning Directorate

22 December 2015

### CONTACT OFFICER

Linda Ren  
Phone: (02) 6205 3343  
Email: linda.ren@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 planning and land authority (the Authority), others before work commences or before the completion of building work.

**Note:** All works are to be conducted in a manner and to a standard consistent with the requirements of the *Gungahlin Strategic Assessment Biodiversity Plan* made under the *Environment Protection and Biodiversity Conservation (EPBC) Act 1999*.

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

##### Environmental Authorisation/Agreement

A1. Prior to the commencement of construction works on site, the following requirements must be submitted to and approved by the Environment Protection Authority (EPA):

(a) Pollution Control Plan

A Pollution Control Plan must be endorsed by the EPA prior to works commencing.

(b) Environment protection agreement

Environment Protection Agreement or environmental authorisation from the EPA for any activity on the site which is listed under Schedule 1 as a Class B activity of the *Environment Protection Act 1997*.

(c) Site management plan

A site management plan incorporating an unexpected finds protocol must be prepared by a suitably qualified environmental consultant prior to the commencement of earthworks at the site and must be implemented during these works.

(d) Environment protection

Construction and development works must be undertaken in accordance with "Environment Protection Guidelines for Construction and Land Development, 2011".

##### Heritage

A2. The following additional heritage assessment and management actions must be undertaken prior to the construction:

a) Prior to the commencement of construction works, archaeological subsurface testing must be undertaken within the Manning Clark Crescent extension area. A methodology for subsurface testing must be developed by a qualified archaeologist in consultation with Representative Aboriginal Organisations (RAOs), and approval of this sought in accordance with Section 61E of the *Heritage Act 2004* prior to the commencement of archaeological subsurface testing.

b) Should archaeological subsurface testing identify the presence of heritage places or objects within the Manning Clark Crescent extension area, a 'Statement of Heritage Effect (SHE)' must be prepared in accordance with Section 61G of the *Heritage Act 2004*. SHE approval must be sought from the Council prior to the commencement of construction works.

- c) Should archaeological subsurface testing identify no heritage places or objects within the Manning Clark Crescent extension area, a report on heritage works undertaken must be prepared and submitted for Council endorsement prior to the commencement of construction works.

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

- A3. Prior to the commencement of any work on the site, the following requirements must be submitted to and approved by the Territory and Municipal Services Directorate (TAMS):

- (a) Certificate of design and operational acceptance

Design, operational and final acceptance for the proposed capital works must be obtained from the Senior Manager, Capital Works Design and Delivery, TAMS.

- (b) Temporary Traffic Management Plan (TTMP)

A TTMP must be prepared by a suitably qualified person and approved by the Manager, Traffic Management & Safety, Roads ACT, TAMS prior to commencement of any work on site. This plan is to address, as a minimum, measures to be employed during construction to manage all traffic, including construction traffic, in and around the site, provision of safe pedestrian movement around the site, the provision of parking for construction workers, and associated traffic control devices.

- (a) Landscape Management & Protection Plan (LMPP)

A LMPP must be approved by the Manager, Major Capital Works, Roads ACT, TAMS and the Manager, Urban Trees, TAMS. This plan is to be implemented before the commencement of works, including demolition/ earthworks on the site and is to be in accordance with TAMS Reference No 04 'Guidelines for the Protection of Public Landscape Assets Adjacent to Development Works-REF-04'.

- (b) 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, TAMS.

- (c) 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 TAMS of any existing damage to public facilities.

### **Capital Metro Agency Requirements**

- A4. Further consultation and coordination for the road project and light rail proposal is required at the detail design stage.

### **Tree Management**

- A5. The proponent or consultant must develop suitable tree protection and management measures, in consultation with Urban Trees, TAMS and the ACT Heritage Council to ensure all possible actions are put in place to mitigate the adverse impact on tree 356. The following options should be considered to manage tree 356:

- (a) Early watering and fertilising during retaining wall construction is required, to encourage new root growth.
- (b) An earth berm should be constructed as part of preliminary works, to capture water within the root zone.
- (c) Current levels are to be kept around the tree.
- (d) Subsoils and/or weepholes are to be incorporate into the design to ensure relief of hydrostatic pressure behind the wall and to prevent water logging.
- (e) Works at this location should be carried out in colder months to prevent exposure of roots.

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

### **Traffic Management**

- B1. At all times during construction the site and surrounds must be managed in accordance with the TTMP required under Condition B3 (b), prepared by a suitably qualified person and approved by the Manager, Traffic Management & Safety, Roads ACT, Transport and Infrastructure Division, TAMS prior to the commencement of work.

### **Landscape Management**

- B2. During construction, all existing vegetation (trees, shrubs and grass) located on the verge and unleased Territory land immediately adjacent to the development must be managed, protected and maintained in accordance with the LMPP required under condition B3(c) and approved by the Manager, Major Capital Works, Roads ACT, TAMS.

### **ActewAGL- Electricity Division Requirements**

- B3. The development is to comply with the conditions provided by ActewAGL-Electricity on 3 November 2015 in relation to this application ([Attachment A](#)).

### **Icon Water Requirements**

- B4. The development is to comply with the conditions provided by Icon Water on 10 November 2015 in relation to this application ([Attachment B](#)).

### **Jemena Requirements**

- B5. The development is to comply with the conditions provided by Jemena on 3 November 2015 in relation to this application ([Attachment C](#)).

### **Tree Protection**

- B6. All high quality trees must be retained as per the Manning Clark Crescent Landscape Site Plan dated December 2015, Project Code L-1014, Sheet No D400GA, Issue G.

## **C. ADVISORY NOTES**

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

## Environmental Authorisation

- C1. Under Section 42 of the *Environment Protection Act 1997* an authorisation (or license) is required for the following activity:  
The acceptance by a lessee or occupier of land of more than 100m<sup>3</sup> of soil for placement on that land in an area identified in:
- The Territory Plan as 1 of the following: Broadacre; Rural; Hills, Ridges and Buffer Areas; River Corridors; Mountains and Bushlands; Plantation Forestry; or
  - The National Capital Plan as 1 of the following: Broadacre; Rural; Hills, Ridges and Buffer Areas; River Corridors; Mountains and Bushland.

## Erosion and Sediment Control

- C2. 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:
- No discharge from dam, all stormwater must be pumped out and disposed in at an approved location; and
  - 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.

## Waterway Licence

- C3. All works affecting waterways (e.g. ponds, farm dams, creeks, drainage lines etc.) require a Waterway Works Licence before works commencement.

Any take of surface water or groundwater during construction or ongoing must be suitably licensed under the *Water Resources Act 2007* with a licence to take water and a water access entitlement.

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

## PART 2

### REASONS FOR THE DECISION

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

- the relevant code, being the Transport and Services Zone Development Code; Residential Zone Development Code and Urban Open Space Zone Development Code;
- the advice of the Conservator of Flora and Fauna in relation to the proposal; and
- the legislative requirements of the *Planning and Development Act 2007*.

The key issues identified in the assessment are tree removal and potential heritage impact. 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*.

#### **Revised plans**

Following the close of public notification, receiving the entity comments and completion of an assessment, the planning and land authority requested further information from the applicant to address the issues raised by referral entities. Matters raised included removal of regulated trees and heritage significance assessment of one scar tree.

In response to this, the applicant lodged amended plans and documentation under s144 of the *Planning and Development Act 2007* as DA 201425446 A and B.

The key amendment is realigning the proposed Manning Clark Crescent extension to retain tree number 356

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.

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.

#### **Regulated tree**

The Conservator of Flora and Fauna did not support the development proposal as the proposed development removed a number of regulated trees including high quality regulated tree 356. The Conservator stated that tree 356 was an exceptional quality regulated tree that should be retained and protected during the development of the Manning Clarke Crescent intersection.

To address this concern, the applicant revised the road design to retain tree 356. Further comments received from the Conservator stated that the amendments to the design were supported subject to retaining the high quality trees as per the submitted landscapes plan.

A condition has been imposed to ensure high quality trees are retained as per the approved landscape plan.

## EVIDENCE

**Application No.** 201528441, 201528441 s144A, and 201528441 s144B

**File No.** 1-2015/23960

**The Territory Plan zone** – TSZ1 Transport Zone, PRZ1 Urban Open Space Zone, CZ2 Business Zone, CZ5 Mixed Use Zone, overlay: FUA- Future Urban Areas

**The Development Codes** – Transport and Services Zone and Non-Urban Zones Development Code

**Exemption from EIS Titled:** Gungahlin Strategic Assessment Area accepted by the Minister on 20 November 2013.

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

**Representations** – No

**Entity advice** – Territory and Municipal Services Directorate, Conservator of Flora and Fauna, Emergency Services Agency, Environment Protection Authority, ACT Heritage Council, and ActewAGL- Gas, Electricity & Water



## PART 3

### PUBLIC NOTIFICATION, ENTITY ADVICE & COMMONWEALTH ADVICE

#### PUBLIC NOTIFICATION

Pursuant to Division 7.3.4 of the *Planning and Development Act 2007*, the application was publicly notified from 26 October 2015 to 16 November 2015. No written representations were received during public notification.

#### ENTITY ADVICE

Pursuant to Division 7.3.3 of the Act, the application was referred to entities and advice was received. As a result of the s144 amendment application being received some entities have commented on the proposal twice. The referral entities comments are as follows. A response to the advice is provided as appropriate.

#### CONSERVATOR OF FLORA AND FAUNA

On 13 November 2015 advice was received from the Conservator of Flora and Fauna in relation to the proposal. The advice stated that the development proposal was not supported as the proposed development removed a number of regulated trees including high quality regulated tree 356. The advice further stated that tree 356 is an exceptional quality regulated tree that should be retained and protected during the development of the Manning Clarke Crescent intersection.

On 21 December 2015 further advice was received from the Conservator for the s144 amendment application. The advice stated that:

*The Development Application still proposes the removal of regulated trees against which there are no approval criteria to support their removal however, when assessed individually are determined as medium quality.*

*The amendments to the landscape treatment at the Manning Clarke intersection is supported with the condition of retention of high quality trees as per the MANNING CLARKE CRESCENT LANDSCAPE SITE PLAN dated December 2015, PROJECT CODE L-1014, SHEET No D400GA ISSUE G.*

Assessment note: matters raised have been incorporated as conditions of approval.

#### TERRITORY AND MUNICIPAL SERVICES DIRECTORATE (TAMS)

On 11 November 2015 advice was received from TAMS in relation to the proposal. The advice stated that the application was supported subject to conditions in relation to design, operational and final acceptance, temporary traffic management plan, landscape management and protection plan and use of verges or other unleased territory land.

The endorsement from Roads ACT, TAMS for the s144 amendment application was provided as a supporting document of the application.

Assessment note: matters raised have been incorporated as conditions of approval.

#### ACTEWAGL- ELECTRICITY DIVISION

On 3 November 2015 advice was received from ActewAGL-Electricity in relation to the proposal. The advice stated that the application had been assessed for compliance with ActewAGL's Electricity Network and conditionally complied with the Electricity Networks requirements.

Assessment note: matters raised have been incorporated as conditions of approval. The stamped plans and conditional statement of compliance will be dispatched with the Notice of Decision.

### ICON WATER

On 10 November 2015 advice was received from Icon Water in relation to the proposal. The advice stated that the application conditionally complied with Icon Water's water and sewerage network access and protection requirements.

The endorsement from Icon Water for the s144 amendment application was provided as a supporting document of the application.

Assessment note: matters raised have been incorporated as conditions of approval. The stamped plans and conditional statement of compliance will be dispatched with the Notice of Decision.

### JEMENA

On 3 November 2015 advice was received from Jemena in relation to the proposal. The advice stated that the application conditionally complied with Jemena's Gas Networks requirements.

The endorsement from Jemena for the s144 amendment application was provided as a supporting document of the application.

Assessment note: matters raised have been incorporated as conditions of approval. The stamped plans and conditional statement of compliance will be dispatched with the Notice of Decision.

### ENVIRONMENT PROTECTION AUTHORITY (EPA)

On 23 November 2015 advice was received from the EPA in relation to the proposal. The advice stated that the proposal was supported subject to the following conditions and advice:

- 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.
- 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 EPA in respect of that activity prior to works commencing.
- A pollution control plan is to be endorsed by the EPA prior to works commencing.
- A site management plan incorporating an unexpected finds protocol must be prepared by a suitably qualified environmental consultant prior to the commencement of earthworks at the site and must be implemented during these works.

Advice in relation to works affecting waterways and other environmental matters was provided as well.

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

### CAPITAL METRO AGENCY

On 13 November 2015 advice was received from the Capital Metro Agency in relation to the proposal. The advice stated that the application was supported with the following comments:

- The application for Capital Metro light rail Stage 1 is under consideration, which proposes modifications to the intersection of Flemington Road and Manning Clark Crescent.
- The proposed application does not appear to preclude the proposed light rail works, however further demonstration is required that sufficient clear width would be achieved – a minimum clearance of 550mm from the Light Rail developed kinematic envelope to the

face of kerb and vehicle stop lines would be required for speed environments above 60km/h.

- Further consultation and coordination between both roads and light rail proposals will be required at the detail design stage.

Assessment note: matters raised have been incorporated as conditions of approval.

#### EMERGENCY SERVICES AGENCY (ESA)

On 19 November 2015 advice was received from the ESA in relation to the proposal. The advice stated that the ESA had no special considerations or concerns about the proposal at this time.

Assessment note: no action is required in relation to this comment.

#### ACT HERITAGE COUNCIL

On 13 November 2015 advice was received from the Heritage Council in relation to the proposal. The advice stated that the proposed development may detrimentally impact upon the heritage values of the place and further assessment was required.

On 22 December 2015 further advice was received from the Heritage Council. The advice stated that additional heritage investigation and management actions are required prior to the commencement of construction works. The advice also stated that the Council does not object to the proposed management of tree 356 described in the s144 submissions, subject to implementation of Urban Treescape advice, and the continued consultation with the Council on the management of tree 356.

Assessment note: matters raised have been incorporated as either conditions of approval or advice. The comments from ACT Heritage Council will be dispatched with the Notice of Decision.

## PART 4 ADMINISTRATIVE INFORMATION

### DATE THAT THIS APPROVAL TAKES EFFECT

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

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

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

### Conditional Approval

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

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

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

### INSPECTION OF THE APPLICATION AND DECISION

A copy of the application and the decision can be inspected between 8:30am and 4:30pm weekdays at the Environment and 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](mailto:epdcustomerservices@act.gov.au) or provided at the customer service centre at on a CD/DVD. The delegate of the authority reconsidering the decision must be different from, and senior to, the original decision maker. An application for reconsideration does not prevent an application for a review of the same decision being made to the ACT Civil and Administrative Tribunal. Application forms and further information about reconsideration are available from the planning and land authority's website and Customer Service Centres.

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

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

# APPENDIX 1

## CONTACT DETAILS OF RELEVANT AGENCIES

|  |  |
|--|--|
| <b>Health Directorate</b><br>- health protection   | Website: <a href="http://www.health.act.gov.au">www.health.act.gov.au</a><br>Telephone: (02) 6205 1700   |
| <b>Environment and Planning Directorate</b><br><br><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><br><i>Environment Protection Authority</i> <ul style="list-style-type: none"> <li>- environment protection</li> <li>- water resources</li> <li>- asbestos information</li> </ul><br><i>Conservation, Planning and Research</i> <ul style="list-style-type: none"> <li>- threatened species/wildlife management</li> </ul> | Website: <a href="http://www.actpla.act.gov.au">www.actpla.act.gov.au</a><br>Telephone: (02) 6207 1923<br><br><br>Website: <a href="http://www.environment.act.gov.au">www.environment.act.gov.au</a><br>Telephone: (02) 6207 6251<br><br><br>Website: <a href="http://www.environment.act.gov.au">www.environment.act.gov.au</a><br>Telephone: (02) 6207 1911 |
| <b>Territory and Municipal Services Directorate</b> <ul style="list-style-type: none"> <li>- tree damaging activity approval</li> <li>- use of verges or other unleased Territory land</li> <li>- works on unleased Territory land - design acceptance</li> <li>- damage to public assets</li> </ul>   | Website: <a href="http://www.tams.act.gov.au">www.tams.act.gov.au</a><br>Telephone: 132 281<br>Telephone for asset acceptance: (02) 6207 7480  |
| <b>Utilities</b> <ul style="list-style-type: none"> <li>- Telstra (networks)</li> <li>- TransACT (networks)</li> <li>- ActewAGL</li> <li>- Electricity reticulation</li> </ul>   | Telephone: (02) 8576 9799<br>Telephone: (02) 6229 8000<br>Telephone: 1100<br>Telephone: (02) 6293 5738   |

## ADVICE TO APPLICANT

### SUBMISSION OF REVISED DRAWINGS AND DOCUMENTATION

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

- Completing an application for s165 Satisfying Conditions of Approval and submitting the documentation online using edevelopment. More information on edevelopment can be found at [http://www.actpla.act.gov.au/tools\\_resources/e-services/edevelopment](http://www.actpla.act.gov.au/tools_resources/e-services/edevelopment)

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

## **FURTHER APPROVALS FOR CONSTRUCTION**

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

### **BUILDING APPROVAL**

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

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

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

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

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

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

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

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

In accordance with the *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, TAMS 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 TAMS

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 TAMS.

## **CONSTRUCTION REQUIREMENTS**

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

### DEMOLITION AND ASBESTOS MANAGEMENT

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

### ENVIRONMENT PROTECTION

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

### REPAIR OF DAMAGE TO PUBLIC ASSETS

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

### UTILITY ASSETS RETENTION

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

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

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

### DRAINAGE

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

### **REVIEW OF THE DECISION**

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

### CONTACT DETAILS

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

|          |                 |
|----------|-----------------|
| Location | Contact details |
|----------|-----------------|

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

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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 τηλεφωνήσετε στο                    |
| ITALIAN    | Se avete bisogno di un interprete, telefonate al numero:    |
| MALTESE    | Jekk għandek bżonn l-għajjuna t'interpretu, ċempel:         |
| PERSIAN    | : اگر به ترجمه شفاهی احتیاج دارید به این شماره تلفن کنید:   |
| PORTUGUESE | Se você precisar da ajuda de um intérprete, telefone:       |
| SERBIAN    | 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