

# Planning and Development (Approval of Application – DA202037497 Pine Tree Removal (Denman Prospect)) Notice 2020

Notifiable instrument NI2020–744

made under the

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

---

## 1 Name of instrument

This instrument is the *Planning and Development (Approval of Application – DA202037497 Pine Tree Removal (Denman Prospect)) Notice 2020*.

## 2 Impact track development approval

On 9 October 2020, pursuant to section 162(1)(b) of the *Planning and Development Act 2007* (the **Act**), a delegate of the planning and land authority approved, subject to conditions, in the impact track, development application DA202037497 for the removal of pine trees at Block 13 Section 1 Denman Prospect.

The approval of development application DA202037497 is in the schedule.

Brett Phillips  
Delegate of the planning and land authority  
19 November 2020



# NOTICE OF DECISION

Made under part 7 of the *Planning and Development Act 2007*

I, Dominic Riches, delegate of the planning and land authority, pursuant to section 162 of the *Planning and Development Act 2007*, **approve subject to conditions**, the proposal for **tree removal**, at Block 13 Section 1 DENMAN PROSPECT, in accordance with the plans, drawings and other documentation approved and endorsed as forming part of this approval.

DA Number: 202037497  
Block: 13  
Section: 1  
Suburb: DENMAN PROSPECT  
Application lodged: 18 August 2020  
Assessment track: Impact

This decision contains the following information:

Part A – conditions of approval  
Part B– reasons for the Decision  
Part C – public notification & entity advice  
Attachment 1 – administrative information

*A copy of the development application and this approval may be inspected at the planning and land authority's office from 8.30 am to 4.30 pm, Monday to Friday at 16 Challis Street, Dickson, ACT 2602*

## CONTACT / ENQUIRIES

Phone: (02) 6207 6383

Online Form:

[https://www.accesscanberra.act.gov.au/app/forms/epd\\_feedback](https://www.accesscanberra.act.gov.au/app/forms/epd_feedback)

**Dominic Riches**

Delegate of the planning  
and land authority

09 /10/ 2020

## NOTICE OF DECISION

DA 202037497

### PART A – CONDITIONS OF APPROVAL

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

1. DEED MANAGEMENT

No works, including the clearing of trees, is to commence until the Developer has settled on the land and executed a Holding Lease and associated Deed of Agreement.

2. CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN (CEMP)

Prior to works commencing, a construction environmental management plan (CEMP) must be submitted to and endorsed by the planning and land authority. The CEMP must incorporate all relevant commitments from the Environmental Impact Statement (EIS) Exemptions for Molonglo Valley Stage 2 (dated 29 July 2013) and Denman Prospect Deferred Area (dated 6 April 2017). Any subplans required below can be incorporated into the CEMP.

Note: Protection of native understorey within the 60m of the inner asset protection zone (IAPZ) component of this site must be addressed in the CEMP.

All work must be undertaken in accordance with the approved CEMP.

3. CONSERVATOR

No works, access or storage of vehicles, equipment or materials is to occur outside of Block 13 Section 1 Denman Prospect.

Any exotic tree species that are required to be felled within or adjacent to Pink-tailed Worm-Lizard (PTWL) habitat must be carefully removed, ensuring no soil disturbance and no rocks are dislodged.

If works are to be undertaken within the bushfire season, a bushfire mitigation plan must be prepared to the satisfaction of and provided to ACT Parks and Conservation Service prior to works commencing. The bushfire mitigation plan could be incorporated into the CEMP which will be referred to relevant entities.

4. ENVIRONMENTAL PROTECTION AUTHORITY (EPA)

A site-specific contaminant management plan (CMP) must be prepared by a suitably qualified environmental consultant and implemented during site works. The CMP must include, amongst other things, appropriate procedures for the identification, assessment, management, validation and disposal of potential contamination including unexploded ordnance and contractor induction procedures into the use of the CMP.

All soil subject to disposal from the site must be assessed in accordance with EPA *Information Sheet 4 - Requirements for the reuse and disposal of contaminated soil in the ACT*.

An Erosion and Sediment Control Plan must be submitted to and be endorsed by the EPA prior to works commencing on site.

No soil is to be disposed from site without EPA approval.

All works must be carried out in accordance with "Environment Protection Guidelines for Construction and Land Development in the ACT, March 2011".

## NOTICE OF DECISION

DA 202037497

The contractor/builder developing the site must hold an Environmental Authorisation or enter into an Environmental Protection Agreement with the Environment Protection Authority (EPA) in respect of that activity prior to works commencing.

No discharge is permitted from the sediment control pond unless sediment level is less than 60mg/litre. If sediment level is greater, then prior to discharge, the pond must be dosed with either Alum or Gypsum and allowed to settle until the sediment is less than 60 mg/litre.

### HERITAGE

An 'Unanticipated Discovery Protocol' (UDP) must be submitted to and endorsed by the ACT Heritage Council prior to the commencement of works. See part C of this decision, entity advice, for further information.

#### 5. ACT HEALTH

During construction, all reasonable and practicable measures must be undertaken to suppress dust and minimise detrimental impacts to air quality.

#### 6. MOLONGLO ADAPTIVE MANAGEMENT STRATEGY

All works must be undertaken in accordance with the Molonglo Adaptive Management Strategy which must be incorporated into the CEMP.

#### 7. LANDSCAPE MANAGEMENT

All areas of disturbance must be revegetated following construction. A revegetation plan must be submitted with the CEMP.

### ADVISORY NOTES

This application is approved with the following advisory notes:

#### 1. CONSERVATOR

There is rocky habitat within the site that could be retained and enhanced by chain-sawing the pines that are growing on them, rather than use of bulldozers and heavy machinery. A senior ecologist can be made available to map these rocky areas as a matter of urgency to assist with their protection.

#### 2. HERITAGE

The Council advises that subject to the following condition, the proposed development is unlikely to damage Aboriginal places or objects, as surface salvage of previously recorded places was undertaken in 2019.

#### 3. ACT HEALTH

An Unexpected Finds Protocol (UFP) is recommended to be developed and implemented before the proposed works commence.

The construction of any sedimentation control measures must minimise the potential for them becoming a local mosquito nuisance.

#### 4. COMPLIANCE WITH ENTITY REQUIREMENTS – UTILITIES

The development must comply with all the conditions imposed by Evoenergy – Electricity and ICON Water as stated in each of their advice (see attached advice).

## NOTICE OF DECISION

DA 202037497

### PART B – REASONS FOR THE DECISION

The application was approved because it was found to meet the relevant rules and criteria of the Territory Plan and the *Planning and Development Act 2007*.

The following evidence formed part of the assessment of this application:

Development Application:	DA202037497
	NUZ3: Hills, Ridges and Buffer Areas;
Territory Plan Zones:	PRZ1: Urban Open Space;
	RZ1: Suburban; and
	RZ4: Medium Density Residential.
	Residential Zone Development Code;
Development Codes:	Non-Urban Zones Development Code;
	Parks and Recreation Zones Development Code
	Denman Prospect Map and Code;
Precinct Code:	Structure Plan Molonglo and North Weston
Legislative requirements:	Sections 119 and 120 of the <i>Planning and Development Act 2007</i>
Entity advice:	List (addressed in Part C of this Decision)

## NOTICE OF DECISION

DA 202037497

### PART C – PUBLIC NOTIFICATION AND ENTITY ADVICE

#### PUBLIC NOTIFICATION

Pursuant to Division 7.3.4 of the Act, the application was publicly notified from 25 August 2020 to 14 September 2020. One written representation was received during public notification period.

The main issue raised is as follows. Comments are provided as appropriate.

*1. Removal of pine trees detracts from Canberra's 'Garden City' character.*

Comment: The removal of the trees were considered as part of EIS Exemption applications, granted in 2013 and 2017. Development of this area were also considered as part of a Strategic Assessment for the proposed Molonglo Valley in accordance with the requirements of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

Considerations were given to the impact from clearing any protected matters, such as Box-Gum Woodland, or significant clearing of native vegetation. *Pinus radiata* makes up the majority of the trees to be removed within this area and is not a protected species in the ACT or under Commonwealth legislation. However, specific measures are included for the protection of Pink Tailed Worm Lizard (PTWL) habitat, the protection of Box Gum Woodland habitat and the requirement for works within river corridors to be undertaken in ways that minimise the likelihood of exposure to weed infestation and reduce impacts during the construction period. Referral was also undertaken as part of the assessment of this development application where entities endorsed the pine tree removal and provided conditions to ensure the protection of the protected species.

#### ENTITY ADVICE

Pursuant to Division 7.3.3 of the *Planning and Development Act*, the application was referred to the below entities. Where an entity requested conditions to be imposed on this development, those conditions have been incorporated into Part A of this Decision. A summary of entity comments can be found below.

- ACT Health provided advice on 7 September 2020 stating that the proposal is supported subject to conditions. Please refer to Part A, Condition 5, Advisory note 3 and Part C for details.
- The Conservator of Flora and Fauna provided advice on 10 September and 14 September 2020 stating that the proposal is supported subject to conditions. Please refer to Part A, Condition 2 and Part C for details.
- EPSDD - Deed Management provided advice on 26 August stating that no works are to commence prior to settlement of the land, an executed Holding Lease and Deed of Management. Please refer to Part A, Condition 1 and Part C for details.
- The Environment Protection Authority provided advice on 15 September 2020 stating that the proposal is supported subject to conditions. Please refer to Part A, Condition 3, Advisory note 1 and Part C for details.
- Evoenergy – Electricity provided advice on 9 September 2020 stating that the proposal is supported subject to conditions. Please refer to Part A, Condition 8 and Part C for details.

## NOTICE OF DECISION

DA 202037497

- EvoEnergy – Gas provided advice on 26 August 2020 stating that there are no gas networks in the vicinity of the development and no approval is required. See Part C for details.
- ICON Water provided advice on 4 September 2020 stating that the proposal is supported subject to conditions. Please refer to Part A, Condition 8 and Part C for details.
- Transport Canberra and City Services (TCCS) provided advice on 10 September 2020 stating that the proposal is supported without conditions. Please refer to Part C for details.
- Heritage provided advice on 10 September 2020 stating that the proposal is supported subject to conditions. Please refer to Part A, Condition 4, Advisory note 2 and Part C for details.
- Emergency Services provided advice on 9 September 2020 stating that they have no objections or comments at this time. Please refer to Part C for details.

### 1. ACT Health

The Health Protection Service (HPS) notes that the proposed works include removal of all radiata pines and associated works such as sediment and erosion control. The HPS has reviewed the documents and advises the applicant that:

- An Unexpected Finds Protocol (UFP) is recommended to be developed and implemented before the proposed works commence.
- The construction of any sedimentation control measures must minimise the potential for them becoming a local mosquito nuisance.
- All reasonable and practicable measures are taken to suppress dust and minimise detrimental impacts to air quality while undertaking the proposed works.

### 2. Conservator of Flora and Fauna

*This DA proposes to remove radiata pines within Block 13, Section 1 Denman Prospect. The supplementary documentation commits to retention and protection of all native trees on the site and this is supported.*

*The proposal can be supported subject to the following conditions:*

- *The site borders offset sites with significant ecological values. No works, access or storage of vehicles, equipment or materials is to occur outside of Block 13.*
- *Pink-tailed Worm-Lizard (PTWL) habitat occurs within the site primarily in the south eastern section along Cravens Creek. Any exotic tree species that are required to be felled within or adjacent to PTWL habitat must be carefully removed, ensuring no soil disturbance and no rocks are dislodged.*
- *If works are to be undertaken within the bushfire season a bushfire mitigation plan must be produced and provided to the satisfaction of the ACT Parks and Conservation Service.*
- *There is rocky habitat within the area that could be retained and enhanced by chain-sawing the pines that are growing on them – rather than use of bulldozers and heavy machinery. A senior ecologist can be made available to map these rocky areas as a matter of urgency to assist with their protection.*
- *Protection of native understorey within the 60M IAPZ component of this site should be a matter addressed in the CEMP which is required prior to works commencing.*

## NOTICE OF DECISION

DA 202037497

### 3. EPSDD – Deed Management

*This land is currently Territory Land, Suburban Land Agency is the custodian.*

*No works, including the clearing of trees, is to commence until the Developer has settled on the land and executed a Holding Lease and associated Deed of Agreement.*

### 4. Environment Protection Authority (EPA)

*Environment Protection Authority records indicate that the northern part of the proposed works area may have been impacted by a field firing range operated by the Department of Defence. Unexploded ordinance (UXO) are associated with Defence Force field firing ranges and have been associated with land contamination in the past.*

*The location, nature and extent of any contamination associated with the field firing range activities is unknown. For further information on other sources of potential or known contamination on this block you or your client should contact the Department of Defence.*

*The EPA Contaminated Sites Environment Protection Policy 2017 lists defence establishments and training areas (for example field firing ranges) as activities associated with land contamination which may present a risk to human health or the environment.*

*Other potentially contaminating activities may have also been undertaken at the site associated with current and past uses.*

*The Environment Protection Authority (EPA) would support the development application subject to the following conditions:*

#### Conditions:

- *A site-specific contaminant management plan (CMP) must be prepared by a suitably qualified environmental consultant and implemented during site works. The CMP must include, amongst other things, appropriate procedures for the identification, assessment, management, validation and disposal of potential contamination including unexploded ordinance and contractor induction procedures into the use of the CMP.*
- *All soil subject to disposal from the site must be assessed in accordance with EPA Information Sheet 4 - Requirements for the reuse and disposal of contaminated soil in the ACT;*
- *No soil is to be disposed from site without EPA approval.*
- *All works must be carried out in accordance with "Environment Protection Guidelines for Construction and Land Development in the ACT, March 2011", available at [www.environment.act.gov.au](http://www.environment.act.gov.au) or 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 developing the site must hold an Environmental Authorisation or enter into an Environmental Protection Agreement with the Environment Protection Authority (EPA) in respect of that activity prior to works commencing.*



## NOTICE OF DECISION

DA 202037497

- *An Erosion and Sediment Control Plan must be submitted to and be endorsed by the EPA prior to works commencing on site.*

### Further advice:

*All excavations that collect rain water during a rain storm event would be considered a sediment control pond, and must meet the following condition:*

- *No discharge from pond unless sediment level is less than 60mg/litre. If sediment level is greater, then prior to discharge, the pond must be dosed with either Alum or Gypsum and allowed to settle until the sediment is less than 60 mg/litre.*

### **5. EvoEnergy - Electricity**

- *Development is to comply with minimum 1.5m machinery access clear of obstacles and vegetation to assets within the block.*
- *Development is to comply with minimum clearances to overhead conductors and poles. Ref Evoenergy Drawing 3811-004*
- *Development is to comply with minimum separation requirements to underground assets. Ref Evoenergy Drawing 3832-018*
- *Installation of electrical conduits (on or off block) will be the responsibility of the proponent.*
- *Proponent is required to submit an "Application for Electricity Network Connection or Alteration form" to [network.connectionapplication@evoenergy.com.au](mailto:network.connectionapplication@evoenergy.com.au) (available on Evoenergy website) prior to commencement of any development activity to negotiate the connection of new and/or relocation of existing electricity assets.*

### **6. EvoEnergy - Gas**

*Your application has been assessed by Evoenergy. There are no Gas Networks assets within the vicinity of the development and as such no approval is required.*

*Separate compliance statements are required from other utilities (eg: electricity, water and sewerage, stormwater and communications).*

### **7. ICON Water**

- *Icon Water assets shall be protected for the duration of the construction works from short term load shedding from construction machinery or vibration and groundwater ingress or infiltration.*
- *Any damage to Icon assets resulting from the construction works shall be repaired by Icon Water at the contractors expense. Access to Icon Water's assets including sewer structures, manholes, hydrants and valves is to be maintained for the duration of the construction works.*
- *All works to be away from existing Icon Water assets. Icon Water must be consulted prior to any proposed works in close proximity of existing water and sewerage network infrastructures.*

### *Please Note:*

- *Separate applications are required for ActewAGL electricity and gas networks.*
- *Any failure to accurately show existing or proposed structures may result in damage and costs for which the property owner will be liable. Damage to network assets must be reported to Icon Water.*

## NOTICE OF DECISION

DA 202037497

- *Utility conditions may also apply to minor structures and landscaping works that may not have been depicted in this document. Consultation with Icon Water is advised if such structures and landscaping are planned.*
- *Icon Water recommends setbacks provided for equipment access to water or sewerage network assets are kept free of obstruction by the property owner. Construction of works without the approval of Icon Water may result in connection to Icon Water's water and sewerage networks being denied and /or action being taken to require the property owner to remove non-compliant services (e.g. sanitary drains) or structures.*

### **8. Transport Canberra and City Services (TCCS)**

*TCCS' position is that the proposal is supported.*

### **9. ACT Heritage**

*On 20 August 2020, DA202037497 was referred to the ACT Heritage Council (the Council) for entity advice.*

*DA202037497 relates to works within Block 13 Section 1 Denman Prospect. The subject site encompasses 69.3 hectares of former pine plantation. DA202037497 seeks development approval to:*

- *Remove all radiata pines on the subject site as identified in a supporting plan set; and*
- *Associated works including sediment and erosion control and site stabilisation.*

*Heritage assessments have been previously completed across Block 13 Section 1, Denman Prospect as part of the Denman Prospect Stage 2 project. The Council issued a Statement of Heritage Effect (SHE) approval for a number of Aboriginal places within this project area on 20 August 2019. This SHE authorised salvage collection of the Aboriginal places located within the Stage 2 of the Denman Prospect Estate.*

*Aboriginal places 'MV2,' 'MVF9,' 'MVF7,' 'MV1' and 'MVF3' have been recorded in Block 13 Section 1 Denman Prospect and were subject to salvage collection in September 2019.*

*It is understood that works associated with DA202037497 are not proposed within the 'Lower Molonglo Geological Site' area which is located to the north east of the project area.*

#### **Advice:**

*The Council advises that subject to the following condition, the proposed development is unlikely to damage Aboriginal places or objects, as surface salvage of previously recorded places was undertaken in 2019:*

- *An 'Unanticipated Discovery Protocol' (UDP) must be submitted to and endorsed by the ACT Heritage Council prior to the commencement of works. It must set out how any additional Aboriginal places or objects encountered will be managed in accordance with Heritage Act 2004 provisions.*

*The report titled 'Denman Prospect 2 Estate – Sites MV1; MV2; MV4; MV5; MV6; MV8; MV16; MVF1; MVF3; MVF7; MVF9; MVF12 and MVf13: Salvage Report'*

## NOTICE OF DECISION

DA 202037497

*(Cultural Heritage Management Australia, 2019) contains an Unanticipated Discovery Plan which would satisfy the above condition.*

### **10. Emergency Services ACT**

*ACTF&R has reviewed DA202037497 Block 13 Section 1 DENMAN PROSPECT and has no objections or comments at this time.*

### **11. Conservator of Flora and Fauna (Tree Protection Unit - TCCS)**

*Pinus radiata is a listed weed species and thus not covered by the Tree Protection Act 2005. Please note that the pine nuts are a substantial food resource to many Parrots.*

*Please note: In relation to the removals, sediment and erosion control works, site stabilisation and other associated works as proposed, protection for the Tree Protection Zone of indigenous regulated trees will still have to occur and presented.*

## NOTICE OF DECISION

DA 202037497

### Translation and interpretation services

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

ENGLISH	If you need interpreting help, telephone:
ARABIC	:إذا احتجت لمساعدة في الترجمة الشفوية ، إتصل برقم الهاتف :
CHINESE	如果你需要传译员的帮助，请打电话：
CROATIAN	Ako trebate pomoć tumača telefonirajte:
GREEK	Αν χρειάζεστε διερμηνέα τηλεφωνήστε στο
ITALIAN	Se avete bisogno di un interprete, telefonate al numero:
MALTESE	Jekk għandek bżonn l-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 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