

# Planning and Development (Approval of Application – 201732627 Duplication of Horse Park Drive from the Federal Highway to Well Station Drive) Notice 2018

Notifiable instrument NI2018–179

made under the

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

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## **1 Name of instrument**

This instrument is the *Planning and Development (Approval of Application – 201732627 Duplication of Horse Park Drive from the Federal Highway to Well Station Drive) Notice 2018*.

## **2 Impact track development approval**

On 14 February 2018, pursuant to section 162 of the *Planning and Development Act 2007* (the **Act**), the delegate of the planning and land authority approved, subject to conditions, in the impact track, development application 201732627, for the duplication of Horse Park Drive from the Federal Highway to Well Station Drive.

## **3 The approval of development application 201732627 is in the schedule.**

Ben Ponton  
Chief Planning Executive  
6 April 2018



**ACT**  
Government

Environment and Planning

# Notice of decision

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

## Impact track

|  |                                |
|--|--------------------------------|
| DA NO: 201732627   | DATE LODGED: 28 September 2017 |
| DATE OF DECISION: 14 February 2018                                       |                                |
| BLOCK: 741   | SUBURB: GUNGAHLIN              |
| STREET NO AND NAME: Horse Park Drive                                     |                                |
| APPLICANT: SMEC  |                                |
| LESSEE: Unleased Territory Land C/O Transport Canberra and City Services |                                |

### THE DECISION

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

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

- **the duplication of Horse Park Drive from the Federal Highway to Well Station Drive**

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

The application does not include works within designated areas, such as the intersection of Horse Park Drive and Federal Highway, as these areas are regulated by the National Capital Authority under the *Australian Capital Territory (Planning and Land Management) Act 1988 (Cth)*.

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

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

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

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

### DELEGATE

Dominic Riches  
Delegate of the planning and land authority  
Environment and Planning Directorate  
14/02/2018

### CONTACT DETAILS

Phone: (02) 62051834  
Email: [dominic.riches@act.gov.au](mailto:dominic.riches@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

N/A

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

##### Construction Environmental Management Plan (CEMP)

- B1. A CEMP must be submitted to and approved by the planning and land authority prior to the commencement of any work on the site. The CEMP must address matters raised by entities and must be prepared in accordance with 'The Framework for Construction Environment Management Plans for areas of Gungahlin subject to the Gungahlin Strategic Assessment 2013'.

*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. The CEMP must also identify the fenced heritage areas as exclusion zones in which no access or activity is allowed.*

##### Heritage

- B2. Protective fencing must be installed around aboriginal places DCLA8 and part of HPD4 and PAD prior to the commencement of works.
- B3. A qualified archaeologist and Representative Aboriginal Organisations must inspect aboriginal places DCLA8 and HPD4 and PAD prior to the installation of protective fencing, to demarcate the alignments along which protective fencing will be installed.
- B4. A report on the installation of protective fencing must be submitted to and approved by the Council prior to the commencement of works. This report should include mapping, GPS coordinates and photographs of installed fences.
- B5. Heritage requirements for the project, including the 'Unanticipated Discovery Protocol' set out in CHMA (2016), are to be identified to project personnel as part of the induction process.

##### Environment Protection Authority (EPA)

- B4. Prior to the commencement of construction works on the site:
- (a) an assessment of the subject area must be undertaken by a suitably qualified environmental consultant to determine whether material in the area of proposed development is acid sulphate bearing;
  - (b) management strategies to manage any present acid sulphate rock must be developed by a suitably qualified environmental consultant and reviewed and supported in writing by an EPA approved contaminated land auditor prior to the commencement of works. A copy of the Auditor's advice must also be forwarded to the EPA for review and endorsement;

- (c) at the completion of the assessment and management works, the Auditor must issue a site audit statement and site audit report (including the consultant's a long-term management plan if required) into the suitability of the areas subject to assessment for their proposed and permitted uses. These documents must be reviewed and the findings endorsed by the EPA prior to handover of the site;
- (d) the contractor/builder developing the site must hold an Environmental Authorisation or enter into an Environment Protection Agreement with the EPA in relation to the works; and
- (e) an erosion and sediment control plan must be submitted to and be endorsed by the EPA prior to works commencing.

#### Transport Canberra and City Services (TCCS)

- B6. Prior to the commencement of any work on the site, a Letter of Design Review be obtained from Capital Works, TCCS.
- B7. Prior to the commencement of any work on the site, a Temporary Traffic Management Plan (TTMP) must be prepared by a suitably qualified person and approved by the Manager, Traffic Management & Safety, Roads ACT, TCCS. This plan is to address 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
- B8. Prior to the commencement of any work on the site, a Landscape Management & Protection Plan (LMPP) must be submitted to and approved by Capital Works, TCCS. This plan is to be implemented before the commencement of works, including demolition on the site and is to be in accordance with TCCS Guidelines for the Protection of Public Landscape Assets Adjacent to Development Works-REF-04.

### **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.

#### Land management

- C1. During any work undertaken on the site, the applicant/contractor must:
  - (a) maintain access to the main fire trail for Goorooyaroo, including the ability for emergency vehicles to turn right from the north bound carriageway (approx. chainage 2750). The access must be constructed to a standard that is capable of carrying a fully laden medium rigid truck;
  - (b) construct a dirt car park at the access (approx. chainage 2750) as the existing carpark is being removed. The new car park should be at least 40m from Horse Park Drive and constructed in such a way to ensure access to the fire trail is not impeded by the parking of vehicles; and
  - (c) maintain access for emergency vehicles at chainage 1550 to allow access to the existing fire trail within the reserve. This is to include the ability for emergency vehicles to turn right from the north bound carriageway.

#### Sullivan's Creek

- C2. During works the applicant/contractor must stabilise any area of erosion associated with Sullivan's Creek that may affect the development.

Predator proof fence

- C3. During works, the applicant/contractor must construct culverts over Sullivan's Creek and other drainage lines in a way to allow for the installation of the extended predator proof fence that is being installed around Goorooyarroo Reserve.

Environmental management

- C4. All works must be carried out in accordance with *Environment Protection Guidelines for Construction and Land Development in the ACT, March 2011*.

Emergency management

- C5. Roads and bridge must be constructed to a level to withstand the heaviest ACT Fire and Rescue vehicle (30 tonnes).
- C6. Any proposed street furniture and landscaping must be placed as not to impede the future movement of emergency service vehicles. The minimum height clearance for ACT Fire and Rescue 4.5m.
- C7. Fire trail gates within proximity of the works must be accessible at all times.

Works on unleased Territory land

- C8. During construction, the following requirements will be initiated and maintained for the duration of construction:

Temporary Traffic Management Plan (TTMP)

- (a) at all times during construction, the site and surrounds shall be managed in accordance with the TTMP that was approved by Transport Canberra and City Services (TCCS); and

Landscape Management & Protection Plan (LMPP)

- (b) at all times during construction, the site and surrounds shall be managed in accordance with the LMPP that was approved by Transport Canberra and City Services (TCCS).

Pedestrian and bicycle paths

- C9. Pedestrian paths must be constructed in accordance with *AUSTROADS Guide to Traffic Engineering Practice Part 13. – Pedestrians*.
- C10. Bicycle paths must be constructed in accordance with *AUSTROADS Guide to Traffic Engineering Practice Part 14. – Bicycles*.

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

*The following conditions are required to be implemented on completion of the proposal.*

Environmental Management

- D1. On completion of works, a certificate of Operational Acceptance must be obtained from Capital Works, Transport Canberra and City Services (TCCS).

## E. ADVISORY NOTES

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

### Environmental Management

- E1. Acid sulphate bearing rock is known to occur at the intersection of the Federal Highway/Majura Parkway/Horse Park Drive. This material can be damaging to the environment when exposed to air and water during excavation.
- E2. All rain water that enters the site and pools in excavations during a rain storm event would be considered a sediment control pond, and must meet the following condition:
  - o 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.

### Works on unleased land

- E3. 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, TCCS.
- E4. The applicant/lessee is held responsible for all damages to ACT Government assets (including footpaths) caused by the development and they must properly repair any damages to those assets. Before work commences, they should notify TCCS of any existing damage to public facilities.

### Heritage

- E5. A Return to Country (RTC) outcome is proposed for Aboriginal objects previously salvaged from the Horse Park Drive duplication area, and that an application for this outcome was submitted on 7 June 2017. In Council advice issued on 1 August 2017, further information was requested to inform the application; and submission of this further information – and following Council approval, the RTC outcome – are also identified as outstanding heritage obligations for the project.

### ACT Health

- E6. The design and construction of the stormwater bodies should minimise the potential creation of a local mosquito nuisance.

### APA, ActewAGL and Icon Water

- E7. All matters raised by APA, ActewAGL and Icon Water must be addressed accordingly (see PART 3 of this decision for further information).

### Further approvals for Designated Areas

- E8. The application does not include works within designated areas, such as the intersection of Horse Park Drive and Federal Highway, as these areas are regulated by the National Capital Authority under the *Australian Capital Territory (Planning and Land Management) Act 1988 (Cth)*.

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 does not include works within designated land, such as the intersection of Horse Park Drive and Federal Highway, as these areas are regulated by the National Capital Authority under the *Australian Capital Territory (Planning and Land Management) Act 1988 (Cth)*. However, in making this decision the planning and land authority has considered the broader impacts of the proposal as a whole.

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 Zones Development Code.

The key issues identified in the assessment are pedestrian and bicycle paths, matters raised in the Gungahlin Strategic Assessment and matters raised by entities.

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.** 201732627

**File No.** 1-2017/25517

**The Territory Plan zone** – TSZ1 -Transport Zone

**The Development Codes** – Transport Zones Development Code

**Exemption from EIS Titled:** Planning and Development (Environmental Impact Statement – Gungahlin Strategic Assessment Area) Exemption 2013 **accepted by the Minister on** 20 November 2013

**Representations** – Three representations were received

**Entity advice** – Act Health, Icon Water, ActewAGL Electricity, Environment Protection Authority, Transport Canberra and City Services, ACT Heritage Council, Emergency Services Agency, Conservator of Flora and Fauna, National Capital Authority

**Other** – Site inspection (26 October 2017)



## **PART 3**

### **PUBLIC NOTIFICATION AND ENTITY ADVICE**

#### **PUBLIC NOTIFICATION**

Pursuant to Division 7.3.4 of the Act, the application was publicly notified from 16 October 2017 to 3 November 2017. Three written representations were received during public notification.

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

#### **(a) *Previous design included underpass (Horse Park Drive) for the Centennial Trail/existing crossing difficult to cross***

Concerns were raised regarding safety issues in relation to the existing Centennial Trail crossing across Horse Park Drive and plans for a possible underpass within proximity of the Federal Highway.

Further information was requested under s141 of the *Planning and Development Act 2007* and on 2 February 2018 advice was received from the applicant stating that the realignment of the Centenary trail is part of a separate project.

Further advice was sought from ACT Parks and Conservation who stated that the intention for the Centennial Trail crossing on Horse Park Drive was implemented as a temporary arrangement only. This was to ensure that the trail was still accessible during the construction of the Majura Parkway and are also reflected on the current Centennial Trail maps. ACT Parks and Conservation are currently updating the Centennial Trail maps and will be added to the website as soon as possible. The Centennial Trail maps can be found at <https://www.environment.act.gov.au/parks-conservation/parks-and-reserves/find-a-park/rural/canberra-centenary-trail>.

The comments made in relation to the Centennial Trail have been forwarded to ACT Parks and Conservation for their consideration.

#### **(b) *Existing Goorooyarroo Nature Reserve Car park***

This proposal includes the removal of the 'Rocks Carpark' at the entrance to Goorooyarroo Nature Reserve (south west of the reserve). Concerns were raised that there would be insufficient parking would remain for the reserve and that this is one of the main access points to this area.

Further information was requested under s141 of the *Planning and Development Act 2007* and on 2 February 2018 advice was received from the applicant clarifying parking arrangements. The proposal includes the removal of the 'Rocks Carpark' and further detail was provided in relation to a new carpark at the other entrance to Goorooyarroo Nature Reserve closer to the Federal Highway. The further information provided also outlined the intention of another new carpark as part of the Throsby development. A pedestrian path from Throsby to the reserve will be provided as part of this proposal.

In addition, the application was referred to the Conservator who required the provision for parking for the reserve.

Conditions have been imposed to address these concerns.

#### **(c) *Vehicular access for nature reserve car park requires a slip lane/double lines***

Safety concerns were raised in relation to vehicular access points to the Goorooyarroo Nature Reserve and restrictions for overtaking turning vehicles along Horsepark Drive (introduction of double lines). Traffic movements and safety were a consideration of the assessment, in particular, in relation to access at peak times. The proposal includes the provision for dual lanes with a raised median throughout this segment.

It was determined that the changes from a single carriageway to a dual lane (divided road) will improve the current arrangement, in particular, allow for safer movements around access points to the reserve.

In addition, the proposal was referred to Transport Canberra and City Services who did not raise any concerns relating to the proposed traffic arrangement.

The comments were considered as part of the assessment.

***(d) Approval has been obtained for works within proximity of gas infrastructure and further approval is required for any changes to what was proposed***

Advice was received from APA Group (APA) regarding gas infrastructure within proximity of the proposed works. The advice outlined that previous discussions, between the Applicant and APA, have occurred and subsequently the project has been endorsed.

APA have advised that the applicant will need to consult APA further for any future modifications to the proposed works.

The comments were considered as part of the assessment and advice has been incorporated as part of this 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 27 October 2017 advice was received from the Conservator of Flora and Fauna in relation to the proposal. The advice states that:

*It must be a condition of approval that:*

- *Access to the main fire trail for Goorooyaroo is maintained both during and after construction, including the ability for emergency vehicles to turn right from the north bound carriageway (approx. chainage 2750);*
- *The access must be constructed to a standard that is capable of carrying a fully laden medium rigid truck;*
- *This access is to include a dirt car park to replace the existing carpark at chainage 1550 that is not being reinstated as part of these works;*
- *The new dirt car park should be at least 40m from Horse Park Drive and constructed in such a way to ensure access to the fire trail is not impeded by the parking of vehicles;*
- *Access for emergency vehicles is to be maintained at chainage 1550 to allow access to an existing fire trail within the reserve. This is to include the ability for emergency vehicles to turn right from the north bound carriageway if possible;*
- *Sullivan's Creek. The construction of Throsby, and the associated works on the existing farm dam in the reserve, has caused the area downstream of the dam to erode which may impact on the road in the future. This area must be permanently stabilised as part of these works; and*
- *Culverts over Sullivan's Creek and other drainage lines must be constructed in such a way as to allow for the installation of the extended predator proof fence that is being installed around Goorooyaroo Reserve.*

*Please note that these amendments have been discussed and agreed by Roads ACT, with agreement that these would form conditions of approval to allow the required amendments to the design to be lodged as amendments to the DA.*

*Note also that the access referred to above will align with proposed access points in the new predator proof fence.*

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

### TRANSPORT CANBERRA AND CITY SERVICES

On 24 October 2017 advice was received from Transport Canberra and City Services in relation to the proposal. The advice states that the application has been supported with the following conditions:

#### Standard Conditions

*Following general conditions will apply as appropriate for Works on and Use of Territory Land:*

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

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

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

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

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

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

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

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

**Repair of Damage to Public Assets**

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

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

**ACTEWAGL (ELECTRICITY)**

On 20 October 2017 advice was received from Actew Corporation in relation to the proposal. The advice states that the application has been supported with the following conditions:

*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 separation requirements to underground assets. Ref ActewAGL 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 [enworks@actewagl.com.au](mailto:enworks@actewagl.com.au) (available on ActewAGL website) prior to commencement of any development activity to negotiate the connection of new and/or relocation of existing electricity assets.*

Assessment note: Matters raised have been incorporated as advice.

**ICON WATER**

On 16 October 2017 advice was received from Icon Water in relation to the proposal. The advice states that the proposal was not accepted by Icon Water.

Subsequently, further information was requested under s141 of the *Planning and Development Act 2007* and on 2 February 2018 advice was received from the applicant that included Icon Water endorsed plans.

Assessment note: Advice has been incorporated into the decision.

**NATIONAL CAPITAL AUTHORITY**

On 6 November 2017 advice was received from National Capital Authority (NCA) in relation to the proposal. The advice received states:

*Thank you for your referral for DA 201732627 Gungahlin. We note that the proposed work continues east into designated area which will require a Works Approval application with the NCA.*

*We have no further comment to add.*

Assessment note: Matters raised have been considered as part of the assessment.

## ENVIRONMENT PROTECTION AUTHORITY (EPA)

On 9 November 2017 advice was received from the EPA in relation to the proposal. The advice states:

**Advice:**

*Acid sulphate bearing rock is known to occur at the intersection of the Federal Highway/Majura Parkway/Horse Park Drive. This material can be damaging to the environment when exposed to air and water during excavation.*

**Conditions:**

*An assessment of the area subject to development must be undertaken by a suitably qualified environmental consultant to determine whether material in the area of proposed development is acid sulphate bearing. Management strategies to manage the acid sulphate rock must be developed by a suitably qualified environmental consultant and reviewed and supported in writing by an EPA approved contaminated land auditor prior to the commencement of works. A copy of the Auditor's advice must also be forwarded to the EPA for review and endorsement.*

*At the completion of the assessment and management works the Auditor must issue a site audit statement and site audit report (including the consultant's a long-term management plan if required) into the suitability of the areas subject to assessment for their proposed and permitted uses. These documents must be reviewed and the findings endorsed by the EPA prior to handover of the site.*

*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 developing 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.*

*An erosion and sediment control plan must be submitted to and be endorsed by the EPA prior to works commencing.*

**Advice:**

*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 condition:*

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

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

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

## ACT HERITAGE COUNCIL

On 30 October 2017 advice was received from the ACT Heritage Council in relation to the proposal. The advice states that:

*The Council advises that five Aboriginal places have been recorded within the Horse Park Drive duplication area, being HPD4 and PAD, HPD5, HPD6, HPD7, and one additional archaeological site recorded as 'DCLA8'.*

*The Council also advises that DCLA8 and part of HPD4 and PAD remains extant within the duplication area, as the SHE application for the project identified that these areas would not be impacted by the proposed duplication. Further, the SHE application recommended that protective fencing be installed around DCLA8 and part of HPD4 and PAD prior to the commencement of works, to ensure that both sites were not inadvertently impacted.*

*The SHE was approved by the Council on 12 August 2016, with approval conditions identified relating to the protection of DCLA8 and part of HPD4 and PAD, and the project's Return to Country (RTC) outcome.*

*In this context, the Council identifies the following heritage requirements as DA considerations:*

- 1. Protective fencing must be installed around DCLA8 and part of HPD4 and PAD prior to the commencement of works;*
- 2. A qualified archaeologist and Representative Aboriginal Organisations must inspect DCLA8 and HPD4 and PAD prior to the installation of protective fencing, to demarcate the alignments along which protective fencing will be installed;*
- 3. A report on the installation of protective fencing must be submitted to and approved by the Council prior to the commencement of works. This report should include mapping, GPS coordinates and photographs of installed fences;*
- 4. The project's Construction Environmental Management Plan (CEMP) must identify the fenced heritage areas as exclusion zones in which no access or activity is allowed;*
- 5. The project's CEMP is to be submitted to the Council for endorsement prior to the commencement of works; and*
- 6. Heritage requirements for the project, including the 'Unanticipated Discovery Protocol' set out in CHMA (2016), are to be identified to project personnel as part of the induction process.*

*The Council also notes that a Return to Country (RTC) outcome is proposed for Aboriginal objects previously salvaged from the Horse Park Drive duplication area, and that an application for this outcome was submitted on 7 June 2017. In Council advice issued on 1 August 2017, further information was requested to inform the application; and submission of this further information – and following Council approval, the RTC outcome – are also identified as outstanding heritage obligations for the project.*

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

#### EMERGENCY SERVICES AGENCY

On 23 October 2017 advice was received from the Emergency Services Agency in relation to the proposal. The advice states that the application has been supported with the following conditions:

*ACT Fire and Rescue (ACTF&R) requires roads and bridge to meet the loading for our heaviest vehicle. This weight is 30 tonnes.*

*Street furniture and future landscaping must not impede the progress of emergency service vehicles whilst driving along the road. The minimum height clearance for ACTF&R vehicles is 4.5*

*Access to the fire trail gates along the proposed extension are required to be accessible at all times.*

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

#### ACT HEALTH

On 30 October 2017 advice was received from ACT Health in relation to the proposal. The advice states:

*The design and construction of the stormwater bodies should minimise the potential creation of a local mosquito nuisance.*

Assessment note: Matters raised have been incorporated as advice.

## 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.

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

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

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

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

# APPENDIX 1

## CONTACT DETAILS OF RELEVANT AGENCIES

|  |  |
|--|--|
| <b>Health Directorate</b><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>- IconWater</li> <li>- Electricity reticulation</li> </ul>  | Telephone: (02) 8576 9799<br>Telephone: (02) 6229 8000<br>Telephone: (02) 6248 3111<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 ACT Planning and Land Authority for approval under section 165 of the *Planning and Development Act 2007* the submission shall be made by:

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

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



## FURTHER APPROVALS FOR CONSTRUCTION

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

### BUILDING APPROVAL

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

**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<br>Level 4, 1 Moore Street<br>CANBERRA CITY ACT 2601 | Website: <a href="http://www.courts.act.gov.au">www.courts.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<br>Document exchange: DX 5691 |

**POWERS OF THE ACAT**

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

### APPLICATIONS TO THE ACAT

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

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

### TIME LIMITS FOR APPLICATIONS

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

### FEES

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

### TIME LIMITS FOR REVIEWS OF DECISIONS

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

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

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

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

### AWARDING OF COSTS

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

ACCESS TO DOCUMENTS ABOUT THE DECISION

You may apply for access to any documents you consider relevant to this decision under the ACT *Freedom of Information Act 1989*. Information about Freedom of information requests is available on the 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.

|            |   |
|------------|---|
| 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 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



**ACT**  
Government

Environment, Planning and  
Sustainable Development

SMEC  
Suite 2, Level 1  
Lyneham ACT 2602

Dear SMEC

**BLOCK 741 SECTION - GUNGAHLIN**

**Application Number: 201732627**

**Unleased land: ACT Government C/O Transport Canberra and City Services**

I refer to the Notice of Decision dated 14 February 2018 concerning the above application.

Further advice has been received from the Conservator in relation to the duplication of the bridge (depicted as bridge No. 1399) and the existing stock/vehicular access arrangement.

Consequently, in accordance with section 196 of the *Planning and Development Act 2007*, the Notice of Decision dated 14 February 2018 is formally corrected as follows:

**Amended condition/provision:**

**Condition C1:**

*During any work undertaken on the site, the applicant/contractor must:*

- (a) maintain access to the main fire trail for Goorooyaroo, including the ability for emergency vehicles to turn right from the north bound carriageway (approx. chainage 2750). The access must be constructed to a standard that is capable of carrying a fully laden medium rigid truck;*
- (b) construct a dirt car park at the access (approx. chainage 2750) as the existing carpark is being removed. The new car park should be at least 40m from Horse Park Drive and constructed in such a way to ensure access to the fire trail is not impeded by the parking of vehicles;*
- (c) maintain access for emergency vehicles at chainage 1550 to allow access to the existing fire trail within the reserve. This is to include the ability for emergency vehicles to turn right from the north bound carriageway.*
- (d) liaise with the Senior Ranger (Environmental Offsets), ACT Parks and Conservation, to ensure there is an adequate stock holding area (within proximity of bridge No. 1399) between the stock gate and the gate to the Predator Proof Fence; and*
- (d) construct the duplication of the underpass (bridge No. 1399) at a height to allow for stock movements and vehicular access.*

GPO Box 1908, Canberra ACT 2601  
[www.actpla.act.gov.au](http://www.actpla.act.gov.au)



**ACT**  
Government

Environment, Planning and  
Sustainable Development

The remaining conditions of approval set out in the previous Notice of Decision will continue to apply.

If you would like to discuss this matter further please telephone the contact officer on 6205 1834.

Yours sincerely

Mr Dominic Riches  
Development Assessment

19 February 2018