



**ACT**  
Government

Environment and Planning

# Notice of decision

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

## Merit track

DA NO: 201323585		DATE LODGED: 7/06/2013	
DA NO: S141A, S144B, S141C, and S144D			
DATE OF DECISION: 18 July 2014			
BLOCK: 13 & 15	SECTION: 3	SUBURB: PHILLIP	
STREET NO AND NAME: 1 Launceston Street Phillip			
APPLICANT: Blak Plan Pty Ltd/Trading As Knight Frank Town Planning (NSW)			
LESSEE: Block 13 - Woden Tradesmen's Union Club Incorporated Block 15 - Woden Tradesmen's Union Club Limited			

### THE DECISION

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

I, Aaron Oshyer, 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 a multi storey mixed-use development comprising of:
  - 19 storey residential tower facing Melrose Drive and a 10 storey commercial/office tower facing Furzer Street;
  - Commercial floor space;
  - 137 residential dwellings;
  - Basement and podium level parking;
  - Landscape improvements to Melrose Drive and Furzer Street verges;
- Demolition of part of the Quality Hotel building (on Block 13 Section 3 Phillip) and improvements to the existing on-site vehicle lane;
- the variation of the purpose clause of the Crown lease for the consolidation of Blocks 13 and 15, generally in accordance with Development Application (DA) No. 201120244, to:
  - a) increase the permitted Gross Floor Area for non-retail commercial use from 5,999m<sup>2</sup> to 12,500m<sup>2</sup>,
  - b) add place of assembly to the permitted uses in the purpose Clause of the Crown lease, and
  - c) add the mandatory use of car park limited to a public car park, provided that a minimum of 127 car parking spaces are made available for public use at all times, substantially in accordance with the draft Instrument of Variation at Attachment 1;
- Solar screens, roof, fin walls and awning encroachments over unleased Territory land along Furzer Street;
- Solar screens over unleased Territory land along Melrose Drive;
- Removal of Regulated tree nos. 24, 25, 28, 29 and 33; and
- Removal of street tree nos. 1, 2, 3, 4, and 5 along Furzer Street and street tree nos. 23, 26 and 27 along Melrose Drive verge.

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

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

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

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

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

**DELEGATE**



Aaron Oshyer  
Delegate of the planning and land authority  
Environment and Planning Directorate

18 July 2014

**CONTACT OFFICER**

Phab Vetsavong  
Phone: (02) 6207 4588  
Email: phab.vetsavong@act.gov.au

## PART 1 CONDITIONS OF APPROVAL

Please note that this approval includes leasing requirements.

**THE APPROVAL WILL EXPIRE 2 YEARS AFTER THE APPROVAL TAKES EFFECT or otherwise in accordance with the conditions of approval.** In addition, there are legislative requirements that must be met prior to the registration of the instrument of variation. See Advisory Notes for further information about those legislative requirements.

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

### A. ADMINISTRATIVE / PROCESS CONDITIONS

#### A1. APPROVAL DOES NOT TAKE EFFECT – CONSOLIDATION

The approval for the variation of the Crown lease DOES NOT TAKE EFFECT until the new Crown lease as a result of the consolidation of the Crown lease for Block 13 Section 3 Division of Phillip (Volume 1621:Folio 94) and Crown lease for Block 15 Section 3 Division of Phillip (Volume 1979:Folio 78), substantially in accordance with the approval for Development Application No. 201120244, is registered at the Office of Regulatory Services.

#### A2. COMMENCEMENT OF BUILDING WORKS – LEASE VARIATION

That no building work in relation to this Development Application except for demolition and decontamination is to commence on the site until the approval for the lease variation takes effect in accordance with Condition A1 and the approved Instrument of Variation giving effect to the lease variation is registered at the Office of Regulatory Services.

#### A3. INSTRUMENT OF VARIATION

That the lessee accepts the lease variation substantially in accordance with the draft Instrument of Variation at **Attachment 1** and shall do all that is necessary to ensure that the Instrument of Variation giving effect to the lease variation is registered at the Office of Regulatory Services prior to the end of the approval in accordance with Section 185 of the Act.

#### A4. FURTHER INFORMATION

Within 28 days from the date of this decision, or within such further time as may be approved in writing by the planning and land authority, the applicant shall lodge with the planning and land authority for approval:

- (a) Revised floor plans based on the relevant drawings submitted as part of the application, showing:
  - (i) pre-adaptation and post-adaptation unit floor plans for the 2-bedroom adaptable units;
  - (ii) pre-adaptation and post-adaptation unit floor plans for the 1-bedroom adaptable units;
  - (iii) an accessible car parking space and shared zone located closer to the residential core on the lower ground floor;

- (iv) The two storey walk-up adaptable units on levels 1, 2, 3 and 4 with all the bedrooms located on the level above (level 2 and level 4) should be provided with stair widths to accommodate a chair climber to meet access requirements, otherwise, other single level 2-bedroom apartments are to be nominated as the adaptable units;

**Note:** The development requires 14 adaptable units, which is not to be reduced in number.

- (b) Revised Wind Impact Assessment based on the revised development depicted in the S144D drawings;
- (c) Revised Access and Mobility report based on the revised development depicted in the S144D drawings;
- (d) A revised Lease Variation Charge (LVC) Assessment Report prepared by a Certified Practising Valuer in accordance with Section 277 of the Act, addressing the lease variation as approved.

## CONDITIONS FOR LICENSING OF ENCROACHMENTS (2-Party)

### A5. COMMENCEMENT OF BUILDING WORK

No building work in relation to the encroachment (the works on unleased Territory land that are part of this development approval) is to commence on the site until the lessee has applied for and has been granted a licence in relation to the encroachment, being the awning encroachment over unleased Territory land along Furzer Street, by the planning and land authority pursuant to section 303 of the *Planning and Development Act 2007* and in the form approved by the planning and land authority.

### A6. APPLICATION FOR A LICENCE (See attached application form)

Prior to the commencement of building work, the lessee (the proposed licensee) must lodge with the Environment and Planning Directorate (EPD) an application for the grant of a licence to occupy and use unleased Territory land, pay the appropriate fee and undertake the following:

(i) ***Encroachment plan***

the lessee (the proposed licensee) must submit to EPD a plan (in A4 format) detailing all dimensions of the proposed encroachment including area, block boundaries and location of encroachment in relation to the building, adjacent to unleased Territory land and/or public road. This plan will form part of the licence agreement and will detail the size and extent of the encroachment.

(ii) ***Public liability insurance***

the lessee (the proposed licensee) must obtain public liability insurance in respect of the encroachment by complying with the procedures outlined in the *Financial Management (Public Liability Insurance) Guidelines 2011*.

The procedures are specified below in summary form:

1. nominate each and all of the proposed activities the proposed licensee wishes to undertake on Territory land or premises ("Premises");
2. incorporate those activities in a schedule to the licence over the premises;
3. register and create a risk profile on [www.insuranceriskadvice.act.gov.au](http://www.insuranceriskadvice.act.gov.au);
4. submit the results from point 3, including the proposed licensee's risk rating;
5. take out a public liability insurance policy in accordance with the risk rating for the term of the licence;
6. submit a certificate of currency in respect of the public liability insurance, which clearly states that the encroachment/s is/are covered by the insurance policy; and
7. Comply with obligations in respect of risk management plans if applicable.

This information is to be forwarded to the:

Assistant Manager – General Leasing  
Lease Administration  
Environment and Planning Directorate  
GPO Box 158  
CANBERRA ACT 2601  
Ph: (02) 6207 8575

*Note: The Activity Schedule will form part of the licence agreement*

**A7. TRANSFER OF TITLE**

The lessee must not transfer or assign its interest in the premises unless and until the proposed transferee or assignee is granted a licence by the planning and land authority pursuant to section 303 of the *Planning and Development Act 2007*, under the same terms and conditions as the licence granted in accordance with Conditions A5 and A6 and meets the insurance requirements in accordance with Condition A6.

**CONDITIONS FOR LICENSING OF ENCROACHMENTS (2-Party)**

**A8. COMMENCEMENT OF BUILDING WORK**

No building work in relation to the encroachment (the works on unleased Territory land that are part of this development approval) is to commence on the site until the lessee has applied for and has been granted a licence in relation to the encroachment, being the screens, roof, and fin walls overhanging the Furzer Street road reserve and the screens overhanging the Melrose Drive road reserve, by the planning and land authority pursuant to section 303 of the *Planning and Development Act 2007* and in the form approved by the planning and land authority.

**A9. APPLICATION FOR A LICENCE (See attached application form)**

Prior to the commencement of building work, the lessee (the proposed Licensee) must lodge with the Environment and Planning Directorate (EPD) an application for the grant of a licence to occupy and use unleased Territory land, pay the appropriate fee and undertake the following:

**(iii) Encroachment plan**

the lessee (the proposed Licensee) must submit to EPD a plan (in A4 format) detailing all dimensions of the proposed encroachment including area, block boundaries and location of encroachment in relation to the building, adjacent unleased Territory land and/or public road. This plan will form part of the licence agreement and will detail the size and extent of the encroachment.

**(iv) Public liability insurance**

the lessee (the proposed licensee) must obtain public liability insurance in respect of the encroachment by complying with the procedures outlined in the *Financial Management (Public Liability Insurance) Guidelines 2011*.

The procedures are specified below in summary form:

1. nominate each and all of the proposed activities the proposed licensee wishes to undertake on Territory land or premises ("Premises");
2. incorporate those activities in a schedule to the licence over the premises;
3. register and create a risk profile on [www.insuranceriskadvice.act.gov.au](http://www.insuranceriskadvice.act.gov.au);
4. submit the results from point 3, including the proposed licensee's risk rating;
5. take out a public liability insurance policy in accordance with the risk rating for the term of the licence;
6. submit a certificate of currency in respect of the public liability insurance, which clearly states that the encroachment/s is/are covered by the insurance policy; and
7. Comply with obligations in respect of risk management plans if applicable.

This information is to be forwarded to the:

Assistant Manager – General Leasing  
Lease Administration  
Environment and Planning Directorate  
GPO Box 158  
CANBERRA ACT 2601  
Ph: (02) 6207 8575

*Note: The Activity Schedule will form part of the licence agreement*

**A10. TRANSFER OF TITLE**

The lessee must not transfer or assign its interest in the premises unless and until the proposed transferee or assignee is granted a licence by the planning and land authority pursuant to section 303 of the *Planning and Development Act 2007*, under the same terms and conditions as the licence granted in accordance with Conditions A8 and A9 and meets the insurance requirements in accordance with Condition A9.

**CONDITIONS FOR AIRSPACE DIRECT GRANT****A11. DIRECT GRANT OF CROWN LEASE FOR AIRSPACE**

That, after construction of the development including the encroachments over unleased Territory land, and prior to the issue of a Certificate of Occupancy and Use, the lessee(s) shall apply to the Land Development Agency, Economic Development Directorate, for a direct grant of a Crown lease for the airspace stratum boundaries to accord with the built form.

**A12. REGISTRATION OF AIRSPACE CROWN LEASE-STRATUM PARCELS**

That within 28 days of receiving the Crown lease for registration, the Lessee shall consolidate the stratum parcel Crown lease(s) with the consolidated Crown lease and register the consequent Crown lease at the Office of Regulatory Services.

**A13. OCCUPANCY OF BUILDING – STRATUM PARCELS**

Prior to the issue of a Certificate of Occupancy and Use for the approved building the lessee must:

- (a) be granted a Crown lease over stratum parcel(s) for air rights for the encroachments over unleased Territory land to include the following structures within leased land:
  - (i) the proposed screens, roof, and fin walls overhanging the Furzer Street road reserve; and
  - (ii) the proposed screens overhanging the Melrose Drive road reserve; and
- (b) obtain development approval for the consolidation of the above stratum parcel Crown lease(s) with the consolidated Crown lease granted subject to Condition A1 and register the consequent Crown lease at the Office of Regulatory Services.

**A14. STREET TREE PLANTING WITHIN MELROSE DRIVE AND FURZER STREET**

That new street tree planting shall be provided along Melrose Drive and Furzer Street to the satisfaction of Territory and Municipal Services Directorate (TaMSD).

**A15. DESIGN ACCEPTANCE**

- (a) Prior to construction, a Certificate of Design Acceptance shall be obtained from the Senior Manager, Asset Acceptance, Operational Support Branch, TaMSD.

Design Acceptance to the satisfaction of TaMSD shall incorporate (but is not limited to) the following:

**Civil and Others**

1. The waste enclosure layout should accommodate the following. With the recent development in waste management aspects, ACT NoWaste will issue 9x3m<sup>3</sup> waste hoppers serviced weekly or 5x3m<sup>3</sup> waste hoppers serviced twice a week; 6x1100Ltr recycling hoppers serviced weekly.
2. The waste/recycling hoppers rollout area to be smooth finished facilitating wheeling of hoppers.
3. Appropriate licensing to be obtained for the above ground encroachment onto Territory Land.

**Trees on unleased Territory land**

4. If the street trees are removed, the applicant is to provide at least three trees on each street frontage matching the existing theme. Detailed landscape plans to be provided during design acceptance, including cross-section plans showing placement of street trees in relation to all services and other infrastructure. A composite plan showing street trees, all services and other infrastructure is also required. Services should be relocated to fit trees where necessary, or placed in conduit at adequate depth to be well clear of tree planting hole.
5. Super-advanced tree stock may be required if the trees are expected to fit the narrow space and grow above an awning. If large trees are required then an extended consolidation period of 24 months will be required.
6. The new street trees must be of good quality stock; planting detail to meet TaMSD Standard Specifications; planting by a person with horticultural qualifications; the developer is to be responsible for the new trees for a minimum consolidation period of 12 months prior to formal handover to TaMSD.

Note: Further advice concerning street tree replacement is provided under the heading Entity Advice in Part 3 of this decision. (Refer to Territory and Municipal Services advice of 5 July 2013).

- (b) Prior to the issue of a Certificate of Occupancy, a Certificate of Operational Acceptance on completion of the works shall be obtained from the Senior Manager, Asset Acceptance, Operational Support Branch, TaMSD.

**A16. NOTICE OF COMMENCEMENT OF CONSTRUCTION**

Notice of Commencement for the works on Unleased Territory Land shall be submitted to the Senior Manager, Asset Acceptance, TaMSD one week prior to the commencement of works. The Notice shall also include the confirmation of any protective measures installed in accordance with the approved Landscape Management and Protection Plan (LMPP) and the programmed implementation of Temporary Traffic Management Plan (TTM).

**A17. ENVIRONMENT PROTECTION**

To the satisfaction of the Environment Protection Authority (EPA):

- (a) The development shall incorporate the recommendations identified in the Noise Management Plan (Acoustics report, prepared by Norman Disney & Young, dated 27 March 2014, No.J-001) and any subsequent revisions.
- (b) A site specific unexpected finds protocol (UFP) must be developed by a suitably qualified environmental consultant to manage potential contamination in excavated fill from the site and the disposal of soil material from the site. The UFP must be reviewed and endorsed by the EPA prior to commencement of development works at the site.
- (c) Construction and development works to be in accordance with "Environment Protection Guidelines for Construction and Land Development, 2011".
- (d) Due to the site being greater than 0.3 hectares, the contractor/builder proposing to develop the site must hold an Environmental Authorisation or enter into an Environment Protection Agreement with the Environment Protection Authority (EPA) in respect of that activity PRIOR TO WORKS COMMENCING.



- (e) A pollution control plan is to be prepared by the contractor carrying out site works and be submitted to and endorsed by the EPA prior to works commencing.
- (f) All external lights must comply with Australian Standards AS4282 Control of the obtrusive effects of outdoor lighting.

Note: 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*.

#### A18. HEALTH PROTECTION SERVICE

To the satisfaction of the Health Protection Service:

- (a) A copy of the Phase 1 contamination report (or its equivalent) shall be provided to the Health Protection Service (HPS), if relevant.
- (b) The installation of cooling towers or evaporative condensers shall be approved and registered by the Health Protection Service.

**Note:** Development approval must be obtained for the installation of cooling towers or evaporative condensers from the planning and land authority, EPD, unless determined to be exempt development pursuant to Schedule 1 of the *Planning and Land Regulation 2008*.

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

#### B1. WATERPROOFING

Full details of the proposed method of waterproofing the landscaped and exposed common areas of upper floor levels which are directly above lower level residential units, including the specifications of the materials to be applied and installation methods are to be submitted to the Building Certifier for building approval. These details are to be in accordance with the requirements of Part F1 'Damp and weatherproofing' of the Building Code of Australia.

#### B2. TEMPORARY TRAFFIC MANAGEMENT (TTM)

A TTM plan approval from the Manager, Traffic Management & Safety, Roads ACT, Transport and Infrastructure Division, TaMSD is required. At 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.

#### B3. LANDSCAPE MANAGEMENT & PROTECTION PLAN (LMPP)

LMPP approval from the Senior Manager, Asset Acceptance, TaMSD is required. During construction, all existing vegetation (trees, shrubs and grass) located on the verge and unleased Territory land immediately adjacent to the development shall be managed, protected and maintained in accordance with the Landscape Management Protection Plan (LMPP) approved by the Senior Manager, Asset Acceptance, TaMSD.

This plan is to be implemented before the commencement of works, including demolition on the site and is to be in accordance with TaMSD Guidelines for the Protection of Public Landscape Assets Adjacent to Development Works-REF-04.

**B4. TREE PROTECTION**

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

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

**B5. WASTE MANAGEMENT**

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

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

N/A

**D. 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.*

**D1. LESSEE ENTITY NAME**

It is noted that the name of the registered lessee of Block 13 differs slightly from that of Block 15. The lessee is advised to contact the Office of Regulatory Services to ensure that this will not prevent a consolidated Crown lease from being correctly registered.

**D2. CAR PARK USE**

The applicant/Lessee is advised that the approved use of 'car park' is limited only to car spaces that are available for public use at all times. For any other car parking to be operated on a commercial basis, the Crown lease would need to be varied subject to a separate DA to permit the further unrestricted primary use of the premises for 'car park'.

**D3. LEASE VARIATION CHARGE**

Prior to the registration of the Instrument of Variation, the lessee must, as is required under the *Planning and Development Act 2007*, pay any assessed Lease Variation Charge. Once advised of the lease variation charge, the charge should be paid not less than 6 months prior to the expiration of this approval. This will ensure that sufficient time remains to enable the Instrument of Variation to be registered at the Office of Regulatory Services prior to expiry of this approval.

**D4. EXPIRY OF APPROVAL**

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

**D5. ENTITY COMMENTS**

Prior to commencing work on the site the applicant/lessee shall consider and address the comments provided by TaMSD, EPA, ActewAGL and ESA.

- Refer to PART 3 PUBLIC NOTIFICATION AND ENTITY ADVICE of this Notice of Decision.
- Refer to comments from ActewAGL Electricity dated 8 July and 13 August 2013.
- Refer to comments from ActewAGL Water and Sewer dated 26 June 2013.
- Refer to comments from ActewAGL Gas dated 17 June 2013.

**D6. 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 City Services, TaMSD.

**D7. 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 TaMSD of any existing damage to public facilities.

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 codes, being the Commercial Zones Development Code, Phillip Precinct Map and Code, and the Multi Unit Housing Development Code.

The key issues identified in the assessment are in relation to:

- replacing the existing 127 public car parking spaces, traffic and access, parking facilities; provision of car parking for persons with disabilities;
- building height, interface, pedestrian linkages;
- solar access to Bellerive aged persons' accommodation across the road along Melrose Drive, solar access to adjoining Block 16 Section 3 Phillip;
- representations received;
- removal of Regulated tree nos. 24, 25, 28, 29 and 33, street trees.
- licensing of encroachments including stratum leases for encroachments along Furzer Street and Melrose Drive verges; and
- entity requirements.

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*.

### Building height

The original residential tower has been reduced in height from 24 storeys to a tower of 17 storeys facing Melrose Drive and stepping up to 19 storeys. In addition, the residential tower has also been moved further away from the Melrose Drive boundary. The combination in reduction in height and increased distance from the Melrose Drive boundary has significantly reduced the extent of potential overshadowing on units of the Bellerive Apartment development (located on Block 5 Section 69 Lyons) that directly face towards Melrose Drive.

Revised shadow diagrams were provided showing a reduction in the length and extent of the shadow cast on the Bellerive Apartment development, which has improved access to morning sunlight from 10am compared to the original 24 storey tower that would have provided the Bellerive Apartment development with access to morning sunlight from 11am.

### Replacement of existing public car parking

Rule R6(a) of the Phillip Precinct Map and Code requires the existing 127 car spaces on Block 15 to be retained and made available for public use at all times. The proposed variation of the Crown lease has been approved, in accordance with Section 165 of the Act, subject to the condition that the lease be varied to include the mandatory use of the premises for 'car park' of a minimum of 127 publicly accessible car parking spaces. The lease variation as approved will ensure that the existing number of publicly accessible car spaces is retained on site, as required by the Precinct Code.

The development proposal provides car parking for the commercial uses on the lower ground floor and basement car parking levels and car parking for the residential units at the upper levels. The car parking provided meets the requirements of Rule R6(b) of the precinct code in addition to the 127 publicly available car spaces required to be retained

#### Regulated trees Nos. 28, 29 and 33

The Conservator of Flora and Fauna did not support the removal of Regulated Eucalypts 28, 29 and 33 on the basis that the trees are of medium quality and do not fulfil any criteria for removal under the *Tree Protection Act 2005*, however they could be considered for removal under the *Planning and Development Act 2007*.

The decision is inconsistent with advice from the Conservator of Flora and Fauna dated 4 July 2013. However, pursuant to section 119 (2) of the Act, I have considered the advice received, as well as the relevant guidelines and any realistic alternative to the development proposed or aspects of it. A decision to approve this application is consistent with the object of the Territory Plan.

Regulated Eucalypts 28, 29 and 33 are located within the proposed building and basement footprint and require removal, which if retained would restrict future development to the western half of Block 15.

The proposal was also presented to the planning and land authority's internal Major Projects Review Group (MPRG) in relation to the removal of Regulated Eucalypts 28, 29 and 33. The MPRG considered that removal of Regulated Eucalypts 28, 29 and 33 could be supported to enable an optimum footprint on the site.

Furthermore, Tree Nos. 19, 21, 24, 25, 28, 29, 30, 33, 42, 58, and 63 were approved for removal by the planning and land authority as part of a previous development application DA201018177.

I have considered the proposal against Section 119(2) of the *Planning and Development Act 2007* and I am satisfied that the proposal is consistent with the requirements under Section 119(2). On that basis, the approval of the development with conditions to remove Regulated Eucalypts 28, 29 and 33 is supported.

#### **EVIDENCE**

**Application No. 201323585, 201120244, & 201120044**

**File No. 1-2013/06471/1, 1-2011/10003/1, & 1-2011/07783/1**

**Territory Lease Block 13 - File No. 338/3/13 Part 1 & Part 2,**

**Territory Lease Block 15 - File No. 1-2011/06638/1**

**The Territory Plan zone – CZ2 Business Zone**

**The Development Codes – Commercial Zones Development Code/Multi Unit Housing Development Code**

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

**Current Crown Lease Block 13 - (Volume 1621 :Folio 94)**

**Current Crown Lease Block 15 - (Volume 1979 : Folio 78)**

**Representations – Twenty five (25) representations**

**Entity advice – ActewAGL, Emergency Services Agency, Environment Protection Authority, Health Protection Service, Territory and Municipal Services Directorate, Conservator of Flora and Fauna.**

## PART 3 PUBLIC NOTIFICATION AND ENTITY ADVICE

### PUBLIC NOTIFICATION

Pursuant to Division 7.3.4 of the Act, the application was publicly notified from 17 June 2013 to 12 July 2013 and 14 November 2013 to 4 December 2013. Twenty eight (28) written representations were received during public notification.

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

- (a) *The 24 storey residential tower is inconsistent with requirements for Urban High Rise Residential development as per Draft Variation 306.*

The previous version of the Territory Plan would apply to the proposed development since the Development Application was lodged before 18 June 2013. Furthermore, the proposed development is located in a CZ2 Business zone. The Territory Plan requirements for RZ1, RZ2, RZ3, RZ4 and RZ5 do not apply to the proposed development.

- (b) *The 24 storey residential tower building height is inconsistent with the Woden Town Centre Master Plan.*

The Woden Town Centre Master Plan does not have any statutory status, however, this document is used as a guide for future built form and character and identifies the following opportunities:

- *Ensure that the public is not adversely affected by over shadowing and wind shear resulting from inappropriately located building mass.*
- *Develop buildings generally to heights indicated in Figure 40 and 41.*
- *Use building massing to create marker buildings at major arrival points that express the compact urban form that differentiates Woden from other town centres.*
- *Site taller buildings in a way that avoids overshadowing other habitable buildings.*
- *Generally podium levels of buildings will be built to the property line.*
- *Provide awnings and colonnades to create street level pedestrian protection.*
- *Ensure that buildings are appropriately articulated with a base, a middle and top.*
- *In residential developments direct overlooking of internal living areas to other dwellings and offices is to be minimised by building layout, location, design of windows and balconies, screening devices and landscaping.*
- *Corner sites at street junctions have an important streetscape function and can be enhanced by extra height. Corner sites offer maximum views, cross ventilation and sunlight to residential buildings.*

Some elements of the Woden Town Centre Master Plan have been incorporated into relevant development codes such as the Phillip Precinct Maps and Code, Commercial Zones Development Code and the Multi Unit Housing Development Code of the Territory Plan. Other elements of the Woden Town Centre Master Plan have not been incorporated but are provided for information to provide guidance for future development.

- (c) *A 24 storey building is not consistent with the low rise developments along Melrose Drive and would not be in keeping with the massing on the edge of the Town Centre with such buildings as the Aviation House and Sirius Building. The proposed development should not exceed 10 storeys and be consistent with heights elsewhere on the edge of the Woden Town Centre.*

The Phillip Precinct Maps and Code, criterion C9 defines the parameters of the height of buildings for development located in area 'b' of figure 1:

*Buildings achieve a bulk and scale that achieves consistency with the desired character.*

The proposed 24 storey residential tower fronting Melrose Drive with a 10 storey building fronting Furzer Street aimed to provide a 'marker' building at the perimeter of the Town Centre, replicating the building height of Sky Plaza (20 Storeys).

However, the proposed 24 storey residential tower was considered to be inconsistent with the desired character for the area and would have a significant impact on the Melrose Drive streetscape. It was considered that a building with a reduced height and increased setback would be more appropriate given the context of the existing and proposed height of buildings in the immediate area (Launceston Street/Furzer Street/Worgan Street/Melrose Drive).

The residential tower has been significantly reduced to 17 storeys with part of the building stepping up to 19 storeys to be more sympathetic with Aviation House (8 storeys), Sirius Building (10 storeys), Alexander & Albemarle Buildings (11 storey), Scarborough House (15 storeys), proposed development on Block 1 Section 22 (12 storey), whilst still enabling the proposed development to become a 'marker' development for the CZ2 area. The reduction in height for the residential tower also enables the attention to be drawn to existing taller buildings such as Borrowdale House and Lovett Tower, which are located in the CZ1 Core zone.

- (d) *The 24 storey residential tower will overshadow Bellerive Retirement Village residential building's northern and eastern frontages during winter. And will also affect the solar panels on the roof of Bellerive Apartments.*

The Territory Plan seeks to provide not less than 3 hours of direct sunlight to day time living areas and balconies of apartments between the hours of 9am and 3pm on the winter solstice (21 June).

The revised development is considered to be consistent with the Territory Plan in regards to minimising potential overshadowing on surrounding development.

Refer to Part 2 Reason for the decision.

- (e) *The proposed development will affect the privacy of Bellerive residents and of other developments across the road along Melrose Drive.*

The proposed development will be located on Block 15 and Block 13 Section 3 Phillip and the Bellerive Apartments are located on Block 5 Section 60 Lyons, which is on the opposite side of Melrose Drive, providing a spatial buffer of more than 42 metres. The privacy of residents of Bellerive Apartments and other existing developments will not be adversely affected by the proposed residential tower.

- (f) *The wind study gives an inadequate reflection of a wind tunnel effect a 24 storey tower will have on adjoining residents and pedestrians.*

Rule 10 of the Commercial Zones Development Code, applies to buildings with a height greater than 28 metres.

As a consequence of the proposed development, wind speeds are not to exceed 10m/s for adjacent main pedestrian areas and routes (as defined in the relevant precinct code), and are not to exceed 16 m/s for all other adjacent streets and public places.

Figure 1 of the Phillip Precinct Map and Code shows the main pedestrian area along Furzer Street is located between Worgan Street and Corinna Street. The length of Furzer Street (between Worgan Street and Launceston Street) is identified as other adjacent streets and public places. Consequently the proposed development is required not to exceed wind speeds of 16 m/s for the external pedestrian areas.

A Wind Impact Assessment (prepared by Norman Disney & Young, dated 11 April 2013 was provided for the development that consisted of a 24 storey residential tower. The Wind Impact Assessment demonstrated that local wind conditions at pedestrian level around the development, is generally not expected to exceed the prescribed limit of 16 m/s.

Although the residential tower has been reduced in height from 24 storeys to a tower of 17 storeys facing Melrose Drive and stepping up to 19 storeys, the proposed development still exceeds a building height of 28 metres. However a revised Wind Impact Assessment has not been provided to the planning and land authority.

A condition has been imposed to request a revised Wind Impact Assessment for the revised development proposal.

- (g) *The "Traffic Impact Statement for a Proposed Building redevelopment on Blocks 13 & 15 Section 3 Phillip Act" fails to identify specific traffic impacts on Launceston Street, Furzer Street, Worgan Street and Melrose Drive. The traffic Impact Statement and Noise assessment does not consider the effect of traffic volumes created by the development and future re-development of Block 16.*

The Traffic Impact Assessment (prepared by Bob Nairn Consultant Pty Ltd, dated April 2013) and the Traffic Impact Assessment (prepared by Bob Nairn Consultant Pty Ltd, dated October 2013) were considered to contain insufficient traffic analysis.

A revised Traffic Impact Assessment (prepared by Bob Nairn Consultant Pty Ltd, dated April 2014) was provided and it has been supported by the Senior Transport Planner, Major Projects and Transport Branch, EDP.

Any improvements to Launceston Street/Furzer Street/Irving Street intersections do not form part of this development application and will be carried out as part of future Capital Works Program.

- (h) *The noise assessment does not give an appropriate account of traffic noise impacts on adjacent offices and residences and impact on the development.*

The Noise Management Plan (Acoustics report, prepared by Norman Disney & Young, dated 27 March 2014, No.J-001) contains recommendations for noise mitigation and was supported by the Environment Protection Authority.

Furthermore, in relation to mitigating the effects of traffic noise, provided the development is undertaken including glazing and door treatments in accordance with the recommendations in the Norman Disney Young report dated 4 October 2013, traffic noise should have minimal impact on the proposed development.

Since the proposed development has been revised primarily to reduce the 24 storey residential tower to 19 storeys, a condition of approval has been imposed requesting a revised Noise



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Management Plan including conditions to ensure that the recommendations of the Noise Management Plan are incorporated into the development.

- (i) *Does the development include any changes to the existing Tradies and Quality Hotel and is there a proposal for future development on Block 13 Section 3?*

The proposed development will occur mainly on Block 15 Section 3 and includes demolition of part of the existing Quality Hotel to allow for truck height clearances and to straighten the existing lane on Block 13 Section 3. Any future development on Block 13 Section 3 will require a separate development application.

- (j) *Lack of improvements to Melrose Drive verge mainly relating to pedestrian access & replacement of street trees.*

Although street trees along Melrose Drive and Furzer Street will be removed, new street tree planting and paving will be provided for a pedestrian friendly environment that is compatible with other developments in the area.

- (k) *The building may not be able to be built as planned, due to the exceptionally hard rock underneath the site. The proponents should be required to undertake further investigation of this aspect.*

Douglas Partners correspondence dated 25 September 2013 refers to a Geotechnical Investigation report prepared by Douglas Partners, 77242.01, dated October 2012, Section 5.2 stating that:

*"Removal of the filling, soils and extremely low to low strength rock should be readily achievable using conventional earthmoving plant. Further excavation into the low to medium strength dacite should be achievable using large excavators by a combination of bucket excavation and the use of single tyne ripper and rock hammer attachments. It is expected that excavation of the medium to very high strength, dacite (below 3.5 – 5.0 m depth) will require heavy rock breaking, rock grinding or ripping equipment with rock sawing to minimise disturbance and over break of the final batters and/or basement walls. Slow production should be anticipated."*

Furthermore, Douglas Partners correspondence dated 29 October 2013 stated:

*"...the comments provided in DP's letter dated 25 September 2013 with regards to hard excavation area applicable from depths of 3.5 m – 5.0 m to the full depth of excavation. The hard excavation would be experienced at a variable depth possibly from 3.5 m in some parts of the site or from maybe 5.0 m in other parts.*

*Confirming that the comment is not exclusively for the depth range 3.5 m to 5.0 m."*

The development requires onsite car parking for the commercial component of the proposed building which will be in the form of three levels of basement car parking. The reports and correspondence provided by Douglas Partners confirms that excavation that is required for the proposed basement car parking is achievable.

- (l) *There is no justification for more retail, office and residential apartment developments in the ACT.*

The planning and land authority does not get involved in determining economic decisions for the development of a block. Lessees are able to submit a development application with the planning and land authority to seek development approval to optimise the use of their blocks provided that the development is consistent with the Territory Plan.

- (m) *At present there is no requirement for the applicant to assess the impact of their proposal on surrounding residential zones (RZ1 to RZ6) in closest proximity to a town centre perimeter.*

The proposed development on Block 15 and Block 13 Section 3 Phillip in a CZ2 business zone is across the road from RZ5 high density residential zone. The proposed development has taken into consideration the context of the location of the proposed development and has provided a balance between development opportunities in regards to building height allowable in a CZ2 zone and reducing potential overshadowing impact on development located in the RZ5 high density residential zone.

- (n) *Under the ACT Territory Plan, as amended by Draft Variation 259, building heights in this zone of the Woden Town Centre are restricted to six stories, with exemptions (buildings up to 12 storeys) only permitted if issues of overshadowing are addressed. The proposed development includes residential tower blocks in the order of 24 stories high and is therefore not consistent with the Territory Plan.*

Variation 259 was in relation to the north of Launceston Street (Phillip Section 22 Block 1, Section 24, Section 104 and Section 23 Blocks 1-4, 8), and the south-west and south-east portions of Block 9 Section 23 Phillip fronting Launceston Street and the existing car parking areas east of Callam Street (Phillip Sections 81, 108 and 156). An additional clause for height controls for areas north of Launceston Street to restrict building height to generally a maximum of six storeys and taller buildings up to a maximum of twelve storeys, was introduced.

The proposed development is located on Block 15 Section 3 and is not subject to the above.

- (o) *The development will obscure the views from Bellerive Apartments.*

The Bellerive Apartment building is located across the road on Melrose Drive, which has an outlook towards the Woden Town Centre comprising of buildings with various building heights. Views from a site have to be balanced against the development potential of sites in close proximity. It is considered the proposed development on Block 15 Section 3 Phillip is unlikely to have an adverse impact on the existing outlook from the Bellerive Apartment buildings.

- (p) *The development documents does not show how this residential building or commercial building will reduce its energy /water consumption either by tri-generation technology or any water re-use on site.*

The proposed development is required to meet the Water Sensitive Urban Design requirements of the Commercial Zones Development Code and the Multi Unit Housing Development Code. The development will include the installation of a 150 cubic metre underground water re-use tank.

## **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 4 July 2013 advice was received from the Conservator of Flora and Fauna in relation to the proposal. The advice states that:

An assessment of plans, tree assessment and an inspection of the trees on the site have been undertaken and the following advice is provided in accordance with Section 82 of the *Tree Protection Act 2005*.

The regulated Eucalypts 28, 29 and 33 are of medium quality and do not fulfil any criteria for removal under the *Tree Protection Act 2005*, however they could be considered for removal under the Development Act.

#### Response:

Matters raised have been considered and discussed in Part 2 - REASONS FOR THE DECISION.

On 19 November 2013 further advice was received from the Conservator of Flora and Fauna in relation to the proposal. The advice states that:

The previous advice given in July remains.

The DA is not supported as neither regulated Eucalypts 28, 29 or 33, fulfil any criteria for removal under the *Tree Protection Act 2005*.

Those trees are of medium quality and could be considered for removal under the Development Act.

#### Response:

Matters raised have been considered and discussed in Part 2- REASONS FOR THE DECISION.

### TREE PROTECTION UNIT

On 31 July 2013 advice was received from the Tree Protection Unit in relation to the proposal and Tree 58 and Tree 59 located on adjoining Block 16:

Both trees are supported for removal.

Tree 59 is a *Eucalyptus sideroxylon* that is co-dominant from the ground and has several compression forks within its structure, the likelihood of future failures exist.

Tree 58 is a *Eucalyptus bicostata* that is in poor form, in early stages of decline.

#### Response:

The above has been noted.

### EMERGENCY SERVICES AGENCY (ESA)

On 5 July 2013 advice was received from the Emergency Services Agency in relation to the proposal regarding the following:

- Fire Station Response Area;
- Water supplies;

- Building access.
- Street furniture, landscaping and tree planting; and

Response:

Matters raised have been incorporated as either conditions of approval or advice and attached to this Notice of Decision. Refer to PART 1 CONDITIONS OF APPROVAL in this Notice of Decision.

HEALTH PROTECTION SERVICE (ACT HEALTH)

On 12 July 2013 advice was received from the Health Protection Service in relation to the proposal. The advice states that:

The Health Protection Service (HPS) requests that a copy of the phase 1 contamination report is provided once completed.

The submission does not contain plans for the proposed air-conditioning systems. The proponent is advised that installation of a cooling tower or evaporative condenser requires approval and registration from the Health Protection Service.

Response:

Matters raised have been incorporated as either conditions of approval or advice. Refer to PART 1 CONDITIONS OF APPROVAL in this Notice of Decision.

On 19 November 2013 advice was received from the Health Protection Service in relation to the proposal. The advice states that:

The Health Protection Service (HPS) notes that a copy of the phase 1 contamination report will be provided following endorsement from the EPA.

The HPS notes that the final air-conditioning system selection will be forwarded for approval during the detail design stages of the project. The applicant is advised that registration for a cooling tower or evaporative condenser must be sought from HPS upon commissioning of the system.

Response:

Matters raised have been incorporated as either conditions of approval or advice. Refer to PART 1 CONDITIONS OF APPROVAL in this Notice of Decision.

ENVIRONMENT PROTECTION AUTHORITY (EPA)

On 17 July 2013 advice was received from the Environment Protection Authority in relation to the proposal. The advice states that:

**General comments:**

The noise management plan provided does not adequately address potential noise from the commercial area affecting the residential area and does not provide enough information in relation to the final glazing recommendations. A revised Noise Management Plan is to be submitted to the EPA for review and endorsement prior to DA approval.

All works must be in accordance with *Environment Protection Guidelines for Construction and Land Development in the ACT, March 2001*, available by calling 132281.

**Comments relating to lease variation over Block 13 Section 3 Phillip:**

The site is currently occupied by a commercial complex. Large commercial complexes, prior to the introduction of natural gas to the ACT in the 1980's, utilised boiler heating or similar systems. These systems were generally fuelled by diesel or heating oil which was mainly stored in underground fuel storage tanks.

The ANZECC 1992, Guidelines for the Assessment and Management of Contaminated Sites and the Contaminated Sites Environment Protection Policy 2009 list fuel storage as past activities associated with land contamination which may pose a risk to human health and the environment.

The EPU would support the lease variation subject to the following condition:

- prior to the site being used for residential uses an environmental assessment must be undertaken by a suitably qualified environmental consultant to determine whether past activities have impacted the site from a contamination perspective. Any assessment must be reviewed and endorsed by the Environment Protection Unit prior to the site being used for residential purposes.

**Comments relating to lease variation over Block 15 Section 3 Phillip:**

The lease variation for Block 15 Section 3 Phillip is supported with the following information provided:

The block is not recorded on the EPA's contaminated sites management database or geographic information system.

The EPA has not issued any environment protection orders under sections 91C (1), 91D (1) or 125 (4) of the *Environment Protection Act 1997* over the site and as a result the site is not recorded on the Register of contaminated sites under section 21(A) of the Act.

At present the EPA has no information on contamination of the above block(s). However, this does not absolutely rule out the possibility of contamination and should not be interpreted as a warranty that there is no contamination.

**Response:**

Pursuant to Section 141 of the *Planning and Development Act 2007*, further information was provided by the applicant to address the above.

On 21 August 2013 advice was received from the Environment Protection Authority in relation to the proposal. The advice states that:

The noise management plan provided does not adequately address potential noise from the commercial area affecting the residential area and does not provide enough information in relation to the final glazing recommendations. A revised Noise Management Plan is to be submitted to the EPA for review and endorsement prior to DA approval.

All works must be in accordance with *Environment Protection Guidelines for Construction and Land Development in the ACT, March 2001*, available by calling 132281.

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The lease variation for Block 15 Section 3 Phillip is supported with the following information provided:

The block is not recorded on the EPA's contaminated sites management database or geographic information system.

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At present the EPA has no information on contamination of the above block(s). However, this does not absolutely rule out the possibility of contamination and should not be interpreted as a warranty that there is no contamination.

Response:

Pursuant to Section 141 of the *Planning and Development Act 2007*, further information was provided by the applicant to address the above.

On 29 November 2013 advice was received from the Environment Protection Authority in relation to the proposal. The advice states that:

The Noise Management Plan is not supported. A revised noise management plan must be endorsed by the EPU prior to DA approval. The noise consultant is welcome to contact the EPA to discuss.

Response:

Pursuant to Section 141 of the *Planning and Development Act 2007*, further information was provided by the applicant to address the above.

On 23 May 2014 advice was received from the Environment Protection Authority in relation to the proposal. The advice states that:

Noise Management Plan is supported.

**Conditions:**

A site specific unexpected finds protocol (UFP) must be developed by a suitably qualified environmental consultant to manage potential contamination in excavated fill from the site and the disposal of soil material from the site. The UFP must be reviewed and endorsed by the EPA prior to commencement of development works at the site.

Construction and development works to be in accordance with "Environment Protection Guidelines for Construction and Land Development, 2011". As the site is greater than 0.3 hectares the construction is an activity listed in Schedule 1 as a Class B activity under the Environment Protection Act 1997. The contractor/builder proposing to develop the site must hold an Environmental Authorisation or enter into an Environment Protection Agreement with the Environment Protection Authority (EPA) in respect of that activity PRIOR TO WORKS COMMENCING.

A pollution control plan is to be endorsed by the EPA prior to works commencing.

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

All external lights must comply with Australian Standards AS4282 Control of the obtrusive effects of outdoor lighting.

Response:

Matters raised have been incorporated as either conditions of approval or advice. Refer to PART 1 CONDITIONS OF APPROVAL in this Notice of Decision.

TERRITORY AND MUNICIPAL SERVICES DIRECTORATE

On 3 July 2013 advice was received from Territory and Municipal Services Directorate (TaMSD) in relation to the proposal. The advice states that:

The development application is not supported and further amendments are required. Comments related to removal of trees and replanting in the road verges yet to be provided.

**Comments:**

1. The applicant is to demonstrate with traffic analysis that the left in/left out access off Melrose Drive and full access off Furzer Street are feasible during all times of the day.
2. The applicant is to provide confirmation from Land Development Agency that improvements to Launceston Street/Furzer Street/Irving Street intersections will be carried out as part of the Capital Works Program to mitigate any impacts due to this development.
3. The traffic report should also consider the existing developments on Block 13 (Club and the Hotel) in the traffic analysis on determining the feasibility of the access arrangements off Melrose Drive and Furzer Street.
4. The proposed access arrangement as shown in the plans will only be supported if the Blocks 13 and 15 are consolidated or a shared access easement created.

5. The applicant is to confirm the height clearance for waste truck through the existing laneway. The typical waste collection vehicle travel height requirement of at least 4 m is to be provided.
6. The applicant is to reconsider the use of parking aisle as 1:20 ramp in relation to parking module gradient requirements for people with disabilities.
7. The proposed turning template demonstration for waste collection vehicles is not supported. A full turning template demonstration is required clear off parked cars/trucks for waste collection enter/exit from the waste enclosure area to the existing laneway is required. Otherwise the parking bay and the commercial motor bike parking bays in the laneway are to be relocated in the laneway to accommodate the waste collection operation if required. The landscape plans and the site plans are inconsistent about the commercial bike parking location.
8. The proposed paving details over the waste collection area is not supported. Industrial type strength pavement should be provided for a maximum wheel load of 7 tonnes per axle in order to accommodate waste and recycling trucks.
9. The proposed waste management plan for operational phase waste management is not supported. The waste management plan is to clearly define the commercial and residential waste/recycling hoppers provisions separately.
10. The 1.5 m<sup>3</sup> waste hopper provisions for waste is not supported unless the waste enclosure and waste truck turning template demonstration provided suitable for mechanical loading.
11. The locations of the goods loading and unloading facilities have to be clearly shown on the relevant plans including the vehicle turning template demonstrations for the vehicle entry/exit.
12. Some of the turning template demonstrations as detailed on the Dwg No 5201-DA-006 vehicle moving into other parking bays/ permanent structures are not supported.
13. The proposed stormwater works in Block 16, Section 3 Phillip is not supported. All the stormwater works should be provided within the subject block and connected to public network appropriately.
14. Encroachment onto unleased Territory Land is not supported for erecting permanent component of the building. There must be no encroachment and all the works must be contained within the site.
15. A concept Construction Management Plan is to be provided at this development application stage for our assessment.

Response:

Pursuant to Section 141 of the *Planning and Development Act 2007*, further information was provided by the applicant.

On 5 July 2013 advice was received from Territory and Municipal Services in relation to the tree issues outside the block boundary:

1. Urban Treescapes does not endorse the removal of sound and healthy trees from the unleased land. ACTPLA may approve the removal of such trees if they consider that there are sound design reasons to justify this.
2. It is considered desirable that replacement tree landscaping is undertaken by the Developer in the Melrose Drive verge.



3. The proposed planting of street trees in the Furzer Street verge is supported, however the trees need to match the existing streetscape character – new tree planting further to the south along Furzer Street is of *Zelkova serrata*. The proposed *Pyrus calleryana* 'Chanticleer' are not supported for use in this site.
4. The Furzer Street verge is a narrow space (4.5m width) – this space must be designed well to ensure that there is room for the street trees and for pedestrian access. The trees need to be planted the minimum distance clear of the kerb.
5. Detailed landscape plans are required, including x-section plans showing placement of street trees in relation to all services and other infrastructure. A composite plan showing street trees, all services and other infrastructure is required.
6. Super-advanced tree stock may be required if the trees are expected to fit the narrow space and grow above an awning. If large trees are required then an extended consolidation period of 24 months will be required.
7. All required detail for the off-site Landscape is to be included in the Design Acceptance submission to TaMSD. The new street trees must be of good quality stock; planting detail to meet TaMSD Standard Specifications; planting by a person with horticultural qualifications; the developer is to be responsible for the new trees for a minimum consolidation period of 12 months prior to formal handover to TaMSD. See TaMSD Reference Documents for handover requirements.

Response:

Pursuant to Section 141 of the *Planning and Development Act 2007*, further information was provided by the applicant.

On 30 August 2013 advice was received from Territory and Municipal Services Directorate in relation to the proposal. The advice states that:

In relation to the awning/building protrusion outside the block boundary, Asset Acceptance has no objection for building awning/protrusion if (a) adequate height clearance is provided for the maintenance and service vehicles to move along the verge (b) the structure does not protrude into the current and future traffic lane (c) the structure is safe and does not cause any adverse visual effect.

The proponent must enter into a licensing arrangement with ACTPLA/TaMSD if the above conditions are satisfied.

Response:

Matters raised have been incorporated as either conditions of approval or advice. Refer to PART 1 CONDITIONS OF APPROVAL in this Notice of Decision.

On 14 November 2013 advice was received from Territory and Municipal Services Directorate in relation to the proposal. The advice states that:

The development application is supported with conditions.

**Conditions:****Civil and Others**

1. The waste enclosure layout should accommodate the followings. With the recent development in waste management aspects, ACT NOWaste will issue 9x3m<sup>3</sup> waste hoppers serviced weekly or 5x3m<sup>3</sup> waste hoppers serviced twice a week; 6x1100Ltr recycling hoppers serviced weekly.
2. The waste/recycling hoppers rollout area to be smooth finished facilitating wheeling of hoppers.
3. Appropriate licensing to be obtained for the above ground encroachment onto Territory Land.

**LMPP/Trees**

4. The removal of sound and healthy trees from the unleased land to be subjected to development intend. If the street trees removed, the applicant is to provide at least three trees on each street frontage matching the existing theme. Detailed landscape plans to be provided during design acceptance, including x-section plans showing placement of street trees in relation to all services and other infrastructure. A composite plan showing street trees, all services and other infrastructure is also required. Services should be relocated to fit trees where necessary, or placed in conduit at adequate depth to be well clear of tree planting hole.
5. Super-advanced tree stock may be required if the trees are expected to fit the narrow space and grow above an awning. If large trees are required then an extended consolidation period of 24 months will be required.
6. The new street trees must be of good quality stock; planting detail to meet TaMSD Standard Specifications; planting by a person with horticultural qualifications; the developer is to be responsible for the new trees for a minimum consolidation period of 12 months prior to formal handover to TaMSD.

The above aspects and the other detailed design aspects will be reviewed and assessed during design acceptance.

**Standard Conditions**

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

In accordance with the Public Unleased Land Act 2013 no work is to be undertaken on road verges and other unleased Territory Land without the approval of the Territory. Such approval must be obtained from the Senior Manager, Asset Acceptance, TaMSD by the ways 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.

**Design Acceptance and Operational Acceptance**

A Certificate of Design Acceptance is required for all the off-site works from the Senior Manager, Asset Acceptance, TaMSD, prior to the construction.

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

A Certificate of Operational Acceptance on completion of the works is required from the Senior Manager, Asset Acceptance, TaMSD, prior to the issue of a Certificate of Occupancy.

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

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

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

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

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

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

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

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

#### **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 TaMSD of any existing damage to public facilities.

**Notice of Commencement of Construction**

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

Response:

Pursuant to Section 144 of the *Planning and Development Act 2007*, further information was provided by the applicant.

In regard to items 1, 2, 3, 4, 5, and 6, matters raised have been incorporated as either conditions of approval or advice. Refer to PART 1 CONDITIONS OF APPROVAL in this Notice of Decision.

The following matters raised have been incorporated as either conditions of approval or advice:

- Design Acceptance and Operational Acceptance.
- Temporary Traffic Management (TTM).
- Landscape Management & Protection Plan (LMPP).
- Notice of Commencement of Construction.
- Use of Verges or other Unleased Territory land.
- Repair of Damage to Public Assets.

Refer to PART 1 CONDITIONS OF APPROVAL in this Notice of Decision.

ActewAGL GAS

On 17 June 2013 advice was received from Jemena gas Networks (NSW) Limited in relation to the proposal. The advice states that:

The development application conditionally complies with the Gas Networks requirements.

Response:

Matters raised have been incorporated as advice.

Refer to PART 1 CONDITIONS OF APPROVAL in this Notice of Decision.

ActewAGL WATER AND SEWER

On 26 June 2013 advice was received from ActewAGL Water Division in relation to the proposal. The advice states that:

The development conditionally complies with the ACTEW water and sewerage network access and asset protection requirements.

Response:

Matters raised have been incorporated as advice.

Refer to PART 1 CONDITIONS OF APPROVAL in this Notice of Decision.

ActewAGL ELECTRICITY

On 8 July 2013 advice was received from ActewAGL Electricity Networks Division in relation to the proposal. The advice states that:

The development does not comply with the ActewAGL's Electricity Networks requirements.

Response:

Pursuant to Section 141 of the *Planning and Development Act 2007*, further information was provided by the applicant to address the above, which included ActewAGL Electricity Networks Division advice dated 13 August 2013 stating that the development conditionally complies with ActewAGL's Electricity Networks requirements.

## **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 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.

Pursuant to section 185 of the Act, the approval for the lease variation will expire if the lease variation is not completed two years after the day that approval takes effect.

### Conditional Approval

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

### 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 Sustainable Development 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 [esddcustomerservices@act.gov.au](mailto:esddcustomerservices@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.

In accordance with Part 3.2, item 4 of the *Planning and Development Regulation 2008*, development on land in a town centre is exempt from third-party ACAT review.

# APPENDIX 1

## CONTACT DETAILS OF RELEVANT AGENCIES

<p><b>Health Directorate</b> - health protection</p> <p>Adirenne Carswell</p>	<p>Website: <a href="http://www.health.act.gov.au">www.health.act.gov.au</a> Telephone: (02) 6205 1700</p> <p>Telephone: (02) 6205 4401</p>
<p><b>Environment and Planning Directorate</b></p> <p><i>Planning and land authority</i></p> <ul style="list-style-type: none"> <li>- list of certifiers for building approval</li> <li>- demolition information</li> <li>- asbestos information</li> </ul> <p><i>Environment Protection Authority</i></p> <ul style="list-style-type: none"> <li>- environment protection</li> <li>- water resources</li> <li>- asbestos information</li> </ul> <p><i>Conservation, Planning and Research</i></p> <ul style="list-style-type: none"> <li>- threatened species/wildlife management</li> </ul>	<p>Website: <a href="http://www.actpla.act.gov.au">www.actpla.act.gov.au</a> Telephone: (02) 6207 1923</p> <p>Website: <a href="http://www.environment.act.gov.au">www.environment.act.gov.au</a> Telephone: (02) 6207 6251</p> <p>Website: <a href="http://www.environment.act.gov.au">www.environment.act.gov.au</a> Telephone: (02) 6207 1911</p>
<p><b>Territory and Municipal Services Directorate</b></p> <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>	<p>Website: <a href="http://www.tams.act.gov.au">www.tams.act.gov.au</a> Telephone: 132 281 Telephone for asset acceptance: (02) 6207 7480</p>
<p><b>Utilities</b></p> <ul style="list-style-type: none"> <li>- Telstra (networks)</li> <li>- TransACT (networks)</li> <li>- ActewAGL</li> <li>- Electricity reticulation</li> </ul>	<p>Telephone: (02) 9397 2090 Telephone: (02) 6229 8000 Telephone: 1100 Telephone: (02) 6293 5738</p>

## 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)



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For further information regarding the lodgement of this information please contact Customer Service Centre by Phone: (02) 6207 1923, Fax: (02) 6207 1925 TTY: (02) 6207 2622, 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, 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. 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
ACT Civil and Administrative Tribunal Level 4, 1 Moore Street CANBERRA CITY ACT 2601	Website: <a href="http://www.acat.act.gov.au">www.acat.act.gov.au</a> Email: <a href="mailto:tribunal@act.gov.au">tribunal@act.gov.au</a> Telephone: (02) 6207 1740 Facsimile: (02) 6205 4855 Post: GPO Box 370, CANBERRA, ACT, 2601

POWERS OF THE ACAT

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

APPLICATIONS TO THE ACAT

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

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

TIME LIMITS FOR APPLICATIONS

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

FEES

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

TIME LIMITS FOR REVIEWS OF DECISIONS

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

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

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

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

### AWARDING OF COSTS

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

### ACCESS TO DOCUMENTS ABOUT THE DECISION

You may apply for access to any documents you consider relevant to this decision under the ACT Freedom of Information Act 1989. Information about Freedom of information requests is available on the planning and land authority's web site or by contacting us by phone on (02) 6207 1923.

### PROCEDURES OF THE ACAT

The procedures of the ACAT are outlined on the ACAT's website, including in the Guide to the Land and Planning Division and the Guide to the Hearing. Contact the ACAT for alternative ways to access information about the ACAT's procedures.

TRANSLATION AND INTERPRETER SERVICES

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

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

**TRANSLATING AND INTERPRETING SERVICE****131 450**

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

**APPLICATION TO  
VARY A CROWN LEASE**

Form 044 - AVCL

Land Titles Act 1925

**IMPORTANT INFORMATION**

This form is to be used to lodge an application to vary a crown lease under the *Land Titles Act 1925* (the Act). You can access the Act at [www.legislation.act.gov.au](http://www.legislation.act.gov.au). You may also obtain further information and forms at [www.ors.act.gov.au](http://www.ors.act.gov.au).

**PRIVACY INFORMATION**

The Act authorises the Registrar-General to collect the information required by this form. The Registrar-General provides identifiable information to various agencies including, but not limited to, the ACT Environment and Sustainable Development Directorate, ACT Treasury Directorate, Canberra Connect and ACTEWAGL for conveyancing, municipal account administrative, statistical and valuation purposes. These agencies may also use this information to prepare and sell property sales reports to commercial organisations concerned with the development, sale or marketing of land.

**CONTACT INFORMATION**

Lodge in person at the **Office of Regulatory Services:** 255 Canberra Avenue, Fyshwick ACT 2609  
Office Hours: 9:00am to 4:30pm Monday to Friday  
General enquiries telephone number: (02) 6207 0491  
Website address: [www.ors.act.gov.au](http://www.ors.act.gov.au)

**INSTRUCTIONS FOR COMPLETION**

- The certificate of title or production of title consenting to the registration of this document is required for lodgement.
- All information should be typed or clearly printed. If completing this form by hand please use a solid black pen only.
- This office will not accept lodgement of this form if it is not completed in full.
- Any alteration to information provided on this form must be struck through with a black pen. Substitute information must be clear and all parties must sign in the margin. Do not use correction fluid or tape.
- Ensure all required documents are attached. If there is insufficient space in any panel, please use an Annexure Sheet.
- Execution by:
  - a) **A Natural Person** – Should be witnessed by an adult person who is not a party to the document.
  - b) **Attorney** – if this document is executed by an Attorney pursuant to a registered power of attorney, it must set out the full name of the attorney and the form of execution must indicate the source of his/her authority e.g. "AB by his/her attorney XY pursuant to Power of Attorney ACT Registration No..... of which he/she has no notice of revocation". (This execution requires a witness).
  - c) **Corporation** – Section 127 of the *Corporations Act* provides that a company may now validly execute a document with or without using a Common Seal if the document is signed by:
    - i. Two directors of the company;
    - ii. A director and a secretary of the company; or
    - iii. Where the company is a proprietary company and has a sole director who is also the sole company secretary, that director. (This execution does not require a witness).
- The following forms of execution are suggested –
  - a) **With A Common Seal**  
The common seal of ABC Pty Ltd/Ltd ACN.....  
was affixed in the presence of-  
.....(signature)  
.....(director/secretary)\*  
(\*repeat if necessary i.e. if two directors signing. If signing as sole director and sole secretary, state 'director/secretary') – (This execution does not require a witness).
  - b) **Without A Common Seal**  
Signed by ABC Pty Ltd/Ltd ACN.....  
.....(signature)  
.....(director/secretary)\*  
(\*repeat if necessary i.e. if two directors signing. If signing as sole director and sole secretary, state 'director/secretary') – (This execution does not require a witness).



**ACT**  
Government

Justice and Community Safety

LAND TITLES  
OFFICE OF REGULATORY SERVICES  
ACT Justice and Community Safety Directorate

## APPLICATION TO VARY A CROWN LEASE

Form 044 - AVCL

Land Titles Act 1925

The Minister or the Delegate of the ACT Planning and Land Authority (the Authority) has agreed to vary the lease as described below, subject to the mortgages, encumbrances and other instruments affecting the land including any created by dealings lodged for registration prior to the lodging of this document. (Note – This form cannot be used to vary a Unit within a Registered Units Plan)

### LODGING PARTY DETAILS

Name	Postal Address	Contact Telephone Number

### TITLE AND LAND DETAILS

Volume & Folio	District/Division	Section	Block
TBA	PHILLIPL	3	TBA

### FULL NAME OF REGISTERED PROPRIETOR/S (Surname Last)

(ACN required for all companies)

### FULL POSTAL ADDRESS

WODEN TRADESMEN'S UNION CLUB INCORPORATED  
A.C.N. 098 643 237 (TBA)

c/o Mr Stephen Brennan  
PO Box 498 Dickson ACT 2602 (TBA)

### LEGISLATIVE PROVISION TO VARY CROWN LEASE

I, INSERT NAME, being a delegate of the Planning and Land Authority, APPLY to you to register the variation which has been made to the Crown lease of the land described above. An approval of the Variation of Lease is submitted herewith in accordance with Section 72A of the Land Titles Act 1925.

### DETAILS OF DELETED CLAUSES (no longer applicable after registration)

N/A

DETAILS OF VARIATION

AUSTRALIAN CAPITAL TERRITORY  
PLANNING AND DEVELOPMENT ACT 2007  
VARIATION OF A LEASE

Under the *Planning and Development Act 2007* I, insert name, approve the variation of Crown lease specified hereunder:

**CURRENT PROVISIONS**

3(a) To use the land for one or more of the following purposes:

- (i) club
- (ii) commercial accommodation use LIMITED to hotel with a maximum of 180 commercial accommodation units;
- (iii) shop provided that the maximum gross floor area does not exceed 1453 square metres;
- (iv) indoor recreation facility LIMITED to gymnasium;
- (v) non retail commercial use PROVIDED that the maximum gross floor area does not exceed 5999 square metres;
- (vi) community use LIMITED to child care centre and health facility PROVIDED that the gross floor area for health facility shall not exceed 713 square metres;
- (vii) residential use LIMITED to multi-unit housing for not more than 184 dwellings;

PROVIDED ALWAYS THAT the combined gross floor area for all uses (i) to (vi) above shall not exceed 22,200 square metres;

FURTHER PROVIDED THAT if the land is to be used for residential use above then clauses (d), (e), and (f) of this clause shall come into effect

**AMENDED PROVISIONS**

3(a) To use the land for a car park LIMITED TO a public car park, PROVIDED THAT a minimum of 127 car parking spaces are made available for public use at all times,

**AND IN ADDITION THERETO** the premises may also be used for one or more of the following purposes:

- (i) club;
- (ii) commercial accommodation use LIMITED TO hotel with a maximum of 180 commercial accommodation units;
- (iii) community use LIMITED TO child care centre and health facility PROVIDED THAT the gross floor area for health facility shall not exceed 713 square metres;
- (iv) indoor recreation facility LIMITED TO gymnasium;
- (v) non retail commercial use PROVIDED THAT the maximum gross floor area does not exceed 12,500 square metres;
- (vi) shop PROVIDED THAT the maximum gross floor area does not exceed 1,453 square metres;
- (vii) place of assembly; and
- (viii) residential use LIMITED TO multi-unit housing for not more than 184 dwellings;

PROVIDED ALWAYS THAT:

(A) the combined gross floor area for car park and all uses at (i) to (vi) above shall not exceed 22,200 square metres; and

(B) if the land is to be used for residential use above then clauses (d), (e), and (f) of this clause shall come into effect;



**INSERTED PROVISIONS**

Delete the full-stop '.' at the end of sub-clause 1(hh) and replace it with a semi-colon ';' and insert the following sub-clauses:

- (ii) "car park" means the use of land specifically allocated for the parking of motor vehicles;
- (jj) "place of assembly" means the use of land for gatherings of people to attend functions, whether or not for the purposes of gain;

**(NOTE: clause numbers may be altered subject to the final consolidated Crown lease subject to DA No. 2011201244.)**

**EXECUTION BY ACT PLANNING AND LAND AUTHORITY**

Signed by the person duly authorised by ACT Planning and Land Authority  
(Please print full name of authorised signatory)

Print full name and address of witness

Signature of witness

Dated -

Dated -

<b>OFFICE USE ONLY</b>			
Lodged by		Certificate of title lodged	
Data entered by		Certificates attached to title	
Registered by		Attachments / Annexures	
Registration date		Production number	



**ACT**  
Government

Environment and  
Sustainable Development

## APPLICATION FOR THE GRANT OF A LICENCE (minor encroachment only)

### PART 1 - APPLICANT DETAILS

*If space provided is insufficient, please attach separate pages.*

**LICENSEE** (*as is to appear on licence*)

NAME	
ACN OR ABN	
ADDRESS	
CONTACT PHONE No	

**APPLICANT** (*if different from Licensee*)

NAME	
ADDRESS	
CONTACT PHONE No	

**BRIEF DESCRIPTION OF ORGANISATIONS ACTIVITIES/SERVICES**

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### PART 2 - THE PROPOSAL

**PROPOSED USE OF LAND**

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### PART 3 – BLOCK DETAILS

**LAND ADJACENT TO:**

**BLOCK** \_\_\_\_\_

**SECTION** \_\_\_\_\_

**DIVISION/DISTRICT** \_\_\_\_\_

**STREET ADDRESS** \_\_\_\_\_

**DEVELOPMENT APPLICATION No (if applicable)** \_\_\_\_\_

## PART 4 - THE DEVELOPMENT

TYPE OF BUILDING (eg awning, sign etc):

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### ENCROACHMENT LOCATION PLAN

*plan should show area of unleased land for proposed encroachment and include the following;*

- All elevations and dimensions including area;
- Block boundaries and location of encroachment in relation to the building, adjacent Territory land and/or public roads

### INSURANCE DOCUMENTS:

From 1 October 2005, the level of public liability insurance required by a proposed licensee of unleased Territory land is now determined by a legislated process.

Under this legislation in general terms, the licensee will be required to:

1. nominate each and all of the proposed activities on Territory land or premises ("Premises");
2. incorporate those activities in a schedule to the licence (Activity Schedule);
3. register and create a risk profile on [www.insuranceriskadvice.act.gov.au](http://www.insuranceriskadvice.act.gov.au);
4. take out a public liability insurance policy in accordance with the risk rating; and
5. submit a certificate of currency of insurance to the custodian department.

**\*\* Your insurance policy must be approved by the ACT Insurance Agency (ACTIA) and a copy of that approval is required to be submitted also.**

SIGNED:

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DATE:

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### REQUIREMENTS & CHECKLIST

Have you attached:

- |   |                          |     |
|---|--------------------------|-----|
| A plan showing encroachment and surrounding area as per application | <input type="checkbox"/> | Yes |
| Insurance documentation   | <input type="checkbox"/> | Yes |
| The application fee   | <input type="checkbox"/> | Yes |
| Risk profile  | <input type="checkbox"/> | Yes |



**ACT**  
Government

Environment and  
Sustainable Development

## APPLICATION FOR THE GRANT OF A LICENCE (minor encroachment only)

### PART 1 - APPLICANT DETAILS

*If space provided is insufficient, please attach separate pages.*

#### LICENSEE (*as is to appear on licence*)

NAME	
ACN OR ABN	
ADDRESS	
CONTACT PHONE No	

#### APPLICANT (*if different from Licensee*)

NAME	
ADDRESS	
CONTACT PHONE No	

#### BRIEF DESCRIPTION OF ORGANISATIONS ACTIVITIES/SERVICES

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### PART 2 - THE PROPOSAL

#### PROPOSED USE OF LAND

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### PART 3 – BLOCK DETAILS

#### LAND ADJACENT TO:

BLOCK \_\_\_\_\_

SECTION \_\_\_\_\_

DIVISION/DISTRICT \_\_\_\_\_

STREET ADDRESS \_\_\_\_\_

DEVELOPMENT APPLICATION No (If applicable) \_\_\_\_\_

## PART 4 - THE DEVELOPMENT

TYPE OF BUILDING (eg awning, sign etc):

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### ENCROACHMENT LOCATION PLAN

*plan should show area of unleased land for proposed encroachment and include the following;*

- All elevations and dimensions including area;
- Block boundaries and location of encroachment in relation to the building, adjacent Territory land and/or public roads

### INSURANCE DOCUMENTS:

From 1 October 2005, the level of public liability insurance required by a proposed licensee of unleased Territory land is now determined by a legislated process.

Under this legislation in general terms, the licensee will be required to:

1. nominate each and all of the proposed activities on Territory land or premises ("Premises");
2. incorporate those activities in a schedule to the licence (Activity Schedule);
3. register and create a risk profile on [www.insuranceriskadvice.act.gov.au](http://www.insuranceriskadvice.act.gov.au);
4. take out a public liability insurance policy in accordance with the risk rating; and
5. submit a certificate of currency of insurance to the custodian department.

**\*\* Your insurance policy must be approved by the ACT Insurance Agency (ACTIA) and a copy of that approval is required to be submitted also.**

SIGNED:

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DATE:

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### REQUIREMENTS & CHECKLIST

Have you attached:

A plan showing encroachment and surrounding area as per application

Yes

Insurance documentation

Yes

The application fee

Yes

Risk profile

Yes