

Planning and Development Act 2007

Development Application

Application Number: **202037865**

Before Starting

PLEASE NOTE: This wizard will time out if left inactive for a period of more than two hours, after which time you will lose your application and be required to complete a new wizard. It is recommended you **save** this session if it is to be left inactive for an extended period of time.

Please ensure that your screen is set to the highest resolution (e.g. 1280 by 1024 pixels) to ensure all content in the wizard is visible.

Type of Application

The type of application you are applying for is a **New Application**

Are you applying for a:

Development Application

Has a pre-application meeting been held in relation to this proposal?

Yes

Lease/Site Details

Site Number: 1

If your rural property is identified by a Block/Section/Suburb, please select the "Urban" radio button.

Urban

Suburb

Section

Block Number

Unit Number

Street Address

Applicant Details

What type of applicant are you:

Business

ACN or ABN

95159090294

Company Name

Blak Plan Pty Ltd/Trading as Knight Frank Town Planning

Position held / Title

User

Salutation

Mr

First Name

Joshua

Surname

O'Connor

Postal Address 1

PO Box 248

Postal Address 2

Postal Address 3

Suburb

Civic Square

State/Territory

ACT

Postcode

2608

Country

Australia

Phone Number

62307855

Fax Number

Mobile Number

Email

planning.act@au.knightfrank.com

Lessee (Property Owners) Details

Lessee Number: 1

Is the Lessee a:

 Registered company

Australian Company Number (ACN)

065245972

Company Name

St Nicholas School Ltd

Position held / Title

Director

Salutation

None

First Name

Athena

Surname

Cotis

Postal Address 1

c/o - JGS Property

Postal Address 2

Level 3

Postal Address 3

113 Canberra Avenue

Suburb

Griffith

State/Territory

ACT

Postcode

2603

Country

Australia

Phone Number

0435334811

Fax Number

Mobile Number

Email

Belen.Barcenilla@jgsproperty.com.au

Notice of Decision and Plans

Please specify the delivery method for the return of plans. Unless otherwise specified, your Notice of Decision and/or plans will be returned via email.

Email

Are you applying for an *Estate Development Plan* OR *Home Business*?

No

Zone

Please specify which zone applies to this application (please select one zone only). Please click [here](#) to access ACTMAPi and locate the zone.

CFZ Community facility zone

If more than one zone is applicable to your application, please specify them below:

Development/Precinct Code

Please specify which development code applies to this application.

Community Facility Zone Development Code

Please specify all relevant precinct code/s applied to your proposal
Yarralumla Precinct Map and Code

Fully Describe Your Proposal

Please provide a full description of your proposal (Note: This must accurately describe all aspects of your proposal and include any lease changes being applied for.)

Design and siting and lease variation DA.

The design and siting DA proposes an extension to the north of the existing childcare centre to increase the centre space with additional cot rooms for sleeping, and education/activity area, preparation area and toilet facilities. The extension will be connected to the existing centre via a link into the existing corridor. Proposed works also include demolition and construction of a new waste enclosure, which will increase onsite capacity for storage of both waste (recycling and general) and miscellaneous equipment. Tree removal and associated works.

Crown lease purpose clause variation to increase the number of children to a maximum of 60.

Proposed Use of the Land

Describe the use of the development. **Example:** Office, childcare facility, gymnasium. (Note: Please refer to the Territory Plan definitions for land use definitions. Please also consider what is

permitted under any Crown Lease for the site.)

Childcare centre.

Is the proposed use consistent with the current Crown lease?

Yes

Assessment Track

Please indicate which assessment track applies to this Development Application: (If you are not sure which assessment track applies, please contact Environment, Planning and Sustainable Development Directorate on (02)62071923)

Merit

Has an Environmental Significance Opinion been sought for this proposal?

No

For more information about which track your development application will be assessed in, please click [here](#). *Please note, the Environment, Planning and Sustainable Development Directorate may refuse to accept a development application made in an incorrect assessment track. If the Environment, Planning and Sustainable Development Directorate assesses an application made in the incorrect assessment track it must refuse the application (S.114 (3)).*

Type of Development

Please indicate which type of development applies to this development application.

Community Use (includes Institutional)

Lease Variation

Does this proposal involve a variation to a Units Plan?

No

Please select a [Lease Variation](#) sub type:

Clause Changes

Nominating Remission

Are you seeking remission under the Planning and Development (Remission of Lease Variation Charges - Economic Stimulus and Sustainability) Determination 2014 (No 1) (DI-2014-48)?

No

Community Use

Please select a Community Use sub type:

Additions/Alterations to existing building

Do the additions exceed 1 storey in height?

No

Community Consultation Summary

Is this proposal -

A building for residential use with 3 or more storeys and 15 or more dwellings?

No

A building with a gross floor area of more than 5000m²?

No

A building or structure more than 25m above finished ground level?

No

A variation of a lease to remove its concessional status?

No

Please Note A development application cannot be lodged if the development proposal meets one of the triggers and the application does not include the pre-DA lodgement community consultation form.

Gross Floor Area (GFA) and Cost of Works

Please ensure that all values contain a decimal point followed by two digits

Gross Floor Area Calculation

A - Gross Floor Area (existing) (m²)

328.5

B - Gross Floor Area to be demolished (m²)

0.00

C - Gross Floor Area to be added (m²)

139.2

D - Total Gross Floor Area of development (A-B+C)(m²)

467.7

E - COST OF WORKS (\$)

490000.00

Other Area Calculation (not already included in the areas provided above)

F - Area of other BCA Class 10 structures included in this application
(e.g. metal carport, pergola, deck, verandah) (m²)

G - Parking areas – undercover

H - COST OF WORKS (F & G) (\$)

Cost of Associated Works

I - Cost of all associated works such as landscaping (\$)

J - Cost of all public works and/or off site works (\$)

K - TOTAL COST OF WORKS (E+H+I+J)

Cost of works **MUST be calculated in accordance with the current version of [Building \(General\) \(Cost of Building Work\) Determination](#) OR a summary of costs from a bill of quantities prepared by a quantity surveyor supplied with application. A summary of costs from a bill of quantities **MAY** be requested for proposals where cost of work is between \$0 and \$10 million. A summary of costs from a bill of quantities **MUST** be provided for proposals where cost of work is over \$10 million.*

Demolition, Trees

Demolition

Is the [Demolition](#) item relevant to your proposal?

No

Trees

Is the Trees item relevant to your proposal?

Yes

Have you provided Entity Endorsement?

No

Have you provided required documentation for [referral](#) to Entity?

Yes

Heritage

Heritage

Is the *Heritage* item relevant to your proposal?

No

Hazardous Materials, Contamination, Erosion and Sediment Control

Hazardous Material

Is the Hazardous Materials item relevant to your proposal?

No

Contamination

Is the Contamination item relevant to your proposal?

No

Erosion and Sediment Control (for sites less than 0.3 of a hectare)

Is the Erosion and Sediment Control (for sites less than 0.3 of a hectare) item relevant to your proposal?

No

For works such as class 10 structures, additions and alterations, and backyard swimming pools - a note on the plan that "the development will comply with the ACT Environment Protection Authority, Environment Protection Guidelines for Construction and Land Development in the ACT" is required. In circumstances where there is a reasonable risk that soil from the required earth works in the front of the block will impact on the stormwater system because the block slopes towards the street a separate Erosion & Sediment Control Plan will be required

Erosion and Sediment Control (for sites greater than 0.3 of a hectare)

Is the Erosion and Sediment Control (for sites greater than 0.3 of a hectare) item relevant to your proposal?

No

Servicing & Site Management, Utilities

Servicing and Site Management

Is the Servicing and Site Management item relevant to your proposal?

No

Utilities

Is the *Utilities* item relevant to your proposal?

No

Are you relocating or constructing any new services?(If unsure please contact relevant service providers before submitting this application).

No

Location Requirements

Location Requirements

Is the Location Requirements item relevant to your proposal?

No

Subdivision, National Capital Plan, Crime Prevention, Access & Mobility, Traffic Ge

Subdivision (other than residential zones)

Is the Subdivision (other than residential zones) item relevant to your proposal?

No

National Capital Plan

Is the *National Capital Plan* item relevant to your proposal?

No

Crime Prevention through Environmental Design

Is the *Crime Prevention* item relevant to your proposal?

No

Access and Mobility

Is the *Access and Mobility* item relevant to your proposal?

No

Traffic Generation

Is the Traffic Generation item relevant to your proposal?

Yes

Have you provided a Traffic and Parking Assessment Report/Statement prepared by a suitably qualified consultant?

Yes

Site Access, Parking, Lighting

Site Access

Is the Site Access item relevant to your proposal?

No

Parking (Car)

Is the *Parking (car)* item relevant to your proposal?

Yes

Have you provided documentation that demonstrates how your proposal complies with the requirements of the *Territory Plan*?

Yes

Parking (Bicycle)

Is the *Parking (bicycle)* item relevant to your proposal?

No

Lighting

Is the *Lighting* item relevant to your proposal?

Yes

Have you provided documentation that demonstrates how your proposal complies with the requirements of the *Territory Plan*?

Yes

Signs, Neighbourhood Plans, Water Sensitive Urban Design

Signs

Is the *Signs* item relevant to your proposal?

No

Neighbourhood Plans

Is the *Neighbourhood Plans* item relevant to your proposal?

No

Water Sensitive Urban Design (Mains Water Consumption)

Is the Water Sensitive Urban Design (Mains Water Consumption) item relevant to your proposal?

No

Water Sensitive Urban Design (Stormwater Quality)

Is the Water Sensitive Urban Design (Stormwater Quality) item relevant to your proposal?

No

Water Sensitive Urban Design

Water Sensitive Urban Design (Stormwater Quantity)

Is the Water Sensitive Urban Design (Stormwater Quantity) item relevant to your application?

No

Driveways (For works on verge only)

PLEASE NOTE: For proposals that include construction or modification of a driveway this application **MUST** be signed by the land custodian (Government Land Custodian - Asset Acceptance) as the works will be undertaken on unleased land **EXCEPT FOR DUAL OCCUPANCY DEVELOPMENT PROPOSALS**. For more information on driveways, garages and carports, please click [here](#).

Does your proposal include construction or modification of driveway/s?

No

Survey Requirements - S.139(2)(l) - P & D Act 2007

If this application is for approval of a development that requires construction work to be carried out on land that has previously been developed and is not leased for rural purposes, a survey certificate for the land where the development is to be carried out (prepared and signed by a registered surveyor) must accompany this application unless exempt by Regulation 25 of the [Planning and Development Regulations 2008](#)

Do you have a [survey certificate](#) with this application?

Yes

Development Undertaken Without Approval - S.205 - P & D Act 2007

Is this application for development undertaken without approval?

No

*If YES - Under Section 139(2)(m) of the Planning and Development Act 2007, plans of the development signed by a registered surveyor confirming the location and dimensions of the development **must** be submitted with this application. The plans need to confirm the height, width and length dimensions of the development and the setback dimensions of the development from the block boundaries. The information may be provided on one plan or on a series of plans provided each plan is signed by a registered surveyor. Note: For all unapproved development involving construction the location and nature of earthworks, utility connections, proposed buildings, pavements and landscape features must comply with utility standards, access provisions and asset clearance zones. For more information on development exempt from approval, please click [here](#). For more information on development applications for developments undertaken without approval, please refer to S205 under the [Planning and Development Act 2007](#)*

Exclusion from Public Inspection

In accordance with the requirements of Sections 28 and 30 of the [Planning and Development Act](#)

2007, the Environment, Planning and Sustainable Development Directorate must make the details and associated documents relevant to a development application available for public inspection.

If you wish to apply to have all or part of this development application excluded from public inspection, you must meet the requirements of Section 411(5) or 412(1) of the Planning and Development Act 2007

Are you requesting an exclusion from [Public Inspection](#)?

No

Conflict of Interest Declaration

Does the applicant or the lessee have any association with the Environment, Planning and Sustainable Development Directorate staff?

No

NOTE: There are penalties for deliberately giving false and misleading information. The Planning and Land Authority or Minister may revoke an approval if satisfied that the approval was obtained by fraud or misrepresentation

Applicant/Lessee Declaration

I/we hereby apply for approval to carry out the development described on the land specified in this application;

I/we declare that this application is accompanied by all of the required information or documents that address the relevant rules and/or relevant criteria for it to be considered for approval;

I/we understand that the information submitted with this application form will undergo a documentation check prior to the payment of fees and formal lodgement of the application. Further information may be required prior to the acceptance of the development application by the Directorate;

I/we have provided all relevant documentation in accordance with the [minimum documentation requirements for lodgement of a Development Application \(DA\)](#). Please note, a fee may be charged if your application does not contain all the required documentation;

I/we understand that this application will be considered lodged once the relevant application fees have been paid;

I/we understand that if during the assessment of this application it is found to have been submitted in the incorrect assessment track the application will be refused and I/we will not be entitled to a refund or transfer of fees;

I/we understand that the documentation provided on CD/DVD or via the electronic lodgement process will be considered to be the relevant documentation associated with this application. All

development application documentation will be made available for *public inspection* including via the Internet unless exclusion has been approved;

If the time for deciding the application (prescribed period) has ended and a decision has not been reached I/we understand that the application will be deemed refused and the Environment, Planning and Sustainable Development Directorate will not provide written advice of this decision. I/we also understand that the Environment, Planning and Sustainable Development Directorate is able to still consider the application and make a decision after the expiration of the prescribed period;

I/we hereby authorise the Environment, Planning and Sustainable Development Directorate its servants and agents to erect sign/s on the subject property(s) as required;

I/we hereby authorise ACT Government officers to access the subject property(s) for the purpose of evaluating the proposal(including the inspection of driveways and trees);

I/we (lessee) appoint the applicant whose signature appears in the attached *letter of appointment* to act on my/our behalf in relation to this Development Application. This authorises the applicant to pay all application fees, bonds and securities, liaise with the Environment, Planning and Sustainable Development Directorate when required, alter, amend or provide further information as necessary and receive any communications relating to this Development Application;

I understand that costs associated with the relocation of any engineering services (light poles, storm water, sumps etc) will be at my expense and that I will indemnify the ACT Government, its servants and agents against any claims arising during the relocation of these services;

I understand that construction of any driveway associated with this application may not commence until the contractor has received endorsement by the relevant government entity;

I understand that a Certificate of Design Acceptance and a Road Opening Permit and Temporary Management Plan must be obtained from the relevant government agencies prior to the start of construction works;

I/we declare that all the information given on this form and its attachments is true and complete;

If lodging on behalf of a company, organisation or Government agency: -

I/we declare I/we have the appropriate delegation or authority to sign on behalf of the company, organisation or Government agency.

I declare that I am the person shown in this eDA form as the Applicant, and by clicking the ACCEPT button below I understand that this replaces my requirement to sign a hard copy of this application.

I accept the above declarations

Accept

Acceptance date

21 Oct 2020

Before Submitting

You have almost completed the first stage of your Development Application/Pre-Application request. **PLEASE ENSURE YOUR WIZARD SESSION IS SAVED BEFORE PROCEEDING.** This will enable you to resume your session in the event of a system outage or other interruption.

When you click on Finish below, you will be navigated to a new page which will enable you to upload any associated plans/documents prior to submitting to EPSDD for review.

Development applications (DAs) can be delayed unnecessarily because EPSDD does not have all the information it needs to undertake an assessment and make a decision.

To avoid delays ensure all required sections of the wizard are answered correctly and all required documentation is uploaded. In particular:

1. A signed appointment letter from all lessee's must be provided if works are to performed on the verge, a signed endorsement letter must be provided by the relevant Government Custodian;
2. Public register plans for residential applications are included;
3. You **MUST** include a statement against the criteria for development applications that will be assessed in the Merit track;
4. If the application is for a single unit on a unit titled block body corporate authorisation is required if there is works on a common property

If you are still not sure how to proceed or want to ensure you have everything you need for your application, you can call the Land, Planning and Building Services Shopfront on 6207 1923 and ask to speak with a technical officer.

Privacy Notice

The personal information on this form is provided to the Environment, Planning and Sustainable Development Directorate (EPSDD) to enable the processing of your application. The collection of personal information is authorised by the Planning and Development Act 2007. If all or some of the personal information is not collected EPSDD cannot process your application. The Planning and Development Act 2007 requires the details of applications, decisions and orders to be kept on a register and made available for public inspection. Information and documentation relevant to a development application may be made available via the Internet. The personal information you provide may be disclosed to Australian Bureau of Statistics, ACT Revenue Office, the Registrar General's Office, ACTEW Corporation, ActewAGL, Territory and Municipal Services Directorate and other Government agencies with a direct interest in the development assessment process. The information may also be disclosed where authorised by law or court order, or where the Directorate reasonably believes that the use or disclosure of the information is reasonably necessary for enforcement-related activities conducted by, or on behalf of, an enforcement body. EPSDD's Information Privacy Policy contains information about how you may access or seek to correct your personal information held by EPSDD, and how you may complain about an alleged breach of the Territory Privacy Principles. The EPSDD Information Privacy Policy can be found at www.environment.act.gov.au

Does the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 (EPBC) affect your proposal?

The EPBC came into operation on 16 July 2000. It establishes an environmental assessment and approval system that is separate and distinct from the ACT system. It does not affect the validity of ACT development assessment and approval processes, but may affect the assessment track. The ACT cannot provide preliminary advice on whether a proposal falls within the definition of a controlled action, or requires referral to the Commonwealth. You should consult with the Commonwealth to determine if your proposal is a controlled action before seeking any approvals under the Planning and Development Act 2007. For information about the EPBC, including the referral process and when a referral should be made, contact: the Department of Sustainability, Environment, Water, Population and Communities, GPO Box 787, CANBERRA ACT 2601 Telephone: 62741111

Contact Details: Environment, Planning and Sustainable Development Directorate, Land, Planning and Building Services Shopfront, GPO Box 158, Canberra City 2601, 8 Darling Street, Mitchell ACT 2911 Business Hours: 8.30am to 4.30pm weekdays (excluding Public Holidays) Phone: (02) 6207 1923 Email: epdcustomerservices@act.gov.au Website: www.environment.act.gov.au



NOTICE OF DECISION

UNDER PART 6 OF THE *LAND (PLANNING AND ENVIRONMENT) ACT 1991*

APPLICATION NO: 200601605 DATE LODGED: 03 April 2007
200601605A 26 September 2007
200601605B 26 September 2007

BLOCK : 2 SECTION : 62 SUBURB : YARRALUMLA
ADDRESS: 1 Hill Corner
APPLICANT : St Nicholas School Ltd
LESSEE : St Nicholas School Ltd

1.0 THE PROPOSAL

The application seeks approval for:

- (a) the demolition of existing building;
- (b) the erection of a new single storey pre school to accommodate 40 children;
- (c) a variation to the Crown lease to increase the number of children permitted to 40 Children; and
- (d) associated landscaping, car parking, paving and other site works.

2.0 THE DECISION

The "relevant authority" in relation to this application as defined in section 222 of the *Land (Planning and Environment) Act 1991* ("the Land Act"), is the Planning and Land Authority.

I, *Maggie Chapman*, delegate of the Planning and Land Authority, pursuant to section 230 of the Act hereby **approve** the application subject to the following conditions imposed pursuant to section 245 of the Act.

CONDITIONS RELATING TO THE VARIATION OF A CROWN LEASE

Commencement of Building Work

1. that no building work in relation to this development application is to commence on the site until the Instrument of Variation is registered at the Registrar-General's Office;

Change of Use Charge

2. that if a "Change of Use Charge" is payable, the lessee shall pay it within 28 days of being notified of the amount or within such further time as may be approved by the Planning and Land Authority;

Lease Variation by Instrument

3. that the provisions of the Crown lease over Block 2 Section 62 Division of Yarralumla - (Volume 1651: Folio 89) be varied as follows:

amend clause 3(a) to read as follows:

to use the premises only for the purpose of a pre- school and child care centre for a maximum of 40 children;

Registration of Instrument

4. that the lessee shall do all that is necessary to ensure that the Instrument of Variation giving effect to this approval is registered at the Registrar-General's Office within 14 days of being notified that the Instrument of Variation is available for registration or within such further time as may be approved by the Planning and Land Authority;

CONDITIONS RELATING TO THE ERECTION OF A BUILDING AND ASSOCIATED WORKS***General***

5. that the development is to be carried out only in accordance with the following:
 - (a) drawings by Atelier 13, Drg No. DA.01, dated Nov 06, titled;
 - (i) Site and Roof Plan, Drg No. DA.01;
 - (ii) Ground floor plan, Drg No. DA.02;
 - (iii) Elevations, Drg No. DA.03;
 - (iv) Section A-A and East Elevations, Drg No. DA.04;
 - (b) drawings by CIA Landscape + color, dated, Feb 07, titled;
 - (i) Landscape Management Plan, Drg No. LMP01;
 - (ii) Landscape Management Plan, Drg No. LMP02; and
 - (c) exterior finishes sample board lodged with the application; and

- (d) any amendments to those drawings or other items and additional drawings or other items approved or accepted in accordance with the following conditions;

Where there is an inconsistency between the drawings and items listed above and the following conditions, the conditions shall firstly prevail, then the amended or additional drawings or items, to the extent of that inconsistency;

Further Information Required

6. that 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) a revised site plan, based on the relevant drawing listed in the previous condition, showing:
 - (i) all car parking spaces required for the development by the ACT Parking and Vehicular Access Guidelines accommodated on site;
 - (ii) manoeuvring area for car parking and exiting demonstrated with turning circles consistent with the requirements of AS 2890;
 - (iii) front setbacks of the development to meet the acceptable standards of Schedule 2, Part B4 of the Territory Plan except for the equipment store which may be located adjacent to the south west boundary to the satisfaction of the Authority;
 - (iv) driveway crossing to be consistent with the requirements of Asset Acceptance for layout, materials and structure;
 - (v) the building reduced in scale, with the roof considerably reduced in height and with articulation and appropriate openings addressing the street front boundaries to the satisfaction of the Authority;
 - (vi) waste, recycling bins and storage area to be relocated to the south east of the main building;
 - (vii) the public footpath on Maxwell Street to be realigned outside of the block boundary in accordance with the requirements of Asset Acceptance, Territory and Municipal Services (TAMS);
 - (viii) any changes recommended by item (e) below;

- (b) revised architectural drawings, based on the relevant drawings listed in the previous condition, showing:
 - (i) any changes required to the design with respect to condition (a) above incorporated in the drawings;
 - (c) a revised landscape plan, based on the relevant drawing listed in the previous condition, showing:
 - (i) proposed vegetation including existing and proposed trees (increasing the number of trees on site) and paving to the satisfaction of the Authority;
 - (ii) revised Tree Management Plans providing details and impact of the development including earthworks and paving within the tree protection zone of protected and retained trees in accordance with the requirements of Environment Protection, TAMS;
 - (iii) the public footpath consistent with condition (a) vii;
 - (d) revised landscape management and protection plan and details identifying protective measures including protective fencing around the Tree protection zone of existing trees in accordance with the requirements of Tree Protection Unit, Environment Protection, TAMS;
 - (e) a traffic and parking impact statement to assess the impact that the proposal may have on the surrounding streets in accordance with the requirements of the Asset Acceptance, Territory and Municipal Services;
 - (f) an updated tree assessment identifying existing trees in and around the block;
 - (g) a cable reticulation plan, prepared by a suitably qualified person and endorsed by each relevant service provider, showing:
 - (i) underground reticulation of all cables (including electricity, telephone and data) to each house;
 - (ii) relevant points of connection;
- Note:** no new poles should be erected.
- (h) A revised exterior finishes sample board incorporating any new articulating elements from condition 6, (a), (v)

Completion

7. that the approved development shall be completed within 24 months from the date of this approval or within such further time as may be approved in writing by the Planning and Land Authority;

Notes:

1. *Under section 251 of the Land Act this approval will expire if the development is not commenced within two years after the date of approval. There is no provision in the Land Act to extend the period specified for commencement.*
2. *Under section 252 the applicant may apply to the Planning and Land Authority for any extension to the period specified for completion, but such an application must be made within the original period specified for completion.*

Unleased Territory Land

8. that, 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 Landscape Management Plan (LMP) approved by the Manager Asset Acceptance, Asset Management Services Group, TAMS. This plan is to be approved and implemented before the commencement of works, including demolition, on the site and is to be in accordance *City Management Guidelines for the Protection of Public Landscape Assets Adjacent to Development Works-REF-04*.
9. that the public footpath is to be continuous across the driveway verge crossing, ie. the footpath is to have precedence;
10. that the existing concrete footpath shall be retained or, if it is to be replaced, it is to be reconstructed in concrete at the same level and with a finish and colour as close to the original concrete as possible, to the satisfaction of the Planning and Land Authority;
11. that the proposed driveway verge crossing shall be constructed at the applicant's expense in, generally in accordance with TAMS driveway Type R as shown on TAMS Drawing DS5-01, or equivalent;

Note: *see Appendix 1 for more information in relation to other approvals required for work on unleased Territory land.*

Tree Protection

12. that the applicant/lessee shall protect and maintain in accordance with Canberra Landscape Guidelines 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/or a Tree Management Plan. Tree protection fencing, if required, shall be erected prior to the commencement of any work on the site;

Note: A Tree Management Plan is required 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 under the Tree Protection Act 2005. Appendix 1 contains relevant advice.

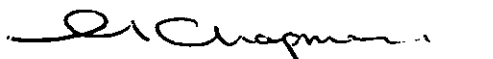
3.0 DATE THAT THIS APPROVAL TAKES EFFECT

Unless a condition of approval provides for otherwise this approval is effective four weeks from the date of notification of the decision to those who have objected under s237 of the Land (Planning and Environment) Act. The effective date could be adjusted if the approval is reconsidered by the Planning and Land Authority or if an application for a review of the decision is made to the ACT Administrative Appeals Tribunal. To ascertain the date the approval comes into effect, please contact our Applications Secretariat, Customer Services.

4.0 REASONS FOR THE DECISION

The application was approved because, in the form modified by the imposed conditions, it was considered to be consistent with the Territory Plan. An assessment against the Territory Plan, a list of the evidence relied upon in reaching the decision and other information related to the proposal, and an assessment of the pertinent issues raised in public submissions are included in the Findings on Material Questions of Fact attached to this document.

The key issues identified in the assessment are the proposed parking in the verge, impact on existing traffic, impact of the reduced setback, building address to the streets and landscape management plan identifying protective measures around the protected trees. Conditions have been imposed to address the key issues and ensure that the proposal is consistent with the Territory Plan.



Maggie Chapman
Delegate of the Planning and Land Authority
3 October 2007

FINDINGS ON MATERIAL QUESTIONS OF FACT

APPLICATION NO.: 200601605, 200601605A & 200601605B
BLOCK 2 SECTION 62 SUBURB YARRALUMLA

1.0 FINDINGS

1.1 Statutory Requirements

The proposal involves:

- (a) the erection, alteration or demolition of a building or structure on or under the land;
- (b) the carrying out of earthworks or other construction work on or under the land; and
- (c) a variation to the Crown lease of the land;

which constitutes "development" as defined by section 222 of the Land Act and which is subject to the provisions of Part 6 of that Act.

Under section 8 of the Land Act, the relevant authority cannot "do any act, or approve the doing of any act" that is inconsistent with the Territory Plan. The Land Act also specifies certain matters that are to be taken into account in an assessment of an application, most of which are contained in the Territory Plan. The relevant provisions of the Territory Plan are addressed in Section 1.6 below.

1.2 Time Frames for Decision

The application was lodged on 03 April 2007. Under the Land (Planning and Environment) Regulations the prescribed time for a decision is 45 working days, ie by 8 June 2007

Under section 230(2) of the Land Act the relevant authority is taken to have refused to approve an application if he or she fails to make a decision in relation to the application before the expiration of the prescribed period.

However, pursuant to section 230(3) of the Act the relevant authority may approve an application at any time after the expiration of the prescribed period until the ACT Administrative Appeals Tribunal has finally dealt with an application for review of the "deemed refusal" or until 6 months has elapsed from the date of lodgement. Six months from the date of lodgement is 3 October 2007

1.3 Description of Proposal

The application seeks approval for:

- (e) the demolition of existing building;

- (f) the erection of a new single storey pre school to accommodate 40 child spaces;
- (g) a variation to the Crown lease to increase the number of children permitted to 40 Children; and
- (h) associated landscaping, car parking, paving and other site works.

The proposal is described in drawings and supporting documents submitted as part of Development Application Number 200601605, 200601605A and 200601605B.

After the completion of the assessment, the applicant was informed of the departures of the proposal from the requirements of the Territory Plan. Particularly the applicant was advised of the departures of the proposal from the front setback requirements, building address to the streets and the requirement for demonstrating the turning circles for car parking on site. A traffic and parking impact statement and on site parking requirement was also advised as part of TAMS requirement.

The applicant agreed to revise the drawings and submitted revised concept plans to demonstrate the design. The revisions to the design are imposed as conditions of approval.

1.4 Site and Surrounds

The subject site has an area of 1839 square metres. An open space Block 3 Section 62 adjoins the southeastern side of the block. Blocks 2 and 3 together form an island surrounded by Hill Corner Street towards east, south and south west, Weston Street to North and Maxwell street to west.

The site is surrounded by one and two storey residential developments with masonry construction and pitched roofs. Oak (*Quercus* sp) trees form part of the streetscape adjoining the block.

The site has a gentle slope of 2 metres from southwestern side to northeastern side of the site. The block contains a single storey building that is being used as a pre school located towards the southwestern side of the block (towards Hill corner street). Vegetation comprises few trees along the northern side of the block. Stumps of two trees exist towards the south eastern side of the block.

1.5 Crown Lease

The current Crown lease was granted under the Land (Planning and Environment) Act 1991 for a period of 99 years commencing on 3 June 1998 for the purpose of pre-school and childcare centre for a maximum of 18 Children.

The lease is being varied to accommodate 40 children.

1.6 Assessment Against the Territory Plan

1.6.1 Land Use Policies – Part B

Clause 9.1(a) of Part A3 provides that the proposal cannot be approved if it is inconsistent with the B4 Community Facilities Land Use Policies. These policies comprise “objectives” and “controls”, as follows.

Objectives

- a) ensure that adequate sites are available to meet community needs for community services and facilities in appropriate and accessible locations;
- b) *enable the efficient use of sites by allowing a broad range of uses appropriate for the location on sites;*
- c) *provide sites for adaptable and affordable housing for people in need of supportive housing and residential care ;*
- d) *provide sites for emergency services which are within response times for their areas of coverage;*
- e) *safeguard the amenity of surrounding residential areas against unacceptable adverse impacts due to the operation of community facilities, such as traffic, parking, noise, or loss of privacy.*

It is considered that the proposal meets these objectives with conditions imposed.

Controls

The relevant controls are 2, 3.3, and 3.5.

The proposal is consistent with all controls except control 3.5

3.5 Performance Controls

<i>Performance Criteria</i>	<i>Acceptable Standards</i>
<i>The setback and height of community facility buildings are restricted to minimise their impact on adjacent residential areas.</i>	<i>Minimum Setback to boundary of blocks adjacent to Residential Land Use Policies 6 metres</i> <i>Maximum height of buildings within 30 metres of blocks in Residential Land Use Policy areas ...2 storeys</i>

The proposed development is less than 6 metres by being 2.435 metres and 1.9 metres to Hill Corner and Maxwell Street. Conditions are imposed to meet the setback requirements of the Territory Plan.

1.6.2 Location Guidelines for Community and Recreation Facilities

Clause 9.2(b) of Part A3 provides that the relevant authority must carefully consider any relevant planning guideline or interim guideline contained in the Register of Planning Guidelines. *Location Guidelines for Community and Recreation Facilities* is such a guideline.

The proposal complies with all relevant provisions.

1.6.3 Yarralumla Neighbourhood Plan

Clause 9.2(b) of Part A3 provides that the relevant authority must carefully consider any relevant planning guideline or interim guideline contained in the Register of Planning Guidelines. *Yarralumla Neighbourhood Plan* is such a guideline.

The proposal is not inconsistent with the strategies outlined in Yarralumla Neighbourhood Plan.

1.6.4 ACT Parking and Vehicular Access Guidelines

Clause 9.2(b) of Part A3 provides that the relevant authority must carefully consider any relevant planning guideline or interim guideline contained in the Register of Planning Guidelines. *ACT Parking and Vehicular Access Guidelines* is such a guideline.

Community facility land use policies
 Educational establishment
 Pre School –

ACT Parking and Vehicular Access Guidelines requirement	Provision
0.8 spaces/10 students	For 40 students parking spaces required are 3.2 spaces
plus	plus
0.4 set-down/pick up spaces/10 students	for 40 students 1.6 spaces
	Total required spaces 4.8 spaces or 5 spaces

The proposal provides 4 on site car parking spaces accessed from Maxwell Street and 3 parking spaces on verge along Hill Corner Street.

The proposal was referred to Asset Acceptance, Territory and Municipal Services (TAMS) for comments. TAMS did not support the proposal and requested a Traffic and Parking Impact Statement to assess the impact of the development and advised to provide all parking on site.

A condition is imposed to provide a Traffic and Parking Impact Statement and to provide all car parking on site.

1.6.5 Public Submissions

Clause 9.2(e) of Part A3 provides that the relevant authority must carefully consider "each objection or other submission received in relation to the application which has not been withdrawn". Submissions received in relation to this proposal are examined in Section 2.0 below.

1.6.6 Additional Matters for Consideration

Clause 9.3 of Part A3 provides that the relevant authority must carefully consider further relevant matters in addition to those considered under Clause 9.2.

All relevant matters have been adequately addressed in the assessment of the relevant provisions of the Territory Plan and associated guidelines.

1.7 Significant Trees

On 14 May 2007 the Authority received the following comments from the Conservator of Flora and Fauna:

"The DA is not supported due to the following omissions in the DA;

In regards to The Landscape Management and Protection Plan (LMP01), and in the section Tree root protection (LMP02) there is no fencing for protecting regulated trees or a method statement of how root damage is to be minimised during demolition/excavation within the Tree Protection Zone of these Trees (TPZ).

The Landscape Concept Plan (LCP03) requires further information on details and impact of the placement /construction of brick trim and soft fall within in the TPZ of protected/retained trees." A condition has been imposed to require a new Tree Management Plan to address the above comments.

2.0 PUBLIC NOTIFICATION

Pursuant to section 229 of the Land Act, the application was publicly notified from 20 April 2007 to 11 May 2007. Seven (7) written submissions were received.

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

- (a) *Oppose to any variation to the lease to allow more than 18 child spaces as the development converts the nature strip as car parking bays and Hill corner is a narrow street. The cars parked opposite the driveways make it impossible to reverse cars from the residences.*

Conditions are imposed to provide appropriate car parking on site. Traffic and parking impact statement is also requested to demonstrate impact on traffic on surrounding streets and incorporate any measures recommended by the report. The concept plans indicate all parking on site.

- (b) *The scale of the proposed building is far too large and will dominate the street.*

Condition is imposed to site the proposed building with a more appropriate scale and setbacks as per the requirements of the Territory Plan.

- (c) *Lack of maintenance, cutting down of trees. The tree was at September 2006 recommended to have minor supports. This is stated in the tree assessment dated Sept 2006. This has reduced the native bird life in the park. Trees that are removed should be replaced.*

A condition is imposed to provide an updated tree assessment and revised landscape plan showing existing and proposed tree plantings to increase the number of trees on site.

- (d) *The proposal is overbearing to the surrounding homes. Especially with a large metal roof, which cannot be screened as nearly all trees, have been removed. Less than standard setbacks.*

A condition of approval has been imposed to reduce the scale of the proposal. More in formatuion to provide a possible solution has indicated that this may be achieved by a short pitched roof on the front and sides with a flat main roof on the top to reduce the bulk of the building and roof. With the condition included to site the building minimum 6 metres from the front boundaries, the impact of the development is further reduced.

- (e) *The residents should not be expected to support a commercial enterprise when its not proposed for the local community. This is a semi commercial development in the middle of the residential development.*

The subject site is within Part B4 Community Facility Land Use Policies of the Territory Plan, which permits the proposed pre school on this block. The proposal with the conditions imposed adequately demonstrates that a pre-school for 40 child spaces can be accommodated on site.

- (f) *Block 2 section 62 should revert to urban open space for the benefit of the local community. It should be left as a pocket park with play facilities for local children.*

It is considered that providing a pre-school on the subject site is not a detriment for the community in the area. The total proposed site coverage is approximately 24.11% (including the car parking areas). The proposed gross floor area of the building is 19.49%. It is relatively a small pre-school establishment only catering for maximum of 40 children. According to the Location Guidelines for Community and Recreation Facilities, it recommends that the small centre such as the proposal should be located near the residential areas.

- (g) *The quercus montana fine root structures will be affected by the 4 car parking spaces on Maxwell street*

A condition has been imposed to provide a revised Tree management Plan ensuring all regulated trees on site under the *Tree Protection Act 2005* are protected. The car parking spaces are required by condition of approval to all be on site. Further, a condition has been imposed to address the existing verge trees adjacent to the subject block. These verge trees are to be protected in accordance with Canberra Landscape Guidelines. Refer to Conditions 8, 12 and 6 (c) and (d).

- (h) *Affect property values in Hill corner.*

The proposal with conditions will not be inconsistent with the Territory Plan and the relevant registered planning guidelines. That is, the proposal is to provide all car parking spaces on site and to comply with the setback requirements. The proposal is considered to be a low scale pre-school development, with the gross floor area of 19.49% and it is a single storey development. It is considered that these features of the proposal would not detrimentally affect the amenity of the surrounding residents. As such, there should be no significant affect on property values.

- (i) *It fails to meet the requirements for good planning, as published in the Territory Plan, the Yarralumla Neighbourhood Plan, the ACT Parking and Vehicular Access Guidelines, and Nature Strips in Canberra.*

Refer to address of Objections (e) and (f).

3.0 GOVERNMENT AGENCIES COMMENTS

3.1 Department of Territory and Municipal Services

This application is not supported, until the following is submitted and supported.

- A Traffic and Parking Impact Statement is required to assess the impact that this centre will have on the existing streetscape.

- All parking should be on the site in accordance with PVAG.
- A 6m wide road with upright kerbs is not sufficient for on-street parking without affecting the flow of local traffic, this would be most evident at the morning and afternoon peaks, when children are dropped off or picked up from the centre.

3.2 ActewAGL

- ACTEW Corporation requires the submittal of an application to discharge non-domestic waste to sewer for the developments in the attached spreadsheet

3.3 Conservator of Flora and Fauna

The DA is not supported due to the following omissions in the DA

- In regards to The Landscape Management and Protection Plan (LMP01), and in the section Tree root protection (LMP02) there is no fencing for protecting regulated trees or a method statement of how root damage is to be minimised during demolition/excavation within the Tree Protection Zone of these Trees (TPZ).
- The Landscape Concept Plan (LCP03) requires further information on details and impact of the placement /construction of brick trim and soft fall within in the TPZ of protected/retained trees.

4.0 EVIDENCE

Application No – 200601605
The Territory Plan Part A – General Principles and Policies
The Territory Plan Part B4 – Community Facilities Land Use Policies
Location Guidelines for Community and Recreation Facilities
Current Crown lease (Vol 1651 :Folio 89)
Agency comments
Public submissions



Maggie Chapman
Delegate of the Planning and Land Authority
3 October 2007

APPENDIX 1

1. Contact Telephone Numbers – Relevant Government Agencies**ACT PLANNING AND LAND AUTHORITY****Development Assessment**

DA Enquiries (Thara Boraiah)	6207 7373
Applications Secretariat	6207 1687

DEPARTMENT OF TERRITORY AND MUNICIPAL SERVICES**Asset Management Services Group**

Asset Acceptance	6207 6594
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Environment Protection and Heritage

Environment Protection Unit	132281
Water Resources Unit	132281
Heritage Unit	132281
Tree Protection Unit	132281

ACT HEALTH

Health Protection Service	6205 1700
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OTHERS**Telstra**

Network Planning Engineer (Ted Murray)	6219 1213
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ActewAGL

Location of assets (Dial Before You Dig)	1100
Electricity reticulation (Doug Malcolm)	6293 5738

TransACT

Networks (Craig Seaton)	6229 8000
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2. Further Approvals

The attached notice of decision grants approval for those items listed at section 1.0. Further approvals from the Territory may be required, as follows:

Works on unleased Territory land - design acceptance

In accordance with the *Roads and Public Places Act 1937* no work is to be undertaken on unleased Territory Land without the approval of the Territory. Such approval is only given by way of a certificate of design acceptance from Asset Acceptance, Asset Management Services Group, TAMS. Unless a certificate of design acceptance is obtained, and the respective work completed in accordance with this certificate, a certificate of compliance under s179 of the Land Act, may not be issued. This applies to works such as the construction or upgrading of driveway verge crossings, the replacement of public foot paths, street lighting and verge landscaping.

Use of verges or other unleased Territory land

In accordance with the *Roads and Public Places Act 1937* road verges and other unleased Territory land shall not be used for the carrying out of works, including the storage of materials or waste, without the prior approval of the Territory through Asset Acceptance, TAMS.

Approval required for "Tree Damaging Activity"

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. Consultation with Environment and Recreation is recommended in the preparation of the Tree Management Plan.

3. Conditions of Approval

Please read the conditions of your approval carefully. Some will require attention before the approved drawings will be released by the Authority, others before work commences and still others before the completion of building work.

4. Building Approval

Most building work requires Building Approval. If this applies to your proposal you should engage the services of a private building certifier to assess and approve the building plans. A list of private certifiers is available at the ACT Planning and Land Authority Customer Service Centre, 16 Challis Street Dickson. Office hours are 8.30am to 4.30pm, Monday to Friday. The list is also available on the Authority's website at www.actpla.act.gov.au/bepcon.

5. Other Advice

Environment Protection

All work shall be carried out in accordance with the *Environment Protection Act 1997*, particularly but not exclusively in relation to noise and pollution control. More Information may be obtained from Environment and Recreation.

Damage to Public Assets

It is the responsibility of the applicant/lessee to properly repair any damage to ACT Government assets (including footpaths) caused by the development. The applicant is urged to notify Roads ACT of any existing damage to public facilities before work commences, otherwise the applicant/lessee will be held responsible for all damage.

ActewAGL

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.

Drainage

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

Demolition and Asbestos Management

Demolition and asbestos management must be undertaken in accordance with relevant Territory laws, namely the Building Act 2004 (including the Building Code of Australia) and the Dangerous Substances Act 2004. Relevant information is contained in the Authority's advisory note titled *Demolition*, November 2000. This document is available from the Planning and Land Authority Customer Service Centre, 16 Challis Street Dickson (Office hours: 8.30am to 4.30pm, Monday to Friday), or from the Authority's website at <http://www.actpla.act.gov.au/actpla/bepcon/build/demolition.pdf>

6. Reconsideration of the Decision

If (the development applicant) you are not satisfied with this decision, you are entitled to apply to the Planning and Land Authority for reconsideration within four weeks of the date of this notice.

Application forms are available from the Planning and Land Authority Customer Service Centre, 16 Challis Street, Dickson. The completed application, including grounds for the application and the lodgement fee may be lodged at the Customer Service Centre.

Within four weeks of receiving your application, or within such further time as agreed to by you, the Planning and Land Authority will either make a new decision or confirm the original decision.

An application for reconsideration does not prevent an application for a review of the same decision being made to the ACT Administrative Appeals Tribunal (AAT). You should be aware, however, that a reconsideration of the approval by the Planning and Land Authority will be suspended on the day an application for a review of the same decision is made to the AAT.

7. Review of decisions by the Administrative Appeals Tribunal

This Notice of Decision has been sent to all objectors to the proposal. In the Authority's view, objecting parties are entitled to seek a review of (appeal) the decision under the Land Act Regulations.

If you decide to seek a review of (appeal) the decision, all objectors will be advised. They may apply to the Administrative Appeals Tribunal (AAT) to become a party to the proceedings. The following notes are provided in accordance with the ACT Administrative Appeals Tribunal (AAT) Code of Practice.

Reasons

If a decision has been made and you, as the applicant, have not already been given reasons for the decision, you are entitled to apply for a statement of reasons to explain why the decision was made. If you wish to obtain a statement of reasons you must make your request within 28 days of the date of this decision. Applications should be made to the Director, Development Services Branch, GPO Box 1908, CANBERRA ACT 2601.

This provision does not apply to objectors.

Review By The ACT Administrative Appeals Tribunal (AAT)

If your interests are adversely affected by this decision you may apply to the Tribunal for a review.

Decisions that are reviewable by the AAT are identified in Schedule 4 of the *Land (Planning and Environment) Act 1991*.

Contact details for the Tribunal are as follows:

Location:

Tribunals Branch
Magistrates Court
4 Knowles Place
CANBERRA ACT 2601

Postal Address:

GPO Box 370
CANBERRA ACT 2601

Telephone: 02 6217 4261

Facsimile: 02 6217 4505

Document Exchange: DX 5691

Web Address: www.courts.act.gov.au

Email: tribunals@act.gov.au

Powers of the AAT

The Tribunal 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 Tribunal 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 Tribunal recommendations.

How to Apply to the AAT

To apply for a review, simply obtain an application form from the Tribunal or from the web address above. It outlines all the information needed by the Tribunal to process a review promptly.

Generally you should make your request for a review within 28 days of receiving this notice of the decision, but there are some variations to this time limit. The time limit can be extended in some circumstances. Check with the Tribunal Registry for more details.

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.

Fees

When lodging an application with the Tribunal you will be required to pay an application fee of not less than \$165 (the Tribunal Registry will advise of the current fee). However, no fee is payable if you are receiving legal or financial assistance from the Attorney-General. If you are unable to pay the application fee you can apply to have the fee waived on the grounds of hardship, subject to approval. Ask at the Tribunal Registry for more details. You may also apply to the ACT Attorney General for financial assistance (refer to section 62 of the *Administrative Appeals Tribunal Act 1989*). 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, ACT Department of Justice and Community Safety, GPO Box 158, CANBERRA ACT 2601.

You will have to pay any costs involved in preparing or presenting your case.

The ACT Planning and Land Authority will be the Respondent to your case.

Legal Assistance

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

The ACT Legal Aid Office: phone 1300 654314

Legal Advice Bureau: phone 02 6247 5700

ACT Council of the Ageing: phone 02 6282 3777

Welfare Rights and Legal Centre: phone 02 6247 177

Access To Documents

You may apply for access to any documents you consider relevant to this decision under the *ACT Freedom of Information Act 1989*. For more information on how you can obtain these documents please send your request to: The Manager, Government and Assembly Relations, ACT Planning and Land Authority, GPO Box 1908, Canberra ACT 2601 or phone the Customer Services Centre 02 6207 1923.

What The AAT Will Do

After an appeal has been lodged, the Tribunal will notify the decision-maker (respondent) and request that he/she provide a statement setting out his/her findings on material questions of fact, referring to the evidence or material on which those findings were based and giving the reasons for the decision. Also he/she will be required to provide copies of all the documents that were considered relevant to the review of the decision. If you are a party to the appeal (AAT applicant or party joined) the Tribunal will provide you with the decision-maker's statement and related documents (Tribunal Documents or 'T-docs') when they have been received.

Party To A Proceeding

The decision-maker, under direction from the Tribunal, may be required to give notice of the appeal to certain persons who will then be given an opportunity to apply to be joined as a party to the proceedings. When lodging an application to be joined as a party to a proceeding you will be required to pay an application fee of not less than \$165 (the Tribunal Registry will advise of the current fee). Check with the Tribunal Registry for more information on whether your interests would be best served by becoming a party to a proceeding or lodging a separate appeal.

If a person whose interests are affected by the decision applies to be joined as a party, the tribunal may, **in its discretion**, by order, make that person a party to the proceeding.

Directions Hearing

Each party to the appeal will be given notice of a directions hearing which they are required to attend personally or to be represented by another person. At the directions hearing, the Tribunal may refer the appeal to a registered mediator. The Tribunal will also give directions to the parties, which are to be followed by them if the matter is not referred to mediation or in the event that mediation is not successful in resolving the appeal. You should be in a position at the directions hearing to inform the Tribunal of any problem with your availability or that of your witnesses to attend the hearing of the appeal. Time limits will be fixed for compliance with the Tribunal's directions. In the event that any party other than the decision-maker fails to comply with the Tribunal's directions that party may be struck out as a party or, in the case of the applicant, the appeal may be dismissed.

Mediation

It is now a requirement that before an appeal is heard the Tribunal must consider whether it is a suitable case for mediation and, if so, refer the appeal to a registered mediator and direct the parties to attend the mediation. You will be requested to indicate on a form provided to you by the Tribunal whether or not you wish to participate in mediation and to provide your reasons.

Mediation is a process by which an independent and neutral person helps you and other parties to identify concerns, evaluate options and reach agreement. The mediator will not make any judgement about who is right or wrong and if the mediation fails will not participate in the Tribunal hearing. If the Tribunal decides to refer your case to a mediator you will be informed of the place and time at which the mediation will be held.

Hearing

The hearing will take place in a hearing room at the Magistrates Court Building.

Prior to the hearing, a direction will have been issued requiring each party to provide to the Tribunal and the other parties a statement of facts and contentions, a copy of the statement of any witness proposed to be called to give evidence and any other material, such as plans and photographs, proposed to be presented to the Tribunal.

The statement of facts and contentions should set out the facts upon which each party relies, the evidence proposed to be presented to support those facts, the issues in the case to be resolved by the Tribunal and the submissions which each party wishes to make in support of the decision which they ask the Tribunal to make.

Ordinarily the person who lodged the appeal ("the applicant") will be asked to present his/her evidence first; then any other party supporting the applicant's case; then any party opposing the applicant's case ("the parties joined"); then the decision-maker ("the respondent"). Witnesses should be present, or by application to the Tribunal, available to give evidence by phone hook up. If they are not present their evidence cannot be tested by cross-examination and may therefore be excluded.

For more detailed information on the hearing process please refer to the "*Guide to the Hearing*" on the Tribunal's web site.

Time For Deciding Cases

The Tribunal 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 Tribunal upon it being satisfied that it is in the interests of justice to do so.

The following table will give some guidance to the timeframes for an appeal (days are approximate):

Day 1	Application for review lodged at the AAT
Day 16	T-docs lodged and applications for Parties Joined processed
Day 26	Directions Hearing
Day 33	Mediation session
Day 36	Mediation result
Day 50	Mediation successful – consent agreement lodged, case finalised
	Mediation unsuccessful
Day 57	AAT Applicant, and Parties Joined supporting Applicant, Facts and Contentions to be lodged
Day 78	Respondent, and Parties Joined opposing Applicant, Facts and Contentions to be lodged
Day 85	Parties to lodge material in reply
Day 95	Hearing
Day 120	Delivery of Decision

Costs

The Tribunal also has the power to award costs against a party if the party contravenes a direction of the Tribunal and the Tribunal considers it in the interests of justice to make such an order. This power is in addition to the power of the Tribunal to strike out a party and to dismiss an application for failure to comply with the Tribunal's directions as outlined above.

This Notice of Decision has been sent to all objectors to the proposal. They may seek a review of (appeal) the decision under the Land Act Regulations.

8. Translation and Interpretation Service

ENGLISH	If you need interpreting help, telephone:
ARABIC	: إذا احتجت لمساعدة في الترجمة الشفوية ، إتصل برقم الهاتف :
CHINESE	如果你需要传译员的帮助，请打电话：
CROATIAN	Ako trebate pomoć tumača telefonirajte:
GREEK	Αν χρειάζεστε διερμηνέα τηλεφωνήστε στο
ITALIAN	Se avete bisogno di un interprete, telefonate al numero:
PERSIAN	: اگر به ترجمه شفاهی احتیاج دارید به این شماره تلفن کنید:
PORTUGUESE	Se você precisar da ajuda de um intérprete, telefone:
SERBIAN	Ako vam je potrebna pomoć prevodioca telefoniрајте:
SPANISH	Si necesita la asistencia de un intérprete, llame al:
TURKISH	Tercümana ihtiyacınız varsa lütfen telefon ediniz:
VIETNAMESE	Nếu bạn cần một người thông-ngôn hãy gọi điện-thoại:

TRANSLATING AND INTERPRETING SERVICE

131 450

Canberra and District - 24 hours a day, 7 days a week