













From: [Cilliers, George](#)
To: ["info@arpm.net.au"](mailto:info@arpm.net.au)
Cc: ["John Konstantinou"](#)
Subject: Correction of Notice of Decision for DA201733198 [SEC=UNCLASSIFIED]
Date: 18 September 2018 10:37:00
Attachments: [20180918 - S196 Formal Correction Letter - signed.pdf](#)

Good morning Ms Pogas and Mr Konstantinou,
Attached is a Correction Notice for your information.
Regards

George Cilliers | Snr Manager (Development Assessment)

Phone 02 6207 6804

Planning Delivery | Environment, Planning and Sustainable Development | **ACT Government**

Dame Pattie Menzies House, Challis Street, Dickson | GPO Box 1908 Canberra ACT 2601 | www.actpla.act.gov.au

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ACT
Government

Environment, Planning and
Sustainable Development

ArPM Pty Ltd
info@arpm.net.au

Dear ArPM Pty Ltd

BLOCK 11 SECTION 18 - MITCHELL
Application Number: 201733198
Lessee: Konstantinou Developments Pty Ltd

I refer to the Notice of Decision dated 21 May 2018 concerning the above application.

Conditions A1 and A2 of the decision needs to be amended to clarify the respective roles and requirements of the Environment Protection Authority and the ACT Health Protection Service in giving effect to the development approval.

Consequently, in accordance with section 196 of the *Planning and Development Act 2007*, the Notice of Decision dated 21 May 2018 is formally corrected as follows.

Condition A1:

Change condition A1 to read as follows:

A1. ENVIRONMENT PROTECTION AUTHORITY – APPROVAL DOES NOT TAKE EFFECT

- a) The approval **does not take effect** until the lessee/applicant has provided the Environment Protection Authority with the air quality report referred to in A2.
- b) The lessee/applicant must comply with any future requests of the Environment Protection Authority to access the site for the purpose of carrying out its own air quality testing from time-to-time.

Note: Evidence of compliance with this condition must be provided to the planning and land authority. Any substantial changes to the development required as a result of Environment Protection Authority requirements will need to be submitted for the approval of the planning and land authority with an application to amend the approval under s197 of the *Planning and Development Act 2007*.

Condition A2:

Change condition A2 to read as follows:

A2. ACT HEALTH PROTECTION SERVICE – APPROVAL DOES NOT TAKE EFFECT

- a) The approval does not take effect until the lessee/applicant has prepared and submitted an air quality report to the satisfaction of the ACT Health Protection

Service. The report must be prepared by a consultant listed on the Clean Air Society of Australia and New Zealand (CASANZ) directory <https://www.casanz.org.au/directory/>.

Such a report shall discuss and demonstrate that the development and subsequent use of the site as a Childcare Centre in the locality will not create an unacceptable risk to the health and safety of children and vulnerable users thereof. The report must discuss the effects of potential expansion of permitted activities by surrounding businesses and of future land uses in the surrounding area on air quality. All previous investigations upon which the report is based must be discussed within the report and copies of these reports must be provided to ACT Health Protection Service. The lessee/applicant must comply with any additional conditions imposed by the ACT Health Protection Service as a result of the findings of this report.

- b) The lessee/applicant must ensure that all water outlets supplied by rainwater are clearly labelled as being provided with non-potable water and must also ensure that they are located in areas inaccessible to children OR provided with tamperproof fittings.
- c) The lessee/applicant must ensure that a food business license is obtained from the Health Protection Service prior to completion of the development.


Note: Evidence of compliance with this condition must be provided to the planning and land authority. Any substantial changes to the development required for the ACT Health Protection Service endorsement will need to be submitted for the approval of the planning and land authority with an application to amend the approval under s197 of the *Planning and Development Act 2007*.

The remaining conditions of approval set out in the Notice of Decision dated 21 May 2018 will continue to apply.

The contact person in the ACT Health Protection Service for the purpose of corrected condition A2 is Mr Andrew Stedman (A/g Manager Environment and Radiation Safety) and can be contacted on 6205 4404 or by email Andrew.Stedman@act.gov.au.

If you wish to discuss this matter further, please contact me on 6207 6804 or by email: George.Cilliers@act.gov.au.

Yours sincerely


George Cilliers
Delegate of the planning and land authority
Environment, Planning & Sustainable Development Directorate
18 September 2018

Notice of decision

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

Merit track

DA NO: 201733198	DATE LODGED: 16 February 2018	
DATE OF DECISION: 21 May 2018		
BLOCK: 18	SECTION: 11	SUBURB: MITCHELL
STREET NO AND NAME: Corner of Heffernan Street and Darling Street, Mitchell		
APPLICANT: Arpm Pty Ltd		
LESSEE: Konstantinou Developments Pty Ltd		

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

- **construction of a new 3 storey childcare centre, new driveways, car park and dropoff area, landscaping and associated site works;**

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

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

PART 2 sets out the Reasons for the Decision.

PART 3 is Public Notification and Entity Advice.

PART 4 contains administrative information relating to the determination.

DELEGATE

George Cilliers
Delegate of the planning and land authority
Environment, Planning and Sustainable Development Directorate
21 May 2018

CONTACT OFFICER

Hayden Pini
Phone: 62078728
Email: Hayden.Pini@act.gov.au

PART 1 CONDITIONS OF APPROVAL

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

A. ADMINISTRATIVE / PROCESS CONDITIONS

A1. ENVIRONMENT PROTECTION AUTHORITY – APPROVAL DOES NOT TAKE EFFECT

- a) The approval **does not take effect** until the lessee/applicant has obtained written endorsement from the Environment Protection Authority and submits such endorsement to the planning and land authority as satisfying this condition of approval under s165 of the *Planning and Development Act 2007*.
- b) The lessee/applicant must comply with any conditions imposed by the Environment Protection Authority.

Note: Any substantial changes to the development required for the Environment Protection Authority endorsement will need to be submitted for the approval of the planning and land authority with an application to amend the approval under s197 of the Planning and Development Act 2007.

A2. ACT HEALTH PROTECTION SERVICE – APPROVAL DOES NOT TAKE EFFECT

- a) The approval **does not take effect** until the lessee/applicant has obtained written endorsement from the ACT Health Protection Service and submits such endorsement to the planning and land authority as satisfying this condition of approval under s165 of the *Planning and Development Act 2007*.
- b) The lessee/applicant must comply with any conditions imposed by the ACT Health Protection Service.

Note: Any substantial changes to the development required for the ACT Health Protection Service endorsement will need to be submitted for the approval of the planning and land authority with an application to amend the approval under s197 of the Planning and Development Act 2007.

A3. EVOENERGY – APPROVAL DOES NOT TAKE EFFECT

- a) The approval does not take effect until the lessee or land custodian has obtained a Statement of Acceptance from Evoenergy in relation to electricity networks and submits the Statement of Acceptance to the planning and land authority as satisfying this condition of approval under s165 of the *Planning and Development Act 2007*.
- b) The land custodian must comply with any conditions imposed on a Statement of Acceptance by Evoenergy.

Note: any substantial changes to the development required for the Evoenergy Statement of Acceptance will need to be submitted for the approval of the planning and land authority with an application to amend the approval under s197 of the Planning and Development Act 2007.

A4. ICON WATER – APPROVAL DOES NOT TAKE EFFECT

- a) The approval does not take effect until the lessee or land custodian has obtained a Statement of Acceptance from Icon Water in relation to water and sewer networks and submits the Statement of Acceptance to the planning and land authority as satisfying this condition of approval under s165 of the *Planning and Development Act 2007*.
- b) The land custodian must comply with any conditions imposed on a Statement of Acceptance by Icon Water.

Note: any substantial changes to the development required for the Icon Water Statement of Acceptance will need to be submitted for the approval of the planning and land authority with an application to amend the approval under s197 of the Planning and Development Act 2007.

A5. TIMEFRAME TO COMPLY WITH CONDITIONS A1, A2, A3, & A4

The lessee shall comply with conditions A1, A2, A3 & A4 within 24 months of the date of this decision.

- a) This approval will end if the lessee has not complied with Condition A1, A2, A3, & A4 within 24 months of the date of this decision.
- b) The lessee may apply to the planning and land authority in writing for an extension of time to the approved timeframe.

B. PRIOR TO CONSTRUCTION AND/OR DEMOLITION**B1. ACT HEALTH PROTECTION SERVICE**

The development details a kitchen within the ground floor of the childcare facility. If the kitchen is used to produce food to be sold, or is used to prepare food provided to the children, the kitchen will require a food business license. The applicant is advised to submit a food and business registration and fitout application (with suitable details plans) to the Health Protection Service prior to construction.

B2. SEDIMENT AND EROSION CONTROL

That prior to any work on the site commencing, the applicant/lessee must submit two copies of the sediment and erosion control plan to Environment Protection Authority for approval.

B3. TREE PROTECTION

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

B4. VERGE MANAGEMENT

This plan is to be approved and implemented before the commencement of any work on the site, and is to be in accordance with the *City Management Guidelines for the Protection of Public Landscape Assets Adjacent to Development Works-REF-04*.

B5. TRAFFIC MANAGEMENT

A Temporary Traffic Management (TTM) Plan shall be prepared by a suitably qualified person and approved by the Manager, Traffic Management & Safety, Roads ACT, Roads and Public Transport Division, Transport Canberra and City Services (TCCS) prior to commencement of any work on the site. This plan is to address, as a minimum, measures to be employed during construction to manage all traffic, including construction traffic, in and around the site, provision of safe pedestrian movement around the site, the provision of parking for construction workers, and associated traffic control devices.

C. DURING CONSTRUCTION AND/OR DEMOLITION**C1. TRANSPORT CANBERRA AND CITY SERVICES**

- a) All offsite works including driveway must be constructed in accordance with TCCS Design Standards.
- b) Proposed footpath must be 1.5m wide. A clearance of 0.5m must be maintained between footpath and the block boundary.
- c) The pedestrian walkway / footpath must take precedence over the driveway.
- d) The proposed trees must be located in the middle of the new footpath and the road kerb so that trees are 1.4m from the edge of both.
- e) The official street trees for Heffernan Street are eucalypt species but there is not sufficient space for eucalypts to be planted on the Heffernan Street verge outside the new childcare centre at Block 18 Section 11. The new tree plantings should be that *Melaleuca linariifolia* selected from good quality tree stock and meet Australian Standards 2303: Tree Street Stock for Landscape Use (e.g. single trunked, with good amenity tree form and sufficient calliper to be self-supporting). The new trees will need to be maintained for a minimum of 12 months prior to formal handover to TCCS Development Review and Coordination.
- f) The new trees should also be planted in accordance with the latest TCCS planting specification for street trees to ensure best practice planting methodology (please see Urban Treescapes planting specification attached).

C2. ACT HEALTH PROTECTION SERVICE

The development details that a 24KL rainwater tank will be installed, with retained water being used to flush toilets and urinals. The applicant is advised that any outlets supplied by rainwater are clearly labelled as being provided with non-potable water and should be located in an area inaccessible to children or provided with tamperproof fittings.

C3. SEDIMENT AND EROSION CONTROL

All unsurfaced entry and exit points must be consolidated with crushed aggregate or similar extending from the road kerb to the building line.

Temporary sediment controls – comprising, as a minimum, geotextile silt fencing along the lowest points of the site and hay bale filters as required – are to be installed and maintained at least daily to prevent sediment from reaching the stormwater mains system.

C4. TREE PROTECTION

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.

C5. VERGE MANAGEMENT

During any work undertaken on the site, 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 a Landscape Management Plan approved by the Manager, Asset Acceptance, Operational Support, Directorate Services, Transport Canberra and City Services, TCCS.

C6. TRAFFIC MANAGEMENT

At all times, the site and surrounds shall be managed in accordance with the approved Temporary Traffic Management (TTM) Plan.

C7. 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.

D. POST CONSTRUCTION AND/OR DEMOLITION

N/A

E. ADVISORY NOTES

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

E1. ENTITY COMMENTS

The applicant is advised to carefully consider all the relevant advice (in addition to the conditions imposed) from each of the entities stated in **PART 3 PUBLIC NOTIFICATION AND ENTITY ADVICE** of this Notice of Decision throughout the process of development (prior to, during & post construction) as applicable.

E2. EVOENERGY ELECTRICITY NETWORKS

Refer to statement(s) from Evoenergy Electricity Networks at **Attachment A**.

E3. JEMENA GAS NETWORKS

Refer to statement(s) from Jemena at **Attachment B**.

E4. ICON WATER

Refer to statement(s) from Icon Water at **Attachment C**.

E5. ACT EMERGENCY SERVICE AGENCY

Refer to statement(s) from ACT Emergency Service Agency at **Attachment D**.

E6. ENVIRONMENT PROTECTION AUTHORITY

Refer to statement(s) from ACT Emergency Service Agency at **Attachment E, F, and G**.

E7. ACT HEALTH PROTECTION SERVICES

Refer to statement(s) from ACT Emergency Service Agency at **Attachment H**.

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

PART 2 REASONS FOR THE DECISION

In deciding to approve the application with conditions, the Planning and Land Authority (the Authority) firstly considered under section 119 (1) (a) of the Act whether the application meets the relevant codes, including the Industrial Zones Development code and all relevant general codes.

In relation to section 119 (2) (a), the Authority considered the advice given by each entity to which the application was referred, and is satisfied that, with the conditions set out in Part 1, approval of the application would not be inconsistent with the advice received from each entity.

In relation to section 119 (2) (b), the Authority is satisfied that this decision is consistent with the objective of the Territory Plan as in section 48 of the Act in that it is *not inconsistent with the National Capital Plan*, and that the proposal will *provide the people of the ACT with an attractive, safe and efficient environment*, by the construction of a child care centre, whilst not having a detrimental impact on the surrounding environment.

The key issues identified in the assessment are comments received by entities. Conditions have been imposed to address the key issues and ensure that the proposal is consistent with the Territory Plan and the *Planning and Development Act 2007*.

In deciding to approve the application with conditions, the Authority also considered each of the matters or issues set out in section 120 of the Act.

In relation to section 120, the Authority is satisfied that the proposed development meets all applicable objectives of the *IZ2: Industrial Mixed Use* zone;

is satisfied that the subject land is suitable for the proposed development, provided each of the conditions imposed as part of this Decision to approve the application is met;

notes that there is no environmental significance opinion required or in force for the development proposal;

notes that no written representations were received for the development proposal;

have imposed conditions of approval to this Decision pursuant to Section 162(1)(b) of the Act that reflect relevant entity advice;

notes that the subject land is not public land; and

considered the probable impacts that the proposed development may have, and propose conditions to address some of the impacts that might otherwise occur.

With the conditions imposed, and after weighing the competing interests as to whether the application should be approved, the Authority formed the view that the probable impacts that might arise from the development are adequately addressed by the conditions imposed.

EVIDENCE

Application No. 201733198

File No. 1-2017/35837

The Territory Plan zone – IZ2: Industrial Mixed Use Zone

The Development Codes – Industrial Zone Development Code

The Precinct Codes – Mitchell Precinct Map and Code

Current Crown Lease – Volume 1831 Folio 29

Representations – Nil

Entity advice - Transport Canberra and City Services, Evoenergy, Jemena, Icon Water, Emergency Services Agency, the Environment Protection Authority and the ACT Health Protection Service.

PART 3 PUBLIC NOTIFICATION AND ENTITY ADVICE

PUBLIC NOTIFICATION

Pursuant to Division 7.3.4 of the Act, the application was publicly notified from 26 February 2018 to 20 March 2018. No written representations were received during public notification.

ENTITY ADVICE

Pursuant to Division 7.3.3 of the Act, the application was referred to entities and advice was received. The referral entities' comments are as follows. A response to the advice is provided as appropriate.

TRANSPORT CANBERRA AND CITY SERVICES

On date 14 March 2018 advice was received from Transport Canberra and City Services in relation to the proposal. The advice states that the proposal is supported subject to compliance with the following conditions.

Conditions:

- *All offsite works including driveway must be constructed in accordance with TCCS Design Standards.*
- *Proposed footpath must be 1.5m wide. A clearance of 0.5m must be maintained between footpath and the block boundary.*
- *The pedestrian walkway / footpath must take precedence over the driveway.*
- *The proposed trees must be located in the middle of the new footpath and the road kerb so that trees are 1.4m from the edge of both.*
- *The official street trees for Heffeman Street are eucalypt species but there is not sufficient space for eucalypts to be planted on the Heffeman Street verge outside the new childcare centre at Block 18 Section 11. The new tree plantings should be that *Melaleuca linariifolia* selected from good quality tree stock and meet Australian Standards 2303: Tree Street Stock for Landscape Use (e.g. single trunked, with good amenity tree form and sufficient calliper to be self-supporting). The new trees will need to be maintained for a minimum of 12 months prior to formal handover to TCCS Development Review and Coordination.*
- *The new trees should also be planted in accordance with the latest TCCS planting specification for street trees to ensure best practice planting methodology (please see Urban Treescapes planting specification attached).*

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, Development Review and Coordination, TCCS by the ways of:

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

Design Review and Operational Acceptance

A Letter of Design Review is required for all off-site works from the Senior Manager, Development Review and Coordination, TCCS, prior to the construction.

In order to obtain the Letter of Design Review, 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 Ref No 06: "Requirements for Design Review Submissions", must be certified by a Chartered Engineer/Landscape Architect and submitted to the Senior Manager, Development Review and Coordination, TCCS.

A Certificate of Operational Acceptance on completion of the works is required from the Senior Manager, Development Review and Coordination, TCCS, prior to the issue of a Certificate of Occupancy.

Similarly a Chartered Engineer/Landscape Architect should certify compliance with TCCS Ref No 08: "Requirements for Works as Executed Quality Records Requirements" when the request for Operational Acceptance is made to the Senior Manager, Development Review and Coordination, TCCS 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, TCCS. All times during construction the site and surrounds shall be managed in accordance with a Temporary Traffic Management Plan, prepared by a suitably qualified person and approved by the Manager, Traffic Management & Safety. This plan is to address, as a minimum, measures to be employed during construction to manage all traffic, including construction traffic, in and around the site, provision of safe pedestrian movement around the site, the provision of parking for construction workers, and associated traffic control devices.

Landscape Management & Protection Plan (LMPP)

LMPP approval from the Senior Manager, Development Review and Coordination, TCCS. 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, Development Review and Coordination, TCCS. This plan is to be implemented before the commencement of works, including demolition on the site and is to be in accordance with TCCS Guidelines for the Protection of Public Landscape Assets Adjacent to Development Works-REF-04.

Use of Verges or other Unleased Territory land

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

Repair of Damage to Public Assets

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

Notice of Commencement of Construction

Notice of Commencement for the Works in Unleased Territory Land shall be submitted to the Senior Manager, Development Review and Coordination, TCCS 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.

Matters raised have been incorporated as either conditions of approval or advice.

EVOENERGY

On date 7 March 2018 advice was received from Evoenergy in relation to the proposal. The advice states that the proposal is not supported.

- *A statement of non-compliance was issued (**Attachment A**).*

Response:

Matters raised have been incorporated as conditions of approval – refer to condition A3 in Part 1 of this decision.

JEMENA

On date 1 March 2018 advice was received from Jemena in relation to the proposal. The advice states that the proposal is supported.

- *A statement of conditional compliance was issued (**Attachment B**).*

Response:

Matters raised have been incorporated as either conditions of approval or advice.

ICON WATER

On date 22 February 2018 advice was received from Icon Water in relation to the proposal. The advice states that the proposal is not supported.

- *A statement of non-compliance was issued (**Attachment C**).*

Response:

Matters raised have been incorporated as conditions of approval – refer to condition A4 in Part 1 of this decision.

EMERGENCY SERVICES AGENCY

On date 7 March 2018 advice was received from the Emergency Services Agency in relation to the proposal. The advice states that the proposal is supported.

- *A statement of conditional compliance was issued (**Attachment D**).*

Response:

Matters raised have been incorporated as either conditions of approval or advice.

ENVIRONMENT PROTECTION AUTHORITY

On date 15 March 2018 advice was received from the Environment Protection Authority in relation to the proposal. The advice states that the proposal is not supported.

- *Relevant advice is attached (**Attachment E**).*

On date 18 April 2018 further advice was received from the Environment Protection Authority in relation to the proposal. The advice states that the proposal is not supported and that the proposal should be referred to ACT Health Protection Services for comment.

- *Relevant advice is attached (**Attachment F**).*

On date 27 April 2018 advice was received from the Environment Protection Authority in relation to the proposal. The advice states that further information/amendments are required.

- *Relevant advice is attached (**Attachment G**).*

On date 16 May 2018 advice was received from the Environment Protection Authority in relation to the proposal. The advice states that the proposal is not supported and have provided the following statement:

“To clarify, the Environment Protection Authority does not support the Development Application and recommends the application be refused. Should the Planning Authority choose to approve the application, the applicant should first be required to complete an Environmental Assessment that includes an Air Quality Impact Assessment (AQIA) that assesses permitted uses in the zone and potential sources of pollution impacting the subject site. The report should refer to activities and potential pollutants and odours from neighbouring sites such as the landscape supply business to the north on block 44 section 7 Mitchell and demonstrate that the site is suitable for the proposed activity to ensure human health is not put at unnecessary risk.

The report should also demonstrate that the proposed use will not jeopardise the use of surrounding land for any industrial purposes.”

Response:

Matters raised have been incorporated as conditions of approval or advice – refer to condition A1 in Part 1 of this decision.

ACT HEALTH PROTECTION SERVICE

On date 1 May 2018 advice was received from Icon Water in relation to the proposal. The advice states that the proposal is not supported.

- *A statement of non-support was issued (**Attachment H**).*

Response:

Matters raised have been incorporated as conditions of approval or advice – refer to condition A2 in part 1 of this decision

PART 4 ADMINISTRATIVE INFORMATION

DATE THAT THIS APPROVAL TAKES EFFECT

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

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

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

CONDITIONAL APPROVAL

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

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

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

INSPECTION OF THE APPLICATION AND DECISION

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

REVIEW BY THE ACT CIVIL AND ADMINISTRATIVE TRIBUNAL (ACAT)

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

APPENDIX 1

CONTACT DETAILS OF RELEVANT AGENCIES

Health Directorate - health protection	Website: www.health.act.gov.au Telephone: (02) 6205 1700
Environment, Planning and Sustainable Development Directorate <i>Planning and land authority</i> <ul style="list-style-type: none"> - list of certifiers for building approval - demolition information - asbestos information <i>Environment Protection Authority</i> <ul style="list-style-type: none"> - environment protection - water resources - asbestos information <i>Conservation, Planning and Research</i> <ul style="list-style-type: none"> - threatened species/wildlife management 	Website: www.planning.act.gov.au Telephone: (02) 6207 1923 Website: www.environment.act.gov.au Telephone: (02) 6207 6251 Website: www.environment.act.gov.au Telephone: (02) 6207 1911
Transport Canberra and City Services <ul style="list-style-type: none"> - tree damaging activity approval - use of verges or other unleased Territory land - works on unleased Territory land - design acceptance - damage to public assets 	Website: www.tccs.act.gov.au Telephone: 132 281 Telephone for asset acceptance: (02) 6207 7480
Utilities <ul style="list-style-type: none"> - Telstra (networks) - TransACT (networks) - Icon Water - Electricity reticulation 	Telephone: (02) 8576 9799 Telephone: (02) 6229 8000 Telephone: (02) 6248 3111 Telephone: (02) 6293 5738

ADVICE TO APPLICANT

SUBMISSION OF REVISED DRAWINGS AND DOCUMENTATION

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

- Completing an application for S165 Satisfying Conditions of Approval and submitting the documentation online using edevelopment. More information on edevelopment can be found at http://www.planning.act.gov.au/tools_resources/e-services/edevelopment

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

FURTHER APPROVALS FOR CONSTRUCTION

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

BUILDING APPROVAL

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

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 Transport Canberra and City Services.

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, TCCS 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 TCCS

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 TCCS.

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 Transport Canberra and City Services of any existing damage to public facilities.

UTILITY ASSETS RETENTION

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

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 Icon Water'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 Icon Water's 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: www.acat.act.gov.au Email: tribunal@act.gov.au 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 τηλεφωνήστε στο
ITALIAN	Se avete bisogno di un interprete, telefonate al numero:
MALTESE	Jekk għandek bżonn l-għajjuna t'interpretu, ċempel:
PERSIAN	: اگر به ترجمه شفاهی احتیاج دارید به این شماره تلفن کنید:
PORTUGUESE	Se você precisar da ajuda de um intérprete, telefone:
SERBIAN	Ako vam je potrebna pomoć prevodioca telefonirajte:
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



ACT
Government

Environment, Planning and
Sustainable Development

CHECKLIST

Dispatch Advice Checklist

DA Number: 201733198 Block(s): 18 Section: 11 District/Division: MITCHELL

Case Officer: HAYDEN PINI Contact Number: 62078728 Decision Date: 21-May-18

Application Type: **MERIT TRACK DA**

Dispatch Plans: **NO** Dispatch by: **NOT APPLICABLE**

Plans have been moved to the sub-folder in the approved plans folder however have not been stamped as relevant conditions are yet to be satisfied. The plans are not to be dispatched.

Dispatch Entity Referral Advice: **YES**

An Objective alias for the relevant mandatory entity referral advice received from ActewAGL, Actew Corporation, Environment Protection Agency and/or Asset Acceptance, as per S149 of the *Planning and Development Act 2007*, has been moved to the approved plans folder.

Type of Decision: **APPROVED WITH CONDITIONS** Decision By:
DELEGATE OF THE AUTHORITY

Representations: **NO**

Appeal Rights

Applicant: **YES** Person who made Representation: **NOT APPLICABLE**

Encroachment

Is an application for encroachment (minor) to be dispatched to the applicant? **NOT APPLICABLE**
(If yes, create application for encroachment (minor) document from Intelledox and attach to Notice of decision)

Draft crown leases/Instruments of Variations

Does the NOD require the draft crown leases or Instruments of Variation put with the NOD?

NOT APPLICABLE

(If yes, DA officer to include any attachments with the NOD where the DA includes a Lease Variation)

Entities to be advised

Referral Required: **YES**

NB: Section 174 of the Act states that "The planning and land authority must give a copy of the decision on the development application to each entity to which the application was referred".

<input type="checkbox"/>	DA Leasing Referral Required
<input type="checkbox"/>	Deed Mgt. Referral Required
<input type="checkbox"/>	Land Reg. Referral Required
<input type="checkbox"/>	Action Buses (refer to Asset Acceptance)
<input checked="" type="checkbox"/>	ICON Water (formerly ActewAGL Water)
<input checked="" type="checkbox"/>	ActewAGL (All other entities)
<input checked="" type="checkbox"/>	ACT Health
<input type="checkbox"/>	ACT Heritage Council
<input type="checkbox"/>	ACT Valuation Office
<input checked="" type="checkbox"/>	Asset Acceptance
<input type="checkbox"/>	Australian Communications and Media Authority
<input type="checkbox"/>	Australian National University
<input type="checkbox"/>	Conservator of Flora and Fauna (Referred under S147A or S148)
<input type="checkbox"/>	Commonwealth Department of the Environment (Only Applicable to Impact Track Applications Referred Under S127A.
<input type="checkbox"/>	Custodian of the land -
<input checked="" type="checkbox"/>	Emergency Services (Fire or Ambulance)
<input checked="" type="checkbox"/>	Environment Protection Agency
<input type="checkbox"/>	Gambling and Racing Commission
<input type="checkbox"/>	Gateway Team
<input type="checkbox"/>	Heritage
<input type="checkbox"/>	Housing and Community Services
<input type="checkbox"/>	Land Development Agency
<input type="checkbox"/>	Land and Property Services
<input type="checkbox"/>	Leasing – General Leasing Encroachments and Licences
<input type="checkbox"/>	Office of Regulatory Services - All Multi-Dwelling decisions and any that relate to permanent structures, on unleased Territory land, associated with permits for outdoor eating.
<input type="checkbox"/>	Owners Corporation Lease variation for single units – please use relevant letter template
<input type="checkbox"/>	National Capital Authority
<input type="checkbox"/>	Police
<input type="checkbox"/>	Queanbeyan City Council
<input type="checkbox"/>	Register General's Office
<input type="checkbox"/>	Surveying and Spatial Data
<input type="checkbox"/>	Territory Plan Variation Unit
<input type="checkbox"/>	Transport Planning
<input type="checkbox"/>	Tree Protection
<input type="checkbox"/>	WorkCover
<input type="checkbox"/>	Yass City Council
<input type="checkbox"/>	ACT Place Names - Placenames@act.gov.au
<input type="checkbox"/>	Other -

Comments

From: [EPD, Customer Services](#)
To: ["info@arpm.net.au"](mailto:info@arpm.net.au)
Cc: ["john.konstantinou@kgroup.com.au"](mailto:john.konstantinou@kgroup.com.au)
Subject: NOTICE OF DECISION-201733198-18/11 MITCHELL
Date: 23 May 2018 09:13:00
Attachments: [NOTICE OF DECISION-201733198-SIGNED.PDF](#)
[image001.png](#)

Good Morning,

Please see attached **Notice of Decision** for Block 18 Section 11 Suburb MITCHELL Development Application No: **201733198**

Note: You will receive a link to Objective Connect where you can view/download the supporting documents.

For further information please contact **Hayden Pini** on **6205 2888** or by email Hayden.Pini@act.gov.au

Kind Regards

Katherine
Phone 6207 1923

EPDCustomerService@act.gov.au

www.act.gov.au/accesscbr

Access Canberra | **ACT Government**

16 Challis Street, Dickson | GPO Box 158 Canberra ACT 2601

cid:image004.png@01D3DE12.73C7D510



Access Canberra is an ACT Government service that brings together customer and regulatory services, including the former Environment and Planning Directorates Customer Services Team. Access Canberra has been set up to make it easier for business, community organisations and individuals to work with ACT Government and deliver a more seamless experience.



ACT
Government

Environment, Planning and
Sustainable Development

Notice of decision

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

Merit track

DA NO: 201733198	DATE LODGED: 16 February 2018	
DATE OF DECISION: 21 May 2018		
BLOCK: 18	SECTION: 11	SUBURB: MITCHELL
STREET NO AND NAME: Corner of Heffernan Street and Darling Street, Mitchell		
APPLICANT: Arpm Pty Ltd		
LESSEE: Konstantinou Developments Pty Ltd		

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

- **construction of a new 3 storey childcare centre, new driveways, car park and dropoff area, landscaping and associated site works;**

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


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

PART 2 sets out the Reasons for the Decision.

PART 3 is Public Notification and Entity Advice.

PART 4 contains administrative information relating to the determination.

DELEGATE


George Cilliers
Delegate of the planning and land authority
Environment, Planning and Sustainable Development Directorate
21 May 2018

CONTACT OFFICER

Hayden Pini
Phone: 62078728
Email: Hayden.Pini@act.gov.au

PART 1 CONDITIONS OF APPROVAL

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

A. ADMINISTRATIVE / PROCESS CONDITIONS

A1. ENVIRONMENT PROTECTION AUTHORITY – APPROVAL DOES NOT TAKE EFFECT

- a) The approval **does not take effect** until the lessee/applicant has obtained written endorsement from the Environment Protection Authority and submits such endorsement to the planning and land authority as satisfying this condition of approval under s165 of the *Planning and Development Act 2007*.
- b) The lessee/applicant must comply with any conditions imposed by the Environment Protection Authority.

Note: Any substantial changes to the development required for the Environment Protection Authority endorsement will need to be submitted for the approval of the planning and land authority with an application to amend the approval under s197 of the Planning and Development Act 2007.

A2. ACT HEALTH PROTECTION SERVICE – APPROVAL DOES NOT TAKE EFFECT

- a) The approval **does not take effect** until the lessee/applicant has obtained written endorsement from the ACT Health Protection Service and submits such endorsement to the planning and land authority as satisfying this condition of approval under s165 of the *Planning and Development Act 2007*.
- b) The lessee/applicant must comply with any conditions imposed by the ACT Health Protection Service.

Note: Any substantial changes to the development required for the ACT Health Protection Service endorsement will need to be submitted for the approval of the planning and land authority with an application to amend the approval under s197 of the Planning and Development Act 2007.

A3. EVOENERGY – APPROVAL DOES NOT TAKE EFFECT

- a) The approval does not take effect until the lessee or land custodian has obtained a Statement of Acceptance from Evoenergy in relation to electricity networks and submits the Statement of Acceptance to the planning and land authority as satisfying this condition of approval under s165 of the *Planning and Development Act 2007*.
- b) The land custodian must comply with any conditions imposed on a Statement of Acceptance by Evoenergy.

Note: any substantial changes to the development required for the Evoenergy Statement of Acceptance will need to be submitted for the approval of the planning and land authority with an application to amend the approval under s197 of the Planning and Development Act 2007.

A4. ICON WATER – APPROVAL DOES NOT TAKE EFFECT

- a) The approval does not take effect until the lessee or land custodian has obtained a Statement of Acceptance from Icon Water in relation to water and sewer networks and submits the Statement of Acceptance to the planning and land authority as satisfying this condition of approval under s165 of the *Planning and Development Act 2007*.
- b) The land custodian must comply with any conditions imposed on a Statement of Acceptance by Icon Water.

Note: any substantial changes to the development required for the Icon Water Statement of Acceptance will need to be submitted for the approval of the planning and land authority with an application to amend the approval under s197 of the Planning and Development Act 2007.

A5. TIMEFRAME TO COMPLY WITH CONDITIONS A1, A2, A3, & A4

The lessee shall comply with conditions A1, A2, A3 & A4 within 24 months of the date of this decision.

- a) This approval will end if the lessee has not complied with Condition A1, A2, A3, & A4 within 24 months of the date of this decision.
- b) The lessee may apply to the planning and land authority in writing for an extension of time to the approved timeframe.

B. PRIOR TO CONSTRUCTION AND/OR DEMOLITION

B1. ACT HEALTH PROTECTION SERVICE

The development details a kitchen within the ground floor of the childcare facility. If the kitchen is used to produce food to be sold, or is used to prepare food provided to the children, the kitchen will require a food business license. The applicant is advised to submit a food and business registration and fitout application (with suitable details plans) to the Health Protection Service prior to construction.

B2. SEDIMENT AND EROSION CONTROL

That prior to any work on the site commencing, the applicant/lessee must submit two copies of the sediment and erosion control plan to Environment Protection Authority for approval.

B3. TREE PROTECTION

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

B4. VERGE MANAGEMENT

This plan is to be approved and implemented before the commencement of any work on the site, and is to be in accordance with the *City Management Guidelines for the Protection of Public Landscape Assets Adjacent to Development Works-REF-04.*

B5. TRAFFIC MANAGEMENT

A Temporary Traffic Management (TTM) Plan shall be prepared by a suitably qualified person and approved by the Manager, Traffic Management & Safety, Roads ACT, Roads and Public Transport Division, Transport Canberra and City Services (TCCS) prior to commencement of any work on the site. This plan is to address, as a minimum, measures to be employed during construction to manage all traffic, including construction traffic, in and around the site, provision of safe pedestrian movement around the site, the provision of parking for construction workers, and associated traffic control devices.

C. DURING CONSTRUCTION AND/OR DEMOLITION

C1. TRANSPORT CANBERRA AND CITY SERVICES

- a) All offsite works including driveway must be constructed in accordance with TCCS Design Standards.
- b) Proposed footpath must be 1.5m wide. A clearance of 0.5m must be maintained between footpath and the block boundary.
- c) The pedestrian walkway / footpath must take precedence over the driveway.
- d) The proposed trees must be located in the middle of the new footpath and the road kerb so that trees are 1.4m from the edge of both.
- e) The official street trees for Heffernan Street are eucalypt species but there is not sufficient space for eucalypts to be planted on the Heffernan Street verge outside the new childcare centre at Block 18 Section 11. The new tree plantings should be that *Melaleuca linariifolia* selected from good quality tree stock and meet Australian Standards 2303: Tree Street Stock for Landscape Use (e.g. single trunked, with good amenity tree form and sufficient calliper to be self-supporting). The new trees will need to be maintained for a minimum of 12 months prior to formal handover to TCCS Development Review and Coordination.
- f) The new trees should also be planted in accordance with the latest TCCS planting specification for street trees to ensure best practice planting methodology (please see Urban Treescapes planting specification attached).

C2. ACT HEALTH PROTECTION SERVICE

The development details that a 24KL rainwater tank will be installed, with retained water being used to flush toilets and urinals. The applicant is advised that any outlets supplied by rainwater are clearly labelled as being provided with non-potable water and should be located in an area inaccessible to children or provided with tamperproof fittings.

C3. SEDIMENT AND EROSION CONTROL

All unsurfaced entry and exit points must be consolidated with crushed aggregate or similar extending from the road kerb to the building line.

Temporary sediment controls – comprising, as a minimum, geotextile silt fencing along the lowest points of the site and hay bale filters as required – are to be installed and maintained at least daily to prevent sediment from reaching the stormwater mains system.

C4. TREE PROTECTION

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.

C5. VERGE MANAGEMENT

During any work undertaken on the site, 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 a Landscape Management Plan approved by the Manager, Asset Acceptance, Operational Support, Directorate Services, Transport Canberra and City Services, TCCS.

C6. TRAFFIC MANAGEMENT

At all times, the site and surrounds shall be managed in accordance with the approved Temporary Traffic Management (TTM) Plan.

C7. 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.

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

N/A

E. **ADVISORY NOTES**

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

E1. ENTITY COMMENTS

The applicant is advised to carefully consider all the relevant advice (in addition to the conditions imposed) from each of the entities stated in **PART 3 PUBLIC NOTIFICATION AND ENTITY ADVICE** of this Notice of Decision throughout the process of development (prior to, during & post construction) as applicable.

E2. EVOENERGY ELECTRICITY NETWORKS

Refer to statement(s) from Evoenergy Electricity Networks at **Attachment A**.

E3. JEMENA GAS NETWORKS

Refer to statement(s) from Jemena at **Attachment B**.

E4. ICON WATER

Refer to statement(s) from Icon Water at **Attachment C**.

E5. ACT EMERGENCY SERVICE AGENCY

Refer to statement(s) from ACT Emergency Service Agency at **Attachment D**.

E6. ENVIRONMENT PROTECTION AUTHORITY

Refer to statement(s) from ACT Emergency Service Agency at **Attachment E, F, and G**.

E7. ACT HEALTH PROTECTION SERVICES

Refer to statement(s) from ACT Emergency Service Agency at **Attachment H**.

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

PART 2 REASONS FOR THE DECISION

In deciding to approve the application with conditions, the Planning and Land Authority (the Authority) firstly considered under section 119 (1) (a) of the Act whether the application meets the relevant codes, including the Industrial Zones Development code and all relevant general codes.

In relation to section 119 (2) (a), the Authority considered the advice given by each entity to which the application was referred, and is satisfied that, with the conditions set out in Part 1, approval of the application would not be inconsistent with the advice received from each entity.

In relation to section 119 (2) (b), the Authority is satisfied that this decision is consistent with the objective of the Territory Plan as in section 48 of the Act in that it is *not inconsistent with the National Capital Plan*, and that the proposal will *provide the people of the ACT with an attractive, safe and efficient environment*, by the construction of a child care centre, whilst not having a detrimental impact on the surrounding environment.

The key issues identified in the assessment are comments received by entities. Conditions have been imposed to address the key issues and ensure that the proposal is consistent with the Territory Plan and the *Planning and Development Act 2007*.

In deciding to approve the application with conditions, the Authority also considered each of the matters or issues set out in section 120 of the Act.

In relation to section 120, the Authority is satisfied that the proposed development meets all applicable objectives of the *IZ2: Industrial Mixed Use zone*;

is satisfied that the subject land is suitable for the proposed development, provided each of the conditions imposed as part of this Decision to approve the application is met;

notes that there is no environmental significance opinion required or in force for the development proposal;

notes that no written representations were received for the development proposal;

have imposed conditions of approval to this Decision pursuant to Section 162(1)(b) of the Act that reflect relevant entity advice;

notes that the subject land is not public land; and

considered the probable impacts that the proposed development may have, and propose conditions to address some of the impacts that might otherwise occur.

With the conditions imposed, and after weighing the competing interests as to whether the application should be approved, the Authority formed the view that the probable impacts that might arise from the development are adequately addressed by the conditions imposed.

EVIDENCE

Application No. 201733198

File No. 1-2017/35837

The Territory Plan zone – IZ2: Industrial Mixed Use Zone

The Development Codes – Industrial Zone Development Code

The Precinct Codes – Mitchell Precinct Map and Code

Current Crown Lease – Volume 1831 Folio 29

Representations – Nil

Entity advice - Transport Canberra and City Services, Evoenergy, Jemena, Icon Water, Emergency Services Agency, the Environment Protection Authority and the ACT Health Protection Service.

PART 3 PUBLIC NOTIFICATION AND ENTITY ADVICE

PUBLIC NOTIFICATION

Pursuant to Division 7.3.4 of the Act, the application was publicly notified from 26 February 2018 to 20 March 2018. No written representations were received during public notification.

ENTITY ADVICE

Pursuant to Division 7.3.3 of the Act, the application was referred to entities and advice was received. The referral entities' comments are as follows. A response to the advice is provided as appropriate.

TRANSPORT CANBERRA AND CITY SERVICES

On date 14 March 2018 advice was received from Transport Canberra and City Services in relation to the proposal. The advice states that the proposal is supported subject to compliance with the following conditions.

Conditions:

- *All offsite works including driveway must be constructed in accordance with TCCS Design Standards.*
- *Proposed footpath must be 1.5m wide. A clearance of 0.5m must be maintained between footpath and the block boundary.*
- *The pedestrian walkway / footpath must take precedence over the driveway.*
- *The proposed trees must be located in the middle of the new footpath and the road kerb so that trees are 1.4m from the edge of both.*
- *The official street trees for Heffernan Street are eucalypt species but there is not sufficient space for eucalypts to be planted on the Heffernan Street verge outside the new childcare centre at Block 18 Section 11. The new tree plantings should be that *Melaleuca linariifolia* selected from good quality tree stock and meet Australian Standards 2303: Tree Street Stock for Landscape Use (e.g. single trunked, with good amenity tree form and sufficient calliper to be self-supporting). The new trees will need to be maintained for a minimum of 12 months prior to formal handover to TCCS Development Review and Coordination.*
- *The new trees should also be planted in accordance with the latest TCCS planting specification for street trees to ensure best practice planting methodology (please see Urban Treescapes planting specification attached).*

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, Development Review and Coordination, TCCS by the ways of:

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

Design Review and Operational Acceptance

A Letter of Design Review is required for all off-site works from the Senior Manager, Development Review and Coordination, TCCS, prior to the construction.

In order to obtain the Letter of Design Review, 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 Ref No 06: "Requirements for Design Review Submissions", must be certified by a Chartered Engineer/Landscape Architect and submitted to the Senior Manager, Development Review and Coordination, TCCS.

A Certificate of Operational Acceptance on completion of the works is required from the Senior Manager, Development Review and Coordination, TCCS, prior to the issue of a Certificate of Occupancy.

Similarly a Chartered Engineer/Landscape Architect should certify compliance with TCCS Ref No 08: "Requirements for Works as Executed Quality Records Requirements" when the request for Operational Acceptance is made to the Senior Manager, Development Review and Coordination, TCCS 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, TCCS. All times during construction the site and surrounds shall be managed in accordance with a Temporary Traffic Management Plan, prepared by a suitably qualified person and approved by the Manager, Traffic Management & Safety. This plan is to address, as a minimum, measures to be employed during construction to manage all traffic, including construction traffic, in and around the site, provision of safe pedestrian movement around the site, the provision of parking for construction workers, and associated traffic control devices.

Landscape Management & Protection Plan (LMPP)

LMPP approval from the Senior Manager, Development Review and Coordination, TCCS. 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, Development Review and Coordination, TCCS. This plan is to be implemented before the commencement of works, including demolition on the site and is to be in accordance with TCCS Guidelines for the Protection of Public Landscape Assets Adjacent to Development Works-REF-04.

Use of Verges or other Unleased Territory land

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

Repair of Damage to Public Assets

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

Notice of Commencement of Construction

Notice of Commencement for the Works in Unleased Territory Land shall be submitted to the Senior Manager, Development Review and Coordination, TCCS 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.

Matters raised have been incorporated as either conditions of approval or advice.

EVOENERGY

On date 7 March 2018 advice was received from Evoenergy in relation to the proposal. The advice states that the proposal is not supported.

- *A statement of non-compliance was issued (**Attachment A**).*

Response:

Matters raised have been incorporated as conditions of approval – refer to condition A3 in Part 1 of this decision.

JEMENA

On date 1 March 2018 advice was received from Jemena in relation to the proposal. The advice states that the proposal is supported.

- *A statement of conditional compliance was issued (**Attachment B**).*

Response:

Matters raised have been incorporated as either conditions of approval or advice.

ICON WATER

On date 22 February 2018 advice was received from Icon Water in relation to the proposal. The advice states that the proposal is not supported.

- *A statement of non-compliance was issued (**Attachment C**).*

Response:

Matters raised have been incorporated as conditions of approval – refer to condition A4 in Part 1 of this decision.

EMERGENCY SERVICES AGENCY

On date 7 March 2018 advice was received from the Emergency Services Agency in relation to the proposal. The advice states that the proposal is supported.

- *A statement of conditional compliance was issued (**Attachment D**).*

Response:

Matters raised have been incorporated as either conditions of approval or advice.

ENVIRONMENT PROTECTION AUTHORITY

On date 15 March 2018 advice was received from the Environment Protection Authority in relation to the proposal. The advice states that the proposal is not supported.

- *Relevant advice is attached (**Attachment E**).*

On date 18 April 2018 further advice was received from the Environment Protection Authority in relation to the proposal. The advice states that the proposal is not supported and that the proposal should be referred to ACT Health Protection Services for comment.

- *Relevant advice is attached (**Attachment F**).*

On date 27 April 2018 advice was received from the Environment Protection Authority in relation to the proposal. The advice states that further information/amendments are required.

- *Relevant advice is attached (**Attachment G**).*

On date 16 May 2018 advice was received from the Environment Protection Authority in relation to the proposal. The advice states that the proposal is not supported and have provided the following statement:

"To clarify, the Environment Protection Authority does not support the Development Application and recommends the application be refused. Should the Planning Authority choose to approve the application, the applicant should first be required to complete an Environmental Assessment that includes an Air Quality Impact Assessment (AQIA) that assesses permitted uses in the zone and potential sources of pollution impacting the subject site. The report should refer to activities and potential pollutants and odours from neighbouring sites such as the landscape supply business to the north on block 44 section 7 Mitchell and demonstrate that the site is suitable for the proposed activity to ensure human health is not put at unnecessary risk.

The report should also demonstrate that the proposed use will not jeopardise the use of surrounding land for any industrial purposes."

Response:

Matters raised have been incorporated as conditions of approval or advice – refer to condition A1 in Part 1 of this decision.

ACT HEALTH PROTECTION SERVICE

On date 1 May 2018 advice was received from Icon Water in relation to the proposal. The advice states that the proposal is not supported.

- *A statement of non-support was issued (**Attachment H**).*

Response:

Matters raised have been incorporated as conditions of approval or advice – refer to condition A2 in part 1 of this decision

PART 4 ADMINISTRATIVE INFORMATION

DATE THAT THIS APPROVAL TAKES EFFECT

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

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

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

CONDITIONAL APPROVAL

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

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

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

INSPECTION OF THE APPLICATION AND DECISION

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

REVIEW BY THE ACT CIVIL AND ADMINISTRATIVE TRIBUNAL (ACAT)

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

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 Transport Canberra and City Services.

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 Transport Canberra and City Services.

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, TCCS 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 TCCS

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 TCCS.

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 Transport Canberra and City Services of any existing damage to public facilities.

UTILITY ASSETS RETENTION

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

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 Icon Water'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 Icon Water's 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: www.acat.act.gov.au Email: tribunal@act.gov.au 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 τηλεφωνήστε στο
ITALIAN	Se avete bisogno di un interprete, telefonate al numero:
MALTESE	Jekk għandek bżonn l-għajjuna t'interpretu, ċempel:
PERSIAN	اگر به ترجمه شفاهی احتیاج دارید به این شماره تلغن کنید:
PORTUGUESE	Se você precisar da ajuda de um intérprete, telefone:
SERBIAN	Ako vam je potrebna pomoć prevodioca telefonirajte:
SPANISH	Si necesita la asistencia de un intérprete, llame al:
TURKISH	Tercümana 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

From: [EPD, Customer Services](#)
To: [TCCS_CW_DRCDA; "devapp@actewagl.com.au"; HPS; EmergencyManagement; EPAPanningLiaison; McKeown, Helen](#)
Subject: NOTICE OF DECISION-201733198-18/11 MITCHELL
Date: 23 May 2018 08:54:00
Attachments: [DISPATCHADVICECHECKLIST-201733198-01.doc](#)
[NOTICE OF DECISION-201733198-SIGNED.PDF](#)
[image001.png](#)

Good Morning,

Please see attached **Notice of Decision** for Block 18 Section 11 Suburb MITCHELL Development Application No: **201733198**

For further information please contact **Hayden Pini** on **6205 2888** or by email Hayden.Pini@act.gov.au

Kind Regards

Katherine
Phone 6207 1923

EPDCustomerService@act.gov.au

www.act.gov.au/accesscbr

Access Canberra | **ACT Government**

16 Challis Street, Dickson | GPO Box 158 Canberra ACT 2601

cid:image004.png@01D3DE12.73C7D510



Access Canberra is an ACT Government service that brings together customer and regulatory services, including the former Environment and Planning Directorates Customer Services Team. Access Canberra has been set up to make it easier for business, community organisations and individuals to work with ACT Government and deliver a more seamless experience.



ACT
Government

Environment, Planning and
Sustainable Development

CHECKLIST

Dispatch Advice Checklist

DA Number: 201733198 Block(s): 18 Section: 11 District/Division: MITCHELL

Case Officer: HAYDEN PINI Contact Number: 62078728 Decision Date: 21-May-18

Application Type: **MERIT TRACK DA**

Dispatch Plans: **NO** Dispatch by: **NOT APPLICABLE**

Plans have been moved to the sub-folder in the approved plans folder however have not been stamped as relevant conditions are yet to be satisfied. The plans are not to be dispatched.

Dispatch Entity Referral Advice: **YES**

An Objective alias for the relevant mandatory entity referral advice received from ActewAGL, Actew Corporation, Environment Protection Agency and/or Asset Acceptance, as per S149 of the *Planning and Development Act 2007*, has been moved to the approved plans folder.

Type of Decision: **APPROVED WITH CONDITIONS** Decision By:
DELEGATE OF THE AUTHORITY

Representations: **NO**

Appeal Rights

Applicant: **YES**

Person who made Representation: **NOT APPLICABLE**

Encroachment

Is an application for encroachment (minor) to be dispatched to the applicant? **NOT APPLICABLE**
(If yes, create application for encroachment (minor) document from Intelledox and attach to Notice of decision)

Draft crown leases/Instruments of Variations

Does the NOD require the draft crown leases or Instruments of Variation put with the NOD?

NOT APPLICABLE

(If yes, DA officer to include any attachments with the NOD where the DA includes a Lease Variation)

Entities to be advised

Referral Required: **YES**

NB: Section 174 of the Act states that "The planning and land authority must give a copy of the decision on the development application to each entity to which the application was referred".

<input type="checkbox"/>	DA Leasing Referral Required
<input type="checkbox"/>	Deed Mgt. Referral Required
<input type="checkbox"/>	Land Reg. Referral Required
<input type="checkbox"/>	Action Buses (refer to Asset Acceptance)
<input checked="" type="checkbox"/>	ICON Water (formerly ActewAGL Water)
<input checked="" type="checkbox"/>	ActewAGL (All other entities)
<input checked="" type="checkbox"/>	ACT Health
<input type="checkbox"/>	ACT Heritage Council
<input type="checkbox"/>	ACT Valuation Office
<input checked="" type="checkbox"/>	Asset Acceptance
<input type="checkbox"/>	Australian Communications and Media Authority
<input type="checkbox"/>	Australian National University
<input type="checkbox"/>	Conservator of Flora and Fauna (Referred under S147A or S148)
<input type="checkbox"/>	Commonwealth Department of the Environment (Only Applicable to Impact Track Applications Referred Under S127A.
<input type="checkbox"/>	Custodian of the land -
<input checked="" type="checkbox"/>	Emergency Services (Fire or Ambulance)
<input checked="" type="checkbox"/>	Environment Protection Agency
<input type="checkbox"/>	Gambling and Racing Commission
<input type="checkbox"/>	Gateway Team
<input type="checkbox"/>	Heritage
<input type="checkbox"/>	Housing and Community Services
<input type="checkbox"/>	Land Development Agency
<input type="checkbox"/>	Land and Property Services
<input type="checkbox"/>	Leasing – General Leasing Encroachments and Licences
<input type="checkbox"/>	Office of Regulatory Services - All Multi-Dwelling decisions and any that relate to permanent structures, on unleased Territory land, associated with permits for outdoor eating.
<input type="checkbox"/>	Owners Corporation Lease variation for single units – please use relevant letter template
<input type="checkbox"/>	National Capital Authority
<input type="checkbox"/>	Police
<input type="checkbox"/>	Queanbeyan City Council
<input type="checkbox"/>	Register General's Office
<input type="checkbox"/>	Surveying and Spatial Data
<input type="checkbox"/>	Territory Plan Variation Unit
<input type="checkbox"/>	Transport Planning
<input type="checkbox"/>	Tree Protection
<input type="checkbox"/>	WorkCover
<input type="checkbox"/>	Yass City Council
<input type="checkbox"/>	ACT Place Names - Placenames@act.gov.au
<input type="checkbox"/>	Other -

Comments

From: [Cilliers, George](#)
To: [Stedman, Andrew \(Health\)](#)
Cc: [Phillips, Brett](#); [Sargent, Narelle](#)
Subject: RE: Proposed wording for correction of decision DA 201733198s [SEC=UNCLASSIFIED]
Date: 4 September 2018 10:09:00
Attachments: [image001.jpg](#)

Thanks Andrew,
I think that it is a clear and perfectly reasonable condition.
Much appreciated
George

From: Stedman, Andrew (Health)
Sent: Tuesday, 4 September 2018 9:52 AM
To: Cilliers, George <George.Cilliers@act.gov.au>; Sargent, Narelle <Narelle.Sargent@act.gov.au>
Cc: Phillips, Brett <Brett.Phillips@act.gov.au>
Subject: RE: Proposed wording for correction of decision DA 201733198s [SEC=UNCLASSIFIED]

Hi George,

We considered more clarity was needed in the wording of A so as to avoid confusion. So our proposal is a little longer however gets to the meat of our issue (as we consider they have not responded to our initial comments requesting documents). We agree with alteration to B and C.



I can be a contact for the applicant if needed, however I hope the above is direct enough.

Please let us know your response to the above.

Kind regards

Andrew Stedman | Public Health Officer | A/g Manager Environment and Radiation Safety
Phone: 02 6205 4404 | Mobile: [REDACTED] | Email: andrew.stedman@act.gov.au
Health Protection Service | Population Health Protection and Prevention | ACT Health | ACT Government

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From: Cilliers, George

Sent: Monday, 3 September 2018 1:02 PM

To: Stedman, Andrew (Health) <Andrew.Stedman@act.gov.au>; Sargent, Narelle <Narelle.Sargent@act.gov.au>

Cc: Phillips, Brett <Brett.Phillips@act.gov.au>

Subject: Proposed wording for correction of decision DA 201733198s [SEC=UNCLASSIFIED]

Hi Narelle and Andrew,

Thank you for meeting with us this morning.

To summarise, we suggest a correction to the Notice of Decision for DA201733198, to further clarify conditions A1 and A2, as a preferred approach to this matter.

To this end I have adapted the initial wording proposed by Mr Konstantinou's general counsel (in the email string below). I suggest the following changes:

Condition A1:

Current condition:

A1. ENVIRONMENT PROTECTION AUTHORITY – APPROVAL DOES NOT TAKE EFFECT

- a) The approval **does not take effect** until the lessee/applicant has obtained written endorsement from the Environment Protection Authority and submits such endorsement to the planning and land authority as satisfying this condition of approval under s165 of the *Planning and Development Act 2007*.
- b) The lessee/applicant must comply with any conditions imposed by the Environment Protection Authority.

Note: Any substantial changes to the development required for the Environment Protection Authority endorsement will need to be submitted for the approval of the planning and land authority with an application to amend the approval under s197 of the Planning and Development Act 2007.



[Redacted]

[Redacted]

[Redacted]

[Redacted]

Please feel free to suggest any changes. Apologies for the urgency, but I'd appreciate a response to this to enable me to get something out to the proponent by Wednesday morning at the latest.

Kind regards

George

This email, and any attachments, may be confidential and also privileged. If you are not the intended recipient, please notify the sender and delete all copies of this transmission along with any attachments immediately. You should not copy or use it for any purpose, nor disclose its contents to any other person.

From: Harry Konstantinou [redacted] [@vivaleisure.com.au](mailto:[redacted]@vivaleisure.com.au)
Sent: Thursday, 12 July 2018 1:26 PM
To: Morgan Bryant [redacted] [@vivaleisure.com.au](mailto:[redacted]@vivaleisure.com.au); Cilliers, George
<George.Cilliers@act.gov.au>
Subject: RE: DA 201733198 - Konstantinou Developments

Dear Mr Cilliers

Are you able to advise on the below!

I note we have been granted an extension of time, however based on the feedback from the EPA, I do not feel this provides any clear guidance on a way forward. We wish to start on the development asap.

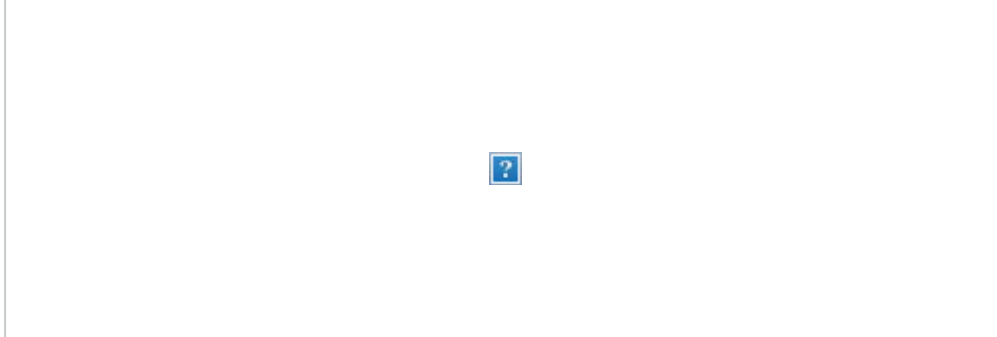
Regards

Harry Konstantinou | Managing Director | Viva Leisure & The Club Group

Head Office: First Floor, Unit 7, 141 Flemington Road, Mitchell ACT 2911

Direct Phone: 02 6163 8088 | Switchboard: 1300 11 LIME | Facsimile: 02 6163 4088 |

www.vivaleisure.com.au



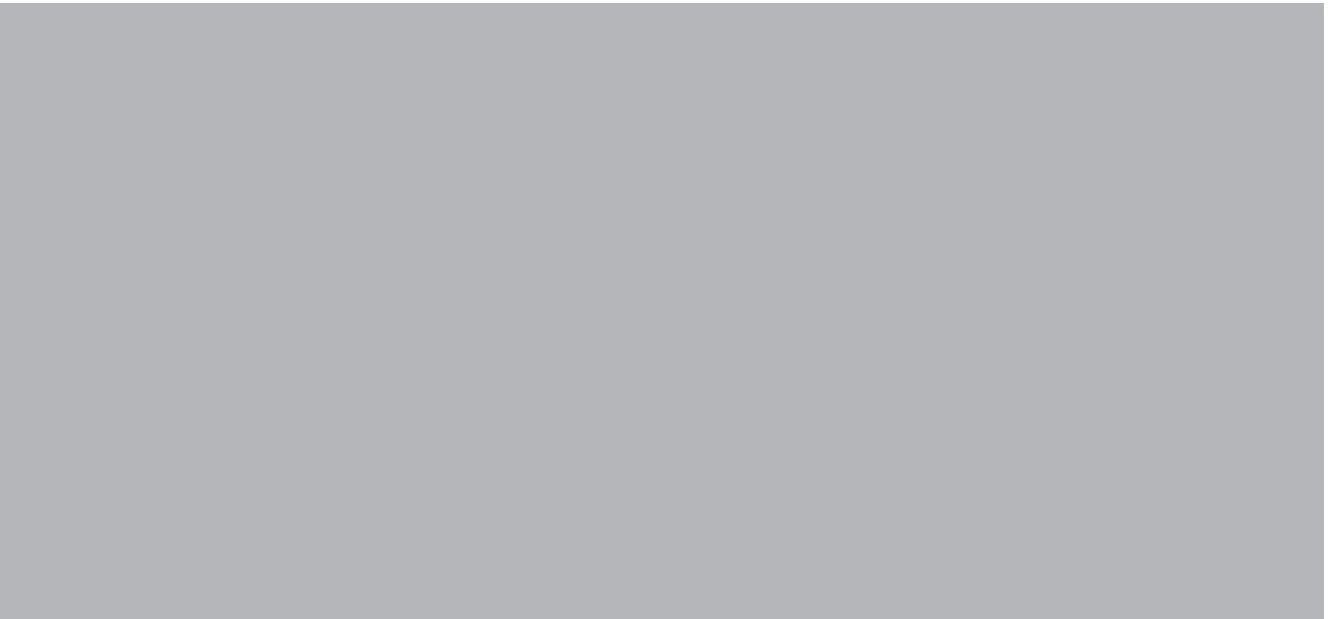
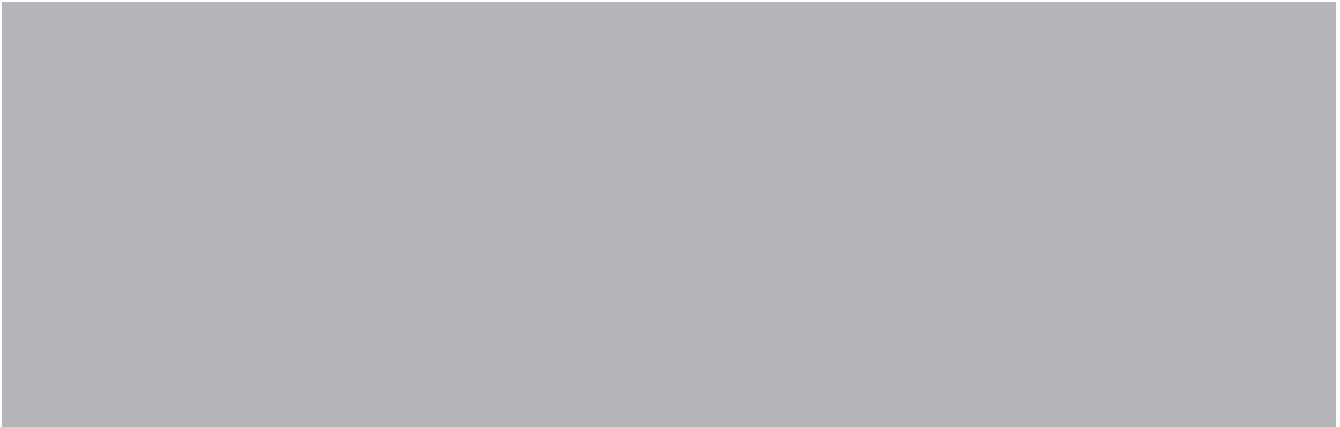
From: Morgan Bryant [redacted] <[\[redacted\]@vivaleisure.com.au](mailto:[redacted]@vivaleisure.com.au)>

Sent: Wednesday, 13 June 2018 10:48 AM

To: Cilliers, George <George.Cilliers@act.gov.au>

Cc: Harry Konstantinou [redacted] <[\[redacted\]@vivaleisure.com.au](mailto:[redacted]@vivaleisure.com.au)>

Subject: DA 201733198 - Konstantinou Developments



Regards

Morgan Bryant | General Counsel | Viva Leisure

Head Office: First Floor, Unit 7, 141 Flemington Road, Mitchell ACT 2911

Direct Phone: 02 6163 8068 | Switchboard: 1300 11 LIME | Facsimile: 02 6251 7666 |
www.vivaleisure.com.au



From: [Cilliers, George](#)
To: [Stedman, Andrew \(Health\)](#)
Subject: RE: Proposed wording for correction of decision DA 201733198s [SEC=UNCLASSIFIED]
Date: 18 September 2018 09:04:00
Attachments: [image001.jpg](#)

Wil do – thanks!

From: Stedman, Andrew (Health)
Sent: Tuesday, 18 September 2018 9:04 AM
To: Cilliers, George <George.Cilliers@act.gov.au>
Subject: RE: Proposed wording for correction of decision DA 201733198s [SEC=UNCLASSIFIED]

Hi George,

You can put me down as the contact person. The best contact would be via email as for any specialist concerns I would have to talk to our air quality people.

Andrew Stedman
Andrew.stedman@act.gov.au

Thanks

Andrew Stedman | Public Health Officer | A/g Manager Environment and Radiation Safety
Phone: 02 6205 4404 | Mobile: [REDACTED] | Email: andrew.stedman@act.gov.au
Health Protection Service | Population Health Protection and Prevention | ACT Health | ACT Government
25 Mulley Street, Holder ACT 2611 | health.act.gov.au/hps

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From: Cilliers, George
Sent: Tuesday, 18 September 2018 8:49 AM
To: Stedman, Andrew (Health) <Andrew.Stedman@act.gov.au>
Subject: Proposed wording for correction of decision DA 201733198s [SEC=UNCLASSIFIED]
Importance: High

Hi Andrew,
Apologies to bother you with this again, but the proponent for the development has requested that a contact person be included to the correction notice.
I'd appreciate it if you can let me know who I should add to the correction notice and relevant contact details.
(I've added a copy of the draft correction notice that I need to issue today should you wish to refer to it.)
Thanks
George

From: Cilliers, George

From: [Cilliers, George](#)
To: [Stedman, Andrew \(Health\)](#)
Subject: RE: Proposed wording for correction of decision DA 201733198s [SEC=UNCLASSIFIED]
Date: 21 September 2018 09:34:00
Attachments: [20180918 - S196 Formal Correction Letter - signed.pdf](#)
[NOTICE OF DECISION-201733198-SIGNED.PDF](#)
[image001.jpg](#)

Original NoD and Correction Notice attached.

Cheers

From: Stedman, Andrew (Health)
Sent: Friday, 21 September 2018 9:32 AM
To: Cilliers, George <George.Cilliers@act.gov.au>
Subject: RE: Proposed wording for correction of decision DA 201733198s [SEC=UNCLASSIFIED]

Hi George

Canberra Town Planners have contacted us to set up a meeting regarding our comments. Do you have a finalised COD? The last one I saw as a draft.

We will look at seeing if it can happen next week sometime.

Thanks

Andrew Stedman | Public Health Officer | A/g Manager Environment and Radiation Safety
Phone: 02 6205 4404 | Mobile: [REDACTED] | Email: andrew.stedman@act.gov.au
Health Protection Service | Population Health Protection and Prevention | ACT Health | ACT Government
25 Mulley Street, Holder ACT 2611 | health.act.gov.au/hps

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From: Cilliers, George
Sent: Tuesday, 18 September 2018 9:05 AM
To: Stedman, Andrew (Health) <Andrew.Stedman@act.gov.au>
Subject: RE: Proposed wording for correction of decision DA 201733198s [SEC=UNCLASSIFIED]

Wil do – thanks!

From: Stedman, Andrew (Health)
Sent: Tuesday, 18 September 2018 9:04 AM
To: Cilliers, George <George.Cilliers@act.gov.au>
Subject: RE: Proposed wording for correction of decision DA 201733198s [SEC=UNCLASSIFIED]

Hi George,

You can put me down as the contact person. The best contact would be via email as for any specialist concerns I would have to talk to our air quality people.



ACT
Government

Environment, Planning and
Sustainable Development

ArPM Pty Ltd
info@arpm.net.au

Dear ArPM Pty Ltd

BLOCK 11 SECTION 18 - MITCHELL
Application Number: 201733198
Lessee: Konstantinou Developments Pty Ltd

I refer to the Notice of Decision dated 21 May 2018 concerning the above application.

Conditions A1 and A2 of the decision needs to be amended to clarify the respective roles and requirements of the Environment Protection Authority and the ACT Health Protection Service in giving effect to the development approval.

Consequently, in accordance with section 196 of the *Planning and Development Act 2007*, the Notice of Decision dated 21 May 2018 is formally corrected as follows.

Condition A1:

Change condition A1 to read as follows:

A1. ENVIRONMENT PROTECTION AUTHORITY – APPROVAL DOES NOT TAKE EFFECT

- a) The approval **does not take effect** until the lessee/applicant has provided the Environment Protection Authority with the air quality report referred to in A2.
- b) The lessee/applicant must comply with any future requests of the Environment Protection Authority to access the site for the purpose of carrying out its own air quality testing from time-to-time.

Note: Evidence of compliance with this condition must be provided to the planning and land authority. Any substantial changes to the development required as a result of Environment Protection Authority requirements will need to be submitted for the approval of the planning and land authority with an application to amend the approval under s197 of the *Planning and Development Act 2007*.

Condition A2:

Change condition A2 to read as follows:

A2. ACT HEALTH PROTECTION SERVICE – APPROVAL DOES NOT TAKE EFFECT

- a) The approval does not take effect until the lessee/applicant has prepared and submitted an air quality report to the satisfaction of the ACT Health Protection

license. The report must be prepared by a consultant licensed or registered with the Air Society of Australia and New Zealand (ASANZ) or a company
<http://www.asanz.org.nz>.

Such a report shall discuss and demonstrate that the development and subsequent use of the site is a "Produce Centre" (Leaky City) and create an unacceptable risk to the health and safety of children and vulnerable users thereof. The recommendations for actions to avoid the separation of certified activities by a boundary, boundaries and, if applicable, fences, are subject to the site of the site. A profile of the site shall be provided with the report. A report must be discussed with the relevant copies of these reports may be provided to the relevant authorities. The lease application shall comply with any other conditions imposed by the ACT Health Protection Service as a result of the findings of the report.

- b) The applicant shall ensure that all water outlets supplied by rainwater are clearly labelled as being the most appropriate water supply and ensure that they are closed in case of a fire to prevent fire spread.
- c) The lease applicant shall ensure that a food business license is obtained from the Health Protection Service prior to completion of the development.

Note: Evidence of compliance with this condition may be provided to the planning and development. Any essential changes to the development required for the ACT Health Protection Service and elsewhere, need to be submitted to the relevant authority for approval. The authority is responsible for issuing the approval under s 27 of the Planning and Development Act 2007.

The remaining conditions of approval set out in the "Conditions of Approval" dated 14 May 2016 will continue to apply.

The applicant should contact the ACT Health Protection Service for the purpose of protected condition 10 in the "Conditions of Approval" (Air Manager Assessment and Radiation Safety) and can be contacted on 6265 4400 or by email Andrew.Steele@act.govt.nz.

If you wish to discuss this matter further, please contact me on 6267 8304 or by email Simon.Christie@act.govt.nz.

(To the Mayor)

[Redacted]
George Li, AM
Deputy Mayor (Planning and Land Authority)
Environment, Planning & Sustainable Development, Directorate
15 September 2016



ACT
Government

Environment, Planning and
Sustainable Development

Notice of decision

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

Merit track

DA NO: 201733198	DATE LODGED: 16 February 2018	
DATE OF DECISION: 21 May 2018		
BLOCK: 18	SECTION: 11	SUBURB: MITCHELL
STREET NO AND NAME: Corner of Heffernan Street and Darling Street, Mitchell		
APPLICANT: Arpm Pty Ltd		
LESSEE: Konstantinou Developments Pty Ltd		

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

- **construction of a new 3 storey childcare centre, new driveways, car park and dropoff area, landscaping and associated site works;**

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


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

PART 2 sets out the Reasons for the Decision.

PART 3 is Public Notification and Entity Advice.

PART 4 contains administrative information relating to the determination.

DELEGATE


George Cilliers
Delegate of the planning and land authority
Environment, Planning and Sustainable Development Directorate
21 May 2018

CONTACT OFFICER

Hayden Pini
Phone: 62078728
Email: Hayden.Pini@act.gov.au

PART 1 CONDITIONS OF APPROVAL

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

A. ADMINISTRATIVE / PROCESS CONDITIONS

A1. ENVIRONMENT PROTECTION AUTHORITY – APPROVAL DOES NOT TAKE EFFECT

- a) The approval **does not take effect** until the lessee/applicant has obtained written endorsement from the Environment Protection Authority and submits such endorsement to the planning and land authority as satisfying this condition of approval under s165 of the *Planning and Development Act 2007*.
- b) The lessee/applicant must comply with any conditions imposed by the Environment Protection Authority.

Note: Any substantial changes to the development required for the Environment Protection Authority endorsement will need to be submitted for the approval of the planning and land authority with an application to amend the approval under s197 of the Planning and Development Act 2007.

A2. ACT HEALTH PROTECTION SERVICE – APPROVAL DOES NOT TAKE EFFECT

- a) The approval **does not take effect** until the lessee/applicant has obtained written endorsement from the ACT Health Protection Service and submits such endorsement to the planning and land authority as satisfying this condition of approval under s165 of the *Planning and Development Act 2007*.
- b) The lessee/applicant must comply with any conditions imposed by the ACT Health Protection Service.

Note: Any substantial changes to the development required for the ACT Health Protection Service endorsement will need to be submitted for the approval of the planning and land authority with an application to amend the approval under s197 of the Planning and Development Act 2007.

A3. EVOENERGY – APPROVAL DOES NOT TAKE EFFECT

- a) The approval does not take effect until the lessee or land custodian has obtained a Statement of Acceptance from Evoenergy in relation to electricity networks and submits the Statement of Acceptance to the planning and land authority as satisfying this condition of approval under s165 of the *Planning and Development Act 2007*.
- b) The land custodian must comply with any conditions imposed on a Statement of Acceptance by Evoenergy.

Note: any substantial changes to the development required for the Evoenergy Statement of Acceptance will need to be submitted for the approval of the planning and land authority with an application to amend the approval under s197 of the Planning and Development Act 2007.

A4. ICON WATER – APPROVAL DOES NOT TAKE EFFECT

- a) The approval does not take effect until the lessee or land custodian has obtained a Statement of Acceptance from Icon Water in relation to water and sewer networks and submits the Statement of Acceptance to the planning and land authority as satisfying this condition of approval under s165 of the *Planning and Development Act 2007*.
- b) The land custodian must comply with any conditions imposed on a Statement of Acceptance by Icon Water.

Note: any substantial changes to the development required for the Icon Water Statement of Acceptance will need to be submitted for the approval of the planning and land authority with an application to amend the approval under s197 of the Planning and Development Act 2007.

A5. TIMEFRAME TO COMPLY WITH CONDITIONS A1, A2, A3, & A4

The lessee shall comply with conditions A1, A2, A3 & A4 within 24 months of the date of this decision.

- a) This approval will end if the lessee has not complied with Condition A1, A2, A3, & A4 within 24 months of the date of this decision.
- b) The lessee may apply to the planning and land authority in writing for an extension of time to the approved timeframe.

B. PRIOR TO CONSTRUCTION AND/OR DEMOLITION

B1. ACT HEALTH PROTECTION SERVICE

The development details a kitchen within the ground floor of the childcare facility. If the kitchen is used to produce food to be sold, or is used to prepare food provided to the children, the kitchen will require a food business license. The applicant is advised to submit a food and business registration and fitout application (with suitable details plans) to the Health Protection Service prior to construction.

B2. SEDIMENT AND EROSION CONTROL

That prior to any work on the site commencing, the applicant/lessee must submit two copies of the sediment and erosion control plan to Environment Protection Authority for approval.

B3. TREE PROTECTION

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

B4. VERGE MANAGEMENT

This plan is to be approved and implemented before the commencement of any work on the site, and is to be in accordance with the *City Management Guidelines for the Protection of Public Landscape Assets Adjacent to Development Works-REF-04.*

B5. TRAFFIC MANAGEMENT

A Temporary Traffic Management (TTM) Plan shall be prepared by a suitably qualified person and approved by the Manager, Traffic Management & Safety, Roads ACT, Roads and Public Transport Division, Transport Canberra and City Services (TCCS) prior to commencement of any work on the site. This plan is to address, as a minimum, measures to be employed during construction to manage all traffic, including construction traffic, in and around the site, provision of safe pedestrian movement around the site, the provision of parking for construction workers, and associated traffic control devices.

C. DURING CONSTRUCTION AND/OR DEMOLITION**C1. TRANSPORT CANBERRA AND CITY SERVICES**

- a) All offsite works including driveway must be constructed in accordance with TCCS Design Standards.
- b) Proposed footpath must be 1.5m wide. A clearance of 0.5m must be maintained between footpath and the block boundary.
- c) The pedestrian walkway / footpath must take precedence over the driveway.
- d) The proposed trees must be located in the middle of the new footpath and the road kerb so that trees are 1.4m from the edge of both.
- e) The official street trees for Heffernan Street are eucalypt species but there is not sufficient space for eucalypts to be planted on the Heffernan Street verge outside the new childcare centre at Block 18 Section 11. The new tree plantings should be that *Melaleuca linariifolia* selected from good quality tree stock and meet Australian Standards 2303: Tree Street Stock for Landscape Use (e.g. single trunked, with good amenity tree form and sufficient calliper to be self-supporting). The new trees will need to be maintained for a minimum of 12 months prior to formal handover to TCCS Development Review and Coordination.
- f) The new trees should also be planted in accordance with the latest TCCS planting specification for street trees to ensure best practice planting methodology (please see Urban Treescapes planting specification attached).

C2. ACT HEALTH PROTECTION SERVICE

The development details that a 24KL rainwater tank will be installed, with retained water being used to flush toilets and urinals. The applicant is advised that any outlets supplied by rainwater are clearly labelled as being provided with non-potable water and should be located in an area inaccessible to children or provided with tamperproof fittings.

C3. SEDIMENT AND EROSION CONTROL

All unsurfaced entry and exit points must be consolidated with crushed aggregate or similar extending from the road kerb to the building line.

Temporary sediment controls – comprising, as a minimum, geotextile silt fencing along the lowest points of the site and hay bale filters as required – are to be installed and maintained at least daily to prevent sediment from reaching the stormwater mains system.

C4. TREE PROTECTION

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.

C5. VERGE MANAGEMENT

During any work undertaken on the site, 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 a Landscape Management Plan approved by the Manager, Asset Acceptance, Operational Support, Directorate Services, Transport Canberra and City Services, TCCS.

C6. TRAFFIC MANAGEMENT

At all times, the site and surrounds shall be managed in accordance with the approved Temporary Traffic Management (TTM) Plan.

C7. 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.

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

N/A

E. **ADVISORY NOTES**

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

E1. ENTITY COMMENTS

The applicant is advised to carefully consider all the relevant advice (in addition to the conditions imposed) from each of the entities stated in **PART 3 PUBLIC NOTIFICATION AND ENTITY ADVICE** of this Notice of Decision throughout the process of development (prior to, during & post construction) as applicable.

E2. EVOENERGY ELECTRICITY NETWORKS

Refer to statement(s) from Evoenergy Electricity Networks at **Attachment A**.

E3. JEMENA GAS NETWORKS

Refer to statement(s) from Jemena at **Attachment B**.

E4. ICON WATER

Refer to statement(s) from Icon Water at **Attachment C**.

E5. ACT EMERGENCY SERVICE AGENCY

Refer to statement(s) from ACT Emergency Service Agency at **Attachment D**.

E6. ENVIRONMENT PROTECTION AUTHORITY

Refer to statement(s) from ACT Emergency Service Agency at **Attachment E, F, and G**.

E7. ACT HEALTH PROTECTION SERVICES

Refer to statement(s) from ACT Emergency Service Agency at **Attachment H**.

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

PART 2 REASONS FOR THE DECISION

In deciding to approve the application with conditions, the Planning and Land Authority (the Authority) firstly considered under section 119 (1) (a) of the Act whether the application meets the relevant codes, including the Industrial Zones Development code and all relevant general codes.

In relation to section 119 (2) (a), the Authority considered the advice given by each entity to which the application was referred, and is satisfied that, with the conditions set out in Part 1, approval of the application would not be inconsistent with the advice received from each entity.

In relation to section 119 (2) (b), the Authority is satisfied that this decision is consistent with the objective of the Territory Plan as in section 48 of the Act in that it is *not inconsistent with the National Capital Plan*, and that the proposal will *provide the people of the ACT with an attractive, safe and efficient environment*, by the construction of a child care centre, whilst not having a detrimental impact on the surrounding environment.

The key issues identified in the assessment are comments received by entities. Conditions have been imposed to address the key issues and ensure that the proposal is consistent with the Territory Plan and the *Planning and Development Act 2007*.

In deciding to approve the application with conditions, the Authority also considered each of the matters or issues set out in section 120 of the Act.

In relation to section 120, the Authority is satisfied that the proposed development meets all applicable objectives of the *IZ2: Industrial Mixed Use zone*;

is satisfied that the subject land is suitable for the proposed development, provided each of the conditions imposed as part of this Decision to approve the application is met;

notes that there is no environmental significance opinion required or in force for the development proposal;

notes that no written representations were received for the development proposal;

have imposed conditions of approval to this Decision pursuant to Section 162(1)(b) of the Act that reflect relevant entity advice;

notes that the subject land is not public land; and

considered the probable impacts that the proposed development may have, and propose conditions to address some of the impacts that might otherwise occur.

With the conditions imposed, and after weighing the competing interests as to whether the application should be approved, the Authority formed the view that the probable impacts that might arise from the development are adequately addressed by the conditions imposed.

EVIDENCE

Application No. 201733198

File No. 1-2017/35837

The Territory Plan zone – IZ2: Industrial Mixed Use Zone

The Development Codes – Industrial Zone Development Code

The Precinct Codes – Mitchell Precinct Map and Code

Current Crown Lease – Volume 1831 Folio 29

Representations – Nil

Entity advice - Transport Canberra and City Services, Evoenergy, Jemena, Icon Water, Emergency Services Agency, the Environment Protection Authority and the ACT Health Protection Service.

PART 3 PUBLIC NOTIFICATION AND ENTITY ADVICE

PUBLIC NOTIFICATION

Pursuant to Division 7.3.4 of the Act, the application was publicly notified from 26 February 2018 to 20 March 2018. No written representations were received during public notification.

ENTITY ADVICE

Pursuant to Division 7.3.3 of the Act, the application was referred to entities and advice was received. The referral entities' comments are as follows. A response to the advice is provided as appropriate.

TRANSPORT CANBERRA AND CITY SERVICES

On date 14 March 2018 advice was received from Transport Canberra and City Services in relation to the proposal. The advice states that the proposal is supported subject to compliance with the following conditions.

Conditions:

- *All offsite works including driveway must be constructed in accordance with TCCS Design Standards.*
- *Proposed footpath must be 1.5m wide. A clearance of 0.5m must be maintained between footpath and the block boundary.*
- *The pedestrian walkway / footpath must take precedence over the driveway.*
- *The proposed trees must be located in the middle of the new footpath and the road kerb so that trees are 1.4m from the edge of both.*
- *The official street trees for Heffernan Street are eucalypt species but there is not sufficient space for eucalypts to be planted on the Heffernan Street verge outside the new childcare centre at Block 18 Section 11. The new tree plantings should be that *Melaleuca linariifolia* selected from good quality tree stock and meet Australian Standards 2303: Tree Street Stock for Landscape Use (e.g. single trunked, with good amenity tree form and sufficient calliper to be self-supporting). The new trees will need to be maintained for a minimum of 12 months prior to formal handover to TCCS Development Review and Coordination.*
- *The new trees should also be planted in accordance with the latest TCCS planting specification for street trees to ensure best practice planting methodology (please see Urban Treescapes planting specification attached).*

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, Development Review and Coordination, TCCS by the ways of:

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

Design Review and Operational Acceptance

A Letter of Design Review is required for all off-site works from the Senior Manager, Development Review and Coordination, TCCS, prior to the construction.

In order to obtain the Letter of Design Review, 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 Ref No 06: "Requirements for Design Review Submissions", must be certified by a Chartered Engineer/Landscape Architect and submitted to the Senior Manager, Development Review and Coordination, TCCS.

A Certificate of Operational Acceptance on completion of the works is required from the Senior Manager, Development Review and Coordination, TCCS, prior to the issue of a Certificate of Occupancy.

Similarly a Chartered Engineer/Landscape Architect should certify compliance with TCCS Ref No 08: "Requirements for Works as Executed Quality Records Requirements" when the request for Operational Acceptance is made to the Senior Manager, Development Review and Coordination, TCCS 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, TCCS. All times during construction the site and surrounds shall be managed in accordance with a Temporary Traffic Management Plan, prepared by a suitably qualified person and approved by the Manager, Traffic Management & Safety. This plan is to address, as a minimum, measures to be employed during construction to manage all traffic, including construction traffic, in and around the site, provision of safe pedestrian movement around the site, the provision of parking for construction workers, and associated traffic control devices.

Landscape Management & Protection Plan (LMPP)

LMPP approval from the Senior Manager, Development Review and Coordination, TCCS. 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, Development Review and Coordination, TCCS. This plan is to be implemented before the commencement of works, including demolition on the site and is to be in accordance with TCCS Guidelines for the Protection of Public Landscape Assets Adjacent to Development Works-REF-04.

Use of Verges or other Unleased Territory land

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

Repair of Damage to Public Assets

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

Notice of Commencement of Construction

Notice of Commencement for the Works in Unleased Territory Land shall be submitted to the Senior Manager, Development Review and Coordination, TCCS 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.

Matters raised have been incorporated as either conditions of approval or advice.

EVOENERGY

On date 7 March 2018 advice was received from Evoenergy in relation to the proposal. The advice states that the proposal is not supported.

- *A statement of non-compliance was issued (**Attachment A**).*

Response:

Matters raised have been incorporated as conditions of approval – refer to condition A3 in Part 1 of this decision.

JEMENA

On date 1 March 2018 advice was received from Jemena in relation to the proposal. The advice states that the proposal is supported.

- *A statement of conditional compliance was issued (**Attachment B**).*

Response:

Matters raised have been incorporated as either conditions of approval or advice.

ICON WATER

On date 22 February 2018 advice was received from Icon Water in relation to the proposal. The advice states that the proposal is not supported.

- *A statement of non-compliance was issued (**Attachment C**).*

Response:

Matters raised have been incorporated as conditions of approval – refer to condition A4 in Part 1 of this decision.

EMERGENCY SERVICES AGENCY

On date 7 March 2018 advice was received from the Emergency Services Agency in relation to the proposal. The advice states that the proposal is supported.

- *A statement of conditional compliance was issued (**Attachment D**).*

Response:

Matters raised have been incorporated as either conditions of approval or advice.

ENVIRONMENT PROTECTION AUTHORITY

On date 15 March 2018 advice was received from the Environment Protection Authority in relation to the proposal. The advice states that the proposal is not supported.

- *Relevant advice is attached (**Attachment E**).*

On date 18 April 2018 further advice was received from the Environment Protection Authority in relation to the proposal. The advice states that the proposal is not supported and that the proposal should be referred to ACT Health Protection Services for comment.

- *Relevant advice is attached (**Attachment F**).*

On date 27 April 2018 advice was received from the Environment Protection Authority in relation to the proposal. The advice states that further information/amendments are required.

- *Relevant advice is attached (**Attachment G**).*

On date 16 May 2018 advice was received from the Environment Protection Authority in relation to the proposal. The advice states that the proposal is not supported and have provided the following statement:

"To clarify, the Environment Protection Authority does not support the Development Application and recommends the application be refused. Should the Planning Authority choose to approve the application, the applicant should first be required to complete an Environmental Assessment that includes an Air Quality Impact Assessment (AQIA) that assesses permitted uses in the zone and potential sources of pollution impacting the subject site. The report should refer to activities and potential pollutants and odours from neighbouring sites such as the landscape supply business to the north on block 44 section 7 Mitchell and demonstrate that the site is suitable for the proposed activity to ensure human health is not put at unnecessary risk.

The report should also demonstrate that the proposed use will not jeopardise the use of surrounding land for any industrial purposes."

Response:

Matters raised have been incorporated as conditions of approval or advice – refer to condition A1 in Part 1 of this decision.

ACT HEALTH PROTECTION SERVICE

On date 1 May 2018 advice was received from Icon Water in relation to the proposal. The advice states that the proposal is not supported.

- *A statement of non-support was issued (**Attachment H**).*

Response:

Matters raised have been incorporated as conditions of approval or advice – refer to condition A2 in part 1 of this decision

PART 4 ADMINISTRATIVE INFORMATION

DATE THAT THIS APPROVAL TAKES EFFECT

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

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

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

CONDITIONAL APPROVAL

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

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

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

INSPECTION OF THE APPLICATION AND DECISION

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

REVIEW BY THE ACT CIVIL AND ADMINISTRATIVE TRIBUNAL (ACAT)

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

APPENDIX 1

CONTACT DETAILS OF RELEVANT AGENCIES

Health Directorate - health protection	Website: www.health.act.gov.au Telephone: (02) 6205 1700
Environment, Planning and Sustainable Development Directorate <i>Planning and land authority</i> - list of certifiers for building approval - demolition information - asbestos information <i>Environment Protection Authority</i> - environment protection - water resources - asbestos information <i>Conservation, Planning and Research</i> - threatened species/wildlife management	Website: www.planning.act.gov.au Telephone: (02) 6207 1923 Website: www.environment.act.gov.au Telephone: (02) 6207 6251 Website: www.environment.act.gov.au Telephone: (02) 6207 1911
Transport Canberra and City Services - tree damaging activity approval - use of verges or other unleased Territory land - works on unleased Territory land - design acceptance - damage to public assets	Website: www.tccs.act.gov.au Telephone: 132 281 Telephone for asset acceptance: (02) 6207 7480
Utilities - Telstra (networks) - TransACT (networks) - Icon Water - Electricity reticulation	Telephone: (02) 8576 9799 Telephone: (02) 6229 8000 Telephone: (02) 6248 3111 Telephone: (02) 6293 5738

ADVICE TO APPLICANT

SUBMISSION OF REVISED DRAWINGS AND DOCUMENTATION

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

- Completing an application for S165 Satisfying Conditions of Approval and submitting the documentation online using edevelopment. More information on edevelopment can be found at http://www.planning.act.gov.au/tools_resources/e-services/edevelopment

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

FURTHER APPROVALS FOR CONSTRUCTION

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

BUILDING APPROVAL

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

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 Transport Canberra and City Services.

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, TCCS 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 TCCS

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 TCCS.

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 Transport Canberra and City Services of any existing damage to public facilities.

UTILITY ASSETS RETENTION

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

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 Icon Water'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 Icon Water's 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: www.acat.act.gov.au Email: tribunal@act.gov.au 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 τηλεφωνήστε στο
ITALIAN	Se avete bisogno di un interprete, telefonate al numero:
MALTESE	Jekk għandek bżonn l-għajjuna t'interpretu, ċempel:
PERSIAN	اگر به ترجمه شفاهی احتیاج دارید به این شماره تلغن کنید:
PORTUGUESE	Se você precisar da ajuda de um intérprete, telefone:
SERBIAN	Ako vam je potrebna pomoć prevodioca telefonirajte:
SPANISH	Si necesita la asistencia de un intérprete, llame al:
TURKISH	Tercümana 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

From: [Robyn King](#)
To: [Stedman, Andrew \(Health\)](#)
Cc: [Cilliers, George](#); [Pieter Van Der Walt](#); [Nichelle Jackson](#); [John Konstantinou](#)
Subject: Email 1 of 2 - Mitchell 18/11 ACTPLA Submission
Date: 12 November 2018 10:32:44
Attachments: [image001.gif](#)
[DA201733198 ACT Health ltr Nov 18.pdf](#)

Hi Andrew

Further to the voice mail I just left for you, please find attached the Submission for the above site. I will send it through in 3 different emails due to the size of the files. Due to the commercial urgency of this project it would be appreciated if you could review it as soon as possible.

Thank you

CTP Logo



Robyn King
Executive Assistant

5/32 Lonsdale Street, Braddon 2612
(02) 6262 5091

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