

Direct Sales Panel Meeting

MICROSOFT TEAMS MEETING – ONLINE 10:30 – 11:30am

Minutes of Meeting – 3 June 2022

Attendees	Lea Durie (Chair – DI - EPSDD); Nicholas Holt (SLA); Tim Wyatt (TCCS); Yamin Rashed (TCCS); Dean Davies (CMTEDD); Dan Landon (Health); Damien McNamara (EPSDD – D&I); Graham Mundy (EPSDD D&I); Rohen Conners (ED); Nicole Wong (CMTEDD)
Apologies	Geri Zeiler (CMTEDD); Kathy Goth (CMTEDD); Hugh Maclachlan (CMTEDD); Jason Hart (CSD); Vanessa Attridge (ED)
Secretariat	Chris Sparke (DI- EPSDD); Katherine Hicks (DI -EPSDD)

ITEM	DESCRIPTION	DISCUSSION/DECISION	ACTIONS
1.	Presentations by applicants:		
1.1.		Molonglo Group presented the Dairy Road proposal and its integration with part Block 11 Section 47 Fyshwick	<ul style="list-style-type: none"> None
2.	Acceptance of minutes:		
2.1.	Minutes of previous meeting	<ul style="list-style-type: none"> Minutes of 18 March 2022 – accepted. 	<ul style="list-style-type: none"> None
3.	Confirmation of Members Probity	<ul style="list-style-type: none"> No probity issues were identified by members. 	<ul style="list-style-type: none"> None
4.	Applications for Consideration		
4.1.	Lolita (ACT) No1 and 2 Pty Ltd – Part Block 11 Section 47 Fyshwick	<ul style="list-style-type: none"> The Panel considered the application and agreed to recommend support of the direct sale subject to conditions: <ol style="list-style-type: none"> TCCS sought the inclusion of a withdrawal clause over the subject parcel of land. This was later reconsidered on <u>13 July 2022</u> with the advice that “after further consideration, EPSDD and TCCS now support removing the requirement for a withdrawal clause as part of the direct sale of Part Block 11 Section 47 Fyshwick.” The inclusion of a withdrawal clause is unnecessary as the provisions of the Lands Acquisition Act 1994 is always open to the Territory to pursue any legitimate public interest in the land while affording just and equitable protections for the Lessee. Molonglo Group have been endeavouring since <u>23 June 2022</u> to elicit a written response for UGL who manage the asset on behalf of Transport NSW. It is requested that EPSDD and TCCS remove its 	<ul style="list-style-type: none"> EPSDD – D&I to commence Ministerial Brief

		<p>requirement for a "letter of support from NSW Rail stating that they have no concern and support the direct sale" given that:</p> <ul style="list-style-type: none"> • <u>UGL/Transport NSW have been fully briefed on the matter</u>, and a generous opportunity to comment has already been provided without a response being forthcoming; • it is inequitable for Molonglo's interest to continue to be hostage to an ill-defined and indefinite timeframe; • Any subsequent development of the direct sale land would be subject to a development application. UGL/NSW Rail would be advised by the ACT Government's Environment Planning and Sustainable Development Directorate of any such development application in accordance with the provisions of the Planning and Development Act 2008 (the ACT). The Act provides NSW Rail with the right to make a submission on any such DA and provides third party appeal rights. • In the extremely unlikely event that the land or any portion of it were required for railway associated purposes in the future, the ACT Government could readily affect its re-acquisition pursuant to the Lands Acquisition Act 1994. <p>4. On 30 August 2022 – EPSDD agreed to remove the requirement of written support from NSW rail based on the numerous briefings NSW Transport has had on the matter.</p>	
4.2.			
5.	New applications received	<ul style="list-style-type: none"> • For information purposes new applications received are noted in the Agenda. 	NIL
6.	Other business:	<ul style="list-style-type: none"> • NIL 	NIL
7.	Next meeting:	<ul style="list-style-type: none"> • September – out of session circulation 	NIL

From: [REDACTED]
Sent: 29/08/2022 4:15 PM
To: [REDACTED]
Cc: [REDACTED]
[REDACTED]; "Hicks, Katherine" <Katherine.Hicks@act.gov.au>
Subject: Re: Part Block 11 Section 47 Fyshwick ACT - Proposed Direct Sale to Molonglo CRM:0745026

Caution: This email originated from outside of the ACT Government. Do not click links or open attachments unless you recognise the sender and know the content is safe. [Learn why this is important](#) Good afternoon [REDACTED]

I am following up to establish whether you have received a response from Transport NSW. If not I would greatly appreciate it if you could impress upon them the urgency of the matter. This is particularly so given that we have been pursuing this matter with you since 23 June 2022.
Regards

On Tue, 16 Aug 2022 at 17:44, [REDACTED] wrote:

Hi [REDACTED]

I would like to sincerely apologise you for the inconvenience.

Currently, I am reviewing this case. I would like inform you that I received comments from our internal stakeholders.

However, I am waiting for TfNSW comments on this case.

Once I received comments from TfNSW then only I will be able to provide you Written confirmation.

I hope that by the end of this week I receive comments.

Again, I would like apologize for the delays.

Kind regards,

[REDACTED]
Development Analyst
Transport
UGL Regional Linx Pty. Ltd.



161 Kite Street | Orange NSW 2800 | Australia

Email: [REDACTED]

Web: www.uglregionallinx.com.au

Please consider our environmental footprint before printing this e-mail

From: [REDACTED]
Sent: Tuesday, August 16, 2022 5:01 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: Re: Part Block 11 Section 47 Fyshwick ACT - Proposed Direct Sale to Molonglo CRM:0745026

CAUTION: This email originated from outside of the Organisation.

Hi [REDACTED]

I am just following to determine whether you now have all of your stakeholder comments. I am happy to directly address any issues that may have been raised in order to expedite this.

Best regards

On Wed, 10 Aug 2022 at 13:35, [REDACTED] > wrote:

Hi [REDACTED]

[REDACTED] is currently dealing with your application and is in the closing stages before submitting to TfNSW.

We have received the majority of our internal stakeholders comments in relation to this case and are now preparing or draft response letter for submission, which I envisage will be over the next couple of days.

We also wish to apologise for any inconvenience caused for the delay in processing this application.

Kind regards

[REDACTED]

Transport
UGL Regional Linx Pty. Ltd.



161 Kite Street | Orange NSW 2800 | Australia

Direct: [REDACTED]

Email: [REDACTED]

Web: www.uglregionallinx.com.au

Please consider our environmental footprint before printing this e-mail

From: [REDACTED]

Sent: Tuesday, 9 August 2022 5:28 PM

To: [REDACTED]

Cc: Hicks, Katherine <Katherine.Hicks@act.gov.au>; [REDACTED]

Subject: Re: Part Block 11 Section 47 Fyshwick ACT - Proposed Direct Sale to Molonglo
CRM:0745026

CAUTION: This email originated from outside of the Organisation.

Good afternoon [REDACTED] and [REDACTED]

This is now a matter of considerable urgency for us. The position has been reached where the lack of decision has the very real potential to frustrate or delay many tens of millions of dollars of investment by Molonglo.

I have set out the background, issues and risk mitigation measures at some length. The conclusion that there is no or negligible risk to UGL/NSW Rail's legitimate interests is a reasonable one. Therefore we believe that it is inappropriate and unreasonable:

- for the ACT Government Suburban Land Agency to make their decision on our direct sale application for unleased Territory land subject to the de facto approval/veto of a third party being UGL acting as an agent of NSW Rail;
- for UGL as an agent of a NSW Government entity to withhold timely advice; and
- for our interests to be hostage to ill-defined processes and indefinite timeframes.

Accordingly, should your advice not be forthcoming by close of business on Friday 12 August 2022, based on our previous statement of the background, issues and risk mitigation measures, it is reasonable to conclude that there is no risk to NSW Rail's interests in its licensed area and that our acquisition of the unleased/unlicensed area of Part Block 11 Section 47 Fyshwick can proceed on that basis.

Regards

On Tue, 2 Aug 2022 at 09:43, [REDACTED] wrote:

Good morning [REDACTED]

Thank you for your call yesterday afternoon. As requested a summary of the facts is presented below.

The proposed sale of Part Block 11 Section 47 Fyshwick by the ACT Government to Molonglo poses no conceivable risk to the interests of NSW Rail. This conclusion is justified by the following:

- The area of land concerned does not intrude at all into the area licensed to NSW Rail.
- The existing area licensed to NSW Rail includes a wider parcel of land that already has capacity for railway duplication or upgrade works to occur. Any further duplications that may be required are most likely to be to the south of the existing line where there are significantly fewer constraints.
- The gauge clearance challenges that the nearby Monaro Highway and Ipswich Street crossings present would significantly prevent line duplication to the north, and hence there

is negligible likelihood of future railway operations being expanded outside of the current NSW Rail licensed area.

- Molonglo's proposed use of the land it is seeking to acquire is limited to road works, active travel paths, car parking, utilities services and associated landscape amenities. Any Crown lease issued will be limited to these purposes.
- The zoning of the land (TSZ2 Transport Zone) prohibits any sensitive uses, habitable buildings or the like.
- Any development on the land would be subject to a development application. UGL/NSW Rail would be advised by the ACT Government's Environment Planning and Sustainable Development Directorate of any such development application in accordance with the provisions of the *Planning and Development Act 2008 (the ACT)*. The Act provides NSW Rail with the right to make a submission on any such DA. The Act also provides third party appeal rights to the Administrative
- In the extremely unlikely event that the land or any portion of it were required for railway associated purposes in the future, the ACT Government would be entirely responsible for its re-acquisition pursuant to the *Lands Acquisition Act 1994*.
- Molonglo undertakes to provide improved security fencing to Australian Standard requirements.
- There are no current access points along the common boundary of the land in question and the NSW Rail licensed area and Molonglo undertakes to not introduce any access points.

It is a reasonable assertion that the potential risks to NSW Rail are greater should the land **not** be acquired by Molonglo. At present effective land management by the ACT Government is constrained by poor accessibility and the limited resources available to the Territory custodian. As a result the level of safety, security and bushfire management at the railway interface is relatively poor. Ownership and development by Molonglo would remove those risks.

I note that we can expect your advice in the next few days. That is very much appreciated.

Best regards

On Tue, 2 Aug 2022 at 09:01, [REDACTED] wrote:

Hi [REDACTED]

As per our conversation yesterday myself and [REDACTED] will be addressing your case **CAS-02712-L8Z6C9** over the next few days, please feel free to contact me if you wish to discuss further.

Kind regards

[REDACTED]

Transport
UGL Regional Linx Pty. Ltd.

161 Kite Street | Orange NSW 2800 | Australia

Direct: [REDACTED]

Email: [REDACTED]

Web: www.uglregionallinx.com.au

Please consider our environmental footprint before printing this e-mail

This email (including any attachments) is confidential and intended for the named recipient(s) only. It may be subject to legal or other professional privilege and contain copyright material. Any confidentiality or privilege is not waived or lost because this email has been sent to you by mistake.

Access to this email or its attachments by anyone else is unauthorised. If you are not the intended recipient, you may not disclose, copy or distribute this email or its attachments, nor take or omit to take any action in reliance on it. If you have received this email in error, please notify the sender immediately, delete it from your system and destroy any copies.

We accept no liability for any loss or damage caused by this email or its attachments due to viruses, interference, interception, corruption or unauthorised access.

Any views or opinions presented in this email or its attachments are solely those of the author and do not necessarily represent those of the company.

v.1.365

--

MOLONGLO

hello@molonglo.com +61 2 6171 8400

GPO Box 1565 Canberra ACT 2601 molonglo.com

Ngunnawal Country

[From Here to There](#) – action-based strategies, guides and tools for delivering environmentally responsible, healthy and inclusive places.

[Marble in Metamorphosis](#) – contemplating the physical and cultural life of marble. Rachel Cusk. Chris Kontos. Pre-order now.

Molonglo's business operations are certified carbon neutral by Climate Active.

--



MOLONGLO

hello@molonglo.com +61 2 6171 8400

GPO Box 1565 Canberra ACT 2601 molonglo.com

Ngunnawal Country

[From Here to There](#) – action-based strategies, guides and tools for delivering environmentally responsible, healthy and inclusive places.

[Marble in Metamorphosis](#) – contemplating the physical and cultural life of marble. Rachel Cusk. Chris Kontos. Pre-order now.

Molonglo's business operations are certified carbon neutral by Climate Active.

This email (including any attachments) is confidential and intended for the named recipient(s) only. It may be subject to legal or other professional privilege and contain copyright material. Any confidentiality or privilege is not waived or lost because this email has been sent to you by mistake.

Access to this email or its attachments by anyone else is unauthorised. If you are not the intended recipient, you may not disclose, copy or distribute this email or its attachments, nor take or omit to take any action in reliance on it. If you have received this email in error, please notify the sender immediately, delete it from your system and destroy any copies.

We accept no liability for any loss or damage caused by this email or its attachments due to viruses, interference, interception, corruption or unauthorised access.

Any views or opinions presented in this email or its attachments are solely those of the author and do not necessarily represent those of the company.

v.1.365

--



MOLONGLO

hello@molonglo.com +61 2 6171 8400
GPO Box 1565 Canberra ACT 2601 molonglo.com
Ngunnawal Country

From Here to There – action-based strategies, guides and tools for delivering environmentally responsible, healthy and inclusive places.

Marble in Metamorphosis – contemplating the physical and cultural life of marble. Rachel Cusk. Chris Kontos. Pre-order now.

Molonglo's business operations are certified carbon neutral by Climate Active.

This email (including any attachments) is confidential and intended for the named recipient(s) only. It may be subject to legal or other professional privilege and contain copyright material. Any confidentiality or privilege is not waived or lost because this email has been sent to you by mistake.

Access to this email or its attachments by anyone else is unauthorised. If you are not the intended recipient, you may not disclose, copy or distribute this email or its attachments, nor take or omit to take any action in reliance on it. If you have received this email in error, please notify the sender immediately, delete it from your system and destroy any copies.

We accept no liability for any loss or damage caused by this email or its attachments due to viruses, interference, interception, corruption or unauthorised access.

Any views or opinions presented in this email or its attachments are solely those of the author and do not necessarily represent those of the company.

v.1.365



hello@molonglo.com +61 2 6171 8400
GPO Box 1565 Canberra ACT 2601 molonglo.com
Ngunnawal Country

From Here to There – action-based strategies, guides and tools for delivering environmentally responsible, healthy and inclusive places.

Marble in Metamorphosis – contemplating the physical and cultural life of marble. Rachel Cusk. Chris Kontos. Pre-order now.

Molonglo's business operations are certified carbon neutral by Climate Active.

From: [REDACTED]
Sent: 30/08/2022 11:27 AM
To: "Hicks, Katherine" <Katherine.Hicks@act.gov.au>; "Mundy, Graham" <Graham.Mundy@act.gov.au>
Cc: "Fitzgerald, Bruce" <Bruce.Fitzgerald@act.gov.au>; [REDACTED]
Subject: Re: Direct Sale Part Bock 11 Section 47 Fyshwick - Transport NSW

Caution: This email originated from outside of the ACT Government. Do not click links or open attachments unless you recognise the sender and know the content is safe. [Learn why this is important](#)

Thank you
Graham
and

Katherine
That is very good news and much appreciated.

On Tue, 30 Aug 2022 at 11:01, Hicks, Katherine <Katherine.Hicks@act.gov.au> wrote:
OFFICIAL: Sensitive

Morning [REDACTED]

I have had a discussion with Graham Mundy, and we concur that we will progress the direct sales regardless of the non written advice from NSW Transport, but using the advice that has been provided by Molonglo Group and we will reflect this in the amended minutes of the meeting.

Regards

Katherine Hicks

Assistant Director |Development and Implementation|Strategic Projects

Phone: [02 6205 4868](tel:0262054868) **email:** Katherine.Hicks@act.gov.au

Environment, Planning and Sustainable Development Directorate | ACT Government

Level 2, 480 Northbourne Avenue, Dickson ACT 2602

GPO Box 158 Canberra ACT 2601 | www.planning.act.gov.au

From: [REDACTED]
Sent: Tuesday, 30 August 2022 10:45 AM
To: Mundy, Graham <Graham.Mundy@act.gov.au>; Fitzgerald, Bruce <Bruce.Fitzgerald@act.gov.au>

Cc: Hicks, Katherine <Katherine.Hicks@act.gov.au>; Ni

Subject: Direct Sale Part Block 11 Section 47 Fyshwick - Transport NSW

Caution: This email originated from outside of the ACT Government. Do not click links or open attachments unless you recognise the sender and know the content is safe. [Learn why this is important](#)

Good morning

Graham and Bruce

The purpose of this email is to seek EPSDD's agreement to impose a deadline on Transport NSW in the matter of Molonglo's application for the direct sale of Part block 11 Section 47 Fyshwick.

Background

Molonglo's application for the direct sale of the land was formally submitted on 17 January 2022. On 3 June 2022, the Direct Sale Panel supported the sale subject to:

- A withdrawal clause being included for the direct sale parcel of land;
- A "letter of support" from NSW Rail stating that they have no concern and support the direct sale.

Molonglo pointed out that the inclusion of a withdrawal clause was unnecessary as the provisions of the *Lands Acquisition Act 1994* is always open to the Territory to pursue any legitimate public interest in the land while affording just and equitable protections for the Lessee. On 13 July 2022, EPSDD advised that the requirement for a withdrawal clause had been withdrawn. Only the matter of NSW Rail written support remains.

Issues

We have been endeavouring since 23 June 2022 to elicit a written response for UGL who manage the asset on behalf of Transport NSW. Molonglo has consistently pointed out that the proposed sale of Part Block 11 Section 47 Fyshwick by the ACT Government to Molonglo poses no conceivable risk to the interests of NSW Rail. This conclusion is justified by the following:

- The area of land concerned does not intrude at all into the area licensed to NSW Rail.
- The existing area licensed to NSW Rail includes a wider parcel of land that already has capacity for railway duplication or upgrade works to occur. Any further duplications that may be required are most likely to be to the south of the existing line where there are significantly fewer constraints.
- The gauge clearance challenges that the nearby Monaro Highway and Ipswich Street crossings present would significantly prevent line duplication to the north, and hence there is negligible likelihood of future railway operations being expanded outside of the current NSW Rail licensed area.
- Molonglo's proposed use of the land it is seeking to acquire is limited to road works, active travel paths, car parking, utilities services and associated landscape amenities. Any Crown lease issued will be limited to these purposes.

- The zoning of the land (TSZ2 Transport Zone) prohibits any sensitive uses, habitable buildings or the like.
- Any development on the land would be subject to a development application. UGL/NSW Rail would be advised by the ACT Government's Environment Planning and Sustainable Development Directorate of any such development application in accordance with the provisions of the *Planning and Development Act 2008 (the ACT)*. The Act provides NSW Rail with the right to make a submission on any such DA. The Act also provides third party appeal rights.
- In the extremely unlikely event that the land or any portion of it were required for railway associated purposes in the future, the ACT Government could readily affect its re-acquisition pursuant to the *Lands Acquisition Act 1994*.
- Molonglo undertakes to provide improved security fencing to Australian Standard requirements.
- There are no current access points along the common boundary of the land in question and the NSW Rail licensed area and Molonglo undertakes to not introduce any access points.

It is a reasonable assertion that the potential risks to NSW Rail are greater should the land **not** be acquired by Molonglo. At present effective land management by the ACT Government is constrained by poor accessibility and the limited resources available to the Territory custodian. As a result the level of safety, security and bushfire management at the railway interface is relatively poor. Ownership and development by Molonglo would remove those risks.

Consequently, it is reasonable to conclude that there is no risk to Transport NSW's interests in its rail licensed area and that Molonglo's acquisition of the unleased/unlicensed area of Part Block 11 Section 47 Fyshwick can proceed on that basis.

However, despite several promises from UGL the written advice is never forthcoming. We believe that it is inappropriate and unreasonable:

- for the ACT Government to make their decision on our direct sale application for unleased Territory land subject to the de facto approval/veto of a third party being UGL acting as an agent of Transport NSW;
- for UGL/Transport NSW to withhold timely advice; and
- for Molonglo's interests to be hostage to ill-defined processes and indefinite timeframes.

Request

It is requested that EPSDD and TCCS remove its requirement for a "letter of support from NSW Rail stating that they have no concern and support the direct sale" given that:

- UGL/Transport NSW have been fully briefed on the matter, and a generous opportunity to comment has already been provided without a response being forthcoming;
- it is inequitable for Molonglo's interest to continue to be hostage to an ill-defined and indefinite timeframe;

- Any subsequent development of the direct sale land would be subject to a development application. UGL/NSW Rail would be advised by the ACT Government's Environment Planning and Sustainable Development Directorate of any such development application in accordance with the provisions of the *Planning and Development Act 2008 (the ACT)*. The Act provides NSW Rail with the right to make a submission on any such DA and provides third party appeal rights.
- In the extremely unlikely event that the land or any portion of it were required for railway associated purposes in the future, the ACT Government could readily affect its re-acquisition pursuant to the *Lands Acquisition Act 1994*.

Your confirmation that the direct sale can immediately proceed on that basis is requested.

Best regards

--



hello@molonglo.com +61 2 6171 8400
GPO Box 1565 Canberra ACT 2601 molonglo.com
Ngunnawal Country

[From Here to There](#) – action-based strategies, guides and tools for delivering environmentally responsible, healthy and inclusive places.

[Marble in Metamorphosis](#) – contemplating the physical and cultural life of marble. Rachel Cusk. Chris Kontos. Pre-order now.

Molonglo's business operations are certified carbon neutral by Climate Active.

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.





hello@molonglo.com +61 2 6171 8400
GPO Box 1565 Canberra ACT 2601 molonglo.com
Ngunnawal Country

From Here to There – action-based strategies, guides and tools for delivering environmentally responsible, healthy and inclusive places.

Marble in Metamorphosis – contemplating the physical and cultural life of marble. Rachel Cusk. Chris Kontos. Pre-order now.

Molonglo's business operations are certified carbon neutral by Climate Active.

From: [REDACTED]
Sent: 30/08/2022 3:25 PM
To: "Hicks, Katherine" <Katherine.Hicks@act.gov.au>
Subject: Re: Direct Sale Part Bock 11 Section 47 Fyshwick - Transport NSW

Caution: This email originated from outside of the ACT Government. Do not click links or open attachments unless you recognise the sender and know the content is safe. [Learn why this is important](#)

Hi
Katherine
Once the

minutes are amended I assume that the next step is to send a recommendation to the Minister. Is that correct? If so, what is the likely time frame?

I appreciate that there are other administrative steps after that, however the Minister's decision is a key milestone.

Best regards

On Tue, 30 Aug 2022 at 11:01, Hicks, Katherine <Katherine.Hicks@act.gov.au> wrote:

OFFICIAL: Sensitive

Morning [REDACTED]

I have had a discussion with Graham Mundy, and we concur that we will progress the direct sales regardless of the non written advice from NSW Transport, but using the advice that has been provided by Molonglo Group and we will reflect this in the amended minutes of the meeting.

Regards

Katherine Hicks

Assistant Director |Development and Implementation|Strategic Projects

Phone: [02 6205 4868](tel:0262054868) **email:** Katherine.Hicks@act.gov.au

Environment, Planning and Sustainable Development Directorate | ACT Government

Level 2, 480 Northbourne Avenue, Dickson ACT 2602

GPO Box 158 Canberra ACT 2601 | www.planning.act.gov.au

From: [REDACTED]
Sent: Tuesday, 30 August 2022 10:45 AM
To: Mundy, Graham <Graham.Mundy@act.gov.au>; Fitzgerald, Bruce <Bruce.Fitzgerald@act.gov.au>

Cc: Hicks, Katherine <Katherine.Hicks@act.gov.au>

Subject: Direct Sale Part Block 11 Section 47 Fyshwick - Transport NSW

Caution: This email originated from outside of the ACT Government. Do not click links or open attachments unless you recognise the sender and know the content is safe. [Learn why this is important](#)

Good morning

Graham and Bruce

The purpose of this email is to seek EPSDD's agreement to impose a deadline on Transport NSW in the matter of Molonglo's application for the direct sale of Part block 11 Section 47 Fyshwick.

Background

Molonglo's application for the direct sale of the land was formally submitted on 17 January 2022. On 3 June 2022, the Direct Sale Panel supported the sale subject to:

- A withdrawal clause being included for the direct sale parcel of land;
- A "letter of support" from NSW Rail stating that they have no concern and support the direct sale.

Molonglo pointed out that the inclusion of a withdrawal clause was unnecessary as the provisions of the *Lands Acquisition Act 1994* is always open to the Territory to pursue any legitimate public interest in the land while affording just and equitable protections for the Lessee. On 13 July 2022, EPSDD advised that the requirement for a withdrawal clause had been withdrawn. Only the matter of NSW Rail written support remains.

Issues

We have been endeavouring since 23 June 2022 to elicit a written response for UGL who manage the asset on behalf of Transport NSW. Molonglo has consistently pointed out that the proposed sale of Part Block 11 Section 47 Fyshwick by the ACT Government to Molonglo poses no conceivable risk to the interests of NSW Rail. This conclusion is justified by the following:

- The area of land concerned does not intrude at all into the area licensed to NSW Rail.
- The existing area licensed to NSW Rail includes a wider parcel of land that already has capacity for railway duplication or upgrade works to occur. Any further duplications that may be required are most likely to be to the south of the existing line where there are significantly fewer constraints.
- The gauge clearance challenges that the nearby Monaro Highway and Ipswich Street crossings present would significantly prevent line duplication to the north, and hence there is negligible likelihood of future railway operations being expanded outside of the current NSW Rail licensed area.
- Molonglo's proposed use of the land it is seeking to acquire is limited to road works, active travel paths, car parking, utilities services and associated landscape amenities. Any Crown lease issued will be limited to these purposes.

- The zoning of the land (TSZ2 Transport Zone) prohibits any sensitive uses, habitable buildings or the like.
- Any development on the land would be subject to a development application. UGL/NSW Rail would be advised by the ACT Government's Environment Planning and Sustainable Development Directorate of any such development application in accordance with the provisions of the *Planning and Development Act 2008 (the ACT)*. The Act provides NSW Rail with the right to make a submission on any such DA. The Act also provides third party appeal rights.
- In the extremely unlikely event that the land or any portion of it were required for railway associated purposes in the future, the ACT Government could readily affect its re-acquisition pursuant to the *Lands Acquisition Act 1994*.
- Molonglo undertakes to provide improved security fencing to Australian Standard requirements.
- There are no current access points along the common boundary of the land in question and the NSW Rail licensed area and Molonglo undertakes to not introduce any access points.

It is a reasonable assertion that the potential risks to NSW Rail are greater should the land **not** be acquired by Molonglo. At present effective land management by the ACT Government is constrained by poor accessibility and the limited resources available to the Territory custodian. As a result the level of safety, security and bushfire management at the railway interface is relatively poor. Ownership and development by Molonglo would remove those risks.

Consequently, it is reasonable to conclude that there is no risk to Transport NSW's interests in its rail licensed area and that Molonglo's acquisition of the unleased/unlicensed area of Part Block 11 Section 47 Fyshwick can proceed on that basis.

However, despite several promises from UGL the written advice is never forthcoming. We believe that it is inappropriate and unreasonable:

- for the ACT Government to make their decision on our direct sale application for unleased Territory land subject to the de facto approval/veto of a third party being UGL acting as an agent of Transport NSW;
- for UGL/Transport NSW to withhold timely advice; and
- for Molonglo's interests to be hostage to ill-defined processes and indefinite timeframes.

Request

It is requested that EPSDD and TCCS remove its requirement for a "letter of support from NSW Rail stating that they have no concern and support the direct sale" given that:

- UGL/Transport NSW have been fully briefed on the matter, and a generous opportunity to comment has already been provided without a response being forthcoming;
- it is inequitable for Molonglo's interest to continue to be hostage to an ill-defined and indefinite timeframe;

- Any subsequent development of the direct sale land would be subject to a development application. UGL/NSW Rail would be advised by the ACT Government's Environment Planning and Sustainable Development Directorate of any such development application in accordance with the provisions of the *Planning and Development Act 2008 (the ACT)*. The Act provides NSW Rail with the right to make a submission on any such DA and provides third party appeal rights.
- In the extremely unlikely event that the land or any portion of it were required for railway associated purposes in the future, the ACT Government could readily affect its re-acquisition pursuant to the *Lands Acquisition Act 1994*.

Your confirmation that the direct sale can immediately proceed on that basis is requested.

Best regards

--



hello@molonglo.com +61 2 6171 8400
GPO Box 1565 Canberra ACT 2601 molonglo.com
Ngunnawal Country

[From Here to There](#) – action-based strategies, guides and tools for delivering environmentally responsible, healthy and inclusive places.

[Marble in Metamorphosis](#) – contemplating the physical and cultural life of marble. Rachel Cusk. Chris Kontos. Pre-order now.

Molonglo's business operations are certified carbon neutral by Climate Active.

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.

--





hello@molonglo.com +61 2 6171 8400
GPO Box 1565 Canberra ACT 2601 molonglo.com
Ngunnawal Country

From Here to There – action-based strategies, guides and tools for delivering environmentally responsible, healthy and inclusive places.

Marble in Metamorphosis – contemplating the physical and cultural life of marble. Rachel Cusk. Chris Kontos. Pre-order now.

Molonglo's business operations are certified carbon neutral by Climate Active.

From: [REDACTED]
Sent: 30/08/2022 4:28 PM
To: "Hicks, Katherine" <Katherine.Hicks@act.gov.au>
Cc: [REDACTED]
[REDACTED] <Ken.Marshall@act.gov.au>
Subject: Re: Direct Sale Part Bock 11 Section 47 Fyshwick - Transport NSW

Caution: This email originated from outside of the ACT Government. Do not click links or open attachments unless you recognise the sender and know the content is safe. [Learn why this is important](#)

Thank you
Katherine.
Clearly we

would prefer the 4 weeks rather than the 8. If there is any way that we might assist in that we are more than happy to do so.

Best regards

On Tue, 30 Aug 2022 at 16:16, Hicks, Katherine <Katherine.Hicks@act.gov.au> wrote:

OFFICIAL: Sensitive

Hi [REDACTED]

An approximation is 4 to 8 weeks for Ministerial signoff (agreement to direct sale), potentially early November.

Progressing as a matter of priority.

Regards

Katherine Hicks

Assistant Director |Development and Implementation|Strategic Projects

Phone: [02 6205 4868](tel:0262054868) email: Katherine.Hicks@act.gov.au

Environment, Planning and Sustainable Development Directorate | ACT Government

Level 2, 480 Northbourne Avenue, Dickson ACT 2602

GPO Box 158 Canberra ACT 2601 | www.planning.act.gov.au

From: [REDACTED]
Sent: Tuesday, 30 August 2022 3:25 PM

To: Hicks, Katherine <Katherine.Hicks@act.gov.au>

Subject: Re: Direct Sale Part Bock 11 Section 47 Fyshwick - Transport NSW

Caution: This email originated from outside of the ACT Government. Do not click links or open attachments unless you recognise the sender and know the content is safe. [Learn why this is important](#)

Hi
Katherine

Once the minutes are amended I assume that the next step is to send a recommendation to the Minister. Is that correct? If so, what is the likely time frame?

I appreciate that there are other administrative steps after that, however the Minister's decision is a key milestone.

Best regards

On Tue, 30 Aug 2022 at 11:01, Hicks, Katherine <Katherine.Hicks@act.gov.au> wrote:

OFFICIAL: Sensitive

Morning [REDACTED]

I have had a discussion with Graham Mundy, and we concur that we will progress the direct sales regardless of the non written advice from NSW Transport, but using the advice that has been provided by Molonglo Group and we will reflect this in the amended minutes of the meeting.

Regards

Katherine Hicks

Assistant Director |Development and Implementation|Strategic Projects

Phone: [02 6205 4868](tel:0262054868) email: Katherine.Hicks@act.gov.au

Environment, Planning and Sustainable Development Directorate | ACT Government

Level 2, 480 Northbourne Avenue, Dickson ACT 2602

GPO Box 158 Canberra ACT 2601 | www.planning.act.gov.au

From: [REDACTED]
Sent: Tuesday, 30 August 2022 10:45 AM
To: Mundy, Graham <Graham.Mundy@act.gov.au>; Fitzgerald, Bruce <Bruce.Fitzgerald@act.gov.au>
Cc: Hicks, Katherine <Katherine.Hicks@act.gov.au>; [REDACTED]
Subject: Direct Sale Part Bock 11 Section 47 Fyshwick - Transport NSW

Caution: This email originated from outside of the ACT Government. Do not click links or open attachments unless you recognise the sender and know the content is safe. [Learn why this is important](#)

Good morning

Graham and Bruce

The purpose of this email is to seek EPSDD's agreement to impose a deadline on Transport NSW in the matter of Molonglo's application for the direct sale of Part block 11 Section 47 Fyshwick.

Background

Molonglo's application for the direct sale of the land was formally submitted on 17 January 2022. On 3 June 2022, the Direct Sale Panel supported the sale subject to:

- A withdrawal clause being included for the direct sale parcel of land;
- A "letter of support" from NSW Rail stating that they have no concern and support the direct sale.

Molonglo pointed out that the inclusion of a withdrawal clause was unnecessary as the provisions of the *Lands Acquisition Act 1994* is always open to the Territory to pursue any legitimate public interest in the land while affording just and equitable protections for the Lessee. On 13 July 2022, EPSDD advised that the requirement for a withdrawal clause had been withdrawn. Only the matter of NSW Rail written support remains.

Issues

We have been endeavouring since 23 June 2022 to elicit a written response for UGL who manage the asset on behalf of Transport NSW. Molonglo has consistently pointed out that the proposed sale of Part Block 11 Section 47 Fyshwick by the ACT Government to Molonglo poses no conceivable risk to the interests of NSW Rail. This conclusion is justified by the following:

- The area of land concerned does not intrude at all into the area licensed to NSW Rail.
- The existing area licensed to NSW Rail includes a wider parcel of land that already has capacity for railway duplication or upgrade works to occur. Any further duplications that may

be required are most likely to be to the south of the existing line where there are significantly fewer constraints.

- The gauge clearance challenges that the nearby Monaro Highway and Ipswich Street crossings present would significantly prevent line duplication to the north, and hence there is negligible likelihood of future railway operations being expanded outside of the current NSW Rail licensed area.
- Molonglo's proposed use of the land it is seeking to acquire is limited to road works, active travel paths, car parking, utilities services and associated landscape amenities. Any Crown lease issued will be limited to these purposes.
- The zoning of the land (TSZ2 Transport Zone) prohibits any sensitive uses, habitable buildings or the like.
- Any development on the land would be subject to a development application. UGL/NSW Rail would be advised by the ACT Government's Environment Planning and Sustainable Development Directorate of any such development application in accordance with the provisions of the *Planning and Development Act 2008 (the ACT)*. The Act provides NSW Rail with the right to make a submission on any such DA. The Act also provides third party appeal rights.
- In the extremely unlikely event that the land or any portion of it were required for railway associated purposes in the future, the ACT Government could readily affect its re-acquisition pursuant to the *Lands Acquisition Act 1994*.
- Molonglo undertakes to provide improved security fencing to Australian Standard requirements.
- There are no current access points along the common boundary of the land in question and the NSW Rail licensed area and Molonglo undertakes to not introduce any access points.

It is a reasonable assertion that the potential risks to NSW Rail are greater should the land **not** be acquired by Molonglo. At present effective land management by the ACT Government is constrained by poor accessibility and the limited resources available to the Territory custodian. As a result the level of safety, security and bushfire management at the railway interface is relatively poor. Ownership and development by Molonglo would remove those risks.

Consequently, it is reasonable to conclude that there is no risk to Transport NSW's interests in its rail licensed area and that Molonglo's acquisition of the unleased/unlicensed area of Part Block 11 Section 47 Fyshwick can proceed on that basis.

However, despite several promises from UGL the written advice is never forthcoming. We believe that it is inappropriate and unreasonable:

- for the ACT Government to make their decision on our direct sale application for unleased Territory land subject to the de facto approval/veto of a third party being UGL acting as an agent of Transport NSW;
- for UGL/Transport NSW to withhold timely advice; and

- for Molonglo's interests to be hostage to ill-defined processes and indefinite timeframes.

Request

It is requested that EPSDD and TCCS remove its requirement for a "letter of support from NSW Rail stating that they have no concern and support the direct sale" given that:

- UGL/Transport NSW have been fully briefed on the matter, and a generous opportunity to comment has already been provided without a response being forthcoming;
- it is inequitable for Molonglo's interest to continue to be hostage to an ill-defined and indefinite timeframe;
- Any subsequent development of the direct sale land would be subject to a development application. UGL/NSW Rail would be advised by the ACT Government's Environment Planning and Sustainable Development Directorate of any such development application in accordance with the provisions of the *Planning and Development Act 2008 (the ACT)*. The Act provides NSW Rail with the right to make a submission on any such DA and provides third party appeal rights.
- In the extremely unlikely event that the land or any portion of it were required for railway associated purposes in the future, the ACT Government could readily affect its re-acquisition pursuant to the *Lands Acquisition Act 1994*.

Your confirmation that the direct sale can immediately proceed on that basis is requested.

Best regards

--



hello@molonglo.com +61 2 6171 8400
GPO Box 1565 Canberra ACT 2601 molonglo.com
Ngunnawal Country

[From Here to There](#) – action-based strategies, guides and tools for delivering environmentally responsible, healthy and inclusive places.

[Marble in Metamorphosis](#) – contemplating the physical and cultural life of marble. Rachel Cusk. Chris Kontos. Pre-order now.

Molonglo's business operations are certified carbon neutral by Climate Active.

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.

--



hello@molonglo.com +61 2 6171 8400
GPO Box 1565 Canberra ACT 2601 molonglo.com
Ngunnawal Country

[From Here to There](#) – action-based strategies, guides and tools for delivering environmentally responsible, healthy and inclusive places.

[Marble in Metamorphosis](#) – contemplating the physical and cultural life of marble. Rachel Cusk. Chris Kontos. Pre-order now.

Molonglo's business operations are certified carbon neutral by Climate Active.



hello@molonglo.com +61 2 6171 8400
GPO Box 1565 Canberra ACT 2601 molonglo.com
Ngunnawal Country

[From Here to There](#) – action-based strategies, guides and tools for delivering environmentally responsible, healthy and inclusive places.

[Marble in Metamorphosis](#) – contemplating the physical and cultural life of marble. Rachel Cusk. Chris Kontos. Pre-order now.

Molonglo's business operations are certified carbon neutral by Climate Active.

From: "Baxter, Rod" <Rod.Baxter@act.gov.au>
Sent: 16/09/2022 6:50 AM
To: "Hicks, Katherine" <Katherine.Hicks@act.gov.au>
Subject: RE: FOR REVIEW: 22/124539 Ministerial-Information Brief- Gentleman - Direct Sale - Part Block 11 Section 47 Fyswick - Lolita(ACT) No 1 Pty Ltd and Lolita (ACT) No 2 Pty Ltd (qA1160048)
Attachments: 22_124539 Ministerial-Information Brief- Gentleman - Direct Sale - Part Block 11 Section 47 Fyswick - Lolita(ACT) No 1 Pty Ltd and Lolita (ACT) No 2 Pty Ltd.obr

OFFICIAL: Sensitive

Sorry this one got a bit lost in my inbox Katherine.

I have highlighted the hand back statement in para 3. It raises a few questions as the extent of the minor road and hand back isn't clear. To avoid confusion is it better to delete this statement?

Otherwise looks good to me.

Thanks

Rod

-----Original Message-----

From: Hicks, Katherine <Katherine.Hicks@act.gov.au>
Sent: Thursday, 15 September 2022 4:27 PM
To: Baxter, Rod <Rod.Baxter@act.gov.au>
Subject: FOR REVIEW: 22/124539 Ministerial-Information Brief- Gentleman - Direct Sale - Part Block 11 Section 47 Fyswick - Lolita(ACT) No 1 Pty Ltd and Lolita (ACT) No 2 Pty Ltd (qA1160048)

OFFICIAL: Sensitive

Hi Rod

Would greatly appreciate it if you could cast your eye over the attached brief for the direct sale of part Block 11 Section 47 Fyswick to the Molonglo Group (known as Lolita for this application).

Thanks
Katherine

Katherine Hicks has sent you a link to "22/124539 Ministerial-Information Brief- Gentleman - Direct Sale - Part Block 11 Section 47 Fyswick - Lolita(ACT) No 1 Pty Ltd and Lolita (ACT) No 2 Pty Ltd" (qA1160048) from Objective.

Open in Navigator
Double click on the attachment

Open in ECM for Browser
<https://objective.act.gov.au/#!/documents/qA1160048/details>

From: "Mundy, Graham" <Graham.Mundy@act.gov.au>
Sent: 19/09/2022 8:04 AM
To: "EPSDD DevelopmentImplementation"
<EPSDDDevelopmentImplementation@act.gov.au>; "Marsh, Lynette" <Lynette.Marsh@act.gov.au>
Cc: "Hicks, Katherine" <Katherine.Hicks@act.gov.au>
Subject: FW: FOR CLEARANCE 22/124539 Ministerial-Information Brief- Gentleman - Direct Sale - Part Block 11 Section 47 Fyswick - Lolita(ACT) No 1 Pty Ltd and Lolita (ACT) No 2 Pty Ltd (qA1160048)
Attachments: 22_124539 Ministerial-Information Brief- Gentleman - Direct Sale - Part Block 11 Section 47 Fyswick - Lolita(ACT) No 1 Pty Ltd and Lolita (ACT) No 2 Pty Ltd.obr

OFFICIAL: Sensitive

Hi Sarah

Attached Direct Sale brief for Lynette's consideration and approval.

Cheers

Graham

From: "Mundy, Graham" <Graham.Mundy@act.gov.au>
Sent: 26/09/2022 6:59 AM
To: "Hicks, Katherine" <Katherine.Hicks@act.gov.au>
Subject: FW: FOR CLEARANCE 22/124539 Ministerial-Information Brief- Gentleman - Direct Sale - Part Block 11 Section 47 Fyshwick - Lolita(ACT) No 1 Pty Ltd and Lolita (ACT) No 2 Pty Ltd (qA1160048)
Attachments: 22_124539 Ministerial-Information Brief- Gentleman - Direct Sale - Part Block 11 Section 47 Fyshwick - Lolita(ACT) No 1 Pty Ltd and Lolita (ACT) No 2 Pty Ltd.obr

OFFICIAL: Sensitive

Hi Katherine

Can you please address Lynette's comments and then we can meet with Lynette.

I thought the Eastlake team had no comments?

Thanks

Graham

-----Original Message-----

From: Marsh, Lynette <Lynette.Marsh@act.gov.au>
Sent: Monday, 26 September 2022 4:35 PM
To: Mundy, Graham <Graham.Mundy@act.gov.au>; EPSDD DevelopmentImplementation <EPSDDDevelopmentImplementation@act.gov.au>
Cc: Hicks, Katherine <Katherine.Hicks@act.gov.au>
Subject: RE: FOR CLEARANCE 22/124539 Ministerial-Information Brief- Gentleman - Direct Sale - Part Block 11 Section 47 Fyshwick - Lolita(ACT) No 1 Pty Ltd and Lolita (ACT) No 2 Pty Ltd (qA1160048)

OFFICIAL: Sensitive

Thanks Graham and Katherine

I have a few questions in the brief and also want to talk further about the broader planning for this area - East Lake, Rail Corridor etc.

Can we have a quick chat tomorrow?

Thanks

Lynette

-----Original Message-----

From: Mundy, Graham <Graham.Mundy@act.gov.au>
Sent: Monday, 19 September 2022 6:04 PM
To: EPSDD DevelopmentImplementation <EPSDDDevelopmentImplementation@act.gov.au>; Marsh, Lynette <Lynette.Marsh@act.gov.au>
Cc: Hicks, Katherine <Katherine.Hicks@act.gov.au>
Subject: FW: FOR CLEARANCE 22/124539 Ministerial-Information Brief- Gentleman - Direct Sale - Part Block 11 Section 47 Fyshwick - Lolita(ACT) No 1 Pty Ltd and Lolita (ACT) No 2 Pty Ltd (qA1160048)

OFFICIAL: Sensitive

Hi Sarah

Attached Direct Sale brief for Lynette's consideration and approval.

Cheers

Graham

From: "EPSDD DevelopmentImplementation" <EPSDDDevelopmentImplementation@act.gov.au>
Sent: 26/09/2022 10:43 PM
To: "Marsh, Lynette" <Lynette.Marsh@act.gov.au>,"Mundy, Graham" <Graham.Mundy@act.gov.au>
Cc: "Hicks, Katherine" <Katherine.Hicks@act.gov.au>
Subject: RE: FOR CLEARANCE 22/124539 Ministerial-Information Brief- Gentleman - Direct Sale - Part Block 11 Section 47 Fyshwick - Lolita(ACT) No 1 Pty Ltd and Lolita (ACT) No 2 Pty Ltd (qA1160048)

OFFICIAL: Sensitive

Hi All

I've popped in a meeting for this at 1pm.

Thanks,
Ash

Ashleigh Francis | Executive Assistant to Dr Erin Brady, Deputy Director-General, Planning and Sustainable Development
Phone: (02) 6207 8928 | Email: Ashleigh.Francis@act.gov.au Environment, Planning and Sustainable Development Directorate | ACT Government
480 Northbourne Avenue Dickson ACT 2602 | GPO Box 158 Canberra ACT 2601 www.environment.act.gov.au | www.planning.act.gov.au

I acknowledge the traditional custodians of the ACT, the Ngunnawal people.
I acknowledge and respect their continuing culture and the contribution they make to the life of this city and this region.

-----Original Message-----

From: Marsh, Lynette <Lynette.Marsh@act.gov.au>
Sent: Monday, 26 September 2022 4:35 PM
To: Mundy, Graham <Graham.Mundy@act.gov.au>; EPSDD DevelopmentImplementation <EPSDDDevelopmentImplementation@act.gov.au>
Cc: Hicks, Katherine <Katherine.Hicks@act.gov.au>
Subject: RE: FOR CLEARANCE 22/124539 Ministerial-Information Brief- Gentleman - Direct Sale - Part Block 11 Section 47 Fyshwick - Lolita(ACT) No 1 Pty Ltd and Lolita (ACT) No 2 Pty Ltd (qA1160048)

OFFICIAL: Sensitive

Thanks Graham and Katherine

I have a few questions in the brief and also want to talk further about the broader planning for this area - East Lake, Rail Corridor etc.

Can we have a quick chat tomorrow?

Thanks
Lynette

-----Original Message-----

From: Mundy, Graham <Graham.Mundy@act.gov.au>
Sent: Monday, 19 September 2022 6:04 PM
To: EPSDD DevelopmentImplementation <EPSDDDevelopmentImplementation@act.gov.au>; Marsh, Lynette <Lynette.Marsh@act.gov.au>
Cc: Hicks, Katherine <Katherine.Hicks@act.gov.au>
Subject: FW: FOR CLEARANCE 22/124539 Ministerial-Information Brief- Gentleman - Direct Sale - Part Block 11 Section 47 Fyshwick - Lolita(ACT) No 1 Pty Ltd and Lolita (ACT) No 2 Pty Ltd (qA1160048)

OFFICIAL: Sensitive

Hi Sarah

Attached Direct Sale brief for Lynette's consideration and approval.

Cheers

From: "Hicks, Katherine"
Sent: 26/09/2022 11:53 PM
To: "Mundy, Graham" <Graham.Mundy@act.gov.au>
Subject: Lolita - meeting with Lynette
Attachments: Re: FW: LRAC Circulation - Direct Sales Enquiry - Part Block 11 Section 47 Fyshwick - Lolita (ACT) No 1 & 2 Pty Ltd

OFFICIAL: Sensitive

Hi Graham

FYI site contamination information that was provided to us by applicant prior to the 3 June Panel Meeting and was also discussed at the Panel meeting.

Katherine Hicks

Assistant Director | Development and Implementation | Strategic Projects

Phone: [02 6205 4868](tel:0262054868) email: Katherine.Hicks@act.gov.au

Environment, Planning and Sustainable Development Directorate | ACT Government

Level 2, 480 Northbourne Avenue, Dickson ACT 2602

GPO Box 158 Canberra ACT 2601 | www.planning.act.gov.au

From: "Hicks, Katherine"
Sent: 27/09/2022 3:55 AM
To: "Riches, Ben" <Ben.Riches@act.gov.au>
Subject: Eastlake Place Plan timeframe

OFFICIAL: Sensitive

Hi Ben

I am in the process of briefing Minister Gentleman about the Dairy Road precinct (Molonglo Group - [REDACTED]) and the direct sale parcel of land along the railway line.

I've had a further conversation with Lynette and she has suggested I include the proposed date for the Eastlake Place plan, just to give a wider context of the work that is going on in the area and to cover off on any potential impact on railway hubs.

Happy to chat if required.

Thanks

Katherine Hicks

Assistant Director | Development and Implementation | Strategic Projects

Phone: [02 6205 4868](tel:0262054868) **email:** Katherine.Hicks@act.gov.au

Environment, Planning and Sustainable Development Directorate | ACT Government

Level 2, 480 Northbourne Avenue, Dickson ACT 2602

GPO Box 158 Canberra ACT 2601 | www.planning.act.gov.au

From: "Mundy, Graham" <Graham.Mundy@act.gov.au>
Sent: 28/09/2022 11:09 PM
To: "Hicks, Katherine" <Katherine.Hicks@act.gov.au>
Subject: FW: FOR REVIEW: 22/124539 Ministerial-Information Brief- Gentleman - Direct Sale - Part Block 11 Section 47 Fyswick - Lolita(ACT) No 1 Pty Ltd and Lolita (ACT) No 2 Pty Ltd (qA1160048)
Attachments: 22_124539 Ministerial-Information Brief- Gentleman - Direct Sale - Part Block 11 Section 47 Fyswick - Lolita(ACT) No 1 Pty Ltd and Lolita (ACT) No 2 Pty Ltd.obr

OFFICIAL: Sensitive

Hi Katherine

This is now good to go to Lynette but we need to delete the old Attachment C SAS endorsement (which It won't let me do).

Cheers

Graham

-----Original Message-----

From: Hicks, Katherine <Katherine.Hicks@act.gov.au>
Sent: Wednesday, 28 September 2022 4:49 PM
To: Mundy, Graham <Graham.Mundy@act.gov.au>
Subject: FOR REVIEW: 22/124539 Ministerial-Information Brief- Gentleman - Direct Sale - Part Block 11 Section 47 Fyswick - Lolita(ACT) No 1 Pty Ltd and Lolita (ACT) No 2 Pty Ltd (qA1160048)

OFFICIAL: Sensitive

Hi Graham

If you have time to re-review the brief before sending on to Lynette, that would be appreciated.

Thanks
Katherine

Katherine Hicks has sent you a link to "22/124539 Ministerial-Information Brief- Gentleman - Direct Sale - Part Block 11 Section 47 Fyswick - Lolita(ACT) No 1 Pty Ltd and Lolita (ACT) No 2 Pty Ltd" (qA1160048) from Objective.

Open in Navigator
Double click on the attachment

Open in ECM for Browser
<https://objective.act.gov.au/#/documents/qA1160048/details>

From: [REDACTED]
Sent: 28/09/2022 12:35 PM
To: "Hicks, Katherine" <Katherine.Hicks@act.gov.au>
Cc: [REDACTED]
Subject: Re: Direct Sale Part Bock 11 Section 47 Fyshwick - Transport NSW
Attachments: 22079 CP RAILWAY LAND AERIAL IMAGERY 220822.pdf, 22079 CP RAILWAY LAND DIMENSIONS WITH PROPOSED LAYOUT 220822.pdf, 22079 CP RAILWAY LAND DIMENSIONS 220822.pdf, 22079 CP RAILWAY LAND CONTOURS 220822.pdf

Caution: This email originated from outside of the ACT Government. Do not click links or open attachments unless you recognise the sender and know the content is safe. [Learn why this is important](#)

Hi
Katherine
I am

following up on progress with Ministerial sign-off.

I attach the following survey plans in the hope that they might assist in expediting Ministerial sign-off. They show:

- The area of the land subject to the direct sale (22079 CP Railway Land Dimensions);
- The direct sale land shown in relation to the proposed Estate Development Plan layout showing the area to be handed back as public road (22079 Railway Land Dimensions with Proposed Layout)
- The direct sale land in relation to the area licenced to the railway and existing fence line. This confirms no impact on railway operations (22078 Railway Land Aerial Imagery)
- The contours of land in question and surrounds. This confirms what we have been saying about the nature of the terrain at the railway interface and the implications for effective land and environmental management.

Please keep me updated on progress.
Best regards

On Tue, 30 Aug 2022 at 16:28, [REDACTED] wrote:

Thank you Katherine.

Clearly we would prefer the 4 weeks rather than the 8. If there is any way that we might assist in that we are more than happy to do so.

Best regards

On Tue, 30 Aug 2022 at 16:16, Hicks, Katherine <Katherine.Hicks@act.gov.au > wrote:

OFFICIAL: Sensitive

Hi [REDACTED]

An approximation is 4 to 8 weeks for Ministerial signoff (agreement to direct sale), potentially early November.

Progressing as a matter of priority.

Regards

Katherine Hicks

Assistant Director |Development and Implementation|Strategic Projects

Phone: [02 6205 4868](tel:0262054868) email: Katherine.Hicks@act.gov.au

Environment, Planning and Sustainable Development Directorate | ACT Government

Level 2, 480 Northbourne Avenue, Dickson ACT 2602

GPO Box 158 Canberra ACT 2601 | www.planning.act.gov.au

From: [REDACTED]
Sent: Tuesday, 30 August 2022 3:25 PM
To: Hicks, Katherine <Katherine.Hicks@act.gov.au>
Subject: Re: Direct Sale Part Bock 11 Section 47 Fyshwick - Transport NSW

Caution: This email originated from outside of the ACT Government. Do not click links or open attachments unless you recognise the sender and know the content is safe. [Learn why this is important](#)

Hi
Katherine

Once the minutes are amended I assume that the next step is to send a recommendation to the Minister. Is that correct? If so, what is the likely time frame?

I appreciate that there are other administrative steps after that, however the Minister's decision is a key milestone.

Best regards

On Tue, 30 Aug 2022 at 11:01, Hicks, Katherine <Katherine.Hicks@act.gov.au> wrote:

OFFICIAL: Sensitive

Morning [REDACTED]

I have had a discussion with Graham Mundy, and we concur that we will progress the direct sales regardless of the non written advice from NSW Transport, but using the advice that has been provided by Molonglo Group and we will reflect this in the amended minutes of the meeting.

Regards

Katherine Hicks

Assistant Director |Development and Implementation|Strategic Projects

Phone: [02 6205 4868](tel:0262054868) email: Katherine.Hicks@act.gov.au

Environment, Planning and Sustainable Development Directorate | ACT Government

Level 2, 480 Northbourne Avenue, Dickson ACT 2602

GPO Box 158 Canberra ACT 2601 | www.planning.act.gov.au

From: [REDACTED]
Sent: Tuesday, 30 August 2022 10:45 AM
To: Mundy, Graham <Graham.Mundy@act.gov.au>; Fitzgerald, Bruce <Bruce.Fitzgerald@act.gov.au>
Cc: Hicks, Katherine <Katherine.Hicks@act.gov.au>; [REDACTED]
Subject: Direct Sale Part Bock 11 Section 47 Fyshwick - Transport NSW

Caution: This email originated from outside of the ACT Government. Do not click links or open attachments unless you recognise the sender and know the content is safe. [Learn why this is important](#)

Good morning

Graham and Bruce

The purpose of this email is to seek EPSDD's agreement to impose a deadline on Transport NSW in the matter of Molonglo's application for the direct sale of Part block 11 Section 47 Fyshwick.

Background

Molonglo's application for the direct sale of the land was formally submitted on 17 January 2022. On 3 June 2022, the Direct Sale Panel supported the sale subject to:

- A withdrawal clause being included for the direct sale parcel of land;
- A "letter of support" from NSW Rail stating that they have no concern and support the direct sale.

Molonglo pointed out that the inclusion of a withdrawal clause was unnecessary as the provisions of the *Lands Acquisition Act 1994* is always open to the Territory to pursue any legitimate public interest in the land while affording just and equitable protections for the Lessee. On 13 July 2022, EPSDD advised that the requirement for a withdrawal clause had been withdrawn. Only the matter of NSW Rail written support remains.

Issues

We have been endeavouring since 23 June 2022 to elicit a written response for UGL who manage the asset on behalf of Transport NSW. Molonglo has consistently pointed out that the proposed sale of Part Block 11 Section 47 Fyshwick by the ACT Government to Molonglo poses no conceivable risk to the interests of NSW Rail. This conclusion is justified by the following:

- The area of land concerned does not intrude at all into the area licensed to NSW Rail.
- The existing area licensed to NSW Rail includes a wider parcel of land that already has capacity for railway duplication or upgrade works to occur. Any further duplications that may be required are most likely to be to the south of the existing line where there are significantly fewer constraints.
- The gauge clearance challenges that the nearby Monaro Highway and Ipswich Street crossings present would significantly prevent line duplication to the north, and hence there is negligible likelihood of future railway operations being expanded outside of the current NSW Rail licensed area.
- Molonglo's proposed use of the land it is seeking to acquire is limited to road works, active travel paths, car parking, utilities services and associated landscape amenities. Any Crown lease issued will be limited to these purposes.
- The zoning of the land (TSZ2 Transport Zone) prohibits any sensitive uses, habitable buildings or the like.
- Any development on the land would be subject to a development application. UGL/NSW Rail would be advised by the ACT Government's Environment Planning and Sustainable Development Directorate of any such development application in accordance with the provisions of the *Planning and Development Act 2008 (the ACT)*. The Act provides NSW Rail with the right to make a submission on any such DA. The Act also provides third party appeal rights.
- In the extremely unlikely event that the land or any portion of it were required for railway associated purposes in the future, the ACT Government could readily affect its re-acquisition pursuant to the *Lands Acquisition Act 1994*.
- Molonglo undertakes to provide improved security fencing to Australian Standard requirements.
- There are no current access points along the common boundary of the land in question and the NSW Rail licensed area and Molonglo undertakes to not introduce any access points.

It is a reasonable assertion that the potential risks to NSW Rail are greater should the land **not** be acquired by Molonglo. At present effective land management by the ACT Government is constrained by poor accessibility and the limited resources available to the Territory custodian. As a

result the level of safety, security and bushfire management at the railway interface is relatively poor. Ownership and development by Molonglo would remove those risks.

Consequently, it is reasonable to conclude that there is no risk to Transport NSW's interests in its rail licensed area and that Molonglo's acquisition of the unleased/unlicensed area of Part Block 11 Section 47 Fyshwick can proceed on that basis.

However, despite several promises from UGL the written advice is never forthcoming. We believe that it is inappropriate and unreasonable:

- for the ACT Government to make their decision on our direct sale application for unleased Territory land subject to the de facto approval/veto of a third party being UGL acting as an agent of Transport NSW;
- for UGL/Transport NSW to withhold timely advice; and
- for Molonglo's interests to be hostage to ill-defined processes and indefinite timeframes.

Request

It is requested that EPSDD and TCCS remove its requirement for a "letter of support from NSW Rail stating that they have no concern and support the direct sale" given that:

- UGL/Transport NSW have been fully briefed on the matter, and a generous opportunity to comment has already been provided without a response being forthcoming;
- it is inequitable for Molonglo's interest to continue to be hostage to an ill-defined and indefinite timeframe;
- Any subsequent development of the direct sale land would be subject to a development application. UGL/NSW Rail would be advised by the ACT Government's Environment Planning and Sustainable Development Directorate of any such development application in accordance with the provisions of the *Planning and Development Act 2008 (the ACT)*. The Act provides NSW Rail with the right to make a submission on any such DA and provides third party appeal rights.
- In the extremely unlikely event that the land or any portion of it were required for railway associated purposes in the future, the ACT Government could readily affect its re-acquisition pursuant to the *Lands Acquisition Act 1994*.

Your confirmation that the direct sale can immediately proceed on that basis is requested.

Best regards

--





hello@molonglo.com +61 2 6171 8400
GPO Box 1565 Canberra ACT 2601 molonglo.com
Ngunnawal Country

From Here to There – action-based strategies, guides and tools for delivering environmentally responsible, healthy and inclusive places.

Marble in Metamorphosis – contemplating the physical and cultural life of marble. Rachel Cusk. Chris Kontos. Pre-order now.

Molonglo's business operations are certified carbon neutral by Climate Active.

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.

--





hello@molonglo.com +61 2 6171 8400
GPO Box 1565 Canberra ACT 2601 molonglo.com
Ngunnawal Country

From Here to There – action-based strategies, guides and tools for delivering environmentally responsible, healthy and inclusive places.

Marble in Metamorphosis – contemplating the physical and cultural life of marble. Rachel Cusk. Chris Kontos. Pre-order now.

Molonglo's business operations are certified carbon neutral by Climate Active.




hello@molonglo.com +61 2 6171 8400
GPO Box 1565 Canberra ACT 2601 molonglo.com
Ngunnawal Country

From Here to There – action-based strategies, guides and tools for delivering environmentally responsible, healthy and inclusive places.

Marble in Metamorphosis – contemplating the physical and cultural life of marble. Rachel Cusk. Chris Kontos. Pre-order now.

Molonglo's business operations are certified carbon neutral by Climate Active.

--



hello@molonglo.com +61 2 6171 8400
GPO Box 1565 Canberra ACT 2601 molonglo.com
Ngunnawal Country

From Here to There – action-based strategies, guides and tools for delivering environmentally responsible, healthy and inclusive places.

Marble in Metamorphosis – contemplating the physical and cultural life of marble. Rachel Cusk. Chris Kontos. Pre-order now.

Molonglo's business operations are certified carbon neutral by Climate Active.