

Planning and Development Act 2007

# Development Application

Application Number: **201833492**

## Before Starting

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

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

## Type of Application

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

Are you applying for a:

Development Application

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

No

## Lease/Site Details

### Site Number: 1

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

Urban

Suburb

PHILLIP

Section

3

Block Number

17

Unit Number

Street Address

6 FURZER STREET, PHILLIP

## Applicant Details

What type of applicant are you:

Business

ACN or ABN

95159090294

Company Name

Blak Plan Pty Ltd/Trading as Knight Frank Town Planning

Position held / Title

Town Planner

Salutation

None

First Name

Imogen

Surname

Featherstone3

Postal Address 1

PO Box 248

Postal Address 2

Postal Address 3

Suburb

Civic Square

State/Territory

ACT

Postcode

2608

Country

Australia

Phone Number

62217891

Fax Number

Mobile Number

Email

Planning.ACT@au.knightfrank.com

## Lessee (Property Owners) Details

Lessee Number: 1

Is the Lessee a:

Registered company

Australian Company Number (ACN)

34620839894

Company Name

NG Woden Pty Limited

Position held / Title

General Manager Development

Salutation

None

First Name

Peter

Surname

Micalos

Postal Address 1

Po Box 5425

Postal Address 2

Postal Address 3

Suburb

Kingston

State/Territory

ACT

Postcode

2604

Country

Phone Number

0499441545

Fax Number

Mobile Number

Email

## Notice of Decision and Plans

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

Email

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

No

## Zone

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

CZ2 Business zone

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

## Development/Precinct Code

Please specify which development code applies to this application.

Commercial Zones Development Code

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

## Fully Describe Your Proposal

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

The proposal provides for demolition of existing buildings and associated structures, and construction of 4 separate mixed use buildings ranging in height from 10 to 24 storeys. In summary the proposal contains:

- 798 residential apartments;
- Retail and commercial uses;
- Community use;
- Four levels of basement car parking; and
- Landscape public open spaces.

A lease variation is sought to permit the proposed mixed use development including the addition of 'RESIDENTIAL USE', deletion of maximum GFA and basement clauses. As detailed in the DA Planning report.

## Proposed Use of the Land

Describe the use of the development. **Example:** Office, restaurant, and business agency limited to 300m2 gross floor area. (Note: Please refer to the Territory Plan definitions for land use definitions. Please also consider what is permitted under any Crown Lease for the site.)

This proposal provides for a mixed use development including but not limited to;

- Residential
- Retail
- Restaurant

Is the proposed use consistent with the current Crown lease?

Yes

## Assessment Track

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

Merit

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

## Type of Development

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

Lease Variation

Mixed Use (combined non-residential and residential developments)

Does this proposal involve a variation to a Units Plan?

No

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

Clause Changes

## Nominating Remission

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

Yes

## Mixed Use

Please select a Mixed Use sub type:

New building

Number of non-residential Units

12

Number of residential dwellings

798

Total number of Units

810

## Gross Floor Area (GFA) and Cost of Works

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

### Gross Floor Area Calculation

A - Gross Floor Area (existing) (m<sup>2</sup>)

2100.00

B - Gross Floor Area to be demolished (m<sup>2</sup>)

2100.00

C - Gross Floor Area to be added (m<sup>2</sup>)

114145.00

D - Total Gross Floor Area of development (A-B+C)(m<sup>2</sup>)

114145

E - COST OF WORKS (\$)

221754000.00

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

F - Area of other BCA Class 10 structures included in this application  
(e.g. metal carport, pergola, deck, verandah) (m<sup>2</sup>)

0.00

G - Parking areas – undercover

0.00

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

**Cost of Associated Works**

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

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

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

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

**Demolition, Trees****Demolition**Is the [Demolition](#) item relevant to your proposal? Yes

Have you provided Entity Endorsement?

 NoHave you provided required documentation for [referral](#) to Entity? Yes**Trees**

Is the Trees item relevant to your proposal?

 Yes

Have you provided Entity Endorsement?

 NoHave you provided required documentation for [referral](#) to Entity? Yes**Heritage****Heritage**

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

No

## Hazardous Materials, Contamination, Erosion and Sediment Control

### Hazardous Material

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

No

### Contamination

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

No

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

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

No

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

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

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

Yes

Have you provided Entity Endorsement?

No

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

Yes

## Waste Management, Noise

### Waste Management for waste facilities and management

Is the [Waste Management \(for waste facilities\)](#) item relevant to your proposal?

Yes

Have you provided Entity Endorsement?

No

Have you provided required documentation for *referral* to Entity?

Yes

### **Waste Management for liquid trade waste**

Is the *Waste Management (for liquid trade waste)* item relevant to your proposal?

No

### **Noise**

Is the Noise Management item relevant to your proposal?

Yes

Have you provided Entity Endorsement?

No

Have you provided required documentation for *referral* to Entity?

Yes

## Servicing & Site Management, Utilities

### **Servicing and Site Management**

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

Yes

Have you provided Entity Endorsement?

No

Have you provided required documentation for *referral* to Entity?

Yes

### **Utilities**

Is the *Utilities* item relevant to your proposal?

No

## National Capital Plan, Crime Prevention, Access & Mobility, Traffic Generation

### **National Capital Plan**

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

No

### **Crime Prevention through Environmental Design**

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

Yes

Have you provided documentation that demonstrates how your proposal complies with the

requirements of the *Territory Plan*?

- Yes

### **Access and Mobility**

Is the Access and Mobility item relevant to your proposal?

- Yes

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

- Yes

### **Traffic Generation**

Is the Traffic Generation item relevant to your proposal?

- Yes

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

- Yes

## Site Access, Parking, Landscape, Lighting

### **Site Access**

Is the Site Access item relevant to your proposal?

- Yes

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

- Yes

### **Landscape**

Is the *Landscape* item relevant to your proposal?

- Yes

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

- Yes

### **Lighting**

Is the *Lighting* item relevant to your proposal?

- Yes

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

- Yes

## Signs, Neighbourhood Plans, Water Sensitive Urban Design

### Signs

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

No

### Neighbourhood Plans

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

No

### Water Sensitive Urban Design (Mains Water Consumption)

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

Yes

Have you provided documentation that demonstrates how your proposal complies with the requirements of the [Territory Plan](#)?

Yes

### Water Sensitive Urban Design (Stormwater Quality)

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

Yes

Have you provided documentation that demonstrates how your proposal complies with the requirements of the [Territory Plan](#)?

Yes

## Driveways (For works on verge only)

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

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

Yes

Please indicate the works to be undertaken

Relocation of existing entrance

Construction of new driveway

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

If this application is for approval of a development that requires construction work to be carried out

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

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

Yes

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

Is this application for development undertaken without approval?

No

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

### Exclusion from Public Inspection

In accordance with the requirements of Sections 28 and 30 of the [Planning and Development Act 2007](#), the Environment, Planning and Sustainable Development Directorate must make the details and associated documents relevant to a development application available for public inspection.

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

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

No

### Conflict of Interest Declaration

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

No

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

*by fraud or misrepresentation*

## Applicant/Lessee Declaration

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

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

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

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

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

I/we understand that the documentation provided on CD/DVD or via the electronic lodgement process will be considered to be the relevant documentation associated with this application. All development application documentation will be made available for *public inspection* including via the Internet unless exclusion has been approved;

If the time for deciding the application (prescribed period) has ended and a decision has not been reached I/we understand that the application will be deemed refused and the Environment, Planning and Sustainable Development Directorate will not provide written advice of this decision.

I/we also understand that the Environment, Planning and Sustainable Development Directorate is able to still consider the application and make a decision after the expiration of the prescribed period;

I/we hereby authorise the Environment, Planning and Sustainable Development Directorate its servants and agents to erect sign/s on the subject property(s) as required and authorise ACT Government officers to access the subject property(s) for the purpose of evaluating the proposal(including the inspection of driveways and trees);

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

I/we declare that information relating to utility standards, access provisions and asset clearance

zones has been sought from the relevant utility providers and this development application has been prepared in accordance with their requirements;

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

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

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

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

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

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

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

I accept the above declarations

Accept

Acceptance date

27 Apr 2018

## Before Submitting

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

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

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

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

1. A signed appointment letter from all lessee's must be provided if works are to performed on the verge, a signed endorsement letter must be provided by the relevant Government Custodian;
2. Public register plans for residential applications are included;

3. You **MUST** include a statement against the criteria for development applications that will be assessed in the Merit track;
4. If the application is for a single unit on a unit titled block body corporate authorisation is required if there is works on a common property
- If you are still not sure how to proceed or want to ensure you have everything you need for your application, you can visit the EPSDD Customer Service Centre, 16 Challis Street, Dickson, or call us on 6207 1923 and ask to speak with a technical officer.

## Privacy Notice

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

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

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

**Contact Details:** Environment, Planning and Sustainable Development Directorate Customer Service Centre GPO Box 158, Canberra City 2601 16 Challis Street, Dickson ACT 2602  
Business Hours: 8.30am to 4.30pm weekdays (excluding Public Holidays) Phone: (02) 6207 1923  
Email: [epdcustomerservices@act.gov.au](mailto:epdcustomerservices@act.gov.au) Website: [www.environment.act.gov.au](http://www.environment.act.gov.au)



**LEGEND:**

- TREE TO BE RETAINED
- TREE TO BE REMOVED
- TREE PROTECTION ZONE
- TEMPORARY FENCING
- SITE ACCESS POINT

**TREE IDENTIFICATION:**

- 12 H (TCCS) TREE ID NUMBER (REFER TREE ASSESSMENT REPORT)
- 13 H (TCCS) TREE QUALITY ASSESSMENT
- 12 H (TCCS) TREES ON UNLEASED TERRITORY LAND
- 12 H (REGU) REGULATED TREE

- REGULATED TREE TO BE REMOVED

**TREE QUALITY ASSESSMENT:**

An overall assessment of the quality of the tree and its relative importance for retention within an urban context

- Poor (P)**
  - Limited life expectancy (less than 5-10 years) and/or
  - Limited habitat value; and/or
  - Significant risk potential with regard to: Poor form, health and condition, significant die back or sparse canopy; and/or, decay, susceptible to large limb drop, included bark forks etc
- Medium (M)**
  - Mature Tree specimen Sparse or pale coloured foliage
  - Epicormic growth and/or dead wood throughout the crown
  - Evidence of some branch fall
  - Less than desirable form Or (meets this criteria)
- High (H)**
  - Mature Tree specimen
  - Tree structure, appearance form and balance is considered typical
  - Little no evidence of insect/parasite attack, epicormic growth and/or dead wood
- Exceptional (E)**
  - Mature specimen
  - Well balanced grand and/or outstanding appearance and stature
  - Little or no evidence of insect or parasitic attack and/or disease, epicormic growth and/or dead wood and/or physical damage

**TREE MANAGEMENT & PROTECTION NOTES**

1. Read in conjunction with prior Arboricultural Report by Canopy Tree Experts: Block 17, Section 3, Phillip ACT (22nd September 2017)
2. Read in conjunction with Landscape Management & Protection Plan/s for trees on Unleased Territory Land

**TREE PROTECTION - BACKGROUND**

Trees are to be protected by the adoption of specific work methods and protective techniques within the tree protection zone.

- Work shall proceed in accordance with the approved Tree Management Plan subject to:
- Existing canopy clearance not being altered except where agreed;
  - Crowns and Apex of canopies not being altered or reduced except where agreed; and
  - Construction equipment able to pass beneath the trees lowest limb through the designated driveway access.

**FENCING**

Maintain temporary protective fences erected in accordance with the approved drawing. Fencing must be erected before the commencement of any site works and removed at completion of all construction and commencement of verge restoration. The fence is to remain in place throughout the duration of the project. Use of temporary 1800 mm tall continuous mesh fence supported by steel posts with concrete bases is mandatory. Variation from this requirement must be accompanied by written agreement from the Project Arborist. All construction activity including stockpiling of materials, vehicle access and parking must be excluded from the fenced area. Ensure that site access points are outside all the protection zones.

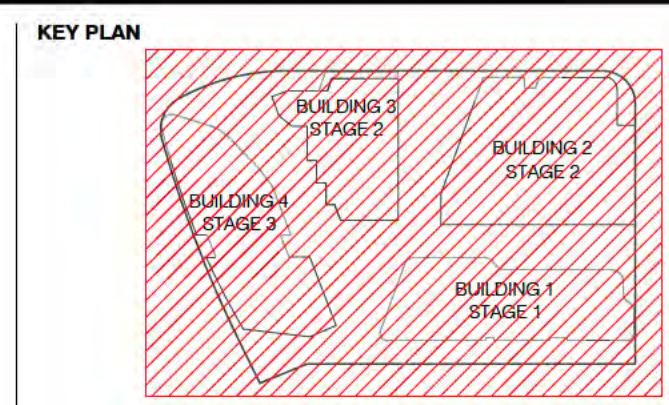
**WORKING INSIDE THE TREE PROTECTION ZONE**

Retain ground surface treatments, kerbs, fixtures, services and other features within the fenced zone. No excavation shall occur. Retain footings of demolished structures where they are not integral to the removal of the structure.

**BRANCH PROTECTION**

- On the advice of the project arborist and with written approval from Lessee of the block on which any tree is located, remove any branches that are impeding access, and trunk wrap those that are likely to be damaged during works as per Figure 4, AS 4970, or similar;

**NOTES**  
 THESE DRAWINGS ARE TO BE READ IN CONJUNCTION WITH ALL LANDSCAPE SCHEDULES AND TECHNICAL SPECIFICATION AND OTHER CONSULTANTS DRAWINGS. CHECK AND VERIFY ALL DIMENSIONS AND SITE CONDITIONS PRIOR TO THE COMMENCEMENT OF ANY WORK. DO NOT SCALE DRAWINGS - REFER TO FIGURED DIMENSIONS ONLY. INFORM OCULUS OF ANY DISCREPANCIES FOR CLARIFICATION BEFORE PROCEEDING. UNLESS NOTED OTHERWISE THIS DRAWING IS NOT FOR CONSTRUCTION.  
 © OCULUS 2017 All rights reserved  
 SERVICES SHOWN ON THIS DRAWING ARE APPROXIMATELY ONLY. THE EXACT LOCATION IS TO BE CONFIRMED ON SITE BY CONTRACTOR PRIOR TO COMMENCEMENT WORK.  
 www.1100.com.au



| ISSUE | DATE     | AMENDMENT                   | DRN | APRVD |
|-------|----------|-----------------------------|-----|-------|
| 01    | 12.04.18 | FOR DEVELOPMENT APPLICATION | SK  | RJ    |

**OCULUS**  
 level 1 / 5 wilson street, p.o. box 307, newtown, nsw 2042  
 p 02.9557.5533 australia@oculus.info  
 SYDNEY MELBOURNE WASHINGTON

**PROJECT**  
 WOVA  
 BLOCK 17, SECTION 3, PHILLIP, ACT 2606  
**CLIENT**  
 GEOCON  
 PO BOX 5425, KINGSTON, ACT 2604  
**ARCHITECT**  
 FENDER KASALIDIS  
 2 RIVERSIDE QUAY, SOUTHBANK, VIC. 3006

**STATUS**  
 ISSUE FOR DEVELOPMENT APPLICATION  
**DRAWING SCALE**  
 1:400 @ A1  
 SCALE 1:200 @ A1

**DRAWING**  
 TREE PROTECTION PLAN  
**PROJECT No**  
 S17-024  
**DRAWING No**  
 L101  
**SHEET SIZE**  
 A1  
**ISSUE**  
 01



Canopy Tree Experts Pty Ltd  
ABN 50 051 283 946  
PO Box 4464  
Kingston ACT 2604  
P: 02 61611800  
E: trees@canopygroup.com.au  
E: alan.mann@canopygroup.com.au



Canopy Tree Experts is a member of the International Society of Arboriculture.  
Alan Mann is a member of Arbiculture Australia

22 September 2017

Ref: 3378

## Preliminary Arboricultural Report Blocks 17, Section 3) Phillip, ACT

### Prepared for:

Tom Stephens

### Geocon

Unit 18, Level 1  
24 Iron Knob St,  
Fyshwick ACT 2609

### Prepared by:

#### Alan J Mann

Consulting Arborist  
Diploma of Arboriculture with Distinction  
Bachelor of Agricultural Science  
Certificate of Horticulture  
Quantified Tree Risk Assessment (QTRA) Registered Assessor No. 2845 [www.qtra.co.uk](http://www.qtra.co.uk)  
Tree Risk Assessment Qualification (TRAQ) Qualified Assessor No. 230557 (International Society of Arboriculture) [www.isa-arbor.com](http://www.isa-arbor.com)

### Assessment:

- **Date:** 21 September 2017
- **Assessment by:** Alan Mann

### Tree location:

The trees' locations are indicated on Figure 2. Which is taken from 'Detail Survey' 08149 DT 001 by Landdata Surveys dated 15.08.2008. Some additional plantings have been added in approximate locations by Alan Mann



Figure 1 Google Maps Street View of the site (Dated: Dec 2016, Accessed: 22 September 2017)

### Limits

- The inspection of the trees was limited to a visual inspection from ground level. The consultant may recommend further inspections.
- These notes apply only to the trees listed and reflect the condition of those trees at the time of inspection.
- Tree heights trunk circumference at 1.0m above ground level and canopy radii were estimated except where they were required to be accurately measured to determine if the tree is regulated.
- As this assessment was carried out while the deciduous trees were leafless species identification was dependent on fewer botanical features than is usually available and may not be totally accurate. Species identification may require confirmation in spring.

Tree Location

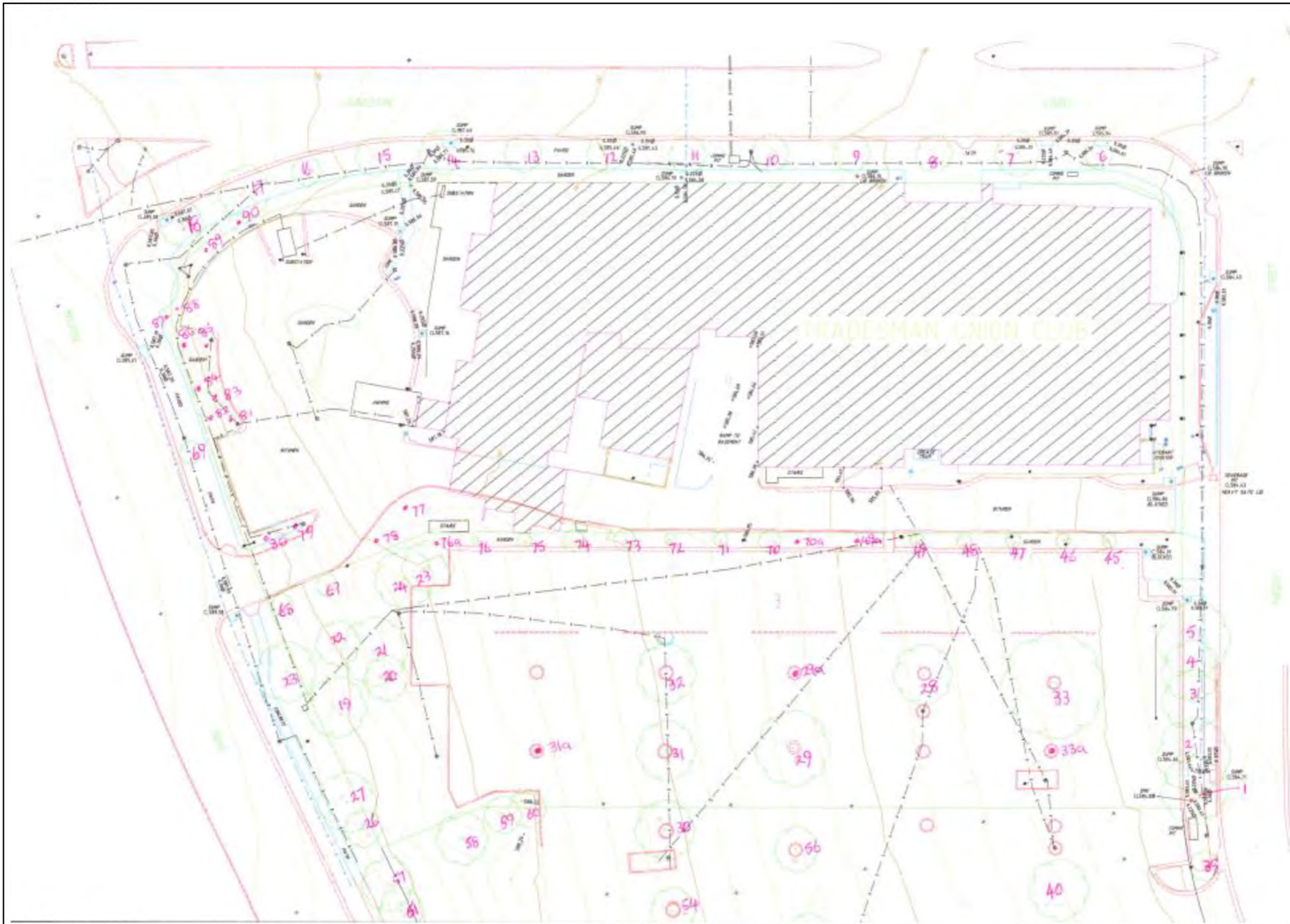


Figure 2 Tree location

## Tree Assessment Schedule

| No. | Species                       | Health | Struct. | Height (m) | Broadest Canopy Radius (m) | Trunk Circ. @1.4m (mm) | TPZ <sup>4970</sup> radius (m) | D 10 <sup>TPZ</sup> (m) | SRZ <sup>4970</sup> Radius (m) | Tree Quality Classification | Tree Protection Status | Comments and Notes<br>variable (drip line + 2m)<br><br>1. True shape of TPZ <sup>ACT</sup> is<br>2. Based on tree assessment alone         |
|-----|-------------------------------|--------|---------|------------|----------------------------|------------------------|--------------------------------|-------------------------|--------------------------------|-----------------------------|------------------------|--|
| 1   | Tree is missing               |        |         |            |                            |                        |                                |                         |                                |                             |                        |  |
| 2   | <i>Eucalyptus sideroxylon</i> | Good   | Poor    | 14         | 5                          | 1230                   | 4.7                            | 3.2                     | 2.4                            | Low                         | Street Tree            | Bark inclusion at 6m AGL; Minor deadwood   |
| 3   | <i>Eucalyptus sideroxylon</i> | Good   | Fair    | 14         | 5                          | 1330                   | 5.1                            | 3.5                     | 2.5                            | Low                         | Street Tree            | Bark inclusion at 5m AGL; Remove deadwood > 20mm diameter  |
| 4   | Tree is dead                  |        |         |            |                            |                        |                                |                         |                                |                             |                        |  |
| 5   | <i>Eucalyptus mannifera</i>   | Good   | Fair    | 2          | 0.5                        | 160                    | 2.0                            | 1.4                     | 1.0                            | Low                         | Street Tree            | Slow growin replacement tree   |
| 6   | <i>Ulmus parvifolia</i>       | Poor   | Fair    | 10         | 6                          | 1120                   | 4.3                            | 2.9                     | 2.3                            | Medium                      | Street Tree            | Previous failure at bark-inclusion (no further B-I present) Appears to be significant dieback of branches (too early in season to be sure) |
| 7   | <i>Ulmus parvifolia</i>       | Good   | Good    | 10         | 7                          | 1070                   | 4.1                            | 2.8                     | 2.3                            | High                        | Street Tree            |  |
| 8   | <i>Ulmus parvifolia</i>       | Poor   | Good    | 10         | 6                          | 990                    | 3.8                            | 2.6                     | 2.2                            | Low                         | Street Tree            | Appears to be significant dieback of branches (too early in season to be sure)   |
| 9   | <i>Ulmus parvifolia</i>       | Fair   | Good    | 9          | 5                          | 820                    | 3.1                            | 2.1                     | 2.0                            | Medium                      | Street Tree            |  |
| 10  | <i>Ulmus parvifolia</i>       | Good   | Good    | 8          | 4                          | 840                    | 3.2                            | 2.2                     | 2.1                            | Medium                      | Street Tree            | Appears to be some dieback of branches (too early in season to be sure)  |
| 11  | <i>Ulmus parvifolia</i>       | Good   | Good    | 8          | 4                          | 710                    | 2.7                            | 1.8                     | 1.9                            | Medium                      | Street Tree            |  |
| 12  | <i>Ulmus parvifolia</i>       | Good   | Good    | 7          | 4                          | 720                    | 2.8                            | 1.9                     | 1.9                            | Medium                      | Street Tree            |  |
| 13  | <i>Ulmus parvifolia</i>       | Good   | Good    | 5          | 4                          | 520                    | 2.0                            | 1.4                     | 1.7                            | Medium                      | Street Tree            |  |
| 14  | <i>Ulmus parvifolia</i>       | Good   | Good    | 7          | 5                          | 830                    | 3.2                            | 2.2                     | 2.0                            | Medium                      | Street Tree            |  |
| 15  | <i>Ulmus parvifolia</i>       | Good   | Good    | 6          | 4                          | 580                    | 2.2                            | 1.5                     | 1.8                            | Medium                      | Street Tree            | Disrupting footpath  |
| 16  | <i>Ulmus parvifolia</i>       | Good   | Good    | 5          | 4                          | 600                    | 2.3                            | 1.6                     | 1.8                            | Medium                      | Street Tree            |  |
| 17  | <i>Ulmus parvifolia</i>       | Good   | Good    | 6          | 4                          | 650                    | 2.5                            | 1.7                     | 1.8                            | Medium                      | Street Tree            |  |
| 18  | <i>Ulmus parvifolia</i>       | Good   | Good    | 6          | 4                          | 650                    | 2.5                            | 1.7                     | 1.8                            | Medium                      | Street Tree            |  |
| 19  | Stump only                    |        |         |            |                            |                        | 0.0                            | 0.0                     |                                |                             |                        |  |
| 20  | Stump only                    |        |         |            |                            |                        | 0.0                            | 0.0                     |                                |                             |                        |  |
| 21  | Stump only                    |        |         |            |                            |                        | 0.0                            | 0.0                     |                                |                             |                        |  |
| 22  | <i>Eucalyptus bicostata</i>   | Good   | Fair    | 12         | 6                          | 1200                   | 4.6                            | 3.1                     | 2.4                            | Medium                      | Regulated              | One sided canopy; Main fork likely to become bark-included   |
| 22a | <i>Eucalyptus bicostata</i>   | Good   | Good    |            |                            |                        |                                |                         |                                |                             | Not Regulated          | Prune to a single leader   |
| 23  | <i>Eucalyptus bicostata</i>   | Good   | Fair    | 16         | 7                          | 1730                   | 6.6                            | 4.5                     | 2.8                            | Low                         | Street Tree            | Scars on lower trunk possibly fungal - causing dead lower branches; Acute forks  |
| 24  | <i>Eucalyptus sideroxylon</i> | Good   | Poor    | 20         | 7                          | 1150                   |                                | 0.0                     | 2.3                            | Low                         | Regulated              | One sided canopy   |
| 25  | <i>Eucalyptus sideroxylon</i> | Good   | Fair    | 18         | 9                          | 1750                   | 6.7                            | 4.5                     | 2.8                            | Medium                      | Regulated              | Poor forks throughout (bark-included)  |
| 26  | Tree is missing               |        |         |            |                            |                        |                                | 0.0                     |                                |                             |                        |  |

| No. | Species                        | Health    | Struct. | Height (m) | Broadest Canopy Radius (m) | Trunk Circ. @1.4m (mm) | TPZ <sup>4970</sup> radius (m) | D 10 <sup>TPZ</sup> (m) | SRZ <sup>4970</sup> Radius (m) | Tree Quality Classification | Tree Protection Status | Comments and Notes<br>variable (drip line + 2m) | 1. True shape of TPZ <sup>ACT</sup> is<br>2. Based on tree assessment alone |
|-----|--------------------------------|-----------|---------|------------|----------------------------|------------------------|--------------------------------|-------------------------|--------------------------------|-----------------------------|------------------------|---|---|
| 27  | Tree is missing                |           |         |            |                            |                        |                                | 0.0                     |                                |                             |                        |   |   |
| 28  | <i>Eucalyptus polyanthemos</i> | Very Good | Good    |            |                            |                        |                                |                         |                                |                             | Not Regulated          |   |   |
| 29  | <i>Eucalyptus polyanthemos</i> | Good      | Good    | 15         | 5                          | 1160                   | 4.4                            | 3.0                     | 2.4                            | Medium                      | Regulated              | Acute forks may become bark-included            |   |
| 29a | <i>Acacia boormannii</i>       | Poor      | Good    |            |                            |                        |                                |                         |                                |                             | Not Regulated          | Shrub   |   |
| 30  | Tree is missing                |           |         |            |                            |                        |                                |                         |                                |                             |                        |   |   |
| 31  | <i>Eucalyptus polyanthemos</i> | Good      | Good    |            |                            |                        |                                |                         |                                |                             | Not Regulated          |   |   |
| 31a | <i>Eucalyptus polyanthemos</i> | Good      | Good    |            |                            |                        |                                |                         |                                |                             | Not Regulated          |   |   |
| 32  | <i>Eucalyptus polyanthemos</i> | Good      | Good    |            |                            |                        |                                |                         |                                |                             | Not Regulated          |   |   |
| 33  | <i>Eucalyptus mannifera</i>    | Fair      | Good    | 10         | 9                          | 1350, 1340             | 7.3                            | 5.0                     | 2.9                            | Medium                      | Regulated              | Some thinning of canopy                         |   |
| 33a | <i>Eucalyptus polyanthemos</i> | Good      | Good    |            |                            |                        |                                |                         |                                |                             | Not Regulated          |   |   |
| 39  | Tree is missing                |           |         |            |                            |                        |                                |                         |                                |                             |                        |   |   |
| 45  | <i>Pyrus sp.</i>               | Good      | Good    |            |                            |                        |                                |                         |                                |                             | Not Regulated          |   |   |
| 46  | <i>Pyrus sp.</i>               | Good      | Good    |            |                            |                        |                                |                         |                                |                             | Not Regulated          |   |   |
| 47  | <i>Pyrus sp.</i>               | Good      | Good    |            |                            |                        |                                |                         |                                |                             | Not Regulated          |   |   |
| 48  | <i>Pyrus sp.</i>               | Good      | Fair    |            |                            |                        |                                |                         |                                |                             | Not Regulated          |   |   |
| 49  | <i>Pyrus sp.</i>               | Good      | Fair    |            |                            |                        |                                |                         |                                |                             | Not Regulated          |   |   |
| 49a | <i>Pyrus sp.</i>               | Good      | Fair    |            |                            |                        |                                |                         |                                |                             | Not Regulated          |   |   |
| 57  | Tree is missing                |           |         |            |                            |                        |                                |                         |                                |                             |                        |   |   |
| 58  | Tree is missing                |           |         |            |                            |                        |                                |                         |                                |                             |                        |   |   |
| 59  | Tree is missing                |           |         |            |                            |                        |                                |                         |                                |                             |                        |   |   |
| 60  | Tree is missing                |           |         |            |                            |                        |                                |                         |                                |                             |                        |   |   |
| 61  | Tree is missing                |           |         |            |                            |                        |                                |                         |                                |                             |                        |   |   |
| 67  | <i>Ulmus parvifolia</i>        | Good      | Good    |            |                            |                        |                                |                         |                                |                             | Not Regulated          |   |   |
| 68  | <i>Ulmus parvifolia</i>        | Good      | Good    |            |                            |                        |                                |                         |                                |                             | Not Regulated          |   |   |
| 69  | Tree is missing                |           |         |            |                            |                        |                                |                         |                                |                             |                        |   |   |
| 70  | <i>Pyrus sp.</i>               | Good      | Poor    |            |                            |                        |                                |                         |                                |                             | Not Regulated          |   |   |
| 70a | <i>Pyrus sp.</i>               | Good      | Fair    |            |                            |                        |                                |                         |                                |                             | Not Regulated          |   |   |
| 71  | <i>Pyrus sp.</i>               | Good      | Fair    |            |                            |                        |                                |                         |                                |                             | Not Regulated          |   |   |
| 72  | <i>Pyrus sp.</i>               | Poor      | Fair    |            |                            |                        |                                |                         |                                |                             | Not Regulated          |   |   |
| 73  | <i>Pyrus sp.</i>               | Good      | Fair    |            |                            |                        |                                |                         |                                |                             | Not Regulated          |   |   |
| 74  | <i>Pyrus sp.</i>               | Good      | Fair    |            |                            |                        |                                |                         |                                |                             | Not Regulated          |   |   |
| 75  | <i>Pyrus sp.</i>               | Poor      | Fair    |            |                            |                        |                                |                         |                                |                             | Not Regulated          |   |   |
| 76  | <i>Pyrus sp.</i>               | Good      | Good    |            |                            |                        |                                |                         |                                |                             | Not Regulated          |   |   |
| 76a | <i>Pyrus sp.</i>               | Good      | Fair    |            |                            |                        |                                |                         |                                |                             | Not Regulated          |   |   |

| No. | Species                 | Health | Struct. | Height (m) | Broadest Canopy Radius (m) | Trunk Circ. @1.4m (mm) | TPZ <sup>4970</sup> radius (m) | D 10 <sup>TPZ</sup> (m) | SRZ <sup>4970</sup> Radius (m) | Tree Quality Classification | Tree Protection Status | Comments and Notes variable (drip line + 2m) | 1. True shape of TPZ <sup>ACT</sup> is<br>2. Based on tree assessment alone |
|-----|-------------------------|--------|---------|------------|----------------------------|------------------------|--------------------------------|-------------------------|--------------------------------|-----------------------------|------------------------|--|---|
| 77  | <i>Ulmus parvifolia</i> | Good   | Fair    |            |                            |                        |                                |                         |                                |                             | Not Regulated          |  |   |
| 78  | <i>Ulmus parvifolia</i> | Good   | Fair    |            |                            |                        |                                |                         |                                |                             | Not Regulated          |  |   |
| 79  | <i>Ulmus parvifolia</i> | Good   | Fair    |            |                            |                        |                                |                         |                                |                             | Not Regulated          |  |   |
| 80  | <i>Ulmus parvifolia</i> | Good   | Fair    |            |                            |                        |                                |                         |                                |                             | Not Regulated          |  |   |
| 81  | <i>Ulmus parvifolia</i> | Good   | Fair    |            |                            |                        |                                |                         |                                |                             | Not Regulated          |  |   |
| 82  | <i>Ulmus parvifolia</i> | Good   | Fair    |            |                            |                        |                                |                         |                                |                             | Not Regulated          |  |   |
| 83  | <i>Ulmus parvifolia</i> | Good   | Fair    |            |                            |                        |                                |                         |                                |                             | Not Regulated          |  |   |
| 84  | <i>Ulmus parvifolia</i> | Good   | Fair    |            |                            |                        |                                |                         |                                |                             | Not Regulated          |  |   |
| 85  | <i>Ulmus parvifolia</i> | Good   | Fair    |            |                            |                        |                                |                         |                                |                             | Not Regulated          |  |   |
| 86  | <i>Ulmus parvifolia</i> | Good   | Fair    |            |                            |                        |                                |                         |                                |                             | Not Regulated          |  |   |
| 87  | <i>Pyrus sp.</i>        | Good   | Fair    |            |                            |                        |                                |                         |                                |                             | Not Regulated          |  |   |
| 88  | <i>Pyrus sp.</i>        | Good   | Fair    |            |                            |                        |                                |                         |                                |                             | Not Regulated          |  |   |
| 89  | <i>Pyrus sp.</i>        | Good   | Fair    |            |                            |                        |                                |                         |                                |                             | Not Regulated          |  |   |
| 90  | <i>Pyrus sp.</i>        | Good   | Fair    |            |                            |                        |                                |                         |                                |                             | Not Regulated          |  |   |

# Appendix 1 Explanations of Terms Used in the Tree Assessments

This Assessment form has been developed to conform to the requirements of 'Notifiable Instrument NI2007-422', and; The AS4970-2009 'Protection of trees on development sites'

1. *Tree Number*  
These are unique sequential identification numbers allocated to the trees located on the block, overhanging the block or on the verge. The numbers are allocated in Figure 1.
2. *Species*  
The binomial species name is given
3. *Circ<sup>ACT</sup>*  
Trunk circumference at 1.0 m above natural ground level as specified in the Tree Protection Act 2005 is measured to determine if a tree is regulated. All trunks are measured if there are more than 1 trunk at that height and circumferences added together.

Circ<sup>ACT</sup> is not routinely measured where the tree is clearly regulated or not regulated. The measurement is not recorded in this table but is made to determine if the tree is regulated

4. *Height*  
The tree height was estimated except where the height was determined to be near 12m in which case it was measured using a clinometer from a measured offset. Heights of between 11 and 12 metres are recorded as 11metres.

5. *Canopy Spread*  
Canopy radii were taken at 90° intervals starting at north

The four radial canopy diameters are shown (in meters) in the 'Directional Canopy Radii' table. Where measurement of these would require entry onto neighbouring blocks or access was difficult, the measurements have been estimated. If required the broadest canopy diameter is also measured to determine if a tree is regulated.

6. *Health*  
Is an indication of the tree's health and vigour. It has been judged against the following range: Very Good (VG), Good (G), Fair (F), Poor (P), or Very Poor (VP)  
General comments on the tree's health and vigour, and specific comments on evidence of insect infestation or disease presence in the tree may be included.

7. *Structure*  
The structural integrity of the tree. It has been judged against the following range: Very Good (VG), Good (G), Fair (F), Poor (P), or Very Poor (VP)  
General comments on the tree's structure and specific comments on evidence of Root Zone Disturbance and Structural Damage to the tree will be included in the Comments Column

8. *Tree Protection Status*  
The legal status of each of the trees is given as one of the following:  
*Not Regulated* - no protection required, can be retained or removed.  
*Park Tree* -protected by legislation other than the Tree Protection Act 2005. To be protected by the Verge Management Plan.  
*Pest Plant* - is a weed: no protection required, may be removed without permit (or retained: - depending on level of classification).  
*Regulated Tree* - a tree that, due to its size, is classified as a 'Regulated Tree' under 'The Tree Protection Act 2005' and therefore a permit would be required to:
  - Remove the tree;
  - Prune the tree, except where the pruning is done by a qualified arborist and is done to the 'Australian Standard for Pruning of Amenity Trees' AS 4373;
  - Carry out ground works within 2m of the 'drip line' of the tree.

A Tree Management Plan that is formulated according to the 'Notifiable Instrument NI2007-422: Tree Protection (Guidelines for Tree Management Plans) Determination 2007' is designed to act as an application for the Tree Damaging Activities associated with this development.

*Registered Tree* - a tree that has been nominated to the 'Significant Tree' Register. It has similar, but more rigorous, protection to a regulated tree. For example, a Registered Tree's Tree Protection Zone is drip line plus 4m (cf 2m for a regulated tree).

*Remnant* - a regulated tree that is also a remnant eucalypt. For a Remnant, the Approval Criteria 1 (1) (d) (Inappropriate location) & (e) (substantially affecting solar access) in Disallowable Instrument Tree Protection (Approval Criteria) Determination (No.2) DI2006-60 do not apply. Remnant eucalypt is not defined in the DI2006-60. In this assessment, it is taken as a eucalypt that was likely to be present at the time of initial subdivision of the land on which it stands.

*Schedule 2* - a regulated tree that is also listed on Schedule 2 of Disallowable Instrument Tree Protection (Approval Criteria) Determination (No.2) DI2006-60. Schedule 2 lists problematic tree species for which the conservator may give approval for removal if on a block of less than 1200m<sup>2</sup>

*Street Tree* -protected by legislation other than the Tree Protection Act 2005. To be protected by the Landscape Management and Protection Plan (LMPP).

9. *Tree Quality Classification*

*Poor* – A poor quality tree is of poor form, structure or health or is likely to represent a significant safety hazard

*Low* - A tree that does not have significant amenity value.

*Medium* - A medium quality tree is one of reasonable form, structure and health and is not likely to represent a significant safety hazard.

*High* – A high quality tree is one that is of good form and condition and without structural defect. It should not represent a significant hazard.

*Exceptional*- A tree may be considered exceptional on the basis that it is an important part of the landscape due to factors such as prominence of location, contribution to the surrounding landscape and its general appearance. An exceptional tree should be free of any defects that cannot be addressed by remedial treatment. A tree may also be assessed as being exceptional for its botanic, scientific and cultural and natural heritage values.

These classifications are based on the guidelines in the 'Draft Guidelines for the Preparation of Tree Management Reports for Development on unleased Territory Land 2004 Draft'.

10. *Comments*

Any comments that are relevant are recorded in this column especially those related to health and structure

11. *Circ<sup>4970</sup>*

Trunk Circumference (for calculation of the Tree Protection Zone as per AS4970-2009 = TPZ<sup>4970</sup>) (Australian Standards 2009) is the trunk circumference at 1.4m above ground level (AGL), is expressed in millimetres and lists the individual trunk circumferences if there are more than 1 trunk at that height. These are used to calculate the DBH and subsequently the Radius TPZ<sup>4970</sup>. Where there is more than one trunk at 1.4 m AGL then the DBH is calculated by the formula presented in AS4970-2009. (Branches, c.f. trunks, are not included).

12. *Radius TPZ<sup>4970</sup>*

The radius of the Root Protection Zone component of the Tree Protection Zone as calculated from the trunk diameter at 1.4m AGL as recommended by the AS4970-2009. Note the final TPZ<sup>4970</sup> may need to be extended to include crown protection.

13. *D10<sup>TPZ</sup>*

The distance from the centre of the trunk to a straight-line excavation past the trunk that would excise 10% of the area of the TPZ<sup>4970</sup>. This measurement has no regulatory standing. It is an indication of how much root loss may occur with the described excavation but should be interpreted in conjunction with on-site observations as to where active absorptive roots are likely to be, species knowledge and water availability. It is presented here as one example of how 10% loss of TPZ<sup>4970</sup> area could occur.

14. *Radius SRZ<sup>4970</sup>*

This is an approximation of radius of the Structural Root Zone as recommended by the AS4970-2009. Accurate calculation of the SRZ may be required if a major encroachment into the TPZ<sup>4970</sup> is envisaged.

**From:** [McKeown, Helen](#)  
**To:** [EPD, Customer Services](#)  
**Cc:** [Dojic, Rosie](#)  
**Subject:** Comm Trees Phillip 17-3, DA 201833492 [SEC=UNCLASSIFIED]  
**Date:** Wednesday, 30 May 2018 8:29:42 AM

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## Conservator's Advice

### Section 82 Tree Protection Act 2005

DA No 201833492

| BLOCK: | SECTION: | DIVISION: |
|--------|----------|-----------|
| 17     | 3        | Phillip   |

This DA has been assessed and the following Conservators Advice in accordance with Section 82 *Tree Protection Act 2005* is provided:

|   |   |
|---|---|
| No regulated trees on the site                      |   |
| Supported provided there are conditions of approval |   |
| Advice for the applicant                            |   |
| Not Supported                                       | X |
| Further Information/amendments required             |   |

### Comments

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

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

The other regulated trees do fulfil criteria for removal

Helen McKeown | Conservator Liaison

**Phone 02 6207 2247** |

**Environment | Environment and Planning | ACT Government**

Dame Pattie Menzies House, Challis Street, Dickson | GPO Box 158 Canberra ACT 2601 | [www.environment.act.gov.au](http://www.environment.act.gov.au)

**From:** [Ning, Samantha](#)  
**To:** [EPD\\_Customer\\_Services](#)  
**Cc:** [Dojcić, Rosie](#)  
**Subject:** FW: Comm Trees Phillip 17-3, DA 201833492 - S144E Conservator Advice [SEC=UNOFFICIAL]  
**Date:** Friday, 24 August 2018 11:22:18 AM

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**Conservator's Advice**  
**Section 82 Tree Protection Act 2005**

DA No 201833492 – S144 E

| BLOCK: | SECTION: | DIVISION: |
|--------|----------|-----------|
| 17     | 3        | Phillip   |

This DA has been assessed and the following Conservators Advice in accordance with Section 82 *Tree Protection Act 2005* is provided:

|   |   |
|---|---|
| No regulated trees on the site                      |   |
| Supported provided there are conditions of approval |   |
| Advice for the applicant                            |   |
| Not Supported                                       | X |
| Further Information/amendments required             |   |

**Comments**

The DA is not supported as regulated trees Eucalypts 28, 29 or 33, do not meet criteria for removal under the *Tree Protection Act 2005*. The three trees are of medium quality and could be considered for removal under the development Act.

All other regulated trees do meet criteria under the *Tree Protection Act 2005* for removal.

Thank you

Samantha Ning | (A/G) Manager Tree Protection  
P 6207 5878 | E [samantha.ning@act.gov.au](mailto:samantha.ning@act.gov.au)  
Urban Treescapes, City Presentation | Transport Canberra and City Services Directorate | ACT Government  
490 Northbourne Ave, Dickson | GPO Box 158 Canberra ACT 2601  
[www.act.gov.au](http://www.act.gov.au) | [www.tccs.act.gov.au](http://www.tccs.act.gov.au)

Please note that I do not work on Tuesdays

**Robinson, Megan**

---

**From:** ConservatorFloraFauna  
**Sent:** Monday, 12 July 2021 10:11 AM  
**To:** AC, EPD Customer Services  
**Cc:** Dojcic, Rosie  
**Subject:** COMM-TREE PROTECTION-201833492-S197H-17/3 PHILLIP-01  
**Attachments:** plans - S197H.obr; supporting docs - S197H.obr

OFFICIAL

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**From:** Schwartzkoff, Brent <Brent.Schwartzkoff@act.gov.au>  
**Sent:** Monday, 12 July 2021 9:43 AM  
**To:** ConservatorFloraFauna <ConservatorFloraFauna@act.gov.au>  
**Subject:** COMM-TREE PROTECTION-201833492-S197H-17/3 PHILLIP-01

OFFICIAL

**S197 Amendment - Proposed amendment to DA approval – AMENDMENT TO APPROVED DA201833492 (S197H) .** Amendment to the development application for Proposal for mixed use commercial and residential development and lease variation - the amendment includes; changes to development staging, addition of 48 hotel units, relocation of residential amenity to building two, basement reconfiguration, removal of above ground car park, ground plane landscaping, apartment mix updated, removal and replacement of onsite trees and associated works.

DA No 201833492-S197H

| BLOCK: | SECTION: | DIVISION: |
|--------|----------|-----------|
| 17     | 3        | PHILLIP   |

The DA has been assessed and the following Conservators Advice in accordance with Section 82 *Tree Protection Act 2005* is provided:

|   |          |
|---|----------|
| No regulated trees on the site          |          |
| Supported with conditions               |          |
| Advice for the applicant                |          |
| Not Supported                           | <b>X</b> |
| Further Information/amendments required |          |

Conditions/Comments/Advice:

The DA is not supported as regulated trees Eucalypts 28, 29 or 33, do not meet criteria for removal under the *Tree Protection Act 2005*. The three trees are of medium quality and could be considered for removal under the development Act.

All other regulated trees do meet criteria under the *Tree Protection Act 2005* for removal.

I provide this advice as delegate of the Conservator of Flora and Fauna

Brent Schwartzkoff, Technical Officer level 3 (Position Number 15670)

*Pest Plants and Animals Act 2005.*

*Tree Protection Act 2005.*

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**From:** Dojcic, Rosie <[Rosie.Dojcic@act.gov.au](mailto:Rosie.Dojcic@act.gov.au)> **On Behalf Of** TCCS\_CP TreeProtectionACTPLARef

**Sent:** Tuesday, 22 June 2021 7:10 PM

**To:** TCCS\_CP TPUSouth <[TCCS.TPUSouth@act.gov.au](mailto:TCCS.TPUSouth@act.gov.au)>

**Subject:** FW: REFERRAL-TREE PROTECTION-201833492-S197H-17/3 PHILLIP-01

OFFICIAL

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**From:** AC, EPD Customer Services <[ACEPDCustomerServices@act.gov.au](mailto:ACEPDCustomerServices@act.gov.au)>

**Sent:** Monday, 21 June 2021 2:39 PM

**To:** TCCS\_CP TreeProtectionACTPLARef <[TCCS.TreeProtectionACTPLARef@act.gov.au](mailto:TCCS.TreeProtectionACTPLARef@act.gov.au)>

**Subject:** REFERRAL-TREE PROTECTION-201833492-S197H-17/3 PHILLIP-01

OFFICIAL

**DEVELOPMENT APPLICATION NO:** 201833492-S197H

**BLOCK: 17 SECTION: 3 DIVISION: PHILLIP**

**S197 Amendment - Proposed amendment to DA approval** – AMENDMENT TO APPROVED DA201833492 (S197H) .  
Amendment to the development application for Proposal for mixed use commercial and residential development and lease variation - the amendment includes; changes to development staging, addition of 48 hotel units, relocation of residential amenity to building two, basement reconfiguration, removal of above ground car park, ground plane landscaping, apartment mix updated, removal and replacement of onsite trees and associated works.

Pursuant to Section 148(1) of the Planning and Development Act 2007 the ACT Planning and Land Authority requests that you consider the above mentioned development application and provide any written advice no later than 15 working days after the date of this notice **(12/07/2021)**.

In accordance with Section 150 of the Planning and Development Act 2007 If advice is not received within the prescribed time it will be taken that you have supported the application.

Please forward any written advice via email to Customer Services

[EPDcustomerservices@act.gov.au](mailto:EPDcustomerservices@act.gov.au)

**Please use the following format in the subject line of the email when providing advice:**

**COMM-Agency Name-20080XXXX-Block XX Section XX SuburbXXXX-01**

**Example: COMM-Heritage-200801234-Block 10 Section 10 Dickson-01**

Regards,

Lucy | Notification | Environment, Land and Planning shopfront

Phone: 02 6207 1923 | Email: [epdcustomerservices@act.gov.au](mailto:epdcustomerservices@act.gov.au)

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## Statement Against Criteria

**Block 17 Section 3 Phillip  
Launceston Street  
Phillip ACT 2606**

April 2018

For the use of  
**Environment, Planning and Sustainable Development Directorate**

For the purpose of a  
**Development Application**



---

T +61 2 6230 7855

PO Box 248, Civic Square ACT 2608

Level 4, 64 Allara Street Canberra ACT 2600

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|                                 |  |             |                  |
|---------------------------------|--|-------------|------------------|
| <b>Job Name</b>                 | <b>Geocon - WOVA</b>   |             |                  |
| <b>Job Number</b>               | <b>540894.02</b>   |             |                  |
| <b>Quality Management</b>       |  |             |                  |
|                                 | <b>Name</b>  | <b>Date</b> | <b>Signature</b> |
| Prepared by                     | AO   | 1/03/18     | AO               |
| Checked by                      | Anneliese Turner   | 16/04/18    | AT               |
| Approved for release by         | AC   | 16/04/18    | AC               |
| For further information contact | Please contact Imogen Featherstone on 02 6221 0206 or <a href="mailto:imogen.featherstone@au.knightfrank.com">imogen.featherstone@au.knightfrank.com</a> |             |                  |

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Enquiries should be addressed to Knight Frank Town Planning.

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DA-201833492

Block 17 Section 3 Phillip

Block size = 10193sqm

Zone - CZ2 Business Zone

PROPOSAL FOR MIXED USE COMMERCIAL AND RESIDENTIAL DEVELOPMENT & LEASE VARIATION - Demolition of existing structures; Construction of 4 separate mixed use buildings ranging in height from 10 storeys to 24 storeys. Proposal will comprise of 12 commercial tenancies and a total of 798 residential units, landscaping and associated works; Lease variation to remove the maximum gross floor area restriction, the restriction on basement use and to add the following uses: community use (excluding child care centre and hospital), drink establishment, indoor recreation facility, non retail commercial use, residential use, restaurant, and shop.

## 1 Introduction and relevant codes

This report has been prepared by Knight Frank Town Planning to support a development application for a design and siting and lease variation on Block 17 Section 3, Phillip.

This development application, surrounded by Launceston Street, Melrose Drive and Furzer Street proposes a mixed use development consisting of 798 residential apartments as well as retail, community and commercial uses across four buildings.

This report provides a statutory planning review of the proposed development concept against the relevant Territory Plan codes, which include:

- The Phillip Precinct Map and Code
- Draft Variation (DV344) – (Has interim effect)
- Commercial Zone Development Code
- Multi-unit Housing Development Code
- Parking and Vehicular Access General Code
- Bicycle Parking General Code
- Access and Mobility General Code
- Crime Prevention through Environmental Design General Code
- Lease Variation General Code

## 2 Phillip Precinct Codes

Effective date of the Phillip Precinct Map and Code – 3 October 2014.

### RC1 – Woden Town Centre

#### Element 1: Use

| Rules   | Criteria  | Response  |
|---|---|---|
| <b>1.1 Ground Floor Use</b>   |   |   |
| <p>N/A</p> <p>R1<br/>This rule applies to buildings in area a fronting the hatched area shown in figure 1. Only the following uses are permitted on the ground floor level:</p> <ul style="list-style-type: none"> <li>a) Business agency</li> <li>b) Club</li> <li>c) Community activity centre</li> <li>d) Drink establishment</li> <li>e) Financial establishment</li> <li>f) Hotel</li> <li>g) Indoor entertainment facility</li> <li>h) Indoor recreation facility</li> <li>i) Public agency</li> <li>j) Restaurant</li> <li>k) Shop.</li> </ul> | <p>C1<br/>Buildings fronting main pedestrian areas and routes incorporate uses on the ground floor that generate activity in the public space.</p>  | <p>Not applicable.</p> <p>The proposed development is not located in area a.</p> <p>The subject block is not located in category a.</p> |
| <p>N/A</p> <p>There is no applicable rule.</p>  | <p>C2<br/>This criterion applies to buildings in area b fronting the hatched area shown in figure 1. Buildings incorporate uses on the ground floor that generate activity in the public space.</p> | <p>Not applicable. Not within the hatched area.</p> <p>The proposed development does not front a hatched area located in figure 1.</p>  |
| <b>1.2 Shop – CZ2 – Floor Area Limit</b>  |   |   |
| <p>✓</p> <p>R3<br/>This rule applies to area b shown in figure 1. The maximum GFA of any shop is 200m<sup>2</sup>.</p>  | <p>C3<br/>Shops are limited to a scale appropriate to providing convenient shopping and personal services for the local workforce and residents.</p>  | <p>Rule is met. Not inconsistent with R3.</p> <p>All retail areas provided are less than 200m<sup>2</sup>.</p>                          |
| <b>1.3 RESIDENTIAL USE – Phillip services area</b>  |   |   |
| <p>N/A</p> <p>R4<br/>This rule applies to area d shown in figure 1. RESIDENTIAL USE is not permitted at the ground floor level.</p>   | <p>This is a mandatory requirement. There is no applicable criterion.</p>   | <p>Not applicable. The subject block is not located in area d.</p> <p>The site is not located in area d.</p>                            |
| <b>1.4 NON RETAIL COMMERCIAL USE – Phillip Oval</b>   |   |   |
| <p>N/A</p> <p>There is no applicable rule.</p>  | <p>C5<br/>This criterion applies to section 23. NON RETAIL COMMERCIAL USE achieves all of the</p>   | <p>Not applicable. The subject block is not located in section 23.</p> <p>The site is not located in section 23.</p>                    |

|   |  |  |
|---|--|--|
|   | <p>following:</p> <ul style="list-style-type: none"> <li>a) compatibility with the operation of a day and night sporting oval</li> <li>b) located on land contiguous with Phillip Oval</li> </ul>  |  |
| <b>1.5 Development on Nominated Car Parking Areas</b>   |  |  |
| <p><b>N/A</b></p> <p>R6<br/>This rule applies to the shaded area shown in figure 1. Development complies with all of the following:</p> <ul style="list-style-type: none"> <li>a) The existing number of car parking spaces is retained on the site and made available for public use at all times</li> <li>b) Provides car parking that is generated by the development on site in accordance with the Parking and Vehicular Access General Code in addition to the spaces required by item a).</li> </ul>   | <p>C6<br/>Development achieves all of the following:</p> <ul style="list-style-type: none"> <li>a) Any additional parking provision requirements (under the Parking and Vehicular Access General Code) for the development</li> <li>b) Makes a substantial contribution to the long term parking supply for the town centre as endorsed by the Territory.</li> </ul> | <p>Not applicable.</p> <p>The proposed development is not located on a nominated car parking area.</p> <p><b>The subject block is not located on a nominated car parking area.</b></p> |
| <b>1.6 Additional development – Phillip swimming and ice skating centre</b>   |  |  |
| <p><b>N/A</b></p> <p>R7<br/>This rule applies to section 22 block 2. Development complies with all of the following:</p> <ul style="list-style-type: none"> <li>a) an ice skating rink suitable for national ice hockey competition</li> <li>b) a 50-metre public pool located on the northern portion of the block with unimpeded visual connection and direct public address to Irvine Street</li> <li>c) development for other uses is restricted to the southern portion of the block and involves redevelopment of the pool as an indoor facility</li> </ul> | <p>This is a mandatory requirement. There is no applicable criterion.</p>  | <p>Not applicable.</p> <p>The proposed development is not located on section 22 Block 2.</p> <p><b>The subject block is not located in section 22 block 2.</b></p>                     |

**Element 2: Buildings**

| Rules  | Criteria  | Response   |
|--|---|--|
| <b>2.1 Number of Storeys – Phillip Business and Leisure Precinct</b> |   |  |
| <p><b>N/A</b></p> <p>There is no applicable rule.</p>                | <p>C8<br/>This criterion applies to area c shown in figure 1. Buildings achieve a bulk and scale that achieves all of the following:</p> <ul style="list-style-type: none"> <li>a) Consistency with the desired character</li> <li>b) Reasonable solar access to dwellings on adjoining residential blocks and their associated private open space</li> </ul> <p>The maximum number of storeys is 6.<br/>Where buildings achieve, in addition it items a) and b),</p> | <p>Not applicable.</p> <p>The proposed development is not located in area c.</p> <p><b>The subject block is not located in area c.</b></p> |

|                                     |  |   |
|-------------------------------------|--|---|
|                                     | <p>all of the following:<br/> c) Marker buildings<br/> d) Architectural emphasis on corner sites and other appropriate locations<br/> The maximum number of storeys is 12.</p>   |   |
| <p>There is no applicable rule.</p> | <p>✓ C9<br/> This criterion applies to area <b>b</b> shown in figure 1. Buildings achieve a bulk and scale that achieves consistency with the desired character.</p> <p style="background-color: yellow; border: 1px solid red; padding: 2px;">Not inconsistent. Criterion C9 is adequately addressed.</p> | <p>Criteria addressed.</p> <p>The buildings are of a bulk and scale that achieves consistency with the desired character. The buildings have been positioned on the site to ensure the bulk of the development has been adequately separated to reflect the bulk and scale of the surrounding development. In close proximity to the site, a number of new developments are currently under construction, changing the overall character of the area to be as identified within the Woden Master Plan. The proposed development is consistent with the intended character of the Master Plan. The site is located within the mixed use, office and accommodation precinct in the master plan of which the proposed vision for the area is identified below:</p> <ul style="list-style-type: none"> <li>• Government and commercial offices dominate.</li> <li>• Includes residential development, community facilities, educational facilities and other employment opportunities</li> <li>• Key high-rise 'marker buildings' help people identify the centre and orient themselves</li> <li>• Building heights up to 24 stories in the core transition down to maximum of 12 stories at the edge.</li> <li>• Callum Street carpark reserved for future office and larger employment opportunities</li> <li>• New pocket parks are introduced to contribute to a high quality public domain.</li> </ul> <p>The proposed development is activating a mixed use precinct on the site, bring residential, commercial and retail together as well as providing for employment opportunities. The site also adheres to the building heights of the master plan and contains a key marker building to allow the</p> |

|            |  |   |
|------------|--|---|
|            |  | public to orient themselves within the town centre.   |
| <b>N/A</b> | <b>2.2 Number of storeys – Phillip services area</b><br>R10<br>This rule applies to area d shown in figure 1. The maximum number of storeys is 3.  | C10<br>This criterion applies to area d shown in figure 1. Buildings achieve all of the following <ul style="list-style-type: none"> <li>a) consistency with the <i>desired character</i></li> <li>b) reasonable solar access to <i>dwellings</i> on adjoining <i>residential blocks</i> and their associated <i>private open space</i></li> <li>c) predominantly 3 storeys with a maximum number of <i>storeys</i> is 4 an additional 5th storey may be allowed where it complies with all of the following:               <ul style="list-style-type: none"> <li>i) an <i>attic</i></li> <li>ii) on corner of blocks fronting Townsend Street.</li> </ul> </li> </ul> |
|            |  | Not applicable.<br><br>This proposed development is not located in area d.<br><br><div style="border: 1px solid red; background-color: red; color: black; padding: 5px;">The subject site is not located in area d.</div>   |
| <b>N/A</b> | <b>2.3 Active Frontages</b><br>R11<br>This rule applies to buildings fronting the hatched area shown in figure 1. Buildings incorporate display windows and shop fronts with direct pedestrian access at ground floor level. | C11<br>Buildings achieve all of the following: <ul style="list-style-type: none"> <li>a) Direct pedestrian access from main pedestrian areas</li> <li>b) Avoid extensive lengths of blank walls unrelieved by doors, display windows or the like.</li> </ul>  |
|            |  | Not applicable. <div style="border: 1px solid red; background-color: red; color: black; padding: 2px;">The subject site does not front a hatched area.</div><br><br>The proposed development does not front a hatched area located in figure 1.   |
| <b>N/A</b> | <b>2.4 Materials and Finishes</b><br><br>There is no applicable rule.  | C12<br>This criterion applies to buildings in area a shown in figure 1. Building colours and materials are consistent with existing development within the Woden Town Centre.   |
|            |  | Not applicable.<br><br>The proposed development is not in area a in figure 1. <div style="border: 1px solid red; background-color: red; color: black; padding: 2px;">The subject site is not located in area a.</div>   |

RC2 – Yamba Drive Corridor Site

Rule 13, 14 and 15 is not relevant to this development.







### 3 Draft Variation (DV344) Woden Town Centre

(Interim effect commenced – 25 July 2017).

**Note: RC3 Element 4: Buildings and Element 5: Heritage is not applicable to this development, only sites along Callam Street/Athllon Drive Corridor**

#### RC1 – Woden Town Centre

##### Element 1: Use





| Rules   | Criteria   | Response   |
|---|--|--|
| <b>1.1 Ground Floor Use</b>   |  |  |
|  <p>R1<br/>This rule applies to sites in CZ1 with boundaries to primary active frontages shown in figure 1. Only the following uses are permitted along the primary active frontage at the ground floor level:</p> <ul style="list-style-type: none"> <li>a) Business agency</li> <li>b) Club</li> <li>c) COMMUNITY USE</li> <li>d) Drink establishment</li> <li>e) Financial establishment</li> <li>f) Hotel</li> <li>g) Indoor entertainment facility</li> <li>h) Indoor recreation facility</li> <li>i) Public agency</li> <li>j) Restaurant</li> <li>k) SHOP</li> </ul> | <p>This is a mandatory requirement. There is no applicable criterion.</p>  | <p>Not applicable.</p> <p>The site is not in the CZ1 zone.</p>    |
|  <p>There is no applicable rule.</p>  | <p>C2<br/>This criterion applies to sites in CZ2 and CZ3 with boundaries to primary active frontages shown in figure 1.<br/>Buildings incorporate uses on the ground floor that generate activity in the public space.</p> | <p>Not applicable</p> <p>The site is not adjacent to a primary active frontage in figure 1.</p>   |
| <b>1.2 SHOP – CZ2 – Floor Area Limit</b>  |  |  |
|  <p>R3<br/>This rule applies to CZ2.<br/>The maximum gross floor area of any SHOP is 200m<sup>2</sup>.<br/>For Block 13 Section 81 Phillip, the maximum gross floor area of supermarket is 500m<sup>2</sup>.</p>   | <p>C3<br/>SHOPS are limited to a scale appropriate to providing convenient shopping and personal services for the local workforce and residents.<br/>This criterion does not apply to Block 13 Section 81 Phillip.</p>     | <p>Criteria addressed.</p> <p>The shops are limited to a scale appropriate to providing convenient shopping and personal services for the local workforce and residents.</p>  |

The subject site is not located in area a, b and e.

| 1.3 Permissible Use Restrictions                                     |   |  |
|--|---|--|
| N/A  | <p>R4<br/>This rule applies to area 'a', 'b' and area 'e' in figure 2.<br/>RESIDENTIAL USE is only permitted above the first floor level.</p>   | <p>This is a mandatory requirement. There is no applicable criterion.</p>  |
|  | <p>Not applicable.<br/>The site is not in area 'a', 'b' and area 'e' in figure 2.</p>   |  |
| N/A  | <p>R5<br/>This rule applies to development in section 7. The following uses:<br/>a) RESIDENTIAL USE<br/>b) COMMERCIAL ACCOMMODATION USE<br/><br/>are only permitted on land located within 36m of the Callam Street road reserve.</p>   | <p>This is a mandatory requirement. There is no applicable criterion.</p>  |
|  | <p>Not applicable.<br/>The site is not in Section 7.<br/>The subject site is not located in Section 7.</p>  |  |
| 1.4 NON RETAIL COMMERCIAL USE – Phillip Oval                         |   |  |
| N/A  | <p>There is no applicable rule.</p>   | <p>C6<br/>This criterion applies to sections 23 and 104. NON RETAIL COMMERCIAL USE is only permitted where it is demonstrated to be compatible with the operation of a day and night sporting oval.</p>  |
|  | <p>Not applicable.<br/>The site is not in Section 23 and 104.<br/>The subject site is not located in Section 23 and 104.</p>  |  |
| 1.5 Development on Nominated Car Parking Areas                       |   |  |
| N/A  | <p>R7<br/>This rule applies to the shaded blocks shown in figure 1 noted as existing parking. Development complies with all of the following:<br/>a) the existing number of car parking spaces is retained on the site and made available for public use at all times<br/>b) provides car parking that is generated by the development on site in accordance with the Parking and Vehicular Access General Code in addition to the spaces required by item a)</p> | <p>C7<br/>Development achieves all of the following:<br/>a) any additional parking provision requirements (under the Parking and Vehicular Access General Code) for the development<br/>b) makes a substantial contribution to the long term parking supply for the town centre as endorsed by the Territory</p> |
|  | <p>Not applicable<br/>The site is not on a nominated parking area.<br/>The subject site is not nominated car parking area.</p>  |  |
| 1.6 Additional Development – Phillip Swimming and Ice Skating Centre |   |  |
| N/A  | <p>R8<br/>This rule applies to area 'A' in figure 1. Development complies with all of the following:<br/>a) provides or retains an ice skating rink suitable for national ice hockey competition<br/>b) provides or retains a 50–metre public pool with direct public address to Irvine Street<br/>c) development for other uses involves redevelopment of the pool as an indoor facility.</p>  | <p>This is a mandatory requirement. There is no applicable criterion.</p>  |
|  | <p>Not applicable.<br/>The site is not in area 'A' in figure 1.<br/>The subject site is not located in area A in figure 1.</p>  |  |

The proposed development is not consistent with R9 and failed to demonstrate compliance with C9, the subject site is located in category C. The maximum height is 12 storeys, although as per the C9 one building only may be increased to additional of four storeys which make it a total of 16 storeys. The proposal is for:  
 Building 1 - 16 storeys  
 Building 2 - 16 storeys  
 Building 3 - 10 storeys  
 Building 4 - 24 storeys  
 All elevations and sections must include the natural ground level to ensure that the basement car parking is not a storey.  
 Further information is required to address the above height issue.

**Element 2: Buildings**

| Rules   |   |   |
|---|---|---|
| 2.1 Building Heights  |   |   |
| <p> R9<br/>           This rule applies to CZ1 and CZ2.<br/>           The maximum height of building for the areas shown in figure 2 is:<br/>           a) for area 'a', 24 storeys<br/>           b) for area 'b', 16 storeys<br/>           c) for area 'c', 12 storeys<br/>           d) for area 'd', 6 storeys<br/>           Plant room set back a minimum of 3m from the building facade of the floor immediately below is not included in the number of storeys</p> | <p> C9<br/>           The maximum height of building for one building tower element per block in areas 'a', 'b' and 'c' may be increased by an additional four storeys where development achieves all of the following:<br/>           a) the development maintains the building height hierarchy of the centre by retaining the taller buildings at the middle of the town centre; and<br/>           b) development is close to public transport stops and stations.<br/>           Note: This criterion does not apply to area 'd'</p>  | <p>Criteria addressed.<br/><br/>           Proposal is for a 24 storey marker building, two 16 storey buildings and one 10 storey building on what is currently a single block. The 10 storey building will increase solar penetration to the surrounding 16 storey buildings and enables greater variation in building heights across the site. The 16 storey buildings include tiering that will provide a better building composition.</p> |
| <p>There is no applicable rule. </p>   | <p>C10<br/>           For development that is 12 storeys and above, the applicant shall provide a visual assessment that:<br/>           a) Provides a description of the project and assessment of the physical and visual environment (local context) for the site and surrounding areas including existing landform, vegetation, land use, cycle and pedestrian connections, streetscape and nearby developments<br/>           b) Provides analysis and relevant illustrations of the key views and approach roads to the proposed development that addresses potential impacts that the development could have on the surrounding landscape character and visual amenity<br/>           c) Provides evidence and supporting material that outlines how the development has been designed to respond to the local context, mitigate any impacts on the broader landscape setting and visual environment and how it responds to the town centre skyline.</p> | <p>Criteria addressed.<br/><br/>           The proposal is for development that is 12 storeys and above. Refer to visual assessment prepared and submitted with this development application.</p> <div style="border: 2px solid red; background-color: #00ff00; padding: 5px; margin-top: 10px;"> <p>Not inconsistent with C10, refer to the Visual Assessment report provide by Knight Frank Town Planning and Fender Katsakidis</p> </div>  |
| <p>There is no applicable rule. </p>   | <p>C11<br/>           This criterion applies to development in the area indicated by an asterisk shown in figure 2.<br/>           One higher building element up to 24 storeys may be permitted where development complies with all of the following:<br/>           a) is set back from each road frontage<br/>           b) does not significantly overshadow nearby residential development.</p>  | <p>Criteria addressed.<br/><br/>           Proposal provides a 24 storey marker building at the corner of Melrose Drive and Launceston Street. The tower is set back from both Melrose Drive and Launceston Street frontages. The shadow diagrams provided identify the proposed 24 storey building does not significantly overshadow nearby residential development.</p>   |



Not consistent with C11, refer to the shadow diagram that has been provided by the applicant. The shadow that will be cast by the 24 storey building will impact of the adjacent residential development upon 10:30am. Therefore the shadow is considered significant.

|                              |     |   |
|------------------------------|-----|---|
|                              |     | <p>Criteria addressed.</p> <p>The proposal provides a 24 storey marker building at the corner of Melrose Drive and Launceston Street. The marker building;</p> <ul style="list-style-type: none"> <li>a) Is setback from both Melrose Drive and Launceston Street frontages.</li> <li>b) Shadow diagrams have been provided within the architectural drawings to demonstrate the proposed marker building does not significantly overshadow nearby residential development.</li> <li>c) An individual study on the impacts on the adjacent Bellerive development has also been provided on within the architectural drawing set. These plans demonstrate there will not be any shadow impacts on Bellerive after 10am.</li> </ul> |
| There is no applicable rule. | N/A | <p>C12<br/>Development in section 80 that is higher than the Callum Offices is setback from Callum Office building at least one metre for each metre of height greater than that of the Callum Offices main roof.</p> <p>Not applicable.</p> <p>The site is not in <b>Section 80</b>.</p>   |
| There is no applicable rule. | N/A | <p>C13<br/>A marker building in section 81 is permitted up to RL670AHD provided development complies with all of the following:</p> <ul style="list-style-type: none"> <li>a) the tower element is limited to 700m2 in plan area</li> <li>b) does not adversely impact on surrounding residential development through overshadowing</li> <li>c) retains the existing community path, and</li> <li>d) the development provides active uses at the ground floor level facing Wilbow Street.</li> </ul> <p>Not applicable.</p> <p>The site is not in <b>Section 81</b>.</p>  |

|                                |  |   |  |
|--------------------------------|--|---|--|
| N/A                            | <p>R14<br/>This rule applies to CZ3.<br/>The maximum height of building for area 'e' and area 'f' shown in figure 2 is four storeys:<br/>Plant room set back a minimum of 3m from the building facade of the floor immediately below is not included in the number of storeys.</p>   | <p>C14<br/>In area 'e':<br/>a) five storeys is permitted where development complies with all of the following:<br/>i) development fronts on to Townshend Street, and either Colbee Court or Dundas Court<br/>ii) the fifth storey is setback a minimum of 3 metres from the front boundary<br/>b) six storeys is permitted for development facing Altree Court.<br/>Plant room set back a minimum of 3m from the building facade of the floor immediately below is not included in the number of storeys.</p> | <p>Not applicable.<br/><br/>The site is not in the CZ3 zone.</p>   |
| N/A                            | <p>R15<br/>This rule applies to CZ3.<br/>The portion of development above the first floor fronting on to Grenville Court, Prospect Court, Bellona Court or Devine Court is set back a minimum of 6m from the street front boundary.</p>  | <p>This is a mandatory requirement. There is no applicable criterion.</p>   | <p>Not applicable.<br/><br/>The site is not in the CZ3 zone.</p>   |
| <p><b>2.2 Solar Access</b></p> |  |   |  |
| N/A                            | <p>R16<br/>Development adjoining the town square shown in figure 3, retains a minimum 3 hours solar access to at least 1,000m<sup>2</sup> of the town square area between the hours of 9am and 3pm on the winter solstice (21 June).</p>   | <p>C16<br/>Development retains reasonable solar access to the town square shown in figure 3</p>   | <p>Not applicable.<br/><br/>The site does not adjoin the town square in figure 3.</p>  |
| N/A                            | <p>R17<br/>Development retains a minimum 3 hours solar access to the main daytime living areas and private open space of dwellings on adjoining blocks between the hours of 9am and 3pm on the winter solstice (21 June).</p>  | <p>C17<br/>Development retains reasonable solar access to the main daytime living areas of dwellings on adjoining blocks and their associated principal private open space</p>  | <p>Not applicable.<br/><br/>The site does not adjoin residential blocks.</p>   |
| <p><b>2.2 Built Form</b></p>   |  |   |  |
| ✗                              | <p>R18<br/>This rule applies to development in CZ1 and CZ2 addressing:<br/>a) Bowes Street<br/>b) Furzer Street<br/>Buildings are set back a minimum of four metres from the front boundary adjoining each street at the ground floor level, up to 12 storeys. The minimum front setback for development above 12 storeys is 6m.</p> | <p>C18 ✗<br/>Building setbacks:<br/>a) provide sufficient space for large canopy street trees<br/>b) provide reasonable space for pedestrians and cyclists<br/>c) are consistent with the front boundary setbacks of existing adjacent buildings; and<br/>d) do not prejudice the future development of adjoining sites.</p>  | <p>Criteria addressed.<br/><br/>The proposed building setback to Furzer St provides:<br/> <ul style="list-style-type: none"> <li>Sufficient space for street trees. Street trees selected along Furzer St are Zelkova Serrata 'Green Vase' which reach a maximum mature canopy width of 10m. The trees along Furzer Street will have sufficient space to grow to their maturity.</li> </ul> </p> |


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|  |  | <ul style="list-style-type: none"> <li>• Space for pedestrians and cyclists. A minimum of 2.5m pavement width is provided along Furzer Street. This is a sufficient width for pedestrians and cyclist to comfortably pass.</li> <li>• consistent with setbacks to the south as Furzer Street continues.</li> <li>• do not prejudice the future development of adjoining sites. The proposed setbacks along Furzer Street do not limit any adjacent future development and are consistent with the built form in the area.</li> </ul>   |
| <p><b>X</b> R19<br/>This rule applies to development in CZ1 and CZ2 addressing:</p> <ol style="list-style-type: none"> <li>a) the pedestrian spine shown in figure 3</li> <li>b) Callam Street</li> <li>c) Corinna Street</li> <li>d) Easty Street</li> <li>e) Irving Street</li> <li>f) Matilda Street</li> <li>g) Melrose Drive</li> <li>h) Wilbow Street</li> </ol> <p>Buildings are built to the front boundary at the ground floor level. The minimum front setbacks above ground floor level are:</p> <ol style="list-style-type: none"> <li>a) 0m for the portion of development up to 22m above datum ground level</li> <li>b) 3m for the portion of development above 22m up to 12 storeys</li> <li>c) 6m for the portion of development above 12 storeys.</li> </ol> | <p><b>X</b> C19<br/>Minor departures from the building setbacks are permitted at the ground level where development:</p> <ol style="list-style-type: none"> <li>a) contributes to the pedestrian orientated environment</li> <li>b) reflects the existing street character</li> <li>c) accommodates active uses, building entrances, public amenities and landscaped areas.</li> </ol> <p>Minor departures from the building setbacks are permitted for the portion of development above 12 storeys where the building is designed to limit the building floor plate size of the tower to reduce the bulk and scale of the development and allow for solar access on to the public spaces, streets and adjacent development.</p> | <p>Criteria addressed.</p> <p>Proposal provides a 24 storey marker building at the corner of Melrose Drive and Launceston Street. Levels 2 to 17 are constructed along the Melrose Drive block boundary and setback from the Launceston Street block boundary. Levels 18 to 23 have a reduced tower form.</p> <p>The marker building located on the corner of Melrose Drive and Launceston Street will seek a minor departure from the building setbacks due to the following;</p> <ol style="list-style-type: none"> <li>a) the marker building and the overall site design provides for greater pedestrian movement and better connections to the site to and from adjoining development. The wide verge along Melrose Drive will be upgraded with a minimum of 2.5m wide footpaths, landscaped areas and seating areas which better address Melrose Drive than the current site design.</li> <li>b) The site design is an upgrade to the existing street character, and seeks to address the vision of the Woden Town Centre Master Plan. The master plan identifies the area for higher density development, increased residential and the implementation of 'marker buildings'.</li> <li>c) The marker building along Melrose Drive accommodates active uses on the ground floor including a café, community space</li> </ol> |

The proposed development is not consistent with R19 and failed to demonstrate compliance with C19, the overall building setback significantly encroach into the stipulated setback .



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|     |   | and retail area. Building entrances are provided along Melrose and Launceston Street, where landscaping and seating areas are also provided.   |   |
| N/A | <p>R20<br/>This rule applies to development in CZ1 and CZ2 addressing the town square. Buildings are built to the front boundary at the ground floor level. The minimum front setbacks above ground floor level are:</p> <ul style="list-style-type: none"> <li>a) 0m for the portion of development up to 12m above datum ground level</li> <li>b) 6m for the portion of development above 12m up to 12 storeys</li> <li>c) 9m for the portion of development above 12 storeys.</li> </ul> | <p>C20<br/>Minor departures from the building setbacks are permitted at the ground level where development:</p> <ul style="list-style-type: none"> <li>a) contributes to the pedestrian orientated environment</li> <li>b) reflects the existing street character</li> <li>c) accommodates active uses, building entrances and landscaped areas.</li> </ul> <p>Minor departures from the building setbacks are permitted for the portion of development above 12 storeys where the building is designed to limit the building floor plate size of the tower to reduce the bulk and scale of the development and allow for adequate solar access on to the town square.</p> | <p>Not applicable.</p> <p>The site does not address the town square.</p>  |
| N/A | <p>R21<br/>This rule applies to development in CZ1 and CZ2 addressing Bradley Street. The minimum front setbacks are:</p> <ul style="list-style-type: none"> <li>a) 0m for the portion of development up to 12m above datum ground level</li> <li>b) 3m for the portion of development above 12m up to 9 storeys</li> <li>c) 6m for the portion of development above 9 storeys</li> </ul>   | <p>C21<br/>Minor departures from the building setbacks are permitted at the ground level where development:</p> <ul style="list-style-type: none"> <li>a) contributes to the pedestrian orientated environment</li> <li>b) reflects the existing street character</li> <li>c) accommodates active uses, building entrances and landscaped areas.</li> </ul>  | <p>Not applicable.</p> <p>The site does not address Bradley Street.</p>   |
| N/A | <p>R22<br/>This rule applies to section 7. Redevelopment complies with the following:</p> <ul style="list-style-type: none"> <li>a) a publicly accessible road is provided in the location shown in figure 3</li> <li>b) a publicly accessible landscaped area with a minimum width of 20m is provided adjoining and parallel to the Matilda Street road reserve as shown by the hatched area in figure 3.</li> </ul>   | <p>This is a mandatory requirement. There is no applicable criterion.</p>  | <p>Not applicable.</p> <p>The site is not in <b>Section 7</b>.</p>  |
|     | <p>There is no applicable rule. </p>   | <p>C23<br/>Buildings are to achieve a high standard of design quality demonstrated through the following:</p> <ul style="list-style-type: none"> <li>a) Building are designed to include a range of high quality building materials and colours that are compatible with adjacent development and that</li> </ul>  | <p>Criteria addressed. </p> <p>The proposed building achieves a high standard of design quality demonstrated through;</p> <ul style="list-style-type: none"> <li>a) Building materials and finishes which include a palette of concretes, glass and</li> </ul> |

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|  | <p>contribute to a pedestrian scale, particularly at the lower levels of the building</p> <p>b) Buildings are designed to be well articulated to reduce the bulk and scale of development and provide architectural expression in the built form</p> <p>c) Residential buildings include elements that improve the use and performance of the building, such as wintergarden balconies and passive surveillance of primary and secondary active frontage streets and places</p> <p>d) Providing effective sun shading to areas of west facing glazing and balconies, through measures such as overhangs, adjustable external screens or vegetation.</p> <p>e) Residential buildings provide a range of apartment sizes and types, such as dual-key, cross-over, shop-top and apartments suitable for families.</p> <p>f) Providing green infrastructure, such as roof top planting, green walls, deep root planting areas or garden areas incorporating shrubs and rain gardens.</p> <p>g) Plant rooms that are integrated or concealed within building form.</p> | <p>coloured metal cladding in earthy tones to connect the site to the surrounding streetscape;</p> <p>b) The façade has been designed with articulated form to create interest and reduce the overall bulk of the development. Articulation includes the use of awnings, columns, balconies and tiered buildings.</p> <p>c) Each of the buildings include residential and propose wintergarden balconies and passive surveillance (from the ground level and above). Soho style townhouses create the passive surveillance at ground level connecting directly onto secondary frontages whilst retail, food and beverage and commercial areas are provided along primary active frontages.</p> <p>d) Sun shading is addressed through the use of glazing to those apartments facing to the west.</p> <p>e) A range of apartment sizes and arrangements are provided from the Soho style townhouses to 1, 2 and 3 bedroom apartments. Different styles of apartments are mixed throughout the four buildings.</p> <p>f) Green infrastructure is provided through rooftop gardens in buildings 1 and 3 which include tree plantings, community gardens and seating areas. A further residential courtyard is provided in building 2 at a lower level connecting onto an internal shared residential space inclusive of a gym.</p> <p>g) Plant rooms have been designed to be concealed within the building form and are hidden behind the rooftop façade treatment or located within basements.</p> |
| <p><b>N/A</b></p> <p>R24<br/>This rule applies to development addressing primary active frontages in CZ3.<br/>The minimum floor to ceiling height at the ground floor is 3.6m.</p> | <p>C24<br/>Floor to ceiling heights:<br/>a) contribute to natural ventilation<br/>b) promote penetration of daylight<br/>c) are adaptable for commercial uses.</p>  | <p>Not applicable.</p> <p>The site is not in the CZ3.</p>   |

The proposed development is not consistent with R23 and failed to demonstrate compliance with C23, evidence is required to ensure compliance.

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| <p><b>N/A</b></p> <p>There is no applicable rule.</p>   | <p>C25<br/>Above ground structured car parks comply with all of the following:<br/>a) incorporate commercial tenancies at ground floor along the front boundary<br/>b) use high quality architectural elements, landscaping and/or green infrastructure to screen the structures from public spaces and streets<br/>c) pedestrian access points are well lit and clearly visible from the street, and<br/>d) where publicly accessible parking is provided, ensures direct public access to and from the car parking to the public space.</p> | <p>Not applicable.</p> <p>The development does not contain an above ground structure car park.</p>  |
| <p><b>2.3 Active Frontages</b></p>  |   |   |
| <p><b>N/A</b></p> <p>R26<br/>For buildings located along primary active frontage areas shown in figure 1, ground floor frontages and building designs comply with all of the following:<br/>a) buildings incorporate clear display windows and shop fronts at the ground floor level<br/>b) buildings incorporate direct pedestrian access at grade with the verge level for access and egress for persons with disabilities<br/>c) any small areas of walls without windows contain displays, showcases and/or public art, with a maximum of 30% blank frontage per tenancy.</p> | <p>C26<br/>Buildings achieve all of the following:<br/>a) direct pedestrian access from main pedestrian areas<br/>b) avoid extensive lengths of blank walls unrelieved by doors, display windows or the like.</p>   | <p>Not applicable.</p> <p>The buildings are not located along primary active frontage areas shown in figure 1.</p>  |
| <p> R27<br/>This rule applies to residential development adjoining primary and secondary active frontages shown in figure 1.<br/>Development includes balconies and/or windows to main living areas addressing the public space/street.</p>  | <p>C27<br/>Residential development provides opportunities for passive surveillance of public spaces.</p>  | <p>Rule is met.</p> <p>The development includes residential use that adjoins secondary active frontages. The development includes balconies and/or windows to main living areas addressing the public street.</p> |

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| <p>✓ R28<br/>For buildings located along secondary active frontage areas shown in figure 1, ground floor frontages and building design complies with all of the following:<br/>a) buildings incorporate clear display windows and shop fronts at the ground floor level<br/>b) buildings incorporate direct pedestrian access at grade for access and egress for persons with disabilities.</p>   | <p>C28<br/>Development at ground level achieves all of the following:<br/>a) is adaptable for commercial use<br/>b) where building access is provided, direct pedestrian access at street level<br/>c) provide opportunities for views into and out of the building.</p> | <p>Rule is met.<br/><br/>The development includes buildings located along a secondary active frontage area and the:<br/>a) buildings incorporate clear display windows and shop fronts at the ground floor level<br/>b) buildings incorporate direct pedestrian access at grade for access and egress for persons with disabilities.</p>   |
| <p>There is no applicable rule. ✓</p>   | <p>C29<br/>Extensive lengths of blank facades, open structured car parks and loading docks are not located along primary active frontage areas, and do not dominate secondary active frontage areas shown in figure 1.</p>   | <p>Criteria addressed.<br/><br/>The development does not provide an extensive length of blank façade along primary active frontage areas, and the proposed loading dock and basement access does not dominate secondary active frontage areas.</p>   |
| <p>There is no applicable rule. N/A</p>   | <p>C30<br/>Utility infrastructure, such as electricity substations and water boosters, located along primary active frontages are minimised and/or screened where possible.</p>  | <p>Criteria addressed.<br/><br/>Utility infrastructure has not been located along primary active frontages. A new substation will be located to the south of the site off the proposed service lane (accessed from Melrose Drive). The substation will be screened away from public view. Other utility infrastructure such as gas meters, water meters, water and fire boosters and switch rooms are all located internally to the buildings.</p>   |
| <p><b>2.4 Landscape Zone</b></p>  |  |  |
| <p>✓ R31<br/>This rule applies to secondary active frontages shown in figure 1.<br/>Where a building frontage is greater than 30m in length and active uses are not incorporated on the ground floor, a landscaped area with a minimum depth into the block of 3m from the front boundary is provided for a minimum of 20% of the length of the front boundary.<br/>Planting is wholly contained within the leased block boundaries.<br/>Note: It is the responsibility of the lessee to ensure that any proposed plantings do not conflict with existing services.</p> | <p>C31<br/>Landscaped areas are provided along secondary frontages to soften the street environment and add points of interest. The landscaped areas are integrated with the adjacent verge level, and contained wholly within the block boundaries.</p>                 | <p>Rule is met.<br/><br/>A secondary active frontage is identified along Furzer Street. Building 1 fronting Furzer Street is not greater than 30m.<br/>Building 3 is greater in length than 30m; however active uses (retail) have been incorporated into the building frontage at ground level. Therefore implementing a landscape zone along Furzer Street is not required.</p> <p style="background-color: #00ff00; border: 1px solid #ff0000; padding: 5px;">Not inconsistent with R31, building 1 is less than 30m wide and building 2 is 41.5m. Building 2 has incorporated active uses.</p> |

| 2.5 Awnings   |  |  |   |
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| N/A   | <p>R32<br/>This rule applies to buildings fronting:</p> <ul style="list-style-type: none"> <li>a) Ball Street</li> <li>b) Bradley Street</li> <li>c) Brewer Street</li> <li>d) Callam Street</li> <li>e) Colbee Court</li> <li>f) Corinna Street</li> <li>g) Dundas Court</li> <li>h) Townshend Street</li> <li>i) bus interchange.</li> <li>j) town square</li> <li>k) pedestrian spine</li> </ul> <p>Buildings provide a continuous awning along the entire length of the building located along the front boundary with a minimum:</p> <ul style="list-style-type: none"> <li>a) height from datum ground level of 3.2m, and</li> <li>b) depth from the building facade of 3m.</li> </ul> | <p>C32<br/>Protection from the natural elements is provided along pedestrian movement corridors by incorporating:</p> <ul style="list-style-type: none"> <li>a) continuous awnings that are compatible with existing structures</li> <li>b) shelter that allows for street trees and other landscaping</li> <li>c) visually safe and amenable shelter design.</li> </ul> | <p>Not applicable.</p> <p>The buildings are not located in the areas identified.</p>  |
| 2.6 Screening   |  |  |   |
|   | <p>There is no applicable rule. </p>  | <p>C33<br/>Waste collection areas are screened from public view.</p> <p>Criteria addressed.</p> <p>The waste collection areas are screened from public view as they are provided internally to the proposed buildings.</p>   |   |
| 2.7 Driveways   |  |  |   |
|  | <p>R34<br/>No new driveways are permitted along:</p> <ul style="list-style-type: none"> <li>a) Callam Street, north of Wilbow Street</li> <li>b) Launceston Street.</li> <li>c) Melrose Drive</li> <li>d) Townshend Street</li> </ul> <p>Note: Replacement or relocation of existing driveways is not restricted by this rule.</p>   | <p>This is a mandatory requirement. There is no applicable criterion.</p>  | <p>Rule is met.</p> <p>The proposal seeks approval to relocate the existing driveway access from Melrose Drive. No new driveways are proposed along Townsend Street or Launceston Street.</p> |

## 4 Commercial Zones Development Code

The relevant rules and criteria of the Commercial Zones Development Code have been addressed below.

*Effective date of the Commercial Zones Development Code is 08 December 2017.*

**Part A – General Controls**

**Element 1: Lease and Development Conditions**

| Rules   | Criteria  | Response   |
|---|---|--|
| <b>1.1 Approved Lease and Development Conditions</b>  |   |  |
| <p><b>N/A</b></p> <p>R1<br/>This rule applies to blocks affected by approved lease and development conditions that provide for one or more of the following matters:</p> <ul style="list-style-type: none"> <li>a) Plot ratio</li> <li>b) Building envelope</li> <li>c) Building height</li> <li>d) Front street setback</li> <li>e) Side setback</li> <li>f) Rear setback</li> <li>g) Building design</li> <li>h) Materials and finish</li> <li>i) Interface</li> <li>j) Vehicle access</li> <li>k) Parking</li> <li>l) Solar access</li> <li>m) Private open space</li> <li>n) Landscaping</li> <li>o) Water sensitive urban design.</li> </ul> <p>Approved <i>lease and development conditions</i> for the matters listed above shall take precedence over the provisions of this code, but only to the extent of any inconsistency.</p> | <p>C1<br/>The development meets the intent of any current, relevant lease and development conditions.</p> | <p>Not applicable.</p> <p>The site is not subject to lease and development conditions.</p> |

**Element 2: Use**




| Rules   | Criteria   | Response   |
|---|--|--|
| <b>2.1 Existing Community and Recreation Sites</b>  |  |  |
| <p><b>✓</b></p> <p>R2<br/>A development proposal does not reduce the range of community or recreation facilities available.</p> | <p>C2<br/>A proposal that reduces the range of community or recreation facilities available demonstrates through a social impact assessment that there is enough land or sufficient other facilities in the locality to meet anticipated demand.</p> | <p>Rule is met</p> <p>The site was formerly used by the Woden Tradesmen's Union Club (closed on 7 January 2018). A club is not identified as a community or recreation facility in the Territory Plan and therefore the proposed development is not reducing the range of community or recreation facilities available.</p> <p>Social Club facilities will continue to be available in the surrounding area, and in particular:-<br/>- The Hellenic Club</p> |

- Canberra Southern Cross Club
- Southern Cross Health Club
- Woden Valley RSL Sub-Branch
- Woden Seniors Club
- Slovenian-Australian Association

**Element 3: Buildings**

| Rules   | Criteria   | Response  |
|---|--|---|
| <p><b>3.1 Building Design and Materials</b></p> |  |   |
| <p>There is no applicable rule.</p>             | <p>✗ C3<br/>Buildings achieve all of the following:</p> <ul style="list-style-type: none"> <li>a) A contribution to the amenity and character of adjacent public spaces</li> <li>b) Interesting, functional and attractive facades that contribute positively to the streetscape and pedestrian and cycling experience</li> <li>c) Minimal reflected sunlight</li> <li>d) Articulated building forms</li> <li>e) a contribution to permeability by providing pedestrian access through or around buildings and connections to external path networks</li> <li>f) floor plans that encourage walking within the building, including the use of stairwells</li> <li>g) physically open or visually permeable stairwells to facilitate natural surveillance.</li> </ul> | <p>Criteria addressed. ✗</p> <p>The proposed development addresses the following:</p> <ul style="list-style-type: none"> <li>a) Contributes to the amenity and character of adjacent public spaces due to the increase different uses being activated on site including retail, commercial and community use. The site will generate greater activity in the area with increased uses and will contribute to the livelihood and character of the whole site and surrounds.</li> <li>b) The development has attractive façade designs which are sympathetic to the surrounding streetscape and environment. Pedestrian and cycling facilities are provided throughout the development which connects the public to adjacent sites.</li> <li>c) The materials chosen for the development are a mix of concretes, metal claddings and glass. The placement of materials has been carefully considered to provide minimal reflection.</li> <li>d) Articulation has been used throughout the four buildings through the use of columns, balconies and stepped building levels.</li> <li>e) The proposed design better connects pedestrians and cyclists to adjacent sites through the generous walkways and placement of linkages to the surrounds.</li> <li>f) The floor plans encourage walking</li> </ul> |

The proposed development is not consistent with C3, evidence is required to demonstrate that the curtain wall will not be reflective.


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|                                 |  | <p>throughout the buildings internally, with each building containing a central corridor spine to maximise internal movement.</p> <p>g) Physically open stairwells have been utilised throughout the internal building design.</p> |
| There is no applicable rule.    |  <p>C4<br/>Buildings are of permanent construction.</p>   | <p>Criteria addressed.</p> <p>Proposed buildings are of permanent construction.</p>  |
| <b>3.2 Plant and Structures</b> |  |  |
| There is no applicable rule.    |  <p>C5<br/>Plant installations and service structures are integrated with the building design, so they are set back from the building facade and screened from public areas.</p>  | <p>Criteria addressed.</p> <p>Proposed plant installations and service structures are integrated with the building design.</p>   |
| <b>3.3 Parking Structures</b>   |  |  |
| There is no applicable rule.    |  <p>C6<br/>Parking structures achieve all of the following:<br/>a) Integrate with the built form of adjacent existing development<br/>b) Avoid blank walls and provide interesting and attractive facades when facing public areas.</p> | <p>Not applicable.</p> <p>No external car parking structures are proposed. Car parking will be provided in basements and at grade.</p>   |

| 3.4 Materials and Finishes   |  |   |
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| <p>There is no applicable rule.</p>  | <p style="text-align: right;">✘</p> <p>C7<br/>           Building materials and finishes provide for visual expression and interest. Where extensive glass or solid wall facades are incorporated in buildings:</p> <ul style="list-style-type: none"> <li>a) Transparency is maximised</li> <li>b) Reflectivity is minimised</li> <li>c) Shadow profiles or visible joint detailing are included</li> <li>d) Visually interesting building elements are applied through the use of elements such as colour, articulation, materials selection, shadows or deep framing profiles.</li> </ul> | <p>Criteria addressed. ✘</p> <p>Proposed buildings materials and finishes provide for visual expression and interest. A variety of different materials are proposed across the façade including a mix of different types of coloured metal cladding, concretes and glassing. Extensive use of one material has been avoided in the design.</p> <ul style="list-style-type: none"> <li>a) Transparency has been maximised through the use of appropriately placed glazed treatments across the building design. The building façade is also broken up by residential balconies.</li> <li>b) Glazing has been provided on glass finishes and natural colours (yellows, browns, greens, oranges) have been selected for metal cladding which limits reflectivity in comparison to bare metal treatments.</li> <li>c) Details on building materials and finishes have been provided within the architectural drawings. As there are no extensive glass or solid wall facades within the building designs, detail on shadow profiles or joint detailing has not been included.</li> <li>d) The external façade has addressed visual interest through the use of colour and building articulation. Elevations provided within the architectural drawings provide detail on the external building façade treatment.</li> </ul> |
| <p>The proposed development is not consistent with C7, evidence is required to demonstrate compliance with b).</p> |  |   |


| 3.5 Storage  |   |   |
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| <p>✓ R8<br/>Outdoor storage areas comply with all of the following:</p> <ul style="list-style-type: none"> <li>a) Are located behind the building line</li> <li>b) Are screened from view from any road or other public area</li> <li>c) Do not encroach on car parking areas, driveways or landscape areas.</li> </ul>  | <p>C8<br/>Where the proposed use requires open areas for storage of goods and materials, adequate provision is included in the design and layout of the site for these areas and they do not encroach on car parking, driveways or landscaped areas.</p>  | <p>Rule is met</p> <p>Storage areas are integrated within the building (within the basement) for residents through the provision of individual storage cages.<br/>Retail and commercial storage is provided at ground level (internally) close to those proposed uses.<br/>No outdoor storage areas are proposed in this development.</p> |
| 3.6 Wind   |   |   |
| <p>There is no applicable rule.</p>  | <p>✗ C9<br/>This criterion applies to buildings with a height of building greater than 19m but less than 28m. The wind patterns associated with the proposed building will not unreasonably reduce the safety and comfort of people in the public realm or other open spaces associated with the development, compared with a similar building on the site with a height of building of 19m. Compliance with this criterion will be demonstrated by a wind assessment report prepared by a suitably qualified person.</p> | <p>Criteria addressed.</p> <p>Refer to Wind Impact Assessment by Norman Disney &amp; Young.</p> <p style="background-color: yellow; border: 1px solid red;">Not consistent with C9, the report does not address C9.</p>   |
| <p>✗ R10<br/>This rule applies to buildings with a height of building greater than 28m. As a consequence of the proposed development wind speeds do not exceed the following:</p> <ul style="list-style-type: none"> <li>a) Adjacent main pedestrian areas and routes (as defined in the relevant precinct code): 10m/s</li> <li>b) All other adjacent streets and public places: 16 m/s.</li> </ul> <p>Compliance with this rule is demonstrated by a wind assessment report prepared by a suitably qualified person.</p> | <p>This is a mandatory requirement. There is no applicable criterion.</p> <p style="background-color: yellow; border: 1px solid red;">Not consistent with R10, evidence is required to demonstrate compliance with the report in regard to the open eating area and public realm.</p>   | <p>Rule is met</p> <p>Refer to Wind Impact Assessment by Norman Disney &amp; Young.</p>   |
| 3.7 Ventilation  |   |   |
| <p>✓ R11<br/>This rule applies to buildings used or proposed to be used for one or more of the following:</p> <ul style="list-style-type: none"> <li>a) Food retail</li> <li>b) Restaurant</li> </ul> <p>All exhaust and ventilation systems are installed and operated to comply with AS1668.1 The Use of</p>   | <p>This is a mandatory requirement. There is no applicable criterion.</p> <p style="background-color: yellow; border: 1px solid red;">Condition of Approval is required.</p>  | <p>Rule is met</p> <p>All required exhaust and ventilation systems will be installed and operated to comply with AS1668.1.</p>  |

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| Ventilation and Air-conditioning in Buildings.   |  |  |
| <b>3.8 Shopping Arcades and Malls – CZ3</b>  |  |  |
| N/A<br>R12<br>This rule applies to CZ3. Internal shopping arcades or malls are not permitted.  | This is a mandatory requirement. There is no applicable criterion. | Not applicable.<br><br>The site is not located within a CZ3 zone.  |
| <b>3.9 Supportive Housing and Residential Care Accommodation</b>   |  |  |
| N/A<br>R13<br>All dwellings for the purposes of supportive housing and/or residential care accommodation are designed to comply with the relevant parts of the Residential Zones – Multi Unit Housing Development Code and the relevant Australian Standard for Adaptable Housing. | This is a mandatory requirement. There is no applicable criterion. | Not applicable.<br><br>Supportive housing and residential care accommodation are not proposed in this development application. |






#### Element 4: Site

| Rules   | Criteria   | Response  |
|---|--|---|
| <b>4.1 Landscaping</b><br><br>There is no applicable rule. <div style="border: 1px solid red; padding: 5px; margin-top: 10px;"> <p>Not consistent with C14, evidence is required to demonstrate that the soil depth above the basement and roof gardens will support the large size canopy tree.</p> </div> | <br><b>C14</b><br>Landscaping associated with the development achieves all of the following: <ol style="list-style-type: none"> <li>a) Response to site attributes, including streetscapes and landscapes of documented heritage significance</li> <li>b) Appropriate scale relative to the road reserve width and building bulk</li> <li>c) Vegetation types and landscaping styles which complement the streetscape</li> <li>d) Integration with parks, reserves and public transport corridors</li> <li>e) Minimal adverse effect on the structure of the proposed buildings or adjoining buildings</li> <li>f) Contribution to energy efficiency and amenity by providing substantial shade in summer, especially to west-facing windows and open car park areas, and admitting winter sunlight to outdoor and indoor living areas</li> <li>g) Minimal overlooking between buildings</li> <li>h) Satisfies utility maintenance requirements</li> <li>i) Minimises the risk of damage to aboveground and underground utilities</li> <li>j) Screens aboveground utilities</li> <li>k) Provides adequate sight lines for vehicles and pedestrians, especially near street corners and</li> </ol> | Criteria addressed. <ol style="list-style-type: none"> <li>a) The landscaping responds to the site attributes including the surrounding streetscape character. The site does not contain any heritage significance.</li> <li>b) The landscaping proposed is of appropriate scale to the road reserve. Tree species proposed are of appropriate scale to the buildings.</li> <li>c) Vegetation types selected are mostly native which will complement and enhance the existing streetscape.</li> <li>d) There are no parks, reserves or public transport corridors near the site.</li> <li>e) The landscaping is sympathetic to the proposed buildings, and trees are kept at a suitable distance to any buildings and structures.</li> <li>f) A number of trees have been selected for their shade qualities to pedestrian areas. There are also a number of opportunities for winter sun to access the open pedestrian areas.</li> <li>g) There is minimal overlooking between buildings.</li> </ol> |

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|  | <p>intersections</p> <p>i) Does not obscure or obstruct building entries, paths and driveways to reduce the actual or perceived personal safety and security.</p> | <p>h) The proposed landscaping has been designed to be of low maintenance, with low maintenance plant species and materials utilised.</p> <p>i) The proposed landscaping has been designed in coordination with the proposed above and underground utilities.</p> <p>j) There are no aboveground utilities proposed, only a substation to the south of the site. The substation will be within an enclosure.</p> <p>k) Landscaping has taken into consideration site lines for both pedestrians and vehicles and has been setback from street corners.</p> <p>l) Trees and garden beds have been kept to central areas, with only hard surfaces proposed to building entrances.</p> <p>Refer to landscape plans prepared by OCULUS.</p> |
| <p>There is no applicable rule.</p>  | <p><b>N/A</b></p> <p>C15<br/>Tree planting in and around car parks provides shade and softens the visual impact of parking area.</p>                              | <p>Not applicable.</p> <p>The site does not include large areas of surface car parking.</p>   |
| <p><b>4.2 Lighting</b></p>   |   |   |
| <p><b>X</b> R16<br/>External lighting is provided to building frontages, to all pathways, roads, laneways and car-parking areas in accordance with AS1158.3.1 Pedestrian Lighting.</p> | <p>This is a mandatory requirement. There is no applicable criterion.</p> <p><b>Condition of Approval is required.</b></p>  | <p>Rule is met.</p> <p>An external lighting plan has been provided which details lighting proposed on building facades, within pedestrian areas and along the service laneway.</p> <p>External lighting will be provided in accordance with AS1158.3.1.</p>   |
| <p><b>X</b> R17<br/>All external lighting provided is in accordance with AS4282 - Control of the Obtrusive Effects of Outdoor Lighting.</p>  | <p>C17<br/>Light spill is minimised.</p> <p><b>Condition of Approval is required.</b></p>   | <p>Rule is met.</p> <p>An external lighting plan has been provided which details lighting proposed on building facades, within pedestrian areas and along the service laneway.</p> <p>External lighting will be provided in accordance with AS1158.3.1.</p>   |

| 4.3 Easements   |   |   |
|---|---|---|
|  <p>R18<br/>Buildings do not encroach over easements or rights of way.</p> | <p>This is a mandatory requirement. There is no applicable criterion.</p> | <p>Rule is met.<br/><br/>Buildings do not encroach over easements or rights of way.</p> |

### Element 5: Access

| Rules  | Criteria  | Response   |
|--|---|--|
| <b>5.1 Access</b>  |   |  |
| <p>There is no applicable rule. </p>  | <p>C19<br/>Pedestrian and cyclist entrances, and driveways to the site achieves all of the following:<br/>a) Are clearly visible from the front boundary<br/>b) Pedestrian and cycle access is provided through the site to increase permeability<br/>c) Pedestrian and cycle access paths to commercial buildings feed into and provide connections to existing path networks<br/>d) Priority is provided for pedestrian and cyclist access.</p> | <p>Criteria addressed.<br/><br/>Driveways and pedestrian entrances to the site are clearly visible from the front boundary and throughout the site.<br/><br/>Footpaths connect onto the surrounding pedestrian and cycle networks.<br/><br/>Pedestrians and cyclists are given priority on the site, with the only vehicle access provided to the basement (service access to the south) and the shared zone provided off Furzer Street.</p> |
| <p> R20<br/>Loading docks or vehicular entries to buildings are not located on frontages to the street.</p>   | <p>C20 <br/>Loading docks and vehicular entries do not dominate the street frontage or conflict with parking and pedestrian movements in front of the building.</p>  | <p>Criteria addressed.<br/><br/>Loading docks and vehicular entries do not dominate street frontages or conflict with parking and pedestrian movements in front of the building.</p>   |
| <b>5.2 Traffic Generation</b>  |   |  |
| <p>There is no applicable rule. </p>  | <p>C21<br/>The existing road network can accommodate the amount of traffic that is likely to be generated by the development.</p>   | <p>Criteria addressed.<br/><br/>Refer to Traffic Report prepared by AECC</p>   |
| <b>5.3 Service Access and Delivery</b>   |   |  |
| <p> R22<br/>Goods loading and unloading facilities comply with all of the following:<br/>a) Are located within the site<br/>b) Allow for service vehicles to enter and leave the site in a forward direction.<br/><br/><b>Note:</b> Loading, unloading and associated manoeuvring areas area in addition to minimum parking requirements.</p> | <p>C22<br/>Facilities for the loading and unloading of goods achieve all of the following:<br/>a) Safe and efficient manoeuvring of service vehicles<br/>b) Does not unreasonably compromise the safety of pedestrians<br/>c) Does not unreasonably compromise traffic</p>  | <p>Rule is met.<br/><br/>Goods loading and unloading facilities comply with all of the following:<br/>a) Are located within the site<br/>b) Allow for service vehicles to enter and leave the site in a forward direction.</p>   |

Await TCCSD comment.

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|  | <p>movement or the operation of any adjoining road, cycleway or pedestrian pathway</p> <p>d) Does not unreasonably affect on-street or off-street car parking</p> <p>e) Adequate provision for the manoeuvring of vehicles.</p> |  |
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**Element 6: Noise**

| Rules  | Criteria  | Response   |
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| <b>6.1 Potentially Noisy Uses</b>  |   |  |
| <p>R23</p> <p>This rule applies to any of the following:</p> <ul style="list-style-type: none"> <li>a) Club</li> <li>b) Drink establishment</li> <li>c) Emergency services facility</li> <li>d) Hotel</li> <li>e) Indoor recreation facility</li> <li>f) Industry (except light industry)</li> <li>g) Indoor entertainment facility</li> <li>h) Outdoor recreation facility</li> <li>i) Restaurant.</li> </ul> <p>Development complies with a noise management plan prepared by a suitably qualified person and endorsed by the EPA.</p> <p>The noise management plan will detail the proposed design, siting and construction methods that will be employed to ensure compliance with the Noise Zone Standard as detailed in the <i>Environment Protection Regulation 2005</i>, based on the estimated noise levels when the facility is in use.</p> <p><b>Note:</b> A condition of development approval may be imposed to ensure compliance with the endorsed noise management plan.</p> | <p>This is a mandatory requirement. There is no applicable criterion.</p> | <p>Rule is met.</p> <p>Uses on this site have the potential to include Restaurant and Drink establishment.</p> <p>Refer to Noise Management Plan prepared by Acoustic Logic. The Noise Management Plan identifies the noise that will be generated by the development is rule compliant.</p> <div style="border: 1px solid red; background-color: yellow; padding: 5px; width: fit-content; margin: 10px auto;">Await EPA comment.</div> |

**Element 7: Environment**

| Rules  | Criteria  | Response   |
|--|---|--|
| <b>7.1 Water Sensitive Urban Design</b>  |   |  |
| <p>R24</p> <p>This rule applies to sites 5,000m<sup>2</sup> or larger. The average annual stormwater pollutant export is reduced for all of the following:</p> <ul style="list-style-type: none"> <li>a) Suspended solids by at least 60%</li> <li>b) Total phosphorous by at least 45%</li> </ul> | <p>This is a mandatory requirement. There is no applicable criterion.</p> | <p>Rule is met.</p> <p>The total development site exceeds 5,000m<sup>2</sup> and is therefore required to meet the following water quality improvements requirements:</p> <p>Reduction of total suspended solids by at least</p> |

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| <p>c) Total nitrogen by at least 40%<br/>Compared with an urban catchment with no water quality management controls.<br/><b>Note:</b> Compliance with this rule is demonstrated by a WSUD outcomes plan endorsed by a suitably qualified person.</p>   | <p>Not consistent with R24, evidence is required.</p>   | <p>60%<br/>Reduction of total phosphorus by at least 45%<br/>Reduction of total nitrogen by at least 40%</p> <p>The above needs to be achieved based on average annual pollutant export when compared with an urban catchment with no water quality controls. Provision of a spel hydrosystem to each stratum, adequately achieves water quality improvement requirements.</p>  |
| <p><b>X</b> R25<br/>This rule applies to sites 2,000m<sup>2</sup> or larger. Stormwater management complies with one of the following:</p> <p>a) The capacity of the existing pipe (minor) stormwater connection is not exceeded in 1-in-10 year storm event and the capacity of the existing major overland stormwater system is not exceeded in the 1-in-100 year storm event</p> <p>b) The 1-in-5 year and 1-in-100 year stormwater peak run off does not exceed pre-development levels.</p> <p><b>Note:</b> Compliance with this rule is demonstrated by a WSUD outcomes plan endorsed by a suitably qualified person.</p> | <p>This is a mandatory requirement. There is no applicable criterion.</p> <p>Not consistent with R25, evidence is required.</p> | <p>Rule is met</p> <p>The site exceeds 2,000m<sup>2</sup> and is therefore required to reduce post development peak run off flow rates to pre development levels. The following flow rates area base on site wide analysis and it is proposed to achieve the reduction in peak run off rates at estate level.</p> <p>Pre-development:<br/>Q5 236L/S<br/>Q100 2L/S</p> <p>Post-development:<br/>Q5 513L/S<br/>Q100 524L/S</p> <p>The post development, peak flow rates off-site are adequately reduced to predevelopment levels by the provision of 18kL on-site detention actioning on the community title stratum only. This is based on an assumed head of 1.5m and an orifice of 210mm. Calculations are of preliminary only and subject to confirmation during detailed design. Refer to drawing C.35 for location of proposed osd.</p> |
| <p><b>X</b> R26<br/>This rule applies to sites 2,000m<sup>2</sup> or larger. Provision is made for one or more of the following:</p> <p>a) The storage of stormwater equivalent to at least 1.4k per 100m<sup>2</sup> of 1 to 3 days</p> <p>b) Runoff peak flow for the 3 month ARI storm to be no more than pre-development levels and release of captured flow over a period of 1 to 3 days.</p>   | <p>This is a mandatory requirement. There is no applicable criterion.</p> <p>Not consistent with R25, evidence is required.</p> | <p>Rule is met</p> <p>Site storage is provided base on a per stratum basis with the SSR volume proposed to be utilised for irrigation. Refer to drawings C.31, C.32, C.33, C.34 and C.35 for information regarding achievement of site storage requirements for each building.</p>  |

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| <p><b>Note:</b> Compliance with this rule is demonstrated by a WSUD outcomes plan endorsed by a suitably qualified person.</p>   |   |   |
| <p><b>X</b> R27<br/>Evidence is provided that shows the development achieves a minimum 40% reduction in mains water consumption compared to an equivalent development constructed in 2003 using the ACTPLA on-line assessment tool or another tool as included in the Water Ways: Water Sensitive Urban Design General Code. The 40% target is met without any reliance on landscaping measures to reduce consumption. This requirement does not apply for extensions with an increase in the combined roof area, driveway, car manoeuvring areas and car parking areas of less than 25% of the original area.</p>             | <p>This is a mandatory requirement. There is no applicable criterion.</p> <p style="border: 1px solid red; background-color: yellow; padding: 5px; display: inline-block;">Not consistent with R25, evidence is required.</p> | <p>Rule is met.</p> <p>Water reduction calculation has been undertaken on a per building basis, refer to drawings C.31, C.32, C.33 and C.34 for information regarding the reduction of water mains consumption for each building.</p> |
| <p>There is no applicable rule. <span style="border: 1px solid green; background-color: green; color: white; padding: 2px 5px;">N/A</span></p>   | <p>C28<br/>Underground piping of natural stormwater overland flow paths is minimised.</p>   | <p>Criteria addressed.</p> <p>Development does not propose to pipe natural stormwater overland flow paths.</p>  |
| <p><b>7.2 Earthworks</b></p>   |   |   |
| <p>There is no applicable rule. <span style="color: green;">✔</span></p>   | <p>C29<br/>The extent of earthworks is minimised.</p>   | <p>Criteria addressed.</p> <p>The extent of earthworks is confined to the size of basement required for the development.</p>  |
| <p><b>7.3 Tree Protection</b></p>  |   |   |
| <p><b>X</b> R30<br/>This rule applies to a development that has one or more of the following characteristics:<br/>a) Requires groundwork within the tree protection zone of a protected tree<br/>b) Is likely to cause damage to or removal of any protected trees<br/>c) Is a declared site.<br/>The authority shall refer the DA to the Conservator of Flora and Fauna.<br/><b>Note 1:</b> The authority will consider any advice from the Conservator of Flora and Fauna before determining the application.<br/><b>Note 2:</b> Protected tree and declared site are defined under the <i>Tree Protection Act 2005</i>.</p> | <p>This is a mandatory requirement. There is no applicable criterion.</p> <p style="border: 1px solid red; background-color: yellow; padding: 5px; display: inline-block;">Await Conservator comment.</p>                     | <p>Rule is met.</p> <p>The development includes the removal of protected trees and will therefore require referral to the Conservator of Flora and Fauna.</p>   |

Await Conservator comment.

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| <p>✗ R31<br/>Trees on development sites may be removed only with the prior agreement in writing of the Territory.</p> | <p>C31<br/>Retained trees are protected and maintained during construction to the satisfaction of the Territory.</p> | <p>Rule is met.<br/><br/>The development includes the removal of protected trees and will therefore require referral to the Conservator of Flora and Fauna.</p> |
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**7.4 Heritage**

N/A

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| <p>R32<br/>This rule applies to land containing places or objects registered or provisionally registered under section 41 of the <i>Heritage Act 2004</i>. The authority shall refer a development application to the Heritage Council.<br/><b>Note:</b> The authority will consider any advice from the Heritage Council before determining the application.</p> | <p>This is a mandatory requirement. There is no applicable criterion.</p> | <p>Not applicable<br/><br/>The site is not registered under section 41 of the <i>Heritage Act 2004</i>.</p> |
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**Element 8: Subdivision**

| Rules                  | Criteria | Response |
|------------------------|----------|----------|
| <b>8.1 Subdivision</b> |          |          |

N/A

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| <p>R33<br/>Subdivision is only permitted where all of the following are met:<br/>a) The subdivision is part of a development application for another assessable development<br/>b) It is demonstrated that any residual block can accommodate another assessable development designed in accordance with the relevant sections of this code.</p> | <p>This is a mandatory requirement. There is no applicable criterion.</p> | <p>Not applicable<br/><br/>This development application does not propose to subdivide the land.</p> |
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**Element 9: Demolition**

| Rules                               | Criteria | Response |
|-------------------------------------|----------|----------|
| <b>9.1 Statement of Endorsement</b> |          |          |


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| <p>✗ R34<br/>The DA for demolition is accompanied by a statement of endorsement for utilities (including water, sewerage, stormwater, electricity and gas) in accordance with section 148 of the <i>Planning and Development Act 2007</i> confirming all of the following:<br/>a) All network infrastructure on or immediately adjacent the site has been identified on the plan<br/>b) All potentially hazardous substances and conditions (associated with or resulting from the demolition process) that may constitute a risk to utility services have been identified</p> | <p>This is a mandatory requirement. There is no applicable criterion.<br/><br/>Await entities comment.</p> | <p>Rule is met.<br/><br/>The development includes the demolition of existing buildings and will therefore require referral to the relevant utility providers.<br/><br/>A hazardous materials survey has been included within this development application.</p> |
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| <p>c) All required network disconnections have been identified and the disconnection works comply with utility requirements</p> <p>d) All works associated with the demolition comply with and are in accordance with utility asset access and protection requirements.</p> |  |  |
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**9.2 Hazardous Materials Survey**

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| <p><b>R35</b><br/>  This rule applies to one of the following:</p> <p>a) The demolition of multi-unit housing (including garages and carports) for which a certificate of occupancy was issued prior to 1985</p> <p>b) Demolition of commercial or industrial premises for which a certificate of occupancy was issued before 2005.</p> <p>Demolition is undertaken in accordance with hazardous materials survey (including an asbestos survey) endorsed by the EPA. A hazardous materials survey includes, as a minimum, the identification of a disposal site for hazardous materials, including asbestos, that complies with one of the following:</p> <p>a) Is a licensed disposal facility in the ACT</p> <p>b) Another site outside the ACT.</p> <p>If hazardous materials, including asbestos, are to be transported for disposal interstate, approval from the EPA prior to removal of material from the site. An appropriately licensed contractor is engaged for the removal and transport of all hazardous materials (including asbestos) present at the site.</p> <p><b>Note:</b> If an endorsed HMS is required but not provided, the application will be referred to the relevant agency in accordance with the requirements of the <i>Planning and Development Act 2007</i>.</p> | <p>This is a mandatory requirement. There is no applicable criterion.</p> <div data-bbox="801 582 1339 769" style="border: 2px solid red; background-color: yellow; padding: 5px; margin: 10px 0;"> <p>Await EPA comment.</p> </div> | <p>Not applicable.</p> <p>An assessment in accordance with the ACT Government strategic plan – contaminated sites management 1995 and the ACT environment protection policy is only triggered <u>when a change to the lease purpose or land use where past use of land may have caused contamination</u>. Previous correspondence and contaminated searches conducted by EPA confirm that there is no record of contamination of the site.</p> <p>A Phase 1 Preliminary Site Investigation Report for the site was undertaken by SLR Consulting Australia on 23 May 2013. The Phase 1 report was submitted in support of a lease variation to add residential use as a permissible use to the Crown lease under a previous DA. EPA endorsement was received on 7 March 2014.</p> |
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**Element 10: Neighbourhood Plans**

| Rules  | Criteria   | Response   |
|--|--|--|
| <p><b>10.1 Consideration</b></p>   |  |  |
| <p> There is no applicable rule.</p> | <p>C36<br/>           Where a Neighbourhood Plan exists, development demonstrates a response to the key strategies of the relevant Neighbourhood Plan.</p> | <p>Not applicable.</p> <p>A neighbourhood plan does not exist for Phillip.</p> |

**Element 11: Use**

| Rules   | Criteria   | Response   |
|---|--|--|
| <b>11.1 Shops – Floor Area Limit – CZ2 and CZ3</b>  |  |  |
|  <p>R37<br/>This rule applies to CZ2. The maximum GFA for a shop is 200m<sup>2</sup>.</p>                            | <p>C37<br/>Shops are limited to a scale appropriate to providing convenience shopping and personal services for the local workforce and residents.</p> | <p>Rule is met.<br/><br/>All retail areas proposed do not exceed 200m<sup>2</sup>.</p>   |
|  <p>R37A<br/>This rule applies CZ3. The maximum GFA for a supermarket or a shop selling food is 200m<sup>2</sup>.</p> | <p>This is a mandatory requirement. There is no applicable criterion.</p>  | <p>Not applicable<br/><br/>The site is not in the CZ3 zone.</p>  |
| <p>There is no applicable rule. </p>   | <p>C38<br/>Buildings fronting main streets incorporate uses that generate activity or provide for service trades at the ground floor level.</p>        | <p>Criteria addressed.<br/><br/>Buildings fronting main streets incorporate uses that generate activity at the ground floor level. These include food and beverage areas, retail and commercial.</p> |

**Element 12: Buildings**

| Rules   | Criteria  | Response  |
|---|---|---|
| <b>12.1 Materials and Finishes</b>  |   |   |
| <p>There is no applicable rule. </p>   | <p>C39<br/>Building colours and materials are consistent with existing development within the particular town centre.</p>   | <p>Criteria addressed.<br/><br/>Building colours and materials comply with existing development in the Town Centre. Coloured metal cladding will be used on the building façade which connect the proposed design to the surround streetscape. The earthy tones chosen are similar to those used in development currently surrounding the site.</p> |
| <b>12.2 Number of Storeys – CZ3</b>   |   |   |
|  <p>R40<br/>This rule applies to CZ3. The maximum number of storeys is 2.</p> | <p>C40<br/>Buildings achieve all of the following:<br/>a) Consistency with the desired character<br/>b) Reasonable solar access to dwellings on adjoining residential blocks and their associated private open space.</p> | <p>Not applicable.<br/><br/>The site is not located in the CZ3 zone.</p>  |

**Part C Additional Controls for Group Centres**

**Part D Additional controls for Local Centres**

**Part DA Additional controls for CZ5**

**Part E Additional Controls for CZ6**

Not relevant due to the location of the site and the applicable land use zone.

**Part F – Residential Uses**

**Element 19: Residential Development**

| Rules   | Criteria  | Response   |
|---|---|--|
| <b>19.1 Single Dwelling Housing</b>   |   |  |
| N/A<br>R59<br>Single dwelling housing complies with the Residential Zones – Single Dwelling Housing Development Code.                                       | C59<br>This is a mandatory requirement. There is no applicable criterion. | Not applicable.<br><br>This application does not propose single dwelling development.  |
| <b>19.2 Multi-Unit Housing</b>  |   |  |
| ✓<br>R60<br>Multi-unit housing or residential components of commercial mixed use complies with the Residential Zones – Multi-unit Housing Development Code. | C60<br>This is a mandatory requirement. There is no applicable criterion. | Criteria addressed.<br><br>An assessment against the requirements of the Multi-Unit Housing Development Code is provided in this document. |
| <b>19.3 Residential Care Accommodation (Where Permitted)</b>  |   |  |
| N/A<br>R61<br>Residential care accommodation complies with the relevant parts of the Residential Zones Development Code.                                    | C61<br>This is a mandatory requirement. There is no applicable criterion. | Not applicable.<br><br>This application does not propose residential care accommodation.   |

Not inconsistent with R60, refer to the separate assessment.

**Part G – Endorsement by Government Agencies (Entities)**

**Element 20: Loading and Unloading Facilities**

| Rules  | Criteria   | Response  |
|--|--|---|
| <b>20.1 Goods</b>  |  |   |
| ✗<br>R62<br>Goods loading and unloading facilities are endorsed by TAMS. | This is a mandatory requirement. There is no applicable criterion.<br><br>Await TCCSD comment. | Rule is met.<br><br>The development includes goods loading and unloading facilities and will therefore require referral to TCCS (TAMS) for endorsement. |

**Element 21: Waste Management**

| Rules  | Criteria | Response |
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| <b>21.1 Management of Construction Waste</b> |          |          |

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| <p><b>R63</b><br/>         This rule applies to development that is likely to generate more than 20m<sup>3</sup> of waste comprising one or more of the following:<br/>         a) Demolition waste<br/>         b) Construction waste<br/>         c) Excavation material.<br/>         The management of construction waste is to be endorsed by TAMS.<br/> <b>Note:</b> TAMS will endorse waste facilities and management associated with the development if they comply with the current version of the Development Control Code for Best Practice Waste Management in the ACT. TAMSD may endorse departures.</p> | <p>This is a mandatory requirement. There is no applicable criterion.</p> <p style="background-color: yellow; border: 1px solid red; padding: 2px;">Await TCCSD comment.</p> | <p>Rule is met.</p> <p>The development includes construction waste as set out in the waste management plan and will therefore require referral to TCCS (TAMS) for endorsement.</p> |
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**21.2 Post Occupancy Waste Management**

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| <p><b>R64</b><br/>         Post occupancy waste management facilities are to be endorsed by TAMS.<br/> <b>Note:</b> TAMS will endorse post occupancy waste management facilities where they are in accordance with the current version of the Development Control Code for Best Practice Waste Management in the ACT. TAMSD may endorse departures.</p> | <p>This is a mandatory requirement. There is no applicable criterion.</p> | <p>Rule is met.</p> <p style="background-color: yellow; border: 1px solid red; padding: 2px;">Await TCCSD comment.</p> <p>The development includes post occupancy waste management as set out in the waste management plan and will therefore require referral to TCCS (TAMS) for endorsement.</p> |
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| <p><b>R65</b><br/>         A statement of compliance from the relevant agency is provided, which confirms that the discharge (or potential discharge by accident or spillage) of non-domestic liquid waste to the sewerage or stormwater networks complies with utility standards and requirements.</p> | <p><b>C65</b><br/>         If a statement of compliance is not provided the application will be referred to the relevant agency in accordance with the requirements of the <i>Planning and Development Act 2007</i>.</p> | <p>Rule is met.</p> <p>The development will require referral to the relevant agency for endorsement.</p> <p style="background-color: yellow; border: 1px solid red; padding: 2px;">Await entities comment.</p> |
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**Element 22: Utilities**

| Rules | Criteria | Response |
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**22.1 Utilities**

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| <p><b>R66</b><br/>         This rule applies to any proposed encroachment into a registered easement. The proposed encroachment is approved in writing by the relevant service provider.</p> | <p>This is a mandatory requirement. There is no applicable criterion.</p> | <p>Rule is met.</p> <p style="background-color: yellow; border: 1px solid red; padding: 2px;">Await entities comment.</p> <p>The development includes works pertaining to an electrical easement and will therefore require referral to ACTEW Electricity for endorsement.</p> |
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| <p><b>R67</b><br/>         A statement of compliance from each relevant utility provider (for water, sewerage, electricity, stormwater</p> | <p>This is a mandatory requirement. There is no applicable criterion.</p> | <p>Rule is met.</p> <p>The development includes the provision of utilities</p> |
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| <p>and gas) is provided, which confirms that the location and nature of earthworks, utility connections, proposed buildings, pavements and landscape features comply with utility standards, access provisions and asset clearance zones.</p> <p><b>Note:</b> If there is no stormwater easement or Territory owned stormwater pipes located within the property boundary, a “statement of compliance” for stormwater from TAMSD (Asset Acceptance) is not required to be obtained. Where there is a conflict between planning and utility requirements, the utility requirements take precedence over other codified or merit provisions. If a statement of compliance is not provided the application will be referred to the relevant agency in accordance with the requirements of the <i>Planning and Development Act 2007</i>.</p> |   | <p>and will therefore require referral to the relevant utility providers for endorsement.</p> <p>Await entities comment.</p> <p>Condition of approval.</p> |
| <p>✘ R68<br/>All new permanent or long term electricity supply lines are underground.</p>  | <p>This is a mandatory requirement. There is no applicable criterion.</p> | <p>Rule is met</p> <p>All new permanent or long term electricity supply lines are underground.</p>   |
| <p>✘ R69<br/>Subject to ACTEWAGL approval, all under cover areas drain to the sewer.</p>   | <p>This is a mandatory requirement. There is no applicable criterion.</p> | <p>Rule is met</p> <p>All new under cover areas will drain to sewer.</p>   |
| <p>Await entity comment.</p>   |   |  |

**Element 23: Environmental Management**

| Rules   | Criteria  | Response   |
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| <b>23.1 Erosion and Sediment Control</b>  |   |  |
| <p>R70<br/>           This rule applies to sites greater than 3,000m<sup>2</sup>. Development complies with a sediment and erosion control concept plan endorsed by the EPA.<br/> <b>Supporting document:</b> A sediment and erosion control concept plan is prepared in accordance with the ACT EPA Environmental Protection Guidelines for Construction and Land Development in the ACT 2011.<br/> <b>Note:</b> A condition of development approval may be imposed to ensure compliance with this rule.</p>   | <p>This is a mandatory requirement. There is no applicable criterion.</p> <p style="border: 1px solid red; background-color: yellow; padding: 5px;">Await entity comment.</p> | <p>Rule is met.</p> <p>The site is over 3,000m<sup>2</sup> in area. An Erosion and Sediment Control Plan prepared by a suitably qualified person.</p>  |
| <b>23.2 Contamination</b>   |   |  |
| <p>R71<br/>           This rule applies where an assessment by the proponent in accordance with the ACT Government Strategic Plan – Contaminated Sites Management 1995 and the ACT Environment Protection Policy identifies contamination within or adjacent to the development area, but does not apply if the EPA has provided written advice that there are no contaminated sites within or adjacent to the development area.<br/>           Development complies with an environmental site assessment report endorsed by EPA.<br/> <b>Supporting document:</b> Environmental site assessment report endorsed by EPA.<br/> <b>Note:</b> A condition of development approval may be imposed to ensure compliance with the endorsed site assessment report.</p> | <p>This is a mandatory requirement. There is no applicable criterion.</p> <p style="border: 1px solid red; background-color: yellow; padding: 5px;">Await entity comment.</p> | <p>Not applicable.</p> <p>An assessment in accordance with the ACT Government strategic plan – contaminated sites management 1995 and the ACT environment protection policy is only triggered <u>when a change to the lease purpose or land use where past use of land may have caused contamination</u>. Previous correspondence and contaminated searches conducted by EPA confirm that there is no record of contamination of the site.</p> <p>A Phase 1 Preliminary Site Investigation Report for the site was undertaken by SLR Consulting Australia on 23 May 2013. The Phase 1 report was submitted in support of a lease variation to add residential use as a permissible use to the Crown lease under a previous DA. EPA endorsement was received on 7 March 2014.</p> |

## 5 Multi-Unit Housing Development Code

Effective date of the Multi-Unit Housing Development Code – 12 December 2017.

### Part A – General Controls

**N/A** Element 1: Restrictions on use - Not applicable – these only relate to residential zones

Element 2: Lease and development conditions

**N/A** Part of Element 3: Building and site controls. Rules R5 to R26 & C26 not applicable. The rules and criteria do not relate to the CZ2 zone.

### Element 3: Building and site controls

| 3.22 Front boundary setbacks   |  |  |
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| <p>R29<br/>Front boundary setbacks comply with Table A5. Minimum boundary setbacks for corner <i>blocks</i> apply only to the street frontage nominated as a <i>secondary street frontage</i>. If street frontages on corner <i>blocks</i> are of equal length, the minimum setbacks apply only to one <i>secondary street frontage</i>. Chamfers may be included in the <i>secondary street frontage</i>.</p> | <p>C29<br/>Front boundary setbacks achieve all of the following:</p> <ul style="list-style-type: none"> <li>a) consistency with the <i>desired character</i></li> <li>b) reasonable amenity for residents</li> <li>c) sufficient space for street trees to grow to maturity.</li> </ul> <p><b>Refer to the above assessment Phillip Precinct Code.</b></p> | <p>Criteria addressed.</p> <p>The subject site is located in the CZ2 zone and the proposed development incorporates ground floor activities with retail and commercial frontages to Melrose Drive, Launceston Street and Furzer Street.</p> <p>The proposed ground floor active frontages are consistent with the desired character of the CZ2 zone mixed use precinct.</p> <p>The residential occupants are afforded excellent amenity by clearly defined and separate pedestrian access points. The residential apartments have been sited and orientated to maximise solar access, ventilation and minimise visual privacy impacts between buildings and existing adjacent buildings.</p> <p>Tree plantings have been placed in locations where they have the sufficient space to grow to their maturity within impacting on the overall development.</p> |
| 3.23 Side and rear boundary setbacks   |  |  |
| <p>R30<br/>Side and rear boundary setbacks comply with the following:</p> <ul style="list-style-type: none"> <li>a) in RZ1 and RZ2 - Table A6</li> <li>b) in RZ3, RZ4, RZ5 and commercial zones - Table A7</li> </ul>  | <p>C30<br/>Buildings and other structures are sited to achieve all of the following:</p> <ul style="list-style-type: none"> <li>a) consistency with the <i>desired character</i></li> <li>b) reasonable separation between adjoining</li> </ul>  | <p>Not applicable.</p> <p>Refer to the commercial zones development for consideration of side and rear boundary setbacks.</p>  |

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| <p>c) in all other zones – the relevant zone development code</p>  | <p>developments<br/> c) reasonable privacy for <i> dwellings </i> on adjoining <i> residential blocks </i><br/> d) reasonable privacy for <i> principal private open space </i> on adjoining <i> residential blocks </i><br/> e) reasonable solar access to <i> dwellings </i> on adjoining <i> residential blocks </i> and their associated <i> principal private open space </i>.</p>   |   |  |
| <p><b>3.24 Allowable encroachments - setbacks</b></p>  |   |   |  |
| <p>R31<br/> Encroachments into one or more of the following:<br/> i) minimum side setback<br/> ii) minimum rear setback<br/> are permitted for one or more of the following building elements:<br/> a) an eave or roof overhang with a horizontal width of not more than 600mm<br/> b) fascias, gutters, downpipes, rainwater tanks, chimneys, flues, domestic fuel tanks, cooling or heating appliances, light fittings, electricity and gas meters, aerials, antennae, pergolas, sun blinds<br/> c) unroofed terraces, landings, steps or ramps, none of which are more than 1m above finished ground level.</p> | <p>C31<br/> Buildings and other structures achieve all of the following:<br/> a) consistency with the <i> desired character </i><br/> b) reasonable levels of privacy on adjoining <i> residential blocks </i> for <i> dwellings </i> and their associated <i> private open space </i><br/> c) reasonable solar access to <i> dwellings </i> on adjoining <i> residential blocks </i> and their associated <i> private open space </i>.</p> | <p>Not applicable<br/> Refer to the commercial zones development for consideration of side and rear boundary setbacks.<br/> Refer to the above assessment Phillip Precinct Code.</p>  |  |
| <p>N/A</p>   | <p>R32<br/> Encroachments into the front setback are permitted for one or more of the following building elements:<br/> a) an eave or roof overhang with a horizontal width of not more than 600mm<br/> b) fascias, gutters, downpipes, light fittings, sun blinds<br/> c) landings, steps or ramps, none of which are more than 1m above finished ground level.</p>  | <p>C32<br/> Buildings and other structures achieve all of the following:<br/> a) consistency with the <i> desired character </i><br/> b) reasonable levels of privacy on adjoining <i> residential blocks </i> for <i> dwellings </i> and their associated <i> private open space </i><br/> c) reasonable solar access to <i> dwellings </i> on adjoining <i> residential blocks </i> and their associated <i> private open space </i>.</p> | <p>Not applicable<br/> Refer to the commercial zones development for consideration of side and rear boundary setbacks.</p> |
| <p><b>3.25 Allowable encroachments – building envelopes</b></p>  |   |   |  |
| <p>N/A</p>   | <p>R33<br/> Encroachments outside the building envelope specified in this element are permitted for one or more of the following:<br/> a) flues<br/> b) chimneys<br/> c) antennae</p>   | <p>C33<br/> Buildings and other structures achieve all of the following:<br/> a) consistency with the <i> desired character </i><br/> b) reasonable levels of privacy on adjoining <i> residential blocks </i> for <i> dwellings </i> and their associated <i> private open space </i></p>  | <p>Not applicable.<br/> The site is in the commercial zone and does not have a defined building envelope.</p>              |

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| d) aerals<br>e) cooling appliances<br>f) heating appliances.  | c) reasonable solar access to <i>dwelling</i> s on adjoining <i>residential blocks</i> and their associated <i>private open space</i> .   |  |
| <b>3.27 Building separation – single dwelling blocks – RZ2</b>  |   |  |
| N/A<br>R36<br>This rule applies to <i>single dwelling blocks</i> in RZ2. The minimum horizontal separation between a building containing 2 or more <i>dwelling</i> s and any other building on the site is 4m.<br>For the purposes of this rule, <i>basements</i> are not part of a building. | C36<br>The siting of buildings on <i>single dwelling blocks</i> in RZ2 achieves all of the following:<br>a) consistency with the <i>desired</i> character<br>b) consistency with the separation of existing buildings in the immediate neighbourhood. | Not applicable.<br><br>This application does not propose single dwelling development |

#### Element 4: Site design

| Rules   | Criteria   | Response   |
|---|--|--|
| <b>4.1 Site design</b>  |  |  |
| N/A<br>R37<br>For developments (other than <i>apartments</i> ) of 40 <i>dwelling</i> s or more, the design of the common areas, pedestrian and vehicle access areas comply with all of the following provisions of the Estate Development Code:<br><br>a) public realm standards for on-street parking<br>b) pedestrian paths<br>c) verge landscaping<br>d) water sensitive urban design.   | C37<br>Publicly accessible and communal areas within large developments that are intended to be unit titled or community titled achieve all of the following:<br><br>a) reasonable safety<br>b) reasonable functionality<br>c) reasonable residential amenity<br>d) landscaping beside internal driveways<br>e) provision for pedestrians<br>f) sufficient off-street parking.   | Not applicable.<br><br>This application proposes apartments.     |
| <b>4.2 Site open space – RZ1 and RZ2</b>  |  |  |
| N/A<br>R38<br>This rule applies to RZ1 and RZ2.<br>Not less than 40% of the total site area is allocated to one or more of the following:<br>a) <i>communal open space</i> with a minimum dimension of 2.5m<br>b) <i>private open space</i> that complies with all of the following -<br>i) a minimum dimension of 2.5m<br>ii) is associated with <i>dwelling</i> s at the <i>lower floor level</i> .<br><br>Not less than 20% of the total site area is <i>planting area</i> . | C38<br>Open space on the site achieves all of the following:<br>a) sufficient space for the recreation and relaxation of residents<br>b) sufficient space for planting, particularly trees with deep root systems<br>c) provision for on-site infiltration of stormwater run-off<br>d) provision of outdoor areas that are readily accessible by residents for a range of uses and activities.<br>One or more of the following matters may be considered when determining compliance with this criterion:<br>i) whether the total area of <i>upper floor level</i> | Not applicable.<br><br>The subject site is zoned CZ2 commercial. |

| Rules  | Criteria  | Response  |
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|  | <p><i>private open space</i> contributes to the function of other open space on the site</p> <p>ii) whether any adjoining or adjacent public open space is readily available for the use of residents.</p>  |   |
| <b>4.3 Site open space – RZ3, RZ4, RZ5 and commercial zones</b>  |   |   |
| <p>R39</p> <p>✗ This rule applies to RZ3, RZ4, RZ5 and commercial zones.</p> <p>Not less than 20% of the total site area is allocated to the following:</p> <p>a) for developments with fewer than 20 dwellings, none of which are <i>apartments</i>, one or more of the following -</p> <p>i) <i>communal open space</i> that complies with all of the following</p> <p>a) a minimum dimension of 2.5m</p> <p>b) is directly accessible from common entries and pathways</p> <p>ii) <i>private open space</i> that complies with all of the following</p> <p>a) a minimum dimension of 2.5m</p> <p>b) is associated with <i>dwellings</i> at the <i>lower floor level</i></p> <p>b) in all other cases, <i>communal open space</i> that complies with all of the following –</p> <p>i) a minimum dimension of 2.5m</p> <p>ii) is directly accessible from common entries and pathways.</p> <p>Not less than 10% of the total site area is <i>planting area</i>.</p> | <p>C39 ✗</p> <p>Open space on the site achieves all of the following:</p> <p>a) sufficient space for a range of recreational activities for residents</p> <p>b) sufficient space for planting, particularly trees with deep root systems</p> <p>c) a contribution to on-site infiltration of stormwater run-off</p> <p>d) reasonable accessibility to all residents.</p> <p>One or more of the following matters may be considered when determining compliance with this criterion:</p> <p>i) whether the total area of <i>upper floor level private open space</i> contributes to the function of other open space on the site</p> <p>ii) whether any adjoining or adjacent public open space is readily available for the use of residents.</p> | <p>Rule is met.</p> <p>a) The development is greater than 20 dwellings so does not apply.</p> <p>b) Communal spaces provided -</p> <p>i) are greater than 2.5 metres and</p> <p>ii) directly accessible from entries and pathways; and;</p> <p>Greater than 10% of the overall site area is provided as <i>planting area</i>.</p> <p>Not consistent with the R39 and failed to demonstrate compliance with C39. Evidence is required to demonstrate compliance.</p> |
| <b>4.4 Landscape design</b>  |   |   |
| <p>There is no applicable rule. ✗</p>  | <p>C40</p> <p>Landscape and site design achieves all of the following:</p> <p>a) planting of trees of semi-mature stock</p> <p>b) planting of trees with a minimum mature height of 4m</p> <p>c) a contribution to energy efficiency by providing substantial shade in summer, especially to west-facing windows and open car-parking areas, and admitting winter sunlight to outdoor and indoor living areas, especially to the north</p>  | <p>Criteria addressed.</p> <ul style="list-style-type: none"> <li>A number of semi-mature stock trees will be planted throughout the ground floor public domain areas including multiple tree species with minimum mature height of 4 metres;</li> <li>The proposed landscaping to apartment balconies and terraces will provide for shade during summer and enable solar penetration during the winter months. The ground floor public domain</li> </ul>           |

| Rules   | Criteria   | Response   |
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| <p>Not consistent with the C40, evidence is required to demonstrate compliance with C40 in particular that the depth of slab will be sufficient to hold trees of semi mature stock.</p> | <p>d) reasonable residential amenity<br/>           e) reasonable visibility along paths and driveways<br/>           f) visual interest in pavement materials and finishes<br/>           g) species with appropriate growth habits and mature height in relation to site conditions.</p> | <p>landscaping provides for considerable residential amenity to SOHO townhouses.</p> <ul style="list-style-type: none"> <li>The proposed landscaping to the ground floor public domain, communal roof terraces and private open space balconies and terraces will provided high quality residential amenity areas.</li> <li>The proposed landscaping along driveways and paths has been suitably selected and positioned to provide visibility and sight lines.</li> <li>The proposed pavement materials and finishes have been selected for visual interest.</li> <li>The proposed trees and ground covers have been suitably selected to address the site constraints and conditions.</li> </ul> |

**4.5 Fences**

N/A

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| <p>R41<br/>           Fences are permitted forward of the <i>building line</i> in the <i>front zone</i> or on the <i>front boundary</i> only where they comply with any of the following:<br/>           a) it is a gate to a maximum height of 1.8m and 1m width in an established hedge<br/>           b) exempt under the <i>Planning and Development Act 2007</i><br/>           c) permitted under the <i>Common Boundaries Act 1981</i>.</p> | <p>C41<br/>           Fences may be permitted where the proposal meets the requirements contained in the Residential Boundary Fences General Code.</p> | <p>Not applicable.<br/><br/>           No fences are proposed forward of the front building lines.</p> |
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**4.6 Courtyard walls**

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| <p>R42<br/>           Courtyard walls are permitted forward of the <i>building line</i> where they comply with all of the following:<br/>           a) maximum height of 1.8m above <i>datum ground level</i><br/>           b) a minimum setback to the front boundary complying with the following:<br/>               i) where the wall encloses the <i>principal private open space</i> of a ground floor <i>dwelling</i> that is located to the west, north-west, north, north-east or east of the <i>dwelling</i> – 0.7m<br/>               ii) in all other cases - half the front boundary setback nominated elsewhere in this code<br/>           c) trees and/or shrubs between the wall and the front boundary, in accordance with an approved landscape</p> | <p>C42<br/>           Courtyard walls achieve all of the following:<br/>           a) consistency with the <i>desired character</i><br/>           b) visual softening though associated planting<br/>           c) reduced traffic noise, where necessary<br/>           d) reasonable privacy to <i>lower floor level</i> windows<br/>           e) opportunities for natural surveillance of public areas and the street<br/>           f) the articulation of elements<br/>           g) a variety of materials<br/>           h) reasonable solar access to <i>principal private open</i></p> | <p>Not applicable.<br/><br/>           No courtyard wall are proposed forward of the front building lines. However courtyard wall are proposed to SOHO townhouses within the development. These townhouses have courtyard wall fronting common areas and are provided to address C42. In this regard the courtyard walls are softened through landscaping, provide adequate visual privacy and are constructed from appropriate materials.</p> |
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Not consistent with R42 and failed to demonstrate compliance with C42. Building 4 incorporate courtyard walls in front of dwelling. Planting must be provided in front of the walls.



| Rules  | Criteria   | Response   |
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| plan<br>d) a variety of materials or indentations not less than 15m apart where the indents are not less than 1m in depth and 4m in length<br>e) constructed of brick, block or stonework, any of which may be combined with timber or metal panels that include openings not less than 25% of the surface area of the panel<br>f) maintain clear sightlines between vehicles on driveways and pedestrians on public paths in accordance with A2890.1- <i>The Australian Standard for Off-Street Parking</i> .   | <i>space.</i>  |  |
| <b>4.7 External facilities</b>   |  |  |
| There is no applicable rule. <div style="text-align: right; color: red; font-size: 2em;">✘</div>   | C43<br>The following external facilities or equipment are screened or adequately separated from public areas:<br>a) external storage areas<br>b) water tanks<br>c) waste storage enclosures<br>d) mechanical services (including air conditioners and hot water storage units)<br>e) clothes drying areas. | Criteria addressed.<br>Any external facilities or equipment are adequately separated from public areas and adequately screened.<br><div style="border: 2px solid red; background-color: yellow; padding: 5px;">             Not consistent with C43, provide location of all mechanical services and clothes drying areas. These areas must be screened.           </div>  |
| There is no applicable rule. <div style="text-align: right; color: red; font-size: 2em;">✘</div>   | C44<br>Mailboxes are located for convenient access by residents and deliverers with passive surveillance from the street or from active uses.<br>To demonstrate compliance with this criterion a site plan is submitted with the application showing the location and design of mail boxes.                | Criteria addressed. <div style="border: 2px solid red; background-color: yellow; padding: 5px; display: inline-block;">             Not consistent with C44, a condition of approval; is required.           </div><br>Mailboxes are located within common areas of individual buildings to enable passive surveillance and residential convenience. The architectural drawings detail the location of mail boxes within each of the proposed buildings. |
| <b>4.8 Electrical and telecommunication facilities</b>   |  |  |
| <div style="color: green; font-size: 2em; margin-left: -20px;">✔</div> R45<br>Electrical and telecommunication reticulation within existing residential areas or streets with residential access complies with all of the following:<br>a) do not result in continuous rows of supply poles erected on residential streets<br>b) for developments involving up to 2 blocks or 2 dwellings, are underground or along the rear spine or side of blocks<br>c) for developments involving more than 2 blocks or 2 dwellings, are underground<br>d) there is no overhead cabling to dwellings | C45<br>Electrical and telecommunication reticulation within existing residential areas or streets with residential access limits the amount of visual clutter in the streetscape, particularly from supply poles and overhead cabling.   | Criteria addressed.<br>Electrical and telecommunication reticulation services have been consolidated into appropriate areas to avoid visual clutter and enable ease of access for servicing and maintenance. No overhead supply poles are proposed part of the development.  |




| Rules  | Criteria   | Response  |
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| within the site.<br>There is no applicable rule. | C46 <br>Ground level electrical and telecommunication facilities (such as electrical substations, switching stations, telecommunications nodes) within existing residential areas or streets with residential access are screened from public view whilst allowing for reasonable access for service providers. | Criteria addressed.<br><br>Proposed electrical substation has been appropriately located adjacent to the new vehicular access lane. In addition the electrical substation will be fully enclosed reducing visual intrusion into the public domain.<br><br>Servicing and maintenance of the electrical substation will occur via vehicular access lane reducing impacts on the public domain and associated ground floor uses. |

#### Element 5: Building design

Related code: Access and Mobility General Code

| Rules  | Criteria   | Response  |
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| <b>5.1 Surveillance</b>  |  |   |
|  R47<br>This rule applies to building facades facing a public street or public open space. Building facades have all of the following:<br>a) at least one window to a habitable room that is not screened by a courtyard wall<br>b) at least one door with roofed element such as a verandah or <i>balcony</i> .                         | C47<br>Buildings achieve passive surveillance of all of the following:<br>a) adjoining streets<br>b) adjoining <i>public open space</i> .  | Rule is met.<br><br>All building facades facing public streets incorporate at least one window and one door with a roofed element. The proposed development encourages visual surveillance of surrounding streets.  |
| <b>5.2 Building entries</b>  |  |   |
|  R48<br>Common entries to <i>dwelling</i> s have all of the following features:<br>a) an external sheltered area outside the entrance<br>b) a direct line of sight between the front door and the public footpath or road<br>c) separate access to any non-residential uses, which are clearly distinguishable and secured after hours. | C48 <br>Common entries to <i>dwelling</i> s achieve all of the following:<br>a) a transitional area from the street<br>b) secure, all-weather access<br>c) surveillance of public areas (including between <i>buildings</i> and open space areas, paths, <i>dwelling</i> entries, car parking areas and driveways)<br>d) safety, security and convenience for residents and visitors<br>e) the separation of residential entries and commercial entries. | Rule is met.<br><br>All <i>dwelling</i> s have a direct line of sight from front door to common areas. <i>Dwelling</i> s have sheltered areas outside the entrance.<br><br>Furthermore separate access to non-residential uses area clear distinguishable and will be secure after hours. |
| <b>5.3 Building design</b>   |  |   |
|  R49<br>This rule applies to buildings containing more than 2 <i>dwelling</i> s.<br>Maximum length of unarticulated walls in buildings is 15m.   | C49 <br>Building design, articulation, detailing and finish provide an appropriate scale, add visual interest and enable visual differentiation between <i>dwelling</i> s when viewed   | Rule is met.<br><br><ul style="list-style-type: none"> <li>All unarticulated wall lengths are less than 15 metres, with changes in the wall planes</li> </ul>   |







| Rules  | Criteria   | Response  |
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| <p>Wall articulation is provided by at least one of the following:</p> <ul style="list-style-type: none"> <li>a) changes in wall planes of a minimum 1m in depth and 4m in length</li> <li>b) inclusion of balconies, bay windows, verandas, fin walls, etc.</li> <li>c) horizontally stepping facades by at least 1m.</li> </ul>  | <p>from adjoining public spaces and adjoining <i>residential blocks</i>.</p>   | <p>incorporated and the appropriate use of building materials.</p> <ul style="list-style-type: none"> <li>• Building facades are articulated by a mixture of materials and finishes, balconies, terraces and courtyards.</li> </ul>   |
| <p>✗ R50<br/>This rule applies to buildings containing more than 2 dwellings.<br/>Maximum length of an unarticulated roof is 15m.</p>  | <p>C50 <br/>Building design, articulation, detailing and finish provide an appropriate scale, add visual interest and enable visual differentiation between <i>dwellings</i> when viewed from adjoining public spaces and adjoining <i>residential blocks</i>.</p>      | <p>Rule is met.</p> <p>Each of the building roofs are articulated by the use of parapets and the inclusion of landscaped roof terraces.</p>   |
| <p>N/A R51<br/>Garages and carports within 15m of the front boundary are constructed with the same material as the corresponding elements of the <i>dwelling</i>.</p>  | <p>C51<br/>The exterior colours and finishes of garages and carports achieve all of the following:</p> <ul style="list-style-type: none"> <li>a) compatibility with the <i>dwelling</i> design when viewed from public spaces</li> <li>b) integration with the overall design</li> <li>c) a contribution to the articulation of the building.</li> </ul> | <p>Not applicable.</p> <p>No garages or carports are proposed above ground level.</p>   |
| <p><b>5.4 Building design – RZ2</b></p>  |  |   |
| <p>N/A R52<br/>This rule applies to <i>single dwelling blocks</i> in RZ2 containing 2 or more <i>dwellings</i>.<br/>All <i>dwellings</i> adjacent to a public street (other than a <i>rear lane</i>) have at least one of the following facing the street:</p> <ul style="list-style-type: none"> <li>a) front door</li> <li>b) living room window</li> <li>c) living room glass sliding door.</li> </ul>  | <p>C52<br/>Dwellings address the street wherever practicable.</p>  | <p>Not applicable.</p> <p>The site is not located within an RZ2 zone.</p>   |
| <p><b>5.5 Basements and undercroft parking</b></p>   |  |   |
| <p> R53<br/>This rule applies to all of the following:</p> <ul style="list-style-type: none"> <li>i) <i>basements</i></li> <li>ii) <i>undercroft parking</i>.</li> </ul> <p>Exposed <i>external walls</i> comply with all of the following:</p> <ul style="list-style-type: none"> <li>a) except for ventilation openings, are finished in the same manner as the building</li> <li>b) where ventilation openings are provided, they are treated as part of the <i>façade</i> with grilles and screens.</li> </ul> | <p>C53<br/><i>Basements and undercroft parking</i> structures achieve all of the following:</p> <ul style="list-style-type: none"> <li>a) visual interest through architectural elements, features or modulation</li> <li>b) visual softening by landscaping</li> <li>c) avoidance of prominent ventilation openings.</li> </ul>                         | <p>Rule is met.</p> <p>The proposed basement is located below grade and will not be seen from public domain. All ventilation services are incorporated into the building service risers and will discharge at appropriate locations not prominent from the public domain.</p> |

| Rules  | Criteria   | Response   |
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| <b>5.6 Adaptable housing – multi-unit housing comprising 10 or more dwellings</b>  |  |  |
| <p> R54<br/>This rule applies to <i>multi-unit housing</i> comprising more than 10 dwellings.<br/>The minimum number of dwellings designed to meet Australian Standard AS4299 – <i>Adaptable Housing</i> (Class C) is shown in table A8.</p>   | <p>This is a mandatory requirement. There is no applicable criterion.</p> <p style="background-color: yellow; border: 1px solid red; padding: 2px;">Not consistent with R54, 81 required 80 provided. The adaptable plans must include all essential feature and must list the relevant standards.</p>   | <p>Rule is met.</p> <p>The development comprises more than 10 dwellings. 10% of apartments within the development will be adaptable. Adaptable housing plans have been provided within the architectural drawings.</p>   |
| <b>5.7 Minimum dwelling size</b>   |  |  |
| <p> R55<br/>Minimum <i>dwelling</i> floor areas are as follows:<br/>a) studio <i>dwellings</i> - 40 m2<br/>b) one-bedroom <i>dwellings</i> - 50 m2<br/>c) 2-bedroom <i>dwellings</i> - 70 m2<br/>d) <i>dwellings</i> with 3 or more bedrooms - 95 m2<br/>The minimum <i>dwelling</i> floor area excludes balconies and car parking facilities. Storage within <i>dwellings</i> is included in the area calculations.</p> | <p>C55<br/><i>Dwelling</i> sizes and layouts provide functional living spaces, flexibility in furniture layout, and adequate storage and service areas.<br/>The provision of shared facilities (eg. open space, laundry, lounge and storage) may be considered when determining compliance with the criterion.</p>   | <p>Rule is met.</p> <p>Apartments follow the minimum dwelling floor areas as outlined in R55.</p>  |
| <b>5.8 Housing diversity</b>   |  |  |
| <p> R56<br/>For developments containing 40 or more <i>dwellings</i>, a combination of dwelling types, including studio or 1-bedroom <i>dwellings</i>, 2- bedroom <i>dwellings</i>, and <i>dwellings</i> with 3 or more bedrooms are provided.</p>  | <p>C56<br/>Housing developments comprising multiple <i>dwellings</i> are required to achieve all of the following:<br/>a) a range of housing types<br/>b) increased diversity of <i>dwelling</i> types within a neighbourhood.</p>   | <p>Rule is met.</p> <p>The development contains more than 40 dwellings which consist of a mix of studio, 1, 2 and 3 bedroom apartments.</p> <p>The apartment mix includes 1, 2 and 3 bedroom apartments. Apartment design, layouts and sizes have been refined to provide housing choice and support equitable housing access. The apartment mix and designs are able to accommodate a range of household types within each of the proposed buildings.</p> |
| <b>5.9 Building Design – dual occupancy on surrendered residential blocks in RZ1</b>   |  |  |
| <p>There is no applicable rule.</p> <p style="background-color: red; color: white; padding: 2px; display: inline-block;">N/A</p>   | <p>C56A<br/>This criterion applies to dual occupancy development on <i>surrendered residential blocks</i>.<br/>The design of buildings encourages high quality architectural standards that contribute to a visually harmonious streetscape character with variety and interest, whilst not detrimental to, or overtly detracting from the existing streetscape character.</p> | <p>Not applicable.</p> <p>There is no dual occupancy developments proposed in this application.</p>  |

**Element 6: Amenity**

| Rules  | Criteria  | Response  |
|--|---|---|
| <b>6.1 Solar access –other than apartments</b>   |   |   |
| <p><b>N/A</b></p> <p>R57<br/>This rule applies to multi-unit housing on <i>blocks</i> approved before 5 July 2013. This rule does not apply to <i>apartments</i>.<br/>The floor or internal wall of a daytime living area of a dwelling is exposed to not less than 3 hours of direct sunlight between the hours of 9am and 3pm on the winter solstice (21 June).</p> <p>For this rule:<br/><b>Daytime living area</b> means a <i>habitable room</i> other than a bedroom</p> <p><b>Note:</b> Where a development comprises a mixture of <i>apartments</i> and other multi-unit housing, this rule applies to the other multi-unit housing, but does not apply to the <i>apartments</i>.<br/><b>Note:</b> To remove any doubt, when assessing a development on a block with existing dwellings, the development must comply and must not cause an existing dwelling to then contravene this requirement. However, if the existing dwelling does not currently comply, the development must not increase the level of non-compliance for that other dwelling.</p> | <p>This is a mandatory requirement. There is no applicable criterion.</p>   | <p>Not applicable.</p> <p>The proposed solar requirements within this rule pertain to multi-unit housing rather than apartments. The only dwelling proposed in this development submission is for residential apartments.</p> |
| <p><b>N/A</b></p> <p>R57A<br/>This rule applies to multi-unit housing on <i>blocks</i> approved under an <i>estate development plan</i> on or after 5 July 2013. This rule does not apply to apartments.</p> <p>A daytime living area of each new <i>dwelling</i> is provided with a minimum of 4m<sup>2</sup> of transparent vertical glazing that:</p> <ul style="list-style-type: none"> <li>a) is oriented between 45° east of north and 45° west of north; and</li> <li>b) is not overshadowed at noon on the winter solstice (21 June) by: <ul style="list-style-type: none"> <li>i) buildings and structures on the subject block</li> <li>ii) the solar fence on the <i>northern</i></li> </ul> </li> </ul>  | <p>C57A<br/>One or more daytime living areas in each <i>dwelling</i> is provided with reasonable access to direct sunlight between the hours of 9am and 3pm on the winter solstice (21 June).</p> <p><b>For this criterion:</b><br/><b>Daytime living area</b> means a <i>habitable room</i> other than a bedroom</p> | <p>Not applicable.</p> <p>The proposed solar requirements within this rule pertain to multi-unit housing rather than apartments. The only dwelling proposed in this development submission is for residential apartments.</p> |


| Rules  | Criteria   | Response   |
|--|--|--|
| <p><i>boundary</i> of the subject block</p> <p>For this rule:<br/> <b>Daytime living area</b> means a <i>habitable room</i> other than a bedroom<br/>           The height of the 'solar fence' is:<br/>           i) in the <i>primary building zone</i> – 3m<br/>           ii) all other parts of the boundary – 2.3m</p> <p><b>Note:</b> Where a development comprises a mixture of <i>apartments</i> and other multi unit housing, this rule applies to the other multi unit housing, but does not apply to the <i>apartments</i>.<br/>           Compliance with this rule may be demonstrated through plans, elevations and supporting documentation (e.g. shadow diagrams) showing that the required minimum area of glazing is not overshadowed.<br/> <b>Note:</b> To remove any doubt, when assessing a development on a block with existing dwellings, the development must comply and must not cause an existing dwelling to then contravene this requirement. However, if the existing dwelling does not currently comply, the development must not increase the level of non-compliance for that other dwelling.</p> |  |  |
| <b>6.2 Solar access - apartments</b>   |  |  |
| <p>✗ R58<br/>           This rule applies to <i>apartments</i>.<br/>           The floor or internal wall of a daytime living area of not fewer than 70% of <i>apartments</i> on a site is exposed to not less than 3 hours of direct sunlight between the hours of 9am and 3pm on the winter solstice (21 June).<br/> <b>Note:</b> Where a development comprises a mixture of <i>apartments</i> and other multi-unit housing, this rule will apply to the <i>apartments</i>.</p>  | <p>C58<br/>           Daytime living areas have reasonable access to sunlight.</p> <p>✗</p> <p>Not consistent with R58 and failed to demonstrate compliance with C58. Evidence is required to ensure that 70% of the apartments receive 3 hour solar access. In particular building 1.</p> | <p>Rule is met.</p> <p>Detailed solar access and overshadowing studies have been completed as part of the early design concept phase. The solar access studies demonstrate that the proposed site design, planning and building forms allows for 73% of apartments across the development to achieve at least 3 hours or greater solar access on June 21. The internal layout of apartments has been designed to ensure that daytime living areas and bedrooms have adequate solar access.</p> |

| Rules   | Criteria  | Response   |
|---|---|--|
| <b>6.3 Privacy</b>  |   |  |
| <p> R59<br/>This rule applies to <i>dwelling</i>s on the same <i>block</i>. The relationship between <i>unscreened elements</i> of one <i>dwelling</i> and the <i>primary windows</i> of another <i>dwelling</i> complies with one of the following:</p> <p>a) a person (with an eye height of 1.5m) standing at any and every point on the extremity of an <i>unscreened element</i> of one <i>dwelling</i> shall not have a direct line of sight into the <i>primary window</i> of any other <i>dwelling</i></p> <p>b) the direct line of sight referred to in item a) is more than 12m.</p>  | <p>C59<br/>Reasonable privacy between <i>dwelling</i>s on the same <i>block</i> is achieved.</p> <p></p> <p>Not consistent with R59, demonstrate compliance with C59. The overall level 2 floor plan indicate a 9.2m setback between building 1 and 2.</p>   | <p>Rule is met</p> <p>The proposed building separation distances are greater than 12 metres. In addition, <i>dwelling</i>s have been orientated to minimise overlooking and appropriate materials have been incorporated to provide further privacy for <i>dwelling</i> windows.</p>   |
| <p> R60<br/>This rule applies to <i>principal private open space</i> on the same <i>block</i> and on adjacent <i>blocks</i>. The relationship between <i>unscreened elements</i> of one <i>dwelling</i> and the <i>principal private open space</i> of another <i>dwelling</i> complies with one of the following:</p> <p>a) a person (with an eye height of 1.5m) standing at any and every point on the extremity of an <i>unscreened element</i> of one <i>dwelling</i> shall not have a direct line of sight to more than 50% of the minimum <i>principal private open space</i> of any other <i>dwelling</i></p> <p>b) the direct line of sight referred to in item a) is more than 12m.</p> | <p>C60<br/>Reasonable privacy of <i>principal private open space</i> of each <i>dwelling</i> is achieved.</p> <p></p> <p>Not consistent with R60, demonstrate compliance with C60. The overall level 2 floor plan indicate a 9.2m setback between building 1 and 2.</p>  | <p>Rule is met</p> <p>The proposed building separation distances are greater than 12 metres with balconies set within the building floor plate.</p>  |
| <b>6.4 Principal private open space</b>   |   |  |
| <p> R61<br/>Each <i>dwelling</i> has at least one area of <i>principal private open space</i> that complies with all of the following:</p> <p>a) located on the site</p> <p>b) has minimum area and dimensions specified in table A9</p> <p>c) is screened from adjoining public streets and public open space</p> <p>d) is directly accessible from, and adjacent to, a <i>habitable room</i> other than a bedroom</p> <p>e) is not located to the south, south-east or south-west of the <i>dwelling</i>, unless it achieves one or more of the following -</p> <p>i) not less than 3 hours of direct sunlight onto 50% of</p>  | <p> C61<br/><i>Principal private open space</i> for each <i>dwelling</i> achieves all of the following:</p> <p>a) an area proportionate to the size of the <i>dwelling</i></p> <p>b) an extension of the function of the <i>dwelling</i> for relaxation, dining, entertainment, recreation</p> <p>c) directly accessible from the <i>dwelling</i></p> <p>d) service functions such as clothes drying and mechanical services</p> <p>e) reasonable privacy</p> <p>f) reasonable solar access.</p> <p>Not consistent with R61 and failed to demonstrate compliance with C61. Evidence is required to demonstrate compliance with C61 in particular that the POS receive reasonable solar access.</p> | <p>Criteria addressed.</p> <p>Principal private open space has been provided for the development to allow for an extension of living, with reasonable privacy and solar access. Service functions as clothes drying information will be provided at BA stage.</p> <p>All primary balconies have a minimum dimension of 1.8m including the SOHO apartments on the ground floor, meeting the minimum dimensions for balconies.</p> |

| Rules  | Criteria   | Response  |
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| the minimum required area between the hours of 9am and 3pm on the winter solstice (21 June)<br>ii) located at an <i>upper floor level</i> and overlooks a public street or public open space.  |  |   |
| <b>6.5 Separation between external walls</b>   |  |   |
| ✓ R62<br>The minimum separation between an <i>unscreened element</i> and an <i>external wall</i> on the same <i>block</i> or an adjoining <i>block</i> , is 3m.  | C62<br>The outlook from an <i>unscreened element</i> is not unreasonably impeded by <i>external walls</i> on the same or adjoining <i>blocks</i> .   | Rule is met.<br>All interface distances between external walls exceed 3m.   |
| ✓ R63<br>The separation between <i>external walls</i> at the <i>lower floor level</i> on the same <i>block</i> or an adjoining <i>block</i> is not less than 1m.   | C63<br>The separation between blank walls on the same or adjoining blocks at ground level achieves both of the following:<br>a) reasonable access for maintenance<br>b) reasonable management of rodents.  | Rule is met.<br>All interface distances between external walls exceed 1m.   |
| <b>6.6 Balustrades</b>   |  |   |
| ✗ R64<br>This rule applies to balconies with both of the following characteristics:<br>i) located on the third <i>upper floor level</i> or lower (ie the first four storeys)<br>ii) facing public streets or public open space.<br>Balustrades are constructed of one or more of the following:<br>a) <i>obscure glass</i> panels<br>b) solid panels<br>with a total of all openings or clear glass panels not more than 25% of the surface area of the balustrade.<br>For this rule <i>obscure glass</i> prevents printed text of 10mm high characters from being read through the glass when positioned 1m from the glass. | ✗ C64<br>Balustrades achieve reasonable privacy for residents and screen household items from adjoining public streets and public open space.<br><br><div style="border: 1px solid red; background-color: yellow; padding: 5px;">Not consistent with the R64 and failed to demonstrate compliance with C64. Clear glass will not provide privacy to the dwellings.</div> | Criteria addressed.<br>Dwelling balconies facing onto Melrose Drive, Launceston Avenue and Furzer Street will be clear glass to allow for a maximisation in residential amenity, through the views afforded from the living rooms, bedrooms and solar access.   |
| <b>6.7 Storage</b>   |  |   |
| ✗ R65<br>This rule applies to <i>dwellings</i> without an associated <i>garage</i> .<br>An enclosed storage area complying with all of the following is provided for each <i>dwelling</i> :<br>a) at least 2m in height and 0.6m internal dimension<br>b) an area of not less than -<br>i) in RZ1 and RZ2 - 4m2  | ✗ C65<br>All <i>dwellings</i> are provided with adequate and secure storage areas for all of the following:<br>a) equipment such as gardening, sporting, leisure and fitness equipment<br>b) accommodate bicycles as per Bicycle Parking Code.   | Rule is met.<br><br><div style="border: 1px solid red; background-color: yellow; padding: 5px;">Not consistent with the R65 and failed to demonstrate compliance with C65. All storage area must be allocated to the unit number and details of the enclosure must be provided.</div><br>Storage is provided within the same allocated level for residential parking. The height of the storage areas is 2.1m height internal dimensions include 1.0m by 2.0m deep. |

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| ii) in all other zones -1.5m2<br>c) one of the following -<br>i) accessible externally from the <i>dwelling</i><br>ii) adjacent to a dedicated car space. |  |  |
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**6.8 Natural Ventilation**

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| There is no applicable rule.  | C66<br>For buildings containing 3 or more <i>dwelling</i> s, dwelling layouts are to ensure natural ventilation is provided to <i>habitable rooms</i> by cross or stack effect ventilation by maximising separation between opening windows. | Criteria addressed.<br><br>Dwelling layouts have been designed to maximise natural ventilation in the placement of living areas, and bedrooms to the proximity to balconies and windows. |
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**6.9 Noise attenuation – external sources**





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| <p>R67<br/>         Where a <i>block</i> has one or more of the following characteristics:</p> <ul style="list-style-type: none"> <li>i) identified in a precinct code as being potentially affected by noise from external sources</li> <li>ii) adjacent to a road carrying or forecast to carry traffic volumes greater than 12,000 vehicles per day</li> <li>iii) located in a commercial zone</li> <li>iv) adjacent to a commercial or industrial zone</li> </ul> <p>dwelling's shall be constructed to comply with the relevant sections of all of the following:</p> <ul style="list-style-type: none"> <li>a) AS/NZS 2107:2000 - <i>Acoustics – Recommended design sound levels and reverberation times for building interiors</i> (the relevant satisfactory recommended interior design sound level)</li> <li>b) AS/NZS 3671 - <i>Acoustics – Road Traffic Noise Intrusion Building Siting and Design</i>.</li> </ul> <p>For other than road traffic noise, compliance with this rule is demonstrated by a noise management plan prepared by a member of the Australian Acoustical Society with experience in the assessment of noise, and endorsed by the EPA. For other than road traffic noise, the noise level immediately adjacent to the dwelling is assumed to be the relevant noise zone standard specified in the ACT Environment Protection Regulation 2005.</p> <p>For road traffic noise, compliance with this rule is</p> | <p>This is a mandatory requirement. There is no applicable criterion.</p> | <p>Rule is met.</p> <p>Uses on this site have the potential to include Restaurant and Drink establishment</p> <p>Refer to Noise Management Plan prepared by Acoustic Logic.</p> |
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Not inconsistent with the R67, a condition of approval is required to ensure compliance with the relevant Australian Standards. EPA support the proposal with conditions.



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| demonstrated by an acoustic assessment and noise management plan, prepared by a member of the Australian Acoustical Society with experience in the assessment of road traffic noise, and endorsed by the Transport Planning & Projects Section in ESDD.<br><small>Note: A condition of development approval may be imposed to ensure compliance with the endorsed noise management plan.</small> |  |  |
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**Element 7: Parking and vehicular access**

| Rules   | Criteria   | Response   |
|---|--|--|
| <b>7.1 Ramps to basement car parking – RZ1 and RZ2</b>  |  |  |
|  <p>R68<br/>This rule applies to blocks with all of the following characteristics:<br/>a) zoned RZ1 or RZ2<br/>b) <i>single dwelling blocks</i><br/>c) less than 30 m wide at the street frontage.<br/>Ramps accessing <i>basement</i> car parking are not permitted forward of the <i>building line</i>.</p> | <p>C68<br/>Ramps accessing <i>basement</i> car parking forward of the <i>building line</i> may be allowed where all of the following are achieved:<br/>i) compatibility with the streetscape<br/>ii) retention of existing street trees<br/>iii) safe and convenient pedestrian and bicycle crossings<br/>iv) adequate line of sight for cars entering and/or leaving the car parking area</p>   | <p>Not applicable.<br/><br/>The site is located in the CZ2 zone.</p>   |
| <b>7.2 Driveway verge crossings</b>   |  |  |
|  <p>R69<br/>This rule applies to previously undeveloped <i>blocks</i>.<br/>No more than one driveway verge crossing is provided to each <i>block</i>.</p>   | <p>C69<br/>More than one driveway verge crossing to each <i>block</i> may be allowed in one of the following circumstances:<br/>a) where forward entry to roads carrying more than 3000 vehicles per day is desirable<br/>b) where all of the following are achieved:<br/>i) compatibility with the <i>streetscape</i><br/>ii) priority for pedestrians and cyclists<br/>iii) retention of existing street trees<br/>iv) protection of existing landscape features<br/>v) public safety<br/>c) where the <i>block</i> is a corner block.</p> | <p>Criteria addressed.<br/><br/>The existing driveway crossing on Melrose Drive is to be removed and place further south along the site as a one way verge crossing. Exit from Melrose Drive will not be permitted.<br/><br/>One additional verge crossing will be constructed off Furzer Street to allow traffic entering from Melrose Drive to exit the site.<br/><br/>The location of new driveway crossings are compatible with the street frontage, and pedestrian/cyclist have been given priority at these crossing points. This is demonstrated through the use of pavement types and locations of street trees to ensure sight lines are clearly visible between entering traffic and pedestrians/cyclists around the site.</p> |
|  <p>R70<br/>This rule applies to previously developed <i>blocks</i> or the consolidation of previously developed <i>blocks</i>.<br/>No additional driveway verge crossings are permitted.</p>   |  <p>C70<br/>Additional driveway verge crossings may be allowed in one of the following circumstances:<br/>a) where forward entry to roads carrying more than</p>  | <p>Criteria addressed.<br/><br/>The existing driveway crossing on Melrose Drive is to be removed and place further south along the site as a</p>   |

| Rules  | Criteria  | Response  |
|--|---|---|
|  | 3000 vehicles per day is desirable<br>b) where all of the following are achieved –<br>i) compatibility with the <i>streetscape</i><br>ii) priority for pedestrians and cyclists<br>iii) retention of existing street trees<br>iv) protection of existing landscape features<br>v) public safety<br>c) where the <i>block</i> is a corner block.                                     | one way verge crossing. Exit from Melrose Drive will not be permitted.<br><br>One additional verge crossing will be constructed off Furzer Street to allow traffic entering from Melrose Drive to exit the site.<br><br>Location of the new driveway crossings are compatible with the street frontage, and pedestrian/cyclist have been given priority at these crossing points. This is demonstrated through the use of pavement types and locations of street trees to ensure sight lines are clearly visible between entering traffic and pedestrians/cyclists around the site. |
|  R71<br>This rule applies to previously developed <i>blocks</i> or the consolidation of previously developed <i>blocks</i> . Redundant driveway verge crossings are removed, and the verge and kerb restored.<br><b>Note:</b> a condition of development approval may be imposed to ensure compliance with this rule.  | This is a mandatory requirement. There is no applicable criterion.<br><br><div style="border: 2px solid red; background-color: yellow; padding: 5px; text-align: center;"> <b>Not inconsistent with R71, await TCCSD comment.</b> </div>  | Rule is met.<br><br>The driveway crossing along Melrose Drive will be removed and relocated. The existing verge crossing will be removed and kerb restored as part of the offsite works.  |
|  R72<br>Driveway verge crossings comply with all of the following:<br>a) 1.2m horizontally clear of stormwater sumps and other services<br>b) 1.5m horizontally clear of transformers, bus stops, public light poles<br>c) 6m horizontally clear of the tangent point of the radius of the curve on a corner <i>block</i> (excluding locations with roundabouts and signalised intersections, which require separate formal approval and support from Asset Acceptance)<br>d) uphill grade of less than 17% as measured from the kerb; downhill grade of less than 12% as measured from the kerb<br>e) at a right angle to the kerb line with a maximum 10% deviation<br>f) a maximum of 5.5m wide, and a minimum of 5m wide at the kerb, a minimum 3m wide at the front boundary, and a maximum width no greater than the width at the kerb | C72<br>Driveway verge crossings are endorsed by the Territory and Municipal Services Directorate.<br><br><br><br><div style="border: 2px solid red; background-color: yellow; padding: 5px; text-align: center;"> <b>Not Supported by TCCSD and further information has been requested.</b> </div> | Criteria addressed.<br><br>New driveway verge crossings are proposed off Melrose Drive and Furzer Street providing access to basement parking on the site. Please refer this application to TCCS for endorsement.   |






| Rules   | Criteria  | Response  |
|---|---|---|
| <p>g) except for <i>blocks</i> 250m<sup>2</sup> or less, 3m wide at the front street boundary</p> <p>h) outside of the drip line of mature street trees i) a minimum of 3m clear of small and new street trees</p> <p>j) compliant with Australian Standard <i>AS2890.1 – Off Street Parking</i>, having particular regard for sightlines and cross fall of the site</p> <p>k) where there is a public footpath across the driveway verge crossing, the footpath is continuous (i.e. the footpath is to have precedence)</p> <p>l) if the existing footpath is replaced, it is to be constructed at the same level in the same material and colour as the original.</p> <p><b>Note:</b> a condition of development approval may be imposed to ensure compliance with this rule.</p>   |   |   |
| <b>7.3 Internal driveways</b>   |   |   |
| <p><b>X</b> R73<br/>This rule applies to internal driveways that are used by residents of more than one <i>dwelling</i>.<br/>Internal driveways comply with all of the following:</p> <p>a) are set back from external <i>block</i> boundaries by not less than 1m</p> <p>b) are set back from the <i>external walls</i> of buildings on the site by not less than 1m</p> <p>c) the setbacks referred to in items a) and b) are planted to a width of not less than 1m</p> <p>d) windows to <i>habitable rooms</i> and exterior doors within 1.5 of an internal driveway have at least one of the following -</p> <p>i) an intervening fence or wall not less than 1.5m high</p> <p>ii) for windows, a sill height not less than 1.5m above the driveway</p> <p>e) the relevant requirements in Australian Standard <i>AS2890.1 - Off Street Parking</i> for sightlines and gradients</p> <p>f) provide internal radius of at least 4m at changes in direction and intersections</p> <p>g) have a surface treatment that is distinct from car parking spaces.</p> | <p>C73 <b>X</b><br/>Internal driveways achieve all of the following:</p> <p>a) sufficient space for planting along property boundaries</p> <p>b) sufficient space for planting between internal driveways and buildings</p> <p>c) reasonable residential amenity, particularly in relation to the intrusion of light and noise into <i>habitable rooms</i></p> <p>d) clear differentiation between the driveway and parking spaces.</p> | <p>Not applicable.</p> <p>The internal driveway is located within a basement structure.</p> |

Not inconsistent with the R73 and failed to demonstrate compliance with C73. The slip lane/internal driveway must be provided with planting.


| Rules   | Criteria   | Response  |
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|  <p>R74<br/>This rule applies to internal driveways with both of the following characteristics:<br/>a) serve 4 or more car parking spaces<br/>b) connect to a major road.<br/>Turning spaces are provided on the block to allow vehicles to leave in a forward direction.</p>   | <p>C74<br/>Internal driveways achieve reasonable levels of public safety.</p>  | <p>Rule is met.<br/><br/>The internal driveway will serve more than 4 car parking spaces, connection to a major road and providing adequate circulation spaces with the site to enable vehicles to enter and exit the site in a forward direction.</p>  |
|  <p>R75<br/>This rule applies to internal driveways with both of the following characteristics:<br/>a) serve more than 10 car parking spaces<br/>b) connect to a public road.<br/>The internal driveway is not less than 5m wide for not less than the first 7m of its length measured from the relevant <i>block</i> boundary.</p> | <p>C75<br/>Internal driveways avoid unreasonable levels of queuing and congestion at vehicular entrances.</p>  | <p>Rule is met.<br/>The internal driveway is to serve more than 10 car parking spaces and it connected to a public road.<br/><br/>The internal driveway is not less than 5m wide for not less than the first 7m of its length measured from the relevant block boundary.</p>  |
| <p>There is no applicable rule. </p>   | <p>C76<br/>Internal driveways are designed to be safely used by both pedestrians and vehicles, including emergency vehicles. Measures to reduce vehicle speed on internal driveways will be considered when determining compliance with this criterion, including one or more of the following:<br/>a) changes in pavement materials<br/>b) the lack of kerb and gutters<br/>c) difference in height to adjacent streets<br/>d) avoiding long lengths of driveway<br/>e) suitable planting<br/>f) signage.</p> | <p>Criteria addressed.<br/><br/>The internal driveways have been designed to address Criteria 76 by enabling safe interaction between pedestrian and vehicles. Internal driveway speeds will be controls by appropriate devices. For further information refer to the Traffic impact report prepared by AECOM.</p> <div data-bbox="1384 1018 2056 1098" style="border: 1px solid red; background-color: yellow; padding: 5px;"> <p>Not consistent with the C76, the slip lane must incorporate planting and pavement changes and be safe for pedestrian movements.</p> </div> |

#### 7.4 Residents' car parking

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| <p>✓ R77<br/>Car-parking spaces on the site for residents comply with all of the following:</p> <ul style="list-style-type: none"> <li>a) located behind the <i>front zone</i> (except for <i>apartment car parking</i>)</li> <li>b) can be in tandem where they belong to the same <i>dwelling</i></li> <li>c) do not encroach any property boundaries</li> <li>d) one car space per <i>dwelling</i> is roofed and located behind the <i>front zone</i></li> <li>e) are separated by not less than 1.5m from windows or doors to <i>habitable rooms</i> of <i>dwellings</i> that are not associated with the parking space.</li> </ul> | <p>C77<br/>Car parking for residents achieves all of the following:</p> <ul style="list-style-type: none"> <li>a) reasonable residential amenity</li> <li>b) consistency with the <i>desired character</i></li> <li>c) public safety</li> <li>d) reasonable opportunities for surveillance</li> <li>e) the reasonable requirements of residents for car parking</li> <li>f) reasonable privacy.</li> </ul> | <p>Rule is met.</p> <p>Residents' car parking is provided in the basement. Car parking is to be contained within the proposed property boundary.</p>   |
| <p>✗ R78<br/>This rule applies to resident car parking spaces with both of the following characteristics:</p> <ul style="list-style-type: none"> <li>a) not allocated to a particular <i>dwelling</i></li> <li>b) shared between 2 or more <i>dwellings</i>. Parking spaces are located within 50m walking distance of any <i>dwelling</i> that is sharing the space.</li> </ul>  | <p>✓ C78<br/>Car parking spaces are located close to, and with convenient access to <i>dwellings</i>.</p>  | <p>Criteria addressed.</p> <p>Residential car parking is proposed in basement 1, basement 2 and basement 3. Convenient access is provided to the respective <i>dwelling</i> via lift and stair access. Car parking spaces will be allocated closest to the relevant access point and apartment building.</p> |
| <p>N/A R79<br/>The maximum total width of garage door openings and external width of <i>carports</i> facing a street complies with the following:</p> <ul style="list-style-type: none"> <li>a) for up to 3 <i>dwellings</i>, the lesser of the following             <ul style="list-style-type: none"> <li>i) 6m</li> <li>ii) 50% of the total length of the building <i>façade</i> facing that street</li> </ul> </li> <li>b) for more than 3 <i>dwellings</i>, 50% of the total length of the building <i>façade</i> facing that street.</li> </ul>   | <p>C79<br/>Garages and car parking structures are consistent with the <i>desired character</i>.</p>  | <p>Not applicable.</p> <p>This application does not propose to include any garage doors or <i>carports</i> facing the street.</p>  |
| <p>✗ R80<br/>The maximum total width of an entry and/or exit to <i>basement</i> car parking facing the street is 8m.</p>  | <p>✓ C80<br/>Entries to <i>basements</i> do not dominate the <i>streetscape</i>.</p>   | <p>Criteria addressed.</p> <p>The width of the vehicle entries to the basements are circa 9m. The width of the basement entry is comparable to the scale of the development and does not dominate the <i>streetscape</i>.</p>  |
| <p>✓ R81<br/>This rule applies to all of the following:</p> <ul style="list-style-type: none"> <li>i) developments containing 10 <i>dwellings</i> or more</li> <li>ii) development with a combined entry and exit to</li> </ul>   | <p>C81<br/>Approaches to <i>basements</i> achieve all of the following:</p> <ul style="list-style-type: none"> <li>a) public safety</li> <li>b) convenience for all users.</li> </ul>  | <p>Rule is met.</p> <p>The basement access off Melrose Drive and Furzer Street provide internal site laneways/driveways and are</p>  |

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| <p><i>apartment</i> car parking less than 6m wide. Approaches to <i>basements</i> containing car parking comply with one of the following:</p> <ul style="list-style-type: none"> <li>a) include sufficient areas for vehicles to wait to allow for an entering or leaving vehicle to pass</li> <li>b) at least one waiting area and traffic signals.</li> </ul>  |  | not less than 6m wide for the entry/exit.  |
| <b>7.5 Visitor parking</b>  |  |  |
| <p> R82<br/>Visitor car-parking spaces on the site comply with all of the following:</p> <ul style="list-style-type: none"> <li>a) located behind the <i>front zone</i> (except for <i>apartment</i> car parking)</li> <li>b) do not encroach any property boundaries</li> <li>c) are separated by not less than 1.5m from windows and doors to <i>habitable rooms of dwellings</i></li> <li>d) are not more than 50m walking distance from any common building entry</li> <li>e) clearly identified and visible from driveways.</li> </ul> | <p>C82 <br/>Visitor parking achieves all of the following:</p> <ul style="list-style-type: none"> <li>a) accessible for all visitors</li> <li>b) safe and direct visitor entry to common building entries.</li> </ul> | <p>Criteria addressed.</p> <p>The proposed development is located in the CZ2 business zone and within the Woden Town Centre. Visitor parking for the apartments have deemed to be included within the car parks provided for the retail and food and beverage areas in the 8 storey SKUPARK car park which is located opposite to the site. This is further addressed in the Traffic Impact Assessment prepared by AECOM.</p>                |
| <p> R83<br/>Visitor car parking complies with one of the following:</p> <ul style="list-style-type: none"> <li>a) is located outside of any security barriers</li> <li>b) an intercom and remote barrier release system allows access to visitor parking located behind security barriers.</li> </ul>   | <p>C83 <br/>Visitor parking is accessible to all visitors.</p>  | <p>Criteria addressed.</p> <p>The proposed development is located in the CZ2 business zone and within the Woden Town Centre. Visitor parking for the apartments have deemed to be included within the car parks provided for the retail and food and beverage areas as well as the 8 storey SKUPARK car park which is located opposite to the site.</p> <p>This is further addressed in the Traffic Impact Assessment prepared by AECOM.</p> |
| <b>7.6 Number of co-located parking spaces – RZ2</b>  |  |  |
| <p> R84<br/>In RZ2 on <i>single dwelling blocks</i>, co-located car parking spaces on the <i>site</i> comply with all of the following:</p> <ul style="list-style-type: none"> <li>a) the maximum number of car parking spaces (including spaces in garages but excluding those in basements) is 4</li> <li>b) the minimum separation between groups of co-located car parking spaces (including spaces in garages but excluding those in basements) is 4m.</li> </ul>  | <p>C84<br/>Car parking spaces on the <i>site</i> (including garages but excluding basement car parking) achieves all of the following:</p> <ul style="list-style-type: none"> <li>a) do not dominate site landscaping</li> <li>b) are consistent with the <i>desired character</i></li> </ul>          | <p>Not applicable.</p> <p>The site is not located in RZ2.</p>  |




**7.7 Delivery and removalist vans**

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| <p><b>R85</b><br/>For developments with 40 or more <i>dwelling</i>s, at least one short stay parking space and associated access is provided for delivery trucks such as furniture delivery and removalist vans.</p> | <p><b>C85</b> <br/>Reasonable provision is made for short stay parking for delivery trucks.</p> | <p>Criteria addressed.<br/><br/>A short stay park for removalists and delivery trucks has been provided along the service lane which connects from Melrose Drive to Furzer Street.</p> |
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**Element 8: Environment**

| Rules | Criteria | Response |
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**8.1 Water sensitive urban design**

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| <p> <b>R86</b><br/>This rule applies to all multi-unit residential development except for <i>minor extensions</i>. The development achieves a minimum 40% reduction in mains water consumption compared to an equivalent development constructed in 2003, without any reliance on landscaping measures. Compliance with this rule is demonstrated by a report by a suitably qualified person using the ACTPLA on-line assessment tool or another tool referred to in the Water Ways: Water Sensitive Urban Design General Code. For this element: <b>minor extension</b> means an extension where the increase in the combined roof plan area, driveway, car manoeuvring areas and car parking areas is less than 25% of the total of the areas of these components at the date of lodgement of the development application.</p> | <p>This is a mandatory requirement. There is no applicable criterion.</p>  | <p>Rule is met.<br/><br/>The total development site exceeds 5,000m<sup>2</sup> and is therefore required to meet the following water quality improvements requirements:<br/>Reduction of total suspended solids by at least 60%<br/>Reduction of total phosphorus by at least 45%<br/>Reduction of total nitrogen by at least 40%<br/><br/>The above needs to be achieved based on average annual pollutant export when compared with an urban catchment with no water quality controls.<br/><br/>Provision of a spel hydrosystem to each stratum, adequately achieves water quality improvement requirements.</p> |
| <p> <b>R87</b><br/>This rule applies to all <i>multi-unit housing</i> except <i>minor extensions</i>.<br/>On sites larger than 2,000m<sup>2</sup> stormwater management measures comply with all of the following:<br/>a) provision for the retention of stormwater on the <i>block</i> is equivalent to at least 1.4kl per 100m<sup>2</sup> of impervious area<br/>b) the retained stormwater complies with one or more of the following -<br/>i) it is stored for later reuse<br/>ii) it is released to the stormwater system over a period of not less than 1 day.<br/>Rainwater tanks connected to at least the toilet and all external taps may be counted towards this requirement.</p>  | <p> <b>C87</b><br/>On sites larger than 2,000m<sup>2</sup> all of the following stormwater management measures are achieved:<br/>a) the equivalent of 1-in-3 month stormwater peak pre-development stormwater run-off is retained on the <i>block</i><br/>b) the retained stormwater complies with one or more of the following -<br/>i) it is stored for later reuse<br/>ii) its is released to the stormwater system over a reasonable period.<br/>Compliance with this criterion is demonstrated by a report by a suitably qualified person.</p> | <p>Rule Met<br/><b>Evidence i required.</b><br/><br/>The site exceeds 2,000m<sup>2</sup> and is therefore required to reduce post development peak run off flow rates to pre development levels. The following flow rates area base on site wide analysis and it is proposed to achieve the reduction in peak run off rates at estate level.<br/><br/>Pre-development:<br/>Q5 236L/S<br/>Q100 2L/S<br/><br/>Post-development:</p>  |

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|  |   | <p>Q5 513L/S<br/>Q100 524L/S</p> <p>The post development, peak flow rates off-site are adequately reduced to predevelopment levels by the provision of 18kL on-site detention actioning on the community title stratum only. This is based on an assumed head of 1.5m and an orifice of 210mm. Calculations are of preliminary only and subject to confirmation during detailed design. Refer to drawing C.35 for location of proposed osd.</p> |
| <p><b>X</b> R88<br/>This rule applies to all <i>multi-unit housing</i> except <i>minor extensions</i>.<br/>For <i>blocks</i> 5,000m<sup>2</sup> or larger, the average annual stormwater pollutant export is reduced for all of the following:</p> <ul style="list-style-type: none"> <li>a) suspended solids by at least 60%</li> <li>b) total phosphorous by at least 45%</li> <li>c) total nitrogen by at least 40%</li> </ul> <p>compared with an urban catchment with no water quality management controls.<br/>Compliance with this rule is demonstrated by a report by a suitably qualified person, using the MUSIC model or another nationally recognised model.</p> | <p>This is a mandatory requirement. There is no applicable criterion.</p> <p style="text-align: center;"><b>Evidence i required.</b></p>  | <p>Rule Met</p> <p>Refer to WSUD plans C.30 – C.34 for stormwater calculations.</p>   |
| <p><b>X</b> R89<br/>On previously developed <i>blocks</i> larger than 2,000m<sup>2</sup> the capacity of the existing pipe (minor) stormwater connection is not exceeded in 1-in-10 year storm event and the capacity of the existing major overland stormwater system is not exceeded in 1-in-100 year storm event<br/>Compliance with this rule is demonstrated by a report by a suitably qualified person.</p>  | <p><b>X</b> C89<br/>On previously developed <i>blocks</i> larger than 2,000m<sup>2</sup> the 1-in-5 year and 1-in-100 year stormwater peak run off does not exceed pre- development levels.<br/>Compliance with this criterion is demonstrated by a report by a suitably qualified person.</p> <p style="text-align: center;"><b>Evidence i required.</b></p> | <p>Rule Met</p> <p>Refer to WSUD plans C.30 – C.34 for stormwater calculations.</p>   |
| <b>8.2 Heritage</b>  |   |   |
| <p><b>N/A</b> R90<br/>This rule applies to land containing places or objects registered or provisionally registered under section 41 of the <i>Heritage Act 2004</i>. The authority shall refer a development application to the Heritage Council.<br/><b>Note:</b> The authority will consider any advice from the</p>  | <p>This is a mandatory requirement. There is no applicable criterion.</p>   | <p>Not applicable.</p> <p>The site is not registered under section 41 of the <i>Heritage Act 2004</i>.</p>  |


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| Heritage Council before determining the application.   |  |  |
| <b>8.3 Tree protection</b>   |  |  |
| <p><b>R91</b></p> <p>This rule applies to a development that has one or more of the following characteristics:</p> <p>a) requires groundwork within the tree protection zone of a <i>protected tree</i></p> <p>b) is likely to cause damage to or removal of any <i>protected trees</i>.</p> <p>The authority shall refer the development application to the Conservator of Flora and Fauna.</p> <p><b>Note:</b> The authority will consider any advice from the Conservator or Flora and Fauna before determining the application in accordance with the <i>Planning and Development Act 2007</i>. Protected tree and declared site are defined under the Tree Protection Act 2005.</p> | <p>This is a mandatory requirement. There is no applicable criterion.</p> <p style="background-color: yellow; border: 1px solid red; padding: 5px; text-align: center;"><b>Not consistent, not supported refer to Tree protection comment.</b></p> | <p>Rule is met.</p> <p>The development includes the removal of protected trees and will therefore require referral to the Conservator of Flora and Fauna.</p>  |
| <b>8.4 Bushfire</b>  |  |  |
| <p><b>R92</b></p> <p>Where identified in a precinct code or <i>lease and development conditions</i> as being within a bushfire prone area, buildings are to be constructed in accordance with the relevant Building Code of Australia bushfire provisions.</p>   | <p>This is a mandatory requirement. There is no applicable criterion.</p>  | <p>Rule is met.</p> <p>The site is not in a bushfire prone area.</p>   |
| <b>8.5 Erosion and sediment control</b>  |  |  |
| <p><b>R93</b></p> <p>For sites less than 3,000m<sup>2</sup>, the development complies with the Environment Protection Authority, <i>Environment Protection Guidelines for Construction and Land Development in the ACT</i>.</p> <p><b>Note 1:</b> If no evidence of compliance with the above guideline is provided, the application may be referred to the relevant agency in accordance with the requirements of the <i>Planning and Development Act 2007</i>.</p> <p><b>Note 2:</b> see part D for sites over 3000m<sup>2</sup>.</p>  | <p>This is a mandatory requirement. There is no applicable criterion.</p>  | <p>Not Applicable</p> <p>The site is over 3,000m<sup>2</sup> in area. An Erosion and Sediment Control Plan prepared by a suitably qualified person has been provided for endorsement by the EPA.</p> |




N/A



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| <b>Element 9: Services</b> |                 |  |
| <b>Rules</b>               | <b>Criteria</b> |  |

| 9.1 Post occupancy waste management |  |   |
|-------------------------------------|--|---|
| There is no applicable rule.        | C94 <br>Post occupancy waste management achieves all of the following:<br>a) consistency with the <i>desired character</i><br>b) reasonable levels of residential amenity for <i>dwelling</i> s and their associated <i>private open space</i> on the subject site<br>c) reasonable levels of amenity for <i>dwelling</i> s on adjoining <i>residential blocks</i> and their associated <i>private open space</i> . | Criteria addressed.<br><br>The development includes post occupancy waste management as set out in the waste management plan and will therefore require referral to TCCS (TAMS) for endorsement. |

**Part B – Additional Controls for Multi Unit Housing with 4 or More Storeys**  
**Element 10: Building and Site Design – Buildings with 4 or more Storeys**

| Rules  | Criteria  | Response   |
|--|---|--|
| <b>10.1 Side and Rear Boundary Setbacks</b>  |   |  |
| <span style="background-color: #00FF00; border: 1px solid #FF0000; padding: 2px;">N/A</span><br>R95<br>In RZ5 side and rear boundary setbacks comply with Table B1.                      | C95<br>Buildings and other structures are sited to achieve all of the following:<br>a) Consistency with the desired character<br>b) Reasonable separation between adjoining developments<br>c) Reasonable privacy for dwellings on adjoining residential blocks<br>d) Reasonable privacy for principal private open space on adjoining residential blocks<br>e) Reasonable solar access to dwellings on adjoining residential blocks and their associated principal private open space.               | Not applicable.<br><br>The site is not located in the RZ5 Zone   |
| <b>10.2 Access to Lifts or Stairs</b>  |   |  |
|  R96<br>No more than 9 apartments on each floor are accessible from a single common lift or stair lobby. | C96<br>Convenient access to apartments is achieved. One or more of the following matters may be considered when determining compliance with this criterion:<br>a) Whether there is a high level of public amenity and safety in common lobbies<br>b) Whether spaces are well-proportioned with clear sightlines<br>c) Whether there is a high proportion of dual aspect apartments<br>d) Whether there is a high proportion of apartments with northern orientation.                                  | Rule is met<br><br>Each floor is provided with access to more than one lift. No more than 9 apartments are serviced by one lift.   |
| <b>10.3 Stairwell features</b>   |   |  |
| There is no applicable rule. <span style="background-color: #00FF00; border: 1px solid #FF0000; padding: 2px; margin-left: 100px;">N/A</span>  | C96A<br>Stairwells achieve all of the following:<br>a) are open or visually permeable to facilitate natural surveillance<br>b) are accessible and encourage physical activity by providing an attractive alternative to lifts<br>c) are located in a position more prominent than lifts.<br><br><b>Note:</b> This criterion applies to all new developments, major alterations and/or extensions to existing buildings but does not apply to extensions of a size 50% or less of existing floor area. | Not applicable.<br><br>Stairwells are not proposed other than as required for fire egress. The height of the buildings does not make stairwell features a practical option for this development. |

**Part C – Additional Controls for Multi Unit Housing in Commercial Zones**

**Element 11: Ground Floor Commercial Use**

| Rules  | Criteria  | Response  |
|--|---|---|
| <b>11.1 Ground Floor Commercial Use in Commercial Zones</b>  |   |   |
| <p>R97<br/>This rule applies to all of the following:</p> <ul style="list-style-type: none"> <li>a) Commercial zones</li> <li>b) Blocks nominated in a precinct code for ground floor commercial use</li> <li>c) Buildings containing one or more dwellings</li> <li>d) The building line for any ground floor dwelling is less than 6m.</li> </ul> <p>The ground floor finished floor level to finished ceiling level height is not less than 3.6m.<br/><b>Note:</b> Noise attenuation provisions in part A may also apply.</p> | <p>C97<br/>In commercial zones, buildings afford the opportunity to accommodate non-residential uses, including office and retail, at the ground floor.</p> | <p>Criteria addressed.</p> <p>The buildings afford the opportunity to accommodate non-residential uses, including office and retail, at the ground floor.</p> |

**Part D – Endorsement by Government Agencies (Entities)**

**Element 12: Waste Management**

| Rules   | Criteria  | Response  |
|---|---|---|
| <b>12.1 Construction Waste Management</b>   |   |   |
| <p>R98<br/>This rule applies to residential development that is likely to generate more than 20m<sup>3</sup> of construction waste comprising one or more of the following:</p> <ul style="list-style-type: none"> <li>a) Demolition waste</li> <li>b) Construction waste</li> <li>c) Excavation material</li> </ul> <p>The management of construction waste is to be endorsed by TAMS. TAMS will endorse waste facilities and management associated with the development if they comply with the current version of the Development Control Code for Best Practice Waste Management in the ACT. TAMS may endorse departures.</p> | <p>This is a mandatory requirement. There is no applicable criterion.</p> | <p>Rule is met.</p> <p>The development includes construction waste as set out in the waste management plan and will therefore require referral to TCCS (TAMS) for endorsement.</p>              |
| <b>12.2 Post Occupancy Waste Management</b>   |   |   |
| <p>R99<br/>Post occupancy waste management facilities are to be endorsed by TAMS. TAMS will endorse post occupancy waste management facilities where they are in accordance with the current version of the Development control code for Best Practice Waste Management in the ACT. TAMS may endorse departures.</p>  | <p>This is a mandatory requirement. There is no applicable criterion.</p> | <p>Rule is met.</p> <p>The development includes post occupancy waste management as set out in the waste management plan and will therefore require referral to TCCS (TAMS) for endorsement.</p> |

**Note:** A condition of approval may be imposed to ensure compliance.

**Element 13: Utilities**

| Rules   | Criteria   | Response  |
|---|--|---|
| <b>13.1 Utilities</b>   |  |   |
| R100<br>This rule applies to any proposed encroachment into a registered easement. The proposed encroachment is to be approved in writing by the relevant service provider.   | This is a mandatory requirement. There is no applicable criterion. | Rule is met.<br><br>The development includes works pertaining to an electrical easement and will therefore require referral to ACTEW Electricity for endorsement. |
| R101<br>A statement of compliance from each relevant utility provider (for water, sewerage, electricity, stormwater and gas) confirms that the location and nature of earthworks, utility connections, proposed buildings, pavements and landscape features comply with utility standards, access provisions and asset clearance zone.<br><b>Note 1:</b> If there is no stormwater easement or Territory owned stormwater pipes located within the property boundary, a "Statement of Compliance" for stormwater from TAMS (Asset Acceptance) is not required to be obtained.<br><b>Note 2:</b> Where there is conflict between planning and utility requirements, the utility requirements take precedence over other codified or merit provisions.<br><b>Note 3:</b> If a statement of compliance is not provided the application will be referred to the relevant agency in accordance with the requirements of the <i>Planning and Development Act 2007</i> . | This is a mandatory requirement. There is no applicable criterion. | Rule is met.<br><br>The development includes the provision of utilities and will therefore require referral to the relevant utility providers for endorsement.    |

**Element 14: Environmental Management**

| Rules  | Criteria   | Response  |
|--|--|---|
| <b>14.1 Contamination</b>  |  |   |
| R102<br>This rule applies to any site located adjacent to a potentially polluting source (including a site used for formerly used as a petrol station). The site is assessed for the potential for land contamination in accordance with the ACT Government Strategic Plan – Contaminated Sites Management 1995 and the Contaminated Sites Environment Protection Policy | This is a mandatory requirement. There is no applicable criterion. | Not applicable.<br><br>An assessment in accordance with the ACT Government strategic plan – contaminated sites management 1995 and the ACT environment protection policy is only triggered <u>when a change to the lease purpose or land use where past use of land may have caused contamination</u> . Previous correspondence |

|   |   |   |
|---|---|---|
| <p>2000. If land contamination is identified, the development complies with the requirements of EPA.<br/> <b>Note 1:</b> If no evidence of assessment of the site for land contamination is provided, the application may be referred to the relevant agency in accordance with the requirements of the <i>Planning and Development Act 2007</i><br/> <b>Note 2:</b> A condition of approval may be imposed to ensure compliance.</p>   |   | <p>and contaminated searches conducted by EPA confirm that there is no record of contamination of the site.</p> <p>A Phase 1 Preliminary Site Investigation Report for the site was undertaken by SLR Consulting Australia on 23 May 2013. The Phase 1 report was submitted in support of a lease variation to add residential use as a permissible use to the Crown lease under a previous DA. EPA endorsement was received on 7 March 2014.</p> |
| <p><b>14.2 Erosion and Sediment Control</b></p>   |   |   |
| <p>R103<br/> This rule applies to sites 3,000m<sup>2</sup> or larger. The development complies with an erosion and sediment control plan endorsed by the ACT EPA.<br/> <b>Note 1:</b> If no evidence of assessment of the site for erosion and sediment control is provided, the application may be referred to the relevant agency in accordance with the requirements of the <i>Planning and Development Act 2007</i>.<br/> <b>Note 2:</b> A condition of approval may be imposed to ensure compliance.</p> | <p>This is a mandatory requirement. There is no applicable criterion.</p> | <p>Rule is met.</p> <p>The site is over 3,000m<sup>2</sup> in area. An Erosion and Sediment Control Plan prepared by a suitably qualified person has been provided for endorsement by the EPA.</p>  |

## 6 General Codes

### 6.1 Parking and Vehicular Access General Code

The relevant requirements of the parking and vehicular access general code are addressed in the Traffic Impact Assessment (TIA) prepared by AECOM.

### 6.2 Bicycle Parking General Code

The relevant requirements of the bicycle parking general code are addressed in the Traffic Impact Assessment (TIA) prepared by AECOM.

### 6.3 Access and Mobility General Code

The relevant requirements of the access and mobility general code are addressed in the Access Report prepared by BCA Access Solutions.

### 6.4 Lease Variation General Code

*Effective date of the Lease Variation General Code – 25 May 2017.*

The DA will be assessed under the Merit Track and our assessment excludes Part B (Lease Variations in the Code Track).

#### Part A – Lease Variations in the Merit or Impact Track

##### Element 1: Variations – General

| Rules                               | Criteria   | Response   |
|-------------------------------------|--|--|
| <b>1.1 Varying Leases – General</b> |  |  |
| There is no applicable rule.        | <p>C1<br/>A lease is varied only where all of the following are achieved:</p> <ul style="list-style-type: none"> <li>i) The varied lease is consistent with the Territory Plan including all relevant codes</li> <li>ii) The land to which the lease applies is suitable for the development or use authorised by the varied lease.</li> </ul> | <p>Complies with criteria.</p> <ul style="list-style-type: none"> <li>i) The proposed uses are consistent with the Territory Plan (including all relevant codes) as evident by this statement against criteria.</li> <li>ii) The purpose clause currently allows a club and commercial accommodation use (hotel of 120 rooms). The proposed uses are consistent with the applicable land use code, the Territory Plan and would be concomitant with existing on-site and surrounding uses. A planning report detailing the site has been prepared and accompanies the DA.</li> </ul> |

**Element 2: Variations to Increase Rights**

| Rules                        | Criteria  | Response  |
|------------------------------|---|---|
| <b>2.1 Increasing Rights</b> |   |   |
| There is no applicable rule. | <p>C2</p> <p>A right under a lease is increased only when all of the following are achieved if the additional rights are granted and activated:</p> <ul style="list-style-type: none"> <li>i) Sufficient car parking is provided on site or is available off site in accordance with the Parking and Vehicular Access General Code</li> <li>ii) Any increase in traffic flow is within the capacity of the surrounding road network</li> <li>iii) Adequate post occupancy waste management and disposal can be provided to the relevant Territory standard</li> <li>iv) No unreasonable increase in the level of noise for the occupants of dwellings on the block or on adjoining land.</li> </ul> <p><b>Note:</b> Examples of rights are the max GFA, max floor area allocated to a particular use, building heights.</p> | <p>Not applicable.</p> <ul style="list-style-type: none"> <li>i) AECOM has prepared a traffic assessment report which accompanies the DA. Aecom have assessed that the required and proposed parking supply and have concluded that the development proposes to provide 1,112 car parking spaces which meet the Parking and Vehicular Access General Code.</li> <li>i) AECOM has undertaken an analysis on the surrounding road network. The results indicate that there is adequate capacity in the existing road network to accommodate the increase in traffic flow generated by the proposed redevelopment.</li> <li>iii) Post occupancy waste management will be stored and disposed of in accordance with Territory requirements.</li> <li>iv) There will be no unreasonable increase in the level of noise. Acoustic Logic has prepared a noise management plan which accompanies the DA.</li> </ul> |

**Element 3: Variations to Add Uses – General**

| Rules                            | Criteria  | Response  |
|----------------------------------|---|---|
| <b>3.1 Adding Uses Generally</b> |   |   |
| There is no applicable rule.     | <p>C3</p> <p>An additional use is authorised by a lease only when all of the following are achieved if the additional use is granted and activated:</p> <ul style="list-style-type: none"> <li>i) Sufficient car parking is provided on site or is available off site in accordance with the Parking and Vehicular Access General Code</li> <li>ii) Any increase in traffic flow is within the capacity of the surrounding road network</li> <li>iii) Adequate post occupancy waste management and disposal can be provided to the relevant Territory standard</li> <li>iv) No unreasonable increase in level of noise for the</li> </ul> | <p>Complies with criteria.</p> <ul style="list-style-type: none"> <li>i) AECOM has prepared a traffic assessment report which accompanies the DA. AECOM have assessed that the required and proposed parking supply and have concluded that the development proposes to provide 1,112 car parking spaces which meet the Parking and Vehicular Access General Code.</li> <li>ii) AECOM has undertaken an analysis on the surrounding road network. The results indicate that there is adequate capacity in the existing road network to accommodate the increase in traffic flow generated by the proposed redevelopment.</li> </ul> |

|  |   |  |
|--|---|--|
|  | <p>occupants of dwellings on the block or on adjoining land</p> <p>v) No unreasonable risk to occupants of the block through any contamination of the block or on adjoining land</p> <p>vi) No unreasonable level of odour for the occupants of dwellings on the block or on adjoining land</p> <p>vii) No unreasonable level of light emission for the occupants of dwellings on the block or on adjoining land.</p> | <p>iii) All waste will be securely contained within the site and will be disposed of in accordance with Territory requirements.</p> <p>iv) The proposed use is commensurate with existing uses and will not generate any unreasonable increase in the level of noise.</p> <p>v) Not applicable. As per R71 of the Commercial Zones Development Code, an assessment in accordance with the ACT Government strategic plan – contaminated sites management 1995 and the ACT environment protection policy is only triggered <u>when a change to the lease purpose or land use where past use of land may have caused contamination.</u> Previous correspondence and contaminated searches conducted by EPA confirm that there is no record of contamination of the site. A Phase 1 Preliminary Site Investigation Report for the site was undertaken by SLR Consulting Australia on 23 May 2013. The Phase 1 report was submitted in support of a lease variation to add residential use as a permissible use to the Crown lease under a previous DA. EPA endorsement was received on 7 March 2014.</p> <p>vi) There will be no unreasonable levels of odour resulting from the proposed uses.</p> <p>vii) There will be no unreasonable levels of light emission resulting from the proposed uses.</p> |
|--|---|--|

**Element 4: Variations to Add Particular Uses**

| Rules   | Criteria   | Response  |
|---|--|---|
| <b>4.1 Community and Recreational Facilities</b>  |  |   |
| There is no applicable rule.  | <p>C4<br/>Community facilities or recreational facilities that are authorised by a lease comply with the Community and Recreational Facilities Location Guidelines General Code.</p> | <p>Complies with criteria.</p> <p>The proposed community facilities are consistent with the Community and Recreational Facilities Location Guidelines General Code.</p> |
| <b>4.3 Secondary Residence</b>  |  |   |
| <p>R6<br/>A variation to a lease to authorise a secondary residence is approved only where the block affected by the lease is 500m<sup>2</sup> or larger.</p> | <p>This is a mandatory requirement. There is no applicable criterion.</p>  | <p>Not applicable.</p> <p>This proposal does not include a secondary residence.</p>   |



|               |  |                             |            |
|---------------|--|-----------------------------|------------|
| Block/s:      | 17   | DA number:                  | 201833492  |
| Section:      | 3  | Date lodged:                | 30-Mar-18  |
| Suburb:       | Phillip  | Due date:                   | 16/11/2018 |
| Zone/s:       | CZ2  | Unit Number (if applicable) |            |
| Proposal:     | <p>PROPOSAL FOR MIXED USE COMMERCIAL AND RESIDENTIAL DEVELOPMENT &amp; LEASE VARIATION - Demolition of existing structures; Construction of 4 separate mixed use buildings ranging in height from 10 storeys to 24 storeys. Proposal will comprise of 12 commercial tenancies and a total of 798 residential units, landscaping and associated works; Lease variation to remove the maximum gross floor area restriction, the restriction on basement use and to add the following uses: community use (excluding child care centre and hospital), drink establishment, indoor recreation facility, non retail commercial use, residential use, restaurant, and shop.</p> <p>S144-E - AMENDMENT TO DA201833492 - PROPOSAL FOR MIXED USE RESIDENTIAL AND COMMERCIAL DEVELOPMENT-LEASE VARIATION. The amended proposal principally reconfigures the height of the buildings to reduce overshadowing. The building fronting Melrose Drive is reduced in height to 16 storeys terracing to 12 storeys. The building on the corner of Furzer and Launceston Streets is increased to 24 storeys. Front setbacks to buildings and building separation is increased. Public parking and ground floor commercial space is increased. Provision of 800 apartments. Alterations to building façades and additional landscaped space. Subdivision is included as part of this amendment application.</p> |                             |            |
| Proposed Use: | Mixed Use Development – (Residential, Retail, & Restaurant).   |                             |            |

## STAGE 1 – PRE-ASSESSMENT APPRAISAL

|  |  |
|--|--|
| Did the proposal have a <b>pre application</b> meeting:<br><i>if yes, read the notes &amp; summarise below</i> | Yes  |
| Was the proposal subject to a Design Review Panel meeting?   | Yes, minutes have been saved in objective file |
| Was Pre DA Community Consultation Undertaken?  | Yes  |
| Is the <b>notification</b> wording appropriate:  | Yes  |
| Have all <b>Entities</b> been referred to?   | Yes  |
| NOD outline saved into Objective   | Yes  |
| Has a conflict of interest been declared?  | No   |
| Has an ESO been submitted as part of this project?   | No   |

## Notes for the assessment officers / Key issues identified:

- N/A

## OUTCOME

## Can proceed to next stage

|                     |                       |                   |
|---------------------|-----------------------|-------------------|
| Assessment officer: | Name – Walid Elhassan | Date – 18/09/2018 |
|---------------------|-----------------------|-------------------|

## STAGE 2 – ASSESSMENT

|  |  |
|--|--|
| <p>Proposed Use</p>  | <p>Is the proposed use allowable in the applicable zone/s?</p> <p>Yes – A Lease Variation to remove the maximum gross floor area restriction, the restriction on basement use and to add the following uses: community use (excluding child care centre and hospital), drink establishment, indoor recreation facility, non-retail commercial use, residential use, restaurant, and shop.</p>  |
| <p>Does the proposal trigger referral to the MPRG at this phase:</p> <ul style="list-style-type: none"> <li>➤ Assessment Policy clarification</li> <li>➤ Managers direction</li> <li>➤ Impact Track DA</li> <li>➤ EDP</li> <li>➤ GFA &gt;10,000m<sup>2</sup></li> <li>➤ &gt;25m height</li> <li>➤ 3 or more stories &amp; 50+ dwellings</li> <li>➤ 25% or greater car parking departure</li> <li>➤ Referred from LRP or other</li> </ul> | <p>MPRG: Yes – if yes, what are the triggers?</p> <ul style="list-style-type: none"> <li>• <b>Proposal received 30 or more representations;</b></li> <li>• <b>Overshadowing on Bellerive</b></li> <li>• <b>Built form &amp; buildings height</b></li> <li>• <b>External colours</b></li> <li>• <b>Regulated trees</b></li> <li>• <b>Noise</b></li> <li>• <b>Solar Access</b></li> <li>• <b>Building interface</b></li> <li>• <b>Slip lane</b></li> <li>• <b>Landscaping</b></li> </ul> <p>MPRG Outcome:</p> <p>MPRG recognised the significant improvements to both the scale of Building 4 and the resultant overshadowing to the Bellerive development.</p> <p>Following a detailed consideration of the 3D model provided by the applicant and the overshadowing impacts, MPRG formed a view that the overshadowing of Bellerive would benefit from a partial reduction of the 16 storey component of building 4. An example could be to terrace the building from 16 storeys down to 12 storeys on the northern side of the building with integrated landscaped roof terraces. Note the further reduction in height would be subject to further assessment.</p> <p>It was noted that Bellerive was approved on basis that the units achieve access to 3 hrs of sunlight and that maintaining this as far as possible to the central of the three lower buildings (St Clair) would be preferable.</p> <p>MPRG also considered the application to remove regulated trees to the south side of the block, which was against the advice of the Conservator. MPRG support the removal of these five regulated trees on planning grounds.</p> <p>It is suggested the applicant provide a sketch concept plan of any proposed changes for further consideration prior to submitting the amendment application. It was considered that the proposal did not require to be resubmitted to the MPRG if it is consistent with the revised concept, to the discretion of the delegate.</p> |

| Territory Plan assessment  |                 |  |
|--|-----------------|--|
| Codes of the Territory Plan considered include:  |                 | <ul style="list-style-type: none"> <li>• Phillip Precinct Map &amp; Code</li> <li>• Residential Zones Development Code</li> <li>• Multi Unit Housing Development Code</li> <li>• Commercial Zones Development Code</li> <li>• Parking &amp; Vehicular Access General Code</li> <li>• Crime Prevention Through Environmental Design General Code</li> <li>• Waterways Water Sensitive Urban Design General Code</li> <li>• Access &amp; Mobility General Code</li> <li>• Community Facilities and Associated Infrastructure general Code</li> <li>• Lease Variation General Code</li> </ul> |
| Does the application meet all relevant mandatory rules:  | Yes             |  |
| <b>The assessing officer undertook an assessment of the proposal and found that the following KEY rules and criteria warrant further discussion.</b> <i>Note: Further issues may have been identified in a plan based assessment that have not necessarily been included in this or is of a significance that did not warrant particular discussion.</i> |                 |  |
| Code   | Rule / Criteria | Assessment/Discussion  |
| Phillip Precinct Map & Code  | R9 & C9         | <p>The proposed development is not consistent with R9 and failed to demonstrate compliance with C9, the overall buildings heights of two towers must not exceed 12 storey and only one building to be 16 storey and the marker building 24 storey.</p> <p><b>A condition of approval is required to stipulate that building 4 must be reduced in height to 12 storey.</b></p>  |
| Phillip Precinct Map & Code  | R20 & C20       | <p>The proposed development is not consistent with R20 and failed to demonstrate compliance with C20, the overall buildings 1 &amp; 2 setback significantly encroach into the stipulated 4m front setback facing Fuzer Street.</p> <p><b>A condition of approval is required to stipulate a 4 metres setbacks for building 1 and 2 facing Fuzer Street.</b></p>  |
| Phillip Precinct Map & Code  | R21 & C21       | <p>The proposed development is not consistent with R21 and failed to demonstrate compliance with C21, evidence is required to ensure compliance with either R21 or C21.</p> <p><b>A condition of approval is required to ensure that building 1 be modified to reduce the bulk scale and to further reduce the impact of overshadowing on adjacent development.</b></p>  |
| Phillip Precinct Map & Code  | C25             | <p>The proposed development is not consistent with C25, evidence is required to ensure compliance.</p> <p><b>A condition of approval is required to ensure building 1 be modified to the original design in term of facade and materials/colours elements and evidence must be provided to demonstrate all buildings meet the C25.</b></p>   |
| Phillip Precinct Map & Code  | C31             | <p>The proposed development is not consistent with C31, evidence is required to ensure compliance.</p> <p><b>A condition of approval is required to ensure that building 1 and 2 blank facades reduced.</b></p>  |
| Phillip Precinct Map & Code  | C32             | <p>The proposed development is not consistent with C32, evidence is required to ensure compliance.</p> <p><b>A condition of approval is required to that building 1 water meter location be changed to include retail facing the front street.</b></p>   |
| Phillip Precinct Map & Code  | C33             | <p>The proposed development is not consistent with R33 and failed to demonstrate compliance with C31, evidence is required to ensure compliance with either R31 or C31</p>   |

|   |           |   |
|---|-----------|---|
|   |           | A condition of approval is required to ensure that the building 1 be modified to reduce the bulk scale and to further reduce the impact of overshadowing on adjacent development.   |
| Multi Unit Housing Development Code (MUHDC) | C43       | There is no applicable rule. However, the applicant has failed to demonstrate, by supporting plans and written documentation, that the proposed development satisfies the applicable criterion C43. In particular the proposal does not provide clothes line area.<br>A condition of approval is required to demonstrate compliance and to show the area of clothes line and that the clothes line screened from public views.  |
| MUHDC                                       | C44       | A condition of approval that all letterboxes to meet Australia Post Standards.  |
| MUHDC                                       | R54       | A condition of approval is required to ensure that all adaptable dwellings must be designed to meet AS4299.   |
| MUHDC                                       | R58 & C58 | Not consistent with R58 and failed to demonstrate compliance with C58. Evidence is required to demonstrate compliance with either R58 or C58.<br>A condition of approval is required to provide evidence in the form of axonometric solar penetration showing compliance with either R58 or C58.  |
| MUHDC                                       | R61 & C61 | Not consistent with R61 and failed to demonstrate compliance with C61. Evidence is required to demonstrate compliance with C61 in particular that the POS receive reasonable solar access.<br>A condition of approval is required to ensure compliance with element d of the C61.   |
| MUHDC                                       | R64 & C64 | Not consistent with the R64 and failed to demonstrate compliance with C64 in particular clear glass balustrade will not provide privacy to the dwellings.<br>A condition of approval is required to ensure that all balconies facing public area and street façade to incorporate either obscure glazing balustrade or other screen devises.  |
| MUHDC                                       | R65 & C65 | Not consistent with the R65 and failed to demonstrate compliance with C65. All storage area must be allocated to the unit number and details of the enclosure must be provided.<br>A condition of approval is required to ensure that each dwelling has been allocated with storage area.   |
| MUHDC                                       | R67       | Not inconsistent with the R67.<br>A condition of approval is required to ensure compliance with the relevant Australian Standards. EPA support the proposal with conditions.  |
| MUHDC                                       | C67       | Not consistent with the C76.<br>A condition of approval is required to ensure that the slip lane must incorporate planting and pavement changes and be safe for pedestrian movements.   |
| Commercial Zone Development Code (CZDC)     | C3        | There is no applicable rule. However, the applicant has failed to demonstrate, by supporting plans and written documentation, that the proposed development satisfies the applicable criterion C3. In particular building 1 does not provide interesting functional and attractive facades.<br>A condition of approval is required to ensure that building 1 facade amended to reflect the other proposed buildings within the development and evidence must be provided to demonstrate that all building will not be reflective. |

|   |          |   |
|---|----------|---|
| CZDC                                    | C6       | <p>There is no applicable rule. However, the applicant has failed to demonstrate, by supporting plans and written documentation, that the proposed development satisfies the applicable criterion C6. In particular the new proposed above ground car parking must be provided with attractive facades.</p> <p>A condition of approval is required to provide revised plans showing an attractive/interesting wall façade.</p>  |
| CZDC                                    | C7       | <p>There is no applicable rule. However, the applicant has failed to demonstrate, by supporting plans and written documentation, that the proposed development satisfies the applicable criterion C7. In particular building 1 not consistent with element (d).</p> <p>A condition of approval is required to ensure that revised 3D perspective or elevations showing that all building provided revised plans showing an attractive/interesting wall facade such as colours, articulation, and materials selection and deep framing profiles.</p> |
| CZDC                                    | C9       | <p>There is no applicable rule. However, the applicant has failed to demonstrate, by supporting plans and written documentation, that the proposed development satisfies the applicable criterion C8. In particular an updated wind assessment report must be provided based on the new design.</p> <p>A condition of approval is required to ensure that an updated wind assessment report provided demonstrate compliance with C9</p>   |
| CZDC                                    | R10      | <p>The applicant has failed to demonstrate, by supporting plans and written documentation, that the proposed development satisfies R10. In particular an updated wind assessment report must be provided based on the new design.</p> <p>A condition of approval is required to ensure that an updated wind assessment report provided demonstrate compliance with R10</p>  |
| CZDC                                    | R11      | <p>The applicant has failed to demonstrate, by supporting plans and written documentation, that the proposed development satisfies R11.</p> <p>A condition of approval is required to ensure that all exhaust and ventilation systems must be installed and operated to comply with Australian Standard AS16681.1 The Use of Ventilation and Air-conditioning in Buildings.</p>   |
| CZDC                                    | C14      | <p>There is no applicable rule. However, the applicant has failed to demonstrate, by supporting plans and written documentation, that the proposed development satisfies the applicable criterion C14. In particular no justification has been provided to demonstrate compliance with C14.</p> <p>A condition of approval is required to ensure that a report is prepared by qualified landscape architect demonstrating compliance with all elements in C14.</p>  |
| CZDC                                    | R16      | <p>A condition of approval is required to ensure that all external lighting provided to building frontages, to all pathways, roads, laneway and car parking areas is in accordance with AS1158.3.1.</p>   |
| CZDC                                    | R17      | <p>A condition of approval is required to ensure that all external lighting provided in accordance with AS4282.</p>   |
| Access and Mobility General Code (AMGC) | R1       | <p>A condition of approval is required that revised plans showing compliance with AS2890.1</p>  |
| AMGC                                    | R2       | <p>A condition of approval is required that revised plans showing compliance with AS2890.6</p>  |
| AMGC                                    | R 3 & C3 |   |

|      |         |  |
|------|---------|--|
|      |         | A condition of approval is required that revised plans must be provided showing compliance with either R3 or C3.   |
| AMGC | R4 & C4 | A condition of approval is required to ensure that the internal lighting along the whole continuous accessible path of travel to comply with AS1680.0  |
| AMGC | R5 & C5 | A condition of approval is required to ensure that the external lighting along the whole continuous accessible path of travel to comply with AS1158.31.1                                     |
| AMGC | 8 & C8  | A condition of approval is required to ensure that the all doorways and doors are designed to meet AS1428.12 for pedestrian entrances and exits and public circulation and common use areas. |
| AMGC | R14 C14 | A condition of approval is required to ensure that passenger lifts meet AS1735.12  |

Further assessment documents, if any, can be found in the assessment file in Objective. Yes

|   |  |
|---|--|
| Is the proposal consistent with the relevant zone objectives: (s.120(a))  | The proposal is consistent with all zone objectives.<br>A lease variation is part of this proposal to include subdivision. |
| Is the proposal considered suitable for the land on which it is to take place: (s.120(b))   | Yes – Based on relevant legislation and the Territory Plan assessment, the proposal is considered suitable for the land    |
| Is an environmental significance opinion in force & relevant: (s.120(c))  | No known ESO applies   |
| What is the probable impact of the proposed development (including nature, extent and significance of probable environmental impacts): (s.120(g)) | No impacts identified to require amendment or refusal of the proposed development  |
| Is a <b>public land</b> management plan is in force over the land, (s.120(f))   | No   |

**Additional Information –IN FIRST 10 DAYS**

|   |  |  |
|---|--|--|
| Is further information required at this phase: (s.141 or s.144) | Yes - Enter details here of what is required (wording to be sufficient to be copied into development & an additional info request)<br>Itemise each issue per box<br>No   | Summarise response to issue raised here<br>Officer to identify themselves and date assessed. |
|   | Please provide revised plans in accordance with the following guidelines: (a) A site plan is required for all developments that propose physical works and should include: » the contours of the block (using Australian Height Datum) and proposed level changes (unless on another plan or not relevant) » boundaries of the site with bearings and distances » existing contours of the site and the adjoining verge (taken from a survey) » all easements on the land » location and identification of existing structures and trees, including tree canopies » location of proposed buildings and structures with dimensions to block boundaries » schedule of gross floor areas for the proposal including existing structures (if a separate area plan has not been provided) » driveway verge crossing details » where they can be reasonably determined, all existing reticulated services and associated infrastructure on the site » the location of street trees, foot paths, kerbs, storm water pits, street lighting and | Yes - Refer to the separate assessment.  |

|  |   |  |
|--|---|--|
|  | <p>other public assets in the verge adjacent to the site » the drip line of any street tree where a proposed driveway verge crossing encroaches within that drip line » the location of all proposed signs (if any); (b) A floor plan is required for all developments that propose construction of a building and should include: » a plan for each floor (including any trafficable subfloor areas if relevant) » dimensions » key to sections (cross referenced to relevant drawing and version number) » finished floor levels related to Australian Height Datum » schedule of gross floor area for each floor » Identification of the location of all adaptable dwellings (if relevant) » for proposals involving alterations or additions to an existing building, identification of the existing building » identification of all rooms (existing and proposed); (c) Elevations are required for all new buildings and structures and for any development that proposes changes to the exterior of any building or structure. Elevations should show: » dimensioned heights including overall height, related to Australian Height Datum » all proposed signs » proposed external materials referenced to a colour sample schedule » the finished floor level, ceiling height and finish ground level, related to Australian Height Datum » natural ground level » if the development does not meet a relevant rule for building or solar envelope, the extent of the encroachment must be shown on the elevations; and (d) Sections are required for all buildings and structures and should show: » finished floor levels » natural and finished ground levels related to Australian Height Datum » floor to ceiling heights » side and rear building envelopes » long section of any proposed basement ramp showing gradients » sections of any sub floor areas (if applicable).</p> |  |
|--|---|--|

Has the further information request been reviewed by the team lead and/or manager? Yes

Has an additional information request been made within 10 days of lodgement? Yes

**Additional Information –AFTER FIRST 10 DAYS**

|   |   |  |
|---|---|--|
| <b>Is further information required at this phase:</b><br>(s.141 or s.144) | <p>Yes - Enter details here of what is required (wording to be sufficient to be copied into development &amp; an additional info request)<br/>Itemise each issue per box<br/>No</p>   | Summarise response to issue raised here<br>Officer to identify themselves and date assessed. |
|   | (a) Please provide revised plans in accordance with the previous further information request; (b) Site plan must be to scale and must include contour, distance from boundaries etc; (c) Section and elevation must show a dashed natural ground level throughout the entire elevation/section  | Yes – refer to the separate assessment.  |
|   | Please address the following issues as part the further information request that was send earlier: (1) Woden Town Centre Precinct Code and Map (DV344); (2) R9 & C9, The proposed development is not consistent with R9 and failed to demonstrate compliance with C9, the subject site is located in category C. The maximum height is 12 storeys, although as per the C9 one building only may be increased to additional of four storeys which make it a total of 16 storeys. The proposal is for: Building 1 - 16 storeys Building 2 - 16 storeys Building 3 - 10 storeys Building 4 - 24 storeys All elevations and sections must include the natural ground level to ensure that the basement car parking is not a storey and changes must be made to the overall design to ensure that only one building increased to 16 storeys other than the marker building; (3) Not consistent with C11, refer to the shadow diagram that has been provided by the applicant. The shadow that will be cast by the 24 storey building will impact of the adjacent residential development upon 10:30am. Therefore the | Yes – refer to the separate assessment.  |

shadow is considered significant. (4) Not consistent with C18 and failed to comply with C18, evidence is required to demonstrate compliance, the setback distance to Fuzer Street is not sufficient to grow large canopy trees. (5) The proposed development is not consistent with R19 and failed to demonstrate compliance with C19, the overall building setback significantly encroaches into the stipulated setback. (6) The proposed development is not consistent with C23, evidence is required to ensure compliance. (7) Commercial Zones Development Code; (8) The proposed development is not consistent with C3, evidence is required to demonstrate that the curtain wall/glass panels will not be reflective; (9) The proposed development is not consistent with C7, evidence is required to demonstrate compliance with (b). (10) Not consistent with C9, the report does not address C9; (11) Not consistent with R10, evidence is required to demonstrate compliance with the report in regard to the open eating area and public realm; (12) Not consistent with C14, evidence is required to demonstrate that the soil depth above the basement and roof gardens will support the large size canopy tree; (13) Not consistent with R24, evidence is required; (14) Not consistent with R25, evidence is required; (15) Not consistent with R25, evidence is required; (16) Not consistent with R25, evidence is required; (17) Multi-Unit Housing Development Code; (18) Not consistent with the R39 and failed to demonstrate compliance with C39. Evidence is required to demonstrate compliance; (19) Not consistent with the C40, evidence is required to demonstrate compliance with C40 in particular that the depth of slab will be sufficient to hold trees of semi mature stock; (20) Not consistent with R42 and failed to demonstrate compliance with C42. Building 4 incorporate courtyard walls in front of dwelling. Planting must be provided in front of the walls; (21) Not consistent with C43, provide location of all mechanical services and clothes drying areas. These areas must be screened; (22) Not consistent with R54, 80 provided. The adaptable plans must include all essential feature and must list the relevant standards; (23) Not consistent with R58 and failed to demonstrate compliance with C58. Evidence is required to ensure that 70% of the apartments receive 3 hour solar access. In particular building 1; (24) Not consistent with R61 and failed to demonstrate compliance with C61. Evidence is required to demonstrate compliance with C61 in particular that the POS receive reasonable solar access; (25) Not consistent with the R64 and failed to demonstrate compliance with C64. Clear glass will not provide privacy to the dwellings; (26) Not consistent with the R65 and failed to demonstrate compliance with C65. All storage area must be allocated to the unit number and details of the enclosure must be provided; (27) Not consistent with the R65 and failed to demonstrate compliance with C65. All storage area must be allocated to the unit number and details of the enclosure must be provided; (28) Not inconsistent with the R73 and failed to demonstrate compliance with C73. The slip lane/internal driveway must be provided with planting; (29) Not consistent with the C76, the slip lane must incorporate planting and pavement changes and be safe for pedestrian movements; (30) The proposed description and supported documents illustrate that the proposal for 798 apartments, whereas the floor plans indicate 828 apartments and this must be corrected to reflect the description or changes to made which will require re notification with all relevant supported documents; (31) Evidence and plans is required to address the Access Consultant report/recommendations, in particular to the access path of travel etc. (32) All entities comments have been forwarded and all comments must be addressed to obtain their endorsement.

Has the further information request been reviewed by the team lead and/or manager? Yes

|  |   |
|--|---|
| Was a site inspection undertaken in the assessment stage:                            | Yes                                     |
| Have any issues been identified that would result in a refusal:                      | No                                      |
| Conditions required from initial review of application or Territory Plan assessment: | Conditions have been added to draft NOD |

### Completion

- A Stage 2 has been completed. The application is suitable for advancement (to the next assessment Stage). Any recommended conditions and/or advisory notes have been added to the draft Notice.

An email been sent to the DA Coordinator to advance DA to the next stage – Yes

If yes: DATE – 19/09/2018

|                     |                       |                   |
|---------------------|-----------------------|-------------------|
| Assessment officer: | Name – Walid Elhassan | Date – 19/09/2018 |
|---------------------|-----------------------|-------------------|

STAGE 3 – INFORMATION COLLECTION (ENTITIES – including EPSDD DA Leasing)

The DA was referred to the following Entities (or internal Sections) with the following response(s):

| Entity                           | Did the entity support the application?<br>Eg Yes, with conditions OR<br>No – additional info req'd | Assessment comments / Conditions required   |
|----------------------------------|---|---|
| The Conservator of Flora & Fauna | No  | <p>Comments 30/05/2018. Not supported.</p> <p>The DA is not supported as neither regulated Eucalypts 28, 29 or 33, fulfil any criteria for removal under the <i>Tree Protection Act 2005</i>. Those trees are of medium quality and could be considered for removal under the development Act.</p> <p>The other regulated trees do fulfil criteria for removal.</p> <p>Refer to Walid's assessment and MPRG minutes dated 23/07/2018.</p> |
| Evo Energy - Electricity         | No  | <p>Comments 21/05/2018. Failed to comply. Further information is required. Walid sent email on 21/05/2018 to Canberra Town Planning.</p> <p>Has been addressed by the S144E.</p>  |
| Evo Energy - Gas                 | No  | <p>Comments 13/08/2018. Failed to comply. Further information required.</p> <p>Has been addressed by the S144E.</p>   |
| ICON Water                       | No  | <p>Comments 21/05/2018. Failed to comply. Further information is required. Walid sent email on 21/05/2018 to Canberra Town Planning.</p>  |
| TCCS                             | No  | <p>Comments 29/05/2018. Further information is required.</p> <p><b>WASTE</b></p> <ol style="list-style-type: none"> <li><b>The 12.5m HRV turning template must indicate a 600mm clearance envelope on both sides of the vehicle. This should be</b></li> </ol>  |

|                              |     |   |
|------------------------------|-----|---|
|                              |     | <p>indicated in all drawings from C.20 through C.24.</p> <p>2. Drawing C.20 (Rev 2) indicates the wheel path of the waste vehicle encroaching into the landscaped verge. Please confirm wheel path and revise verge crossing to encompass the full vehicle movement.</p> <p>Refer to Walid's assessment and MPRG minutes dated 23/07/2018.</p>  |
| ESA (Emergency Services)     | yes | Comments 29/05/2018   |
| EPA (Environment Protection) | yes | Comments 22/05/2018. Conditions and advice have been included in the NOD.   |
| EPSDD DA Leasing             | Yes | <p>Comments 7/05/2018.</p> <p>Leasing manager requests further referral at stage 6.</p> <p><b>Purpose Clause Variation</b><br/> This development application seeks approval to vary the purpose clause 3(a) within the Crown lease to permit additional uses in the development. The proposed purpose clause is to read;<br/> Purpose 3. (a) <i>To use the premises only for the purpose of a club and commercial accommodation use LIMITED TO a hotel of not more than 120 rooms;</i><br/> (b) Community USE (excluding child care centre and hospital)<br/> (c) drink establishment<br/> (d) indoor recreation facility<br/> (e) NON RETAIL COMMERCIAL USE<br/> (f) RESIDENTIAL USE<br/> (g) restaurant<br/> (h) SHOP</p> <p><b>Gross Floor Area Variation</b><br/> This development application seeks to vary clause 3(e) GFA to;<br/> <i>Gross Floor Area (e) delete the existing clause.</i></p> |
| Strategic Planning           | No  | <p>Comments 4/06/2018. Further information is required.</p> <ul style="list-style-type: none"> <li>This proposal was presented to the interim National Capital Design Review Panel (NCDRP) in December 2017 and again on March 2018. The current advice by the NCDRP that was provided to the proponent on 21 March 2018 is attached for your information.</li> <li>While the NCDRP was generally supportive of the proposal, the NCDRP also encouraged the design team to continue to explore and develop the proposal in line with the recommendations and opportunities raised in the NCDRP advice, with a particular emphasis for consideration</li> </ul>  |

|   |     |  |
|---|-----|--|
|   |     | <p>of building separation, apartment design and layout, reducing overshadowing impacts within the site and to adjacent existing residential development, solar access to apartments and the function of the southern service lane.</p> <ul style="list-style-type: none"> <li>• Planning Policy Division shares the concerns raised by the NCDRP in regards to the level of overshadowing in the morning hours on to the adjacent Bellerive Retirement Village and it is unclear in the DA documentation that this has been addressed.</li> <li>• The potential overshadowing from the proposed development appears to be due to the location and building form at the upper levels (levels 18 to 23) of the marker building (stage 3, building 4). Planning Policy recommends that the building form of the upper floors of the marker building be modified to reduce the level of overshadowing on to the Bellerive Retirement Village, particularly between the morning hours of 9am and 10:30am.</li> <li>• Revised shadow diagrams will be required to demonstrate the level of potential overshadowing that will be reduced as a result of amendments to the design of the upper levels. Additionally, the proponent is also requested to provide a 3D massing model (sketchup file) of the proposal to allow for shadow analysis by EPSDD.</li> </ul> <p>Refer to Walid's assessment and MPRG minutes dated 23/07/2018.</p> |
| Water Policy                                | -   | No comments were provided.   |
| Deed Management                             | yes | Comments 7/06/2018. Deed Management have no comments to make on this DA  |
| <b>S141/S144: additional Entity advice:</b> |     |  |
| The Conservator of Flora & Fauna (S144E)    | No  | <p>Comments 24/08/2018. Further information required.</p> <p>The DA is not supported as regulated trees Eucalypts 28, 29 or 33, do not meet criteria for removal under the <i>Tree Protection Act 2005</i>. The three trees are of medium quality and could be considered for removal under the development Act.</p> <p>All other regulated trees do meet criteria under the <i>Tree Protection Act 2005</i> for removal.</p> <p>The MPRG supported the removal of trees. Refer to Walid's assessment and MPRG minutes dated 23/07/2018.</p>   |

|                    |                     |   |
|--------------------|---------------------|---|
|                    |                     |   |
| Evoenergy (S144E)  | Yes-with conditions | Evoenergy email 1 of 4 is missing from S144E Agency comments folder. Denise (Evoenergy) sent all four emails today (24/09/2018).<br><br>Conditional compliance 31/08/2018. Standard entity condition has been included in the NOD.  |
| Jemena Gas (S144E) | yes                 | Comments 31/08/2018. Conditional compliance. Standard entity condition has been included in the NOD.  |
| Icon Water (S144E) | NO                  | 20/08/2018 Failed to comply. S165 condition has been included in the NOD.   |
| TCCS (S144E)       | No                  | <p>Comments 7/09/2018. Further information required. S165 condition has been included in the NOD.</p> <p><b>PEDESTRIAN NETWORK</b></p> <ol style="list-style-type: none"> <li>1. The earlier submission of the DA had a shorter left-turn auxiliary lane off Melrose Drive which allowed a wider concrete footpath to be achieved within the Melrose Drive verge which improved Active Travel opportunities adjacent to the site. The extended left-turn length and additional planting proposed impacts on the achievable path width (reduced from 3.6m to 1.2m). Similarly, the path along Furzer St has reduced from approximately 4.0m to 1.8m. A 1.5m minimum width concrete footpath must be provided along both verges as per MIS05. It is noted that the development proposes paving treatment within the block boundary to tie in with the concrete verge path; however, the provision and maintenance of the verge path will remain a TCCS asset.</li> </ol> <p><b>VERGE / VERGE TREE</b></p> <ol style="list-style-type: none"> <li>2. Urban Treescapes require proposed trees to be planted a minimum of 1200mm from the kerb to avoid vehicular obstructions. The current plans provided must be updated as they appear to indicate an offset of 800mm from the kerb.</li> <li>3. The removal of trees numbered 2, 3, 4 and 5 are supported with the condition that these trees will be replaced and replanted in line with Design Standards for Urban Infrastructure.</li> <li>4. The proposed verge and on-site pavement treatment must consider and adhere to the draft Woden Town Centre landscape guidelines being prepared by the SLA. The SLA must be consulted regarding the implementation of this guideline prior to Design Review submission.</li> </ol> <p><b>TRAFFIC / PUBLIC TRANSPORT</b></p> |

|                                  |     |  |
|----------------------------------|-----|--|
|                                  |     | <p>5. The TIA provided does not appear to provide justification for the extended left-turn entry off Melrose Drive compared to the original submission. It is understood this is for both service vehicle and residents entry to the basement parking within the Stage 1 building; however, it is unclear why the primary access for both service vehicles and residents cannot be achieved off Furzer St, which TCCS would prefer. If this arrangement has been adequately covered by the Design Review Committee then TCCS would like to review this correspondence/justification.</p> <p>6. The signalisation of Launceston St/Irving St is currently proposed for upgrade by TCCS in the 18/19 financial year. This works will involve closure of the median fronting Furzer St which will alter the Launceston St/Furzer St intersection to a LILLO arrangement. Given the timing of this upgrade and its proximity to the subject site, this modified arrangement (as noted in Section 6.3 of the TIA) must be considered in the TIA. The feasibility study for this intersection upgrade is attached for reference – refer Option E for preferred upgrade option.</p> <p><b>WASTE</b></p> <p>7. A 12.5m truck turning template and vehicle profile must be provided to show the waste vehicle's position while collecting waste on-site. This includes updating vehicle profiles shown on the Waste Management Plans (C.21 through C.24) for buildings 1 – 4.</p> |
| ESA (Emergency Services) (S144E) | yes | Comments 27/08/2018.   |
| EPA (S144E)                      | yes | Comments 4/09/2018. Previously submitted comments stand.   |
| EPSDD DA Leasing (S144E)         | Yes | <p><b>Purpose Clause Variation</b><br/> This development application seeks approval to vary the purpose clause 3(a) within the Crown lease to permit additional uses in the development. The proposed purpose clause is to read;<br/> Purpose 3. (a) <i>To use the premises only for the purpose of a club and commercial accommodation use LIMITED TO a hotel of not more than 120 rooms;</i><br/> (b) Community USE (excluding child care centre and hospital)<br/> (c) drink establishment<br/> (d) indoor recreation facility<br/> (e) NON RETAIL COMMERCIAL USE<br/> (f) RESIDENTIAL USE<br/> (g) restaurant<br/> (h) SHOP</p> <p><b>Gross Floor Area Variation</b></p>   |

|                            |    |   |
|----------------------------|----|---|
|                            |    | <p>This development application seeks to vary clause 3(e) GFA to;<br/> <i>Gross Floor Area (e) delete the existing clause.</i></p> <p>Refer to previous comments 7/05/2018.</p> <p>Leasing manager requests further referral at stage 6.</p>  |
| Strategic Planning (S144E) | No | <p>Comments 28/08/2018. Further information required.</p> <ul style="list-style-type: none"> <li>• Planning Policy appreciates the level of amendments that have been made to the proposal to address the previous comments made by Planning Policy Division, particularly in regard to providing a greater level of access to sunlight to the adjacent Bellerive Retirement Village. As the tower building has now been relocated to the eastern side of the site, the level of sunlight provided to the Bellerive Retirement Village is now considered to be adequate to address Planning Policy’s previous concerns.</li> <li>• Planning Policy note that a large part of the ground floor use in each stage has been amended to include additional retail/commercial uses. Planning Policy considers that retail/commercial uses on the ground floor will positively contribute to the internal site walkways as an extension of the public domain. However, it is unclear if this level of retail/commercial uses could be supported in this location.</li> <li>• The unit that is nominated for ‘Community’ on the ground floor level of building 4 is considered to be a positive contribution to the proposal. However, Planning Policy notes that the location of this unit has been moved to face Melrose Drive and is considered to be a suboptimal location for this use. The proponent is encouraged to relocate the ‘Community’ unit to a different ground floor location within the development site, where there is more easily accessed for people using the facility and to a location that it is highly visible from the lower order streets (Launceston and Furzer Streets).</li> <li>• The proposed building facing Melrose Drive is still considered by Planning Policy to provide a repetitive presentation to Melrose Drive that reads as a single large building mass. While the building form is supported (stepping back above 12 storeys and the ‘cut out’ in the middle of the façade), the building façade treatments and material selection could provide a greater</li> </ul> |

|                         |     |  |
|-------------------------|-----|--|
|                         |     | <p>level of diversity to further break up the appearance of the building bulk fronting onto Melrose Drive.</p> <ul style="list-style-type: none"> <li>Furzer Street frontage (stage 1 building) - Planning Policy requests that the Furzer Street ground floor frontage be amended to include a glazed façade to the ground floor retail unit and that the blank walls be minimised and be provided with either a textured finish or incorporate public art to these locations.</li> </ul> |
| Water Policy (S144E)    | No  | <p>Comments 13/08/2018. Further information required.</p> <p>I am unable to locate the plan "C 30" mentioned in the Water Sensitive Urban Design information submitted.</p> <p>The plans show the installation of SPEL products to treat the water quality and refer to plan C 30 for the MUSIC results.</p> <p>This is the information I will need to make an assessment.</p>   |
| Deed Management (S144E) | yes | Comments 6/09/2018. Deed Management have no comments to make on this proposed amendment.   |

#### LRP/MPRG

|   |   |
|---|---|
| Does any Entity advice received trigger referral to either the LRP or MPRG: | Yes (Refer to MPRG dated 23/07/2018).   |
|   | DA was presented to MPRG because proposal received 30 or more representations.  |
|   | if yes, which Entity  |
|   | <p>If yes;</p> <p>An email has been sent to the DA Coordinator to book the DA in for MPRG/ LRP – Yes/No</p> <p>Date Sent:</p> |

|   |  |
|---|--|
| Does any entity advice received mean the application must be refused: | Refer to Walid's assessment and MPRG minutes dated 23/07/2018. Entities that have not supported the DA have been addressed with conditions in the NOD. |
| Conditions required from entity advice:                               | Entered in draft NoD: Yes  |

#### Final

|  |                         |
|--|-------------------------|
| Has the entity advice received on this application been considered: (s.120(e))             | Yes, see summary above. |
| An <i>alias</i> of the Utility Entity advice has been moved into the approved plans folder | Yes                     |

A Stage 3 has been completed with the following issues noted...

- Conditions as recommended by Entities entered into draft NoD
- MPRG/LRP advice going against Entity advice considered (discuss)

An email been sent to the DA Coordinator to advance DA to the next stage – Yes

If yes: DATE – 24/09/2018

Assessment officer:

Name Phab Vetsavong

Date 24/09/2019

## STAGE 4 – ISSUES CONSIDERATION (REPRESENTATIONS)

109 representations were made in respect of the application under section 156 of the *Planning and Development Act 2007*. All representations have been read and considered, and a summary of key concerns / issues can be found below: [s144 amendment proposal](#)

7 representations were received for s144 amendment proposal.

| Area of concern / issue                         | Assessing officer response  |
|---|---|
| Height of the development                       | Heights modified in s144.<br>Addressed in assessment to impose a condition to reduce building 4 to 12 storeys   |
| Setback distances to building 1                 | Addressed in the assessment to impose a condition to increase the setback distances for building 1 and 2  |
| Overshadowing                                   | The s144 development overshadows some east facing dwellings of Bellerive apartment between 9am and 10am. A condition is imposed to reduce the building 4 height to 12 storeys. with the reduction, the shadows will be further reduced and is not considered to significantly impact on the existing solar access of nearest Bellerive apartment. |
| Materials, façade treatment and reflectivity    | Addressed in the assessment to impose a condition to revise the façade treatment and demonstrate reflectivity of the materials used   |
| Density   | There are no restrictions on density. The development is restricted by setbacks, heights, parking and dwelling sizes  |
| Solar access                                    | Indicated the dwellings that receive solar access. However a condition is imposed to demonstrate through a 3D diagram.  |
| Street elevations                               | Addressed in the assessment to impose a condition to improve the elevations of buildings  |
| Noise impact due to waste loading and unloading | NMP condition imposed as per EPA requirement  |
| Fire safety                                     | Application was referred to ESA. ESA supported with further advice. A copy of their advice will be forwarded to the applicant   |
| Noise and dust during construction              | EPA conditions imposed.   |
| Parking<br>Traffic and                          | Assessment stage has passed the parking numbers.<br>TCCS has sought information regarding traffic. A condition is imposed to address those issues.  |
| Inadequate Community consultation               | Community consultation is done and a report submitted. Authority does not monitor the consultation process. However, the application was notified   |
| Lack of infrastructure                          | All entities support except TCCS, ICON Water and EVO Energy Gas networks. Conditions are imposed to provide further information to the satisfaction of the relevant entity and submit their endorsements to the authority.  |
| Impact on opposite pool                         | Approximately 35m between the boundaries of the two blocks. Between the pool and grass bank, and the nearest building is approximately 50m. The spatial separation is considered sufficient to protect the amenity of the pool.   |
| Visual impact                                   | As part of the assessment the proposed height was modified.<br>A condition is imposed to further reduce the height of building 4 to 12 storeys and to reduce the bulk and scale.<br>Condition is imposed to revise the front façade of building 1 and <b>to reduce the blank façade of building 1 and 2 facing Furzer Street</b>                  |
|   |   |
|   |   |

|   |    |  |
|---|----|--|
| Do any issues raised in representations require a further information request: (s.141 or 144) | No |  |
| Do any issues raised in representations mean the application must be refused:                 | NO |  |

|  |  |  |
|--|--|--|
| Response required from assessment of representations :   | A response to the representation issues has been included in the draft NoD   |  |
| Have representations made on this application been considered in the assessment of this proposal: (s.120(d)) | Yes, see assessment above.   |  |
| Do any representations trigger a referral to MPRG or LRP?  | <p>Yes. The number of representations received trigger a referral to MPRG. The main concerns raised were regarding the height of the development and overshadowing on Bellerive apartments.</p> <p>The s144 application was referred to MPRG during assessment stage. MPRG supported the modified design. Further, a condition is imposed to reduce the Building 4 height to 12 storeys.</p> |  |
| Was a site inspection undertaken in this stage:  | No   |  |

|  |     |
|--|-----|
| Has the draft NoD been updated: <ul style="list-style-type: none"> <li>• When the DA takes effect</li> <li>• When appeal period starts</li> </ul> In response to representations (whether received or not) | Yes |
| Do third party appeal rights apply?  | No  |

#### Completion

|  |                    |                |
|--|--------------------|----------------|
| <p>Stage 4 has been completed with no issues identified.</p> <p>A Stage 4 has been completed with the following issues noted:</p> <ul style="list-style-type: none"> <li>• Issues raised by representations have been addressed in the draft NoD.</li> </ul> <p>An email been sent to the DA Coordinator to advance DA to the next stage – Yes</p> <p>If yes: DATE -</p> |                    |                |
| Assessment officer:  | Name Thara Boraiah | Date 26 9 2018 |



STAGE 5 – RELEVANT CONSIDERATIONS (MPRG/LRP)

|   |   |
|---|---|
| Are there any Stage 1-4 reasons for referral to LRP, MPRG, Other? | Yes – see below<br>No - Delete all cells below in this stage other than sign off<br><br>If yes, what date is the proposal booked into MPRG/LRP: |
|---|---|

LRP / MPRG

The DA was presented to **LRP/ MPRG** on DATE and is summarised as follows:

| Area of concern / issue | Recommendation / |
|-------------------------|------------------|
|                         |                  |
|                         |                  |
|                         |                  |
|                         |                  |

|                  |   |                              |
|------------------|---|------------------------------|
| LRP/MPRG outcome | Supported as recommended<br>Or<br>Is supported subject to further information being received<br>Or<br>Supported contrary to entity advice<br>Or<br>Not supported<br>Or<br>To be reconsidered at next meeting<br><br>The NOD has been updated to reflect the MPRG/LRP outcome:<br>Yes/No | LRP/MPRG Officer<br><br>DATE |
|------------------|---|------------------------------|

|   |   |  |
|---|---|--|
| Is further information required at this phase: (s.141 or s.144) | Yes - Enter details here of what is required (wording to be sufficient to be copied into edevelopment & an additional info request)<br>Itemise each issue per box<br>No | Summarise response to issue raised here<br>Officer to identify themselves and date assessed. |
|   | List of additional items  |  |
|   | List of additional items  |  |
|   | List of additional items  |  |
|   | List of additional items  |  |

Has the further information request been reviewed by the manager? Yes/ No

**Note: must be reviewed prior to being requested**

Has an email been sent to the DA Coordinator to request further information? Yes/ No

|                                      |  |
|--------------------------------------|--|
| Are there minutes saved in Objective | Yes –<br>No - Discuss                        |
| Stage 5 assessment officer:          | Name <span style="float: right;">Date</span> |

An email been sent to the DA Coordinator to advance DA to the next stage – Yes/No

If yes: DATE -



## STAGE 6 – RECOMMENDED DETERMINATION OF PROPOSAL

|   |   |          |
|---|---|----------|
| Have all previous Stages (1-4) been signed off recommending approval?                               | Yes /<br>No – Discuss   |          |
| Was the DA referred to LRP or MPRG  | Yes – the advice of the <b>LRP/MPRG</b> is noted and considered in making the decision<br>No                |          |
| Has the leasing manager requested to be referred during the decision stage (see stage 3 assessment) | Yes/ No<br><br>If yes, an email was sent to the DA Coordinator for DA Leasing referral:<br>Yes/ No<br>Date: |          |
| Has leasing advice been incorporated into the decision:   | Yes / No / NA   |          |
| Is a site inspection required to make a decision:   | Yes/ No<br><br>If yes; photos and details have been put in the objective folder: Yes/ No                    |          |
| Has the notice of decision been finalised:  | Recommended reasons for decision:   | Yes / No |
|   | Recommended conditions:   | Yes / No |
|   | Entity advice:  | Yes / No |
|   | Representations:  | Yes / No |
|   | Checked third party appeal rights:  | Yes / No |
| The application is recommended to be:   | Approved / approved with conditions / refused   |          |

|   |          |
|---|----------|
| Has a conflict of interest been declared? - <i>If Yes, the proposal must be Peer Reviewed by Stage 6 officer (without potential conflict) and Signed/determined by a Senior manager</i> | Yes / No |
| Does the determining officer have the correct classification to make the decision?<br><i>Refer to Classification Matrix</i>   | Yes / No |

|   |  |                 |  |       |  |
|---|--|-----------------|--|-------|--|
| <b>Peer review</b> <i>To be completed ONLY IF the delegate (determining officer) undertook another stage in the assessment.</i> |  |                 |  |       |  |
| Reviewing officer name:   |  | Classification: |  | Date: |  |

|   |          |
|---|----------|
| Has the Notice of Decision been scanned and sent to customer services?<br>PLEASE NOTE: THE SUBJECT OF THE SCANNED DOCUMENT TO CS SHOULD INCLUDE THE DA NUMBER | Yes / No |
|---|----------|

An email been sent to the DA Coordinator indicate completion of DA – Yes/No      If yes: DATE –

### Sign Off

|                                 |   |       |
|---------------------------------|---|-------|
| Determination:                  | In my findings, I have considered the advice and recommendations received by the officers who undertook stages 1-5 in this assessment document and determine that the application is to be: | Date: |
|                                 | Approved  |       |
|                                 | Approved subject to conditions consistent with the above assessment   |       |
|                                 | Refused consistent with the above assessment  |       |
|                                 | OTHER/COMMENTS:   |       |
| Determining officer & Delegate: | Name:   | Date  |

### Post Determination

|  |     |   |
|--|-----|---|
| Can stamped plans be released with decision? | Yes | – Stage 6 officer to stamp  |
|  | No  | - S165 Conditions required to be satisfied<br>- Leasing conditions to be satisfied<br>- 3 <sup>rd</sup> party appeals<br>- Other (expand) |



|                                     |  |                            |                  |
|-------------------------------------|--|----------------------------|------------------|
| <b>Block/s:</b>                     | 17   | <b>Agenda Item:</b>        | From Coordinator |
| <b>Section:</b>                     | 3  | <b>Date:</b>               | 23/07/2018       |
| <b>Suburb:</b>                      | PHILLIP  | <b>DA Number:</b>          | 201833492        |
| <b>Zone:</b>                        | CZ2 BUSINESS ZONE  | <b>Address:</b>            | 6 FURZER STREET  |
| <b>Representations:</b>             | 109  | <b>Assessment officer:</b> | Walid Elhassan   |
| <b>Cleared by:</b>                  | Senior Manager, Merit Assessment   |                            |                  |
| <b>Proposal :</b>                   | <p><b>Redevelopment of the former Woden Tradesmen's Union Club and hotel comprising:</b></p> <p><b>(a) a variation to the Crown lease by:</b></p> <ul style="list-style-type: none"><li>• to permit mixed use development including the addition of 'RESIDENTIAL USE'; and</li><li>• deletion of maximum GFA and basement clauses.</li></ul> <p><b>(b) the demolition of existing buildings and associated structures;</b></p> <p><b>(c) the construction of 4 separate mixed use buildings ranging in height from 10 to 24 storeys. In summary the proposal contains:</b></p> <ul style="list-style-type: none"><li>• 798 residential apartments;</li><li>• Retail and commercial uses;</li><li>• Community use;</li><li>• Four levels of basement car parking; and</li><li>• Landscape public open spaces.</li></ul> <p><b>(d) associated works include a new slip lane off Melrose Drive to the subject block, landscaping within the site.</b></p> |                            |                  |
| <b>Additional members required:</b> | Adam Azzopardi, Ben Riches   |                            |                  |
| <b>Reason for seeking advice:</b>   | Proposal received 30 or more representations   |                            |                  |

A copy of the development application for this proposal and assessment documents can be found in the Objective file DA201731224.

#### KEY ISSUES FOR DISCUSSION

- Overshadowing on Bellerive
- Built form & buildings height
- External colours
- Regulated trees
- Noise
- Solar Access
- Building interface
- Slip lane
- Landscaping



## ENTITY ADVICE RELEVANT TO DISCUSSION

The Conservator of Flora & Fauna has not supported the proposed removal of Eucalypts 28, 29 or 33, fulfil any criteria for removal under the Tree Protection Act 2005.

Those trees are of medium quality and could be considered for removal under the development Act. The other regulated trees do fulfil criteria for removal.

TCCSD has not supported the proposed development because the 12.5m HRV turning template must indicate a 600mm clearance envelope on both sides of the vehicle. This should be indicated in all drawings from C.20 through C.24 and drawing C.20 (Rev 2) indicates the wheel path of the waste vehicle encroaching into the landscaped verge. Please confirm wheel path and revise verge crossing to encompass the full vehicle movement.

Strategic Planning has not supported the development for the following reasons:

- This proposal was presented to the interim National Capital Design Review Panel (NCDRP) in December 2017 and again on March 2018. The current advice by the NCDRP that was provided to the proponent on 21 March 2018 is attached for your information.
- While the NCDRP was generally supportive of the proposal, the NCDRP also encouraged the design team to continue to explore and develop the proposal in line with the recommendations and opportunities raised in the NCDRP advice, with a particular emphasis for consideration of building separation, apartment design and layout, reducing overshadowing impacts within the site and to adjacent existing residential development, solar access to apartments and the function of the southern service lane.
- Planning Policy Division shares the concerns raised by the NCDRP in regards to the level of overshadowing in the morning hours on to the adjacent Bellerive Retirement Village and it is unclear in the DA documentation that this has been addressed.
- The potential overshadowing from the proposed development appears to be due to the location and building form at the upper levels (levels 18 to 23) of the marker building (stage 3, building 4). Planning Policy recommends that the building form of the upper floors of the marker building be modified to reduce the level of overshadowing on to the Bellerive Retirement Village, particularly between the morning hours of 9am and 10:30am.
- Revised shadow diagrams will be required to demonstrate the level of potential overshadowing that will be reduced as a result of amendments to the design of the upper levels. Additionally, the proponent is also requested to provide a 3D massing model (sketchup file) of the proposal to allow for shadow analysis by EPSDD.

Evoenergy has not supported the proposal and further information is required.

Icon Water has not supported the proposal and further information is required.

## **SUMMARY OF REPRESENTATIONS** (list key concerns only)

- **Excessive bulk & scale – exceeds permissible building height**
- **Inappropriate built form does not promote attractive streetscape nor fits in with existing character**
- **Impact on residential amenity, excessive lighting, loss of views, impact on property values, construction impacts including noise.**
- **Traffic & on street parking pressure**
- **External colours too dark & do not fit in with existing buildings**

## **OPTIONS**

The planning and land authority is responsible for determining the application and has the following options:

- (e) Approve the application
- (f) Approve the application with conditions
- (g) Remit the application back to the applicant
- (h) Refuse the application
- (i) Other.

## **RECOMMENDATION**

It is recommended that the MPRG support the proposal with conditions.

## MPRG MINUTES

|  |   |               |                 |
|--|---|---------------|-----------------|
| <b>Minutes taken by:</b>                                     | Chris Gell  | <b>Chair:</b> | George Cilliers |
| <b>Conflicts of Interest:</b>                                | None declared   |               |                 |
| <b>Members present:</b>                                      | Helen McKeown, Ben Riches, Rumana Jamaly, George Cilliers, Adam Azzopardi, Jeff Bell, Chris Gell, Walid Elhassan  |               |                 |
| <b>MPRG Advice:</b>  | <p>MPRG recognised the significant improvements to both the scale of Building 4 and the resultant overshadowing to the Bellerive development.</p> <p>Following a detailed consideration of the 3D model provided by the applicant and the overshadowing impacts, MPRG formed a view that the overshadowing of Bellerive would benefit from a partial reduction of the 16 storey component of building 4. An example could be to terrace the building from 16 storeys down to 12 storeys on the northern side of the building with integrated landscaped roof terraces. Note the further reduction in height would be subject to further assessment.</p> <p>It was noted that Bellerive was approved on basis that the units achieve access to 3 hrs of sunlight and that maintaining this as far as possible to the central of the three lower buildings (St Clair) would be preferable.</p> <p>MPRG also considered the application to remove regulated trees to the south side of the block, which was against the advice of the Conservator. MPRG support the removal of these five regulated trees on planning grounds.</p> |               |                 |
| <b>Matters to be noted or actioned from MPRG discussion:</b> | <p>It is suggested the applicant provide a sketch concept plan of any proposed changes for further consideration prior to submitting the amendment application. It was considered that the proposal did not require to be resubmitted to the MPRG if it is consistent with the revised concept, to the discretion of the delegate.</p>  |               |                 |
| <b>Date minutes cleared:</b>                                 | 23/07/2018  |               |                 |
| <b>Cleared by:</b>   | Senior Manager, Merit Assessment  |               |                 |
| <b>Is the decision to undergo quality assurance?</b>         | No  |               |                 |



# Notice of decision on Reconsideration

Division 7.3.10 of the *Planning and Development Act 2007*

|  |  |                 |
|--|--|-----------------|
| DA NO: 201833492   | DATE RECONSIDERATION LODGED: 6 December 2018 |                 |
| DATE OF DECISION: 06 February 2019                               |  |                 |
| BLOCK: 17  | SECTION: 3                                   | SUBURB: PHILLIP |
| STREET NO AND NAME: 1 Launceston Street, 6 Furzer Street Phillip |  |                 |
| APPLICANT: Geocon Development Holdings Pty Ltd                   |  |                 |
| Lessee: Ng Woden Pty Limited                                     |  |                 |

## THE APPLICATION

This application seeks reconsideration of the decision by the planning and land authority of 28 September 2018 to impose the conditions of approval set out in the Notice of Decision. The application seeks reconsideration of conditions:

- 1(b)(i), in regards to the number of stories of Building 4;
- 1(b)(ii), in regards to bulk and scale of Building 4;
- 1(b)(iii), in regards to Building 1 and 2 Fuzer Street setbacks;
- 1(b)(iv), in regards to Building 1's façade;
- 1(c)(i-iv), in regards to Icon Water requirements; and
- 2(c)(i), in regards to timing of the Stratum subdivision.

## THE DECISION

I, Brett Phillips, delegate of the planning and land authority, pursuant to section 193 of the *Planning and Development Act 2007*, hereby **confirm the original decision** of the planning and land authority dated 28 September 2018.

## PUBLIC NOTIFICATION

Pursuant to Division 7.3.10 of the Act, written notice of the reconsideration application was given to anyone who made representation under section 156 about the original application on 10 December 2018 to 1 February 2019. Fifty eight (58) written representations were received during the time allowed.

The main issues raised are summarised as follows:

- (a) *Overshadowing*
- (b) *Height and height limits, shape and bulk and scale of building(s)*
- (c) *Solar Access and sustainable development*
- (d) *Green Spaces / building spacing*
- (e) *Population density / Make up of dwellings (including number of bedrooms) / Social amenity and infrastructure/ overdevelopment of the area/site / comparison to other projects/buildings*
- (f) *Character / appropriate bulk and scale / Woden Town Centre Master Plan / Phillip Precinct Code*
- (g) *Façade and marker building presentation*
- (h) *Traffic impacts, pedestrian movement; congestion, public transport, parking*
- (i) *Concern for previous consultations and process*
- (j) *Consistency of information*
- (k) *Utility capacity*

- (l) *Building quality issues*
- (m) *Comments about the developer*
- (n) *Territory Plan compliance*
- (o) *DA approval compliance/Conditions be retained/DA & reconsideration process*
- (p) *Lease fees*
- (q) *Conditions of approval*
- (r) *Demolition/construction impacts*
- (s) *Wind*
- (t) *History of planning and other decisions*
- (u) *Noise*
- (v) *Dust,*
- (w) *Views and overlooking*
- (x) *Timing of the application and notification / application process*
- (y) *Prioritise community over developer/ACTPLA independence*
- (z) *Quality of life for residents*
- (aa) *Previous submission(s)*
- (bb) *Difficulty finding information / quality/accuracy of information*
- (cc) *Not convinced by arguments of application*
- (dd) *Tree protection*
- (ee) *Sufficient setback and path width for users (including bicycles)*
- (ff) *Two previous petitions*
- (gg) *Copy of other representations*
- (hh) *Public housing*

#### **ENTITY ADVICE**

The reconsideration application was referred to entities and advice was received. The referral entities' comments are as follows. A response to the advice is provided as appropriate.

#### **CONSERVATOR OF FLORA AND FAUNA**

On 21 December 2018, the Conservator of Flora and Fauna advised that their previous advice remains. It is noted that the previous advice did not support the proposal.

The advice is noted and taken into consideration.

#### **TRANSPORT CANBERRA AND CITY SERVICES**

Transport Canberra and City Services did not provide advice in regards to the reconsideration application by the decision date. The non-response within time and previous TCCS advice has been taken into consideration.

#### **EVOENERGY**

On 20 December 2018, Evoenergy advised that the proposal had been assessed for compliance with their electricity network and conditionally complies with their electricity networks requirements. .

The advice is noted and taken into consideration.

### JEMENA

On 10 December 2018, Jemena advised that the proposal had been assessed by Evoenergy and conditionally complies with their gas networks requirements.

The advice is noted and taken into consideration.

### ICON WATER

On 21 December 2018, Icon responded to their referral with plans stamped by Icon as "Fails to comply".

The advice is noted and taken into consideration.

## **REASONS FOR THE DECISION**

The original decision was confirmed because:

- a) a review of the information available when the original decision was made disclosed no grounds that would support a change in the conditions of approval;
- b) the information provided by the applicant in the application for reconsideration provided no grounds for a change in the conditions of approval;
- c) of matters raised in representations.

## **INSPECTION OF THE APPLICATION AND DECISION**

A copy of the application and the decision can be inspected between 8:30am and 4:30pm weekdays at the Environment and Planning Dickson Customer Service Centre at 16 Challis Street, Dickson, ACT.

## **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 Regulations 2008* – Matters exempt from third-party ACAT review.

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

## **EVIDENCE**

|                          |   |
|--------------------------|---|
| Development Application: | DA201833492 and associated reconsideration application                    |
| Territory Plan Zones:    | CZ2 – Business Zone   |
| Development Codes:       | Commercial Zones Development Code<br>Multi - Unit Housing Code            |
| Precinct Code:           | Phillip Precinct Code and Map   |
| Crown Lease:             | Volume 2312 and Folio 7   |
| Entity advice:           | Icon Water, Evoenergy, Jemena, -EPA, ESA, Conservator of Flora and Fauna. |

## DELEGATE



Brett Phillips  
Delegate of the planning and land authority  
Environment and Planning Directorate

6 February 2019

# APPENDIX 1

## REVIEW OF THE DECISION

The following notes are provided in accordance with regulation 7 of the *ACT Civil and Administrative Tribunal Regulation 2008*. 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 Appeals Tribunal (ACAT).

| Location  | Contact details  |
|---|--|
| ACT Civil and Administrative Tribunal<br>Level 4, 1 Moore Street<br>(the Health building)<br>CANBERRA CITY ACT 2601 | Website: <a href="http://www.acat.act.gov.au">www.acat.act.gov.au</a><br>Email: <a href="mailto:tribunal@act.gov.au">tribunal@act.gov.au</a><br>Telephone: (02) 6207 1740<br>Facsimile: (02) 6205 4855<br>Post: GPO Box 370, CANBERRA, ACT, 2601<br>Document exchange: DX 5691 |

## POWERS OF THE ACAT

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

## APPLICATIONS TO THE ACAT

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

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

### **TIME LIMITS FOR APPLICATIONS**

The time limit to make a request for a review is 28 days from receiving this Notice of decision. The time limit can be extended in some circumstances. Check with the ACAT for more details.

### **FEES**

Applications to the ACAT, including an application to be joined as a party to a proceeding, require payment of a fee of not less than \$178 (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 Director General, 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 Director General, 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; and
- Welfare Rights and Legal Centre, telephone (02) 6247 2177.

### **AWARDING OF COSTS**

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

### **ACCESS TO DOCUMENTS ABOUT THE DECISION**

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

### **PROCEDURES OF THE ACAT**

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

### TRANSLATION AND INTERPRETER SERVICES

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

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

### TRANSLATING AND INTERPRETING SERVICE

**131 450**

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



## NOTICE OF DECISION

Made under part 7 of the *Planning and Development Act 2007*

I, George Cilliers, delegate of the planning and land authority, pursuant to section 162 of the *Planning and Development Act 2007*, hereby **approve subject to conditions**, the proposal for:

- demolition of existing buildings and associated structures;
- construction of a mixed use development comprised of four buildings ranging in height from 12 to 24 storeys (comprising approximately 800 apartments, ground floor retail and commercial space, and approximately 1160 car parking spaces in basements and above ground level);
- provision of ground floor landscaped public open spaces;
- a variation to the Crown lease purpose clause to:
  - add the following uses: community use (excluding child care centre and hospital); drink establishment; indoor recreation facility; non retail commercial use; residential use LIMITED to multi-unit housing; restaurant; and shop;
  - delete clause 3(e) to remove the restriction on the maximum gross floor area of the building;
  - delete clause 3(g) to remove the restriction on basement use; and
- subdivision of Block 17 Section 3 Division of Phillip into 5 leases containing numerous stratum parcels

in accordance with the plans, drawings and other documentation approved and endorsed as forming part of this approval and substantially in accordance with the draft Crown leases at Attachments 2,3, 4, 5 and 6.

|                        |                                 |
|------------------------|---------------------------------|
| DA Number:             | 201833492                       |
| Block:                 | 17                              |
| Section:               | 3                               |
| Suburb:                | Phillip                         |
| Address:               | 1 Launceston Street             |
| Application lodged:    | 30 April 2018                   |
| Assessment track:      | Merit                           |
| Approval takes effect: | Upon satisfaction of conditions |

## NOTICE OF DECISION

DA 201833492

This decision contains the following information:

Part A – conditions of approval

Part B– reasons for the Decision

Part C – entity advice

Attachment 1 – administrative information

*A copy of the development application and this approval may be inspected at the planning and land authority's office from 8.30 am to 4.30 pm, Monday to Friday at 16 Challis Street, Dickson, ACT 2602*

Contact: Chris Gell  
Email: [chris.gell@act.gov.au](mailto:chris.gell@act.gov.au)  
Phone: 6207 2642



**George Cilliers**

Delegate of the planning and land authority

28/09/2018

## NOTICE OF DECISION

DA 201833492

### PART A – CONDITIONS OF APPROVAL

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

#### 1. FURTHER INFORMATION

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

- (a) documents outlining how the Crown lease purpose clause is to be divided amongst the resulting Crown leases over the subdivided blocks;
- (b) a revised site plan, landscape plan and architectural drawings, and other revised documentation based on the relevant documentation/drawings submitted as part of the application, showing:
  - (i) Building 4 reduced from a 16 storey height to 12 storeys and to be terraced at upper levels with improved façade articulation to the satisfaction of the planning and land authority;
  - (ii) Building 4 to be modified to reduce its bulk and scale to the satisfaction of the planning and land authority;

Note: In responding to this condition further evidence is required to demonstrating compliance with either Rule 21 or Criteria 21 of the *Phillip Precinct Map and Code (PPMC)*

- (iii) the upper level building setback to the Fuzer Street boundary of Buildings 1 & 2 at a minimum of 4 meters;
- (iv) the façade of Building 1 to be modified to reflect the original façade design of the building to the satisfaction of the planning and land authority;

Note: In responding to this condition further evidence is also required to demonstrate compliance of materials/colours with Criterion 25 of the PPMC;

- (v) the extent of blank walls facing Furzer Street to Buildings 1 and 2 reduced to the satisfaction of the planning and land authority;

Note: This could involve relocating utility infrastructure to front onto the service lane.

- (vi) landscape treatment to the Building 1 recess fronting Furzer Street to the satisfaction of the planning and land authority;
- (vii) clothesline locations and clotheslines and all mechanical equipment such as air conditioners are screened from public view to the satisfaction of the planning and land authority;

## NOTICE OF DECISION

DA 201833492

- (viii) axonometric diagrams indicating solar penetration into apartments to the satisfaction of the planning and land authority;

Note: In responding to this condition further evidence is also required to demonstrate compliance of with Rule/Criterion 58 of the Multi Unit Housing Development Code.

- (ix) all balcony balustrades facing any street to be obscure up to the third floor level;
- (x) the location of each dwelling storage area and that the area be numbered in accordance with the corresponding apartment numbers;
- (xi) the wind assessment report must be updated to reflect the revised design;

Note: In responding to this condition further evidence is also required to demonstrate compliance with Criteria 9 and Rule 10 of the *Commercial Zones Development Code (CZDC)*.

- (xii) an appropriate level of landscaping into the service lane area and provide a change in surface treatment to the service lane behind the substation to accommodate pedestrians, to the satisfaction of the planning and land authority;
- (xiii) improved pedestrian access at the south of Building 4 to ensure safe pedestrian access from Melrose Drive to the public space of the development to the satisfaction of the planning and land authority;
- (xiv) the corridors of Building 1 and 4 redesigned to reduce the impact of the straight, long spaces to the satisfaction of the planning and land authority;
- (xv) evidence that building façade materials are non-reflective;
- (xvi) all exhaust and ventilation systems installed to comply with Australian Standard *AS16681 'The Use of Ventilation and Air-conditioning in Buildings'* when operated;
- (xvii) updated landscape report ;

Note: In responding to this condition further evidence may be required to demonstrate compliance with Criterion 14 of the *Commercial Zones Development Code (CZDC)*.

- (xviii) all external lighting provided in accordance with Australian Standards AS1158.3.1 and AS4282;
- (xix) revised plans provided to satisfy condition 1(b) must demonstrate compliance with the *Access and Mobility General Code*, particularly element R1, R2, R3, R4, R5, R8 and R14;
- (xx) all adaptable dwellings must be designed to comply with AS4299;

Note: In responding to this condition further evidence may be required to demonstrate this.

- (xxi) letter box areas and locations to comply with Australian Post Standards;

## NOTICE OF DECISION

DA 201833492

- (c) a revised site plan, landscape plan and architectural drawings, are to address the Icon Water "failed to comply" statement dated 20 August 2018
- (i) *Adequate equipment access has not been provided to permit Icon Water to maintain, repair or replace network assets as is required under section 124 of the Utilities Act.*
  - (ii) *Resubmit with basement plans.*
  - (iii) *Resubmit with cross-sections.*
  - (iv) *Provide the following before a Building Approval can be issued: Basement wall/footing structural details including shoring, excavation method and soil nails/rock anchors to demonstrate how Icon Water assets are protected during excavation, construction and future servicing. Access to sewer tie. Any departure from current rules to be negotiated with Icon Water before any works on site commences. Provide clearances from existing and proposed Icon water network.*

See also Condition 4

- (d) A revised site plan, landscape plan, and architectural drawings, to address the following TCCS requirements:

### PEDESTRIAN NETWORK

- (i) *The earlier submission of the DA had a shorter left-turn auxiliary lane off Melrose Drive which allowed a wider concrete footpath to be achieved within the Melrose Drive verge which improved Active Travel opportunities adjacent to the site. The extended left-turn length and additional planting proposed impacts on the achievable path width (reduced from 3.6m to 1.2m). Similarly, the path along Furzer St has reduced from approximately 4.0m to 1.8m. A 1.5m minimum width concrete footpath must be provided along both verges as per MIS05. It is noted that the development proposes paving treatment within the block boundary to tie in with the concrete verge path; however, the provision and maintenance of the verge path will remain a TCCS asset.*

### VERGE / VERGE TREE

- (ii) *Urban Treescapes require proposed trees to be planted a minimum of 1200mm from the kerb to avoid vehicular obstructions. The current plans provided must be updated as they appear to indicate an offset of 800mm from the kerb.*
- (iii) *The removal of trees numbered 2, 3, 4 and 5 are supported with the condition that these trees will be replaced and replanted in line with Design Standards for Urban Infrastructure.*
- (iv) *The proposed verge and on-site pavement treatment must consider and adhere to the draft Woden Town Centre landscape guidelines being prepared by the SLA. The SLA must be consulted regarding the implementation of this guideline prior to Design Review submission.*

### TRAFFIC / PUBLIC TRANSPORT

- (v) *The TIA provided does not appear to provide justification for the extended left-turn entry off Melrose Drive compared to the original submission. It is understood this is for both service vehicle and residents entry to the basement parking within the Stage 1 building; however, it is unclear why the primary access for both service vehicles and residents cannot be achieved off Furzer St, which TCCS would prefer. If this arrangement has been adequately covered by the Design Review Committee then TCCS would like to review this correspondence/justification.*
- (vi) *The signalisation of Launceston St/Irving St is currently proposed for upgrade by TCCS in the 18/19 financial year. This works will involve closure of the median fronting Furzer St which will alter the Launceston St/Furzer St intersection to a LIL0 arrangement. Given the timing of this upgrade and its proximity to the subject site, this modified arrangement (as noted in Section 6.3 of the TIA) must be considered in the*

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*TIA. The feasibility study for this intersection upgrade is attached for reference – refer Option E for preferred upgrade option.*

### WASTE

(vii) *A 12.5m truck turning template and vehicle profile must be provided to show the waste vehicle's position while collecting waste on-site. This includes updating vehicle profiles shown on the Waste Management Plans (C.21 through C.24) for buildings 1-4.*

- (e) A revised noise management plan must be submitted to and be endorsed by the Environment Protection Authority. The plan must assess the uses permitted by the lease. (Note: The previously submitted plan incorrectly identifies the noise zone standard.) The plan must utilise a worst case scenario based on the permitted lease uses and demonstrate compliance with the noise zone standard for the block boundary and with the Australian Standard AS2107:2000 within the building complex.

## 2. LEASE VARIATION CONDITIONS

### (a) COMMENCEMENT OF BUILDING WORK

That no building work in relation to this Development Application except demolition or decontamination (if required) is to commence on the site, and no approved plans other than demolition and site decontamination plans will be released, until the Instrument of Variation is registered at Access Canberra (Land Titles and Rental Bonds).

### (b) INSTRUMENT OF VARIATION

That the lessee accepts the variation substantially in accordance with the draft Instrument of Variation at **Attachment 7** and shall do all that is necessary to ensure that the Instrument of Variation is registered at Access Canberra (Land Titles and Rental Bonds) prior to the end of the approval for the variation of the Crown lease.

### (c) APPROVAL DOES NOT TAKE EFFECT – STRATUM SUBDIVISION

The approval for the subdivision of the Crown lease **does not take effect**, and execution and registration of the new Crown leases for the blocks resulting from the subdivision **must not be completed**, until:

- (i) all built works up to and including level 5 are complete to allow for a survey of the subdivided blocks; and
- (ii) the applicant/lessee has lodged with the planning and land authority written evidence of endorsement from each of the relevant service providers that each of the new blocks are separately serviced in accordance with all of the relevant service providers' requirements.

### (d) TRANSFER AND GRANT OF EASEMENTS

That the applicant/lessee must prepare an Instrument granting an encumbering Transfer and Grant of Easements (TGE) for registration at Access Canberra (Land Titles and Rental Bonds) against the Crown leases of the proposed new blocks.

*Note: the registration of the TGE's are to occur at the same time as the new Crown leases.*

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At a minimum, the TGE's shall address the following:

- (i) the reticulation of services for the approved development, and other building services and systems, that pass through one parcel to the other;
- (ii) pedestrian access for fire egress, waste collection, maintenance, and repair required for the development on the subdivided parcels;
- (iii) vehicular and pedestrian access for the lessees, their employees, contractors, sublessees or occupiers, and visitors and invitees for the purposes of car parking, maintenance, and repair, between the subdivided parcels;
- (iv) any arrangements required pursuant to other Territory or Commonwealth legislation; and

any requirements necessary for the normal operation of the buildings.

(e) NEW BLOCK SURVEY

That the applicant/lessee shall arrange for a survey of the subdivided blocks. When advised of the new block numbers, the applicant/lessee shall lodge the survey plan with the Environment, Planning and Sustainable Development Directorate for examination and clearance by the Surveyor-General, Surveying and Spatial Data Section and pay the appropriate examination fee.

The new block survey must show:

- (i) the dimensioned location of the proposed boundaries for each of the new blocks generally in accordance with the approved subdivision plan (including the centreline of any party wall as constructed);
- (ii) the surveyed block size; and
- (iii) the location of all service easements in accordance with the requirements of the relevant service providers.

(f) SURRENDER AND REGRANT

That the lessee surrender the existing Crown lease over Block 17 Section 3 Division of Phillip and accept the new Crown leases for the subdivided blocks substantially in accordance with the draft leases appearing at **Attachments 2, 3, 4, 5 and 6**.

See Advisory Note regarding Stratum Crown leases.

(g) LEASE REGISTRATION

That the lessee shall do all that is necessary to ensure that the new Crown leases are registered at Access Canberra (Land Titles and Rental Bonds) prior to the end of this approval. [Please also see the Advisory Notes for additional information on the lease variation.]

Please also see the Advisory Notes for additional information on the lease variation.

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### 3. ENVIRONMENT PROTECTION AUTHORITY (EPA)

- (a) All works must be carried out in accordance with *Environment Protection Guidelines for Construction and Land Development in the ACT, March 2011*, available by calling 132281.
- (b) Appropriately ACT licensed contractors licensed to provide the full range of duties in the ACT must be engaged for the removal, transport and disposal of all hazardous materials found on the site.
- (c) All hazardous materials found on the site must be disposed of at a facility suitably authorised/licensed to accept the waste.
- (d) A site specific unexpected finds protocol (UFP) must be developed by a suitably qualified environmental consultant to manage potential contamination at the site. The UFP must be implemented during construction works.
- (e) A pre-demolition hazardous materials survey must be undertaken for the building in accordance with the associated guidelines.
- (f) A revised noise management plan must be submitted to and be endorsed by the EPA prior to the release of plans. The plan must assess the uses permitted by the lease. The plan also currently incorrectly identifies the noise zone standard. The plan must utilise a worst case scenario based on the permitted lease uses and demonstrate compliance with the noise zone standard for the block boundary's and with the Australian Standard AS2107:2000 within the building complex.

Note: The current Noise Management Plan is not supported.

- (g) As the site is greater than 0.3 hectares the construction is an activity listed in *Schedule 1 as a Class B activity under the Environment Protection Act 1997*. The contractor/builder proposing to develop the site must hold an Environmental Authorisation or enter into an Environment Protection Agreement with the Environment Protection Authority (EPA) in respect of that activity PRIOR TO WORKS COMMENCING.
- (h) An erosion and sediment control plan must be submitted to and be endorsed by the EPA prior to works commencing.

### 4. ICON Water: Statement of Acceptance required prior to commencing building works

Prior to building works, other than demolition, commencing the lessee/applicant must obtain a Statement of Acceptance from Icon Water in relation to water networks and submit 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*.

The lessee/applicant 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*. The planning and land authority may release plans for the purpose of demolition and site preparation to its discretion prior to compliance with this condition.

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### 5. TCCS DESIGN REVIEW & OPERATIONAL ACCEPTANCE

- (a) A Letter of Design Review must be obtained for all off-site works from the Senior Manager, Development Review and Coordination, TCCS, prior to the commencement of construction.
- (b) A Certificate of Operational Acceptance on completion of the works must be obtained from the Senior Manager, Development Review and Coordination, TCCS, prior to the issue of a Certificate of Occupancy.

### 6. TEMPORARY TRAFFIC MANAGEMENT (TTM)

A TTM plan approval must be obtained 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.

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

LMPP approval must be obtained 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.

### 8. 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.

### 9. 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.

### 10. NOTICE OF COMMENCEMENT OF CONSTRUCTION

Notice of Commencement for the Works on 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 Landscape Management and Protection Plan and the programmed implementation of Temporary Traffic Management.

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### 11. 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.

### 12. COMPLIANCE WITH ENTITY REQUIREMENTS

The development must comply with all of the conditions imposed by each of the relevant entities as stated in each of their advice.

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### 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.*

1. UNIMPROVED LAND VALUE FOR RATING PURPOSES  
As a consequence of this lease variation, the unimproved value of the property for rating purposes is likely to increase. Where rates assessments have been issued they will be amended to reflect the higher unimproved value from the time of the lease variation.
2. LEASE VARIATION CHARGE  
Prior to the registration of the new Crown leases, the lessee must, as is required under the *Planning and Development Act 2007*, pay any assessed Lease Variation Charge. Once advised of the lease variation charge, the charge should be paid not less than 6 months prior to the expiration of this approval. This will ensure that sufficient time remains to enable the new Crown leases and new survey plan to be registered at Access Canberra (Land Titles and Rental Bonds) prior to expiry of this approval.
3. BLOCK NUMBERS  
The new block numbers will not be provided until the Lease Variation Charge is paid. The new survey plan must be cleared by the Surveyor-General prior to the execution of the new Crown leases.
4. STRATUM LEASES  
Draft stratum Crown leases are subject to change as required by the approved development.
5. COMMUNITY TITLE  
Application for approval for a community title cannot be made through the *Planning and Development Act 2007* development approval process. If the lessee intends to apply to for a community title a separate application to the Environment, Planning and Sustainable Development Directorate (EPSDD) is required under the *Community Titles Act 2001*. The appropriate forms can be found under "Leasing, Community Titles and Unit Titles" on the EPSDD website at:  
[http://www.planning.act.gov.au/publications\\_forms/forms](http://www.planning.act.gov.au/publications_forms/forms).
6. EXPIRY OF APPROVAL  
For approvals that include a lease variation, there is no provision under the *Planning and Development Act 2007* to extend the timeframe for compliance with the consolidation conditions of the approval beyond 2 years after the date this approval takes effect.
7. ENVIRONMENT PROTECTION  

Noise from equipment which may be installed or used at the site, including air conditioning units, must comply with the noise standard at *the block boundary at all times as per the Environment Protection Regulation 2005*. Please consider the type and location of noise generating equipment prior to installation. Assurance should be sought from the supplier/installer of the equipment that it complies with the Noise Zone Standard as per the *Environment Protection Regulation, 2005*.

All rain water that enters the site and pools in excavations during a rain storm event would be considered as a sediment control pond, and no discharge shall be allowed from a pond unless sediment level is less than 60mg/litre. If sediment level is greater, then prior to discharge, the dam must be dosed with either Alum or Gypsum and allowed to settle until the sediment is less than 60 mg/litre.

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### PART B – REASONS FOR THE DECISION

The application was approved because it was found to meet the relevant rules and criteria of the Territory Plan and section 120 of the *Planning and Development Act 2007*.

The key issues identified in the assessment related to building height, bulk and scale of buildings, parking and traffic considerations, and impacts associated with the development such as overshadowing. Entity advice, representations and compliance with the Territory Plan were also considered in making this decision. Where appropriate, 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*

The following evidence formed part of the assessment of this application:

|                           |  |
|---------------------------|--|
| Development Application:  | 201833492  |
| Territory Plan Zones:     | CZ2 – Business Zone  |
| Development Codes:        | Commercial Zones Development Code<br>Multi - Unit Housing Code       |
| Precinct Code:            | Phillip Precinct Code and Map  |
| Crown Lease:              | Volume 2312 and Folio 7  |
| Legislative requirements: | Sections 119 and 120 of the <i>Planning and Development Act 2007</i> |
| Entity advice:            | List (addressed in Part C of this Decision)                          |

### PART C – PUBLIC NOTIFICATION AND ENTITY ADVICE

#### PUBLIC NOTIFICATION

Pursuant to Division 7.3.4 of the Act, the application was publicly notified from 10 May 2018 to 31 May 2018. 109 written representations were received during the public notification period.

The revised (s144) application was notified from 16 August 2018 to 5 September 2018 resulting in receiving seven (7) representations.

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

a) *Height of the development*

The Phillip Precinct Map and Code, under R/C9 permits a 12 storey development on the block with an increase of additional four storeys for a tower element. Criterion C11 permits one higher building element up to 24 storeys.

The revised drawings submitted (under S144 of the *Planning and Development Act 2007*) amended the proposal to reduce overshadowing of the adjacent residential development fronting Melrose Drive. The principal change was to reduce the height of the buildings, with the building fronting Melrose Drive reduced in height to 16 storeys terracing down to 12 storeys. The building on the corner of Furzer and Launceston Streets is increased to 24 storeys.

A condition has been imposed to reduce the number of storeys in Building 4 facing Melrose Drive to a maximum of 12 storeys to improve the form and scale of the building.

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b) *Density of the development*

There are no restrictions in the Territory Plan with respect to the number of dwellings proposed in a development provided the development meets the scale, height, setback, open space, parking and dwellings sizes. The development, subject to satisfying the imposed conditions, is considered to meet the relevant provisions of the Territory Plan. It should also be noted that a number of dwellings are one and two bedroom dwellings.

c) *Traffic impact due to the development*

Transport Canberra and City Services (TCCS) has sought further information. A condition is imposed to provide this information to the satisfaction of TCCS, obtain TCCS endorsement, and to submit the endorsement to the authority prior to releasing the approved plans.

d) *Insufficient parking, loss of publicly available parking spaces.*

The *Parking and Vehicular Access General Code* does not stipulate minimum car parking requirements for residential development in Town Centres. The amended proposal (s144E) provides approximately 1165 car parking spaces for a predicted demand of 1077 car parking spaces, with approximately 190 spaces being available for the public. The parking provided is considered acceptable for this development and in this locality.

e) *Impact on Bellerive retirement village due to construction noise and dust.*

All works must be carried out in accordance with *Environment Protection Guidelines for Construction and Land Development in the ACT*. The guidelines include management of construction noise, dust and erosion. A condition has been imposed to undertake works according to relevant EPA Guidelines.

As the site is greater than 0.3 hectares, the contractor/builder proposing to develop the site must hold an Environmental Authorisation or enter into an Environment Protection Agreement with the Environment Protection Authority (EPA) in respect of that activity prior to works commencing.

f) *Overshadowing*

The revised drawings submitted (under s144 of the *Planning and Development Act 2007*) amended the proposal to reduce overshadowing on the adjacent residential development fronting Melrose Drive. The amended proposal reduces the height of the building four fronting Melrose Drive to 16 storeys terracing down to 12 storeys at the northern end. The building on the corner of Furzer and Launceston Streets is increased to 24 storeys. The revised shadow diagrams relating to the above changes indicates reduced overshadowing to the East facing dwellings in the Bellerive apartments.

The planning and land authority considered the proposal and approved the development subject to conditions to reduce the number of storeys in Building 4 to a maximum of 12 storeys and to increase the setbacks for Buildings 1 and 2 facing Furzer Street. While this provides a marginal improvement to overshadowing impacts, the height reduction requirement is primarily to improve the scale and form of the building.

g) *Solar access to the development*

The applicant has identified and numbered the dwellings that receive solar access in each building. It is noted that more than 70% of the dwellings receive solar access. Three dimensional diagrams are sought for revised drawings to further ensure compliance with R58 or C58 to show solar penetration into the apartments.

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*h) Inadequate community consultation.*

Community consultation is a requirement under *the Planning and Development Act 2007* to achieve improved planning and urban design outcomes. The applicant is required to submit a consultation report with a Development Application that summarise the consultation they undertook with the community and how the guidelines were met. The submitted consultation report indicates an extensive program of community consultation was undertaken for this proposal.

The application was notified from 10 May 2018 to 31 May 2018 receiving 109 representations. The revised s144 submission was also notified from 16 August 2018 to 5 September 2018 resulting in receiving seven representations.

*i) Woden infrastructure is barely adequate to cater for our current population.*

The proposal has been referred to utility service providers and entities. Conditions are imposed to provide further information to the satisfaction of the relevant entity and submit their endorsements to the planning and land authority.

*j) Impact on pool and ice skating rink business*

The development is across the street from the pool with approximately 35m between the boundaries of the two blocks. Between the pool and grass bank, and the nearest building is approximately 50m. The spatial separation is considered sufficient to protect the amenity of the pool. Shrubs and street trees further obscure the view to the pool from the building.

*k) Setback distances to building 1*

The setback distances for Buildings 1 and 2 encroach into the stipulated 4m front setback facing Furzer Street. A condition has been imposed to increase the front setback of these buildings to 4 metres to all levels.

*l) Materials, façade treatment and reflectivity*

Conditions are imposed to revise the Building 1 facade, to reduce the extent of the blank walls to Building 1 and to provide appropriate evidence to demonstrate the materials are not reflective.

*m) The street elevations in the documents depicting the height of the towers looking along Launceston Street and along Melrose Drive appear purposely incorrect*

The finished reduced level of 12-16 storey building facing Melrose drive is 625.7 to 640.283 and the finished reduced level of the opposite 9 storey building is approximately 618.

*n) Noise impact due to waste and recycle contractors loading and unloading*

A condition has been imposed to manage noise generated from the development as per an EPA approved noise management plan.

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o) Construction traffic impacts

A condition has been imposed to prepare and submit a temporary traffic management plan as per TCCS requirements, obtain endorsement from TCCS and manage the traffic as per the approved plan.

p) *Fire safety*

The application was referred to ACT Emergency Services Agency (ESA) for comments. ESA has supported the proposal with advice regarding Fire Brigade Access, Water supplies and location of street furniture and landscaping and the requirement for fire safety review at the Building Approval stage

q) *The block should not be subdivided*

Subdivision is not prohibited on the site.

r) *No justification for the lease variation*

The current lease was specifically for the former use a club and hotel. The current lessee is entitled to seek a lease variation to allow additional uses and an increased floor area.

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### ENTITY ADVICE

Pursuant to Division 7.3.3 of the *Planning and Development Act*, the application was referred to the below entities. Where an entity requested conditions to be imposed on this development, those conditions have been incorporated into Part A of this Decision.

A brief summary of entity comments can be found below.

1. Transport Canberra and City Services (TCCS).

TCCS required further information and provided conditions. Conditions have been included to this decision to respond to TCCS requirements. Refer to Part A.

2. Environment Protection Authority (EPA).

The EPA supported the proposed development with conditions. Refer to Part A.

3. Conservator of Flora and Fauna

The decision is inconsistent with advice from the Conservator. However, pursuant to section 119 (2) of the *Planning and Development Act 2007*, the advice received has been considered, as well as the relevant guidelines and any realistic alternative to the development proposed or aspects of it. A decision to approve this application is consistent with the objectives of the Territory Plan.

4. Emergency Services Agency (ESA)

ESA supported the proposed development.

5. Evoenergy

Evoenergy supported the proposed development with conditions. Refer to Part A.

6. Jemena Gas

Jemena Gas supported the proposed development with conditions. Refer to Part A.

7. Icon Water.

Icon Water did not support the proposed development. A condition has been included to obtain Icon Water support prior to the development commencing. Refer to Part A.

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### Translation and interpretation services

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

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

### **TRANSLATING AND INTERPRETING SERVICE**

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## ATTACHMENT 1

### ADMINISTRATIVE INFORMATION RELATING TO NOTICE OF DECISION

#### Submission of revised drawings or 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 must be made by completing an application in e-development.

#### DATE THAT THIS APPROVAL TAKES EFFECT

Unless a condition of approval provides for otherwise this approval takes effect the day after the date of this decision. 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.

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.

#### Reconsideration of the Decision

If the applicant is not satisfied with the decision made by the planning and land authority, they are entitled to apply to the planning and land authority for reconsideration within 20 working days of being told of this decision under section 191 of the *Planning and Development Act 2007*. A longer timeframe may apply only if granted in writing by the planning and land authority under section 184 of the *Planning and Development Act 2007*.

#### Other approvals

A notice of decision grants development approval only. Other approvals may be required, including:

##### 1. Building Approval

Most building work requires building approval to ensure it complies with building laws such as the Building Code of Australia. The lessee should engage a private building

certifier to determine whether building approval is required and assess and approve the building plans before construction commences. A list of certifiers can be obtained from the Environment, Planning and Sustainable Development Directorate.

2. Tree damaging activity approval

A Tree Management Plan under the *Tree Protection Act 2005* is required for approval where it is proposed to undertake groundwork within the tree protection zone of a protected tree or likely to cause damage to, or remove, any trees defined as protected trees by that Act. More information is available from the Territory and Municipal Services Directorate.

3. Use of verges or other unleased Territory Land

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

4. Works on unleased Territory Land

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, Transport Canberra and City Services Directorate by way of:

- (a) a certificate of design acceptance prior to the commencement of any work; and
- (b) 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.

Review by the ACT Civil and Administrative Tribunal (ACAT)

1. Decisions that are reviewable by the ACAT are identified in Schedule 1 of the *Planning and Development Act 2007*, except for matters that are exempted under Schedule 3 of the *Planning and Development Regulations 2008* (matters exempt from third party review).
2. The notice of decision and this advice has been sent to all people who made a representation in relation to the application.
3. The ACAT is an independent body. It can review a large number of decisions made by ACT Government ministers, officials and statutory authorities on their merits. 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.

4. If you think you have a right of appeal, you may apply for a review. Application forms can be obtained from the ACAT. You can also download the form from the ACT Legislation Register.
5. 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.
6. 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*).
7. 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 Director General, Justice and Community Safety Directorate, GPO Box 158, CANBERRA ACT 2601. Ask the ACAT for more details.
8. 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.
9. The following organisations may be able provide you with advice and assistance if you are eligible:
  - ACT Attorney-General, write to the Director General, Justice and Community Safety Directorate, GPO Box 158, CANBERRA, ACT, 2601
  - the ACT Legal Aid Office, telephone 1300 654 314
  - ACT Council of the Ageing, telephone 02 6154 9740
  - Welfare Rights Centre, telephone 1800 226 028
  - Environmental Defender's Office (ACT), telephone 02 6243 3460.
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| <b>Health Directorate</b>   | <a href="http://www.health.act.gov.au">www.health.act.gov.au</a><br>02 6205 1700   |
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### **TRANSLATING AND INTERPRETING SERVICE**

# **131 450**

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

# ATTACHMENT 1

## ADMINISTRATIVE INFORMATION RELATING TO NOTICE OF DECISION

### Submission of revised drawings or 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 must be made by completing an application in e-development.

### DATE THAT THIS APPROVAL TAKES EFFECT

Unless a condition of approval provides for otherwise this approval takes effect the day after the date of this decision. 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.

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.

### Reconsideration of the Decision

If the applicant is not satisfied with the decision made by the planning and land authority, they are entitled to apply to the planning and land authority for reconsideration within 20 working days of being told of this decision under section 191 of the *Planning and Development Act 2007*. A longer timeframe may apply only if granted in writing by the planning and land authority under section 184 of the *Planning and Development Act 2007*.

### Other approvals

A notice of decision grants development approval only. Other approvals may be required, including:

#### 1. Building Approval

Most building work requires building approval to ensure it complies with building laws such as the Building Code of Australia. The lessee should engage a private building

certifier to determine whether building approval is required and assess and approve the building plans before construction commences. A list of certifiers can be obtained from the Environment, Planning and Sustainable Development Directorate.

2. Tree damaging activity approval

A Tree Management Plan under the *Tree Protection Act 2005* is required for approval where it is proposed to undertake groundwork within the tree protection zone of a protected tree or likely to cause damage to, or remove, any trees defined as protected trees by that Act. More information is available from the Territory and Municipal Services Directorate.

3. Use of verges or other unleased Territory Land

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

4. Works on unleased Territory Land

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, Transport Canberra and City Services Directorate by way of:

- (a) a certificate of design acceptance prior to the commencement of any work; and
- (b) 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.

Review by the ACT Civil and Administrative Tribunal (ACAT)

1. Decisions that are reviewable by the ACAT are identified in Schedule 1 of the *Planning and Development Act 2007*, except for matters that are exempted under Schedule 3 of the *Planning and Development Regulations 2008* (matters exempt from third party review).
2. The notice of decision and this advice has been sent to all people who made a representation in relation to the application.
3. The ACAT is an independent body. It can review a large number of decisions made by ACT Government ministers, officials and statutory authorities on their merits. 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.

4. If you think you have a right of appeal, you may apply for a review. Application forms can be obtained from the ACAT. You can also download the form from the ACT Legislation Register.
5. 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.
6. 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*).
7. 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 Director General, Justice and Community Safety Directorate, GPO Box 158, CANBERRA ACT 2601. Ask the ACAT for more details.
8. 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.
9. The following organisations may be able provide you with advice and assistance if you are eligible:
  - ACT Attorney-General, write to the Director General, Justice and Community Safety Directorate, GPO Box 158, CANBERRA, ACT, 2601
  - the ACT Legal Aid Office, telephone 1300 654 314
  - ACT Council of the Ageing, telephone 02 6154 9740
  - Welfare Rights Centre, telephone 1800 226 028
  - Environmental Defender's Office (ACT), telephone 02 6243 3460.
10. 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.

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**TRANSLATING AND INTERPRETING SERVICE**  
**131 450**  
Canberra and District - 24 hours a day, seven days a week

This is a market value lease - s238(2)(a)(ii) Planning and Development Act 2007

AUSTRALIAN CAPITAL TERRITORY

PLANNING AND DEVELOPMENT ACT 2007

Australian Capital Territory (Planning and Land Management) Act 1988 (C'th) (ss 29, 30 & 31)

REVISED DRAFT ATTACHMENTS WILL BE PROVIDED FOLLOWING THE SUBMISSION OF FURTHER INFORMATION

LEASE GRANTED pursuant to the Planning and Development Act 2007 and the Regulations made under that Act on the \_\_\_\_\_ day of \_\_\_\_\_ Two thousand and \_\_\_\_\_ WHEREBY THE PLANNING AND LAND AUTHORITY (“the Authority”) ON BEHALF OF THE COMMONWEALTH OF AUSTRALIA (“the Commonwealth”) in exercising its functions grants to **NG WODEN PTY LIMITED A.C.N. 620 839 894** a company having its registered office at Unit 18, 24 Iron Knob Street Fyshwick in the Australian Capital Territory (“the Lessee”) ALL THAT piece or parcel of land situate in the Australian Capital Territory containing **an area of \_\_\_\_\_ square metres** or thereabouts and being **Block \_\_\_\_\_ Section \_\_\_\_\_ Division of \_\_\_\_\_ as delineated on Deposited Plan Number \_\_\_\_\_ and containing an area of \_\_\_\_\_ square metres** or thereabouts and being **Block \_\_\_\_\_ Section \_\_\_\_\_ Division of \_\_\_\_\_ as delineated on Deposited Plan Number \_\_\_\_\_** in the Registrar-General’s Office at Canberra in the said Territory (“the land”) RESERVING unto the Territory all minerals and the right to the use, flow and control of ground water under the surface of the land TO HOLD unto the Lessee for the term commencing on **the (TBA) day of (TBA) Two thousand and (TBA)** (“the date of the commencement of the lease”) and terminating on the **seventh day of November Two thousand one hundred and four** to be used by the Lessee for the purpose set out in Clause 3(a) of this lease only YIELDING AND PAYING THEREFOR rent in the amount and in the

LESSEE

LAND

TERM

manner and at the times provided for in this lease and UPON AND SUBJECT TO the covenants conditions and agreements contained in this lease.

## INTERPRETATION

1. IN THIS LEASE unless the contrary intention appears:
  - (a) “Authority” means the Planning and Land Authority established by section 10 of the Planning and Development Act 2007;
  - (b) “building” means any building or structure, constructed or partially constructed or to be constructed, as the context permits or requires, on or under the land;
  - (c) “class” for a building or structure, means the class of building or structure under the building code as defined in the Building Act 2004;
  - (d) “dual occupancy housing” means the use of land that was originally used or leased for the purposes of single dwelling housing for two dwellings;
  - (e) “dwelling”:
    - (i) means a class 1 building, or a self-contained part of a class 2 building, that:
      - (A) includes the following that are accessible from within the building, or the self-contained part of the building:
        - (1) not more than 2 kitchens;
        - (2) at least 1 bath or shower;
        - (3) at least 1 toilet pan; and
      - (B) does not have access from another building that is either a class 1 building or the self-contained part of a class 2 building; and
    - (ii) includes any ancillary parts of the building and any class 10a buildings associated with the building;
  - (f) “Lessee” shall:

***Draft Crown lease – Block A – Residential – DA201833492***

- (i) where the Lessee consists of one person be deemed to include the Lessee and the executors administrators and assigns of the Lessee;
- (ii) where the Lessee consists of two or more persons be deemed to include in the case of a tenancy in common the persons and each of them and their and each of their executors administrators and assigns and in the case of a joint tenancy be deemed to include the said persons and each of them and their and each of their assigns and the executors administrators and assigns of the survivor of them; and
- (iii) where the Lessee is a corporation be deemed to include such corporation its successors and assigns;
- (g) “multi-unit housing” means the use of land for more than one dwelling and includes but is not limited to dual occupancy housing;
- (h) “premises” means the land and any building or other improvements on the land;
- (i) “residential use” means caretaker’s residence, multi-unit housing, residential care accommodation, retirement village, secondary residence, single dwelling housing, supportive housing;
- (j) “RL” (Reduced Level) means the vertical height in metres related to the Australian Height Datum;
- (k) “Territory” means:
  - (i) when used in a geographical sense the Australian Capital Territory; and
  - (ii) when used in any other sense the body politic established by section 7 of the Australian Capital Territory (Self-Government) Act 1988 (C'th);
- (l) words in the singular include the plural and vice versa;
- (m) words importing one gender include the other genders;
- (n) a reference in this lease to any statute or statutory provision shall include a reference to any statute or statutory provision that amends, extends, consolidates or replaces the statute or statutory provision and to any other regulation, instrument or other subordinate legislation made under the statute.

2. THE LESSEE COVENANTS WITH THE COMMONWEALTH as follows:

- |                           |   |
|---------------------------|---|
| RENT                      | (a) That the Lessee shall pay to the Authority rent at the rate of five cents per annum if and when demanded payable within one month of the date of any demand made by the Authority relating thereto and served on the Lessee;                  |
| MANNER OF PAYMENT OF RENT | (b) That any rent or other moneys payable by the Lessee to the Authority under this lease shall be paid to such person as may be authorised by the Authority for that purpose at Canberra in the said Territory without any deduction whatsoever. |

3. THE LESSEE FURTHER COVENANTS WITH THE COMMONWEALTH as follows:

- |                       |  |
|-----------------------|--|
| PURPOSE               | (a) To use the premises for the purpose of residential use LIMITED TO multi-unit housing;  |
| EASEMENT FOR ACCESS   | (b) That the Lessee its employees, contractors, sublessees or occupiers, visitors and invitees shall at all times be permitted to access Block ..... Section 224 Division of Phillip, to pass and repass from time to time, with or without vehicles, across, over and along the land as may be necessary for all purposes connected with the use and enjoyment of the premises;   |
| EASEMENT FOR SERVICES | (c) That: <ul style="list-style-type: none"> <li>(i) the Authority, on behalf of the Commonwealth, grants over that part of the land identified as a services easement on the Deposited Plan an easement (“Easement”) in favour of the relevant provider (referred to as the “service provider”);</li> <li>(ii) the service provider may:                 <ul style="list-style-type: none"> <li>(A) provide, maintain and replace services supplied by that service provider through the land within the site of the Easement; and</li> <li>(B) do anything reasonably necessary for that purpose, including without limitation:                     <ul style="list-style-type: none"> <li>(1) entering or passing through the land;</li> <li>(2) taking anything on to the land; and</li> </ul> </li> </ul> </li> </ul> |

*Draft Crown lease – Block A – Residential – DA201833492*

- (3) carrying out work, including without limitation, constructing, placing, repairing or maintaining pipes, poles, wires, cables, conduits, structures and equipment;
- (iii) in exercising the powers in Clause 3(b)(ii), the service provider must take all reasonable steps to:
  - (A) ensure that the work carried out on the land causes as little disruption, inconvenience and damage as is practicable; and
  - (B) ensure that the land is restored as soon as practicable to a condition that is similar to its condition before the work was carried out;
- (iv) Clause 3(b)(iii)(B), does not require the service provider to restore:
  - (A) the land to a condition that would result in:
    - (1) an interference with:
      - (i) any service on or through the land; or
      - (ii) access to any service on or through the land; or
    - (2) a contravention of a law of the Territory; or
  - (B) any building or structure placed or constructed on any part of the land comprising the Easement;
- (v) the Lessee must not place or construct, nor permit to be placed or constructed, a building or structure or any part of a building or structure on any part of the land comprising the Easement UNLESS written advice from the service provider is obtained;
- (vi) for the purposes of the Easement, “services”, includes, without limitation, the supply of water, gas, electricity and discharge or drainage of water, stormwater and sewerage; and
- (vii) nothing in this clause diminishes or affects any rights or powers of a service provider conferred under any statute, regulation or law;

**INDEMNITY FOR ENCROACHMENTS**

- (i) indemnify and keep indemnified the Commonwealth the Territory their servants and agents from all actions claims suits and demands brought maintain or made against the Commonwealth the Territory servants or agents by any persons or body of persons arising out of the existence of the awning encroaching over the lease boundary as shown by hatching identified as 'B' on the legend of the attached plan;
- (ii) take out and maintain a public liability risk insurance policy in the joint names of the Territory and the Lessee for the sum not less than ten million dollars or for such as amount as may be specified by the Territory for time to time to cover any liability which may arise under Clause 3(c)(i);

**RESTRICTION ON TRANSFER**

- (e) That the Lessee shall not transfer assign its interest in the premises or any part of the premises unless and until the proposed transferee or assignee has obtained a public liability risk insurance policy in accordance with Clause 3(c) of this lease and submit the policy to an insurance consultant nominated by the Territory for examination and approval;

**PROVISION OF HYDRAULIC MAINS STORMWATER DRAINS AND SEWER LINES**

- (f) That the Lessee shall provide and thereafter maintain hydraulic mains stormwater drains sewer lines hydraulic fire mains and hydrants on the land in accordance with plans and specifications prepared by the Lessee and previously submitted to and approved in writing by the Authority;

**PROVISION OF STORAGE AREAS CARPARKING AND ILLUMINATION**

- (g) That the Lessee shall provide and thereafter maintain storage areas covered carparking hardstanding carparking adequately illuminated vehicle access roads pedestrian pathways and vehicle access drives on the land to a standard acceptable to the Authority in accordance with plans and specifications prepared by the Lessee and previously submitted to and approved in writing by the Authority;

**PROVISION OF FACILITIES FOR ELECTRICAL AND TELEPHONE CABLES**

- (h) That the Lessee shall provide facilities on the land to a standard acceptable to the Authority to enable electrical and telephone cables and wires to be installed underground;

**LANDSCAPING**

- (i) That the Lessee shall provide and maintain landscaping on the land to a standard acceptable to the Authority in accordance with plans and specifications prepared by the Lessee and previously submitted to and approved in writing by the Authority;

*Draft Crown lease – Block A – Residential – DA201833492*

PRESERVATION  
OF TREES

- (j) That the Lessee shall not, without the previous consent in writing of the Territory, remove any tree:
  - (i) that has been identified in a development approval for retention during the period allowed for construction of the building; or
  - (ii) to which the Tree Protection Act 2005, applies;

SERVICE AREAS

- (k) That the Lessee shall screen and keep screened all service areas to the satisfaction of the Authority and shall ensure that all plant and machinery contained within the premises is suitably screened from public view;

BUILDING  
SUBJECT TO  
APPROVAL

- (l) That the Lessee shall not without the previous approval in writing of the Authority, except where exempt by law, erect any building, or make any structural alterations to any building, on the land;

REPAIR

- (m) That the Lessee shall at all times during the said term maintain repair and keep in repair the premises to the satisfaction of the Authority;

FAILURE TO  
REPAIR

- (n) If and whenever the Lessee is in breach of the Lessee's obligations to maintain repair and keep in repair the premises the Authority may by notice in writing to the Lessee specifying the repairs and maintenance needed require the Lessee to effect the necessary work in accordance with the notice. If the Authority is of the opinion that a building or some other improvement on the land is beyond reasonable repair the Authority may by notice in writing to the Lessee require the Lessee to remove the building or improvement and may require the Lessee to construct a new building or improvement in place of that removed within the time specified in the notice. If the Lessee does not carry out the required work within the time specified by the Authority any person or persons duly authorised by the Authority with such equipment as is necessary may enter the premises and carry out the necessary work and all costs and expenses incurred by the Authority in carrying out the work shall be paid by the Lessee to the Authority on demand and from the date of such demand until paid shall for all purposes of this lease be a debt due and payable to the Authority by the Lessee;

RIGHT OF  
INSPECTION

- (o) Subject to the provisions of the Planning and Development Act 2007 to permit any person or persons authorised by the Authority to enter and inspect the premises at all reasonable times and in any reasonable manner;

RATES AND CHARGES

- (p) To pay all rates charges and other statutory outgoings assessed levied or payable in respect of the premises as and when they are due for payment.

4. THE COMMONWEALTH COVENANTS WITH THE LESSEE as follows:

QUIET ENJOYMENT

That the Lessee paying the rent and all other money due and observing and performing the covenants and stipulations on the part of the Lessee to be observed and performed shall quietly enjoy the premises without interruption by the Authority or any person lawfully claiming from or under or in trust for the Authority.

5. IT IS MUTUALLY COVENANTED AND AGREED as follows:

TERMINATION

- (a) That if:
  - (i) any rent or other moneys payable under this lease shall remain unpaid for three months next after the date appointed for payment thereof (whether such rent or other moneys shall have been formally demanded or not); or
  - (ii) an approved development in accordance with this lease is not completed within the period specified in Clause 3(a); or
  - (iii) after completion of an approved development as aforesaid the said land is at any time not used for a period of one year for the purpose for which this lease is granted; or
  - (iv) the Lessee shall fail to observe or perform any other of the covenants herein contained in this lease on the part of the Lessee to be observed or performed and shall have failed to remedy such breach within a period of six months from the date of service on the Lessee of a notice in writing from the Authority specifying the nature of such breach

the Authority on behalf of the Commonwealth may terminate this lease but without prejudice to any claim which the Authority or the Commonwealth may have against the Lessee in respect of any breach of the covenants on the part of the Lessee to be observed or performed;

ACCEPTANCE OF RENT

- (b) That acceptance of rent or other moneys by the Authority during or after any period referred to in Clauses 5(a) (i), (ii), (iii) or (iv) of this lease shall not prevent or impede the exercise by

Draft Crown lease – Block A – Residential – DA201833492

the Authority of the powers conferred upon it by the said Clauses;

FURTHER LEASE

(c) Subject to the Lessee paying all money required to be paid under the provisions of the Planning and Development Act 2007 the Lessee shall be entitled to a further lease of the land for such further term and at such rent and subject to such conditions as may then be provided or permitted by Statute Ordinance or Regulation;

NOTICES

(d) That any notice requirement demand consent or other communication to be given to or served upon the Lessee under this lease shall be deemed to have been duly given or served if signed by or on behalf of the Authority and delivered to or sent in a prepaid letter addressed to the Lessee at the registered office of the Lessee in the said Territory BUT if for any reason the Lessee does not have a registered office in the said Territory then at the usual or last-known address of the Lessee or affixed in a conspicuous position on the premises;

EXERCISE OF POWERS

(e) Any and every right, power or remedy conferred on the Commonwealth or Territory in this lease, by law or implied by law may be exercised on behalf of the Commonwealth or the Territory or as the case may be by:

- (i) the Authority;
- (ii) an authority or person for the time being authorised by the Authority or by law to exercise those powers or functions of the Commonwealth or Territory; or
- (iii) an authority or person to whom the Authority has delegated all its powers or functions under the Planning and Development Act 2007.

IN WITNESS whereof the Authority on behalf of the Commonwealth and the Lessee have executed this lease.

Signed by [name of signatory] )  
a delegate authorised to execute this lease )  
on behalf of the Commonwealth in the )  
presence of [name of witness] )

.....

Delegate

.....

Witness

Signed by )  
NG WODEN PTY LIMITED )  
(A.C.N. 620 839 894) by: )

.....  
Signature

.....  
Signature

.....  
Name in full

.....  
Name in full

.....  
Sole Directory/ Director/Secretary

.....  
Director/Secretary

DRAFT

**Insert lease plan here  
(if required)**

**This is a market value  
lease - s238(2)(a)(ii) Planning  
and Development Act 2007**

**AUSTRALIAN CAPITAL TERRITORY**

**PLANNING AND DEVELOPMENT ACT 2007**

**Australian Capital Territory (Planning and Land  
Management) Act 1988 (C'th) (ss 29, 30 & 31)**

**REVISED DRAFT ATTACHMENTS WILL BE PROVIDED FOLLOWING THE  
SUBMISSION OF FURTHER INFORMATION**

LEASE GRANTED pursuant to the Planning and Development Act 2007 and the  
Regulations made under that Act on the                      day of  
Two thousand and                      WHEREBY THE PLANNING AND LAND  
LESSEE AUTHORITY (“the Authority”) ON BEHALF OF THE COMMONWEALTH OF  
AUSTRALIA (“the Commonwealth”) in exercising its functions grants to  
**NG WODEN PTY LIMITED A.C.N. 620 839 894** a company having its  
registered office at Unit 18, 24 Iron Knob Street Fyshwick in the Australian Capital  
LAND Territory (“the Lessee”) ALL THAT piece or parcel of land situate in the Australian  
Capital Territory containing **an area of                      square metres** or thereabouts and  
being **Block                      Section                      Division of                      as delineated on Deposited Plan**  
**Number                      and** containing an area of **square metres** or thereabouts and  
being **Block                      Section                      Division of                      as delineated on Deposited Plan**  
**Number                      in the Registrar-General’s Office at Canberra in the said Territory**  
 (“the land”) RESERVING unto the Territory all minerals and the right to the use,  
flow and control of ground water under the surface of the land TO HOLD unto the  
TERM Lessee for the term commencing on **the (TBA) day of (TBA) Two**  
**thousand and (TBA) (“the date of the commencement of the lease”)** and  
terminating on the **seventh day of November Two thousand one hundred and**  
**four** to be used by the Lessee for the purpose set out in Clause 3(a) of this lease  
only YIELDING AND PAYING THEREFOR rent in the amount and in the

manner and at the times provided for in this lease and UPON AND SUBJECT TO the covenants conditions and agreements contained in this lease.

INTERPRETATION

1. IN THIS LEASE unless the contrary intention appears:
  - (a) “Authority” means the Planning and Land Authority established by section 10 of the Planning and Development Act 2007;
  - (b) “building” means any building or structure, constructed or partially constructed or to be constructed, as the context permits or requires, on or under the land;
  - (c) “class” for a building or structure, means the class of building or structure under the building code as defined in the Building Act 2004;
  - (d) “dual occupancy housing” means the use of land that was originally used or leased for the purposes of single dwelling housing for two dwellings;
  - (e) “dwelling”:
    - (i) means a class 1 building, or a self-contained part of a class 2 building, that:
      - (A) includes the following that are accessible from within the building, or the self-contained part of the building:
        - (1) not more than 2 kitchens;
        - (2) at least 1 bath or shower;
        - (3) at least 1 toilet pan; and
      - (B) does not have access from another building that is either a class 1 building or the self-contained part of a class 2 building; and
    - (ii) includes any ancillary parts of the building and any class 10a buildings associated with the building;
  - (f) “Lessee” shall:

***Draft Crown lease – Block B – Residential – DA201833492***

- (i) where the Lessee consists of one person be deemed to include the Lessee and the executors administrators and assigns of the Lessee;
- (ii) where the Lessee consists of two or more persons be deemed to include in the case of a tenancy in common the persons and each of them and their and each of their executors administrators and assigns and in the case of a joint tenancy be deemed to include the said persons and each of them and their and each of their assigns and the executors administrators and assigns of the survivor of them; and
- (iii) where the Lessee is a corporation be deemed to include such corporation its successors and assigns;
- (g) “multi-unit housing” means the use of land for more than one dwelling and includes but is not limited to dual occupancy housing;
- (h) “premises” means the land and any building or other improvements on the land;
- (i) “residential use” means caretaker’s residence, multi-unit housing, residential care accommodation, retirement village, secondary residence, single dwelling housing, supportive housing;
- (j) “RL” (Reduced Level) means the vertical height in metres related to the Australian Height Datum;
- (k) “Territory” means:
  - (i) when used in a geographical sense the Australian Capital Territory; and
  - (ii) when used in any other sense the body politic established by section 7 of the Australian Capital Territory (Self-Government) Act 1988 (C'th);
- (l) words in the singular include the plural and vice versa;
- (m) words importing one gender include the other genders;
- (n) a reference in this lease to any statute or statutory provision shall include a reference to any statute or statutory provision that amends, extends, consolidates or replaces the statute or statutory provision and to any other regulation, instrument or other subordinate legislation made under the statute.

2. THE LESSEE COVENANTS WITH THE COMMONWEALTH as follows:

- |                           |   |
|---------------------------|---|
| RENT                      | (a) That the Lessee shall pay to the Authority rent at the rate of five cents per annum if and when demanded payable within one month of the date of any demand made by the Authority relating thereto and served on the Lessee;                  |
| MANNER OF PAYMENT OF RENT | (b) That any rent or other moneys payable by the Lessee to the Authority under this lease shall be paid to such person as may be authorised by the Authority for that purpose at Canberra in the said Territory without any deduction whatsoever. |

3. THE LESSEE FURTHER COVENANTS WITH THE COMMONWEALTH as follows:

- |                       |  |
|-----------------------|--|
| PURPOSE               | (a) To use the premises for the purpose of residential use LIMITED TO multi-unit housing;  |
| EASEMENT FOR ACCESS   | (b) That the Lessee its employees, contractors, sublessees or occupiers, visitors and invitees shall at all times be permitted to access Block ..... Section 224 Division of Phillip, to pass and repass from time to time, with or without vehicles, across, over and along the land as may be necessary for all purposes connected with the use and enjoyment of the premises;   |
| EASEMENT FOR SERVICES | (c) That: <ul style="list-style-type: none"> <li>(i) the Authority, on behalf of the Commonwealth, grants over that part of the land identified as a services easement on the Deposited Plan an easement (“Easement”) in favour of the relevant provider (referred to as the “service provider”);</li> <li>(ii) the service provider may:                 <ul style="list-style-type: none"> <li>(A) provide, maintain and replace services supplied by that service provider through the land within the site of the Easement; and</li> <li>(B) do anything reasonably necessary for that purpose, including without limitation:                     <ul style="list-style-type: none"> <li>(1) entering or passing through the land;</li> <li>(2) taking anything on to the land; and</li> </ul> </li> </ul> </li> </ul> |

*Draft Crown lease – Block B – Residential – DA201833492*

- (3) carrying out work, including without limitation, constructing, placing, repairing or maintaining pipes, poles, wires, cables, conduits, structures and equipment;
- (iii) in exercising the powers in Clause 3(b)(ii), the service provider must take all reasonable steps to:
  - (A) ensure that the work carried out on the land causes as little disruption, inconvenience and damage as is practicable; and
  - (B) ensure that the land is restored as soon as practicable to a condition that is similar to its condition before the work was carried out;
- (iv) Clause 3(b)(iii)(B), does not require the service provider to restore:
  - (A) the land to a condition that would result in:
    - (1) an interference with:
      - (i) any service on or through the land; or
      - (ii) access to any service on or through the land; or
    - (2) a contravention of a law of the Territory; or
  - (B) any building or structure placed or constructed on any part of the land comprising the Easement;
- (v) the Lessee must not place or construct, nor permit to be placed or constructed, a building or structure or any part of a building or structure on any part of the land comprising the Easement UNLESS written advice from the service provider is obtained;
- (vi) for the purposes of the Easement, “services”, includes, without limitation, the supply of water, gas, electricity and discharge or drainage of water, stormwater and sewerage; and
- (vii) nothing in this clause diminishes or affects any rights or powers of a service provider conferred under any statute, regulation or law;

**INDEMNITY FOR ENCROACHMENTS**

- (i) indemnify and keep indemnified the Commonwealth the Territory their servants and agents from all actions claims suits and demands brought maintain or made against the Commonwealth the Territory servants or agents by any persons or body of persons arising out of the existence of the awning encroaching over the lease boundary as shown by hatching identified as ‘B’ on the legend of the attached plan;
- (ii) take out and maintain a public liability risk insurance policy in the joint names of the Territory and the Lessee for the sum not less than ten million dollars or for such as amount as may be specified by the Territory for time to time to cover any liability which may arise under Clause 3(c)(i);

**RESTRICTION ON TRANSFER**

- (e) That the Lessee shall not transfer assign its interest in the premises or any part of the premises unless and until the proposed transferee or assignee has obtained a public liability risk insurance policy in accordance with Clause 3(c) of this lease and submit the policy to an insurance consultant nominated by the Territory for examination and approval;

**PROVISION OF HYDRAULIC MAINS STORMWATER DRAINS AND SEWER LINES**

- (f) That the Lessee shall provide and thereafter maintain hydraulic mains stormwater drains sewer lines hydraulic fire mains and hydrants on the land in accordance with plans and specifications prepared by the Lessee and previously submitted to and approved in writing by the Authority;

**PROVISION OF STORAGE AREAS CARPARKING AND ILLUMINATION**

- (g) That the Lessee shall provide and thereafter maintain storage areas covered carparking hardstanding carparking adequately illuminated vehicle access roads pedestrian pathways and vehicle access drives on the land to a standard acceptable to the Authority in accordance with plans and specifications prepared by the Lessee and previously submitted to and approved in writing by the Authority;

**PROVISION OF FACILITIES FOR ELECTRICAL AND TELEPHONE CABLES**

- (h) That the Lessee shall provide facilities on the land to a standard acceptable to the Authority to enable electrical and telephone cables and wires to be installed underground;

**LANDSCAPING**

- (i) That the Lessee shall provide and maintain landscaping on the land to a standard acceptable to the Authority in accordance with plans and specifications prepared by the Lessee and previously submitted to and approved in writing by the Authority;

*Draft Crown lease – Block B – Residential – DA201833492*

PRESERVATION OF TREES

- (j) That the Lessee shall not, without the previous consent in writing of the Territory, remove any tree:
  - (i) that has been identified in a development approval for retention during the period allowed for construction of the building; or
  - (ii) to which the Tree Protection Act 2005, applies;

SERVICE AREAS

- (k) That the Lessee shall screen and keep screened all service areas to the satisfaction of the Authority and shall ensure that all plant and machinery contained within the premises is suitably screened from public view;

BUILDING SUBJECT TO APPROVAL

- (l) That the Lessee shall not without the previous approval in writing of the Authority, except where exempt by law, erect any building, or make any structural alterations to any building, on the land;

REPAIR

- (m) That the Lessee shall at all times during the said term maintain repair and keep in repair the premises to the satisfaction of the Authority;

FAILURE TO REPAIR

- (n) If and whenever the Lessee is in breach of the Lessee's obligations to maintain repair and keep in repair the premises the Authority may by notice in writing to the Lessee specifying the repairs and maintenance needed require the Lessee to effect the necessary work in accordance with the notice. If the Authority is of the opinion that a building or some other improvement on the land is beyond reasonable repair the Authority may by notice in writing to the Lessee require the Lessee to remove the building or improvement and may require the Lessee to construct a new building or improvement in place of that removed within the time specified in the notice. If the Lessee does not carry out the required work within the time specified by the Authority any person or persons duly authorised by the Authority with such equipment as is necessary may enter the premises and carry out the necessary work and all costs and expenses incurred by the Authority in carrying out the work shall be paid by the Lessee to the Authority on demand and from the date of such demand until paid shall for all purposes of this lease be a debt due and payable to the Authority by the Lessee;

RIGHT OF INSPECTION

- (o) Subject to the provisions of the Planning and Development Act 2007 to permit any person or persons authorised by the Authority to enter and inspect the premises at all reasonable times and in any reasonable manner;

RATES AND CHARGES

- (p) To pay all rates charges and other statutory outgoings assessed levied or payable in respect of the premises as and when they are due for payment.

4. THE COMMONWEALTH COVENANTS WITH THE LESSEE as follows:

QUIET ENJOYMENT

That the Lessee paying the rent and all other money due and observing and performing the covenants and stipulations on the part of the Lessee to be observed and performed shall quietly enjoy the premises without interruption by the Authority or any person lawfully claiming from or under or in trust for the Authority.

5. IT IS MUTUALLY COVENANTED AND AGREED as follows:

TERMINATION

- (a) That if:
  - (i) any rent or other moneys payable under this lease shall remain unpaid for three months next after the date appointed for payment thereof (whether such rent or other moneys shall have been formally demanded or not); or
  - (ii) an approved development in accordance with this lease is not completed within the period specified in Clause 3(a); or
  - (iii) after completion of an approved development as aforesaid the said land is at any time not used for a period of one year for the purpose for which this lease is granted; or
  - (iv) the Lessee shall fail to observe or perform any other of the covenants herein contained in this lease on the part of the Lessee to be observed or performed and shall have failed to remedy such breach within a period of six months from the date of service on the Lessee of a notice in writing from the Authority specifying the nature of such breach

the Authority on behalf of the Commonwealth may terminate this lease but without prejudice to any claim which the Authority or the Commonwealth may have against the Lessee in respect of any breach of the covenants on the part of the Lessee to be observed or performed;

ACCEPTANCE OF RENT

- (b) That acceptance of rent or other moneys by the Authority during or after any period referred to in Clauses 5(a) (i), (ii), (iii) or (iv) of this lease shall not prevent or impede the exercise by

Draft Crown lease – Block B – Residential – DA201833492

the Authority of the powers conferred upon it by the said Clauses;

FURTHER LEASE

(c) Subject to the Lessee paying all money required to be paid under the provisions of the Planning and Development Act 2007 the Lessee shall be entitled to a further lease of the land for such further term and at such rent and subject to such conditions as may then be provided or permitted by Statute Ordinance or Regulation;

NOTICES

(d) That any notice requirement demand consent or other communication to be given to or served upon the Lessee under this lease shall be deemed to have been duly given or served if signed by or on behalf of the Authority and delivered to or sent in a prepaid letter addressed to the Lessee at the registered office of the Lessee in the said Territory BUT if for any reason the Lessee does not have a registered office in the said Territory then at the usual or last-known address of the Lessee or affixed in a conspicuous position on the premises;

EXERCISE OF POWERS

(e) Any and every right, power or remedy conferred on the Commonwealth or Territory in this lease, by law or implied by law may be exercised on behalf of the Commonwealth or the Territory or as the case may be by:  
(i) the Authority;  
(ii) an authority or person for the time being authorised by the Authority or by law to exercise those powers or functions of the Commonwealth or Territory; or  
(iii) an authority or person to whom the Authority has delegated all its powers or functions under the Planning and Development Act 2007.

IN WITNESS whereof the Authority on behalf of the Commonwealth and the Lessee have executed this lease.

Signed by [name of signatory] )  
a delegate authorised to execute this lease )  
on behalf of the Commonwealth in the )  
presence of [name of witness] )

.....

Delegate

.....

Witness

Signed by )  
NG WODEN PTY LIMITED )  
(A.C.N. 620 839 894) by: )

.....  
Signature

.....  
Signature

.....  
Name in full

.....  
Name in full

.....  
Sole Directory/ Director/Secretary

.....  
Director/Secretary

DRAFT

**Insert lease plan here  
(if required)**

This is a market value lease - s238(2)(a)(ii) Planning and Development Act 2007

AUSTRALIAN CAPITAL TERRITORY

PLANNING AND DEVELOPMENT ACT 2007

Australian Capital Territory (Planning and Land Management) Act 1988 (C'th) (ss 29, 30 & 31)

REVISED DRAFT ATTACHMENTS WILL BE PROVIDED FOLLOWING THE SUBMISSION OF FURTHER INFORMATION

LEASE GRANTED pursuant to the Planning and Development Act 2007 and the Regulations made under that Act on the \_\_\_\_\_ day of \_\_\_\_\_ Two thousand and \_\_\_\_\_ WHEREBY THE PLANNING AND LAND AUTHORITY (“the Authority”) ON BEHALF OF THE COMMONWEALTH OF AUSTRALIA (“the Commonwealth”) in exercising its functions grants to **NG WODEN PTY LIMITED A.C.N. 620 839 894** a company having its registered office at Unit 18, 24 Iron Knob Street Fyshwick in the Australian Capital Territory (“the Lessee”) ALL THAT piece or parcel of land situate in the Australian Capital Territory containing **an area of \_\_\_\_\_ square metres** or thereabouts and being **Block \_\_\_\_\_ Section \_\_\_\_\_ Division of \_\_\_\_\_** as delineated on **Deposited Plan Number \_\_\_\_\_** and containing an area of **\_\_\_\_\_ square metres** or thereabouts and being **Block \_\_\_\_\_ Section \_\_\_\_\_ Division of \_\_\_\_\_** as delineated on **Deposited Plan Number \_\_\_\_\_** in the Registrar-General’s Office at Canberra in the said Territory (“the land”) RESERVING unto the Territory all minerals and the right to the use, flow and control of ground water under the surface of the land TO HOLD unto the Lessee for the term commencing on **the (TBA) day of (TBA) Two thousand and (TBA)** (“the date of the commencement of the lease”) and terminating on the **seventh day of November Two thousand one hundred and four** to be used by the Lessee for the purpose set out in Clause 3(a) of this lease only YIELDING AND PAYING THEREFOR rent in the amount and in the

LESSEE

LAND

TERM

manner and at the times provided for in this lease and UPON AND SUBJECT TO the covenants conditions and agreements contained in this lease.

INTERPRETATION

1. IN THIS LEASE unless the contrary intention appears:
  - (a) “Authority” means the Planning and Land Authority established by section 10 of the Planning and Development Act 2007;
  - (b) “building” means any building or structure, constructed or partially constructed or to be constructed, as the context permits or requires, on or under the land;
  - (c) “class” for a building or structure, means the class of building or structure under the building code as defined in the Building Act 2004;
  - (d) “dual occupancy housing” means the use of land that was originally used or leased for the purposes of single dwelling housing for two dwellings;
  - (e) “dwelling”:
    - (i) means a class 1 building, or a self-contained part of a class 2 building, that:
      - (A) includes the following that are accessible from within the building, or the self-contained part of the building:
        - (1) not more than 2 kitchens;
        - (2) at least 1 bath or shower;
        - (3) at least 1 toilet pan; and
      - (B) does not have access from another building that is either a class 1 building or the self-contained part of a class 2 building; and
    - (ii) includes any ancillary parts of the building and any class 10a buildings associated with the building;
  - (f) “Lessee” shall:

***Draft Crown lease – Block C – Residential – DA201833492***

- (i) where the Lessee consists of one person be deemed to include the Lessee and the executors administrators and assigns of the Lessee;
- (ii) where the Lessee consists of two or more persons be deemed to include in the case of a tenancy in common the persons and each of them and their and each of their executors administrators and assigns and in the case of a joint tenancy be deemed to include the said persons and each of them and their and each of their assigns and the executors administrators and assigns of the survivor of them; and
- (iii) where the Lessee is a corporation be deemed to include such corporation its successors and assigns;
- (g) “multi-unit housing” means the use of land for more than one dwelling and includes but is not limited to dual occupancy housing;
- (h) “premises” means the land and any building or other improvements on the land;
- (i) “residential use” means caretaker’s residence, multi-unit housing, residential care accommodation, retirement village, secondary residence, single dwelling housing, supportive housing;
- (j) “RL” (Reduced Level) means the vertical height in metres related to the Australian Height Datum;
- (k) “Territory” means:
  - (i) when used in a geographical sense the Australian Capital Territory; and
  - (ii) when used in any other sense the body politic established by section 7 of the Australian Capital Territory (Self-Government) Act 1988 (C'th);
- (l) words in the singular include the plural and vice versa;
- (m) words importing one gender include the other genders;
- (n) a reference in this lease to any statute or statutory provision shall include a reference to any statute or statutory provision that amends, extends, consolidates or replaces the statute or statutory provision and to any other regulation, instrument or other subordinate legislation made under the statute.

2. THE LESSEE COVENANTS WITH THE COMMONWEALTH as follows:

- |                           |   |
|---------------------------|---|
| RENT                      | (a) That the Lessee shall pay to the Authority rent at the rate of five cents per annum if and when demanded payable within one month of the date of any demand made by the Authority relating thereto and served on the Lessee;                  |
| MANNER OF PAYMENT OF RENT | (b) That any rent or other moneys payable by the Lessee to the Authority under this lease shall be paid to such person as may be authorised by the Authority for that purpose at Canberra in the said Territory without any deduction whatsoever. |

3. THE LESSEE FURTHER COVENANTS WITH THE COMMONWEALTH as follows:

- |                       |  |
|-----------------------|--|
| PURPOSE               | (a) To use the premises for the purpose of residential use LIMITED TO multi-unit housing;  |
| EASEMENT FOR ACCESS   | (b) That the Lessee its employees, contractors, sublessees or occupiers, visitors and invitees shall at all times be permitted to access Block ..... Section 224 Division of Phillip, to pass and repass from time to time, with or without vehicles, across, over and along the land as may be necessary for all purposes connected with the use and enjoyment of the premises;   |
| EASEMENT FOR SERVICES | (c) That: <ul style="list-style-type: none"> <li>(i) the Authority, on behalf of the Commonwealth, grants over that part of the land identified as a services easement on the Deposited Plan an easement (“Easement”) in favour of the relevant provider (referred to as the “service provider”);</li> <li>(ii) the service provider may:                 <ul style="list-style-type: none"> <li>(A) provide, maintain and replace services supplied by that service provider through the land within the site of the Easement; and</li> <li>(B) do anything reasonably necessary for that purpose, including without limitation:                     <ul style="list-style-type: none"> <li>(1) entering or passing through the land;</li> <li>(2) taking anything on to the land; and</li> </ul> </li> </ul> </li> </ul> |

***Draft Crown lease – Block C – Residential – DA201833492***

- (3) carrying out work, including without limitation, constructing, placing, repairing or maintaining pipes, poles, wires, cables, conduits, structures and equipment;
- (iii) in exercising the powers in Clause 3(b)(ii), the service provider must take all reasonable steps to:
  - (A) ensure that the work carried out on the land causes as little disruption, inconvenience and damage as is practicable; and
  - (B) ensure that the land is restored as soon as practicable to a condition that is similar to its condition before the work was carried out;
- (iv) Clause 3(b)(iii)(B), does not require the service provider to restore:
  - (A) the land to a condition that would result in:
    - (1) an interference with:
      - (i) any service on or through the land; or
      - (ii) access to any service on or through the land; or
    - (2) a contravention of a law of the Territory; or
  - (B) any building or structure placed or constructed on any part of the land comprising the Easement;
- (v) the Lessee must not place or construct, nor permit to be placed or constructed, a building or structure or any part of a building or structure on any part of the land comprising the Easement UNLESS written advice from the service provider is obtained;
- (vi) for the purposes of the Easement, “services”, includes, without limitation, the supply of water, gas, electricity and discharge or drainage of water, stormwater and sewerage; and
- (vii) nothing in this clause diminishes or affects any rights or powers of a service provider conferred under any statute, regulation or law;

**INDEMNITY FOR ENCROACHMENTS**

- (i) indemnify and keep indemnified the Commonwealth the Territory their servants and agents from all actions claims suits and demands brought maintain or made against the Commonwealth the Territory servants or agents by any persons or body of persons arising out of the existence of the awning encroaching over the lease boundary as shown by hatching identified as ‘B’ on the legend of the attached plan;
- (ii) take out and maintain a public loability risk insurance policy in the joint names of the Territory and the Lessee for the sum not less than ten million dollars or for such as amount as may be specified by the Territoy for time to time to cover any liability which may arise under Cluase 3(c)(i);

**RESTRICTION ON TRANSFER**

- (e) That the Lessee shall not transfer assign its interest in the premises or any part of the premises unless and until the proposed transferee or assignee has obtained a public liability risk insurance policy in accordance with Clause 3(c) of this lease and submit the policy to an insurance consultant nominated by the Territory for examination and approval;

**PROVISION OF HYDRAULIC MAINS STORMWATER DRAINS AND SEWER LINES**

- (f) That the Lessee shall provide and thereafter maintain hydraulic mains stormwater drains sewer lines hydraulic fire mains and hydrants on the land in accordance with plans and specifications prepared by the Lessee and previously submitted to and approved in writing by the Authority;

**PROVISION OF STORAGE AREAS CARPARKING AND ILLUMINATION**

- (g) That the Lessee shall provide and thereafter maintain storage areas covered carparking hardstanding carparking adequately illuminated vehicle access roads pedestrian pathways and vehicle access drives on the land to a standard acceptable to the Authority in accordance with plans and specifications prepared by the Lessee and previously submitted to and approved in writing by the Authority;

**PROVISION OF FACILITIES FOR ELECTRICAL AND TELEPHONE CABLES**

- (h) That the Lessee shall provide facilities on the land to a standard acceptable to the Authority to enable electrical and telephone cables and wires to be installed underground;

**LANDSCAPING**

- (i) That the Lessee shall provide and maintain landscaping on the land to a standard acceptable to the Authority in accordance with plans and specifications prepared by the Lessee and previously submitted to and approved in writing by the Authority;

*Draft Crown lease – Block C – Residential – DA201833492*

PRESERVATION OF TREES

- (j) That the Lessee shall not, without the previous consent in writing of the Territory, remove any tree:
  - (i) that has been identified in a development approval for retention during the period allowed for construction of the building; or
  - (ii) to which the Tree Protection Act 2005, applies;

SERVICE AREAS

- (k) That the Lessee shall screen and keep screened all service areas to the satisfaction of the Authority and shall ensure that all plant and machinery contained within the premises is suitably screened from public view;

BUILDING SUBJECT TO APPROVAL

- (l) That the Lessee shall not without the previous approval in writing of the Authority, except where exempt by law, erect any building, or make any structural alterations to any building, on the land;

REPAIR

- (m) That the Lessee shall at all times during the said term maintain repair and keep in repair the premises to the satisfaction of the Authority;

FAILURE TO REPAIR

- (n) If and whenever the Lessee is in breach of the Lessee's obligations to maintain repair and keep in repair the premises the Authority may by notice in writing to the Lessee specifying the repairs and maintenance needed require the Lessee to effect the necessary work in accordance with the notice. If the Authority is of the opinion that a building or some other improvement on the land is beyond reasonable repair the Authority may by notice in writing to the Lessee require the Lessee to remove the building or improvement and may require the Lessee to construct a new building or improvement in place of that removed within the time specified in the notice. If the Lessee does not carry out the required work within the time specified by the Authority any person or persons duly authorised by the Authority with such equipment as is necessary may enter the premises and carry out the necessary work and all costs and expenses incurred by the Authority in carrying out the work shall be paid by the Lessee to the Authority on demand and from the date of such demand until paid shall for all purposes of this lease be a debt due and payable to the Authority by the Lessee;

RIGHT OF INSPECTION

- (o) Subject to the provisions of the Planning and Development Act 2007 to permit any person or persons authorised by the Authority to enter and inspect the premises at all reasonable times and in any reasonable manner;

RATES AND CHARGES

- (p) To pay all rates charges and other statutory outgoings assessed levied or payable in respect of the premises as and when they are due for payment.

4. THE COMMONWEALTH COVENANTS WITH THE LESSEE as follows:

QUIET ENJOYMENT

That the Lessee paying the rent and all other money due and observing and performing the covenants and stipulations on the part of the Lessee to be observed and performed shall quietly enjoy the premises without interruption by the Authority or any person lawfully claiming from or under or in trust for the Authority.

5. IT IS MUTUALLY COVENANTED AND AGREED as follows:

TERMINATION

- (a) That if:
  - (i) any rent or other moneys payable under this lease shall remain unpaid for three months next after the date appointed for payment thereof (whether such rent or other moneys shall have been formally demanded or not); or
  - (ii) an approved development in accordance with this lease is not completed within the period specified in Clause 3(a); or
  - (iii) after completion of an approved development as aforesaid the said land is at any time not used for a period of one year for the purpose for which this lease is granted; or
  - (iv) the Lessee shall fail to observe or perform any other of the covenants herein contained in this lease on the part of the Lessee to be observed or performed and shall have failed to remedy such breach within a period of six months from the date of service on the Lessee of a notice in writing from the Authority specifying the nature of such breach

the Authority on behalf of the Commonwealth may terminate this lease but without prejudice to any claim which the Authority or the Commonwealth may have against the Lessee in respect of any breach of the covenants on the part of the Lessee to be observed or performed;

ACCEPTANCE OF RENT

- (b) That acceptance of rent or other moneys by the Authority during or after any period referred to in Clauses 5(a) (i), (ii), (iii) or (iv) of this lease shall not prevent or impede the exercise by

Draft Crown lease – Block C – Residential – DA201833492

the Authority of the powers conferred upon it by the said Clauses;

FURTHER LEASE (c) Subject to the Lessee paying all money required to be paid under the provisions of the Planning and Development Act 2007 the Lessee shall be entitled to a further lease of the land for such further term and at such rent and subject to such conditions as may then be provided or permitted by Statute Ordinance or Regulation;

NOTICES (d) That any notice requirement demand consent or other communication to be given to or served upon the Lessee under this lease shall be deemed to have been duly given or served if signed by or on behalf of the Authority and delivered to or sent in a prepaid letter addressed to the Lessee at the registered office of the Lessee in the said Territory BUT if for any reason the Lessee does not have a registered office in the said Territory then at the usual or last-known address of the Lessee or affixed in a conspicuous position on the premises;

EXERCISE OF POWERS (e) Any and every right, power or remedy conferred on the Commonwealth or Territory in this lease, by law or implied by law may be exercised on behalf of the Commonwealth or the Territory or as the case may be by: (i) the Authority; (ii) an authority or person for the time being authorised by the Authority or by law to exercise those powers or functions of the Commonwealth or Territory; or (iii) an authority or person to whom the Authority has delegated all its powers or functions under the Planning and Development Act 2007.

IN WITNESS whereof the Authority on behalf of the Commonwealth and the Lessee have executed this lease.

Signed by [name of signatory] )
a delegate authorised to execute this lease ) .....
on behalf of the Commonwealth in the ) Delegate
presence of [name of witness] )

.....
Witness

Signed by )  
**NG WODEN PTY LIMITED** )  
(A.C.N. 620 839 894) by: )

.....  
Signature

.....  
Signature

.....  
Name in full

.....  
Name in full

.....  
Sole Directory/ Director/Secretary

.....  
Director/Secretary

**DRAFT**

**Insert lease plan here  
(if required)**

This is a market value lease - s238(2)(a)(ii) Planning and Development Act 2007

AUSTRALIAN CAPITAL TERRITORY

PLANNING AND DEVELOPMENT ACT 2007

Australian Capital Territory (Planning and Land Management) Act 1988 (C'th) (ss 29, 30 & 31)

REVISED DRAFT ATTACHMENTS WILL BE PROVIDED FOLLOWING THE SUBMISSION OF FURTHER INFORMATION

LEASE GRANTED pursuant to the Planning and Development Act 2007 and the Regulations made under that Act on the                      day of                      Two thousand and                      WHEREBY THE PLANNING AND LAND AUTHORITY (“the Authority”) ON BEHALF OF THE COMMONWEALTH OF AUSTRALIA (“the Commonwealth”) in exercising its functions grants to **NG WODEN PTY LIMITED A.C.N. 620 839 894** a company having its registered office at Unit 18, 24 Iron Knob Street Fyshwick in the Australian Capital Territory (“the Lessee”) ALL THAT piece or parcel of land situate in the Australian Capital Territory containing **an area of                      square metres** or thereabouts and being **Block                      Section                      Division of                      as delineated on Deposited Plan                      Number                      and containing an area of                      square metres** or thereabouts and being **Block                      Section                      Division of                      as delineated on Deposited Plan                      Number** in the Registrar-General’s Office at Canberra in the said Territory (“the land”) RESERVING unto the Territory all minerals and the right to the use, flow and control of ground water under the surface of the land TO HOLD unto the Lessee for the term commencing on **the (TBA) day of (TBA) Two thousand and (TBA) (“the date of the commencement of the lease”)** and terminating on the **seventh day of November Two thousand one hundred and four** to be used by the Lessee for the purpose set out in Clause 3(a) of this lease only YIELDING AND PAYING THEREFOR rent in the amount and in the

LESSEE

LAND

TERM

manner and at the times provided for in this lease and UPON AND SUBJECT TO the covenants conditions and agreements contained in this lease.

INTERPRETATION

1. IN THIS LEASE unless the contrary intention appears:
  - (a) “Authority” means the Planning and Land Authority established by section 10 of the Planning and Development Act 2007;
  - (b) “building” means any building or structure, constructed or partially constructed or to be constructed, as the context permits or requires, on or under the land;
  - (c) “class” for a building or structure, means the class of building or structure under the building code as defined in the Building Act 2004;
  - (d) “dual occupancy housing” means the use of land that was originally used or leased for the purposes of single dwelling housing for two dwellings;
  - (e) “dwelling”:
    - (i) means a class 1 building, or a self-contained part of a class 2 building, that:
      - (A) includes the following that are accessible from within the building, or the self-contained part of the building:
        - (1) not more than 2 kitchens;
        - (2) at least 1 bath or shower;
        - (3) at least 1 toilet pan; and
      - (B) does not have access from another building that is either a class 1 building or the self-contained part of a class 2 building; and
    - (ii) includes any ancillary parts of the building and any class 10a buildings associated with the building;
  - (f) “Lessee” shall:

*Draft Crown lease – Block D – Residential – DA201833492*

- (i) where the Lessee consists of one person be deemed to include the Lessee and the executors administrators and assigns of the Lessee;
- (ii) where the Lessee consists of two or more persons be deemed to include in the case of a tenancy in common the persons and each of them and their and each of their executors administrators and assigns and in the case of a joint tenancy be deemed to include the said persons and each of them and their and each of their assigns and the executors administrators and assigns of the survivor of them; and
- (iii) where the Lessee is a corporation be deemed to include such corporation its successors and assigns;
- (g) “multi-unit housing” means the use of land for more than one dwelling and includes but is not limited to dual occupancy housing;
- (h) “premises” means the land and any building or other improvements on the land;
- (i) “residential use” means caretaker’s residence, multi-unit housing, residential care accommodation, retirement village, secondary residence, single dwelling housing, supportive housing;
- (j) “RL” (Reduced Level) means the vertical height in metres related to the Australian Height Datum;
- (k) “Territory” means:
  - (i) when used in a geographical sense the Australian Capital Territory; and
  - (ii) when used in any other sense the body politic established by section 7 of the Australian Capital Territory (Self-Government) Act 1988 (C'th);
- (l) words in the singular include the plural and vice versa;
- (m) words importing one gender include the other genders;
- (n) a reference in this lease to any statute or statutory provision shall include a reference to any statute or statutory provision that amends, extends, consolidates or replaces the statute or statutory provision and to any other regulation, instrument or other subordinate legislation made under the statute.

2. THE LESSEE COVENANTS WITH THE COMMONWEALTH as follows:

- RENT (a) That the Lessee shall pay to the Authority rent at the rate of five cents per annum if and when demanded payable within one month of the date of any demand made by the Authority relating thereto and served on the Lessee;
- MANNER OF PAYMENT OF RENT (b) That any rent or other moneys payable by the Lessee to the Authority under this lease shall be paid to such person as may be authorised by the Authority for that purpose at Canberra in the said Territory without any deduction whatsoever.

3. THE LESSEE FURTHER COVENANTS WITH THE COMMONWEALTH as follows:

- PURPOSE (a) To use the premises for the purpose of residential use LIMITED TO multi-unit housing;
- EASEMENT FOR ACCESS (b) That the Lessee its employees, contractors, sublessees or occupiers, visitors and invitees shall at all times be permitted to access Block ..... Section 224 Division of Phillip, to pass and repass from time to time, with or without vehicles, across, over and along the land as may be necessary for all purposes connected with the use and enjoyment of the premises;
- EASEMENT FOR SERVICES (c) That:
- (i) the Authority, on behalf of the Commonwealth, grants over that part of the land identified as a services easement on the Deposited Plan an easement (“Easement”) in favour of the relevant provider (referred to as the “service provider”);
  - (ii) the service provider may:
    - (A) provide, maintain and replace services supplied by that service provider through the land within the site of the Easement; and
    - (B) do anything reasonably necessary for that purpose, including without limitation:
      - (1) entering or passing through the land;
      - (2) taking anything on to the land; and

*Draft Crown lease – Block D – Residential – DA201833492*

- (3) carrying out work, including without limitation, constructing, placing, repairing or maintaining pipes, poles, wires, cables, conduits, structures and equipment;
- (iii) in exercising the powers in Clause 3(b)(ii), the service provider must take all reasonable steps to:
  - (A) ensure that the work carried out on the land causes as little disruption, inconvenience and damage as is practicable; and
  - (B) ensure that the land is restored as soon as practicable to a condition that is similar to its condition before the work was carried out;
- (iv) Clause 3(b)(iii)(B), does not require the service provider to restore:
  - (A) the land to a condition that would result in:
    - (1) an interference with:
      - (i) any service on or through the land; or
      - (ii) access to any service on or through the land; or
    - (2) a contravention of a law of the Territory; or
  - (B) any building or structure placed or constructed on any part of the land comprising the Easement;
- (v) the Lessee must not place or construct, nor permit to be placed or constructed, a building or structure or any part of a building or structure on any part of the land comprising the Easement UNLESS written advice from the service provider is obtained;
- (vi) for the purposes of the Easement, “services”, includes, without limitation, the supply of water, gas, electricity and discharge or drainage of water, stormwater and sewerage; and
- (vii) nothing in this clause diminishes or affects any rights or powers of a service provider conferred under any statute, regulation or law;

**INDEMNITY FOR ENCROACHMENTS**

- (i) indemnify and keep indemnified the Commonwealth the Territory their servants and agents from all actions claims suits and demands brought maintain or made against the Commonwealth the Territory servants or agents by any persons or body of persons arising out of the existence of the awning encroaching over the lease boundary as shown by hatching identified as 'B' on the legend of the attached plan;
- (ii) take out and maintain a public loability risk insurance policy in the joint names of the Territory and the Lessee for the sum not less than ten million dollars or for such as amount as may be specified by the Territoy for time to time to cover any liability which may arise under Cluase 3(c)(i);

**RESTRICTION ON TRANSFER**

- (e) That the Lessee shall not transfer assign its interest in the premises or any part of the premises unless and until the proposed transferee or assignee has obtained a public liability risk insurance policy in accordance with Clause 3(c) of this lease and submit the policy to an insurance consultant nominated by the Territory for examination and approval;

**PROVISION OF HYDRAULIC MAINS STORMWATER DRAINS AND SEWER LINES**

- (f) That the Lessee shall provide and thereafter maintain hydraulic mains stormwater drains sewer lines hydraulic fire mains and hydrants on the land in accordance with plans and specifications prepared by the Lessee and previously submitted to and approved in writing by the Authority;

**PROVISION OF STORAGE AREAS CARPARKING AND ILLUMINATION**

- (g) That the Lessee shall provide and thereafter maintain storage areas covered carparking hardstanding carparking adequately illuminated vehicle access roads pedestrian pathways and vehicle access drives on the land to a standard acceptable to the Authority in accordance with plans and specifications prepared by the Lessee and previously submitted to and approved in writing by the Authority;

**PROVISION OF FACILITIES FOR ELECTRICAL AND TELEPHONE CABLES**

- (h) That the Lessee shall provide facilities on the land to a standard acceptable to the Authority to enable electrical and telephone cables and wires to be installed underground;

**LANDSCAPING**

- (i) That the Lessee shall provide and maintain landscaping on the land to a standard acceptable to the Authority in accordance with plans and specifications prepared by the Lessee and previously submitted to and approved in writing by the Authority;

*Draft Crown lease – Block D – Residential – DA201833492*

PRESERVATION OF TREES

- (j) That the Lessee shall not, without the previous consent in writing of the Territory, remove any tree:
  - (i) that has been identified in a development approval for retention during the period allowed for construction of the building; or
  - (ii) to which the Tree Protection Act 2005, applies;

SERVICE AREAS

- (k) That the Lessee shall screen and keep screened all service areas to the satisfaction of the Authority and shall ensure that all plant and machinery contained within the premises is suitably screened from public view;

BUILDING SUBJECT TO APPROVAL

- (l) That the Lessee shall not without the previous approval in writing of the Authority, except where exempt by law, erect any building, or make any structural alterations to any building, on the land;

REPAIR

- (m) That the Lessee shall at all times during the said term maintain repair and keep in repair the premises to the satisfaction of the Authority;

FAILURE TO REPAIR

- (n) If and whenever the Lessee is in breach of the Lessee's obligations to maintain repair and keep in repair the premises the Authority may by notice in writing to the Lessee specifying the repairs and maintenance needed require the Lessee to effect the necessary work in accordance with the notice. If the Authority is of the opinion that a building or some other improvement on the land is beyond reasonable repair the Authority may by notice in writing to the Lessee require the Lessee to remove the building or improvement and may require the Lessee to construct a new building or improvement in place of that removed within the time specified in the notice. If the Lessee does not carry out the required work within the time specified by the Authority any person or persons duly authorised by the Authority with such equipment as is necessary may enter the premises and carry out the necessary work and all costs and expenses incurred by the Authority in carrying out the work shall be paid by the Lessee to the Authority on demand and from the date of such demand until paid shall for all purposes of this lease be a debt due and payable to the Authority by the Lessee;

RIGHT OF INSPECTION

- (o) Subject to the provisions of the Planning and Development Act 2007 to permit any person or persons authorised by the Authority to enter and inspect the premises at all reasonable times and in any reasonable manner;

*Draft Crown lease – Block D – Residential – DA201833492*

RATES AND CHARGES

- (p) To pay all rates charges and other statutory outgoings assessed levied or payable in respect of the premises as and when they are due for payment.

4. THE COMMONWEALTH COVENANTS WITH THE LESSEE as follows:

QUIET ENJOYMENT

That the Lessee paying the rent and all other money due and observing and performing the covenants and stipulations on the part of the Lessee to be observed and performed shall quietly enjoy the premises without interruption by the Authority or any person lawfully claiming from or under or in trust for the Authority.

5. IT IS MUTUALLY COVENANTED AND AGREED as follows:

TERMINATION

- (a) That if:
  - (i) any rent or other moneys payable under this lease shall remain unpaid for three months next after the date appointed for payment thereof (whether such rent or other moneys shall have been formally demanded or not); or
  - (ii) an approved development in accordance with this lease is not completed within the period specified in Clause 3(a); or
  - (iii) after completion of an approved development as aforesaid the said land is at any time not used for a period of one year for the purpose for which this lease is granted; or
  - (iv) the Lessee shall fail to observe or perform any other of the covenants herein contained in this lease on the part of the Lessee to be observed or performed and shall have failed to remedy such breach within a period of six months from the date of service on the Lessee of a notice in writing from the Authority specifying the nature of such breach

the Authority on behalf of the Commonwealth may terminate this lease but without prejudice to any claim which the Authority or the Commonwealth may have against the Lessee in respect of any breach of the covenants on the part of the Lessee to be observed or performed;

ACCEPTANCE OF RENT

- (b) That acceptance of rent or other moneys by the Authority during or after any period referred to in Clauses 5(a) (i), (ii), (iii) or (iv) of this lease shall not prevent or impede the exercise by

Draft Crown lease – Block D – Residential – DA201833492

the Authority of the powers conferred upon it by the said Clauses;

FURTHER LEASE

(c) Subject to the Lessee paying all money required to be paid under the provisions of the Planning and Development Act 2007 the Lessee shall be entitled to a further lease of the land for such further term and at such rent and subject to such conditions as may then be provided or permitted by Statute Ordinance or Regulation;

NOTICES

(d) That any notice requirement demand consent or other communication to be given to or served upon the Lessee under this lease shall be deemed to have been duly given or served if signed by or on behalf of the Authority and delivered to or sent in a prepaid letter addressed to the Lessee at the registered office of the Lessee in the said Territory BUT if for any reason the Lessee does not have a registered office in the said Territory then at the usual or last-known address of the Lessee or affixed in a conspicuous position on the premises;

EXERCISE OF POWERS

(e) Any and every right, power or remedy conferred on the Commonwealth or Territory in this lease, by law or implied by law may be exercised on behalf of the Commonwealth or the Territory or as the case may be by:  
(i) the Authority;  
(ii) an authority or person for the time being authorised by the Authority or by law to exercise those powers or functions of the Commonwealth or Territory; or  
(iii) an authority or person to whom the Authority has delegated all its powers or functions under the Planning and Development Act 2007.

IN WITNESS whereof the Authority on behalf of the Commonwealth and the Lessee have executed this lease.

Signed by [name of signatory] )  
a delegate authorised to execute this lease )  
on behalf of the Commonwealth in the )  
presence of [name of witness] )

.....

Delegate

.....

Witness

Signed by )  
NG WODEN PTY LIMITED )  
(A.C.N. 620 839 894) by: )

.....  
Signature

.....  
Signature

.....  
Name in full

.....  
Name in full

.....  
Sole Directory/ Director/Secretary

.....  
Director/Secretary

DRAFT

**Insert lease plan here  
(if required)**

This is a market value lease - s238(2)(a)(ii) Planning and Development Act 2007

AUSTRALIAN CAPITAL TERRITORY

PLANNING AND DEVELOPMENT ACT 2007

Australian Capital Territory (Planning and Land Management) Act 1988 (C'th) (ss 29, 30 & 31)

REVISED DRAFT ATTACHMENTS WILL BE PROVIDED FOLLOWING THE SUBMISSION OF FURTHER INFORMATION

LEASE GRANTED pursuant to the Planning and Development Act 2007 and the Regulations made under that Act on the                      day of

Two thousand and                      WHEREBY THE PLANNING AND LAND

LESSEE AUTHORITY (“the Authority”) ON BEHALF OF THE COMMONWEALTH OF AUSTRALIA (“the Commonwealth”) in exercising its functions grants to

**NG WODEN PTY LIMITED A.C.N. 620 839 894** a company having its registered office at Unit 18, 24 Iron Knob Street Fyshwick in the Australian Capital

LAND Territory (“the Lessee”) ALL THAT piece or parcel of land situate in the Australian Capital Territory containing **an area of                      square metres** or thereabouts and

being **Block      Section      Division of                      as delineated on Deposited Plan**

**Number      and** containing an area of **square metres** or thereabouts and

being **Block      Section      Division of                      as delineated on Deposited Plan**

**Number      in the Registrar-General’s Office at Canberra in the said Territory**

(“the land”) RESERVING unto the Territory all minerals and the right to the use,

flow and control of ground water under the surface of the land TO HOLD unto the

TERM Lessee for the term commencing on **the (TBA) day of (TBA) Two**

**thousand and (TBA)** (“the date of the commencement of the lease”) and

terminating on the **seventh day of November Two thousand one hundred and**

**four** to be used by the Lessee for the purpose set out in Clause 3(a) of this lease

only YIELDING AND PAYING THEREFOR rent in the amount and in the

manner and at the times provided for in this lease and UPON AND SUBJECT TO the covenants conditions and agreements contained in this lease.

## INTERPRETATION

1. IN THIS LEASE unless the contrary intention appears:
  - (a) “Authority” means the Planning and Land Authority established by section 10 of the Planning and Development Act 2007;
  - (b) “building” means any building or structure, constructed or partially constructed or to be constructed, as the context permits or requires, on or under the land;
  - (c) “bulky goods retailing” means a shop which includes a loading dock within the building, and where the goods or materials sold or displayed are of such a size, shape or weight as to require:
    - a) a large area for handling, storage or display; and/or
    - b) direct vehicular access to the site by members of the public, for the purpose of loading goods or materials into their vehicles after purchase, but does not include any shop used primarily for the sale of food or clothing;
  - (d) “business agency” means the use of land for the purpose of providing a commercial service directly and regularly to the public;
  - (e) “club” means the use of land as a meeting place for persons associated, or for a body incorporated, for a social, sporting, athletic, literary, political or other like purpose, and which is a licensed premise under the Liquor Act 2010;
  - (f) “commercial accommodation use” means commercial accommodation unit, guest house, hotel, motel, serviced apartment, tourist resort. It does not include a caravan park/camping ground or a group or organised camp;
  - (g) “community use” means the use of the land for child care centre, community activity centre, community theatre, cultural facility, educational establishment, health facility, hospital, place of worship, and/or religious associated use;
  - (h) “community activity centre” means the use of land by a public authority or a body of persons associated for the purpose of providing for the social well being of the community

***Draft Crown lease – Commercial – 201833492***

- (i) “community theatre” means the use of land for a theatre, cinema, concert hall, auditorium or theatrette run by non-profit organisations;
- (j) “cultural facility” means the use of land for the purpose of cultural activities to which the public normally has access, but does not include a shop for art, craft or sculpture dealer
- (k) “department store” means a shop in which goods are sold by separate departments within the shop and from which a significant amount or proportion of retail sales occur from at least four of the following types of goods: furniture and floor coverings; fabrics and household textiles; clothing; footwear; household appliances; china, glassware and domestic hardware;
- (l) “drink establishment” means the use of land for the sale of alcoholic beverages and spirits to members of the public primarily for consumption on the premises, and which is a licensed premise under the Liquor Act 2010;
- (m) “educational establishment” means the use of land for the purpose of tuition, training or research directed towards the discovery or application of knowledge, whether or not for the purposes of gain, and may include associated residential accommodation;
- (n) “financial establishment” means the use of land for the primary purpose of providing finance, investing money, and providing services to lenders, borrowers and investors on a direct and regular basis;
- (o) “health facility” means the use of land for providing health care services (including diagnosis, preventative care or counselling) or medical or surgical treatment to outpatients only;
- (p) “hotel” means the use of land for one or more commercial accommodation units and where the premise is licensed under the Liquor Act 2010. It may also include associated facilities such as a restaurant, bar or functions room, which may be used by the occupants of the premises but, which are also available for use by non occupant members of the public;
- (q) “indoor recreation facility” means the use of land for sporting activities where such use is primarily indoors;
- (r) “Lessee” shall:

*Draft Crown lease – Commercial – 201833492*

- (i) where the Lessee consists of one person be deemed to include the Lessee and the executors administrators and assigns of the Lessee;
- (ii) where the Lessee consists of two or more persons be deemed to include in the case of a tenancy in common the persons and each of them and their and each of their executors administrators and assigns and in the case of a joint tenancy be deemed to include the said persons and each of them and their and each of their assigns and the executors administrators and assigns of the survivor of them; and
- (iii) where the Lessee is a corporation be deemed to include such corporation its successors and assigns;
- (s) “non retail commercial use” means business agency, financial establishment, office, and/or public agency;
- (t) “office” means the use of land for the purpose of administration, clerical, technical, professional or like business activities, including a government office, which does not include dealing with members of the public on a direct and regular basis except where this is ancillary to the main purpose of the office;
- (u) “personal service” means a shop used primarily for selling services and in which the sale of goods is ancillary to the service provided;
- (v) “place of worship” means the use of land for the primary purposes of religious worship and associated activities by a congregation, religious group or members of the public whether or not the premises are also used for religious instruction, tuition, meetings, training and other community activities;
- (w) “plan” means the plan attached to this lease;
- (x) “premises” means the land and any building or other improvements on the land;
- (y) “public agency” means the use of land for the purpose of providing a public service directly and regularly to the public and includes a government agency, which provides a commercial service to the public;
- (z) “religious associated use” means the use of land for the activities conducted by religious organisations other than for worship or for offices and may include residential accommodation by ministers of religion;

*Draft Crown lease – Commercial – 201833492*

- (aa) “restaurant” means the use of land for the primary purpose of providing food for consumption on the premises whether or not the premises are licensed premises under the Liquor Act 2010 and whether or not entertainment is provided;
- (bb) “retail plant nursery” means a shop used for the propagation and sale of plants, shrubs, trees and garden supplies;
- (cc) “shop” means the use of land for the purpose of selling, exposing or offering the sale by retail or hire, goods and personal services and includes bulky goods retailing, department store, personal service, retail plant nursery, supermarket, and/or take-away food shop;
- (dd) “supermarket means” a large shop selling food and other household items where the selection of goods is organised on a selfservice basis;
- (ee) “take-away food shop” means a shop, which is predominantly for the preparation of food and refreshments for consumption elsewhere.
- (ff) “Territory” means:
  - (iv) when used in a geographical sense the Australian Capital Territory; and
  - (v) when used in any other sense the body politic established by section 7 of the Australian Capital Territory (Self-Government) Act 1988 (C'th);
- (gg) words in the singular include the plural and vice versa;
- (hh) words importing one gender include the other genders;
- (ii) a reference in this lease to any statute or statutory provision shall include a reference to any statute or statutory provision that amends, extends, consolidates or replaces the statute or statutory provision and to any other regulation, instrument or other subordinate legislation made under the statute.

2. THE LESSEE COVENANTS WITH THE COMMONWEALTH as follows:

RENT

- (a) That the Lessee shall pay to the Authority rent at the rate of five cents per annum if and when demanded payable within one month of the date of any demand made by the Authority relating thereto and served on the Lessee;

MANNER OF  
PAYMENT  
OF RENT

- (b) That any rent or other moneys payable by the Lessee to the Authority under this lease shall be paid to such person as may be authorised by the Authority for that purpose at Canberra in the said Territory without any deduction whatsoever.

3. THE LESSEE FURTHER COVENANTS WITH THE COMMONWEALTH as follows:

PURPOSE

- (a) To use the premises only for one or more of the following:
  - (i) club;
  - (ii) commercial accommodation use LIMITED TO a hotel of not more than 120 rooms;
  - (iii) community use EXCLUDING childcare centre and hospital;
  - (iv) drink establishment;
  - (v) indoor recreation facility;
  - (vi) non retail commercial use;
  - (vii) restaurant; and
  - (viii) shop

EASEMENT FOR  
ACCESS

- (c) That the Lessee its employees, contractors, sublessees or occupiers, visitors and invitees shall at all times be permitted to access Block ..... Section 3 Division of Phillip, to pass and repass from time to time, with or without vehicles, across, over and along the land as may be necessary for all purposes connected with the use and enjoyment of the premises;

EASEMENT FOR  
SERVICES

- (b) That:
  - (i) the Authority, on behalf of the Commonwealth, grants over that part of the land identified as a services easement on the Deposited Plan an easement (“Easement”) in favour of the relevant provider (referred to as the “service provider”);
  - (ii) the service provider may:
    - (A) provide, maintain and replace services supplied by that service provider through the land within the site of the Easement; and

- (B) do anything reasonably necessary for that purpose, including without limitation:
  - (1) entering or passing through the land;
  - (2) taking anything on to the land; and
  - (3) carrying out work, including without limitation, constructing, placing, repairing or maintaining pipes, poles, wires, cables, conduits, structures and equipment;
- (iii) in exercising the powers in Clause 3(b)(ii), the service provider must take all reasonable steps to:
  - (A) ensure that the work carried out on the land causes as little disruption, inconvenience and damage as is practicable; and
  - (B) ensure that the land is restored as soon as practicable to a condition that is similar to its condition before the work was carried out;
- (iv) Clause 3(b)(iii)(B), does not require the service provider to restore:
  - (A) the land to a condition that would result in:
    - (1) an interference with:
      - (i) any service on or through the land; or
      - (ii) access to any service on or through the land; or
    - (2) a contravention of a law of the Territory; or
  - (B) any building or structure placed or constructed on any part of the land comprising the Easement;
- (v) the Lessee must not place or construct, nor permit to be placed or constructed, a building or structure or any part of a building or structure on any part of the land comprising the Easement UNLESS written advice from the service provider is obtained;
- (vi) for the purposes of the Easement, “services”, includes, without limitation, the supply of water, gas, electricity and

discharge or drainage of water, stormwater and sewerage;  
and

- (vii) nothing in this clause diminishes or affects any rights or powers of a service provider conferred under any statute, regulation or law;

INSURANCE AND INDEMNITY FOR ENCROACHMENTS

- (c) That the Lessee shall:
  - (i) indemnify and keep indemnified the Commonwealth the Territory their servants and agents from all actions claims suits and demands brought maintain or made against the Commonwealth the Territory servants or agents by any persons or body of persons arising out of the existence of the awning encroaching over the lease boundary as shown by hatching identified as 'B' on the legend of the attached plan;
  - (ii) take out and maintain a public loability risk insurance policy in the joint names of the Territory and the Lessee for the sum not less than ten million dollars or for such as amount as may be specified by the Territoy for time to time to cover any liability which may arise under Cluase 3(c)(i);

RESTRICTION ON TRANSFER

- (d) That the Lessee shall not transfer assign its interest in the premises or any part of the premises unless and until the proposed transferee or assignee has obtained a public liability risk insurance policy in accordance with Clause 3(c) of this lease and submit the policy to an insurance consultant nominated by the Territory for examination and approval;

CARPARKING

- (e) That the Lessee shall provide and maintain an approved drained and sealed carparking area on the land to a standard acceptable to the Authority in accordance with plans and specifications prepared by the Lessee and previously submitted to and approved in writing by the Authority;

LANDSCAPING

- (f) That the Lessee shall provide and maintain landscaping on the land to a standard acceptable to the Authority in accordance with plans and specifications prepared by the Lessee and previously submitted to and approved in writing by the Authority;

PRESERVATION OF TREES

- (g) That the Lessee shall not, without the previous consent in writing of the Territory, remove any tree:
  - (i) that has been identified in a development approval for retention during the period allowed for construction of the building; or

(ii) to which the Tree Protection Act 2005, applies;

FACILITIES AND  
ACCESS FOR PERSONS  
WITH A DISABILITY

(h) That the Lessee shall provide and maintain facilities and access on the land for persons with a disability in accordance with plans and specifications prepared by the Lessee and previously submitted to and approved in writing by the Authority;

SERVICE AREAS

(i) That the Lessee shall screen and keep screened all service areas to the satisfaction of the Authority and shall ensure that all plant and machinery contained within the premises is suitably screened from public view;

BUILDING  
SUBJECT TO  
APPROVAL

(j) That the Lessee shall not without the previous approval in writing of the Authority, except where exempt by law, erect any building, or make any structural alterations to any building, on the land;

REPAIR

(k) That the Lessee shall at all times during the said term maintain repair and keep in repair the premises to the satisfaction of the Authority;

FAILURE TO  
REPAIR

(l) If and whenever the Lessee is in breach of the Lessee's obligations to maintain repair and keep in repair the premises the Authority may by notice in writing to the Lessee specifying the repairs and maintenance needed require the Lessee to effect the necessary work in accordance with the notice. If the Authority is of the opinion that a building or some other improvement on the land is beyond reasonable repair the Authority may by notice in writing to the Lessee require the Lessee to remove the building or improvement and may require the Lessee to construct a new building or improvement in place of that removed within the time specified in the notice. If the Lessee does not carry out the required work within the time specified by the Authority any person or persons duly authorised by the Authority with such equipment as is necessary may enter the premises and carry out the necessary work and all costs and expenses incurred by the Authority in carrying out the work shall be paid by the Lessee to the Authority on demand and from the date of such demand until paid shall for all purposes of this lease be a debt due and payable to the Authority by the Lessee;

RIGHT OF  
INSPECTION

(m) Subject to the provisions of the Planning and Development Act 2007 to permit any person or persons authorised by the Authority to enter and inspect the premises at all reasonable times and in any reasonable manner;

RATES AND CHARGES

- (n) To pay all rates charges and other statutory outgoings assessed levied or payable in respect of the premises as and when they are due for payment.

4. THE COMMONWEALTH COVENANTS WITH THE LESSEE as follows:

QUIET ENJOYMENT

That the Lessee paying the rent and all other money due and observing and performing the covenants and stipulations on the part of the Lessee to be observed and performed shall quietly enjoy the premises without interruption by the Authority or any person lawfully claiming from or under or in trust for the Authority.

5. IT IS MUTUALLY COVENANTED AND AGREED as follows:

TERMINATION

- (a) That if:
  - (i) any rent or other moneys payable under this lease shall remain unpaid for three months next after the date appointed for payment thereof (whether such rent or other moneys shall have been formally demanded or not); or
  - (ii) the said land is at any time not used for a period of one year for the purpose for which this lease is granted; or
  - (iii) the Lessee shall fail to observe or perform any other of the covenants herein contained in this lease on the part of the Lessee to be observed or performed and shall have failed to remedy such breach within a period of six months from the date of service on the Lessee of a notice in writing from the Authority specifying the nature of such breach

the Authority on behalf of the Commonwealth may terminate this lease but without prejudice to any claim which the Authority or the Commonwealth may have against the Lessee in respect of any breach of the covenants on the part of the Lessee to be observed or performed;

ACCEPTANCE OF RENT

- (b) That acceptance of rent or other moneys by the Authority during or after any period referred to in Clauses 5(a) (i), (ii) or (iii) of this lease shall not prevent or impede the exercise by the Authority of the powers conferred upon it by the said Clauses;

FURTHER LEASE

- (c) Subject to the Lessee paying all money required to be paid under the provisions of the Planning and Development Act 2007 the Lessee shall be entitled to a further lease of the land for such further term and at such rent and subject to such conditions as

may then be provided or permitted by Statute Ordinance or Regulation;

NOTICES

- (d) That any notice requirement demand consent or other communication to be given to or served upon the Lessee under this lease shall be deemed to have been duly given or served if signed by or on behalf of the Authority and delivered to or sent in a prepaid letter addressed to the Lessee at the registered office of the Lessee in the said Territory BUT if for any reason the Lessee does not have a registered office in the said Territory then at the usual or last-known address of the Lessee or affixed in a conspicuous position on the premises;

DRAFT

EXERCISE OF POWERS

- (e) Any and every right, power or remedy conferred on the Commonwealth or Territory in this lease, by law or implied by law may be exercised on behalf of the Commonwealth or the Territory or as the case may be by:
  - (i) the Authority;
  - (ii) an authority or person for the time being authorised by the Authority or by law to exercise those powers or functions of the Commonwealth or Territory; or
  - (iii) an authority or person to whom the Authority has delegated all its powers or functions under the Planning and Development Act 2007.

IN WITNESS whereof the Authority on behalf of the Commonwealth and the Lessee have executed this lease.

Signed by [name of signatory] )  
 a delegate authorised to execute this lease )  
 on behalf of the Commonwealth in the ) Delegate  
 presence of [name of witness] )

.....  
Witness

Signed by )  
**NG WODEN PTY LIMITED** )  
 (A.C.N. 620 839 894) by: )

.....  
Signature

.....  
Signature

.....  
Name in full

.....  
Name in full

.....  
Sole Directory/ Director/Secretary

.....  
Director/Secretary

**Insert lease plan here  
(if required)**

**DRAFT**

This is a market value  
lease - s238(2)(a)(ii) Planning  
and Development Act 2007

AUSTRALIAN CAPITAL TERRITORY

PLANNING AND DEVELOPMENT ACT 2007

Australian Capital Territory (Planning and Land  
Management) Act 1988 (C'th) (ss 29, 30 & 31)

**REVISED DRAFT ATTACHMENTS WILL BE PROVIDED FOLLOWING THE  
SUBMISSION OF FURTHER INFORMATION**

LEASE GRANTED pursuant to the Planning and Development Act 2007 and the  
Regulations made under that Act on the                      day of  
Two thousand and                      WHEREBY THE PLANNING AND LAND  
LESSEE AUTHORITY (“the Authority”) ON BEHALF OF THE COMMONWEALTH OF  
AUSTRALIA (“the Commonwealth”) in exercising its functions grants to  
**NG WODEN PTY LIMITED A.C.N. 620 839 894** a company having its  
registered office at Unit 18, 24 Iron Knob Street Fyshwick in the Australian Capital  
LAND Territory (“the Lessee”) ALL THAT piece or parcel of land situate in the Australian  
Capital Territory containing **an area of                      square metres** or thereabouts and  
being **Block                      Section                      Division of                      as delineated on Deposited Plan**  
**Number                      and** containing an area of **square metres** or thereabouts and  
being **Block                      Section                      Division of                      as delineated on Deposited Plan**  
**Number                      in** the Registrar-General’s Office at Canberra in the said Territory  
 (“the land”) RESERVING unto the Territory all minerals and the right to the use,  
flow and control of ground water under the surface of the land TO HOLD unto the  
TERM Lessee for the term commencing on **the                      (TBA) day of                      (TBA) Two**  
**thousand and                      (TBA)** (“the date of the commencement of the lease”) and  
terminating on the **seventh** day of **November Two thousand one hundred and**  
**four** to be used by the Lessee for the purpose set out in Clause 3(a) of this lease  
only YIELDING AND PAYING THEREFOR rent in the amount and in the

## ATTACHMENT 5

### *Draft Crown lease – Minor Use – DA201833492*

manner and at the times provided for in this lease and UPON AND SUBJECT TO the covenants conditions and agreements contained in this lease.

DRAFT

INTERPRETATION

1. IN THIS LEASE unless the contrary intention appears:
- (a) “Authority” means the Planning and Land Authority established by section 10 of the Planning and Development Act 2007;
  - (b) “building” means any building or structure, constructed or partially constructed or to be constructed, as the context permits or requires, on or under the land;
  - (c) “Lessee” shall:
    - (i) where the Lessee consists of one person be deemed to include the Lessee and the executors administrators and assigns of the Lessee;
    - (ii) where the Lessee consists of two or more persons be deemed to include in the case of a tenancy in common the persons and each of them and their and each of their executors administrators and assigns and in the case of a joint tenancy be deemed to include the said persons and each of them and their and each of their assigns and the executors administrators and assigns of the survivor of them; and
    - (iii) where the Lessee is a corporation be deemed to include such corporation its successors and assigns;
  - (d) “minor use” means the use of land for a purpose that is incidental to the use and development of land in the zone and includes but is not limited to open space; public car parking; community path systems; shared circulation spaces (such as lift wells, stair wells); minor service reticulation; other utility services that do not exclude other uses from the land; street furniture and the like;
  - (e) “premises” means the land and any building or other improvements on the land;
  - (f) “Territory” means:
    - (i) when used in a geographical sense the Australian Capital Territory; and
    - (ii) when used in any other sense the body politic established by section 7 of the Australian Capital Territory (Self-Government) Act 1988 (C'th);

- (g) words in the singular include the plural and vice versa;
- (h) words importing one gender include the other genders;
- (i) a reference in this lease to any statute or statutory provision shall include a reference to any statute or statutory provision that amends, extends, consolidates or replaces the statute or statutory provision and to any other regulation, instrument or other subordinate legislation made under the statute.

2. THE LESSEE COVENANTS WITH THE COMMONWEALTH as follows:

- |                           |   |
|---------------------------|---|
| RENT                      | (a) That the Lessee shall pay to the Authority rent at the rate of five cents per annum if and when demanded payable within one month of the date of any demand made by the Authority relating thereto and served on the Lessee;                  |
| MANNER OF PAYMENT OF RENT | (b) That any rent or other moneys payable by the Lessee to the Authority under this lease shall be paid to such person as may be authorised by the Authority for that purpose at Canberra in the said Territory without any deduction whatsoever. |

3. THE LESSEE FURTHER COVENANTS WITH THE COMMONWEALTH as follows:

- |  |  |
|--|--|
| PURPOSE                                  | (a) To use the premises for the purpose of minor use only;   |
| EASEMENT FOR ACCESS AND WASTE COLLECTION | (b) That the Lessee shall at all times provide and maintain access and egress for the Lessee of Blocks ..... Section 3 Division of Gungahlin, their employees, contractors, sublessees or occupiers, visitors and invitees to pass and repass from time to time with or without vehicles, across, over and along that part of the land as may be necessary for those purposes connected with the enjoyment of the premises and waste collection; |
| LANDSCAPING                              | (c) That the Lessee shall provide and maintain landscaping on the land to a standard acceptable to the Authority in accordance with plans and specifications prepared by the Lessee and previously submitted to and approved in writing by the Authority;  |
| LIGHTING                                 | (d) That the Lessee shall illuminate and keep illuminated all public access areas, car parks and driveways on the land at the Lessee's cost during the evening hours of operation to a standard acceptable to the Authority in accordance with plans and specifications prepared by the Lessee and previously submitted to and approved in writing by the Authority;   |

LOADING AND UNLOADING OF VEHICLES

(e) That the Lessee shall provide and maintain an area for the loading and unloading of vehicles on the land to a standard acceptable to the Authority in accordance with plans and specifications prepared by the Lessee and previously submitted to and approved in writing by the Authority;

PRESERVATION OF TREES

(f) That the Lessee shall not, without the previous consent in writing of the Territory, remove any tree:

(i) that has been identified in a development approval for retention during the period allowed for construction of the building; or

(ii) to which the Tree Protection Act 2005, applies;

FACILITIES AND ACCESS FOR PERSONS WITH A DISABILITY

(g) That the Lessee shall provide and maintain facilities and access on the land for persons with a disability in accordance with plans and specifications prepared by the Lessee and previously submitted to and approved in writing by the Authority;

SERVICE AREAS

(h) That the Lessee shall screen and keep screened all service areas to the satisfaction of the Authority and shall ensure that all plant and machinery contained within the premises is suitably screened from public view;

BUILDING SUBJECT TO APPROVAL

(i) That the Lessee shall not without the previous approval in writing of the Authority, except where exempt by law, erect any building, or make any structural alterations to any building, on the land;

REPAIR

(j) That the Lessee shall at all times during the said term maintain repair and keep in repair the premises to the satisfaction of the Authority;

FAILURE TO REPAIR

(k) If and whenever the Lessee is in breach of the Lessee's obligations to maintain repair and keep in repair the premises the Authority may by notice in writing to the Lessee specifying the repairs and maintenance needed require the Lessee to effect the necessary work in accordance with the notice. If the Authority is of the opinion that a building or some other improvement on the land is beyond reasonable repair the Authority may by notice in writing to the Lessee require the Lessee to remove the building or improvement and may require the Lessee to construct a new building or improvement in place of that removed within the time specified in the notice. If the Lessee does not carry out the required work within the time specified by the Authority any person or persons duly authorised

by the Authority with such equipment as is necessary may enter the premises and carry out the necessary work and all costs and expenses incurred by the Authority in carrying out the work shall be paid by the Lessee to the Authority on demand and from the date of such demand until paid shall for all purposes of this lease be a debt due and payable to the Authority by the Lessee;

RIGHT OF INSPECTION

(l) Subject to the provisions of the Planning and Development Act 2007 to permit any person or persons authorised by the Authority to enter and inspect the premises at all reasonable times and in any reasonable manner;

RATES AND CHARGES

(m) To pay all rates charges and other statutory outgoings assessed levied or payable in respect of the premises as and when they are due for payment.

4. THE COMMONWEALTH COVENANTS WITH THE LESSEE as follows:

QUIET ENJOYMENT

That the Lessee paying the rent and all other money due and observing and performing the covenants and stipulations on the part of the Lessee to be observed and performed shall quietly enjoy the premises without interruption by the Authority or any person lawfully claiming from or under or in trust for the Authority.

5. IT IS MUTUALLY COVENANTED AND AGREED as follows:

TERMINATION

- (a) That if:
- (i) any rent or other moneys payable under this lease shall remain unpaid for three months next after the date appointed for payment thereof (whether such rent or other moneys shall have been formally demanded or not); or
  - (ii) an approved development in accordance with this lease is not completed within the period specified in Clause 3(a); or
  - (iii) after completion of an approved development as aforesaid the said land is at any time not used for a period of one year for the purpose for which this lease is granted; or
  - (iv) the Lessee shall fail to observe or perform any other of the covenants herein contained in this lease on the part of the Lessee to be observed or performed and shall have failed to remedy such breach within a period of six months from the date of service on the Lessee of a notice in writing from the Authority specifying the nature of such breach

the Authority on behalf of the Commonwealth may terminate this lease but without prejudice to any claim which the Authority or the Commonwealth may have against the Lessee in respect of any breach of the covenants on the part of the Lessee to be observed or performed;

ACCEPTANCE  
OF RENT

- (b) That acceptance of rent or other moneys by the Authority during or after any period referred to in Clauses 5(a) (i), (ii), (iii) or (iv) of this lease shall not prevent or impede the exercise by the Authority of the powers conferred upon it by the said Clauses;

FURTHER LEASE

- (c) Subject to the Lessee paying all money required to be paid under the provisions of the Planning and Development Act 2007 the Lessee shall be entitled to a further lease of the land for such further term and at such rent and subject to such conditions as may then be provided or permitted by Statute Ordinance or Regulation;

NOTICES

- (d) That any notice requirement demand consent or other communication to be given to or served upon the Lessee under this lease shall be deemed to have been duly given or served if signed by or on behalf of the Authority and delivered to or sent in a prepaid letter addressed to the Lessee at the registered office of the Lessee in the said Territory BUT if for any reason the Lessee does not have a registered office in the said Territory then at the usual or last-known address of the Lessee or affixed in a conspicuous position on the premises;

EXERCISE OF  
POWERS

- (e) Any and every right, power or remedy conferred on the Commonwealth or Territory in this lease, by law or implied by law may be exercised on behalf of the Commonwealth or the Territory or as the case may be by:
  - (i) the Authority;
  - (ii) an authority or person for the time being authorised by the Authority or by law to exercise those powers or functions of the Commonwealth or Territory; or
  - (iii) an authority or person to whom the Authority has delegated all its powers or functions under the Planning and Development Act 2007.

IN WITNESS whereof the Authority on behalf of the Commonwealth and the Lessee have executed this lease.

Signed by [name of signatory] )  
a delegate authorised to execute this lease ) .....  
on behalf of the Commonwealth in the ) Delegate  
presence of [name of witness] )

.....  
Witness

Signed by )  
**NG WODEN PTY LIMITED** )  
(A.C.N. 620 839 894) by: )

.....  
Signature

.....  
Signature

.....  
Name in full

.....  
Name in full

.....  
Sole Directory/ Director/Secretary

.....  
Director/Secretary

**Insert lease plan here  
(if required)**

DRAFT



APPLICATION TO VARY A CROWN LEASE

Form 044 - AVCL

Land Titles Act 1925

IMPORTANT INFORMATION

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

PRIVACY INFORMATION

The Act authorises the Registrar-General to collect the personal information required by this form for the purposes of issuing a registration under the Act. The Registrar-General prevents any unreasonable intrusion into a person's privacy in accordance with the Information Privacy Act 2014. The Registrar-General provides identifiable information to law enforcement and other Directorates that have legal authority to request information under prescribed circumstances. These agencies may also use this information to prepare and sell property sales reports to commercial organisations concerned with the development, sale or marketing of land.

INSTRUCTIONS FOR COMPLETION

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

CONTACT AND LODGEMENT INFORMATION

Email: actlandtitles@act.gov.au
General Enquiries: (02) 6207 3000

In Person: Environment, Planning and Land Shopfront
Ground Floor South, Dame Pattie Menzies House, 16 Challis Street, Dickson
Opening hours - Monday to Friday 8:30am to 4:30pm (excluding public holidays)



## APPLICATION TO VARY A CROWN LEASE

Form 044 - AVCL

Land Titles Act 1925

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

| LODGING PARTY DETAILS |                |                          |
|-----------------------|----------------|--------------------------|
| Name                  | Postal Address | Contact Telephone Number |
|                       |                |                          |

| TITLE AND LAND DETAILS |                   |         |       |
|------------------------|-------------------|---------|-------|
| Volume & Folio         | District/Division | Section | Block |
| 2312:7                 | PHILLIP           | 17      | 3     |

| FULL NAME OF REGISTERED PROPRIETOR/S (Surname Last)<br>(ACN required for all companies) | FULL POSTAL ADDRESS                            |
|---|--|
| NG Woden Pty Limited A.C.N. 620 839 894   | Unit 18, 24 Iron Knob Street Fyshwick ACT 2609 |

| LEGISLATIVE PROVISION TO VARY CROWN LEASE   |
|---|
| I, <b>INSERT NAME</b> , being a delegate of the Planning and Land Authority, APPLY to you to register the variation which has been made to the Crown lease of the land described. An approval of the Variation of Lease is submitted herewith in accordance with Section 72A of the Land Titles Act 1925. |

| DETAILS OF DELETED CLAUSES (no longer applicable after registration) |  |
|--|--|
| Clause 3(e)  | That the combined gross floor area of all the buildings erected on the land shall not exceed 10,850 square metres PROVIDED THAT the maximum gross floor area used for club purposes does not exceed 7,690 square metres; |
| Clause 3(g)  | That the Lessee shall not use the basement area for carparking and storage only;   |

## DETAILS OF VARIATION

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

Under the Planning and Development Act 2007, I, INSERT NAME , approve the variation of the Crown lease specified hereunder:

**FORMER PROVISION**

Clause 3(a) To use the premises only for the purposes of a club and commercial accommodation use LIMITED TO a hotel of not more than 120 rooms;

**AMENDED PROVISION**

Clause 3(a) To use the premises only for one or more of the following:

- (i) club;
- (ii) commercial accommodation use LIMITED TO a hotel of not more than 120 rooms;
- (iii) community use EXCLUDING childcare centre and hospital;
- (iv) drink establishment;
- (v) indoor recreation facility;
- (vi) non retail commercial use;
- (vii) residential use LIMITED TO multi unit housing;
- (viii) restaurant; and
- (ix) shop

**INSERTED PROVISION**

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

- (n) "bulky goods retailing" means a shop which includes a loading dock within the building, and where the goods or materials sold or displayed are of such size, shape or weight as to require:
  - a) a large area for handling, storage or display; and/or
  - b) direct vehicular access to the site by members of the public, for the purpose of loading goods or materials into their vehicles after purchase but does not include any shop used primarily for the sale of food or clothing;
- (o) "business agency" means the use of land for the purpose of providing a commercial service directly and regularly to the public;
- (p) "community use" means community activity centre, community theatre, cultural facility, educational establishment, health facility, place of worship, and/or religious associated use;

- (q) "community activity centre" means the use of land by a public authority or a body of persons associated for the purpose of providing for the social well being of the community;
- (r) "community theatre" means the use of land for a theatre, cinema, concert hall, auditorium or theatrette run by non-profit organisations;
- (s) "cultural facility" means the use of land for the purpose of cultural activities to which the public normally has access, but does not include a shop for art, craft or sculpture dealer;
- (t) "department store" means a shop in which goods are sold by separate departments within the shop and from which a significant amount or proportion of retail sales occur from at least four of the following types of goods: furniture and floor coverings; fabrics and household textiles; clothing; footwear; household appliances; china, glassware and domestic hardware;
- (u) "drink establishment" means the use of land for the sale of alcoholic beverages and spirits to members of the public primarily for consumption on the premises, and which is a licensed premise under the Liquor Act 2010;
- (v) "dual occupancy housing" means the use of land that was originally used or leased for the purposes of single dwelling housing for two dwellings;
- (w) "educational establishment" means the use of land for the purpose of tuition, training or research directed towards the discovery or application of knowledge, whether or not for the purposes of gain, and may include associated residential accommodation;
- (x) "financial establishment" means the use of land for the primary purpose of providing finance, investing money, and providing services to lenders, borrowers and investors on a direct and regular basis;
- (y) "health facility" means the use of land for providing health care services (including diagnosis, preventative care or counselling) or medical or surgical treatment to outpatients only;
- (z) "indoor recreation facility" means the use of land for sporting activities where such use is primarily indoors;
- (aa) "multi-unit housing" means the use of land for more than one dwelling and includes but is not limited to dual occupancy housing;
- (bb) "non retail commercial use" means business agency, financial establishment, office, and/or public agency;
- (cc) "office" means the use of land for the purpose of administration, clerical, technical, professional or like business activities, including a government office, which does not include dealing with members of the public on a direct and regular basis except where this is ancillary to the main purpose of the office;
- (dd) "personal service" means a shop used primarily for selling services and in which the sale of goods is ancillary to the service provided;
- (ee) "place of worship" means the use of land for the primary purposes of religious worship and associated activities by a congregation, religious group or members of the public whether or not the premises are also used for religious instruction, tuition, meetings, training and other community activities;
- (ff) "public agency" means the use of land for the purpose of providing a public service directly and regularly to the public and includes a government agency, which provides a commercial service to the public;

- (gg) "religious associated use" means the use of land for the activities conducted by religious organisations other than for worship or for offices and may include residential accommodation by ministers of religion;
- (hh) "restaurant" means the use of land for the primary purpose of providing food for consumption on the premises whether or not the premises are licensed premises under the Liquor Act 2010 and whether or not entertainment is provided;
- (ii) "retail plant nursery" means a shop used for the propagation and sale of plants, shrubs, trees and garden supplies;
- (jj) "shop" means the use of land for the purpose of selling, exposing or offering the sale by retail or hire, goods and personal services and includes bulky goods retailing, department store, personal service, retail plant nursery, supermarket, and/or take-away food shop;
- (kk) "supermarket" means a large shop selling food and other household items where the selection of goods is organised on a selfservice basis;
- (ll) "take-away food shop" means a shop, which is predominantly for the preparation of food and refreshments for consumption elsewhere.

| <b>EXECUTION BY ACT PLANNING AND LAND AUTHORITY</b>  |   |
|--|---|
| <p>Signed by the person duly authorised by the Planning and Land Authority<br/>(Please print full name of authorised signatory)</p><br><br><p>SENIOR OFFICER GRADE:<br/>POSITION NUMBER:</p><br><br><p>Dated -</p> | <p>Print full name and address of witness</p><br><br><br><p style="text-align: right;">ENVIRONMENT PLANNING &amp; SUSTAINABLE<br/>DEVELOPMENT DIRECTORATE<br/>16 CHALLIS STREET<br/>DICKSON ACT 2602</p><br><p>Signature of witness</p><br><p>Dated -</p> |

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



**ACT**  
Government

Environment, Planning and  
Sustainable Development

## APPLICATION FOR THE GRANT OF A LICENCE

(2 Party - Minor Encroachment Only)

### PART 1 – LICENSEE and APPLICANT DETAILS

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

|                  |  |
|------------------|--|
| NAME             |  |
| A.C.N. or A.B.N. |  |
| POSTAL ADDRESS   |  |
| PHONE NUMBER     |  |

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

|                |  |
|----------------|--|
| NAME           |  |
| POSTAL ADDRESS |  |
| PHONE NUMBER   |  |

#### BRIEF DESCRIPTION OF ORGANISATIONS ACTIVITIES/SERVICES

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### PART 2 - THE PROPOSAL

#### PROPOSED USE OF LAND

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### PART 3 – BLOCK DETAILS

#### LAND ADJACENT TO:

BLOCK \_\_\_\_\_

SECTION \_\_\_\_\_

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

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

DEVELOPMENT APPLICATION NUMBER (If applicable) DA - \_\_\_\_\_

## PART 4 - THE DEVELOPMENT

### TYPE OF ENCROACHMENT

(eg. Awning, signage, facade):

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### ENCROACHMENT LOCATION PLAN

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

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

### INSURANCE DOCUMENTS:

From 1 October 2005, the level of public liability insurance required by a proposed licensee of unleased Territory land is now determined by a legislated process. Your insurance Policy must be approved by the ACT Insurance Agency (ACTIA).

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

1. **Submit a Certificate of Currency of insurance to the department;**  
\*\* For a 2 party encroachment Licence, EPSDD will seek ACTIA's approval\*\*
2. **Nominate each and all of the proposed activities on Territory land or premises;**  
\*\* EPSDD will incorporate those activities in a schedule to the licence (Activity Schedule)\*\*
3. **If the Public Liability Activities rating is higher than 7, a risk management plan may be required: \*\* EPSDD will let you know about this after submission of the application\*\***

**\*AN APPLICATION FEE IS APPLICABLE\***

SIGNED:

---

DATE:

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### REQUIREMENTS & CHECKLIST

- |  |                              |
|--|------------------------------|
| A plan showing encroachment/s and surrounding area as per application  | <input type="checkbox"/> Yes |
| A copy of the Companies/Associations Certificate of Incorporation or Registered Trading Name including A.B.N./A.C.N. | <input type="checkbox"/> Yes |
| Public Liability Insurance documentation (Certificate of Currency)   | <input type="checkbox"/> Yes |
| Application fee paid   | <input type="checkbox"/> Yes |



# NOTICE OF DECISION

Made under part 7 of the *Planning and Development Act 2007*

*S197 Amendment*

Pursuant to section 197 of the *Planning and Development Act 2007*, approval is sought to amend development approval No. 201833492 dated 28 September 2018 with respect to the above Development Application and the reconsideration decision which upheld the original decision dated 6 February 2019 by:

- a) removing the subdivision;
- b) limiting the number of dwellings permitted by the lease to 797;
- c) changes to development staging;
- d) addition of 48 hotel units;
- e) relocation of residential amenity to building two;
- f) basement reconfiguration;
- g) removal of above ground car park;
- h) ground plan landscaping, apartment mix updated; and
- i) removal and replacement of onsite trees and associated works.

I, Kieran Ives, delegate of the planning and land authority, pursuant to section 198 of the *Planning and Development Act 2007*, **approve subject to conditions**, to amend the development approval, in accordance with the application made under section 197 of the Act, in accordance with the plans, drawings and other documentation approved and endorsed as forming part of this approval and substantially in accordance with the draft Instrument of Variation at Attachment 1.

DA Number: 201833492 – S197H  
Block: 17  
Section: 3  
Suburb: PHILLIP  
Address: 1 Launceston Street, 6 Furzer Street, 220  
Melrose Drive  
Application lodged: 18 June 2021  
Assessment track: Merit

This decision contains the following information:  
Part A – Conditions of Approval  
Part B – Reasons for the Decision  
Part C – Public Notification & Entity Advice  
Attachment 1 – draft Instrument of Variation

*A copy of the development application and this approval may be inspected at the planning and land authority's office from 9.00 am to 4.00 pm, Monday to Friday at 480 Northbourne Avenue, Dickson, ACT 2602*

## CONTACT / ENQUIRIES

Phone: (02) 6207 6383

Online Form:

[https://www.accesscannberra.act.gov.au/app/forms/epd\\_feedback](https://www.accesscannberra.act.gov.au/app/forms/epd_feedback)

**Kieran Ives**

Delegate of the planning  
and land authority

31 August 2021

# NOTICE OF DECISION

DA 201833492 – S197H

## PART A – CONDITIONS OF APPROVAL

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

### Please note that this approval includes leasing requirements.

#### 1. CONDITIONS IN THE ORIGINAL DA201833492 TO CONTINUE

- (a) Conditions in the existing approval i.e. the Notice of Decision dated 28 September 2018 and the reconsideration decision which upheld the original decision dated 6 February 2019 remain in place and are to be complied with unless in conflict with the following additional conditions.
- (b) In the event of any conflict between conditions, the following conditions shall prevail for the extent of the inconsistency.

#### 2. DELETED CONDITIONS

As a result of this approval the following conditions from the original decision are deleted:

- (a) Condition 1(a) which required further information detailing the division of uses among the subdivided leases; and
- (b) Conditions 2(c) – 2(g) which related to the subdivision of the site.

#### 3. AMENDED CONDITIONS

As a result of this approval Attachment 6, draft Instrument of Variation, is replaced with the draft Instrument of Variation attached to this decision.

#### 4. FURTHER INFORMATION

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

- (a) Revised site plan, landscape plan and architectural drawings, based on the relevant drawings submitted as part of the application, showing:
  - i. screening placed on the Rooftop Garden of Building 2 to provide privacy to level 2 units of Building 3 and prevent overlooking.

*Note: It is noted the distance between units on level 2 and the Rooftop Garden is 10.32m. The applicant may consider a privacy screening or trellised vines to achieve the desired privacy outcome.*

- (b) Evidence of endorsement from TCCS. The lessee/applicant must comply with all the conditions imposed by TCCS in their endorsement/approval, including those already provided. See Condition 7 and TCCS entity advice attached to this decision.

*Note: Any substantial changes to the development required for the above-mentioned statement(s) 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 planning and land authority may release plans to its discretion prior to compliance with this condition. A copy of the advice received from Icon Water is attached to this Notice of Decision.*

## NOTICE OF DECISION

DA 201833492 – S197H

### 5. NOISE MANAGEMENT PLAN (NMP)

The applicant / lessee shall provide a noise management plan to the Environment Protection Authority (EPA) for assessment and approval.

The NMP shall be prepared by a person suitably qualified in the assessment of environmental noise, with detail design and siting and construction methods that will be used to minimise the impact of noise generated from activities on the premises and/or the impact of external noise affecting occupants inside the premises.

The construction of the building must incorporate all noise mitigation measures recommended by the approved report and any conditions imposed by EPA as part of endorsement.

*Note: For the NMP to be able to be endorsed by the Environment Protection Authority, it must be prepared in accordance with the [Guidelines for the preparation of noise management plans for development applications, March 2021](#) and specifically address a worst case scenario based on the permitted uses.*

*Note: Noise Management Plan (NMP) submitted with this application is not endorsed. See EPA entity advice attached to this decision.*

### 6. EVOENERGY (Electricity) – WORKS NOT TO COMMENCE

(a) No works, including demolition and excavation, in relation to this development approval is to commence until the lessee/applicant has obtained a Statement of Acceptance from EvoEnergy (Electricity) in relation to networks.

(b) The lessee/applicant must address and comply with any additional conditions imposed by EvoEnergy (Electricity).

*Note: Any substantial changes to the development required for utility services compliance will need to be submitted for the consideration of the planning and land authority with an application to amend the approval under Section 197 of the Planning and Development Act 2007.*

### 7. TRANSPORT CANBERRA AND CITY SERVICES (TCCS)

The development shall comply with the following condition to the satisfaction of TCCS:

#### Traffic Impact Assessment (TIA)

(a) Comments in relation to the TIA (including prior comments made in relation to the section 165 application G) need to be addresses and endorsed to the satisfaction of TCCS;

#### Tree Removals/Replacements

(b) Replacement trees to Launceston street must be minimum 4.5m in height, 400L capacity to AS2303 specifications;

(c) The replacement species To Launceston street must match the existing species *Ulmus parvifolia Todd*;

(d) The replacement trees to Furzer Street must be minimum 4.5m in height, 400L capacity to AS 2303 specifications;

(e) The replacement species to Furzer street must be *Zelkova serrata Green Vase*;

(f) A rigid matrix structural soil system must be used in all verges to meet the FULL soil volume requirement for each tree, as per MIS25 requirements. A high quality soil backfill approved by TCCS is required in the system;

(g) The 2.4m wide section of paving between the trees, from the BOK to the edge of the planting beds, is to be permeable surface (either permeable paving or planting) to help meet the 30% permeable surface target;

(h) The previous comment about the tree canopy clash with the proposed awning was based on the existing trees remaining, as the 3 existing trees at the Furzer

## NOTICE OF DECISION

DA 201833492 – S197H

end of Launceston will now be removed, they are required to be replaced. There should be a total of 13 trees replaced on the Launceston street verge;

- (i) The building awning dimensions on Launceston street must be adjusted to better accommodate the future street tree canopy extent;

### Land Management and Protection Plan (LMPP) and Public Unleased Land Permits (PULP)

- (j) The proponent must submit an LMPP to TCCS for approval before commencing construction works onsite. The LMPP must include the following items:
  - ii. cover the construction phase of the project (the approved early works LMPP will need to be updated);
  - iii. clearly show the area of unleased land proposed to be utilised for construction activities (this will form part of the PULP approval);
  - iv. the LMPP is to meet all relevant REF04 requirements;
  - v. the LMPP must be coordinated with the TTM, and both documents are to be submitted to roads and DCB for approval.
- (k) If the proponent is proposing to utilise any section of unleased land they must submit an application for a Public Unleased Land Permit;

### Landscape Assets on unleased land

- (l) All landscape works on unleased land are subject to future approval by TCCS through Design Review. All landscape works must be clearly documented on a composite verge plan and included in a Design review submission compliant with REF06A requirements;
- (m) The verge works, including shrub beds, should be consistent with ACT Nature strip Guidelines  
[https://www.cityservices.act.gov.au/\\_data/assets/pdf\\_file/0004/1392088/Nature-Strip-Guidelines-2019.pdf](https://www.cityservices.act.gov.au/_data/assets/pdf_file/0004/1392088/Nature-Strip-Guidelines-2019.pdf);
- (n) Public waste bins are not to be placed on Launceston St or Melrose Dr as they are unsafe to service by the territory;
- (o) On Furzer St, bin shrouds must match style recently installed by Place Management and be 240L. Bins should be installed in pairs; one general waste and one recycling, at locations that allow for easy and safe access for servicing. Consideration should be given when placing the shroud to ensure that door can be opened safely. (Style and labelling information can be provided by Place Management);
- (p) Benches should be made from recoverable materials like steel, aluminium or recycled plastic;
- (q) The future verge maintenance of shrub beds will be the responsibility of the adjacent lessee / body corporate as per the nature strip guidelines;

### Construction

- (r) The proposed site accesses will be assessed and subject to approval at the Design Review stage;

### TCCS Standard Condition

- (s) In addition to the above TCCS conditions, the development must comply with the standard TCCS conditions attached to this decision.

*Note: Other TCCS Standard Conditions (as relevant) may also apply. A copy of the TCCS Standard Conditions has been included. Please contact TCCS for further information.*

## NOTICE OF DECISION

DA 201833492 – S197H

### 8. 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.

### 9. LETTER BOXES

Design and location of letterboxes must comply with Australia Post standards.

### 10. ADAPTABLE DWELLINGS

All adaptable dwellings, including the designated car parking spaces and accessible path of travel must be designed and built to meet AS2890 and AS1428.

### 11. COMPLIANCE WITH ENTITY REQUIREMENTS

The development must comply with all of the conditions imposed by each of the relevant entities as stated in each of their advice.

### 12. 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.

### 13. 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.

### 14. NOTICE OF COMMENCEMENT OF CONSTRUCTION

Notice of Commencement for the Works on 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 Landscape Management and Protection Plan and the programmed implementation of Temporary Traffic Management.

## **ADVISORY NOTES**

### A. SIGNAGE

All signage installed at the site, including advertising signage and hoarding, should comply with the Australian Association of National Advertisers (AANA) Code of Ethics and the ACT Government's Hoarding Signage Advertising Guidelines available online at <https://www.planning.act.gov.au/build-buy-renovate/for-industry/industry-resources/hoarding-signage-guidelines>.

### B. LEASE VARIATION CHARGE

Prior to the registration of the new Crown leases, the lessee must, as is required under the *Planning and Development Act 2007*, pay any assessed Lease Variation Charge. Once advised of the lease variation charge, the charge should be paid not less than 6 months prior to the expiration of this approval. This will ensure that sufficient time remains to enable the new Crown leases and new survey plan to be registered at Access Canberra (Land Titles and Rental Bonds) prior to expiry of this approval.

## NOTICE OF DECISION

DA 201833492 – S197H

### C. EXPIRY OF APPROVAL

In accordance with S185 of the *Planning and Development Act 2007*, the leasing component of this approval will expire 2 years after the date this approval takes effect. Under section 188 of the *Planning and Development Act 2007*, the applicant may apply to the planning and land authority to extend the prescribed period to register the lease variation, but such an application must be made prior to the expiry of the approval

## NOTICE OF DECISION

DA 201833492 – S197H

### PART B – REASONS FOR THE DECISION

Evoenergy Electricity, Conservator for Fauna and Flora and Environment Protection Authority provided advice not supporting the proposal at this stage. The advice was carefully considered, and the planning and land authority decided to conditionally support the proposed development as the advice did not raise any elements which were likely to prevent the development proceeding or that would require substantial amendment of the proposal. In making this decision, Section 119 of the *Planning and Development Act 2007* has been considered by the planning and land authority, including reasonable alternatives, any applicable guidelines and the objects of the Territory Plan. The proposed development is considered a reasonable planning outcome, subject to the conditions imposed in Part A of this Decision.

Other key issues identified in the assessment related to building height, bulk and scale of buildings, parking and traffic considerations, and impacts associated with the development such as overshadowing. Entity advice, representations and compliance with the Territory Plan were also considered in making this decision. Where appropriate, 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*.

The application was approved because it was found to meet the relevant rules and criteria of the Territory Plan and section 120 of the *Planning and Development Act 2007*.

The following evidence formed part of the assessment of this application:

|                           |  |
|---------------------------|--|
| Development Application:  | 201833492 – S197H  |
| Territory Plan Zones:     | CZ2: Business Zone   |
| Development Codes:        | Commercial Zones Development Code; Residential Zones Development Code; Multi-Unit Housing Development Code.  |
| General Codes:            | Parking & Vehicular Access General Code; Crime Prevention Through Environmental Design General Code; Community Facilities and Associated Infrastructure General Code; Waterways Water Sensitive Urban Design General Code; Access & Mobility General Code. |
| Precinct Code:            | Phillip Precinct Code.   |
| Crown Lease:              | Volume 2312 and Folio 7  |
| Legislative requirements: | Sections 119 and 120 of the <i>Planning and Development Act 2007</i>   |
| Public Representations:   | Addressed in Part C of this Decision   |
| Entity advice:            | Addressed in Part C of this Decision   |

## NOTICE OF DECISION

DA 201833492 – S197H

### PART C – PUBLIC NOTIFICATION AND ENTITY ADVICE

#### PUBLIC NOTIFICATION

Pursuant to Division 7.3.4 of the Act, the application was publicly notified from 25 June 2021 to 15 July 2021. Two written representations were received during public notification period.

a) NOISE IMPACT FROM 'COMMUNITY USE'

Proposed use is subject to a variation to the Crown Lease. A Noise Management Plan will be assessed by EPA and any noise complaints will be managed by EPA.

b) MELROSE DRIVE EUCALYPT

Entity Referral is a requirement under *the Planning and Development Act 2007* to achieve improved planning and urban design outcomes. The applicant is required to submit suitable information with a Development Application that is assessed by the relevant Entity.

In this case the application was referred to TCCS and any works on the verge are subject to TCCS requirements.

c) NOISE AND DUST DURING CONSTRUCTION.

The proposal has been referred to EPA and entities. All noise and dust management during construction are subject to EPA requirements and has been conditioned in this Notice of Decision.

d) SLIP LANE

This has been considered in making the decision and has been determined to meet the requirements of the Territory Plan.

e) SERVICE LANE

The waste collection point and access and egress from the site were referred to TCCS and a Condition for further information from TCCS has been imposed in this Notice of Decision.

f) USE OF NON-REFLECTIVE MATERIALS

This has been considered in making the decision and has been determined to meet the requirements of the Territory Plan.

g) FAÇADE ARTICULATION OF BUILDING 4

The revised plans and information have been assessed in accordance with the Territory Plan and the further information that was requested as part of the original approval and deemed to comply.

h) TERRACING OF BUILDING 4

This has been considered in making the decision and has been determined to meet the requirements of the Territory Plan.

## NOTICE OF DECISION

DA 201833492 – S197H

### ENTITY ADVICE

Pursuant to Division 7.3.3 of the *Planning and Development Act*, the application was referred to the below entities. Where an entity requested conditions to be imposed on this development, those conditions have been incorporated into Part A of this Decision. A summary of entity comments can be found below.

1. TRANSPORT CANBERRA AND CITY SERVICES (TCCS)

On 16 August 2021, TCCS initially provided advice stating that the proposal is not supported. However, on 30 August 2021, TCCS subsequently indicated support. The planning and land authority has considered this advice. The matters raised by TCCS are capable of resolution through more detailed design outside of the development application process, and TCCS provided conditions for this purpose. Conditions have been imposed in Part A of this decision in relation to TCCS requirements.

*Note: that the requirements of TCCS still apply and are required to be satisfied. The applicant should make suitable enquiries with TCCS to ensure such compliance.*

2. ICON WATER

On 9 July 2021, Icon Water provided advice stating that the proposal is supported subject to conditions.

A condition is imposed in the Part A of the decision regarding complying with entity conditions. The applicant/ lessee must comply with the Icon Water imposed conditions and a copy of their advice is attached to this Notice of Decision.

3. EVOENERGY (ELECTRICITY)

On 9 July 2021, Evoenergy Electricity provided advice stating that the proposal is not supported. The planning and land authority has considered this advice and imposed a condition in the Notice of Decision addressing the matters raised by Evoenergy Electricity. Refer to Part A.

The applicant/ lessee must comply with the Evoenergy Electricity imposed conditions and a copy of their advice is attached to this Notice of Decision.

4. JEMENA (GAS)

The application was referred to Jemena Gas however a response was not received by the planning and land authority within 15 working days. As per section 150 of the *Planning and Development Act 2007*, where an entity did not respond within this time, it is taken to have given advice that the entity supports the application.

*Note: The requirements of Jemena Gas still apply and are required to be satisfied. The applicant should make suitable enquiries with Jemena Gas to ensure such compliance.*

5. ENVIROMENT PROTECTION AUTHORITY (EPA)

On 12 July 2021, the Environment Protection Authority (EPA) advised that the proposal is not supported. The matters raised by EPA are capable of resolution outside of the development application process and EPA provided conditions for this purpose. The planning and land authority has considered this advice and imposed a condition in the Notice of Decision addressing the matters raised by EPA. Refer to Part A.

## NOTICE OF DECISION

DA 201833492 – S197H

6. EMERGENCY SERVICE AUTHORITY (ESA)

On 9 July 2021, the Emergency Services Authority (ESA) advised that the proposal is supported subject to the original conditions. Recommended conditions have been imposed in this Notice of Decision. Refer to Part A.

7. CONSERVATOR OF FLORA AND FAUNA (THE CONSERVATOR)

On 12 July 2021, the Conservator of Flora and Fauna advised that the proposal is not supported as three regulated trees are identified for removal do not meet criteria for removal under the *Tree Protection Act 2005*.

The original decision of 28 September 2018 provided for the three trees, assessed as medium quality to be removal under the *Planning and Development Act 2007*. The planning and land authority assesses this development application as consistent with the original decision and the removal of the trees is supported.

Translation and interpretation services

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

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

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| REVISION | DATE       | BY |
|----------|------------|----|
| 01       | 21.12.2017 | NC |
| 02       | 01.03.2018 | FB |
| 03       | 10.04.2018 | RF |
| 04       | 27.07.2018 | IM |

| REVISION | DATE       | BY |
|----------|------------|----|
| 01       | 21.12.2017 | NC |
| 02       | 01.03.2018 | FB |
| 03       | 10.04.2018 | RF |
| 04       | 27.07.2018 | IM |

**QUALITY ASSURANCE** (ISO 9001 CERTIFIED)  
 THIS PROJECT IS SUBJECT TO THE RISK QUALITY ASSURANCE SYSTEM

- SCHEMATIC DESIGN REVIEW FOR THIS PROJECT IS YET TO BE COMPLETED
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**PROJECT**  
 WDOVA  
 BLOCK 17, SECTION 3 PHILLIP  
 LAUNCESTON STREET, WODEN ACT 2606

**FENDER KATSALIDIS**  
 WWW.FKAUSTRALIA.COM  
 2 RIVERSIDE QUAY, SOUTH BANK  
 VICTORIA 3006 AUSTRALIA  
 TELEPHONE +61 3 8636 9688  
 FENDER KATSALIDIS (AUST) PTY LTD ACN 002 943 032



| DRAWN | DATE       | CHECKED | PLOT DATE  | JOB NO. | SCALE    |
|-------|------------|---------|------------|---------|----------|
| NC    | 27.07.2018 | JB      | 30.07.2018 | 17071   | 1:500@A3 |

**DRAWING TITLE**  
 SITE PLAN DEMOLITION

**ISSUE PURPOSE**  
 UPDATED FOR DA

**REV.** 03  
**DRAWING NO.** DA0003