



**ACT**

Government

Environment, Planning and  
Sustainable Development

# NOTICE OF DECISION

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

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

- **construction of a new crematorium including a chapel, lounge building, landscaping, new driveways and carparks and associated works, and**
- **variation to the Crown lease to:**
  - **replace the existing purpose clause uses with cemetery and subsidiary thereto a caretaker's residence;**
  - **replace the car parking requirement to provide for a standard acceptable to the authority; and**
  - **remove the restrictions associated with the existing uses and assignment,**

at Block 1 Section 3 SYMONSTON, in accordance with the plans, drawings and other documentation approved and endorsed as forming part of this approval.

DA Number: 202138789 / s144C / s144E / s144G  
Block: 1  
Section: 3  
Suburb: SYMONSTON  
Application lodged: 2 September 2021 / 6 April 2022 (s144C)  
3 May 2023 (s144G)  
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 – administrative information  
Copies of entity advice – as attached

*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*

**Please note that the changes to the Crown lease do not commence until documents giving effect to the variation are registered at Land Titles, Access Canberra. Registration must occur before the expiry of this approval.**

## CONTACT / ENQUIRIES

Phone: (02) 6207 6383

Online Form:

[https://www.accesscanberra.act.gov.au/app/forms/epd\\_feedback](https://www.accesscanberra.act.gov.au/app/forms/epd_feedback)

**Richard Davies**

Delegate of the Planning  
and Land Authority

13 October 2023

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### PART A – CONDITIONS OF APPROVAL

Please note that this approval includes leasing requirements.

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.

#### GENERAL CONDITIONS

##### 1. COMMENCEMENT AND COMPLETION OF DEVELOPMENT

- a) This development must be started (commenced) within **three years** from the date when this approval take effect.
- b) This development must be finished (completed) within **three years** from the date when it started, or within such further time as approved in writing by the planning and land authority.

*Note: The planning and land authority may extend the time to commence or finish the development if an application, to extend the time to commence or finish the development, is made prior to when the development has to be started or finished – refer to section 184(3) and 188 of the Planning and Development Act 2007 (the Act). See Advisory Notes below about the lease element ending after two (2) years after the DA takes effect.*

##### 2. COMMENCEMENT OF BUILDING WORK

No building work in relation to Development approved by this decision, with the exception of demolition, any decontamination, erosion and sediment controls and/or site preparation excavation (ie bulk earth works), is to commence on the site until documents giving effect to the variation of the lease are registered at Access Canberra Land Titles.

#### CONDITIONS RELATING TO THE LEASE VARIATION

##### 3. ONGOING MANAGEMENT PLAN

The ongoing management plan, as required by conditions in this decision, must be registered at Access Canberra Land Titles against the title in coordination with the registration of the documents giving effect to the variation of the lease.

Once constructed, the development shall be managed and operated in accordance with the approved management plan.

*Note: The Authority will favourably consider a plan-based summary of the Plan of Management requirements to be registered against the title. Refer to condition 5c) of this decision.*

##### 4. INSTRUMENT OF VARIATION

Documents giving effect to the variation of the Crown lease to alter the purpose, clauses related to those purposes, car parking and assignment, must be registered at Access Canberra Land Titles prior to the expiry of the leasing component of this approval.

This includes, but is not limited to, the applicant/lessee arranging:

- (i) payment of any lease variation charge;
- (ii) obtaining mortgagee and relevant interested parties consent to register the documents;
- (iii) payment of any fee for the lodgement of the documents at Access Canberra Land Titles.

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

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### CONDITIONS RELATING TO DEVELOPMENT and ENTITY REQUIREMENTS

#### 5. FURTHER INFORMATION

The applicant shall lodge with the planning and land authority, an application under section 165 of the *Planning and Development Act 2007* (the Act) seeking approval to address the following conditions:

- a) Revised plans and supporting information, based on the relevant information submitted as part of the development application, showing:
  - i) Materials and finish are of earthy tones with low reflectivity;
  - ii) Lighting plan with detailed justifications against Territory Plan requirements in particular
    - AS1158.3.1- 'Pedestrian Lighting'; and
    - AS4282 – 'Control of the Obtrusive Effects of Outdoor Lighting'.

*Note: consideration should also be given to limit light spill off the site as this can negatively affect wildlife.*

- iii) Provision of an Access Report prepared by a suitably qualified access consultant to ensure the development provides suitable and equitable access, including requirements of Access and Mobility General Code for the development including:
  - Suitable accessible pathways, connection points and development elements for:
    - a. the Chapel and Crematorium,
    - b. the Admin building and Reflection lounge,
    - c. the Reflection Pond;
    - d. Access from the Chapel and Crematorium porte-cochere to within the building and to the reflection pond and disability car parking spaces;
  - Confirmation of accessible car parking spaces meeting Australian Standard AS2890.1;
  - Hearing Augmentation facilities provided to key areas of the development; and
  - Amended/updated plans addressing this condition.

*Note: some plans indicate steps within the development. Clarification and consistency of plans should be included removing such steps to meet this condition. Minor level changes should be provided and all relevant levels clarified in the response to this condition.*

*Where necessary, plans will also need to include commitments from the Access report including the hearing augmentation elements.*

*Amendments/updates to address this condition should clearly identify such responses.*

- iv) Minor changes to the approved development to preserve some or all of the (15) trees identified by the Conservator used for foraging by the Swift Parrot;

OR

If unavoidable (balanced against the development configuration), information be provided to the Authority demonstrating that removal of the trees be compensated for to ensure that fragmentation of the Swift parrot habitat does not occur.

*Note: The Conservator has identified 15 trees used for foraging by the Swift parrot. Please also refer to the Conservator's advice in Part C of this decision. Plans (and any supporting information) should clearly identify the proposed response including any plan updates.*

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*The applicant's response to this condition will be referred to the Conservator to advise the Authority.*

*Note also that overflow parking spaces may be adjusted (including reducing potential impacts to identified trees such as additional permeable surfaces in relevant tree protection zone(s))*

*The Authority may consider a mixed response to both elements of condition iv. It is not necessarily an either/or requirement to retain all 15 trees OR to justify removal of all 15 trees.*

v) Updated plans consistent with one another including:

- All plans to show all pedestrian pathways in particular the connecting pathway north and west of the Admin Building and reflection lounge from the adjacent car park (including disability parking spaces);
- Final and accurate internal roadway section(s) consistent with the balance of the DA information;
- A full plan set addressing conditions of this decision (as appropriate).

b) A Construction Environment Management Plans (CEMP) must be submitted to ([EPDImpact@act.gov.au](mailto:EPDImpact@act.gov.au)) and approved by the planning and land authority prior to the commencement of **any** work on the site related to this approval. Refer to the ESO condition 7 below for guidance for this condition.

*NOTE: The CEMP may contain plans and management strategies listed elsewhere within the conditions of approval. Where these plans can be integrated into the CEMP, it must be clearly identified to which condition of approval the plan or management strategy applies.*

c) The lessee is to submit to the Authority, an ongoing plan of management that is consistent with the DA information and identifies:

- a. general dealing with cemetery and crematorium uses;
- b. environmental and cultural management outcomes consistent with current ESO decisions (see condition 7 below) and include subject site constraints and management practices. Generally this shall exclude the site sensitive areas from use and detail ongoing management practices of such sensitive areas.
- c. the exclusion of (non-cremated) internments/burials on site of the deceased;
- d. The limitation on spreading or ongoing storage of deceased ashes including where such activities will be limited to (avoiding sensitive areas of the site).

*Notes: The submitted management plan will be referred to relevant entities including the Conservator, EPA and Heritage Council for advice to the Authority.*

*The management plan, once endorsed as sufficient will be required to be lodged against the title – See condition 3.*

Compliance with the above condition requirements are to the satisfaction of the planning and land authority.

No building work is to commence until a S165 application has been submitted to and supported/endorsed by the planning and land authority for the above conditions.

As per page 1 of this decision, if plans and supporting information are approved by the Authority as meeting this condition, the development shall proceed as per the endorsed plans and information including information meeting this condition 5.

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### Notes:

- i) *consider providing all requested information under a single s165 application. This will assist the Authority in providing you a response in the most efficient manner.*
- ii) *information shall be submitted in the eDevelopment portal addressing the above conditions. Please ensure plans and supporting information are suitably named as per the Authority's naming convention, are clouded for any amendments, such clouding are labelled consistently with items listed on the s165 application form,*
- iii) *any substantial changes to the development required to comply with the above conditions may 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.*

### 6. EVOENERGY (ELECTRICITY) – WORKS NOT TO COMMENCE

- a) No construction works, in relation to this development approval is to commence until the lessee/applicant has obtained a Statement of Acceptance from Evoenergy (Electricity).
- 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. ENVIRONMENTAL SIGNIFICANCE OPINIONS (ESOs)

The Conservator of Flora and Fauna (the Conservator) and the ACT Heritage Council (the Council) each have granted a new environmental significance opinion (ESO) for this proposal in April 2023 each.

The development must only proceed in accordance with and comply with the conditions of these ESOs as per below:

#### CONSERVATOR OF FLORA AND FAUNA (THE CONSERVATOR) ESO:

The Conservator has advised that 'provided the works are undertaken in a manner consistent with the conditions in addition to the mitigation measures contained in the supporting application for an ESO, they are unlikely to cause a significant adverse environmental impact'. The opinion is granted subject to following conditions:

- a) All works are to be undertaken in accordance with the endorsed CEMP.
- b) Connectivity between this site and adjacent known populations of Small Ant-blue Butterfly (*Acrodipsas myrmecophila*) must be maintained, including maintaining habitat preferences for the species by:
  - o Maintaining active regeneration of Eucalypts
  - o Retaining young trees suffering dieback
  - o Maintaining an unmanicured understorey (grasses and forbs, logs, fallen branches, twigs and litter)
  - o Setting "no mow" areas and/or ecological focussed mowing (i.e. suitable timing and frequency) to achieve a unmanicured understorey with retention of a native understorey with variable natural grass heights
- c) A suitably qualified ecologist is to be engaged to inspect trees prior to removal to check for the presence of Coconut Ant (*Papyrius nitidus*) or Small Ant-blue Butterfly larvae.
- d) All currently identified (with the exception of nest CA1) and any new Coconut Ant nests discovered during development must be protected and clearly marked as "no-go" areas - in particular, nest CA4, which has been identified as having potential to be indirectly impacted due to proximity to the development footprint.

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- e) Options for the translocation of the directly impacted remnant tree and associated nest CA1 must be explored in consultation with species experts and the ACT Parks and Conservation Service.

### ACT HERITAGE COUNCIL (THE COUNCIL) ESO:

The ACT Heritage Council determined the proposed development is unlikely to have significant adverse impacts on heritage places and objects subject to the following conditions. The development is to proceed as per these conditions unless advised in writing by the Council:

- f) Works are to be undertaken in accordance with amended plans, including the *'Proposed Site Plan – Masterplan' (A-2100 Rev 5)* and the *'General Arrangement Plan' (C10 Rev F)*;
- g) Prior to the commencement of works, protective fencing is to be installed around ML1, ML2, ML3, ML4/Symonston PAD 3, ML5/Symonston PAD 2, ML6, ML7 and Symonston PAD 1. This protective fencing must:
  - a. Be demarcated by a qualified archaeologist and RAOs;
  - b. Be adequate to physically protect heritage places, such as star pickets spaced no more than 4m apart and with high visibility barrier mesh;
  - c. Once installed, the location and adequacy of protective fencing is to be visually confirmed by a qualified archaeologist and RAOs;
- h) Prior to the commencement of works, a report on the installation of protective fencing is to be submitted to the Council, including: MGA coordinates of the fenced areas (all corners), photographs of the installed fences, and a list of heritage and other personnel involved in fencing installation;
- i) For the duration of construction works, protective fencing is to be maintained and inspected weekly, and:
  - a. Where fencing defects are identified, works are to cease within 100 metres of the heritage area; and the defect rectified immediately. Works are not to recommence until the defect is corrected; and
- j) In the event that additional heritage finds are encountered during construction, the project's Unanticipated Discovery Protocol is to be implemented.

### ADDITIONAL COMMENTS:

- k) Should any further amendments to plans are made, further advice must be sought from the Conservator and the Heritage Council on any additional environmental management or heritage assessment requirements that might apply.
- l) The ESOs are valid for 18 months. The Conservator ESO will expire on 11 November 2024 and the Heritage ESO will expire on 20 October 2024.

### 8. CONSERVATOR OF FLORA AND FAUNA – (The Conservator)

The development shall comply with the following conditions to the satisfaction of the Conservator:

#### Path connection to Callum Brae

Agreement on the path location must be obtained from ACT Parks and Conservation prior to the commencement of works.

#### CEMP

A Construction Environmental Management Plan (CEMP) must be provided to the Conservator of Flora and Fauna for endorsement prior to the commencement of works.

**Note** the Conservator's assessment summary in Part C of this decision for further guidance of these conditions. See also above conditions 5 and 7 of this decision.

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### 9. ENVIRONMENT PROTECTION AUTHORITY (EPA)

The development shall be carried out in accordance with the following conditions to the satisfaction of the 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 13 22 81. This includes restrictions on building times, site management and certain activities associated with development works. Note: as the site is larger than 0.3h, an environmental agreement must be obtained for the works.

Potentially contaminating activities may have been undertaken at the site associated with current and past uses. As such,

- b) prior to the commencement of Development Works:

- i. An environmental assessment in accordance with EPA endorsed guidelines must be undertaken by a suitably qualified environmental consultant to determine whether past activities have impacted the site from a contamination perspective and to determine whether the site is suitable for the proposed uses.
- ii. The consultant's assessment report into the site's suitability for the proposed and permitted uses from a contamination perspective must be submitted to the EPA in accordance with *Information sheet 11 - EPA Report Submission Requirements* for review and endorsement;

- c) At all stages of Development:

- i. All spoil identified at the site must be managed in accordance with EPA *Information Sheet – Spoil Management in the ACT*;
- ii. All soil subject to disposal from the site must be assessed in accordance with EPA *Information Sheet 4 - Requirements for the reuse and disposal of contaminated soil in the ACT*;

- d) No soil is to be disposed from site without approval from the Office of the Environment Protection Authority.

- e) This application involves the alteration of a designated waterway and a Waterway Works Licence is therefore required prior to work commencing (unless the work is to be undertaken as a part of an authorised activity or under an environmental protection agreement under the *Environment Protection Act 1997*).

- f) The managers of the site must ensure that air quality remains compliant with the requirements of the *Environment Protection Act (1997)* at all times.

### 10. TRANSPORT CANBERRA AND CITY SERVICES (TCCS)

The development shall comply with the following conditions to the satisfaction of TCCS:

#### DRIVEWAY / VERGE CROSSING

- a. The driveways at Mugga Lane and Narrabundah Lane must be designed and constructed in accordance with TCCS MIS Design Standards.
- b. Proposed solution of Mugga Lane and Narrabundah Lane appeared to be satisfactory as per the Australian Standard however further detail including amendments of TCD due to changes on these intersections will be assessed in detail design review stage.
- c. A Landscape Management and Protection Plan and a dilapidation report for all Government assets adjacent to the site must be submitted to the in detail design review stage.

*Note: other standard TCCS conditions may apply (as appropriate) for works on, and the use of, Territory Land in addition to the above conditions. A copy of TCCS standard conditions is attached to this decision.*

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### 11. ACT HEALTH

The development shall be carried out in accordance with the following conditions to the satisfaction of ACT Health:

- The design and construction of any ponds must minimise the potential for them to cause an insanitary condition (local mosquito nuisance) under the *Public Health Act 1997*.
- Plans indicate a warming kitchen within the facility. The applicant is advised that if any kitchens are being used to prepare food for the public, they will need to comply with the *Food Act 2001* and the ACT Food Business Fit-Out Guide. If kitchens are preparing food for sale the applicant may be required to submit food business registrations and fit-out applications (with suitably detailed plans) to the HPS prior to construction. The applicant is advised to contact the HPS for further information.

### 12. COMPLIANCE WITH ENTITY REQUIREMENTS

The development must satisfy the requirements of the following entities as stated in each of their advice.

- Emergency Services Authority (ESA);
- ACT Heritage Council;
- ICON Water;
- Evoenergy (Gas);

Copies of advice from the relevant entities for this condition are attached to the Notice of Decision.

### 13. WASTE MANAGEMENT – DURING CONSTRUCTION PHASE

All building waste is to be stored on the site in suitable receptacles/containers 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.

## ADVISORY NOTES

This application is approved with the following advisory notes. It is recommended that careful consideration be given to all 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 documents giving effect to the approval, 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 relevant documents to be registered at Access Canberra Land Titles prior to expiry of this approval.

#### 3. EXPIRY OF APPROVAL

In accordance with S185 of the Act the lease elements of this approval will expire **2 years** after the date this approval takes effect. Under section 188 of the Act, the applicant may apply to the planning and land authority to extend the prescribed period to register the documents giving

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effect to the approval, but such an application must be made prior to the expiry of the DA approval.

#### 4. RELEASE OF APPROVED PLAN

Final stamped plans may not be released until relevant conditions of the decision (including Leasing, s165 further Information, Entity conditions/requirements) are complied with to the satisfaction of and at the discretion of the planning and land authority.

#### 5. SIGNAGE

a) This development application does not include an assessment of any proposed signage.

Any proposed signage at the site must be the subject of a separate DA for approval by planning and land authority, unless exempt in accordance with the *Planning and Development Regulations 2008*.

b) All temporary or exempt signage installed at the site, including advertising signage and hoarding, should meet 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-renoate/for-industry/industry-resources/hoarding-signage-guidelines>

#### 6. ENVIRONMENT PROTECTION AUTHORITY (EPA)

The sediment control plan would not be approved in its current form and should be resubmitted using the EPA's minimum standards as a guideline.

A Waterway Works Licence application may be obtained from the Access Canberra website and an application should include a construction method statement that outlines the sequence of work and environmental controls.

All excavations that collect rainwater during a rain storm event would be considered as a sediment control pond, and must meet the following condition: No discharge is to be conducted unless sediment levels are demonstrated to be less than 60mg/litre. If sediment levels are greater than 60mg/litre, then prior to discharge the pond must be dosed with either Alum or Gypsum and allowed to settle until the sediment is less than 60 mg/litre.

Noise from equipment which may be installed or used at the site, including air conditioning units etc, 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. Written 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.

For further information please contact the Environment Protection Authority Planning Liaison at [EPAPlanningLiaison@act.gov.au](mailto:EPAPlanningLiaison@act.gov.au) or on 02 6207 5642.

#### 7. ENVIRONMENT AND SUSTAINABLE DEVELOPMENT DIRECTORATE – CLIMATE CHANGE AND ENERGY

In August 2022 the ACT Government announced it is phasing out all new fossil fuel network gas connections in the ACT. A Regulation preventing new fossil fuel gas network connections is expected to come into effect by late 2023. To avoid the possibility of your development not being able to connect to the fossil fuel gas network upon completion, the development should be designed to be all-electric or constructed as 'electric ready'. Further information can be found at <https://www.planning.act.gov.au/build-buy-renoate/for-industry/industry-resources/electric-ready-buildings-information-for-developers> and [www.energy.act.gov.au](http://www.energy.act.gov.au).

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### PART B – REASONS FOR THE DECISION

The application was approved because based on the documentation and in the form modified by the imposed conditions it was considered to meet the relevant rules and criteria of the Territory Plan and relevant sections of the *Planning and Development Act 2007(the Act)* in particular sections 119 and 120.

During the assessment of the DA, the Authority requested further information under s141 of the Act:

#### Further information request s141A and s141B:

- to address entity non-support issues
- response to representations
- Traffic report

#### Further information request s141D and s141F:

- To address entity non-support issues
- response to the latest representations
- Advise environmental significance opinions (ESOs) had expired

#### Further information request s141H:

- Updated traffic report- after being request, this s141H was not considered required as applicant dealt with TCCS directly and TCCS provided subsequent advice (in support) to the Authority.

The applicant provided several applications under section 144 of the Act in response, amending the proposed development. This decision is based on the amended proposal. The amended proposal was referred to relevant entities and was publicly notified. The assessment of the amended proposal considered all relevant elements but in particular:

- Entity advice;
- Representations;
- The site suitability for the development including environmental impacts;
- Territory Plan and legislative requirements;
- DA being lodged and determined in the correct Track;
- The extent of development sought and approved by this decision and Crown lease considerations.

These and other matters are discussed as follows:

As part of the s144G application, the applicant provided a written submission regarding the use of a Cemetery. It is noted that the plans do not contain internments or grave sites as part of the DA information. The proposal is however to add Cemetery use to the Crown Lease which as per this decision is supported.

Cemetery is defined in the Territory Plan as follows:

*Cemetery means the use of land for the interment or the cremation of the dead including any funeral parlour or chapel erected on such land and used in connection with the cemetery.*

This DA proposes the crematorium element of the definition but is not proposing use of the land for internment.

Development is defined in the Planning and Development Act 2007 as follows:

#### *Meaning of development*

*(1) In this Act: development, in relation to land, means the following:*

- (a) building, altering or demolishing a building or structure on the land;*
- (b) carrying out earthworks or other construction work on or under the land;*

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- (c) carrying out work that would affect the landscape of the land;*
- (d) using the land, or a building or structure on the land;*
- (e) subdividing or consolidating the land;*
- (f) varying a lease relating to the land (other than a variation that reduces the rent payable to a nominal rent);*
- (g) putting up, attaching or displaying a sign or advertising material other than in accordance with—*
  - (i) a licence issued under this Act; or*
  - (ii) a sign approval under the Public Unleased Land Act 2013, section 25 (Approval to place sign on public unleased land); or*
  - (iii) a public unleased land permit under the Public Unleased Land Act 2013.*

Therefore, internment or burial is consistent with section 7(1)(b) (emphasis added above) and is considered development. Given the DA does not include such elements i.e. identified grave sites, if such uses are to be pursued, further approval for such development may need to be acquired.

This decision is therefore not considered to cover such elements even though the Crown Lease is approved to be varied to include use as a Cemetery. Accordingly, given the definitions within the Territory Plan (without a standalone definition for crematorium), limitations for ongoing use to ensure development occurs as per the DA information and this decision, are considered required. Furthermore, the ongoing management condition has been imposed to ensure the development is managed consistent with the DA information.

The DA also seeks approval for the use of a caretaker's residence to be included in this DA. The current Crown Lease Purpose Clause provides for a caretaker's residence which relies upon the primary use i.e. the bird and animal park. For the new cemetery use, any caretaker's residence will remain a use linked to the primary use. While this DA does not provide an identified area or detailed assessment, the ongoing provision of the caretaker's residence is considered suitable to preserve, albeit in connection (subsidiary) to the new primary use. The context and relevant wording from the current Crown Lease has been used to describe the approved development in this decision. Should the lessee/proponent wish to construct a caretaker's residence, a separate DA and decision will need to be made and consider this matter in detail. Other land uses such as car parking and office are noted and are considered ancillary to the main use, that being a Cemetery. Such ancillary elements are not considered as stand-alone or separate uses.

The representations raised a number of environmental concerns. The site and surrounding environmental values and potential impact of the development were carefully considered during the assessment. The DA was supported by ESO's and entities with environmental focus advice advising of conditional support. This notice of decision has been made consistently with such advice. It was however identified that the ESO's have a construction period focus and to provide ongoing environmental outcomes, an additional commitment to protecting these areas and values was considered required. A condition has been imposed to require an ongoing management plan to achieve such outcomes. To offer greater certainty, the Authority considers the ongoing management plan be required in the Crown lease. See the above/imposed conditions.

The DA was lodged with ESO's to support the application being made in the Merit Track. During the assessment period, such ESO's ended and subsequent new ESO's were issued in support of the DA. These were considered including the new ESO's being 'in force' at the time of this decision. The lodgement and decision of this DA in the Merit Track is considered suitable. See further commentary in response to representations below.

The Authority considered the zone objectives and in summary advises:

- a) The limited development footprint of the development with significant areas of undisturbed or natural parts of the site, in particular close to the two frontages, are considered consistent with this objective a). The landscape will in particular to the road frontages provide a substantially rural landscape proportionate to the surrounds including proximity to the urban area. The development

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is considered sufficiently setback from the nearby uses other and other boundaries. While elements of the development will be visible, the low density and scale are not inconsistent with this objective.

b) The Territory Plan does not impose any required clearance zone for the site or development type, however the use of a cemetery may give rise to some concerns to members of the community. This was raised in some of the representations. The site is considered well placed to address such concerns with limited urban connections to existing residential areas. Setbacks to boundaries are considered reasonable. Surrounding/nearby uses including some potentially sensitive uses were considered in forming this view.

Environmental outcomes have been considered also to offer reasonable compatibility and setbacks eg to the adjacent Reserve. While representations have raised a number of conflicts, assessment has not supported such outcomes in particular where supported by specialist entities including EPA, the Conservator, the ACT Heritage Council and TCCS.

c) Similar to above, the visual landscape and environmental qualities for the site and surrounds have been considered. While development of the site will have some changes, any impacts are not considered to be adverse or unreasonable. Note this is not from a position of nil impact. Development (including a cemetery) is permissible for the site, therefore some impacts will occur. This proposal is however at a scale which is considered reasonable for the site including considerations of these zone objectives.

d) The use as a cemetery is permissible in the zone Land Use Tables. Such a use of the land has potential to limit future potential developments for the site however proposed development does not have any particular qualities to restrict future uses over other permissible uses. A Cemetery evidently has some sensitivities and will need some consideration of any future developments however this is similar to many other permissible developments.

The site is not identified for future expansion or urban purposes. Other uses are available subject to consideration/application. This objective is not seen to prohibit the DA/development from approval.

Based on the proposed development and the Authority's assessment the development is capable of approval and therefore supports approval of the proposed design and siting elements as well as the changes to the Crown Lease. The Authority has considered:

- The zone objectives;
- the suitability of the land and the proposed development;
- the applicable (and in force) ESO's,
- the representations, and
- the entity advice.

The DA was assessed against the relevant Territory Plan Codes. The accessibility of the development was considered by the Authority of being capable of achieving the Access and Mobility General Code. A condition has been imposed to clarify the extent of the development required to be accessible including some of the assessment elements identified to achieve this outcome. Condition 5 also addresses other assessment elements including some consistency of plan issues, Territory Plan requirements and as covered elsewhere in this decision, entity advice regarding the development. On balance, these issues are considered suitable to condition.

More generally, the site is outside of the main urban area and is considered suitable for use as a crematorium which some community members may find a sensitive use. With such sensitivities, a site with limited urban surrounds is considered preferable. While this offers more limited transport options, the DA is supported by TCCS and there is sufficient parking facilities for the development. On balance the site is considered suitable for the use and proposal. The interaction with the site surrounds including the neighbouring reserve are considered in this.

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Conditions have been imposed addressing the issues identified during assessment to ensure the development satisfies the Territory Plan, addresses assessment issues including relevant entity advice and generally follows standard process and practices.

Like most developments, the Authority notes that this approval is part of a wider legislative framework. Other legislation including *Cemetery and Crematoria Act 2020* (administered by TCCS) and the *Building Act 2004* are likely to apply. Ongoing commitments to the DA or legislation generally e.g. consistency of development with EPBC Act also may apply. The Authority did not identify any reasons why the DA should be refused for such other legal requirements. As above, the DA conditions have been imposed based on the DA assessment including relevant ongoing requirements.

All relevant conditions are included under PART A. Entity advice and representations are discussed in PART C. All Parts of this decision provide further details and considerations informing the reasons for the decision.

### EVIDENCE

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

Development Application:	2021387789 / s144C / s144E / s144G
Territory Plan Zones:	NUZ1: Broadacre Zone
Development Codes:	Non-Urban Zones Development Code
Precinct Code:	Symonston Precinct Map and Code
General Codes:	Parking and Vehicular Access General code, Crime Prevention through Environmental Design General code, Waterways Water Sensitive Urban Design General code, Access and Mobility General code, Signs General Code, Lease Variation General Code
Crown Lease:	Volume 1863 and Folio 56
Legislative requirements:	The <i>Planning and Development Act 2007</i> in particular sections 119 and 120
Representations and Entity advice:	As addressed in PART B and PART C of this Decision

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### PART C – PUBLIC NOTIFICATION AND ENTITY ADVICE

#### PUBLIC NOTIFICATION

Pursuant to Division 7.3.4 of the *Planning and Development Act 2007* (the Act), the application was publicly notified from 9 September 2021 to 29 September 2021. This application was re-notified from 8 October 2021 to 28 October 2021. Ninety (90) written representations were received during public the notification periods.

##### s144C Amendment/Further Information

An amendment to the proposal was lodged with the authority on 6 April 2022. Pursuant to Division 7.3.4 of the Act, the amended application was publicly notified from 14 April 2022 to 9 May 2022. The closing date was extended until 31 May 2022. Twenty-four (24) written representations were received during this public notification period. A further three (3) late representations were also received.

##### s144G Amendment/Further Information

An amendment to the proposal was lodged with the authority on 3 May 2023. Pursuant to Division 7.3.4 of the Act, the amended application was publicly notified from 9 May 2023 to 30 May 2023. Thirty-four (34) written representations were received during this public notification period. A further two (2) late representations were also received.

The issues raised in the representations were considered in the assessment and making of this decision. The issues raised and Authority's considerations are summarised as follows:

- *Concern in relation to water flow - Interruption to drainage lines which currently provide catchments for native frogs. Removal could affect environmental quality. Development will affect access of birds & macropods to water.*

The potential environmental impacts have been considered as part of the assessment process, including impacts waterways.

The site includes an existing pond on-site and natural waterflow paths to the north and south of the block. The development application identified the retention of the existing pond and also a future pond within the northern waterflow path. Further information was sought, during the assessment process, requesting a stormwater management plan and clarification regarding any alterations to the natural flow paths.

An amendment was submitted by the proponent that included further information relating to stormwater. The amendment removed the future pond and clarification was provided stating that waterflows would not substantially alter the drainage patterns of the site. The information was referred to the Conservator of Flora and Fauna and the Environment Protection Authority (EPA) who endorsed the proposal. All entity advice and conditions have been incorporated into this decision. Ongoing management requirements have also been conditioned.

- *Air quality impacts from the crematorium*

Air quality impacts are regulated and monitored by the ACT EPA. The development application was referred to the EPA who supported the proposal with conditions. Conditions have been incorporated into the decision.

- *Impacts on the local ecosystem/ construction may disrupt/destroy wildlife*

This application was subject to an Environmental Significance Opinion (ESO) and was referred to the Conservator of Flora and Fauna. In addition to the ESO issues, the Conservator identified 15 trees used for foraging by Swift parrot. Further information is required in this decision to show consider modifications to avoid damage/removing the trees. If unavoidable, information must be provided demonstrating that the trees have been compensated for to ensure that fragmentation of the habitat does not occur.

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It is also noted that a Construction Environmental Management Plan (CEMP) is also required to manage and minimise all impacts from the construction stage. The CEMP must be prepared prior to commencement and implemented during all works. Conditions for ongoing management have also been imposed. Ongoing management requirements have also been conditioned.

➤ *Protected woodland/ Impact on native trees*

The proponent referred the proposal to the now Commonwealth Department of Climate Change, Energy, the Environment and Water (DCEEW) under application 2019/8595. The application was made as the site contains box gum woodland which is protected under Commonwealth and ACT legislation. DCEEW considered the application and on 26 May 2020 determined that the development was not a controlled action under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

The proponent applied for two Environmental Significance Opinions (ESOs) which were considered by the ACT Conservator of Flora and Fauna. The ESO was applied for as the proposal potentially triggered the impact track under Items 1 (box-gum woodland) and 2, Schedule 4 (Part 4.3) of the Planning and Development Act 2007 (PD Act). An ESO was given by the Conservator on 18 August 2020, subject to conditions and mitigation measures, as the proposal was not likely to have a significant environmental impact. Ongoing management requirements have also been conditioned.

➤ *Introduction of exotic tree species*

During the assessment process the development application was amended to introduce native trees. These are outlined on the landscape plans (L000, L001, L002, L101-L104, L201-L204 and LD01).

➤ *Public health assessment*

The application was referred to ACT Health and no concerns were raised in relation to the proposal.

➤ *Traffic/ Traffic congestion*

Application was referred to TCCS and was conditionally supported.

➤ *Concern in relation to public notification process*

The application was notified as per requirement of *Planning and Development Act 2007*. This included three separate public notification periods.

➤ *Suitability of site location for the proposed development*

It is considered that the location complies with Territory Plan and entity requirements and the site is suitable for approval of the proposed development.

➤ *Merit to vary lease/ caretaker residence*

The DA for the Cemetery was considered capable of approval. The Lease Variation General Code Application primary considerations are therefore satisfied and the Crown lease is considered suitable to be varied to accommodate the new development. The Crown lease elements were also supported by the Authority's leasing team. The existing Crown lease already has the ability for a caretaker's residence. While the primary use is being changed the associated ability for a caretaker's residence is in effect being retained from the current lease. See additional comments above.

➤ *Inconsistencies / errors in information provided / lacks info / misleading*

Issues raised have been considered and noted. The DA information was considered capable of making the (conditional approval) decision.

➤ *Additional Crematorium not required*

Issues raised have been noted. This is a consideration for the lessee/proponent.

➤ *Future Pet Cemetery*

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The DA information does not extend to pets at this time.

### ➤ *Climate change*

The application was referred to various entities. Relevant entities support have been obtained. The development is not considered to impact on the climate to warrant refusal of further information.

### ➤ *Assessment Track*

The DA was lodged (and determined by this decision) in the Merit track.

Schedule 4 of the PD Act outlines Impact track triggers. Matters relating to this proposal includes Items 1 (protected matters - Box Gum Woodland), 2 (clearing native vegetation) and 6 (Heritage) of Part 4.3 of the Schedule. All three trigger the Impact track unless an ESO is given by the Conservator of Flora and Fauna and ACT Heritage. On 18 August 2020, an ESO (ESO-202000010) was given by the Conservator and heritage, subject to conditions.

During the assessment process, it was noted that an amended application was lodged after the expiry of the ESO's for ESO-202000010. New ESOs were sought by the proponent and, on 18 August 2020, a new ESO was given by the Conservator and heritage, subject to conditions. The lodgement and decision of the DA in the Merit track are considered the correct track. S120(c) is relevant at the time of this decision.

### ➤ *EIS / Environmental assessment*

The *Planning and Development Act 2007* only requires an Environmental Impact Statement (EIS) for a development application in the Impact track. This application was submitted in the merit track and therefore an EIS is not required.

### ➤ *ESO largely disputed*

The ESO decisions were made by the Conservator and ACT Heritage. The planning and land authority cannot reconsider these decisions. Also note comments above for the track.

### ➤ *Bushfire implications*

Application was referred to ACT Emergency Services and was supported with conditions.

### ➤ *NUZ1 Zone objectives*

Application is considered to comply with the Territory Plan. The NUZ1 zone objectives were considered in making the decision. The development is considered in keeping with the zone objectives.

### ➤ *Tree protection*

Conditions have been imposed to comply with Conservator's advice, refer to Part A.

### ➤ *Sediment*

Condition has been imposed that all works to be carried out in accordance with "relevant standards."

### ➤ *High snake population*

Entities support in particular the Conservator's advice has been received (in support) and considered in the making of the decision.

### ➤ *Potential for illegal activity*

Any development not covered by this approval and/or Crown Lease will be an issue separate from this DA. Opportunities for illegal activities are not considered to be substantially changed by this development. Any ongoing/illegal (or non-approved) activities will potentially be a matter for the Police

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or the complaints mechanism of the Authority.

### ➤ *Concern in relation to Waste*

Application was referred to TCCS as the entity to assess ongoing waste controls and management and was conditionally supported.

### ➤ *EPA approval*

There is no requirement to obtain EPA approval before lodging the application. Pursuant to Division 7.3.3 of the Planning and Development Act 2007, the DA was referred to EPA who provided advice in support of the proposal with conditions. This decision is consistent with the EPA advice.

### ➤ *Lighting impact*

A condition has been imposed for the applicant to provide further lighting information.

### ➤ *Cultural impact and heritage impacts*

Proposed development complies with the Territory Plan. The application was referred to ACT Heritage Council and was conditionally supported. A condition has however been imposed to ensure cultural impacts are managed throughout the development process consistent with the Council's advice.

### ➤ *Undisclosed conflict of interest*

No known conflict of interest was identified with this application.

### ➤ *Impact on nearby property prices*

Property price is not a planning consideration. The development is permissible in the zone and assessment against relevant legislation and the Territory Plan have identified the development capable of approval.

### ➤ *Setback to nature reserve*

Proposed setback considered to comply with the Territory Plan requirements. Relevant entity advice in support for the proposal has also been considered in assessing the development (including setbacks) as being suitable for approval.

### ➤ *Parking and site entry - Lack of public transport*

Proposal is consistent with the relevant Territory Plan requirements. There are considered to be sufficient transport options for the proposed development.

### ➤ *Asbestos in relation to water mains*

The application was referred to relevant entities and was supported with conditions. No further conditions are considered necessary for this matter/issue however other legislation applied should asbestos be found during the development. Detailed water supply configuration will be subject of subsequent (BA) processes.

### ➤ *Sewerage facilities*

The application was referred to relevant entities and was supported with conditions. Detailed waste water collection and disposal (to the network) configuration will be subject of subsequent (BA) processes.

### ➤ *ESO issues*

The original DA was submitted with two ESO's which were given in relation to environmental and Heritage values. An amendment application was submitted under s144 of the PD Act with new ESO's

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after the initial ESO's had lapsed/ended. The Authority accepted the application and amendment applications to appropriately consider all the impacts of the proposal. Under s114 of the PD Act, the Authority is able to accept development application and consider whether the application has been lodged in the appropriate track. The Authority determined that the merit track is suitable given there are currently active (new) ESO's as provided during the assessment process. Conditions consistent with the ESO's have been included in the decision.

### ENTITY ADVICE and REQUIREMENTS

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

Summary of entity comments is as follows:

1. TRANSPORT CANBERRA AND CITY SERVICES (TCCS)

The initial DA was not supported by the TCCS and further information was requested under s141 of the Act. The applicant provided further information under s144 of the Act. TCCS provided advice stating that the proposal is supported subject to conditions.

Please refer to PART A for conditions consistent with the TCCS advice.

2. ENVIRONMENTAL PROTECTION AUTHORITY (EPA)

EPA provided advice stating that the proposal is supported subject to conditions.

Please refer to PART A for conditions consistent with the EPA advice.

3. CONSERVATOR OF FLORA AND FAUNA (the Conservator)

Initial application was not supported by the Conservator and further information was requested under s141 of the Act. The applicant provided further information under s144 of the Act. The Conservator now supports the application subject to conditions.

Refer to PART A for conditions regarding compliance with entity advice.

Relevant extracts from the Conservator's assessment of the DA and advice to the Authority in relation to Swift Parrots is as follows:

- Swift parrots are *critically endangered* and all remaining potential habitat is important habitat for their recovery.
- The development area provides connected foraging habitat for swift parrots, with 12 sightings within 1 km of the development footprint in the last 2 years (CNM data).
- Records of swift parrots in the ACT have increased in recent years, indicating that such habitats may be increasingly important in their migration (Blakers submission).
- The most important part of the development area for swift parrots is the eastern woodland patch, which captures 23 trees marked for removal.
- Of these 23 trees:
  - 7 are dead and would not be contributing to swift parrot foraging habitat, but...
  - **at least 15 are living components of endangered BGW (Blakely's Red Gum or Yellow Box), and**
  - **at least 10 trees are > 10 m in height and likely to be contributing important swift parrot foraging habitat.**

Given its relatively small area and lack of swift parrot sightings directly on site, the development overall is unlikely to significantly impact on the swift parrot. However, the loss of 15 important foraging trees, of substantial age and size, has the potential to reduce and fragment existing swift parrot habitat and should be avoided if at all possible, or compensated otherwise.

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Conditions have been imposed. Please refer to Condition 5, 7 and 10 relevant to the Conservator's advice.

### TREE PROTECTION UNIT (TPU)/Conservator

The proposal does not affect Regulated Trees as the block and section is located on land that is not part of the built-up urban area and therefore not covered by the *Tree Protection ACT 2005*.

#### 4. ACT HEALTH

ACT Health provided advice stating that the proposal is supported subject to conditions.

Refer to PART A for conditions regarding compliance with entity advice.

#### 5. ACT EMERGENCY SERVICES AGENCY (ACTESA)

The ACTESA provided advice stating that the proposal is supported subject to conditions.

A condition requiring the development to satisfy relevant entity requirements has been imposed in PART A.

A copy of the ESA advice is attached to this Notice of Decision.

#### 6. ICON WATER

Icon Water provided advice stating that the proposal is supported subject to conditions.

A condition requiring the development to satisfy relevant entity requirements has been imposed in PART A.

A copy of the Icon Water advice is attached to this Notice of Decision.

#### 7. EVOENERGY (ELECTRICITY)

Evoenergy (Electricity) provided advice stating that the proposal is not supported.

A condition requiring the development to satisfy relevant entity requirements has been imposed in PART A.

A copy of the Evoenergy advice is attached to this Notice of Decision.

S119 of the Act has been considered in making this decision. The decision to approve the development is potentially inconsistent with the advice from Evoenergy. Any applicable guidelines (none identified beyond the Evoenergy advice), realistic alternatives (including further information and refusal) have been considered. A condition has been imposed for the lessee/proponent to obtain Evoenergy support prior to commencement. The entity advice does not identify any significant reasons or planning outcome issues this conditional approach would create. Meeting the condition will ensure the development will proceed as per Evoenergy requirements.

#### 8. EVOENERGY (GAS)

Evoenergy (Gas) provided advice stating that the proposal is supported subject to conditions.

A condition requiring the development to satisfy relevant entity requirements has been imposed in PART A.

A copy of the Evoenergy (Gas) advice is attached to this Notice of Decision. **Also note Advisory Note 7 of this decision about possible future new gas connection limitations.**

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## ATTACHMENT 1

### ADMINISTRATIVE INFORMATION RELATING TO NOTICE OF DECISION

#### **DATE THAT THIS APPROVAL TAKES EFFECT**

Unless a condition of approval provides for otherwise, this approval takes effect 20 working days after the day this notice of decision is given to every person who made a representation on the application. The effective date for development applications approved subject to conditions may 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 *Planning and Development Act 2007* ([Act](#)), this approval will expire if:

- the development or any stage of the development is not started within three years after the day the approval takes effect;
- the development is not finished three 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 pursuant to 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.

#### **Inspection of the Application and Decision**

A copy of the application and the decision can be inspected between 9.00am and 4:00pm weekdays at the Environment, Planning and Sustainable Development Directorate Dickson Customer Service Centre at 480 Northbourne Avenue, Dickson, ACT.

#### **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 pursuant to section 165 of the Act, the submission must be made by completing an application in e-development.

#### **Reconsideration of the Decision**

If the DA 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 pursuant to section 191 of the Act. A longer timeframe may apply only if granted in writing by the planning and land authority pursuant to section 191 of the Act.

More information is available online at <https://www.planning.act.gov.au/build-buy-renovate/build-buy-or-renovate/approvals/development-applications/appeal-a-da-decision>.

Please contact Access Canberra Customer Services if you wish to lodge a reconsideration application.

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### **Review by the ACT Civil and Administrative Tribunal (ACAT)**

1. Decisions that are reviewable (sometimes referred to as appeals) by the ACAT are identified in Schedule 1 of the [Act](#), except for matters that are exempted under Schedule 3 of the [Planning and Development Regulation 2008](#) (matters exempt from third party review).
2. The notice of decision and this advice have 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. More information on appeal rights is available online at <https://www.planning.act.gov.au/build-buy-renovate/build-buy-or-renovate/approvals/development-applications/appeal-a-da-decision>.
5. The ability to review the Authority's decision is a matter of law. **If** you think you have a right of review, you may apply to the ACAT for a review of the decision. Application forms can be obtained from the ACAT at the website listed below. You can also download the form from the ACT Legislation Register. It is recommended you seek independent advice in regards to such reviews e.g. a legal practitioner.
6. If you are applying on behalf of an organisation or association, 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.
7. 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*; and rule 38 of the *ACT Civil and Administrative Tribunal Procedures Rules 2020*).
8. 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. Applications should be made in writing to: the Director General, Justice and Community Safety Directorate, GPO Box 158, CANBERRA ACT 2601. You can ask the ACAT for more details.
9. 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.
10. The following organisations may be able to provide you with advice and assistance if you are eligible:
  - ACT Law Society, telephone 6274 0300ACT
  - 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.
11. 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 in the circumstances specified in s 48 of the *ACT Civil and Administrative Tribunal Act 2008*. 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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12. You may apply for access to any documents you consider relevant to this decision under the *ACT Freedom of Information Act 2016*. Information about Freedom of information requests is available on the planning and land authority's web site at <https://www.environment.act.gov.au/about/access-government-information> or by contacting us by phone on 02 6207 1923.
13. 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.

### **Review by the ACT Supreme Court**

1. The Authority's decision may also be subject to judicial review by the ACT Supreme Court under the *Administrative Decisions (Judicial Review) Act 1989* (ADJR Act).
2. Under the ADJR Act, an *eligible person* may make an application for review of a decision.
3. An *eligible person* must demonstrate that their interests are adversely affected by the decision and that the application raises a significant issue of public importance.
4. Section 5 of the ADJR Act sets out the grounds on which a decision can be reviewed.
5. The time limit to make an application for review is 28 days from the date the Notice of Decision is provided to the applicant and those people who made a representation.
6. The ACT Supreme Court is a costs jurisdiction where costs generally follow the event. This means that the unsuccessful party is required to pay the costs of the successful party.
7. For more information on ACT Supreme Court processes and fees, please visit <https://courts.act.gov.au/home>.

### **Other approvals**

A notice of decision under the *Planning and Development Act 2007* grants development approval only. Other approvals may be required, including:

1. **Building Approval**

Most building work requires building approval under the *Building Act 2004* 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 Transport Canberra and City Services Directorate at <https://www.tccs.act.gov.au/city-living/trees>.

3. **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 the carrying out of works, including the storage of materials or waste, without prior approval of the Territory. More information is available from the Transport Canberra and City Services Directorate at <https://www.tccs.act.gov.au/city-living/public-land-use>.

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#### 4. Works on unleased Territory Land

In accordance with the *Public Unleased Land Act 2013*, no work can be undertaken on unleased Territory land without the approval of the Territory. Such approval must be obtained from the Senior Manager, Place Coordination and Planning, 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.

#### Contact details for relevant agencies

<p><b>ACT Civil and Administrative Tribunal</b>          15 Constitution Avenue          CANBERRA CITY ACT 2601          GPO Box 370, CANBERRA, ACT 2601</p>	<p><a href="http://www.acat.act.gov.au">www.acat.act.gov.au</a>  <a href="mailto:tribunal@act.gov.au">tribunal@act.gov.au</a>          02 6207 1740          02 6205 4855 (Fax)</p>
<p><b>ACT Supreme Court</b>          4-6 Knowles Place,          CANBERRA CITY ACT 2601          GPO Box 1548, CANBERRA CITY, ACT 2601</p>	<p><a href="http://www.courts.act.gov.au">www.courts.act.gov.au</a>          02 6205 0000</p>
<p><b>Environment, Planning and Sustainable Development Directorate</b>          480 Northbourne Avenue          DICKSON ACT 2602          GPO Box 158, CANBERRA 2601</p> <ul style="list-style-type: none"> <li>• <i>Planning and land authority</i> <ul style="list-style-type: none"> <li>- list of certifiers for building approval</li> <li>- demolition information</li> <li>- asbestos information</li> </ul> </li> <li>• <i>Environment Protection Authority</i> <ul style="list-style-type: none"> <li>- environment protection</li> <li>- water resources</li> <li>- Conservation, Planning and Research</li> <li>- threatened species/wildlife management</li> </ul> </li> <li>• <i>WorkSafe ACT</i> <ul style="list-style-type: none"> <li>- asbestos information</li> </ul> </li> <li>• <i>ACT Heritage Council</i> <ul style="list-style-type: none"> <li>- Aboriginal, historic and natural heritage management</li> </ul> </li> <li>• Tree Protection Unit             <ul style="list-style-type: none"> <li>- <i>Development Applications (DA) issue:</i></li> <li>- <i>Tree Damaging Activity Applications (TDAA) issue:</i></li> </ul> </li> </ul>	<p><a href="http://www.planning.act.gov.au">www.planning.act.gov.au</a>          02 6207 1923</p> <p><a href="mailto:EPAPanningLiaison@act.gov.au">EPAPanningLiaison@act.gov.au</a>          6207 5642</p> <p><a href="mailto:worksafe@worksafe.act.gov.au">worksafe@worksafe.act.gov.au</a>          132 281</p> <p><a href="http://www.environment.act.gov.au">www.environment.act.gov.au</a>          132 281</p> <p><a href="mailto:TCCS.TreeProtectionACTPLARef@act.gov.au">TCCS.TreeProtectionACTPLARef@act.gov.au</a></p> <p><a href="mailto:TCCS.TreeProtection@Act.gov.au">TCCS.TreeProtection@Act.gov.au</a></p>
<p><b>Transport Canberra and City Services</b></p> <ul style="list-style-type: none"> <li>• landscape management and protection plan approval</li> <li>• use of verges or other unleased Territory land</li> </ul>	<p><a href="http://www.tccs.act.gov.au">www.tccs.act.gov.au</a>          132 281          02 6207 0019 (development coordination)</p>

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<ul style="list-style-type: none"><li>• works on unleased Territory land - design acceptance</li><li>• driveway inspections or building applications</li><li>• damage to public assets</li></ul>	<a href="mailto:tccs.dcdevelopmentcoordination@act.gov.au">tccs.dcdevelopmentcoordination@act.gov.au</a>
<b>Health Directorate</b>	<a href="http://www.health.act.gov.au">www.health.act.gov.au</a> <a href="mailto:hps@act.gov.au">hps@act.gov.au</a> 02 5124 9700
<b>Education Directorate</b>	<a href="http://www.education.act.gov.au">www.education.act.gov.au</a> 02 6205 5429
<b>Utilities</b> <ul style="list-style-type: none"><li>• Telstra (networks)</li><li>• TransACT (networks)</li><li>• Icon Water</li><li>• Electricity reticulation</li></ul>	02 8576 9799 02 6229 8000 02 6248 3111 02 6293 5749

### 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-għajjuna t'interpretu, ċempel:
PERSIAN	: اگر به ترجمه شفاهی احتیاج دارید به این شماره تلفن کنید:
PORTUGUESE	Se você precisar da ajuda de um intérprete, telefone:
SERBIAN	Ако вам је потребна помоћ преводиоца телефонирајте:
SPANISH	Si necesita la asistencia de un intérprete, llame al:
TURKISH	Tercümana ihtiyacımız varsa lütfen telefon ediniz:
VIETNAMESE	Nếu bạn cần một người thông-ngôn hãy gọi điện-thoại:

### TRANSLATING AND INTERPRETING SERVICE

# 131 450

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