

Planning and Development (Approval of Application – 201731062 Kaleen Caltex Service Station Redevelopment) Notice 2017

Notifiable instrument NI2017–414

made under the

Planning and Development Act 2007, s 170 (Notice of approval of application)

1 Name of instrument

This instrument is the *Planning and Development (Approval of Application – 201731062 Kaleen Caltex Service Station Redevelopment) Notice 2017*.

2 Impact track development approval

On 24 July 2017, pursuant to section 162 of the *Planning and Development Act 2007* (the **Act**), the delegate of the planning and land authority approved, subject to conditions, in the impact track, development application 201731062, for the redevelopment of the service station at Block 26, Section 120 Kaleen.

The approval of development application 201731062 is in the schedule.

Note 1 Development application 201731062 was assessed as a concurrent development application with an EIS exemption application (concurrent document) under s 147AA of the Act.

Note 2 Under section 162(2) of the Act, the development application was approved after the concurrent process had been completed. The concurrent process was the assessment of an EIS exemption application under s 211H of the Act. The EIS exemption was granted on 20 July 2017 by the Minister for Planning and Land Management (see NI2017-398).

3 Dictionary

concurrent development application see section 147AA(1) of the Act

concurrent document see section 147AA(1) of the Act.

Dave Peffer
Delegate of the Chief Planning Executive
27 July 2017



ACT
Government

Environment and Planning

Notice of decision

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

Impact track

DA NO: 201731062		DATE LODGED: 5/04/2017
DATE OF DECISION: 24/07/2017		
BLOCK: 26	SECTION: 120	SUBURB: KALEEN
STREET NO AND NAME: Maribyrnong Avenue		
APPLICANT: TFA Group		
LESSEE: Evangelista Pty Ltd		

THE DECISION

This application was lodged in the impact track. Pursuant to section 113(2) of the *Planning and Development Act 2007*, the application must be assessed according to the provisions relevant to impact track applications.

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

- **The demolition and removal of the existing site structures, including underground petroleum storage system (UPSS) and fuel infrastructure;**
- **The installation of a new UPSS consisting two underground storage tanks and associated fuel lines and bowsers;**
- **The construction of a new retail building, service yard, 4 fuel dispensers, canopy over fuel dispensing area, signage and car parking;**
- **New/relocated plant and infrastructure including the fuel tanker fill point, LPG tank enclosure, air/water unit, stormwater infrastructure, fencing and lighting;**
- **Landscaping and other associated works; and**
- **A variation to the Crown lease to replace the existing service station use with the service station use under the current Territory Plan;**

in accordance with the plans, drawings and other documents and items submitted with the application and endorsed as forming part of this approval and substantially in accordance with the draft Instrument of Variation at Attachment 1.

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

PART 2 sets out the Reasons for the Decision.

PART 3 is Public Notification and Entity Advice.

PART 4 contains administrative information relating to the determination.

DELEGATE

Jonathan Teasdale
Delegate of the planning and land authority
Environment, Planning and Sustainable Development Directorate
24/07/2017

CONTACT OFFICER

Rebecca Bamford
Phone: (02) 6207 8749
Email: rebecca.bamford@act.gov.au

PART 1 CONDITIONS OF APPROVAL

Please note that this approval includes leasing requirements.

THE APPROVAL WILL EXPIRE 2 YEARS AFTER THE APPROVAL TAKES EFFECT or otherwise in accordance with the conditions of approval. In addition, there are legislative requirements that must be met prior to the registration of the instrument of variation. See Advisory Notes for further information about those legislative requirements.

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

A. ADMINISTRATIVE / PROCESS CONDITIONS

Design and Siting

Note: The following conditions must be satisfied prior to the release of approved plans to the proponent. These conditions may result in changes to plans or changes to documents associated with plans which will be stamped by the Authority.

- A1. 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 revised drawings, based on the relevant drawings submitted as part of the application with the planning and land authority for approval, showing:
- (a) details of architectural treatments to the western facade of the proposed building in accordance with C3, C7, C50 and C53 of the Commercial Zones Development Code;
 - (b) provision of the incorporation of surveillance measures (preferably natural) to the western building facade. This is in order to meet C3 of the Crime Prevention Through Environmental Design General Code;
 - (c) that all external lighting complies with Australian Standard AS4282 - Control of the Obtrusive Effects of Outdoor Lighting; and
 - (d) details and location of vehicle bollards in accordance with C38 of the Crime Prevention Through Environmental Design General Code.

B. CONDITIONS RELATING TO THE VARIATION OF A CROWN LEASE

B1. COMMENCEMENT OF BUILDING WORK

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

B2. INSTRUMENT OF VARIATION

That the lessee accepts the variation substantially in accordance with the draft Instrument of Variation at **Attachment 1** 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.

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

C. PRIOR TO CONSTRUCTION AND/OR DEMOLITION**C1. ENVIRONMENT PROTECTION AUTHORITY (EPA)**

That prior to the commencement of demolition and construction works on site, a hazardous materials survey must be submitted to and approved by the EPA. This must be prepared by a suitably qualified consultant in accordance with section 8.1 of the Authority's Hazardous Materials Environment Protection Policy November 2010.

C2. TRANSPORT CANBERRA AND CITY SERVICES (TCCS)

That prior to the commencement of any work on the site, the following must be submitted to and approved by the Senior Manager, Development Review and Coordination, TCCS:

- (a) A Notice of Commencement of Construction must be submitted one week prior to the commencement of construction works on site.
- (b) A Letter of Design Review.
- (c) A Temporary Traffic Management Plan (TTMP).
- (e) A Landscape Management & Protection Plan (LMPP).

D. DURING CONSTRUCTION AND/OR DEMOLITION

The following conditions are required to be implemented and maintained for the duration of any work on the site.

D1. DESIGN AND SITING

- (a) During construction, onsite parking must be constructed in accordance with the Australian Standard for Parking Facilities AS 2890.1 Off-street Car Parking, and any proposed car parking for people with disabilities must be constructed in accordance with the Australian Standard for Parking Facilities AS 2890.6 Off-street Parking for People with Disabilities.
- (b) Any new fences constructed on the eastern and southern boundaries to be at least 2m high where existing, higher boundary fences or structures cannot be preserved.

D2. ENVIRONMENT PROTECTION AUTHORITY (EPA)

- (a) All tanks (and related infrastructure) including those previously abandoned on site if applicable must be removed in accordance with WorkSafe ACT requirements.
- (b) The site and any off-site impacted areas (including groundwater) are to be assessed and remediated (as required) in accordance with the Environment Protection Authority (EPA) Contaminated Sites Environment Protection Policy 2009 and the National Environment Protection (Assessment of Site Contamination) Measure 1999 as amended 2013 by a suitably qualified environmental consultant.
- (c) The above assessment and remedial works must be independently audited in accordance with the EPA Contaminated Sites Environment Protection Policy 2009 by an EPA approved contaminated land auditor.

- (d) Appropriately ACT licensed contractors must be engaged for the removal, transport and disposal of all hazardous materials found on the site.
- (e) Prior to reoccupation of the site a copy of the Auditor's draft site audit report and site audit statement are to be submitted to the Environment Protection Authority (EPA) for review and comment prior to finalisation of these documents.
- (f) Prior to reoccupation of the site a copy of the Auditor's site audit report and site audit statement into site suitability or appropriate interim advice from the Auditor must be reviewed and endorsed by the Environment Protection Authority
- (g) The Remedial Action Plan (RAP) and Health & Safety Plan are to be reviewed and endorsed by the auditor with a copy of the RAP endorsement provided to the Environment Protection Authority prior to the commencement of remedial works.
- (h) The installation of new tanks and infrastructure or any new construction works is not to commence at the site until the EPA has endorsed the final site audit statement or appropriate interim advice from the independent auditor for the site.

D3. TRANSPORT CANBERRA AND CITY SERVICES (TCCS)

During any work undertaken on the site, the following requirements will be initiated and maintained for the duration of construction.

- (a) Modifications to existing driveway must be constructed in accordance with TCCS Design Standards. The levels on the verge must not be altered as a result of the modification of the driveway. Any infrastructure assets such as street lighting, mini-pillars, signage etc must be a minimum of 1.5m away from the closest edge of the driveway. In case of stormwater sumps this minimum distance would be 1.2m. A maximum skew of 10% will be allowed if necessary.
- (b) That at all times during construction the site and surrounds shall be managed in accordance with the Traffic Management Plan that was approved by TCCS.
- (c) 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).

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

E. POST CONSTRUCTION AND/OR DEMOLITION

E1. TRANSPORT CANBERRA AND CITY SERVICES (TCCS)

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. Similarly a Chartered Engineer/Landscape Architect should certify compliance with TCCS Ref No 08: "Requirements for Works as Executed Quality Records Requirements" when the request for Operational Acceptance is made to the Senior Manager, Development Review and Coordination, TCCS on completion of all off-site works.

F. 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.

F1. ENVIRONMENT PROTECTION AUTHORITY (EPA)

The design will be required to be in accordance with "Environmental Guidelines for Service Station Sites and Hydrocarbon Storage, Environment Protection Authority, January 2014", available at www.environment.act.gov.au or by calling 132281.

All rain water that enters the pit during a rain storm event would be considered as a sediment control pond and must meet the following conditions.

1. No discharge from dam all stormwater must be pumped out and disposed in at an approved location.
2. No discharge is allowed to enter the stormwater system.
3. Water level must not exceed 20% capacity at all times to allow runoff storage during a rain event.

F2. TRANSPORT CANBERRA AND CITY SERVICES (TCCS)

There are to be no encroachments on Territory Land.

F3. LEASE VARIATION CHARGE

Prior to the registration of the Instrument of Variation, 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 Instrument of Variation to be registered at Access Canberra (Land Titles and Rental Bonds) prior to expiry of this approval.

F4. 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 lease variation conditions of the approval beyond 2 years after the date this approval takes effect.

Refer to Appendix 1 for information about approvals that may be required for construction and/or demolition.

PART 2 REASONS FOR THE DECISION

The application satisfactorily meets the requirements for approval. 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 code, being the Commercial Zones Development Code, amongst others;
- any conditions imposed by the concurrent EIS exemption process; and
- the advice of relevant entities in relation to the proposal.

There were two key issues identified in the assessment. The design and siting of the new retail building reduces the site's interface with the rest of the local centre, presents a blank wall to Gwydir Square and reduces natural surveillance opportunities. As existing site infrastructure on the block boundaries will be removed, this will likely expose the residents in adjacent blocks to increased noise, air and light pollution generated by the service station. These concerns were noted in the assessment process and in the public representations. Other key issues identified in the assessment were the suitability of the site for the proposed development, the payment of any assessed Lease Variation Charge, and the registration of the Instrument of Variation.

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*.

This development application is part of a concurrent development application. The concurrent process was an EIS exemption application. The development application was approved with conditions as an impact track development after an EIS exemption was granted by the Minister under section 211 of the *Planning and Development Act 2007* on 20 July 2017.

EVIDENCE

Application No. 201731062

File No. 1-2017/00546

The Territory Plan zone – CZ4 Local Centre

The Development Codes – Commercial Zones Development Code

The Precinct Codes – Kaleen Precinct Map and Code

Exemption from EIS under section 211 of the Planning and Development Act 2007: Application for EIS exemption consideration report for Kaleen Caltex Service Station. The EIS exemption was granted by the Minister on 20 July 2017.

Current Crown Lease – Volume 1197:Folio 76

Representations – three representations received

Entity advice – ACT Heritage Council, ActewAGL, ICON Water, Environment Protection Authority, Emergency Services Agency, Transport Canberra and City Services, Conservator of Flora and Fauna

Other – Site inspection (30/5/17)

PART 3 PUBLIC NOTIFICATION AND ENTITY ADVICE

PUBLIC NOTIFICATION

Pursuant to Division 7.3.4 of the Act, the application was publicly notified from 18 April 2017 to 2 June 2017. Three written representations were received during public notification. One of these representations was on behalf of seven parties.

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

(a) Noise Pollution

One representor commented that a service station is a noise generating use due to an increase in traffic to the local area. As the site had operated as a service station with a car servicing business previously, the proposal for a service station should not significantly increase traffic above previous levels. To address some of these concerns for adjoining residents, a condition of approval is that the new boundary fence will be required to be of a higher grade than originally proposed by the applicant to assist with noise attenuation.

Comments related to the hours of operation of the proposed development are not included in the assessment or consideration of this development.

(b) Air Pollution

One representor commented that petrol fumes may be problematic to nearby residents. As the site had previously operated as a service station, the redevelopment of the site should not generate air pollution significantly above what was previously experienced under normal operations. However, a condition of approval is that the new boundary fence will be required to be of a higher grade than originally proposed by the applicant to assist with reducing air movement from the service station towards adjacent residences.

To address any health concerns, this concurrent application (EIS exemption application and development application) was referred to ACT Health for comment, with no comments raised relating to air quality.

(c) Proximity to sensitive users

All lessees for adjoining residential properties were notified of the development application and had the opportunity to comment on the application. It is acknowledged that the proposed development will include the demolition of structures on the southern and eastern boundaries adjacent to the residential block, which may increase residents' exposure to light, noise and air pollution emitted from the service station, and reduce their privacy. To address some of these concerns, a condition of approval is that the new boundary fence will be required to be of a higher grade than originally proposed by the applicant.

(d) Security

One representor raised a concern that there may be an increase in crime and bad drivers in the suburb as a result of the service station operating. The comments related to crime and safety have been noted and considered against the requirements of the Territory Plan where relevant (Crime Prevention Through Environmental Design General Code) and advice received from referral entities. The proposal is considered to meet the requirements of the Territory Plan and no further action is required. Comments related to the behaviour of drivers are not included in the assessment or consideration of this development.

(e) Hazardous Materials

One representor raised concerns over the existing above ground LPG gas tank. The existing tank is proposed to be removed and a new tank enclosure constructed as part of the development application. The comment has been noted and no further action is required in relation to this

comment.

(f) Design and Siting of redeveloped service station building

Three representors commented on the design and orientation of the new service station building. There were concerns about the back wall of the building facing the public path and Gwydir Square creating segregation between the local centre and the service station. The adjacent residents may also be negatively impacted by the relocation of the building from its current position. The concerns are noted and conditions of approval have been imposed to address these concerns.

(g) Site egresses

Two representors commented that there will be two additional site egresses for vehicles. The proposal uses the two existing verge crossings, with one of them being widened. TCCS has endorsed this. No further action is required in relation to this comment.

(h) Public toilets

One representor suggested that the service station should provide publically available toilets. The proposed plans include two toilets which can be used by service station patrons. No further action is required in relation to this comment.

(i) Car parking

Two representors noted that the proposed car parking spaces are not accessible from Gwydir Square. The comments have been noted and considered against the requirements of the Territory Plan and advice received from referral entities. The reactivation of the Gwydir Square verge crossing would not be supported for vehicular access to the site. The proposal is considered to meet the requirements of the Territory Plan Parking and Vehicular Access General Code and no further action is required

ENTITY ADVICE

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

CONSERVATOR OF FLORA AND FAUNA

On 27 April 2017 advice was received from the Conservator of Flora and Fauna in relation to the proposal. The advice states that the application is supported with the following condition:

"the redevelopment of an industrial development such as this will not impact on any native communities or species. There are some large eucalypt trees located on the unleased Territory land adjacent to the site that may be impacted by the works. The applicant should clearly demonstrate how these trees can be retained without being negatively impacted by the construction works."

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

TRANSPORT CANBERRA AND CITY SERVICES DIRECTORATE

On 20 June 2017 advice was received from Transport Canberra and City Services in relation to the proposal. The advice states that the application is supported with the following conditions:

Conditions / Comments

VERGE CROSSING

1. Modifications to existing driveway must be constructed in accordance with TCCS Design Standards.
2. The levels on the verge must not be altered as a result of the modification of the driveway.

3. Any infrastructure assets such as street lighting, mini-pillars, signage etc must be a minimum of 1.5m away from the closest edge of the driveway. In case of stormwater sumps this minimum distance would be 1.2m.
4. A maximum skew of 10% will be allowed if necessary. This will be checked during Design Acceptance.
5. Existing driveway (disused) off the Gwydir Square should be not be used for vehicles.

PEDESTRIAN NETWORK

6. The pedestrian walkway / footpath must take precedence over the driveway.
7. All verge protective fencing must be placed in a way so that the verge is protected but access to the pedestrian network is provided at all times.
8. Adequate clearance must be provided for pedestrian walkway / footpath in accordance with the TCCS Standard Drawing 04: Verge Design.

VERGE / VERGE TREE

9. The verge must be protected during construction.
10. There are to be no encroachments on Territory Land.

ON STREET / PUBLIC PARKING FACILITY

11. Any publicly available off-street car parking facility must be designed and constructed in accordance with the Australian Standard for Parking Facilities AS 2890.1 Off-street Car Parking.
12. Any proposed car parking for people with disabilities must be designed and constructed in accordance with the Australian Standard for Parking Facilities AS 2890.6 Off-street Parking for People with Disabilities.

ACCESS

13. The turning path for fuel tankers is acceptable, however this will be checked during Design Acceptance.

Standard Conditions

Following general conditions will apply as appropriate for Works on and Use of Territory Land in addition to the above:

In accordance with the Public Unleased Land Act 2013 no work is to be undertaken on road verges and other unleased Territory Land without the approval of the Territory. Such approval must be obtained from the Senior Manager, Development Review and Coordination, TCCS by the ways of:

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

Design Review and Operational Acceptance

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

In order to obtain the Letter of Design Review, fully detailed drawings (civil, landscape) prepared by suitably qualified persons for all off-site works including roads, driveways, footpaths, street lighting, storm water, landscaping (and any other issues that may be found by audit of the plans) and a design report in accordance with Ref No 06: "Requirements for Design Review Submissions", must be certified by a Chartered Engineer/Landscape Architect and submitted to the Senior Manager, Development Review and Coordination, TCCS.

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

Similarly a Chartered Engineer/Landscape Architect should certify compliance with TCCS Ref No 08: "Requirements for Works as Executed Quality Records Requirements" when the request for Operational Acceptance is made to the Senior Manager, Development Review and Coordination, TCCS on completion of all off-site works

A Waste Management Plan in accordance with the Development Control Code for Best Practice

Waste Management in the ACT should also be included if not approved at the Development Application stage.

Temporary Traffic Management (TTM)

A TTM plan approval from the Manager, Traffic Management & Safety, Roads ACT, TCCS. All times during construction the site and surrounds shall be managed in accordance with a Temporary Traffic Management Plan, prepared by a suitably qualified person and approved by the Manager, Traffic Management & Safety. This plan is to address, as a minimum, measures to be employed during construction to manage all traffic, including construction traffic, in and around the site, provision of safe pedestrian movement around the site, the provision of parking for construction workers, and associated traffic control devices.

Landscape Management & Protection Plan (LMPP)

LMPP approval from the Senior Manager, Development Review and Coordination, TCCS. During construction, all existing vegetation (trees, shrubs and grass) located on the verge and unleased Territory land immediately adjacent to the development shall be managed, protected and maintained in accordance with the Landscape Management Protection Plan (LMPP) approved by the Senior Manager, Development Review and Coordination, TCCS. This plan is to be implemented before the commencement of works, including demolition on the site and is to be in accordance with TCCS Guidelines for the Protection of Public Landscape Assets Adjacent to Development Works-REF-04.

Use of Verges or other Unleased Territory land

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

Repair of Damage to Public Assets

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

Notice of Commencement of Construction

Notice of Commencement for the Works in Unleased Territory Land shall be submitted to the Senior Manager, Development Review and Coordination, TCCS one week prior to the commencement of works. The Notice shall also include the confirmation of any protective measures installed in accordance with the approved LMPP and the programmed implementation of TTM.

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

ACTEWAGL ELECTRICITY NETWORKS

On 4 May 2017 advice was received from Actew Corporation in relation to the proposal. The advice states that the application has been supported with the following conditions:

A Minimum of 1.0M clearance is required within the block boundary for the proposed or existing Meter Box.

Development is to comply with minimum 1.5m machinery access clear of obstacles and vegetation to assets within the block.

Development is to comply with minimum separation requirements to underground assets. Ref ActewAGL Drawing 3832-018

Installation of electrical conduits (on or off block) will be the responsibility of the proponent.

Proponent is required to submit an "Application for Electricity Network Connection or Alteration form" to enworks@actewagl.com.au (available on ActewAGL website) prior to commencement of any development activity to negotiate the connection of new and/or relocation of existing electricity assets.

The location of the proposed or existing Point of Entry/ Meter Box is to comply with ActewAGL's Service and Installation rules.

ACTEWAGL GAS NETWORKS (JEMENA)

On 18 April 2017 advice was received from ActewAGL Gas Networks in relation to the proposal. The advice states that the application has been supported with the following conditions:

The location and area allocated for gas regulating and metering equipment is to comply with ActewAGL Gas Service and Installation Rules. The latest version of these rules can be downloaded from: <http://www.actewagl.com.au/About-us/The-ActewAGL-network/Natural-gas-network.aspx>. Development is to comply with minimum separation requirements to underground assets: 300mm minimum clearance from major plastic and steel gas mains and steel gas services; and 150mm minimum clearance from other plastic gas mains and services.

ICON WATER (former ActewAgl Water and Sewerage Division)

On 19 April 2017 advice was received from Icon Water in relation to the proposal. The advice states that the application has been supported with the following conditions.

*These are to be read in conjunction with the advice provided for the EIS exemption application and trade waste guidelines.
Icon Water assets shall be protected for the duration of the construction works from short term load shedding from construction machinery or vibration and groundwater ingress or infiltration. Any damage to Icon assets resulting from the construction works shall be repaired by Icon Water at the contractors' expense. Access to Icon's assets including sewer structures, manholes, hydrants and valves is to be maintained for the duration of the construction works.
Non domestic liquid waste agreements are to be entered into with Icon Water where nondomestic liquid waste or increased load is planned to be discharged to the sewer network.
Protection of water and sewer networks to be in accordance with the attached checklist.*

ACT EMERGENCY SERVICES AGENCY

On 1 June 2017 advice was received from the ACT Emergency Services Agency in relation to the proposal. The advice states that the proposal is supported.

ENVIRONMENT PROTECTION AUTHORITY

On 1 May 2017 advice was received from the Environment Protection Authority in relation to the proposal. The advice states that the application has been supported with the following conditions:

Conditions:

A hazardous materials survey prepared by a suitably qualified consultant in accordance with section 8.1 of the Authority's Hazardous Materials Environment Protection Policy November 2010 must be submitted to and be endorsed by the Environmental Quality Unit prior to works commencing.

The survey must identify all potential hazardous materials associated with the alteration of the structure and any residues or wastes remaining within the structure. The survey must identify all hazardous material including fuel tanks, asbestos, lead, PCB containing materials, Synthetic Mineral Fibre (SMF), Ozone Depleting Substances etc.

Appropriately ACT licensed contractors must be engaged for the removal, transport and disposal of all hazardous materials found on the site.

Contaminated Sites Conditions:

Demolition:

- all tanks (and related infrastructure) including those previously abandoned on site if applicable must be removed in accordance with WorkSafe ACT requirements;
- the site and any off-site impacted areas (including groundwater) are to be assessed and remediated (as required) in accordance with the Environment Protection Authority (EPA) Contaminated Sites Environment Protection Policy 2009 and the National Environment Protection (Assessment of Site Contamination) Measure 1999 as amended 2013 by a suitably qualified environmental consultant;

- the above assessment and remedial works must be independently audited in accordance with the EPA Contaminated Sites Environment Protection Policy 2009 by an EPA approved contaminated land auditor;
- the Remedial Action Plan (RAP) and Health & Safety Plan are to be reviewed and endorsed by the auditor with a copy of the RAP endorsement provided to the Environment Protection Authority prior to the commencement of remedial works;

Prior to installation of new infrastructure:

- The installation of new tanks and infrastructure or any new construction works is not to commence at the site until the EPA has endorsed the final site audit statement or appropriate interim advice from the independent auditor for the site;

Prior to Occupation:

- a copy of the Auditor's draft site audit report and site audit statement are to be submitted to the Environment Protection Authority (EPA) for review and comment prior to finalisation of these documents;
- Prior to reoccupation of the site a copy of the Auditor's site audit report and site audit statement into site suitability or appropriate interim advice from the Auditor must be reviewed and endorsed by the Environment Protection Authority;

General conditions:

- Sediment and leachate control measures must be incorporated for any stockpiled material to prevent contaminants entering the stormwater system.
- Dust and odour suppression measures must be incorporated as required during the works to minimise impacts on surrounding blocks;
- any contaminated soil landfarmed on site must be approved by Environment Protection Unit prior to landfarming commencing;
- any soil disposed of from the site must be in accordance with the requirements of the EPA as detailed in EPA Information Sheet 4.

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.

Advice:

The design will be required to be in accordance with "Environmental Guidelines for Service Station Sites and Hydrocarbon Storage, Environment Protection Authority, January 2014", available at www.environment.act.gov.au or by calling 132281.

All rain water that enters the pit during a rain storm event would be considered as a sediment control pond and must meet the following conditions.

1. No discharge from dam all stormwater must be pumped out and disposed in at an approved location.
2. No discharge is allowed to enter the stormwater system.
3. Water level must not exceed 20% capacity at all times to allow runoff storage during a rain event.

ACT HERITAGE COUNCIL

On 6 June 2017 advice was received from the ACT Heritage Council in relation to the proposal. The advice states that the proposed development is unlikely to diminish the heritage significance of a place or object.

PART 4 ADMINISTRATIVE INFORMATION

DATE THAT THIS APPROVAL TAKES EFFECT

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 conditions could 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.

Pursuant to section 185 of the Act, this approval will expire if:

- (j) the lease variation is not completed two years after the day the approval takes effect.

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 Directorate Dickson Customer Service Centre at 16 Challis Street, Dickson, ACT.

RECONSIDERATION OF THE DECISION

If the applicant is not satisfied with the decision to approve the application subject to conditions, they are entitled to apply to the planning and land authority for reconsideration within 20 working days of being told of this decision or within any longer period allowed by the planning and land authority.

To submit an application for reconsideration, documents must be provided electrically by email to EPDcustomerservices@act.gov.au or provided at the customer service centre on a CD/DVD. The delegate of the Authority reconsidering the decision must be different from, and senior to, the original decision maker. An application for reconsideration does not prevent an application for a review of the same decision being made to the ACT Civil and Administrative Tribunal. Application forms and further information about reconsideration are available from the planning and land authority's website and Customer Service Centres.

REVIEW BY THE ACT CIVIL AND ADMINISTRATIVE TRIBUNAL (ACAT)

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

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

APPENDIX 1

CONTACT DETAILS OF RELEVANT AGENCIES

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

ADVICE TO APPLICANT

SUBMISSION OF REVISED DRAWINGS AND DOCUMENTATION

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

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

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

FURTHER APPROVALS FOR CONSTRUCTION

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

BUILDING APPROVAL

Most building work requires building approval to ensure it complies with building laws such as the Building Code of Australia. If this applies to this proposal, the lessee should engage a private building certifier to assess and approve the building plans before construction begins. A list of licensed certifiers and information about building approval is available from the ACT Planning and Land Authority's website and Customer Service Centres.

PERMITTED VARIATIONS TO APPROVED DEVELOPMENT

Under section 35 of the *Planning and Development Regulation 2008* the development as built may vary from the approved development in accordance with section 35 and the permitted construction tolerances and other permitted variations identified in Schedule 1A of that regulation.

Note 1 The development may still need building approval, or further building approval, under the *Building Act 2004*

Note 2 The development must also comply with the lease for the land on which it is carried out.

"TREE DAMAGING ACTIVITY" APPROVAL

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

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 Transport Canberra and City Services Directorate.

WORKS ON UNLEASED TERRITORY LAND – DESIGN AND OPERATIONAL ACCEPTANCE

In accordance with the *Public Unleased Land Act of 2013*, no work can be undertaken on unleased Territory land without the approval of the Territory. Such approval must be obtained from the Manager Asset Acceptance, Asset Services Group, TCCS by way of:

1. a certificate of design acceptance prior to the commencement of any work and
2. a certificate of operational acceptance on completion of all works to be handed over to TCCS

Works on unleased Territory land may include the construction or upgrading of driveway verge crossings, public footpaths, roads, street lighting, stormwater works, waste collection amenities, street signs and line marking, road furniture and landscaping.

A certificate of compliance under s296 of the *Planning and Development Act 2007* may not be issued unless a certificate of design acceptance **AND** a certificate of operational acceptance has both been obtained from TCCS.

CONSTRUCTION REQUIREMENTS

The following information are some key requirements that apply to building work in the Territory. Other requirements may apply to this development.

DEMOLITION AND ASBESTOS MANAGEMENT

Demolition and asbestos management must be undertaken in accordance with the *Building Act 2004* (including the Building Code of Australia) and the *Dangerous Substances Act 2004*. Information about demolition and asbestos management is available from the planning and land authority's web site and Customer Service Centres.

ENVIRONMENT PROTECTION

All building work must be undertaken in accordance with the *Environment Protection Act 1997*, particularly but not exclusively in relation to noise and pollution control. More information is available from the Environment Protection Authority.

REPAIR OF DAMAGE TO PUBLIC ASSETS

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

UTILITY ASSETS RETENTION

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

DRAINAGE

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

REVIEW OF THE DECISION

The following notes are provided in accordance with regulation 7 of the *ACT Civil and Administrative Tribunal Regulation 2009*. Refer to the Review by the ACT Civil and Administrative Tribunal (ACAT) section of the Notice of Decision for information about its relevance to this development application.

CONTACT DETAILS

The review authority is the ACT Civil and Administrative Tribunal (ACAT).

Location	Contact details
ACT Civil and Administrative Tribunal Level 4, 1 Moore Street CANBERRA CITY ACT 2601	Website: www.courts.act.gov.au Email: tribunal@act.gov.au Telephone: (02) 6207 1740 Facsimile: (02) 6205 4855 Post: GPO Box 370, CANBERRA, ACT, 2601 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 the date of this Notice of decision. The time limit can be extended in some circumstances (refer to sections 10 (2), 10(3), 25(1)(e) and 25(2) of the *ACT Civil & Administrative Tribunal Act 2008*; section 7 of the *ACT Civil and Administrative Tribunal Procedure Rules 2009 (No 2)*; and section 409 of the *Planning and Development Act 2007*).

FEES

Applications to the ACAT, including an application to be joined as a party to a proceeding, require payment of a fee (the Tribunal Registry will advise of the current fee), unless you are receiving legal or financial assistance from the ACT Attorney-General. You can apply to have the fee waived on the grounds of hardship, subject to approval (refer to section 22T of the *ACT Civil and Administrative Tribunal Act 2008*). Decisions to grant assistance are made on the grounds of hardship and that it is reasonable, in all the circumstances, for the assistance to be granted. Write to: The Chief Executive, Justice and Community Safety Directorate, GPO Box 158, CANBERRA ACT 2601. Ask the ACAT for more details.

TIME LIMITS FOR REVIEWS OF DECISIONS

The ACAT is required to decide appeals in land and planning and tree protection cases within 120 days after the lodging of the appeal, unless that period is extended by the ACAT upon it being satisfied that it is in the interests of justice to do so.

FORMS OF LEGAL, FINANCIAL AND OTHER ADVICE AND ASSISTANCE

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

- ACT Attorney-General, write to The Chief Executive, Justice and Community Safety Directorate, GPO Box 158, CANBERRA, ACT, 2601;
- the ACT Legal Aid Office, telephone 1300 654314;
- Legal Advice Bureau, telephone (02) 6247 5700;
- ACT Council of the Ageing, telephone (02) 6282 3777;
- Welfare Rights and Legal Centre, telephone (02) 6247 2177; and
- Environmental Defender's Office (ACT), telephone (02) 6247 9420.

AWARDING OF COSTS

You will have to pay any costs involved in preparing or presenting your case. The ACAT also has the power to award costs against a party if the party contravenes a direction of the ACAT and the

ACAT considers it in the interests of justice to make such an order. This power is in addition to the power of the ACAT to strike out a party and to dismiss an application for failure to comply with the ACAT's directions.

ACCESS TO DOCUMENTS ABOUT THE DECISION

You may apply for access to any documents you consider relevant to this decision under the ACT *Freedom of Information Act 1989*. Information about Freedom of information requests is available on the EPSDD 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-għajjnuna t'interpretu, ċempel:
PERSIAN	اگر به ترجمه شفاهی احتیاج دارید به این شماره تلفن کنید:
PORTUGUESE	Se você precisar da ajuda de um intérprete, telefone:
SERBIAN	Ako vam je potrebna pomoć prevodioca telefoniрајте:
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



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)



**Access
Canberra.**

LAND TITLES
ACCESS CANBERRA
Chief Minister, Treasury and Economic Development Directorate

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
1197:76	Kaleen	26	120
FULL NAME OF REGISTERED PROPRIETOR/S (Surname Last) (ACN required for all companies)		FULL POSTAL ADDRESS	
Evangelista Pty Limited A.C.N: 008 516 292		PO Box 301 West Burleigh Queensland 4219	
LEGISLATIVE PROVISION TO VARY CROWN LEASE			
I, INSERT NAME , 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 <u>Land Titles Act 1925</u> .			
DETAILS OF DELETED CLAUSES (no longer applicable after registration)			
N/A			

DETAILS OF VARIATION

**AUSTRALIAN CAPITAL TERRITORY
PLANNING AND DEVELOPMENT ACT 2007
VARIATION OF A 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 purpose of a motor service station PROVIDED ALWAYS THAT for the purpose of this lease a "motor service station" means a building installations and facilities for conducting the following activities only:

- (i) selling petroleum products liquid petroleum gas and accessories for motor vehicles;
- (ii) lubricating cleaning and effecting mechanical repairs and adjustments to motor vehicles (BUT EXCLUDING panel beating and forging with or without the use of fire or furnace);
- (iii) selling tools smokers requisites confectionary and non-alcoholic beverages and hire of mechanical equipment for domestic use and motor vehicle drawn trailers;

The use of the premises for the sale of new or used vehicles shall not be permitted;

AMENDED PROVISION

Clause 3(a) To use the premises only for the purpose of a service station;

INSERTED PROVISIONS

Delete the full-stop '.' at the end of sub-clause 1(e)(ii) and replace it with a semi-colon ';' and insert the following sub-clauses:

Clause 1(f) "service station" means the use of land the fuelling and/or servicing of motor vehicles, whether or not the land is also used for any one or more of the following purposes:

- a) the sale by retail of spare parts and accessories for motor vehicles;
- b) washing and greasing of motor vehicles;
- c) installation of accessories;
- d) the retail sale of other goods, within an ancillary retail area not greater than 150m² in area;
- e) providing toilet facilities, amenities and service for motorists;
- f) repairing of motor vehicles (other than body building, panel beating or spray painting); and
- g) the hiring of trailers.

EXECUTION BY ACT PLANNING AND LAND AUTHORITY	
Signed by the person duly authorised by the Planning and Land Authority (Please print full name of authorised signatory) INSERT NAME SENIOR OFFICER GRADE POSITION NUMBER Dated -	Print full name and address of witness INSERT NAME ENVIRONMENT PLANNING & SUSTAINABLE DEVELOPMENT 16 CHALLIS STREET DICKSON ACT 2602 Signature of witness Dated -

OFFICE USE ONLY			
Lodged by		Certificate of title lodged	
Data entered by		Certificates attached to title	
Registered by		Attachments / Annexures	
Registration date		Production number	

DRAFT