

Australian Capital Territory

Planning and Development (Approval of Application – DA202037798 John Gorton Drive 3C Extension, Molonglo Valley) Notice 2021

Notifiable instrument NI2021–99

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 – DA202037798 John Gorton Drive 3C Extension, Molonglo Valley) Notice 2021*.

2 Impact track development approval

On 12 February 2021, pursuant to section 162(1)(b) of the *Planning and Development Act 2007*, a delegate of the planning and land authority approved, subject to conditions, in the impact track, development application DA202037798 for the construction of an extension to John Gorton Drive, including a new 225 metre bridge over the Molonglo River.

The Notice of Decision for development application DA202037798 is attached to this Notifiable Instrument as Schedule 1.

Brett Phillips
Delegate of the planning and land authority
18 February 2021



NOTICE OF DECISION

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

I, Brad Maxwell, 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 **the construction of a 1.7km dual carriageway, a new 225 metre bridge over the Molonglo River, separated share paths, two new signalised intersections, bridge pier footings, lighting and servicing, stormwater management, tree removal, landscape rehabilitation and other associated works**, to be used as **a major road**, at **John Gorton Drive**, in accordance with the plans, drawings and other documentation approved and endorsed as forming part of this approval.

DA Number: 202037798
Block/Section: Numerous
Suburb/District: Denman Prospect, Molonglo and Molonglo Valley
Application lodged: 1 December 2020
Assessment track: Impact

This decision contains the following information:

- Part 1 – conditions of approval
- Part 2 – reasons for the Decision
- Part 3 – public notification & entity advice
- Attachment 1 – administrative information

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

Contact:
DA Enquiries

Ph: 6207 6383
Online: https://www.accesscanberra.act.gov.au/app/forms/epd_feedback

Brad Maxwell
Delegate of the planning and land authority
12 February 2021

NOTICE OF DECISION

DA 202037798

PART 1 – CONDITIONS OF APPROVAL

This application is approved subject to the following conditions being satisfied. Some conditions of the approval require attention before work commences or before approved drawings will be released. Prior to this decision, Environmental Impact Statement (EIS) exemptions were granted and are relevant to the proposal. These include:

- EIS exemption for Molonglo Valley Stages 2, dated 29 July 2013;
- EIS exemption for Molonglo Valley Stages 3, dated 8 May 2018; and
- EIS exemption for John Gorton Drive 3C extension, dated 31 August 2020.

A. FURTHER INFORMATION

A1. REVISED PLANS

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 site plans, elevations and other relevant architectural drawings with the planning and land authority for approval:

- (a) Demonstrating how cut and fill will have minimal impact on the nature reserve should be submitted.
- (b) Showing a revised batter design of the John Gorton Drive abutment to accommodate the existing alignment of Coppins Crossing Road and lessen the impact on the reserve, or as otherwise agreed to by the planning and land authority.
- (c) Showing the bridge screen designed to provide sound screening and minimise the risk of potential of bird collisions.
- (d) Showing emergency vehicle and Parks and Conservation Services (PCS) access provided to both the north and south side of the river and east and west side of the bridge. The existing Coppins Crossing road must be retained as a sealed Heavy Tanker Fire Trail to the satisfaction of Emergency Services Agency and PCS.
- (e) Showing access to the adjacent reserves with appropriate turning shoulders (width and length) considering the speed limit and need to accommodate heavy ridged emergency vehicles with gates set back to allow vehicles to stop safely.
- (f) Incorporating bat roosting habitat into the bridge design, in consultation with a relevant bat expert.
- (g) Incorporating platypus and waterfowl habitat into the bridge design.

A2. ICON WATER

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

- (a) Formal advice from Icon Water endorsing the proposal; and
- (b) Any revised plans addressing matters raised by Icon Water.

NOTICE OF DECISION

DA 202037798

B. PRIOR TO CONSTRUCTION AND/OR DEMOLITION

B1. CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN (CEMP)

A CEMP must be submitted to and endorsed by the planning and land authority (EPDImpact@act.gov.au) prior to the commencement of any work on the site. The CEMP must include the following management plans/measures and must address other matters raised in the relevant EIS Exemptions and the Molonglo Valley Plan for the Protection of Matters of National Environmental Significance (NES Plan), as a minimum:

- (a) Temporary traffic management plan;
- (b) Erosion and sediment control measures;
- (c) Utilities management plan;
- (d) Water quality management plan;
- (e) Emergency flood management plan;
- (f) A tree management plan;
- (g) A landscape management and remediation plan;
- (h) A Pink-tailed Worm Lizard habitat rehabilitation plan;
- (i) A weed management plan; and
- (j) A site-specific unanticipated discovery protocol (UDP).

Note: All relevant matters raised in the entity advice below must be included in the CEMP (See Part 3 of this decision – Entity Advice).

B2. CONTAMINATION MANAGEMENT PLAN (CMP)

- a) Prior to construction, a CMP must be submitted to and approved by the Environment Protection Authority (EPA).
- b) The Auditor's letter of support for the CMP must be forwarded to the EPA for review and endorsement prior to the commencement of works. Auditor Interim Advice must be forwarded to the EPA for review and approval indicating that the John Gorton Drive 3C Extension (JGD3CE) works area has been adequately assessed for contamination and that the proposed extension works will not impact on the ongoing assessment and remediation of the MV3B2 audit area.
- c) An unexpected finds protocol must be included in the CMP and all contractors must be inducted on correct procedure for unexploded ordnance finds.

B3. EROSION AND SEDIMENT CONTROL PLAN

Prior to construction, an erosion and sediment control plan must be submitted to and approved by the Environment Protection Authority (EPA).

B4. HERITAGE

- a) Prior to the commencement of works, the following actions are required:
 - (i) Salvage of Aboriginal object/s within MV3B3 is to be undertaken by a qualified archaeologist and RAOs.
 - (ii) A report on the salvage of Aboriginal object/s from MV3B3 is to be submitted to the Council.
 - (iii) Protective fencing is to be installed around the MV3B4 Aboriginal place, and must be:
 - installed at locations demarcated by a qualified archaeologist and RAOs;

NOTICE OF DECISION

DA 202037798

- adequate to physically protect heritage places, such as star pickets spaced no more than 4m apart and with high visibility barrier mesh; and
 - inspected weekly for the duration of construction works, and any identified defected must be corrected within one day.
- b) Aboriginal object/s salvaged from MV3B3 are to be deposited with ACT Heritage within six months of the date of collection.
- c) In the event that additional Aboriginal places and objects are encountered during construction works, the Unanticipated Discovery Plan set out in CHMA (2018) will be implemented.

B5. MOLONGLO RIVER RESERVE

Prior to construction, permanent boundary fences, gates and signage must be fabricated and installed to protect the Molonglo River Reserve from construction activities, to the satisfaction of the PCS. The boundary fence on the south side of the river and west of John Gorton Drive must extend to the craven creek pond.

C. DURING CONSTRUCTION AND/OR DEMOLITION

C1. CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN (CEMP)

All works must be in accordance with the approved CEMP. The carpark area is required to be rehabilitated to PTWL habitat to the satisfaction of the Parks and Conservation Service (PCS). PCS must inspect the work as it progresses and on finalisation.

C2. ENVIRONMENT PROTECTION AUTHORITY (EPA)

All works must be in accordance with the approved erosion and sediment control plan and Contamination Management Plan (CMP).

C3. TREE MANAGEMENT

Any trees that have been removed are to be retained intact for re-use by PCS in their restoration works.

C4. SOIL MANAGEMENT

- a) All soil subject to disposal from the site must be assessed in accordance with Environment Protection Authority (EPA) requirements
- b) No soil is to be disposed from site without EPA approval.
- c) Topsoil stockpiles must not be located outside of the approved construction footprint.

C5. BUSHFIRE PROTECTION MEASURES

- a) Where works prevent travel along existing fire trails or access ways, alternate access, constructed to Rigid Float standard in accordance with the ACT Bushfire Management Standards (2014) must be provided to ensure access for firefighting operations is maintained.
- b) Standard industry procedures are to be adhered to for hot works during construction and operation at the facility and a permit will be required, from ACT Emergency Services Agency, for any high-risk activities such as hot works on total fire ban days.

NOTICE OF DECISION

DA 202037798

D. 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.

D1. HAZARDOUS MATERIALS

Demolition and asbestos management must be undertaken in accordance with the *Building Act 2004, Dangerous Substances Act 2004, Work Health and Safety Act 2011* and *Work Health and Safety (How to Safely remove asbestos Code of Practice) approval 2014*.

D2. COPPINS CROSSING ROAD

The Coppins Crossing road and bridge will not be an asset accepted by PCS and will not be managed by PCS. The current land use zoning is likely to remain.

NOTICE OF DECISION

DA 202037798

PART 2 – REASONS FOR THE DECISION

The Molonglo Valley was subject to a strategic assessment approved by the Commonwealth Department of Agriculture, Water and the Environment under the provisions of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). Conditions imposed under the EPBC Act are in addition to those listed in this decision. This decision is not inconsistent with the Commonwealth decision.

An EIS exemption was granted for the proposal by the Minister for Planning and Land Management on 31 August 2020, considering that the expected environmental impact of the proposal has been sufficiently addressed. The EIS exemption identified a range of avoidance, mitigation and management measures to reduce potential environmental impacts arising from construction and operational activities. All mitigation measures identified in the EIS exemption have been incorporated into this decision.

In deciding the development application, the authority has considered the zone objectives in conjunction with other requirements of the Territory Plan, such as the relevant codes and Strategic Directions, to achieve a balanced approach in assessing economic, social and environmental impacts. After considering the issues and impacts raised during the assessment process, especially those set out in the representations, the authority is satisfied that the social, environmental and other impacts that may arise from the development are adequately addressed by the conditions imposed.

The application was approved because it was found to meet the relevant rules and criteria of the Territory Plan and section 129 of the *Planning and Development Act 2007*.

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

Development Application:	202037798
Territory Plan Zones:	RZ1 Suburban Zone, RZ5 High Density Residential Zone, TSZ1 Transport Zone and NUZ4 River Corridor Zone. John Gorton Drive is a major road and will be eventually identified as TSZ1 Transport Zone
Development Codes:	Non-urban Zones Development Code Transport Zones Development Code Residential Zones Development Code
Precinct Code:	Molonglo and North Weston Structure Plan Molonglo Valley Precinct Map
Legislative requirements:	Sections 128 and 129 of the <i>Planning and Development Act 2007</i>
Entity advice:	ACT Health, Conservator, ACT Emergency Services Agency, Evoenergy, ACT Heritage Council, Environment Protection Authority, Icon Water and TCCS

NOTICE OF DECISION

DA 202037798

PART 3 – PUBLIC NOTIFICATION AND ENTITY ADVICE

PUBLIC NOTIFICATION

Pursuant to Division 7.3.4 of the Act, the application was publicly notified from 17 December 2020 to 28 January 2021. Six written representations were received during public notification period.

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

- Does not agree with design elements of the bridge, in particular, the use long-span concrete and anti-throw mesh primarily for financial reasons and construction timing.

The proposed bridge design, as proposed, is not inconsistent with the landscape character of the Molonglo Valley and the Molonglo River Reserve. The materiality and subtle curvature of the structure allows it to be as sympathetic as possible with the area.

Anti-throw mesh has been included to offer protection for users of Coppins Crossing below the bridge, which is intended to be retained for access purposes, and other current and future recreational users of the Molonglo River Reserve.

The cost of the proposed structure and the timing for delivery of the proposal is not a consideration of the Territory Plan. This is a matter for the project manager of the proposal.

- The intersections featured in the proposal should be modified to prioritise public transport, consistent with John Gorton Drive Stages 1 and 2A.

The site is located on land identified in the Territory Plan as forming part of an Inter-town Public Transport Route. Prioritising public transport at the intersections along the route is not a requirement or a consideration of the Territory Plan.

- The section of the proposal adjacent to the future Molonglo Group Centre should continue the established urban design character of John Gorton Drive Stage 2A.

The Territory Plan assessment determined that the proposal is consistent with the desired character of the area. It is also noted the proposal is necessary to connect two previous stages of the John Gorton Drive extension. Therefore, the site is suitable for the proposed development.

Consistency in the urban design between the different stages of the road extension is not a Territory Plan consideration.

- Coppins Crossing should also be utilised as part of the designated equestrian trail system.

This development does not preclude Coppins Crossing nor the broader Molonglo River Reserve from equestrian or other recreational uses. The management of the River Reserve will be a matter of consideration for the relevant land custodians.

- Measures need to be in place to ensure all minimum plans/documentation required by the Molonglo Valley Plan for the Protection of Matters of National Environmental

NOTICE OF DECISION

DA 202037798

Significance (NES Plan) are provided as part of the Construction and Environmental Management Plan (CEMP).

Agreed. A condition of approval has been included in this decision ensuring the CEMP is consistent with the requirements of the NES Plan. This includes the requirement for a habitat rehabilitation component due to impacts to Pink-tailed Worm Lizard habitat.

- Independent monitoring of the CEMP, including impacts to Pink-tailed Worm Lizard (PTWL) habitat and Box-Gum Woodland (BGW) should be required.

A condition of approval has been included ensuring the CEMP and any associated plans/commitments are enforced during construction.

Monitoring will be undertaken by the ACT Parks and Conservation Service as part of their role as land managers and custodians of the Molonglo River Reserve.

- The loss of Matters of National Environmental Significance in the Molonglo River Reserve should be included elsewhere as additional offsets.

The impacts to the Molonglo River Reserve caused by this proposal, including the bridge crossing for John Gorton Drive were acknowledged, considered and addressed as part of the NES Plan and subsequent EIS exemptions, including in the commitment to establish the River Reserve as an environmental offset.

In particular, measures were implemented as part of the NES Plan requiring the bridge to be designed in a way that minimised impacts to both PTWL habitat and BGW. These have been considered by the proponent as part of this proposal.

The Molonglo River Reserve Management Plan, which was prepared as a commitment made in the NES Plan, also acknowledges the impacts from the proposal in the River Reserve.

- Trees to be protected and trees to be removed should be clearly delineated and re-location of trees to be removed should be required.

Agreed. A condition of approval has been included for a tree management plan to be provided as part of the CEMP clearly showing which trees are for retention and removal.

An additional condition has also been included requiring any removed trees to be retained intact for re-use by PCS in their restoration works.

- More evidence and consideration of the impacts of the loss of native vegetation to other native/protected species is required.

The area has been subject to numerous environmental assessments, including a strategic assessment under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 and numerous EIS exemptions under the ACT Planning and Development Act 2007.

All of the environmental assessments above considered the impacts of native vegetation removal and/or the impacts to native/protected species as a result of urban development, the construction of the John Gorton Drive extension and other works.

NOTICE OF DECISION

DA 202037798

These assessments also outlined measures, commitments and conditions to ensure the impacts associated with the removal of native vegetation were appropriately avoided, mitigated or offset.

- The proposed gas connection to be installed connecting the mains at John Gorton Drive Stages 2A and 3B is redundant due to the ACT Government's commitment to achieving net zero emissions by 2045.

The proposed development will offer gas connection to two existing mains at either end of the alignment. The future design and utility connections of the suburbs in the Molonglo Valley will be subject to consideration as part of separate development application for each estate.

ENTITY ADVICE

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

ACT Health, Health Protection Services (HPS)

HPS provided advice on 24 December 2020 stating:

The HPS has reviewed the DA and advises the applicant that the comments provided 28 November 2019 for the Environmental Impact Statement (EIS) Exemption request still apply:

- *The Health Protection Service supports the development and implementation of a Contamination Management Plan and Construction Environmental Management Plan (CEMP) along with the subsequent development of an Unexpected finds protocol approved by an Environmental Protection Authority (EPA) accredited auditor.*
- *That all reasonable and practical measures are taken to suppress dust generation during construction works.*

There are no other public health concerns in concerning the proposed DA.

Assessment note: The comments above have been incorporated as conditions of approval, please refer to Part A.

Conservator of Flora and Fauna

The Conservator of Flora and Fauna provided advice on 8 January 2021 and 10 February 2021 stating the following:

Erosion and sediment control:

An endorsed Erosion and Sediment control plan should be produced that cover the periods of construction and operation of the bridge and road, and that demonstrate no impacts during the construction period. This can be included as part of a CEMP and must be endorsed by the EPA. This is also a commitment in the s211.

To protect the Molonglo River and environs in the long term, information is required that estimates the hydrological impacts of the road and bridge once operational.

Sediment outflows must be sufficiently designed to mitigate erosion between outflow points and the Molonglo River.

NOTICE OF DECISION

DA 202037798

An existing natural drainage line that flows through the Molonglo River Reserve to the Molonglo River is proposed as a receiving channel for road stormwater discharge, DRAINAGE sheet 4 OF 8. This natural drainage line within the reserve should be assessed for its capacity to receive predicted stormwater flows (volumes and rates) from an erodibility perspective. The development project must not create erosion impacts within the adjacent nature reserve.

Both sediment/erosion and hydrology analyses should consider contemporary conditions rather than relying solely on historic flows. It is quite possible that storm intensities are increasing with climate change, so for example a 1:100 storm event that could impact a construction site may now occur more frequently. Information is required to be included in a CEMP showing how these have been considered. A lower threshold on what is considered a storm event has already been required, as reflected in the ... s211 report ...

River corridor protection:

The application documents state points out that the road will encourage activity in the river corridor. This may be detrimental to water quality, especially if it increases the access of motorised vehicles. Please include mitigation measures in the CEMP (or Operational Environment Management Plan) that demonstrate how the river corridor will be protected from these impacts.

The 211 report addresses ongoing water quality risks so this should be addressed in the CEMP and OEMP to the satisfaction of the Conservator.

MUSIC model:

The MUSIC modelling does not consider the impact during construction and only looks at post construction improvement. Increases in gross pollutants and suspended solids are likely during construction, so this phase should also be modelled and included as part of the CEMP. The provision of GPTs should be reconsidered and if required, detailed in the design document. If they are not require please provide information to support this finding.

Revegetation/Restoration:

All revegetation and restoration conditions must be incorporated into a landscape management and remediation plan and cover the entire construction /project footprint. Planting and restoration treatments must be undertaken to satisfaction of the Parks and Conservation Service.

- *All permanent basins must be planted with wetland plant species and all banks must be seeded with native grasses. Permanent basins must be enhanced with habitat features such as fallen trees and rocks both within and on the banks of the ponds.*
- *Median plantings must be native, particularly in areas adjacent to the Molonglo River reserve.*
- *All tree plantings adjacent to the Nature Reserve must be native. Replace *Plantanus orientallis* and *Quercus paulustris* with native tree species. Consideration should be given to the suitability of *Casuarina* plantings in these area due to proximity to river and nature reserve. The transition from exotic plantings to native plantings will better compliment the adjacent nature reserve.*
- *Native grass seeding, planting and habitat rock placement must be undertaken under the bridge and extend to the project/reserve boundary. Football sized rocks must be placed at a density of between 20 and 40%. These works will require the removal and rehabilitation of the coppins crossing car park.*
- *The landscape management and remediation plan must provide detailed treatment methodology for all PTWL habitat restoration and platypus habitat enhancement*
- *The plan must identify existing native vegetation that will be retained and protected from construction activities within the construction footprint.*

NOTICE OF DECISION

DA 202037798

- *The plan must address erosion mitigation and site stabilisation measures for any disturbed slopes and constructed batters within or directly adjacent to the Molonglo River Reserve.*

*Note: Any excess rock from the project must be crushed to football sized rocks and provided for and used as habitat construction/ habitat rehabilitation purposes to the satisfaction of the Parks and Conservation Service. Rock must be clean and free of weed seed. Rock must be delivered to an agreed site in consultation with the Parks and Conservation Service**

**Identified, or unexpectedly found, agglomerate rock of geological heritage significance within the construction footprint, should not be crushed, but rather be left in situ and protected, and approval sought from the ACT Heritage Council. If the rock is to be relocated to the Molonglo River Reserve intact, it must be to the satisfaction of the Parks and Conservation Service.*

Any trees removed during the works must be salvaged in-tact and reused as coarse woody debris, vertical habitat structures or snags within either the river or permanent ponds to the satisfaction of the Parks and Conservation Service.

Coppins Crossing Carpark:

The carpark area is required to be rehabilitated to PTWL habitat to the satisfaction of the Parks and Conservation Service. This can be addressed as a condition of approval as Parks and Conservation Service will want to inspect the work as it progresses and on finalisation.

Design comments:

As required by the S211 – exemption form requiring an EIS, Fauna habitat is required to be incorporated into the bridge design. Further details of this will be required prior to the commencement of construction

- *The design of the bridge must incorporate bat roosting habitat. The design of these habitat features will require consultation with a relevant bat expert*
- *Platypus and waterfowl habitat should also be incorporated into the bridge design*

If there are any viewing points for shared path users the proponent should investigate opportunities for interpretive signage about the Molonglo River Reserve.

Revised plans are required demonstrating how cut and fill will have minimal impact on the nature reserve should be submitted. Revised batter design of the John Gorton Drive abutment to accommodate the existing alignment of Coppins Crossing Road and lessen the impact on the reserve must also be submitted.

The bridge screen is required to be designed to provide sound screening and minimise the risk of potential of bird collisions.

Emergency vehicle and PCS access must be provided off the John Gorton drive bridge on both the north and south side of the river and east and west side of the bridge.

The existing Coppins Crossing road must be retained as a sealed Heavy Tanker Fire Trail to the satisfaction of ESA and PCS.

The Coppins Crossing road and bridge will not an asset accepted by PCS and will not be a PCS managed asset. The current land use zoning should remain so that it is a TCCS asset.

Access and fencing:

Clarification is required regarding management and emergency vehicle access off John Gorton Drive (JGD) into the reserve on the southern side of the river. It appears this has been considered on the northern side of the river (including access to Namarag Special Purpose reserve) with access to both sides of JGD from the northbound carriageway.

NOTICE OF DECISION

DA 202037798

Design appropriate turning shoulders (width and length) considering the speed limit and need to accommodate heavy ridged emergency vehicles. Gates also need to set back to allow vehicles to stop safely.

Emergency and management vehicle access is required during and post construction on the south and north side of the river and on the east and west side on JGD.

To protect the Molonglo River Reserve from construction activities, permanent boundary fences, gates and signage must be fabricated and installed, prior to the John Gorton Drive construction works; to the satisfaction of the Parks and Conservation Service. The boundary fence on the south side of the river and west of JGD should extend to the craven creek pond.

Top soil stockpiles must not be located outside of the approved construction footprint.

Geological Heritage Site:

Clarification is required regarding potential impacts to the geological heritage site – Coppins Crossing Agglomerate site. The EIS exemption report states that further desktop assessment of non-Aboriginal heritage will be undertaken as part of the DA to consider potential impacts and mitigation of the proposal on heritage items in the area.

It appears that “Dirty” and “Clean” surface run off diversion drains have been planned to flow over the Coppins Crossing Agglomerate site on CONCEPTUAL EROSION AND SEDIMENT CONTROL sheet 6 of 8. If this is the case, the drainage should be diverted to avoid impact to this geological heritage site.

Please clarify whether there will be any impacts to this site. It appears from the drawing that the Coppins Crossing Agglomerate site may not be impacted by northern bridge batter. If this heritage site is retained, it should be identified on the design drawings and fenced off to protect it construction impacts.

Assessment note: The comments above have been incorporated as conditions of approval, please refer to Part A.

ACT Emergency Services Agency (ESA)

The ESA provided advice on 23 December 2020 stating:

Bushfire Protection Requirements:

This development is located inside of the area declared by the ESA as the Bushfire Prone Area.

Bushfire Protection Measures - During Construction:

Where works prevent travel along existing fire trails or access ways, alternate access, constructed to Rigid Float standard in accordance with the ACT Bushfire Management Standards (2014) must be provided to ensure access for firefighting operations is maintained.

Standard industry procedures are to be adhered to for hot works during construction and operation at the facility and a permit will be required for any high-risk activities such as hot works on total fire ban days. To obtain a permit to burn you should contact ACTF&R by email actf&rrisk&planning@act.gov.au.

Hazardous Materials:

Demolition and asbestos management must be undertaken in accordance with the Building Act 2004, Dangerous Substances Act 2004, Work Health and Safety Act 2011 and Work Health and Safety (How to Safely remove asbestos Code of Practice) approval 2014.

Assessment note: The comments above have been incorporated as conditions of approval, please refer to Part A.

NOTICE OF DECISION

DA 202037798

Evoenergy

Evoenergy provided advice on 18 December 2020 stating that they support the proposal 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 clearances to overhead conductors and poles. Ref Evoenergy Drawing 3811-004

Development is to comply with minimum separation requirements to underground assets. Ref Evoenergy 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 network.connectionapplication@evoenergy.com.au (available on Evoenergy website) prior to commencement of any development activity to negotiate the connection of new and/or relocation of existing electricity assets.

Proponent is required to submit the Request for "Preliminary Network Advice" form to connectionapplication@evoenergy.com.au (available on Evoenergy 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 Evoenergy's Service and Installation rules.

Subject to the Relocation of Evoenergy Assets within & near the proposed bridge/road location.

Assessment Note: The statement of conditional compliance will be released with the decision. No further action is required in relation to this advice.

ACT Heritage Council

ACT Heritage Council provided advice on 18 December 2020 stating that they support the proposal with the following conditions:

The Council identifies the following heritage conditions as DA considerations, to ensure that development is consistent with the project's 2018 Heritage Act 2004 approval:

1. *Prior to the commencement of works, the following actions are required:*
 - a) *Salvage of Aboriginal object/s within MV3B3 is to be undertaken by a qualified archaeologist and RAOs.*
 - b) *A report on the salvage of Aboriginal object/s from MV3B3 is to be submitted to the Council.*
 - c) *Protective fencing is to be installed around the MV3B4 Aboriginal place, and this:*
 - i. *Must be installed at locations demarcated by a qualified archaeologist and RAOs;*
 - ii. *Must be adequate to physically protect heritage places, such as star pickets spaced no more than 4m apart and with high visibility barrier mesh; and*

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 8:30am and 4:30pm 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 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 184 of the Act.

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

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

Review by the ACT Civil and Administrative Tribunal (ACAT)

1. Decisions that are reviewable 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. If you think you have a right of appeal, 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.
5. If you are unsure of whether you have a right of appeal, you may contact Access Canberra Customer Services who can provide you with assistance.
6. 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>.
7. 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.
8. 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*).
9. 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.
10. 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.
11. 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.

12. 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.
13. 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.
14. 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.

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

ACT Civil and Administrative Tribunal Level 4, 1 Moore Street CANBERRA CITY ACT 2601 GPO Box 370, CANBERRA, ACT 2601	www.acat.act.gov.au tribunal@act.gov.au 02 6207 1740 02 6205 4855
ACT Supreme Court 4-6 Knowles Place, CANBERRA CITY ACT 2601 GPO Box 1548, CANBERRA CITY, ACT 2601	www.courts.act.gov.au 02 6205 0000
Environment, Planning and Sustainable Development Directorate 480 Northbourne Avenue DICKSON ACT 2602 GPO Box 158, CANBERRA 2601	www.planning.act.gov.au 02 6207 1923
<ul style="list-style-type: none">• <i>Planning and land authority</i><ul style="list-style-type: none">- list of certifiers for building approval- demolition information- asbestos information• <i>Environment Protection Authority</i><ul style="list-style-type: none">- environment protection- water resources- asbestos information• <i>Conservation, Planning and Research</i><ul style="list-style-type: none">- threatened species/wildlife management	www.environment.act.gov.au 132 281 www.environment.act.gov.au 132 281
Transport Canberra and City Services <ul style="list-style-type: none">- tree damaging activity approval- use of verges or other unleased Territory land- works on unleased Territory land - design acceptance- damage to public assets	www.tccs.act.gov.au 132 281 02 6207 0019 (place coordination)

Health Directorate	www.health.act.gov.au 02 6205 1700
Utilities	
- Telstra (networks)	02 8576 9799
- TransACT (networks)	02 6229 8000
- Icon Water	02 6248 3111
- Electricity reticulation	02 6293 5738

Translation and interpretation services

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

ENGLISH	If you need interpreting help, telephone:
ARABIC	: إذا احتجت لمساعدة في الترجمة الشفوية ، إتصل برقم الهاتف :
CHINESE	如果你需要传译员的帮助，请打电话：
CROATIAN	Ako trebate pomoć tumača telefonirajte:
GREEK	Αν χρειάζεστε διερμηνέα τηλεφωνήσετε στο
ITALIAN	Se avete bisogno di un interprete, telefonate al numero:
MALTESE	Jekk għandek bżonn l-għajnuna t'interpretu, ċempel:
PERSIAN	: اگر به ترجمه شفاهی احتیاج دارید به این شماره تلفن کنید:
PORTUGUESE	Se você precisar da ajuda de um intérprete, telefone:
SERBIAN	Ако вам је потребна помоћ преводиоца телефонирајте:
SPANISH	Si necesita la asistencia de un intérprete, llame al:
TURKISH	Tercümana 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