

Planning and Development (Approval of Application – DA202138722 William Hovell Drive Duplication) Notice 2024

Notifiable instrument NI2024–623

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 – DA202138722 William Hovell Drive Duplication) Notice 2024*.

2 Application

- (1) This instrument applies to development application DA202138722 for the upgrade and duplication of 4.5km of William Hovell Drive (the **DA**).
- (2) The DA includes upgrades to the existing road to a dual carriageway, including cycle and shared paths, intersection signalisation, tie in works to the existing road, upgrades to access roads, underpasses and culverts, fencing, fauna crossings, relocation of utilities, landscaping, signage, tree removal and other associated works within the road reserves of William Hovell Drive, Drake Brockman Drive and John Gorton Drive.

3 Impact track development approval

- (1) On 10 October 2024, pursuant to the *Planning and Development Act 2007* (repealed), section 162 (1) (b), a delegate of the planning and land authority approved the DA in the impact track, subject to conditions.
- (2) The notice of decision for the DA is in schedule 1.

George Cilliers
Chief Planner
24 October 2024



ACT
Government

Environment, Planning and
Sustainable Development

NOTICE OF DECISION

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

I, Eliza Larson, 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 upgrade and duplication of 4.5km of William Hovell Drive between John Gorton Drive (JGD) and Drake-Brockman Drive (DBD), including on-road cycle paths and dedicated off-road shared path, signalisation of the intersection at DBD, tie in works to the existing road, upgrades to the access road to Weetangera Cemetery from DBD, upgrades to the underpass for the Bicentennial National Trail, upgrades to vehicular access to the Kama Nature Reserve, upgrades to culverts and three existing underpasses, fencing, fauna crossings, relocation of utilities, street lighting median works and other road furniture, signage, traffic control devices, landscaping, tree removal, and other associated works**, within the road reserve extending from JGD to DBD in the districts of Belconnen and Molonglo Valley, in accordance with the plans, drawings and other documentation approved and endorsed as forming part of this approval.

DA Number:	202138722 & s144C & s144F
Road Reserve:	William Hovell Drive, Drake Brockman Drive & John Gorton Drive road reserves
District:	Belconnen & Molonglo Valley
Application lodged:	18 January 2024, 7 June 2022 (s144C) & 8 July 2024 (s144F)
Assessment track:	Impact

This decision contains the following information:

- PART A – conditions of approval
- PART B – reasons for the decision
- PART C – public notification & entity advice
- Attachment 1 – administrative information
- Copies of entity advice – as attached

A copy of the development application and this approval may be inspected at the territory planning authority's office from 9:00 am to 4:00 pm, Monday to Friday at 8 Darling Street, Mitchell, ACT 2911

CONTACT / ENQUIRIES

Phone: (02) 6207 6383

Online Form:

https://www.accesscanberra.act.gov.au/app/forms/epd_feedback

Eliza Larson

Delegate of the Planning
and Land Authority

10 October 2024

NOTICE OF DECISION

DA 202138722

PART A – CONDITIONS OF APPROVAL

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

FURTHER INFORMATION

1. FURTHER INFORMATION

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

- a) Further information, including:
 - i) Updated plans showing the size and location of all site compound areas;
 - ii) Lighting detail plans; and
 - iii) Road pavement plans for noise mitigation.

Note: Any substantial changes to the development required to comply with the above conditions will need to be submitted for the consideration of the territory planning authority with an application to amend the approval under Section 205 of the Planning Act 2023.

GENERAL CONDITIONS

2. COMMENCEMENT AND COMPLETION OF DEVELOPMENT

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

Note: The planning and land authority may extend the time to commence or finish the development if an application, to extend the time to commence or finish the development, is made prior to when the development has to be started or finished – refer to section 184(3) and 188 of the Planning and Development Act 2007 (the Act).

3. ENVIRONMENTAL IMPACT STATEMENT (EIS) – 202000014

All works must be consistent with the mitigation measures in the [William Hovell Drive Duplication Environmental Impact Statement](#), prepared by SMEC Australia, dated 6 February 2024 (the EIS), and the recommendations in section 7 of the [Planning and Development \(William Hovell Drive Duplication - Blocks 1385 and 1565, Belconnen\) EIS Assessment Report 2024](#).

4. ENVIRONMENT PROTECTION AND BIODIVERSITY CONSERVATION ACT (EPBC Act) APPROVAL DECISION 2020/9703

All works must be consistent with the approval decision for [EPBC 202/8703](#), dated 27 August 2024 or any subsequent amended decision.

5. MATTERS OF NATIONAL ENVIRONMENTAL SIGNIFICANCE (MNES)

Works approved under DA202138722 must not clear more than:

- a) 6.41 hectares (ha) of Box-Gum Woodland (BGW) threatened ecological community (TEC);
- b) 10.87 ha of Swift Parrot foraging habitat;
- c) 10.87 ha of Superb Parrot foraging habitat; and

NOTICE OF DECISION

DA 202138722

- d) 7 hollow-bearing trees with characteristics consistent with Superb Parrot potential nesting trees.

6. CONSTRUCTION BOUNDARY

Works approved under DA202138722 must not clear outside of the construction boundary as shown in Figure 2 of the [Planning and Development \(William Hovell Drive Duplication - Blocks 1385 and 1565, Belconnen\) EIS Assessment Report 2024](#).

7. ACT HERITAGE COUCIL (The Council)

The Statement of Heritage Effect (SHE) approval, issued on 30 July 2024 under Section 61H of the *Heritage Act 2004*, for the Kama Woodland/Grassland must be adhered to.

8. COMPLIANCE WITH ENTITY REQUIREMENTS

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

- a) ICON Water;
- b) Emergency Services Agency (ESA) and
- c) Evoenergy (Electricity).

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

PRIOR TO CONSTRUCTION

9. CONSTRUCTION ENVIRONMENT MANAGEMENT PLAN (CEMP)

Prior to construction, a CEMP must be prepared and submitted to the planning and land authority (EPDImpact@act.gov.au) for endorsement.

- a) The CEMP must outline the construction conditions and temporary environmental protection measures to manage the impact of construction activities, consistent with the EIS. The CEMP must include the mitigation measures proposed in the EIS and incorporate any other relevant management plans including, but not limited to:
 - i) Flora and Fauna Management Plan;
 - ii) Pink-Tailed Worm-Lizard Habitat Restoration Plan;
 - iii) Tree Management Plan;
 - iv) Heritage Management Plan addressing requirements in Condition 13 c) below;
 - v) Unanticipated Discovery Plan for heritage items;
 - vi) Unexpected Finds Protocol
 - vii) Erosion and Sediment Control Plan (ESCP);
 - viii) Landscape Plan;
 - ix) Bushfire Management and Response Plan;
 - x) Waste Management Plan;
 - xi) Asset Management Plan; and
 - xii) Construction Traffic Management Plan;

Note: The CEMP will be referred to relevant entities for endorsement and therefore will need to incorporate their comments provided through the EIS and Development Application stages, including the conditions of this Decision.

NOTICE OF DECISION

DA 202138722

10. OFFSET MANAGEMENT PLAN (OMP)

The OMP must be developed in consultation with the ACT Parks and Conservation Service (PCS). Once approved by the Minister responsible for administering the EPBC Act, a copy must be submitted to the planning and land authority (EPDImpact@act.gov.au).

11. ICON WATER – WORKS NOT TO COMMENCE

- a) No works in relation to this development approval are to commence until the lessee/applicant has obtained a Statement of Acceptance from ICON Water in relation to the proposed development and submits the Statement of Acceptance to the planning and land authority as satisfying this condition of approval under s165 of the *Planning and Development Act 2007*.
- b) The lessee/applicant must address and comply with any additional conditions imposed by ICON Water.

Note: Any substantial changes to the development required for utility services compliance will need to be submitted for the consideration of the territory planning authority with an application to amend the approval under Section 205 of the Planning Act 2023.

12. CONSERVATOR OF FLORA AND FAUNA – WORKS NOT TO COMMENCE

- a) The erosion and sediment control plan within the CEMP must include controls at outflow sections including into the adjacent Nature Reserve.
- b) The landscape plan within the CEMP must provide additional information regarding proposed plantings.
- c) The CEMP must include a Pink-tailed Worm-lizard habitat restoration plan which reflects EIS commitments to improve connectivity.
- d) The Tree Management Plan within the CEMP must clearly identify trees to be retained in green and removed/impacted in red, to the satisfaction of the Conservator of Flora and Fauna;

13. ACT HERITAGE COUCIL (The Council) – WORKS NOT TO COMMENCE

- a) Prior to the commencement of works, protective fencing must be installed around WHD1, WHPAD1 and WHPAD3; as per the fencing recommendations of the *“William Hovell Drive Duplication: Updated Aboriginal and Historical Cultural Heritage Assessment”* (Past Traces 2023);
- b) Prior to the commencement of works, temporary barrier fencing must be installed around the two heritage Cypress trees of the Weetangera Cemetery, to ensure impacts do not occur to more than 6.6% of the tree protection zones;
 - i) This fencing must be installed by, or under the supervision of, a heritage consultant and an arborist, and the Council notified in writing of the completion of this action; and
- c) The project’s CEMP must identify, at minimum, fencing requirements for Aboriginal places and the Weetangera Cemetery, unanticipated discovery protocols, heritage induction requirements; and be submitted to and endorsed by the Council prior to works commencing.

14. ENVIRONMENT PROTECTION AUTHORITY (EPA) – WORKS NOT TO COMMENCE

Contamination

- a) An environmental assessment in accordance with EPA endorsed guidelines must be undertaken by a suitably qualified environmental consultant to determine whether past

NOTICE OF DECISION

DA 202138722

activities have impacted the site from a contamination perspective and to determine what specific management measures may be required during site works;

- b) The consultant's assessment report and any proposed contamination management plan must be submitted to the EPA in accordance with [Information sheet 11 - EPA Report Submission Requirements](#) for review and endorsement.

Waterways

- c) If works are being undertaken in a Waterway the contractor must obtain a Waterway Works Licence (WWWL) from the EPA;

Note: if the contractor is required to obtain an Environmental Authorisation for the development, then there is no need for WWWL – however, sufficient environmental controls must be detailed in the ESCP demonstrating how works in the waterway will be managed.

Construction

- d) The contractor/builder developing the site must hold an Environmental Authorisation or enter into an Environmental Protection Agreement with the EPA in respect of that activity.
- e) An [Erosion and Sediment Control Plan](#) (ESCP) must be submitted to and be endorsed by the EPA. Any subsequent changes to the ESCP must be endorsed by EPA prior to implementation.
- f) Information on staging and more detailed ESCPs per stage must also be provided.
- g) All sediment and erosion control measures must be in place prior to commencement of works and shall be maintained until development completion.

15. SITE ACCESS – WORKS NOT TO COMMENCE

Access through and activities in Nature Reserves may require a licence under the *Nature Conservation Act 2014*. To determine if this is required contact must be made with the EPSDD Licensing and Compliance team via LicensingandCompliance@act.gov.au prior to any works commencing on site.

16. BUSHFIRE MANAGEMENT AND RESPONSE PLAN

The proponent must prepare a Bushfire Management and Response Plan (BMRP) that identifies mitigation measure to reduce the likelihood of accidental ignitions and procedures for site management in the event of a bushfire on, or threatening, the site. The BMRP must be to the satisfaction of the ACT Emergency Services Agency (ESA) and be included as part of the CEMP.

DURING CONSTRUCTION

17. CONSTRUCTION ENVIRONMENT MANAGEMENT PLAN (CEMP)

During construction, all works must be undertaken in accordance with the endorsed CEMP.

Note: Please refer to Condition 9 above for details of the CEMP.

18. CONSERVATOR OF FLORA AND FAUNA

Tree and hollow reinstatement and replacement

- a) At least 80% of hollows from hollow-bearing trees that are removed must be salvaged and re-used as habitat for ground-dwelling fauna or made into a natural hollow nest box and reattached to suitable trees or otherwise these cleared hollow bearing trees will be “stood up” to the satisfaction of the Conservator of Flora and Fauna. These salvaged hollows must be relocated to suitable locations within The Pinnacle or Kama Nature Reserves, or within the Offset Site.

NOTICE OF DECISION

DA 202138722

- b) Restoration works must include BGW tree and shrub plantings (and mesh guarding) at the replacement ratios of 1:10 for trees and 1:4 for shrubs and eucalyptus saplings, to the satisfaction of the Conservator of Flora and Fauna.

Landscaping

- c) To reduce light spill and weed propagule into the adjacent reserves, dense *Lomandra longifolia*, *Dianella revoluta*, *Poa lab*, and native shrub plantings must be undertaken to the satisfaction of PCS along the boundary of the Kama Nature Reserve and the Pinnacle Nature Reserve and their buffers.

Land management, fauna, lighting and access considerations

- d) Wildlife fence integration with replacement of existing sections of reserve fences (which are also stock fences) must be undertaken in accordance with the endorsed design to permit wildlife movement between the reserves via the fauna culverts. The alignment and extent of the fauna exclusion fences must be agreed to on site in consultation with PCS.
- e) All works relating to fauna crossings, pedestrian underpasses, cattle access and lighting/light spill must be undertaken in accordance with the commitments made within the EIS.
- f) All fire trail or management tracks that pass through the work site must remain passable for emergency services vehicles, PCS and PCS contractors, or an alternative route made available throughout construction.

19. UNEXPECTED FINDS PROTOCOL – HERITAGE PLACES AND OBJECTS

In the event that heritage places or objects, including Aboriginal places or objects, are encountered during works:

- a) Works at the heritage location/s must cease to allow for heritage assessment and management, in accordance with Section 75 of the Heritage Act 2004; and
- b) The discovery must be reported to the ACT Heritage Council within five working days, in accordance with Section 51 of the Heritage Act 2004; and
- c) The discovery must be managed in accordance with further ACT Heritage Council advice.

20. ENVIRONMENT PROTECTION AUTHORITY (EPA)

Construction

- a) All works must be carried out in accordance with “[Environment Protection Guidelines for Construction and Land Development in the ACT, August 2022](#)”, available at [Environment protection guidelines \(act.gov.au\)](#) or by calling 132281.
- b) Adjacent roads must be swept clean at all times.

Contamination

- c) All spoil identified at the site must be managed in accordance with [EPA Information Sheet - Spoil Management in the ACT](#).
- d) All soil subject to disposal from the site must be assessed in accordance with [EPA Information Sheet 4 - Requirements for the reuse and disposal of contaminated soil in the ACT](#).
- e) No soil is to be disposed from the site without EPA approval.

21. EMERGENCY SERVICES AGENCY (ESA)

NOTICE OF DECISION

DA 202138722

Firefighting Access:

- a) Access to farm gates and nature reserve gates must be maintained and not impeded by this development. Where works may impact on access to farm gates and nature reserve gates, the proponent must consult with ACT Rural Fire Service to ensure alternate access arrangements are in place or gates with no access must be identified in the Emergency Services Agency's Computer Aided Dispatch (CAD) system.
- b) All emergency access gates are to be fitted with standard Fire Brigade locks.

Bushfire Protection Requirements:

- c) Tree plantings within the following Envirolinks Design General Arrangements plans must be consistent with the fire management zones as outlined below.
 - i. DR. 301, Rev. A – Where zones are identified, trees must be planted to ensure compliance with Inner Asset Protection Zone (IAPZ), Outer Asset Protection Zone (OAPZ), and Strategic Fire Management Zone (SFAZ).
 - ii. DR. 302, Rev. A – Where zones are identified, trees must be planted to ensure compliance with IAPZ and SFAZ.
 - iii. DR. 303, Rev. A – 311 – Where zones are identified, trees must be planted to ensure compliance with SFAZ.
 - iv. DR. 312, Rev A – DR. 316, Rev A – Where zones are identified, trees must be planted to ensure compliance with IAPZ and SFAZ.
 - v. DR. 317, Rev A – Where zones are identified, trees must be planted to ensure compliance with IAPZ and OAPZ.

High Fire Danger and Total Fire Bans

- d) High-risk activities (also known as hot works) must be delayed on days of High Fire Danger where possible. Where delaying the work is not possible, a water supply sufficient to extinguish a fire that may be started must be present at the location of the high-risk activities and must remain there for a period of 30 minutes once the high-risk activities have been completed. This water supply should be managed by someone not involved in the high-risk activity itself to ensure that someone is spotting for potential fire ignition.
- e) High risk activities such as hot works must be suspended on days declared a Total Fire Ban by the Emergencies Services Agency Commissioner.
- f) Any fires started across the entire development site must be reported to 000 Emergency immediately. Fires started accidentally or intentionally may attract a penalty under the Emergencies Act 2004.

22. WASTE MANAGEMENT

All building waste must be stored on the site in suitable receptacles/containers and collected regularly. The lessee is to take all reasonable steps to ensure that waste, particularly wind-borne litter, does not affect adjoining or adjacent properties.

23. ENVIRONMENT PROTECTION

All works must be carried out in accordance with *Environment Protection Guidelines for Construction and Land Development in the ACT, March 2011*.

24. LIGHTING

Lighting must comply with each of the following:

- a) Australian Standard AS1158 *Lighting for Roads and Public Spaces Part 3.1: Pedestrian Area (Category P) Lighting – Performance and Design Requirements*.

NOTICE OF DECISION

DA 202138722

- b) Australian Standard *AS1158: Lighting for Roads and Public Spaces Part 2: Computer Procedures for the Calculations of Light Technical Parameters for Category V and Category P Lighting*.
- c) Australian Standard *AS4282: The Control of Obtrusive Effects of Outdoor Lighting*.

25. PEDESTRIAN & BICYCLE PATHS

- a) Pedestrian paths must be designed in accordance with *AUSTROADS Guide to Traffic Engineering Practice Part 13. – Pedestrians*.
- b) Bicycle Paths must be designed in accordance with *AUSTROADS Guide to Traffic Engineering Practice Part 14. – Bicycles*.

26. SIGNAGE

Directional signage must comply with the requirements of *AS1742.10 (1991) Manual of Uniform Traffic Control Devices – Pedestrian Control and Protection*.

27. SIGHTLINES

To ensure open sightlines are maintained, plantings adjacent to the shared path must be low planting (maximum height of 600mm) and high-branching trees (two metres). There should be no tall bushes, dense shrubbery and dense clusters of trees, immediately adjacent to the shared path and at stopping points such as road crossings.

POST CONSTRUCTION

28. CONSTRUCTION ENVIRONMENT MANAGEMENT PLAN (CEMP)

All rehabilitation works must be undertaken in accordance with the endorsed CEMP.

Note: Please refer to Condition 9 above for details of the CEMP.

ADVISORY NOTES

This application is approved with the following advisory notes. It is recommended that careful consideration be given to advisory notes prior to commencing work.

1. RELEASE OF APPROVED PLANS

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

2. ENVIRONMENT PROTECTION AUTHORITY (EPA)

- a) Construction work, by its nature, is noisy. In these areas and when the building work will take longer than two weeks, any noisy activities, which include material deliveries and work site preparation, are only permitted between the following hours:
 - i. 7:00am to 6:00pm, Monday to Saturday; and
 - ii. at all other times noise emissions must not exceed the zone noise standard of 45 dB daytime and 35 dB nighttime.
- b) All excavations that collect rain water during a rain storm event would be considered as a sediment control pond, and must meet the following condition:
 - i. No discharge can occur from pond unless the sediment level is less than 60mg/litre. If sediment level is greater, then prior to discharge, the pond must be dosed with either Alum or Gypsum and allowed to settle until the sediment is less than 60 mg/litre.

NOTICE OF DECISION

DA 202138722

3. JEMENA

The development must comply with the ACT Government regulations & Development/Building Approvals <https://www.legislation.act.gov.au/View/a/2010-41/current/html/2010-41.html>.

Jemena has no objection to this development application if it meets these requirements. It is noted that there is a gas network in the vicinity. All care is to be taken around Jemena underground assets. Appropriate Before You Dig Australia (BYDA) processes are to be followed as part of the construction process.

If a meter relocation or service pipe relocation is required, you must comply with Evoenergy standards. Please contact your gas retailer; only people accredited by Evoenergy can carry out this work.

4. SIGNAGE

All signage installed at the site, including advertising signage and hoarding, should comply with the Australian Association of National Advertisers (AANA) Code of Ethics and the ACT Government's Hoarding Signage Advertising Guidelines available online at <https://www.planning.act.gov.au/build-buy-renovate/for-industry/industry-resources/hoarding-signage-guidelines>

PART B – REASONS FOR THE DECISION

An Environmental Impact Statement (EIS202000014) for this proposal was completed on 14 June 2024 when the Minister for Planning decided to take no further action on the EIS. The EIS outlined the environmental impacts of the proposal and identified a range of avoidance, mitigation and management measures to reduce potential environmental impacts arising from construction and operational activities. The mitigation measures identified in the EIS have been incorporated into this decision.

In deciding the development application, the planning and land authority (the authority) has considered the zone objectives in conjunction with other requirements of the Territory Plan, including the relevant codes and the Strategic Directions, to achieve a balanced approach in assessing economic, social and environmental impacts. Upon considering the issues and impacts raised during the assessment process, 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 decision is made with the understanding that conditions imposed by the Commonwealth Department of Climate Change, Energy, the Environment and Water under the provisions of the EPBC Act must be complied with. Conditions imposed under the EPBC Act are in addition to those listed in this decision. This decision is not inconsistent with the [Commonwealth decision](#).

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

All relevant conditions are included under **PART A** and entity advice is noted in **PART C**.

EVIDENCE

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

Development Application: 202138722/s144C/s144F

Territory Plan Zones: TSZ1 – Transport Zone

Development Codes: Transport and Services Zone Development Code

NOTICE OF DECISION

DA 202138722

Precinct Code:	Belconnen District Precinct Map and Code and Molonglo Valley District Precinct Map
General Codes:	Waterways: Water Sensitive Urban Design General Code; Crime Prevention through Environmental Design General Code; Signs General Code; and Planning for Bushfire Risk Mitigation General Code
Legislative requirements:	The <i>Planning Act 2023</i> in particular the transitional arrangements for DAs such as this made before its commencement. The <i>Planning and Development Act 2007</i> in particular sections 127 and 129.
Representations and Entity advice:	As addressed in PART C of this Decision

PART A and **PART C** provide further details and considerations informing the reasons for the decision.

PART C – PUBLIC NOTIFICATION AND ENTITY ADVICE

PUBLIC NOTIFICATION

Pursuant to Division 7.3.4 of the *Planning and Development Act 2007* (the Act), the application was publicly notified from 5 July 2021 until 20 August 2021. Twenty (20) written representations were received during the public notification period.

The public notification period was extended until 30 September 2021. An additional eight (8) written representations were received during the extended period.

s144 Further Information / Amendments:

s144C:

An amendment to the proposal was lodged with the authority on 7 June 2022 and included changes to the proposed shared path alignment, an updated acoustic assessment report, and changes to proposed acoustic mitigation measures to align with the updated report.

Pursuant to Division 7.3.4 of the Act, the amended application was publicly notified from 14 June 2022 until 1 August 2022. Four (4) written representations were received during the public notification period.

S144F:

An amendment to the proposal was lodged with the authority on 8 July 2024 to address outstanding requirements from the Conservator of Flora and Fauna and provide updated documentation, noting that the detailed design for the project had been further developed since the s144C submission. Amendments included changes to the road design and associated infrastructure, relocation of utilities and updates to the drainage design, traffic control devices, lighting, and landscaping.

Pursuant to Division 7.3.4 of the Act, the amended application was publicly notified from 16 July 2024 until 23 August 2024. Two (2) written representations were received during the public notification period.

Summary

The issues raised in the representations were considered in the assessment and making of the decision for this development application.

The main issues are summarised below. Comments are provided as appropriate.

NOTICE OF DECISION

DA 202138722

- Road traffic noise assessment and mitigation:

A noise assessment of the Project was carried out in accordance with the Roads ACT Noise Management Guidelines that considered the existing and predicted traffic noise level at adjacent buildings, and included an assessment based on the predicted maximum traffic flow.

Following notification of the DA and draft EIS, concerns were raised by nearby residents that the Project had not addressed noise adequately, as the noise monitoring was conducted during a quieter traffic period that coincided with COVID 19 lockdowns and on a long weekend.

The proponent has responded to these concerns by organising a peer review of the original Road Traffic Noise Assessment to confirm the adequacy of the assessment.

The noise model established existing noise levels, target noise levels in accordance with the Roads ACT Noise Management Guidelines, and predicted maximum noise levels for 2031. The Noise Assessment found non compliances at 10 noise sensitive receptors.

The assessment notes that these predicted noise increases would occur incrementally as traffic volumes gradually increase on WHD, with an increase of less than 1 dB(A) at most receptors. The predicted increase is representative of the maximum traffic volumes at 2031 and not at the immediate commencement of road operation.

The increase is described as being a result of the widening of the alignment and additional traffic volumes together with the replacement of the asphalt at the Project limits.

The Noise Assessment considered various mitigation treatments to reduce road traffic noise, including changes to road pavement surface and acoustic noise barriers. Of the proposed mitigation measures, the assessment found low noise road pavement to be the preferred option.

Some of the representations received on the DA indicated the desire for noise barriers to be introduced between residences and the new road. Although effective in reducing noise levels, the noise assessment found that noise barriers would present certain limitations and may require future maintenance. Whereas low noise road pavement would provide a substantial noise reduction of -4 dBA relative to the pavement surface proposed. This would ensure compliance with the Project's target noise levels at all receptor locations and reduce noise levels at affected receptors to levels compliant with the assessment criteria.

*A condition has been included in **PART A** of this Decision, that requires an updated set of road pavement plans that clearly shows the use of low road noise pavement and at what locations, to ensure that potential impacts to the amenity of nearby sensitive receivers has been appropriately mitigated.*

- Community consultation:

Pursuant to section 217 of the PD Act, the Authority publicly notified the draft EIS and concurrent DA for 35 working days, from 5 July 2021 to 20 August 2021. During the public notification period, it was identified that some adjoining properties had not received written notice of the draft EIS or the concurrent DA. The authority rectified this issue by sending out additional letters and extending the notification period to end on 30 September 2021. During this time, the public could view both applications and provide written comments on the Project.

In addition to the statutory notification performed by the Authority, the proponent held community information and drop in sessions, targeted consultation and meetings with relevant stakeholders and additionally established project information lines and websites.

Feedback received through the various consultation activities as described above helped inform an updated proposal that was later submitted to the authority as part of the revised EIS process and as an amendment to the DA under section 144 of the PD Act (s144C).

NOTICE OF DECISION

DA 202138722

The updated proposal included changes to the proposed shared path alignment, an updated acoustic assessment report, and changes to proposed acoustic mitigation measures to align with the updated report. Pursuant to Division 7.3.4 of the Act, the authority publicly notified the s144C application from 14 June 2022 until 1 August 2022.

As a result of the EIS process, a further amendment to the DA was submitted to the authority under section 144 of the PD Act (s144F), which was required to address outstanding requirements from the Conservator of Flora and Fauna and provide updated documentation, noting that the detailed design for the project had been further developed since the s144C submission. Amendments included changes to the road design and associated infrastructure, relocation of utilities and updates to the drainage design, traffic control devices, lighting, and landscaping. Pursuant to Division 7.3.4 of the Act, the amended application was publicly notified from 16 July 2024 until 23 August 2024.

During the public notification period, it was identified that some adjoining properties had not received written notice of the s144F application. The authority rectified this issue by sending out additional letters and extending the notification period by a further 15 working days. During this time, the public could view both applications and provide written comments on the Project.

Noting the above, the development application is found to have complied with all statutory public notification requirements.

- Alignment and location of the proposed shared path:

The shared path runs for the extent of the project, continuing through to Bindubi Street to provide for a missing link in the current path network between Higgins and City. The path will also provide a connection to Whitlam.

Feedback during the Draft EIS and DA phases raised concerns about the alignment of the shared path adjacent to the residential properties at Hawker. The main issues related to the way in which the proposed shared path interacted with the dog off-leash recreation area, vegetation removal and the close proximity of the path to the residential properties with associated noise, safety and amenity impacts.

As a result of this feedback, it is understood that the proponent undertook additional community consultation where three new routes were suggested. The consensus was for a new proposed route of the shared path to be on the western side of WHD between DBD and the underpass near Weetangera Cemetery in Hawker. The shared path is now proposed to run alongside the cemetery access road and remains within the road reserve and does not impact on land which has not been designated for roads and related road infrastructure uses.

The altered location on the western side of WHD has also resulted in reduced environmental impact and fewer trees being removed, particularly in the area between the underpass near the Weetangera Cemetery and DBD. It is noted that the proposal was also updated to provide for an on-road cycle path in addition to the off-road shared user path.

*The amended plans and documentation demonstrate that the shared path and road cycle path have been designed to be in accordance with Australian Standards and Road Design Guidelines. Conditions have been included in **PART A** of the Decision to reflect this requirement. It is noted that there will be some tree removal required for the proposed shared path, however replacement plantings are required to make up for vegetation loss and conditions have been included in **PART A** of this Decision to ensure this.*

The amended application notes that fencing adjacent to the path on the eastern approach to the underpass will be removed, as will some vegetation to improve sight lines into the underpass. Signage will also be installed to instruct both horse riders and cyclists to dismount before crossing through the underpass. Signage will also be installed to instruct pedestrians or cyclists to remain

NOTICE OF DECISION

DA 202138722

outside the underpass if it is already occupied by a horse. Safety mirrors will be installed at the bends in the path.

- Biodiversity loss, and offset strategy process;

Direct impacts as a result of the Project are in relation to vegetation clearing, removal of threatened species habitat, fauna injury and mortality and key threatening processes. Removal of fauna habitat may result in the injury or mortality of species using this habitat for shelter. Habitat features that may shelter fauna include vegetation, hollow-bearing trees, burrows, logs, rocks, and leaf litter. Nocturnal animals are particularly susceptible to vegetation clearing as they would be sheltering during the day when works are being undertaken.

Indirect impacts are in relation to habitat fragmentation, animal strike, edge effects, weeds and exotic flora, changes in hydrology, invasion and spread of pests, pathogens and disease, light spill, noise and vibration and cumulative impacts.

Mitigation measures are proposed in the EIS in relation to pre-clearing surveys and processes for the removal of hollow-bearing trees to provide opportunities for fauna to vacate the vegetation to be cleared or be relocated to a safe location outside the Project's footprint.

Other mitigation measures, including crossing structures across the WHD road reserve: three box culverts; and two rope bridges along with associated fauna fencing and escape ramps, have been proposed in the EIS and are expected to minimise habitat fragmentation impacts and animal strike. A revegetation plan has also been prepared that would guide the remediation and revegetation of the study area following construction. Detailed mitigation measures are also proposed to be incorporated into a Flora and Fauna Management Plan which would be prepared and implemented as part the CEMP to further minimise impacts to biodiversity such as tree management measures, pre-clearing survey requirements, establishment of exclusion zones and protocols to manage changes in hydrology and the spread of weeds, pests and pathogens.

Even with the implementation of appropriate mitigation measures, the BIA has determined that the Project is likely to have a residual significant impact to MNES.

An Environmental Offset Strategy (EOS) has been prepared which outlines how a proposed offset site can provide appropriate direct offsets associated with the Project. The offset area would adjoin The Pinnacle Nature Reserve and would offset impacts to MNES.

Conditions have been included in **PART A** of this Decision

- Fauna strike;

The approach to minimising fragmentation, improving connectivity and reducing the incidence of roadkill events that is being incorporated into the Project's design is the inclusion of crossing structures:

- Two fauna crossings (rope bridges) to assist arboreal fauna
- Three fauna crossings (box culverts) to assist various ground-dwelling fauna
- Fauna fencing and escape ramps.

- Tree clearing, including loss of mature native trees and tree management requirements;

Commitments have been made to ensure that native, mature trees removed as a result of the Project will be replaced at a ratio of 1:10. Native shrubs and Eucalyptus saplings removed as a result of the Project will be replaced at a ratio of 1:4. The locations of these plantings must be considered as part of the landscaping plans prepared for the Project. Proposed landscaping trees will either be *Casuarina Cunninghamiana*, or one of six different species of *Eucalyptus*.

NOTICE OF DECISION

DA 202138722

- Weed management and rehabilitation of native vegetation:

A CEMP will be prepared and approved prior to construction works commencing. All works, including excavation, vehicle movement, stockpiling, topsoil management and spoil disposal will be undertaken in accordance with the approved CEMP and relevant sub-plan protocols to prevent further spread of weed species during and after construction, or unidentified impacts to native vegetation and rehabilitation, particularly along buffers with the two nature reserves. Prior to construction, the CEMP will be required and be approved by the territory planning authority and other relevant Government environmental agencies.

- Project footprint:

A multi criteria analysis undertaken indicated that Option B (widening on left hand side of the carriageway (northeast side) was the preferred, or at least equally preferred option, for all of the criteria assessed. The key reasons for preferring Option B (i.e. the current Project subject to this Environmental Impact Statement) include the smallest resulting overall footprint, minimising required haulage, second lowest length of stormwater relocation and culvert extension, minimised impact on native vegetation, no impacts on the potential Molonglo 3 High Voltage alignment on the southern side of William Hovell Drive, being the easiest from a constructability perspective (including with respect to traffic management and safety), and fewer environmental impacts more generally.

The preliminary footprint of the Project is approximately 31.9ha (including 8ha of existing road). This has been derived by adopting a 10m construction buffer for the majority of the Project (note that in some areas, this buffer is reduced to around 5m).

The road duplication is proposed within the road reserve extending from JGD to DBD. This Site is unleased Territory land, with TCCS – Roads ACT as the custodian. The proposed locations for site compounds and stockpile areas are incorporated within the road reserve, and include:

- *Site Compound 1 located adjacent JGD intersection, approximate size 19,200sqm*
- *Site Compound 2 located at DBD intersection, approximate size 10,000sqm*
- *Stockpile Site 1 located at Chainage 3500, approximate size 9,600sqm*
- *Stockpile Site 2 located at Chainage 2100, approximate size 6,000sqm.*

Following consultation with ACT Government stakeholders including the Conservator of Flora and Fauna, the Project's footprint has been minimised between the Kama and The Pinnacle Extension Nature Reserves to retain connectivity of BGW, and the design has been micro-sited in this area to retain as many hollow bearing trees as possible. Moreover, the overall road width has been designed to be as narrow as possible between the two nature reserves.

- Cumulative impacts:

A cumulative impact assessment considered the combined effects of projects occurring within the same locality or region, where each impact has been assessed individually. Table 5-15 of the EIS provides a summary of the projects recently or currently being undertaken in the vicinity of WHD and their associated impacts on biodiversity. Projects were identified from the ACT Government Directorate Planning website for EIS and EIS exemptions. It should be noted that only key projects have been included within the assessment.

Most projects occurring in the region have some impact on the threatened White Box – Yellow Box – Blakely's Red Gum Grassy Woodland and Derived Native Grasslands vegetation community and require the removal of habitat for threatened flora and fauna.

- Residential amenity, including noise, light pollution and visual impacts:

The socio-economic and health impacts of the Project primarily pertain to residential areas and recreational access. Direct impacts involve the adjacent properties of Higgins, Weetangera, Holt, and Whitlam, while indirect impacts may affect residents through noise, air quality, and visual disruptions during construction and operation. Despite these impacts, the Project is expected to bring economic benefits due to increased road capacity, reducing road congestion. Sensitive receivers include local

NOTICE OF DECISION

DA 202138722

residents, pedestrians, cyclists, Bicentennial Track users, road users, local businesses, government institutions, religious centres, educational facilities, and other entities. Mitigation measures encompass a waste management plan, storage of hazardous materials according to ACT EPA guidelines, dust suppression, and an unexpected finds protocol to minimize health and safety risks to workers. Temporary access disruptions to recreational areas will be mitigated through construction scheduling. Overall, the Project is anticipated to offer positive socio-economic impacts and enhanced road network connectivity. Worker exposure to contaminants will be managed through appropriate protocols and plans.

- Crime prevention:

The DA has been assessed against and found to comply with the Crime Prevention through Environmental Design General Code.

- Construction management

A CEMP will be prepared and approved prior to construction works commencing. All works, including excavation, vehicle movement, stockpiling, topsoil management and spoil disposal will be undertaken in accordance with the approved CEMP and relevant sub-plan protocols to prevent further spread of weed species during and after construction, or unidentified impacts to native vegetation, particularly along buffers with the two nature reserves. Prior to construction, the CEMP will be required to be approved by the EPA and other relevant ACT Government environmental agencies.

- Access to nearby public areas and nature reserves:

Surrounding areas utilised for recreational purposes including Bicentennial National Trail, The Pinnacle and Kama Nature Reserves, the Weetangera Cemetery and adjacent open spaces will experience some temporary impacts to access during construction of the Project. The construction contractor will be tasked with scheduling construction tasks so as to minimise these disruptions where reasonable and feasible to do so.

Access to nature reserves and the cemetery along the southern side of the road reserve are to be upgraded as part of this Project. There are three in-situ underpasses within the Project Site which will also need to be extended to accommodate the widened road. The locations are as follows:

- Underpass 1 - Chainage 735.465 (TCCS Bridge Number 1156)
- Underpass 2 - Chainage 2440 (TCCS Bridge Number 1155)
- Underpass 3 - Chainage 4650 (TCCS Bridge Number 1154).

- Protection of the Bicentennial National Trail and equestrian links:

The Bicentennial National Trail traverses The Pinnacle Nature Reserve directly south of the Belconnen suburbs of Hawker and Weetangera. The Bicentennial National Trail then crosses beneath WHD at Underpass 1. This underpass has approximately 3m vertical clearance. Between Underpass 1 and DBD, the Bicentennial National Trail is currently located within the WHD road reserve for approximately 370m. However, as noted above, TCCS will commence the process of adjusting the trail alignment near DBD to de-conflict the interface with the new shared path alignment.

- Water Sensitive Urban Design measures:

The assessment examined potential water quality and hydrology impacts, concluding that the project's drainage design largely maintains the existing flow regime, and additional drainage pipes will help improve water quality. The design addresses stormwater management for events up to the 1% Annual Exceedance Probability (AEP) rainfall. Climate change considerations indicate compliance with stormwater requirements. Proposed vegetated swales and drainage systems aim to reduce sediment transport, ensuring that water quality targets, as specified in WSUD General Code, are met.

NOTICE OF DECISION

DA 202138722

Key mitigation measures involve a water quality strategy for treating impervious areas, maintenance of flow paths, additional vegetation planting, erosion control measures, and sedimentation prevention. These measures are expected to effectively manage potential water quality and hydrology impacts during both construction and operation, meeting EPA standards and safeguarding downstream water bodies like Deep Creek.

- Emissions.

The ACT Climate Change Strategy 2019-2025 (Climate Change Strategy) outlines the next stage of the ACT Government's climate change response and identifies actions to meet the targets and prepare for climate change. As the ACT maintains 100% renewable energy into the existing network, the strategy places a strong focus on reducing emissions from transport and gas. The Project is directly aligned with these key drivers, as it will have a slightly beneficial impact on traditionally-fuelled car emissions by improving the efficiency of car travel along this section of road. By enhancing the options for private journeys to be taken as active transport into Civic through the provision of potential, future additional shared pathways, the Project could also lead the way for a small, beneficial impact on the ACT's overall emissions as the residential population in this part of the Territory increases.

Whilst there will be some minor greenhouse gas (GHG) emissions generated during the construction of the Project via the use of road-building plant and equipment, these will be mitigated through appropriate management measures as part of the CEMP.

ENTITY ADVICE and REQUIREMENTS

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

A summary of entity comments can be found below.

1. CONSERVATOR OF FLORA AND FAUNA (THE CONSERVATOR)

The Conservator provided advice on the draft EIS and DA on 19 August 2021 stating that the proposal as currently presented did not sufficiently demonstrate, with supporting evidence, that the duplication of the road achieves the best environmental outcome for biodiversity corridors and movement, nature reserve/offset management and water quality and stormwater management.

On 29 June 2022, in response to the s144C amendment application submitted by the applicant, the Conservator provided advice stating that further information and amendments were required in relation to retention of PCS access, movement of cattle and further restriction of construction boundaries. The Conservator also provided conditions of approval for other aspects of the proposal:

Fire Management

- *There should be no works under Total Fire Ban conditions. The works are adjacent to a number of bushfire prone lands, including two nature reserves. As such any ignitions are likely to impact on these reserves and potentially on the residential areas that interface with those reserves. Similarly the works are at the end of an uphill run through uninterrupted grassland fuels, and as such the work site and staff will be at risk under elevated fire danger conditions. This should be included in a CEMP for the works.*
- *Access to reserves should be maintained throughout construction.*

NOTICE OF DECISION

DA 202138722

On 30 July 2024, in response to the s144F amendment application submitted by the applicant, the Conservator provided advice stating that the proposal is supported subject to conditions:

PROPOSED CONDITIONS

- *As per the EIS - Dense *Lomandra longifolia*, *Dianella revoluta*, *Poa lab*, and native shrub plantings must be provided, to the satisfaction of PCS, along the boundary of the Kama Nature Reserve and The Pinnacle Nature Reserve (and their buffers). The purpose of this condition is to reduce light spill and weed propagule pressure into the adjacent reserves.*
- *Any Fire trail or management tracks that pass through the work site must remain passable for emergency services vehicles, PCS and PCS contractors, or an alternative route made available throughout construction.*

COMMENTS

- *The erosion and sediment control concept plan does not appear to have any controls (particularly during construction) other than water quality control swales. For instance, there does not appear to be any controls at outflow sections, including into the adjacent Nature Reserve. This should be addressed in the CEMP.*
- *The landscape plan provided contains limited information and does not include proposed plantings etc. This should be addressed in the CEMP.*
- *The draft conditions that arose from the EIS process, and discussions have been held directly with the proponent regarding these, hence why they are in a different format.*

Refer to **PART A** for conditions consistent with the Conservator's advice.

2. TRANSPORT CANBERRA AND CITY SERVICES (TCCS)

TCCS provided advice on 25 July 2024 stating that the proposal is supported.

3. ENVIRONMENTAL PROTECTION AUTHORITY (EPA)

EPA provided advice on 22 July 2024 stating that the proposal is supported subject to conditions.

The Environment Protection Authority (EPA) supports the DA subject to the following conditions of approval being included in the Notice of Decision and enforced under the Planning Act 2007.

Conditions:

Construction

- *All works must be carried out in accordance with "[Environment Protection Guidelines for Construction and Land Development in the ACT, August 2022](#)", available at [Environment protection guidelines \(act.gov.au\)](#) or by calling 132281.*
- *As the site is greater than 0.3 hectares, the construction is an activity listed in Schedule 1 as a Class B activity under the Environment Protection Act, 1997. The contractor/builder developing the site must hold an Environmental Authorisation or enter into an Environmental Protection Agreement with the Environment Protection Authority (EPA) in respect of that activity **prior to works commencing**.*

NOTICE OF DECISION

DA 202138722

- An [Erosion and Sediment Control Plan](#) (ESCP) must be submitted to and be endorsed by the EPA **prior to works commencing** on site. Any subsequent changes to the ESCP must be endorsed by EPA prior to implementation.
- Information on staging and more detailed ESCP's per stage will be required.
- All sediment and erosion control measures must be in place prior to commencing works and shall be maintained until development completion.
- Adjacent roads shall be swept clean at all times.

Contamination

Environment Protection Authority records indicate that parts of the proposed work site may be impacted by contamination and unexploded ordinance.

The following conditions apply:

- Prior to the commencement of works an environmental assessment in accordance with EPA endorsed guidelines must be undertaken by a suitably qualified environmental consultant to determine whether past activities have impacted the site from a contamination perspective and to determine what specific management measures may be required during site works;
- The consultant's assessment report and any proposed contamination management plan must be submitted to the EPA in accordance with [Information sheet 11 - EPA Report Submission Requirements](#) for review and endorsement.

General conditions

- All spoil identified at the site must be managed in accordance with [EPA Information Sheet - Spoil Management in the ACT](#).
- All soil subject to disposal from the site must be assessed in accordance with [EPA Information Sheet 4 - Requirements for the reuse and disposal of contaminated soil in the ACT](#).
- No soil is to be disposed from the site without EPA approval.

Water

- If works are being undertaken in a Water Way the contractor must obtain a Water Way Works Licence (WWWL) from the EPA;
- if the contractor is required to obtain an Environmental Authorisation for the development, then there is no need for WWWL – however, sufficient environmental controls must be detailed in the ESCP demonstrating how works in the water way will be managed.

Advice:

- Construction work, by its nature, is noisy. In these areas and when the building work will take longer than two weeks, any noisy activities, which include material deliveries and work site preparation, are only permitted between the following hours:
 - i. 7:00am to 6:00pm, Monday to Saturday;
 - ii. at all other times noise emissions must not exceed the zone noise standard of 45 dB daytime and 35 dB nighttime.
- All excavations that collect rain water during a rain storm event would be considered as a sediment control pond, and must meet the following condition:

NOTICE OF DECISION

DA 202138722

- *No discharge from pond unless sediment level is less than 60mg/litre. If sediment level is greater, then prior to discharge, the pond must be dosed with either Alum or Gypsum and allowed to settle until the sediment is less than 60 mg/litre.*

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

4. ACT HERITAGE COUNCIL (THE COUNCIL)

The Council provided advice on 30 July 2024 stating that the proposal is unlikely to damage an Aboriginal place or diminish the heritage significance of Weetangera Cemetery, subject to conditions; and that the proposed development will diminish the heritage significance of Kama Woodland/Grassland (part) and a *Heritage Act 2004* approval has been issued for this activity.

DA202138722 seeks approval for the proposed duplication and upgrades of William Hovell Drive and associated works. The amendments relate to changes to road design and associated infrastructure, updates to drainage design, relocation of utilities, traffic control device updates, lighting, landscaping and associated works.

The above proposal has interactions with the following extant heritage places:

- *Registered heritage places: Kama Woodland/Grassland (part); and Weetangera Cemetery (part);*
- *One recorded Aboriginal place: WHD1; and*
- *Two potential Aboriginal places: WHDPAD1; and WHDPAD3.*

As a delegate of the Council, I advise that the proposed development will diminish the significance of part of the Kama Woodland/Grassland, and a Heritage Act 2004 approval has been issued in relation to this heritage place. Conditions are identified to ensure adherence to this approval.

Additionally, I advise that the proposed development is unlikely to damage Aboriginal places, or diminish the significance of Weetangera Cemetery subject to conditions.

Heritage conditions identified by the Council delegate are below:

- 1. The Statement of Heritage Effect (SHE) approval, issued on 30 July 2024 under Section 61H of the Heritage Act 2004, for the Kama Woodland/Grassland must be adhered to;*
- 2. Prior to the commencement of works, protective fencing must be installed around WHD1, WHPAD1 and WHPAD3; as per the fencing recommendations of the "William Hovell Drive Duplication: Updated Aboriginal and Historical Cultural Heritage Assessment" (Past Traces 2023);*
- 3. Prior to the commencement of works, temporary barrier fencing must be installed around the two heritage Cypress trees of the Weetangera Cemetery, to ensure impacts do not occur to more than 6.6% of the TPZs;*
 - a) This fencing must be installed by, or under the supervision of, a heritage consultant and an arborist, and the Council notified in writing of the completion of this action; and*
- 4. The project's Construction Environment Management Plan (CEMP) must identify, at minimum, fencing requirements for Aboriginal places and the Weetangera Cemetery, unanticipated discovery protocols, heritage induction requirements; and be submitted to and endorsed by the Council prior to works commencing.*

NOTICE OF DECISION

DA 202138722

Should the ACT planning and land authority approve this development application, the Council delegate requests that the above heritage requirements are identified as approval conditions in the Notice of Decision.

The above conditions are consistent with prior Council advice on DA202138722 and are informed by the detailed assessment comments included in Attachment A.

Please refer to **PART A** for conditions consistent with the Council's advice. A copy of the Council's advice is attached to this Notice of Decision.

5. TREE PROTECTION UNIT (TPU)

On 28 July 2021 and 14 June 2022 the TPU provided advice stating that they have no comment on this Development Application, as the proposed public works are on unleased land and are therefore not covered by the *Tree Protection Act 2005*.

6. ACT HEALTH

ACT Health provided advice on 23 July 2024 stating that the proposal is supported subject to the implementation of measures detailed in their advice on the draft EIS dated 19 July 2021:

HPS has reviewed the documents and advises the applicant that the HPS supports the implementation of measures detailed under section 5.6.4 of the Draft EIS document including:

- *Remediation of identified contaminated sites prior to construction;*
- *The development of an Unexpected Find Protocol (UFP) under the framework of a Construction Environmental Management Plan; and*
- *The removal of fly-tipped waste (including suspected asbestos-containing materials) be carried out prior to construction.*

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

7. ACT EMERGENCY SERVICES AGENCY (ESA)

ESA provided advice on 30 July 2024 stating that the proposal is supported subject to conditions:

Firefighting Access:

While access is not an assessable requirement under this development application, access to farm gates and nature reserve gates must be maintained and not impeded by this development. Where works required may impact on access to farm gates and nature reserve gates, the developer must consult with ACT Rural Fire Service to ensure alternate access arrangements are in place or gates with no access are identified in the Emergency Services Agencies, Computer Aided Dispatch (CAD) system.

Water Supply:

Water supply for this development is not required. This excludes a portable water supply required to be present on High Fire Danger days where High-risk activities (also known as hot works) are required to be undertaken.

Bushfire Protection Requirements:

- **Trees**

Trees plantings within the following maps must be consistent with the fire management zones as outlined below.

- *301 – Where zones are identified, trees must be planted to ensure compliance with Inner Asset Protection Zone (IAPZ), Outer Asset Protection Zone (OAPZ), and Strategic Fire Management Zone (SFAZ).*
- *302 – Where zones are identified, trees must be planted to ensure compliance*

NOTICE OF DECISION

DA 202138722

- with IAPZ and SFAZ.*
- *303 – 311 – Where zones are identified, trees must be planted to ensure compliance with SFAZ.*
- *312 – 316 – Where zones are identified, trees must be planted to ensure compliance with IAPZ and SFAZ.*
- *317 – Where zones are identified, trees must be planted to ensure compliance with IAPZ and OAPZ.*
- **High Fire Danger and Total Fire Bans**
 - *High-risk activities (also known as hot works) should be delayed on days of High Fire Danger where possible. Where delaying the work is not possible, a water supply sufficient to extinguish a fire that may be started must be present at the location of the high-risk activities and must remain there for a period of 30 minutes once the high-risk activities have been completed. This water supply should be managed by someone not involved in the high-risk activity itself to ensure that someone is spotting for potential fire ignition.*
 - *High risk activities such as hot works must be suspended on days declared a Total Fire Ban by the Emergencies Services Agency Commissioner.*
 - *Any fires started across the entire development site must be reported to 000 Emergency immediately. Fires started accidentally or intentionally may attract a penalty under the Emergencies Act 2004.*
- **Bushfire Management and Response Plan**
 - *The developer should consider developing and implementing a bushfire management and response plan that identifies mitigation measure to reduce the likelihood of accidental ignitions and procedures for site management in the event of a bushfire threatening or on the site.*

Please refer to **PART A** for conditions consistent with ESA advice. A copy of ESA advice is attached to this Notice of Decision.

8. ICON WATER

Icon Water provided advice on 30 July 2024 stating that the proposal is not supported as the development fails to comply with their water and sewerage network access and asset protection requirements.

A condition requiring the development to satisfy relevant entity requirements has been imposed in **PART A**. A copy of the Icon Water advice is attached to this Notice of Decision.

9. EVOENERGY (ELECTRICITY)

EvoEnergy (Electricity) provided advice on 22 July 2024 stating that the proposal is supported subject to conditions.

A condition requiring the development to satisfy relevant entity requirements has been imposed in **PART A**. A copy of the Evoenergy advice is attached to this Notice of Decision.

10. EVOENERGY (GAS)

EvoEnergy (Gas) provided advice on 11 July 2024 stating that they have no objections to the proposed development.

An advisory note has been included in **PART A** that the development complies with relevant entity requirements.

11. UTILITIES TECHNICAL REGULATOR (UTR)

NOTICE OF DECISION

DA 202138722

UTR provided advice on 24 July 2024 stating that the proposal is supported subject to compliance with utility service requirements.

Please refer to **PART A** for conditions and advice consistent with the UTR comments.

12. NATIONAL CAPITAL AUTHORITY (NCA)

The NCA provided advice on 9 July 2024 that the proposed upgrade and duplication of William Hovell Drive is not subject to Special Requirements of the National Capital Plan and the NCA has no comment.

13. COMMONWEALTH ADVICE

In accordance with section 127A of the *Planning and Development Act 2007*, the proposed decision was referred to the Commonwealth Minister responsible for administering the EPBC Act on 20 September 2024 to provide advice within 10 working days. A delegate of the Minister advised on 8 September 2024 that the proposed decision was consistent with the EPBC approval for the project and had no further comments.

NOTICE OF DECISION

DA 202138722

ATTACHMENT 1

ADMINISTRATIVE INFORMATION RELATING TO NOTICE OF DECISION

DATE THAT THIS APPROVAL TAKES EFFECT

Unless a condition of approval provides for otherwise, this approval takes effect 20 working days after the day this notice of decision is given to every person who made a representation on the application. The effective date for development applications approved subject to conditions may also be adjusted if the approval is reconsidered by the planning and land authority or if an application is made to the ACT Civil and Administrative Tribunal.

Pursuant to section 184 of the *Planning and Development Act 2007* ([Act](#)), this approval will expire if:

- the development or any stage of the development is not started within three years after the day the approval takes effect;
- the development is not finished three years after the day the development begins; or
- the development approval relates to land comprised in a lease that requires the development to be completed on a stated date – the date stated in the lease for completion of the development, or the approval is revoked pursuant to section 189 of the Act.

Under section 184 of the Act, the applicant may apply to the planning and land authority to extend the prescribed period to finish the development, but such an application must be made within the original period specified for completion.

A development approval, to which section 184 of the Act applies, continues unless the approval ends under sections 184, 185, 186 or 187 of the Act.

Inspection of the Application and Decision

A copy of the application and the decision can be inspected between 9.00am and 4:00pm weekdays at the Environment, Planning and Sustainable Development Directorate Dickson Customer Service Centre at *8 Darling Street, Mitchell, ACT 2911*.

Submission of revised drawings or documentation

If a condition of approval requires the applicant to lodge revised drawings and / or documentation with the planning and land authority for approval pursuant to section 165 of the Act, the submission must be made by completing an application in e-development.

Reconsideration of the Decision

If the DA applicant is not satisfied with the decision made by the planning and land authority, they are entitled to apply to the planning and land authority for reconsideration within 20 working days of being told of this decision pursuant to section 191 of the Act. A longer timeframe may apply only if granted in writing by the planning and land authority pursuant to section s191(5)(b) of the Act.

More information is available online at [Amend or appeal an application - Environment, Planning and Sustainable Development Directorate - Planning \(act.gov.au\)](#).

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

NOTICE OF DECISION

DA 202138722

Review by the ACT Civil and Administrative Tribunal (ACAT)

1. Decisions that are reviewable (sometimes referred to as appeals) by the ACAT are identified in Schedule 1 of the [Act](#), except for matters that are exempted under Schedule 3 of the [Planning and Development Regulation 2008](#) (matters exempt from third party review).
2. The notice of decision and this advice have been sent to all people who made a representation in relation to the application.
3. The ACAT is an independent body. It can review a large number of decisions made by ACT Government ministers, officials and statutory authorities on their merits. The ACAT can agree with, change or reject the original decision, substitute its own decision or send the matter back to the decision maker for reconsideration in accordance with ACAT recommendations.
4. More information on appeal rights is available online at [Amend or appeal an application - Environment, Planning and Sustainable Development Directorate - Planning \(act.gov.au\)](#)
5. The ability to review the Authority's decision is a matter of law. **If** you think you have a right of review, you may apply to the ACAT for a review of the decision. Application forms can be obtained from the ACAT at the website listed below. You can also download the form from the ACT Legislation Register. It is recommended you seek independent advice in regards to such reviews eg a legal practitioner.
6. If you are applying on behalf of an organisation or association, whether incorporated or not, the Tribunal in deciding whether to support this application will consider the effect of the decision being reviewed on the interests of the organisation or association in terms of its objects or purposes. A copy of the relevant documents will be required to be lodged with the Tribunal.
7. The time limit to make a request for a review is 28 days from the date of this notice of decision. The time limit can be extended in some circumstances (refer to sections 10 (2), 10(3), 25(1)(e) and 25(2) of the *ACT Civil & Administrative Tribunal Act 2008*; and rule 38 of the *ACT Civil and Administrative Tribunal Procedures Rules 2020*.
8. Applications to the ACAT, including an application to be joined as a party to a proceeding, require payment of a fee (the Tribunal Registry will advise of the current fee), unless you are receiving legal or financial assistance from the ACT Attorney-General. You can apply to have the fee waived on the grounds of hardship, subject to approval (refer to section 22T of the *ACT Civil and Administrative Tribunal Act 2008*). Decisions to grant assistance are made on the grounds of hardship and that it is reasonable, in all the circumstances, for the assistance to be granted. Applications should be made in writing to: the Director General, Justice and Community Safety Directorate, GPO Box 158, CANBERRA ACT 2601. You can ask the ACAT for more details.
9. The ACAT is required to decide appeals in land and planning and tree protection cases within 120 days after the lodging of the appeal, unless that period is extended by the ACAT upon it being satisfied that it is in the interests of justice to do so.
10. The following organisations may be able to provide you with advice and assistance if you are eligible:
 - ACT Law Society, telephone 6274 0300ACT
 - Legal Aid Office, telephone 1300 654 314
 - ACT Council of the Ageing, telephone 02 6154 9740
 - Welfare Rights Centre, telephone 1800 226 028
 - Environmental Defender's Office (ACT), telephone 02 6243 3460.
11. You will have to pay any costs involved in preparing or presenting your case. The ACAT also has the power to award costs against a party in the circumstances specified in s 48 of the *ACT Civil and Administrative Tribunal Act 2008*. This power is in addition to the power of the ACAT to strike out a party and to dismiss an application for failure to comply with the ACAT's directions.

NOTICE OF DECISION

DA 202138722

12. You may apply for access to any documents you consider relevant to this decision under the *ACT Freedom of Information Act 2016*. Information about Freedom of information requests is available on the planning and land authority's web site at [Access to government information - Environment, Planning and Sustainable Development Directorate - Environment \(act.gov.au\)](https://www.act.gov.au/environment-planning-and-sustainable-development-directorate) or by contacting us by phone on 02 6207 1923.
13. The procedures of the ACAT are outlined on the ACAT's website, including in the Guide to the Land and Planning Division and the Guide to the Hearing. Contact the ACAT for alternative ways to access information about the ACAT's procedures.

Review by the ACT Supreme Court

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

Other approvals

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

1. **Building Approval**

Most building work requires building approval under the *Building Act 2004* to ensure it complies with building laws such as the *Building Code of Australia*. The lessee should engage a private building certifier to determine whether building approval is required and assess and approve the building plans before construction commences. A list of certifiers can be obtained from the [Environment, Planning and Sustainable Development Directorate](https://www.act.gov.au/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>.

NOTICE OF DECISION

DA 202138722

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 Allara House 15 Constitution Avenue 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 (Fax)
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 <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 - Conservation, Planning and Research - threatened species/wildlife management • <i>WorkSafe ACT</i> <ul style="list-style-type: none"> - asbestos information • <i>ACT Heritage Council</i> <ul style="list-style-type: none"> - Aboriginal, historic and natural heritage management • Tree Protection Unit <ul style="list-style-type: none"> - <i>Development Applications (DA) issue:</i> - <i>Tree Damaging Activity Applications (TDAA) issue:</i> 	www.planning.act.gov.au 02 6207 1923 EPAPanningLiaison@act.gov.au 6207 5642 worksafe@worksafe.act.gov.au 132 281 www.environment.act.gov.au 132 281 TCCS.TreeProtectionACTPLARef@act.gov.au TCCS.TreeProtection@Act.gov.au
Transport Canberra and City Services <ul style="list-style-type: none"> • landscape management and protection plan approval 	www.tccs.act.gov.au 132 281

NOTICE OF DECISION

DA 202138722

<ul style="list-style-type: none">• use of verges or other unleased Territory land• works on unleased Territory land - design acceptance• driveway inspections or building applications• damage to public assets	02 6207 0019 (development coordination) tccs.dcdevelopmentcoordination@act.gov.au
Health Directorate	www.health.act.gov.au hps@act.gov.au 02 5124 9700
Education Directorate	www.education.act.gov.au 02 6205 5429
Utilities <ul style="list-style-type: none">• Telstra (networks)• TransACT (networks)• Icon Water• Electricity reticulation	02 8576 9799 02 6229 8000 02 6248 3111 02 6293 5749

Translation and interpretation services

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

ENGLISH	If you need interpreting help, telephone:
ARABIC	: إذا احتجت لمساعدة في الترجمة الشفوية ، إتصل برقم الهاتف :
CHINESE	如果你需要传译员的帮助，请打电话：
CROATIAN	Ako trebate pomoć tumača telefonirajte:
GREEK	Αν χρειάζεστε διερμηνέα τηλεφωνήστε 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	Ako vam je potrebna pomoć prevodioca telefoniрајте:
SPANISH	Si necesita la asistencia de un intérprete, llame al:
TURKISH	Tercümana ihtiyacınız varsa lütfen telefon ediniz:
VIETNAMESE	Nếu bạn cần một người thông-ngôn hãy gọi điện-thoại:

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