Australian Capital Territory

Planning and Development (Approval of Application – DA202342246 – Construction and Alterations of Drake Brockman Drive) Notice 2025

Notifiable instrument NI2025–12

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 – DA202342246 - Construction and Alterations of Drake Brockman Drive) Notice 2025.*

2 Commencement

This instrument commences on the day after its notification day.

3 Application

- (1) This instrument applies to development application DA202342246 for the construction and alterations of Drake Brockman Drive (the *DA*).
- (2) The DA includes increasing the road width of Drake Brockman Drive from the Ginninderry estate entrance to the intersection of Cussen Street and south of the existing road reserve, upgrades to six intersections, landscaping and associated site works at Blocks 1339, 1565, 1582, 1599, 1600, 1637 and 1649 in Belconnen, and Block 12, Section 99, Holt.

4 Impact track development approval

- (1) On 28 November 2024, pursuant to the *Planning and Development Act 2007* (repealed), section 162 (1) (b), a delegate of the planning and land authority approved the DA in the impact track, subject to conditions.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.

Alexandra Kaucz Delegate of the territory planning authority 9 January 2025 Schedule



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

Construction and alterations of Drake Brockman Drive (DBD), increasing road width from the Ginninderry estate entrance to the intersection of Cussen street and south of existing road reserve, upgrades on six intersections, landscaping and associated site works,

at Blocks 1339, 1565, 1582, 1599, 1600, 1637 and 1649 of Section 00 Belconnen, and Block 12 Section 99 Holt, based on the plans, drawings and other documentation submitted with the development application.

DA Number: Block/Section/ Suburb:	202342246 / s144B / s141C 1339, 1565, 1582, 1599, 1600, 1637 and 1649 of Section 00, Belconnen and Block 12 Section 99 Holt
Application lodged:	7 February 2024, 6 May 2024 (s144B), 23 September 2024 (s141C)
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 Appendix A – Copies of Entity comments and advice

A copy of the development application and this approval may be inspected at the planning and land authority's office from 9:00 am to 4.00 pm, Monday to Friday at 8 Darling Street, Mitchell, ACT 2911



Eliza Larson Delegate of the Planning and Land Authority 28 November 2024

CONTACT / ENQUIRIES

Phone: (02) 6207 6383 Online Form: https://www.accesscanberra.act.gov.au/app/forms/epd_feedback

Authorised by the ACT Parliamentary Counsel-also accessible at www.legislation.act.gov.au

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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

The applicant must lodge an application under s165 of the *Planning and Development Act 2007* (the Act) with the planning and land authority (the authority) for approval:

a) An updated site plan, landscape plan and relevant architectural drawings showing the upgraded design of the intersections of Spofforth Street, Trickett Street and Macnaughton Street to Drake Brockman Drive in accordance with either Option A or E (submitted with s141C application). Revised documents must show any changes in accordance with endorsement from Transport Canberra and City Services as per **Condition 8** below.

to the satisfaction of the authority.

<u>Notes</u>.

i) Any substantial additional 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.

ii) consider providing all requested information under a single s165 application. This will assist the Authority in providing you a response in the most efficient manner.

iii) information must be submitted in the eDevelopment portal addressing the above conditions. Please ensure plans and supporting information are suitably named as per the Authority's naming convention, are clouded for any amendments, such clouding are labelled consistently with items listed on the s165 application form.

GENERAL CONDITIONS

2. <u>COMMENCEMENT AND COMPLETION OF DEVELOPMENT</u>

- 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.

<u>Note</u>: 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 Act.

3. ENVIRONMENTAL IMPACT STATEMENT (EIS) Exemption – 201800010

All works must be consistent with the mitigation measures in the <u>Ginninderry Planning Report</u> for <u>Section 211 Exemption</u>, dated February 2018 and the recommended EIS Exemption conditions in the <u>Ginninderry Stage 2 Urban Development - Application for EIS Exemption</u> <u>Consideration Report</u>, dated September 2018.

4. ENVIRONMENT PROTECTION AND BIODIVERSITY CONSERVATION ACT (EPBC Act)

All works must be consistent with the <u>EPBC approval decision for the endorsed Program Report</u> <u>- Urban Development at West Belconnen (the Program)</u>, dated 1 September 2017 or any subsequent approval.

5. MATTERS OF NATIONAL ENVIRONMENTAL SIGNIFICANCE (MNES)

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Works approved under DA202342246 must not clear more than 2.08 hectares (ha) of Box-Gum Woodland (BGW) threatened ecological community (TEC).

6. <u>COMPLIANCE WITH ENTITY REQUIREMENTS</u>

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

- Icon Water;
- Evoenergy (Electricity);
- Evoenergy (Gas).

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

PRIOR TO CONSTRUCTION

7. CONSTRUCTION ENVIRONMENT MANAGEMENT PLAN (CEMP)

Prior to commencement of any works, a CEMP must be prepared and submitted to the planning and land authority (<u>EPDImpact@act.gov.au</u>) 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 exemption and incorporate any other relevant management plans including, but not limited to:
 - i) Flora and Fauna Management Plan;
 - ii) Tree Management Plan;
 - iii) Heritage Management Plan addressing requirements in Condition 9 below;
 - iv) Unanticipated Discovery Plan for heritage items;
 - v) Unexpected Finds Protocol
 - vi) Erosion and Sediment Control Plan (ESCP);
 - vii) Landscape Plan;
 - viii) Bushfire Management and Response Plan;
 - ix) Waste Management Plan;
 - x) Asset Management Plan; and
 - xi) 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 Exemption and Development Application stages, including the conditions of this Decision.

8. TRANSPORT CANBERRA AND CITY SERVICES (TCCS) – WORKS NOT TO COMMENCE

The proposal must comply with the following conditions to the satisfaction of TCCS:

a) No works, including demolition and excavation, in relation to this development approval is to commence until the final intersection design option has been endorsed by TCCS and the endorsement has been provided to the planning and land authority as satisfying **Condition** 1 of approval.

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- b) Before the works commence TCCS must be notified of any existing damage to public assets via a Dilapidation Report. The applicant/lessee is held responsible for repairing any damage to ACT Government's assets, caused by the development activities, to the satisfaction of TCCS. If a Dilapidation Report is not provided, any pre-existing damage must also be repaired at the applicant/lessee's cost.
- c) A Notice of Commencement for the Works within Unleased Territory Land must be submitted to TCCS one week prior to the commencement of works. The notice must also include the confirmation of any protective measures installed in accordance with the approved Landscape Management and Protection Plan (LMPP) and the programmed implementation of Temporary Traffic Management (TTM).

9. ACT HERITAGE COUNCIL (THE COUNCIL) – WORKS NOT TO COMMENCE

The development must comply with the following conditions to the satisfaction of the Council:

- a) Prior to the commencement of any works in or within 200m of Stockdill PAD 1, the Statement of Heritage Effect (SHE) application for Stockdill PAD 1 impacts must be approved by the Council under Section 61H of the *Heritage Act 2004*, and relevant conditions of that approval must be met.
- b) Prior to the commencement of works, temporary protective fencing must be installed around possible culturally modified trees 'DBD CMT1' and 'DBD CMT2' and installed at the interface between Stockdill PAD 1 and the ground disturbing works area. This fencing must:
 - i) For DBD CMT1 and DBD CMT2: be installed 5m or greater from the drip line of DBD CMT1 and DBD CMT2;
 - ii) Consist of star pickets and high visibility flagging (or similar appropriate temporary fencing) be placed so it is adequate to physically protect the possible Aboriginal places;
 - iii) Be demarcated by, or under the guidance of, a qualified archaeologist and RAOs and once installed, the location and adequacy of protective fencing must be visually confirmed by the qualified archaeologist and RAOs;
 - iv) The Council must be notified of the completion of this action;
 - *v*) Fencing must be removed on the completion of construction activities.

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

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

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

- a) A CEMP must be developed and must address all recommendations included in the Drake Brockman Drive Stage 2 – Summary of ecological impacts and mitigation measures Environmental Report, dated 13 September 2023.
- b) Landscape plans (PLAN-202342246-GA-01) propose the planting of *Acacia howitti, Acacia iteaphylla, Eucalyptus leucoxylon* and *Melaleuca linarifolia*. These plants are not indigenous to the ACT and pose a minor weed risk, they must be replaced by locally indigenous species.

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

a) 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 EPA in respect of that activity prior to works commencing.

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b) An Erosion and Sediment Control Plan must be submitted to and be endorsed by the EPA prior to works commencing on site.

DURING CONSTRUCTION

12. CONSTRUCTION ENVIRONMENT MANAGEMENT PLAN (CEMP)

All works must be undertaken in accordance with the endorsed CEMP. Please refer to **Condition 7** above for details of the requirements of a CEMP.

13. TRANSPORT CANBERRA AND CITY SERVICES (TCCS)

- a) All works must be consistent with the obtained Letter of Design Review and associated endorsed plans.
- b) In accordance with the Public Unleased Land Act 2013, road verges and other unleased Territory land must not be used for carrying out of Works, including storage of materials or waste, without prior approval from TCCS. If required, a license can be obtained from TCCS Licensing and Compliance.

14. ACT HERITAGE COUNCIL (The Council)

- a) For the duration of works, the relevant conditions of SHE approval for Stockdill PAD 1 must be adhered to; and
- b) For the duration of works, the Unanticipated Discovery Protocol (Past Traces 2024), or other appropriate Unanticipated Discovery Protocol that complies with the Heritage Act 2004 and relevant Council policy, must be adhered to.

<u>Note</u>: Please refer to ACT Heritage Council advice included with this notice of decision.

15. ENVIRONMENT PROTECTION AUTHORITY (EPA)

a) All works must be carried out in accordance with the <u>Environment Protection Guidelines</u> for Construction and Land Development in the ACT, August 2022.

Contaminated Sites

- b) A site-specific unexpected finds protocol (UFP) must be prepared by a suitably qualified environmental consultant and implemented during construction works. The UFP must include, amongst other things, appropriate procedures for the identification, assessment, management, validation and disposal of potential contamination at the site and contractor induction procedures into the use of the UFP.
- c) All spoil identified at the site must be managed in accordance with <u>EPA Information Sheet</u> <u>- Spoil Management in the ACT</u>.
- d) All soil subject to disposal from the site must be assessed in accordance with <u>EPA</u> <u>Information Sheet 4 - Requirements for the reuse and disposal of contaminated soil in the</u> <u>ACT</u>.
- e) No soil is to be disposed from site without approval from the Office of the EPA.

16. EMERGENCY SERVICES AGENCY (ESA)

Water Supplies

a) Perimeter roads in Bushfire Prone areas are considered to be fire risk type FRT2. The proponents must seek clarification from Icon Water to determine the adequacy of existing infrastructure, including hydrant spacing, for the proposed development.

ACT Fire and Rescue Access

b) All roads and driveways for the development site must be suitably constructed to allow the access and egress of fire fighting vehicles, crews and equipment.

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Bushfire Protection Requirements:

This development is located inside the bushfire prone area as mapped by the ESA. As such, landscaping of the site locations within the mapped Asset Protection Zones must comply with the requirements below:

c) Asset Protection Zones (APZ):

APZs must provide access for firefighters (and their vehicles) to conduct fire suppression activities and provide space to evacuate if required.

d) Inner APZ:

The sites have been identified to have an inner APZ which must be maintained to inner APZ standards in accordance with the <u>ACT Bushfire Management Standards 2023</u> - Appendix 4 (Pg. 101).

Street Furniture, Landscaping and Tree Planting

ACT Fire and Rescue has the following requirements in relation to the location of street furniture, landscaping, existing trees and tree planting:

- e) In ground and above ground hydrants, other water supplies and all services shut offs must not be impeded by street furniture, landscaping, trees or be covered by materials;
- f) Hydrants must be clearly identified, easily accessible and not have vehicles parking over them; and
- g) Street furniture, landscaping and trees must not impede the progress of emergency service vehicles attending the facility. The minimum height clearance for ACTF&R vehicles is 4.5 metres. Site maintenance should include pruning of any overhanging branches over driveways and pathways.

17. WASTE MANAGEMENT

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

18. <u>LIGHTING</u>

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

19. 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.

20. <u>SIGNAGE</u>

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

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21. 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

22. CONSTRUCTION ENVIRONMENT MANAGEMENT PLAN (CEMP)

All works must be undertaken in accordance with the endorsed CEMP. Please refer to **Condition 7** above for details of the requirements of a 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 PLAN

Final stamped plans may not be released until all relevant conditions of the decision (including s165 further Information, Entity non-compliance) are complied with to the satisfaction of the authority.

2. <u>SIGNAGE</u>

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.

3. DESIGN OPTIONS CONSULTATION

Further investigation of the location and design of the access road should be in consultation with Ginninderry, TCCS and the lessees of the adjoining residential blocks to ensure community support of the proposed development.

4. WATER POLICY

The applicant is encouraged to engage consultants to review the development from a Water Sensitive Urban Design perspective and ensure compliance with the relevant requirements.

PART B – REASONS FOR THE DECISION

Proposal

The upgrade of Drake Brockman Drive (DBD) is being undertaken to facilitate the Ginninderry development, upgrade the West Belconnen Road network and increase safety for residents adjacent to DBD. Upgrades are occurring in three stages and this development application is for works for the second stage which are upgrades of DBD to the east of the Ginninderry development. The proposed works include road widening, upgrades to water infrastructure and intersections, new bicycle and pedestrian paths, associated landscaping and other works.

Legislative Requirements

The proposal was lodged and assessed under the impact track as it is a development of a kind mentioned in Schedule 4 of the *Planning and Development Act 2007* (the Act). The proposal triggers Schedule 4, part 4.3 item 1 (i), a proposal that is likely to have a significant adverse environmental

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impact on a threatened ecological community, and part 4.3 item 2 (a), a proposal involving clearing of more than 0.5ha of native vegetation.

Under section 127 of the Act, a development application for a development proposal in the impact track must include a completed Environmental Impact Statement (EIS) in relation to the proposal (unless the application is exempted under section 211 of the Act).

The proposed development is within the Ginninderry Stage 2 Urban Development EIS Exemption (EIS201800010) area, which was granted by the Minister for Planning and Land Management in September 2018. This exemption will expire on 30 June 2067. The EIS Exemption outlined the environmental impacts of the proposal and identified a range of avoidance, mitigation and management measures to reduces potential environmental impacts arising from construction and operational activities. The mitigation measures and recommended conditions for the development application identified in the EIS Exemption consideration report have been incorporated into this decision. Relevant conditions have been included under **PART A** of this decision.

Response to Representations

A total of twenty-six (26) written representations were received during the public notification period. The main issues raised in the representations and how they were considered in making this decision are noted under **PART C**.

The main concern raised by entities regarding the original proposal was the potential safety issues of the tear drop design of three intersections (Spofforth Street, Trickett Street and Macnaughton Street), which was raised by TCCS. This concern has since been resolved with TCCS supporting two possible intersection design options (Option A and Option E). Intersection design will be further strengthened during the Design Review Stage. Another concern was the validation of the supporting studies provided with the application as they were carried out at the beginning of the Ginninderry development and during Stage 1 of the DBD upgrades, which was between 2017 and 2018. In response to this issue a Heritage assessment was undertaken in 2024 by Past Traces and traffic studies are ongoing in consultation with TCCS.

Relevant conditions have been included under **PART A** of this decision.

Conclusion

In deciding the development application, 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 and relevant conditions have been included under **PART A** of this 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* (the Act). 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**.

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

EVIDENCE

Development Application: 202342246 /s144B/s141C **Territory Plan Zones:** TSZ1 – Transport and Services Zone **Development Codes:** Transport and Services Zone Development Code, Residential Zones Development Code and Non-Urban Zones Development Code Precinct Code: Holt and Higgins Precinct Map and Codes General Codes: Access and Mobility General Code, Crime Prevention through **Environmental Design General Code** Legislative requirements: The Planning Act 2023 in particular the transitional arrangements for DAs such as this made before its commencement. The Planning and Development Act 2007 in particular sections 128 and 129. As addressed in PART B and PART C of this Decision **Representations and Entity** advice:

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

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PART C – PUBLIC NOTIFICATION AND ENTITY ADVICE

PUBLIC NOTIFICATION

Pursuant to Division 7.3.4 of the Act, the application was publicly notified from 15 February 2024 to 6 March 2024. Twenty-six (26) written representations were received during the public notification period.

s144B Further Information / Amendment:

An amendment application for the proposal was lodged with the authority on 6 May 2024. This amended application was not publicly notified because no actual changes made to the layout of the road design and the response to the further information was not deemed to be sufficient.

Pursuant to section 146(3) of the Act, the authority considered that no-one other than the applicant would be adversely affected by the amendments and the revised proposal would not increase the environmental impact. Consequently, the authority waived the requirement to publicly notify the application.

s141C Further Information:

A s141C application for the proposal was lodged with the Authority on 23 September 2024 to address outstanding requirements from the ACT Heritage Council and TCCS. Further information provided included a Heritage Assessment and concept designs for three intersections. This application was not publicly notified because the road intersection designs required further improvement to satisfy TCCS requirements.

The issues raised in the representations were considered in the assessment and making of the decision for this development application. The main issues identified in the representations are summarised below and comments are provided in italics.

• Reduced verge width at the corner of Macnaughton Street, Trickett Street and DBD

The revised potential design options (Options A and E) retain current verge widths and in some cases increase verge width. The proponent has also confirmed that the intersection design will not impact on the property access way/driveway.

• Coordination of works for the projects - intersection of William Hovell Drive (WHD) and DBD

The applicant noted in their further information response that they are in discussions with the WHD project team and where necessary will plan and coordinate work to ensure minimal disruption to residents.

• Increased road noise, light pollution and signalised intersection/ oversized junction

The noise analysis has taken into consideration the proposed intersection and determined that the proposed provisions meet noise guidelines. Please refer to the noise assessment and proposed noise mitigation measures in the Design Report, which have been deemed adequate. The noise analysis report was developed to determine the impacts of the proposed design at the beginning of the project.

Low noise road surfaces are proposed to mitigate noise impacts. Additionally, the proponent has also proposed an increase in landscaping along verges to provide further mitigation for any noise increases.

Traffic lights were proposed after careful consideration of a number of options to support future traffic growth in the area. Controlled intersections provide adequate provision for vehicles but also active travel users who want to utilise the crossing. Signalised crossings will enable the safe and efficient crossing of the roadway. The proposed upgrades to DBD carefully balance safe and efficient movements for all users.

The improved provision and connection provided by three signalised intersections will provide improvements to the amenity of the area. The intersections provide for better connection between

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residents, local services and along the corridor. The proposed signalised intersections at Macnaughton, Trickett and Spofforth will also provide some alleviation and break in the traffic flow for residents exiting Cussen Street.

In regard to light pollution, the traffic lights will be located further away from the existing residents than the existing streetlights. Traffic modelling indicates that the intersections will continue to operate at a satisfactory level post implementation.

• Inadequate, misleading and substandard information

In response to the further information request for current studies, a Heritage assessment was undertaken in 2024, and traffic studies are ongoing in consultation with TCCS.

• Ecological impact – clearing high number of trees

The ecological values have been considered in this DA, per the EIA report prepared by Capital Ecology, the s211 Exemption and the West Belconnen EPBC approval. This DA seeks approval for clearing of 2.08ha of Box Gum Woodland (BGW) within the Stage 2 development area. Impacts to BGW were considered in the West Belconnen EPBC Approval with offset requirements in the Ginninderry Conservation Corridor.

A row of planted Melia azedarach along part of south verge of the existing DBD area are in poor to fair condition with many appearing stunted and in poor form, the trees will need to be removed to make way for the road duplication. Instead of relocating these trees, which are not likely to survive, new plantings of the species are included in the proposal. Plantings of groups of Melia azedarach are proposed and preparation of the ground for planting should assist in a better longterm outcome for the trees.

There is also a row of planted young Eucalyptus pauciflora along the south verge of the existing DBD, and while these trees are in good condition the structure of their root system is not suitable to be transplanted. New plantings of Eucalyptus pauciflora are included in the proposal. Within the project footprint, 510 trees are to be removed and there are to be 605 new plantings.

A search for registered trees was undertaken on 28 July 2023 on ACTmapi by the proponent and determined there are no registered trees that would be impacted by this proposal. The planting schedule may be further refined at the Design Review Stage, noting TCCS requirements for planting, including maintenance and planting species heights on road corridors.

• Partial duplication of DBD for 200m, both sides of Macnaughton St will cause more traffic noise and over speeding issues.

The partial duplication is to provide sufficient capacity at the intersection given its signalisation which has been determined utilising traffic modelling software. This 400m stretch is not in place for overtaking, it is there to support capacity at the stop line. This measure has been considered in the analysis of the road design.

Lack of public transport facilities for Ginninderry

Ginninderry aims to provide a public transport option from day 1 of the development. There are a range of non-standard inclusions for active travel to and from Ginninderry such as the 'Copenhagen' style cycle facilities. As Ginninderry continues to grow the proponent anticipates working with TCCS to provide further enhancement to these options. Ensuring DBD includes adequate provision to support future services along the corridor is the first step in this process which is demonstrated through upgraded bus stops and supporting connectivity.

• Speed limits considering traffic volume & safety and waste collection

There are no proposed changes in speed limit, the duplication is not a passing lane it is an additional lane for capacity purposes at the intersection. The proposed design and the inclusion of signalisation will further support the reduction in average speed along the corridor. There will be no change to waste collection, this has been factored into the design.

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ENTITY ADVICE and REQUIREMENTS

Pursuant to Division 7.3.3 of the *Planning and Development Act*, the application was referred to entities and a summary of entity comments can be found below.

1. TRANSPORT CANBERRA AND CITY SERVICES (TCCS)

TCCS provided advice on 27 March 2024 stating that the current design could not be supported due to safety and other design issues and information was requested for further assessment.

Further advice was received from TCCS on 30 May 2024 based on the s144B application, advising that previous comments remain relevant. Additional comments were also made for the applicant.

On 25 October 2024, in response to the s141C application and direct consultation with the applicant, TCCS provided advice stating that, as agreed with the applicant, investigation of two intersection options (A & E) as documented in the submission is supported and endorsed. It is noted that the submitted plans have only high-level details at this stage and designs will be subjected to further refinements once the preferred design option is finalised.

TCCS STANDARD CONDITIONS

The following general conditions will apply, as appropriate, for the Works and use of Territory land and potential impacts on TCCS services in addition to any specific conditions imposed in the DA Notice of Decision. In accordance with the Public Unleased Land Act 2013 no Works are to be undertaken without the approval of the TCCS. Such approval must be obtained from the relevant Senior Director of the TCCS Development Coordination Branch by the ways of a Letter of Early Works Approval, or a Letter of Design Review prior to the commencement of any Works.

Design Review generally applies to a residential development of more than 3 dwellings or any commercial or industrial developments or subdivision of any block requiring a new stormwater tie. Early Works approvals are required if the applicant wishes to expedite the process for this category of development ahead of the Design Review process.

Early Works Approval

Early works typically include site preparation and establishment, implementation of temporary traffic management plan and landscape management and protection plan and earthworks / excavations. Early Works do not include any building works or offsite works.

Fees and charges will apply for Early Works Approval as per TCCS "GEN-06 - Submissions and Inspections Guideline Principles and Related Fees and Charges for TCCS and Industry".

Design Review

In order to obtain the Letter of Design Review, fully detailed drawings (civil, landscape) prepared by suitably qualified persons for all off-site works including roads, driveways, footpaths, street lighting, stormwater, landscaping (and any other issues that may be found by audit of the plans) and a design report in accordance with TCCS "REF-06 - Requirements for Design Review Submissions", must be certified by a Chartered Engineer/Registered Landscape Architect and submitted to the relevant Senior Director of the TCCS Development Coordination Branch.

Waste and Recycling Management Plan (WRMP) review

Unless a fully completed WRMP and mandatory submission documents (in accordance with 2019 Development Control Code for Best Practice Waste Management in the ACT) have been submitted and endorsed by TCCS at the DA stage, then **noncompliance will not be supported. A performance-based-application** can only be considered if a pre-application meeting is held (before a DA is submitted) and TCCS provides the Applicant with a **letter of endorsement** which is presented to EPSDD at the DA stage.

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Operational Acceptance/Soft Landscape Consolidation Commencement

On completion of the Works, a Certificate of Operational Acceptance is required from the relevant Senior Director of the TCCS Development Coordination Branch, prior to the issuance of a Certificate of Occupancy.

Where required, a Certificate of Soft Landscape Consolidation Commencement must also be obtained from the relevant Senior Director of the TCCS Development Coordination Branch for the placement of soft landscape works on consolidation.

A Chartered Engineer/Registered Landscape Architect must certify compliance with TCCS "REF 08 - Requirements for Works as Executed Quality Records Requirements" when the request for Operational Acceptance and/or Consolidation Commencement is made to the relevant Senior Director of the TCCS Development Coordination Branch on completion of all Works.

Final Acceptance/Soft Landscape Handover

A Certificate of Final Acceptance for all civil and hard landscape works must be obtained from the relevant Senior Director of the TCCS Development Coordination Branch at the end of the required Defects Liability Period (DLP) as noted in the Certificate of Operational Acceptance.

A Certificate of Soft Landscape Handover for all soft landscape works must be obtained from the relevant Senior Director of the TCCS Development Coordination Branch at the end of the required Consolidation Period as noted in the Certificate of Consolidation Commencement.

Temporary Traffic Management (TTM)

A TTM plan approval from the Manager of TCCS Traffic Management & Safety, Roads ACT, must be obtained prior to commencement of Works. This plan must be prepared by a suitably qualified person and address, as a minimum, measures to be employed at all times during construction activities to manage all traffic, including construction and regular traffic in and around the site, provision of safe pedestrian movement around the site, the provision of parking for construction workers, and associated temporary traffic control devices.

Landscape Management & Protection Plan (LMPP)

LMPP approval must be obtained from the relevant Senior Director of the TCCS Development Coordination Branch or the delegated authority. During construction, all existing vegetation (trees, shrubs and grass) located within the verge and unleased Territory land immediately adjacent to the development must be managed, protected and maintained in accordance with the approved LMPP. This plan must be implemented before the commencement of any Works, including demolition on the site, and must be in accordance with TCCS "REF 04 - Requirements for the Protection of Public Landscape Assets Adjacent to Development Works".

Use of verges or other unleased Territory land

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

Repair of damage to public assets

Before the Works commence TCCS must be notified of any existing damage to public assets via a Dilapidation Report. The applicant/lessee is held responsible for repairing any damage to ACT Government's assets, caused by the development activities, to the satisfaction of TCCS. If a Dilapidation Report is not provided, any pre-existing damage must also be repaired at the applicant/lessee's cost.

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Notice of Commencement of construction

A Notice of Commencement for the Works within Unleased Territory Land must be submitted to TCCS one week prior to the commencement of Works. The notice must also include the confirmation of any protective measures installed in accordance with the approved LMPP and the programmed implementation of TTM.

Refer to **PART A** for conditions consistent with TCCS advice.

2. ACT HERITAGE COUNCIL (The Council)

The Heritage Council advised on 29 February 2024, that the proposed development would damage Aboriginal places and further information was needed to adequately assess the extent and nature of the proposed heritage impacts.

Further advice was received from the Council on 30 May 2024 based on the s144B application advising that further information was required to assess whether the proposed development would damage Aboriginal places or objects.

On 7 November 2024, in response to the s141C application and direct Heritage Assessment submission to the Council, the Council provided advice stating that the proposed development will damage an Aboriginal place or object, and *Heritage Act 2004* approvals will be required. The following Heritage conditions are identified to appropriately manage and mitigate proposed heritage impacts.

- 1. Prior to the commencement of any works in or within 200m of Stockdill PAD 1, the SHE application for Stockdill PAD 1 impacts is to be approved by the Council under Section 61H of the Heritage Act 2004, and relevant conditions of that approval are met;
- 2. Prior to the commencement of works, temporary protective fencing must be installed around possible culturally modified trees 'DBD CMT1' and 'DBD CMT2', and installed at the interface between Stockdill PAD 1 and the ground disturbing works area. This fencing must:
 - a) For DBD CMT1 and DBD CMT2: be installed 5m or greater from the drip line of DBD CMT1 and DBD CMT2;
 - b) Consist of star pickets and high visibility flagging (or similar appropriate temporary fencing) and be placed so it is adequate to physically protect the possible Aboriginal places;
 - c) Be demarcated by, or under the guidance of, a qualified archaeologist and RAOs and once installed, the location and adequacy of protective fencing is to be visually confirmed by the qualified archaeologist and RAOs;
 - d) The Council is to be notified of the completion of this action;
 - e) Fencing must be removed on the completion of construction activities; and
- 3. For the duration of works, the relevant conditions of SHE approval for Stockdill PAD 1 must also be adhered to; and
- 4. For the duration of works, the Unanticipated Discovery Protocol (Past Traces 2024), or other appropriate Unanticipated Discovery Protocol that complies with the Heritage Act 2004 and relevant Council policy, must be adhered to.

Refer to **PART A** for conditions consistent with Council advice. A copy of Council advice is attached to this Notice of Decision.

3. ENVIRONMENTAL PROTECTION AUTHORITY (EPA)

EPA provided advice on 28 February 2024 stating that the proposal is supported subject to the following conditions:

Construction

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- 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.
- An Erosion and Sediment Control Plan must be submitted to and be endorsed by the EPA prior to works commencing on site.

Contaminated Sites

- A site specific unexpected finds protocol (UFP) must be prepared by a suitably qualified environmental consultant and implemented during construction works. The UFP must include, amongst other things, appropriate procedures for the identification, assessment, management, validation and disposal of potential contamination at the site and contractor induction procedures into the use of the UFP;
- 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 site without approval from the Office of the Environment Protection Authority.

For further information please contact the Environment Protection Authority Planning Liaison at <u>EPAPlanningLiaison@act.gov.au</u> or on 02 6207 5642.

Refer to **PART A** for conditions consistent with EPA advice.

4. <u>CONSERVATOR OF FLORA AND FAUNA (the Conservator)</u>

The Conservator provided advice on 26 February 2024, stating that the proposal is supported subject to the following conditions / advice:

- A CEMP must be developed, addressing all the recommendations included in the Environmental Report (accompanying the DA), to the satisfaction of the Conservator.
- Landscape plans (PLAN-202342246-GA-01) propose the planting of Acacia howitti, Acacia iteaphylla, Eucalyptus leucoxylon and Melaleuca linarifolia. These plants are not indigenous to the ACT and pose a minor weed risk, they should be replaced by locally indigenous species.

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

5. <u>EMERGENCY SERVICES AGENCY (ESA)</u>

ESA provided advice on 1 March 2024 stating that the proposal is supported subject to conditions / advice.

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

6. WATER POLICY

Water Policy provided advice on 22 February 2024, stating that the applicant is encouraged to engage consultants to review the development from a WSUD perspective.

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The advice was considered and noted in PART A.

7. ICON WATER

Icon Water provided advice on 28 February 2024, stating the proposal Failed to Comply.

Icon Water provided advice on 30 May 2024 on the s144B application stating the proposal is supported subject to conditions.

A condition has been included in **PART A** requiring compliance with Icon Water conditions. A copy of Icon Water advice is attached to this Notice of Decision.

8. EVOENERGY (ELECTRICITY)

Evoenergy (Electricity) provided advice on 19 February 2024, stating that the proposal is supported subject to conditions.

A condition has been included in **PART A** requiring compliance with Evoenergy (electricity) conditions. A copy of the advice is attached to this Notice of Decision.

9. EVOENERGY (GAS)

Evoenergy (Gas) provided advice on 9 February 2024 stating that the proposal is supported subject to conditions.

A condition has been included in **PART A** requiring compliance with Evoenergy (gas) conditions. A copy of the advice is attached to this Notice of Decision.

10. 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 15 November 2024 to provide advice within 10 working days. A delegate of the Minister provided advice on 26 November 2024 noting the draft conditions of approval.

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ATTACHMENT 1

ADMINISTRATIVE INFORMATION RELATING TO NOTICE OF DECISION

Inspection of the Application and Decision

A copy of the application and the decision can be inspected at planning and land authority's office from 9:00 am to 4.00 pm, Monday to Friday at 8 Darling Street, Mitchell, ACT 2911.

Reconsideration of the Decision

If the DA applicant is not satisfied with the decision made by the Authority, they are entitled to apply to the 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 Authority pursuant to section s191(5)(b) of the Act.

More information is available online at <u>Amend or appeal an application - Environment</u>, <u>Planning and</u> <u>Sustainable Development Directorate - Planning (act.gov.au)</u>.

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

Review by the ACT Civil and Administrative Tribunal (ACAT)

- Decisions that are reviewable (sometimes referred to as appeals) by the ACAT are identified in Schedule 1 of the <u>Act</u>, except for matters that are exempted under Schedule 3 of the <u>Planning</u> <u>and Development Regulation 2008</u> (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 <u>Amend or appeal an application -</u> 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

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

Review by the ACT Supreme Court

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

Other approvals

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

1. <u>Building Approval</u>

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

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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 <u>Environment, Planning and Sustainable Development Directorate</u>.

2. <u>Tree damaging activity approval</u>

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 <u>https://www.tccs.act.gov.au/city-living/public_land_use</u>.

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

	1
ACT Civil and Administrative Tribunal	www.acat.act.gov.au
Allara House	tribunal@act.gov.au
15 Constitution Avenue	02 6207 1740
CANBERRA CITY ACT 2601	02 6205 4855 (Fax)
GPO Box 370, CANBERRA, ACT 2601	
ACT Supreme Court	www.courts.act.gov.au
4-6 Knowles Place,	02 6205 0000
CANBERRA CITY ACT 2601	
GPO Box 1548, CANBERRA CITY, ACT 2601	
Environment, Planning and Sustainable	www.planning.act.gov.au
Development Directorate	02 6207 1923
480 Northbourne Avenue	
DICKSON ACT 2602	
GPO Box 158, CANBERRA 2601	
Planning and land authority	
 list of certifiers for building approval 	
 demolition information 	

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 Environment Protection Authority environment protection water resources Conservation, Planning and Research threatened species/wildlife management WorkSafe ACT asbestos information 	EPAPlanningLiaison@act.gov.au 6207 5642 worksafe@worksafe.act.gov.au
 ACT Heritage Council Aboriginal, historic and natural heritage management Tree Protection Unit Development Applies tiene (DA) issues 	132 281 <u>www.environment.act.gov.au</u> 132 281 TOCC TreeProtection (CTP) (ABef@eet.gov.au
 Development Applications (DA) issue: Tree Damaging Activity Applications (TDAA) issue: 	TCCS.TreeProtectionACTPLARef@act.gov.au
Transport Canberra and City Services	www.tccs.act.gov.au
 landscape management and protection plan approval 	132 281
 use of verges or other unleased Territory land works on unleased Territory land - design acceptance 	02 6207 0019 (development coordination)
 driveway inspections or building applications damage to public assets 	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	
Telstra (networks)	02 8576 9799
TransACT (networks)	02 6229 8000
Icon Water	02 6248 3111
Electricity reticulation	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.

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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 gñandek bżonn I-gñajnuna t'interpretu, cempel:	
PERSIAN	اگر به ترجمه شفاهی احتیاج دارید به این شماره تلفن کنید:	
PORTUGUESE	Se você precisar da ajuda de um intérprete, telefone:	
SERBIAN	Ако вам је потребна помоћ преводиоца телефонирајте:	
SPANISH	Si necesita la asistencia de un intérprete, llame al:	
TURKISH	Tercümana ihtiyacınız varsa lütfen telefon ediniz:	
VIETNAMESE	Nếu bạn cần một người thông-ngôn hãy gọi điện-thoại:	
TRANSLATING AND INTERPRETING SERVICE		
131 450		
	Canberra and District - 24 hours a day, seven days a week	

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