



**ACT**  
Government

Environment and Planning

# Notice of decision

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

## Merit track

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DA NO: 201629628		DATE LODGED: 21/06/2016
DATE OF DECISION: 02/09/2016		
BLOCK: 4	SECTION: 41	SUBURB: LYNEHAM
STREET NO AND NAME: 136 Brigalow Street Lyneham		
APPLICANT: SQC Architecture		
LESSEE: Brindabella Christian Education Limited		

### THE DECISION

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

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

- **the construction of a school building comprising 15 classrooms and an assembly area;**
- **removal of regulated Trees 75, 78 and 81; and**
- **associated works;**

in accordance with the plans, drawings and other documents and items submitted with the application.

This decision is subject to the conditions of approval at **PART 1** being satisfied.

**PART 2** sets out the Reasons for the Decision

**PART 3** is Public Notification and Entity Advice.

**PART 4** contains administrative information relating to the determination.

### DELEGATE

George Cilliers

Delegate of the planning and land authority

Environment and Planning Directorate

02/09/2016

### CONTACT OFFICER

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## **PART 1**

### **CONDITIONS OF APPROVAL**

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

#### **A. ADMINISTRATIVE / PROCESS CONDITIONS**

##### **A1. OCCUPANCY AND USE**

The building approved in this decision must not be used until existing Building-D and two demountable type classrooms are disconnected permanently from all utility services to them. Evidence of disconnection of utility services must be provided to the planning and land authority prior to the issuance of Certificate of Occupancy and Use for the new building.

##### **A2. 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 must lodge with the planning and land authority for approval a full set of all the drawings addressing minor inconsistencies between the drawings i.e. inconsistent notations, identification of existing buildings etc. These drawings include, but are not limited to the Survey Plan and drawings by Sellick Consultants.

#### **B. PRIOR TO CONSTRUCTION AND/OR DEMOLITION**

##### **B1. SEDIMENT AND EROSION CONTROL**

That prior to any work on the site commencing, the applicant/lessee must submit two copies of the sediment and erosion control plan to Environment Protection Authority for approval.

##### **B2. TREE PROTECTION**

Tree protection fencing, if required, must be erected prior to the commencement of any work on the site.

##### **B3. VERGE MANAGEMENT**

A verge management plan must be approved by the Asset Acceptance- Transport Canberra and City Services Directorate (TCCS) and implemented before the commencement of any work on the site, and is to be in accordance with the *City Management Guidelines for the Protection of Public Landscape Assets Adjacent to Development Works-REF-04*.

##### **B4. TRAFFIC MANAGEMENT**

A Temporary Traffic Management (TTM) Plan must be prepared by a suitably qualified person and approved by the Manager, Traffic Management & Safety, Roads ACT, Roads and Public Transport Division, Territory and Municipal Services Directorate (TAMSD) prior to commencement of any work on the site. This plan is to address, as a minimum, measures to be employed during construction to manage all traffic, including construction traffic, in and around the site, provision of safe pedestrian movement around the site, the provision of parking for construction workers, and associated traffic control devices.

**B5. COMPLIANCE WITH ENTITY REQUIREMENTS**

The development must comply with all the relevant conditions imposed by each of the relevant entities which states in each of their advice that need to be addressed prior to construction commencing (Refer Part 3 of this decision).

**C. DURING CONSTRUCTION AND/OR DEMOLITION****C1. SEDIMENT AND EROSION CONTROL**

All unsurfaced entry and exit points must be consolidated with crushed aggregate or similar extending from the road kerb to the building line.

Temporary sediment controls – comprising, as a minimum, geotextile silt fencing along the lowest points of the site and hay bale filters as required – are to be installed and maintained at least daily to prevent sediment from reaching the stormwater mains system.

**C2. TREE PROTECTION**

The applicant/lessee shall protect and maintain all existing trees and shrubs located on the subject site, on adjoining blocks overhanging the subject site, on the verge and unleased Territory land immediately adjacent, except for those specifically identified for removal in the approved drawings and a Tree Management Plan. Tree protection measures should be implemented if equipment or materials are to be stored where there are regulated trees on site.

**C3. VERGE MANAGEMENT**

During any work undertaken on the site, all existing vegetation (trees, shrubs and grass) located on the verge and unleased Territory land immediately adjacent to the development shall be managed, protected and maintained in accordance with a Landscape Management Plan approved by the Manager, Asset Acceptance, Operational Support, Directorate Services, TCCS.

**C4. TRAFFIC MANAGEMENT**

At all times, the site and surrounds shall be managed in accordance with the approved Temporary Traffic Management (TTM) Plan.

**C5. WASTE MANAGEMENT**

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

**C6. COMPLIANCE WITH ENTITY REQUIREMENTS**

The development must comply with all the relevant conditions imposed by each of the relevant entities which states in each of their advice that need to be addressed during the construction (Refer Part 3 of this decision).

**C7. EDUCATION AND TRAINING DIRECTORATE (ETD)**

The issues raised by the ETD in relation to construction traffic, timing, parking, safety and pollution must be addressed to the satisfaction of ETD.

**D. POST CONSTRUCTION AND/OR DEMOLITION**

- D1. DEMOLITION OF BUILDING-D AND REMOVAL OF DEMOUNTABLE CLASSROOMS  
Existing Building-D must be demolished and the two demountable classrooms must be removed within six months from issuing of the Certificate of Occupancy and Use for the new building.

**E. 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.*

**E1. ENTITY ADVICE**

The applicant is advised to carefully consider all the relevant advice (in addition to the conditions imposed) from each of the entities stated in Part 3 of this decision throughout the process of development (prior to, during & post construction) as applicable.

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

**PART 2  
REASONS FOR THE DECISION**

The application satisfactorily meets the requirements for approval. The application was approved because, based on the documentation and in the form modified by the imposed conditions, it was considered to meet the relevant codes, including the Lyneham Precinct Map and Code and the Community Facility Zone Development Code

The key issues identified in the assessment are the comments received from entities, including the advice received from the Conservator of Flora and Fauna (the Conservator) for the proposed removal of regulated Trees 75, 78 & 81; and the representations received in relation to the proposal.

Conditions have been imposed to address the key issues raised by the entities and ensure that the proposal is consistent with the Territory Plan and the *Planning and Development Act 2007*.

The representors, amongst other matters, raised concerns that the school may not demolish existing Building-D and remove the two demountable type classrooms following the completion of the new school building, and that these buildings may still be used as classrooms and may increase the student numbers resulting in a greater demand on available parking, and increased traffic, particularly on Brigalow Street.

The proponent claims that the proposed development will accommodate existing students from Building-D and two demountables, therefore these buildings will be demolished once the proposed building is completed. Therefore there will not be any additional traffic impacts or parking requirements.

The above issue was referred to and considered by the Major Projects Review Group's (MPRG) within the planning and land authority. The MPRG noted that the traffic and

parking studies provided with the development application (DA) have considered traffic impacts and parking requirements with the retainment of Building D and demountable classrooms. However, the MPRG advised that the proposed bicycle parking provision would not be adequate, and there may be negative traffic impacts on Brigalow Street if Building-D and the demountable classrooms remain operational. Therefore, the MPRG formed the view that prior to the use of the proposed new building, Building-D and the demountable classrooms must be decommissioned by permanently disconnecting them from all the utility services. The MPRG furthermore suggested that the transfer of students from existing buildings to the new building can take place during school holidays without affecting the students' educational activities. Accordingly, the MPRG advised that the proposal can be approved with appropriate conditions to effect the above (see Conditions A1 and D1). A six month timeframe was included for this purpose to demolition and removal of buildings to occur over two school holiday breaks.

Other representations received in relation to the application have been addressed where deemed necessary under the **PUBLIC NOTIFICATION** section of this decision.

The MPRG noted the Conservator of Flora and Fauna's advice with regard to regulated tree numbers 75, 78 & 81 which are of medium and medium to high quality (see ENTITY ADVICE). The MPRG took into account that the tree species in concern tend to drop their limbs/branches unexpectedly was therefore not suitable within an environment used frequently by children/students. The MPRG furthermore noted the proponents' claim that it is not practical to design a building around these trees whilst retaining the trees and, if it was possible, that such a building would be unable to provide functional efficiency.

It was considered that the development site was constrained and limited in terms of development opportunities, and that the proposed development will still retain other regulated trees. There is no other reasonable place within the development site to construct a building which will be able to provide all facilities within one building.

Following deliberation, the MPRG formed the view that there are no other reasonable alternatives to the proposal, and that the removal of concerned regulated trees can be supported pursuant to Section 119(2) of the *Planning and Development Act 2007*.

The decision is inconsistent with advice received from the Conservator of Flora and Fauna. However, pursuant to section 119 (2) of the *Planning and Development Act 2007*, the advice received has been considered, as well as any relevant guidelines and any realistic alternative to the development proposed or aspects of it. A decision to approve this application is consistent with the objectives of the Territory Plan.

## **EVIDENCE**

**Application No. 201629628**

**The Territory Plan zone – Community Facility Zone**

**The Development Codes – Community Facility Zone Development Code**

**The Precinct Codes – Lyneham Precinct Map and Code**

**Current Crown Lease – Volume 86 Folio 56**

**Representations**

**Entity advice**

## PART 3 PUBLIC NOTIFICATION AND ENTITY ADVICE

### PUBLIC NOTIFICATION

Pursuant to Division 7.3.4 of the Act, the application was publicly notified from 27/06/2016 to 18/07/2016. Twenty one written representations were received during public notification.

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

- (a) *Survey does not recognise the Margaret Sargent Building as a partially double storey building*

Response: Survey plan information is typically used to identify the location of buildings and other features on a block in relation to each other. The heights of the Margaret Sargent Building are not identified on the Survey Plan. The assessing officer familiarised himself with the heights of the existing buildings on the block.

- (b) *Survey does not recognise demountable building on the eastern boundary*

Response: The applicant provided adequate information (by means of a revised site plan) showing the demountable classrooms.

- (c) *The DA does not provide a clear understanding of Brindabella Christian College future expansions, and associated future transport needs*

Response: The current application is for construction of a new building as shown on the plans submitted with the application. A proponent is not required under the Territory Plan to provide its future development intentions with a development application. Any further future development proposal will be assessed on its merit when a development application for such works are lodged with the planning and land authority.

- (d) *Availability of the Parking report*

Response: A Traffic and Parking report was submitted by the applicant. The report was supported by the Transport Canberra and City Services (TCCS) and EPD's Major Projects and Transport Section (MPAT).

- (e) *No verge management appears in the DA*

Response: The applicant will be required to submit a Verge Management Plan to TCCS as a part of Design Acceptance process prior to commencement of the development. The current proposal does not propose any works on the verge.

- (f) *The services drawings by Sellick Consultants refer to this development as a Sports Hall development*

Response: This error appears to be a typological error and it did not affect the assessment of the proposal. A condition of approval is included in this decision to address the issue (Condition A2).

- (g) *The plan to move from double to triple streaming will result in student numbers around 150% of 2015 figures. It is not clear if the demountable classrooms are staying or going*

Response: The applicant claims that the student numbers will not increase due to the current proposal as existing Building-D and demountables are to be demolished or removed with the completion of the new buildings. Conditions of approval are included in this decision to address this concern. (Conditions A1 & D1).

- (h) *The DA document covering WSUD uses an incorrect definition of site*

Response: The WSUD report prepared by the consultants and submitted with the DA adequately address the requirements.

- (i) *No demolition plan is provided*

Response: The applicant provided a revised site plan showing buildings to be demolished.

- (j) *The only entrance and exit for the building seem to be at the eastern end of the south wall, near the staff room. Both levels of the building are to be entranced and exited at this point. This seems to be hopelessly inadequate for normal movement of 360 students on a daily basis*

Response: Access and egress paths are considered as part of the building approval stage.

- (k) *Siting of the proposed building is on top of the present sports area, which is used regularly during the day for sports activities and extensively during student breaks from classes. During and at completion of the construction this space will no longer be available. Where are students to go? The proposed building will replace 1.5 netballs courts of play area for the school, on a site which is already largely developed. Where are these courts being replaces, as this is not shown in this proposal?*

Response: This is not a matter which can be considered under the Territory Plan. The proposal was referred to Education and Training Directorate. The Education and Training Directorate did not raised any related issues.

- (l) *Height of the proposed building*

Response: The two storey height of the proposed building is consistent with the height requirements of the Community Facility Zone Development Code (CFZDC).

- (m) *The signage as shown on the image on the cover sheet is not included in the DA*

Response: Signage has not been applied for as part of this DA.

- (n) *This proposal requires the removal of a number of significant trees which are integral to and compliment the urban streetscape along Brigalow Street. No replacement landscaping is proposed*

Response: The development proposed to remove three regulated trees which was supported by the MPRG (refer to **REASONS FOR THE DECISION**)

- (o) *It is clear that the proponent has additional development and demolition plans so the presence of other viable locations on site seems likely and has not been fully explored by this DA*

Response: The DA was assessed only for the subject proposal. There is no requirement to consider other possible options when assessing a proposal.

- (p) *Concerned that the metal screening applied to the façade will give an appearance of an industrial looking blank wall and that the design on it will be clear enough that it amounts to a very large sign*

Response: There are no provisions in the applicable development codes to control aesthetic appearance of a building. The treatment of the external facades of the proposed building is not inconsistent with the requirements of the applicable development codes.

- (q) *Boundary setbacks*

Response: The proposal is not inconsistent with the boundary setbacks stipulated in the CFZDC.

- (r) *Streetscape character*

Response: The proposed two-storey building is not considered beyond that which would normally be expected for standard development allowable under the Code in Community Facility Zone. The development, whilst creating some impact, is not considered to be so detrimental to the street or surrounding development as to warrant refusal or redesign of the proposal

- (s) *Density*

Response: There is no applicable plot ratio for the subject block. Site density of the block will be determined by controls in the development codes such as boundary setbacks, height, building envelope, interface and location of regulated trees etc. The proposal is not inconsistent with these requirements.

- (t) *The proposed building is designed to accommodate a future major increase in enrolment. Student numbers at local schools are presently at peak demographically*

Response: These matters cannot be considered under the Territory Plan. However, the applicant states that there will not be any increase to the existing student numbers (refer to response at above item-g).

- (u) *Clearance around substation*

Response: Actew Electrical Division supported the proposal with conditions (see ENTITY ADVICE).

- (v) *Proposed landscape designs*

Response: Proposed landscape design is not inconsistent with the Code requirements.

- (w) *Increased traffic/traffic noise and adequacy of parking*

Response: The proposal was referred to TCCS and MPAT and both TCCS and MPAT supported the proposal with or without conditions.



- (x) *The pedestrian crossing that is currently located near Brindabella Christian College is not well marked, the lighting in the evening on this crossing is also inadequate*

Response: The proposal was supported by TCCS. Any related issues may be brought to the attention of TCCS by telephone 132281 for investigation.

- (y) *Like to see more use of bus transport for the Lyneham Brindabella Christian College campus; Frequently students of the local schools are dropped off at St. Ninian's and adjacent streets; Brindabella Christian College should run in house parent education on traffic behaviour, as it is reflecting badly on the school and causes upset and grievances in the neighbourhood*

Response: The above matters cannot be addressed through the development application process. The issues may be brought to the attention of Brindabella School for a response.

- (z) *The school is using community land for parking purposes*

Response: The school is using un-leased Territory land for car parking under a licence agreement between the Government and the Brindabella Christian College.

- (aa) *The current car parking is not well maintained*

Response: The issue cannot be addressed through this DA process. The issue may be brought to the attention of the Chief Minister Treasury and Economic Development Directorate for a response if future action is required.

- (bb) *Unauthorised or illegal car parking*

Response: The issue cannot be addressed through the DA process. If it arises, may be brought to the attention of Justice and Community Safety Directorate/TCCS (for illegal car parking) or to the owner of a particular car park (for unauthorised car parking) for investigation.

- (cc) *The school should be required to provide underground parking on their own land; There is plenty of space on their grounds, surely they can construct a larger car park and drop off area; What is the Brindabella Christian College strategy to resolve limited parking issue? I recommend to put up 'Pay parking meters' to ensure appropriate control of supply & demand of car parking spaces and funding for maintenance; Current reshaping work on the carpark to improve drainage is unlikely to rectify this situation; The proponent had years to seal and landscape the carpark. This DA does not include plans to improve this;*

Response: These are not matters which can be considered through this development application process. The suggestions may be brought to the attention of the school for consideration.

- (dd) *The DA does not provide the required motorcycle or disabled parking spaces as required by the parking assessment, in fact no parking plan is provided*

Response: Parking report provided with the DA is supported by MPAT. The applicant provided a revised site plan showing above parking requirements as required by the relevant General Codes.

- (ee) *Construction parking, construction site access, construction plant and traffic control, timing, noise, access to neighbouring properties*

Response: All the construction work must be carried out in accordance with the relevant accepted standards within the ACT. The proposal was referred to ETD, EPA and TCCS and these entities have supported the proposal with conditions. Any related issues may be brought to the relevant entity as applicable.

## ENTITY ADVICE

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

### CONSERVATOR OF FLORA AND FAUNA

On 30/06/2016 advice was received from the Conservator of Flora and Fauna in relation to the proposal. The advice states that the proposal is not supported:

*Ref : Drawing 1/1 Landscape Concepts & Proposed Tree Replacements , Revision 1, dated 30/5/2016.*

*There are no non-development related criteria which could be found to support the removal of the three regulated trees requested for removal as part of the proposed development.*

*The trees are noted for removal are as follows: Numbers 75, 78 and 81.*

*Tree 75, Quercus palustris, Large medium-high quality. Located next to existing building north side of the block.*

*Tree 78, Ulmus procera, medium quality, co-dominant. Located next to existing basketball court.*

*Tree 81, Large medium-high quality, Quercus palustris. Located adjacent to Brigalow Street.*

*It was noted that the site contains a wide mix of mature, semi-mature and young trees within the total landscape and that the school is located on quite a small block.*

*No other regulated trees on the site will be affected if the development if it is approved, however tree protection measures should be implemented if equipment, or materials are to be stored where there are regulated trees on site.*

In response to above comments, the applicant requested the planning and land authority to depart from the Conservator's advice and approve the removal of concerned regulated trees pursuant to s119(2) of the Act. The proposal was referred MPRG for further advice and the MPRG supported the removal of regulated Trees 75, 78 & 81 (see **REASONS FOR THE DECISION**).

### TRANSPORT CANBERRA AND CITY SERVICES DIRECTORATE (TCCS)

On 13/07/2016 advice was received from TCCS in relation to the proposal. The advice states that the proposal is not supported and further information required:

#### Comments

- The proponent needs to submit a traffic impact assessment (TIA) report to support the proposed expansion of the school. This report must analyse any impact on public road network including safe entry / exit (gap analysis, que length, storage capacity etc) of all road users in particular during school peak hours. Adequacy of the bus bays of the expanded school must be demonstrated. This report also needs to recommend appropriate mitigation measures for the traffic impacts (if there any) due to the proposed development. A recent traffic volume count by Roads ACT on the frontage road has been attached for information and consideration in the traffic analysis. However the traffic report should consider future traffic volume on this road after completion of light rail and potential densification of the area.*

2. *The proponent needs to submit a waste management plan in accordance with the Development Control Code for Best Practice Waste Management in the ACT (Waste Code) 2014 for the construction activity and post construction arrangement of the school. If waste collection is proposed on the adjacent land then status of the license arrangement must be mentioned.*

*TCCS Asset Acceptance would be happy to work with the proponent to resolve above issues.*

The applicant liaises with TCCS to resolve the issues in concern, and on 08/08/2016 advice was received from TCCS supporting the proposal with conditions:

Conditions

1. *This development application (DA 201629628) is supported based on the traffic statement (dated 15 July 2016) provided by Northrop Consulting Engineers. This traffic statement confirmed that an existing building will be demolished to keep existing capacity of the school and no traffic impact assessment is required. However no details of the demolition work and time frame have been mentioned in the traffic statement. The proponent must agree on the proposed demolition work and possible time frame with Environment and Planning Directorate (EPD) Merit Assessment Team.*
2. *A Temporary Traffic Management Plan (TTMP) approval must be obtained from the Manager, Traffic Management & Safety, Roads ACT, TCCS. All times during construction the site and surrounds shall be managed in accordance with a Temporary Traffic Management Plan, prepared by a suitably qualified person and approved by the Manager, Traffic Management & Safety. This plan is to address, as a minimum, measures to be employed during construction to manage all traffic, including construction traffic, in and around the site, provision of safe pedestrian movement around the site, the provision of parking for construction workers, and associated traffic control devices.*
3. *Landscape Management & Protection Plan (LMPP) approval must be obtained from the Senior Manager, Asset Acceptance, TCCS. During construction, all existing vegetation (trees, shrubs and grass) located on the verge and unleased Territory land immediately adjacent to the development shall be managed, protected and maintained in accordance with the Landscape Management Protection Plan (LMPP) approved by the Senior Manager, Asset Acceptance, TCCS. This plan is to be implemented before the commencement of works, including demolition on the site and is to be in accordance with TCCS Guidelines for the Protection of Public Landscape Assets Adjacent to Development Works-REF-04.*

Matters raised have been incorporated as either conditions of approval or advice (Conditions B5, C6 and Advisory Note E1).

ENVIRONMENT PROTECTION AUTHORITY (EPA)

On 26/07/2016 advice was received from EPA in relation to the proposal. The advice states that the proposal is supported with conditions:

*Advice:*

*EPA records indicate that underground fuel storage facilities are located at the site.*

*Section 6 of the ACT Environment Protection Authority "Environmental Guidelines for Service Station Sites and Hydrocarbon Storage", 2014 requires "All decommissioned tanks must be removed unless there are specific operational or structural reasons as to why they must remain". Following the removal of the tanks an environmental assessment must be undertaken in accordance with the requirements of the Contaminated Sites Environment Protection Policy, ACT EPA 2009.*

*The EPA would support Development Application subject to the following conditions:*

*Conditions:*

*During demolition, if any, and prior to the commencement of new development works:*

*The underground fuel storage tank and related infrastructure must be removed in accordance with the WorkSafe ACT requirements;*

*The site and any off-site impacted areas (including groundwater, if necessary) must be assessed and remediated (if required) by a suitably qualified environmental consultant in accordance with the ACT Environment Protection Authority (EPA) Contaminated Sites Environment Protection Policy 2009, and associated guidelines;*

*A copy of the environmental site assessment report into the suitability of the site for its permitted uses must be provided to the EPA for review and endorsement within 15 days of completion of the report;*

*Any contaminated soil landfarmed on site must be approved by EPA prior to landfarming commencing;*

*Any soil disposed of from the site must be assessed in accordance with the requirements of EPA Information Sheet No.4 available at [www.environment.act.gov.au](http://www.environment.act.gov.au).*

*No material is to be removed from site without EPA approval.*

*All works must be carried out in accordance with "Environment Protection Guidelines for Construction and Land Development in the ACT, March 2011", available by calling 132281.*

Matters raised have been incorporated as either conditions of approval or advice (Conditions B5, C6 and Advisory Note E1).

#### ActewAGL Electrical Division

On 06/07/2016 advice was received from Actew Corporation in relation to the proposal. The advice states that the proposal is not supported (attached).

The applicant liaises with Actew to resolve the issues in concern (provided additional information), and on 15/08/2016 advice was received from Actew supporting the proposal with conditions (attached).

Matters raised have been incorporated as either conditions of approval or advice (Conditions B5, C6 and Advisory Note E1).

#### Actew gas networks

On 28/06/2016 advice was received from Jemena in relation to the proposal. The advice states that the proposal is supported with conditions (attached).

Matters raised have been incorporated as either conditions of approval or advice (Conditions B5, C6 and Advisory Note E1).

#### Icon Water

On 29/06/2016 and on 12/08/2016 advice was received from Icon Water in relation to the proposal. The advice states that the proposal is supported with conditions (attached).

Matters raised have been incorporated as either conditions of approval or advice (Conditions B5, C6 and Advisory Note E1).

#### Education and Training Directorate (ETD)

On 14/07/2016 advice was received from ETD in relation to the proposal:

*The Education Directorate wishes to submit the following comments and conditions in relation to DA 201629628:*

1. *The Education Directorate would like a construction traffic management plan prepared for the development.*
2. *The Education Directorate requests that access to Brigalow Street by construction vehicles associated with the works proposed in the DA be undertaken outside of the peak pick-up drop-off times of the school during school term (ie 8.30-9.30am and 3.00-4.00pm). This request is to ensure the safety of students travelling to schools along Brigalow Street and the functionality of Brigalow Street. Please consult with EDU if there are any issues regarding this request.*
3. *A temporary 1.8m high security fence be provided around the demolition/construction works, unless the construction is in a secured area. This is to ensure the safety of primary school students accessing Lyneham Primary School.*
4. *The Education Directorate would like information on where construction vehicles will access the site.*
5. *Proof of the provision of sufficient parking for the construction workers is to be provided to ensure there is no usage of car parking usually utilised by school staff, visitors or parents of students.*
6. *Ensure visibility for the entrance way of the construction works to ensure safety of students walking to school.*
7. *The Education Directorate request that a Traffic impact and parking assessment report be provided to show that the school's current parking arrangements and Brigalow Street can accommodate increased usage resulting from the proposed development.*
8. *Consideration of the noise impact on the Lyneham Primary School and Lyneham High School from 9-3pm (Monday to Friday). Building activities involving high noise levels should be minimised during school hours. Here is the link to the school calendar:  
[http://www.det.act.gov.au/school\\_education/term\\_dates\\_and\\_public\\_holidays](http://www.det.act.gov.au/school_education/term_dates_and_public_holidays)*

The applicant liaises with ETD to resolve the issues in concern, and on 23/08/2016 advice was received from ETD supporting the proposal:

*The Education Directorate supports Development Application 201629628 for Block 4 Section 41 Lyneham.*

*..... note that the proponent has addressed our comments relating to the proposed development's impact on car parking and the local street network and student safety.*

## **INTERNAL REFERRAL**

### Transport Planning

On 14/07/2016 advice was received from EPD Major Projects and Transport (MPAT) in relation to the proposal. The advice states that:

*Comment: Major projects and Transport has reviewed the information provided and note the following:*

- *The area is already under high parking pressure with the survey indicating that the car parks identified are at 90%+ capacity during peak periods.*
- *The DA officer may wish to request further information from the applicant to identify what alternative options and arrangements could be introduced to reduce the demand for car parking (ie. A workplace travel plan). The DA officer may also wish request information that indicates where short stay (pick up/ drop off spaces) and long stay spaces will be located.*
- *Northrop has suggested a reduction in long stay parking of 50% for the new development if 3 spaces are provided for teaching staff. It is unclear why this reduction is appropriate.*
- *The applicant has noted the requirement to provide motorcycle and disability parking, however has not indicated where these spaces will be located or how they will be differentiated from regular car spaces. The DA officer may wish to request this information.*
- *The application indicates that some of the existing buildings will be demolished following the completion of this development. The DA officer may wish to request further information about this.*

*This information would be helpful to gain a better understanding of the likely future parking demand created by the school.*

In response to above comments, the applicant provided additional information and on 22/08/2016 advice received from MPAT which states:

*MPAT have no issues with the proposal. In relation to the further information it appears that the applicant has satisfactorily addressed the previous comment. The DA officer should ensure that motorcycle and disability parking is provided in accordance with PVAGC*

The applicant provided information showing motorcycle and bicycle parking in accordance with the Parking and Vehicular Access General Code (PVAGC).

## **PART 4 ADMINISTRATIVE INFORMATION**

### 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 conditions could 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 Act, this approval will expire if:

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

### INSPECTION OF THE APPLICATION AND DECISION

A copy of the application and the decision can be inspected between 8:30am and 4:30pm weekdays at the Environment and Planning Directorate Dickson Customer Service Centre at 16 Challis Street, Dickson, ACT.

### RECONSIDERATION OF THE DECISION

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

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

### REVIEW BY THE ACT CIVIL AND ADMINISTRATIVE TRIBUNAL (ACAT)

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

# APPENDIX 1

## CONTACT DETAILS OF RELEVANT AGENCIES

<b>Health Directorate</b> - health protection	Website: <a href="http://www.health.act.gov.au">www.health.act.gov.au</a> Telephone: (02) 6205 1700
<b>Environment and Planning Directorate</b>  <i>Planning and land authority</i>  - list of certifiers for building approval - demolition information - asbestos information  <i>Environment Protection Authority</i>  - environment protection - water resources - asbestos information  <i>Conservation, Planning and Research</i>  - threatened species/wildlife management	Website: <a href="http://www.actpla.act.gov.au">www.actpla.act.gov.au</a> Telephone: (02) 6207 1923  Website: <a href="http://www.environment.act.gov.au">www.environment.act.gov.au</a> Telephone: (02) 6207 6251  Website: <a href="http://www.environment.act.gov.au">www.environment.act.gov.au</a> Telephone: (02) 6207 1911
<b>Territory and Municipal Services Directorate</b> - tree damaging activity approval - use of verges or other unleased Territory land - works on unleased Territory land - design acceptance - damage to public assets	Website: <a href="http://www.tams.act.gov.au">www.tams.act.gov.au</a> Telephone: 132 281 Telephone for asset acceptance: (02) 6207 7480
<b>Utilities</b> - Telstra (networks) - TransACT (networks) - Icon Water - Electricity reticulation	Telephone: (02) 8576 9799 Telephone: (02) 6229 8000 Telephone: (02) 6248 3111 Telephone: (02) 6293 5738

## ADVICE TO APPLICANT

### SUBMISSION OF REVISED DRAWINGS AND DOCUMENTATION

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

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

For further information regarding the lodgement of this information please contact Customer Service Centre by Phone: (02) 6207 1923, Email: [esddcustomerservices@act.gov.au](mailto:esddcustomerservices@act.gov.au) or on the planning and land authority website at [www.actpla.act.gov.au](http://www.actpla.act.gov.au).



## **FURTHER APPROVALS FOR CONSTRUCTION**

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

### **BUILDING APPROVAL**

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

### **PERMITTED VARIATIONS TO APPROVED DEVELOPMENT**

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

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

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

### **"TREE DAMAGING ACTIVITY" APPROVAL**

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

### **USE OF VERGES OR OTHER UNLEASED TERRITORY LAND**

In accordance with the *Public Unleased Land Act of 2013*, road verges and other unleased Territory land must not be used for the carrying out of works, including the storage of materials or waste, without prior approval of the Territory. Approval can be obtained from the Territory and Municipal Services Directorate.

### **WORKS ON UNLEASED TERRITORY LAND – DESIGN AND OPERATIONAL ACCEPTANCE**

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

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

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

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

## **CONSTRUCTION REQUIREMENTS**

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

### DEMOLITION AND ASBESTOS MANAGEMENT

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

### ENVIRONMENT PROTECTION

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

### REPAIR OF DAMAGE TO PUBLIC ASSETS

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

### UTILITY ASSETS RETENTION

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

### WATER RESTRICTIONS AND FILLING OF NEW POOLS, PONDS AND FOUNTAINS

Water restrictions or permanent water conservation measures may be in force in the ACT and may prohibit or affect the filling of new pools, ponds and fountains using potable (tap) water drawn from Icon Water's potable water supply system. Applicants wishing to use water drawn from the potable water supply system to fill a new pool, pond or fountain are advised to first contact Icon Water's conservation office on (02) 62483131. Where water restrictions or permanent water conservation measures would otherwise prevent or affect the filling of a new pool, pond or fountain, it might be possible to obtain an exemption to fill the pool, pond or fountain using potable water.

### DRAINAGE

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

## **REVIEW OF THE DECISION**

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

CONTACT DETAILS

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

Location	Contact details
ACT Civil and Administrative Tribunal Level 4, 1 Moore Street CANBERRA CITY ACT 2601	Website: <a href="http://www.acat.act.gov.au">www.acat.act.gov.au</a> Email: <a href="mailto:tribunal@act.gov.au">tribunal@act.gov.au</a> Telephone: (02) 6207 1740 Facsimile: (02) 6205 4855 Post: GPO Box 370, CANBERRA, ACT, 2601

POWERS OF THE ACAT

The ACAT is an independent body. It can review on their merits a large number of decisions made by ACT Government ministers, officials and statutory authorities. The ACAT can agree with, change or reject the original decision, substitute its own decision or send the matter back to the decision maker for reconsideration in accordance with ACAT recommendations.

APPLICATIONS TO THE ACAT

To apply for a review, obtain an application form from the ACAT. You can also download the form from the ACT Legislation Register <http://www.legislation.act.gov.au/af/2009-278/current/pdf/2009-278.pdf>.

If you are applying on behalf of an organisation or association of persons, whether incorporated or not, the Tribunal in deciding whether to support this application will consider the effect of the decision being reviewed on the interests of the organisation or association in terms of its objects or purposes. A copy of the relevant documents will be required to be lodged with the Tribunal.

TIME LIMITS FOR APPLICATIONS

The time limit to make a request for a review is 28 days from the date of this Notice of decision. The time limit can be extended in some circumstances (refer to sections 10 (2), 10(3), 25(1)(e) and 25(2) of the *ACT Civil & Administrative Tribunal Act 2008*; section 7 of the *ACT Civil and Administrative Tribunal Procedure Rules 2009 (No 2)*; and section 409 of the *Planning and Development Act 2007*).

FEES

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

TIME LIMITS FOR REVIEWS OF DECISIONS

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

### FORMS OF LEGAL, FINANCIAL AND OTHER ADVICE AND ASSISTANCE

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

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

### AWARDING OF COSTS

You will have to pay any costs involved in preparing or presenting your case. The ACAT also has the power to award costs against a party if the party contravenes a direction of the ACAT and the ACAT considers it in the interests of justice to make such an order. This power is in addition to the power of the ACAT to strike out a party and to dismiss an application for failure to comply with the ACAT's directions.

### ACCESS TO DOCUMENTS ABOUT THE DECISION

You may apply for access to any documents you consider relevant to this decision under the ACT Freedom of Information Act 1989. Information about Freedom of information requests is available on the planning and land authority's web site or by contacting us by phone on (02) 6207 1923.

### PROCEDURES OF THE ACAT

The procedures of the ACAT are outlined on the ACAT's website, including in the Guide to the Land and Planning Division and the Guide to the Hearing. Contact the ACAT for alternative ways to access information about the ACAT's procedures.

**TRANSLATION AND INTERPRETER SERVICES**

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

ENGLISH	If you need interpreting help, telephone:
ARABIC	: إذا احتجت لمساعدة في الترجمة الشفوية ، إتصل برقم الهاتف :
CHINESE	如果你需要传译员的帮助，请打电话：
CROATIAN	Ako trebate pomoć tumača telefonirajte:
GREEK	Αν χρειάζεστε διερμηνέα τηλεφωνήσετε στο
ITALIAN	Se avete bisogno di un interprete, telefonate al numero:
MALTESE	Jekk għandek bżonn l-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 ihtiyacımız varsa lütfen telefon ediniz:
VIETNAMESE	Nếu bạn cần một người thông-ngôn hãy gọi điện-thoại:

**TRANSLATING AND INTERPRETING SERVICE****131 450**

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

