

Statement Against Relevant Rules and Criteria

Block 3 Section 1



**210 Anketell Street
Greenway ACT 2900**

April 2023

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Statements against rules and criteria for the Greenway Precinct Code, the Commercial Zones Development Code and the relevant General Codes of the Territory Plan have been addressed within this report. The matters considered have been confined to the scope of works proposed by this Crown lease variation DA.

1 Precinct Codes

1.1 Greenway Precinct Code

The Greenway Precinct Map and Code identifies the site as being within RC3 – Tuggeranong Town Centre. The relevant rules and criteria applicable to this application are addressed below. It should be noted that this Development Application is for a lease variation only and does not include any design and siting components.

RC3 – Tuggeranong Town Centre

Element 4: Use

Rules	Criteria	Response
4.1 Ground Floor Use		
<p>R5 This rule applies to buildings in area a fronting the hatched area shown on Figure 1. Only the following uses are permitted on the ground floor level:</p> <ul style="list-style-type: none"> a) Business agency b) Club c) Community activity centre d) Drink establishment e) Financial establishment f) Hotel g) Indoor entertainment facility h) Indoor recreation facility i) Public agency j) Restaurant k) Shop. 	<p>C5 Buildings fronting main pedestrian areas and routes incorporate uses on the ground floor that generate activity in the public space.</p>	<p>Not applicable. Whilst the site is identified as being in area 'a' on Figure 1, this proposal is for a lease variation only. There are no changes to the activity generating ground floor uses.</p>
<p>There is no applicable rule.</p>	<p>C6 This criterion applies to buildings in area b fronting the hatched area shown on Figure 1. Buildings incorporate uses on the ground floor that generate activity in the public space.</p>	<p>Not applicable. The site is not identified within area 'b' on Figure 1.</p>

4.3 Development on Nominated Car Parking Areas		
<p>R8 This rule applies to the shaded area shown on Figure 1. Development complies with all of the following:</p> <ul style="list-style-type: none"> a) The existing number of car parking spaces is retained on the site and made available for public use at all times b) Provides car parking that is generated by the development on site in accordance with the Parking and Vehicular Access General Code in addition to the spaces required by item a). 	<p>C8 Development achieves all of the following:</p> <ul style="list-style-type: none"> a) Any additional parking provision requirements (under the Parking and Vehicular Access General Code) for the development b) Makes a substantial contribution to the long term parking supply for the town centre as endorsed by the Territory. 	<p>Not applicable. A portion of the site is identified within the shaded area in Figure 1 however, this proposal is for a lease variation only. There are no changes proposed to the existing car park.</p>

Element 5: Buildings

Rules	Criteria	Response
5.10 Active Frontages		
<p>R10 This rule applies to buildings fronting the hatched area shown on Figure 1. Buildings incorporate display windows and shop fronts with direct pedestrian access at ground floor level.</p>	<p>C10 Buildings achieve all of the following:</p> <ul style="list-style-type: none"> a) Direct pedestrian access from main pedestrian areas b) Avoid extensive lengths of blank walls unrelieved by doors, display windows or the like 	<p>Not applicable. Whilst the site identified within the hatched area on Figure 1, this proposal is for a lease variation only. There are no changes to the existing shopfronts or pedestrian access.</p>

2 Development Codes

2.1 Commercial Zones Development Code

The site is located in a CZ1 Core zone. This assessment is for a Crown lease variation DA only. No building, landscaping, lighting or infrastructure works are proposed as part of this DA. The relevant rules and criteria applicable to this application are addressed below.

Part A – General Controls

Element 2: Use

Rules	Criteria	Response
2.1 Existing Community and Recreation Sites		
R2 A development proposal does not reduce the range of community or recreation facilities available.	C2 A proposal that reduces the range of community or recreation facilities available demonstrates through a social impact assessment that there is enough land or sufficient other facilities in the locality to meet anticipated demand.	Complies with rule. This proposal does not reduce the range of community and recreation facilities available.

Element 5: Access

Rules	Criteria	Response
5.1 Access		
There is no applicable rule.	C19 Pedestrian and cyclist entrances and driveways to the site achieve all of the following: a) Are clearly visible from the front boundary b) Pedestrian and cycle access is provided through the site to increase permeability c) Pedestrian and cycle access paths to commercial buildings feed into and provide connections to existing path networks d) Priority is provided for pedestrian and cyclist access.	Complies with criteria. The existing approved pedestrian and cyclists entrances and driveways to the site will not be altered by this development proposal.
R20 Loading docks or vehicular entries to buildings are not located on frontages to the street.	C20 Loading docks and vehicular entries do not dominate the street frontage or conflict with parking and pedestrian movements in front of the building.	Not applicable. The existing loading docks and vehicular entries will not be altered by this development proposal.

5.2 Traffic Generation		
There is no applicable rule.	C21 The existing road network can accommodate the amount of traffic that is likely to be generated by the development.	Complies with criteria. The development is not expected to make a discernible increase in vehicular traffic. The site is located within the boundaries of the Tuggeranong Town Centre. Anketell Street, Reed Street North and Pitman Street are collector roads extending to Athllon Drive. Athllon Drive is a main arterial road linking Tuggeranong to Woden. Further, the site benefits from and has excellent access to public transport.
5.3 Service Access and Delivery		
R22 Goods loading and unloading facilities comply with all of the following: a) Are located within the site b) Allow for service vehicles to enter and leave the site in a forward direction	C22 Facilities for the loading and unloading of goods achieve all of the following: a) Safe and efficient manoeuvring of service vehicles b) Does not unreasonably compromise the safety of pedestrians or cyclists c) Does not unreasonably compromise traffic movement or the operation of any adjoining road, cycleway or pedestrian pathway d) Does not unreasonably affect on-street or off-street car parking e) Adequate provision for the manoeuvring of vehicles.	Not applicable. This proposal is for a lease variation only. There are no changes to the existing site configuration and servicing arrangements.

Part B – Additional Controls for Town Centre

The additional controls for Town Centres relate to uses within the CZ2 and CZ3 zones. The proposal is for a Crown lease variation to a site in a CZ1 zone and as such, we consider that the additional rules and criteria contained within this part of the Commercial Zones Development Code are not applicable to this DA.

Part G – Endorsement by Government Agencies (Entities)

Element 20: Loading and Unloading Facilities

Rules	Criteria	Response
20.1 Goods		
R62 Goods loading and unloading facilities are endorsed by TCCS.	This is a mandatory requirement. There is no applicable criterion.	Not applicable. This proposal is a lease variation only. There are no changes to the existing loading and unloading facilities.

Element 21: Waste Management

Rules	Criteria	Response
21.2 Post Occupancy Waste Management		
R64 Post occupancy waste management facilities are to be endorsed by TCCS.	This is a mandatory requirement. There is no applicable criterion.	Not applicable. This proposal is a lease variation only. There are no changes to the existing waste management facilities.

Element 23: Environmental Management

Rules	Criteria	Response
23.2 Contamination		
R71 This rule applies where an assessment by the proponent in accordance with the <i>ACT Government Strategic Plan – Contaminated Sites Management 1995</i> and the <i>ACT Environment Protection Policy</i> identifies contamination within or adjacent to the development area, but does not apply if the EPA has provided written advice that there are no contaminated sites within or adjacent to the development area. Development complies with an environmental site assessment report endorsed by EPA.	This is a mandatory requirement. There is no applicable criterion.	Noted. An assessment in accordance with the ACT Government strategic plan – contaminated sites management plan 1995 and the ACT environment protection policy is only triggered when a change to the lease purpose or land use where past use of land may have caused contamination. In this instance, the land use remains unchanged (this proposal is not seeking any new uses on the site). This proposal simply seeks to increase the maximum GFA for an existing individual use.

3 General Codes

3.1 Lease Variation General Code

The DA will be assessed under the Merit Track and our assessment excludes Part B (Lease Variations in the Code Track).

Part A – Lease Variations in the Merit or Impact Track

Element 1: Variations – General

Rules	Criteria	Response
1.1 Varying Leases – General		
There is no applicable rule.	<p>C1</p> <p>A lease is varied only where all of the following are achieved:</p> <ul style="list-style-type: none"> i) The varied lease is consistent with the Territory Plan including all relevant codes ii) The land to which the lease applies is suitable for the development for use authorised by the varied lease. 	<p>Complies with criteria.</p> <ul style="list-style-type: none"> i) The varied lease will be consistent with the Territory Plan (including all relevant codes). ii) The lease currently allows educational establishment. This proposal is seeking to increase the maximum GFA for an existing individual use. There are no inconsistencies between the proposed DA and the applicable planning controls.

Element 2: Variations to Increase Rights

Rules	Criteria	Response
2.1 Increasing Rights		
There is no applicable rule.	<p>C2</p> <p>A right under a lease is increased only when all of the following are achieved if the additional rights are granted and activated:</p> <ul style="list-style-type: none"> i) Sufficient car parking is provided on site or is available off site in accordance with the Parking and Vehicular Access General Code ii) Any increase in traffic flow is within the capacity of the surrounding road network iii) Adequate post occupancy waste management and disposal can be provided to the relevant Territory standard iv) No unreasonable increase in the level of noise for the occupants of dwellings on the block or on adjoining land. <p>Note: Examples of rights are the max GFA, max floor area allocated to a particular use, building heights.</p>	<p>Complies with criteria.</p> <p>This proposal is seeking to increase the existing individual educational establishment use GFA by 20m² (total max GFA of 470m²).</p> <ul style="list-style-type: none"> i) The site has sufficient space to accommodate car parking areas sufficient to accommodate anticipated demand as a result of this variation. ii) The site is within the boundaries of the Tuggeranong Town Centre bounded by Anketell Street, Reed Street North and Pitman Street. All three roads are connector roads extending to Athllon Drive, a major arterial road connecting Tuggeranong to Woden. It is anticipated that the existing road network will readily accommodate the likely demand generated by the proposed use. iii) All waste will be securely contained within the site, as per the existing waste management arrangements. iv) There will be no unreasonable increase in the level of noise.

Element 3: Variations to Add Uses – General

Rules	Criteria	Response
3.1 Adding Uses Generally		
There is no applicable rule.	<p>C3 An additional use is authorised by a lease only when all of the following are achieved if the additional use is granted and activated:</p> <ul style="list-style-type: none"> i) Sufficient car parking is provided on site or is available off site in accordance with the Parking and Vehicular Access General Code ii) Any increase in traffic flow is within the capacity of the surrounding road network iii) Adequate post occupancy waste management and disposal can be provided to the relevant Territory standard. iv) No unreasonable increase in level of noise for the occupants of dwellings on the block or on adjoining land v) No unreasonable risk to occupants of the block through any contamination of the block or on adjoining land vi) No unreasonable level of odour for the occupants of dwellings on the block or on adjoining land vii) No unreasonable level of light emission for the occupants of dwellings on the block or on adjoining land. 	<p>Not applicable. This proposal is not seeking to add any additional uses.</p>

Element 4: Variations to Add Particular Uses

Rules	Criteria	Response
4.1 Community and Recreational Facilities		
There is no applicable rule.	<p>C4 Community facilities or recreational facilities that are authorised by a lease comply with the Community and Recreational Facilities Location Guidelines General Code.</p>	<p>Not applicable. The existing purpose clause already authorises community and recreational facilities. This proposal does not request additional community or recreational uses to be added to the purpose clause.</p>
4.3 Secondary Residence		
<p>R6 A variation to a lease to authorise a secondary residence is approved only where the block affected by the lease is 500m² or larger.</p>	<p>This is a mandatory requirement. There is no applicable criterion.</p>	<p>Not applicable. This application does not involve a variation to authorise a secondary residence.</p>

4.4 Emergency Management Plan		
<p>R6A</p> <p>A variation to a lease to authorise an animal care facility in the industrial zones is approved only where an emergency management plan is provided and has been endorsed by the ESA.</p>	<p>C6A</p> <p>If an endorsed emergency management plan is not provided, the application will be referred to the relevant agency in accordance with the requirements of the <i>Planning and Development Act 2007</i>.</p>	<p>Not applicable.</p> <p>This application is not seeking an animal care facility nor is the site located in an industrial zone.</p>
4.5 Noise		
<p>R6B</p> <p>A NMP, prepared by an accredited acoustic specialist who is a member of the Australian Acoustic Society, is provided for an animal care facility. The NMP details the design, siting and construction methods, which will be used to minimise the impact of noise on neighbouring uses and reduce the intrusion of noise from industrial uses into the facility.</p>	<p>This is a mandatory requirement. There is no applicable criterion.</p>	<p>Not applicable.</p> <p>This application is not seeking an animal care facility.</p>

3.2 Parking and Vehicular Access General Code

Parking Requirements

The Crown Lessee has undertaken to vary the lease to increase the maximum GFA for educational establishment by 20m² (total max GFA 470m²). This does not however alter the existing maximum GFA under the Crown lease, but just the maximum GFA for the identified use.

It should be noted that the increase in max GFA for the educational establishment, will also at the same time reduce useable GFA within the development for any one of the other permitted uses.

The parking requirement for educational establishment in a town centre commercial zone is 1 space/10 students. The table below provides the parking calculations from office to educational establishment. Given the educational establishment is for an industry training centre, we have based our parking assessment on similar training centres in the ACT. As such our assessment has taken a provision (on a worst case scenario) that the maximum number of students at any one time will be approximately 31.3 students with the new increased max GFA for the use.

Use	GFA	Parking Provision Rates	Parking requirement based
Educational establishment	450m ² (existing)	1 space/10 students	Maximum number of students at any one time 30 = 3 spaces
Educational establishment	470m ² (proposed increase of 20m ² GFA)	1 space/10 students	Maximum number of students at any one time 31.3 = 3.1 spaces

Parking Locational Requirements

The subject site is located in a CZ1 zone within the Tuggeranong Town Centre boundaries. The Parking and Vehicular Access General Code allows for the following locational requirements for long stay, short stay, operational and visitor parking:

	Long Stay Parking	Short Stay Parking	Operational Parking	Visitor Parking
Town Centre	Residential use – on site Non-residential use – on-site or within 1000m within the boundaries of the Town Centre	Within 200m	On-site or immediately adjacent	Within 200m

The development currently provides 2,400 parking spaces which is over and above the minimum required by the lease, being 2,200 parking spaces. In addition to the on-site car parking, the site is in the vicinity of the publicly available car parks and on-street parking as per the locational requirements of the Parking and Vehicular Access General Code. As noted in the table above, parking is to be provided on-site or within 200 metres or within a maximum of 1000 metres of the site.

The site is located within the Tuggeranong Town Centre boundaries and public car parking spaces have been available to the local community and the subject site to meet a greater shortfall from existing uses than the proposed lease variation. The access routes to off-site parking remains unchanged from the site.

Other Considerations

The site is located within the Tuggeranong Town Centre boundaries; as such we have taken the following into consideration in conjunction with the parking assessment.

- Car Parking already provided on site is over and above the minimum required under the lease by 200 parking spaces.
- Public transport. The Tuggeranong Bus Interchange is located adjoining the site.
- Active travel facilities. The existing pedestrian and cyclist networks surrounding the site allow connectivity to the surrounding area and alternative transportation and parking.

The increase of 0.1 car space total car parking requirement for the increased maximum GFA of educational establishment is negligible in comparison to the parking available both on site and off site. Given that at the same time, there will be a corresponding reduction in parking requirement for any one of the other permitted uses under the lease, they counter each other out.

Given the above, it is our opinion that the proposed lease variation (increase the max GFA of educational establishment by 20m²) is consistent with the requirements of the Territory Plan including the Parking and Vehicular Access General Code.