



ACT
Government

NOTICE OF DECISION

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

I, Sheikh Lana, delegate of the planning and land authority, pursuant to section 162 of the *Planning and Development Act 2007*, hereby **approve subject to conditions**, the proposal for **construction of two (2) new single storey dwellings, attached garages, new driveway, landscaping and associated works**, at Block 1 Section 46 Latham, in accordance with the plans, drawings and other documentation approved and endorsed as forming part of this approval.

DA Number: 201833766

Block: 1

Section: 46

Suburb: Latham

Address: 2 Poole Place

Application lodged: 30 April 2018

Assessment track: Merit

Approval takes effect: The day after the date of this decision.

This decision contains the following information:

Part A – conditions of approval

Part B – reasons for the Decision

Part C – entity advice

Attachment 1 – administration information

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

Contact:
Development Assessment
Coordinator
Email:
DAenquiries@act.gov.au

Sheikh Lana **Sheikh Lana**
Delegate of the planning and land authority

12/ 10/ 2018

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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.

1. CONSERVATOR

All works are to be undertaken in accordance with Tree Management Report - 2 Poole Place Latham, dated 8 August 2018.

2. ICON WATER

Compliance must be obtained from Icon Water (Building Approval) prior to commencement of any work on the subject site.

Notes:

- *A copy of Icon Water (Building Approval) is to be provided to EPSD.*
- *Refer to Design Accepted in principle dated 2 July 2018 and Failed to comply statement dated 12 September 2018.*

3. TRANSPORT CANBERRA AND CITY SERVICES (TCCS)

VERGE CROSSING

- a) The verge crossing from Solomon Crescent must be constructed in accordance with TCCS Design Standards.
- b) The levels on the verge must not be altered as a result of the new constructed verge crossings.
- c) The (domestic) verge crossings must be inspected at the formwork stage by an officer of Development Review and Coordination, TCCS. This verge crossings inspection can be organised by completing a smart form available on the TCCS website.
- d) Any infrastructure assets such as street lighting, mini-pillars, signage, etc. must be a minimum of 1.5m away from the closest edge of the verge crossings. In case of stormwater sumps this minimum distance would be 1.2m.

VERGE

A Landscape Management and Protection Plan and a dilapidation report for all Government Assets adjacent to the site must be submitted to the Development Review and Coordination, TCCS prior to commencement and on completion of the work.

STORMWATER

- a) Only one stormwater tie must be used for this dual occupancy development because subdivision is not part of this development application.
- b) Any structures in proximity to the stormwater easement must comply with *TCCS Guidelines for Construction in the Vicinity of a Stormwater Easement*.
- c) The centreline of underground pipe must be a minimum of 900mm (horizontally) to any footings.
- d) The line of influence of the footing must be beneath or outside the pipe as designed by a structural engineer's specification.

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WASTE

e) The waste must be collected along the kerbs of Poole Place and Solomon Crescent.

4. 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.

5. EROSION AND SEDIMENT CONTROL

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

6. MECHANICAL SERVICES

Outdoor units for air conditioning/heat pumps must be suitably screened and are not to result in detrimental impacts on the amenity of residents (on-site or adjoining).

7. FENCING

Prior to the completion of building work and at the lessee's expense the existing boundary fencing shared with Blocks 2 and 17 Section 46 Latham is to be replaced and new fencing with a minimum height of 1.8m is to be erected along these shared boundaries. Note: In the event the adjacent lessee does not wish to replace their respective fence the existing fence can be retained.

The applicant/lessee must take all reasonable steps to obtain the written agreement of the adjacent lessees for the type and material of boundary fencing before erecting (note boundary fencing is to be a minimum of 1.8m and not exceed 2.3m in height and shall not exceed further forward to the street frontage than the building line of the approved building).

1. COMPLIANCE WITH APPROVED PLANS

The plans endorsed as forming part of the approval, including any plans required to be submitted as a condition of the approval, form part of this approval. Any changes to these plans will require a further approval.

2. COMPLIANCE WITH ENTITY REQUIREMENTS

The development must comply with all of the conditions imposed by each of the relevant entities as stated in each of their advice.

ADVISORY NOTES

1. SUBDIVISION OF A SURRENDERED BLOCK IN RZ1 ZONE

In accordance with the Territory Plan, subdivision under the *Planning and Development Act 2007* of a surrendered block located in RZ1 Zone is not permitted. Subdivision under the *Unit Titles Act 2001* may be permitted where all of the following are met.

- (i) Proposal is only for dual occupancy housing AND
- (ii) Both dwellings in the dual occupancy have been lawfully constructed.

It is advised that once built, this development will meet this requirement.

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2. UNIT TITLES

Application for approval of subdivision under the *Unit Titles Act 2001* cannot be made through the *Planning and Development Act 2007* development approval process.

If the lessee intends to subdivide the premises under the *Unit Titles Act 2001*, a separate application to the Environment, Planning and Sustainable Development Directorate (EPSDD) is required under the *Unit Titles Act 2001*.

The appropriate forms can be found under "Leasing, Community Titles and Unit Titles" on the EPSDD website at: http://www.planning.act.gov.au/publications_forms/forms.

PART B – REASONS FOR THE DECISION

The application was approved because it was found to meet the relevant rules and criteria of the Territory Plan and section 120 of the *Planning and Development Act 2007*.

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

Development Application: 201833766
Territory Plan Zones: RZ1
Development Codes: Multi Unit Housing Development Code
Precinct Code: Latham Precinct Map and Code
Crown Lease: Volume and Folio
Legislative requirements: Sections 119 and 120 of the *Planning and Development Act 2007*
Entity advice: As addressed in Part C of this Decision

PART C – PUBLIC NOTIFICATION AND ENTITY ADVICE

PUBLIC NOTIFICATION

Pursuant to Division 7.3.4 of the Act, the application was publicly notified from 9 May 2018 to 31 May 2018. No written representations were received during public notification period.

PUBLIC NOTIFICATION

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

1. Transport Canberra and City Services (TCCS).
TCCS supported the proposed development with conditions. Refer to Part A.
2. Evoenergy
Evoenergy supported the proposed development with conditions. Refer to Part A.
3. Jemena Gas
Jemena Gas supported the proposed development with conditions. Refer to Part A.

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4. Icon Water

Icon Water issued Design Accepted in Principle dated 2 July 2018. Icon Water issued a failed to comply for the S144B dated 12 September 2018. This matter has been addressed with a condition. Refer to Part A.

5. Conservator of Flora and Fauna

The Conservator supported the proposed development with conditions. Refer to Part A.

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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TRANSLATING AND INTERPRETING SERVICE

131 450

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ATTACHMENT 1 - ADMINISTRATIVE INFORMATION RELATING TO NOTICE OF DECISION.

Submission of revised drawings or documentation

If a condition of approval requires the applicant to lodge revised drawings and / or documentation with the planning and land authority for approval under section 165 of the *Planning and Development Act 2007*, the submission must be made by completing an application in e-development.

DATE THAT THIS APPROVAL TAKES EFFECT

Unless a condition of approval provides for otherwise this approval takes effect the day after the date of this decision. 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.

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

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

Reconsideration of the Decision

If the applicant is not satisfied with the decision made by the planning and land authority, they are entitled to apply to the planning and land authority for reconsideration within 20 working days of being told of this decision under section 191 of the *Planning and Development Act 2007*. A longer timeframe may apply only if granted in writing by the planning and land authority under section 184 of the *Planning and Development Act 2007*.

Other approvals

A notice of decision grants development approval only. Other approvals may be required, including:

1. Building Approval

Most building work requires building approval to ensure it complies with building laws such as the Building Code of Australia. The lessee should engage a private building certifier to determine whether building approval is required and assess and approve

the building plans before construction commences. A list of certifiers can be obtained from the Environment, Planning and Sustainable Development Directorate.

2. Tree damaging activity approval

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

3. 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.

4. Works on unleased Territory Land

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, 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.

Review by the ACT Civil and Administrative Tribunal (ACAT)

1. Decisions that are reviewable by the ACAT are identified in Schedule 1 of the *Planning and Development Act 2007*, except for matters that are exempted under Schedule 3 of the *Planning and Development Regulations 2008* (matters exempt from third party review).
2. The notice of decision and this advice has been sent to all people who made a representation in relation to the application.
3. The ACAT is an independent body. It can review a large number of decisions made by ACT Government ministers, officials and statutory authorities on their merits. The ACAT can agree with, change or reject the original decision, substitute its own decision or send the matter back to the decision maker for reconsideration in accordance with ACAT recommendations.

4. If you think you have a right of appeal, you may apply for a review. Application forms can be obtained from the ACAT. You can also download the form from the ACT Legislation Register.
5. 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.
6. 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*).
7. 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 Director General, Justice and Community Safety Directorate, GPO Box 158, CANBERRA ACT 2601. Ask the ACAT for more details.
8. 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.
9. The following organisations may be able provide you with advice and assistance if you are eligible:
 - ACT Attorney-General, write to the Director General, Justice and Community Safety Directorate, GPO Box 158, CANBERRA, ACT, 2601
 - the ACT 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.
10. 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.
11. 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.

12. 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.

Contact details for relevant agencies

ACT Civil and Administrative Tribunal Level 4, 1 Moore Street CANBERRA CITY ACT 2601 GPO Box 370, CANBERRA, ACT, 2601	www.acat.act.gov.au tribunal@act.gov.au 02 6207 1740 02 6205 4855
Health Directorate	www.health.act.gov.au 02 6205 1700
Environment, Planning and Sustainable Development Directorate <i>Planning and land authority</i> - list of certifiers for building approval - demolition information - asbestos information	www.planning.act.gov.au 02 6207 1923
<i>Environment Protection Authority</i> - environment protection - water resources - asbestos information	www.environment.act.gov.au 02 6207 6251
<i>Conservation, Planning and Research</i> - threatened species/wildlife management	www.environment.act.gov.au 02 6207 1911
Transport Canberra and City Services - tree damaging activity approval - use of verges or other unleased Territory land - works on unleased Territory land - design acceptance - damage to public assets	www.tccs.gov.au 132 281 02 6207 7480 (asset acceptance)
Utilities - Telstra (networks) - TransACT (networks) - Icon Water - Electricity reticulation	02 8576 9799 02 6229 8000 02 6248 3111 02 6293 5738

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