

Notice of decision

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

DA NO: 201222513		DATE LODGED: 25/10/2012		
DA NO: 201222513A		DATE LODGED: 20/02/2013		
DA NO: 201222513B		DATE LODGED: 18/03/2013		
DATE OF DECISION	ON: 1 May 2013			
BLOCK: 13	SECTION: 28	SUBURB: NARRABUNDAH		
STREET NO AND	NAME: 58 Kootara Cre	escent	3.1	
APPLICANT: Dez	ignteam Pty Ltd			
LESSEE:				
Rojopepper Pty	Limited			

THE DECISION

This application was lodged in the merit track. Pursuant to section 113(2) of the *Planning and Development Act 2007* (Act), the application must be assessed according to the provisions relevant to merit track applications.

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

- a variation of the Crown lease to permit use of the land for the purpose of multi-unit housing for not more than twelve (12) dwellings;
- construction of a new two-storey multi unit housing development comprising twelve (12) residential dwellings with a single level basement car parking and a secure undercroft car parking area; and
- associated landscaping and other site works;

in accordance with the plans, drawings and other documents and items submitted with the application approval and endorsed as forming part of this approval and substantially in accordance with the draft Crown lease at Attachment 1.

This decision is subject to the conditions of approval at **PART 1** being satisfied. Please note that plans will not be dispatched until all conditions are satisfied (if applicable).

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

Ada Park

Delegate of the planning and land authority

Environment and Sustainable Development Directorate

1 May 2013

CONTACT OFFICER

Ada Park

Phone: 62071854

Email: ada.park@act.gov.au

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. CONDITIONS RELATING TO THE VARIATION OF A CROWN LEASE

Please note that this approval includes leasing requirements.

THE APPROVAL WILL EXPIRE 2 YEARS AFTER THE APPROVAL TAKES EFFECT or otherwise in accordance with the conditions of approval. In addition, there are legislative requirements that must be met prior to the registration of the new Crown lease. See Advisory Notes for further information about those legislative requirements.

A1. LEASE VARIATION CANNOT BE REGISTERED

The new Crown lease must not be registered in accordance with Condition A6 until the applicant/Lessee has lodged with the planning and land authority:

- (a) written certification by an accredited contaminated land auditor, within the meaning of the *Environment Protection Act 1997*, in relation to the suitability of the site for the proposed uses; and
- (b) evidence that the certification in accordance with Condition A1(a) has been provided to and endorsed by the Environment Protection Authority (EPA).

If one or more of the proposed uses are not certified by the accredited contaminated land auditor, and/or one of the use or uses are not endorsed by the EPA in accordance with Condition A1, this does not prevent the registration of a new Crown lease at the Office of Regulatory Services giving effect to a variation of the Crown lease to include one or more of the proposed uses that have been certified by the above mentioned auditor and endorsed by the EPA.

A2. ISSUE OF CERTIFICATE OF OCCUPANCY AND USE

The building erected on the land shall not be used, occupied or issued with a Certificate of Occupancy and Use under the *Building Act 2004* until the new Crown lease is registered at the Office of Regulatory Services.

A3. RELIEF FROM LEASE PROVISIONS

The applicant/Lessee must apply in writing to the Environment and Sustainable Development Directorate (ESDD) under Section 269 of the *Planning and Development Act* 2007 – Reduction of rent and relief from the provisions of lease – for temporary relief from the purpose clause, Clause 1(f) of the Crown lease.

A4. TIMEFRAME FOR RELIEF FROM LEASE PROVISIONS

If an application for extension to relief from the Lease Provisions is made to ESDD the lessee/applicant must provide to ESDD a development timeframe to support such an extension.

A5. SURRENDER AND REGRANT

That the lessee surrender the existing Crown lease over Block 13 Section 28 Division of Narrabundah - (Volume 45 : Folio 4428) and accept a new Crown lease substantially in accordance with the form of lease appearing at **Attachment 1**.

A6. LEASE REGISTRATION

That the lessee shall do all that is necessary to ensure that the new Crown lease giving effect to this approval is registered at the Office of Regulatory Services within 28 days of being notified that the new Crown lease is available for registration or within such further time as may be approved by the planning and land authority.

A7. SURRENDER OF PREVIOUS APPROVAL

Upon registration of the new Crown lease giving effect to this approval, the lessee shall apply to surrender the approval for DA200813272.

B. ADMINISTRATIVE / PROCESS CONDITIONS

B1. COURTYARD WALL

the courtyard walls to the ground floor level units, Units 1 to 4 to be constructed in accordance plans attached to this Notice of Decision, *Attachment 2*;

B2. REVISED PLANS

The proposal shall be constructed in accordance with the revised plans and information lodged on 20 February 2013 and 18 March 2013 pursuant to section 141 of the *Planning and Development Act 2007*;

B3. TAMSD CONDITIONS

For TAMSD conditions, refer to PART 3 PUBLIC NOTIFICATION AND ENTITY ADVICE of this Notice of Decision.

B4. ENVIRONMENT PROTECTION AUTHORITY

All drainage within the basement is to be connected to the sewer system.

C. PRIOR TO CONSTRUCTION AND/OR DEMOLITION

C1. REMEDIAL ACTION PLAN

The bulk excavation and remediation of potentially impacted soil present at the former Ampol Service Station on Block 13 Section 28 Narrabundah must be carried out in accordance with the independent Auditor's endorsed Remedial Action Plan prepared by Robson Environmental Pty Ltd (dated 11/11/2011) and to the satisfaction of the Independent Auditor and the Environment Protection Authority;

C2. 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;

C3. TREE PROTECTION

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

C4. VERGE MANAGEMENT

This plan is to be approved 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.

C5. TRAFFIC MANAGEMENT

A Temporary Traffic Management (TTM) Plan shall 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.

D. DURING CONSTRUCTION AND/OR DEMOLITION

D1. 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.

D2. 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.

D3. 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, Territory and Municipal Services Directorate, TAMSD.

D4. TRAFFIC MANAGEMENT

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

D5. 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.

D6. CLEAR LANEWAY

The laneway adjacent to the subject site must be kept clear of all construction materials and machineries in order to minimise disruptions to the Narrabundah Shop traders.

E. ADVISORY NOTES

This application is approved with the following advisory notes.

E1. LEASE VARIATION CHARGE

Prior to the registration of the new Crown lease, the lessee must, as is required under the *Planning and Development Act 2007*, pay any assessed Lease Variation Charge. Once advised of the lease variation charge, the charge should be paid not less than 6 months prior to the expiration of this approval. This will ensure that sufficient time remains to enable the new Crown lease to be registered at the Office of Regulatory Services prior to expiry of this approval.

E2. <u>ACTEW – WATER DIVIS</u>ION

- (a) Resubmit the following plans to the ActewAGL Water Division for approval:
 - (i) Basement plans
 - (ii) Cross-section
 - (iii) Elevations
 - (iv) Provide basement wall detail section relative to the existing water main to be approved by ACTEW/Water

Note: Contact Eddie Gonzalez at the Building approval and Network Protection of the Water Division (dial 62483555 then press 2 for Water)

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 code, being the Multi Unit Housing Development Code;

The key issues identified in the assessment were the suitability of the site for the proposed development, the payment of any Lease Variation Charge, and the registration of the new Crown lease.

The key issues that required conditions are as follows:

- The proposal did not provide the required number of 2 adaptable units;
- The proposal did not comply with the Water Sensitive Urban Design General Code;
- Inadequate natural lighting & ventilation;
- 1.8m high timber front boundary fence is not in keeping with the streetscape character; and
- Ensuring the proposal complies with all the requirements that TAMS/EPA and ACTEW imposed

The proposal is consistent with the Territory Plan and the *Planning and Development Act 2007* with conditions imposed.

EVIDENCE

Application No. 201222513
File No. 1-2012/242474/1
Territory Lease File No.
The Territory Plan zone – CZ4 Local Centre Zone
The Development Codes – Multi Unit Housing Development Code

The General Codes
Parking and Vehicular Access General Code
Bicycle Parking General Code
Access and Mobility General Code
Crime Prevention through Environmental Design General Code
WaterWays: Water Sensitive Urban Design General Code
Current Crown Lease – Volume 45 Folio 4428
Representation
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 31 October 2012 to 21 November 2012. One (1) written representation was received during public notification.

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

(a) Asbestos contaminated infill during excavation

Response: A condition will be imposed to ensure asbestos is managed in accordance with the relevant legislation.

(b) Minimise disruptions to Narrabundah Shop's traders / the laneway be kept open for deliveries and removal of waste skips etc.

Response: 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.

The laneway will not be obstructed or closed during the building construction.

A Temporary Traffic Management (TTM) Plan shall 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.

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.

ACT EMERGECY SERVICES AGENCY

On 5 November 2017 advice was received from the ACT Emergency Services Agency in relation to the proposal. The advice states that:

ACT Emergency Services Agency has reviewed the information supplied for Block 13 Section 28 Narrabundah and find it meets external requirement. BCA and Water for inbuilt fire safety systems are outside the scope of this document and will be assessed separately at the Building Application stage by ACTF&R Fire Safety Section on 62078370.

Matters raised have been incorporated as advice.

TERRITORY AND MUNICIPAL SERVICES DIRECTORATE

On 18 March 2013 advice was received from Territory and Municipal Services in relation to the proposal. The advice states that the development application is supported with the following conditions:

Conditions:

- ESDD to assess the parking against the Parking and Vehicular Access General Code.
- The detailed design civil aspects for offsite works will be reviewed and assessed during design acceptance.

Other Conditions:

Following will apply for Works on Territory Land (if any):

In accordance with the Roads and Public Places Act 1937 no work is to be undertaken on road verges and other unleased Territory Land without the approval of the Territory. Such approval must be obtained from Senior Manager, Asset Acceptance, Operational Support Branch, TAMS by the ways 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 TAMS.

Design Acceptance and Operational Acceptance

A Certificate of Design Acceptance is required from the Senior Manager, Asset Acceptance, Operational Support Branch, TAMS, prior to the construction. The Certificate of Design acceptance will be issued for all off-site works or its updated version approved by ACTPLA.

In order to obtain the Certificate of Design Acceptance, fully detailed drawings (civil, landscape) prepared by suitably qualified persons for all off-site works including roads, driveways, footpaths, street lighting, storm water, landscaping (and any other issues that may be found by audit of the plans) and a design report in accordance with Ref No 06:"Requirements for Design Acceptance Submissions", must be certified by a Chartered Engineer/Landscape Architect and submitted to the Roads ACT.

A Certificate of Operational Acceptance on completion of the works is required from the Senior Manager, Asset Acceptance, Operational Support Branch, TAMS, prior to the issue of a Certificate of Occupancy.

Similarly a Chartered Engineer/Landscape Architect should certify compliance with TAMS Ref No 08: "Requirements for Works as Executed Quality Records Requirements" when the request for Operational Acceptance is made to the Senior Manager, Asset Acceptance, Operational Support Branch, Directorate Services Division, TAMS on completion of all off-site works

A Waste Management Plan in accordance with the Development Control Code for Best Practice Waste Management in the ACT should also be included if not approved at the Development Application stage.

Temporary Traffic Management (TTM)

A TTM plan approval from the Manager, Traffic Management & Safety, Roads ACT, Roads and Public Transport Division, TAMS. 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.

Landscape Management & Protection Plan (LMPP)

LMPP approval from the Senior Manager, Asset Acceptance, Operational Support Branch, TAMS. 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 Manager, Asset Acceptance. This plan is to be implemented before the commencement of works, including demolition on the site and is to be in accordance with City Management Guidelines for the Protection of Public Landscape Assets Adjacent to Development Works-REF-04.

Use of Verges or other Unleased Territory land

In accordance with the Roads and Public Places Act 1937, 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 of the Territory. Approval can be obtained from the Department of Territory and municipal Services.

Repair of Damage to Public Assets

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

Notice of Commencement of Construction

Notice of Commencement of Construction shall be submitted to the Manager Asset Acceptance one week prior to the commencement of works. The Notice shall also include the confirmation of any protective measures installed in accordance with the approved LMPP and programmed implementation of the TTM.

Matters raised have been incorporated as conditions of approval.

ENVIRONEMNT PROTECTION AUTHORITY (EPA)

On 19 November 2012 advice was received from EPA in relation to the proposal. The advice states that the development application is supported with the following conditions;

The Environment Protection Authority has reviewed the development application and recommends the following conditions of support:

Conditions:

Contaminated Sites:

The site is currently subject to a statutory environmental audit of the assessment and remediation of identified contamination in order to determine the sites suitability for its proposed and permitted uses.

The EPA would support the lease variation subject to the following conditions:

- prior to the site being used for other purposes the findings of the environmental audit into the suitability of the site for its proposed and permitted uses must be reviewed and endorsed by the EPA.

Environment Protection:

All drainage within the basement is to be connected to the sewer system.

Further advice:

Comments concerning drawing number C102:

Under sediment Control Notes, Point 8- As the site is less than 0.3Ha, an Environment Protection agreement between the builder and the Environment Protection Authority is not

required.

Matters raised have been incorporated as conditions of approval.

ActewAGL

On 12 November 2012 advice was received from the Water Division in relation to the proposal. The advice states that:

The application has been assessed by ActewAGL against ACTEW water and sewerage network access and asset protection requirements.

Please find attached an ActewAGL DECISION STATEMENT together with your stamped plans.

A failure to comply with decision statement conditions will invalidate the approval and will expose the land-holder to prosecution under the Utilities Act 2000.

Non-compliant submissions must be rectified and resubmitted to ActewAGL for approval prior to construction commencing. A decision to proceed with construction using unapproved drawings will expose the land-holder to prosecution under the Utilities Act 2000.

Please note: Separate decision statements are required from other utilities (eg: electricity, gas, stormwater and communications)

Future applications

ActewAGL has introduced an online planning application process for obtaining utility clearances prior to submitting a development application or seeking building approval.

This revised application process consists of an electronic form available <u>here</u>. By using the online form applicants will no longer need to complete the respective Water/Sewerage and Electricity/Gas application forms.

When an application is submitted it will be assessed against the water, sewerage, electricity and gas networks.

ActewAGL requests that organisations register their details if they regularly submit applications. Registration will reduce the time it takes to lodge an application. To register, send a return email including the organisation's name, a contact name, phone number and email address.

Matters raised have been incorporated as advice.

On 18 November 2012 advice was received from the Electricity Networks in relation to the proposal. The advice states that:

This application is approved subject to compliance with the following conditions:

Conditions:

Development is to comply with minimum clearances to overhead conductors. Ref ActewAGL Drawing 3811-004

Development is to comply with minimum separation requirements to underground assets ref ActewAGL Drawing 3832-018.

Development not reticulated at the time of plan assessment. Contact ActewAGL on 6293 5770 prior to conduit installation to verify location.

Installation of electrical conduits (on or off block) will be the responsibility of the proponent.

Proponent is required to contact ActewAGL prior to the commencement of any development activity to negotiate the connection of new and/or relocation of existing electricity assets.

The location of the proposed Pont of Entry/Meter Box is to comply with ActewAGL's Service and Installation rules.

Matters raised have been incorporated as advice.

On 5 November 2012 advice was received from the Gas Networks in relation to the proposal. The advice states that:

The application has been assessed by ActewAGL and conditionally complies with the Gas Networks requirements.

Attached are the stamped plans together with a statement of compliance.

Separate compliance statements are required from other utilities (eg: electricity, water and sewerage, stormwater and communications).

Matters raised have been incorporated as advice.

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 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.

Pursuant to section 185 of the Act, this approval will expire if:

• the lease variation is not completed two years after the day the approval takes effect.

Conditional Approval

This approval will expire if, in accordance with Section 165(3)(d) of the Act, a condition has deferred the effect of the development approval **and** imposed a time frame during which another approval must be revoked, amended or given, and the time frame has expired.

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

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

INSPECTION OF THE APPLICATION AND DECISION

A copy of the application and the decision can be inspected between 8:30am and 4:30pm weekdays at the Environment and Sustainable Development 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.

Application forms and further information about reconsideration are available from the planning and land authority's website and Customer Service Centres. The delegate of the planning and land 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.

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.

This Notice of decision has also been sent to all people who made representations in relation to the proposal.

APPENDIX 1

CONTACT DETAILS OF RELEVANT AGENCIES

Health Directorate - health protection	Website: <u>www.health.act.gov.au</u> Telephone: (02) 6205 1700		
Environment and Sustainable Development Directorate			
Planning and land authority	Website: <u>www.actpla.act.gov.au</u> Telephone: (02) 6207 1923		
 list of certifiers for building approval demolition information asbestos information 			
Environment Protection Authority - environment protection - water resources - asbestos information	Website: <u>www.environment.act.gov.au</u> Telephone: (02) 6207 6251		
Conservation, Planning and Research - threatened species/wildlife management	Website: <u>www.environment.act.gov.au</u> Telephone: (02) 6207 1911		
Territory and Municipal Services Directorate	Website: www.tams.act.gov.au Telephone: 132 281 Telephone for asset acceptance: (02) 6207 7480		
Utilities - Telstra (networks) - TransACT (networks) - ActewAGL - Electricity reticulation	Telephone: (02) 9397 2090 Telephone: (02) 6229 8000 Telephone: 1100 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

For further information regarding the lodgement of this information please contact Customer Service Centre by Phone: (02) 6207 1923, Fax: (02) 6207 1925 TTY: (02) 6207 2622, Email: actpla.customer.services@act.gov.au or on the planning and land authority website at 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 *Roads and Public Places Act 1937*, 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 *Roads and Public Places Act 1937*, 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. ActewAGL 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 ACTEW Corporation Limited'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 ACTEW 's Water 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.

BUSHFIRE MITIGATION MEASURES

This residential dwelling is located in an area where a bushfire risk assessment has identified that mitigation measures are required to reduce the impact of bushfires. The mitigation measures in this approval are to be maintained for the life of the residence. Special care needs to be exercised by the lessee to ensure that any future building works and modifications to the dwelling and additional landscaping does not compromise the mitigation measures imposed.

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
	Website: www.acat.act.gov.au
ACT Civil and Administrative Tribunal	Email: tribunal@act.gov.au
Level 4, 1 Moore Street	Telephone: (02) 6207 1740
CANBERRA CITY ACT 2601	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:

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 ghandek bżonn l-ghajnuna t'interpretu, cempel:

اگر به ترجمه شفاهی احتیاج دارید به این شماره تلفن کنید: PERSIAN

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

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

This is a market value lease - s238(2)(a)(ii) <u>Planning</u> and Development Act 2007

AUSTRALIAN CAPITAL TERRITORY

PLANNING AND DEVELOPMENT ACT 2007

Australian Capital Territory (Planning and Land Management) Act 1988 (C'th) ss 29,30 & 31

LEASE GRANTED pursuant to the Planning and Development Act 2007 and the Regulations made under that Act on the day of Two thousand and WHEREBY THE PLANNING AND LAND AUTHORITY ("the Authority") ON BEHALF OF THE COMMONWEALTH OF AUSTRALIA ("the Commonwealth") in exercising its functions grants to LESSEE ROJOPEPPER PTY LIMITED A.C.N.109 770 121 a company having its registered office at 16 Cobby Street Campbell in the Australian Capital Territory ("the Lessee") ALL THAT piece or parcel of land situate in the Australian LAND Capital Territory containing an area of 835 square metres or thereabouts and being Block 13 Section 28 Division of Narrabundah as delineated on Deposited Plan Number 550 in the Registrar-General's Office at Canberra in the said Territory ("the land") RESERVING unto the Territory all minerals and the right to the use, flow and control of ground water under the surface of the land TO HOLD unto the Lessee for the term commencing on the **TERM** day of Two thousand and ("the date of the commencement of the lease") and terminating on the eighteenth day of September Two Thousand and Fifty Five to be used by the Lessee for the purpose set out in Clause 3(a) of this lease only YIELDING AND PAYING THEREFOR rent in the amount and in the manner and at the times provided for in this lease and UPON AND SUBJECT TO the covenants conditions and agreements contained in this lease.

INTERPRETATION 1. IN THIS LEASE unless the contrary intention appears:

- (a) "Authority" means the Planning and Land Authority established by section 10 of the <u>Planning and Development Act 2007</u>;
- (b) "building" means any building or structure constructed or partially constructed or to be constructed, as the context permits or requires, on or under the land;
- (c) "class" for a building or structure, means the class of building or structure under the building code as defined in the <u>Building Act</u> 2004;
- (d) "dual occupancy housing" means the use of land that was originally used or leased for the purposes of single dwelling housing for two dwellings;
- (e) "dwelling":
 - (i) means a class 1 building, or a self-contained part of a class 2 building, that:
 - (A) includes the following that are accessible from within the building, or the self-contained part of the building:
 - (1) not more than 2 kitchens;
 - (2) at least 1 bath or shower;
 - (3) at least 1 toilet pan; and
 - (B) does not have access from another building that is either a class 1 building or the self-contained part of a class 2 building; and
 - (ii) includes any ancillary parts of the building and any class 10a buildings associated with the building;
- (f) "Lessee" shall:
 - (i) where the Lessee consists of one person be deemed to include the Lessee and the executors administrators and assigns of the Lessee;
 - (ii) where the Lessee consists of two or more persons be deemed to include in the case of a tenancy in common the said persons and each of them and their and each of their

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executors administrators and assigns and in the case of a joint tenancy be deemed to include the said persons and each of them and their and each of their assigns and the executors administrators and assigns of the survivor of them; and

- (iii) where the Lessee is a corporation be deemed to include such corporation its successors and assigns;
- (g) "multi-unit housing" means the use of land for more than one dwelling and includes but is not limited to dual occupancy housing and triple occupancy housing;
- (h) "premises" means the land and any building or other improvements on the land;
- (i) "Territory" means:
 - (i) when used in a geographical sense the Australian Capital Territory; and
 - (ii) when used in any other sense the body politic established by section 7 of the <u>Australian Capital Territory (Self-Government)</u> Act 1988 (C'th);
- (j) "triple occupancy housing" means the use of land that was originally used or leased for the purposes of single dwelling housing or dual occupancy housing for three dwellings;
- (k) words in the singular include the plural and vice versa;
- (l) words importing one gender include the other genders;
- (m) a reference in this lease to any statute or statutory provision shall include a reference to any statute or statutory provision that amends, extends, consolidates or replaces the statute or statutory provision and to any other regulation, instrument or other subordinate legislation made under the statute.
- 2. THE LESSEE COVENANTS WITH THE COMMONWEALTH as follows:
 - (a) That the Lessee shall pay to the Authority rent at the rate of five cents per annum if and when demanded payable within one month of the date of any demand made by the Authority relating thereto and served on the Lessee;

RENT

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MANNER OF PAYMENT OF RENT

- (b) That any rent or other moneys payable by the Lessee to the Authority under this lease shall be paid to such person as may be authorised by the Authority for that purpose at Canberra in the said Territory without any deduction whatsoever.
- 3. THE LESSEE FURTHER COVENANTS WITH THE COMMONWEALTH as follows:

PURPOSE

(a) To use the land for the purpose of multi-unit housing for not more than twelve (12) dwellings;

COMPLIANCE WITH THE SITE AUDIT STATEMENT AND SITE MANAGEMENT PLAN

(b) That the Lessee shall:

- (i) at the cost of the Lessee comply with the requirements set out in the:
 - (A) Site Audit Statement (000_XXXX) by XXXX dated dd/mm/yyyy, endorsed by the Environment Protection Authority (EPA) or its successors; and
 - (B) Site Management Plan (SMP) (Address) by XXXX dated dd/mm/yyyy;

in respect to the land and to the satisfaction of the EPA;

(ii) continue to comply with the requirements of the SMP until the EPA advises that management of the land in accordance with the requirements of the SMP is no longer required;

When EPA advice, in accordance with (ii) above, is obtained by the Lessee, this clause shall cease to have effect;

- PROVISION OF
 HYDRAULIC MAINS
 STORMWATER
 DRAINS AND
 SEWER LINES
- (c) That the Lessee shall provide and thereafter maintain hydraulic mains stormwater drains sewer lines hydraulic fire mains and hydrants on the land in accordance with plans and specifications prepared by the Lessee and previously submitted to and approved in writing by the Authority;
- PROVISION OF STORAGE AREAS CARPARKING AND ILLUMINATION
- (d) That the Lessee shall provide and thereafter maintain storage areas covered carparking hardstanding carparking adequately illuminated vehicle access roads pedestrian pathways and vehicle access drives on the land to a standard acceptable to the Authority in accordance with plans and specifications prepared by the Lessee and previously submitted to and approved in writing by the Authority;

PROVISION OF

(e) That the Lessee shall provide facilities on the land to a

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FACILITIES FOR ELECTRICAL AND TELEPHONE CABLES

standard acceptable to the Authority to enable electrical and telephone cables and wires to be installed underground;

LANDSCAPING

(f) That the Lessee shall provide and thereafter maintain landscaping on the land to a standard acceptable to the Authority in accordance with plans and specifications prepared by the Lessee and previously submitted to and approved in writing by the Authority;

PRESERVATION OF TREES

- (g) That the Lessee shall not, without the previous consent in writing of the Territory, remove any tree:
 - (i) that has been identified in a development approval for retention during the period allowed for construction of the building; or
 - (ii) to which the Tree Protection Act 2005, applies;

SERVICE AREAS

(h) That the Lessee shall screen and keep screened all service areas to the satisfaction of the Authority and shall ensure that all plant and machinery contained within the premises is suitably screened from public view;

BUILDING SUBJECT TO APPROVAL

(i) That the Lessee shall not without the previous approval in writing of the Authority, except where exempt by law, erect any building, or make any structural alterations to any building, on the land;

REPAIR

That the Lessee shall at all times during the said term maintain repair and keep in repair the premises to the satisfaction of the Authority;

FAILURE TO REPAIR

If and whenever the Lessee is in breach of the Lessee's obligations to maintain repair and keep in repair the premises the Authority may by notice in writing to the Lessee specifying the repairs and maintenance needed require the Lessee to effect the necessary work in accordance with the notice. If the Authority is of the opinion that a building or some other improvement on the land is beyond reasonable repair the Authority may by notice in writing to the Lessee require the Lessee to remove the building or improvement and may require the Lessee to construct a new building or improvement in place of that removed within the time specified in the notice. If the Lessee does not carry out the required work within the time specified by the Authority any person or persons duly authorised by the Authority with such equipment as is necessary may enter the premises and carry out the necessary work and all costs and expenses incurred by the Authority in carrying out the work shall be paid by the Lessee to

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the Authority on demand and from the date of such demand until paid shall for all purposes of this lease be a debt due and payable to the Authority by the Lessee;

RIGHT OF INSPECTION

(1) Subject to the provisions of the <u>Planning and Development Act</u> 2007 to permit any person or persons authorised by the Authority to enter and inspect the premises at all reasonable times and in any reasonable manner;

RATES AND CHARGES

- (m) To pay all rates charges and other statutory outgoings assessed levied or payable in respect of the premises as and when they are due for payment.
- 4. THE COMMONWEALTH COVENANTS WITH THE LESSEE as follows:

QUIET ENJOYMENT

That the Lessee paying the rent and all other money due and observing and performing the covenants and stipulations on the part of the Lessee to be observed and performed shall quietly enjoy the premises without interruption by the Authority or any person lawfully claiming from or under or in trust for the Authority.

5. IT IS MUTUALLY COVENANTED AND AGREED as follows:

TERMINATION

- (a) That if:
 - (i) any rent or other moneys payable under this lease shall remain unpaid for three months next after the date appointed for payment thereof (whether such rent shall have been formally demanded or not); or
 - (ii) the said land is at any time not used for a period of one year for the purpose for which this lease is granted; or
 - the Lessee shall fail to observe or perform any other of the covenants contained in this lease on the part of the Lessee to be observed or performed and shall have failed to remedy such breach within a period of six months from the date of service on the Lessee of a notice in writing from the Authority specifying the nature of such breach

the Authority on behalf of the Commonwealth may terminate this lease but without prejudice to any claim which the Authority or the Commonwealth may have against the Lessee in respect of any breach of the covenants on the part of the Lessee to be observed or performed;

ACCEPTANCE

(b) That acceptance of rent or other moneys by the Authority during or

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OF RENT

after any period referred to in Clauses 5(a) (i), (ii) or (iii) of this lease shall not prevent or impede the exercise by the Authority of the powers conferred upon it by the said Clauses;

FURTHER LEASE

(c) Subject to the Lessee paying all money required to be paid under the provisions of the <u>Planning and Development Act 2007</u> the Lessee shall be entitled to a further lease of the land for such further term and at such rent and subject to such conditions as may then be provided or permitted by Statute Ordinance or Regulation;

NOTICES

(d) That any notice requirement demand consent or other communication to be given to or served upon the Lessee under this lease shall be deemed to have been duly given or served if signed by or on behalf of the Authority and delivered to or sent in a prepaid letter addressed to the Lessee at the registered office of the Lessee in the said Territory BUT if for any reason the Lessee does not have a registered office in the said Territory then at the usual or last-known address of the Lessee or affixed in a conspicuous position on the premises;

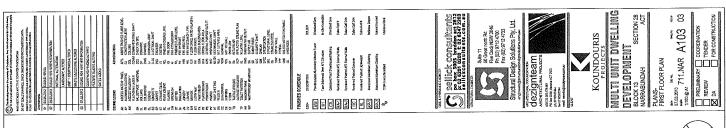
EXERCISE OF POWERS

- (e) Any and every right, power or remedy conferred on the Commonwealth or Territory in this lease, by law or implied by law may be exercised on behalf of the Commonwealth or the Territory or as the case may be by:
 - (i) the Authority;
 - (ii) an authority or person for the time being authorised by the Authority or by law to exercise those powers or functions of the Commonwealth or Territory; or
 - (iii) an authority or person to whom the Authority has delegated all its powers or functions under the <u>Planning and Development Act 2007</u>.

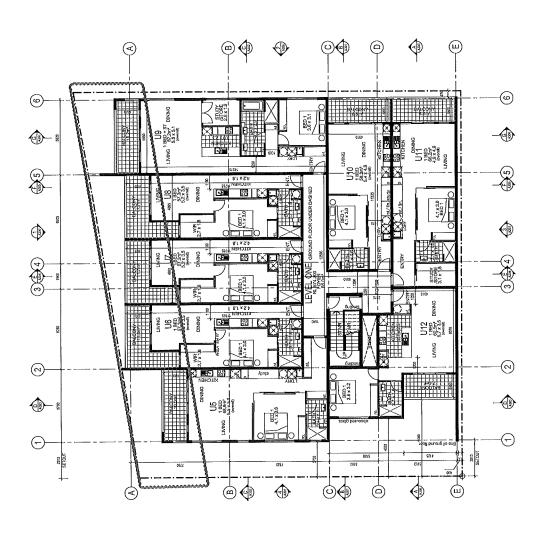
Attachment 1 – draft Crown lease – DA201222513

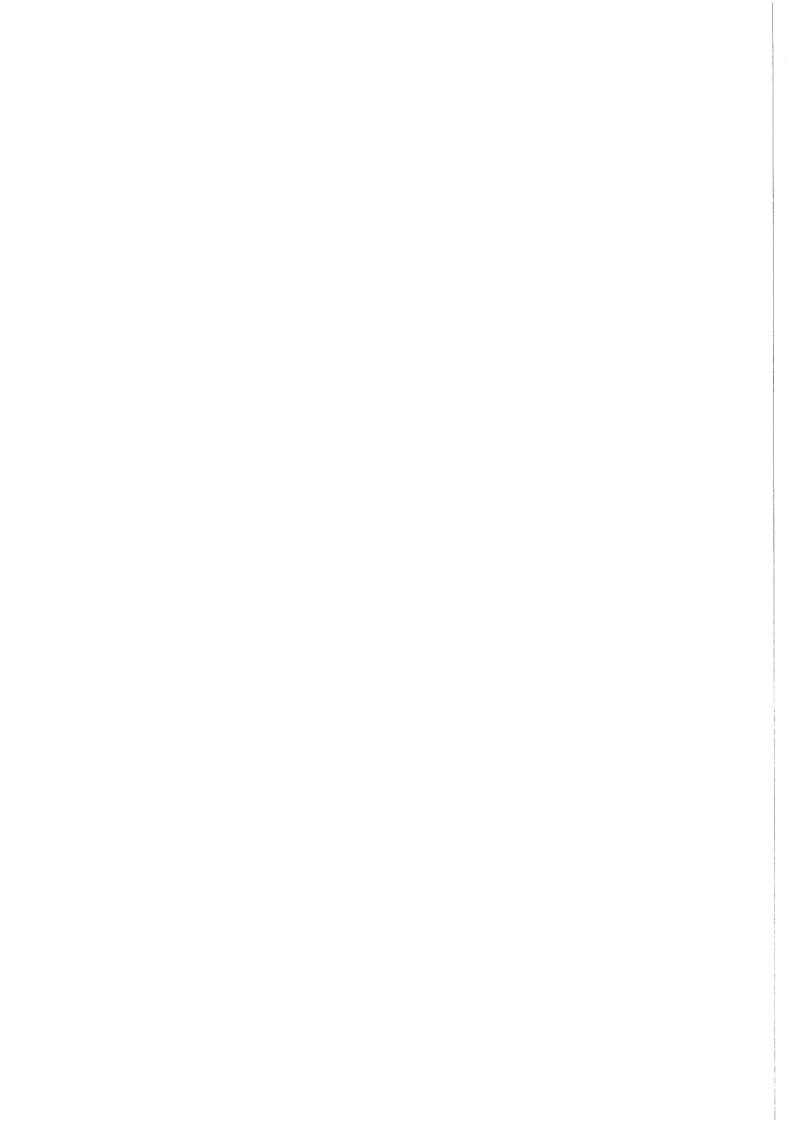
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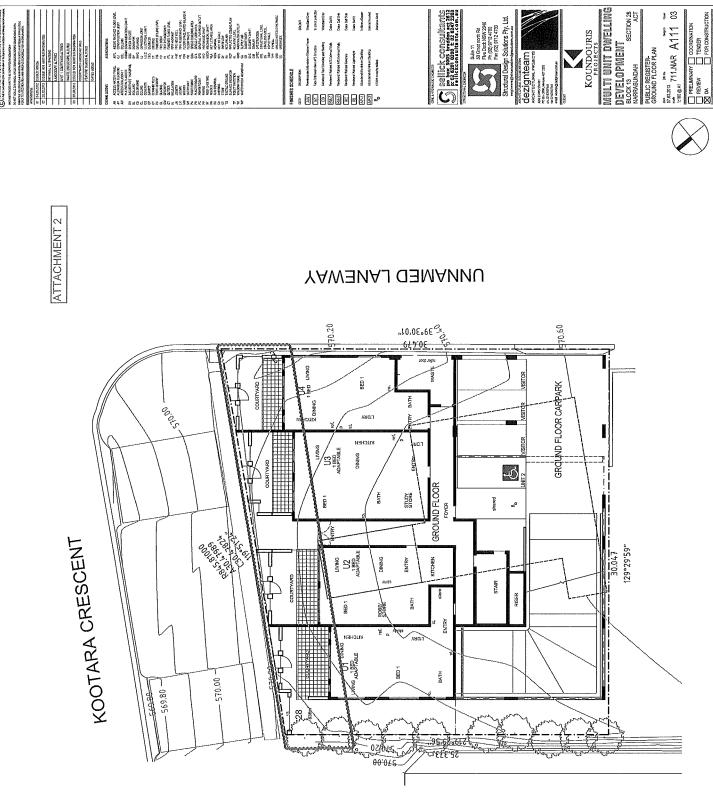
Signed by [name of signatory] a delegate authorised to execute this lease on behalf of the Commonwealth in the presence of [name of witness])))		 Delegate
Signed by ROJOPEPPER PTY LIMITEI))		Witness
(A.C.N. 109 770 121) by:)		
Signature			Signature
Name in full			Name in full
Director/Secretary		D	Pirector/Secretary
Signature Name in full			
Director/Secretary	•		







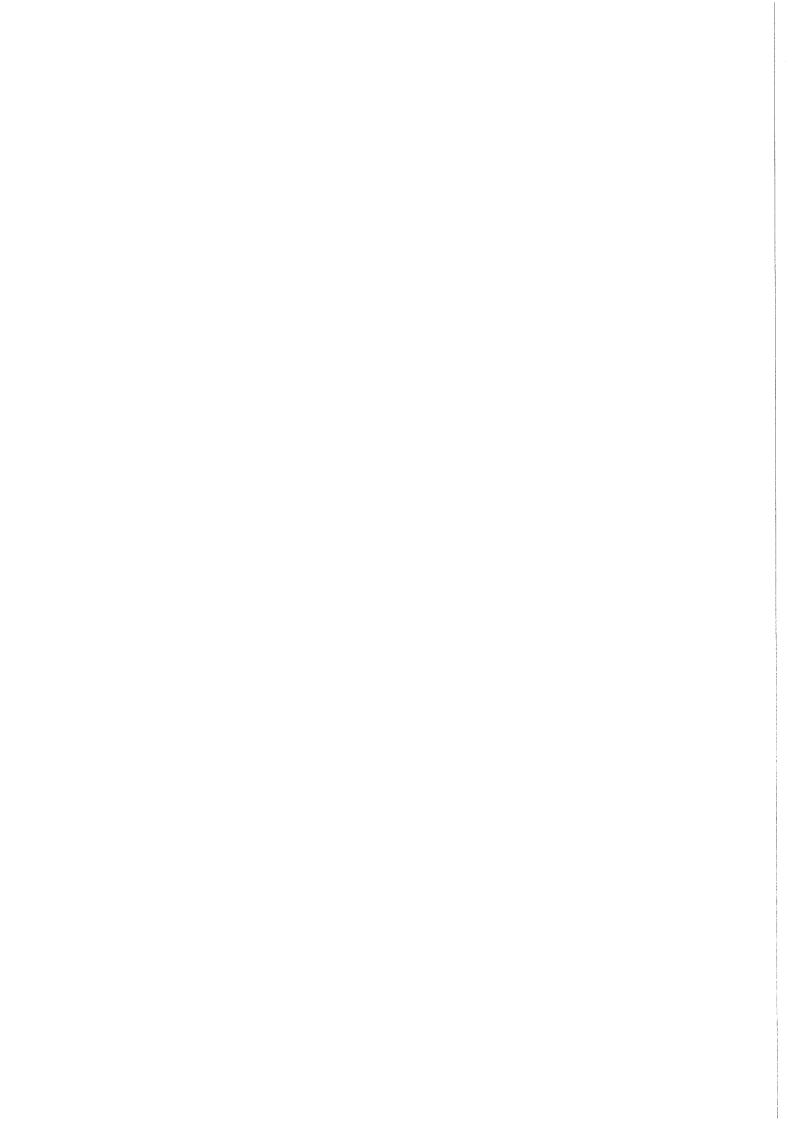




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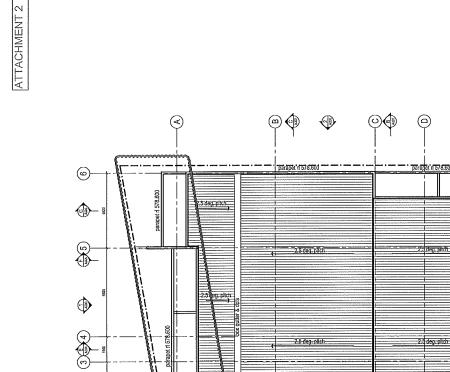








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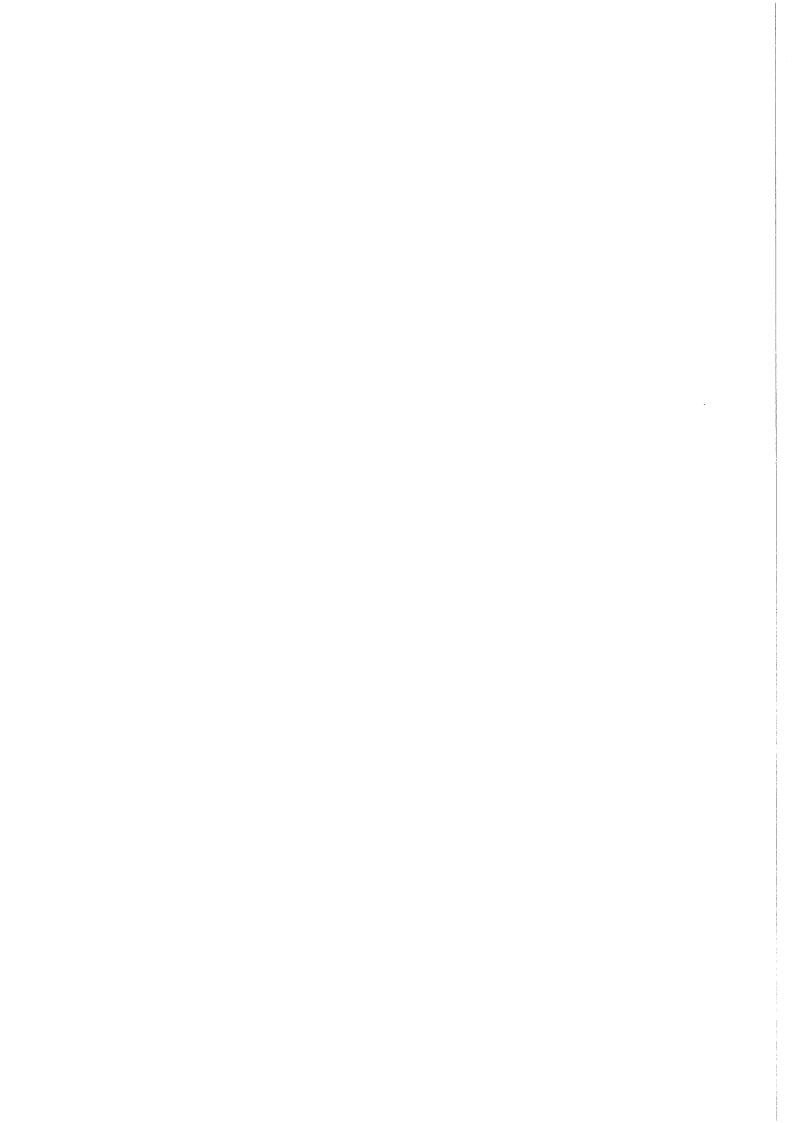
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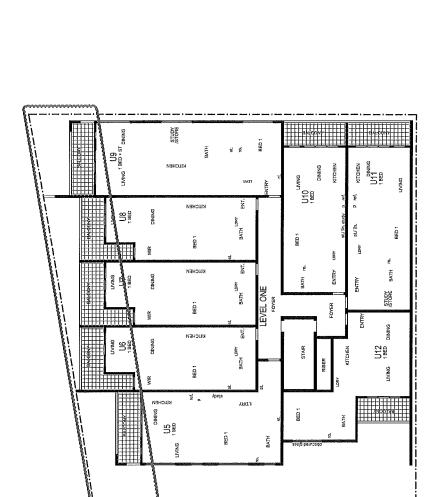
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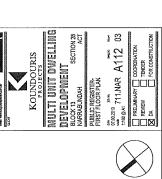
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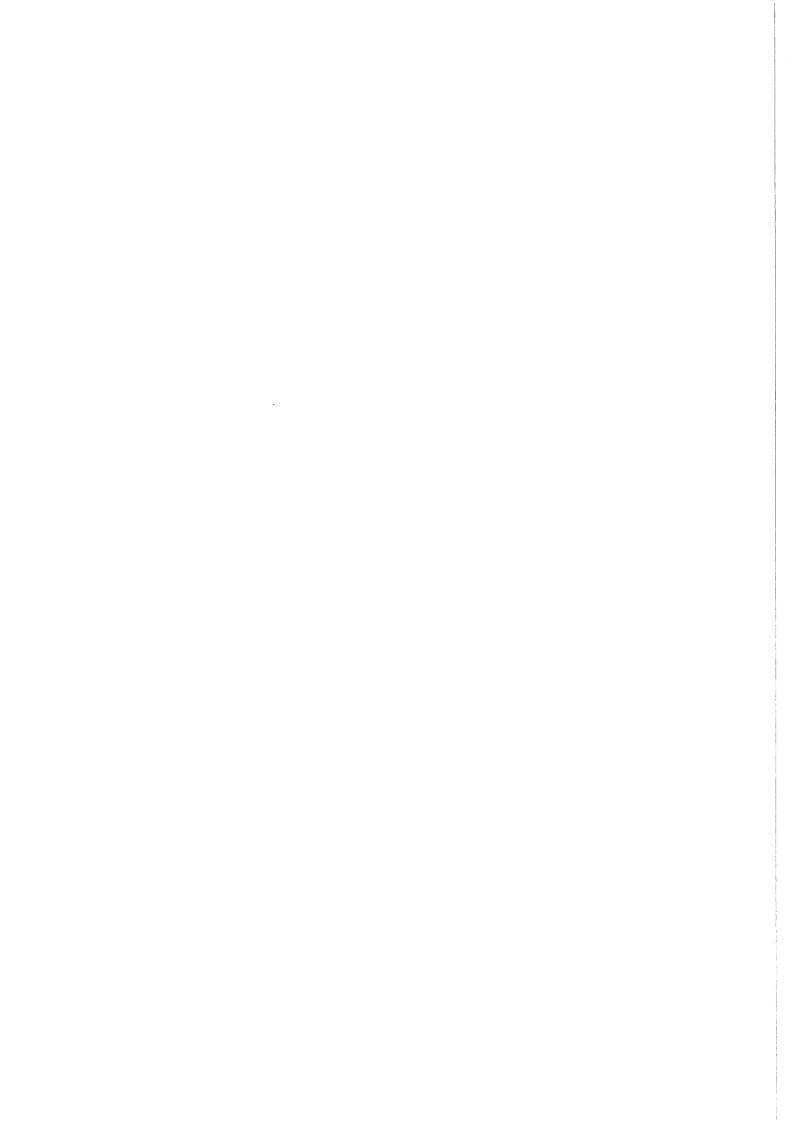
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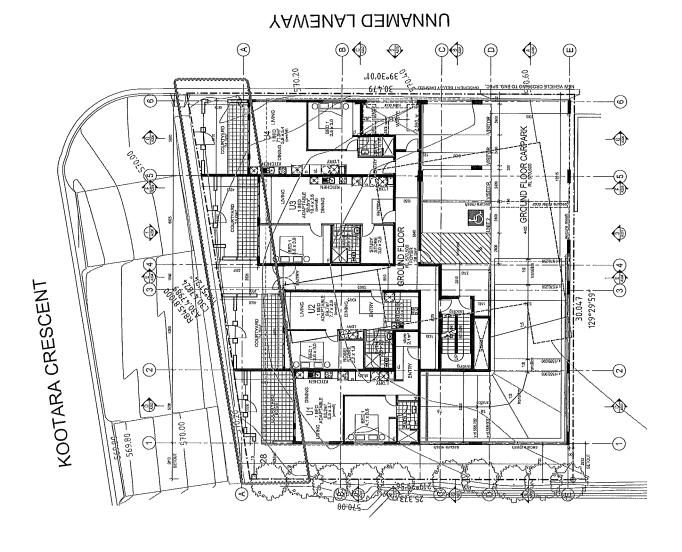
SETOUT













MULTI UNIT DWELLING DEVELOPMENT BLOCK 13 BLOCK 13 RARFABUNDAH ACT

PLANS-GROUND FLOOR PLAN

KOUNDOURIS

