



Notice of decision

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

Impact track

DA NO: 201017858	DATE LODGED: 27/05/2010
DATE OF DECISION: 3 August 2010	
BLOCK: 1611, 1572, 1653, 1654, 1675, 1470, 1471, and 119 and unleased Territory land	SUBURB: TUGGERANONG
STREET NO AND NAME: Monaro Highway	
APPLICANT: Actew Corporation Ltd	
LESSEE: Block 119: Stephen John Locke, Peter Holland, Actew Corporation Limited and Unleased Territory Land	

THE DECISION

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

I, Karen Wilden, delegate of the ACT Planning and Land Authority, pursuant to section 162 of the Act, **approve subject to conditions** the proposal for:

- a major utility installation including: a water supply pipeline, pumping stations; electrical substation; electrical cabling; a microwave tower; and
- associated works including: road works, landscaping, tree/shrub removal, and rehabilitation works.

in accordance with the plans, drawings and other documents and items submitted with the application and endorsed as forming part of this approval.

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

PART 2 sets out the Reasons for the Decision.

PART 3 is the Consultation and Entity Referral Report.

PART 4 contains administrative information relating to the determination.

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

DELEGATE

Karen Wilden
Delegate of the ACT Planning and Land Authority
3 August 2010

CONTACT OFFICER

Owen Pankhurst
Phone: (02) 6207 9055
Email: owen.pankhurst@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 by the Authority, others before work commences or before the completion of building work.

A ADMINISTRATIVE / PROCESS CONDITIONS

Leasing

- A1. Development within Block 119 Tuggeranong must not commence until the developer has obtained written endorsement from PCL TAMS that the development is consistent with the Land Management Agreement for that block.

Audit of requirements of conditions of approval

- A2. Prior to the commencement of works on site, the applicant/Lessee must nominate an independent person, who will be approved by ACT Planning and Land Authority (ACTPLA), to audit and ensure that all conditions of approval set out in the decision by ACTPLA, or any relevant decision under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) are fully completed in accordance with the next condition of this decision.
- A3. Prior to the completion of work, the applicant/Lessee must submit a report prepared and endorsed by the person identified under the previous condition of this decision to provide demonstrated evidence that:
- (a) the requirements set out in any relevant decision made under the EPBC Act have been fully completed to the satisfaction of the Department of the Environment, Water, Heritage and the Arts (DEWHA); and
 - (b) the mitigation measures committed to within the Final EIS accepted by the Minister for Planning on 12 May 2010 and detailed within this decision are completed to the satisfaction of ACTPLA and to any relevant government entity to which that requirement relates.

Compliance Monitoring and Tracking

- A4. A Compliance Tracking Program be developed and implemented to track and audit the requirements and compliance of conditions of this approval. The Program must be submitted to ACTPLA prior to the commencement of construction of works on site or operations as appropriate. The program must relate to both the construction and operational stages of the project and must include, but not necessarily be limited to:
- (a) a timeline which details the relevant approvals required and approving entities;
 - (b) provisions for periodic reporting of compliance status of the development against the requirements and conditions of approval (including any other Government licences and approvals) to ACTPLA and the Environment Protection Authority (EPA); and
 - (c) mechanisms for rectifying any non-compliance identified during auditing or review of compliance.

Community Information, Consultation and Involvement

- A5. Prior to the commencement of works on site, the proponent must ensure that the following are available for community enquiries and/or complaint for the life of the project (including construction and operation):
- (a) a telephone number on which complaints about construction and operational activities at the site can be registered;
 - (b) a postal address to which written complaints may be sent; and
 - (c) an email address to which electronic complaints can be transmitted.
- A6. The telephone number, the postal address and the email address must be displayed on the signs, placed in appropriate locations including signs required as part of the Temporary Signage Plan at Condition B14 of this decision. A register of complaints must be made available for inspection by ACTPLA upon request.

FURTHER INFORMATION FOR WORKS FOR THE PIPELINE, HIGH LIFT PUMP STATION, MICROWAVE TOWER AND 3.3KV CABLING AND STRUCTURE

- A7. Works for the Pipeline, High Lift Pump Station (HLPS), Microwave Tower, and 3.3Kv cabling and structures, must not commence until the applicant has lodged with ACTPLA and obtained approval for revised drawings and information showing:
- (a) the construction of erosion control measures and associated landscaping to the outlet structure to the High-Lift Pump Station to the satisfaction of Parks Conservation and Lands, Territory and Municipal Services (PCL TAMS) and ACTPLA;
 - (b) the Rehabilitation Plan and Landscape Plans revised to include the following requirements:
 - (i) the deletion of the words 'local seed stock where possible' and replaced with 'use local provenance local native species';
 - (ii) the usage of introduced straw or other mulch materials must have minimal weed seed content and maximum cleanliness;
 - (iii) the use of *Eucalyptus camaldulensis* or *Casuarina cunninghamiana* in the Low Lift Pump Station Indicative Planting Palette deleted and replaced with one or more of the following: *Eucalyptus viminalis*, *Eucalyptus rubida*, *Callitris endlicher*; *Banksia marginate*;
 - (iv) the substitution or deletion of *Muehlenbeckia tuggeranong* considering advice at Section E17 of this Decision,
 - (v) the deletion of *Hymenantha dentata* and *Leptospermum continentale* and its replacement with an appropriate grass/groundcover such as *Poa labillardieri*;

- (vi) landscaping proposed for areas of visual mitigation revised to include additional semi-mature native tree/shrub planting within a horizontal distance of 15m from the perimeter of the HLPS, and 3.3Kv cabling and structures that will reach a height in excess of 6m within five years of their planting in the ground to achieve vegetative screening of the proposed buildings to the satisfaction of ACTPLA and PCL TAMS; and
- (c) revised sediment erosion control plans indicating that areas affected by disturbance at all stages including construction and testing of the pipeline are stabilised and treated in accordance with the Territory requirements for sediment and erosion control to the satisfaction of the EPA.

B PRIOR TO CONSTRUCTION

- B1. Development must not commence for any part of the development until Conditions B5 through to B19 are met.
- B2. Development must not commence for the Pipeline east of Monaro Highway until Condition B20 is met.
- B3. Development must not commence for the Low Lift Pump Station and Angle Crossing Beach until Conditions B21 through to B22 are met.
- B4. Development must not commence for the Pipeline, High Lift Pump Station (HLPS), Microwave Tower, and 3.3Kv cabling and associated structures until the applicant has lodged with ACTPLA and obtained approval for the revised drawings and information required at Condition A7 above.

GENERAL - ALL AREAS

Heritage

- B5. The recommendations contained within the following report, as approved and endorsed by the ACT Heritage Council are fully complied with to the satisfaction of the ACT Heritage Council prior to the commencement of works on site:
 - (a) A Cultural Heritage Assessment (Murrumbidgee to Googong Water Transfer Project. Cultural Heritage Assessment including Subsurface Testing Program).

NOTE: See Part C for further conditions relating to Heritage.

Construction Environment Management Plan (CEMP)

- B6. A Construction Environment Management Plan must be endorsed by PCL TAMS and the Environment Protection Agency (EPA) prior to the commencement of works on site. The CEMP must include as a minimum, the following sub-plans and mitigation measures:
 - (a) an Integrated Risk Management sub-plan that aligns to AS/NZS ISO 31000:2009 - Risk Management Principles and Guidelines. The applicant will submit a report to ACTPLA, prepared and endorsed by the person as defined in Condition A2, to ensure implementation of the Integrated Risk Management sub-plan during construction and ongoing operational phases;

NOTE: See E20 and E21 of this Decision for further advice regarding this plan.

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- (b) a Soils and Water Management sub-plan that details the mitigation and management of impacts on soils, erosion, sedimentation, water quality and the hydrological environments during construction and operation works be endorsed by EPA;
 - (c) a Waste Management sub plan that includes disposal requirements, measures to prevent the generation of, and measures to reduce, re-use or recycle wastes be endorsed by TAMS;
 - (d) a Noise and Vibration Management sub-plan that includes noise control measures and monitoring during construction and operation phase be endorsed by EPA; and
 - (e) an Air and Dust Management sub-plan to implement the mitigation measures to control dust from exposed areas, stockpiles, plant equipment and unsealed roads be endorsed by EPA.

NOTE: The CEMP may contain plans and management strategies listed elsewhere within the conditions of approval. Where these plans can be integrated into the CEMP, it must be clearly identified to which condition of approval the plan or management strategy applies.

Rehabilitation & Landscape Management Plan

- B7. Prior to the commencement of works a Rehabilitation & Landscape Management Plan that details the rehabilitation management and activities necessary to assess and rehabilitate areas impacted by the construction of the Murrumbidgee to Googong pipeline works must be endorsed by the PCL TAMS and the EPA. The plan must include as a minimum, the following sub-plans and mitigation measures:
- (a) an Aquatic Ecology Management sub-plan that details the procedures to manage and minimise the potential impact on aquatic environments; and
 - (b) a Flora and Fauna Management sub-plan that details the mitigation and management of impacts on flora and fauna including weed control during construction and operation phase.

Environmental Authorisation/Agreement

- B8. Prior to the commencement of works on site, the applicant must obtain written endorsement from the EPA that the following requirements have been met and approvals have been granted:
- (a) an Environment Authorisation under the provisions of the *Environment Protection Act 1997* for any activity on the site which is listed under Schedule 1 as a Class A activity;
 - (b) a Waterway Works Licence under the provision of the *Water Resources Act 2007* for any works within a designated waterway;
 - (c) an Environment Protection Agreement with the EPA for any activity on the site which is listed under Schedule 1 as a Class B activity of the *Environment Protection Act 1997*;
 - (d) an 'Exemption from the requirement for a licence to take water' to utilise use non-potable water for construction purposes; and
 - (e) the proposal is to be consistent with 'Environmental Flow guidelines' and accommodate acceptable environmental flows for the ACT.

NOTE: 1- see section E below for further advice from the EPA.

2- Contact the Environment Protection Unit, DECCEW for more information on Environmental Authorisation/Agreement details. Contact the Water Resources Unit, DECCEW for more information on Waterway Works Licence and utilisation of non-potable water.

- B9. No part of the development must commence until a Works Method Statements is submitted to and endorsed by PCL TAMS that covers those works.

Ejector Pipe System Associated with the Low Lift Pump Station

- B10. Prior to the commencement of works on site, the applicant must submit to and obtain the endorsement of PCL TAMS and the EPA for further details of the ejector pipe system associated with the Low Lift Pump Station, including but not limited to:
- (a) size, location and specification of the discharge structure;
 - (b) velocity of water within and leaving the system;
 - (c) details of the discharge operations;
 - (d) mitigation measures to prevent entrapment of fish moving upstream; and
 - (e) prevention of erosion and sedimentation during operation at the discharge.

Nature Conservation Licences

- B11. The proponent must obtain all relevant licences under the provisions of the *Nature Conservation Act 1980* to the satisfaction of ACT Conservator of Flora and Fauna.

Biodiversity Offsets Implementation Plan

- B12. A plan to implement the biodiversity offsets provisions of the EIS, developed in consultation with and endorsed by PCL TAMS is submitted to the Authority prior to the commencement of works on site.

Bushfire Risk Management Plan

- B13. A Bushfire Risk Management Plan must be endorsed by the Emergency Services Agency (ESA) prior to the commencement of works on site.

Temporary Signage Plan

- B14. Prior to works commencing on site a *Temporary Signage Plan* that details signage in public places, and within the recreational areas noted as sensitive receivers in the EIS must be submitted to ACTPLA for approval. The plan must include information on blasting, construction and traffic movements within the area and any potential disturbance/annoyance that this might have on recreational activities.

Asset Acceptance and Works on Unleased Territory Land

- B15. In accordance with the *Roads and Public Places Act 1937* no work be undertaken on road verges and other unleased Territory Land without the approval of the Senior Manager AA, TAMS.
- B16. A Certificate of Design Acceptance be obtained from the Senior Manager, AA, TAMS for all infrastructure works, including landscape works that are to be handed over to the Territory. The following must be submitted to and approved prior to the commencement of works on site:
- (a) detailed drawings (civil, landscape) prepared by suitably qualified persons for all off-site works including roads, storm water, landscaping;
 - (b) a Waste Management Plan in accordance with the Development Control Code for Best Practice Waste Management in the ACT, and
 - (c) any other issues that may be found by audit of the plans.
- B17. Prior to the commencement of works on site, the following requirements must be submitted to and approved by the Senior Manager, AA, TAMS:
- (a) a Notice of Commencement of Construction. This notice must be submitted to the Senior Manager, AA, TAMS one week prior to the commencement of construction works on site. Notice must include the confirmation of any protective measures installed in accordance with the approved Landscape Management Protection Plan and programmed implementation of the Temporary Traffic Management Plan.
 - (b) a dilapidation survey and associated report for all public roads to be used for construction traffic;
 - (c) a detailed Construction (Temporary) Parking Plan for the building phase. This plan must take into account all construction/demolition vehicles and equipment, and construction workers vehicles, and how and where they will be accommodated within the site; and
 - (d) a Landscape Management and Protection Plan (LMPP) in accordance with City Management Guidelines for the Protection of Public Landscape Assets Adjacent to Development Works-REF-04.
- B18. Prior to the commencement of works on site, the following requirements must be submitted to and approved by the Manager, Traffic Management and Safety, Roads ACT, TAMS:
- (a) a Temporary Traffic Management (TTM) plan, prepared by a suitably qualified person. 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; and
 - (b) a Temporary Traffic Management sub-plan that includes truck movements to and from the construction sites, interactions with general public and property access, parking and access requirements for construction personnel and safety signage and training of personnel in traffic management.

Traffic Control Devices

- B19. Traffic Control Device drawings for all new and amended works must be submitted to the Senior Manager, AA, TAMS for approval prior to the installation of such devices.

PRIOR TO COMMENCEMENT OF THE PIPELINE EAST OF MONARO HIGHWAY

Endangered species – *Swainsona recta*

- B20. During the month of October, and prior to works commencing within the parts of the pipeline east of the Monaro Highway, the applicant must survey the area subject to works for the pipeline within Block 119 District of Tuggeranong to determine the exact location of any *Swainsona recta* plants.

PRIOR TO COMMENCEMENT OF THE LOW LIFT PUMP STATION – ANGLE CROSSING BEACH

Angle Crossing Restoration

- B21. Prior to the commencement of works for the Low Lift Pump Station and Angle Crossing Beach a plan that details restoration of Angle Crossing Recreation Area, must be endorsed by PCL TAMS and the EPA.

Agreement for the undertaking of offsite works

- B22. Prior to the closure of Angle Crossing beach the applicant must submit to ACTPLA a written agreement endorsed by ACTEW and PCL TAMS for the undertaking of offsite works to the Tharwa Sandwash recreation area that will be carried out prior to the closure of the Angle Crossing beach.

C. DURING CONSTRUCTION

Endangered species – *Swainsona recta*

- C2. The applicant must take all reasonable steps and precautions to avoid disturbance of all *Swainsona recta* plants and habitat within the site.
- C3. In the case it is not possible to avoid disturbing the *Swainsona recta* and nearby habitat the applicant must, prior to disturbing them, develop an offset strategy to mitigate the impacts on this species. This strategy must include research into the best methods for translocation, the translocation of the effected plants, and re-establishment of these plants within an appropriate location to the satisfaction of the Conservator.

Heritage

- C4. The Stage 2 subsurface testing program recommended in the report *A Cultural Heritage Assessment (Murrumbidgee to Googong Water Transfer Project. Cultural Heritage Assessment including Subsurface Testing Program)* and outlined in the *Proposed Methodology, Stage 2 Archaeological Subsurface Testing Program (Aboriginal Heritage Murrumbidgee to Googong Water Transfer Project report)* is implemented in accordance with the ACT Heritage Council advice at **Attachment 1** of this Decision, and a report is submitted to and endorsed by the ACT Heritage Council, prior to the development impacts occurring.

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- C5. All impact mitigation measures outlined in the Murrumbidgee to Googong Water Transfer Project Cultural Heritage Assessment including Subsurface Testing Program report must be implemented at the appropriate times.
- C6. If any unanticipated discoveries are located once construction commences the Unanticipated Discovery Protocol (UDP) outlined in Appendix 8 of the Murrumbidgee to Googong Water Transfer Project Cultural Heritage Assessment including Subsurface Testing Program report must be implemented.

Parks Conservation & Lands, TAMS

- C7. The following requirements must be initiated and maintained for the duration of the works in accordance with the Rehabilitation & Landscape Management Plan required at Condition B7, to the satisfaction of PCL TAMS:
- (a) the existing vegetation (trees, shrubs and grass) located on the verge and unleased Territory land immediately adjacent to the development will be managed, protected and maintained;
 - (b) the areas subject to excavation, construction works, construction traffic, or installation of construction facilities/sheds must be fenced off, prior to those works/activities commencing;
 - (c) the management and/or removal of native and exotic vegetation; and
 - (d) all areas impacted by construction works must be rehabilitated prior to completion of the development.

NOTES: 1- Refer to Section E and Appendix 1 for information about approvals that may be required for construction.
2- Conditions A3 and A4 must be completed to the satisfaction of ACTPLA prior to the completion of construction and any required rehabilitation works on the site.

Asset Acceptance and Works on Unleased Territory Land

- C8. The following requirements must be initiated and maintained for the duration of the works in accordance with the plans required under Conditions B15, B15 & B17, to the satisfaction of the Senior Manager, AA, TAMS:
- (a) that any damage to road surfaces recognised as a result the Dilapidation Survey must be reinstated to pre-construction condition to the satisfaction of TAMS as required during construction and prior to the completion of work;
 - (b) that the site and surrounds must be managed in accordance with the Traffic Management Plan; and
 - (c) that all existing vegetation (trees, shrubs and grass) located on the verge and unleased Territory land immediately adjacent to the development is managed, protected and maintained in accordance with the LMMP.
- C9. Temporary Traffic Management must be initiated and maintained for the duration of the works in accordance with the plans required under Conditions B18, to the satisfaction of the Manager, Traffic Management and Safety, Roads ACT, TAMS.

ActewAGL Electrical Utilities

- C10. The development must comply with the ActewAGL minimum clearances to overhead conductors. Ref ActewAGL Drawing 3811-004.

Monitoring and Research Program

- C11. Prior to completion of the development a Monitoring and Research Program for the aquatic ecosystem including fish, in both in the Murrumbidgee and Burra/Googong be developed in consultation with and approved by the Research and Planning unit, PCL TAMS.

D POST CONSTRUCTION

Nil

E ADVISORY NOTES

This application is approved with the following advisory notes. It is recommended that careful consideration be given to advisory notes prior to commencing work.

ACTEWAGL ELECTRICAL

- E1. 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.
- E2. **WARNING** ActewAGL underground cables may be in or adjacent to this block. It is your responsibility to ascertain the location of such assets.
- Development and Building Applications will need to include any proposed ActewAGL works
 - If ActewAGL approval conditions are not met, a breach of the law may result.
 - Separate applications are required for water & sewerage, and communication network services.
 - Construction of unapproved works may result in action being taken to require the property owner to remove non-compliant structures and/or the property owner to fund rectification works on ActewAGL's electricity network.
 - Any attached reticulation or servicing plan is preliminary only. Contact ActewAGL for final plans prior to the commencement of any construction activity.
 - A failure of this application to show accurately located electricity assets may result in damage and costs for which the proponent will be liable. Damage to network assets must be reported to ActewAGL.

EMERGENCY SERVICES AGENCY***Infrastructure and road ways to comply with Fire Brigade Standards***

- E3. Where incorporated into the project, access trails and gateways should be constructed to allow the access and egress of fire fighting vehicles. Trails must be 4m wide and clear overhead to a height of 4.5 m, suitable to travel by a 23t truck. If the access trail is a dead end, a turnaround at the end of the trail, a minimum of 21 m wide, is to be constructed to allow emergency vehicles to turn safely. Where works prevent travel along existing fire trails or access ways, alternate access, as described above, should be provided.

Traffic Management

- E4. Any restriction of roadway access should be communicated in writing where possible. In instances where roads will be closed at short notice, ACTFB communications centre is to be advised on 02 6207 8333.

Emergency Planning

- E5. The ACTFB welcomes the Proponents invitation to be involved in developing their Emergency response plan.

Hydrants and water supplies

- E6. Water supply for fire fighting purposes is required in accordance with previous advice. "Spring valve" type hydrants are the most common style of hydrant used within the ACT and are suggested for this development. Hydrants are required to be located on a hard standing surface. Location of hydrants is requested once construction is complete, to allow data to be incorporated into ACTFB Computer Aided Dispatch system.

Bushfire Risk

- E7. In the event of an emergency occurring, significant delays may be experienced prior to the arrival of emergency services. The scope of the Proponent's bushfire management planning is welcomed and ESA looks forward to being involved in the development and review of the Proponents Bushfire Management Plan prior to commencement of works.

WORK SAFE ACT

- E8. In relation to the **Emergency and Incident Response Management Plan** (the "plan"), WorkSafe ACT are not responsible for endorsing plan. ACTEW: will need to develop the plan in association with the *Work Safe Act 2008* and the *Work Safe Regulation 2009*.

ENVIRONMENT PROTECTION AUTHORITY**Sourcing water - long term:**

- E9. Under the *Water Resources Act 2007*, the proponent is required to hold an appropriate Water Access Entitlement and Licence To Take Water prior to extraction of any water from Murrumbidgee River for delivery to Googong Reservoir. Contact Environment Protection Authority (Water Resources) for more information: via telephone 132281.

Sourcing water - construction activities:

- E10. Water may be taken from non potable sources for the purpose of short term construction activities, however, the proponent will need to apply for and be granted an Exemption from the requirement for a Licence To Take Water, before any non-potable water may be taken. Please note a water exemption is generally intended for construction activities other than dust suppression. Contact Environment Protection Authority (Water Resources) for more information: via telephone 132281.

Waterway Works Licence:

- E11. This application involves alteration of designated waterways (Murrumbidgee River; several minor drainage lines), therefore a Waterway Works Licence is required prior to work commencing. A Waterway Works Licence application may be obtained from Environment Protection Authority (Water Resources) and an application should include a construction method statement that outlines the sequence of work and environmental controls. Contact Environment Protection Authority (Water Resources) for more information: Telephone 132281, or GPO Box 158, Canberra ACT 2601.

Environment Regulation:

- E12. An Environmental Authorisation will be required for these works. The following activities require an Environment Authorisation under the *Environment Protection Act 1997*:
- Extraction of material from a waterway
 - Operation of equipment designed to extract more than 30,000t per year of material from land outside of a waterway;
 - Placement of soil on land;
 - Crushing, grinding or separating materials (this may be triggered, further discussion is required).

Part 6.3.2 Part B General development controls - C34/35 Erosion and sediment control:

- E13. Prior to construction the proponent is to provide the Erosion and Sediment Control Plans to TaMS and the Environment Protection Authority for consideration and approval.

Part 9.4.3 Noise and vibration impacts during construction and operation:

- E14. The proponent has requested the Environment Protection Authority to consider a noise compliance point for the low lift pump station to be "The northern end of the Angle Crossing beach Recreational Area". The Authority has considered the compliance point for the low lift pump station and advises that the compliance will be at "the Northern End of the Angle Crossing Beach Recreational Area".

PARKS CONSERVATION LANDS, TAMS**Rehabilitation**

- E15. The primary aim of all rehabilitation/revegetation efforts should be to use local provenance local native species rather than 'local seed stock where possible' as currently noted in the development application. Any usage of introduced straw or other mulch materials must ensure minimal weed seed content and maximum cleanliness.
- E16. The details provided in the development application for rehabilitation/revegetation of the Low and High Lift Pump Stations are considered acceptable with plant species exceptions noted below. Low Lift Pump Station Indicative Planting Palette - The use of *Eucalyptus camaldulensis* or *Casuarina cunninghamiana* is not supported. *Eucalyptus viminalis* is acceptable. Alternative species could include *Eucalyptus rubida*, *Callitris endlicheri* and *Banksia marginata*.
- E17. *Muehlenbeckia tuggeranong* is a threatened species and is not available from retail nurseries. Unless plants can be obtained from the National Botanic Gardens, a licence will be required under the *Nature Conservation Act 1980* to take cuttings from wild growing species. Its 'former known' or likely distribution should also be checked to confirm suitability.
- E18. The use of *Hymenanthera dentata* and *Leptospermum continentale* are not supported. *Poa labillardieri* could be included as an appropriate grass/groundcover.

Licences

E19. Licences under the provisions of the *Nature Conservation Act 1980* will be required prior to the commencement of construction. These include to:

- (a) take and release, and take and kill, aquatic animals caught in the coffer-dams (the species are likely to include threatened aquatic species such as Macquarie Perch, recently recorded at the low lift pump station site, Murray River Crayfish and Trout Cod);
- (b) fell or remove native timber;
- (c) interfere or remove native timber;
- (d) take and release native animals; and
- (e) take native plants.

Note: A separate licence will be issued for the *Swainsona recta*, with specific licence conditions.

Operational Plan

E20. The licence to extract water will be in keeping with *environmental flow guidelines*. This commitment was made by the proponent during the preparation of the EIS. The condition must take into account the effects of extraction on, and by, downstream users. It should also consider any new information which may be forthcoming as a result of ecological investigations that may be used to maintain or enhance the ecological values of the Murrumbidgee River in an adaptive management forum.

E21. The operation of the pumps may have an impact on Burra Creek within Googong Foreshore which is managed by the Territory. For example, the discharge is likely to affect the ability for visitors and staff to cross Burra Creek. This may require upgrading of vehicle and foot crossings at a number of locations.

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

PART 2 REASONS FOR THE DECISION

The application satisfactorily meets the requirements for approval. The application was approved because, based on the documentation and in the form modified by the imposed conditions, it was considered to meet:

- the relevant code, being the Non-Urban Zones Development Code; and
- the management agreement for the land.

The key issues identified in the assessment are Visual impact of the High Lift Pump Station and microwave tower, the rehabilitation of the site, environmental offsets, the protection of *Swainsona recta*, impact to the heritage values of the ACT, archaeological assessment, environmental protection, roads, traffic, vehicular access and the protection of trees and Territory assets. Conditions have been imposed to address the key issues and ensure that the proposal is consistent with the Territory Plan and the *Planning and Development Act 2007*.

The decision is inconsistent with advice from The Conservator of Flora and Fauna. However, pursuant to section 119 (2) (b) of the Act, I have considered the advice received, as well as the relevant guidelines and any realistic alternative to the development proposed or aspects of it. It is my opinion that a decision to approve this application is consistent with the objectives of the Territory Plan, in particular, the relocation of the proposed microwave tower at the HLPS. Viable

options for the relocation of the tower were provided by the proponent and it was considered that the visual and environmental impact of the microwave tower was not sufficient to warrant its relocation. Conditions have been included to require that additional mature planting be provided to ensure the HLPS and tower are further screened by vegetation at an earlier stage.

EVIDENCE

Application No. 201017858

File No. DA-201017858

The Territory Plan zone – NUZ2 & NUZ4

The Development Codes – Non-Urban Zones Development Code

Current Crown Lease for Block 119, 1470, 1471, 1653 & 1675

Entity advice

The Completed EIS for this development

Land Management Agreement for Block 119 Tuggeranong.

Murrumbidgee River Corridor Plan of Management

National Capital Plan

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 May 2010 to 21 June 2010. No written representations were received during public notification.

ENTITY ADVICE

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

CONSERVATOR OF FLORA AND FAUNA

On 22 June 2010 advice was received from the Conservator of Flora and Fauna in relation to the proposal. The advice regards:

The existence and protection of endangered plant species *Swainsona recta* within the pipeline corridor, Fencing of the pipeline and sheds, Rehabilitation, the relocation of the microwave tower, Outlet and Scour Structure at the High Lift Pump Station (HLPS) ; Road Drainage at the HLPS, Conservation catchment, Tharwa Sandwash, Aquatic Ecology Management Plan, Licenses, Environmental Flows, and Operational Plan.

With the exception of the Microwave Tower, matters raised have been incorporated as either conditions of approval or advice.

The Authority was not satisfied that the location of the microwave tower at the HLPS would have such a detrimental impact to views of the HLPS and tower to warrant the relocation of the tower to where it would be partially screened by the topography. In addition the risk to avifauna was not considered significant to warrant change to the location of the tower. The Authority has however required further advanced vegetative screening surrounding the facility that will reduce the visual impact of the development and create habitat for birds.

ENVIRONMENT PROTECTION AUTHORITY

On 18 June 2010 advice was received from the Environment Protection Authority in relation to the proposal. The advice regards:

Sourcing water - long-term and for construction activities; Waterway Works Licence, Environmental Authorisation, Erosion and sediment control; and noise and vibration impacts during construction and operation:

These matters raised have been incorporated as either conditions of approval or advice.

DEPARTMENT OF TERRITORY AND MUNICIPAL SERVICES

On 11 June 2010 advice was received from Territory and Municipal Services in relation to the proposal. The advice states that they supported the proposal subject to conditions relating to works on Territory land, Design Acceptance, Temporary Traffic Management (TTM), Landscape Management & Protection Plan (LMPP), and Notice of Commencement of Construction.

Matters raised have been incorporated as either conditions of approval or advice.

ACTEWAGL

On 8 June 2010 advice was received from ActewAGL Water Division in relation to the proposal. The advice states that the development is supported.

On 15 June 2010 advice was received from ActewAGL in regard to their electricity networks in relation to the proposal. The advice regards the clearances to overhead conductors, contacting ActewAGL negotiate the connection of new and/or relocation of existing electricity assets; and the underground cables that may be in or adjacent to this block.

Matters raised have been incorporated as either conditions of approval or advice.

NATIONAL CAPITAL AUTHORITY

On 16 June 2010 the DA was referred to the National Capital Authority (NCA). The advice received states that the NCA has the following comments on the proposal:

ACTPLA should ensure that the proposed works are consistent with the National Capital Plan in relation to the Murrumbidgee River Corridor principles and policies.

It is noted in the EIS Assessment Report that no changes are proposed to improve fish passage at Angle Crossing. It is unclear what assessment was undertaken by ACTEW or ACTPLA as to the opportunity to improve fish passage.

It is noted that ACTEW replied in relation to the EIS Assessment Report that the riparian zone will be rehabilitated as part of the rehabilitation works managed under the sub-plan of the CEMP. I assume leaving this issue open for further review as part of the CEMP.

In addition, the NCA has received an application from ACTEW for the installation of the pipeline across the Monaro Highway Corridor. This assessment is waiting on the further assessment under the EPBC Act to be completed.

The concerns raised by NCA regarding fish passage have been addressed by the applicant it was considered that with monitoring and maintenance of environment flows within the Murrumbidgee River by the proponent in accordance with the EPA and PCL licenses and approvals that fish passage at Angle Crossing would not be detrimentally affected by the proposal.

The matters raised have been incorporated as either conditions of approval or advice.

ACT HERITAGE COUNCIL

On 17 June 2010 advice was received from ACT Heritage Council. The advice received states that:

The proposed development will have a detrimental impact upon the heritage values of the place, unless the conditions below are complied with:

A final Cultural Heritage Report is yet to be received by the Heritage Council outlining the full archaeological field program and the impacts that the construction of the pipe-line and associated infrastructure will have on heritage in the ACT. This report must be received, and the Heritage Council must provide official advice on this, before construction can commence.

On 1 July 2010 further advice was received from ACT Heritage Council. The advice received states that: A Cultural Heritage Assessment was provided to the council by the proponent. The council has required a number of conditions be included in-line with the council's advice found at **Attachment 1** of this Decision.

These matters have been incorporated as conditions of approval or advice.

ACT HEALTH

On 26 June 2010 advice was received from ACT Health. The advice received states that the ACT Health has no comment on the proposal.

PART 4 ADMINISTRATIVE INFORMATION

DATE THAT THIS APPROVAL TAKES EFFECT

This approval is effective from the day after the date of this notice. The effective date for development applications approved subject conditions could be adjusted if the approval is reconsidered by the ACT 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 ACT 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 are available on the public register. The register can be inspected between 8:30am and 4:30pm weekdays at the ACT Planning and Land Authority 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 ACT Planning and Land Authority for reconsideration within 20 working days of being told of this decision or within any longer period allowed by the ACT Planning and Land Authority.

Application forms and further information about reconsideration are available from the ACT Planning and Land Authority's website and Customer Service Centres. The delegate of the Authority reconsidering the decision must be different from, and senior to, the original decision maker. An application for reconsideration does not prevent an application for a review of the same decision being made to the ACT Civil and Administrative Tribunal.

REVIEW BY THE ACT CIVIL AND ADMINISTRATIVE TRIBUNAL (ACAT)

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

APPENDIX 1**CONTACT DETAILS OF RELEVANT AGENCIES**

ACT Health - health protection	Website: www.health.act.gov.au Telephone: (02) 6205 1700
ACT Planning and Land Authority - list of certifiers for building approval - demolition information - asbestos information	Website: www.actpla.act.gov.au Telephone: (02) 6207 1923 or (02) 6207 1687
Department of Territory and Municipal Services - tree damaging activity approval - heritage - use of verges or other unleased Territory land - works on unleased Territory land - design acceptance - damage to public assets - threatened species/wildlife management	Website: www.tams.act.gov.au Telephone: 132 281 Telephone for asset acceptance: (02) 6207 6594
Department of Environment, Climate Change, Energy and Water - environment protection - water resources	Research and Planning (02) 62071911 Website: www.environment.act.gov.au Telephone: (02) 62076251 for Environment Protection Authority (EPA)
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 ACT Planning and Land Authority for approval under section 165 of the *Planning and Development Act 2007* the submission must be made with a completed application Form 11 for Section 144 & 197 Amendments and Satisfying Conditions of Approval (S.165).

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 ACT 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 Department of Territory and Municipal Services.

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 Department of Territory and Municipal Services.

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, TAMS 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 TAMS

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 have both been obtained from TAMS.

CONSTRUCTION REQUIREMENTS

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

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 Department of Environment, Climate Change, Energy and Water.

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 Department of Territory and Municipal Services 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.

DRAINAGE

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

REVIEW OF THE DECISION

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

CONTACT DETAILS

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

Location	Contact details
ACT Civil and Administrative Tribunal Level 4, 1 Moore Street CANBERRA CITY ACT 2601	Website: www.courts.act.gov.au Email: tribunal@act.gov.au Telephone: (02) 6207 1740 Facsimile: (02) 6205 4855 Post: GPO Box 370, CANBERRA, ACT, 2601 Document exchange: DX 5691

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. 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*).

FEEES

Applications to the ACAT, including an application to be joined as a party to a proceeding, require payment of a fee of not less than \$178 (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, ACT Department of Justice and Community Safety, 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, ACT Department of Justice and Community Safety, 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 ACT Planning and Land Authority's web site or by contacting us by phone on (02) 6207 1923.

PROCEDURES OF THE ACAT

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

TRANSLATION AND INTERPRETER SERVICES

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

ENGLISH	If you need interpreting help, telephone:
ARABIC	: إذا احتجت لمساعدة في الترجمة الشفوية ، إتصل برقم الهاتف :
CHINESE	如果你需要传译员的帮助，请打电话：
CROATIAN	Ako trebate pomoć tumača telefonirajte:
GREEK	Αν χρειάζεστε διερμηνέα τηλεφωνήσετε στο
ITALIAN	Se avete bisogno di un interprete, telefonate al numero:
MALTESE	Jekk għandek bżonn l-għajnuna t'interpretu, ċempel:
PERSIAN	: اگر به ترجمه شفاهی احتیاج دارید به این شماره تلفن کنید:
PORTUGUESE	Se você precisar da ajuda de um intérprete, telefone:
SERBIAN	Ако вам је потребна помоћ преводиоца телефонирајте:
SPANISH	Si necesita la asistencia de un intérprete, llame al:
TURKISH	Tercümana ihtiyacınız varsa lütfen telefon ediniz:
VIETNAMESE	Nếu bạn cần một người thông-ngôn hãy gọi điện-thoại:

TRANSLATING AND INTERPRETING SERVICE**131 450**

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