

Our reference: **FOI20-26**

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED]

DECISION ON YOUR ACCESS APPLICATION

I refer to your application under section 30 of the *Freedom of Information Act 2016* (FOI Act), received by Canberra Health Services (CHS) on **Wednesday 1 July 2020**.

This application requested access to:

'I would like a copy of the documents I refer to below sent to the above address OR, if appropriate, to inspect them.

During 2009-2010 a multi-storey car park was erected at the Canberra Hospital. At that time a car park at the Garran Neighbourhood Oval [Garran, Block 9, Section 33 designated PRZ1: Urban Open Space] was enlarged to accommodate vehicles that would otherwise be parked on the Hospital campus. As part of the enlargement, the work involved the removal of two cricket pitches and associated nets. Subsequently, decisions were made:

- (a) to reserve and restrict the enlarged car park for the exclusive use of Hospital staff during the construction of the multi-story car park, and*
- (b) following the completion of the multi-storey park at the Hospital, to continue to restrict the use of the enlarged car park at the Garran Oval for the exclusive use of Hospital staff.*

I would like to access all documents (including relevant correspondence between Directorates) relating to these decisions.'

I am an Information Officer appointed by the Chief Executive Officer of Canberra Health Services (CHS) under section 18 of the FOI Act to deal with access applications made under Part 5 of the Act. CHS was required to provide a decision on your access application by **Wednesday 29 July 2020**.

I have identified four documents holding the information within scope of your access application. These are outlined in the schedule of documents included at [Attachment A](#) to this decision letter.

Decisions

I have decided to grant part access to four documents.

My access decisions are detailed further in the following statement of reasons and the documents released to you are provided as [Attachment B](#) to this letter.

In reaching my access decision, I have taken the following into account:

- The FOI Act;
- The contents of the documents that fall within the scope of your request; and
- The *Human Rights Act 2004*.

Partial Access

I have decided to grant partial access to four documents. These documents are partially comprised of personal information.

Documents at reference 1, 3 and 4 have redactions to signatures of ACT Government employees and document at reference 2 has redactions to a consumer's information. This information identified has not been disclosed as the individual's right to privacy under Schedule 2.2 (a) (ii) prejudice the protection of an individual's right to privacy or any other right under the Human Rights Act 2004, which outweighs the public interest in the disclosure of this information.

Charges

Processing charges are not applicable to this request.

Disclosure Log

Under section 28 of the FOI Act, CHS maintains an online record of access applications called a disclosure log. The scope of your access application, my decision and documents released to you will be published in the disclosure log not less than three days but not more than 10 days after the date of this decision. Your personal contact details will not be published.

<https://www.health.act.gov.au/about-our-health-system/freedom-information/disclosure-log>.

Ombudsman review

My decision on your access request is a reviewable decision as identified in Schedule 3 of the FOI Act. You have the right to seek Ombudsman review of this outcome under section 73 of the Act within 20 working days from the day that my decision is published in ACT Health's disclosure log, or a longer period allowed by the Ombudsman.

If you wish to request a review of my decision you may write to the Ombudsman at:

The ACT Ombudsman
GPO Box 442
CANBERRA ACT 2601
Via email: ACTFOI@ombudsman.gov.au
Website: ombudsman.act.gov.au

ACT Civil and Administrative Tribunal (ACAT) review

Under section 84 of the Act, if a decision is made under section 82(1) on an Ombudsman review, you may apply to the ACAT for review of the Ombudsman decision. Further information may be obtained from the ACAT at:

ACT Civil and Administrative Tribunal
Level 4, 1 Moore St
GPO Box 370
Canberra City ACT 2601
Telephone: (02) 6207 1740
<http://www.acat.act.gov.au/>

Further assistance

Should you have any queries in relation to your request, please do not hesitate to contact the FOI Coordinator on (02) 5124 9829 or email HealthFOI@act.gov.au.

Yours sincerely

A handwritten signature in blue ink that reads "Colm Mooney". The signature is written in a cursive style with a long, sweeping underline.

Colm Mooney
Executive Group Manager
Infrastructure and Health Support Services

24 July 2020



FREEDOM OF INFORMATION SCHEDULE OF DOCUMENTS

Please be aware that under the *Freedom of Information Act 2016*, some of the information provided to you will be released to the public through the ACT Government's Open Access Scheme. The Open Access release status column of the table below indicates what documents are intended for release online through open access.

Personal information or business affairs information will not be made available under this policy. If you think the content of your request would contain such information, please inform the contact officer immediately.

Information about what is published on open access is available online at: <http://www.health.act.gov.au/public-information/consumers/freedom-information>

| APPLICANT NAME | WHAT ARE THE PARAMETERS OF THE REQUEST | FILE NUMBER |
|----------------|--|-------------|
| [REDACTED] | <p><i>I would like a copy of the documents I refer to below sent to the above address OR, if appropriate, to inspect them.</i></p> <p><i>During 2009-2010 a multi-storey car park was erected at the Canberra Hospital. At that time a car park at the Garran Neighbourhood Oval [Garran, Block 9, Section 33 designated PRZ1: Urban Open Space] was enlarged to accommodate vehicles that would otherwise be parked on the Hospital campus. As part of the enlargement, the work involved the removal of two cricket pitches and associated nets. Subsequently, decisions were made:</i></p> <ul style="list-style-type: none"><i>(a) to reserve and restrict the enlarged car park for the exclusive use of Hospital staff during the construction of the multi-story car park, and</i><i>(b) following the completion of the multi-storey park at the Hospital, to continue to restrict the use of the enlarged car park at the Garran Oval for the exclusive use of Hospital staff.</i> | FOI20-26 |

| | | |
|--|--|--|
| | <i>I would like to access all documents (including relevant correspondence between Directorates) relating to these decisions.'</i> | |
|--|--|--|

| Ref Number | Page Number | Description | Date | Status Decision | Factor | Open Access release status |
|----------------------------------|-------------|--|-----------------|-----------------|--|----------------------------|
| 1. | 1 – 10 | Notice of decision – Merit track | 6 July 2009 | Partial Release | Schedule 2.2 (a) (ii) Personal Information | YES |
| 2. | 11 – 12 | Email – Garran Oval Cricket nets under new car park | 2 March 2010 | Partial Release | Schedule 2.2 (a) (ii) Personal Information | YES |
| 3. | 13 | Letter – Extension of Licence Agreement to use the land for Temporary car park | 11 July 2012 | Partial Release | Schedule 2.2 (a) (ii) Personal Information | YES |
| 4. | 14 - 29 | Carpark Memorandum of Understanding | 10 October 2018 | Partial Release | Schedule 2.2 (a) (ii) Personal Information | YES |
| Total Number of Documents | | | | | | |
| 4 | | | | | | |



Notice of decision

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

Merit track

| | | |
|--|--------------------------|----------------|
| DA NO: 200914976 | DATE LODGED: 6 July 2009 | |
| DATE OF DECISION: 7 August 2009 | | |
| BLOCK: 9 | SECTION: 33 | SUBURB: Garran |
| STREET NO AND NAME: Corner Kitchener Street and Gilmore Crescent | | |
| APPLICANT: Purdon Associates Pty Ltd | | |
| LESSEE: Australian Capital Territory | | |

THE DECISION

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

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

- **The construction of a temporary carpark**

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

Subject to the following conditions being satisfied, this decision permits the use of the land or a building or structure on the land for the purposes of temporary use (carpark).

CONDITIONS OF APPROVAL

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

1. A Certificate of Design Acceptance is to be obtained from the Manager, Asset Acceptance, Community & Infrastructure Services, TAMS. In order to obtain this certificate fully detailed drawings (civil, landscape) prepared by a suitably qualified person 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), shall be submitted to the Manager, Asset Acceptance. 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.
2. A detailed construction parking plan for the building phase is required to be submitted to and approved by the Manager Asset Acceptance prior to the commencement of any works on site. This plan is required to take into account all construction/demolition vehicles and equipment, and construction workers vehicles, and how and where they will be accommodated within the site. If this plan is not approved, and adhered to by the developer or his contractor's, a formal stop work will be issued by compliance section
3. Traffic Control Device drawings for all new and amended works are to be submitted to the Manager, Asset Acceptance, Community & Infrastructure Services, TAMS for approval prior to the installation of such devices.

4. At 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, Asset Use, Community & Infrastructure Services, TAMS. 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.
5. 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 (LMP) approved by the Manager, Asset Acceptance, Community & Infrastructure Services, TAMS. 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*.
6. 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 LMP and programmed implementation of the TTM.
7. The applicant/lessee shall protect and maintain all existing trees and shrubs located on the subject site, on adjoining blocks overhanging the subject site, on the verge and unleased Territory land immediately adjacent, except for those specifically identified for removal in the approved drawings and a Tree Management Plan. Tree protection fencing, if required, shall be erected prior to the commencement of any work on the site.
8. During building work (including demolition) for both stages:
 - (a) all unsurfaced entry and exit points must be consolidated with crushed aggregate or similar extending from the road kerb to the building line;
 - (b) 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;
 - (c) 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.
9. Two copies of the sediment and erosion control plans must be submitted to the Environmental Protection Authority prior to works commencing.
10. At the expiration of the licence to use the site, or within three years from the date of this approval, the temporary carpark is to be removed and the site remediated to the satisfaction of the Department of Territory and Municipal Services.

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

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.

PUBLIC NOTIFICATION

Pursuant to Division 7.3.4 of the Act, the application was publicly notified from 13 July 2009 to 31 July 2009. No written representations were received during the public consultation.

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.

Environment Protection Authority

On 22 July 2009 advice was received from the Environment Protection Authority in relation to the proposal. The advice states that the contractor performing the works must submit two copies of the sediment and erosion control plans to the EPA for endorsement prior to any site works commencing. In addition, Under the Water Resources Act 2007, if the applicant intends on taking water not sourced from mains supply they will be required to submit a Water Access Entitlement Application and a Licence to Take Water Application for surface water or ground water. In addition, if the applicant intends on using groundwater they are required to submit a Bore Work Licence Application. The applicant may be eligible for an Exemption from the requirement for a Licence to take water but must submit an Application and receive approval from the Water Resources Unit before any water may be taken.

Note: this requirement does not apply to capturing rainwater from on site roof surfaces

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

Department of Territory and Municipal Services

On 28 July 2009 advice was received from Territory and Municipal Services in relation to the proposal. The advice states that the proposal is supported in principle subject to further review at design stage. In addition, conditions on the endorsement have been included relating to design acceptance, provision of temporary traffic management and landscape management plans. Notice of commencement of construction is required prior to commencement of works.

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

ActewAGL

On 7 July 2009 advice was received from ActewAGL (Gas Networks Division) in relation to the proposal. The advice states that the proposal complies with the gas network requirements.

On 9 July 2009 advice was received from ActewAGL (Water Division) in relation to the proposal. The advice states that the proposal complies with the water and sewerage requirements.

On 23 July 2009 advice was received from ActewAGL (Electricity Networks Division) in relation to the proposal. The advice states that the proposal conditionally complies with the electricity network requirements. ActewAGL underground cables are in or adjacent to this block. ActewAGL Asset Location Advice (Dial Before You Dig) may be required.

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

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 Parks and Recreation Zone Development Code.

The key issues identified in the assessment are ensuring the development does not detrimentally impact the surrounding area during construction or operation, and ensuring the area is reinstated to its original condition once the licence or approval expires. 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*.

In reaching the decision, the application has been assessed in accordance with section 120 of the Act – Merit track considerations when deciding development approval.

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.

EVIDENCE

Application No. 200914976

File No. DA 200914976

The Territory Plan zone – PRZ1

The Development Codes – Parks and Recreation Zone Development Code

Representations

Entity advice

DELEGATE



Simon Hawke

Delegate of the ACT Planning and Land Authority

7 August 2009

CONTACT OFFICER

Simon Hawke

Phone: 6207 6436

Email: simon.hawke@act.gov.au

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 - environment protection - water resources - heritage - use of verges or other unleased Territory land - works on unleased Territory land - design acceptance - damage to public assets | Website: www.tams.act.gov.au Telephone: 132 281 Telephone for asset acceptance: (02) 6207 6594 |
| 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 shall 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.

ACTEWAGL ELECTRICAL NETWORK DIVISION

ActewAGL underground cables are in or adjacent to this block. ActewAGL Asset Location Advice (Dial Before You Dig) may be required.

WATER RESOURCES – SOURCING WATER

Under the *Water Resources Act 2007*, if the applicant intends on taking water not sourced from mains supply they will be required to submit a Water Access Entitlement Application and a Licence to Take Water Application for surface water or ground water. In addition, if the applicant intends on using groundwater they are required to submit a Bore Work Licence Application. The applicant may be eligible for an Exemption from the requirement for a Licence to take water but must submit an Application and receive approval from the Water Resources Unit before any water may be taken.

Note: this requirement does not apply to capturing rainwater from on site roof surfaces

Contact the Water Resources Unit for more information:
Telephone 132281
GPO Box 158, Canberra ACT 2601

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 ACT 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 Department of Territory and Municipal Services.

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 ACT Magistrates Court Building Knowles Place 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 receiving this Notice of decision. The time limit can be extended in some circumstances. Check with the ACAT for more details.

FEES

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 \$165 (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; and
- Welfare Rights and Legal Centre, telephone (02) 6247 2177.

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, çempel: |
| PERSIAN | : اگر به ترجمه شفاهی احتیاج دارید به این شماره تلفن کنید: |
| PORTUGUESE | Se você precisar da ajuda de um intérprete, telefone: |
| SERBIAN | Ako vam je potrebna pomoć prevodioca telefoniрајте: |
| SPANISH | Si necesita la asistencia de un intérprete, llame al: |
| TURKISH | Tercümana ihtiyacımız varsa lütfen telefon ediniz: |
| VIETNAMESE | Nếu bạn cần một người thông-ngôn hãy gọi điện-thoại: |

TRANSLATING AND INTERPRETING SERVICE**131 450**

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

Lowes, Shannon (Health)

From: Rodgers, Malcolm (Health)
Sent: Tuesday, 2 March 2010 10:14 AM
To: Fogarty, Eleanor (Health); Warylo, Michael (Health); Stewart, Bradley; Cantwell, Joshua (Health)
Subject: FW: Garran Oval Cricket nets under new car park

FYI regarding the cricket nets (formerly) on Garran oval.

Malcolm

From: [REDACTED]
Sent: Saturday, 27 February 2010 5:08 PM
To: YourHealthOurPriority
Subject: RE: Garran Oval Cricket nets under new car park

Thanks Michael,

The "dilapidated" nets at Garran Oval we OK for kids and pretty handy on a hot day as they were in the shade. They were in need of repair but not now.

The brand new net facility at Deakin Oval is very impressive. Unfortunately the nets at Deakin Oval are so impressive that they are locked and not available to the general public.

Perhaps a change of slogan is in order. "Canberra Hospital" "our parking – our priority".

Thanks for getting back to me with the info.

Regards [REDACTED]

-----Original Message-----

From: Goiser, Michael [mailto:Michael.Goiser@act.gov.au] **On Behalf Of** YourHealthOurPriority
Sent: Friday, February 26, 2010 11:26 AM
To: [REDACTED]
Cc: TCH Parking Ops
Subject: RE: Garran Oval Cricket nets under new car park

[REDACTED]

Thank you for your email which has been forwarded to me from TCH Parking Operations.

The new car park on the surrounds of Garran Oval is a temporary car park developed by ACT Health as a part of temporary parking arrangements at Canberra Hospital during the construction of a new multi-storey car park on the hospital campus. The car park provides 79 car spaces for use by Canberra Hospital staff.

The car park is a temporary car park only. It will be reinstated to grassland when it is no longer required. It consists of a gravel surface and does not included lighting. The car park is for day time use only and is locked at night.

Development of the temporary car park allowed the removal and replacement of the dilapidated cricket nets which were badly in need of repair. In consultation with Sport and Recreation Services the crickets net were replaced with brand new facilities at a nearby oval in Deakin.

If I can be of any further assistance please contact me again at this email address.

Regards,

Michael Goiser | Communications Manager | Redevelopment Unit | ACT Health

Building 23, Level 1, Canberra Hospital, Yamba Drive, Garran ACT 2605
PO Box 11, Woden ACT 2606
Ph: (02) 6205 9788 | Email: michael.goiser@act.gov.au | Web: www.health.act.gov.au

"Your health – our priority"

From: [REDACTED]
Sent: Thursday, 25 February 2010 5:40 PM
To: TCH Parking Ops
Subject: Garran Oval Cricket nets under new car park

Hi

Can someone please tell me if the cricket nets that are now under the new temporary car park at Garran Oval going to be replaced???

Thanks, [REDACTED]

This email, and any attachments, may be confidential and also privileged. If you are not the intended recipient, please notify the sender and delete all copies of this transmission along with any attachments immediately. You should not copy or use it for any purpose, nor disclose its contents to any other person.



Ms Fleur Flandry
Director City Services
Territory and Municipal Services
GPO Box 158
Canberra ACT 2601

Dear Ms Flandry

RE: Extension of Licence Agreement to use the land for Temporary car park

The ACT Government Health Directorate implemented temporary car park strategies to overcome a parking shortage on the Canberra Hospital Campus while construction of the new multi-storey car park was being undertaken with commencement in August 2009.

Two sites for the temporary car parks were granted with 3 years licence to use the land. The licence was arranged through a Development Application process for the following sites:

1. North Yamba temporary car park
Block 3 & 15, Section 1 Phillip, Yamba Drive – DA Notice of decision issued 16 June 2009, DA number 200914387
2. Garran Oval temporary car park
Block 9, Section 33 Garran, Corner Kitchener Street and Gilmore Crescent – DA Notice of decision issued 7 August 2009, DA number 200914976

The licences for the above car parks expired on 16 June 2012 and 7 August 2012 respectively and the ACT Government Health Directorate requests to extend the licence to use the above sites for a further 3 years.

I look forward to your response in regards to the request for licence extension.


Adrian Scott
Director of Redevelopment Unit
Service and Capital Planning
ACT Government Health Directorate

11 July 2012



AUSTRALIAN CAPITAL TERRITORY

CAR PARK MEMORANDUM OF UNDERSTANDING

Dated

10 October 2018

Parties

HEALTH DIRECTORATE

AND

TRANSPORT CANBERRA AND CITY SERVICES

Prepared by

ACT Government Solicitor
Level 6, 12 Moore Street
Canberra City ACT 2601
Ph: (02) 6207 7602
Fax: (02) 6207 0650
Ref: 629609

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| | |
|--|--|
| Commencement Date | means the date in Item 3; |
| Conditions of Use | means the conditions for use of the Car Park set out in the <i>Road Transport (General) Act 1999</i> , <i>Road Transport (Safety and Traffic Management) Regulation 2000</i> and related legislative instruments; |
| Confidential Information | means the kind of information that: <ul style="list-style-type: none"> (1) is or relates to documents, submissions, consultations, policies, strategies, practices and procedures of HEALTH which are by their nature confidential; (2) is notified (whether in writing or not) by HEALTH to TCCS as being confidential; (3) is Personal Information, but does not include information that: <ul style="list-style-type: none"> (4) is or becomes public knowledge other than by breach of this MOU; (5) has been independently developed or acquired by TCCS; or (6) has been notified by HEALTH to TCCS as not being confidential; |
| Employees and Agents | means each of the relevant person's employees, agents, contractors and consultants; |
| Expiry Date | means the date at Item 4; |
| GST | has the same meaning as in the <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth); |
| Insurance Amount | means the amount specified in Item 6; |
| Item | means an item of Schedule 1; |
| Land | means the land as described in Item 1; |
| Memorandum of Understanding and MOU | means this agreement, including all annexures, schedules and appendices; |
| Personal Information | means information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a material |

| | |
|-----------------------|---|
| | form or not, about a natural person whose identity is apparent, or can reasonably be ascertained, from the information or opinion; |
| Property Taxes | means all general rates, land tax, water and sewerage rates (including water use charges) and any other rates, taxes or assessments which are levied upon the Land and not payable by someone other than TCCS; |
| Renewal Term | means the period specified in Item 5; |
| Term | means the period specified in Item 2 including any Renewal Term; |
| Territory | means: <ol style="list-style-type: none"> (1) when used in a geographical sense, the Australian Capital Territory; and (2) when used in any other sense, the body politic established by section 7 of the <i>Australian Capital Territory (Self-Government) Act 1988</i> (Cth). |

1.2. General

In this MOU, unless a contrary intention is expressed:

- (1) headings and underlinings are for convenience only and do not affect the interpretation of this MOU;
- (2) expressions importing natural persons include any company, partnership, joint venture, association, corporation or other body corporate and any governmental agency;
- (3) any covenant or agreement on the part of two or more persons shall be deemed to bind them jointly and severally;
- (4) references to legislation or to provisions in legislation include references to amendments or re-enactments of them and to all regulations and instruments issued under the legislation;
- (5) no rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of this MOU or any document associated with this MOU or any variation which may be made to this MOU.
- (6) words importing a gender include the others; words in the singular number include the plural and vice versa; and where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings;
- (7) "include" is not to be construed as a word of limitation;
- (8) headings have no effect on the interpretation of the provisions; and

- (9) an obligation imposed by this MOU on more than one person binds them jointly and severally.

2. TCCS Custodianship

2.1.1 HEALTH acknowledges:

- (1) the business unit of Sport and Recreation Facilities within TCCS shall carry out the obligations of TCCS in respect of Block 9 Section 33 Garran; and
- (2) the business unit of Place Management within TCCS shall carry out the obligations of TCCS in respect of Blocks 3, 7 and 15 Section 1 Phillip.

2.1.2 HEALTH must direct all notices and other communications required or permitted under this MOU to:

- (1) Sport and Recreation Facilities when it concerns only Block 9 Section 33 Garran; and
- (2) Place Management when it concerns only Blocks 3, 7 and 15 Section 1 Phillip; or
- (3) both Sport and Recreation Facilities and Place Management when it concerns or may concern Block 9 Section 33 Garran and Blocks 3, 7 and 15 Section 1 Phillip.

3. Appointment and grant of licence

3.1. Appointment

TCCS appoints HEALTH to access, operate and manage the Car Park, and enforce the Conditions of Use for the Term.

3.2. Acceptance

HEALTH accepts the appointment in accordance with this MOU for the Term.

3.3. Authority

TCCS grants to HEALTH and its Employees and Agents the right to enter and operate the Car Park for the purpose of carrying out its obligations under this MOU.

3.4. Access to the Land by TCCS

HEALTH must provide access to the Land to TCCS during the Term as and when required by TCCS including providing TCCS with passes for all boom gates located on the Land.

4. Conduct of Car Park

4.1. Operation of the Car Park

HEALTH must operate the Car Park and procure that its Employees and Agents operate the Car Park:

- (1) in a manner that is consistent with its practices and procedures in operating other Car Park in the Territory and TCCS shall not object to or interfere with the practices adopted by HEALTH save as provided for in this MOU; and
- (2) in a manner consistent with the Conditions of Use.

4.2. Parking Authority

HEALTH must at all times remain a parking authority approved by the Road Transport Authority in respect of the Car Park and comply will all laws, regulations and guidelines (including the *Road Transport (Safety and Transport Management) Regulations 2000* and the *Road Transport (Safety and Traffic Management Guidelines 2002)*).

4.3. Repair and maintenance

Throughout the Term HEALTH must:

- (1) conduct ongoing repairs and maintenance as necessary in respect of the Car Park; and
- (2) keep the Car Park clean and tidy; and
- (3) control weeds within the Car Park and around its perimeter, including beneath the bollards surrounding the carpark.
- (4) maintain the barriers that are preventing access for vehicles onto the Land as applicable and replace any barriers that are damaged during the term of the MOU.
- (5) maintain the vehicle bump stops on the Land and replace if they become damaged.

4.4. Weekend access to the Car Parks

HEALTH must ensure that the general public have unrestricted access to the Car Parks located on Block 9 Section 33 Garran and Block 3 Section 1 Phillip every Saturday and Sunday during the Term.

5. TCCS Covenants

5.1. Payment of Property Taxes

TCCS must pay and fully discharge all Property Taxes assessed or charged on the Car Park and Land during the Term.

5.2. Public Liability Insurance

HEALTH must at all times during the Term maintain a policy of public risk insurance with respect to the Car Park for an amount not less than the Insurance Amount.

5.3. TCCS not to void Insurance

TCCS must not knowingly do or permit anything to be done in the Car Park whereby the policy or policies of insurance effected by HEALTH under this clause 5 may be rendered void, voidable or unenforceable or whereby the rate of premium payable is liable to be increased.

6. Extension of Term

The Term of this MOU will be extended for the Renewal Term if HEALTH provide TCCS with at least six months notice prior to the Expiry Date of its intention to extend the Term for the Renewal Term.

7. Termination and Holding Over

7.1. Yielding up

HEALTH, upon expiry or the termination of this MOU:

- (1) ceases to be entitled to enter the Land;
- (2) must remove from the Land solar powered lighting with duress alarm system and electronic boom gates installed in accordance with Clause 8 on the termination or expiry of this MOU.
- (3) must restore the public land back to its original condition (dry-land grass) and handed back to TCCS to maintain, unless otherwise agreed between both parties.

7.2. Holding over

If TCCS continues to permit HEALTH to provide its services under this MOU after the end of the Term or any Renewal Term then the Term is extended on a monthly basis until this MOU is terminated by either party on providing to the other party one month's written notice.

7.3. Early termination

This MOU may be terminated by either party, at any time, provided one month prior written notice is provided to the other party.

8. Withdrawal of Car Park

- 8.1.1 Either party may reduce the portion of the Land subject to this MOU by notifying the other party by written notice and with at least one month's prior notice.

8.1.2 HEALTH must promptly following the withdrawal, yield up any Land that has been withdrawn, regardless of which party withdrew the Land, in accordance with clause 7.1 of this MOU.

8.1.3 If any part of Land is withdrawn from the operation of this MOU in accordance with clause 8.1.1, this MOU will continue to govern the parties' obligations and rights in regards to the balance of Land.

9. Works

TCCS has approved the installation and maintenance of:

- (1) solar lighting with duress alarm equipment; and
- (2) electronic boom gates to control access

by HEALTH or its Employees and Agents in the Car Park.

10. Non-disclosure of Confidential Information

10.1. TCCS must not disclose Confidential Information

Except as provided in this MOU, either party must not disclose Confidential Information to any person without the prior written consent of the other party except to the extent that the Confidential Information is:

- (1) required or authorised to be disclosed by law;
- (2) disclosed to TCCS's or HEALTH's solicitors, auditors, insurers or advisers; and
- (3) generally available to the public.

10.2. TCCS and HEALTH to protect Confidential Information

TCCS and HEALTH must take all reasonable measures to ensure that:

- (1) Confidential Information accessed or held by it in connection with this MOU is protected against loss, unauthorised access, use, modification, disclosure or other misuse in accordance with reasonable procedures for that purpose; and
- (2) only authorised personnel have access to the Confidential Information.

10.3. TCCS's and HEALTH's use of Confidential Information

TCCS and HEALTH must:

- (1) use Confidential Information held in connection with this MOU only for the purposes of fulfilling its obligations under this MOU;
- (2) comply with the "Territory Privacy Principles" set out in the *Information Privacy Act 2014* (ACT) as if they were provisions of this MOU; and

- (3) not transfer Confidential Information held in connection with this MOU with the prior approval of the other party.

10.4. Notification of disclosure of Confidential Information

TCCS and HEALTH must immediately notify the other party if they become aware that:

- (1) a disclosure of Confidential Information may be required by law; or
- (2) an unauthorised disclosure of Confidential Information has occurred.

10.5. Acknowledgement of effect of Crimes Act

TCCS and HEALTH acknowledges that the publication or communication of any fact or document by a person which has come to its knowledge or into its possession or custody by virtue of the performance of this MOU (other than to a person to whom TCCS and HEALTH is authorised to publish or disclose the fact or document) may be an offence under section 153 of the *Crimes Act 1900* (ACT), the maximum penalty for which is 2 years imprisonment.

11. Dispute resolution

11.1. Negotiation of Dispute

If a difference or dispute (**Dispute**) arises in relation to this MOU, then either party may give notice to the other that a Dispute exists, which specifies details of the Dispute. The parties agree that, following the issue of that notice, they will endeavour to resolve the Dispute by negotiations, including by referring the Dispute to persons who have authority to intervene and direct some form of resolution.

11.2. Mediation of Dispute

If the Dispute has not been resolved pursuant to clause 11.1 within 28 days of the notice of the Dispute, then the parties agree that they will undertake a mediation process. The mediator will be an independent mediator agreed by the parties or, failing agreement, nominated by the chairperson of The Institute of Arbitrators and Mediators Australia, ACT Chapter. Unless otherwise agreed, the parties will share equally the costs of the engagement of the mediator.

11.3. No prejudice

Nothing in this clause 11 will prejudice the rights of either party to institute proceedings to enforce the MOU or to seek injunctive or urgent declaratory relief in respect of any Dispute.

12. General

12.1. Conflict of interest

TCCS and HEALTH:

- (1) warrant that, at the date of entering into this MOU, no conflict of interest exists or is likely to arise in the carrying out of its obligations under this MOU; and
- (2) must, if a conflict, or risk of conflict of interest arises during the Term:
 - (a) notify the other party immediately of that conflict or risk, and
 - (b) comply with any requirement of the other party to eliminate or otherwise deal with that conflict or risk.

12.2. No employment, partnership or agency relationship

- (1) Nothing in this MOU constitutes TCCS or its Employees and Agents or subcontractors as employees, partners or agents of HEALTH or creates any employment, partnership or agency for any purpose.
- (2) TCCS must not represent itself, and must ensure its Employees and Agents and subcontractors do not represent themselves, as being employees, partners or agents of HEALTH.

12.3. Entire agreement

This MOU comprises the entire agreement between the parties in relation to the management and operation of the Car Park and supersedes any prior representations, negotiations, writings, memoranda and agreements.

12.4. Severability

Any provision of this MOU that is illegal, void or unenforceable will not form part of this MOU to the extent of that illegality, voidness or unenforceability. The remaining provisions of this MOU will not be invalidated by an illegal, void or unenforceable provision.

12.5. Variation

This MOU may be varied only by the written agreement of the parties prior to the expiration of this MOU.

12.6. Governing law

This MOU is governed by and construed in accordance with the law for the time being in force in the Australian Capital Territory and the parties submit to the non-exclusive jurisdiction of the courts in the Australian Capital Territory.

12.7. Notices

Any notice, including any other communication, required to be given or sent to either party under this MOU must be in writing and sent to the relevant Address for Notices. A notice will be deemed to have been given:

- (1) if delivered by hand, on delivery;
- (2) if sent by prepaid mail, on the expiration of two Business Days after the date on which it was sent;
- (3) if sent by facsimile, on the sender's facsimile machine recording that the facsimile has been successfully and properly transmitted to the recipient's address; or
- (4) if sent by electronic mail, on the other party's acknowledgment of receipt by any means.

12.8. Survival of clauses

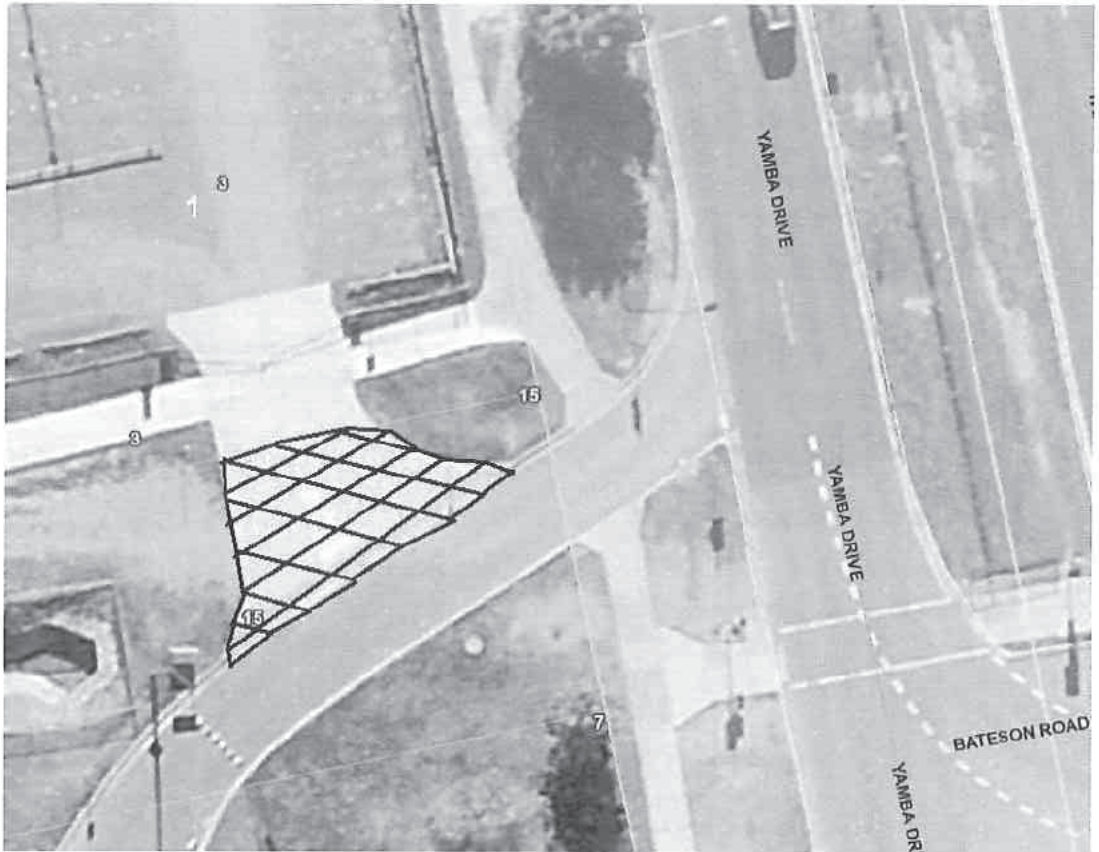
Clauses 7.1 and 10 will survive the expiration or earlier termination of this MOU.

Schedule 1

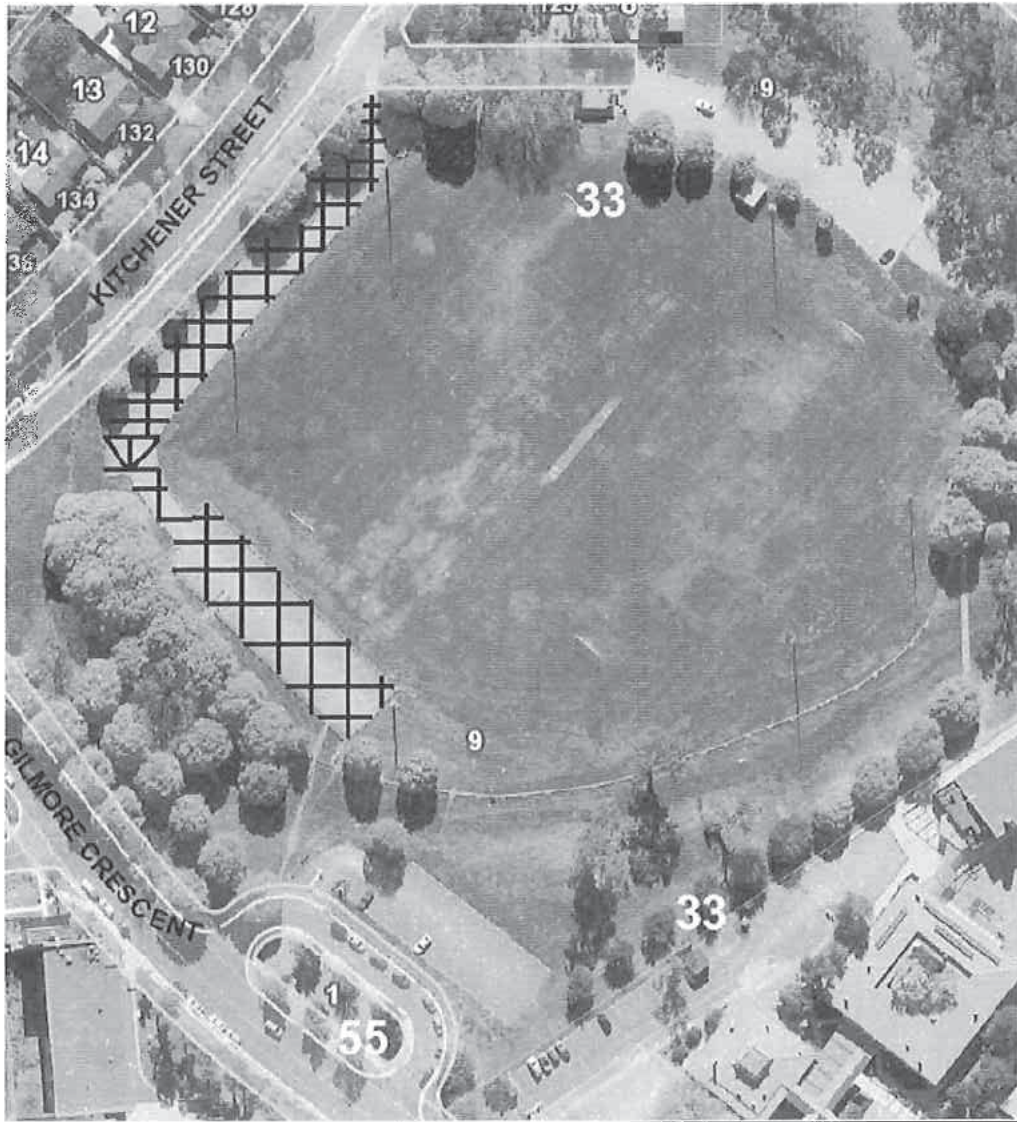
- Item 1:** Land: Block 3 Section 1 Phillip, Block 7 Section 1 Phillip and the cross hatched area of Block 15 Section 1 Phillip on the plan at Schedule 2 – Plan of carpark (“Yamba North Oval”) and
The cross hatched area of Block 9 Section 33 Garran on the plan at Schedule 2 – Plan of carpark (“Garran Oval”)
- Item 2:** Term: 5 years
- Item 3:** Commencement Date: 1 November 2018
- Item 4:** Expiry Date: 5 years from the Commencement Date unless extended for the Renewal Term under this MOU
- Item 5:** Renewal Term: 5 years
- Item 6:** Insurance Amount: \$10 million
- Item 7:** Address for Notices: **TCCS:**
Manager, Place Management
GPO Box 158
Canberra ACT 2601
Contact Officer: Jane Carder
02 6207 2525
Jane.Carder@act.gov.au
- Manager, Sport and Recreation Facilities
GPO Box 158
Canberra ACT 2601
Contact Officer: Ross Burden
02 6207 2307
Ross.Burden@act.gov.au
- HEALTH:**
Senior Manager, Client Services, Security and
Emergency
GPO Box 825
Canberra City ACT 2601
Contact Officer: Chris Mooney
(02) 6207 8714
Chris.Mooney@act.gov.au

Schedule 2 – Plan of carpark

Block 15 Section 1 Phillip



Block 9 Section 33 Garran



DATE OF THIS AGREEMENT 10 October 2018

SIGNED for and on behalf of the
HEALTH DIRECTORATE

in the presence of:



Signature of Health delegate



Signature of witness

Rosemary Kennedy
.....
Print name

Alethea Jordan
.....

Print name

SIGNED for and on behalf of the
TRANSPORT CANBERRA AND CITY SERVICES

as represented by City Presentation in the presence of:

)
)
)



Signature of City Presentation delegate



Signature of witness

Ross Burden
.....

Print name

Anthony Z. C. Henry
.....
Print name