

Chris Steel MLA

Minister for Planning
Minister for Skills and Training
Minister for Transport
Special Minister of State

Member for Murrumbidgee

Our ref: 23/845

Mr Tom Duncan
Clerk
ACT Legislative Assembly
Tom.Duncan@parliament.act.gov.au

Dear Mr Duncan

Thank you for your letter of 2 November 2023 regarding Petition No. E-PET-022-23 and PET-028-23, lodged by Ms Jo Clay MLA, concerning tree hollow protection in relation to a development proposal at Block 20, Section 43 Scullin.

The ACT Government notes the matters raised in the petitions in relation to development application DA-202240865 and the protection of tree hollows in the ACT. It is noted that the petition does not oppose the development proposal, and is focused on specific hollow bearing trees and related processes. The following provides information addressing each of the matters raised in the petitions.

a) DA-202240865 – Retain hollow bearing trees approved for removal

Both petitions stated that DA-202240865 was approved and that a review should be undertaken, or withdraw or discontinue parts of the approval, to ensure hollow bearing trees are retained. The petition states that there some of the trees that are proposed for removal include hollows which provide important habitat for native birds. The trees referenced in the petition are trees identified in the DA as trees S6, S8 and C7.

On 20 February 2023, DA-202240865 was lodged with the independent planning and land authority (the Authority) for the demolition of the existing pathway and tree removal, the construction of six new single-storey dwellings with attached garages, new driveway and associated works. The application included an Arboricultural Impact Assessment Report, undertaken by Steve Griffiths



Arborist, showing trees S6, S8 and C7 recommended for removal (see extract from arborist report at Attachment A). Although the assessment report recommended trees to be removed, the plans for DA-202240865 depicted trees S6 and C7 to be retained. On 24 August 2023, DA-202240865 was conditionally approved by the Authority.

On 10 November 2023, an amendment was lodged under section 197 of the *Planning and Development Act 2007* which included design changes to ensure tree S8 could also be retained (refer to approved amended demolition plan and site plan at Attachments B and C). On 6 December 2023, the Authority conditionally approved the amendment.

As a result, all hollow bearing trees which are subject to this petition are to be retained.

b) Requirements should be set for tree management plans

The petition is requesting that future tree assessment reports should require detail of hollow bearing values for all native trees proposed for removal. Transport Canberra and City Services (TCCS) has just undergone tree legislation reform which included new guidelines for the development of tree management plans for protected trees. These guidelines will require applicants to include details of hollow-bearing trees on these plans. Further details on the guidelines are available at <https://www.legislation.act.gov.au/ni/2023-823/>.

In addition, TCCS will be reviewing the current assessment report used, internally, by officers to assess protected trees and include the collection of details relating to hollow bearing trees and significant habitat elements.

c) Guidelines for tree removal

The petition is requesting a reference guide is prepared for consultants undertaking tree assessments which should set criteria for whether a tree should be retained, and only allow native trees with hollows to be removed in exceptional circumstances. As a result of TCCS's tree legislation reform work, the Urban Forest (Approval Criteria) Determination 2023 has now taken effect (see <https://www.legislation.act.gov.au/di/2023-270/>). The determination includes criteria for the Conservator of Flora and Fauna (the Conservator) when considering the removal of a protected tree and includes matters such as the importance of the tree in the surrounding landscape and whether the tree has ecological importance to the local environment.

If a tree is proposed for removal as part of the DA process, the Authority will seek advice from the Conservator who will provide advice based on the approval criteria. The Authority must consider the Conservator's advice in accordance with the *Planning Act 2023*. In addition to these considerations, the Authority must assess the DA in accordance with the new Territory Plan (2023). The new Territory Plan requires greater focus to areas with environmental significance, such as, the introduction of the ACT Biodiversity Sensitive Urban Design Guide.

The recent implementation of planning and tree reforms provides for greater environmental considerations including matters relating to tree hollows.

d) Improve Tree Protection Unit decision making process

The petition is requesting improvements are made to the Tree Protection Unit (TCCS) decision-making process, particularly in relation to hollow bearing trees. Tree Protection officers in TCCS will be attending training in the identification of Gang Gang habitat. TCCS will investigate further learning opportunities with regards to the urban trees containing habitat by threatened species.

e) Update the DA process to ensure thorough considerations

The petition also has requested that development approval policies and processes are updated to ensure tree reports in the DAs are not just taken on face value, community reports of active hollows are taken into account and on-site inspections are undertaken. A DA is assessed independently by the Authority, in consultation with relevant entities through a statutory process. The Authority must assess all applications against the *Planning Act 2023* and Territory Plan and cannot and do not just rely on the views of the applicant.

Currently, as part of the DA process, DAs are publicly notified where the community has an opportunity to make comments on the proposal or potential impacts. The Authority must consider all comments received during the public notification process, including comments on trees.

In relation to site inspections, when a DA is referred to the Tree Protection Unit (TCCS) the officers will undertake a site inspection to confirm the value of the trees are as outlined in the application. In addition, the Authority regularly undertakes site inspections for major developments.

The ACT Government has and continues to implement processes and procedures to deliver good planning and environmental outcomes. Planning and tree legislation reform recently undertaken and now taken effect, delivers ongoing improvements and represents the Government's commitment to sustainable development and environmental protection. With this reform work, the *Planning Act 2023* has been put into place as well as TCCS's *Urban Forest Act 2023*.

Thank you for providing me with this petition, I trust the information in this letter is helpful to the Principal Petitioner and the Sponsoring Member.

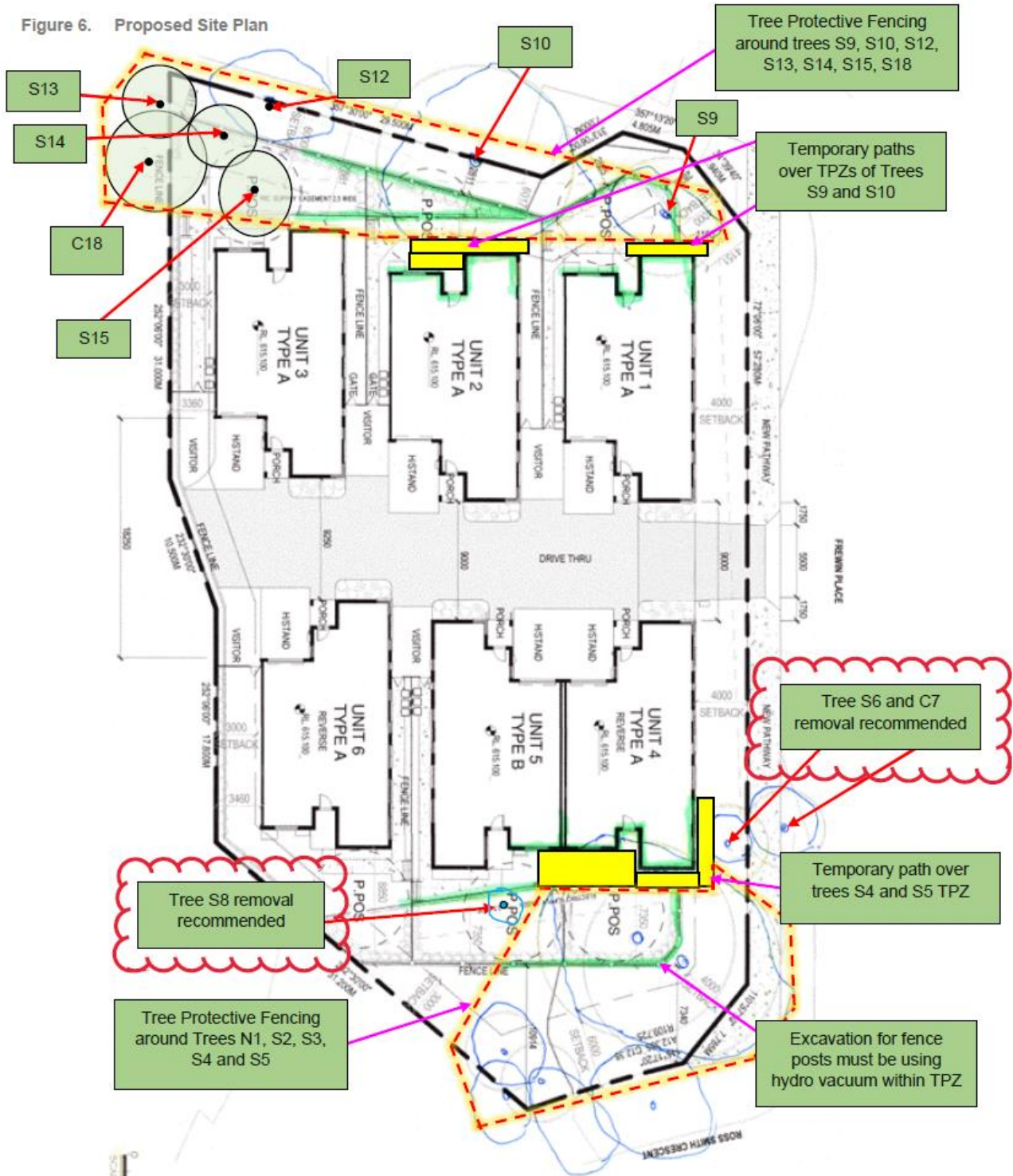
Yours sincerely



Chris Steel MLA
2 February 2024

Attachment A – Extract from Arboricultural Impact Assessment Report

Figure 6. Proposed Site Plan



ALL DIMENSIONS AND LEVELS MUST BE VERIFIED ON SITE BY ALL DIMENSIONERS ARE IN MILLIMETERS. DO NOT SCALE DRAWING CONTRACTOR BEFORE THE COMMENCEMENT OF WORK



Attachment C - Approved amended site plan

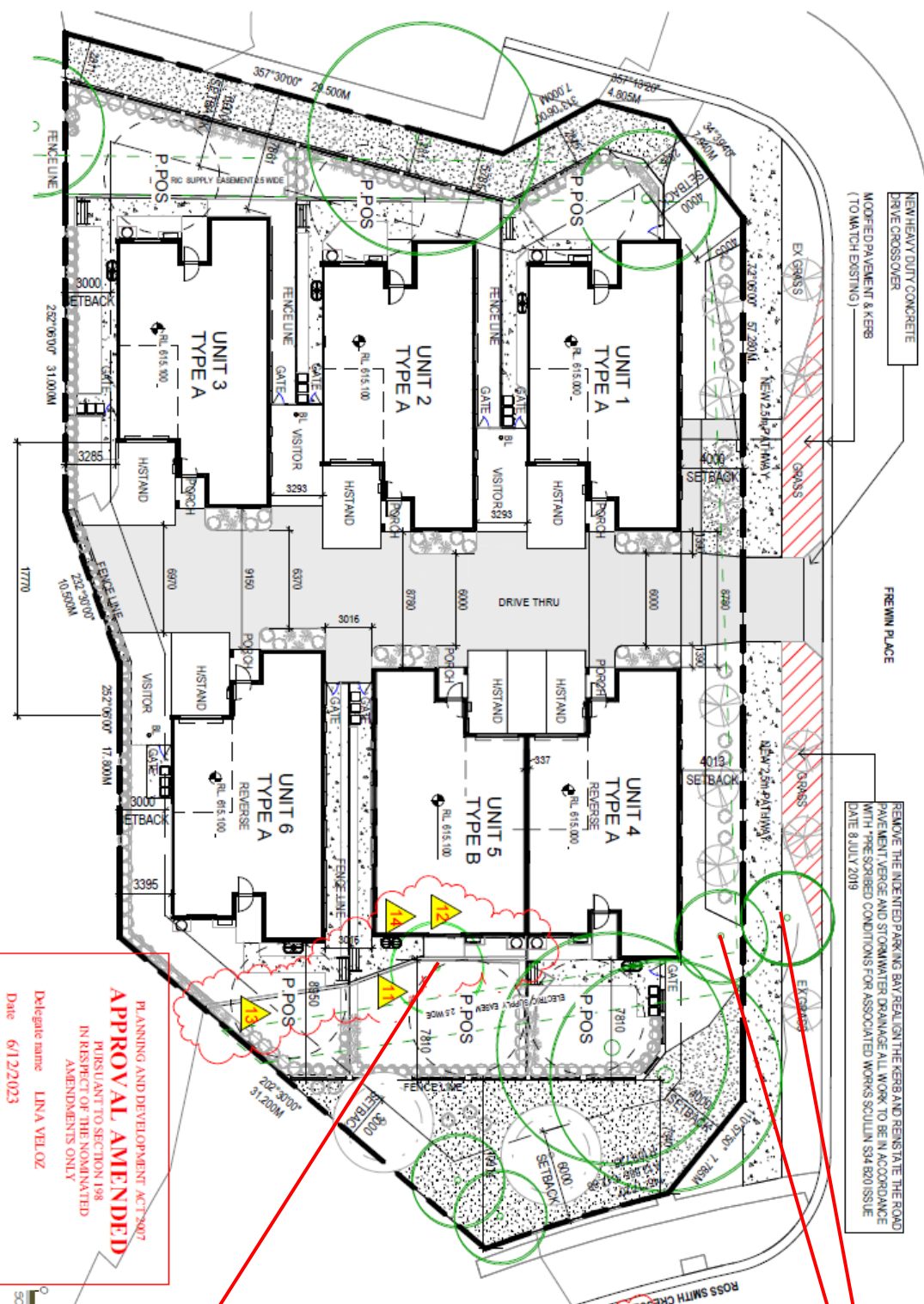
WOMBEE ARCHITECTS PTY LTD
33 Livingston Avenue, Kambah ACT 2902
MOBILE: 0403 055 412
EMAIL: wombeearchitects@gmail.com
WOMBEE ARCHITECTS PTY LTD © 2021

ISSUE	DATE	DESCRIPTION
D	10-10-23	DA VARIATION UPDATED
C	10-08-23	REVISED FOR DA APPROVAL
B	08-05-22	FOR DA APPROVAL
A	28-05-22	FOR DA APPROVAL
1	11-05-22	DESIGN DEVELOPMENT AMENDMENT

PROJECT TITLE
MULTI UNITS DEVELOPMENT BLK 20 SEC 48 DP 9578 1 FREEMAN PLACE SCULLIN ACT 2614

CLIENT
 Homes for the community

TITLE
SITE PLAN
SCALES
DRAWN Author DATE Issue Date
DRG No. REV
A005 D



KEYNOTE LEGEND	
CODE	DESCRIPTION
BL	

GENERAL NOTES
The development will comply with the ACT
environment Protection Authority
Environment Protection Guidelines for
Construction and Land Development in the
ACT August 2007
NOTE:
LIGHTING
- ALL LIGHTING TO COMPLY WITH THE
'CORNE PREVENTION THROUGH
ENVIRONMENTAL DESIGN GENERAL
CODE' SPECIFICALLY AUSTRALIA
STANDARD AS1158 & AS4282 AND TO
CRITERIA 13 OF THE CODE

PLANNING REQUIREMENTS
Block Area: 2888.44m ²
Area:
UNIT 1 Living: 105.62m ²
Garage: 22.95m ²
Subtotal: 128.57m ²
UNIT 2 Living: 135.62m ²
Garage: 22.95m ²
Subtotal: 158.57m ²
UNIT 3 Living: 135.62m ²
Garage: 22.95m ²
Subtotal: 158.57m ²
UNIT 4 Living: 135.01m ²
Garage: 22.95m ²
Subtotal: 157.96m ²
UNIT 5 Living: 132.28m ²
Garage: 22.95m ²
Subtotal: 155.23m ²
UNIT 6 Living: 135.62m ²
Garage: 22.95m ²
Subtotal: 158.57m ²
Total GFA: 952.20m ²
Plot ratio: 34%
Allowable: 50%

ALL DIMENSIONS AND ELEVATIONS ARE SHOWN ON EVERY
ALTERNATION ARE IN METERS. DO NOT SCALE DRAWING
CONTRACTOR BEFORE THE COMMENCEMENT OF WORK.