ACT Government
Transport Canberra and City Services

FREEDOM OF INFORMATION COVERSHEET

The following information is provided pursuant to section 28 of the *Freedom of Information Act 2016*.

FOI reference: 22-079

Information to be published	Status
1. Access application	Published
2. Decision notice	Published
3. Schedule	Published
4. Documents	Published
5. Additional information identified	Not applicable
6. Fees	Not Applicable
7. Processing time (in working days)	26 days
8. Decision made by Ombudsman	Not applicable
9. Additional information identified by Ombudsman	Not applicable
10. Decision made by ACAT	Not applicable

11. Additional information identified by ACAT	Not applicable

Freedom of Information - Access Application to Transport Canberra and City Services - Submission confirmation

Your submission has been successful. Please keep a copy of this receipt for your records.

Date and time: 25 May 2022 4:28:43 PM

Reference code: ZJVVCVD5

Transport Canberra and City Services (TCCS)
GPO Box 158
Canberra ACT 2601
Phone: 02 6207 2987
Email: TCCS.FOI@act.gov.au

Applicant details

Title: [redacted]

Given name: [redacted]

Family name: [redacted]

Preferred name: [redacted]

Preferred method of contact

- ○ Phone
- ◉ Email
- ○ Post

Contact phone number: [redacted]

Contact email address: [redacted]

Contact postal address

Address line 1: [redacted]

Address line 2:

Suburb: [redacted]

State: ACT

Postcode: [redacted]

Preferred method to receive information *

- ◉ Email
- ○ Post

☐ Same as contact email address

Delivery email address *: [redacted]

Information request

Who are you making the request on behalf of?

Myself

What type of information are you requesting access to? *

Other information

What information are you requesting access to under the Act? *

I am requesting Andre Sneyers,(Tree Protection Officer) report to the to the Conservator giving his reasons for rejecting our application for tree removal.
I am also requesting the full report from the Conservator with his judgement and reasons for rejecting the three applications below.
10 February 2022 CL5763Q ; 28 February 2022 YJBHVD88; 13 May 2022 CL5763Q- Sent as an attachment to Andre.Sneyers@act.gov.au from tmdale@iinet.net.au

Attach a description or additional details about the information you are requesting access to (optional)

Do you have a similar or identical request currently under review by another ACT Government Directorate?

- ○ Yes
- ◉ No

Are you enquiring as

A member of the public

Do you wish to apply for a waiver of fees associated with processing your application?

- ◉ Yes
- ○ No

Do you hold a valid concession card?

- ◉ Yes
- ○ No

Provide a statement about how the release of information is in the public interest (optional)

We would like to know what Assessment Method the Tree Protection Officer uses to assess trees., given there are 25 different Assessment Methods.

Given that the risk to person and property is the highest priority in the Tree Protection Officers Assessment Method (Criteria 1), the Conservator did not provide any justification for the Assessment Method his Tree Protection used to assess such risk.

The Conservators decision we received on May 24, did not give any reason or provide any scientific evidence supporting his decision on the risk to persons and property in not granting permission for tree removal

It is in the public Interest to know what Assessment Method the government uses to asses the safety of citizens under its Tree Protection Act.

Would you like to provide any additional information? (optional)

Attach additional documents to support your application (optional)

ACT Government
Transport Canberra and City Services

[redacted]

[redacted]

Freedom of Information Request - Reference 22-057

I refer to your application for access to government information received by Transport Canberra and City Services (TCCS) on 25 May 2022 seeking access to the following government information under the *Freedom of Information Act 2016*:

> "*Requesting the Andre Sneyers (Tree Protection Officer) report to the Conservator giving his reasons for rejecting our application for tree removal. Also requesting;*
> - *The full report from the Conservator with his judgement and reasons for rejecting the following:*
> - *10 February 2022 – CL5763Q*
> - *28 February 2022 – YJBHVD88*
> - *13 May 2022 – CL5763Q – sent as an attachment to Andre Sneyers."*

Timeframes
I thank you for agreeing to an extension to 8 July 2022.

Authority
I am an Information Officer appointed by the Director-General under section 18 of the Act to deal with access applications made under Part 5 of the FOI Act.

Decision on access
In accordance with the FOI Act, a search of TCCS records has been completed. The documents identified include your applications, the assessment made by the tree protection unit and the Conservator's decision. A total of eight documents have been identified.

Applying the public interest test under section 17 of the FOI Act, I have decided to provide you with full disclosure of the records.

The documents are listed in the schedule at Attachment A. A copy of the records are at Attachment B. The reasons for my decision are provided below under statement of reasons.

Statement of Reasons
In making my decision on disclosing government information, I must identify all relevant factors in schedule 2 of the FOI Act and determine, on balance, where the public interest lies. In reaching my access decision, I have taken the following into account:

Factors favouring disclosure in the public interest (Schedule 2, Section 2.1)

- Section 2.1(a)(i) - promote open discussion of public affairs and enhance the government's accountability; and
- Section 2.1(a)(viii) - reveal the reason for a government decision and any background or contextual information that informed the decision.

Factors favouring non-disclosure (Schedule 2, Section 2.2)

- No factors were found favouring non-disclosure.

In accordance with the FOI Act, I find that the disclosure of the information within this record is, on balance, in the public interest.

Charges

No fees are applicable to this application as the number of pages being released are within the fee-free threshold.

Online publishing – disclosure log

Under section 28 of the Act, TCCS maintains an online record of access applications called a disclosure log. Your original access application, my decision and documents will be published in the TCCS disclosure log between 3 – 10 business days from the date of this decision.

Personal information and business affairs relating to a third party will not be published. You may view the TCCS' disclosure log at https://www.cityservices.act.gov.au/about-us/freedom_of_information/disclosure-log.

Ombudsman review

My decision on your access request is a reviewable decision as identified in Schedule 3 of the Act. You have the right to seek an Ombudsman review of this outcome under section 73 of the Act within 20 working days from the day that my decision is published in TCCS' 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

ACT Civil and Administrative Tribunal (ACAT) review

Under section 84 of the Act, if a decision is made under section 82 on an Ombudsman review, you may apply to the ACAT for review of the Ombudsman decision.

Further information may be obtained from ACAT at:

ACT Civil and Administrative Tribunal
Level 4, 1 Moore Street
GPO Box 370
CANBERRA CITY ACT 2601
Telephone: (02) 6207 1740
www.acat.act.gov.au

If you have any queries concerning the directorate's processing of your request, or would like further information, please contact the TCCS FOI team on (02) 6207 2987 or email to tccs.foi@act.gov.au.

Yours sincerely

Kristine Scheul
Information Officer

4 July 2022

Bruan, Nicole

From: smartforms@act.gov.au
Sent: Thursday, 10 February 2022 12:56 PM
To: TCCS_CP TreeProtection
Subject: [redacted] Personal]
Attachments: CL57R63Q.pdf; CL57R63Q.zip

Application to Undertake a Tree Damaging Activity

Form data summary

Reference code [redacted]

Applicant [redacted]

You can also view the tree map online

For issues or questions relating to SmartForms please contact the Payment Services Integration Team on *5 4607 or email smartforms.admin@act.gov.au.

Application to Undertake a Tree Damaging Activity - Submission confirmation

Your submission has been successful. Please keep a copy of this receipt for your records.

Date and time: 10 Feb 2022 12:51:36 PM

Reference code: CL57R63Q

Urban Treescapes
GPO Box 158
Canberra City ACT 2601
Phone: 13 22 81

Applicant details

Title [redacted]

Given name * [redacted]

Family name * [redacted]

Company

ACN (Australian company number)

Residential address

Address line 1 * [redacted]

Address line 2

Suburb * [redacted]

State * ACT

Postcode * [redacted]

Postal address

☑ Same as residential address

Enter at least one phone number: *

Home phone number [redacted]

Work phone number

Mobile number [redacted]

Email address * [redacted]

Is the applicant the lessee of the land on which the tree is located? *

- (●) Yes
- ( ) No

Activity details

Type of activity requested

Please tick the appropriate box(es) for the tree damaging activity which you are applying for: *

- [x] Tree felling or removal
- [ ] Major pruning
- [ ] Minor pruning (registered trees only)
- [ ] Lopping
- [ ] Prohibited groundwork in the tree protection zone
- [ ] Other activity

Location of tree

Address line 1 *

[redacted]

Address line 2

Suburb *

[redacted]

State *

ACT

Postcode *

[redacted]

Suburb *

[redacted]

Section *

[redacted]

Block *

[redacted]

If you require help with suburb/district, section or block details, visit ACTMAPi (http://www.actmapi.act.gov.au/home.html).

Tree Detail(s)

Tree 1 *

[redacted]

Reasons for application

Tick the appropriate box: *

- [ ] Block of land where the tree(s) is located is on the ACT Heritage Register or other heritage register
- [ ] Block of land where the tree(s) is located is on National Capital Authority (NCA) land
- [ ] The application is development related or associated with a proposed development
- [x] Other

State the reason/s why the application is being made with regard to each tree (you should have regard to the criteria for approval).

You will be able to attach supporting documentation such as arboriculturist reports, plumbing diagrams, receipts, structural engineers reports or other substantiating evidence that would assist the conservator in assessing the application.

Please note that delays may be experienced in processing your application if we are of the view that you have not provided sufficient or accurate information in order for a comprehensive assessment to be made.

Reason/s for application *

https://www.canberratimes.com.au/story/6859192/tree-falls-on-mans-house-a-year-after-removal-application-refused/

Additional attachments

Block plan

[redacted]

Additional documents (including Arboriculturist reports, plumbing diagrams, receipts, structural engineers reports, etc)

Gold Leaf Tree Services Pty Ltd Invoice #2986 - 2016-05-25.pdf

IMG20220201070138[1].jpg

IMG20220201064940[1].jpg

Eucalyptus blakelyi_20220210.pdf

Consent to enter

To enable assessment of this application, an authorised officer will require consent from the occupier to enter the land where the tree damaging activity is to occur.

Are you the current occupier of the property where the tree damaging activity is to occur? *

- (●) Yes
- ( ) No

☑ I consent to an authorised person entering my premises between the hours of 8:30am and 5pm weekdays for the purposes of assessing this application. *

Is there clear access to the tree for the purpose of the inspection? *

- (●) Yes
- ( ) No

Best contact person to arrange access

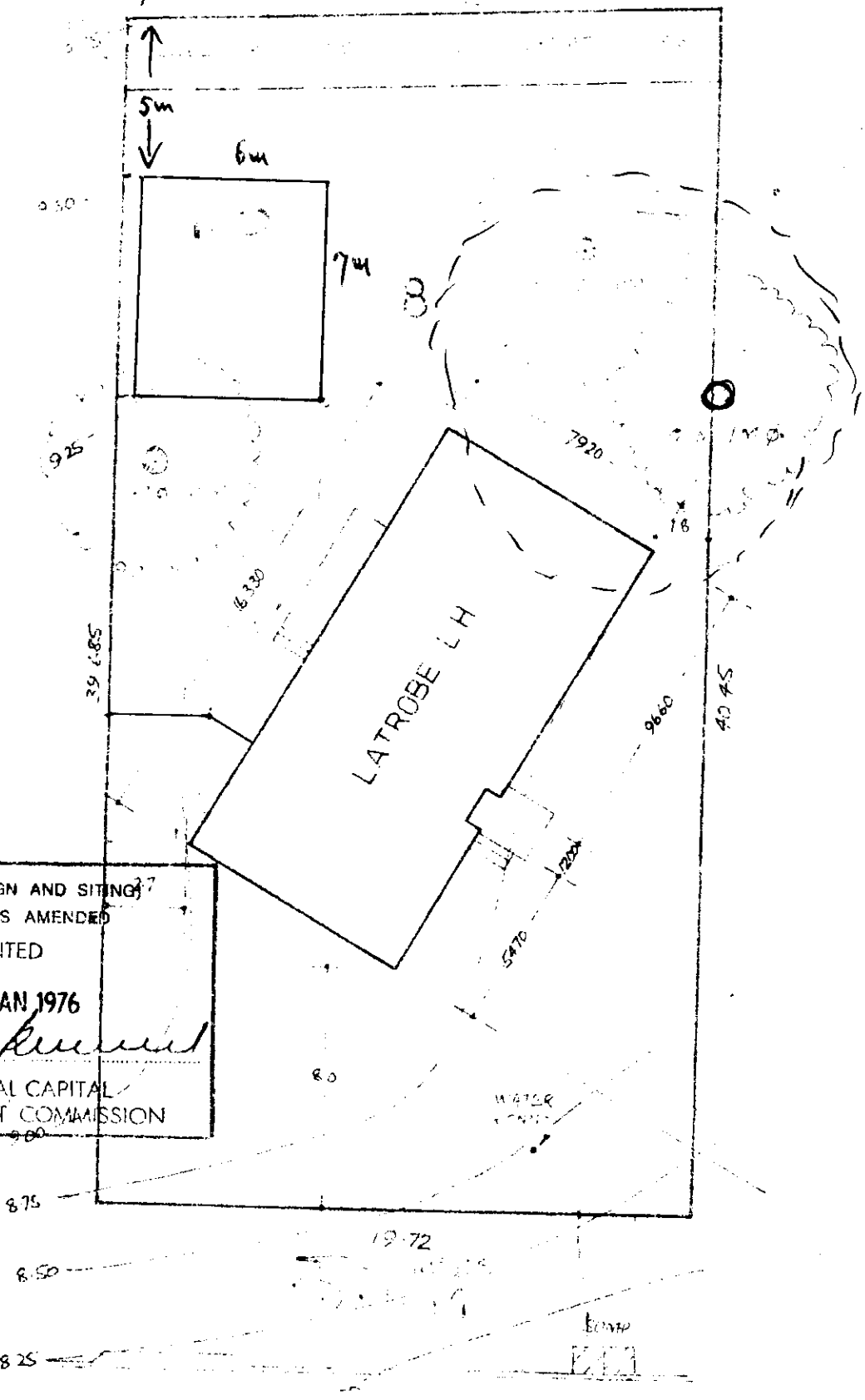
[redacted]

Is there a dog in the yard? *

- ( ) Yes
- (●) No

☑ I understand that providing false and misleading information on this application is a serious offence under the *Criminal Code 2002*. Prosecution may result in a fine of up to $15,000 for an individual, $75,000 for a company and/or 12 months imprisonment. *

43507



BUILDINGS (DESIGN AND SITING) ORDINANCE 1964 AS AMENDED

APPROVAL GRANTED

7 JAN 1976

DELEGATE

NATIONAL CAPITAL DEVELOPMENT COMMISSION

[redacted]

The Director

Department of Environment and Planning

Dame Pattie Menzies House

16 Challis Street

Dickson ACT 2602

Dear Madam,

Re: Reference Number: [redacted]

I seek to draw your serious attention to a Eucalyptus blakelyi growing on our boundary fence that has previously caused serious damage to our property. financial stress in insurance claims and arborists fees to clear dead branches, and now enormous anxiety and stress when it , recently dropped a 20m green limb narrowly missing our bedroom.

Given that 90% of the canopy of this tree overhangs our property, our bedroom being directly underneath, this tree is life threatening and we hold your department legally responsible for our safety should it not be removed and cause injury.

I draw your attention to your departments brochure on Eucalyptus blakelyi which states" SUITABLE ONLY FOR USE IN HERITAGE AREAS, REVEGETATION AREAS AND FOR RECREATING LOCAL WOODLAND COMMUNITIES", and that "OLD SPECIMENS OFTEN DROP LARGE LIMBS AND REQUIRE ANNUAL DEAD WOOD REMOVAL IN HIGH USE AREAS", which clearly indicates it is unsafe and unsuitable for home gardens being" high use areas"

Now in our late seventies we have experienced extreme stress and anxiety since this huge green limb fell and have now moved out of our bedroom as we no longer feel safe.

Our garden has 10 other trees and we would happily plant a suitable replacement tree when this tree is removed.

We ask that you consider our mental health and your legal responsibility for our safety in determining your decision on the removal of this tree.

[redacted]

GOLD LEAF
TREE SERVICES

A.B.N. 12 149 800 868
PO Box 6413, Queanbeyan East NSW 2620
PH: 02 6108 3632

TAX INVOICE

Invoice	2986	Date	25/05/2016

Invoiced to [redacted]

Deliver to [redacted]

Code	Description	Price ex. GST	Tax	Total $
PRU	Large Red gum in backyard - minor crown tidy, i.e. remove large dead limbs and prune out crossing and rubbing branches as required.	$960.00	GST on Income	$1,056.00

Invoice Details		
Invoice No.	Payment Due	
2986	7 Days	
Completed by	James Macpherson	
Date completed	25/05/2016	

Invoice Totals	
Subtotal	$960.00
Tax	$96.00
TOTAL inc GST	**$1,056.00**
Amount Paid	$0.00
Balance Due	**$1,056.00**

Account Terms and Conditions

Overdue accounts will occur a surcharge of 10 percent of the total cost per fortnight until the account is paid.

Details for Direct Credit – Gold Leaf Tree Services BSB: 112-879 ACCOUNT: 430470846

Other Payment Options: Cash, Credit via PayPal (2.6% PayPal Fee), Cheque.

ACT Government
Transport Canberra and City Services

Inspected by: [redacted] Advisor Visit? Y / N
Date: 22/ 2 /2022

Applicant requests – to be present Y / N
Applicant/Lessee/Tenant - present Y / N

TREE ASSESSMENT REPORT

Application ID: [redacted] Date Received: **10-Feb-2022**

Applicant Name: [redacted]

Tree Address: [redacted] Suburb: [redacted]

Home Phone: **6288 8292**
Business Phone:
Mobile: **0437 146 944**

Marked by me

Block/s: **8** Section: **72** Block Size (m²): **790.1**

ACTIVITY REQUIRED:

Felling/Removal [✓] Groundwork within the TPZ [ ] Major pruning [ ] Lopping [ ] Minor pruning [ ] Other [ ]

TREE DETAILS:

Tree/s No: 1 of 1 Genus & species Eucalyptus blakely; Regulated [✓] Registered [ ]

Location on block: On boundary with 14 Daley

The proposed activity is not subject to the legislation because it is:

under size [ ] dead [ ] a declared pest plant [ ] unleased land [ ] rural lease [ ] other [ ]

Height: 22 m Canopy: 16 m Circumference: 2.3 m **Heritage Block:** Y [N]

Proximity to substantial structure: Trunk: 6 m Canopy: 4 m Overhang: 5 m

Proximity to powerlines: Trunk: 10 m Canopy: 1 m Overhang: m

Landscapes values: 1 2 3 4 5 6 7 8 [9] 10

Possible nomination for the tree register: **Yes / No**

Isolated specimen	Remnant / planted / rare	**Historical**	Planting / Remnant /Commemorative
Group specimen	Remnant / planted	**Prominent due to location / stature / height / age – (regardless stature)**	Yes / No
Indigenous	Remnant / planted	**Habitat**	Yes / No (Nest - Active / Hollow)
Cultural	Unusual form / habit / variety	**License under the *Nature Conservation Act 2014* required**	Yes / No Threat of loss

Tree stable	Yes / No	**Root damage**	Yes / No
Epicormic growth	Major / Minor / None old	**Trunk damage**	Yes / No
Foliage insects	Major / Minor / None	**Evidence of borers / termites**	Yes / No
Deadwood	Major / Minor / None	**Evidence of fungal infestation**	Yes / No
Previously pruned	Major / Minor / None	**Evidence of weak branch unions**	Yes / No
Previously lopped	Yes / No	**Evidence of stress fractures**	Yes / No
Causing drain blockages	Major / Minor / Not evident	**TPZ disturbance**	Yes / No

Growth stage	juvenile / semi-mature/ mature / over-mature/ in decline	**General health**	excellent / good / fair / poor

Comments: [redacted]

Assessment – TREE FELLING / REMOVAL (visual from ground level)

	Criteria	Reported	Assessed	Meets criteria	Justifying Comments:
1.1.a	Life expectancy short ...	Yes / No	Yes / No	Yes / No	appears very healthy and structurally sound despite recent limb failure
1.1.b	Unacceptable risk to public or private safety ...	Yes / No	Yes / No	Yes / No	
1.1.c	Causing / threatening to cause substantial damage ...	Yes / No	Yes / No	Yes / No	
1.1.d	Inappropriate location…	Yes / No	Yes / No	Yes / No	
1.1.e	Blocking solar access (excluding remnant Eucalypts)	Yes / No	Yes / No	Yes / No	Remnant.
1.1.f	Causing allergic reaction to occupant...	Yes / No	Yes / No	Yes / No	
1.1.g	Part of close planting...	Yes / No	Yes / No	Yes / No	
1.2	Schedule 2 Species	Yes / No	Yes / No	Yes / No	Sched 3

Recommendation: **APPROVE** **REJECT** **REPLACEMENT TREE: Y / N**

Alternative Recommendation: Selective Pruning / Dead wooding / other..... Reg. Arb. Imp. ..... to MPS

Assessment - MAJOR PRUNING / LOPPING (visual from ground level)

	Criteria	Reported	Assessed	Meets criteria	Justifying Comments:
1.5.a.i	As a remedial treatment	Yes / No	Yes / No	Yes / No	
1.5.a.ii	In the general interests of the health of the tree	Yes / No	Yes / No	Yes / No	
1.5.a.iii	To reduce an unacceptable risk to public or private safety	Yes / No	Yes / No	Yes / No	
1.5.a.iv	To reduce the risk of damage or prevent further damage to a substantial building, structure or service	Yes / No	Yes / No	Yes / No	
1.5.b	Substantially affecting solar access to the lessees lease, or neighbouring lease, during winter...(excluding remnant Eucalypts)	Yes / No	Yes / No	Yes / No	

Recommendation: **APPROVE** **REJECT**

Assessment - GROUNDWORK (visual from ground level)

	Criteria	Reported	Assessed	Meets criteria	Justifying Comments:
2	The groundwork will have minimal impact on the tree if the activity complies with the conditions stated in the approval	Yes / No	Yes / No	Yes / No	
s29(4)	The activity will have little or no adverse impact on the health or stability of the tree	Yes / No	Yes / No	Yes / No	

Recommendation: **APPROVE** **REJECT**

TAP DELEGATE ADVICE:

Inspected site: Yes / No
Agree with recommendation: Yes / No
See separate report: Yes / No
Refer to Tree Advisory Panel: Yes / No

Signature:
Date: / / 2021

Bruan, Nicole

From: smartforms@act.gov.au
Sent: Monday, 28 February 2022 2:21 PM
To: TCCS_CP TreeProtection
Subject: [redacted]
Personal]
Attachments: YJBHVD88.pdf; YJBHVD88.zip

Application to Undertake a Tree Damaging Activity

Form data summary

Reference code [redacted]

Applicant

You can also view the tree map online

For issues or questions relating to SmartForms please contact the Payment Services Integration Team on *5 4607 or email smartforms.admin@act.gov.au.

Application to Undertake a Tree Damaging Activity - Submission confirmation

Your submission has been successful. Please keep a copy of this receipt for your records.

Date and time	Reference code
28 Feb 2022 2:18:13 PM	YJBHVD88

Urban Treescapes
GPO Box 158
Canberra City ACT 2601
Phone: 13 22 81

Applicant details

Title | Given name * | Family name *

Company

ACN (Australian company number)

Residential address

Address line 1 *

Address line 2

Suburb * | State * | Postcode *

State *: ACT

Postal address

☑ Same as residential address

Enter at least one phone number: *

Home phone number | Work phone number | Mobile number

Email address *

Is the applicant the lessee of the land on which the tree is located? *

- (●) Yes
- ( ) No

Activity details

Type of activity requested

Please tick the appropriate box(es) for the tree damaging activity which you are applying for: *

- [x] Tree felling or removal
- [ ] Major pruning
- [ ] Minor pruning (registered trees only)
- [ ] Lopping
- [ ] Prohibited groundwork in the tree protection zone
- [ ] Other activity

Location of tree

Address line 1 *

[redacted]

Address line 2

Suburb *

[redacted]

State *

ACT

Postcode *

[redacted]

Suburb *

[redacted]

Section *

[redacted]

Block *

[redacted]

If you require help with suburb/district, section or block details, visit ACTMAPi (http://www.actmapi.act.gov.au/home.html).

Tree Detail(s)

Tree 1 *

Eucalyptus blakelyi

Reasons for application

Tick the appropriate box: *

- [ ] Block of land where the tree(s) is located is on the ACT Heritage Register or other heritage register
- [ ] Block of land where the tree(s) is located is on National Capital Authority (NCA) land
- [ ] The application is development related or associated with a proposed development
- [x] Other

State the reason/s why the application is being made with regard to each tree (you should have regard to the criteria for approval).

You will be able to attach supporting documentation such as arboriculturist reports, plumbing diagrams, receipts, structural engineers reports or other substantiating evidence that would assist the conservator in assessing the application.

Please note that delays may be experienced in processing your application if we are of the view that you have not provided sufficient or accurate information in order for a comprehensive assessment to be made.

Reason/s for application *

This application supports application No CL57R63Q. Another branch from Eucalyptus blakelyi pierced roof tiles and flooded bedroom ceiling causing it to sag crack and leak water damaging carpet on Sunday 27/2/2022 after 65mm rain
SES incident no 2442 came to secure our roof and now we are dealing with yet another insurance claim caused by the same tree.

Additional attachments

Block plan

Additional documents (including Arboriculturist reports, plumbing diagrams, receipts, structural engineers reports, etc)

IMG20220227142619[1].jpg

IMG20220227144438[1].jpg

Consent to enter

To enable assessment of this application, an authorised officer will require consent from the occupier to enter the land where the tree damaging activity is to occur.

Are you the current occupier of the property where the tree damaging activity is to occur? *

- (●) Yes
- ( ) No

☑ I consent to an authorised person entering my premises between the hours of 8:30am and 5pm weekdays for the purposes of assessing this application. *

Is there clear access to the tree for the purpose of the inspection? *

- (●) Yes
- ( ) No

Best contact person to arrange access

Is there a dog in the yard? *

- ( ) Yes
- (●) No

☑ I understand that providing false and misleading information on this application is a serious offence under the *Criminal Code 2002*. Prosecution may result in a fine of up to $15,000 for an individual, $75,000 for a company and/or 12 months imprisonment. *

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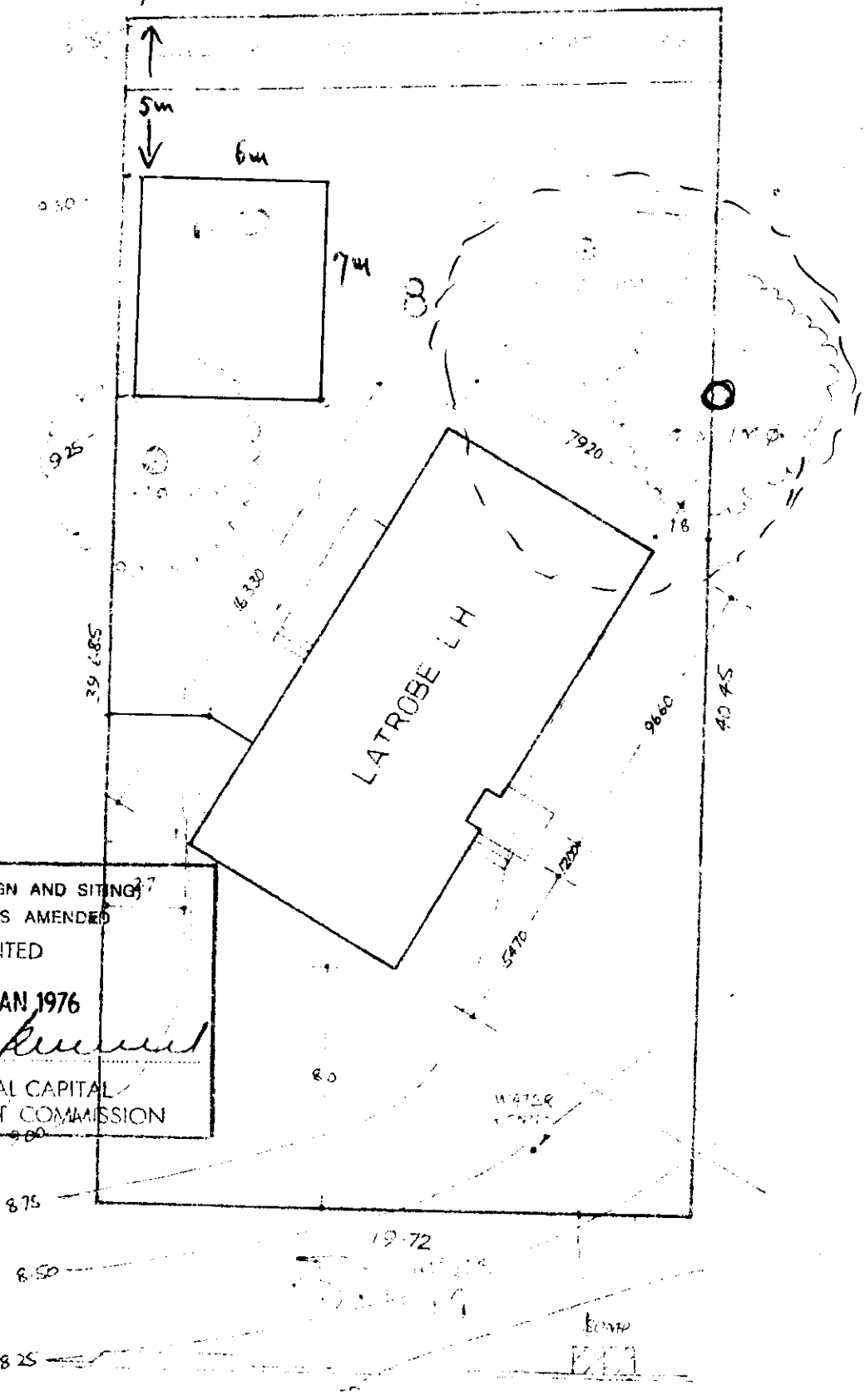


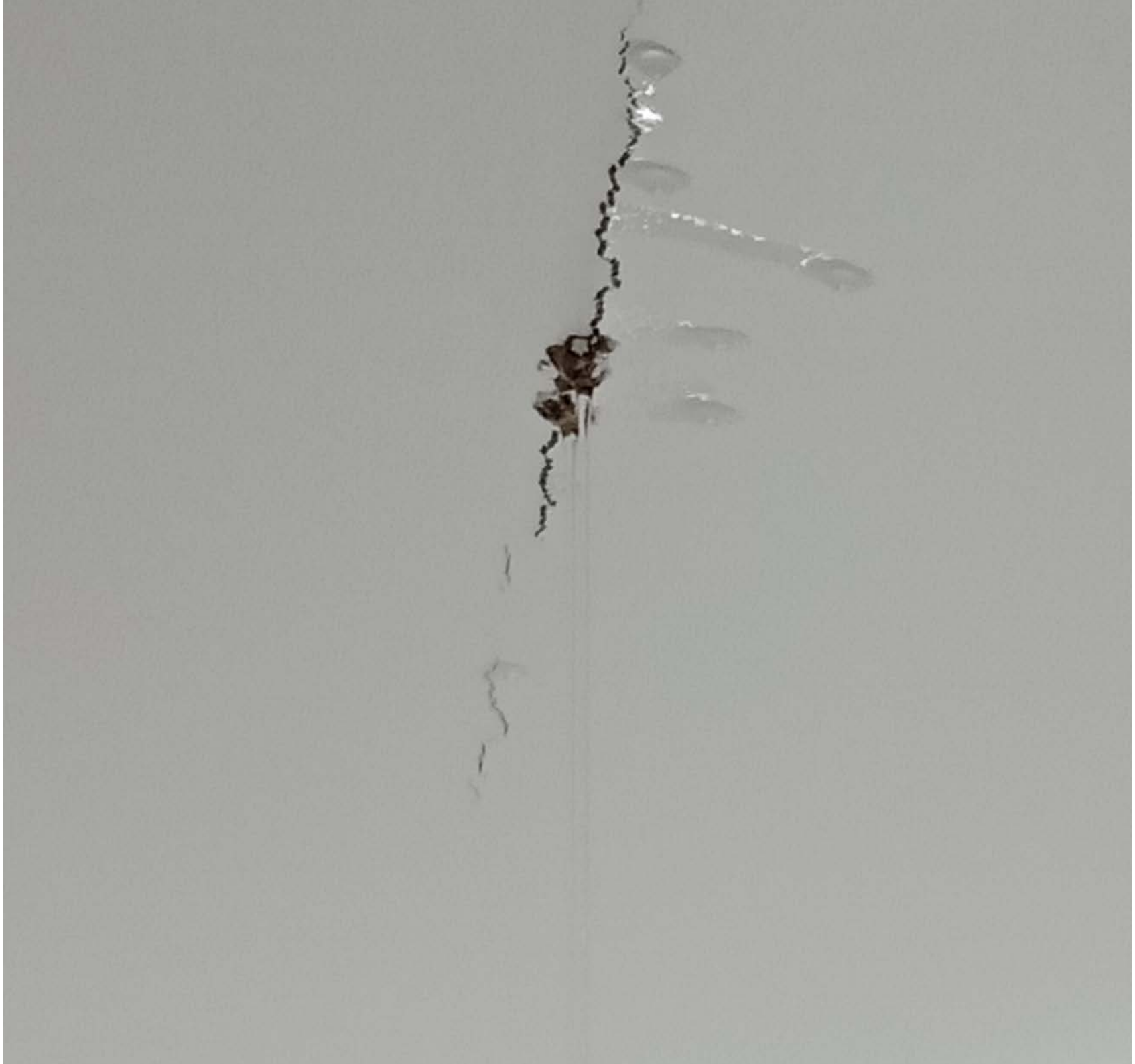
BUILDINGS (DESIGN AND SITING) ORDINANCE 1964 AS AMENDED

APPROVAL GRANTED

7 JAN 1976

DELEGATE

NATIONAL CAPITAL DEVELOPMENT COMMISSION



Bruan, Nicole

From: [redacted]
Sent: Thursday, 10 March 2022 8:47 AM
To: [redacted]
Subject: FW: More tree damage 16 Wakelin Circuit Weston

From: [redacted]
Sent: Wednesday, 9 March 2022 5:58 PM
[redacted]
Subject: RE: [redacted]

[redacted]
Thank you for visiting us yesterday.
Would you please hold off submitting our previous applications to the conservator until you receive our third application to attach to the others.
We will be submitting a report from an independent arborist on the tree.
Regards
Marie Dale

From: [redacted]
Sent: W
[redacted]
Subject: RE: More tree damage 16 Wakelin Circuit Weston

Hi there [redacted]

Very sorry to hear about the recent damage.
I shall come by once more and hold of for the moment with processing.

[redacted]

From: [redacted]
Sent: Monday, 28 February 2022 9:12 AM
To: [redacted]
Subject: More tree damage 16 Wakelin Circuit Weston

Dear [redacted]

We have had another incident with the tree and had the SES to repair our roof yesterday.
I will be lodging another tree removal application today to add to our previous application, CL57R63Q.
Could you please hold off sending anything to the conservator till you receive our second application.
In gratitude
[redacted]

Bruan, Nicole

From: [redacted]
Sent: Tuesday, 17 May 2022 7:37 AM
To: [redacted]
Subject: [redacted]
Attachments: Application 3 for tree removal 1.docx

I haven't checked it out yet

From: [redacted]
Sent: Friday, 13 May 2022 4:36 PM
To: [redacted]
Subject: RE: [redacted]

> **Caution:** This email originated from outside of the ACT Government. Do not click links or open attachments unless you recognise the sender and know the content is safe. Learn why this is important

Hi [redacted]

I have attached my latest tree removal application to this email as it would not allow me to attach it to application CL57R63Q.

Regards
[redacted]

From: [redacted]
Sent: [redacted]
Subject: [redacted]

Hi there [redacted]

Very sorry to hear about the recent damage.
I shall come by once more and hold of for the moment with processing.

[redacted]

[redacted]

CAUTION: This email originated from outside of the ACT Government. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Dear [redacted]

We have had another incident with the tree and had the SES to repair our roof yesterday.
I will be lodging another tree removal application today to add to our previous application, CL57R63Q.
Could you please hold off sending anything to the conservator till you receive our second application.
In gratitude

[redacted]

In regard to Criteria 1

The Eucalyptus blakelyi is located less than 5 metres from our home in our back garden.

90% of its canopy is over our bedrooms and family room and leans over our back garden. As we have an extensive back garden designed for entertaining and a massive vegetable garden in which we are constantly working it is a high use area for us our visitors and family. As a high use area the tree is an unacceptable risk to our family, our visitors and our neighbours.

We are working in our garden 4-5 hours each day during a full year and we are entertaining in our garden and between October and April. Again, because this is our private entertaining space it poses an unacceptable risk to anyone in our back garden.

Should this tree fall from the north westerly direction it would fall onto our bedroom and the bedroom side of our neighbour's home. Our neighbours share our view that this tree poses an unacceptable risk to both families. Any falling branch could cause serious injury or death for those sleeping and working under it

It is not sufficient to say that it is unlikely that the tree or a major branch of the tree will fall. The fact that there is any risk is an unacceptable risk to our family and our neighbour, given that we all live under the tree. To be merely asked to monitor the tree every two to three years does not lessen the risk as your tree assessor indicated, "any major pruning of limbs will just add to the likelihood of another limb falling."

'The presence or absence of a target is considered to be the most important factor in risk management (Ellison 2005') and 'when evaluating tree risk it is important to assess a particular targets level of occupation as well as the factors that might affect occupancy' (Hayes 2002)

Given that since Feburary 2003 we have had four major incidences of branches causing damage to our roof, skylights, guttering and internal ceilings two of which became insurance claims one of which required the SES to repair prior to lodging an insurance claim and that of the four incidents three were from

green limbs, validates our claim that the tree is a continual unacceptable risk to our safety

We draw your attention to your departments brochure on Eucalyptus blakelyi which states: SUITABLE ONLY FOR USE IN HERITAGE AREAS, REVEGETATION AREAS AND FOR RECREATING LOCAL WOODLAND COMMUNITIES , and that **OLD SPECIMENS OFTEN DROP LARGE LIMBS** AND REQUIRE ANNUAL DEAD WOOD REMOVAL IN HIGH USE AREAS. This clearly supports our request for the tree to be removed as it is an unacceptable risk and unsuitable in high use residential gardens.

Your tree protection officer quoted from an article in an Arborist's journal that compared the risk of death from tree failure against the risk of death from other diseases.

The article compared asthma deaths against an entire population,(mortality rate) rather than against the number of people who suffer with asthma in the population(fatality rate) the former being an unscientific conclusion of risk. Similarly, comparing people who died (1 in 5 million) from a tree failure against the entire population 20,947994 in 2008 (mortality rate). is equally unscientific risk.

I contend that the number of people who died from tree failure should be measured against the number of people who live and work under trees (fatality rate).

We were not told which risk assessment method your tree protection officer used to assess our tree and what value your department places on his tree risk assessment methods accuracy. We understand there are at least 23 tree risk assessment methods. The assessment on our tree was subjective, it was purely visual and including some photographs taken from the ground.

The ACT Tree Risk Assessment process is strongly biased towards the protection and preservation of trees irrespective of the risk to homes and personal safety of residents. This was evident in our conversation with your tree protection officer. However, Norris (2007) clearly states that 'a building under a tree has nearly 100% likelihood of impact'. The hazard , the target, the size of the tree or part thereof, the likelihood of failure and the likelihood

of impact to homes and people on private property , personal safety are not high priorities in your departments assessment process.

In assessing risk, I draw your attention to Martin Norris's Research paper on Tree Risk Assessment (2007)

' Norris tested some 23 tree risk methods of which some 15 were further analysed. These 15 methods were applied to a range of urban trees and situations and sensitivity analysis was used to determine the influence of individual assessment criterion on the output value in each of these models. A further trial was conducted where 12 experienced arborists used eight of these methods to assess eight different trees in varying urban situations; some of these data and observations are reported.

Analysis of the 15 methods applied to 15 trees identified that different tree risk assessment methods do produce a wide range of output values when applied to the same tree in the same circumstances. The breadth of this variation leads to a questioning of what each method is endeavouring to measure. Clearly the differing input categories, variable types, ranges, weighting of values, the descriptors used and the mathematics combined to produce differing results

A further trial was conducted where 12 experienced arborists used eight of these methods to assess eight different trees in varying urban situations; some of these data and observations are reported.

'The 12 experienced arborists placed an intuitive risk rating on each tree assessed within the first few minutes of viewing the tree and before any other assessment had been made. The rating was from 1 – 10, with one being described as 'insignificant risk' and 10 as 'extremely high risk', no other guidance was provided. The range of scores generated for most tree assessments was very wide. Whilst, many in the industry would suggest that 'they know a "dangerous" tree when they see one', this sample from 12 experienced arborists would suggest that tree risk assessment may not be as much 'common sense' as many believe

'Any tree assessment will be composed of a series of estimates and assumptions made by the assessor, accuracy is somewhat implied because virtually all methods use single point values, in all cases these point values will not be accurate'.

Few would argue, that the data reported in Norris's paper would confirm' tree risk assessment is as much 'an art as a science'. Most tree risk assessment methods require the assessor to 'pick a number', some methods qualify or quantify

this number with descriptors (e.g., **CTC defines houses, playgrounds, schoolyards and courtyards as High Risk).** Descriptors have the potential to limit assessor-produced uncertainty; however, paradoxically they can introduce greater inaccuracy by limiting an assessor's opportunity to apply more accurate or site-specific data'.

'QTRA is a recent quantitative method that implies a high level of accuracy; however, as previously shown assessors vary enormously in their point estimates for the three required QTRA fields'.

'Analysis of the data currently suggests that the assumption of validity, completeness, robustness, and repeatability should be challenged, including the base assumptions, and underlying modelling (particularly weighting and mathematics). Equally, the wide range of assessment input variables chosen by arborists resulted in a wide range of risk output values, which would suggest that individual differences amongst arborists question the current value of risk assessments'.

Bruan, Nicole

From: [redacted]
Sent:
To:
Cc:
Subject:

[redacted]
I do think we could discuss the situation further.

Before I read their presented spiel presented I was happy with my assessment on that day and days following.
After I read their spiel I remain with my assessment.

I have met Martin Norris several times, while we were both assisting in the Australian Chapter of the ISA.
And will repeat some of his words from a later paper below.

The reality is that urban trees do not pose a significant threat to the community. This is reflected in the small number of fatalities caused by trees and the limited costs borne by the community for tree related damage.

I am happy with my assessment and the recommendations presented by me.
It is off course totally possible for the Conservator to ask a independent advisor to make a secondary assessment prior to a decision.

Yours in trees
André Sneyers |P16238| **Urban Treescapes, TPU**
Phone 02 6207 6127 | Email: andre.sneyers@act.gov.au
Transport Canberra and City Services (TCCS) | ACT Government
Alpine Ash, Level 4, 480 Northbourne Avenue, Dickson 2602
GPO Box 158 Canberra ACT 2601 | www.act.gov.au

Note that currently I am not in the office on Fridays & Mondays

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From: [redacted]
Sent: Wednesday, 18 May 2022 4:29 PM
To: Sneyers, Andre <Andre.Sneyers@act.gov.au>
Cc: [redacted]
Subject: RE: 14 & 16 Wakelin E. blakely

Hi Andre,

Can you make a recommendation on the information provided and your assessment.

Happy to discuss if you like.

Thanks
[redacted]

From: Sneyers, Andre <Andre.Sneyers@act.gov.au>
Sent: Tuesday, 17 May 2022 3:30 PM
[redacted]

Hi [redacted]

It appears that their Arborists report as they suggested did not get sent, but something else was put together and presented instead.
Maybe we need to discuss when you have chance.
Or do we just ask where is the report from the Arborist.

Dear Andre,
Thank you for visiting us yesterday.
Would you please hold off submitting our previous applications to the conservator until you receive our third application to attach to the others.
We will be submitting a report from an independent arborist on the tree.

Regards
[redacted]

Kind regards

André Sneyers **|P16238| Urban Treescapes, TPU**
Phone 02 6207 6127 | Email: andre.sneyers@act.gov.au
Transport Canberra and City Services (TCCS) | ACT Government
Alpine Ash, Level 4, 480 Northbourne Avenue, Dickson 2602
GPO Box 158 Canberra ACT 2601 | www.act.gov.au

Note that currently I am not in the office on Fridays & Mondays

CONSERVATOR'S DECISION

Tree Protection Act 2005

Address of Activity: [redacted]

Application ID: [redacted] **Block:** [redacted] **Section:** [redacted]

Tree(s) 1: Eucalyptus blakelyi

TREE ADDRESS: [redacted]

LOCATION ON BLOCK: On the boundary with [redacted]

DECISION SUMMARY:

The request for approval of felling/removal of this tree is not granted. Please see details below and recommendations, if any, in the attached Notice of Decision letter.

TREE DAMAGING ACTIVITY: FELLING/REMOVAL

CONSERVATOR'S DECISION: NOT GRANTED

BASIS FOR DECISION:
It has not been established that any of the criteria for removal have been satisfied in Clauses 1(1) and (2) of Schedule 1 of Disallowable Instrument DI2006-60, Tree Protection (Approval Criteria) Determination 2006 (No 2).

MDiel

Delegate of the Conservator
19 May 2022

READ CONDITION(S) CAREFULLY

ACT Government
Transport Canberra and City Services

[redacted]

NOTICE OF DECISION
Tree Protection Act 2005

Dear [redacted]

This letter is notice of the Conservator of Flora and Fauna's decision regarding an application for a proposed activity under the *Tree Protection Act 2005* (the Act) between [redacted] **WESTON.** The notice is issued in accordance with section 26(2) of the Act. The location of the relevant tree/s and reasons are set out in the attached Conservator's decision, dated **19 May 2022.**

The Conservator's Decision (attached) is internally reviewable. You may apply for reconsideration of the decision under section 107 of the Act. The application must be in writing and must set out the grounds upon which reconsideration of the decision is sought. The application fee is $121.70 under the *Tree Protection (Fees) Determination 2021 (No1) 1.1. s 106* of the Act from 1 July 2021.

An electronic (Application for Reconsideration) "Smartform" is available to download via the *Access Canberra website* link: https://form.act.gov.au/smartforms/servlet/SmartForm.html?formCode=1096
The application must be made within **14 days** of the date of this notice by **Monday 6 June 2022.** An application for internal review will suspend any regular activity on tree/s subject to the reconsideration appeal. The review process may take 60 days and may confirm, vary or set aside the first decision.

If you do not agree with the reconsidered decision, you may apply to the *ACT Civil and Administrative Tribunal* for review of the decision. You may also seek review of the decision under the *Administrative Decisions (Judicial Review) Act 1989.* You may also contact the *ACT Ombudsman* if you have concerns about the decision.

Your request for Felling/Removal of Tree 1 *(Eucalyptus blakelyi)* has not been granted, however, it is recommended that:

- selective minor pruning is undertaken in accordance with *MIS308 Tree Pruning, section 7.2.2 Deadwooding, section 7.2.4 Selective Pruning* and *the Tree Protection Act 2005*. Pruning carried out in accordance with this standard does not require approval.
- the tree be assessed regularly by a qualified arborist to undertake a hazard and risk assessment every two to three years or when deterioration is noticed.

Please Note: If an aerial inspection is carried out by a qualified arborist and further concerns or damage noticed, please provide the arborist's report in a new application to the Conservator.

If you would like to discuss any aspect of the application, please contact the Tree Protection Unit on telephone (02) 6207 6127 during business hours.

Yours sincerely

MDiehl

Mark Diehm
A/g Assistant Director, Tree Protection Unit
Delegate of the Conservator of Flora and Fauna
City Presentation, Urban Treescapes
Transport Canberra and City Services Directorate
19 May 2022

FREEDOM OF INFORMATION REQUEST SCHEDULE

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: https://www.tccs.act.gov.au/about-us/freedom_of_information/disclosure-log

File number	WHAT ARE THE PARAMETERS OF THE REQUEST
FOI – 22-079	*Requesting the Andre Sneyers (Tree Protection Officer) report to the Conservator giving his reasons for rejecting our application for tree removal. Also requesting; and* *The full report from the Conservator with his judgement and reasons*

Ref No	Page number	Description	Date	Status	Reason for non-release or deferral	Open Access release status
1	**1-10**	20220210 - Email - Subject - Application to undertake a tree damaging activity	10 February 2022	Full access	Not applicable	Documents to be published on the TCCS Disclosure log with personal information and business affairs deleted.
2	**11-17**	20220222 - Trees Assessment	22 February 2022	Full access	Not applicable	
3	**18-25**	20220228 - Email with attachments - Subject – Application - 16 Wakelin CCT, Weston ACT 2611	28 February 2022	Full access	Not applicable	
4	**26-27**	20220310 - Email - Subject - More tree damage 16 Wakelin Circuit Weston	10 March 2022	Full access	Not applicable	
5	**28-31**	20220310 - Image of tree – x 4	10 March 2022	Full access	Not applicable	
6	**32-37**	20220517 - Email with 1 Attachment - Subject Application 3 for 16 Wakelin Circuit Weston	17 Mary 2022	Full access	Not applicable	
7	**38-39**	20220519 - Email - Subject - 14 &16 Wakelin E blakely	19 May 2022	Full access	Not applicable	

8	**40-41**	20220519 - Letter Sent to Applicant	19 May 2022	Full access	Not applicable	