



ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979

DETERMINATION OF DEVELOPMENT APPLICATION NO. 038-10-08

(FILE NO. 0809/027)

**REMOVAL OF EXISTING TREES ALONG THE ATP SOUTHERN BOUNDARY
AND PROVISION OF REPLACEMENT TREES**

AUSTRALIAN TECHNOLOGY PARK, EVELEIGH

I, the Acting Chief Executive Officer of the Redfern-Waterloo Authority as delegate of the Minister for Planning under Instrument of Delegation dated 22 February 2007, pursuant to Sections 80 (1)(a) and 80A of the *Environmental Planning & Assessment Act, 1979*, clause 9A of the *State Environmental Planning Policy (Major Projects) 2005* determine the development application referred to in the attached Schedule 1, by **granting consent** to the application subject to the conditions of consent in the attached Schedule 2.

The reasons for the imposition of conditions are:

1. To confirm the details of the application submitted by the applicant.
2. To comply with the provisions of the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2000*.
3. To ensure compliance with relevant planning controls.
4. To protect the amenity of the local environment, and adjoining residents, businesses and landowners.

Mohini Nair

Mohini Nair
A/Chief Executive Officer
Redfern-Waterloo Authority

Sydney, 13 February 2009

SCHEDULE 1**PART A—TABLE**

Application made by:	Australian Technology Park Precinct Management Ltd
Application made to:	Minister for Planning
Development Application:	DA 038-10-08
On land comprising:	Australian Technology Park, Eveleigh Lot 500 DP1033739
Local Government Area	City of Sydney
For the carrying out of:	Removal of existing trees along the ATP southern boundary and provision of replacement trees.
Estimated Cost of Works	\$30,000
Type of development:	Local Development
S.119 Public inquiry held:	No
Approval Body / Bodies:	Not Integrated
Determination made on:	13 February 2009
Determination:	Development consent is granted subject to the conditions in the attached Schedule 2.
Date of commencement of consent:	This development consent commences on the date identified in the formal notification letter accompanying the Determination.
Date consent is liable to lapse	This consent will lapse 5 years from the date of commencement of consent, unless: <ul style="list-style-type: none"> ▪ a shorter period of time is specified by the Regulations, or ▪ a condition in Schedule 2, or ▪ the development has physically commenced.

PART B—NOTES RELATING TO THE DETERMINATION OF DA NO. 038-10-08***Responsibility for other approvals / agreements***

The Applicant is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.

Appeals

The Applicant has the right to appeal to the Land and Environment Court under Section 97 of the *Environmental Planning and Assessment Act, 1979*. The right to appeal is only valid, for a development application, within 12 months after the date on which the Applicant received this notice.

Appeals—Third Party

A third party right to appeal to this development consent is available under Section 123, subject to Section 101, of the *Environmental Planning and Assessment Act, 1979*.

Legal notices

Any advice or notice to the consent authority shall be served on the Chief Executive Officer of the Redfern-Waterloo Authority.

Further Information

If you have any queries regarding this matter, please contact Ms Joanne McGuinness, Planning Manager on 9202 9100.

PART C—DEFINITIONS

In this consent,

Act means the *Environmental Planning and Assessment Act, 1979* (as amended).

Applicant means Australian Technology Park Precinct Management Ltd or any party acting upon this consent.

Approval Body has the same meaning as within Division 5 of Part 4 of the Act,

BCA means the Building Code of Australia.

Certifying Authority has the same meaning as Part 4A of the Act.

CEO means the Chief Executive Officer of the Redfern-Waterloo Authority.

Council means the City of Sydney.

DA No. 038-10-08 means the development application and supporting documentation submitted by the Applicant on 23 October 2008.

Department means the Department of Planning or its successors.

Planning and Urban Design Director means the Planning and Urban Design Director of the Redfern-Waterloo Authority.

Minister means the Minister for Planning.

Regulations mean the *Environmental Planning and Assessment Regulations, 2000* (as amended).

RWA means the Redfern-Waterloo Authority.

Subject Site has the same meaning as the land identified in Part A of this schedule.

Advisory Notes means advisory information relating to the approved development but do not form a part of this consent.

SCHEDULE 2

CONDITIONS OF CONSENT

DEVELOPMENT APPLICATION NO. 038-10-08

PART A—GENERAL CONDITIONS

A1 *Development Description*

Development consent is granted only to carrying out the development described in detail below:

1. The removal of an avenue of trees parallel to Henderson Road approximately 1 metre north of the Council footpath, comprised of 128 Poplars being:
 - o 67 Lombardy Poplar, and
 - o 61 Black Poplar.
2. Removal of six River Oaks, being the two most northern trees in all three River Oak/Sheoak garden beds. Development consent is NOT granted for the removal of remaining River Oaks, Sheoaks or Brushbox trees.
3. Replacement of trees in accordance with an approved Landscape Plan to be provided to and approved by RWA.

A2 *Development in Accordance with Plans*

The development shall be in accordance with Development Application number 038-10-08 submitted by the Applicant on 23 October 2008, and in accordance with the supporting documentation submitted with the application, including, but not limited to, the following:

Statement of Environmental Effects prepared by SK Design, dated October 2008 and received 23 October 2008.			
Drawing/s submitted with the Development Application prepared by Rygate and Company:			
Reference No.	Sheet No.	Name of Drawing	Date
73336	1-4	Plan showing location of existing trees Australian Technology Park	28 July 08
73336	1-4	Plan showing location of proposed trees Australian Technology Park	28 July 08

and as amended by the following conditions:

A3 *Inconsistency between documents*

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent prevail.

A4 Trees to be retained

Approval is NOT granted to the removal of:

- A total of thirty-three (33) River Oak or Sheoak trees, or eleven (11) trees in each River Oak/Sheoak garden bed.
- Any Brushbox tree located within the garden beds.

A5 Additional trees to be removed

The following trees are to be removed:

- Two *Celtis sinensis* (*Chinese Hackberry*) identified as A and located between Tree 75 and Tree 76 and also identified as A and located between Tree 80 and Tree 82 on the Plan showing location of existing trees Australian Technology Park prepared by Rygate and Company dated 28/7/08. This is an identified weed species.

A6 Replacement Tree Planting and Maintenance

(a) An amended Landscape Plan must be submitted to and approved by the RWA's Director Planning and Urban Design prior to the commencement of replacement trees, and within 30 days of the removal of the Poplars. The amended Landscape Plan must include:

- The trees to be retained as outlined in condition A4 above.
- Larger replacement trees that reach a minimum mature height of approximately 15 metres. Alternative trees species for consideration include:
 - *Lophostemon confertus*, *Glochidion ferdinandi*, *Eucalyptus microcorys*, *Flindersia australis*, and/or *Magnolia Grandiflora*
 - Brushbox (*Lophostemon confertus*) and Red Ironbark (*Eucalyptus sideroxylon*).

The larger replacement trees should retain the visual amenity created by the canopy of the existing Poplar trees.

- Planting detail and appropriate spacing of trees;
- Details of the timing of replacement of trees;
- Details of imported material/top soil to be used in the landscaped areas to overcome potential phytotoxicity issues related to levels of contaminants in the in-situ soils;
- Details of the method of root pruning and the installation of root barriers in each bed of River Oak/Sheoak;

A7 Replacement Trees

The planting of all replacement trees identified in the Landscape Plan referred to in condition A6 above, is to be completed within 60 days of the RWA approving the Landscape Plan.

A8 Quality of Tree Works

- (a) The trees will be advanced (minimum 200 litre) container size at planting.
- (b) All trees procured for this site must comply with the Natspec Guide for Tree Supply. The trees must be self supporting, free of pest and disease, and have healthy and well structured above and below ground parts (eg no inclusions and without girdled roots).
- (c) The trees must be planted by a qualified Arborist or Horticulturist (AQF Level 3).
- (d) All trees planted must be maintained by a qualified Horticulturist or Arborist (AQF Level 3) for a minimum period of twelve (12) months commencing on the planting date.

Maintenance includes, but is not limited to, watering, weeding, removal of rubbish from tree base, pruning, fertilizing, pest and disease control and any other operations to maintain a healthy robust tree.

(e) Should a replacement tree die it must be replaced.

A9 Redfern-Waterloo Authority Contributions Plan 2006

Pursuant to section 31(2) of the *Redfern-Waterloo Authority Act 2004*, and the *Redfern-Waterloo Authority Contributions Plan 2006*, **prior to commencement**, the applicant is to pay into the Redfern-Waterloo Fund a levy in the amount of **\$600 (plus indexation)** towards the cost of one or more of the public facilities set out in the Works Schedule to that Plan.

The levy has been calculated in accordance with *Redfern-Waterloo Authority Contributions Plan 2006* as 2% of the proposed cost of development. The amount payable is 2% of that proposed cost as indexed between the date of determination and the date the levy is required to be paid, in accordance with clause 25J(4) of the *Environmental Planning and Assessment Regulation 2000* and clause 10 of *Redfern-Waterloo Authority Contributions Plan 2006*.

A copy of *Redfern-Waterloo Authority Contributions Plan 2006* is available for inspection at the Redfern-Waterloo Authority office, Level 11, Tower 2, 1 Lawson Square, Redfern.

A10 Barricade Permit

Where construction works require the use of a public place including a road or footpath, approval under Section 138 of the *Roads Act 1993* for a Barricade Permit is to be obtained from Council prior to the commencement of work. Details of the barricade construction, area of enclosure and period of work are required to be submitted to the satisfaction of Council.

A11 Road/footpath Damage

The cost of repairing any damage caused to Council or any other Public Authority's assets in the vicinity of the subject site as a result of construction works associated with the approved development is to be met in full by the Applicant

ADVISORY NOTES

AN1 Modification to development consent

That the applicant or any person entitled to act on this consent may make an application to modify this development consent in accordance with Section 96 of the Act.