



Approval

Mixed use development within Campbell Section 5, ACT (EPBC 2012/6292)

This decision is made under sections 130(1) and 133 of the *Environment Protection and Biodiversity Conservation Act 1999*.

Proposed action

person to whom the approval is granted Land Development Agency

proponent's ACN (if applicable) ABN: 20 419 925 679

proposed action The proposed action involves the construction of a mixed-use development comprising commercial, residential and public use areas within Campbell Section 5, Constitution Avenue, ACT [See EPBC Act referral 2012/6292].

Approval

Controlling Provision	Decision
National Heritage places (sections 15B & 15C)	Approved
Listed threatened species and communities (sections 18 & 18A)	Approved
Commonwealth land (sections 26 & 27A)	Approved

conditions of approval

This approval is subject to the conditions specified below.

expiry date of approval

This approval has effect until May 2043.

Decision-maker

name and position James Tregurtha
Assistant Secretary
South Eastern Australia Environment Assessment Branch

signature



date of decision 13 May 2013

Conditions attached to the approval

1. To compensate for residual impacts from the action to the **golden sun moth** and **natural temperate grassland**, the person taking the action must develop an Offset Management Plan (OMP) to conserve, manage and improve habitat within the **Yarralumla Equestrian Park offset area**. The OMP must include:
 - a) map(s) and **shapefiles** that clearly defines the location and boundaries of the **Yarralumla Equestrian Park offset area** including offset attributes;
 - b) details of the quality of habitat on site (supported by maps), including the results of baseline surveys undertaken by a **suitably qualified expert** at an optimal ecological time to demonstrate the extent of **golden sun moth habitat** and **natural temperate grassland** habitat within the **Yarralumla Equestrian Park offset area**;
 - c) measures to manage and improve no less than 4.6 hectares (ha) of habitat within the **Yarralumla Equestrian Park offset area** for the better protection of the **golden sun moth** and **natural temperate grassland** including, details of: the duration, timing, level of effort, methodology, and the person(s) responsible for undertaking the management actions. Management actions must include (but need not be limited to):
 - i. mowing and biomass control;
 - ii. weed management;
 - iii. waste management (including both general rubbish and waste associated with the operation of surrounding areas as an equestrian park, for example horse manure); and
 - iv. measures to avoid or minimise the risk of soil compaction.

For the avoidance of doubt the **Yarralumla Equestrian Park offset area** must include no less than 4.6 ha of habitat suitable for the **golden sun moth** and no less than 0.5 ha of **natural temperate grasslands**.

- d) a commitment that management actions will continue to be implemented until such time that monitoring indicates the **Yarralumla Equestrian Park offset area** has become **self-sufficient** for the **values** which it is intended to protect;
- e) measures that prevent the **Yarralumla Equestrian Park offset area** from being subject to uses that are incompatible with the conservation of the area as habitat for the **golden sun moth** and **natural temperate grassland** (including the provision of signage which provides information on the **Yarralumla Equestrian Park offset area** and why it is being managed);
- f) details of an appropriate monitoring program to be undertaken by a **suitably qualified expert**, including aims, methodology reporting, and benchmarks for success, to determine whether the **golden sun moth** and **natural temperate grassland** values at the **Yarralumla Equestrian Park offset area** are improved. The monitoring must address (but need not be limited to):
 - i. numbers of **golden sun moth**; and
 - ii. extent and quality of habitat for both the **golden sun moth** and **natural temperate grassland**.
- g) a commitment that monitoring will continue to be undertaken until such time as the person taking the action can provide demonstrable evidence that the offset area has become **self-sufficient**;
- h) provisions for making the results of any monitoring programs available on the person taking the action's website, within 12 months of implementation, and then annually until the **Minister** agrees in writing that monitoring can cease;
- i) details of contingency measures should the monitoring required by condition 1) f) determine that the **golden sun moth** and **natural temperate grassland** values have either degraded, or not improved at the **Yarralumla Equestrian offset area**;
- j) details of administration and funding arrangements with the relevant parties who will be responsible for managing the **Yarralumla Equestrian offset area**; and
- k) a schedule of anticipated costs associated with the management of the **Yarralumla Equestrian Park offset area**.

The OMP must be submitted to the **Minister** for approval at least three months prior to the sale of any **individual blocks** or within 12 months of the date of this approval, whichever is sooner. The OMP must be implemented from the date of its approval.

2. Until such time as the OMP is approved, the person taking the action must undertake interim measures for managing the **Yarralumla Equestrian offset area** for the better protection of the **golden sun moth**, including (but not necessarily limited to): mowing and biomass control, weed management, removal of waste and litter, and measures to avoid/minimise the risk of soil compaction. Within 90 days of this notice, an outline of the interim management actions to be undertaken (including timing, duration and level of effort) must be endorsed by a **suitably qualified expert** and submitted to the **Minister**.

3. If, after five years or anytime thereafter, the monitoring required by condition 1) f) identifies that the management actions outlined in the OMP for the better conservation of **golden sun moth habitat** and **natural temperate grassland habitat** within Yarralumla Equestrian Park have been unsuccessful (as determined by the **Minister**), then the person taking the action must develop an Additional Offset Management Plan and/or Strategy (AOS).

The AOS must address how the proposed offset will improve the protection of, and provide long-term conservation benefits for the **golden sun moth** and **natural temperate grassland**, and detail how the proposal meets the requirements of the department's current offset policy and guidance documents.

The AOS must be submitted to the **Minister** for approval within six months of the **Minister** determining that actions were unsuccessful.

The approved AOS must be implemented on the date of its approval.

4. To reduce, manage and mitigate impacts to the heritage values of the **surrounding context**, the person taking the action must
- a) ensure overall **building heights** comply with those shown in Figure 2 (Annexure A);
 - b) ensure no built structure including balconies and other articulated elements which protrude from building facades encroaches into the **verge between the Campbell Section 5 property boundary and Anzac Park East**;
 - c) restrict **development** on Constitution Avenue to a minimum setback of 6.5 metres from the property boundary as shown in Figure 4 (Annexure A);
 - d) ensure that the 8 metre setback zone from the north-western property boundary (as illustrated at Figure 4, Annexure A) comprises a minimum of **1 established tree** per 20 linear metres along the entire length of the set back zones
 - e) ensure **service entries or waste collection facilities** do not face Anzac Park East;
 - f) ensure all building facades along Anzac Park East have blinds or privacy screens affixed to windows and balconies which may be visible from the **memorials along Anzac Parade** or any vantage point along Anzac Parade;
 - g) ensure all artificial lighting (including streetscape lighting and external building lights) does not illuminate or infringe upon any area within at least a ten metre radius of the **memorials along Anzac Parade** (the use of vegetation buffers and angled lighting fixtures may be used to fulfil this requirement);
 - h) ensure the views of the **memorials along Anzac Parade** from Anzac Parade towards the development site, have a back drop of trees and not buildings, as shown in Figure 5 (Annexure A);
 - i) landscape any **roads** adjoining Anzac Park East in a manner consistent with that illustrated at Figures 6 and 7 (Annexure A);

- j) provide and maintain (in perpetuity) a vegetation buffer within the **verge between the Campbell Section 5 property boundary and Anzac Park East**. The buffer must:
- i. comprise sufficient vegetation in terms of type, number, density, height and longevity to meet its **intended purpose**; including the planting of at least 1 **established tree** per 20 linear metres (interspaced with **shrubs**) along the length of the verge; and
 - ii. be implemented prior to the sale of any **individual block**

For the avoidance of doubt, the vegetation buffer need not extend across the **roads** illustrated at Figure 5 (Annexure A).

- k) monitor the success of the vegetation buffer in meeting its **intended purpose**.

The results of the monitoring program must be updated on a yearly basis and made available upon the **Minister's** request. The person taking the action has 30 days in which to comply with such a request.

If, at any time after 5 years following the **commencement of construction**, the **Minister** determines that the vegetation buffer is failing to fulfil its **intended purpose**, the person taking the action must within the timeframe specified, prepare a strategy for the approval of the **Minister**, which outlines the contingency measures to be implemented for mitigating any failings of the vegetation buffer. The strategy must include evidence that consultation has been sought on the adequacy of the contingency measures from both the Australian War Memorial and the National Capital Authority.

5. If the person taking the action proposes to sell any of the land within the **development footprint**, the person taking the action must notify the **Minister** of the sale at least two months before executing a contract for sale.

The person taking the action must include a covenant on each title of the **individual blocks**, that requires the title holder to reduce, manage and mitigate impacts to the heritage values of the **surrounding context** pursuant to condition 4a) to 4g) of this approval.

Any contract for the sale of **individual blocks** must also stipulate that the design and materiality of buildings (to be constructed within **individual block(s)**) be done in a manner that is sympathetic with the heritage values of the **surrounding context**.

To ensure this requirement is met, any contract of sale must prescribe the buyer to engage a **suitably qualified expert** to prepare a **Heritage Impact Statement (HIS)** for the design of all buildings on any **individual blocks**. The contract must stipulate that the final designs for any buildings must be consistent with the recommendations of the HIS. The HIS must be provided to the department and published on the internet for a period of no less than 60 days.

Any contract of sale must be provided to the **Minister** if requested. The person taking the action has 30 days in which to comply with such a request.

6. Within 30 days after the **commencement** of the action, the person taking the action

<p>must advise the Department in writing of the actual date of commencement.</p>
<p>7. The person taking the action must maintain accurate records substantiating all activities associated with or relevant to the conditions of approval, including measures taken to implement any management plans, reports, strategies, or agreements required by this approval, and make them available upon request to the Department. Such records may be subject to audit by the Department or an independent auditor in accordance with section 458 of the EPBC Act, or used to verify compliance with the conditions of approval. Summaries of audits will be posted on the Department's website. The results of audits may also be publicised through the general media.</p>
<p>8. Within three months of every 12 month anniversary of the commencement of the action, the person taking the action must publish a report on their website addressing compliance with each of the conditions of this approval, including implementation of any management plans as specified in the conditions. Documentary evidence providing proof of the date of publication and non-compliance with any of the conditions of this approval must be provided to the Department at the same time as the compliance report is published.</p>
<p>9. Upon the direction of the Minister, the person taking the action must ensure that an independent audit of compliance with the conditions of approval is conducted and a report submitted to the Minister. The independent auditor must be approved by the Minister prior to the commencement of the audit. Audit criteria must be agreed to by the Minister and the audit report must address the criteria to the satisfaction of the Minister.</p>
<p>10. If the person taking the action wishes to carry out any activity otherwise than in accordance with the management plan, report, strategy, or agreement as specified in the conditions, the person taking the action must submit to the department for the Minister's written approval a revised version of that management plan, report, strategy, or agreement.</p> <p>The varied activity shall not commence until the Minister has approved the varied management plan, report, strategy, or agreement in writing. The Minister will not approve a varied management plan, report, strategy, or agreement unless the revised management plan, report, strategy, or agreement result in an equivalent or improved environmental outcome over time.</p> <p>If the Minister approves the revised management plan, report, strategy, or agreement, then that management plan, report, strategy, or agreement must be implemented in place of the management plan, report, strategy, agreement originally approved.</p>
<p>11. If the Minister believes that it is necessary or convenient for the better protection of listed threatened species and communities; national heritage places; and Commonwealth land, to do so, the Minister may request that the person taking the action make specified revisions to any management plan, report, strategy, or agreement specified in the conditions, and to submit the revised management plan, report, strategy, or agreement for the Minister's written approval.</p>

The person taking the action must comply with any such request. The revised approved management plan, report, strategy, or agreement must be implemented. Unless the **Minister** has approved the revised management plan, report, strategy, or agreement, then the person taking the action must continue to implement the management plan, report, strategy, and agreement originally approved, as specified in the conditions.

12. If, at any time after five years from the date of this approval, the person taking the action has not **substantially commenced** the action, then the person taking the action must not substantially commence the action without the written agreement of the **Minister**.

13. Unless otherwise agreed to in writing by the **Minister**, the person taking the action must publish all management plans, reports, strategies, and agreements referred to in these conditions of approval on their website. Each management plan, report, strategy, and agreement must be published on the website within 1 month of being approved.

Definitions:

Building height means the height measured from and between the finish footpath level at each corner of a development block, as illustrated at Figure 8, Annexure A.

Commencement (except in the sense of substantial commencement) means the commencement of construction.

Construction means any infrastructure, excluding fences and signage, associated with the proposed action and includes any preparatory works required to be undertaken including **clearing vegetation**, the erection of any onsite temporary structures and the use of heavy duty equipment for the purposes of breaking the ground for buildings, infrastructure or landscaping.

Clearing vegetation means the cutting down, felling, thinning, logging, removing, killing, destroying, poisoning, ringbarking, uprooting or burning of vegetation.

Department means the Australian Government Department administering the *Environment Protection and Biodiversity Conservation Act 1999*.

Development means the built area at Campbell Section 5. For condition 4 c), the **development** does not include the use of any outdoor retail or commercial areas such as alfresco dining.

Development footprint means the area proposed for development as illustrated at Figure 6, Annexure A.

EPBC Act means the *Environment Protection and Biodiversity Conservation Act 1999*.

Established means at least 5 metres in height for trees; and at least 1 metre in height for shrubs.

Evergreen means vegetation that retains its leaves throughout all four seasons of the year.

Golden sun moth means, the invertebrate, *Synemon plana* listed as critically endangered under the **EPBC Act**.

Heritage Impact Statement means an assessment of potential impacts upon heritage matters (including but not necessarily limited to those items defined as **surrounding context**) against the official values and attributes for which these heritage items are listed. The assessment must address (but need not be limited to) the following design attributes: building form, size, layout, orientation, materiality and colour.

Individual block means any piece of land within the **development footprint** that is proposed to be sold and/or developed for residential/commercial purposes.

Intended purpose means to provide an **evergreen** vegetative backdrop which obscures the visibility of the **development** from Anzac Parade and the **memorials along Anzac Parade**.

Maturity means the maximum height at which the tree is anticipated or likely to reach within its life span.

Memorials along Anzac Parade mean those memorials which contribute to the values of the Anzac War Memorial and Memorial Parade as described on the National Heritage List under Place ID #105889.

Minister means the Minister responsible for the administration of the **EPBC Act** and includes a delegate of the Minister.

Natural temperate grassland means the natural temperate grassland of the southern tablelands of NSW and the Australian Capital Territory ecological community listed as endangered under the **EPBC Act**.

Offset attributes mean an '.xls' file capturing relevant attributes of the Offset Area, including the EPBC reference ID number, the physical address of the offset site, coordinates of the boundary points in decimal degrees, the EPBC protected matters that the offset compensates for, any additional EPBC protected matters that are benefiting from the offset, and the size of the offset in hectares.

Roads mean 'Road 1A' and 'Road 2A' as illustrated at Figures 5 and 6 (Annexure A).

Self-sufficient means the **values** of the offset area do not require ongoing management in order to reduce their risk of loss, or ensure their long-term protection.

Service entries or waste collection facilities means vehicular entrances for deliveries or repair work, truck loading zones, and waste bins.

Shapefiles means an ESRI ArcGIS Shapefile, containing '.shp', '.shx' and '.dbf' files and other files. Shapefiles must include appropriate metadata capturing attributes including but not limited to the EPBC reference number of the approved action and details of the EPBC protected matters present within the offset, covenant or legal protection details, including type and identification. The department prefers shapefiles using the Geocentric Datum of Australia (GDA) 94.

Shrub means any evergreen plant that is capable of reaching at least 2 metres in height (but preferably capable of reaching 5 – 8 metres at **maturity**).

Soft landscaping means landscaping with vegetation, as opposed to built or man-made structures.

Substantially commence means the erection of any permanent infrastructure excluding signage and fences, associated with the action.

Suitably qualified expert means:

For conditions 1) and 2):

A suitably qualified botanist, ecologist, or environmental scientist with at least two years of demonstrated expertise in the surveying and management of **golden sun moth** and **natural temperate grassland**, and who is independent to the person taking the action.

For condition 5)

A suitably qualified heritage consultant with at least two years of demonstrated expertise in the preparation of heritage impact statements, who is a member of the International Council on Monuments and Sites (ICOMOS), and who is independent to the person taking the action.

Surrounding context includes the Australian War Memorial and Anzac Parade (as listed on the National Heritage List as Place ID #105889); the Parliament House Vista (as listed on the Commonwealth Heritage List as Place ID #105466); and the Parliament House Vista Extension – Portal Buildings (as listed on the Commonwealth Heritage List as Place ID #105474).

Tree means an evergreen plant that is capable of reaching at least 20 metres in height, after ten years of growth.

Values refers to the **golden sun moth** and **natural temperate grassland**

Yarralumla Equestrian Park offset area means the area identified as 'Offset Area' in Figure 1 at Annexure A.

Verge between the Campbell Section 5 property boundary and Anzac Park East means the area immediately adjacent to the north-western property boundary illustrated at Figure 3, and ranging from 10.7m to 13 m in width.

Annexure A

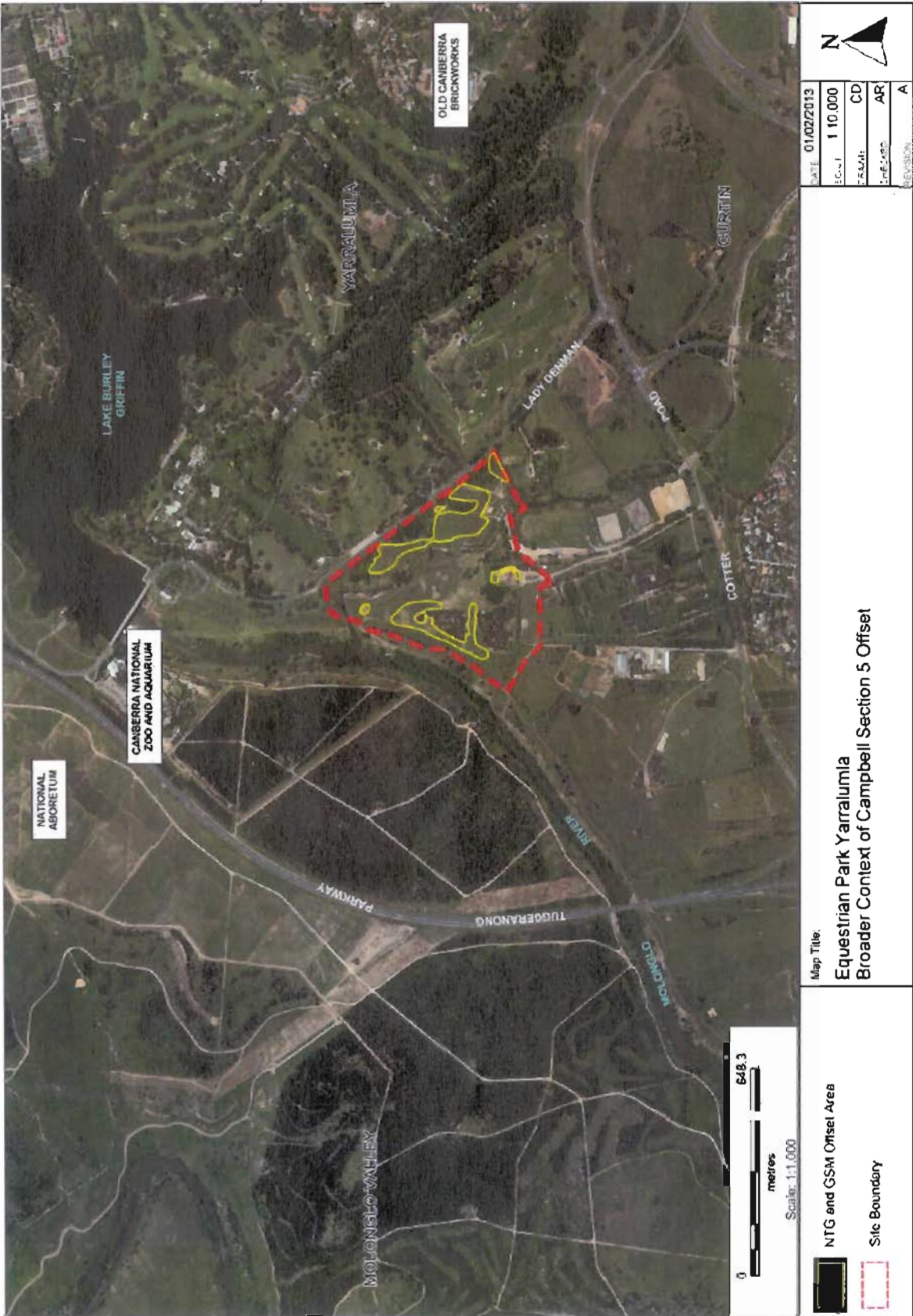


Figure 1: Map showing the Yarralumla Equestrian Park Offset Area.



Figure 2 Diagram showing building height restrictions for the Campbell Section 5 development, Constitution Avenue which must be adhered to (pursuant to condition 4 a) of this decision notice).

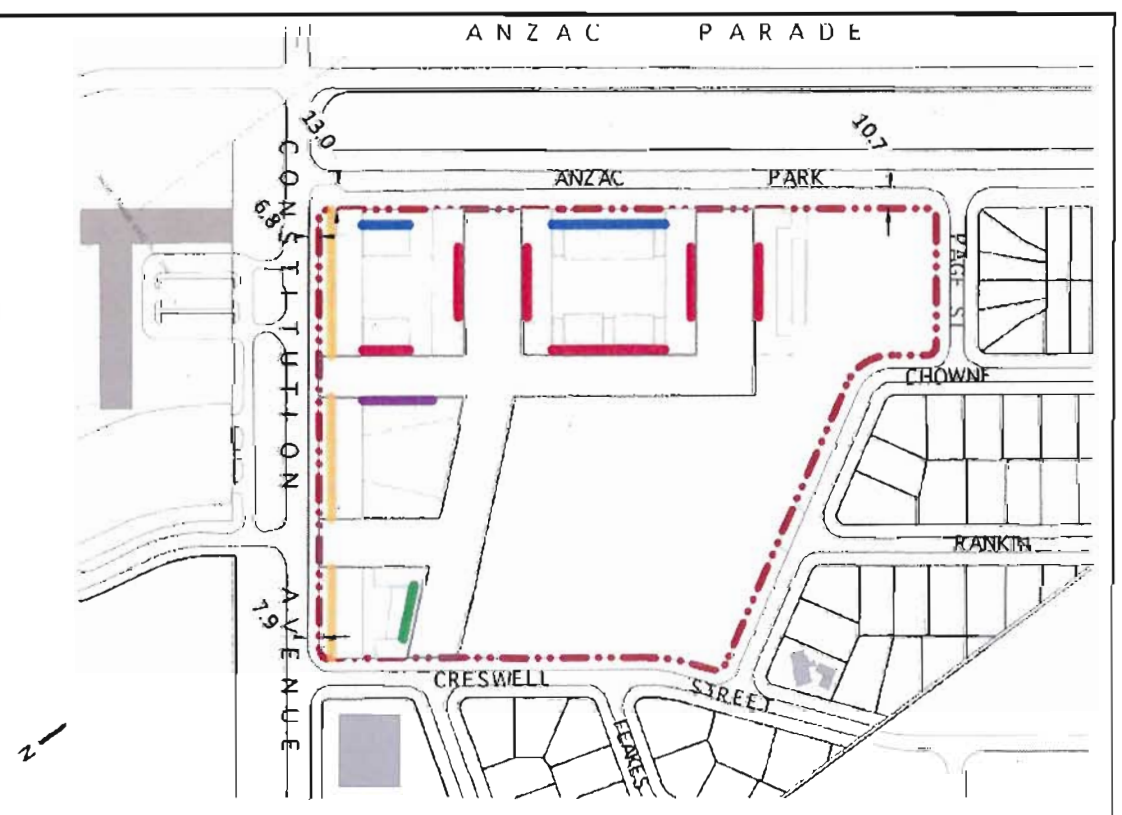


Figure 3: Diagram showing the width of the roadside verge between Anzac Park East and the development property boundary for Campbell Section 5 (illustrated by the dotted red line); and the verge between Constitution Avenue and the development property boundary.

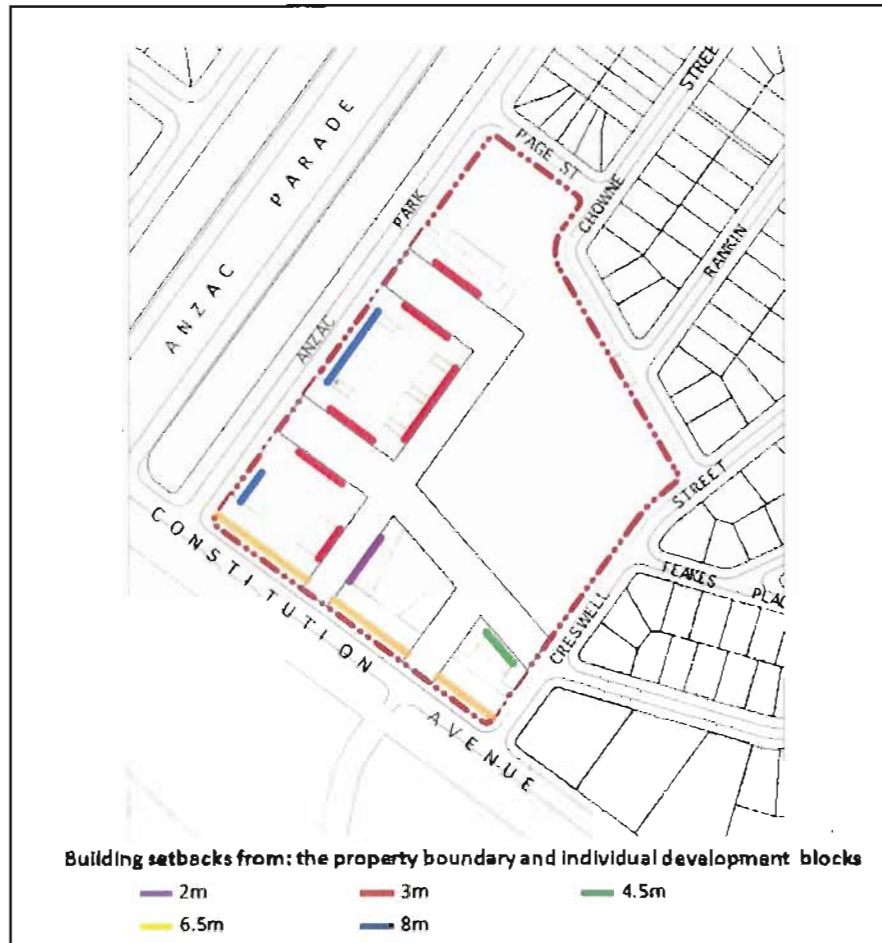


Figure 4: Diagram showing the building setbacks from the property boundary (blue and yellow lines), and from the individual development blocks (purple, red and green lines). The dotted red line indicates the Campbell Section 5 property boundary.



Figure 5: Diagram showing the location of proposed roads (Road 1 (A) and Road 2 (A)) and landscaping in relation to the memorials along Anzac Parade.



Figure 6: Map showing the development footprint for Campbell Section 5. The individual blocks proposed for sale are labelled A to E.



Figure 7: Diagram showing proposed landscaping (including indicative tree heights) for roads adjoining Anzac Park East.

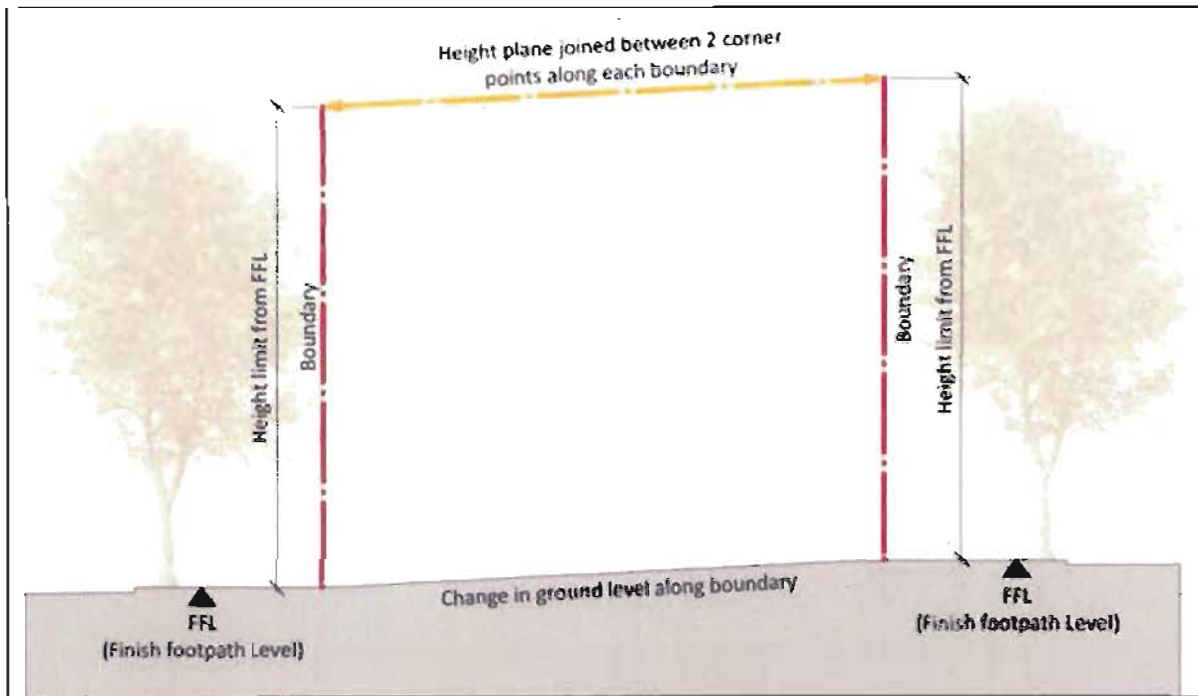


Figure 8: Diagram showing the reference points from which to measure building heights.