



NOTICE OF DECISION

Made under part 7 of the *Planning and Development Act 2007*

I, Chris Gell, delegate of the Territory Planning Authority, pursuant to section 162 of the *Planning and Development Act 2007* (Act), **approve subject to conditions**, the proposal for

the construction of a mixed-use development comprising of three buildings up to a maximum of eight storeys, ground floor commercial tenancies, residential units, two levels of basement carparking, driveways, tiered communal open space, landscaping, waste enclosures, services and utilities, and associated works,

at Blocks 9, 10 & 14 Section 132 Casey in accordance with the plans, drawings and other documentation approved and endorsed as forming part of this approval.

DA Number:	202241107
Block:	9, 10 & 14
Section:	132
Suburb:	Casey
Application lodged:	20 May 2024
Assessment track:	Merit

This decision contains the following information:

- Part A – conditions of approval
- Part B – public notification & entity advice
- Attachment 1 – administrative information
- Copies of entity advice – as attached

A copy of the development application and this approval may be inspected at the Territory Planning Authority's office from 9:00 am to 4.00 pm, Monday to Friday at 480 Northbourne Avenue, Dickson, ACT 2602.

CONTACT / ENQUIRIES

Phone: (02) 6207 6383

Online Form:

https://www.accesscanberra.act.gov.au/app/forms/epd_feedback

Chris Gell

Delegate of the Territory
Planning Authority

16 August 2024

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PART A – CONDITIONS OF APPROVAL

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

GENERAL CONDITIONS

1. COMMENCEMENT AND COMPLETION OF DEVELOPMENT

- a) This development must be started (commenced) within **three years** from the date when this approval takes effect.
- b) This development must be finished (completed) within **three years** from the date when it is started, or within such further time as approved in writing by the Territory Planning Authority.

Note: The Territory Planning Authority may extend the time to commence or finish the development if, an application to extend the time to commence or finish the development, is made prior to when the development has to be started or finished – refer to section 188 and 184(3) of the Planning and Development Act 2007.

CONDITIONS RELATING TO THE CROWN LEASE

2. GRANT CROWN LEASE - APPROVAL DOES NOT TAKE EFFECT

This approval does not take effect until the applicant has been granted a Crown Lease over Block 9 Section 132 Division of Casey and registered and applied to vary provisions of the Crown lease to permit the approved development.

Note: Block 9 Section 132 Casey is currently subject to a Holding Lease. The proposed development including additional uses and number of dwellings is not currently permitted under the Deed of Agreement for Block 9 Section 132 Casey. Once a Crown Lease is granted and registered, a variation to permit additional uses and increase number of dwellings is required for this approval to take effect.

3. COMPLIANCE WITH CONDITION 2 – APPROVAL NOT TO TAKE EFFECT

In accordance with Section 184(2)(a) of the *Planning and Development Act 2007*, this approval will end if the lessee has not varied the Crown lease and commenced the approved construction and/or demolition on the site within 24 months of the date of this decision.

4. TRANSFER AND GRANT OF EASEMENTS

The applicant/lessee must prepare an Instrument granting an encumbering Transfer and Grant of Easements (TGE) for registration at the Access Canberra Land Titles against the relevant Crown leases of Blocks 9 & 10 Section 132 Division of Casey.

Note: The registration of the TGEs is to occur at the same time as the new Crown leases.

At a minimum, the TGEs shall address the following:

- (i) the reticulation of services for the approved development, and other building services and systems, that pass through one parcel to the other;
- (ii) pedestrian access for fire egress, waste collection, maintenance and repair required for the development on the subdivided parcels;
- (iii) vehicular and pedestrian access for the lessees, their employees, contractors, sublessees or occupiers, and visitors and invitees for the purposes of car parking, maintenance, repair and support between the subdivided parcels;
- (iv) no building zones and public right of way;

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- (v) any arrangements required pursuant to other Territory or Commonwealth legislation; and
- (vi) any requirements necessary for the normal use and operation of the buildings.

CONDITIONS RELATING TO DESIGN AND SITING

5. FURTHER INFORMATION

Within 28 days from the date of this decision, or within such further time as may be approved in writing by the Territory Planning Authority, the applicant shall lodge with the Territory Planning Authority an application under section 165 of the *Planning and Development Act 2007* (the Act) seeking approval to address the following conditions:

- a) Revised architectural/landscape plans and supporting documentation (as relevant) based on the relevant drawings/documents submitted as part of the application, showing:
 - (i) a reduction of one storey to the southern building to ensure the height aligns with the eastern building and a maximum of 8-storeys. Note: A mid-level of this building is to be removed to ensure the top of the light precast slab aligns approximately with the top light precast slab of the eastern building, with the two storey upper (dark precast) elements retained.
 - (ii) the eastern building, fronting Casey Pond, is to provide a central two-storey high open space, the width of one commercial unit, to provide direct, visible and accessible pedestrian access from the lift area of the internal courtyard to the Pond. The break-out point is to provide additional landscaping and provide ramped access to the commercial units on the lower ground floor level fronting the Pond.
 - (iii) a reduction in the amount of blank concrete on the façade of the southern building, fronting Clarrie Hermes Drive, to achieve a more visually appealing streetscape. This could be achieved by a mix of materials, colours, textures and/or landscaping, to the satisfaction of the Territory Planning Authority. These amendments should also demonstrate how the potential for graffiti will be reduced
 - (iv) provision of a dedicated delivery/removalist van parking space at ground level;
 - (v) visual mitigation is required to be provided to the fencing for commercial tenancies fronting Casey Pond, with planting grown as a hedge that is located wholly within Block 9 when fully grown;
 - (vi) a schedule denoting the number, allocation, and details of proposed dimensions of storage cages;
 - (vii) a parking allocation plan, including any off-site parking;
Note: The Reconsideration Report states that visitor parking for this site relies on Block 10 Section 132 Casey. Although the assessment formed the view that it is reasonable to rely on Block 10 for this purpose, the applicant has not demonstrated how the lessee of Block 10 Section 132 Casey will be required to make the car parking spaces available for visitors.
 - (viii) floor by floor diagrams demonstrating an acceptable level of cross ventilation for residential units; and
 - (ix) updated turning templates for B85 and B99 vehicles and where required, changes to the car parking and isle configuration, demonstrating safe and efficient vehicle movement within the basement;

all to the satisfaction of the Territory Planning Authority.

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- b) Detailed access easement plan.

The Remitted Reconsideration Report states that a shared space is to be established as a public right of way through transfer and grant of an easement, but plans do not identify this space - only the 'no building' easement is shown. Please identify the public access easement (along with all easements) on all relevant plans.

- c) Updated plans and documentation, or evidence of endorsement from TCCS, as satisfying conditions 9 f) – i) below.

Note 1: Refer to PART B Reasons for the Decision in the Notice of Decision on Reconsideration for discussion on above matters.

Note 2: Any substantial changes to the development required to comply with the above conditions will need to be submitted for the consideration of the Territory Planning Authority with an application to amend the approval under Section 205 of the Planning Act 2023.

Note 3: In responding to the above conditions, please ensure all plans are appropriately named (as per the Authority's naming convention), clouded, appropriately referenced in the S165 application form and all information across the plan set is consistent. The S165 application is to be submitted in edevelopment portal.

6. ICON WATER – WORKS NOT TO COMMENCE

- a) No construction works, with the exception of demolition and excavation, in relation to this development approval is to commence until the lessee/applicant has obtained a Statement of Acceptance from ICON Water in relation to water and sewerage networks and submit the Statement of Acceptance to the Territory Planning Authority as satisfying this condition of approval under s165 of the *Planning and Development Act 2007*.
- b) The lessee/applicant must address and comply with any requirements imposed by ICON Water.

Note: Any substantial changes to the development required for Icon Water compliance will need to be submitted for the consideration of the Territory Planning Authority with an application to amend the approval under Section 205 of the Planning Act 2023.

7. ENVIRONMENT PROTECTION AUTHORITY (EPA) – WORKS NOT TO COMMENCE

- a) No construction works, in relation to this development approval is to commence until the lessee/applicant has obtained written endorsement from the EPA for an updated Noise Management Plan (NMP) and submits evidence of endorsement to the Territory Planning Authority as satisfying this condition of approval under s165 of the *Planning and Development Act 2007*.
- b) The lessee/applicant must address and comply with any requirements imposed by the EPA in relation to noise management; and
- c) All recommendations in the EPA endorsed NMP must be implemented on site.

Note 1: Refer to Condition 8 of this Decision for additional information about complying with this condition.

Note 2: Any substantial changes to the development required for EPA compliance will need to be submitted for the consideration of the Territory Planning Authority with an application to amend the approval under Section 205 of the Planning Act 2023.

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8. ENVIRONMENT PROTECTION AUTHORITY

The development shall comply with the following conditions to the satisfaction of EPA.

Contaminated Sites:

- a) The EPA is aware that stockpiled materials were located at the site. The site must be validated in accordance with the ACT EPA contaminated sites environment protection policy and associated endorsed guidelines. The validation report must be submitted to the EPA for review and endorsement prior to any development works.

Noise:

- b) The Noise Management Plan (NMP) titled "Block 9, Section 132, Casey, ACT. Issue R05", written by Acor Consultants, dated 21/07/2023, does not address all possible noisy uses. As is clarified in this NMP, the crown lease has not yet been issued for the block and the intent is to exclude the noisy uses of drinking establishment and gym from the crown lease. However, there is no other DA documentation that supports this statement. As such, the EPA assumes the Crown Lease will include all uses permitted by the zoning.
- c) It is also noted that in the NMP a few minor mistakes have been made. The Fri-Sat day/night times for C1 are mistakenly quoted as 12am, this is 11pm. Furthermore the assumption made on page 8 that AS/NZS 2107:2000 has been superseded by AS/NZS 2107:2016 and therefore designs should only refer to the 2016 standard, is incorrect. The AS/NZS 2107:2000 still applies for mechanical and music noise as set out in R67 of the multi-unit housing development code.

Prior to works commencing:

- d) As the site is greater than 0.3 hectares, the construction is an activity listed in Schedule 1 as a Class B activity under the *Environment Protection Act 1997*. The contractor/builder developing the site must hold an Environmental Authorisation or enter into an Environmental Protection Agreement with the EPA in respect of that activity.
- e) An Erosion and Sediment Control Plan must be submitted to and be endorsed by the EPA.

All stages of development:

- f) All works must be carried out in accordance with "Environment Protection Guidelines for Construction and Land Development in the ACT, August 2022", available at www.environment.act.gov.au or by calling 132281.
- g) All spoil identified at the site must be managed in accordance with EPA Information Sheet – Spoil Management in the ACT.
- h) All soil subject to disposal from the site must be assessed in accordance with EPA Information Sheet 4 – Requirements for the reuse and disposal of contaminated soil in the ACT.
- i) No soil is to be disposed from site without approval from the Office of the Environment Protection Authority.

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9. TRANSPORT CANBERRA AND CITY SERVICES(TCCS)

The development shall comply with the following conditions to the satisfaction of TCCS.

Verge And Landscape Management

- a) The applicant shall place protective fencing around the trees within the construction fencing but outside the block boundary on the southern side of the development (drawing 201a), and also around trees affected by the new path connection.
- b) Drawing 201a does not show the position of materials storage, wash down areas and site sheds, which are required per TCCS Ref 04 even if they are within a leased block. The applicant shall provide plans showing these features.

Streetlights

- c) The position of streetlighting is to be at the applicant's expense. The positions may be resolved at Design Review.

Waste

- d) The applicant must provide certification from the waste manufacturer for the extended portion of the waste chute shown on WASTE-202241107-RECON-02 / DRG-CIV-WM-2311-F.
- e) Kerbs shown on WASTEREPORT-202241107-RECON-06 / DRG-CIV-TP-2201-D encroach upon the 1 metre envelope on the truck turning template, including at a pinch-point between two columns at the entrance to the truck bay and along the southern side. These must be either made flush or removed from the area.

Traffic

- f) To enable a comparison of scenarios, the applicant shall provide a tabulation of intersection levels of service for the current, future without development, and future with development scenarios.
- g) The bicycle parking requirement which should be based on the ACT End-of-Trip Facilities General Code which came into effect in November 2022; the applicant shall review the proposal and make any necessary amendments to this effect as the submitted report (CR220895: Casey Apartments. Civil Engineering Report: Traffic Impact Assessment | Rev 2.2)section 4.8.4 references a superseded code.
- h) The applicant shall show the requirements and provision of accessible spaces per the Parking and Vehicular Access General Code.
- i) Turn templates undertaken by Sellick Consultants show extremely tight turning movements where vehicles conflict with the building and possibly other parked vehicles. This must be addressed as it seems that safe vehicle movement has been disregarded.

General

- j) Standard TCCS conditions as attached to this Notice of Decision as **ATTACHMENT B** also apply to this development and the development must comply with these conditions.

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10. EXTERNAL MATERIALS & FINISHES

- a) The development must be constructed consistent with the approved materials and finishes noted on the drawings endorsed under section 162 of the Act, and any drawings subsequently endorsed.
- b) No departures from the approved shall be allowed without the prior approval of the Territory Planning Authority of an application to amend the development approval pursuant to section 205 of the *Planning Act 2023*.

Note: Due to the imposition of the above condition, where changes are proposed to the external materials, it cannot be undertaken as exempt works under the Planning (Exempt Development) Regulation 2023. Any application for amendment that reduces the quality of materials and finishes is unlikely to be supported by the Territory Planning Authority.

11. EXTERNAL LIGHTING

All external lighting for the building is to comply with following Australian Standards:

- AS1158.3.1- 'Pedestrian Lighting'; and
- AS4282 – 'Control of the Obtrusive Effects of Outdoor Lighting'.

12. ACCESS AND MOBILITY

- The development is to comply with relevant provisions of the Australian Standard AS1428.1-2009 *Design for Access and Mobility*, any relevant provisions of the *Premises Standards 2010*, the *National Construction Code* and the *Disability Discrimination Act 1992* as applicable.
- All recommendations in the Access Report and the Adaptable Housing Report prepared by Amoeba Access Pty Ltd dated April 2024 must be implemented on site.

13. BUILDING DESIGN

- Where dwellings are required to be adaptable, the dwellings must be designed in accordance with AS4299 *Class C (Adaptable Housing)*.
- Passenger lifts meet AS1735.12 - *Lifts, Escalators and Moving Walks – Facilities for Persons with Disabilities*

14. WIND MITIGATION

All recommendations in the Wind Impact Assessment Report prepared by RWDI Australia Pty Ltd dated 3 May 2024, must be implemented on site.

15. MECHANICAL VENTILATION

Any exhaust and ventilation systems proposed to be installed and operated within the development must comply with Australian Standard – AS1668.1-*The Use of Ventilation and Airconditioning in Buildings*.

Any mechanical ventilation exhaust(s) is to be appropriately located not to detrimentally impact on the amenity of on-site residents or adjoining blocks.

16. LETTER BOXES

Design and location of letterboxes must comply with Australia Post standards.

17. SERVICES

Any service connections including, point of entry, meter boxes and gas meters, are to be located clear of areas approved for car parking space(s) to ensure these services do not reduce the minimum area of the parking spaces and/or restrict vehicular access.

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18. SIGHTLINES

The mature height of plants and any structures within a right triangle formed on each side of the driveway, with dimensions of 2m along the front boundary and 2.5m from the front boundary along the edge of the driveway, shall not exceed 700mm (to comply with AS 2890.1).

19. COMPLIANCE WITH ENTITY REQUIREMENTS

The development must satisfy the requirements of the following entities as stated in each of their advice.

- Evoenergy (Electricity);
- Evoenergy (Gas);
- Emergency Services Agency (ESA); and
- TCCS (Standard Conditions).

Copies of advice from the relevant entities are attached to the Notice of Decision and are relevant to this condition.

20. WASTE MANAGEMENT– DURING CONSTRUCTION PHASE

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.

ADVISORY NOTES

1. RELEASE OF APPROVED PLANS

Final stamped plans may not be released until all relevant conditions of the decision (including Leasing, s165 further Information, Entity requirements) are complied with to the satisfaction of/at the discretion of the Territory Planning Authority.

2. ENVIRONMENT PROTECTION

- a) Noise from equipment which may be installed or used at the site, including air conditioning units etc, must comply with the noise standard at the block boundary at all times as per the *Environment Protection Regulation 2005*. Please consider the type and location of noise generating equipment prior to installation. Written assurance should be sought from the supplier/installer of the equipment that it complies with the Noise Zone Standard as per the *Environment Protection Regulation 2005*.
- b) All excavations that collect rain water during a rain storm event would be considered as a sediment control pond, and must meet the following condition:
 - i) No discharge from pond unless sediment level is less than 60mg/litre. If sediment level is greater, then prior to discharge, the pond must be dosed with either Alum or Gypsum and allowed to settle until the sediment is less than 60 mg/litre.

3. EVOENERGY (GAS)

Evoenergy (Gas) has reviewed the location of the Development Application and undertaken a review of the documentation provided. [Please note the development must comply with the ACT Government regulations & Development/Building Approvals, https://www.legislation.act.gov.au/sl/2023-33/](https://www.legislation.act.gov.au/sl/2023-33/).

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Evoenergy (Gas) has no objection to this development application if it meets these requirements. It is noted that there is a gas network in the vicinity however, all care is to be taken around our underground assets & please ensure appropriate Before You Dig Australia (BYDA) processes are followed as part of the construction process. If a meter relocation or service pipe relocation is required, you must comply with Evoenergy standards please contact your gas retailer, only people accredited by Evoenergy can carry out this work.

4. ALTERNATIVE ENERGY SUPPLIES AND STORAGE

With the ACT Government leading the way in renewable energy, there has been a large uptake of new alternative energy and energy storage systems being incorporated into new building designs and on-site infrastructure. These include, and not limited to; battery energy storage systems, EV charging stations, hydrogen technology and large scale solar panels.

A local renewable energy facility guideline is currently in development. In the interim, the CFA document Design Guidelines and Model Requirements for Renewable Energy Facilities should be used when designing these types of facilities.

ACT Fire and Rescue Fire Safety Guideline – FSG-22 Electric Vehicles and EV Charging Equipment in the Built Environment – is accessible on the ESA website.

Any new developments incorporating alternative energy systems and storage on their site is required to contact ACTF&R Fire Safety Section on 62078370 or ACTFRFireSafety@act.gov.au to discuss the proposal and seek assurance the design is compliant to ACTF&R requirements.

5. ENVIRONMENT AND SUSTAINABLE DEVELOPMENT DIRECTORATE – CLIMATE CHANGE AND ENERGY

Gas connections are now restricted in the ACT. From 8 December 2023, the Climate Change and Greenhouse Gas Reduction Regulation 2010 will restrict new natural gas connections to all residential, commercial and community facility zones and all class 1 to 4 buildings. Transition arrangements are in place that include deadlines to submit a new connection application to the gas distributor. If your development proposes to connect to the natural gas network, please visit the Everyday Climate Choices website: <https://www.climatechoices.act.gov.au/policy-programs/preventing-new-gas-network-connections> to find out how these changes will impact your development.

6. ACT HEALTH PROTECTION SERVICES (HPS)

The applicant should contact ACT Health Protection Services for information regarding requirements to comply with the *Food Act 2001* and the *ACT Food Business Fit-Out Guide 2017*.

7. SIGNAGE

All signage installed at the site, including advertising signage and hoarding, should comply with the Australian Association of National Advertisers (AANA) Code of Ethics and the ACT Government's Hoarding Signage Advertising Guidelines available online at <https://www.planning.act.gov.au/build-buy-renovate/for-industry/industry-resources/hoarding-signage-guidelines>

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PART B – PUBLIC NOTIFICATION AND ENTITY ADVICE

PUBLIC NOTIFICATION

This development application was subject of the original public notification from 20 February 2023 to 14 March 2023. The decision to refuse the development application was reconsidered and public notification of the amended development was undertaken from 11 September 2023 to 29 September 2023. An application for review of the Authority's reconsideration application refusal was made to the ACT Civil and Administrative Tribunal. The Tribunal remitted the application back to the Authority.

The (reconsideration) application information was further updated by the applicant.

This most recent version of the development and application, i.e. the remitted reconsideration application was publicly notified from 24 May 2024 until 24 June 2024. One hundred and ten (110) written representations were received during the relevant public notification period, including two (2) late representations.

The issues raised in the representations for this remitted reconsideration were similar to issues through the previous notification periods. The issues raised in the representations were considered in the assessment and determination of this development application and are summarised below.

- Traffic impacts

TCCS that administers traffic has supported the Remitted Reconsideration Application (RRA), subject to conditions. Refer to the relevant condition at **PART A** of this Decision.

While many of the representations raised the volume of traffic, traffic congestion and related concerns and objections, based on the TCCS advice, Criterion 21 of the Commercial Zones Development Code regarding traffic generation is considered to be satisfied. It is noted the immediate road connection (Bentley Place) offers limited access to other developments therefore the development's immediate impacts are supported. The wider road network congestion feedback is noted however is considered to have capacity for further development including this proposal.

- Number of storeys, bulk & scale

The original development proposal was for one 9-storey building and two 11-storey buildings. Through the development application process, this has been reduced to one 7-storey building, one 8-storey building and one 9-storey building. A condition has been included in PART A of this decision that an additional storey be removed from the southern building, resulting in one 7-storey building and two 8-storey buildings. This requirement is to reduce the visual impact of the development when viewed from Clarrie Hermes Drive and ensure a better relationship between the southern and eastern buildings. Provided this condition is complied with, the number of storeys is considered to be acceptable for this location in the Casey group centre. Changes to the articulation of the upper floor levels were also made as part of the RRA, including further separation between the roof top terraces. The roof top terraces are also setback from the residential units below, which is considered to help soften the presence of the buildings from the streetscape. Further conditions have also been included in PART A of this Decision to reduce the bulk and scale of the development, including the requirement for a breakout point to the eastern building fronting Casey Pond, additional landscaping and façade treatments and the requirement for a 12m no building easement along the western boundary shared by Block 9 and Block 10.

- Stress on Utilities and Infrastructure

The RRA was referred to all utility providers including Evoenergy Electricity and Gas, Icon Water and TCCS. All of which have provided conditional support for the RRA, except for

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Icon Water. Conditions have been imposed in PART A of this Decision to ensure the development complies with utility requirements, including a condition that a Statement of Conditional Acceptance be obtained from Icon Water prior to works commencing. Evidence of Icon Water endorsement must also be submitted to the Authority in order to satisfy this condition.

- Public Transport

TCCS that administers public transport on behalf of the ACT has supported the Remitted Reconsideration Application (RRA), subject to conditions. Refer to the relevant condition at **PART A** of this Decision.

In addition, section 3.6 of the Traffic Impact Assessment Report prepared by Northrop dated 2 May 2024 provides a response to public transport opportunities available in close proximity to the proposed development, including two bus stops situated on Kingsland Parade (Stop ID 6109 and Stop ID 6110). Routes 25 and 26 stop at Kingsland Parade in line with the current weekday and weekend timetable. The buses depart approximately every 30 minutes during weekdays and approximately every hour on weekends in the morning and every 2 hours on for the rest of the weekend's timetable. It is noted that Routes 27 and 28 link with the Gungahlin Interchange.

Routes 27 and 28 stops at Kingsland Parade in line with the current weekday and weekend timetable. The buses depart approximately every 30 minutes during weekdays and approximately every hour on weekends in the morning and every 2 hours on for the rest of the weekend's timetable. Routes 27 and 28 link with the Gungahlin Interchange.

Gungahlin Interchange provides connectivity to City Interchange and Belconnen through Transport Canberra's Rapid Routes as well as providing connection to other bus routes and light rail services.

- Plot Ratio

The plot ratio for the original development proposal was 500%. Since reducing the number of storeys of each building the plot ratio is now approximately 370%. This is expected to be reduced even further in order to comply with the conditions set out in PART A of this Decision.

- Parking

The RRA has been assessed against and found to comply with the parking provision requirements for this development as set out in the Parking and Vehicular Access General Code.

- Desired Character and Consistency with Zone Objectives

Desired character is defined in the Territory Plan as:

Desired character means the form of development in terms of siting, building bulk and scale, and the nature of the resulting streetscape that is consistent with the relevant zone objectives, and any statement of desired character in a relevant precinct code.

The desired character is not stated in the Casey Precinct Map and Code.

The CZ1 zone objectives have been considered. These are:

- Encourage a mix of predominantly commercial land uses that contribute to a diverse and active character.*
- Provide for a range of conveniently located retail and service outlets.*
- Promote vibrant, interesting and lively street frontages including during evenings and weekends.*
- Encourage an attractive, safe and well-lit pedestrian environment with convenient access to public transport.*

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- e) *Maintain and enhance a high standard of urban design through use of sustainable design and materials and ensure that buildings retain a high level of design consistency and compatibility.*
- f) *Provide opportunities for business investment and employment.*
- g) *Maintain and enhance environmental amenity.*
- h) *Promote the establishment of cultural and community identity that is representative of, and appropriate to, the place.*
- i) *Promote active living and active travel.*
- j) *Provide a high quality public realm by facilitating active uses on ground floor level that connects with the wider open space, pedestrian and cycle networks to promote active travel and active living.*

With the conditions imposed in PART A of this Decision, the development is considered to be consistent with the desired character of CZ1 zone objectives. The height of the development across all three buildings has been adequately reduced, a 12 metre no building easement has been introduced to the western boundary shared by Block 9 and Block 10, additional landscaping requirements have been introduced to the eastern, southern and western boundaries and a breakout point is required to be provided to the eastern building providing greater pedestrian access through the site that connects to the wider open space.

- Compliance with the Deed of Agreement and the Casey Master Plan

The original decision considerations of the masterplan are potentially better informed by the Territory Plan Casey Concept Plan which discussed smaller scale development to that proposed by the RRA. The estate was realised under DA 201833819 which approved the subject block and other estate configuration for this area. DA201833819 anticipated services and impacts for a smaller development including a residential yield of 58 rather than the now proposed 143.

Block 9 Section 132 Casey is currently subject to a Holding Lease. The proposed development including additional uses and number of dwellings is not currently permitted under the Deed of Agreement for Block 9 Section 132 Casey; Once a Crown Lease is granted and registered, a variation to permit additional uses and increase number of dwellings is required for this approval to take effect.

- Amenity

Conditions have been included in PART A of the decision to increase both residential and public amenity, including further building height reductions, additional landscaping and pedestrian access and improved façade treatments.

- Dwelling Typology

A range of dwelling types are proposed in the RRA, which are considered to comply with the requirements of the Multi-Unit Housing Development Code. Proposed dwelling types include:

- 4 x studio apartments
- 12 x 1 bedroom apartments
- 83 x 2 bedroom apartments
- 11 x 3 bedroom apartments
- 27 x 2 bedroom 'sky' terraces
- 6 x 3 bedroom 'sky' terraces

- Site Suitability

The site is considered suitable for the proposed development, subject to compliance with the conditions in PART A of this Decision, including a requirement to submit an application to vary the crown lease to permit additional uses and increase number of dwellings from 58 to 143. Being close to and contributing to the amenity provided by the

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Casey group centre, together with the amenity provided by the adjacent pond, the development is considered a suitable use for the site.

- Landscaping and Deep Root Planting

Landscaping has been provided within the building on the podium level and several of the upper floor levels, providing amenity for residents and visitors. Deep root planting areas have been provided where possible, particularly around the main vehicular entry. Five additional deep root trees have been proposed to Block 10 as part of the RRA.

Existing landscaping in the public areas around the site are proposed to be improved with paths, seating and additional tree plantings that will help soften the appearance of the building within the landscape and integrate the development with the public space around the pond. Conditions have been imposed in PART A of this Decision to provide greater opportunities for landscaping including a central breakout point to the eastern building between the central courtyard and Casey Pond.

- Advice from the National Capital Design Review Panel

In accordance with section 119 of the Act, the Territory Planning Authority has considered the advice of the NCDRP in making this Decision.

The NCDRP were supportive in-principle of an increased density and scale for the subject block, however this was conditional to a number of design outcomes being achieved.

These outcomes included, high level amenity, high quality urban design, contributions to the public domain and high-quality landscaping/ canopy trees. With the conditions imposed in PART A of this decision, the RRA is considered to be consistent with the outcomes set out by the panel.

Notably the NCDRP considered the issues pertaining to height and number of storeys, through which a quantum was provided in relation to Criteria 45 of the Commercial Zones Development code. The recommended quantum was of 4 to 8 storeys. Conditions have been imposed in PART A of this Decision to meet consistency with the NCDRP's advice.

- Setbacks

A 12 metre "no building" easement has been introduced to the western boundary shared by Block 9 and Block 10. Additional landscaping requirements have also been introduced to the eastern, southern and western boundaries and a breakout point is required to be provided to the eastern building providing greater pedestrian access through the site that connects to the wider open space.

- Site Open Space

The Multi-Unit Housing Development Code requires 20% of the site area to be allocated to communal open space with a minimum dimension of 2.5 metres and that is directly accessible from common entries and pathways.

20% of the site area is 1096 m², with the total communal area proposed being 1166 m² (21%). In addition, the minimum planting area required for the development is 10% of the total site area, which is 547 m². The proposal includes 1550 m² of planting area, which is 28% of the site area.

- Delivery/Removalist Parking

A condition has been imposed in PART A of this Decision that a dedicated on-site parking space be provided for such uses.

- Public Safety

The development application has been assessed against and found to comply with the Crime Prevention through Environmental Design General Code. Conditions have been imposed in PART A of this Decision consistent with the requirements of this Code.

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- Public Notification
The RRA has met the public notification requirements as set in Division 7.3.4 of the Act.
- Entity Compliance
All entities that the original development application was referred to have been included in the entity referral process for the RRA. All entity advice received through the referral process has been considered in the making of this Decision and conditions have been imposed in PART A to ensure the Decision is consistent with entity advice.
- Noise
The RRA provided an updated Noise Management report and was referred to the EPA who advised the application was not supported and further information/amendments were required. The EPA advice however also offered a pathway for the development to meet noise management requirements. Conditions have been imposed in PART A of this Decision, consistent with EPA advice.
- Failure to address original refusal reasons
Conditions have been imposed in PART A of this decision to address outstanding matters from the original decision that were considered relevant for this development application.
- Precedent
All development applications are required to comply with the with the relevant legislative requirements i.e. the *Planning and Development Act 2007* (for this particular application) and the Territory Plan and are subject to individual assessment by the Territory Planning Authority.
- Flooding
The RRA includes a Water Sensitive Urban Design Statement prepared by Sellicks Consultants dated 16 August 2023. Flooding was not identified as an issue in the statement. In addition, no flooding concerns were raised by the ESA in their advice on the RRA.
- Overshadowing
Overshadowing impacts are not considered to be of significant concern for this development proposal. Some overshadowing will occur to the south, onto unleased land.

The previous representations were considered and are summarised in the previous Authority decisions. Many of the above issues are consistent concerns/issues raised across the various public notification periods. While there are many representations are opposed to the development, on balance, the development and reconsideration application (as amended and conditioned) is considered capable of approval.

ENTITY ADVICE

Pursuant to Division 7.3.3 of the *Planning and Development Act 2007*, the application was referred to the entities below. Where an entity requested conditions to be imposed on this development, those conditions have been incorporated in **PART A** of this Decision.

A summary of entity comments in relation to the Remitted Reconsideration DA, as relevant, can be found below. Entity comments in relation to the original application and reconsideration application are summarised in the previous Authority decisions.

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1. ENVIRONMENT PROTECTION AUTHORITY (EPA)

The EPA provided advice stating that the proposal is not supported.

Comment – Relevant conditions and advisory notes have been included to address EPA advice. Refer to **PART A** for conditions regarding compliance with this entity advice and advice at **ADVISORY NOTES**.

2. TRANSPORT CANBERRA AND CITY SERVICES (TCCS)

TCCS provided advice stating that the proposal is supported subject to the conditions.

Comment - Refer to **PART A** for conditions regarding compliance with this entity advice and advice at **ADVISORY NOTES**.

3. ACT EMERGENCY SERVICES AGENCY (ACTESA)

The ACTESA provided advice stating that the proposal is supported subject to conditions.

Comment - A condition requiring the development to satisfy relevant entity requirements has been imposed in **PART A**. A copy of the ACTESA advice is attached to this Notice of Decision.

4. ICON WATER

ICON Water provided advice stating that the proposal is not supported.

Comment - A condition requiring the applicant to seek ICON endorsement and for the development to satisfy relevant entity requirements has been imposed in **PART A**. A copy of the ICON Water advice is attached to this Notice of Decision.

5. EVOENERGY (Electricity)

EvoEnergy (Electricity) provided advice stating that the proposal is supported subject to conditions.

Comment - A condition requiring the development to satisfy relevant entity requirements has been imposed in **PART A**. A copy of the Evoenergy advice is attached to this Notice of Decision.

6. EVOENERGY (Gas)

EvoEnergy (Gas) provided advice stating that the proposal is supported subject to conditions.

Comment - A condition requiring the development to satisfy relevant entity requirements has been imposed in **PART A**. A copy of the Evoenergy advice is attached to this Notice of Decision.

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ATTACHMENT 1

ADMINISTRATIVE INFORMATION RELATING TO NOTICE OF DECISION

DATE THAT THIS APPROVAL TAKES EFFECT

Unless a condition of approval provides for otherwise, this approval takes effect 20 working days after the day this notice of decision is given to every person who made a representation on the application. The effective date for development applications approved subject to conditions may also be adjusted if an application is made to the ACT Civil and Administrative Tribunal.

Pursuant to section 184 of the *Planning and Development Act 2007* (Act), this approval will expire if:

- the development or any stage of the development is not started within three years after the day the approval takes effect;
- the development is not finished three 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 pursuant to section 189 of the Act.

Under section 184 of the Act, the applicant may apply to the Territory Planning 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.

Inspection of the Application and Decision

A copy of the application and the decision can be inspected between 8:30am and 4:30pm weekdays at the Environment, Planning and Sustainable Development Directorate, Dickson Office Building, 480 Northbourne Avenue, Dickson, ACT.

Submission of revised drawings or documentation

If a condition of approval requires the applicant to lodge revised drawings and / or documentation with the Territory Planning Authority for approval pursuant to section 165 of the Act, the submission must be made by completing an application in e-development.

Review by the ACT Civil and Administrative Tribunal (ACAT)

1. Decisions that are reviewable (sometimes referred to as appeals) by the ACAT are identified in Schedule 1 of the [Act](#), except for matters that are exempted under Schedule 3 of the [Planning and Development Regulation 2008](#) (matters exempt from third party review).
2. The notice of decision and this advice have been sent to all people who made a representation in relation to the application.
3. The ACAT is an independent body. It can review a large number of decisions made by ACT Government ministers, officials and statutory authorities on their merits. 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.

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4. More information on appeal rights is available online at <https://www.planning.act.gov.au/build-buy-renovate/build-buy-or-renovate/approvals/development-applications/appeal-a-da-decision>.
5. The ability to review the Authority's decision is a matter of law. **If** you think you have a right of review, you may apply to the ACAT for a review of the decision. Application forms can be obtained from the ACAT at the website listed below. You can also download the form from the ACT Legislation Register. It is recommended you seek independent advice in regards to such reviews eg a legal practitioner.
6. If you are applying on behalf of an organisation or association, 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.
7. The time limit to make a request for a review is 28 days from the date of this notice of decision. The time limit can be extended in some circumstances (refer to sections 10 (2), 10(3), 25(1)(e) and 25(2) of the *ACT Civil & Administrative Tribunal Act 2008*; and rule 38 of the *ACT Civil and Administrative Tribunal Procedures Rules 2020*.
8. Applications to the ACAT, including an application to be joined as a party to a proceeding, require payment of a fee (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. Applications should be made in writing to: the Director General, Justice and Community Safety Directorate, GPO Box 158, CANBERRA ACT 2601. You can ask the ACAT for more details.
9. 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.
10. The following organisations may be able to provide you with advice and assistance if you are eligible:
 - ACT Law Society, telephone 6274 0300ACT
 - Legal Aid Office, telephone 1300 654 314
 - ACT Council of the Ageing, telephone 02 6154 9740
 - Welfare Rights Centre, telephone 1800 226 028
 - Environmental Defender's Office (ACT), telephone 02 6243 3460.
11. 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 in the circumstances specified in s 48 of the *ACT Civil and Administrative Tribunal Act 2008*. 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.
12. You may apply for access to any documents you consider relevant to this decision under the *ACT Freedom of Information Act 2016*. Information about Freedom of information requests is available on the Territory Planning Authority's web site at <https://www.environment.act.gov.au/about/access-government-information> or by contacting us by phone on 02 6207 1923.
13. 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.

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Review by the ACT Supreme Court

1. The Authority's decision may also be subject to judicial review by the ACT Supreme Court under the *Administrative Decisions (Judicial Review) Act 1989* (ADJR Act).
2. Under the ADJR Act, an *eligible person* may make an application for review of a decision.
3. An *eligible person* must demonstrate that their interests are adversely affected by the decision and that the application raises a significant issue of public importance.
4. Section 5 of the ADJR Act sets out the grounds on which a decision can be reviewed.
5. The time limit to make an application for review is 28 days from the date the Notice of Decision is provided to the applicant and those people who made a representation.
6. The ACT Supreme Court is a costs jurisdiction where costs generally follow the event. This means that the unsuccessful party is required to pay the costs of the successful party.
7. For more information on ACT Supreme Court processes and fees, please visit <https://courts.act.gov.au/home>.

Other approvals

A notice of decision under the *Planning and Development Act 2007* grants development approval only. Other approvals may be required, including:

1. Building Approval

Most building work requires building approval under the *Building Act 2004* to ensure it complies with building laws such as the *Building Code of Australia*. The lessee should engage a private building certifier to determine whether building approval is required and assess and approve the building plans before construction commences. A list of certifiers can be obtained from the [Environment, Planning and Sustainable Development Directorate](#).

2. 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 Transport Canberra and City Services Directorate at <https://www.tccs.act.gov.au/city-living/trees>.

3. Use of verges or other unleased Territory Land

In accordance with the *Public Unleased Land Act 2013*, 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. More information is available from the Transport Canberra and City Services Directorate at https://www.tccs.act.gov.au/city-living/public_land_use.

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4. Works on unleased Territory Land

In accordance with the *Public Unleased Land Act 2013*, no work can be undertaken on unleased Territory land without the approval of the Territory. Such approval must be obtained from the Senior Manager, Place Coordination and Planning, Transport Canberra and City Services Directorate by way of:

- (a) a certificate of design acceptance prior to the commencement of any work; and
- (b) a certificate of operational acceptance on completion of all works to be handed over to TCCS.

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.

Contact details for relevant agencies

ACT Civil and Administrative Tribunal 15 Constitution Ave Canberra ACT 2601 GPO Box 370, CANBERRA, ACT 2601	www.acat.act.gov.au tribunal@act.gov.au 02 6207 1740 02 6205 4855 (Fax)
ACT Supreme Court 4-6 Knowles Place, CANBERRA CITY ACT 2601 GPO Box 1548, CANBERRA CITY, ACT 2601	www.courts.act.gov.au 02 6205 0000
Environment, Planning and Sustainable Development Directorate 480 Northbourne Avenue DICKSON ACT 2602 GPO Box 158, CANBERRA 2601 <ul style="list-style-type: none">• <i>Territory Planning Authority</i><ul style="list-style-type: none">- list of certifiers for building approval- demolition information- asbestos information• <i>Environment Protection Authority</i><ul style="list-style-type: none">- environment protection- water resources- Conservation, Planning and Research- threatened species/wildlife management• <i>WorkSafe ACT</i><ul style="list-style-type: none">- asbestos information• <i>ACT Heritage Council</i><ul style="list-style-type: none">- Aboriginal, historic and natural heritage management• <i>Tree Protection Unit</i><ul style="list-style-type: none">- <i>Development Applications (DA) issue:</i>- <i>Tree Damaging Activity Applications (TDAA) issue:</i>	www.planning.act.gov.au 02 6207 1923 EPAPanningLiaison@act.gov.au 6207 5642 worksafe@worksafe.act.gov.au 132 281 www.environment.act.gov.au 132 281 TCCS.TreeProtectionACTPLARef@act.gov.au TCCS.TreeProtection@Act.gov.au

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Transport Canberra and City Services <ul style="list-style-type: none">landscape management and protection plan approvaluse of verges or other unleased Territory landworks on unleased Territory land - design acceptancedriveway inspections or building applicationsdamage to public assets	www.tccs.act.gov.au 132 281 02 6207 0019 (development coordination) tccs.dcdevelopmentcoordination@act.gov.au
Health Directorate	www.health.act.gov.au hps@act.gov.au 02 5124 9700
Education Directorate	www.education.act.gov.au 02 6205 5429
Utilities <ul style="list-style-type: none">Telstra (networks)TransACT (networks)Icon WaterElectricity reticulation	02 8576 9799 02 6229 8000 02 6248 3111 02 6293 5749

Translation and interpretation services

The ACT Government's translation and interpreter service runs 24 hours a day, every day of the week by calling 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 τηλεφωνήστε στο
ITALIAN	Se avete bisogno di un interprete, telefonate al numero:
MALTESE	Jekk għandek bżonn l-għajnuna t'interpretu, ċempel:
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 telefonirajte:
SPANISH	Si necesita la asistencia de un intérprete, llame al:
TURKISH	Tercümana ihtiyacınız 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	