



ACT

Government

Environment, Planning and
Sustainable Development

NOTICE OF DECISION

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

I, Richard Davies, delegate of the planning and land authority, pursuant to section 162 of the *Planning and Development Act 2007*, **approve subject to conditions** the proposal for an **Estate Development Plan**

for the creation of 40 single dwelling blocks, 8 multi-unit residential blocks, 1 central commercial block (heritage core), 5 open space blocks proposed to be contained within a future community title scheme;

Construction of internal roads, utility services and connections, tree removals, bulk earthworks and site grading, new stormwater retention pond, shared paths and landscaping;

connections to the existing surrounding road network, connection to the existing off-site services, connection to the existing active travel network and associated works.

And including ongoing provisions for blocks to be incorporated into the Territory Plan and District Technical Specifications,

at Blocks 1,7,19, 20, 21 & 2 Sections 102 & 107 Yarralumla, in accordance with the plans, drawings and other documentation approved and endorsed as forming part of this approval.

DA Number: 2023411982 / s144B

Blocks: 1, 7, 19, 20, 21

2

Sections: 102

107

Suburb: Yarralumla

Application lodged: 16 October 2023 / 30 April 2024

Assessment track: Impact

This decision contains the following information:

PART A – conditions of approval

PART B – reasons for the decision

PART C – public notification & entity advice

Attachment 1 – administrative information

Copies of entity advice – as attached

A copy of the application and the decision can be inspected on the territory planning authority website and between 9.00am and 4:00pm weekdays at the Land, Planning and Building Shopfront at 8 Darling Street in Mitchell, ACT, 2911.

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CONTACT / ENQUIRIES

Phone: (02) 6207 6383

Online Form:

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



Richard Davies
Delegate of the Planning
and Land Authority
15 August 2024

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 take effect.
- b) This development must be finished (completed) within **three years** from the date when it started, or within such further time as approved in writing by the planning and land authority.

Note: The planning and land 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 184(3) and 188 of the Planning and Development Act 2007 (the Act).

CONDITIONS RELATING TO LEASE

2. 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 Crown leases of the proposed new blocks.

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) any requirements necessary for the normal use operation of the buildings.
- v) Public access to Blocks a & e Section B and Block f Section C.

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PRIOR TO CONSTRUCTION including ENTITY REQUIREMENTS –

Note Some conditions are relevant beyond commencement stage of the development

3. ICON WATER – WORKS NOT TO COMMENCE

- a) No construction works other than bulk earth works, remediation, tree protection, erosion and sediment controls and general site preparatory works, 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 planning and land 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 additional requirements of ICON Water in obtaining the Statement of Acceptance.

Note: Any substantial changes to the development required for utility services compliance will need to be submitted for the consideration of the planning and land authority with an application to amend the approval under Section 205 Planning Act 2023.

Note Condition 9 below as well requiring resubmission for compliance with this condition.

4. EVO ENERGY (ELECTRICITY) – WORKS NOT TO COMMENCE

- c) No construction works other than bulk earth works, remediation, tree protection, erosion and sediment controls and general site preparatory works, in relation to this development approval is to commence until the lessee/applicant has obtained a Statement of Acceptance from Evo Energy (Electricity) in relation to electrical networks.
- d) The lessee/applicant must address and comply with any additional requirements of Evo Energy (Electricity) in obtaining the Statement of Acceptance.

Note: Any substantial changes to the development required for utility services compliance will need to be submitted for the consideration of the planning and land authority with an application to amend the approval under Section 205 Planning Act 2023.

Note Condition 9 below as well requiring resubmission for compliance with this condition.

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

- a) No works, including demolition and excavation, in relation to this development approval is to commence until the lessee/applicant has addressed EPA **Condition 6 d) – f)** of this decision below or as otherwise agreed to by the planning and land authority.
- b) The lessee/applicant must address and comply with any additional requirements of EPA .

Note: Any substantial changes to the development required to satisfy EPA requirements will need to be submitted for the consideration of the planning and land authority with an application to amend the approval under Section 205 Planning Act 2023.

Note Condition 9 below as well requiring resubmission for compliance with this condition.

6. ENVIRONMENT PROTECTION AUTHORITY (EPA) - GENERAL

The development shall comply with the following conditions to the satisfaction of the EPA or as otherwise agreed to by the planning and land authority:

- a) All assumptions and requirements pertaining to contamination, hazardous materials, construction, and noise as set out in the Environmental Impact Statement (EIS) need to be incorporated during development of the site. Individual DA's for subsequent development may need to provide further reports and management plans as appropriate for the individual project/building.

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Contamination

- b) The site must be assessed and remediated in accordance with the guidelines endorsed by the EPA by a suitably qualified environmental consultant.
- c) The adequacy of the assessment and remedial works must be independently audited by an EPA approved environmental auditor.
- d) Prior to the commencement of remediation works the remedial action plan (RAP) for these works must be reviewed and endorsed by the auditor with a copy of the RAP endorsement provided to the EPA.
- e) Prior to the commencement of development works Auditor interim advice indicating that the commencement of development will not impact on the on-going assessment and remedial works at the site must be reviewed and endorsed by the EPA.
- f) Prior to the area being used for other purposes, the findings of the independent audit into the site's suitability for its proposed and permitted uses from a contamination perspective must be reviewed and endorsed by the EPA.

7. ACT HERITAGE COUNCIL (THE COUNCIL) – WORKS NOT TO COMMENCE

- a) No works, including demolition and excavation, in relation to this development approval is to commence until the lessee/applicant has addressed **THE COUNCIL Condition 8 c) – g)** of this decision or as otherwise agreed to by the planning and land authority. Evidence is to be provided to the planning and land 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 additional requirements of The Council in meeting this condition.

Note: Any substantial changes to the development required for utility services compliance will need to be submitted for the consideration of the planning and land authority with an application to amend the approval under Section 205 Planning Act 2023.

Further ACT Heritage Council requirements and conditions apply below.

8. ACT HERITAGE COUNCIL (THE COUNCIL) – GENERAL

The development shall comply with the following conditions to the satisfaction of the Council or as otherwise agreed to by the planning and land authority:

- a) In the event that unexpected heritage finds are encountered during construction: works at the heritage location/s are to cease (in accordance with Section 75 of the Heritage Act 2004); and the discovery is to be reported to the Council within five working days (in accordance with Section 51 of the Heritage Act 2004); and the discovery is to be managed in accordance with further Council advice.
- b) The development is to comply with the Statement of Heritage Effect approval for BRW8, issued by the Council on 21 May 2024, which includes an amended footprint for Precinct 2 and requirements for impact mitigation and heritage interpretation.
- c) Prior to the commencement of works on the Quarry, a Statement of Heritage Effect approved by the Council under Section 61H of the Heritage Act 2004 is required for impacts to the Quarry. While the proposed works are endorsed in principle, the Statement of Heritage Effects will enable consideration of detailed aspects of the works, and possible mitigation measures.
 - i) A Statement of Heritage Effect application is to be submitted to the Council under Section 61G of the *Heritage Act 2004*, and is to include a report that meets all application criteria.

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- ii) The application is also to provide detailed information on: the outcomes of detailed design for infrastructure and landscaping works within the Quarry; and the proposed finish of infilled quarry sections.
- d) Prior to the commencement of works on the BRW12 site, a Statement of Heritage Effect approved by the Council under Section 61H of the Heritage Act 2004 is required for impacts to BRW12. While the proposed works are endorsed in principle, the Statement of Heritage Effects will enable consideration of detailed aspects of the works, and possible mitigation measures.
 - i) A Statement of Heritage Effect application is to be submitted to the Council under Section 61G of the *Heritage Act 2004*, and is to include a report that meets all application criteria.
 - ii) The application is also to provide detailed information on impact mitigation measures, including the heritage interpretation of the BRW12 flue network.
- e) Prior to the commencement of any ground-disturbing works at the Brickworks, an Archaeological Management Plan is to be submitted to and endorsed by the Council.
 - i) The application is to identify detailed methodologies for the monitoring and management of archaeological features, deposits and areas identified in GML Heritage (2022).
- f) Prior to the commencement of works, and consistent with previous Heritage Act approvals, detailed information on heritage interpretation outcomes is to be submitted to and endorsed by the Council.
 - i) Interpretation outcomes are to be guided by the *'Interpretation Strategy, Yarralumla Brickworks Precinct'* (Lovell Chen 2022), as approved by the Council on 9 September 2022.
- g) Prior to the commencement of works, a detailed methodology for monitoring and managing noise and vibration during works must be submitted to and endorsed by the Council.

9. FURTHER INFORMATION

The applicant shall lodge with the planning and land authority, an application under section 165 of the *Planning and Development Act 2007* (the Act) seeking approval to address the following conditions:

- a) Revised plans and supporting information, based on the relevant drawings submitted as part of the application, showing:
 - i) The proposed road stub off Brickworks Way is currently labelled as part of block f/C and provides access to Blocks c/C, d/C, & e/C from Brickworks Way. This road stub will need to be identified as a separate block to allow the correct purpose clause to be allocated when the Consequential Crown lease is called for. Please update all relevant plans;
 - ii) The basement access to Block c/C needs to be amended in the relevant plans (Block Details Plan) to clearly identify the driveway terminating at the boundary of block f/C. It is noted that the proposed basement access to block c/C proposes the driveway to go under the footpath of the Remnants access of Block f/C. This needs to be clearly identified/clarified through plans and section drawings to show how this is proposed;
 - iii) The Remnant (Block e/C) does not encompass the entire heritage curtilage within its block boundary. Please provide updated plans with refigured block boundary of the Remnants (Block e/C) and the adjacent block (f/C);

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- iv) Fix all required plans to remove the Residential Waste Area (Block b Section B) from the Core Area lease and include within the proposed Holding Lease boundary;
- v) Landscape Master Plan does not appear to be consistent with the geotechnical report slope stability assessment with regard to plantings proposed on the batters. These proposed plantings will need to be compatible with the geotechnical report or removed from the Landscape Master Plan;
- vi) The Waste Collection Plans do not show any details of green waste collection points for the commercial development. Please provide updated waste plans that meet TCCS requirements;
- vii) Confirm if the tennis court, pickleball courts, table tennis courts and pool in the Heritage Core block are no longer proposed to be part of the community title. Where necessary updated plans are to be provided;
- viii) Provide updates to the Concept Master Plan to remove any references to the Territory Plan 2008 for future development application considerations and reinforce the necessary development outcome required.

ENTITY REQUIREMENTS

- b) Provide evidence of compliance with **Condition 3** of this Notice of Decision, through providing a statement of conditional acceptance from Icon Water or relevant plans/documentation that satisfies Icon Water requirements.
- c) Provide evidence of compliance with **Condition 4** of this Notice of Decision, through providing a statement of conditional acceptance from Evo Energy or relevant plans/documentation that satisfies Icon Water requirements.
- d) Provide evidence of compliance with **Condition 5** of this Notice of Decision, through providing a statement of conditional acceptance from EPA or relevant plans/documentation that satisfies EPA requirements.
- e) Provide evidence of compliance with **Condition 6** of this Notice of Decision, through providing a statement of conditional acceptance from The Council or relevant plans/documentation that satisfies The Council's requirements.

Estate Development Plan

- f) Removal of colouring along top of page on Lane-Poole Place;

Staging Plan

- g) Update the staging plan to include all offsite works into its associated stage;
- h) Provide changed/updated staging plans demonstrating sufficient parking to facilitate the parking demands through each stage of development;

Block Detail Plan

- i) Access easements need to be changed and updated as they currently extend over areas where public access is not required (e.g. over fan houses, road verges, ponds and Quarry walls).

Planning Controls

- j) The geotechnical study report states that lots a, b and part of c will be formed by placing fill (possibly supported by a gabion wall), and there will be no exposed quarry batter face in this area. Details are required to confirm:
 - a. the retaining wall/fill is capable of supporting buildings and structures in this zone and no setback zones are required on these blocks; and

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- b. Any structures on Block 17 and 20 allow for unrestricted circulation adjacent to any gabion walls or similar structures. 'Dead end' or similar spaces limiting movement should not be created by these structure(s).

Note: The appears to apply to Blocks c, d, e, h, i, j, k, l & m Section A

- k) Amend the Planning controls report to update the future planning controls suitable for amendment(s) to the new *Planning Act 2023, Territory Plan 2023* and associated Notifiable Instruments (as required).

Note – it is recommended discussions with EPSDD Planning and Urban Policy team are carried out prior to submitting information to address this condition.

Stormwater Master Plan

- l) Re-check flow analysis table as two rows have inconsistent information (but same pipe sizing). Confirm correct calculations are made on the flow analysis table and are consistent with the stormwater master plan information;
- m) Confirm the easement dimensions proposed on Block 'd' Section 'B' includes allowance for the overland flow easement requirements or make minor changes to accommodate such allowances;

Water Sensitive Urban Design

- n) The WSUD report and relevant plans are not consistent with use of an onsite detention tank. Please provide an updated report and/or relevant plan to reflect the correct placement or removal;
- o) The original and revised Alluvium reports both require a GPT to be installed at the stormwater collection point prior to pumping to the wetland (Refer 2.7 of Alluvium report). Where is this GPT proposed on the plans? Note: it appears the detention tank is now offline and will no longer meet the GPT reduction requirements if installed at this location. The Stormwater Masterplan is to be updated to reflect compliance with this condition;

Bushfire Management Plan and Report

- p) Managed Landscape Zone (Managed Parklands)
The Bushfire Report requires Managed Parkland areas (refer 5.6 of the report) to be managed to an IAPZ standard. This area should therefore be shown as an IAPZ on the Bushfire Management plan. It is not clear if an IAPZ can be approved on leased land. Please confirm if this is the case with ESA noting the proposed Community Title;
- q) Confirm if the proposed landscaping for the estate (including Inner Asset Protect Zone area) is compliant to the ACT Bushfire Management Standards and other relevant standards or minor changes are made to meet this condition.

Fill Plan/ Quarry Park Plan

- r) Further information is required on what stability measures are proposed to be implemented for slopes around the boundaries. Where proposed, retaining walls need to be identified on the fill plan. This includes proposed treatments for batters 1,2 & 3 which are the latest assessed areas. Relevant plans including landscape plans are to be updated to meet this condition.
- s) ACTESA require the applicant to provide written agreement from TCCS for evidence stating they can and will maintain the Inner Asset Protection Zone (IAPZ) on Block 127 in perpetuity.

Note: ACTESA require a written statement to endorse this application. The proponent must seek formal agreement from TCCS and then submit to ACTF&R Risk & Planning. Once ACTF&R receive this document, a 'Letter of Support' can then be prepared for the proponent as evidence of ACTF&R support for the development.

to the satisfaction of the planning and land authority.

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Notes:

- i) *consider providing requested information under a single s165 application or as few as practical. This will assist the Authority in providing you a response in the most efficient manner.*
- ii) *information shall be submitted in the eDevelopment portal addressing the above conditions. Please ensure plans and supporting information are suitably named as per the Authority's naming convention, are clouded for any amendments, such clouding are labelled consistently with items listed on the s165 application form,*
- iii) *All plans and supporting information need to be consistent with one another. Please ensure all suitable plans and supporting documents are updated as part of the S165 application.*
- iv) *any substantial changes to the development required to comply with the above conditions may need to be submitted for the approval of the planning and land authority with an application to amend the approval under s205 Planning Act 2023.*
- v) *Plans will be endorsed/released once relevant conditions have been complied with at the discretion of the Planning and Land Authority.*

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CONDITIONS RELATING TO DEVELOPMENT and ENTITY REQUIREMENTS

10. TRANSPORT CANBERRA AND CITY SERVICES (TCCS)

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

- a) All onsite and off-site works (gifted assets to TCCS) must be designed and constructed as per TCCS Design Standards and Specifications. Any exceptions must be approved by TCCS.
- b) The applicant / developer must be responsible for offsite path connection along Denman Street as per agreed design.
- c) All stormwater pipe network within the private blocks (agreed at DA stage) must be protected by appropriate easement as per TCCS Standard MIS 08 Stormwater (table 8-23) . The applicant / developer must commence the registration of easement plan before Design Review submission and complete before Operational Acceptance submission.
- d) The applicant/ developer must clarify, how the proposed GPT / Trash rack will be managed as there is no public road.
- e) A Landscape Management and Protection Plan and a dilapidation report must be submitted at the Design review stage.
- f) All verge protective fencing (LMPP) must be placed in a way such that the verge is protected but access to the pedestrian network is maintained at all times.
- g) Adequate clearance must be provided for pedestrian walkway / footpath in accordance with the TCCS MIS Design Standards.
- h) All Street Light design documents must be submitted at the Design Review stage as agreed by applicant.
- i) All Traffic Control Devices (TCD) must comply with the applicable standards. This will be checked in detail during Design Review stage.
- j) Any on street car parking must be designed and constructed in accordance with AS 2890.5 On-street Car Parking.
- k) Any publicly available off-street car parking facility must be designed and constructed in accordance with AS 2890.1 Off-street Car Parking.
- l) Any proposed car parking for people with disabilities must be designed and constructed in accordance with AS 2890.6 Off-street Parking for People with Disabilities.
- m) An updated Waste and Recycling Management Plan (WRMP) for the community collection must be prepared in accordance with the Waste and Recycling Management Code 2019 (Waste Code 2019) and submitted at Design Review Stage.
- n) The applicant / developer will be held responsible for the correctness of the design and construction of community waste facilities for the development in accordance with the DCC Waste Code 2019. The civil consultant must provide a certification of compliance with supporting documents to TCCS at Design Review stage. The supporting documents must include a fully dimensioned floor plan of the enclosure showing the actual arrangements and details of RORO compactors. Residential and commercial waste collection must be separated to allow each respective collection arrangement to operate independently. The applicant / developer must ensure appropriate easement is created for waste collection area.
- o) The applicant / developer must provide adequate signage at the cul-de-sac / Tee intersections for waste truck to collect waste on the collection day without impeded by a parked vehicle.

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- p) The applicant / developer must specify in the lease document of the blocks having a designated kerbside waste collection point so that the owners won't request collection from other location.
- q) The applicant / developer must engage a Landscape Architect or Consulting Arborist, approved by TCCS Urban Treescapes, to supervise and document all works within Tree Protection Zones (TPZ). The plans must document all works requiring tree protection measures and superintendence by the Landscape Architect or Consulting Arborist within TPZ's.
- r) All excavation within the Tree Protection Zones (TPZ) of the verge trees must be carried out by hand dig, hydro excavation, or other recommended methods to ensure minimal damage to the tree roots.
- s) All tree plantings must be carried out by a landscape contractor with horticultural expertise. A 12-month consolidation period is required prior to formal handover to TCCS.
- t) In line with TCCS Urban Treescapes public notification procedures the trees proposed to be removed on unleased land must be signposted at least 14 days prior to removal.
- u) All past approvals and consultation with Territory officers must be incorporated in the Design Review submission.

Note: other standard TCCS conditions may apply (as appropriate) for works on, and the use of, Territory Land in addition to the above conditions. A copy of the standard conditions is included with this decision.

11. CONSERVATOR OF FLORA AND FAUNA – TREE PROTECTION AUTHORITY (The Conservator)

The development shall comply with the following conditions to the satisfaction of the Conservator:

- a) The trees should be isolated from all construction works with the provision of tree protection fences at the extent of the tree protection zones (Canopy plus 2m).
- b) This would be appropriate for all trees above 8m in height regardless of the transitional arrangement under the new *Urban Forest Act 2023*.

12. ACT HEALTH – HEALTH PROTECTION SERVICE (HPS)

The development shall comply with the following conditions to the satisfaction of HPS:

- a) Plans indicate retail cafes/kitchens within the Heritage Core. The applicant is advised that the business will need to comply with the *Food Act 2001 and the ACT Food Business Fit-Out Guide* and consider the provision/installation of mechanical exhaust ventilation within the Heritage Core buildings during the refurbishment. The applicant is required to submit food business registrations and fit-out applications (with suitably detailed plans) to the HPS for any food business prior to construction. The applicant is advised to contact the HPS for further information.
- b) The development proposes the construction of a swimming pool. The applicant is advised that any publicly accessible swimming pools and/or spas will need to comply with the *ACT Code of Practice to Minimise the Public Health Risks from Swimming/Spa Pools 1999*. The applicant is advised to contact the HPS for further information.
- c) *For commercial developments where a food business is being proposed;* food premises must meet requirements to ensure the disposal of sewage and wastewater does not contaminate the water supply, a grease trap will be required. Grease traps require 'trade waste' approval by contacting ICON Water for further information.
- d) The HPS supports the need for all imported fill and the reuse of soil within the project to comply with the ACT Environment Protection Authority requirements.

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13. ESTATE DEVELOPMENT PLAN

- a) Road 2 is now proposed to be part of the community title as such TGE's will be required to be prepared between the Heritage Core lease and the Community title lease over Block f Section B to ensure continued access to the Heritage Core lease.

14. BLOCK DETAILS PLAN

- a) Access easements over blocks a/B, e/B, Part block f/C (railway remnants link) must be created through the use of TGE's. The remaining access easements will be incorporated into Consequent Crown leases.

15. COMPLIANCE WITH ENTITY REQUIREMENTS

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

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

16. CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN (CEMP)

PRIOR TO CONSTRUCTION

- a) A CEMP must be prepared and submitted to the planning and land authority (EPDImpact@act.gov.au) for endorsement. The CEMP must outline the construction conditions/methods and temporary environmental protection measures to manage the impact of construction activities, consistent with the EIS. The CEMP must include the mitigation measures proposed in the EIS and any relevant management plans including, but not limited to:
 - i) Flora and fauna management
 - ii) Reporting unapproved impacts on MNES to EPSDD
 - iii) Weed management
 - iv) Erosion and sediment control
 - v) Bushfire management
 - vi) Contamination Unexpected Finds Protocol
 - vii) Health and Safety Protocol for works at AEC's
 - viii) Chemical Spill Management Protocol
 - ix) Noise management
 - x) Dust and air quality management
 - xi) GHG emissions from construction machinery
 - xii) Environment Protection Agreement with the EPA
 - xiii) Heritage Unexpected Finds Protocol
 - xiv) Waste management
 - xv) Surface water management

During construction:

- b) During construction, all works must be in accordance with the approved CEMP.
- c) The proponent must not clear more than 1.58 hectares of Golden Sun Moth (*Synemon plana*, GSM) habitat.
- d) The proponent must not clear GSM habitat outside of the approved area of clearance.

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Post construction:

- e) An Operation Environmental Management Plan (OEMP) must be prepared and submitted to the planning and land authority which includes:
 - i) management of contamination
 - ii) weed management
 - iii) surface water management
- f) Ensure ongoing waste management measures that aim to facilitate alternative waste management practices within the site, such as recycling and reuse.

17. ALL WORKS - ENVIRONMENTAL IMPACT STATEMENT 201900047:

- a) All works must be consistent with the mitigation measures in Table 21.1 of the Canberra Brickworks Precinct Redevelopment Revised Environmental Impact Statement, prepared by Umwelt (Australia), dated 3 February 2023 (the EIS).

18. PLACE NAMES, DATA AND ADDRESSING & SURVEY (LAND INFORMATION)

- a) If a Community Title Scheme is proposed over the site, ACT Place Names can assist DOMA to apply appropriate place names, including suitable road types, to support unique addressing for internal roads and 2 parks. The contact is placenames@act.gov.au
- b) One park in the EDP is labelled as Quarry Park/Quarry Parklands. If the name 'Quarry' is applied by DOMA in a community title scheme it could potentially cause addressing confusion with Quarry Road within the National Arboretum. In 2016, the ACT Place Names Committee gave an undertaking to keep the Geological Society of Australia informed about opportunities for 'Pittman Park'. Our office provided a copy of this advice to the DOMA Group by email in March 2022.
- c) The provisions of the *Public Place Names Act 1989* will apply for public place names (roads and parks) if it is intended the features will be handed to TCCS on completion.
- d) That the lessee shall arrange for a survey of the subdivided blocks and lodge the survey plan with the EPSDD for examination and clearance by the Surveyor-General, The Office of the Surveyor-General and Land Information and pay the appropriate examination fee.
- e) The proponent shall arrange for a survey of the subdivided blocks and lodge the survey plan with the Environment and Sustainability Development Directorate for examination and clearance by the Surveyor-General, Surveying and Spatial Data Section and pay the appropriate examination fee.
- f) A final survey for the estate must be lodged with the Environment and Planning Directorate detailing the as constructed contour levels once the roads and blocks have been created.

19. ON STREET PARKING

All on street parking spaces are to be constructed in accordance with Australian Standard *AS2890.5 - Parking - on street*'.

20. PUBLIC LIGHTING

All public lighting is to be designed in accordance with Australian Standard *AS1158 Lighting for Roads and Public Spaces Parts 2 & 3.1* and Australian Standard *AS4282: The Control of Obtrusive Effects of Outdoor Lighting*.

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21. ENVIRONMENT PROTECTION

All works shall be carried out in accordance with *Environment Protection Guidelines for Construction and Land Development in the ACT, August 2022*.

All works must be carried out in accordance with the Builders' booklet *Preventing Pollution from Residential Building Sites, 2023*, available by calling 132281 or via [Environment protection guidelines \(act.gov.au\)](https://www.act.gov.au/environment-protection-guidelines).

22. WASTE MANAGEMENT – DURING CONSTRUCTION PHASE

All building waste is to be stored on the site in suitable receptacles/containers 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.

23. TRAFFIC MANAGEMENT

At all times, the site and surrounds shall be managed in accordance with the approved Temporary Traffic Management (TTM) Plan.

24. EASEMENT AND ACCESS ROUTES

All designated easements as shown on the approved Block Details Plans and any required maintenance and emergency access routes are to be recorded on the Deposited Plans and consequential leases for the relevant blocks.

25. SIGNAGE

All directional signage must comply with the requirements of Australian Standard AS1742.10 (1991) *Manual of Uniform Traffic Control Devices – Pedestrian Control and Protection*.

26. REPAIR OF DAMAGE TO PUBLIC ASSETS

The applicant/lessee is held responsible for all damages to ACT Government assets (including footpaths) caused by the development, and they must properly repair any damages to those assets. Before work commences, they must inform TCCS of any existing damage to public facilities.

27. PEDESTRIAN PATHS

Pedestrian paths are to be constructed in accordance with *AUSTROADS Guide to Traffic Engineering Practice Part 13. – Pedestrians*.

28. 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).

ADVISORY NOTES

This application is approved with the following advisory notes. It is recommended that careful consideration be given to advisory notes prior to commencing work.

1. RELEASE OF APPROVED PLAN

Final stamped plans may not be released till all relevant conditions of the decision (including Leasing, s165 further Information, Entity non-compliance) are complied with to the satisfaction of the planning authority.

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2. 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-renoate/for-industry/industry-resources/hoarding-signage-guidelines>

3. ENVIRONMENT PROTECTION AUTHORITY

Noise from equipment which may be installed or used at the site, including air conditioning units/pool filters, 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*.

EROSION & SEDIMENT CONTROL

- a) 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 Environment Protection Authority (EPA) in respect of that activity prior to works commencing.
- b) An Erosion and Sediment Control Plan must be submitted to and be endorsed by the EPA prior to works commencing on site.
- c) Each stage must have their own sediment controls and be able to manage all water that lands on that stage. The flow must be directed to a sediment control pond and then treated and discharged onto undisturbed land/stormwater system that will not affect any adjoining stages. Each pond is to remain and be managed as a sediment control pond until the development, land development and house construction, is 85% stable which includes the completed homes.
- d) If a swale is to be used to divert water away outside the boundary of that stage then this swale requires to be stable before the development starts. Also, prior to the construction of the swales, all swales must have the endorsement of the owner of the land and endorsement or approvals as required for works from Parks, Conservation and Lands (PC&L) and the Heritage Unit.
- e) Where stages are over 1 hectare there is a requirement for a Sediment Retention Dam. These dams must remain in place and operational from the beginning of the clearing to the end of housing construction. The catchment must be 85% stabilised (including the building sites) before the dam is removed or converted to water control pond. The ponds are to be sized to 165 cubic meters per hectare of the catchment area, not just the stage size.

DAM CONSTRUCTION GUIDELINES

- f) Be of adequate size to control all runoff from the site (i.e. 165 cubic metres per hectare of catchment).
- g) No discharge from dam unless sediment level is less than 60mg/litre. If sediment level is greater, then prior to discharge, the dam must be dosed with either Alum or Gypsum and allowed to settle until the sediment is less than 60 mg/litre.
- h) Water level must not exceed 20% capacity at all times to allow runoff storage during a rain event.
- i) Regular dredging of the dam must be carried out to remove silt.

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- j) Site drawing and details must be provided to Environment Protection Unit, Environment ACT for approval prior to works commencing.
- k) Temporary Erosion & Sediment control ponds must be incorporated into each stage of development.
- l) The size of the ponds must be minimum of 165 m³/ hectare and the temporary ponds shall not be removed until 85 % of the developments are complete or all the disturbed areas are stabilised.
- m) The lessee shall comply with the Environment Protection Act 1997 (the Act) and all relevant policies and guidelines.
- n) All soil stockpiles are to be managed in accordance with Environment Protection Guidelines for Construction and Land Development, 2022 and follow the Guideline for stockpile management, 2019.

Water Sensitive Urban Guidelines:

All works and development to comply with "The Practice Guidelines for Water Sensitive Urban Design in the ACT" (the WSUD Guidelines) available at Water Sensitive Urban Design - Environment, Planning and Sustainable Development Directorate - Environment (act.gov.au).

At all stages of development, the developer must incorporate controls and operating procedures which ensure that stormwater runoff from the site reflects patterns, volumes and quality that replicates site conditions and takes appropriate measures to mitigate potential flood impacts, adhering to WSUD guidelines to manage stormwater effectively prior to the works commencing.

Retain/incorporate naturalised drainage lines and vegetation as far as practicable and revegetate as per WSUD recommendations to preserve ecological values of the surrounding environment.

Ensure to follow best practices for WSUD, promoting environmental sustainability, water conservation, and resilience to climate change impacts.

We encourage to contact the Environment Protection Authority to discuss 'Water Access Entitlement' and 'Licence to take water' requirements under the Water Resources Act 2007 if the project requires to take water for long or short-term use. **No water may be taken without an EPA approved Licence.**

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

In August 2022 the ACT Government announced it is phasing out all new fossil fuel gas network connections in the ACT. A Regulation preventing new fossil fuel gas network connections is expected to come into effect by late 2023.

At the EIS stage, this proposal included new fossil fuel gas network connections. It is not clear from the DA plans whether this is still proposed. For example, the utilities plans include 'new shared trench', which may or may not include a fossil fuel gas pipe.

To avoid the possibility of your development not being able to connect to the fossil fuel gas network upon completion, the development should be designed to be all-electric or constructed as 'electric ready'. Further information can be found at <https://www.planning.act.gov.au/build-buy-reno/for-industry/industry-resources/electric-ready-buildings-information-for-developers> and www.energy.act.gov.au.

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PART B – REASONS FOR THE DECISION

The application was approved because based on the documentation and in the form modified by the imposed conditions it was considered to meet the relevant rules and criteria of the Territory Plan 2008 (version R289) and section 120 of the *Planning and Development Act 2007 (the Act)*.

The objectives of the CZ6, PRZ2 & RZ1 zones have been considered. In general, the assessment found the development was not inconsistent with the zone objectives.

The main issues identified during the assessment were:

- The development meeting the Territory Plan requirements in particular:
 - a) Compliance with the Yarralumla Precinct Map and Code and the Estate Development Code including: the provision of the Heritage Core; suitable pedestrian connections to facilitate access through the site; adequate canopy coverage and provision of high quality urban open space.
 - b) Tree removals taking into consideration constraints on the site including the alignment of proposed Roads. Further noting the provision of additional planting, canopy cover requirements and use of advanced stock for street trees.
 - c) Provision of landscaping, street tree plantings and open space to provide residential amenity, shade to the public realm, recreational activities and ecological connectivity.
 - d) Suitability of proposed blocks and planning controls to facilitate future development.
 - e) Adequate provision of roads and utility infrastructure to service the future estate.
- s144 Amendment – During the assessment of the DA, the Authority requested further information. The applicant provided an application under section 144 of the Act in response, amending the proposed development. This decision is based on the amended proposal.
- Issue raised in representations were considered in the assessment and determination of this DA. Refer to Public Notification in Part C below.
- Entity advice – The proposal was referred to relevant entities and the Entity advice as discussed in PART C below.
- The historical context of the proposed site – This development application takes into consideration previous development approvals over the proposed site.
- The proposed EDP will provide for a range of future development opportunities, open space and leisure activities as well as set out and preserve relevant Heritage elements of the site. The layout provides for a logical and functional arrangement including for existing and future developments. On balance the development addresses assessment issues in particular Heritage, dealing with the site constraints and its interactions with its surrounds in a suitable manner. A number of entity issues were raised during the assessment however the development is considered capable of approval with conditions to address entity requirements.
- The proposed EDP sought for the inclusion of ongoing provisions to be included in the relevant Precinct code for the area. These considerations were relevant for the Territory Plan 2008 (when the application was made) however are no longer relevant for future development applications as this version (and Codes) no longer apply. As such, the equivalent process relevant to the now applicable Territory Plan 2023 have been approved and will establish ongoing provisions for future development.

Conditions have been imposed in regards the issues identified during assessment to ensure the development satisfies the Territory Plan, addresses assessment issues including relevant entity advice and generally follows standard process and practices.

All relevant conditions are included under **PART A** and entity advice is noted in **PART C**.

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EVIDENCE

The following evidence formed part of the assessment of this application:

Development Application:	202341982 /s144B
Territory Plan Zones:	RZ1 – Suburban Core Zone CZ6 – Leisure and Accommodation Zone PRZ2 – Restricted Access Reaction Zone
Development Codes:	Commercial Zone Development Code Estate Development Code Residential Zones Development Code Multi-Unit Housing Development Code Parks and Recreation Zone Development Code National Capital Plan
Precinct Code:	Yarralumla Precinct Map and Code Crime Prevention through Environmental Design General Code
General Codes:	Community and Recreation Facilities Location Guidelines General Code Waterways: Water Sensitive Urban Design General Code
Legislative requirements:	The <i>Planning Act 2023</i> in particular the transitional arrangements for DAs such as this made before its commencement. the <i>Planning and Development Act 2007</i> in particular Sections 128 and 129.
Representations and Entity advice:	As addressed in PART B and PART C of this Decision

PART A and **PART C** provide further details and considerations informing the reasons for the decision.

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PART C – PUBLIC NOTIFICATION AND ENTITY ADVICE

PUBLIC NOTIFICATION

Pursuant to Division 7.3.4 of the *Planning and Development Act 2007* (the Act), the application was publicly notified from 20 October 2023 to 8 December 2023. Thirteen (13) written representations were received during public notification period. The main issues raised are summarised as follows with comments provided where appropriate:

COMMON BOUNDARY FENCING

Common boundary fencing is exempt development under the Planning and Development Act 2007(Act) and is governed by the Common Boundaries Act 1981. Therefore, negotiation regarding the type and cost of a replacement fence is a civil matter between the respective lessees. A condition has however also been imposed in Part A of this Decision concerning fencing.

SCOPE OF APPLICATION

The scope of works for the proposed development application is for the creation of an Estate Development Plan is described in the front page of this decision. The proposal also includes ongoing provisions to be included in the relevant precinct code for the area, at Blocks 1,7,19, 20, 21 & 2 Sections 102 & 107 Yarralumla. Blocks 3 and 9 Section 94 Yarralumla has not been included as these blocks are retired, conditions of approval have been within this notice of decision to ensure that all required offsite works are either accounted for or to be addressed by the applicant.

INCONSISTENCY WITH THE TERRITORY PLAN/YARRALUMLA PRECINCT MAP & CODE

The proposed development application was assessed in accordance with the Territory Plan 2008 (version R289) and it was considered to meet the relevant rules and criteria. As this development application is for the creation of the Estate Development Plan, conditions have been imposed to ensure that all relevant rules and criteria of the Territory Plan are achieved. This decision will amend elements of the (new) Territory Plan and control future developments.

ROAD NETWORK, SITE ACCESS, PARKING, VEHICLE MANOUVERING & TRAFFIC

The proposal was assessed against the Parking and Vehicular Access General Code (PVAGC) and found that the proposed parking meets the requirements of the PVAGC. The internal driveway and future developments will create some impact however are unlikely to generate intense traffic noise. The following additional documentation were submitted as part of the 144B submission:

- Traffic Impact & Parking Report prepared by Nicholas Holmes from Egis Consulting Pty Ltd on 10 April 2024
- Kent Street/Novar Street Intersection Upgrade (Traffic Options and Analysis Report) prepared by AECOM Australia Pty Ltd on 6 September 2021
- Yarralumla Brocks (Traffic and Parking report) prepared by AECOM Australia Pty Ltd on 29 April 2021
- Memorandum prepared by Nicholas Holmes and Brendan Hogan from Calibre prepared on 16 February 2022.

The S144 application was referred to TCCS who administer traffic and road network issues. TCCS supported with conditions which have been imposed in Part A of this Decision. Additionally, further conditions of approval have been imposed to ensure that the Estate Development Plan achieves appropriate access in accordance with the Territory Plan 2008.

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TREE REMOVAL, ENVIRONMENTAL IMPACTS & NOISE

The proposed development application was referred to the Conservator of Flora and Fauna who considered conservation and tree protection who supported with conditions which have been imposed in Part A of this Decision. Additionally, it is noted that Tree 285 and 286 are proposed to be retained. Furthermore, the proposed development was considered by the Environment Protection Authority (EPA) who considered environmental impacts and noise who supported with conditions which have been imposed in Part A of this Decision. This advice and the planning outcomes have been considered and approved subject to the conditions.

IMPACTS OF NOISE ON FUTURE DEVELOPMENT SITES

A noise assessment has been lodged as supportive information with the DA. EPA have stated in their advice that all assumptions and requirements pertaining to contamination, hazardous materials, construction, and noise as set out in the Environmental Impact Statement (EIS) need to be incorporated during development of the site. This has been included as a condition of approval.

INCONSISTENCIES BETWEEN THE CONCEPT PLAN PREVIOUSLY CIRCULATED TO THE COMMUNITY

The proposed development was subject of pre-DA community consultation. It is noted that there are some differences between such pre-DA and DA information however changes involved are considered minor in content and not unusual for developments as they change as part of the development process. The application has been assessed as consistent with relevant precinct, general and development code requirements, in particular, the provision of number of storeys and setback requirements stipulated in the Yarralumla Precinct Map & Code.

LACK OF EXISTING PUBLIC INFRASTRUCTURE/INSTITUTIONS TO SUPPORT THE PROPOSED DEVELOPMENT.

The concept planning for this area anticipates a population between 300-400 dwellings, with the lodged EDP generally being consistent. It is noted that CZ6 zoned blocks can include commercial uses into the future if proposed to support future populations. There are various opportunities for recreation within the development and the site is situated close to other recreational facilities. Conditions have been imposed to address infrastructure requirements. On balance the development is considered suitable for approval.

ABORIGINAL, CULTURAL AND HERITAGE IMPACTS

The development application was considered by the ACT Heritage Council (the Council) who considered aboriginal, cultural and heritage impacts. The Council were not supportive of the original development application. The S144B application was referred to the Council who supported the proposed amendments subject to conditions which have been imposed in Part A of this Decision.

NOTIFICATION TIMEFRAMES AND THE ABILITY TO REVIEW AND PROVIDE COMMENT ON THE PROPOSAL

Public notification of this development application was undertaken in accordance with the *Planning and Development Act 2007* and representations considered in the making of this decision. Due to the timing of when the application was submitted, and the significance of the original notification period was extended to allow the community with adequate time to provide comment. The proposed development was initially notified on the 20 October 2023 and provided the community until the 1 December 2023 to provided comment on the development application.

Future developments will be subject of any required additional public notification and opportunity to comment consistent with the new *Planning Act 2023*.

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ACTIVE TRAVEL ROUTES

Conditions of approval have been imposed to address concerns raised during the assessment of active travel. This includes mid-block links away from waste collection areas and to further reinforce east west connections to the north of the site.

GENERAL

The representations raised during the notification period were considered in the assessment of this DA. The assessment found that the development is suitable for approval subject to conditions to address minor design elements, entity advice and other administrative/ procedural issues.

PUBLICLY AVAILABLE PLANS

All relevant plans that were required to be publicly available were publicly notified. With it noted the ground floor plan was provided in the form of a public register plan and that the shadow diagram was publicly available. The access plan and door schedule include specifications other than the height and external configuration of the proposed dwellings and as such cannot be publicly notified as per section 30 (3) (a) of the *Planning and Development Act 2007*.

COMPLIANCE WITH THE OBJECT OF THE TERRITORY PLAN, FINANCIAL PRINCIPLES AND SOCIAL IMPACT

The development was assessed as consistent with the *Planning and Development Act 2007* and the Territory Plan 2008. Relevant impacts and policy compliance were considered and the DA was considered capable of conditional approval.

SITE SUITABILITY

The proposed development was assessed as generally consistent with the zone objectives in which the development is sited CZ6, PRZ2 & RZ1 and suitable for the site. Subject to the conditions imposed, the proposed development meets the requirements of the Territory Plan and suitable for the development as approved.

AMENDMENTS/COMPLIANCE

Amendment of applications is provided for within the *Planning and Development Act 2007*. Each application is then considered against the legislation including whether further public notification is required or can be waived. The S144B application satisfied the requirements for waiving of further public notification - see further below.

If during development activities, works are considered not to be in accordance with an approval, the appropriate mechanism to pursue enforcement and compliance matters is to contact Access Canberra on 132281 so they can investigate accordingly. Information about such complaints can also be found [here](#).

Public register suitable plans will also be available on the Authority's website as per the Authority's practice.

The issues raised in the representations were considered in the assessment and making of the decision for this development application. Please refer to **PART B** – 'Reasons for the Decision' for further clarification.

s144 Further Information / Amendment:

An amendment to the proposal was lodged with the authority on 30 April 2024. This amended application was not publicly notified.

Pursuant to section 146(3) of the Act, the planning and land authority considered that no-one other than the applicant will be adversely affected by the amendments and the revised proposal would not increase the environmental impact. Consequently, the authority waived the requirement to publicly notify the amended application.

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ENTITY ADVICE and REQUIREMENTS

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

A summary of entity comments can be found below.

1. TRANSPORT CANBERRA AND CITY SERVICES (TCCS)

TCCS provided advice stating that the original development proposal was not supported.

Further advice was received from TCCS in response to the S144B, stating the proposal is supported subject to conditions.

Please refer to PART A for conditions consistent with the TCCS advice.

2. ENVIRONMENTAL PROTECTION AUTHORITY (EPA)

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

Please refer to PART A for conditions consistent with the EPA advice.

3. CONSERVATOR OF FLORA AND FAUNA (TREE PROTECTION UNIT) (the Conservator)

The Conservator provided advice stating that the original development proposal was not supported and gave the following comments:

- a) There is some area of concern on the developer's reliance on the IAPZ on the western side of the development. This is currently managed by TCCS but also appears as part of the proponent's DA that they would rely on it to provide an APZ outside the developable area and lease boundary. It is bounded to the west by the Golf Course which is considered managed land (irrigated) for bushfire assessment purposes. This approach needs to be clarified as while not a concern from a fire management perspective, EPSDD would not be the land manager post development.
- b) The proponent should consider ensuring there is some connectivity from the proposed fire-trail entry corridor on the northern side into the IAPZ, onto a trafficable area, suitable for a light unit.
- c) Clarity needs to be sought on who is responsible to bring the IAPZ area up to standard (noting this is not currently zoned as IAPZ in the SBMP zoning and will require updating) as part of the development from:
 - i) a fire perspective, and
 - ii) expectations of access and (probably more importantly) amenity from the new residents as the vegetation at the west of the site is unruly (see below pictures).
- d) No concerns for the IAPZ or development in the SE section from a bushfire management perspective.

Further advice was received from the Conservator in response to the S144B, stating the proposal is supported subject to conditions.

Refer to PART A for conditions regarding compliance with entity advice.

4. NATIONAL CAPITAL AUTHORITY (NCA)

The National Capital Authority provided advice stating that the site is zoned as Urban Areas in the National Capital Plan (the Plan) and is not subject to Special Requirements. The proposed Estate Development Plan is not inconsistent with the Plan and the NCA has no concerns.

The advice was considered and noted.

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5. ACT HERITAGE COUNCIL – The Council

The Council provided advice stating that the original development proposal was not supported. Further advice was received from the Council in response to the S144B, stating the proposal is supported subject to conditions and the below advice:

Following review of the Section 144B referral, and as a delegate of the ACT Heritage Council (the Council) I advise that the proposed development will impact heritage features of the Yarralumla Brickworks, including:

- The Quarry, which is a Schedule 1 element of heritage significance identified in the ACT Heritage Register entry for the place. The Quarry will be impacted by two sections of infill, to enable development above the modified Quarry edge, and from the construction of stormwater infrastructure and landscaping;
- BRW8, being the archaeological remnants of five experimental kilns. BRW8 will be partially impacted by the construction of Precinct 2; and
- BRW12, being underground flues connecting the kilns to their respective fan houses. BRW12 will be partially impacted by penetrations required for the construction of stormwater, sanitary and hydrant infrastructure.

A copy of the Council's advice is attached to this Notice of Decision. Conditions have been imposed consistent with the Heritage Council's advice.

Refer to PART A for conditions regarding compliance with entity advice.

6. ACT EMERGENCY SERVICES AGENCY (ACTESA)

The ACTESA provided advice stating that the proposal is supported subject condition and the below advice:

As a condition of support for DA 202341982, ACTF&R (ACT Fire & Rescue) required the proponent to provide written agreement from TCCS for evidence stating they can and will maintain the Inner Asset Protection Zone (IAPZ) on Block 127 in perpetuity.

ACTF&R still require a written statement to endorse this application. The proponent must seek formal agreement from TCCS and then submit to ACTF&R Risk & Planning. Once ACTF&R receive this document, a 'Letter of Support' can then be prepared for the proponent as evidence of ACTF&R support for the development.

This evidence is mandatory and secures the provision within Section 5.7 - *Management of Block 127 as an Inner Asset Protection Zone*, detailed in bushfire assessment report B203479 - 9 - prepared by Australian Bushfire Protection Planners Pty Ltd issued 17th March 2024.

A condition requiring the development to satisfy relevant entity requirements has been imposed in PART A.

A copy of the ESA advice is attached to this Notice of Decision.

7. ACT HEALTH

ACT Health provided advice on the original proposal stating that the proposal is supported subject condition.

Further advice was received from ACT Health in response to the S144B, with the below additional advice:

The Health Protection Service (HPS) notes that the proposed S144 amendments do not impact the HPS advice previously provided in relation to The Draft Estate Development Plan on 10 November 2023. It is noted that the HPS advice was acknowledged within the Response to Agency comments document that accompanied this amendment application.

There are no further public health concerns in relation to the proposed amendments for this DA.

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A condition requiring the development to satisfy relevant entity requirements has been imposed in PART A.

A copy of the ACT Health advice is attached to this Notice of Decision.

8. ACT EDUCATION

Education provided advice on the original proposal requesting that the applicant provided the below information:

Education notes the total number and structure types of dwellings proposed in the draft EDP. However, given the less typical nature of this development as regards to its inner city location, dwelling number and typology mix, Education requests the proponent indicate the range of dwelling sizes (i.e. dedicated bedroom number range) planned for each dwelling type:

- 'Single residential lot'
- 'town house'
- 'terrace'
- 'unit/apartment'

This information will assist Education to better quantify the likely number of school-aged residents associated with the development over time for use within its future enrolment planning processes.

To ensure continuity of the existing active travel network, the edge of the footpath connecting with the existing footpath needs to reflect the alignment of the footpath along Bentham Street. The existing footpath along Bentham Street runs closer to the residential block's front boundaries.

We note that blocks identifying housing typologies in EDP-Block Details Plan Overall, Drawing no.04, Rev.U with a table (distinct precinct for townhouses and terraces) is not consistent with the details provided in EDP-Development Intention Plan, Drawing no. DA-X-0271, Rev.5. The plan only identifies the precinct for Terraces.

Upon submission of the further information Education was provided the opportunity to provide further comments. Comments for the proposal were not received from Education within the prescribed time. In accordance with Section 150 of the Planning and Development Act 2007 If advice is not received within the prescribed time, it will be taken that the entity has supported the application.

The deemed support and previous advice was considered in making of this decision.

9. ICON WATER

Icon Water provided advice stating that the proposal Fails to Comply with their sewerage network protection requirements.

Further advice was received from ICON Water in response to the S144B, stating the proposal Fails to Comply with their sewerage network protection requirements.

A condition has been imposed in PART A of this decision that the building works not to commence until such time that written endorsement is provided by Icon Water.

A copy of the Icon Waters advice is attached to this Notice of Decision.

10. EVOENERGY (ELECTRICITY)

EvoEnergy (Electricity) provided advice stating that the proposal Fails to Comply with their network protection requirements.

A condition has been imposed in PART A of this decision that the building works not to commence until such time that written endorsement is provided by EvoEnergy (Electricity).

A copy of the Evoenergy advice is attached to this Notice of Decision.

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11. EVOENERGY (GAS)

EvoEnergy (Gas) provided advice stating that the proposal is supported subject to conditions and the below advice:

Jemena has reviewed the location of the Development Application and undertaken a review of the documentation provided.

Please note this must comply with the ACT Government regulations & Development/Building Approvals, <https://www.legislation.act.gov.au/sl/2023-33/>

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 (Gas) standards please contact your gas retailer, only people accredited by EvoEnergy (Gas) can carry out this work.

A condition requiring the development to satisfy relevant entity requirements has been imposed in PART A.

A copy of the EvoEnergy (Gas) advice is attached to this Notice of Decision.

Section 119(2) of the Act has been considered for the above utility/entity advice. Although conditions have been imposed to address entity requirements, this decision can potentially be viewed as departing from such advice. Realistic alternatives including potentially different decision outcomes (including RFI, refusal), design changes have been considered. No applicable guidelines were identified. The decision in particular the way in which the utility advice and conditions have been imposed, are considered consistent with the objects of the Plan and as imposed will ensure the development proceeds as per entity (utility) requirements.

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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 the approval is reconsidered by the planning and land authority or 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 planning and land 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 9.00am and 4:00pm weekdays at the Environment, Planning and Sustainable Development Directorate Dickson Customer Service Centre at 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 planning and land authority for approval pursuant to section 165 of the Act, the submission must be made by completing an application in e-development.

Reconsideration of the Decision

If the DA applicant is not satisfied with the decision made by the planning and land authority, they are entitled to apply to the planning and land authority for reconsideration within 20 working days of being told of this decision pursuant to section 191 of the Act. A longer timeframe may apply only if granted in writing by the planning and land authority pursuant to section 184 of the Act.

More information is available online at <https://www.planning.act.gov.au/build-buy-renovate/build-buy-or-renovate/approvals/development-applications/appeal-a-da-decision>.

Please contact Access Canberra Customer Services if you wish to lodge a reconsideration application.

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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.
4. More information on appeal rights is available online at <https://www.planning.act.gov.au/build-buy-renoate/build-buy-or-renoate/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.

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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 planning and land 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.

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

<p>ACT Civil and Administrative Tribunal Level 4, 1 Moore Street CANBERRA CITY ACT 2601 GPO Box 370, CANBERRA, ACT 2601</p>	<p>www.acat.act.gov.au tribunal@act.gov.au 02 6207 1740 02 6205 4855 (Fax)</p>
<p>ACT Supreme Court 4-6 Knowles Place, CANBERRA CITY ACT 2601 GPO Box 1548, CANBERRA CITY, ACT 2601</p>	<p>www.courts.act.gov.au 02 6205 0000</p>
<p>Environment, Planning and Sustainable Development Directorate 480 Northbourne Avenue DICKSON ACT 2602 GPO Box 158, CANBERRA 2601</p> <ul style="list-style-type: none"> • <i>Planning and land 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 • Tree Protection Unit <ul style="list-style-type: none"> - <i>Development Applications (DA) issue:</i> - <i>Tree Damaging Activity Applications (TDAA) issue:</i> 	<p>www.planning.act.gov.au 02 6207 1923</p> <p>EPAPanningLiaison@act.gov.au 6207 5642</p> <p>worksafe@worksafe.act.gov.au 132 281</p> <p>www.environment.act.gov.au 132 281</p> <p>TCCS.TreeProtectionACTPLARef@act.gov.au</p> <p>TCCS.TreeProtection@Act.gov.au</p>
<p>Transport Canberra and City Services</p> <ul style="list-style-type: none"> • landscape management and protection plan approval 	<p>www.tccs.act.gov.au 132 281</p>

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<ul style="list-style-type: none">• use of verges or other unleased Territory land• works on unleased Territory land - design acceptance• driveway inspections or building applications• damage to public assets	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 Water• Electricity 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 τηλεφωνήσετε 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	Ако вам је потребна помоћ преводиоца телефонирајте:
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