



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 **construction of 22 residential units up to three storeys contained within Precinct 3 of the Yarralumla Brickworks EDP, 2 levels of basement car parking, residential carparking within enclosed space underneath of the residential units, private courtyards, open space, landscaping and associated works**, at Blocks 1 & 7 Section 102 Yarralumla, in accordance with the plans, drawings and other documentation approved and endorsed as forming part of this approval.

DA Number: 202342157 / s144B
Blocks: 1 & 7
Section: 102
Suburb: Yarralumla
Application lodged: 24 November 2023 / 23 May 2024
Assessment track: Merit

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 development application and this approval may be inspected at the planning and land 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

Richard Davies
Delegate of the Planning
and Land Authority
15 January 2025

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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 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) in favour of the relevant adjacent lessee (after granting of the relevant consequent lease) for registration at Access Canberra Land Titles Office against the Crown lease for this site (once granted). At a minimum, the TGEs shall address the following:

- i) Any requirements necessary for the normal use and operation of the private stormwater assets proposed on/through the site.

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

PRIOR TO CONSTRUCTION including ENTITY REQUIREMENTS

Note: Some conditions are relevant/to be complied with, beyond the commencement stage of the this 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 are to commence until the lessee/applicant has obtained a Statement of Acceptance from ICON Water in relation to water and sewerage networks.
- 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 s205 Planning Act 2023.

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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 s205 Planning Act 2023.

5. TRANSPORT CANBERRA AND CITY SERVICES (TCCS) – WORKS NOT TO COMMENCE

- a) No works, in relation to this development approval is to commence until the lessee/applicant has addressed TCCS **Condition 6**. 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 conditions imposed by TCCS.

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 s205 of the Planning Act 2023.

6. TRANSPORT CANBERRA AND CITY SERVICES (TCCS)

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

WASTE

- a) Section 1.1 of the Report states: “*It is noted that for Block c Section B (the commercial heritage core) an access easement is to be created for access to the proposed residential waste RORO compactors*”. It then demonstrates in table 3 that the total waste generated for MUDs in blocks B, C and D is **37.48m³/week** therefore requiring the use of compactors. The Report states: “*Whilst the volume of recycling generation is just under 36.0m³, it is proposed to have recycling collected by RORO compactors also*”. Just to clarify, once one waste stream exceeds 36,000L per week, all waste streams (waste and recycling) must use compactors. The collection frequency in table 3 is not the Territory’s collection frequency of compactors.
- b) Section 3.1 of the Report states: “*Hoppers from each MUD will be taken by the building manager from the MUD waste enclosure to the central community titled waste enclosure within the heritage core. Transport of 1.1m³ waste and recycling hoppers will be facilitated by using a bin trailer...It is noted that the trailer and vehicle towing the trailer will have to be registered vehicles to travel on the road*”. Also, I note that strata or the building managers of individual MUDs will require a **Waste Transporter’s License** if waste is transported on ACT public roads.
- c) Section 3.2 states: “*A right of access to the waste enclosure is provided for waste collection vehicles and building managers to ensure access to the enclosure for both building managers and the Territory contractor*”. This needs to be part of the DA and evidenced in the submission documentation.
- d) The truck does not fit within the roundabout properly, and there are concerns about how it exits the roundabout. The truck’s position appears unrealistic. How did the truck get into that position? The applicant must show a 12.5m truck turning template demonstrating how the truck exits the roundabout. The applicant is required to provide a revised turning template for a 12.5m long HRV truck with a 1000mm body clearance. This revised

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template must show how the waste truck enters and exits the site, loads the compactor, and safely navigates the roundabout.

- e) Please submit sections and elevations of the waste enclosure of the block.
- f) As per the Drawing CIV WM 2301 Rev C, the waste and recycling calculation indicates 3x1100L waste and 3x1100L recycling bins are required. Additionally, 2x1100L waste and 2x1100L recycling bins are required for the chutes (one bin under the per chute and at least one addition bin per chute) to operate it. Therefore, a total 5x1100L waste and 5x1100L recycling hopper are required. The submission includes 3x1100L waste and 3x1100L recycling hoppers. Therefore, an additional 2x1100L waste and 2x1100L recycling hoppers are required for compliance.
- g) The longest travel distance from the farthest unit to the waste enclosure is 75m. However, Image 5 shows the travel path for resident waste as 75m, which does not indicate the furthest unit. The applicant must show the carting distance from the furthest unit. Please note that, according to DCC, the maximum allowable carting distance is 75m, with a reduced limit of 50m for adaptable houses.

STORMWATER

- h) Two stormwater (SW) tie connections are shown for this block. Please provide clarification on why two SW ties are indicated, as TCCS is allowed only one stormwater tie for all developments within a single block

LIGHTING

- i) Stairway lighting must be within the block boundary.

7. ENVIRONMENT PROTECTION AUTHORITY (EPA)

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

- 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) 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.

Erosion & sediment control

- c) An Erosion and Sediment Control Plan (ESCP) must be submitted to and be endorsed by the EPA **prior to works commencing** on site. The EPA endorsement needs to be submitted to the land and planning authority as satisfying this condition of approval so approved plans cannot be released until EPA has endorsed the ESCP.

The EPA is aware that there are several stages to the estate development and therefore advises that each stage must have their own sediment controls and be able to manage all water that lands on that stage.

- The waterflow 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/units.
- 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

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of the land and endorsement or approvals as required for works from Parks and Conservation Service and the Heritage Unit.

Contaminated sites

- d) The site must be assessed and remediated in accordance with the guidelines endorsed by the EPA by a suitably qualified environmental consultant;
- e) The adequacy of the assessment and remedial works must be independently audited by an EPA approved environmental auditor;
- f) **Prior to the commencement** of remediation works the remedial action plan (RAP) for the proposed remediation works must be reviewed and endorsed by the auditor with a copy of the RAP endorsement provided to the EPA;
- g) **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;
- h) 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.
- i) All spoil identified at the site must be managed in accordance with EPA Information Sheet – Spoil Management in the ACT;
- j) 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;
- k) No soil is to be disposed from site without approval from the Office of the Environment Protection Authority.

Noise Management Plan (NMP)

- l) The Noise Management Plan titled "Noise Management Plan for DA Yarralumla Brickworks Precinct 3", dated 14 September 2023, prepared by Paradigm 42 is endorsed by the EPA on the basis all assumptions and recommendations included in the report must be incorporated into the final building construction and design.
- m) The NMP is endorsed on the grounds that other than the commercial car park there will be no commercial tenancies in the buildings. The above Noise Management Plan must be included in the approved plans stamped by the ACT Planning & Land Authority to ensure all recommendations and assumptions included in the document are confirmed and signed off by the building certifier prior to a certificate of occupancy and use being issued.

8. ACT HERITAGE COUNCIL (THE COUNCIL)

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

- a) Prior to the commencement of works, a revised colour schedule must be submitted to and endorsed by the Council, demonstrating a revision of the dark grey colour palette of the townhouses to incorporate more variegation beyond that created by the mix of materials, bonds and textures.
- b) Prior to the commencement of works, a detailed methodology prepared by a qualified archaeologist for the monitoring of 'BRW2' during construction works must be submitted to and endorsed by the Council. This methodology must also include detailed mapping of known archaeological features and deposits within BRW2 overlain on the proposed development.
- c) The development is to proceed as per the Council requirements.

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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) Clearly label public car parking spaces on the ground floor and the basement plans;
 - ii) Provide the required hours of operation for the public car park based on the parking assessment – this is to be summarised on relevant plans;
Note: *This may be reflected in the consequent leases for the site;*
 - iii) Confirm if the pedestrian path along the western and southern boundary is publicly accessible area. Drawing No. J20776-DA55 (DA01) is to be updated specifically identifying compliance with this condition.
 - iv) The provision of a delivery / removalist truck location.

There is no area identified on the estate development plan close to this site for this use. Given site constraints, an area is able to be located on-street and must be signposted and line marked for larger vehicles ie removalist or similar.
 - v) Clearly identify the location for the mailboxes on the appropriate relevant plans;

ENTITY REQUIREMENTS

- b) Provide evidence of compliance with **Condition 5** of this Notice of Decision, through providing a statement of conditional acceptance from TCCS or relevant plans/documentation that satisfies TCCS requirements.
- c) Provide evidence of compliance with **Condition 7** of this Notice of Decision, through providing a statement of conditional acceptance from EPA or relevant plans/documentation that satisfies EPA requirements.
- d) Provide evidence of compliance with **Condition 8** of this Notice of Decision, through providing a statement of conditional acceptance from The Council or relevant plans/documentation that satisfies The Council requirements.

Notes:

- i) *consider providing all requested information under a single s165 application. 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) *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 of the Planning Act 2023.*

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CONDITIONS RELATING TO DEVELOPMENT and ENTITY REQUIREMENTS

10. CONSERVATOR OF FLORA AND FAUNA – (The Conservator)

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

- a) Any existing trees above 8m in height regardless of the transitional arrangement under the new *Urban Forest Act 2023* being retained as part of the proposal will require tree protection fencing.
- b) 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).

11. COMPLIANCE WITH ENTITY REQUIREMENTS

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

- Emergency Services Authority (ESA);
- ACT Heritage Council;
- ICON Water;
- Evoenergy (Electricity);
- Evoenergy (Gas);

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

12. ALL WORKS - ENVIRONMENTAL IMPACT STATEMENT 201900047:

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), and the recommendations in section 7 of the [Planning and Development \(Canberra Brickworks precinct redevelopment at Blocks 1, 7 and 20, Section 102, Yarralumla\) EIS Assessment Report](#).

13. ENVIRONMENT PROTECTION AND BIODIVERSITY CONSERVATION ACT (EPBC Act) APPROVAL DECISION 2017/8074 – ALL WORKS

All works must be consistent with the approval decision for [EPBC 2017/8074](#), dated 20 September 2023 or any subsequent amended decision.

14. 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

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- 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.

15. OPERATION ENVIRONMENTAL MANAGEMENT PLAN (OEMP)

POST CONSTRUCTION:

- a) 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
- b) Ensure ongoing waste management measures that aim to facilitate alternative waste management practices within the site, such as recycling and reuse.

16. ON STREET PARKING

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

17. 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*.

18. 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.environment.gov.au/guidelines).

19. 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.

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20. TRAFFIC MANAGEMENT

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

21. 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.

22. 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*.

23. 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.

24. PEDESTRIAN PATHS

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

25. 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).

26. ADAPTABLE HOUSING

Adaptable dwellings are to meet all relevant mandatory requirements of AS4299 Class C (Adaptable Housing). This includes all essential features identified in Appendix A Schedule of features for adaptable housing within AS4299.

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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(S)

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

2. SIGNAGE

a) 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>

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*.

For further information please contact the Environment Protection Authority Planning Liaison at EPAPLanningLiaison@act.gov.au or on 02 6207 5642.

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-renovate/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 and relevant sections of the *Planning and Development Act 2007* (the Act).

The objectives of the CZ6 & PRZ2 zone 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 Commercial Zones Development Code including suitable pedestrian connections to facilitate access through the site, adequate canopy coverage and provision of high quality urban open space.
 - b) Provision of landscaping, street tree plantings and open space to provide residential amenity, shade to the public realm, recreational activities and ecological connectivity.
 - c) Suitability of proposed development, conservation and connectivity of Heritage elements of the site.
- 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. 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 historical context of the proposed site – This development application takes into consideration previous development approvals over the proposed site.
- The proposed site will set out and preserve relevant Heritage elements of the site. The layout provides for a logical and functional arrangement including for existing and future development. On balance the development addresses assessment issues in particular dealing with the site constraints and its interactions with its surrounds in a suitable manner.

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**.

EVIDENCE

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

Development Application:	202342157 / s144B
Territory Plan Zones:	PRZ2 – Restricted Access Recreation Zone CZ6 – Leisure and Accommodation Zone
Development Codes:	Commercial Zone Development Code Multi-Unit Housing Development Code Residential Zone Development Code National Capital Plan
Precinct Code:	Yarralumla Precinct Map and Code

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General Codes:	Crime Prevention through Environmental Design General Code 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 29 November 2023 to 11 January 2024. Two written representations were received during public notification period. The main issues raised are summarised as follows with comments provided where appropriate:

PRIVACY, SETBACKS & SOLAR

The proposed development was assessed against the Territory Plan including the provisions on setbacks, number of storeys, building height, building envelope and privacy of the Multi Unit Housing Development Code. These provisions help retain residential amenity, protect privacy, ensure reasonable solar access and maintain reasonable separation to the adjoining dwellings and associated private open spaces. The proposed development was assessed as meeting the requirements of the Multi Unit Housing Development Code and the Territory Plan.

PARKING, VEHICLE MANOUEVERING & 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 associated dwellings are unlikely to generate intense traffic noise. In addition, the application was referred to TCCS who administer traffic and road network issues. TCCS have not supported the development application, however, conditions have been imposed in Part A of this Decision to ensure that the elements raised by TCCS are addressed.

ENVIRONMENTAL IMPACTS & NOISE

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.

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. Upon submission of the S144B application, the Council were referred and supported the amended development. Conditions have been imposed consistent with the ACT Heritage Council advice in Part A of this Decision.

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.

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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 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 24 May 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 not supported. Conditions have been imposed in Part A of this notice of decision to ensure that TCCS endorsement is obtained.

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. 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.

4. 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. Conditions have been imposed in Part A of this notice of decision.

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.

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

The Conservator provided advice on the original development proposal stating the proposal is supported subject to conditions. Conditions have been imposed in Part A of this notice of decision.

6. ACT EMERGENCY SERVICES AGENCY (ACTESA)

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

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. ICON WATER

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

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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.

8. EVOENERGY (ELECTRICITY)

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

Further advice was received from EvoEnergy (Electricity) in response to the S144B, stating 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 (Electricity) advice is attached to this Notice of Decision.

9. EVOENERGY (GAS)

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

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/entity 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 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 • <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> 	<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 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	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