

Planning and Development (Approval of Application – DA201835065 Symonston small scale agriculture subdivision) Notice 2024

Notifiable instrument NI2024–642

made under the

Planning and Development Act 2007, s 170 (Notice of approval of application)

1 Name of instrument

This instrument is the *Planning and Development (Approval of Application – DA201835065 Symonston small scale agriculture subdivision) Notice 2024*.

2 Application

- (1) This instrument applies to development application DA201835065 for the subdivision of an agricultural block in Symonston (the *DA*).
- (2) The DA includes the subdivision of a rural agricultural block into 8 separate blocks, variation to the Crown lease to change the purpose clause to use each resulting block only for agriculture, limited to horticulture, with an ancillary single residential dwelling and ancillary maximum of 1 horse for personal use, construction of new and upgrading of existing driveway verge crossings, rural fencing, landscaping and associated site works at Block 5, Section 103 Symonston.

3 Impact track development approval

- (1) On 9 October 2024, pursuant to the *Planning and Development Act 2007* (repealed), section 162 (1) (b), a delegate of the planning and land authority approved the DA in the impact track, subject to conditions.
- (2) The notice of decision for the DA is in schedule 1.

George Cilliers
Chief Planner
7 November 2024



NOTICE OF DECISION

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

I, Eliza Larson, 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 **subdivision of a rural agricultural block into eight (8) separate blocks, variation to the Crown lease to change the purpose clause to use each resultant premises only for agriculture, limited to horticulture, with ancillary single residential dwelling and ancillary thereto a maximum of one (1) horse for personal use, construction of new and upgrading of existing driveway verge crossings, rural fencing, landscaping and associated other site works** at **Block 5 Section 103 SYMONSTON**, in accordance with the plans, drawings and other documentation approved and endorsed as forming part of this approval.

DA Number: 201835065, s144C and s144H
Block: 5
Section: 103
Suburb: SYMONSTON
Application lodged: 31 October 2019, 14 June 2023,
17 June 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

Please note that the changes to the Crown lease do not commence until documents giving effect to the variation are registered at Land Titles, Access Canberra. Registration must occur before the expiry of this approval.

A copy of the development application and this approval may be inspected at the territory planning authority's office from 9:00 am to 4.00 pm, Monday to Friday at 8 Darling Street, Mitchell, ACT 2911

Eliza Larson

Delegate of the Planning
and Land Authority
09 October 2024

CONTACT / ENQUIRIES

Phone: (02) 6207 6383

Online Form:

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

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PART A – CONDITIONS OF APPROVAL

Please note that this approval includes leasing requirements.

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.

FURTHER INFORMATION

1. FURTHER INFORMATION

The applicant must 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) Provide copies of the Lease Plan for each new parcel/block created as a result of the proposed subdivision. Each Lease Plan must indicate, but is not limited to, site bearings, dimensions, area of the site, existing vegetation and other natural features, existing services and easements, proposed developable area with dimensions and any other relevant information;
 - b) A copy of the EPA endorsement to demonstrate site suitability for the proposed uses as per Condition 5 a) and Conditions 11 a) and b) below;
 - c) Copies of the Land Management Agreement for each subdivided block must be submitted to the authority to demonstrate compliance with Conditions 5 b), Condition 10 and Condition 11 c) below;
 - d) Evidence from each relevant utility provider confirming that either a service tie for each of the separate blocks has been constructed to the provider's specifications, or that one is not required to demonstrate compliance with Condition 5 c) below;
 - e) Evidence of an application to the Tree Protection Unit to demonstrate compliance with Condition 14 below;
 - f) Evidence of an application to Transport Canberra and City Services Directorate (TCCS) to demonstrate compliance with Condition 13 g) below;
- to the satisfaction of the planning and land authority.

Notes:

- i) *consider providing all requested information under a single s165 application where possible. This will assist the Authority in providing you a response in the most efficient manner.*
- ii) *information must 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 and such clouding must be 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 territory planning authority with an application to amend the approval under s205 of the Planning Act 2023.*
- iv) *all plans will need to be consistent with one another. Where plans are updated to address the above conditions, any other plans will need to be consistent with the changes and should therefore be included with the S165 application submission as appropriate.*

GENERAL CONDITIONS

2. COMMENCEMENT AND COMPLETION OF DEVELOPMENT

- a) This development must be started (commenced) within **three years** from the date when this approval take effect.

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- 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 Act.

3. ENVIRONMENTAL IMPACT STATEMENT EXEMPTION (EIS EXEMPTION) – 2019000005

All works must be consistent with the mitigation measures in the revised [EIS Exemption Agricultural Subdivision, December 2020](#) (EIS Exemption), any updated / additional prescriptive measures in [the Addendum to EIS Exemption Application, July 2022](#) (the Addendum), both prepared by Purdon Planning) and the recommendations in Section 6 of the Planning and Development – [Symonston Agricultural Subdivision EIS Exemption Consideration Report, July 2022](#).

Note: The EIS exemption expires on 31 October 2027.

4. MATTERS OF NATIONAL ENVIRONMENTAL SIGNIFICANCE (MNES) AND PROTECTED SPECIES

- a) Works approved under DA201835065 must not impact the existing Box Gum Woodland (BGW) patch (conservation area) located within lot 7 (lot number as identified on the Proposed Subdivision Plan, prepared by Lonergan Surveying, dated 8 May 2024). Protective fencing must be erected around the conservation area prior to commencement of works and maintained during construction.
- b) No buildings or structures are permitted within the conservation area.
- c) Vehicles, equipment or materials must not be stored or stockpiled within the conservation area.
- d) The proposed new driveway verge crossing and access road must not impact the conservation area.
- e) Proposed works, including the new driveway verge crossing and access road must not impact any coconut ant nests located on lot 5 (lot number as identified on the Proposed Subdivision Plan, prepared by Lonergan Surveying, dated 8 May 2024).

CONDITIONS RELATING TO VARIATION TO THE CROWN LEASE

Please note that this approval includes leasing requirements.

THE LEASING COMPONENT OF THIS APPROVAL WILL EXPIRE TWO YEARS AFTER THE APPROVAL TAKES EFFECT or otherwise in accordance with the conditions of approval.

There are legislative requirements that must be met prior to the registration of documents giving effect to the approval. See Advisory Notes for further information about those legislative requirements.

5. SUBDIVISION / LEASE VARIATION - APPROVAL DOES NOT TAKE EFFECT

The approval for the subdivision of the block into eight parcels **does not take effect**, and execution and registration of documents giving effect to the approval **must not be completed**, until:

- a) the site has been assessed for possible contamination to the satisfaction of the Environment Protection Authority (EPA) or its successors and that the applicant/lessee has obtained written advice from the EPA that the site is suitable for the proposed

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development;

- b) the ACT Conservator of Flora and Fauna (the Conservator) has approved a new Land Management Agreement over each of the resulting new blocks, prepared by the Lessee in accordance with Section 350 of the *Planning Act 2023*;
- c) the applicant/Lessee has provided documentation from each of the relevant service providers, confirming that either a service tie for each of the separate blocks has been constructed to the provider's specifications, or that one is not required. This must include water, stormwater, sewer, and electricity;
- d) the applicant/lessee has lodged the above information as a submission of further information pursuant to a condition of approval in accordance with Section 165 of the *Planning and Development Act 2007* (the Act); and
- e) the authority has endorsed the information submitted under Section 165 of the Act as sufficient.

6. SUBDIVISION / LEASE VARIATION END OF APPROVAL - COMPLIANCE WITH CONDITION 5

This approval will end if the applicant/Lessee has not complied with Condition 5 within 36 months (three years) of the date of the decision OR within such further time as may be approved in writing by the authority.

7. NEW BLOCK SURVEY

Following construction of all new services the applicant/lessee must arrange for a survey of the subdivided blocks. When advised of the new block numbers, the applicant/lessee must lodge the survey plan with the Environment, Planning and Sustainable Development Directorate (EPSDD) for examination and clearance by the Surveyor-General, Surveying and Spatial Data Section and pay the appropriate examination fee.

The new block survey must be completed following the construction of all new services and show:

- a) the dimensioned location of the proposed boundaries for each of the new blocks generally in accordance with the approved subdivision plan;
- b) the surveyed block size; and
- c) the location of all service easements in accordance with the requirements of the relevant service providers.

8. SURRENDER AND REGRANT

The lessee must surrender the existing Crown lease over Block 5 Section 103 Division of Symonston (Volume 1602: Folio 9) and accept documents giving effect to the approval to vary and subdivide the lease.

9. LEASE REGISTRATION

The documents giving effect to the subdivision and variation of each subsequent Crown lease to **permit agriculture limited to horticulture with ancillary single residential dwelling and ancillary thereto a maximum of one (1) horse for personal use**, must be registered at Access Canberra Land Titles prior to the expiry of this approval. This includes, but is not limited to, the applicant/lessee arranging:

- (i) payment of any lease variation charge;
- (ii) obtaining mortgagee and relevant interested parties' consent to register the documents;

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- (iii) payment of any fee for the lodgement of the documents at Access Canberra Land Titles.

*Note: Please also see the **Advisory Notes** for additional information on the lease variation.*

10. LAND MANAGEMENT AGREEMENT (LMA)

The approval for the subdivision of the block into eight parcels is conditional on each lease requiring activity on the land to be undertaken in accordance with an approved Land Management Agreement. This includes, but is not limited to, the applicant/lessee arranging:

- a) The Land Management Agreement to include restrictions on the type of agriculture, development boundaries, landscaping, measures to control spray drift, and the treatment of household sewage on site.
- b) The lodgement of the above information as a submission of further information pursuant to a condition of approval in accordance with Section 165 of the *Planning and Development Act 2007* (the Act); and
- c) The Authority has endorsed the information submitted under Section 165 of the Act as sufficient.

PRIOR TO COMMENCEMENT

11. ENVIRONMENT PROTECTION AUTHORITY – WORKS NOT TO COMMENCE

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

Contamination

- a) Prior to the site being used for other purposes, an environmental assessment in accordance with EPA endorsed guidelines must be undertaken by a suitably qualified environmental consultant to determine whether past activities have impacted the site from a contamination perspective and to determine whether the site is suitable for the proposed uses.
- b) The consultant's assessment report, into the site's suitability for the proposed and permitted uses from a contamination perspective, must be reviewed and endorsed by the Environment Protection Authority (EPA) prior to the site being used for other purposes and **prior to the new leases being issued**.

Spray drift assessment

- c) The requirements of the spray drift policy and vegetative buffer, identified as mitigation measures in the spray drift assessment titled "*Block 5 Section 103 Symonston subdivision: assessment for - Supplementary Report: Spray Drift Assessment*" prepared by Roger Garnsey Agronomy dated 24 May 2024, must be incorporated and referenced in the Land Management Agreements for each newly created block.

12. ACT HERITAGE COUNCIL (The Council) – WORKS NOT TO COMMENCE

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

- a) Prior to the commencement of works, protective fencing must be installed around Sym1, Sym2 and Sym3 which are identified in the report titled "*Block 5 Section 103 Symonston – Aboriginal and Historical Cultural Heritage Assessment*" prepared by Past Traces Heritage Consultants dated 7 December 2018. Protective fence locations are to be demarcated by, and their installation must be supervised by, a qualified archaeologist and Representative Aboriginal Organisations; and
- b) Prior to the commencement of works, a report on the installation of protective fencing must be submitted to the Council, including: MGA coordinates of the fenced area (all

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corners); photographs of the installed fences; and a list of heritage and other personnel involved in the fencing installation.

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

- a) No works in relation to this development approval are to commence until the applicant has obtained a Letter of Design Review from TCCS.
- b) Before the works commence TCCS must be notified of any existing damage to public assets via a Dilapidation Report. The applicant/lessee is held responsible for repairing any damage to ACT Government's assets, caused by the development activities, to the satisfaction of TCCS. If a Dilapidation Report is not provided, any pre-existing damage must also be repaired at the applicant/lessee's cost.

The following conditions must be addressed at TCCS Design Review (DR) stage, to the satisfaction of TCCS:

Driveway / Verge Crossing

- c) The applicant proposes one driveway for two blocks (e.g., Block 1 & 2 and Block 7 & 8). The applicant must submit a proposed survey plan detailing the access easement. This easement must be registered and shown in the survey plan, with evidence submitted with the DR documentation.

Landscape Management and Protection (LMPP) / Street Trees

- d) The following information must be provided at the DR stage for compliance:
 - i) As noted in MIS25, Young *Eucalyptus blakelyi* trees are susceptible to severe insect attack and often fail to survive. The species must be changed to *Eucalyptus bridgesiana*.
 - ii) The applicant must provide an updated Tree Management Plan (TMP) for review and approval.
 - iii) The applicant must confirm the total number of tree removals and the total number of new trees that will be replanted.
- e) A Landscape Management and Protection Plan (LMPP) and a dilapidation report for all Government assets adjacent to the site must be submitted to the Development Coordination Branch – TCCS prior to commencement of the work. The LMPP must be prepared as per TCCS reference document 4 – 'Requirements for the Protection of Public Landscape Assets Adjacent to Development Works'. This must be submitted as part of Early Works Approval or DR Submission to TCCS at post DA stage.
- f) A TMP is required in response to managing a public tree from potential damage within the built-up urban area. TMP approval must be obtained from TCCS prior to undertaking any works within the Tree Protection Zone that have the potential to impact trees on unleased Territory Land. During early works, demolition and construction, all existing trees located on verges, laneways and urban open space on unleased Territory Land adjacent to the development must be managed, protected and maintained in accordance with the approved TMP. This plan must be implemented before the commencement of any works, including demolition or vehicle/machinery access to the site. For further information, please refer to <https://www.cityservices.act.gov.au/trees-and-nature/trees/management-plans-and-bonds> and <https://www.legislation.act.gov.au/ni/2023-823> and <https://www.legislation.act.gov.au/ni/2023-823/>

Traffic / Public Transport

- g) The proposed speed reduction must be implemented concurrently with the introduction of the new subdivision, following the specifications outlined in the revised Traffic Control Devices (TCD) provided by the applicant for this area. Any changes to the TCD must

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comply with the applicable standards. This will be checked in detail during the TCCS DR process.

Note: any substantial changes to the development required to comply with the above conditions may need to be submitted for the approval of the territory planning authority with an application to amend the approval under s205 of the Planning Act 2023.

- h) A Notice of Commencement for the Works within Unleased Territory Land must be submitted to TCCS one week prior to the commencement of works. The notice must also include the confirmation of any protective measures installed in accordance with the approved LMPP and the programmed implementation of TTM.

14. TREE PROTECTION

Upon registration of the leases for the newly subdivided eight blocks, the proponent must apply to the Tree Protection Unit (tccs.treeprotectionactplaref@act.gov.au) to have these eight blocks declared to be a built-up urban area under the *Urban Forest Act 2023*.

15. CONSTRUCTION ENVIRONMENT MANAGEMENT PLAN (CEMP)

Prior to construction, a CEMP must be prepared and endorsed by the Territory Planning Authority (EPDImpact@act.gov.au).

- a) The CEMP must outline the construction conditions and temporary environmental protection measures to manage the impact of construction activities, consistent with the EIS exemption and relating to driveways access and proposed fencing. The CEMP must include the mitigation measures proposed in the EIS exemption and the associated Addendum and incorporate any other relevant management plans including, but not limited to:
- i) Construction Traffic Management Plan;
 - ii) Waste Management Plan;
 - iii) Soil and Water Management Plan including Erosion and Sediment Control Plan;
 - iv) Flora and Fauna Management Plan including a BGW Management Plan and Weed Management Plan;
 - v) Landscape Plan (identifying any vegetation buffers);
 - vi) Air Quality Management Plan (management of spray drift);
 - vii) Noise and Vibration Management Plan (construction and traffic noise);
 - viii) Bushfire Management Plan (refer to ESA comments for Asset protection Zones and BAL requirements for dwellings);
 - ix) Unexpected Finds Protocol; and
 - x) Unanticipated Discovery Protocol.

Note: The CEMP will be referred to relevant entities for endorsement and therefore will need to incorporate their comments provided through the EIS and Development Application stage.

CONDITIONS RELATING TO DEVELOPMENT AND ENTITY REQUIREMENTS

16. CONSTRUCTION ENVIRONMENT MANAGEMENT PLAN (CEMP)

During construction, all works must be undertaken in accordance with the endorsed CEMP. Please refer to Condition 15 above for details of the CEMP.

17. ACT HERITAGE COUNCIL (The Council)

The development must comply with the following condition to the satisfaction of the Council:

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- a) The water main connection point in the vicinity of Sym3 must be placed to avoid impacts to the heritage site.

Note: Sym3 is identified in the report titled "Block 5 Section 103 Symonston – Aboriginal and Historical Cultural Heritage Assessment" prepared by Past Traces Heritage Consultants dated 7 December 2018.

18. UNEXPECTED FINDS PROTOCOL – HERITAGE PLACES and OBJECTS

In the event that heritage places or objects, including Aboriginal places or objects, are encountered during works:

- a) Works at the heritage location/s must cease to allow for heritage assessment and management, in accordance with Section 75 of the *Heritage Act 2004*; and
- b) The discovery must be reported to the ACT Heritage Council within five working days, in accordance with Section 51 of the *Heritage Act 2004*; and
- c) The discovery must be managed in accordance with further ACT Heritage Council advice.

19. ENVIRONMENT PROTECTION AUTHORITY (EPA)

The proposal must comply with the following conditions to the satisfaction of the EPA:

Spray drift assessment

- a) As per the spray drift assessment titled "Block 5 Section 103 Symonston subdivision: assessment for - Supplementary Report: Spray Drift Assessment" prepared by Roger Garnsey Agronomy dated 24 May 2024, the proposed vegetative buffers must be planted prior to occupancy or agricultural/horticultural use of the site and maintained for the duration of use/occupancy of the site.

Development works

- b) Any works carried out on the land must be in accordance with "[Environment Protection Guidelines for Construction and Land Development in the ACT, August 2022](#)".

20. TRANSPORT CANBERRA AND CITY SERVICES DIRECTORATE (TCCS)

The following conditions must be addressed to the satisfaction of TCCS:

- a) All works must be consistent with the obtained Letter of Design Review and associated plans.
- b) In accordance with the *Public Unleased Land Act 2013*, road verges and other unleased Territory land must not be used for carrying out of Works, including storage of materials or waste, without prior approval from TCCS. If required, a license can be obtained from TCCS Licensing and Compliance.

Driveway / Verge Crossing

- c) The driveway must be designed and constructed in accordance with TCCS Municipal Infrastructure Design Standards.
- d) The levels on the verge must not be altered as a result of the new constructed driveway.
- e) Any infrastructure assets such as street lighting, mini-pillars, signage, etc, must be a minimum of 1.5m away from the closest edge of the driveway. In the case of stormwater sumps this minimum distance is 1.2m.
- f) A clear sight triangle must be provided in accordance with the Section 3.2.4 of AS 2890.1 Off-street Car Parking.

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Stormwater

- g) The stormwater of each subdivided block must be managed through onsite detention & retention tanks.

TCCS Standard Conditions

- h) Other TCCS Standard Conditions (as relevant) may also apply. Please contact TCCS for further information.

A copy of the TCCS Standard Conditions is included with this decision.

21. EVOENERGY(GAS) – JEMENA

The proposal must comply with the following conditions to the satisfaction of Jemena:

- a) The proposal must comply with the ACT Government regulations & Development/Building Approvals, available at <https://www.legislation.act.gov.au/View/a/2010-41/current/html/2010-41.html>
- b) There is a high-pressure gas network in the vicinity & within Jemena's exclusion zone. All care must be taken around Jemena's underground assets.
- c) Appropriate Before You Dig Australia (BYDA) processes must be followed as part of the construction process.
- d) If a meter relocation or service pipe relocation is required, the applicant must comply with Evoenergy standards. Please contact your gas retailer, only people accredited by Evoenergy can carry out this work.

22. UTILITIES TECHNICAL REGULATOR

The water and electrical supply lines, relocation of low and high voltage lines, including any electrical installations, and metering must meet the requirements of the relevant Water and Electricity Utility.

23. COMPLIANCE WITH ENTITY REQUIREMENTS

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

- a) Emergency Services Agency (ESA);
- b) TCCS Standard Conditions;
- c) ICON Water;
- d) Evoenergy (Electricity); and
- e) Evoenergy (Gas).

Note: Please see copies of entity advice attached to this decision.

24. WASTE MANAGEMENT – DURING CONSTRUCTION PHASE

All building waste must be stored on the site in suitable receptacles/containers and collected regularly. The lessee must take all reasonable steps to ensure that waste, particularly wind-borne litter, does not affect adjoining or adjacent properties.

25. SIGHTLINE

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, must not exceed 700mm (to comply with AS 2890.1).

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26. ACCESS & MOBILITY

The proposal must be in accordance with relevant provisions of the Australian Standard *AS1428.1-2009, AS1428.4, AS4586, and AS/NZ 2890.6-2009* and the National Construction Code and the Premises Standards 2010, as applicable.

27. EXTERNAL LIGHTING

External lighting must comply with the following:

- *Australian Standard AS1158.3.1 Pedestrian Lighting*
- *Australian Standard AS4282 - Control of the Obtrusive Effects of Outdoor Lighting.*

28. EROSION AND SEDIMENT CONTROL

All works must be carried out in accordance with Environment Protection Guidelines for *Construction and Land Development in the ACT, March 2011*.

ADVISORY NOTES

1. LIMITATION OF APPROVED DEVELOPMENT

The subject development approval is provided only for the proposed subdivision of the block, proposed variation to the Crown lease and any associated works as identified in the proposal description on Page 1.

- a) New development applications must be lodged with the authority for every proposed development on each subdivided block, including buildings, landscaping and site works, unless considered exempt under the *Planning (Exempt Development) Regulation 2023*.
- b) No building works are to commence on site without a valid development approval from the authority.

2. FUTURE DEVELOPMENTS

Any proposed new buildings must be wholly constrained to the buildable areas as identified on the endorsed Lease Plans.

3. ACT HERITAGE COUNCIL (the Council)

Any future development application/s for residential dwellings that propose to affect Sym1, Sym2 or Sym3 will require a Statement of Heritage Effect approved under Section 61H of the *Heritage Act 2004*. Further, any such application must be informed by further heritage investigation, specifically:

- a) For Sym2: inspection of the potential Aboriginal scarred tree to assess tree age, scar age and scar causation. This assessment must be undertaken by heritage consultants with expertise in scarred tree identification and/or an arborist, in consultation with Representative Aboriginal Organisations; and
- b) For Sym2: archaeological excavation of the PAD by a qualified archaeologist and Representative Aboriginal Organisations, following approval of an Excavation Permit under Section 61F of the *Heritage Act 2004*.

4. BUSHFIRE PROTECTION

The subject site is within the bushfire prone zone, therefore:

- a) All dwellings are to be constructed to comply with Australian Standard AS3959 – *'Construction of buildings in bushfire-prone areas'* with a Bushfire Attack Level (BAL) of 12.5.

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b) Please refer to ESA advice attached to this decision for Asset Protection Zone (APZ) requirements.

5. CONSERVATOR OF FLORA AND FAUNA – TREE PROTECTION UNIT

Impact to BGW must be avoided within the site to maintain connectivity across this landscape. Mature trees must be retained as much as possible.

6. UNIMPROVED LAND VALUE FOR RATING PURPOSES

As a consequence of this lease variation, the unimproved value of the property for rating purposes is likely to change. Where rates assessments have been issued they will be amended to reflect the changed unimproved value from the time of the lease variation.

7. LEASE VARIATION CHARGE

Prior to the registration of the documents giving effect to the approval, the lessee must, as is required under the *Planning and Development Act 2007*, pay any assessed Lease Variation Charge. Once advised of the lease variation charge, the charge should be paid not less than 6 months prior to the expiration of this approval. This will ensure that sufficient time remains to enable the relevant documents to be registered at Access Canberra Land Titles prior to expiry of this approval.

8. BLOCK NUMBERS

The new block numbers will not be provided until the Lease Variation Charge is paid. The new survey plan must be cleared by the Surveyor-General prior to the execution of the Crown leases.

9. EXPIRY OF LEASE VARIATION APPROVAL

In accordance with section 185 of the *Planning and Development Act 2007* (the Act) the lease variation part of this approval will expire two years after the date this approval takes effect. Under section 188 of the Act, the applicant may apply to the territory planning authority to extend the prescribed period to register the documents giving effect to the approval, but such an application must be made prior to the expiry of the lease variation part of the DA approval.

10. RELEASE OF APPROVED PLAN

Final stamped plans may not be released until all relevant conditions of the decision (including Crown lease variation and registration and compliance with Entity requirements) are complied with to the satisfaction of the authority.

11. WASTE MANAGEMENT

The primary land use is to remain as agriculture after subdivision. TCCS will not collect waste from the new subdivided blocks as these blocks will not primarily be used for residential purposes. Compliance with the Waste Code 2019 requirements for commercial waste collection would currently apply.

12. NOISE MANAGEMENT

Noise from equipment which may be installed or used at the site 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*.

13. SIGNAGE

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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 [Hoarding signage guidelines - Environment, Planning and Sustainable Development Directorate - Planning \(act.gov.au\)](https://www.act.gov.au/planning-and-land-management/hoarding-signage-advertising-guidelines-environment-planning-and-sustainable-development-directorate-planning)

PART B – REASONS FOR THE DECISION

Background

The original development application (DA) was submitted in November 2019 concurrent to an application for an Environmental Impact Statement (EIS201900005) exemption, pursuant to section 211 of the *Planning and Development Act 2007* (the Act) for a proposed agricultural subdivision of block 5 section 103 in the division of Symonston.

In May 2021, the then Minister for Planning and Land Management did not grant the EIS exemption as the expected environmental impacts were not sufficiently addressed. Consequently, the concurrent DA was taken to be refused.

Following this, the applicant applied to the ACT Civil and Administrative Tribunal (the ACAT) to review the decision to not grant the EIS exemption, under section 408A of the Act. During the ACAT process, the applicant submitted an additional report (the Addendum) describing further information on the possible impacts and provided additional mitigation measures. In consultation with the Conservator, the authority assessed the additional report and prepared an EIS Exemption Consideration Report which was provided to the Minister. Considering the new information, the Minister was satisfied that sufficient information had been provided and the ACAT agreed to set aside the original decision and substituted it with a decision to grant the EIS exemption ([NI2022-555](#)).

As a result, the concurrent development application (DA-201835065) was re-activated and further assessed by the Authority.

Assessment

The main concerns raised during the assessment of the development application included compliance with the requirements of the EIS Exemption and the Addendum, addressing Crown lease variation requirements, conservation area management, heritage impacts, environmental impacts, compliance with the territory plan and responses to entity comments including EPA, TCCS and ICON Water.

Additional information was requested from the applicant to provide supporting documentation and justification for the proposed subdivision of the block. The following matters were considered:

- Variation to the Crown lease:

The updated lease variation seeks to surrender the existing lease and regrant eight (8) new Crown leases with amendments to the lease purpose clause as follows:

PURPOSE

'Agriculture limited to horticulture with ancillary single residential dwelling and ancillary thereto a maximum of one (1) horse for personal use'

The new leases are to include clauses relevant to the requirement for each of the newly created blocks to be managed in accordance with an approved Land Management Agreement (LMA).

- Land Management Agreement:

A condition of approval has been included in **Part A** of this decision requiring an LMA to be obtained for each resulting block prior to the grant of the new Crown leases.

- Economic viability:

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Concerns were raised about the viability of the smaller blocks which have less area for the main purpose of agriculture. The applicant provided additional information to support the proposed subdivision which was considered acceptable. The lease clause has been varied to include agriculture limited to horticulture.

- Conservation area management:

Through negotiations with the Conservator, the block boundaries were amended to avoid any impacts on the existing threatened ecological communities. This was addressed as part of the EIS Exemption considerations. The Conservator has supported the mitigation measures proposed in the EIS Exemption and the Addendum. Conditions have been imposed in **Part A** of this decision to ensure the conservation area is protected and any impacts are avoided.

- Heritage conservation:

The DA was referred to ACT Heritage Council, who has advised that the proposal is unlikely to impact on the heritage values and have supported the proposal subject to conditions. Conditions have been imposed in **Part A** of this decision.

- Spray drift assessment and contamination:

The applicant provided a spray drift assessment and management plan during the assessment. EPA has now supported the proposed mitigation measures and conditions have been imposed in **Part A** of this decision.

A condition of approval has been included in **Part A** requiring a contamination assessment report endorsed by EPA prior to the blocks being subdivided and used for the proposed purpose.

- Proposed access and verge crossing:

TCCS did not originally support the additional verge crossings along Narrabundah Lane. However, upon providing additional information and further negotiations, including a proposed reduction of speed limit, TCCS has now supported the proposal.

- Utilities:

Although the proposed DA is only for subdivision of the block, information was requested from the applicant to demonstrate that each resultant block will be serviceable. Conditions of approval have been included in **Part A** of this decision to ensure compliance with utility requirements.

- Compliance with Territory Plan: NUZ1- Broadacre Zone - zone objectives:

The applicant provided justification to support the proposed subdivision and included the following statements:

The proposed subdivision makes provision for a range of viticulture and horticultural uses requiring a location outside of urban areas. The site is situated an appropriate distance from conflicting uses such as residential and community purposes. The proposal has included provision for landscape buffers, designated development areas and the like which will protect sensitive receptors and ecological values from risk. The proposed subdivision will result in no immediate visual impacts. The building zones are screened by vegetation and topography of the locality which will retain the landscape and environmental quality of the locality. The proposed use will not undermine possible future urban uses, the site will allow restricted agricultural uses over the site which have been identified as being more viable than broadacre agriculture or grazing due to the ecological values and soil profiles of the locality and notwithstanding that this use is already arguably inappropriate given proximity to residential land, and surrounding uses.

The justification was considered acceptable. Conditions have been imposed to ensure ongoing developments are also consistent with the zone objectives.

- Compliance with Territory Plan: Symonston Precinct Code – Criterion 3:

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According to criterion 3, subdivision of a rural lease in Symonston precinct is 'generally' not supported. The applicant provided justification for the proposed subdivision. Upon further assessment of the proposal, it is understood that the intent of Criterion 3 is to ensure that the rural character, and agricultural uses are not diminished by subdivision as per the zone objectives and desired outcomes for the locality. In this instance it was considered that the rural character would not be impinged by the proposal, and from the information provided by the applicant it was noted that the resultant blocks would support economically viable agricultural uses. Relevant entities have also supported the proposed subdivision.

Representations

Many of the issues raised in the representations received were considered through [the Addendum to EIS Exemption Application, July 2022](#). Subsequent to the EIS exemption being granted, the applicant provided additional / revised documentation as per the Addendum, identifying the changes agreed at the ACAT mediation.

Additional information was also sought from the applicant during the assessment of the re-activated DA. As noted in the above assessment, the main issues were considered and have now been addressed. Conditions / advice has been included in **Part A** of this decision as relevant.

Conclusion

In deciding the development application, the planning and land authority (the authority) has considered the zone objectives in conjunction with other requirements of the Territory Plan, including the relevant codes and the Strategic Directions to achieve a balanced approach in assessing economic, social and environmental impacts. Upon considering the issues and impacts raised during the assessment process, the authority is satisfied that the social, environmental and other impacts that may arise from the development are adequately addressed by the conditions imposed.

The application was approved because it was found to meet the relevant rules and criteria of the Territory Plan and section 129 of the *Planning and Development Act 2007*. Conditions have been imposed in regard to the issues identified during assessment to ensure the development satisfies the Territory Plan, addresses assessment issues including relevant entity advice and issues raised in the representations.

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:

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|------------------------------------|--|
| Development Application: | 201835065/s144C/s144H |
| Crown Lease: | Volume 1602 Folio 9 |
| Territory Plan Zones: | NUZ1 – Non-Urban Zone |
| Precinct/Development Codes: | Symonston Precinct Map and Code, Non- Urban Zone Development Code |
| General Codes: | Parking and Vehicular Access General Code, Planning for Bushfire Risk Mitigation General Code Waterways: Water Sensitive Urban Design General Code; |
| Legislative requirements: | The <i>Planning Act 2023</i> in particular the transitional arrangements for DAs 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 C of this Decision |

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

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 25 November 2019 to 24 January 2020. Five written representations were received during public notification period.

The main issues raised in the representations included:

- Possible non-compliance with the Zone objectives.
- Rural subdivision not being permitted under Symonston Precinct Code Criterion C3 that protects landscape character, cultural, heritage, environmental value, prevents land fragmentation.
- Concerns this subdivision will create a precedent that will result in further fragmentation (in Symonston and the ACT).
- Concerns about a precedent that subdivision can occur without approval/information for dwellings or structures, no justification for block sizes, no requirement to provide utilities, and possible upgrades of infrastructure other than the fences and driveways included in the application.
- Concerns the subdivision will not maintain the lease requirements of 'agriculture', the new blocks will be too small to support viable agribusiness and will be residential blocks.
- The subdivision process should include information on the future development without more detail on lease conditions, LMA requirements, water, sewerage, building siting, protection for flora and fauna, horses, agricultural infrastructure, upgrading existing dwellings, restrictions on livestock or pets, restrictions on type of agriculture and leave these issues for future individual DAs.
- Concerns regarding possible impacts on Box Gum Woodland (BGW) threatened ecological community.
- Concerns regarding possible impacts on neighbouring properties including noise, dust, chemical spray drift, increased activities.
- Concerns that the addition of up to 6 new dwellings will change the landscape character from rural to a small settlement and will have visual impacts on the rural character.
- Concerns regarding possible impacts on existing waterways, greater erosion and the need for mitigation measures to be considered for these issues.
- Concerns that the subdivision is likely to result in degradation of ecological assets, loss of habitat, fauna, migratory fauna, threatened birds in Callum Brae Nature Reserve and connectivity.
- Need for a Land Management Plan to protect existing ecological values.
- Controls to be included in the lease for future developments.
- Protection of heritage and environmental values.
- Concerns about the proposed increase in number of horses from 8 to 24.
- Concerns about additional access points on Narrabundah Lane and impacts of increased traffic.
- Requests for the DA to provide a water/sewer plan to demonstrate sufficient water and sewerage treatment. If using a septic system, design and siting of dwelling/septic is important.
- Concerns that Aboriginal heritage sites identified in heritage assessment are likely to be lost to

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future developments and should be protected by this DA.

- Concerns that construction of additional dwellings close to Mugga could have adverse impacts on heritage significance, altering the rural character of the vista from Mugga, unencumbered by urban development.
- Concerns regarding potential bushfire impacts and management.

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

s144 Further Information / Amendment:

The following amended applications were not publicly notified.

s144C amendments

Amendments to the proposal were lodged with the authority in response to the compliance with the requirements of the EIS Exemption and the subsequent updated requirements in the Addendum.

Pursuant to section 146(3) of the Act, the planning and land authority considered that no-one other than the applicant would 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.

s144H amendments

Amendments to the proposal were lodged with the authority in response to the further information requested in relation to EPA spray drift requirements and additional justification on the compliance with Zone objectives and Criteria 3 of the Symonston Precinct Code.

Pursuant to section 146(3) of the Act, the planning and land authority considered that no-one other than the applicant would 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.

ENTITY ADVICE

Pursuant to Division 7.3.3 of the *Planning and Development Act 2007*, the application was referred to the below entities. 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. CONSERVATOR OF FLORA AND FAUNA (THE CONSERVATOR)

- Original DA
 - The Conservator provided advice on 8 January 2020 stating that the DA was not supported. The proposal lacks the information key to determining whether there is any agricultural merit and is likely to result in significant ecological impact. The s211 exemption was unable to be supported, and an EIS would be required.
 - Advice was also received from the Tree Protection Unit on 9 December 2019 stating that there were no regulated trees on the site. The lease is outside the designated built-up urban area and therefore not covered by the *Tree Protection Act 2005*.
- s144C Amendments
 - On 4 July 2023 advice was received stating the mitigation measures and statement of impact are adequate.

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- Additional advice was received on 5 July 2023 stating that impact to BGW should be avoided within the site to maintain connectivity across this landscape. Mature trees should be retained as much as possible.
- s144H Amendments
 - On 22 July 2024, the Conservator advised that they have no further comments on the proposal as presented.

Please refer to **PART A** for conditions consistent with the Conservator's advice of 5 July 2023. All other advice is noted.

2. TRANSPORT CANBERRA AND CITY SERVICES (TCCS)

- Original DA
 - TCCS provided advice on 3 January 2020 stating that the DA was not supported as TCCS advice regarding a new access road linking Mugga Lane and Narrabundah Lane rather than individual driveways to each block had not been considered.
- s144C Amendments
 - On 25 July 2023 advice was received stating the DA was not supported and further information was required in relation to the advice provided at the Original DA and to provide a tree assessment, TMP and LMPP.
- s141F Further Information
 - On 27 February 2024, TCCS advised the DA was still not supported and additional information was required in relation to the requirement for a tree assessment, TMP, LMPP and stormwater management.
- s144H Amendments
 - On 9 July 2024, TCCS advised that the DA was supported subject to compliance with the following conditions:

Driveway / Verge Crossing

- a) The driveway must be designed and constructed in accordance with TCCS MIS Design Standards.
- b) The levels on the verge must not be altered as a result of the new constructed driveway.
- c) Any infrastructure assets such as street lighting, mini-pillars, signage, etc, must be a minimum of 1.5m away from the closest edge of the driveway. In the case of stormwater sumps this minimum distance is 1.2m.
- d) A clear sight triangle must be provided in accordance with the Section 3.2.4 of AS 2890.1 Off-street Car Parking.
- e) The applicant proposes one driveway for two blocks (e.g., Block 1 & 2 and Block 7 & 8). The applicant must submit a proposed survey plan detailing the access easement. This easement must be registered and shown in the survey plan, with evidence submitted with the DR documentation.

Lmpp / Street Trees

- f) TCCS can support the development providing the following condition can be met and the requested information is provided at the Design Review stage (DR):
 - a) As noted in MIS25, young *Eucalyptus blakelyi* trees are susceptible to severe insect attack and often fail to survive. TCCS do not support the proposed tree replacement species and require the species to be changed to *Eucalyptus bridgesiana*.
 - b) At DR the applicant must provide an updated TMP for review and approval.

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- c) The applicant must confirm the total number of tree removals and the total number of new trees that will be replanted.
- g) A Landscape Management and Protection Plan (LMPP) and a dilapidation report for all Govt. Assets adjacent to the site must be submitted to the Development Coordination Branch – TCCS prior to commencement of the work. LMPP must be prepared as per reference documents 4. This must be submitted as part of Early Works Approval or Design Review Submission to TCCS at post DA stage.
- h) A Tree Management Plan is required in response to managing a public tree from potential damage within the built-up urban area. TMP approval must be obtained from TCCS prior to undertaking any Works within the Tree Protection Zone that have the potential to impact trees on unleased Territory Land. During early works, demolition and construction, all existing trees located on verges, laneways and urban open space on unleased Territory Land adjacent to the development must be managed, protected and maintained in accordance with the approved TMP. This plan must be implemented before the commencement of any Works, including demolition or vehicle/machinery access to the site. For further information, please refer to <https://www.cityservices.act.gov.au/trees-and-nature/trees/management-plans-and-bonds> and <https://www.legislation.act.gov.au/ni/2023-823> and <https://www.legislation.act.gov.au/ni/2023-823/>

Stormwater

- i) The stormwater of each subdivided block must be managed through onsite detention & retention tank.

Traffic / Public Transport

- j) The proposed speed reduction should be implemented concurrently with the introduction of the new subdivision, following the specifications outlined in the revised Traffic Control Devices (TCD) provided by the applicant for this area. Any changes to the Traffic Control Devices (TCD) must comply with the applicable standards. This will be checked in detail during Design Review stage.

Waste

- k) Primary land use will also remain agricultural after subdivision. Thus, TCCS will not collect waste from these subdivided blocks as these blocks are not primarily used for residential purposes. Compliance with the Waste Code 2019 requirements for commercial waste collection would currently apply.

TCCS Standard Conditions

TCCS Standard Conditions also apply to this development proposal and a copy has been attached to this Decision.

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

3. ENVIRONMENT PROTECTION AUTHORITY (EPA)

- Original DA
 - EPA provided advice on 20 December 2019 stating that additional information was required regarding a spray drift assessment and management plan.
- s144C Amendments
 - On 26 July 2023 advice was received stating the DA was not supported and further information was required to address the previous request for a spray drift assessment and management plan.
- s141F Further Information

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- On 27 February 2024, EPA advised the DA was still not supported and additional information was required in relation to revisions to the spray drift assessment and requirement of appropriate landscape buffers.
- s144H Amendments
 - On 8 July 2024, EPA advised that the DA was supported subject to advice and compliance with the following conditions:

Contamination

Prior to the site being used for other purposes an environmental assessment in accordance with EPA endorsed guidelines must be undertaken by a suitably qualified environmental consultant to determine whether past activities have impacted the site from a contamination perspective and to determine whether the site is suitable for the proposed uses.

The consultant's assessment report into the site's suitability for the proposed and permitted uses from a contamination perspective must be reviewed and endorsed by the Environment Protection Authority (EPA) prior to the site being used for other purposes and **prior to the new leases being issued**.

Spray Drift Assessment

The Office of the EPA has reviewed the spray drift assessment titled "Block 5 Section 103 Symonston subdivision: assessment for" written by Roger Garnsey Agronomy dated 24 May 2024. The EPA endorses the report and requires the proposed vegetative buffers be planted prior to occupancy or agricultural/horticultural use of the site and maintained for the duration of use/occupancy of the site. The spraydrift policy and vegetative buffer requirements must be taken up into the Land Management Agreements for the newly created blocks.

Development Works

Any works carried out on the land must be in accordance with "Environment Protection Guidelines for Construction and Land Development in the ACT, August 2022", available at Environment protection guidelines (act.gov.au) or by calling 132281.

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

4. ACT HERITAGE COUNCIL (the Council)

- Original DA
 - The Council provided advice on 15 January 2020 stating that the proposed development is unlikely to damage Aboriginal places or objects subject to conditions.
- s144C Amendments
 - On 6 July 2023 advice was received stating the DA the proposed development is unlikely to damage Aboriginal places or objects subject to conditions

Please refer to **PART A** for conditions consistent with the Council's advice. A copy of the Council's advice is attached to this decision.

5. ACT EMERGENCY SERVICES AGENCY (ESA)

- Original DA
 - ESA provided advice on 22 January 2020 stating that the proposal is supported and advice was provided.
- s144C Amendments

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- On 6 July 2023, ESA advised that the proposal is supported with advice.

Please refer to **PART A** for conditions consistent with the ESA advice. A copy of the latest ESA advice is attached to this decision.

6. ICON WATER

- Original DA
 - On 3 December 2019, ICON Water issued a 'Failed to Comply' notice stating 'Design Acceptance for External Services or off site works must be in principle design approved by Icon Water Hydraulic Assets'.
- s144C Amendments
 - ICON Water advised on 28 June 2023 that the proposal 'Fails to Comply'.
- s141F Further Information
 - On 20 February 2024, ICON Water provided a Statement of Conditional Acceptance.
- s144H Amendments
 - ICON Water issued a Statement of Conditional Acceptance on 16 July 2024.

Please refer to **PART A** for conditions consistent with the ICON Water advice. A copy of the latest ICON Water advice is attached to this Notice of Decision.

7. EVOENERGY (ELECTRICITY)

- Original DA
 - Comments were not received within the prescribed time.
- s144C Amendments
 - On 26 July 2023, the following advice was received from EvoEnergy Electricity.
 - There are Mugga, 11kV overhead feeder and other low voltage cables/conductor located within the block (refer below figure).
 - Evoenergy has to review development details (block & road details) and reroute existing high voltage & low voltage lines if required, the relocation cost to be funded by the developer.
 - Supply options can be advised after assessing the maximum demand details of the proposed development/s.
 - Evoenergy can provide electrical master plan and conduit requirements when development details available.

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- s141F Further Information
 - Comments were not received within the prescribed time.
- s144H Amendments
 - Comments were not received within the prescribed time.

A condition of approval is included under **PART A** requiring endorsement from EvoEnergy prior to the approval taking effect.

8. EVOENERGY (GAS) JEMENA

- Original DA
 - Comments were not received within the prescribed time.
 - s144C Amendments
 - Jemena advised on 14 July 2023 that they did not object to the subdivision however noted that there is a high-pressure pipeline running down Hindmarsh Drive directly outside the proposed development.
 - s141F Further Information
 - On 7 February 2024, Jemena confirmed that EvoEnergy gas have no objections.
 - s144H Amendments
 - Jemena provided following advice on 11 July 2024:
 - Please note this must comply with the ACT Government regulations & Development/Building Approvals
- <https://www.legislation.act.gov.au/View/a/2010-41/current/html/2010-41.html>

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- It is noted that there is a High Pressure gas network in the vicinity & within Jemena's exclusion zone, however, all care is to be taken around our underground assets.
- Ensure appropriate Before You Dig Australia (BYDA) processes are followed as part of the construction process.
- If a meter relocation or service pipe relocation is required, you must comply with Evoenergy standards please contact your gas retailer, only people accredited by Evoenergy can carry out this work.

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

9. UTILITIES TECHNICAL REGULATOR (UTR)

- Original DA
 - On 23 December 2019, advice was received from the UTR in relation to existing utilities and servicing the subdivision and limitations of utility services.
- s144C Amendments
 - The UTR advised on 18 July 2023 that the water and electrical supply lines, relocation of low and high voltage lines, including any electrical installations, and metering are to meet the requirements of the relevant Water and Electricity Utility

Please refer to **PART A** for conditions consistent with UTR advice.

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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 *8 Darling Street, Mitchell, ACT 2911*.

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 s191(5)(b) of the Act.

More information is available online at [Amend or appeal an application - Environment, Planning and Sustainable Development Directorate - Planning \(act.gov.au\)](#).

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 [Amend or appeal an application - Environment, Planning and Sustainable Development Directorate - Planning \(act.gov.au\)](#)
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

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ACAT to strike out a party and to dismiss an application for failure to comply with the ACAT's directions.

12. You may apply for access to any documents you consider relevant to this decision under the ACT *Freedom of Information Act 2016*. Information about Freedom of information requests is available on the planning and land authority's web site at [Access to government information - Environment, Planning and Sustainable Development Directorate - Environment \(act.gov.au\)](https://www.act.gov.au/environment-planning-and-sustainable-development-directorate) 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](https://www.act.gov.au/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

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| <p>ACT Civil and Administrative Tribunal Allara House 15 Constitution Avenue 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> |

NOTICE OF DECISION

DA 201835065/ s144C/s144H

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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 |

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