



NOTICE OF DECISION

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

I, Chris Gell, 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 **public works including driveway crossings, utility services and associated works**, at Blocks 4 and 5 Section 23 Moncrieff and adjacent road reserve area, in accordance with the plans, drawings and other documentation approved and endorsed as forming part of this approval.

DA Number: 202036972
Block: 4 and 5
Section: 23
Suburb: Moncrieff
Application lodged: 6 April 2020
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

A copy of the development application and this approval may be inspected at the planning and land authority's office from 8.30 am to 4.30 pm, Monday to Friday at 16 Challis Street, Dickson, ACT 2602

CONTACT / ENQUIRIES

Phone: (02) 6207 6383

Online Form:

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

Chris Gell

Delegate of the planning
and land authority

4 May 2020

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DA 202036972

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.

1. UTILITY SERVICES COMPLIANCE (Icon Water)

Prior to building works, other than demolition and site preparation, commencing the lessee/applicant must obtain a Statement of Conditional Acceptance from Icon Water in relation to water networks; and submit the statement to the planning and land authority as satisfying this condition of approval under s165 of the *Planning and Development Act 2007*.

The lessee/applicant must comply with any conditions imposed on such a statement.

Note: Any substantial changes to the development required for the above-mentioned statements will need to be submitted for the approval of the planning and land authority with an application to amend the approval under s197 of the Planning and Development Act 2007. The planning and land authority may release plans to its discretion prior to compliance with this condition.

A copy of the Icon Water advice received by the Authority is attached to this Notice of Decision for reference.

2. COMMENCEMENT AND COMPLETION OF DEVELOPMENT

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

Note: The planning and land authority may only extend the time to finish the development if an application, to extend the time to finish the development, is made prior to when the development has to be finished – refer to section 184(3) of the Planning and Development Act 2007.

3. ENVIRONMENT PROTECTION AUTHORITY (EPA)

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

All works must be carried out in accordance with “Environment Protection Guidelines for Construction and Land Development in the ACT, March 2011”, available at www.environment.act.gov.au or by calling 132281.

4. COMPLIANCE WITH ENTITY REQUIREMENTS

The development must comply with all of the conditions imposed by each of the relevant entities as stated in each of their advice. Copies of the utility advice is attached to this Notice of Decision.

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ADVISORY NOTES

1. **SIGNAGE**

- a) This development application does not include an assessment of any proposed signage. Any proposed signage at the site must be the subject of a separate DA for approval by planning and land authority.

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>

2. **EPA ADVICE:**

- a) All excavations that collect rain water during a rain storm event would be considered as a sediment control pond, and must meet the following condition:
- No discharge from pond unless sediment level is less than 60mg/litre. If sediment level is greater, then prior to discharge, the pond must be dosed with either Alum or Gypsum and allowed to settle until the sediment is less than 60 mg/litre.
- b) For further information please contact Robin Brown, the Environment Protection Authority Planning Liaison, at EPAPlanningLiaison@act.gov.au or on 02 6207 5642.

PART B – REASONS FOR THE DECISION

The application was approved because it was found to meet the relevant rules and criteria of the Territory Plan and section 120 of the *Planning and Development Act 2007*.

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

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|---------------------------|--|
| Development Application: | 202036972 |
| Territory Plan Zones: | CFZ, TSZ1 |
| Development Codes: | Community Facility Zone and Transport and Services Zone Development Codes |
| Precinct Code: | Moncrieff Precinct Map and Code |
| Legislative requirements: | Sections 119 and 120 of the <i>Planning and Development Act 2007</i> |
| Entity advice: | Addressed in Part C of this Decision below |

PART C – PUBLIC NOTIFICATION AND ENTITY ADVICE

PUBLIC NOTIFICATION

Pursuant to Division 7.3.4 of the Act, the application was publicly notified from 17 April 2020 to 1 May 2020. No written representations were received during public notification period.

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ENTITY ADVICE

Pursuant to Division 7.3.3 of the *Planning and Development Act*, 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.

TCCS provided advice stating that the proposal is supported subject to conditions. Recommended conditions have been imposed in this Notice of Decision - refer to Part A.

Evoenergy (Electricity) provided advice stating that the proposal is supported. Refer to Part A for conditions in regards to complying with entity advice. A copy of the Evoenergy advice is attached to this Notice of Decision.

Jemena (Gas) provided advice stating that the proposal is supported. Refer to Part A for conditions in regards to complying with entity advice. A copy of the Jemena advice is attached to this Notice of Decision.

Icon Water provided advice stating that the proposal is not supported, however a condition has been imposed in Part A of this decision that construction work is not to commence until written endorsement is provided by Icon Water.

The EPA provided advice stating that the proposal is supported subject to conditions. Recommended conditions and recommended advice have been imposed in this Notice of Decision - refer to Part A.

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.

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| 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: |
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| TURKISH | Tercümana ihtiyacımız varsa lütfen telefon ediniz: |
| VIETNAMESE | Nếu bạn cần một người thông-ngôn hãy gọi điện-thoại: |

TRANSLATING AND INTERPRETING SERVICE

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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 the day after the date of this decision. 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.

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 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-reno/develop/build-buy-or-reno/approvals/development-applications/appeal-a-da-decision>.

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

Review by the ACT Civil and Administrative Tribunal (ACAT)

1. Decisions that are reviewable 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. If you think you have a right of appeal, 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.
5. If you are unsure of whether you have a right of appeal, you may contact Access Canberra Customer Services who can provide you with assistance.
6. More information on appeal rights is available online at <https://www.planning.act.gov.au/build-buy-renovate/build-buy-or-renovate/approvals/development-applications/appeal-a-da-decision>.
7. 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.
8. 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*; section 7 of the *ACT Civil and Administrative Tribunal Procedure Rules 2009 (No 2)*; and section 409 of the *Planning and Development Act 2007*).
9. 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.
10. 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.
11. The following organisations may be able to provide you with advice and assistance if you are eligible:
 - ACT Attorney-General, write to the Director General, Justice and Community Safety Directorate, GPO Box 158, CANBERRA, ACT, 2601
 - the ACT 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.
12. 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 if the party contravenes a direction of the ACAT and the ACAT considers it in the interests of justice to make such an order. 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.

13. 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.
14. 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.

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 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</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>Health Directorate</p> | <p>www.health.act.gov.au 02 6205 1700</p> |
| <p>Environment, Planning and Sustainable Development Directorate <i>Planning and land authority</i></p> <ul style="list-style-type: none"> - list of certifiers for building approval - demolition information - asbestos information <p><i>Environment Protection Authority</i></p> <ul style="list-style-type: none"> - environment protection - water resources - asbestos information <p><i>Conservation, Planning and Research</i></p> <ul style="list-style-type: none"> - threatened species/wildlife management | <p>www.planning.act.gov.au 02 6207 1923</p> <p>www.environment.act.gov.au 132 281</p> <p>www.environment.act.gov.au 132 281</p> |
| <p>Transport Canberra and City Services</p> <ul style="list-style-type: none"> - tree damaging activity approval - use of verges or other unleased Territory land - works on unleased Territory land - design acceptance - damage to public assets | <p>www.tccs.act.gov.au</p> <p>132 281 02 6207 0019 (place coordination)</p> |
| <p>Utilities</p> <ul style="list-style-type: none"> - Telstra (networks) - TransACT (networks) - Icon Water - Electricity reticulation | <p>02 8576 9799 02 6229 8000 02 6248 3111 02 6293 5738</p> |

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| ITALIAN | Se avete bisogno di un interprete, telefonate al numero: |
| MALTESE | Jekk għandek bżonn l-għajjnuna t'interpretu, ċempel: |
| PERSIAN | : اگر به ترجمه شفاهی احتیاج دارید به این شماره تلفن کنید: |
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| TURKISH | Tercümana ihtiyacımız varsa lütfen telefon ediniz: |
| VIETNAMESE | Nếu bạn cần một người thông-ngôn hãy gọi điện-thoại: |

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