



**ACT**

Government

Environment, Planning and  
Sustainable Development

# NOTICE OF DECISION

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

I, Nicole Di-Camppli, 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 **removal of two existing outbuildings, erection of a single storey secondary residence with attached single garage and associated site works**, at Block 32 Section 24 HAWKER, in accordance with the plans, drawings and other documentation approved and endorsed as forming part of this approval.

DA Number: 202342062  
Block: 32  
Section: 24  
Suburb: Hawker  
Application lodged: 28 August 2023  
Assessment track: Merit

This decision contains the following information:

- PART A – conditions of approval
- PART B – reasons for the decision
- PART C – public notification & entity advice
- Attachment 1 – administrative information
- Copies of entity advice – as attached

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

## CONTACT / ENQUIRIES

Phone: (02) 6207 6383

Online Form:

[https://www.accesscanberra.act.gov.au/app/forms/epd\\_feedback](https://www.accesscanberra.act.gov.au/app/forms/epd_feedback)

**Nicole Di-Camppli**

Delegate of the Planning  
and Land Authority

29 September 2023

## NOTICE OF DECISION

DA 202342062

### 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. COMMENCEMENT AND COMPLETION OF DEVELOPMENT

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

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

#### 2. FURTHER INFORMATION

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

- a) Revised site plan, area plan, demolition plan, floor plans, landscape plan and elevations and sections, based on the relevant drawings submitted as part of the application, showing:
  - i) Rule 38A / Criteria 38A of the Single Dwelling Housing Development Code (SDHDC) has been met to the satisfaction of the planning and land authority;

*Note: currently the proposal is not considered to satisfy the planting area requirements of part c) of Rule 38A of the SDHDC or the associated criteria to limit site coverage and facilitate on site infiltration. Consideration to reducing site coverage is recommended. This may be achieved for example by replacing the garage attached to the secondary residence and the extended driveway with soft landscaping.*

- ii) Relocate the proposed small tree in the front zone to a suitable location to the satisfaction of the planning and land authority.

*Note: planting a new tree within the canopy of the existing street tree is not supported.*

#### Notes:

- i) *consider providing all requested information under a single s165 application. This will assist the Authority in providing you a response in the most efficient manner.*
- ii) *information shall be submitted in the eDevelopment portal addressing the above conditions. Please ensure plans and supporting information are suitably named as per the Authority's naming convention, are clouded for any amendments, such clouding are labelled consistently with items listed on the s165 application form,*
- iii) *any substantial changes to the development required to comply with the above conditions may need to be submitted for the approval of the planning and land authority with an application to amend the approval under s197 of the Planning and Development Act 2007.*

#### 3. TRANSPORT CANBERRA AND CITY SERVICES (TCCS)

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

##### LANDSCAPE MANAGEMENT / STREET TREES

- a) A Landscape Management and Protection Plan (LMPP) and a dilapidation report for all Government Assets adjacent to the site shall be submitted to the Development Coordination Branch, TCCS, prior to commencement and on completion of the work. The LMPP shall comply with the requirements of TCCS Reference Document 4 and General Advisory Note 09.

## NOTICE OF DECISION

DA 202342062

### 4. COMPLIANCE WITH ENTITY REQUIREMENTS

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

- ICON Water;
- Evoenergy (Electricity);
- Evoenergy (Gas);

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

### 5. WASTE MANAGEMENT – DURING CONSTRUCTION PHASE

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

### 6. ENVIRONMENT PROTECTION

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

## ADVISORY NOTES

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

### RELEASE OF APPROVED PLAN

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

### SECONDARY RESIDENCE

In accordance with the Territory Plan 2008, a leased block containing a primary dwelling and a secondary residence cannot be subdivided under the *Planning and Development Act 2007* or the *Unit Titles Act 2001*.

### 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, unless exempt in accordance with the *Planning and Development Regulations 2008*.
- b) 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>

### ENVIRONMENT PROTECTION – NOISE

Noise from equipment which may be installed or used at the site, including air conditioning units/pool filters, must comply with the noise standard at the block boundary at all times as per the *Environment Protection Regulation 2005*. Please consider the type and location of noise generating equipment prior to installation. Written assurance should be sought from the supplier/installer of the equipment that it complies with the Noise Zone Standard as per the *Environment Protection Regulation, 2005*.

## NOTICE OF DECISION

DA 202342062

### ENVIRONMENT AND SUSTAINABLE DEVELOPMENT DIRECTORATE – CLIMATE CHANGE AND ENERGY

In August 2022 the ACT Government announced it is phasing out all new fossil fuel network gas connections in the ACT. A Regulation preventing new fossil fuel gas network connections is expected to come into effect by late 2023. To avoid the possibility of your development not being able to connect to the fossil fuel gas network upon completion, the development should be designed to be all-electric or constructed as 'electric ready'. Further information can be found at <https://www.planning.act.gov.au/build-buy-renovate/for-industry/industry-resources/electric-ready-buildings-information-for-developers> and [www.energy.act.gov.au](http://www.energy.act.gov.au).

### **PART B – REASONS FOR THE DECISION**

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

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

The main issues identified during the assessment were:

- The development meeting the Territory Plan requirements
- Entity advice

The proposal was referred to relevant entities and the Entity advice as discussed in **PART C** below.

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

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

### **EVIDENCE**

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

Development Application:	202342062
Territory Plan Zones:	RZ1 Suburban zone
Development Codes:	Residential Zones Development Code Single Dwelling Housing Development Code
Precinct Code:	Hawker Precinct Map and Code
Crown Lease:	Volume 496 and Folio 34
Legislative requirements:	the <i>Planning and Development Act 2007</i> in particular sections 119 and 120
Representations and Entity advice:	As addressed in <b>PART B</b> and <b>PART C</b> of this Decision

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

## NOTICE OF DECISION

DA 202342062

### 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 4 September 2023 to 22 September 2023. No written representations were received during the public notification period.

#### ENTITY ADVICE and REQUIREMENTS

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

A summary of entity comments can be found below.

1. TRANSPORT CANBERRA AND CITY SERVICES (TCCS)  
TCCS provided advice stating the proposal is supported subject to conditions.  
Please refer to **PART A** for conditions consistent with the TCCS advice.
2. ICON WATER  
Icon Water provided advice stating the proposal is supported subject to conditions.  
A condition requiring the development to satisfy relevant entity requirements has been imposed in **PART A**.  
A copy of the Icon Water advice is attached to this Notice of Decision.
3. EVOENERGY (ELECTRICITY)  
Evoenergy (Electricity) provided advice stating the proposal is supported subject to conditions.  
A condition requiring the development to satisfy relevant entity requirements has been imposed in **PART A**.  
A copy of the Evoenergy advice is attached to this Notice of Decision.
4. EVOENERGY (GAS)  
Evoenergy (Gas) provided advice stating the proposal is supported subject to conditions.  
A condition requiring the development to satisfy relevant entity requirements has been imposed in **PART A**.  
A copy of the Evoenergy (Gas) advice is attached to this Notice of Decision.

## NOTICE OF DECISION

DA 202342062

### 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.

##### **Inspection of the Application and Decision**

A copy of the application and the decision can be inspected between 9.00am and 4:00pm weekdays at the Environment, Planning and Sustainable Development Directorate Dickson Customer Service Centre at 480 Northbourne Avenue, Dickson, ACT.

##### **Submission of revised drawings or documentation**

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

##### **Reconsideration of the Decision**

If the DA applicant is not satisfied with the decision made by the planning and land authority, they are entitled to apply to the planning and land authority for reconsideration within 20 working days of being told of this decision pursuant to section 191 of the Act. A longer timeframe may apply only if granted in writing by the planning and land authority pursuant to section 191(5)(b) of the Act.

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

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

## NOTICE OF DECISION

DA 202342062

### **Review by the ACT Civil and Administrative Tribunal (ACAT)**

1. Decisions that are reviewable (sometimes referred to as appeals) by the ACAT are identified in Schedule 1 of the [Act](#), except for matters that are exempted under Schedule 3 of the [Planning and Development Regulation 2008](#) (matters exempt from third party review).
2. The notice of decision and this advice have been sent to all people who made a representation in relation to the application.
3. The ACAT is an independent body. It can review a large number of decisions made by ACT Government ministers, officials and statutory authorities on their merits. The ACAT can agree with, change or reject the original decision, substitute its own decision or send the matter back to the decision maker for reconsideration in accordance with ACAT recommendations.
4. More information on appeal rights is available online at <https://www.planning.act.gov.au/build-buy-renovate/build-buy-or-renovate/approvals/development-applications/appeal-a-da-decision>.
5. The ability to review the Authority's decision is a matter of law. **If** you think you have a right of review, you may apply to the ACAT for a review of the decision. Application forms can be obtained from the ACAT at the website listed below. You can also download the form from the ACT Legislation Register. It is recommended you seek independent advice in regards to such reviews eg a legal practitioner.
6. If you are applying on behalf of an organisation or association, whether incorporated or not, the Tribunal in deciding whether to support this application will consider the effect of the decision being reviewed on the interests of the organisation or association in terms of its objects or purposes. A copy of the relevant documents will be required to be lodged with the Tribunal.
7. The time limit to make a request for a review is 28 days from the date of this notice of decision. The time limit can be extended in some circumstances (refer to sections 10 (2), 10(3), 25(1)(e) and 25(2) of the *ACT Civil & Administrative Tribunal Act 2008*; and rule 38 of the *ACT Civil and Administrative Tribunal Procedures Rules 2020*).
8. Applications to the ACAT, including an application to be joined as a party to a proceeding, require payment of a fee (the Tribunal Registry will advise of the current fee), unless you are receiving legal or financial assistance from the ACT Attorney-General. You can apply to have the fee waived on the grounds of hardship, subject to approval (refer to section 22T of the *ACT Civil and Administrative Tribunal Act 2008*). Decisions to grant assistance are made on the grounds of hardship and that it is reasonable, in all the circumstances, for the assistance to be granted. Applications should be made in writing to: the Director General, Justice and Community Safety Directorate, GPO Box 158, CANBERRA ACT 2601. You can ask the ACAT for more details.
9. The ACAT is required to decide appeals in land and planning and tree protection cases within 120 days after the lodging of the appeal, unless that period is extended by the ACAT upon it being satisfied that it is in the interests of justice to do so.
10. The following organisations may be able to provide you with advice and assistance if you are eligible:
  - ACT Law Society, telephone 6274 0300ACT
  - Legal Aid Office, telephone 1300 654 314
  - ACT Council of the Ageing, telephone 02 6154 9740
  - Welfare Rights Centre, telephone 1800 226 028
  - Environmental Defender's Office (ACT), telephone 02 6243 3460.
11. You will have to pay any costs involved in preparing or presenting your case. The ACAT also has the power to award costs against a party in the circumstances specified in s 48 of the *ACT Civil and Administrative Tribunal Act 2008*. This power is in addition to the power of the ACAT to strike out a party and to dismiss an application for failure to comply with the ACAT's directions.

## NOTICE OF DECISION

DA 202342062

12. You may apply for access to any documents you consider relevant to this decision under the *ACT Freedom of Information Act 2016*. Information about Freedom of information requests is available on the planning and land authority's web site at <https://www.environment.act.gov.au/about/access-government-information> or by contacting us by phone on 02 6207 1923.
13. The procedures of the ACAT are outlined on the ACAT's website, including in the Guide to the Land and Planning Division and the Guide to the Hearing. Contact the ACAT for alternative ways to access information about the ACAT's procedures.

### **Review by the ACT Supreme Court**

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

### **Other approvals**

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

1. **Building Approval**

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

A Tree Management Plan under the *Tree Protection Act 2005* is required for approval where it is proposed to undertake groundwork within the tree protection zone of a protected tree or likely to cause damage to, or remove, any trees defined as protected trees by that Act. More information is available from the Transport Canberra and City Services Directorate at <https://www.tccs.act.gov.au/city-living/trees>.
3. **Use of verges or other unleased Territory Land**

In accordance with the *Public Unleased Land Act 2013*, road verges and other unleased Territory land must not be used for the carrying out of works, including the storage of materials or waste, without prior approval of the Territory. More information is available from the Transport Canberra and City Services Directorate at <https://www.tccs.act.gov.au/city-living/public-land-use>.



## NOTICE OF DECISION

DA 202342062

### 4. Works on unleased Territory Land

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

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

Works on unleased Territory land may include the construction or upgrading of driveway verge crossings, public footpaths, roads, street lighting, stormwater works, waste collection amenities, street signs and line marking, road furniture and landscaping.

### Contact details for relevant agencies

<p><b>ACT Civil and Administrative Tribunal</b> Level 4, 1 Moore Street CANBERRA CITY ACT 2601 GPO Box 370, CANBERRA, ACT 2601</p>	<p><a href="http://www.acat.act.gov.au">www.acat.act.gov.au</a> <a href="mailto:tribunal@act.gov.au">tribunal@act.gov.au</a> 02 6207 1740 02 6205 4855 (Fax)</p>
<p><b>ACT Supreme Court</b> 4-6 Knowles Place, CANBERRA CITY ACT 2601 GPO Box 1548, CANBERRA CITY, ACT 2601</p>	<p><a href="http://www.courts.act.gov.au">www.courts.act.gov.au</a> 02 6205 0000</p>
<p><b>Environment, Planning and Sustainable Development Directorate</b> 480 Northbourne Avenue DICKSON ACT 2602 GPO Box 158, CANBERRA 2601</p> <ul style="list-style-type: none"> <li>• <i>Planning and land authority</i> <ul style="list-style-type: none"> <li>- list of certifiers for building approval</li> <li>- demolition information</li> <li>- asbestos information</li> </ul> </li> <li>• <i>Environment Protection Authority</i> <ul style="list-style-type: none"> <li>- environment protection</li> <li>- water resources</li> <li>- Conservation, Planning and Research</li> <li>- threatened species/wildlife management</li> </ul> </li> <li>• <i>WorkSafe ACT</i> <ul style="list-style-type: none"> <li>- asbestos information</li> </ul> </li> <li>• <i>ACT Heritage Council</i> <ul style="list-style-type: none"> <li>- Aboriginal, historic and natural heritage management</li> </ul> </li> <li>• <i>Tree Protection Unit</i> <ul style="list-style-type: none"> <li>- <i>Development Applications (DA) issue:</i></li> <li>- <i>Tree Damaging Activity Applications (TDAA) issue:</i></li> </ul> </li> </ul>	<p><a href="http://www.planning.act.gov.au">www.planning.act.gov.au</a> 02 6207 1923</p> <p><a href="mailto:EPAPanningLiaison@act.gov.au">EPAPanningLiaison@act.gov.au</a> 6207 5642</p> <p><a href="mailto:worksafe@worksafe.act.gov.au">worksafe@worksafe.act.gov.au</a> 132 281</p> <p><a href="http://www.environment.act.gov.au">www.environment.act.gov.au</a> 132 281</p> <p><a href="mailto:TCCS.TreeProtectionACTPLARef@act.gov.au">TCCS.TreeProtectionACTPLARef@act.gov.au</a></p> <p><a href="mailto:TCCS.TreeProtection@Act.gov.au">TCCS.TreeProtection@Act.gov.au</a></p>
<p><b>Transport Canberra and City Services</b></p> <ul style="list-style-type: none"> <li>• landscape management and protection plan</li> </ul>	<p><a href="http://www.tccs.act.gov.au">www.tccs.act.gov.au</a> 132 281</p>

## NOTICE OF DECISION

DA 202342062

<ul style="list-style-type: none"><li>approval</li><li>• use of verges or other unleased Territory land</li><li>• works on unleased Territory land - design acceptance</li><li>• driveway inspections or building applications</li><li>• damage to public assets</li></ul>	02 6207 0019 (development coordination) <a href="mailto:tccs.dcdevelopmentcoordination@act.gov.au">tccs.dcdevelopmentcoordination@act.gov.au</a>
<b>Health Directorate</b>	<a href="http://www.health.act.gov.au">www.health.act.gov.au</a> <a href="mailto:hps@act.gov.au">hps@act.gov.au</a> 02 5124 9700
<b>Education Directorate</b>	<a href="http://www.education.act.gov.au">www.education.act.gov.au</a> 02 6205 5429
<b>Utilities</b> <ul style="list-style-type: none"><li>• Telstra (networks)</li><li>• TransACT (networks)</li><li>• Icon Water</li><li>• Electricity reticulation</li></ul>	02 8576 9799 02 6229 8000 02 6248 3111 02 6293 5749

### Translation and interpretation services

The ACT Government's translation and interpreter service runs 24 hours a day, every day of the week by calling 131 450.

ENGLISH	If you need interpreting help, telephone:
ARABIC	: إذا احتجت لمساعدة في الترجمة الشفوية ، إتصل برقم الهاتف :
CHINESE	如果你需要传译员的帮助，请打电话：
CROATIAN	Ako trebate pomoć tumača telefonirajte:
GREEK	Αν χρειάζεστε διερμηνέα τηλεφωνήσετε στο
ITALIAN	Se avete bisogno di un interprete, telefonate al numero:
MALTESE	Jekk għandek bżonn l-għajjuna t'interpretu, ċempel:
PERSIAN	: اگر به ترجمه شفاهی احتیاج دارید به این شماره تلفن کنید:
PORTUGUESE	Se você precisar da ajuda de um intérprete, telefone:
SERBIAN	Ако вам је потребна помоћ преводиоца телефонирајте:
SPANISH	Si necesita la asistencia de un intérprete, llame al:
TURKISH	Tercümana ihtiyacınız varsa lütfen telefon ediniz:
VIETNAMESE	Nếu bạn cần một người thông-ngôn hãy gọi điện-thoại:

### **TRANSLATING AND INTERPRETING SERVICE**

# **131 450**

Canberra and District - 24 hours a day, seven days a week