



ACT
Government

Environment, Planning and
Sustainable Development

NOTICE OF DECISION

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

I, Matt Davis, 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 **demolition of existing structures and tree removal, construction of a 125 unit retirement village comprising of 48 apartments in 6 buildings and 77 single storey houses, residents facilities building, construction of an access road, driveway verge crossing and offsite road works, signage, landscaping and associated works**, at Block 1 Section 56 RED HILL & Block 76 Section 10 GARRAN, in accordance with the plans, drawings and other documentation approved and endorsed as forming part of this approval.

DA Number: 202342264/ s144B
Location: Block 1, Section 56, Red Hill 'Retirement village'
Block 76 Section 10 Garran 'Access Road'
Application lodged: 9 February 2024 / 21 June 2024
Assessment track: Merit

This decision contains the following information:

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

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

CONTACT / ENQUIRIES

Phone: (02) 6207 6383

Online Form:

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

Matt Davis

Delegate of the Planning
and Land Authority

18 November 2024

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PART A – CONDITIONS OF APPROVAL

This application is approved subject to the following conditions being satisfied. Some conditions of the approval require attention before work commences or before approved drawings will be released.

GENERAL CONDITIONS

1. APPROVAL DOES NOT TAKE EFFECT

This approval does not take effect until:

- i) the Crown lease (or the part relating to the development) concessional status is removed; and
- ii) the provisions of the Crown lease for Block 1 Section 56 Division of Red Hill (or part thereof) are varied to permit the approved development.

Note: The Crown lease does not permit the site to be used for a retirement village. It is acknowledged there is an application for subdivision that aligns with the plans provided.

2. COMPLIANCE WITH CONDITION – APPROVAL NOT TO TAKE EFFECT

In accordance with Section 184(2)(a) of the *Planning and Development Act 2007*, this approval will end if the lessee has not varied the Crown lease and commenced the approved construction and/or demolition on the site within 36 months of the date of this decision.

3. COMMENCEMENT OF BUILDING WORK

No building work in relation to this development approval is to commence on site until all the relevant conditions within this notice, the approved DA (DA202342260) including the Environment Significance Opinion (ESO) are met.

Note: further conditions in DA202342252 may also affect the commencement of this notice.

4. COMMENCEMENT AND COMPLETION OF DEVELOPMENT

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

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

CONDITIONS RELATING TO DEVELOPMENT and ENTITY REQUIREMENTS

5. FURTHER INFORMATION

The applicant shall lodge with the planning and land authority, an application under section 165 of the *Planning and Development Act 2023* (the Act) seeking approval to address the following conditions:

- a) Addressing EPA requirement regarding site investigation and contamination report in accordance with condition 6.a) & 6.b) below to the satisfaction of the Environment Protection Agency (EPA);
- b) Site plans and floor plans are to include references to the Noise Management Plan consistent with condition 6k) below.

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Notes:

- i) *consider providing all requested information under a single S165 application. This will assist the Authority in providing you a response in the most efficient manner.*
- ii) *information shall be submitted in the eDevelopment portal addressing the above conditions. Please ensure plans and supporting information are suitably named as per the Authority's naming convention, are clouded for any amendments, such clouding are labelled consistently with items listed on the S165 application form,*
- iii) *any substantial changes to the development required to comply with the above conditions may need to be submitted for the approval of the planning and land authority with an application to amend the approval under s205 of the Planning and Development Act 2023.*

6. ENVIRONMENT PROTECTION AUTHORITY (EPA)

The development shall comply with the following conditions to the satisfaction of the EPA, note some conditions require action prior to any works commencing on the site:

Contaminated sites:

- a) A phase 2 detailed site investigation with intrusive assessment must be undertaken by a suitably qualified environmental consultant to further investigate the potential contamination risk associated with each identified Areas of Environmental Concern (AECs) that fall within the proposed areas for development.
- b) The consultant's assessment report into the site's suitability for the proposed and permitted uses from a contamination perspective and a letter of introduction from the land custodian and/or person/company responsible for commissioning the report detailing the purpose of the report and the action being requested from the EPA must be submitted to the EPA (ContaminatedSites@act.gov.au) for review and endorsement prior to construction commencing.

Construction:

- b) All works must be carried out 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.
- c) As the site is greater than 0.3 hectares the construction is an activity listed in Schedule 1 as a Class B activity under the *Environment Protection Act, 1997*. The contractor/builder developing the site must hold an Environmental Authorisation or enter into an Environmental Protection Agreement with the Environment Protection Authority (EPA) in respect of that activity **prior to works commencing**.
- d) An Erosion and Sediment Control Plan must be submitted to and be endorsed by the EPA **prior to works commencing** on site.
- f) For sites greater than 1 hectare, sediment control ponds must be incorporated during the construction phase of the development until 85% of the site is stabilised. Pond construction should be in accordance with the following guidelines:
 - i. Be of adequate size to control all runoff from the site (i.e. 150 cubic metres per hectare of catchment).
 - ii. No discharge from dam unless sediment level is less than 60mg/litre. If sediment level is greater, then prior to discharge, the dam must be dosed with either Alum or Gypsum and allowed to settle until the sediment is less than 60 mg/litre.
 - iii. Water level must not exceed 20% capacity at all times to allow runoff storage during a rain event.
 - iv. Regular dredging of the dam must be carried out to remove silt.
 - v. Site drawing and details must be provided to the Environment Protection Unit, Environment ACT for approval prior to works commencing.

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- vi. Temporary Erosion & Sediment control ponds must be incorporated into each stage of development. The size of the ponds must be minimum of 150 m³/ hectare and the temporary ponds shall not be removed until 85 % of the developments are complete or all the disturbed areas are stabilised. The lessee shall comply with *the Environment Protection Act 1997* (the Act) and all relevant policies and guidelines.

Water:

- g) Dams/ponds/structures to be constructed with a capacity of 2 mega litres or more will require a Waterway Works Licence **prior to works commencing**.
- h) Riparian restoration work around waterways may require a Waterway Works Licence. **Applicant is to contact EPA to determine if a Waterway Works Licence is required before commencement of work.**
- i) All works and development to comply with “The Practice Guidelines for Water Sensitive Urban Design in the ACT” (the WSUD Guidelines) available at [Water Sensitive Urban Design - Environment, Planning and Sustainable Development Directorate - Environment \(act.gov.au\)](https://www.act.gov.au/act.gov.au/water-sensitive-urban-design-environment-planning-and-sustainable-development-directorate-environment)
 - i. At all stages of development, the developer must incorporate controls and operating procedures which ensure that stormwater runoff from the site reflects patterns, volumes and quality that replicates site conditions and takes appropriate measures to mitigate potential flood impacts, adhering to WSUD guidelines to manage stormwater effectively prior to the works commencing.
 - ii. Retain/incorporate naturalised drainage lines and vegetation as far as practicable and revegetate as per WSUD recommendations to preserve ecological values of the surrounding environment.
 - iii. Ensure to follow best practices for WSUD, promoting environmental sustainability, water conservation, and resilience to climate change impacts.

Noise:

- j) The Noise Management Plan titled “Residential Facility associated with Retirement Village Development at Federal Golf Club”, revision 2, dated 27 May 2024, prepared by WSP is endorsed by the EPA on the basis all assumptions and recommendations included in the report must be incorporated into the final building construction and design.
- k) The above Noise Management Plan must be included in the approved plans stamped by the ACT Planning & Land Authority to ensure all recommendations and assumptions included in the document are confirmed and signed off by the building certifier prior to a certificate of occupancy and use being issued.

For further information please contact the Environment Protection Authority Planning Liaison at EPAPLanningLiaison@act.gov.au.

7. CONSERVATOR OF FLORA AND FAUNA

Eastern Grey Kangaroo:

- a) The proponent shall liaise with the Conservator of Flora and Fauna (macropod management staff) to discuss the ongoing management of mitigation measures on the site in relation to kangaroos and proposed developments prior, during and post construction. The advice will be incorporated into the registered village rules under the Retirement Village Act.

Trees:

- b) The Territory Plan Variation (384) requires a tree assessment and nomination of suitable trees to the ACT Tree Register. While the Conservator has confirmed that the assessment of the trees against the relevant criteria and formal nomination is appropriately noted, The completion of this nomination process must be completed prior the occupancy certification.

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Environment Significance Opinion:

- c) The proposal must proceed in accordance with the approved Environment Significance Opinion (ESO) for the site throughout (prior, during and post) construction, this includes relevant mitigation measures as outlined. Conditions in the ESO aim to reduce the impacts of the development by:
- Retention and maintenance of connectivity corridors around the southern, eastern and western edges of the Federal Golf Course;
 - Additional plantings to reduce canopy gaps around the proposed road alignment;
 - Salvage and relocation of removed hollows with follow up monitoring;
 - Avoidance of tree clearing during Gang-gang and Superb Parrot breeding periods;
 - Additional landscaping to enhance Superb Parrot foraging habitat, and replanting of removed endemic trees at a ratio of 10:1 and
 - Weed management to prevent further habitat degradation.

The ESO was granted subject to the following conditions made under s138AB(4) of the Act:

1. Options to enhance connectivity values between the FGC and the Hughes Garran Woodlands and Goble Park must be investigated to best inform the Estate Development Plan, as these are key regional linkages.
2. Any modifications to Kitchener Street resulting from the development of access roads for the new development must consider opportunities to enhance wildlife crossing infrastructure between Red Hill, the FGC and Hughes Garran Woodland. Examples of this infrastructure may include large vegetated culverts with appropriate habitat structures in place to facilitate movement by a range of terrestrial wildlife species; and possum and glider crossing poles and wires above the road.

Refer to the approved ESO dated 12 October 2022, the applicant/Lessee must liaise with the Conservator prior to any future amendments and ensure the development complies with the approved ESO at all times.

8. TRANSPORT CANBERRA AND CITY SERVICES (TCCS)

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

Driveways / Verge Crossings:

- 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, eg, 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) Any significant changes to verge design may need to be reviewed by TCCS as part of an DA amendment.

Pedestrian Network:

- e) The pedestrian walkway / footpath must take precedence over the driveway.
- f) All verge protective fencing (LMPP) must be placed in a way such that the verge is protected but access to the pedestrian network is maintained at all times.
- g) Adequate clearance must be provided for pedestrian walkway / footpath in accordance with the TCCS MIS Design Standards.
- h) The proposed path links to the existing pedestrian networks must be installed in accordance with TCCS drawing ACTSD-0501 which requires 100mm thick concrete with SL82 centrally placed reinforcement. The paths must be appropriately jointed to the existing pedestrian path subject to Design Review approval. The path connections remain the responsibility of the developer.

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LMPP / Street Trees:

- i) There must be no storage of materials or parking on the verge during construction.

Stormwater:

- j) Only one stormwater tie must be used for all the developments within a single block. Subdivision of a block will require a separate tie for each newly created blocks.
- k) The applicant will need to submit updated plans at the Design Review (DR) stage.

Traffic:

- l) In reviewing the updated TIA prepared by GHD dated 27 May 2024, the sight distance checks identify inadequate sight distance at Kitchener Street, given the crest in the road. Speed cushions are proposed to slow vehicles along Kitchener Street.
- m) TCDs to be reviewed further at Design Review (DR) stage, which include signage warning drivers of the upcoming speed cushions.

Waste:

- n) TCCS does not collect any commercial waste; however, the applicant will need to provide the Waste and Recycling Management Plan (WRMP) and all the mandatory documentation as part of the next submission at the Design Review (DR) stage.
- o) All commercial waste must be stored, transferred, and collected onsite by a commercial contractor.

Streetlight:

- p) Existing streetlights must be a minimum of 1.5m from the edge of any driveway within the verge.
- q) A Letter of Design Review must be obtained if there any relocation of street light.
- r) If the existing 4.5m high (concrete) streetlight footing is damaged during construction then the column must be replaced with a 6.5m high tapered galvanised column with 1.5m outreach and LED luminaire in accordance with TCCS MIS Design Standards. The new streetlight column must be located 1.5m (min) from the edge of the new driveway.

A letter of response and updated plans / documents must be provided in the next submission to TCCS Design Review.

This project must undergo Design Review. Therefore, the following Standard Conditions included with this decision will apply;

TCCS STANDARD CONDITIONS

The following general conditions will apply, as appropriate, for the Works and use of Territory land and potential impacts on TCCS services in addition to any specific conditions imposed in the DA Notice of Decision. In accordance with the Public Unleased Land Act 2013 no Works are to be undertaken without the approval of the TCCS. Such approval must be obtained from the relevant Senior Director of the TCCS Development Coordination Branch by the ways of a Letter of Early Works Approval, or a Letter of Design Review prior to the commencement of any Works.

Design Review generally applies to a residential development of more than 3 dwellings or any commercial or industrial developments or subdivision of any block requiring a new stormwater tie. Early Works approvals are required if the applicant wishes to expedite the process for this category of development ahead of the Design Review process.

Early Works Approval

Early works typically include site preparation and establishment, implementation of temporary traffic management plan and landscape management and protection plan and earthworks / excavations. Early Works do not include any building works or offsite works.

Fees and charges will apply for Early Works Approval as per TCCS "GEN-06 - Submissions and Inspections Guideline Principles and Related Fees and Charges for TCCS and Industry".

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Design Review

In order to obtain the Letter of Design Review, fully detailed drawings (civil, landscape) prepared by suitably qualified persons for all off-site works including roads, driveways, footpaths, street lighting, stormwater, landscaping (and any other issues that may be found by audit of the plans) and a design report in accordance with TCCS "REF-06 - Requirements for Design Review Submissions", must be certified by a Chartered Engineer/Registered Landscape Architect and submitted to the relevant Senior Director of the TCCS Development Coordination Branch.

Waste and Recycling Management Plan (WRMP) review

Unless a fully completed WRMP and mandatory submission documents (in accordance with 2019 Development Control Code for Best Practice Waste Management in the ACT) have been submitted and endorsed by TCCS at the DA stage, then noncompliance will not be supported. A performance-based-application can only be considered if a pre-application meeting is held (before a DA is submitted) and TCCS provides the Applicant with a letter of endorsement which is presented to EPSDD at the DA stage.

Operational Acceptance/Soft Landscape Consolidation Commencement

On completion of the Works, a Certificate of Operational Acceptance is required from the relevant Senior Director of the TCCS Development Coordination Branch, prior to the issuance of a Certificate of Occupancy.

Where required, a Certificate of Soft Landscape Consolidation Commencement must also be obtained from the relevant Senior Director of the TCCS Development Coordination Branch for the placement of soft landscape works on consolidation.

A Chartered Engineer/Registered Landscape Architect must certify compliance with TCCS "REF 08 - Requirements for Works as Executed Quality Records Requirements" when the request for Operational Acceptance and/or Consolidation Commencement is made to the relevant Senior Director of the TCCS Development Coordination Branch on completion of all Works.

Final Acceptance/Soft Landscape Handover

A Certificate of Final Acceptance for all civil and hard landscape works must be obtained from the relevant Senior Director of the TCCS Development Coordination Branch at the end of the required Defects Liability Period (DLP) as noted in the Certificate of Operational Acceptance.

A Certificate of Soft Landscape Handover for all soft landscape works must be obtained from the relevant Senior Director of the TCCS Development Coordination Branch at the end of the required Consolidation Period as noted in the Certificate of Consolidation Commencement.

Temporary Traffic Management (TTM)

A TTM plan approval from the Manager of TCCS Traffic Management & Safety, Roads ACT, must be obtained prior to commencement of Works. This plan must be prepared by a suitably qualified person and address, as a minimum, measures to be employed at all times during construction activities to manage all traffic, including construction and regular traffic in and around the site, provision of safe pedestrian movement around the site, the provision of parking for construction workers, and associated temporary traffic control devices.

Landscape Management & Protection Plan (LMPP)

LMPP approval must be obtained from the relevant Senior Director of the TCCS Development Coordination Branch or the delegated authority. During construction, all existing vegetation (trees, shrubs and grass) located within the verge and unleased Territory land immediately adjacent to the development must be managed, protected and maintained in accordance with the approved LMPP. This plan must be implemented before the commencement of any Works, including demolition on the site, and must be in accordance with TCCS "REF 04 - Requirements for the Protection of Public Landscape Assets Adjacent to Development Works".

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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 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.

Repair of damage to public assets

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.

Notice of Commencement of construction

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.

TCCS Contact details for development related submissions

Email: tccs.dcdevelopmentcoordination@act.gov.au
Phone: 02 62070019

9. **ACT HERITAGE COUNCIL (THE COUNCIL)**

An 'Unanticipated Discovery Protocol' shall be included in the Construction Environmental Management Plan (CEMP) and shall include provisions for the assessment and management of any unexpected heritage discoveries during construction that is endorsed by the ACT Heritage Council.

10. **COMPLIANCE WITH ENTITY REQUIREMENTS**

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

- Emergency Services Authority (ESA);
- 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.

11. **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.

12. **LIGHTING**

The development to comply with *AS115.8 3.1 Pedestrian Lighting* and *AS 4282 Control of the Obtrusive Effects of Outdoor Lighting* and as shown in the lighting plans submitted with the application.

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

14. SERVICES

Any service connections including, point of entry, meter boxes and gas meters, are to be located clear of areas approved for car parking space(s) to ensure these services do not reduce the minimum area of the parking spaces and/or restrict vehicular access.

ADVISORY NOTES

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

1. ASSOCIATED DEVELOPMENT APPLICATIONS

The applicant to consider all development applications, including the Environment Significance Opinion (ESO) associated with this site including any relevant conditions prior to any works commencing.

The applicant must ensure that any amendment, including any changes required by entities, is to be consistent across each separate application where relevant.

2. RELEASE OF APPROVED PLAN

Final stamped plans may not be released until all relevant conditions of the decision (including Leasing, s187 further Information, Entity non-compliance) are complied with to the satisfaction/at the discretion of the planning authority.

3. SIGNAGE

a) All signage installed at the site, including advertising signage and hoarding, should comply with the Australian Association of National Advertisers (AANA) Code of Ethics and the ACT Government's Hoarding Signage Advertising Guidelines available online at <https://www.planning.act.gov.au/build-buy-renoate/for-industry/industry-resources/hoarding-signage-guidelines>

b) All directional signage must comply with the requirements of *AS1742.10 (1991) Manual of Uniform Traffic Control Devices – Pedestrian Control and Protection* and as shown in the lighting plans submitted with the application.

4. ENVIRONMENT AND SUSTAINABLE DEVELOPMENT DIRECTORATE – Climate change and energy

In August 2022 the ACT Government announced it is phasing out all new fossil fuel 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-renoate/for-industry/industry-resources/electric-ready-buildings-information-for-developers> and www.energy.act.gov.au.

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PART B – REASONS FOR THE DECISION

The application was approved because based on the documentation and in the form modified by the imposed conditions it was considered to meet the relevant rules and criteria of the Territory Plan 2008 (version R290) and section 120 of the *Planning and Development Act 2007 (the Act)*.

The zone objectives of the PRZ2 Restricted Access, PRZ1 Urban open space and TSZ1 Transport have been considered, in particular greater consideration was given to the PRZ2 considering the location of the proposed development was found in this area. In general, the assessment found the development was not inconsistent with the zone objectives.

PRZ2 zone objectives (extract from territory plan)

- a) Accommodate facilities that will meet the recreational needs and demands of the community and are appropriately located for the potential users of the facility*
- b) Make provision for a range of sport and recreation facilities and users, whether in public or private ownership that may be commercial in nature*
- c) Ensure the amenity of adjoining development is not unacceptably affected by the operation of sport and recreation facilities, particularly in terms of noise, traffic, parking, privacy and outside lighting at night*
- d) Design and landscaping of development is to be compatible with the surrounding landscape*
- e) Provide safe pedestrian and cycling access to recreation facilities to promote active living.*

Zone objectives are one requirement to consider in making a decision under the Planning and Development Act 2007 and have been considered for this application. Zone objectives are not rule or criteria based and provide a high-level performance overview for the relevant zone, in this instance PRZ2 Restricted Access, and are not intended to be subject to individual assessment for a particular proposal.

The objectives for a zone set out the policy outcomes intended to be achieved by applying the applicable development table and code to a zone which are somewhat imbedded throughout the rules and criteria of the relevant Code/s to ensure the intent of the zone objectives are met and can be satisfied through performance-based measures. For example, zone objective 'a)' has been considered as rule 26 of the Red Hill Precinct Map and Code requires the proposal not to diminish an 18-hole golf course, the proposal includes works required to facilitate the ongoing sustainable operation of the 18-hole course and to ensure that the needs and demands of the community for recreation use remains met.

The assessment also considered the relevant rules relating to landscaping, ecological values, advice from the Conservator including the approved ESO and in particular DV384 with the Red Hill Precinct Map and Code. The proposal was deemed to provide consistency with the PRZ2 zone objectives, while any development is capable of some impacts either environmental, local infrastructure, traffic and the like, the proposal and assessment including conditions imposed in this decision aim to reduce these. On balance the development's impacts are supported.

The Red Hill Precinct Map and Code and ESO envisaged a retirement village within the investigation area as identified in the Precinct Code. R26 of the Precinct Code confirms this noting that it is a mandatory rule. While there is likely to be some interruption to the golf course, its users and habitat, all matters can be managed prior, during and post construction with a range of mitigation measure imposed. The proposed landscape plan and conditions of the ESO also ensures additional habitat and corridors for wildlife.

In addition to the above commentary, the main issues identified during the assessment were:

- The development proposal meeting the Territory Plan requirements, in particular the Garran Precinct Map and Code and the Red Hill Precinct Map and Code;

Of significance the Red Hill Precinct Map and Code was varied on 10 June 2023 as a result of Territory Plan variation 384. The variation implemented a key recommendation of the Red Hill Integrated Plan June 2021 and amends the Red Hill and Garran Precinct Maps and Codes to

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future development for a retirement village at the Federal Golf Course (Red Hill section 56 parts of block 1) with access off Kitchener Street (Garran section 10 block 76).

The variation also rezones approximately 10ha of land considered to be of high ecological value in the north-west portion of the site to NUZ3 hills ridges and buffer zone and includes this land in the Red Hill Nature Reserve.

The Red Hill Precinct Map and Code, in particular Rule 26, provides the key requirements for a 125-unit retirement village in the area identified in figure 7 of the Precinct Code. The assessment against this rule and the rules and criteria in RC2 of the Precinct Code in its entirety set the core assessment outcomes and the proposal was found to not be inconsistent with the Precinct Code.

- s144 Amendment – During the assessment of the DA, the Authority requested further information to address entity comments such as Transport Canberra, Evo Energy and Environment Protection Authority. The applicant provided an application under section 144 of the Act in response, amending the proposed development. This decision is based on the amended proposal.
- Issues raised in representations received. Items raised in representation discussed further in Part C below.
- Entity advice – Refer to conditions imposed in this decision and attachments.

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:	202342264 /s144B
Territory Plan Zones:	PRZ2, NUZ3, PRZ1, TSZ1, RZ1
Development Codes:	Parks and Recreation Zone Development Code, Non-Urban Zones Development Code, Transport and Services Zone Development Code, Residential Zones Development Code
Precinct Code:	Red Hill Precinct Map and Code, Garran Precinct Map and Code
General Codes:	Parking & Vehicular Access General Code, End of Trip Facilities General Code, Access and Mobility General Code, Signs General Code, Water Sensitive Urban Design (WSUD), Crime Prevention Through Environmental Design General Code
Crown Lease:	Volume 953 and Folio 33
Legislative requirements:	The <i>Planning Act 2023</i> including the transitional arrangements for DAs such as this made before its commencement. The <i>Planning and Development Act 2007</i> in particular sections 119 and 120
Representations and Entity advice:	As addressed in PART B and PART C of this Decision

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

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PART C – PUBLIC NOTIFICATION AND ENTITY ADVICE

PUBLIC NOTIFICATION

Pursuant to Division 7.3.4 of the *Planning and Development Act 2007* (the Act), the application was publicly notified from 16 February 2024 to 20 March 2024. A total of 326 written representations were received during public notification period, including 9 late representations. Of the 326 Representations, 101 were in support with 225 against the proposed development.

s144B Further Information / Amendment: (NOT re-notified)

An amendment to the proposal was lodged with the authority on 21 June 2024. This amended application was not publicly notified due to the applicant addressing entity requirements and no major design changes for the proposed development that would affect the overall considerations for the development.

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

The issues raised in the representations were considered in the assessment and making of the decision for this development application. The main issues raised and Authority comments are noted in **Part B** and as follows:

Planning (amenity impact, adjoining residential impacts, bulk and scale)

The proposed development was found to be consistent with the Garran Precinct Map and Code and the Red Hill Precinct Map and Code which provides explicit area in figures and rule (R26) for a retirement village consisting of 125 units. The proposed seeks to utilise the area for the maximum 125 units and is consistent with the location and size identified in the Red Hill Precinct Code.

traffic (increased traffic and access, including waste trucks)

The application was referred to Transport Canberra and City Services (TCCS) whom are custodians of road networks and traffic management and have conditionally supported this application based off the supporting plans and documents submitted with the application including traffic reports.

In addition, the Garran Precinct Map and Code requires access via Kitchener Street with the proposal being consistent with PM&C.

The Kitchener St safety assessment and sightlines, including traffic calming measures, was included in the engineering drawings accompanying the application. Information regarding the traffic and supporting commentary can be found in the traffic report prepared by GHD and conditionally supported by TCCS with a range of conditions regarding Kitchener St. included in this Notice. The Authority did not identify any reasons to depart from the TCCS advice.

environmental (greenspace home to wildlife such as gang gang, kangaroos, loss of trees and public access/ open space)

The proposal was accompanied with an approved Environment Significance Opinion (ESO) and it was determined that if the works are undertaken in a manner consistent with this Notice and the approved ESO including the mitigation measures contained in the supporting application for an ESO, they are unlikely to cause a significant adverse environmental impact. The Conservator was referred

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the Development application and confirmed that the proposed development is not likely to cause a significant impact on threatened species.

It is noted that tree removal has been proposed with this application for the removal of 358 trees. While the Tree Act 2005 does not apply to this site as the site is not declared or identified in the Notifiable Instrument '*Tree Protection (Built-up Urban Area's) Declaration 2021*' close consideration was undertaken including discussions in the Authorities internal meetings Assessment Advisory Panel and Landscape Review Panel.

The Authority's panel noted many trees, approximately 249, would not meet the criteria of a 'regulated tree' if the Tree Act 2005 was applicable. Further the planting palette is almost exclusively native, with 579 trees proposed to be planted and maintained as part of the proposal. Additionally, 10.4ha from the north-western area of the site is proposed to be incorporated into Red Hill Nature Reserve as it contains significant ecological values including Box Gum Woodland and Gang-gang nesting trees. This and in conjunction with the ESO and the Conservators advice it was considered the location and size was consistent with the Red Hill Precinct Map and Code and unlikely to have significant impact on threatened species.

The Territory Plan requires a minimum 50m setback to adjoining homes to address concerns about wildlife movement and open space connectivity. The proposed design exceeds these setbacks, being typically 100m or more, and retains the existing golf holes and adjoining trees bordering the residential areas.

other (financial, lease agreements.)

Financial matters are not subject to Territory Plan assessment and not considered as a planning matter.

In this context it is noted that the lease/lease agreements are subject to a separate development application DA20234225 which proposes a variation to the Crown lease for the subdivision of Block 1 Section 56 Division of Red Hill into two (2) parcels, to vary that lease to include a drainage easement and for the erection of an information sign.

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.

Please refer to **PART B** – 'Reasons for the Decision' for further clarification.

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 initial advice stating that the proposal is not supported and requires further information.

S144B - the amended application was re-referred to TCCS who provided advice stating that the proposal is not yet supported and still requires further information. On 25 September, TCCS provided advice stating that the proposal is now supported subject to conditions.

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

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2. ENVIRONMENTAL PROTECTION AUTHORITY (EPA)

EPA provided initial advice stating that further information/amendment is required.

S144B – the amended application was re-referred to EPA who provided advice stating that the EPA does not approve of the site being used for other purposes until such time as a detailed site investigation has been conducted and the resulting report confirms the site's suitability for the proposed uses.

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

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

The Conservator provided initial advice stating that:

Landscaping

Drawing LSCAPE-202342264-PALETTE-03 proposes to use *Acacia boormanii* and *Eucalyptus leucoxylon* for landscape purposes. These species are not indigenous to the local area and present a minor weed threat to local reserves. It would be appreciated if the proponent suggested local native as an alternative to these species.

Trees

The Territory Plan Variation (384) required a tree assessment and nomination of suitable trees to the ACT Tree Register. The proponent has indicated that "the tree assessment prepared by the project Arborist identifies all trees not proposed for removal that are eligible for nomination under the Tree Protection Act (2005). Consultation with the Conservator has confirmed that the assessment of the trees against the relevant criteria and formal nomination is appropriately conditioned in any consent to occur prior to the first occupation certificate". The completion of this nomination process, prior the occupancy certification, should be a condition of the DA.

The demolition plans need to be revised to clearly and explicitly show the location of nest trees that are being retained.

Eastern Grey Kangaroos

- There is a large Eastern Grey Kangaroo population that resides on Federal Golf Course. This development will displace kangaroos and may result in negative welfare impacts to kangaroos and people, and an increase in grazing pressure on the rest of the golf course and in the nearby Red Hill Nature Reserve. These impacts, which may occur during and after construction, need to be considered and mitigated.
- The Eastern Grey Kangaroo Controlled Native Species Plan (2017) <https://www.legislation.act.gov.au/di/2017-37> states that managing kangaroo welfare will be included in planning for greenfield development sites and kangaroo populations will be managed to achieve grassland target densities in areas that adjoin high conservation grassy ecosystems. This management includes the consideration of culling where it is preferable to having kangaroos subject to trauma (e.g. road collisions, dog attacks, starvation) or where there are detrimental impacts on adjacent conservation land (pages 50-51).
- It is not possible to know exactly how many kangaroos will be displaced by this development. Over 200 kangaroos are regularly seen on the golf course (a more accurate population estimate will be available later in March). Kangaroos will be displaced from the development footprint in the long-term, but they may be displaced from a larger area during construction due to the construction noise and activity.
- If kangaroos flee the area in response to the construction activity, this may result in increased vehicle collisions with kangaroos on nearby roads or increased dog attacks in the nearby suburbs. Mitigation measures, such as the use of fencing, should be implemented to reduce these risks and encourage kangaroos into move to safer areas of the site.
- The longer-term implications of increased kangaroo density and grazing pressure on the rest of the golf course and the surrounding nature reserve should be considered and planned for prior to the commencement of construction.
- Consideration should also be given to any management requirements related to having a kangaroo population residing close to the retirement village. This may include fencing &/or educating residents about not feeding kangaroos and how to behave around them.
- EPSTD macropod management staff would be happy to discuss these issues in more detail if required.

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S144B – the amended application was re-referred to the Conservator who provided advice stating that the proponent has adequately addressed all the Conservators comments on this DA, noting that discussions about the registering of trees (condition 7b) and kangaroo management are ongoing and advice received from ESPDD will be incorporated into the registered village rules under the Retirement Village Act (condition 7a)

4. ACT EMERGENCY SERVICES AGENCY (ACTESA)

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

A condition requiring the development to satisfy relevant entity requirements has been imposed in **PART A**. A copy of the ESA advice is attached to this Notice of Decision.

5. ICON WATER

Icon Water provided initial advice stating that the proposal is not accepted.

S144B – the amended application was re-referred to Icon Water who now supports the proposal 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.

6. EVOENERGY (ELECTRICITY)

EvoEnergy (Electricity) provided initial advice stating that the proposal fails to comply.

S144B – the amended application was re-referred to EvoEnergy (Electricity) who now supports the proposal 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.

7. EVOENERGY (GAS)

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

A condition requiring the development to satisfy relevant entity requirements has been imposed in **PART A**. A copy of the EvoEnergy (Gas) advice is attached to this Notice of Decision.

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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.

Chapter 20 of the *Planning Act 2023* (Planning Act) includes various transitional arrangements for Development Applications, such as this, made prior to its commencement which may be applicable to your development proposal. Further information on the transitional arrangements, and how this may affect your DA, can be found under the Planning Act on the ACT legislation register at <https://legislation.act.gov.au/a/2023-18/>

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 187 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 <https://www.planning.act.gov.au/build-buy-renovate/build-buy-or-renovate/approvals/development-applications/appeal-a-da-decision>.

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

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Review by the ACT Civil and Administrative Tribunal (ACAT)

1. Decisions that are reviewable (sometimes referred to as appeals) by the ACAT are identified in Schedule 1 of the [Act](#), except for matters that are exempted under Schedule 3 of the [Planning and Development Regulation 2008](#) (matters exempt from third party review).
2. The notice of decision and this advice have been sent to all people who made a representation in relation to the application.
3. The ACAT is an independent body. It can review a large number of decisions made by ACT Government ministers, officials and statutory authorities on their merits. The ACAT can agree with, change or reject the original decision, substitute its own decision or send the matter back to the decision maker for reconsideration in accordance with ACAT recommendations.
4. More information on appeal rights is available online at <https://www.planning.act.gov.au/build-buy-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.

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

Review by the ACT Supreme Court

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

Other approvals

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

1. **Building Approval**

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

2. **Tree damaging activity approval**

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

3. **Use of verges or other unleased Territory Land**

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

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

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from the Senior Manager, Place Coordination and Planning, Transport Canberra and City Services Directorate by way of:

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

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

Contact details for relevant agencies

<p>ACT Civil and Administrative Tribunal 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 • Tree Protection Unit <ul style="list-style-type: none"> - <i>Development Applications (DA) issue:</i> - <i>Tree Damaging Activity Applications (TDAA) issue:</i> 	<p>www.planning.act.gov.au 02 6207 1923</p> <p>EPAPanningLiaison@act.gov.au 6207 5642</p> <p>worksafe@worksafe.act.gov.au 132 281</p> <p>www.environment.act.gov.au 132 281</p> <p>TCCS.TreeProtectionACTPLARef@act.gov.au</p> <p>TCCS.TreeProtection@Act.gov.au</p>
<p>Transport Canberra and City Services</p> <ul style="list-style-type: none"> • landscape management and protection plan approval • use of verges or other unleased Territory land • works on unleased Territory land - design acceptance 	<p>www.tccs.act.gov.au</p> <p>132 281</p> <p>02 6207 0019 (development coordination)</p>

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<ul style="list-style-type: none">• driveway inspections or building applications• damage to public assets	tccs.dcdevelopmentcoordination@act.gov.au
Health Directorate	www.health.act.gov.au hps@act.gov.au 02 5124 9700
Education Directorate	www.education.act.gov.au 02 6205 5429
Utilities <ul style="list-style-type: none">• Telstra (networks)• TransACT (networks)• Icon Water• Electricity reticulation	02 8576 9799 02 6229 8000 02 6248 3111 02 6293 5749

Translation and interpretation services

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

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