

20 December 2023

Environment, Planning and Sustainable Development Directorate Submission via email:  
[ACepdcustomerservices@act.gov.au](mailto:ACepdcustomerservices@act.gov.au)

**Re: Development Application no. 202342095**

PROPOSAL FOR PRECINCT 1 FOR RESIDENTIAL USE DEVELOPMENT– Canberra Brickworks Precinct

Dear Sir/Madam,

The Yarralumla Residents Association (YRA) has been actively engaged with proposals for the development of the Canberra Brickworks Precinct (CBP) since its founding in 1988. Representatives of the YRA have been actively engaged with the current proposal as members of the Brickworks Community Panel, initially formed by the Land Development Agency in 2015.

We take this opportunity to comment on a number of highlighted issues that we believe require closer scrutiny by the ACT Government to ensure the development results in a high quality and sustainable estate for Canberra while delivering the promised mitigation of negative impacts on existing residents and infrastructure.

#### **UNDERTAKINGS BY THE ACT GOVERNMENT**

Our comments are premised on the following undertakings by ACT Government Directorates.

1. The Suburban Land Agency (SLA) has entered into a non-public deed with the developer (Doma), which enshrines certain conditions to be met on the leased land.
2. We understand that various conditions placed on Doma, through the deed or other mechanism administered by the ACT Government, include:
  - a) No more than 380 dwellings to be permitted across the entire precinct, which should also prohibit future subdivision of individual housing blocks or other large dwellings including 2, 3 and 4 bedroom apartments.
  - b) Dogs on leashes to be permitted in the two public parks at all times.
  - c) No commercial activities to be permitted within the two public parks.
  - d) Nighttime use of the tennis courts to be prohibited (due to proximity to existing residents)
  - e) Future committees of management for the community title/body corporates will not be able to change their own by-laws in a way that would have a negative impact on designated public open space or neighbouring residents.
  - f) No direct access from Dudley Street to Denman Street or Bentham Street will be permitted except by authorised vehicles such as emergency services using the edge road connection to Denman Street.
3. All relevant ACT Government Directorates have reviewed and will review the plan diligently to ensure compliance with the relevant codes, plans, rules and criteria.
4. All relevant ACT Government Directorates have considered and will consider the future impact on existing residents and infrastructure to ensure the EDP contains measures that mitigate negative impacts to the greatest extent possible. This includes aspects such as the treatment of contamination, future population growth in surrounding areas, access to sustainable housing, and prevention of the heat island effect.

## HIGHLIGHTED ISSUES

While we believe the SLA and ACT Government Departments have had ample opportunity to diligently review drafts of the EDP and associated individual DAs, the following highlights some matters that appear to have been overlooked or require closer scrutiny by the ACT Government before being approved.

### 1. Scope of Application

- The reference documents included for the DA refer to only three blocks when defining the CBP: Blocks 1, 7 and 20 Section 102, Yarralumla.
- DA 202342095 is a development application that cites five blocks: Section 102, Blocks 1, 7, 20 and 21 and Section 127, Block 2, Yarralumla
- We have already asked why the application includes Section 102, Block 21 and Section 127, Block 2 in our submission pertaining to the Estate Development Plan (DA 202341982). While these two additional blocks are adjacent to and sites for offsite works associated with the CBP, at no point has there been any discussion of a change to the leasing arrangements for these two blocks.
- We seek explanation concerning the expanded scope of the application and why specific details are absent from the reference documents concerning Section 102, Block 21 and Section 127, Block 2.

#### References:

Application Number: 202342095

<https://dafinder.blob.core.windows.net/dadocuments/DOCs/APP-202342095-02.pdf>

### 2. Number of Dwellings

- The application refers to a total of 129 dwellings to be constructed in Precinct 1. This is fewer than 134 dwellings in Precinct 1 referred to in the Traffic and Parking Report.
- The Traffic and Parking Report states that 307 car parking spaces for private use are to be built in the basement of Precinct 1.
- We seek assurance/confirmation that this number of private use parking spaces will still be provided in Precinct 1 even though the number of dwellings in Precinct 1 has been reduced.

#### References:

Application Number: 202342095

<https://dafinder.blob.core.windows.net/dadocuments/DOCs/APP-202342095-02.pdf>

Traffic and Parking Report

<https://dafinder.blob.core.windows.net/dadocuments/DOCs/TRAFFICREPORT-202342095-01.pdf>

### 3. Traffic and Parking Assessment

- The Traffic and Parking Report states that 307 car parking spaces for private use are to be built in the basement of Precinct 1.
- The Statement Against Rules and Criteria states that no public /visitor car parking spaces are to be built in the basement of Precinct 1, but instead be provided in Precinct 3.
- For brevity, we do not repeat that comments we made concerning traffic and parking issues in our submission pertaining to the Estate Development Plan (DA 202341982), which also highlight the internal inconsistencies as well as inconsistencies between the application for the EDP and data in the individual DAs associated with the CBP. However, the comments apply to this application as well.

- The Statement Against Rules and Criteria states that “All dwellings without an associated garage have adequate secure storage in the basement,” suggesting that some dwellings will not be provided with private car parking spaces and exert further pressure on public car parking requirements.
- We seek assurance that all dwellings in Precinct 1 will have at least one dedicated private car parking space and that ample provision will be made for visitor/public car parking space to cater for, at a minimum, the requirements of Precinct 1 in the public car park to be located in Precinct 3 or elsewhere within the CBP.

**References:**

Application Number: 202342095

<https://dafinder.blob.core.windows.net/dadocuments/DOCs/APP-202342095-02.pdf>

Statement Against Rules and Criteria

<https://dafinder.blob.core.windows.net/dadocuments/DOCs/SCRITEIA-202342095-BLKDSECB-01.pdf>

Traffic and Parking Report

<https://dafinder.blob.core.windows.net/dadocuments/DOCs/TRAFFICREPORT-202342095-01.pdf>

**4. Noise Management Plan**

- The Noise Management Plan makes a number of recommendations that checks be made during the design and construction phase to ensure compliance with the requirements. As such, this report appears to be more of a guide for future consideration rather than an actual management plan.
- We seek assurance that the relevant ACT Government Directorates will monitor the implementation of guidance and recommendations in the Noise Management Plan.

**References:**

Noise Management Plan for DA Precinct 1

<https://dafinder.blob.core.windows.net/dadocuments/DOCs/NOISE-202342095-01.pdf>

**5. Summary of Costs**

- The application form states that a summary of costs must be provided since the total cost reported in the application of approximately \$58 million is above the \$10 million threshold. There is an estimate of costs dated 16 August 2023 totaling approximately \$65 million with a file name of summary of costs. No details are provided to explain the difference between \$58 million and \$65 million.

**References:**

Application Number: 202342095

<https://dafinder.blob.core.windows.net/dadocuments/DOCs/APP-202342095-02.pdf>

Estimate of Costs – Precinct 1

<https://dafinder.blob.core.windows.net/dadocuments/DOCs/SUMMARYOFCOSTS-202342095-01.pdf>

**6. Government Endorsements**

- The application states that no entity endorsements have been provided for any aspects of the application, which suggests that ACT Government Directorates are yet to provide opinions on the proposed application. The absence of such endorsements suggests that ACT Government Directorates may still demand changes to the DA.
- The community seeks an opportunity to review and comment on any major changes that may be made subsequent to the date of this submission.

**References:**

Application Number: 202342095

<https://dafinder.blob.core.windows.net/dadocuments/DOCs/APP-202342095-02.pdf>

## 7. Gas Connection

- The application form is dated August 17, 2023. Under the heading Greenhouse Gas Emissions (page 8), the application form states that “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’”. Yet the proponent indicates on the form that connection to the fossil fuel gas network is proposed.
- The ACT Government has passed new legislation that prevents new gas connections in the ACT from 8 December 2023. We expect this new legislation to apply to all new developments, which indicates the Environmental Impact Statement and any justification for gas connection to the CBP is now out of date. We request confirmation that the new legislation also applies to the development of the CBP.

### References:

Application Number: 202342095

<https://dafinder.blob.core.windows.net/dadocuments/DOCs/APP-202342095-02.pdf>

## 8. Compliance with the Territory Plan

- The Application states that documents have been provided that demonstrate how the proposal complies with the Territory Plan.
- We have already identified breaches of the Territory Plan in our comments on other DAs associated with the development of the CBP. This raises concerns about the potential for other breaches of the Territory Plan that may not have been identified.
- We seek assurance that the ACT Government will confirm that the information provided in the application is accurate and that plans are compliant with codes, plans, rules and criteria.

## 9. Set backs from adjoining blocks

- Adjoining block, Section 102, Block 21 has no dwellings and therefore does not have an impact on the setback requirements for Precinct 1. However, Section 102, Block 31 is located beyond Section 102, Block 21 and is less than 5 metres from Precinct 1. We seek assurance that the impact on Section 102, Block 31 has been included in the assessment of any set back requirements as if it were an adjoining block.

### References:

Statement Against Rules and Criteria

<https://dafinder.blob.core.windows.net/dadocuments/DOCs/SCRITERIA-202342095-BLKDSECB-01.pdf>

## 10. Attics

- We have been advised by Doma that they received a positive response from the Territory Plan Review Team to their request to seek an exemption to exclude the revised definition of attic under the revised Territory Plan to permit Doma to construct attics as separate dwellings as was the case when Doma submitted and was subsequently awarded the tender to develop the CBP. We seek written clarification that this exemption has been provided and that this will apply to any future developments other than the CBP.
- There has been no change to the definition of attic being a habitable space “to be contained wholly within a roof pitched at not more than 36 degrees above the ceiling line of the storey immediately below, except for minor elements such as dormer windows and the like.”

- The perspective view and elevation plans for apartments with attics located in Precinct 1 suggest plans to build non-minor large double and triple sized dormer windows that contain substantial habitable spaces, which appears to be a way to circumvent the requirement that the attics have a pitch of no greater than 36 degrees. From many perspectives, the attics simply appear to be an additional fourth storey.
- We seek confirmation that the design of the attics complies with the relevant codes, plans, rules and criteria.

**References:**

Perspective View

<https://dafinder.blob.core.windows.net/dadocuments/DOCs/Persp-202342095-01.pdf>

<https://dafinder.blob.core.windows.net/dadocuments/DOCs/Persp-202342095-02.pdf>

Elevation Plan

<https://dafinder.blob.core.windows.net/dadocuments/DOCs/Elev-202342095-01.pdf>

<https://dafinder.blob.core.windows.net/dadocuments/DOCs/Elev-202342095-02.pdf>

Section Plans

<https://dafinder.blob.core.windows.net/dadocuments/DOCs/Section-202342095-09.pdf>

Territory Plan Explanatory Report

[https://www.planning.act.gov.au/\\_data/assets/pdf\\_file/0008/2324672/ACT-Territory-Plan-Explanatory-Report.pdf](https://www.planning.act.gov.au/_data/assets/pdf_file/0008/2324672/ACT-Territory-Plan-Explanatory-Report.pdf)

Request from Doma for exemption to allow attics to be separate dwellings

[https://hdp-au-prod-app-act-yoursay-files.s3.ap-southeast-2.amazonaws.com/2716/7937/5672/TP\\_DS\\_submission\\_342.pdf](https://hdp-au-prod-app-act-yoursay-files.s3.ap-southeast-2.amazonaws.com/2716/7937/5672/TP_DS_submission_342.pdf)

**11. Quality and sustainable development**

- Key objectives for the CBP were to demonstrate commitment to zero net greenhouse gas emissions, and for the development to comply with and achieve certain publicly recognised certifications, including a Five Star Green Star Communities rating, NatHERS and NABERS.
- The Green Star Communities Submission is not available pending assessment by the Green Building Council of Australia, which means the community must rely on the relevant ACT Directorates to ensure compliance with commitments.
- The final Environmental Impact Assessment (May 2022, Umwelt) states that the Living Infrastructure Plan will be achieved, including the requirement for 30% canopy cover and 30% permeable area. According to the Deep Soil Analysis, only 10 percent deep planting area will be provided in Precinct 1. Also, Precincts 1 Plan 2 illustrates that most of the private open space around the two rows of terraces/townhouses (AO2) will be paved, increasing the prospect of heat islands developing in summer. It is not even clear what percentage of each townhouse/terrace block size in the AO2 complex will be open space. This should be transparent to ensure there is adequate private open space for residents of those terraces/townhouses to engage in recreational activities, and to comply with Rule 39/Criterion 39 and Rule 61/Criterion 61, as stated in the Statement Against Rules and Criteria.
- The final Environmental Impact Assessment (May 2022, Umwelt) includes, in its “Summary of Environmental Management Commitments” this stated commitment: “Deeper balconies proposed for western facing apartments, consideration of shading structures for afternoon sun, and appropriate glazing selection to reduce solar heat penetration” (page 300). However, there appears to be no proposed external shading on the western facades of the buildings, especially buildings AO4 and AO5. Nor is there an indication in the Precincts 1 Plan 02 of an intention to plant shade trees to

the west of buildings AO4 and AO5, adding to concerns about the creation of heat islands in summer. This appears to be inconsistent with Criterion 40 in the Statement Against Rules and Criteria on Landscape Design, in particular the requirement to contribute to energy efficiency by providing “substantial shade in summer, especially to west-facing windows....”. Nor have we seen in the DA documents other specific commitments to double or triple glazing of windows.

- We are concerned that sweeping statements attesting to compliance with specific details will negate the ability for relevant ACT Directorates and the community to monitor compliance. We request that more specific details of how compliance will be measured and achieved be put on the public record.

**References:**

Environmental Impact Assessment

<https://dafinder.blob.core.windows.net/dadocuments/DOCs/SUPP-202341982-ENVIMPACTASSES-01.pdf>

Climate Adaption

<https://dafinder.blob.core.windows.net/dadocuments/DOCs/SUPP-202341982-CLIMATEADOPTION-01.pdf>

Design Response Report

<https://dafinder.blob.core.windows.net/dadocuments/DOCs/SUPP-202341982-DESIGNRESPONSERPT-01.pdf>

Deep Soil Analysis

<https://dafinder.blob.core.windows.net/dadocuments/DOCs/PLAN-202342095-DEEPSOILANALYSIS-01.pdf>

Precincts 1 Plan 01

<https://dafinder.blob.core.windows.net/dadocuments/DOCs/PLAN-202342095-PRECINCTS1-01.pdf>

Precincts 1 Plan 02

<https://dafinder.blob.core.windows.net/dadocuments/DOCs/PLAN-202342095-PRECINCTS1-02.pdf>

Statement Against Rules and Criteria

<https://dafinder.blob.core.windows.net/dadocuments/DOCs/CRITERIA-202342095-BLKDSECB-01.pdf>

## 12. Solar Access

- Most parts of the precinct appear to meet the requirement for at least three hours of solar access to the living areas of dwellings. However, the southern sides of all the buildings appear to receive no solar access on the winter solstice. While the proponents have designed the placement of bedrooms on the southern side, the living areas in six apartments on the southern side of Building AO1 appear to have NO solar access on the winter solstice. While this may meet the minimum standard, we are disappointed that Doma has not taken this opportunity to maximise energy efficiency through solar passive design.
- The YRA seeks ACT Government assurances that private open space, especially in the terraces/townhouses (AO4), meets solar access requirements, as they seem to receive only slightly more than two hours of solar access on the winter solstice.

**References:**

Statement Against Rules and Criteria

<https://dafinder.blob.core.windows.net/dadocuments/DOCs/CRITERIA-202342095-BLKDSECB-01.pdf>

## 13. Contamination remediation

- The Environmental Impact Assessment (Umwelt, May 2022) and associated reference documents identify areas for further assessment in relation to potential contamination in specific areas across the CBP.

- We seek assurance that this further assessment will be undertaken, and that the subsequent data will be reviewed in consultation with the Site Auditor to determine if remediation of any identified contamination is required.

**References:**

Environmental Impact Assessment

<https://dafinder.blob.core.windows.net/dadocuments/DOCs/SUPP-202341982-ENVIMPACTASSES-01.pdf>

**CONCLUSION**

1. We seek clarification of the scope of the application which includes 2 blocks for which no details have been provided and were not part of the original tender.
2. The inconsistencies between DA 202341982 (EDA) and other DAs related to the CBP need to be resolved to ensure accurate data is available and informed community input is possible
3. We call on the ACT Government to ensure that accurate data is used as the basis of calculations for all required infrastructure.
4. The community expects the SLA to have included conditions in its deed with Doma or through some other mechanism, measures that will ensure no major changes from the approved EDP can be made in future without community endorsement.
5. The community expects all relevant ACT Government Directorates to have taken and to take a diligent approach in assessing the EDP and related subsequent DAs to ensure full compliance with all relevant codes, plans, rules and criteria. In addition, where subjective decisions are made concerning qualitative requirements such as the number of required car parking spaces or noise mitigation measures, that decisions shall err on the side of caution to mitigate any negative impact on existing residents.
6. We seek assurance that all dwellings in Precinct 1 will have at least one dedicated private car parking space.

Peter Pharaoh

President, Yarralumla Residents Association