

7 December 2023

Environment, Planning and Sustainable Development Directorate Submission via email:
ACepdcustomerservices@act.gov.au

Re: Development Application no. 202342069

DEVELOPMENT APPLICATION - Proposal for renewal and renovations of existing heritage brickworks building, developing surrounding land for mixed use purposes and associated works – 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. All relevant ACT Government Directorates have reviewed and will review the plan diligently to ensure compliance with the relevant codes, plans, rules and criteria.
3. All relevant ACT Government Directorates have considered and will consider the future impact on existing residents and infrastructure to ensure the DA is consistent with the EDP and contains measures that mitigate negative impacts to the greatest extent possible.

INSUFFICIENT DETAIL AND INCONSISTENCIES

Despite our assumption that there will be no inconsistencies between the EDP and the DA for individual components of the CBP, the sheer volume of reference documents and differing effective dates for various documents raises concerns about which documents take precedence.

We rely on the relevant ACT Government Directorates to ensure that plans and proposed plans comply with the relevant codes, plans, rules and criteria.

Some areas that highlight the inconsistencies or potential for conflicting proposals, which impede our ability to make informed comment include:

1. Scope of Application

The development application cites four blocks: Section 102, Blocks 1, 7, 20 and 21.

We have already asked why the application includes Section 102, Block 21 in our submission pertaining to the Estate Development Plan (DA 202341982). While adjacent to the CBP, at no point has there been any discussion of a change to the leasing arrangements for this block.

We seek clarification of the intended legal status of Block 21 going forward and why no further details have been provided in the reference documents despite being specified in the application.

2. Floor Area

The application itself refers to 18,656 sqm of GFA to be added, with no existing area and no areas for demolition. This is not consistent with the reality and the reference documents which indicate there is an existing structure and that some areas are marked for demolition.

The application has a blank for parking areas (undercover) of other area calculation (not included in the 18,656 sqm).

3. 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.

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4. Gas Connection

The application form is dated August 17, 2023.

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.

5. Traffic and Parking Assessment

A traffic and parking assessment report has been prepared with calculations of minimum requirements based on specific usages. The details in that report are inconsistent with the diagrams provided in the Development Application.

For brevity, we do not repeat the comments we made concerning traffic and parking issues in our submission pertaining to DA 202341982 (the Estate Development Plan), which also highlight the inconsistencies between the application for the EDP and this application. However, the comments apply to this application as well.

6. Compliance with the Territory Plan

The Application states that documents have been provided that demonstrate how the proposal complies with the Territory Plan. 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.

We have already identified that the plans breach the Territory Plan in terms of usage types as the ACT Government has confirmed there is to be a maximum of 500sqm of shops in total and a maximum of 1500sqm of commercial facilities in total built in the CBP. This raises concerns about the potential for other breaches of the Territory Plan that may not have been identified.

6.1. Possible breach of the Territory Plan - Usage

- The Statement Against Rules and Criteria clearly states there is a cap of 1500sqm of commercial space and 500sqm of shops in the CBP.
- We cannot locate similar restrictions for the maximum permissible area classified as food/beverage spaces, fitness & wellness space (indoor recreation) or health facility space.
- The Traffic and Parking Report outlines the proposed area for development for each classification, but two different sets of figures are provided.
- The Area Plans GFA diagram shows details for the proposed adaptive reuse of the heritage core with GFA by classification that is not consistent with the details in DA 202341982 (EDP). The area for development according to each classification of use is not consistent with the Traffic and Parking Report.
- The area proposed by classification of use exceeds the maximum permissible under the Territory Plan for commercial and retail, which has also been explicitly confirmed by the ACT Government in writing (see Agency Response of May 2022 and in the Statement Against Rules and Criteria).

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Inconsistency in reported area for each classification (square metres)

Classification of non-residential uses in the Heritage Core	Maximum permitted under the Yarralumla Precinct Code (See Statement Against Rules and Criteria) (GFA) and Response to Agency Comments	Traffic and Parking Report Table 3.1 (NLA)	Traffic and Parking Report Tables 3.7 and 3.8 (NLA)	Area Plans GFA
Commercial	1500	2,064	1,754	1,991
Food/Beverage	n/a	1,830	1,740	3,294
Fitness & Wellness (Indoor Recreation)	n/a	1,156	983	2,749
Health Facility	n/a	1,836	1,696	0
Retail	500	738	698	252
Services				1,743
Residential				100
TOTAL		7,624	6,871	10,129

GFA = Gross Floor Area

NLA = Net Lettable Area (A method for calculating a smaller area proposed by Doma as an alternative to GFA due to the thickness of the walls in the kilns, which requires a technical amendment)

References:

Statement Against Rules and Criteria (Blockc, Section B – Heritage Core)

<https://dafinder.blob.core.windows.net/dadocuments/DOCs/CRITERIA-202342069-01.pdf>

Traffic and Parking Report

<https://dafinder.blob.core.windows.net/dadocuments/DOCs/TRAFFICREPORT-202342069-01.pdf>

Area Plans GFA

<https://dafinder.blob.core.windows.net/dadocuments/DOCs/AREA-202342069-01.pdf>

Response to Agency Comments

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

6.2. Possible breach of the Territory Plan - Distillery

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A letter dated 17 June 2022 from Alix Kaucz, Senior Director, Territory Plan (see Response to Agency Comments) indicates that a stand-alone distillery is not a permitted use in the CZ6 zone. However, the floor plans in the DA for the Heritage Core dated 19 July 2023 show plans for a distillery.

The application does not clarify if there has been further correspondence between the ACT Government and Doma that approves the construction of a distillery and the basis for such approval or if the proposal to construct a distillery is a prohibited activity and in breach of the Territory Plan.

References:

Application

<https://dafinder.blob.core.windows.net/dadocuments/DOCs/APP-202342069-01.pdf>

Response to Agency Comments (DA)

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

Floor Plan - Public Register & Notification No. 34 - Distillery

<https://dafinder.blob.core.windows.net/dadocuments/DOCs/FLOORREG-202342069-34.pdf>

7. Contamination Remediation

The Hazardous Material Survey for the Heritage Core DA highlights a significant number of hazardous materials in the Brickworks Heritage Core. The YRA expects that the relevant ACT Government Directorates will exercise due diligence to ensure that the report's recommendations are addressed and implemented.

References:

Hazardous Material Survey for the Heritage Core DA

<https://dafinder.blob.core.windows.net/dadocuments/DOCs/HAZARDOUSMAT-202342069-01.pdf>

CONCLUSION

1. We seek clarification of the scope of the application which includes 1 block for which no details have been provided, and was not part of the original tender.
2. The inconsistencies between DA 202341982 (EDP) and DA 202342069 (Heritage Core) 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. Breaches of the Territory Plan, including relevant code, plans, rules and criteria, need to be identified and addressed. Where this leads to major changes, further community consultation may be required.
5. 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.
6. The community relies on the SLA to have included conditions in its deed with Doma or through some other mechanism, measures that will preserve unimpeded public access to areas designated as public open space when the EDP is approved.
7. The community expects all relevant ACT Government Departments 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.

Peter Pharaoh

President, Yarralumla Residents Association