

CANBERRA BRICKWORKS PRECINCT (CBP) ACCESS ROAD AND DUDLEY STREET UPGRADE

APPLICATION FOR EIS EXEMPTION
CONSIDERATION REPORT

MARCH 2019



This report evaluates the application for an exemption under section 211 of the *Planning and Development Act 2007*, from requiring a completed Environmental Impact Statement in the development application for the Canberra Brickworks Precinct Access Road and Dudley Street Upgrade.

Ref no: DA201800023

Document no: 1-2018/11636

Project: Canberra Brickworks Precinct Access Road and Dudley Street Upgrade

Date lodged: 7 September 2018

Proponent: ACT Government – Infrastructure Finance and Capital Works, Chief Minister, Treasury and Economic Development Directorate.

Location: Multiple blocks Yarralumla and Curtin

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Glossary and definitions

Term	Definition
ACT	Australian Capital Territory
The Authority	The planning and land authority
CBP	Canberra Brickworks Precinct
CEMP	Construction Environmental Management Plan
CMTEDD	Chief Minister, Treasury and Economic Development Directorate
CNVLMP	Construction Noise, Vibration and Lighting Management Plan
DA	Development Application
DoEE	Commonwealth Department of the Environment and Energy
EIA	Environmental Impact Assessment: the process of identifying, predicting, evaluating and mitigating the biophysical, social, and other relevant effects of development proposals before major decisions and commitments are made.
EIS	Environmental Impact Statement: a document prepared to detail the expected environmental, social and economic effects of a development, and state commitments to avoid, mitigate or satisfactorily control and manage any potential adverse impacts of the development on the environment. In the ACT, an EIS is required for proposals in the impact track as per Section 127 of the <i>Planning and Development Act 2007</i> .
EMP	Environmental Management Plan
EPA	Environment Protection Authority
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i> (Cth)
EPSDD	Environment, Planning and Sustainable Development Directorate
ESA	Emergency Services Agency
ESCP	Erosion and Sediment Control Plan
GSM	Golden Sun Moth
MNES	Matter of National Environmental Significance (as per the EPBC Act)
NTG	Natural Temperate Grasslands
the Project	Canberra Brickworks Precinct (CBP) Access Road and Dudley Street Upgrade
NCA	National Capital Authority
NC Act	<i>Nature Conservation Act 1980</i>
PD Act	<i>Planning and Development Act 2007</i> (ACT)
PD Regulation	<i>Planning and Development Regulation 2008</i> (ACT)
the Proponent	ACT Government – Infrastructure Finance and Capital Works, Chief Minister, Treasury and Economic Development Directorate.
TCCS	Transport Canberra and City Services

1 Introduction

This report is to the ACT Minister for Planning and Land Management on the assessment of the EIS exemption application in relation to the construction of the access road to the Canberra Brickworks Precinct (CBP) and upgrade of Dudley Street, Yarralumla (the Project). The application was made by the Proponent, under section 211B of the *Planning and Development Act 2007* (PD Act).

If an EIS exemption is granted, a DA can be lodged in the impact track without a completed EIS. The DA process will also include a statutory public notification period.

1.1 Project

On 7 September 2018, the Proponent formally lodged an application for an EIS exemption under section 211B of the PD Act for the Project.

The Project includes construction of an access road to service the proposed CBP. It is noted that development of the CBP is not part of the Project and will be assessed through a separate application.

The staged activities proposed as part of the Project include:

- upgrading Dudley Street to a ten metre wide, single carriageway
- construction of a new 180 metre access road providing a northern connection from Dudley Street to the proposed CBP
- construction of a new roundabout intersection between Dudley Street and the new access road to the CBP
- off road shared path to the north of Dudley Street
- maintaining pedestrian access along the Uriarra Track, including a minor diversion to allow pedestrians to see passing vehicles and a pedestrian refuge for safe crossing
- ancillary works including utilities diversion and/or relocation, earthworks, drainage modifications, provision of new street lighting, upgrades to kerbs and landscaping
- provision of new bus facilities on Dudley Street, including a complementary shared path network and future access path to the Rapid Bus Network

The Project includes Designated Land which is subject to the requirements of the National Capital Plan and will require a separate approval from the National Capital Authority.

1.1.1 Project location

The Project is situated within an area of public open space to the south of the residential areas of Yarralumla, approximately three kilometres from the Canberra Business District (Figure 1). The Project is bounded by Cotter Road to the south, Dunrossil Drive to the west, Novar Street to the east and Denman Street to the north (the project area), see Figure 2.

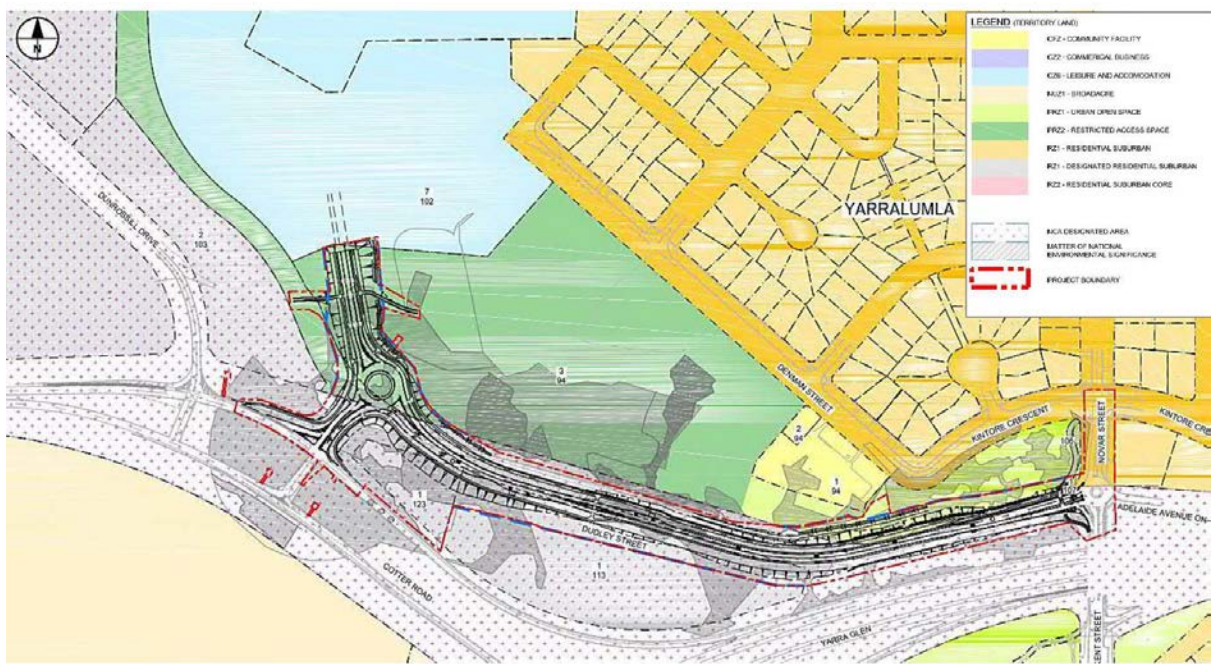


Figure 1: Project area and zoning under the Territory Plan. Source: EIS exemption application (Aecom, 2018)



Figure 2 – Aerial image. Source: Actmapi (January 2018).

1.1.2 Legal land description and tenancy

The Project will directly affect four blocks as detailed in Table 1.

Table 1 - Legal land description and tenancy

Block	Section	District	Land Custodian	Designated Land
3	94	Yarralumla	TCCS – City Presentation	No
1	127	Yarralumla	TCCS – City Presentation	Yes
1	123	Yarralumla	TCCS – City Presentation	Yes
1	113	Yarralumla	TCCS – City Presentation	Yes

1.2 Background

1.2.1 Strategic context

Future development in Canberra is guided by a number of strategic planning documents. The objectives of the documents relevant to the Project are detailed below:

- The Canberra Transport Strategy (2004) sets the foundation for transport planning in Canberra over 20 years and envisages the development of a safe and efficient transport system and strategically designed road network.
- The ACT Planning Strategy (2018) envisions an accessible Canberra through integrated transport and land use planning and delivering well designed, safe and sustainable streets. This strategy also envisions a sustainable and resilient Territory that protects biodiversity and enhances habitat connectivity to improve landscape resilience.

1.2.2 Canberra Brickworks Precinct Access Road

The CBP access road will provide a connection from the CBP to the surrounding road network. The CBP does not form part of the Project and will be assessed through a separate development application process.

The Project proposes construction of the CBP access road in order to meet Transport Canberra and City Services (TCCS) requirements for a designated access road and to meet the requirements of the Estate Development Code.

1.2.3 Dudley Street upgrade

Dudley Street is identified as a 'major collector road' on the Roads ACT Road Hierarchy.

The Estate Development Code Guidelines define a 'major collector road' as having 6000 vehicle movements a day with a minimum carriageway width of 10 m. Traffic surveys in 2015 found Dudley Street had 7,487 vehicle movements per day with a 6 m carriageway and an unsealed shoulder. An upgrade is required to ensure Dudley Street operates efficiently and safely.

1.2.4 Alternatives and Options

The EIS exemption application considered a range of alternatives relating to the Project including the CBP access route, route alignment, widening of Dudley Street, intersection layouts, and modification to Uriarra Track. The preferred design was chosen to reduce the congestion on the local road network, avoid isolating the CBP, and to limit the impacts of the Project on the residents of Denman Street.

2 Environmental impact assessment

Environmental impact assessment processes are used to identify, predict, plan for and manage the impacts of development proposals before a decision is made about the project going ahead. An environmental impact assessment process is required to be undertaken for projects in the impact track.

Section 123 of the PD Act states that the impact track applies to a development if:

- the relevant development table states that the impact track applies;
- the proposal is of a kind mentioned in Schedule 4 of the PD Act;
- the Minister makes a declaration under section 124;
- section 125 or section 132 applies to the proposal; or
- the Commonwealth Minister responsible for the *Environment Protection and Biodiversity Conservation Act 1999* (the EPBC Act) advises the Minister in writing that the development is a controlled action under the EPBC Act, section 76.

2.1 Impact track triggers

The Project is in the impact track as it is a development of a kind mentioned in Schedule 4 of the PD Act. The Project triggers the Schedule 4 items listed in Table 2 .

Table 2- Impact track triggers per Schedule 4 of the PD Act

Item Number	Description	Project Component
Part 4.3, item 1	Proposal that is likely to have a significant adverse environmental impact on 1 or more of the following, unless the conservator of flora and fauna provides an environmental significance opinion indicating that the proposal is not likely to have a significant adverse environmental impact: (a) a critically endangered species; (b) an endangered species; (c) a vulnerable species; (d) a conservation dependent species; (e) a provisionally listed threatened species; (f) a listed migratory species; (g) a threatened ecological community; (h) a protected native species; (i) a Ramsar wetland; (j) any other protected matter	The Project will impact on an endangered ecological community and threatened species listed under the NC Act and EPBC Act NTG endangered ecological community and GSM.
Part 4.3, Item 7	Proposal involving land included on the register of contaminated sites under the <i>Environment Protection Act 1997</i> unless the authority produces an environmental significance opinion indicating that the proposal is not likely to have a significant adverse environmental impact.	The Project extends into Block 1 Section 127, Yarralumla which is a site listed on the contaminated sites register.

2.2 EIS exemption process

The flowchart below outlines the EIS exemption application process.

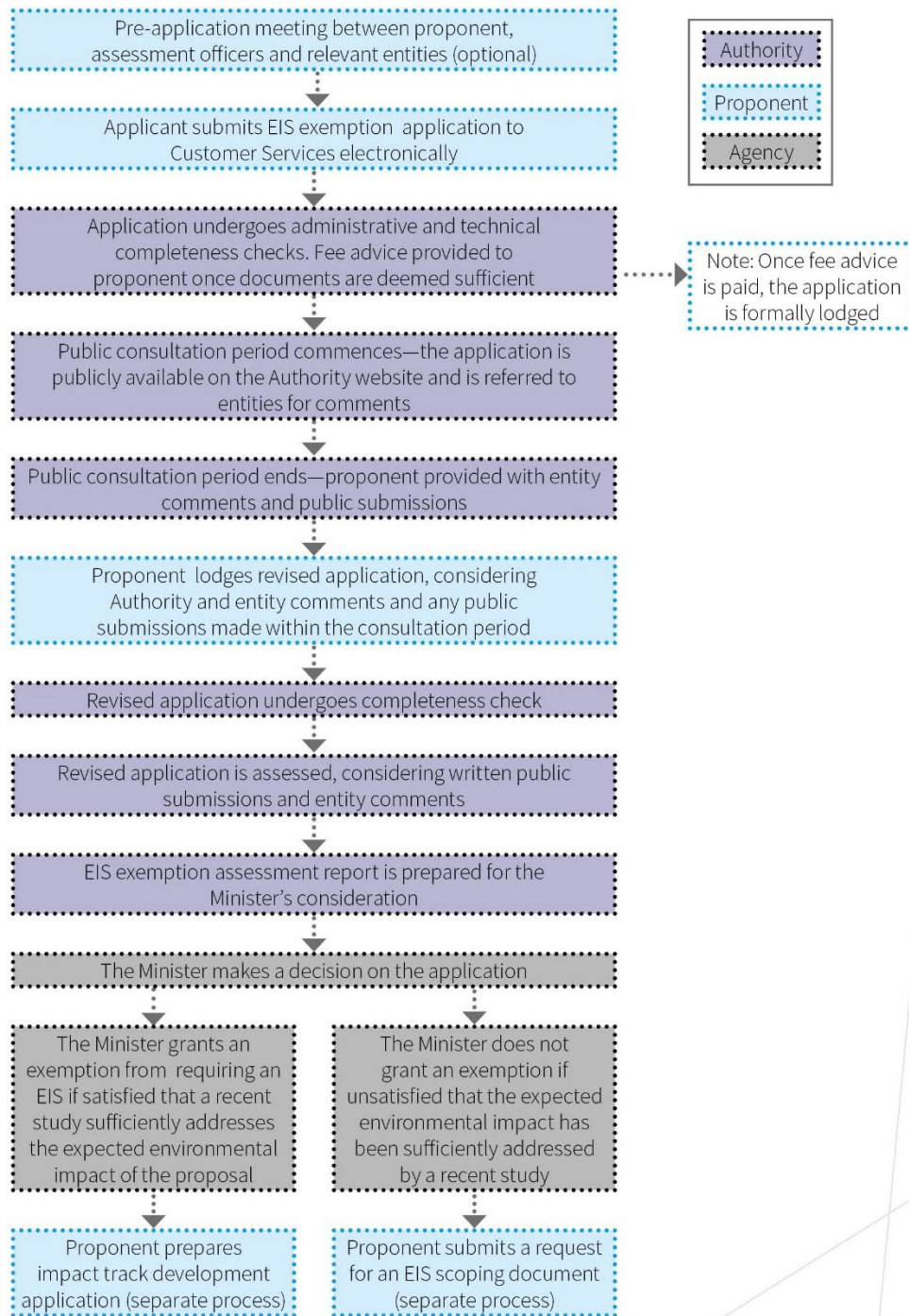


Figure 3 - The EIS exemption process

2.3 EIS exemption application

In accordance with section 211B of the PD Act, the application for an EIS exemption was lodged by the Proponent on 7 September 2018.

Under the PD Act the Minister may grant an EIS exemption to a proposal if satisfied that the exempted environmental impact of the development proposal has already been sufficiently addressed by a recent study, whether or not the recent study relates to the particular development proposal. A full list of the documentation provided in support of the application as required by EIS exemption application - Form 1M, and Section 211H of the PD Act is provided at Appendix 2.

2.4 Consultation

Entity and public consultation were both undertaken for this application, as required by the PD Act.

2.4.1 Entity referral

Section 211E of the PD Act requires the Minister to consult with entities prescribed in the PD Regulation about the EIS exemption application. The Minister may also seek advice from additional entities. The Authority referred the Project to the relevant entities, comments are provided at Appendix 1. Any matters to be considered or conditions that have been recommended by a referral entity will be included in Section 6 of this report.

2.4.2 Public consultation

Section 211 C (2) of the PD Act requires the Minister to consult with the public on the EIS exemption application for 15 working days. The EIS exemption application was publicly notified from 12 September to 8 October 2018.

Five submissions were received during the public consultation period and were made available on the authority's website until the end of the consultation period as per section 211F of the PD Act. The following key issues were raised:

- Impacts to the GSM and NTG and the proposed offset at North Mitchell Grasslands.
- The scale and alignment of the upgrades to Dudley Street and the Access Road.
- Traffic and noise impacts.
- Alignment and wildlife crossings at Uriarra Track.
- Requirement for a full Environmental Impact Statement to be completed.

2.4.3 Issues raised in submissions

The Proponent was provided with a copy of all public submissions and entity comments and matters raised by the Authority. On 26 October 2018, the Proponent submitted a revised EIS exemption application to the Authority addressing matters raised.

3 Matters of National Environmental Significance

Under the EPBC Act, a person must not take an action that has, will have, or is likely to have a significant impact on any matters of national environmental significance (MNES) without approval from the Commonwealth Minister for the Environment and Energy.

3.1 EPBC referral and decision

On 13 October 2017, the Project was referred to the Commonwealth Minister for the Environment and Energy as required under the EPBC Act.

The delegate for the Commonwealth Minister for the Environment and Energy determined that the Project was a controlled action to be assessed under Preliminary Documentation on 1 December 2017. In accordance with the requirements of the EPBC Act, the preliminary documentation was published for public consultation between the 13 September 2018 and 4 October 2018.

On 27 February 2019, the Commonwealth approved the Project subject to conditions (Appendix 3).

4 Impacts on Schedule 4 items

This section summarises the impacts of the development on the relevant items from Schedule 4 of the PD Act and recommended mitigation measures for relevant items.

4.1 Schedule 4 Part 4.3 Item 1– impacts on species or ecological communities

Based on a desktop analysis the EIS exemption application identified two threatened ecological communities, 13 threatened flora and 31 threatened fauna with the potential to occur within the project area. Further assessment including field investigations determined that:

- based on the elevation, the white box-yellow-Blakely's red gum grassy woodland and derived native grassland (Box-gum woodland) threatened ecological community is unlikely to occur within the project area;
- no threatened flora have been recorded during ecological surveys, therefore it is considered unlikely they would occur within the project area;
- the project area is unlikely to support foraging habitat for the little eagle (*Hieraaetus morphnoides*) and spotted-tailed quoll (*Dasyurus maculatus*);

The EIS exemption application concludes that the Project is unlikely to result in a significant adverse impact on these matters.

In addition, the ecological assessment determined that two migratory bird species, i.e. fork-tailed swift (*Apus pacificus*) and white-throated needle tail (*Hirundapus caudacutus*) are likely to fly over the project area. However, the EIS exemption application states that these species are unlikely to be reliant on habitat in the project area.

4.1.1 Impacts

Potential impacts associated with the Project relate to:

- Direct clearing of vegetation and habitat for threatened fauna:
 - 0.12 ha of NTG, which is listed as an endangered ecological community under the NC Act and also as a critically endangered ecological community under the EPBC Act; and
 - 2.6 ha of habitat for GSM, which is listed as endangered under the NC Act and critically endangered under EPBC Act.
- Habitat fragmentation through clearing of vegetation.
- Fauna injury or death during construction phase, particularly when vegetation and habitats are being cleared.
- Indirect impacts to flora and fauna habitat as a result of construction activities, such as erosion and sediment accumulation, changes to local soil hydrological conditions, increase in the establishment of weeds and allow invasion by pest animals.

A tree assessment was also undertaken by DSB Landscape Architects (2015, 2017) which identified a number of regulated and non-regulated trees of varying quality within the project area.

Natural Temperate Grassland

The identified activities associated with the proposed development that will potentially impact on NTG are:

- Clearing of 0.01 ha of very high NTG and 0.11 ha of high quality NTG during site preparation and construction.
- Indirect impacts to a total of 0.16 ha (0.06 ha of very high and 0.1 ha of high quality) of NTG. These areas would not be lost as a result of construction, however may experience some degradation.

Golden Sun Moth

The Project will result in the loss of 2.6 ha of known GSM habitat. A further 0.44 ha is expected to be indirectly impacted through changes to surface water and edge effects.

4.1.2 Studies and Investigations

A number of ecological studies, including Rowell 2010, Rowell 2011, Rowell 2012, Umwelt 2014, Umwelt 2016 and Umwelt 2017 have been considered in investigating impacts on species and ecological communities in support of the request for the EIS exemption. In addition, a Biodiversity Offset Strategy (Umwelt, 2018) was also prepared for the Project.

An assessment of existing trees within the project area was carried out by DSB Landscape Architects in 2015 and 2017.

A full list of information submitted in support of the EIS exemption application is at Appendix 2.

4.1.3 Recommended mitigation measures

Table 3 lists the recommended mitigation measures to minimise impacts on threatened species and ecological communities as described in the EIS exemption application and by the referral entities.

Table 3- Mitigation measures for species and ecological communities

Number	Impact of development	Mitigation measures
1	Clearing of vegetation; disturbance to native animals during construction; potential to increase vehicle strikes.	Construction methodologies to be developed during design to minimise the project footprint where feasible and reasonable.
2	Impact on MNES (NTG and GSM)	All workers to be provided with an environmental induction prior to commencing work onsite.
		Exclusion zones to be established to protect vegetation and fauna habitat outside of the approved clearing limits.
		A diversion to be provided for the duration of the Uriarra Track closure to encourage foot and bicycle traffic to avoid GSM habitat.
		Implementation of the Biodiversity Offset Strategy.
		Dust control during GSM breeding season, in addition to other dust mitigation measures.
		Minimise noise, vibration and lighting
4	Removal of protected trees that have not been approved to be cleared.	A suitably qualified ecologist or environmental scientist to check for the presence of flora and fauna species and habitat on site before clearing begins.
		A suitably qualified ecologist or environmental scientist would be on site during habitat removal.
5	Project activities facilitate spread of exotic flora into adjacent areas, leading to weed establishment.	In the event of any tree, to be retained, becoming damaged during construction, the ACT Government will be notified immediately.
		Implementation of measures to control weeds and disease impacts.
6	Clearing of trees and other vegetation resulting in the loss of amenity, loss of habitat, increased erosion and water runoff.	Opportunities to retain the large pine trees located within the proposed site compound area.
7	Fragmentation of habitat.	Disturbed areas with known native grasses to be revegetated with 'C3' native grasses as appropriate.
8	Impacts to aquatic ecology	Erosion and sediment control, storage and handling of hazardous substance.

4.1.4 Offset

To compensate for the loss of GSM habitat and NTG, the Proponent is required to provide offsets under the EPBC Act approval. The EIS exemption application has identified the North Mitchell Grassland (Block 5 Section 47 Franklin) as the proposed offset site. The site is currently zoned as NUZ3-Hills Ridges and Buffer, and managed by ACT Parks and Conservation Service.

The Commonwealth conditions of approval require the Proponent to provide an offset management plan within 6 month of commencing works. The offset management plan must detail how the offset site will be legally protected and the management actions that will be implemented to ensure the offset meets the conservation objectives.

The offset package was developed in reference to the EPBC Act Environmental Impacts Policy. In accordance with the ACT Environmental Offset Policy (April 2015), additional environmental offsets are not required for this project.

4.1.5 Conclusion

Through the assessment of the EIS Exemption application, and in consultation with entities, the application and supporting documentation provided sufficient information on the impacts of the Project on threatened species and ecological communities. Further investigation and environmental assessment of the impacts of the proposal on threatened species and ecological communities is not required for this project.

The recommended mitigation measures will be applied through conditions of approval in any subsequent development application. In addition, an offset and offset management plan is required as part of the Commonwealth conditions of approval for the Project.

4.2 Schedule 4 Part 4.3 Item 7–land included on the register of contaminated sites

The Project will cross the southern extremity of Block 1 Section 127, Yarralumla Canberra Central. At the time of this assessment Block 1 Section 127, Yarralumla Canberra Central was identified on the register of contaminated sites under the *Environment Protection Act 1997*. This was due to historic landfilling activities and was characterised as containing asbestos containing fill material. The proposed work will occur approximately 350 m south of the landfill area, as illustrated in Figure 4 below.

A former railway line constructed in 1923 traverses the northern extent of the site. Railway infrastructure has the potential to contain contaminants such as asbestos, petroleum hydrocarbons and heavy metals. The railway line only operated for a short period in the 1920's and was visible on aerial photographs until 1979.

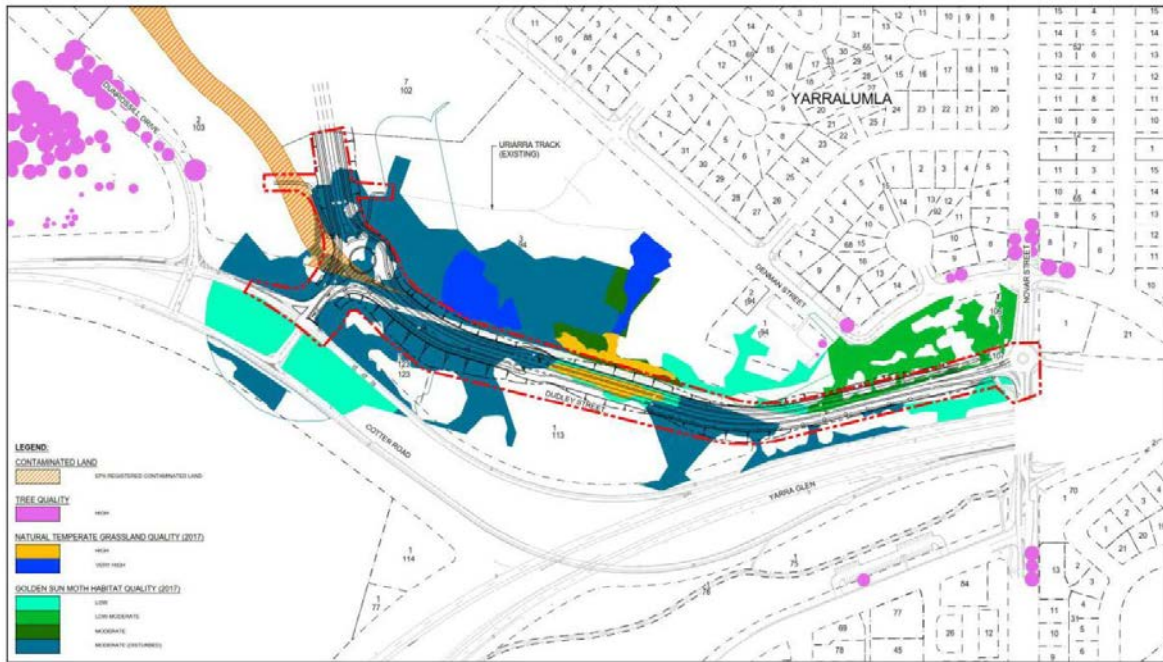


Figure 4 Contaminated land in the Project area. Source: Contamination Due Diligence Assessment (Aecom, 2017)

4.2.1 Impacts

The Project will require significant earthworks which has the potential to expose contaminants. The EIS exemption application noted that exposure of unknown contaminants would be a risk to workers at the site. Excavation of contaminants would also pose an environmental risk if the contaminants became airborne or entered nearby waterways through stormwater infrastructure.

The EIS exemption application stated that the contaminated material has been managed by the installation of an engineered capping layer, with the fill to be addressed during the redevelopment of the Canberra brickworks. Redevelopment of the CBP does not form part of this Project and will be assessed through a separate development application process. The EIS exemption application therefore concludes, that it is unlikely to present any significant environmental constraint to the Project.

Site investigations concluded that there are no former railway line infrastructure (track, ballast, sleepers) evident, and therefore the potential for contamination in the project area is low. The EIS Exemption noted that the Site Auditor assessment of the documentation identified that the risk of historical contamination from the Canberra brickworks and railway is negligible.

The EIS exemption application also noted the potential risk of contamination from construction activities included accidental fuel or chemical spills from construction plant and equipment. Spills and leaks during transportation may also result in the contamination of land and waterways outside of the Project impact footprint.

4.2.2 Studies and investigations

The EIS exemption application was accompanied by supporting studies including a contamination due diligence assessment and interim audit advice. A full list of information submitted in support of the EIS exemption application is at Appendix 2.

4.2.3 Recommended mitigation measures

The EIS exemption application proposed the following mitigation measures for contamination in the project area.

Table 4 - Mitigation measures – Contamination

Number	Impact of development	Mitigation Measure
1	Contamination resulting from construction activities including accidental fuel or chemical spills from construction and equipment	Development of appropriate construction management will be detailed in the Construction Environmental Management Plan (CEMP) to be prepared prior to construction.
2	Contamination resulting from uncontrolled sediments and erosion	A progressive Erosion and Sediment Control Plan (ESCP), with relevant contamination mitigation strategies, would be developed prior to construction and developed as site conditions change.
3	Contamination resulting from unexpected fines	Unexpected contaminated material would be managed and/or disposed of appropriately in accordance with all relevant legislation and ACT EPA guidelines. The CEMP will include an Unexpected Finds Protocol to be implemented in the unlikely event that indicators of contamination are encountered.

4.2.4 Conclusion

The supporting studies and the comments from the EPA provide sufficient information on the impacts of the Project in relation to land contamination. Further investigation and environmental assessment of the impacts related to contamination is not required for this Project. The recommended mitigation measures will be applied through conditions of approval in any subsequent development application.

5 Other potential environmental impacts

This section summarises the potential impacts of the development on the environment other than those impacts which are impact track triggers discussed in Section 4.

5.1 Traffic

Dudley Street is a major collector road located between Cotter Road and Novar and Kent Street. It is a key link from north western Canberra to the suburbs of Yarralumla and Deakin.

The proposed works have the potential to influence traffic patterns in the immediate area around the road and in areas downstream and upstream of the proposed road. The Project is likely to have the greatest influence on traffic patterns for vehicles traveling from the future CBP to employment and shopping centres in the south and north of Canberra.

In support of the EIS exemption application, a Traffic and Transport Impact Assessment was prepared to document the existing traffic situation and assess potential impacts of the Project on traffic, access and road safety. The report noted that overall Dudley Street is currently operating at an acceptable level however during peak periods it is close to capacity.

The increased in traffic is expected to place additional pressure on Dudley Street in particular the nearby intersections at either end of the Kent St Bridge. The traffic assessment identified the need to undertake an upgrade of Dudley Street to ensure the local network can meet future demand.

5.1.1 Impacts

The following potential impacts were identified:

- Traffic volume increases in the project area during construction and operation.
- Temporary loss of access and traffic disruptions (e.g. temporary diversions) during construction.
- Temporary traffic management measures during construction are not suitable and result in near miss incidents, crashes, injuries or death.
- Traffic volume increases in the project area and wider road network as a result of the Project.

5.1.2 Recommended mitigation measures

The key commitments and mitigation measures proposed in the EIS exemption application are:

- A Construction Traffic Management Plan to be prepared by the nominated contractor in consultation with the ACT Government and approved by TCCS.
- Provide advance notice of upcoming works to prompt drivers to avoid travel or adjust speed to safely negotiate past the work site on Dudley Street.
- Advise local businesses, residents, bus operators and emergency service providers of the upcoming works.
- Monitor the performance of all Project traffic arrangements during construction.
- Schedule works with the potential for traffic disruption, such as utility adjustments along the trafficked pavement outside of peak commuting periods in order to minimise road user delays. Works impacting on traffic lanes to be undertaken off peak (or at night).

- Secure work zones to prevent unauthorised access, including pedestrian access with site perimeter fencing and secured gate(s), as required, and in particular to prevent access outside work hours.
- Avoid traffic lane closures and diversions during peak hours where possible.
- Implementing temporary speed restrictions as appropriate, in consultation with TCCS.
- Ensure that any work undertaken near Cotter Road does not disrupt traffic movements along Cotter Road; the construction of new pavement adjacent to the eastbound carriageway of Cotter Road may require out of hours road works to minimise disruption.

5.2 Landscape and visual impact

Due to the topography of the site and the open green space, the proposed road will be visible from several points, such as Yarralumla residents to the north, Yarra Glen to the south, Cotter Road to the west. The groups of mature landscaped trees and the scattered trees along Denman Street provide screening of the project area from the residential properties to the north. An assessment was undertaken to understand the potential impacts on views at nine visual receiver locations. Overall, the project is considered to have a moderate to low visual impact on the majority of people living, working in or travelling through the urban landscape surrounding Dudley Street during operation. The EIS exemption application confirms that the majority of surrounding receivers would not be significantly impacted by the project.

5.2.1 Impacts

The following impacts were identified:

- Visual impacts during and following construction.
- Views available to occupants of nearby sensitive receivers are altered.
- Species planted as part of the Project are inappropriate for landscape and impact on amenity of open spaces.

5.2.2 Recommended mitigation measures

The key commitments and mitigation measures proposed in the EIS exemption application are:

- Specific design measures for the construction of the project to prevent crime, based on principles of crime prevention through environmental design.
- The urban design of the Access Road will meet the design of the adjoining roads to ensure a consistent landscape and views.
- A landscape plan to identify appropriate species to be planted as part of the Project to minimise the visual impact and to be consistent with the surrounding area.
- Installation of screen hoarding and/or shade cloth screens around compound locations and working areas.
- Minimise tree and vegetation removal.
- Avoidance of temporary light spill beyond the construction site where temporary lighting is required (e.g. during night time works).
- Rehabilitation of disturbed areas as soon as practical following works in specific areas.
- Removal of graffiti (as required).
- Landscaping and weeding of grassed areas within the project area to continue as per existing arrangements to minimise areas of overgrown vegetation.

- Traffic management and provision of parking for construction vehicles to minimise parking impacts on surrounding roads.
- Ongoing maintenance and repair of constructed elements.
- Replacement of damaged or missing constructed elements.
- Long term maintenance (and replacement as necessary) of tree planting within the project area (e.g. along the access road) to maintain visual filtering and screening of external views.
- Soft and hard landscape works maintenance.

5.3 Socio-economic

The EIS exemption application identifies a number of impacts during construction, such as noise, vibration, dust, and visual. However, it further states that overall, there are positive socio-economic impacts as a result of the Project as it provides for an improved road network along Dudley Street that will also provide access to the future needs. Key negative socio-economic impacts include the permanent loss of open space in the project area and temporary loss of access to Uriarra Track during construction.

5.3.1 Impact

The EIS exemption application identified the following impacts:

- Development is not consistent with values of retained heritage sites, or areas of natural environmental value.
- Development impacts on recreational use/users of the area.
- Operation of the Project would result in the permanent loss of an area of public open space.
- Increased sensitivity of community to Project impacts due to other projects occurring concurrently.

5.3.2 Recommended mitigation measures

The EIS exemption application provides a number of safeguards to be implemented to minimise potential impacts on the community with a particular focus on keeping the community informed. These safeguards would be included in the CEMP and will include:

- a Community Liaison Plan (to be developed by the Contractor prior to construction) which would identify all potential stakeholders and best-practice methods for consultation during construction. The Plan would also ensure avenues for feedback and facilitate opportunities for the community and stakeholders to have input to the Project, where possible;
- the community would be kept informed of construction progress, activities and impacts in accordance with the Community Liaison Plan; and
- contact details for a 24-hour construction response line, Project Infoline and email address would be provided for ongoing stakeholder contact throughout the construction phase.

5.4 Noise, vibration and lighting

The identified sensitive receivers to noise and vibration impacts along the alignment of Dudley Street are located to the north (on Denman Street and Kintore Crescent) and east of the project (Novar Street) and a non-residential receiver (Yarralumla Uniting Church). A road traffic noise impact assessment for the project was provided as part of the EIS exemption application.

Due to the possibility of night-time construction activities and increased street lighting associated with the Project, light pollution is likely to impact on local residents. However, the EIS exemption application confirms that proposed mitigation measures can effectively managed noise, vibration and lighting impacts.

5.4.1 Impact

The following impacts were identified:

- Intermittent noise and vibration emitted from the equipment during construction.
- Local residents in surrounding suburbs exposed to increased levels of noise and vibration due to altered traffic patterns.
- Increased luminance for residents impacting amenity of sensitive receivers during construction and operation.
- Lighting impacts to nocturnal fauna.

5.4.2 Recommended mitigation measures

The key commitments and mitigation measures proposed in the EIS exemption application are:

- Prior to commencement of works, a Construction Noise, Vibration and Lighting Management Plan (CNVLMP) will be prepared and implemented in accordance with the requirements of the Guidelines for the preparation of Noise Management Plans for development applications (EPA, 2014) and the Road Traffic Noise Impact Assessment. The CNVLMP will include measures to reduce the construction noise and vibration impacts.
- Out of hours works would be minimised as much as practicable, works will generally be carried out during standard construction hours. Any works outside these hours may be undertaken if approved by ACT Government and the community is notified prior to these works occurring.
- Night works would be programmed to minimise the number of consecutive nights work impacting the same receivers.
- For construction concentrated in a single area (e.g. eastern construction compound) temporary acoustic fencing/barriers around the site perimeter would be considered where feasible and reasonable to mitigate off-site noise levels.
- In order to alleviate the impacts, construction staging strategy will prioritise the use of the western construction compound rather than the eastern compound.
- To avoid structural impacts as a result of vibration or direct contact with structures, the proposed works are to be undertaken in accordance with the safe work distances outlined in the application and attended vibration monitoring or vibration trials are to be undertaken where these distances are required to be challenged.
- If construction works are proposed within the safe working distances, a permanent vibration monitoring system is to be installed around one metre from the building footprint to warn operators in real time when vibration levels are approaching the maximum vibration criteria.

- Building condition surveys are to be completed for buildings within 100 m of the Project both before and after the works to identify existing damage and any damage due to the works.
- Lower vibration generating items of excavation plant and equipment e.g. smaller capacity rock breaker hammers are to be used where feasible.
- Lighting requirements for the Project would be designed to AS/NZS standards and TCCS requirements and approval.
- Directional lighting would be implemented during construction and light spillage will be minimised using light shields and reducing light heights.
- At night, the strategy for lighting would be to ensure the Project contributes to a safe and legible streetscape.

5.5 Soils and geology

Block 1 Section 127 Yarralumla is listed on the EPA contaminated lands register. The impacts related to contamination is discussed in section 4.2 of this report.

The south of Dudley Street is consider to be a high erosion risk area, in particular where the existing drainage line is located. The Project requires significant earthworks due to the existing topography of the area. Construction activities would result in considerable disturbance to soils, which have the potential to impact water quality if not managed appropriately.

5.5.1 Impact

The following impacts were identified:

- Disturbance of currently unidentified contaminated soils during construction.
- Contamination remediation activities reveal larger extent of contamination than expected.
- Disturbance of soil associated with construction leading to increased soil and sediment erosion.
- Soil structure decline affects viability of open space areas and health of retained trees.
- Surface water runoff containing sediment and soil leaving the construction site due to inadequate surface water and sediment and erosion control measures being implemented.

5.5.2 Recommended mitigation measures

The key commitments and mitigation measures proposed in the EIS exemption application are:

- Existing vegetation on site to be retained as long as possible and only cleared when required for construction.
- The drainage line in the southern extents of the project area to be monitored to ensure sediment is not leaving the construction areas and entering water bodies.
- Offsite runoff to be diverted around or through the construction areas so it would not mix with onsite construction runoff.
- Disturbed areas to be stabilised as soon as possible following disturbance including the installation of scour protection on any disturbed embankments immediately following excavation.
- A progressive and live ESCP to be developed prior to construction.

- Appropriate sediment controls (e.g. wheel wash facilities) to be provided at site egress points, to prevent the tracking of mud or loose sediment off site.
- Erosion and sediment control measures to be regularly inspected (particularly following rainfall events) to ensure their ongoing functionality until the works are complete and areas are stabilised.
- Works would be avoided during rainfall (or whilst the ground remains sodden) in unsealed areas, where practicable, to minimise vehicle disturbance to the topsoil.
- If unexpected finds of contaminated material are identified during construction, it would be managed and either re-used or disposed of appropriately in accordance with all relevant legislation and ACT EPA guidelines.

5.6 Hydrology and flooding

The project area is located in the Yarralumla Creek Catchment which is a sub-catchment that transverses across both the Central Molonglo Water Catchment Area and the Lower Molonglo Catchment Area. A drainage line is located in the southwest corner of the project area. The Project is likely to impact the existing flow paths and overland flow in the area.

The Project will require sealing of the ground surface using concrete, asphalt pavement or similar hard surfaces. This would result in an overall increase in hardstand area, which would reduce the total impervious area of the project area.

5.6.1 Impact

The following impacts were identified:

- Local and regional drainage conditions altered.
- Increase in flood levels as a result of the Project.
- Potential to impacts on native vegetation and habitat for threatened species due to flooding.
- Changes to existing flow paths and overland flow due to proposed Project.
- Potential changes to groundwater availability due to vegetation removal or excavation including impacts on groundwater dependent ecosystems and water users within the catchment.

5.6.2 Recommended mitigation measures

The key commitments and mitigation measures proposed in the EIS exemption application are:

- Stormwater runoff will be captured by the existing stormwater drainage network, where possible.
- Where existing pipes and overland flow paths are inadequate, oversized pipes in the median would be considered to provide additional storage capacity.
- The stormwater management system would be designed to minimise disturbance of areas of ecological where possible in particular areas of NTG, GSM habitat and trees.
- Spill kits would be provided at various locations through the construction area and regularly topped up to allow for a quick response to accidental spills.

5.7 Climate change and air quality

The proposed road has the potential to affect air quality through motor vehicle emissions and dust from construction activities. The proposed road has the potential to effect the local climate and may contribute to climate change through the consumption of materials during construction and emission of greenhouse gases during operation.

5.7.1 Impact

The following impacts were identified:

- Heavy vehicle exhaust emissions cause increase reduction in local air quality.
- Use of construction equipment (e.g. excavators) causing dust and particulate matter reducing local air quality (e.g. though stockpiling, earthworks etc).
- Increase in vehicle exhaust emissions impact local air quality.
- Odour issues through improper waste management and storage.
- Failure to consider climate change during design results in unmitigated climate change vulnerability.

5.7.2 Recommended mitigation measures

The key commitments and mitigation measures proposed in the EIS exemption application are:

- Implementation of dust suppression measures during construction.
- Implementation of measures to manage greenhouse gas emissions from vehicles and machinery working on site during construction.
- The climate change adaptation principles to be incorporate during the detailed design and operation of the Project.

5.8 Aboriginal and non-Aboriginal/European cultural heritage

The Aboriginal Cultural Heritage Assessment (Navin Officer Heritage Consultants, 2014) confirms that there are no Aboriginal sites located within the project area. Construction of the Project will involve excavation and other ground disturbing activities which have the potential to impact Aboriginal heritage sites, if present.

There are three ACT Heritage Register listed sites location within the area: Yarralumla Brickworks, Westbourne Woods and Yarralumla Brickworks Railway Remnants. The Project would not impact on the listed curtilage of these three items. The Project would impact on part of the former alignment of the Railway line outside the listed curtilage, however this will be managed through mitigation measures.

5.8.1 Impact

The following impacts were identified:

- Potential damage or destruction of known Aboriginal or non-Aboriginal heritage items.
- Potential damage or destruction of unknown Aboriginal or non- Aboriginal heritage items or areas.

5.8.2 Recommended mitigation measures

The key commitments and mitigation measures recommended in the EIS exemption application and by the referral entities are:

- For the unanticipated discovery of Aboriginal sites and burials (during investigation or development works, including excavation and/or other significant ground disturbance), the works be managed through the use of the unexpected finds protocol.
- A survey is to be undertaken that records the orientation and levels of the cutting from the southern boundary of the registered curtilage boundary to the extent of identifiable cuttings to the east, near Denman Street.
- During ground disturbance, a suitably qualified archaeologist should be on-hand to record the soil profiled across the cutting, if disturbance within the profile associated with the cutting of the railway line is evident.
- In the event that previously unrecorded or unanticipated or non-Aboriginal archaeological (objects, artefacts, deposits or relics) are encountered, the unexpected finds protocol will be implemented.

5.9 Bushfire

As the Project is located within a bushfire prone area, there is a risk of the project area experiencing a bushfire. The Molonglo Valley located to the west of the road alignment will increase the risk posed by bushfire. However, Lake Burley Griffin forms a natural barrier to the west and north.

5.9.1 Impact

The following impacts were identified:

- Increased risk of bushfire associated with sparks from construction equipment and vehicles.
- Increased risk of bushfire through vehicle accidents.
- Potential loss of life and property as a result of bushfire during construction.

5.9.2 Recommended mitigation measures

The key commitments and mitigation measures recommended in the EIS exemption application are:

- Prior to the commencement of works, the contractor would develop an Emergency Response Plan that include bushfire protection measures, communication protocols and other requirements.
- Hot works will be undertaken in accordance with the measures listed in section 8.2 of the EIS exemption application.
- Landscaping will be undertaken in accordance with the measures listed section 8.2 of the EIS exemption application.
- Manage waste in accordance with the measures section 8.2 of the EIS exemption application.

5.10 Utilities and infrastructure

The EIS exemption application notes that a utility investigation was undertaken to confirm the location of underground services in the project area. Numerous electrical, drainage,

communication and signalling services within the footprint of the Project were identified. Services to be impacted by the Project include water supply, aboveground high voltage electrical cables, and the gas main, would need to be relocated to enable utilities to remain operational.

5.10.1 Impact

The following impacts were identified:

- Temporary services disruption during utility works as part of the Project.
- Restricted opportunities to connect to existing road network.
- Accidental damage to utilities and other essential infrastructure.
- Accelerated maintenance and upgrade of roads and infrastructure due to increased use.

5.10.2 Recommended mitigation measures

The key commitments and mitigation measures proposed in the EIS exemption application are:

- During construction there will be ongoing consultation between the contractor and property owners to provide sufficient notification of any planned interruptions to services throughout construction.
- Where unplanned interruptions to services occur due to accidental damage, the construction contractor will inform affected property owners and provide temporary alternative services as appropriate.

5.11 Materials and waste

Construction of the project will require the use of a range of resources such as concrete, water and paving materials. Waste generated would likely include demolition waste, surplus building materials, hazardous chemical wastes, liquid wastes, excavated spill and vegetation, wastewater and general waste. The mismanagement and storage of waste material produced during construction, and excessive resources used in the construction of the Project are a potential risks to the Project.

5.11.1 Impact

The following impacts were identified:

- Waste materials produced during construction of the Project not stored or managed effectively.
- Excessive resources used in the construction of the Project.

5.11.2 Recommended mitigation measures

The key commitments and mitigation measures proposed in the EIS exemption application are:

- Sourcing locally available materials where appropriate.
- Investigating opportunities to re-use or recycle other construction and demolition waste, and apply the waste hierarchy (avoid, minimise, re-use/recycle, dispose) throughout construction.
- Treating any wastewater collected prior to discharge, in accordance with current standards.

- Chipping leaf material and small branches of native vegetation for use as mulch in temporary erosion and sediment controls, revegetation or landscaping works.
- Disposing all other green waste from vegetation removal to a green waste recycling facility.
- Maintaining work sites in a tidy state, and appropriately disposing of all general litter (including food scraps, plastics, and glass bottle).
- Providing reuse and recycling training and infrastructure at construction sites.
- Storing of hazardous materials required for the operation and maintenance of the Project in accordance with relevant ACT EPA guidelines and use of an appropriately licensed contractor to remove contaminated waste, under current ACT EPA Guidelines.

5.12 Conclusion

The EIS Exemption application process, including supporting studies, provide sufficient information on impacts not listed under Schedule 4 of the PD Act. Further investigation and environmental assessment of these impacts is not required for this Project. The recommended mitigation measures will be applied through conditions of approval in any subsequent development application.

6 EIS exemption conditions

Table 5 details the conditions that are proposed to be set if an EIS exemption is granted. These conditions should be taken into account by the planning and land authority when assessing a DA for the Project.

If a conditional EIS exemption is in force for a DA, section 128 (1)(b)(iv) of the PD Act requires the approval of any subsequent development applications to be consistent with the EIS exemption conditions.

Table 5 – Conditions for development approval

No	Condition	Endorsement/ approval	Development stage	Condition of approval
1	General	EPSDD, and relevant agencies as part of the detailed assessment of the DA's	Detailed design	All mitigation measures identified in section 8 of the EIS exemption application, for the detailed design, must be incorporated into the plans that were submitted as part of the development application. Where mitigation measures cannot be incorporated into the design each residual mitigation measure must be outlined in the CEMP-see recommended condition 4.
2	Impacts on GSM and NTG	EPSDD, Conservator of Flora and Fauna	Prior to construction	Pre-clearance survey must be undertaken prior to commencing any works within the project area. The surveys will: • identify and mark out exclusion zones and vegetation/habitat to be retained on site (including threatened ecological communities and habitat) • check presence of fauna including threatened species; birds nest and arboreal mammals, and translocate where possible.
			During construction	A suitably qualified ecologist must be present during the removal of habitat including felling of woodland and removal of surface rock and debris.
3	Heritage	ACT Heritage Council	Prior to construction	A survey of the affected section of the former railway alignment should be undertaken to record the orientation and levels of the railway cutting, from the southern boundary of the registered curtilage to the extent of identifiable cuttings to the east, near Denman Street. During ground disturbance works, a qualified archaeologist should be on site to record the exposed soil profile across the cutting if this is evident. In the event that previously unrecorded or unanticipated or non-Aboriginal archaeological (objects, artefacts, deposits or relics) are encountered, the unexpected finds protocol (Navin Officer Heritage Consultants, 2014) will be implemented.

No	Condition	Endorsement/ approval	Development stage	Condition of approval
				A report documenting these actions must be submitted to the Council following completion of works.
4	Construction Environment Management Plan (CEMP)	EPSDD, ACT Heritage Council , EPA, TCCS, ESA, Conservator of Flora and Fauna Planning and land authority	Prior to construction and during construction	The Proponent must prepare a CEMP and obtain endorsement for the CEMP from the planning and land authority. The approved CEMP must be implemented. The CEMP must include the commitments made in Section 8 of the EIS exemption application and should include, as a minimum, the following: • Process for inducing anyone working within the project area. • An Unexpected Finds Protocol to be implemented in the unlikely event that indicators of contamination are encountered. • Description of measures to protect sensitive vegetation and fauna habitat (including weed management). • A progressive ESCP, with relevant contamination mitigation strategies. • A number of safeguards to be implemented to minimise potential impacts on the community with a particular focus on keeping the community informed. • monitoring and reporting conditions of approval that have arisen from the EPBC Approval • A CTMP to manage potential traffic and pedestrian impacts associated with construction. • A CNVLM to manage noise, vibration and lighting impacts.

No	Condition	Endorsement/ approval	Development stage	Condition of approval
				All workers shall be inducted prior to undertaking work on site. The induction should ensure workers understand the requirements detailed in the CEMP. This includes understanding of site environmental conditions and sensitivities areas, buffers, exclusion zones. All workers shall also be advised of any changes to work scope, environmental site conditions or management plans.

7 Conclusion

Having regard to the supporting information provided by the Proponent and comments received from referral entities and during the public consultation period, the planning and land authority has assessed the CBP Access Road and Dudley Street Upgrade as meeting the requirements for an EIS exemption under the PD Act.

It is the Authority's assessment that the Proponent has provided sufficient information to the ACT Government and the community to allow an informed evaluation of potential environmental impacts which could be attributed to the Project. The supporting information and referral entities have proposed a range of mitigation measures and conditions to reduce or avoid potential environmental impacts arising from construction and operational activities associated with the Project. It is considered that any potential adverse impacts can be adequately addressed by implementing the conditions outlined in this report.

The Authority's recommendation is that the supporting information submitted with the application has adequately identified and considered those matters of potentially significant impact and that further environmental assessment is not required. The expected environmental impact of the Project has already been sufficiently addressed by a number of recent studies.

The Authority recommends that the Minister grants the CBP Access Road and Dudley Street Upgrade an EIS exemption under s 211H of the PD Act.

Appendix 1 – Referral entity comments

Referred entity	Response date	Entity Comment
ACT Health	08/10/2018	The Health Protection Service (HPS) supports Aecom recommendation that the CEMP should include an Unexpected Finds Protocol to be implemented in the likely event that indicators of contamination are encountered. There are no other public health concerns in relation to the proposed EIS exemption.
Conservator of Flora and Fauna	20/09/2018	Impacts to NTG and GSM noted. EIS exemption application supported as the ecological values of this area have been well documented (with site surveys being undertaken in 2010, 2011, 2012, 2014 and 2016) and made publicly available.
Emergency Services Commissioner	03/10/2018	No comments or objections at this time.
Environment Protection Authority	26/09/2018	All contamination assessments and remedial works associated with the development of the former Brickworks site and related infrastructure are subject to an independent audit. The adequacy of the Aecom contamination assessment included in the documentation must be reviewed by the appointed auditor and auditor interim advice provided before the EPA can comment further on the EIS exemption application
	12/02/2019	Table 6 page 59 (included below) addresses our concerns. The contamination (asbestos) risk area was confirmed to be capped in an area that did not overlap with the Project area and it was concluded that contamination is unlikely to present any significant environmental constraint to the Project. Construction works associated with the Project would be covered by a CEMP, which should include an Unexpected Finds Protocol to be implemented in the unlikely event that indicators of contamination are encountered
Heritage Council	08/10/2018	EIS exemption application supported, as prior studies have adequately assessed the heritage values of the area and the potential heritage impacts of development. The recommendations presented by Aecom (2018) for the affected section of railway alignment are also endorsed, and a report documenting these actions should be submitted to the Council following completion of works. The access road of this application will need to be extended at some future stage to provide access to the Canberra Brickworks Precinct. While this is not the subject of the current application, heritage considerations for the future extension of this access road include: - Any works proposed adjacent to the Yarralumla Brickworks Railway Remnants area will need to identify measures that will be adopted to ensure that such works do not diminish the heritage significance of this registered heritage place; and - In accordance with Tribunal Orders AT 13/17, the Land Development Agency (now the Suburban Land Agency) agreed to

Referred entity	Response date	Entity Comment
		consult with the Council regarding heritage interpretation of non-registered sections of the former railway alignment within Block 7 Section 102 Yarralumla.
ICON Water		No comments received.
EvocEnergy		No comments received.
ActewAGL		No comments received
Transport Canberra and City Services	09/10/2018	TCCS do not have any issues with the EIS exemption, however would like to note the following: TCCS do not object to the removal of trees to facilitate the proposed upgrade to Dudley Street, Yarralumla as there are no high quality trees proposed to be removed and the <i>Pinus radiata</i> trees are a declared pest species under the provisions of Pest Plants and Animal (Pest Plants) Declaration 2009 (No 1), although it would be desirable to realign the road to retain the larger pine trees on the southern side of the road extension as removing these trees will have a significant impact on the aesthetics of this group of trees. The majority of the outer branches are the only living growth on the northern side and their removal will leave it quite open and exposed to wind throw that could lead to tree failure in the future.
	22/11/2018	TCCS have no other comments than previous report (09/10/2018).
EPSDD Planning Policy	12/10/2018	Proposal for TCCS to ensure that the road is 'futureproofed' and has taken into consideration Light Rail, future likely development in North Curtin and redevelopment of West Deakin. We are also interested to know what the design interdependencies are between this road and a future 'Mint Interchange' that we understand is under reconsideration
National Capital Authority	6/11/2018	No objection. Noted that all proposed works within Designated Areas will require Works Approval with the National Capital Authority. Page 123, Section 7.4.1 of the report titled '<i>Review of Environmental Factors – Access Road and Dudley Street Upgrade</i>' states that '<i>the Project is located within Territory land with the exception of Dudley Street, which is within a Designated Area (National land) under the management of the NCA</i>'. While the land is within Designated Areas, it is not managed by the NCA. It is under the custodianship or management of the Territory Government (Transport Canberra and City Services). The report should be reviewed to adequately describe correct planning and land management arrangements.
Land custodian – ACT Government Parks and Conservation Service	16/10/2018	The Parks and Conservation Service acknowledge that the North Mitchell Grasslands (Section 47 Block 5 Franklin) is the proposed offset. As the land custodian for this site, we request that we be notified and given the opportunity to comment on any subsequent conditions relating to the management of the offset.
Land Custodian – Transport Canberra and City Services City Presentation	05/10/2018	No comment.
City Renewal Authority		No comments received.

Appendix 2 – Information submitted in support of the application

Title & Author of Study	Qualified Person	Recent Study	<i>If recent study >18 months, is information current</i>	Information directly related to proposal	<i>If no, has sufficient information been provided</i>	Expert/ Peer review
Traffic Impact Assessment (AECOM, 2018)	Yes	Yes	Yes	Yes	n/a	n/a
Impact Assessment Report (Umwelt, 2018)	Yes	Yes	Yes	Yes	n/a	n/a
Offset Strategy (Umwelt, 2018)	Yes	Yes	Yes	Yes	n/a	Yes
Road Traffic Noise Impact Assessment (AECOM, 2017)	Yes	Yes	Yes	Yes	n/a	Yes
Contamination Due Diligence Assessment (AECOM, 2017)	Yes	Yes	Yes	Yes	n/a	Yes
Aboriginal Heritage Stage 1 Cultural Heritage Assessment (Navin Officer, 2014)	Yes	No	Yes	Yes	n/a	Yes

Note all of the studies above were published for public comment in accordance with the requirements of the EPBC Act assessment process (Section 3 of this report)

Appendix 3 –EPBC Act (Cwth) Approval Decision Notice



APPROVAL

Canberra Brickworks Precinct access road and Dudley Street upgrade, Yarralumla, ACT (EPBC 2017/8072)

This decision is made under sections 130(1) and 133(1) of the *Environment Protection and Biodiversity Conservation Act 1999 (Cth)*. Note that section 134(1A) of the **EPBC Act** applies to this approval, which provides in general terms that if the approval holder authorises another person to undertake any part of the action, the approval holder must take all reasonable steps to ensure that the other person is informed of any conditions attached to this approval, and that the other person complies with any such condition.

Details

Person to whom the approval is granted (approval holder)	CMTEDD ACT PROCUREMENT (Chief Minister, Treasury, and Economic Development Directorate)
ACN or ABN of approval holder	66 676 633 401
Action	To upgrade Dudley Street in Yarralumla, ACT, from 6 m single carriageway to 10 m single carriageway, and construct a new roundabout and access road for proposed Canberra Brickworks Precinct [See EPBC Act referral 2017/8072].

Approval decision

My decision on whether or not to approve the taking of the action for the purposes of the controlling provision for the action is as follows.

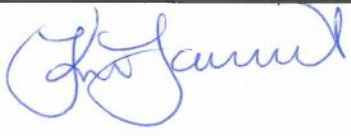
Controlling Provisions

Listed Threatened Species and Communities	
Section 18	Approve
Section 18A	Approve

Period for which the approval has effect

This approval has effect until 30 June 2034.

Decision-maker

Name and position	Kim Farrant Assistant Secretary of Assessments & Waste Branch Department of the Environment and Energy
Signature	
Date of decision	27.2.19

Conditions of approval

This approval is subject to the conditions under the EPBC Act as set out in ANNEXURE A.



ANNEXURE A – CONDITIONS OF APPROVAL

Part A – Conditions specific to the action

1. The approval holder must not:
 - a. **clear** more than 0.13 hectares of **NTG**, and impact more than 0.29 hectares in total of **NTG** (including **clearing**);
 - b. must not **clear** more than 2.64 hectares of habitat for the **Golden Sun Moth**, and impact more than 3.08 hectares in total of **Golden Sun Moth** habitat (including **clearing**);
 - c. impact any **protected matters** outside the **development area**.

Offset Management Plan

2. To compensate for impacts on **NTG** and **Golden Sun Moth**, the approval holder must, within 6 months of the **commencement of the action**, submit an Offset Management Plan for the **Minister's** approval that is consistent with the **Offset Strategy**.
3. The approved Offset Management Plan must be implemented.
4. The Offset Management Plan must be consistent with the **Department's Environmental Management Plan Guidelines 2014**, and must include:
 - a. The Offset Management Plan environmental objectives, all relevant **EPBC Act protected matters**, and a reference to the **EPBC Act** approval conditions under which the Offset Management Plan is required;
 - b. Details of a method of legal protection of the **Offset Site** that satisfies the **Department** the **Offset Site** will remain an environmental conservation offset in perpetuity, a commitment to implement that protection, and an enforceable deadline for implementation;
 - c. A table listing all commitments made in the Offset Management Plan, and a reference to where the commitments are detailed in the Offset Management Plan;
 - d. Reporting and review mechanisms, and documentation standards to demonstrate compliance with the Offset Management Plan;
 - e. An assessment of risks to achieving the Offset Management Plan environmental objectives and an explanation and assessment of the risk management strategies that will be applied;
 - f. Any relevant impact avoidance, mitigation, and/or repair measures, and their timing; and
 - g. A monitoring program, which must include:
 - i. measurable performance indicators;
 - ii. the timing and frequency of monitoring to detect changes in the performance indicators;
 - iii. trigger values for corrective actions; and
 - iv. proposed corrective actions, if trigger values are reached.
5. The approval holder must provide GIS shapefiles for the **Offset Site** before **commencing the action**. The files must be Geographics using the GDA94 coordinate system, and must include the relevant '.shp', '.shx', '.dbf', and '.prj' files, unless the **Department** requests the shapefiles be provided in another format. The approval holder must comply with any such request.

Construction Environmental Management Plan

6. To mitigate impacts on **Golden Sun Moth** and **NTG**, the approval holder must submit a Construction Environmental Management Plan for the **Minister's** approval.



7. The approval holder must not **commence the action** unless the **Minister** has approved the Construction Environmental Management Plan. The approved Construction Environmental Management Plan must be implemented.
8. The Construction Environmental Management Plan must be consistent with the **Department's Environmental Management Plan Guidelines 2014**, and must include:
 - a. Details of management measures to ensure:
 - i. all construction equipment and/or machinery is washed thoroughly before entering the **development area**, so that the equipment and/or machinery does not introduce weed or pathogen propagules into the **development area**;
 - ii. soil stockpiles are minimised as far as practical, and soil stockpiles are managed to minimise the risk the stockpiles will act as a vector to introduce weed or pathogen propagules into the **development area**;
 - iii. weeds that are **cleared** are not stockpiled and are removed from the **development area** as soon as practical to be disposed of at a weed disposal facility;
 - iv. surface water flows are managed to prevent the spread of harmful pollutants and ponding of water in any areas of habitat for the **Golden Sun Moth**;
 - v. exclusion zones are established to protect all areas of **NTG** and/or habitat for **Golden Sun Moth** that are to be retained;
 - vi. an alternative route will be established and clearly sign-posted for pedestrians and cyclists for the duration of works disrupting access to, and use of, Uriarra Track;
 - b. Enforceable commitments to implement the measures described at Condition 8(a) above, and deadlines for implementation;
 - c. Details of a site induction program to ensure all workers before starting work at the **development area** are aware of the need to avoid environmentally sensitive areas;
 - d. Reporting and review mechanisms, and documentation standards to demonstrate compliance with the Construction Environment Management Plan.

Construction Compound Rehabilitation Plan

9. The approval holder must submit within six months of **commencement of the action** a Construction Compound Rehabilitation Plan for the **Minister's** approval. The approval holder must have fully implemented the approved Construction Compound Rehabilitation Plan within two years of completion of **construction** works for the action.
10. The Construction Compound Rehabilitation Plan must include measures to revegetate the former construction compound (as identified in Map 1 at Annexure B to this notice) so that it is suitable to provide habitat for **Golden Sun Moth**.

Part B – Standard administrative conditions

Notification of date of commencement of the action

11. The approval holder must notify the **Department** in writing of the date of **commencement of the action** within 10 **business days** of the date of **commencement of the action**.
12. If the **commencement of the action** does not occur within 5 years of the date of this approval, then the approval holder must not **commence the action** without the prior written agreement of the **Minister**.

Compliance records

13. The approval holder must maintain accurate and complete **compliance records**.



14. If the **Department** makes a request in writing, the approval holder must provide electronic copies of **compliance records** to the **Department** within the timeframe specified in the request.

Note: **Compliance records** may be subject to audit by the **Department** or an independent auditor in accordance with section 458 of the **EPBC Act**, and or used to verify compliance with the conditions. Summaries of the result of an audit may be published on the **Department's** website or through the general media.

Preparation and publication of plans

15. The approval holder must:

- a. submit **plans** electronically to the **Department** for approval by the **Minister**;
- b. publish each **plan** (on a publicly available website maintained by the approval holder) within **20 business days** of the date the **plan** is approved by the **Minister** or of the date a revised **plan** is submitted to the **Department**, unless otherwise agreed to in writing by the **Minister**;
- c. exclude or redact **sensitive ecological data** from **plans** published under Condition 16(b) or provided to a member of the public; and
- d. keep **plans** published on the website until the end date of this approval, or as otherwise agreed to in writing by the **Department**.

Annual compliance reporting

16. The approval holder must prepare a **compliance report** for each 12 month period ending 30 August each year following the date of **commencement of the action**, or as otherwise agreed to in writing by the **Minister**. A **compliance report** must also be prepared for the period from the time this approval is issued until 30 August in that same year, and will be subject to the same requirements as annual **compliance reports**. The approval holder must:

- a. publish each **compliance report** (on a publicly available website maintained by the approval holder) by 30 August each year;
- b. notify the **Department** by email that a **compliance report** has been published under Condition 16(a) within five **business days** of the date of publication;
- c. keep all **compliance reports** publicly available on the website until this approval expires, or as otherwise agreed to in writing by the **Department**;
- d. exclude or redact **sensitive ecological data** from published **compliance reports**; and
- e. where any **sensitive ecological data** has been excluded from the version published, submit the full **compliance report** to the **Department** within 5 **business days** of publication.

*Note: the **Department** may publish the **compliance reports** on the **Department's** website.*

Reporting non-compliance

17. The approval holder must notify the **Department** in writing of any: **incident**; non-compliance with the conditions; or non-compliance with the commitments made in **plans**. The notification must be given as soon as practicable, and no later than two **business days** after becoming aware of the **incident** or non-compliance. The notification must specify:

- a. the condition that is, or may be, in breach; and
- b. a short description of the **incident** and/or non-compliance.

18. The approval holder must provide to the **Department** the details of any **incident** or non-compliance with the conditions or the commitments made in **plans** as soon as practicable and no later than 10 **business days** after becoming aware of the **incident** or non-compliance, specifying:

- a. any corrective action or investigation that the approval holder has already taken or intends to take in the immediate future;



- b. the potential impacts of the **incident** or non-compliance; and
- c. the method and timing of any remedial action that will be undertaken by the approval holder.

Independent audit

- 19. The approval holder must ensure that **independent audits** of compliance with the conditions of this approval are conducted as requested in writing by the **Minister**.
- 20. For each **independent audit**, the approval holder must:
 - a. provide the name and qualifications of the independent auditor and the draft audit criteria to the **Department**;
 - b. only commence the **independent audit** once the audit criteria have been approved in writing by the **Department**; and
 - c. submit an audit report to the **Department** within the timeframe specified in the approved audit criteria.
- 21. The approval holder must publish the audit report (on a publicly available website it maintains) within 10 **business days** of receiving the **Department's** approval of the audit report and keep the audit report published on that website until the end date of this approval, or as otherwise agreed to in writing by the **Department**.

Revision of action management plans

- 22. The approval holder may, at any time, apply to the **Minister** for a variation to a plan approved by the **Minister** under Conditions 6 and 9, or as subsequently revised in accordance with these conditions, by submitting an application in accordance with the requirements of section 143A of the **EPBC Act**. If the **Minister** approves a revised plan then, from the date specified, the approval holder must implement the revised plan in place of the previous relevant plan.
- 23. The approval holder may choose to revise a plan approved by the **Minister** under Condition 6 or 9, or as subsequently revised in accordance with these conditions, without submitting it for approval under section 143A of the **EPBC Act**, if the taking of the action in accordance with the revised plan would not be likely to have a **new or increased impact**.
- 24. If the approval holder makes the choice under Condition 23 to revise a plan without submitting it for approval, the approval holder must:
 - a. notify the **Department** in writing that the approved plan has been revised and provide the **Department** with:
 - i. an electronic copy of the revised plan;
 - ii. an electronic copy of the revised plan marked up with track changes to show the differences between the approved plan and the revised plan;
 - iii. an explanation of the differences between the approved plan and the revised plan;
 - iv. the reasons the approval holder considers taking the action in accordance with the revised plan would not be likely to have a **new or increased impact**; and
 - v. written notice of the date on which the approval holder will implement the revised plan, being at least 20 **business days** after the date of providing notice of the revision of the plan, or a date agreed to in writing with the **Department**; and
 - b. subject to Condition 26, implement the revised plan from the date notified under Condition 24(a)(v).
- 25. The approval holder may revoke their choice to implement the plan under Condition 23 at any time by giving written notice to the **Department**. If the approval holder revokes the choice under Condition 23, the approval holder must implement the previous plan approved by the **Minister**.



26. If the **Minister** gives a notice to the approval holder that the **Minister** is satisfied that the taking of the action in accordance with the revised plan would be likely to have a **new or increased impact**, then:
- a. Condition 23 does not apply, or ceases to apply, in relation to the revised plan; and
 - b. the approval holder must implement the plan specified by the **Minister** in the notice.
27. At the time of giving the notice under Condition 26, the **Minister** may also notify that for a specified period of time, Condition 23 does not apply.

Note: Conditions 23, 24, 25 and 26 are not intended to limit the operation of section 143A of the **EPBC Act** which allows the approval holder to submit a revised action management plan, at any time, to the **Minister** for approval.

Completion of the action

28. Within 30 days after the **completion of the action**, the approval holder must notify the **Department** in writing and provide all **completion data**.

Part C - Definitions

29. In these conditions, except where the contrary intention is expressed, the following definitions are used:
- a. **Business days** means a day that is not a Saturday, a Sunday or a public holiday in the state or territory of the action.
 - b. **Clear/ing** means the cutting down, felling, thinning, logging, removing, killing, destroying, poisoning, ringbarking, uprooting or burning of vegetation (but not including weeds other than Chilean Needle Grass [*Nassella neesiana*] – see the *Australian weeds strategy 2017 to 2027* for further guidance).
 - c. **Commencement of the action** means the first instance of any specified activity associated with the action including **clearing** or **construction** of any infrastructure. Commencement does not include minor physical disturbance necessary to:
 - i. undertake pre-clearance surveys or monitoring programs;
 - ii. install signage and/or temporary fencing to prevent unapproved use of the project area;
 - iii. protect environmental and property assets from fire, weeds (other than Chilean Needle Grass [*Nassella neesiana*]) and pests, including erection or construction of fencing and signage, and maintenance or use of existing surface access tracks, if agreed in writing by the **Department**; and
 - d. **Completion data** means an environmental report and spatial data information clearly detailing how the conditions of this approval have been met. The **Department's** preferred spatial data format is shapefile.
 - e. **Completion of the action** means the time when all specified activities associated with the action have permanently ceased.
 - f. **Compliance records** means all documentation or other material in whatever form required to demonstrate compliance with the conditions of approval that are either in the approval holder's possession or within the approval holder's power to obtain lawfully;
 - g. **Compliance reports** means written reports:
 - i. providing accurate and complete details of compliance, **incidents**, and non-compliance with the conditions and the **plans**;
 - ii. consistent with the **Department's Annual Compliance Report Guidelines** (2014);



- iii. include a shapefile of any clearance of any **protected matters**, or their habitat, undertaken within the relevant 12 month period; and
- iv. annexing a schedule of all **plans** prepared and in existence in relation to the conditions during the relevant 12 month period.
- h. **Construction** means: the erection of a building or structure (including road and pathway structures) that is or is to be fixed to the ground and wholly or partially fabricated on-site; the alteration, maintenance, repair or demolition of any building or structure; preliminary site preparation work which involves breaking of the ground (including pile driving); the laying of pipes and other prefabricated materials in the ground, and any associated excavation work; but excluding the installation of fences and signage. Construction does not include any activities covered by the Construction Compound Rehabilitation Plan.
- i. **Department** means the Australian Government agency responsible for administering the **EPBC Act**.
- j. **Development area** means the area of works and construction compound shown in Map 1 at Annexure B to this notice, and all areas of listed **NTG** shown as impacted (direct and indirect) in Map 2 at Annexure B to this notice, and all areas of habitat for the listed **Golden Sun Moth** shown as impacted (direct and indirect) in Map 3 at Annexure B to this notice.
- k. **EPBC Act** means the *Environment Protection and Biodiversity Conservation Act 1999* (Cth).
- l. **Golden Sun Moth** means the Golden Sun Moth (*Synemon plana*), listed as critically endangered under the **EPBC Act**.
- m. **Incident** means any unauthorised event that has the potential to, or does, impact on **protected matters** or an event that has the potential to, or does, impact on **protected matters** intended to be retained without impacts.
- n. **Independent audit**: means an audit conducted by an independent and **suitably qualified person** as detailed in the *Environment Protection and Biodiversity Conservation Act 1999 Independent Audit and Audit Report Guidelines* (2015).
- o. **Minister** means the Australian Government Minister administering the **EPBC Act** including a delegate thereof.
- p. **NTG** means the Natural Temperate Grassland of the South Eastern Highlands ecological community listed as critically endangered under the **EPBC Act**.
- q. **New or increased impact** means a new or increased environmental impact or risk relating to any **protected matter**, when compared to the likely impact of implementing the Construction Environmental Management Plan that has been approved by the **Minister** under Conditions 8-10, including any subsequent revisions approved by the **Minister**, as outlined in the *Guidance on 'New or Increased Impact' relating to changes to approved management plans under EPBC Act environmental approvals* (2017).
- r. **Offset Site** means the location identified for use as an environmental offset in the **Offset Strategy** and designated 'Offset Area' in Map 4 at Annexure B to this notice, or as otherwise agreed to by the **Minister** in writing.
- s. **Offset Strategy** means the document titled 'Offset Strategy Dudley Street Upgrade and Canberra Brickworks Precinct Access Road Construction FINAL', dated July 2018 and submitted as part of the Preliminary Documentation package given to the **Minister** under section 95B of the **EPBC Act**.
- t. **Plan(s)** means any of the documents referred to as a plan and required to be prepared for approval by the **Minister**, and/or implemented by the approval holder in accordance with these conditions.



- u. **Protected matter(s)** means the **Golden Sun Moth** and **NTG**.
- v. **Sensitive ecological data** means data as defined in the Australian Government Department of the Environment (2016) *Sensitive Ecological Data – Access and Management Policy V1.0*.
- w. **Suitably qualified person** means a person who has professional qualifications, training, skills and/or experience related to the nominated subject matter and can give authoritative independent assessment, advice and analysis on performance relative to the subject matter using the relevant protocols, standards, methods and/or literature.

ANNEXURE B:

MAP 1: Development footprint and construction compound

SOURCE: AECOM

Access Road and Dudley Street Upgrade
Review of Environmental Factors



Proposed works area and indicative construction compound

MAP 2: Natural Temperate Grassland of the South Eastern Highlands



Image Source: Environment and Planning Directorate, ACT Government (2016)

0 100 200 250m
1:5000

Legend

- Impact Area
- Natural Temperate Grassland - Direct Impact Area
- Natural Temperate Grassland - Indirect Impact Area
- Natural Temperate Grassland - No Impact

Natural Temperate
Grassland Impact Area

MAP 3: Golden Sun Moth (*Synemon plana*) habitat



Image Source: Environment and Planning Directorate, ACT Government (2016)

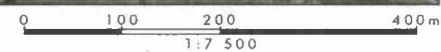
- Legend
- Impact Area
 - Golden Sun Moth Impact Area - Direct
 - Golden Sun Moth Impact Area - Indirect
 - Golden Sun Moth Impact Area - No Impact

Golden Sun Moth Impact Area

MAP 4: Offset Site at North Mitchell



Image Source: Environment and Planning Directorate, ACT Government (2016)



- Legend**
- Offset Area
 - Natural Temperate Grassland - Very High
 - Natural Temperate Grassland - High
 - Golden Sun Moth Habitat - Direct
 - Remediate and Rehabilitate

Proposed Offset Strategy for
Natural Temperate Grassland
and Golden Sun Moth



CORRECTION NOTIFICATION

Final Approval Decision – Canberra Brickworks Precinct Access Road and Dudley Street Upgrade (EPBC 2017/8072)

Correction notice for a typographical error in Condition 22 (submission of revised management plans for approval)

The approval notice signed on 27 February 2019 contained the following error.

Condition 22 on page 5 of the EPBC 2017/8072 final approval decision notice currently reads:
“The approval holder may, at any time, apply to the **Minister** for a variation to a plan approved by the **Minister** under Conditions 6 and 9, or as subsequently revised in accordance with these conditions, by submitting an application in accordance with the requirements of section 143A of the **EPBC Act**. If the **Minister** approves a revised plan then, from the date specified, the approval holder must implement the revised plan in place of the previous relevant plan.”

The notice incorrectly listed the management plan conditions that are subject to the revision process in the above Condition 22.

The corrected Condition 22 on page 5 of the EPBC 2017/8072 decision notice should read:
“The approval holder may, at any time, apply to the **Minister** for a variation to a plan approved by the **Minister** under Conditions 2, 6 and 9, or as subsequently revised in accordance with these conditions, by submitting an application in accordance with the requirements of section 143A of the **EPBC Act**. If the **Minister** approves a revised plan then, from the date specified, the approval holder must implement the revised plan in place of the previous relevant plan.”

Person making correction

Name and position Kim Farrant
Assistant Secretary
Assessments and Waste Branch

date of correction 6 March 2019
