

**IN THE AUSTRALIAN CAPITAL TERRITORY
CIVIL AND ADMINISTRATIVE TRIBUNAL**

AT 41/2022

Griffith Narrabundah Community Association Inc
Commissioner for Social Housing

Applicant
Party Joined

and

ACT Planning and Land Authority

Respondent

Tribunal: **Senior Member M Orlov**
Senior Member G Trickett

Date of Order: **13 December 2022**

ORDER

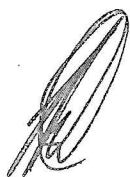
The Tribunal declares that:

1. On the issue of consistency with the Residential Zones Development Code, the development proposal, as amended in accordance with the evidence at the hearing:
 - (a) satisfies C3(a);
 - (b) may comply with R4 but it is unnecessary to decide the issue considering the Tribunal's findings on other issues.
2. On the issue of consistency with the Multi Unit Housing Development Code, the development proposal, as amended in accordance with the evidence at the hearing:
 - (a) may satisfy C38(b) but it is unnecessary to decide the issue considering the Tribunal's findings on other issues;
 - (b) may satisfy C40(c) and (d) but it is unnecessary to decide the issue considering the Tribunal's findings on other issues;
 - (c) does not comply with R41 or satisfy C41 and cannot be justified under C42;
 - (d) satisfies C47(a);
 - (e) may comply with R57 but it is unnecessary to decide the issue considering the Tribunal's findings on other issues;
 - (f) in the case of unit 1, does not comply with R61(c) or satisfy C61(e);
 - (g) in the case of unit 2, does not comply with R61(b) or satisfy C61(b);

- (h) in the case of unit 3, does not comply with R61(b) but satisfies C61(a) to (f);
 - (i) does not comply with R73 or satisfy C73(a) and (c);
 - (j) does not satisfy C76;
 - (k) does not comply with R77(a) or satisfy C77(b);
 - (l) does not have to be assessed against R82/C82 because visitor parking is not required under the Parking and Vehicular Access General Code.
3. On the issue of consistency with the Parking and Vehicular Access General Code, the development proposal, as amended in accordance with the evidence at the hearing:
- (a) requires operational parking to be provided for at least one vehicle used directly as part of the operation of the premises as supportive housing;
 - (b) does not provide for onsite operational parking to comply with clause 3.1.4;
 - (c) does not allow for swept path clearance of 300 mm on both sides of the turning path for access to the unit 1, unit 2 and unit 3 garages to comply with clause 2.3.2(a)(i) of the Parking and Vehicular Access General Code, clause 10.3.1 of Design Standard 10 - Parking Areas and clause B3.1(a) and B3.2(b) of AS 2890.1.
4. On the issue of consistency with the Lease Variation General Code, the development proposal, as amended in accordance with the evidence at the hearing:
- (a) does not satisfy C(i) and C(ii);
 - (b) does not satisfy C2(i).
5. Where the development proposal, as amended in accordance with the evidence at the hearing, is not consistent with all relevant codes and the Tribunal is not satisfied that the inconsistencies can be cured by a condition imposed under s 162(b) of the Planning and Development Act 2007, the correct decision pursuant to s 119(1)(a) of the Act is that development approval must be refused.

The Tribunal orders that

- 6. The decision to grant approval to DA Number 2021139714 is set aside and substituted by a decision to refuse approval.
- 7. The Tribunal will give reasons for its decision at a later date.



Senior Member M Orlov