



ACT
Government

Environment and
Sustainable Development

Notice of decision

Under Part 7 of the *Planning and Development Act 2007*

Merit track

DA NO: 201018564		DATE LODGED: 17 August 2010
DATE OF DECISION: 30 June 2011		
BLOCK: 65	SECTION: 8	SUBURB: RED HILL
STREET NO AND NAME: 51 Hicks Street Red Hill		
APPLICANT: CB Richard Ellis		
LESSEE: Baptist Community Services – NSW & ACT		

THE DECISION

This application was lodged in the merit track. Pursuant to section 113(2) of the *Planning and Development Act 2007* (the Act), the application must be assessed according to the provisions relevant to merit track applications.

I, BEN PONTON, delegate of the ACT Planning and Land Authority (ACTPLA), pursuant to section 162 of the Act, hereby **refuse** the proposal for:

- **The demolition of all buildings and associated structures on the subject block;**
- **Construction of five two storey buildings with attics and basement carparking containing 114 independent living units and associated facilities; and**
- **associated landscaping, paving and other site works**

in accordance with the plans, drawings and other documents and items submitted with the application

PART 1 sets out the Reasons for the Decision

PART 2 is the Consultation and Entity Referral Report.

PART 3 contains administrative information relating to the determination.

DELEGATE

BEN PONTON

Delegate of the ACT Planning and Land Authority
30 June 2011

CONTACT OFFICER

Mr Simon Hawke
Phone: 6207 6436
Email: simon.hawke@act.gov.au

PART 1

REASONS FOR THE DECISION

In accordance with section 119 of the Act, the application was refused because it did not comply with the legislated requirements for merit track applications. The application was inconsistent with:

- the relevant code, being the Multi Unit Housing Development Code, and
- the Territory Plan.

Due to issues raised during the assessment of the proposal, and concerns raised by members of the community during the notification process, the proposal had been referred to the Major Projects Review Group (MPRG) and the Executive Policy Committee (EPC) for advice. The MPRG noted the number of departures from the Multi Unit Housing Development Code (MUHDC) and comments submitted in representations by the community. Advice of the EPC was sought to determine whether the departures were sufficient to warrant refusal of the DA. The EPC supported the refusal of the DA.

In accordance with Section 120 of the Act the application is refused because it does not meet objective (b) of the RZ1 Zone and the requirements of the Multi Unit Housing Development Code and relevant general codes as set out below:

MULTI UNIT HOUSING DEVELOPMENT CODE

Front Street Setback (R54 and C54)

The proposal does not meet the criterion or rule because there are several encroachments to the front street setback by balconies at the first floor. While the departures are relatively minor, they do not reflect the existing streetscape character, and as the area is zoned RZ1 it is unlikely that the character of the area will be significantly altered in the foreseeable future.

Side Setback (R55 and C55)

The proposal does not meet the criterion or rule because there are several balconies that encroach within the minimum setback to the northern and southern side boundaries. The encroachments to the southern side boundary may be considered acceptable as they will not significantly impact any adjoining dwellings and will only overlook the school to the south. This will provide passive surveillance of the school grounds, which would be particularly useful after hours as surveillance from the street or adjoining dwellings to the west would be limited further into the school block.

The encroachments to the north are not considered appropriate as they directly overlook the rear yards of adjoining dwellings to the north, particularly the private open space of Unit 17 and Unit 18 of Bomaderry building, which will overlook Block 46. As the entire area of private open space for these units are within the reduced setback and are the sole areas of private open space for each unit, screening of the units would likely not be a suitable solution. Similarly, Unit 17 of Nadgee within the minimum setback would overlook blocks 44 and 36 to the north.

Building Interface (R68 and C68)

The proposal does not meet the criterion or rule because there are numerous departures from the interfacing setback requirement, with several balconies and windows with reduced setbacks to adjoining dwellings within the complex.

It is considered that the criterion could not be met as screening the affected balconies would likely result in reduced solar access to areas that are only receiving the minimum 3 hours of solar access. In addition, the reduced interfacing between the buildings (notably interfacing between Morton, Nadgee and Montague) combined with the differences in level between the buildings result in several units with reduced amenity through reduced solar access and privacy.

Building Interface (R69 and C69)

The proposal does not meet the criterion or rule because as per the previous rule and criterion response, there are several departures where there is significant overlooking of neighbouring areas of private open space in adjoining units within the development. To obscure the potential overlooking would likely reduce the solar access of a number of units that receive close to the minimum 3 hours of solar access as it is.

Solar Access (R86 and C86)

The proposal does not meet the rule because a number of units do not receive the minimum 3 hours of solar access between the hours of 9am to 3pm on 21 June, with several units receiving virtually no solar access on 21 June. This was demonstrated through shadow diagrams developed by ACTPLA during assessment.

Neighbourhood Plans (C87)

The proposal does not meet the criterion because the development does not adequately respond to one of the key strategies for residential development in residential areas in the Red Hill Neighbourhood Plan. Namely:

'Promote high quality residential development that is sympathetic to the existing garden suburb neighbourhood character in terms of scale, form and landscape setting.'

The form of the development addressing Hicks Street and the adjoining dwellings to the north does not adequately respond to the key strategy.

Private Open Space (R88 and C88)

The proposal does not meet the criterion or rule because the ground floor areas of private open space to several units are significantly less than the 69m² area required of the rule. While it is accepted that areas of private open space in aged care facilities are generally less than that expected in standard multi unit developments so as to be of a readily manageable size for persons with limited mobility, several of the areas provided are significantly restricted. For example, the ground floor private open space for Unit 2 in Bomaderry ground west provides a narrow area of private open space that in total is less than 18m², with a minimum dimension of 1.5m.

In addition, the inconsistencies between the landscape plan and the ground floor plans for the buildings make it difficult to ascertain the total areas of open space provided to each ground floor unit. (eg: the ground floor units in Montague show relatively generous areas of private open space on the floor plans of 20m², though the landscape plans show the paved area of open space reduced to 11m²).

It is noted that there are several communal areas available as alternate areas of open space for use by the residents which may be suitable substitutes for reduced private open space in most cases.

Private Open Space (R89 and C89)

The proposal does not meet the criterion or rule because the areas of private open space are in several cases significantly less than an area of 6x6m. Several units provide 4x4.5m areas, and these would be suitable usable areas, however several units provide areas of main private open space off living areas with minimum dimensions of 2m, which would leave minimal room for manoeuvring for persons with limited mobility.

It is noted that there are several communal areas available as alternate areas of open space for use by the residents which may be suitable substitutes for reduced private open space in most cases.

Private Open Space (R90 and C90)

The proposal does not meet the criterion or rule because a number of areas of private open space are located to the south, south east, south west of the associated building, and/or are overshadowed by screening from adjacent areas of private open space.

It is noted that there are several communal areas available as alternate areas of open space for use by the residents which may be suitable substitutes for reduced private open space in most cases.

Private Open Space (R92 and C92)

The proposal does not meet the criterion or rule because several upper floor level balconies are entirely within the 9 metre setback to northern neighbouring blocks, and /or face other units within 12 metres. The northern neighbouring blocks have areas of open space and windows of dwellings that are likely to be impacted by the reduced setbacks of the balconies.

While the central area of the development provides a landscaped garden setting in keeping with the Red Hill neighbourhood, the presentation to the street and neighbours is considered to be out of keeping with the area. In addition, the two east west facing buildings (Nadgee and Montague) will not provide adequate amenity for a number of the residents of the development due to the poor solar access and overshadowing/overlooking due to the slope of the land and proximity of adjoining buildings.

Pedestrian Access

While the driveway access from Supply Place complies with the minimum width requirements, there is insufficient information to demonstrate that pedestrians will be able to access Supply place safely due to the limited space available either side of the driveway and the obscured sight lines along the driveway.

EVIDENCE**Application No. 201018564****File No. 1-2010/12764****The Territory Plan zone – RZ1 Suburban Zone****The Development Codes – Multi Unit Housing Development Code****Parking and Vehicular Access General Code****Bicycle Parking General Code****Crime Prevention Through Environmental Design
General Code****Access and Mobility General Code****Water Sensitive Urban Design General Code****Red Hill Neighbourhood Plan****Current Crown Lease – Volume 173 Folio 89****Representations****Entity advice**

PART 2

PUBLIC NOTIFICATION AND ENTITY ADVICE

PUBLIC NOTIFICATION

Pursuant to Division 7.3.4 of the Act, the application was publicly notified from 30 August 2010 to 17 September 2010, with an extension of time to the notification granted until 1 October 2010. Seventy one (71) written representations were received during public notification.

The main issues raised were as follows. Comments are provided as appropriate.

(a) *Bulk and scale of the development is not in character with the surrounding area*

In assessment it was determined that the development, while not dissimilar to existing multi unit developments closer to Red Hill local shopping centre, would be out of character with the immediate neighbouring area due to the departures from the Territory plan, and impact of the development on neighbouring blocks. The mass and bulk of the development addressing Hicks Street and neighbouring single residential blocks to the north is significant when compared to the existing character.

(b) *Buildings exceed two storeys in height*

The assessment of the proposal determined that the development does not exceed the two storey maximum height with attics above permitted for non standard blocks, and includes only minor elements that exceed the 8.5 metre building envelope. The majority of buildings have been cut into the ground level to reduce the heights above natural ground level.

(c) *The development exceeds the density normally considered for RZ1 and RZ2 zones*

While the consideration of density in dwellings per hectare is useful in attempting to assess the bulk and scale of a development, the Multi Unit Housing Development Code does not contain a numerical standard for determining an acceptable standard for density in dwellings per hectare. This is particularly relevant for development on non standard blocks, which are not subject to the same restrictions as standard residential blocks.

(d) *Development will impact on the amenity of neighbouring residents through overshadowing and overlooking*

In assessment it was noted that there are several areas where there is potential for overlooking into the neighbouring blocks by the development due to reduced setbacks, particularly along the northern boundary. The potential impact to the neighbours was considered sufficient to warrant refusal of the development.

(e) *Impact of the additional traffic generated by the development and additional on street parking as the proposed parking would be insufficient.*

The traffic report provided with the development was referred to the Transport Planning Section of Territory and Municipal Services (TAMS) for comment, who initially did not support the proposal due to insufficient information. Additional information provided by the applicant in the course of the assessment was referred to TAMS, who now support the proposal subject to conditions that are outlined in Entity Advice, below. The assessment of the parking provision was undertaken against the requirements of the Parking and Vehicular Access General Code, and the development complies with the relevant requirements for parking provision rates.

- (f) *The development will impact the school and surrounding residential areas through overshadowing*

An assessment of the potential overshadowing of the development was undertaken, and it was determined that while there would be a measure of shadow falling across residential blocks to the south west of the development at 9:00 am on 21 June (winter solstice), by 10am the shadows would only fall along the block boundary. Therefore, there would be no significant overshadowing of adjacent blocks. It was also noted that the potential shadowing of the school to the south would be minimal, even without considering the impact of the stand of mature Eucalypt trees along the boundary between the subject block and the school to the south.

- (g) *The development will impact on the existing utilities, which are already experiencing issues*

The application was referred to each of the ActewAGL divisions, being Electricity, Water and Sewerage, and Gas utilities. Each division has supported the application subject to conditions that, were the application to be approved, would have been imposed on the development to ensure no significant impact to existing utilities.

- (h) *Supply Place use as a driveway for the site was never approved, and the development will significantly increase the traffic using the access*

A search of the history of the site identified documents from 1982 which confirm that the access way from Supply Place was approved as a driveway access for parking areas within the block from around that time. In regards to the traffic levels through Supply Place, the traffic report provided with the DA notes that the traffic level will decrease as it will not be used by staff or by delivery vehicles accessing the service entrance, but only by the residents of 28 dwellings in the Montague building. Were the application to be approved, a condition would have been imposed that the through lane along the south western corner of the development be removed to ensure no through traffic could access Supply Place.

- (i) *Supply Place is too narrow for two way access, and does not permit safe pedestrian access*

The Multi Unit Housing Development Code requires driveways to be a minimum of five metres wide for a distance of seven metres where more than 10 car spaces are served and the driveway connects to a public road, to allow vehicles to pass each other. The plans provided show that the driveway access from Supply Place is five metres wide. It is noted however that pedestrian access would be compromised due to the arrangement of Supply Place and the obscured corner leading into the development.

- (j) *The proposal will increase safety hazards for existing residents with driveways on Supply Place*

The proposal was referred to Territory and Municipal Services (TAMS) as the relevant entity for providing comments on the traffic and vehicular access during the course of the assessment. TAMS have provided comments endorsing the proposal with conditions that, were the application to be approved, would have been included as conditions of approval.

- (k) *Issues with traffic report, including incorrect assumptions on traffic patterns and estimates for parking requirements*

During the assessment of the proposal, additional information was requested by TAMS in relation to the traffic report, including clarification of the staffing levels and questions relating to the data collection for estimating traffic levels. The applicant provided additional information that was referred to TAMS for comment. TAMS supported the application subject to conditions that, were the application to be approved, would have been imposed as conditions on the approval. In consideration of the parking requirements for the development, the proposal was assessed against the requirements of the Parking and Vehicular Access General Code for the type of development.

(l) *Insufficient notification and community consultation of the development prior to and during lodgement*

While ACTPLA recommends developers discuss proposals with the community prior to lodgement, there is no mandatory requirement for this to occur. ACTPLA undertakes a public notification of the development application once it has been formally lodged. Issues with access to documentation during the public notification period undertaken by ACTPLA once the application was lodged resulted in the notification period being extended to allow residents time to provide submissions to the development.

(m) *Inconsistencies and errors in the supporting documentation*

While the documentation may have contained some minor errors, the information provided was sufficient to gain an understanding of the development proposed. The assessment of the proposal included developing shadow diagrams and calculations of the natural ground lines to compare with the information provided by the applicant and to assist in determining potential impacts to the surrounding area. As noted elsewhere, TAMS requested additional information in regards to the traffic study to ensure they could undertake an adequate assessment of the impacts of the proposal on the surrounding traffic system.

(n) *Proposal is inconsistent with the Red Hill Neighbourhood Plan*

The inconsistency of the development with the key strategies of the Red Hill Neighbourhood plan has been noted in the assessment as a reason for refusal, particularly due to the impact to the neighbours to the north and presentation to Hicks Street.

(o) *Little evidence is provided for sustainable living practices*

The development provides stormwater mitigation measures on site, though in assessment it was determined that many units will not receive the minimum three hours of solar access in winter. While the Territory Plan no longer requires energy ratings, these are required by the Building Code of Australia and are intended to reduce the energy requirements for units for heating and cooling.

(p) *Construction impacts on the surrounding area*

Were the application to be approved, conditions would have been imposed to manage impacts of the construction on the surrounding area, including dust suppression, temporary traffic management, construction vehicle access and parking requirements, and noise management.

(q) *Concern with ongoing noise from the operation of the development*

Noise generated by the operation of residential developments is not a matter that is regulated at the development assessment stage. Impacts from noise generated by equipment in a residential development, such as air conditioners and the like, is regulated by the ACT Environment Protection Authority and the *Environment Protection Act 1997*.

(r) *Will there be a review of unimproved land value calculations in the area affected by the development?*

The assessment of unimproved land values are undertaken by the ACT Revenue Office in determining applicable rates and is a matter that is outside the scope of the assessment of this development application.

(s) *Will the Government waive development rules to permit adjoining development to reclaim privacy?*

Were the application to be approved, it would be because there would be no significant impacts to the amenity of the surrounding area. The assessment of the application has determined that the impacts are sufficient to warrant refusal of the application.

ENTITY ADVICE

Pursuant to Division 7.3.3 of the Act, the application was referred to entities and advice was received. The referral entities' comments are as follows. A response to the advice is provided as appropriate.

CONSERVATOR OF FLORA AND FAUNA

On 3 September 2010 advice was received from the Conservator of Flora and Fauna in relation to the proposal. The advice states that the application can be supported provided that it is a condition of approval that the trees marked for retention in the demolition plan drawing number A004 by Stanton Dahl architects; drawn hk dated 28-06-10 are fenced off by a continuous fence at least 4m from their trunks. The trees on the southern block should not have ground works within their Tree Protection Zones that may affect the health and stability of these trees.

No roots greater than 30mm should be tampered with in any way without the applicant submitting an adequate tree management plan for endorsement by the Conservator of Flora and Fauna.

DEPARTMENT OF TERRITORY AND MUNICIPAL SERVICES

On 8 September 2010 advice was received from Territory and Municipal Services in relation to the proposal. The advice states that further information is required:

1. Waste: It is not clear why the manoeuvring is shown in that location. Where is the waste enclosure? Turning circle for 12.5m vehicle as per Development Control Code for Best Practice Waste Management in the ACT is required.

2. Traffic and Parking Study:

- a. For 114 units, assuming only 4 staff need to be justified. At present there are more number of staff for less number of units.
- b. What is the basis of selecting the traffic count points? The traffic counts were conducted on La Perouse Street, between Fortitude Street and Astrolabe Street, which is far away from the development. And on Monaro Crescent, between Carnegie Crescent and Quiros Street is going to miss the traffic exiting from Golden Grove. Please justify.

The request for additional information was provided to the Applicant for review and response, with additional information being provided and referred to TAMS on 15 December 2010 for comment.

On 10 January 2011 further advice was received from Territory and Municipal Services in relation to the proposal. The advice states that the DA is supported with conditions:

1. Driveway: The driveway must be according to the TAMS standard. The driveway connecting between Supply Place and Hicks Street must be designed as a driveway and must not be used as a lane way. Appropriate measures must be taken to stop through traffic in the form of speed humps, slow points and adequate signs.

In addition, following will apply for Works on Territory Land:

In accordance with the Roads and Public Places Act 1937 no work is to be undertaken on road verges and other unleased Territory Land without the approval of the Territory. Such approval must be obtained from Senior Manager, Asset Acceptance, Land Management and Planning Division (LMP), TAMS by the ways of:

1. A certificate of design acceptance prior to the commencement of any work and
2. A certificate of Operational Acceptance on completion of all works to be handed over to TAMS.

Design Acceptance and Operational Acceptance

A Certificate of Design Acceptance is required from the Senior Manager, Asset Acceptance, Land Management and Planning, TAMS, prior to the construction. The Certificate of Design acceptance will be issued for all off-site works or its updated version approved by ACTPLA.

In order to obtain the Certificate of Design Acceptance, fully detailed drawings (civil, landscape) prepared by suitably qualified persons for all off-site works including roads, driveways, footpaths, street lighting, storm water, landscaping (and any other issues that may be found by audit of the plans) and a design report in accordance with Ref No 06: "Requirements for Design Acceptance Submissions", must be certified by a Chartered Engineer/Landscape Architect and submitted to the Senior Manager, Asset Acceptance.

A Certificate of Operational Acceptance on completion of the works is required from the Senior Manager, Asset Acceptance, Land Management and Planning, TAMS, prior to the issue of a Certificate of Occupancy.

Similarly a Chartered Engineer/Landscape Architect should certify compliance with TAMS Ref No 08: "Requirements for Works as Executed Quality Records Requirements" when the request for Operational Acceptance is made to the Senior Manager, Asset Acceptance on completion of all off-site works

A Waste Management Plan in accordance with the Development Control Code for Best Practice Waste Management in the ACT should also be included if not approved at the Development Application stage.

Temporary Traffic Management (TTM)

A TTM plan approval from the Manager, Traffic Management & Safety, Roads ACT, Transport and Infrastructure Division, TAMS. All times during construction the site and surrounds shall be managed in accordance with a Temporary Traffic Management Plan, prepared by a suitably qualified person and approved by the Manager, Traffic Management & Safety. This plan is to address, as a minimum, measures to be employed during construction to manage all traffic, including construction traffic, in and around the site, provision of safe pedestrian movement around the site, the provision of parking for construction workers, and associated traffic control devices.

Landscape Management & Protection Plan (LMPP)

LMPP approval from the Manager, Asset Acceptance, Land Management and Planning, TAMS. During construction, all existing vegetation (trees, shrubs and grass) located on the verge and unleased Territory land immediately adjacent to the development shall be managed, protected and maintained in accordance with the Landscape Management Protection Plan (LMPP) approved by the Manager, Asset Acceptance. This plan is to be implemented before the commencement of works, including demolition on the site and is to be in accordance with City Management Guidelines for the Protection of Public Landscape Assets Adjacent to Development Works-REF-04.

Traffic Control Devices

Traffic Control Device drawings for all new and amended works must be submitted to the Senior Manager, AA, TAMS for approval prior to the installation of such devices.

Use of Verges or other Unleased Territory land

In accordance with the Roads and Public Places Act 1937, road verges and other unleased Territory land must not be used for carrying out of works, including storage of materials or waste, without prior approval of the Territory. Approval can be obtained from the Department of Territory and municipal Services.

Repair of Damage to Public Assets

The applicant/lessee is held responsible for all damages to ACT Government assets (including footpaths) caused by the development and they must properly repair any damages to those assets. Before work commences, they should notify the Department of Territory and municipal Services of any existing damage to public facilities.

Notice of Commencement of Construction

Notice of Commencement of Construction shall be submitted to the Manager Asset Acceptance one week prior to the commencement of works. The Notice shall also include the confirmation of any protective measures installed in accordance with the approved LMPP and programmed implementation of the TTM.

On 3 June 2011, in response to a traffic report provided by Roads ACT, additional comments were provided by TAMS in relation to the development. The additional comments state that the DA is supported subjected to the removal of the section of the proposed lane way (around Building 4), to ensure that there will be no driveway connection from Hicks Street to Supply Place through the development site.

ActewAGL (Electricity Networks Division)

On 17 September 2010 advice was received from ActewAGL (Electrical Networks Division) in relation to the proposal. The advice states that the application does not comply with ActewAGL's Electricity Networks requirements. Insufficient information has been provided for ActewAGL to determine the load assessment, and the applicant should contact ActewAGL to discuss the maximum demand.

The comments were provided to the applicant for resolution, with the applicant providing additional information on 19 November 2010 including written endorsement from ActewAGL, noting that a substation would be required in the north east corner of the block.

ActewAGL (Gas Networks Division)

On 2 September 2010 advice was received from ActewAGL (Gas Networks Division) in relation to the proposal. The advice states that the application conditionally complies with ActewAGL's Gas Networks requirements.

The location and area allocated for gas regulating and metering equipment is to comply with ActewAGL standards. The following documents provide guidance:

Ref ActewAGL Document (attached): "Gas Metering Equipment - Prohibited Locations"

Ref ActewAGL Document (attached): "Gas Metering Equipment -In High Rise Buildings"

Ref ActewAGL Document (attached): "Gas Metering Equipment - Meter Set Enclosures"

Development is to comply with minimum separation requirements to underground assets

- 300mm minimum clearance from major plastic and steel gas mains and steel gas services
- 150mm minimum clearance from other plastic gas mains and services

A metering equipment upgrade may be required. A licensed gas fitter should verify loads and metering equipment capacities.

If a meter relocation or service pipe relocation is required in order to comply with ActewAGL standards, please contact your gas retailer and book a meter relocation. Only people accredited by ActewAGL can carry out this work.

ActewAGL (Water Division)

On 8 September 2010 advice was received from ActewAGL (Water Division) in relation to the proposal. The advice states that the application complies with ActewAGL's water and sewerage requirements.

ACT ENVIRONMENT PROTECTION AUTHORITY

On 16 September 2010 advice was received from the Environment Protection Authority in relation to the proposal. The advice states:

Conditions:

Contaminated Sites:

The Hazardous Materials Survey attached to the DA identifies an underground fuel storage tank at the site.

The ANZECC 1992, Guidelines for the Assessment and Management of Contaminated Sites and the ACT EPA Contaminated Sites Environment Protection Policy 2009 list fuel storage as past activities associated with land contamination which may pose a risk to human health and the environment.

The EPA would support Development Application subject to the following conditions:

Suggested conditions:

- the site and any off-site impacted areas (including groundwater) must be assessed and remediated (if required) in accordance with the ACT EPA Contaminated Sites Environment Protection Policy 2009, NSW EPA Guidelines for Assessing Service Station Sites 1994, National Environment Protection (Assessment of Site Contamination) Measure 1999 and the NSW EPA Guidelines for Consultants Reporting on Contaminated Sites 2000 by a suitably qualified environmental consultant;
- The EPU would support demolition at the site however a copy of the tank excavation assessment report must be provided to the Environment Protection Unit for review and endorsement prior to any construction works commencing on site;
- any contaminated soil landfarm on site must be approved by Environment Protection Unit prior to landfarming commencing;
- any soil disposed of from the site must be in accordance with the requirements of the Environment Protection Unit (EPU), as set out in ACT EPA Information Sheet No.4 available from the EPU on 02 6207 2151.

Hazardous Materials:

As previously advised to ACTPLA, the hazardous materials survey submitted with the DA was insufficient for the EPA to approve. Therefore, the EPA cannot support approval of the DA at this stage.

Please advise the applicant that a detailed hazardous materials survey must be prepared by a suitably qualified consultant and provided to the Environment Protection Unit for review and endorsement.

The survey must identify all potential hazardous materials associated with the demolition of the structure and any residues or wastes remaining within the structure prior to works commencing at the site.

Appropriately licensed contractors must be engaged for the removal, transport and disposal of all hazardous materials found on the site.

Water Sensitive Urban Design:

The ACT Government is committed to implementing urban sustainability through water sensitive urban design (WSUD). This proposal does not appear to provide adequate description/plans for on-site water retention/storage and is therefore not supported by the EPA until this is addressed.

Water Quality:

All undercover areas must drain to sewer with ACTEWAGL approval. There must be no waste generating activities carried out where the drainage is to the stormwater system.

Sediment and Erosion Control:

The contractor carrying out site works must submit two copies of a sediment and erosion control plan to the EPA for approval prior to any site works commencing.

Noise:

The EPA has reviewed the noise report, Report Number 3987, dated 13/7/2010 by Day Design Pty Ltd. It recommends that when the mechanical equipment is known there should be another report carried out and the noise impacts considered. This should be completed and submitted to EPA for comment. The EPA agrees with the report that if noise from this property exceeds the noise zone standard at the property boundary, then further attenuation will be required to meet the standard. The EPA endorses this noise management plan.

Advice:

Sourcing non-potable water:

If the proponent intends on sourcing non-potable water for construction activities they must hold an authorised Licence or Exemption issued by the Environment Protection Authority prior to works commencing.

Contact EPA (Water Resources) for more information: Telephone 132281, GPO Box 158, Canberra ACT 2601.

Water in basements:

If upon completion water seeps into underground car parks or basements and the proponent intends on using that water, they must apply for and be granted a Licence to Take Water and a Water Access Entitlement before any water may be taken. Contact Environment Protection Authority (Water Resources) for more information: via telephone 132281.

For disposal of any water in an underground carpark or basement, contact Environment Protection via telephone 132281

Non-potable water for long-term use:

Should the proponent or their client(s) be involved in plans to take non-potable water for on-going purposes (e.g. ponds, groundwater etc), we encourage the proponent or their client(s) to contact the Environment Protection Authority to discuss 'Water Access Entitlement' and 'Licence to take water' requirements of the Water Resources Act 2007. No water may be taken without an EPA approved Licence to take water. Contact Environment Protection Authority (Water Resources) for more information: Telephone 132281, or GPO Box 158, Canberra ACT 2601.

On 19 November 2010, additional information was provided by the applicant with a letter from the Environment Protection Unit supporting the Hazardous materials survey and management plan.

PART 3

ADMINISTRATIVE INFORMATION

INSPECTION OF THE APPLICATION AND DECISION

A copy of the application and the decision are available as associated documents on the public register. The register can be inspected between 8:30am and 4:30pm weekdays at the ACT Planning and Land Authority Dickson Customer Service Centre at 16 Challis Street, Dickson, ACT.

RECONSIDERATION OF THE DECISION

If the applicant is not satisfied with the decision to refuse the application, they are entitled to apply to the ACT Planning and Land Authority for reconsideration within 20 working days of being told of this decision or within any longer period allowed by the ACT Planning and Land Authority.

Application forms and further information about reconsideration are available from the ACT Planning and Land Authority's website and Customer Service Centres. The delegate of the ACTPLA reconsidering the decision must be different from, and senior to, the original decision maker. An application for reconsideration does not prevent an application for a review of the same decision being made to the ACT Civil and Administrative Tribunal.

REVIEW BY THE ACT CIVIL AND ADMINISTRATIVE TRIBUNAL (ACAT)

Decisions that are reviewable by the ACAT are identified in Schedule 1 of the *Planning and Development Act 2007*, except for those precluded under Schedule 3 of the *Planning and Development Regulation 2008* – Matters exempt from third-party ACAT review.

This Notice of decision has also been sent to all people who made representations in relation to the proposal.

APPENDIX 1

REVIEW OF THE DECISION

The following notes are provided in accordance with regulation 7 of the *ACT Civil and Administrative Tribunal Regulation 2009*. Refer to the Review by the ACT Civil and Administrative Tribunal (ACAT) section of the Notice of Decision for information about its relevance to this development application.

CONTACT DETAILS

The review authority is the ACT Civil and Administrative Tribunal (ACAT).

Location	Contact details
ACT Civil and Administrative Tribunal Level 4, 1 Moore Street CANBERRA CITY ACT 2601	Website: www.courts.act.gov.au Email: tribunal@act.gov.au Telephone: (02) 6207 1740 Facsimile: (02) 6205 4855 Post: GPO Box 370, CANBERRA, ACT, 2601 Document exchange: DX 5691

POWERS OF THE ACAT

The ACAT is an independent body. It can review on their merits a large number of decisions made by ACT Government ministers, officials and statutory authorities. The ACAT can agree with, change or reject the original decision, substitute its own decision or send the matter back to the decision maker for reconsideration in accordance with ACAT recommendations.

APPLICATIONS TO THE ACAT

To apply for a review, obtain an application form from the ACAT. If you are applying on behalf of an organisation or association of persons, whether incorporated or not, the Tribunal in deciding whether to support this application will consider the effect of the decision being reviewed on the interests of the organisation or association in terms of its objects or purposes. A copy of the relevant documents will be required to be lodged with the Tribunal.

TIME LIMITS FOR APPLICATIONS

The time limit to make a request for a review is 28 days from the date of this Notice of decision. The time limit can be extended in some circumstances (refer to sections 10 (2), 10(3), 25(1)(e) and 25(2) of the *ACT Civil & Administrative Tribunal Act 2008*; section 7 of the *ACT Civil and Administrative Tribunal Procedure Rules 2009 (No 2)*; and section 409 of the *Planning and Development Act 2007*).

FEES

Applications to the ACAT, including an application to be joined as a party to a proceeding, require payment of a fee of not less than \$184 (the Tribunal Registry will advise of the current fee), unless you are receiving legal or financial assistance from the ACT Attorney-General. You can apply to have the fee waived on the grounds of hardship, subject to approval (refer to section 22T of the *ACT Civil and Administrative Tribunal Act 2008*). Decisions to grant assistance are made on the grounds of hardship and that it is reasonable, in all the circumstances, for the assistance to be granted. Write to: The Chief Executive, ACT Department of Justice and Community Safety, GPO Box 158, CANBERRA ACT 2601. Ask the ACAT for more details.

TIME LIMITS FOR REVIEWS OF DECISIONS

The ACAT is required to decide appeals in land and planning and tree protection cases within 120 days after the lodging of the appeal, unless that period is extended by the ACAT upon it being satisfied that it is in the interests of justice to do so.

FORMS OF LEGAL, FINANCIAL AND OTHER ADVICE AND ASSISTANCE

The following organisations can provide advice and assistance if you are eligible:

- ACT Attorney-General, write to The Chief Executive, ACT Department of Justice and Community Safety, GPO Box 158, CANBERRA, ACT, 2601;
- the ACT Legal Aid Office, telephone 1300 654314;
- Legal Advice Bureau, telephone (02) 6247 5700;
- ACT Council of the Ageing, telephone (02) 6282 3777; and
- Welfare Rights and Legal Centre, telephone (02) 6247 2177.

AWARDING OF COSTS

You will have to pay any costs involved in preparing or presenting your case. The ACAT also has the power to award costs against a party if the party contravenes a direction of the ACAT and the ACAT considers it in the interests of justice to make such an order. This power is in addition to the power of the ACAT to strike out a party and to dismiss an application for failure to comply with the ACAT's directions.

ACCESS TO DOCUMENTS ABOUT THE DECISION

You may apply for access to any documents you consider relevant to this decision under the ACT Freedom of Information Act 1989. Information about Freedom of information requests is available on the ACT Planning and Land Authority's web site or by contacting us by phone on (02) 6207 1923.

PROCEDURES OF THE ACAT

The procedures of the ACAT are outlined on the ACAT's website, including in the Guide to the Land and Planning Division and the Guide to the Hearing. Contact the ACAT for alternative ways to access information about the ACAT's procedures.

TRANSLATION AND INTERPRETER SERVICES

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

ENGLISH	If you need interpreting help, telephone:
ARABIC	: إذا احتجت لمساعدة في الترجمة الشفوية ، إتصل برقم الهاتف :
CHINESE	如果你需要传译员的帮助，请打电话：
CROATIAN	Ako trebate pomoć tumača telefonirajte:
GREEK	Αν χρειάζεστε διερμηνέα τηλεφωνήσετε στο
ITALIAN	Se avete bisogno di un interprete, telefonate al numero:
MALTESE	Jekk għandek bżonn l-għajnuna t'interpretu, ċempel:
PERSIAN	: اگر به ترجمه شفاهی احتیاج دارید به این شماره تلفن کنید:
PORTUGUESE	Se você precisar da ajuda de um intérprete, telefone:
SERBIAN	Ako vam je potrebna pomoć prevodioca telefonirajte:
SPANISH	Si necesita la asistencia de un intérprete, llame al:
TURKISH	Tercümana ihtiyacınız varsa lütfen telefon ediniz:
VIETNAMESE	Nếu bạn cần một người thông-ngôn hãy gọi điện-thoại:

TRANSLATING AND INTERPRETING SERVICE**131 450**

Canberra and District - 24 hours a day, seven days a week