



ACT
Government

Environment and
Sustainable Development

Notice of decision on Reconsideration

Division 7.3.10 of the *Planning and Development Act 2007*

DA NO: 201323208	DATE RECONSIDERATION LODGED: 12 July 2013	
DATE OF DECISION: 9 August 2013		
BLOCK: 12	SECTION: 37	SUBURB: PAGE
STREET NO AND NAME: 1 Petterd Street		
APPLICANT: Peter Micalos		
Lessee: Peter Micalos		
Lessee: Maria Patricia Papallo		
Lessee: Peter Peppas		

THE APPLICATION

This application seeks reconsideration of the decision by the planning and land authority of 17 May 2013 to refuse the application.

THE DECISION

I, George Cilliers, delegate of the planning and land authority, pursuant to section 193 of the *Planning and Development Act 2007*, hereby **substitute the decision at Attachment A** for the original decision of the planning and land authority dated 17 May 2013.

PUBLIC NOTIFICATION

Pursuant to Division 7.3.10 of the Act, written notice of the reconsideration application was given to anyone who made representation under section 156 about the original application on 15 July 2013 to 31 July 2013. No written representations were received during the time allowed.

REASONS FOR THE DECISION

The original decision is substituted by the decision at **Attachment A** because further information provided by the applicant for reconsideration demonstrated that the proposal is not inconsistent with the *Territory Plan*.

The decision has been revised as a result of an application for reconsideration in accordance with Section 191 of the *Planning and Development Act 2007*.

This application sought reconsideration of the refusal of the proposal for the demolition of the existing units and the erection of a two storey building containing six dwellings with basement car parking, associated landscaping, and other site works. The planning and land authority supports the revisions to the previous Notice of Decision because the application for reconsideration demonstrated the changes to the proposal addressed amenity issues and entity concerns. In particular the supporting documentation demonstrates that the proposal would not be inconsistent with the requirements of RZ2 Suburban Core Zone Objectives; the Multi Unit Housing Development Code; requirements of the Parking and Vehicular Access General Code and not inconsistent with the advice of Territory and Municipal Services Directory or the Conservator of Flora and Fauna.

In remaking the decision the following matters were addressed as part of revisions to the original decision:

- Reducing the number of dwellings from six to five which reduced the gross floor area of the development and facilitated improvements to solar access and provision of private open space;
- Extending the length of the basement ramp to ensure compliance with AS 2890.1 *Parking Facilities, Part 1 Off-street car parking*.
- Documentation identifying the Conservator of Flora and Fauna has approved the removal of a number of regulated trees on the adjoining block.

INSPECTION OF THE APPLICATION AND DECISION

A copy of the application and the decision can be inspected between 8:30am and 4:30pm weekdays at the Environment and Sustainable Development Directorate Dickson Customer Service Centre at 16 Challis Street, Dickson, ACT.

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 Regulations 2008* – Matters exempt from third-party ACAT review.

EVIDENCE

Application No. 201323208

File No. 201323208

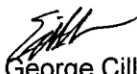
The Territory Plan zone – RZ2 Suburban Core

The Development Codes – Multi Unit Housing Development Code

Current Crown Lease – Volume 1931 Folio 32

Entity advice

DELEGATE



George Cilliers

Delegate of the planning and land authority
Environment and Sustainable Development Directorate

9 August 2013

CONTACT OFFICER

Nicki Di-Campoli

Phone: (02) 62071963

Email: nicki.dicampoli@act.gov.au



Notice of decision

Attachment A

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

Merit track

DA NO: 201323208		DATE LODGED: 20 February 2013
DATE OF DECISION: 9 August 2013		
BLOCK: 12	SECTION: 37	SUBURB: PAGE
STREET NO AND NAME: 1 Petterd Street		
APPLICANT: Peter Micalos		
LESSEES: Peter Micalos Maria Patricia Papallo Peter Peppas		

THE DECISION

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

I, George Cilliers, delegate of the planning and land authority, pursuant to section 162 of the Act, hereby **approve subject to conditions** the proposal for:

- **the demolition of the existing dual occupancy and the erection of a two storey building containing 5 dwellings with basement car parking and associated landscaping, paving and other site works; and**
- **a variation to the Crown lease to permit a maximum of 5 dwellings**

in accordance with the plans, drawings and other documents and items submitted with the application, and substantially in accordance with the draft form of Crown lease at Attachment A1.

This decision is subject to the conditions of approval at **PART 1** being satisfied. Please note that plans will not be dispatched until all relevant conditions are satisfied.

PART 2 sets out the Reasons for the Decision

PART 3 is Public Notification and Entity Advice.

PART 4 contains administrative information relating to the determination.

DELEGATE


George Cilliers
Delegate of the planning and land authority
Environment and Sustainable Development Directorate
9 August 2013

CONTACT OFFICER

Nicki Di-Campoli
Phone: (02) 62071963
Email: nicki.dicampoli@act.gov.au

PART 1 CONDITIONS OF APPROVAL

Please note that this approval includes leasing requirements. THE APPROVAL WILL EXPIRE 2 YEARS AFTER THE APPROVAL TAKES EFFECT or otherwise in accordance with the conditions of approval. In addition, there are legislative requirements that must be met prior to the registration of the instrument of variation. See Advisory Notes for further information about those legislative requirements.

This application is approved subject to the following conditions being satisfied. Some conditions of approval will require attention before the approved drawings will be released, others before work commences or before the completion of building work.

A. ADMINISTRATIVE / PROCESS CONDITIONS

A1. FURTHER INFORMATION

Within 28 days from the date of this decision, or within such further time as may be approved in writing by the planning and land authority, the applicant shall lodge with the planning and land authority for approval:

- (a) revised site plan, landscape plan and architectural drawings, based on the relevant drawings submitted as part of the application, showing:
 - (i) articulation elements a minimum 600mm in depth on southern facade to the satisfaction of the planning and land authority;
 - (ii) consistent reference to treatment of upper floor level windows in northern facade of Units 2, 3 and 4;
 - (iii) secured basement staircase;
 - (iv) the safety barrier/handrail proposed along both sides of the driveway is to be setback a minimum of 2.5 metres from the front boundary to Petterd Street to ensure it does not obstruct sightlines to cars entering and exiting the property as required by *AS 2890.1 Parking Facilities, Part 1 Off-street car parking*;
 - (v) courtyard wall and gate proposed on eastern side of Unit 5 to be resited to provide a minimum 2.5 metre setback from the front boundary to Petterd Street to ensure it does not obstruct sightlines to cars entering and exiting the property as required by *AS 2890.1 Parking Facilities, Part 1 Off-street car parking*.
 - (vi) landscaping of the area between the courtyard wall and the proposed footpath (within the block). The mature height of plants in this area is not to exceed 700mm to comply with *AS 2890.1 Parking Facilities, Part 1 Off-street car parking*.
 - (vii) removal of decorative pebbles adjacent front boundary to Petterd Street and Belconnen Way due to their proximity to the public domain and potential to become a safety hazard;

- (viii) proposed lighting structures to be wholly located within the block and not to obstruct use of the footpath which is proposed in the site adjacent the front boundaries;
- (ix) dimension of proposed footpath adjacent front boundary. Minimum width to be 1 metre;
- (x) location of any heat pumps/air conditioning units for all dwellings. Outdoor units must be suitably screened and are not to result in any detrimental impact to the amenity of on-site residents or adjoining blocks/residents.

(b) details of proposed lighting structures.

A2. **CONDITIONS RELATING TO THE VARIATION OF A CROWN LEASE**

A2.1. **CANCELLATION OF UNITS PLAN NO. 3511**

That the owners corporation of Units Plan 3511 submits an application to Cancel the Units Plan No. 3511:

- (i) to the planning and land authority and pay the appropriate fee; or
- (ii) for a cancellation order by the Supreme Court;

Please note on cancellation of the Units Plan No 3511 by the Authority all unit holders will be registered as tenants in common in shares over Block 12 Section 37 Division of Page.

A2.2. **REGISTRATION OF CANCELLATION OF UNITS PLAN NO. 3511**

That the cancellation of Units Plan No 3511 shall be registered at the Office of Regulatory Services, prior to undertaking any development in accordance with this approval;

A2.3. **COMMENCEMENT OF BUILDING WORK**

That no building work in relation to this Development Application is to commence on the site until the Cancellation of the Units Plan 3511 and the new varied Crown lease are registered at the Office of Regulatory Services.

A2.4. **SURRENDER AND REGRANT**

That the lessee surrender the Crown lease resulting from the Cancellation of Units Plan 3511 over Block 12 Section 37 Division of Page - (Volume 549 : Folio 69) and accept a new Crown lease substantially in accordance with the draft form of Crown lease appearing at **Attachment A1**.

A2.5. **LEASE REGISTRATION**

That the lessee shall do all that is necessary to ensure that the new Crown lease giving effect to this approval is registered at the Office of Regulatory Services within 28 days of being notified that the new Crown lease is available for registration or within such further time as may be approved by the planning and land authority.

PART 2 REASONS FOR THE DECISION

The application satisfactorily meets the requirements for approval. The application was approved because, based on the documentation and in the form modified by the imposed conditions, it was considered to meet:

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

The key issues identified in the assessment are the suitability of the site for the proposed development, the payment of Lease Variation Charge, the registration of the new Crown lease, articulation of the building, sightlines, noise management and comments from entities. Conditions have been imposed to address the key issues and ensure that the proposal is consistent with the Territory Plan and the *Planning and Development Act 2007*.

EVIDENCE

Application No. 201323208

File No. 201323208

The Territory Plan zone – RZ2 Suburban Core zone

The Development Codes – Multi Unit Housing Development Code

Current Units Plan 3511 – Volume 1931 Folios 30, 31 and 32

Entity advice

Representations

PART 3 PUBLIC NOTIFICATION AND ENTITY ADVICE

PUBLIC NOTIFICATION

Pursuant to Division 7.3.4 of the Act, the original application was publicly notified from 1 March 2013 to 25 March 2013. Four written representations were received during public notification. The issues raised included stormwater and flooding, traffic, soil creep, impact of terrace housing, impact of proposed plantings, replacement of existing fences, impact of lighting and removal of existing vegetation.

Pursuant to Division 7.3.10 of the Act, written notice of the reconsideration application was given to anyone who made a representation under section 156 about the original application on 15 July 2013 to 31 July 2013. No written representations were received during this time.

(Note: the applicant provided documentation identifying withdrawal of previous representations).

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 20 March 2013 advice was received with regard to the initial development application from the Conservator of Flora and Fauna in relation to the proposal. The advice stated that the development application is not supported currently as there are regulated trees numbered 41, 42 and 43 in the neighbouring backyard at 20 Belconnen Way that will require fencing to protect them during the development, a Tree Management Plan will be required to show how these trees will remain viable during demolition and construction works, including any services within the Tree Protection Zone (canopy +2m).

Tree 6 has been approved for removal as the tree meets criteria 1(1) (a) of the *Tree Protection Approval Criteria Determination 2006*, Tree is in decline and its life expectancy is short.

There are no other regulated trees on this block or any adjoining block that would be affected by the proposed development.

On 26 July 2013 further advice was received from the Conservator of Flora and Fauna in relation to the reconsideration application. The advice states that an assessment of the Reconsideration application has been undertaken in accordance with the *Tree Protection Act 2005*.

The development application can be supported as the proposed development does not impact on any regulated trees on this block or any adjoining block provided the activity proceeds in accordance with DRAWING TITLE: SITE PLAN GROUND LEVEL, DRAWING No: 09, DATE: 13-06-13, SHEET No: 09 of 21.

Note: The neighbour at 20 Belconnen way has submitted an application for the removal of three trees in the back yard, numbered 41, 42 and 43 in the previous development application, these trees have been approved for removal (Application ID: 26599) as they have satisfied criteria for removal under the Tree Protection (Approval criteria) Determination 2006 (No 2).

TERRITORY AND MUNICIPAL SERVICES DIRECTORATE

On 20 March 2013 advice was received with regard to the initial development application from Territory and Municipal Services Directorate (TAMSD) in relation to the proposal. The advice stated that the proposal was not supported and required further information in relation to waste management, driveway design i.e. clearances, gradients and sightlines, landscape management protection of verge and conditioned removal of street tree.

On 2 May 2013 further advice was received from TAMSD after consideration of s.141D submission. The advice stated the application is not supported and requested a Traffic Assessment Report, revised site plan removing waste collection pad, revised driveway design to comply with AS2890.1 as previously requested and further modifications to landscape management and protection plan.

On 26 July 2013 further advice was received from TAMSD in relation to the reconsideration application. The advice states that the application is supported subject to specific conditions as follows:

- 140L MGB and one 240L divided MGB will be provided per unit for waste and recycling material storage. The waste collection arrangement is to be weekly for waste and fortnightly for recycling materials. The waste bin are to be placed by the residents on a straight section the Petterd Street for collection and removed appropriately after collection.
- The applicant is make sure the ramp gradient beyond the first 6 m in the block will not lead to vehicle bottom scapping.
- The appropriate replacement tree species for Petterd Street is Eucalyptus mannifera. The new trees to be maintained by the Applicant for a minimum period of 12 months before a formal handover to TAMS. A Landscape Plan detailing the planting of the trees to be submitted to TAMS as part of the Design Acceptance submission for off-site works.

It was further advised that the above aspects will be assessed during design acceptance.

In addition standard conditions/advice requiring Design and Operational Acceptance, Temporary Traffic Management Plan, Landscape Management and Protection Plan, Use of Verges or Unleased territory land, repair of damage to public assets and notice of commencement of construction are also to be imposed.

Matters raised have been incorporated as either conditions of approval or advice.

TRANSPORT PLANNING

On 8 May 2013 verbal advice was received with regard to the initial development application from Transport Planning in relation to the proposal. The advice was that a traffic management report was not required. As Belconnen Way is an arterial road an acoustic report and plans responding to the report would be required.

Matters raised have been incorporated as conditions of approval.

ActewAGL

Electricity

On 19 March 2013 advice was received with regard to the initial development application from ActewAGL Electricity Networks Division in relation to the proposal. The advice stated the application has been assessed for compliance with ActewAGL's Electricity Network and does not comply with the networks requirements. The reasons for failure to comply were:

- Development is to comply with minimum separation requirements to underground assets. Ref ActewAGL Drawing 3832-018;
- Insufficient information provided for load assessment;
- Proponent to show the ActewAGL assets (surveyed through Dial Before You Dig) on the site plan and show the clearance/separation between the ActewAGL assets and proposed building.

On 9 April 2013 further advice was received with regard to the initial development application from ActewAGL Electricity Networks Division in relation to the proposal. The advice stated the application has been assessed for compliance with ActewAGL's Electricity Network and conditionally complies with the networks requirements.

The application for reconsideration was referred to ActewAGL Electricity Networks Division. No comments were received in response to this referral.

The Statement of Conditional Compliance dated 9 April 2013 is attached to the decision for the applicant's information.

Water

On 4 March 2013 advice was received with regard to the initial development application from ActewAGL Water Division in relation to the proposal. The advice stated the application has been assessed by ActewAGL against ACTEW water and sewerage network access and asset protection requirements. A Statement of Conditional Compliance was issued.

On 22 July 2013 further advice was received from ActewAGL Water Division in relation to the reconsideration application. The advice states that the application has been assessed by ActewAGL against ACTEW water and sewerage network access and asset protection requirements.

The Statement of Conditional Compliance is attached to the decision for the applicant's information. The previous statement is also provided as ActewAGL have advised the Statement of Conditional Compliance dated 22 July 2013 is to be read in conjunction with previous application No.132092.

Gas

On 4 March 2013 advice was received with regard to the initial development application from ActewAGL Gas Networks in relation to the proposal. The advice stated that the application has been assessed by ActewAGL and conditionally complies with the Gas Networks requirements. A Statement of Conditional Compliance was issued.

The application for reconsideration was referred to ActewAGL Gas Networks. No comments were received in response to this referral.

The Statement of Conditional Compliance dated 4 March 2013 is attached to the decision for the applicant's information.