

From: [Myers, Rhonda](#)
To: [Messer, Sue](#)
Subject: AT63/2016 - 18/11 Mitchell - DA201528763 [SEC=UNCLASSIFIED]
Date: Monday, 7 November 2016 17:37:00
Attachments: [20161017-ACAT Appeal DA 201528763 - AT 63 2016.obr](#)
[Notice of Decision - Signed.obr](#)
[Notice of Decision-201528763-Reconsideration-signed.obr](#)

Hi Robin,

Further to our conversation yesterday afternoon, EPSDD have received advice that an appeal against the refusal of the development proposal was made to ACAT.

The appeal is based on the lessee's considered that *"...extensive information was submitted with the reconsideration to address all reasons for the original refusal. It was considered that all reasons were more than adequately met. The reasons for refusal are considered to be based, for the most part, on Section 120 of the Planning and Development Act 2007."*

The development application, which was refused and refused on reconsideration, was for a lease variation to permit child care facility. There is no proposed works as part of the development application. The decisions included consideration of advice from the EPA, which was not in support of the proposed variation. Matters were considered with regards to the suitability of the land for a child care facility and potential impact of a sensitive use preventing the Mitchell industrial zone (or parts thereof) from being able to carry out industrial uses without detriment or erosion of the existing rights of the industrial premises. Links to the decisions and the appeal as lodged by the lessee are attached.

Please contact me by reply email or on 6207 2869 to discuss this matter further.

Kind regards

Sue Messer

Manager | DA Leasing | Lease Administration
Planning Delivery | Environment, Planning and Sustainable Development Directorate | **ACT Government**
Dame Pattie Menzies House, 16 Challis Street Dickson | GPO Box 158 Canberra ACT 2601
P **02 6207 1794** | e rhonda.myers@act.gov.au | web www.planning.act.gov.au

From: [Myers, Rhonda](#)
To: [Messer, Sue](#)
Subject: AT63/2016 - 18/11 Mitchell - DA201528763 - ACT Health [SEC=UNCLASSIFIED]
Date: Monday, 7 November 2016 17:46:00
Attachments: [Notice of Decision - Signed.pdf](#)
[Notice of Decision-201528763-Reconsideration-signed.pdf](#)
[20161017-ACAT Appeal DA 201528763 - AT 63 2016.pdf](#)

Hi Sue,

Owen found that Keith Rogers of ACT Health is the appropriate first point of contact. He had a discussion with him this afternoon at which time Keith advised that he requires a written request so that he can forward it to his senior officers. I have drafted an email based on the one for EPA as follows

Dear Keith,

Environment Planning and Sustainable Development Directorate (EPSDD) have received advice that an appeal against the refusal of the development proposal DA201528763 Block 18 Section11 Mitchell - was made to ACAT.

The appeal is based on the lessee's considered that *"...extensive information was submitted with the reconsideration to address all reasons for the original refusal. It was considered that all reasons were more than adequately met. The reasons for refusal are considered to be based, for the most part, on Section 120 of the Planning and Development Act 2007."*

The development application, which was refused and refused on reconsideration, was for a lease variation to permit child care facility. There is no proposed works as part of the development application. The decisions included consideration of advice from ACT Health, which was not in support of the proposed variation. Matters were considered with regards to the suitability of the land for a child care facility and potential impact of a sensitive use preventing the Mitchell industrial zone (or parts thereof) from being able to carry out industrial uses without detriment or erosion of the existing rights of the industrial premises and the impact/potential impact of the industrial uses upon the health of the children (or vulnerable persons) who attend the centre. Copies of the decisions and the appeal as lodged by the lessee are attached.

As the decision relied heavily upon the expert advice of ACT Health (and other agencies), we request ACT Health to provide an expert witness for the appeal proceedings to act on behalf of the Territory.

Please contact me by reply email or on 6207 2869 to discuss this matter further.

Kind regards

Sue Messer

Manager | DA Leasing | Lease Administration
Planning Delivery | Environment, Planning and Sustainable Development Directorate | **ACT Government**
Dame Pattie Menzies House, 16 Challis Street Dickson | GPO Box 158 Canberra ACT 2601
P **02 6207 1794** | e rhonda.myers@act.gov.au | web www.planning.act.gov.au

Please contact me by reply email or on 6207 1794 if you wish to discuss this matter further.

Kind regards

Rhonda Myers

Assistant Manager | DA Leasing | Lease Administration

Planning Delivery | Environment, Planning and Sustainable Development Directorate | **ACT Government**

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ACT
Government

Environment and Planning

Notice of decision

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

Merit track

DA NO: 201528763		DATE LODGED: 4 January 2016
DATE OF DECISION: 8 March 2016		
BLOCK: 18	SECTION: 11	SUBURB: MITCHELL
STREET NO AND NAME: cnr Darling Street and Heffernan Street		
APPLICANT: Capital Crown Leasing Pty Ltd		
LESSEE: KONSTANTINOUC DEVELOPMENTS PTY LTD		

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, Rhonda Myers, delegate of the planning and land authority, pursuant to section 162 of the Act, hereby **refuse** the proposal to vary the Crown lease to permit Community Use limited to Child Care Facility.

PART 1 sets out the Reasons for the Decision

PART 2 is Public Notification and Entity Advice.

PART 3 contains administrative information relating to the determination.

DELEGATE

Rhonda Myers
Delegate of the planning and land authority
Environment and Planning Directorate
8 March 2016

CONTACT OFFICER

Rhonda Myers
Phone: (02) 6207 1794
Email: Rhonda.myers@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 codes, being the Industrial Zones Development Code, Community and Recreation Facilities Location Guidelines General Code, and the Lease Variation General Code;
- the Territory Plan; and
- advice given by entities, the entities being the Environment Protection Authority and the Health Protection Service.

The development proposal is inconsistent with:

Mixed Use Industrial Zones objectives:

- a) *Support the diversification and expansion of the ACT's industrial base and employment growth* – this proposal is not for industrial development.
- b) *Facilitate investment in a wide range of industrial and related activities, with efficient land utilisation and provision of infrastructure* – this proposal is not an industrial or industry-related activity.
- c) *Provide convenient access for ACT and regional residents to industrial goods, services and employment opportunities* – this proposal is not for industrial development.
- g) *Accommodate industry-associated retailing, services and other commercial uses without jeopardising an adequate supply of industrial land* – this is a commercial use that due to the sensitivity of requirements for childcare, will likely jeopardise the capability for industrial use of surrounding land. It has not been demonstrated that this proposal will not jeopardise the ability to use the area for general industrial type uses.
- i) *Meet the need for a mix of lower rent bulky goods retailing, specialised industrial, commercial and service activities alongside general industry* – the proposal is for a commercial use, however, it is not demonstrated to be compatible with general industry.
- j) *Preserve and promote viable industries that can coexist with more commercially oriented uses* – this proposal does not demonstrate the ongoing preservation and promotion of viable industries as it is not demonstrated that child care facility can co-exist with general industrial type uses.
- k) *Make provision for small-scale services that support surrounding industrial activities, or which meet the needs of the local workforce* – it does not appear from the application that it is proposed to be a small scale service and it has not been demonstrated how the proposal meets the needs of the local workforce.

Industrial Zones Development Code:

C3. Community uses are to be considered only where it is demonstrated that the proposed use does not jeopardise the use of surrounding land for industrial purposes.

This has not been demonstrated as by its nature it has a social expectation to be a sensitive use with regards to air quality, noise, risk of illness/injury from contaminants. Building design can only mitigate to some extent as, amongst other requirements, there is a requirement for outside play areas for licensing. In an industrial zone, general industry and the like uses, including business and traffic noise exhaust fumes etc, may adversely impact the occupants of a child care facility. Therefore, there is potential to jeopardise the use of the surrounding area for industrial purposes. The application has not demonstrated otherwise.

C4 An application for community uses demonstrates that the proposed use:

- a) services the needs of the local workforce, or*
- b) requires a scale of building or level of amenity that is not compatible with other available land.*

It has not been demonstrated that the proposal services the needs of the local workforce or that the scale or level of amenity required by childcare facility has been provided to demonstrate that it is not compatible with other available land.

Industrial type uses are limited to particular locations such as Fyshwick, Hume, Mitchell and parts of Oaks Estate and Symonston due to their possible incompatibility with sensitive uses such as child care facility and residential use. However, it is considered that a child care facility could be located elsewhere on other available land and it has not been demonstrated otherwise.

C33 Where the proposed use is adjacent to, or is, a noise producing activity, noise attenuation measures are utilised to protect the amenity of the area and promote compatibility of uses.

It has not been demonstrated how noise attenuation measures to attenuate industrial noise, including heavy vehicle noise, could be applied to the site, particularly the required outside play areas that are part of childcare centre requirements. It is noted that there is a bulky landscape supplier located adjacent to this site. In addition to potential for air contaminants based on the nature of its operation, the vehicles associated with and mechanical equipment used to operate a bulk landscape premises are likely to be incompatible with a child care facility. There are also a number of mechanical workshops in the immediate area, which are also potentially incompatible with a child care facility. The surrounding leases permit uses in the realm of general industry, a use that may be restricted by the introduction of a child care facility in this location.

Community and Recreation Facilities Location Guidelines General Code

It has not been demonstrated that a child care facility at this location has *social separation from correctional facilities, and can be adequately buffered from sight, smell, fumes and noise of industrial uses and fumes from high traffic volumes.*

Of particular note were the following:

- Heffernan Street, adjacent to the site, is subject to on street parking and regular heavy vehicle use.
- A floodway channel is adjacent to the site that runs from Franklin through Mitchell to an operational dam to the south of Mitchell.
- Corkhill Bros Landscape Supplies, a landscaping materials retail facility with open air landscape materials storage, is adjacent to the block.
- There is a fire arms and ammunition dealer/shop in a building 65 metres from the site.
- There are multiple mechanical workshops and industrial manufacturers in the immediate area.
- Flemington Road, which is within 125 metres from the block, is a major transport route from Gungahlin and experiences high traffic volumes.
- A facility containing the Total Care linen treatment plant, a sterilisation service, and an ACT Fire Brigade technical and operations depot is approximately 260m from the block. There are operational chimneys which were viewed expelling an unknown smoke/steam-like substance at the time of inspection by the assessing officer.
- The National Archives facility, used for the purposes of discharging its functions under the Archives Act 1983 (C'wth) and which may include chemical treatment of materials, is approximately 270m from the block. The development on that site contains chimneys which may indicate that some chemical treatment may be, or may have been, carried out

- at the premises.
- There is an operational dam (waterway) at the intersection of Flemington and Morriset Roads, within approximately 350m of the block.
- The block containing the Mitchell Recycling Plant, also known as Mitchell Tip, is less than 500m from the subject block.
- A block containing a correctional centre (for children) is within approximately 975m of the subject block.

Lease variation general code

C1 A lease is varied only where all of the following are achieved:

- a) the varied lease is consistent with the Territory Plan including all relevant codes*
- b) the land to which the lease applies is suitable for the development or use authorised by the varied lease.*

The proposal is inconsistent with the Territory Plan as is raised above.

The land to which the lease applies is not suitable for the development for the following reasons:

The conclusion of the Preliminary Site Investigation Report (PSI) prepared by SMEC is: "Based on the review of available data SMEC consider the Site to be currently unsuitable for the proposed child care facility. SMEC recommend consideration of the recommendations provided below in Table 6.1."

Some entities did not support the use of the land after review of the PSI.

C3 An additional use is authorised by a lease only when all of the following are achieved if the additional use is granted and activated:

(a) sufficient car parking is provided on site or is available off site in accordance with the Parking and Vehicular Access General Code (PVAGC) – the indicative plans did not demonstrate how the proposal would meet the requirements of the PVAGC. A development application that included the proposed parking and block access points would be subject to assessment and the proposed dual access would be subject to agreement from Territory and Municipal Services Directorate. There is no available on street parking as it is already fully utilised. Suitability of alternative parking arrangements in the existing public parking on Winchcombe Court may be affected by the adjacent swale and safety issues that arrive therewith. As the indicative plans are reliant upon a drop off/pick up area accessed through a "circular" driveway, in the absence of supporting evidence, the proposed parking configuration is not demonstrated as sufficient.

(b) any increase in traffic flow is within the capacity of the surrounding road network – the effect of the increase in and changes to traffic flow as a result of the introduction of a child care facility on this corner block was not demonstrated as being compatible with the capacity of the surrounding road network in particular Heffernan Street.

(e) no unreasonable risk to occupants of the block through any contamination of the block or on adjoining land – the PSI and an inspection of the surrounding existing uses in the area did not support compliance with this criteria. Of particular note were the operating bulk landscape supplier and manufacturing businesses on adjoining blocks, and the mechanical workshop and factory/manufacturing businesses in the immediate area. It is also noted that the Units Plan lease of an adjoining block has a purpose clause that permits "storage sale distribution and hire of building materials and equipment builders' hardware garden supplies sporting equipment coal and firewood" amongst other uses. Future activation of these uses, if they are not already activated, would be expected to have an impact on the operation of a child care facility or jeopardise the use of the land in a manner consistent with the existing permitted uses.

C4 Community facilities or recreational facilities that are authorised by a lease comply with the Community and Recreational Facilities Location Guidelines General Code.

It has not been demonstrated that a child care facility at this location has social separation from correctional facilities, and can be adequately buffered from sight, smell, fumes and noise of industrial uses and fumes from high traffic volumes. Please refer to explanation above under the title Community and Recreation Facilities Location Guidelines General Code.

A number of entities did not support this proposal. Please refer to the Entity Comments in Part 2 of the decision for their advice. A copy of their advice is also included with the decision.

EVIDENCE

Application No. 201528763

File No. 1-2015/28734

The Territory Plan zone – IZ2

The Development Codes – Industrial Zones Development Code

The Precinct Codes – Mitchell Precinct Code

The General Codes – Lease Variation General Code, Community and Recreation Facilities Location Guidelines General Code

Current Crown Lease – Volume 1829 Folio 31

Representation

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 13 January 2016 to 4 February 2016. One written representation was received during public notification.

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

(a) **Heffernan Street traffic**

A site inspection was carried out noting the existing on street parking adjacent to the block on both sides of Heffernan Street was 95% occupied. It was also noted that the on street parking limited Heffernan Street to vehicles travelling single lane, with no ability of vehicles to pass each other in opposing directions on the street. The public parking on Winchcombe Court was also almost at capacity. It was noted that during the site inspection that another close by tenant raised concerns about the volume of heavy vehicle and other traffic on Heffernan Street and its potential impact on a child care facility.

(b) **Proximity of premises licensed under the Fire Arms Act 1996**

A fire arms and ammunition dealer/shop is located close to the premises. Neither the Territory Plan nor the Fire Arms Act place restrictions on the proximity of these types of facilities with each other. However, the concerns that the introduction of a child care facility in the immediate area may have an adverse affect on the operation of this dealership/shop are noted.

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.

Environment Protection Authority

On 21 January 2016 advice was received from the Environment Protection Authority in relation to the proposal. The advice states that:

The proposed lease variation is not supported. The site is located in an industrial zone. The proposed activity has not been demonstrated to be compatible with activities permitted in the surrounding zoning.

Activation of the site for the proposed use would potentially sterilise the surrounding area from future industrial activities.

Furthermore, the report titled "Preliminary Site Investigation, Block 18, Section 11, Mitchell, ACT" dated 6 November 2015 by SMEC Australia Pty Ltd attached to this application has not indicated the site is fit for the proposed use and has identified areas of environmental concern recommending further assessment and possible remediation.

ACT Health, Health Protection Service

On 24 February 2016 advice was received from the Health Protection Service in relation to the proposal. The advice states that:

The HPS supports the recommendation of the Environment Protection Authority that further site investigation is undertaken by a suitably qualified environmental consultant prior to the variation of the lease.

The HPS is concerned at the proposal to alter the lease to allow a child care centre within an industrial zone. The proposed changes appear to offer potential for incompatible industries to be established within close proximity to a child care centre. The HPS is concerned that such industries adjacent to a future child care centre may pose health risks to vulnerable populations, including developing children.

ACT Education, Regulation and Compliance

On 4 March 2016 advice was received from ACT Education in relation to the proposal. The advice states that:

DET conducted a site visit to this block in October 2015 and provided in principle support for an education and care service being located on the site.

However, in their correspondence with the applicant they did express concern about the location of the site being a busy street corner. They did discuss the site location being in an industrial area but that the adjacent businesses were currently low intensity with some green zones.

DET notes that their legislation is not very prescriptive about where services can be located, as long as children's health and safety needs are met.

TERRITORY AND MUNICIPAL SERVICES DIRECTORATE

On 29 January 2016 advice was received from Territory and Municipal Services in relation to the proposal. The advice states that further information is required to consider the proposal in particular:

1. The proponent needs to submit a traffic and parking assessment report to justify the suitability of a childcare centre from traffic management and safety perspective.
2. The traffic and parking assessment report must include potential transport options, impact on adjacent road network and safe pick up and drop off facilities requirement for a childcare centre on the subject site. Based on the analysis the traffic report must recommend optimum number of childcare spaces on the subject site and any traffic management and safety measures required such as off-street parking, pedestrian connection or crossing facilities etc.

Further information was not sought as approval of this proposal would be contrary to entity advice from other entities.

SOCIAL INFRASTRUCTURE PLANNING – 29 February 2016

On 29 February 2016 advice was received from Social Infrastructure Planning in relation to the proposal. The advice states that:

The proponent would need to demonstrate that in line with the Territory Plan Industrial Zones Development Code that the proposed use does not jeopardise the use of surrounding land for industrial purposes (C3). Also would need to demonstrate that a child care centre in this location services the needs of the local workforce (C4).

The advice of the entity would indicate that they were not satisfied with the information provided for assessment. Further information was not sought as approval of this proposal would be contrary to entity advice from other entities.

ActewAGL – Gas Networks

On 14 January 2016 advice was received from ACTEW Gas Networks in relation to the proposal. The advice states that

This application is supported subject to compliance with the following conditions:

- The location and area allocated for gas regulating and metering equipment is to comply with ActewAGL Gas Service and Installation Rules. The latest version of these rules can be downloaded from: <http://www.actewagl.com.au/About-us/The-ActewAGL-network/Natural-gas-network.aspx>
- 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

Icon Water (formerly ActewAGL Water)

On 19 January 2016 advice was received from Icon Water in relation to the proposal. The conditions of the ICON decision statement are: Changes to the lease for use of the land and further development of the block may require augmentation to the utilities water or sewer networks. Augmentation of the networks associated with further development of the block are to be funded by the developer.

PART 3 ADMINISTRATIVE INFORMATION

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 Planning Directorate 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 planning and land authority for reconsideration within 20 working days of being told of this decision or within any longer period allowed by the planning and land authority.

To submit an application for reconsideration, documents must be provided electrically by email to epdcustomerservices@act.gov.au or provided at the customer service centre on a CD/DVD. The delegate of the Authority 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. Application forms and further information about reconsideration are available from the planning and land authority's website and Customer Service Centres.

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.acat.act.gov.au Email: tribunal@act.gov.au Telephone: (02) 6207 1740 Facsimile: (02) 6205 4855 Post: GPO Box 370, CANBERRA, ACT, 2601

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. You can also download the form from the ACT Legislation Register <http://www.legislation.act.gov.au/af/2009-278/current/pdf/2009-278.pdf>.

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 (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, Justice and Community Safety Directorate, 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, of Justice and Community Safety Directorate, 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 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, oċempel:
PERSIAN	: اگر به ترجمه شفاهی احتیاج دارید به این شماره تلفن کنید:
PORTUGUESE	Se você precisar da ajuda de um intérprete, telefone:
SERBIAN	Ако вам је потребна помоћ преводиоца телефонирајте:
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



Notice of decision on Reconsideration

Division 7.3.10 of the *Planning and Development Act 2007*

DA NO: 201528763	DATE RECONSIDERATION LODGED: 15 July 2016	
DATE OF DECISION: 19 September 2016		
BLOCK: 18	SECTION: 11	SUBURB: MITCHELL
STREET NO AND NAME: Cnr. Heffernan and Darling Streets		
APPLICANT: Capital Crown Leasing Pty Ltd		
Lessee: Konstantinou Developments Pty Ltd		

THE APPLICATION

This application seeks reconsideration of the decision by the planning and land authority of 8 March 2016 to refuse the application.

THE DECISION

I, Maggie Chapman, delegate of the planning and land authority, pursuant to section 193 of the *Planning and Development Act 2007* (Act), hereby **confirm the original decision** of the planning and land authority dated 8 March 2016.

PUBLIC NOTIFICATION

Pursuant to Division 7.3.4 of the Act, the original application was publicly notified from 13 January 2016 to 4 February 2016. One written representation was received during public notification.

The application for reconsideration was sent to the original representor. No further written representations were received in regard to the application for reconsideration.

REASONS FOR THE DECISION

The original decision was confirmed because:

- a) A review of the information available when the original decision was made disclosed no grounds that would support an approval of the proposal;
- b) The information provided by the applicant in the application for reconsideration provided no grounds for the approval of the proposal;
- c) The proposed use of child care centre was not demonstrated as being suitable for the subject site, in accordance with Section 120 of the Act. In particular, the application did not demonstrate that a child care centre would be compatible with other industrial uses permitted in the zone. The application for reconsideration provided information regarding the level of impact that the current operation/activities being carried out in the area may have on a child care centre. However, the application did not address the likelihood that the lessees of the blocks in the area may expand their existing industrial activities, or that they may apply to use them for other industrial uses permitted in this area. If a child care centre were permitted on this block, future industrial development in the area may be prevented or constrained due to the likely detrimental impacts to the child care centre use. In a worse case scenario, if industrial uses were activated without requirement for further statutory approval of the land use, the children and staff of the child care centre may be detrimentally affected or endangered by those uses. This is further exemplified in consideration of the objectives of the zone, and relevant rules and criteria of the Territory Plan below.

- d) The application did not demonstrate consistency with the Territory Plan 2008 in accordance with Section 120 of the Act as set out below.
- e) The potential for exclusion of further industrial uses in the area was considered inconsistent with the objectives of the IZ2 - Industrial Mixed Use Zone, particularly:
- a) *Support the diversification and expansion of the ACT's industrial base and employment growth*
 - g) *Accommodate industry-associated retailing, services and other commercial uses without jeopardising an adequate supply of industrial land*
 - i) *Meet the need for a mix of lower rent bulky goods retailing, specialised industrial, commercial and service activities alongside general industry*
 - j) *Preserve and promote viable industries that can coexist with more commercially oriented uses*
 - k) *Make provision for small-scale services that support surrounding industrial activities, or which meet the needs of the local workforce*

As noted above, a child care centre on this block would most likely constrain or prevent other industrial development and employment growth in the area, and so detrimentally impact the supply and demand of industrial land. The proposal did not demonstrate that a child care centre was required to service the local workforce, and/or that it could be co-located with existing and potential industrial use in the area, consistent with objectives i), j), and k).

- f) The application did not demonstrate that the proposed community use is wholly consistent with the *Industrial Zones Development Code*. Particularly, it was not demonstrated that a child care centre on the land will not jeopardise the use of surrounding land for industrial purposes, in accordance with Criterion C3 of the Code.

The following industrial purposes are assessable development in IZ2 Zone:

- bulk landscape supplies
- municipal depot
- plant and equipment hire establishment
- public transport facility
- craft workshop
- recyclable materials collection
- recycling facility
- scientific research establishment
- service station
- emergency services facility
- freight transport facility
- store
- general industry
- transport depot
- industrial trades
- light industry
- liquid fuel depot
- warehouse
- major utility installation
- waste transfer station

Except for light industry, the industrial purposes listed above, are characterised as having potential impact on their surrounds in terms of traffic and parking generation, noise and air pollution, and visual impact. With few exceptions, the Crown leases of blocks in this part of Mitchell currently permit industrial trades; general industry; light industry; plant and equipment hire establishment; and warehouse.

The potential for the proposed use to jeopardise the future industrial development in the area was not fully addressed in the application. Currently, the lessees of surrounding blocks may apply to vary their leases to permit one or more of those industrial uses listed above or apply for development for one of those permitted uses, subject to consideration of Section 120 of the Act.

If a child care centre is approved in the lease of the block, future consideration of the suitability of any industrial use/development for this area, (against Section 120 of the Act) would need to address the likely impacts the particular use would have on a child care centre on this block. Where such industrial development was required to limit any adverse impact to the child care centre through additional measures or by curbing their proposed activities, the cost or physical limits this might include may jeopardise the operational and/or financial viability of that proposed industrial use. The child care centre would, thereby be limiting the ability of those lessees to carry out the industrial uses currently permitted in their leases, and affect the future assessment of other industrial uses not currently activated on the land or otherwise not yet permitted by their leases.

- g) It was also not absolutely demonstrated that there was sufficient demand for a child care centre to justify that the centre is required to service the needs of the local workforce in accordance with Criterion C4.
- h) The application did not demonstrate that the proposal meets Criteria C23A of the above Code by meeting the requirements of the *Community and Recreation Facilities Location Guidelines General Code*. Particularly, by failing to demonstrate that a child care centre on the block could be buffered from sight, smell, fumes and noise of industrial uses and from roads with high traffic volumes and separated from safety hazards.

The ACT Health Protection Services (HPS) commented on documentation submitted with the application for reconsideration. HPS noted that the *documentation considers only the current and not the future incompatible industries that could be established within close proximity to a child care centre. The HPS does not support the proposed lease variation as such industries within close proximity to a future child care centre may pose health risks to vulnerable populations, including developing children.*

The indicative design for a child care centre on the land did not demonstrate that the proposed use could be protected from noise intrusion from the adjacent industrial sites in accordance with the recommendations of the Noise Management Plan submitted with the application. Particularly, the outdoor play areas required to meet the Territory Plan and other Territory licensing requirements, were not shown to be protected from noise from both the road and adjacent sites. Furthermore it is not demonstrated that noise barriers could be installed and the buildings designed to provide acoustic shielding whilst accommodating the play areas on the site with a northerly aspect, maintaining reasonable access to direct sunlight for the outdoor play areas.

- i) The proposal is inconsistent with the advice of entities to which the application was referred pursuant to Section 148 of the Act. The application for reconsideration was referred to the entities that gave advice on the original application. ACT Health Protection Services and the Environment Protection Authority did not support the proposal.

The application did not provide sufficient justification for a departure from the advice of these entities. The application did not contain information to allow consideration of the following provisions of S119(2) with regard to such a departure:

- (i) any applicable guidelines; and
- (ii) any realistic alternative to the proposed development, or relevant aspects of it.

The proposed use was considered to be inconsistent with the objects of the Territory Plan. Particularly, the objectives of the IZ2 Mixed Use Industrial Zone, as set out above.

EVIDENCE

Application No. 201528763

File No. 1-2015/28734

The Territory Plan zone – IZ2 Mixed Use Industrial Zone

The Development Codes – Industrial Zones Development Code

The Precinct Codes – Mitchell Precinct Map and Code

The General Codes – Lease Variation General Code

Current Crown Lease – Volume 1929 Folio 31

Entity advice

Representation- one (1) from original application

DELEGATE



Maggie Chapman

Delegate of the planning and land authority

Environment and Planning Directorate

19 September 2016

CONTACT OFFICER

Owen Pankhurst

Phone: (02) 6207 9055

Email: owen.pankhurst@act.gov.au

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 Planning 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.

APPENDIX 1

REVIEW OF THE DECISION

The following notes are provided in accordance with regulation 7 of the *ACT Civil and Administrative Tribunal Regulation 2008*. 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 Appeals Tribunal (ACAT).

Location	Contact details
ACT Civil and Administrative Tribunal Level 4, 1 Moore Street (the Health building) CANBERRA CITY ACT 2601	Website: www.acat.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. You can also download the form from the ACT Legislation Register <http://www.legislation.act.gov.au/af/2009-278/current/pdf/2009-278.pdf>.

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 receiving this Notice of decision. The time limit can be extended in some circumstances. Check with the ACAT for more details.

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 \$178 (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, Justice and Community Safety Directorate, 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, Justice and Community Safety Directorate, 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 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 τηλεφωνήστε στο
ITALIAN	Se avete bisogno di un interprete, telefonate al numero:
MALTESE	Jekk għandek bżonn l-għajhuna t'interpretu, òempel:
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 ihtiyacımız varsa lütfen telefon ediniz:
VIETNAMESE	Nếu bạn cần một người thông-ngôn-hãy gọi điện-thoại:

TRANSLATING AND INTERPRETING SERVICE

131 450

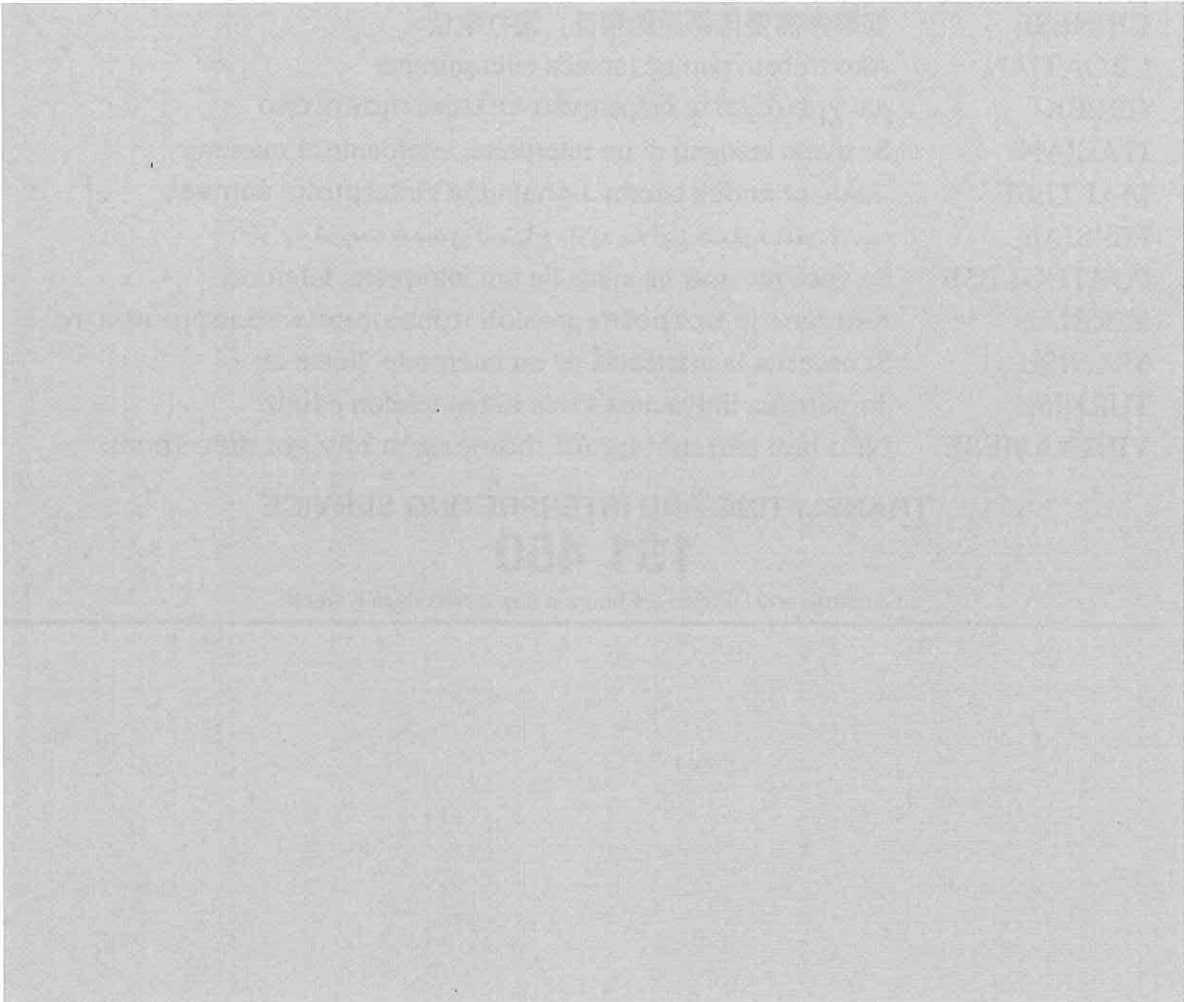
Canberra and District - 24 hours a day, seven days a week

From: [Myers, Rhonda](#)
To: [Brown, Robin](#)
Cc: [Messer, Sue](#); [Pankhurst, Owen](#)
Subject: 18/11 Mitchell DA201528763 - ACAT 63/2016 - child care in industrial area [SEC=UNCLASSIFIED]
Date: Monday, 7 November 2016 15:51:00

Hi Robin,

Thank you for meeting with us this afternoon about 18/11 Mitchell DA201528763 - ACAT 63/2016 - child care in industrial area.

I note that we discussed the following, things for you to action are in purple for us in green:



Please contact me by reply email or on 6207 1794 if you wish to discuss this matter further.

Kind regards

Rhonda Myers

Assistant Manager | DA Leasing | Lease Administration
Planning Delivery | Environment, Planning and Sustainable Development Directorate | **ACT Government**
Dame Pattie Menzies House, 16 Challis Street Dickson | GPO Box 158 Canberra ACT 2601

P 02 6207 1794 | e rhonda.myers@act.gov.au | web www.planning.act.gov.au

From: [Joseph, Gabriel](#)
To: [Myers, Rhonda](#)
Cc: [Messer, Sue](#); [Cilliers, George](#); [Van Vucht, Lisa](#)
Subject: RE: AT 63/2016 - Block 18 Section 11 Mitchell - DA201528763 [SEC=UNCLASSIFIED]
Date: Monday, 7 November 2016 16:30:45

Hi Rhonda

This is correct, this is our final advice. We have supported the DA with these two conditions. That means we have no objection to the DA and we will look at these two issues during the design acceptance phase. WE have not objected on any traffic grounds.

Happy to discuss further.

Regards

Gabriel Joseph FIEAust CPEng NER | Senior Manager Development Review & Coordination
Phone 02 6207 6581 | Email: gabriel.joseph@act.gov.au
Strategy, Innovation and Customer Experience | Transport Canberra and City Services Directorate | **ACT Government**
12 Wattle Street, Lyneham | GPO Box 158 Canberra ACT 2601 | www.act.gov.au

Connected services for the people of Canberra

From: Myers, Rhonda
Sent: Friday, 4 November 2016 1:59 PM
To: Joseph, Gabriel
Cc: Messer, Sue
Subject: AT 63/2016 - Block 18 Section 11 Mitchell - DA201528763 [SEC=UNCLASSIFIED]

Dear Gabriel,

I refer to your conversation with Sue Messer, Manager, DA Leasing this afternoon about the above appeal and expert advice re traffic. Please find attached a copy of the two advices received from Asset Acceptance with regards to the proposal.

Kind regards

Rhonda Myers

Assistant Manager | DA Leasing | Lease Administration
Planning Delivery | Environment, Planning and Sustainable Development Directorate | **ACT Government**
Dame Pattie Menzies House, 16 Challis Street Dickson | GPO Box 158 Canberra ACT 2601
P **02 6207 1794** | e rhonda.myers@act.gov.au | web www.planning.act.gov.au

From: [Myers, Rhonda](#)
To: [Rogers, Keith \(Health\)](#)
Cc: [Pankhurst, Owen](#)
Subject: AT63/2016 - 18/11 Mitchell - DA201528763 - ACT Health [SEC=UNCLASSIFIED]
Date: Tuesday, 8 November 2016 11:50:00
Attachments: [Notice of Decision - Signed.pdf](#)
[Notice of Decision-201528763-Reconsideration-signed.pdf](#)
[20161017-ACAT Appeal DA 201528763 - AT 63 2016.pdf](#)

Dear Keith,

Further to your conversation with Owen Pankhurst yesterday, Environment Planning and Sustainable Development Directorate (EPSDD) have received advice that an appeal against the refusal of the development proposal DA201528763 Block 18 Section11 Mitchell - was made to ACAT.

The appeal is based on the lessee's considered that "...extensive information was submitted with the reconsideration to address all reasons for the original refusal. It was considered that all reasons were more than adequately met. The reasons for refusal are considered to be based, for the most part, on Section 120 of the Planning and Development Act 2007."

The development application, which was refused and refused on reconsideration, was for a lease variation to permit child care facility. There is no proposed works as part of the development application. The decisions included consideration of advice from ACT Health, which was not in support of the proposed variation. Matters were considered with regards to the suitability of the land for a child care facility and potential impact of a sensitive use preventing the Mitchell industrial zone (or parts thereof) from being able to carry out industrial uses without detriment or erosion of the existing rights of the industrial premises and the impact/potential impact of the industrial uses upon the health of the children (or vulnerable persons) who attend the centre. Copies of the decisions and the appeal as lodged by the lessee are attached.

As the decision relied heavily upon the expert advice of ACT Health (and other agencies), we request ACT Health to provide an expert witness for the appeal proceedings to act on behalf of the Territory.

Please contact me by reply email or on 6207 2869 to discuss this matter further.

Kind regards

Sue Messer

Manager | DA Leasing | Lease Administration
Planning Delivery | Environment, Planning and Sustainable Development Directorate | **ACT Government**
Dame Pattie Menzies House, 16 Challis Street Dickson | GPO Box 158 Canberra ACT 2601
P **02 6207 1794** | e rhonda.myers@act.gov.au | web www.planning.act.gov.au

From: [Myers, Rhonda](#)
To: [Brown, Robin](#); [EPAPanningLiaison](#)
Subject: AT63/2016 - 18/11 Mitchell - DA201528763 [SEC=UNCLASSIFIED]
Date: Tuesday, 8 November 2016 11:51:00
Attachments: [20161017-ACAT Appeal DA 201528763 - AT 63 2016.obr](#)
[Notice of Decision - Signed.obr](#)
[Notice of Decision-201528763-Reconsideration-signed.obr](#)

Hi Robin,

Further to our conversation yesterday afternoon, EPSDD have received advice that an appeal against the refusal of the development proposal was made to ACAT.

The appeal is based on the lessee's considered that "...*extensive information was submitted with the reconsideration to address all reasons for the original refusal. It was considered that all reasons were more than adequately met. The reasons for refusal are considered to be based, for the most part, on Section 120 of the Planning and Development Act 2007.*"

The development application, which was refused and refused on reconsideration, was for a lease variation to permit child care facility. There is no proposed works as part of the development application. The decisions included consideration of advice from the EPA, which was not in support of the proposed variation. Matters were considered with regards to the suitability of the land for a child care facility and potential impact of a sensitive use preventing the Mitchell industrial zone (or parts thereof) from being able to carry out industrial uses without detriment or erosion of the existing rights of the industrial premises. Links to the decisions and the appeal as lodged by the lessee are attached.

As the decision relied heavily upon the expert advice of the EPA (and other agencies), we request the EPA to provide an expert witness for the appeal proceedings to act on behalf of the Territory.

Please contact me by reply email or on 6207 2869 to discuss this matter further.

Kind regards

Sue Messer

Manager | DA Leasing | Lease Administration
Planning Delivery | Environment, Planning and Sustainable Development Directorate | **ACT Government**
Dame Pattie Menzies House, 16 Challis Street Dickson | GPO Box 158 Canberra ACT 2601
P **02 6207 1794** | e rhonda.myers@act.gov.au | web www.planning.act.gov.au

From: [Teasdale, Jonathan](#)
To: [Myers, Rhonda](#)
Cc: [Johnson, Lisa](#)
Subject: RE: Mitchell appeal - next steps [SEC=UNCLASSIFIED]
Date: Tuesday, 22 November 2016 12:51:44

Terrific, thanks Rhonda!

Lisa has copies of these maps and can provide them to you.

Cheers

Jonathan Teasdale | Senior Manager - Impact Assessment and ACAT Coordination
Phone 02 6207 0316
Planning Delivery

From: Myers, Rhonda
Sent: Tuesday, 22 November 2016 12:26 PM
To: Teasdale, Jonathan
Cc: Johnson, Lisa
Subject: RE: Mitchell appeal - next steps [SEC=UNCLASSIFIED]

Thanks Jonathon,

I'm on it 😊

Can you please send me a copy/ref to the hazardous uses mapping that Lisa has already done to assist me to address dot point 2

Thanks

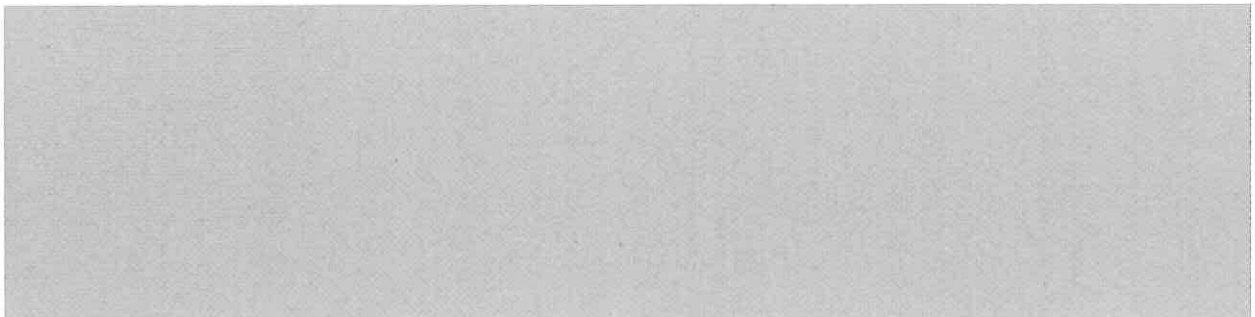
Rhonda Myers

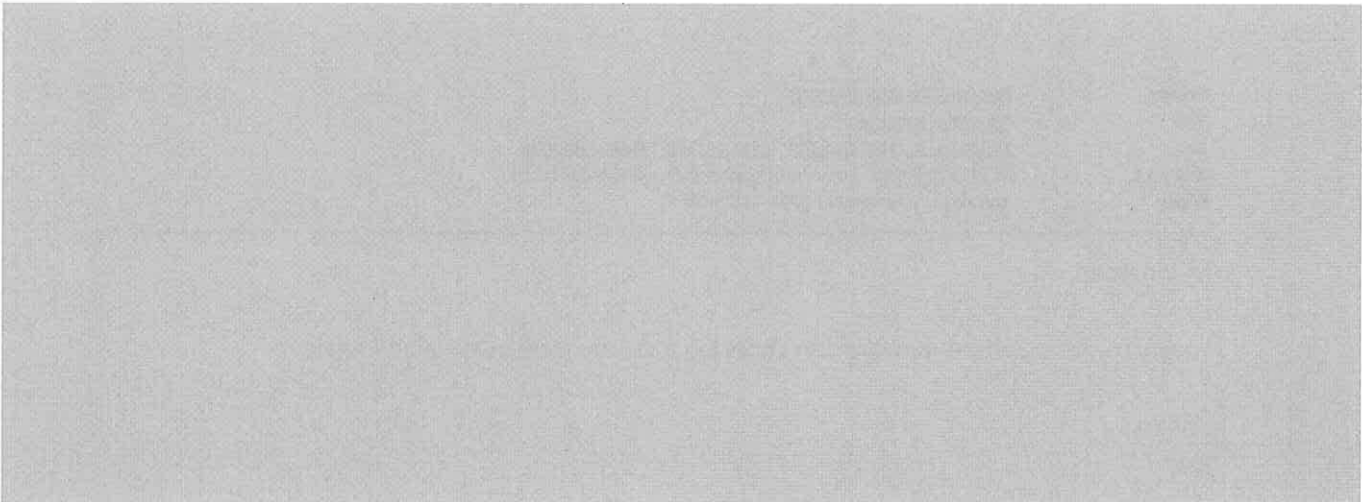
Assistant Manager | DA Leasing | Lease Administration
Planning Delivery | Environment, Planning and Sustainable Development Directorate | **ACT Government**
Dame Pattie Menzies House, 16 Challis Street Dickson | GPO Box 158 Canberra ACT 2601
P 02 6207 1794 | e rhonda.myers@act.gov.au | web www.planning.act.gov.au

From: Teasdale, Jonathan
Sent: Tuesday, 22 November 2016 12:24 PM
To: Myers, Rhonda
Cc: Johnson, Lisa
Subject: Mitchell appeal - next steps [SEC=UNCLASSIFIED]
Importance: High

Hi Rhonda

As discussed earlier with GSO, grateful if you could do the following:





Cheers

Jonathan Teasdale | Senior Manager - Impact Assessment and ACAT Coordination

Phone 02 6207 0316

Planning Delivery Division | Environment, Planning and Sustainable Development Directorate | **ACT Government**

Level 3 South, Dame Pattie Menzies House, 16 Challis Street, Dickson | GPO Box 158 Canberra ACT 2601 |

www.environment.act.gov.au | www.planning.act.gov.au

From: [Krsteski, Radomir \(Health\)](#)
To: [Teasdale, Jonathan](#)
Cc: [Stedman, Andrew \(Health\)](#); [Johnson, Lisa](#); [Myers, Rhonda](#)
Subject: RE: Mitchell child care centre appeal [SEC=UNCLASSIFIED]
Date: Tuesday, 22 November 2016 13:39:04

Hi Jonathan,

I available from 3:20pm onwards on Thursday and I am free anytime on Friday.

Cheers

Rad

From: Teasdale, Jonathan
Sent: Tuesday, 22 November 2016 12:39 PM
To: Krsteski, Radomir (Health)
Cc: Stedman, Andrew (Health); Johnson, Lisa; Myers, Rhonda
Subject: Mitchell child care centre appeal [SEC=UNCLASSIFIED]
Importance: High

Hi Radomir

I refer to our telephone conversation last Wednesday.

To confirm, the planning and land authority refused a DA in September 2016 for a lease variation to add child care centre as a use on the crown lease for B18 S11 Mitchell.

The applicant (Konstantinou) has appealed the decision.

Health is one of the key referral entities for the appeal.

We have a Conference scheduled at the ACAT on Friday (similar to a formal mediation, difference being the adjudicator can express a view about the appeal). I'm hoping to arrange a quick meeting between you, Andrew, me and GSO on Thursday. Depending on GSO's view, it might also be to our advantage if you were able to attend on Friday.

Grateful if you could please:

- Let me have you availability for a meeting on Thursday.
- Confirm if you are available on Friday.

Cheers

Jonathan Teasdale | Senior Manager - Impact Assessment and ACAT Coordination

Phone 02 6207 0316

Planning Delivery Division | Environment, Planning and Sustainable Development Directorate | **ACT Government**

Level 3 South, Dame Pattie Menzies House, 16 Challis Street, Dickson | GPO Box 158 Canberra ACT 2601 |

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