

OFFICIAL

Environment, Planning and Sustainable Development Directorate

To: Minister for Planning and Land Management Tracking No.: 22/48496

CC: Director-General

Date: 1 June 2022

From: Executive Group Manager, Statutory Planning

Subject: Consideration of Minister Call-in – McKellar shops DA202139349

Critical Date: 14 June 2022

Critical Reason: To enable timely consideration of the development application.

- DDG, Planning and Sustainable Development 6/6/22

Recommendations

That you:

1. Sign the letter to the applicant at Attachment A.

Signed / Not Signed / Please DiscussMick Gentleman MLA  14./6./2022

Minister's Office Feedback

Background

1. A development application (DA202139349) was lodged for the redevelopment of Block 1, Section 51, McKellar (the McKellar shops) on 28 October 2021.
2. The applicant has described the proposal as a two-storey mixed use commercial and residential development; demolition of the existing concrete pad and removal of trees; construction of 14 commercially adaptable 2-storey residential units and one commercial unit, car parking, landscaping, internal driveway and associated works.
3. On 6 April 2022, an amendment to the development application (DA) was lodged with the planning and land authority (the authority) following a further information request sent by the authority.
4. On 14 April 2022, you wrote to the authority to direct the authority to refer the application to you under s 158 of the *Planning and Development Act 2007* (the Act).

Issues

5. Under the statutory process for Minister call-in decisions (see s 159(2) of the Act), you may decide to consider the application if, in your opinion:
 - a. The application raises a major policy issue
 - b. The application seeks approval for a development that may have a substantial effect on the achievement or development of the object of the territory plan as set out in the statement of strategic directions and objectives for each zone to which the application relates, or
 - c. the approval or refusal of the application would provide a substantial public benefit.
6. You must also consider whether there has been sufficient community consultation in relation to the proposal to help you form your opinion on the matters above (see s 158A of the Act).
7. The consequence of you being the decision-maker on a development application is that the application is not subject to merits review either by the applicant or by a third party (i.e. a person who made a representation on the DA).

Matters to consider – Advice from the authority

8. The application involves the redevelopment of the McKellar shops (Block 1, Section 51 McKellar) which is zoned CZ4 Local Centre.
9. Relevant zone objectives for CZ4 Local Centre include:
 - a. Provide for convenience retailing and other accessible, convenient shopping and community and business services to meet the daily needs of local residents, particularly those with mobility issues.
 - b. Provide opportunities for business investment and local employment.
 - c. Ensure the mix of uses is appropriate to this level of the commercial hierarchy and enable centres to adapt to changing social and economic circumstances.
10. The application is for a mixed-use development and proposes residential and 'commercial adaptable units'.

11. *Application raises a major policy issue:*

- a. The retention of appropriate commercial and retail space at local centres across the Territory is an important element of the Territory's planning policy, as reflected in the 2018 Planning Strategy and the Territory Plan.
- b. The Planning Strategy also acknowledges that the role of our centres is changing and many local centres are 'transitioning to activity centres that provide lifestyle services, niche shopping and social connection, such as informal community meeting spaces' (page 32).
- c. The continued provision of commercial/retail space in local centres is an important issue to the Canberra community and this is reflected in several of the comments received during the public notification period for the DA.

12. *Application seeks approval for a development that may have a substantial effect on the achievement of the territory plan/objectives for the zone:*

- a. As noted above, the zone objectives for the CZ4 Local Centre zone are primarily focused on the delivery of commercial and retail opportunities for the benefit of the local community and local employment.
- b. While mixed-use developments with residential components are also encouraged, the retention and protection of appropriate levels of commercial space is essential.
- c. Given this is a redevelopment of a prominent site at the McKellar local centre, the proposal is considered to have a substantial effect on being able to achieve the zone objectives for the local centre (in either a positive or negative sense). For example, if the proposal is considered to not provide enough commercial/retail space, this will have a substantial negative effect on being able to achieve the zone objectives.

13. *Sufficient community consultation:*

- a. The application was publicly notified between 8 and 26 November 2021. 12 representations were received.
- b. The application was not required to undertake pre-DA community consultation.

Procedural fairness

14. Given the Minister call-in process impacts the usual rights of review for a DA decision by the applicant, it is recommended that you afford procedural fairness to the applicant in your consideration of the matters above. A draft letter to the applicant has been prepared for your consideration and signature (at Attachment A).

Future decision

15. After receiving the applicant's response, the authority will provide another briefing to support your decision on the matters outlined in this brief.
16. Should you ultimately decide that this is a matter that you can consider, the authority will prepare a separate briefing package on the DA for your consideration.
17. If you are satisfied that the criteria are not met and you should not consider the application, you must refer the application back to the authority for the authority to

decide the application.

Financial Implications

18. There are no financial implications arising from this brief.

Consultation

Internal

19. This matter has been dealt with the independent planning and land authority and has been referred to entities as per the usual DA assessment process.

Cross Directorate

20. Not required.

External

21. The authority has engaged with the applicant during the assessment process. The applicant recently contacted the authority seeking an update on the assessment and decision timeframe.

Work Health and Safety

22. Nil.

Benefits/Sensitivities

23. The use of call-in powers to determine DAs often attracts media and community interest.

24. It is considered a good administrative practice to write to the applicant to afford procedural fairness in your consideration of this application.

Communications, media and engagement implications

25. There are no direct media implications because of this letter.

26. However, development proposals at local shops have attracted community interest. You have received letters from constituents on the lack of progress at the McKellar shops in the past.

Signatory Name:	George Cilliers	Phone:	62076804
Action Officer:	James Bennett	Phone:	62054877

Attachments

Attachment	Title
Attachment A	Letter to applicant

Hill, Libby

From: EPSDD Ministerials and Corro Executive Office
Sent: 7 June 2022 10:47
To: EPSD Government Services
Subject: DDG Clearance - 22/48496 Ministerial Information Brief - Gentleman - Minister Call-in DA202139349 Block 1 Section 51 McKellar (McKellar shops DA)
Attachments: 22_48496 Ministerial Information Brief - Gentleman - Minister Call-in DA202139349 Block 1 Section 51 McKellar (McKellar shops DA).obr
Categories: Aimie

OFFICIAL: Sensitive

Hi GS

This is good to go please.

Many thanks,

Brodie Ferson | A/g Executive Officer to Dr Erin Brady, Deputy Director-General, Planning and Sustainable Development
Environment, Planning and Sustainable Development Directorate | ACT Government
Phone (02) 620 54615 | Email: brodie.ferson@act.gov.au
Level 4, 480 Northbourne Avenue, Dickson | GPO Box 158 Canberra ACT 2602

From: Brady, Erin <Erin.Brady@act.gov.au>
Sent: Monday, 6 June 2022 7:47 PM
To: EPSDD Ministerials and Corro Executive Office <EPSDDMinisterialsandCorroExecutiveOffice@act.gov.au>; Ferson, Brodie <Brodie.Ferson@act.gov.au>
Cc: Ponton, Ben <Ben.Ponton@act.gov.au>
Subject: FW: (7/6): FOR DDG CLEARANCE - 22/48496 Ministerial Information Brief - Gentleman - Minister Call-in DA202139349 Block 1 Section 51 McKellar (McKellar shops DA)

OFFICIAL: Sensitive

Brodie this is okay to go to Minister.

Before it goes – can you just check with James – the reference in the letter in para 4 and 5 to EPSDD – should that be EPSDD of the planning and land authority?

Including DG for information.

Dr Erin Brady | Deputy Director-General
Planning and Sustainable Development
Ph: +61 2 6205 4522 | Email: Erin.Brady@act.gov.au
Environment, Planning and Sustainable Development Directorate | ACT Government
Level 4, 480 Northbourne Ave, Dickson | GPO Box 158 Canberra ACT 2601 | www.act.gov.au



I acknowledge the traditional custodians of the ACT the Ngunnawal people, and their continuing connection to land and community. I pay my respect to them, and to the Elders both past and present.

From: EPSDD Ministerials and Corro Executive Office <EPSDDMinisterialsandCorroExecutiveOffice@act.gov.au>
Sent: Monday, 6 June 2022 4:59 PM
To: Brady, Erin <Erin.Brady@act.gov.au>
Cc: EPSDD Ministerials and Corro Executive Office <EPSDDMinisterialsandCorroExecutiveOffice@act.gov.au>
Subject: (7/6): FOR DDG CLEARANCE - 22/48496 Ministerial Information Brief - Gentleman - Minister Call-in DA202139349 Block 1 Section 51 McKellar (McKellar shops DA)

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Hi Erin

Please see attached for your review and clearance by 7/6. It's a brief containing a letter to an application, providing opportunity to comment on the potential use of the Minister's Call-in powers.

Noting there's a public holiday next week, a day for clearance is lost.

Many thanks,

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Cc: EPSD Government Services <EPSDGovernmentServices@act.gov.au>
Subject: BRODIE: FOR DDG CLEARANCE - 22/48496 Ministerial Information Brief - Gentleman - Minister Call-in DA202139349 Block 1 Section 51 McKellar (McKellar shops DA)

OFFICIAL: Sensitive

Hi Brodie,

Please find attached for DDG Brady's clearance. Note EGM approval below.

Critical Date: 14 June 2022

Critical Reason: To enable timely consideration of the development application.

Anna/ Meaghan: FYI.

Kind regards,

Ashleigh Savage | Director, Government Services
Phone: (02) 6205 5649 or MS Teams | Email: Ashleigh.Savage@act.gov.au
Environment, Planning and Sustainable Development Directorate | ACT Government
480 Northbourne Avenue Dickson ACT 2602 | GPO Box 158 Canberra ACT 2601
www.environment.act.gov.au | www.planning.act.gov.au

*I acknowledge the traditional custodians of the ACT, the Ngunnawal people.
I acknowledge and respect their continuing culture and the contribution they make to the life of this city and this region.*

From: EPSDD StatutoryPlanning <EPSDDStatutoryPlanning@act.gov.au>
Sent: Monday, 6 June 2022 12:56 PM
To: EPSD Government Services <EPSDGovernmentServices@act.gov.au>

Cc: Ferson, Brodie <Brodie.Ferson@act.gov.au>
Subject: FW: For clearance - McKellar call-in brief and letter

OFFICIAL: Sensitive

Good afternoon,

This has been cleared by EGM.

Thanks.

Kind regards,

Lea Edwards

Executive Assistant | Statutory Planning | ACTPLA | Environment, Planning and Sustainable Development Directorate | ACT Government 480 Northbourne Avenue Dickson | GPO Box 158 Canberra ACT 2601 | 02 620 70619 planning.act.gov.au
I acknowledge and pay my respects to Elders and Traditional Custodians of this land - past and present, and acknowledge their continuing cultures and connection to Country and community.

From: Cilliers, George <George.Cilliers@act.gov.au>
Sent: Monday, 6 June 2022 10:34 AM
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Cc: EPSDD StatutoryPlanning <EPSDDStatutoryPlanning@act.gov.au>; Weller, Craig <Craig.Weller@act.gov.au>
Subject: FW: For clearance - McKellar call-in brief and letter

OFFICIAL: Sensitive

Lea,
This is cleared and good to progress further.

Brodie,
This is brief and attached letter is essentially about providing procedural fairness to the proponent prior to the Minister considering the matter for potential call-in. Let me know if DDG require further information or discussion.

Regards
George

From: Bennett, JamesP <JamesP.Bennett@act.gov.au>
Sent: Wednesday, 1 June 2022 9:04 PM
To: Cilliers, George <George.Cilliers@act.gov.au>
Cc: EPSDD StatutoryPlanning <EPSDDStatutoryPlanning@act.gov.au>; Davies, Richard <Richard.Davies@act.gov.au>
Subject: For clearance - McKellar call-in brief and letter

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Hi George

Please see attached brief and letter for review and clearance.

I am off tomorrow, but I'm happy if you need to give me a call tomorrow to discuss any aspects of it.

Thanks
James

Hill, Libby

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Categories: *QA

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Sent: 7 June 2022 11:48
To: EPSDD DLO
Subject: CHRISTY: EPSD 22-48496 Info Brief - Minister Call in DA202139349 Block 1 Section 51 McKellar (McKellar Shops DA)
Attachments: 22_48496 Ministerial Information Brief - Gentleman - Minister Call-in DA202139349 Block 1 Section 51 McKellar (McKellar shops DA).obr

OFFICIAL: Sensitive

Hi Christy

Please see attached Information Brief for Minister Gentleman – Cleared by DDG Brady.

Critical date: 14 June 2022.

Thanks
Tara

Tara Ten Donkelaar | Government Services
Environment, Planning and Sustainable Development Directorate
ACT Government | PH: 6207 4277 | www.environment.act.gov.au

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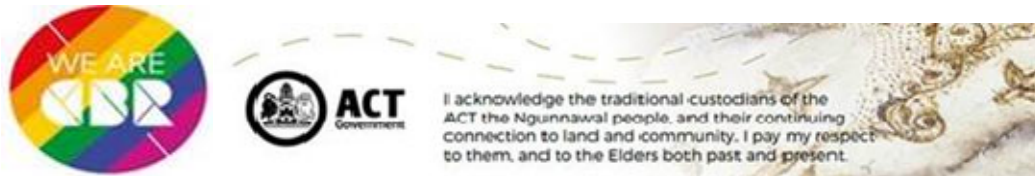
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Sent: 14 June 2022 09:16
To: Cilliers, George; Bennett, JamesP; Brady, Erin
Cc: Ponton, Ben; Niall, Sarah; EPSD Government Services; EPSDD DLO; Ferson, Brodie; EPSDD StatutoryPlanning
Subject: SIGNED - 22/48496 Ministerial Information Brief - Gentleman - Minister Call-in DA202139349 Block 1 Section 51 McKellar (McKellar shops DA)
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Categories: 01. Christy to action

OFFICIAL: Sensitive

Hi All,

Minister Gentleman has signed the brief and letter to the applicant.

Kind regards

Christy Fox | Directorate Liaison Officer

Environment, Planning and Sustainable Development Directorate | ACT Government

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