



DIRECT SALE PANEL AGENDA ITEM 4.1

SUBJECT: 2009-034 - Direct Sale Application by S & M Tzanetos for Block 17 Section 346 Kambah (contiguous to Block 5 Section 346)

To: Direct Sale Panel

From: Chair, Direct Sale Panel

Date: 28 March 2013

Purpose

To provide a further brief in relation to the direct sale application that was considered by the Direct Sale Panel (the Panel) at its meeting on 22 April 2010 and to seek the Panel's agreement to put a recommendation to Government supporting the direct sale of Block 17 Section 346 Kambah to S & M Tzanetos (Tzanetos Family Group).

Background

On 5 August 2009, the proponent lodged a formal request for the direct sale of land contiguous to Block 5 Section 346 Kambah, located at the Kambah Group Centre, to facilitate the expansion of the existing supermarket (Woolworths). The application suggested three options for consideration and these are provided at Attachment A and briefly described here:

- Option A – expansion of the supermarket to the north of Block 5 Section 346 and would increase the existing GFA by 847sqm.
- Option B – expansion of the supermarket to the south of Block 5 Section 346 and would increase the GFA of the existing supermarket by 1097sqm.
- Option C – expansion of the supermarket to the north and south of the existing supermarket site and would increase the GFA by 1944sqm.

It should be noted that Woolworths is only a tenant (lease expires 2014) and that the premises are independently owned by the Tzanetos Family Group. The future occupant of an expanded supermarket will be contingent on lease negotiations. The applicant has expressed the urgency in obtaining a decision to the direct sale so that the necessary lease negotiations are able to commence thereby securing the provision of a much needed expanded supermarket at the Kambah Group Centre.

The land is zoned Commercial Core (CZ1). It is unleased Territory land, currently used for car parking within the centre.

Issues

Supermarket Competition Policy

A Panel meeting was held 24 February 2010, 7 April 2010 and 22 April 2010, to assess the applicant's eligibility but a decision was deferred pending the Government's review of the ACT Supermarket Competition Policy and decision on the implementation strategy.

The Review on the ACT Supermarket Competition Policy (Martin Review) was released on 22 September 2009 and the implementation strategy, including Competition Factors was released in January 2010. The Supermarket Competition Coordination Committee (SCCC) was established to assess and make recommendations on eligibility applications for the direct sale of land for supermarkets against the competition factors.

The SCCC provided its assessment on 6 February 2013 and advises that it has no objection from a supermarket competition perspective to a direct sale as per Option B shown at Attachment A.

Planning Study and Master Plan

The Panel considered the application on 7 April 2010. It was considered that the direct sale of the land could possibly be supported if the proposal was considered in the context of a land release consistent with the objectives of a planning study and master plan for the Kambah Group Centre.

The ACT Government endorsed the master plan in July 2012. The Kambah Precinct Map and Code which includes the Kambah Group Centre was subject to a Territory Plan Technical Amendment 2012-06 which was approved 14 December 2012.

The master plan currently proposes the release of land for the expansion of the existing supermarket to the south of Block 5 Section 346 (release of Block 17 Section 346). Of the three options proposed by the applicant, Option B is consistent with the master plan.

Consultation

The application has been before Panel three times previously and the Panel noted that following the completion of the planning study and master plan that the subject direct sale application be brought back to the Panel for further consideration and assessment against the eligibility criteria.

Financial

The application financial information was assessed by CMTD (Finance and Budget Division). CMTD has advised on 15 March 2013 that based on the information provided, it is Treasury's opinion is that the applicant would have sufficient financial capacity to purchase the land as proposed in the application, thereby allowing further consideration of the direct sale applications on its merits.

The direct sale of contiguous land is at market value. Valuations will be obtained after agreement to the direct sale.

Recommendations

The Panel agree to recommend to the Government that:

- i. Tzanetos Family Group is eligible for a direct sale of land as they have met the eligibility criteria for the direct sale in accordance with section 122 of the *Planning and Development Regulation 2008 (Attachment B)*.

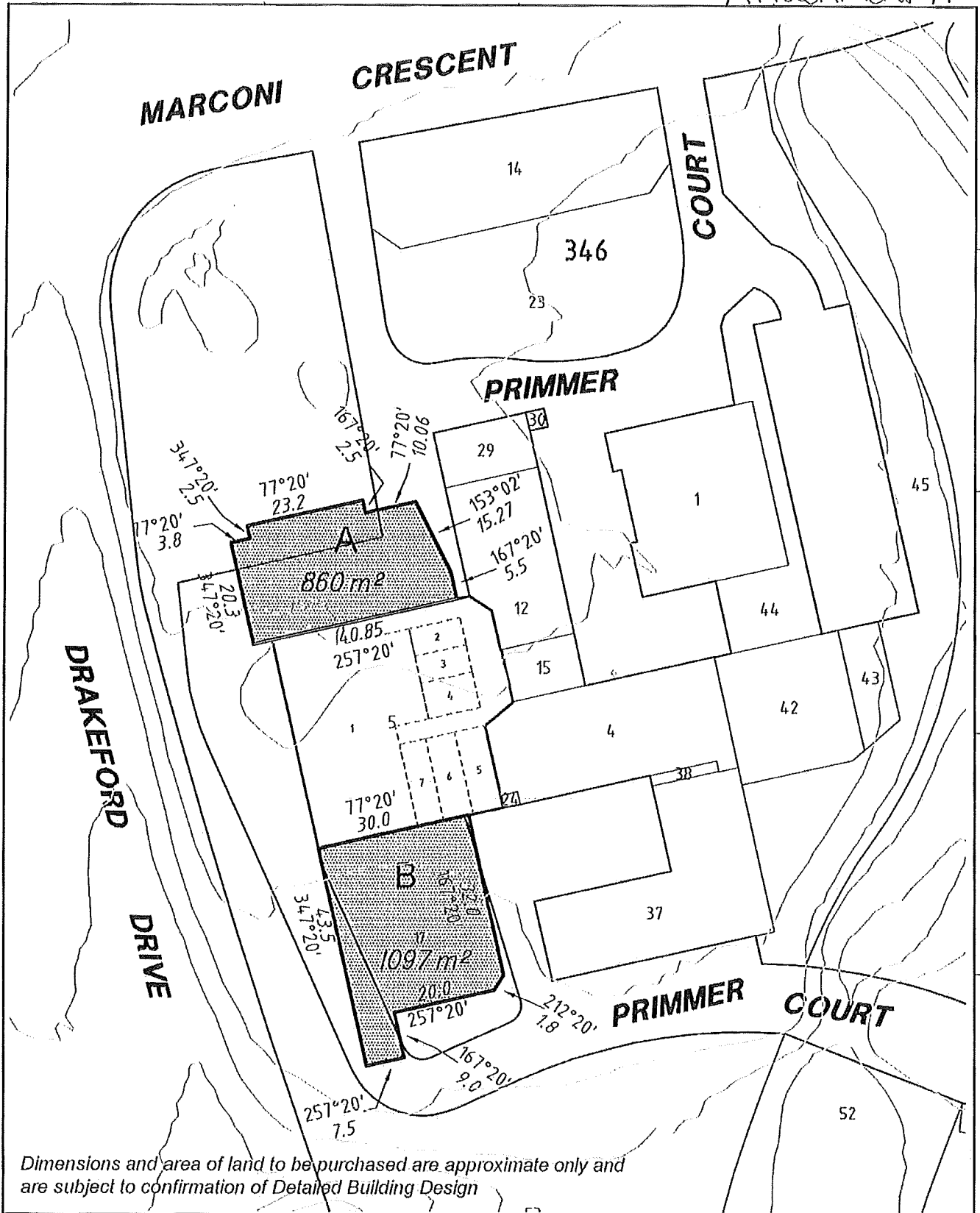
AGREED/NOT AGREED

- ii. The direct sale will be subject to an approved development application and consolidation of the Crown Lease.

AGREED/NOT AGREED

Grdg Ellis

Action Officer: Katherine Hicks
Extension: 75923



Dimensions and area of land to be purchased are approximate only and are subject to confirmation of Detailed Building Design

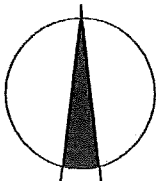
CBRE

CB RICHARD ELLIS

GPO Box 1987, Brisbane ACT 2601
T 61 2 6232 2733 / F 61 2 6232 2740

Kambah Village

Plan of proposed direct sale of land adjoining Block 5 Section 346 Kambah



Scale 1:1000

Designed	ldc	16/7/2009
Drawn	ldc	16/7/2009
Checked	dt	16/7/2009
Approved	dt	16/7/2009

Drawing No. 69236-001

Sheet No. 1 of 1

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Rev B

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**122 Direct sale criteria for leases of contiguous unleased land
other than public land—Act, s 240 (1) (b) (i)**

(1) The criteria for the direct sale of a lease of unleased land other than public land (the *proposed lease*) to the lessee of a lease (the *existing lease*) that is contiguous with the Proposed lease are that—

- (a) the grant of the proposed lease will—
- (i) rectify an existing encroachment on the proposed lease by a building or structure on the existing lease for the purpose of consolidating the proposed and existing leases for subdivision under the *Unit Titles Act 2001*; or

Not applicable

- (ii) facilitate the achievement of a good planning outcome; and

The proposal will facilitate an increase in retail floor space in the Kambah Group Centre. The proposal will enable the group centre to operate more effectively and provide a greater level of service appropriate to the catchment area.

Specifically, the proposal will facilitate the opportunity for an increase in the GFA of the existing supermarket by 1,097m². The total GFA of the supermarket would increase to 2618m², which is just below the GFA of a full line supermarket.

The proposal is also compatible with the Kambah Group Centre master plan which identifies Block 17 Section 346 as suitable for the expansion of the existing supermarket.

Example—good planning outcome

the incorporation of several small areas of unleased land into an existing lease to improve the use and maintenance of the land and to rationalise the land custodian's responsibilities in relation to land in areas near the lease

Note An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (b) the proposed use of the land is compatible with Territory or Commonwealth government policies applicable to the proposed use; and

The unleased Territory land is zoned commercial (CZ1) in the Territory Plan. The land will be consolidated with an existing commercial lease to facilitate the redevelopment and expansion of supermarket in the group centre.

The Supermarket Competition Coordination Committee (SCCC) provided an assessment of the proposal against the supermarket competition factors. The SCCC advises that it has no objection from a supermarket competition perspective to a direct sale of Block 17 Section 346 Kambah.

- (c) because of the size, location or configuration of the proposed lease, it is not reasonable or viable to grant the proposed lease as a separate independent lease; and

The total area of land requested is 1,097m²; comprising Block 17 Section 346 Kambah. It is reasonable to suggest that the land could be viable as an independent lease however there is a demonstrated demand for a larger format supermarket to service the Kambah Group Centre catchment area and the direct sale of the land would facilitate this outcome. If the land were put to market and purchased by others for an alternative use, the outcome would effectively be the end of an opportunity to expand the existing supermarket and hence the ability to offer the community an increased product line.

There is currently no other site available within the vicinity to accommodate an expanded supermarket and the relocation of the supermarket to another location would potentially spell the end of the Kambah Group Centre as a whole without the presence of an anchor tenant.

- (d) the grant of the proposed lease—
(i) will not detract from the amenity of the surrounding area; and

The amenity of the Kambah Group Centre and surrounding area will be improved by the expansion of the existing supermarket.

- (ii) will promote better land management; and

The block of land is currently unleased Territory Land zoned CZ1 –Commercial which is currently used as public car parking. The use of the land for a higher order land use promotes better land management.

- (iii) Will not unreasonably restrict public access to other land.

Public access to other land in the Group Centre will not be restricted. The proposed development is consistent with the Kambah Group Centre master plan.

Note Public land—see the Act, dictionary.

- (2) In this section:
encroachment includes a projection at, above or below ground level.



ACT
Government

Economic Development

Date due with Minister's Office 24 April 2013	Date due With D-G 16 April 2013	Tracking Numbers BM13/561
Any other critical date and reason		

Subject: Direct Sale to S & M Tzanetos Block 17 Section 346 Kambah (contiguous to Block 5 Section 346 Kambah) — supermarket expansion

Contact Officer: Katherine Hicks
Extension: 75923

Cleared by Director, SLS : Greg Ellis

Date: 12/4/13

Cleared by Acting Deputy Director General, LDS&F: Chris Reynolds

Date: 12.4.13

Cleared by Acting Director-General: Dan Stewart

Date: 15.04.13



ACT

Government

Economic Development

BRIEF

Ref: BM13/561

**SUBJECT: Direct Sale to S & M Tzanetos for Block 17 Section 346 Kambah
(contiguous to Block 5 Section 346 Kambah) – supermarket expansion**

To: Minister for the Environment and Sustainable Development

- Minister for Economic Development *AB 29.4.2013*
- Director-General, Environment and Sustainable Development Directorate *Eg 17/4/13*
- Acting Director-General, Economic Development Directorate

Cc: Acting Deputy Director-General, Land Development, Strategy & Finance Division

From: Chair, Direct Sale Panel

Date: 12 April 2013

Purpose

To seek your agreement to the direct sale of Block 17 Section 346 Kambah contiguous to the applicant's existing lease Block 5 Section 346 Kambah. The direct sale of land will facilitate the expansion of the existing supermarket which is consistent with the Kambah Group Centre Master Plan.

Background

On 5 August 2009, the proponent lodged a formal request for the direct sale of land contiguous to Block 5 Section 346 Kambah, located at the Kambah Group Centre, to facilitate the expansion of the existing supermarket (Woolworths). The applicant suggested three options for consideration and these are provided at Attachment A and briefly described here:

- Option A – expansion of the supermarket to the north of Block 5 Section 346 and would increase the existing GFA by 847sqm.
- Option B – expansion of the supermarket to the south of Block 5 Section 346 and would increase the GFA of the existing supermarket by 1097sqm.
- Option C – expansion of the supermarket to the north and south of the existing supermarket site and would increase the GFA by 1944sqm.

It should be noted that Woolworths is only a tenant (lease expires 2014) and that the premises are independently owned by S & M Tzanetos. The future occupant of an expanded supermarket will be contingent on lease negotiations. The applicant has expressed the urgency

in obtaining a decision to the direct sale so that the necessary lease negotiations are able to commence thereby securing the provision of a much needed expanded supermarket at the Kambah Group Centre.

The land is zoned Commercial Core (CZ1). It is unleased Territory land, currently used for car parking within the centre (Attachment B).

Issues

Supermarket Competition Policy

A Panel meeting was held 24 February 2010, 7 April 2010 and 22 April 2010, to assess the applicant's eligibility but a decision was deferred pending the Government's review of the ACT Supermarket Competition Policy and decision on the implementation strategy.

The Review on the ACT Supermarket Competition Policy (Martin Review) was released on 22 September 2009 and the implementation strategy, including Competition Factors was released in January 2010. The Supermarket Competition Coordination Committee (SCCC) was established to assess and make recommendations on eligibility applications for the direct sale of land for supermarkets against the competition factors.

The SCCC provided its assessment on 6 February 2013 (Attachment C). It has no objection from a supermarket competition perspective to a direct sale as per Option B shown at Attachment A.

Planning Study and Master Plan

The Panel considered the application on 7 April 2010. It was considered that the direct sale of the land could possibly be supported if the proposal was considered in the context of a land release consistent with the objectives of a planning study and master plan for the Kambah Group Centre.

The ACT Government endorsed the master plan in July 2012. The Kambah Precinct Map and Code which includes the Kambah Group Centre was subject to a Territory Plan Technical Amendment 2012-06 which was approved 14 December 2012.

The approved master plan currently proposes the release of land for the expansion of the existing supermarket to the south of Block 5 Section 346 (release of Block 17 Section 346). Of the three options proposed by the applicant, Option B is consistent with the approved master plan.

EDD has previously advised that the size of the land released under the master plan would not be sufficient to attract a competitive tender from another supermarket operator.

Block configuration

The configuration of Block 17 Section 346 (Option B) shown on Attachment A is indicative only. The final configuration of Block 17 Section 346 will be subject to a detail survey and approval from TAMS, ensuring there is no adverse impact on vehicular access along Primmer Court.

Eligibility

The proponent lodged a formal request for the direct sale of contiguous land other than public land in accordance with section 122 of the *Planning and Development Regulation 2008*. A detailed assessment of the proposal against the eligibility criteria is at Attachment D.

Consultation

The application has been before the Panel three times previously and the Panel noted that following the completion of the planning study and master plan, that the subject direct sale application be brought back to the Panel for further consideration and assessment against the eligibility criteria.

The application was brought before the Panel again on 4 April 2013 and it was agreed that the applicant is eligible for the direct sale of land in accordance with section 122 of the *Planning and Development Regulation 2008*.

Financial

The applicant's financial information was assessed by CMTD (Finance and Budget Division). CMTD has advised on 15 March 2013 that based on the information provided, it is Treasury's opinion that the applicant would have sufficient financial capacity to purchase the land as proposed in the application, thereby allowing further consideration of the direct sale applications on its merits.

The direct sale of contiguous land is at market value. Valuations will be obtained after agreement to the direct sale.

RECOMMENDATION

That you agree to support the Direct Sale Panel recommendation that:

- i. S & M Tzanetos is eligible for a direct sale of land as they have met the eligibility criteria for the direct sale in accordance with section 122 of the *Planning and Development Regulation 2008* (Attachment D).

AGREED/NOT AGREED/PLEASE DISCUSS

- ii. The direct sale will be subject to an approved development application and consolidation of the Crown Lease.

AGREED/NOT AGREED/PLEASE DISCUSS

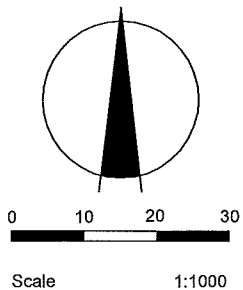
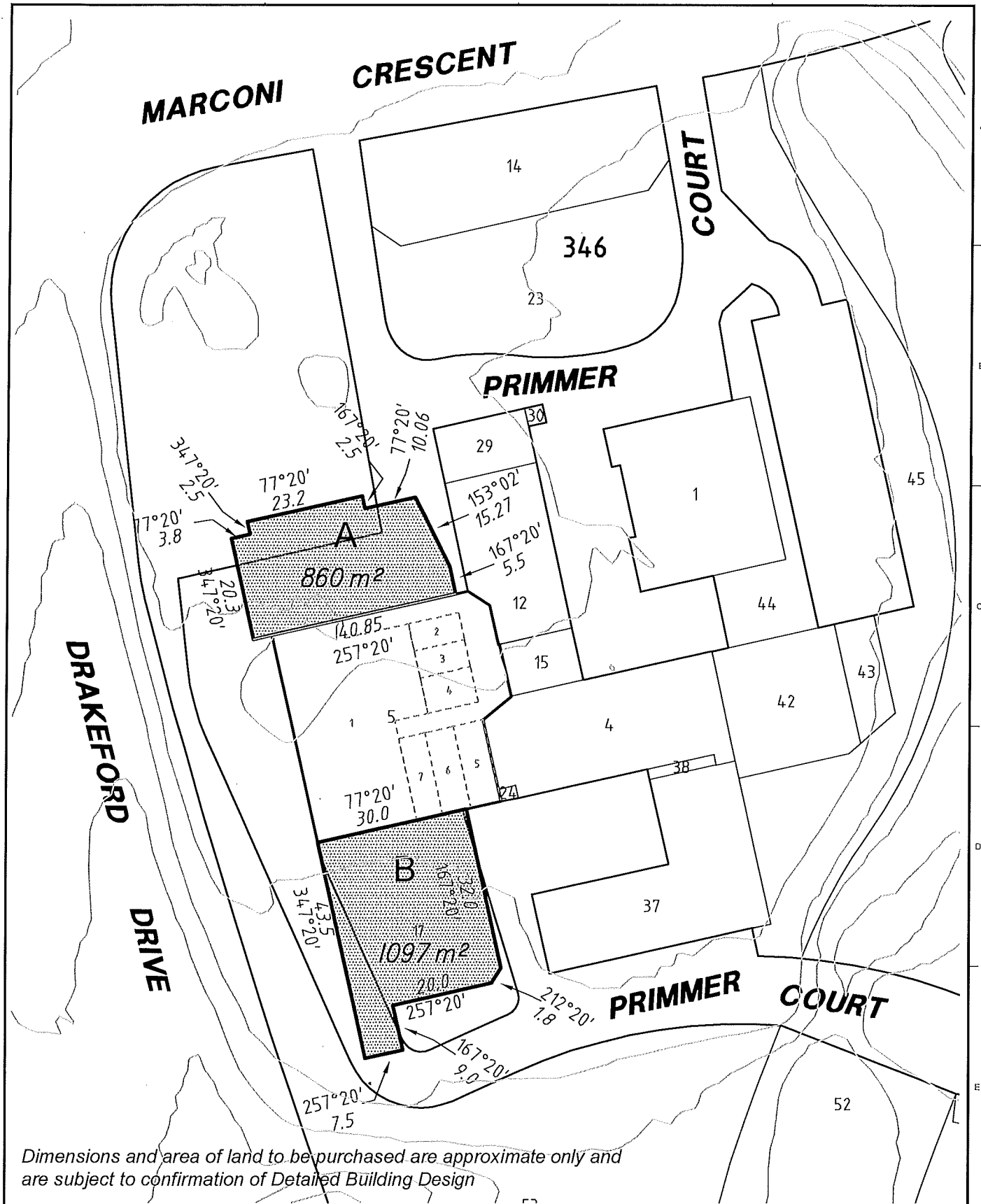
Greg Ellis



Simon Corbell MIA / /

Action Officer: Katherine Hicks x75923

6.5.13



CBRE

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Kambah Village

Plan of proposed direct sale of land
 adjoining Block 5 Section 346 Kambah

Designed	ldc	16/7/2009
Drawn	ldc	16/7/2009
Checked	dt	16/7/2009
Approved	dt	16/7/2009

Drawing No. 69236-001

Rev B

Sheet No. 1 of 1

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Block 17 Section 346 Kambah Group Centre

1: 2,454



DISCLAIMER


























































The map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current or otherwise reliable.

05-Apr-2013

Page 2 of 2



ACT
Government

<u>Legend</u>			
	Read labels_line		Commercial - CZ3 - Services
	ACT Border		Commercial - CZ4 - Local Centre
	Districts		Commercial - CZ5 - Mixed Use
	Divisions		Commercial - CZ6 - Leisure and Accommodation
	Registered Sections		Industrial - IZ1 - General Industrial
	Approved Sections		Industrial - IZ2 - Industrial Mixed Use
	Proposed Sections		Urban Parks and Recreation - PRZ1 - Urban Open Spaces
	Water Feature Polygons		Urban Parks and Recreation - PRZ2 - Restricted Access Recreation
	Water Feature Lines		Transport and Services - TSZ1 - Transport
	Urban Registered Blocks		Transport and Services - TSZ2 - Services
	Rural Registered Blocks		Non Urban - NUZ1 - Broadacre
	Stratum Registered Blocks		Non Urban - NUZ2 - Rural
	Urban Approved Blocks		Non Urban - NUZ3 - Hills Ridges and Buffers
	Rural Approved Blocks		Non Urban - NUZ4 - River Corridor
	Stratum Approved Blocks		Non Urban - NUZ5 - Mountain and Bushlands
	Urban Proposed Blocks		
	Rural Proposed Blocks		
	Rural Occupied Blocks		
	Intertown Public Transport Route		
	Main Avenues and Approach Routes -line		
	Public Land - line		
	Public Land - polygon		
	FUA - Future Urban Areas		
	S - Special Requirements		
	Pa - a wilderness area		
	Pb - a national park		
	Pc - a nature reserve		
	Pd - a special purpose reserve		
	Pe - an urban open space		
	Pf - a cemetery or burial ground		
	Pg - the protection of water supply		
	Ph - a lake		
	Pi - a sport and recreation reserve		
	Designated Areas		
	Residential - RZ1 - Suburban		
	Residential - RZ2 - Suburban Core		
	Residential - RZ3 - Urban Residential		
	Residential - RZ4 - Medium Density Residential		
	Residential - RZ5 - High Density Residential		
	Communities Facilities		
	Commercial - CZ1 - Core		
	Commercial - CZ2 - Business		



ACT
Government

Economic Development

Mr Greg Ellis
Chair
Direct Sale Panel

Greg
Dear Mr Ellis

Proposed Direct Sale - Kambah Village Supermarket Expansion

I refer to your letter of 14 December 2012, referring the above to the Supermarket Competition Coordination Committee (SCCC) for advice.

The SCCC has now considered this matter and advises that it has no objection from a supermarket competition perspective to a direct sale as per 'Option B' of your letter.

The SCCC did not consider 'Option A' or 'Option C' as you indicated that those options were not consistent with the master plan for the centre.

Yours sincerely

Cathy Hudson
Chair
Supermarket Competition Coordination Committee

6 February 2013

**122 Direct sale criteria for leases of contiguous unleased land
other than public land—Act, s 240 (1) (b) (i)**

(1) The criteria for the direct sale of a lease of unleased land other than public land (the *proposed lease*) to the lessee of a lease (the *existing lease*) that is contiguous with the Proposed lease are that—

- (a) the grant of the proposed lease will—
- (i) rectify an existing encroachment on the proposed lease by a building or structure on the existing lease for the purpose of consolidating the proposed and existing leases for subdivision under the *Unit Titles Act 2001*; or

Not applicable

- (ii) facilitate the achievement of a good planning outcome; and

The proposal will facilitate an increase in retail floor space in the Kambah Group Centre. The proposal will enable the group centre to operate more effectively and provide a greater level of service appropriate to the catchment area.

Specifically, the proposal will facilitate the opportunity for an increase in the GFA of the existing supermarket by 1,097m². The total GFA of the supermarket would increase to 2618m², which is just below the GFA of a full line supermarket.

The proposal is also compatible with the Kambah Group Centre master plan which identifies Block 17 Section 346 as suitable for the expansion of the existing supermarket.

Example—good planning outcome

the incorporation of several small areas of unleased land into an existing lease to improve the use and maintenance of the land and to rationalise the land custodian's responsibilities in relation to land in areas near the lease

Note An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (b) the proposed use of the land is compatible with Territory or Commonwealth government policies applicable to the proposed use; and

The unleased Territory land is zoned commercial (CZ1) in the Territory Plan. The land will be consolidated with an existing commercial lease to facilitate the redevelopment and expansion of supermarket in the group centre.

The Supermarket Competition Coordination Committee (SCCC) provided an assessment of the proposal against the supermarket competition factors. The SCCC advises that it has no objection from a supermarket competition perspective to a direct sale of Block 17 Section 346 Kambah.

- (c) because of the size, location or configuration of the proposed lease, it is not reasonable or viable to grant the proposed lease as a separate independent lease; and

The total area of land requested is 1,097m²; comprising Block 17 Section 346 Kambah. It is reasonable to suggest that the land could be viable as an independent lease however there is a demonstrated demand for a larger format supermarket to service the Kambah Group Centre catchment area and the direct sale of the land would facilitate this outcome. If the land were put to market and purchased by others for an alternative use, the outcome would effectively be the end of an opportunity to expand the existing supermarket and hence the ability to offer the community an increased product line.

There is currently no other site available within the vicinity to accommodate an expanded supermarket and the relocation of the supermarket to another location would potentially spell the end of the Kambah Group Centre as a whole without the presence of an anchor tenant.

- (d) the grant of the proposed lease—
(i) will not detract from the amenity of the surrounding area; and

The amenity of the Kambah Group Centre and surrounding area will be improved by the expansion of the existing supermarket.

- (ii) will promote better land management; and

The block of land is currently unleased Territory Land zoned CZ1 –Commercial which is currently used as public car parking. The use of the land for a higher order land use promotes better land management.

- (iii) Will not unreasonably restrict public access to other land.

Public access to other land in the Group Centre will not be restricted. The proposed development is consistent with the Kambah Group Centre master plan.

Note Public land—see the Act, dictionary.

- (2) In this section:
encroachment includes a projection at, above or below ground level.



ACT
Government

Chief Minister, Treasury and
Economic Development

TRIM No:BM14/2252

File No:13/2678

Date 27 October 2014

To Minister for Planning

Minister for Economic Development *AB 17-11-14*

- Director-General, Environment and Planning *15/11/14*
- Deputy Director-General, Environment and Planning *13-11-14*
- Director-General, Economic Development *DD 27/10/14*
- Deputy Director-General, Land Development and Corporate

From Chair, Direct Sale Panel

Subject Direct Sale Application by the Tzanetos Family Group of part of Primmer Court and part Block 53 Section 346 Kambah

Critical date and reason

18 November 2014, to ensure the timely completion of the direct sale process.

Purpose

To seek your agreement to support the direct sale of part of Primmer Court and part Block 53 Section 346 Kambah, that is contiguous to Block 5 Section 346 Kambah, to the Tzanetos Family Group.

Background

The Tzanetos Family Group (the Group) is the owner of Block 5 Section 346 Kambah and their building currently houses the existing Woolworths supermarket. In 2013 they were found eligible for a direct sale over Block 17 (to the south of Block 5).

On 24 April 2014 CBRE, on behalf of the lessee of Block 5, lodged a direct sale application for approximately 1,017m² of contiguous land to the north of Block 5, being part of Primmer Court and part Block 53 Section 346 Kambah. At their request, the lease offer for Block 17 has been put on hold while they go through this direct sale application. A map of the land being sought is at Attachment A.

The Group's vision is for an expansion and redevelopment to permit the establishment of a full line supermarket (with dedicated loading zone) and a modernization of that part of the shopping complex.

Issues

Kambah Group Centre Masterplan (2012)

A master plan was established for the Kambah Group Centre in 2012. The Group's vision for the redevelopment of their sites is consistent with that master plan. However, the master plan does envisage the block to the north (the block that is subject to this direct sale application) to be sold as a separate block.

The development of this site will integrate with the southern site redevelopment (Block 5 and Block 17) and the realignment of Primmer Court and effectively complete the implementation of

Stage A of the endorsed Kambah Group Centre Master Plan (July 2012) in one coordinated proposal. Further, the coordination of staging for both the north and the south developments will ensure minimal disruption to the centre.

The master plan encourages existing shops and services to expand and diversify facilitating greater business resilience and growth opportunities. The direct sale will assist in meeting this objective. The activation of the front entrance to the centre is also supported by the master plan.

The Environment and Planning Directorate (EPD) has been consulted throughout this direct sale process and agree that direct selling the subject block to the Group is the best way to achieve the master plan outcomes.

The value of the block

At the request of the Direct Sale Panel, a valuation report was sought to determine the estimated return to the Territory if the block were sold on the open market. The valuation had regard to the planning constraints set by the Master Plan and the Kambah Group Centre Precinct Code - which includes replacement car parking in a basement and a limit of two storeys for any future development on the block.

The valuation found it is not feasible to sell the parcel of land as a stand-alone block, with a [REDACTED] The report is at Attachment B.

The second scenario, where the block is sold by direct sale to the Tzanetos Family Group, provides [REDACTED] (approximate, subject to valuation again after a Development Application (DA) is approved) – see Attachment C. This is primarily due to economies of scale. The proponent has the unique benefit of being able to integrate the north, central and southern sites and achieve efficiency in design and construction, thereby improving the feasibility of the project and being able to deliver a development that meets all the planning requirements for the site. The details around how the proponent will be able to meet the Kambah Group Centre Precinct Code and the Master Plan requirements is in the CBRE Planning report at Attachment D.

Total redevelopment size

The direct sale will expand the supermarket site to the north and south of the existing lease of Block 5.

The exact size of the redevelopment site will be determined once a survey has been undertaken and the realignment of the road confirmed, but it is estimated to be approximately 3,800 – 4,000m².

Eligibility Criteria

The relevant eligibility requirements for the direct sale of contiguous land are set out in section 122 of the Planning and Development Regulation 2008. An assessment against the criteria is provided at Attachment E.

At the request of the direct sale panel, legal advice was sought from the GSO to ensure the sale was consistent with the direct sale of contiguous land as set out in section 122 of the *Planning and Development Regulation 2008*. GSO has confirmed that the sale of the proposed block is consistent with this process (Attachment F).

Consultation

Land Requests Advisory Committee (LRAC)

This proposal was circulated by LRAC on 20 December 2013 for comment. Comments received indicate that there are no objections to the direct sale subject to the approval of a Development Application (DA). The proponent will be encouraged to discuss their proposal with the Strategic Planning and Policy Section of EPD. EPD recognise that the proposal to expand Block 5 to the north and south is consistent with the objectives of the master plan for the centre.

Direct Sale Panel and indicative value of the block

The proposal was presented to the Direct Sale Panel (the Panel) on 4 June 2014 where the Panel asked for the valuation process to be undertaken (discussed above).

The proposal was re-presented to the Panel on 2 October 2014. The Panel is in agreement that the proponent is eligible for the direct sale of the northern block (Block 53 Section 346 and part Primmer Court).

Financial

The Tzanetos Family Group has the financial capacity to purchase and develop the land. The estimated return to the Territory is [REDACTED] for the sale of the land. A second valuation will be sought after the DA is approved for the redevelopment of the northern and southern block.

Risks/Sensitivities

There are no known risks or sensitivities to the ACT Government in relation to this proposal.

Media

Media interest is not anticipated.

Recommendation

That you:

- agree the Tzanetos Family Group is eligible for the direct sale of part of Primmer Court and part Block 53 Section 346 Kambah as it has met the eligibility criteria in accordance with section 122 of the *Planning and Development Regulation 2008*; and

AGREED/NOT AGREED /PLEASE DISCUSS

- agree the sale will be conditional on obtaining development approval for the consolidated development – noting that the consolidation will be required to include the land to the south of Block 5 (Block 17 Section 346 Kambah).

AGREED/NOT AGREED/ PLEASE DISCUSS

Louise Gilding

Action Officer: Katherine Hicks (x54868)

Mick Gentleman MLA

[Signature] 2A/11/14

Assessment against Criteria – Direct Sale of Land

Tzanetos Family – S & M Tzanetos

Criteria: s122 Direct Sale criteria for leases of contiguous unleased land other than public land – Act, s 240 (1) (a) (ii)

- (1) The criteria for the direct sale of a lease of unleased land other than public land (the **proposed lease**) to the lessee of a lease (the **existing lease**) that is contiguous with the proposed lease are that–
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 - (ii) facilitate the achievement of a good planning outcome; and
 - (b) the proposed use of the land is compatible with Territory or Commonwealth government policies applicable to the proposed use; and
 - (c) because of the size, location or configuration of the proposed lease, it is not reasonable or viable to grant the proposed lease as a separate independent lease; and
 - (d) the grant of the proposed lease–
 - (i) will not detract from the amenity of the surrounding area; and
 - (ii) will promote better land management; and
 - (iii) will not unreasonably restrict public access to other land.

Note **Public land**—see the Act, dictionary.

- (2) In this section:

encroachment includes a projection at, above or below ground level.

Response: s122 Direct Sale Criteria for leases of contiguous unleased land other than public land

- (1) (a) (ii) the proponent is in a unique position to develop to the north of its existing lease to spark off the implementation of the Kambah Group Centre Master Plan and deliver most of the works included in Stage A of the Master Plan including the realignment of Primmer Court and additional public parking. The development represents a large capital investment that could trigger other owners in the centre to undertake a much needed upgrade or redevelopment of the existing facilities and infrastructure.

- (b) the proposed use of the land is consistent with the Kambah Group Centre Master Plan and the proposal is intended to deliver most of the works included in Stage A of the Master Plan. Development to the north of the proponent's existing lease, permits design flexibility and a unique opportunity to deliver a better design outcome than could ever be achieved by selling the land on the open market, which turns out to not be viable.
- (c) The size of the block on offer is approximately 1017m². The location of the proposed block is adjoining the proponents existing lease. Although it appears to be viable to be sold independently, further investigation found that due to the constraints of the Kambah Group Centre Precinct Code and the Master Plan, it is in fact not viable to grant the proposed lease as a separate independent lease. This is supported by the valuation report which returned a [REDACTED] value if this were to be done (the government would in effect have to pay someone to take the land). By selling the land to the proponent there [REDACTED] (approximately) due to economies of scale. The details around how the proponent will be able to meet the Kambah Group Centre Precinct Code and the Master Plan requirements, is in the CBRE Planning report at Attachment D.
- (d) (i) the direct sale will result in a better design outcome that will better address the planning outcomes of the Kambah Group Centre Master Plan and thereby improving the amenity of the centre.
- (ii) the direct sale will achieve a better land management outcome because the lessee of Block 5 is required to improve the public realm which will help to revitalise the centre.
- (iii) the proposal will enhance public access both pedestrian and vehicular by implementing the requirements of the Master Plan and improving the connectivity through the centre.



Environment and Sustainable Development Directorate

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To: Minister for Planning and Land Management

Tracking No.: 17/28926
Rec'd Minister's Office 1 OCT 2017

From: A/Executive Director, Urban Renewal

Subject: Direct Sale of contiguous land in addition to that already approved at Block 17 Section 346 and part of Primmer Court and part Block 53 Section 346 Kambah

Critical Date: 2 November 2017

Critical Reason: To complete the request for direct sale of land and to enable the lodgement of a DA for the proposed supermarket expansion at Kambah Group Centre

- DDG 27/10/17

Purpose

Seeking approval for the direct sale to the Tzanetos Family Group of land in addition to that already approved for direct sale on 6 May 2013 and 24 November 2014.

Recommendations

That you:

- 1. Agree that the Tzanetos Family Group is eligible for a direct sale of additional contiguous land as they have met the eligibility criteria for the direct sale in accordance with section 122 of the Planning and Development Regulation 2008; and ;

Agreed / Not Agreed / Please Discuss

- 2. Agree that the further land requested is consistent with the intent for which the Direct Sale of DS2009-34 and DS2013-178 was approved; and

Agreed / Not Agreed / Please Discuss

- 3. Agree the direct sale will be subject to the Tzanetos Family Group securing an approved Development Application for the redevelopment of Block 5 Section 346 Kambah incorporating Block 17 Section 346 Kambah and the requested land parcels and consolidating the existing Crown lease over Block 5 Section 346 Kambah with the Crown lease granted over the contiguous land parcels.

Agreed / Not Agreed / Please Discuss

Mick Gentleman MLA [Signature] 1/11/17

Minister's Office Feedback

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Background

1. The Tzanetos Family Group (the Group) is proposing to redevelop the existing supermarket on their current holding of Block 5 Section 346 Kambah, within the Kambah Group Centre. The Group's vision is for an expansion and redevelopment to permit the establishment of a full line supermarket (with dedicated loading zone) and a modernization of that part of the shopping complex.
2. On 5 August 2009, the Group lodged a direct sale application for the direct sale of Block 17 Section 346 Kambah, contiguous to Block 5 Section 346 Kambah (DS2009-034, the first application) – see Attachment A, to facilitate the expansion of the existing supermarket. The proponent was found eligible for a direct sale of land and the sale was agreed to by the Minister for the Environment and Sustainable Development on 6 May 2013, subject to an approved Development Application (DA) and consolidation of the Crown Lease with the holdings currently owned by the Tzanetos Family Group.
3. On 24 April 2014 the Group lodged a second direct sale application for approximately 1017m² of contiguous land to the north of Block 5 (Attachment A), being part of Primmer Court and part Block 53 Section 346 Kambah (DS2013-178, the second application). The proponent was found eligible for a direct sale of land and the sale was agreed by the Minister for Planning on 24 November 2014, subject to obtaining development approval for the consolidated development.
4. Following planning studies undertaken by the Group, land in addition to that approved in the first and second applications was requested on 20 July 2016 (Attachment B). The area identified in green represents an additional 490m² (approximate, subject to survey) more area than previously approved.

Issues

5. The Group has been working closely with major supermarket groups and their preferred designers to understand the needs associated with hosting a modern full line supermarket in the Kambah location. Studies were undertaken to understand both the current and expected future demand requirements of the anchor tenant to ensure that the supermarket delivers the required services to the Kambah community.
6. The planning studies found that the land portions approved in two prior Direct Sale applications only provide a long and narrow floor plate which results in short shelf runs and long walking paths.
7. Feedback received from supermarket operators and their designers resulted in an optimized design with a deeper floor plate (Attachment C) which requires the building to be extended to the west by an area approximately seven metres wide.

Financial Implications

8. The direct sale of land will be subject to three valuations which will be sought after the DA is approved.

Consultation

Internal

9. Not applicable.

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Cross Directorate

10. All directorates as part of the Direct Sale Panel were consulted via an out of session circulation on 12 December 2016 and provided support. Transport Canberra and City Services (TCCS) provided support for the additional land request of 490m² on 28 September 2017.
11. The relevant eligibility requirements for the direct sale of contiguous land are set out in section 122 of the *Planning and Development Regulation 2008*. An assessment against the criteria is provided at Attachment D.

External

12. A revised design with the wider floor plate was put forward by the proponents during a pre-DA meeting held at the Environment and Planning Directorate on 2 June 2016. Since the pre-DA meeting, the proponents have considered the Master Plan requirements and confirm that a realigned Primmer Court (located along the Drakeford Drive verge boundary) can be delivered to TCCS requirements. This will be considered by TCCS once the DA is lodged.
13. At the request of TCCS (prior to providing their support for the additional land), the proponent has also consulted with neighbouring business owners that would be affected by the proposed truck access as a result of the proposed supermarket expansion.

Benefits/Sensitivities

14. Benefits to the Kambah residents are a full line supermarket and shopping precinct renewal, which is in line with the Kambah Group Centre Master Plan 2012, which envisages a major renewal of the village.
15. Sensitivities could result with the neighbouring business owners if a DA is not lodged soon, as consulting without a design being lodged does start to cause confusion in the community. In the period November 2014 to October 2017 a DA has not been lodged for assessment by Environment, Planning Sustainable Development Directorate (EPSDD).

Media Implications

16. At this stage media implications are not expected for the direct sale of the land.

Signatory Name: Bruce Fitzgerald

Phone: 58294

Action Officer: Katherine Hicks

Phone: 54868

Attachments

Attachment	Title
Attachment A	Approved land
Attachment B	Requested land
Attachment C	Plan of proposed extension
Attachment D	Eligibility Assessment Against Criteria

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Tracking No.:

3

Assessment against Criteria – Direct Sale of Land

Tzanetos Family – S & M Tzanetos

Criteria: s122 Direct Sale criteria for leases of contiguous unleased land other than public land – Act, s 240 (1) (a) (ii)

- (1) The criteria for the direct sale of a lease of unleased land other than public land (the **proposed lease**) to the lessee of a lease (the **existing lease**) that is contiguous with the proposed lease are that–
- (a) the grant of the proposed lease will–
 - (i) rectify an existing encroachment on the proposed lease by a building or structure on the existing lease for the purpose of consolidating the proposed and existing leases for subdivision under the *Unit Titles Act 2001*; or
 - (ii) facilitate the achievement of a good planning outcome; and
 - (b) the proposed use of the land is compatible with Territory or Commonwealth government policies applicable to the proposed use; and
 - (c) because of the size, location or configuration of the proposed lease, it is not reasonable or viable to grant the proposed lease as a separate independent lease; and
 - (d) the grant of the proposed lease–
 - (i) will not detract from the amenity of the surrounding area; and
 - (ii) will promote better land management; and
 - (iii) will not unreasonably restrict public access to other land.

Note **Public land**—see the Act, dictionary.

- (2) In this section:

encroachment includes a projection at, above or below ground level.

Response: s122 Direct Sale Criteria for leases of contiguous unleased land other than public land

- (1) (a) (ii) the proponent is in a unique position to develop to the north and south of its existing lease to implement the Kambah Group Centre Master Plan and deliver most of the works included in Stage A of the Master Plan including the realignment of Primmer Court and additional public parking. The development represents a large capital investment that could trigger other owners in the centre to undertake upgrades or redevelopment of the existing facilities and infrastructure.

- (b) the proposed use of the land is consistent with the Kambah Group Centre Master Plan and the proposal is intended to deliver most of the works included in Stage A of the Master Plan. Development of contiguous land to the proponent's existing lease, permits design flexibility and a unique opportunity to deliver a better design outcome than could ever be achieved by selling the land on the open market.
- (c) The location of the requested land is adjoining the proponents existing lease. Although some of the land appears to be viable to be sold independently, further investigation found that due to the constraints of the Kambah Group Centre Precinct Code and the Master Plan, it is in fact not viable to grant the proposed lease as a separate independent lease.
- (d)
 - (i) the direct sale will result in a better design outcome that will better address the planning outcomes of the Kambah Group Centre Master Plan and thereby improving the amenity of the centre.
 - (ii) the direct sale will achieve a better land management outcome because the lessee of Block 5 is required to improve the public realm which will help to revitalise the centre.
 - (iii) the proposal will enhance public access both pedestrian and vehicular by implementing the requirements of the Master Plan and improving the connectivity through the centre.