



## Burton, Natasha

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**From:** [REDACTED]  
**Sent:** Wednesday, 3 September 2014 7:27 PM  
**To:** EPDCAB; Environment; Heritage  
**Cc:** CORBELL; Lauren Kajewski  
**Subject:** Heritage concerns with 2 Fitzroy Street Forrest  
**Attachments:** DA201425608 public comment.pdf; IMAG0972.jpg

Hello

I wrote last year regarding concerns with renovations to 2 Fitzroy Street in relation to the 2004 heritage order for the Fire Station Precinct (Order). The ACT Government confirmed the renovations did not breach the Order as it only applied to original structures (albeit the fences were 1950s and part of the street scape at the time of the Heritage listing).

One of the Heritage officers, Ms Hubert, provided examples of what she viewed to be a breach, including the painting or rendering of brickwork on any original inter-war functionalist building, or any of the 1980s extensions that are part of some of the dwellings.

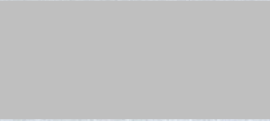
I recently commented on DA201425608 (29 Manuka Circle/2 Fitzroy Street Forrest) please see attached submission. When reviewing the photos, I noted that the brickwork inside the 'garage' frame is painted white, please see attached photo. I am writing to ask if this is in breach of the Order, in particular ii (a) noting 'The original existing external appearance of the buildings including brickwork and their colours...'?

It would be a shame to see the original brickwork painted when this is part of the Order to preserve this amazing precinct.

I ask that I receive a written reply to this query.

Thank you

[REDACTED]



ACTPLA  
Customer Services  
PO Box 365  
Mitchell ACT 2911

To whom it may concern

I would like to make comment on the following Development Application:

**DA 201425608 listed as 29 Manuka Circle Forrest ACT 2603,  
paperwork completed as 2 Fitzroy Street Forrest ACT 2603**


As a local resident, and noting the zoning, I do not oppose the clause variation to the lease to add a home business and non retail commercial use (limited to home office) to Block 8 Section 35 Forrest. However, I would like clarification on the definition of a home office as opposed to business (when speaking with ACTPLA on 8 August I could not be provided with a definition).

At present the location is being used to operate Kascon Projects ([www.kascon.com.au](http://www.kascon.com.au)). Their website indicates at least six staff. I would like clarification if this constitutes a business rather than a home office. There are commonly up to three Kascon branded commercial vehicles located at the residence on weekdays. In addition, this residence has been used by Kascon Projects for in excess of 12 months. Significant construction work has been completed on the site to separate the home office on the ground floor from the upstairs level of the property (including the removal of the internal staircase). I would therefore like to have the following recorded as comments against the DA application:

- The DA notification sign was erected on 18 July however the sign was no longer present at least from 22 August. Once ACTPLA was notified the signage was erected again on 1 August. Therefore there was no public signage for a significant period of the public notification period. To my knowledge no effort was made to rectify the missing sign by the DA applicants.
- The photograph (attachment A - 1) in the 'Statement Against Criteria' documentation is not representative of the property in its present state. Please see attachment A - 2 for a current photograph of 2 Fitzroy Street and A-3 for the property at time of sale in August 2012.
- Prior to June 2013 (and noted in March 2013) extensive internal renovation works had been completed including the removal of the internal staircase to create a separate office/commercial and private residential premises. The photograph at attachment A - 4 shows the property during this period.
- This property has been used as a home office for more than 12 months. The office was occupied in at least April 2013. The photograph at attachment A-5 shows an internal view of 2 Fitzroy Street (taken from the Kascon website).

- There are commonly up to three commercial vehicles (utes) with Kascon branding, and private vehicles on the premises on weekdays. Vehicles associated with the premises are also parked in the two hour parking opposite.
- Prior to March 2014 work was undertaken at the property to lay a fire retardant (concrete flooring) to separate the ground and first floor. I was informed second-hand this is to meet WHS requirements to allow separate residential occupation of the upstairs part of the property to the office on the ground floor. Photographs in attachment A-6 identify the current status of work on the first level.
- Fitzroy Street, rather than Manuka Circle is the main entrance for Kascon. Number 4 and 6 Fitzroy Street are both private residential dwellings. It would be a shame if these residents were impacted by an increase in commercial activity at 2 Fitzroy Street. While the application identifies a home office the presence of commercial vehicles indicates that the residence is being used on a more commercial scale.
- The ACT Heritage Unit was contacted in June 2013 regarding changes made to the front of 2 Fitzroy Street. Concerns were raised by two people in relation to the 2004 Heritage Order ([http://client14.matrix01.act.gov.au/\\_data/assets/pdf\\_file/0008/148364/405.pdf](http://client14.matrix01.act.gov.au/_data/assets/pdf_file/0008/148364/405.pdf)) - the order. A response was received from the ACT Heritage Council on 8 July 2013. No reference number is identified on the correspondence.
- Issues of concern identified in relation to the order for the Fire Station Precinct included :
  - changes to the brick work/driveway on the ground inside the 'fence line'
  - the removal of brick work to the left of the driveway
  - the removal of the mail box to the right of the driveway, and
  - a complete change to the low brick wall structure, including rendering the brickwork a dark grey that does not suit the heritage order for the precinct.
- The Heritage Unit did not believe the order had been violated but did advise the owner that consultation prior to future works should be sought. I was informed that the owner, Mr Kasunic, said he did not realise the front was subject to an order. The Heritage listing was clearly identified as part of the sale of this property.

I believe the information above should be taken into consideration when reviewing DA 201425608. I would also appreciate clarification of what constitutes a home office versus a commercial business.

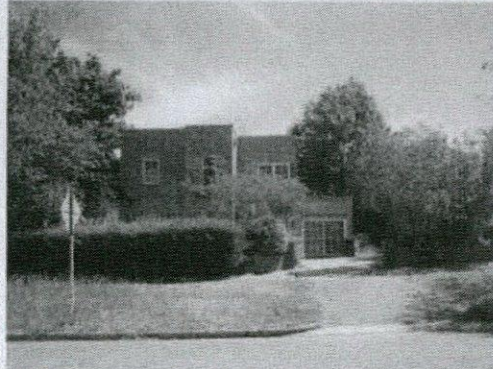
If you would like to discuss any of the comments above please feel free to contact me via the postal address above or 

Regards

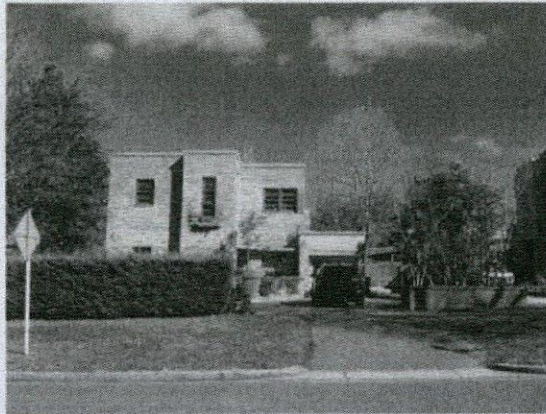


Attachment A: photographic record of 2 Fitzroy Street

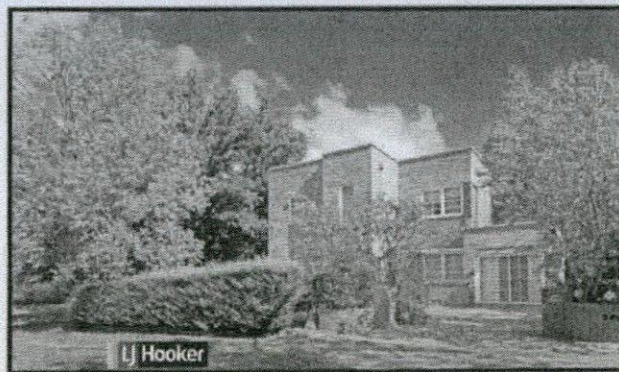
**Attachment A**



1: Photograph used in the 'Statement Against Criteria'. This photograph is prior to any of the works undertaken since early 2013.



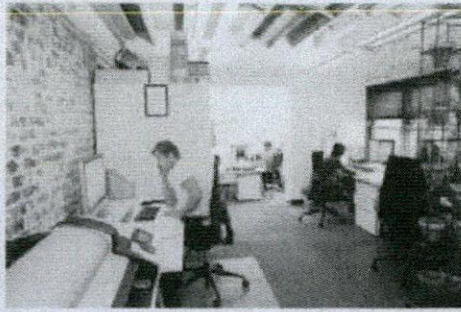
2: Photograph of the property taken August 2014.



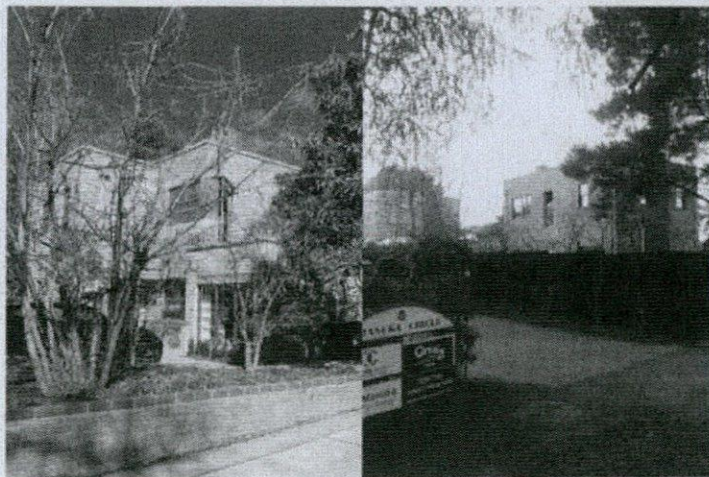
3: Photograph of property from LJ Hooker listing August 2012.



4: Photograph of property post removal of original fence and installation of rendered fencing - June 2013 (prior to windows being replaced).



5: Photograph of internal view (home office) of 2 Fitzroy Street from [www.kascon.com.au](http://www.kascon.com.au) (August 2014).



6: Photographs of property with current state of works - post concrete pour (August 2014).



**From:** Butchart, Rebecca  
**To:** [EPD Ministerials - City Planning](#)  
**Cc:** [Donaldson, Nyah](#)  
**Subject:** 14/22271 - Ministerial-2 Fitzroy Street Forrest - Heritage Concerns - [REDACTED]  
**Date:** Tuesday, 9 September 2014 4:12:00 PM  
**Attachments:** [14\\_22271 - Ministerial-2 Fitzroy Street Forrest - Heritage Concerns - \[REDACTED\]](#)

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Good afternoon

Please see the attached correspondence - Minister Gentleman was copied into the letter addressed to Heritage and as such requires a response. I understand from Pamela that they are already dealing with the matter internally, as such I suggest the Minister's response acknowledges the correspondence and indicates he understands EPD are handling the matter.

Due to GS for clearance COB 15 September 2014.

Many thanks

**Rebecca Butchart | Ministerial Liaison Officer**

**Ph:** (02) 6207 5804 | **Email:** [rebecca.butchart@act.gov.au](mailto:rebecca.butchart@act.gov.au)

Communications, Government Services & Executive Support | Environment and Planning | ACT Government  
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UNCLASSIFIED

<b>To:</b>	Minister for Planning
<b>From:</b>	Director-General Deputy Director-General Executive Director, Strategic Planning
<b>Subject:</b>	2 Fitzroy Street, Forrest – Heritage Concerns

### Recommendation

That you:

- note the contents of this brief; and
- sign the letter at Attachment 1.

### Critical Date:

In the normal course of business

### Background

2 Fitzroy Street, Forrest is located within the Forrest Fire Station Precinct (the Precinct). The Precinct is included on the ACT Heritage Register. The Heritage Guidelines for the Precinct (the Heritage Guidelines) include requirement iii) a) that states:

*External alterations and additions to the existing dwellings shall be consistent with the existing landscape and streetscape values and reflect and complement the architectural style of the original dwellings. This includes alterations to external finishes and changes including painting and adding or removing rendering.*

### Issues

[REDACTED] has written to you, and to ACT Heritage, expressing concerns about the painting of the brick reveals of the former garage door opening at 2 Fitzroy Street, Forrest.

Staff from ACT Heritage have looked at photographs from 2014, 2012, 2004 and 2002 showing the former garage door opening. The photos indicate that the brick reveals of the opening have been painted since 2004, and possibly earlier. The photos from 2002 do not clearly show the reveals to determine if they were painted at that time.

ACT Heritage is aware that the lessee of the property has changed at least twice since 2004. The current lessee of 2 Fitzroy Street, Forrest purchased the property in 2012 well after the brick reveals of the former garage door opening were painted.

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#### Performance Assessment

DUE DATE: ...../...../..... DATE RECEIVED:...../...../.....

SATISFACTORY

UNSATISFACTORY

According to criteria specified in ACT Government Policy Performance Measures

Signature ..... / .../....

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ACT Heritage does not believe that continued investigation of this matter with a view of undertaking compliance action is warranted due to the time that has elapsed since the brick reveals were first painted and the lack of evidence of who may have painted the reveals. Noting that the reveals have been painted for some time, ACT Heritage does not believe it is reasonable to expect the current lessee to remove the paint.

ACT Heritage has written to [REDACTED] advising her that no compliance action will be taken in this instance. A copy of the letter is at Attachment 2.

[REDACTED] has previously made complaints to ACT Heritage about works undertaken at 2 Fitzroy Street, Forrest. As part of the investigation of these complaints, ACT Heritage has provided the current lessee of 2 Fitzroy Street, Forrest with a copy of the Heritage Guidelines for the Forrest Fire Station precinct and advised the lessee to discuss proposed works at the place with ACT Heritage prior to commencing works. [REDACTED] has been advised of this action.

Additionally, the lessee of 2 Fitzroy Street, Forrest has been discussing a proposal for alterations and additions to the existing building with ACT Heritage. This has led to additional discussions and meetings with the lessee in the past ten months including discussions about the Heritage Guidelines. In consideration of this, ACT Heritage does not believe it would be beneficial for another letter to be written to the lessee of 2 Fitzroy Street, Forrest reminding them of their obligations in relation to the Heritage Guidelines.

[REDACTED] has, in her submission on DA 201425608, sought clarification of the definition of a home office as opposed to business use. Section 247(3) of the *Planning and Development Act 2007* (the Act) states “**home business**, carried on on land subject to a residential lease, means a profession, trade or other occupation carried on by a resident of the land.” Home office is not defined in the Act.

Planning Delivery in the Environment and Planning Directorate has advised that pursuant to Section 1.108 of the *Planning and Development Regulation 2008* (the Regulation), home businesses can be conducted from residential leases as exempt development provided these businesses meet all of the criteria under Sections 1.108(1) and (2). The business’s website ([www.kascon.com.au](http://www.kascon.com.au)) identifies there are six staff, which exceeds the requirement under Section 1.108(1)(a) and section 1.108(1)(b) of the Regulation. Further investigation of the property may reveal that the business does not comply with other requirements for exempt development. Consequently, if the lessee of the subject block wants to operate a business from the premises as a ‘home business’, a Development Application (DA) will be required. DAs for home businesses are required to comply with the Territory Plan including the Home Business General Code.

Block 8 Section 35 Forrest (No. 2 Fitzroy Street) is zoned CZ5 Mixed Use Zone. “Home business” and “non-retail commercial use” are both permissible uses within the zone. Non-retail commercial use includes office. DA201425608 has been lodged with the planning and land authority seeking to amend Clause 1(d) purpose clause of the Crown lease by adding non-retail commercial use limited to office and remove Clause 1(e) of the Crown lease. Clause 1(e) states - That the building erected on the said land will be used only as a single unit

private dwelling house and any outbuildings erected on the said land shall not be used as a habitation. This DA is currently under assessment and if approved, the lessee will be able to legally operate the business from the premises.

Until this matter is finalised, it is not appropriate to write to the lessee to remind them of their obligations. However, this may be considered pending the outcome of DA201425608.

**Financial Implications**

There are no financial implications in relation to this brief.

**Internal Consultation**

Consultation with the Planning Delivery branch in the EPD has been undertaken in the preparation of this brief.

**External Consultation**

No external consultation has been undertaken in the preparation of this brief.

**Benefits/Sensitivities**

There are no perceived benefits or sensitivities in relation to this brief.

**Media Implications**

There are no perceived media implications in relation to this brief.

Anna Gurnhill, A/g Manager  
ACT Heritage  
Phone: 6207 7302  
16 October 2014

**Project/Action Officer: Pamela Hubert**

**AGREED/NOT AGREED/NOTED/DISCUSS**

**Mick Gentleman MLA ..... /.../....**



**ACT**  
Government

Environment and Planning

Phone: 6205 3195  
File ref: Forrest 8-35  
Contact Officer: Pamela Hubert



## **2 Fitzroy Street, Forrest – Painting of brickwork**

Thank you for your email of 3 September 2014 regarding the painting of the brick reveals of the original garage opening at 2 Fitzroy Street, Forrest.

You have noted that the heritage guidelines for the Forrest Fire Station Precinct include requirement 3) a) that

“External alterations and additions to the existing dwellings shall be consistent with the existing landscape and streetscape values and reflect and complement the architectural style of the original dwellings. This includes alterations to external finishes and changes including painting and adding or removing rendering.”

Before taking compliance action, ACT Heritage need to consider a range of matters including clear evidence of the person or persons responsible for the potential offence, the time that has lapsed since the offence took place and the severity of the offence.

An inspection of photographs of the building including photographs from 2012 when the property was advertised for sale indicates that the brick reveals were painted at that time and possibly before 2002. Consequently, ACT Heritage does not have sufficient information to determine who was responsible for painting the brickwork and is unable to take any compliance action. Additionally, given the time that has lapsed since the alleged offence occurred ACT Heritage does not believe that compliance action at this time would be successful.

Thank you for your interest in the heritage of the Forrest Fire Station Precinct and we regret that we are unable to assist you at this time.



Anna Gurnhill  
Acting Manager  
ACT Heritage

10 September 2014



**ACT**  
Government

Environment and Planning

MINISTER	<b>PLANNING – MICK GENTLEMAN MLA</b>
SUBJECT	2 Fitzroy Street, Forrest – Heritage Concerns
OBJECTIVE NUMBER	14/22271

Division	Strategic Planning	
Branch/Section	ACT Heritage	
Contact Officer:	Pamela Hubert	Telephone No: 6205 3195

Further Action/Comment: ..... ..... ..... ..... ..... ..... Signature:
---



## Mick Gentleman MLA

MINISTER FOR PLANNING  
MINISTER FOR COMMUNITY SERVICES  
MINISTER FOR WORKPLACE SAFETY AND INDUSTRIAL RELATIONS  
MINISTER FOR CHILDREN AND YOUNG PEOPLE  
MINISTER FOR AGEING

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MEMBER FOR BRINDABELLA

[REDACTED]

[REDACTED]

Thank you for your email of 3 September 2014 about 2 Fitzroy Street, Forrest.

I understand that ACT Heritage has responded to your concerns about the painting of the brick reveals to the former garage noting that the brick reveals have been painted since 2004 and possibly earlier. In view of the length of time the brickwork has been painted and the difficulty of establishing who was responsible for the painting, no further action will be undertaken by ACT Heritage in relation to this matter.

In your submission on DA 201425608, you have asked for clarification of the definition of home office as opposed to business use. Section 247(3) of the *Planning and Development Act 2007* states “**home business**, carried on on land subject to a residential lease, means a profession, trade or other occupation carried on by a resident of the land.” Home office is not defined in the Act.

Sections 1.108(1) and (2) of the Planning and Development Regulation 2008 provides the criteria under which a home business conducted from a residential lease can be considered as exempt development. The use of the place for a business with six staff does not meet these criteria.

As you are aware, the lessee has submitted DA 201425608 to amend the purpose clause of the Crown lease to include non-retail commercial use limited to office. This application is currently under assessment and, if approved, the lessee will be able to legally operate the business from the premises. If it is not approved, the business in its current form, would need to cease.

### ACT LEGISLATIVE ASSEMBLY

London Circuit, Canberra ACT 2601 GPO Box 1020, Canberra ACT 2601  
Phone: (02) 6205 0218 Fax: (02) 6205 0368 Email: GENTLEMAN@act.gov.au  
Twitter: @GENTLEMANMick Facebook: www.facebook.com/MickGentleman



Thank you for your interest in the heritage of the ACT and I regret that I cannot be of further assistance at this time.

Yours sincerely

Mick Gentleman MLA  
Minister for Planning  
October 2014



**From:** Butchart, Rebecca  
**To:** [McEvoy, Justin](#)  
**Cc:** [Hubert, Pamela](#); [Gurnhill, Anna](#); [EPD Ministerials - Strategic Planning](#)  
**Subject:** FW: 14/22271 - URGENT - follow-up action - 2 Fitzroy Street Forrest - Heritage unit  
**Date:** Thursday, 23 October 2014 4:54:00 PM  
**Attachments:** [RE 1422271 - Ministerial-2 Fitzroy Street Forrest - Heritage Concerns - \[REDACTED\]](#)  
[RE 1422271 - Ministerial-2 Fitzroy Street Forrest - Heritage Concerns - \[REDACTED\]](#)  
[Signed Brief.obr](#)  
[Signed response - Minister Gentleman to \[REDACTED\]](#)

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Hi Justin and Pam

As discussed no further action is required. I will close the file in objective/update notes.

Thanks

**Rebecca Butchart | Secretariat Services Officer**

**Ph:** (02) 6207 5804 | **Email:** [rebecca.butchart@act.gov.au](mailto:rebecca.butchart@act.gov.au)

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**From:** Butchart, Rebecca  
**Sent:** Thursday, 23 October 2014 1:42 PM  
**To:** Carter, Tania  
**Subject:** 14/22271 - URGENT - follow-up action - 2 Fitzroy Street Forrest - Heritage unit

Hi Tania

Can you please call me re the attached follow up?

Thanks

**Rebecca Butchart | Secretariat Services Officer**

**Ph:** (02) 6207 5804 | **Email:** [rebecca.butchart@act.gov.au](mailto:rebecca.butchart@act.gov.au)

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**From:** McEvoy, Justin  
**Sent:** Wednesday, 22 October 2014 12:28 PM  
**To:** Butchart, Rebecca  
**Subject:** URGENT - follow-up action - 2 Fitzroy Street Forrest - Heritage unit

Bec

Could you please register and follow-up with the minister's office on the require course of action. Attached emails from Heritage unit and to MinsOff refer. In summary, I requested the following:

- Confirmation that MO's request for the Heritage Unit write to home owners about their obligations regarding paint colours on heritage homes should be actioned separately from the min's letter (14/22271)

Perhaps send through the request to Tania soon and follow-up after question time today. It would be good to get back to Pamela Hubert in Heritage by COB today.

Regards

**Justin McEvoy** | a/g Manager Government and Ministerial

Phone 02 6207 6722

Environment and Planning | **ACT Government**

Dame Pattie Menzies House, 16 Challis Street, Dickson | GPO Box 1908 CANBERRA ACT 2601 |

[www.environment.act.gov.au](http://www.environment.act.gov.au)

**From:** [Environment](#)  
**To:** [McEvoy, Justin](#); [Wilden, Karen](#)  
**Subject:** FW: Heritage concerns with 2 Fitzroy Street Forrest - extra story / level  
**Date:** Monday, 3 November 2014 2:27:00 PM  
**Attachments:** [RE Heritage concerns with 2 Fitzroy Street Forrest - extra story level.msg](#)

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Hello

Justin as discussed this morning please see email below from Pamela. She is taking the lead on this one.

Alex

Alexandra Magee | Senior Communications Officer

**Phone 02 6207 2464** | Mobile 0401 766 218

**Communications** | Environment and Planning Directorate | **ACT Government**

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[www.environment.act.gov.au](http://www.environment.act.gov.au)

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**From:** Heritage  
**Sent:** Monday, 3 November 2014 1:09 PM  
**To:** Environment  
**Subject:** RE: Heritage concerns with 2 Fitzroy Street Forrest - extra story / level

Alex,

I am taking the lead on this one. I have attached the email sent to [REDACTED] earlier today.

Regards

Pamela Hubert | Team Leader (Advice)

**Phone 02 6205 3195**

**ACT Heritage** | Environment and Planning | **ACT Government**

Dame Pattie Menzies House, Challis Street, Dickson | GPO Box 158 Canberra ACT 2601 | [www.environment.act.gov.au](http://www.environment.act.gov.au)

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**From:** Environment  
**Sent:** Monday, 3 November 2014 9:53 AM  
**To:** EPD, Customer Services; Heritage; EPDCAB  
**Cc:** CORBELL; Wilden, Karen; McEvoy, Justin; Carter, Tania; GENTLEMAN  
**Subject:** FW: Heritage concerns with 2 Fitzroy Street Forrest - extra story / level

Morning All,

Could you please provide advice on who is taking the lead on providing a response so we can advise the Minister's office, who have been included in the below email. **Please note:** this issue now falls under Minister Gentleman's portfolio responsibilities.

Please also note this has been sent to the Canberra Times.

Thanks

Alex

Alexandra Magee | Senior Communications Officer

**Phone 02 6207 2464** | Mobile 0401 766 218

**Communications** | Environment and Planning Directorate | **ACT Government**

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[www.environment.act.gov.au](http://www.environment.act.gov.au)

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**From:** [REDACTED]  
**Sent:**  
**To:** EPDCAB; Environment; Heritage; EPD, Customer Services; Russell, Meaghan  
**Cc:** CORBELL; [REDACTED]  
**Subject:** Heritage concerns with 2 Fitzroy Street Forrest - extra story / level

Hello

I am writing again regarding 2 Fitzroy Street which is under the 2004 Heritage Order for the Fire Station Precinct (Order).

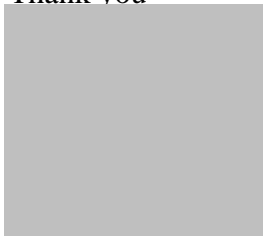
There is currently significant work going on at this site. There is also DA201425608 (29 Manuka Circle/2 Fitzroy Street Forrest) which I made a submission on, and was recently told had still not been actioned.

The entire roof was removed about three to four weeks ago. Today I note there is a structure going on the roof of the house (see attached photo). There has been no DA notifications on the property at all to indicate ANY work of this nature being conducted, I have also checked the ACT website. The only DA for this site in recent years has been DA20142508. In addition I am wondering how this complies/meets the Heritage Order for the Precinct. This will impact the heritage street scape of the entire block where this is visible. The heritage significance of this Precinct is the block in its entirety. If one property makes too many changes it impacts the entire significance of the block.

I ask for urgent information on this site including; if there was a DA why there was no notification on the property, or notification to immediate neighbours (for a heritage block I would assume we should all have been notified), information on how this complies to the heritage of this block, what can be done to make a submission on such significant work given there was no DA notification.

This is very disappointing. The owners of No 2 Fitzroy Street have already introduced rendered fencing to the block which many feel is not in the spirit of the Heritage Order. Now again they are making changes that will impact all owners.

Thank you



**From:** [Magee, Alexandra](#)  
**To:** [Gibson, Penny](#)  
**Subject:** RE: Heritage concerns with 2 Fitzroy Street Forrest  
**Date:** Monday, 3 November 2014 1:37:00 PM

---

Thanks Pen. I believe there is also a Ministerial response floating around...

Alexandra Magee | Senior Communications Officer

**Phone 02 6207 2464** | Mobile 0401 766 218

**Communications** | Environment and Planning Directorate | **ACT Government**

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[www.environment.act.gov.au](http://www.environment.act.gov.au)

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**From:** Gibson, Penny **On Behalf Of** Environment  
**Sent:** Monday, 3 November 2014 1:10 PM  
**To:** Magee, Alexandra  
**Subject:** FW: Heritage concerns with 2 Fitzroy Street Forrest

Hi Alex

Just in environment and saw Fred's reply to your email re this block. This is the previous email around this building – I'll check if Pamela responded but I don't think so.

P

---

**From:** Gibson, Penny **On Behalf Of** Environment  
**Sent:** Thursday, 4 September 2014 9:07 AM  
**To:** Hubert, Pamela  
**Subject:** FW: Heritage concerns with 2 Fitzroy Street Forrest

Hi Pamela

Can I pass this to you please?

Thanks

Penny

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**From:** [REDACTED]  
**Sent:** Wednesday, 3 September 2014 7:27 PM  
**To:** EPDCAB; Environment; Heritage  
**Cc:** CORBELL; [REDACTED]  
**Subject:** Heritage concerns with 2 Fitzroy Street Forrest

Hello

I wrote last year regarding concerns with renovations to 2 Fitzroy Street in relation to the 2004 heritage order for the Fire Station Precinct (Order). The ACT Government confirmed the renovations did not breach the Order as it only applied to original structures (albeit the fences were 1950s and part of the street scape at the time of the Heritage listing).

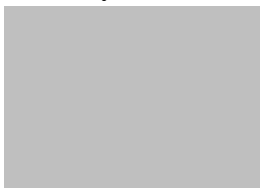
One of the Heritage officers, Ms Hubert, provided examples of what she viewed to be a breach, including the painting or rendering of brickwork on any original inter-war functionalist building, or any of the 1980s extensions that are part of some of the dwellings.

I recently commented on DA201425608 (29 Manuka Circle/2 Fitzroy Street Forrest) please see attached submission. When reviewing the photos, I noted that the brickwork inside the 'garage' frame is painted white, please see attached photo. I am writing to ask if this is in breach of the Order, in particular ii (a) noting 'The original existing external appearance of the buildings including brickwork and their colours...' ?

It would be a shame to see the original brickwork painted when this is part of the Order to preserve this amazing precinct.

I ask that I receive a written reply to this query.

Thank you





UNCLASSIFIED

<b>To:</b>	Minister for Planning
<b>From:</b>	Director-General ✓ <i>3/10/14</i> Deputy Director-General <i>N/A</i> Executive Director, Strategic Planning <i>Stouffmann 3/10/14</i>
<b>Subject:</b>	2 Fitzroy Street, Forrest – Heritage Concerns

### Recommendation

That you:

- note the contents of this brief; and
- sign the letter at Attachment 1.

### Critical Date:

In the normal course of business

### Background

2 Fitzroy Street, Forrest is located within the Forrest Fire Station Precinct (the Precinct). The Precinct is included on the ACT Heritage Register. The Heritage Guidelines for the Precinct include requirement iii) a) that states:

*External alterations and additions to the existing dwellings shall be consistent with the existing landscape and streetscape values and reflect and complement the architectural style of the original dwellings. This includes alterations to external finishes and changes including painting and adding or removing rendering.*

### Issues

██████████ has written to you, and to ACT Heritage, expressing concerns about the painting of the brick reveals of the former garage door opening at 2 Fitzroy Street, Forrest.

Staff from ACT Heritage have looked at photographs from 2014, 2012, 2004 and 2002 showing the former garage door opening. The photos indicate that the brick reveals of the opening have been painted since 2004, and possibly earlier. The photos from 2002 do not clearly show the reveals to determine if they were painted at that time.

### Performance Assessment

DUE DATE: ...../...../..... DATE RECEIVED:...../...../.....

SATISFACTORY

UNSATISFACTORY

According to criteria specified in ACT Government Policy Performance Measures

Signature ..... *[Signature]* 19/10/14

ACT Heritage does not believe that continued investigation of this matter with a view of undertaking compliance action is warranted due to the time that has elapsed since the brick reveals were first painted and the lack of evidence of who may have painted the reveals. Noting that the reveals have been painted for some time, ACT Heritage does not believe it is reasonable to expect the current lessee to remove the paint.

ACT Heritage has written to [REDACTED] advising her that no compliance action will be taken in this instance. A copy of the letter is at [Attachment 2](#).

[REDACTED] has previously made complaints to ACT Heritage about works undertaken at 2 Fitzroy Street, Forrest. As part of the investigation of these complaints, ACT Heritage has provided the lessee of 2 Fitzroy Street, Forrest with a copy of the Heritage Guidelines for the Forrest Fire Station precinct and advised the lessee to discuss proposed works at the place with ACT Heritage prior to commencing works. [REDACTED] has been advised of this action.

[REDACTED] has, in her submission on DA 201425608, sought clarification of the definition of a home office as opposed to business use. Section 247(3) of the *Planning and Development Act 2007* (the Act) states "**home business**, carried on on land subject to a residential lease, means a profession, trade or other occupation carried on by a resident of the land." Home office is not defined in the Act.

Planning Delivery in the Environment and Planning Directorate has advised that pursuant to Section 1.108 of the *Planning and Development Regulation 2008* (the Regulation), home businesses can be conducted from residential leases as exempt development provided these businesses meet all of the criteria under Sections 1.108(1) and (2). The business's website ([www.kascon.com.au](http://www.kascon.com.au)) identifies there are six staff, which exceeds the requirement under Section 1.108(1)(a) and section 1.108(1)(b) of the Regulation. Further investigation of the property may reveal that the business does not comply with other requirements for exempt development. Consequently, if the lessee of the subject block wants to operate a business from the premises as a 'home business', a Development Application (DA) will be required. DAs for home businesses are required to comply with the Territory Plan including the Home Business General Code.

Block 8 Section 35 Forrest (No. 2 Fitzroy Street) is zoned CZ5 Mixed Use Zone. "Home business" and "non-retail commercial use" are both permissible uses within the zone. Non-retail commercial use includes office. DA201425608 has been lodged with the planning and land authority seeking to amend Clause 1(d) purpose clause of the Crown lease by adding non-retail commercial use limited to office and remove Clause 1(e) of the Crown lease. Clause 1(e) states - That the building erected on the said land will be used only as a single unit private dwelling house and any outbuildings erected on the said land shall not be used as a habitation. This DA is currently under assessment and if approved, the lessee will be able to legally operate the business from the premises.

Until this matter is finalised, it is not appropriate to write to the lessee to remind them of their obligations. However, this may be considered pending the outcome of DA201425608.



**Financial Implications**

There are no financial implications in relation to this brief.

**Internal Consultation**

Consultation with the Planning Delivery branch in the EPD has been undertaken in the preparation of this brief.

**External Consultation**

No external consultation has been undertaken in the preparation of this brief.

**Benefits/Sensitivities**

There are no perceived benefits or sensitivities in relation to this brief.

**Media Implications**

There are no perceived media implications in relation to this brief.

Anna Gurnhill, A/g Manager  
ACT Heritage  
Phone: 6207 7302  
30 September 2014

**Project/Action Officer: Pamela Hubert**

**AGREED/NOT AGREED/NOTED/DISCUSS**

Mick Gentleman MLA ..... *Ms* ..... *13/10/14*



## Mick Gentleman MLA

MINISTER FOR PLANNING  
MINISTER FOR COMMUNITY SERVICES  
MINISTER FOR WORKPLACE SAFETY AND INDUSTRIAL RELATIONS  
MINISTER FOR CHILDREN AND YOUNG PEOPLE  
MINISTER FOR AGEING

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MEMBER FOR BRINDABELLA

[REDACTED]

[REDACTED]

Thank you for your email of 3 September 2014 about 2 Fitzroy Street, Forrest.

I understand that ACT Heritage has responded to your concerns about the painting of the brick reveals to the former garage noting that the brick reveals have been painted since 2004 and possibly earlier. In view of the length of time the brickwork has been painted and the difficulty of establishing who was responsible for the painting, no further action will be undertaken by ACT Heritage in relation to this matter.

In your submission on DA 201425608, you have asked for clarification of the definition of home office as opposed to business use. Section 247(3) of the *Planning and Development Act 2007* states "**home business**, carried on on land subject to a residential lease, means a profession, trade or other occupation carried on by a resident of the land." Home office is not defined in the Act.

Sections 1.108(1) and (2) of the Planning and Development Regulation 2008 provides the criteria under which a home business conducted from a residential lease can be considered as exempt development. The use of the place for a business with six staff does not meet these criteria.

As you are aware, the lessee has submitted DA 201425608 to amend the purpose clause of the Crown lease to include non-retail commercial use limited to office. This application is currently under assessment and, if approved, the lessee will be able to legally operate the business from the premises. If it is not approved, the business in its current form, would need to cease.

### ACT LEGISLATIVE ASSEMBLY

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Twitter: @GENTLEMANMick Facebook: www.facebook.com/MickGentleman

Thank you for your interest in the heritage of the ACT and I regret that I cannot be of further assistance at this time.

Yours sincerely



Mick Gentleman MLA  
Minister for Planning  
13<sup>th</sup> October 2014