



08.06.2011 11:55



08.06.2011 11:55



08.06.2011 11:56



Jeep

4x4

EXCEL

08.06.2011 11:56



Record of Inspection

Block: 21 **Section:** 33 **Division:** MONASH **Unit:**

Date of Inspection: 28 June 2011

Time Inspection Commenced: 2.00 pm

Time Inspection Completed: 2.15 pm

Acknowledgement of Consent Form Required: NA

Acknowledgement of Consent Form Completed: NA

Photographic Evidence:

| Photo No. | Photo Name | Taken From |
|-----------|---------------------------------|----------------|
| 1 | Contextual of front of property | Territory Land |
| 2 | Contextual of front of property | Territory Land |

Purpose:

Sam Bond and **Les Atyeo** conducted an inspection in regard to an allegation that a home business was operating from the leasehold, specifically a mechanics workshop.

Findings and Facts:

SB and LA walked onto the leasehold to gain consent to enter the property from the lessee. SB and LA were greeted by [redacted] the lessee. SB informed [redacted] that LA and he were on the leasehold to inspect the home business. SB went through the consent to enter process with [redacted] and informed him of what the inspectors would do e.g. take photographs, measurement sand ask questions [redacted] denied the inspectors access to the property and explained that [redacted] would prefer to have [redacted] the other lessee, and his lawyer present when the inspection occurs. SB and LA were fine with this.

SB then went on to inform [redacted] that the inspectors were also on the leasehold to inspect an unapproved structure in the rear of his property. SB showed [redacted] the S131 (*Building Act 2004*) letter and informed him that under this legislation the inspectors could enter the property without his consent to inspect the alleged unapproved structure. [redacted] objected to this occurring and SB stated that the inspection could also occur at the approved time when [redacted] and lawyer were present. [redacted] was happy with this and the inspectors left the property.

From territory land SB took photographs of the leasehold showing the vehicles located on the frontage.

Observations:

When initially entering the leasehold SB took note of four men working on vehicles within the leasehold. All the men working were wearing uniforms that appeared to have the same logo as noted on [REDACTED] clothing. SB and LA also noted 5 vehicles that were seen on the frontage of the property.

Sam Bond
Inspector
Investigations Unit

Les Atyeo
Inspector
Investigations Unit

5 July 2011







Record of Inspection

Block: 21 **Section:** 33 **Division:** MONASH **Unit:**

Date of Inspection: 18 August 2011

Time Inspection Commenced: 10.30 am

Time Inspection Completed: 11.30 am

Acknowledgement of Consent Form Required: Yes

Acknowledgement of Consent Form Completed: Yes

Photographic Evidence:

| Photo No. | Photo Name | Taken From |
|-----------|--|-------------|
| 1 | Contextual of front of workshop | Leased Land |
| 2 | Contextual of front of workshop | Leased Land |
| 3 | Close up of equipment in workshop | Leased Land |
| 4 | Close up of equipment in workshop | Leased Land |
| 5 | Contextual of equipment in workshop | Leased Land |
| 6 | Close up of sign | Leased Land |
| 7 | Close up of equipment in workshop | Leased Land |
| 8 | Close up of equipment in workshop | Leased Land |
| 9 | Close up of equipment in workshop | Leased Land |
| 10 | Close up of equipment in workshop | Leased Land |
| 11 | Close up of equipment in workshop | Leased Land |
| 12 | Close up of license plate of car worked on in workshop | Leased Land |
| 13 | Contextual of equipment in workshop | Leased Land |
| 14 | Close up of equipment in workshop | Leased Land |
| 15 | Close up of equipment in workshop | Leased Land |
| 16 | Close up of oil dispensers | Leased Land |
| 17 | Contextual of oil dispensers | Leased Land |
| 18 | Close up of equipment in workshop | Leased Land |
| 19 | Close up of signage | Leased Land |
| 20 | Close up of equipment in workshop | Leased Land |
| 21 | Close up of license plate of car worked on in workshop | Leased Land |
| 22 | Close up of license plate of car worked on in workshop | Leased Land |
| 23 | Contextual of office space | Leased Land |
| 24 | Contextual of office space | Leased Land |
| 25 | Contextual of office space | Leased Land |

Purpose:

Sam Bond (SB) and **Les Atyeo (LA)** conducted an inspection in regard to an allegation that a home business was being conducted from the leasehold. It was also alleged that an unapproved structure.

Findings and Facts:

SB and LA walked onto the leasehold and approached the lessee, [REDACTED]. [REDACTED] was standing out the front of the property with two other men. SB introduced [REDACTED] and LA and [REDACTED] ushered the inspectors into his office. [REDACTED] sat down at his desk and SB began the consent to enter procedure. [REDACTED] stopped SB and asked for one of [REDACTED] employees [REDACTED] to be witness to the proceedings. [REDACTED] then informed the inspectors that [REDACTED] was filming the inspection, as [REDACTED] directed the inspector's attention to a man holding a camera. SB and LA did not object to the filming of the inspection.

[REDACTED] then began to ask questions regarding the inspectors associated with the investigation and the nature of the complaint. [REDACTED] informed SB and LA that [REDACTED] has had previous dealings with the Planning and Land Authority which had cost him money to which no action was taken. [REDACTED] wanted a copy of the complaint to ensure that it was not forged by an employee of the authority. SB and LA understood [REDACTED] frustration however informed [REDACTED] that before any further conversation goes ahead that consent to enter the property was needed. SB further informed [REDACTED] that the inspectors were on site under section 131 of the *Building Act 2004* to inspect an alleged unapproved structure. SB provided the signed 131 letter to [REDACTED].

[REDACTED] understood and reviewed the consent to enter form provided to him. SB and LA again informed [REDACTED] that they did not have a copy of the complaint however the information can be obtained from a Freedom of Information application. [REDACTED] understood and asked questions relating to the consent from. [REDACTED] objected the inspectors talking to his staff and requested that all correspondence be done through him. SB and LA obliged to [REDACTED]. [REDACTED] then signed the consent form as did SB and LA.

[REDACTED] then began discussing the operation of [REDACTED] business and referred to [REDACTED] associations with industry bodies. SB then issued a caution to [REDACTED] to inform [REDACTED] that [REDACTED] did not have to do or say anything however anything [REDACTED] did say can be used as evidence. [REDACTED] said he understood and proceeded further to discuss [REDACTED] business. [REDACTED] did not deny that [REDACTED] was operating a business from [REDACTED] leasehold.

SB then asked [REDACTED] if he understood [REDACTED] obligations under planning law in relation to the operation of a home business. [REDACTED] indicated that [REDACTED] was aware. LA then asked [REDACTED] how many of the employees for the business lived on the leasehold. [REDACTED] informed the inspectors that [REDACTED] was the only employee that lives on the leasehold. [REDACTED] informed the inspectors of the employees associated with [REDACTED] business:

• [REDACTED]

Before the inspectors could conduct their inspection [REDACTED] wanted to review some of the correspondence sent by SB. [REDACTED] questioned the wording of the two day consent to enter and the correspondence by email. SB conceded that he understood how the letter could be misunderstood however the purpose of the correspondence was necessary for the progression of the investigation. [REDACTED] understood however wanted to make the inspectors aware of the issue. [REDACTED] then asked for the names of our managers. SB provided the names of Reuben Gaze (Team Leader), Sean Moysey (Manager), Craig Simmons (Director) and David Papps (Director-General).

[REDACTED] again informed the inspectors of [REDACTED] previous experience with the Planning and Land Authority, and explained that this is the reason for his formal behaviour. SB and LA did not raise any concerns in relation to [REDACTED] SB and LA then asked [REDACTED] if they could begin the inspection. [REDACTED] agreed and showed the inspectors to the workshop.

SB and LA proceeded to the workshop. The inspectors noted the internals of the shop and took note of the equipment, tools and parts that were organised within the building. There were four employees working on three vehicles at the time. SB took photographs of the equipment and vehicles. SB and LA then preceded the measure the internals of the structure. SB and LA noticed another area where a car was stored and appeared to be worked at the rear of the workshop. [REDACTED] informed the inspectors that the rear area was [REDACTED] personal garage and was not used as a part of the business. To the right of main workshop was a small room containing motor vehicle oil dispensers.

SB then queried [REDACTED] regarding the office space at the front of the property. [REDACTED] said it was a mixed use area and was used for both personal and business related activities. SB informed [REDACTED] that it may still pertain the area calculated for the operation of the home business. [REDACTED] disagreed.

Once SB and LA completed the inspection for the home business they asked [REDACTED] about the alleged unapproved structure. [REDACTED] directed the inspectors to the rear of the property. The structure was along the rear boundary and was approximately 3 m in height. After assessing the structure SB informed [REDACTED] that he will need to obtain building approval from a private building certifier. [REDACTED] asked how he could obtain the information of a certifier, to which SB and LA suggested going to the ESDD website to find the list of licensed practitioners.

[REDACTED] obliged and SB informed him that further correspondence will be made regarding the operation of the home business. The inspectors then left the property.

Sam Bond

Les Atyeo

Inspector
Investigations Unit

Inspector
Investigations Unit

30 August 2011



DANGER
KEEP OUT
AUTHORISED
PERSONNEL ONLY

18.08.2011 10:58



DANGER
KEEP OUT
AUTHORISED
PERSONNEL ONLY

18.08.2011 10:58



18.08.2011 10:58



NO
SMOKING



18.08.2011 10:58



NO
SMOKING

NO SMC
IN WORKS

ANALYZER



STRICTLY
NO SMOKING
IN WORKSHOP



18.08.2011 10:58



McEwtech
SPILL RESPONSE
KIT

18.08.2011 10:59



18.08.2011 10:59



18.08.2011 10:59



18.08.2011 10:59



18.08.2011 10:59



18.08.2011 10:59

Super Sporti
XJ 10w 30

Automotive Lubricants

Rubia TIR
6600 15w 40

Automotive Lubricants

Automotive Lubricants

S
Gra

18.08.2011 10:59

Automotive Lubricants

TIR
5W/40

Super Sport
Grade 20W/50

18.08.2011 11:00



18.08.2011 11:00

**NO FLUIDS
OF ANY KIND**

USE

WASTE OIL

**HAND WASH
ONLY**



18.08.2011 11:00



18.08.2011 11:04



18.08.2011 11:04



18.08.2011 11:04



VIPER



MD MD MD



waterpump
PRO-TEK
waterpump
Quality
AUTOMOTIVE TIMING KITS

18.08.2011 11:10



VIPER Z

BEWARE
FERAL
CHILDREN

PRO-TEK water pump
QUALITY AUTOMOTIVE TIMING KITS

18.08.2011 11:10



18.08.2011 11:10



(advertisement for The Canberra Times)

Fax to: **The Canberra Times (Classifieds) Fax 6280 2119**
Account Name: ACT Planning and Land Authority
Account Number: 1277730
Department's contact: Customer Service Centre 6207 1923
Publication Date: 5 June 2013
Size of Advertisement: Single Column
Classification: Development Applications
Order Number: MONAS33B21



ACT
Government

Environment and
Sustainable Development

The Planning and Land Authority has received the following development applications:

Development Application 201222161CT: MULTI DWELLING - HOME BUSINESS -
VEHICLE MECHANICAL REPAIRS CENTRE.

Location: Block: **21** Section: **33** Suburb: **MONASH**

Proposed Home based vehicle mechanical repairs.

The applications are available for public inspection at **www.environment.act.gov.au**
(Public Notification) or at Dickson Customer Service Centre between 8:30am and 4:30pm:

Environment and Sustainable Development
Customer Service Centre
Dame Pattie Menzies House, Ground Floor (South)
16 Challis Street Dickson ACT 2602

If you feel an application may impact on you, you may wish to submit a written representation clearly stating the reasons for your submission. Representations must be received by **close of business 27 June 2013** to be considered in the assessment.

Representations can be submitted to actpla_customer_services@act.gov.au or posted to ACTPLA at the above address.

Copies of representations will be provided to the applicant and placed on the public register unless an exclusion has been granted.

For further information please visit www.environment.act.gov.au

From: [Henriquez, Jose](#)
To: [ESDD, Customer Services](#)
Cc: [TAMS CIS ASG DA COORD](#)
Subject: COMM: REFERRAL-TAMS-201222161-21/33 MONASH-01
Date: Wednesday, 19 June 2013 6:56:33 PM

Dear App Sec,

DEVELOPMENT APPLICATION NO: 201222161

Project Description:

MULTI DWELLING - HOME BUSINESS - VEHICLE MECHANICAL REPAIRS CENTRE. Proposed Home based vehicle mechanical repairs.

| | | |
|------------------|--------------------|-------------------------|
| BLOCK: 21 | SECTION: 33 | DIVISION: MONASH |
|------------------|--------------------|-------------------------|

This DA has been assessed in regards to the following:

| | | |
|---------------------|---------------------------------|---|
| Traffic | Driveways | |
| Parking | LMPP/Street Trees | X |
| Public Transport | Street Lighting | |
| Waste Management | Pedestrian Footpath | |
| Stormwater Tie/Sump | Stormwater Easement | X |
| Noise | EDP | |
| Further Information | Amendments/Additions/Alteration | X |
| Acoustics | Capital Works | |
| Lease Variation | Signage | |

X = Areas Assessed.

And our position is:

| | |
|--------------------------------------|---|
| That It Is Supported | |
| That It Is Supported With Conditions | |
| That It Is Not Supported | X |
| That Further Information Is Required | |

Reasons

1. Access to the stormwater easement has not been provided.
2. There are unapproved structures over the stormwater easement that need to be removed.
3. This will need to be done before any proposed structures can be considered for approval.

Additional Comments/Advice (as advice to ACTPLA only, and not to be included in the Notice of Decision)

4. N/A.

Kind regards,

JOSE HENRIQUEZ

DEVELOPMENT APPLICATION COORDINATOR

ASSET ACCEPTANCE | OPERATIONAL SUPPORT BRANCH | DIRECTORATE SERVICES DIVISION |

DEPARTMENT OF TERRITORY AND MUNICIPAL SERVICES | ACT GOVERNMENT



From: ESDD, Customer Services
Sent: Monday, 3 June 2013 10:49 AM
To: TAMS CIS ASG DA
Subject: REFERRAL-TAMS-201222161-21/33 MONASH-01

REFERRAL - TAMS - 201222161 - 21/33 MONASH - 01

DEVELOPMENT APPLICATION NO: 201222161
BLOCK: 21 **SECTION:** 33 **DIVISION:** MONASH

Description - MULTI DWELLING - HOME BUSINESS - VEHICLE MECHANICAL REPAIRS CENTRE. Proposed Home based vehicle mechanical repairs.

There is still an unapproved storage structure constructed above the stormwater which the planning and land authority refused on 8 Feb 2013 - DA No. 201222272.

Pursuant to Section 148(1) of the Planning and Development Act 2007 the ACT Planning and Land Authority requests that you consider the abovementioned development application and provide any written advice no later than 15 working days after the date of this notice (**25/6/2013**).

In accordance with Section 150 of the Planning and Development Act 2007 If advice is not received within the prescribed time it will be taken that you have supported the application.

Please forward any written advice via email to Customer Services actpla_customer_services@act.gov.au

Please use the following format in the subject line of the email when providing advice:

COMM-Agency Name-20080XXXX-Block XX Section XX SuburbXXXXX-01

CANBERRA TIMES ADVERTISEMENT

DATE: WEDNESDAY 5th JUNE



ACT
Government

Environment and
Sustainable Development

THE Planning and Land Authority has received the following development applications:

Development Application
201323327CT: COMMUNITY FACILITY-HALL.

Location: Block: 16 Section: 275
Suburb: **KAMBAH**

Construction of a new hall, courtyard wall, parking, lighting, landscaping and associated works.

Development Application
201323698CT: MULTI DWELLING

Location: Block: 5 Section: 74
Suburb: **WESTON**

22 NAMATJIRA DRIVE
Extension, deck and alterations to unit 4.

Development Application
201323166CT: SERVICES-ATM.

Location: Block: 29 Section: 1
Suburb: **GRIFFITH**

33 BOUGAINVILLE STREET
Proposed replacement of two (2) existing ATM's front panels, new security lights and new signage.

Development Application
201222161CT: MULTI DWELLING - HOME BUSINESS - VEHICLE MECHANICAL REPAIRS CENTRE.

Location: Block: 21 Section: 33
Suburb: **MONASH**

138 CLIVE STEELE AVENUE
Proposed Home based vehicle mechanical repairs.

The applications are available for public inspection at

www.environment.act.gov.au
(Public Notification) or at Dickson Customer Service Centre between 8:30am and 4:30pm:
Environment and Sustainable Development

Customer Service Centre
Dame Pattie Menzies House,
Ground Floor (South)
16 Challis Street,
Dickson ACT 2602

If you feel an application may impact on you, you may wish to submit a written representation clearly stating the reasons for your submission. Representations must be received by **close of business 24 June 2013** to be considered in the assessment. Representations can be submitted to actpla_customer_services@act.gov.au or posted to ACTPLA at the above address.

Copies of representations will be provided to the applicant and placed on the public register unless an exclusion has been granted.

For further information please visit www.environment.act.gov.au



ACT
Government

Environment and
Sustainable Development

THE Planning and Land Authority has received the following development applications:

Development Application
201323730CT: SIGNAGE

Location: Block: 47 Section: 95
Suburb: **CHARNWOOD**

27 CHARNWOOD PLACE
Erect 2 illuminated BWS signs.

Development Application
201323577CT: COMMERCIAL - CONSTRUCTION - OFFICE BUILDING.

Location: Block: 1 Section: 34
Suburb: **GARRAN**

2 GARRAN PLACE
Proposed demolition of existing service station and construction of a new two storey office with basement car park.

Development Application
201120884CT: Proposed amendments to DA approval

Location: Block: 6,7,18 Section: 19
Suburb: **BRADDON**

80, 78 NORTHBOURNE AVENUE
Amendments include three additional dwelling units in the proposal (amendment to the draft Crown lease); refinement of elevation articulation, units design and distribution, core layout, roof services layout, basement layout and commercial areas; deletion of roof top swimming pool; gymnasium relocated to Basement level 2; minor changes to access requirements; and increase of Gross Floor Area from 15,800sqm to 16,100sqm (amendment to the draft Crown lease).

The applications are available for public inspection at

www.environment.act.gov.au
(Public Notification) or at Dickson Customer Service Centre between 8:30am and 4:30pm:
Environment and Sustainable Development

Customer Service Centre
Dame Pattie Menzies House,
Ground Floor (South)
16 Challis Street,
Dickson ACT 2602

If you feel an application may impact on you, you may wish to submit a written representation clearly stating the reasons for your submission. Representations must be received by **close of business 27 June 2013** to be considered in the assessment.

Representations can be submitted to actpla_customer_services@act.gov.au or posted to ACTPLA at the above address.

Copies of representations will be provided to the applicant and placed on the public register unless an exclusion has been granted.

For further information please visit www.environment.act.gov.au

ASSESSMENT REPORT

ASSESSMENT OFFICER: Ada Park

APPLICATION NUMBER: 201222161

BLOCK: 21 SECTION: 33

DIVISION: MONASH

Zone: RZ1 Suburban Zone

The Planning and Development Act 2007

This document provides analysis of a development proposal in the Merit Track in relation to the legislated requirements of the Planning and Development Act 2007 (the Act), specifically Section 119 and Section 120.

Planning and Development Act 2007 - Section 119

In deciding a Merit Track development application, the decision maker must ensure the application meets the following four items numbered S119 (1)(a) to (c) and S119 (2). Approval of an application in the Merit Track must not be given unless the application meets the Section 119 requirements.

| | | | | | | | |
|---|--|----------------|---------------|-------------------|----------------------------------|--------------|----------------------------|
| <p>S119 (1)(a) The relevant code</p> <p>NB: Refer to form Territory Plan Code Requirements Merit Track to complete this question</p> | <p>The relevant code(s) for the development proposal are:</p> <table border="1" data-bbox="633 1123 1461 1270"> <tr> <td>Precinct Code:</td> <td>Precinct Code</td> </tr> <tr> <td>Development Code:</td> <td>Single Dwelling Development Code</td> </tr> <tr> <td>General Code</td> <td>Home Business General Code</td> </tr> </table> <p>The proposal is not consistent with the above code(s) for reasons identified in Form – Territory Plan Code Requirements – Merit Track.</p> | Precinct Code: | Precinct Code | Development Code: | Single Dwelling Development Code | General Code | Home Business General Code |
| Precinct Code: | Precinct Code | | | | | | |
| Development Code: | Single Dwelling Development Code | | | | | | |
| General Code | Home Business General Code | | | | | | |

| | |
|--|--|
| <p>S119 (1)(b) Any land management agreement for the land (for proposed development relating to land comprised in a rural lease)</p> | <p>The proposal is not for a proposed development relating to land comprised in a rural lease.</p> |
| <p>S119 (1)(c) the advice of the Conservator of Flora and Fauna in relation to the proposal (if the proposed development will affect a registered tree or declared site)</p> <p>NB: In accordance with Section 119(3)(a), the application must not be approved unless the approval is consistent with the advice of the Conservator of Flora and Fauna in relation to a proposal that will affect a registered tree or declared site.</p> | <p>The proposal is not for a proposed development that will affect a registered tree or declared site.</p> |
| <p>S119 (2) Consistency with advice given by an entity to which the application was referred under division 7.3.3 of the Act.</p> <p>NB: Under Section 119 (2) of the Act, development approval must not be given for a development proposal in the merit track if approval would be inconsistent with any advice given by an entity to which the application was referred under division 7.3.3 unless the person deciding the application is satisfied that –</p> <p>(a) the following have been considered:</p> <ul style="list-style-type: none"> (i) any applicable guidelines; (ii) any realistic alternative to the proposed development, or relevant aspects of it; and <p>(b) the decision is consistent with the objects of the Territory Plan</p> | <p>The decision is not inconsistent with any advice given by an entity to which the application was referred under division 7.3.3 of the Act.</p> |

Planning and Development Act 2007 - Section 120

In deciding a Merit Track development application, a decision maker must consider the following six items numbered S120 (a) to S120 (f).

| | |
|--|--|
| <p>S120 (a) Zone Objectives</p> <p>Zone Objectives</p> <p>a) Create a wide range of affordable and sustainable housing choices within a low density residential environment to accommodate population growth and meet changing household and community needs</p> <p>b) Ensure development respects and contributes to the neighbourhood and landscape character of residential areas</p> <p>c) Provide opportunities for home based employment consistent with residential amenity</p> <p>d) Provide for a limited range of small-scale facilities to meet local needs consistent with residential amenity</p> <p>e) Promote energy efficiency and conservation and sustainable water use</p> | <p>The development is proposed to take place in the Suburban Zone – RZ1.</p> <p>The proposal is not consistent with objective</p> <p>b) Ensure development respects and contributes to the neighbourhood and landscape character of residential areas</p> <p>c) Provide opportunities for home based employment consistent with residential amenity</p> |
| <p>S120 (b) Suitability of the Land</p> | <p>The proposed development seeks approval to use the land or a building or structure of the land for the purpose(s) of Home Business</p> <p>The proposed use is listed as an assessable development in the Minimum Assessment Track Merit zone development table, and is therefore determined to be a permissible use for the land</p> <p>The proposed development is in accordance with the provisions of the Crown Lease.</p> <p>The land is suitable for the development proposed.</p> |

| | |
|---|---|
| S120 (c) Representations | <p>Representations received are addressed in the Notice of Decision.</p> <ul style="list-style-type: none"> • Refer to the Notice of Decision for the response |
| <p>S120 (d) advice given by an entity in accordance with section 149 of the Act</p> <p>NB: Under Section 150 of the Act, if entity advice is not received within 15 working days, the entity is taken to have given advice in support of the application</p> | <p>Entity advice received is addressed in the Notice of Decision.</p> <p>Comments provided by the referral entities include:</p> <ul style="list-style-type: none"> • Refer to the Notice of Decision for the response. <p>TAMS not supported</p> <p>EPA required further information, not supported in current form.</p> |
| S120 (e) the plan of management for the land (if the proposed development relates to land that is Public Land) | The proposal is not for a proposed development relating to land that is public land. |
| <p>Proposal for development on land reserved under S315 for the purpose of wilderness area, national park, nature reserve, or special purpose reserve.</p> <p>NB: If NO ESO has been submitted, request this as further information, or REFUSE the application. It CANNOT be a condition of the approval as the opinion may reject the findings of the applicant and the development will be IMPACT track.</p> | <p>The proposal does not occur on land that is reserved under S315 of the Act for the purpose of wilderness area, national park, nature reserve, or special purpose reserve.</p> <p>.</p> |
| S120 (f) the probable impact of the proposed development, including the nature, extent and significance of probable environmental impacts. | Based on the matters to be considered by the relevant Code there are no probable environmental impacts of significance associated with the proposed development. |

| | |
|--|--|
| <p>Site Inspection (Although not a legislative requirement as such, a site inspection may assist with the assessment of the proposal against the provisions of S120)</p> | <p>A site inspection was conducted</p> <p>Inspections were carried out in various times to ascertain the number of vehicles parked on the site. The last inspection carried out showed the company vehicle parked on the verge.</p> <p>An vehicles also encroaching on the neighbour's driveway</p> <p>Photos taken.</p> |
|--|--|

Form

Territory Plan Code Requirements Merit Track

ASSESSMENT REPORT

suburban zone

ASSESSMENT OFFICER:

APPLICATION NUMBER: 201222161

BLOCK: 21 SECTION: 33

DIVISION: MONASH

Territory Plan Code Requirements

This document provides analysis of a development proposal in relation to the relevant codes contained in the Territory Plan. The proposal meets all rules of the code(s) that are relevant to the development with the exception of those either identified in the statement against relevant criteria submitted for the proposal or, listed in the tables below. The statement against relevant criteria demonstrates the proposal meets all relevant criteria that are, either:

- the applicable criterion to a relevant rule that is not met; or,
- the criterion is relevant and there is no applicable rule,

with the exception of those listed in the tables below.

1. Assessment of Compliance with the Single Dwelling Housing Development Code

The single dwelling development code is a Code relevant to this proposal. The comments for the criterion or rule identified in the tables below are provided where it is considered warranted to clarify why a particular criterion or rule is either met or not met.

Part A

| | |
|---|--------------------------------------|
| Sub-Element: 2.3 Plot Ratio | |
| Rule: R4 - Mandatory | Applicable Criterion: Not Applicable |
| The proposal does not meet the rule because the total gross floor area (GFA) on the subject site is approximately 52%. The maximum GFA allowable is 50%. Consequently, the development application does not comply with the mandatory rule, Rule 4 of the Code and it cannot be approved. | |

2. Assessment of Compliance with the Home Business Genera Code

| Rules | Criteria |
|--|--|
| 1.1 Use | |
| R1 At least one worker who genuinely lives on the lease is employed at any one time by the business operating from the lease. | This is a mandatory requirement. There is no applicable criterion. |

| | |
|--|---|
| R2 Not more than three people (including resident workers) are employed at any one time by the business operating from the lease. | C2 The amenity of the area is protected by ensuring the scale of Home Business is compatible with the residential character of the locality. |
| R3 The area of the lease used for the business (including storage) is not more than 40m ² . | C3 The amenity of the area is protected by ensuring the scale of Home Business is compatible with the residential character of the locality. |

ASSESSMENT: The proposal does not comply. REFER TO THE NOTICE OF DECISION for the assessment against the above rules and criteria.

Element 2: Building and Site Controls

| Rules | Criteria |
|------------------------------|---|
| 2.2 Parking | |
| There is no rule applicable. | C5 Any vehicles at the lease for the purpose of the business are parked: a) On the lease in a driveway, garage, carport or location screened from any part of the road on which the lease is located; or b) If the business is operated from a unit under the <i>Unit Titles Act 2001</i> – in parking for the unit. |

ASSESSMENT: ASSESSMENT: The proposal does not comply. REFER TO THE NOTICE OF DECISION for the assessment against the above rule and criterion.

| Rules | Criteria |
|------------------------------|--|
| 3.1 Amenity | |
| There is no rule applicable. | <p>C8</p> <p>Retailing associated with the Home Business does not, or is unlikely to generate an increase in traffic, parking demand or noise, which is unreasonably deleterious to the amenity of the surrounding area.</p> |
| There is no rule applicable. | <p>C9</p> <p>Traffic generated by the Home Business does not unacceptably affect the flow of local traffic.</p> |
| There is no rule applicable. | <p>C10</p> <p>The operation of the Home Business does not cause unreasonable annoyance, offence, nuisance or danger to any tenant or occupant of adjoining leases.</p> |
| There is no rule applicable | <p>C11</p> <p>The Home Business does not, or is unlikely to cause, pollution, create a health hazard or present danger which is prohibited under any relevant Territory legislation and/or Code of Practice (as may vary from time to time).</p> |

ASSESSMENT: The proposal does not comply. REFER TO THE NOTICE OF DECISION for the assessment against the above rules and criteria.



ACT
Government

Environment and
Sustainable Development

Notice of decision

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

Merit track

| | | |
|--------------------------------|-------------|-------------------------|
| DA NO: 201222161 | | DATE LODGED: 31/05/2013 |
| DATE OF DECISION: August 2013 | | |
| BLOCK: 21 | SECTION: 33 | SUBURB: MONASH |
| STREET NO AND NAME: [REDACTED] | | |
| APPLICANT: Michael Hunt | | |
| LESSEE: [REDACTED] | | |

THE DECISION

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

I, Rumana Jamaly, delegate of the planning and land authority, pursuant to section 162 of the Act, hereby **refuse** the proposal for:

- **Home business, home based vehicle mechanical repairs.**

in accordance with the plans, drawings and other documents and items submitted with the application approval

PART 1 sets out the Reasons for the Decision

PART 2 is Public Notification and Entity Advice.

PART 3 contains administrative information relating to the determination.

DELEGATE

Rumana Jamaly
Delegate of the planning and land authority
Environment and Sustainable Development Directorate
August 2013

CONTACT OFFICER

Ada Park
Phone: 62071854
Email: ada.park@act.gov.au

PART 1 REASONS FOR THE DECISION

In accordance with section 119 of the Act, the application was refused because it did not comply with the legislated requirements for merit track applications. The application was inconsistent with the relevant codes, being:

- the Single Dwelling Housing Development Code; and
- Home Business General Code;

HOME BUSINESS GENERAL CODE

The development proposal is inconsistent with the rules and criteria of the Home Business General Code.

❖ **Rule 3**

The area of the lease used for the business (including storage) is not more than 40m²

Criterion 3

The amenity of the area is protected by ensuring the scale of Home Business is compatible with the residential character of the locality

The proposed area of the used for the business is over 40m².

| From the Plan what is included in as Home business area | home business |
|---|---------------------------|
| Written on the Site Plan by the applicant "AREA: EXISTING WORKSHOP = | 58.25M² |
| 'EXISTING WORKSHOP AND GARAGE' area as calculated | 57.20m² |
| Included: <ul style="list-style-type: none"> • COMPRESSOR ROOM • EXISTING WORKSHOP AND GARAGE • WALKWAY AND OIL CONTAINER STORAGE AREA | 69.60m² |
| Included: <ul style="list-style-type: none"> • COMMUNAL STORAGE • COMPRESSOR ROOM • EXISTING WORKSHOP AND GARAGE • WALKWAY AND OIL CONTAINER STORAGE AREA | 73.92m² |

The area identified for proposed home business, a motor repair workshop area is well over 40m². The motor repair workshop area is in fact 73.92m². A scale that is far in excess of the limit considered by the Territory Plan to be necessary to meet the objective of protecting residential amenity. Consequently, the proposal is not compatible with the characteristics of a residential area and is inappropriate for the locality.

The proposal is considered to adversely affect the amenity of neighbouring properties due to the scale and the type of home business activity conducted.

❖ **Criterion 8**

Retailing associated with the Home Business does not, or is unlikely to generate an increase in traffic, parking demand or noise, which is unreasonably deleterious to the amenity of the surrounding area.

Several complaints were received by the Land Regulation Section of the planning and land authority since DA 20031044 had been approved.

The issues raised in the complaints are as follows:

- The volume of cars parked on the subject block and the verge;
- Unmanaged high volumes of cars generated by the home business;
- Inappropriate scale of the home business;
- Noise and pollution caused by the home business

On 5/8/2013, the officers from the planning and land authority attempted to carry out a site inspection of the proposal. However, the lessee of the subject site prevented the planning and land authority entering the property and prevented the officers taking any site inspection photos.

Consequently, the planning and land authority was unable to produce any photos as to how many vehicles were parked on the subject site and the verge, and assess the areas that are used for the home business.

However, the previous site inspection photos taken by the Land Regulation Section of the planning and land authority and during the assessment of DA 201222272 provided sufficient information to determine that the complaints received above are a valid complaint.

❖ **Criterion 9**

Traffic generated by the Home Business does not unacceptably affect the flow of local traffic.

The site inspection photo taken during the assessment of DA20122272 shows a vehicle belonging to a client of the motor mechanic repair (proposed home business) or the lessee of the subject site is parked over the subject driveway and onto the neighbouring driveway.

Another two photos show that there are six (6) vehicles parked on the subject block and on the verge.

Further, the previous site inspection photos taken by the Land Regulation Section of the planning and land authority were also considered.

The proposal is considered to be in consistent with **Criterion 9**, the traffic generation by the motor mechanic repair workshop does unacceptably affect the flow of local traffic.

❖ **Criterion 10**

The operation of the Home Business does not cause unreasonable annoyance, offence, nuisance or danger to any tenant or occupant of adjoining leases.

It is considered during the development assessment of DA 201222161, the planning and land authority has gathered sufficient evidence to conclude that the proposed home business does cause unreasonable annoyance, offence and danger to the adjoining residents.

The evidence such as:

- The number of complaints received from the neighbouring residents.
- The scale of development.
- The number of vehicles parked on the subject site and the verge

HISTORY OF THE HOME BUSINESS APPLICATIONS

The applicant for the Development Application for DA 201222161 has stated that a home business was approved previously. However, it was approved with several conditions.

On 7 September 2004, DA 200310444, the same home business-motor mechanic repair workshop was approved on the basis of a Consent Decision pursuant to section 43B of the *Administrative Appeals Tribunal Act 1989*.

Conditions of the Consent Decision included restrictions on the total Gross Floor Area (GFA) for the *Home Business* to 49.8m², clear definition of the area utilised for *Home Business* by means of partitions, including the position and type of partitions used, restriction on the maximum number of client vehicle spaces on site and that the approval would expire after one (1) year from the date of the decision.

The one (1) year approval could have been extended without submission of another home business development application, if there were no adverse reactions to the business in the neighbourhood

Several complaints were received by the Land Regulation Section of the planning and land authority since DA 20031044 was approved and expired of the ESDD authority.

The complaints are as follows:

- The volume of cars parked on the subject block and the verge;
- Unmanaged high volumes of cars generated by the home business;
- Inappropriate scale of the home business;
- Noise and pollution caused by the home business

In relation to the number of cars generated as result of the home business. It causes congestion on the suburban street. There is no management of when the vehicles are dropped off on site. The neighbours advised that the customers bring their vehicles in the morning at 8 am, consequently, there are too many vehicles and customers on site which often flow onto the verge.

It is considered that the motor repair workshop generates a large amount of machinery noise that is beyond what would normally be expected in a residential area. The neighbouring residents advised that the noise often went outside the business operation hours from 8.00am to 5.30pm.

The unpleasant odour/fumes often experienced by the nearby neighbouring residents.

The applicant/lessee attempted to have the same home business (motor mechanic repair workshop) approved since DA20031044 expired. There were two (2) separate development applications, DA 200600041 and DA 200605786 were lodged and both were refused because of the same reasons above

REFUSED ENTITIES

❖ TAMS

TAMS refused the application for the following reasons:

1. Access to the stormwater easement has not been provided.
2. There are unapproved structures over the stormwater easement that need to be removed.
3. This will need to be done before any proposed structures can be considered for approval.

❖ ENVIRONMENT PROTECTION AUTHORITY (EPA)

EPA requires that a waste management plan and a noise management plan be submitted to and endorsed by the EPA prior to Development Application approval.

The development proposal is inconsistent with both the Single Dwelling Housing Development Code and the Home Business General Code of the Territory Plan.

Notwithstanding this, the entities do not support the proposal in the current form.

Consequently, the proposal is refused.

EVIDENCE

Application No. 201222161

File No. 1-2012/01999/1

The Territory Plan zone – RZ1 Suburban Zone

The Development Codes – Single Dwelling Housing Development Code

The General Codes – Home Business General Code

Representations

Entity advice – TAMS and EPA

PART 2 PUBLIC NOTIFICATION AND ENTITY ADVICE

PUBLIC NOTIFICATION

Pursuant to Division 7.3.4 of the Act, the application was publicly notified from 5 June 2013 to 27 June 2013. Written representations were received during public notification.

ENTITY ADVICE

Pursuant to Division 7.3.3 of the Act, the application was referred to entities and advice was received. The referral entities' comments are as follows. A response to the advice is provided as appropriate.

ENVIRONMENT PROTECTION AUTHORITY (EPA)

On 24 June 2013 advice was received from EPA in relation to the proposal. The advice states that:

The above block has been the subject of complaints regarding the mechanical business and the noise and pollution associated with that business.

EPA recommends conditions of approval. Conditions are as follows:

- Noise from the property associated with the mechanical business must comply with the noise zone standard for the area at all times.
- Oil storage tanks must be bunded such that any spills will not enter the stormwater system. The bunding must be a minimum of 110% capacity of the largest vessel within the bund.
- The Environment Protection Authority (EPA) requires that a waste management plan and a noise management plan be submitted to and endorsed by the EPA prior to Development Application approval.

Matters raised have been considered in the assessment.

TERRITORY AND MUNICIPAL SERVICES DIRECTORATE

On advice was received from Territory and Municipal Services in relation to the proposal. The advice states that the proposal is not supported due to the following reasons:

1. Access to the stormwater easement has not been provided.
2. There are unapproved structures over the stormwater easement that need to be removed.
3. This will need to be done before any proposed structures can be considered for approval.

Matters raised have been noted.

PART 3 ADMINISTRATIVE INFORMATION

INSPECTION OF THE APPLICATION AND DECISION

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

RECONSIDERATION OF THE DECISION

If the applicant is not satisfied with the decision to refuse the application, they are entitled to apply to the planning and land authority for reconsideration within 20 working days of being told of this decision or within any longer period allowed by the planning and land authority.

Application forms and further information about reconsideration are available from the planning and land authority's website and Customer Service Centres. The delegate of the planning and land authority reconsidering the decision must be different from, and senior to, the original decision maker. An application for reconsideration does not prevent an application for a review of the same decision being made to the ACT Civil and Administrative Tribunal.

REVIEW BY THE ACT CIVIL AND ADMINISTRATIVE TRIBUNAL (ACAT)

Decisions that are reviewable by the ACAT are identified in Schedule 1 of the *Planning and Development Act 2007*, except for those precluded under Schedule 3 of the *Planning and Development Regulation 2008* – Matters exempt from third-party ACAT review.

This Notice of decision has also been sent to all people who made representations in relation to the proposal.

APPENDIX 1

REVIEW OF THE DECISION

The following notes are provided in accordance with regulation 7 of the *ACT Civil and Administrative Tribunal Regulation 2009*. Refer to the Review by the ACT Civil and Administrative Tribunal (ACAT) section of the Notice of Decision for information about its relevance to this development application.

CONTACT DETAILS

The review authority is the ACT Civil and Administrative Tribunal (ACAT).

| Location | Contact details |
|--|--|
| ACT Civil and Administrative Tribunal Level 4, 1 Moore Street CANBERRA CITY ACT 2601 | Website: www.acat.act.gov.au Email: tribunal@act.gov.au Telephone: (02) 6207 1740 Facsimile: (02) 6205 4855 Post: GPO Box 370, CANBERRA, ACT, 2601 |

POWERS OF THE ACAT

The ACAT is an independent body. It can review on their merits a large number of decisions made by ACT Government ministers, officials and statutory authorities. The ACAT can agree with, change or reject the original decision, substitute its own decision or send the matter back to the decision maker for reconsideration in accordance with ACAT recommendations.

APPLICATIONS TO THE ACAT

To apply for a review, obtain an application form from the ACAT. You can also download the form from the ACT Legislation Register <http://www.legislation.act.gov.au/af/2009-278/current/pdf/2009-278.pdf>.

If you are applying on behalf of an organisation or association of persons, whether incorporated or not, the Tribunal in deciding whether to support this application will consider the effect of the decision being reviewed on the interests of the organisation or association in terms of its objects or purposes. A copy of the relevant documents will be required to be lodged with the Tribunal.

TIME LIMITS FOR APPLICATIONS

The time limit to make a request for a review is 28 days from the date of this Notice of decision. The time limit can be extended in some circumstances (refer to sections 10 (2), 10(3), 25(1)(e) and 25(2) of the *ACT Civil & Administrative Tribunal Act 2008*; section 7 of the *ACT Civil and Administrative Tribunal Procedure Rules 2009 (No 2)*; and section 409 of the *Planning and Development Act 2007*).

FEES

Applications to the ACAT, including an application to be joined as a party to a proceeding, require payment of a fee (the Tribunal Registry will advise of the current fee), unless you are receiving legal or financial assistance from the ACT Attorney-General. You can apply to have the fee waived on the grounds of hardship, subject to approval (refer to section 22T of the *ACT Civil and Administrative Tribunal Act 2008*). Decisions to grant assistance are made on the grounds of hardship and that it is reasonable, in all the circumstances, for the assistance to be granted. Write to: The Chief Executive, Justice and Community Safety Directorate, GPO Box 158, CANBERRA ACT 2601. Ask the ACAT for more details.

TIME LIMITS FOR REVIEWS OF DECISIONS

The ACAT is required to decide appeals in land and planning and tree protection cases within 120 days after the lodging of the appeal, unless that period is extended by the ACAT upon it being satisfied that it is in the interests of justice to do so.

FORMS OF LEGAL, FINANCIAL AND OTHER ADVICE AND ASSISTANCE

The following organisations can provide advice and assistance if you are eligible:

- ACT Attorney-General, write to The Chief Executive, of Justice and Community Safety Directorate, GPO Box 158, CANBERRA, ACT, 2601;
- the ACT Legal Aid Office, telephone 1300 654314;
- Legal Advice Bureau, telephone (02) 6247 5700;
- ACT Council of the Ageing, telephone (02) 6282 3777; and
- Welfare Rights and Legal Centre, telephone (02) 6247 2177.

AWARDING OF COSTS

You will have to pay any costs involved in preparing or presenting your case. The ACAT also has the power to award costs against a party if the party contravenes a direction of the ACAT and the ACAT considers it in the interests of justice to make such an order. This power is in addition to the power of the ACAT to strike out a party and to dismiss an application for failure to comply with the ACAT's directions.

ACCESS TO DOCUMENTS ABOUT THE DECISION

You may apply for access to any documents you consider relevant to this decision under the ACT Freedom of Information Act 1989. Information about Freedom of information requests is available on the planning and land authority's web site or by contacting us by phone on (02) 6207 1923.

PROCEDURES OF THE ACAT

The procedures of the ACAT are outlined on the ACAT's website, including in the Guide to the Land and Planning Division and the Guide to the Hearing. Contact the ACAT for alternative ways to access information about the ACAT's procedures.

TRANSLATION AND INTERPRETER SERVICES

The ACT Government's translation and interpreter service runs 24 hours a day, every day of the week. Telephone 131 450.

| | |
|------------|---|
| ENGLISH | If you need interpreting help, telephone: |
| ARABIC | : إذا احتجت لمساعدة في الترجمة الشفوية ، إتصل برقم الهاتف : |
| CHINESE | 如果你需要传译员的帮助，请打电话： |
| CROATIAN | Ako trebate pomoć tumača telefonirajte: |
| GREEK | Αν χρειάζεστε διερμηνέα τηλεφωνήστε στο |
| ITALIAN | Se avete bisogno di un interprete, telefonate al numero: |
| MALTESE | Jekk għandek bżonn l-għajnuna t'interpretu, ċempel: |
| PERSIAN | : اگر به ترجمه شفاهی احتیاج دارید به این شماره تلفن کنید: |
| PORTUGUESE | Se você precisar da ajuda de um intérprete, telefone: |
| SERBIAN | Ако вам је потребна помоћ преводиоца телефонирајте: |
| SPANISH | Si necesita la asistencia de un intérprete, llame al: |
| TURKISH | Tercümana ihtiyacımız varsa lütfen telefon ediniz: |
| VIETNAMESE | Nếu bạn cần một người thông-ngôn hãy gọi điện-thoại: |

TRANSLATING AND INTERPRETING SERVICE**131 450**

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





ACT
Government

Environment and
Sustainable Development

3 June 2013



Dear Applicant

Suburb: MONASH Block: 21 Section: 33
Development Application Number: 201222161

The *Planning and Development Act 2007* requires the above-mentioned development application to be publically notified. This process includes a written notice being sent to adjoining lessees, a sign placed on the property and a notice in the Canberra Times.

The public notification period for your application will commence on **6 June 2013** and end at the close of business on **27 June 2013**. Representations must be made within the notification period to be considered during the assessment of the application. A copy of any representations received as a result of this process will be forwarded to you.

Please note, the sign will be removed from the property on 28 June 2013.

The prescribed period for making a decision on your application is 30 working days from the date of lodgement. However, if representations are received as a result of the public notification process the time frame for making a decision will be extended by an additional 15 working days.

If the time for deciding the application (the prescribed period) has ended and a decision has not been reached your application will be deemed refused. The Planning and Land Authority (the Authority) will not provide written advice of this decision. It is important to note that the Authority is still able to finalise its consideration of your application and make a decision after the expiration of the prescribed period.

You will be advised when a decision on your application has been made and of any appeal rights that may be applicable.

If you would like any further information in relation to this letter please contact the Customer Service Centre on (02) 6207 1923 or email actpla.customer.services@act.gov.au

Customer Service Centre

Environment and Sustainable Development Directorate

Customer Service Centre

16 Challis Street, Dickson

PO Box 365, Mitchell, ACT 2911 • Telephone: (02) 6207 1923 • Email: actpla_customer_services@act.gov.au

Website: www.environment.act.gov.au

From: [EPAPanningLiaison](#)
To: [ESDD, Customer Services](#)
Cc: [Park, Ada](#)
Subject: RE: REFERRAL -EPA-201222161 -21/33 MONASH-01
Date: Monday, 24 June 2013 4:15:06 PM

ESDD Customer Services,

DA 201222161

| | | |
|-----------|-------------|------------------|
| BLOCK: 21 | SECTION: 33 | DIVISION: MONASH |
|-----------|-------------|------------------|

This DA has been assessed by the following:

| | | | |
|------------------------------|---|--|--|
| Contaminated Lands | | | |
| Hazardous Materials | | | |
| Sediment and Erosion Control | X | | |
| Noise | X | | |
| Air quality | | | |
| Water Resources | | | |

And EPA provide the following:

| | |
|---|---|
| No comments | |
| Recommend Conditions of Approval | X |
| Advice for the applicant | |
| Recommend Lease Conditions | |
| Recommend Not Supported | |
| Further Information/amendments Required | |

The above block has been the subject of complaints regarding the mechanical business and the noise and pollution associated with that business.

Noise from the property associated with the mechanical business must comply with the noise zone standard for the area at all times.

Oil storage tanks must be bunded such that any spills will not enter the stormwater system. The bunding must be a minimum of 110% capacity of the largest vessel within the bund.

The Environment Protection Authority (EPA) require that a waste management plan and a noise management plan be submitted to and endorsed by the EPA prior to Development Application approval.

Regards,

Robin Brown | Environment Protection Authority Planning Liaison



From: ESDD, Customer Services
Sent: Monday, 3 June 2013 10:52 AM
To: EPAPanningLiaison; McKeown, Helen
Subject: REFERRAL-EPA-201222161-21/33 MONASH-01

REFERRAL - EPA - 201222161 - 21/33 MONASH - 01

DEVELOPMENT APPLICATION NO: 201222161
BLOCK: 21 **SECTION:** 33 **DIVISION:** MONASH

Description - MULTI DWELLING - HOME BUSINESS - VEHICLE MECHANICAL REPAIRS CENTRE. Proposed Home based vehicle mechanical repairs.

Pursuant to Section 148(1) of the Planning and Development Act 2007 the ACT Planning and Land Authority requests that you consider the abovementioned development application and provide any written advice no later than 15 working days after the date of this notice (25/6/2013).

In accordance with Section 150 of the Planning and Development Act 2007 If advice is not received within the prescribed time it will be taken that you have supported the application.

Please forward any written advice via email to Customer Services actpla_customer_services@act.gov.au

Please use the following format in the subject line of the email when providing advice:

COMM-Agency Name-20080XXXX-Block XX Section XX SuburbXXXXX-01
Example: COMM-Heritage-200801234-Block 10 Section 10 Dickson-01

Kind Regards

Customer Services

p 6207 1923 | e actpla_customer_services@act.gov.au | web www.actpla.act.gov.au

P Save Paper - Do you really need to print this e-mail?

From: [ESDD, Customer Services](#)
To: [EPAPlanningLiaison; McKeown, Helen](#)
Subject: REFERRAL-EPA-201222161-21/33 MONASH-01
Date: Monday, 3 June 2013 10:51:00 AM
Attachments: [ObjRef.obr](#)

REFERRAL - EPA - 201222161 - 21/33 MONASH - 01

DEVELOPMENT APPLICATION NO: 201222161
BLOCK: 21 SECTION: 33 DIVISION: MONASH

Description - MULTI DWELLING - HOME BUSINESS - VEHICLE MECHANICAL REPAIRS CENTRE. Proposed Home based vehicle mechanical repairs.

Pursuant to Section 148(1) of the Planning and Development Act 2007 the ACT Planning and Land Authority requests that you consider the abovementioned development application and provide any written advice no later than 15 working days after the date of this notice (25/6/2013).

In accordance with Section 150 of the Planning and Development Act 2007 If advice is not received within the prescribed time it will be taken that you have supported the application.

Please forward any written advice via email to Customer Services actpla_customer_services@act.gov.au

Please use the following format in the subject line of the email when providing advice:

COMM-Agency Name-20080XXXX-Block XX Section XX SuburbXXXXX-01
Example: COMM-Heritage-200801234-Block 10 Section 10 Dickson-01

Kind Regards

Customer Services

p 6207 1923 | e actpla_customer_services@act.gov.au | web www.actpla.act.gov.au

P Save Paper - Do you really need to print this e-mail?

From: [ESDD, Customer Services](#)
To: [Bond, Sam](#)
Subject: REFERRAL-INVESTIGATION UNIT-201222161-21/33 MONASH-01
Date: Monday, 3 June 2013 11:06:00 AM
Attachments: [ObjRef.obr](#)

REFERRAL-INVESTIGATION UNIT-201222161-21/33 MONASH-01

DEVELOPMENT APPLICATION NO: 201222161
BLOCK: 21 **SECTION:** 33 **DIVISION:** MONASH

Description - MULTI DWELLING - HOME BUSINESS - VEHICLE MECHANICAL REPAIRS CENTRE. Proposed Home based vehicle mechanical repairs.

Pursuant to Section 148(1) of the Planning and Development Act 2007 the ACT Planning and Land Authority requests that you consider the abovementioned development application and provide any written advice no later than 15 working days after the date of this notice (25/6/2013).

In accordance with Section 150 of the Planning and Development Act 2007 If advice is not received within the prescribed time it will be taken that you have supported the application.

Please forward any written advice via email to Customer Services actpla_customer_services@act.gov.au

Please use the following format in the subject line of the email when providing advice:

COMM-Agency Name-20080XXXX-Block XX Section XX SuburbXXXXX-01
Example: COMM-Heritage-200801234-Block 10 Section 10 Dickson-01

Kind Regards

Customer Services

p 6207 1923 | e actpla_customer_services@act.gov.au | web www.actpla.act.gov.au

P Save Paper - Do you really need to print this e-mail?

From: [ESDD, Customer Services](#)
To: ["TAMS.CIS.ASG.DA@act.gov.au"](mailto:TAMS.CIS.ASG.DA@act.gov.au)
Subject: REFERRAL-TAMS-201222161-21/33 MONASH-01
Date: Monday, 3 June 2013 10:49:00 AM
Attachments: [ObjRef.obr](#)

REFERRAL-TAMS-201222161-21/33 MONASH-01

DEVELOPMENT APPLICATION NO: 201222161
BLOCK: 21 SECTION: 33 DIVISION: MONASH

Description - MULTI DWELLING - HOME BUSINESS - VEHICLE MECHANICAL REPAIRS CENTRE. Proposed Home based vehicle mechanical repairs.

There is still an unapproved storage structure constructed above the stormwater which the planning and land authority refused on 8 Feb 2013 - DA No. 201222272.

Pursuant to Section 148(1) of the Planning and Development Act 2007 the ACT Planning and Land Authority requests that you consider the abovementioned development application and provide any written advice no later than 15 working days after the date of this notice (**25/6/2013**).

In accordance with Section 150 of the Planning and Development Act 2007 If advice is not received within the prescribed time it will be taken that you have supported the application.

Please forward any written advice via email to Customer Services actpla_customer_services@act.gov.au

Please use the following format in the subject line of the email when providing advice:

COMM-Agency Name-20080XXXX-Block XX Section XX SuburbXXXXX-01
Example: COMM-Heritage-200801234-Block 10 Section 10 Dickson-01

Kind Regards

Customer Services

p 6207 1923 | e actpla_customer_services@act.gov.au | web www.actpla.act.gov.au

P Save Paper - Do you really need to print this e-mail?



ACT

Government

Environment and
Sustainable Development

3 June 2013

Dear Property Owner

Suburb: MONASH Block: 21 Section: 33
Development Application Number: 201222161

The *Planning and Development Act 2007* requires the above-mentioned development application recently lodged on your behalf to be publically notified. Letters have been sent to the owners of the properties that adjoin the proposed development, a sign placed on the property and an advertisement placed in the Canberra Times.

The notification period commences on **6 June 2013** and ends at the close of business on **27 June 2013**. A copy of any representations received as a result of this process will be forwarded to the applicant.

The prescribed period for making a decision on your application is 30 working days from the date of lodgement. However, if representations are received as a result of the public notification process the time frame for making a decision will be extended by an additional 15 working days.

If the time for deciding the application (the prescribed period) has ended and a decision has not been reached your application will be deemed refused. The Planning and Land Authority (the Authority) will not provide written advice of this decision. It is important to note that the Authority is still able to finalise its consideration of your application and make a decision after the expiration of the prescribed period.

The applicant will be advised when a decision on your application has been made and of any appeal rights that may be applicable.

If you would like any further information in relation to this letter please contact the Customer Service Centre on (02) 6207 1923 or email actpla.customer.services@act.gov.au

Customer Service Centre

Environment and Sustainable Development Directorate

Customer Service Centre

16 Challis Street, Dickson

PO Box 365, Mitchell, ACT 2911 • Telephone: (02) 6207 1923 • Email: actpla.customer.services@act.gov.au

Website: www.environment.act.gov.au



ACT

Government

Environment and
Sustainable Development

NOTICE OF DEVELOPMENT APPLICATION

Development Application 201222161:

MULTI DWELLING - HOME BUSINESS - VEHICLE MECHANICAL REPAIRS
CENTRE. Proposed Home based vehicle mechanical repairs.

Location: **Block: 21 Section: 33 Suburb: MONASH**

If you feel an application may impact on you in any way you may wish to submit a written representation clearly stating the reasons for your submission.

The application is available for public inspection between 8.30am and 4.30pm weekdays at the **Customer Services Centre, Dame Pattie Menzies House, Ground Floor (right hand building), 16 Challis Street, DICKSON ACT.**

An electronic version of the application can also be viewed on the Environment and Sustainable Development website - www.actpla.act.gov.au (under 'Comment on a DA')

Written representations **must** be received by the Authority by close of business **27 June 2013.**

Representations can be submitted in the following ways:

Email:

actpla.customer.services@act.gov.au

Post:

Customer Services
Centre
PO Box 365
Mitchell ACT 2911

By Hand:

Dame Pattie Menzies
House
16 Challis Street,
DICKSON ACT

It is standard practice for the Authority to acknowledge, in writing, any representations received as a result of public notification within 3-4 business days of the submission being received. If you don't receive this acknowledgement please contact the Authority. If you make your representation within the prescribed notification period the issues raised in your submission will be taken into consideration during the assessment of the development application and you will be notified in writing once the decision has been made.

A copy of your representation will be forwarded to the development application applicant and placed on the public register unless exclusion has been granted. The Planning and Land Authority may approve or refuse to approve an exclusion application (see website for further information).

For more information, please phone the Dickson Customer Service Centre on 6207 1923

Statement Against Criteria

Block 21 Section 33 Monash

Element 1: Use

1.1 - Use

R1 - Complies with the Mandatory Rule.

R2 - Current employees attend a Registered Training Centre and are not considered as a full time equivalent employee.

R3 - Complies with Mandatory Rule.

Element 2: Building and site Controls

2.1 - Storage

R4 – (a) and (b) Complies with the Mandatory Rule

2.2 – Parking

C5 – (a) Criteria met (b) not applicable. Vehicles are removed from the site upon pickup. Any remaining vehicles are suitably parked in an enclosed garage shielded from the road.

2.3 – Signs

R6 – Complies with the Mandatory Rule – No signs are used.

Element 3: Amenity

3.1 – Amenity

R7 – Complies with the Rule. No other approved Home Business is located within the area.

C8 – Criteria met. There is no retail trade.

C9 – Criteria met. The drop off or subsequent pick up times are staggered which does not unacceptably affect the flow of local traffic.

C10 – Criteria met. Having fostered relationships over the course of 20 years with our neighbours of adjoining leases, this has resulted in an open and transparent association and familiarity. Under no circumstances would I allow these relationships be jeopardised nor would I allow their personal amenity be compromised.

C11 – Criteria met. ACTPLA previously provided advice for the installation of appropriate containment areas. The EPA has also provided a standards assessment. A copy of this is on the ACTPLA file held at either the Dickson or Mitchell facility.



ACT

Government

Environment and
Sustainable Development

NOTICE OF DEVELOPMENT APPLICATION

Development Application 201222161:

MULTI DWELLING - HOME BUSINESS - VEHICLE MECHANICAL REPAIRS
CENTRE. Proposed Home based vehicle mechanical repairs.

Location: **Block: 21 Section: 33 Suburb: MONASH**

If you feel an application may impact on you in any way you may wish to submit a written representation clearly stating the reasons for your submission.

The application is available for public inspection between 8.30am and 4.30pm weekdays at the **Customer Services Centre, Dame Pattie Menzies House, Ground Floor (right hand building), 16 Challis Street, DICKSON ACT.**

An electronic version of the application can also be viewed on the Environment and Sustainable Development website - www.actpla.act.gov.au (under 'Comment on a DA')

Written representations **must** be received by the Authority by close of business **27 June 2013.**

Representations can be submitted in the following ways:

Email:

actpla.customer.services@act.gov.au

Post:

Customer Services
Centre
PO Box 365
Mitchell ACT 2911

By Hand:

Dame Pattie Menzies
House
16 Challis Street,
DICKSON ACT

It is standard practice for the Authority to acknowledge, in writing, any representations received as a result of public notification within 3-4 business days of the submission being received. If you don't receive this acknowledgement please contact the Authority. If you make your representation within the prescribed notification period the issues raised in your submission will be taken into consideration during the assessment of the development application and you will be notified in writing once the decision has been made.

A copy of your representation will be forwarded to the development application applicant and placed on the public register unless exclusion has been granted. The Planning and Land Authority may approve or refuse to approve an exclusion application (see website for further information).

For more information, please phone the Dickson Customer Service Centre on 6207 1923



ACT

Government

Environment and
Sustainable Development

Form

Site Inspection Record

Case Officers name: Ada Park

Present at the Site Inspection from ESDD:

Rumana Jamaly, Ada Park and Graham Sandeman

Others present on site: [REDACTED] and his employee (was not introduced to ESDD officers)

Date and time of site inspection: Approximately 11.30am on 5/08/2013

DA Number: 201222161 **Block:** 21 **Section:** 33 **Suburb:** Monash

Briefly explain purpose of site inspection:

- **To ascertain if the 'walkway and communal area' should be included in the area of the Motor repair Home Business and if the 'private garage' is specifically used for the residence and not for the motor repair - Home Business.**

The officers of ESDD attended [REDACTED] residence and knocked on [REDACTED] door to alert [REDACTED] of ESDD's presence.

The lessee [REDACTED] came out of the 'walkway and communal area' at the front of his residence on Block 21 Section 33 Monash and greeted the ESDD officers.

[REDACTED] did not allow the ESDD officers to carry out the site inspection; consequently, the ESDD officers did not enter the residence or the workshop. However the ESDD officers did enter the 'walkway and communal area' to converse with [REDACTED] [REDACTED] did not object to the ESDD officers being in the 'walkway and communal area'.

ESDD took photos of the workshop and the vehicles parked on the driveway and on the verge (company vehicle was on the verge) from the front of the workshop standing on the front driveway.

[REDACTED] questioned if photos were taken, if so [REDACTED] demanded these photos be deleted as [REDACTED] did not give permission to ESDD to carry out the site inspection or take any photos. ESDD deleted the photos.

[REDACTED] claimed that [REDACTED] has previously requested ESDD in writing to contact him to pre-arrange a site inspection on his block. ESDD advised [REDACTED] that when a development application is lodged in relation to a block, the lessee of that block consents to ESDD entering the premises as part of the development assessment process and no pre-arrangement is required

██████ disagreed and objected to ESDD entering ██████ property ██████ was on the phone to his lawyer (what ESDD officers suspected) and sought advice.

██████ asked ██████ employee to close the garage door. Before the garage door was closed, ESDD could see that there were two vehicles along the western side of the existing garage. One was parked on 'Private Parking' area and one on the 'workshop' area. There was another car parked on the eastern side of private garage with its bonnet open.

██████ demanded to see some IDs and Rumana Jamaly provided an ACTPLA ID Card to him and explained that the card has not been updated.

ESDD officers thanked ██████ for ██████ time and left the subject site. Ada and Rumana went across to the other side of ██████ from there ESDD took 4 photos of the vehicles parked on the verge and on the driveway on the subject site.

Again, ██████ came out of his property and demanded that we delete those photos. ESDD advised him that the photos were not taken within ██████ block and these photos can be kept as part of the development assessment process as they were taken from a public road..

██████ again spoke to his lawyer about ESDD's right to keep these photos. ██████ said to ESDD officers, "how would you like it if I come to your house and take photos of your house and send them to you." This may not be exact words that ██████ said, but very similar to this statement.

At this point, ESDD officers felt under duress and consequently deleted the photos from the camera and showed the camera screen to ██████ The camera screen indicated 'no image'

██████ advised ESDD that ██████ has recorded the conversation between ██████ and ESDD and if ESDD uses the photos, ██████ will take legal action against ESDD. ██████ at no point sought permission to record the conversation, ██████ just started recording and advised the ESDD officers that ██████ was recording the conversation.

Notwithstanding this, ESDD has no objection to ██████ providing the conversation recording to any future proceedings related to the proposed Home Business application.

As ESDD officers were not allowed to take photos of the Motor Mechanic Repair – Home Business areas, please refer to **PHOTO A** taken by the Investigations Unit Team of the Utilities, Land and Lease Regulation Section of ESDD on 18 August 2011 below, which indicated a not dissimilar 'WALKWAY AND COMMUNAL AREA' as seen by the ESDD officers on 5/8/2013.



PHOTO A

From what ESDD could see on 5 August 2013 the 'WALKWAY AND COMMUNAL AREA' is used as an office/reception area for the Motor Mechanic Repair workshop.

ESDD also assumes that the two vehicles within the Motor Mechanic Repair workshop and within the 'private garage' all belong to customers.

██████████ advised ESDD that ██████████ requested via email to have a copy of the written complaint received by ESDD about his home business. ESDD advised ██████████ to contact the Customer Services. However, Ada Park also asked ██████████ to redirect that request to her and she will forward it on to the relevant officer from the Customer Services.



PHOTO B

Mr Hunt's RED vehicle was parked on the driveway. The above photo, **PHOTO B** was taken on 5 December 2012 as part of the process for the unapproved storage areas (with the corresponding development application number DA20122272).