



Chris Steel MLA

Minister for Planning
Minister for Skills and Training
Minister for Transport
Special Minister of State

Member for Murrumbidgee

Our ref: 24/405

Mr Tom Duncan
Clerk
ACT Legislative Assembly
Tom.Duncan@parliament.act.gov.au

Dear Mr Duncan

Thank you for your letter of 14 May 2024 about Petition No. E-PET-002-24 and PET-016-24, lodged by Ms Joy Burch MLA, about the vacant supermarket at Richardson shops, Block 4 Section 454 Richardson.

The Government notes the matters raised in the petitions in relation to the current use of the site. It is noted that the petition is requesting ACT Government to provide an update regarding the future use of the site. The following provides information addressing each of the matters raised in the petitions.

a) Future plans for the site

The petition is requesting to seek a full update from the owner on any future plans for the site.

Access Canberra have investigated a non-compliance complaint and has advised that the lessee is not currently in breach of the obligations under the lease.

It is the Territory Planning Authority's (the Authority) understanding that the lessee is experiencing difficulties securing a tenant under the existing lease purpose clause.

It is open for the lessee to submit a development application (DA) to the Authority for a lease variation to add uses to a Crown lease, subject to the provisions of the Territory Plan. It is noted that

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the subject site is privately leased and that it is up to the proponent to determine which future use they would like to pursue for the site.

The Government will assist the lessee, where appropriate, to encourage the use of the site and Access Canberra will continue to monitor the site to ensure there is no future breach.

b) Obligations in the Crown lease

The petition is requesting advice on what obligations the owner has in terms of meeting all the conditions on the use of land agreement.

The use of land for this site is administered through a Crown lease. The block is privately leased and expires on 21 February 2082. In 1989, the Crown lease was granted under the *City Area Leases Ordinance 1936* for the purpose of retail and/or personal services. The Authority is of the view that the current provisions in the Crown lease do not establish a set length of time a block can be vacant.

Under the provisions of the Crown Lease, private owners of commercial premises are responsible for keeping the block clean, and maintaining, repairing and keeping in repair the premises on the block. Failure to keep the block clean is a Controlled Activity under Schedule 2.2 of the *Planning Act 2023*, and the Authority has powers under Part 11.2 of this legislation to make a Controlled Activity Order, if necessary, requiring a leaseholder to take certain actions to bring the leasehold into compliance with the legislation and the Crown Lease. When determining whether a leasehold is unclean, Access Canberra assesses a site in accordance with several criteria. For example, if the land visible from the public domain is covered in items such as rubbish, builder's spoil, scrap timber or other items.

Access Canberra inspected the site and determined that the lessee is not currently in breach of the obligations under the lease.

c) Residents options

The petition is requesting advice on what residents can do to compel owners to provide a public good. As described above, the subject site is a privately leased block and therefore the ACT Government has limited options to make this service available, unlike ACT Government owned public goods. That said, Access Canberra is able to take action when a lessee is non-compliant with the provisions in the lease.

If a person believes a lessee is not meeting obligations of their Crown lease, then a complaint can be made with Access Canberra. Further information on the complaints process is available at:

- <https://www.planning.act.gov.au/professionals/regulation-and-responsibilities/compliance-and-disciplinary-action> and
- <https://www.planning.act.gov.au/contact/disputes-and-complaints#:~:text=If%20your%20complaint%20relates%20to,out%20the%20online%20feedback%20form.>

In addition to the above, residents are able to contact the lessee directly to show interest in utilising the proposed future uses which may provide confidence for future tenants that the site will be viable.

d) Alternate use of the land

The petition is requesting advice of what alternate use of the land and site can be considered. The subject site is Block 4 Section 454 Richardson which is located in the is CZ4 Local Centre Zone. The Territory Plan identifies a number of assessable uses for this zone under the Land Use Table in the *E02 – Commercial Zones Policy*. These assessable uses include uses such as animal care facility, bulky goods retailing, business agency, café, community activity centre, craft workshop, drink establishment, early childhood education and care, health facility, indoor entertainment facility, multi-unit housing, office, produce market, restaurant, shop, take-away food shop and veterinary clinic and hospital.

Given the block is privately leased, it is up to the lessee whether an application is sought to add any additional allowable uses to the Crown lease.

e) Any required planning process/change

The petition is requesting advice of what changes can be made to planning rules such as purpose clause changes to the crown lease that would facilitate more timely responses and remedy for situations such as this. The current planning system already includes processes or options to increase opportunities for this site.

A development application (DA) is required for a lease variation to add any additional uses to a Crown lease. The DA is assessed by the Authority against the requirements of the Territory Plan and *Planning Act 2023*. A DA for a proposed lease variation is publicly notified for a minimum of 15 working days where the community is able to comment on the proposal. The Authority will also seek advice on the application from various entities.

If the Authority approves an application, then the lessee must undertake administrative steps to register the lease variation. The administrative steps may require the determination and payment of a lease variation charge (LVC).

f) Options to Develop the Surrounding Site to Increase Activity at the Shops

There are currently three undeveloped parcels of land which are unleased and managed by the ACT Government north of the site. Theses parcels are identified as Block 15, Block 16 and Block 17 Section.

The blocks are currently zoned CZ4 - Local Centre Zone and are situated between a public park and the Richardson shops site. Under the current zoning, the sites could allow for a range of uses under the Territory Plan. This includes such as housing and commercial opportunities. This would align with current Government policy to revitalise shopping centres, which is identified in the Statement of Planning Priorities. Government will also explore changes planning changes that could increase potential undertakings on the sites, such as block consolidation or amendments to planning controls.

Following this response to the petition, Government will undertake the necessary planning work to facilitate release of the sites through the future Indicative Land Release Program.

g) Report findings to the assembly

The petition is requesting to report any findings and progress back to the Assembly by 27 August 2024.

I would like to reiterate that the Government is not in a position to mandate or apply a timeframe on the lessee to secure a tenant for the site. The tenant arrangement and future use of the site, including any future lease variation, is a commercial decision for the lessee and the future tenant for the site.

However, Government can encourage activation of the shopping site through the release of Government held land in the broader areas to encourage further activity at the Richardson shops. In response to the petition, Government will look to release adjoining sites to the market in future through it's land release processes.

It should be noted that the current leasing and planning system encourages an efficient and continual use of a site. The ACT Government will guide lessees through any required government processes and assist, where appropriate.

Thank you for providing me with this petition, I trust the information in this letter is helpful to the Principal Petitioner and the Sponsoring Member.

Yours sincerely



Chris Steel MLA
13 August 2024