



Australian Government
National Capital Authority

Report on Consultation

Development Control Plan 21/01

Part Block 11 Section 38 Fyshwick (Dairy Road Precinct)

July 2021

1.0 Introduction

1.1 Purpose and Background

This report summarises the public consultation process undertaken by the National Capital Authority (NCA) on Draft Development Control Plan 21/01 (DCP) for part Block 11 Section 38 Fyshwick (the site). The site is adjacent to Monaro Highway, which is defined as an Approach Route in the National Capital Plan (the Plan). The Monaro Highway is the key southern approach to the Central National Area (CNA).

The purpose of the DCP is to provide planning guidance for future development within the framework of the Plan. DCP 21/01 establishes the planning and urban design provisions for the subject site, including building height, setbacks and design, landscape character, access and parking.

1.2 National Capital Plan Requirements

The National Capital Plan (the Plan) came into effect on 21 January 1990. The subject site, part 11 Section 38 Fyshwick is adjacent to Monaro Highway, an Approach Route as defined in the Plan. In accordance with Section 4.24 of the Plan, Special Requirements apply to development on all land which fronts directly onto Approach Routes and is not more than 200 metres from their middle lines.

Special Requirements state:

‘Development along the identified Approach Routes is to conform to Development Control Plans agreed by the National Capital Authority, which seek to enhance the surrounding predominantly rural character and landscape outside the urban areas. As the Approach Routes enter the built up areas, the emphasis will shift to a more formal character.’

The purpose of a Development Control Plan (DCP) is to provide guidance for the future development of the subject site within the framework of the National Capital Plan and the Territory Plan. In the absence of a provision to the contrary, all development should be in accordance with the relevant provisions of the Territory Plan. Where an inconsistency arises between the Territory Plan and the National Capital Plan, the National Capital Plan prevails.

The draft DCP 21/01 was prepared in accordance with Plan. The provisions of the DCP apply to the Dairy Road Site as described in Figure 1.

1.3 The site

The subject site is located approximately 5 kilometres south-east of Canberra’s city centre, is within 3 kilometres of Canberra Airport, and is in close proximity to other mixed use precincts. The topography of the site and land immediately adjoining the site to the east results in the site sitting below the level of the Monaro Highway Approach Route. Established vegetation exists within the road reservation reducing the impact of existing and future built form on the site.

Redevelopment of the site presents an opportunity to transform an industrial site into a mixed use precinct of the highest quality and design. Adaptive reuse of former industrial buildings coupled with new buildings, landscaping and public art can facilitate a vibrant place where people live, work, create and play.



DCP 21/01 - LOCALITY MAP

Figure 1 – Locality Map of the subject site

1.3 Effect of the Development Control Plan

DCP 21/01 includes the following provisions:

- general planning and urban design objectives for development of the subject site
- requirements for building height and setback, and architectural quality in built form
- requirements for an enhanced landscape character along the Monaro Highway frontage
- requirements for vehicular access, parking and movement.

2 Public consultation

2.1 Stakeholders

On 16 January 2021, the NCA released the draft DCP for public consultation. The following stakeholders were identified as having an interest in the future development of the site:

- Molonglo Group
- Lake Burley Griffin Guardians
- Capital Woodlands and Wetlands Conservation Trust
- Canberra Ornithologists Group
- Conservation Council ACT Region
- Inner South Canberra Community Council
- Kingston and Barton Residents' Group
- Australian Institute of Architects
- Canberra Institute of Technology.

All identified stakeholders were advised by letter and/or electronic mail about the release of the draft DCP for public comment.

The Molonglo Group are the owners of the site.

2.2 Release of the draft Development Control Plan for public comment

The public consultation period ran for six weeks in accordance with the NCA's 'Commitment to Community Engagement (August 2015)'. The consultation process included:

- 16 January 2021 – draft DCP published on the NCA's web site.
- 16 January 2021 – a notice was published in *The Canberra Times*.
- 18 January 2021 – written notices sent to identified key stakeholders.
- 12 February 2021 – period for written submissions concluded.

3 Issues raised as part of consultation

The NCA received six written submissions in response to the draft DCP. All submissions were acknowledged by the NCA.

The key issues raised in submissions are outlined below. The content of each submission is at [Attachment A](#).

3.1 Building Height

Comments received

Three submitters raised building height as an issue, with arguments presented for both increasing and decreasing height limits on the site.

The Lake Burley Griffin Guardians suggested that the 25 metre building height limit proposed in the draft DCP was too high and that maximum permitted height should be reduced to 20 metres. The Guardians also suggested that the DCP could be more specific about the scale of new or altered buildings allowable in proximity to the high pressure gas pipeline traversing the site.

The ACT Government's Environment Planning and Sustainable Development Directorate (EPSDD) requested higher building height limits to allow for a variety of commercial buildings of eight storeys in height, consistent with Territory Plan Variation 377.

EPSDD also suggested that a strict 25 metre building height limit, without allowance for building elements such as rooftop plant and equipment, may compromise overall building design, amenity and viability of the precinct which is intended to be transformed from an industrial site to a vibrant and high quality mixed use precinct.

The Molonglo Group sought changes to building height provisions including:

- that building heights be permitted to 32 metres above datum ground level
- rooftop plant and other building elements such as antennas, photovoltaic cells, living infrastructure, etc, be excluded from the 32 metre height limit.

Reasons offered to support the suggested changes included:

- 32 metres allows for eight storey buildings consistent with Territory Plan Variation 377
- translation of number of storeys (eight) into metres above ground level does not adequately consider that the zoning of each area accommodates a range of building types each with different functional needs and differing floor-to-floor heights
- while residential uses are permitted in the CZ3 zoning permitted under the Territory Plan, residential uses cannot be located within the area subject to the DCP due to existing infrastructure and environmental standards
- the eight storey limit allowed for under Territory Plan Variation 377 was based on economic outcomes considered for development of the Dairy Road site, and introduction of a 25 metres height limit removes their ability to meet a development yield consistent with economic outcomes
- restrictions on roof top building elements may impact on the capacity to deliver other objectives, such as those concerning sustainability objectives and living infrastructure.

NCA response

The NCA notes the varying views concerning permitted building heights on the site. Having regard to building height limits permitted for the remainder of the Dairy Road precinct under the Territory Plan (8 storeys), the NCA is of the view that optimum planning outcomes for the site can be achieved with greater consistency between planning controls. The building height limits will assist in

facilitating innovative design and high quality public spaces within a mixed use precinct. The DCP however, expresses maximum building height limits in metres as the NCA is concerned with overall building height and scale rather than the number of storeys that can be achieved.

The DCP has been amended to formalise the retention of the 12 metre high (maximum) warehouse that runs parallel to the Monaro Highway and to enable buildings of up to 32m on the remaining portions of the subject site. The NCA believes this achieves a balanced outcome.

The existing warehouse building provides bespoke spaces for a range of creative businesses, start up, and recreational facilities. The retention of the warehouse will enable the development to reflect the original character of the site and will contribute to sustainability of the precinct through repurposing of existing building fabric. Should this building be demolished in the future, new development is permitted only to a height approximate to the current building.

The NCA noted that the topography of the site and land immediately adjoining the site to the east results in the site sitting below the level of the Monaro Highway Approach Route. The landform, together with established vegetation exists within the road reservation reducing the impact of existing and future built form on the site.

The DCP has also been amended to clarify that building elements such as roof top plant and habitable or occupiable rooms are not permitted above permitted building height limits. This assists with interpretation of the DCP and ensures that permitted building height limits are unambiguous.

The final DCP clauses regarding height controls are detailed in section 4 of this report.

3.2 Setbacks

Comments received

The Molonglo Group requested that setback provisions for the Monaro Highway be amended to allow flexibility and for planning regulators to consider innovative design solutions. The Molonglo Group suggested that this could be achieved by adding wording to the clause so that provision required a 10 metre setback, except where otherwise agreed by the NCA. Soft landscaping within the setback area would still need to meet the landscape provisions of the DCP.

NCA response

The DCP will be administered by the ACT planning authority. The NCA considers it important that DCPs are unambiguous in their intent to enable accurate interpretation by the ACT planning authority and not add to regulatory burden.

The NCA undertook further review of the site, its topography, and existing vegetation and concluded that these characteristics could allow for a reduced building setback whilst still enabling deep root planting and healthy vegetation growth that will enhance the existing landscape. The NCA has agreed to define a building setback of a minimum of 6 metres from the Monaro Highway property boundary.

The NCA notes that a 6 metres building setback is a variation from provisions in other DCPs for sites adjacent to Approach Routes. The NCA is of the view however, that given the unique circumstances of the site that this should not set a precedent for other sites.

The relevant setback provision has been amended to read:

All buildings and structures must be setback a minimum of 6 metres from the subject site boundary to the Monaro Highway.

Clauses requiring a composition of soft landscaping within the setback area, and which meets other requirements of the DCP, remain unchanged.

3.3 Landscape

Comments received

The Lake Burley Griffin Guardians suggested that a lower density of development on site and greater buildings setback would allow for more deep root planting and long-lived trees to be planted along the Monaro Highway frontage.

NCA response

The NCA is of the view that setback provisions (as amended and detailed in section 3.2 of this report) will allow for sufficient deep root planting to the Monaro Highway frontage. Landscape provisions of the DCP require this setback to be landscaped with a dense tree and shrub plantings, with trees selected for their suitability for the Canberra climate and capacity to grow to 10 to 20 metres in height at maturity.

3.4 Environmental matters

Comments received

A number of comments were received concerning environmental matters such as site contamination, air quality, and noise, as well as the impacts of development on the Jerrabomberra Wetlands and bird species that use the wetlands as habitat.

The ACT Government's Environment Protection Authority (EPA) submitted to the NCA that the following environmental concerns have not been adequately addressed:

- land contamination
- current land use compatibility issues, both internal and external to the site
- potential and use compatibility issues and impacts from the surrounding estate including noise, odour and other pollutants.

EPA noted that a range of assessments has not been undertaken or adequately addressed. For example, the site has not been assessed for contamination, noise and air emission impacts including odour has not been adequately assessed or addressed. EPA recommended the following:

- That an environmental assessment of the site be conducted in accordance with endorsed guidelines by a suitably qualified environmental consultant, with findings independently audited, to ensure that adverse impacts of contaminated land on the environment and human health are appropriately assessed and managed.
- That an air quality assessment be undertaken to demonstrate that existing uses on the site will not have impacts on existing and proposed sensitive land uses.
- That an acoustic assessment of noise impacts from existing industry on site, internal roads and nearby rail needs to be undertaken to determine if future uses are suitable for the site.

The Griffith Narrabundah Community Association (GNCA) separately raised concerns about air quality impacts to the Jerrabomberra Wetlands Nature Reserve. GNCA suggested that a permanent air-quality station should be installed in the precinct.

NCA response

Territory Plan Variation 377 contains a number of requirements addressing the environmental matters raised through submissions. For example, Territory Plan provisions require:

- an acoustic assessment demonstrating that existing industrial uses will not impact the existing and proposed sensitive uses for the Dairy Road site

- an environmental assessment concerning contamination from previous land uses must be undertaken to demonstrate that the proposed land uses are suitable for the site
- an air quality assessment to demonstrate existing industrial uses will not impact the existing and proposed sensitive uses for the Dairy Road site.

3.5 Other matters

Comments received

Other matters raised in submissions included bushfire, and concerns regarding increased use of the Jerrabomberra Wetlands.

EPSDD advised that the DCP area is a bushfire prone area and that fire management zones should be noted under the landscaping guidelines. Any further landscaping should consider bushfire protection principles so that asset protection zone is maintained.

The Canberra Ornithologists Group (COG) noted that the Jerrabomberra Wetlands is the premier wetlands bird habitat in the ACT, with around 170 bird species (including 80 species of waterbird) having been recorded using habitat provided by the wetlands. The wetlands are of national importance as an important drought refuge for water-based species, and a critical seasonal habitat for threatened migratory species.

COG outlined their key issues as:

- the need for high standard/best practice design and environmental provisions
- minimisation of human impacts on, and avoidance of inappropriate recreational activities in a sensitive nature reserve.

COG suggested that planning principles in the DCP could address these concerns, for example by specifying that development proposal include adequate provisions for exercise and recreational amenities and facilities for residents, sufficient open space on the site itself, and passive and active recreational facilities. These features may help reduce the impacts on the wetlands nature reserve by reducing the proportion of residents seeking recreational activities in the reserve. Planning principles could also specify that access to the wetlands is via only established entrance routes to manage visitor impact.

NCA response

The DCP has been amended to ensure that landscape design reflects bushfire planning principles. The following point has been added to the clause setting out matters to be addressed in landscape design:

Landscape design must...demonstrate consideration of bushfire planning principles and ensure that Asset Protection Zones established under any ACT Government strategic bushfire management plan are adequately maintained.

Development on the site will also be subject to Territory Plan provisions concerning bushfire, including the Planning for Bushfire Risk Mitigation General Code. This code provides guidance to mitigate adverse impacts from bushfires in the ACT, and is taken into account by EPSDD when determining development applications.

Territory Plan Draft Variation 377 introduced provisions for the site to address adverse ecological impacts on the Jerrabomberra Wetlands. For example, the Estate Development Plan prepared for the site must demonstrate the following public realm considerations:

- the location and provision of pedestrian access to the wetlands to ensure that access is suitable and capable of dealing with the expected increase in patronage as a result of the future population on the site

- provision and location of suitable open space and recreational facilities on the site to ease pressure on the wetlands as a recreational destination
- adequate infrastructure to mitigate any potential significant adverse environmental impact on the wetlands from pedestrians and cyclists leaving the site.

4 Conclusion

Six submissions were received in response to draft DCP 21/01. In response to submissions, a number of changes to the DCP were made in regard to building height, setbacks and landscape design.

As a result of changes to building height clauses, the relevant section of the DCP reads as follows:

- a. DCP drawing 21/01-01 illustrates permitted building heights on the subject site. The DCP drawing shows variable permitted building height limits of up to 32 metres and 12 metres, the latter being in the location of the rectangular portion of the site that contains the retained and repurposed warehouse building running parallel to the Monaro Highway.
- a. Existing warehouse facilities located within the subject site should continue to be repurposed for creative businesses, start-ups, cultural and recreational facilities, and to contribute to the environmental sustainability of the precinct through adaptive reuse of existing building fabric. Should warehouse buildings be replaced, buildings of a similar scale and in compliance with the height limit, may be constructed where they provide for a similar range of uses identified above.
- b. New buildings that contribute to a diverse and active precinct are permitted within the area subject to a maximum building height limit of 32 metres.
- c. Building height measurement includes building elements such as, but not limited to, roof top plant, lift overruns, antennas, photovoltaic panels, flues and vents.
- d. No building elements are permitted above the maximum building height.

As a result of the change to the building setback clause, the relevant clause of the DCP reads as follows:

- a. All buildings and structures must be setback a minimum of 6 metres from the subject site boundary to the Monaro Highway.

The following landscape clause has been added in regard to bushfire planning:

- a. Landscape design must... demonstrate consideration of bushfire planning principles and ensure that Asset Protection Zones established under any ACT Government strategic bushfire management plan are adequately maintained.

Attachment A – Submissions received

The text provided below largely reflects the full submission received. Personal details or identifying information (where people have requested anonymity) have been removed. Some minor changes have been made (for example, to correct spelling or to provide consistency of terms used in this report).

The NCA seeks an open and transparent consultation process. The name of each person has been published, except where requests for confidentiality were made through submissions or in discussions with officers of the National Capital Authority.

Submission Number	Submission Name	Submission
1	Environment Protection Authority	<p>Formal consultation with mandatory agencies on Draft Variation 377: Dairy Road - Blocks 11 and 12 and part Block 14 Section 38 Fyshwick.</p> <p>Draft Variation 377 to the Territory Plan was referred to the Environment Protection Authority (the Authority) as a mandatory referral agency under section 61 of the <i>Planning and Development Act 2007</i> (the Act) for consideration before it is released for public consultation.</p> <p>The Authority has reviewed the Draft Dairy Road Planning Report dated July 2020 by Molonglo (Planning Report) to inform Draft Variation 377 to the Territory Plan for Blocks 11 & 12 Section 38 Fyshwick (the Site). The proposal is to rezone the Site from its current Industrial IZ1 General Industry Zone to Commercial CZ3 Services Zone (CZ3) and make changes to the Fyshwick Precinct Map and Code (Code) to introduce specific controls and provisions for the Site to allow for a range of future developments including the provision of multi-unit housing, non-retail commercial uses, mixed use (retail, cafes, restaurants etc) and some community facilities and services.</p> <p>The Site is located in the Fyshwick Industrial Estate (Estate) zoned General Industrial and is located between the Fyshwick sewerage treatment plant (STP) to the north and industrially zoned land to the west, south and east.</p> <p>The Planning Report and previously provided supporting documentation have failed to demonstrate to the satisfaction of the Authority that the Site is suitable for residential and other sensitive uses and have not adequately addressed the impacts on the surrounding on-Site and off-site existing and permitted uses should Draft Variation 377 proceed.</p> <p>Specifically, the Authority is not satisfied that the following environmental concerns have been adequately addressed:</p> <ul style="list-style-type: none"> - land contamination;

		<ul style="list-style-type: none"> - current land use compatibility issues, both internal and external to the Site; and - potential land use compatibility issues and impacts from the surrounding Estate including: noise, odour and other pollutants. <p>The Authority provides the following comments on Draft Variation 377.</p> <p>Land contamination</p> <p>Comment:</p> <p>The Site has not been adequately assessed from a contamination perspective to determine if it is suitable for the proposed and permitted uses.</p> <p>The ACT Government's <i>Strategic Plan Contaminated Sites Management, 1995</i> specifically requires that potentially contaminated land be investigated at the earliest stages of the planning process to ensure a site is suitable for the proposed development.</p> <p>Advice:</p> <p>An environmental assessment of the Site in accordance with endorsed guidelines must be undertaken by a suitably qualified environmental consultant to determine whether past activities have impacted the Site from a contamination perspective and to determine if the Site is suitable for the proposed and permitted uses. This assessment must include a review of all prior contaminated land assessments undertaken at the Site.</p> <p>The findings of the assessment and remedial works must be independently audited by an Authority approved contaminated land auditor and the findings of the audit into the suitability of the Site for its proposed uses endorsed by the Authority prior to the Territory Plan being varied.</p> <p>This assessment must be conducted in accordance with the requirements of the ACT Government's <i>Contaminated Sites Environment Protection Policy December 2017</i> and associated guidelines to ensure that adverse impacts of contaminated land on the environment and human health are appropriately assessed and managed.</p>
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		<p>Notwithstanding the land contamination issues, the Authority has concerns about the following on-Site and off-site impacts.</p> <p>Land Use Compatibility Issues</p> <p>Comment:</p> <p>Noise and air emission impacts including odour have not been adequately assessed to determine if the Site is suitable for the proposed and permitted uses.</p> <p>Specific environmental issues which have not been addressed on the Site are noise and odour impacts from the existing industrial uses which include a coffee roaster, brewery, distillery and chocolatier. The Acoustic Report gives no consideration of noise from the existing industry at the Site. It is worth noting the Acoustic Report has not considered noise from the adjacent rail line or internal roads which may have an impact on some of the uses.</p> <p>Air Quality</p> <p>Advice:</p> <p>An air quality assessment, in accordance with the ACT Government's <i>Separation Distance Guidelines for Air Emissions, November 2017</i> (the Guidelines), needs to be undertaken to demonstrate that the existing industrial uses will not have adverse impacts on existing and proposed sensitive uses. The Guidelines provide recommended separation distances between various emission sources and sensitive land uses. The recommended separation distances aim to ensure the incompatible land uses are located in a way that minimise the impacts of odour and polluting air emissions. They do not however prohibit lesser separation distances provided an air quality assessment can demonstrate the impacts are within the adopted air quality standards and can be appropriately managed. They also assist in the siting of new developments to ensure that industrial activities in appropriate zones, such as the existing Estate, and surrounding industrial uses are protected from encroachment by residential and other sensitive land uses that would have a negative effect on the viability of industry.</p> <p>Specific comments on Rule 7.2 in relation to odour</p> <p>It would be preferable if Rule 11 required an air quality assessment if the uses proposed on the Site are within the recommended separation distance detailed in the Guidelines. This would ensure impacts from emissions sources both</p>
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		<p>within the Site and from the surrounding industrial uses is appropriately assessed. If management is required, this would form part of the air quality assessment. It would also be important that appropriate institutional controls are implemented to ensure compliance with any recommended management measure through the development application and approval process.</p> <p>Noise</p> <p>Advice:</p> <p>An acoustic assessment of noise impacts from the adjacent rail line, internal roads, Estate and existing industry on the Site needs to be undertaken to determine if the Site is suitable for the proposed uses. This assessment should be conducted in accordance with the <i>January 2010 Noise Environment Protection Policy</i> and the <i>Guidelines for the preparation of Noise Management Plans for development applications</i> to ensure that legislative requirements including the need to prevent or minimise environmental harm and to demonstrate how environmental noise pollution will be managed for the Site and any developments on the Site</p> <p>The principles include that the acoustic environmental values secured through noise standards should protect the health and wellbeing of the community and the individual and that regulatory controls should enable economically desirable or socially acceptable activities to take place provided that all reasonable steps consistent with the expectations of the overall community will be taken to minimise noise from such activities.</p> <p>The factors to be considered when preparing the acoustic assessment include:</p> <ul style="list-style-type: none"> • that residential development must meet the ‘design sound level ranges’ recommended for residential buildings of AS/NZS 2107 and commercial accommodation developments should meet AS/NZS 2107 for sleeping areas; and • noise from all permitted uses identified as being noisy, regardless of whether the noisy permitted use is utilised, must be attenuated at the building design stage or measures that allow the attenuation to be incorporated in the future should a permitted use be activated. <p>It is noted that changing the zoning of the Site to CZ3 would result in the noise standard for the Site under the current <i>Environment Protection Regulation 2005 (Regulation)</i> changing from the industrial noise standard (for Zone A) which is</p>
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		<p>appropriate for the uses on the Site and surrounding industrial uses to the residential noise standard (for Zone G) which would not be appropriate for the existing uses on the Site and surrounding industrial land uses.</p> <p>Specific comments on Rule 7.1 and 7.3 Noise Attenuation are that <i>the Regulation</i> is based on the Territory Plan zonings where CZ3 zones support the City and Town Centres. The <i>Regulation</i> would require amendment to specifically identify this Site as Zone B as all CZ3 zones are within the City or Town Centre precincts in the Territory Plan. Two possible solutions are: change CZ3 to zone B (where not in the City or Town Centre) or to be consistent with the structure of the <i>Regulation</i> in recognising noise impacts from adjacent land uses (in this case surrounded by Industrial) include CZ3 to zone F which means it would take on Industrial noise standards being the highest adjoining noise zone. The advantage here is the residences would be constructed to mitigate higher levels which would assist with higher noise levels on the Site from existing and permitted used and from surrounding industrial land uses.</p> <p>The Authority provides the following general advice on the enforceability of the proposed rules in the Code. The proposed rules fail to indicate how compliance is enforced, in particular, that construction of the buildings including the proposed dwellings, is to the standard/s specified in the Code.</p>
2	Lake Burley Griffin Guardians	<p>Comment on Draft Development Control Plan 21/01 Part Block 11 Section 38 Fyshwick (Dairy Road Precinct)</p> <p>The Lake Burley Griffin Guardians support the broad thrust of the proposed Development Control Plan but wish to make some comments aimed at further improving outcomes of future development on both the subject area and the remainder of the precinct.</p> <p style="text-align: center;">GENERAL COMMENTS ON DAIRY ROAD</p> <p>Our interest</p> <p>The Lake Burley Griffin Guardians' principal interest with regard to the Dairy Road Precinct is the protection of Lake Burley Griffin (LBG) and the Jerrabomberra Wetlands Nature Reserve (JWNR) and its flora and fauna from potential adverse effects of development and future use. We believe we share this interest with the broader Canberra community and the developers, Molonglo.</p>

		<p>Additionally, we believe that which is now allowed for the Dairy Road Precinct will inevitably form the basis for approvals for the future development of another sensitive area, East Lake, which lies to the north-west of Dairy Road and is also adjacent to the JWNR.</p> <p>So, we believe it is very important for the NCA to prepare a DCP which sets the standard for future development close to the lake and the wetlands, not just for a single Block.</p> <p>Molonglo’s approach to community engagement</p> <p>We recognise that Molonglo has undertaken extensive research and engaged in very effective community engagement and public participation in design for the Dairy Road mixed-use precinct. Individual Guardians have found Molonglo’s engagement activities to be very useful in understanding the developer’s vision and its response to the opportunities and challenges posed by transforming a former industrial site into a makers and residential community. Generally, Molonglo’s approach gives us faith that the site will be developed in accord with its three key principles for the Precinct and the ACT community’s broad interests in the site.</p> <p>Background</p> <p>In framing our comments, we have given regard to Draft Variation 377 to the Territory Plan (approved in December 2020); the associated amendments to the Fyshwick Precinct Code and map (December 2020); the Molonglo Dairy Road Planning report (July 2020) and various community submissions on the Territory Plan Draft variation.</p> <p>The Guardians’ position with regard to the Dairy Road Precinct generally</p> <p>LBGG made a submission on the draft variation to the Territory Plan for the whole Precinct (i.e. Blocks 11 and 12 and part of Block 14, Section 38), which concluded:</p> <ul style="list-style-type: none">• The Guardians do not consider this site to be appropriate for urban development from a long-term sustainability perspective;• Rezoning should not occur before the National Capital Authority finalises the Development Control Plan;• Building heights should be reduced to two storeys adjacent to the wetlands;
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		<ul style="list-style-type: none"> • Maximum building height should be six storeys; • Adequate funding for regular maintenance of WSUD infrastructure should be ensured, possibly by establishment of a dedicated trust fund; • The buffer zone should be designed and managed to ensure the natural heritage of the wetlands is protected from potentially adverse effects from recreational activity associated with the planned residential area; • Incremental damaging impacts from a succession of developments must be assessed continually in recognition of the importance of both the lake and the wetlands to our future; • Development should not be approved until procedures are established and operative to guarantee funding for water quality maintenance, and for ongoing assessment of environmental damage to lake waters. <p>Outcomes of the ACT’s Territory Plan Amendment</p> <p>While we hold to the views above, we recognise that the Territory Plan variation will proceed and therefore it will allow for greater height and narrower setbacks from the JWNR than we proposed.</p> <p>While not wishing to comment extensively on the Territory Plan outcome, we note that it does impose stronger requirements for environmental protection, light pollution, hydrology, water sensitive urban design and vegetation management.</p> <p>However, we also note that the National Capital Plan and the Development Control Plan for this site, will supersede the Territory Plan to the extent that they are inconsistent, so this really is an opportunity for the NCA to put more effective controls on development on Block 11.</p> <p>We believe the 25m height maximum on Block 11 is too high and should be limited to 20m above datum (DRAFT DCP General condition 3.2 refers).</p> <p>We note that all the land subject to the DCP (Appendix 1 drawing DCP21-1) appears to sit within the high-pressure gas pipeline 205m impact zone (See figure 2 in DV377 Recommended Draft Variation, Page 17).</p>
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		<p>While there is a requirement in the Territory Plan amendment for a Safety Management Plan study for any development in the gas impact zone, we note that the entire Monaro Highway boundary of Block 11 is adjacent to the high-pressure pipeline; and the proposed setback for development in the DCP is just 10m wide. We question on what basis medium rise buildings of 25m height would be allowable in the impact zone.</p> <p>We believe the DCP needs to also be much more specific about the scale of new or altered buildings allowable in proximity to the pipeline. We note, for example, that the DCP is very specific with regard to lighting in Block 11, so there appears to be no reason why it could not be more detailed and prescriptive with regard to building height, occupancy and/or use in a potential danger zone.</p> <p>Perhaps a lower density of development and greater building setback would allow more deeprooted and long-lived trees to be planted along the Monaro highway boundary away from the pipeline to provide the screening required in the draft DCP (see general condition 3.7, landscape).</p> <p>The proposed 25m height limit on Block 11 would enable buildings of a maximum eight storeys. The Monaro Highway, as it passes this precinct, is well above surrounding ground level, which reduces the visual impact of buildings adjacent to the buffer zone.</p> <p>Whatever building heights are finally permitted adjacent to the Monaro Highway, we believe heights and massing should be reduced closer to the wetlands as this will reduce the potential negative visual, lighting and other impacts.</p> <p>We support the requirements for lighting (general condition 3.10) as being consistent with the intent to minimise impact on wildlife and aircraft movements.</p>
3	Griffith Narrabundah Community Association	<p>The Griffith Narrabundah Community Association (GNCA) welcomes the opportunity to comment on the NCA's Development Control Plan for the Dairy Road Precinct. It doesn't usually get involved with development proposals outside the Griffith Narrabundah area, but the Jerrabomberra Wetlands Nature Reserve is frequented by our several of our members and we value its unique landscape.</p> <p>Overall, we have no objection to the development of Section 38, it could be a good example of consolidation, but the Jerrabomberra Wetlands Nature Reserve must not be degraded by the development, and there needs to be a permanent air-quality station to ensure there is no unacceptable nearby air-pollution because of the industrial activities in Fyshwick.</p>

		<p>We realise that the ACT Government will be responsible for the design of the Precinct Code for Section 38, but we are hoping the NCA will be able to use its influence to ensure that the development will be of high quality and meet the environmental standards to properly maintain the wetlands and ensure there is clean air to breathe in the Precinct.</p> <p>The JWNR is one of the most valuable wetland habitats in the ACT. It is of national and international significance and should be protected. We also note that in the comments in DV377 that the Conservator of Flora and Fauna and the Environmental Protection Authority identified shortcomings in the environmental protections proposed for the JWNR in DV377, and that more must be done to ensure the JWNR will be sustainable.</p> <p>Because of its international importance, particularly with migrating birds flying to and from the northern hemisphere, we recommend that the NCA consults with the Australian Government's Department of the Environment to confirm that the migratory sites in the JWNR will be properly protected.</p> <p>As the ACT Government did not include any building design parameters in DV 377, we hope that the NCA will be able to ensure that these, which are included in Control Plan 21/01, are included in the Precinct Code. Section 38 is an unusual site with great potential and all the planners should work together to obtain high-quality outcomes.</p> <p>As part of the environmental protection of the JWNR and because of the industrial activity in Fyshwick we recommend that a permanent air-quality monitoring station be installed in the Precinct. The closest station now is 8 km away in Civic; too far away to monitor Fyshwick.</p> <p>We hope these comments will be useful in your deliberations.</p>
4	Environment Planning & Sustainable Development Directorate	<p>Draft Development Control Plan – Part Block 11 Section 38 Fyshwick (Dairy Road Precinct)</p> <p>I note your decision to prepare a Development Control Plan (DCP) to guide potential development of the subject site noted above, as it is located on a Main Avenue Approach Route as defined in the National Capital Plan.</p> <p>When providing comments on draft variation to the Territory Plan 377 for Dairy Road in August 2020, the NCA advised the Environment, Planning and Sustainable Development Directorate (EPSDD), that a DCP would need to be prepared, that the NCA had commenced its preparation and would continue to liaise with EPSDD officers as this work progressed. The NCA acknowledged in that response that further discussion was critical to make sure that there were no inconsistencies between the DCP and the final variation.</p>

		<p>Despite anticipating that EPSDD would be consulted on the DCP before it was released for public consultation, I am advised that my team have not had the opportunity to consider the draft DCP beforehand. This is unfortunate given that there are inconsistencies, and I would have hoped they could have been resolved prior to release.</p> <p>Most aspects of the draft DCP are generally supported, however the building height limit proposed in clause 3.2a and b, of 25m from datum ground level, including rooftop plant, is not supported.</p> <p>Variation 377 contains a building height of 8 storeys, to allow for a range of commercial buildings to be constructed with flexibility in floor heights.</p> <p>Analysis of existing 8 storey commercial buildings indicates that they are several metres higher than 25m, taking into consideration higher ground floor levels and rooftop plant and equipment. With commercial uses on the ground floor and allowing 3-5m for rooftop plant/equipment/lifts, 8 storey buildings are typically approximately 30-35m in height.</p> <p>As the subject land is to be zoned CZ3, it is expected that new developments will require adaptability in overall building height to allow for higher ground floor commercial uses. The proposed restriction of 25m may also impose design restrictions of the roof top mechanical plant/equipment and compromise overall building design, amenity and viability. It may also result in a ground floor at below datum ground level (a sunken building) which may also compromise the ability for the building to contribute to the public realm, create access issues and limit strong architectural design outcomes.</p> <p>Previous consideration of a proposed commercial building on the Molonglo site within the area subject to the DCP by the National Capital Design Review Panel (NCDRP) indicated support for this building, at 8 storeys (being 7 plus a plant room on top) and a total height of approximately 35m). To comply with the proposed 25m building height, this building would need significant modification. Given the NCDRP is a shared forum for design review, I would have hoped the advice at that time indicated any proposed divergence from the 8 storeys and approximate 35m height.</p> <p>Other matters for consideration include:</p> <ol style="list-style-type: none"> 1. Bushfire prone area: <ul style="list-style-type: none"> - This draft development control plan for Part Block 11 Section 38 is located inside of the area declared as the Bushfire Prone Area. - The site incorporates some of the established Regional Fire Management Zones, in this case Asset Protection Zone (APZ) under the Strategic Bushfire Management Plan 2019. The DCP should note these fire management
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		<p>zones under section 3.7 landscaping and require any further landscaping to consider bushfire protection principles so that APZ are maintained as per the ACT bushfire management standards (2014) Table 4 (pg. 4)</p> <p>2. Numbering</p> <ul style="list-style-type: none"> - Table of contents sections 5.1 to 5.12 should be rectified to be 3.1 to 3.12 in line with consecutive numbering in the document. - 3.3 Building setbacks – b. This section contains an error and should refer to section 3.7 of the DCP. <p>Thank you for the opportunity to provide feedback on draft DCP 21/01</p>
5	Molonglo Group	<p>Thank you for the opportunity to make submissions on Draft Development Control Plan 21/01 - Part Block 11 Section 38 Fyshwick (Dairy Road Precinct). The Molonglo related entities Lolita (ACT) No 1 Pty Ltd and Lolita (ACT) No 2 Pty Ltd are the Crown lessees of land described as Block 11 & 12 Section 38 Fyshwick. Consequently, Draft DCP 21/01 has considerable implications for the future use and development of our Crown lease and accordingly we request that due weight be given to consideration of our submission.</p> <p>Executive Summary</p> <p>Molonglo shares the NCA’s aspirations for exemplary development in Canberra. We look forward to working with you to realise extraordinary cultural outcomes for our national capital and our nation. We refer to Draft DCP 21/01 and DV 377, the standards consistently demanded by government regulators, and most importantly the high quality of urban development expected by the community.</p> <p>In summary, this submission highlights the following:</p> <ul style="list-style-type: none"> ● Molonglo supports, without amendment, thirty-six of the thirty-eight specific provisions of Draft DCP 21/01 and is keen to develop the site consistent with those measures ● We seek consideration from the NCA to the following clauses: <ul style="list-style-type: none"> ○ Clause 3.2a to increase the maximum building height to 32 metres above datum ground level. This is the minimum height required to achieve an eight story commercial building built in accordance with the standards of the ACT Planning Authority and National Capital Authority.

		<p>o Clause 3.2b to exclude from the calculation of building height, roof top plant, lift overruns, antennas, photovoltaic panels, flues and vents, and living infrastructure. No habitable space to be permitted above maximum building height.</p> <p>o Clause 3.3a to require buildings and major structures to be setback a minimum of 10 metres from the subject site boundary to the Monaro Highway except where otherwise agreed to by the Authority. This will allow the planning regulators scope to consider innovative design solutions that may better meet or even exceed the expectations of the regulators and the community.</p> <p>Recognition of Goals and Objectives for Dairy Road</p> <p>It is contingent on any future planning policy controls affecting the Dairy Road Precinct to recognise the planning intentions for East Lake and the Dairy Road Precinct. The ACT Government’s vision for the broader East Lake is for it to become a lively, high density urban community providing an Australian showcase of sustainable development. As part of Draft Variation 377, Molonglo prepared a Development Framework for the Dairy Road site component of East Lake. The Development Framework has been developed with close consideration of the ACT’s strategic policies for planning, transport, climate change, economic and social development and the manner in which these are to be given expression at East Lake. The NCA supported the consideration of Dairy Road within the context of East Lake during the preparation of the Planning Report to support DV377 throughout 2019/20.</p> <p>The Dairy Road Development Framework accommodates the retention of the major existing industrial buildings. The adaptive reuse of these spaces to accommodate a range of innovative businesses, light industry, craft workshops, creative workplaces and recreation uses is already underway utilising the provisions of the existing zoning and will be expanded following commencement of DV377 to accommodate retail, hospitality, cultural and community facilities. In the interim, the initial success has been reinforced by significant expansion of open space and permeable surfaces and the introduction of pavilions for cultural and recreational uses. These industrial buildings will subsequently evolve into a focus or “core” for the future community.</p> <p>The core area would be typically framed by proposed commercial uses. These would include less sensitive receptors located to the periphery of the site adjacent to surrounding roads and at the interface with major public utility installations and industrial uses. The residential development, comprising a diversity of housing and accommodation types, would be protected from adverse impacts by being located to the south west of the site, but provided with ready access to the services and facilities of the core and frame areas.</p>
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		<p>DV377 addresses the future of Dairy Road as part of the wider East Lake Urban Renewal Area. It draws on technical assessments, the identification (in consultation and collaboration between EPSDD, agencies and Molonglo) of opportunities and constraints and provides a clear Development Framework to guide the form and nature of future development. Specific developments are informed by the provisions of the Dairy Road Precinct Code and the comprehensive quantitative and qualitative provisions of the Development Codes within the Territory Plan.</p> <p>Purpose of the Development Control Plan</p> <p>The challenge for Draft DCP 21/01 is a significant one. It is obliged to address the character of this particular section of the Monaro Highway as a Major Approach Route which sits not outside but within a built up area and “to provide guidance for the future development of the subject site within the framework of the National Capital Plan and the Territory Plan”. In this instance the key provision of the Territory Plan is DV377.</p> <p>Usefully DV377 and the planning assessments which underpinned it addresses the fundamental question of delineation between the Fyshwick Industrial Area and Dairy Road/East Lake. Succinctly put, this assessment found that the Monaro Highway, as a limited access, grade separated and elevated arterial road, provides a clear and logical delineation between the industrial zoned land to its east and the commercial zoned land to its west. Each zone is subject to its own distinct and area-appropriate planning controls addressing the key areas of land use, building height and building setback together with a range of other matters. These key areas and other matters are also addressed in the provisions of Draft DCP 21/01. However, differences in a small minority of the provisions between the respective planning frameworks create tensions and prejudice the realisation of the vision for Dairy Road. These are addressed below.</p> <p>Draft DCP 21/01 General Conditions of Planning Design and Development</p> <p>Clause 3.0 of Draft DCP 21/01 addresses ten (10) general areas of planning, design and development being:</p> <ul style="list-style-type: none"> 3.1. Land use; 3.2. Building height 3.3. Building setbacks 3.4. Access, movement and parking 3.5. Building design 3.6. Sustainable development 3.7. Landscape 3.8. Fencing 3.9. Lighting
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		<p>3.10. Service areas</p> <p>Within these general areas there are a total of thirty-eight (38) specific planning, design and development conditions. Of these 38 specific conditions there are only 2 which we believe require amendment to better align with the vision for Dairy Road and 1 which we believe requires revision to better align with the established NCA precedent and aspirations.</p> <p>Proposed Amendments</p> <p>Existing Clause 3.2a and Clause 3.2b</p> <p>Clause 3.2a of Draft DCP 21/01 states that “ <i>the maximum height of any building or structure on the subject site must not exceed 25 metres above datum ground level</i>”. Clause 3.2b states that “ <i>all building elements, including roof top plant and equipment and architectural features must not exceed the 25 metre height limit</i>”.</p> <p>The explanatory statement accompanying Draft DCP 21/01 states that “ <i>a maximum building height of 25 metres...corresponds approximately to the tallest point of the Canberra Times building in Fyshwick, resulting in consistent building high points in the area</i>”. This is reflective of an intention to provide “ <i>clarity and certainty to the community and stakeholders</i>”. However, in pursuing this intent it is necessary to consider the context, history and ephemeral nature of the Canberra Times building. It is also necessary to consider the intent of the relevant planning policies and design standards.</p> <p>Considerations</p> <p>Canberra Times Printing Works</p> <p>The Canberra Times was originally located at premises on the corner of Cooyong and Mort Streets in Civic. It occupied those premises until 1987, when the newspaper’s entire operations were relocated to premises on the corner of Newcastle and Pirie Streets in Fyshwick on land described as Block 16 Section 19 Fyshwick. The newspaper’s Fyshwick premises comprises a complex of buildings the majority of which are two storeys (12 metres) in height consistent with the long established Territory Plan controls for industrial zoned land. Some taller elements are permitted where necessary to accommodate specific industrial processes.</p>
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Photograph 1. Canberra Times site from Pirie Street. Source Google Maps



Photograph 2. Canberra Times site from Newcastle Street. Note taller element of former printing works. Source Google Maps

It is only that part of the complex which formerly accommodated the printing presses and other machinery which extends to RL 592.15m (assumed 25 metres) in height. Consequently, the form of this particular part of the complex is unique and reflects the specific industrial machinery it accommodated. It does not create a new exemplar or precedent for building heights in industrial zones.

		<p>Sale and redevelopment of the Canberra Times site is increasingly likely. In May 2019, the Sydney Morning Herald quoted Australian Community Media, the current owners of the Canberra Times, as stating that the potential sale of the site was “an option” with a potential value of \$20 million mooted. In April 2020 the newspaper suspended printing operations from its Fyshwick site. In any redevelopment of the Canberra Times site for retailing, offices or other uses permitted under its current Industrial IZ2 zoning, the 2 storey (12 metre wall height) controls will likely prevail as the site is subject solely to the provisions of the Territory Plan.</p> <p>The Canberra Times printing works was never intended as an urban design height marker, in fact in many ways there were no urban intentions as a consequence of that development. We therefore respectfully submit that the Canberra Times building should not be regarded as a relevant building for issues of important design outcomes. Whilst we respect and understand that scale is understood by things that exist in space it is also submitted here that there will be very little opportunity for people understanding the urban forms to relate what is happening on Dairy Road to a building which is half a kilometre away and bifurcated by a major highway. We therefore respectfully submit also that you should not pay the due regard of the Canberra Times building in the way you have done.</p> <p>Relevant Planning Policy Provisions</p> <p>The only clarity and certainty that can be provided to the community and stakeholders is that the industrial IZ2 zoned area Fyshwick to the east of the Monaro Highway is to be generally two storeys (as per the Territory Plan Industrial Development Code) and the Commercial CZ3 zoned Dairy Road Precinct to the west of the highway is to be eight storeys as per DV377.</p> <p>Economic Basis for Planning and Development</p> <p>It should be acknowledged that the eight storey height limit under DV377 was based upon economic outcomes that were considered for the development of the land. These were completed in collaboration and in consultation with all the relevant authorities and after extensive research. Earlier assessment determined the appropriateness of density at Dairy Road based upon 8 storey development being capable of being realised. It is significant to recognise that the NCA would be working against this history of what we have understood to be an appropriate outcome. This would be tantamount to reducing density on the site. (See supporting documents to DV377 and in particular <i>Dairy Road Innovation Precinct Study SGS Economics and Planning October 2019</i>). The introduction of a 25m height limit removes any ability to meet a development yield consistent with economic outcomes that have been previously agreed.</p>
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		<p>Design Standards</p> <p>Attempts to translate the number of storeys into metres above ground level must also address the fact the zoning of each area accommodates a range of building types each with different functional needs and hence differing floor to floor heights.</p> <p>Given the allowed eight storeys, then 25m divided by 8 storeys equals floor to floor heights of only 3.1m. However, this does not adequately address:</p> <ul style="list-style-type: none"> ● Provision of appropriate ground level floor to ceiling heights sufficient to accommodate active uses. In this regard we note that City and Gateway Urban Design Framework jointly prepared by the NCA and EPSDD advocated floor to ceiling heights of a minimum of 6.2 metres to accommodate active uses at ground floor level (see Fig 1 below); ● Provision of appropriate ground level floor to ceiling heights sufficient to accommodate service areas and commercial waste collection vehicles. The Transport Canberra City Services Waste Management Standards, in order to promote safe and efficient collection services, require waste collection vehicles to enter and exit a site in a forward manner and maintain an overhead clearance of 6.8 metres to collection points to accommodate front loading of waste hoppers (see Figure 2 below); ● Allowance for future adaptability of buildings such as parking structures. This is a sustainability measure to encourage the retention and refurbishment of buildings which is consistently advocated by planning authorities and the National Capital Design Review Panel; ● Allowance to accommodate overhead and/or under floor air conditioning and service ducts essential for commercial buildings; ● Appropriate floor to ceiling heights are also necessary to protect the quality of new buildings and produce lighter and more habitable and healthier indoor spaces. Appropriate ceiling heights create spatial hierarchy and respond to a diversity of building types. In this regard we note that City and Gateway Urban Design Framework jointly prepared by the NCA and EPSDD advocated floor to ceiling heights of a minimum of 3.3 metres to accommodate commercial uses at upper levels;
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- Allowance for slab thicknesses. All of the standards quoted above are floor to ceiling heights. Floor to floor heights are necessarily greater to accommodate the thickness of floor slabs. Floor slabs are typically in the order of 300mm thick; and
- Allowance for the building's trafficable roof also typically in the order of 300mm.

All of these matters are essential considerations for non-residential commercial and industrial buildings. It is important to note that that part of the site within 200 metres of the Monaro Highway boundary is exclusively dedicated to *non-residential* uses. Residential use is a prohibited use in the majority of the site under the provisions of DV 377.

It should be noted that in rehearsing the above matters our objective is to avoid, not create, conflict with the regulators. We are simply pointing out that in order to achieve the necessary eight storey development allowed under DV377, and do so in a manner consistent with standards consistently demanded by government regulators, a mandatory building height of 25 metres is not sufficient. This is evident from the NCA and ACTPLA's own published standards (see Figure 1 below) which would dictate a minimum building height of 32 metres in order to accommodate an eight storey commercial building.

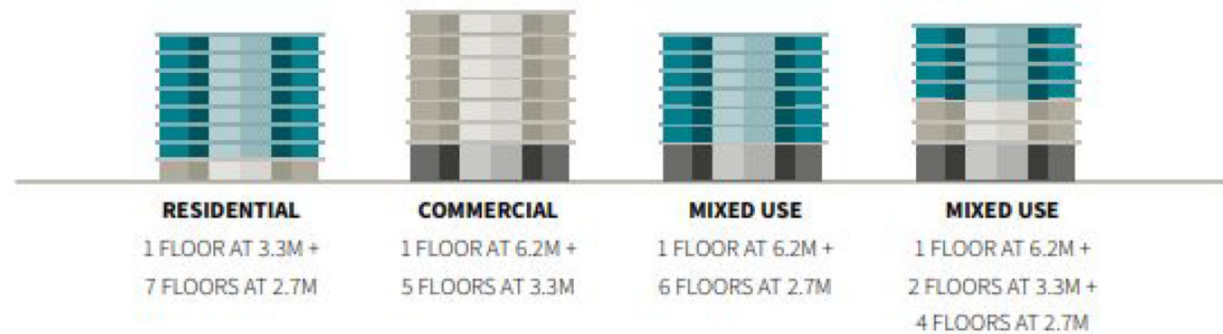
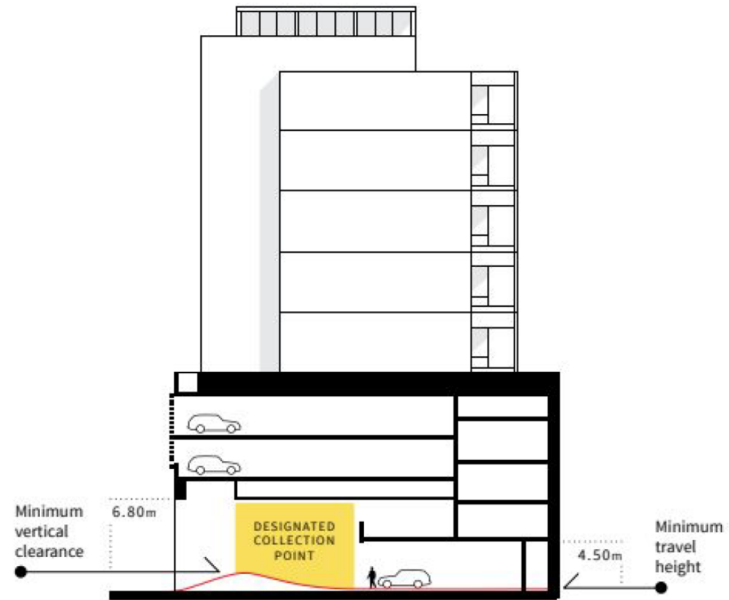


Figure 1. Minimum floor to ceiling heights. Source: City and Gateway Urban Design Framework (NCA and ACT Government December 2018).



Large MUD with on-site collection on the ground floor of the building
Note: Minimum height clearance requirements for the designated collection point

LEGEND

- Designated collection point including 0.30m vertical clearance and travel height for front-lift truck
- Finished surface level

Figure 2. Extract Development Code Best Practice Waste Collection Appendix 7 Vehicle Access Requirements. TCCS January 2019

		<p>While a 32 metre building height has been demonstrated to sufficiently accommodate an eight storey commercial building, Clause 3.2b of Draft DCP 21/01 includes prohibition of on “any building element” extending above this height limit, such as:</p> <ul style="list-style-type: none"> ● Parapets or other desirable architectural features; ● Plant and equipment; ● Lift overruns; ● Rooftop sustainability measures such as PV arrays or solar hydronic heating systems; or ● Roof-top gardens and other living infrastructure. <p>The prohibition of building elements above the maximum building height has the potential to cause conflict with Part 2.4 Liveability of the National Capital Plan’s Statement of Planning Principles. Part 2.4 states that new development to exemplify sustainability principles, demonstrate excellence in urban design landscape and architecture, and encourage energy efficient development and land use. The Territory planning authority adopts similar principles. Most notably in its recently published “Canberra’s Living Infrastructure Plan”. That Plan strongly advocates the incorporation of living infrastructure- including green roofs on buildings. It should be again noted that in rehearsing the above matters our objective is to avoid, not create, conflict with the regulators. We are simply pointing out that in order to achieve pragmatic and mutually desirable outcomes it would be prudent for regulators to retain the ability to consider appropriate proposals. This does not create a new or dangerous precedent.</p> <p>It is noted that Part 4.28 City and Gateway Corridor of the National Capital Plan makes provision for “ buildings at the intersection of Northbourne Avenue with Antill/Mouat Streets may be up to 32 metres above natural ground datum level. Where building height limits are 32 metres, minor building elements, for roof top plant, may be permitted where they do not increase the building height as it presents to public street frontages. No habitable space is permitted above maximum prescribed height limits ”. The Territory Plan Precinct Codes make similar allowances. For example, the Dickson Precinct Code - which abuts Northbourne Avenue - makes provision in the relevant rule that:</p> <p>“Building height measurement excludes all of the following:</p> <ul style="list-style-type: none"> ● Roof top plant ● Lift overruns ● Antennas ● Photovoltaic panels ● Air conditioning units
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		<ul style="list-style-type: none"> ● Chimneys, flues and vents <p>The minimum setback of these excluded items from the building facade of the floor immediately below is 3m”.</p> <p>The eight storey height limit as per DV377 does not include any prohibitions regarding higher building elements such as rooftop plant and equipment, lift overruns or green infrastructure.</p> <p>Proposed Amendment Clause 3.2</p> <p>To address the above matters it is proposed that the provisions of Clause 3.2 of DCP 21/01 be amended (shown underlined) to read as follows:</p> <p>3.2 Building height</p> <p>a. The maximum height of any building or structure on the subject site must not exceed 32 metres above datum ground level.</p> <p><u>b. Building height measurement excludes roof top plant, lift overruns, antennas, photovoltaic panels, flues and vents, and living infrastructure. No habitable space is permitted above maximum building height.</u></p> <p>Proposed Revision</p> <p>Existing Clause 3.3a</p> <p>Building setbacks Clause 3.3a states that “buildings and major structures must be setback a minimum of 10 metres from the subject site boundary to the Monaro Highway”.</p> <p>The explanatory statement accompanying Draft DCP 21/01 states that “ <i>the building setback to the Monaro Highway has been set at 10 metres consistent with the DCP for the site on the opposite side of the Monaro Highway. A 10 metre landscaped setback, combined with off-site vegetation, will assist in achieving a high quality landscape corridor. Buildings and structures must not encroach into the landscape setback</i> . This is reflective of an intention to provide “ <i>clarity and certainty to the community and stakeholders</i> ”. However, in pursuing this intent it is necessary to consider the context of</p>
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		<p>the site on the opposite side of the Monaro Highway compared to that of Dairy Road, relevant design standards and the full range of options open to achieving a high quality landscape corridor.</p> <p>Considerations</p> <p>Monaro Highway Landscape Character</p> <p>The Monaro Highway is part of the road freight network and is identified in the ACT Planning Strategy 2018 as a National Freight Route Tier 2 and forms part of a future orbital freight network within the ACT. It is a limited access road with largely grade separated controlled intersections with significant slip lanes to cope with changes in speed and ground level. As a result, it does not include any pedestrian or cycleway network. The Monaro Highway/ Newcastle Street/ Dairy Road intersection sees the main carriageway of the Monaro Highway elevated 9-11m above the ground level of the adjacent 1 Dairy Road for the majority of its length.</p>
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Figure 3. Height differential and verge widths Monaro Highway/Dairy Road. Source Veris

		<p>Options for Management of Verge Landscaping</p> <p>This reality is reflected in the existing landscape treatment, the primary purpose of which is to contain the visual impacts of the highway. As it is the highway which generates the impacts it is appropriate that the highway verge accommodate the primary means to contain them. In every jurisdiction primary mitigation measures are accommodated within the road reservation. It is a reasonable conclusion that it was for this very reason that the NCA’s predecessor elected to adopt extensive verge landscaping. That this was the case is readily evident from site inspections and examination of aerial photographs (see Figure 4 below).</p> <p>The Monaro Highway verge is 30 metres in width and densely planted with tall mature evergreen trees. Molonglo has offered to take up a Licence or Deed of Agreement over the verge to ensure the enhancement, long-term management and maintenance of the verge planting. This approach was adopted for the verges around Molonglo’s NewActon development and the outcomes widely applauded. If undertaken in conjunction with a flexible approach to boundary setbacks then highly innovative integrations of high quality landscape and built form become possible.</p> <p>DCP 171/03/0007 Storage King</p> <p>The site on the opposite side of the Monaro Highway is Block 2 and Block 4 Section 75 Fyshwick currently leased to U-Stow It trading as Storage King as a commercial self-storage business. The site has a combined area of 15,749m². Previously vacant land it was sold by the former Land Development Agency early this century and is now fully developed. It is zoned Industrial IZ2. The site is subject to the provisions of DCP 17/03/0007. The setback provisions of DCP 171/03/0007 (Storage King) differs in one important respect from those of Draft DCP 21/01 (Dairy Road). The Storage King DCP provides that “Buildings must be setback a minimum of 10 metres from the Monaro Highway boundary, <u>except where otherwise agreed to by the Authority</u> (emphasis added)”. The omission of a similar provision in the Dairy Road DCP 21/01 denies the NCA the ability to consider variations to the 10m setback that may be necessary in specific circumstances to give effect to the wider planning aspirations for Dairy Road and address relevant regulatory building requirements.</p>
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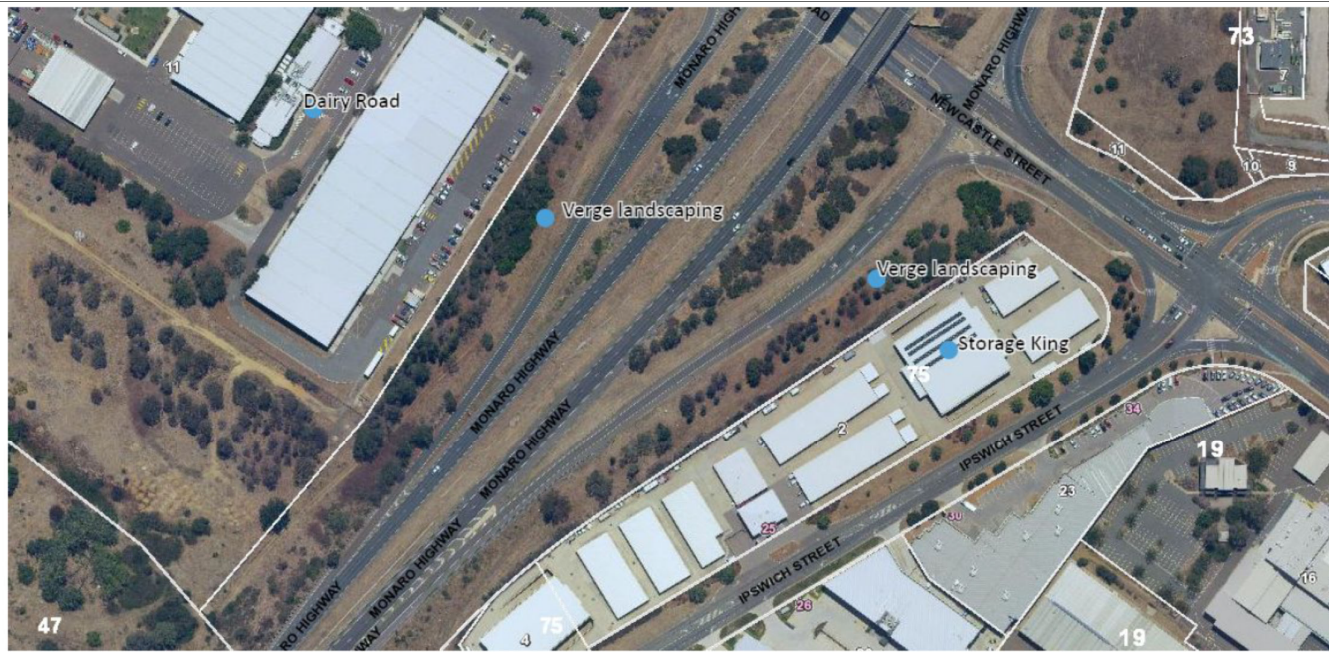
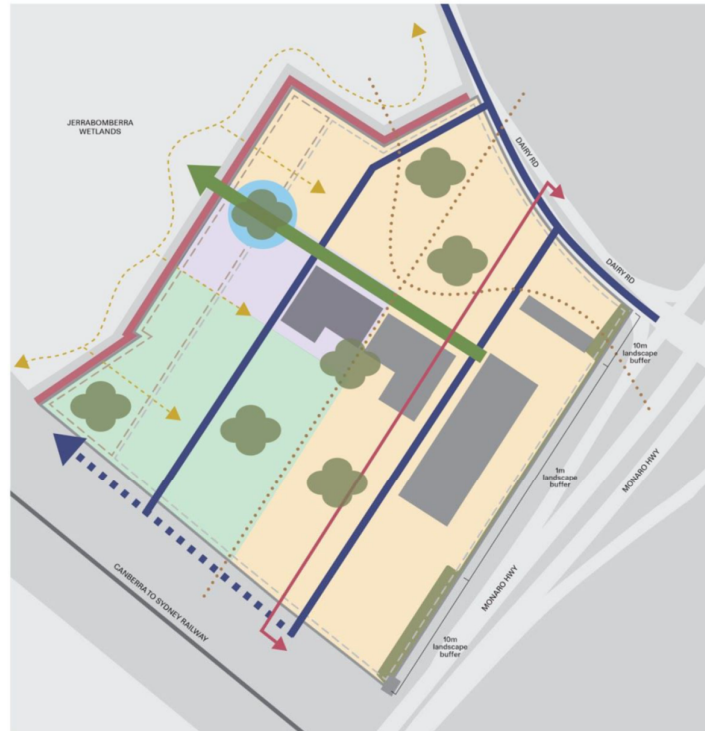


Figure 4. Relationship of Dairy Road to Monaro Highway and Storage King. Source ACTMapI

Relevant Planning Policy Provisions

Unlike the Dairy Road Precinct, there is little likelihood of the Storage King site being rezoned for comprehensive development. The Storage King site is zoned Industrial IZ2 which may see the site used for additional uses in the future consistent with the IZ2 development table. However, the limitations of the site area, the controls of the Industrial Zones Development Code and in particular the access limitations imposed by the traffic regime in Ipswich Street are likely to act against subdivision and significant redevelopment. By contrast, Dairy Road is a substantial site with an area 14.33 hectares and will be subject to comprehensive redevelopment in accordance with its Commercial CZ3 zoning under DV 377, Dairy Road Precinct Code and the Dairy Road Development Framework.

14.10.2020



- Site boundary
- CZ3 Precinct Code to include additional rules as follows:
Maximum GFA for supermarket or shop selling food is 300m².
Maximum GFA for an office on any lot is 2,000m².
Additional merit track development (whole site):
Scientific research development
Defence establishment
- PLANNING CONTROLS**
- CZ3 Zoning with following additional controls:
Prohibited development:
Residential
Childcare
Kindergarten
Pre-school
Primary school
High school
Secondary college
Health facility (hospital)
Outdoor recreation facility (stadium)
Corrections facility
- All CZ3 uses, excluding residential
- All CZ3 uses (residential population of 2,000 pax)
- - - Generally 2 to 4 storeys
- - - Generally up to 8 storeys
- PROGRESSIVE IMPLEMENTATION THROUGH ALL STAGES**
- Landscape connections to the wetlands
- Public road (and on-road cycle) connections to East Lake and broader Canberra
- Edge treatment to respect and protect wetlands (including consideration of bushfire mitigation)
- Green Space (parks, pocket parks, community gardens and more) to meet Living Infrastructure Strategy targets
- Wetlands
- - - Pedestrian and cycle connections (in accordance with endorsed Jerrabomberra Wetlands Masterplan)
- - - Constraint lines relating to Fishwick Sewer Treatment Plan 200 contour
- Existing key industrial buildings (included on plan for point of reference)

Figure 5. Development Framework Note retention of existing industrial buildings.

		<p>The Development Framework sets out a number of principles to guide future development. These principles are mirrored in the planning and urban design objectives of Draft DCP 21/01. Three of those objectives are of particular relevance to the twin consideration of setbacks and future development aspirations. They are:</p> <ul style="list-style-type: none"> ● Utilise the existing features and buildings of the subject site, and create bold, playful, powerful and interesting urban forms to create a fine grain development. ● Provide for a diverse range of employment opportunities, gathering places and open spaces; and ● Create a permeable network of streets, cycleways and pedestrian connections with a logical hierarchy and which promote a high level of pedestrian amenity. <p>The portion of Dairy Road contained within the 200m from the Monaro Highway centreline has been incorporated into our Development Framework diagram at Figure 5. This portion will be subject to the DCP, and includes the following existing and intended future developments:</p> <ul style="list-style-type: none"> ● Building 2 and part of Building 3 being the principal existing industrial buildings on the site. Both buildings are to be retained and refurbished to accommodate affordable workspaces for makers and creators. Substantial investment has already been made in refurbishment of the buildings which accommodate dozens of tenants employing hundreds of people; ● The realisation of a landscaped public realm - already well advanced - providing the primary means of exploring the site and connecting to the wetlands; ● The major north-south internal access road which has the potential to ultimately form a road connection to East Lake; and ● Incorporation of landscaped setbacks and built form to create articulation, diversity and interest. <p>These elements present major imperatives to the form and nature of any future development. The development framework has always envisaged the easternmost portion of the site as the principal location for utility and services buildings including structured car parks. The concentration of parking in this location offers a number of advantages, as follows:</p>
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		<ul style="list-style-type: none"> ● Such uses are not sensitive to the risks posed by the presence of a major gas main in the Monaro Highway alignment nor the impacts of traffic noise from the highway. ● Being immediately opposite the main entrance from Dairy Road it is readily identifiable and accessible. This ensures a quick transition from motorist to pedestrian and encourages exploration of the precinct on foot. ● Vehicles are not obliged to transit through the precinct in search of parking spaces thereby minimising the potential for pedestrian/vehicle conflicts. ● The visual impact on the internal public realm and sensitive external public areas such as the wetlands is minimised. <p>Design Challenges</p> <p>In summary, realising the objectives of Draft DCP 21/01 necessitates resolving the inter-related challenges of retaining existing buildings, locating parking to the periphery and presenting an appropriate landscape interface to the Monaro Highway. However, a further challenge is introduced by the requirements of relevant design standards. Ultimately, the Dairy Road Precinct is to be subdivided in accordance with an approved Estate Development Plan. There will be internal site boundaries related to the individual titles created. At that point the requirements of other standards, including the Building Code of Australia, come into play with requirements for fire separation between buildings etc.</p> <p>It is impractical to expect a development control plan (or any other planning instrument) to anticipate and resolve in detail all potential issues that may arise in the course of an urban redevelopment project of the scale of Dairy Road. For that reason it is prudent to incorporate sufficient flexibility to allow regulators to address the issues as they may arise and respond appropriately.</p> <p>Proposed Revision Clause 3.3</p> <p>To address the above matters it is proposed that the provisions of Clause 3.3a of DCP 21/01 be revised (revision shown underlined) to read as follows:</p> <p>3.3 Building setbacks</p>
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		<p>a. Buildings and major structures must be setback a minimum of 10 metres from the subject site boundary to the Monaro Highway <u>except where otherwise agreed to by the Authority</u></p> <p>b. A composition of soft landscaping must be provided within the setback areas, and which meet the provisions of section 3.7 of this DCP</p> <p>c. All other setbacks to the subject site boundaries, and within the subject site, shall be in accordance with the Territory Plan.</p> <p>Annexure A</p> <p>To illustrate the matters discussed above, we have included Annexure A which forms part of this submission. Annexure A includes:</p> <ul style="list-style-type: none"> ● A perspective view of the Monaro Highway showing the relationship of the Canberra Times building to a proposed eight storey commercial mixed use/parking structure (Stoa) located adjacent to the eastern boundary of the Dairy Road site. The height of the Canberra Times building has been surveyed and is shown as approximately RL 592. The height of the proposed eight storey Stoa building has been surveyed at its suggested height of 32 metres (approximately RL 597). ● A cross-section of the proposed eight storey Stoa building showing the proposed height of the building, the height relationship to the Monaro Highway, the proposed setback from the boundary, the relationship between the proposed building and the retained Building 2, and Building Code of Australia (BCA) separation requirements <p>Conclusion</p> <p>This letter outlines in general terms the support of Molonglo of the proposed DCP 21/01. Certain matters within the proposed DCP 21/01 will however be detrimental to the development of the site. These are height and setback. This letter has outlined that for both of these two issues the following applies.</p> <p>Inclusion of a reduction in height causes DCP 21/01 to be inconsistent with the earlier intended densities because a 8 storey height cannot be achieved with the DCP 21/01 as drafted. There is no material effect on any public interface in any demonstrable way where the height is increased to 32m.</p>
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		<p>Similarly, the inclusion of a flexible setback, and one which aligns precisely with the setback provisions of DCP 171/03/0007 (as proposed by this letter), has no material effect on any public interface in any demonstrable way. Additionally, it provides clarity, certainty and consistency in the approach to development fronting the Monaro Highway .</p> <p>It is therefore seen as reasonable by us that the NCA reconsiders those two aspects in finalising the DCP as they do not affect any current public interface but would affect the propensity for this development to be procured in an economic and orderly manner.</p> <p>The proposed revision allows for an extraordinary cultural outcome. The revision proposed in this letter would give the National Capital Authority the ability to consider solutions that may better align with the planning and urban design objectives of DCP 21/01 and which provide outcomes that are extraordinary and consistent with every material and intended planning outcome.</p> <p>Molonglo shares the commitment of the National Capital Authority, and the Territory, to deliver exemplary development at Dairy Road and our submission on Draft DCP 21/01 is made in this spirit.</p>
6	Canberra Ornithologists Group	<p>Draft Development Control Plan 21/01 – Part Block 11 Section 38, Fyshwick (Dairy Road Precinct)</p> <p>The Canberra Ornithologists Group (COG) wishes to provide comments on DCP 21/01. COG understands the DCP relates to a part of a larger area (Blocks 11 and 12) proposed for units housing/commercial development adjacent to the Jerrabomberra Wetlands Nature Reserve, and that the part which abuts the Monaro Highway comes under NCA planning control. COG has already provided comments to the ACT Government in relation to Draft Variation 377 to the Territory Plan relevant to development over Blocks 11 and 12.</p> <p>The Jerrabomberra Wetlands is the premier wetlands bird habitat in the ACT, with significant biodiversity values. More than 80 species of waterbirds have been recorded in the wetlands, and around 170 bird species in total have been recorded using the wetlands habitat. It is the most important habitat in the ACT for Latham’s Snipe, a migratory wader protected under International and Commonwealth threatened species legislation, and also provides habitat for other bird species on Commonwealth, ACT and NSW threatened species lists. Jerrabomberra Wetlands is therefore of national importance as an important drought refuge for water-based species, and a critical seasonal habitat for threatened, migratory bird species.</p> <p>COG is a volunteer-based community group with around 400 members, with a mission that includes conservation of native birds and their habitats in Canberra and the surrounding region. COG plays an active role in advocating for</p>

		<p>protection of native vegetation/bird habitats and for the mitigation of threats to and impacts on native birds. COG undertakes surveys of birds, including long-term monitoring projects, which can usefully inform land use and land management actions, and has undertaken bird surveys in the Jerrabomberra Wetlands over many decades. COG is therefore a long-standing community stakeholder in the Jerrabomberra Wetlands Nature Reserve, and considers it important to provide its views in relation to potential impacts on the nature reserve and its birds/biodiversity, from the proposed large unit housing and commercial complex on the reserve boundary.</p> <p>The key issues for COG are:</p> <ul style="list-style-type: none"> • the need for high standard/best practice design and environmental provisions, and • minimisation of human impacts on, and avoidance of inappropriate recreational activities in, a sensitive nature reserve. <p>COG generally supports the principles outlined under Parts 2 and 3 of the DCP, which appear broadly consistent with DV377. The COG response to DV377 included that any development on Blocks 11 and 12 be on the basis of a high-quality design in keeping with the visual and aesthetic values and landscape context of the neighbouring nature reserve, and should include best-practice standards of environmental provisions and controls to avoid adverse ecological impacts.</p> <p>Specifically, COG strongly supports measures to effectively mitigate increased human use and impacts on the Jerrabomberra Wetlands Nature Reserve, and would like to see this reflected explicitly in the planning principles.</p> <p>These sensitive wetlands already have significant people use through quiet visitation by nature enthusiasts for walking, nature study and enjoyment. However, without proper planning, adjacent development could increase the numbers of people seeking exercise and recreational outlets in the reserve. High-impact activities such as jogging, cycling, and playing games have detrimental impacts in, and are not appropriate for, a nature reserve that is dedicated to protect environmental values and to limit disturbance to birds and other fauna, and for which low-key, passive pursuits are appropriate. The impacts from large numbers of people seeking recreational outlets in the nature reserve will become a key concern with proposed housing and other developments adjacent to the reserve.</p> <p>The planning principles could therefore usefully specify that proposals for housing and other developments include adequate provision of exercise and recreational amenities and facilities for residents on the development site, together with sufficient open or green space, infrastructure such as wide, well-connected walking paths, a variety of sitting and picnic areas, and facilities for more active activities such as ball courts, exercise areas and equipment on the development</p>
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		<p>site. Developments with these attributes will reduce impact on the Jerrabomberra Wetlands Nature Reserve through a reduction in the proportion of residents seeking recreational activities in the reserve.</p> <p>The planning principles could also usefully specify that access to the Jerrabomberra Wetlands Nature Reserve occurs only through established entrance routes, as part of visitor management planning, and that 'back-door' access to the reserve is not deliberately or inadvertently provided from the development.</p>
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