



Chris Steel MLA
Minister for Planning
Minister for Skills and Training
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Member for Murrumbidgee

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Dear [REDACTED]

Thank you for your correspondence of 16 March 2024 regarding the Brindabella Christian College (BCC) carpark. I apologise for the delay in responding to you.

Under the *Planning Act 2023* (the Act) persons can apply for a Controlled Activity Order (Order) if they believe there is a Controlled Activity occurring. A Controlled Activity is an activity occurring on a leasehold that is in contravention of the Act.

The Lyneham Community Association (LCA) applied for an Order to the Planning and Land Authority (the Authority) using this mechanism. The nature of the application was to request to shut down an unapproved carpark adjacent to BCC. As a decision on the application was not made within the legislative timeframe, the application was deemed refused.

As the LCA was the original applicant, they were able to apply to the ACT Civil and Administrative Tribunal (ACAT) for a review of the deemed decision.

The ACAT found that the activity was a Controlled Activity under the Act and substituted a decision to make a Controlled Activity Order against BCC, which was issued on 7 December 2023. This order required the BCC to seek development approval for the carpark, and that it be closed for use at the end of the 2023 school year.

It is noted that in the proceedings, the Authority acknowledged the carpark required development approval and this point was not in dispute by the parties. However, the Authority supported the position that shutting down the car park could lead to increased traffic congestion and safety risks of the surrounding areas and that it should remain open.

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BCC appealed the order in relation to the immediate closure of the carpark to the Supreme Court in February 2024. The Supreme Court has issued a stay of the order until the appeal is concluded. This means the carpark can remain open for use during this period.

Access Canberra is waiting for the Supreme Court to list the matter for a full hearing of the appeal. The date of the appeal is not yet known. It would be inappropriate for me to comment further or provide any additional information while the matter is before the Court. Due to this I cannot comment on your question on whether the ACT Government will be appointing a Contradictor in the Supreme Court matter.

BCC is entitled to apply for a Development Approval to the Environment, Planning and Sustainable Development Directorate (EPSDD) for a lease variation and an approval to establish the carpark permanently. Any application lodged will be assessed under the legislative framework and mandatory consultation with stakeholders will be undertaken. This is an independent statutory process which is undertaken by the Authority and not by me.

Should you wish to discuss this matter further, please contact Mr Joe Zuzek, Building and Planning Regulation within Access Canberra, by email to bpc@act.gov.au. Mr Zuzek would be pleased to assist you.

Thank you for raising this matter with me and I trust this response clarifies the concerns you have raised.

Yours sincerely



Chris Steel MLA
10 May 2024