

Territory Planning Authority
Attention: Territory Plan and Coordination Section, CED (480 NBA)
Access Canberra Building Services Shopfront
8 Darling Street
Mitchell ACT 2911

**Draft Plan Amendment 12 – Brindabella Christian College car park –
Lyneham Section 41 part Block 23 (DPA-12)**

Dear Territory Plan and Coordination Team

I strongly urge you to reject the proposed amendment (DPA-12) to the Territory Plan.

The land in question was sub-leased to Brindabella Christian College (BCC) in 2009 after the ACT Government gave approval for BCC to build over the carpark within its own block. That should never have been allowed to happen. Since then the conditions of the sub-lease have **never** been met, and yet the ACT Government has taken no action.

Prior to the Lyneham Community Association's action in ACAT in 2023 against the ACT Government's failure to take action against the numerous safety and planning issues with this carpark, all parties (including BCC) agreed that the car park built by BCC in 2016 was constructed illegally as it had no development approval, breached the conditions of the sub-lease over the site, and contravened the Territory Plan zoning.

The amendment DPA-12 only seeks to address the zoning issue in the most minimal way possible. No information has been provided to give the community confidence that any of the other issues will be resolved.

The arguments for allowing a carpark on this block in the report supporting DPA-12 are totally inadequate. The only real justification put forward is that the carpark has been there, first informally and then illegally sealed, since 2006. The argument offered is "It's being used by the school and therefore it may as well be made legal".

However, section 215 of the Planning Act 2023 in relation to development applications for development undertaken without approval points out in subsection (3) that 'the Territory Planning Authority must treat the application for development approval as if the development was not undertaken.' In other words, it must assess the development solely on its own merits relative to the state of the land that existed before the unapproved development occurred. In this case, relative to its former use as public open space.

While this provision relates to development approvals, as this Major Plan Amendment (MPA) proposal is clearly the preliminary stage to a proposed DA for this carpark the MPA should be treated in the same way.

Thus the MPA must first establish the need for a carpark on this block relative to its underlying zoning of public open space. In this regard the ACAT process clearly found that the carpark was built by the BCC for its own use because it had built over the carpark on its own land - it was never intended or needed for ancillary parking for the adjacent neighbourhood oval.

The MPA needs to justify with evidence its untested claim that removing the car park would displace these vehicles onto surrounding streets, increasing congestion and risk to children being dropped off at school without a dedicated facility. In this analysis it must also examine alternative options for transport of children to and from school and for staff parking.

The MPA makes the false claim that 'parking provision for Brindabella Christian College aligns with the *Traffic Management & Safety: A Practical Guide for Schools*' by providing 'sufficient off-street parking and dedicated pick-up/set-down areas'.

In fact, the Guide says (p. 15)

- short-term parking, usually for the purpose of dropping off children in the morning and collecting them in the afternoon, should ideally be located away from the main entrances used by students who walk, cycle or travel by bus in order to minimise traffic congestion and reduce safety risks.
- long-term parking should only be provided on school grounds as often there is competition with surrounding land uses for parking spaces on public roads. (*emphasis added*)

ACAT found that the carpark, as an unapproved structure, was not designed in accordance with relevant standards and thus had a range of pedestrian safety issues and caused local traffic congestion.

If the amendment is adopted, it will set a dangerous precedent for public land in the ACT. If your business starts using public land informally or obtains a sub-lease, but does what it wants on the land, after a few years the ACT Government will come to your rescue and legitimize all your failures and theirs by changing the zoning.

Construction of a car park without development approval is a criminal act. If the amendment is adopted, it will reward criminal behaviour. What other crime is left unpunished and the perpetrators rewarded?

This situation has only arisen due to the failure of the government to uphold its laws. It should have terminated the sub-lease when it became apparent it was being breached. It should never have allowed the construction of the illegal car park. It should have held BCC to the enrolment limits imposed in 2016. It should have taken action to protect the community instead of leaving it up to a community organisation to take action in ACAT to force it to act.

The government should not now try to paper over its earlier failures by corrupting what Urban Open Space means. It's time the government protected local communities and our open spaces.

Urban Open Space is for community, not school car parks.
Reject the proposed amendment DPA-12.

Sincerely