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Standing Committee on Planning and Urban Renewal
Legislative Assembly for the ACT
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Submission to the Planning and Urban Renewal Inquiry into Draft Variation 344

Dear Sir/Madam,

Thank you for the opportunity to provide commentary in relation to the Inquiry into Territory Plan Draft Variation 344. This submission is made on behalf of the Lessee for Phillip Swimming and Ice Skating Centre located at Block 2 Section 22 Phillip.

The submission outlines considerations for the amendment of rule 8 of the Phillip Precinct Code (as presented under Draft Variation 344 and subject to interim effect), which includes mandatory development provisions for the abovementioned block.

Included with this submission at **Appendix A** is a copy of the Lessees' submission made to Draft Territory Plan Variation 344, which provides the historical and current development context for the site and outlines the basis for proposed amendment of the Phillip Precinct Code.

We further confirm our attendance at the Woden Valley Community Council monthly meeting on 6 September 2017 (at which Ms Le Couteur was present), during which the Draft Variation and Precinct Code controls specifically relating to Block 2 were discussed.

At this meeting, current and future development proposals for recreation facilities in Woden and surrounding areas were presented by Mr David Jeffrey of Active Canberra. This included an update on the Ice Sports Facility options study currently being prepared by the ACT government.

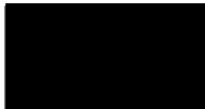
The appropriateness of mandatory rule 8 of the Phillip Precinct Code on the operation of the Phillip Swimming and Ice Skating Centre was brought into question in light of these recent activities. It was suggested in the forum that the rule no longer reflected the needs of the local community, and that the current drafting of the rule imposed an unrealistic and unreasonable planning constraint on the site that would adversely impact the Town Centre should the facility cease operation.

This is a reasonable outcome given the Territory Plan provision as per Draft Variation 344 and the interest in establishing a new ice sports facility in south Canberra – an outcome that is unlikely to be realised on the site in the context of the Territory Plan provisions.

We trust that this submission clearly outlines our reasons for seeking an amendment to rule 8 of the Phillip Precinct Code, and that this information will facilitate a review of the intent and operation of this mandatory rule in the context of current and future development in Woden and the ACT.

The Lessee and their representatives confirm that they would be willing to attend and participate in public hearings on this inquiry if provided such an opportunity. Please do not hesitate to contact the undersigned in this regard.

Yours Sincerely,



Nichelle Jackson
Town Planner - Canberra Town Planning

Appendix A – Phillip Swimming and Ice Skating Centre submission to Draft Territory Plan Variation 344

2 June 2017

Territory Plan Comments
Environmental Planning and Sustainable Development Directorate
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Canberra ACT 2601

By E-mail: terrplan@act.gov.au

Commentary on Draft Territory Plan Variation No. 344 and Woden Town Centre Master Plan 2015

Dear Sir/Madam,

On behalf of the Lessee for Block 2 Section 22 Phillip, we provide the following comments in relation to Draft Variation 344 for the Woden Town Centre.

Thank you for the opportunity to provide commentary in relation to Draft Territory Plan Variation No. 344 (**DV344**). We write specifically in regard to the Phillip Swimming and Ice Skating Centre located on Block 2 Section 22 Phillip.

Our submission details the history of planning controls applicable to the site, and explores the impact of proposed changes to the Phillip Precinct Code under DV344 on the subject site in the context of current development and planning policy initiatives.

Site history

Phillip Swimming and Ice Skating Centre has operated in its location at the corner of Irving and Launceston Streets in Phillip since the 1970s. Facilities on the site include a 50 metre swimming pool, an ice skating centre, kiosk, amenities and grassed outdoor areas. Pool facilities operate during the summer months while the ice rink operates throughout the year.

In the 2004 Woden Master Plan, opportunities were identified for the enclosure of the pool and other development of up to 3 storeys on Block 2, and planning controls for the site based on the recommendations of the 2004 Master Plan were uplifted into the former Territory Plan. A new Crown lease has been issued for the site after the expiry of the previous Lease and a lengthy negotiation with the ACT Government that spanned a number of years.

The Block 2 facilities (plant and buildings) are coming to the end of their useful commercial life. With maintenance costs escalating, electricity prices rapidly increasing (more than doubling in the last 6 months), cost of water increasing and award penalty rates to cater for 18-hour day/7 day week operations impacting on staffing costs, the facility is under constant and increasing commercial pressure. The commercial viability of the operation is an increasingly challenging proposition. The ensample of uses on-site sees

the ice skating facility heavily cross-subsiding the pool operation and without this component ongoing viability of the existing operation could suffer substantially. Redevelopment of the site has been constrained by specific Crown lease covenants and Territory Plan controls that impose constraints on the size and location of the pool and ice rink that are required to operate at the site. The ageing infrastructure would benefit from substantial renovation, however in its current configuration these facilities would be required to close down to undertake such works; a context in which the viability of the current operations would be seriously and negatively impacted upon and the operation may well cease to exist following redevelopment.

Relation of site to Woden Town Centre Master Plan and Draft Variation

The 2015 Woden Master Plan at objective 5.6.7 seeks to improve access to community, sport and recreation facilities and provide facilities appropriate to an increasing local population. The Master Plan appears to recognise that the facilities require capital renewal and recommended a simplification of the planning controls for Block 2 Section 22 Phillip to enable future redevelopment of the site.

Rule 7 of the current Phillip Precinct Code applies specifically to Block 2 Section 22 Phillip and places substantial constraints on the development and redevelopment opportunities of the site due to the specific outcomes it required in a mandatory fashion. We provide below a snapshot to the planning control is to be varied in the proposed Draft Variation DV344. We show the proposed planning control with text to be deleted as struck through and new wording to be added in red font.

Rule 8 (Mandatory)

This rule applies to area 'A' in figure 1. Development complies with all of the following:

- a) provides or retains an ice skating rink suitable for national ice hockey competition*
- b) provides or retains a 50-metre public pool ~~on the northern portion of the block with unimpeded visual connection and with direct public address to Irvine Street~~*
- c) development for other uses ~~is restricted to the southern portion of the block and involves redevelopment of the pool as an indoor facility~~*

*Note that Area "A" is Block 2 Section 22 - The Phillip Swimming and Ice Skating Centre site.

Upon inspection of the proposed wording we note that the changes seek to remove the restrictions on the location of the required facilities on the subject site, however the rule continues to apply constraints on the size and street address of these facilities required at the site in a mandatory fashion.

Furthermore, it is unclear how part c) of the proposed rule may be interpreted should a development proposal be progressed for the subject site. In the context of the wording it can be interpreted that the development for "other uses" would include the required ice rink redevelopment. Thus any redevelopment that is not related to the pool would require the aquatic facility (which has to be a 50m pool under the rule) to be enclosed. This is problematic in the context of the site/current use geometry and redevelopment opportunity (including context of adjoining development being constructed).

We appreciate the intention to vary the Plan to assist in generating an opportunity to provide for the redevelopment of the site but we are afraid that the proposed rule will not support a viable outcome. The fact that it is presented as mandatory limits the development opportunities consideration, prevents the proponent to deal with the manner in an innovative and fit-for purpose and need context and lock the current configuration in place into perpetuity. We do not believe that this is the intent of the Master Plan and wish to suggest a different approach to facilitating the outcomes sought.

The proposed Draft Variation refers to objective 1.18 of the Territory Plan Statement of Strategic Directions, which states:

Provision will be made for a comprehensive range of readily accessible community, cultural, sporting and recreational facilities, distributed according to the varying needs of different localities and population groups. In major centres and developing areas, sites will be safeguarded where necessary for particular community needs.

The need to safeguard community sites in major sites is appreciated, however some flexibility in the way in which these facilities are delivered would afford Lessees opportunities to reimagine development outcomes in a broader, more creative and innovative manner that may be well beyond the consideration that a form rule such as proposed Rule 8 can capture.

It is possible to clearly set down the intent of the Planning Control in a manner that communicate the desired outcome, provide certainty to the proponent and community of the outcomes required but still allow and ensure that a range of development options and schemes can be considered, prepared and tested that will support a commercially viable project that returns the investment capital needed to support the redevelopment of the uses in question and ensure the ongoing viability of these assets into the future.

We believe that the introduction of criteria against Rule 8 that capture the requirements of the rule but provide the opportunity to understand the site, the current operations, community needs and interest in these facilities. Such criteria will permit alternative and innovative development model opportunities to be explored on the site; and given that the facility is operating within a changing social and political context (outlined below), this would be a more prudent way to facilitate the redevelopment opportunity sought.

In a context where the proposed Rule 8 continuous to be mandatorily applied and provide a very narrow development outcome in relation to the delivery of both ice rink and swimming pool facilities the redevelopment opportunity is severely limited to the point of unviable. In this context no development alternative can be imagined other than that proposed for the rule, regardless of whether this outcome represents a desirable outcome for the Town Centre or the community, meets the object of the rule and present an outcome and future that is fit for purpose and in line with community expectations and needs.

Context and Justification for amendments to proposed Variation DV344

The current Draft Variation represents an opportunity to review the planning controls for Block 2 in light of changes that have occurred in the design and function of the Town Centre- and more broadly, recreation facilities around Canberra- since 2004.

The proponent has been actively considering the development opportunities for Block 2 site the granting of the current (new) Crown Lease in 2016. We used the endorsed Master plan as a framework in which to prepare a range of development analysis and concept outcomes to test development viability for the site. We understand the constraints (both physical and operational) associated with the current uses at the site and how development would affect their viability. We also understand the business of operating ice sport and aquatic facilities and the current usage profiles and need for these facilities in Canberra.

Our assessments to date clearly demonstrate that development of the site in the context of proposed Rule 8 is not a sustainable and viable proposition for the survival and longevity of current on-site activities, nor the ability to further develop the site while these activities are protected. We are prepared to offer these assessments to the Authority in a separate document to assist in the consideration of this response, noting the commercial confidentiality of such schemes and our desire not to have this information made publicly available at this time.

This advice should be considered in the context of some recent ACT government announcements and the likely impact that this may have on the redevelopment of the site. Prior to the ACT election in August 2016, the ACT Government announced an intention to undertake a feasibility study for the new ice sports facility, potentially to be located in southern ACT:

- City News: <http://citynews.com.au/2016/labor-advance-notion-new-ice-sports-facility/>;
- Canberra Times : <http://www.canberratimes.com.au/act-news/act-election-new-ice-rink-sporting-grants-promised-as-part-of-23m-labor-plan-20161001-grszca.html>)

The announcement states that the new facility will be at a location yet to be determined and will "take over" from the Phillip facility.

These articles, and our discussions with Directorates in the ACT Government indicate that there is no guarantee that a new ice sport facility would be located on the subject site: it is likely to be located elsewhere.

If the new facility is to be located on Block 2 and the proposed Rule 8 sets a requirement to provide a 50 metre public pool, then it will not be possible to operate the pool whilst the new facility is being constructed, as the current pool and ice rink heat exchange systems are designed to work in concert to regulate the temperature of both the ice rink and the pool.

The Lessee has made substantial investment in these building systems and significant cost would be associated with the redevelopment of both facilities concurrently, including the loss of business continuity.

If an alternate site is selected, market knowledge indicates there is insufficient demand for two facilities to operate in the ACT. Multiple ice rink facilities operating in larger Australian cities have struggled to remain viable and the ACT would be no exception. The narrow provisions provided within the mandatory Rule does not consider this reality and/or provide innovative alternatives to be considered for developing such a facility in close proximity to the site if viable.

In the context of the site history context, use and geometry constraints, our site development analysis (separate confidential document) and political context as set out above, we offer the following matters as justification for the review of the proposed Rule 8 as currently described in DV344.

Desire to maintain the presence of ice sports in the ACT

There is a need to ensure business continuity for the ice rink facility as the most valuable and viable use of the current site operations. If Canberra's only ice rink ceases to operate for a period of time and without a venue for use, the ice sports community will disperse, trainers and coaches will relocate to where opportunities to practice their professions are offered and the sport will disappear from the ACT. The ongoing operation of the ice skating facility limits the opportunity to redevelop the site in the context of Rule 8 (as proposed).

Lack of flexibility in site configuration

The requirement to provide a 50 metre swimming pool and competition size ice rink, including providing frontage to Irving Street, places definite constraints on the configuration of buildings and structures achievable on the site. There is limited potential to achieve an efficient design response in developing the remainder of the site for other uses. Making this outcome mandatory renders the opportunity to imagine a variety of outcomes that delivers the planning outcomes desired by the Master Plan and community and limits the opportunity to develop a fit for purpose use that is aligned with community needs.

Competition from existing and proposed public and private pool facilities

The existing pool currently operates seasonally, and pool patronage numbers consistently show that there is insufficient public interest in using a 50 metre pool on the subject site. We note the following developments in vicinity of the subject site that have the potential to impact on the viability of the pool facility:

- We are aware that a new aquatic centre is proposed for Stromlo Forest Park in the developing district of Molonglo. The facility will include a 50 metre pool, expected to open in 2019.
- Canberra Southern Cross Club also located on Irving Street is currently upgrading its health centre facilities (including a new swimming pool), due for completion in 2018.
- 'Trilogy' is a residential development under construction within the northern Town Centre precinct (Block 1 Section 22, directly adjoining Block 2 to the north), and this development will include a private swimming pool.
- In most instances, today we observe that multi-unit developments (and often private development) include a pool within the complex of back-yard. This context is expected to continue.

The existence of these facilities erodes the patronage base of the Phillip Pool, burden the Lessee with a defunct use and a requirement to retain the use on the site and limits the future viability of a 50m pool at the site. It is suggested that a public pool offering can be maintained on the site, albeit at a smaller scale, in line with modern use and need expectations from the public and as a viable commercial operation to ensure its longevity in this place.

Development outcomes for Block 2 Section 22 Phillip

In the context of the above it is our strong contention that the proposed wording changes to mandatory Rule 8 of the Phillip Precinct Code under the Draft Variation fails to acknowledge the changing community facility context of the site or viability of existing uses, and do not provide opportunity for innovative development outcomes on the subject site. Alternative development solutions on or off the site could be explored and it would be prudent to make this possible in the context of a Plan Variation that seeks to support the development of the Town Centre into the future.

We suggest that proposed Rule 8 needs to be revised to reflect and articulate a viable development outcome for the site. The rule can readily be supported by a criteria statement that allows the Lessee to approach the ACT Government with alternative development/redevelopment opportunities that seeks to achieve the retention of a publicly available swimming pool and ice skating rink; however not necessarily in the prescriptive format proposed by the rule.

This criteria should further acknowledge the government's intention to explore an alternative ice sport facility location in the ACT and accommodate the future financial and operational impacts such a decision may have on the Block 2 Lessee.

Summary

We trust that this submission has clearly outlined our concerns regarding the Draft Variation and the impact the proposed changes would have on the ongoing operation of facilities at Block 2 Section 22 Phillip. We are available at any time to discuss the matters raised if needed, and would be happy to answer any questions that you may have. Please do not hesitate to contact me in this regard.

Yours Sincerely,



per: **Pieter van der Walt**
Director - Senior Town Planner