

APPENDIX

PLANNING AND DEVELOPMENT (DRAFT VARIATION NUMBER 307) CONSULTATION NOTICE

Griffith Section 42 Block 15

Change of Zoning from Commercial CZ6 Leisure and Accommodation to RZ4
Medium Density Residential Zone

SUBMISSION

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SYNOPSIS.

Based on the information herein, it is submitted that the Brumbies Rugby application to vary the Territory Plan with respect to Section 42 Block 15 Griffith should not be approved by the ACT Planning and Land Authority and, if necessary, should be rejected by the ACT Legislative Assembly if the matter comes before it.

The Draft Variation is inconsistent with the provisions of the Territory Plan in a number of respects, in particular the subject land does not fall within the RZ2 Suburban Core Zone and its rezoning would accordingly be at variance with the stated objectives of the Garden City Variation (DV 200). The Draft Variation is inconsistent with the Strategic Direction of the Canberra Spatial Plan because the subject land is not within 300metres of a town centre or any one of the specified main road corridors. It would also involve the alienation of public land that is designated as active recreation space, which would be contrary to the Spatial Plan principle that urban intensification must not take place at the expense of parks, recreation and leisure activities.

The stated justification in support of the Draft Variation by ACTPLA is based on incorrect population growth statistics coupled with false assertions that Griffith lacks housing diversity. ACTPLA documents obtained as a result of FOI applications by the Association show that an RZ4 zoning has not been justified by the Brumbies and is in any case likely to produce the same type of apartment development that is currently prevalent in South Canberra generally and is ill-suited to contemporary social needs. The demand for active recreation facilities in South Canberra and Griffith is high with no prospects for future needs being met; hence Block 15 should not be deleted from the metropolitan pool of public recreation space.

The Draft Variation would have an adverse impact on the integrity of Section 42, which has significant heritage values that are reasonably well known but which have not been assessed by the ACT Heritage Council due to lack of funding. If the Brumbies have no use for Block 15 it should accordingly revert to the Territory as part of the metropolitan pool to meet future public recreation needs.

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INTRODUCTION

This submission has been prepared by Tony Powell in response to the invitation contained in the Consultation Notice 2011, dated 21 February 2011, to make written comments on Draft Variation to the Territory Plan, Number 307, applying to Section 42, Block 15 Griffith being the site of the former Canberra South Bowling and Recreation Club that is currently occupied by Brumbies Rugby on the basis of a Concessional Lease.

The subject land is public land. The permissible use under the terms of the lease is for use as a bowling club, however, the current use by Brumbies Rugby as a headquarters and gymnasium is in breach of the lease conditions.

The publication of Draft Variation 307 is the result of a new application by Brumbies Rugby to rezone Block 15 which, if successful means that the Club would transfer its operations elsewhere.

This Submission contends that the fundamental issue at stake here is the disposal of public land to a private company by a Territory Government that would deplete Canberra's pool of metropolitan public recreation space, without any consideration being given to future long term recreation needs for Canberra as a whole and for South Canberra and Griffith in particular.

Public recreation and leisure land is a finite resource. Once it has gone it is gone forever. This is why its preservation is generally regarded by the ACT community as being sacrosanct, only to be altered in rare cases of a more pressing public interest need. Since 1989 successive Territory governments have respected this view and administered the metropolitan open space system accordingly, up until now.

In formulating this submission the objective has been threefold.

Firstly, to define the extent to which DV 307 fails to comply with the provisions of the Territory Plan, particularly insofar as they relate to residential and public recreation land; also in relation to the strategies embodied in the 2004 Canberra Spatial Plan.

Secondly, to show how DV 307 pays no regard to future population needs, is short-term, narrowly-focussed and opens the door to the constant enemy of urban and regional planning everywhere, namely 'political expediency'.

Thirdly, to show how the preparation of DV 307 is a serious violation of 'due planning process' in this Territory that raises fundamental questions that both the Legislative Assembly and the Territory Government must confront if there is to be satisfactory solutions to current problems of inadequate environmental protection, declining quality of residential amenity, worsening backlogs in relation to public transport, the metropolitan highway network and public parking backlogs and a public service that needs to be transformed into a unitary administration with analytical and forecasting skills along the lines set out in Dr Allan Hawke's "Governing the City State " report to the Government.

1. ORIGINS OF DRAFT VARIATION 307

Minister Barr's Explanation

At a meeting of the Assembly Standing Committee on Planning, Public Works and Municipal Services on 24 November 2009 the Deputy Chair, M/s Le Couteur, asked a question about "the Brumbies proposed redevelopment around their oval".

In response the Minister for Planning, Andrew Barr, made the following observations:

- "The history of the Brumbies has very much been a year-to-year proposition in terms of their financial viability.... My view is that there is a limit to the amount of direct, off-budget ACT Government sponsorship that can be made available to national league teams... There is a range of ways that I believe the people of Canberra get a direct benefit from the Government's support of the Brumbies.... Then, of course, there are all of the intangible benefits that come from having successful sporting teams in international competitions".
- "I have indicated, as planning minister principally, a willingness to examine the proposals that they have put forward... The formal process would involve a Territory Plan Variation... The rationale for it would be to provide the financial underpinnings for the Brumbies operations into the future and to enhance their training facilities".

Chief Minister's Support

The Chief Minister confirmed his personal support on ABC666 talk-back radio on 11 December 2009 and reiterated it in the Canberra Times (22Jan'10), in the following terms:

- The rezoning and sale of Block 15 (the former Canberra South Bowling Club land) for medium density residential development would be in accordance with urban intensification objectives.
- The proposals for Griffith Oval (Block 17) were justified because of the significant benefits that the Brumbies bring to the ACT. He considered that, despite the loss of open space, it was not unreasonable for the Government to sell or sub-lease the oval to the Brumbies. Block 17 would not be given away free and the Brumbies would have to pay a fair and reasonable price.
- It was up to ACTPLA, as an independent and impartial authority, to evaluate the proposal in light of the Brumbies planning report.
- He stated that everybody was entitled to exercise their democratic right to make application to vary the Territory Plan and that none of the zonings were exempt from such applications. It was up to ACTPLA to decide which way an application might go, and it would then become a matter for the Government (Minister) and the Assembly.
- The Chief Minister has issued instructions to Mr David Dawes, Land & Property Services head, to take whatever steps necessary to deliver the project.

In a letter obtained under Freedom of Information (19 Aug'09), the Chief Planning Executive, Mr Neil Savery, wrote to Brumbies chief executive, Andrew Fagan, in response to a request for ACTPLA to initiate the draft variation process, Mr Savery informed Mr Fagan that the matter would be considered 'holistically' (that is, both Block 15 and 17 together) and if ACTPLA decides to proceed then it will be as a single variation.

Heritage Listing of Griffith Oval (Block 17)

It has been well known in professional and historical circles that the Griffith Oval and the wider public recreation area that is Section 42 are of heritage significance. The public recreation area was included in Griffin's 1913 plan. The plan defined the initial subdivision for what is now the suburb of Griffith and the open space corridor containing Manuka Oval and Telopea Park. For some reason neither ACTPLA nor the National Capital Authority seemed to be aware of that fact when considering whether or not the Brumbies Development Application had heritage implications.

After several months of intensive historical research by GNCA members to establish a case for Block 17 to be accorded statutory protection under the Heritage Act, in June 2010 Griffith Oval No 1 was entered into the Heritage Register on a provisional basis. This was based on the nomination by GNCA that it had heritage significance under three specified criteria set out in the Act. In October 2010 the placement on the Register was confirmed, which meant that the Brumbies planning and development intentions as outlined in its planning report were no longer feasible.

Subsequently ACTPLA notified the Brumbies that it had decided not to approve its Draft Variation application on heritage grounds. The Chief Planning Executive, Neil Savery, subsequently wrote to the Brumbies asking whether the Club wished to consider making an application for approval of a Territory Plan Variation covering Block 15 alone. The objective would be to have the land rezoned from commercial CZ6 leisure and accommodation to RZ4 medium density residential in order to facilitate the sale of the land to a developer. The proceeds would be used to fund the re-establishment of the Club's headquarters and training facilities elsewhere. Draft Variation 307 is the present outcome of Mr Savery's proposition.

2. THE SIGNIFICANCE OF SECTION 42

Block 15 in the context of Section 42

Block 15 is the former Canberra South Bowling and Recreation Club site, which was taken over by Brumbies Rugby in 2008 as a result of the Bowling Club's bankruptcy. It has a site area of 1.7ha amounting to 17% of Section 42's 10ha. In the Commonwealth era Block 15 was designated as Restricted Public Open Space but was later changed under the Territory government to Commercial Leisure and Recreation for reasons that are not clear. The lease conditions specify that the site may be used "for the purpose of a Bowling and Sporting Club", however, its occupation by the Brumbies for administration and football training purposes is in breach of the lease which, for some reason, is not being administered in accordance with the law by the ACT administration.

Spot Zoning

The effect of DV307 is to transform Block 15 into a 'spot zoning' by excising it from Section 42. Section 42 is administratively designated by TAMS as 'district recreation grounds' and comprises a mixture of active recreation facilities including 2 football/cricket ovals, a children's playground, club tennis courts, a Girl Guide hall, the former bowling club site and informal walking trails along the creek lines and stormwater retention basins. There is an extensive tree cover throughout Section 42 made up principally of outstanding exotic autumn species.

Spot zoning is anathema to sound town-planning practice because it detaches an area of land from its spatial context and evaluates it, in this instance, in terms of a re-zoning feasibility study without any regard being paid to its adjoining land and infrastructure connections. In practice this ensures that adverse physical, economic and social impacts on the rest of Section 42 and adjoining residential and nearby commercial areas will not be properly taken into account. Because Section 42 is a district-scale public recreation area, there are implications for the whole of South Canberra, which is its user catchment.

Section 42 Planning Principles

Section 42 is bound on each of its four sides by local streets, a planning practice that was first specified for Canberra by the Federal Capital Advisory Committee in the early 1920's under its chairman Sir John Sulman. He was a famous advocate in his day of 'garden city' planning principles and urged that they be adopted for use in designing the layout of Australian cities and towns. During the NCDC era, district open space and schools with accompanying ovals were invariably surrounded by boundary streets. This was partly for ease of pedestrian and vehicular access from all sides, and partly as a protective barrier from adverse environmental impacts emanating from adjoining residential and commercial activities. To contemplate the insertion of multi-unit housing development on Block 15 would break down this 'island' effect to the certain destruction of the societal, ecological and landscape character of Section 42 as a whole.

Heritage Considerations

It would be wrong to assume that last year's heritage listing should only apply to the Griffith Ovals aspect of Section 42. Should the ACT Heritage Council be given sufficient funding, it would very readily be able to establish that the whole of Section 42 has important historical significance, due to the fact that it lies in an ecological

corridor aligned with original watercourses that Griffin marked as non-urban areas in the 1913 version of his winning plan.

Section 42 forms part of a continuous open space and natural drainage system that rises in the foothills of the Red Hill ridge, descends by way of the Boys Grammar School playing fields to a series of smaller parks and sports grounds, through Flinders Park, the Griffith Ovals, Captain Cook Park, Manuka Oval, and Telopea Park and debouches into the Lake's east basin. This is part of a larger network that includes the Red Hill Ridge, the Land Axis along the line of Melbourne Avenue and thence past the Parliament and down to the Lake again.

This open space network is the epitome of one of Griffin's fundamental principles, so aptly described by Professor Ken Taylor (CT 14 Dec '09 *Time to focus on landscape and city open space*). The hills and valleys defining the topographic framework of the city should be allowed to penetrate physically and visually into all parts of the city in the form of streets, parks, public spaces and natural drainage lines so that urban space and landscape space are intertwined and mutually enriching.

Lindsay Pryor followed on from Charles Weston to create the landscapes of North and South Canberra much as they appear today. In the Lindsay Pryor Memorial Lecture given at the ANU by the Chancellor, Allan Hawke, in 2006 describing the national capital on his arrival in 1934, Pryor said "*...there was nothing much to be seen, just the odd primordial here and there. There was a sort of index indicating the promise of a very substantial future development. The feeling was that Canberra was a pre-ordained place where some grand buildings would arise was evident*". He was particularly proud of Griffith and Telopea Parks, Flinders Way, Captain Cook Crescent, the area around Rodway Street along the creek in Yarralumla and Westbourne Wood.

In a similar manner, the NCDC identified what it termed a "Griffin Trail". This could be developed starting from Parliament House and extending down to the Lake along the line of the Land Axis, proceeding along the south shore of East Basin and turning right into Telopea Park, past Manuka Oval, via Section 42 district open space and continuing along the line of Flinders Way returning to Capital Hill via the Red Hill ridge. If this scheme was ever realised it would be a significant contribution to illustrating and preserving a part of the Griffin Legacy that does not deserve to be lost forever simply because of an unfortunate lack of historical awareness today.

Unless easy public access is maintained throughout such a network, the landscape corridor begins to lose, bit by bit, its quality and intended purpose. The development of the Manuka Plaza, approved by the Carnell Government, has been a major disruption along the line of Captain Cook Crescent in this regard, with the loss of a small park and disruption to pedestrian and cycle movements crossing Canberra Avenue heading in the direction of Manuka Oval and Telopea Park.

3. REASONS FOR THE DRAFT VARIATION

Intentions

The stated intention of Draft Variation 307 is to change the zoning of Block 15 from Commercial CZ6 Leisure & Accommodation to Residential RZ4 Medium Density Residential, which would enable medium density housing development up to three storeys plus an attic level.

According to press reports, Brumbies Rugby intends to vacate the subject land and its training operations on Griffith Oval and move to alternative premises elsewhere in Canberra. The Club will use the profits from the rezoning and sale of Block 15 to improve its financial situation, although the Government has been unwilling or unable to say what amount of money that might require.

Draft Variation Reasons

Surprisingly ACTPLA in section 2.4 of the Draft Variation Consultation Notice provides no reasons of its own for justifying the Draft Variation, which hardly seems to be an adequate exercise of its statutory obligations to administer the provisions of the Territory Plan and its enabling legislation. The Draft Variation document simply states that: *“The reasons for the proposed zoning are presented in detail in the planning report and are summarised as follows”* etc. This posed another difficulty in that the Association had no way of knowing which section or all of the contents of the Planning Report also equate to a formal statutory ACTPLA view.

This means that the reasons specified by Brumbies Rugby in its Planning Report appear to have been adopted *holus bolus* by ACTPLA notwithstanding that ACTPLA has a statutory obligation to make up its own mind on such matters, while maintaining at all times a professionally informed and impartial stance.

ACTPLA’s key reasons or justifications are:

- The proposal will increase housing choice in the Griffith/Forrest area
- The proposal will further assist in offsetting population decline in South Canberra
- The proposal is consistent with the Territory Plan’s Statement of Strategic Directions
- The proposal is consistent with the key principles of the Canberra Spatial Plan

In fact the proposal is contrary to and inconsistent with all of the above, as a brief look at two of these issues demonstrate, namely, Housing Choice and Spatial Plan principles.

Housing Choice

The outline development proposal shown in the Brumbies Planning Report comprises three-storey flat development amounting to upwards of 150 units with an average floor area of 90sqm. This indicates there will be a large proportion of one and two bedroom units that, for the past thirty years or so in Griffith and Kingston, have been the prevailing new dwelling type.

Housing projects currently in train in Griffith, Forrest and Kingston, which are at the planning and development stage, or will be so within five years, are:

- Stuart Flats redevelopment, diagonally opposite Section 42, most likely as a public/private joint venture by ACT Housing. Under current Territory Plan regulations there would be a capacity of 250-300 units or 400-500 residents
- St Christopher's Church special needs housing and office accommodation, about 120 units
- Former Telopea Park Motor Inn site, 58 flat units (only three 3BR)
- Fraser Court site, Kingston, under construction, RZ5, 240 units.
- Kingston Foreshore project, ongoing
- Eastlakes project, with some prospects for mandatory terrace and town housing.

In other words, well over 1,000 residential units (1600 residents) will be built in Griffith and adjoining suburbs in the next 5-10 years or so. Unless something is done by ACTPLA to specify the proportion of one, two and three bedroom sizes as well as town house and terrace housing alternatives, then developer-driven one and two bedroom units will continue to prevail. This reflects investor rather than social preferences.

The range of housing choice in the Griffith area is already diverse and the extent of diversity is greater than in most other suburbs of Canberra. In fact the proportion of town houses, terrace and duplex housing, as well as older more spacious and contemporary apartments, amounts to well over half of all residential accommodation. Consequently the proportion of single-family detached housing is much lower than the Canberra average.

Recent studies show that there is a particular need for town houses and medium density cluster development as well as dual occupancy accommodation for extended families, none of which is being supplied by the housing and development industry because of the latitude allowed by ACTPLA's *laissez faire* development approval policies.

In its assessment of the Brumbies Planning Report, ACTPLA staff have expressed some scepticism that the case for RZ4 development "*is made in part to enable the ageing population to downsize, however, there is nothing to indicate the development will increase the proportion of adaptable dwelling units*" (FOI docs).

Further doubt is also remarked "*Reading between the lines (could comprise 150 units) it is likely that any apartment development, particularly given the dimensions of Block 15, will yield only smaller size dwellings (1-2 Bedrooms) couched for the investment market rather than for the owner-occupier family market*" (FOI docs).

Spatial Plan Strategies

The purpose of the Canberra Spatial Plan is to provide clear directions for the development of Canberra over the next 30 years and beyond (p1 Canberra Spatial Plan).

A key strategic direction will be that residential intensification will occur within a 7.5km radius of the city centre over the next 15 years and will accommodate demand for a wider range of housing in locations close to employment and services (p12).

A key initiative for residential areas will be higher residential density development within the existing urban area, providing easy access between home and places of work, education, community services and cultural activities. Primarily this increase will occur within Central Canberra in Civic, along Northbourne Avenue and

Constitution Avenue, in Barton and Kingston and adjacent to town centres with limited change to existing suburban areas (p18).

Block 15 Section 42 is not on any of these major avenues nor is it near a town centre, Civic being the nearest at more than 5 kilometres away. Also, concentrations of higher density housing development have been increasing in Kingston, commencing as far back as 1985, and intensifying in the last 10 years or so with the sale of national land sites in Barton.

Existing low density residential areas will generally not be subject to residential intensification (p31).

Goal – Create and maintain a healthy community. Canberra residents enjoy a high quality open space network that is valued as a recreational resource. They are also well served through the provision of a range of recreational facilities. Access to open space and recreation areas is highly valued by the community and encourages physical activity. Residential development will be located in close proximity to major recreational areas to encourage their use (p42).

Monitoring Indicators – the proportion of green spaces for recreation located within 200m from housing (p43).

Infill – The construction of new buildings on previously undeveloped sites within established areas but not on public open space (p92).

ACTPLA comments *“The redevelopment for both blocks is opportunistic in nature, however, they differ in that the proposal for Block 15 evidently seeks to maximise the financial yield of land already largely alienated from the public domain”*. (FOI docs)

Higher density residential development – requires the preparation of master plans for major urban renewal sites in Central Canberra (p84).

Biodiversity Conservation – at a smaller scale the numerous parks, waterways and landscape features in the urban area that provide links between private gardens and nearby bushland areas will also be recognised in planning policy (p72).

It is clear from the above FOI extracts that the intention of the Spatial Plan is that public recreation areas, such as Section 42, including Block 15, are to be conserved and not rezoned for residential intensification in the manner that DV307 proposes. It follows that the proposition to rezone Block 15 for residential development is inconsistent with the strategies and underlying principles of the Spatial Plan.

Option: Maintaining the Status Quo.

A draft variation of the Territory Plan is not the same as a development application pertaining to a specific parcel of land, notwithstanding that ACTPLA uses the term ‘development application’ or DA for both, which is confusing. The focus of a draft variation is a zoning change that has application metropolitan-wide. This means that it addresses collateral issues such as roads and public transport, infrastructure provision, public open space, centres hierarchy, non-urban areas, social and economic assessments, environmental impacts, population forecasts and urban development programs.

The difficulty with DV307 is that the Scoping Study by ACTPLA that the Brumbies Planning Study has responded to is narrowly focussed on Block 15 itself, on the two frontage streets, Austin and La Perouse, and the impacts that a notional form of residential flat development zoned RZ4 might produce. In other words, most of the

Brumbies Planning Report is irrelevant to the question of what will be the impact of a zoning change on Block 15, as proposed in DV307. Put simply it will have implications for similarly zoned land throughout the whole of the Canberra metropolitan area.

In considering zoning changes, ACTPLA, as the responsible authority under the Planning and Development Act 2007, is required *inter alia* to consider whether the current zoning is the most appropriate use of the land. The Brumbies Planning Report, as a surrogate, has certainly not done so in the case of DV307, apart from ticking a few boxes asserting that it has done so with predictably dismissive results. The question of a 'no zoning change' option for Block 15 is assessed at some length in Section 6 of this submission.

4. POPULATION AND FUTURE NEEDS

Planning Report Population Statistics

Section 2.4 on page 6 of the Draft Variation document ('Reasons for the proposed Draft Variation'), contains the following statement: "*The proposal will further assist in offsetting population decline in South Canberra*". However, when one turns to page 7 under the heading 'Population Change', the numbers and graph show that since 1986 there has been a steady revival from a low of around 21,000 to an estimated 26,000 by June 2009. In addition, Kingston and Griffith are the two most active population growth areas.

The above figures have been taken from population projections for the period 2007-2019, published by the Chief Minister's Department in June 2009, which indicate a marked increase in the rate of growth during the next ten years as East Lake urban renewal comes on stream and Kingston Foreshore maintains a steady output of new housing. By 2022 South Canberra's population is estimated to have reached 40,000. That is an increase of 14,000 residents (Appendix 'A'). It is likely that these projections might not have picked up the redevelopment of Stuart Flats and smaller scale intensification projects in Kingston and Griffith/Forrest and are accordingly conservative.

The obvious implication of these numbers is that there is likely to be a marked growth in demand for recreation facilities in South Canberra generally, especially for Section 32 in terms of district-scale outdoor team sports for which conveniently situated sites are already at a premium.

In light of the above analysis it is not apparent where the statement "*The proposal will further assist in offsetting population decline in South Canberra*" comes from. It is clearly unwarranted.

Recreation Needs

The Brumbies Planning Report has not made any attempt to assess future recreation needs either. The Report simply runs through the various permissible uses under the current CZ6 Commercial (Leisure and Accommodation) zoning, dismissing them categorically as unlikely to be commercially feasible.

According to further documents obtained by GNCA as a result of an FOI application, the Chief Planning Executive, Mr Neil Savery, wrote to the Brumbies CEO (Mr Andrew Fagan) on 6 April 2010 seeking clarification of deficiencies in its submitted Planning Report. ACT Sport and Recreation within TAMS, as the custodian of Section 42, requested information on the likely impacts for other recreational uses in light of the proposed changes to Block 15 and 17, as well as the Captain Cook Park children's playground facilities.

A comprehensive analysis of possible impacts on recreational users in the surrounding suburbs across all classes of recreation zones was required in the Scoping Study. It seems that there had been no consultation with key stakeholders such as current sporting groups and other recreational users. Nor was it apparent that the Griffith Narrabundah Community Association or other local interest groups had been specifically consulted. According to TAMS a proper analysis of impacts might include a survey of current user characteristics detailing whether they are formal, informal, active or passive. It might also include projections of population increase/decrease in nearby suburbs. It would take into account likely future

recreation needs of each group as well as the likely impact of introducing dogs-off leash areas. It would also assess the availability of other areas of open space providing a similar recreation experience in South Canberra generally.

It was also of key concern to ACTPLA that there is an increased range of uses that are permitted in the Territory Plan parks and recreation zone, including hotel, motel, clubs and guesthouses. These could result in future development applications that might further reduce the amount of public land available for active recreation on Section 42.

In addition, the Planning Report is required to include a thorough assessment of the proposal in terms of the Griffith Neighbourhood Plan. This has not been done. The Neighbourhood Plan, which is called up by the Territory Plan, actively discourages a reduction of open space in Griffith.

Future Leisure and Recreation Perspectives

The Brumbies Planning Report acknowledges that the demand for recreation facilities in South Canberra is 'high'. In its comments to ACTPLA concerning deficiencies in the Report, TAMS (Sports and Recreation as custodian) has asked repeatedly for an investigation into likely future demand for active outdoor recreation facilities in South Canberra that the Brumbies have not responded to (FOI doc. Sept. 2010).

In evidence before the Assembly Standing Committee on Planning, etc, which inquired into the possible extension of RZ3 and RZ4 zonings into North Canberra, TAMS explained that it relied on ACTPLA to assess future recreation needs and identify suitable sites and locations accordingly. However, ACTPLA did not offer any information to the Standing Committee in this regard. It simply stated that the retention of existing open space areas generally was a vital priority, a view that Minister Barr corroborated.

National problems of health and welfare, especially amongst children because of obesity and lack of physical exercise, have caused the Federal Government last year to announce that it will work with the States to establish programs through which State and local government agencies can improve and increase the availability of recreation and fitness places and programs.

Some commentators have argued for the re-introduction of 'sport in school' programmes, which up until the 1960's were prevalent in government schools throughout Australia. They are now to be found only in fee-paying private schools. If such an initiative came to fruition then not only would there be an explosive demand for recreation and sports grounds, swimming pools and gymnasiums, etc, dedicated to school sport, there would also be a revival of junior club competitions as well. Accordingly there would be significant consequences for the ACT where a large number of local sportsgrounds have been de-commissioned as a water saving measure. Not only has this placed more pressure on district public recreation space such as Section 42, reduced standards of maintenance have rendered them less feasible for passive recreation by locals. This has a particular impact on young children and the elderly.

New forms of active informal recreation have grown markedly in Canberra over the last twenty years or so and are taking up space normally reserved for more conventional forms of leisure and recreation. Generally, the ACT Government and the NCA have not been responsive to these emergent needs.

For example, since the NCA completed paving the northern foreshore walk in the central basin of Lake Burley Griffin two years ago completing the bridge-to-bridge walking/cycling circuit, there has been a rapid growth in popularity, including parents pushing prams, walkers, joggers, runners, variously in singles and in groups. At the same time there has been a marked growth in middle-aged leisure cyclists, commuter cyclists, speedy cyclists and frequent fun-runs on weekends. There are no special facilities for such users apart from two occasional coffee outlets, one housed and one mobile.

On a smaller scale, several years ago ACT Rotary funded the upgrade of children's play equipment in Captain Cook Park at the northern end of Section 42 with bright, modern safe designs to supplement a pair of ageing swings. As a direct consequence the area has been transformed. From a few children previously there are now groups using the facilities every day, particularly after school times and on weekends when nearby parking spaces become more available. The growth in demand for indoor meeting and recreation facilities is also rising.

If the Brumbies vacate the existing headquarters and training facilities on Section 42, Block 15 should revert to the Territory in accordance with the terms of the lease. This would allow a refurbished headquarters building and the existing gymnasium to become a highly valued resource to help meet the leisure and recreation needs of Griffith and South Canberra residents.

Such facilities are in short supply as one by one the public ovals in Griffith and Narrabundah have been assigned to special interest groups (indigenous youth, baseball, Australian rules football, the Brumbies, Boys Grammar, etc.). In other cases they are no longer maintained to a sufficient standard for team sports. Examples of neglect are the former Griffith school oval, Red Hill oval, Mill Creek oval and the Narrabundah neighbourhood oval.

Sports Clubs Under Threat

ACTPLA tends to regard restricted public open space administered under a concessional lease as though it is not really public land and is, prospectively, available for rezoning and subsequent housing or commercial development. The Chief Minister's statement that such leaseholders are entitled to seek privatisation, rezoning and urban development on such land 'as of right', is a view that Minister Barr and the Chief Planning Executive, Mr Neil Savery also share but which is incorrect and unworkable. The exercise of such supposed rights is being made possible by ACTPLA's and the Government's adoption of 'spot zoning' as a device to legitimise adverse impacts on adjoining property owners. Such impacts would otherwise be prevented by statutory regulations under the planning Act.

What this has meant in the context of restricted open space land is that bowling and golf clubs are struggling to contain rising costs. This is due partly to drought-induced water costs that have forced clubs to seek supplementary finance from business investors and property companies. As these clubs become bankrupt, which happened in the case of the Canberra South Bowling and Recreation Club, the land eventually falls into the hands of developer lenders, who then press for a rezoning to enable commercial or residential redevelopment.

The current situation is that many bowling clubs and at least three golf clubs are heavily in debt and face the prospect of closure. For example, the Viking Capital Golf course in Narrabundah, which is the most recent example of a rezoning application, was acquired by the Viking Group in 2003 for \$4.2M. Vikings core business is the provision of licensed gaming premises, and supporting clubs financially in rugby,

bowls and golf. Vikings have loaned \$115,000 to Murrumbidgee Country Club, which is not a concessional lease. Murrumbidgee Country Club has debts of several million and is experiencing water stress and viability problems in general.

Federal Golf Club has just been informed of Minister Barr's refusal with regard to an application to rezone part of the Club's land in order to alleviate financial stress, and there are other golf and bowls clubs in the same situation. Deakin residents are fighting rezoning of the former bowling club site on the corner of Kent Street and Strickland Crescent that the Hellenic Club aims to develop at a cost of \$8.7M for a four-storey apartment complex, a new office and a club (CT 7 Mar 2011). The plans have a deficiency of 80 parking spaces and TAMS is concerned about an increase in traffic conflict at the roundabout that is already a major congestion point on Kent Street and has a poor safety record, matters that residents say are being overridden by ACTPLA in the case of other intensification projects on Kent Street.

What this means is that the Government and the Assembly need to institute a public inquiry into the matter of bowling club redevelopment schemes. It is simply not sustainable nor in the public interest for the Department of Services and Property to maintain its policy of encouraging clubs in stress and under the control of property interests to be allowed to pay out their concessional lease and embark on a rezoning strategy. While this may provide a 'quick fix' for individual clubs that might benefit the Budget 'bottom line', it would inexorably decrease the metropolitan pool of public recreational land.

5. PLANNING CONTEXT

Strategic Directions

The Draft Variation statement that claims consistency with part 2.52 Planning Context in the Territory Plan, is selective and misleading. For example, Principle 2.10 in the Territory Plan's Statement of Strategic Directions states: "*Adequate provision of open space throughout the Territory will remain a high priority. Open space will be planned and carefully maintained as an integrated, hierarchical system that provides for a diversity of sport and recreation activities, is cost effective to maintain and assists in the effective management of storm water*". Block 15 and Section 42 as a whole, meets this objective precisely.

More to the point, at the time of its gazettal, the stated objective of the Garden City Variation (DV200), as stated by the Chief Minister (Stanhope) and the then Planning Minister (Corbell) and by ACTPLA's Chief Executive (Mr Savery) in evidence before the Assembly Standing Committee on Planning, was that the provision would confine urban intensification to specific areas near town and local centres. The intention was to protect the 'garden city' built form in suburban areas, such as Griffith, from intensification pressures.

During the public consultation phase of DV302, a delegation of Griffith/Narrabundah Community Association Hann Street members arranged a meeting with Minister Corbell, with Mr Neil Savery in attendance, in order to recommend that Hann Street not be included in the Suburban Core Zone but that the Stuart Flats complex should. Twelve months later, Minister Corbell approved an alteration to RZ2 Suburban Core Zone. Our members had submitted that the Stuart Flats had the obvious advantage of being literally on the other side of Captain Cook Crescent from Manuka Plaza, hence less car-based shopping trips. Also, the Stuart Flats location is diagonally across the road from Section 42, which has a wide range of active and passive recreation and leisure facilities. The Stuart Flats redevelopment, under current Territory Plan regulations, could yield 250-300 dwelling units with the capacity to house 400-500 residents. It would accordingly be counterproductive to ignore its original *raison d'être* and diminish the leisure and recreation capacity of Section 42.

The redevelopment of the Stuart Flats is currently scheduled for 2010-2015, depending on market factors. Because of its size, it will require a master plan for Manuka, especially as it will have traffic implications for the Canberra Avenue/Captain Cook Crescent intersection that is one of the busiest and most accident-prone in South Canberra, which comes under the jurisdiction of the NCA. The fact that this possibility was not addressed in the Brumbies Planning Report by its traffic planning consultants has been a matter for serious criticism by ACTPLA staff (FOI docs).

What all of this adds up to is that the proposed redevelopment of Block 15 and eventually the Stuart Flats, along with other known redevelopment projects on the edge of the Manuka business district, cannot be properly evaluated unless ACTPLA prepares a comprehensive master plan to identify social, economic and environmental impacts.

DV307 also conflicts with the provisions of the Canberra Spatial Plan. As mentioned previously, in the section on Open Space the stated objective is to "*retain and strengthen the open space network, including the hills, ridges, natural watercourses and gullies*", in order to achieve the following outcome "*Preserved and enhanced open space networks*". Also the term 'Infill' is defined as "*The construction of new buildings on previously undeveloped sites but not on public open space*".

It is important to keep in mind that land use entitlements in the unique circumstances of the national capital are defined primarily by 'lease purpose' clauses and not by Territory Plan zoning alone. Block 15's lease specifies a bowling club and associated recreation facilities on public land, which are to be operated in accordance with a concessional lease.

With regard to public transport, the fundamental difficulty with the Government's transport strategy is that it is not in a financial position to improve the frequency and number of routes and therefore improve ACTION's operations in step with the growth of public transport demand. This means that the transport and parking enhancements on which urban intensification policies depend for their efficiency and effectiveness are simply not forthcoming. Nor is there much possibility of significant improvement under current Commonwealth/ACT funding arrangements for the provision of Territory and National Capital infrastructure.

ACTPLA Assessments

Documents obtained under FOI reveal that ACTPLA staff have routinely expressed reservations about the accuracy and reliability of the Brumbies Planning Report. The most recent internal staff report on Block 17 and 15, obtained by GNCA under FOI, was presented to ACTPLA's Executive Policy Committee in September 2010. Accordingly, it does not cover the period of DV307 pertaining to Block 15 alone.

The most significant of ACTPLA staff queries and reservations that were applicable to Block 15 either alone or in conjunction with Block 17, can be summarized as follows:

- Further information is required but has not been forthcoming on how development on Section 42 sites would impact on adjacent RZ1 areas.
- How does RZ4 development relate to the character and streetscape of the surrounding residential area.
- Block 15 comprises greens and a bowling club. Though owned by the Proponent it is still subject to the terms of the Leisure and Accommodation zoning. Presumably applied because of the bowling club operation (and tending to diminish the fact of the outdoor recreation component of the site).
- Reading between the lines (of the Planning Report) it is likely that any apartment development, particularly given the dimensions of Block 15, will yield only smaller sized dwellings couched for the investment market rather than then owner-occupier family market.
- The Planning Report has consistently failed to examine the potential to redevelop the club site for alternative uses, such as residential care/supportive housing.
- The Griffith Neighbourhood Plan states that housing intensity should occur in strategic locations that do not include the subject land.
- The Planning Report concedes that the need for 'outdoor recreation' is high.
- A series of images and statements pepper the Planning Report indicating that the public infrastructure of the park is in decay...that could render its surrender to private redevelopment desirable. The fundamental solution is to improve the infrastructure, not extinguish its public function and features.
- The Block 15 proposals will result in a large amount of land that is owned and used by the community being transferred to private use. It is not clear in the Report what the direct benefit to the public will be, given it is not a direct sale of the site.

- A review of the Griffith Neighbourhood Plan would be unlikely to greatly alter the provisions for open space that are a finite resource in established suburbs arising from renewal and increased densities in some locations.
- (Conservator of Flora and Fauna) The Inner Canberra 'Urban Parks and Sports Grounds Plan of Management' indicates that within the 2km area identified different kinds of open space include the following: District Sportsgrounds, Neighbourhood Sportsgrounds, Informal Use Ovals and Pedestrian Parklands. Each of these areas attracts different recreational users.

Disjunction

There is a strange disjunction evident from the FOI documents regarding ACTPLA's *modus operandi* for assessing the Brumbies Planning Report, including responses from Territory agencies, on the one hand, and decision-making by its Executive Policy Committee and the Chief Planning Executive, on the other. In other words, the weight of professional staff opinion has often been unfavourable towards the re-zoning of Block 15, however, for no apparent reason, the senior management decision to proceed with the Draft Variation has been to the contrary.

It seems that the professional staff, anticipating such difficulty, has tended to proffer 'statements of principle' in their reports to the Executive Policy Committee, perhaps to arrest any tendency for senior management to lapse into political expediency that could not be justified on basis of the available facts, as the following expressions of principle by ACTPLA's professional staff attest (FOI docs):

- When considering proposals that involve the alienation of public land, a number of principles need to be followed:
 - Placing an individual application within a broader strategic context, rather than viewing it in an isolated manner, deepens the basis of decision-making.
 - Incremental or large-scale divestment of public land should only occur as a result of coordinated government/public opinion.
 - Opportunistic applications or proposals to alienate public land on a piecemeal basis should be discouraged.
 - Any perception that an authority's decision-making integrity may be compromised by an undue willingness to make public land available for private development needs to be discouraged.
 - Ad hoc decision-making only compromises meaningful forward planning
- Established public open space in urban areas, particularly within an inner city ring, need to be treated as a precious finite resource, not 'low hanging fruit' for redevelopment.
- The management of public land and resources represents a situation where the relevant authority is expected to maintain a cautious approach. This is particularly germane for open space where public demand rises inexorably over time as lower built densities become medium then high density with corresponding demand for communal open space being the trade-off for less private outdoor space.
- Prudent forward planning recognises at the outset that the process of re-acquiring public land is both expensive and complicated in a higher residential density market context, particularly the set configurations required to support active recreation. Therefore, an inherent bias for husbanding rather than a permissive release of open space should be maintained when determining proposals to alienate or dispose of public land.

A Canberra Times Editorial (10 Feb 2010) nine months previously expressed basically the same sentiments:

“ The history of ACT sporting clubs or community organisations seeking to capitalise on their leasehold land for the benefit of members is, not surprisingly, highly contentious. The argument that it is against the public interest for clubs to be allowed to profit from selling at market rates land deeded at little or no cost and designated specifically for sporting or recreation purposes is a powerful one. And generally speaking, the closer that existing housing will be to proposed redevelopments, the more passionate are people about the need to preserve and protect public green spaces and nature reserves from the designs of ambitious club administrators.

Governments routinely allocate money to such organisations, both for social and economic reasons. Such support should not extend to allowing them to profit from selling land originally granted for recreational purposes, even with a charge levied to compensate taxpayers, since such land, once lost, will never be returned”.

Fundamental Role of Public Recreation Space

Initially the Territory Plan defined public open space as just that or, alternatively as ‘restricted open space’ in the case of bowling clubs, golf clubs and enclosed ovals such as Manuka Oval. During the Commonwealth era Block 15 was classified as restricted public open space. Subsequently Block 15 was changed to Commercial CZ6 Leisure and Accommodation, which has highlighted the clubhouse operations and diminished the outdoor recreation component of the site.

The Brumbies Planning Report, in its analysis of Block 15’s capacity for alternative uses, builds on this aspect while ignoring the fact that most of the site is outdoor-recreation land. However, it is concessional public land and under the current CZ6 zone its development is subject to specific conditions that constrain building scale and bulk in keeping with the surrounding landscape character of Section 42 generally. In other words, to all intents and purposes Block 15 looks like public recreation space and accordingly it ought to be used for that purpose in line with the requirements of its lease. It is not clear why its zoning was changed to a commercial zoning in the first place. It is also remarkable that there is no other example in South Canberra of a bowling club being zoned in this particular manner whereby Block 15 has been excised from a ‘Parks and Recreation’ zone and re-classified as ‘Commercial’.

Generally speaking, a metropolitan planning scheme has the following main categories of land use, namely, developable land (residential, commercial, industrial, etc), public roads, open space, infrastructure sites and non-urban land. The Territory Plan conforms fairly closely to this model. The metropolitan open space system is intended to be a fixed component of metropolitan structure that is permanent, in the same way as the road network, save for rare and unusual circumstances in which ‘public interest’ needs justify a change. The whole of Section 42, including Block 15, should be recognised as a fixed public asset having this kind of permanence and warranting protection and conservation accordingly.

6. THE CASE FOR “NO CHANGE”

Character of South Canberra

It is inappropriate for the Stanhope Government to claim that providing increased financial support to the Brumbies, by way of annual Budget allocations, needs to be avoided for ‘political acceptability’ reasons. This does not justify the Government’s support for the alienation of public land by rezoning, privatisation and sale for profit of Block 15 Griffith, as a means of securing an improved financial situation for Brumbies Rugby. If this move succeeds it will upset planning policies for South Canberra that have been in place for more than three decades and that predate the introduction of self-government in 1989.

Both North Canberra and South Canberra are historically significant areas and their urban form and structure reflect planning and urban development practices that go back to John Sulman’s influence as the Chairman of the National Capital Advisory Committee, which was set up to guide the implementation of the Griffin Plan following its last revision by Griffin himself in 1918. Both areas display most of the fundamental principles of ‘garden city’ planning that were progressively adopted by the Federal Capital Commission in the 1930’s and the Planning Branch of the Department of Interior in the late ‘40’s and finally the NCDC from 1958 to 1988.

With respect to South Canberra, especially south of Canberra Avenue, the Territory Plan shows a pattern of detached housing and wide-verged, tree-lined streets broken by neighbourhood shopping centres, schools with attached playing fields and varying sizes of parkland to cater for a range of social needs. In the 1960’s and 1970’s, property investors began to buy up former government cottages in Kingston. This foreshadowed prospects of eventual redevelopment, which the NCDC responded to by making a policy change in favour of low-rise medium density development spreading outwards from the local centre at Kingston. Within this redevelopment area, three sites deemed suitable for high-rise flat development were nominated. Since 1989, successive Territory governments have continued to concentrate high-density residential development in Kingston. The NCA has done likewise along Canberra Avenue in selected areas. The Kingston Foreshores project is an extension of that intensification policy.

The ‘spot rezoning’ of Block 15 would accordingly be a sudden and incongruous interruption to the policy of conserving the historically significant ‘garden city’ character of South Canberra. Such a move would suspend ‘public interest’ considerations in favour of what can only be described as a dubious arrangement by the Government in favour of a football club that exists in order to fund high salary payments to elite players and coaching staff in the media-funded Super 15 international rugby competition. It would be a contravention of Territory Plan provisions concerning RZ2 Suburban Core Zone principles and policies.

Resolution

The most balanced resolution would be for the Government to reconsider its position and for the Brumbies Club to look for other solutions to its present financial limitations.

The Brumbies Chief Executive, Mr Andrew Fagan, is on record as proclaiming the advantages to be gained from maintaining the Club’s headquarters on Block 15. These include, location and ambience; the convenience of having training facilities next door on Griffith No 1 Oval (Block17), and the nearby social attractions of the Manuka

business and retail centre. These are all factors that are instrumental in attracting and keeping elite quality athletes.

There is a need to preserve Harry Seidler's club building for heritage reasons. It was the third building in his illustrious professional career in Australia and he went on to design several important national buildings in Canberra as well as other domestic-scale projects as well. The building has ample space to cope with the Brumbies 35 administrative staff and, with a bit of entrepreneurial flair, social facilities could be restored for the benefit of players, staff and community visitors.

Should the Brumbies decide to move their operations to the Canberra University campus at Belconnen, or even interstate where the opportunities for private enterprise financial backing might be more prolific, the club building and the gymnasium, which were both funded by Territory governments, could continue to be used for health and recreation benefits by Southside residents.

7. DUE PROCESS

Chain of Events

The Griffith community has been fighting this project since the Brumbies November 2009 notification in the Canberra Times. The public was informed that public consultations would be held for 3 hours on each of three days to allow local residents to be informed about the details of what was intended, prior to the lodgement of a Draft Variation (DV) application with ACTPLA.

This consultation was curtailed in the face of a hostile public reception with the promise that more detailed information would be forthcoming at a further public meeting, which never eventuated.

Appendix 8 of the Brumbies Planning Report, covering Public Consultation, shows overwhelming opposition to the scheme, save for a few local residents who expressed an interest in the possibility of selling their house and transferring to one of the Block 15 apartments.

After the application was lodged the community groups sought to obtain a copy of the Planning Report. Although there was no statutory barrier, ACTPLA responded that it was a matter for the Brumbies to decide. ACTPLA itself had no objection. When approached, the Brumbies declined saying it was a matter for ACTPLA. Eventually, the Griffith/Narrabundah Community Association obtained a copy of the Brumbies Planning Report from ACTPLA as a result of an FOI application.

This pattern of requests for information being declined by ACTPLA has persisted throughout. Information about technical assessments of matters contained in the Planning Report carried out by ACTPLA, TAMS and other Territory agencies, has only been prized loose as a consequence of FOI applications. This has made it very difficult for community groups generally to make informed submissions as part of public consultation programs, when it turns out that ACTPLA itself lacks information because of its limited in-house professional staff resources available for carrying out its own studies.

ACTPLA's '*modus operandi*' is to prepare a Scoping Study that defines the matters that the proponent's Planning Study must encompass. In this particular instance, ACTPLA has certainly relied totally on the Brumbies Planning Report that has an obvious bias in favour of the developer's interests. This is compounded by factual errors and information gaps throughout. In addition, the briefs issued to Brumbies consultants have seemingly been tailored to exclude matters that would have been unfavourable regarding the rezoning of Block 15 to an RZ Residential category.

A glaring example of exclusion is to be found in the Planning Report's transport study, which, as evidenced in ACTPLA FOI documents, was judged as being inadequate. The transport studies (of which there are two) do not include traffic impacts stemming from the eventual redevelopment of the Stuart Flats site, nor of the Catholic Archdiocese residential and commercial redevelopment proposals adjoining and opposite St Christopher's Church, both having potentially major impacts on access throughout the Manuka business centre generally.

It is simply not feasible to have a metropolitan planning system in which the statutory planning authority, ACTPLA, does little or no technical work on its own behalf. To rely solely on a planning report evaluation by the proponent, supplemented by additional information from private individuals and community-based associations, is not a sufficiently rigorously based process.

The Chief Planning Executive, Mr Neil Savery, is on record as saying that ACTPLA is not the fount of all planning knowledge in the Territory. It acts as an arbitrator to some extent in adjudicating between developer views and community views when deciding draft zoning variations and site-specific development applications. It is difficult, however, to comprehend how this view has validity in light of ACTPLA's statutory obligations under both federal and territory legislation to administer, implement, and maintain the Territory Plan as the sole, expert, impartial planning authority, operating under both an ACT and NCA umbrella.

Review of Territory Planning System.

There are prevailing community and business views that the Territory planning system has reached a stage of being virtually ineffective as a practical and beneficial system of land use planning and development control administration.

In order to supplement the recommendations of the Hawke Review of the ACT Territory Public Service, the Government and the Assembly need to launch an Inquiry into the operation of the Territory planning and development administration encompassing the functions of ACTPLA, the Department of Land and Property and the transport functions of TAMS.

The recommendations of the recent Assembly Inquiry into RZ3 and RZ4 Residential Redevelopment Policies – Inner North Canberra have identified the same issues that bedevil planning in South Canberra generally and intensification issues in particular, in the following terms:

1. Many community groups expressed frustration at current community involvement processes in which, to have a say, the public is essentially forced to comment on individual development applications as they arise. This process is time-consuming and repetitive with the same concerns and issues being highlighted by the public as non-compliant with the Territory Plan.
2. It is recommended that a review of all Territory Plan zones should be established to consider the intention of each zone type and the basic principles that are going to characterize RZ3 as opposed to RZ4 zones, for example, and outlining what objectives those zones will achieve to distinguish them from RZ2 or RZ1 zones.
3. The Committee recommends that existing public open space networks be retained to provide for the recreational needs of residents in higher density residential developments.
4. The Committee recommends that existing public open spaces be maintained and enhanced to provide safe green space that is useable for a wide variety of recreational and active pursuits.
5. The Committee believes that any policy change towards increasing the amount of high density residential development should only be implemented following high-level strategic planning at the suburb and neighbourhood level, conducted in consultation with the community and integrating land use and transport planning.

The issues being raised in this Submission are metropolitan not local. If the Assembly ultimately approves DV307 then it will establish two precedents.

Firstly, it will mean that any site that is designated in the Territory Plan as 'parks, recreation or leisure' zones would be susceptible to the same fate as Block 15 Griffith.

Secondly, any sites that are within proximity to an RZ2 Suburban Core Zone established as a result of the Garden City Variation would be open to rezoning on

urban intensification grounds notwithstanding that it would be a contravention of both Territory Plan and Canberra Spatial Plan strategic directions.

Final Submission Statement

It is submitted that, in light of the above information, ACTPLA should refuse the Brumbies Rugby application (DV307) to rezone Section 42 Block 15 Griffith from Commercial CZ6 (Leisure and Accommodation) to Residential RZ4 (Medium Density Residential) on the grounds that it would be contrary to the objectives, strategic directions and Garden City zonings (suburban core zone) of the Territory Plan.

It would also be in conflict with the objectives and strategies of the Canberra Spatial Plan, especially with regard to the key strategy that urban intensification will be confined to locations in close proximity to town centres and along specified main road corridors and will not take place at the expense of public land and open space, recreation and leisure uses.

If the Draft Variation is allowed to proceed to the final stage by the Minister, then it is submitted that the ACT Legislative Assembly should reject it, not only on the above grounds but also because it would establish a precedent that no public land will be safe from alienation, rezoning and property development thereby depleting the metropolitan pool of public recreation land.

(10,346)