

# **COMMENTS ON REPORT ON CONSULTATION**

## **DRAFT VARIATION TO PLAN NO. 298**

**July 2010**

### **Introduction**

We know from economists two things for certain. The first is that people react to incentives. The second is that bad incentives produce bad behaviour (as most recently witnessed by the Global Financial Crisis). Sadly, the above exercise, in its very modest way, is cause for concern as it looks like developing into another case in point.

These concerns are addressed in more detail in the following comments on some specifics of the ACTPLA response to the developer's application. But before turning to the detail, it is worth making/reiterating some general concerns.

The first is the circularity of the developer's rationale for the proposal. Here we have a group that has direct links to a well known Canberra developer assuming the lease of a 27-hole golf course. Then, having seen two previous developments approved, the group decides that yet another has every chance of success. The scene is set by:

- negotiating with the lessee to close 9 holes (citing water problems and lack of use — a claim that was demonstrably wrong); and then
- applying to have an area (which includes more than the 9 holes) rezoned residential on the basis that it is "a disused part of the golf course".

Interesting — and a lesson that will not be lost on others if this stratagem proves to be a successful one — particularly considering the claim in the second dot point has subsequently had to be retracted (even by ACTPLA).

Second, it is surely unacceptable to the community for the Government to accede to a developer's demands up front while trusting to luck that it will subsequently honour what are no more than verbal undertakings to incur significant costs later (in relocating the club house and fixing the golf course). The (inadequate) response of ACTPLA is to cite a MOU between the developer (as lessee) and Magpies Football Club (a sub-lessee), which is only relevant while these two parties are involved and is also unenforceable at law.

### **Executive Summary**

As signatories to the submission containing 58 signatures we address the ACTPLA report on behalf of all other signatories. Obviously, time is at a premium and does not allow us to gain their signatures before submission.

It is evident from ACTPLA's report that the Authority has placed greater credence to the Proponent's submission than the opinion of the public who have taken the time

to respond to this rezoning proposal. This is evident in almost every response given by ACTPLA to concerns raised in submissions. The developer's incentive is clear (i.e. to maximise revenues minus costs). Submitters also face incentives but they are more diffuse – for example, some may not even oppose the development, yet have genuine issues and concerns that should not be so easily dismissed as ACTPLA has endeavoured to do in this particular instance.

It has become evident that the Proponent had made misleading statements to both the Government and the general public on what is a key issue regarding the status of some of the land that forms part of the rezoning proposal. This has been confirmed by subsequent amendments to the proposal.

The situation for the members of the golf course and those living on existing estates is invidious: upset Magpies Club and it could quite easily walk away from its lease agreement; upset the Proponent and he could let the golf course run down to a point where it is no longer viable.

Regardless, if the Minister is to make an informed decision then the report should be more objective in its assessment of all aspects of the proposal and the related public submissions, taking more objective account of public concern. We address ACTPLA's response, not necessarily in order of importance, but in the order that they appear in report. Furthermore, we invite the relevant Ministers to discuss any of these concerns with us.

### **2.2.2 Safety**

The response to this submission in part states that "that the footpath from the main entry along Stockdill Drive to Spofforth Street will provide the shortest route to a bus stop and therefore is expected to be the path that residents take". An inspection of the proposed development site will show that this statement is simply wrong.

Furthermore, the proponent has stated that the development is aimed at the aged.

The proposed path along Stockdill Drive is predominately uphill and, despite what is stated in the submission, does not represent the shortest route to existing bus stops.

To further highlight this point, a resident living in a house closest to the existing number 1 fairway could not possibly view having to walk to the main entrance to the estate and then along Stockdill Drive to Spofforth Street as being shortest route to a bus stop. The shortest possible route will be, perhaps, up past the proposed community centre and along the current number 10 fairway to intersect with the pathway that leads from "Wiluna" to Spofforth Street (passing through the "Wiluna" is not an option as this estate is private property). Furthermore, the journey can be made even shorter by manufacturing a gate directly on to the golf course and transiting the current number 1 fairway. This has occurred in all of the previous developments and will occur in this development unless a legally binding caveat is put in place to prevent this practice.

### **2.2.5 Tree Removal or Planting**

The response does not adequately address the proposal to change existing fairways and greens so as to maximize the amount of land the Proponent has available to develop. For example, the existing number 2 fairway and green will be completely remodeled to accommodate more houses in that area. Also, the current number 16 fairway will be rebuilt to accommodate the new clubhouse. This will have a major impact on the standard of the course and is what is meant in the submissions as golf course maturity. There are other changes in other parts of the golf course that fall under the same category.

### **2.2.5 Location**

#### **(a) Remoteness**

Regardless of what ACTPLA “considers” regarding this issue, the concerns of the person making this submission are correct. As stated in our submission, safety is compromised by residents of current estates using the fairways as short cuts to reach local amenities. This point has been totally ignored in the response to this concern.

To say that ACTION will decide the provision of public transport to the new development reflects what most Canberra residents already know. That is, there is little interaction between ACT Government Departments on issues of considerable importance to residents of the ACT. Surely consultation with ACTION is to be expected to ensure that this proposal will not cause major problems with regards to public transport.

Furthermore, the references made to the new estate’s proximity to “Wiluna” and the removal of the existing power lines are confusing in that they have no obvious relevance to these concerns.

#### **(b) Interface with non-urban areas**

What this response does NOT address is the fact that the proposed development will impact on areas of the golf course that ARE NOT surplus to the long term needs of an 18 hole course.

As acknowledged 2.2.14 of the report, the Proponent has grossly misled both the Government and the ACT public in statements made both during the consultation process and in the original development proposal. In both instances he has stated that land that is subject to rezoning is “*“a disused part of the Belconnen Golf Course” and “comprised of disused fairways.”*”

The Proponent has since admitted that is incorrect and amended it in the revised submission. This admission must surely cast doubt over the integrity of the full consultation process and the way it has been conducted. It would most certainly be unacceptable in court of law and should also be unacceptable to the ACT Government when it comes to the assessment of planning submissions.

Furthermore, so as to create more space for development, the plan is to squeeze current activities, eg, Club House and practice fairway, into the currently used infrastructure, thereby causing further disruption to the use of the course.

### **2.2.15 Commercial Zone**

The response to this submission does not in any way address the concerns expressed. In the proposal regarding the development of a Community Centre, the Proponent regularly uses the word “may”, which casts doubt over the intended use of the current clubhouse site. In the submission regarding the use of this site, a submitter expressed concern that this site may in fact be used for additional housing at the expense of the golfing community. ACTPLA’s response sidesteps this issue and leaves it wide open for this to occur.

### **2.2.19 Golf Club membership**

In the initial Planning Report, the Proponent stated that “Potential golfers were also deterred by increased fees generated by rising greens planning maintenance costs, particularly the cost of water. Belconnen Golf Course suffers the same problems as other medium size courses and there is no potential for the expansion of the course in the future. Accordingly there is no loss to the community of open space arising from the proposed development”. This statement is factually incorrect. The Belconnen Magpies Golf Club continues to maintain a growing membership even though the membership fees have increased steadily since the Magpies took over management of the course. This point has not been investigated by ACTPLA before making their response.

In the response the proponent has assured ACTPLA that “the re-design of the course has been carried out with significant input from the Golf Committee and the Magpies Board who are satisfied that the re-configured course will be an enhancement on the existing course”.

There is no evidence available to members to suggest that this is true. To further explain: The Magpies Board consists predominately of personnel with a football interest and little or little knowledge of the operations of the Golf Club. Furthermore, there is no constitutional provision for a Golf Club representative to be elected to the Magpies Board. The only way that the members of the Golf Club can get any form of hearing at the Board level is have one of its members elected as a representative of the Social Club. This puts at least 500+ members in a unique position in that they have to rely on the integrity of the Government’s consultation process to ensure that their concerns are addressed in relation to this rezoning application.

Long-term members have seen at least two changes to the course and each time a change has been made, the integrity of the course has suffered in some way. This is most evidenced by the difference in trees, fairway grasses, greens, etc experienced when comparing holes 1 – 9 with holes 10 -18. The differences are significant and detrimental to overall integrity of the course.

While not all members are in agreement with the rezoning, they do not seek to oppose it *per se* provided the areas of obvious concern are properly addressed and that there is not a land grab of existing golf course infrastructure under the guise of “making this a better course” in order to maximise the Developer’s profit.

There is adequate land available to the proponent for development without usurping parts of the current course, as is planned by this rezoning proposal. Having said this, the process by which that land became available should be questioned.

Briefly, the club that now constitutes the Belconnen Magpies Golf Club (formerly Woodhaven Green) went into liquidation due to financial problems. One has to question why a group with property development interests would acquire a supposedly unviable golf course unless it could see the potential to gain financially from the acquisition. The viability of these holes was never properly assessed prior to an agreement being reached between the Magpies and the Proponent to close them. One of the reasons given for their closure was the limited availability of water. This issue is further addressed below.

## **Water access Entitlement**

The golf course has in the most recent past always had access to grey water from the Molonglo Treatment Works to supplement its dams, the use of which is only limited by its cost to the club. The recent upgrade of the supply system by ACTEW has seen this supply become even more accessible.

The development proposal highlights the recycling of grey water as one of its selling points. As indicated above, this has a feature of the golf course for quite some time and as such, complicates the proposal.

The plan is for water from the development to be diverted into dams on the golf course. Although Magpies have attempted to safeguard the interests of the golf club in this regard, there is nothing to protect these interests once the Proponent, and maybe even the Magpies, relinquish control of their current interests. Who is going to pay for and manage this issue once the developer relinquishes control of the development and the Body Corporate becomes involved?

Trevor Davison

Philip Hagan