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Dear Planners,

### **DA 201732582-S144C**

1. The Griffith Narrabundah Community Association (GNCA) welcomes the opportunity to comment on DA 201732582-S144C for 14 Manuka Circle, (Block 1, Section 15) Griffith. The block was the former home of the Canberra Services Club (CSC) which now operates out of a clubhouse at 51 Blackall St Barton.
2. The GNCA is a not-for-profit voluntary community-based organisation operating in the Griffith Narrabundah area. *“The objects and purposes of the Association are to protect the amenity and interests of the Griffith and Narrabundah communities, particularly in relation to the preservation of community facilities and open space.”* The association has several hundred members.
3. The GNCA is a member of the Inner South Community Council (ISCCC) which in turn is a member of the Combined Community Councils of Canberra. The ISCCC consists of eight community organisations in the Inner South including the Forrest Residents Association (FRA) and the Kingston Barton Residents Group (KBRG).

### **Recommendations**

4. The GNCA considers that this site, with its important historical links, has remained an eyesore in the heart of Manuka for far too long. More is needed than a regurgitation of a similar application to deconcessionalise the lease that was rejected by Minister and also by the ACT Planning and Land Authority in 2019. A deconcessionalisation by itself will not help to obtain appropriate re-development of the site. There needs to be a DA that includes the community needs and the CSC requirements, in the context of the importance of this site in the centre of Manuka.

5. The GNCA recommends that:

- 1) The Minister reaffirms former Minister Gentleman's decision of October 2019 "that it was not in the public interest for the Authority to consider Development Application 201732582" to deconcessionalise the lease for 14 Manuka Circle;
- 2) The Government prepare as soon as possible a Master Plan from the vicinity of Manuka Circle down Telopea Park to the Kingston Arts Precinct and the Lake, to ensure development is consistent with the character of the area, and to assist developers in understanding what are the constraints of the area;
- 3) The proponent submits a new DA seeking deconcessionalisation of the Canberra Services Club Manuka site that considers the needs of the community and the CSC, in the context of the importance of this site in the centre of Manuka; and
- 4) The Minister has regard to our comments on the proponent's deficient Social Impact Assessment (SIA) and, in particular its insufficient comments about Griffith.

## **Background**

6. The Club began on the site in 1941. The concessional lease was granted in 1984 for 50 years (SIA p.8). It has 10 years to run and will expire on 26/7/2034. The building was registered under the Heritage Act in 1998 but it was destroyed by fire in 2011 (SIA p.7).
7. This DA, to remove the concessional status of the lease under s 260 of the *Planning and Development Act 2007* (PDA Act), was initially lodged on 6 March 2018. The holder of a concessional lease is not permitted to deal with the lease in any way without the consent of the Planning and Land Authority. Deconcessionalising the lease will enable the holder of the lease to deal with it without constraint.
8. On 22 October 2019 the then Minister, Mr Gentleman, made the decision to reject the DA. This decision was overturned by the Supreme Court, mainly on procedural grounds. The Canberra Services Club has now applied to the ACT Planning and Land Authority (ACTPLA) to reconsider its 2017 application to deconcessionalise the lease for 14 Manuka Circle. The SIA lodged by the proponent supposedly contains new material on the social impact of any decision to deconcessionalise the site which is intended to persuade the Minister that deconcessionalisation of the lease would be in the public interest.

## Discussion

8. Section 261(1) of the Planning and Development Act requires that, prior to the Planning and Land Authority or the Minister making a decision on whether or not to deconcessionalise a lease, the Minister must first decide whether it is in the public interest to consider the application to deconcessionalise the lease. So, it is only if the Minister considers it in the public interest will the Planning and Land Authority or the Minister make a second decision on whether to permit deconcessionalisation of the lease.
9. The GNCA notes that applications to vary a lease involving either deconcessionalisation or alteration of the lease purpose clause or other restrictions in the lease are usually accompanied by a development application to redevelop the subject lease in some way. No such associated development application has been received in this case. Although the SIA talks about a possible seven level hotel with two subterranean levels of parking, no DA for such a structure has been received and so it must be regarded as entirely speculative.
10. Deconcessionalising the lease would clearly reduce the amount of community facility land in the Manuka vicinity. The proponent could argue that this loss in public utility would be more than offset by improvements to public amenity following changes in activities on the leased block following deconcessionalisation, but in the absence of an applicable DA no one could be certain that this would be the case. Without any evidence that there would be any offsetting increase in public amenity it would not be in the public interest to deconcessionalise the lease, consequently the application would have to be refused.
11. Consequently, it is the view of the GNCA that Minister Gentleman made the correct decision in not considering the 2018 deconcessionalisation application.
12. In the SIA the Canberra Services Club argues that it “must decide whether to re-establish a club premises on its former (14 Manuka Circle) site or to build a new facility at (51 Blackall St) Barton”. Apparently “this decision relies on a market value lease (of the Manuka Circle site) that could be transferred, sublet, or sold.” However, how any redevelopment permitted by such a change in the lease would serve the public interest is not explained. An improvement in the finances of the Canberra Services Club is not relevant to consideration of this issue.
13. The GNCA notes that the 14 Manuka Circle site is part of the Manuka Oval precinct with a number of other community facilities such as Manuka Pool and the arts/music facilities on the former Child Welfare Centre site. Telopea Park School which has pupils from Year 1 to Year 10 opposite the club site across Manuka Circle and New South Wales Cr. And there is Telopea Park itself extending to Bowen Park and Lake

Lake Burley Griffin. All these areas were to be the subject of a Master Plan as announced by Mr Barr in 2016. We are still waiting for this to happen, whether it is called a Master Plan, or a development strategy or whatever the Government chooses to call it. Any such plan needs to be at a finer level of detail than the Inner South District Strategy.

14. The 14 Manuka Circle site is subject to the National Capital Authority's (NCA's) Development Control Plan (DCP) for the Manuka Circle Precinct. This restricts the permitted height of any building on the site to 20m above ground level of the Canberra Avenue kerb and requires that any such building be set back from the kerb by 10m. Any basement must be set back from Canberra Avenue by at least 6m to allow for deep rooted trees. On the Manuka Oval side of any building the setback must be sufficient to ensure that emergency access is provided to facilities around Manuka Oval. The DCP imposes other requirements on any development of the block.
15. Other restrictions on the site are that a stormwater drain runs through the middle of the block, and an electricity easement extends along the northeast boundary of the site. The stormwater easement would at the least complicate construction of any underground car parking. Any development of the site will also have to be sympathetic to the surrounding buildings and landscape as listed in paragraph 13 above.
16. The GNCA is of the view that the SIA does not advance any argument that would persuade the Minister to reverse Minister Gentleman's earlier decision. The GNCA agrees with the EPSDD advice to the Minister in 2018 that deconcessionalising would result in the loss of needed community land (the Court decision (at 44) states that Minister Gentleman was advised by EPSDD about the risk and damage of the further loss of community land and that community land is a recognised need within the broader community). Arguably this need is more acute now that further densification has occurred. The Court also said (at 43) that the SIA at that time did not fully consider "*the community's access to not for profit 'lower order' community services.*" Arguably it has not done so in this SIA.
17. We draw attention to a number of further deficiencies, in the SIA:
  - The SIA insufficiently recognises that the site is on the boundary between Griffith and Barton, and adjacent to Kingston and Forrest. The SIA focus on Griffith is misleading;
  - The SIA fails to fully record economic, social and cultural aspects of the location. For example, in describing Griffith it omits that 40% of residences are occupied by renters;

- The analysis of Griffith at 4.2 does not include social housing. Despite or because of the demolition of several public housing apartment blocks in recent years this remains a significant issue in the Inner South
  - The SIA fails to record the lack of schools in the area that has led to the significant increase in enrolments and facilities at nearby Telopea Park School;
  - The SIA does not include a traffic analysis. The site is on a busy corner, particularly at the start and end of the school day, and lies on the path between the school and Manuka's facilities;
  - The SIA does not include information about further recent densification in the area that results in a greater need for community facilities.
18. Should the Government agree to deconcessionalise the lease, the valuation of the block needs to be adjusted to be somewhere within sight of reality. The suggested current value of \$370,000 proposed in Colliers's valuation is ludicrous, amounting to only \$150 per m<sup>2</sup>. Most residents in Griffith would be rated on unimproved values in the vicinity of \$2000 per m<sup>2</sup>, so there is an order of magnitude in the difference between the two values.
19. While it could be argued that the current restrictions in the lease (including that the lessee can only deal with the lease with the approval of the Planning and Land Authority) lower the value of the site, this is precluded by the wording of the relevant provision, s.263 '*Working out amount payable to discharge concessional leases*' of the Planning and Development Act (PDA) which prescribes how the concessional lease discharge fee is to be calculated, using the current market value (MV) of the lease, the market value of the lease at the time the lease was granted (OV (original value)), and the amount paid (AP) for the concessional lease at the time it was granted. This defines 'market value' as "the market value of the lease if it were a market value lease", explicitly precluding any adjustment of the market value because of the restricted nature of the lease.
20. Acceptance of obviously unrealistic market valuation for the calculation of the Concessional Lease Discharge fee does nothing but bring the Planning Authority and the Government into disrepute and engender community suspicion. As the Government has access to its own Unimproved Value figure as estimated by the ACT Revenue Office for rating purposes, it is hard to see why there is any need to involve third party property valuations. The legislation should be amended to provide that in s.263 of the PDA the value of 'MV' is the latest estimate of Unimproved Value for the leased block. Similarly, 'OV' is the value of the last ratable Unimproved Value prior to the sale of the lease.
21. Any decrease in the 'market value' of the site accepted by the Government is in effect a transfer of funds from the ratepayers of Canberra to the Canberra Services Club. The GNCA's strong preference is that Government grants to any organisation

should be paid directly out of the budget and should be easy to identify as such by members of the public. The sad and murky outcomes of the waiver of the deconcessionalisation and lease variation charges in relation to the former Rugby Union Club site in Austin St (now the site of the Amaya development) show that this sort of action, no matter how well intentioned by the Government, could be fraught with danger that the beneficiaries will not be those intended by the Government.

22. The GNCA believes that an acceptable alternative to deconcessionalisation of the site would be for the Government to purchase the site back from the Canberra Services Club for the \$370,000 value that Colliers has placed on the site. Alternatively, if it did not wish the Territory to own the property, the Government could announce that the site, still subject to the existing restrictions, would be sold by tender in an auction in which only community groups could bid.
23. The GNCA notes that Purdon's sought the opportunity to have pre-DA consultations with the Association by sending an email to the GNCA a week before its 13 September meeting which already had a full agenda. The GNCA replied pointing out that the site under consideration was formally within the area of responsibility of the KBRG, but indicated our interest in what was proposed. We heard nothing more until public notification of the proposal.
24. The GNCA does not regard this as appropriate pre-DA consultation. It is up to the proponent to organise a venue for any such pre-DA consultations and publicly advertise that these will be taking place. And more than one week's notice must be given for such consultation. Purdon's and other consultants cannot assume that Residents' Associations can simply reorder the agendas of their meetings at short notice so that they can tick the pre-DA consultation box in a timeframe the consultants regard as convenient.

In summary, the GNCA urges the Minister to reaffirm Minister Gentleman's decision not to deconcessionalise the Canberra Service Club site on Manuka Circle.

The GNCA thanks you for the opportunity to comment.

Yours faithfully



David Denham      President, GNCA      19 March 2024