



# Ginninderry

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## **Ginninderry Submission - Draft Planning Bill**

Dear Sir/Madam,

Please accept Ginninderry's submission in response to the publicly exhibited Draft Planning Bill. The Ginninderry Project is supportive of the work the Planning Authority is undertaking in reviewing the current Planning policy to ensure Canberra is supported by sound planning policy now and into the future.

The Ginninderry Project is a greenfield development located at West Belconnen, Strathnairn and Macnamara. This submission is focused on matters that pertain to the Ginninderry Project and greenfield development in line with the Ginninderry Project's desire to create a sustainable community of international significance in the Capital Region.

### **District planning**

The Ginninderry Project supports strategic planning, incorporating the Ginninderry Master Plan and associated objectives into district planning. The district plan should integrate the Ginninderry Master Plan, which provided the basis for the rezoning, as a starting point for developing a district plan over West Belconnen. The Draft Bill, should support district planning by providing a clear line of sight from strategic to statutory planning. Supporting the Ginninderry strategic planning by embedding the forthcoming Ginninderry Master Plan updates (first quarter of 2023) into the Territory Plan, as master plans require review and a refresh periodically.

To support the innovation of Ginninderry's subdivision planning, specific precinct controls have been created to assisted the delivery of a 21st-century subdivision through initiatives such as terrace-style housing, a comprehensive water-sensitive urban design strategy and intragenerational living concepts. On prima facie of the district planning approach, the Ginninderry Project is supportive of this concept with the integration of the Ginninderry Master Plan injected into the Territory Plan.

### **Canberra's Living Infrastructure Plan**

It is understood that the detailed provision of the new Territory Plan will be released in late 2022 with Canberra's Living Infrastructure Plan (Living Infrastructure Policy) embedded across the planning codes in the new Territory Plan. As the Ginninderry Project is a greenfield development, one-third of the development is secured for environmental protection in perpetuity in the form of the Ginninderry Conservation Corridor. In



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addition to Ginninderry's environmental commitments, the Project has an internal 80% tree retention policy, which has allowed for mature tree retention and pocket parks throughout the subdivision layouts. Additionally, the Strathnairn and Macnamara estate development plans are accountable to the general open space controls in the Territory Plan.

**The Ginninderry Project asks the Planning Authority to consider the Living Infrastructure Policy within the context of greenfield development,** And, to consider living infrastructure at a Master plan level and at an estate level, as per the 'Planning and Design for Living Infrastructure as part of Residential Intensification in a Changing Climate', Tait Network, rather than at an individual block level, including considering environmental constraints. As greenfield development considers development at an estate planning level, the Living Infrastructure Policy should be considered at a **macro planning level to facilitate innovative subdivision design.**

### **Variation 369**

Variation 369: Living Infrastructure is anticipated to take effect on or after 1 September 2022. Variation 369 will take effect to on-block provisions only. It is understood that Variation 369 will not take effect on estate development plans approved on or after 1 January 2020. In liaison with the Planning Authority, it is understood that Variation 369 will apply to all blocks in the Territory when the new Territory Plan takes effect.

The Ginninderry Project supports the Living Infrastructure Principles and asks the Planning Authority to consider the implementation of Living Infrastructure Policy specific to the estate level greenfield development, concerning the diversity of housing types, including terrace-style housing and compact housing concepts balanced against the current cost of land and land availability.

Macnamara Estate Development Plan (EDP) 1 (DA202138585) was approved on 22 December 2021, therefore, Variation 369 will not apply under the current Territory Plan provision. However, it is understood that Variation 369 will apply to all blocks in the ACT under the new Territory Plan.

The Macnamara civil works are due to commence shortly for the Macnamara estate; civil works over the estate will be constructed in a staged approach. Once the civil construction stage is complete, the single residential housing blocks will be readied for housing applications. The first estate stage will be ready in 2023, with the last civil construction stage slated for September 2025 for Macnamara EDP1. **Therefore, the Territory Plan provisions are applicable when the EDP was approved and relevant at the time of sale. Any new on-block provisions would need to be delayed until all housing applicatios had been lodged and approved for these blocks in Macnamara.**

### **Transitional arrangements**

Noting the transitional arrangements are currently being drafted, the below items need consideration -

- reconsideration applications;
- extension of time and;
- amendment applications under the Planning and Development Act 2007 and how these DAs will be dealt with under the new Planning Act.

Understanding the transitional arrangement will be necessary for long-lasting projects like Ginninderry, which will have live development approvals under the Planning and Development Act 2007, **with likely amendment applications years beyond the implementation of the new planning scheme.**

### **S211 EIS exemptions**

Under the Planning and Development Act 2007, the Ginninderry Project was granted a S211 exemption for the entire Ginninderry Project area, considering all the environmental matters, including Commonwealth matters through the EPBC approval. If the Ginninderry Project was not able to undertake a S211 exemption, it is

understood the Ginninderry Project would have been subject to an EIS application for each estate development plan, and every development application at Ginninderry, from a signage DA to each EDP DA.

The administrative burden of managing individual environmental impact assessments would have been challenging from both Ginninderry and the Planning Authority's perspective, in matching these approvals with the EPBC approval and ensuring the Project considered the environmental approvals holistically. The Planning Authority has considered the current Planning and Development Act's S211 EIS exemption in the new Planning Bill and considered its removal as a development pathway. For the reasons the Planning Authority considered the S211 obsolete or a planning pathway not worth pursuing, **perhaps the Planning Authority could reconsider the S211 EIS exemption within the Ginninderry Project's context and provision of a scoping document to be added to the S211 EIS exemption process for the robustness of this planning pathway.**

Under Notifiable Instrument NI2018-599 the Ginninderry Project holds a Section 211 exemption until 2067. It is understood that the Ginninderry Project will retain the S211 approval under the *Planning and Development Act 2007*.

### **Design Review Panel**

The Ginninderry Project is supportive of the Design Review Panel (DRP) and has attended the DRP for Macnamara EDP 1, while there was no statutory requirement. The Ginninderry Project is committed to 6-star green start communities, of which it is a requirement to attend a DRP.

Since the DRP's inception in 2017, the DRP has not been incorporated into the Territory Plan. The Ginninderry Project is supportive of a DRP which is considered within the Bill and the Territory Plan. **Ginninderry is supportive of a Planning Bill that provides the DRP with a clear statutory remit, particularly around entity requirements where a project like Ginninderry strives for 21st-century subdivision and innovation.** A precise planning remit for the DRP would allow projects like Ginninderry the confidence in proposing alternate planning considerations from the standards controls in the aspiration for innovation.

### **Development applications**

Ginninderry is supportive of a robust planning development assessment process and recognises the importance of significant development and the additional time required for development assessment for these applications, including estate development plans and projects of environmental significance.

Under Section 163 of the Bill, the Planning Authority may ask for further information more than once for a DA, which is allowable under the current planning system. Understanding the Objectives for this new Planning System, and for transparency and certainty for the proponent, having the Planning Authority ask for multiple further information requests protracts the assessment timeframe of a DA, and provides little certainty to a proponent on the timeframe. Ginninderry is supportive of the request for one further information request to support a DA.

Section 175 (3) of the Bill allows the Planning Authority to extend the public notification period on the provision of notice to the proponent. However, in consideration of the DA process, there are enough checks and balances, so it is not apparent as to a scenario, to which the Planning Authority would need to extend the public notification period. **Ginninderry does not support the extension of the public notification period within the DA process.**

The pre-decision advice process is supported in the Planning Bill. The Ginninderry Project submits an estate development plan over each subdivision application, as the assessment process warrants a robust assessment. An estate development plan is typically in the planning system for circa a year from entity submission to the Notice of Decision. Before pre-decision advice, the Planning Authority has circulated the application to entities and sought any further information required for the DA. The Ginninderry Project supports one pre-decision advice issued to give the planning process greater certainty and confidence.

**It is not understood how pre-decision advice could be changed with the Planning Authority having access to all the checks and balances afforded within the DA process. The Ginninderry Project is supportive of one issue of pre-decision advice.**

Sensibly, and as per the current Planning and Development Act 2007, the statutory clock stops for a DA which is subject to an amendment application. The Bill proposes that any amendment received is treated as a new DA. As an amendment application may result from a further information request issued by the Planning Authority or resulting after pre-decision advice, or by the proponent as detailed design information/material availability, the implementation of treating an amendment application as a new DA will have significant delays on DA assessment timeframes.

A DA amendment must be 'substantially the same' as the original DA for the Planning Authority to accept it, therefore the information presented to Assessing Officer is not new, but rather a minor change within the context of the DA. **The Ginninderry Project does not support an amendment application being treated as a new DA.** The Ginninderry Project is supportive of the current approach under the Planning and Development Act, where the clock stops for an amendment application and recommences on receipt of information.

The sections of the Planning Bill (Division 7.5.3) pertaining to effective approval on entity advice and how they relate to DAs would seem to provide some uncertainty to the DA process. On review of these sections, it would seem entities have an opportunity to act inconsistently to the conditions as approved within a DA. Greater certainty around the conditions of the Notice of Decision – is supported. It is considered that entities should act in accord with the conditions of the Notice of Decision. The Ginninderry Project recommends the Planning Authority give a Notice of Decision greater weight than retrospective NOD entity advice.

#### **ACAT third party appeal rights**

The Bill provisions third party appeal rights in Town Centres, the University of Canberra and Kingston Foreshore. An estate development plan (EDP) Development application is extensive in the matters considered for a new subdivision application. An EDP is subject to rigorous planning assessment. There are no neighbour concerns for an EDP; therefore, there cannot be any resident issues for a future EDP. Third party appeal rights within the context of an EDP means the developer is required to pay the associated fees and time in representing at ACAT, which holds up development and the creation of residential blocks. As there is no existing community associated with an EDP and considering the current housing crisis in Australia, decreased housing supply places significant pressure on the ACT Government housing release program. If the Ginninderry Project is unable to deliver the EDP blocks to the market, delayed by third party appeal rights, the follow-on effect will impact the ACT Housing release strategy. Considering the above, **the Ginninderry Project supports no third-party appeal rights for an EDP.**

The Ginninderry Project is supportive of the planning system review. The comments above have been made in the absence of the Territory Plan policy. The Ginninderry team is available to meet with the Planning Authority to discuss any of the above submission.

Yours sincerely,

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