

Planning and Development – S211 proposal

Statement regarding an application by Ginninderry for exemption from the requirement to submit an EIS with development applications for Stage 2 and subsequent stages of the project.

About Environmental Impact Statements (EIS)

Where a development application (DA) includes works which are thought to be likely to have a significant and adverse impact on the environment, the Act (Planning and Development Act 2007) requires that the development application documents include an environmental impact assessment. The Act also requires that the DA must be processed by the Planning Authority through the development assessment “impact track”.

Where a DA is unlikely to have a significant and adverse environmental impact then it may be lodged without an accompanying EIS and is processed through the “merit track”. DA’s lodged in the impact track must be accompanied by a completed EIS or EIS Exemption.

In some circumstances, the assessment of likely environmental impacts of the works proposed in a DA, and the prescription of measures to appropriately manage these, may have been completed prior to the lodgement of the DA. This often occurs where the DA is one of a series of DAs in a staged project such as Ginninderry. In these circumstances it is logical to undertake a comprehensive assessment of the total project “up front”; individual DAs can then proceed in accord with the findings of this assessment. This holistic approach is more efficient; it is also considered to be likely to produce superior environmental outcomes when compared to a piecemeal, DA by DA, environmental assessment process.

Ginninderry’s EIS

At Ginninderry there was also an additional requirement for environmental assessment separately to that required under the ACT Planning and Development Act. The site provides habitat for a number of species and ecological communities (Matters of National Environmental Significance or MNES) that are listed under Commonwealth legislation (the Environment Protection and Biodiversity Conservation (EPBC) Act). In accord with this legislation a “strategic assessment” of likely impacts on MNES over the whole project site was conducted to determine the suitability of the site and prescribe environmental control measures prior to the commencement of the project. The Ginninderry (then known as West Belconnen) EPBC assessment was completed and approved by a delegate of the Commonwealth Minister for the Environment on 1.9.17. The approval was contingent upon the satisfaction of a number of conditions, including the creation of the conservation reserve.

Ordinarily, an EPBC assessment is concerned with the examination of potential impacts on MNES. At Ginninderry there are a number of species that are not listed by the Commonwealth but are listed under either ACT or NSW environmental legislation, or both. Species and ecological communities are of course inter-related and inter dependent and it was agreed by the relevant Commonwealth, NSW and ACT Government agencies that a single assessment process covering all species and ecological communities listed under Commonwealth, NSW and ACT legislation would be likely to achieve the best environmental outcomes. The EPBC assessment therefore included all species and ecological communities listed under the three jurisdictions. The EPBC assessment and the scientific research which underpins it (dating back to 2009) is now available as supporting material for future DAs.

The assessment was completed by the Umwelt company which specializes in the provision of environmental consultancy services. The report: “West Belconnen Project Strategic Assessment” was completed in March 2017.



Ginninderry's grounds for exemption

In addition to matters related to the natural environment, an EIS may also be required to examine potential impacts on other aspects of the physical and cultural environment. At Ginninderry the potential for impacts on matters of heritage significance and impacts related to possible site contamination are also of sufficient magnitude to “trigger” the requirement for an EIS under the provisions of the Act.

In both cases steps have already been taken that provide a basis for an application for exemption from the requirement to undertake an EIS process:

- The project site has been surveyed and this, together with detailed research, has enabled all matters of significance related to European heritage to be identified. These are recorded in two reports by Eric Martin and Associates which also include recommendations for the treatment of matters of heritage significance as the project proceeds. These reports have been endorsed by the ACT heritage Council.
- The project site has been surveyed and this, together with detailed research, has enabled all matters of significance related to aboriginal heritage to be identified. These are recorded in a report by Biosys Pty Ltd which also includes recommendations for the treatment of matters of heritage significance as the project proceeds. These reports have been endorsed by the ACT heritage Council.
- An auditor, accredited by and approved by the ACT Environment Protection Authority (EPA) has been appointed to oversight all aspects of the project and ensure that, where required, matters related to contamination will be the subject of audit processes and resolved to the satisfaction of the EPA. This will occur progressively as the project proceeds. This process meets the requirements of the EPA and obviates the need for an EIS.

It is against this background that the Ginninderry project is applying for exemption from the requirement that the DA for stage two and future stages of the project be accompanied by multiple EIS's prepared specifically to cover the individual DAs. After receiving an assessment report from the planning authority, the Minister for Planning will determine whether an exemption from requiring an EIS is to be granted. The Conservator of Flora and Fauna (and other relevant agencies) will be consulted as part of the planning and land authority's assessment process and their comments considered by the Minister.

In making this determination the Minister will have regard to the extent to which the assessment process discussed above, which incorporated an assessment of all the relevant species and ecological communities, matters related to heritage and to contamination, that may otherwise have triggered the requirement for an assessment, was adequate.

If the Minister determines that the assessment reports that are already in hand are adequate, then the DAs will be processed; otherwise a new environmental impact assessment will be prepared.