

**THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN  
CAPITAL TERRITORY**

**GUNGAHLIN DEVELOPMENT AUTHORITY BILL 1996**

**EXPLANATORY MEMORANDUM**

Circulated by authority of

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## Outline

This Bill establishes the Gungahlin Development Authority.

The establishment of the Gungahlin Development Authority was foreshadowed during the process to the Territory Plan variation for the Gungahlin Town Centre and Central Area which was gazetted on 15 December 1995. The variation sets out the policies and principles for the first Town Centre to be developed in the ACT since self government.

The proposed development is an entirely new approach to urban development in Canberra. There will be a greater mixture of land uses and a higher density of development, but these will be balanced by a closer integration of open space into the whole urban area; a concentration on the integration of cultural development into the whole process of urbanisation; and a use of natural and cultural heritage as a mainstay of the identity of the area. The Government considers that the key to successfully implementing these complex and innovative concepts is the establishment of the Gungahlin Development Authority.

The Gungahlin Development Authority Bill sets out the functions, powers, membership and staffing of the Authority. A notable inclusion is that the Authority will be authorised by the Executive to grant leases on its behalf in the declared Gungahlin Development Area. The grant of leases will be subject to the provisions of the *Land (Planning and Environment) Act 1991*. The Authority will also

be a concurring authority for controlled activities in the Gungahlin Central Area. Provision is made for this and other consultative arrangements in the *Gungahlin Development Authority (Consequential Provisions) Bill* which accompanies this Bill.

Other significant provisions relate to the financial and reporting arrangements for the Authority. The Authority will be subject to the *Financial Management Act 1996* (Part VIII) which sets out financial provisions relating to Territory Authorities. This Bill provides for additional financial matters including the treatment of revenue from the grant of a lease as income for the Authority, conditions relating to the payment of surplus funds to the Territory, the payment of Commonwealth tax equivalents (consistent with the Competition Principles Agreement to which all States, Territories and the Commonwealth are signatories) and the tabling in the Legislative Assembly of the Authority's statement of intent.

### **Revenue/Cost Implications**

The Bill will not impact on the 1995/96 Budget. However, there will be an impact on forward estimates with the exclusion of revenue which may have been expected from the sale of leases in the Gungahlin Town Centre.

Eventually offsetting these revisions will be the inclusion in the forward estimates of revenue to the Territory from the Authority, including the repayment of Government equity by the Authority

(ie payment for land) , payments which reflect a return on this equity, taxation equivalents and any payments of surplus funds.

### **Formal Clauses**

**Clauses 1 and 2** are formal requirements. They refer to the short title of the bill and commencement. The Bill commences on 1 July 1996.

**Clause 3** defines the “Authority” as the Gungahlin Development Authority, the “Gungahlin Central Area” as the area referred to as the Gungahlin Town Centre and Central Area in the Territory Plan and the “Development Area” as an area declared by the Minister under Clause 4.

**Clause 4** provides for the “Development Area” to be declared and varied by the Minister. The Development Area will be the area that is being developed (or is to be developed in the near future) by the Authority.

### **Establishment, functions and powers of the Gungahlin Development Authority**

**Clause 5** establishes the Authority as a body corporate and provides for it to have a common seal, to acquire, hold and dispose of property and to be able to sue or be sued.

**Clause 6** sets out the principal objective of the Authority which is to develop the Gungahlin Central Area in accordance with the principles and policies of the Territory Plan.

## **Functions**

**Clause 7** sets out the functions of the Authority. As well as being an agency of the Territory for the provision, and management of land in the Central Area, the Authority will undertake, promote and coordinate the development of this land. There is provision for the Authority, where appropriate, to construct buildings, structures and facilities and also to manage and maintain them if necessary. An important function of the Authority will be to act as a concurring authority for controlled activities (as specified in the *Land (Planning and Environment) Act 1991* and the *Building (Design and Siting) Act 1964*). This will enable the Authority to have input into proposals for the whole of the Gungahlin Central Area rather than the specific Gungahlin Development Area which is gazetted by the Minister.

## **Powers**

**Clause 8** sets out the powers of the Authority. While empowering the Authority to undertake activities to carry out its functions, the scope of these activities is indicated in Subclause 8(2).

An important power is that the Authority will be authorised by the Executive to grant leases of land on its behalf. This authorisation

will be pursuant to the *Land (Planning and Environment) Act 1991* and apply only to the Gungahlin Development Area. The range of powers listed in this clause will enable the Authority to undertake development in its own right or enter into contracts or joint ventures. Subclause 3 allows the Authority to grant leases to itself. The application of such a provision may arise in a situation similar to the arrangements for the granting of “Executive Leases” where the Territory issues leases to the Australian Capital Territory for Government owned properties.

**Clauses 9 and 10** limit the powers of the Authority to form companies and joint ventures. Such proposals will require Ministerial approval and tabling of the details of companies or joint ventures in the Legislative Assembly. The Minister has some discretion in the tabling information that would adversely affect the commercial interest of the Authority, though he or she must table, at the same time, table a statement setting out the general nature of the material deleted and the reason for the deletion. The clauses also provide for the company or joint venture to be audited by the ACT Auditor-General and that any borrowings must be approved by the Minister administering the *Financial Management Act 1996*.

### **Directions and Tabling of Directions**

**Clause 11** provide for the Minister to give directions to the Authority and for the tabling of any such direction in the Legislative Assembly.

## **Consistency with the Territory Plan**

**Clause 12** is a confirmation that the Authority can not do anything that is inconsistent with the Territory Plan.

## **Constitution and meetings**

**Clauses 13 to 24** deal with the membership and skills of the Authority and meeting arrangements of the Authority. The members of the Authority who may be appointed by the Minister for a term of 3 years, are to be a cross-section of the whole community, with two members to be from the general community while others are to have expertise in property development, retail, finance, urban planning and design and relevant to the management and operations of the Authority. Two members are to be senior ACT public servants. The Chief Executive Officer is also to be a member of the Authority. Members will be paid remuneration and allowances as determined under the *Remuneration Tribunal Act 1995*. There is provision for the disclosure of direct or indirect pecuniary interest of members. The Minister is to be responsible for the appointment of the Chairperson and Deputy Chairperson.

## **Appointment of CEO and Staff**

**Clauses 25 to 30** provide for the appointment of the Chief Executive Officer. The Minister will appoint the Chief Executive Officer. Remuneration will be determined in accordance with the

**Remuneration Tribunal Act 1995.** There is also provision for disclosure of interests, termination of appointment and the appointment of an Acting Chief Executive Officer. The Chief Executive Officer will be subject to Clause 55 of the *Financial Management Act 1996* which sets out the responsibilities of chief executive officers in respect of financial management.

**Clauses 31 and 32** deal with the employment of staff and consultants. Staff of the Authority will be employed under contract rather than the *Public Sector Management Act 1994* though there is provision for the Authority to make reciprocal arrangements with other public authorities for staff transfers.

### **Financial Management**

**Clause 33** establishes that payments received by the Authority for the grant of a lease of land are to be treated as income of the Authority. The Government intends that the Authority fund its operations through the sale of leases though initially the Authority will require some borrowings. The Authority will be subject to the provisions of the *Financial Management Act 1996* in respect of borrowings and investments. The land within the Gungahlin Development Area will be the Government's equity in the Authority.

**Clause 34** sets out the broad conditions that will apply to payments made by the Authority to the Territory. The amount of these payments will be determined by the Treasurer and in making this determination, the Treasurer will consider the assets and liabilities

of the Authority, its income and expenditure, its ability to carry out its functions and the requirement that the Territory receive a reasonable return on the on the land it has invested as equity in the Authority. The Authority is also required to pay to the Territory any surplus funds that are not required for its operations.

**Clause 35** provides for the payment of taxation equivalents by the Authority. The Authority will be subject to the equivalent taxes, fees and charges that a private developer would be subject to, to ensure that the rate of return to the Government is not over-stated. Such an approach is consistent with the Competition Principles Agreement to which all States, Territories and the Commonwealth are signatories.

### **Statement of intent**

**Clause 36** ensures that the statement of intent that the Authority must provide pursuant to the *Financial Management Act 1996* is tabled in the Legislative Assembly. The statement of intent will include detailed financial information including an estimated operating statement for the financial year, a statement of the assets and liabilities both at the commencement and the completion of the financial year and a statement of estimated cash flows. Also included will be a statement of the objectives of the authority, a statement of the nature and scope of the activities to be undertaken by the authority and the performance criteria and other measures by which the performance of the authority may be assessed.

The clause provides for the Minister to exercise some discretion and delete commercially sensitive information from the statement if necessary, but he or she must, at the same time, table a statement setting out the general nature of the material deleted and the reason for the deletion.

**Clause 37** provides for the delegation of the Authority's powers to the Chief Executive Officer. There is also provision for the Authority to authorise others to exercise powers on its behalf.

**Clause 38 and 39** relate to the Authority's reporting obligations. The Authority will be subject to *the Annual Reports (Government Agencies) Act 1995* which requires public authorities to prepare an annual report in a form and including information as the Minister directs and for the report to be tabled in the Legislative Assembly. This clause requires the Authority to include details of any Ministerial Directions in the annual report. Quarterly reports on the operation of the Authority and the Act must be given to the Minister. The Authority will also be required under *the Financial Management Act 1996* to provide interim financial or other statements on a monthly or quarterly basis to the Minister and to produce annual financial statements with the latter to be tabled in the Assembly.

**Clause 40** provides for the Minister to undertake a review of the operation and effectiveness of the Act after a period of 5 years. The Government's intention is to determine how effective the Authority has been and whether there is a need for the Authority to

continue. A report based on this review is to be tabled in the Legislative Assembly.

**Clause 41** provides for the making of regulations.