

**GG Investments - Proposed “build-to-rent” development comprising 700 dwellings on Block 14 Section 86 Division of Nicholls (Crown Lease Vol 2157 Folio 38). Block 14 is currently occupied by the Gold Creek 18-hole championship golf course**

My name is Maggie Chapman, I own property on Kelleway Avenue, Nicholls.

I endorse the submissions made by the CNRG on behalf of the residents of Nicholls.

I attended a drop-in session held on Saturday 22 July 2023. Please find below my feedback on the consultation and the development proposal. Thanks to Pieter van der Walt from Canberra Town Planning (CTP) for attending the session to answer planning questions on behalf of and in lieu of the developer.

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**Pre-DA Community Consultation**

*Communicationlink* has been engaged by GGI to carry out Pre-DA Community Consultation for the proposal. The consultation process is non-compliant with ACT planning law, therefore it is flawed. It is also misleading and premature.

**Reasons:**

Pre-DA community consultation is required under Section 138E of the Act for prescribed developments.

This proposal is a prescribed development under the *Planning and Development Regulation 2008*, (Regulation, s 20A).

Before lodging a development application for a prescribed development proposal, the proponent must consult the National Capital Design Review Panel (NCDRP) about the proposal (*Planning and Development Act, 2007* (Act), s138AL). Pre-DA Consultation with the NCDRP is mandatory (*Regulation, s 20A*). No evidence has been presented to the Nicholls community that the NCDRP has been consulted.

The Planning & Development (Community Consultation) Guideline 2020 (Guideline) is a Notifiable Instrument (NI2020-595). The Guidelines are made under s138AF of the Act.

The minimum consultation requirements of the Guideline have not been met. For example:

<b>Pre-DA Consultation requirement</b>	<b>Pre-DA Consultation</b>
Notify how consultation will occur for the proposal on the ACT Government’s pre-DA community consultation webpage.	The consultation is not notified on the ACT Government’s website. Therefore, none of the relevant notification requirements have been met. (Guideline, p4)
Consultation with the NCDRP	This is a prescribed development requiring consultation with the NCDRP. The CDRP’s comments must be presented to the community during

	consultation. NCDRP has NOT been consulted. If it has, Nicholls residents have not seen the Panel's advice.
Were people living in the areas immediately surrounding the development informed and consulted?	<p>Yes, some people were informed but communication was inadequate.</p> <p><i>Communicationlink</i> confirmed that flyers were delivered to the letterboxes of residences within 500m of the development site. There are 2,396 dwellings and 6,680 people living in Nicholls (<i>ABS, 2021</i>). This level of engagement with the residents of Nicholls is not “<i>reasonable and proportionate to the development</i>” (<i>Guideline, p5</i>).</p> <p>The development proposal is at the Gateway to the suburb of Nicholls and near the top of Harcourt Hill. The majority of Nicholls residents will be affected by this development in some way. Any Canberra resident using Curran Drive for access to and from the Barton Highway and the Gold Creek Village will be affected by this development. Best practice suggests that 700 dwellings may generate 5000+ daily traffic movements between Curran Drive and the development site.</p> <p>Best practice also suggests that residents living within a radius of a major development proposal (such as this) be consulted, and more broadly if appropriate. This proposal is so extraordinary in the context of Nicholls, that much wider consultation is justified.</p> <p><i>Communicationlink</i> confirmed that members of the Golf Club have not been informed about the development nor of the short, medium and long term impacts on the Golf Course.</p>
Were people from a diverse demographic given the opportunity to view and comment on the proposal? ( <i>Guideline, p.5</i> )	Exactly how did the proponent reach out to the older demographic that is not physically active or active on social media?
Was face-to-face engagement tailored to accommodate people from a diverse demographic, including those with special needs?	How has this requirement been met? Where were the pop-ups at Casey Market Town (CMT) or Nicholls shops? Where were the signs at CMT or Nicholls shops? Where were the flyers in the shops at the CMT or other local Clubs? Again, how was the older demographic engaged if they are not users, or frequent users, of social media, subscribe to the Canberra Times, RiotACT, etc. In Nicholls 12.2% of the population is over 65 yet no engagement tools took this into account and only 500 flyers were dropped. How were people with special needs engaged in this consultation at all?
Was the consultation undertaken over two or more Phases.	NO. Again, this is an extraordinary development proposal in the context of Nicholls where currently no building exceeds 2 Storeys. Longer and broader consultation is justified. One phase of consultation is inadequate and has left the community scrambling to get information out to local residents for review and discussion.
Does the website state when the consultation will end? ( <i>Guideline, p.4</i> )	NO. The flyer, delivered to 500 letterboxes, states when the consultation will end. GGI's website omits this information. A link to the website was circulated on social media by <b>CNRG</b> to local residents. Anyone who received the website link via social media, but did not also receive a flyer in their letterbox, may be disadvantaged by not being aware that the consultation will end on Monday, 24 July 2023.

	GGI's consultation doesn't comply with the statutory requirements for pre-DA consultation. At best, it may fulfil the role of Stage 1 of a two-stage consultation process as outlined in the Guideline. A second stage pre-DA consultation process is required. This second stage should properly address the Guideline and include <u>all</u> the required information including the advice of the NCDRP and the proponent's response to that advice.
Were high level responses to key Territory Plans and rules provided?	NO. A draft statement against the rules and criteria was <u>not</u> provided. Specifically CTP stated (drop-in session on 22 July 2023) that Rule 8 was of no concern because CTP will argue that the development satisfies criteria C8: " <i>The building height minimises the impact of developments on adjoining residential zones</i> ". Some cross sections, not to scale, were provided but the consultation did not provide detailed reasons in response to this Criteria.

### Consultation misleading

The information provided to residents variously described the proposed development as "Build-to-Rent" (BTR), "commercial accommodation units", "dwellings", "apartments", "homes", "residential properties". Is it one, several or any of these things? No, apparently as advised by CTP on 22 July 2023, it is a "**motel**" comprising 700 x two-four bedroom commercial accommodation units for long term residential use. For these reasons, the consultation has been **misleading**. **The characterization of the proposed development as a 'MOTEL' did not appear anywhere on the flyer or GGI's website.**

### BTR

Currently, BTR is not a defined use in the Territory Plan it is a concept which has already been legislated in the NSW Housing SEPP. BTR will be defined in the new Territory Plan. We are advised that this DA will be lodged prior to the introduction of the new Territory planning framework to take advantage of the expected transitional arrangements for DAs in the system so that it can be assessed under the current Act, Regulations, Territory Plan and other relevant instruments.

Nevertheless, Treasury and the Suburban Land Agency have both characterized BTR as **multi-unit development** and **multi-unit dwellings**. Of interest, the new Territory Plan says this about BTR: "*build-to-rent development means the use of land for **multi-unit housing** [emphasis added] development that is held by a single owner for the purpose of providing **dwellings** [emphasis added] for lease under **residential** [emphasis added] tenancy agreements. The owner of a build-to-rent development may provide some or all the dwellings as affordable rental dwellings. Provisions: The Residential Zones Policy will state that BTR development is to comply with that policy. BTR will be added as an assessable development in **residential** zones. It will not be added to the PRZ2 zone.*

The current land use table for the PRZ2 zone permits hotel, motel and guesthouse as sub-categories of COMMERCIAL ACCOMMODATION USE. Commercial accommodation units and serviced apartments (also sub-categories of "COMMERCIAL ACCOMMODATION USE" are not assessable in the PRZ2 Zone. COMMERCIAL ACCOMMODATION USE per se is not assessable in PRZ2. RESIDENTIAL USE is prohibited, therefore **multi-unit housing** is also prohibited.

For GGI and CTP to claim that this development proposal is assessable as a "**motel**" is both bizarre and disingenuous. It is a poor, creative attempt to circumvent the existing planning controls. In any event "motel" is described as one or more "commercial accommodation units" for **short term** accommodation. A motel does not permit residential use for long term occupation under a residential

tenancy agreement. Commercial accommodation units per se are not permitted in the zone unless they are part of a motel development. This proposal is not a motel.

In summary, the proposed development is not permitted in the PRZ2 zone and a Territory Plan Variation is required.

### **Approval pathway**

The residents of Nicholls were advised that CTP intends to lodge a DA within 4 weeks. If the DA is submitted, it would be non-compliant with the existing planning framework. It is also non-compliant with the Guideline for Pre-DA consultation for the reasons outlined above.

### **The Parks and Recreation Development Code**

The Parks and Recreation Development Code is the relevant Code for the PRZ2 zone. In addition to the above comments about R8 and C8, I draw your attention to the Intent of Element 1 – Restrictions on Use: “To provide for high quality recreation facilities without adverse effects on the amenity of the locality”. The Intent for Element 2 – Building and Site Controls is “To ensure development in the PRZ2 zone is compatible with, and does not adversely impact on, the urban environment”. In my view, the proposed development would be inconsistent with the intent of the Elements of the Code to which Rules and Criteria relate, and therefore inconsistent with the Code.

GGI needs to undertake a Stage 2 Consultation (see above) consistent with the Pre-DA Consultation Guidelines and detail how it has formed the view that this proposal is consistent with the Territory Plan and the Code.

### **The Crown Lease**

COMMERCIAL ACCOMMODATION USE per se is not permitted by the purpose clause of the Crown Lease. COMMERCIAL ACCOMMODATION USE is limited to hotel, motel and guesthouse.

As outlined above, this proposal cannot be characterized as a “**motel**”. Characterization of this development as a “motel” is creative, a device and a poor attempt to circumvent the existing planning framework.

Treasury’s online prospectus characterizes BTR as “**multi-unit development** where the **residential dwellings** are retained by one owner ... rather than being sold”. The Suburban Land Agency describes BTR as increasing “the supply of rental housing by the construction of **multi-unit dwellings** ... typically owned by a single owner, usually an institutional investor.” **Multi-unit housing** is not permitted in the PRZ2 zone, nor is it permitted by the Crown lease. The new Territory Plan proposes to define BRT as **multi-unit housing**.

The proposal, the subject of this consultation, is not permitted by the purpose clause of the Crown lease and therefore the proposal cannot proceed in its current form.

### **The proposed development requires both a TERRITORY PLAN VARIATION AND *inter alia* A VARIATION TO THE PURPOSE OF CLAUSE OF THE CROWN LEASE**

### **Estate Development Plan**

The proposed development requires substantial investment in services infrastructure including new roads, sewer, water, electricity, and substantial off-site works it also requires subdivision. The scale of the development is akin to a small suburb and should be the subject of a DA for an **Estate Development Plan** in the first instance.