

**2021**

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

**Planning and Development Act 2007 – Exercise of call-in powers –  
Development Application 202138619 –  
Blocks 792 and 820 Section 0 Gungahlin**

**Presented by  
Mr Mick gentleman MLA  
Minister for Planning and Land Management  
September 2021**





***PLANNING AND DEVELOPMENT ACT 2007***  
**STATEMENT PURSUANT TO SECTION 161(2)**

1. On 23 April 2021, Development Application No 202138619 (the application) was lodged with the planning and land authority (the authority) for development approval.
2. On 6 September 2021, in accordance with section 158 of the *Planning and Development Act 2007* (the Act), I directed the authority to refer the application to me.
3. On 16 September 2021, I decided to approve the application under s 162 of the Act.
4. As required under s 161 of the Act, I provide the following statement in relation to the application:
  - a) The application (DA202138619) relates to a single block Estate Development Plan (EDP) to create the site for the proposed East Gungahlin High School.
  - b) The land is located within the future urban area (FUA) of Kenny on Block 792 Section 0, Gungahlin.
  - c) Following approval of the EDP, a technical amendment to the Territory Plan would remove the current FUA overlay from the subject site and zone the block for Community Facility use which would allow for the development of a school on this block.
  - d) The application (DA202138619) has been assessed under the Impact track as the proposed school site is located in a designated urban development area approved under the Gungahlin Strategic Assessment and subsequent s211 EIS Exemption.
  - e) The application (DA202138619) proposes creation of the site and associated servicing works only. Separate development applications exist for the school and associated road infrastructure.
  - f) The application was lodged by Planit Strategic, on behalf of the lessee ACT Parks and Conservation Service and Roads ACT.
  - g) On 16 September 2021 I decided to approve the application subject to conditions, as detailed in the attached Notice of Decision.
  - h) The grounds for my decisions are set out in the attached Notice of Decision.

- i) Community consultation was undertaken pursuant to section s 138AE of the Act. In demonstrating compliance with 138AE, the proponent submitted a community consultation report with the development application. This was publicly notified with the application. The consultation report details consultation activities undertaken prior to lodging the application between February 2021 and March 2021. This included on-line consultation, postcard distribution, social media and website advertising to key stakeholders such as local residents, schools and the Gungahlin Community Council. The community consultation report details the matters raised during consultation and provides the applicant's response. A copy of the community consultation report is attached.



.....  
Mick Gentleman MLA  
Minister for Planning and Land Management

*16/9/2021*

2021

## NOTICE OF DECISION

Made under part 7 of the *Planning and Development Act 2007*

### THE DECISION

This application was lodged in the impact track. Pursuant to section 113(2) of the *Planning and Development Act 2007* (the Act), the application must be assessed according to the provisions relevant to impact track applications.

I, **Mick Gentleman MLA, Minister for Planning and Land Management**, pursuant to section 162 of the Act, approve subject to conditions, the proposal for:

- creation of one community facility block for the future East Gungahlin High School;
- construction of utility services, infrastructure, stormwater floodway and associated works;
- ongoing provisions for the proposed block to be incorporated into the future Precinct Map and Code for the area

The proposed works are located at Blocks 792 and 820 Gungahlin, in accordance with the plans, drawings and other documentation approved and endorsed as forming part of this approval.

DA Number: 202138619  
202138619 S141A  
202138619 S141B  
202138619 S144C  
Blocks: 792 & 820  
Section: 0  
Suburb: Gungahlin  
Application lodged: 28 April 2021  
Assessment track: Impact

---

#### ACT Legislative Assembly

London Circuit, Canberra ACT 2601, Australia GPO Box 1020, Canberra ACT 2601, Australia  
Phone +61 2 6205 0218 Email [gentleman@act.gov.au](mailto:gentleman@act.gov.au)



@GENTLEMANMick



MickGentleman

## NOTICE OF DECISION

DA 202138619

My decision contains the following information:

Part A – sets out conditions of approval that are to be satisfied

Part B – sets out the Reasons for the Decision

Part C – provides a summary of issues arising from the public notification of the application and from referral of the application to relevant entities

Attachment 1 – contains administrative information relating to my decision

Copies of entity advice as attachments

*A copy of the development application and this approval may be inspected at the planning and land authority's office from 8.30 am to 4.30 pm, Monday to Friday at 480 Northbourne Avenue, Dickson, ACT 2602*

### DECISION MAKER



**Mick Gentleman MLA**

Minister for Planning and Land Management

*16/9/2021*

### CONTACT OFFICER

George Cilliers

Phone: (02) 6205 2888

Email: [George.Cilliers@act.gov.au](mailto:George.Cilliers@act.gov.au)

## NOTICE OF DECISION

DA 202138619

### PART A – CONDITIONS OF APPROVAL

This application is approved subject to the following conditions being satisfied. Some conditions of the approval require attention before work commences or before approved drawings will be released.

#### 1. FURTHER INFORMATION

Within 28 days from the date of this decision, or within such further time as may be approved by the planning and land authority, the applicant shall lodge with the planning and land authority for approval:

- a) revised drawings and further information showing, to the satisfaction of the planning and land authority:
  - i. stormwater detention nominated on planning control plans submitted with the estate development plan;
  - ii. stormwater treatment will meet the relevant targets of the Water Sensitive Urban Design (WSUD) Code when discharging into the reserve;
  - iii. the WSUD plan showing the proposed WSUD treatment for the Estate (i.e. on-site retention/detention requirements, nutrient removal etc) at the estate level and block level;
  - iv. further detail about the consideration of climate change impacts in peak flow rate stormwater and water sensitive urban design modelling; and
  - v. further detail about prevention and mitigation of erosion from stormwater discharging into the Nadjung Mada Nature Reserve.

(See conditions 3 and 5)

#### 2. COMMENCEMENT AND COMPLETION OF DEVELOPMENT

- a) This development must be started (commenced) within **three years** from the date when this approval takes effect.
- b) This development must be finished (completed) within **three years** from the date when it started, or within such further time as approved in writing by the planning and land authority.

Note: The planning and land authority may extend the time to commence or finish the development if an application, to extend the time to commence or finish the development, is made prior to when the development has to be started or finished – refer to section 184(3) and 188 of the *Planning and Development Act 2007*.

#### 3. CONSTRUCTION WORKS NOT TO COMMENCE – CONSTRUCTION ENVIRONMENT MANAGEMENT PLAN

A Construction Environment Management Plans (CEMP) must be submitted to the planning and land authority ([EPDImpact@act.gov.au](mailto:EPDImpact@act.gov.au)) for approval prior to the commencement of any work on the site.

## NOTICE OF DECISION

DA 202138619

The CEMP must be consistent with the requirements of the Gungahlin Strategic Assessment Biodiversity Plan and the Gungahlin Strategic Assessment EIS exemption and must include the minimum plans (where relevant) outlined in Table 9 of the Gungahlin Strategic Assessment EIS exemption consideration report. including:

- pre-construction surveys to determine clearing boundaries and identify rehabilitation actions;
- pre-clearing ecological inspections (required to be undertaken between September and December);
- pre-clearing ecological procedures to be followed for wildlife rescue and relocation;
- weed management; and
- sediment and erosion control to minimise site run-off.

Note: The CEMP may contain plans and management strategies listed elsewhere within the conditions of approval. Where these plans can be integrated into the CEMP, it must be clearly identified to which condition of approval the plan or management strategy applies.

#### 4. CONSTRUCTION WORKS NOT TO COMMENCE – ACT HERITAGE

Prior to construction works commencing, the proponent must obtain the written endorsement of the ACT Heritage Council. The ACT Heritage Council require the following additional information for this purpose:

- a) The comments on the Cultural Heritage Assessment (CHA) issued on 18 March 2021 to Land Development Projects within the Environment, Planning and Sustainable Development Directorate to be addressed and the CHA finalised. This should include resubmission of the revised CHA for Council review and endorsement (if applicable).

If the proposed works (including utility works) would cause damage to Aboriginal places *Heritage Act 2004*, approvals would be required.

- b) The CHA should describe how the trees that form part of the significant fabric of the Wells Station Homestead will be protected during development (including utilities works). Investigation into the proposed works must consider whether any nearby ground disturbance or other associated works would affect the health of these trees. This could include discussion about tree protection zones and how any mitigation measures, such as fencing, will be implemented. The Council also encourages the ongoing conservation of the road adjacent to these trees as an open dirt track.

If works are proposed that would diminish the heritage significance of the Well Station Homestead Precinct (including damage to the eucalypt plantings) *Heritage Act 2004* approvals would be required.

Note: No significant planning issues were identified in the advice from ACT Heritage as the additional information is largely documentary and investigative of nature. However, any substantial changes to the development required as a result of further advice from the ACT Heritage Council will need to be submitted for the approval of the planning and land authority with an application to amend the approval under s197 of the *Planning and Development Act 2007*. Plans may be endorsed, and some site works may commence to the discretion of the planning and land authority prior to compliance with this condition.

## NOTICE OF DECISION

DA 202138619

### 5. CONSERVATOR OF FLORA AND FAUNA

- a) Unless agreed otherwise, construction work for this proposal of the proposal shall not commence until the land custodian or applicant has obtained written support from the Conservator of Flora and Fauna. Further information is required in relation to:
- (i) stormwater management, including details about the following:
- protection of the Nadjung Mada Nature Reserve in Kenny;
  - the treatment of stormwater not to have a negative impact on the Nadjung Mada Nature Reserve;
  - the impact from stormwater on any Striped Legless Lizard (*Delmar impar*) habitat and/or endangered ecological communities that occur within the Nadjung Mada Reserve and any mitigation measures to limit this impact;
  - the stormwater peak flow or volume related impacts upstream of the reserve;
  - any water quality issues associated with the unmitigated discharge originating from the western flow path from Harrison;
  - stormwater impacts from upstream of the school site, and the water quality and quantity considerations generated by the school site in a single, holistic approach; (These issues are required to be considered and impacts mitigated prior to discharge into the ecologically sensitive receiving environment.)
  - evidence that the mitigation measures proposed will limit the impact on conservation values within the Reserve; and
  - any additional design and mitigation measures to limit the impacts of stormwater on the Reserve and conservation values within as required.
- (ii) pre-clearance surveys of the proposed school site is a requirement of the s211 EIS exemption and must be undertaken prior to the commencement of any construction;

Notes:

To undertake effective pre-clearance surveys for Striped Legless Lizard these surveys must commence no earlier than September 2021 and should continue until at least December 2021.

- (iii) a Tree Protection and Retention Plan that details Asset Protection Zone compliance to the satisfaction of the ESA and PCS Fire Management;

Note: Tree removal or impacts on conservation values outside the development area will not be accepted in order to achieve an adequate asset protection zone

- (iv) demonstrate how the proposal is consistent with the Gungahlin Strategic Assessment, including details of the total area of impact on Striped Legless Lizard habitat.

Note: impacts to habitat include fragmentation and loss of connectivity, changes to hydrology, changes to floristic composition, vegetation modification, clearing, scraping, mowing, slashing, grazing, and over shadowing

## NOTICE OF DECISION

DA 202138619

- b) Unless agreed otherwise, construction shall not commence until [Parks and Conservation Service (PCS)] baseline surveys of the offset area/Nadjung Mada Nature Reserve have been undertaken.
- c) The proponent and land custodian must comply with any requirements imposed on a Statement of Endorsement from the Conservator of Flora and Fauna.

Note: Any substantial changes to the development required for the Conservator of Flora and Fauna Statement of Endorsement will need to be submitted for the approval of the planning and land authority with an application to amend the approval under s197 of the *Planning and Development Act 2007*.

Plans may be endorsed, and some site works may commence to the discretion of the planning and land authority prior to compliance with this condition.

### 6. CONSTRUCTION WORKS NOT TO COMMENCE – ICON WATER

Prior to construction works commencing:

- a) The land custodian or applicant must obtain a Statement of Acceptance from Icon Water in relation to water and sewer networks.
- b) The land custodian must comply with any requirements imposed on a Statement of Acceptance by Icon Water.

Note: No significant planning issues were identified in the advice from Icon Water, however any substantial changes to the development required for the Icon Water Statement of Acceptance will need to be submitted for the approval of the planning and land authority with an application to amend the approval under s197 of the *Planning and Development Act 2007*.

Plans may be endorsed and some site works may commence to the discretion of the planning and land authority prior to compliance with this condition.

A copy of the most recent advice from Icon Water is attached to this Notice of Decision for reference and assistance.

### 7. ENVIRONMENT PROTECTION AUTHORITY (EPA)

The development must comply with the following conditions to the satisfaction of the EPA:

- a) A site-specific unexpected finds protocol (UFP) must be prepared by a suitably qualified environmental consultant and implemented during site development works. The UFP must include, amongst other things, appropriate procedures for the identification, assessment, management, validation and disposal of potential contamination at the site and contractor induction procedures into the use of the UFP.

Note: Where remediation and validation are required at the site under the UFP the site validation report must be forwarded to the EPA for review and endorsement prior to occupancy of the site

- b) All spoil identified at the site must be managed in accordance with *EPA Information Sheet - Spoil Management in the ACT*.

## NOTICE OF DECISION

DA 202138619

- c) All soil subject to disposal from the site must be assessed in accordance with *EPA Information Sheet 4 - Requirements for the reuse and disposal of contaminated soil in the ACT*.
- d) No soil is to be disposed from site without EPA approval.
- e) As the site is greater than 0.3 hectares the construction is an activity listed in Schedule 1 as a Class B activity under the *Environment Protection Act, 1997*. The contractor/builder developing the site must hold an Environmental Authorisation or enter into an Environmental Protection Agreement with the Environment Protection Authority (EPA) in respect of that activity prior to works commencing.
- f) An Erosion and Sediment Control Plan must be submitted to and be endorsed by the EPA prior to works commencing on site.

### 8. TRANSPORT CANBERRA AND CITY SERVICES

The development must comply with the following requirements to the satisfaction of Transport Canberra and City Services:

#### (HERITAGE TREES)

- a) Offsite works, for example as indicated in points 5 & 6 below in relation footpath), must not impact underneath the canopy of any heritage trees within the Well Station Track on both sides of Well Station Drive.

#### (ROADS/PATHS & ACTIVE TRAVEL REQUIREMENTS)

- b) The proponent must carefully consider all crossing options and opt for the best option for students to cross safely to and from the bus stop on the northern side of Well Station Drive.
- c) The proponent must demonstrate through bus turning templates with appropriate clearances how the largest school bus will turn around within the site and around the proposed roundabout.
- d) The traffic report indicates that 'Works Package M' will provide a safe pedestrian crossing at the junction of King Canyon Street and Well Station Drive. The proponent must provide details of this crossing with the required Traffic Control Devices (TCDs) Plans.
- e) Construction of a (3m wide) shared-use path along the northern side of Well Station Drive, between Flemington Road and Kings Canyon Street, must be shown on all relevant plans.
- f) Construction of a (4m wide) shared-use path along the southern side of Well Station Drive, between Flemington Road and Albatross Crescent West, must be shown on all relevant plans.
- g) Paths and active travel connections to the school must be established in relation to the whole of Kenny subdivision.
- h) Finished road levels must be checked to ensure the footpath connection is compliant with TCCS standards.

## NOTICE OF DECISION

DA 202138619

- i) Construction of a shared path along the eastern side of Albatross Crescent road extension must be provided and shown on all relevant plans.
- j) All the shared path widths must be compliant with the requirements of the Estate Development Code.

Note: In regard to the Off-Road Movement Plan please note that the location of the bus stop on the northern side of Well Station Drive may be subject to change as part of the supporting road works project, i.e., the bus stop may need to move further east after establishment of the Well Station Drive & Albatross Crescent intersection. Therefore, the applicant must discuss this with Transport Canberra and consider suitable solutions.

### (STORMWATER)

- k) Stormwater Masterplan: The stormwater infrastructure design has not been resolved yet for the supporting road works project and the school site and this plan is therefore subject to change.

### (WASTE MANAGEMENT)

- l) All waste for the school site must be stored, transferred and collected onsite by a private contractor as TCCS contractors only collect residential waste. (This means that smaller commercial waste vehicles can be used, and collection times can be designated outside school hours.)
- m) The proponent must ensure that the waste truck swept path does not encroach into any pedestrian areas. (This is relevant even outside school times as children may still be within school grounds outside of school hours.)

### (TRAFFIC)

- n) Traffic reports and associated documents should be updated where necessary to be consistent with the supporting road works project (DA202138715)

#### Notes:

- a. It is noted that the duplication of Well Station Drive is excluded from the future 'Works Package N'. It is also noted that without the duplication of Well Station Drive, there will be a congestion issue.
- b. TCCS anticipates the increased volume of traffic in 2031 and the future traffic demands significant queueing during the AM/PM peak times.
- c. It appears that the EDP DA is not completely consistent with the supporting road works project. For example, the EDP report includes incorrect information about the shared path width and the timing of signalisation of the Well Station Drive and Albatross Crescent intersection.
- d. It should be noted that the supporting road works project comprises of the following:
  - i. Extension of Albatross Crescent West intersection to the south by approximately 200m (i.e. a new fourth leg at the intersection), including a roundabout at the southern end.
  - ii. Signalisation of Well Station Drive / Albatross Crescent West intersection.
  - iii. Signalisation of Well Station Drive / Kings Canyon Street intersection.

## NOTICE OF DECISION

DA 202138619

- iv. Construction of shared path (varied width) from Flemington Road to Albatross Crescent West.
- v. Installing parking and bus bays along Albatross Crescent West extension.
- vi. Construction of shared path along Albatross Crescent West extension.
- vii. Reconstruction of the exiting bus stops on Well Station Drive adjacent to the Albatross Crescent West intersection.
- viii. Construction of sections of noise walls along north side of Well Station Drive or provide on-site noise treatment.
- e. Site Access Plan: this plan incorrectly shows vehicle access through Albatross Cres West extension along the southern side of the school site and exiting onto Well Station Drive on the western side of the school. However, the access point on the western side of the school site is left- in left- out for emergency vehicles only, and will be closed off with no access for all other traffic.

### (LAND USE)

- o) The Land Use Plan must be updated to be consistent with other plans such as Estate Development Plan, Development Intention Plan etc. (The TSZ1 zone on this plan shows a straight line to the eastern side of Albatross Crescent West extension which is not consistent with the road design with a roundabout at the end and a stub road for future Kenny development. Although the supporting road works is subject to a separate development application, the Land Use Plan should be updated.)

Note: Utilities Service Plan: The connection points for all utilities cannot be determined until the detail design for the school site and the supporting road works project is complete.

## 9. ACT HEALTH – HEALTH PROTECTION SERVICE

The design and construction of any sedimentation ponds must minimise the potential for them to cause an insanitary condition (local mosquito nuisance) under the *Public Health Act 1997*.

## 10. ACT EMERGENCY SERVICES AGENCY (ESA)

The development must comply with the requirements of the advice received from ACT Fire and Rescue and the ACT State Emergency Service dated 17 May 2021. (The proponent should take particular note of the Bushfire Protection Requirements contained in the advice.)

## 11. CONSTRUCTION ENVIRONMENT MANAGEMENT PLAN

All works must be in accordance with the approved Construction Environment Management Plan (CEMP) – see condition 3.

## 12. ENVIRONMENT PROTECTION & BIODIVERSITY CONSERVATION ACT 1999 (EPBC ACT)

All works and any remediation activities are to be conducted in a manner and to a standard consistent with the requirements of the *Gungahlin Strategic Assessment Biodiversity Plan* made under the *Environment Protection and Biodiversity Conservation (EPBC) Act 1999*.

## **NOTICE OF DECISION**

DA 202138619

### **13. FINAL SURVEY PLAN**

The proponent shall arrange for a survey of the subdivided blocks and lodge the survey plan with the Environment and Sustainability Development Directorate for examination and clearance by the Surveyor-General, Surveying and Spatial Data Section and pay the appropriate examination fee.

A final survey for the estate must be lodged with the Environment and Planning Directorate detailing the as constructed contour levels once the roads and blocks have been created.

### **14. SIGNAGE**

All directional signage must comply with the requirements of Australian Standard AS1742.10 (1991) *Manual of Uniform Traffic Control Devices – Pedestrian Control and Protection*.

### **15. PEDESTRIAN PATHS**

Pedestrian paths are to be constructed in accordance with AUSTROADS *Guide to Traffic Engineering Practice Part 13. – Pedestrians*

## NOTICE OF DECISION

DA 202138619

### **ADVISORY NOTES**

This application is approved with the following advisory notes:

#### Environment Protection Authority (EPA)

For sites greater than 1 hectare, sediment control ponds must be incorporated during the construction phase of the development until 85% of the site is stabilised.

Pond construction should be in accordance with the following guidelines:

- i. Be of adequate size to control all runoff from the site (i.e., 150 cubic metres per hectare of catchment).
- ii. No discharge from dam unless sediment level is less than 60mg/litre. If sediment level is greater, then prior to discharge, the dam must be dosed with either Alum or Gypsum and allowed to settle until the sediment is less than 60 mg/litre.
- iii. Water level must not exceed 20% capacity at all times to allow runoff storage during a rain event.
- iv. Regular dredging of the dam must be carried out to remove silt.
- v. Site drawing and details must be provided to Environment Protection Unit, Environment ACT for approval prior to works commencing.
- vi. Temporary Erosion & Sediment control ponds must be incorporated into each stage of development. The size of the ponds must be minimum of 150 m<sup>3</sup>/hectare and the temporary ponds shall not be removed until 85 % of the developments are complete or all the disturbed areas are stabilised. The lessee shall comply with the Environment Protection Act 1997 (the Act) and all relevant policies and guidelines.

All excavations that collect rainwater during a rainstorm event would be considered as a sediment control pond, and must meet the following condition:

- No discharge from pond unless sediment level is less than 60mg/litre. If sediment level is greater, then prior to discharge, the pond must be dosed with either Alum or Gypsum and allowed to settle until the sediment is less than 60 mg/litre.

For further information please contact the Environment Protection Authority Planning Liaison at [EPAPanningLiaison@act.gov.au](mailto:EPAPanningLiaison@act.gov.au) or on 02 6207 5642.

#### Signage

All signage installed at the site, including any advertising signage and hoarding, should comply with the *Australian Association of National Advertisers (AANA) Code of Ethics* and the ACT Government's *Hoarding Signage Advertising Guidelines* available online at <https://www.planning.act.gov.au/build-buy-renovate/for-industry/industry-resources/hoarding-signage-guidelines>

## NOTICE OF DECISION

DA 202138619

### PART B – REASONS FOR THE DECISION

The application was approved because it was found to meet the relevant rules and criteria of the Territory Plan and section 129 of the *Planning and Development Act 2007* (the Act).

In deciding to approve the application with conditions, I considered each of the matters or issues set out in section 129(a) - (l) of the Act.

In relation to section **129(a)**, accounting for the extent of development located in each zone, and for areas where indicative zoning is likely to be uplifted over time (in the future urban areas); I am satisfied that the proposed development meets all the relevant objectives of the Transport Zone, Urban Open Space Zone, Core Zone; Suburban Zone, and Medium Density Residential Zone.

In relation to section **129(b)**, as above, I am satisfied the proposed development meets the requirements of the relevant precinct, development and general codes or is adequately addressed by the conditions imposed by this decision.

In relation to section **129(c)**, I am satisfied that the subject land is suitable for the proposed development, provided each of the conditions that I have imposed as part of my decision to approve the application is met.

In relation to section **129(d)**, I was mindful of the representation received by the planning and land authority in relation to the application. In Part C of my decision, I have provided a list of the key concerns raised by the representor and commented accordingly.

In relation to section **129(e)**, I note that the proposal was not considered by the National Capital Design Review Panel (NCDRP) and is not a development prescribed to be referred to the NCDRP.

In relation to section **129(f)**, I noted that relevant entities provided support for the proposal, although most did so on the basis that conditions were imposed to protect or address different kinds of matters.

Icon Water and Evoenergy issued “failed to comply” statements, and ACT Heritage required further information. I note that the advice did not raise any elements which were likely to prevent the development proceeding, or that would require substantial amendment of the proposal or the like. The matters raised by Icon Water and Evoenergy are capable of resolution through more detailed design outside of the development application process, and the matters raised by ACT Heritage is capable of resolution through submission of the required information. Condition have been imposed in Part A of this decision that building works must not commence until the appropriate endorsement has been obtained from Icon Water and Evoenergy, and until the required information has been provided to ACT Heritage. I have considered the advice received from all the relevant entities and, where necessary, conditions or advice have been included pursuant to section 162(1)(b) of the Act that reflect that advice.

I note that the Conservator of Flora and Fauna raised some concern regarding the potential impact to the Nadjung Mada Nature Reserve, including from stormwater and light pollution. The advice provided by the Conservator did raise that further information was required, which I have imposed to be provided prior to approved drawings being released.

In relation to section **129(g)**, I note that no public land management plan has been identified for the land.

## NOTICE OF DECISION

DA 202138619

In relation to section **129(h)**, I considered the probable impacts, including potential social and environmental impacts that the proposed development may have. In this regard, I have read and considered the supporting documentation provided by the proponent with the development application, and representations received by the planning and land authority in relation to the application. I have also read and considered the advice and responses from relevant entities to which the application was referred, which propose conditions to address some of the impacts that might otherwise occur.

In relation to section **129(i)**, no offsets have been proposed as part of this development application. I note avoidance and offset areas, including the Nadjung Mada Nature Reserve, were considered and proposed as part of the Gungahlin Strategic Assessment and associated EIS exemption.

In relation to sections **129(j) and (k)**, I note that an EIS does not apply (nor was an inquiry about an EIS conducted) as an EIS exemption has been granted under section 211H of the Act (refer to response against section 129(l) below).

In relation to section **129(l)**, an Environmental Impact Statement (EIS) exemption for the Gungahlin Strategic Assessment Area is relevant to the proposed development. On 20 November 2013, the then Minister for the Environment and Sustainable Development granted the EIS exemption as they were satisfied the information provided satisfactorily addressed the expected environmental impacts associated with the remaining urban development in the Gungahlin region.

The EIS exemption identified a range of avoidance, mitigation and management measures to reduce potential environmental impacts arising from construction and operational activities. These measures were consequently outlined in the Gungahlin Strategic Assessment Area EIS exemption consideration report. All mitigation measures identified in the consideration report were considered during the assessment or have been incorporated into this decision.

The following evidence formed part of the assessment of this application:

<b>Development Application:</b>	202138715 and 202138715 (S141A)
<b>Territory Plan Zones:</b>	TSZ1 Transport Zone, RZ1 Suburban Zone (FUA), RZ4 Medium Density Residential Zone, CZ1 Core Zone, and PRZ1 Urban Open Space Zone
<b>Development Codes:</b>	Estate Development Code, Transport Zones Development Code, Residential Zones Development Code, Non-urban Zones Development Code, and Urban Open Space Development Code
<b>Precinct Codes:</b>	East Gungahlin Structure Plan, Gungahlin District Precinct Map and Code, Harrison Precinct Map and Code
<b>EIS exemptions</b>	Gungahlin Strategic Assessment Area EIS-exemption (20/11/2013)
<b>Legislative requirements:</b>	Sections 128 and 129 of the <i>Planning and Development Act 2007</i>
<b>Representations and Entity advice:</b>	Addressed in Part A and C of this Decision

Note that Part A and C also provide further information in regards to the reasons this decision has been made.

## NOTICE OF DECISION

DA 202138619

### PART C – PUBLIC NOTIFICATION AND ENTITY ADVICE

#### PUBLIC NOTIFICATION

Pursuant to Division 7.3.4 of the Act, the application was publicly notified from 10 May 2021 until 7 June 2021.

Three written representations were received during public notification period.

Some of the key issues raised in representations are listed below. Comments are provided as appropriate.

- Site selection and location next to road

Comment: The initial site selection is not a matter for development assessment consideration. However, it is noted that the site will readily accessible once the Well Station Drive has been upgraded (under a separate development approval).

- Not adequate measures to encourage active travel

Comment: Active travel will be encouraged through a range of measures, including greater pedestrian connectivity (under a separate development approval) associated with the proposal to upgrade Wells Station Drive, and the potential modal split that will be provided with future development of the school in relatively close proximity to public transport.

- Heavy vehicles and traffic using Well Station Drive to access Mitchel, speed limit and possible congestion at main entrance

Comment: The proposal is supported by TCCS (incorporating Roads ACT). Well Station Drive upgrade (under a separate development approval) will provide traffic flow improvements and relief for possible congestion. Traffic and site access was a significant consideration in the assessment of the development application for the upgrading of Well Station Drive.

- Too many students from the priority enrolment area

Comment: This application is for the estate development plan. The proposed school (under a separate development approval) has been designed for approximately 800 students. Enrolment policies for schools is not a development consideration, but rather an operational and policy consideration for the Education Directorate.

Various other matters were raised in representations received for this estate development application, including matters such as perimeter fences and astro turf playing fields. These matters are operational matters for the school or matters associated with the substantial school development (under a separate development application), but not a matter for this (estate development) application.

## NOTICE OF DECISION

DA 202138619

### ENTITY ADVICE

Pursuant to Division 7.3.3 of the *Planning and Development Act*, the application was referred to the below entities. Where an entity requested conditions to be imposed on this development, those conditions have been incorporated into Part A of this Decision.

A summary of entity comments can be found below.

- Transport Canberra and City Services (TCCS)

TCCS provided advice stating that the proposal is supported subject to conditions. Refer to Part A for conditions.

- ACT Health

Advice was received from the Health Protection Service (HPS), ACT Health, in relation to the proposal. The relevant advice for the EDP has been included as a condition to this decision.

Furthermore, the HPS supports the comments made in the “Design Response Report” ... stating activities at the proposed school will be greater than 300 metres from the existing Waste Transfer Station as informed by the *ACT Government Separation Distance Guidelines for Air Emissions*.

- ACT Heritage Council

The ACT Heritage Council provided advice in relation to the proposal. The advice requires further information in relation to the Cultural Heritage Assessment and potential impact on trees that form part of the significant fabric of the Wells Station Homestead. The requirement for further information has been incorporated in the conditions of approval in Part A to be provided prior to substantial construction works commencing.

- Conservator of Flora and Fauna

The Conservator of Flora and Fauna provided advice in relation to the proposal. The advice requires further information in relation to stormwater treatment and about prevention and mitigation of erosion from stormwater discharging into the Nadjung Mada Nature Reserve. The requirement for further information has been incorporated in the conditions of approval in Part A to be provided prior to substantial construction works commencing.

- Evoenergy Electricity

Evoenergy Electricity issued a “failed to comply” statement. The advice received from Evoenergy Electricity however did not raise any issues likely to prevent the development proceeding, or that would require substantial amendment of the proposal. The matters raised by Evoenergy Electricity are capable of resolution through more detailed design outside of the development application process. A condition has been imposed in Part A of this decision that building works must not commence until a statement of compliance has been obtained from Evoenergy Electricity.

## NOTICE OF DECISION

DA 202138619

- Icon Water

Icon Water issued a “failed to comply” statement. The advice received from Icon Water however did not raise any issues likely to prevent the development proceeding, or that would require substantial amendment of the proposal. The matters raised by Icon Water are capable of resolution through more detailed design outside of the development application process. A condition has been imposed in Part A of this decision that building works must not commence until a statement of compliance has been obtained from Icon Water.

- Environment Protection Authority (EPA)

Advice was received from the EPA in relation to the proposal. The advice included conditions and advice - imposed in Part A of this decision.

- Emergency Services Agency (ESA)

The ESA provided advice stating that the proposal is supported subject to conditions. The advice has been included as an attachment to this Decision.

- Tree Protection Unit (TPU)

TPU provided advice stating that there are no regulated trees on the site.

- Education Directorate

The Education Directorate provided advice supporting the development application.

## NOTICE OF DECISION

DA 202138619

### ATTACHMENT 1

#### ADMINISTRATIVE INFORMATION RELATING TO NOTICE OF DECISION

##### **DATE THAT THIS APPROVAL TAKES EFFECT**

Unless a condition of approval provides for otherwise, this approval takes effect the day after the date of this decision. The effective date for development applications approved subject to conditions may also be adjusted if the approval is reconsidered by the planning and land authority or if an application is made to the ACT Civil and Administrative Tribunal.

Pursuant to section 184 of the *Planning and Development Act 2007* (Act), this approval will expire if:

- the development or any stage of the development is not started within three years after the day the approval takes effect;
- the development is not finished three years after the day the development begins; or
- the development approval relates to land comprised in a lease that requires the development to be completed on a stated date – the date stated in the lease for completion of the development, or the approval is revoked pursuant to section 189 of the Act.

Under section 184 of the Act, the applicant may apply to the planning and land authority to extend the prescribed period to finish the development, but such an application must be made within the original period specified for completion.

A development approval, to which section 184 of the Act applies, continues unless the approval ends under sections 184, 185, 186 or 187 of the Act.

##### **Inspection of the Application and Decision**

A copy of the application and the decision can be inspected between 8:30am and 4:30pm weekdays at the Environment, Planning and Sustainable Development Directorate Dickson Customer Service Centre at 480 Northbourne Avenue, Dickson, ACT.

##### **Submission of revised drawings or documentation**

If a condition of approval requires the applicant to lodge revised drawings and / or documentation with the planning and land authority for approval pursuant to section 165 of the Act, the submission must be made by completing an application in e-development.

##### **Reconsideration of the Decision**

If the applicant is not satisfied with the decision made by the planning and land authority, they are entitled to apply to the planning and land authority for reconsideration within 20 working days of being told of this decision pursuant to section 191 of the Act. A longer timeframe may apply only if granted in writing by the planning and land authority pursuant to section 184 of the Act.

More information is available online at <https://www.planning.act.gov.au/build-buy-renovate/build-buy-or-renovate/approvals/development-applications/appeal-a-da-decision>.

Please contact Access Canberra Customer Services if you wish to lodge a reconsideration application.

##### **Review by the ACT Civil and Administrative Tribunal (ACAT)**

1. Decisions that are reviewable by the ACAT are identified in Schedule 1 of the Act, except for matters that are exempted under Schedule 3 of the *Planning and Development Regulation 2008* (matters exempt from third party review).

## NOTICE OF DECISION

DA 202138619

2. The notice of decision and this advice have been sent to all people who made a representation in relation to the application.
3. The ACAT is an independent body. It can review a large number of decisions made by ACT Government ministers, officials and statutory authorities on their merits. The ACAT can agree with, change or reject the original decision, substitute its own decision or send the matter back to the decision maker for reconsideration in accordance with ACAT recommendations.
4. **If** you think you have a right of appeal, you may apply to the ACAT for a review of the decision. Application forms can be obtained from the ACAT at the website listed below. You can also download the form from the ACT Legislation Register.
5. More information on appeal rights is available online at <https://www.planning.act.gov.au/build-buy-reno/build-buy-or-reno/approvals/development-applications/appeal-a-da-decision>.
6. If you are applying on behalf of an organisation or association, whether incorporated or not, the Tribunal in deciding whether to support this application will consider the effect of the decision being reviewed on the interests of the organisation or association in terms of its objects or purposes. A copy of the relevant documents will be required to be lodged with the Tribunal.
7. The time limit to make a request for a review is 28 days from the date of this notice of decision. The time limit can be extended in some circumstances (refer to sections 10 (2), 10(3), 25(1)(e) and 25(2) of the *ACT Civil & Administrative Tribunal Act 2008*; and rule 38 of the *ACT Civil and Administrative Tribunal Procedures Rules 2020*).
8. Applications to the ACAT, including an application to be joined as a party to a proceeding, require payment of a fee (the Tribunal Registry will advise of the current fee), unless you are receiving legal or financial assistance from the ACT Attorney-General. You can apply to have the fee waived on the grounds of hardship, subject to approval (refer to section 22T of the *ACT Civil and Administrative Tribunal Act 2008*). Decisions to grant assistance are made on the grounds of hardship and that it is reasonable, in all the circumstances, for the assistance to be granted. Applications should be made in writing to: the Director General, Justice and Community Safety Directorate, GPO Box 158, CANBERRA ACT 2601. You can ask the ACAT for more details.
9. The ACAT is required to decide appeals in land and planning and tree protection cases within 120 days after the lodging of the appeal, unless that period is extended by the ACAT upon it being satisfied that it is in the interests of justice to do so.
10. The following organisations may be able to provide you with advice and assistance if you are eligible:
  - ACT Law Society, telephone 6274 0300ACT
  - Legal Aid Office, telephone 1300 654 314
  - ACT Council of the Ageing, telephone 02 6154 9740
  - Welfare Rights Centre, telephone 1800 226 028
  - Environmental Defender's Office (ACT), telephone 02 6243 3460.
11. You will have to pay any costs involved in preparing or presenting your case. The ACAT also has the power to award costs against a party in the circumstances specified in s 48 of the *ACT Civil and Administrative Tribunal Act 2008*. This power is in addition to the power of the ACAT to strike out a party and to dismiss an application for failure to comply with the ACAT's directions.
12. You may apply for access to any documents you consider relevant to this decision under the *ACT Freedom of Information Act 2016*. Information about Freedom of information requests is available on the planning and land authority's web site at

## NOTICE OF DECISION

DA 202138619

<https://www.environment.act.gov.au/about/access-government-information> or by contacting us by phone on 02 6207 1923.

13. The procedures of the ACAT are outlined on the ACAT's website, including in the Guide to the Land and Planning Division and the Guide to the Hearing. Contact the ACAT for alternative ways to access information about the ACAT's procedures.

### **Review by the ACT Supreme Court**

1. The Authority's decision may also be subject to judicial review by the ACT Supreme Court under the *Administrative Decisions (Judicial Review) Act 1989* (ADJR Act).
2. Under the ADJR Act, an *eligible person* may make an application for review of a decision.
3. An *eligible person* must demonstrate that their interests are adversely affected by the decision and that the application raises a significant issue of public importance.
4. Section 5 of the ADJR Act sets out the grounds on which a decision can be reviewed.
5. The time limit to make an application for review is 28 days from the date the Notice of Decision is provided to the applicant and those people who made a representation.
6. The ACT Supreme Court is a costs jurisdiction where costs generally follow the event. This means that the unsuccessful party is required to pay the costs of the successful party.
7. For more information on ACT Supreme Court processes and fees, please visit <https://courts.act.gov.au/home>.

### **Other approvals**

A notice of decision under the *Planning and Development Act 2007* grants development approval only. Other approvals may be required, including:

1. **Building Approval**  
Most building work requires building approval under the *Building Act 2004* to ensure it complies with building laws such as the *Building Code of Australia*. The lessee should engage a private building certifier to determine whether building approval is required and assess and approve the building plans before construction commences. A list of certifiers can be obtained from the [Environment, Planning and Sustainable Development Directorate](#).
2. **Tree damaging activity approval**  
A Tree Management Plan under the *Tree Protection Act 2005* is required for approval where it is proposed to undertake groundwork within the tree protection zone of a protected tree or likely to cause damage to, or remove, any trees defined as protected trees by that Act. More information is available from the Transport Canberra and City Services Directorate at <https://www.tccs.act.gov.au/city-living/trees>.
3. **Use of verges or other unleased Territory Land**  
In accordance with the *Public Unleased Land Act 2013*, road verges and other unleased Territory land must not be used for the carrying out of works, including the storage of materials or waste, without prior approval of the Territory. More information is available from the Transport Canberra and City Services Directorate at [https://www.tccs.act.gov.au/city-living/public\\_land\\_use](https://www.tccs.act.gov.au/city-living/public_land_use).

## NOTICE OF DECISION

DA 202138619

#### 4. Works on unleased Territory Land

In accordance with the *Public Unleased Land Act 2013*, no work can be undertaken on unleased Territory land without the approval of the Territory. Such approval must be obtained from the Senior Manager, Place Coordination and Planning, Transport Canberra and City Services Directorate by way of:

- (a) a certificate of design acceptance prior to the commencement of any work; and
- (b) a certificate of operational acceptance on completion of all works to be handed over to TCCS.

Works on unleased Territory land may include the construction or upgrading of driveway verge crossings, public footpaths, roads, street lighting, stormwater works, waste collection amenities, street signs and line marking, road furniture and landscaping.

#### **Contact details for relevant agencies**

<b>ACT Civil and Administrative Tribunal</b> Level 4, 1 Moore Street CANBERRA CITY ACT 2601 GPO Box 370, CANBERRA, ACT 2601	<a href="http://www.acat.act.gov.au">www.acat.act.gov.au</a> <a href="mailto:tribunal@act.gov.au">tribunal@act.gov.au</a> 02 6207 1740 02 6205 4855
<b>ACT Supreme Court</b> 4-6 Knowles Place, CANBERRA CITY ACT 2601 GPO Box 1548, CANBERRA CITY, ACT 2601	<a href="http://www.courts.act.gov.au">www.courts.act.gov.au</a> 02 6205 0000
<b>Environment, Planning and Sustainable Development Directorate</b> 480 Northbourne Avenue DICKSON ACT 2602 GPO Box 158, CANBERRA 2601  <ul style="list-style-type: none"> <li>• <i>Planning and land authority</i> <ul style="list-style-type: none"> <li>- list of certifiers for building approval</li> <li>- demolition information</li> <li>- asbestos information</li> </ul> </li> <li>• <i>Environment Protection Authority</i> <ul style="list-style-type: none"> <li>- environment protection</li> <li>- water resources</li> <li>- asbestos information</li> </ul> </li> <li>• <i>Conservation, Planning and Research</i> <ul style="list-style-type: none"> <li>- threatened species/wildlife management</li> </ul> </li> </ul>	<a href="http://www.planning.act.gov.au">www.planning.act.gov.au</a> 02 6207 1923  <a href="http://www.environment.act.gov.au">www.environment.act.gov.au</a> 132 281  <a href="http://www.environment.act.gov.au">www.environment.act.gov.au</a> 132 281
<b>Transport Canberra and City Services</b> <ul style="list-style-type: none"> <li>- tree damaging activity approval</li> <li>- use of verges or other unleased Territory land</li> <li>- works on unleased Territory land - design acceptance</li> <li>- damage to public assets</li> </ul>	<a href="http://www.tccs.act.gov.au">www.tccs.act.gov.au</a>  132 281 02 6207 0019 (place coordination)
<b>Health Directorate</b>	<a href="http://www.health.act.gov.au">www.health.act.gov.au</a> 02 6205 1700
<b>Utilities</b> <ul style="list-style-type: none"> <li>- Telstra (networks)</li> <li>- TransACT (networks)</li> <li>- Icon Water</li> <li>- Electricity reticulation</li> </ul>	02 8576 9799 02 6229 8000 02 6248 3111 02 6293 5738

## NOTICE OF DECISION

DA 202138619

### Translation and interpretation services

The ACT Government's translation and interpreter service runs 24 hours a day, every day of the week by calling 131 450.

ENGLISH	If you need interpreting help, telephone:
ARABIC	: إذا احتجت لمساعدة في الترجمة الشفوية ، إتصل برقم الهاتف :
CHINESE	如果你需要传译员的帮助，请打电话：
CROATIAN	Ako trebate pomoć tumača telefonirajte:
GREEK	Αν χρειάζεστε διερμηνέα τηλεφωνήσετε στο
ITALIAN	Se avete bisogno di un interprete, telefonate al numero:
MALTESE	Jekk għandek bżonn l-għajjuna t'interpretu, ċempel:
PERSIAN	: اگر به ترجمه شفاهی احتیاج دارید به این شماره تلفن کنید:
PORTUGUESE	Se você precisar da ajuda de um intérprete, telefone:
SERBIAN	Ако вам је потребна помоћ преводиоца телефонирајте:
SPANISH	Si necesita la asistencia de un intérprete, llame al:
TURKISH	Tercümana ihtiyacımız varsa lütfen telefon ediniz:
VIETNAMESE	Nếu bạn cần một người thông-ngôn hãy gọi điện-thoại:

#### **TRANSLATING AND INTERPRETING SERVICE**

# **131 450**

Canberra and District - 24 hours a day, seven days a week