

**2021**

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

**Planning and Development Act 2007 – Exercise of call-in powers –  
Development Application 202138630 –  
Block 792 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 28 May 2021, Development Application No 202138630 (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 (DA202138630) seeks approval for the proposed construction of a new high school to accommodate 800 to 1000 students in the future suburb of Kenny, located on Block 792 Section 0 Gungahlin.
  - b) The development proposes a two storey educational facility, single storey gym, landscaping, outdoor learning areas, playing fields, covered external courts, bicycle storage, waste storage, fencing, parking, driveway, signage, offsite and associated works.
  - c) Development applications for the Estate Development Plan (EDP) which proposes creation of the site and associated servicing works, and the associated road infrastructure have been lodged separately.
  - d) Following approval of the EDP, a technical amendment to the Territory Plan would remove the current future urban area (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.
  - e) The application (DA202138630) has been assessed under the Merit track.
  - f) The application was lodged by SQC Architecture, on behalf of the lessee Environment, Planning and Sustainable Development Directorate (EPSDD).
  - 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 March 2021 and April 2021. This included a letter box drop, face-to-face and on-line consultation sessions and 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

## NOTICE OF DECISION

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

### THE DECISION

This application was lodged in the merit 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 merit 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:

- construction of a new two storey school in the future suburb of Kenny
- construction of a single storey gym
- construction of outdoor learning areas and landscaping
- construction of playing fields and covered external courts
- construction of bicycle and waste storage
- construction of a driveway, signage and fencing
- on-site, off-site works and associated works

The proposed works are located at Block 792 Section 0 Gungahlin, in accordance with the plans, drawings and other documentation approved and endorsed as forming part of this approval.

DA Number:	202138630 202138630 S141A 202138630 S144B
Block:	792
Section:	0
Suburb:	Gungahlin
Application lodged:	28 May 2021
Assessment track:	Merit

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MickGentleman

## NOTICE OF DECISION

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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 advice from relevant entities are also attached

*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

*12/8/2021*

### CONTACT OFFICER

George Cilliers

Phone: (02) 6205 2888

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### 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 providing an additional disabled parking space in accordance with Condition A10 below.
- b) Evidence that the proposed development complies with Rule 1 of the Waterways: Water Sensitive Urban Design General Code. The statements against relevant criteria indicated that this rule is not applicable. The assessment conducted has determined that the rule is applicable, due to the site intending to be connected to mains water supply, and that compliance is possible, but needs to be demonstrated.

#### 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. PRIOR TO CERTIFICATE OF OCCUPANCY AND USE

Prior to Certificate of Occupancy and Use being issued for the proposed school, *the Future Urban Area* overlay for the site is to be uplifted as per the Estate Development Plan approved in DA 202138619.

#### 4. CONSTRUCTION WORKS NOT TO COMMENCE – EVOENERGY ELECTRICITY

Prior to construction works commencing:

- a) The land custodian or applicant must obtain a Statement of Acceptance from Evoenergy Electricity in relation to electrical networks.
- b) The land custodian must comply with any requirements imposed on a Statement of Acceptance by Evoenergy Electricity.

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Note: No significant planning issues were identified in the advice from Evoenergy Electricity, however any substantial changes to the development required for the Evoenergy Electricity 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 at the discretion of the planning and land authority prior to full compliance with this condition.

This condition must be complied with prior to construction of the school. Site preparation works such as any remediation, bulk earth works, erosion and sediment controls, temporary site access, site fencing and the like are suitable to commence in advance of obtaining suitable advice from Evoenergy.

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

### 5. 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 at the discretion of the planning and land authority prior to full compliance with this condition.

This condition must be complied with prior to construction of the school. Site preparation works such as any remediation, bulk earth works, erosion and sediment controls, temporary site access, site fencing and the like are suitable to commence in advance of obtaining suitable advice from Icon Water.

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

### 6. 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:
    - Detailed design of infrastructure for water sensitive urban design measures that will protect the ecological values within the Nadjung Mada Nature Reserve in Kenny

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- 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) provide plans and information is required to demonstrate consistency with the Gungahlin Strategic Assessment and specifically the boundary between the Nature Reserve and Development Area.
- (iii) describe how the eastern side of proposed development site will be managed in particular for weeds, noting high serrated tussock risk to reserve.
- (iv) evidence the proposed access road at the north western corner of the school development site is designed to avoid impediment to access or ability for ACT Parks and Conservation Service management vehicles and emergency vehicles to enter or from Old Wells Station Road.
- (v) provide evidence of endorsement from the Emergency Services Agency that the buildings will be designed and constructed to withstand ember attack or direct flame contact
- (vi) The landscaping plans include a range of treatments including 'grassy woodlands' and 'forest' plantings. Further information is required to describe what these treatments entail. This can be achieved with a detailed planting schedule that describes the planting, density and size of plantings proposed.
- (vii) some tree plantings are labelled 'EMAC' which could indicate *Eucalyptus macrorhyncha* or Red Stringy-bark. These trees are known to contribute to significant ember generation when alight in bushfires. Please detail species in the landscape schedule to clarify. Justification of the planting of any species which are likely to contribute significantly to fire risk to the structure and to the spread of bushfire will be required.
- (viii) Pre-clearance surveys that are designed for Striped Legless Lizard (SLL) with specific detail on appropriate survey time and methods prior to construction activities commencing.

Note:

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.

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.

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### 7. CONSTRUCTION WORKS NOT TO COMMENCE – ENVIRONMENT PROTECTION AUTHORITY (EPA)

Prior to construction works commencing:

- a) The land custodian or applicant must obtain a Statement of Endorsement from EPA in relation to the separation from the Mitchell Resource Management Centre.
- b) The land custodian must comply with any requirements imposed on a Statement of Endorsement by EPA.

Note: EPA identified a separation distance of 194m, though this distance appears to be measured from site boundary to site boundary. The Government's *Separation Distance Guidelines for Air Emissions, November 2018* (the Guidelines) indicates that the distance should be measured from activity boundary to activity boundary. When measuring from the closest edge of the activity boundary for the Mitchell Resource Management Centre to the edge of the proposed school building, the distance would be over 300m.

If any substantial changes to the development are required for the EPA Statement of Endorsement, amended plans 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 at the discretion of the planning and land authority prior to full compliance with this condition.

This condition must be complied with prior to construction of the school. Site preparation works such as any remediation, bulk earth works, erosion and sediment controls, temporary site access, site fencing and the like are suitable to commence in advance of obtaining suitable advice from EPA in regards to the resource management centre. Note other EPA requirements may still be required to be satisfied (eg soil and erosion requirements)

### 8. CONSTRUCTION WORKS NOT TO COMMENCE – HERITAGE

Prior to construction works commencing:

- a) The land custodian or applicant must obtain a Statement of Endorsement from Heritage that responds to the following:
  - (i) The supplemental CHA provided in support of the associated EDP (DA202138619) must be finalised as it is currently in draft form. The details of any responses from the RAOs on the draft report must be provided. If no response was given, follow up phone calls to RAOs should be made to seek comment and any outcomes of RAO consultation must be actioned prior to finalisation of the report;
  - (ii) the recommendation discrepancies between the supplemental CHA and the Tree Report must be addressed as differing exclusion zones are presented. The Tree Report suggests that works can occur under certain conditions in the TPZ to construct the access road to the school. The Tree Report must address the heritage significance of these trees and determine if works can still proceed in the TPZ without diminishing the significance of the Well Station Homestead Precinct;
  - (iii) the implications of the bushfire risk assessment (Obliqua 2020) and the location of the outer asset protection zone being located in the line of Eucalypt trees must be

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explicitly addressed in the design of the school (and the siting of the buildings amended if necessary, to ensure the protection of the trees); and

- (iv) If works are proposed which would diminish the heritage significance of the Well Station Homestead Precinct (including damage to the eucalypt trees) Heritage Act 2004 approvals would be required prior to the issue of any plans for the proposed works.
- b) The land custodian must comply with any requirements imposed on a Statement of Endorsement by Heritage.

Note: Any substantial changes to the development required for the Heritage 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*.

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

Plans may be endorsed at the discretion of the planning and land authority prior to full compliance with this condition.

### 9. TRANSPORT CANBERRA AND CITY SERVICES (TCCS)

The development is to be carried out in accordance with the following conditions to the satisfaction of TCCS:

Stormwater:

- a) The drawing number 7525-02 C10 Amdt A, STORMWATER PLAN prepared by Indesco indicates to Refer Cardno Plan 50520069-EDP-1095 Rev F which was not made available in the DA submission.
- b) TCCS was notified by Infrastructure Delivery team that a Stormwater MUSIC model studies are being undertaken. MUSIC model must be satisfied to the satisfaction of conservators.
- c) Any non conforming stormwater design must be compliant to the satisfaction of asset owner.

Waste:

- d) TCCS does not collect any commercial / industrial waste; It is noted that the waste collection area is within the carpark lane. Hence, collection operation to be late after the school business hours.

#### Standard Conditions:

The following general conditions will apply as appropriate for the Works and use of Territory land in addition to the above.

Early Works or prior to construction:

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- e) In accordance with the Public Unleased Land Act 2013 no Works are to be undertaken without the approval of the TCCS. Such approval must be obtained from the relevant Senior Director of the TCCS Development Coordination Branch TCCS by the ways of (1) a Letter of Early Works Approval for demolition and/or earthworks only; and/or (2) a Letter of Design Review, prior to the commencement of any Works.
- f) Fees and charges will apply for Early Works Approval as per TCCS "GEN-06 - Submissions and Inspections Guideline Principles and Related Fees and Charges for TCCS and Industry".

### Design Review:

- g) In order to obtain the Letter of Design Review, fully detailed drawings (civil, landscape) prepared by suitably qualified persons for all off-site works including roads, driveways, footpaths, street lighting, stormwater, landscaping (and any other issues that may be found by audit of the plans) and a design report in accordance with TCCS "REF-06 - Requirements for Design Review Submissions", must be certified by a Chartered Engineer/Landscape Architect and submitted to the relevant Senior Director of the TCCS Development Coordination Branch.

### Waste and Recycling Management Plan (WRMP) review:

- h) A WRMP in accordance with the relevant revision of the Development Control Code for Best Practice Waste Management in the ACT must also be submitted at the Design Review stage.

### Operational Acceptance/Soft Landscape Consolidation Commencement

- i) On completion of the Works a Certificate of Operational Acceptance is required from the relevant Senior Director of the TCCS Development Coordination Branch, prior to the issuance of a Certificate of Occupancy.
- j) Where required, a Certificate of Soft Landscape Consolidation Commencement must also be obtained from the relevant Senior Director of the TCCS Development Coordination Branch for the placement of soft landscape works on consolidation.
- k) A Chartered Engineer/Landscape Architect must certify compliance with TCCS "REF 08 - Requirements for Works as Executed Quality Records Requirements" when the request for Operational Acceptance and/or Consolidation Commencement is made to the relevant Senior Director of the TCCS Development Coordination Branch on completion of all Works.

### Final Acceptance/Soft Landscape Handover

- l) A Certificate of Final Acceptance for all civil and hard landscape works must be obtained from the relevant Senior Director of the TCCS Development Coordination Branch at the end of the required Defects Liability Period (DLP) as noted in the Certificate of Operational Acceptance.
- m) A Certificate of Soft Landscape Handover for all soft landscape works must be obtained from the relevant Senior Director of the TCCS Development Coordination Branch at the

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end of the required Consolidation Period as noted in the Certificate of Consolidation Commencement.

### Temporary Traffic Management (TTM)

- n) A TTM plan approval from the Manager of TCCS Traffic Management & Safety, Roads ACT, must be obtained prior to commencement of Works. This plan must be prepared by a suitably qualified person and address, as a minimum, measures to be employed at all times during construction activities to manage all traffic, including construction and regular traffic in and around the site, provision of safe pedestrian movement around the site, the provision of parking for construction workers, and associated temporary traffic control devices.

### Landscape Management & Protection Plan (LMPP)

- o) LMPP approval must be obtained from the relevant Senior Director of the TCCS Development Coordination Branch or the delegated authority. During construction, all existing vegetation (trees, shrubs and grass) located within the verge and unleased Territory land immediately adjacent to the development must be managed, protected and maintained in accordance with the approved LMPP. This plan must be implemented before the commencement of any Works, including demolition on the site, and must be in accordance with TCCS "REF 04 - Requirements for the Protection of Public Landscape Assets Adjacent to Development Works".

### Use of verges or other unleased Territory land

- p) In accordance with the Public Unleased Land Act 2013, road verges and other unleased Territory land must not be used for carrying out of Works, including storage of materials or waste, without prior approval from TCCS. If required, such approval can be obtained from TCCS Licensing and Compliance.

### Repair of damage to public assets

- q) Before the Works commence TCCS must be notified of any existing damage to public assets via a Dilapidation Report. The applicant/lessee is held responsible for repairing any damage to ACT Government's assets, caused by the development activities, to the satisfaction of TCCS. If a Dilapidation Report is not provided, any pre-existing damage must also be repaired at the applicant/lessee's cost.

### Notice of Commencement of construction

- r) A Notice of Commencement for the Works within Unleased Territory Land must be submitted to TCCS one week prior to the commencement of Works. The notice must also include the confirmation of any protective measures installed in accordance with the approved LMPP and the programmed implementation of TTM.

## 10. COMPLIANCE WITH ENTITY REQUIREMENTS

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The development must comply with the requirements of each of the relevant entities as stated in each of their advice.

Note: Copies of advice received from Jemena (Gas), and Emergency Services Agency (ESA) are attached to this Notice of Decision and relevant to this condition.

### 11. PARKING FOR PEOPLE WITH DISABILITIES

Vehicular parking for people with disabilities must be provided in accordance with Australian Standard AS/NZS 2890.6:2009 *Parking Facilities – Part 6: Off-street parking for people with disabilities*, and kerb ramps are to be provided in accordance with AS 1428.1.

### 12. WAYFINDING and LIGHTING

- a) Directional signage or other wayfinding methods, e.g. tactile indicators, must be installed in compliance with Australian Standard AS1428.1 and AS1428.4 and must identify any continuous accessible paths of travel, accessible parts of buildings and all accessible facilities.
- b) Internal lighting along the whole of the continuous accessible path of travel must comply with Australian Standard AS1680.0.
- c) External lighting along the whole of the continuous accessible path of travel must comply with Australian Standard AS1158.3.1 and the *ACT Crime Prevention and Environmental Design General Code*.

### 13. TREE PROTECTION UNIT

All works are in accordance with the Site Plan Proposed - Overall, Drawing No. A012, Date, 26.03.21 and the Recommendations/Specifications defined in the Arboricultural Assessment and Tree Management Plan, prepared by Ryan Winefield, Date, 6 April 2021.

### 14. PEDESTRIAN PATHS

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

## **ADVISORY NOTES**

This application is approved with the following advisory notes:

#### Signage

All signage installed at the site, including 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>

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### 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 120 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 120(a) - (g) of the Act.

In relation to section 120(a), I am satisfied that the proposed development meets all the relevant objectives of the *Community Facility* zone, as this is the proposed zone as per the Estate Development Plan in DA 202138619; having considered all objectives, except for objective (e), as relevant.

In relation to section 120(b), 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 120(c), I note that there is no environmental significance opinion in force for the development proposal.

In relation to section 120(d), I was mindful of the representations received by the planning and land authority in relation to the application. In Part C of my decision, I have provided a list of key concerns raised in the representations. I have nevertheless read them and considered all representations that were made.

In relation to section 120(e), I note that the proposal was not required to be considered by the National Capital Design Review Panel (NCDRP).

In relation to section 120(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 Electricity issued a “failed to comply” statement, but I noted that the advice received from both entities 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 Electricity are capable of resolution through more detailed design outside of the development application process. Environment Protection Authority (EPA) provided advice stating that the proposal was not supported due to the separation from the Mitchell Resource Management Centre. EPA identified a separation distance of 194m, though this distance appears to be measured from site boundary to site boundary. The Government’s *Separation Distance Guidelines for Air Emissions, November 2018* (the Guidelines) indicates that the distance should be measured from activity boundary to activity boundary. When measuring from the closest edge of the activity boundary for the Mitchell Resource Management Centre to the edge of the proposed school building, the distance would be over 300m. A condition has been imposed in Part A of this decision that building works must not commence until the appropriate endorsement has been obtained from Icon Water, Evoenergy Electricity and EPA. 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.

In relation to section 120(g), I note that no public land management plan has been identified for the land.

In relation to section 120(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

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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.

With the conditions imposed, and after weighing the competing interests as to whether the application should be approved. I am satisfied that the probable social, environmental and other impacts that might arise from the development are adequately addressed by the conditions imposed. I am satisfied that any remaining probable impacts do not warrant a refusal of the development.

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

Development Application:	202138630, 202138630 (S141A) and 202138630 (S144B)
Territory Plan Zone/s:	Future Urban Area – indicative Community Facility Zone (CFZ) as per DA 202138619
Structure Plan & Development Code/s:	<i>East Gungahlin – Suburbs of Kenny, Throsby, Part Harrison and Gooroyaroo Nature Reserve &amp; Community Facility Zone Development Code</i>
Precinct Code/s:	<i>Gungahlin District Precinct Map and Code</i>
Legislative requirements:	the <i>Planning and Development Act 2007</i> in particular Sections 119 and 120
Representations and Entity advice:	Addressed in Part C of this Decision

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

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### PART C – PUBLIC NOTIFICATION AND ENTITY ADVICE

#### PUBLIC NOTIFICATION

Pursuant to Division 7.3.4 of the Act, the application was publicly notified from 9 June 2021 until 1 July 2021.

Five written representations were received during public notification period.

Key issues raised in representations are listed below. Comments are provided as appropriate.

- Traffic Generation:

Comment: The development application was referred to TCCS to comment on the proposal. TCCS provided conditional support which has been included in Part A of this Decision. A report of traffic generation by the proposed development was provided with DA 202138715 which is a proposal for:

- the signalisation of the intersection of Well Station Drive and Albatross Crescent (west);
- the signalisation of the intersection of Well Station Drive and Kings Canyon Street;
- the construction of a new collector road, Albatross Crescent (west), to the south of Well Station Drive;
- the construction of a new roundabout at the southern of the Albatross Crescent (west) extension;
- upgrades to Well Station Drive to transition from single to dual carriageway;
- the reconstruction and relocation of bus stops;
- the construction of a new active travel trunk path network, including connection to the existing shared path network;
- the construction of noise walls for noise attenuation; and
- associated landscaping, service connections, and other site works.

The associated DA (202138715) has taken into consideration the traffic generation and as such is providing upgrades to the road infrastructure to accommodate for the future school.

The associated Development application for the creation of the subject site for the school was referred to TCCS for comment on traffic, which was supported subject to conditions.

- Fauna Habitat:

Comment: There are no active Wedge Tailed Eagle (WTE) nests on the school site or road verge. There have been WTE observed flying over the site and the Nadjung Mada Nature Reserve however nest locations are likely to be within the wooded areas of the nearby Nature Reserves.

- Heritage Trees along the Wells Station Track:

Comment: The development application was referred to the Conservator and Heritage to comment on the proposal. The Conservator and Heritage provided conditional support which has been included in Part A of this Decision. The conditions that have been imposed relate directly to the trees and the area.

- Concern relating to air quality:

Comment: The development application was referred to EPA to comment on the proposal. EPA

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provided advice that the proposal was not supported with the following comments:

*“The proposed location is 194m from the Mitchell Resource Management Centre which is a waste transfer facility. The ACT Government’s Separation Distance Guidelines for Air Emissions, November 2018 (the Guidelines) indicates an assessment is necessary because the development is within 300m of a waste transfer station. An air quality assessment, in accordance with the Guidelines, needs to be undertaken to demonstrate that the existing surrounding uses, such as the waste transfer station and any other nearby incompatible land uses within the industrial estate of Mitchell, have no adverse impacts.*

*These Guidelines provide recommended separation distances between various emission sources and sensitive land uses. The recommended separation distances aim to ensure the incompatible land uses are located in a way that minimise the impacts of odour and polluting air emissions. They do not however prohibit lesser distances provided an air quality assessment can demonstrate the impacts are within the adopted air quality standards and can be appropriately managed. Consideration should also be given to whether any other activities listed in the guideline are permitted within the identified distances listed in the document.*

*Following review of the air quality assessment, the Environment Protection Authority will be in a position to provide further advice on the proposed development. All reports must be submitted to the EPA through the eDevelopment formal planning referral process”.*

It is noted that EPA identified a separation distance of 194m, though this distance appears to be measured from site boundary to site boundary. The Government’s Separation Distance Guidelines for Air Emissions, November 2018 (the Guidelines) indicates that the distance should be measured from activity boundary to activity boundary. When measuring from the closest edge of the activity boundary for the Mitchell Resource Management Centre to the edge of the proposed school building, the distance would be over 300m. A condition has been imposed in Part A of this decision to obtain a Statement of Endorsement from EPA in relation to separation between the Mitchell Resource Management Centre and the proposed East Gungahlin High School prior to any works commencing.

### 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.

- Conservator of Flora and Fauna

The Conservator of Flora and Fauna provided advice stating that the proposal is supported subject to conditions. Refer to Part A for conditions.

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- 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.

- 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)

The development application was referred to EPA to comment on the proposal. EPA provided advice that the proposal was not supported with the following comments:

*“The proposed location is 194m from the Mitchell Resource Management Centre which is a waste transfer facility. The ACT Government’s Separation Distance Guidelines for Air Emissions, November 2018 (the Guidelines) indicates an assessment is necessary because the development is within 300m of a waste transfer station. An air quality assessment, in accordance with the Guidelines, needs to be undertaken to demonstrate that the existing surrounding uses, such as the waste transfer station and any other nearby incompatible land uses within the industrial estate of Mitchell, have no adverse impacts.*

*These Guidelines provide recommended separation distances between various emission sources and sensitive land uses. The recommended separation distances aim to ensure the incompatible land uses are located in a way that minimise the impacts of odour and polluting air emissions. They do not however prohibit lesser distances provided an air quality assessment can demonstrate the impacts are within the adopted air quality standards and can be appropriately managed. Consideration should also be given to whether any other activities listed in the guideline are permitted within the identified distances listed in the document.*

*Following review of the air quality assessment, the Environment Protection Authority will be in a position to provide further advice on the proposed development. All reports must be submitted to the EPA through the eDevelopment formal planning referral process”.*

It is noted that EPA identified a separation distance of 194m, though this distance appears to be measured from site boundary to site boundary. The Government’s Separation Distance Guidelines for Air Emissions, November 2018 (the Guidelines) indicates that the distance should be measured from activity boundary to activity boundary. When measuring from the closest edge of the activity boundary for the Mitchell Resource Management Centre to the edge of the proposed school building, the distance would be over 300m. A condition has been imposed in

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Part A of this decision to obtain a Statement of Endorsement from EPA in relation to separation between the Mitchell Resource Management Centre and the proposed East Gungahlin High School prior to any works commencing.

- Jemena Gas

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

- Emergency Services Agency (ESA)

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

- Tree Protection Unit (TPU)

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

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### 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).

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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

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<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).

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#### 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

<p><b>ACT Civil and Administrative Tribunal</b>                  Level 4, 1 Moore Street                  CANBERRA CITY ACT 2601                  GPO Box 370, CANBERRA, ACT 2601</p>	<p><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</p>
<p><b>ACT Supreme Court</b>                  4-6 Knowles Place,                  CANBERRA CITY ACT 2601                  GPO Box 1548, CANBERRA CITY, ACT 2601</p>	<p><a href="http://www.courts.act.gov.au">www.courts.act.gov.au</a>                  02 6205 0000</p>
<p><b>Environment, Planning and Sustainable Development Directorate</b>                  480 Northbourne Avenue                  DICKSON ACT 2602                  GPO Box 158, CANBERRA 2601</p> <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>	<p><a href="http://www.planning.act.gov.au">www.planning.act.gov.au</a>                  02 6207 1923</p> <p><a href="http://www.environment.act.gov.au">www.environment.act.gov.au</a>                  132 281</p> <p><a href="http://www.environment.act.gov.au">www.environment.act.gov.au</a>                  132 281</p>
<p><b>Transport Canberra and City Services</b></p> <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>	<p><a href="http://www.tccs.act.gov.au">www.tccs.act.gov.au</a></p> <p>132 281                  02 6207 0019 (place coordination)</p>
<p><b>Health Directorate</b></p>	<p><a href="http://www.health.act.gov.au">www.health.act.gov.au</a>                  02 6205 1700</p>
<p><b>Utilities</b></p> <ul style="list-style-type: none"> <li>- Telstra (networks)</li> <li>- TransACT (networks)</li> <li>- Icon Water</li> <li>- Electricity reticulation</li> </ul>	<p>02 8576 9799                  02 6229 8000                  02 6248 3111                  02 6293 5738</p>

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### 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