

Planning and Development (Conditional Environmental Significance Opinion – Block 1 Section 23, Spence – Spence 7-Eleven) Notice 2020

Notifiable instrument NI2020–726

made under the

Planning and Development Act 2007, s 138AD (Requirements in relation to environmental significance opinions)

1 Name of instrument

This instrument is the *Planning and Development (Conditional Environmental Significance Opinion – Block 1 Section 23, Spence – Spence 7-Eleven) Notice 2020*.

2 Commencement

This instrument commences on the day after its notification day.

3 Conditional environmental significance opinion

- (1) On 16 November 2020, the planning and land authority, pursuant to section 138AB(4)(b) of the *Planning and Development Act 2007* (the **Act**), gave the Applicant a conditional environmental significance opinion in relation to the removal and replacement of the existing underground petroleum storage system and other fuel infrastructure and site remediation on Block 1 Section 23, Spence.

(2) In this section:

conditional environmental significance opinion means the opinion in the schedule.

Note Under section 138AD(6) of the Act, the conditional environmental significance opinion and this notice expire 18 months after the day the notice is notified.

Brett Phillips
Delegate of the planning and land authority
17 November 2020



SCHEDULE

An application for an Environmental Significance Opinion (ESO) has been received, by the planning and land authority, under section 138AA of the *Planning and Development Act 2007* (the Act). In accordance with section 138AB(4) of the Act, I provide the following opinion:

APPLICANT

7-Eleven Stores Pty Ltd c/ KDC Pty Ltd, as represented by Courtney Sargent, Town Planner.

PROPOSAL DESCRIPTION

The proposal is for the removal and replacement of the existing underground petroleum storage system and other fuel infrastructure, in addition to the remediation of the land during the works.

LOCATION

Block 1, Section 23, Spence.

MATTERS TO WHICH THIS OPINION APPLIES

This opinion applies only to the development proposal as described in the application and in relation to Part 4.3, Item 7, of the Act.

OPINION

Provided the works are undertaken in a manner consistent with the following conditions, they are unlikely to cause a significant adverse environmental impact. This opinion is granted subject to the following conditions made under s138AB(4) of the Act.

PRIOR TO WORKS COMMENCING:

- The site and any off-site impacted areas (including groundwater) must be assessed and remediated (as required) in accordance with the Environment Protection Authority's (EPA) Contaminated Sites Environment Protection Policy 2017 and the National Environment Protection (Assessment of Site Contamination) Measure 1999 (as amended in 2013). The assessment and remedial works must be:
 - undertaken by a suitably qualified environmental consultant; and
 - independently audited by an EPA approved contaminated land auditor, in accordance with the EPA Contaminated Sites Environment Protection Policy 2017.
- The proposed Remedial Action Plan (RAP) must be reviewed and endorsed by the auditor and a copy of the RAP endorsement must be provided to the EPA prior to the commencement of remedial works.

- The installation of new tanks and infrastructure or any associated construction works must not commence at the site until:
 - the independent auditor has provided appropriate interim advice indicating that these works will not impact on the ongoing assessment, remediation and audit of the site; and
 - the EPA has reviewed and provided written support of this advice.
- A hazardous materials survey prepared by a suitably qualified consultant must be submitted to and be endorsed by the Office of the Environment Protection Authority prior to works commencing. The hazardous materials survey must:
 - be in accordance with section 8.1 of the EPA's Hazardous Materials Environment Protection Policy November 2010;
 - identify all potential hazardous materials associated with the alteration of the structure and any residues or wastes remaining within the structure; and
 - identify all hazardous material including fuel tanks, asbestos, lead, PCB containing materials, Synthetic Mineral Fibre (SMF), Ozone Depleting Substances, etc.
- Prior to occupation, either:
 - The auditor's final site audit statement and site audit report into the site's suitability for its permitted uses must be reviewed and endorsed by the EPA; or
 - If ongoing assessment/remedial works are still required and risks to receptors are acceptable, the EPA must review and provide written support of appropriate interim advice from the independent auditor indicating that preoccupation of the site will not impact on the ongoing assessment, remediation and audit of the site.

DURING WORKS:

- The underground fuel storage tanks and related infrastructure must be decommissioned in accordance with the *Dangerous Substances Act 2004* and the *Dangerous Substances (General) Regulation 2004*.
- An appropriately licensed ACT contractor must be engaged for the removal, transport and disposal of all hazardous materials found on the site.
- Sediment and leachate control measures must be implemented for any stockpiled material to prevent contaminants entering the stormwater system.
- Dust and odour suppression measures must be implemented during the works to minimise impacts on surrounding blocks.
- Any contaminated soil landfarmed on site must be approved by the Office of the Environment Protection Authority prior to landfarming commencing.

- All spoil at the site be managed in accordance with Information Sheet – Spoil Management in the ACT.
- Any soil disposed from the site must be assessed in accordance with the requirements of the Information Sheet 4 - Requirements for the reuse and disposal of contaminated soil in the ACT.
- Soil must not be disposed from site without EPA approval.

Attached is a Statement of Reasons for the decision.



Brett Phillips

Delegate of the planning and land authority

16 November 2020

STATEMENT OF REASONS

The proposed development is a proposal mentioned in Schedule 4 of the *Planning and Development Act 2007* – development proposal requiring an EIS, specifically:

- Part 4.3 Item 7 - proposal involving land included on the register of contaminated sites under the *Environment Protection Act 1997*.

The proponent is seeking an environmental significance opinion to remove the proposal from the impact track on the grounds that the proposal is not likely to have a significant adverse environmental impact, and has applied to the planning and land authority for an opinion to that effect.

Meaning of *significant* adverse environmental impact

An adverse environmental impact is *significant* if—

- (a) the environmental function, system, value or entity that might be adversely impacted by a proposed development is significant; or
- (b) the cumulative or incremental effect of a proposed development might contribute to a substantial adverse impact on an environmental function, system, value or entity.

In deciding whether an adverse environmental impact is *significant*, the following matters must be taken into account:

- (a) the kind, size, frequency, intensity, scope and length of time of the impact;
- (b) the sensitivity, resilience and rarity of the environmental function, system, value or entity likely to be affected.

In deciding whether a development proposal is likely to have a significant adverse environmental impact it does not matter whether the adverse environmental impact is likely to occur on the site of the development or elsewhere.

CONSULTATION WITH ENTITIES

In deciding whether a development proposal is likely to have a significant adverse environmental impact the planning and land authority consulted with the following entities, in accordance with s138AA (3) of the Act.

Work Safety Commissioner

The Work Safety Commissioner had no comments on the application.

Environment Protection Authority

The Environment Protection Authority provided the following comments on the ESO:

Contaminated Sites Conditions

Demolition:

- the underground fuel storage tanks and related infrastructure must be decommissioned in accordance with the *Dangerous Substances Act 2004* and the Dangerous Substances (General) Regulation 2004;
- the site and any off-site impacted areas (including groundwater) are to be assessed and remediated (as required) in accordance with the Environment Protection Authority (EPA) Contaminated Sites Environment Protection Policy 2017 and the National Environment Protection (Assessment of Site Contamination) Measure 1999 as amended 2013 by a suitably qualified environmental consultant;
- the above assessment and remedial works must be independently audited in accordance with the EPA Contaminated Sites Environment Protection Policy 2017 by an EPA approved contaminated land auditor;
- the proposed Remedial Action Plan (RAP) is to be reviewed and endorsed by the auditor with a copy of the RAP endorsement provided to the EPA prior to the commencement of remedial works;

Prior to installation of new infrastructure:

- The installation of new tanks and infrastructure or any new construction works are not to commence at the site until the EPA has reviewed and supported in writing appropriate interim advice from the independent auditor indicating that these works will not impact on the ongoing assessment, remediation and audit of the site;

Prior to Occupation:

- The Auditor's final site audit statement and site audit report into the site's suitability for its permitted uses must be reviewed and endorsed by the EPA or where ongoing assessment/remedial works are still required and risks to receptors are acceptable the EPA has reviewed and supported in writing appropriate interim advice from the independent auditor indicating that preoccupation of the site will not impact on the ongoing assessment, remediation and audit of the site;

General conditions:

- Sediment and leachate control measures must be implemented for any stockpiled material to prevent contaminants entering the stormwater system;
- Dust and odour suppression measures must be implemented during the works to minimise impacts on surrounding blocks;
- any contaminated soil landfarmed on site must be approved by the Office of the Environment Protection Authority (OEPA) prior to landfarming commencing;

- all spoil at the site be managed in accordance with Information Sheet – Spoil Management in the ACT;
- any soil disposed from the site must be assessed in accordance with the requirements of the Information Sheet 4 - Requirements for the reuse and disposal of contaminated soil in the ACT;
- No soil is to be disposed from site without EPA approval;

Hazardous materials conditions:

- A hazardous materials survey prepared by a suitably qualified consultant in accordance with section 8.1 of the EPA's Hazardous Materials Environment Protection Policy November 2010 must be submitted to and be endorsed by the OEPA prior to works commencing. The survey must identify all potential hazardous materials associated with the alteration of the structure and any residues or wastes remaining within the structure. The survey must identify all hazardous material including fuel tanks, asbestos, lead, PCB containing materials, Synthetic Mineral Fibre (SMF), Ozone Depleting Substances etc.
- Appropriately licensed ACT contractors must be engaged for the removal, transport and disposal of all hazardous materials found on the site.

These comments have been incorporated into the conditions above.

Emergency Services Commissioner

The Emergency Services Agency had no comments on the application.

Director-General of ACT Health

The Health Protection Service had no comments on the application.

POTENTIALLY SIGNIFICANT ENVIRONMENTAL IMPACTS

Block 1 section 23 Spence is identified on the register of contaminated sites.

It has been demonstrated that if the works are undertaken in a manner consistent with the above conditions attached to the ESO, they are unlikely to cause a significant adverse environmental impact.