

Planning and Development (Conditional Environmental Significance Opinion – Block 11 Section 38 Fyshwick – car port) Notice 2021

Notifiable instrument NI2021–108

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 11 Section 38, Fyshwick – car port) Notice 2021*.

2 Commencement

This instrument commences on the day after its notification day.

3 Conditional environmental significance opinion

- (1) On 23 February 2021, a delegate of the planning and land authority, pursuant to section 138AB (4) of the *Planning and Development Act 2007* (the **Act**), gave the Applicant a conditional environmental significance opinion in relation to the construction, on Block 11 Section 38 Fyshwick, of a car port.

- (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.

George Cilliers
Delegate of the Planning and Land Authority
23 February 2021



ENVIRONMENTAL SIGNIFICANCE OPINION

An application for an Environmental Significance Opinion (ESO) has been received 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 environmental significance opinion:

APPLICANT

Molonglo Group (Australia) Pty Ltd, as represented by Will Pearson, Town Planner.

PROPOSAL DESCRIPTION

The proposal involves installation on concrete hardstand of two shipping containers connected by a canopy roof to form a truck carport.

LOCATION

Block 11 Section 38 Fyshwick

MATTERS TO WHICH THIS OPINION APPLIES

This opinion applies only to the development proposal as described in the application.

OPINION

The current Crown lease authorises the following uses on the site:

- Freight transport facility
- Transport depot
- Industrial trades
- Light industry
- Car park
- Plant and equipment hire establishment
- Store
- Warehouse
- Defence installation limited to 1,000 square metres
- Office.

The construction will involve installation of two shipping containers connected by a canopy roof to be used as a carport. It is to be constructed on an existing drained and sealed hardstand car park and does not require any excavation for footings. The approximate footprint is 130m².

The Environment Protection Authority (EPA) did not support the proposal, as an environmental audit into the suitability of the whole site for the proposed and permitted uses has not been completed and therefore the findings of an audit have not been endorsed by the EPA.

The planning and land authority has considered the comments from the EPA and notes that an environmental audit is not a mandatory requirement of the ESO process. The planning and land authority considers that the impacts of this proposal can be assessed without an environmental audit for all proposed and permitted uses being undertaken.

The planning and land authority is of the opinion that the proposal is unlikely to cause a significant environmental impact as there is likely to be limited disturbance in constructing the proposal on existing hardstand and the proposed use is of a nature that is ancillary to the existing authorised uses.

This opinion is granted subject to the following conditions made under s 138AB(4) of the Act:

- All soil subject to disposal from the site must be assessed in accordance with the Environment Protection Authority (EPA) Information Sheet 4 - Requirements for the reuse and disposal of contaminated soil in the ACT.
- No soil is to be disposed from the site without approval from the EPA.



George Cilliers

Delegate of the planning and land authority

23 February 2021

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 and received the following comments, in accordance with s138AA (3) of the Act.

Work Safety Commissioner

The Work Safety Commissioner had no comments on the application.

Director-General of ACT Health (Health Protection Services)

The Health Protection Service provided the following advice.

The Health Protection Service (HPS) notes that the project proposes no ground penetrations and will be installed within an existing drained and sealed hardstand carpark. The HPS is aware a site audit process is currently underway for block 11 and block 12.

As no ground penetrations are proposed, the HPS has no concerns with the granting of an ESO.

Emergency Services Commissioner

The Emergency Services Agency had no objections or comments on the application.

Environment Protection Authority (EPA)

The EPA provided the following advice. In accordance with earlier advice for this site (and that provided for DA202037751 for the same proposed development) further works at this site are not supported until the environmental audit into its suitability for its proposed and permitted uses is complete and the findings of this audit are endorsed by the Environment Protection Authority.

POTENTIALLY SIGNIFICANT ENVIRONMENTAL IMPACTS

The subject blocks are 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. The works are minor, above ground level and are unlikely to interact with contaminated land.