

# Planning and Development (Conditional Environmental Significance Opinion – Block 1321, Tuggeranong – Shell Greenway Lease Variation) Notice 2022

Notifiable instrument NI2022–110

made under the

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

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## 1 Name of instrument

This instrument is the *Planning and Development (Conditional Environmental Significance Opinion – Block 1321, Tuggeranong – Shell Greenway Lease Variation) Notice 2022*.

## 2 Commencement

This instrument commences on the day after its notification day.

## 3 Conditional environmental significance opinion

- (1) On 17 February 2022, 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 a Crown lease variation, on block 1321, Tuggeranong, to vary the permissible gross floor area (*GFA*) under the Crown lease apportioned to the operation of a shop from 50m<sup>2</sup> to 200m<sup>2</sup>.

- (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  
3 March 2022



## **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**

Knight Frank Town Planning, as represented by Joshua O'Connor, Senior Town Planner.

### **PROPOSAL DESCRIPTION**

The proposal is to vary the permissible gross floor area (GFA) under the Crown lease apportioned to the operation of a shop from 50m<sup>2</sup> to 200m<sup>2</sup>.

### **LOCATION**

Block 1321 Tuggeranong (also known as Block 6 Section 7 Greenway and as 149 Soward Way, Greenway)

### **MATTERS TO WHICH THIS OPINION APPLIES**

This opinion applies only to the development proposal as described in the application (ESO202100050).

### **OPINION**

The proposal is a Crown lease variation and does not involve modification of the existing operation of the services station, with no changes to existing structures/buildings or site layout.

The planning and land authority is of the opinion that the proposal is unlikely to cause a significant adverse environmental impact, provided any future works permissible as a result of the Crown lease variation are undertaken in a manner consistent with the following conditions.

This opinion is granted subject to the following conditions made under s138AB(4) of the Act.

Prior to any reconfiguration of infrastructure or buildings at the site, new building works, or the site being used for any other land uses permitted under its zoning other than service station:

- An environmental assessment and remediation of the site, in accordance with Environment Protection Authority (EPA) endorsed guidelines, must be undertaken by a suitably qualified environmental consultant;
- All assessment and remedial works must be independently audited by an EPA approved environmental auditor; and
- The Auditor's findings into the site's suitability for alternate configurations or additional uses must be reviewed and endorsed by the EPA.

## ADVISORY NOTES

This opinion is granted with the following advice.

### Director-General of ACT Health

- The service station currently has a food business registration which may be affected if the GFA increases. If any variations are made to the registered food business, the proprietor must submit a 'Food Business Variation or Transfer Form' and must comply with the *Food Act 2001* and the ACT Food Business Fit Out Guide.
- If any new food businesses are planned to be developed, the future proprietors will be required to submit food business registrations and fit-out applications (with suitably detailed plans) to the HPS prior to construction to comply with the *Food Act 2001*.

Attached is a Statement of Reasons for the decision.



James Bennett

Delegate of the planning and land authority

17 February 2022

## STATEMENT OF REASONS

The proposed development (ESO202100050) 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 advice:

*The Environment Protection Authority (EPA) supports the application subject to the following conditions of approval:*

*Prior to any reconfiguration of infrastructure or buildings at the site, new building works or the site being used for any other land uses permitted under its zoning other than service station:*

- *Environmental assessment and remediation of the site in accordance with Environment Protection Authority (EPA) endorsed guidelines must be undertaken by a suitably qualified environmental consultant.*
- *All assessment and remedial works must be independently audited by an EPA approved environmental auditor.*
- *The Auditor's findings into the site's suitability for alternate configurations or additional uses must be reviewed and endorsed by the EPA.*

*Further comments including recommendations for enforceable conditions of approval to be included in the Notice of Decision issued by the Planning and Land Authority will be provided following review of the Development Application for the proposed lease variation.*

#### **Emergency Services Commissioner**

The Emergency Services Agency had no comments on the application.

#### **Director-General of ACT Health**

The ACT Health Protection Service provided the following advice:

- *The service station currently has a food business registration which may be affected if the GFA increases. If any variations are made to the registered food business, the proprietor must submit a 'Food Business Variation or Transfer Form' and must comply with the Food Act 2001 and the ACT Food Business Fit Out Guide.*
- *If any new food businesses are planned to be developed, the future proprietors will be required to submit food business registrations and fit-out applications (with suitably detailed plans) to the HPS prior to construction to comply with the Food Act 2001.*

*There are no further public health concerns with the granting of an ESO.*

#### **POTENTIALLY SIGNIFICANT ENVIRONMENTAL IMPACTS**

The proposal to vary the Crown lease to increase the permissible GFA apportioned to the operation of a shop from 50m<sup>2</sup> to 200m<sup>2</sup> conforms with the maximum GFA of 200m<sup>2</sup> that is allowed for this block in the Greenway Precinct Code. The proposal does not involve excavation or ground penetration and will be unlikely to cause a significant environmental impact. The proposal has been conditioned to ensure that future development on the site will require assessment and remediation to the satisfaction of the EPA.

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