

Planning and Development (Conditional Environmental Significance Opinion – Block 7, Section 12, Deakin – Viva Deakin Service Station Redevelopment) Notice 2022

Notifiable instrument NI2022–347

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 7, Section 12, Deakin – Viva Deakin Service Station Redevelopment) Notice 2022*.

2 Commencement

This instrument commences on the day after its notification day.

3 Conditional environmental significance opinion

- (1) On 17 June 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 minor works including refurbishment of refuelling area and relining fuel tanks on Block 7, Section 12 of Deakin.

- (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
17 June 2022



ACT
Government

Environment, Planning and
Sustainable Development

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

TFA Project Group, as represented by Damien Mackay (town planner)

PROPOSAL DESCRIPTION

Minor works at the existing service station including refurbishment of forecourt refuelling area and relining fuel tanks.

LOCATION

Block 7 and Section 12 Deakin

MATTERS TO WHICH THIS OPINION APPLIES

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

OPINION

Provided the works are undertaken in a manner consistent with the following condition, the application and supporting documents, they are unlikely to cause a significant adverse environmental impact.

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

- WorkSafe ACT must be advised in writing of the commencement date of the work, prior to the work commencing.

Attached is a Statement of Reasons for the decision.

George Cilliers

Delegate of the planning and land authority

17 June 2022

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 Health and Safety Commissioner does not have any comments on this matter with regard to the issues which determine whether the ESO should be given, but we note that:

- The proposed work would be a construction project which requires the principal contractor to prepare a written WHS management plan for the workplace under Section 309 of the Work Health and Safety Regulation 2011 (the Regulation) before the work commences; and

- As part of the role of WorkSafe ACT in monitoring and enforcing compliance with the Work Health and Safety Act 2011 and the Regulation, work health and safety inspectors would attend a workplace where a construction project of this type was being carried out to determine whether the required WHS management plan was in place and being followed.

It would be greatly appreciated if any ESO given in relation to this project could include a direction (however expressed) that WorkSafe ACT be advised in writing of the specific commencement date for the work, once that date has been fixed.

In providing this response, the Work Health and Safety Commissioner is not approving or endorsing any proposed work arrangements or any proposed risk control measures, and nothing in this response affects the safety duties of person involved in carrying out the proposed work under the Work Health and Safety Act 2011.

Environment Protection Authority (EPA)

The Environment Protection Authority supports the application on the basis a merit track Development Application (DA) referral is provided to the EPA to comment on the application.

It is also recommended the DA is referred to Worksafe for consideration.

Emergency Services Commissioner

ACT State Emergency Service have no concerns or comments with this ESO.

ACT Fire & Rescue has reviewed ESO 202200006 – Block 7 Section 12, DEAKIN and have no comments or objections.

Director-General of ACT Health

The Health Protection Service (HPS) notes that the project includes refurbishment of forecourt refuelling area and relining fuel tanks. The HPS has no concerns with the granting of an ESO.

POTENTIALLY SIGNIFICANT ENVIRONMENTAL IMPACTS

The potential environmental impacts from development at this site, being a site on the register of contaminated sites, can be appropriately assessed and mitigated with the assessment of a development application lodged in the merit track.

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