

Planning and Development (Conditional Environmental Significance Opinion – Block 2, Section 76, Watson – Future Development) Notice 2022

Notifiable instrument NI2022–591

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 2, Section 76, Watson – Future Development) Notice 2022*.

2 Commencement

This instrument commences on the day after its notification day.

3 Conditional environmental significance opinion

- (1) On 15 September 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 construction, on Block 2, Section 76, of Watson, for the creation of an estate and the delivery of a local community neighbourhood park.

- (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.

Craig Weller
Delegate of the planning and land authority
15 September 2022



ACT
Government

Environment, Planning and
Sustainable Development

SCHEDULE

ENVIRONMENTAL SIGNIFICANCE OPINION

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

Environment Planning and Sustainable Development Directorate (EPSDD), as represented by Mark Overton, Director – Development and Implementation.

PROPOSAL DESCRIPTION

Block 2 Section 76 Watson has been identified as a future land release site. There are two separate developments planned to occur on the site in the near future. The creation of an estate/subdivision and the delivery of a local community neighbourhood park.

The site has recently been rezoned from CZ6 to RZ4 and PRZ1. Approximately 200 dwellings are proposed to be delivered on the site together with a public road or accessway providing access to the development sites and open space, including a local park and playground to the periphery of the current boundaries of Block 2 Section 76 Watson.

As part of the process of delivering this future development site to the market, a rigorous due diligence program has been undertaken by the Development and Implementation unit (D&I) within EPSDD. These site investigations included intrusive geotechnical and contamination assessments which led to the discovery of a 'gossan' in the north-eastern section of the site. The 'gossan' is a naturally occurring geological phenomenon containing heavy metals (arsenic, lead and zinc). The 'gossan' is partially located in the new RZ4 zone of the site.

The discovery of the 'gossan' has resulted in the site being placed on the ACT's Contaminated Sites Register. The proposal therefore triggers the requirement for an ESO, or Environmental Impact Statement (EIS), under Schedule 4, Part 4.3 Item 7 of the *Planning and Development Act 2007*.

LOCATION

Block 2 Section 76 Watson

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.

CONDITIONS

- *All remedial works at the site must be undertaken in accordance with the auditor approved Remediation Action Plan titled, "Remediation Action Plan, Block 2 Section 76, Watson" by Lanterra Consulting Pty Ltd, dated 06 April 2022;*
- *all remediation and validation works undertaken at the site must be overseen by a suitably qualified environmental consultant with all works independently audited by an approved environmental auditor;*
- *prior to the site being used for the land uses listed in the Site Audit Statement, a site suitability audit (Section A environmental audit) must be undertaken by an approved environmental auditor;*
- *the site must be developed in accordance with the contaminant management plan (CMP) titled "Contaminant Management Plan Block 2, Section 76, Watson, ACT" dated 20 July 2022 by Lanterra Consultants Pty Ltd or subsequent revisions approved by the EPA;*

Note: *Where remediation and validation is required at the site under the CMP the site validation report must be forwarded to the EPA approved environmental auditor and the EPA for review and endorsement prior to occupancy of the site;*

- *all spoil identified at the site must be managed in accordance with EPA Information Sheet - Spoil Management in the ACT;*
- *all soil subject to disposal from the site must be assessed in accordance with EPA Information Sheet 4 - Requirements for the reuse and disposal of contaminated soil in the ACT; and*
- *no soil is to be disposed from site without approval from the Office of the Environment Protection Authority.*

ADVICE:

- *The "Contaminate Management Plan" by Lanterra Consulting, dated 20 July 2022 is supported as an interim management tool prior to remediation, as well as the need for a Long-Term Environmental Management Plan;*
- *the design and construction of any sedimentation ponds must minimise the potential for them to cause an insanitary condition (local mosquito nuisance) under the Public Health Act 1997; and*
- *all reasonable and practicable measures are to be taken to suppress dust and minimise detrimental impacts to air quality during the works.*

Attached is a Statement of Reasons for the decision.

A handwritten signature in black ink, consisting of several loops and a trailing line.

Craig Weller
Delegate of the planning and land authority
15 September 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 did not have any comments on this matter.

Environment Protection Authority

The EPA provided the following comments, noting that further advice will be provided at the DA stage.

- The site must be developed in accordance with the contaminant management plan (CMP) titled "Contaminant Management Plan Block 2, Section 76, Watson, ACT" dated 20 July 2022 by Lanterra Consultants Pty Ltd or subsequent revisions approved by the EPA.

Note: Where remediation and validation is required at the site under the CMP the site validation report must be forwarded to the EPA approved environmental auditor and the EPA for review and endorsement prior to occupancy of the site;

- All spoil identified at the site must be managed in accordance with EPA Information Sheet - Spoil Management in the ACT;
- All soil subject to disposal from the site must be assessed in accordance with EPA Information Sheet 4 - Requirements for the reuse and disposal of contaminated soil in the ACT;
- No soil is to be disposed from site without approval from the Office of the Environment Protection Authority.

Emergency Services Commissioner

ACT Fire and Rescue (ACTF&R) have no objections to the proposal, but noted that the subject block encroaches into a bushfire prone area and will trigger bushfire protection measures/assessment at development application stage.

Director-General of ACT Health (HPS)

The HPS advised that they support the auditor's conclusion in the report titled, "Site Audit Report for SAS 408. Version 02" by Harwood Environmental Consultants, dated 26 April 2022 that the site can be made suitable for an outdoor recreation facility, parkland or playing field subject to the following conditions:

- all remedial works at the site must be undertaken in accordance with the auditor approved Remediation Action Plan titled, "Remediation Action Plan, Block 2 Section 76, Watson" by Lanterra Consulting Pty Ltd, dated 06 April 2022;
- all remediation and validation works undertaken at the site must be overseen by a suitably qualified environmental consultant with all works independently audited by an approved environmental auditor; and
- prior to the site being used for the land uses listed in the Site Audit Statement, a site suitability audit (Section A environmental audit) must be undertaken by an approved environmental auditor with the audit findings endorsed by the Environment Protection Authority.

The HPS also support the "Contaminate Management Plan" by Lanterra Consulting, dated 20 July 2022 as an interim management tool prior to remediation, as well as the need for a Long-Term Environmental Management Plan.

Where the above are implemented, the HPS has no objections to an ESO being granted.

Additionally, the HPS provided the following advice:

- the design and construction of any sedimentation ponds must minimise the potential for them to cause an insanitary condition (local mosquito nuisance) under the Public Health Act 1997; and
- all reasonable and practicable measures are to be taken to suppress dust and minimise detrimental impacts to air quality during the works.

POTENTIALLY SIGNIFICANT ENVIRONMENTAL IMPACTS

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.