

# Planning and Development (Conditional Environmental Significance Opinion – Block 7, Section 12, Deakin – Viva Deakin TRP) Notice 2022

Notifiable instrument NI2022–618

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 7, Section 12, Deakin – Viva Deakin TRP) Notice 2022*.

## 2 Commencement

This instrument commences on the day after its notification day.

## 3 Conditional environmental significance opinion

- (1) On 21 November 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 7, Section 12, of Deakin, for works at the existing service station including refurbishment of forecourt refuelling area and replacement of fuel tanks.

- (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  
5 December 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**

Viva Energy Australia Pty Ltd, as represented by Mr Damien Mackay.

#### **PROPOSAL DESCRIPTION**

Proposed development at the existing service station including refurbishment of forecourt refuelling area and replacement of fuel tanks.

#### **LOCATION**

29 Hopetoun Circuit, Block 7, Section 12, Deakin.

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

This opinion applies only to the development proposal as described in the application (ESO2022000376) 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.

- WorkSafe ACT must be advised in writing of the commencement date of the work, prior to the work commencing.
- All tanks (and related infrastructure), subject to removal, must be removed in accordance with WorkSafe ACT requirements.
- The site must be assessed and remediated in accordance with the Environment Protection Authority (EPA) *Contaminated Sites Environment Protection Policy 2017* (CSEPP) and the *National Environment Protection (Assessment of Site Contamination) Measure 1999*, as amended in 2013, by a suitably qualified environmental consultant.
- All assessment and remedial works must be independently audited, in accordance with the CSEPP, by an EPA approved environmental auditor.

- The Remedial Action Plan (RAP) for the proposed works must be reviewed and endorsed by the auditor with a copy of the endorsement of the RAP provided to the EPA.
- A copy of the Auditor's draft site audit report, draft site audit statement and any proposed draft site management plan must be submitted to the EPA, for review and comment, in accordance with the CSEPP and EPA *Information Sheet 11 - Environment Protection Authority Report Submission Requirements* prior to finalisation of these documents.
- A copy of the Auditor's final audit documents, into the appropriateness of all investigation and remedial works and confirming the site's continued suitability for its permitted uses under its Crown lease, must be submitted to the EPA for review and endorsement in accordance with EPA *Information Sheet 11 - Environment Protection Authority Report Submission Requirements*.
- Sediment and leachate control measures must be incorporated for any stockpiled material to prevent contaminants entering the stormwater system.
- Dust and odour suppression measures must be incorporated as required during the works to minimise impacts on surrounding blocks.
- 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 EPA.

Attached is a Statement of Reasons for the decision.



Craig Weller  
Delegate of the planning and land authority

21 November 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; and
- (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 (the Authority) consulted with the following entities, in accordance with s138AA (3) of the Act.

### Work Safety Commissioner

The Work Health and Safety Commissioner had no comments on this matter on the basis of the documents provided in the application, on the understanding that if an environmental significance opinion is given in this matter, it will replace the conditional environmental significance opinion given on 17 June 2022 which was published on the ACT Legislation Register as Notifiable Instrument NI2022-347 and will include the following condition from that instrument:

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

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**

The Environment Protection Authority (EPA) would support the ESO subject to the following conditions:

#### Demolition/Tank Removal/Replacement:

- All tanks (and related infrastructure) subject to removal must be removed in accordance with WorkSafe ACT requirements.
- The site must be assessed and remediated in accordance with the Environment Protection Authority (EPA) Contaminated Sites Environment Protection Policy 2017 (CSEPP) and the National Environment Protection (Assessment of Site Contamination) Measure 1999 as amended 2013 by a suitably qualified environmental consultant.
- All assessment and remedial works must be independently audited in accordance with the CSEPP by an EPA approved environmental auditor.
- The Remedial Action Plan (RAP) for the proposed works must be reviewed and endorsed by the auditor with a copy of the endorsement of the RAP provided to the EPA.

#### Prior to Reoccupancy:

- A copy of the Auditor's draft site audit report, draft site audit statement and any proposed draft site management plan must be submitted to the EPA for review and comment in accordance with the CSEPP and EPA Information Sheet 11 - *Environment Protection Authority Report Submission Requirements* prior to finalisation of these documents.
- A copy of the Auditor's final audit documents into the appropriateness of all investigation and remedial works and confirming the site's continued suitability for its permitted uses under its Crown lease must be submitted to the EPA for review and endorsement in accordance with EPA *Information Sheet 11 - Environment Protection Authority Report Submission Requirements*.

#### General conditions:

- Sediment and leachate control measures must be incorporated for any stockpiled material to prevent contaminants entering the stormwater system.
- Dust and odour suppression measures must be incorporated as required during the works to minimise impacts on surrounding blocks.
- 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**

ACTSES, ACTRFS and ACTAS had no concerns or comments on this ESO.

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

The Health Protection Service (HPS) noted that the project includes refurbishment of forecourt refuelling area and replacement of fuel tanks.

The HPS has no concerns with the granting of an ESO.

### **POTENTIALLY SIGNIFICANT ENVIRONMENTAL IMPACTS**

Block 7 Section 12 Deakin is on the Register of Contaminated Sites as an active Coles Express Service Station. The land is zoned CZ4: Local Centre in the Territory Plan.

The proposal involves minor works at the existing service station including refurbishment of the forecourt refuelling area and replacement of fuel tanks with a new underground petroleum storage system (UPSS).

Generally, the works will include:

- Removal and demolition of existing underground tanks;
- Abandon existing underground tanks in accordance with AS1940 and relevant Australian Standards;
- Installation of new tank farm involving 2 x 90kL underground double-walled fuel tanks;
- Existing fuel dispensers and underground fuel pipework to be removed in accordance with the Work Health & Safety Act 2011 Regulations 366 & 367 and replacement with new multi-product pumps;
- Modify existing crossover on Grose Street;
- Existing underground SPEL tank to remain;
- Removal of existing fuel vent stack and relocation of new fuel vent stack;
- Removal of existing fill points and relocation of new fill points;
- New grated drain between shop front and tank 8; and
- Removal of existing concrete forecourt area to extent required to suit proposal.

The Authority considers 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.