

# Planning and Development (Conditional Environmental Significance Opinion – Blocks 12 and 15, Section 49, Kingston – Kingston Arts Precinct) Notice 2023

Notifiable instrument NI2023–195

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 – Blocks 12 and 15, Section 49, Kingston – Kingston Arts Precinct) Notice 2023*.

## 2 Commencement

This instrument commences on the day after its notification day.

## 3 Conditional environmental significance opinion

(1) On 27 March 2023, 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 blocks 12 and 15, section 49, Kingston, of a mixed-use precinct that includes a range of public, arts and private spaces, including:

- new buildings for arts organisations, including retail spaces, artist accommodation and open events space;
- public spaces;
- public carparking; and
- spaces for residential dwellings and other permissible uses to complement the surrounding Kingston Foreshore and broader Kingston area.

(2) In this section:

***conditional environmental significance opinion*** means the opinion in the schedule.

*Note* Under the Act, s 138AD (6), 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  
17 April 2023



**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

The Suburban Land Agency, as represented by Alex Sibenaler, Development Manager – Urban Estates

#### PROPOSAL DESCRIPTION

The Kingston Arts Precinct comprising of a mixed-use precinct that includes a range of public, arts and private spaces including:

- new buildings for arts organisations, including retail spaces, artist accommodation and open events space;
- public spaces;
- public carparking; and
- spaces for residential dwellings and other permissible uses to complement the surrounding Kingston Foreshore and broader Kingston area.

#### LOCATION

Blocks 12 and 15, Section 49 Kingston

#### 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.

- The proposed development must be carried out in accordance with the conditions contained in the EPA endorsement letter “ Endorsement of Site Audit Statement and Report - Block 12 and part Block 15 Section 49 Kingston Canberra Central” dated 30 June 2021 related to the site (**Attachment A**).

ADVISORY NOTE:

- Noisy activities proposed to be conducted at the site will be required to comply with the noise standards listed in schedule 2 of the *Environment Protection Regulation 2005*. The proponent should engage the services of an appropriately qualified acoustic consultant to ensure there is a realistic understanding of the types of activities that will be possible to be conducted at the site.

Attached is a Statement of Reasons for the decision.



Craig Weller

Delegate of the planning and land authority

27 March 2023

## 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

*Thank you for the opportunity to review and provide comment on the environmental significance opinion application for works associated with the proposed Kingston Art Precinct which is understood to be a mixed use residential and commercial development at blocks 12 and 15 section 49 Kingston.*

*The Environment Protection Authority supports the Environmental Significance Opinion application and provides the following advice:*

*Blocks 12 and 15 Section 49 Kingston have been assessed, remediated and independently audited. As a result, EPA supports the proposal subject to requirements being implemented for the proposed development to be carried out in accordance with the conditions contained in the EPA endorsement letter (attached) related to the site.*

*Further, advice should be provided to the applicant that noisy activities proposed to be conducted at the site will be required to comply with the noise standards listed in schedule 2 of the Environment Protection Regulation, 2005. The proponent should engage the services of an appropriately qualified acoustic consultant to ensure there is a realistic understanding of the types of activities that will be possible to be conducted at the site.*

#### **Emergency Services Commissioner**

The Emergency Services Commissioner did not have any comments on this matter.

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

*The Health Protection Service does not oppose the ESO subject to the appropriate level of assessment and remediation at the Development Application stage of the development.*

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

The Kingston Arts Precinct (KAP) is the final stage of the Kingston Foreshore development and will be located at Section 49 Kingston (located off Eastlake Parade bound by Giles Street and Wentworth Avenue).

The Kingston Arts Precinct comprises of Block 15, which includes an existing carpark, vacant building site and Telopea Park electrical substation and Block 12, being the existing Power House currently utilised as an arts space by Canberra Glassworks. The wider Section 49 also includes Block 14, which is the former Bus Depot site.

As part of the process of delivering this future development site to the market multiple environmental site investigations have been undertaken by the proponent over a number of years.

The site investigations included intrusive geotechnical and contamination assessments which lead to the discovery of pockets of the following contaminants being found at locations across the site:

- Ash containing elevated benzo[a]pyrene (B[a]P)
- Potential asbestos
- Building waste
- Other potentially contaminated soils (hydrocarbons, heavy metals and PAH)
- Hydrocarbon impacted groundwater

Due to the nature of contaminants identified, the site has been placed on the ACT's Contaminated Sites Register.

The subsequent studies that have been prepared for the project include three independent Site Audit Reports (SAR) and Site Audit Statements (SAS). The SAS for all three audits have determined the area to be suitable for its proposed uses under the Territory Plan (CZ5 – Mixed Use Zone) and have therefore been endorsed by the EPA, on the basis that the development works are undertaken in accordance with the relevant audit conditions and environmental management requirements.

The findings have since been reviewed and presented in a Soil Management Report, prepared by Environmental Resources Management Australia Pty Ltd dated 25 November 2022, which provides a summary of the likely soil management requirements to be implemented for all three areas where the site audits were undertaken.

Having considered the information submitted with the ESO application and the comments received from entities, the Authority is of the view that the proposal is unlikely to cause a significant adverse environmental impact, provided the works are undertaken in a manner consistent with the conditions attached to the ESO.

# Attachment A



**ACT**  
Government

Chief Minister, Treasury and  
Economic Development

File Ref: 1-2016/06503; 1-2020/95464

Ms Petra Oswald  
Senior Development Manager  
Suburban Land Agency  
GPO Box 158  
Canberra City ACT 2601

Dear Ms Oswald

## **ENDORSEMENT OF SITE AUDIT STATEMENT AND REPORT - BLOCK 12 AND PART BLOCK 15 SECTION 49 KINGSTON CANBERRA CENTRAL**

The Environment Protection Authority (the Authority) has reviewed the following documents:

- i. Site Audit Statement (RJP 031 – ACT) dated 16 June 2021; and
- ii. Site Audit Report titled "*Former Kingston Powerhouse, Fitters Workshop and Associated Open Space within the Heritage Precinct of Section 49, Kingston Foreshore Development Precinct, ACT Site Audit Report*" dated 16 June 2021

as submitted by Mr Roger Parker of Golder Associates Pty Ltd, an approved site Auditor, under the *Environment Protection Act 1997*.

The Site Audit Statement (SAS) details that the site is suitable for the "*use(s) permitted by its zoning 'CZ-5 Mixed Zone' as detailed in the ACT Territory Plan 2008 updated on 22 December 2020*" and provides a list of specific uses found suitable by the audit (see SAS for details).

The SAS also details that the above findings are subject to compliance with the following environmental management plans:

- "*Site Management Plan Minor Works, Powerhouse Complex and Associated Open Space Areas, Kingston Foreshore Section 49, ACT*", document JC0715, dated 21 March 2021 by Agon Environmental Pty Ltd hereafter referred to as the "SMP";
- "*Development Environmental Management Plan, Powerhouse Complex and Associated Open Space Areas – Kingston Foreshore Section 49, ACT*", document no. PS103124-CLM-REP-101 RevF, dated April 2021 by WSP Australia Pty Ltd, hereafter referred to as the "DEMP";



- "*Occupancy Environmental Management Plan, Powerhouse Complex and Associated Open Space Areas – Kingston Foreshore Section 49, ACT*", document no. PS103124-CLM-REP-102 RevF, dated April 2021 by WSP Australia Pty Ltd, hereafter referred to as the "OEMP"; and
- "*Site Management Plan, Kingston Foreshore*", document no. C11343\_SMP\_Rev5, dated October 2019 by Senversa Pty Ltd hereafter referred to as "KFDP-SMP".

The SAS and the above environmental management plans are subject to the following requirements:

## **Compliance with the SAS and Environmental Management Plans**

### **Prior to Development**

- The SMP (or its revisions as approved by an Authority approved environmental Auditor and endorsed by the Authority) must be implemented by the Suburban Land Agency (SLA) or their authorised representative. Schedule A of the Environmental Protection Agreement (the Agreement) between the SLA and Authority has been updated (attached) to include this site and the SMP to the list of sites covered by the Agreement.

### **Development Phase**

- The DEMP (or its revisions as approved by an Authority approved environmental Auditor and endorsed by the Authority) must be implemented until the completion of development of the site by the land custodian of the site or their authorised representative.

### **Site Occupancy**

#### **Prior to Occupancy**

- The Auditor's review of the compliance report required under the DEMP must be forwarded to the Authority for review and support;
- Application for variation to the Crown Lease under the *Planning and Development Act 2007* must be requested and approved to include an additional provision which requires compliance with the SAS and OEMP.
- A copy of the updated Crown Lease must be forwarded to the Authority for its records.

#### **Following Occupancy**

- The OEMP (or its revisions as approved by an Authority approved environmental Auditor and endorsed by the Authority) must be implemented at the site until such time that the OEMP is no longer deemed to be required, as determined by an Authority approved environmental Auditor and supported in writing by the Authority.

### **Responsibility for the DEMP**

- Following sale and up until the completion of development the implementation and ongoing management of the site in accordance with the DEMP is the responsibility of the land custodian of the site or their authorised representative.

### **Responsibility for the OEMP**

- The implementation and ongoing management of the site in accordance with the OEMP is the responsibility of the leaseholder or their authorised representative (body corporate).

**The Authority endorses the SAS for the beneficial uses identified subject to compliance with the above requirements and the Auditor's overall comments as detailed in the SAS.**

The Authority notes that the audit has found the site **not suitable** for the following uses permitted by its 'CZ-5 Mixed Zone' zoning:

- Outdoor recreation establishment
- Secondary residence
- Single dwelling house
- Temporary use
- Urban lake, pond and/or retardation basin
- Water storage dam.

Prior to the the site being used for any of uses found not suitable above the site must undergo further assessment and audit. The findings of any subsequent audit must be endorsed by the Authority prior to the site being used for those uses.

This letter of endorsement must be read in conjunction with the documents listed above.

This should not be taken as a warranty by the Territory or the Environment Protection Authority that the land is fit for any particular purpose.

Yours sincerely



Narelle Sargent

Environment Protection Authority

30 June 2021