

# Planning and Development (Environmental Significance Opinion – various Beard and Jerrabomberra District blocks – Beard Data Centre Facility) Notice 2023

Notifiable instrument NI2023–305

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 (Environmental Significance Opinion – various Beard and Jerrabomberra District blocks – Beard Data Centre Facility) Notice 2023*.

## 2 Commencement

This instrument commences on the day after its notification day.

## 3 Environmental significance opinion

- (1) On 14 June 2023, the planning and land authority, pursuant to section 138AB (4) of the *Planning and Development Act 2007* (the *Act*), gave the Applicant an environmental significance opinion in relation to construction, on Blocks 7 and 8, Section 1 and Block 25, Section 11 Beard, and Block 2223 Jerrabomberra District, of a data centre facility.

- (2) In this section:

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

*Note* Under the Act, s 138AD (6), the 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  
14 June 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

Patrick Herzog (Director), Beard EIE Holdings Pty Ltd, as represented by Nichelle Jackson (Director), Canberra Town Planning Pty Ltd.

#### PROPOSAL DESCRIPTION

The proposal involves a data centre facility to be constructed in two defined stages. Stage 1 will comprise early site works to facilitate two future buildings, named Beard 1 & 2. Stage 2 is to comprise a design and siting development application for the Beard 1 building. Beard 1 & 2 consists of two new standalone buildings comprising a total of 20 Data Halls. Works include construction of the facility, emergency on-site energy generators, associated vehicle access, and earthworks and site servicing to facilitate the development.

#### LOCATION

Block 25, Section 11 Beard, Block 7 & 8, Section 1 Beard and Block 2223 Jerrabomberra District.

#### 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 mitigation measures contained in the supporting application for an ESO, they are unlikely to cause a significant adverse environmental impact.

Attached is a Statement of Reasons for the decision.

George Cilliers  
Executive Group Manager  
Delegate of the planning and land authority

14 June 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 does not have any comments on this matter. 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**

The Environment Protection Authority (EPA) notes Beard Stage 3A-1 is currently the subject of assessment, remediation and audit. Draft Audit documents were reviewed and commented on by the Office of the EPA in April 2023. From a contamination perspective, assessment, remediation and audit is sufficient to address the contamination issues at the site which can be managed through the merit track DA process.

The EPA supports the ESO and will provide further advice at the DA stage.

### **Emergency Services Commissioner**

ACTF&R have no objections to the ESO. They note the northern section of the block is in a bushfire prone area and appropriate measures must be considered for future development.

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

The Health Protection Service (HPS) has reviewed the ESO and associated documentation and notes that the site is listed on the register of contaminated sites under the *Environment Protection Act 1997* due to potential contamination in the form of Asbestos Containing Material and petroleum hydrocarbons.

The HPS has no public health concerns to raise in relation to this ESO and has no objection in its granting.

### **POTENTIALLY SIGNIFICANT ENVIRONMENTAL IMPACTS**

The primary potential impacts are considered to be the discovery of contaminated soils, materials or groundwater in areas of the site which have not yet been investigated, and the management of contaminated and hazardous materials during the construction process. Construction works would need to be undertaken in accordance with an approved and updated site management plan and/or unexpected finds construction environmental management plan, to be endorsed by the Site Auditor and the EPA.

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