

Planning and Development (Conditional Environmental Significance Opinion – Block 3, Section 41, Lyneham – Lyneham Boundary Wall) Notice 2023

Notifiable instrument NI2023–44

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 3, Section 41, Lyneham – Lyneham Boundary Wall) Notice 2023**.

2 Commencement

This instrument commences on the day after its notification day.

3 Conditional environmental significance opinion

- (1) On 14 December 2022, the planning and land authority, pursuant to section 138AB (4) (b) of the *Planning and Development Act 2007*, gave the applicant a conditional environmental significance opinion in relation to construction, on block 3, section 41, Lyneham, of a property boundary wall.
- (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
27 January 2023

*Name amended under Legislation Act, s 60



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

WSP Australia Pty Limited, as represented by Alex Garrett, senior environmental scientist.

PROPOSAL DESCRIPTION

The demolition of an existing wall and construction of a property boundary wall

LOCATION

Block 3 Section 41 Lyneham

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 conditions, the development is unlikely to cause a significant adverse environmental impact.

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

- All works at the site must be undertaken in accordance with the document titled "Site Environmental Management Plan Former Service Station Lyneham (Site ID: 28074)" revision L dated 23 February 2021 by WSP Australia Pty Ltd.
- 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.
- 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*.
- All reasonable and practicable measures are to be taken to suppress dust and minimise detrimental impacts to air quality during construction 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

14 December 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. This response has been provided on the basis of the documents provided by the Impact Assessment Unit on 4 November 2022 for the Work Health and Safety Commissioner's consideration. This response does not take into account any subsequent changes to these documents, or any other information held by the Impact Assessment Unit.

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 persons involved in carrying out the proposed work under the *Work Health and Safety Act 2011*.

Environment Protection Authority

The Environment Protection Authority supports the application on the following conditions:

- All works at the site must be undertaken in accordance with the document titled "Site Environmental Management Plan Former Service Station Lyneham (Site ID: 28074)" dated 23 February 2021 by WSP Australia Pty Ltd.
- 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.

Further comments will be provided following review of the Development Application.

Emergency Services Commissioner

ACT Fire & Rescue has reviewed ESO - 202200040– Block 3 Section 41, LYNEHAM, and have no comments or objections. ACT State Emergency Service, ACT Rural Fire Service & ACT Ambulance Service have no concerns or comments.

Director-General of ACT Health

The Health Protection Service (HPS) has reviewed the ESO and associated documentation and notes the site on the Environment Protection Authority's (EPA) Register of Contaminated Sites and an EPA conditional Site Audit Statement has been issued as a result of residual petroleum impacts from the site's previous use as a service station.

The HPS advises the applicant that:

- 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*.
- All reasonable and practicable measures are to be taken to suppress dust and minimise detrimental impacts to air quality during construction works.

The HPS has no objections to an ESO being granted for this site.

POTENTIALLY SIGNIFICANT ENVIRONMENTAL IMPACTS

The Site Environmental Management Plan (SEMP) describes management measures that are required to avoid health and environmental impacts due to residual site contamination due to the previous use of the site as a service station. A condition has been included that any development at the site must be undertaken in accordance with the SEMP.

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.