

Planning and Development (Conditional Environmental Significance Opinion – Block 2, Section 76, Watson – Future Development) Notice 2024

Notifiable instrument NI2024–47

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 2024*.

2 Commencement

This instrument commences on the day after its notification day.

3 Conditional environmental significance opinion

- (1) On 17 January 2024, the planning and land authority, pursuant to section 138AB (4) (b) of the *Planning and Development Act 2007* (repealed), gave the Applicant a conditional environmental significance opinion in relation to construction on Block 2, Section 76, Watson. The proposed works consist of creation of an estate, the delivery of a local community neighbourhood park and associated works.

- (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 territory planning authority
25 January 2024



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 was identified as a future land release site and is on the current 2023/24 financial year Indicative Land Release Program. The Development and Implementation unit (D&I) within EPSDD are preparing a Subdivision Design Application (SDA) and a Development Application (DA) as part of the process for establishing individual residential blocks for residential development.

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 D&I unit within EPSDD. These site investigations included intrusive geotechnical and contamination assessments which discovered 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.

D&I plan to commence construction of the site servicing works (construction of the cul-de-sac, installation of utilities, pathways, street trees etc) if the Development Application is approved. A key part of this work will be remediation of the gossan in accordance with the endorsed Remediation Action Plan (RAP).

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*.

Existing ESO Status

A conditional ESO [NI2022-591](#) was provided by the authority on 15 September 2022, which is due to expire in May 2024 (18 months). The SDA currently being prepared by D&I will not be lodged for

assessment and approval until March/April 2024. Therefore, this new ESO is being provided by the authority.

Please note, this **renewed ESO replaces the previous ESO** provided in September 2022.

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 (RAP) titled, "Remediation Action Plan, Block 2 Section 76, Watson" by Lanterra Consulting Pty Ltd, dated 06 April 2022;
- The remediation works detailed in the RAP must be completed prior to commencement of development;
- all remediation and validation works (the adequacy of the remedial works) undertaken at the site must be overseen by a suitably qualified environmental consultant with all works independently audited by an Environment Protection Authority (EPA) 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 EPA approved environmental auditor;
- the site audit report and the site audit statement, confirming the suitability of the site post remediation, must be submitted to the EPA for review and endorsement;
- 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 EPA.

ADVICE:

- The “Contaminant 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.



Craig Weller
Delegate of the planning and land authority
17 January 2024

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 (EPA)

The EPA provided the following comments, noting that the site is listed on the contaminated sites register and was subjected to a site audit, completed in April 2022 (completed by Mr Rod Harwood

of Harwood Environmental Consultants). The site audit statement found that the northern portion of the site could be made suitable for the following uses permitted by its zoning (PRZ1: Urban open space and RZ4: Medium density residential):

- Outdoor recreation facility
- Parkland
- Playing field

Subject to implementation of remediation detailed in Remediation Action Plan (RAP), Block 2 Section 76, Watson, dated 6 April 2022 by Lanterra Environmental Consulting Pty Ltd.

The remaining areas of the site were found to be suitable for the uses permitted by its zoning (CZ6: Leisure and Accommodation, PRZ1: Urban open space and RZ4: Medium density residential).

The EPA advised they would support the ESO subject to the following conditions:

- The remediation works detailed in the RAP are completed prior to commencement of development;
- The adequacy of the remedial works must be independently audited by an EPA approved environmental auditor;
- A site audit report and site audit statement, confirming the suitability of the site post remediation, must be submitted to the EPA for review and endorsement;
- 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.

Additionally, the EPA provided following advice:

- The "Contaminant 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.

Emergency Services Commissioner

ACT Fire and Rescue (ACTF&R) have noted that the subject block encroaches into a bushfire prone area declared by the Emergency Services Agency (ESA) and will trigger bushfire protection measures/assessment at development application stage.

Director-General of ACT Health (HPS)

The HPS advised that the following comments, provided from the previous ESO, still apply to the renewed ESO:

- 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 “Contaminant 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.

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.