

Planning and Development (Conditional Environmental Significance Opinion – Block 2 Section 67 Kingston – Mixed-Use Development and Associated Works) Notice 2018

Notifiable instrument NI2018–486

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 67 Kingston – Mixed-Use Development and Associated Works) Notice 2018*.

2 Conditional Environmental Significance Opinion

- (1) On 20 August 2018, a delegate of the planning and land authority, pursuant to section 138AB(4) of the *Planning and Development Act 2007* (the **Act**), gave the Applicant a conditional environmental significance opinion in relation to construction, on Block 2 Section 67 Kingston, of a mixed-use building with two levels of basement parking, site services, access, landscaping and associated works.

- (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.

Ben Ponton
Chief Planning Executive
27 August 2018



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

Canberra Town Planning, as represented by Hope Watson, Town Planner.

PROPOSAL DESCRIPTION

Construction of a mixed use building with two levels of basement parking, site services, access, landscaping and associated works.

LOCATION

Block 2 Section 67 Kingston – 45 Honeysett View, Kingston

MATTERS TO WHICH THIS OPINION APPLIES

This opinion applies only to the development proposal as described in the application (ESO-201800019).

OPINION

Provided the works are undertaken in a manner consistent with the following conditions, they are unlikely to cause a significance adverse environmental impact.

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

Administration

1. Prior to applying for a certificate of occupancy for the site, an application for variation of the Crown Lease under the *Planning and Development Act 2007* must be made and approved to include an additional provision that the lessee will manage the site in accordance with the:
 - Site Audit Statement (RJP 030a - ACT) dated 27 January 2016, and
 - the site's occupancy environmental management plan (OEMP) titled "*Site Occupancy Environmental Management Plan, Site 14, Kingston Foreshore Development Precinct, Kingston, ACT*" dated January 2016 by Environmental Resources Management Australia Pty Ltd or EPA approved revision of this document.
2. A copy of the varied lease must be forwarded to the Environment Protection Authority (EPA) prior to occupancy of the site.

Prior to construction

1. A Construction Environmental Management Plan (CEMP) must be submitted to, and approved by, the planning and land authority. The CEMP must include the following:
 - Temporary Traffic Management Plan;
 - Noise Management Plan (construction and operation); and

- Lighting plan demonstrating that temporary and permanent lighting would be in accordance with relevant Australian Standards.

During construction

1. All works at the site must be undertaken in accordance with the requirements of the following EPA endorsed documents (or subsequent EPA endorsed revisions of these documents) for the site:
 - Site Audit Statement (RJP 030a - ACT) dated 27 January 2016 by Mr Roger Parker of Golder Associates Pty Ltd, and
 - Site Audit Report titled "Site 14 Developable Area and Foreshore Land Parcel, Kingston Foreshore Development Precinct, Kingston, ACT" dated 27 January 2016 by Mr Roger Parker of Golder Associates Pty Ltd, and
 - "Development Environmental Management Plan, Site 14, Kingston Foreshore Development Precinct, Kingston, ACT" dated January 2016 by Environmental Resources Management Australia Pty Ltd.
2. No soil or water is to be disposed from the site without the approval of the EPA.
3. All works must be in accordance with the approved Construction Environmental Management Plan (CEMP).

Advice

1. Should any changes to land use be proposed in the future, a review and approval from a contaminated site audit and the EPA is required.
2. Any soil and fill removed from the site will require classification and EPA approval prior to appropriate disposal. Soil removed from the site cannot be reused within Kingston Foreshore Development Precinct.

Attached is a Statement of Reasons for the decision.



Brett Phillips

Delegate of the planning and land authority

20 August 2018

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:

1. Part 4.3 Item 7 - proposal involving land included on the register of contaminated sites under the *Environment Protection Act 1997*.

The proponent has applied for 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.

Background

On 28 September 2017, the proposal was lodged in the Impact Track as the proposal triggered Item 7, part 4.3 of Schedule 4 of the Act, involving land included on the register of contaminated sites under the *Environment Protection Act 1997*. The application was submitted, concurrently, with an application requesting an exemption from requiring an Environmental Impact Statement (EIS Exemption), under s 211 of the Act. On 13 March 2018, the Minister for Planning and Land Management granted the EIS exemption. During the process, conditions were identified to ensure impacts on air, surrounding lands, health and compliance are acceptable.

On 16 April 2018, the development application (DA201732569) was approved, with conditions, incorporating the mitigation measures from the s211 EIS Exemption.

Subsequently, after the concurrent application was lodged, amendments were made to Item 7, Part 4.3 of Schedule 4 of the Act by the *Planning and Development Amendment Act 2017*. These amendments commenced on 29 September 2017 and allow for the consideration of an application for an ESO for land that is on the register of contaminated sites where the proposal is not likely to have a significant adverse environmental impact. On 29 June 2018 an application (ESO-201800019) for an ESO (this application) was lodged under section 138AA of the Act.

Documentation submitted

The following documentation was submitted with the ESO application (ESO-201800019):

1. Form 1M – Application for Environmental Significance Opinion
2. Block 2 Section 67 Kingston - Application for Environmental Significance Opinion report
3. EPA endorsement of Site Audit Statement and report- block 2 section 67 Kingston Canberra Central
4. Site Audit Report – Site 14 Developable Area and Foreshore Parcel, Kingston Foreshore (27 January 2016)
5. Site Audit Statement (RJP 030a - ACT) – 2/67 Kingston (27 January 2016)
 - a. Development Environmental Management Plan (DEMP) – Environmental Resources Management Australia PTY Ltd (January 2016)
 - b. Site Occupancy Environmental Management Plan (OEMP) – Environmental Resources Management Australia PTY Ltd (January 2016)
6. Site Audit Statement (RJP 030b - ACT) – 3/67 Kingston (27 January 2016)
7. Response to representations re: DA201732569; block 2, section 67 Kingston.

Further information request

On 18 July 2018, a further information request was made to the proponent, under s138AB(1) of the Act, to provide the following:

1. *A preliminary risk assessment (PRA), before mitigation measures are imposed, identifying all likely significant adverse environmental impacts, including all impacts identified in the s 211 application;*
2. *A table outlining all mitigation measures including all conditions/mitigation measures that were identified in the s 211 and any additional measures that have been included to reduce the impacts;*
3. *A PRA, post mitigation, demonstrating all likely significant adverse environmental impacts have been reduced adequately;*
4. *Note: The ESO application must demonstrate that all mitigation measures have been incorporated into:*
 - i. *The existing Development Environmental Management Plan (DEMP)/Occupancy Environmental Management Plan (OEMP); and/or*
 - ii. *A Construction Environmental Management Plan (CEMP)/Environmental Management Plan (EMP)*

On 30 July 2018, further information was submitted by the proponent that included a revised ESO report that included the further information outlined above.

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

No Comment.

Environment Protection Authority

The application is supported subject to the following conditions:

All works at the site must be undertaken in accordance with the requirements of the following EPA endorsed documents (or subsequent EPA endorsed revisions of these documents) for the site:

1. *Site Audit Statement (RJP 030a - ACT) dated 27 January 2016 and Site Audit Report titled "Site 14 Developable Area and Foreshore Land Parcel, Kingston Foreshore Development Precinct, Kingston, ACT" dated 27 January 2016 by Mr Roger Parker of Golder Associates Pty Ltd.*
2. *"Development Environmental Management Plan, Site 14, Kingston Foreshore Development Precinct, Kingston, ACT" dated January 2016 by Environmental Resources Management Australia Pty Ltd.*

No soil or water is to be disposed from site without the approval of the EPA.

Prior to occupancy of the site application for variation of 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 above SAS and the site's occupancy environmental management plan (OEMP) titled "Site Occupancy Environmental Management Plan, Site 14, Kingston Foreshore Development Precinct, Kingston, ACT" dated January 2016 by Environmental Resources Management Australia Pty Ltd or EPA approved revision of this document.

A copy of the varied lease must be forwarded to the EPA for its records prior to occupancy of the site.

Emergency Services Commissioner

No Comment.

Director-General of ACT Health

The Health Protection Service (HPS) has undertaken an assessment of the documents provided for the ESO application and advises the applicant that it supports the endorsement by the Environment Protection Authority (EPA) on the conditions:

1. *The site is suitable subject to compliance with the Development Environmental Management Plan (DEMP) and the Site Occupancy Environmental Management Plan (OEMP) prepared by Environmental Resources Management Australia (ERM) Pty Ltd in 2016 in case of contamination remaining on site. The two management plans document management measures required to manage potential risks prior to and during, development and post development of the site.*
2. *Should any changes to land use be proposed in the future, a review and approval from a contaminated site audit and the EPA would be required.*
3. *The DEMP must be implemented until the completion of the site's development.*
4. *Following occupancy the site must be managed in compliance with the OEMP until such time the OEMP is no longer deemed required, as determined by an approved site Auditor and supported by the EPA.*
5. *Any soil and fill removed from the site will require classification and EPA approval prior to appropriate disposal. Soil removed from the site cannot be reused within Kingston Foreshore Development Precinct.*

Potentially significant environmental impacts

The planning and land authority has considered:

1. the application, including the further information as detailed above;
2. all entity advice received in relation to the application (as listed above);
3. matters raised during the s 211 EIS Exemption process; and
4. the proposed mitigation measures

and concluded that suitable mechanisms have been and can be adopted to ensure all mitigation measures, committed to through the s 211 EIS Exemption and this application, can be effectively implemented throughout the construction and operational stages.

The suitable mechanisms include the EPA endorsed DEMP/OEMP and a proposed Construction Environmental Management Plan (CEMP). Conditions have been imposed, as part of the opinion, to ensure these plans are implemented for this proposal. The conditions will be incorporated into any subsequent development approval. The conditions require the implementation of the DEMP and CEMP, during the construction stage, and for the crown lease to be varied to ensure ongoing matters are managed.

Consequently, the application has demonstrated that, if the works are undertaken in a manner consistent with the above conditions of the ESO, the proposal is unlikely to cause a significant adverse environmental impact.