

# Planning and Development (Conditional Environmental Significance Opinion – Block 1, Section 53, Holt – Caltex Holt Remediation Works) Notice 2021

Notifiable instrument NI2021-461

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 – Block 1, Section 53, Holt – Caltex Holt Remediation Works) Notice 2021*.

## 2 Commencement

This instrument commences on the day after its notification day.

## 3 Conditional environmental significance opinion

- (1) On 23 July 2021, 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 works to remediate petroleum contamination of soil and groundwater on Block 1, Section 53, of Holt.

- (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.

Brett Phillips  
Delegate of the planning and land authority  
27 July 2021



## 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, Environmental Scientist.

### PROPOSAL DESCRIPTION

The proposal is for the remediation of the site including the development of a temporary facility to extract and treat contaminated groundwater and removal and replacement of a failed underground petroleum storage tank.

### LOCATION

Block 1, Section 53 in the Suburb of Holt

### 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.

#### Remediation, demolition and tank removal:

1. All tanks (and related infrastructure) subject to removal must be removed in accordance with WorkSafe ACT requirements.
2. The area subject to works under the development application must be assessed and remediated, in accordance with the *Environmental Protection Authority (EPA) Contaminated Sites Environment Protection Policy 2017 (CSEPP)* and the *National Environment Protection (Assessment of Site Contamination) Measure 1999 as amended 2013*, by a suitably qualified environmental consultant.
3. All assessment and remedial works must be independently audited in accordance with the CSEPP by an EPA approved environmental auditor.
4. The Remediation Action Plan (RAP) for the proposed works must be reviewed and endorsed by the auditor with a copy of the endorsement of the RAP provided to the EPA.
5. The remedial works must be undertaken in accordance with the endorsed RAP.

6. All appropriate atmospheric monitoring protocols and procedures are to be followed as per the site safety plan.

**Completion of works:**

7. A copy of the Auditor's draft site audit report, draft site audit statement and any proposed draft site management plan must be submitted to the EPA for review and comment in accordance with the CSEPP and *EPA Information Sheet 11 - Environment Protection Authority Report Submission Requirements* prior to finalisation of these documents.
8. A copy of the Auditor's final audit documents, outlining the appropriateness of all investigation and remedial works and confirming the site's continued suitability for its permitted uses under its Crown lease, must be submitted to the EPA for review and be endorsed in accordance with *EPA Information Sheet 11 - Environment Protection Authority Report Submission Requirements*.
9. A site management plan must be developed and implemented once an endorsement is obtained from the EPA for the auditor's final audit documents.

**General conditions:**

10. Sediment and leachate control measures must be incorporated for any stockpiled material to prevent contaminants entering the stormwater system.
11. Dust and odour suppression measures must be incorporated as required during the works to minimise impacts on surrounding blocks.
12. All spoil identified at the site must be managed in accordance with *EPA Information Sheet - Spoil Management in the ACT*.
13. 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*.
14. No soil is to be disposed from site without EPA approval.

Attached is a Statement of Reasons for the decision.

Brett Phillips

Delegate of the planning and land authority

23 July 2021

## STATEMENT OF REASONS

The proposed development is a proposal mentioned in Schedule 4 of the *Planning and Development Act 2007* – a 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 provided the following advice:

*In providing this response, WorkSafe ACT has not approved or endorsed the proposed work arrangements for the development activities, including any proposed risk control measures. Nothing in this response affects the safety duties of persons involved in the work under the Work Health and Safety Act 2011.*

## **Environment Protection Authority**

The Environment Protection Authority (EPA) provided the following advice:

*The EPA supports an exemption from the requirement for an EIS provided the EPA's conditions of approval will be managed through the Merit Track Development Application process.*

*The following conditions are required to be included in the approval. Further commentary including further recommended conditions of approval will be provided following review of the detailed documentation to be provided with the Development Application.*

### **Demolition/Tank Removal:**

- *all tanks (and related infrastructure) subject to removal must be removed in accordance with WorkSafe ACT requirements*
- *the area subject to works under the development application must be assessed and remediated in accordance with the EPA Contaminated Sites Environment Protection Policy 2017 (CSEPP) and the National Environment Protection (Assessment of Site Contamination) Measure 1999 as amended 2013 by a suitably qualified environmental consultant*
- *all assessment and remedial works must be independently audited in accordance with the CSEPP by an EPA approved environmental auditor*
- *the Remedial Action Plan (RAP) for the proposed works must be reviewed and endorsed by the auditor with a copy of the endorsement of the RAP provided to the EPA.*

### **Completion of works:**

- *a copy of the Auditor's draft site audit report, draft site audit statement and any proposed draft site management plan must be submitted to the EPA for review and comment in accordance with the CSEPP and EPA Information Sheet 11 - Environment Protection Authority Report Submission Requirements prior to finalisation of these documents*
- *a copy of the Auditor's final audit documents into the appropriateness of all investigation and remedial works and confirming the site's continued suitability for its permitted uses under its Crown lease must be submitted to the EPA for review and endorsement in accordance with EPA Information Sheet 11 - Environment Protection Authority Report Submission Requirements.*

### **General conditions:**

- *sediment and leachate control measures must be incorporated for any stockpiled material to prevent contaminants entering the stormwater system*
- *dust and odour suppression measures must be incorporated as required during the works to minimise impacts on surrounding blocks*
- *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 EPA approval.*

All conditions have been included as conditions in the environmental significance opinion.

#### **Emergency Services Commissioner**

The Emergency Services Commissioner provided the following advice:

*All appropriate atmospheric monitoring protocols and procedures are to be followed as per the site safety plan.*

This advice has been included as a condition in the environmental significance opinion.

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

The ACT Health Protection Service provided the following comments:

*The Health Protection Service (HPS) notes that remediation works are required as part of an Environment Protection Order issued by the ACT Environment Protection Authority (EPA).*

*The applicant is advised that the HPS supports the issuing of an ESO where:*

- *EPA endorsed Light Non-Aqueous Phase Liquid Management Plan and Underground Petroleum Storage System Remediation Action Plan are implemented at the site; and*
- *A post-clean up management plan be implemented following acceptance of the cleanup cessation with the auditor and EPA.*

All conditions have been included as conditions in the environmental significance opinion.

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

The block where works are proposed is listed on the register of contaminated sites under the *Environment Protection Act 1997* as it is an active service station. In February 2020, an underground fuel tank at the site suffered a failure and fuel leaked into groundwater. The Environment Protection Authority (EPA) is responsible for responding to the fuel leak and has issued an Environment Protection Order to the service station owner and issued a requirement for the service station owner to undertake an environmental audit under the *Environment Protection Act 1997*.

The proposal is to remediate the contamination caused by the fuel leak. A contamination management plan has been developed and provides a method for treating and cleaning-up the groundwater contamination. A remediation action plan has been developed and provides a method for replacing the failed underground petroleum storage system. Both plans will require endorsement from an independent EPA approved auditor.

The Environment Protection Authority and Health Protection Service have provided conditions on how the proposal should be conducted. Further recommended conditions of approval will be provided by the Environment Protection Authority following review of the Development Application.

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.