

Planning and Development (Conditional Environmental Significance Opinion – Block 3, Section 16, Mitchell – Light Rail Depot Amendments) Notice 2023

Notifiable instrument NI2023–182

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 16, Mitchell – Light Rail Depot Amendments) Notice 2023*.

2 Commencement

This instrument commences on the day after its notification day.

3 Conditional environmental significance opinion

- (1) On 30 March 2023, 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 additions and modifications, on Block 3, Section 16, Mitchell, to the existing Canberra Metro Light Rail Depot in Mitchell, including an additional concrete stabling road to ensure that the provision for Light Rail Vehicle (LRV) maintenance and parking is fulfilled, an ancillary 21-space carpark, a storage building and a shed to allow for LRV battery storage and maintenance on site.

(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.

Craig Weller
Delegate of the planning and land authority
30 March 2023



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

Purdon Planning Pty Ltd, as represented by Bradley Yates, Senior Urban Planner.

PROPOSAL DESCRIPTION

The proposal includes additions and modifications to the existing Canberra Metro Light Rail Depot in Mitchell, including an additional concrete stabling road to ensure that the provision for Light Rail Vehicle (LRV) maintenance and parking is fulfilled, an ancillary 21-space carpark, a storage building and a shed to allow for LRV battery storage and maintenance on site. This proposal is to meet the demand for LRV charging, maintenance, and parking created from the need for battery power on the Stage 2 line of the Capital Metro Light Rail project.

LOCATION

Block 3 Section 16, Mitchell (91 Flemington Road, Mitchell).

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, 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.

- All works at the site must be undertaken in accordance with the document titled “Operating Phase Contamination Management Plan” (OPCMP), Ref: CMO ENV-PLN-NIL-0022 (Version 01) 24 August 2020 or subsequent approved revisions.
- Prior to the commencement of operation within the part of the Depot that is the subject of these works, the Auditor’s interim advice as required by the OPCMP, must be submitted to the Environment Protection Authority (EPA) for review and endorsement.
- 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 EPA.
- ACT Fire & Rescue require an assessment/report from a suitably qualified bushfire consultant to ensure that the impacts/risk of bushfire have been appropriately considered.
- Specific flood risk control measures should be detailed in the Emergency Plan for this development.
- All reasonable and practicable measures are to be taken to suppress dust and minimise detrimental impacts to air quality during construction.

Attached is a Statement of Reasons for the decision.



Craig Weller

Delegate of the planning and land authority

30 March 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 (the 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 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

The Environment Protection Authority (EPA) supports the ESO subject to the following conditions of approval:

- All works at the site must be undertaken in accordance with the document titled “Operating Phase Contamination Management Plan” (OPCMP), Ref: CMO ENV-PLN-NIL-0022 (Version 01) 24 August 2020 or subsequent approved revisions.
- Prior to the commencement of operation within the part of the Depot the subject of these works the Auditor’s interim advice, required under compliance requirements of the OPCMP, must be submitted to the Environment Protection Authority (EPA) for review and endorsement.
- 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 conditions of approval will be recommended following review of the detailed plans at the DA stage.

Emergency Services Commissioner

This development is located in a bushfire prone area as mapped by the ESA. ACTF&R require an assessment/report from a suitably qualified bushfire consultant to ensure that the impacts/risk of bushfire have been appropriately considered.

ACT State Emergency Services assessed the Identified Riverine Flood Zone. The proposed site is an area of land that may be inundated by a 1%AEP flood, through the Sullivans Creek running adjacent on the Eastern side of the block and covering the Tram Line Exit. ACTSES note that potential flooding may present a public safety risk due to the proximity of public access areas to land that may be subject to flooding. It is recommended that the project risk assessment consider flood risk, and that specific flood risk control measures are detailed in the Emergency Plan for this development.

Director-General of ACT Health

The ACT 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 remaining in the ground post construction.

The HPS advises the applicant that:

- The HPS supports the implementation of the “Depot Expansion Construction Environmental Management Plan” dated 19 December 2022 by Canberra Metro Construction.
- All reasonable and practicable measures are to be taken to suppress dust and minimise detrimental impacts to air quality during construction.

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

POTENTIALLY SIGNIFICANT ENVIRONMENTAL IMPACTS

The supporting documentation submitted with the ESO application states that the residual risk of contamination is primarily in the form of Asbestos Containing Material (ACM) remaining in the ground, post construction.

Impacts may include human health risks to operational personnel, including subcontractors, undertaking intrusive works, due to the potential to encounter residual ACM (including pipes, fragments or broken pipes).

Additionally, there is a human health risk to passengers, pedestrians, the general public and operational personnel undertaking non-intrusive works, if subsurface works were to encounter residual contamination as a result of inappropriate management of soils removed during intrusive works. There is also potential for encountering contaminated land along the proposed alignment from previous land uses (e.g. farming activities, petrol station, car dealership/car parks etc).

Effective erosion and sediment controls will be important in ensuring the local drainage network is not subject to adverse water quality impacts. Protection of existing urban stormwater assets during the construction phase will be achieved by controlling runoff from the site to limit the potential for site erosion.

Based on the available information it is considered that the contamination risk profile at the environmental incident locations along the Operational Phase Area corridor is similar to the risk profile in other urban areas of the ACT. Site Audit Reports and Site Audit statements have previously been undertaken within the site area as part of Light Rail Stage 1. A Construction Environmental Management Plan (CEMP) has been developed specifically to manage environmental issues during depot expansion works, and it provides controls and mitigations. All works will be carried out in accordance with relevant policy and legislation and the CEMP establishes this compliance.

It is the Authority’s view 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.