

Planning and Development (Conditional Environmental Significance Opinion – Block 15, Section 49, Kingston – Kingston Transformer Wall) Notice 2023

Notifiable instrument NI2023–466

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 15, Section 49, Kingston – Kingston Transformer Wall) Notice 2023*.

2 Commencement

This instrument commences on the day after its notification day.

3 Conditional environmental significance opinion

- (1) On 27 July 2023, 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 15, Section 49, Kingston, of a 6-metre-tall beam-supported blast wall, adjacent to an existing transformer within the substation in order to undertake maintenance 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 planning and land authority
1 August 2023



ACT
Government

Environment, Planning and
Sustainable Development

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

Purdon Planning Pty Ltd, as represented by Mrs Negar Yazdi, Urban Planner.

PROPOSAL DESCRIPTION

The proposed work is to install 3 by 6 metre tall Hebel block 1 beam-supported blast walls, adjacent to an existing transformer within the substation on the site in order to undertake safe maintenance works relating to the transformer. The wall is a permanent installation and will supplement the existing protective barriers surrounding the site. Outdoor lighting and service relocation are also planned in this application.

LOCATION

Block 15 Section 49, Kingston, 11 Wentworth Avenue.

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.

- A Construction Environmental Management Plan and Unexpected Finds Protocol must be developed prior to construction and implemented during construction.
- 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

Executive Branch Manager

Delegate of the planning and land authority

27 July 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 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

Based on the application, the Work Health and Safety Commissioner does not have any comments. This response does not take into account any subsequent changes to the identified material in the application documentation.

Environment Protection Authority

The Environment Protection Authority (EPA) supports the application. Further comments including recommended conditions of approval will be provided following review of the Development Application.

Emergency Services Commissioner

ACTF&R have no comments or objections.

ACTSES identified that a portion of the proposed site is in an area that may become inundated should a dam infrastructure failure occur at Googong Dam. While an incident of this type is rated by the ACT Government as RARE and of MEDIUM risk, it is recommended that the project risk assessment consider this risk and that specific risk control measures are detailed in the Emergency Plan for this development.

Further information regarding ACTSES requirements for Development Applications can be obtained by emailing ses@act.gov.au.

Director-General of ACT Health

The HPS advises the applicant that:

- The HPS supports the drafting and implementation of a Construction Environmental Management Plan and Unexpected Finds Protocol.
- 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 further public health concerns in relation to the ESO and has no objection in its granting.

POTENTIALLY SIGNIFICANT ENVIRONMENTAL IMPACTS

The site is adjacent to the future Kingston Arts Precinct development, and the proposed development is intended to protect the surrounding area, and ensure safety for people, property and utility assets in the event of a catastrophic transformer failure in the form of fire or explosion.

There is a potential that contaminated soil will be disturbed when undertaking earthworks on site. The application states that the risk to human health and the environment from contaminated soil is low for the proposed development and that no further investigation or sampling is required. Soil excavated will be stockpiled and classified before disposal off site. The proposed development only requires the disturbance of a small amount of soil from areas of environmental concern.

As the works are minor, several mitigation measures to reduce impact on the contaminated land and its surroundings are listed in the application, including but not limited to implementation of a Construction Environmental Management Plan (CEMP) and an Unexpected Finds Protocol (UFP).

The EPA will provide additional conditions regarding the development during the assessment of the DA.

It has been demonstrated that if the works are undertaken in a manner consistent with the application and the above conditions attached to the ESO, they are unlikely to cause a significant adverse environmental impact.