

Heritage (Decision about Provisional Registration of the Red Hill Rutidosis Site, Deakin) Notice 2017

Notifiable Instrument NI2017–409

made under the

Heritage Act 2004, s32 (Decision about provisional registration) and s34 (Notice of decision about provisional registration)

1 Name of instrument

This instrument is the *Heritage (Decision about Provisional Registration of the Red Hill Rutidosis Site, Deakin) Notice 2017*.

2 Decision about provisional registration

On 27 July 2017, the ACT Heritage Council (the **Heritage Council**) decided not to provisionally register the Red Hill Rutidosis Site, part Block 15, Section 78, Deakin (the **Place**).

3 Description of the Place

The description of the Place is in the schedule.

4 Reasons for the decision

The Heritage Council decided not to provisionally register the Place because it did not have heritage significance as it did not meet any of the heritage significance criteria in section 10 of the *Heritage Act 2004*, as set out in the schedule.

5 Date decision takes effect

The decision not to provisionally register the Place takes effect on 28 July 2017 (being the day after the Heritage Council made its decision in writing as set out in the schedule).

Jennifer O'Connell
Secretary (as delegate for)
ACT Heritage Council
27 July 2017



ACT Heritage Council

STATEMENT OF REASONS

DECISION NOT TO PROVISIONALLY REGISTER RED HILL RUTIDOSIS SITE (PART) BLOCK 15 SECTION 78 DEAKIN IN THE ACT HERITAGE REGISTER

Button wrinklewort (*Rutidosia leptorrhynchoides*) is an endangered small shrub in the daisy family (Asteraceae). The species occurs in several locations in the ACT as well as Victoria with small numbers of sites in NSW. Red Hill Rutidosia Site is the location (Figure 1) of a place that has been nominated for its natural heritage significance for the presence of an endangered plant.

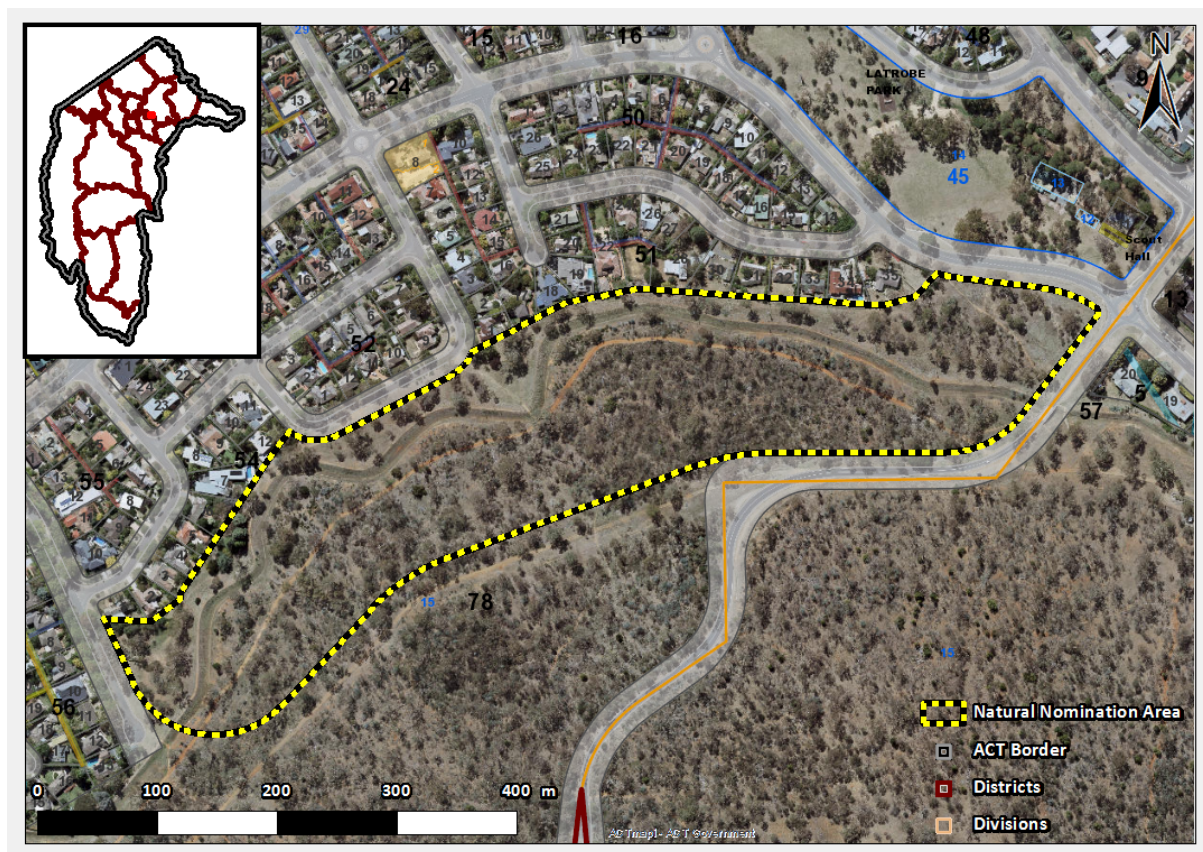


Figure 1 Natural nomination boundary for Red Hill Rutidosia Site

Important Concepts

Red Hill Rutidosia Site, as a place of natural heritage significance, has protection under the *Nature Conservation Act 2014* as described below under 'Assessment'. In such cases, section 42A of the *Heritage Act 2004* applies and limits the power of the Council to enter such places on the Heritage Register. It

is appropriate for a place of natural heritage significance to be managed and protected under the *Nature Conservation Act 2014* which has been created specifically for that purpose and administered by appropriately qualified personnel.

This decision is based on the opinion of the ACT Heritage Council (the Council) that the place has been nominated purely for its natural heritage significance, as defined by section 10A of the *Heritage Act 2004*, and that matters of cultural heritage significance, as defined by section 10B of the *Heritage Act 2004*, do not form a part of this decision.

Aboriginal Cultural Heritage

The Ngunnawal people are traditionally affiliated with the lands within the Canberra region. In this decision, 'Aboriginal' and 'Aboriginal community' refers to the Ngunnawal people and other Aboriginal groups within the ACT who draw significance from the place. Whilst the term 'Aboriginal community' acknowledges these groups in the ACT, it is recognised that their traditional territories extend outside contemporary borders. These places attest to a rich history of Aboriginal connection to the area. The Aboriginal history of the ACT extends from the present day back tens of thousands of years, and is evidenced by both the tangible and intangible aspects of Aboriginal culture and history. The earliest evidence of Aboriginal people in the region comes from Birrigai Rock Shelter in Tidbinbilla, dating back to over 25,000 years ago. Occupation at Birrigai has been linked to seasonal gatherings of local and regional Aboriginal people who would come together along Aboriginal pathways, and participate in a series of meetings and ceremonies along the way; attesting to a long, continuing, rich cultural heritage.

Ngunnawal plant use throughout the region is varied. Plants can be used for fibers, medicine, food, tools, shelter, fire, pigment and have many uses in spiritual and ceremonial use. Ngunnawal connection to natural environment goes beyond resource procurement; it is intimately tied into a world view that explains relationships in the world and how the world works. While most people would recognise that bogong moths were considered an important seasonal food source, this has also been shown to be intimately linked to important cultural practices such as trade, marriages, initiations and other sacred gatherings which in turn are linked to other natural features and phenomena. These and other cultural practices and beliefs are intimately linked to the natural environment across the breadth of the ACT. The Council supports and encourages these connections and respects the cultural heritage that it forms. The Council believes that this is best achieved through appropriate cultural resource management programs and organisations that use and promote these cultural practices, such as Murumbung Yurung Murra and Yurung Dhaura Aboriginal Land Management; as well as traditional passing of knowledge, Law/Lore, culture and custom within the Ngunnawal people.

Many of the plants within the nominated area have a traditional use and interested members of the community can consult the Ngunnawal Plant Use book to explore this aspect of the natural environment and the links to cultural heritage.

The Council acknowledges Aboriginal peoples' connection to Country and notes that this connection extends to the natural landscape which is imbued with cultural significance. Notwithstanding this, the Council makes the distinction between the intangible cultural heritage significance of natural places and the definition of natural heritage significance under section 10A of the *Heritage Act 2004* (which is the focus of this decision) and encourages the nomination of culturally significant natural places in their own right.

European pastoral history as a layer in the natural environment

What is generally considered to be the natural environment can be largely considered to be due to human action. Australia's natural environment has adapted to and been shaped by tens of thousands of years of Aboriginal cultural practices.

It has only been in the last few centuries that European farming and settlement have disrupted the established patterns of land and water management practices and significantly altered the landscape.

The first European settlers in the area started the work of clearing the land for farming. Trees were ringbarked and native shrubs were removed to make way for open pastures for stock or for planting crops. The established patterns of land management were altered as European farming started to dominate the landscape. This led to erosion, invasive weeds and changes to water and fire regimes.

When Thomas Weston was given the task of reforestation in the federal capital, much of the native vegetation of the region had been significantly reduced. Rules were introduced to stop the rampant unregulated ringbarking that had been taking place for over a century and many places were given a respite that allowed for the native vegetation to start re-establishing itself.

It is only relatively recently that the value of Traditional land management and burning has been recognised.

Existing Cultural Heritage

The nominated area currently does not contain any other heritage items on the ACT Heritage Register, but Red Hill is known as an Aboriginal camping area. Aboriginal places and objects located within Red Hill Rutidosia Site nominated boundary, and any previously unrecorded Aboriginal places and objects, continue to be protected by Part 13 of the *Heritage Act 2004*.

These places have cultural heritage significance that is recognised separately to the nomination under consideration. Identification of these places is a part of the process of distinguishing between the nomination of natural heritage significance and cultural heritage significance as noted in 'Important Concepts' above.

In cases where section 42A applies and there are cultural heritage values, then the Council has discretion as to whether or not it will register the place. As the above heritage places exist at this location and are covered by the registration status as noted, the Council considers that there are no other cultural heritage values identified in relation to the place. If there are any places or objects of cultural heritage significance within the Red Hill Rutidosia Site nominated area that are not on the Register, the Council encourages members of the public and organisations to submit nomination applications for these places.

Assessment

The Council has considered the nomination at its meeting of 27 July 2017 and decided that the Red Hill Rutidosia Site is not able to be assessed under the *Heritage Act 2004* because registration of places or objects under this Act is limited if they are already protected by the *Nature Conservation Act 2014*. The details of this are:

1. the Conservator of Flora and Fauna has advised the Council that the place includes, or is likely to include, the habitat of a threatened native species and a threatened ecological community, i.e. *Rutidosia leptorhynchoides* (Button Wrinklewort) and Yellow Box/Red Gum Woodland, which means that the place has protection under the *Nature Conservation Act 2014* and section 42A of the *Heritage Act 2004* applies and therefore limits the ability of the place to be added to the Heritage Register; and
2. with section 42A applying to the place, the Council may only register it if it also has cultural heritage significance (as defined under section 10B of the *Heritage Act 2004*), or, if it is a part of the habitat of a threatened native species or ecological community but not threatened itself, is of a kind of natural heritage significance that is not protected under the *Nature Conservation Act 2014* and:
 - a. the Council considers that any cultural heritage significance is already captured by existing registrations or nominations and that the nomination under assessment does not include any other cultural heritage significance (see *Existing Cultural Heritage* above); and

- b. the nomination is for a kind of natural heritage significance that will be protected under the *Nature Conservation Act 2014* as a part of the protected habitat of a threatened native species or ecological community.

The Council has not assessed the nomination of Red Hill Rutidosis Site under the *Heritage Act 2004* as the decision is based on an administrative reason under section 42A of the *Heritage Act 2004* which restricts the Council's ability to register a place that is of a kind protected under the *Nature Conservation Act 2014*.

This decision respects the protection and management of the natural heritage of the place under the *Nature Conservation Act 2014*, which is integrated into the land planning and development system, and as such is consistent with the functions of the Council under section 18(c) to work within the land planning and development system to achieve appropriate conservation of the ACT's natural and cultural heritage places and objects. This includes protection for Aboriginal places and objects, as well as addressing the function in section 18(e) to encourage and assist in appropriate management of heritage places and objects. As detailed in section 42A, some places of natural heritage significance are appropriately protected by the *Nature Conservation Act 2014*.