

Planning and Development (Conditional Environmental Significance Opinion – Block 1669, Tuggeranong – Lanyon Homestead Water Supply) Notice 2022

Notifiable instrument NI2022–128

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 1669, Tuggeranong – Lanyon Homestead Water Supply) Notice 2022*.

2 Commencement

This instrument commences on the day after its notification day.

3 Conditional environmental significance opinion

- (1) On 10 February 2022, the ACT Heritage Council, 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 construction, on Block 1669 of Tuggeranong, of a water supply upgrade at the Lanyon Homestead.

- (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.

George Cilliers
Delegate of the planning and land authority
9 March 2022



ACT Heritage Council

HERITAGE ADVICE

Environmental Significance Opinion

ACTPLA Reference: ESO202100013
Heritage Reference: Tuggeranong-B1669
Contact Officer: MR
Received by Council: 21 December 2021
Due date: 10 February 2022

TO: ACT planning and land authority
Environment, Planning and Sustainable Development Directorate
EPDImpact@act.gov.au

Block:	District:	Heritage Place:
1669	Tuggeranong	Lanyon, PAD4, PAD5

Status of Place: Registered Heritage Place and Aboriginal Places
Description of Works: Water Supply Infrastructure Upgrade
Report Details: “*Cultural Heritage Assessment and Statement of Heritage Effects. Lanyon Homestead Water Supply*” (Navin Officer Heritage Consultants, November 2021)
Council Advice provided by: A/g Secretary / ACT Heritage Director

Pursuant to Section 138AB of the *Planning and Development Act 2007* and Section 60 of the *Heritage Act 2004* (the Heritage Act), the ACT Heritage Council advises that:

- The proposal is **unlikely to have a significant adverse environmental impact, subject to conditions** described below.
- Heritage Act approvals will be required** prior to the commencement of works, including an Excavation Permit under Section 61F and a Statement of Heritage Effect under Section 61H.

Background:

On 21 December 2021, further information to support an Environmental Significance Opinion (ESO) application was referred to the ACT Heritage Council (the Council) for entity advice, relating to the proposed upgrade of water supply infrastructure within Block 1669 Tuggeranong (ESO202100013).

Block 1669 Tuggeranong is registered on the ACT Heritage Register as part of ‘Lanyon’. Significant features of this place include ground surfaces potentially containing archaeologically significant cultural materials.

Additionally, Block 1669 Tuggeranong also contains a number of Aboriginal places and objects which are independently afforded protection by Heritage Act provisions.

The ESO application identifies that the following works are proposed to upgrade the water supply infrastructure at Lanyon Homestead:

- Three new tanks, consisting of: a 100kL tank for stock drinking water supply; a 417kL tank for irrigation and firefighting water supply; and a 50kL tank for potable water supply;
- New pipe networks including: groundwater bore and rising main pipe (90mm diameter); potable water mains pipe network (25mm -75mm diameter); water irrigation and firefighting main (110mm – 180mm diameter); firefighting pipes (110mm – 180mm diameter); pipe and water meter (63mm diameter);
- Inground hydrant and booster assembly;
- Reverse osmosis bore water treatment unit; and
- Groundwater bore 2L/s head, surrounded by steel mesh cage and boulders.

The ESO application was originally referred to the Council on 12 April 2021, and in advice provided on 24 May 2021, the Council requested: further information on the proposed development; consideration of reasonably practicable alternatives to heritage impacts; and justification for revisions to the GML (2010) Archaeological Zoning Plan (AZP) previously endorsed by the Council. At this time, the Council also advised that proposed impacts to Aboriginal places and areas of archaeological potential are likely to require archaeological excavation to investigate and mitigate impacts, rather than the proposed monitoring of works in these areas.

In response, the “*Cultural Heritage Assessment and Statement of Heritage Effects. Lanyon Homestead Water Supply*” (Navin Officer Heritage Consultants, November 2021) (the revised CHA) was submitted; which sets out:

- Upgrades to the existing water supply infrastructure at Lanyon Homestead are required to address ageing infrastructure, unreliable water supply and poor water quality;
- The proposed works have been revised to follow existing services and fence lines where possible, to avoid and minimise impacts to heritage sites – including four Aboriginal places (PAD2, LWS1, LWS2 and LWS3) and two historic features (the Furrow Ploughland, and the Ditch and Bank Boundary);
- However, works are still proposed within the following heritage areas:
 - Within PAD5, 202m of potable water pipe is proposed, with a 27m³ disturbance area. These works are unlikely to have significant adverse heritage impacts, as: the pipe will follow existing service alignments; PAD5 has been previously investigated and partially salvaged; and as the site is assessed to be of low conservation value;
 - Within PAD4, 5m of main irrigation pipe is proposed, with a 0.5m³ disturbance area. These works are unlikely to have significant adverse heritage impacts, as PAD4 has been previously investigated and assessed to be of low conservation value;
 - Within identified areas of moderate and high historic archaeological sensitivity around the homestead complex (following GML 2010), 465m of potable water pipe and 158m of irrigation pipe is proposed (with a 81m³ disturbance area). These works are unlikely to have significant adverse heritage impacts, as the potable water pipe will follow existing service alignments and as the irrigation pipe will follow existing fence lines;
- It is recommended that the detailed design should continue to consider the need to avoid and/ or minimise potential impacts on heritage items wherever possible;

- Prior to the commencement of works, protective fencing should be installed around heritage places in the vicinity of works; and
- During works, archaeological monitoring should occur during trenching within identified areas of high or moderate historic archaeological sensitivity, as shown on Figures 9.6 and 9.7. Monitoring is recommended instead of excavation, as proposed heritage impacts are minimal, and are collocated with existing services and fences. In the event that monitoring identifies features that have the potential to enhance the understanding of the property's history, works will cease and further investigation and/or archaeological salvage will occur.

The CHA also sets out that all Representative Aboriginal Organisations (RAOs) were afforded opportunity to participate in the field survey, which was attended by Buru Ngunawal Aboriginal Corporation, King Brown Tribal Group and Mirrabee. The draft report was also provided to all RAOs for review and comment, with verbal endorsement of its findings and recommendations provided by Mirrabee.

Detailed mapping of the proposed works overlain on known heritage areas was also submitted directly to the Council on 9 February 2022 to support the application.

Council Assessment:

Following review of the revised CHA, the Council welcomes the measures adopted to avoid and minimise the heritage impacts of the proposal, through design amendments and collocation of some works within existing service corridors.

However, the Council also notes the following:

- As set out in the revised CHA, detailed design is to consider all alternatives to works within identified heritage areas. These alternatives must be adopted where reasonably practicable, and if not considered reasonably practicable, information demonstrating this must be submitted to the Council in future Heritage Act applications for the project;
- While PAD4 was previously assessed to be of low conservation value, previous archaeological testing has demonstrated the presence of Aboriginal and historic objects within the site; and it has potential to contain additional subsurface features and deposits;
- Previous investigations of PAD5 identified both Aboriginal and historic objects within the site, and also demonstrated that it contains areas of high stone artefact density indicating more intensive and/or repeated Aboriginal use of the area. This site also has potential to contain additional subsurface features and deposits, and its southern portion – where works are now proposed – have not been subject to open area salvage;
- Within PAD5 and areas of high historic archaeological potential around the homestead complex, most works will be collocated within existing service corridors, and are unlikely to have heritage impacts. However, some works are not collocated with existing services, and while these works are small in scale, they may damage Aboriginal and historic archaeological features and objects. Works proposed within PAD4 are not collocated with any existing services;
- Monitoring of works is proposed within areas of high and moderate historic archaeological potential around the homestead complex, on the basis that impacts will be minimal and collocated with existing services and infrastructure. This approach is suitable for areas of moderate historic potential, however, it is not supported as the only outcome for areas of high historic potential where new trenches are not

collocated with existing services. For these areas, the Council instead requires archaeological excavation, following approval of an Excavation Permit approved under Section 61G of the Heritage Act;

- The project's Excavation Permit should also include archaeological excavation of all proposed work areas within PAD4 and PAD5 that are not collocated with existing services; and
- The revised CHA identifies zones of historic archaeological sensitivity at Lanyon, which vary from those in the 2010 AZP, as approved by the Council. For example, the Ditch and Bank Boundary is shown on the 2010 APZ as of high archaeological sensitivity, and is shown on the revised CHA to be of low archaeological sensitivity. These changes are not justified within the revised CHA, and are not supported by the Council.

Advice:

Following review of the application, the Council advises that the proposal is likely to impact historic archaeological features of Lanyon, and may also damage Aboriginal places and objects.

However, in light of the design amendments adopted and the collocation of most works with existing services, the Council also advises that the proposal is unlikely to have significant adverse heritage impacts, subject to the following conditions:

1. Further investigation of proposed works within PAD4, PAD5 and areas of high historic archaeological potential is required, for works not collocated with existing services, in the form of archaeological excavation approved under Section 61F of the Heritage Act.
 - a. All activities relating to PAD4 and PAD5 require prior consultation with, and the participation of, RAOs.
2. Informed by the revised CHA and archaeological excavation results, a Statement of Heritage Effect application is to be made under Section 61G of the Heritage Act, prior to seeking development approval for the project.
 - a. This application is to describe all alternatives considered to avoid and further minimise heritage impacts, and is to describe why each alternative is not reasonably practicable.
 - b. Further RAO consultation is required for elements of the SHE application that relate to PAD4 and PAD5.
3. If the Statement of Heritage Effect is approved under Section 61H of the Heritage Act, all conditions of that approval are to be adhered to prior to and during works.
4. Prior to the commencement of any works, protective fencing is to be installed around all Aboriginal places within 20m of the development, and the Furrow Ploughland and the Ditch and Bank Field Boundary. This fencing:
 - a. Is to be demarcated by a qualified archaeologist, and RAOs when relating to Aboriginal heritage areas.
 - b. Must be adequate to physically protect the heritage place, such as star pickets spaced no more than 4m apart and with high visibility barrier mesh.

- c. Once installed, the location and adequacy of protective fencing is to be visually confirmed by a qualified archaeologist, and RAOs for Aboriginal heritage areas, and evidence of this is to be provided to the Council.
- d. During works, the fence is to be inspected at least weekly, and any fallen star pickets or barrier mesh corrected immediately.

Please note that these submissions are to be made directly to Council via heritage@act.gov.au



Edwina Jans
**A/g Secretary (as delegate for),
ACT Heritage Council**

10 February 2022