

# Planning and Development (Conditional Environmental Significance Opinion – Block 5, Section 37 Strathnairn, Block 1 Section 3 Macnamara, and Block 1640 Belconnen – Ginninderry Conservation Corridor Tracks and Trails) Notice 2022 (No 1)

Notifiable instrument NI2022–541

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 5, Section 37 Strathnairn, Block 1 Section 3 Macnamara, and Block 1640 Belconnen – Ginninderry Conservation Corridor Tracks and Trails) Notice 2022 (No 1)*.

## 2 Commencement

This instrument commences on the day after its notification day.

## 3 Conditional environmental significance opinion

(1) On 06 October 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 5 Section 37 Strathnairn, Block 1 Section 3 Macnamara, and Block 1640 Belconnen, of 10.6 km of new walking tracks within the Ginninderry Conservation Corridor,

(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  
26 October 2022



## ACT Heritage Council

# HERITAGE ADVICE

## *Environmental Significance Opinion*

ACTPLA Reference: ESO202200030  
Heritage Reference: Strathnairn-S37-B5  
Contact Officer: MR  
Received by Council: 25 August 2022  
Due date: 6 October 2022

**TO:** ACT planning and land authority  
Environment, Planning and Sustainable Development Directorate  
[EPDImpact@act.gov.au](mailto:EPDImpact@act.gov.au)

Block:	Section:	Division / District:	Heritage Places:
5	37	Strathnairn	RP1, RP2, RP4, RC3, RC7, RC29, RC36, RD6, RC49, RC50 and RC51
1	3	Macnamara	
1640		Belconnen	

Status of Place: Aboriginal Places  
Description of Works: Stage 2 Trails, Ginninderry Conservation Corridor  
Report Details: “Ginninderry Walking Trails Stage 2: Aboriginal Cultural Heritage Assessment and Statement of Heritage Effects” (Past Traces, July 2022)  
Council Advice provided by: A/g Secretary / ACT Heritage Senior Director

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

- The proposal is **unlikely to have a significant adverse environmental impact, subject to conditions** described below.
- A **Heritage Act approval is required** prior to the commencement of works, and works are to comply with the conditions of that approval.

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### Background:

On 25 August 2022, the ACT planning and land authority referred an application for an Environmental Significance Opinion (ESO) to the ACT Heritage Council (the Council) for a decision (ESO202200030).

ESO202200030 relates to approximately 10.6km of new walking tracks within the Ginninderry Conservation Corridor, within Block 5 Section 37 Strathnairn, Block 1 Section 3 Macnamara and Block 1640 Belconnen.

New tracks would be 1.3m wide, and in some sections, earthworks would be up to 2.2m wide to allow for bench cuts and fill in areas of sloping terrain. Construction would require shallow excavation along the length of the trail, which in areas would be up to 30cm deep. 5 small foot bridges to cross creeks and gullies are also proposed, being lightweight steel or timber structures between 8m and 30m in length, which would be secured with screw piles or

similar. No compounds, storage areas or separate access trails are required for construction of the trail network.

In relation to heritage, the application is informed by the ‘*Ginninderry Walking Trails Stage 2: Aboriginal Cultural Heritage Assessment and Statement of Heritage Effects*’ (Past Traces, July 2022) (the CHA), which has been prepared in consultation with the Representative Aboriginal Organisations (RAOs).

The CHA sets out that:

- Visitor impacts are a major threat to the Aboriginal heritage values of the GCC, and a designed trail network that meets the needs of the community and that minimises access to culturally sensitive areas is a key tool in achieving heritage conservation outcomes;
- The Aboriginal heritage values of the proposed trail network have been assessed through consultation with RAOs, archaeological survey in June 2022, and review of past studies of the area. As a result, 10 Aboriginal places are known within the trail corridor, being 5 stone artefact scatters (RP2, RC7, RC29, RC36 and RD6) and 5 isolated finds (RP4, RC3, RC49, RC50 and RC51). 3 of these places (RP2, RC3 and RC29) also have associated subsurface archaeological deposits, as identified through excavation programs in 2019, 2020 and 2021;
- The trail network has been designed to minimise heritage impacts where possible, by incorporating a minimum buffer of at least 5m from known Aboriginal places. Protective fencing is also recommended around Aboriginal places in the vicinity of trails prior to the commencement of works, to ensure sites are not indirectly impacted. In this context, the proposal would not directly impact RC7, RC29, RC36, RD6, RC49, RC50 and RC51;
- The proposed works would directly impact 3 Aboriginal places (RP2, RP4 and RC3), as discussed below:
  - RP2 is an artefact scatter with associated PAD, approximately 160m by 80m in area. Archaeological testing of RP2 in 2020 and 2021 identified a low density subsurface deposit in this area. Impact to RP2 cannot be avoided due to its large size; however, only a small proportion of the site would be impacted. Mapping submitted indicates a disturbance footprint of approximately 84m<sup>2</sup>. To minimise impacts to the larger site, barrier fencing is recommended along the boundaries of the trail corridor during works;
  - RP4 is an isolated find, recorded on a stock trail adjacent to a creek line. Impact to RP4 cannot be avoided due to the topography of the creek crossing. To mitigate these impacts, collection of surface artefacts is recommended prior to the commencement of works;
  - RC3 is an isolated find with associated PAD, approximately 45m by 50m in area. Archaeological testing of RC3 in 2019 identified a low density subsurface deposit in this area. Impacts to RC3 cannot be avoided due to its size; however, only a small proportion of the site would be impacted. To minimise impacts to the larger site, barrier fencing is recommended along the boundaries of the trail corridor during works. A *Heritage Act 2004* approval for partial impacts to RC3 has also been issued for a separate project, and impacts for this project will be limited to the approved disturbance footprint;
- While all Aboriginal places are of cultural significance to Traditional Custodians and contribute to the understanding of the area, RP2, RP4 and RC3 have been previously assessed to be of low cultural and scientific value;

- Prior to the commencement of works, approval must be sought from the Council for proposed impacts to RP2, RP4 and RC3; and
- In the event that additional Aboriginal places and objects are encountered during construction works, the Unanticipated Discovery Plan set out in Appendix 2 is to be implemented.

The CHA also sets out that all RAOs were consulted about the proposal and the draft CHA, and invited to participate in the June 2022 archaeological survey of the trail network. As a result, King Brown Tribal Group, Mirrabee and Ngarigu Currawong Clan participated in the inspection and discussed management recommendations on site. Ngarigu Currawong Clan also provided verbal comment on the draft CHA, endorsing its findings and recommendations.

RAOs have also been previously consulted about proposed trails in the Ginninderry Conservation Corridor, by Past Traces (2018, 2020) and Kate Waters Consultancy (2018). These reports set out RAO views including: that trails in the area should avoid key cultural sites, being the rock shelter site and scarred trees; that trails should be low impact in construction; that seats should be provided at regular intervals along tracks; and that interpretive signage should be placed along tracks. Review of the current application identifies that trails avoid key cultural sites and are low impact construction, however, the application does not incorporate seating or interpretive signage within the trail network.

Following review of the CHA, the Council also notes that:

- RC3 is not located within the Stage 2 trails project area identified by the CHA and the ESO report, and clarification is required on proposed impacts to the site; and
- 1 additional Aboriginal place is also located in the vicinity of works, being a large complex of surface artefacts and subsurface deposits recorded as RP1. Submitted plans indicate that RP1 is approximately 10m from the proposed trail corridor; and while direct impacts are unlikely, protective fencing will also be required to protect this site from inadvertent impacts.

### **Decision and Conditions:**

Following review of the application, the Council advises that while the proposed development would have Aboriginal heritage impacts, these impacts are not considered significant and adverse due to the nature of proposed works and the measures adopted to minimise heritage impacts.

In providing this advice, the Council also identifies the following conditions to ensure that works will not result in significant adverse heritage impacts:

1. Further information is required on the nature and extent of proposed impacts to RC3, which must be submitted to the Council within 4 weeks of this advice;
2. Prior to the commencement of works:
  - a. A Statement of Heritage Effect (SHE) application is to be made under Section 61G of the *Heritage Act 2004* and approved under Section 61H of the *Heritage Act 2004*; and
  - b. Any actions required by the above SHE approval are to be undertaken, such as the collection of artefact/s from RP4; and
  - c. Protective fencing is to be installed around RC7, RC29, RC36, RC50 and RC51, and along the trail corridor boundaries within RP2 and RC3, and around the southeast boundary of RP1. Additionally:

- i. Protective fence locations are to be demarcated by a qualified archaeologist and RAOs, and fences 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; and
- ii. Once installed, the location and adequacy of protective fencing is to be visually confirmed by a qualified archaeologist and RAOs, and evidence of this is to be provided to the Council;

3. During works:

- a. Protective fencing is to be inspected daily, and any fencing defects are to be corrected immediately or works are to cease until fencing defects are corrected; and
- b. In the event that any additional Aboriginal place or object is encountered the project's Unanticipated Discovery Plan is to be implemented and works within a buffer zone of 25m are to cease.

In order to reflect RAO views, the Council also recommends that consideration be giving to the provision of seating and interpretive signage as part of the Stage 2 trail network.



Stuart Jeffress  
**A/g Secretary (as delegate for),  
ACT Heritage Council**

6 October 2022