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From: [FPSD Government Services](#)
To: [EPD Ministerials - Environment](#)
Cc: [Walker, JanS](#)
Subject: For action - Due to GS 31 OCTOBER 2018 - 18/31504 - Ministerial Correspondence - Aboriginal scarred tree removal - [SEC=UNCLASSIFIED]
Date: Monday, 22 October 2018 3:13:00 PM
Attachments: [18_31504 - Ministerial Correspondence - Aboriginal scarred tree removalobr](#)

Hi Rachael,

Please see below for action, due to Gov Services **Wednesday, 31 October.**

Thanks,
Maeve

Ministerial Correspondence / Brief Request Form

18/31504 - Ministerial Correspondence - Aboriginal scarred tree removal - [REDACTED]

	Due date	Electronic signature	Date
To Minister's office			
Director-General			
Deputy Director-General			
Government Services	31/10/2018		
Executive Director			
Contact Officer			

To:

- | | |
|------------------------------------------------------------|--------------------------------------------------------|
| <input type="checkbox"/> Planning Policy | <input type="checkbox"/> Planning Delivery |
| <input type="checkbox"/> Climate Change and Sustainability | <input checked="" type="checkbox"/> Environment |
| <input type="checkbox"/> Director-General | <input type="checkbox"/> Deputy Director-General |
| <input type="checkbox"/> Urban Renewal | <input type="checkbox"/> Other |

Response by:

- | | | |
|-----------------------------------------------------|-----------------------------------------|-------------------------------------------|
| <input checked="" type="checkbox"/> Minister | <input type="checkbox"/> Chief Minister | <input type="checkbox"/> Director-General |
| <input type="checkbox"/> Chief of Staff | <input type="checkbox"/> Adviser | <input type="checkbox"/> Other: |

Action required:

- | | | |
|--------------------------------------------------------------------|---------------------------------------------------|--------------------------------------------------------------------------------------------|
| <input checked="" type="checkbox"/> Reply to correspondence | <input type="checkbox"/> Directorate Input | <input type="checkbox"/> Questions and Answers |
| <input type="checkbox"/> Information brief | <input type="checkbox"/> Dept Officer to attend | <input type="checkbox"/> Media Alert / Media Release (in consultation with Communications) |
| <input type="checkbox"/> Meeting brief | <input type="checkbox"/> Phone constituent/report | <input type="checkbox"/> Speech / Speaking Notes (in consultation with Communications) |
| <input type="checkbox"/> Meeting advice/caveat | <input type="checkbox"/> Information only / NFA | <input type="checkbox"/> Talking points (as dot |

Functions/Event brief Other _____ points) (in consultation with
Communications) For appropriate action

Meeting / Function / Event:

Time:

Date:

Location:

Event Contact/Organiser:

Further Information:

Maeve Bannister | Ministerial Liaison Officer | ☎ ext 51749

Environment, Planning and Sustainable Development Directorate | ACT Government

Dame Pattie Menzies House, Challis Street, Dickson GPO Box 158 Canberra ACT 2601

From: [GENTLEMAN](#)
To: [EPSDD DLO](#)
Cc: [Kandola, Shobaz](#)
Subject: FW: REMOVAL OF HERITAGE LISTED TREES
Date: Friday, 19 October 2018 12:58:15 PM
Attachments: [Aboriginal scarred trees letter.docx](#)

Hi Erica

Can we get a response please? I am pretty sure the Minister has written to another Canberra about this issue.

Kind regards

Shobaz

From: [REDACTED]
Sent: Thursday, 18 October 2018 10:41 AM
To: GENTLEMAN <GENTLEMAN@act.gov.au>
Cc: Heritage <Heritage@act.gov.au>; Liz McMillan | National Trust ACT <info@nationaltrustact.org.au>; treeprotection@act.go.au
Subject: REMOVAL OF HERITAGE LISTED TREES

Dear Minister

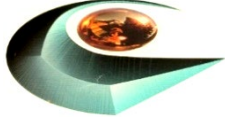
Please find attached a letter about the unauthorised removal of two trees on the ACT Heritage Register. Both were trees carrying Aboriginal cultural scars.

I have copied this letter to the Chair of the ACT Heritage Council, the President of the National Trust (ACT) and the Conservator of Trees for their information.

Yours sincerely

[REDACTED]
President
Canberra & District Historical Society

Canberra & District
Historical Society Inc



ABN27 465 970 277.
FOUNDED 10 December 1953

PO Box 315
CURTIN ACT 260
Phone: 6281 2929
e-mail:admin@canberrahistory.org.au

Mr Mick Gentleman MLA
Minister for the Environment and Heritage
ACT Legislative Assembly
London Circuit
Canberra, ACT, 2601
gentleman@act.gov.au

Dear Minister

The Canberra and District Historical Society (CDHS) was distressed to hear of two trees in Wanniasa bearing Aboriginal cultural scars being cut down and removed. As you are aware these trees were listed on the ACT Heritage Register (recorded as MSYB1 and MSTB1).

The two trees, one within the grounds of Wanniasa Hills Primary School and the other nearby in public open space (Section 253, Wanniasa) were representative of Indigenous cultural practices in the past and are a significant part of the human history of the ACT. The tree from the school ground was a favourite of the school children and was affectionately called the 'Spook Tree'. The children were aware of its cultural and historical significance and was a constant reminder to them of an ancient past.

Both trees were part of a group of culturally similar Eucalypt trees in Wanniasa and Kambah bearing bark removal scars. These trees are located along natural drainage lines running from the high slopes bounding these modern suburbs into the Murrumbidgee River Corridor. As well as representing a past cultural practice, the group of trees is also indicative of the pathways and movement corridors used by the Aborigines in the past. The loss of these two trees has then further reduced the significance of the group of trees as a whole.

CDHS also understands that the trees were not cut down as an act of vandalism but were deliberately removed without knowledge of their heritage registration or their cultural value. This could only have resulted in a misunderstanding due to poor communications between government agencies and inadequate signage.

We also note that trees of a certain size are protected under the *ACT Tree Protection Act 2005*, which requires trees to be referred to the Tree Protection Unit for approval before removal.

While we recognize that the damage to our Indigenous heritage has been done and cannot be redeemed, CDHS urges you to take explicit action to ensure such actions affecting heritage registered places and objects does not occur in the future. Specific measures need to be taken and could include signage near trees with Aboriginal cultural scars to indicate their heritage status.

We also urge you to retain these trees on the ACT Heritage Register with a caveat that they represented part of a larger group of culturally scarred trees in the Tuggeranong Valley. In this way, even though the two trees themselves have been lost, their significance and former presence will not.

Yours sincerely



President
Canberra and District Historical Society
18 October 2018

cc Chair, ACT Heritage Council
Conservator of Trees
National Trust of Australia (ACT)

From: [GENTLEMAN](#)
To: admin@canberrahistory.org.au
Subject: Correspondence from Minister Gentleman MLA
Date: Thursday, 3 January 2019 2:29:27 PM
Attachments: [MickGentleman-Letterhead 18_31504.pdf](#)
[MickGentleman-Letterhead 18_31504.pdf](#)

Dear

Please find the attached correspondence from Minister Mick Gentleman MLA.

Kind Regards,

Eben Leifer | Office Manager / Policy adviser

Office managers: Natasha Apostoloski (Mon-Wed), Eben Leifer (Thu-Fri)

Office of Mick Gentleman MLA

Member for Brindabella

Minister for the Environment and Heritage

Minister for Planning and Land Management

Minister for Police and Emergency Services

Minister assisting the Chief Minister on Advanced Technology and Space Industries

Manager of Government Business

t: 620 50218 | e: gentleman@act.gov.au

Please note that from 1 January 2018 ACT Government ministerial diaries are subject to publication on the ACT Government's open access website under section 23 of the *Freedom of Information Act 2016*.



Mick Gentleman MLA

Minister for the Environment and Heritage
 Minister for Planning and Land Management
 Minister for Police and Emergency Services
 Minister assisting the Chief Minister on
 Advanced Technology and Space Industries
 Manager of Government Business
 Member for Brindabella

18/31504

██████████
 President
 Canberra and District Historical Society
 PO Box 315
 CURTIN ACT 2601
admin@canberrahistory.org.au

Dear ██████████

Thank you for your letter of 18 October 2018 about the unauthorised removal of two Aboriginal scar trees in Wanniasa. Your letter refers to the removal of Aboriginal place's recorded as 'MSYB1' (Spook Tree) and 'MST4' on the ACT Heritage Register.

The ACT Government takes seriously any intentional conduct resulting in destruction of an Aboriginal place or object and I share your disappointment in the loss of these two highly significant cultural trees.

The removal of MSYB1 was reported to ACT Heritage in April 2017 and referred to Access Canberra's Regulatory Compliance team for investigation. Unfortunately, in this instance the trunk was not able to be salvaged for future conservation. I am advised that the investigation concluded that, as it was not malicious activity that resulted in the removal of the tree, but rather a genuine and unintentional administration error, prosecution in this instance would not be in the public interest. Investigations and prosecutions are an independent matter for the Directorate.

The removal of MST4 was reported to ACT Heritage in July 2018 and referred to the Directorate's Environment Division Compliance team for investigation and the trunk moved to a secure location within a Parks and Conservation depot for temporary storage in order to protect it. As MST4 relates to an ongoing investigation I am unable to provide further detail at this time.

The independent ACT Heritage Council will now need to formally decide whether or not to cancel these trees from the ACT Heritage Register and undertake that process as required by the *Heritage Act 2004*.

ACT Legislative Assembly

London Circuit, Canberra ACT 2601, Australia GPO Box 1020, Canberra ACT 2601, Australia
 Phone +61 2 6205 0218 Email gentleman@act.gov.au



@GENTLEMANMick



MickGentleman



In light of incidences such as these, I have asked the Environment, Planning and Sustainable Development Directorate to explore the offence and enforcement provisions within the *Heritage Act 2004*, as well as explore a range of education options to increase community understanding of heritage values and specific identification of aboriginal values. I have asked for this work to be completed as a matter of urgency.

Thank you for raising your concerns with me. I trust that the information provided is of assistance.

Yours sincerely



Mick Gentleman MLA
Minister for the Environment and Heritage

2/1/19

From: [GENTLEMAN](#)
To: [EPSDD DLO](#)
Subject: RE: Correspondence received by [REDACTED] on the 27/11/2018 [SEC=UNCLASSIFIED]
Date: Wednesday, 28 November 2018 4:46:41 PM
Attachments: [27-11-2018.pdf](#)
[image002.jpg](#)

As requested.

Thanks 😊

Natasha Apostoloski | Office Manager

Office managers: Natasha Apostoloski (Mon-Wed), Eben Leifer (Thu-Fri)

Office of Mick Gentleman MLA

Member for Brindabella

Minister for the Environment and Heritage

Minister for Planning and Land Management

Minister for Police and Emergency Services

Minister assisting the Chief Minister on Advanced Technology and Space Industries

Manager for Government Business

t: 620 50218 | e: gentleman@act.gov.au



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From: EPSDD DLO
Sent: Wednesday, 28 November 2018 4:43 PM
To: GENTLEMAN <GENTLEMAN@act.gov.au>
Subject: RE: Correspondence received by [REDACTED] on the 27/11/2018 [SEC=UNCLASSIFIED]

Hi Tash
Could I have the attachment for this one?
Thanks
Erica

From: GENTLEMAN
Sent: Tuesday, 27 November 2018 9:10 PM
To: EPSDD DLO <EPSDDDDLO@act.gov.au>
Cc: Kandola, Shobaz <Shobaz.Kandola@act.gov.au>
Subject: FW: Correspondence received by [REDACTED] on the 27/11/2018 [SEC=UNCLASSIFIED]

Hi Erica
Can we please get a response please?
Many thanks
Shobaz

From: GENTLEMAN

Sent: Tuesday 27 November 2018 11:22

To: GENTLEMAN

Subject: Correspondence received by [REDACTED] on the 27/11/2018 [SEC=UNCLASSIFIED]

Natasha Apostoloski | Office Manager

Office managers: Natasha Apostoloski (Mon-Wed), Eben Leifer (Thu-Fri)

Office of Mick Gentleman MLA

Member for Brindabella

Minister for the Environment and Heritage

Minister for Planning and Land Management

Minister for Police and Emergency Services

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Manager for Government Business

t: 620 50218 | e: gentleman@act.gov.au

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23 November 2018

Mr Mick Gentleman MLA
 Minister for the Environment and Heritage
 ACT Legislative Assembly
 Canberra ACT 2601

Removal of heritage-listed trees at Wanniasa

As a Councillor of the Canberra & District Historical Society, I have seen the correspondence between [REDACTED] you and the President of the CDHS about the removal of heritage-listed, Aboriginal scar trees in Wanniasa.

Writing as an individual, I wish to advise you that I support every point that [REDACTED] and [REDACTED] make. In particular though, you write, "The independent ACT Heritage Council will now need to formally decide whether or not to cancel these trees from the ACT Heritage Register and undertake that process as required by the *Heritage ACT 2004*".

I ask you, why on earth is cancellation an option? If we had something of heritage value in the ACT which was destroyed no matter how, why we should it disappear from the Register as if it never existed and never had any importance?

Surely the *Heritage ACT 2004* should be amended to limit the Council to deciding how the damage or destruction of the heritage object should be described on the Heritage Register. I look forward to early action along these lines.

Secondly, what might be the future of the remaining trunk? If the dangerous stump I have seen in a photo of one of the felled Aboriginal scar trees is the remains of MST4, can the remainder of the trunk be restored to its stump and housed in a vandal-proof cage? This certainly would involve further major disturbance of the ground around the trunk, but the process was begun by the Philistines who sawed off the trunk and the Philistines who ordered its removal in such an unsafe fashion.

Finally, I have seen the photo which proves that your staff falsely advised you that the trunk had been removed already to safekeeping. What action are you taking to ensure that "unintentional administrative errors" like these never occur again?

I look forward to your early answers to my questions.

Yours sincerely,

[REDACTED]

[REDACTED]

From: [EPSD Government Services](#)
To: [Moore, FionaF](#)
Subject: FW: FOLLOW-UP - 18/35719 - Ministerial Correspondence - removal of heritage-listed trees at Wanniasa - [REDACTED] (qA733138) [SEC=UNCLASSIFIED]
Date: Wednesday, 6 February 2019 1:22:00 PM

UNCLASSIFIED

Hi Fiona

Here is more on something we discussed previously. Please advise if and by when an updated response can be provided.

Thanks

Anju

X74485

-----Original Message-----

From: EPSDD DLO

Sent: Monday, 4 February 2019 11:52 AM

To: EPSD Government Services <EPSDGovernmentServices@act.gov.au>

Subject: RE: FOLLOW-UP - 18/35719 - Ministerial Correspondence - removal of heritage-listed trees at Wanniasa - [REDACTED] (qA733138) [SEC=UNCLASSIFIED]

UNCLASSIFIED

Hi

Sorry to be a pain- but since that date is tomorrow - could we have an update after tomorrow (and hopefully the trees will be moved then)?

Thanks

Erica

-----Original Message-----

From: EPSD Government Services

Sent: Friday, 1 February 2019 9:49 AM

To: EPSDD DLO <EPSDDDLO@act.gov.au>

Subject: FW: FOLLOW-UP - 18/35719 - Ministerial Correspondence - removal of heritage-listed trees at Wanniasa - [REDACTED] (qA733138) [SEC=UNCLASSIFIED]

Hi Erica

Happy Friday! The office had earlier asked where the cultural trees actually are at the moment (referring to your email of 18 Dec). Seems Fiona's advice got lost on its way. Please see the latest update on the trees at Wanniasa, as mentioned below.

"A further update to the attached, the tree was scheduled to be moved to the [REDACTED] on Tuesday 29 January - a coordinated effort between PCS, Heritage and TCCS - lead by PCS. However due to the Corin bushfires crews were necessarily reassigned on that day and the move had to be postponed. A tentative date of 5 February has been pencilled in, subject to final go ahead from PCS."

Let me know if you need anything further on this.

Thanks

Anju

X74485

-----Original Message-----

From: Moore, FionaF

Sent: Thursday, 31 January 2019 5:03 PM

To: EPSD Government Services <EPSDGovernmentServices@act.gov.au>; EPD Ministerials - Environment <EPDMinisterials-Environment@act.gov.au>

Cc: Walker, IanS <IanS.Walker@act.gov.au>; Jeffress, Stuart <Stuart.Jeffress@act.gov.au>; Russell, Meaghan <Meaghan.Russell@act.gov.au>
Subject: RE: FOLLOW-UP - 18/35719 - Ministerial Correspondence - removal of heritage-listed trees at Wanniasa - [REDACTED] (qA733138) [SEC=UNCLASSIFIED]

Hi Anju,

Advice was provided to Rachael in December and January - unsure if this was ever forwarded to Gov Services. Attached FYI in any case.

A further update to the attached, the tree was scheduled to be moved to the [REDACTED] on Tuesday 29 January - a coordinated effort between PCS, Heritage and TCCS - lead by PCS. However due to the Corin bushfires crews were necessarily reassigned on that day and the move had to be postponed. A tentative date of 5 February has been pencilled in, subject to final go ahead from PCS.

Regards,

Fiona Moore | Director, ACT Heritage | Secretary, ACT Heritage Council | (Mon – Thurs)
Phone: +61 2 6205 9974 | Email: fionaf.moore@act.gov.au | ACT Heritage | Environment, Planning and Sustainable Development Directorate | ACT Government Dame Pattie Menzies House, Dickson | GPO Box 158 Canberra ACT 2601 | www.environment.act.gov.au

-----Original Message-----

From: EPSD Government Services
Sent: Thursday, 31 January 2019 4:42 PM
To: EPD Ministerials - Environment <EPDMinisterials-Environment@act.gov.au>
Cc: Moore, FionaF <FionaF.Moore@act.gov.au>; Walker, IanS <IanS.Walker@act.gov.au>
Subject: FW: FOLLOW-UP - 18/35719 - Ministerial Correspondence - removal of heritage-listed trees at Wanniasa - [REDACTED] (qA733138) [SEC=UNCLASSIFIED]

Hi Karen

Are you able to follow up on this one and advise us where this one is up to? Old corro from last year this came back for further edits. I have left the attachments from the previous email for quick reference.

Thanks

Anju
X74485

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From: EPSD Government Services
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To: EPD Ministerials - Environment <EPDMinisterials-Environment@act.gov.au>
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Hi Rachael

Can you please follow up on this one. I have attached the email from the DLO last year that requested further information. Response back through Government Services please.

Thanks
Patti

-----Original Message-----

From: EPSDD DLO

Sent: Wednesday, 9 January 2019 8:38 AM

To: EPSD Government Services <EPSDGovernmentServices@act.gov.au>

Subject: FOLLOW-UP - 18/35719 - Ministerial Correspondence - removal of heritage-listed trees at Wanniasa - [REDACTED] (qA733138) [SEC=UNCLASSIFIED]

Good morning Team :)

Happy Hump Day!

Just going through the follow-up pile, I have a note that this one was sent back by Erica on 18 December. Are you able to see where this one is up to with the line area? Or is this on hold for some reason?

Many Thanks

Jess :)

Jessica Round has sent you a link to "18/35719 - Ministerial Correspondence - removal of heritage-listed trees at Wanniasa - [REDACTED] (qA733138) from Objective.

Open in Navigator

Double click on the attachment

Open in ECM for Browser

<https://objective.act.gov.au:8443/#/documents/qA733138/details>

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From: [Moore, FionaF](#)
To: [EPSD Government Services](#)
Subject: RE: FOLLOW-UP - 18/35719 - Ministerial Correspondence - removal of heritage-listed trees at Wanniasa - [REDACTED] (qA733138) [SEC=UNCLASSIFIED]
Date: Wednesday, 6 February 2019 1:23:43 PM

Contractors are on site today relocating the tree.

Fiona Moore | Director, ACT Heritage | Secretary, ACT Heritage Council | (Mon – Thurs)
Phone: +61 2 6205 9974 | Email: fionaf.moore@act.gov.au
ACT Heritage | Environment, Planning and Sustainable Development Directorate | ACT Government
Dame Pattie Menzies House, Dickson | GPO Box 158 Canberra ACT 2601 | www.environment.act.gov.au

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To: Moore, FionaF <FionaF.Moore@act.gov.au>
Subject: FW: FOLLOW-UP - 18/35719 - Ministerial Correspondence - removal of heritage-listed trees at Wanniasa - [REDACTED] (qA733138) [SEC=UNCLASSIFIED]

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"A further update to the attached, the tree was scheduled to be moved to the [REDACTED] on Tuesday 29 January - a coordinated effort between PCS, Heritage and TCCS - lead by PCS. However due to the Corin bushfires crews were necessarily reassigned on that day and the move had to be postponed. A tentative date of 5 February has been pencilled in, subject to final go ahead from PCS."

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Regards,

Fiona Moore | Director, ACT Heritage | Secretary, ACT Heritage Council | (Mon – Thurs)
Phone: +61 2 6205 9974 | Email: fionaf.moore@act.gov.au | ACT Heritage | Environment, Planning and Sustainable Development Directorate | ACT Government Dame Pattie Menzies House, Dickson | GPO Box 158 Canberra ACT 2601 | www.environment.act.gov.au

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Subject: FOLLOW-UP - 18/35719 - Ministerial Correspondence - removal of heritage-listed trees at Wanniasa - [REDACTED] (qA733138) [SEC=UNCLASSIFIED]

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<https://objective.act.gov.au/id:qA733138>

From: [Moore, FionaF](#)
To: [EPSD Government Services](#)
Subject: RE: FOLLOW-UP - 18/35719 - Ministerial Correspondence - removal of heritage-listed trees at Wanniasa - [REDACTED] (qA733138) [SEC=UNCLASSIFIED]
Date: Monday, 11 February 2019 9:27:11 AM

Hi Anju,

The tree has been relocated to [REDACTED] (on 6 February) and will remain in the locked compound until consultation with RAOs determines the long term conservation outcome for the tree.

I have updated the correspondence in track changes.

Regards,

Fiona Moore | Director, ACT Heritage | Secretary, ACT Heritage Council | (Mon – Thurs)
Phone: +61 2 6205 9974 | Email: fionaf.moore@act.gov.au
ACT Heritage | Environment, Planning and Sustainable Development Directorate | ACT Government
Dame Pattie Menzies House, Dickson | GPO Box 158 Canberra ACT 2601 | www.environment.act.gov.au

-----Original Message-----

From: EPSD Government Services
Sent: Friday, 8 February 2019 2:45 PM
To: Moore, FionaF <FionaF.Moore@act.gov.au>
Subject: RE: FOLLOW-UP - 18/35719 - Ministerial Correspondence - removal of heritage-listed trees at Wanniasa - [REDACTED] (qA733138) [SEC=UNCLASSIFIED]

UNCLASSIFIED

Hi Fiona

Apologies for being a pest. Please let me know by when we can expect the updated response to this correspondence as MO has been chasing after this.

Thanks
Anju
X74485

-----Original Message-----

From: Moore, FionaF
Sent: Wednesday, 6 February 2019 1:24 PM
To: EPSD Government Services <EPSDGovernmentServices@act.gov.au>
Subject: RE: FOLLOW-UP - 18/35719 - Ministerial Correspondence - removal of heritage-listed trees at Wanniasa - [REDACTED] (qA733138) [SEC=UNCLASSIFIED]

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Phone: +61 2 6205 9974 | Email: fionaf.moore@act.gov.au | ACT Heritage | Environment, Planning and Sustainable Development Directorate | ACT Government
Dame Pattie Menzies House, Dickson | GPO Box 158 Canberra ACT 2601 | www.environment.act.gov.au

-----Original Message-----

From: EPSD Government Services

Sent: Wednesday, 6 February 2019 1:22 PM
To: Moore, FionaF <FionaF.Moore@act.gov.au>
Subject: FW: FOLLOW-UP - 18/35719 - Ministerial Correspondence - removal of heritage-listed trees at Wanniasa - [REDACTED] (qA733138) [SEC=UNCLASSIFIED]

UNCLASSIFIED

Hi Fiona
Here is more on something we discussed previously. Please advise if and by when an updated response can be provided.
Thanks
Anju
X74485

-----Original Message-----

From: EPSDD DLO
Sent: Monday, 4 February 2019 11:52 AM
To: EPSD Government Services <EPSDGovernmentServices@act.gov.au>
Subject: RE: FOLLOW-UP - 18/35719 - Ministerial Correspondence - removal of heritage-listed trees at Wanniasa - [REDACTED] (qA733138) [SEC=UNCLASSIFIED]

UNCLASSIFIED

Hi
Sorry to be a pain- but since that date is tomorrow - could we have an update after tomorrow (and hopefully the trees will be moved then)?
Thanks
Erica

-----Original Message-----

From: EPSD Government Services
Sent: Friday, 1 February 2019 9:49 AM
To: EPSDD DLO <EPSDDDLO@act.gov.au>
Subject: FW: FOLLOW-UP - 18/35719 - Ministerial Correspondence - removal of heritage-listed trees at Wanniasa - [REDACTED] (qA733138) [SEC=UNCLASSIFIED]

Hi Erica

Happy Friday! The office had earlier asked where the cultural trees actually are at the moment (referring to your email of 18 Dec). Seems Fiona's advice got lost on its way. Please see the latest update on the trees at Wanniasa, as mentioned below.

"A further update to the attached, the tree was scheduled to be moved to the [REDACTED] Tuesday 29 January - a coordinated effort between PCS, Heritage and TCCS - lead by PCS. However due to the Corin bushfires crews were necessarily reassigned on that day and the move had to be postponed. A tentative date of 5 February has been pencilled in, subject to final go ahead from PCS."

Let me know if you need anything further on this.

Thanks

Anju
X74485

-----Original Message-----

From: Moore, FionaF
Sent: Thursday, 31 January 2019 5:03 PM
To: EPSD Government Services <EPSDGovernmentServices@act.gov.au>; EPD Ministerials - Environment <EPDMinisterials-Environment@act.gov.au>
Cc: Walker, IanS <IanS.Walker@act.gov.au>; Jeffress, Stuart <Stuart.Jeffress@act.gov.au>; Russell, Meaghan <Meaghan.Russell@act.gov.au>

Subject: RE: FOLLOW-UP - 18/35719 - Ministerial Correspondence - removal of heritage-listed trees at Wanniasa - [REDACTED] (qA733138) [SEC=UNCLASSIFIED]

Hi Anju,

Advice was provided to Rachael in December and January - unsure if this was ever forwarded to Gov Services. Attached FYI in any case.

A further update to the attached, the tree was scheduled to be moved to the [REDACTED] on Tuesday 29 January - a coordinated effort between PCS, Heritage and TCCS - lead by PCS. However due to the Corin bushfires crews were necessarily reassigned on that day and the move had to be postponed. A tentative date of 5 February has been pencilled in, subject to final go ahead from PCS.

Regards,

Fiona Moore I Director, ACT Heritage I Secretary, ACT Heritage Council I (Mon – Thurs)
Phone: +61 2 6205 9974 I Email: fionaf.moore@act.gov.au ACT Heritage I Environment, Planning and Sustainable Development Directorate I ACT Government Dame Pattie Menzies House, Dickson I GPO Box 158 Canberra ACT 2601 I www.environment.act.gov.au

-----Original Message-----

From: EPSD Government Services
Sent: Thursday, 31 January 2019 4:42 PM
To: EPD Ministerials - Environment <EPDMinisterials-Environment@act.gov.au>
Cc: Moore, FionaF <FionaF.Moore@act.gov.au>; Walker, IanS <IanS.Walker@act.gov.au>
Subject: FW: FOLLOW-UP - 18/35719 - Ministerial Correspondence - removal of heritage-listed trees at Wanniasa - [REDACTED] (qA733138) [SEC=UNCLASSIFIED]

Hi Karen

Are you able to follow up on this one and advise us where this one is up to? Old corro from last year this came back for further edits. I have left the attachments from the previous email for quick reference.

Thanks

Anju
X74485

-----Original Message-----

From: EPSD Government Services
Sent: Thursday, 10 January 2019 9:41 AM
To: EPD Ministerials - Environment <EPDMinisterials-Environment@act.gov.au>
Cc: Moore, FionaF <FionaF.Moore@act.gov.au>; Walker, IanS <IanS.Walker@act.gov.au>
Subject: FW: FOLLOW-UP - 18/35719 - Ministerial Correspondence - removal of heritage-listed trees at Wanniasa - [REDACTED] (qA733138) [SEC=UNCLASSIFIED]

Hi Rachael

Can you please follow up on this one. I have attached the email from the DLO last year that requested further information. Response back through Government Services please.

Thanks
Patti

-----Original Message-----

From: EPSDD DLO

Sent: Wednesday, 9 January 2019 8:38 AM

To: EPSD Government Services <EPSDGovernmentServices@act.gov.au>

Subject: FOLLOW-UP - 18/35719 - Ministerial Correspondence - removal of heritage-listed trees at Wanniasa - [REDACTED] (qA733138) [SEC=UNCLASSIFIED]

Good morning Team :)

Happy Hump Day!

Just going through the follow-up pile, I have a note that this one was sent back by Erica on 18 December. Are you able to see where this one is up to with the line area? Or is this on hold for some reason?

Many Thanks

Jess :)

Jessica Round has sent you a link to "18/35719 - Ministerial Correspondence - removal of heritage-listed trees at Wanniasa - [REDACTED]" (qA733138) from Objective.

Open in Navigator

Double click on the attachment

Open in ECM for Browser

<https://objective.act.gov.au:8443/#/documents/qA733138/details>

Open in Your Browser

<https://objective.act.gov.au/id:qA733138>



Mick Gentleman MLA

Minister for the Environment and Heritage
 Minister for Planning and Land Management
 Minister for Police and Emergency Services
 Minister assisting the Chief Minister on
 Advanced Technology and Space Industries
 Manager of Government Business

Member for Brindabella

18/35719

Dear [REDACTED]

Thank you for your letter of 27 November 2018 about the removal of two Aboriginal cultural trees at Wanniasa. I apologise for the delay in responding to you. I share your disappointment in the loss of these important heritage places and, as you would be aware from prior correspondence with Mr Peter Dowling and the Canberra and District Historical Society, the ACT Government has investigated both matters.

With regards to the felled cultural tree adjacent to the Wanniasa Primary School (recorded as 'MST4'), decisions on the future management of this cultural tree will be made in consultation with Representative Aboriginal Organisations (RAOs), reflecting their statutory role in managing Aboriginal heritage under the *Heritage Act 2004* (the Act) and the ACT Government's respect for the views of Traditional Custodians. This consultation has commenced and is ongoing, with the aim of identifying appropriate management of the cultural tree in the coming months.

Your letter also comments on the planned movement of the cultural tree for its safekeeping, and I advise that the tree has been relocated to a secure location until a long-term conservation outcome has been determined. Long-term conservation measures will be determined in consultation with the Representative Aboriginal Organisations. To ensure the cultural tree was not further damaged during its relocation, specialist advice was sought from a materials conservator.

In prior correspondence, I have noted that the ACT Heritage Council (the Council) will need to formally decide whether or not to cancel these trees from the ACT Heritage Register (the Register) and undertake that process as required by the Act. I would like to note that the Council maintains permanent records of all Aboriginal places and objects in the ACT, irrespective of whether they are registered on the Register and whether they have been damaged or destroyed.

Information on these heritage sites are maintained as a record of the ACT's heritage, and to contribute to our understanding of the Aboriginal history and heritage of the ACT. In accordance with provisions of the Act, these records can also be accessed by interested parties on application to the Council.

ACT Legislative Assembly

London Circuit, Canberra ACT 2601, Australia GPO Box 1020, Canberra ACT 2601, Australia
 Phone +61 2 6205 0218 Email gentleman@act.gov.au



@GENTLEMANMick



MickGentleman



Thank you for raising your concerns with me. I trust this information is of assistance.

Yours sincerely



Mick Gentleman MLA
Minister for the Environment and Heritage

12/2/19

From: [GENTLEMAN](#)
To: [EPSDD DLO](#)
Cc: [Crossman, Louise](#); [Kandola, Shobaz](#)
Subject: FW: from ANTaRACT
Date: Monday, 22 July 2019 11:55:10 AM
Attachments: [Scarred tree letter - sent.docx](#)
[image001.jpg](#)

Reply please Erica.

Thanks

Natasha Apostoloski | Office Manager

Office managers: Natasha Apostoloski (Mon-Wed), Eben Leifer (Thu-Fri)

Office of Mick Gentleman MLA

Member for Brindabella

Minister for the Environment and Heritage

Minister for Planning and Land Management

Minister for Police and Emergency Services

Minister assisting the Chief Minister on Advanced Technology and Space Industries

Manager for Government Business

t: 620 50218 | e: gentleman@act.gov.au



Please note that from 1 January 2018 ACT Government ministerial diaries are subject to publication on the ACT Government's open access website under section 23 of the *Freedom of Information Act 2016*.

From: [REDACTED]
Sent: Saturday, 20 July 2019 8:44 PM
To: GENTLEMAN <GENTLEMAN@act.gov.au>
Cc: Watchirs, Helen <Helen.Watchirs@act.gov.au>; Flick, Karen <Karen.Flick@act.gov.au>; ATSIIEB <atsieb@act.gov.au>
Subject: from ANTaRACT

20 July 2019

Mr Mick Gentleman
Minister for the Environment and Heritage
ACT Government
gentleman@act.gov.au

Dear Minister,

I write on behalf of ANTaR ACT.

ANTaR is an independent, not-for-profit and community-based organization working to promote justice, rights and respect for Australia's First Peoples. ANTaR listens to and supports the aspirations of First Peoples through:

- a) working to educate and inform the wider community hence shaping public opinion
- b) speaking up against injustice and influencing public policy through liaising and networking with our ACT Aboriginal leaders and elders and our ACT and Federal government ministers.

On behalf of our committee and over 600 supporters this letter reflects our dismay and outrage over the recent removal and inexplicable loss of two scarred trees in Waniassa.

We understand one tree was a heritage listed tree on the land adjacent to the Waniassa playing fields- and ask why this tree did not have appropriate protection and signage around it to prevent such a loss.

The other tree, as we understand, was on Waniassa Hills Primary School grounds hence under management/control of the ACT Education Department.

In NSW large fines are in place for removal and destruction of scarred trees whereas in the ACT there is currently no system in place to issue fines or repair orders without prosecuting breaches through the courts. Could you please

explain why this discrepancy is so?

We are also aware that there is an Aboriginal Heritage Unit which can be consulted prior to works. Was this process followed prior to these current incidents?

As reported on the ABC in June 2019 (by reporter Jake Evans) the “spook” scar tree in Waniassa was “mistakenly” removed due to “contractor error” in 2017, with, as of today, no appropriate action and an explanation of “expensive prosecution”. Please update on this process.

Further please clarify what your department has in place for the protection of ACT Aboriginal sacred trees – those under your jurisdiction and also as in this case, those under other government departments’ jurisdiction and, how the ACT government is going to follow this current situation up to prevent future tragic loss to Ngunnawal cultural heritage.

Please contact me on info@antaract.org.au [REDACTED]

Yours sincerely,

[REDACTED]

For the ANTaR ACT committee

info@antaract.org.au

cc.

gentleman@act.gov.au

Dr. Helen Watchirs President of HRC Helen.Watchirs@act.gov.au

Karen Flick Indigenous Liaison Officer HRC Karen.flick@act.gov.au

UNEC Co-Chairs United Ngunnawal Elders Council

C/- Office for Aboriginal & Torres Strait Islander Affairs GPO Box 158 Canberra ACT 2600

ATSIEB atsieb@act.gov.au

Rachael Dawes

Acting Director, Urban Treescapes

City Presentation

Transport Canberra & City Services

Wotso House, 490 Northbourne Avenue

Email sent using Optus Webmail

20 July 2019

Mr Mick Gentleman

Minister for the Environment and Heritage

ACT Government

gentleman@act.gov.au

Dear Minister,

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In NSW large fines are in place for removal and destruction of scarred trees whereas in the ACT there is currently no system in place to issue fines or repair orders without prosecuting breaches through the courts. *Could you please explain why this discrepancy is so?*

We are also aware that there is an Aboriginal Heritage Unit which can be consulted prior to works. *Was this process followed prior to these current incidents?*


As reported on the ABC in June 2019 (by reporter Jake Evans) the "spook" scar tree in Waniassa was "mistakenly" removed due to "contractor error" in 2017, with, as of today, no appropriate action and an explanation of "expensive prosecution". *Please update on this process.*

Further please clarify what your department has in place for the protection of ACT Aboriginal sacred trees – those under your jurisdiction and also as in this case, those under other government departments' jurisdiction and, how the ACT government is going to follow this current situation up to prevent future tragic loss to Ngunnawal cultural heritage.

Please contact me on info@antaract.org.au 

Yours sincerely




For the ANTaR ACT committee
info@antaract.org.au

cc.

gentleman@act.gov.au

Dr. Helen Watchirs President of HRC Helen.Watchirs@act.gov.au
Karen Flick Indigenous Liaison Officer HRC Karen.flick@act.gov.au

UNEC Co-Chairs United Ngunnawal Elders Council
C/- Office for Aboriginal & Torres Strait Islander Affairs GPO Box 158 Canberra ACT 2600

ATSIEB atsieb@act.gov.au

Rachael Dawes
Acting Director, Urban Treescapes
City Presentation
Transport Canberra & City Services
Wotso House, 490 Northbourne Avenue

From: [GENTLEMAN](#)
To: info@antaract.org.au
Subject: Correspondence from Mick Gentleman MLA
Date: Tuesday, 13 August 2019 10:47:35 AM
Attachments: [20190812170713492.pdf](#)
[image001.jpg](#)

Dear [REDACTED]

Please find attached correspondence from Mick Gentleman MLA – Minister for the Environment and Heritage.

Kind regards,

Natasha Apostoloski | Office Manager

Office managers: Natasha Apostoloski (Mon-Wed), Eben Leifer (Thu-Fri)

Office of Mick Gentleman MLA

Member for Brindabella

Minister for the Environment and Heritage

Minister for Planning and Land Management

Minister for Police and Emergency Services

Minister assisting the Chief Minister on Advanced Technology and Space Industries

Manager for Government Business

t: 620 50218 | e: gentleman@act.gov.au



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Mick Gentleman MLA

Minister for the Environment and Heritage
 Minister for Planning and Land Management
 Minister for Police and Emergency Services
 Minister assisting the Chief Minister on
 Advanced Technology and Space Industries
 Manager of Government Business
 Member for Brindabella

19/23077

ANTaR ACT committee
info@antaract.org.au

Dear [REDACTED]

Thank you for your email of 20 July 2019 about the removal of two Aboriginal scar trees in separate instances in 2017. I recognise the importance of Aboriginal scarred trees to our region's heritage and I share the significant disappointment in the loss of these two important trees.

In accordance with provisions of the *Information Privacy Act 2014*, I am not able to disclose detailed information on individual compliance matters however, I can speak broadly to the matters.

The ACT Government takes the destruction of heritage places and objects very seriously. When these two issues were reported, immediate site visits were conducted and investigations ensued.

In relation to tree MST4, located in urban open space in Wanniasa, the investigation was unable to identify a responsible party or the circumstances of removal. No further compliance action can therefore be taken. However, the trunk has been temporarily relocated to a safe place to ensure no further damage occurs to the cultural scar. Final arrangements on the long-term conservation measures for the remaining trunk and interpretation of the location is still ongoing between the land manager Transport Canberra and City Services in consultation with Representative Aboriginal Organisations (RAOs).

In relation to tree MSYB1, affectionately known as the Spook Tree, the contractor undertaking the clearance had sought advice from the Conservator of Flora and Fauna and the Heritage Council in line with statutory process prior to removing any trees and it was identified by the Conservator as a tree not to be removed.

The investigation concluded a genuine mistake was made as part of confirming the area to be cleared and the tree was mistakenly felled as part of a larger program of tree removal. There was no evidence of a 'fault' element under the *Criminal Code 2002* and therefore prosecution would not be in the public interest.

The Education Directorate (Education) is currently exploring a range of additional protection measures including developing a heritage identification database for contractors to ensure and

ACT Legislative Assembly

London Circuit, Canberra ACT 2601, Australia GPO Box 1020, Canberra ACT 2601, Australia
 Phone +61 2 6205 0218 Email gentleman@act.gov.au



@GENTLEMANMick



MickGentleman



enhance the protection of heritage assets located on school sites. Education is also exploring, in consultation with RAOs, appropriate and respectful remediation for the site.

It is important to note that major damage or total destruction of heritage places and objects is rare in the ACT and usually the result of unexpected events, such as fire.

Nonetheless, destruction of any heritage place or object, natural, built and Aboriginal, is a live risk. This risk of destruction is managed by making information publicly available on the ACT Heritage Register (the Register), via heritage interpretation such as the Canberra Tracks signage - when RAOs have advised it appropriate to do so. Many signs stand beside sites of the Ngunnawal people, whose living culture connects the land with its Aboriginal origin.

Most importantly risk is managed by having statutory planning approval processes in force under multiple legislation including the *Heritage Act 2004*, *Planning and Development Act 2007* and the *Tree Protection Act 2005*.

The ACT community greatly values the Register, and you may be interested to know there are around 60 entries for Aboriginal places and objects, with these entries capturing over 3,000 Aboriginal sites. These include collections of artefacts, cultural trees, ceremonial sites, cultural landscapes and places that are important in understanding Aboriginal culture.

It is a requirement that RAOs are consulted with regards to development affecting registered and non-registered Aboriginal sites in the ACT. RAOs provide input into cultural heritage assessments, conservation management plans and other key heritage management tools that form part of heritage approvals in the context of development.

Where works are being proposed, information on Aboriginal scar trees is available and accessed across government, contractors, developers and the broader community.

However, there are occasions where even these mitigation measures are not enough, such as in the case of natural disasters; general, reckless or negligent conduct, with or without intent. The recent incidences of the unauthorised removal of two Aboriginal scar trees has highlighted the need to strengthen heritage compliance tools.

As a matter of urgency, I have asked the Environment, Planning and Sustainable Development Directorate to explore the introduction of an on-the-spot fine scheme and repair orders. It is anticipated that the new provisions within the *Heritage Act 2004* will be introduced later this year.

The new processes will cut red tape and give the Heritage Council more flexibility in dealing with problems, allowing quicker, more appropriate outcomes. They also bring the ACT into line with other jurisdictions.

Thank you for raising your concerns with me.

Yours sincerely



Mick Gentleman MLA
Minister for the Environment and Heritage

12/8/19

From: [Crossman, Louise](#)
To: [EPSDD DLO](#)
Cc: [GENTLEMAN](#); [Moore, Fiona](#)
Subject: FW: Correspondence - Felling of Aboriginal scarred trees [SEC=UNOFFICIAL]
Date: Friday, 16 August 2019 3:23:43 PM
Attachments: [20190816 - HRC letter - Felling of Aboriginal scarred trees \(Final\).docx](#)
Importance: High

Hi Erica

I can see that Fiona Moore has also received a copy of this, but can EPSDD please prepare a letter from Minister Gentleman to the Human Rights Commissioner including:

- An outline of the changes underway for the Heritage Act
- A note that the Minister met with Ngunnawal elders and discussed this matter
- Information about scarred trees that we have either chosen to signpost, or to deliberately not signpost to avoid targeting etc
- Brief information about the investigations

I also need to stress that when we do the changes for the Heritage Act we need a specific outreach to Aboriginal and Torres Strait Islander groups. I know I've said this before but it's extremely important. I'm happy to ask Minister Stephen-Smith's office for any contacts in the wider Canberra Aboriginal and Torres Strait Islander community if that helps.

Thanks

Louise

Louise Crossman

Senior Adviser – Planning and Land Management

Office of Minister Mick Gentleman MLA

From: GENTLEMAN <GENTLEMAN@act.gov.au>
Sent: Friday, 16 August 2019 2:45 PM
To: Crossman, Louise <Louise.Crossman@act.gov.au>
Subject: FW: Correspondence - Felling of Aboriginal scarred trees [SEC=UNOFFICIAL]
Importance: High

Hello Louise

Just need some advice on this issue, before we send for response

Thanks

Ellen Pinkas | Policy adviser (part-time)

(Only in the office Wednesdays)

Office of Minister Mick Gentleman MLA

t: 620 50218 | e: gentleman@act.gov.au

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From: Acton, Jenny <Jenny.Acton@act.gov.au>
Sent: Friday, 16 August 2019 2:30 PM
To: GENTLEMAN <GENTLEMAN@act.gov.au>
Cc: Moore, Fiona <Fiona.Moore@act.gov.au>; Brighton, Meg <Meg.Brighton@act.gov.au>; info@antaract.org.au; Williams, Kelly <Kelly.Williams@act.gov.au>; Watchirs, Helen <Helen.Watchirs@act.gov.au>; Costello, Sean <Sean.Costello@act.gov.au>; Thilagaratnam, Renuka <Renuka.Thilagaratnam@act.gov.au>; Campbell, Kevin <Kevin.Campbell@act.gov.au>; Flick, Karen <Karen.Flick@act.gov.au>; Kearney, Christine <Christine.Kearney@act.gov.au>
Subject: Correspondence - Felling of Aboriginal scarred trees [SEC=UNOFFICIAL]
Importance: High

Dear Minister Gentleman,

Please find attached correspondence from ACT Human Rights Commission President, Dr Helen Watchirs OAM.

Kind regards,

Jenny Acton | Administrative Assistant to the President

ACT Human Rights Commission
Level 2, 11 Moore St, Canberra City
GPO Box 158 Canberra ACT 2601
P 6205 3160 | F 6207 1034

jenny.acton@act.gov.au

I acknowledge the traditional custodians of the ACT and their continuing connection to land and community. I pay my respects to them and their culture, and to the elders past, present, and future.

Mr Mick Gentleman
Minister for the Environment and Heritage

CC:

Ms Fiona Moore
Director
ACT Heritage

Ms Meg Brighton
Director-General
Education Directorate


For the ANTaR ACT committee
info@antaract.org.au

Via email

Dear Minister

Felling of Aboriginal scarred trees

I am writing to indicate my disappointment about the felling of two Aboriginal scarred trees in Wanniasa in 2017. As you are aware, their loss has prompted significant concern within the local Aboriginal and Torres Strait Islander community and raise questions about whether existing heritage protections adequately safeguard Aboriginal cultural rights.

Section 27(2) of the *Human Rights Act 2004* (HR Act) recognises the distinct cultural rights of Aboriginal and Torres Strait Islander peoples in the ACT to control, protect and develop their cultural heritage. Since 2016, the Commission has promoted awareness of the HR Act's recognition of the material and economic relationships that Aboriginal and Torres Strait Islander peoples have to land, waters and natural resources with which they share a customary connection.

Aboriginal scarred trees have profound and personal significance for members of the local Aboriginal community in view of the special connection to country, culture and kinship that they embody. I understand that both trees were listed as Aboriginal heritage trees under the *Heritage Act 2004* when they were removed. I note recent statements by Ngunnawal custodians (the Bell Family) that their destruction reflects a loss of 25,000 years of Indigenous culture and stories. Their felling represents a regrettable limitation of Aboriginal cultural rights.

I recognise that, in one case, it has not been possible to determine the precise circumstances of the tree's removal or responsible party. By contrast, the removal of the 'Spook Tree', located in the Wanniasa Primary Schoolyard, is attributed to contractor error. I also note that, given its location, the ACT Education Directorate was responsible for its management and preservation. I understand the contractor will not be prosecuted in this instance, due to the cost of such legal action.

Section 40B of the HR Act requires public authorities, including all ACT Government ministers, agencies and entities that perform functions on their behalf, to act and make decisions consistently with human rights. Both trees' removal suggests a lack of appropriate physical controls, such as signage and fencing, and community education to protect Aboriginal scarred trees from damage or destruction. While it may not be possible to determine the precise circumstances of these removals, the Government's obligations under the HR Act will require it explore all reasonable options to prevent any further unauthorised felling of Aboriginal scarred trees in future.

I welcome the Government's intention to explore appropriate options for enforcement, deterrent and education, in consultation with representative Aboriginal organisations, including introduction of an infringement notice scheme. ANTaR ACT has recently shared with me a copy of a letter it wrote to you, observing that ACT measures for protection of scarred trees, and related penalties, offer only limited deterrent compared to those in New South Wales. The letter also queried the extent to which the Aboriginal Heritage Unit was consulted prior to the removal of the relevant trees. I encourage you to consider the views and suggestions of ANTaR ACT as part of this consultation.

I would be happy to discuss the obligations under s 27(2) of the HR Act with you further should you wish.

Yours sincerely



Dr Helen Watchirs OAM
President and Human Rights Commissioner

27 Cultural and other rights of Aboriginal and Torres Strait Islander peoples and other minorities

- (1) Anyone who belongs to an ethnic, religious or linguistic minority must not be denied the right, with other members of the minority, to enjoy his or her culture, to declare and practise his or her religion, or to use his or her language.
- (2) Aboriginal and Torres Strait Islander peoples hold distinct cultural rights and must not be denied the right—
 - (a) to maintain, control, protect and develop their—
 - (i) cultural heritage and distinctive spiritual practices, observances, beliefs and teachings; and
 - (ii) languages and knowledge; and
 - (iii) kinship ties; and
 - (b) to have their material and economic relationships with the land and waters and other resources with which they have a connection under traditional laws and customs recognised and valued.

Note The primary source of the rights in s (2) is the United Nations Declaration on the Rights of Indigenous Peoples, art 25 and art 31.

From: [GENTLEMAN](#)
To: [EPSDD DLO](#)
Subject: Confirmation: Letter to Dr Watchirs has been POSTED today 17/09/2019
Date: Tuesday, 17 September 2019 4:32:28 PM
Attachments: [20190917162742415.pdf](#)
[image001.jpg](#)

Natasha Apostoloski | Office Manager

Office managers: Natasha Apostoloski (Mon-Wed), Safia Mansouri (Mon-Thurs), Ellen Pinkas (Wed-Fri)

Office of Mick Gentleman MLA

Member for Brindabella

Minister for the Environment and Heritage

Minister for Planning and Land Management

Minister for Police and Emergency Services

Minister for Advanced Technology and Space Industries

Manager for Government Business

t: 620 50218 | e: gentleman@act.gov.au



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Minister for the Environment and Heritage
 Minister for Planning and Land Management
 Minister for Police and Emergency Services
 Minister assisting the Chief Minister on
 Advanced Technology and Space Industries
 Manager of Government Business
 Member for Brindabella

Obj # 19/26117

Dr Helen Watchirs OAM
 President
 ACT Human Rights Commission
 GPO Box 158
 CANBERRA ACT 2601

Dear Dr Watchirs

Thank you for your letter of 16 August about the removal of two Aboriginal scarred trees in 2017 and current heritage protections safeguarding Aboriginal cultural rights. I recognise the importance of Aboriginal scarred trees to our region's heritage and I share the significant disappointment in the loss of these two important trees.

The ACT Government takes the destruction of heritage places and objects very seriously. Aboriginal cultural heritage provides essential links between the past and present and is part of Aboriginal people's cultural identity, connection and sense of belonging to Country. The effective protection and conservation of this heritage is important in maintaining the identity, health and wellbeing of Aboriginal people.

In accordance with provisions of the *Information Privacy Act 2014*, I am not able to disclose detailed information on individual compliance matters, however, I can advise broadly on the matters. When these two issues were reported, immediate site visits were conducted and investigations ensued.

In relation to tree MST4, located in urban open space in Wanniasa, the investigation was unable to identify a responsible party or the circumstances of removal. No further compliance action can therefore be taken. The remaining trunk has been temporarily relocated to a safe place to safeguard the cultural scar. The land manager, Transport Canberra and City Services, in consultation with the Representative Aboriginal Organisations (RAOs), is in the process of arranging the long-term conservation measures for the trunk and interpretation of the location.

ACT Legislative Assembly

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 Phone +61 2 6205 0218 Email gentleman@act.gov.au



@GENTLEMANMick



MickGentleman



In relation to tree MSYB1, affectionately known as the Spook Tree, the contractor undertaking the clearance sought advice from the Conservator of Flora and Fauna and the Heritage Council, in line with statutory process prior to removing any trees, and the tree was identified as a tree not to be removed. The investigation found a genuine mistake was made as part of confirming the area to be cleared, with the tree was mistakenly felled as part of a larger program of tree removal. The investigation concluded that there was insufficient evidence for the matter to be prosecuted under the *Criminal Code 2002*.

The Education Directorate (Education) is currently exploring additional protection measures for heritage trees on school sites, including developing a heritage identification database for contractors. Education is also exploring, in consultation with RAOs, appropriate and respectful remediation for the Spook Tree site.

Major damage to or destruction of heritage places and objects is rare in the ACT. It is usually the result of unexpected events, such as fire. Nonetheless, destruction of any heritage place or object, is a live risk. Risks are managed through statutory planning approval processes including under the *Heritage Act 2004*, *Planning and Development Act 2007* and the *Tree Protection Act 2005*.

Risks are also managed by making information publicly available on the ACT Heritage Register (the Register) and via heritage interpretation, such as the Canberra Tracks signage, when the RAOs have advised it appropriate to do so. RAOs are required to be consulted with regards to development affecting registered and non-registered Aboriginal sites in the ACT. RAOs provide input into cultural heritage assessments, conservation management plans and other key heritage management tools that form part of heritage approvals in the context of development.

There are occasions where these mitigation measures are not enough, such as in the case of natural disasters; or reckless or negligent conduct, with or without intent. The recent incidences of the unauthorised removal of two Aboriginal scarred trees highlighted the need to strengthen heritage compliance tools.

In response, I asked the Environment, Planning and Sustainable Development Directorate to explore an on-the-spot fine scheme and repair orders. It is anticipated that these new provisions will be introduced in the *Heritage Act 2004* later this year, giving the Heritage Council more flexibility to manage outcomes. The RAOs, Ngunnawal Elders and the Aboriginal and Torres Strait Islander Elected Body (ATSIEB) are being consulted about these proposed changes and I recently met with Ngunnawal Elders to discuss this matter.

The proposed changes to heritage legislation will provide greater improvements in the protection of Aboriginal cultural heritage places and objects and the cultural rights of Aboriginal and Torres Strait Islander people in the ACT. As required under the *Human Rights Act 2004*, the Amendment Bill will be accompanied by a statement by the Attorney-General that the Bill is consistent with the Human Rights Act.

Thank you for raising your concerns with me. I trust that this information is of assistance.

Yours sincerely

Mick Gentleman MLA


Mick Gentleman MLA

Minister for the Environment and Heritage
 Minister for Planning and Land Management
 Minister for Police and Emergency Services
 Minister assisting the Chief Minister on
 Advanced Technology and Space Industries
 Manager of Government Business

Member for Brindabella

POSTED
 17/9/19

Obj # 19/26117

Dr Helen Watchirs OAM
 President
 ACT Human Rights Commission
 GPO Box 158
 CANBERRA ACT 2601

Dear Dr Watchirs *Helen*

Thank you for your letter of 16 August about the removal of two Aboriginal scarred trees in 2017 and current heritage protections safeguarding Aboriginal cultural rights. I recognise the importance of Aboriginal scarred trees to our region's heritage and I share the significant disappointment in the loss of these two important trees.

The ACT Government takes the destruction of heritage places and objects very seriously. Aboriginal cultural heritage provides essential links between the past and present and is part of Aboriginal people's cultural identity, connection and sense of belonging to Country. The effective protection and conservation of this heritage is important in maintaining the identity, health and wellbeing of Aboriginal people.

In accordance with provisions of the *Information Privacy Act 2014*, I am not able to disclose detailed information on individual compliance matters, however, I can advise broadly on the matters. When these two issues were reported, immediate site visits were conducted and investigations ensued.

In relation to tree MST4, located in urban open space in Wanniasa, the investigation was unable to identify a responsible party or the circumstances of removal. No further compliance action can therefore be taken. The remaining trunk has been temporarily relocated to a safe place to safeguard the cultural scar. The land manager, Transport Canberra and City Services, in consultation with the Representative Aboriginal Organisations (RAOs), is in the process of arranging the long-term conservation measures for the trunk and interpretation of the location.

ACT Legislative Assembly

London Circuit, Canberra ACT 2601, Australia GPO Box 1020, Canberra ACT 2601, Australia
 Phone +61 2 6205 0218 Email gentleman@act.gov.au



@GENTLEMANMick



MickGentleman



COPY

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Thank you for raising your concerns with me. I trust that this information is of assistance.

Yours sincerely



Mick Gentleman MLA

16/9/19

From: [GENTLEMAN](#)
To: [EPSDD DLO](#)
Cc: [Kandola, Shobaz](#)
Subject: FW: INTRODUCTION OF HERITAGE FINES
Date: Tuesday, 3 September 2019 1:01:02 PM
Attachments: [CDHS to Gentleman re heritage fines.docx](#)

Hey Erica
Can we get a min res to this one?
Thank you!

From: [REDACTED]
Sent: Friday, 30 August 2019 1:44 PM
To: GENTLEMAN <GENTLEMAN@act.gov.au>
Subject: INTRODUCTION OF HERITAGE FINES

Dear Minister

Please see the attached letter about the introduction of a bill to enable the government to impose on-the-spot fines for damage to heritage places and objects.

Yours sincerely

[REDACTED]
President
Canberra and District Historical Society

Mr Mick Gentleman MLA
Minister for the Environment and Heritage
ACT Legislative Assembly
London Circuit
Canberra, ACT, 2601
gentleman@act.gov.au

Dear Mr Gentleman

The Canberra and District Historical Society (CDHS) welcomes your decision to introduce a bill enabling the government to impose on-the-spot fines for damage to heritage places and to include in the forthcoming bill a 'strict liability offence' clause making fines applicable whether the destruction is intentional or unintentional. This bill will be a step forward in ensuring protection of heritage places from destruction or damage in the future, including damage through neglect as is the case with Hill Station.

However, CDHS is still deeply concerned that such a bill will not give a guarantee that heritage places such as the Aboriginal scarred trees in Wanniasa which were destroyed and removed due to an unintentional administrative error, will be fully protected under this amendment to the *ACT Heritage Act, 2004*.

We strongly suggest that further steps be taken to educate the relevant government agencies on the location of heritage places/items, their significant values and the responsibilities under the Act in order to avoid such a situation arising again. We also strongly urge that the Minister puts in place a process of referral to the ACT Heritage Register and ACT Heritage Council when any planned future removal or demolition of places/trees within the ACT be undertaken. We see such a step as an imperative to the long-term protection of heritage places.

Yours sincerely



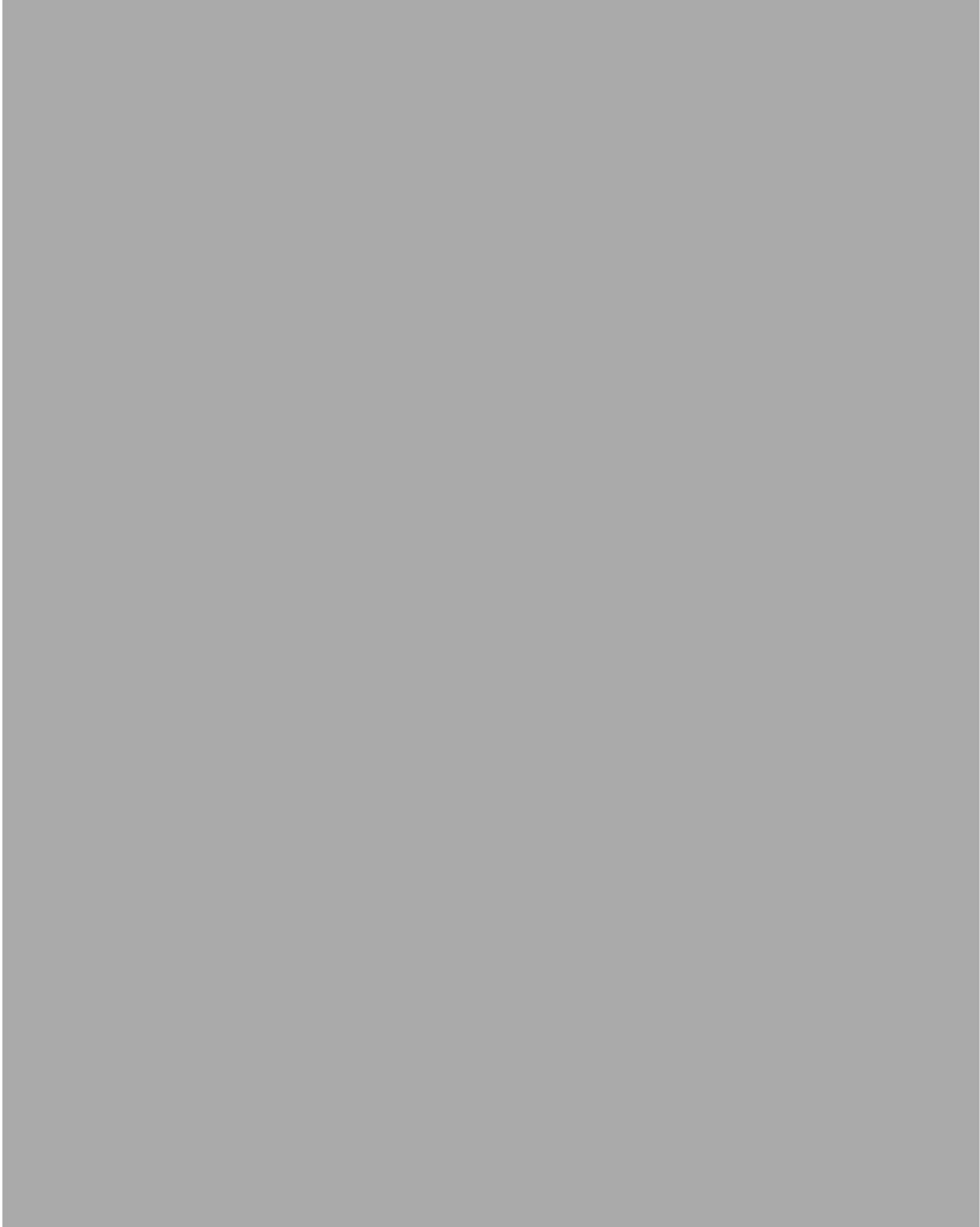
President
Canberra and District Historical Society
30 August 2019

**ACT HERITAGE COUNCIL
AGENDA FOR MEETING 95**

7 February 2019

Function Room, Ground Floor, Dame Pattie Menzies House (North)

Meeting to start at 9.30am



DRAFT MINUTES OF ACT HERITAGE COUNCIL MEETING 94 15 November 2018

- Ms Moore explained that an Aboriginal scarred tree in Wanniasa was removed. This tree was located outside the Wanniasa Primary School. Ms Russell advised that the matter was referred to the Environment Division's Compliance team to undertake a formal investigation. This investigation process identified that the tree in question was removed sometime between December 2016 and March 2017, but did not identify the responsible party. The matter was first reported to ACT Heritage in July 2018, and ACT Heritage has commenced discussions with RAOs about the long term management of the tree, which is to be moved from its current site to the Parks and Conservation Service (PCS) depot in Athlon for safe keeping until RAOs make decisions on preferred management; and

Council expressed its concern with the number of Aboriginal scarred trees being damaged or removed and the need for public education about cultural trees in urban settings and the historical importance of the planned landscape.

REPORTS TO COUNCIL

DIRECTOR'S REPORT

Prepared By: Fiona Moore

3.2

- Relocation of unauthorised removal of scarred trees in Wanniasa (relocation, ministerials, public enquiries);

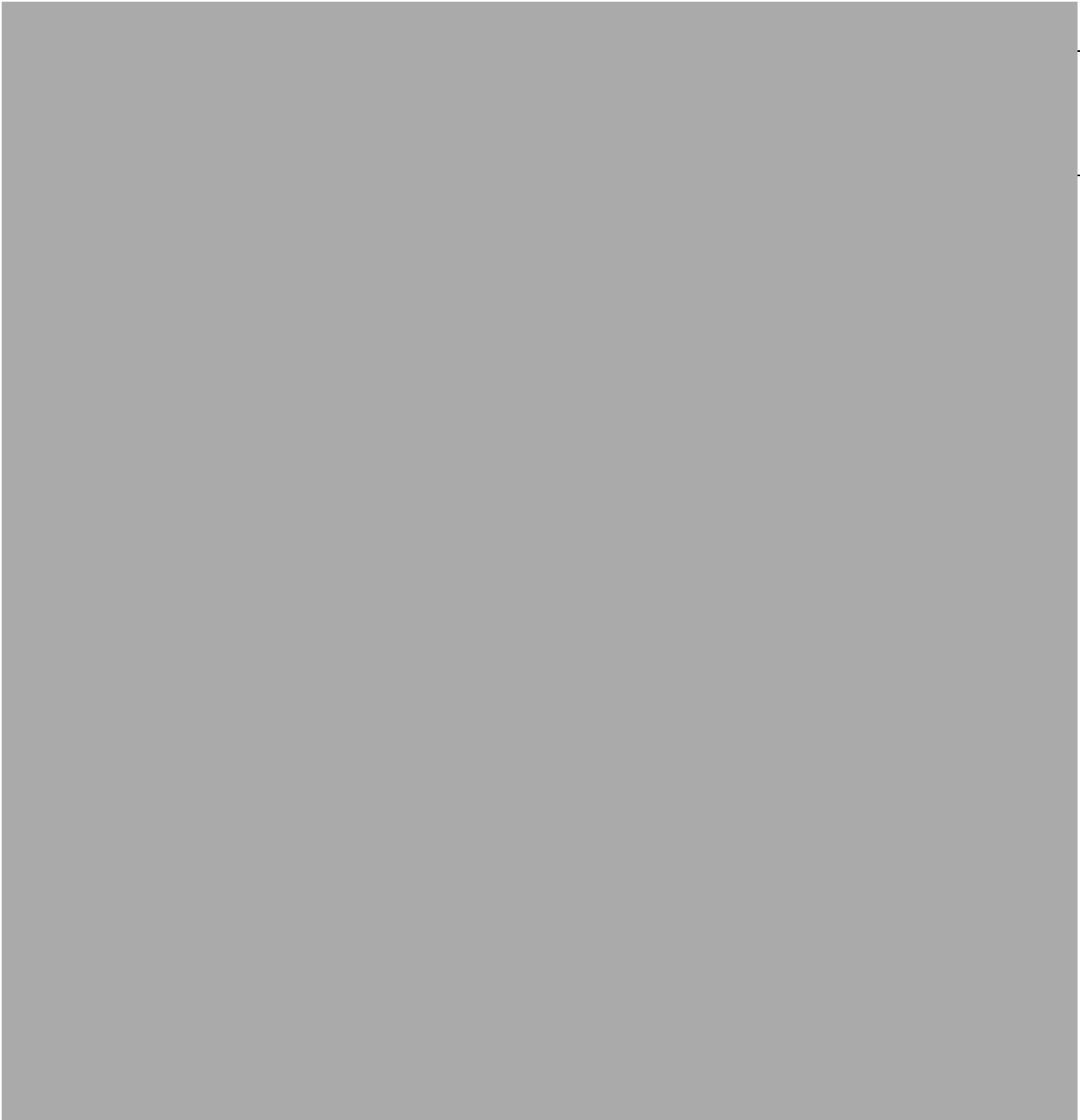


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- **Unauthorised removal of Aboriginal scarred trees in Wanniasa**



on



- During discussions on the day, Wally Bell and Carl Brown both expressed disappointment about the compliance issues with scarred trees at Wanniasa.

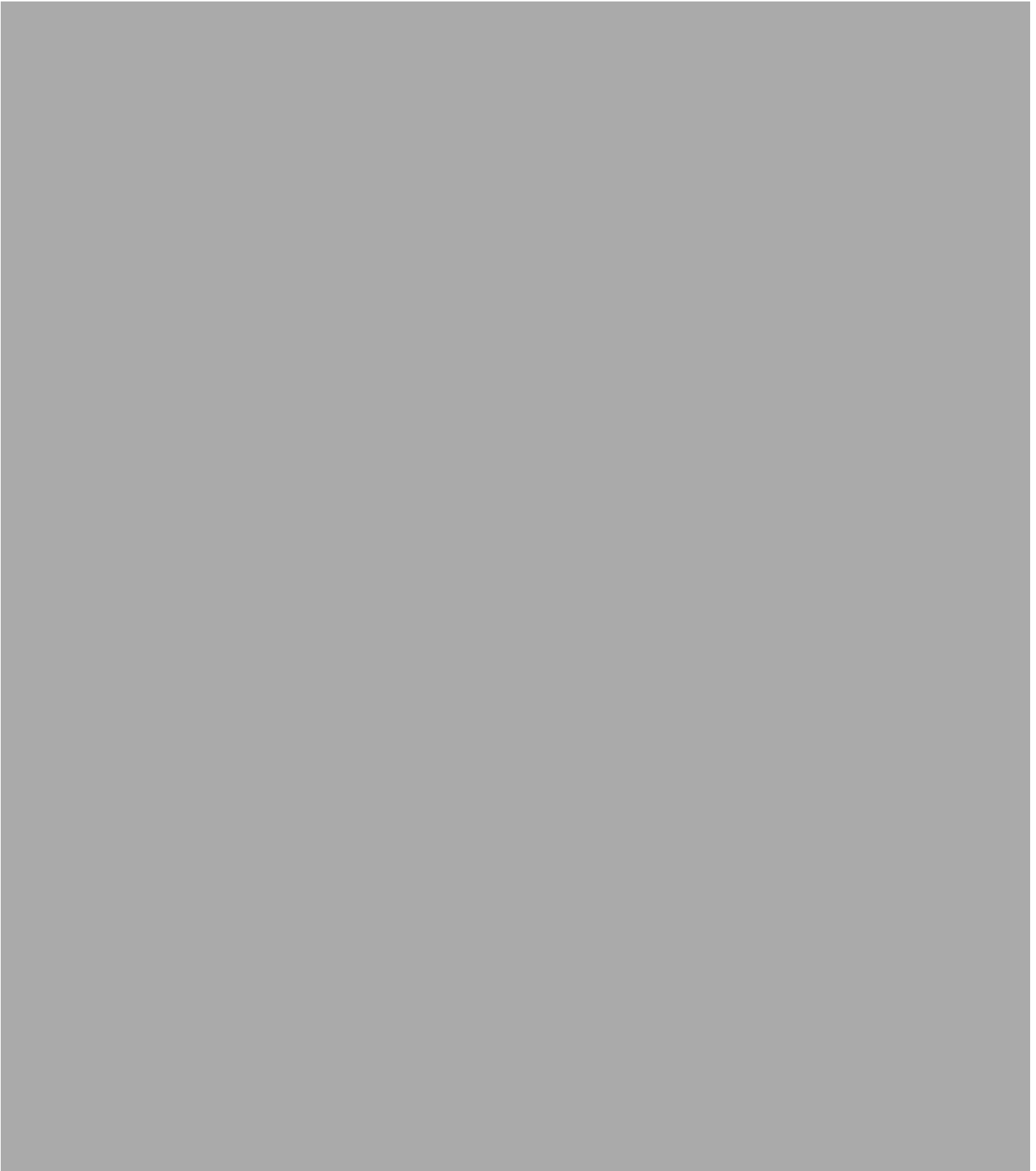
**ACT HERITAGE COUNCIL
AGENDA FOR MEETING 89
Thursday 8 February 2018**

Ground Floor Meeting Room, Dame Pattie Menzies House (North)

Meeting to start at 9.30am.

*Denotes that decision/discussion is required.

No asterisk means the agenda item is for noting purposes, with opportunity for questions.



5.7 Compliance Matters – Ms Russell & Ms Dunn

Council noted the agenda paper.

Ms Russell provided updates on two compliance matters relating to 8 Palmer Street, Hall, demolition works, and the removal of a scarred tree at Wanniasa. As a further update, ACT Heritage had preliminary discussions with Access Canberra investigators in relation to both matters, and that meetings with EPSDD will be scheduled in the coming weeks to discuss preliminary outcomes, including whether actions satisfies elements of an offence and what further actions may be recommended.

In relation to the removal of the scarred tree at Wanniasa, Mr Nizette expressed his concern and displeasure at the length of time it has taken for investigation to commence, considering the significant damage that has taken place.

**ACT HERITAGE COUNCIL
AGENDA FOR MEETING 87
Thursday 21 September 2017**

Ground Floor Meeting Room, Dame Pattie Menzies House (North)

Meeting to start at 9.30am.



DRAFT MINUTES OF ACT HERITAGE COUNCIL MEETING 86

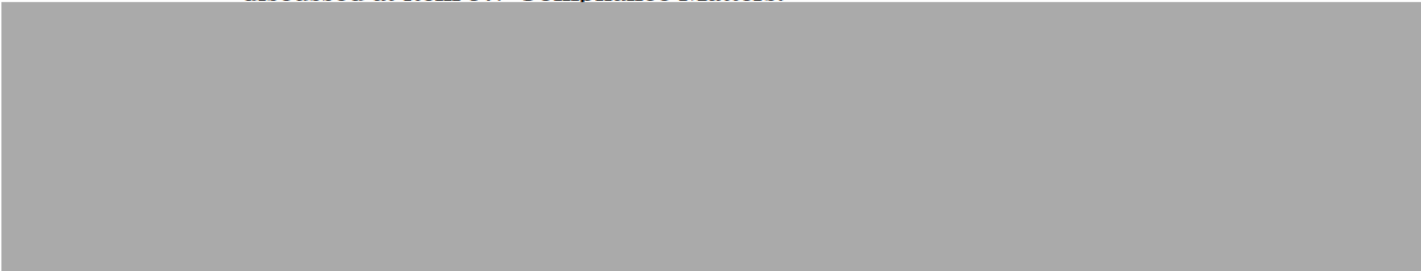


1.2 Confirmation of Agenda for Meeting 86

[Redacted text block]

and

- an update on the scarred tree at Wanniasa, requested by Mr Nizette – to be discussed at item 5.7 Compliance Matters.



5.7 Compliance Matters – Ms Russell & Ms Dunn

Council noted the agenda paper.

Mr Nizette requested a status update on the removal of a scarred tree at Wanniasa. Ms Russell explained that the matter is still with the investigations team at Access Canberra and there are no further updates at this stage.

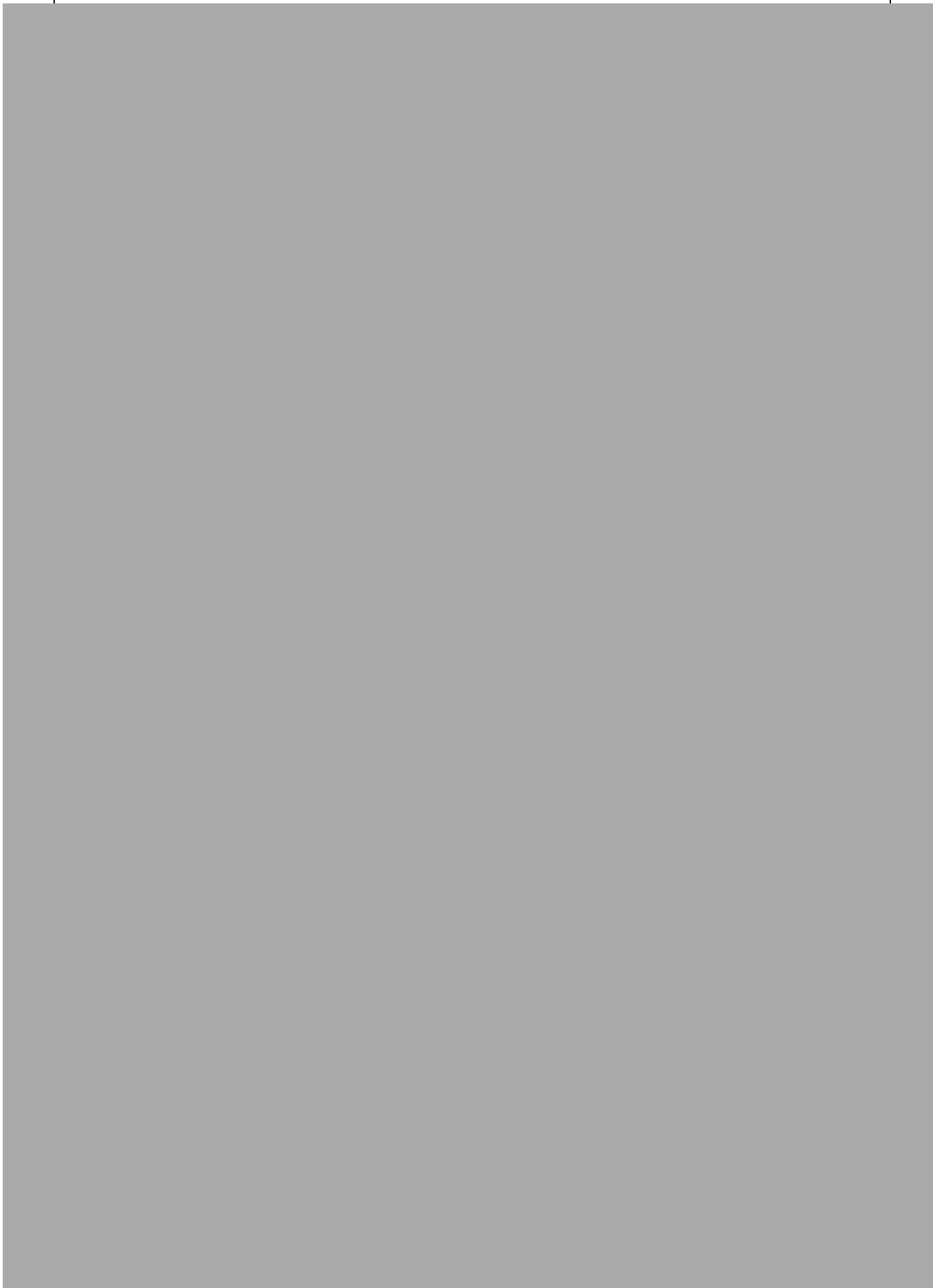
ACT HERITAGE COUNCIL

AGENDA FOR MEETING 88

Thursday 16 November 2017

Ground Floor Meeting Room, Dame Pattie Menzies House (North)

Meeting to start at 9.30am.



5.7 Compliance Matters – Ms Russell & Ms Dunn

Council noted the agenda paper.

Further to last Council meeting, Mr Nizette requested a status update on the removal of a scarred tree at Wanniasa. Ms O’Connell explained that the matter is with the investigations team at Access Canberra.

ISSUES

An update on compliance matters is presented below.

- Wanniassa Scarred Tree removal

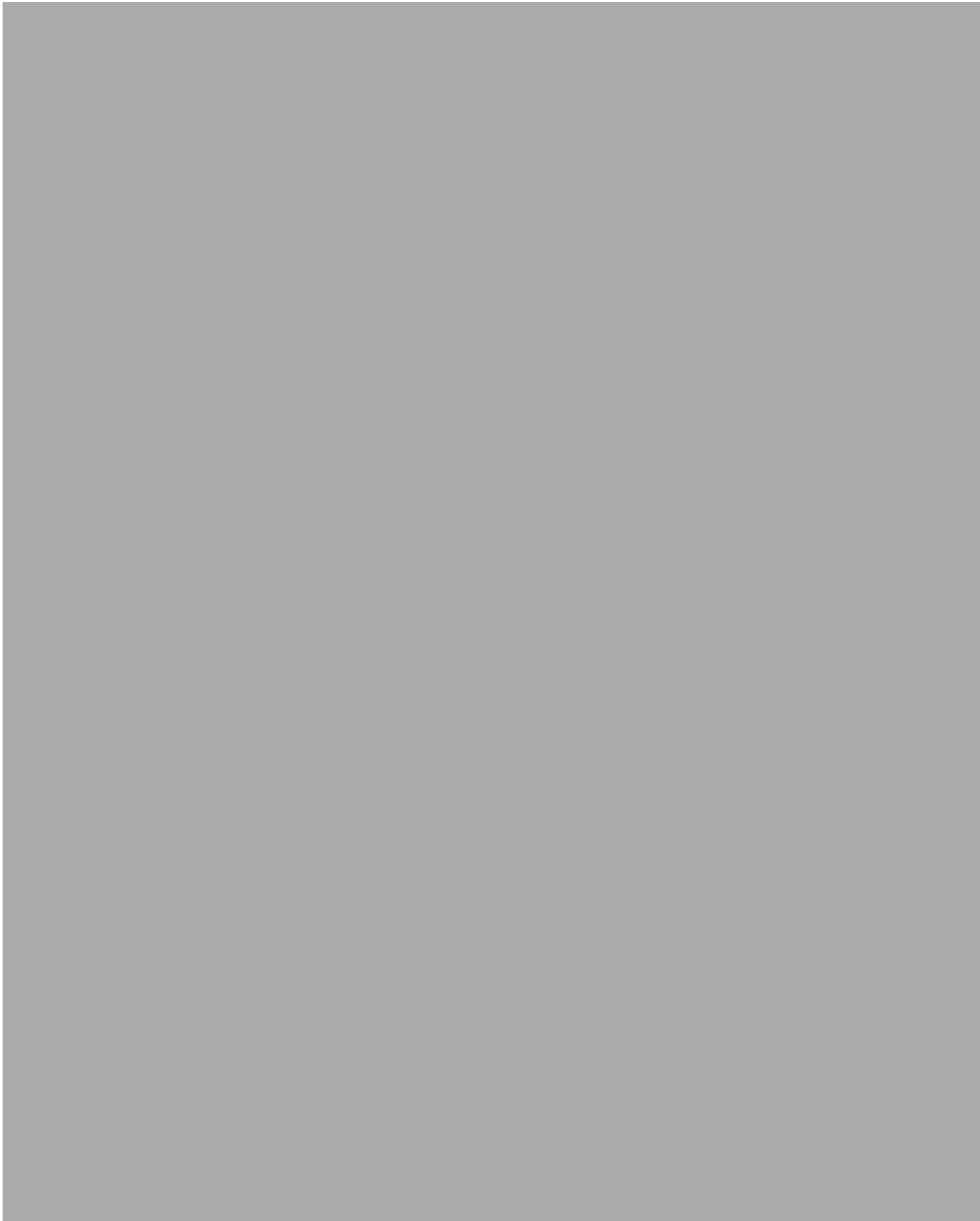
Following the referral of the Wanniassa scarred tree removal investigation to Access Canberra in June 2017, the investigation was assigned to an investigator in October 2017.

The investigator has made contact with key parties, such as the Education Directorate and Urban Treescapes, and will meet with ACT Heritage in the coming

**ACT HERITAGE COUNCIL
AGENDA FOR MEETING 93
Thursday 20 September 2018**

Function Room, Ground Floor, Dame Pattie Menzies House (North)

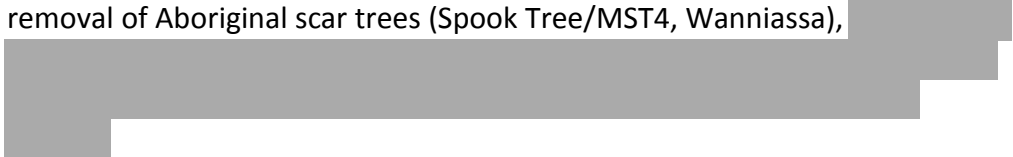
Meeting to start at 9.30am





c. Ministerials

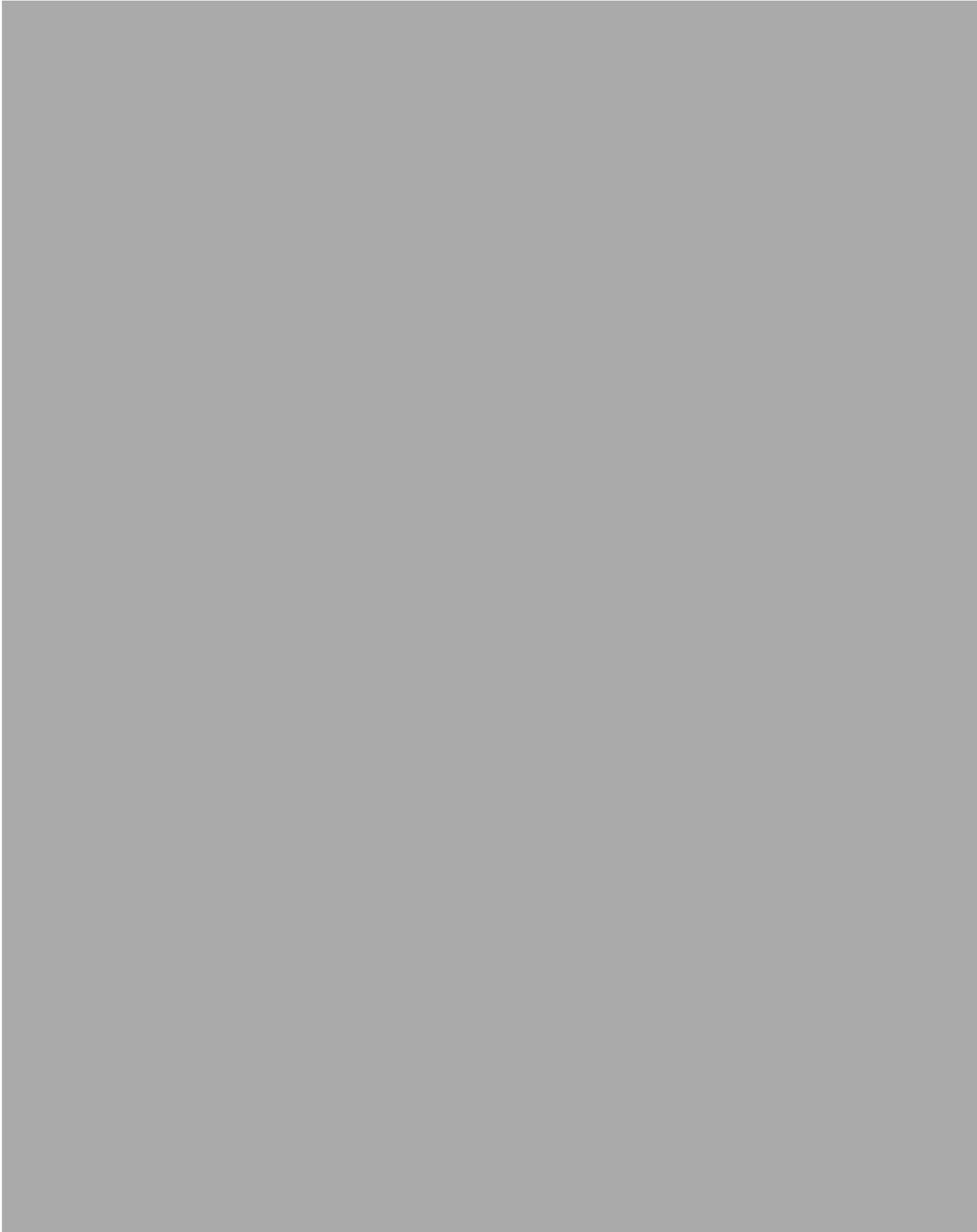
Ministerial correspondence was prepared in relation to the unauthorised removal of Aboriginal scar trees (Spook Tree/MST4, Wanniasa),



**ACT HERITAGE COUNCIL
AGENDA FOR MEETING 94
Thursday 15 November 2018**

Function Room, Ground Floor, Dame Pattie Menzies House (North)

Meeting to start at 9.30am





- Unauthorised removal of scarred trees in Wanniasa;





- Unauthorised removal of Aboriginal scarred trees in Wanniasa;



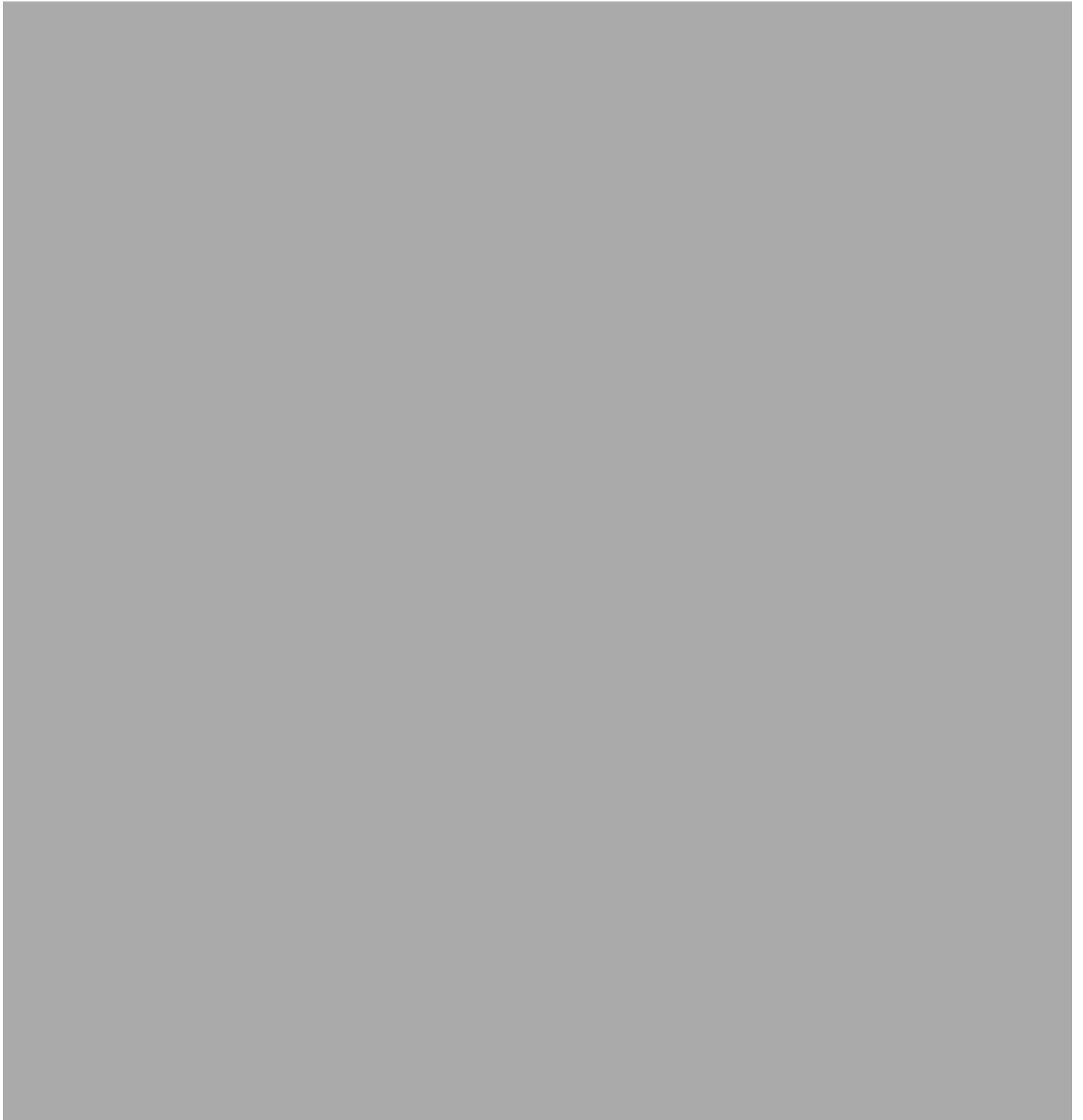


Wanniassa scarred tree removals

October-November 2018 RAO discussions

- Attempts were made to contact all RAOs in October and November 2018, with responses from BNAC on 2 and 5 November 2018.
- During these discussions, Wally Bell was advised of the removal of the 'MST4' scarred tree next to the Wanniassa Primary School. The outcomes of the investigation to date were also described, including that the event occurred between December 2016 and March 2017 and that the responsible party is not known.

- Wally Bell expressed disappointment that no party would be held accountable.
- The interim movement of the cultural tree to the [REDACTED] was discussed.
- Wally suggested that the tree could ultimately be moved to the Mt Taylor Reserve; which was noted for discussion with all other RAOs.

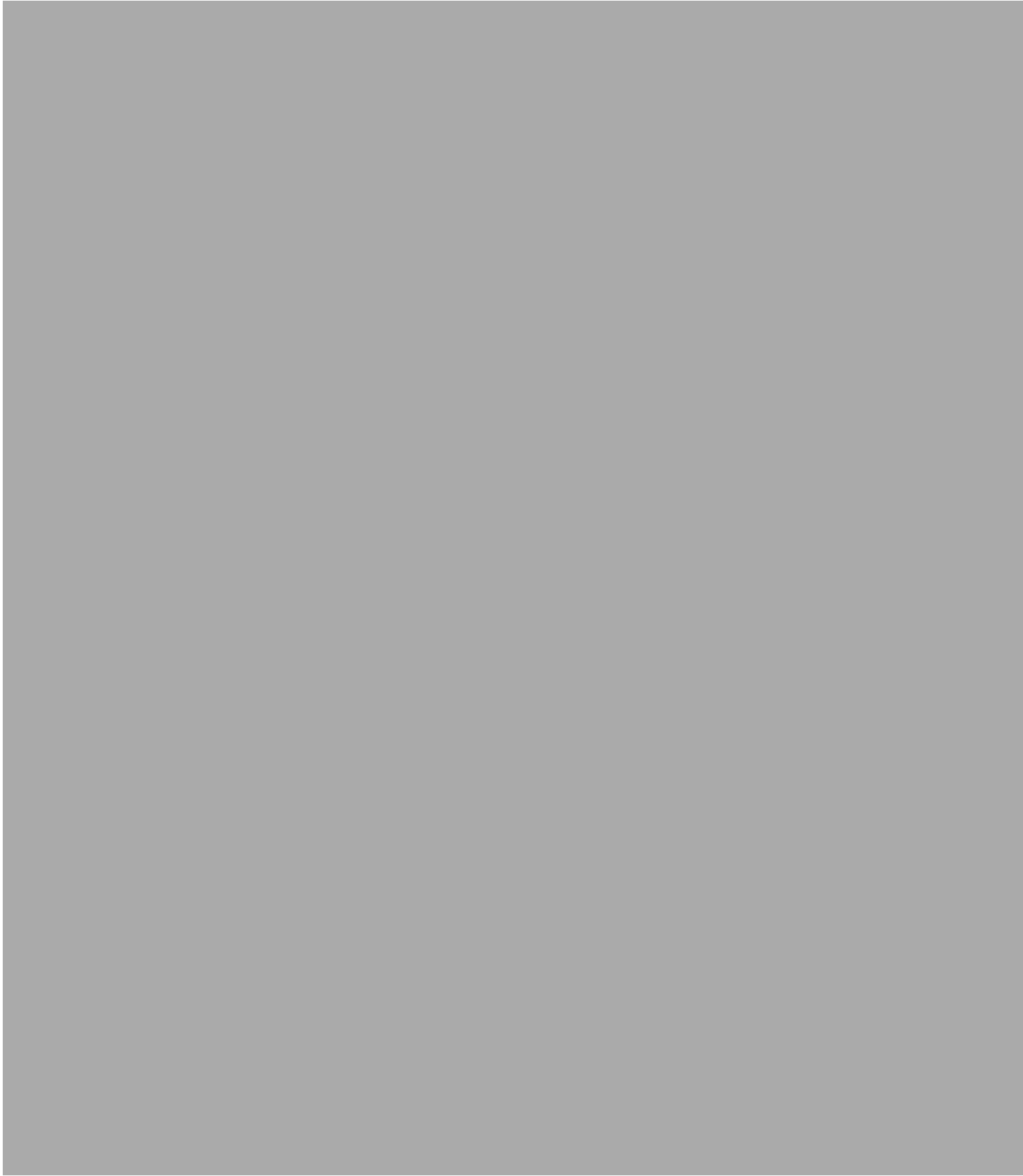


**ACT HERITAGE COUNCIL
AGENDA FOR MEETING 96**

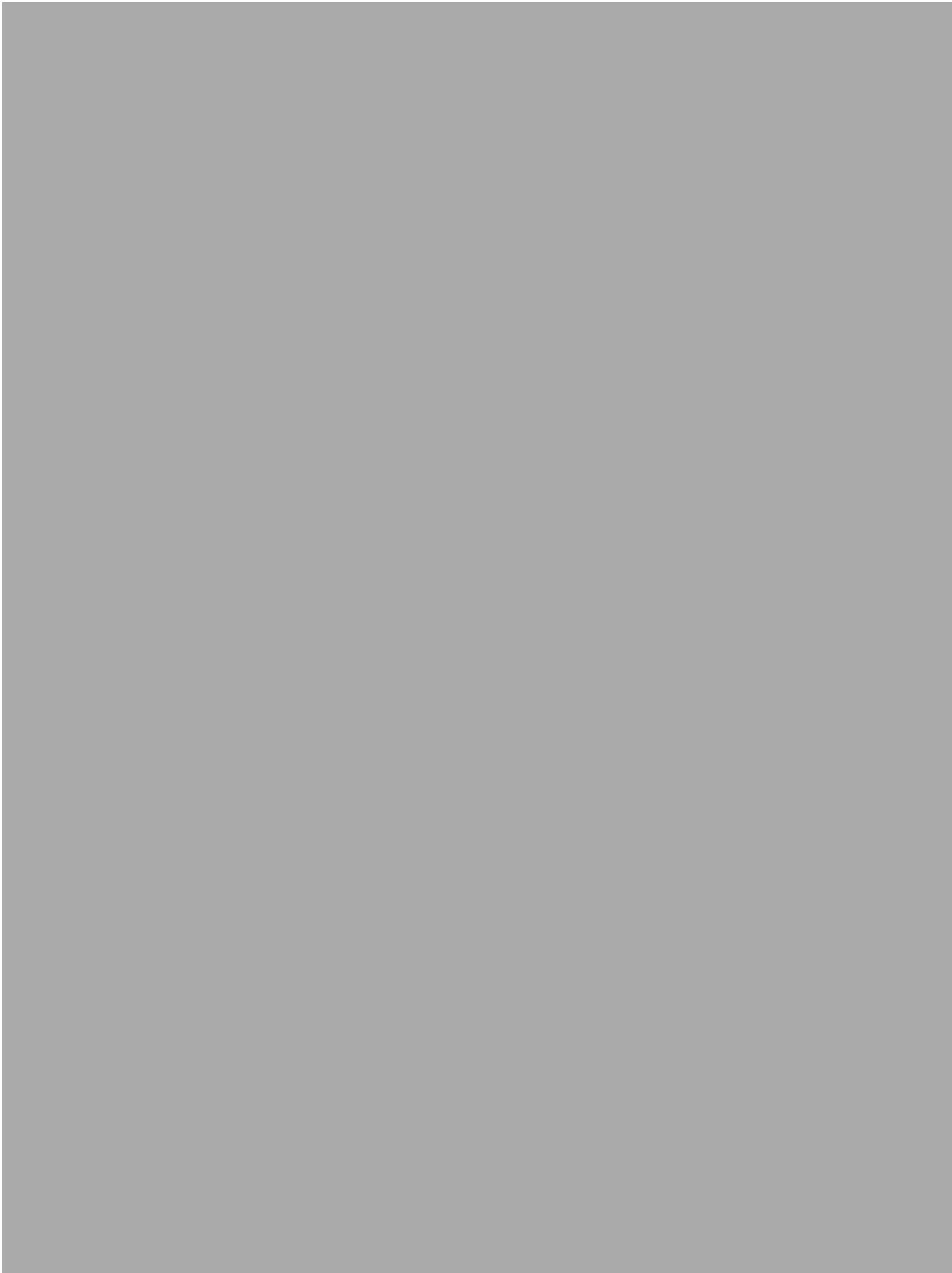
4 April 2019

Function Room, Ground Floor, Dame Pattie Menzies House (North)

Meeting to start at 9.30am



In addition to the agenda paper, Mr Gilbert provided an update on MST4 Scarred Tree at Wanniasa, now relocated to Parks and Conservation's [REDACTED] consultation with RAOs on its long term care and management.





- Correspondence: removal of trees at Wanniasa

