

Investigation report – Alleged unlawful destruction of Registered scarred tree MST 4 located near Billson Place, Wanniasa

Background

1. This report relates to the alleged unlawful destruction of an Aboriginal scarred tree known as Murumbeeja Scar Tree No.4 (MST 4).
2. MST 4 was a *Eucalyptus blakelyi* with a large scar on its trunk, understood to be a canoe scar. This tree was located upon Block 6 Section 253 Waniassa which is unleased Territory land managed by TCCS to the west of Wanniasa Hills Primary School. The actual location of MST 4 is depicted in Image 1 below.

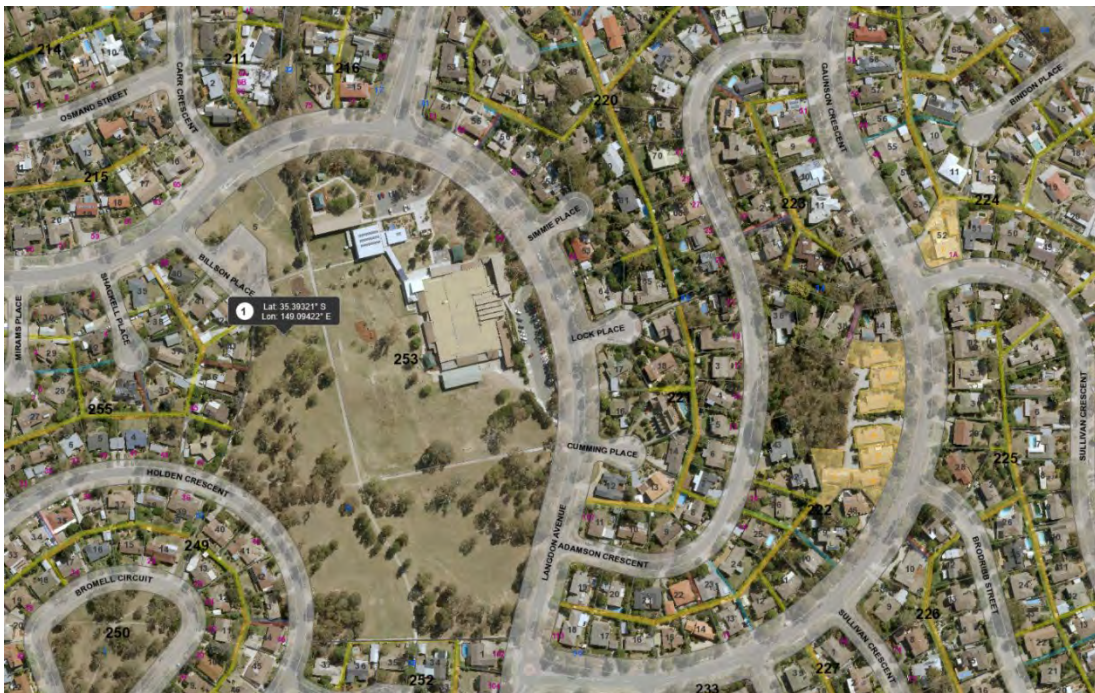


Image 1 – Location of Scarred Tree MST 4

3. Scarred trees are located throughout the parkland west and south of the Wanniasa Hills Primary School. Aboriginal scarred trees are rare sites as they are extremely vulnerable to clearing, vandalism, fire, weathering and age. The scarred trees of the ACT are particularly important to the Ngunnawal Aboriginal people because of their high cultural, historic and educational significance.
4. MST 4 was inspected on the 30 April 1996 by the Australian Heritage Commission who noted *“This large red gum, EUCALYPTUS BLAKELYI, has a poorly preserved medium sized scar on the underside of the trunk which leans heavily towards the north east.”* The inspection found that the tree was healthy but, due to its close proximity to the school playing fields, it should be monitored to ensure it was not impacted. MST 4 was added to the Register of the National Estate on 24 June 1997.
5. On 19 July 2018, [REDACTED] wrote to Minister Mick Gentleman in relation to the removal of two Aboriginal scarred trees listed on the ACT Heritage Register. The removal of one of those trees, known as ‘The Spook Tree’, was the subject of a separate investigation by Access Canberra which found that the tree was removed in error on 4 April 2017 by contractors for the ACT Education Directorate. [REDACTED] reported that MST 4 had been cut down and a section of the trunk was lying on the ground near the stump.

Investigation

6. About 2.00pm on 24 July 2018 ACT Heritage Aboriginal Liaison Officer Euroka Gilbert and Conservation Officer Gabrielle Caddy conducted an inspection of MST 4. They saw that the tree had been felled, with the striations from a chainsaw clearly visible on the stump. MST 4's branches had been removed from the site but the trunk was lying upon the ground adjacent to the stump, apparently in the first-fall position. It appeared that sometime after the tree was felled further chainsaw cuts have been made to the lower portion of the trunk as evidenced by the less weathered appearance of the timber. The recorded scar was partly visible on the underside of the trunk. A number of images were taken of the site. Images 2 and 3 show the trunk and stump.



Image 2 - The trunk showing evidence of a cut on the upper side and the scar on the lower side.



Image 3 – Comparison of weathering between the trunk base and the stump

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7. On 26 July 2018, Ms Rachel Dawes, A/g Manager Urban Treescapes, TCCS advised via email that there was no evidence that the removal of MST 4 had been undertaken by TCCS staff or contractors.
8. High resolution Nearmap aerial imagery of the site was reviewed. The image dated 31 December 2016 (Image 4) shows the upper branches of the tree being present. The next available image was taken on 10 March 2017 (Image 5). In that image, the upper branches are no longer present and the trunk of the tree is visible lying upon the ground.



Image 4 – Nearmap image taken 31 December 2016 depicting standing tree



Image 5 – Nearmap image taken 10 March 2017 with tree removed and trunk visible on the ground

9. About 1415hrs on Wednesday, 1 August 2018, [REDACTED] was spoken to via telephone ([REDACTED]) about this matter but he didn't have any additional information.

10. About 2.00pm on Thursday, 2 August 2018, Mr Malcolm Gale, Operations Manager South, TCCS City Presentation was spoken to via telephone. Mr Gale said his staff were responsible for lawn mowing at the site but he was unaware of the tree and there would be no records kept by TCCS in relation to it.
11. On 30 August 2018, Mr Tony Sadler (02 6205 9096) from ACT Property Group provided advice via email that ACTPG had not removed the tree. Mr Sadler also noted that ACTPG require complete removal of the tree from the site as well as stump grinding to ground level and he speculated that the tree had not been professionally removed.
12. A planned door knock of near-by residential houses was not conducted due to resourcing constraints.

Relevant Legislation

13. The following provisions of the *Heritage Act 2004* apply to damaging Aboriginal places or objects, subject to a number of exceptions contained in s.76;

75 Damaging Aboriginal place or object

- (1) *A person commits an offence if the person—*
 - (a) *engages in conduct that causes damage to an Aboriginal place or object; and*
 - (b) *is reckless about whether the conduct would cause damage to the Aboriginal place or object.*

Maximum penalty: 1 000 penalty units.

- (2) *A person commits an offence if the person—*
 - (a) *engages in conduct that causes damage to an Aboriginal place or object; and*
 - (b) *is negligent about whether the conduct would cause damage to the Aboriginal place or object.*

Maximum penalty: 500 penalty units.

- (3) *A person commits an offence if the person engages in conduct that causes damage to an Aboriginal place or object.*

Maximum penalty: 100 penalty units.

- (4) *An offence against subsection (3) is a strict liability offence.*

- (5) *In this section:*

cause damage includes disturb and destroy.

14. No heritage guideline, heritage direction, heritage agreement or conservation management plan authorised the removal of MST4. No Licence under Chapter 11 of the *Nature Conservation Act 2014* was issued to authorise removal of the tree.
15. The cutting down of MST 4 is also likely to have breached the provisions of s.144 (Damage Native Tree – Unleased Land) of the *Nature Conservation Act 2014*.

Conclusion and recommendation

16. MST 4 was felled by person/s unknown between 31 December 2016 and 10 March 2017. As the identity of the offender/s could not be established, not further action can be taken in relation to the alleged breaches. Unless further information becomes available, no further investigation of this matter will be undertaken.

Craig Jones
Manager Licensing and Compliance

From: Jones, CraigS
Sent: Wednesday, 8 August 2018 2:32 PM
To: Kidman, Fiona
Cc: Gilbert, Euroka; Heritage
Subject: Aboriginal scar tree damaged near Waniassa Hills Primary School [SEC=UNCLASSIFIED]

Hi Fiona

I hope you can assist me.

I am investigating a tree that has been cut down near Wanniasa Hills Primary School. I understand that you were involved in a similar incident in relation to a tree known as the 'spook tree' not far from this site.

According to the aerial imagery, the tree was cut down between 31 Dec 2016 and 10 March 2017

The location of the tree I am investigating is circled in red below. A significant portion of the trunk remains on site.



Do you know if this tree was removed as part of the same works program that removed the 'spook tree'? The dates roughly align.

Thanks

c

Craig Jones

Manager, Licensing and Compliance | Parks and Conservation

T 02 6207 1283 | [REDACTED] | F 02 6207 2544 | E craigs.jones@act.gov.au

Environment Division

Environment, Planning and Sustainable Development Directorate | ACT Government

500 Cotter Road, Weston Creek ACT 2611

<http://www.environment.act.gov.au/>



Norris, Clinton

From: Jones, CraigS
Sent: Friday, 27 July 2018 1:56 PM
To: Gilbert, Euroka
Subject: Accepted: Wanniasa Scar Tree

From: Jones, CraigS
Sent: Tuesday, 14 August 2018 9:46 AM
To: Gilbert, Euroka; Russell, Meaghan; Moore, FionaF
Cc: Kidman, Fiona
Subject: FW: Aboriginal scar tree damaged near Waniassa Hills Primary School [SEC=UNCLASSIFIED]

Hello everyone

I spoke with Fiona Kidman from Education yesterday in relation to the removal of scar tree MST4 and I have cc'ed Fiona into this message. Fiona K is going to speak with the contractor that removed the 'spook tree' to see if they know anything about MST4.

Fiona K has not received any information about the outcome of the 'spook tree' investigation. Also, Fiona is seeking some advice about what can be done to recognise the removal of the spook tree, such as re-planting or a small plaque etc. Can someone please contact Fiona about these matters?

I will await Fiona K's response before taking further action.

Thanks all

c

Craig Jones

Manager, Licensing and Compliance | Parks and Conservation

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From: Jones, CraigS
Sent: Wednesday, 8 August 2018 2:32 PM
To: Kidman, Fiona <Fiona.Kidman@act.gov.au>
Cc: Gilbert, Euroka <Euroka.Gilbert@act.gov.au>; Heritage <Heritage@act.gov.au>
Subject: Aboriginal scar tree damaged near Waniassa Hills Primary School [SEC=UNCLASSIFIED]

Hi Fiona

I hope you can assist me.

I am investigating a tree that has been cut down near Wanniasa Hills Primary School. I understand that you were involved in a similar incident in relation to a tree known as the 'spook tree' not far from this site.

According to the aerial imagery, the tree was cut down between 31 Dec 2016 and 10 March 2017

The location of the tree I am investigating is circled in red below. A significant portion of the trunk remains on site.



Do you know if this tree was removed as part of the same works program that removed the 'spook tree'? The dates roughly align.

Thanks

c

Craig Jones

Manager, Licensing and Compliance | Parks and Conservation

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From: Gilbert, Euroka
Sent: Wednesday, 8 August 2018 2:30 PM
To: Jones, CraigS
Subject: FW: COMPLEX compliance matter - removal of an Aboriginal Scarred Tree, no consent from the Conservator or ACT Heritage. [DLM=Sensitive]
Attachments: IMG_3929.jpg; IMG_3930.jpg; 20170224120752214.pdf; Wanniasa Hills Primary School Report 2016.pdf; Wanniasa Hills Primary School Map 2016.pdf
Importance: High

This was the works program the Spook tree was removed under. It is focused solely on the school grounds.
See attached map.

From: Gilbert, Euroka
Sent: Thursday, 6 April 2017 1:03 PM
To: Moore, FionaF <FionaF.Moore@act.gov.au>; Russell, Meaghan <Meaghan.Russell@act.gov.au>
Subject: COMPLEX compliance matter - removal of an Aboriginal Scarred Tree, no consent from the Conservator or ACT Heritage. [DLM=Sensitive]
Importance: High

Tree removal issue at Wanniasa Hills Primary School.

This morning I received a call from Fiona Kidman, Infrastructure & Capital Works Education Directorate regarding works at the school. Fiona was concerned that a tree (14) was removed that may have had heritage values.

I requested further information, which she provided via email.

On my initial look at the works, they appear fine as Hero shows (map below) the tree of concern to be the trees labelled 15-17 (Wanniasa Hills Primary School Map 2016.pdf) . This is incorrect and I only realised this after I had called Fiona back.

I went to Wanniasa Hills Primary School to clarify the removed tree for my own peace of mind, on approaching Wanniasa Hills Primary School I could clearly see that the 'Wanniasa Spook Tree' has been removed. **I vomited in my mouth a bit...**

I parked in the car park and entered the school. I approached the front desk introduced myself and was pointed in the direction of Chris, who provided me a map of the tree planting.

I went to the area and took 2 images of where the 'Wanniasa Spook Tree' was, all that remains is a stump, cut close to ground level (IMG 3929.jpg and IMG 3930.jpg)

Issues:

the 'Wanniassa Spook Tree' has been felled and mulched.

I have provided incorrect information to Fiona Kidman. (which I will have to rescind – courtesy of Hero)

Hero, highlights the wrong tree as having cultural values.

The Conservator did not consent to the removal of the 'Wanniassa Spook Tree' (20170224120752214.pdf).

The 'Wanniassa Spook Tree' is a well known tree and its removal will upset members of the RAOs and other members of the Aboriginal Community.

The removal of the 'Wanniassa Spook Tree' may generate negative press.

If further information is required please don't hesitate to contact me.

Cheers

Mr. Euroka Gilbert | Aboriginal Liaison Officer

Phone 02 6207 5724 |

ACT Heritage | Environment, Planning and Sustainable Development Directorate

| ACT Government

Dame Pattie Menzies House, Challis Street, Dickson | GPO Box 158 Canberra ACT 2601 | www.environment.act.gov.au



I acknowledge the Traditional Custodians of the ACT and region, their continuing connection to land and community. I pay my respect to them and their culture, and to the elders past, present and future.

Site Search BASE MAP - ArcMap

File Edit View Bookmarks Insert Selection Geoprocessing Customize Windows Help

1:800 Georeferencing FT 1915 S1 Trimmed1.tif

Table

NEW_PT

FID	Shape *	HERITAGE_A	LOCATION_I	CREATE_DAT	UPDATE_DAT	CREATE_USE	CGDMGA_HER	RESTRICTED	NAME	LISTING	STATUS	TYPE	ARTEFACT_Q
0	Point	0	0	12:00:00 AM	12:00:00 AM		0						0
1	Point	0	0	12:00:00 AM	12:00:00 AM		0						0
2	Point	0	0	12:00:00 AM	12:00:00 AM		0						0
3	Point	0	0	12:00:00 AM	12:00:00 AM		0						0

1 (0 out of 4 Selected)

NEW_PT

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 - HERITAGE.EXPLORER_HERITAGE_AREA
 - CGDMGA.V_HERITAGE_ACTMAPI
 - HERITAGE.HERITAGE_POINT
 - HERITAGE.HERITAGE_LINE
 - HERITAGE.HERITAGE_AREA
 - CGDMGA.HERITAGE_DETAIL
 - CGDMGA.HERITAGE_PLACE_BLOCK
 - HERITAGE.DEVELOPMENT_AREA







ACT
Government

Transport Canberra and
City Services

Ms Kris McCreath
Wanniassa Hills Primary Scholl
88 LANGDON AVENUE
WANNIASSA ACT 2903

NOTICE OF DECISION
Tree Protection Act 2005

Dear Ms McCreath

This letter is notice of the Conservator of Flora and Fauna's decision regarding an application for a proposed activity under the *Tree Protection Act 2005* (the Act) at **88 LANGDON AVENUE, Wanniassa Hills Primary Scholl, WANNIASSA**. The notice is issued in accordance with section 26(2) of the Act. The location of the relevant tree/s and reasons are set out in the attached Conservator's decision, dated **17 February 2017**.

The Conservator's Decision (attached) is internally reviewable. You may apply for reconsideration of the decision under section 106 of the Act. The application must be in writing and must set out the grounds upon which reconsideration of the decision is sought. The application fee is \$108.00 under the *Tree Protection (Fees) Determination 2014 (No1) 1.1. S22* of the Act from 1 July 2016.

An electronic "Smartform" is available to download via the [Access Canberra website](http://www.tccs.act.gov.au/city-living/trees/tree_activity_application_forms) link below
http://www.tccs.act.gov.au/city-living/trees/tree_activity_application_forms

The application must be made within **14 days** of the date of this notice by **Monday 6 March 2017**. An application for internal review will suspend any regular activity on tree/s subject to the reconsideration appeal. The review process may take 60 days and may confirm, vary or set aside the first decision.


If you do not agree with the reconsidered decision, you may apply to the *ACT Civil and Administrative Tribunal* for review of the decision. You may also seek review of the decision under the *Administrative Decisions (Judicial Review) Act 1989*. You may also contact the *ACT Ombudsman* if you have concerns about the decision.

The request for Felling/Removal of Tree 14 (*Eucalyptus blakelyi*) has not been, granted, however, it is recommended that:

- the tree be assessed regularly by a qualified arborist to undertake a hazard and risk assessment every two to three years or when deterioration is noticed.

If you would like to discuss any aspect of the application, please contact the Tree Protection Unit on telephone (02) 6207 6127 during business hours.

Yours sincerely


Richard Allen
Technical Manager, Urban Treescapes
Delegate of the Conservator of Flora and Fauna
Roads and Infrastructure Division
Transport Canberra and City Services Directorate
17 February 2017

CONSERVATOR'S DECISION
Tree Protection Act 2005

Address of Activity: 88 LANGDON AVENUE, Wanniasa Hills Primary Scholl
WANNIASSA ACT 2903

Application ID: 33988 **Block:** 1 **Section:** 253

Tree(s) 14: Eucalyptus blakelyi

TREE ADDRESS: 88 LANGDON AVENUE, Wanniasa Hills Primary School

LOCATION ON BLOCK: Alongside southern boundary.

DECISION SUMMARY:

The request for approval of felling/removal of this tree is not granted. Please see details below and recommendations, if any, in the attached Notice of Decision letter.

TREE DAMAGING ACTIVITY: FELLING/REMOVAL

CONSERVATOR'S DECISION: NOT GRANTED

BASIS FOR DECISION:

It has not been established that any of the criteria for removal have been satisfied in Clauses 1(1) and (2) of Schedule 1 of Disallowable Instrument DI2006-60, Tree Protection (Approval Criteria) Determination 2006 (No 2).



Delegate of the Conservator
17 February 2017



Tree Diagnostic Report

For

Wanniassa Hills Primary School

ACT Properties Group

Department of Land and Property Services

PO BOX 777

Fyshwick ACT 2609

Treeworks (ACT/NSW) Pty Ltd

Phone1:1300 135 835

Phone 2:6282 1244



Fax: 6282 3544

Email: office@treeworks.net.au

Address: PO BOX 139 Fyshwick 2609

Prepared by [REDACTED] Consulting Arborist November 2016

Tree Number	Botanical Name / Common Name	Tree Condition	Suggested Action/s	Priority	Permit	Tree Surgery + GST	Stump Grinding + GST
1	Fraxinus oxycarpa (Desert Ash) x7	Good condition	Remove deadwood and broken branch	Recommended	NO	■	
2	Fraxinus oxycarpa (Desert Ash)	Good condition	Remove deadwood	Priority	NO	■	
3	Fraxinus oxycarpa (Desert Ash)	Good condition	Remove deadwood	Priority	NO	■	
4	Fraxinus oxycarpa (Desert Ash)	Good condition	No action required				
5	Eucalyptus sideroxylon (red ironbark)	Good condition	No action required				
6	Zelkova serrata (Japanese Elm)	Good condition	No action required				
7	Quercus palustris (Pinoak)	Good condition	No action required				
8	Zelkova serrata (Japanese Elm)	Good condition	No action required				
9	Zelkova serrata (Japanese Elm)	Good condition	No action required				
10	Eucalyptus blakelyi (Blakely's Red Gum)	Fair condition	Remove deadwood. Monitor dieback	Priority	NO	■	
11	Eucalyptus blakelyi (Blakely's Red Gum)	Fair condition	No action required				
13	Eucalyptus melliodora (Yellow Box)	Good condition	No action required				
14	Eucalyptus melliodora (Yellow Box)	Poor condition	Remove and grind	Priority	YES	■	■
15	Eucalyptus mannifera (Brittle Gum)	Fair condition	Monitor bird damage				
16	Eucalyptus sideroxylon (red ironbark)	Good condition	No action required				
17	Eucalyptus sideroxylon (red ironbark)	Fair condition	No action required				
18	Fraxinus Sp (Ash)	Good condition	No action required				
19	Fraxinus oxycarpa (Desert Ash)	Fair condition	No action required				
20	Fraxinus Sp (Ash)	Good condition	No action required				
21	Fraxinus Sp (Ash)	Good condition	No action required				
22	Fraxinus Sp (Ash)	Good condition	No action required				
23	Eucalyptus blakelyi (Blakely's Red Gum)	Fair condition	Monitor bird damage				
24	Casuarina cunninghamiana (Sheoak) x10	Fair condition	Remove deadwood and branches over path	Recommended	NO	■	
25	Leptospermum (Tea Tree) group	Fair condition	Remove deadwood	Priority	NO	■	
26	Eucalyptus mannifera (Brittle Gum)	Good condition	No action required				
27	Group of small trees and shrubs	Fair condition	No action required				

28	Eucalyptus mannifera (Brittle Gum)	Good condition	No action required				
29	Eucalyptus mannifera (Brittle Gum)	Good condition	No action required				
30	Eucalyptus mannifera (Brittle Gum)	Good condition	Remove deadwood	Priority	NO		
31	Eucalyptus sideroxylon (red ironbark)	Good condition	No action required				
32	Fraxinus oxycarpa (Desert Ash)	Fair condition	Remove dead stems/branches	Priority	NO		
33	Fraxinus oxycarpa (Desert Ash)	Fair condition	No action required				
34	Eucalyptus blakelyi (Blakely's Red Gum)	Dead	Remove and grind	Priority	NO		
35	Platanus acerifolia (London Plane)	Good condition	No action required				
36	Eucalyptus mannifera (Brittle Gum)	Poor condition	Monitor potential insect infestation				
37	Eucalyptus mannifera (Brittle Gum)	Good condition	No action required				
38	Eucalyptus sideroxylon (red ironbark)	Good condition	No action required				
39	Eucalyptus sideroxylon (red ironbark)	Fair condition	No action required				
41	Eucalyptus melliodora (Yellow Box)	Fair condition	Remove lowest limb. Monitor	Priority	NO		
42	Eucalyptus sideroxylon (red ironbark)	Fair condition	No action required				
43	Eucalyptus sideroxylon (red ironbark)	Fair condition	Monitor, reinspect in 12 months				
44	Eucalyptus camaldulensis (Red River Gum)	Good condition	No action required				
45	Eucalyptus mannifera (Brittle Gum)	Fair condition	No action required				
46	Ulmus sp. (Elm)	Fair condition	No action required				
47	Eucalyptus mannifera (Brittle Gum)	Good condition	No action required				
48	Quercus palustris (Pinoak)	Good condition	No action required				
49	Various small trees	Good condition	No action required				
50	Eucalyptus mannifera (Brittle Gum)	Fair condition	No action required				
51	Eucalyptus mannifera (Brittle Gum) x9	Good condition	No action required				
52	Fraxinus oxycarpa (Desert Ash)	Good condition	Remove branches around light	Recommended	NO		
53	Fraxinus oxycarpa (Desert Ash)	Good condition	No action required				
54	Eucalyptus mannifera (Brittle Gum)	Good condition	No action required				



Tree Assessment

We are pleased to provide you with a detailed report on the condition of all trees the **Wanniassa Hills Primary School**.

Limited Basis of Report

This report is submitted and acknowledged by the client to be prepared by Treeworks (ACT/NSW) Pty. Limited, as instructed, on a limited basis after visual inspection of the tree at ground level only, and following due consideration of the appearance of the tree by a qualified Arborist.

Acknowledgements

The client acknowledges:

- (a) That Treeworks (ACT/NSW) Pty. Limited has not conducted any invasive procedure or ultrasound test on the tree, nor inspected it at crown level;
- (b) This report does not and cannot make comment upon or determine or assess defects that may exist in the tree internally, whether arising from decay, disease, effect of drought, insect infestation or any other inherent condition that may exist.

No Warranty for Non discernible Defects or Damage

Accordingly, this report cannot and does not warrant that defects or damage do not exist within the tree that may not be discernible to a competent Arborist making an inspection at ground level.

Reliance Period

The client acknowledges that no reliance may be placed on this report after the date three months following the date of inspection



Disclaimer of Liability to Third Parties

To the extent permissible by law, Treeworks (ACT/NSW) Pty. Limited is not liable for any loss, damage, personal injury, costs or expenses suffered by any person or persons other than the recipient of this report.

Glenosborne Pty Ltd T/A TreeWorks is covered by QBE Insurance (Australia) Ltd for legal liability cover Australia wide to the sum of \$20,000,000 for public liability and \$20,000,000 for products liability. Glenosborne Pty Ltd T/A TreeWorks is also covered by QBE Workers Compensation NSW Ltd for workers compensation and unlimited common law anywhere in the ACT and copies of these policies are available on request.

This report provides you with an assessment of all trees on site, as well as costs associated with the work recommended.

All trees removals will also be stump grinded. Unless advise. See stump grinding prices on charts.

Sub Total: Urgent	High risk rehabilitation works that, if not undertaken, may cause injury to people or damage to property / Immediate attention required.	
Sub Total: Priority	High risk rehabilitation works that requires priority attention.	
Sub Total: Recommended	Medium Risk non critical rehabilitation works that may require attention.	
Sub Total: No Action Required	Low risk, no rehabilitation works required.	
Sub Total		
GST		
Total		

We will removal all materials from site unless instructed otherwise and the site will be left clean and tidy.

Thank you for the opportunity to quote this work. Please contact our office if you wish to proceed with this work or should you require any addition information on the assessment. Our business hours are 8:30AM to 5:00PM Monday to Friday.

Yours truly,


TreeWorks



Wanniassa Hills Primary School

November 2016



From: [Jones, CraigS](#)
To: [Gilbert, Euroka](#)
Subject: FW: [REDACTED] email report [SEC=UNCLASSIFIED]
Date: Friday, 26 October 2018 9:17:00 AM
Attachments: [image001.jpg](#)

Hi Euroka

Have you had any luck find this message?

Thanks

c

Craig Jones

Manager, Licensing and Compliance | Parks and Conservation

T 02 6207 1283 | [REDACTED] F 02 6207 2544 | E craigs.jones@act.gov.au

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ACTGovPCSAAA



From: Jones, CraigS
Sent: Tuesday, 23 October 2018 3:07 PM
To: Gilbert, Euroka <Euroka.Gilbert@act.gov.au>
Subject: [REDACTED] email report [SEC=UNCLASSIFIED]

Hey Euroka

Are you able to forward me the original report about MST4 from [REDACTED]? I thought I had but I don't. I need it for the investigation report.

Thanks

c

Craig Jones

Manager, Licensing and Compliance | Parks and Conservation

T 02 6207 1283 | [REDACTED] F 02 6207 2544 | E craigs.jones@act.gov.au

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ACTGovPCSA



From: Jones, CraigS
Sent: Thursday, 30 August 2018 12:36 PM
To: Moore, FionaF; Gilbert, Euroka
Cc: Russell, Meaghan; Nakkam, John; OConnell, Jennifer
Subject: FW: Tree removal near Wanniasa Hills Primary School [SEC=UNCLASSIFIED]

F & E

Please see advice from ACTPG below. In short

- They only deal with trees on sites they manage
- Any trees they contract to be removed are fully removed from site and stump ground

I don't think I've received a copy of the Access Canberra investigation report in relation to the Spook Tree; could someone please send me a copy as I want to speak with the contractor who removed that tree. Once I've done that, the only other steps are speaking with the school directly and the occupants of the nearby residential properties.

Thanks

c

Craig Jones

Manager, Licensing and Compliance | Parks and Conservation

T 02 6207 1283 | [REDACTED] | F 02 6207 2544 | E craigs.jones@act.gov.au

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<http://www.environment.act.gov.au/>



From: Sadler, Tony
Sent: Thursday, 30 August 2018 9:10 AM
To: Jones, CraigS <CraigS.Jones@act.gov.au>
Subject: RE: Tree removal near Wanniasa Hills Primary School [SEC=UNCLASSIFIED]

Hi Craig

How are you?
How long have you been with ACT Gov.?

As for the tree in question ACT Property Group only provide services within the boundaries of buildings we manage. As the tree in question is on public land I would say it would have been attended to through the fix my street unit.

There may have been a case lodged with Access Canberra, they may have a record of a complaint coming in from a member of the public. As part of the tree is still present it is possible that it was not removed professionally as I know when we arrange tree removal it includes stump grinding.

The schools I believe organise their own tree maintenance. It may be worth asking who carried out the works at the school and contacting them they may have seen something if they were there in the same sort of time frame.

Sorry I couldn't be of more help.

Cheers

Tony Sadler **Property Officer | Portfolio Management Team | ACT Property Group | Chief Minister, Treasury & Economic Development Directorate | ACT Government**
PO Box 777 Fyshwick ACT 2609 | www.act.gov.au

Ph: + 61 6205 9096 | F: + 61 2 6213 0735 | E: tony.sadler@act.gov.au

"If you have any feedback for the ACT Property Group, please email actpgfeedback@act.gov.au"

From: Jones, CraigS
Sent: Wednesday, 29 August 2018 5:19 PM

To: Sadler, Tony <Tony.Sadler@act.gov.au>

Subject: Tree removal near Wanniasa Hills Primary School [SEC=UNCLASSIFIED]

Hi Tony

Long-time no-speak. Hope things are good with you and yours.

Are you able to give me a hand with an enquiry I'm dealing with at the moment? We received a complaint about a tree being removed from public land near Wanniasa Hills Primary School – there's an image showing the location below. I've had a look at the aerial imagery and it was cut down sometime between 31 Dec 2016 and 10 March 2017.

It was a large standing dead tree. Part of the trunk is still at the site but the rest is gone.

I have spoken with City Services and they don't know anything about it. I have also spoken with Fiona Moore from Dept. of Education. Fiona had some trees removed from in and around the school grounds around this time but not this one. She suggested that Property Group may have removed because of public safety concerns.

Does your team manage tree removals? If so, are you able to check if this one was taken down by one of your contractors?



Thanks for any help you can give me.

c

Craig Jones

Manager, Licensing and Compliance | Parks and Conservation

T 02 6207 1283 | [REDACTED] | F 02 6207 2544 | E craigs.jones@act.gov.au

Environment Division

Environment, Planning and Sustainable Development Directorate | ACT Government

500 Cotter Road, Weston Creek ACT 2611

<http://www.environment.act.gov.au/>



From: [Gilbert, Euroka](#)
To: [Jones, CraigS](#)
Subject: FW: Website - <https://www.mickgentleman.com.au/> - Contact - Submission [SEC=UNCLASSIFIED]
Date: Friday, 26 October 2018 11:56:05 AM

From: GENTLEMAN
Sent: Thursday, 19 July 2018 4:11 PM
To: EPSDD DLO <EPSDDDLO@act.gov.au>
Cc: Sendaba, Bethel <Bethel.Sendaba@act.gov.au>
Subject: FW: Website - <https://www.mickgentleman.com.au/> - Contact - Submission
 Hey kim,

Can we get a min res to this one please?

Cheers

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 Planning and Land Management

Minister for Police and Emergency Services

Minister for the Environment and Heritage

Minister for Urban Renewal

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*.

From: gentleman@act.gov.au [<mailto:gentleman@act.gov.au>]

Sent: Thursday, 19 July 2018 4:10 PM

To: GENTLEMAN <GENTLEMAN@act.gov.au>

Subject: Website - <https://www.mickgentleman.com.au/> - Contact - Submission

Message	<p>Dear Mr Gentleman I am contacting you regarding heritage listed Aboriginal scarred trees in Wanniasa on the grounds of the Wanniasa Hills Primary School, Blocks 1 & 2 Section 253 Wanniasa. Two of the trees, which were listed on the ACT Heritage Register and still listed on the web site have been removed. One tree, within the playing field of the school, know colloquially by the school children as the 'Spook Tree', has completely disappeared. The other tree on the opposite side of the walking path has been cut down and what appears to be a section of the main trunk of this tree is currently on the ground. Can you give me a reason why these significant trees have been removed, and whether the scars from the removed bark have been retained elsewhere? Having them still appearing on the ACT Heritage Register would seem to be a misrepresentation of the function of the register as representing the Aboriginal heritage of the ACT. Regards [REDACTED] 19 July 2018</p>
ContentId	6746

FirstName	█
LastName	█
Mobile	█
Email	█
Postcode	█

From: [Jones, Craig](#)
To: [Gilbert, Euroka](#)
Subject: [REDACTED] email report [SEC=UNCLASSIFIED]
Date: Tuesday, 23 October 2018 3:07:00 PM
Attachments: [image001.jpg](#)

Hey Euroka

Are you able to forward me the original report about MST4 from [REDACTED] I thought I had but I don't. I need it for the investigation report.

Thanks

c

Craig Jones

Manager, Licensing and Compliance | Parks and Conservation

T 02 6207 1283 | [REDACTED] F 02 6207 2544 | E craigs.jones@act.gov.au

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ACTGovPCSAAA



From: Gilbert, Euroka
Sent: Friday, 27 July 2018 11:17 AM
To: Jones, CraigS
Cc: Chaston, Daisy; Russell, Meaghan
Subject: potential breach of the Heritage Act 2004. [DLM=Sensitive]
Attachments: Export.png; Export.pgw; Export.prj

Hi Craig.

ACT Heritage has received a query from a member of the public regarding the cutting down of a Registered scarred tree at Wanniassa. The tree is now laying in Urban Open Space located near Bilson Place, Wanniassa (near Wanniassa Hills Primary School).

We have spoken to Daniel and he requested that we contact you to undertake the initial information gathering and site recording.

The trunk bearing the scar was present onsite at 24/07/2018 (image attached but upside down).

I have attached an ACTmapi extract with the trees location for your reference.

ACT Heritage is seeking a secure location for the storage of the trunk within PCS estate.

If further information is required please don't hesitate to contact me.

Cheers

Mr. Euroka Gilbert | Aboriginal Liaison Officer

Phone 02 6207 5724 | Email: euroka.gilbert@act.gov.au

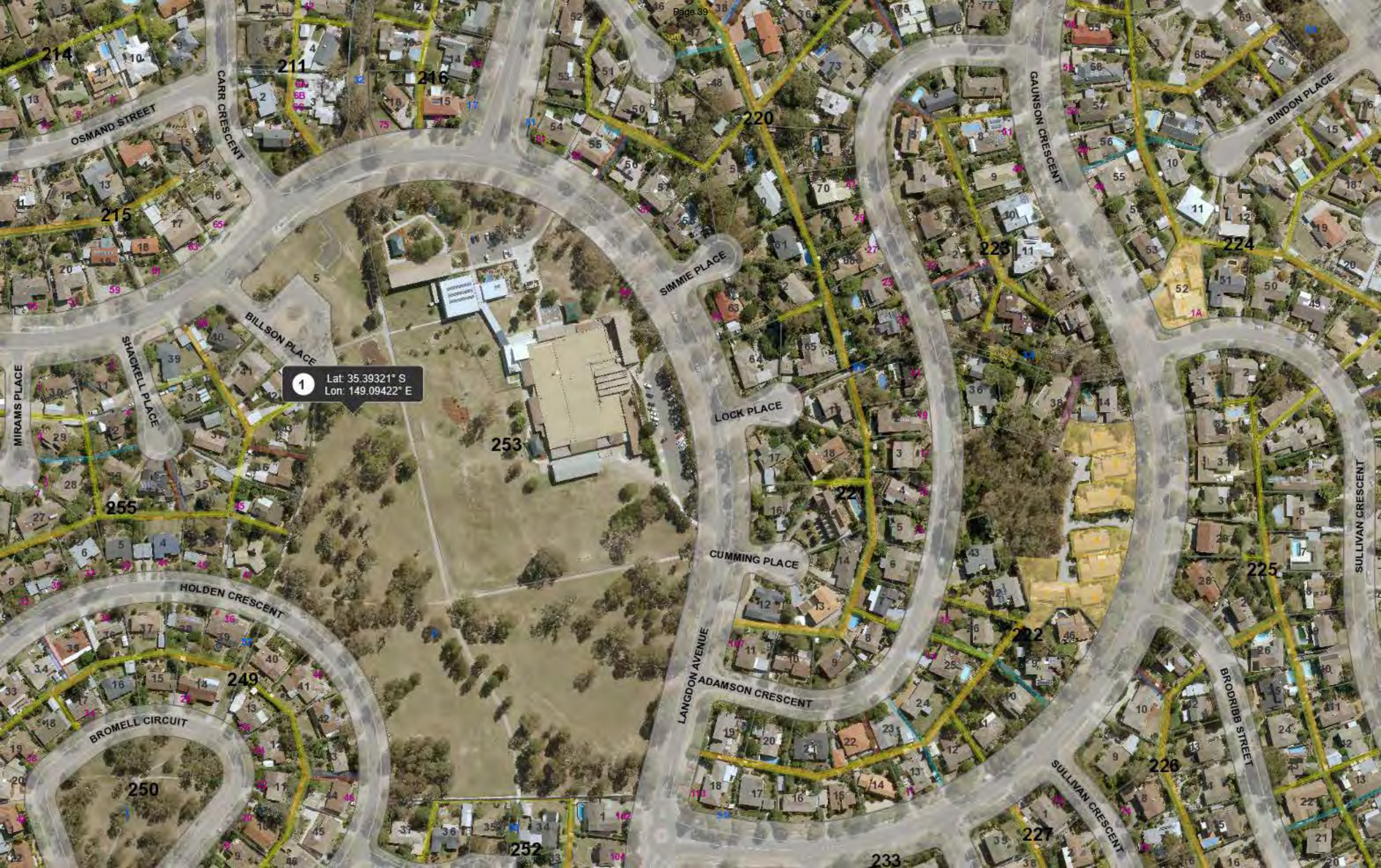
ACT Heritage | Environment, Planning and Sustainable Development Directorate | ACT Government

Dame Pattie Menzies House, Challis Street, Dickson | GPO Box 158 Canberra ACT 2601 | www.environment.act.gov.au



I acknowledge the Traditional Custodians of the ACT and region, their continuing connection to land and community. I pay my respect to them and their culture, and to the Elders past, present and future.





1 Lat: 35.39321° S
Lon: 149.09422° E

From: Jones, CraigS
Sent: Monday, 20 August 2018 10:18 AM
To: Kidman, Fiona
Cc: Gilbert, Euroka; Russell, Meaghan; Moore, FionaF; Nakkam, John
Subject: RE: Aboriginal scar tree damaged near Wanniasa Hills Primary School [SEC=UNCLASSIFIED]

Hi Fiona

Thanks for your response.

Do you have contact details for the person in ACTPG who would be responsible for this?

Thanks

c

Craig Jones

Manager, Licensing and Compliance | Parks and Conservation

T 02 6207 1283 | [REDACTED] F 02 6207 2544 | E craigs.jones@act.gov.au

Environment Division

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<http://www.environment.act.gov.au/>



From: Kidman, Fiona

Sent: Friday, 17 August 2018 3:26 PM

To: Jones, CraigS <CraigS.Jones@act.gov.au>

Cc: Gilbert, Euroka <Euroka.Gilbert@act.gov.au>; Russell, Meaghan <Meaghan.Russell@act.gov.au>; Moore, FionaF <FionaF.Moore@act.gov.au>; Nakkan, John <John.Nakkan@act.gov.au>

Subject: RE: Aboriginal scar tree damaged near Wanniasa Hills Primary School [SEC=UNCLASSIFIED]

Hi Craig

I contacted the school and they were unsure of the date the tree was removed although they thought it was a couple of years ago. From their memory it was removed based on a complaint as a limb had almost fallen on a community member. The tree is located outside of the school boundary and to the schools knowledge was removed by ACTPG.

I hope this helpful. I look forward to receiving information or advice relating to the scar tree inadvertently removed from the school site.

Unfortunately I am unable to contact the contractor as tree maintenance on school sites has been transferred to ACTPG.

Regards

Fiona

Fiona Kidman | Senior Project Officer - External Learning Environments

Phone: +61 2 6207 0002 | Email: fiona.kidman@act.gov.au

Infrastructure and Capital Works | Education | ACT Government

220 Northbourne Avenue Braddon ACT 2612 | GPO Box 158 Canberra ACT 2601

www.education.act.gov.au | [Facebook](#) | [Twitter](#) | [Instagram](#) | [LinkedIn](#) | [Google+](#)

From: Jones, CraigS

Sent: Tuesday, 14 August 2018 9:46 AM

To: Gilbert, Euroka <Euroka.Gilbert@act.gov.au>; Russell, Meaghan <Meaghan.Russell@act.gov.au>; Moore, FionaF <FionaF.Moore@act.gov.au>

Cc: Kidman, Fiona <Fiona.Kidman@act.gov.au>

Subject: FW: Aboriginal scar tree damaged near Wanniasa Hills Primary School [SEC=UNCLASSIFIED]

Hello everyone

I spoke with Fiona Kidman from Education yesterday in relation to the removal of scar tree MST4 and I have cc'ed Fiona into this message. Fiona K is going to speak with the contractor that removed the 'spook tree' to see if they know anything about MST4.

Fiona K has not received any information about the outcome of the 'spook tree' investigation. Also, Fiona is seeking some advice about what can be done to recognise the removal of the spook tree, such as re-planting or a small plaque etc. Can someone please contact Fiona about these matters?

I will await Fiona K's response before taking further action.

Thanks all

c

Craig Jones

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From: Jones, CraigS

Sent: Wednesday, 8 August 2018 2:32 PM

To: Kidman, Fiona <Fiona.Kidman@act.gov.au>

Cc: Gilbert, Euroka <Euroka.Gilbert@act.gov.au>; Heritage <Heritage@act.gov.au>

Subject: Aboriginal scar tree damaged near Waniassa Hills Primary School [SEC=UNCLASSIFIED]

Hi Fiona

I hope you can assist me.

I am investigating a tree that has been cut down near Wanniasa Hills Primary School. I understand that you were involved in a similar incident in relation to a tree known as the 'spook tree' not far from this site.

According to the aerial imagery, the tree was cut down between 31 Dec 2016 and 10 March 2017

The location of the tree I am investigating is circled in red below. A significant portion of the trunk remains on site.



Do you know if this tree was removed as part of the same works program that removed the 'spook tree'? The dates roughly align.

Thanks

c

Craig Jones

Manager, Licensing and Compliance | Parks and Conservation

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From: Jones, CraigS
Sent: Wednesday, 29 August 2018 3:25 PM
To: Moore, FionaF
Cc: Gilbert, Euroka; Russell, Meaghan; Nakkan, John; OConnell, Jennifer
Subject: RE: Aboriginal scar tree damaged near Wanniasa Hills Primary School [SEC=UNCLASSIFIED]

All

Fiona Kidman suggested that the MST4 might have been removed by ACTPG, presumably ACT Property Group. Do any of you have a contact within ACTPG who manages trees?

Thanks

c

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From: Moore, FionaF
Sent: Tuesday, 21 August 2018 4:13 PM

To: Kidman, Fiona <Fiona.Kidman@act.gov.au>; Jones, CraigS <CraigS.Jones@act.gov.au>

Cc: Gilbert, Euroka <Euroka.Gilbert@act.gov.au>; Russell, Meaghan <Meaghan.Russell@act.gov.au>; Nakkan, John <John.Nakkan@act.gov.au>; OConnell, Jennifer <Jennifer.OConnell@act.gov.au>

Subject: RE: Aboriginal scar tree damaged near Wanniasa Hills Primary School [SEC=UNCLASSIFIED]

Good afternoon Fiona,

In relation to the Spook Tree:

ACT Heritage referred the matter to the Access Canberra on 5 June 2017, who formally investigated. On 28 November 2017 Access Canberra provided a response to EPSDD setting out its findings. From your email, I assume Access Canberra did not write to you, and potentially other stakeholders, at the conclusion of their investigation.

To close the matter for you, no further action will be taken by ACT Heritage/ACT Heritage Council in relation to the removal of the Aboriginal Scar Tree, known as the Spook Tree. ACT Heritage/ACT Heritage Council does not request the re-planting of a tree at the same location as the Spook Tree was registered for its cultural values, not landscape contributions. Further, a plaque is not requested as the significance of the place was the scar itself.

I note last year Wanniasa Hills Primary School proposed to hold a meeting of all stakeholders, including RAOs, to agree on potential remediation of the site – such as a sheet metal cut-out of a tree or plaque. If this is something the school still wishes to pursue, we can assist with liaising with the RAOs.

I trust this information is of assistance.

Regards,

Fiona Moore | Senior Manager, ACT Heritage (Mon – Thurs)

Phone: +61 2 6205 9974 | Email: fionaf.moore@act.gov.au

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Dame Pattie Menzies House, Dickson | GPO Box 158 Canberra ACT 2601 | www.environment.act.gov.au



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Sent: Friday, 17 August 2018 3:26 PM

To: Jones, CraigS <CraigS.Jones@act.gov.au>

Cc: Gilbert, Euroka <Euroka.Gilbert@act.gov.au>; Russell, Meaghan <Meaghan.Russell@act.gov.au>; Moore, FionaF <FionaF.Moore@act.gov.au>; Nakkan, John

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Hi Craig

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Unfortunately I am unable to contact the contractor as tree maintenance on school sites has been transferred to ACTPG.

Regards

Fiona

Fiona Kidman | Senior Project Officer - External Learning Environments

Phone: +61 2 6207 0002 | Email: fiona.kidman@act.gov.au

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Sent: Tuesday, 14 August 2018 9:46 AM

To: Gilbert, Euroka <Euroka.Gilbert@act.gov.au>; Russell, Meaghan <Meaghan.Russell@act.gov.au>; Moore, FionaF <FionaF.Moore@act.gov.au>

Cc: Kidman, Fiona <Fiona.Kidman@act.gov.au>

Subject: FW: Aboriginal scar tree damaged near Wanniasa Hills Primary School [SEC=UNCLASSIFIED]

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Thanks all

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Craig Jones

Manager, Licensing and Compliance | Parks and Conservation

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Sent: Wednesday, 8 August 2018 2:32 PM

To: Kidman, Fiona <Fiona.Kidman@act.gov.au>

Cc: Gilbert, Euroka <Euroka.Gilbert@act.gov.au>; Heritage <Heritage@act.gov.au>

Subject: Aboriginal scar tree damaged near Waniassa Hills Primary School [SEC=UNCLASSIFIED]

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From: Moore, FionaF
Sent: Wednesday, 29 August 2018 4:03 PM
To: Jones, CraigS
Subject: RE: Aboriginal scar tree damaged near Wanniasa Hills Primary School [SEC=UNCLASSIFIED]

Hi Craig,

Checked with the team, and we don't have an ACTPG contact - sorry. Gov directory?

Regards,

Fiona Moore | Senior Manager, 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
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Sent: Wednesday, 29 August 2018 3:25 PM
To: Moore, FionaF <FionaF.Moore@act.gov.au>
Cc: Gilbert, Euroka <Euroka.Gilbert@act.gov.au>; Russell, Meaghan <Meaghan.Russell@act.gov.au>; Nakkan, John <John.Nakkan@act.gov.au>; OConnell, Jennifer <Jennifer.OConnell@act.gov.au>
Subject: RE: Aboriginal scar tree damaged near Wanniasa Hills Primary School [SEC=UNCLASSIFIED]

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Fiona Kidman suggested that the MST4 might have been removed by ACTPG, presumably ACT Property Group. Do any of you have a contact within ACTPG who manages trees?

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From: Moore, FionaF

Sent: Tuesday, 21 August 2018 4:13 PM

To: Kidman, Fiona <Fiona.Kidman@act.gov.au>; Jones, CraigS <CraigS.Jones@act.gov.au>

Cc: Gilbert, Euroka <Euroka.Gilbert@act.gov.au>; Russell, Meaghan <Meaghan.Russell@act.gov.au>; Nakkan, John <John.Nakkan@act.gov.au>; OConnell, Jennifer <Jennifer.OConnell@act.gov.au>

Subject: RE: Aboriginal scar tree damaged near Wanniasa Hills Primary School [SEC=UNCLASSIFIED]

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Sent: Tuesday, 14 August 2018 9:46 AM
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Cc: Kidman, Fiona <Fiona.Kidman@act.gov.au>
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Craig Jones
Manager, Licensing and Compliance | Parks and Conservation
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500 Cotter Road, Weston Creek ACT 2611
<http://www.environment.act.gov.au/>



From: Jones, CraigS
Sent: Wednesday, 8 August 2018 2:32 PM
To: Kidman, Fiona <Fiona.Kidman@act.gov.au>
Cc: Gilbert, Euroka <Euroka.Gilbert@act.gov.au>; Heritage <Heritage@act.gov.au>
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From: Moore, FionaF
Sent: Wednesday, 29 August 2018 3:30 PM
To: Jones, CraigS
Subject: RE: Aboriginal scar tree damaged near Wanniasa Hills Primary School [SEC=UNCLASSIFIED]

I'll check with the team and get back to you.

Fiona Moore | Senior Manager, 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
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Cc: Gilbert, Euroka <Euroka.Gilbert@act.gov.au>; Russell, Meaghan <Meaghan.Russell@act.gov.au>; Nakkan, John <John.Nakkan@act.gov.au>; OConnell, Jennifer <Jennifer.OConnell@act.gov.au>
Subject: RE: Aboriginal scar tree damaged near Wanniasa Hills Primary School [SEC=UNCLASSIFIED]

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From: Moore, FionaF

Sent: Tuesday, 21 August 2018 4:13 PM

To: Kidman, Fiona <Fiona.Kidman@act.gov.au>; Jones, CraigS <CraigS.Jones@act.gov.au>

Cc: Gilbert, Euroka <Euroka.Gilbert@act.gov.au>; Russell, Meaghan <Meaghan.Russell@act.gov.au>; Nakkan, John <John.Nakkan@act.gov.au>; OConnell, Jennifer <Jennifer.OConnell@act.gov.au>

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From: Kidman, Fiona

Sent: Friday, 17 August 2018 3:26 PM

To: Jones, CraigS <CraigS.Jones@act.gov.au>

Cc: Gilbert, Euroka <Euroka.Gilbert@act.gov.au>; Russell, Meaghan <Meaghan.Russell@act.gov.au>; Moore, FionaF <FionaF.Moore@act.gov.au>; Nakkan, John <John.Nakkan@act.gov.au>

Subject: RE: Aboriginal scar tree damaged near Wanniasa Hills Primary School [SEC=UNCLASSIFIED]

Hi Craig

I contacted the school and they were unsure of the date the tree was removed although they thought it was a couple of years ago. From their memory it was removed based on a complaint as a limb had almost fallen on a community member. The tree is located outside of the school boundary and to the schools knowledge was removed by ACTPG.

I hope this helpful. I look forward to receiving information or advice relating to the scar tree inadvertently removed from the school site.

Unfortunately I am unable to contact the contractor as tree maintenance on school sites has been transferred to ACTPG.

Regards

Fiona

Fiona Kidman | Senior Project Officer - External Learning Environments

Phone: +61 2 6207 0002 | Email: fiona.kidman@act.gov.au

Infrastructure and Capital Works | Education | ACT Government

220 Northbourne Avenue Braddon ACT 2612 | GPO Box 158 Canberra ACT 2601

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From: Jones, CraigS

Sent: Tuesday, 14 August 2018 9:46 AM

To: Gilbert, Euroka <Euroka.Gilbert@act.gov.au>; Russell, Meaghan <Meaghan.Russell@act.gov.au>; Moore, FionaF <FionaF.Moore@act.gov.au>

Cc: Kidman, Fiona <Fiona.Kidman@act.gov.au>

Subject: FW: Aboriginal scar tree damaged near Wanniasa Hills Primary School [SEC=UNCLASSIFIED]

Hello everyone

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Fiona K has not received any information about the outcome of the 'spook tree' investigation. Also, Fiona is seeking some advice about what can be done to recognise the removal of the spook tree, such as re-planting or a small plaque etc. Can someone please contact Fiona about these matters?

I will await Fiona K's response before taking further action.

Thanks all

c

Craig Jones

Manager, Licensing and Compliance | Parks and Conservation

T 02 6207 1283 |  F 02 6207 2544 | E craigs.jones@act.gov.au

Environment Division

Environment, Planning and Sustainable Development Directorate | ACT Government

500 Cotter Road, Weston Creek ACT 2611

<http://www.environment.act.gov.au/>



From: Jones, CraigS
Sent: Wednesday, 8 August 2018 2:32 PM
To: Kidman, Fiona <Fiona.Kidman@act.gov.au>
Cc: Gilbert, Euroka <Euroka.Gilbert@act.gov.au>; Heritage <Heritage@act.gov.au>
Subject: Aboriginal scar tree damaged near Waniassa Hills Primary School [SEC=UNCLASSIFIED]

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According to the aerial imagery, the tree was cut down between 31 Dec 2016 and 10 March 2017

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Do you know if this tree was removed as part of the same works program that removed the 'spook tree'? The dates roughly align.

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From: Moore, FionaF
Sent: Tuesday, 21 August 2018 4:13 PM
To: Kidman, Fiona; Jones, CraigS
Cc: Gilbert, Euroka; Russell, Meaghan; Nakkan, John; OConnell, Jennifer
Subject: RE: Aboriginal scar tree damaged near Wanniasa Hills Primary School [SEC=UNCLASSIFIED]

Good afternoon Fiona,

In relation to the Spook Tree:

ACT Heritage referred the matter to the Access Canberra on 5 June 2017, who formally investigated. On 28 November 2017 Access Canberra provided a response to EPSDD setting out its findings. From your email, I assume Access Canberra did not write to you, and potentially other stakeholders, at the conclusion of their investigation.

To close the matter for you, no further action will be taken by ACT Heritage/ACT Heritage Council in relation to the removal of the Aboriginal Scar Tree, known as the Spook Tree. ACT Heritage/ACT Heritage Council does not request the re-planting of a tree at the same location as the Spook Tree was registered for its cultural values, not landscape contributions. Further, a plaque is not requested as the significance of the place was the scar itself.

I note last year Wanniasa Hills Primary School proposed to hold a meeting of all stakeholders, including RAOs, to agree on potential remediation of the site – such as a sheet metal cut-out of a tree or plaque. If this is something the school still wishes to pursue, we can assist with liaising with the RAOs.

I trust this information is of assistance.

Regards,

Fiona Moore | Senior Manager, ACT Heritage (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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Cc: Gilbert, Euroka <Euroka.Gilbert@act.gov.au>; Russell, Meaghan <Meaghan.Russell@act.gov.au>; Moore, FionaF <FionaF.Moore@act.gov.au>; Nakkan, John <John.Nakkan@act.gov.au>

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From: Jones, CraigS
Sent: Friday, 27 July 2018 11:55 AM
To: Gilbert, Euroka
Cc: Chaston, Daisy; Russell, Meaghan
Subject: RE: potential breach of the Heritage Act 2004. [DLM=Sensitive]

Euroka

Thanks for sending this through. I understand that this tree has been down for over 12 months so an immediate response isn't necessary.

Can you please schedule a meeting for some time next week at DPM so we can do the following;

1. Review the registered tree file
2. Review what evidence we have thus far
3. Review the relevant legislation (sorry, I'm not familiar with it)
4. Formulate an investigation plan
5. Conduct a site inspection

This might also be a good opportunity to decide on the best way to conserve the tree.

Thanks

c

Craig Jones

Manager, Licensing and Compliance | Parks and Conservation

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From: Gilbert, Euroka
Sent: Friday, 27 July 2018 11:17 AM
To: Jones, CraigS <CraigS.Jones@act.gov.au>
Cc: Chaston, Daisy <Daisy.Chaston@act.gov.au>; Russell, Meaghan <Meaghan.Russell@act.gov.au>
Subject: potential breach of the Heritage Act 2004. [DLM=Sensitive]

Hi Craig.

ACT Heritage has received a query from a member of the public regarding the cutting down of a Registered scarred tree at Wanniasa. The tree is now laying in Urban Open Space located near Bilson Place, Wanniasa (near Wanniasa Hills Primary School).

We have spoken to Daniel and he requested that we contact you to undertake the initial information gathering and site recording.

The trunk bearing the scar was present onsite at 24/07/2018 (image attached but upside down).

I have attached an ACTmapi extract with the trees location for your reference.

ACT Heritage is seeking a secure location for the storage of the trunk within PCS estate.



If further information is required please don't hesitate to contact me.

Cheers

Mr. Euroka Gilbert | Aboriginal Liaison Officer

Phone 02 6207 5724 | Email: euroka.gilbert@act.gov.au

ACT Heritage | Environment, Planning and Sustainable Development Directorate | ACT Government

Dame Pattie Menzies House, Challis Street, Dickson | GPO Box 158 Canberra ACT 2601 | www.environment.act.gov.au



I acknowledge the Traditional Custodians of the ACT and region, their continuing connection to land and community. I pay my respect to them and their culture, and to the Elders past, present and future.

From: Jones, CraigS
Sent: Wednesday, 19 September 2018 1:02 PM
To: Moore, FionaF; Gilbert, Euroka
Cc: Russell, Meaghan; Nakkam, John; OConnell, Jennifer
Subject: RE: Tree removal near Wanniasa Hills Primary School [SEC=UNCLASSIFIED]

Fiona and Euroka

My apologies for not getting back to you earlier. I have been busy on other matters and will not be able to get back to this investigation for some time.

The only outstanding investigation actions are speaking with the school and nearby property owners who may have witnessed what occurred. Is it possible for someone from your team to do this and let me know if these inquiries turn up any further leads.

Sorry and thanks

c

Craig Jones

Manager, Licensing and Compliance | Parks and Conservation

T 02 6207 1283 | [REDACTED] F 02 6207 2544 | E craigs.jones@act.gov.au

Environment Division

Environment, Planning and Sustainable Development Directorate | ACT Government

500 Cotter Road, Weston Creek ACT 2611

<http://www.environment.act.gov.au/>



From: Jones, CraigS

Sent: Thursday, 30 August 2018 12:36 PM

To: Moore, FionaF <FionaF.Moore@act.gov.au>; Gilbert, Euroka <Euroka.Gilbert@act.gov.au>

Cc: Russell, Meaghan <Meaghan.Russell@act.gov.au>; Nakkan, John <John.Nakkan@act.gov.au>; OConnell, Jennifer <Jennifer.OConnell@act.gov.au>

Subject: FW: Tree removal near Wanniasa Hills Primary School [SEC=UNCLASSIFIED]

F & E

Please see advice from ACTPG below. In short

- They only deal with trees on sites they manage
- Any trees they contract to be removed are fully removed from site and stump ground

I don't think I've received a copy of the Access Canberra investigation report in relation to the Spook Tree; could someone please send me a copy as I want to speak with the contractor who removed that tree. Once I've done that, the only other steps are speaking with the school directly and the occupants of the nearby residential properties.

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Craig Jones

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From: Sadler, Tony
Sent: Thursday, 30 August 2018 9:10 AM
To: Jones, CraigS <CraigS.Jones@act.gov.au>
Subject: RE: Tree removal near Wanniasa Hills Primary School [SEC=UNCLASSIFIED]

Hi Craig

How are you?
How long have you been with ACT Gov.?

As for the tree in question ACT Property Group only provide services within the boundaries of buildings we manage. As the tree in question is on public land I would say it would have been attended to through the fix my street unit.

There may have been a case lodged with Access Canberra, they may have a record of a complaint coming in from a member of the public. As part of the tree is still present it is possible that it was not removed professionally as I know when we arrange tree removal it includes stump grinding.

The schools I believe organise their own tree maintenance. It may be worth asking who carried out the works at the school and contacting them they may have seen something if they were there in the same sort of time frame.

Sorry I couldn't be of more help.

Cheers

Tony Sadler **Property Officer | Portfolio Management Team | ACT Property Group | Chief Minister, Treasury & Economic Development Directorate | ACT Government**
PO Box 777 Fyshwick ACT 2609 | www.act.gov.au

Ph: + 61 6205 9096 | F: + 61 2 6213 0735 | E: tony.sadler@act.gov.au

"If you have any feedback for the ACT Property Group, please email actpgfeedback@act.gov.au"

From: Jones, CraigS
Sent: Wednesday, 29 August 2018 5:19 PM
To: Sadler, Tony <Tony.Sadler@act.gov.au>
Subject: Tree removal near Wanniasa Hills Primary School [SEC=UNCLASSIFIED]

Hi Tony

Long-time no-speak. Hope things are good with you and yours.

Are you able to give me a hand with an enquiry I'm dealing with at the moment? We received a complaint about a tree being removed from public land near Wanniasa Hills Primary School – there's an image showing the location below. I've had a look at the aerial imagery and it was cut down sometime between 31 Dec 2016 and 10 March 2017.

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Does your team manage tree removals? If so, are you able to check if this one was taken down by one of your contractors?



Thanks for any help you can give me.

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From: Jones, CraigS
Sent: Thursday, 30 August 2018 10:03 AM
To: Sadler, Tony
Subject: RE: Tree removal near Wanniasa Hills Primary School [SEC=UNCLASSIFIED]

Ton

Awesome – thanks for getting back to me.



c

From: Sadler, Tony
Sent: Thursday, 30 August 2018 9:10 AM
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From: Gilbert, Euroka
Sent: Thursday, 30 August 2018 12:45 PM
To: Jones, CraigS; Moore, FionaF
Subject: RE: Tree removal near Wanniasa Hills Primary School [SEC=UNCLASSIFIED]
Attachments: 20171128 - Letter to Geoffrey Ruttledge - Heritage Listed Tree.pdf

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ACT
Government

Chief Minister, Treasury and
Economic Development

Our ref: 171109-001393

Mr Geoffrey Rutledge
A/g Deputy Director General
Environment, Planning and Sustainable Development Directorate
Geoffery.rutledge@act.gov.au

Dear Mr Rutledge,

Unauthorised removal of a heritage listed tree (Aboriginal scar tree)

I am writing to you in relation to the unauthorised removal of a heritage listed tree (Aboriginal scar tree) at the Wanniasa Hills Primary School, by Treeworks (ACT/NSW) Pty Ltd (a private company subcontracted to carry out the work).

Access Canberra (AC) was asked to look into the circumstances that led to the unauthorised removal of a heritage listed tree. Scarred trees are important to contemporary Aboriginal people, especially the local Ngunnawal people. Sites such as these represent to Aboriginal people a sense of place in time, and belonging – places where their ancestors left visible signs of their occupation of the land.

This incident involves a number of ACT Government Directorates;

ACT Property Group – Chief Minister, Treasury and Economic Development Directorate.

ACT Heritage - Environment, Planning and Sustainable Development Directorate.

Infrastructure and Capital Works - Education Directorate

Wanniasa Hills Primary School – Education Directorate.

Delegate of the Conservator of Flora and Fauna – Transport Canberra and City Services

AC compliance staff have conducted an independent review of the material provided to Craig Simmons by the ACT Heritage team. AC also made enquiries with a number of the involved parties.

This review is underpinned by the AC risk-based compliance approach in which we seek to ensure that our resources are targeted to where the risks of harm, unsafe practices or misconduct are the greatest, and that we take the right regulatory approach for the right situation. Our priorities are based on a range of considerations, including:

- Conduct that causes harm or risk to life, health or the environment;
- Conduct that is systemic and is likely to have a detrimental effect on the community or the environment, and
- Conduct that demonstrates a blatant disregard for the law.

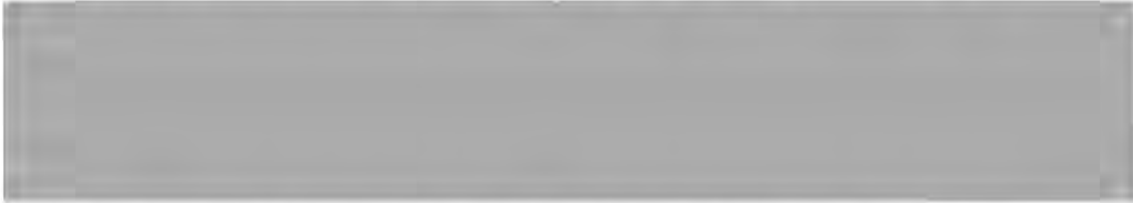
Background

Access Canberra was supplied with a number of emails from the ACT Heritage team. The information below outlines the background and a timeline of this issue.


1. The 'Wanniassa Spook Tree' was a well-known and public example of an Aboriginal Scarred Tree and as a result, the tree was heritage listed. Aboriginal scarred trees are material evidence of the activity of Aboriginal Australians which is no longer practiced. Aboriginal people stripped a layer of the bark to use as shelter or equipment such as coolamons, shields and canoes which resulted in permanent scarring of a tree.
2. The Education Directorate carries out annual audits of all trees on school grounds. Treeworks (ACT/NSW) Pty Ltd (Treeworks) was contracted to provide an audit of all the trees located at 180 schools.
3. In November 2016 the ACT Property Group (CMTEDD) on behalf of the Education Directorate, received a Tree Diagnostic Report (Quote) from Treeworks for an assessment of the trees located at the Wanniassa Hills Primary School. The Tree Diagnostic Report Identified tree 14 (Yellow Box) as being unsafe due to declining health and recommended it be removed and grinded as a matter of priority.
4. On 20 December 2016 the Infrastructure and Capital Works (Education Directorate) issued the ACT Property Group with a work order to carry out all priority work identified on the Tree Diagnostic Report.
5. On 2 February 2017 the administration manager (Ms SD) at Treeworks, identified that tree 14 required approval for removal and submitted an online application to the Tree Protection Unit.
6. On 17 February 2017 the Delegate of the Conservator of Flora and Fauna refused to grant the tree damaging application because it had not been established that any of the criteria for removal had been satisfied
7. On 18 February 2017 both Treeworks and Wanniassa Hills Primary School were provided with the Delegate of the Conservator of Flora and Fauna's decision to refuse the tree damaging application. It appears that at this point the [REDACTED] at Treeworks inadvertently failed to transfer that information onto the Tree Diagnostic Report.

8. On 3 & 4 April 2017 Treeworks staff attended the Wanniasa Hills Primary School and carried out the priority work identified on the original Tree Diagnostic Report.

9.

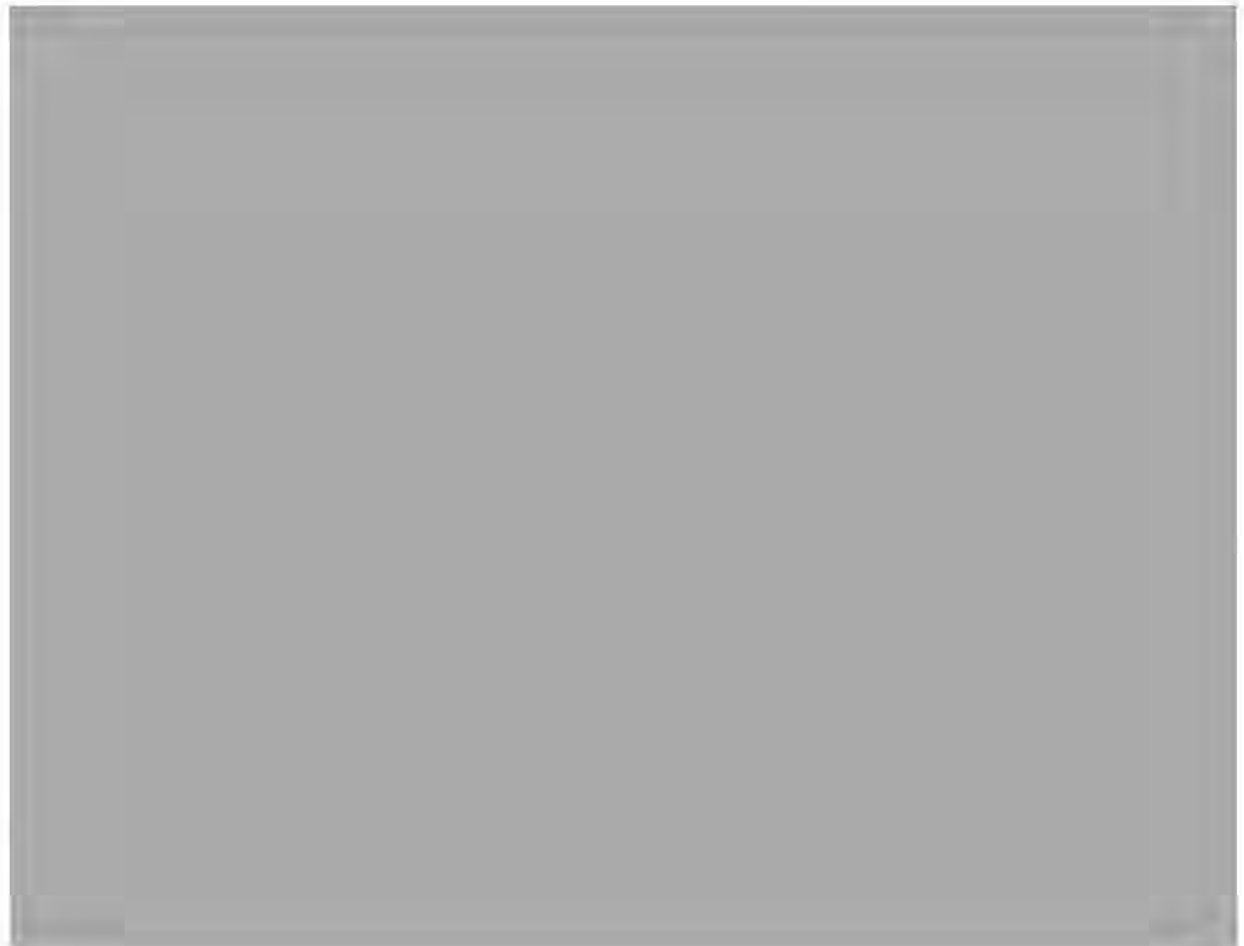


10. On 6 April 2017 the Aboriginal Liaison Officer from ACT Heritage attended the Wanniasa Hills Primary School and confirmed the removal of tree 14 and photographed the site

11. It appears that the unauthorised removal of the heritage listed tree was caused by the Treeworks 



There also appears to be some confusion around the species of Eucalypt that was referred to as **tree 14**. Treeworks identified the tree as a **Eucalyptus Melliodora (yellow box)**. Whilst The Conservator of Flora and Fauna refused the tree damaging application for **tree 14**, describing it as a **Eucalyptus Blakelyi (Blakely's Red Gum)**. The 'Wanniassa Spook Tree' was a yellow box.





I hope that the information provide as an outcome of this review is of benefit. If you would like more information or wish to discuss this matter further please contact Derise Cubin A/g Director Regulatory Compliance , Access Canberra at derise.cubin@act.gov.au or alternatively on 6205 3732

Yours sincerely



David Snowden
A/g Deputy Director General
Access Canberra

28 November 2017

From: Moore, FionaF
Sent: Tuesday, 25 September 2018 4:26 PM
To: Jones, CraigS; Gilbert, Euroka
Cc: OConnell, Jennifer; Russell, Meaghan
Subject: RE: Tree removal near Wanniasa Hills Primary School [SEC=UNCLASSIFIED]

Hi Craig,

Further to my email below, Daniel Iglesias and I had a quick chat this afternoon and have agreed to a plan of what next.

Give me a call and I'll bring you up to speed on what we discussed.

Fiona Moore | Senior Manager, 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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From: Moore, FionaF
Sent: Tuesday, 25 September 2018 3:55 PM
To: Jones, CraigS <CraigS.Jones@act.gov.au>; Gilbert, Euroka <Euroka.Gilbert@act.gov.au>
Cc: OConnell, Jennifer <Jennifer.OConnell@act.gov.au>; Russell, Meaghan <Meaghan.Russell@act.gov.au>
Subject: RE: Tree removal near Wanniasa Hills Primary School [SEC=UNCLASSIFIED]

Hi Craig,

Apologies for my tardy reply I have been away [REDACTED]

It might be worth us touching base when you're next in the office – to see if there are other ways we can progress it. Or perhaps give me a call?

We are receiving a number of ongoing enquiries from EPSDD Executives and the Minister's Office in relation to this tree (and the Spook Tree).

Regards,

Fiona Moore | Senior Manager, ACT Heritage & Secretary, ACT Heritage Council (Mon – Thurs)

Phone: +61 2 6205 9974 | Email: fionaf.moore@act.gov.au

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From: Jones, CraigS

Sent: Wednesday, 19 September 2018 1:02 PM

To: Moore, FionaF <FionaF.Moore@act.gov.au>; Gilbert, Euroka <Euroka.Gilbert@act.gov.au>

Cc: Russell, Meaghan <Meaghan.Russell@act.gov.au>; Nakkam, John <John.Nakkam@act.gov.au>; OConnell, Jennifer <Jennifer.OConnell@act.gov.au>

Subject: RE: Tree removal near Wanniasa Hills Primary School [SEC=UNCLASSIFIED]

Fiona and Euroka

My apologies for not getting back to you earlier. I have been busy on other matters and will not be able to get back to this investigation for some time.

The only outstanding investigation actions are speaking with the school and nearby property owners who may have witnessed what occurred. Is it possible for someone from your team to do this and let me know if these inquiries turn up any further leads.

Sorry and thanks

c

Craig Jones

Manager, Licensing and Compliance | Parks and Conservation

T 02 6207 1283 | [REDACTED] F 02 6207 2544 | E craigs.jones@act.gov.au

Environment Division

Environment, Planning and Sustainable Development Directorate | ACT Government

500 Cotter Road, Weston Creek ACT 2611

<http://www.environment.act.gov.au/>



From: Jones, CraigS

Sent: Thursday, 30 August 2018 12:36 PM

To: Moore, FionaF <FionaF.Moore@act.gov.au>; Gilbert, Euroka <Euroka.Gilbert@act.gov.au>

Cc: Russell, Meaghan <Meaghan.Russell@act.gov.au>; Nakkam, John <John.Nakkam@act.gov.au>; OConnell, Jennifer <Jennifer.OConnell@act.gov.au>

Subject: FW: Tree removal near Wanniasa Hills Primary School [SEC=UNCLASSIFIED]

F & E

Please see advice from ACTPG below. In short

- They only deal with trees on sites they manage
- Any trees they contract to be removed are fully removed from site and stump ground

I don't think I've received a copy of the Access Canberra investigation report in relation to the Spook Tree; could someone please send me a copy as I want to speak with the contractor who removed that tree. Once I've done that, the only other steps are speaking with the school directly and the occupants of the nearby residential properties.

Thanks

c

Craig Jones

Manager, Licensing and Compliance | Parks and Conservation

T 02 6207 1283 | [REDACTED] F 02 6207 2544 | E craigs.jones@act.gov.au

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500 Cotter Road, Weston Creek ACT 2611

<http://www.environment.act.gov.au/>



From: Sadler, Tony
Sent: Thursday, 30 August 2018 9:10 AM
To: Jones, CraigS <CraigS.Jones@act.gov.au>
Subject: RE: Tree removal near Wanniasa Hills Primary School [SEC=UNCLASSIFIED]

Hi Craig

How are you?
How long have you been with ACT Gov.?

As for the tree in question ACT Property Group only provide services within the boundaries of buildings we manage. As the tree in question is on public land I would say it would have been attended to through the fix my street unit.

There may have been a case lodged with Access Canberra, they may have a record of a complaint coming in from a member of the public. As part of the tree is still present it is possible that it was not removed professionally as I know when we arrange tree removal it includes stump grinding.

The schools I believe organise their own tree maintenance. It may be worth asking who carried out the works at the school and contacting them they may have seen something if they were there in the same sort of time frame.

Sorry I couldn't be of more help.

Cheers

Tony Sadler **Property Officer | Portfolio Management Team | ACT Property Group | Chief Minister, Treasury & Economic Development Directorate | ACT Government**
PO Box 777 Fyshwick ACT 2609 | www.act.gov.au

Ph: + 61 6205 9096 | F: + 61 2 6213 0735 | E: tony.sadler@act.gov.au

"If you have any feedback for the ACT Property Group, please email actpgfeedback@act.gov.au"

From: Jones, CraigS
Sent: Wednesday, 29 August 2018 5:19 PM
To: Sadler, Tony <Tony.Sadler@act.gov.au>
Subject: Tree removal near Wanniasa Hills Primary School [SEC=UNCLASSIFIED]

Hi Tony

Long-time no-speak. Hope things are good with you and yours.

Are you able to give me a hand with an enquiry I'm dealing with at the moment? We received a complaint about a tree being removed from public land near Wanniasa Hills Primary School – there's an image showing the location below. I've had a look at the aerial imagery and it was cut down sometime between 31 Dec 2016 and 10 March 2017.

It was a large standing dead tree. Part of the trunk is still at the site but the rest is gone.

I have spoken with City Services and they don't know anything about it. I have also spoken with Fiona Moore from Dept. of Education. Fiona had some trees removed from in and around the school grounds around this time but not this one. She suggested that Property Group may have removed because of public safety concerns.

Does your team manage tree removals? If so, are you able to check if this one was taken down by one of your contractors?



Thanks for any help you can give me.

c

Craig Jones

Manager, Licensing and Compliance | Parks and Conservation

T 02 6207 1283 | [REDACTED] F 02 6207 2544 | E craigs.jones@act.gov.au

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<http://www.environment.act.gov.au/>



From: [Gilbert, Euroka](#)
To: [Jones, CraigS](#)
Subject: RE: Wanniasa scar tree - quick update [SEC=UNCLASSIFIED]
Date: Monday, 6 August 2018 5:00:54 PM
Attachments: [image001.jpg](#)

Hi Craig.

I have spoken to Fiona and Meaghan, we agree that “investigating illegal damage to a native tree under the Nature Conservation Act 2014” sounds good, and may protect the remaining Scar Trees.

From: Jones, CraigS

Sent: Monday, 6 August 2018 11:31 AM

To: Gilbert, Euroka <Euroka.Gilbert@act.gov.au>; Russell, Meaghan <Meaghan.Russell@act.gov.au>; Moore, FionaF <FionaF.Moore@act.gov.au>

Subject: Wanniasa scar tree - quick update [SEC=UNCLASSIFIED]

Hi all

A brief update;

- I spoke with [REDACTED] via telephone at 1415hrs on 1 Aug 2018. He had no further information or leads about this matter.
- I spoke with TCCS Southside Operations Manager Malcolm Gale on 2 Aug 2018. They are responsible for lawn mowing on that portion of unleased land. He said he was not aware of the issue and there would be no record of it at his end.

Next steps are to

- contact the school
- carry out site inspection, photograph etc.
- conduct door knock/letter box drop near-by residents.

I will draft the letter but require the following advice from you; **Do you want to specifically identify it as a scar tree, and potentially expose it and other nearby scar trees to further damage?** If not, I can say that we are investigating illegal damage to a native tree under the Nature Conservation Act 2014, and quote the penalties from that Act.

Thanks everyone

c

Craig Jones

Manager, Licensing and Compliance | Parks and Conservation

T 02 6207 1283 | [REDACTED] | F 02 6207 2544 | E craigs.jones@act.gov.au

Environment Division

Environment, Planning and Sustainable Development Directorate | ACT Government

500 Cotter Road, Weston Creek ACT 2611

<http://www.environment.act.gov.au/>

ACTGovPCSAAA



From: [Gilbert, Euroka](#)
To: [Jones, CraigS](#)
Cc: [Russell, Meaghan](#)
Subject: Wanniasa - S253 B0006 - Heritage Advice (qA718776) [DLM=Sensitive]
Date: Thursday, 2 August 2018 1:10:14 PM
Attachments: [Wanniasa - S253 B0006 - Heritage Advice.obr](#)
[image001.png](#)

Hi Craig.

Here is the ACT Heritage file for the Wanniasa Scar Tree issues.

I have down loaded all available NearMap images NearMap MTS4 [Folder].

Please note the tree is cut down between:

EPSG3857_Date20161231_Lat-35.393180_Lon149.094401_Mpp0.075

EPSG3857_Date20170310_Lat-35.393180_Lon149.094401_Mpp0.075

and the tree moves between:

EPSG3857_Date20170926_Lat-35.393180_Lon149.094401_Mpp0.075

EPSG3857_Date20180106_Lat-35.393180_Lon149.094401_Mpp0.075

Let me know if you can access it please?

If further information is required please don't hesitate to contact me.

Cheers

Mr. Euroka Gilbert | Aboriginal Liaison Officer

Phone 02 6207 5724 | Email: euroka.gilbert@act.gov.au

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

www.environment.act.gov.au



I acknowledge the Traditional Custodians of the ACT and region, their continuing connection to land and community. I pay my respect to them and their culture, and to the Elders past, present and future.

Euroka Gilbert has sent you a link to "Wanniasa - S253 B0006 - Heritage Advice" (qA718776) from Objective.

Open in Navigator

Double click on the attachment

Open in ECM for Browser

<https://objective.act.gov.au:8443/#/documents/qA718776/details>

Open in Your Browser

<https://objective.act.gov.au/id:qA718776>

From: Moore, FionaF
Sent: Thursday, 26 July 2018 2:53 PM
To: Russell, Meaghan; Gilbert, Euroka
Cc: OConnell, Jennifer
Subject: FW: Scar tree pics [DLM=Sensitive]

Hi Meaghan/Euroka,

Please see emails below.

I met with Stephen this afternoon and in summary, TCCS have no record of removals, at that location, by their crews and contractors.

TCCS will however move the tree to a secure location. I have advised Stephen that we will seek direction from Council/RAOs as to where the tree should be returned to.

Next steps: please initiate notification to Council/RAOs and seek their involvement in identifying an appropriate return outcome.

Thank you,

Fiona Moore | Senior Manager, ACT Heritage (Mon – Thurs)

Phone: +61 2 6205 9974 | Email: fionaf.moore@act.gov.au

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From: Alegria, Stephen
Sent: Thursday, 26 July 2018 2:38 PM
To: Dawes, Rachael <Rachael.Dawes@act.gov.au>; Moore, FionaF <FionaF.Moore@act.gov.au>
Subject: RE: Scar tree pics [DLM=Sensitive]

Hi Rachael,

Could you please arrange to have the felled scar tree removed and stored (temporarily) in a safe and secure place where it will not be subject to any further damage. If possible, can you provide Fiona with 24-48 hours notice prior to removal in case the RAOs wish to be present.

Fiona, further to our discussion today, this email and others sent today constitute TCCS's initial response to your request for information. If in the course of your investigations further queries arise, please contact Rachael and we will do our best to assist.

Regards

Stephen Alegria | Director | City Presentation

T 02 6207 9833 | [REDACTED]

City Services | Transport Canberra and City Services Directorate

Level 2 Wotso House, 490 Northbourne Avenue, Dickson ACT | GPO 158, Canberra ACT 2601.

www.tccs.act.gov.au

From: Dawes, Rachael

Sent: Thursday, 26 July 2018 11:34 AM

To: Alegria, Stephen <Stephen.Alegria@act.gov.au>

Subject: Scar tree pics [DLM=Sensitive]

Hi Stephen

The scar tree pics are below. This tree appears to have been a totem, and was felled some time ago and left in-situ. As previously outlined, there is no evidence that this has been undertaken by any TCCS staff or contractors. The last two pics are the location of the mistakenly removed tree by Treeworks I believe. I am not sure if the log is the remains of that tree, but no scar was evident. It was placed quite a distance from the stump.

Cheers

Rach

Rachael Dawes | A/G Manager Urban Treescapes

Phone 02 6205 5263 | [REDACTED] | Email: rachael.dawes@act.gov.au

Urban Treescapes, City Presentation | Transport Canberra and City Services Directorate | ACT Government

Level 2, 490 Northbourne Avenue, Dickson 2602 | GPO Box 158 Canberra ACT 2601 | www.act.gov.au

From: Dawes, Rachael

Sent: Thursday, 26 July 2018 11:00 AM

To: Dawes, Rachael <Rachael.Dawes@act.gov.au>

Subject: Scar tree pics















Rachael Dawes | A/G Manager Urban Treescapes

Phone 02 6205 5263 | [REDACTED] | Email: rachael.dawes@act.gov.au

Urban Treescapes, City Presentation | Transport Canberra and City Services Directorate | ACT Government

Level 2, 490 Northbourne Avenue, Dickson 2602 | GPO Box 158 Canberra ACT 2601 | www.act.gov.au

Sent from my iPad

From: [Russell, Meaghan](#)
To: [Moore, FionaF](#)
Cc: [Gilbert, Euroka](#)
Subject: MST4 - Aboriginal scarred tree, Wanniasa [SEC=UNCLASSIFIED]
Date: Tuesday, 24 July 2018 3:38:00 PM
Attachments:

Importance: High

Hi Fiona,

As discussed, I confirm that the Aboriginal scarred tree registered on the ACT Heritage Register as MST4 has been cut down – with the trunk (containing the scar in its entirety) now lying on the ground adjacent to the stump. All other parts of the tree, including upper limbs, have been removed.

As an immediate action, I recommend that the trunk be moved with care to a secure location, to ensure that no further damage results while the matter is being reviewed.

██████████ is the Range in Charge of the ██████████, and may be able to provide assistance – or to direct us to the correct team within TCCS (land manager). Her numbers are ██████████ and ██████████

I would suggest that:

- A secure storage location for the trunk should be identified and discussed with ACT Heritage. The location should be within a locked compound, such as the ██████████ at ██████████, and preferably should also be covered;
- A safe way to move the trunk should be identified and discussed with ACT Heritage. A gantry was recently built by PCS for moving the Outward Bound cultural tree and this could be reused for this trunk. Also needed will be a flat bed truck with lifting arm, which should be padded to stabilise the trunk during movement; and
- Advice should be sought from a conservator with experience in this type of move, such as Gillian Mitchell. It is unclear how long the trunk has been lying on the ground and its condition. Accordingly, there is some risk that the trunk and scar could be damaged in the lift and movement if controls suitable for its condition are not implemented. A conservator may also need to be on site during the move.

Regards,
Meaghan

Meaghan Russell | Team Leader (Advice)

Phone: 02 6205 5497 | Email: meaghan.russell@act.gov.au

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From: [Russell, Meaghan](#)
To: [Gilbert, Eureka](#); [Caddy, Gabrielle](#)
Subject: Wanniasa scarred tree site inspection
Start: Tuesday, 24 July 2018 1:00:00 PM
End: Tuesday, 24 July 2018 2:30:00 PM

As discussed – the Outlander has been booked for your use from 1pm to 2.30pm

From: [Moore, FionaF](#)
To: [Russell, Meaghan](#)
Cc: [OConnell, Jennifer](#)
Subject: FW: For action - Due to GS 27 JULY 2018 - 18/21069 - Ministerial Correspondence - Aboriginal scarred trees in Wanniasa - [REDACTED] [SEC=UNCLASSIFIED]
Date: Tuesday, 24 July 2018 9:43:48 AM
Attachments: [18_21069 - Ministerial Correspondence - Aboriginal scarred trees in Wann...obr](#)
[RE Aboriginal Scarred tree Wanniasa SECUNCLASSIFIED.msg](#)
[image001.gif](#)
[image002.gif](#)

Hi Meaghan,

For action please. I note we wrote to [REDACTED] on 2 July (attached), advising he submit an FOI. Given the nature of removal I suggest the Minister's response is similar. I think we will also need to include an information brief to the package briefly outlining that it's a compliance matter, hence the need for the letter to request [REDACTED] submit an FOI.

Jen – if you return before this is due and have any input please provide to Meaghan.

Thank you,

Fiona Moore | Senior Manager, ACT Heritage (Mon – Thurs)

Phone: +61 2 6205 9974 | Email: fionaf.moore@act.gov.au

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From: EPD Ministerials - Environment
Sent: Tuesday, 24 July 2018 9:20 AM
To: Moore, FionaF <FionaF.Moore@act.gov.au>
Cc: Tomlinson, Heather <Heather.Tomlinson@act.gov.au>; EPD Ministerials - Environment <EPDMinisterials-Environment@act.gov.au>
Subject: FW: For action - Due to GS 27 JULY 2018 - 18/21069 - Ministerial Correspondence - Aboriginal scarred trees in Wanniasa - [REDACTED] [SEC=UNCLASSIFIED]

Hi Fiona

For appropriate action please.

Due to EPD mailbox 27 July 2018.

Thank you

Rachael

From: Tomlinson, Heather
Sent: Tuesday, 24 July 2018 9:11 AM
To: EPD Ministerials - Environment <EPDMinisterials-Environment@act.gov.au>
Subject: FW: For action - Due to GS 27 JULY 2018 - 18/21069 - Ministerial Correspondence - Aboriginal scarred trees in Wanniasa - [REDACTED] [SEC=UNCLASSIFIED]

Rachel. This one came direct to me from corporate. Could you pls redirect to heritage. Heather

From: EPSD Government Services

Sent: Friday, 20 July 2018 1:10 PM

To: Tomlinson, Heather <Heather.Tomlinson@act.gov.au>

Cc: EPD Ministerials - Environment <EPDMinisterials-Environment@act.gov.au>; Walker, IanS <IanS.Walker@act.gov.au>

Subject: For action - Due to GS 27 JULY 2018 - 18/21069 - Ministerial Correspondence - Aboriginal scarred trees in Wanniasa - [REDACTED] [SEC=UNCLASSIFIED]

Hi Heather,

Please see below for action, **due to GS Friday, 27 July.**

Thanks,

Maeve

Ministerial Correspondence / Brief Request Form

18/21069 - Ministerial Correspondence - Aboriginal scarred trees in Wanniasa - [REDACTED]

	Due date	Electronic signature	Date
To Minister's office			
Director-General			
Deputy Director-General			
Government Services	27/07/2018		
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 |

Meeting brief

Meeting advice/caveat

Functions/Event brief

Phone
constituent/report

Information only /
NFA

Other

Communications)

Speech / Speaking Notes
(in consultation with Communications)

Talking points (as dot
points) **(in consultation with
Communications)**

For appropriate action

Meeting / Function / Event:

Time:

Date:

Location:

Event Contact/Organiser:

Further Information:

Maeve Bannister | A/g Government Services Officer | 📞 ext 51749

Environment, Planning and Sustainable Development Directorate | ACT Government

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



MINISTERIAL BRIEF

Environment, Planning and Sustainable Development Directorate

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To: Minister for the Environment and Heritage

Tracking No.: 18/21069 27 SEP 2018

Date: 24/09/2018

From: Executive Director, Environment

Subject: Removal of two Aboriginal scarred trees in Wanniasa

Critical Date: As soon as is reasonably practical

Critical Reason: Timely notification to the Minister of an offence under the Heritage Act 2004 and reply to constituent.

Purpose

To provide context to Ministerial correspondence to [redacted] on the unauthorised removal of two Aboriginal scarred trees at Wanniasa.

Recommendations

That you:

- 1. Note the information contained in this brief; and

Noted / Please Discuss

- 2. Sign the letter to [redacted] at Attachment A.

Signed / Not Signed / Please Discuss

Mick Gentleman MLA

[Signature]

15/10/18

Minister's Office Feedback

[Empty box for feedback]

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Background

1. On 19 July 2018, [REDACTED] wrote to you seeking information on the removal of two Aboriginal scarred trees at Wanniasa. Information sought includes why the trees were removed and whether the cultural scars have been moved elsewhere.
2. The two trees in question are Aboriginal places nominated to the ACT Heritage Register as:
 - 'MSYB1' – a *Eucalyptus melliodora* with a scar on its trunk, publicly known as the 'Spook Tree'. This tree was located within Block 1 Section 253 Wanniasa, on unleased Territory land managed by the Education Directorate; and
 - 'MST4' – a *Eucalyptus blakelyi* with a large scar on its trunk, understood to be a canoe scar. This tree was located within Block 6 Section 253 Wanniasa, on unleased Territory land, managed by Transport Canberra and City Services (TCCS).
3. Section 75 of the *Heritage Act 2004* (the Act) affords protection to all Aboriginal places and objects to which the Act relates, by setting out that it is an offence to damage an Aboriginal place or objects without a prior Section 76 exception in place.
4. In relation to the Spook Tree:
 - on 3 or 4 April 2017, the Aboriginal scarred tree was removed by Treeworks (ACT/NSW) Pty Ltd, in a program of tree removal works commissioned by the Education Directorate;
 - prior to this time, Treeworks made an application to remove the tree under the *Tree Protection Act 2005* on 2 February 2017, which was refused by a delegate of the Conservator of Flora and Fauna on 18 February 2017;
 - Treeworks has advised that the tree was removed in error, with the work program not updated following the Conservator's decision;
 - on 4 April 2017, Treeworks notified the Education Directorate of the removal of the Aboriginal scarred tree;
 - on 6 April 2017, the Education Directorate notified ACT Heritage of the tree removal. ACT Heritage undertook an immediate site inspection, which confirmed that the Aboriginal scarred tree had been removed and mulched, with the cultural scar destroyed;
 - during April and May 2017, the A/g Deputy Director-General (DDG) of the Environment, Planning and Sustainable Development Directorate (EPSDD) liaised with Access Canberra executives to seek investigative support from their Regulatory Compliance team;
 - following agreement to provide investigative support, ACT Heritage referred all documents relating to the matter to Access Canberra on 5 June 2017, to inform their investigation;
 - on 28 November 2017, Access Canberra provided a response to the DDG of EPSDD, setting out that as the tree removal was unintentional there is no evidence of a 'fault' element under the Criminal Code 2002; and that prosecution of Treeworks would not be in the public interest; and

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- [REDACTED]
 - EPSSD notes that there are some strict liability offences under the *Heritage Act 2004*, therefore the *Criminal Code 2002* element of 'fault' would not apply.
5. In relation to MST4:
- the removal of MST4 had not been previously reported to ACT Heritage or the ACT Heritage Council; and the first report of this was contained in [REDACTED] correspondence of 19 July 2018;
 - ACT Heritage was made aware of the removal on 24 July 2018 when it was forwarded [REDACTED] correspondence for a Ministerial response;
 - on 24 July 2018, ACT Heritage undertook an immediate site inspection which confirmed that the MST4 scarred tree had been cut down, with the tree trunk containing the cultural scar observed on the ground adjacent to the stump;
 - initial review of aerial photography indicates that the tree was cut down between December 2016 and March 2017;
 - on 25 and 26 July 2018, ACT Heritage liaised with TCCS to identify any knowledge of the tree removal and to discuss movement of the MST4 trunk to a secure location. The initial TCCS response is that they have no record of undertaking tree removal works at this location;
 - on 25 and 26 July 2018, ACT Heritage also liaised with the ACT Parks and Conservation Service (PCS); and as a result, the Environment's Compliance team was made available to undertake investigation of the matter;
 - the investigation of the matter was initiated on 1 August 2018 with a meeting between ACT Heritage and the Environment's Compliance team;
 - following a site visit by the Environment's Compliance team to view MST4 in situ, the trunk will be moved to a secure location within a PCS depot for temporary storage; and
 - any further decisions regarding the future management of the MST4 trunk will be made in consultation with Representative Aboriginal Organisations (RAOs).
6. No Section 76 exception was in place for the removals of the Spook Tree and MST4.
7. Representative Aboriginal Organisations (RAOs) are consulted by the ACT Heritage Council and the ACT Government on a range of Aboriginal heritage matters in accordance with *Heritage Act 2004* provisions. RAOs were notified of the removal of the Spook Tree in April 2017 and will be notified of the removal of MST4 when the Environment's Compliance Team complete its information gathering exercise.

Issues

8. Aboriginal scarred trees are relatively rare in the ACT, and as these trees mature and senesce, scarred trees will become increasingly rare over time. Scarred trees are also generally viewed by Traditional Custodians as being of high cultural significance.

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9. Following removal of the Spook Tree in April 2017, RAOs expressed significant disappointment and anger at the loss of the scarred tree.
10. Once notified of the removal of MST4, RAOs are likely to express further significant disappointment and anger at the matter and at the cumulative effect of the removal of two scarred trees.
11. RAOs and ACT heritage professionals may exert pressure on the ACT Government to improve resourcing of, and the responses to, the investigation of Aboriginal heritage compliance matters.

Mitigation Strategy

12. Destruction of any heritage place or object (natural, built and Aboriginal) is a live risk.
13. This risk of destruction is managed by making information publically available on the ACT Heritage Register, and having statutory planning approval processes under the *Heritage Act 2004*, *Planning and Development Act 2007* and *Tree Protection Act 2005*.
14. Where works are being proposed, information on cultural scar trees is available and accessed regularly across government, contractors, developers and the broader community.
15. 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.
16. Section 75 of the *Heritage Act 2004* contains two offences with fault elements (recklessness and negligence) and one strict liability offence where fault elements are not applicable. It is a decision for the Directorate whether to pursue prosecution for an offence under the Act. Further policy work is required to enable more effective enforcement provisions and education about those provisions. EPSDD will undertake this work in consultation with the Justice and Community Safety Directorate, and an update will be provided to your Office as soon as possible.
17. In relation to the Spook Tree:
 - The Education Directorate responsible for the tree followed the required processes as due diligence was undertaken in terms of identifying heritage trees, and seeking approvals from the Conservator.
 - On this occasion, it does not appear to be malicious activity that resulted in the removal of the tree, but rather, an unintentional administration error.
 - As a result, it was not considered necessary to take action such as education or raising awareness across the whole of government, as the Education Directorate had taken all necessary steps to avoid removal.
 - ACT Heritage has liaised with the Education Directorate who have advised they are revising the Contractor Site Induction Checklist to include information regarding heritage assets.
 - The Education Directorate advised they are developing and permanently installing location plans (for heritage and protected trees and other heritage assets) in the main entrance of the schools in response to advice from ACT Heritage to mitigate a reoccurrence of this incident.

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- ACT Heritage has also provided input into drafting a Procedural Guideline for heritage assets located on school sites for inclusion in the School Management Manual.
 - Wanniasa Hill Primary School is proposing to hold a meeting of all stakeholders including RAOs to agree on an appropriate and respectful remediation/remedy for the site. The WHPS proposal is to seek agreement for a sheet metal cut-out of the tree.
18. In relation to MST4:
- Until such time as the investigation is complete, ACT Heritage will be focusing on achieving the best conservation outcome for the felled tree.
19. Your office has requested further information with respect to current compliance and investigation support in relation to heritage compliance matters such as these. Detailed information about this is provided at [Attachment B](#).

Financial Implications

20. Investigation of the removal of the MST4 scarred tree will require personnel from the Environment's Compliance team and ACT Heritage; and movement of the tree will also require additional PCS personnel time.
21. A conservator may need to be engaged to assess the condition of the trunk as there is some risk that the trunk and scar could be damaged further in the lift and movement if controls suitable for its condition are not implemented. A conservator may also need to be on site during the move.

ConsultationInternal

22. ACT Heritage has consulted with Daniel Iglesias, Director of PCS, Craig Jones, Manager, Licensing and Compliance, and Kristy Gould, Ranger in Charge, Urban Reserves south regarding investigation of the matter and the movement of MST4.

Cross Directorate

23. ACT Heritage has consulted with Stephen Alegria, A/g Director, City Presentation, TCCS regarding the status of MST4, any knowledge of its removal and its future movement.

External

24. RAOs and the Council will be notified of the removal of MST4 later this month and will be consulted throughout the investigation and to the future management of the trunk.

Benefits/Sensitivities

25. Aboriginal scarred trees are rare, prominent and significant Aboriginal heritage places in the ACT, and the removal of two scarred trees at Wanniasa are significant compliance incidents.
26. The sensitivities of these incidents are compounded by their removal within a four month period and within 200 metres of each other.
27. RAOs, Traditional Custodians and the Council are likely to have a significant adverse reaction to the removal of MST4.

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Media Implications

28. No media implications are identified at this time; however, it is possible that RAOs, Traditional Custodians and/or ACT heritage professionals may engage with media regarding the removal of these two Aboriginal scarred trees at Wanniasa.

Signatory Name: Fiona Moore Phone: 59974
 Action Officer: Meaghan Russell Phone: 55497

Attachments

Attachment	Title
Attachment A	Response letter to [REDACTED]
Attachment B	Heritage Compliance and Investigations Support
Attachment B(i)	Access Canberra Website – 17 September 2018
Attachment B(ii)	Correspondence Access Canberra to EPSDD - 10 November 2016

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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

18/21069

Dear [REDACTED]

Thank you for your message of 19 July 2018, seeking information on the removal of two Aboriginal scarred trees in Wanniasa. I apologise for the delay in responding.

Your message refers to the removal of the Wanniasa 'Spook Tree'; an Aboriginal place recorded as 'MSYB1' on the ACT Heritage Register. The removal of this tree 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.

The investigation concluded that as it was not malicious activity that resulted in the removal of the tree, but rather an genuine and unintentional administration error, and that prosecution in this instance would not be in the public interest, as such action is unlikely to succeed.

Your message also refers to the removal of a second Aboriginal scarred tree at Wanniasa, which had not previously been reported to the ACT Government. Following receipt of your message, ACT Heritage undertook an immediate inspection of the area and identified that the Aboriginal scarred tree recorded as 'MST4' on the ACT Heritage Register has been removed, with the trunk containing the cultural scar lying on the ground adjacent to the stump. This matter has now been referred to the Directorate's Environment Division Compliance team for investigation and the trunk has been moved to a secure location within a Parks and Conservation depot for temporary storage in order to protect it.

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*.

As the MST4 incident relates to ongoing investigations, I am unable to provide you further detail about the removal of this tree at this time. However, please be advised that 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.

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



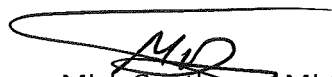
MickGentleman



Given the deficiencies that this example has highlighted, I have asked that the Environment, Planning and Sustainable Development Directorate 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 be completed as a matter of urgency.

Thank you for notifying me on this matter. I trust that the information provided is of assistance.

Yours sincerely



Mick Gentleman MLA
Minister for the Environment and Heritage

15/10/18

Compliance and Investigation Support

1. Historically, ACT Heritage compliance functions have been undertaken by complimentary areas co-located with heritage, including Tree Protection, Environment and Protection and the planning and land authority's Investigations Team.
2. Resourcing within ACT Heritage does not allow existing officers to become dedicated investigation officers. Further, the broader management structure is not qualified in the management of compliance and associated investigations.
3. Since the creation of Access Canberra, it was understood it would provide compliance and investigation support to areas within EPSDD such as the planning and land authority and ACT Heritage for offences against the *Planning and Development Act 2007* (the Planning Act) and *Heritage Act 2004* (the Heritage Act).
4. In April 2018, Access Canberra advised ACT Heritage that it had never been given the compliance function for heritage when EPSDD planning and land authority's Investigations Team moved across to the newly created Access Canberra, therefore it would not investigate heritage compliance matters.
5. This reflects officer level advice since October 2016, in which ACT Heritage were being advised that Access Canberra no longer dealt with heritage complaints. Access Canberra's web page currently states it does not act on a range of issues including damage to a heritage listed property, see [Attachment B\(i\)](#).
6. However, the abovementioned advice does not reflect:
 - Written advice by Greg Jones (Director, Construction Environment, Access Canberra) on 10 November 2016, in which he advises that there is no change to the longstanding arrangement to provide heritage compliance support, but that risk based approach is applied as per the Access Canberra Accountability Commitment, see [Attachment B\(ii\)](#); and that
 - Up to 18 Access Canberra investigative staff/position numbers (former ACTPLA Investigations Team) are declared as Heritage Act authorized officers, holding power to undertake compliance investigations.
7. Many heritage offences are also planning offences – being controlled activities as defined in Chapter 11 of the Planning Act (ie, works without development approval, or not in accordance with development approval). However, at present, when those actions are reported to Access Canberra they are not investigated as a Planning Act development approval breaches, but instead referred to ACT Heritage as heritage complaints only.
8. Access Canberra have stated that where the compliance matter is a Planning Act breach because of a heritage matter, they will not investigate.

Heritage Act tools required for on heritage offences:

9. Irrespective of the compliance capacity issues noted above:
 - There is no Heritage Act infringement notice scheme established under the *Magistrates Court Act 1930*. This means minor Heritage Act strict liability

offences cannot be dealt with simply through fines, and prosecutions through the full court process can be difficult to achieve. A brief seeking the Minister's approval to establish a strict liability offence infringement regulation is currently being prepared by ACT Heritage.

- There are also limitations in the use of Heritage Directions under Part 11 of the Heritage Act for the protection of heritage places/objects. Currently Heritage Directions can only be issued for places at 'serious and *imminent* threat', which does not usually allow for 'repair' directions to be issued after the threat has occurred. Amendments to the Heritage Act are being considered to provide for this.
10. An effective enforcement regime is critical for ACT Heritage to fulfil its roles and responsibilities as the regulator of heritage in the ACT.
11. Risks associated with the current inadequate heritage compliance and enforcement support include:
- Failure to administer the functions of the Heritage Act;
 - Failure to conserve places and objects with heritage significance, and to conserve Aboriginal places and objects;
 - A widely publicised instance of ACT Heritage's inability to take action on minor and readily reversible breaches, eroding public confidence in the integrity of the regulatory scheme;
 - An increase of heritage owners undertaking unapproved and inappropriate works due to no practical deterrent being in place;
 - Contributing to potential significant adverse impacts to heritage places and objects;
 - Increased likelihood of heritage compliance matters not being upheld by ACAT or Supreme Court due to inadequate investigative processes;
 - Potential negative commentary by ACAT or Supreme Court in relation to investigative processes;
 - Unlikelihood of DPP prosecuting penalties under the Heritage Act due to inadequate investigative processes; and
 - Negative media and community commentary.

Overview of heritage compliance reports:

12. Under Section 74 of the Heritage Act, it is an offence to diminish the heritage significance of a registered place or object; and under Section 75 of the Heritage Act, it is an offence to damage an Aboriginal place or object.
13. On average, ACT Heritage receives about 15 heritage complaints/compliance reports per financial year – however, approximately half are often not offences and do not require any action.
14. Many of the remaining reports are minor/moderate matters could be efficiently and effectively dealt with once infringement notice regulation and heritage 'repair' directions are in place.
15. There are approximately 1-2 significant heritage compliance matters are reported a year.
16. For all reports, ACT Heritage undertakes an initial review against heritage requirements to determine whether the conduct has diminished/damaged heritage value.



Controlled activity or construction occupations complaint

Lodge a complaint online

- Overview
- Construction complaints
- Development and lease complaints
- Submit a complaint**
- Next Steps
- Related resources
- Contact Options

Submit a complaint

Online: *Controlled activity or construction occupations complaint form*

What Access Canberra does not act on

Access Canberra has a policy that it applies to determine if a matter should be investigated. Access Canberra does not have the resources to investigate every complaint lodged with the Directorate. Access Canberra may decide not to proceed with an investigation if it determines that a complaint does not meet the criteria in the policy, or if the complaint is vexatious; that is, if there is a long-standing dispute between neighbours or parties.

In some cases when a complaint is investigated and a minor breach is identified Access Canberra may consider it appropriate to undertake limited enforcement action, such as:

- advising the complainant and the subject of the complaint that a breach has been identified;
- requesting that an action be taken to resolve the breach; and
- raising a compliance flag against the property that will alert prospective purchasers that an issue exists.

Once raised, a compliance flag will remain in force until the subject of the complaint takes the required steps to address the concern.

Some examples of complaints which neither Access Canberra nor the Construction Occupations Registrar has the power to deal with are identified below, with contact details of the agencies that may be able to help.

- Streets, public places and nature strips +
 - Health issues +
 - Neighbourhood disputes +
 - Dangerous substances +
 - Environmental issues +
 - Fire hazards +
 - Heritage issues -
 - Damage to a heritage listed property: ACT Heritage may be able to assist. Phone the Access Canberra Contact Centre - 13 22 81 or visit the Environment and Planning Directorate website.
 - Contractual issues or Civil Disputes +
- ◀ Development and lease complaints Next Steps ▶

Updated 27/04/2018 01:05 AM

Was this answer helpful? Yes No



ACT
Government

Chief Minister, Treasury and
Economic Development

Mr Tony Carmichael
Executive Director
Strategic Planning
Environment, Planning and Sustainable Development Directorate

Email: tony.carmichael@act.gov.au

Dear Tony

Thank you for your letter dated 7 November 2016 concerning the role of Access Canberra in investigating reports of non-compliance with the *Heritage Act 2004*.

I appreciate the concerns that you raise, however, there appears to be some confusion about the role of the Access Canberra, Construction Environment WorkSafe Protection (CEWP) Division investigations team and the compliance and enforcement approach of Access Canberra.

Access Canberra has made no decision to change the longstanding arrangement regarding the investigation of *Heritage Act 2004* non-compliance. Access Canberra will however apply its risk based approach to compliance actions and responses as outlined in the Access Canberra Accountability Commitment (the *Commitment*).

In early April 2016 the ACT Government formally adopted the *Commitment* and a suite of compliance frameworks as Access Canberra's new approach to compliance and enforcement. Adopting this approach means Access Canberra will focus its resources where the risks of harm, unsafe practices or misconduct are greatest in the community.

The role of Access Canberra, in relation to regulating building, construction and planning in the ACT is to protect the life, health and property of our community and to minimise loss and consumer detriment. These strategic objectives are outlined in the Access Canberra Building and Construction compliance framework, available on our website.

A key consideration in determining if a regulatory response is required is whether certain conduct is likely to have a detrimental effect on those in our community who are most vulnerable or are at the greatest disadvantage. Access Canberra will also consider the seriousness of the alleged conduct and the impact on the community and/or industry. Public safety is of particular importance when determining appropriate enforcement action. Public interest and the efficient and proper use of public resource will also be taken into account by Access Canberra.

However, it appears that this approach may not have been clearly explained in discussions between our officers and I assure you that I have not endorsed any decisions to no longer investigate *Heritage Act 2004* matters. I am advised that the conversation occurred in relation to our response to a specific matter and was not intended to extend that approach across all possible *Heritage Act 2004* non-compliance matters. In relation to the specific issue involving the Hall property I am happy to have that matter reviewed if you consider this desirable.

The Access Canberra risk-based approach does not seek to impact Section 344 of the *Planning and Development Act 2007* as all regulatory complaints and allegations referred to Access Canberra are assessed against the *Commitment* and all reasonable steps are taken to investigate a complaint, noting that our actions will be prioritised based on our strategic objectives as outlined above.

With regards to your concern with the Access Canberra website, I have asked that this page of the website be reviewed.

I hope that the above information clarifies your concerns, however, if you have any further questions about this approach please contact Derise Cubin, Deputy Director - Compliance and Enforcement on phone 6205 3732.

Yours sincerely

A rectangular grey box redacting the signature of Greg Jones.

Greg Jones^v
Director
Construction Environment WorkSafe Protection
Access Canberra

10 November 2016

From: [EPSD Government Services](#)
To: [Tomlinson, Heather](#)
Cc: [EPD Ministerials - Environment](#); [Walker, JanS](#)
Subject: For action - Due to GS 27 JULY 2018 - 18/21069 - Ministerial Correspondence - Aboriginal scarred trees in Wanniasa - [SEC=UNCLASSIFIED]
Date: Friday, 20 July 2018 1:09:00 PM
Attachments: [18_21069 - Ministerial Correspondence - Aboriginal scarred trees in Wann...obr](#)

Hi Heather,

Please see below for action, **due to GS Friday, 27 July.**

Thanks,
Maeve

Ministerial Correspondence / Brief Request Form
18/21069 - Ministerial Correspondence - Aboriginal scarred trees in Wanniasa - [REDACTED]

	Due date	Electronic signature	Date
To Minister's office			
Director-General			
Deputy Director-General			
Government Services	27/07/2018		
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) |

Meeting advice/caveat

Information only /
NFA

Talking points (as dot
points) (in consultation with
Communications)

Functions/Event brief

Other

For appropriate action

Meeting / Function / Event:

Time:

Date:

Location:

Event Contact/Organiser:

Further Information:

Maeve Bannister | A/g Government Services 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: [REDACTED]
Subject: Correspondence from Mick Gentleman MLA [SEC=UNCLASSIFIED]
Date: Monday, 15 October 2018 12:38:18 PM
Attachments: [20181015103254937.pdf](#)
[image002.jpg](#)

Dear [REDACTED]

Please find attached correspondence from Mick Gentleman MLA - Minister 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



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: [Heritage](#)
To: [REDACTED]
Subject: RE: Aboriginal Scarred tree Wanniasa [SEC=UNCLASSIFIED]
Date: Monday, 2 July 2018 12:23:59 PM
Attachments: [image001.png](#)
[image002.png](#)

Hello [REDACTED],

Thank you for the email, and ACT Heritage understands that the cultural tree was removed in April 2017 and that the scar was not retained in this process.

Please note that ACT Heritage is not able to provide detailed comment on the matter due to Privacy Act considerations, however, you may be able to access further information through a Freedom of Information application. Questions about the application process should be directed to the EPSDD FOI officer via epsdfoi@act.gov.au or 13 22 81.

Regards,

Meaghan

Meaghan Russell | Team Leader (Advice)

Phone: 02 6205 5497 | Email: meaghan.russell@act.gov.au

ACT Heritage | Environment, Planning and Sustainable Development Directorate | ACT Government

Dame Pattie Menzies House 16 Challis Street Dickson | GPO Box 158 Canberra ACT 2601

www.environment.act.gov.au <<http://www.environment.act.gov.au/>>

@EnvironPlan <<https://twitter.com/EnvironPlan>> <<http://www.facebook.com/actgoesdd>>
[facebook.com/EnvironPlan](https://www.facebook.com/EnvironPlan)

From: [REDACTED]
Sent: Thursday, 28 June 2018 1:44 PM
To: Heritage <Heritage@act.gov.au>
Subject: Aboriginal Scarred tree Wanniasa

I have noticed that a listed Aboriginal Scarred Tree at Wanniasa hills Primary School (Section 253 Block 1) has been removed. Can you please inform me when it was removed, why it was removed and the location of the trunk bearing the scar.

Cheers

A solid grey rectangular box used to redact the sender's name or signature.





ACT
Government

Environment, Planning and
Sustainable Development

**ACT Heritage
FILE NOTE**

Date:	24 July 2018	
SUBJECT:	Scar trees on Blocks 5 & 6 Section 253 Wanniasa	
Name	Position	Contact Details
Euroka Gilbert	Aboriginal Liaison Officer	ACT Heritage
Gabrielle Caddy	Conservation Officer	ACT Heritage
NOTES FROM SITE VISIT:		
<p>Two ACT Heritage officers attended Blocks 5&6 Section 253 Wanniasa at approximately 2.00pm on 24 July 2018 to investigate a report that a registered scar tree had been cut down and that another may have been marked.</p> <p>The officers found that the tree listed as MST4 had been felled by being cut off at the base. The branches had been removed, but the trunk was still lying directly adjacent to the stump, apparently in the first fall position. The recorded scar was partly visible, but was lying partly in contact with the grass and ground under the trunk. There was evidence on the trunk of attempts to cut it into sections but the cuts did not appear to be completely through the trunk at the point of the scar.</p> <p>[REDACTED]</p> <p>[REDACTED]</p>		
<p>No trees on the blocks showed signs of new marking consistent with the report of an "A" marked on a scar tree. A marking matching this description was found on an (unrecorded) tree on block 1 section 140 Wanniasa, but similar markings on a nearby storm drain suggested that the marking was graffiti.</p>		

