

Planning and Development (Conditional Environmental Significance Opinion – Block 4, Section 12, Tharwa and various Blocks, Paddys River – ‘Cuppa’ Subdivision and Consolidation) Notice 2022 (No 1)

Notifiable instrument NI2022–137

made under the

Planning and Development Act 2007, s 138AD (Requirements in relation to environmental significance opinions)

1 Name of instrument

This instrument is the *Planning and Development (Conditional Environmental Significance Opinion – Block 4, Section 12, Tharwa and various Blocks, Paddys River – ‘Cuppa’ Subdivision and Consolidation) Notice 2022 (No 1)*.

2 Commencement

This instrument commences on the day after its notification day.

3 Conditional environmental significance opinion

- (1) On 2 February 2022, the ACT Heritage Council, pursuant to section 138AB (4) (b) of the *Planning and Development Act 2007* (the *Act*), gave the Applicant a conditional environmental significance opinion in relation to subdivision and consolidation, on Block 4, Section 12, of Tharwa, and various Blocks, Paddys River.

(2) In this section:

conditional environmental significance opinion means the opinion in the schedule.

Note Under section 138AD (6) of the Act, the conditional environmental significance opinion and this notice expire 18 months after the day the notice is notified.

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



ACT Heritage Council

HERITAGE ADVICE

Environmental Significance Opinion

ACTPLA Reference: ESO202100046
Heritage Reference: Paddys-B340
Contact Officer: JM
Received by Council: 13 December 2021
Due date: 2 February 2022

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

Block:	Section:	Division / District:	Heritage Place:
4	12	Tharwa	MRC64, MRC73, CR11, Cuppacumbalong Woolshed Complex and Cuppacumbalong (De Salis) Cemetery
199 237 340 353	N/A	Paddys River	

Status of Place: Registered Heritage Places
Description of Works: Lease separation to create 3 separate Crown Leases over 5 blocks
Report Details: *“Request for Environmental Significance Opinion Blocks 199, 237, 340, 353 and Block 4 Section 12 Tharwa”* (Purdon Planning, November 2021)
Council Advice provided by: Manager (Approvals and Advice)

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

The proposal is **unlikely to have a significant adverse environmental impact, subject to conditions** described below.

Background:

On 13 December 2021, the ACT planning and land authority referred an application for an Environmental Significance Opinion (ESO) to the ACT Heritage Council (the Council) for entity advice (ESO202100046).

The application seeks to subdivide Blocks 199, 237, 340 and 353 Paddys River and Block 4 Section 12 Tharwa. The intent is to create three separate Crown Leases over these five blocks. The above five blocks are registered as separate parcels of land however they are all currently listed on a single Crown Lease. It is proposed to subdivide the property to create 3 individual Crown Leases which would comprise:

- Site A, being Block 340 Paddys River;
- Site B, being the combined area of Block 353 Paddys River and Block 4 Section 12 Tharwa; and
- Site C, being the combined area of Blocks 199 and 237 Paddys River.

No changes to the existing block configurations and sizes are proposed. The application is supported by a report prepared by Purdon Planning (November 2021) titled “*Request for Environmental Significance Opinion Blocks 199, 237, 340, 353 and Block 4 Section 12 Tharwa*” (the Purdon Planning report) to assess potential impacts of a proposed subdivision.

A proposed lease variation will be submitted following determination of the ESO request and will seek to increase the number of dwellings permitted across the blocks (which is currently limited to a maximum of two dwellings across 5 blocks). The report section titled Proposed Lease Purpose Clauses suggests that there would be two dwelling per lease, to create a total of 6 dwellings across the leased area.

This ESO application does not include design and siting for new dwellings, however it is likely that the future landowners of Sites A and B will seek to construct a dwelling at each site, and the report proposes the inclusion of a figure in the new Crown Leases which indicates building envelopes, to ensure buildings are located away from sensitive areas. Indicative maps are included in the Purdon Planning report.

The Purdon Planning report also notes that it is not proposed to alter the permitted use of the blocks, however, alternative uses to the current grazing are already permitted by the lease. These may include horticultural uses such as cereal, fruit trees, cherries and/or viticulture.

The Purdon Planning report also discusses a number of proposals for the area which are understood not to be part of the ESO application, but are possible future proposals. These include:

- The construction of a hay shed on Block 237 Paddys River (Site C). This shed would be located in the same area as a shed that was demolished in 2018;
- Construction of additional dwellings for the subdivided blocks; and
- Fencing and replanting of corridors to protect and allow regeneration of ecologically significant areas. This fencing appears to include fencing in the heritage curtilage of Cuppacumbalong Woolshed.

Assessment:

The proposed new Crown Leases all contain registered heritage places. Under the proposed subdivision:

- Site A contains the Cuppacumbalong Woolshed Complex;
- Site B contains part of the Cuppacumbalong (De Salis) Cemetery and MRC73 (Aboriginal artefact scatter); and
- Site C contains CR11 and MRC64 (Aboriginal artefact scatters).

The Purdon Planning report incorrectly states that the Cuppacumbalong (De Salis) Cemetery is adjacent to the ESO area, however the curtilage of this heritage place extends into Block 4 Section 12 Tharwa. The proposed subdivision would also result in the Woolshed being separated from the main grazing property (Site C). Additionally, the Purdon Planning report suggests that the Cuppacumbalong Woolshed could be considered for adaptive reuse to ensure its heritage conservation.

The Council understands that the subdivision will facilitate additional development on the subject blocks including new dwellings, associated landscaping, fencing and the construction of a hay shed. Additionally, alternative uses to the current grazing, such as horticulture, may occur at the subject blocks, as these are already permitted by the existing lease.

In principle the proposed subdivision will not have any direct impact to heritage places or objects and does not constitute a significant adverse impact to heritage. However, future development facilitated by the subdivision has potential to cause damage to Aboriginal heritage places and objects, and registered heritage places, if not undertaken in accordance with *Heritage Act 2004* provisions and Council policy requirements.

Decision and Conditions:

The proposed development is unlikely to cause significance adverse environmental impact subject to the following conditions:

1. Advice from the Council is to be sought prior to the commencement of any works for the adaptive reuse of the Cuppacumbalong Woolshed. The Council recommends the development of a Conservation Management Plan to guide any proposed adaptive reuse of the place, and to ensure its long term conservation and responsible management;
2. Advice from the Council is to be sought prior to the commencement of any ground disturbing works on the subject blocks. Heritage assessment and management actions and/or *Heritage Act 2004* approvals may be required for these works dependent on their nature, location and scale; and
3. A Cultural Heritage Assessment (CHA) would be required to consider the impact of new land uses which include substantial ground disturbing impacts over a large area such as (but not limited to) ripping of soils to facilitate horticultural activities (or similar); as Aboriginal places are known to occur in similar landscape contexts.

This CHA must:

- Be undertaken by a suitably qualified heritage practitioner;
- Include the information as required by the Council's Cultural Heritage Reporting policy available at <https://www.environment.act.gov.au/heritage/publications-and-resources>;
- Include consultation with Representative Aboriginal Organisations (RAOs) about the heritage significance of any identified Aboriginal places and objects, the heritage impacts of proposed development, and the appropriate management of those impacts; and
- If the CHA identifies that proposed works will cause damage to or diminish the significance of heritage places, recommendations must be presented to comply with relevant *Heritage Act 2004* provisions. This would need to include justification of the activity, that there are no reasonable practicable alternatives to the activity and that reasonable steps have been identified to reduce the risk of diminish the heritage significance or damage to the place.



Meaghan Russell
**Manager (Approvals and Advice)(as delegate for),
ACT Heritage Council**

2 February 2022