

APPENDIX M



Canberra Brickworks, Yarralumla, ACT

Stage 1 Aboriginal Cultural Heritage Assessment



August 2014



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A Report to LDA

Report Register

The following register documents the development and issue of this document.

Issue No.	Notes/Description	Issue Date
v1	Draft for proponent comment	5 August 2014
v2	Final	14 August 2014

EXECUTIVE SUMMARY

The Canberra Brickworks site is centrally located in Canberra, approximately 6km from Canberra City Centre and 5km from Woden Town Centre. The project area is a 47 hectare site and is located on the edge of the established suburb of Yarralumla.

The project involves the requirement for a Stage 1 Cultural Heritage Assessment in the proposed new project area named as Canberra Brickworks and Environs (CB+E).

This report documents the results of an Aboriginal cultural heritage assessment of the CB+E. The report was commissioned by the Land Development Agency.

The area has been impacted by the construction of roads, the Canberra Brickworks including large areas of excavation to the east, laying of gravel and tarmac, weed infestation, pine plantation and general mechanical disturbance over a majority of the project area.

A search of the ACT Heritage sites database was undertaken; no Aboriginal sites were located within the CB&E project area. No areas of archaeological potential were identified.

Given the location of the area in relation to the past riverine resources associated with the Molonglo River, the project area would be considered to have a relatively low potential for the occurrence of Aboriginal sites. Past landuse practices within the area also indicate that any such materials would be disturbed.

There are no statutory implications regarding cultural heritage for the study area.

It is recommended that:

1. For the unanticipated discovery of Aboriginal sites and burials (during future investigation or development works, including excavation and/or other significant ground disturbance), the protocols detailed in Appendix 2 should be implemented.
2. A copy of this report should be provided to the ACT Heritage for approval.
3. One copy of this report should be provided to each of the ACT RAOs.

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TABLE OF CONTENTS

1. INTRODUCTION.....	1
1.1 PROJECT DESCRIPTION	1
1.2 THIS REPORT	1
1.2.1 <i>Outline</i>	1
1.2.2 <i>Copyright</i>	1
2. STUDY METHODOLOGY.....	3
2.1 LITERATURE AND DATABASE REVIEW	3
2.2 FIELDWORK AND PROJECT PERSONNEL.....	3
2.3 RECORDING PARAMETERS	3
3. ENVIRONMENTAL CONTEXT	5
4. ABORIGINAL CULTURAL CONTEXT.....	7
4.1 TRIBAL BOUNDARIES	7
4.2 REPRESENTATIVE ABORIGINAL ORGANISATIONS.....	7
4.3 CONSULTATION.....	8
5. ABORIGINAL ARCHAEOLOGICAL CONTEXT.....	9
5.1 REGIONAL OVERVIEW	9
5.2 THE STUDY AREA.....	10
5.3 PREDICTIVE MODEL.....	10
6. RESULTS.....	11
6.1 ABORIGINAL SITES	11
6.4 SURVEY COVERAGE AND VISIBILITY VARIABLES.....	11
7. STATUTORY CONTEXT	12
7.1 HERITAGE ACT 2004.....	12
7.2 IMPLICATIONS FOR THE CANBERRA BRICKWORKS AND ENVIRONS PROJECT.....	13
8. CONCLUSIONS AND RECOMMENDATIONS.....	14
9. REFERENCES	15
APPENDIX 1 RECORD OF ABORIGINAL FIELD PARTICIPATION.....	17
APPENDIX 2 UNANTICIPATED DISCOVERY PROTOCOLS.....	19

Tables

Table 3.1 Matrix showing the basis for assessing the archaeological potential (shown in bolded black text) of a potential archaeological deposit.....	4
Table 4.1 Consultation Log.....	8

Figures

Figure 1.1 Canberra Brickworks and Environs project area.....	2
Figure 3.1 CB&E looking north west with tarmac in foreground.....	5
Figure 3.2 CB&E at brickworks showing excavated areas.....	5
Figure 3.3 CB&E looking west along pedestrian track.....	5
Figure 3.4 CB&E looking west along vehicle track	5

Figure 3.5 1915 Territory feature map showing CB&E project area and its proximity to original location of the Molonglo River 6



1. INTRODUCTION

1.1 Project Description

The Canberra Brickworks site is centrally located in Canberra, approximately 6km from Canberra City Centre and 5km from Woden Town Centre. The project area is a 47 hectare site and is located on the edges of the established suburbs of Yarralumla and Deakin. It is bounded by the suburb of Yarralumla to the east, Adelaide Avenue and the suburb of Deakin to the southeast, Cotter Road to the south and Westbourne Woods to the west.

The project involves the requirement for a Stage 1 Cultural Heritage Assessment in the proposed new project area named as Canberra Brickworks and Environs (CB+E).

This report documents the results of an Aboriginal cultural heritage assessment of the CB+E. The report was commissioned by the Land Development Agency.

1.2 This Report

1.2.1 Outline

This report:

- Describes the project (Section 1);
- Describes the methodology employed in the study (Section 2);
- Describes the environmental setting of the study area (Section 3);
- Provides information relevant to the Aboriginal cultural context of the study area (Section 4);
- Provides an Aboriginal heritage context for the study area (Sections 5);
- Describes the results of the data review, field survey and Aboriginal consultation program conducted in the context of the assessment (Section 6);
- Provides a statutory information as it relates to the cultural heritage identified within the CB&E project area (Section 7); and
- Provides management recommendations based on the results of the investigation (Section 8).

1.2.2 Copyright

Copyright to this report rests with the LDA except for the following:

- The Navin Officer Heritage Consultants logo and business name (copyright to this rests with Navin Officer Heritage Consultants Pty Ltd);
- Generic content and formatting which is not specific to this project or its results (copyright to this material rests with Navin Officer Heritage Consultants Pty Ltd);
- Descriptive text and data relating to Aboriginal objects which must, by law, be provided to the ACT Heritage for its purposes and use;
- Information which, under Australian law, can be identified as belonging to Aboriginal intellectual property;
- Content which was sourced from and remains part of the public domain



Figure 1.1 Canberra Brickworks and Environs project area



2. STUDY METHODOLOGY

2.1 Literature and Database Review

A range of archaeological and historical data was reviewed for the Canberra Brickworks study area and its surrounds. This literature and data review was used to determine if known Aboriginal sites were located within the area under investigation, to facilitate site prediction on the basis of known regional and local site patterns, and to place the area within an archaeological and heritage management context. The review of documentary sources included heritage registers and schedules, local histories, maps and archaeological reports.

Literature sources included the Heritage Registers and associated reports held by ACT Heritage, ACT Environment and Planning Directorate.

2.2 Fieldwork and Project Personnel

The archaeological survey aimed at identifying material evidence of Aboriginal occupation as revealed by surface artefacts and areas of archaeological potential unassociated with surface artefacts.

Field survey was undertaken on 5th August 2014 by archaeologist Nicola Hayes and Aboriginal representative Wally Bell.

This report was written by Nicola Hayes.

2.3 Recording Parameters

Potential recordings fall into two broad categories: sites and potential archaeological deposits.

A site is defined as any material evidence of past Aboriginal activity that remains within a context or place which can be reliably related to that activity.

Most Aboriginal sites are identified by the presence of three main categories of artefacts: stone or shell artefacts situated on or in a sedimentary matrix, marks located on or in rock surfaces, and scars on trees.

Frequently encountered site types within southeastern Australia include stone artefact occurrences - including isolated finds and open artefact scatters, coastal and freshwater middens, rock shelter sites - including occupation deposit and/or rock art, grinding groove sites and scarred trees. For the purposes of this section, only the methodologies used in basic site identification are outlined.

Stone Artefact Occurrences

Stone artefact occurrences are the most commonly recorded site type in Australia. They may consist of single artefacts - described as isolated finds; or as a distribution of more than one artefact – often described as an artefact scatter or 'open camp site' when recording surface artefacts, or as a subsurface artefact distribution when dealing with an archaeological deposit.

Where artefact incidence is very low, either in terms of areal distribution (artefacts per square metre) or density (artefacts per cubic metre), then the differentiation of the recording from background artefacts counts or *background scatter* may be an issue.

Background scatter

Background scatter is a term used generally by archaeologists to refer to artefacts which cannot be usefully related to a place or focus of past activity (except for the net accumulation of single artefact losses).



There is no single concept for background discard or 'scatter', and therefore no agreed definition. The definitions in current use are based on the postulated nature of prehistoric activity, and often they are phrased in general terms and do not include quantitative criteria. Commonly agreed is that background discard occurs in the absence of 'focused' activity involving the production or discard of stone artefacts in a particular location. An example of unfocused activity is occasional isolated discard of artefacts during travel along a route or pathway. Examples of 'focused activity' are camping, knapping and heat-treating stone, cooking in a hearth, and processing food with stone tools. In practical terms, over a period of thousands of years an accumulation of 'unfocused' discard may result in an archaeological concentration that may be identified as a 'site'. Definitions of background discard comprising only qualitative criteria do not specify the numbers (numerical flux) or 'density' of artefacts required to discriminate site areas from background discard.

Potential Archaeological Deposits

A potential archaeological deposit, or PAD, is defined as any location where the potential for subsurface archaeological material is considered to be moderate or high, relative to the surrounding study area landscape. The potential for subsurface material to be present is assessed using criteria developed from the results of previous surveys and excavations relevant to the region. Where necessary, PADs can be given an indicative rating of their 'archaeological potential' based on a combined assessment of their potential to contain artefacts, and the potential archaeological value of the deposit. Table 3.1 illustrates the matrix on which this assessment is based. Locations with low potential for artefacts fall below the threshold of classification. In such cases the potential incidence of artefactual material is considered to be the same as, or close to that for background scatter. Where there is moderate potential for artefacts, the predicted archaeological potential parallels the potential significance of the deposit. For deposits with high potential for artefacts, the assessed archaeological potential is weighted positively.

The boundaries of PADs are generally defined by the extent of particular micro-landforms known to have high correlations with archaeological material. A PAD may or may not be associated with surface artefacts. In the absence of artefacts, a location with potential will be recorded as a PAD. Where one or more surface artefacts occur on a sedimentary deposit, a PAD may also be identified where there is insufficient evidence to assess the nature and content of the underlying deposit. This situation is due mostly to poor ground surface visibility.

Table 3.1 Matrix showing the basis for assessing the archaeological potential (shown in bolded black text) of a potential archaeological deposit.

		Potential to contain Aboriginal objects		
		<i>Low</i>	<i>Moderate</i>	<i>High</i>
Potential archaeological significance	<i>Low</i>	---	low	moderate
	<i>Moderate</i>	---	moderate	high
	<i>High</i>	---	high	high



3. ENVIRONMENTAL CONTEXT

The project area is located between the suburb of Yarralumla, Westbourne Woods at the Royal Canberra Golf Course and the suburb of Deakin. The area includes the major road construction of Adelaide Avenue, Yarra Glen and Cotter Road. The local topography consists of low spur lines, shallow drainage lines and hills.

A drainage line that leads to Lake Burley Griffin extends from the north east corner of the project area. Lake Burley Griffin, formed by the damming of the Molonglo River is at least 1km north east of the project area. The 1915 Territory feature map shows that the Molonglo River was approximately 1.1km from the project area and that one drainage lines existed in the southern part of the project area in the area (Figure 3.5). There are no significant drainage lines within the project area

The soils in the project area were thin, clay and bedrock gravels were visible at the surface over much of the project area.

The vegetation consists of imported grasses, weeds, pines and other European tree species.

The 1915 Territory feature map shows the location of the Commonwealth brickworks and several tracks and fence lines indicating that the area may have been largely cleared by this time.

The area has been impacted by the construction of roads, the Canberra Brickworks including large areas of excavation to the east, laying of gravel and tarmac, weed infestation and pine plantation and general mechanical disturbance over a majority of the project area.



Figure 3.1 CB&E looking north west with tarmac in foreground



Figure 3.2 CB&E at brickworks showing excavated areas



Figure 3.3 CB&E looking west along pedestrian track



Figure 3.4 CB&E looking west along vehicle track

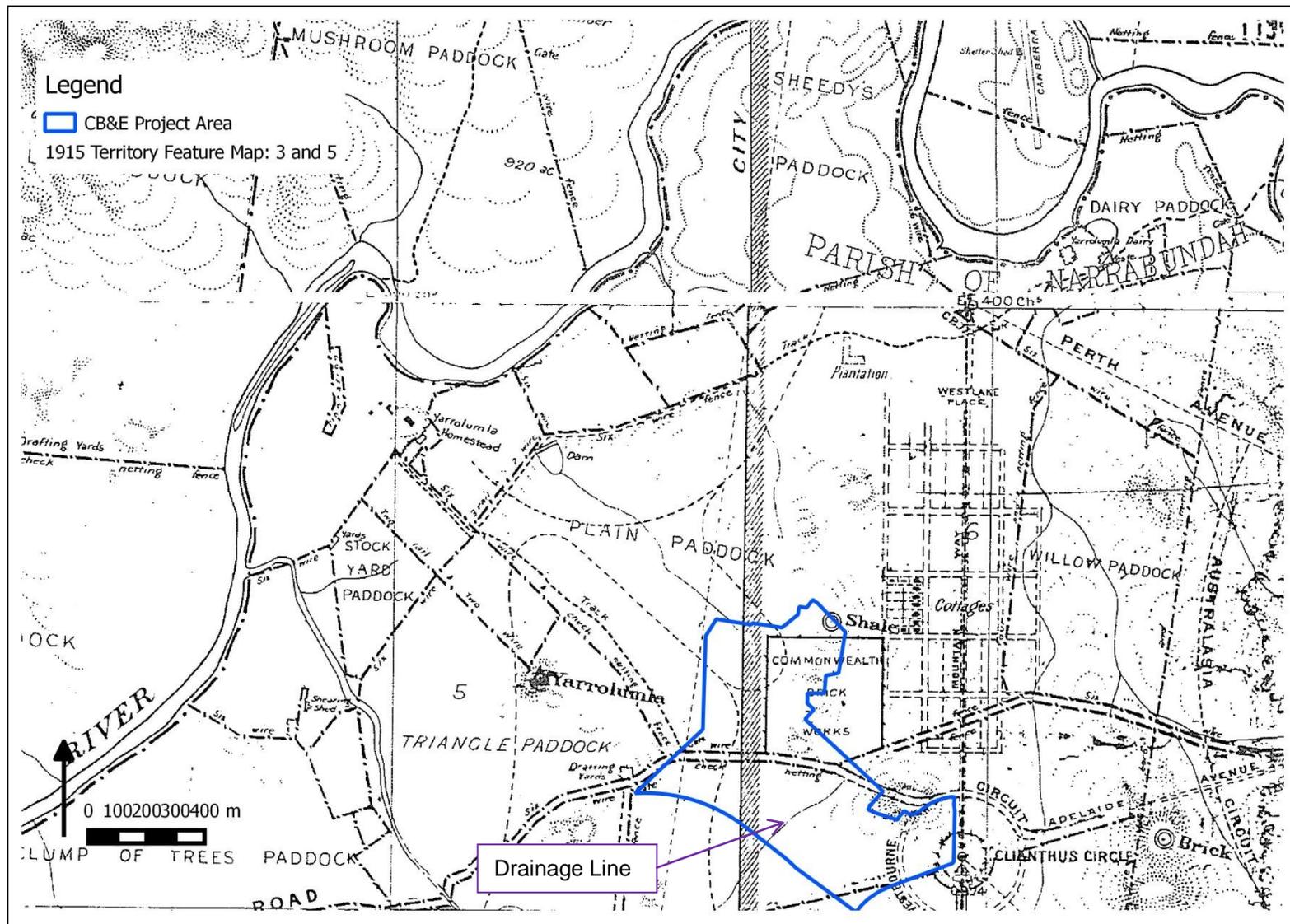


Figure 3.5 1915 Territory feature map showing CB&E project area and its proximity to original location of the Molonglo River



4. ABORIGINAL CULTURAL CONTEXT

4.1 Tribal Boundaries

Tribal boundaries within Australia are based largely on linguistic evidence and it is probable that boundaries, clan estates and band ranges were fluid and varied over time. Consequently 'tribal boundaries' as delineated today must be regarded as approximations only, and relative to the period of, or immediately before, European contact. Social interaction across these language boundaries appears to have been a common occurrence.

A reconstruction of clan boundaries based on Tindale (1974) indicates that the southern Canberra area was close to the tribal boundaries of the Ngunnawal and Walgalu people. Horton's (1999) map shows a Ngarigo tribe in the southern Canberra area.

A reconstruction of clan boundaries based on Tindale (1974) indicates that the northern Canberra area fell within the tribal boundaries of the Ngunnawal people. There is some uncertainty as to which language was spoken by the Aborigines of northern Canberra. This area appears to have been close to the linguistic boundary between the Gundungurra and Ngunnawal languages. Eades (1976) notes that published grammars for these two languages (Mathews 1900, 1901, 1904) are virtually identical. However according to Eades' boundaries, the Ngunnawal of northern Canberra probably spoke the Gundungurra language.

References to the traditional Aboriginal inhabitants of the Canberra region are rare and often difficult to interpret (Flood 1980, Huys 1993). The consistent impression however is one of rapid depopulation and a desperate disintegration of a traditional way of life over little more than fifty years from initial white contact (Officer 1989). The disappearance of the Aborigines from the tablelands was probably accelerated by the impact of European diseases which may have included the smallpox epidemic in 1830, influenza, and a severe measles epidemic by the 1860's (Flood 1980, Butlin 1983).

By the 1850's the traditional Aboriginal economy had largely been replaced by an economy based on European commodities and supply points. Reduced population, isolation from the most productive grasslands, and the destruction of traditional social networks meant that the final decades of the region's Aboriginal culture and economy was centred on white settlements and properties (Officer 1989).

By 1856 the local 'Canberra Tribe', presumably members of the Ngunnawal or Ngarigo, were reported to number around seventy (Schumack 1967) and by 1872 recorded as only five or six 'survivors' (Goulburn Herald 9 Nov 1872). In 1873 one 'pure blood' member remained, known to the white community as Nelly Hamilton or 'Queen Nellie'.

Early accounts of Aboriginal lifestyles in and comparable with the current study localities describe aspects of a successful hunting and gathering economy and eventful social life and inter-group contacts. The material culture, which is partly reflected in the surviving archaeological record, included stone and wooden artefacts, skin clothing and bark and bough temporary dwellings (Flood 1980, Huys 1993).

4.2 Representative Aboriginal Organisations

Four local Aboriginal organisations have stated an objective to represent traditional Aboriginal cultural values and interests within the ACT. These groups have been recognised by the Minister as Representative Aboriginal Organisations (RAOs) as defined under the ACT *Heritage Act 2004*. These groups are the:

- Buru Ngunawal Aboriginal Corporation (Buru Ngunawal);
- King Brown's Tribal Group Pty Ltd (KBTG);
- Little Gudgenby River Tribal Council (LGRTC); and



- Ngarigu Currawong Clan (Ngarigu).

It is the policy of the ACT Heritage Council that the RAOs should be consulted with regard to the management of, and potential impacts to, Aboriginal cultural values and places within the ACT.

4.3 Consultation

Contact was made by phone and email with the RAOs to inform them of this assessment and to organise representation during the field survey.

The following personnel participated in the fieldwork program and represented the interests of their group in the project:

- Wally Bell (Buru Ngunawal)

Records of Aboriginal Field Participation are provided in Appendix 1.

Table 4.1 Consultation Log

Date	Type of Contact (email, phone etc)	Group/Individual	Comment/Action
30/7/14	Email/post	all	Invitation to participate in survey Ngarigu stated they would not be attending
4/8/14	Phone/email	Buru Ngunawal KBTG LGRTC	Phone call regarding attendance. <ul style="list-style-type: none">• Confirmation from Buru Ngunawal, KBTG.• LGRTC could not confirm at that time.
5/8/14	Phone	KBTG	KBTG not able to attend



5. ABORIGINAL ARCHAEOLOGICAL CONTEXT

5.1 Regional Overview

Various assessments have been undertaken in the areas surrounding the CB&E project area.

Boot and Bulbeck conducted a cultural resource survey for the Stromlo Forest Management Area in 1990. They sampled 'the great majority of the landscape units which we recognised in Stromlo' (1990:15). Their survey coverage included traverses along forestry tracks situated immediately northeast and east of the woolshed site. Sixty two artefact occurrences were recorded.

Boot and Bulbeck noted that hills and spurs in the Management Area showed moderate artefact density while steep land, and gently sloping land away from watercourses was 'unattractive'. Sites in the Management Area were mainly located along the Molonglo or within the undulating, well-watered ground between the Molonglo and Mount Stromlo and within the Stony Creek catchment

Navin and Officer (1993) completed an archaeological survey of a parcel of land situated southeast of the confluence of Weston Creek with the Molonglo River, as part of investigations into future land use options appropriate for land north of Cotter Road at Weston. The study area was a roughly triangular portion of land, approximately 1.3 km long and up to 750 m wide. The eastern half of the area fell within the immediate catchment of the southern bank of the Molonglo River, but did not extend to the river. The western half was within the western fall of the Weston Creek valley and included a one kilometre section of the eastern creek bank.

One Aboriginal site and one isolated find were located in the course of the survey. The site, *North Cotter 1*, comprised a surface scatter of thirteen visible artefacts on the top of the knoll identified by the Martin trig station. The isolated find was located on an old track at the base of the knoll.

Saunders (1995) undertook a preliminary cultural resource survey of the Lower Molonglo River Corridor. The study area included the corridor from Coppins Crossing in the east to the Lower Molonglo Water Quality Control Centre in the west. 45 Aboriginal sites were recorded including 32 isolated artefacts and 13 open artefact scatters. Saunders concluded that there is a strong tendency for sites to be located near watercourses, all of which give access to the river, and near the termination of low, level spurs and knolls overlooking the river. Sites were also located on the one ridge line that occurred within the study area, at a distance of up to 400m from the river (Saunders 1995).

In 1999 Navin Officer Heritage Consultants (NOHC) completed an archaeological assessment of the Department of Defence extension to their Joint Services Staff College Site, Weston. One Aboriginal site, an open scatter of four stone artefacts, was located.

NOHC also conducted surveys of Stirling Park, Block 1, Section 128, Yarralumla (NOHC 2004), Blocks 2, 3 and 25, Section 44, in Yarralumla (NOHC 2006) and Block 22, Section 32 Yarralumla (NOHC 2007). No Aboriginal heritage sites or objects were identified in the course of these studies.

In 2008 AASC and CHMA completed a detailed heritage assessment of Coombs, Wright and Environs. The study identified two new Aboriginal sites, an isolated artefact and a subsurface deposit of three stone artefacts. No other Aboriginal sites were identified in the study area, indicating that site and artefact densities were very low or non-existent. The findings of the field investigations demonstrated a pattern of site distribution within the study area, with sites tending to be focused on elevated landscape features within a few hundred metres of the Molonglo River.

NOHC conducted a cultural heritage assessment of Block 5, Section 121 in North Curtin ACT in 2011. One Aboriginal site (NC1), an isolated artefact, was recorded in the road reserve opposite the junction of the Cotter Road and Lady Denman Drive. This site is listed on the ACT Heritage Register.

NOHC contributed to the Yarralumla Woolshed CMP in 2011. An archaeological field survey of the Yarralumla Woolshed and surrounds was undertaken in August 2011. The survey found three new Aboriginal sites, all isolated finds.



5.2 The Study Area

A search of the ACT Heritage sites database was undertaken; no Aboriginal sites are located within the CB&E project area.

5.3 Predictive Model

From a regional perspective Bulbeck and Boot (1990:20) suggested that site density distribution patterns indicated an Aboriginal landuse system focussed upon the Molonglo and Queanbeyan River systems and their accompanying resources.

Based upon these previous studies, patterns of Aboriginal occupation which may possibly be evidenced in the survey area would include activities focussed upon permanent stream corridors, and outcrops of siliceous stone materials. Large open camp sites have been recorded in proximity to creeklines, wetlands and in valley floor locations, as well as upon elevated spurs and ridges overlooking water sources. Scarred trees would have been restricted to areas of suitable mature woodland, most of which has been removed from the survey area.

Given the location of the area in relation to the past riverine resources associated with the Molonglo River (see Figure 3.5), it would be considered to have a relatively low potential for the occurrence of Aboriginal sites. Past landuse practices within the area also indicate that any such materials would be disturbed.



6. RESULTS

6.1 Aboriginal Sites

No previously recorded sites are located in the study area.

No Aboriginal sites were located in the study area. No areas of archaeological potential were identified.

6.4 Survey Coverage and Visibility Variables

The effectiveness of archaeological field survey is to a large degree related to the obtrusiveness of the sites being looked for and the incidence and quality of ground surface visibility. Visibility variables were estimated for all areas of comprehensive survey within the study area. These estimates provide a measure with which to gauge the effectiveness of the survey and level of sampling conducted. They can also be used to gauge the number and type of sites that may not have been detected by the survey.

Ground surface visibility is a measure of the bare ground visible to the archaeologist during the survey. There are two main variables used to assess ground surface visibility, the frequency of exposure encountered by the surveyor and the quality of visibility within those exposures. The predominant factors affecting the quality of ground surface visibility within an exposure are the extent of vegetation and ground litter, the depth and origin of exposure, the extent of recent sedimentary deposition, and the level of visual interference from surface gravels.

Generally visibility within the study area was low. The disturbance incidence across the area was approximately 20% with 70% visibility within the disturbed areas. Disturbance has resulted from pedestrian/vehicle tracks.



7. STATUTORY CONTEXT¹

7.1 Heritage Act 2004

This Act provides for the protection, management and conservation of heritage places and objects in the ACT. The Act establishes a Heritage Register of heritage places and objects and establishes procedures for both provisional and full listing to the Register. The Act establishes the ACT Heritage Council to function as the main advisory body to the Minister on heritage issues. The Council receives administrative support from the ACT Heritage, Environment and Planning Directorate. The Council has the power to provisionally and fully register Heritage places and objects. Under the Act, the ACT Heritage Council is to be responsible for the Heritage Register and the heritage registration process.

An 'Aboriginal Place' and 'Aboriginal Object' are defined as 'a place/object of particular significance to Aboriginal people because of either or both:

- (a) Aboriginal Tradition; and/or
- (b) The history, including contemporary history, of Aboriginal people (s9).

Under s74 and s75 of the Act a person commits an offence if they engage in conduct that diminishes the heritage significance of a place or object, or engage in conduct that causes damage to an Aboriginal place or object. These offences are graduated according to whether an offender was reckless or negligent 'about whether the conduct would diminish the heritage significance' or 'cause damage' to an Aboriginal Object of Place. To 'cause damage' is inclusive of disturbing or destroying.

A person also commits an offence under the Act if they do not report an Aboriginal place to the Heritage Council, and has 5 working days to do so (s51).

The reporting and offence provisions of the Act apply irrespective of land status or whether registration to the Heritage Register occurs.

The Act provides for the development and application of Heritage Guidelines. These are to be formulated by the Heritage Council and will set the policy for how places and objects are to be conserved, including registered places and objects. The guidelines may control how development is to take place in an area which is a heritage place or contains a heritage object. They will be performance-based but may include mandatory provisions (Part 5). During the transitional phase of the Act a heritage or conservation requirement for a place is taken to be a heritage guideline under the Heritage Act (s129).

The only provisions for legally sanctioned disturbance to an Aboriginal place or object, or the diminution of the heritage value of a Heritage Place or Object is to conform to one of the exceptions listed in s76 of the Act. According to this section, the offence provisions of the Act (s74 and s75) do not apply if conduct is engaged in accordance with a heritage guideline, heritage direction, heritage agreement, a conservation management plan, or an approval for a development under the *Planning and Development Act 2007* (Part 10).

Disturbance to an Aboriginal site or place can only take place if the following conditions have been met:

- The place (or site) has been registered; and the proposed disturbance is compatible with the heritage guidelines for the conservation of that place or object (Part 5); or

¹ The following information is provided as a guide only. Readers are advised to seek qualified legal advice relative to legislative matters.



- The proposed development follows a DA approval under the *Planning and Development Act 2007* (Part 10); or
- The minister has issued a heritage direction for that place or object (Part 11); or
- The minister has entered into an heritage agreement with a person to conserve the heritage significance of a registered place or object (Part 15); or
- The proposed development follows a conservation management plan that has been approved by the Heritage Council (section 110).

Heritage recordings which occur on National Land under the National Land Ordinance 1989 (or subsequent amendments), or which occur in Designated Areas under the National Capital Plan are subject to development approval processes which may be in addition to, or instead of requirements identified as management requirements under the *Planning and Development Act 2007*.

Development approval processes within the ACT can be summarised as follows:

- Work carried out on National Land in Designated Areas is subject to the approval of the National Capital Authority (NCA);
- Work carried out on Territory Land in Designated Areas is generally subject to approval by the NCA but Territory requirements may also apply to development where the Territory is the approving Authority;
- Work carried out on National Land outside of Designated Areas must be in accordance with a Development Control Plan agreed by the NCA that reflects the requirements of the Territory Plan; and
- Work carried out on Territory Land outside Designated Areas is subject to the Territory Plan and Territory Approval processes.

7.2 Implications for the Canberra Brickworks and Environs Project

There are no statutory implications regarding cultural heritage for the study area.



8. CONCLUSIONS AND RECOMMENDATIONS

There are no cultural heritage constraints for the study area.

It is recommended that:

1. For the unanticipated discovery of Aboriginal sites and burials (during future investigation or development works, including excavation and/or other significant ground disturbance), the protocols detailed in Appendix 2 should be implemented.
2. A copy of this report should be provided to the ACT Heritage for approval.
3. One copy of this report should be provided to each of the ACT RAOs.



9. REFERENCES

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APPENDIX 1

RECORD OF ABORIGINAL FIELD PARTICIPATION



Record of Aboriginal Representative Participation*

Name(s) of Aboriginal Representative:..... Nally Bell

Name of Aboriginal Organisation:Buru Ngunawal Aboriginal Corporation

Archaeologist(s): name & address Nicola Hayes

Navin Officer Heritage Consultants Pty Ltd

4/71 Leichhardt Street, Kingston, ACT 2604

Project Name. **Canberra Brickworks – Stage 1 Assessment**

Client: Land Development Agency

Invoicing: Navin Officer Heritage Consultants Pty Ltd
4/71 Leichhardt Street Kingston ACT 2620

- Type of participation:
- Guided inspection of study area and sites
 - Accompanied/participated in archaeological survey
 - Separate inspection or survey
 - Accompanied/participated in excavation program
 - Artefact Collection

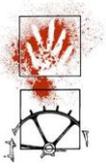
Period of participation:

Date(s)	Start	Finish
5 August 2014	9 am	10.30am

Signed (archaeologist):..... N Hayes

Signed (Aboriginal representative(s)): Nally Bell

* please note this form is not an invoice. For payment, please send an invoice from your organisation to the client name and address provided above.



APPENDIX 2

UNANTICIPATED DISCOVERY PROTOCOLS



Protocol to be followed in the event that previously unrecorded or unanticipated Aboriginal or non Aboriginal archaeological material (objects, artefacts, deposits or relics) are encountered

1. All ground surface disturbance in the area of the finds should cease immediately the finds are uncovered.
 - a. The discoverer of the find(s) will notify machinery operators in the immediate vicinity of the find(s) so that work can be halted; and
 - b. The site supervisor and the development proponent will be informed of the find(s).
2. If there is substantial doubt regarding a human or Aboriginal or historical European origin for the finds, then consider if it is possible to gain a qualified opinion (such as from the project archaeologist) within a short period of time. If feasible, gain a qualified opinion (this can circumvent proceeding further along the protocol for remains which turn out not to be archaeological). If a quick opinion cannot be gained, or the identification is positive, then proceed to the next step.
3. Immediately notify the following authorities or personnel of the discovery:
 - a. The ACT Heritage (ph 6207 2165 or Canberra Connect 132281);
 - b. Representatives from the Representative Aboriginal Organisations (RAOs) (where appropriate); and
 - c. The project archaeologist (if not already present).
4. Facilitate, in co-operation with the appropriate authorities and stakeholders:
 - a. The recording and assessment of the finds by a suitably qualified heritage professional (either the project archaeologist or a member of the ACT Heritage). This will include determining if the find(s) are from a new or previously recorded site, and lodgement of site information for all new recordings with ACT Heritage;
 - b. Fulfilling any legal constraints arising from the finds. This will include complying with Heritage Council advice, any Conservation Management Plan (CMP) requirements in the case of a previously recorded site; and
 - c. The development and conduct of appropriate management strategies. Strategies will depend on stakeholder requirements and the assessed significance of the find(s).
5. Where the management of find(s) involves the salvage excavation or collection of artefacts, this material will be curated according to the provisions of any relevant CMP, or as directed by the Heritage Council.
6. Where the find(s) are determined to have cultural heritage value according to the criteria specified in the *Heritage Act 2004*, any re-commencement of construction related ground surface disturbance may only resume in the area of the find(s) following compliance with any consequential legal requirements and gaining written approval from the ACT Heritage Council.



Protocol to be followed in the event that suspected human remains are encountered

1. All ground surface disturbance in the area of the finds should cease immediately the finds are uncovered.
 - a. The discoverer of the find(s) will notify machinery operators in the immediate vicinity of the find(s) so that work can be temporarily halted; and
 - b. The site supervisor and the development proponent will be informed of the find(s).
2. If there is substantial doubt regarding a human origin for the remains, then consider if it is possible to gain a qualified opinion within a short period of time. If feasible, gain a qualified opinion (this can circumvent proceeding further along the protocol for remains which turn out to be non-human). If conducted, this opinion must be gained without further disturbance to any remaining skeletal material and its context as possible (Be aware that the site may be considered a crime scene containing forensic). If a quick opinion cannot be gained, or the identification is positive, then proceed to the next step.
3. Immediately notify the following people of the discovery:
 - a) The local Police (this is required by law);
 - b) The ACT Heritage (ph 6207 5556 or Canberra Connect 132281);
 - c) Representatives from the Representative Aboriginal Organisations (RAOs) (where appropriate); and
 - d) The project archaeologist (if not already present).
4. Facilitate the evaluation of the find(s) by the statutory authorities and comply with any stated requirements. Depending on the evaluation of the find(s), the management of the find(s) and their location may become a matter for the Police and/or Coroner.
5. Construction related works in the area of the find(s) may not resume until the development proponent receives written approval from the relevant statutory authority: from the Police or Coroner in the event of an investigation; and from the ACT Heritage Council in the case of human remains outside of the jurisdiction of the Police or Coroner.
6. In the event that the proponent continues an active role in the evaluation and/or management of the find(s), via a direction or advice from the Police, Coroner and/or Heritage Council, then all or some of the following steps may be conducted:
7. Facilitate, in co-operation with the appropriate authorities, the definitive identification of the skeletal material by a specialist (if not already completed). This must be done with as little further disturbance to any remaining skeletal material and its context as possible.
8. If the specialist identifies the bone as non-human then, where appropriate, the protocol for the discovery of historical or Aboriginal artefacts (above) should be followed.
9. If the specialist determines that the bone material is human, then the proceeding course of action may be of three types:
 - a. The bone(s) are of an Aboriginal and non-Aboriginal person who died less than 100 years ago and where traumatic death is suspected. Such remains come under the jurisdiction of the *ACT Coroner's Act 1997*. All further decisions and responsibilities regarding the remains and find location rest with the ACT Police, and/or the ACT Coroner.



- b. The bone(s) are of a non-Aboriginal person who died more than 100 years ago. In this case, and where the Police have indicated that they have no interest in the find(s), the following steps may be followed:
- i. Ascertain the requirements of the ACT Heritage Council, the development proponent, the project archaeologist, and the views of any relevant community stakeholders;
 - ii. Based on the above, determine and conduct an appropriate course of action. Possible strategies could include one or more of the following:
 1. Avoiding further disturbance to the find and conserving the remains *in situ* (this option may require relocating the development and this may not be possible in some contexts);
 2. Conducting (or continuing) archaeological salvage of the finds following receipt of any required statutory approvals;
 3. Scientific description (including excavation where necessary), and possibly also analysis of the remains prior to reburial;
 4. Recovering samples for dating and other analyses; and/or
 5. Subsequent reburial at another place and in an appropriate manner determined by the Heritage Council and in consultation with other relevant stakeholders.
- c. The bone(s) are of an Aboriginal person who died more than 100 years ago. In this case the following steps may be followed:
- i. Ascertain the requirements of the local RAOs, the ACT Heritage Council, the development proponent, and the project archaeologist;
 - ii. Based on the above, determine and conduct an appropriate course of action. Possible strategies could include one or more of the following:
 1. Avoiding further disturbance to the find and conserving the remains *in situ*, (this option may require relocating the development and this may not be possible in some contexts);
 2. Conducting (or continuing) archaeological salvage of the finds following receipt of any required statutory approvals;
 3. Scientific description (including excavation where necessary), and possibly also analysis of the remains prior to reburial;
 4. Recovering samples for dating and other analyses; and/or
 5. Subsequent reburial at another place and in an appropriate manner determined by the RAOs and the Heritage Council.

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