

Submission on the referral

Ucha Pty Ltd, trading as Cleveland Agriculture – Native vegetation clearing on Ucharonidge Station

This submission is made under regulation 53 of the Environment Protection Regulations 2020

Government authority: Aboriginal Areas Protection Authority (the Authority / AAPA)

Section of Referral	Theme or issue	Comment
Referral Main Document section 5.8	Factor: Cultural Heritage Issue: presence of sacred sites	<p>The document refers to the Proponent seeking an updated AAPA abstract of records. The Authority confirms this abstract of records (reference 202112390) was issued to the Proponent on 9/9/2021 and covers the whole of Ucharonidge Station including the proposed clearing areas. As stated on the accompanying letter, the abstract of records cannot be relied upon as an exhaustive list of sacred sites in the area.</p> <p>While the abstract of records does not show records of any sacred sites within the nominated clearing areas, this does not mean there is an absence of sacred sites in the nominated clearing areas, or that nearby sacred sites would not be affected by the clearing activity. This is because:</p> <ol style="list-style-type: none"> 1. The Authority has not conducted a survey for sacred sites in and around the nominated clearing areas. Such a survey would be undertaken for the purposes of addressing an application for an Authority Certificate in accordance with the <i>Northern Territory Aboriginal Sacred Sites Act 1989 (Sacred Sites Act)</i>. 2. Several Recorded Sacred Sites are known to occur in the vicinity of the nominated clearing areas (within 0.5km – 5km). Recorded Sacred Sites are represented by point data while the sacred sites themselves can extend over the landscape, for example along a length of creek. 3. To protect a sacred site from potential damage, a buffer restricting works around the site (or its representative point record) may be required. The recent abstract of records obtained by the Proponent contains examples of restricted works areas that restrict activities up to 5 – 10km from the point locations of Recorded Sacred Sites. These are located elsewhere on Ucharonidge Station and were defined in Authority Certificates for activities not associated with this proposed vegetation clearing.
Referral Main Document section 5.8.2	Factor: Cultural Heritage Issue: protection of sacred sites	<p>The document states the proposed mitigation measure for addressing potential impacts to sacred sites is '<i>If a potential sacred site is found during the clearing activities, stop works and contact AAPA</i>'.</p> <p>The Authority strongly asserts that this is not an appropriate measure to address potential impacts to sacred sites, as it is highly unlikely that any sacred site, if present, would be 'found' during clearing. Sacred sites can only be identified by relevant custodians and recorded by a suitably qualified professional (anthropologist). The appropriate mechanism for undertaking such research is via an application for an Authority Certificate.</p> <p>The Authority previously advised the proponent to apply for an Authority Certificate for the proposed clearing. This advice was provided in December 2020 in response to the proponent's Pastoral Land Clearing Application.</p>

Environmental impact assessment under the *Environment Protection Act 2019*

General	Factor: Cultural Heritage Issue: potential significant impacts to sacred sites	<p>The Authority considers that the proposal has the potential to have a significant impact on sacred sites in and around the proposed clearing area.</p> <p>In the case that the NT EPA decides this proposal will undergo environmental impact assessment and be subject to an environmental approval under the <i>Environment Protection Act 2019</i>, the Authority recommends that the NT EPA consider inclusion of a condition that the proposed clearing be undertaken in accordance with a valid Authority Certificate. This would give some certainty to the NT EPA that potential impacts to sacred sites would be avoided.</p> <p>Additionally, an Authority Certificate issued for the proposed works would give legal certainty to the proponent that they would effectively be indemnified against prosecution under the Sacred Sites Act, providing they comply with the conditions of the Authority Certificate.</p>
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