

# Heritage (Decision about Provisional Registration of Bull Oak Grove near Molonglo Gorge, Kowen) Notice 2017

Notifiable Instrument NI2017–495

made under the

Heritage Act 2004, s32 (Decision about provisional registration) and s34 (Notice of decision about provisional registration)

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## 1 Name of instrument

This instrument is the *Heritage (Decision about Provisional Registration of Bull Oak Grove near Molonglo Gorge, Kowen) Notice 2017*.

## 2 Decision about provisional registration

On 21 September 2017, the ACT Heritage Council (the **Heritage Council**) decided not to provisionally register Bull Oak Grove near Molonglo Gorge, Block 66, Kowen (the **Place**).

## 3 Description of the Place

The description of the Place is in the schedule.

## 4 Reason for the decision

The Heritage Council decided not to provisionally register the Place because registration of the place is prohibited under s 42A of the *Heritage Act 2004*, as the Place only has natural heritage significance of a kind that is protected under the *Nature Conservation Act 2014*. A detailed statement of reasons is provided in the schedule.

## 5 Date decision takes effect

The decision not to provisionally register the Place takes effect on 22 September 2017 (being the day after the Heritage Council made its decision in writing as set out in the schedule).

Jennifer O'Connell  
Secretary (as delegate for)  
ACT Heritage Council  
21 September 2017

## Schedule

(See sections 3 and 4)

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## ACT Heritage Council

### STATEMENT OF REASONS

#### **DECISION NOT TO PROVISIONALLY REGISTER BULL OAK GROVE NEAR MOLONGLO GORGE BLOCK 66 KOWEN IN THE ACT HERITAGE REGISTER**

#### **Description**

Bull Oak Grove Near Molonglo Gorge is the location of a place that has been nominated for its natural heritage significance. It was originally nominated under the name of “*Allocasuarina luehmannii* (Bull Oak) on the Molonglo River”, which the Council has changed to make it clearer that the nomination was for a place or habitat of a species, rather than for a species in general.

#### **Reasons for Decision**

The Council has considered the nomination at its meeting of 21 September 2017 and decided that Bull Oak Grove Near Molonglo Gorge, Kowen is not able to be registered under the Heritage Act 2004 because registration of places or objects under this Act is prohibited if they only have natural heritage significance of a kind that is protected by the Nature Conservation Act 2014. The details of this are:

1. the Conservator of Flora and Fauna has advised the Council that while the nomination is for the habitat of a species that does not have any specific protection under the *Nature Conservation Act 2014* (or the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) by operation of provisions in the *Nature Conservation Act 2014* that adopt EPBC Act protections), the habitat: is a part of a regionally important wildlife corridor following forested up-lifted land along the Queanbeyan Fault which is utilised by a number of threatened woodland bird species; contains 40ha of endangered Yellow Box-Blakely’s Red Gum Grassy Woodland in the river flats and lower slopes; and has instances of Pale Pomaderris which are currently known to occur through the Molonglo Gorge (listed under the Commonwealth’s EPBC Act and has special protection status under the *Nature Conservation Act 2014*, s109). This means that the place, which is a part of the habitat for a threatened native species, has protection under the *Nature Conservation Act 2014* and section 42A of the *Heritage Act 2004* applies and therefore limits the ability of the place to be added to the Heritage Register; and
2. with section 42A applying to the place, the Council may only register it if it also has cultural heritage significance (as defined under section 10B of the *Heritage Act 2004*), or, if the habitat of a threatened native species or ecological community has natural heritage significance of a kind that is not protected under the *Nature Conservation Act 2014* and:
  - a. the Council considers that this nomination does not have any cultural heritage significance, and areas of cultural heritage significance within the geographic area of the nomination are already captured by existing registrations or nominations; and

- b. the nomination is for a kind of natural heritage significance is protected under the *Nature Conservation Act 2014* as a part of the protected habitat of a threatened native species or ecological community because the place is located in a Nature Reserve and all vegetation and other natural features are protected through the provisions of Chapter 9 of the *Nature Conservation Act 2014* which relate to wilderness areas, national parks, nature reserves and other public land (mainly special purpose reserves) under the *Nature Conservation Regulation 2015*. Management planning for these reserves is undertaken under Part 8.3 of the *Nature Conservation Act 2014*.

This decision respects the protection and management of the natural heritage of the place under the *Nature Conservation Act 2014*, which is integrated into the land planning and development system, and as such is consistent with the functions of the Council under section 18(c) of the *Heritage Act 2004* to work within the land planning and development system to achieve appropriate conservation of the ACT's natural and cultural heritage places and objects. This includes protection for Aboriginal places and objects, as well as addressing the function in section 18(e) of the *Heritage Act 2004* to encourage and assist in appropriate management of heritage places and objects. As detailed in section 42A, many places of natural heritage significance are appropriately protected by the *Nature Conservation Act 2014* and further protection measures under the *Heritage Act 2004* are not appropriate.

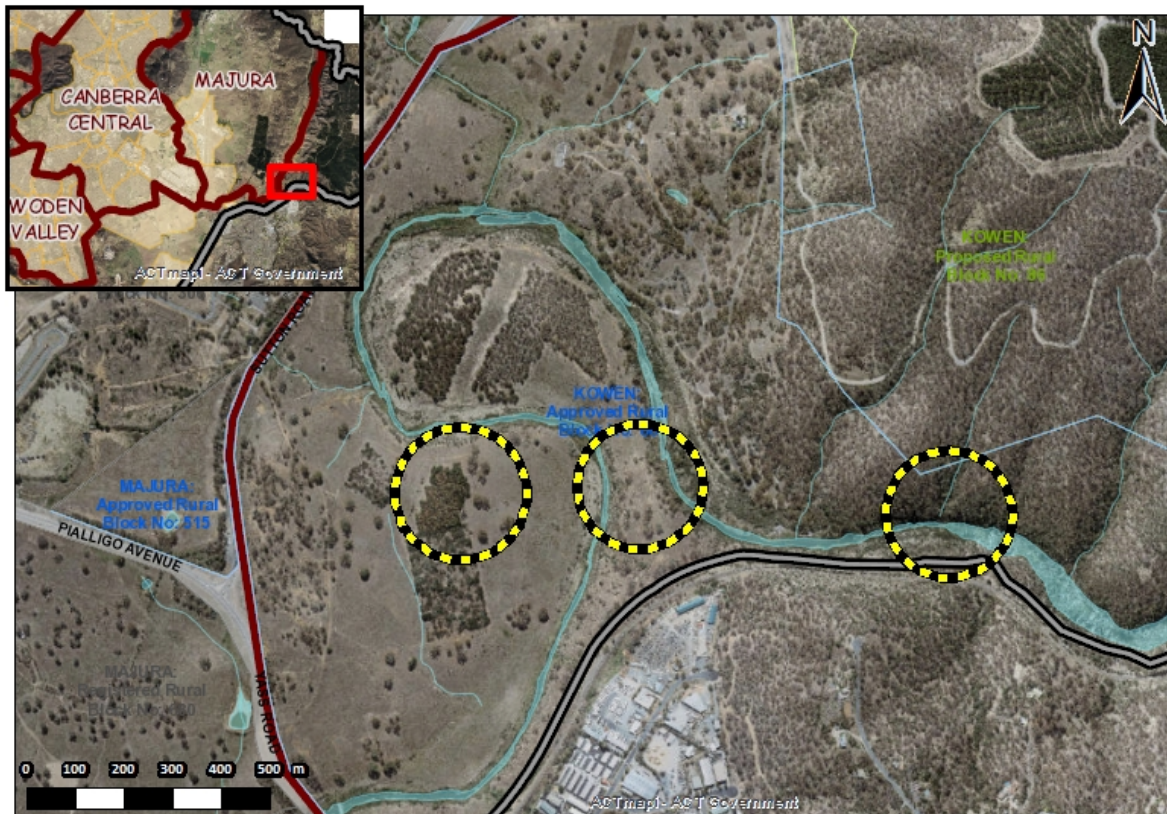


Figure 1 Location of nomination