

# Planning and Development (Conditional Environmental Significance Opinion – Boboyan Road and Smiths Road Upgrades) Notice 2017 (No 2)

Notifiable Instrument NI2017–503

Made under the

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

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## 1 Name of instrument

This instrument is the *Planning and Development (Conditional Environmental Significance Opinion – Boboyan Road and Smiths Road Upgrades) Notice 2017 (No 2)*.

## 2 Conditional Environmental Significance Opinion

- (1) On 18 September 2017, the ACT Heritage Council, pursuant to section 138AB(4) of the *Planning and Development Act 2007* (the **Act**), gave the Applicant a conditional environmental significance opinion in relation to minor road improvement works for Boboyan Road on Blocks 39 and 40, District of Mount Clear, and for Smiths Road on Blocks 118, 170, 173 and 183, District of Tennent.
- (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.

Ben Ponton  
Chief Planning Executive  
26 September 2017



## ACT Heritage Council

# HERITAGE ADVICE

## *Environmental Significance Opinion*

ACTPLA Reference: ESO-201700011  
Heritage Reference: Infrastructure –  
Boboyan Road  
Euroka Gilbert  
Contact Officer:  
Received by Council: 27 July 2017 & 25  
August 2017  
Due date: 7 September 2017

**TO: ACT planning and land authority**  
Environment, Planning and Sustainable Development Directorate  
[EPDCustomer Services@act.gov.au](mailto:EPDCustomerServices@act.gov.au)

Location: Mount Clear – Boboyan Road, three kilometres  
Tennent – Smiths Road, one kilometre

Status of Place: Recorded Aboriginal Places: Boboyan Road-OS1, Boboyan  
Road-OS-2, Boboyan Road-IF-1, and Smiths Road-IF-1  
Registered Heritage Place: Brayshaws Hut

Description of Works: Road widening and associated earthworks

Report Details: “*Aboriginal and Historic Heritage Statement of Heritage Effect  
Boboyan Road Upgrade*” (OzArk, May 2017)  
“*Aboriginal and Historic Heritage Statement of Heritage Effect  
Smiths Road Upgrade*” (OzArk, July 2017)

Council Advice provided by: Secretary / ACT Heritage Manager

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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 compliance with the conditions described below.

### **Background:**

On 27 July 2017, an Environmental Significance Opinion (ESO) application was referred to the ACT Heritage Council (the Council), for a proposal to widen, straighten, and improve sight lines along Boboyan Road (Mount Clear) and Smiths Road (Tennent). Further information including consultation with the Representative Aboriginal Organisations (RAO) and an Application for approval of a Statement of Heritage Effects were received on 25 August 2017.

To inform the application, the ACT Transport Canberra and City Services Directorate commissioned OzArk Environment and Heritage Management (OzArk) and Representative Aboriginal Organisations (RAOs) to undertake a cultural heritage assessment (CHA) of proposed work locations, which identified:

- Three Aboriginal places are located along Boboyan Road; and

- One Aboriginal place is located along Smiths Road.

The CHA identifies that all recorded Aboriginal places will be damaged by the proposed works, on which basis; the following mitigation measures are proposed:

- The sites will be salvaged in their entirety by a collection of all surface artefacts, undertaken by a qualified archaeologist and RAOs;
- The sites will be photographed prior to artefact collection;
- All artefacts collected will have the following information recorded: location, artefact type, raw material, size, artefact integrity (breakage), stage of reduction, and distinguishing features;
- Photographs of a representative sample of artefacts will be taken: and
- A short report documenting the salvage will be prepared and will be submitted to the Council. This report will be completed no later than three months from the date of the salvage.

The CHA identifies the following Return to Country outcome, for cultural material salvaged during works:

- Artefacts from each site will be kept separate;
- Artefacts will be double bagged and placed in suitable plastic containers along with an indelible label recording site information and date;
- The plastic containers will be buried in close proximity to the site but outside of any impacts from the Proposal; and
- The locations of the relocated artefacts will be provided to the Council.

#### **Advice and Conditions:**

The ESO application identifies that proposed development will damage Aboriginal places, and on this basis, the proposed salvage of Aboriginal places is subject to *Heritage Act 2004* provisions, on which basis a Statement of Heritage Effect (SHE) application has been received under Section 61G of the *Heritage Act 2004*.

The proposed artefact collection activities are described in the CHA and the SHE application.

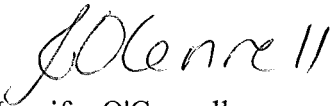
At this time, the Council notes its support for the archaeological salvage methodology provided; however, the proposed Return to Country (RTC) outcome is not endorsed, as the proposal does not reflect RAO views on appropriate RTC outcomes - as RAOs have previously requested that cultural material is placed in direct contact with the soil in locations as close a location as possible to the original sites, whilst outside the impact zone. The RTC proposal also does not set out key information on the placement and long term management arrangements of the 'Aboriginal places' to be created.

The CHA details the location of Aboriginal places, being low density artefact scatters and isolated artefacts, with limited surface and subsurface potential and that there are no reasonably practicable alternatives to the proposed work as it is constrained by the current road alignment.

On this basis, the Council advises that proposal is unlikely to have a significant adverse environmental impact, subject to the following conditions:

1. Collection of Aboriginal objects is required prior to the commencement of works, and this collection is not to be undertaken until such time as the SHE application is approved under Section 61H of the *Heritage Act 2004*;

2. Should any additional heritage places or objects be encountered during works, works at that location are to cease to allow for heritage assessment and management (in accordance with Sections 74 and 75 of the *Heritage Act 2004*) and the discovery is to be reported to the Council within five working days (in accordance with Section 51 of the *Heritage Act 2004*);
3. The RTC outcome described in the CHA and SHE application is not endorsed at this time, and prior to any future RTC application being made to the Council, further consultation with RAOs is required on the proposed outcome; and.
4. No works are to be undertaken beyond the works areas identified in the ESO application without prior advice from the Council.

  
Jennifer O'Connell  
**Secretary (as delegate for),  
ACT Heritage Council**

18 September 2017