

# Planning and Development (Conditional Environmental Significance Opinion – Blocks 1, 76 and 160, Tennent – Namadgi Walking Trail Alignments) Notice 2021

Notifiable instrument NI2021–238

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 – Blocks 1, 76, and 160, Tennent – Namadgi Walking Trail Alignments) Notice 2021*.

## 2 Commencement

This instrument commences on the day after its notification day.

## 3 Conditional environmental significance opinion

- (1) On 17 March 2021, 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 realignment and repair of walking trails in the Namadgi National Park and Bimberi Wilderness area, on Blocks 1, 76 and 160, 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.

Brett Phillips  
Delegate of the planning and land authority  
20 April 2021

# SCHEDULE



ACT Heritage Council

## HERITAGE ADVICE

### *Environmental Significance Opinion*

ACTPLA Reference: ESO202100007  
Heritage Reference: Tennent-B160  
Contact Officer: JM  
Received by Council: 23 February 2021  
Due date: 8 April 2021

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

Block:	Section:	Division / District:	Heritage Place:
1, 76, 160	N/A	Tennent	NNP MT CSA 01, NNP MT 01, NNP MT 10, NNP MT 11

Status of Place: Aboriginal places  
Description of Works: Development of a new trail alignment for the Mt Tennent walking track  
Report Details: “*Namadgi National Park, ACT – New Mt Tennent Trail: Cultural Heritage Assessment*” (NOHC, March 2021)  
Council Advice provided by: Manager (Approvals and Advice)

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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 conditions** described below.

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### Background:

On 23 February 2021, the ACT Heritage Council (the Council) was referred an application for an Environmental Significance Opinion (ESO) for the proposed development of a new trail alignment for the Mt Tennent walking track, located in Blocks 1, 76 and 160 Tennent. This referral did not include a Cultural Heritage Assessment (CHA) for the proposed works.

A CHA titled “*Namadgi National Park, ACT – New Mt Tennent Trail: Cultural Heritage Assessment*” (Navin Officer Heritage Consultants, March 2021) was submitted directly to the Council in support of the ESO application, on 29 March 2021.

The CHA sets out the following key findings and recommendations:

- The proposed new trail alignment involves the construction of a new section of trail for the Mt Tennent walking track. This section is approximately 2.2 km in length and 600 mm wide and will provide an alternative route to the summit;

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- The new trail alignment will be a natural surface. Construction activities will be limited to track clearance with hand tools and no machinery will be used;
- Construction activities will also involve the movement of nearby rocks for stair construction. Approximately 210 steps are proposed to be constructed, where the slope requires, to ensure sustainability of the trail surface;
- Two bench seats and a small number of interpretative signs are also proposed to be located at strategic points along the route. The exact location of these signs has not been determined, and a number of potential locations were discussed with the Representative Aboriginal Organisations (RAOs) during the assessment;
- One previously recorded Aboriginal place, NNP MT 01 is located in the study area. This Aboriginal place was first recorded in 2003 as a large artefact scatter recorded over a 300 m area;
- Archaeological survey of the proposed new trail alignment was undertaken on 19 February 2021. During this survey, four Aboriginal places were recorded, including previously recorded place, NNP MT 01. The following was identified:
  - Two small artefact scatters containing three and four artefacts respectively were considered to be associated with previously recorded place NNP MT 01;
  - An isolated find, being a quartz angular fragment, was recorded as NNP MT 10. It was noted that there was potential for more artefacts to be present at this site, but the ground surface visibility was low;
  - An artefact scatter containing a quartz flake and quartzite flake was recorded as NNP MT 11. This site was located in an eroded track surface; and
  - A culturally sensitive area was identified by representatives of the RAOs. This site was recorded as NNP MT CSA 01. This site is of intangible cultural value and is located on a plateau just below the summit of Mt Tennent. The intangible values of NNP MT CSA 01 relate to the views over the valley, the proximity to the summit and as rest area.
- The CHA notes that where Aboriginal places were identified, a 50-metre buffer was surveyed to allow for route alterations, so that all Aboriginal places could be avoided; and
- The CHA included details of consultation with RAOs as follows:
  - Representatives from all RAOs were invited to attend the survey and provided with a draft copy of the report;
  - Representatives from Buru Ngunawal Aboriginal Corporation (BNAC), Mirrabee and King Brown Tribal Group (KBTG) participated in the field survey;
  - A copy of the draft CHA was provided to all RAOs, and no written comments were received;
  - Follow up phone calls were made and BNAC and Mirrabee verbally supported the CHA;
  - Messages seeking comment from KBTG and Ngarigu Currawong Clan were left, but no comments had been received at the time of report finalisation;

- Both BNAC and Mirrabee strongly supported a second survey following the completion of the new trail alignment as recommended in the CHA; and
- During the field survey BNAC and KBTG suggested signage at NNP MT . CSA 01 noting that the signage could highlight Aboriginal people's ongoing relationship to the land.

### **Decision and Conditions:**

Following review of the application, the Council concludes that the proposal is unlikely to have a significant adverse environmental impact, as the proposal will not cause damage to Aboriginal places, subject to conditions described below:

1. The CHA must be updated to include the following information and the updated CHA is to be submitted to, and endorsed by, the Council prior to the commencement of works:
  - A short summary of the archaeological and environmental context of the project area and any implications for a predictive model of the project area as per the Council's *Cultural Heritage Reporting Policy* (2015);
  - The date the draft CHA was provided to all RAOs for review, as this information is missing in Appendix 1;
  - Clarification if any areas of potential archaeological deposit (PAD) were identified during the archaeological survey. The CHA currently assesses the archaeological potential of the entire study areas as moderate, and states that areas of low slope gradient have higher archaeological potential. However, this conclusion is not supported by analysis of landforms along the alignment, or by analysis with reference to predictive models. This requires clarification as it may result in subsurface testing requirements; and
  - Assessment of significance of the recorded Aboriginal places, against *Heritage Act 2004* criteria.
2. The above information will also identify whether further heritage assessment actions are required for the project, and if the Council concludes that such actions are required, they must be completed to the satisfaction of the Council prior to the commencement of the works.
3. The CHA recommends the completion of an additional archaeological survey following construction of the new trail. If this survey brings to light additional Aboriginal places affected by the trail, or leads to the conclusion that the movement of Aboriginal objects off the new trail is required, then it will be necessary to seek prior statutory approval for these works (a Statement of Heritage Effect approval under Section 61H of the *Heritage Act 2004* would be required).
4. The Council advises that, although the CHA indicates that the proposed works will avoid the Aboriginal places that are located near the study area, temporary fencing must still be installed during construction to avoid any inadvertent impact to these places. Where protective fencing is installed around Aboriginal places:
  - a. Fence locations are to be demarcated by a qualified archaeologist and RAOs;
  - b. Fencing must be adequate to physically protect the site, such as star pickets spaced no more than 4m apart with high visibility barrier mesh fencing between;
  - c. Once installed, the location and adequacy of protective fencing is to be visually confirmed by a qualified archaeologist and RAOs; and

- d. The Council is to be notified of the completion of the above actions.
5. The proposed signage and bench seats should not be located within areas assessed to have archaeological potential, or within recorded Aboriginal places. Signage located within Aboriginal places would require prior statutory approval including a Statement of Heritage Effect approval under Section 61H of the *Heritage Act 2004*. Signage located near Aboriginal places would require, at minimum, protection such as fencing, and may also require statutory approvals.



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

8 April 2021