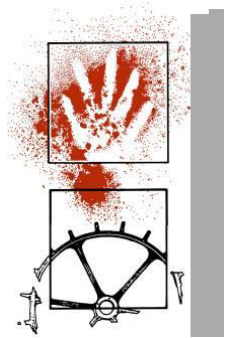




# Cultural Heritage Assessment and Statement of Heritage Effect Halls Creek Track

**Hall**

January 2018



**Navin  
Officer**

*heritage  
consultants Pty Ltd*

*acn 092 901 605*

*Number 4  
Kingston Warehouse  
71 Leichhardt St.  
Kingston ACT 2604*

[www.nohc.com.au](http://www.nohc.com.au)

A Report to Place Management, City Presentation  
Transport Canberra and City Services Directorate

*ph 02 6282 9415  
fx 02 6282 9416*

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Project Manager: Nicola Hayes

Authors: Nicola Hayes

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*Cover photographs: NOHC June 2017*

## EXECUTIVE SUMMARY

The study area is located in [REDACTED] Hall in the Village of Hall in the Australian Capital Territory.

The project involves the construction of a mountain bike track to the south of Hall Creek park on the corner of Gladstone and Victoria Street, Hall. It is proposed to construct approximately one kilometre of track.

No Aboriginal or non-Aboriginal sites were identified during the field survey.

The study area is located in an area listed as an Aboriginal sites zone as part of the Hall Precinct Listing on the ACT Heritage Register.

It is assessed that there is moderate potential for there to be Aboriginal sites located along Halls Creek, and moderate potential for those sites to be in-situ.

The Aboriginal sites zone and the area of potential will be impacted by the project. Impacts from the project are minimal. Construction includes the clearing of the track route of grass to natural ground and the construction of a bridge or low-level crossing over Halls Creek. No trees will be removed and no substantial ground disturbance is proposed.

### Recommendations

No further archaeological investigation is required for this project.

*It is recommended that:*

1. This Statement of Heritage Effect is required to be approved by the ACT Heritage Council before works can commence.
2. In order to mitigate against any impact to sites during construction, the protocol outlined in Section 10.4.1 will be enacted during the construction of the track.
3. The unanticipated discovery protocols included in Appendix 3 should be implemented for this project.
4. A copy of this report should be provided to the ACT Heritage.

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# 1. INTRODUCTION

## 1.1 Study Area Location and

The study area is located in [REDACTED] Hall in the Village of Hall in the Australian Capital Territory (Figure 1.1).

## 1.2 Project Description

The project involves the construction of a mountain bike track to the south of Hall Creek park on the corner of Gladstone and Victoria Street, Hall. It is proposed to construct approximately one kilometre of track (Figure 1.2).

Construction includes the clearing of the track route of grass to natural ground and the construction of a bridge or low-level crossing over Halls Creek. No trees will be removed, and no substantial ground disturbance is proposed.

The track will be constructed using a mini excavator and also some hand excavation.

The works are likely to take 4 to 6 weeks to complete.

This report documents the results of a cultural heritage assessment of the proposed Halls Creek track. The report was commissioned by the Place Management, City Presentation, Transport Canberra and City Services Directorate, ACT Government.

## 1.3 Heritage Status of the Halls Creek Study Area

The Hall Village Heritage Precinct is included on the ACT Heritage Places Register. The listing includes the current study area. The features intrinsic to the heritage significance of the place and recommended for conservation comprise:

- (i) The 'rural village' urban landscape character of Hall Village;
- (ii) The informal streetscape character consistent with a rural village;
- (iii) The landscape setting of Hall Village;
- (iv) Individually identified built heritage places of collective historic and social value; and
- (v) Natural and Aboriginal Heritage values of the environs around Hall Village.

The Village Well located south of Gladstone Street within the study area block ([REDACTED]) is listed as a *Place of Specific Value within the Hall Village Precinct*.

An Aboriginal Sites Zone located in the vicinity of Hall Creek within the study area block [REDACTED].

## 1.4 This Report

### 1.4.1 Outline

This report:

- Describes the proposed works (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 a heritage context for the study area (Sections 5 and 6);
- Describes the results of the data review, field survey and Aboriginal consultation program conducted in the context of the assessment (Section 7);
- Assesses the significance of the cultural heritage identified within the Halls Creek study area (Section 8);
- Provides a statutory information as it relates to the cultural heritage identified within the Halls Creek study area (Section 9); and
- Provides management recommendations based on the results of the investigation (Section 10).

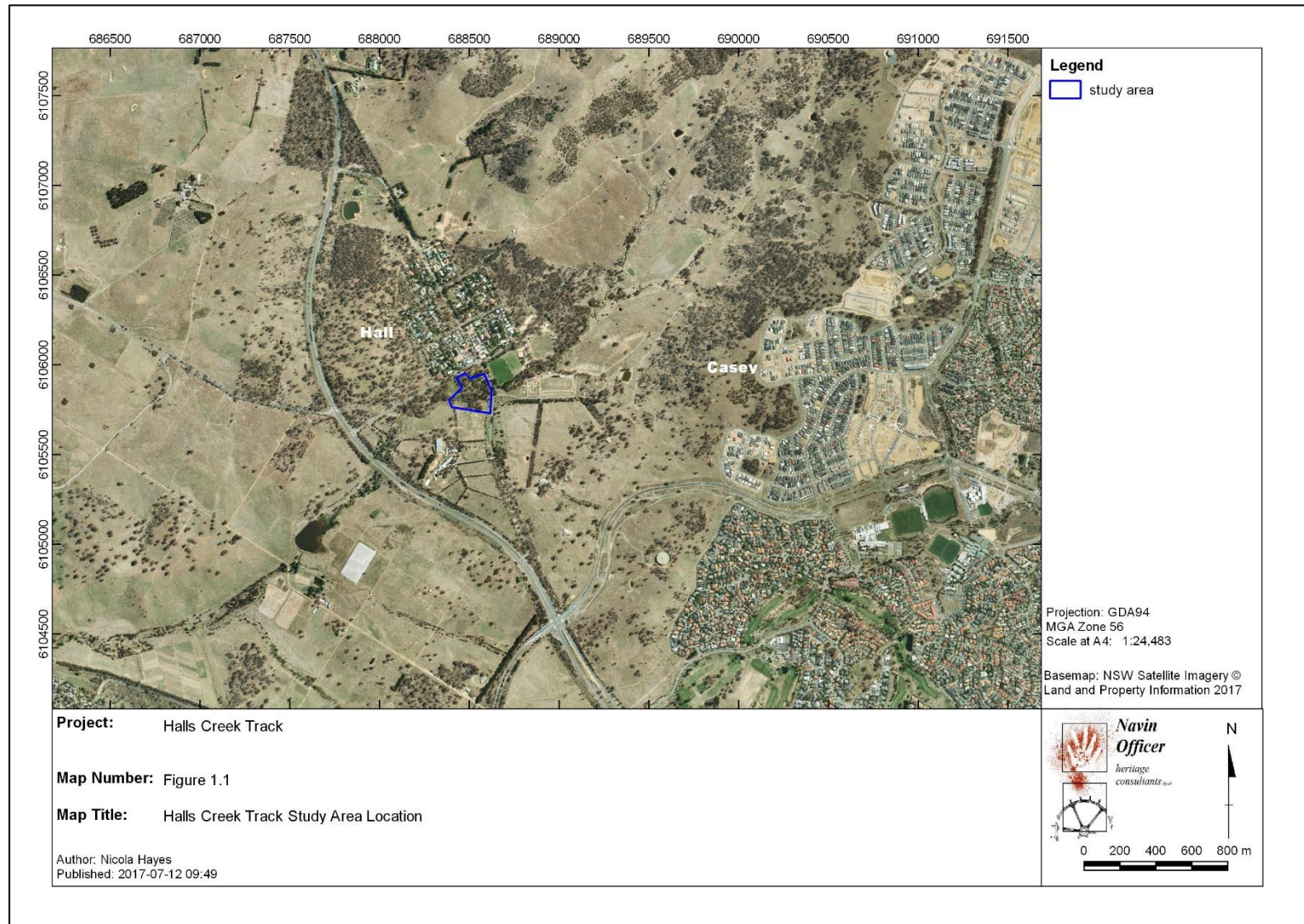
#### **1.4.2 Restricted Information**

Information in this report relating to the exact location of Aboriginal sites should not be published or promoted in the public domain. Figure 3.1 should be restricted in a public version of this document.

No information provided by Aboriginal stakeholders in this report has been specifically identified as requiring access restrictions due to its cultural sensitivity.

#### **1.4.3 Confidentiality**

No information in this report has been classified as confidential.



**Figure 1.1 Location of the Halls Creek Track Study Area**



**Figure 1.2 Approximate location of the proposed track, Halls Creek**



## 2. RESEARCH DESIGN AND METHODOLOGY

### 2.1 Literature and Database Review

A range of archaeological and historical data was reviewed for the Hall Creek track study area and its surrounds. This literature and data review was used to determine if known Aboriginal and historical 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, and archaeological reports.

Literature sources included the Heritage Registers maintained by the Australian Heritage Council, (Federal) Department of Environment and the Heritage Registers and associated reports held by ACT Heritage, ACT Department of Environment, Planning and Sustainable Development Directorate. Regional and local histories and heritage studies were also reviewed.

Searches were undertaken of the following statutory and non-statutory heritage registers and schedules:

- Statutory Listings:
  - : World Heritage List;
  - : The National Heritage List (Australian Heritage Council);
  - : The Commonwealth Heritage List (Australian Heritage Council);
  - : The Heritage Register (ACT Heritage Council); and
  - : National Historical Shipwreck Register and Database (NSW Heritage Office);
- Non-Statutory Listings:
  - : The Register of the National Estate (Australian Heritage Council);
  - : Register of the National Trust of Australia (ACT);
  - : Australian Institute of Architects, Heritage Buildings List; and
  - : Engineers Australia (Engineering Heritage Recognition Program).

### 2.2 Fieldwork and Project Personnel

The field survey of the study area was undertaken on the 30<sup>th</sup> June 2017 by Archaeologist Nicola Hayes. Aboriginal representative Justin Bell from Buru Ngunawal Aboriginal corporation participated in the field survey.

ACT Government representative Brian Bathgate also took part in the field survey along with xxxx.

Nicola Hayes compiled this report with internal review by Julia Maskell.

### 2.3 Recording Parameters

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



### 2.4.1 Aboriginal Sites and PADs

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 south eastern 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 including stone artefact occurrences and potential archaeological deposits 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.

#### *Isolated finds*

An isolated find is a single stone artefact, not located within a rock shelter, and which occurs without any associated evidence of Aboriginal occupation within a radius of 60 metres. Isolated finds may be indicative of:

- Random loss or deliberate discard of a single artefact;
- The remnant of a now dispersed and disturbed artefact scatter; and
- An otherwise obscured or sub-surface artefact scatter.

Except in the case of the latter, isolated finds may be considered to be constituent components of the *background scatter* present within any particular landform.

The distance used to define an isolated artefact varies according to the survey objectives, the incidence of ground surface exposure, the extent of ground surface disturbance, and estimates of *background scatter* or *background discard* densities. In the absence of baseline information relating to background scatter densities, the defining distance for an isolated find must be based on methodological and visibility considerations. Given the varied incidence of ground surface exposure and deposit disturbance within the study area, and the lack of background baseline data, the specification of 60 metres is considered to be an effective parameter for surface survey methodologies. This distance provides a balance between detecting fine scale patterns of Aboriginal occupation and avoiding environmental biases caused by ground disturbance or high ground surface exposure rates. The 60 metre parameter has provided an effective separation of low density artefact occurrences in similar southeast Australian topographies outside of semi-arid landscapes.

#### *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.

### *Artefact scatters*

Artefacts situated within an open context are classed as an open artefact scatter (or 'open camp site') when two or more occur no more than 60 metres away from any other constituent artefact. The 60 metre specification relates back to the definition of an isolated find (*Refer above*). The use of the term *scatter* is intended only to be descriptive of the current archaeological evidence and does not infer the original human behaviour which formed the site. The term *open camp site* has been used extensively in the past to describe open artefact scatters. This was based on ethnographic modelling suggesting that most artefact occurrences resulted from activities at camp sites. However, in order to separate the description from the interpretation of field evidence, the terms *artefact scatter*, *artefact distribution* or *artefact occurrence* are now more extensively used. The latter two options can also be used to categorise artefacts occurring in sub-surface contexts.

### **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 2.1 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 2.1** Matrix showing the basis for assessing the archaeological potential (shown in bolded black text) of a potential archaeological deposit.

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



### 2.3.2 Historical Sites and Features

Historical archaeology refers to the 'post-contact' period and includes: domestic, commercial and industrial sites as well as most maritime sites. It is the study of the past using physical evidence in conjunction with historical sources. The two primary types of places or items that may form part of the historical archaeology context include:

1. Below ground evidence, including building foundations, occupation deposits, features and artefacts; and above ground evidence, including buildings, works, industrial structures and relics that are intact or ruined; and
2. Areas of land that display evidence of human activity or occupation.

Within these broad parameters, an historical archaeological site may include:

- Topographical features and evidence of past environments (that is, resident in pollens and diatoms);
- Evidence of site formation, evolution, redundancy and abandonment (that is, features and materials associated with land reclamation, sequences of structural development, demolition/deconstruction, and renewal);
- Evidence of function and activities according to historical theme/s represented (for example, an industrial site may contain diagnostic evidence of process, products and by-products);
- Evidence associated with domestic occupation including household items and consumables, ornaments, personal effects and toys;
- Evidence of diet including animal and fish bones, and plant residues;
- Evidence of pastimes and occupations including tools of trade and the often fragmentary signatures of these activities and processes;
- Methods of waste disposal and sanitation, including the waste itself which may contain discarded elements from all classes of artefact as well as indicators of diet and pathology; and
- Any surviving physical evidence of the interplay between site environment and people.

The information found in historical archaeological sites is often part of a bigger picture which offers opportunities to compare and contrast results between sites. The most common comparisons are made at the local level, however, due to advances in research and the increasing sophistication and standardisation of methods of data collection, the capacity for wider reference (nationally and, occasionally, internationally) exists and places added emphasis on identification and conservation of historical archaeological resources.

### 2.4 Study Limitations

Archaeological assessments commissioned for development projects are restricted to the specific footprint that will be impacted by the project. The area of land being assessed is specifically constrained, and in many cases will not representatively sample the different landforms found across the wider region being studied. Therefore, a full picture of the archaeology of an area cannot be gained or assumed by this type of assessment.

These limitations will usually become less pronounced as further assessments are carried out in a region, since additional sites are assessed. A systematic bias in the data can still easily occur if the patches of ground are concentrated in one landform type over another. This could be the case if the assessments relate to development projects which preferentially occur on specific landforms.

Data on uses of the land by Aboriginal groups in the post-contact period, including the present day, might be limited if activities practised by Aboriginal groups have not been reported in the public domain



or to NOHC. This could occur if land use practises are associated with knowledge that is culturally restricted.

## 2.5 Glossary

<b>Aboriginal Object</b>	means an object associated with Aboriginal people because of Aboriginal tradition (Heritage Act 2004).
<b>Aboriginal Place</b>	means a place associated with Aboriginal people because of Aboriginal tradition (Heritage Act 2004).
<b>Aboriginal site</b>	a place or location which relates to past or contemporary Aboriginal occupation. Sites can be divided into those identified from archaeological evidence (archaeological sites), and those related to intangible cultural values, such as revealed by oral tradition and lore, or from the historical record. An Aboriginal site may have both archaeological and intangible values.
<b>archaeological site</b>	a place or location with the confirmed presence of archaeological evidence of Aboriginal occupation, where the context of that evidence can be reliably related to the Aboriginal actions which produced the evidence.
<b>artefact</b>	an object, normally portable, made or modified by human hand (see 'stone artefact').
<b>artefact occurrence</b>	a term usually applied to site recordings comprising stone artefacts and which refers to one or more stone artefacts situated within a specified surface area or subsurface deposit. Various measures are used for defining the boundaries of such recordings. Refer also to 'surface' and 'subsurface artefact occurrence'.
<b>artefact scatter</b>	a formerly used open site-type classification defined as two or more stone artefacts situated no more than a specified distance (such as 60m) away from any other included artefact. Typically this category did not include isolated finds. The use of the term <i>scatter</i> was intended only to be descriptive and did not infer the original human behaviour which formed the site. The term <i>open camp site</i> has been used extensively in the past to describe open artefact scatters.
<b>background discard or scatter</b>	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 unfocussed activity is occasional isolated discard of artefacts during travel along a route or pathway. Examples of 'focussed 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 'unfocussed' 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.



<b>isolated find</b>	a single stone artefact, not located within a rock shelter, and which occurs without any associated evidence of Aboriginal occupation within a specified radius, such as 60 metres (depending on which archaeological convention is used). Isolated finds may represent single discard events, be constituent components of background scatter, or be indicative of larger obscured, remnant and disturbed sites.
<b>lithic assemblage (of stone)</b>	a collection of whole and fragmentary stone artefacts and manuports obtained from an archaeological site, either by collecting items scattered on the present ground surface (see lithic scatter) or by controlled excavation (see also 'stone artefact').
<b>modified tree</b>	an Aboriginal archaeological site type classification which includes all trees considered to have been modified by an Aboriginal action. Most modified tree recordings are of <i>scarred trees</i> , which display scarring that resulted from the removal of bark or wood. Rarer types include trees with evidence of carved motifs and designs, foot and hand holds, extraction of animals, or deliberate manipulation of growth form.
<b>open camp site</b>	a formerly used site type classification defined as an open context stone artefact occurrence (or artefact scatter), containing two or more artefacts situated no more than a specified arbitrary distance (such as 60 metres) away from any other included artefact. The term <i>open camp site</i> was based on ethnographic modelling suggesting that most artefact occurrences resulted from activities at camp sites. However, in order to separate the description from the interpretation of field evidence, both open camp sites and isolated finds are now referred to as <i>artefact occurrences</i> .
<b>potential archaeological deposit (PAD)</b>	A discrete location or area, defined spatially either by geomorphological, disturbance or administrative criteria, within which there is a predicted likelihood that subsurface archaeological material is present, and that this material would warrant archaeological investigation in order to determine its scientific, cultural, or statutory value and status.
<b>RAOs</b>	Representative Aboriginal Organisations
<b>scarred tree</b>	A tree with a scar or scars of assessed Aboriginal origin. Most such scars are the result of the removal of bark or wood. The identification of a scar as Aboriginal in origin is dependent on a set of inter-related interpretive criteria, and is often associated with varying degrees of recorder confidence or surety. For this reason classifications are often prefixed as possible, probable or most likely. The credibility of alternative causal explanations such as natural traumas and other types of human scarring must be tested for each scar. Scarred trees are now included in the more inclusive site type classification of <i>modified tree</i> .
<b>SHE</b>	Statement of Heritage Effect
<b>study area</b>	the area for which the assessment is being undertaken.



### 3. ENVIRONMENTAL CONTEXT

The study area is located in [redacted] Hall, south of Gladstone street and west of Victoria Street, in the Village of Hall. The study area is located on the northern and southern valley floor and banks of Halls Creek.

The geology of the Hall area is dominated by Late Silurian porphyritic volcanic rocks belonging to the Mount Ainslie Volcanics, chiefly dacite and rhyolite. These rocks have folded into a broad syncline with its axis running northeast to southwest. Halls Creek drains southwards approximately along this axis. Small outcrops of sedimentary shale and siltstone of late Silurian age belonging to the Canberra Formation occur to the north and east of Halls Creek valley and are interbedded with the volcanics (Anutech 1984, NCDC 1975, Canberra 1:100,000 BMR series geological map).

The base of the Halls Creek valley is mantled by deep unconsolidated Quaternary colluvium, slopewash deposits and minor creek alluvium, derived from the weathered products of the mainly volcanic slopes. Deep duplex soils with a distinct clay subsoil have developed on the valley floor. These are mostly yellow podsollic soils overlying gleyed podsolics.

Extensive soil erosion has occurred along Halls Creek. Downcutting in the creek gully appears to have now stopped and active erosion is now occurring as a process of gully widening either through undercutting of banks, secondary gullying, or removal of subsoil from seepage and subsequent collapse of overlying soil.

The extensive entrenchment and widening of Halls Creek drainage line is almost certainly a result of historic land use practices. None of the original nineteenth century Crown surveys of the portions near the study area indicate creek entrenchment or deep gullying. The loss of the original sediments and soil margins of Halls Creek may have significantly diminished the survival of Aboriginal sites within these riparian zones.

The Halls Creek valley floor and associated basal slopes form a relatively flat to low gradient topographic unit with a narrow alluvial plain along the lower sections of Halls Creek and adjacent rolling terrain and broad spur lines and knolls.

Vegetation comprises predominantly introduced grasses and exotic trees. Some remnant isolated old growth Eucalypts are scattered around the area and regenerating eucalypts and shrubs are present along the creek and flats.

#### 3.1 Land Use and Possible Effects on the Archaeological Record

European land use has resulted in changes in the rate and character of erosion and sedimentation along Halls Creek. Land surface disturbance within the study area has resulted from:

- native vegetation clearance;
- (possible) early cultivation of the alluvial flats;
- establishment of exotic and 'improved' pasture grasses;
- soil erosion, particularly evident in the form of the entrenched and gullied drainage line, and deposition of historic sediments in valley floor contexts;
- excavation of a dam and placement of the excavated material on the showground to level the ground;
- general ground surface levelling;
- construction of fence lines, minor roads and tracks, buildings, show rings; and
- installation of overhead and underground services.



This land use history will have significantly impacted the survival and integrity of the prehistoric and historic archaeological record. It is probable that most surface scatters of Aboriginal stone artefacts which occur within the uppermost soil layers will have undergone varying degrees of horizontal and vertical disturbance.

Historic sites and features may have been adversely impacted by clearance and levelling and deliberate demolition or replacement of fence lines and structures.



**Figure 3.1 View west along Halls Creek showing gullying and erosion of the creek to bedrock**



**Figure 3.2 View showing regrowth and grass cover typical of the study area**



## 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 northern Canberra area fell within the tribal boundaries of the Ngunnawal people. There is some uncertainty as to which language was spoken by the Aboriginal people 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 Aboriginal people 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 indigenous 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 Evidence of RAO Consultation

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

As a result, Justin Bell from Buru Ngunawal participated in the fieldwork program and represented the interests of their group in the project. *Records of Aboriginal Field Participation* are provided in Appendix 1.

A draft copy of this report was provided to the RAOs for comment on 1 August 2017, no comments were received.

**Table 4.1** Consultation Log

Date	Type of Contact (email, phone etc)	Group/Individual	Comment/Action
20/6/17	Email, post	all	Invitations to participate in the field survey
30/6/17	Field participation	Justin Bell	
1/8/17	Post	all	Draft report sent to each groups with a request for comment.



## 5. ARCHAEOLOGICAL CONTEXT

### 5.1 Regional Overview

Prior to May 1992 there had been no comprehensive and systematic archaeological surveys carried out in northern Canberra. Information about both the history and prehistory of the area was contained in mostly disparate sources. Most of the archaeological investigations carried out in the area had been small in scale and limited to confined areas under threat of impact by particular infrastructure developments.

Lyall Gillespie's (1972) report on the Aborigines of the Gungahlin area was one of the first such reports produced for the area. The Canberra Archaeological Society (CAS) (Bindon & Pike 1979, revised 1989) conducted the first archaeological survey in the northern Canberra area in 1975-76. The survey located 'seven sites' and a larger number of 'less significant finds'.

The CAS results were re-assessed by Anutech (1984) who concluded that nine sites and fifteen isolated finds had been located by the Canberra Archaeological Society.

Other surveys by the Canberra Archaeological Society added substantially to the database of both prehistoric and historic archaeological information for the area (Witter 1984; CAS 1984; Winston Gregson 1986).

More generalised studies were conducted for the EIS prepared for the Gungahlin development release area (Anutech 1984, NCDC 1989) and for the compilation of the Sites of Significance volume on Gungahlin and Belconnen (NCDC 1988). The present Hall study area was included in the area assessed for the 1989 EIS.

The Anutech investigation identified only five previously unrecorded sites (none of which occur in the present study area). The study also identified several general consistencies in site location. A majority of sites were classed as located on creek banks, on low-lying but well-drained areas, and within 150 m of the junction of two creeks. This was postulated to indicate a preference for topographically confined parts of valley floors where protection from wind is greatest. At a majority of sites, artefactual material was exposed as sub-surface material eroding from A horizon sediments (Anutech 1984:24).

Although this model was considered to be incorrect by some researchers (Access Archaeology 1991:8) further comparative work by Navin and Officer (1991, 1992) tends to confirm the locational model proposed by Anutech. The majority of open artefact scatters, particularly larger sites, are situated adjacent to or in close proximity to creek flats or valley bottom contexts, frequently on low gradient basal slopes adjacent to streams.

As a direct consequence of the enactment of heritage legislation in the ACT - The Land (Planning and Environment) Act 1991 - the amount of cultural heritage assessment and investigation in the ACT increased markedly.

With the release of large areas of land for urban development in Gungahlin several larger scale systematic archaeological surveys were undertaken to define the archaeological resource of the subject areas (e.g. Officer & Navin 1992; Kuskie 1992; Wood & Paton 1992). Numerous other archaeological assessments have been carried out for smaller land areas which were likely to be affected by specific proposed developments such as roads, golf courses, water storage facilities, pipelines etc.

These surveys have resulted in the location of numerous archaeological sites in northern Canberra. The most common site type is the open artefact scatter, however scarred trees, grinding grooves, a possible ochre source and lithic raw material sources have also been identified in the area.



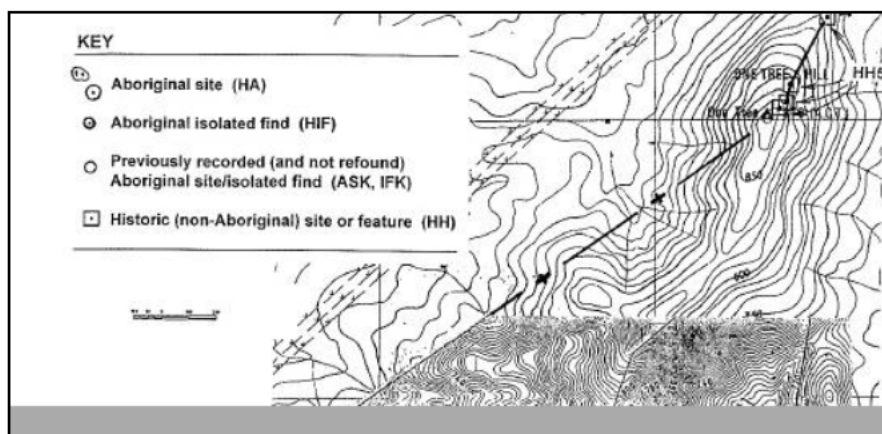
## 5.2 Related Reports and Information

Hall was included in the area surveyed in 1975 by the Canberra Archaeological Society (Bindon & Pike 1979, revised 1989) and in the area surveyed in 1984 by Anutech for the Gungahlin EIS (Anutech 1984). However, these surveys were preliminary and few sites were located as a result of the investigations.

Huys and Johnston comprehensively surveyed the proposed suburb of Kinleyside, in May 1995 (Huys and Johnston 1995). Kinleyside is located to the east of Hall Village. Six open artefact scatters (ASK1-6) and four isolated finds were identified by Huys and Johnston within the suburb of Kinleyside, with a total of thirty-one artefacts recorded in the area.

Navin Officer Heritage Consultants (NOHC) undertook a cultural heritage assessment of the proposed Hall Rural Estate in 1998. The Hall Rural Estate is located to the north and east of Hall Village and includes the proposed suburb of Kinleyside. A total of twenty Aboriginal sites (HA1-HA19 and ASK1) and seventeen Aboriginal isolated finds (HA Isolated Find 1-13, and IFK1-4) were identified in the study area (Figure 5.1).

The Hall Village Heritage Precinct is included on the ACT Heritage Places Register. The listing includes the current study area. An Aboriginal Sites Zone located in the vicinity of Hall Creek within the study area block [REDACTED]



**Figure 5.1 Sites Located during the cultural heritage assessment of the proposed Hall Rural Estate in 1998, current study area blue outline**



### 5.3 Predictive Archaeological Model – Aboriginal Heritage

As a result of the numerous archaeological surveys undertaken to date in the Gungahlin area, qualitative observations regarding Indigenous site location parameters may be summarised as follows:

- Artefact occurrences (such as artefact scatters and isolated finds) in open contexts are the most common archaeological recording type;
- Artefact densities (both on the ground surface and within the soil profile) in open artefact scatters may vary considerably;
- Open artefact scatters are most likely to occur on relatively level ground, in locally well-drained contexts, in relative proximity to a natural fresh-water source. Landforms on which open artefact scatters are likely to occur include elevated creek and river banks, low gradient basal slopes adjacent to creeks and rivers, terrace edges, and the crests of ridges and spurs;
- The majority of open artefact scatters, (particularly larger sites), are situated adjacent to, or in close proximity to, creek flats or valley bottom contexts, frequently on low gradient basal slopes adjacent to streams or wetlands;
- Open artefact scatters which contain relatively large artefact assemblages and densities occur most frequently and consistently within 100-150 m of major and relatively permanent drainage lines;
- Open artefact scatters which occur away from basal valley contexts and major streams and tributaries tend to be small and sparse in artefact content;
- Open artefact scatters may be more likely to be present at major confluences and valley constrictions;
- Most sites located away from major water sources will consist of low density scatters of artefacts, and mostly contain less than 10 visible surface artefacts;
- Artefacts may occur wherever surface exposures of exploited rock occur, rock sources which are known to have been exploited in the ACT include chalcedony, chert, quartz and fine grained igneous rocks such as fine-grained porphyry and fine-grained intrusives within granodiorite;
- Some natural exposures of fine grained siliceous rocks are unassociated with evidence for Aboriginal exploitation of that resource;
- Aboriginal scarred trees may occur anywhere old-growth trees survive. It is probable that such trees would date to no later than the 1850s and 1860s. Tree scars with an Aboriginal origin would therefore have to be at least in the order of 160 years old; and
- Arising from the results of the subsurface investigations at several PAD and non-PAD locations in Casey 1, it is predicted that in upper catchment contexts characterised by non-permanent water sources and first or second order streamlines and relatively low undulating landforms with open valley floors; the archaeological resource will consist of very low density and discontinuous occurrences of stone artefacts (with a low proportion present in subsurface contexts), in locations which in other regards, mostly comply with the general location model of locally elevated, relatively level ground situated in relative proximity to (non-permanent) water, or on major spurline or watershed crests.
- The results of cultural heritage assessments conducted for Casey 1 and Casey 2 indicate that artefacts rarely occur along the banks of first and second order upper catchment drainage lines where these contexts are not locally elevated relative to the surrounding ground.



## 6. HISTORICAL CONTEXT

### 6.1 Regional Overview

The first documentation of Europeans in the northern Canberra area is in 1820 and 1821 when exploratory expeditions in search of the Murrumbidgee River passed through the area (Gillespie 1985). By the mid 1820's the first settlers, squatters and graziers had moved into the Canberra district, some individuals obtaining crown and compensatory land grants.

As part of the initial settlement of the Limestone Plains from 1824 onwards the relatively well-watered, rolling back country drained by Sullivans Creek and Ginninderra Creek, were subject to land grants and purchases. Some of these were to men whose principal holdings lay on the Molonglo (such as Campbell and Moore), others were to George Palmer, John Langdon, Johnston, Popham, Sturt, Morrissett and Henry Hall (Gillespie 1985). Palmer's holdings and private village at Ginninderra, and Hall's 'Charnwood' property of 3462 acres were the closest grants to the present study area.

Palmer's village at Ginninderra was the major settlement in the Canberra district prior to the proclamation of Hall village by gazettal in 1882 and the subsequent development of the village in the 1880's.

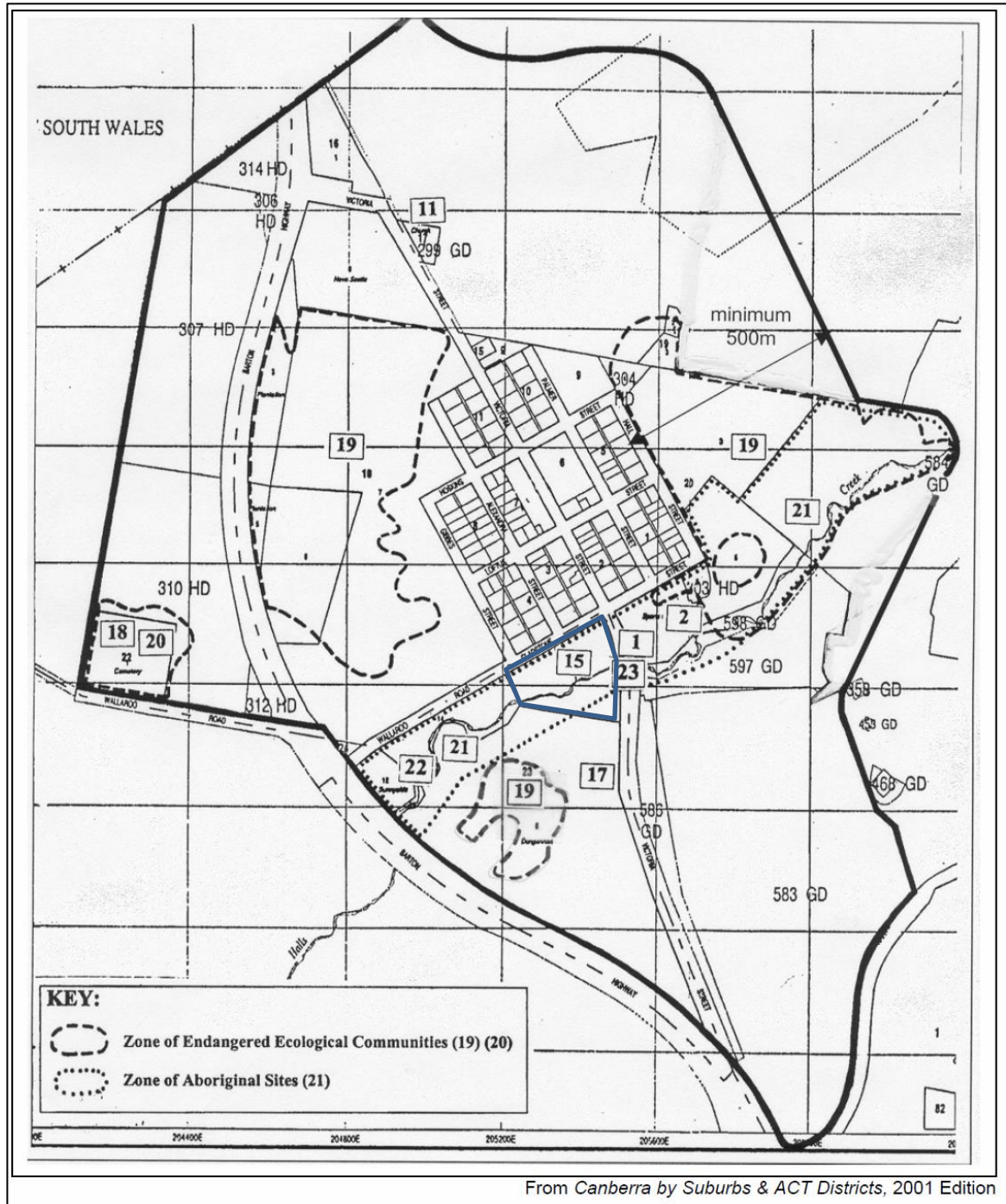
The first land sales in Hall took place in 1886. The current study area comprises an area of land originally reserved for recreation Reserve # 132. The block is still a reserve today with toilet and playground facilities.

### 6.2 Related Reports and Information

The Hall Village Heritage Precinct is included on the ACT Heritage Places Register. The listing includes the current study area. The features intrinsic to the heritage significance of the place and recommended for conservation comprise:

- (i) The 'rural village' urban landscape character of Hall Village;
- (ii) The informal streetscape character consistent with a rural village;
- (iii) The landscape setting of Hall Village;
- (iv) Individually identified built heritage places of collective historic and social value; and
- (v) Natural and Aboriginal Heritage values of the environs around Hall Village.

The Village Well (item 15), War Memorial Grove (item 1) and Hall Creek Road Bridge (item 23) are located within or immediately adjacent to the study area block [REDACTED]. These items are listed as a *Place of Specific Value within the Hall Village Precinct* (Figure 6.1). None of these items will be directly impacted by the project.



**Figure 6.1 Location of Places of Specific Value within the Hall Village Precinct Heritage Register –**

### 6.3 Predictive Archaeological Model – Historical Heritage

Unrecorded historic sites and features of heritage significance that may occur within the study area include:

- Old fence lines, such as post and rail fencing; these may occur along road easement boundaries and farmlands.
- Sites associated with early roads; these will be closely associated with early cadastral road reserves, watershed ridgelines, and related to early river and creek crossing points;

Structures of historical interest and heritage significance may be standing, ruined, buried, abandoned or still in use.



## 7. PHYSICAL INVESTIGATIONS

### 7.1 Results

No Aboriginal or non-Aboriginal sites were identified during the field survey undertaken in June 2017. Subsequently a member of the public located several Aboriginal artefacts in the vicinity of the proposal, see Appendix 2 for a report detailing these finds. Sites 4, 5 and 6 detailed in the report are located within the project area and are included in Figure 7.1 below. The sites consisted of:

**Site 4.** [REDACTED]

**Site 5.** [REDACTED]

**Site 6.** [REDACTED]

The study area is located in an area listed as an Aboriginal sites zone as part of the Hall Precinct Listing on the ACT Heritage Register (Figure 7.1). It is assessed that there is moderate potential for there to be Aboriginal sites located along Halls Creek within the identified zone, and moderate potential for those sites to be in-situ. The area of moderate potential can be defined as the area identified in the heritage listing as the zone of Aboriginal sites and covers [REDACTED]

The Village Well (item 15), War Memorial Grove (item 1) and Hall Creek Road Bridge (item 23) are located within or immediately adjacent to the study area block [REDACTED]. These items are listed as a *Place of Specific Value within the Hall Village Precinct*. None of these items will be directly impacted by the project.

### 7.2 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.

Ground surface visibility at the time of the field assessment was very low. Some ground surface exposure occurred along the eroded bank of Halls Creek, the remainder of the study area was covered in grasses and other vegetation. The exposure incidence across the study area was 10% with 80% visibility within exposures.

### 7.3 Discussion

The Halls Creek study area is located in a landform identified by the predictive model as likely to contain open artefact scatters. The predictive model states:

- Open artefact scatters are most likely to occur on relatively level ground, in locally well-drained contexts, in relative proximity to a natural fresh-water source. Landforms on which open artefact scatters are likely to occur include elevated creek and river banks, low gradient basal slopes adjacent to creeks and rivers, terrace edges, and the crests of ridges and spurs; and



- Open artefact scatters which contain relatively large artefact assemblages and densities occur most frequently and consistently within 100-150 m of major and relatively permanent drainage lines.

Aboriginal sites are located along Halls Creek including three isolated finds within the project area

Following the current assessment, it is concluded that there is moderate potential for there to be Aboriginal sites located along Halls Creek, and moderate potential for those sites to be in-situ.



**Figure 7.1 Location of Recorded Sites**



## 8. ASSESSMENT OF HERITAGE SIGNIFICANCE

### 8.1 Assessment Criteria

Criteria suitable for the assessment of the heritage values and significance of the archaeological resource within the ACT have been defined in Section 10 of the Heritage Act, 2004 (Republication No18).

A place or object has heritage significance if it satisfies one or more of the following criteria:

- (a) importance to the course or pattern of the ACT's cultural or natural history;
- (b) has uncommon, rare or endangered aspects of the ACT's cultural or natural history;
- (c) potential to yield information that will contribute to an understanding of the ACT's cultural or natural history;
- (d) importance in demonstrating the principal characteristics of a class of cultural or natural places or objects;
- (e) importance in exhibiting particular aesthetic characteristics valued by the ACT community or a cultural group in the ACT;
- (f) importance in demonstrating a high degree of creative or technical achievement for a particular period;
- (g) has a strong or special association with the ACT community, or a cultural group in the ACT for social, cultural or spiritual reasons;
- (h) has a special association with the life or work of a person, or people, important to the history of the ACT.

#### **Thresholds**

In understanding the significance of a place or object, there are two key interrelated steps:

1. **determine whether the place has value in relation to a criterion** (this is the basic test). This will sometimes imply the historical or other context of the place or object and might determine whether the place or object is of personal, interest group, local, territory, national or World Heritage significance (its historical context and the community group for whom it is important); and,
2. **apply threshold indicators, to 'test' the degree to which the place or object is significant** and, hence whether it meets a criterion and warrants registration— is it sufficiently rare, unique, important, etc. in the context of the ACT when compared to other places?

### 8.2 Halls Creek Study Area

The Halls creek study area is located in an area listed as an Aboriginal sites zone as part of the Hall Precinct Listing on the ACT Heritage Register.

Following the current assessment, it is assessed that there is moderate to high potential for there to be Aboriginal sites located along Halls Creek, and moderate potential for those sites to be in-situ.

The scientific significance of an area of potential cannot be assessed prior to undertaking subsurface investigation.

Based on past assessments by the ACT Representative Aboriginal Organisations (RAOs), it is likely that Halls Creek will be considered important as part of local Aboriginal tradition due to the archaeological record it contains and the evidence this record represents for traditional and past patterns of Aboriginal occupation.



## 9. STATUTORY CONTEXT<sup>1</sup>

### 9.1 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 ACT Heritage, ACT Department of Environment, Planning and Sustainable Development 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 the following:

- (i) a heritage guideline;
- (ii) a heritage direction;
- (iii) a heritage agreement;
- (iv) a conservation management plan approved by the council;
- (v) development approval under the Planning and Development Act 2007, chapter 7;

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



- (vi) an excavation permit;
- (vii) a statement of heritage effect approved by the council.

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.

## 9.2 Implications for the Halls Creek track

The Hall Village Heritage Precinct is included on the ACT Heritage Places Register. Conservation Objective 2.2 states:

(e) Development or management activities necessitating excavation of the ground surface within the Aboriginal Sites Zone shall not be permitted without approval, and shall be consistent with the provisions of the relevant separate (interim) Heritage Place Register for the Hall Village Aboriginal Sites.

As an Aboriginal heritage place will be impacted by the project a Statement of Heritage Effect is required to be approved by the Heritage Council for the project.



## 10. STATEMENT OF HERTIAGE EFFECTS

### 10.1 Description of the Place

No non-Aboriginal sites were identified during the field survey.

Three isolated Aboriginal artefacts have been located within the project area. Site 4 [REDACTED], Site 5 [REDACTED] and Site 6 [REDACTED].

The study area is located in an area listed as an Aboriginal sites zone as part of the Hall Precinct Listing on the ACT Heritage Register.

The Village Well (item 15), War Memorial Grove (item 1) and Hall Creek Road Bridge (item 23) are located within or immediately adjacent to the study area block [REDACTED]. These items are listed as a *Place of Specific Value within the Hall Village Precinct*. None of these items will be directly impacted by the project.

Following the current assessment, it is assessed that there is moderate potential for there to be Aboriginal sites located along Halls Creek, and moderate potential for those sites to be in-situ. This area of potential includes all of the current study area.

The scientific significance of an area of potential cannot be assessed prior to undertaking subsurface investigation.

Based on past assessments by the ACT Representative Aboriginal Organisations (RAOs), it is likely that Halls Creek will be considered important as part of local Aboriginal tradition due to the archaeological record it contains and the evidence this record represents for traditional and past patterns of Aboriginal occupation.

### 10.2 Discussion of Impacts

None of the isolated artefacts will be directly impacted by the project.

The Aboriginal sites zone and the area of moderate archaeological potential will be impacted by the project. Impacts from the project are minimal. Construction includes the clearing of the track route of grass to natural ground using a mini excavator and hand excavation and the construction of a bridge or low-level crossing over Halls Creek. No trees will be removed, and no substantial ground disturbance is proposed.

The effects of the impacts will be to the surface layer of the soil, Aboriginal artefacts may be located within this layer any may be disturbed during the excavation process. The light machinery being used is unlikely to directly damage individual artefacts.

This impact would be substantially less compared to any subsurface test excavation program. A test excavation program would excavate to a greater depth than what is proposed by the track excavations and is likely to disturb many more artefacts that are likely to be disturbed by the excavation of the track.

The Village Well (item 15), War Memorial Grove (item 1) and Hall Creek Road Bridge (item 23) are located within or immediately adjacent to the study area block [REDACTED]. These items are listed as a *Place of Specific Value within the Hall Village Precinct*. None of these items will be directly impacted by the project. There would be no indirect impacts from the project on these locations. There will be no impact from machinery and the track will not be visible from these locations as the track is located within a heavily treed area.

There will be no direct or indirect impacts from the proposal on the landscape setting of Hall. As detailed above the proposal is located within the vegetated area of Halls Creek, no trees will be removed, and the track will not be visible from the town. Riders on the track will be visible whilst riding. The track will be easily remediated and re-vegetated if required in the future and is therefore not a permanent feature.



## 10.3 Consideration of Alternatives

The route of the proposed track prior to this assessment was flexible and any surface sites were able to be avoided. Sites 4, 5 and 6 will be specifically avoided by the project. Additionally, construction of the track will involve the use of a mini excavator and hand excavation, again chosen in order to reduce impacts.

The track is being constructed so that it will be easily remediated and re-vegetated if required.

Subsurface test excavation was considered however impact from testing would be much greater than impacts from the construction of the track.

The only remaining alternative is not to proceed with track construction.

## 10.4 Mitigation Strategies

It is proposed that a mitigation strategy is implemented to avoid any potential harm to Aboriginal objects. The protocol is included below.

This strategy involves undertaking a program of monitoring during track construction. Any Aboriginal object found during monitoring would be recorded on site and moved away from the route. Details of the site would subsequently be provided to ACT Heritage.

As the impacts from the proposed route will not sustainably impact the ground surface, subsurface testing of the area of potential is not recommended. The testing process is considered to be more invasive than the construction of the bike track. The impact of the track would not alter the scientific significance of the PAD.

### 10.4.1 Protocol for monitoring and artefact recording and movement Halls Creek

Following the scraping back of surface vegetation by the mini excavator and hand excavation, the track route will be inspected by a qualified archaeologist and representatives of the RAOs.

If artefacts are encountered a GPS recording will be taken of its location and basic artefact measurements will be taken including size, material type and artefact type.

The artefact will then be moved to a location at least 5 metres away from the track and a GPS recording will be taken of its new location. Details of the site will then be provided to ACT Heritage. It is proposed to move the artefacts to the location identified by a star on Figure 10.1 below.

## 10.5 Recommendations

No further archaeological investigation is required for this project.

*It is recommended that:*

1. This Statement of Heritage Effect is required to be approved by the ACT Heritage Council before works can commence.
2. In order to mitigate against any impact to sites during construction, the protocol outlined in Section 10.4.1 will be enacted during the construction of the track.
3. The unanticipated discovery protocols included in Appendix 3 should be implemented for this project.
4. A copy of this report should be provided to the ACT Heritage.



**Figure 10.1 Recorded sites and proposed return location**



## 11. LIST OF REFERENCES

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- Navin Officer Heritage Consultants (NOHC) Hall Showground Remedial Works Feasibility Study Cultural Heritage Component. A Report to Maunsell Pty Ltd



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Wood, V. & R. Paton 1992 *Cultural Resource Assessment of Area C5, Gungahlin, ACT: Stage 1.* Report to ACT DELP.

~ oOo ~



## **APPENDIX 1**

### **RECORD OF ABORIGINAL FIELD PARTICIPATION**



**Record of Aboriginal Representative Participation\***

Name(s) of Aboriginal Representative: Justin 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: Halls Creek Track

Client: name & address: *(please send your invoice to this address)*

**Brian Bathgate | Operations Manager Belconnen/Gungahlin**  
**P 6205 5350 | E [Brian.Bathgate@act.gov.au](mailto:Brian.Bathgate@act.gov.au)**  
**Place Management, City Presentation | Transport Canberra and City Services Directorate**  
**ACT Government**  
 490 Northbourne Ave, Dickson | GPO Box 158 Canberra ACT 2601

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

Period of participation:

Date(s)	Start	Finish
<u>30/6/17.</u>	<u>11.30</u>	<u>1pm</u>

Issues raised: nil

Signed (archaeologist): 

Signed (Aboriginal representative(s)): 

\* 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**

### **HALLS CREEK ABORIGINAL SITES DECEMBER 2017**



## Background

During a walk on 9 December [REDACTED]

[REDACTED], I found a number of Aboriginal sites. The route only encompassed large soil exposures close to the creek along its length [REDACTED]. Scarred Tree (Plate 1) and an Aboriginal volcanic stone hatchet preform (Plate 2) have already been reported recently, but these are included for reference, as sites 1 and 2 respectively on Map 1.

Surface visibility was only about 10% but surfaces have been washed by very heavy recent rain. Most finds (that is, excepting the hatchet blank in Site 2) are within the Zone designated as "Zone of Aboriginal Sites" in the Hall Village Heritage Listing. The stone artefacts occur in or on a grey alluvial topsoil layer that is about 30-50cm deep. Most appear to have been exposed as a result of digging, erosion or tree uplift.

The grey loam topsoil is markedly different to the orange clay and gravelly clay soils exposed by erosion below (Plate 3) and appears to have depositional integrity. Previous studies<sup>2</sup> of soils of the Gungahlin district and Hall identified stratified alluvium along these parts of Halls Creek. Preservation of the original soil profiles in the locality may have been enhanced by its designation as a water reserve in the 1880s, consequently not subject to agriculture or substantial clearance. This is unusual compared to other creek lines I have seen in the area, such as the Sullivans and Gungaherra Creeks, where the original alluvial deposits appear to have been rapidly eroded following historic agricultural land use.

## New Sites

The new sites on Map 1 are as follows:



<sup>2</sup> Hohnen. P.D 1973 *Engineering Geology of the Proposed Halls Creek Urban Development Area, Gungahlin District, A.C.T.* Dept Minerals and Energy, Bureau of Mineral Resources, Geology and Geophysics and Hohnen. P.D 1974 *Engineering Geology of Gungahlin Urban Development Area, A.C.T.* Dept Minerals and Energy, Bureau of Mineral Resources, Geology and Geophysics



**Conclusion**

A recent archaeological survey<sup>3</sup> looked at a segment of Halls Creek in relation to a proposed bike track. Visibility was low and no sites were found. [redacted]

[redacted]  
[redacted]  
[redacted]  
[redacted]  
[redacted]  
[redacted]  
[redacted]  
[redacted]

[redacted] location may also have considerable archaeological research value.

Dr Jan Klaver, 10 December 2017

---

<sup>3</sup> Navin Officer Heritage Consultants Pty Ltd, August 2017, *Cultural Heritage Assessment and Statement of Heritage Effect, Halls Creek Track, [redacted] Hall*. A Report to Place Management, City Presentation, Transport Canberra and City Services Directorate.



Map 1. Sites along Halls Creek.



Plate 1. Scarred tree, [redacted]



Plate 2. Volcanic stone hatchet preform, [redacted]



Plate 3. Halls Creek soil profile



Plate 4a. Chert artefacts (flake left, blade segment, right),



Plate 4b. Chert flaked piece



Plate 4c. Quartz flaked piece



Plate 4d. Silcrete flake dorsal



Plate 4e. Silcrete flake ventral

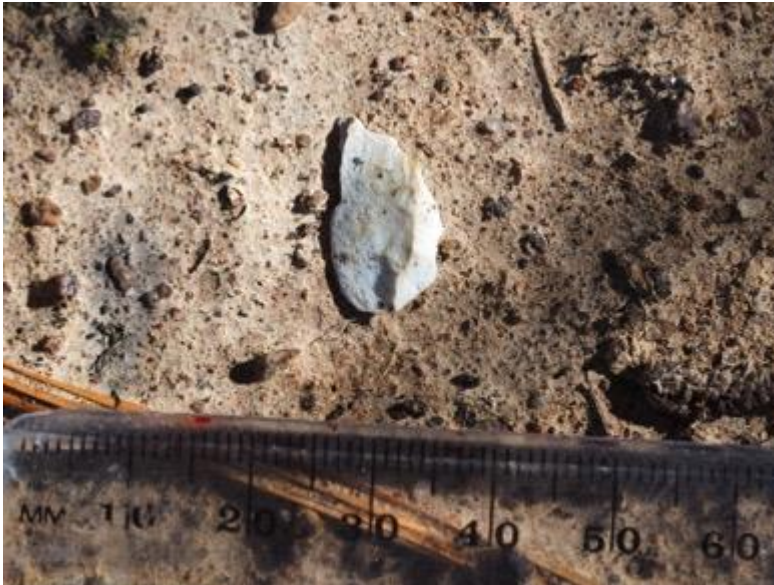


Plate 5. [redacted], chert backed blade, dorsal surface



Plate 6. Chert backed blade, ventral surface



Plate 7. Pointing to location of chert flake



Plate 8. Chert flake



Plate 9. Detail of chert flake



Plate 10. Pen tip points to laminar quartz flaked piece at top of bank



Plate 11. Detail of quartz flaked piece

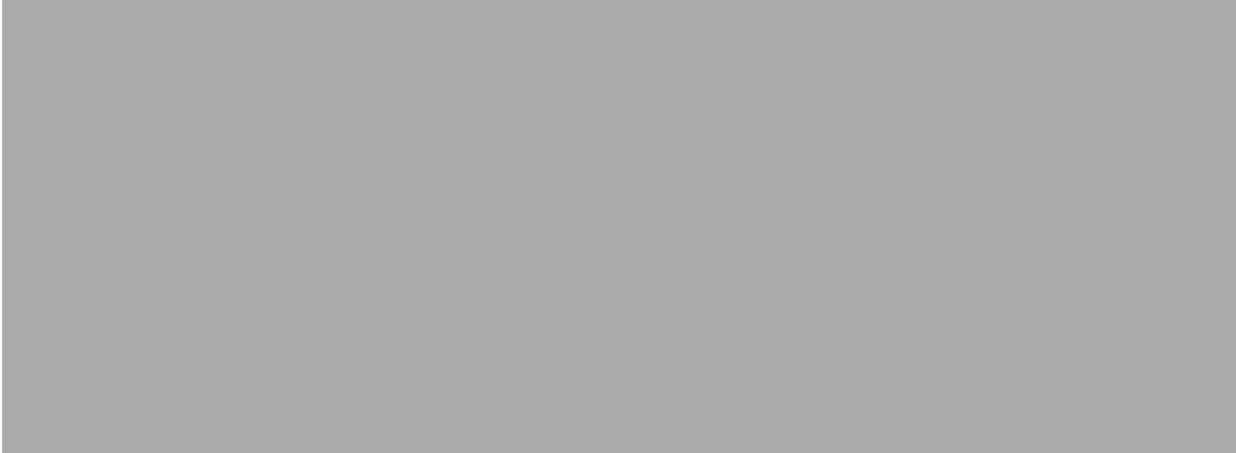


Plate 12. Exposure containing burnt clay nodules



13. Pointing to burnt clay nodules in soil profile





Plate 14. Detail of burnt clay nodules in grey topsoil profile



Plate 15. Location of Site 8



Plate 16. Detail of silcrete flake, dorsal surface



Plate 17. Detail of silcrete flake, ventral surface



## **APPENDIX 3**

# **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;
  - 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 the Heritage Unit;
  - 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;
  - 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.

~ oOo ~

**From:** [Chaston, Daisy](#)  
**To:** [Russell, Meaghan](#)  
**Subject:** FW: Heritage - Advice - SHE - Hall Bike Track [SEC=UNCLASSIFIED]  
**Date:** Wednesday, 10 January 2018 12:18:16 PM  
**Attachments:** [image003.jpg](#)  
[image005.jpg](#)  
[image007.png](#)  
[image008.png](#)  
[ACT-Halls Creek Track report 20170712 NH v3.pdf](#)  
[image004.jpg](#)  
[image006.jpg](#)

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One for Advice.

**Daisy Chaston | Team Leader | Registrations**

Phone: 6207 7379 | Email: [daisy.chaston@act.gov.au](mailto:daisy.chaston@act.gov.au)

**ACT Heritage** | Environment, Planning and Sustainable Development | **ACT Government**

Dame Pattie Menzies House 16 Challis Street Dickson | GPO Box 158 Canberra ACT 2601

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**From:** Nicola Hayes [REDACTED]  
**Sent:** Wednesday, 10 January 2018 11:57 AM  
**To:** Chaston, Daisy <[Daisy.Chaston@act.gov.au](mailto:Daisy.Chaston@act.gov.au)>  
**Cc:** Bathgate, Brian <[Brian.Bathgate@act.gov.au](mailto:Brian.Bathgate@act.gov.au)>  
**Subject:** RE: Heritage - Advice - SHE - Hall Bike Track [SEC=UNCLASSIFIED]

Daisy

Please find attached the revised SHE report addressing the comments outlined in your advice.

Please let me know if you have any questions

Sincerely

*Nicola Hayes*

BA/BSc Grad Dip (Archaeology)

Principal Archaeologist

**Navin  
Officer**  
*heritage  
consultants  
Pty Ltd*

Number 4  
Kingston Warehouse  
71 Leichhardt St  
Kingston ACT 2604  
Ph: 02 62829415  
fax: 02 62829416  
mob: [REDACTED]  
email: [REDACTED]

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**From:** Chaston, Daisy [<mailto:Daisy.Chaston@act.gov.au>]  
**Sent:** Friday, 8 December 2017 8:59 AM  
**To:** Navin Officer <[navinofficer@nohc.com.au](mailto:navinofficer@nohc.com.au)>; Nicola Hayes <[REDACTED]>  
**Subject:** Heritage - Advice - SHE - Hall Bike Track [SEC=UNCLASSIFIED]

Dear Navin Officer

Please find heritage advice attached for the Hall Bicycle Track

With thanks,

Daisy

**Daisy Chaston | Team Leader | Registrations**

Phone: 6207 7379 | Email: [daisy.chaston@act.gov.au](mailto:daisy.chaston@act.gov.au)

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Dame Pattie Menzies House 16 Challis Street Dickson | GPO Box 158 Canberra ACT 2601

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**From:** [Russell, Meaghan](#)  
**To:** [Bathgate, Brian](#)  
**Subject:** RE: Heritage - Advice - SHE - Hall Bike Track [SEC=UNCLASSIFIED]  
**Date:** Thursday, 1 February 2018 10:07:00 AM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)  
[image004.jpg](#)  
[image006.jpg](#)  
[image007.jpg](#)  
[image009.jpg](#)

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Hello Brian,

Thank you for the email, and ACT Heritage Council advice on the revised SHE report – submitted on 10 January – will be issued as soon as the review is completed.

On the conflict of interest query, please note that one ACT Heritage Council member is a resident of Hall, and upon his appointment to the Council, he declared a conflict of interest relating to the suburb. In this context, the Council member does not participate in assessments or receive materials on Hall matters, including the SHE application for the proposed Hall Creek bike track.

Regards,  
Meaghan

**Meaghan Russell** | Team Leader (Advice)

Phone: 02 6205 5497 | Email: [meaghan.russell@act.gov.au](mailto:meaghan.russell@act.gov.au)

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Dame Pattie Menzies House 16 Challis Street Dickson | GPO Box 158 Canberra ACT 2601

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**From:** Bathgate, Brian  
**Sent:** Wednesday, 31 January 2018 5:24 PM  
**To:** Chaston, Daisy <[Daisy.Chaston@act.gov.au](mailto:Daisy.Chaston@act.gov.au)>  
**Subject:** RE: Heritage - Advice - SHE - Hall Bike Track [SEC=UNCLASSIFIED]

Hello Daisy

I was just wondering if this had been back for consideration by the Council?

As an aside, I was told at a recent public consultation in Hall, that one of the Heritage Council members lives near this proposed facility. I was told that he had expressed his opposition to the project to other community members.

Is there a declaration for a 'conflict of interest' process? I would really like to avoid any perceptions of bias that may lead to more work later on.

Thanks very much

Brian Bathgate | A/g Senior Manager

P 6205 5350 | E [Brian.Bathgate@act.gov.au](mailto:Brian.Bathgate@act.gov.au)

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**From:** Nicola Hayes [REDACTED]

**Sent:** Wednesday, 10 January 2018 11:57 AM

**To:** Chaston, Daisy <[Daisy.Chaston@act.gov.au](mailto:Daisy.Chaston@act.gov.au)>

**Cc:** Bathgate, Brian <[Brian.Bathgate@act.gov.au](mailto:Brian.Bathgate@act.gov.au)>

**Subject:** RE: Heritage - Advice - SHE - Hall Bike Track [SEC=UNCLASSIFIED]

Daisy

Please find attached the revised SHE report addressing the comments outlined in your advice.

Please let me know if you have any questions

Sincerely

*Nicola Hayes*

BA/BSc Grad Dip (Archaeology)

Principal Archaeologist

**Navin  
Officer**  
*heritage  
consultants  
Pty Ltd*

Number 4  
Kingston Warehouse  
71 Leichhardt St  
Kingston ACT 2604

Ph: 02 62829415

fax: 02 62829416

mob: [REDACTED]

email: [REDACTED]

[www.nohc.com.au](http://www.nohc.com.au)

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**From:** Chaston, Daisy [<mailto:Daisy.Chaston@act.gov.au>]

**Sent:** Friday, 8 December 2017 8:59 AM

**To:** Navin Officer <[navinofficer@nohc.com.au](mailto:navinofficer@nohc.com.au)>; Nicola Hayes <[REDACTED]>

**Subject:** Heritage - Advice - SHE - Hall Bike Track [SEC=UNCLASSIFIED]

Dear Navin Officer

Please find heritage advice attached for the Hall Bicycle Track

With thanks,

Daisy

**Daisy Chaston | Team Leader | Registrations**

Phone: 6207 7379 | Email: [daisy.chaston@act.gov.au](mailto:daisy.chaston@act.gov.au)

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## ACT Heritage Council

# Statement of Heritage Effect Advice

## Under Section 61H of the *Heritage Act 2004*

**TO: Transport Canberra and City Services**  
 Brian Bathgate, Operations Manager  
[brian.bathgate@act.gov.au](mailto:brian.bathgate@act.gov.au)

Applicant Reference: Halls Creek Track  
 Heritage Reference: Hall – B001-S0023  
 Contact Officer: Kate Harrison  
 Received by Council: 18 September 2017  
 and 10 January 2018

Block:	Section:	Division:	Heritage Place:
		Hall	Hall Village Heritage Precinct
			Recorded Aboriginal Places (Site 4, Site 5, Site 6)

Status of Place: Registered Heritage Place and Recorded Aboriginal Places

Description of Works: Construction of Mountain Bike Track along Halls Creek

Report Details: *'Cultural Heritage Assessment and Statement of Heritage Effect, Halls Creek Track, [redacted] Hall'* (Navin Officer Heritage Consultants, January 2018)

Council Advice provided by: Secretary / ACT Heritage Manager

Pursuant to Section 61H of the *Heritage Act 2004*, the ACT Heritage Council advises that:

Further information is required under Section 61G(1) of the *Heritage Act 2004*.

### Background:

On 18 September 2017, Transport Canberra and City Services Directorate (TCCS) submitted an application to the ACT Heritage Council (the Council) for approval of a Statement of Heritage Effect (SHE), for the proposed construction of a mountain bike track adjacent to Halls Creek.

The proposed bike track would be constructed within [redacted] Hall, and consist of approximately one kilometre of track with an associated bridge or low-level crossing over Halls Creek.

[redacted], Hall is located in the Hall Village Heritage Precinct (the Precinct), a registered heritage place in the ACT Heritage Register. Further, the proposed track is located within the 'Aboriginal Sites Zone' of the Precinct, and adjacent to other features intrinsic of the Precinct, including The Village Well, War Memorial Grove and Hall Creek Road Bridge.

The application was supported by a Cultural Heritage Assessment and SHE report prepared by Navin Officer Heritage Consultants (August 2017), which presented the following key findings and recommendations:

- Works would not impact Precinct features including The Village Well (Item 15), War Memorial Grove (Item 1), and Hall Creek Road Bridge (Item 23);

- A heritage inspection of the proposed bike track on 30 June 2017, undertaken by Navin Officer Heritage Consultants and Buru Ngunawal Aboriginal Consultants, did not locate any surface Aboriginal places and objects;
- However, the proposed bike track was assessed on 30 June 2017 as having moderate potential to contain *in situ* archaeological deposits; reflecting prior studies of the Halls Creek Aboriginal Sites Zone;
- While works are planned within an area of archaeological sensitivity, no substantial ground disturbance work is proposed, as the proposed track will be formed by clearing the route of grass to natural ground and as no trees are to be removed. On this basis, it is concluded that works would not alter the heritage significance of the area;
- Subsurface archaeological testing is not recommended as this form of investigation may be more invasive than the proposed construction works. Instead, monitoring of works by heritage personnel is proposed;
- Any Aboriginal objects encountered during works would be salvaged, recorded, and moved to a new location at least five metres away from the constructed bike track; and
- The above findings and recommendations were subject to consultation with Representative Aboriginal Organisations (RAOs), with recommendations discussed with Buru Ngunawal Aboriginal Consultants during the field survey and with a draft report provided for review in August 2017.

On 7 December 2017, the Council provided advice on the SHE application, requesting the following further information in accordance with Section 61G of the *Heritage Act 2004*:

- A detailed description of the proposed activity, including construction methods and impacts;
- A detailed assessment of the archaeological potential of the track area;
- An assessment of potential indirect impacts to The Village Well, War Memorial Grove, Hall Creek Road Bridge; and potential impacts to the Landscape Setting of the Precinct, which is also a feature intrinsic of the place;
- A description of whether other reasonably practicable ways of carrying out the activity at the heritage place are available; and
- Identification of the proposed location where salvaged artefacts would be deposited.

On 15 December 2017, ACT Heritage also notified TCCS of a number of Aboriginal places recently recorded along Halls Creek; and advised that three of these places, being archaeological sites recorded as 'Site 4', 'Site 5' and 'Site 6' were within the proposed bike track area and should be considered by the revised SHE report. At this time, ACT Heritage also advised that RAOs were to be made aware of this new information and be provided with opportunity to comment on the heritage significance and appropriate management of these heritage sites.

In this context, a SHE report was submitted to the Council on 10 January 2018; which set out the following additional information:

- Section 1 identifies that a mini-excavator and hand excavation will be used to clear the proposed track to natural ground, and works are likely to take four to six weeks to complete;
- Section 7 identifies the presence of Sites 4, 5 and 6 within the assessment area, as recorded by a member of the public and reported to ACT Heritage; with detailed site descriptions attached as Appendix 2;
- Section 7 identifies the area of archaeological potential associated with Halls Creek as extending up to 150 metres on either side of the creek;
- Section 10 identifies that works will not impact Sites 4, 5 and 6; with these sites respectively [REDACTED]. Section 10 also identifies that works would not have any direct or indirect impacts on The Village Well, War Memorial Grove, Hall Creek Road Bridge, and the Landscape Setting of the Precinct;
- Section 10.3 states that there are no alternatives to track construction, however, measures have been adopted to reduce heritage impacts, through flexibility in track design to avoid surface sites, use of a mini excavator and hand excavation to reduce heritage impacts, and through the monitoring of works by heritage personnel; and
- Section 10.4.1 identifies a location for deposition of any Aboriginal objects collected during monitoring, located approximately five metres from the track at its western boundary.

#### **Advice:**

Following review of the revised SHE report, the Council notes that:

- RAOs have not been consulted regarding the cultural and heritage significance of Sites 4, 5 and 6, potential impacts to these Aboriginal sites and the appropriate management of those impacts; and the revised SHE report has not been provided to RAOs for review and comment;
- Key information on the proposed activity has not been provided, such as width of the proposed bike track, the depth of excavation required for the bike track, the location and form of the bridge or low level crossing over Halls Creek, the area to be impacted by this crossing and the construction methods for this crossing;
- No assessment of the heritage significance of Sites 4, 5 and 6 has been undertaken against *Heritage Act 2004* criteria;
- The heritage impact assessment does not adequately consider direct and indirect impacts of proposed works to Sites 4, 5 and 6; and the conclusion that these sites will not be impacted is not currently demonstrated by the application;
- The heritage impact assessment does not adequately consider potential indirect impacts to other features of the Precinct, and specifically the Hall Creek Road Bridge;
- Reasonably practicable alternatives to the proposed activity within the heritage place are not adequately explored within the application;

- No measures have been adopted to avoid or minimise impacts to Sites 4, 5 and 6, such as alternate track alignments in the vicinity of these sites or the adoption of protective fencing; and
- Monitoring is not considered an appropriate mitigation strategy in a landform of archaeological potential and with moderate potential *for in situ* deposits; and this proposed approach is not adequately substantiated by the application.

In this context, the Council advises that the SHE application requirements set out in Section 61G of the *Heritage Act 2004* have not been met.

The Council welcomes a revised SHE report that addresses the above; and also the detailed review comments provided in Attachment A to this advice.

Following receipt of this information, the Council will provide further advice on the SHE application made for the proposed Halls Creek bike track.

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

February 2018



## ACT Heritage Council

**Attachment A**

<b>Assessment Against <i>Heritage Act 2004</i> Requirements</b>	
<b>ACT Heritage Council comment</b>	<b>Consultant Response</b>
<p><u>Under Section 61(H)(3) of the Act, the Council must approve a SHE application if it is satisfied on reasonable grounds that: the proposed activity is justifiable at, or near, the place; and, there are no reasonably practicable alternative ways to carry out the proposed activity at the place; and, that reasonable steps have been identified to reduce the risk of diminishing the heritage significance of or damage to the place.</u></p> <p>At this time, further information is required to determine whether there are no reasonably practicable alternative ways to carry out the proposed activity at the place and that reasonable steps have been identified to reduce the risk of diminishing the heritage significance of or damage to the place; as set out in the comments provided below.</p>	
<p><u>Under Section 61(G)(1)(a) of the Act, a SHE application must describe the place/object or Aboriginal place/object to which the application relates (the heritage site).</u></p> <p>Section 8 describes the heritage significance criteria set out in Section 10 of the <i>Heritage Act 2004</i>; however, no assessment of the heritage significance of Sites 4, 5 and 6 against these criteria have been undertaken. This assessment is required to inform decisions on the appropriate management of each site.</p>	

<b>Assessment Against <i>Heritage Act 2004</i> Requirements</b>	
<b>ACT Heritage Council comment</b>	<b>Consultant Response</b>
<p><u>Under Section 61(G)(1)(b) of the Act, a SHE application must provide details about the proposed activity, including the reason for the activity and the extent and duration of the activity.</u></p> <p>Section 1.2 of the SHE report provides a brief description of proposed works, however, the following information is require to complete the description of the proposed activity:</p> <ul style="list-style-type: none"> <li>• The dimensions of the proposed mountain bike track, including the depth and width of proposed excavation;</li> <li>• The location and form of the proposed bridge/low level crossing;</li> <li>• The area of ground surface disturbance associated within the bridge/low level crossing, and a description of its construction methods; and</li> <li>• A reason for the proposed activity.</li> </ul>	
<p><u>Under Section 61(G)(1)(c) of the Act, a SHE application must describe the likely effect of the proposed activity on the heritage site, including the effects that may diminish the heritage significance of or damage the heritage site.</u></p> <p>Section 10 states that Sites 4, 5 and 6 – which are respectively [REDACTED] – will not be directly impacted by works; although this assessment is not justified or adequately explained within the SHE report. Based on the proximity of heritage sites to excavation areas, the Council does not agree that Sites 4,</p>	

<b>Assessment Against <i>Heritage Act 2004</i> Requirements</b>	
<b>ACT Heritage Council comment</b>	<b>Consultant Response</b>
<p>5 and 6 will not be impacted based on information presented in the application. Further information on proposed works, and further analysis of direct and indirect impacts, is required.</p> <p>Section 10 also concludes that there will be no indirect impacts to The Village Well, War Memorial Grove and Hall Creek Road Bridge; however, no detailed analysis is presented to support this assessment. This should be included, and should specifically consider potential indirect effects to the Hall Creek Road Bridge from potential parking and informal access to the track from Victoria Street.</p>	
<p><u>Under Section 61(G)(1)(d) of the Act, a SHE application must describe the measures that the applicant will adopt during the activity to reduce the risk of diminishing the heritage significance of or damage the heritage site.</u></p> <p>Section 10.3 identifies that the alignment of the track is flexible, and that an aim of the assessment was to avoid impacts to any surface heritage sites found. However, following the identification of Sites 4, 5 and 6, there has been no review of the track alignment in the vicinity of these heritage sites; as evidenced by the alignment remaining unchanged in Figures 1.1 of the August 2017 and January 2018 versions of the SHE report. The SHE should be revised to identify how track alignment options in the vicinity of Sites 4, 5 and 6 have been reviewed and amended to avoid impacts to these sites; noting that the Council does not support the current assessment that sites between one and five metres from the track will not be impacted in any way.</p>	

<b>Assessment Against <i>Heritage Act 2004</i> Requirements</b>	
<b>ACT Heritage Council comment</b>	<b>Consultant Response</b>
<p>In addition to the above, the SHE report should also identify additional control measures to ensure Aboriginal heritage sites are not impacted by proposed works, such as protective fencing during construction.</p> <p>Section 10.4 proposed monitoring of works as a mitigation strategy, with the aim of identifying, recording and relocating Aboriginal objects encountered during works. As the SHE report concludes that there is moderate potential for the area to contain <i>in situ</i> archaeological deposits, the Council does not consider monitoring to be an appropriate mitigation strategy at this time, and further information is needed to demonstrate its suitability to this context. In the absence of further information, this recommendation should be revised to archaeological excavation, and a research design and methodology should be provided.</p> <p>Section 10.4 also identifies that any Aboriginal objects salvaged would be moved to a location at least five metres away from the track. To demonstrate that this approach is appropriate, the following information should also be presented:</p> <ul style="list-style-type: none"> <li>• Detailed mapping and photography of the proposed relocation site;</li> <li>• How artefacts will be placed at the proposed site. Any proposal should set out how returned artefacts will be differentiated from <i>in situ</i> artefacts or deposits;</li> <li>• A methodology statement for the RTC, providing detailed description of actions that will result in the return of Aboriginal objects. RAOs should provide guidance on the inclusion of any cultural or ceremonial aspects to this process;</li> </ul>	

<b>Assessment Against <i>Heritage Act 2004</i> Requirements</b>	
<b>ACT Heritage Council comment</b>	<b>Consultant Response</b>
<ul style="list-style-type: none"> <li>• Measures that will be adopted to protect and conserve the relocation place long term. Future uses and a range of human activities and natural processes should be considered. A risk assessment should be presented to demonstrate that the selected location can be protected long term;</li> <li>• Whether future access to the location is expected, and how this will occur;</li> <li>• Whether the returned artefacts will be identified by any surface features or signage;</li> <li>• RAO views on the proposed relocation site, relocation methods and the long term management of relocated artefacts; and</li> <li>• The view of the land owner/manager on the proposed relocation outcome, and their commitment for the relocation site to remain undisturbed in the long term.</li> </ul>	
<p><u>Under Section 61(G)(1)(e) of the Act, a SHE application must describe whether other reasonably practicable ways of carrying out the activity at the heritage site are available.</u></p> <p>Section 10.3 states that there is no alternative to track construction, although measures to minimise heritage impacts have been adopted. To support this conclusion, further analysis of alternative track alignments should be presented within the SHE report, including:</p>	

<b>Assessment Against <i>Heritage Act 2004</i> Requirements</b>	
<b>ACT Heritage Council comment</b>	<b>Consultant Response</b>
<ul style="list-style-type: none"> <li>• Alternative alignments that are not placed within the Aboriginal Sites Zone of the Precinct;</li> <li>• Alternative alignments that propose reduce works within the Aboriginal Sites Zone of the Precinct; and</li> <li>• Alternative alignments that are further removed from Sites 4, 5 and 6.</li> </ul>	

<b>Assessment Against the '<i>Heritage (Representative Aboriginal Organisations) Declaration 2006</i>' (NI2006-298)</b>	
<b>ACT Heritage Council comment</b>	<b>Consultant Response</b>
<p><u>Notifiable Instrument 2006-298 identifies that RAOs fulfil an important role in the identification and management of Aboriginal places and objects in the ACT, and requires that RAOs are consulted about the heritage significance of Aboriginal places and objects, and the impacts of proposed development on Aboriginal places and objects.</u></p> <p>The revised SHE report does not identify that RAOs have been consulted about:</p> <ul style="list-style-type: none"> <li>• The cultural and heritage significance of Sites 4, 5 and 6;</li> <li>• The potential impacts to Sites 4, 5 and 6 from the proposed works; and</li> </ul>	

<b>Assessment Against the ‘Heritage (Representative Aboriginal Organisations) Declaration 2006’ (NI2006-298)</b>	
<b>ACT Heritage Council comment</b>	<b>Consultant Response</b>
<ul style="list-style-type: none"> <li>• The appropriate management of Sites 4, 5 and 6.</li> </ul> <p>Further, it is noted that the revised SHE report has not been provided to RAOs for draft review; on which basis its findings and recommendations have not been subject to RAO consultation.</p> <p>Further RAO consultation is required to address the above.</p>	



## ACT Heritage Council

# Statement of Heritage Effect Advice

## Under Section 61H of the *Heritage Act 2004*

**TO: Transport Canberra and City Services**  
 Brian Bathgate, Operations Manager  
[brian.bathgate@act.gov.au](mailto:brian.bathgate@act.gov.au)

Applicant Reference: Halls Creek Track  
 Heritage Reference: Hall – B001-S0023  
 Contact Officer: Kate Harrison  
 Received by Council: 18 September 2017  
 and 10 January 2018

Block:	Section:	Division:	Heritage Place:
		Hall	Hall Village Heritage Precinct
			Recorded Aboriginal Places (Site 4, Site 5, Site 6)

Status of Place: Registered Heritage Place and Recorded Aboriginal Places

Description of Works: Construction of Mountain Bike Track along Halls Creek

Report Details: *'Cultural Heritage Assessment and Statement of Heritage Effect, Halls Creek Track, [REDACTED], Hall'* (Navin Officer Heritage Consultants, January 2018)

Council Advice provided by: Secretary / ACT Heritage Manager

Pursuant to Section 61H of the *Heritage Act 2004*, the ACT Heritage Council advises that:

Further information is required under Section 61G(1) of the *Heritage Act 2004*.

### Background:

On 18 September 2017, Transport Canberra and City Services Directorate (TCCS) submitted an application to the ACT Heritage Council (the Council) for approval of a Statement of Heritage Effect (SHE), for the proposed construction of a mountain bike track adjacent to Halls Creek.

The proposed bike track would be constructed within [REDACTED], Hall, and consist of approximately one kilometre of track with an associated bridge or low-level crossing over Halls Creek.

[REDACTED], Hall is located in the Hall Village Heritage Precinct (the Precinct), a registered heritage place in the ACT Heritage Register. Further, the proposed track is located within the 'Aboriginal Sites Zone' of the Precinct, and adjacent to other features intrinsic of the Precinct, including The Village Well, War Memorial Grove and Hall Creek Road Bridge.

The application was supported by a Cultural Heritage Assessment and SHE report prepared by Navin Officer Heritage Consultants (August 2017), which presented the following key findings and recommendations:

- Works would not impact Precinct features including The Village Well (Item 15), War Memorial Grove (Item 1), and Hall Creek Road Bridge (Item 23);

- A heritage inspection of the proposed bike track on 30 June 2017, undertaken by Navin Officer Heritage Consultants and Buru Ngunawal Aboriginal Consultants, did not locate any surface Aboriginal places and objects;
- However, the proposed bike track was assessed on 30 June 2017 as having moderate potential to contain *in situ* archaeological deposits; reflecting prior studies of the Halls Creek Aboriginal Sites Zone;
- While works are planned within an area of archaeological sensitivity, no substantial ground disturbance work is proposed, as the proposed track will be formed by clearing the route of grass to natural ground and as no trees are to be removed. On this basis, it is concluded that works would not alter the heritage significance of the area;
- Subsurface archaeological testing is not recommended as this form of investigation may be more invasive than the proposed construction works. Instead, monitoring of works by heritage personnel is proposed;
- Any Aboriginal objects encountered during works would be salvaged, recorded, and moved to a new location at least five metres away from the constructed bike track; and
- The above findings and recommendations were subject to consultation with Representative Aboriginal Organisations (RAOs), with recommendations discussed with Buru Ngunawal Aboriginal Consultants during the field survey and with a draft report provided for review in August 2017.

On 7 December 2017, the Council provided advice on the SHE application, requesting the following further information in accordance with Section 61G of the *Heritage Act 2004*:

- A detailed description of the proposed activity, including construction methods and impacts;
- A detailed assessment of the archaeological potential of the track area;
- An assessment of potential indirect impacts to The Village Well, War Memorial Grove, Hall Creek Road Bridge; and potential impacts to the Landscape Setting of the Precinct, which is also a feature intrinsic of the place;
- A description of whether other reasonably practicable ways of carrying out the activity at the heritage place are available; and
- Identification of the proposed location where salvaged artefacts would be deposited.

On 15 December 2017, ACT Heritage also notified TCCS of a number of Aboriginal places recently recorded along Halls Creek; and advised that three of these places, being archaeological sites recorded as 'Site 4', 'Site 5' and 'Site 6' were within the proposed bike track area and should be considered by the revised SHE report. At this time, ACT Heritage also advised that RAOs were to be made aware of this new information and be provided with opportunity to comment on the heritage significance and appropriate management of these heritage sites.

In this context, a SHE report was submitted to the Council on 10 January 2018; which set out the following additional information:

- Section 1 identifies that a mini-excavator and hand excavation will be used to clear the proposed track to natural ground, and works are likely to take four to six weeks to complete;
- Section 7 identifies the presence of Sites 4, 5 and 6 within the assessment area, as recorded by a member of the public and reported to ACT Heritage; with detailed site descriptions attached as Appendix 2;
- Section 7 identifies the area of archaeological potential associated with Halls Creek as extending up to 150 metres on either side of the creek;
- Section 10 identifies that works will not impact Sites 4, 5 and 6; with these sites respectively [REDACTED]. Section 10 also identifies that works would not have any direct or indirect impacts on The Village Well, War Memorial Grove, Hall Creek Road Bridge, and the Landscape Setting of the Precinct;
- Section 10.3 states that there are no alternatives to track construction, however, measures have been adopted to reduce heritage impacts, through flexibility in track design to avoid surface sites, use of a mini excavator and hand excavation to reduce heritage impacts, and through the monitoring of works by heritage personnel; and
- Section 10.4.1 identifies a location for deposition of any Aboriginal objects collected during monitoring, located approximately five metres from the track at its western boundary.

#### **Advice:**

Following review of the revised SHE report, the Council notes that:

- RAOs have not been consulted regarding the cultural and heritage significance of Sites 4, 5 and 6, potential impacts to these Aboriginal sites and the appropriate management of those impacts; and the revised SHE report has not been provided to RAOs for review and comment;
- Key information on the proposed activity has not been provided, such as width of the proposed bike track, the depth of excavation required for the bike track, the location and form of the bridge or low level crossing over Halls Creek, the area to be impacted by this crossing and the construction methods for this crossing;
- No assessment of the heritage significance of Sites 4, 5 and 6 has been undertaken against *Heritage Act 2004* criteria;
- The heritage impact assessment does not adequately consider direct and indirect impacts of proposed works to Sites 4, 5 and 6; and the conclusion that these sites will not be impacted is not currently demonstrated by the application;
- The heritage impact assessment does not adequately consider potential indirect impacts to other features of the Precinct, and specifically the Hall Creek Road Bridge;
- Reasonably practicable alternatives to the proposed activity within the heritage place are not adequately explored within the application;

- No measures have been adopted to avoid or minimise impacts to Sites 4, 5 and 6, such as alternate track alignments in the vicinity of these sites or the adoption of protective fencing; and
- Monitoring is not considered an appropriate mitigation strategy in a landform of archaeological potential and with moderate potential *for in situ* deposits; and this proposed approach is not adequately substantiated by the application.

In this context, the Council advises that the SHE application requirements set out in Section 61G of the *Heritage Act 2004* have not been met.

The Council welcomes a revised SHE report that addresses the above; and also the detailed review comments provided in Attachment A to this advice.

Following receipt of this information, the Council will provide further advice on the SHE application made for the proposed Halls Creek bike track.

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

February 2018



ACT Heritage Council

**Attachment A**

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<b>ACT Heritage Council comment</b>	<b>Consultant Response</b>
<p><u>Under Section 61(H)(3) of the Act, the Council must approve a SHE application if it is satisfied on reasonable grounds that: the proposed activity is justifiable at, or near, the place; and, there are no reasonably practicable alternative ways to carry out the proposed activity at the place; and, that reasonable steps have been identified to reduce the risk of diminishing the heritage significance of or damage to the place.</u></p> <p>At this time, further information is required to determine whether there are no reasonably practicable alternative ways to carry out the proposed activity at the place and that reasonable steps have been identified to reduce the risk of diminishing the heritage significance of or damage to the place; as set out in the comments provided below.</p>	
<p><u>Under Section 61(G)(1)(a) of the Act, a SHE application must describe the place/object or Aboriginal place/object to which the application relates (the heritage site).</u></p> <p>Section 8 describes the heritage significance criteria set out in Section 10 of the <i>Heritage Act 2004</i>; however, no assessment of the heritage significance of Sites 4, 5 and 6 against these criteria have been undertaken. This assessment is required to inform decisions on the appropriate management of each site.</p>	

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<p>5 and 6 will not be impacted based on information presented in the application. Further information on proposed works, and further analysis of direct and indirect impacts, is required.</p> <p>Section 10 also concludes that there will be no indirect impacts to The Village Well, War Memorial Grove and Hall Creek Road Bridge; however, no detailed analysis is presented to support this assessment. This should be included, and should specifically consider potential indirect effects to the Hall Creek Road Bridge from potential parking and informal access to the track from Victoria Street.</p>	
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<p><u>Under Section 61(G)(1)(e) of the Act, a SHE application must describe whether other reasonably practicable ways of carrying out the activity at the heritage site are available.</u></p> <p>Section 10.3 states that there is no alternative to track construction, although measures to minimise heritage impacts have been adopted. To support this conclusion, further analysis of alternative track alignments should be presented within the SHE report, including:</p>	

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<b>ACT Heritage Council comment</b>	<b>Consultant Response</b>
<p><u>Notifiable Instrument 2006-298 identifies that RAOs fulfil an important role in the identification and management of Aboriginal places and objects in the ACT, and requires that RAOs are consulted about the heritage significance of Aboriginal places and objects, and the impacts of proposed development on Aboriginal places and objects.</u></p> <p>The revised SHE report does not identify that RAOs have been consulted about:</p> <ul style="list-style-type: none"> <li>• The cultural and heritage significance of Sites 4, 5 and 6;</li> <li>• The potential impacts to Sites 4, 5 and 6 from the proposed works; and</li> </ul>	

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<b>ACT Heritage Council comment</b>	<b>Consultant Response</b>
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ACT Heritage Council  
**Clearance Form**

Advice prepared by: KATE HARRISON

Designation: CONS. OFFICER

Proposal: MOUNTAIN BIKE TRACK

Impact / Concern: CULTURALLY SENSITIVE LOCATION

Recommendation: ADD INFO

Signature: .....

Date: 01 / 02 / 2018

Checked by: Meaghan Russell

Designation: Team Leader - Advice

Comment:

Agree - edits

Signature: .....

Date: 22 / 02 / 2018

Approved by: .....

Designation: .....

Comment:

Signature: .....

Date: 22 / 2 / 2018

**From:** [Alegria, Stephen](#)  
**To:** [Russell, Meaghan](#); [Bathgate, Brian](#)  
**Subject:** RE: ACT Heritage Council advice - Halls Creek bike track SHE application [SEC=UNCLASSIFIED]  
**Date:** Thursday, 22 February 2018 2:25:12 PM  
**Attachments:** [image003.png](#)  
[image004.png](#)  
[image005.png](#)

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Thankyou Meaghan for the comprehensive feedback.

Brian, could you consider and advise me what additional costs are likely to be incurred to meet these requirements.

Thanks

**Stephen Alegria | Director | City Presentation**

**T 02 6207 9833** | M [REDACTED]

City Services | Transport Canberra and City Services Directorate

Level 2 Wotso House, 490 Northbourne Avenue, Dickson ACT | GPO 158, Canberra ACT 2601.

[www.tccs.act.gov.au](http://www.tccs.act.gov.au)

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**From:** Russell, Meaghan  
**Sent:** Thursday, 22 February 2018 2:06 PM  
**To:** Bathgate, Brian <Brian.Bathgate@act.gov.au>  
**Cc:** Alegria, Stephen <Stephen.Alegria@act.gov.au>  
**Subject:** ACT Heritage Council advice - Halls Creek bike track SHE application [SEC=UNCLASSIFIED]

Hello Brian,

Please find attached ACT Heritage Council advice on the revised Halls Creek bike track SHE report, submitted on 10 January 2018.

As set out in the attached, further information is requested – to respond to Council’s original 7 December 2017 advice, and to meet Section 61G application requirements. Further consultation with Representative Aboriginal Organisations is also required in accordance with *Heritage Act 2004* provisions.

To expedite further assessment of this application, are you available to meet with ACT Heritage to discuss the project and SHE report? At this stage, we are available at the following times:

- Monday 26 February – between 1pm and 4pm; or
- Tuesday 27 February – between 2pm and 3pm; or

- Wednesday 28 February – between 9.30am and 11am, or 3pm to 4pm.

Please let me know what time suits you, and I will send a calendar invite.

Regards,  
Meaghan

**Meaghan Russell** | Team Leader (Advice)

Phone: 02 6205 5497 | Email: [meaghan.russell@act.gov.au](mailto:meaghan.russell@act.gov.au)

**ACT Heritage | Environment, Planning and Sustainable Development Directorate | ACT Government**

Dame Pattie Menzies House 16 Challis Street Dickson | GPO Box 158 Canberra ACT 2601

[www.environment.act.gov.au](http://www.environment.act.gov.au)



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[facebook.com/EnvironPlan](https://facebook.com/EnvironPlan)

**From:** [Russell, Meaghan](#)  
**To:** [Alegria, Stephen](#)  
**Cc:** [Bathgate, Brian](#)  
**Subject:** Aboriginal heritage site notification - Halls Creek [SEC=UNCLASSIFIED]  
**Date:** Wednesday, 21 March 2018 5:48:00 PM  
**Attachments:** [20180317 - Jan Klaver report - New Aboriginal artefact finds Halls Creek Bike Track Area.pdf](#)  
[image001.png](#)  
[image002.png](#)

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Hello Stephen,

ACT Heritage recently received notification of one additional Aboriginal place recorded along Halls Creek – described as ‘New Site 10’ in the attached document. One additional artefact was also recorded within ‘New Site 4’, as also described in the attached.

As these new discoveries are relevant to the proposed bike track within the Halls Creek Aboriginal Sites Zone, could you please ensure that this new information is incorporated into the SHE report currently being amended.

Regards,

Meaghan

**Meaghan Russell** | Team Leader (Advice)

Phone: 02 6205 5497 | Email: [meaghan.russell@act.gov.au](mailto:meaghan.russell@act.gov.au)

**ACT Heritage | Environment, Planning and Sustainable Development Directorate | ACT Government**

Dame Pattie Menzies House 16 Challis Street Dickson | GPO Box 158 Canberra ACT 2601

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### **Additional Aboriginal Artefact Finds in the Proposed Halls Creek Bike Track Area**

During a walk on 13 March, two unreported Aboriginal artefacts were observed in the proposed Halls Creek Bike Track area, in addition to the three in that area reported in December 2017 and the additional one (Site 9) reported there in January 2018. In both cases the new finds were visible in soils exposed by uplift around the trunk of a tree.

#### **Additional Artefact**

The additional artefact was only about 15cm away from the previous find (reported as a chert backed blade), in exposed soil 10cm from the trunk of a mature pine tree. The additional artefact is an elongate flake measuring 15x8x3mm with a hinged distal termination. It appears to have been exposed through scratching by one of the wallabies that frequents the area.

A closer inspection on 14 March with a 10x lens suggests that both the previous backed blade and the new find are probably made silcrete, with some grains visible, although in both cases it is highly weathered and looks almost white.



Artefact 2, ventral



Artefact 2, dorsal

**New Site** [redacted]

A broken blade of grey silcrete measuring about 17x12x3mm was located in soil exposed at the base of a mature stringy bark gum tree [redacted]  
[redacted]

The distal tip has snapped off. This silcrete is grey, and not as weathered as that in the [redacted] artefacts. One margin has fine serrations, possibly use wear.

The location [redacted]  
[redacted]



[redacted] Artefact, ventral



[redacted] Artefact, dorsal

Regards

Jan Klaver

17/3/2018



# Cultural Heritage Assessment and

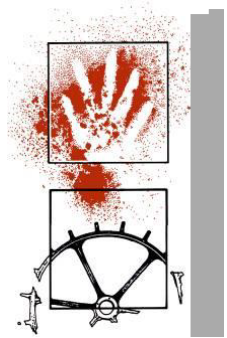
# Statement of Heritage Effect

## Halls Creek Track

 Hall



June 2018



**Navin  
Officer**

*heritage  
consultants Pty Ltd*

*acn 092 901 605*

*Number 4  
Kingston Warehouse  
71 Leichhardt St.  
Kingston ACT 2604*

[www.nohc.com.au](http://www.nohc.com.au)

A Report to Place Management, City Presentation  
Transport Canberra and City Services Directorate

*ph 02 6282 9415  
fx 02 6282 9416*

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Nicola Hayes	v3	Following ACT Heritage Council Advice	January 2018
Nicola Hayes	v4	Following further ACT Heritage Council Advice	April 2018
Nicola Hayes	v5	Following additional RAO consultation	June 2018

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*Cover photographs: NOHC June 2017*

## EXECUTIVE SUMMARY

The study area is located in [REDACTED], Hall in the Village of Hall in the Australian Capital Territory.

The project involves the construction of a mountain bike track to the south of Hall Creek park on the corner of Gladstone and Victoria Street, Hall. It is proposed to construct approximately one kilometre of track. Construction includes the clearing of the track route of grass to natural ground, the depth will be to approximately 50 millimetres. The width of the track is 1.2 metres. The project includes the construction of a low-level crossing over Halls Creek. No trees will be removed, and no substantial ground disturbance is proposed. The works are likely to take 4 to 6 weeks to complete.

No Aboriginal or non-Aboriginal sites were identified during the field survey undertaken in June 2017. Subsequently a member of the public located several Aboriginal artefacts in the vicinity of the proposal.

[REDACTED]  
[REDACTED]

The sites consisted of:

**Site 4.** [REDACTED]  
[REDACTED]

**Site 5.** [REDACTED]

**Site 6.** [REDACTED]

The study area is located in an area listed as an Aboriginal sites zone as part of the Hall Precinct Listing on the ACT Heritage Register. It is assessed that there is moderate potential for there to be Aboriginal sites located along Halls Creek within the identified zone, and moderate potential for those sites to be in-situ below the disturbed and bioturbated 5-10 centimetre zone

The Aboriginal sites zone will be impacted by the project. Impacts from the project are assessed to be minimal.

The Hall Village Heritage Precinct is included on the ACT Heritage Places Register. The listing includes the current study area. The features intrinsic to the heritage significance of the place and recommended for conservation comprise:

- (i) The 'rural village' urban landscape character of Hall Village;
- (ii) The informal streetscape character consistent with a rural village;
- (iii) The landscape setting of Hall Village;
- (iv) Individually identified built heritage places of collective historic and social value; and
- (v) Natural and Aboriginal Heritage values of the environs around Hall Village.

The Village Well (item 15), War Memorial Grove (item 1) and Hall Creek Road Bridge (item 23) are located within or immediately adjacent to the study area block [REDACTED]. These items are listed as a *Place of Specific Value within the Hall Village Precinct*.

None of these items will be directly impacted by the project. It is assessed that there will be no indirect impacts from the project on these items.

### Recommendations

No further archaeological investigation is required for this project.

*It is recommended that:*

1. This Statement of Heritage Effect is required to be approved by the ACT Heritage Council before works can commence.
2. In order to mitigate against any impact to sites during construction, the protocol outlined in Section 10.4.1 will be enacted during the construction of the track.
3. The unanticipated discovery protocols included in Appendix 3 should be implemented for this project.
4. A copy of this report should be provided to the ACT Heritage.

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## 1. INTRODUCTION

### 1.1 Study Area Location

The study area is located in [REDACTED] Hall in the Village of Hall in the Australian Capital Territory (Figure 1.1).

### 1.2 Project Description

A community effort since 2016 in Hall has created a vision and raised funds to develop a children's bike track in the village. The nature of the track proposed is one that would be suitable for gentle recreational activity by people of all ages. The fund raising involved initiative and effort from the community in general and the Rotary Club of Hall in particular. The reason for the track is to provide a place for recreation within Hall Village that can easily be access by all ages. This is a wholly community initiated project.

The project involves the construction of a mountain bike track to the south of Hall Creek park on the corner of Gladstone and Victoria Street, Hall. It is proposed to construct approximately one kilometre of track (Figure 1.2).

Construction includes the clearing of the track route of grass to natural ground, the depth will be to approximately 50 millimetres. The width of the track is 1.2 metres. The track will be constructed using a mini excavator and also some hand excavation

The project includes the construction of a low-level crossing over Halls Creek. This will involve the installation of a steel platform over the creek. The platform will be fixed in place on either side of the creek on natural ground and with 1200mm deep friction piles driven in place, see Figures 1.3 to 1.5.

No trees will be removed, and no substantial ground disturbance is proposed.

The works are likely to take 4 to 6 weeks to complete.

This report documents the results of a cultural heritage assessment of the proposed Halls Creek track. The report was commissioned by the Place Management, City Presentation, Transport Canberra and City Services Directorate, ACT Government.

### 1.3 Heritage Status of the Halls Creek Study Area

The Hall Village Heritage Precinct is included on the ACT Heritage Places Register. The listing includes the current study area. The features intrinsic to the heritage significance of the place and recommended for conservation comprise:

- (vi) The 'rural village' urban landscape character of Hall Village;
- (vii) The informal streetscape character consistent with a rural village;
- (viii) The landscape setting of Hall Village;
- (ix) Individually identified built heritage places of collective historic and social value; and
- (x) Natural and Aboriginal Heritage values of the environs around Hall Village.

The Village Well located south of Gladstone Street within the study area block [REDACTED] is listed as a *Place of Specific Value within the Hall Village Precinct*.

An Aboriginal Sites Zone located in the vicinity of Hall Creek within the study area block [REDACTED]



## 1.4 This Report

### 1.4.1 Outline

This report:

- Describes the proposed works (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 a heritage context for the study area (Sections 5 and 6);
- Describes the results of the data review, field survey and Aboriginal consultation program conducted in the context of the assessment (Section 7);
- Assesses the significance of the cultural heritage identified within the Halls Creek study area (Section 8);
- Provides a statutory information as it relates to the cultural heritage identified within the Halls Creek study area (Section 9); and
- Provides management recommendations based on the results of the investigation (Section 10).

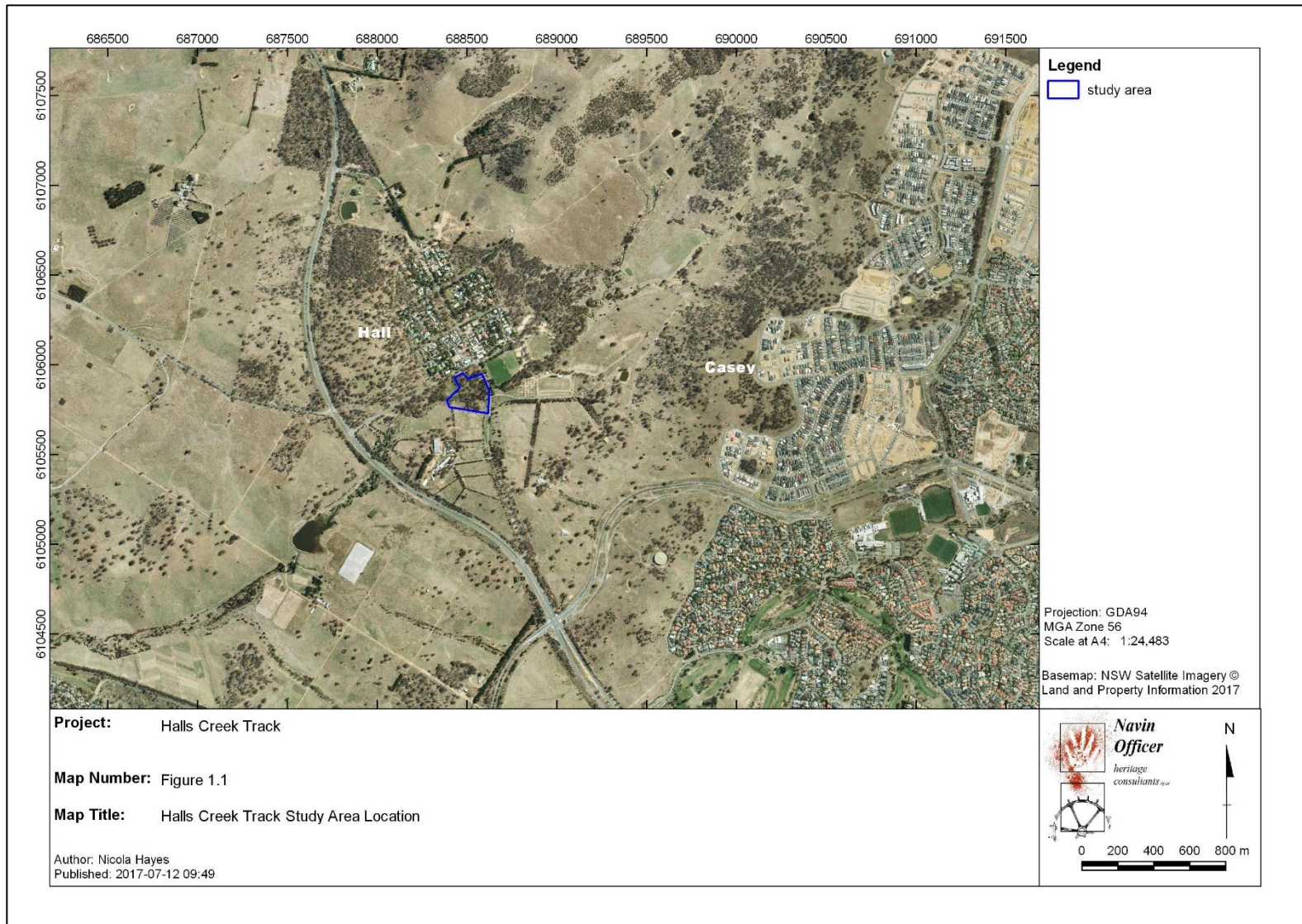
### 1.4.2 Restricted Information

Information in this report relating to the exact location of Aboriginal sites should not be published or promoted in the public domain. Figure 3.1 should be restricted in a public version of this document.

No information provided by Aboriginal stakeholders in this report has been specifically identified as requiring access restrictions due to its cultural sensitivity.

### 1.4.3 Confidentiality

No information in this report has been classified as confidential.



**Figure 1.1 Location of the Halls Creek Track Study Area**



Figure 1.2 Approximate location of the proposed track, Hall

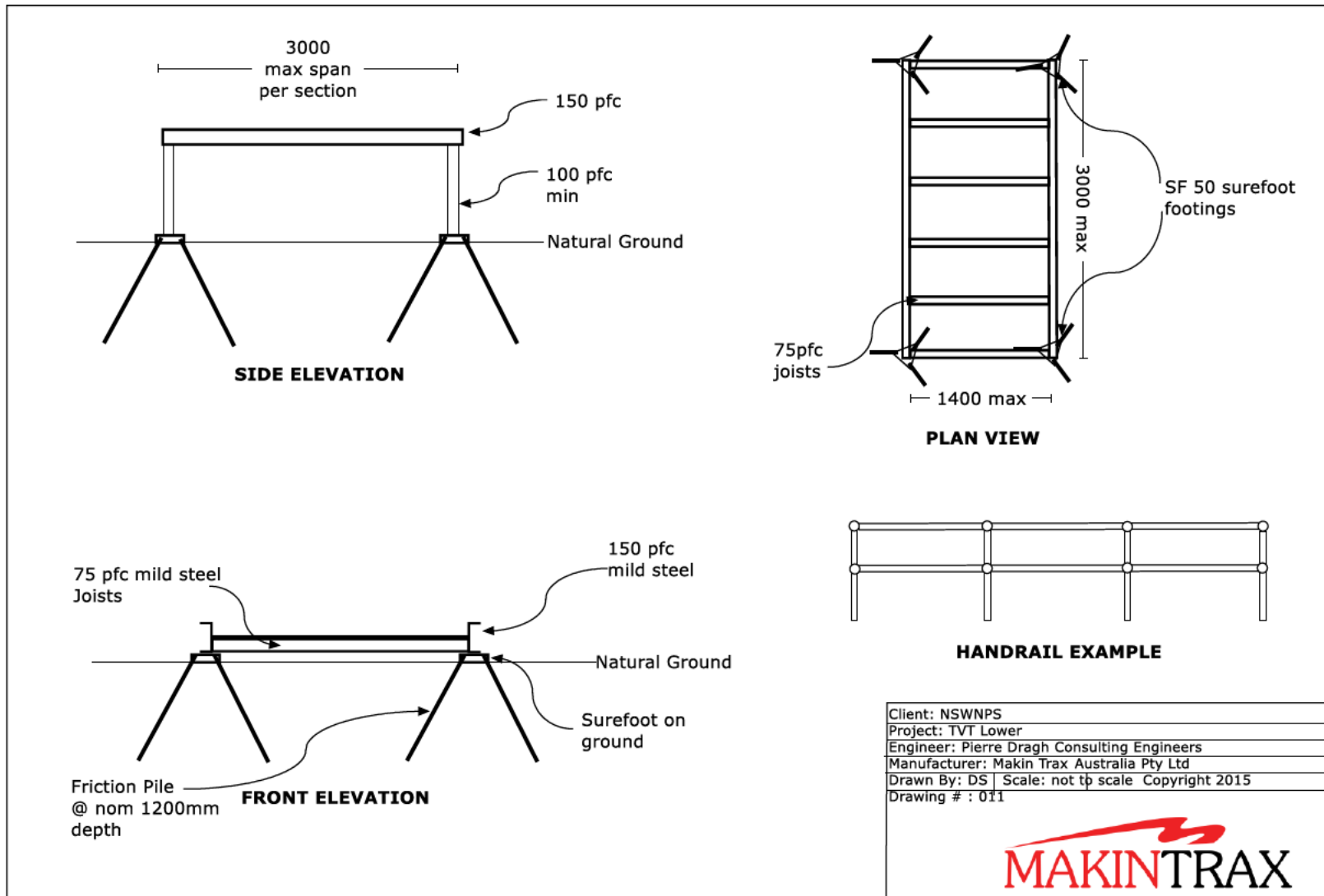


Figure 1.3 Design of low level crossing



**Figure 1.4 Installation of platform**



**Figure 1.5 Installation of platform**



## 2. RESEARCH DESIGN AND METHODOLOGY

### 2.1 Literature and Database Review

A range of archaeological and historical data was reviewed for the Hall Creek track study area and its surrounds. This literature and data review was used to determine if known Aboriginal and historical 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, and archaeological reports.

Literature sources included the Heritage Registers maintained by the Australian Heritage Council, (Federal) Department of Environment and the Heritage Registers and associated reports held by ACT Heritage, ACT Department of Environment, Planning and Sustainable Development Directorate. Regional and local histories and heritage studies were also reviewed.

Searches were undertaken of the following statutory and non-statutory heritage registers and schedules:

- Statutory Listings:
  - : World Heritage List;
  - : The National Heritage List (Australian Heritage Council);
  - : The Commonwealth Heritage List (Australian Heritage Council);
  - : The Heritage Register (ACT Heritage Council); and
  - : National Historical Shipwreck Register and Database (NSW Heritage Office);
- Non-Statutory Listings:
  - : The Register of the National Estate (Australian Heritage Council);
  - : Register of the National Trust of Australia (ACT);
  - : Australian Institute of Architects, Heritage Buildings List; and
  - : Engineers Australia (Engineering Heritage Recognition Program).

### 2.2 Fieldwork and Project Personnel

The field survey of the study area was undertaken on the 30<sup>th</sup> June 2017 by Archaeologist Nicola Hayes. Aboriginal representative Justin Bell from Buru Ngunawal Aboriginal corporation participated in the field survey.

ACT Government representative Brian Bathgate also took part in the field survey along with xxxx.

Nicola Hayes compiled this report with internal review by Julia Maskell.

### 2.3 Recording Parameters

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



### 2.4.1 Aboriginal Sites and PADs

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 south eastern 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 including stone artefact occurrences and potential archaeological deposits 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.

#### *Isolated finds*

An isolated find is a single stone artefact, not located within a rock shelter, and which occurs without any associated evidence of Aboriginal occupation within a radius of 60 metres. Isolated finds may be indicative of:

- Random loss or deliberate discard of a single artefact;
- The remnant of a now dispersed and disturbed artefact scatter; and
- An otherwise obscured or sub-surface artefact scatter.

Except in the case of the latter, isolated finds may be considered to be constituent components of the *background scatter* present within any particular landform.

The distance used to define an isolated artefact varies according to the survey objectives, the incidence of ground surface exposure, the extent of ground surface disturbance, and estimates of *background scatter* or *background discard* densities. In the absence of baseline information relating to background scatter densities, the defining distance for an isolated find must be based on methodological and visibility considerations. Given the varied incidence of ground surface exposure and deposit disturbance within the study area, and the lack of background baseline data, the specification of 60 metres is considered to be an effective parameter for surface survey methodologies. This distance provides a balance between detecting fine scale patterns of Aboriginal occupation and avoiding environmental biases caused by ground disturbance or high ground surface exposure rates. The 60 metre parameter has provided an effective separation of low density artefact occurrences in similar southeast Australian topographies outside of semi-arid landscapes.

#### *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.

### *Artefact scatters*

Artefacts situated within an open context are classed as an open artefact scatter (or 'open camp site') when two or more occur no more than 60 metres away from any other constituent artefact. The 60 metre specification relates back to the definition of an isolated find (*Refer above*). The use of the term *scatter* is intended only to be descriptive of the current archaeological evidence and does not infer the original human behaviour which formed the site. The term *open camp site* has been used extensively in the past to describe open artefact scatters. This was based on ethnographic modelling suggesting that most artefact occurrences resulted from activities at camp sites. However, in order to separate the description from the interpretation of field evidence, the terms *artefact scatter*, *artefact distribution* or *artefact occurrence* are now more extensively used. The latter two options can also be used to categorise artefacts occurring in sub-surface contexts.

### **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 2.1 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 2.1** Matrix showing the basis for assessing the archaeological potential (shown in bolded black text) of a potential archaeological deposit.

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



### 2.3.2 Historical Sites and Features

Historical archaeology refers to the 'post-contact' period and includes: domestic, commercial and industrial sites as well as most maritime sites. It is the study of the past using physical evidence in conjunction with historical sources. The two primary types of places or items that may form part of the historical archaeology context include:

1. Below ground evidence, including building foundations, occupation deposits, features and artefacts; and above ground evidence, including buildings, works, industrial structures and relics that are intact or ruined; and
2. Areas of land that display evidence of human activity or occupation.

Within these broad parameters, an historical archaeological site may include:

- Topographical features and evidence of past environments (that is, resident in pollens and diatoms);
- Evidence of site formation, evolution, redundancy and abandonment (that is, features and materials associated with land reclamation, sequences of structural development, demolition/deconstruction, and renewal);
- Evidence of function and activities according to historical theme/s represented (for example, an industrial site may contain diagnostic evidence of process, products and by-products);
- Evidence associated with domestic occupation including household items and consumables, ornaments, personal effects and toys;
- Evidence of diet including animal and fish bones, and plant residues;
- Evidence of pastimes and occupations including tools of trade and the often fragmentary signatures of these activities and processes;
- Methods of waste disposal and sanitation, including the waste itself which may contain discarded elements from all classes of artefact as well as indicators of diet and pathology; and
- Any surviving physical evidence of the interplay between site environment and people.

The information found in historical archaeological sites is often part of a bigger picture which offers opportunities to compare and contrast results between sites. The most common comparisons are made at the local level, however, due to advances in research and the increasing sophistication and standardisation of methods of data collection, the capacity for wider reference (nationally and, occasionally, internationally) exists and places added emphasis on identification and conservation of historical archaeological resources.

### 2.4 Study Limitations

Archaeological assessments commissioned for development projects are restricted to the specific footprint that will be impacted by the project. The area of land being assessed is specifically constrained, and in many cases will not representatively sample the different landforms found across the wider region being studied. Therefore, a full picture of the archaeology of an area cannot be gained or assumed by this type of assessment.

These limitations will usually become less pronounced as further assessments are carried out in a region, since additional sites are assessed. A systematic bias in the data can still easily occur if the patches of ground are concentrated in one landform type over another. This could be the case if the assessments relate to development projects which preferentially occur on specific landforms.

Data on uses of the land by Aboriginal groups in the post-contact period, including the present day, might be limited if activities practised by Aboriginal groups have not been reported in the public domain



or to NOHC. This could occur if land use practises are associated with knowledge that is culturally restricted.

## 2.5 Glossary

<b>Aboriginal Object</b>	means an object associated with Aboriginal people because of Aboriginal tradition (Heritage Act 2004).
<b>Aboriginal Place</b>	means a place associated with Aboriginal people because of Aboriginal tradition (Heritage Act 2004).
<b>Aboriginal site</b>	a place or location which relates to past or contemporary Aboriginal occupation. Sites can be divided into those identified from archaeological evidence (archaeological sites), and those related to intangible cultural values, such as revealed by oral tradition and lore, or from the historical record. An Aboriginal site may have both archaeological and intangible values.
<b>archaeological site</b>	a place or location with the confirmed presence of archaeological evidence of Aboriginal occupation, where the context of that evidence can be reliably related to the Aboriginal actions which produced the evidence.
<b>artefact</b>	an object, normally portable, made or modified by human hand (see 'stone artefact').
<b>artefact occurrence</b>	a term usually applied to site recordings comprising stone artefacts and which refers to one or more stone artefacts situated within a specified surface area or subsurface deposit. Various measures are used for defining the boundaries of such recordings. Refer also to 'surface' and 'subsurface artefact occurrence'.
<b>artefact scatter</b>	a formerly used open site-type classification defined as two or more stone artefacts situated no more than a specified distance (such as 60m) away from any other included artefact. Typically this category did not include isolated finds. The use of the term <i>scatter</i> was intended only to be descriptive and did not infer the original human behaviour which formed the site. The term <i>open camp site</i> has been used extensively in the past to describe open artefact scatters.
<b>background discard or scatter</b>	<p>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 unfocussed activity is occasional isolated discard of artefacts during travel along a route or pathway. Examples of 'focussed activity' are camping, knapping and heat-treating stone, cooking in a hearth, and processing food with stone tools.</p> <p>In practical terms, over a period of thousands of years an accumulation of 'unfocussed' 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.</p>
<b>bioturbation</b>	the disturbance of sedimentary deposits by living organisms



<b>isolated find</b>	a single stone artefact, not located within a rock shelter, and which occurs without any associated evidence of Aboriginal occupation within a specified radius, such as 60 metres (depending on which archaeological convention is used). Isolated finds may represent single discard events, be constituent components of background scatter, or be indicative of larger obscured, remnant and disturbed sites.
<b>lithic assemblage (of stone)</b>	a collection of whole and fragmentary stone artefacts and manuports obtained from an archaeological site, either by collecting items scattered on the present ground surface (see lithic scatter) or by controlled excavation (see also 'stone artefact').
<b>modified tree</b>	an Aboriginal archaeological site type classification which includes all trees considered to have been modified by an Aboriginal action. Most modified tree recordings are of <i>scarred trees</i> , which display scarring that resulted from the removal of bark or wood. Rarer types include trees with evidence of carved motifs and designs, foot and hand holds, extraction of animals, or deliberate manipulation of growth form.
<b>open camp site</b>	a formerly used site type classification defined as an open context stone artefact occurrence (or artefact scatter), containing two or more artefacts situated no more than a specified arbitrary distance (such as 60 metres) away from any other included artefact. The term <i>open camp site</i> was based on ethnographic modelling suggesting that most artefact occurrences resulted from activities at camp sites. However, in order to separate the description from the interpretation of field evidence, both open camp sites and isolated finds are now referred to as <i>artefact occurrences</i> .
<b>potential archaeological deposit (PAD)</b>	A discrete location or area, defined spatially either by geomorphological, disturbance or administrative criteria, within which there is a predicted likelihood that subsurface archaeological material is present, and that this material would warrant archaeological investigation in order to determine its scientific, cultural, or statutory value and status.
<b>RAOs</b>	Representative Aboriginal Organisations
<b>scarred tree</b>	A tree with a scar or scars of assessed Aboriginal origin. Most such scars are the result of the removal of bark or wood. The identification of a scar as Aboriginal in origin is dependent on a set of inter-related interpretive criteria, and is often associated with varying degrees of recorder confidence or surety. For this reason classifications are often prefixed as possible, probable or most likely. The credibility of alternative causal explanations such as natural traumas and other types of human scarring must be tested for each scar. Scarred trees are now included in the more inclusive site type classification of <i>modified tree</i> .
<b>SHE</b>	Statement of Heritage Effect
<b>study area</b>	the area for which the assessment is being undertaken.



### 3. ENVIRONMENTAL CONTEXT

The study area is located in [REDACTED], Hall, [REDACTED]. The study area is located on the northern and southern valley floor and banks of Halls Creek.

The geology of the Hall area is dominated by Late Silurian porphyritic volcanic rocks belonging to the Mount Ainslie Volcanics, chiefly dacite and rhyolite. These rocks have folded into a broad syncline with its axis running northeast to southwest. Halls Creek drains southwards approximately along this axis. Small outcrops of sedimentary shale and siltstone of late Silurian age belonging to the Canberra Formation occur to the north and east of Halls Creek valley and are interbedded with the volcanics (Anutech 1984, NCDC 1975, Canberra 1:100,000 BMR series geological map).

The base of the Halls Creek valley is mantled by deep unconsolidated Quaternary colluvium, slopewash deposits and minor creek alluvium, derived from the weathered products of the mainly volcanic slopes. Deep duplex soils with a distinct clay subsoil have developed on the valley floor. These are mostly yellow podsollic soils overlying gleyed podsolics.

Extensive soil erosion has occurred along Halls Creek. Downcutting in the creek gully appears to have now stopped and active erosion is now occurring as a process of gully widening either through undercutting of banks, secondary gullying, or removal of subsoil from seepage and subsequent collapse of overlying soil.

The extensive entrenchment and widening of Halls Creek drainage line is almost certainly a result of historic land use practices. None of the original nineteenth century Crown surveys of the portions near the study area indicate creek entrenchment or deep gullying. The loss of the original sediments and soil margins of Halls Creek may have significantly diminished the survival of Aboriginal sites within these riparian zones.

The Halls Creek valley floor and associated basal slopes form a relatively flat to low gradient topographic unit with a narrow alluvial plain along the lower sections of Halls Creek and adjacent rolling terrain and broad spur lines and knolls.

Vegetation comprises predominantly introduced grasses and exotic trees. Some remnant isolated old growth Eucalypts are scattered around the area and regenerating eucalypts and shrubs are present along the creek and flats.

#### 3.1 Land Use and Possible Effects on the Archaeological Record

European land use has resulted in changes in the rate and character of erosion and sedimentation along Halls Creek. Land surface disturbance within the study area has resulted from:

- native vegetation clearance;
- (possible) early cultivation of the alluvial flats;
- establishment of exotic and 'improved' pasture grasses;
- soil erosion, particularly evident in the form of the entrenched and gullied drainage line, and deposition of historic sediments in valley floor contexts;
- excavation of a dam and placement of the excavated material on the showground to level the ground;
- general ground surface levelling;
- construction of fence lines, minor roads and tracks, buildings, show rings; and
- installation of overhead and underground services.



This land use history will have significantly impacted the survival and integrity of the prehistoric and historic archaeological record. It is probable that most surface scatters of Aboriginal stone artefacts which occur within the uppermost soil layers will have undergone varying degrees of horizontal and vertical disturbance.

Historic sites and features may have been adversely impacted by clearance and levelling and deliberate demolition or replacement of fence lines and structures.



**Figure 3.1 View west along Halls Creek showing gully and erosion of the creek to bedrock**



**Figure 3.2 View showing regrowth and grass cover typical of the study area**



## 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 northern Canberra area fell within the tribal boundaries of the Ngunnawal people. There is some uncertainty as to which language was spoken by the Aboriginal people 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 Aboriginal people 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 indigenous 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 Evidence of RAO Consultation

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

As a result, Justin Bell from Buru Ngunawal participated in the fieldwork program and represented the interests of their group in the project. *Records of Aboriginal Field Participation* are provided in Appendix 1.

A draft copy of this report was provided to the RAOs for comment on 1 August 2017, no comments were received.

This report was resent on the 24<sup>th</sup> May 2018 and followed up with the RAOs via phone on the 13<sup>th</sup> June 2018. We were unable to get in contact with the representatives for the Ngarigu Currawong Clan and Mirrabei. The RAOs were able to contact stressed the importance of maintaining Aboriginal places for their spiritual and cultural significance. The representative for King Brown Tribal Group agreed with the findings of the report and the recommendations for minimising harm as proposed by NOHC.

The representative for Buru Ngunawal, Wally Bell, provided a written response, this is included in Appendix 1. Further clarification from Wally was sought by phone regarding the BNAC request that “*further investigation be undertaken which will minimise potential impacts/damage occurring on those objects*”. Wally clarified that his intent was to avoid impact not to undertake subsurface investigation. As a result changes were made to section **10.4.1 Mitigation strategies** including adding the following:

Representatives of the track constructors will be present during this initial investigation so that they have an on-site understanding of the location of artefacts.

An archaeologist and representatives of the RAOs will be present on-site during the scraping back of surface vegetation by the mini excavator and hand excavation.

Discussion with Wally also occurred on the protocol to follow on the movement of any artefact encountered during the scraping back of surface vegetation. Wally reiterated that Buru Ngunawal wanted artefacts to stay on site and that moving them off the track was the best approach as opposed to prescribing a return to country location.

**Table 4.1** Consultation Log

Date	Type of Contact (email, phone etc)	Group/Individual	Comment/Action
20/6/17	Email, post	all	Invitations to participate in the field survey
30/6/17	Field participation	Justin Bell	
1/8/17	Post	all	Draft report sent to each groups with a request for comment.
24/5/18	Post	all	Draft report sent to each group with a request for comment and response form.
13/6/18	Phone	all	Called each group to follow up report, with request for comment.
19/6/18	Phone	Wally Bell	Clarification of advice letter



## 5. ARCHAEOLOGICAL CONTEXT

### 5.1 Regional Overview

Prior to May 1992 there had been no comprehensive and systematic archaeological surveys carried out in northern Canberra. Information about both the history and prehistory of the area was contained in mostly disparate sources. Most of the archaeological investigations carried out in the area had been small in scale and limited to confined areas under threat of impact by particular infrastructure developments.

Lyall Gillespie's (1972) report on the Aborigines of the Gungahlin area was one of the first such reports produced for the area. The Canberra Archaeological Society (CAS) (Bindon & Pike 1979, revised 1989) conducted the first archaeological survey in the northern Canberra area in 1975-76. The survey located 'seven sites' and a larger number of 'less significant finds'.

The CAS results were re-assessed by Anutech (1984) who concluded that nine sites and fifteen isolated finds had been located by the Canberra Archaeological Society.

Other surveys by the Canberra Archaeological Society added substantially to the database of both prehistoric and historic archaeological information for the area (Witter 1984; CAS 1984; Winston Gregson 1986).

More generalised studies were conducted for the EIS prepared for the Gungahlin development release area (Anutech 1984, NCDC 1989) and for the compilation of the Sites of Significance volume on Gungahlin and Belconnen (NCDC 1988). The present Hall study area was included in the area assessed for the 1989 EIS.

The Anutech investigation identified only five previously unrecorded sites (none of which occur in the present study area). The study also identified several general consistencies in site location. A majority of sites were classed as located on creek banks, on low-lying but well-drained areas, and within 150 m of the junction of two creeks. This was postulated to indicate a preference for topographically confined parts of valley floors where protection from wind is greatest. At a majority of sites, artefactual material was exposed as sub-surface material eroding from A horizon sediments (Anutech 1984:24).

Although this model was considered to be incorrect by some researchers (Access Archaeology 1991:8) further comparative work by Navin and Officer (1991, 1992) tends to confirm the locational model proposed by Anutech. The majority of open artefact scatters, particularly larger sites, are situated adjacent to or in close proximity to creek flats or valley bottom contexts, frequently on low gradient basal slopes adjacent to streams.

As a direct consequence of the enactment of heritage legislation in the ACT - The Land (Planning and Environment) Act 1991 - the amount of cultural heritage assessment and investigation in the ACT increased markedly.

With the release of large areas of land for urban development in Gungahlin several larger scale systematic archaeological surveys were undertaken to define the archaeological resource of the subject areas (e.g. Officer & Navin 1992; Kuskie 1992; Wood & Paton 1992). Numerous other archaeological assessments have been carried out for smaller land areas which were likely to be affected by specific proposed developments such as roads, golf courses, water storage facilities, pipelines etc.

These surveys have resulted in the location of numerous archaeological sites in northern Canberra. The most common site type is the open artefact scatter, however scarred trees, grinding grooves, a possible ochre source and lithic raw material sources have also been identified in the area.



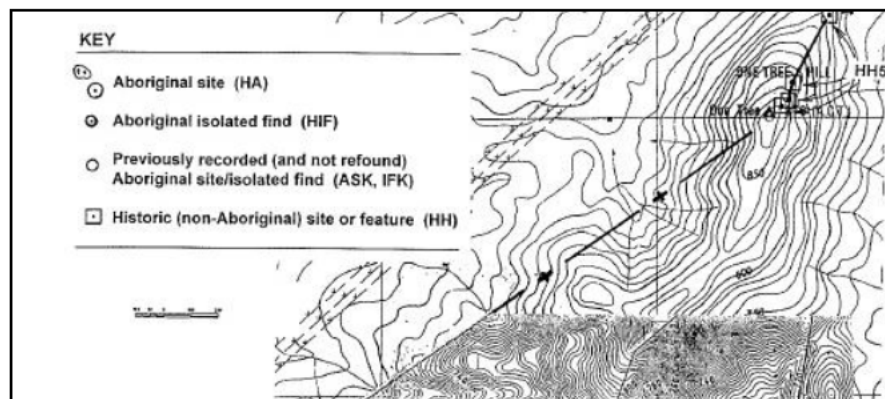
## 5.2 Related Reports and Information

Hall was included in the area surveyed in 1975 by the Canberra Archaeological Society (Bindon & Pike 1979, revised 1989) and in the area surveyed in 1984 by Anutech for the Gungahlin EIS (Anutech 1984). However, these surveys were preliminary and few sites were located as a result of the investigations.

Huys and Johnston comprehensively surveyed the proposed suburb of Kinleyside, in May 1995 (Huys and Johnston 1995). Kinleyside is located to the east of Hall Village. Six open artefact scatters (ASK1-6) and four isolated finds were identified by Huys and Johnston within the suburb of Kinleyside, with a total of thirty-one artefacts recorded in the area.

Navin Officer Heritage Consultants (NOHC) undertook a cultural heritage assessment of the proposed Hall Rural Estate in 1998. The Hall Rural Estate is located to the north and east of Hall Village and includes the proposed suburb of Kinleyside. A total of twenty Aboriginal sites (HA1-HA19 and ASK1) and seventeen Aboriginal isolated finds (HA Isolated Find 1-13, and IFK1-4) were identified in the study area (Figure 5.1).

The Hall Village Heritage Precinct is included on the ACT Heritage Places Register. The listing includes the current study area. An Aboriginal Sites Zone located in the vicinity of Hall Creek within the study area block [REDACTED]



**Figure 5.1 Sites Located during the cultural heritage assessment of the proposed Hall Rural Estate in 1998, current study area blue outline**



### 5.3 Predictive Archaeological Model – Aboriginal Heritage

As a result of the numerous archaeological surveys undertaken to date in the Gungahlin area, qualitative observations regarding Indigenous site location parameters may be summarised as follows:

- Artefact occurrences (such as artefact scatters and isolated finds) in open contexts are the most common archaeological recording type;
- Artefact densities (both on the ground surface and within the soil profile) in open artefact scatters may vary considerably;
- Open artefact scatters are most likely to occur on relatively level ground, in locally well-drained contexts, in relative proximity to a natural fresh-water source. Landforms on which open artefact scatters are likely to occur include elevated creek and river banks, low gradient basal slopes adjacent to creeks and rivers, terrace edges, and the crests of ridges and spurs;
- The majority of open artefact scatters, (particularly larger sites), are situated adjacent to, or in close proximity to, creek flats or valley bottom contexts, frequently on low gradient basal slopes adjacent to streams or wetlands;
- Open artefact scatters which contain relatively large artefact assemblages and densities occur most frequently and consistently within 100-150 m of major and relatively permanent drainage lines;
- Open artefact scatters which occur away from basal valley contexts and major streams and tributaries tend to be small and sparse in artefact content;
- Open artefact scatters may be more likely to be present at major confluences and valley constrictions;
- Most sites located away from major water sources will consist of low density scatters of artefacts, and mostly contain less than 10 visible surface artefacts;
- Artefacts may occur wherever surface exposures of exploited rock occur, rock sources which are known to have been exploited in the ACT include chalcedony, chert, quartz and fine grained igneous rocks such as fine-grained porphyry and fine-grained intrusives within granodiorite;
- Some natural exposures of fine grained siliceous rocks are unassociated with evidence for Aboriginal exploitation of that resource;
- Aboriginal scarred trees may occur anywhere old-growth trees survive. It is probable that such trees would date to no later than the 1850s and 1860s. Tree scars with an Aboriginal origin would therefore have to be at least in the order of 160 years old; and
- Arising from the results of the subsurface investigations at several PAD and non-PAD locations in Casey 1, it is predicted that in upper catchment contexts characterised by non-permanent water sources and first or second order streamlines and relatively low undulating landforms with open valley floors; the archaeological resource will consist of very low density and discontinuous occurrences of stone artefacts (with a low proportion present in subsurface contexts), in locations which in other regards, mostly comply with the general location model of locally elevated, relatively level ground situated in relative proximity to (non-permanent) water, or on major spurline or watershed crests.
- The results of cultural heritage assessments conducted for Casey 1 and Casey 2 indicate that artefacts rarely occur along the banks of first and second order upper catchment drainage lines where these contexts are not locally elevated relative to the surrounding ground.



## 6. HISTORICAL CONTEXT

### 6.1 Regional Overview

The first documentation of Europeans in the northern Canberra area is in 1820 and 1821 when exploratory expeditions in search of the Murrumbidgee River passed through the area (Gillespie 1985). By the mid 1820's the first settlers, squatters and graziers had moved into the Canberra district, some individuals obtaining crown and compensatory land grants.

As part of the initial settlement of the Limestone Plains from 1824 onwards the relatively well-watered, rolling back country drained by Sullivans Creek and Ginninderra Creek, were subject to land grants and purchases. Some of these were to men whose principal holdings lay on the Molonglo (such as Campbell and Moore), others were to George Palmer, John Langdon, Johnston, Popham, Sturt, Morrisett and Henry Hall (Gillespie 1985). Palmer's holdings and private village at Ginninderra, and Hall's 'Charnwood' property of 3462 acres were the closest grants to the present study area.

Palmer's village at Ginninderra was the major settlement in the Canberra district prior to the proclamation of Hall village by gazettal in 1882 and the subsequent development of the village in the 1880's.

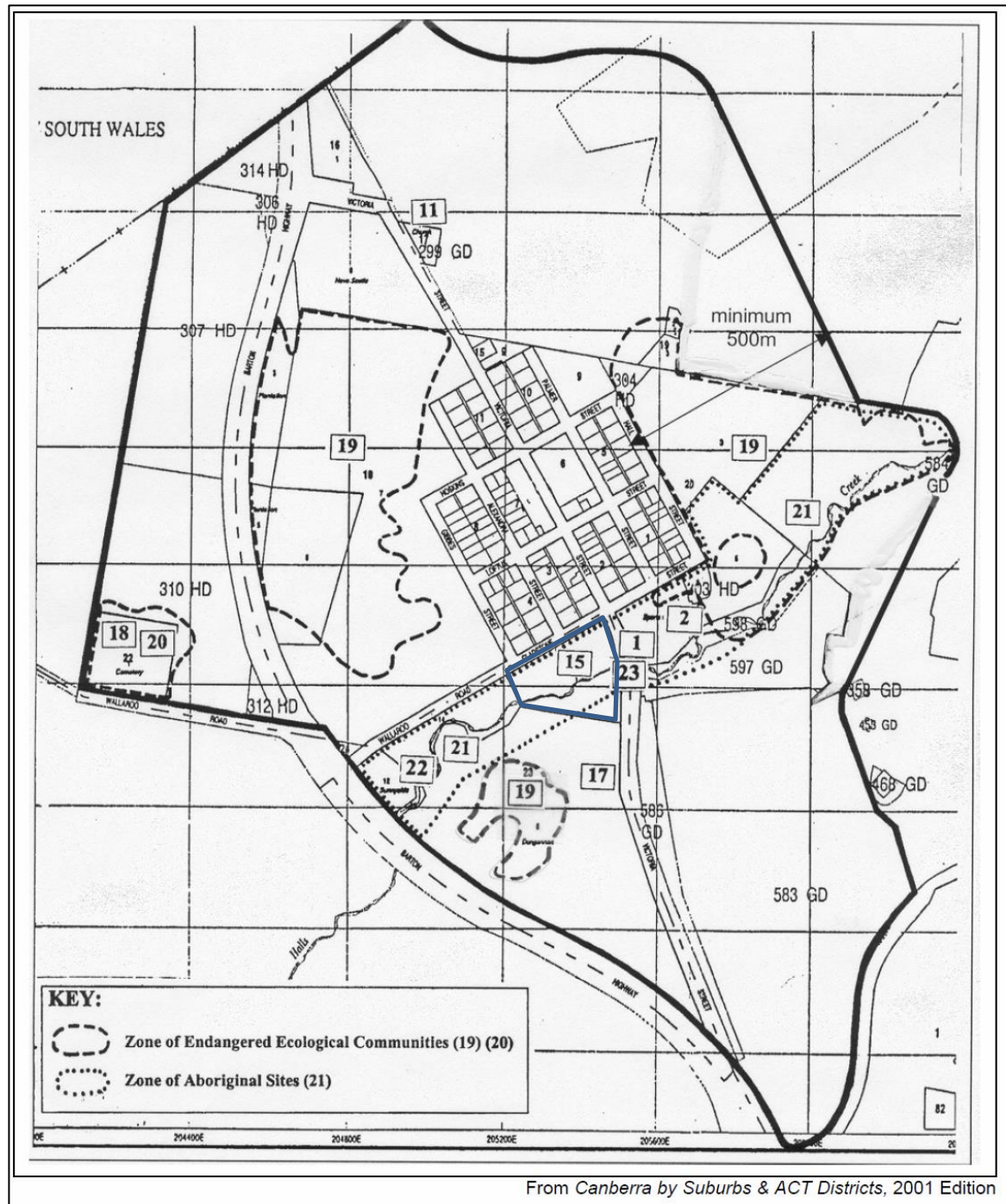
The first land sales in Hall took place in 1886. The current study area comprises an area of land originally reserved for recreation Reserve # 132. The block is still a reserve today with toilet and playground facilities.

### 6.2 Related Reports and Information

The Hall Village Heritage Precinct is included on the ACT Heritage Places Register. The listing includes the current study area. The features intrinsic to the heritage significance of the place and recommended for conservation comprise:

- (i) The 'rural village' urban landscape character of Hall Village;
- (ii) The informal streetscape character consistent with a rural village;
- (iii) The landscape setting of Hall Village;
- (iv) Individually identified built heritage places of collective historic and social value; and
- (v) Natural and Aboriginal Heritage values of the environs around Hall Village.

The Village Well (item 15), War Memorial Grove (item 1) and Hall Creek Road Bridge (item 23) are located within or immediately adjacent to the study area block [REDACTED]. These items are listed as a *Place of Specific Value within the Hall Village Precinct* (Figure 6.1). None of these items will be directly impacted by the project.



**Figure 6.1 Location of Places of Specific Value within the Hall Village Precinct Heritage Register –**

### 6.3 Predictive Archaeological Model – Historical Heritage

Unrecorded historic sites and features of heritage significance that may occur within the study area include:

- Old fence lines, such as post and rail fencing; these may occur along road easement boundaries and farmlands.
- Sites associated with early roads; these will be closely associated with early cadastral road reserves, watershed ridgelines, and related to early river and creek crossing points;

Structures of historical interest and heritage significance may be standing, ruined, buried, abandoned or still in use.



## 7. PHYSICAL INVESTIGATIONS

### 7.1 Results

No Aboriginal or non-Aboriginal sites were identified during the field survey undertaken in June 2017. Subsequently a member of the public located several Aboriginal artefacts in the vicinity of the proposal, see Appendix 2 for a report detailing these finds. Sites 4, 5 and 6 detailed in the report are located within the project area and are included in Figure 7.1 below. The sites consisted of:

Site 4. [REDACTED]

Site 5. [REDACTED]

Site 6. [REDACTED]

The study area is located in an area listed as an Aboriginal sites zone as part of the Hall Precinct Listing on the ACT Heritage Register (Figure 7.1). It is assessed that there is moderate potential for there to be Aboriginal sites located along Halls Creek within the identified zone, and moderate potential for those sites to be in-situ below the disturbed and bioturbated 5-10 centimetre zone, ie below the zone where artefacts are moved through the surface and soil profile due to natural processes such as insect movement and vegetation root growth. The area of moderate potential can be defined as the area identified in the heritage listing as the zone of Aboriginal sites and covers an area [REDACTED]

The Village Well (item 15), War Memorial Grove (item 1) and Hall Creek Road Bridge (item 23) are located within or immediately adjacent to the study area block [REDACTED]. These items are listed as a *Place of Specific Value within the Hall Village Precinct*. None of these items will be directly impacted by the project.

### 7.2 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.

Ground surface visibility at the time of the field assessment was very low. Some ground surface exposure occurred along the eroded bank of Halls Creek, the remainder of the study area was covered in grasses and other vegetation. The exposure incidence across the study area was 10% with 80% visibility within exposures.

### 7.3 Discussion

The Halls Creek study area is located in a landform identified by the predictive model as likely to contain open artefact scatters. The predictive model states:

- Open artefact scatters are most likely to occur on relatively level ground, in locally well-drained contexts, in relative proximity to a natural fresh-water source. Landforms on which open artefact



scatters are likely to occur include elevated creek and river banks, low gradient basal slopes adjacent to creeks and rivers, terrace edges, and the crests of ridges and spurs; and

- Open artefact scatters which contain relatively large artefact assemblages and densities occur most frequently and consistently within 100-150 m of major and relatively permanent drainage lines.

Aboriginal sites are located along Halls Creek including three isolated finds within the project area

Following the current assessment, it is concluded that there is moderate potential for there to be Aboriginal sites located along Halls Creek, and moderate potential for those sites to be in-situ.

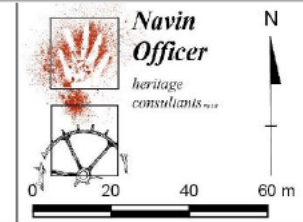


**Location of Recorded Sites**

**Project:** Halls Creek Track

**Map Number:** 7.1

Author: Nicola Hayes  
Published: 2018-04-26 15:21



**Figure 7.1 Location of Recorded Sites**



## 8. ASSESSMENT OF HERITAGE SIGNIFICANCE

### 8.1 Assessment Criteria

Criteria suitable for the assessment of the heritage values and significance of the archaeological resource within the ACT have been defined in Section 10 of the Heritage Act, 2004 (Republication No18).

A place or object has heritage significance if it satisfies one or more of the following criteria:

- (a) importance to the course or pattern of the ACT's cultural or natural history;
- (b) has uncommon, rare or endangered aspects of the ACT's cultural or natural history;
- (c) potential to yield important information that will contribute to an understanding of the ACT's cultural or natural history;
- (d) importance in demonstrating the principal characteristics of a class of cultural or natural places or objects;
- (e) importance in exhibiting particular aesthetic characteristics valued by the ACT community or a cultural group in the ACT;
- (f) importance in demonstrating a high degree of creative or technical achievement for a particular period;
- (g) has a strong or special association with the ACT community, or a cultural group in the ACT for social, cultural or spiritual reasons;
- (h) has a special association with the life or work of a person, or people, important to the history of the ACT.

#### **Thresholds**

In understanding the significance of a place or object, there are two key interrelated steps:

1. **determine whether the place has value in relation to a criterion** (this is the basic test). This will sometimes imply the historical or other context of the place or object and might determine whether the place or object is of personal, interest group, local, territory, national or World Heritage significance (its historical context and the community group for whom it is important); and,
2. **apply threshold indicators, to 'test' the degree to which the place or object is significant** and, hence whether it meets a criterion and warrants registration— is it sufficiently rare, unique, important, etc. in the context of the ACT when compared to other places?

### 8.2 Halls Creek Study Area

The Halls creek study area is located in an area listed as an Aboriginal sites zone as part of the Hall Precinct Listing on the ACT Heritage Register.

Following the current assessment, it is assessed that there is moderate to high potential for there to be Aboriginal sites located along Halls Creek, and moderate potential for those sites to be in-situ below the bioturbation zone.

There are three isolated finds located within the study area Site 4, 5 and 6. The isolated finds in and of themselves have a low archaeological/scientific significance as they are common across the ACT and are not readily able to provide information about the past use of the area by Traditional Aboriginal people. The location of the sites within the zone of Aboriginal sites adds to the significance of this area



as they demonstrate that Aboriginal objects are located within the zone. Consequently, the Aboriginal sites zone is assessed to potentially be of moderate to high heritage significance. However, the significance of this recording can only be clarified through archaeological subsurface testing.

Regardless of archaeological value, most, if not all stone artefacts are regarded to have cultural value and significance by the local Aboriginal communities. The retention of the connection to country of those items is also considered to be integral to their significance. This significance falls under ACT criterion (g).

Based on past assessments by the ACT Representative Aboriginal Organisations (RAOs), it is likely that Halls Creek will be considered important as part of local Aboriginal tradition due to the archaeological record it contains and the evidence this record represents for traditional and past patterns of Aboriginal occupation.



## 9. STATUTORY CONTEXT<sup>1</sup>

### 9.1 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 ACT Heritage, ACT Department of Environment, Planning and Sustainable Development 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 the following:

- (i) a heritage guideline;
- (ii) a heritage direction;
- (iii) a heritage agreement;
- (iv) a conservation management plan approved by the council;
- (v) development approval under the Planning and Development Act 2007, chapter 7;

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



- (vi) an excavation permit;
- (vii) a statement of heritage effect approved by the council.

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.

## 9.2 Implications for the Halls Creek track

The Hall Village Heritage Precinct is included on the ACT Heritage Places Register. Conservation Objective 2.2 states:

- (e) Development or management activities necessitating excavation of the ground surface within the Aboriginal Sites Zone shall not be permitted without approval, and shall be consistent with the provisions of the relevant separate (interim) Heritage Place Register for the Hall Village Aboriginal Sites.

As an Aboriginal heritage place will be impacted by the project a Statement of Heritage Effect is required to be approved by the Heritage Council for the project.



## 10. STATEMENT OF HERTIAGE EFFECTS

### 10.1 Description of the Place

No non-Aboriginal sites were identified during the field survey.

Three isolated Aboriginal artefacts have been located within the project area. Site 4 is [REDACTED] [REDACTED] Site 5 is [REDACTED] [REDACTED] and Site 6 is [REDACTED].

The study area is located in an area listed as an Aboriginal sites zone as part of the Hall Precinct Listing on the ACT Heritage Register.

The Village Well (item 15), War Memorial Grove (item 1) and Hall Creek Road Bridge (item 23) are located within or immediately adjacent to the study area block [REDACTED]. These items are listed as a *Place of Specific Value within the Hall Village Precinct*. None of these items will be directly impacted by the project.

Following the current assessment, it is assessed that there is moderate potential for there to be Aboriginal sites located along Halls Creek, and moderate potential for those sites to be in-situ below the disturbed and bioturbated zone (5-10 centimetre). This area of potential includes all of the current study area.

The scientific significance of an area of potential cannot be assessed prior to undertaking subsurface investigation.

Based on past assessments by the ACT Representative Aboriginal Organisations (RAOs), it is likely that Halls Creek will be considered important as part of local Aboriginal tradition due to the archaeological record it contains and the evidence this record represents for traditional and past patterns of Aboriginal occupation.

### 10.2 Discussion of Impacts

None of the isolated artefacts will be directly impacted by the project.

The Aboriginal sites zone and the area of moderate archaeological potential will be impacted by the project. Impacts from the project are minimal. The width of the track is to be 1.2 metres and to be approximately 50 millimetres deep along the route. Construction includes the clearing of the track route of grass to natural ground using a mini excavator and hand excavation.

The installation of the low-level crossing over Halls Creek will occur in the base of the creek where significant erosion has already impacted the creek. Impact from the installation will involve up to six 1200mm long piles being driven into the ground on each creek bank. A similar technique has been used to install boardwalks at Kellys Swamp and low level crossing for the Canberra Centenary Trail.

No trees will be removed, and no substantial ground disturbance is proposed.

The effects of the impacts will be to the surface layer of the soil, Aboriginal artefacts may be located within this layer and may be disturbed during the excavation process. The light machinery being used is unlikely to directly damage individual artefacts.

This impact would be substantially less compared to any subsurface test excavation program. A test excavation program would excavate to a greater depth and over a larger area, than what is proposed by the track excavations and is likely to disturb many more artefacts than are likely to be disturbed by the excavation of the track.

The Village Well (item 15), War Memorial Grove (item 1) and Hall Creek Road Bridge (item 23) are located within or immediately adjacent to the study area block [REDACTED]. These items are listed as a *Place of Specific Value within the Hall Village Precinct*. None of these items will be directly



impacted by the project and there will be no impact from machinery to these items. The track will not be visible from any of these locations as the track is located within a heavily treed area. Other indirect impacts may be to the Hall Creek Road Bridge from potential parking and informal access to the track from Victoria Street. There is however ample parking associated with the recreation park and the entrance to the track is from within the park. It is envisioned that mostly local people will use the track and would therefore not be required to find suitable parking. It is therefore assessed that there will be no indirect impacts from the project on these locations.

There will be no direct or indirect impacts from the proposal on the landscape setting of Hall. As detailed above the proposal is located within the vegetated area of Halls Creek, no trees will be removed, and the track will not be visible from the town. Riders on the track will be visible whilst riding. The track will be easily remediated and re-vegetated if required in the future and is therefore not a permanent feature.

### 10.3 Consideration of Alternatives

As this is a community driven project, community consultation has been undertaken for the project and a final report delivered (see Appendix 4). As part of this consultation process the following alternative locations were considered (see Figure 10.1):

Site A – Hall North West Reserve

Site B – Hall East Reserve, Hoskins/Palmer Corner

Site C – Mrs Reynolds Paddock, near Hall St

Site D – Polocrosse Margin

Site E – Hall Creek West – near shops (current project area)

As part of the Consultation, community members were asked to comment on the ‘Pros’ and ‘Cons’ of the 5 sites, these are summarised in the attachment. A large majority of participants – 51 out of 63 - in the consultation process volunteered a preference for one or more sites. When the multiple preferences are allocated the preferences for each of the 5 sites are as follows:

Site A – 1.58 (2.5% of total / 3.1% of those stating a preference)

Site B – 7.58 (12.0% of total / 14.9% of those stating a preference)

Site C – 8.08 (12.8% of total / 15.9% of those stating a preference)

Site D – 1.75 (2.8% of total / 3.4% of those stating preference)

Site E – 32 (50.8% of total / 62.8% of those stating a preference)

No location preference stated – 12 (19.1% of total)

The consultation concluded that:

**Conclusion 6:** Site E is the most strongly supported site and has been identified as the preferred location for someone with a disability, but also faces strong opposition from some community members primarily on the grounds of heritage and safety, matters which are the subject of separate government considerations. The strong support for this Site E is very clear and is noteworthy in light of the objective for the consultation “to establish consensus around a preferred site”. It would not be possible to make a case that there is consensus for any of Site A, B, C or D – or even that there is consensus for a site other than Site E. The clear outcome from this community consultation is that Site E is the preferred site.

The route of the proposed track prior to this assessment was flexible and any surface sites were able to be avoided, Figure 10.2 indicates the original track route and the revised track route following the location of Sites 4, 5 and 6. Sites 4, 5 and 6 were specifically avoided by the project. If additional



artefacts are located prior to the construction occurring these artefacts will also be avoided by the project by adjusting the alignment.

Construction of the track will involve the use of a mini excavator and hand excavation, again chosen in order to reduce impacts.

The track is being constructed so that it will be easily remediated and re-vegetated if required.

Subsurface test excavation were considered however it is assessed that impact from testing would be much greater than impacts from the construction of the track.

The only remaining alternative is not to proceed with track construction.

## 10.4 Mitigation Strategies

It is proposed that a mitigation strategy is implemented to avoid any potential harm to Aboriginal objects. The protocol is included below.

This strategy involves undertaking a program of monitoring before and following track construction. Any Aboriginal object found during monitoring would be recorded on site and moved away from the route. Details of the site would subsequently be provided to ACT Heritage.

As the impacts from the proposed route will not sustainably impact the ground surface, subsurface testing of the area of potential is not recommended. The testing process is considered to be more invasive than the construction of the bike track. The impact of the track would not alter the scientific significance of the PAD.

### 10.4.1 Protocol for monitoring and artefact recording and movement Halls Creek

Sites 4, 5 and 6 will be flagged before work commences and will be marked onsite as no go areas, if practicable a fence of para-webbing will be placed between the site and the works area. if not practicable an archaeologist or a representative of the RAOs will inform the field team of their location and will mark the site with a highly visible flag.

An archaeologist and representatives of the RAOs will undertake a survey of the route prior to ground works commencing. If surface artefacts are located the track route will be altered to avoid the artefact. The artefact locations will be then treated the same as Sites 4, 5 and 6. Representatives of the track constructors will be present during this initial investigation so that they have an on-site understanding of the location of artefacts.

An archaeologist and representatives of the RAOs will be present on-site during the scraping back of surface vegetation by the mini excavator and hand excavation. If artefacts are encountered a GPS recording will be taken of its location and basic artefact measurements will be taken including size, material type and artefact type.

The artefact will then be moved to a location of up to 1 metre away from the track, and placed on the ground surface. A GPS recording will be taken of its new location. Details of the site will then be provided to ACT Heritage. No surface features or signage will be erected to indicate the location of the item.

As the artefacts encountered will be already in a disturbed context their movement off the track, and still within their same general area of deposition, will help to retain the remaining spatial integrity of the artefact, in that they will be placed in the same general location they were found in. This will help to retain both the scientific and cultural significance of those items.

The movement of any encountered artefacts will be an iterative process undertaken by the archaeologist and RAO representatives, for example the archaeologist and RAOs will ensure that the location those artefacts are placed does not already contain surface artefacts.



The artefacts will remain within the Halls Creek corridor and will be the subject of the same natural and human process that those items are currently. The direction of bicycle and foot traffic to a formed path will aid in decreasing the human impact on the surrounding landscape and will help to preserve the artefacts that are currently in the corridor and those that may be moved off the track during the construction process. There are no plans to further develop the Halls Creek corridor by ACT Parks, the owner of the land.

## 10.5 Recommendations

No further archaeological investigation is required for this project.

*It is recommended that:*

1. This Statement of Heritage Effect is required to be approved by the ACT Heritage Council before works can commence.
2. In order to mitigate against any impact to sites during construction, the protocol outlined in Section 10.4.1 will be enacted during the construction of the track.
3. The unanticipated discovery protocols included in Appendix 3 should be implemented for this project.
4. A copy of this report should be provided to the ACT Heritage.

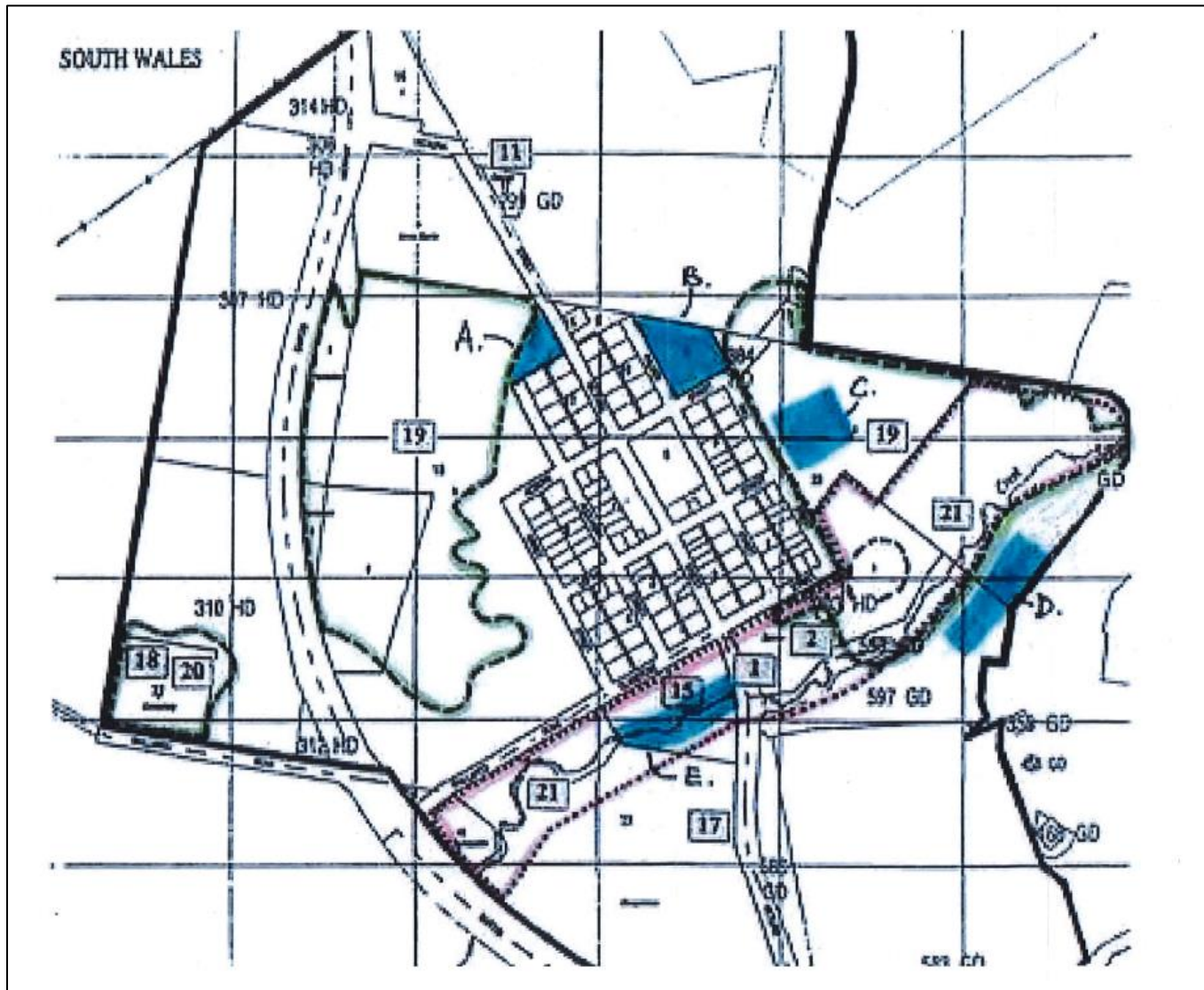


Figure 10.1 Alternate Locations Considered

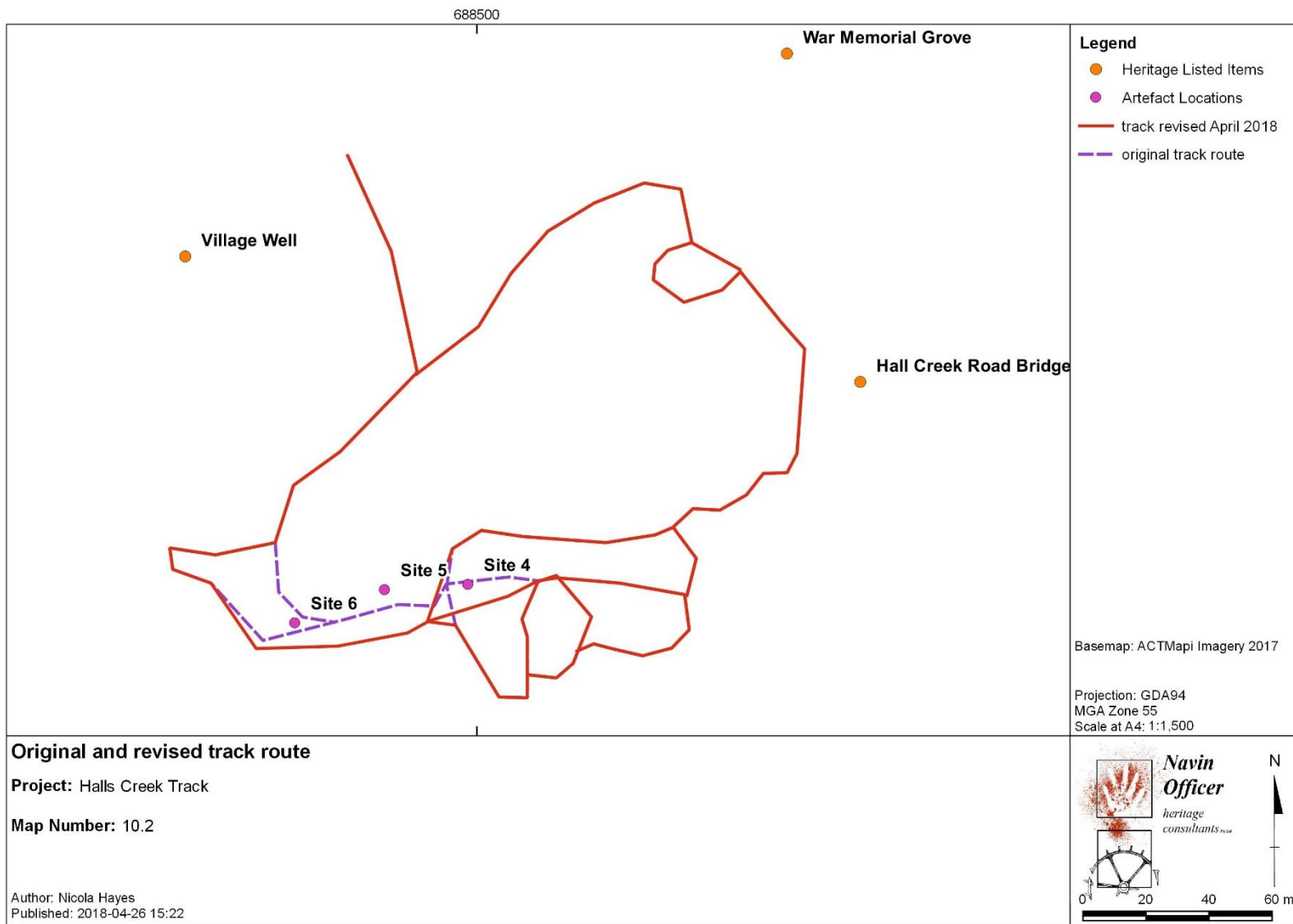


Figure 10.2 Recorded sites and revised track route



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## **APPENDIX 1**

### **RECORD OF ABORIGINAL FIELD PARTICIPATION**



**Record of Aboriginal Representative Participation\***

Name(s) of Aboriginal Representative: Justin 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: Halls Creek Track .....

Client: name & address: *(please send your invoice to this address)* .....

**Brian Bathgate | Operations Manager Belconnen/Gungahlin**  
**P 6205 5350 | E [Brian.Bathgate@act.gov.au](mailto:Brian.Bathgate@act.gov.au)**  
**Place Management, City Presentation | Transport Canberra and City Services Directorate**  
**ACT Government**  
 490 Northbourne Ave, Dickson | GPO Box 158 Canberra ACT 2601

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

Period of participation:

Date(s)	Start	Finish
<u>30/6/17.</u>	<u>11.30</u>	<u>1pm</u>

Issues raised: .....

nil

Signed (archaeologist): [Redacted Signature]

Signed (Aboriginal representative(s)): [Redacted Signature]

\* 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.



ABN : 24 059 704 833

Navin Officer Heritage Consultants  
 Number 4, Kingston Warehouse  
 71 Leichhardt Street  
 KINGSTON ACT 2604

### Halls Creek Track, Hall – Report Response

Thank you for your correspondence in which you provided a report on the above requesting input from Buru Ngunawal Aboriginal Corporation (BNAC) as the Traditional Custodian group present on the day.

BNAC members are the Traditional Custodians for the ACT and surrounding areas in NSW. We would like to point out that all sites, objects and lands within our tribal boundary do hold a very significant spiritual and cultural importance to us as a direct cultural heritage link to Country. As the Traditional Custodians we agree that the potential impacts of any development works will damage our cultural heritage to a certain degree and hopefully some measures can be implemented to minimise those impacts.

In response to the documentation provided, BNAC having participated in the onsite consultations would like to request that because of the presence of Aboriginal cultural sites within the vicinity and an indication that there is the presence of artefactual objects within the proposed route of the track that further investigation be undertaken which will minimise potential impacts/damage occurring on those objects. A visibility factor of 10% across a majority of the footprint of the project with 80% visibility on some exposure indicates that a more detailed study needs to be undertaken. Experience also implies that disturbance does occur outside the proposed project footprint which could potentially have an impact on unknown cultural components.

Thank you for the opportunity to provide comment.

Yours faithfully



Wally Bell (Ngunawal TC)

Chair

13 June 2018

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PO Box 255 KIPPAX ACT 2615

Mb: 0419 425347

Email: wally@buru-ngunawal.com



## **APPENDIX 2**

### **HALLS CREEK ABORIGINAL SITES DECEMBER 2017**



## Background

During a walk on 9 December [REDACTED]

[REDACTED], I found a number of Aboriginal sites. The route only encompassed large soil exposures close to the creek along its length [REDACTED]. Scarred Tree (Plate 1) and an Aboriginal volcanic stone hatchet preform (Plate 2) have already been reported recently, but these are included for reference, as sites 1 and 2 respectively on Map 1.

Surface visibility was only about 10% but surfaces have been washed by very heavy recent rain. Most finds (that is, excepting the hatchet blank in Site 2) are within the Zone designated as "Zone of Aboriginal Sites" in the Hall Village Heritage Listing. The stone artefacts occur in or on a grey alluvial topsoil layer that is about 30-50cm deep. Most appear to have been exposed as a result of digging, erosion or tree uplift.

The grey loam topsoil is markedly different to the orange clay and gravelly clay soils exposed by erosion below (Plate 3) and appears to have depositional integrity. Previous studies<sup>2</sup> of soils of the Gungahlin district and Hall identified stratified alluvium along these parts of Halls Creek. Preservation of the original soil profiles in the locality may have been enhanced by its designation as a water reserve in the 1880s, consequently not subject to agriculture or substantial clearance. This is unusual compared to other creek lines I have seen in the area, such as the Sullivans and Gungaherra Creeks, where the original alluvial deposits appear to have been rapidly eroded following historic agricultural land use.

## New Sites

The new sites on Map 1 are as follows:



<sup>2</sup> Hohnen. P.D 1973 *Engineering Geology of the Proposed Halls Creek Urban Development Area, Gungahlin District, A.C.T.* Dept Minerals and Energy, Bureau of Mineral Resources, Geology and Geophysics and Hohnen. P.D 1974 *Engineering Geology of Gungahlin Urban Development Area, A.C.T.* Dept Minerals and Energy, Bureau of Mineral Resources, Geology and Geophysics



### **Conclusion**

A recent archaeological survey<sup>3</sup> looked at a segment of Halls Creek in relation to a proposed bike track. Visibility was low and no sites were found. [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]. The location may also have considerable archaeological research value.

Dr Jan Klaver, 10 December 2017

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<sup>3</sup> Navin Officer Heritage Consultants Pty Ltd, August 2017, *Cultural Heritage Assessment and Statement of Heritage Effect, Halls Creek Track, [REDACTED] Hall*. A Report to Place Management, City Presentation, Transport Canberra and City Services Directorate.



Map 1. Sites along Halls Creek.



Plate 1. Scarred tree, [redacted]



Plate 2. Volcanic stone hatchet preform, [redacted]



Plate 3. Halls Creek soil profile



Plate 4a. Chert artefacts (flake left, blade segment, right),



Plate 4b. Chert flaked piece



Plate 4c. Quartz flaked piece



Plate 4d. Silcrete flake dorsal



Plate 4e. Silcrete flake ventral

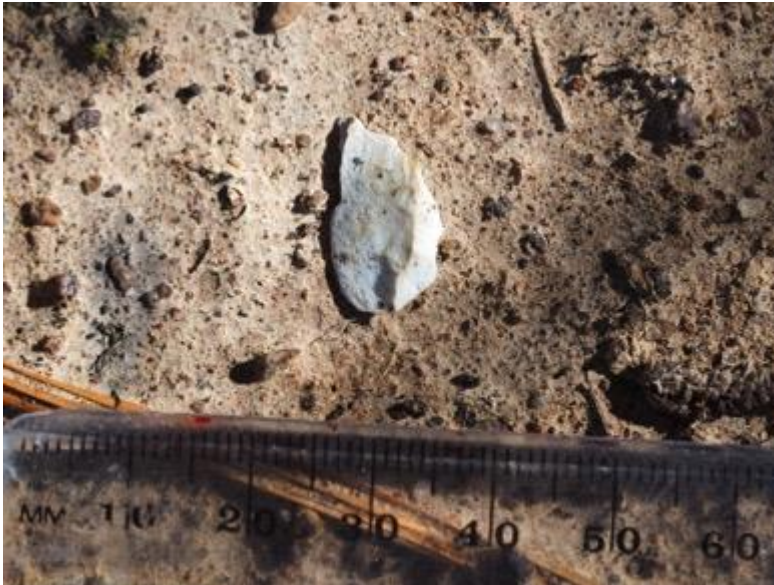


Plate 5. [redacted], chert backed blade, dorsal surface

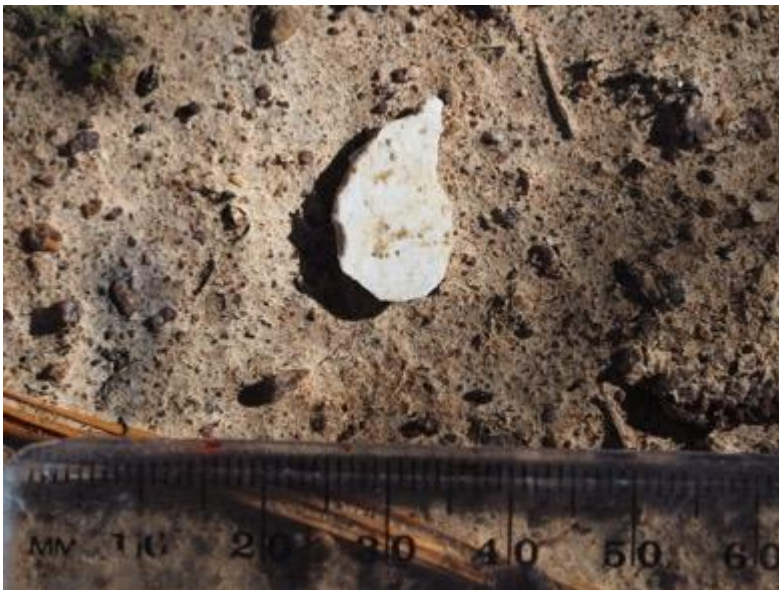


Plate 6. Chert backed blade, ventral surface



Plate 7. Pointing to location of chert flake



Plate 8. Chert flake



Plate 9. Detail of chert flake



Plate 10. Pen tip points to laminar quartz flaked piece at top of bank



Plate 11. Detail of quartz flaked piece



Plate 12. Exposure containing burnt clay nodules

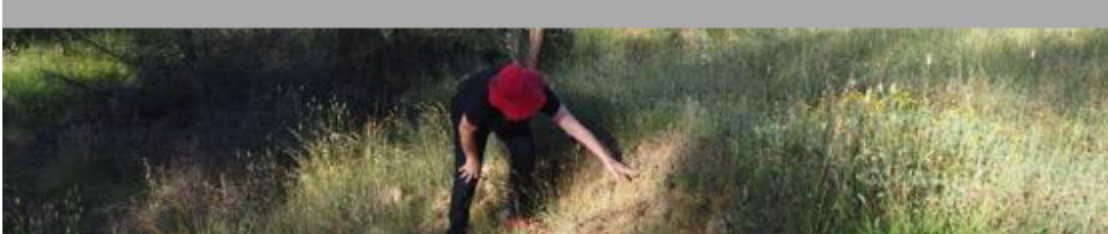


Plate 13. Pointing to burnt clay nodules in soil profile





Plate 14. Detail of burnt clay nodules in grey topsoil profile



Plate 15.



Plate 16. Detail of silcrete flake, dorsal surface



Plate 17. Detail of silcrete flake, ventral surface



## **APPENDIX 3**

### **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;
  - 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 the Heritage Unit;
  - 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.



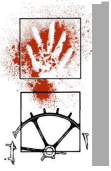
## Protocol to be followed in the event that suspected human remains are encountered

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;
  - 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.



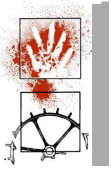
- b. The bone(s) are of a non-Aboriginal person who died more than 100 years ago. In this case, and where the Police have indicated that they have no interest in the find(s), the following steps may be followed:
- i. Ascertain the requirements of the ACT Heritage Council, the development proponent, the 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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## **APPENDIX 4**

### **RECREATION TRACK FOR HALL VILLAGE REPORT ON COMMUNITY CONSULTATION HELD IN DECEMBER 2017**



**From:** [Russell, Meaghan](#)  
**To:** [Alegria, Stephen](#)  
**Subject:** RE: Aboriginal heritage site notification - Halls Creek [SEC=UNCLASSIFIED]  
**Date:** Monday, 4 June 2018 5:08:00 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)

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Hello Stephen,

Following on from your email in March, are you able to provide an update on the status of the Halls Creek bike track SHE application?

ACT Heritage receives occasional questions about the project from local community members as well in forums such as the ATSIEB Hearing – and I am keen to update my managers on the project.

ACT Heritage is also available to meet to discuss the project, if any clarification is needed on Council advice issued in February, or if you would like to discuss the management of new finds as suggested below.

Regards,  
Meaghan

**Meaghan Russell** | Team Leader (Advice)

Phone: 02 6205 5497 | Email: [meaghan.russell@act.gov.au](mailto:meaghan.russell@act.gov.au)

**ACT Heritage | Environment, Planning and Sustainable Development Directorate | ACT Government**

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**From:** Alegria, Stephen  
**Sent:** Wednesday, 21 March 2018 6:30 PM  
**To:** Russell, Meaghan <[Meaghan.Russell@act.gov.au](mailto:Meaghan.Russell@act.gov.au)>  
**Cc:** Brice, Michael <[Michael.Brice@act.gov.au](mailto:Michael.Brice@act.gov.au)>; Bathgate, Brian <[Brian.Bathgate@act.gov.au](mailto:Brian.Bathgate@act.gov.au)>; Walker, Ian (Health) <[Ian.Walker@act.gov.au](mailto:Ian.Walker@act.gov.au)>; Elliott, Tooley <[Tooley.Elliott@act.gov.au](mailto:Tooley.Elliott@act.gov.au)>  
**Subject:** Re: Aboriginal heritage site notification - Halls Creek [SEC=UNCLASSIFIED]

Hi Meaghan,

Yes will do. I know that Jan Klaver strongly opposes this project and is actively searching for artefacts and I would like to discuss how we manage this as it's not feasible to continually be asked to update the SHE report. I will be asking for your advice about whether the methodology to manage unforeseen finds during construction can also be applied to any finds made from now on, or what sensible alternative exists to enable this community project to proceed without further costs, delays and community conflict, while protecting heritage values.

We will arrange a meeting with you and the heritage consultants as soon as possible.

Regards  
Stephen

On 21 Mar 2018, at 5:48 pm, Russell, Meaghan <[Meaghan.Russell@act.gov.au](mailto:Meaghan.Russell@act.gov.au)> wrote:

Hello Stephen,

ACT Heritage recently received notification of one additional Aboriginal place recorded along Halls Creek – described as ‘New Site 10’ in the attached document. One additional artefact was also recorded within ‘New Site 4’, as also described in the attached.

As these new discoveries are relevant to the proposed bike track within the Halls Creek Aboriginal Sites Zone, could you please ensure that this new information is incorporated into the SHE report currently being amended.

Regards,  
Meaghan

**Meaghan Russell** | Team Leader (Advice)

Phone: 02 6205 5497 | Email: [meaghan.russell@act.gov.au](mailto:meaghan.russell@act.gov.au)

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<image001.png> [@EnvironPlan](#) <image002.png> [facebook.com/EnvironPlan](https://www.facebook.com/EnvironPlan)

<20180317 - Jan Klaver report - New Aboriginal artefact finds Halls Creek Bike Track Area.pdf>

**From:** [Bathgate, Brian](#)  
**To:** [Russell, Meaghan](#)  
**Subject:** RE: Hall recreation track SHE [SEC=UNCLASSIFIED]  
**Date:** Tuesday, 19 June 2018 5:24:43 PM  
**Attachments:** [image005.png](#)  
[image007.png](#)  
[image008.png](#)  
[image009.png](#)  
[image001.png](#)

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Week after?

**Brian Bathgate | Operations Manager Belconnen/Gungahlin**

**P 6205 5350 | E [Brian.Bathgate@act.gov.au](mailto:Brian.Bathgate@act.gov.au)**

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**From:** Russell, Meaghan

**Sent:** Tuesday, 19 June 2018 5:16 PM

**To:** Bathgate, Brian <[Brian.Bathgate@act.gov.au](mailto:Brian.Bathgate@act.gov.au)>

**Subject:** RE: Hall recreation track SHE [SEC=UNCLASSIFIED]

Hi Brian,

Those days do not suit – as we have some prior commitments, and as we also need to allow time for reviewing the amended report in order to discuss it with you.

Cheers,

Meaghan

**Meaghan Russell | Team Leader (Advice)**

Phone: 02 6205 5497 | Email: [meaghan.russell@act.gov.au](mailto:meaghan.russell@act.gov.au)

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**From:** Bathgate, Brian

**Sent:** Tuesday, 19 June 2018 5:14 PM

**To:** Russell, Meaghan <[Meaghan.Russell@act.gov.au](mailto:Meaghan.Russell@act.gov.au)>

**Subject:** RE: Hall recreation track SHE [SEC=UNCLASSIFIED]

Thanks Meaghan

Would Tuesday or Wednesday pm next week suit you guys?

**Brian Bathgate | Operations Manager Belconnen/Gungahlin**

**P 6205 5350 | E [Brian.Bathgate@act.gov.au](mailto:Brian.Bathgate@act.gov.au)**

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**From:** Russell, Meaghan

**Sent:** Tuesday, 19 June 2018 2:03 PM  
**To:** Bathgate, Brian <[Brian.Bathgate@act.gov.au](mailto:Brian.Bathgate@act.gov.au)>  
**Cc:** Alegria, Stephen <[Stephen.Alegria@act.gov.au](mailto:Stephen.Alegria@act.gov.au)>  
**Subject:** RE: Hall recreation track SHE [SEC=UNCLASSIFIED]

Hello Brian,

Thank you for the email, and for submission of the revised SHE report.  
At this stage, Euroka Gilbert and I are available at the following times:

- Thursday 28 June – afternoon;
- Friday 29 June – anytime; or
- Monday 2 June – anytime.

Could you please advise what time also suits Nicola, Trudi and yourself? Once confirmed, I will book a meeting room at DPMH and email through a meeting invitation.

Regards,  
Meaghan

**Meaghan Russell** | Team Leader (Advice)

Phone: 02 6205 5497 | Email: [meaghan.russell@act.gov.au](mailto:meaghan.russell@act.gov.au)

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**From:** Bathgate, Brian  
**Sent:** Tuesday, 19 June 2018 1:56 PM  
**To:** Russell, Meaghan <[Meaghan.Russell@act.gov.au](mailto:Meaghan.Russell@act.gov.au)>  
**Cc:** Alegria, Stephen <[Stephen.Alegria@act.gov.au](mailto:Stephen.Alegria@act.gov.au)>  
**Subject:** Hall recreation track SHE [SEC=UNCLASSIFIED]

Hello Meaghan

I was hoping that we could meet to look at the updated report with Nicola from Navin Officer and Trudi from Hall (the proponent) to ensure that we have met all of the requirements.

Are there some times that would suit you in the next week?

Regards

**Brian Bathgate** | Operations Manager Belconnen/Gungahlin

P 6205 5350 | E [Brian.Bathgate@act.gov.au](mailto:Brian.Bathgate@act.gov.au)

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**From:** [Russell, Meaghan](#)  
**To:** [Bathgate, Brian](#)  
**Cc:** [Alegria, Stephen](#)  
**Subject:** RE: Hall recreation track SHE [SEC=UNCLASSIFIED]  
**Date:** Wednesday, 20 June 2018 9:43:00 AM  
**Attachments:** [image002.png](#)  
[image003.png](#)  
[image005.png](#)  
[image006.png](#)  
[image001.png](#)

---

Hi Brian,

I will book a room for that time, but please let me know if it does not suit Nicola and Trudi and we can reschedule.

Cheers,

Meaghan

**Meaghan Russell** | Team Leader (Advice)

Phone: 02 6205 5497 | Email: [meaghan.russell@act.gov.au](mailto:meaghan.russell@act.gov.au)

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**From:** Bathgate, Brian  
**Sent:** Wednesday, 20 June 2018 9:36 AM  
**To:** Russell, Meaghan <[Meaghan.Russell@act.gov.au](mailto:Meaghan.Russell@act.gov.au)>  
**Subject:** RE: Hall recreation track SHE [SEC=UNCLASSIFIED]  
Let's go with that and hope all the stakeholders can come.  
Thanks

**Brian Bathgate** | Operations Manager Belconnen/Gungahlin

P 6205 5350 | E [Brian.Bathgate@act.gov.au](mailto:Brian.Bathgate@act.gov.au)

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**From:** Russell, Meaghan  
**Sent:** Wednesday, 20 June 2018 9:07 AM  
**To:** Bathgate, Brian <[Brian.Bathgate@act.gov.au](mailto:Brian.Bathgate@act.gov.au)>  
**Cc:** Alegria, Stephen <[Stephen.Alegria@act.gov.au](mailto:Stephen.Alegria@act.gov.au)>  
**Subject:** RE: Hall recreation track SHE [SEC=UNCLASSIFIED]

Hi Brian,

That suits us – say 2pm?

Cheers,

Meaghan

**Meaghan Russell** | Team Leader (Advice)

Phone: 02 6205 5497 | Email: [meaghan.russell@act.gov.au](mailto:meaghan.russell@act.gov.au)

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**From:** Bathgate, Brian  
**Sent:** Wednesday, 20 June 2018 9:06 AM  
**To:** Russell, Meaghan <[Meaghan.Russell@act.gov.au](mailto:Meaghan.Russell@act.gov.au)>  
**Cc:** Alegria, Stephen <[Stephen.Alegria@act.gov.au](mailto:Stephen.Alegria@act.gov.au)>  
**Subject:** RE: Hall recreation track SHE [SEC=UNCLASSIFIED]

Thanks Meaghan

Would Wednesday 4 July in the afternoon be suitable?

**Brian Bathgate | Operations Manager Belconnen/Gungahlin**

**P 6205 5350 | E [Brian.Bathgate@act.gov.au](mailto:Brian.Bathgate@act.gov.au)**

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**From:** Russell, Meaghan  
**Sent:** Tuesday, 19 June 2018 2:03 PM  
**To:** Bathgate, Brian <[Brian.Bathgate@act.gov.au](mailto:Brian.Bathgate@act.gov.au)>  
**Cc:** Alegria, Stephen <[Stephen.Alegria@act.gov.au](mailto:Stephen.Alegria@act.gov.au)>  
**Subject:** RE: Hall recreation track SHE [SEC=UNCLASSIFIED]

Hello Brian,

Thank you for the email, and for submission of the revised SHE report.

At this stage, Euroka Gilbert and I are available at the following times:

- Thursday 28 June – afternoon;
- Friday 29 June – anytime; or
- Monday 2 June – anytime.

Could you please advise what time also suits Nicola, Trudi and yourself? Once confirmed, I will book a meeting room at DPMH and email through a meeting invitation.

Regards,

Meaghan

**Meaghan Russell | Team Leader (Advice)**

Phone: 02 6205 5497 | Email: [meaghan.russell@act.gov.au](mailto:meaghan.russell@act.gov.au)

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**From:** Bathgate, Brian  
**Sent:** Tuesday, 19 June 2018 1:56 PM  
**To:** Russell, Meaghan <[Meaghan.Russell@act.gov.au](mailto:Meaghan.Russell@act.gov.au)>  
**Cc:** Alegria, Stephen <[Stephen.Alegria@act.gov.au](mailto:Stephen.Alegria@act.gov.au)>  
**Subject:** Hall recreation track SHE [SEC=UNCLASSIFIED]

Hello Meaghan

I was hoping that we could meet to look at the updated report with Nicola from Navin Officer and Trudi from Hall (the proponent) to ensure that we have met all of the requirements.

Are there some times that would suit you in the next week?

Regards

**Brian Bathgate | Operations Manager Belconnen/Gungahlin**

**P 6205 5350 | E [Brian.Bathgate@act.gov.au](mailto:Brian.Bathgate@act.gov.au)**

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**From:** [Adrian Cressey](#)  
**To:** [Russell, Meaghan](#)  
**Subject:** Hall bike track meeting  
**Date:** Wednesday, 4 July 2018 3:56:52 PM  
**Attachments:** [image001.jpg](#)  
[image003.jpg](#)  
[image002.jpg](#)  
[image004.jpg](#)

---

Hi Meaghan,  
Thanks for yourself and Euroka's time today. Always good to put a faces to names!  
We'll incorporate the extra details as discussed and re-submit in the next few weeks.  
Regards,

*Adrian Cressey*

Bach. Arch. Practice (Hons), Dip. Env. Science  
Archaeologist

*Navin  
Officer  
heritage  
consultants  
Pty Ltd*

Number 4  
Kingston Warehouse  
71 Leichhardt St  
Kingston ACT 2604  
Ph: 02 62829415  
fax: 02 62829416  
mob: [REDACTED]  
email: [REDACTED]

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**From:** [Nicola Hayes](#)  
**To:** [Russell, Meaghan](#)  
**Cc:** [Adrian Cressey](#); [Bathgate, Brian](#)  
**Subject:** Hall Creek Track - Response to questions  
**Date:** Wednesday, 25 July 2018 4:02:23 PM  
**Attachments:** [image001.jpg](#)  
[image002.jpg](#)  
[image003.jpg](#)  
[image004.jpg](#)  
[Hall Creek Track \(futher info following 4th July meeting with ACT heritage\) v5.pdf](#)

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Meaghan

Please find attached a document compiled by Adrian following your meeting on the 4<sup>th</sup> July on the Hall Creek Track project.

Please let me know if you have any questions or further concerns

Kind Regards

*Nicola Hayes*

BA/BSc Grad Dip (Archaeology)

Associate Director

*Navin  
Officer  
heritage  
consultants  
Pty Ltd*

Number 4  
Kingston Warehouse  
71 Leichhardt St  
Kingston ACT 2604

Ph: 02 62829415  
fax: 02 62829416  
mob: [REDACTED]  
email: [REDACTED]

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# Hall Creek Track

Hall, ACT

Navin Officer Heritage Consultants Pty Ltd

July 2018

## Additional Information to Meet Statutory Requirements

### Consideration of Alternative Locations

The following sites have been considered for the Hall bike track (Figure 1)

- Site A – Hall North West Reserve
- Site B – Hall East Reserve, Hoskins/Palmer Corner
- Site C – Mrs Reynolds Paddock, near Hall St
- Site D – Polocrosse Margin
- Site E – Hall Creek West – near shops (current project area)

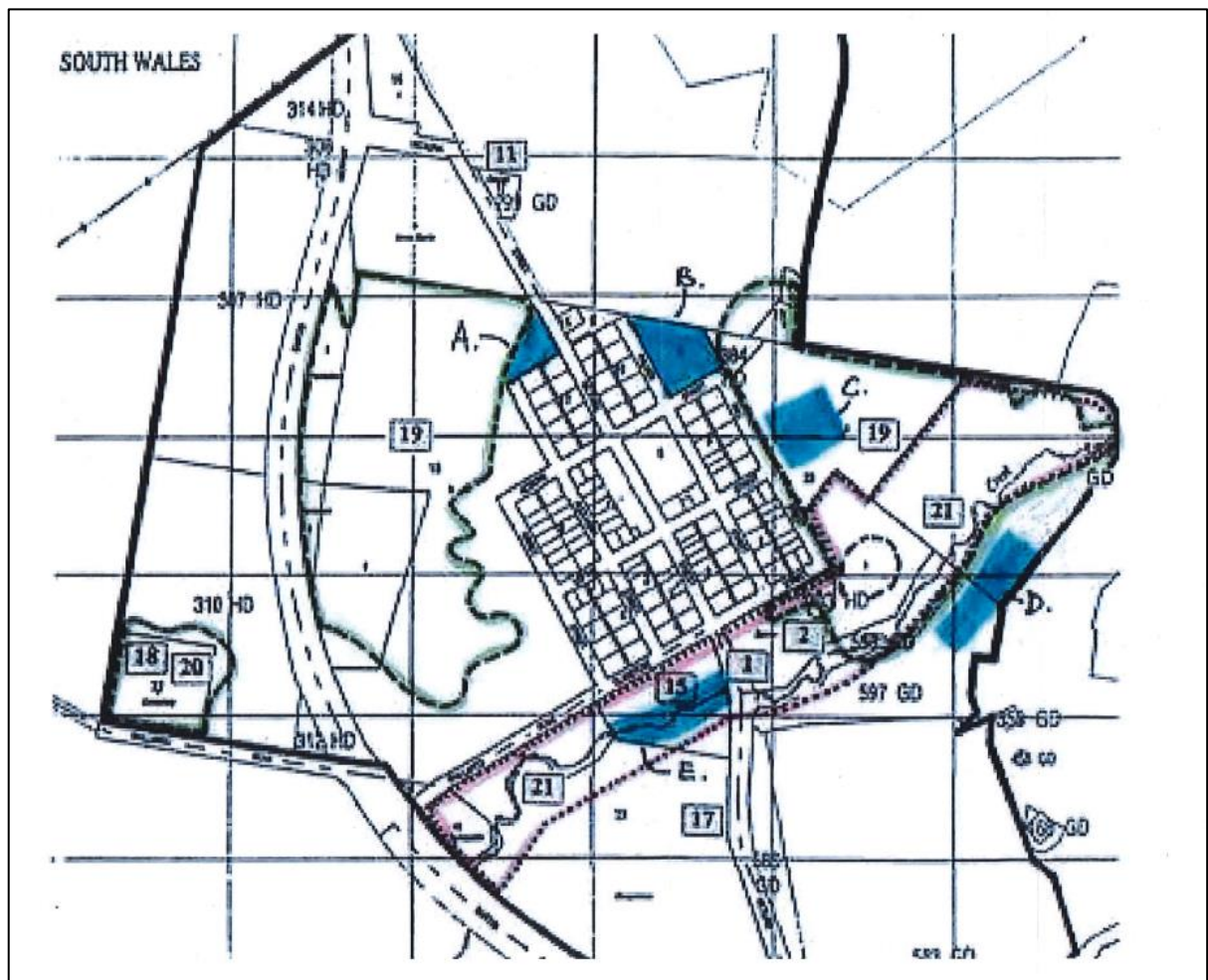


Figure 1 Alternate locations considered for the Hall bike track

Options A, B & C are all on Hills, Ridges and Buffers classification, which is typically associated with reserved land and managed by another Directorate, Environment Planning and Sustainable Development.

A is least preferred in the Custodians view. It is a steep, semi natural open space, heavily treed and the top soil is friable. There is a low level of service disturbance within the site. The site has no off-street parking and no access to public facilities. It is closer to houses than either E or D.

B may be possible from a Custodian point of view but is steep, semi natural open space, heavily treed and the top soil is friable. There is a low level of service disturbance. The site has no off-street parking and no access to public facilities. It is closer to houses than either E or D.

C is in areas already under long term licence to other parties.

D is on the creek corridor, and is significantly further away from easy parking access and the public facilities, such as toilets, BBQ and playground than site E. It is mostly grassed area used for polo cross. There is a moderate level of disturbance. The area may be impacted by large events. The top soil is alluvial. It is further away from houses than any other proposed site.

E is on the creek corridor, is close to parking, toilets, the existing playground and other public facilities. There is a combination of grassed and spaced treed areas with a higher level of disturbance and existing 'goat' track. The top soil is alluvial. It is a level site and the most accessible for those with mobility difficulties. It is the hub for outdoor activity in the Village. Site E was the preferred site nominated during the community consultation process.

**Table 1 Characteristics of areas considered for the Hall bike track**

Location ID	Landform	Ownership	Ground disturbance	Existing amenities	Proximity to housing	Track gradient for children, elderly and the disabled
A	Spur crest & midslopes	Other government department (EPSDD)	Low	None	Good	Poor, too steep
B	Moderate gradient midslope	Used by Polo Cross	Low	None	Good	Poor, too steep
C	Low to moderate gradient midslope	Privately leased	Low	None	Good	Poor, too steep
D	Creek flats/banks	ACT Sports and Recreation	Moderate	Poor access	Poor	Good, very flat
E	Creek flats/banks	TCCS	Moderate (more than Area D)	Yes	Good	Good, very flat

## Community Consultation

As part of the Consultation, community members were asked to comment on the 'Pros' and 'Cons' of the 5 sites, these are summarised in the attachment. A large majority of participants – 51 out of 63 - in the consultation process volunteered a preference for one or more sites. When the multiple preferences are allocated the preferences for each of the 5 sites are as follows:

Site A – 1.58 (2.5% of total / 3.1% of those stating a preference)

Site B – 7.58 (12.0% of total / 14.9% of those stating a preference)

Site C – 8.08 (12.8% of total / 15.9% of those stating a preference)

Site D – 1.75 (2.8% of total / 3.4% of those stating preference)

Site E – 32 (50.8% of total / 62.8% of those stating a preference)

No location preference stated – 12 (19.1% of total)

The consultation concluded that:

Site E is the most strongly supported site and has been identified as the preferred location for someone with a disability, but also faces strong opposition from some community members primarily on the grounds of heritage and safety, matters which are the subject of separate government considerations. The strong support for this Site E is very clear and is noteworthy in light of the objective for the consultation “to establish consensus around a preferred site”. It would not be possible to make a case that there is consensus for any of Site A, B, C or D – or even that there is consensus for a site other than Site E. The clear outcome from this community consultation is that Site E is the preferred site.

An important finding of the community consultation was the wide range of users the track would attract. Apart from young children, the community consultation uncovered that the elderly and disabled would also be users of the track. This makes access and amenity critical to the success of the track. As can be seen in the assessment of track in table 1, site E is the only site that offers access and amenity in the form of flat ground, parking and toilet facilities. If the recreation track is not located at site E it is unlikely to be viable.

Given the importance of site E to the success of the track, and the low impact of the proposed works, the Custodian feels this location provides an appropriate balance between respecting the heritage of the site and providing public amenity.

In summary, site E clearly has the strongest support from the local community. In addition, site E has good access to housing, is already owned and managed by TCCS, comparatively has been subject to the highest level of surface soil disturbance (moderate) of all site options, which means that any Aboriginal sites with archaeological evidence that once existed are more likely to have been disturbed. and is the site most conveniently located directly adjacent to established amenities.

## RAO Consultation

**Table 2** Consultation Log

Date	Type of Contact (email, phone etc)	Group/Individual	Comment/Action
20/6/17	Email, post	all	Invitations to participate in the field survey
30/6/17	Field participation	Justin Bell  (Buru Ngunawal)	
1/8/17	Post	all	Draft report sent to each groups with a request for comment.
24/5/18	Post	all	Draft report sent to each group with a request for comment and response form.
13/6/18	Phone	all	Called each group to follow up report, with request for comment.
13/6/18	Phone	Carl Brow  (KBTG)	Agreed with the findings of the report and the recommendations for minimising harm as proposed by NOHC
19/6/18	Phone	Wally Bell  (Buru Ngunawal)	Clarification of advice letter  (see below for details)
7/6/18	Phone	James Mundy (Ngarigu)	Called to follow up report, with request for comment.  No answer, left voicemail
7/6/18	Phone	Matilda House (Mirrabei)	Called to follow up report, with request for comment.  No answer

Wally Bell (BNAC), provided a written response, included in Appendix 1 of the SHE. Further clarification from Wally was sought by phone regarding the BNAC request that “*further investigation be undertaken which will minimise potential impacts/damage occurring on those objects*”. Wally clarified that his intent was to avoid impact not to undertake subsurface investigation. As a result, changes were made to section 10.4.1 *Mitigation strategies* (see SHE report) including adding the following:

Representatives of the track constructors will be present during this initial investigation so that they have an on-site understanding of the location of artefacts.

An archaeologist and representatives of the RAOs will be present on-site during the scraping back of surface vegetation by the mini excavator and hand excavation.

Discussion with Wally also occurred on the protocol to follow on the movement of any artefact encountered during the scraping back of surface vegetation. Wally reiterated that Buru Ngunawal wanted artefacts to stay on site and that moving them off the track was the best approach as opposed to prescribing a return to country location.

Since the most recent meeting with ACT Heritage (4 July 2018) for the Hall Creek Track Statement of Heritage Effect (SHE), further efforts have been made to contact the RAO groups that are yet to provide feedback (see above updated consultation log).

In summary, multiple attempts have been made to contact all RAO's in order to incorporate indigenous cultural knowledge, advice, and feedback, into project design and impact mitigation strategies for the heritage items. Two of the four RAOs (Buru Ngunawal & King Brown Tribal Group) agree with the recommendations and impact mitigation strategies proposed by NOHC. Wally Bell made it clear that Buru Ngunawal did not want to undertake subsurface investigation.

## **Discussion of Impacts and Mitigation Measures**

### **Impact of the track**

The Custodian considers the construction of the track will be a very low impact activity.

In relation to impact, there will be minimal excavation for the track. The track will be made of bare earth, added to mitigate damage as required, 1.2m wide. The only excavation required for the track is the removal of undergrowth and organic matter of in the direct line of the track. The construction of the track will have no more impact than that already made by the informal tracks over the site.

### **Proposed Mitigation Strategy**

NOHC propose that a mitigation strategy is implemented to avoid/reduce potential harm to Aboriginal objects.

This strategy involves undertaking a program of archaeological survey before and monitoring following track construction. Artefacts found prior to construction impacts would result in slight alterations of the track alignment. Any Aboriginal objects found during monitoring would be recorded on site and moved away from the route. Details of the site would subsequently be provided to ACT Heritage.

During a meeting on July 4<sup>th</sup> ACT Heritage representatives suggested that the ACT Heritage Council do not generally support monitoring as a mitigation measure. It was suggested to NOHC that subsurface testing may be necessary, but that archaeological excavation would not be necessary below the anticipated depth of impacts of the development, which in this case is approximately 5cm.

While NOHC understand the position of the Heritage Council regarding monitoring as a mitigation measure, we are also of the view that subsurface test excavation in the case of this particular project would not provide the desired archaeological data to form the detailed and coherent understanding of the site that should be the aim of any subsurface testing program.

From an archaeological perspective there are three main impact mitigation options that should be assessed. They are outlined as follows:

- A full archaeological test excavation program of the development impact area. Excavation would cease at depth where sterile deposits are encountered (e.g. Bedrock/clay)
- Archaeological test excavation program limited to the depth of subsurface impacts of the project. In this case excavation depth would be 5cm.
- A program of archaeological survey, surface artefact avoidance, and monitoring developed in consultation with the RAOs.

### **Archaeological Test Excavation**

NOHC have a number of concerns about implementing a full-scale test program. The impacts of archaeological testing would result in far deeper impacts than those from the development. While the site has been subject to moderate surface impacts to this point, such impacts have generally been limited to the upper 10cm of deposits, which are also subject to bioturbation. It is these upper deposits, subject to the most disturbance to date, that will be impacted by the Hall Creek Track development. NOHC are of the view that any subsurface impacts, whether archaeological or otherwise, should be limited to the depths of development impacts, rather than less disturbed, possibly in-situ and stratified archaeological deposits. While full archaeological test excavation would yield the best results from a scientific research perspective, these benefits do not outweigh the unnecessary and detrimental impacts to an unrenovable archaeological resource.

### **Depth Limited Archaeological Test Excavation**

While NOHC are of the view that archaeological test excavation limited to the depths of development impacts is preferable to full archaeological testing, we are concerned that the resulting archaeological data set would be of low scientific quality. Given existing impacts from post-European vegetation clearance, farming, stock, and erosion, as well as ongoing bioturbation, the potential for pits excavated to a depth of 5cm to have stratified in-situ archaeological deposits is extremely low.

It should also be noted that a large number of test pits would have to be excavated in order to yield the requisite number of artefacts for a statistically rigorous data set, which should be the aim at the beginning of any archaeological test excavation program. In the event that an appropriate number of artefacts are uncovered during excavation, the potential for spatial distinction of locations of heightened Aboriginal focus (such as flaking floors) is very low, given the previously mentioned impacts to this portion of the soil profile.

### **Surface Survey, Artefact Avoidance, & Monitoring**

The archaeological survey of the proposed track immediately prior to construction, followed by slight track realignments and fencing of artefact locations where necessary are useful mitigation measures, especially when undertaken with close consultation between archaeologists, RAOs and the plant operator.

The monitoring program would see archaeologists and representatives of the RAOs on-site during the scraping back of surface vegetation by the mini excavator and hand excavation. If artefacts are encountered a GPS recording will be taken of its location and basic artefact measurements will be taken including size, material type and artefact type.

As the artefacts encountered will be already in a disturbed context their movement off the track, and still within their same general area of deposition, will help to retain the remaining spatial integrity of any artefacts, in that they will be placed in the same general location they were found in. This will help to retain both the scientific and cultural significance of those items.

The artefacts will remain within the Halls Creek corridor and will be the subject of the same natural and human process that those items are currently. The direction of bicycle and foot traffic to a formed path will aid in decreasing the human impact on the surrounding landscape and will help to preserve the artefacts that are currently in the corridor and those that may be moved off the track during the construction process.

NOHC acknowledge that this mitigation strategy has little value from a scientific perspective, however we believe that the impact of the track will not alter the scientific significance of the PAD. In fact, the only strategy that would have scientific value would be a full archaeological test excavation program, and this would result in unnecessary subsurface impacts to archaeological deposits not at risk from development. Therefore, the suggested program of archaeological survey, surface artefact avoidance, and monitoring developed in consultation with the RAOs, is NOHC's preferred impact mitigation strategy given it has been developed in conjunction with all RAOs that have been involved in the project thus far.

**From:** [Moore, FionaF](#)  
**To:** [McHugh, Ben](#)  
**Subject:** RE: Revised report - Hall bike track [SEC=UNCLASSIFIED]  
**Date:** Wednesday, 25 July 2018 9:44:00 AM  
**Attachments:** [image002.gif](#)  
[image003.gif](#)  
[image004.png](#)

---

Hi Ben,

I have tried to phone you this morning, Minister Gentleman's office is also raising queries in relation to this project, as they are being contacted by [REDACTED] (local Hall resident), to which I need advice from TCCS to be able to respond.

I have left phone messages and emailed Stephen Alegria, however have been unable to catch him as yet.

If you're available today, perhaps we could meet and discuss in person?

Regards,

**Fiona Moore** | Senior Manager, ACT Heritage (Mon – Thurs)

Phone: +61 2 6205 9974 | Email: [fionaf.moore@act.gov.au](mailto:fionaf.moore@act.gov.au)

**ACT Heritage | Environment, Planning and Sustainable Development Directorate | ACT Government**

Dame Pattie Menzies House, Dickson | GPO Box 158 Canberra ACT 2601 | [www.environment.act.gov.au](http://www.environment.act.gov.au)



---

**From:** McHugh, Ben

**Sent:** Wednesday, 25 July 2018 8:22 AM

**To:** Jan Klaver <[REDACTED]>; Thomas, Emma <[Emma.Thomas@act.gov.au](mailto:Emma.Thomas@act.gov.au)>

**Cc:** [fiona.moore@act.gov.au](mailto:fiona.moore@act.gov.au); Heritage <[Heritage@act.gov.au](mailto:Heritage@act.gov.au)>; OConnell, Jennifer <[Jennifer.OConnell@act.gov.au](mailto:Jennifer.OConnell@act.gov.au)>

**Subject:** RE: Revised report - Hall bike track [SEC=UNCLASSIFIED]

Hi Jan,

I apologise for the delay in responding to your requests.

I will provide an update on the assessment of the proposed locations for the bike track after I have followed up with the responsible officers.

Regards

Ben

**From:** Jan Klaver [[mailto:\[REDACTED\]](mailto:[REDACTED])]

**Sent:** Tuesday, 24 July 2018 9:20 PM

**To:** McHugh, Ben <[Ben.McHugh@act.gov.au](mailto:Ben.McHugh@act.gov.au)>; Thomas, Emma <[Emma.Thomas@act.gov.au](mailto:Emma.Thomas@act.gov.au)>

**Cc:** [fiona.moore@act.gov.au](mailto:fiona.moore@act.gov.au); Heritage <[Heritage@act.gov.au](mailto:Heritage@act.gov.au)>; OConnell, Jennifer <[Jennifer.OConnell@act.gov.au](mailto:Jennifer.OConnell@act.gov.au)>

**Subject:** Fwd: Revised report - Hall bike track

Dear Emma and Ben

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Thank you

Jan Klaver

----- Forwarded message -----

**From:** **Jan Klaver** <[REDACTED]>

**Date:** Thu, 19 Jul 2018 at 8:13 am

**Subject:** Fwd: Revised report - Hall bike track

**To:** [michael.brice@act.gov.au](mailto:michael.brice@act.gov.au) <[michael.brice@act.gov.au](mailto:michael.brice@act.gov.au)>

Cc: Alegria, Stephen <[stephen.alegria@act.gov.au](mailto:stephen.alegria@act.gov.au)>, OConnell, Jennifer <[jennifer.oconnell@act.gov.au](mailto:jennifer.oconnell@act.gov.au)>

Dear Mr Brice

Just following up on my requests for information on this matter.

Jan Klaver

From: Jan Klaver <[REDACTED].com>

Date: Wed, 13 Jun 2018 at 7:18 pm

Subject: Re: Revised report - Hall bike track

To: [michael.brice@act.gov.au](mailto:michael.brice@act.gov.au) <[michael.brice@act.gov.au](mailto:michael.brice@act.gov.au)>

Dear Mr Brice

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Regards

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Dear Stephen

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Thanks

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Hi Jan,

TCCS is working with the community to facilitate this project. We have looked at several options for other locations and all have significant shortcomings. I will ask Brian to provide more details to you.

Regards

**Stephen Alegria | Director | City Presentation**

**T 02 6207 9833** | M [REDACTED]

City Services | Transport Canberra and City Services Directorate

Level 2 Wotso House, [490 Northbourne Avenue](https://www.act.gov.au/transport-canberra), Dickson ACT | GPO 158, Canberra ACT 2601.

[www.tccs.act.gov.au](http://www.tccs.act.gov.au)

**From:** Jan Klaver [mailto:[REDACTED]]

**Sent:** Sunday, 8 April 2018 6:40 PM

**To:** Alegria, Stephen <[Stephen.Alegria@act.gov.au](mailto:Stephen.Alegria@act.gov.au)>; Carder, Jane <[Jane.Carder@act.gov.au](mailto:Jane.Carder@act.gov.au)>

**Cc:** Bathgate, Brian <[Brian.Bathgate@act.gov.au](mailto:Brian.Bathgate@act.gov.au)>

**Subject:** Re: Revised report - Hall bike track

Hello Stephen

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Can you tell me why TCCS is still so committed to the creek location given the

impact on significant Aboriginal heritage places and knowledge that the community consultation attended by Mr Bathgate of your office concluded that the majority of Hall residents were flexible about the location. This result is included in the report prepared by Michael Pilbrow.

Could you also let me know what alternative sites identified by the Hall community you are looking at for construction of the track.

Regards

Jan

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Dear Jan,

Further to my previous response, please find attached the SHE reports for your information.

Apologies for the delay in providing these.

Regards

**Stephen Alegria | Director | City Presentation**

**T 02 6207 9833 | M [REDACTED]**

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[www.tccs.act.gov.au](http://www.tccs.act.gov.au)

**From:** Jan Klaver [mailto:[REDACTED]]

**Sent:** Wednesday, 28 March 2018 5:48 PM

**To:** Alegria, Stephen <[Stephen.Alegria@act.gov.au](mailto:Stephen.Alegria@act.gov.au)>; Carder, Jane <[Jane.Carder@act.gov.au](mailto:Jane.Carder@act.gov.au)>

**Subject:** Re: Revised report - Hall bike track

Dear Stephen

Could I please have an acknowledgement of my request and update as to when I can expect your response.

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Thank you

Jan Klaver

On 13 March 2018 at 19:13, Jan Klaver [REDACTED] > wrote:

Hello Stephen

I would like to see the report as a whole, redacted only to remove anything that I am not entitled to see under ACT freedom of information law.

thank you

Jan

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Hello Jan,

We are currently considering ACT Heritage Council advice on the revised SHE report that was submitted in January in response to previous advice on the original report.

I am unable to provide the SHE report at this time. Is there a specific query you have that I may be able to answer?

Regards

**Stephen Alegria | Director | City Presentation**

**T 02 6207 9833** | M [REDACTED]

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[www.tccs.act.gov.au](http://www.tccs.act.gov.au)

**From:** Jan Klaver [mailto:[REDACTED]]

**Sent:** Friday, 9 March 2018 10:52 AM

**To:** OConnell, Jennifer <[Jennifer.OConnell@act.gov.au](mailto:Jennifer.OConnell@act.gov.au)>; Russell, Meaghan  
<[Meaghan.Russell@act.gov.au](mailto:Meaghan.Russell@act.gov.au)>; Alegria, Stephen <[Stephen.Alegria@act.gov.au](mailto:Stephen.Alegria@act.gov.au)>

**Subject:** Revised report - Hall bike track

Dear Stephen

I understand that a revised report on the heritage assessment of the Halls Creek Aboriginal sites zone was submitted to ACT Heritage in January. Can I be provided with a copy please. As reporter of the new finds in the area I believe I have a reasonable basis for my request

Thank you

Jan Klaver

-----  
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**From:** [Moore, FionaF](#)  
**To:** [McHugh, Ben](#)  
**Subject:** RE: Revised report - Hall bike track [SEC=UNCLASSIFIED]  
**Date:** Wednesday, 25 July 2018 2:03:00 PM  
**Attachments:** [image001.gif](#)  
[image002.gif](#)

---

Hi Ben,

I have just spoken with Stephen, and will be meeting with him tomorrow as well. Suggested edits for your consideration:

Dear Jan,

Apologies for the delay in responding.

I am advised that an amended SHE has been prepared and will be provided to the ACT Heritage Council (the Council) shortly, for consideration in the coming weeks.

The revised SHE includes further details and analysis of the assessment process undertaken on possible alternative sites, as requested by the Council and required to meet statutory requirements.

I will arrange for the final SHE, once Council has made a decision, to be provided to you for information when it becomes available.

Regards,

**Fiona Moore** | Senior Manager, ACT Heritage (Mon – Thurs)

Phone: +61 2 6205 9974 | Email: [fionaf.moore@act.gov.au](mailto:fionaf.moore@act.gov.au)

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---

**From:** McHugh, Ben

**Sent:** Wednesday, 25 July 2018 1:39 PM

**To:** Moore, FionaF <[FionaF.Moore@act.gov.au](mailto:FionaF.Moore@act.gov.au)>

**Subject:** Fwd: Revised report - Hall bike track [SEC=UNCLASSIFIED]

Hi Fiona,

Apologies for missing your calls this morning, all of TCCS have been attending our whole of directorate exchange.

Below is a short update from Stephen which I plan to provide to Jan, noting that it doesn't include specific dates. I would be interested in your comments on the proposed response before I send it off.

I will be back in the office after 3:30pm, so will try you again then.

Regards

Ben

Sent from my iPad

Begin forwarded message:

**From:** "Alegria, Stephen" <[Stephen.Alegria@act.gov.au](mailto:Stephen.Alegria@act.gov.au)>

**Date:** 25 July 2018 at 8:51:31 am AEST

**To:** "McHugh, Ben" <[Ben.McHugh@act.gov.au](mailto:Ben.McHugh@act.gov.au)>, "Brice, Michael"

<[Michael.Brice@act.gov.au](mailto:Michael.Brice@act.gov.au)>, "Bathgate, Brian"

<[Brian.Bathgate@act.gov.au](mailto:Brian.Bathgate@act.gov.au)>

**Subject:** RE: Revised report - Hall bike track [SEC=UNCLASSIFIED]

*Suggested response:*

Dear Jan,

Apologies for the delay in responding.

I am advised that an amended SHE has been prepared and will be provided to the Heritage Unit shortly, for consideration by the relevant Aboriginal Taskforce subcommittee in the coming weeks.

The revised SHE includes further details and analysis of the assessment process undertaken on possible alternative sites, as requested by the Heritage Unit and required to meet statutory requirements.

I will arrange for the final (endorsed) SHE to be provided to you for information when it becomes available.

---

**From:** McHugh, Ben

**Sent:** Wednesday, 25 July 2018 8:20 AM

**To:** Brice, Michael <[Michael.Brice@act.gov.au](mailto:Michael.Brice@act.gov.au)>; Alegria, Stephen <[Stephen.Alegria@act.gov.au](mailto:Stephen.Alegria@act.gov.au)>

**Subject:** FW: Revised report - Hall bike track [SEC=UNCLASSIFIED]

Gents,

Any update on this advice?

I'm happy to approach Jan with an update if needed.

Regards

Ben

**From:** Jan Klaver [REDACTED]

**Sent:** Tuesday, 24 July 2018 9:20 PM

**To:** McHugh, Ben <[Ben.McHugh@act.gov.au](mailto:Ben.McHugh@act.gov.au)>; Thomas, Emma <[Emma.Thomas@act.gov.au](mailto:Emma.Thomas@act.gov.au)>

**Cc:** [fiona.moore@act.gov.au](mailto:fiona.moore@act.gov.au); Heritage <[Heritage@act.gov.au](mailto:Heritage@act.gov.au)>; OConnell, Jennifer <[Jennifer.OConnell@act.gov.au](mailto:Jennifer.OConnell@act.gov.au)>

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**Cc:** Alegria, Stephen <[stephen.alegria@act.gov.au](mailto:stephen.alegria@act.gov.au)>, OConnell, Jennifer <[jennifer.oconnell@act.gov.au](mailto:jennifer.oconnell@act.gov.au)>

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**Stephen Alegria | Director | City Presentation**

**T 02 6207 9833 | M [redacted]**

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**Cc:** Bathgate, Brian <[Brian.Bathgate@act.gov.au](mailto:Brian.Bathgate@act.gov.au)>

**Subject:** Re: Revised report - Hall bike track

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Thank you  
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**ACT**  
Government

Environment, Planning and  
Sustainable Development

<b>To</b>	Aboriginal Taskforce
<b>From</b>	A/g Team Leader, Advice, ACT Heritage
<b>Subject</b>	<b>Hall Creek Bike Track - SHE application</b>
<b>Critical Date</b>	Wed 26 September 2018 - email comments

### **Purpose**

To provide the Aboriginal Taskforce with the Hall Creek Bike Track SHE application prepared by Navin Officer Heritage Consultants (the SHE) for review.

### **Summary of Proposal**

The following documents have been submitted as part of the application:

- Cultural Heritage Assessment and Statement of Heritage Effect - Halls Creek Track (Navin Officer Heritage Consultants, June 2018); and
- Additional Information to Meet Statutory Requirements (Navin Officer Heritage Consultants, July 2018).

The proposed works involve:

- Construction of a new 1.2m wide bike track adjacent to Halls Creek; and
- Excavation of undergrowth and organic matter by hand and using a mini-excavator.

### **Key Aspects for Consideration**

- The works will take place within the 'Aboriginal Sites Zone' a feature intrinsic to the Hall Village Precinct;
- The proposed project area has been assessed as having moderate potential to contain *in situ archaeological deposits* and three stone artefacts have been found along the track;
- Construction activities and ongoing use of the track will likely result in damage to Aboriginal places and objects; and
- An alternative site location (Site D) has been identified as a reasonably practicable alternative. This location is outside of the 'Aboriginal Sites Zone'.

### **Background**

- On 18 September 2017 a SHE application for the works was submitted to Council.
- On 7 December 2017 Council advice was issued requested revisions to the SHE to include: a detailed description of the proposed activity; detailed assessment of the archaeological potential of the track area; and assessment of the potential impacts to heritage places in the project area; a description of other reasonably practicable

ways of carrying out the activity; and identify the proposed location where salvaged artefacts would be deposited.

- On 15 December 2017, ACT Heritage notified TCCS of a number of Aboriginal places recorded along Halls Creek that were not referenced in the SHE, and advised that three of these places, being 'Site 4' Site 5' and 'Site 6' were within the proposed project area.
- On 10 January 2018 a revised SHE report was submitted to Council addressing some the information requested in the 7 December 2017 advice and including Sites 4, 5 and 6 in the assessment.
- On 22 February 2018 Council advice was issued requesting further revision to the SHE report to: demonstrate adequate consultation with RAOs; include key information of the proposed activity (such as track dimensions and excavation depth); include assessment of the heritage significance of Sites 4, 5 and 6; adequately assess potential impacts to heritage places and objects and demonstrate consideration of reasonably practicable alternatives.

### **Attachments**

1. Assessment Against *Heritage Act 2004* Requirements - ACT Heritage review
2. Cultural Heritage Assessment and Statement of Heritage Effect - Halls Creek Track (Navin Officer Heritage Consultants, June 2018)
3. Additional Information to Meet Statutory Requirements (Navin Officer Heritage Consultants, July 2018)
4. Council advice dated 22 February 2018

<b>Assessment Against <i>Heritage Act 2004</i> Requirements</b>	
<b>Requirement</b>	<b>ACT Heritage review</b>
<p><u>Under Section 61(H)(3) of the Act, the Council must approve a SHE application if it is satisfied on reasonable grounds that: the proposed activity is justifiable at, or near, the place; and, there are no reasonably practicable alternative ways to carry out the proposed activity at the place; and, that reasonable steps have been identified to reduce the risk of diminishing the heritage significance of or damage to the place.</u></p>	<p>From the information provided, the proposed activity is not considered to be justifiable at the place given there is a reasonably practicable alternative site location for the proposed activity that will avoid impacts to the ‘Aboriginal Sites Zone’.</p>
<p><u>Under Section 61(G)(1)(a) of the Act, a SHE application must describe the place/object or Aboriginal place/object to which the application relates (the heritage site).</u></p>	<p>Part 8.2 of the SHE includes a description of the project area and identifies that the proposed bike track would be located within the ‘Aboriginal Sites Zone’ (a feature intrinsic to the heritage significance of the Hall Village Heritage Precinct).</p> <p>The proposed bike track was assessed on 30 June 2017 as having moderate potential to contain <i>in situ archaeological deposits</i>; reflecting prior studies of the Halls Creek Aboriginal Sites Zone. The SHE identifies that three isolated finds are located within the study area being Site 4, 5 and 6. These sites are identified as significant to the local Aboriginal community and as part of the Halls Creek Landscape satisfy criterion G (Section 10 of the <i>Heritage Act 2004</i>).</p> <p>The SHE application identifies that the Village Well, War Memorial Grove and Hall Creek Road Bridge (features intrinsic to the heritage significance of the Hall Village Precinct) are</p>

<b>Assessment Against <i>Heritage Act 2004</i> Requirements</b>	
<b>Requirement</b>	<b>ACT Heritage review</b>
	within or immediately adjacent to the proposed project area. The SHE report does not include an assessment of significance for these places.
<u>Under Section 61(G)(1)(b) of the Act, a SHE application must provide details about the proposed activity, including the reason for the activity and the extent and duration of the activity.</u>	<p>The proposed works are described in the Additional Information Report as follows:</p> <ul style="list-style-type: none"> <li>• The track will be 1.2m wide and made of bare earth (added to mitigate damage as required).</li> <li>• Excavation will be limited to removal of undergrowth and organic matter in the direct line of the track. These works will be undertaken by hand and using a mini-excavator.</li> </ul> <p>The tracks will formalise existing walking tracks over the site.</p> <p>Details of proposed works compounds/materials storage locations have not been provided in the SHE.</p>
<u>Under Section 61(G)(1)(c) of the Act, a SHE application must describe the likely effect of the proposed activity on the heritage site, including the effects that may diminish the heritage significance of or damage the heritage site.</u>	<p>The Additional Information Report describes impacts to the ‘track’ as ‘very low’ and argues that the impact of the track will not alter the scientific significance of the Aboriginal Sites Zone.</p> <p>However, in the absence of a methodology outlining how undergrowth and organic matter will be removed from the track, impacts to the artefacts located on and adjacent to the track are unknown.</p> <p>Use of a mini- excavator to remove undergrowth would likely result in damage to any artefacts located on or adjacent to the</p>

<b>Assessment Against <i>Heritage Act 2004</i> Requirements</b>	
<b>Requirement</b>	<b>ACT Heritage review</b>
	<p>track. Monitoring of this process is no guarantee that artefacts will not be damaged during works.</p> <p>Intensified use of the track, anticipated upon levelling and formalisation of the existing pathways, would also likely result in a greater level of disturbance of artefacts within the Aboriginal Sites Zone.</p> <p>The SHE report identifies that the Village Well, War Memorial Grove and Hall Creek Road Bridge will not be directly impacted by the project.</p>
<p><u>Under Section 61(G)(1)(d) of the Act, a SHE application must describe the measures that the applicant will adopt during the activity to reduce the risk of diminishing the heritage significance of or damage the heritage site.</u></p>	<p>The Additional Information Report proposes the following measures to reduce the risk of damage to the Aboriginal Sites Zone: surface survey prior to construction, slight track re-alignments and fencing of artefact locations where necessary monitoring during construction.</p>
<p><u>Under Section 61(G)(1)(e) of the Act, a SHE application must describe whether other reasonably practicable ways of carrying out the activity at the heritage site are available.</u></p>	<p>The Additional Information Report identifies five potential locations for a bike track in Hall. Two of those locations (Sites D and E) are considered to have a track gradient suitable for children, elderly and the disabled.</p> <p>Site D (Polocrosse Margin) is located outside of the 'Aboriginal Sites Zone' on land that is unlikely to contain Aboriginal places and objects in an undisturbed context. This site is considered to be</p>

<b>Assessment Against <i>Heritage Act 2004</i> Requirements</b>	
<b>Requirement</b>	<b>ACT Heritage review</b>
	a reasonably practicable alternative that would avoid impacts to the Aboriginal Sites Zone.

<b>Assessment Against the '<i>Heritage (Representative Aboriginal Organisations) Declaration 2006</i>' (NI2006-298)</b>	
<b>ACT Heritage Council comment</b>	<b>Consultant Response</b>
Notifiable Instrument 2006-298 identifies that RAOs fulfil an important role in the identification and management of Aboriginal places and objects in the ACT, and requires that RAOs are consulted about the heritage significance of Aboriginal places and objects, and the impacts of proposed development on Aboriginal places and objects.	<p>Evidence of RAO consultation is provided in Table 2 of the Additional Information Report.</p> <p>King Brown Tribal Council representative Carl Brown verbally agreed with the finding of the report and the recommendations for minimising harm.</p> <p>Buru Ngunawal representative Wally Bell verbally expressed preference for removal of artefacts (encountered during the scraping back of surface vegetation) to the side of the track, in lieu of a prescribed return to country location.</p>

**From:** [Harrison, Kate](#)  
**To:** [Russell, Meaghan](#)  
**Subject:** FW: Hall Creek Bike Track - Aboriginal taskforce referral [SEC=UNCLASSIFIED]  
**Date:** Tuesday, 2 October 2018 3:30:00 PM  
**Attachments:** [image002.png](#)  
[image001.png](#)  
[image002.png](#)

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See Gary's email below

**Kate Harrison** | Conservation Officer (Advice) (Mon – Wed)  
Phone: 02 6207 1278 | Email: [kate.harrison@act.gov.au](mailto:kate.harrison@act.gov.au)  
**ACT Heritage | Environment, Planning and Sustainable Development Directorate | ACT Government**  
Dame Pattie Menzies House 16 Challis Street Dickson | GPO Box 158 Canberra ACT 2601  
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**From:** gary shipp [REDACTED]  
**Sent:** Tuesday, 2 October 2018 1:12 PM  
**To:** Harrison, Kate <[Kate.Harrison@act.gov.au](mailto:Kate.Harrison@act.gov.au)>  
**Subject:** Re: Hall Creek Bike Track - Aboriginal taskforce referral [SEC=UNCLASSIFIED]

Dear Kate and fellow members of Aboriginal Taskforce.

Thank you for providing the above documents regarding Hall Creek bike track.  
I am satisfied with the Navin Officer Heritage Consultants review and that it complies with the Heritage ACT.

I note that King Brown Tribal Group agrees with the findings of the SHE Report and in particular the recommendations for minimising harm as proposed by NOHC, ie, use of mini excavator and some hand excavation. I also note that Justin Bell participated in earlier fieldwork. In addition, Wally Bell has provided a written response outlining a request for further investigation to minimise potential impact. However, I am concerned that whilst the reports current assessment concludes that there is moderate potential for there to be aboriginal sites along Halls creek and for these sites to be in -situ below bioturbation zone, together with concern of Dr Jan Klaver who suggests that more cultural material is buried in this stratum, it may be best that further investigation be carried out. Such further investigation should include the participation of RAOs. Further, given that Site D is an alternative location and lies outside the Aboriginal Sites Zone, I recommend further consultation with Hall community is considering 19% of total had no location preference. I trust these comments assist  
Happy to discuss.

Kate, apologies for delay.  
Regards

Gary shipp

On Tue, 18 Sep. 2018, 6:15 pm Harrison, Kate, <[Kate.Harrison@act.gov.au](mailto:Kate.Harrison@act.gov.au)> wrote:

Dear Taskforce members

See attached Taskforce referral summary and documentation for the Hall Creek Bike Track SHE application.  
Please review the report and provide comments by close of business Wednesday 26 September.

Ken Heffernan has declared a conflict of interest and should not be consulted on this matter.

If you have any questions please email or call 6207 1278 (Mon-Wed).

**Kate Harrison** | A/g Team Leader (Advice) (Mon – Wed)

Phone: 02 6207 1278 | Email: [kate.harrison@act.gov.au](mailto:kate.harrison@act.gov.au)

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**ACT Heritage**  
**FILE NOTE/CONVERSATION RECORD**

<b>Date:</b>	5 October 2018	
<b>SUBJECT:</b>	Aboriginal Taskforce comments on Halls Creek bike path SHE	
<b>CONVERSATION WITH THE FOLLOWING PARTIES:</b>		
<b>Name</b>	<b>Position</b>	<b>Contact Details</b>
Meaghan Russell	Team Leader, Advice – ACT Heritage	6205 5497
Doug Williams	Aboriginal Taskforce – ACT Heritage Council	[REDACTED]
Edwina Jans	Aboriginal Taskforce – ACT Heritage Council	[REDACTED]
Gary Shipp	Aboriginal Taskforce – ACT Heritage Council	[REDACTED]
<b>CONVERSATIONS:</b>		
<input checked="" type="checkbox"/> Over telephone, 8.40am-9am		
<b>NOTES:</b>		
<p>Meaghan called Doug and Edwina to discuss their comments on the SHE application referred to Aboriginal Taskforce (Halls Creek bike path) – no answer. Messages left seeking comments and return calls.</p> <p>Meaghan also called Gary to discuss comments provided on the SHE application by email on 2 October – no answer. Message left requesting a return call to discuss.</p>		

**From:** [REDACTED]  
**To:** [Russell, Meaghan](#)  
**Subject:** Re: FW: Hall Creek Bike Track - Aboriginal taskforce referral [SEC=UNCLASSIFIED]  
**Date:** Saturday, 6 October 2018 3:56:31 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image002.png](#)

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Hi Meaghan,

So sorry - I am out in Qld, no comms, in Birdsville for the afternoon. I have read the report on the Hall Bike track. I don't see any reason why the track shouldn't be pushed further from the creek. I am familiar with the locality and there seems little reason to disturb the creek bank for a non-essential development.

Cheers

Doug

On 2018-10-02 07:54, Russell, Meaghan wrote:

Hello Doug and Edwina,

I understand that Aboriginal Taskforce comments on the Halls Creek bike path SHE application were requested by 26 September, and as this date has now passed, any comments you may have would be much appreciated this week – by [cob Thursday 4 October](#).

Doug – as Ken has a declared conflict of interest with this application, your comments on the archaeological aspects of the application are specifically sought to guide the response to the applicant. If you have limited time this week, I can always make a note of your verbal comments by phone.

Regards,

Meaghan

**Meaghan Russell** | Team Leader (Advice)

Phone: 13 22 81 | Email: [meaghan.russell@act.gov.au](mailto:meaghan.russell@act.gov.au)

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**From:** Harrison, Kate

**Sent:** Tuesday, 2 October 2018 3:30 PM

**To:** Russell, Meaghan <Meaghan.Russell@act.gov.au>

**Subject:** FW: Hall Creek Bike Track - Aboriginal taskforce referral [SEC=UNCLASSIFIED]

See Gary's email below

**Kate Harrison** | Conservation Officer (Advice) (Mon – Wed)

Phone: 02 6207 1278 | Email: [kate.harrison@act.gov.au](mailto:kate.harrison@act.gov.au)

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**From:** gary shipp [REDACTED]

**Sent:** Tuesday, 2 October 2018 1:12 PM

**To:** Harrison, Kate <[Kate.Harrison@act.gov.au](mailto:Kate.Harrison@act.gov.au)>

**Subject:** Re: Hall Creek Bike Track - Aboriginal taskforce referral [SEC=UNCLASSIFIED]

Dear Kate and fellow members of Aboriginal Taskforce.

Thank you for providing the above documents regarding Hall Creek bike track.

I am satisfied with the Navin Officer Heritage Consultants review and that it complies with the Heritage ACT.

I note that King Brown Tribal Group agrees with the findings of the SHE Report and in particular the recommendations for minimising harm as proposed by NOHC, ie, use of mini excavator and some hand excavation. I also note that Justin Bell participated in earlier fieldwork I addition, Wally Bell has provided a written response outlining a request for further investigation to minimise potential impact.

However, I am concerned that whilst the reports current assessment concludes that there is moderate potential for there to be aboriginal sites along Halls creek and for these sites to be in -situ below bioturbation zone, together with concern of Dr Jan Klaver who suggests that more cultural material is buried in this stratum, it may be best that further investigation be carried out. Such further investigation should Include the participation of RAOs.

Further, given that Site D is an alternative location and lies outside the Aboriginal Sites Zone, i recommend further consultation with Hall community is considering 19% of total had no location preference.

I trust these comments assist

Happy to discuss.

Kate, apologies for delay.

Regards

Gary shipp

On Tue, 18 Sep. 2018, 6:15 pm Harrison, Kate,  
<[Kate.Harrison@act.gov.au](mailto:Kate.Harrison@act.gov.au)> wrote:

Dear Taskforce members

See attached Taskforce referral summary and documentation for the Hall Creek Bike Track SHE application.

Please review the report and provide comments by close of business Wednesday 26 September.

Ken Heffernan has declared a conflict of interest and should not be consulted on this matter.

If you have any questions please email or call 6207 1278 (Mon-Wed).

**Kate Harrison** | A/g Team Leader (Advice) (Mon – Wed)

Phone: 02 6207 1278 | Email: [kate.harrison@act.gov.au](mailto:kate.harrison@act.gov.au)

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**FILE NOTE/CONVERSATION RECORD**

<b>Date:</b>	8 October 2018	
<b>SUBJECT:</b>	Aboriginal Taskforce comments on Halls Creek bike path SHE	
<b>CONVERSATION WITH THE FOLLOWING PARTIES:</b>		
<b>Name</b>	<b>Position</b>	<b>Contact Details</b>
Meaghan Russell	Team Leader, Advice – ACT Heritage	6205 5497
Edwina Jans	Aboriginal Taskforce – ACT Heritage Council	
<b>CONVERSATIONS:</b>		
<input checked="" type="checkbox"/> Over telephone, 9.30-9.50am		
<b>NOTES:</b>		
<p>Meaghan called Edwina at 9.30am to discuss the Halls Creek SHE application – no answer, message left requesting a return call. Edwina called Meaghan at 9.50am to discuss the application, with the following conversation:</p> <ul style="list-style-type: none"> <li>• Edwina stated that she had read the SHE report when it was first referred, and asked for an overview of the application, the heritage area and comments from other Taskforce members.</li> <li>• Meaghan gave a summary of the proposal and the assessment history, including that the track alignment had been modified in one area to avoid two surface Aboriginal sites recorded. Meaghan also provided a summary of information on the Halls Creek 'Aboriginal Sites Zone', including the results of the most recent surveys and a general understanding of the archaeological and cultural sensitivity of the creek alignment. Meaghan also summarised the comments to date from Gary and Doug on the application.</li> <li>• Edwina stated that the comments from Gary and Doug seemed perfectly reasonable, and that she would defer to their expertise being more familiar with the area and the issue.</li> <li>• Edwina also stated that alternate locations to impacting heritage areas should be considered for any application, and especially for this one – as a bike path could not be considered as essential infrastructure.</li> <li>• Meaghan advised that the application was now becoming urgent and that ACT Heritage would draft a response based on Taskforce comments to date, and that an email would be sent shortly to seek written confirmation their assessment and direction.</li> </ul>		

**From:** [Edwina Jans](#)  
**To:** [Russell, Meaghan](#)  
**Cc:** [Doug Williams](#); [Gary Shipp](#)  
**Subject:** Re: Confirmation of Aboriginal Taskforce assessment - Halls Creek bike path SHE application  
**Date:** Wednesday, 10 October 2018 8:42:05 PM  
**Importance:** High

---

hi Meaghan

My responses below.

thanks

Edwina

On 10 Oct 2018, at 12:28 pm, Russell, Meaghan  
 <[Meaghan.Russell@act.gov.au](mailto:Meaghan.Russell@act.gov.au)> wrote:

Hello Aboriginal Taskforce members,  
 Thank you for your input to date on the Halls Creek bike path SHE application, and as the application is now urgent, could you please confirm your assessment and your recommended outcome. Emailed responses are requested by **12pm Monday 15 October**.

In summary, Taskforce input received to date includes:

- An email from Gary on 2 October, setting out that further investigation with the participation of RAOs would be needed, stating that the Hall community should be consulted about alternative locations outside of the Aboriginal Sites Zones – specifically ‘Site D’ further east along the creek – and that the SHE report meets Heritage Act requirements. In a phone call on 8 October, Gary stated that he did believe that alternate locations for the bike track were available, and also requested that ACT Heritage speak to Wally Bell to confirm the BNAC view on the proposal;
- An email from Doug on 6 October, setting out that he does not see any reason why the track should not be moved further from the creek, and describing the proposal as non-essential development within a heritage area; and
- A phone call from Edwina on 9 October, setting out support for the comments of Gary and Doug, and also noting that alternatives to heritage impacts should always be considered, especially in this case as works were not for critical infrastructure.

From your comments, I understand that you recommend refusal of the SHE application, as it does not meet the Section 61H approval threshold – however, I seek confirmation of this recommendation, and also your individual comment on each key approval criteria. Please use the below table to insert your response.

<b>Heritage Act 2004 - Section 61H provisions</b>	<b>Aboriginal Taskforce assessment</b>
61(H)(3)(a) – Is the Council satisfied that the proposed activity is justifiable at the Aboriginal place?	No
61(H)(3)(b) – Is the Council satisfied that there are no reasonably	No

practicable alternative ways of carrying out the activity at the heritage site?	
61(H)(3)(c) – Is the Council satisfied that the applicant has identified reasonable steps to reduce heritage the heritage impacts of the proposal?	No

Please also note that – should Wally Bell provide any verbal comment that adds to/differs from that stated in the SHE application – I will provide this information as a further update.

Regards,  
Meaghan

**Meaghan Russell** | Team Leader (Advice)

Phone: 13 22 81 | Email: [meaghan.russell@act.gov.au](mailto:meaghan.russell@act.gov.au)

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**From:** [Alegria, Stephen](#)  
**To:** [Moore, FionaF](#)  
**Subject:** Re: Update on Hall SHE [SEC=UNCLASSIFIED]  
**Date:** Wednesday, 10 October 2018 12:38:40 PM  
**Attachments:** [image001.gif](#)  
[image002.gif](#)

---

Hi Fiona,

How are things progressing? Is there an update I could provide to the proponents?

Regards  
Stephen

---

**From:** Moore, FionaF  
**Sent:** Tuesday, 25 September 2018 12:02 PM  
**To:** Alegria, Stephen <[Stephen.Alegria@act.gov.au](mailto:Stephen.Alegria@act.gov.au)>  
**Cc:** Bathgate, Brian <[Brian.Bathgate@act.gov.au](mailto:Brian.Bathgate@act.gov.au)>; Harrison, Kate <[Kate.Harrison@act.gov.au](mailto:Kate.Harrison@act.gov.au)>  
**Subject:** RE: Update on Hall SHE [SEC=UNCLASSIFIED]

Hi Stephen,

A preliminary review of the additional SHE information was undertaken by ACT Heritage, and that information, with commentary from ACT Heritage has been submitted to the Aboriginal Taskforce (of the Heritage Council) for its consideration and advice. Their direction is due back to us tomorrow. Depending on their comments/direction, if all is straight forward we would anticipate issuing formal Council advice to you next week.

Regards,

**Fiona Moore** | Senior Manager, ACT Heritage & Secretary, ACT Heritage Council (Mon – Thurs)  
Phone: +61 2 6205 9974 | Email: [fionaf.moore@act.gov.au](mailto:fionaf.moore@act.gov.au)

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---

**From:** Alegria, Stephen  
**Sent:** Tuesday, 25 September 2018 8:43 AM  
**To:** Moore, FionaF <[FionaF.Moore@act.gov.au](mailto:FionaF.Moore@act.gov.au)>  
**Cc:** Bathgate, Brian <[Brian.Bathgate@act.gov.au](mailto:Brian.Bathgate@act.gov.au)>  
**Subject:** Update on Hall SHE

Hi Fiona,

Are you aware of any progress in getting the SHE for the Hall trail considered by the relevant Heritage Council committee? I have had an inquiry from the proponent and would appreciate any updates you can provide.

Regards

**Stephen Alegria** | Director | City Presentation

**T 02 6207 9833** | M XXXXXXXXXX

City Services | Transport Canberra and City Services Directorate

Level 2 Wotso House, 490 Northbourne Avenue, Dickson ACT | GPO 158, Canberra

ACT 2601.

[www.tccs.act.gov.au](http://www.tccs.act.gov.au)

**From:** [Doug Williams](#)  
**To:** [Russell, Meaghan](#); "Gary Shipp" [REDACTED]  
**Subject:** RE: Confirmation of Aboriginal Taskforce assessment - Halls Creek bike path SHE application  
**Date:** Thursday, 11 October 2018 9:09:51 PM  
**Attachments:** [image005.png](#)  
[image006.png](#)  
[image002.jpg](#)

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Please see below,

Cheers

D.



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**From:** Russell, Meaghan [mailto:Meaghan.Russell@act.gov.au]  
**Sent:** Wednesday, 10 October 2018 12:28 PM  
**To:** Doug Williams [REDACTED] Gary Shipp [REDACTED]  
**Subject:** Confirmation of Aboriginal Taskforce assessment - Halls Creek bike path SHE application  
**Importance:** High

Hello Aboriginal Taskforce members,

Thank you for your input to date on the Halls Creek bike path SHE application, and as the application is now urgent, could you please confirm your assessment and your recommended outcome. Emailed responses are requested by **12pm Monday 15 October**.

In summary, Taskforce input received to date includes:

- An email from Gary on 2 October, setting out that further investigation with the participation of RAOs would be needed, stating that the Hall community should be consulted about alternative locations outside of the Aboriginal Sites Zones – specifically 'Site D' further east along the creek – and that the SHE report meets Heritage Act requirements. In a phone call on 8 October, Gary stated that he did believe that alternate locations for the bike track were available, and also requested that ACT Heritage speak to Wally Bell to confirm the BNAC view on the proposal;
- An email from Doug on 6 October, setting out that he does not see any reason why the track should not be moved further from the creek, and describing the proposal as non-essential development within a heritage area; and
- A phone call from Edwina on 9 October, setting out support for the comments of Gary

and Doug, and also noting that alternatives to heritage impacts should always be considered, especially in this case as works were not for critical infrastructure.

From your comments, I understand that you recommend refusal of the SHE application, as it does not meet the Section 61H approval threshold – however, I seek confirmation of this recommendation, and also your individual comment on each key approval criteria. Please use the below table to insert your response.

<b>Heritage Act 2004 - Section 61H provisions</b>	<b>Aboriginal Taskforce assessment</b>
61(H)(3)(a) – Is the Council satisfied that the proposed activity is justifiable at the Aboriginal place?	No
61(H)(3)(b) – Is the Council satisfied that there are no reasonably practicable alternative ways of carrying out the activity at the heritage site?	No
61(H)(3)(c) – Is the Council satisfied that the applicant has identified reasonable steps to reduce heritage the heritage impacts of the proposal?	No, in that compromise alternatives with lesser heritage impact are discounted.

Please also note that – should Wally Bell provide any verbal comment that adds to/differs from that stated in the SHE application – I will provide this information as a further update.

Regards,  
Meaghan

**Meaghan Russell** | Team Leader (Advice)

Phone: 13 22 81 | Email: [meaghan.russell@act.gov.au](mailto:meaghan.russell@act.gov.au)

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**From:** [Gary Shipp](#)  
**To:** [Russell, Meaghan](#)  
**Cc:** [Doug Williams](#) ( [REDACTED] )  
**Subject:** Re: Confirmation of Aboriginal Taskforce assessment - Halls Creek bike path SHE application  
**Date:** Thursday, 11 October 2018 2:59:43 PM

---

Thanks Meaghan for putting this together. No, no and no against the three criteria.

Regards  
Gary

Sent from my iPad

On 10 Oct 2018, at 12:28 PM, Russell, Meaghan <[Meaghan.Russell@act.gov.au](mailto:Meaghan.Russell@act.gov.au)> wrote:

Hello Aboriginal Taskforce members,

Thank you for your input to date on the Halls Creek bike path SHE application, and as the application is now urgent, could you please confirm your assessment and your recommended outcome. Emailed responses are requested by **12pm Monday 15 October**.

In summary, Taskforce input received to date includes:

<!--[if !supportLists]-->• <!--[endif]-->An email from Gary on 2 October, setting out that further investigation with the participation of RAOs would be needed, stating that the Hall community should be consulted about alternative locations outside of the Aboriginal Sites Zones – specifically ‘Site D’ further east along the creek – and that the SHE report meets Heritage Act requirements. In a phone call on 8 October, Gary stated that he did believe that alternate locations for the bike track were available, and also requested that ACT Heritage speak to Wally Bell to confirm the BNAC view on the proposal;

<!--[if !supportLists]-->• <!--[endif]-->An email from Doug on 6 October, setting out that he does not see any reason why the track should not be moved further from the creek, and describing the proposal as non-essential development within a heritage area; and

<!--[if !supportLists]-->• <!--[endif]-->A phone call from Edwina on 9 October, setting out support for the comments of Gary and Doug, and also noting that alternatives to heritage impacts should always be considered, especially in this case as works were not for critical infrastructure.

From your comments, I understand that you recommend refusal of the SHE application, as it does not meet the Section 61H approval threshold – however, I seek confirmation of this recommendation, and also your individual comment on each key approval criteria. Please use the below table to insert your response.

<b>Heritage Act 2004 - Section 61H provisions</b>	<b>Aboriginal Taskforce assessment</b>
61(H)(3)(a) – Is the Council satisfied that the proposed activity is justifiable at the Aboriginal place?	Insert response
61(H)(3)(b) – Is the Council satisfied that there are no reasonably practicable alternative ways of carrying out the activity at the heritage site?	Insert response
61(H)(3)(c) – Is the Council satisfied that the applicant has identified reasonable steps to reduce heritage the heritage impacts of the proposal?	Insert response

Please also note that – should Wally Bell provide any verbal comment that adds to/differs from that stated in the SHE application – I will provide this information as a further update.

Regards,  
Meaghan

**Meaghan Russell** | Team Leader (Advice)

Phone: 13 22 81 | Email: [meaghan.russell@act.gov.au](mailto:meaghan.russell@act.gov.au)

**ACT Heritage | Environment, Planning and Sustainable Development Directorate | ACT Government**

Dame Pattie Menzies House 16 Challis Street Dickson | GPO Box 158 Canberra ACT 2601

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**From:** [Edwina Jans](#)  
**To:** [Russell, Meaghan](#)  
**Cc:** [Doug Williams](#); [Gary Shipp](#)  
**Subject:** Re: Confirmation of Aboriginal Taskforce assessment - Halls Creek bike path SHE application  
**Date:** Wednesday, 10 October 2018 8:42:05 PM  
**Importance:** High

---

hi Meaghan

My responses below.

thanks

Edwina

On 10 Oct 2018, at 12:28 pm, Russell, Meaghan  
<[Meaghan.Russell@act.gov.au](mailto:Meaghan.Russell@act.gov.au)> wrote:

Hello Aboriginal Taskforce members,

Thank you for your input to date on the Halls Creek bike path SHE application, and as the application is now urgent, could you please confirm your assessment and your recommended outcome. Emailed responses are requested by **12pm Monday 15 October**.

In summary, Taskforce input received to date includes:

- An email from Gary on 2 October, setting out that further investigation with the participation of RAOs would be needed, stating that the Hall community should be consulted about alternative locations outside of the Aboriginal Sites Zones – specifically ‘Site D’ further east along the creek – and that the SHE report meets Heritage Act requirements. In a phone call on 8 October, Gary stated that he did believe that alternate locations for the bike track were available, and also requested that ACT Heritage speak to Wally Bell to confirm the BNAC view on the proposal;
- An email from Doug on 6 October, setting out that he does not see any reason why the track should not be moved further from the creek, and describing the proposal as non-essential development within a heritage area; and
- A phone call from Edwina on 9 October, setting out support for the comments of Gary and Doug, and also noting that alternatives to heritage impacts should always be considered, especially in this case as works were not for critical infrastructure.

From your comments, I understand that you recommend refusal of the SHE application, as it does not meet the Section 61H approval threshold – however, I seek confirmation of this recommendation, and also your individual comment on each key approval criteria. Please use the below table to insert your response.

<b>Heritage Act 2004 - Section 61H provisions</b>	<b>Aboriginal Taskforce assessment</b>
61(H)(3)(a) – Is the Council satisfied that the proposed activity is justifiable at the Aboriginal place?	No
61(H)(3)(b) – Is the Council satisfied that there are no reasonably practicable alternative ways of carrying out the activity at the heritage site?	No
61(H)(3)(c) – Is the Council satisfied that the applicant has identified reasonable steps to reduce heritage the heritage impacts of the proposal?	No

Please also note that – should Wally Bell provide any verbal comment that adds to/differs from that stated in the SHE application – I will provide this information as a further update.

Regards,  
Meaghan

**Meaghan Russell** | Team Leader (Advice)

Phone: 13 22 81 | Email: [meaghan.russell@act.gov.au](mailto:meaghan.russell@act.gov.au)

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-----

**From:** [Russell, Meaghan](#)  
**To:** [David Flannery](#)  
**Subject:** Update ahead of SHE refusal - Halls Creek bike track SHE application [SEC=UNCLASSIFIED]  
**Date:** Friday, 12 October 2018 2:01:00 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[SHE Report.pdf](#)  
[SHE Addendum.pdf](#)

---

Hello David,

In September 2018, a SHE application for the construction of a mountain bike track within the Halls Creek 'Aboriginal Sites Zone' was referred to the Aboriginal Taskforce for assessment – to all members but Ken Heffernan, who has a declared conflict of interest in the application.

Responses from Gary, Doug and Edwina have recommend refusal of the application, on the basis that there are alternative locations to build such a bike track in the Hall Village surrounds that would not impact the Aboriginal Sites Zone, on which basis heritage impacts are not considered justifiable.

ACT Heritage has begun drafting advice to this effect, and I anticipate it will be provided to you for review and your signature next week.

Please note that this application does have local profile, with strong views both for and against the project being raised with ACT Heritage and at Ministerial level. Early in the process, the Hall Progress Association also did some local fundraising to contribute to the project. Also note that the SHE assessment process has been a lengthy one, with the original application in September 2017 not meeting Heritage Act information requirements, which resulted in two further information requests being issued under delegation.

In this context, I anticipate that TCCS and some members of the Hall community will be disappointed by the decision to refuse the SHE, and request to meet with the Council to discuss. Any such meeting would be best attended by Gary and yourself, noting that Doug is currently working in Queensland and would not be available to discuss the archaeological aspects of the proposal. If such a meeting does occur, ACT Heritage would also attend and be able to brief you on the archaeological issues for discussion.

For your reference, I have also attached the SHE report and addendum, if you wish to familiarise yourself with the project ahead at this stage.

Regards,  
Meaghan

**Meaghan Russell** | Team Leader (Advice)

Phone: 13 22 81 | Email: [meaghan.russell@act.gov.au](mailto:meaghan.russell@act.gov.au)

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**From:** [OConnell, Jennifer](#)  
**To:** [Russell, Meaghan](#)  
**Subject:** RE: 20181016 - Advice - Halls Creek Bike Path SHE Application (A17069254) [SEC=UNCLASSIFIED]  
**Date:** Wednesday, 17 October 2018 9:14:40 AM

---

Hi Meaghan

I am happy with the advice and have no edits. Good to go to David for his consideration.

Cheers  
Jen

Jennifer O'Connell I Assistant Manager, ACT Heritage  
Phone: +61 2 6207 2179 I Email: [jennifer.oconnell@act.gov.au](mailto:jennifer.oconnell@act.gov.au)  
ACT Heritage I ACT Heritage I Environment, Planning and Sustainable Development Directorate I ACT  
Government  
Dame Pattie Menzies House, Dickson I GPO Box 158 Canberra ACT 2601 I [www.environment.act.gov.au](http://www.environment.act.gov.au)

-----Original Message-----

From: Russell, Meaghan  
Sent: Tuesday, 16 October 2018 3:19 PM  
To: OConnell, Jennifer <[Jennifer.OConnell@act.gov.au](mailto:Jennifer.OConnell@act.gov.au)>  
Subject: 20181016 - Advice - Halls Creek Bike Path SHE Application (A17069254) [SEC=UNCLASSIFIED]  
Importance: High

Hi Jen,

In Fiona's absence, could you please review the attached SHE decision on the Halls Creek bike track application.

Cheers,  
Meaghan

**From:** [Russell, Meaghan](#)  
**To:** [David Flannery](#)  
**Subject:** Aboriginal Taskforce comments - Halls Creek bike track SHE application [SEC=UNCLASSIFIED]  
**Date:** Wednesday, 17 October 2018 9:20:00 AM  
**Attachments:** [FW Hall Creek Bike Track - Aboriginal taskforce referral SECUNCLASSIFIED.msg](#)  
[20181008 - ACT Heritage file note - Gary Shipp phone calls.docx](#)  
[20181009 - ACT Heritage file note - Edwina Jans phone call.docx](#)  
[RE Confirmation of Aboriginal Taskforce assessment - Halls Creek bike path SHE application.msg](#)  
[Re Confirmation of Aboriginal Taskforce assessment - Halls Creek bike path SHE application.msg](#)  
[Re Confirmation of Aboriginal Taskforce assessment - Halls Creek bike path SHE application.msg](#)

---

Meaghan Russell has sent you copies of the following 6 documents from Objective:

- "20181002 - Gary Shipp email to ACT Heritage - SHE assessment comments, Halls Creek bike path" (A16988376) v1.0
- "20181008 - ACT Heritage file note - Gary Shipp phone calls" (A17069838) v1.0
- "20181009 - ACT Heritage file note - Edwina Jans phone call" (A17069870) v1.0
- "20181011 - Doug Williams email to ACT Heritage - Halls Creek SHE decision" (A17069279) v1.0
- "20181011 - Edwina Jans email to ACT Heritage - Halls Creek SHE decision" (A17069289) v1.0
- "20181011 - Gary Shipp email to ACT Heritage - Halls Creek SHE decision" (A17069282) v1.0

**From:** [Russell, Meaghan](#)  
**To:** [David Flannery](#) [REDACTED]  
**Subject:** ACT Heritage Council advice - Halls Creek bike track SHE decision [SEC=UNCLASSIFIED]  
**Date:** Wednesday, 17 October 2018 9:19:00 AM  
**Attachments:** [20181017 - Advice - Halls Creek Bike Path SHE Application \(A17069254\).docx](#)  
[image001.png](#)  
[image002.png](#)  
**Importance:** High

---

Hello David,

Please find attached draft ACT Heritage Council advice – setting out the decision to refuse the Halls Creek bike track SHE application.

In a second email, I will also provide copies of all Aboriginal Taskforce comments on the application for your reference.

If you have any questions on the attached, please give me a call to discuss – and as the advice is relatively urgent, your response by cob today would be much appreciated.

Regards,  
Meaghan

**Meaghan Russell** | Team Leader (Advice)

Phone: 13 22 81 | Email: [meaghan.russell@act.gov.au](mailto:meaghan.russell@act.gov.au)

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ACT Heritage Council

# Statement of Heritage Effect Advice

Under Section 61H of the *Heritage Act 2004*

Heritage Reference:  
Received by Council:

18 September 2017,  
10 January 2018,  
19 June 2018 and  
25 July 2018

**TO: Transport Canberra and City Services**

Brian Bathgate, Stephen Alegria

[Brian.Bathgate@act.gov.au](mailto:Brian.Bathgate@act.gov.au), [Stephen.Alegria@act.gov.au](mailto:Stephen.Alegria@act.gov.au)

Block:	Section:	Division / District:	Heritage Places:
		Hall	Aboriginal Sites Zone; Site 4; Site 5; Site 6

Status of Place: Registered and recorded Aboriginal places

Description of Works: Construction of mountain bike track

Report Details: *“Cultural Heritage Assessment and Statement of Heritage Effect. Halls Creek Track. [redacted] Hall”* (Navin Officer Heritage Consultants, June 2018)

*“Hall Creek Track. Additional Information to Meet Statutory Requirements”* (Navin Officer Heritage Consultants, July 2018)

Council Advice provided by: Chair / Heritage Council

---

Pursuant to Section 61H of the *Heritage Act 2004*, the ACT Heritage Council advises that:

- The Statement of Heritage Effect is not approved**, as Council is not satisfied that:
- the proposed activity is justifiable at, or near, the Aboriginal places; and
  - there are no reasonably practicable alternative ways to carry out the proposed activity at the heritage sites; and
  - that reasonable steps have been identified to reduce the risk of damaging the heritage sites.
- 

## Background:

On 17 September 2017, Transport Canberra and City Services (TCCS) submitted a Statement of Heritage Effect (SHE) application to the ACT Heritage Council (the Council): for works associated with the proposed construction of a bike track within [redacted] Hall.

The application seeks approval under Section 61(G) of the *Heritage Act 2004* (the Act) to impact the ‘Aboriginal Sites Zone’ defined in the ACT Heritage Register entry for the

Hall Village Heritage Precinct (the Precinct); and to salvage any Aboriginal objects that may be encountered during construction of the bike path.

To support the application, the “*Cultural Heritage Assessment and Statement of Heritage Effect. Halls Creek Track. [REDACTED] Hall*” (Navin Officer Heritage Consultants, August 2017) (the SHE report) was submitted to the Council; and amended versions of this report were submitted on 10 January 2018 and 19 June 2018 following further information requests by the Council.

The “*Hall Creek Track. Additional Information to Meet Statutory Requirements*” (Navin Officer Heritage Consultants, July 2018) (the SHE addendum) was also submitted to the Council on 25 July 2018.

In these report, the SHE application sets out the following:

- The proposed activity is the construction of a mountain bike track within [REDACTED] Hall; adjacent to and crossing Halls Creek. The proposed track would be approximately one kilometre in length, 1.2 metres in width and five centimetres deep; and would be constructed with a mini excavator and some hand excavation. A low level crossing over Halls Creek is also proposed, which would be a steel platform fixed on either side of the creek with 120 centimetre deep friction drive piles. Construction would take four to six weeks to complete;
- The proposed activity is unlikely to diminish the historic and natural heritage significance of the Precinct; however, the proposal would directly impact the ‘Aboriginal Sites Zone’ defined in the Precinct’s ACT Heritage Register entry. This area is considered to be of moderate archaeological potential, and there is also moderate potential for heritage sites below the disturbed upper soils (up to 10 centimetres deep) to be *in situ*. As the proposal does not require substantial ground surface disturbance, heritage impacts from the proposal are considered to be minimal;
- Recent heritage surveys of Halls Creek have also identified three Aboriginal places in the vicinity of proposed works, being three individual stone artefacts recorded as ‘Site 4’, ‘Site 5’ and ‘Site 6’. These sites [REDACTED]
- Alternative locations for the proposed bike path were considered by the local Hall community in 2017 consultations held on behalf of the Village of Hall and District Progress Association. This consultation considered five possible locations for the bike path, with the current location (Site E) preferred by 50% of the participating local community, but also strongly opposed by some community members on heritage and safety grounds. In this context, the application identifies Site E as the preferred location for its proximity to parking, facilities and houses; and states that the only reasonably practicable alternative is to not proceed with the project;
- Measures have been adopted and are proposed to reduce the heritage effects of the proposal, including: relocation of the track in the vicinity of Sites 4, 5 and 6 to increase the distance between artefacts and proposed works; use of a mini excavator and manual excavation during construction to minimise impacts; and the monitoring of the track before and following track construction, with the aim of identifying, collecting and relocating any Aboriginal objects that may be encountered; and

- Representative Aboriginal Organisations (RAOs) have been consulted about the proposed activity and SHE application, with RAOs invited to attend the 30 June 2017 site visit and with draft SHE reports provided to all RAOs on 1 August 2017 and 24 May 2018. In response, Buru Ngunawal Aboriginal Corporation (BNAC) attended the site visit and provided written comment on 13 June 2018, setting out that a more detailed study was needed due to low visibility, and expressing concern that project impacts often occur beyond the defined footprint. Navin Officer Heritage Consultants sought clarification was sought from BNAC at the time, and state that the further investigation referred to was the monitoring of ground surface disturbance works. King Brown Tribal Group is also cited as providing verbal endorsement of the application on 13 June 2018.

### **Council Assessment:**

The Aboriginal Sites Zone is an identified heritage feature of the Hall Village Heritage Precinct, for the presence of Aboriginal heritage sites within the relatively undisturbed woodland areas of Halls Creek, which reflect a pre-European natural and Aboriginal cultural landscape.

On this basis, the ‘Specific Requirements’ for the conservation of the Precinct include the conservation of identified natural and Aboriginal heritage values of the environs around Hall, including the Aboriginal Sites Zone.

Additionally, all individual Aboriginal places and objects within Hall are afforded protection under Section 75 of the Act; irrespective of their inclusion in the Precinct’s ACT Heritage Register entry.

The SHE application proposes to impact this area of Aboriginal heritage significance, and to alter the natural and Aboriginal cultural landscape of Halls Creek. This application has been assessed by the Council against the requirements of the Act, and specifically Section 61H(3), which sets out that the Council must approve a SHE application where it is satisfied on reasonable grounds that:

- (a) the proposed activity is justifiable at, or near, Aboriginal places and objects; and
- (b) there are no reasonably practicable alternative ways to carry out the proposed activity at the heritage site; and
- (c) the applicant has identified reasonable steps that will be taken to reduce the risk of damage to heritage sites.

Following assessment of the application, the Council considers that there are reasonably practicable alternative ways to carry out the proposed activity – specifically, the construction of the bike track in an alternate location in the Hall Village environs; and on this basis, the proposal to impact Aboriginal heritage values is not considered justifiable.

Further, while the application establishes a preference for the currently proposed site for its proximity to parking, facilities and houses; the application does not adequately demonstrate that Aboriginal heritage impacts are warranted in this instance, for the construction of recreational infrastructure that in Council’s view could be constructed in an alternate location.

For example, the consideration of alternatives in the SHE includes ‘Site D’, which is described as being approximately 400 metres east of current application area, managed

by ACT Sports and Recreation, having good gradient for a bike track and being located beyond the Aboriginal Sites Zone. While the SHE does not consider this site to be a reasonable alternative due to its distance from parking, facilities and houses, the Council notes that this alternate location is only a short distance from this infrastructure and that this location does not contain any known Aboriginal or natural heritage constraints to development. On this basis, the Council encourages TCCS to assess the feasibility of this alternate site through further heritage assessment.

**Decision:**

For reasons set out above, the Council is not satisfied that the proposed activity is justifiable, that there are no reasonably practicable alternative ways to carry out the proposed activity at the place, and that reasonable steps have been identified to reduce damage to the identified Aboriginal places.

On this basis, the Council has decided to not approve the SHE application.



David Flannery  
**Chair (as delegate for),**  
**ACT Heritage Council**

17 October 2018

**From:** [David Flannery](#)  
**To:** [Russell, Meaghan](#)  
**Subject:** RE: ACT Heritage Council advice - Halls Creek bike track SHE decision [SEC=UNCLASSIFIED]  
**Date:** Wednesday, 17 October 2018 2:54:17 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[20181017 - Advice - Halls Creek Bike Path SHE Application \(A17069254\)\\_DFsign.pdf](#)

---

Signed attached... D

**David Flannery**

m [redacted] | [website](#)

---

**From:** Russell, Meaghan [mailto:Meaghan.Russell@act.gov.au]  
**Sent:** Wednesday, October 17, 2018 9:20 AM  
**To:** David Flannery ([redacted])  
**Subject:** ACT Heritage Council advice - Halls Creek bike track SHE decision [SEC=UNCLASSIFIED]  
**Importance:** High

Hello David,

Please find attached draft ACT Heritage Council advice – setting out the decision to refuse the Halls Creek bike track SHE application.

In a second email, I will also provide copies of all Aboriginal Taskforce comments on the application for your reference.

If you have any questions on the attached, please give me a call to discuss – and as the advice is relatively urgent, your response by cob today would be much appreciated.

Regards,  
Meaghan

**Meaghan Russell** | Team Leader (Advice)

Phone: 13 22 81 | Email: [meaghan.russell@act.gov.au](mailto:meaghan.russell@act.gov.au)

**ACT Heritage | Environment, Planning and Sustainable Development Directorate | ACT Government**

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**From:** [Heritage](#)  
**To:** [OConnell, Jennifer](#); [Moore, FionaF](#)  
**Subject:** FW: ACT Heritage Council decision - Halls Creek bike track SHE application [SEC=UNCLASSIFIED]  
**Date:** Thursday, 18 October 2018 4:44:00 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)

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FYI – from the heritage inbox

**Meaghan Russell** | Team Leader (Advice)

Phone: 13 22 81 | Email: [meaghan.russell@act.gov.au](mailto:meaghan.russell@act.gov.au)

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**From:** Alegria, Stephen

**Sent:** Thursday, 18 October 2018 4:25 PM

**To:** Heritage <[Heritage@act.gov.au](mailto:Heritage@act.gov.au)>; Bathgate, Brian <[Brian.Bathgate@act.gov.au](mailto:Brian.Bathgate@act.gov.au)>

**Subject:** RE: ACT Heritage Council decision - Halls Creek bike track SHE application [SEC=UNCLASSIFIED]

Dear ACT Heritage,

Thankyou for the notification. We will pass this decision on to the community proponents for their consideration.

Regards

**Stephen Alegria** | Director | City Presentation

**T 02 6207 9833** | M XXXXXXXXXX

City Services | Transport Canberra and City Services Directorate

Level 2 Wotso House, 490 Northbourne Avenue, Dickson ACT | GPO 158, Canberra ACT 2601.

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---

**From:** Heritage

**Sent:** Thursday, 18 October 2018 11:09 AM

**To:** Bathgate, Brian <[Brian.Bathgate@act.gov.au](mailto:Brian.Bathgate@act.gov.au)>; Alegria, Stephen <[Stephen.Alegria@act.gov.au](mailto:Stephen.Alegria@act.gov.au)>

**Subject:** ACT Heritage Council decision - Halls Creek bike track SHE application [SEC=UNCLASSIFIED]

Dear Brian and Stephen,

Please find attached the ACT Heritage Council decision on the Statement of Heritage Effect (SHE) application, for Aboriginal heritage impacts associated with the proposed Halls Creek bike track.

As set out in the attached, the Council has decided to not approve the SHE application.

However, as also set out in the attached, the Council encourages alternate locations to be further considered, such as the 'Site D' option identified in the SHE application; as the Council considers that the project could be delivered elsewhere in the Hall Village environs.

Should you wish to meet with the Council, to discuss the SHE decision or the further consideration of alternate locations within the Hall Village environs, please contact ACT Heritage to arrange a suitable time.

Regards,  
ACT Heritage

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**From:** [Heritage](#)  
**To:** [Moore, FionaF](#)  
**Cc:** [Russell, Meaghan](#)  
**Subject:** FW: ACT Heritage Council decision - Halls Creek bike track SHE application [SEC=UNCLASSIFIED]  
**Date:** Tuesday, 30 October 2018 5:55:00 PM  
**Attachments:** [image004.png](#)  
[image005.png](#)  
[image001.png](#)

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FYI – from the heritage inbox.

Cheers,

Meaghan

**Meaghan Russell** | Team Leader (Advice)

Phone: 13 22 81 | Email: [meaghan.russell@act.gov.au](mailto:meaghan.russell@act.gov.au)

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**From:** Bathgate, Brian  
**Sent:** Tuesday, 30 October 2018 5:14 PM  
**To:** Heritage <[Heritage@act.gov.au](mailto:Heritage@act.gov.au)>  
**Cc:** Alegria, Stephen <[Stephen.Alegria@act.gov.au](mailto:Stephen.Alegria@act.gov.au)>  
**Subject:** RE: ACT Heritage Council decision - Halls Creek bike track SHE application [SEC=UNCLASSIFIED]

Good afternoon

The proponents have asked if they could get a copy of the minutes from the meeting where the proposal was discussed.

Thanks in advance for your assistance.

Regards

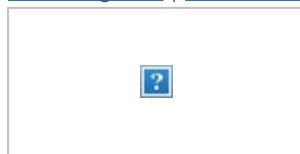
**Brian Bathgate** | Operations Manager Belconnen/Gungahlin

P 6205 5350 | E [Brian.Bathgate@act.gov.au](mailto:Brian.Bathgate@act.gov.au)

**Place Management, City Presentation** | Transport Canberra and City Services Directorate | **ACT Government**

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**From:** Heritage  
**Sent:** Thursday, 18 October 2018 11:09 AM  
**To:** Bathgate, Brian <[Brian.Bathgate@act.gov.au](mailto:Brian.Bathgate@act.gov.au)>; Alegria, Stephen <[Stephen.Alegria@act.gov.au](mailto:Stephen.Alegria@act.gov.au)>  
**Subject:** ACT Heritage Council decision - Halls Creek bike track SHE application [SEC=UNCLASSIFIED]

Dear Brian and Stephen,

Please find attached the ACT Heritage Council decision on the Statement of Heritage Effect (SHE) application, for Aboriginal heritage impacts associated with the proposed Halls Creek bike track.

As set out in the attached, the Council has decided to not approve the SHE application.

However, as also set out in the attached, the Council encourages alternate locations to be further considered, such as the 'Site D' option identified in the SHE application; as the Council

considers that the project could be delivered elsewhere in the Hall Village environs. Should you wish to meet with the Council, to discuss the SHE decision or the further consideration of alternate locations within the Hall Village environs, please contact ACT Heritage to arrange a suitable time.

Regards,

ACT Heritage

**ACT Heritage | Environment, Planning and Sustainable Development Directorate | ACT Government**

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**From:** [Moore, FionaF](#)  
**To:** [Russell, Meaghan](#)  
**Subject:** FW: ACT Heritage Council decision - Halls Creek bike track SHE application [SEC=UNCLASSIFIED]  
**Date:** Wednesday, 31 October 2018 11:43:12 AM  
**Attachments:** [image002.gif](#)  
[image003.gif](#)  
[image008.png](#)  
[image009.png](#)  
[image005.png](#)

---

For your records.

**Fiona Moore** | Senior Manager, ACT Heritage & Secretary, ACT Heritage Council (Mon – Thurs)

Phone: +61 2 6205 9974 | Email: [fionaf.moore@act.gov.au](mailto:fionaf.moore@act.gov.au)

**ACT Heritage | Environment, Planning and Sustainable Development Directorate | ACT Government**

Dame Pattie Menzies House, Dickson | GPO Box 158 Canberra ACT 2601 | [www.environment.act.gov.au](http://www.environment.act.gov.au)



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**From:** Heritage

**Sent:** Wednesday, 31 October 2018 11:43 AM

**To:** Bathgate, Brian <[Brian.Bathgate@act.gov.au](mailto:Brian.Bathgate@act.gov.au)>

**Cc:** Alegria, Stephen <[Stephen.Alegria@act.gov.au](mailto:Stephen.Alegria@act.gov.au)>

**Subject:** RE: ACT Heritage Council decision - Halls Creek bike track SHE application [SEC=UNCLASSIFIED]

Hi Brian,

The ACT Heritage Council has a range of functions under the *Heritage Act 2004* which it conducts either by formal meetings or via out-of-session methods.

Council business in relation to this decision was conducted via out-of-session assessments by members of the Aboriginal Taskforce; therefore meeting minutes are not applicable on this occasion.

If TCCS, as the proponent, is seeking a greater understanding of the decision the most direct and practical approach would be to meet with Council Chair, David Flannery, and members of the Aboriginal Taskforce. This offer has been extended previously.

If you would like to accept this invitation, let me know and ACT Heritage will liaise with those Council members regarding their availability.

Regards,

**Fiona Moore** | Senior Manager, ACT Heritage & Secretary, ACT Heritage Council (Mon – Thurs)

Phone: +61 2 6205 9974 | Email: [fionaf.moore@act.gov.au](mailto:fionaf.moore@act.gov.au)

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**From:** Bathgate, Brian  
**Sent:** Tuesday, 30 October 2018 5:14 PM  
**To:** Heritage <[Heritage@act.gov.au](mailto:Heritage@act.gov.au)>  
**Cc:** Alegria, Stephen <[Stephen.Alegria@act.gov.au](mailto:Stephen.Alegria@act.gov.au)>  
**Subject:** RE: ACT Heritage Council decision - Halls Creek bike track SHE application  
[SEC=UNCLASSIFIED]

Good afternoon

The proponents have asked if they could get a copy of the minutes from the meeting where the proposal was discussed.

Thanks in advance for your assistance.

Regards

**Brian Bathgate | Operations Manager Belconnen/Gungahlin**

**P 6205 5350 | E [Brian.Bathgate@act.gov.au](mailto:Brian.Bathgate@act.gov.au)**

**Place Management, City Presentation | Transport Canberra and City Services Directorate | ACT Government**

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**From:** Heritage  
**Sent:** Thursday, 18 October 2018 11:09 AM  
**To:** Bathgate, Brian <[Brian.Bathgate@act.gov.au](mailto:Brian.Bathgate@act.gov.au)>; Alegria, Stephen <[Stephen.Alegria@act.gov.au](mailto:Stephen.Alegria@act.gov.au)>  
**Subject:** ACT Heritage Council decision - Halls Creek bike track SHE application  
[SEC=UNCLASSIFIED]

Dear Brian and Stephen,

Please find attached the ACT Heritage Council decision on the Statement of Heritage Effect (SHE) application, for Aboriginal heritage impacts associated with the proposed Halls Creek bike track.

As set out in the attached, the Council has decided to not approve the SHE application.

However, as also set out in the attached, the Council encourages alternate locations to be further considered, such as the 'Site D' option identified in the SHE application; as the Council considers that the project could be delivered elsewhere in the Hall Village environs.

Should you wish to meet with the Council, to discuss the SHE decision or the further consideration of alternate locations within the Hall Village environs, please contact ACT Heritage to arrange a suitable time.

Regards,  
ACT Heritage

**ACT Heritage | Environment, Planning and Sustainable Development Directorate | ACT Government**

Dame Pattie Menzies House 16 Challis Street Dickson | GPO Box 158 Canberra ACT 2601

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**From:** [Bathgate, Brian](#)  
**To:** [Heritage](#)  
**Cc:** [Alegria, Stephen](#); [REDACTED]  
**Subject:** Hall Children"s Recreation Track [SEC=UNCLASSIFIED]  
**Date:** Friday, 30 November 2018 3:53:58 PM  
**Attachments:** [RE Hall Recreation Track SECUNCLASSIFIED.msg](#)  
[20181017 - Advice - Halls Creek Bike Track SHE Application.pdf](#)  
[Hall Creek Track \(further info following 4th July meeting with ACT herita....pdf](#)  
[ACT-Halls Creek Track report 20180619 NH v5.pdf](#)  
[image002.png](#)

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Good afternoon

Following your advice of 18 October 2018, attached, we have further looked into your suggestion of an alternative solution of locating at "Site D".

This "Site D" has proved to be unsuitable, as per the advice in the attached email from the land custodian.

Please find the Statement of Heritage Effects and previous response for the request for further information, resubmitted for consideration given this new information.

Kind regards.

**Brian Bathgate | Operations Manager Belconnen/Gungahlin**

**P 6205 5350 | E [Brian.Bathgate@act.gov.au](mailto:Brian.Bathgate@act.gov.au)**

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**From:** [Roberts, Mick](#)  
**To:** [Burden, Ross](#); [Bathgate, Brian](#)  
**Subject:** RE: Hall Recreation Track [SEC=UNCLASSIFIED]  
**Date:** Thursday, 29 November 2018 7:53:29 AM  
**Attachments:** [image001.jpg](#)  
[image002.png](#)

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Hi Brian

Further to information provided by Ross, site 'D' often referred to as 'Sunny corner' within the community has historically been recognised for the past 42 years as a playing surface for the Hall Polocrosse club (HP). Noting there are actually three polocrosse fields over two blocks.

Even co locating a bike track in this vicinity would not allow for a flat fit for purpose surface to ensure rider/horse safety.

Sport and Recreation and past Ministers for Sport and Recreation have previously recognised the HP as the historical user of this area.

Echoing Ross's statement, site 'D' should be removed from the options.

Regards

**Mick Roberts** | Sportsgrounds Manager  
Sport and Recreation Facilities | Transport Canberra and City Services Directorate | ACT Government |  
Level 2, 490 Northbourne Ave, Dickson ACT 2602 | GPO Box 147 Civic Square ACT 2608 |  
**Phone:** (02) 6207 5143 | **Mobile:** [REDACTED] | [www.sport.act.gov.au](http://www.sport.act.gov.au)

*I'm a **RED Contact Officer** 'Feel inspired to make change'*



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**From:** Burden, Ross  
**Sent:** Wednesday, 28 November 2018 3:23 PM  
**To:** Bathgate, Brian <[Brian.Bathgate@act.gov.au](mailto:Brian.Bathgate@act.gov.au)>  
**Cc:** Roberts, Mick <[Mick.Roberts@act.gov.au](mailto:Mick.Roberts@act.gov.au)>  
**Subject:** RE: Hall Recreation Track [SEC=UNCLASSIFIED]

Hi Brian

I have looked the proposal this area is used by the polocrosse and large activities like the sheepdog trials and overflow for the Hall markets. I would not support eh use of this land for the bike track

Happy to discuss this further if required

Thanks

Ross

**Ross Burden | Senior Manager**

Phone 02 6207 2307 | Email: [ross.burden@act.gov.au](mailto:ross.burden@act.gov.au)

**Sport and Recreation Facilities | City Presentation | Transport Canberra and City Services Directorate | ACT Government**

496 Northbourne Ave, Dickson ACT 2602 | GPO Box 158 Canberra ACT 2601 | [www.act.gov.au](http://www.act.gov.au)

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**From:** Bathgate, Brian

**Sent:** Tuesday, 20 November 2018 12:46 PM

**To:** Burden, Ross <[Ross.Burden@act.gov.au](mailto:Ross.Burden@act.gov.au)>

**Subject:** Hall Recreation Track [SEC=UNCLASSIFIED]

Good Afternoon Ross

In their decision of our Statement of Heritage Effects submission (attached), Heritage has recommended site D for consideration which is on land under your custodianship. (The map and a description is within the attached email)

Would you be supportive of this or would it be at odds with current users?

Kind Regards

**Brian Bathgate | Operations Manager Belconnen/Gungahlin**

**P 6205 5350 | E [Brian.Bathgate@act.gov.au](mailto:Brian.Bathgate@act.gov.au)**

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