

Heritage (Decision about Provisional Registration of Pale Pomaderris Habitats across the ACT) Notice 2017

Notifiable Instrument NI2017–609

made under the

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

1 Name of instrument

This instrument is the *Heritage (Decision about Provisional Registration of Pale Pomaderris Habitats across the ACT) Notice 2017*.

2 Decision about provisional registration

On 16 November 2017, the ACT Heritage Council (the **Heritage Council**) decided not to provisionally register Pale Pomaderris Habitats across the ACT (the **Place**).

3 Description of the Place

The description of the Place is in the schedule.

4 Reason for the decision

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

5 Date decision takes effect

The decision not to provisionally register the Place takes effect on 17 November 2017 (being the day after the Heritage Council made its decision in writing as set out in the schedule).

Jennifer O’Connell
Secretary (as delegate for)
ACT Heritage Council
16 November 2017



ACT Heritage Council

STATEMENT OF REASONS

DECISION NOT TO PROVISIONALLY REGISTER PALE POMADERRIS HABITATS ACROSS THE ACT IN THE ACT HERITAGE REGISTER

Description

Pale Pomaderris (*Pomaderris pallida*) is a compact, rounded perennial shrub, growing to 1.5 m high that has been nationally listed as vulnerable and occurs along the Cotter, Paddys and Murrumbidgee Rivers and through the Molonglo Gorge. Pale Pomaderris Habitats across the ACT consists of the locations (Figure 1) of a place that has been nominated for its natural heritage significance. It was originally nominated under the name of “*Pomaderris pallida*”, which the Council has changed to make it clearer that the nomination was for the place or habitat of a species, rather than for a species in general.

Reasons for Decision

The Council considered the nomination at its meeting of 16 November 2017 and decided that Pale Pomaderris Habitats across the ACT is not able to be registered under the *Heritage Act 2004* because registration of places or objects under this Act is prohibited if they only have natural heritage significance of a kind that is protected by the *Nature Conservation Act 2014*. The details of this are:

1. the Conservator of Flora and Fauna has advised the Council that *Pomaderris pallida* is listed under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) and that all species listed under the EPBC Act have Special Protection Status under the *Nature Conservation Act 2014* part 5.1, which means that the place has protection under the *Nature Conservation Act 2014* and section 42A of the *Heritage Act 2004* applies and therefore limits the ability of the place to be added to the Heritage Register; and
2. with section 42A applying to the place, the Council may only register it if it also has cultural heritage significance (as defined under section 10B of the *Heritage Act 2004*), or, if it is a part of the habitat of a threatened native species or ecological community but not threatened itself, is of a kind of natural heritage significance that is not protected under the *Nature Conservation Act 2014* and:
 - a. the Council considers that any cultural heritage significance is already captured by existing registrations or nominations and that the nomination under assessment does not include any other cultural heritage significance (see *Existing Cultural Heritage* above); and
 - b. the nomination is for a kind of natural heritage significance that will be protected under the *Nature Conservation Act 2014* as a part of the protected habitat of a threatened native species or ecological community. The habitat for *Pomaderris pallida* is largely protected in National Park, Catchment Area, Nature Reserve and Special Purpose Reserves. All vegetation and other natural features are protected through the provisions of the *Nature Conservation Act 2014* Chapter 9 which relate to wilderness areas, national parks, nature reserves and other public land (mainly special purpose reserves) brought into management under the *Nature Conservation Act 2014*

through the *Nature Conservation Regulation 2015*. Management Planning for these reserves is undertaken under part 8.3 of the *Nature Conservation Act 2014*. Plants with Special Protection Status are protected under the *Nature Conservation Act 2014* s.143

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

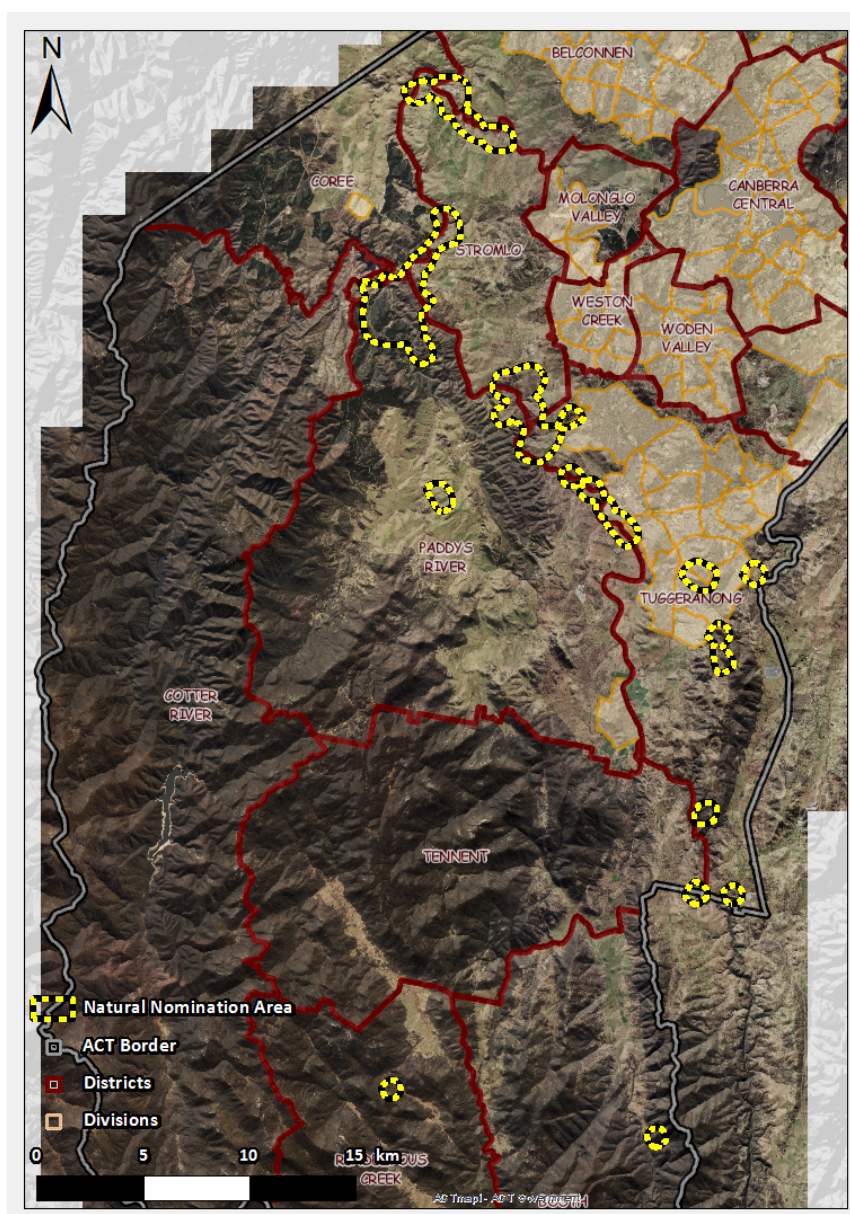


Figure 1 Natural Nomination locations