

**Item No:** 2.5  
**Title:** Amended Planning Proposal Request - Glenworth Valley  
**Department:** Environment and Planning

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11 November 2019 Ordinary Council Meeting

Trim Reference: F2018/00020-008 - D13343340

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## Report Purpose

The purpose of this report is for Council to consider an amendment to a current Planning Proposal which seeks to enable additional permissible uses on land at Glenworth Valley and Calga (Glenworth Valley Outdoor Adventures) through an amendment to *Gosford Local Environmental Plan 2014*.

This report recommends that the Council support the amendment of the Planning Proposal and, as the Gateway Determination has lapsed, seek a new Gateway Determination from the Minister of Planning.

## Recommendation

### **1 That the Council support an amended Planning Proposal applying to:**

- ***Lots 19, 20, 21, 23, 24, 25, 30, 31, 32, 33, 37, 50, 53, 64, 65, 68, 81, 82, 85, 86, 87, 89, 91, 108, 145 DP 755221,***
- ***Lots 22, 23, 32, 73, 75, 76 DP 755253,***
- ***Lots 1, 3 DP 617088,***
- ***Lot 881 DP 563889,***
- ***Lot 1 DP 1222754,***
- ***Lot 7 DP 1230083,***
- ***Lot 245 DP 48817,***
- ***Lot 7012 DP 1059767,***
- ***Lot 7029 DP 93603,***
- ***Lot 7035 DP 1051932,***
- ***Lot 7036 DP 1059768,***
- ***Lot 7303 DP 1154929, Glenworth Valley, and***
- ***Lot A DP 365595,***
- ***Lot C DP 382358,***
- ***Lot 2 DP 1139242,***
- ***Lot 882 DP 563889,***
- ***part of Lot 102 DP 1139060,***

- **Lot 7039 DP 1059766,**
- **Lot 7303 DP 1161109, Calga**

**to amend the Gosford Local Environmental Plan 2014 (or draft Central Coast Local Environmental Plan), whichever is in effect at the time, to permit the following additional permitted uses (if they are not included in the Central Coast Local Environmental Plan):**

- a on land zoned E2 Environmental Conservation, development for the purpose of eco-tourist facilities and recreation facilities (outdoor);**
  - b on land zoned RU2 Rural Landscape, development for the purposes of eco-tourist facilities, camping grounds and tourist and visitor accommodation;**
  - c on the existing cleared areas of the land zoned E2 Environmental Conservation, comprising Lots 19, 20, 21, 23, 25, 30, 32, 33, 37, 50, 53, 64, 68, 85, 86, 87, 89, 91, 108 and 145 DP 755221, Lots 22 and 32 DP 755253, Lot 3 DP 617088, Lot 245 DP 48817, Lot 7039 DP 1059766 and Lot 7303 DP 1154929, development for the purpose of extensive agriculture.**
  - d on land comprising that part of Lot 89 DP 755221 which currently accommodates the multi-purpose building and its curtilage,**
    - (i) development for the purpose of function centre, entertainment facility and food and drink premises, and**
    - (ii) the total floor area for the function centre, entertainment facility and food and drink premises is to be a maximum of 1500m<sup>2</sup> with any additions being attached to, or directly adjacent to, the existing building.**
  - e on the existing cleared areas of the land zoned E2 Environmental Conservation comprising part of Lots 19, 37 and 89 DP 755221 and Lots 22 and 32 DP 755253, development for the purpose of function centre and camping ground.**
  - f on the existing cleared areas of the land zoned E2 Environmental Conservation comprising part of Lots 108 and 145 DP 755221, development for the purpose of tourist and visitor accommodation.**
- 2 That Council submit a revised Planning Proposal to the Minister for Planning in accordance with Section 3.35(2) of the Environmental Planning and Assessment Act 1979, requesting an amended Gateway Determination pursuant to Section 3.34 of the Environmental Planning and Assessment Act 1979.**
- 3 That Council request delegation for Council to finalise and make the draft Local**

***Environmental Plan, pursuant to Section 3.36 of the Environmental Planning and Assessment Act 1979.***

- 4** ***That Council undertake community and public authority consultation, in accordance with the Gateway Determination requirements.***
- 5** ***That the Council consider a further report on results of the agency and community consultation.***

## **Background**

The subject site is commonly known as the "Glenworth Valley Outdoor Adventures" site.

As a result of changes to local planning instruments over many years, the existing horse riding school, which has been operating on the site since it was approved in 1969, is no longer permissible within the E2 Environmental Conservation zone under *Gosford Local Environmental Plan 2014* (GLEP 2014) which applies to the subject land.

The continuation of this use is enabled utilising the "existing use rights" provisions of the *Environmental Planning and Assessment Act 1979* (EP&A Act). Until 2006 development consent could be granted for other uses not permitted in the, then, 7(a) Conservation and Scenic Protection (Conservation) zone on the basis of the existing non-conforming use on the site (i.e. the horse riding school). During this period subsequent developments were approved which included music festivals, paintball and quad biking. A list of development consents granted include:

DA 2839/1999 - music festival (15,000 people per day)  
DA 25818/2004 - small scale music festival (2,500 people per day)  
DA 19911/2003 – recreation facility – paintball  
DA 20082/2003 – recreation facility – quad bike tours

In 2006 the "existing use rights" provisions under the EP&A Act and Regulations were changed to prohibit other non-conforming uses from being permitted. Hence no more development applications could be considered for uses that were not permitted in the zone. Since 2006 the only development consents issued for uses not permitted in the zone related to a temporary use of land and an ancillary use to approved developments on the site.

DA 45588/2014 - recreation facility - equestrian and running events (temporary use)  
DA 44773/2013 – multi-purpose building (ancillary to approved uses on site)

In 2013, DA 43465/2013 approved 3 motel units and 5 caravan sites (i.e. relocatable cabins) on land which is now zoned RU2 Rural Landscape.

The development consent was issued when the land was zoned 7(b) Conservation and Scenic Protection (Scenic Protection) under IDO 122 and motels and caravan parks were permitted uses.

The Planning Proposal, as originally lodged on 13 August 2013, sought approval to provide certainty for the continuation of these existing uses on the subject site and to provide opportunities for additional recreation and tourist related developments in the future by adding specific additional permitted uses into GLEP 2014 which can be conducted on the property.

The Planning Proposal, as originally supported by the former Gosford City Council (fGCC) sought to:

- Enable additional permitted uses of eco-tourist facilities, camping grounds, tourist and visitor accommodation on the land zoned RU2 Rural Landscape;
- Enable additional permitted uses of eco-tourist facilities, camping grounds, tourist and visitor accommodation, extensive agriculture, recreation facilities (outdoor) on land zoned E2 Environmental Conservation;
- Rezone the cleared, pasture improved farmland on the ridge proximate to Cooks Road from E2 Environmental Conservation to RU2 Rural Landscape.

The original Planning Proposal was supported by resolutions of the fGCC made on 17 December 2013 and 10 June 2014 (Attachments 2 and 3) and was progressed under the delegated Authority of the Chief Executive Officer of the fGCC (Attachment 4).

This Planning Proposal was subject to a Gateway Determination issued on 17 July 2014 by the then Department of Planning and Environment (now Department of Planning, Industry and Environment) and the current Gateway Extension lapsed on 24 October 2018.

On the basis of agency consultation in relation to the current Planning Proposal, and additional requirements of the land owner, the Proponent has sought the modifications as detailed further in this report. This request for an amended Planning Proposal opens up the existing Planning Proposal for reassessment as well. Should Council resolve to proceed with the amended Planning Proposal, it will require Council to request an amendment to the Gateway Determination from the Department of Planning, Industry and Environment (DPIE).

### **The Site**

The subject site comprises 49 lots ranging in size from 0.1 hectares (Ha) to 267.5 Ha. The area of the subject site is 1173.6 Ha.

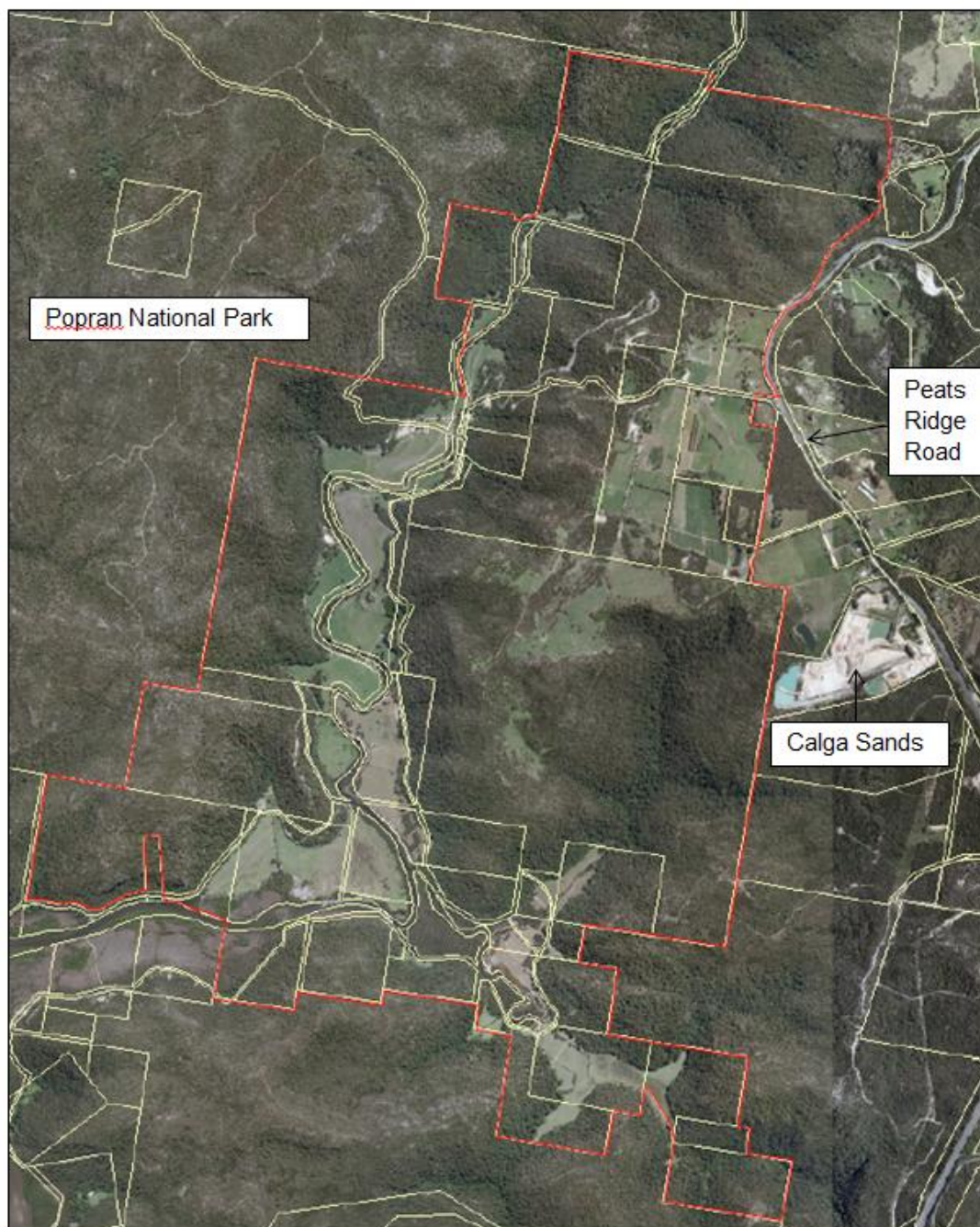
Access is gained to all but two lots via Cooks Road which joins Peats Ridge Road. The remaining two lots gain access directly onto Peats Ridge Road.

The land represents a significant holding of environmentally important land being relatively isolated, with limited access, and characterised by a cleared valley floor with vegetated hillsides and ridgelines (Figure 1).

The land comprises a number of discrete pockets of Endangered Ecological Communities (EEC) and regionally significant vegetation throughout the site.

It is located between developed agricultural and resource lands situated along Peats Ridge Road to the east and Popran National Park to the west. Popran Creek, and a number of other small watercourses which run into it, flow through the site, which then drains to the Hawkesbury River.

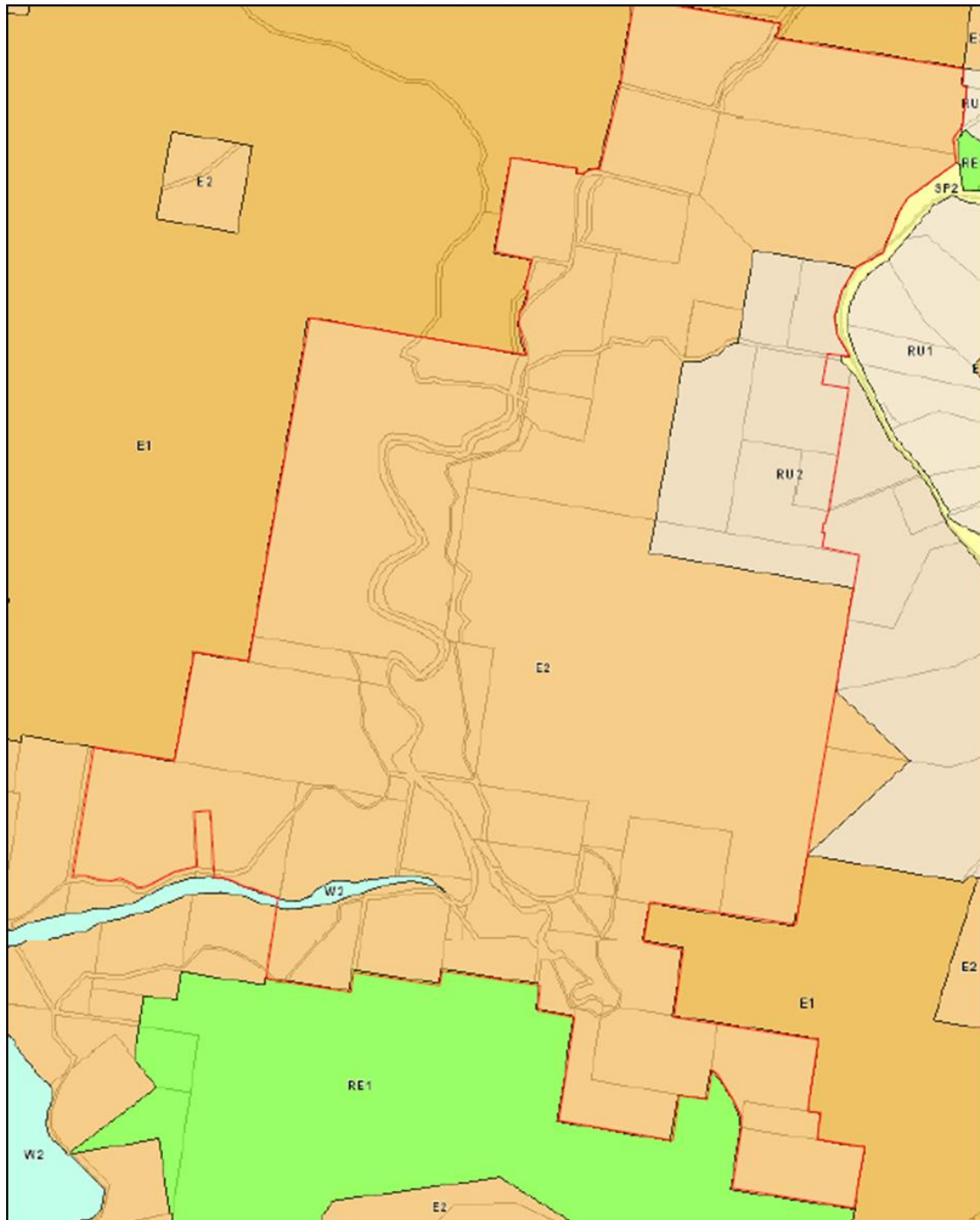
The land is also an established tourist destination. Its close proximity to Sydney makes it a desirable destination for a wide tourism market, including international visitors. The broad range of nature-based activities offered at the site also make it appealing for a variety of users and maximises opportunities that the site presents. Some uses are temporary (e.g. music festivals and "mud run" events), whilst other uses are of a more permanent nature with some fixed structures (e.g. multi-purpose building). Different parts of the site are used for various activities (e.g. abseiling, horse riding, quad bike riding). The cleared valley floor is used for the grazing of horses and livestock.



**Figure 1:** Locality Context (subject site outlined in red)

The subject site comprises approximately 1070.2 Ha of land zoned E2 Environmental Conservation and 103.4 Ha of land zoned RU2 Rural Landscape under GLEP 2014 (Figure 2).





**Figure 2:** Current Zoning (subject site outlined in red)

The subject site includes landholdings owned by The Glenworth Valley Pastoral Company Pty Ltd, NSW Department of Trade and Industry (Crown Lands) and the Darkinjung Local Aboriginal Land Council (DLALC) (Figure 3).

The subject land comprises the following lots owned by The Glenworth Valley Pastoral Company Pty Ltd:

- Lots 19, 20, 21, 23, 24, 25, 30, 31, 32, 33, 37, 50, 53, 64, 65, 68, 81, 82, 85, 86, 87, 89, 91, 108, 145 DP 755221,
- Lots 22, 23, 32, 73, 75, 76 DP 755253,
- Lots 1 & 3 DP 617088,
- Lots 881 & 882 DP 563889,
- Lot 1 DP 1222754,
- Lot A DP 365595,
- Lot C DP 382358,
- Lot 2 DP 1139242,
- part of Lot 102 DP 1139060.

The following lots are Crown Land over which The Glenworth Valley Pastoral Company Pty Ltd has a licence under the *Crown Land Management Act 2016* (previously referred to as a permissive occupancy) for the purpose of grazing:

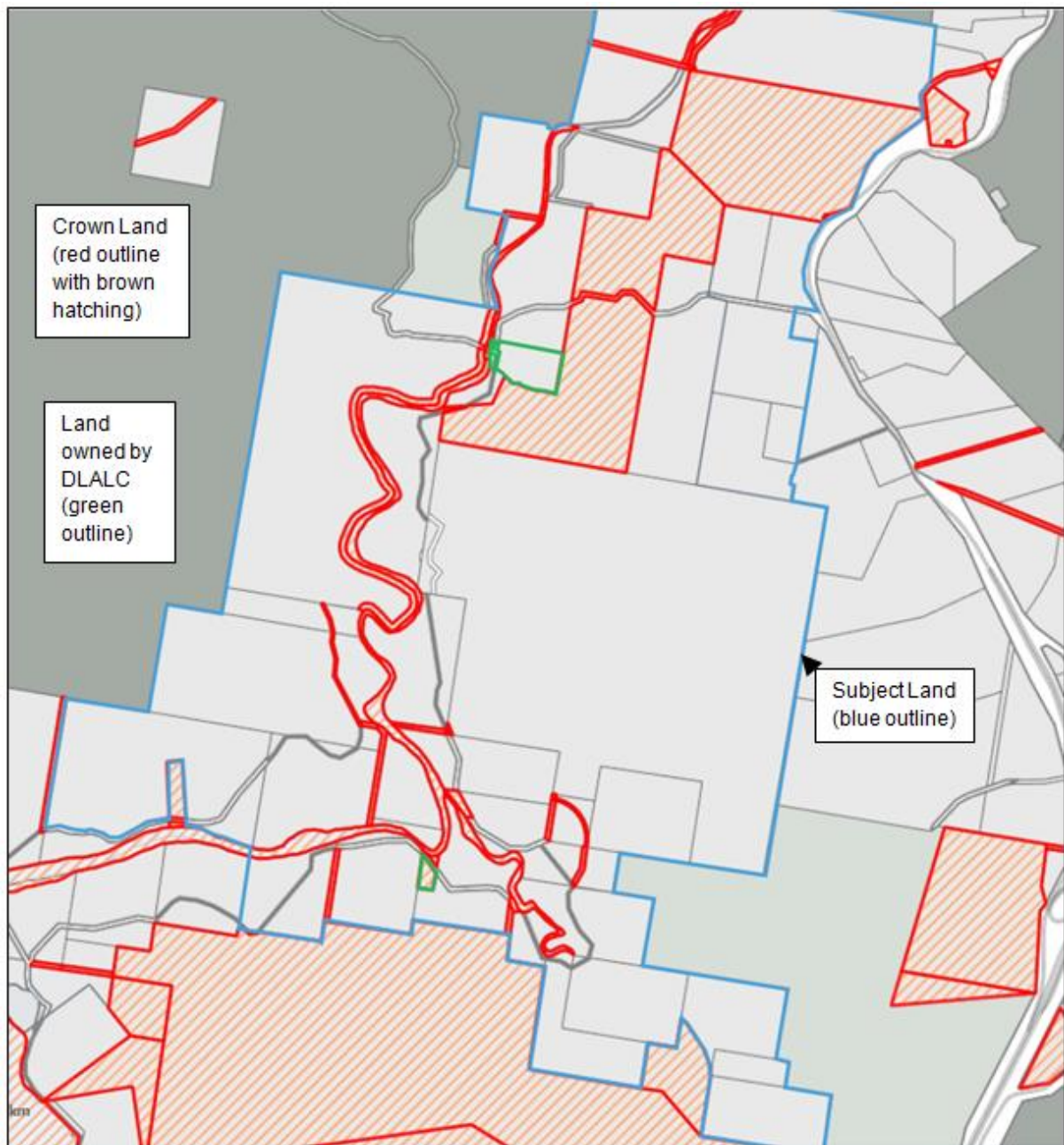
- Lot 7012 DP 1059767
- Lot 7039 DP 1059766
- Lot 7303 DP 1161109
- Lot 7303 DP 1154929

The other Crown Land lots included in the subject area are set out below.

- Lot 7029 DP 93603,
- Lot 7035 DP 1051932,
- Lot 7036 DP 1059768,
- several unformed Crown roads

The land owned by DLALC comprises Lot 245 DP 48817 and Lot 7 DP 1230083.





**Figure 3:** Land owned by the Crown and DLALC

### The Amended Proposal

The proponent's favoured position is to retain the following aspects of the original Planning Proposal:

- Enable additional permitted uses of eco-tourist facilities, camping grounds, tourist and visitor accommodation on all the land zoned RU2 Rural Landscape; and

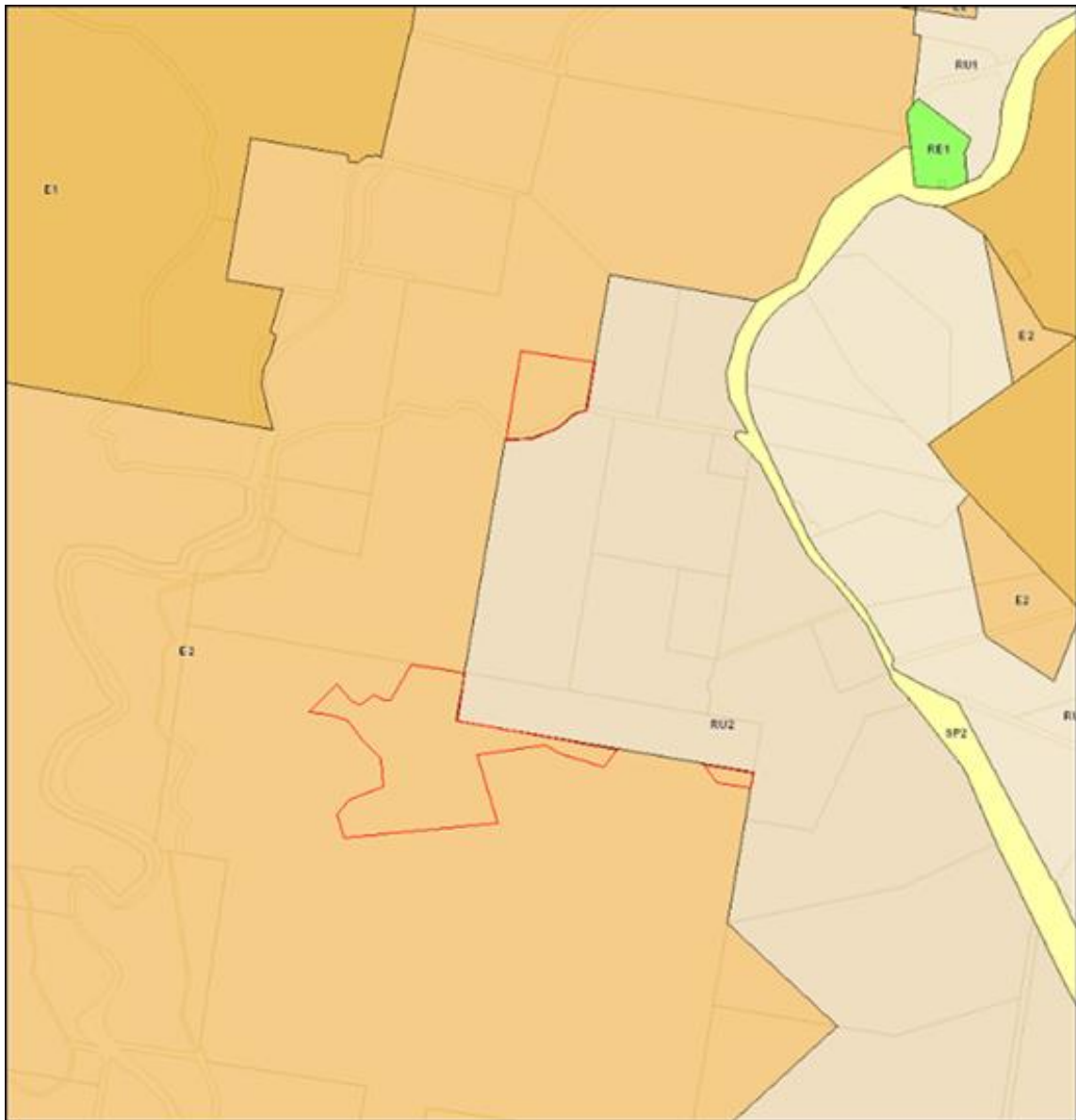
- Enable additional permitted uses of eco-tourist facilities, camping grounds, tourist and visitor accommodation, extensive agriculture, recreation facilities (outdoor) on all the land zoned E2 Environmental Conservation.

However, the proponent has advised that should Council not agree to all these uses over the whole of the E2 Environmental Conservation zoned land, then the following would be satisfactory:

- extensive agriculture on all existing cleared land;
- camping ground on existing cleared areas of Lots 19, 37 and 89 DP 755221 and lots 22 and 32 DP 755253;
- tourist and visitor accommodation on the existing cleared areas of Lots 108 and 145 DP 755221 adjacent to the RU2 Rural Landscape zone. In response to concerns raised by the then NSW Office of Environment and Heritage (OEH), the amended proposal does not seek to rezone the cleared pasture improved farmland on the ridge proximate to Cooks Road from E2 Environmental Conservation to RU2 Rural Landscape as originally proposed (Figure 4). Instead the proponent seeks that these lands be retained as E2 Environmental Conservation with the additional permitted use of "tourist and visitor accommodation".

In addition, the proponent is seeking to include the following amendments to the Planning Proposal:

- 1 Introducing the uses of function centre, entertainment facility and food and drink premises as additional permitted uses for the existing multi-purpose building (on Lot 89 DP 755221) and limiting the total floor area to 1500m<sup>2</sup>.
- 2 Adding function centre, entertainment facility and food and drink premises as additional permitted uses on the existing cleared areas of surrounding lots (Lots 19, 37 and 89 DP 755221 and Lots 22 and 32 DP 755253) with no permanent structures. These lots are currently zoned E2 Environmental Conservation under GLEP 2014.



**Figure 4:** Land originally proposed to be zoned from E2 Environmental Conservation to RU2 Rural Landscape

The amendment to the Planning Proposal to permit the existing multi-purpose building and surrounding land to be used as a function centre, entertainment facility and food and drink premises was justified by the proponent on the following grounds:

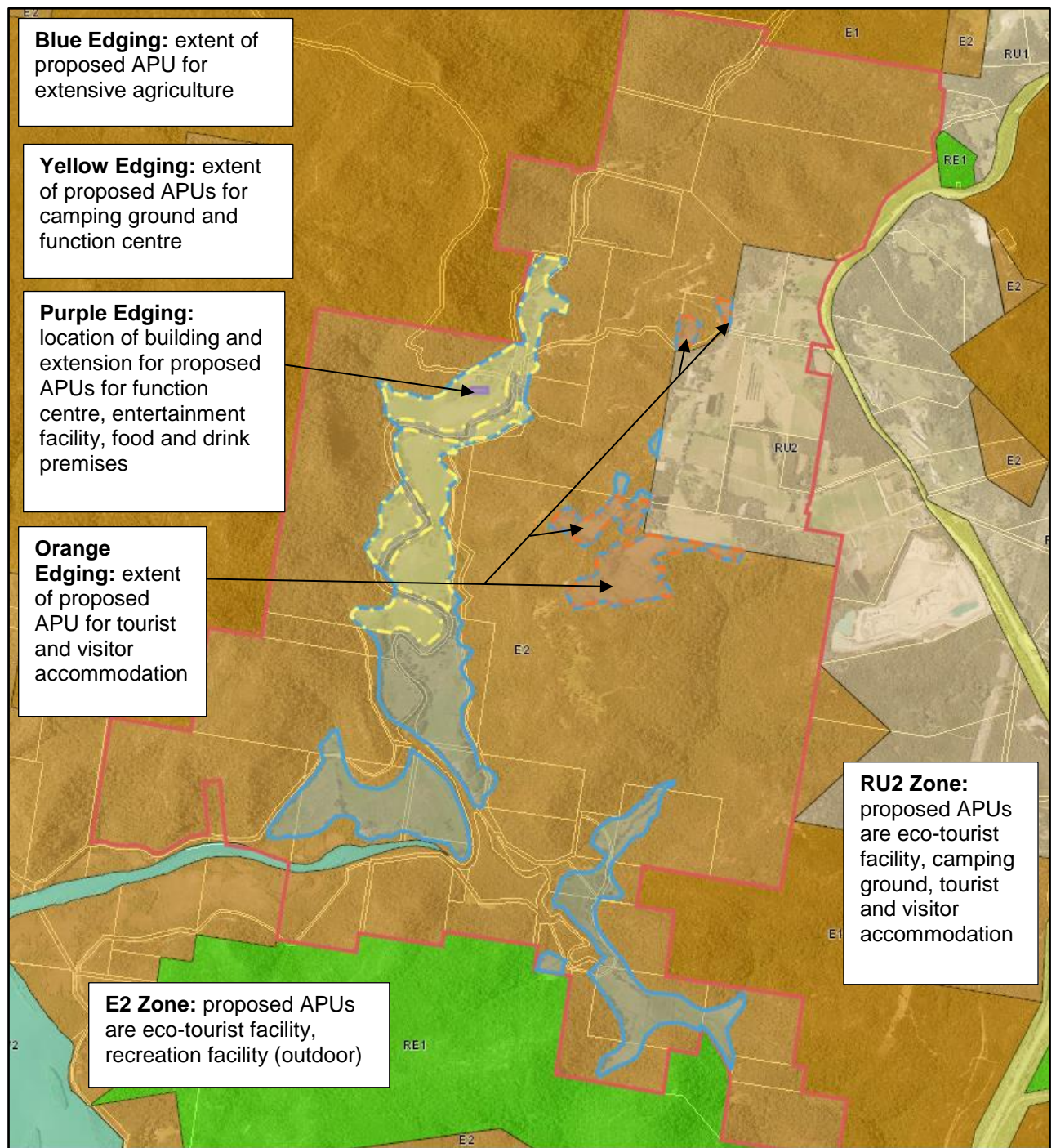
- The existing recreation activities are weekend and school holiday orientated and are reliant on fine weather. To overcome the potential of having successive weekends or holidays washed out, the business is looking to diversify its operations to include midweek and off peak markets and less weather dependent activities. In this way the building can be used for activities that are not tied to the existing recreational activities on the site.

- The allotments surrounding the multi-purpose building are included to allow some operational flexibility, for example, if customers wish to hold a wedding ceremony outdoors.

**Assessment**

The assessment of the amended planning proposal (which includes that originally considered by the fGCC and the additional permitted uses requested by the proponent) are considered below. The result of this assessment is shown in Figure 5 which indicates the location of each of the proposed additional permitted uses on the site.





**Figure 5:** Lots within the subject land affected by each Additional Permitted Use

### **Extensive Agriculture**

*"Extensive agriculture" means any of the following:*

- (a) *the production of crops or fodder (including irrigated pasture and fodder crops) for commercial purposes;*
- (b) *the grazing of livestock for commercial purposes;*
- (c) *bee keeping;*
- (d) *a dairy (pasture based).*

"Extensive agriculture" is not permissible in the E2 Environmental Conservation zone given the environmental values of the land and the incompatibility of this use with these values. Also, under the provisions of *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007*, extractive industries are permissible in any zone where "agriculture" is permissible. The Mineral Resources Audit, 2014 did not identify any potential resource within Glenworth Valley.

The applicant has sought the inclusion of "extensive agriculture" as a permissible use on the E2 Environmental Conservation component on the basis of existing grazing activities associated with the horse riding school. Also prior to the GLEP 2014 coming into effect the land was zoned 7(a) Conservation and Scenic Protection (Conservation) which listed "Agriculture" as a use permitted with consent.

The inclusion of "extensive agriculture" as an additional permitted use on cleared E2 Environmental Conservation zoned land on the valley floor and on land adjacent to the RU2 Rural Landscape zone is supported as it is currently used for horse grazing and/or fodder production. The Additional Permitted Use provisions will clearly indicate that development for the purpose of "extensive agriculture" is to occur on existing cleared land. The vegetated escarpment is unsuitable for "extensive agriculture" and is not currently used for this use.

"Extensive agriculture" is permitted in RU2 Rural Landscape zone as a general permitted use in the zone so it is not necessary to specify it as an additional permitted use relating to this land.

### ***Recreation Facility (Outdoor)***

*Recreation facility (outdoor)" means a building or place (other than a recreation area) used predominately for outdoor recreation, whether or not operated for the purposes of gain, including a golf course, golf-driving range, mini-golf centre, tennis court, paint-ball centre, lawn bowling green, outdoor swimming pool, equestrian centre, skate board ramp, go-kart track, rifle range, water-ski centre or any other building or place of a like character used for outdoor recreation (including any ancillary buildings) but does not include an entertainment facility or a recreation facility (major).*

"Recreation facility (outdoor)" is not permissible in the E2 Environmental Conservation zone. Although the existing recreational uses and possible future recreational uses are more nature-based than those nominated above, this definition best suits the predominant activities on the land.

Activities include horse riding, (both guided and free ranging on nominated trails), quad bike riding (in nominated areas), kayaking, abseiling (in specific areas), laser skirmish/paintball and may also include other emerging outdoor pursuits. The inclusion of recreational facility (outdoor) as an Additional Permitted Use on land zoned E2 Environmental Conservation zone will cater for any future recreational uses that may arise whilst protecting the overall values of the site via the objectives of the zone.

Such future recreational uses would require individual development assessment and as it is the inherent natural values of the land that make it attractive for these recreational/tourist related activities it is in the landowner's interests to seek to protect these values.

"Recreation facilities (outdoor)" is permitted in RU2 Rural Landscape zone as a general permitted use in the zone so it is not necessary to specify it as an additional permitted use relating to this land.

### **Eco-tourist Facility**

*"Eco-tourist facility" means a building or place that:*

- (a) provides temporary or short-term accommodation to visitors on a commercial basis, and*
- (b) is located in or adjacent to an area with special ecological or cultural features, and*
- (c) is sensitively designed and located so as to minimise bulk, scale and overall physical footprint and any ecological or visual impact.*

*It may include facilities that are used to provide information or education to visitors and to exhibit or display items.*

The definition of "eco-tourist facility" specifically requires such short-term accommodation to be designed so as to minimise its ecological and visual impact. Such a use would be suitable in the E2 Environmental Conservation zone.

There are also mandated requirements in Clause 5.13 of the GLEP 2014 that sets out matters for consideration of "eco-tourist facilities" that would ensure that development would maintain the environmental values of the land and ensure that it is sensitively designed and managed to have minimal impact on the environment.

Under the draft Central Coast Local Environmental Plan (CCLEP), "eco-tourist facilities" are proposed to be a use permitted in the E2 Environmental Conservation zone so would not be required to be included as an additional permitted use in the E2 zone should this Plan be in effect when this Planning Proposal is finalised.

The planning proposal seeks to permit "eco-tourist facilities" within the RU2 Rural Landscape zone.

### **Camping Ground**

*"Camping ground" means an area of land that has access to communal amenities and on which campervans or tents, annexes or other similar portable and lightweight temporary shelters are, or are to be, installed, erected or placed for short term use, but does not include a caravan park.*



The proponent has advised that the "camping ground" use operates as an ancillary use to the approved horse riding school and it should be permitted over all of the subject land. However as the proposed "camping ground" use is proposed to operate independently of the horse riding use, it lacks strategic merit to be allowed to operate over all the site.

A camping ground use exists on the cleared parts of Lots 22 and 32 DP 755253 and Lots 19, 37 and 89 DP 755221 which is in the valley and zoned E2 Environmental Conservation. As these lots are proximate to the focal point of many group activities on the site the use of "camping ground" on the existing cleared areas of these lots is supported.

The proponent has advised that small groups (e.g. Duke of Edinburgh expeditions) venture into remote areas of the site to camp as part of their wilderness experience. Therefore this use should be permitted over all of the subject land. Under the definition; "camping grounds" means an area of land that has access to communal amenities. Short term camping in the form of "a wilderness experience" as proposed by the proponent is therefore outside of the above "camping grounds" definition. However such low key camping could be considered as a "recreation facility (outdoor)", which is a use proposed to be permitted on all lots zoned E2 Environmental Conservation.

Under the draft CCLEP "camping ground" is proposed to be a permitted use in the RU2 Rural Landscape zone so would not be required to be included as an additional permitted use in the RU2 Rural Landscape zone should this plan be in effect when this planning proposal is finalised.

### **Tourist and Visitor Accommodation**

*Tourist and visitor accommodation means a building or place that provides temporary or short term accommodation on a commercial basis, and includes any of the following:*

- (a) *backpackers' accommodation,*
- (b) *bed and breakfast accommodation,*
- (c) *farm stay accommodation,*
- (d) *hotel or motel accommodation,*
- (e) *serviced apartments,*

*but does not include:*

- (f) *camping grounds, or*
- (g) *caravan parks, or*
- (h) *eco-tourist facilities.*

The proponent has requested that "tourist and visitor accommodation" be permitted over the whole site on the basis that accommodation was part of the riding school and is therefore able to be used in conjunction with the riding school. The proponent argues that under existing use rights the accommodation component can be enlarged, expanded and intensified under s 4.66 – 4.70 of the Environmental Planning and Assessment Act 1979.

Whilst an existing use can be enlarged, expanded and intensified, cl 42 of the *Environmental Planning and Assessment Regulation 2000* requires that such enlargement, expansion or intensification “*must be for the existing use and for no other use*”. Therefore any accommodation onsite, relying on existing use rights, that is to be enlarged, expanded and intensified has to be for the use of horse riders.

The proposed “tourist and visitor accommodation” is not proposed to be linked to the horse riding activities and has the potential to be more intensive. Therefore the claim that “tourist and visitor accommodation” should be permitted on the whole site is not supported.

Furthermore, the definition of “tourist and visitor accommodation” incorporates development of a substantial nature which would potentially be incompatible with the scenic quality of the land zoned E2 Environmental Conservation within the valley and known environmental constraints such as bushfire hazard and flooding.

Within the broader E2 Environmental Conservation zone a suitable form of short term accommodation would be “eco tourist facility”. There are mandated requirements in cl 5.13 of the GLEP 2014 and the draft CCLEP that sets out matters for consideration regarding “eco-tourist facilities” that would ensure that development would maintain the environmental values of the land and ensure that it is sensitively designed and managed to have minimal impact on the environment.

Under the draft CCLEP “eco-tourist facility” is proposed to be a permitted use in the E2 Environmental Conservation zone so would not be required to be included as an additional permitted use in the E2 zone should this plan be in effect when this planning proposal is finalised.

However, it should be noted that currently there is generally cleared land zoned E2 Environmental Conservation adjacent to the RU2 Rural Landscape zone atop the escarpment, being parts of Lots 108 and 145 DP 755221. The additional permitted use of “tourist and visitor accommodation” is considered a suitable use on such land as it does not have the significant scenic quality values as the E2 Environmental Conservation zoned land in the valley but contains similar characteristics to the adjoining RU2 Rural Landscape zoned land which is proposed to include the use of “tourist and visitor accommodation”.

The cleared areas identified in the E2 Environmental Conservation zoned land for “tourist and visitor accommodation” are outside of the Transition Area adjacent to Calga Sands. This will ensure that such a use will not adversely affect, or be adversely affected by, current or future resource development of Calga Sands.

The RU2 Rural Landscape zoned land is generally cleared with scattered stands of woodland so could accommodate “tourist and visitor accommodation” units within the undulating landform without an adverse impact on the rural quality of the area. Such a use would be unlikely to dominate the landscape as the land is primarily required for grazing purposes.

Therefore it is considered that imposing a limit on the number of units is not required for this area as the use can be satisfactorily determined on the basis of economic demand and the environmental capacity of the land to support such uses.

It should be noted that DA 43465/2013 approved 3 motel units and 5 caravan sites (i.e. relocatable cabins) on two lots which are now within the RU2 Rural Landscape zone. The development consent was issued when the land was zoned 7(b) Conservation and Scenic Protection (Scenic Protection) and motels and caravan parks were permitted uses. The 5 x 2 bedroom relocatable cabins have been constructed.

### ***Use of Existing Multi-Purpose Building***

The existing multi-purpose building is located on Lot 89 DP 755221 and was approved as an ancillary use to the recreational uses operating on the site. The Planning Proposal seeks to permit the building to be used independently as a "function centre", "entertainment facility" and a "food and drink premises".

It has an existing floor area of approximately 800m<sup>2</sup> and it is proposed that the total floor space to be used for a function centre, entertainment facility and a food and drink premises be 1500m<sup>2</sup>. This additional floor space will allow for future expansion, if required, provided the additional floor space comprises an extension to the building or is directly adjacent to it, the environmental impact will be minimal.

The definitions of the proposed additional permitted uses are:

- *"Entertainment facility" means a theatre, cinema, music hall, concert hall, dance hall and the like, but does not include a pub or registered club.*
- *"Food and drink premises" means a premises that are used for the preparation and retail sale of food or drink (or both) for immediate consumption on or off the premises and includes any of the following: a restaurant or café, take away food and drink premises, a pub, a small bar.*
- *"Function centre" means a building or place used for the holding of events, functions, conferences and the like, and includes convention centres, exhibition centres and reception centres, but does not include an entertainment facility.*

As the uses of "entertainment facility" and "food and drink premises" relate to buildings only, they could not be located anywhere but within the existing multi-purpose building (or future extensions) on Lot 89 DP 755221. Therefore it is not intended to include these uses on the additional lots as requested by the proponent.

The use of "function centre", however, can relate to a "place" as well as a "building".

Therefore outdoor functions, such as weddings, birthday parties and corporate activities would be able to occur on land where this use is permitted. Cleared land adjoining and proximate to the existing multi-purpose building is suitable for such a use. These lots are Lots 19, 37 and 89 DP 755221 and Lots 22 and 32 DP 755253.

It should be noted that an outdoor music festival does not fit within the definition of an "entertainment facility" or a "function centre". Consequently such music festivals are currently considered as a temporary use of land under clause 2.8 in GLEP 2014 and the draft CCLEP. This clause states:

*Despite any other provision of this Plan, development consent may be granted for development on land in any zone for a temporary use for a maximum period of 28 days (whether or not consecutive days) in any period of 12 months.*

### **Assessment Summary**

The Planning Proposal, if supported, would amend the GLEP 2014 in the following manner.

The additional permitted uses over the entire area zoned E2 Environmental Conservation are proposed to be "recreation facility (outdoor)" and "eco-tourist facility". Such outdoor recreation facilities are envisaged to be low key nature based activities similar to those currently operating on the site by Glenworth Valley Pastoral Company Pty Ltd. However the definition of "recreation facilities (outdoor)" allows more intensive uses that could adversely affect the environmental character of the area. The impact of any such proposals would occur as part of the development assessment process in consideration of the objectives of the E2 Environmental Conservation zone.

Likewise the requirements for "eco-tourist facilities" specified in the GLEP 2014 will ensure that in the future development is sensitively designed and managed to have minimal impact on the environment.

The additional permitted use of "extensive agriculture" could not occur within all of the land within the E2 Environmental Conservation zone as most of the land is steep and heavily vegetated making it unsuitable for such a use. Therefore the planning proposal seeks to permit the use only on the generally cleared parts of the E2 Environmental Conservation zone.

The additional permitted use of a "camping ground" is to apply to the existing cleared parts of Lots 22 and 32 DP 755253 and Lots 19, 37 and 89 DP 755221.

Any other "wilderness" camping experience can be accommodated within the definition of "recreation facility (outdoor)".

The additional permitted use of "tourist and visitor accommodation" is to apply to the existing cleared parts of Lots 108 and 145 DP 755221 which are zoned E2 Environmental Conservation and which are adjacent to the RU2 Rural Landscape boundary.

The total floor area for the permanent "function centre", "entertainment facility" and "food and drink premises" is to be no greater than 1500m<sup>2</sup> and any additions to the existing building are to be connected to, or directly adjacent, to it.

The additional permitted uses of "entertainment facility" and "food and drink premises" are to apply generally to that part of Lot 89 DP 755221 on which the existing multi-purpose building is situated. The use of "function centre" is proposed to apply to the cleared areas on adjoining and nearby Lots 19, 37 and 89 DP 755221 and Lots 22 and 32 DP 755253.

The additional permitted uses within the RU2 Rural Landscape zone are "eco-tourist facilities" "camping grounds" and "tourist and visitor accommodation".

Should the CCLEP come into effect prior to the subject Planning Proposal, then any proposed additional permitted uses that are generally included as permissible development within the applicable E2 Environmental Conservation and RU2 Rural Landscape zoned would not be required to be carried over.

### **Strategic Assessment**

The Planning Proposal, as outlined in the report, is supported on the following grounds:

- The Planning Proposal will facilitate long term certainty as to the continued and future operations of Glenworth Valley to permit a range of recreational and tourist related activities, whilst protecting the environmental quality of the site.
- By nominating a list of additional permitted uses applicable to the land, detailed assessment of specific future development can be carried out on a case by case basis, and allow flexibility in accommodating activities whilst protecting and managing the overall environmental values of the land
- The significant economic benefits (both direct and indirect) that the Glenworth Valley tourist development contributes to the regional economy and synergies with other businesses and tourist facilities.
- The Planning Proposal will allow this regionally significant recreational and tourist attraction to grow and develop as new nature-based outdoor recreational opportunities emerge.
- The retention of existing zones with the additional permitted uses will allow for the on-going development and enhancement of a significant tourist facility and ensure it remains intrinsically linked to the protection and management of the environment and allowing development at an appropriate scale.

This assessment identifies that the request has sufficient preliminary justification for Council to submit the amended Planning Proposal to the Department of Planning and Environment to seek an amended Gateway Determination.

### **Statutory Compliance and Strategic Justification**

The proposal has been assessed having regard for all State Environmental Planning Policies, Ministerial s.9.1 Directions and the relevant guidelines set out within the Central Coast Regional Plan 2036 (CCRP 2036) as detailed within Attachment 5.

The proposal is considered to be consistent with these considerations, therefore is suitable for forwarding to the Minister of Planning requesting an amended Gateway Determination.

### **Internal Consultation**

Internal consultation for the current Planning Proposal has been undertaken as summarised below.

Due to the size of the subject land (over 1000 Ha) and the fact that building and development footprints have not been identified within the Planning Proposal it is only possible to assess general impacts. All direct and specific impacts are able to be addressed by future development applications. Relevant comments have been utilized to inform the issues and strategic merits assessment of the proposal.

### **Waste Management**

Existing approved activities have a Plan of Management for storage, management and disposal of solid waste related to the activity and are serviced by a private waste collection contractor.

As has occurred previously, upon application to Council for upcoming events or proposed development, Council's Waste Services staff have been liaising with the applicant to seek the best possible outcome in relation to on-site sewage management.

The use of the multi-purpose building independent of any other uses on the site has the potential to result in the frequency of usage being increased which will result in additional hydraulic loading on the on-site sewage management system. There is also the potential that the multi-purpose building may be utilised for an event or function at the same time as a festival or event is occurring elsewhere on the property, thus impacting further on the system.

To determine the impacts of this, a wastewater management report will be required to be submitted to Council, post Gateway, which addresses the following:

- The estimated frequency of functions and likely numbers of patrons utilising the function centre, entertainment facility and food and drink premises.

- The ability of the existing on-site sewage management system to accommodate any additional hydraulic loading.
- Recommendations for any modifications required to either the treatment or disposal system to accommodate the additional hydraulic loading.

### ***Flooding and Drainage Management***

The impacts of overland flooding from upstream tributaries in the locality may impact on future structures. The assessment of such impacts would be subject to development applications and any flooding issues could be dealt with at that stage.

The multi-purpose building has been constructed and the flooding and drainage comments supported the Development Application (DA) for the building at the time. It was not considered that the building would be affected by flooding from any gullies or watercourses within the property. This situation will not change.

### ***Traffic and Transport***

The road network has the capacity to support the various recreational and festival events being held with access to Cooks Road and its intersection with Peats Ridge Road. These roads in this remote location could be upgraded with improved parking and upgraded pedestrian access to support larger scale events or more frequent activities if desired, when future DA's are lodged.

When one-off traffic generating events occur on site, such as music festivals, Council's Traffic Officer and a Police Officer liaise with the applicants and oversee the implementation and monitoring of temporary Traffic Management Plans (TMPs) to address such issues as queuing along Peats Ridge Road.

No objection is raised to the independent use of the existing multi-purpose building provided any development activities are assessed in accordance with the RMS Guidelines for Traffic Generating Development.

### ***Environmental Assessment***

No objection to the Planning Proposal subject to the protection of all existing areas of native vegetation and ongoing riparian management can be conditioned through future DA's for the individual additional uses.

Environmental management conditions tied to activity specific management plans coupled with ongoing monitoring should ensure the environmental values of the site are not eroded. Conditioning through development consent adequately addresses this issue.

Based upon the available cleared areas on the site it is possible for future development to be located to avoid any impact upon native vegetation.



Detailed assessments of biodiversity and Aboriginal / Cultural Heritage values must accompany future development applications for these additional uses.

The multi-purpose building has been constructed and the environment comments supported the DA for the building at the time. The building and ancillary carpark is located within a cleared paddock area and will not result in any direct or in direct impacts on any native vegetation. All bushfire asset protection zones are achievable without the need for any additional vegetation management.

### **External consultation**

Government agency consultation was undertaken in 2014 in relation to the current Planning Proposal. Comments from those agencies consulted are summarised below.

Further government agency consultation will be required to be undertaken subject to the conditions of the Gateway Determination. It is expected that those agencies previously consulted will be requested to comment on the revised proposal.

### ***Office of Environment and Heritage / National Parks and Wildlife Service (now Department of Planning, Industry and Environment)***

The then Office of Environment and Heritage (OEH) advised that it does not support the rezoning of the E2 Environmental Conservation zoned land to RU2 Rural Landscape within the proposal at the time. It was further advised the proposed additional land uses (e.g. extensive agriculture) are incompatible with the environmental characteristics of the subject land. In addition, part of the site has already been identified as an offset for the Calga Quarry project, which cannot be affected by the proposal.

OEH further advised that any impacts to vegetation associated with the proposal must be offset; the proposal should not impact on corridor function between the three parcels of national park which surround the site, and that the proposal should not burden the NSW National Parks and Wildlife Service with additional responsibility as a result of allowing more major events, further incursions into national park due to poorly defined boundaries to the park, increased requirement for fire protection and potential for impacts to Aboriginal cultural heritage (e.g. from abseiling).

OEH also confirmed that further consultation with DLALC and Guringai Tribal Link Aboriginal Corporation including a comprehensive site inspection and cultural heritage assessment of the areas proposed to be subject to future development is undertaken prior to the finalisation of the rezoning.

### **Comment**

As a result of this advice from OEH, the proponent has amended the Planning Proposal to remove the rezoning of certain E2 Environmental Conservation zoned land to RU2 Rural Landscape.

Future uses will be required to be located on areas of the subject site which are already cleared and/or not subject to existing environmental constraints. It is therefore proposed to require further environment and heritage impact assessment to be carried out at the development application stage for each particular building or development location.

***NSW Trade and Investment – Crown Lands (now The Treasury)***

The then NSW Trade and Investment - Crown Lands had no objections to the rezoning of the adjoining lands subject to the change in zoning not resulting in any additional requirements for the management of the Crown Estate such as increased bushfire mitigation measures and must not be relied upon to implement or facilitate any such measures.

***NSW Department of Primary Industries – Agriculture (now Department of Planning, Industry and Environment)***

The then NSW Department of Primary Industries – Agriculture (DPI - Agriculture) raised no concerns about the additional uses within the E2 Environmental Conservation Zone as the proposed uses can complement management and education for the environmental areas.

DPI - Agriculture objected to the proposed residential type and large visitation activities within the RU2 Rural Landscape zone as these activities are not complementary to commercial agriculture due to the possibilities of causing land use conflict and opening up the possibility of other landholders requesting similar expansion of types of land uses that could stifle agricultural investment.

***Comment***

Should an amended Gateway Determination be received the amended Planning Proposal will be referred to the relevant part of the Department of Planning, Industry and Environment for comment. The above objection may be reviewed at this time.

***NSW Trade and Investment – Mineral Resources and Energy (now The Treasury)***

Part of the eastern portion of the subject site is located adjacent to Rocla's Calga Sand Quarry, a state and regionally significant sand resource, supplying material for the building and construction industries in the Greater Sydney area. The transition area of the Calga Sand Quarry overlaps part of eastern side of the subject site (western side of the quarry).

The agency has no concerns in general, to the proposal to allow tourism-related activities being added as additional permitted uses in the E2 Environmental Conservation and RU2 Rural Landscape zones on the subject land.

The agency considers however that the tourism-related activities proposed may have the potential to create land use conflict in the vicinity of the Calga Sand Quarry.

The agency notes however that Council has acknowledged the close proximity of the quarry and that the proposed additional uses should not impact the quarry by sterilising the resource or restricting its operations and that the proposed tourist-related activities can be located in areas remote from the impacts of the quarry.

***NSW Roads and Maritime Service (now Department of Transport)***

The then NSW Roads and Maritime Service (RMS) reviewed the information provided and raised no objections to the Planning Proposal for land at Glenworth Valley and Calga.

Any future development of this land will require a Traffic Impact Study to be undertaken in accordance with the RMS Guide to Traffic Generating Developments. These matters can be addressed during subsequent Development Applications.

***NSW Rural Fire Service (now Department of Family and Community and Justice)***

The then NSW Rural Fire Service (RFS) advised that it does not object to the planning proposal subject to future Development Applications complying with the provisions of *Planning for Bushfire Protection 2006*, particularly the provisions of Asset Protection Zones, safe access and emergency evacuation management. These matters can be addressed during subsequent Development Applications.

**Darkinjung Local Aboriginal Land Council**

Darkinjung Local Aboriginal Land Council (DLALC) was consulted as a landowner and provided qualified support for Lot 245 DP 48817 being included in the Planning Proposal. The qualification is that the operators of Glenworth Valley are to enter into an arrangement with DLALC for the continued use of the land.

It should be noted that DLALC has also been granted Lot 7027 DP 1051931 (now Lot 7 DP 1230083) and for completeness should be included in any agreement.

The applicant was provided with a copy of this correspondence.

**Financial Impact**

The direct cost to Council is the preparation of the Planning Proposal and Council's fee has been paid for this service.

The proponent has advised that the current recreational uses on the site generate approximately 25 full-time and 80 part-time jobs and attracts up to 200,000 visitors to the area per year. The Planning Proposal will enable the continued operation and ongoing growth of the business, providing additional employment opportunities and tourism growth.

**Social Impacts**

Glenworth Valley is a major tourist attraction and the ability for it to further accommodate activities consistent with nature-based recreation, including accommodation in the form of eco-tourist facilities, is supported from a tourism perspective. It will provide an opportunity to increase outdoor recreational experiences and thus provide the community with options to enjoy the environment of the Central Coast.

**Environmental Considerations**

These have been outlined in the body of the report.

**Link to Community Strategic Plan**

Theme 2: Smart

Goal C: A growing and competitive region

S-C4: Promote and grow tourism that celebrates the natural and cultural assets of the Central Coast in a way that is accessible, sustainable and eco-friendly.

Theme 3: Green

Goal F: Cherished and protected natural beauty

G-F1: Protect our rich environmental heritage by conserving beaches, waterways, bushland, wildlife corridors and inland areas, and the diversity of local native species.

Theme 5: Liveable

Goal L: Healthy lifestyle for a growing community

L-L1: Promote healthy living and ensure sport, leisure, recreation and aquatic facilities and open spaces are well maintained and activated.

**Risk Management**

There have been no risks identified to the natural and built environment if this Planning Proposal is supported by Council as previously discussed in this report.

**Critical Dates or Timeframes**

Should Council resolve to proceed with the preparation of an amended Planning Proposal, the critical date will be the amended Gateway Determination date to complete the project.

**Conclusion**

The request to include additional permitted uses in respect of land at Cooks Road in Calga and Glenworth Valley is considered to have strategic merit.

It is recommended that the Council support the amended Planning Proposal and undertake the necessary next steps to progress the Planning Proposal in accordance with the Planning Proposal process.

**Attachments**

<b>1</b>	Proposal Summary (Glenworth valley)	D13691400
<b>2</b>	Former Gosford City Council Resolution - 17 December 2013	D13343533
<b>3</b>	Former Gosford City Council Resolution - 10 June 2014	D13343536
<b>4</b>	Former Gosford City Council Resolution - 27 June 2014	D13343535
<b>5</b>	Strategic Assessment (Glenworth Valley - Amended Gateway Request)	D13691401