



IRF25/1104

Gateway determination report – PP-2024-2640

Green Valley Mountain Bike Park

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Acknowledgment of Country

The Department of Planning, Housing and Infrastructure acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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Table 1 Reports and plans supporting the proposal

Relevant reports and plans

Draft Planning Proposal, prepared by Cowman Stoddard Pty Ltd, Dated December 2024

Attachment A: Supporting Submission from Transport for New South Wales, Dated 15 November 2024

Attachment B: Flora and Fauna Assessment, prepared by Eco Logical Australia, Dated 28 November 2024

Attachment C: Vegetation Management Plan, prepared by Eco Logical Australia, Dated 28 November 2024

Attachment D: Riparian Assessment, prepared by Eco Logical Australia, Dated 12 November 2024

Attachment E: Statement of Heritage Impact, prepared by Eco Logical Australia, Dated 18 November 2024

Attachment F: Aboriginal Archaeology Due Dilligence Assessment, prepared by Eco Logical Australia, Dated 18 November 2024

Attachment G: Flood Impact and Risk Assessment, prepared by Allen Price, Dated 28 November 2024

Attachment H: Bushfire Assessment, prepared by Eco Logical Australia, Dated 2 December 2024

Attachment I: Traffic Impact Assessment, prepared by MI Engineers, Dated 25 November 2024

Attachment J: Visual Impact Assessment, prepared by Edmiston Jones, Dated 26 November 2024

Attachment K: Indicative Concept Plan, prepared by Allen Price, Dated 27 September 2024

1 Planning proposal

1.1 Overview

Table 2: Planning proposal details

LGA	Shellharbour City Council
PPA	Shellharbour City Council
NAME	Green Valleys Mountain Bike Park
NUMBER	PP-2024-2640
LEP TO BE AMENDED	Shellharbour Local Environmental Plan 2013
ADDRESS	“Lothlorien”, 2926 Illawarra Highway, Tongarra
DESCRIPTION	Lot 1 DP 881927
RECEIVED	15/05/2025
FILE NO.	IRF25/1104
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

1.2 Objectives of planning proposal

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

The objectives of the planning proposal are to:

- Enable the existing mountain bike facility at the site to operate on a permanent basis.
- Enable the existing mountain bike facility to operate without conflict within the SP2 zoning (and underlying Road Widening Order) that affects the site.

The objectives of this planning proposal are clear and adequate.

1.3 Explanation of provisions

The planning proposal seeks to include the existing approved mountain bike facility in *Schedule 1 Additional Permitted Uses*, of the Shellharbour LEP 2013 and thereby permit the ongoing use of the subject site for a Recreation Facility (Outdoor), pursuant to Clause 2.5 of the Shellharbour LEP 2013.

Further to this the planning proposal seeks to rezone part of the land occupied by the existing approved mountain bike facility from SP2 Infrastructure zone to RU1 Primary Production, which is consistent with the existing adjacent zoning to the south.

The planning proposal seeks to amend the Shellharbour LEP 2013 per the changes below:

Table 3: Current and proposed controls

Control	Current	Proposed
Zone	C3 - Environmental Management C3 - Environmental Management RU1 - Primary Production RU1 - Primary Production SP2 - Infrastructure	Amend boundaries between the existing SP2 zone and RU1 zones.
Additional Permitted Uses	N/A	Part Lot application to existing Mountain Bike Park area
Maximum height of the building	9m	N/A
Minimum lot size	40ha	N/A

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

1.4 Site description and surrounding area

The subject site, known as “Lothlorien” (figure 1), is an irregular shaped allotment comprising of an area of 125.6Ha. The Site is located in the lower foothills of the Illawarra Escarpment approximately 5.5 km to the east of Macquarie Pass and 16 km to the west of Shellharbour.



Figure 1: Subject Site (source: Spatial Viewer)

The Site straddles the Illawarra Highway, with the land located on the northern side of the Illawarra Highway used as part of the Haertsch dairy farm operations. The main farmhouse and agricultural buildings are located on this part of the property. An existing dairy complex is located on that part of the subject land located to the north of the Illawarra Highway and set back approximately 30 metres from the frontage of the site.

The Green Valley Mountain Bike Park is situated on the southern part of the site (figure 2). The southern part of the Site comprises moderately to very steeply sloping terrain, with heavily forested slopes situated towards the southern part of this area. The northern part of this area however is largely cleared of vegetation and consists of pasture. The exception is the area where the Mountain Bike Park has been established which consists of a series of tracks, with associated infrastructure such as jump structures, car parking areas, and the main office and marshalling areas.



Figure 2: Impacted Portion of Subject Site (source: Near Map, image as of 10 April 2025)

1.4.1 Green Valley Mountain Bike Park

The area of land occupied by the existing Mountain Bike Park is located within the southern part of Lot 1 DP 881927 and extends as far south as Lakeview Road (Figure 3). Access to the site is provided directly from the Illawarra Highway. The facility is open to the public and to club members, subject to pre-booking.

The Mountain Bike Park comprises the following elements:

- Ten (10) Mountain Bike Trails;
- Three (3) access tracks for motorised vehicles;
- Jump structures, practice trails and bike ramps;
- Picnic shelter and picnic tables;
- Shipping containers for storage;
- Shed for use by marshals and for check-in;
- On-site car parking area (including overflow car parking);
- Park Signage;
- Amenities (Portaloos); and
- Waste Management Area.

The Mountain Bike Park will operate in its existing format as follows:

- Use of existing ten (10) tracks and facilities at the site.
- Operation for no more than 52 days a year with operating hours being 9:00 am to 4:00 pm on Saturdays and Sundays every second weekend.
- Operational hours are subject to weather conditions. The facility does not operate during wet weather.

- Of the proposed 52 operational days per year:
 - 40 days would be standard operation – limited to 100 people per day (70 competitors and 30 spectators); and
 - 12 days (6 weekends) would be competition days limited to 400 people per day (200 competitors and 200 spectators).

1.5 Mapping

The planning proposal includes mapping showing the proposed changes to the maps, which are suitable for community consultation.

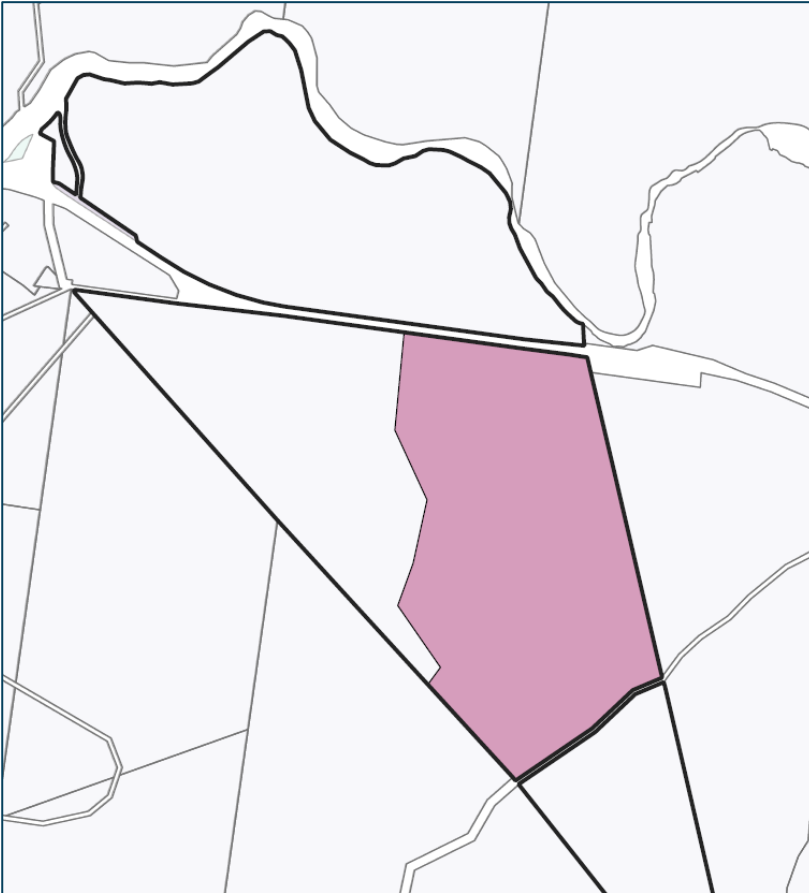


Figure 1: Proposed Additional Land Uses Map

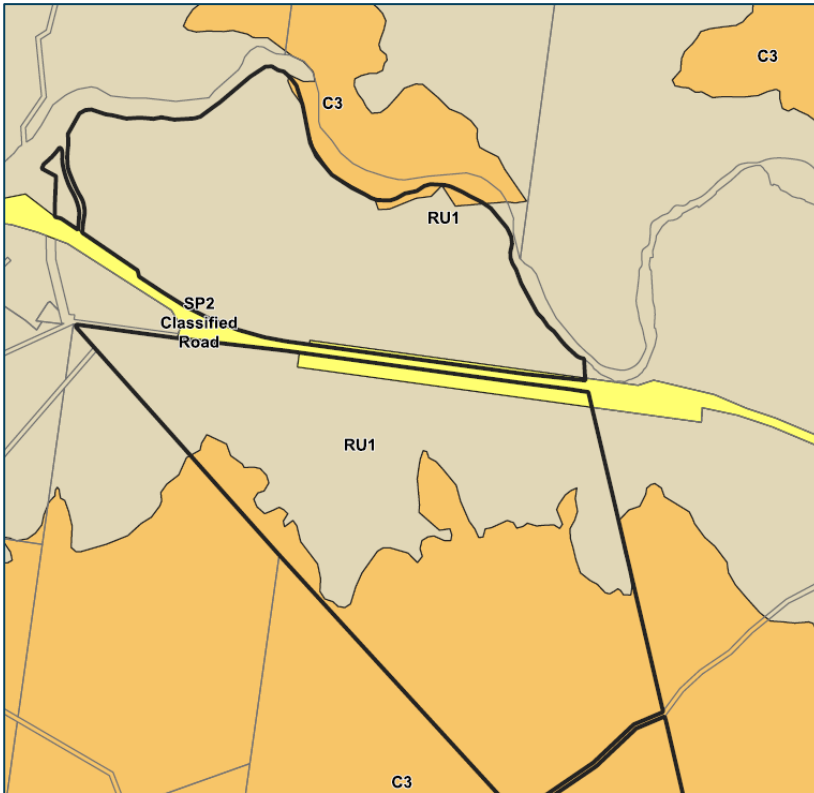


Figure 4: Current zoning map

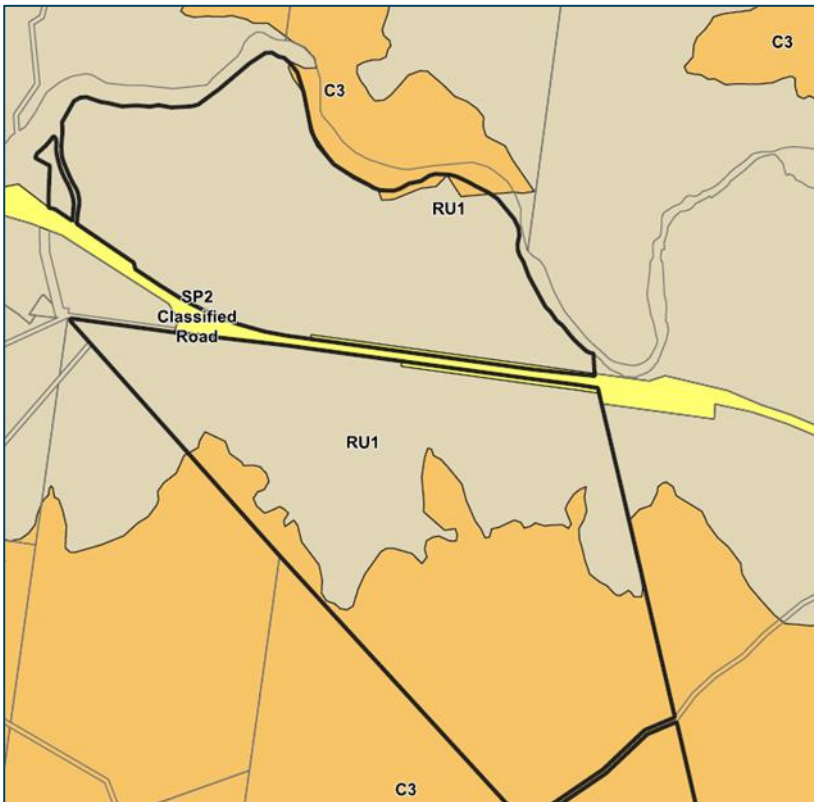


Figure 5: Proposed zoning map

1.6 Background

The Green Valleys Mountain bike Park has been operating on the site for just over the last 10-years. Operation of the facility has previously been permitted by Council on a temporary basis pursuant to *clause 2.8 Temporary use of land* of the SLEP2013.

1.6.1 Existing approvals

The Green Valleys Mountain Bike Park was originally approved by Council under DA46/2014, on 7 April 2014. Condition A4 of the development consent limited operation for a maximum of four (4) events within a 12-month period, and the consent was limited for a period of two (2) years from the date of determination. Subsequent extension approvals have been approved by Council for an additional two (2) year period each time.

The modification application, DAM0125/2019, approved on 21 October 2020, amended the consent to include:

Further, extension of the event operation under the current development approval will not be supported.

As a result of this condition, the proponent began a process of consultation with Council regarding permanent operation of the mountain bike park.

The proponent was advised by Council in a meeting held on 20 March 2019, that a permanent use of the site could be achieved through a planning proposal, which would need to insert an additional permitted use of the site under *Schedule 1 Additional Permitted Uses* of the SLEP2013, which would in-turn enable ongoing legal use of the site.

A Scoping Report for the planning proposal was submitted to Council in July 2023.

The most recent modification approval, DAM0090/2023, approved on 6 December 2023, amended the consent to include:

This development consent as modified has been extended for a final period. Further extension of the event operation under the current development approval will not be supported.

Extension of the temporary use has only been issued to allow interim operation of the use while a Planning Proposal is pursued. Should a Planning Proposal not have been lodged with and accepted for assessment by, Shellharbour City Council by 6 December 2024, the consent will lapse on 6 December 2024.

Should a Planning Proposal have been lodged with, and accepted for assessment by, Shellharbour City Council by 6 December 2024, the consent will lapse on 6 December 2025.

1.6.2 Road Widening Order

The Scoping Report for the planning proposal was forwarded to Transport for NSW (TfNSW) for comment, due to the subject site being adjacent to, and impacted by, a classified road. Following a review of issues raised by TfNSW, the scope of the planning proposal was amended to address the conflict between the Road Widening Order that affects the southern part of the site and the use of the existing Mountain Bike Park (figure 6).

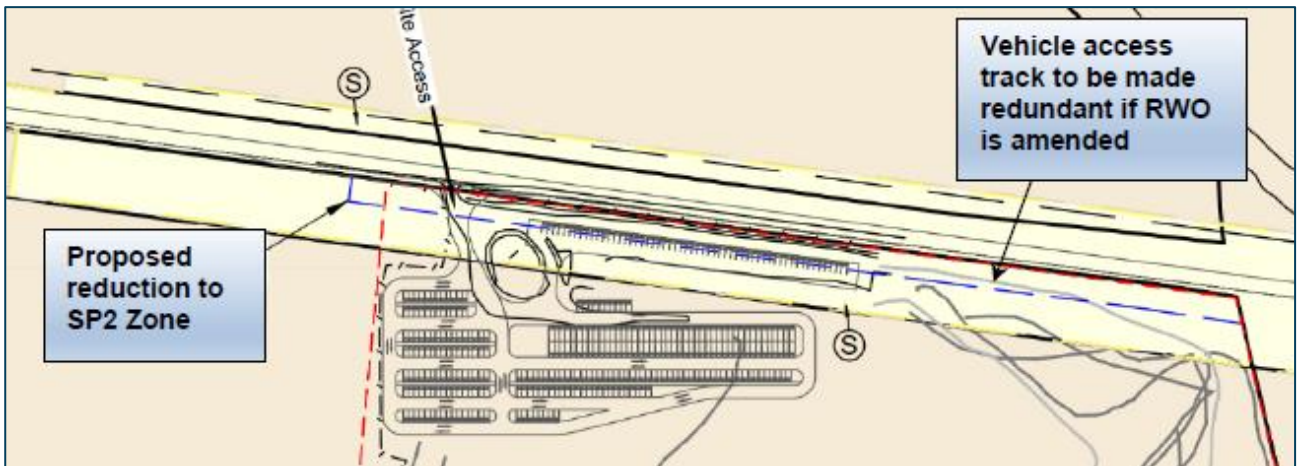


Figure 6: Road Widening Order impacted land

TfNSW advice provided on 15 November 2024 (Attachment A) did “not object to the lodgement of the Planning Proposal...(and) understands it will receive the PP, inclusive of the relevant studies and plans for an appropriate intersection treatment at the Highway, for review and comment during the PP exhibition period”. Specific comments in relation to the ROW:

- TfNSW notes that the applicant is seeking to lodge a PP with Council to amend Schedule 1 Additional Permitted Uses of Shellharbour Local Environmental Plan 2013 to allow a ‘recreational facility (outdoor)’ for the subject lot.
- **TfNSW is currently reviewing the extent of the RWO impacting part Lot 1 DP881927 based on future infrastructure needs. TfNSW intend to amend the RWO however the formal process is not complete. TfNSW is undertaking a survey to formalise this.**
- The applicant has advised that a RWO reduction to 12m width from the southern boundary of the existing road reserve will have minimal impact to the proposal (ie only the overflow carparking and an internal access track would be impacted), as shown in Attachment 1. TfNSW is generally comfortable with this statement. This will need to be confirmed by survey before future development works in close proximity to this boundary are constructed.

Although at this stage the exact reduction in width of the RWO is not confirmed, a reduction to the RWO width from 30m to 12m is anticipated. The affected land within the amended RWO would include overflow car parking and a short section of vehicle access track 1, the latter would be no longer used if the reduction in RWO is successfully completed (figure 7).

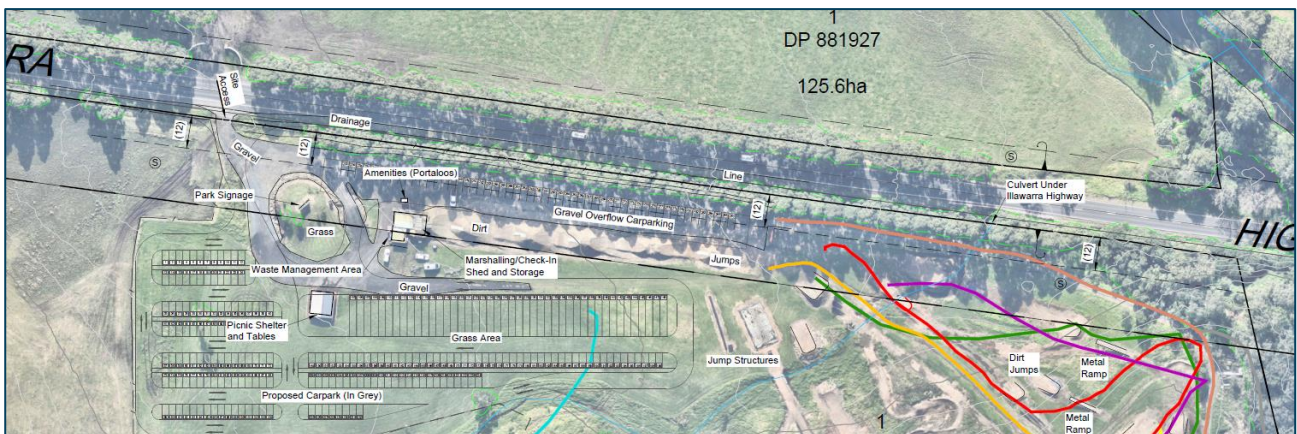


Figure 7: Road Widening Order amended ROW impacts

2 Need for the planning proposal

The planning proposal is not the direct result of any local planning priorities or actions identified in the Shellharbour Local Strategic Planning Statement (LSPS) or other strategic documents.

Council have advised that an amendment to *Schedule 1 Additional Permitted Uses* of the LEP is likely to be the best means of achieving the objectives of the proposal.

The planning proposal is the appropriate mechanism to facilitate the amendment of the Shellharbour LEP 2013 to make the proposed zoning, and Schedule 1 changes to enable the ongoing use of the land as Green Valleys Mountain Bike Park.

3 Strategic assessment

3.1 Regional Plan

The following table provides an assessment of the planning proposal against relevant aspects of the Illawarra Shoalhaven Regional Plan.

Table 4: Regional Plan assessment

Regional Plan Objectives	Justification
Objective 5: Create a diverse visitor economy	The PP aims to achieve permanent operation of the Green Valleys Mountain Bike Park. This facility provides a sought-after recreational resource for the region and will contribute to the diverse visitor economy of the region.
Objective 9: Promote agriculture innovation, sustainability and value-add opportunities	The subject site contains an existing dairy farm which contributes to the region's economy. The existing dairy farm is located primarily on the northern portion of the site on the existing rural zoned land. The Park comprises of approximately 43ha on the southern side of the Illawarra highway, or approximately 34% of the site. The Park is located on the steeper, more densely vegetated portion of the site which is not suitable for agricultural use. The Park makes use of the site and creates suitable value-add opportunities for the owners to maintain the viability of the existing dairy farm.
Objective 11: Protect important environmental assets	The PP does not involve any vegetation removal and is supported by suitable technical studies. The Vegetation Management Plan (Attachment C) for the site, aims to protect native vegetation within the Park area through ongoing weed management and revegetation, and minimise the impact to the existing environment.
Objective 23: Celebrate, conserve and reuse cultural heritage	The PP is not considered to impact upon sites or objects of sensitivity and is supported by suitable technical studies. The Due Dilligence Report (Attachment F) states that 'Aboriginal items are likely to be present within the study area' and will not impact on these areas as they are currently avoided. The report does note that any changes to the existing layout will require further mitigation measures to be implemented.


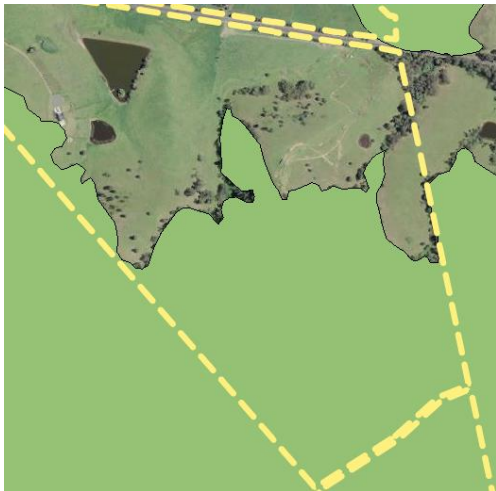
3.2 Local


The planning proposal is consistent with the planning priorities set out within both the *Community Strategic Plan 2018-2028* and the supporting *Local Strategic Planning Statement 2022*.

3.3 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Directions is discussed below:

Table 5: 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
1.1 Implementation of Regional Plans	Consistent	See section 3.1
3.1 Conservation Zones	Justified by relevant studies	<p>The subject site is impacted by Biodiversity Values (figure 8) and Terrestrial Biodiversity (figure 9).</p>  <p>Figure 8: Biodiversity Values Map (Source: Spatial Viewer)</p>  <p>Figure 9: Terrestrial Biodiversity Map (Source: Spatial Viewer)</p>

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
		<p>The PP is supported by the following technical studies:</p> <ul style="list-style-type: none"> • Flora and Fauna Report (Attachment B) • Vegetation Management Plan (Attachment C) • Riparian Assessment (Attachment D) <p>All relevant technical studies have been undertaken by Eco Logical Australia.</p> <p>The PP does not involve the removal of any vegetation.</p> <p>See further discussion in section 4.1</p>
3.2 Heritage Conservation	Justified	<p>The subject site is impacted by local Heritage (figure 10).</p>  <p>Figure 10: Heritage Map (Source: Spatial Viewer)</p> <p>The PP is supported by a Statement of Heritage Impact (Attachment E) and an Aboriginal Archaeology Due Diligence Assessment (Attachment F) prepared by Eco Logical Australia.</p> <p>“Lothlorien” is a heritage listed farmhouse within the northern part of the site. The PP applies only to the southern part of the site.</p> <p>The Aboriginal Archaeology Due Diligence Assessment stated that “Aboriginal objects are likely to be present in limited portions of the study area. The Planning Proposal will not impact sites and objects if areas of sensitivity are avoided” (pg27). 3 recommendations have been proposed to minimise any future impact on these areas. Any future DA would be able to enforce these recommendations.</p>
4.1 Flooding	Consistent	<p>The PP has been supported by a Flood Impact and Risk Assessment (Attachment G), prepared by Allen Price which shows a small portion of the site, along the Illawarra Highway, is impacted by flooding (figure 11).</p>

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
		 <p>Figure 11: PMF Hydraulic Hazard Map (Source: FIRA)</p> <p>The FIRA surmises that the majority of the site is flood free and the flood impacted areas are within the low-hazard flood fringe. There are no structures located within the identified areas and no new development is proposed within the flood areas.</p> <p>As access/egress from the site may be impacted during flooding events, it is recommended that site management controls be put in place. It is noted that current site procedures restrict operations during periods of wet weather, which will prevent the need for evacuation in long duration storm events. The proposal will not alter existing operations.</p>
4.3 Planning for Bushfire Protection	Justified	<p>The subject site is impacted by Bushfire (figure 12).</p>  <p>Figure 12: Bushfire Map (Source: Spatial Viewer)</p> <p>The PP is supported by a Bushfire Assessment (Attachment H) prepared by Eco Logical Australia.</p> <p>As there are no habitable structures associated with the proposal, the proposal is considered appropriate for the site. Any future approvals over the site would require a Bushfire Emergency Management and Evacuation Plan to be produced to formalise evacuation procedures and provide guidance for operational capacity.</p>

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
5.2 Reserving Land for Public Purposes	To be determined after consultation with TfNSW	<p>The PP requires the removal of reservations of land for public purposes as the land is no longer required for acquisition.</p> <p>The PP aims to rezone part of the existing SP2 Infrastructure – Classified Road zone, subject to a Road Widening Order (RWO) to RU1. The PP is supported by a letter of support from TfNSW (Attachment A).</p> <p>See full discussion in section 4.3</p>
9.1 Rural Zones	Consistent	<p>The PP does not contain provisions which will increase the permissible density of land within the zone.</p> <p>This Direction has not been addressed in the PP. prior to exhibition the PP should be updated to address this Direction.</p>
9.2 Rural Lands	Consistent	<p>The PP proposes to include an additional use to the existing site which will support the ongoing use of the Dairy on the northern side of the property.</p> <p>The PP applies to land which is not suitable for agricultural production currently undertaken on-site.</p> <p>The PP will implement ongoing management of the environmental assets on the site though ongoing weed management and revegetation (see discussion in section 4.1).</p> <p>This Direction has not been addressed in the PP. prior to exhibition the PP should be updated to address this Direction.</p>

3.4 State Environmental Planning Policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs.

The PP triggers SEPP (Transport and Infrastructure) 2021, Chapter 2 Infrastructure, Part 2.3. Development Controls, Division 17 Roads and Traffic, Subdivision 2 Development in or adjacent to road corridors and road reservations – including traffic-generating development.

The PP involves a car parking facility of 287 spaces plus overflow, which triggers referral to Transport for NSW under Schedule 3 of the SEPP. Consultation with Transport for NSW has been undertaken during the scoping stage of the PP. See further discussion in section 4.3.

4 Site-specific assessment

4.1 Environmental

There are no significant environmental impacts created from the planning proposal. The supporting Vegetation Management Plan (Attachment C) states that the Park is located on the steeper, more densely vegetated portion of the site and aims to protect native vegetation within the Park area

through ongoing weed management, revegetation, and minimise the impact to the existing environment. In this respect, the ongoing site management will ultimately benefit the local environment.

4.2 Social and economic

The planning proposal will enable the permanent operation of the Green Valleys Mountain Bike Park, which currently positively contributes to the local regional tourism and recreation economy. The Park is the only facility of its type currently within NSW and has hosted a number of State and National championships to date. The Park has over 1700 financial members and is one of the largest providers of coaching clinics in Australia. The Park is considered to have a positive on-going economic contribution to the surrounding area and supporting visitor economy.

4.3 Infrastructure

The planning proposal aims to rezone part of the existing SP2 Infrastructure – Classified Road zone, subject to a Road Widening Order (RWO) to RU1 – Primary Production. The land affected by the proposed zoning change is yet to be confirmed, as it is dependent on Transport for NSW requirements.

The operation of the Park currently conflicts with the SP2 zone that is associated with the RWO under Section 25 of the Roads Act 1993. Currently the RWO must be free from permanent infrastructure, however there are various permanent structures located within this portion of land. The PP is seeking to reduce the current impact of the RWO on the site from the existing 30m down to 12m which will then remove the land use conflict currently occurring.

Correspondence with TfNSW (Attachment A) dated 15 November 2024, states that:

- *TfNSW is currently reviewing the extent of the RWO impacting part Lot 1 DP881927 based on future infrastructure needs. TfNSW intend to amend the RWO however the formal process is not complete. TfNSW is undertaking a survey to formalise this.*
- *The applicant has advised that a RWO reduction to 12m width from the southern boundary of the existing road reserve will have minimal impact to the proposal (ie only the overflow carparking and an internal access track would be impacted), as shown in Attachment 1. TfNSW is generally comfortable with this statement. This will need to be confirmed by survey before future development works in close proximity to this boundary are constructed.*

To ensure that the PP is consistent with Ministerial Directions and does not conflict with the existing ROW over the site, formal notification from TfNSW will be required to ensure the exact reduction (proposed 30m to 12m) can be achieved over the site.

The PP has been supported by a Traffic Impact Assessment (Attachment I) prepared by MI Engineers. Existing and ongoing traffic management is managed via a TfNSW and Shellharbour Council approved Traffic Management Plan (TMP) and Road Occupancy Licence (ROL). The current TMP has been successfully implemented in previous years under the existing Temporary Use DA approvals. Any required upgrades to the existing intersection will be assessed and ultimately approved once the ongoing use DA is approved.

5 Consultation

5.1 Community

The planning proposal is categorised as a standard under the LEP Making Guidelines (September 2022). Accordingly, a community consultation period of 20 working days is recommended and this forms part of the conditions to the Gateway determination.

5.2 Agencies

It is recommended the following agencies be consulted on the planning proposal and given 30 working days to comment:

- Transport for NSW (TfNSW)
- Rural Fire Service

6 Timeframe

The LEP Plan Making Guidelines (August 2023) establishes maximum benchmark timeframes for planning proposal by category. This planning proposal is categorised as a standard

The Department recommends an LEP completion date of 12-months in line with its commitment to reducing processing times and with regard to the benchmark timeframes. A condition to the above effect is recommended in the Gateway determination.

It is recommended that if the gateway is supported it is accompanied by guidance for Council in relation to meeting key milestone dates to ensure the LEP is completed within the benchmark timeframes.

7 Local plan-making authority

Council has advised that it would like to exercise its functions as a local plan-making authority.

As the site/planning proposal is standard the Department recommends that Council be authorised to be the local plan-making authority for this proposal.

8 Assessment summary

The planning proposal is supported to proceed with conditions for the following reasons:

- The PP is considered to have strategic and site merit.
- The PP is consistent with current local and regional strategic plans.
- The PP will formalise an existing land use and permit the ongoing operation of a successful local business.

9 Recommendation

It is recommended the delegate of the Secretary:

- Agree that any inconsistencies with section 9.1 Directions; 3.1 Conservation Zones, 3.2 Heritage Conservation, 4.3 Planning for Bushfire Protection, are justified.

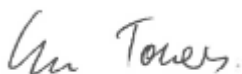
It is recommended the delegate of the Minister determine that the planning proposal should proceed subject to conditions.

The following conditions are recommended to be included on the Gateway determination:

1. The planning proposal is to be updated to address the following 9.1 Ministerial Directions
 - 9.1 Rural Zones
 - 9.2 Rural Lands
 - 5.2 Reserving Land for Public Purposes
2. Prior to community consultation, consultation is required with the following public authorities:
 - NSW Rural Fire Service
 - TfNSW
3. Prior to community consultation, the planning proposal is to be revised to address conditions 1 and 2.
4. The planning proposal should be made available for community consultation for a minimum of 20 working days
5. Prior to the finalisation of the planning proposal, formal notification of the reduction in the Road Widening Order is to be received from Transport for NSW.

Given the nature of the planning proposal, it is recommended that the Gateway authorise council to be the local plan-making authority and that an LEP completion date of 12-months be included on the Gateway.

The timeframe for the LEP to be completed is on or before 26 June 2026



20/6/25

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