



Transport
for NSW

21/01/2022

SF2022/013696 | WST21/00282

Regional Assessments
Department of Planning, Industry and Environment
4 Parramatta Square
PARRAMATTA NSW 2150

Attention: Emma Butcher

Dear Emma,

**SSD-34122745: Multiple lots across Canobolas, Cabonne Shire Council LGA
Mount Canobolas Mountain Bike Trails**

Reference is made to the request for Secretary's Environmental Assessment Requirements (SEARs) inviting comment from Transport for NSW (TfNSW) prior to submission of a Development Application (DA).

TfNSW's primary interests are in the road network, traffic and broader transport issues. In particular, the efficiency and safety of the classified road network, the security of property assets and the integration of land use and transport.

TfNSW has reviewed the preliminary Environmental Impact Statement titled Scoping Report, prepared by The Environmental Factor and dated October 2021. It is understood that the prospective development includes:

- Construction and operation of a network of mountain bike trails comprising up to 104.4 km of single-track across thirty-six (36) trails, and development of ancillary infrastructure, on Mount Canobolas to the south-west of Orange, NSW.
- New supporting infrastructure including parking areas of a size suitable to accommodate anticipated (but unstated) traffic volumes generated by general use and events.

It is further understood that the Proposal is regarded as State Significant Development (SSD) through the effect of Schedule 1, clause 13(2)(b) of *State Environmental Planning Policy (State and Regional Development) 2011* (SRD SEPP), being a recreational facility development with a capital investment value of more than \$10 million and located in an environmentally sensitive area of State significance.

TfNSW requests that the final Environmental Impact Statement be supported by Traffic Impact Assessment (TIA) prepared by a suitably qualified person in accordance with the *Austroroads*

Transport for NSW

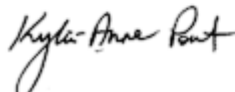
Level 1, 51-55 Currajong Street, Parkes NSW, 2870 | PO Box 334, Parkes NSW 2870 | DX20256
W transport.nsw.gov.au | E development.western@transport.nsw.gov.au | ABN 18 804 239 602

Guide to Traffic Management Part 12, the Roads and Maritime Supplements to Austroads and the RTA Guide to Traffic Generating Developments. The TIA is to address the following.

- The need for improvements to the classified road network, and the improvements proposed such as road widening and intersection treatments, to cater for and mitigate the impact of project related traffic,
- Proposed road facilities, access and intersection treatments on any classified road are to be identified and be in accordance with Austroads Guide to Road Design including provision of Safe Intersection Sight Distance (SISD),
- Plans illustrating the location and suitable treatment of new access points,
- Traffic volumes:
 - Existing background traffic including current traffic counts (c.2022),
 - Project-related traffic for each phase or stage of the project for each trail (or primary access location for cluster of trails),
 - Projected cumulative traffic at commencement of operation including traffic associated with any event seeking consent under SSD-34122745,
- Traffic characteristics:
 - Number and ratio of heavy vehicles to light vehicles,
 - Peak times for existing traffic,
 - Peak times for project-related traffic including commuter periods,
 - Interactions between existing and project-related traffic,
- The impact of traffic generation on the public road network and measures employed to ensure traffic efficiency and road safety during construction and operation,
- The layout of the internal road network, parking facilities and infrastructure,
- Impact on public transport (public and school bus routes) and consideration for alternative transport modes such as walking and cycling,
- Propose a Traffic Management Plan (TMP) to be developed following approval of the EIS, in consultation with relevant Councils and TfNSW. The TMP would need to identify strategies to manage the impacts of project related traffic, including any community consultation measures for events,

If you wish to discuss this matter further, please contact the undersigned on ph. 0481-068-175 or via email at development.west@transport.nsw.gov.au.

Yours faithfully



Kylie-Anne Pont
A/ Team Leader Development Services (West)
Regional and Outer Metropolitan



Emma Butcher
Planner
Department of Planning and Environment
GPO BOX 404, PARRAMATTA NSW 2124

By email: emma.butcher@planning.nsw.gov.au

Dear Ms Butcher

Request for Secretary's Environmental Assessment Requirements (SEARS) for Mount Canobolas Mountain Bike Trails (SSD-34122745)

Thank you for your referral dated 22 December 2021 inviting SEARS input from the Heritage Council of NSW on the above State Significant Development (SSD) proposal.

The proposed SSD site is not in the vicinity of a known State Heritage Register item.

Mount Canobolas Parklands are listed on the Cabonne LEP 2012 as an item of environmental heritage for its landscape values.

It is recommended that the draft SEARs are adopted, and the following additional SEARS are included:

Heritage and archaeology

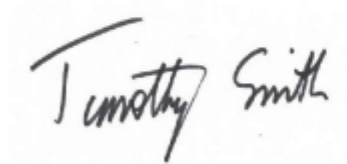
- a) A Statement of Heritage Impact (SOHI) prepared by a suitably qualified heritage consultant in accordance with the guidelines in the NSW Heritage Manual. The SOHI is to address the impacts of the proposal on the heritage significance of the site and adjacent areas and is to identify the following:
 - all heritage items (state and local) within the vicinity of the site including built heritage, landscapes and archaeology, detailed mapping of these items, and assessment of why the items and site(s) are of heritage significance;
 - the impacts of the proposal on heritage item(s) including visual impacts;
 - the attempts to avoid and/or mitigate the impact on the heritage significance or cultural heritage values of the site and the surrounding heritage items; and
 - justification for any changes to the heritage fabric or landscape elements including any options analysis.
- b) If the SOHI identifies impact on potential historical archaeology, an historical archaeological assessment should be prepared by a suitably qualified archaeologist in accordance with the guidelines *Archaeological Assessment* (1996) and *Assessing Significance for Historical Archaeological Sites and Relics* (2009). This assessment should identify what relics, if any, are likely to be present, assess their significance and consider the impacts from the proposal on this potential archaeological resource. Where harm is likely to occur, it is recommended that the significance of the relics be considered in determining an appropriate mitigation strategy. If harm cannot be avoided in whole or

part, an appropriate Research Design and Excavation Methodology should also be prepared to guide any proposed excavations or salvage programme.

As the site contains a local heritage item, advice should be sought from the relevant local council.

If you have any questions regarding the above advice, please contact Tempe Beaven, Senior Assessments Officer, at Heritage NSW on 9873 8629 or Tempe.Beaven@environment.nsw.gov.au.

Yours sincerely

A handwritten signature in black ink that reads "Timothy Smith". The signature is written in a cursive style with a large initial 'T'.

Tim Smith OAM
Director Assessments
Heritage NSW
Department of Premier and Cabinet
As Delegate of the Heritage Council of NSW
31/1/22



Our reference: DOC21/1136066
Date: 23 December 2021

HERITAGE NSW – Aboriginal Cultural Heritage - SEARs

Project Name: Major Projects - New Request for Advice - Mount Canobolas Mountain Bike Trails (SSD-34122745) (Cabonne Shire)

1. The EIS must identify and describe the Aboriginal cultural heritage values that exist across the whole area that will be affected by the development and document these in an Aboriginal Cultural Heritage Assessment Report (ACHAR). This may include the need for surface survey and test excavation. The identification of cultural heritage values must be conducted in accordance with the [Code of Practice for Archaeological Investigation in NSW](#) (DECCW 2010), and be guided by the [Guide to Investigating, Assessing and Reporting on Aboriginal Cultural Heritage in New South Wales](#) (OEH 2011).
2. Consultation with Aboriginal people must be undertaken and documented in accordance with the [Aboriginal Cultural Heritage Consultation Requirements for Proponents](#) (DECCW 2010). The significance of cultural heritage values for Aboriginal people who have a cultural association with the land must be documented in the ACHAR.
3. Impacts on Aboriginal cultural heritage values are to be assessed and documented in the ACHAR. The ACHAR must demonstrate attempts to avoid impact upon cultural heritage values and identify any conservation outcomes. Where impacts are unavoidable, the EIS must outline measures proposed to mitigate impacts. Any objects recorded as part of the assessment must be documented and notified to Heritage NSW.
4. The assessment of Aboriginal cultural heritage values must include a surface survey undertaken by a qualified archaeologist. The result of the surface survey is to inform the need for targeted test excavation to better assess the integrity, extent, distribution, nature and overall significance of the archaeological record. The results of surface surveys and test excavations are to be documented in the ACHAR.
5. The ACHAR must outline procedures to be followed if Aboriginal objects are found at any stage of the life of the project to formulate appropriate measures to manage unforeseen impacts.
6. The ACHAR must outline procedures to be followed in the event Aboriginal burials or skeletal material is uncovered during construction to formulate appropriate measures to manage the impacts to this material.

NOTE: The process described in the *Due Diligence Code of Practice for the protection of Aboriginal objects in NSW* (DECCW 2010) is not sufficient to assess the impacts on Aboriginal cultural heritage of Major Projects.



OUT21/18519

Emma Butcher
Planning and Assessment Group
NSW Department of Planning and Environment

emma.butcher@planning.nsw.gov.au

Dear Ms Butcher

**Mount Canobolas Mountain Bike Trails (SSD-34122745)
Comment on the Secretary's Environmental Assessment Requirements (SEARs)**

I refer to your email of 22 December 2021 to the Department of Planning and Environment (DPE) Water and the Natural Resources Access Regulator (NRAR) about the above matter.

The following recommendations are provided by DPE Water and NRAR.

The SEARs should include:

- The identification of an adequate and secure water supply for the life of the project. This includes confirmation that water can be sourced from an appropriately authorised and reliable supply. This is also to include an assessment of the current market depth where water entitlement is required to be purchased.
- A detailed and consolidated site water balance.
- Assessment of impacts on surface and ground water sources (both quality and quantity), related infrastructure, adjacent licensed water users, basic landholder rights, watercourses, riparian land, and groundwater dependent ecosystems, and measures proposed to reduce and mitigate these impacts.
- Proposed surface and groundwater monitoring activities and methodologies.
- Consideration of relevant legislation, policies and guidelines, including the NSW Aquifer Interference Policy (2012), the Guidelines for Controlled Activities on Waterfront Land (2018) and the relevant Water Sharing Plans (available at <https://water.dpie.nsw.gov.au/home>).

Any further referrals to DPE Water and NRAR can be sent by email to water.assessments@dpie.nsw.gov.au or to the following coordinating officer within DPE Water:

Alistair Drew, Project Officer, E: Alistair.drew@dpie.nsw.gov.au

Yours sincerely

A handwritten signature in blue ink that reads 'Liz Rogers'.

Liz Rogers
Manager, Assessments, Knowledge Division
Department of Planning and Environment: Water
11 January 2022



Mount Canobolas Mountain Bike Trails

The Department of Planning and Environment – Crown Lands has reviewed the proposal as described in the document *Preliminary Environmental Impact Assessment, Mount Canobolas Mountain Bike Trails, September 2021*.

The following Crown land parcels have been identified within the project footprint. Refer to Section 2.1 Site location and description - Table 3 Site details, Pages 9 and 10.

Parcel	Reserve No.	Reserve Purpose	Reserve Manager
Lot 1 DP258470	81412	Public Recreation	The Minister
Lot 1 DP442252	81412	Public Recreation	The Minister
Lot 1 DP409850	81412	Public Recreation	The Minister
Lot 144 DP1151224	81412	Public Recreation	The Minister
Lot 149 DP756910	61743	Public Recreation	Cabonne Council

The following land parcels have also been identified within the project footprint and listed as being Crown land. Refer to Section 2.1 Site location and description - Table 3 Site details, Pages 9 and 10.

Parcel	First Schedule	Second Schedule
Lot 95 DP 1200169	THE STATE OF NEW SOUTH WALES	THE LAND ABOVE DESCRIBED IS RESERVED UNDER THE NATIONAL PARKS AND WILDLIFE ACT 1974 AS A STATE CONSERVATION AREA KNOWN AS MOUNT CANOBOLAS STATE CONSERVATION AREA AND IS RESTRICTED TO A DEPTH OF 100 METRES BELOW THE SURFACE-SEE GOVERNMENT GAZETTE DATED 5-12-1997 FOLIO 9843-9844
Lot 193 DP 1139390	MINISTER ADMINISTERING NATIONAL PARKES AND WILDLIFE ACT,1974	

The current Land Titles identify these parcels as part of Canobolas State Conservation Area as per the table below. These parcels are not administered by Crown Lands and any proposal affecting these parcels would need to be referred through the National Parks and Wildlife Service for comment.

The following Crown road has also been identified within the project footprint - Canobolas Road, from Lake Canobolas Road to the summit of Mount Canobolas.

The current road formation partly occupies the Crown road, two of the Crown parcels and the Mount Canobolas State Conservation Area.

For use and access to Crown land/roads

Authority to use, traverse, access or build infrastructure on Crown land and roads is required under the *Crown Land Management Act 2016* and/or the *Roads Act 1993*. It is recommended that the proponent contact Crown Lands as early as possible to discuss and initiate the processes required to authorise the use of and/or access to Crown land and roads.

If the proposal requires the use of the Crown road described as Canobolas Road in order to implement the Mount Canobolas Mountain Bike Trails proposal, the road should be transferred to Cabonne Council and/or NPWS as a relevant roads authority. The proponent should seek confirmation of the acceptance of any road transfer for the development from those agencies. This is likely to be necessary due to limitations associated with road construction activities on Crown roads. More information is available pertaining to the extent of works permissible on a Crown road in the Administration of Crown roads policy:

https://www.industry.nsw.gov.au/_data/assets/pdf_file/0004/164497/IND-O-250-Administration-of-Crown-roads-policy.pdf

It is noted that preliminary access to or use of Crown land and roads may be required prior to the commencement of any works commencing, and to avoid any delays for the proposal, a tenure may be required in the interim. More information regarding Crown roads and Enclosure permits and Crown land licences can be found at the following links: <https://www.industry.nsw.gov.au/lands/access/roads> and <https://www.industry.nsw.gov.au/lands/use/enclosure-permits>, <https://www.industry.nsw.gov.au/lands/use/licences>

Much of the affected Crown land is currently reserved for public recreation, and development for mountain bike trails would be consistent with this reserve purpose. The Department, and/or reserve manager would need to be consulted in terms of intended trail design to understand the extent of the proposed trail developments so consideration can be given to any other authorisation requirements including any licensing arrangements and native title considerations.

Aboriginal Land Claims/Native Title

It is noted that the parcels in the following table are Crown land and are currently the subject of undetermined Aboriginal Land Claims under the *Aboriginal Land Rights Act 1983*, which may limit how the land can be used. Further information regarding Aboriginal Land Claims can be found at the following link: <https://www.industry.nsw.gov.au/lands/what-we-do/our-work/aboriginal-land-claims>

Parcel	Reserve No.	Reserve Purpose	Aboriginal Land Claim
Lot 1 DP258470	81412	Public Recreation	35957
Lot 1 DP442252	81412	Public Recreation	35957
Lot 1 DP409850	81412	Public Recreation	35957
Lot 144 DP1151224	81412	Public Recreation	35957
Lot 149 DP756910	61743	Public Recreation	35957; 14504

Concurrence with the NSW Aboriginal Land Council (NSWALC) would be required to allow the Department to deal in the land and hence provide any formal approvals/authority under the *Crown Land Management Act 2016*.

Additionally, a tenure will be required to authorise any use of and/or access to these lots, which may be subject to Native Title. This will need to occur prior to the commencement of any works.

Information regarding Native Title can be found at the below link:

<https://www.industry.nsw.gov.au/lands/what-we-do/our-work/native-title>

Lot 144 DP 1151224 (Reserve 61743) is a reserve for Public Recreation under the care, control and management of Cabonne Council. The proponent is encouraged to consult with Cabonne Council regarding the use of, or access to, this Crown land and to contact Crown Lands as early as possible if Crown Lands' involvement is required to assist.

The proponent is encouraged to make contact with Crown Lands during the development of its Environmental Assessment to enable full consideration to be given any Crown Land impacts and ensure those matters are considered in the assessment process.

Land Owner Consent

Crown Lands received an application on 19 October 2021 from Orange City Council and Cabonne Council seeking Land Owners Consent to lodgement of a Development Application for the proposed Mount Canobolas Mountain Bike Trails. Crown Lands reference LOC 631406.

Assessment of the application identified the incomplete Aboriginal Land Claims under the *Aboriginal Land Rights Act 1983* on the Crown parcels as shown above.

The proponents were advised by letter on 10 November 2021 that the Department is unable to deal in the land until the claims have been determined, unless concurrence is provided by the claimant, in this case the NSW Aboriginal Land Council. The proponent is again encouraged to commence engagement with the NSW Aboriginal Land Council in relation to this development such that if development consent is granted, the matter of the pending Land Claims does not delay or impede any commencement of works.

If the proponent requires further information, or has any questions, please contact Daryl Lawrence, Group Leader, Orange Crown Lands in Crown Lands, on 02 6391 4341 or at daryl.lawrence@crowland.nsw.gov.au.

Yours sincerely



Daryl Lawrence
Group Leader, Property Management
Crown Lands, Orange
T 02 6391 4341 | E daryl.lawrence@crowland.nsw.gov.au



Our ref: DOC21/1137377
Senders ref: SSD-34122745

Ms Emma Butcher
Senior Planner, Regional Assessments
Planning and Assessment Group
Department of Planning and Environment
emma.butcher@planning.nsw.gov.au

Dear Ms Butcher

Mount Canobolas mountain bike trails

I refer to your email dated 22 December 2021 seeking input into the Department of Planning and Environment Secretary's Environmental Assessment Requirements (SEARs) for the preparation of an Environmental Impact Assessment (EIS) for the Mount Canobolas mountain bike trails (SSD-34122745).

The Biodiversity, Conservation and Science Directorate (BCS) and the National Parks and Wildlife Service (NPWS) have considered your request and provides SEARs for the proposed development in **Attachments A and B**. Guidance material is provided in **Attachment C**.

BCS and NPWS recommend the EIS needs to appropriately address the following:

1. Biodiversity and offsetting
2. Water and soils
3. Flooding
4. Conservation values of Mount Canobolas State Conservation Area

If you have any questions about this advice, please do not hesitate to contact Liz Mazzer, Senior Conservation Planning Officer, via liz.mazzer@environment.nsw.gov.au or (02) 6883 5325

Yours sincerely,

A handwritten signature in black ink that reads "Samantha Wynn".

Samantha Wynn
Senior Team Leader Planning North West
Biodiversity, Conservation and Science Directorate

18 January 2022

Attachment A - Environmental assessment requirements

Attachment B – Additional requirements

Attachment B - Guidance material

Standard Environmental Assessment Requirements

BCS	Biodiversity, Conservation and Science Directorate of the NSW Department of Planning and Environment
The Department	NSW Department of Planning and Environment
NPWS	National Parks and Wildlife Service

<p>Category 1 – exempt land</p> <p>Clearing of native vegetation on land that meets the definition of Category 1 - exempt land (as defined under the Local Land Services Act 2013 (LLS Act)) does not require assessment or offsetting under the Biodiversity Conservation Act 2016. Prescribed impacts as outlined in chapter 6 of the Biodiversity Assessment Method (2020) must still be considered on Category 1 - exempt land. In addition, potential impacts to Matters of National Environmental Significance under the Environment Protection and Biodiversity Conservation Act 1999 on Category 1 – exempt land must be considered.</p> <p>Section 60F Local Land Services Act 2013 (LLS Act) Act provides the transitional arrangements that are in place until a comprehensive NVR Map with all the land categories is published. During the 'transitional period' assessors can make a reasonable approximation of land categorisation for unpublished layers, in consultation with the landholder.</p> <p>Where a reasonable approximation is required, it is recommended that:</p> <ul style="list-style-type: none"> • assessors first identify whether land meets criteria for Category 2 - Regulated Land, prior to Category 1 - Exempt Land. <ul style="list-style-type: none"> ○ In some circumstances, land may meet multiple map criteria i.e. criteria for Category 2 - Regulated Land, AND Category 1 - Exempt Land ○ In most circumstances' Category 2 - Regulated Land criteria will determine the categorisation of the land, rather than Category 1 - Exempt Land criteria. <p>Section 60I of the LLS Act defines the criteria in which land can be classified as Category 2 Regulated Land, this includes land which:</p> <ul style="list-style-type: none"> • was not cleared of native vegetation as at 1 January 1990; • was unlawfully cleared of native vegetation between 1 January 1990 and 25 August 2017; • contains native vegetation that was grown or preserved with the assistance of public funds (other than funds for forestry purposes); • contains grasslands that are not low conservation grasslands; • is subject to a private land conservation agreement; • is a 'set aside' under a Land Management (Native Vegetation) Code; • is an offset under a property vegetation plan or a set aside under the former native vegetation laws; • is subject to an approved conservation measure that was the basis for other land being biocertified; • is identified as coastal wetlands or littoral rainforest;
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- is identified as koala habitat;
- is a declared RAMSAR wetland; or
- is mapped as containing Critically Endangered species of plants or a Critically Endangered Ecological Community

The above criteria are inclusive of both Category 2 Vulnerable Regulated Land and Sensitive Regulated Land categories.

Where an assessor identifies land that does not meet the criteria for Category 2 Vulnerable or Sensitive Regulated land, the assessor should then assess whether or not the land meets the definition of Category 1 – exempt land.

Where the assessor identifies land as Category 1 – exempt land it must be adequately demonstrated that the identified land meets the criteria as set out in section 60H of the LLS Act. Multiple pieces of evidence should be used to demonstrate a Category 1 – exempt land designation. This might include:

- Publicly available data sets on the SEED data portal, such as:
 - Land use mapping – used to identify and map existing and historical agricultural land use in NSW – see the [2017 landuse map](#)
 - Woody vegetation extent – used to identify and map native vegetation extent – see [2008 Woody extent](#) [2011 woody extent](#)
 - State-wide Landcover and Tree Survey (SLATS) woody clearing for NSW – used to identify detectable clearing events since January 1990 – [available here](#)
- Published information on the Native Vegetation Regulatory Map, including Category 2-sensitive regulated, Category 2-vulnerable regulated, and excluded land - [available here](#)
- Site-based information and records, including:
 - Current and historical high-resolution aerial photography
 - current and historical photographs of the subject land
 - historical land management records maintained by the landowner
 - vegetation survey data collected on the subject land
 - documentation demonstrating history of authorised clearing and/or development

The published *Native Vegetation regulatory map: method statement* should be reviewed to determine how the datasets can be best interrogated to support any identification of Category 1 – exempt land.

Where there is uncertainty or datasets/information are conflicting, a precautionary approach should be applied, and the land should be categorised as Category 2 – regulated land.

Where Category 1 – exempt land is likely to be present on a development site, early engagement with BCS is encouraged. Prior to the Biodiversity Development Assessment Report being submitted to the consent authority, the accredited assessor should submit a proposed land categorisation method to the BCS North West Planning team at rog.nw@environment.nsw.gov.au for endorsement.

Controlled Actions under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act)

If the proposed development is likely to be a 'Controlled Action' under the EPBC Act, the accredited assessor should contact the BCS North West Planning team at rog.nw@environment.nsw.gov.au prior to submission of the EIS. The BCS North West Planning team can provide guidance on the minimum information requirements for the EIS for any entities that have been or are likely to be deemed a 'Controlled Action'.

<p>Biodiversity</p>
<ol style="list-style-type: none"> 1. Biodiversity impacts related to the proposed project are to be assessed in accordance with <i>Section 7.9 of the Biodiversity Conservation Act 2016</i> the <i>Biodiversity Assessment Method 2020</i> and documented in a <i>Biodiversity Development Assessment Report (BDAR)</i>. The BDAR must include information in the form detailed in the <i>Biodiversity Conservation Act 2016</i> (s6.12), <i>Biodiversity Conservation Regulation 2017</i> (s6.8) and <i>Biodiversity Assessment Method 2020</i>, unless the Department determines that the proposed development is not likely to have any significant impacts on biodiversity values. 2. The BDAR must document the application of the avoid, minimise, and offset framework; including assessing all direct, indirect, uncertain and prescribed impacts in accordance with the <i>Biodiversity Assessment Method 2020</i>. 3. The BDAR must include details of the measures proposed to address the offset obligation as follows: <ol style="list-style-type: none"> a. The total number and classes of biodiversity credits required to be retired for the development/project; b. The number and classes of like-for-like biodiversity credits proposed to be retired; c. The number and classes of biodiversity credits proposed to be retired in accordance with the variation rules; d. Any proposal to fund a <i>biodiversity conservation action</i>; e. Any proposal to conduct ecological rehabilitation (if a mining project); f. Any proposal to make a payment to the Biodiversity Conservation Fund. <p>If seeking approval to use the variation rules, the BDAR must contain details of the <i>reasonable steps</i> that have been taken to obtain requisite like-for-like biodiversity credits.</p> 4. The BDAR must be submitted with all spatial data associated with the survey and assessment as per Appendix 11 of the BAM. 5. The BDAR must be prepared by a person accredited in accordance with the Accreditation Scheme for the Application of the Biodiversity Assessment Method Order 2017 under s6.10 of the <i>Biodiversity Conservation Act 2016</i>.
<p>Water and soils</p>
<ol style="list-style-type: none"> 6. The EIS must map the following features relevant to water and soils including: <ol style="list-style-type: none"> a. Acid sulfate soils (Class 1, 2, 3 or 4 on the Acid Sulfate Soil Planning Map); b. Rivers, streams, wetlands, estuaries (as described in s4.2 of the Biodiversity Assessment Method); c. Wetlands as described in s4.2 of the Biodiversity Assessment Method; d. Groundwater; e. Groundwater dependent ecosystems; f. Proposed intake and discharge locations.
<ol style="list-style-type: none"> 7. The EIS must describe background conditions for any water resource likely to be affected by the project including: <ol style="list-style-type: none"> a. Existing surface and groundwater; b. Hydrology, including volume, frequency and quality of discharges at proposed intake and discharge locations; c. Water Quality Objectives (<i>as endorsed by the NSW Government</i>) including groundwater as appropriate that represent the community's uses and values for the receiving waters;

<ul style="list-style-type: none"> d. Indicators and trigger values/criteria for the environmental values identified at (c) in accordance with the <i>ANZECC (2000) Guidelines for Fresh and Marine Water Quality</i> and/or local objectives, criteria or targets endorsed by the NSW Government; e. <i>Risk-based Framework for Considering Waterway Health Outcomes in Strategic Land-use Planning Decisions</i>.
<p>8. The EIS must assess the impacts of the project on water quality, including:</p> <ul style="list-style-type: none"> a. The nature and degree of impact on receiving waters for both surface and groundwater, demonstrating how the project protects the Water Quality Objectives where they are currently being achieved, and contributes towards achievement of the Water Quality Objectives over time where they are currently not being achieved. This should include an assessment of the mitigating effects of proposed stormwater and wastewater management during and after construction; b. Identification of proposed monitoring of water quality.
<p>9. The EIS must assess the impact of the project on hydrology, including:</p> <ul style="list-style-type: none"> a. Water balance including quantity, quality and source; b. Effects to downstream rivers, wetlands, estuaries, marine waters and floodplain areas; c. Effects to downstream water-dependent fauna and flora including groundwater dependent ecosystems; d. Impacts to natural processes and functions within rivers, wetlands, estuaries and floodplains that affect river system and landscape health such as nutrient flow, aquatic connectivity and access to habitat for spawning and refuge (e.g. river benches); e. Changes to environmental water availability, both regulated/licensed and unregulated/rules-based sources of such water; f. Mitigating effects of proposed stormwater and wastewater management during and after construction on hydrological attributes such as volumes, flow rates, management methods and re-use options; g. Identification of proposed monitoring of hydrological attributes.
<p>Flooding</p>
<p>10. The EIS must map the following features relevant to flooding as described in the <i>Floodplain Development Manual 2005</i> including:</p> <ul style="list-style-type: none"> a. Flood prone land; b. Flood planning area, the area below the flood planning level; c. Hydraulic categorisation (floodways and flood storage areas); d. Flood hazard.
<p>11. The EIS must describe flood assessment and modelling undertaken in determining the design flood levels for events, including a minimum of the 5% Annual Exceedance Probability (AEP), 1% AEP, flood levels and the probable maximum flood, or an equivalent extreme event.</p>
<p>12. The EIS must model the effect of the proposed project (including fill) on the flood behaviour under the following scenarios:</p> <ul style="list-style-type: none"> a. Current flood behaviour for a range of design events as identified in 14 above. This includes the 0.5% and 0.2% AEP year flood events as proxies for assessing sensitivity to an increase in rainfall intensity of flood producing rainfall events due to climate change.
<p>13. Modelling in the EIS must consider and document:</p>

- a. Existing council flood studies in the area and examine consistency to the flood behaviour documented in these studies;
 - b. The impact on existing flood behaviour for a full range of flood events including up to the probable maximum flood, or an equivalent extreme flood;
 - c. Impacts of the development on flood behaviour resulting in detrimental changes in potential flood affection of other developments or land. This may include redirection of flow, flow velocities, flood levels, hazard categories and hydraulic categories;
 - d. Relevant provisions of the NSW *Floodplain Development Manual 2005*.
14. The EIS must assess the impacts on the proposed project on flood behaviour, including:
- a. Whether there will be detrimental increases in the potential flood affection of other properties, assets and infrastructure;
 - b. Consistency with Council floodplain risk management plans;
 - c. Consistency with any Rural Floodplain Management Plans;
 - d. Compatibility with the flood hazard of the land;
 - e. Compatibility with the hydraulic functions of flow conveyance in floodways and storage in flood storage areas of the land;
 - f. Whether there will be adverse effect to beneficial inundation of the floodplain environment, on, adjacent to or downstream of the site;
 - g. Whether there will be direct or indirect increase in erosion, siltation, destruction of riparian vegetation or a reduction in the stability of riverbanks or watercourses;
 - h. Any impacts the development may have upon existing community emergency management arrangements for flooding. These matters are to be discussed with the NSW SES and Council;
 - i. Whether the proposal incorporates specific measures to manage risk to life from flood. These matters are to be discussed with the NSW SES and Council;
 - j. Emergency management, evacuation and access, and contingency measures for the development considering the full range of flood risk (based upon the probable maximum flood or an equivalent extreme flood event). These matters are to be discussed with and have the support of Council and the NSW SES;
 - k. Any impacts the development may have on the social and economic costs to the community as consequence of flooding.

Additional requirements

The impacts of the proposal on the natural, cultural, and recreational values of Mount Canobolas State Conservation Area (SCA) must be addressed in the EIS, including the following:

- The location of the mountain bike tracks and associated infrastructure must be fully justified. Alternative locations to Mount Canobolas SCA that were considered, and reasons for not using these alternatives.
- Options for reducing the number of tracks in Mount Canobolas SCA must be presented. The track network should be minimised within the SCA and focussed on land with low constraints.
- Any tracks proposed in the Mount Canobolas SCA must avoid areas of threatened and regionally significant ecological communities and species.
- Adequate buffers on tracks must be applied to minimise impacts to no-go and high constraint areas.
- Further impacts to be assessed include (but are not limited to):
 - Spread of weeds and pathogens (eg *Phytophthora*)
 - Damage to track-side vegetation by mountain bikes and spectators
 - Use of the tracks by pest animals (foxes, dogs, cats, goats, pigs etc)
 - Use of the tracks by motorbike riders
 - Vandalism to park signage and infrastructure
 - Ecosystem fragmentation
 - Vehicle strikes through increased traffic to trail heads, and mountain bike collisions with fauna.
- Mitigation measures must be detailed, and a biodiversity management plan included with the EIS.
- Indirect impacts must be identified and assessed. Calculation of biodiversity offsets for partial loss of biodiversity values due to indirect impacts may be required.
- Biodiversity impacts are to be broken down by trail number (i.e. include a table showing plant community types (PCTs) and hectares of each PCT to be cleared for each individual trail)
- Long-term social impacts to Aboriginal communities and conservation groups with connections to Mount Canobolas must be assessed
- Impacts to historic and Aboriginal cultural sites must be assessed
- An assessment of risks to other park users and a public risk management plan must be included
- Conflict between walkers and mountain bike riders must be minimised
- Ongoing maintenance of tracks, and likely funding sources, must be detailed
- The proposal to build a visitor centre/café/bike hire facility at the current Tea House Picnic Area needs careful consideration due to waterlogging and subsidence issues at the site
- Details on intended management of large events, including car parking, visitor facilities, spectators, and participants
- Clear, high resolution maps are to be included
- All spatial data is to be provided to BCS and NPWS in ArcGIS compatible format (shapefiles).

Guidance Material

Title	Web address
<u>Relevant Legislation</u>	
<i>Biodiversity Conservation Act 2016</i>	https://www.legislation.nsw.gov.au/view/html/inforce/curr/ent/act-2016-063
<i>Environment Protection and Biodiversity Conservation Act 1999</i>	https://www.legislation.gov.au/Details/C2014C00140/Download
<i>Environmental Planning and Assessment Act 1979</i>	https://www.legislation.nsw.gov.au/view/html/inforce/curr/ent/act-1979-203
<i>Fisheries Management Act 1994</i>	https://www.legislation.nsw.gov.au/view/html/inforce/curr/ent/act-1994-038
<i>National Parks and Wildlife Act 1974</i>	https://www.legislation.nsw.gov.au/view/html/inforce/curr/ent/act-1974-080
<i>Protection of the Environment Operations Act 1997</i>	https://www.legislation.nsw.gov.au/view/html/inforce/curr/ent/act-1997-156
<i>Water Management Act 2000</i>	https://www.legislation.nsw.gov.au/view/html/inforce/curr/ent/act-2000-092
<i>Wilderness Act 1987</i>	https://www.legislation.nsw.gov.au/view/html/inforce/curr/ent/act-1987-196
<u>Biodiversity</u>	
Biodiversity Assessment Method (OEH, 2020)	https://www.environment.nsw.gov.au/research-and-publications/publications-search/biodiversity-assessment-method-2020
Changes to the Biodiversity Assessment Method from 2017 to 2020	https://www.environment.nsw.gov.au/research-and-publications/publications-search/changes-to-the-biodiversity-assessment-method-from-2017-to-2020
BAM 2020 Operational Manual Stage 1	https://www.environment.nsw.gov.au/research-and-publications/publications-search/biodiversity-assessment-manual-2020-operational-manual-stage-1
BAM Operational Manual Stage 2	https://www.environment.nsw.gov.au/research-and-publications/publications-search/biodiversity-assessment-method-operational-manual-stage-2
BAM 2020 Operational Manual Stage 3	https://www.environment.nsw.gov.au/research-and-publications/publications-search/biodiversity-assessment-method-operational-manual-stage-3
BAM Calculator User Guide	https://www.environment.nsw.gov.au/research-and-publications/publications-search/biodiversity-assessment-method-user-guide
Serious and irreversible impacts of development on biodiversity	https://www.environment.nsw.gov.au/topics/animals-and-plants/biodiversity/biodiversity-offsets-scheme/serious-and-irreversible-impacts
Practice Note - Guidance for assessors and decision makers in applying modified benchmarks to assessments of vegetation integrity: Biodiversity Assessment Method	https://www.environment.nsw.gov.au/research-and-publications/publications-search/guidance-assessors-decision-makers-applying-modified-benchmarks-to-assessments-vegetation-integrity

Title	Web address
Guidance and Criteria to assist a decision maker to determine a serious and irreversible impact (OEH, 2017)	https://www.environment.nsw.gov.au/-/media/OEH/Corporate-Site/Documents/Animals-and-plants/Biodiversity/guidance-decision-makers-determine-serious-irreversible-impact-190511.pdf
Accreditation Scheme for Application of the Biodiversity Assessment Method Order 2017	https://www.legislation.nsw.gov.au/view/pdf/asmade/sl-2017-471
Ancillary rules: Biodiversity conservation actions	https://www.environment.nsw.gov.au/-/media/OEH/Corporate-Site/Documents/Animals-and-plants/Biodiversity/ancillary-rules-biodiversity-conservation-actions-170496.pdf
Ancillary rules: Reasonable steps to seek like-for-like biodiversity credits for the purpose of applying the variation rules	https://www.environment.nsw.gov.au/-/media/OEH/Corporate-Site/Documents/Animals-and-plants/Biodiversity/ancillary-rules-reasonable-steps-like-for-like-biodiversity-credits-170498.pdf
Ancillary rules: Impacts on threatened species and ecological communities excluded from application of variation rules	https://www.environment.nsw.gov.au/-/media/OEH/Corporate-Site/Documents/Animals-and-plants/Biodiversity/ancillary-rules-impacts-on-threatened-entities-excluded-from-variation-170497.pdf?la=en&hash=C38840BFF49F012433532DF72E3D90C741E4DAC1
The Department's Threatened Species Website	https://www.environment.nsw.gov.au/topics/animals-and-plants/threatened-species
NSW BioNet (Atlas of NSW Wildlife)	www.bionet.nsw.gov.au/
Surveying Threatened Plants and their Habitats - NSW Survey Guide For The Biodiversity Assessment Method (DPIE 2020).	https://www.environment.nsw.gov.au/research-and-publications/publications-search/surveying-threatened-plants-and-their-habitats-survey-guide-for-the-biodiversity-assessment-method
Threatened Biodiversity Survey and Assessment: Guidelines for Developments and Activities - November 2004	https://www.environment.nsw.gov.au/surveys/BiodiversitySurveyGuidelinesDraft.htm
Threatened species survey and assessment guidelines: field survey methods for fauna – amphibians	https://www.environment.nsw.gov.au/research-and-publications/publications-search/threatened-species-field-survey-methods-for-fauna-amphibians
NSW Survey Guide for Threatened Frogs	https://www.environment.nsw.gov.au/research-and-publications/publications-search/nsw-survey-guide-for-threatened-frogs
Surveying 'species credit' threatened bats and their habitats – NSW survey guide for the Biodiversity Assessment Method	https://www.environment.nsw.gov.au/research-and-publications/publications-search/species-credit-threatened-bats-nsw-survey-guide-for-biodiversity-assessment-method
Bat calls of NSW - region-based guide to the echolocation calls of Microchiropteran bats	https://www.environment.nsw.gov.au/surveys/Batcalls.htm
Community Biodiversity Survey Manual	https://www.environment.nsw.gov.au/surveys/CommunityBiodiversitySurveyManual.htm
BioNet Vegetation Classification - NSW Plant Community Type (PCT) database	www.environment.nsw.gov.au/research/VegetationInformationsystem.htm

Title	Web address
The Departments Data Portal (access to online spatial data)	http://data.environment.nsw.gov.au/
Fisheries NSW policies and guidelines	https://www.dpi.nsw.gov.au/fishing/habitat/publications/pubs/fish-habitat-conservation
List of national parks	https://www.nationalparks.nsw.gov.au/conservation-and-heritage/national-parks
Revocation, recategorisation and road adjustment policy (OEH, 2012)	https://www.environment.nsw.gov.au/topics/parks-reserves-and-protected-areas/park-policies/revocation-recategorisation-and-road-adjustment
Guidelines for consent and planning authorities for Developments adjacent to National Parks and Wildlife Service Land (NPWS, 2020)	https://www.environment.nsw.gov.au/-/media/OEH/Corporate-Site/Documents/Parks-reserves-and-protected-areas/Development-guidelines/developments-adjacent-npws-lands-200362.pdf
Water and Soils	
Acid sulphate soils	
Acid Sulfate Soils Planning Maps via Data.NSW	https://data.nsw.gov.au/data/dataset/acid-sulphate-soils-ass-planning-maps
Acid Sulfate Soils Manual (Stone et al. 1998)	https://www.environment.nsw.gov.au/resources/epa/Acid-Sulfate-Manual-1998.pdf
Acid Sulfate Soils Laboratory Methods Guidelines (Ahern et al. 2004)	http://www.environment.nsw.gov.au/resources/soils/acid-sulfate-soils-laboratory-methods-guidelines.pdf This replaces Chapter 4 of the Acid Sulfate Soils Manual above.
Flooding	
Floodplain development manual	https://www.environment.nsw.gov.au/topics/water/floodplains/floodplain-manual
Floodplain Risk Management Guidelines	http://www.environment.nsw.gov.au/topics/water/coasts-and-floodplains/floodplains/floodplain-guidelines
NSW Climate Impact Profile	http://climatechange.environment.nsw.gov.au/
Climate Change Impacts and Risk Management	https://www.environment.gov.au/climate-change/adaptation/publications/climate-change-impact-risk-management
Water	
Water Quality Objectives	http://www.environment.nsw.gov.au/ieo/index.htm
ANZECC & ARMCANZ (2000) Water Quality Guidelines	https://www.waterquality.gov.au/anz-guidelines/resources/previous-guidelines/anzecc-armcanz-2000
Applying Goals for Ambient Water Quality Guidance for Operations Officers – Mixing Zones	http://deccnet/water/resources/AWQGuidance7.pdf
Approved Methods for the Sampling and Analysis of Water Pollutant in NSW (2004)	http://www.environment.nsw.gov.au/resources/legislation/approvedmethods-water.pdf



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THE GENERAL MANAGER
POST OFFICE BOX 17
MOLONG 2866
Website: www.cabonne.nsw.gov.au
Email: council@cabonne.nsw.gov.au

Our Ref:
Doc ID: 1346233
ABN: 41992 919 200

28 October 2021

CEO
Orange City Council
PO Box 35
ORANGE NSW 2800

Dear Sir,

**RE: PLANNING PROPOSAL
MOUNT CANOBOLAS MOUNTAIN BIKE TRAILS PROJECT**

Cabonne Council is in receipt of the Planning Proposal submitted by Orange City Council and seeking to amend schedule 1 of the Cabonne Local Environmental Plan 2012 for an additional permitted land use.

From preliminary review of the application as submitted, and initial further enquires, it is considered that additional information and clarification is required to enable assessment of the proposal.

Initial review and enquiry suggests that the proposed development is currently not prohibited within the three zones identified in the Planning Proposal, being part RU2 Rural Landscape, part RU3 Forestry and part E1 National Parks and Nature Reserves under the Cabonne Local Environmental Plan 2012. As the Planning Proposal seeks to include an additional land use as a permissible use, the question arises as to the objective of the proposal. Further clarification is sought from the proponent given the use appears to currently be permissible across the three zones.

In characterizing the proposed land use activity, the proponent seeks to specify the use as 'mountain bike trail and associated infrastructure', specific to the Mount Canobolas Conservation Area precinct. The LEP amendment would need to adequately address the land use planning characterisation to the land use definition application to this project. Confirmation is sought that the correct land use classification of the activity would be that of recreation facilities (outdoor).

Justification for the proposal references regional and Orange City Council Strategic objectives, with minimal assessment of Cabonne council's strategic direction and guiding documents. It appears there is a reliance on the *Orange, Blayney and Cabonne Regional Economic Development Strategy 2018-2022* to justify the strategic merit of the project, however it is noted that this document has not substantiated the project other than to identify it as a key project to drive tourism growth.

Within both the Planning Proposal and the Preliminary Environmental Assessment, neither document appears to address environmental bushfire risk of the mountain. This would be an important consideration to address.

It is noted that the Planning Proposal appears not to have referenced schedule 5 of the Cabonne LEP 2012, being the Environmental Heritage listing for Cabonne LGA, which includes the Mount Canobolas Parklands / Reserve as an item of local environmental heritage significance (item i219).

Clarification is sought for the accurate identification of the subject land to which the proposal applies. The subject land includes land held by National Parks and Wildlife Service, Forestry Corporation NSW, Crown and freehold land. The Planning Proposal states that 25 allotments of land form the subject land, described as follows:

Description	Tenure	Zone
Lots 190 DP 750143 Lots 1, 2 and 3 DP 260407 Lot 293 DP 750415 Lots 9027 and 9028 DP 1201721 Lot 155 DP 756910 Lot 7002 DP 1020355 Lot 172 DP 40556	NSW Government	E1 National Parks and Nature Reserves
Lot 7301 DP 1154513	Freehold	E1 National Parks and Nature Reserves
Lots 42, 52, 54, 69, 72, 87, 88, 181 and 191 DP 750143 Lot 266 DP 750415	NSW Government	RU3 Forestry
Lot 1 DP 258470 Lot 1 DP 442252 Lot 1 DP 409850 Lot 144 DP 1151224	Crown Land	RU2 Rural Landscape

The preliminary Environmental Impact Assessment submitted with the Planning Proposal indicates 48 allotments making up the study area. There will need to be clarification of the extent of the proposal, and whether it extends as shown in the map above to Lake Canobolas Road.

Additional information is requested to clarify whether road upgrading forms part of the development proposal, as the two submitted documents state opposing positions.

Could additional information also be provided to clarify the scope, scale and characterisation of the proposed ancillary development components of the proposed development. This information is required to assist in determining the appropriate land use classification, as well in gaining an understanding for the potential environmental impacts of the development.

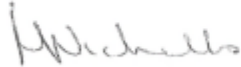
The Planning Proposal provides an outline of the community consultation process required for the proposed LEP amendment; however, the proponent appears to have incorrectly assumed that it would be both the proponent and the regulator.

The regulatory process for the Planning Proposal is the responsibility of the Local Government authority to which the Planning Proposal applies, being Cabonne Council.

Further assessment of the Planning Proposal will be held in abeyance pending clarification of the above issues.

Should you have any further enquiries please contact the undersigned during business hours on 6392 3223.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'HJ Nicholls', written in a cursive style.

HJ Nicholls

DEPUTY GENERAL MANAGER - CABONNE SERVICES

Public Authority Response

Friday, 28 January 2022 4:26:40 PM AEDT

Notes:

Thank you for the opportunity to review this proposal. Forestry Corporation of NSW are supportive of the proposal, although given it intends to extend onto State forest it is important to advise the following. Lawful authority is required for this activity to occur on State forest and Forestry Corporation does so by issuing Forest Permits. These allow Forestry Corporation to assess and balance the outcomes of a proposal against the other outcomes FCNSW is seeking to achieve; including environment, social, recreational and the supply of timber products. So while supportive of the proposal it is important that this response does not provide this lawful authority - there is a separate process required for this. Some key considerations of FCNSW in granting a Forest Permit (and thus in the context of this proposal) is that at times over a plantation cycle, access to State forest (i.e. within the proposed area) may need to be restricted (when harvesting or other forest operations are ongoing), equally the management of fire risk to the timber asset (Glenwood and Canobolas State forest) and the impacts on haulage or other activities from the use of Mitchell's Way (within State forest). Finally given the harvest and replant nature of our tenure a track constructed within the plantation footprint will at most have a 30 year life span, and at worst might need to be re-built every 15 years as harvesting occurs. Having said all of the above, State forests are very suitable tenure to host such a proposal and as mentioned Forestry Corporation is very supportive of this proposal, subject to obtaining lawful authority under the Forestry Act.