

From: Lemann [REDACTED]

Sent: Sunday, 16 July 2023 12:14 PM

To: Administrator Office <AdministratorOffice@wsc.nsw.gov.au>; Lisa Miscamble
<Lisa.Miscamble@wsc.nsw.gov.au>

Cc: Barry Arthur <Barry.Arthur@wsc.nsw.gov.au>

Subject: Agenda Item 9.4

External Email: This email was sent from outside the organisation, please be cautious with links and attachments in the email.

Dear Mr May and M/s Miscamble,

It appears to us that the Council legal advice was only about the council's liability and did not include advice on the environmental laws under which the council is liable to be prosecuted. See below.

There has been increased activity on both the current tracks throughout the school holidays. In view of the conditions placed surely the tracks should be deconstructed as the mountain bikers did not adhere to your conditions of only riding on the trails providing there is no new unauthorised construction.

Would you please arrange for this at the Council Meeting on Wed 19th in order to prevent further damage to the protected Reserve.

Jane Lemann. Volunteer Acting Secretary MGLB

Initial Research pending advice from EDO.

1. National Parks and Wildlife Act 1974: This Act provides the legal framework for the establishment and management of national parks, nature reserves, and other protected areas in NSW. It prohibits activities like digging up soil, clearing vegetation, or disturbing the natural environment without proper authorization.
2. Biodiversity Conservation Act 2016: This Act aims to conserve biodiversity in NSW by protecting threatened species, ecological communities, and their habitats. It also regulates activities such as land clearing, habitat destruction, and the removal of native vegetation.
3. Environmental Planning and Assessment Act 1979: This Act governs land use planning and development in NSW, including the assessment of environmental impacts. Any development proposal in an environmentally sensitive area would require a thorough assessment and may be subject to strict conditions to minimize environmental harm.
4. Protection of the Environment Operations Act 1997: This Act regulates activities that may cause pollution or harm to the environment, including soil excavation. It requires individuals or businesses to obtain an environment protection license for certain activities and comply with specific conditions to minimize environmental impacts.
5. Native Vegetation Act 2003 (repealed and replaced by Biodiversity Conservation Act 2016): This Act aimed to prevent broad-scale clearing of native vegetation without approval and provided a framework for managing native vegetation in a sustainable manner.
6. Local government regulations: Local councils in NSW may also have specific rules and regulations regarding soil excavation and land use in environmentally protected areas within their jurisdiction.

Before undertaking any activity that may involve digging up soil or disturbing the environment in a protected area in NSW, it is essential to consult relevant legislation, regulations, and local authorities to ensure compliance with all applicable laws and requirements.

From: Lemann [REDACTED]
Sent: Friday, 14 July 2023 5:47 PM
To: Karin Targa <Karin.Targa@wsc.nsw.gov.au>
Subject: RE: Additional request re MTBs on Mt Gibraltar

External Email: This email was sent from outside the organisation, please be cautious with links and attachments in the email.

Thank you Karin, Could you let me know what an 'Iconic Trail' is and the sign is very disappointing with regard to protection of the Reserve! Regards Jane

From: Brad Haynes [REDACTED]
Sent: Tuesday, 18 July 2023 6:55 AM
To: Shaun Robinson <Shaun.Robinson@wsc.nsw.gov.au> [REDACTED]
Cc: [REDACTED]
Subject: re: meeting at the GIB and concern

External Email: This email was sent from outside the organisation, please be cautious with links and attachments in the email.

Hi Shaun,

I'd like to express my concerns here where you have mentioned involvement and consultation from "Iconic Trails". I believe they are the business responsible for the design and construction of the dirt pump track at Welby approximately 2 years ago. This occurred with zero consultation with the local youth riding community and has been a complete failure. It does not get ridden due to its location, lack of natural flow, and most importantly it does not drain and pools with deep water. It has been expressed to me by those who organised the works how disappointing the outcome was and as a result the lack of confidence in "iconic trails" in their work. I believe council are trying but it now seems the kids are getting caught out on a technicality to which I cannot find on Aus Cycling mtb trail guidelines but am happy to be pointed to.

Regards
Brad Haynes
(Parent and Mtb Rider)

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From: Janine McPherson [REDACTED]
Sent: Sunday, 16 July 2023 12:41 PM
To: Shaun Robinson <Shaun.Robinson@wsc.nsw.gov.au>; [REDACTED]
Subject: Meeting at the Gib and concern

External Email: This email was sent from outside the organisation, please be cautious with links and attachments in the email.

Dear Shaun,

There was a damning article in The Express this week against both the boys and council...written by Rachel Russell.

I rang her to speak with her as her information was totally inaccurate and the picture of a wheelbarrow etc she had included with caption 'carnage on the Gib' was a wheelbarrow that was there previous to the council meeting (just had been hard to remove for the kids on bikes)

During this conversation she told me Imogen, as assistant to the current manager, had confirmed information to her. This seems like a code of conduct issue for someone in Council to divulge she has reprimanded 3 boys to someone who sees themselves as a candidate for the next Council and then that person uses that second hand information to write an artical damning Council leadership.

I thought it important to pass this on as none of us want anymore hype over the issue which this artical has sadly led to.

Unfortunately that artical has stirred up vigilante, bullying behaviour from a minority group led by someone called Anne Marie who took other adults into the tracks yesterday. The boys were intimidated and the few tools they have left to maintain the tracks safety (which the rangers told them they could do ie. rake to keep them safe for riding) were taken by the adults. The very respectful young man who asked for their property back was told 'No...you are not getting it back'. This was said by someone who identifies as an aboriginal elder. Anne Marie also refused and said they have the right to take the belongings because they are allowed to remove rubbish and they view their belongings as rubbish. This is not hearsay as it is heard and seen clearly on a recording.

As parents we are all horrified at the appalling behaviour of supposed adults towards our children. In addition to adults already having interfered with the tracks making them unsafe. We are in disbelief that a minority of adults in our community here in the Highlands think it's their right to use their adult power over the youth.

I walked all the trails with the boys this morning and contrary to the articals false information, there are NO extensions of the tracks that were there pre Council meeting. The boys will not risk loosing the trails by ignoring councils instructions. They are committed to doing the right thing.

I hope you received my last email? We are very keen to meet with Val, the manager and yourself at the tracks to discuss with the boys their commitment to your guidelines (contrary to the artical the guidelines were clear and did provide leadership and the boys understood the boundaries clearly).

We hope this email finds you well and that we can continue to work with you all so that the boys can continue to ride.

Please share this email with the administrator and manager.

Kind regards,

McPhersons on behalf of the majority of the community who support the youth riding at the Gib.

To: Shaun Robinson <Shaun.Robinson@wsc.nsw.gov.au>

Cc: Imogen Baker <Imogen.Baker@wsc.nsw.gov.au>

Subject: Re: Mount Gibraltar Mountain Bike Trails / Tracks

External Email: This email was sent from outside the organisation, please be cautious with links and attachments in the email.

Hello Shaun and Imogen

If this isn't the correct channel for this email please let me know the best way to raise these further Mountain Biking issues. I chose this channel due to previous related emails to / from yourselves.

I understand anecdotally that works on the unauthorised Mountain Bike tracks in the northern section of the reserve are continuing under the excuse of track maintenance and that these works are being reported to Council. I have previously enquired on monitoring of the tracks and their features to enable assessment on whether they are being extended or new ones created. Is there a baseline of the track routes and features so it can be identified if new / extended works are being carried out particularly in support of enacting Point 4 of the Mountain Biking in Natural Areas motion which was passed at the 23rd June Council meeting? If so, can this be shared with the General Public. If not, how is it intended to manage this part of the motion.

I have also heard anecdotally that there is a Mountain Bike track currently being worked on in the southern section of the reserve. I checked it out yesterday and found it emerges at the water reservoir near Queen St it's obscured to an extent by a stand of Pittosporum. I followed the track for quite some distance but for various reasons I was unable to follow the track up to where it enters the top of the reserve. It was clearly evident to me that digging and vegetation removal has recently taken place. Does this unauthorised work get added to the current Mountain Biking issue at The Gib or does it need to be raised as a new but related issue.

It seems, from my perspective, that these activities are showing disdain for and making a mockery of the motion passed by council.

Kind regards

Jen Slattery

From: norman nelson [REDACTED]
Sent: Wednesday, 19 July 2023 10:03 AM
To: Imogen Baker <Imogen.Baker@wsc.nsw.gov.au>
Subject: MBT DESTRUCTION OUT OF CONTROL

External Email: This email was sent from outside the organization, please be cautious with links and attachments in the email.

Dear Imogen,

Thank you for replying to my earlier email prior to the the 21 June Council Meeting, I attended that meeting and have visited the tracks on the northern aspect of the Reserve a number of times since.

I took the photograph of the spades yesterday,

they are all new and fresh evidence of their use can be seen in multiple locations. They clearly signal utter contempt for Council's directive to prohibit expansion of the track network, and, I hasten to add, the law itself.

The wholesale destruction of swathes of protected bush land has accelerated at an alarming rate in recent days, the extent of the destruction is as appalling as it is unacceptable.

The so called "pragmatic" approach of Council has been interpreted as a victory by the perpetrators, and their parents, and as a green light for potential repeat activity elsewhere in the Highlands.

Council must take strong immediate action, on the ground, to shut down the entire site within the Reserve or lose any prospect of confining the activity to appropriate and safely managed locations.

This is not a matter of environmentalists versus young people, it is about destructive law breaking within a Protected Reserve that has been set aside for young and old to both respect and enjoy into the future. It is a shared responsibility.

It is not good enough for Council to be more concerned about obtaining legal advice to protect itself from litigation while virtually ignoring its statutory obligations to protect the biodiversity within a Protected Reserve.

I also share a profound disappointment with many others regarding Council's indifferent treatment of Jane Lemann and the other volunteers who have laboured on hands and knees for 30 years to restore the biodiversity of the

Reserve.

It is a cruel slap in the face for them to see Council now yielding to environmental vandalism that is destroying what they have worked so hard to preserve.

I know Wingecarribee is not alone in dealing with the growing popularity of mountain biking, it is a huge problem, but our Council has got off to a very poor start in managing the situation at a local level.

Council needs to do a great deal more than erect signs, remedial works are desperately needed to shut down the entire site once and for all.

I do wish Council every success in finding solutions that the entire community can accommodate, rather than giving in to a very small number of school kids who are knowingly breaking the law to have their own way.

Kind Regards,
Norm Nelson.



Sent from my iPhone

From: Christine Goodwin [REDACTED]
Sent: Tuesday, 18 July 2023 12:20 PM
To: Karin Targa <Karin.Targa@wsc.nsw.gov.au>
Cc: Lisa Miscamble <Lisa.Miscamble@wsc.nsw.gov.au>
Subject: New excavation ob trial

External Email:This email was sent from outside the organisation, please be cautious with links and attachments in the email.

Dear Karin

Further to the mountain bike saga, while walking on the north east side of Mt Gibraltar with several local residents, on Saturday 15 July, we noticed that a new, large excavation and an accompanying new "jump" had been constructed by the boys. As earlier advised to you by Annemaree Dalziel, a shovel was at the site, was collected by the walkers and handed into council yesterday .

I have attached a photo of the new excavation and jump for your records .

Kind regards
Chris Goodwin
[REDACTED]



From: Janine McPherson [REDACTED]
Sent: Friday, 14 July 2023 12:30 PM
To: Shaun Robinson <Shaun.Robinson@wsc.nsw.gov.au>; [REDACTED]
Subject: Gib trails

External Email: This email was sent from outside the organisation, please be cautious with links and attachments in the email.

Dear Shaun,

We hope this email finds you well.

We are wondering if the administrator Val, Manager and yourself would be willing to meet with the boys on a Monday after school so they can discuss the trails with you all?

There is negativity and false information going around saying the boys are extending the tracks which we assure you they are not.

Rachel Russell, a candidate for election has made false claims in the paper and it seems people are weighing in without understanding the trails already existed.

The boys would love the chance to meet with you to discuss the boundaries they are following.

Thanks Shaun. We hope to hear from you soon.

Kind regards,

The McPhersons.
[REDACTED]

From: rowena parry [REDACTED]
Sent: Tuesday, 18 July 2023 5:45 PM
To: Karin Targa <Karin.Targa@wsc.nsw.gov.au>; Barry Arthur <Barry.Arthur@wsc.nsw.gov.au>; Administrator Office <AdministratorOffice@wsc.nsw.gov.au>
Cc: Lisa Miscamble <Lisa.Miscamble@wsc.nsw.gov.au>; Shaun Robinson <Shaun.Robinson@wsc.nsw.gov.au>; Imogen Baker <Imogen.Baker@wsc.nsw.gov.au>
Subject: Fwd: Signage and notification re Mountain bikes on Mt Gibraltar

External Email: This email was sent from outside the organisation, please be cautious with links and attachments in the email.

Dear people

I am forwarding to you and resending my email of yesterday.
I look forward to receiving answers to my questions.

regards

Rowena

I acknowledge the Traditional Custodians of the land on which I live, the Gundungurra people, over which land Sovereignty was never ceded. I pay my respects to Elders past and present.

Begin forwarded message:

From: rowena parry [REDACTED]
Subject: Signage and notification re Mountain bikes on Mt Gibraltar
Date: 17 July 2023 at 7:36:45 pm AEST

To: Imogen Baker <Imogen.Baker@wsc.nsw.gov.au>, Lisa Miscamble
<Lisa.Miscamble@wsc.nsw.gov.au>, Shaun Robinson
<Shaun.Robinson@wsc.nsw.gov.au>

Dear people

Can you please provide answers re the following:

1. Do you have baseline maps of the trails from March/April 2023 when the unauthorised trails were first reported to Council?

If not, from when do you have baseline maps?

I ask because obviously you need this information or it makes a mockery of your statement that you will decommission any further work.

2. On the 14th July the agenda provided for next council meeting, re the trails p79 states:

Interim signage has been installed to address Council's obligations in relation to the duty to warn of the inherent risks present in the trails.

When was the interim signage installed?

Where was the interim signage installed?

I ask because on the 13th and 14th and 15th no signs were visible near the tracks.

I assume the signage was therefore removed.

2. Have you provided notification to the known builders and users of the tracks and their guardians of what they may and may not do on the tracks?

Was that notification provided in writing?

3. Can that notification be provided to me?

As a walker of the trails who regularly sees users, including seeing them working on the trails with shovels and rakes and wheelbarrows, it would save argument and division if I were able to point to the exact terms of use.

I ask the above questions because users of the tracks have repeatedly told me, and are also claiming in the media that:

they were not told they could not do work on the tracks

they were not at the meeting so they do not know what they can and can not do

rangers have seen them on the tracks and with equipment and not said anything to them

they can do "maintenance" on the tracks

There seems to be a lot of misinformation and confusing information around.

It would be therefore be helpful, and seems to be Council's duty, to make sure that everyone is on exactly the same page with precise and explicit information about:

what can and cannot be done on the tracks

how that information is conveyed

Verbal notification is insufficient if people are going to claim different hearings of it.

We all appreciate that this is a messy and complex issue with many competing voices.

It would be conducive to clarity if there were clear guidelines that EVERYONE is aware of.

Without such clarity, it seems to me that council is only further muddying this issue and creating further conflict and dissent in the community.

I look forward to responses to my above questions

regards

Rowena Parry

I acknowledge the Traditional Custodians of the land on which I live, the Gundungurra people, over which land Sovereignty was never ceded. I pay my respects to Elders past and present.

From: Gaye White [REDACTED]

Sent: Tuesday, 18 July 2023 10:20 AM

To: Lisa Miscamble <Lisa.Miscamble@wsc.nsw.gov.au>; Karin Targa <Karin.Targa@wsc.nsw.gov.au>; Barry Arthur <Barry.Arthur@wsc.nsw.gov.au>

Cc: Administrator Office <AdministratorOffice@wsc.nsw.gov.au>

Subject: Urgent request for meeting with Management

External Email: This email was sent from outside the organisation, please be cautious with links and attachments in the email.

Dear Lisa,

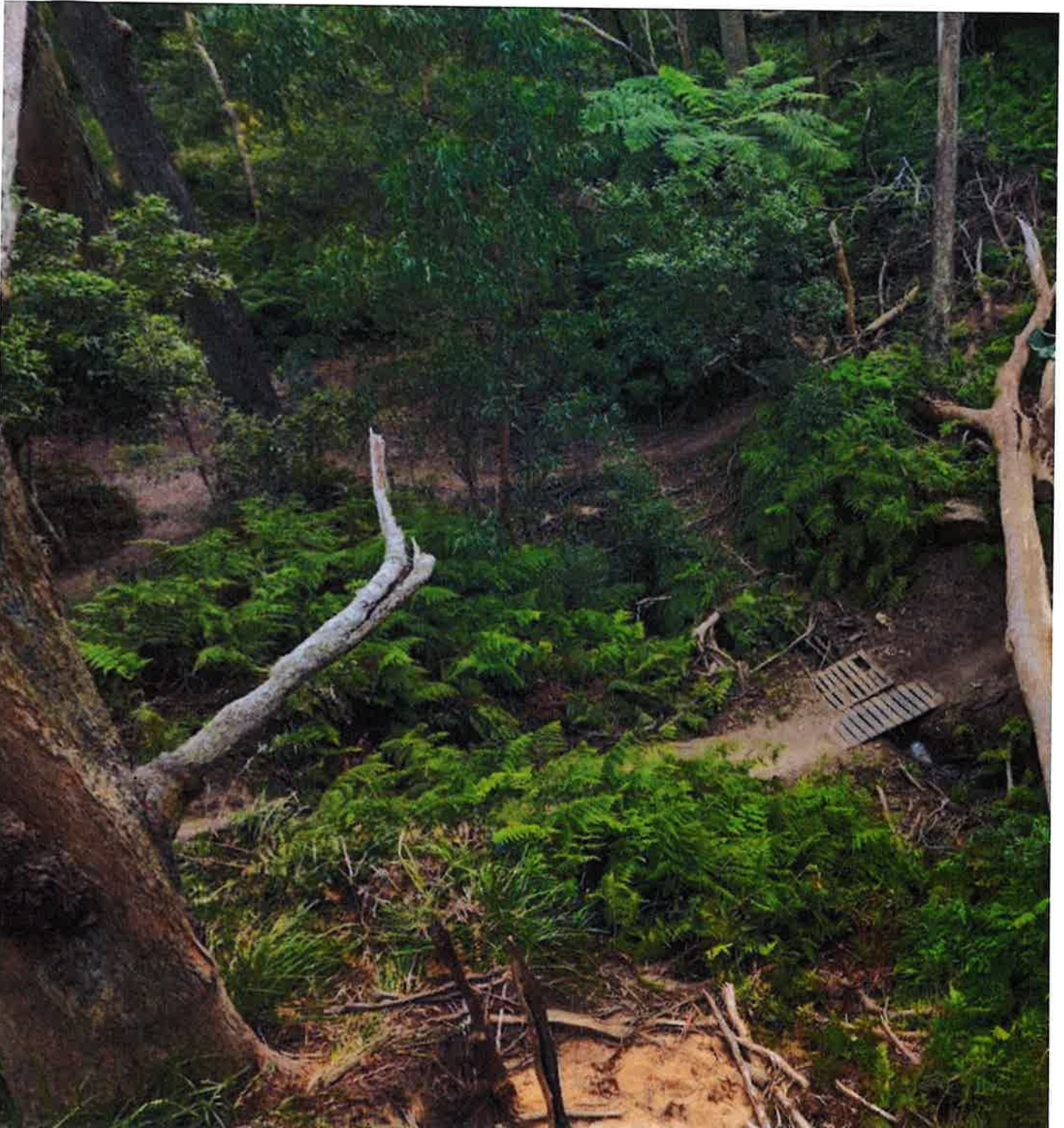
I am writing to express our grave concerns regarding the protection of the Mt Gibraltar Heritage Reserve, and Wingecarribee Shire Council's alarming failure to **fulfill its responsibilities under the various environmental laws** designed to safeguard such places of immense natural and cultural significance. The Council's narrow legal opinion focusing solely on the liability exposure entirely disregarded **the raft of**

laws compelling them to preserve the ecological integrity, biodiversity, riparian zones, and heritage values of this and other similar reserves in the Shire.

Before escalating this issue to Water NSW and the Environment Protection Authority, **we request an immediate meeting with you, alongside all relevant Directors and Managers responsible for preventing unauthorized activities within the Mt Gibraltar Heritage Reserve.**

The attached image below demonstrates the **current devastation** taking place within the tributary of Chinamans Creek bed and riparian zone of the reserve, where extensive excavation and vegetation removal, **both strictly prohibited under the NSW Water Management Act 2000**, are occurring.

The NSW Water Management Act 2000 regulates land use in riparian zones prohibiting clearing of native vegetation, earthworks, livestock grazing, new roads or tracks, and new dams or other infrastructure. These activities are only permitted with approval for limited exempt purposes. The Act is designed to protect riparian vegetation, water quality, and aquatic habitat.



Creek bed in Mt Gibraltar Heritage Reserve - July 2023

In addition to the Water Management Act, there are several other laws that provide Council with powers and **obligations** to protect the Mt Gibraltar Reserve and close down and rehabilitate all Mountain Bike tracks immediately:

- **The Environmental Planning and Assessment Act 1979** gives Council the authority to regulate land use planning and development that may impact the reserve. Council should apply SEPPs such as the SEPP (Vegetation in Non-Rural Areas) 2017 to protect vegetation of high conservation value within the reserve.
- **The Local Government Act 1993** and LG (ESD) Amendment Act 1992 give Council broad powers to regulate activities that may pollute, damage or disturb the reserve. Council must consider principles of ecologically sustainable development in decision making for the reserve.

- **The Biodiversity Conservation Act 2016** requires Council to consider impacts on threatened species and ecological communities inhabiting the reserve. Council must ensure development does not significantly impact biodiversity.
- **The Protection of the Environment Operations Act 1997** gives Council powers to regulate pollution, waste and environmental damage that may impact the reserve. Council can issue orders to prevent or remediate pollution within the reserve.
- **The Heritage Act 1977** requires Council to consider impacts on the heritage significance of the reserve before approving development. Council must retain and maintain the heritage values of the reserve.
- **Draft plan of Management 2022 for Mt Gibraltar** states: P 56,57, Mount Gibraltar Heritage Reserve (Close unauthorised trails) there should be no further use of the tracks which, therefore, must be 'deconstructed" and site restored as soon as possible.. Any signage should state that the area will be patrolled and offenders prosecuted.

Given that Wingecarribee Shire Council recently met with representatives from local mountain biking participants to discuss their usage of the Mt Gibraltar Heritage Reserve, **we hereby request the same opportunity to meet with Council as a deputation of concerned community members and environmental advocates worried about the ongoing degradation of this ecologically and culturally significant place.**

Regards

Gaye White