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**MINUTES of the duly convened Ordinary Meeting of The Hills Shire Council held in the Council Chambers on 25 June 2013**

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*Being a planning matter, the Mayor called for a division to record the votes on this matter*

**VOTING FOR THE MOTION**

Councillors Dr M.R. Byrne, R.K. Harty OAM, R. Tracey, Dr J. Lowe, R. Preston, M. Taylor, Y. Keane, A. Haselden

**VOTING AGAINST THE MOTION**

None

**ABSENT FROM THE ROOM**

A.C. Jefferies

**CALL OF THE AGENDA**

A MOTION WAS MOVED BY COUNCILLOR HARTY OAM AND SECONDED BY COUNCILLOR DR LOWE THAT Items 7,9,11,12,13,14,15,16,18,19,20,21 and 22 be moved by exception and the Recommendations contained in the reports be adopted.

THE MOTION WAS PUT AND CARRIED.

**355 RESOLUTION**

Items 7,9,11,12,13,14,15,16,18,19,20,21 and 22 be moved by exception and the Recommendations contained in the reports be adopted.

**ITEM-7**

**HERITAGE ASSISTANCE FUND 2013/2014**

**356 RESOLUTION**

In accordance with Section 356 of the Local Government Act 1993, the proposed grants be exhibited for a period of 28 days. Following the exhibition period, a further report will be prepared to advise Council of the outcomes and any submissions received.

**ITEM-9**

**BUDGET REVIEW AS AT 31 MAY 2013**

**357 RESOLUTION**

The proposed budget variations in Attachment 1, Pages 1 to 5 and the variations detailed in page 7-19 be adopted.

**ITEM-11**

**COUNCILLOR ATTENDANCE AT CONFERENCES**

**358 RESOLUTION**

Submitted for Council's determination.

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|                              |                                                                                                                         |
|------------------------------|-------------------------------------------------------------------------------------------------------------------------|
| <b>ITEM-5</b>                | <b>PLANNING PROPOSAL, RIVERSIDE OAKS TOURIST RESORT (16/2013/PLP)</b>                                                   |
| <b>THEME:</b>                | Balanced Urban Growth                                                                                                   |
| <b>HILLS 2026 OUTCOME/S:</b> | BUG 2 Lifestyle options that reflect our natural beauty.                                                                |
| <b>COUNCIL STRATEGY/S:</b>   | BUG 2.2 Maintain the Shire's natural and cultural heritage through quality urban planning, development and maintenance. |
| <b>GROUP:</b>                | <b>STRATEGIC PLANNING</b>                                                                                               |
| <b>AUTHOR:</b>               | <b>PRINCIPAL FORWARD PLANNER</b><br>JANELLE ATKINS                                                                      |
| <b>RESPONSIBLE OFFICER:</b>  | <b>MANAGER FORWARD PLANNING</b><br>STEWART SEALE                                                                        |

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#### **EXECUTIVE SUMMARY**

This report recommends that Council forward the planning proposal to amend Schedule 1 'Additional Permitted Uses' of The Hills Local Environmental Plan 2012 to permit up to a maximum of 300 dwelling houses on lots with a minimum area of 450m<sup>2</sup> at 74 O'Briens Road, Cattai (Lot 28 DP 270416) to the Department of Planning and Infrastructure for Gateway Determination.

The proposal is supported on the basis that the future residential development at the Riverside Oaks Golf Resort will support the overall use of the site for the tourist resort development and presents a unique housing opportunity. The proposal is considered to be consistent with both State and local objectives related to promoting economic growth and employment. As detailed within this report the proposal requires a number of further technical studies. It is considered appropriate that these studies be prepared by the proponent following the issue of a Gateway Determination.

#### **APPLICANT**

Nanshan Group Australia Pty Ltd

#### **OWNERS**

Nanshan Holdings Australia Pty Ltd

#### **THE HILLS LOCAL ENVIRONMENTAL PLAN 2012**

|                            |                                                          |
|----------------------------|----------------------------------------------------------|
| Zone:                      | RE2 Private Recreation and E2 Environmental Conservation |
| Minimum Lot Size:          | 10 hectares                                              |
| Minimum Height:            | N/A                                                      |
| Minimum Floor Space Ratio: | N/A                                                      |

#### **POLITICAL DONATIONS**

No disclosures

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**HISTORY**

- 06/12/1989** Council issued development consent for the development of Riverside Oaks Golf Course/Tourist Resort.
- 24/12/1996** Council issued development consent for a tourist facility – ‘The Ridge’ Tourist Recreation Resort and Community Title Subdivision.
- 21/07/1998** Consent issued for a second 18-hole golf course at Riverside Oaks Golf Course with conditions.
- 01/11/2001** Consent issued for a community title subdivision of the approved golf course/tourist resort with conditions (DA652/2002/ZA). Condition No.5 of Stage 2 required the final plan and 88B Instrument to provide a restriction as to the use of the land to preclude the use of each individual tourist unit/ lot for residential purposes where the period of occupation exceeds that provided in By Law 2.2 of the Management Statement.
- By Law 2.2 in the Community Management Plan states:
- ‘2.2 The Community Association must not in any circumstances allow:*
- (a) the use of a Lot as a full-time private residence;*
  - (b) any person to occupy a Lot for more than 156 days in any calendar year or for more than 42 days consecutively.’*
- 14/12/2010** Council considered a planning proposal to amend the Baulkham Hills Local Environmental Plan 2005 to rezone land at the Riverside Oaks Golf Course from Rural 1(b) to the standard template zones RE2 Private Recreation, E2 Environmental Conservation and W2 Recreational Waterway. The proposal also sought to apply a minimum lot size of 150m<sup>2</sup> to enable development of a tourist/residential resort around the Golf Course. It was resolved that the proposal be forwarded to the Department of Planning and Infrastructure.
- 17/03/2011** The planning proposal was refused at Gateway Determination.
- 05/10/2012** The Hills Local Environmental Plan 2012 was notified on the NSW Government legislation website and came into force. The site was zoned part RE2 Private Recreation and part E2 Environmental Conservation.
- 30/05/2013** Current Planning Proposal submitted.
- 04/06/2013** Councillor Workshop – Briefing provided to Councillors on the Planning Proposal.

**BACKGROUND**

Residential living opportunities as part of a golf course development are not a new phenomenon. Over the past five decades golf resorts and golf residential areas boomed across the United States. Within Australia, the first golf residential projects were built by A V Jennings on the southern coast of NSW and at The Launceston Casino in Tasmania.

These were followed in the 1980s by projects such as Sanctuary Cove on The Gold Coast and Mirage at Port Douglas. Both projects integrated residential development with golf courses.

Golf course living has now become accepted in Australia with nearly 100 golf courses incorporating residential living. Living on a golf course provides benefits (even for non-golfers) of security, club house amenities, and manicured open green spaces. They represent a 'lifestyle living' opportunity where residents seek to live in a location that enhances their desired lifestyle. The majority of new golf course developments rely on associated residential development to fund the golf course. It is essential, however, that its primary purpose as a tourist facility and its context within a rural setting be maintained. If this is not the case then the development would be considered more as an urban residential land release.

In December 2010 Council supported a planning proposal to allow for residential living opportunities around the Golf Course at Riverside Oaks and the adjoining Cattai Ridge Golf Course land. This proposal was not supported by the Department of Planning and Infrastructure for a number of reasons including:

- The information provided in support of the planning proposal did not demonstrate adequate strategic justification for the proposal to proceed;
- The scale and nature of development envisaged in the proposal was more representative of a residential release area rather than an addition of ancillary residential accommodation;
- The Planning Proposal was inconsistent with various section 117 Directions;
- The basic premise of permitting residential accommodation in the RE2 zone was not supported; and
- Due consideration was not been given to the impact of 700 new dwellings at this location on the local/regional road network, infrastructure/servicing or on the river and existing flora/fauna.

It should be noted that the current planning proposal differs from the previous proposal in terms of the number of proposed future dwellings (now 300 rather than 700) and the size of the proposed allotments (now 450m<sup>2</sup> rather than 150m<sup>2</sup>). Additionally the previous proposal sought to allow dwelling houses as a permissible use within the RE2 Private Recreation zone. Detailed consideration of the strategic framework and potential impacts of the proposal is set out in Sections 3 and 4 of the report.

## **REPORT**

The purpose of this report is to consider an amendment to Schedule 1 'Additional Permitted Use' of *The Hills Local Environmental Plan 2012* (LEP 2012) to permit some permanent residential dwellings at 74 O'Briens Road Cattai (Lot 28 in DP 270416) known as Riverside Oaks Golf Course. Whilst this planning proposal relates solely to the permissibility of permanent residential development on the site, it will facilitate an adjusted development concept for the tourist facility as detailed within the body of this report.

## **EXISTING DEVELOPMENT**

The site is currently occupied by the Riverside Oaks Golf Resort. Council approved the development of Riverside Oaks Golf Club/Tourist Resort in December 1989. The approved development provides for:

- |                           |                    |
|---------------------------|--------------------|
| • 2 x 18 hole golf course | • Holiday Cabins   |
| • Hotel (300 rooms)       | • Corporate Lodges |
| • Retail Facilities       | • Tennis club      |

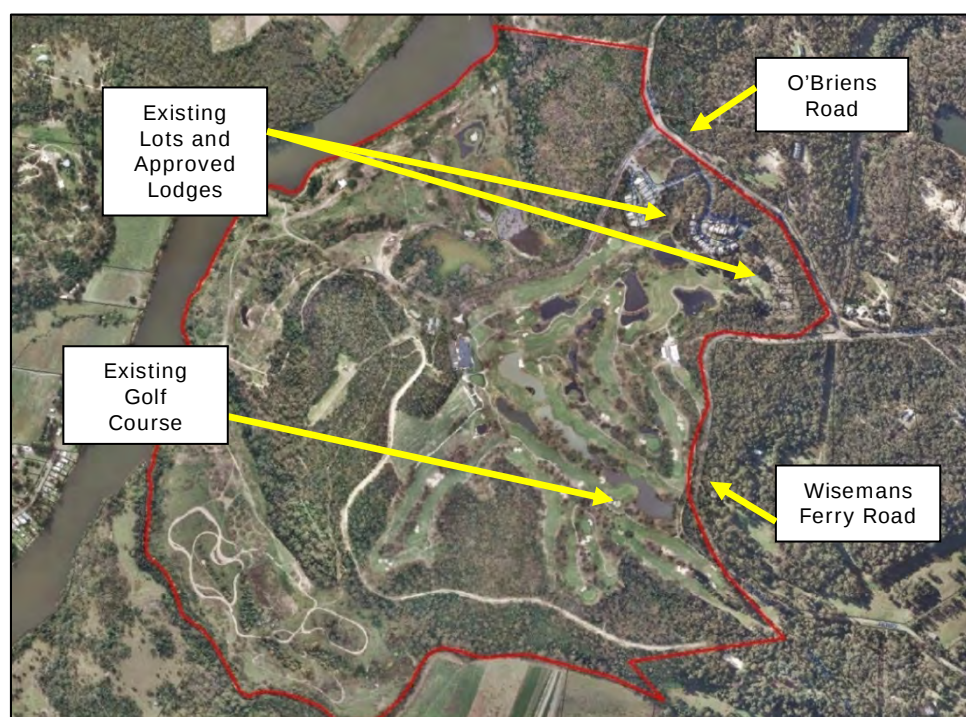
- Clubhouse
- Maintenance/Service Facilities
- Golf Academy
- Driving Range

Whilst this development has never been completed, it has been substantially commenced and the consent is currently active. Presently, the completed and operational recreation and entertainment facilities comprises an 18 hole golf course and 9 holes of the second course, a club house, three function centres and a corporate function room with a 350 person capacity. Of the approved tourist accommodation, 24 holiday villas and 2 corporate lodges have been constructed and are operational. An additional 18 holiday villas and 3 corporate lodges are currently under construction.

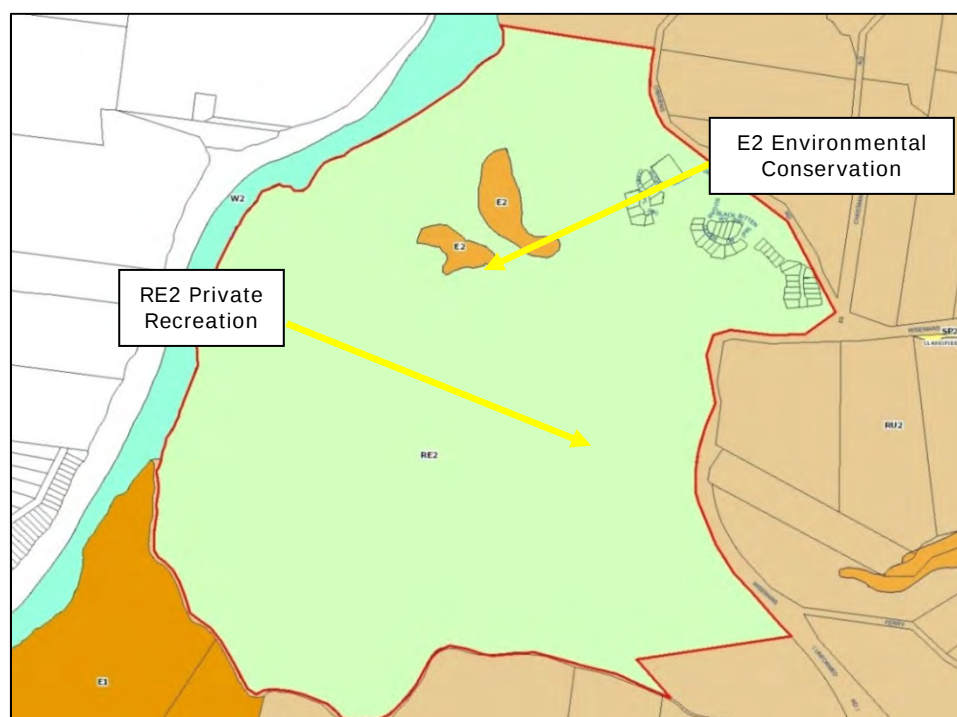
## 1. THE SITE AND SURROUNDS

The site is known as 'Riverside Oaks Golf Resort', at 74 O'Briens Road Cattai (Lot 28 in DP 270416). The site is bound by O'Briens Road to the north, Wisemans Ferry Road to the east, Little Cattai Creek to the south, and the Hawkesbury River to the west.

The site is currently zoned part RE2 Private Recreation and part E2 Environmental Conservation under LEP 2012. The site has a total area of 221.9 hectares and is currently functioning as a golf course and holiday accommodation resort. An aerial photograph and an extract of the Land Zoning Map of LEP 2012 are provided in the following figures.



**Figure 1**  
Site and Surrounds



**Figure 2**  
Land Use Zone (LEP 2012)

## 2. PLANNING PROPOSAL

The planning proposal seeks to amend Schedule 1 'Additional Permitted Uses' of LEP 2012 to permit up to 300 dwelling houses on lots with a minimum area of 450m<sup>2</sup> on the site.

The impetus for the proposal is the extensive infrastructure costs associated with servicing the site and the need to provide a 'base load' of activity to ensure the infrastructure is operated in an efficient and sustainable manner. The proponent has advised that whilst the infrastructure currently services only a transient population, due to the restricted living arrangements imposed under existing development approvals, existing and planned infrastructure is required to service a permanent population.

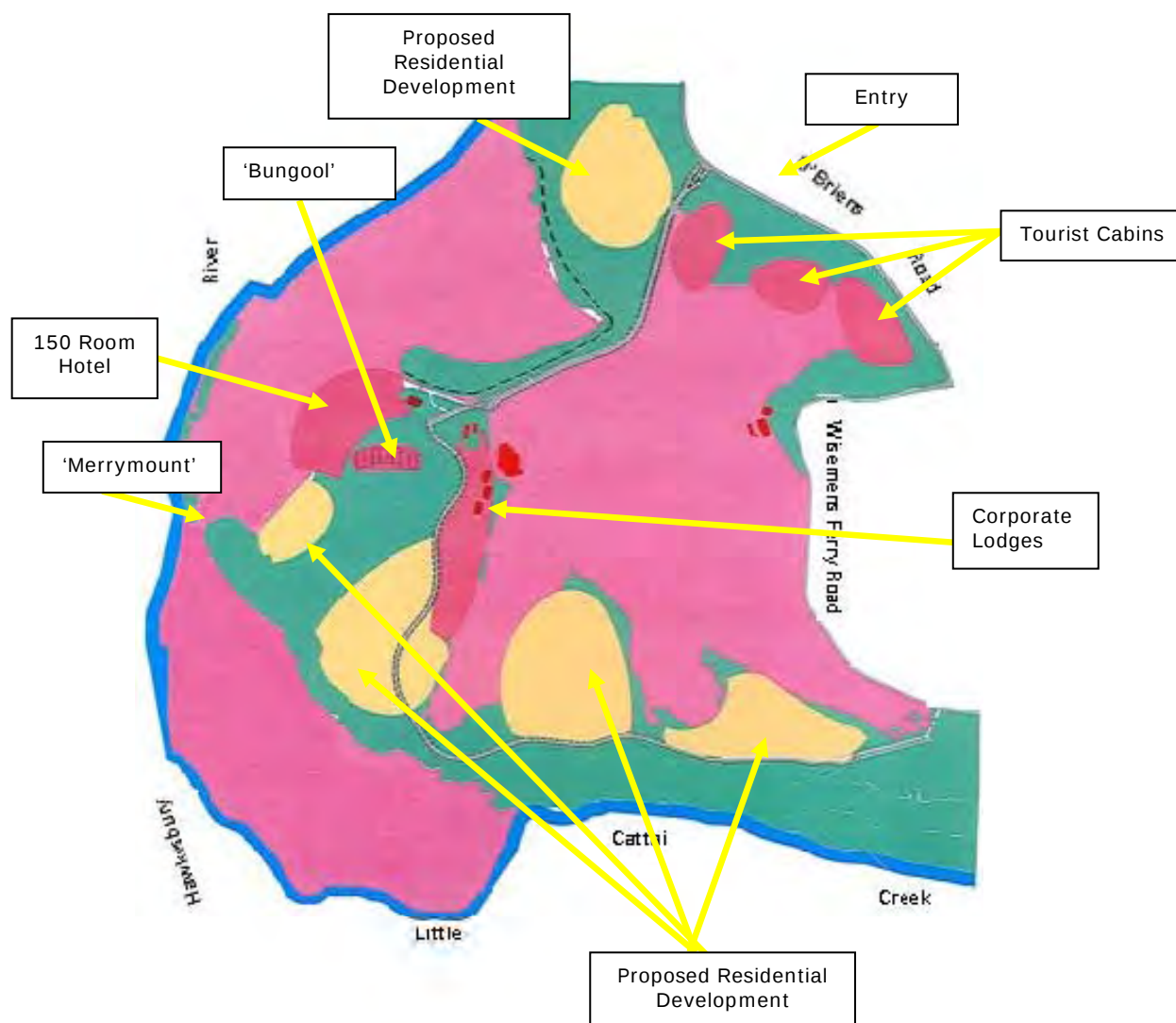
The development of a major resort requires a significant upfront investment and a long pay-back period. Given its location the development needs to provide not only accommodation but also resort facilities (function centres, restaurants, body treatment facility), recreational facilities (golf, tennis, bush walking) and site infrastructure (water treatment facility, sewage facility, road network). The proponent notes that as a package it represents a very substantial up-front investment. Whilst the residential component would also require a major up-front investment it will enable medium term cash inflow to underpin the tourist resort investment.

The key components of the development which are proposed to be adjusted are included in the following table. However, as mentioned previously the sole purpose of this planning proposal is to permit the permanent residential component of the adjusted development concept.

| <b>Development Type</b>                                        | <b>Existing Approved Development</b>                 | <b>Proposed Adjusted Development</b>                                                                                                   |
|----------------------------------------------------------------|------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------|
| Hotels                                                         | 2 x 150 room hotels (totalling 300 rooms)            | 1 x 150 room hotel (totalling 150 rooms)                                                                                               |
| Corporate Lodges                                               | 20 x 12 room corporate lodges (totalling 240 rooms)  | 10 x 12 room corporate lodges (totalling 120 rooms)                                                                                    |
| Holiday Villas/ Cabins                                         | 188 x 3/4 bedroom (temporary resort/ holiday living) | 48x 3/4 bedroom (temporary resort/ holiday living)                                                                                     |
| Residential Housing<br>(the subject of this planning proposal) | Not Included                                         | 300 x 3/4 bedroom houses (permanent living)                                                                                            |
| Restaurant                                                     | Not Included                                         | Conversion of Bungool Heritage Item into operational 50 capacity fine dining restaurant and alfresco dining and 168 function capacity. |
| Spa and Treatment Facility                                     | Not Included                                         | Construction of high-end spa and treatment facility.                                                                                   |
| On-site Nature Walk                                            | Not Included                                         | Development of on-site walkway.                                                                                                        |

**Table 1**  
Comparison Table (Approved and Adjusted Development)

The overall objective of the planning proposal is to create a residential golf community alongside tourist accommodation. It will enable the tourists staying at the hotel as well as the permanent residential community to access to the recreational facilities provided by Riverside Oaks Golf Resort. The following image identifies the layout of the adjusted development concept for the site.



**Figure 3**  
Adjusted Development Concept

### 3. STRATEGIC CONTEXT

#### (a) Metropolitan Plan for Sydney 2036

The Metropolitan Plan for Sydney was released in December 2010 by the NSW Government and forms the scheduled five yearly review of the Metropolitan Strategy *City of Cities: A Plan for Sydney's Future*. The Plan establishes the planning framework for the Sydney Region to 2036 and takes into account population forecasts, housing and employment needs, sustainability, affordability, liveability and equity.

The Plan has identified that Sydney's growing population will require the generation of an additional 760,000 jobs by 2036 with 145,000 additional jobs to be located within the North West Subregion. The planning proposal is consistent with this framework as the adjusted development concept will directly employ 250 staff once complete.

The Riverside Oaks Golf Resort is one of the major tourist attractions within the Hills Shire. Accordingly future residential development at the site will contribute to housing diversity and will also provide a unique housing option as residents will have direct access to the tourist and recreational facilities provided by the Resort. In addition to

this, the revenue generated by the residential development will assist in the delivery of necessary upgrades to the Riverside Oaks Golf Resort as a tourist destination.

**(b) Draft Metropolitan Strategy for Sydney 2031**

The Draft Metropolitan Plan for Sydney was released in March 2013 for public comment. Once finalised, the draft Strategy will replace the Metropolitan Plan for Sydney 2036. The draft Strategy establishes a vision with key objectives, policies and actions to guide the growth of Sydney to 2031 and is underpinned by the following key outcomes:

- Balanced growth;
- A liveable city;
- Productivity and prosperity;
- Healthy and resilient environment; and
- Accessibility and connectivity.

The Strategy categorises the land within the Sydney Region into Metropolitan Urban Area and Metropolitan Rural Area. Under the Balanced Growth Policy, housing growth is to be encouraged within the Metropolitan Urban Area to reflect market demand. However, the Strategy also states that population growth is to be provided for within the Metropolitan Rural Area so that Sydney can continue to enjoy the full range of lifestyle choices on offer. Since the site is located within the Metropolitan Rural Area, the proposal to permit 300 residential dwellings on the site is considered to be consistent with the Strategy. The site will provide Sydney residents with an additional housing opportunity surrounded by the natural environment and in close proximity to the tourist facility.

**(c) Draft North West Subregional Strategy**

The Draft North West Subregional Strategy was prepared in December 2007 by the NSW Government and outlines how the key actions contained within the Metropolitan Strategy 2005 were to be implemented at the subregional level. The Subregional Strategy has set the North West Subregion a target of 130,000 jobs and 140,000 dwellings by 2031. Of these 47,000 job and 36,000 dwellings are to be accommodated within The Hills Shire.

The Strategy seeks to have zoned capacity for a significant majority of new dwellings to be located in strategic and local centres. Whilst the location of the subject site is neither of these, the proposal holds significant employment and housing benefits. Specifically, the creation of 250 jobs and the provision of up to 300 residential dwellings will further contribute towards Council achieving its employment and housing targets.

Whilst Council's position has generally been to encourage growth within locations which are in close proximity to centres and public transport hubs, it is considered that in this instance further consideration is warranted as the future residential development would contribute to the viable operation of the tourist resort, an alternative housing choice would be offered and residents would be supported by a number of onsite facilities.

**(d) The Hills Shire Local Strategy**

The Residential, Employment Lands, Environment and Leisure Directions and the Rural Lands Strategy are the relevant components of the Local Strategy to be considered in assessing this proposal.

**Residential Direction**

The North West Subregional Strategy has set The Hills Shire a target of 36,000 additional dwellings by 2031 to accommodate a share of Sydney's population growth. Of this target, the Residential Direction identifies that 14,500 dwellings are to be located in

the North West Growth Centre and 21,500 are to be located in the existing urban area and other release areas such as the Kellyville/Rouse Hill and Balmoral Road release areas. The Direction indicates that there is sufficient capacity to accommodate these targets based on the existing planning framework and current projects.

The land use planning approach which has been adopted through the Residential Direction generally seeks to provide for future growth within areas that are well located to public transport, services, and employment opportunities. Whilst this proposal is not directly consistent with this approach, the proposal will contribute to housing diversity and will facilitate the creation of a residential golf community alongside tourist accommodation.

Employment Lands Direction:

The Employment Lands Direction establishes the overall strategic context for the planning and management of employment lands within The Hills Shire and considers a range of issues such as land availability, growth opportunities and the revitalisation of older areas.

The resort currently employs approximately 70 staff. However based on the adjusted development concept the employment number could increase to approximately 250 staff. Corresponding with the importance of local employment to the Shire community, the Direction states an objective for planning and future development is to provide for employment generation opportunities. Furthermore the Direction seeks to support local business to make the Shire an attractive place to visit. Enabling the ongoing operation of the tourist resort will assist in promoting the Shire as an attractive destination and is likely to facilitate further development of tourist operations in the locality.

The planning proposal is consistent with this Direction as the site will generate 180 additional jobs and create future employment opportunities stemming from tourists and the permanent residential population. The presence of permanent residential population, created by up to 300 residential dwellings will also provide a consistent economic flow to the surrounding areas. This has the potential to create flow on employment opportunities through increased demand for goods and services.

Environment and Leisure Direction:

The Direction provides that the Shire's zoning framework is the primary planning mechanism to protect and manage environment and leisure spaces. The Direction specifically states that the main purpose of the RE2 Private Recreation zone is to clearly identify existing land used for golf courses with the Shire's land use framework. It is imperative that the objectives of the RE2 Private Recreation zoning be maintained. In this regard, the presence of the permanent dwellings on the site must not detract from the site's primary purpose as a golf course and recreational area.

The Environment and Leisure Direction states that accessibility to spaces such as RE2 Private Recreation land is an important aspect to ensure their functionality and use. As the site will retain its focus as a tourist resort, it is considered that the planning proposal is consistent with the actions of this Direction.

Rural Lands Strategy:

The Rural Lands Strategy provides the strategic framework for the Shire's rural lands including sustainable land use, protection and enhancement of the existing and future rural economy. The Study highlights the physical characteristics of the Shire's rural lands and in doing so, outlines possible constraints to development including residential development. Those that specifically relate to the planning proposal include water catchments, topography, native vegetation and bushfire risk.

The Shire's rural residential lands have a variety of uses associated with them such as home based businesses and horse enterprises. The division of rural residential uses comprises of dwellings 77.7%, horse enterprises 13.4%, truck 6.8%, home business 1.8% and wetlands 0.2%. One of the objectives of the Rural Lands Strategy is to provide for economic development opportunities that are in keeping with the rural character of the Shire. The proposal is considered to be in keeping with this strategy given that the viability of the tourist operation will be enhanced by providing living opportunities surrounded by the rural environment.

The Rural Lands Strategy also recognises that biodiversity is a key component of sustainability and that biodiversity conservation is a function of land use and land management. The Strategy encourages the identification of flora and fauna species and communities and identifies mechanisms that are available to achieve the biodiversity conservation.

Overall whilst further investigations are required to ensure adequate infrastructure and servicing and appropriate address of environmental impacts, it is considered that the proposal is consistent with the overall philosophy of encouraging a diverse range of rural uses, providing for coordinated growth of rural lands and providing rural economic development opportunities.

#### **(e) State Environmental Planning Policies**

An overview of the State Environmental Planning Policy which is relevant to the planning proposal is provided below:

##### *Sydney REP (Deemed SEPP) Hawkesbury-Nepean River: No.20*

Development which is sited within the Hawkesbury-Nepean River Catchment is subject to consideration under the provisions of Sydney Regional Environmental Plan No.20 (SREP 20). This Policy requires Council to ensure that any development on the land protects the unique environment and character of the river valley.

SREP 20 identifies a number of matters of consideration that must be taken into account in the assessment of tourist based developments to ensure certain broad and specific objectives relating to the protection and preservation of environmental, recreational, heritage, archaeological, cultural and scenic qualities of the valley, are satisfied.

In summary SREP 20 requires that:

- a. Effluent can be treated and disposed of on-site without adversely affecting the water quality of the river,
- b. The removal of water from the river does not impact upon water quality and necessary licensing is required,
- c. In relation to run-off whether appropriate environmental retention systems are employed to improve the quality of run-off,
- d. In relation to aquatic habitats the effect of the proposal on colonisation and regrowth of aquatic plants and bank stability and light penetration to the river.
- e. The range of flora and fauna inhabiting the site and surrounding land be considered, including threatened species and migratory species, and the impact of the proposal on the survival of threatened species, populations and ecological communities, both in the short and longer terms.

Consultation with the Hawkesbury Nepean Catchment Management Authority will be required following the issue of any Gateway Determination.

**(f) Section 117 Ministerial Directions**

Section 117(2) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) enables the Minister for Planning and Infrastructure to issue directions which planning authorities must address when preparing Local Environmental Plans and planning proposals. The following Section 117 Directions are relevant to this planning proposal:

- Direction 2.1 Environmental Protection Zone;
- Direction 2.3 Heritage Conservation;
- Direction 3.1 Residential Zones;
- Direction 3.4 Integrating Land Use and Transport;
- Direction 4.1 Acid Sulfate Soils;
- Direction 4.3 Flood Prone Land;
- Direction 4.4 Planning for Bushfire Protection;
- Direction 6.3 Site Specific Provisions; and
- Direction 7.1 Implementation of the Metropolitan Strategy.

Where there may be potential for inconsistency with these directions, further comments are provided in Section 4 of this report 'Matters for Consideration'. Overall, more detailed information is needed to fully address to address bushfire management, flora and fauna management, acid sulfate soils, flooding and stormwater management, traffic and accessibility, infrastructure and servicing requirements. In this regard it is recommended that a number of technical assessments be undertaken by the applicant following gateway determination.

**4. MATTERS FOR CONSIDERATION**

In assessing the merits of the proposal consideration is required of the following key matters.

- a) Economic Considerations;
- b) Residential Accommodation –vs- Tourist Facility;
- c) Traffic Management;
- d) Provision of Infrastructure and Services;
- e) Vegetation Management;
- f) Heritage Conservation;
- g) Flooding and Stormwater Management;
- h) Bushfire Protection; and
- i) Acid Sulfate Soils.

**(a) Economic Considerations**

Since 2009 approximately \$25 million has been invested in the construction of new and up-graded facilities at the site. However the development of a major resort, such as what is being proposed within the adjusted development concept, will require a significant upfront investment and a long pay-back period. It is estimated that the resort facilities alone (excluding the initial investment required for the residential component) will require an up-front investment of approximately \$82.5m (excluding the initial acquisition cost of the site).

Whilst the residential component would also require a major up-front investment, it will provide medium term cash inflow to underpin the overall tourist resort development.

The residential component would enable the developers to generate some initial revenue from the site which could then be allocated toward further upgrading the resort facilities.

The overall intention of the adjusted development is to deliver an internationally recognised tourist resort, which will have a residential component. Whilst the resort will be the primary focus of the site, the residential component will underpin the operational feasibility of the resort by offsetting the significant investment costs of the site infrastructure (which are all provided from within the site) and will provide a base-load customer-base for the resort.

From a visitor economy perspective the proposal is consistent with the NSW Government plan from the Visitor Economy Taskforce to double overnight visitor expenditure to NSW by 2020. The current estimate of direct tourism employment (REMPPLAN) within The Hills Shire is 2,124 jobs. The economic modelling supplied by the proponent indicates that the project will directly employ 250 staff once complete. This would increase direct tourism jobs by around 12%.

In relation to additional tourism output, the annual sales of \$25m would increase total tourism output by around 8% up from \$308 million (REMPPLAN, December 2012). The 'Visitor Economy' in the Sydney Hills area lacks a marque attraction and a development of this international quality resort would have significant multiplier effects on other operators in the area. The recent NSW taskforce indicated that NSW needs to confront the fact that its destination appeal has waned and it has lost its number one status across a number of measures. It has been outperformed and outspent by competitor destinations in Australia and the Asia-Pacific region over many years and its competitive position has been eroded.

The upgrades to the resort facility, including the residential component required to provide short-medium term cash flow, would assist in providing the international tourism infrastructure Sydney needs.

#### **(b) Residential Accommodation -vs.- Tourist Facility**

The site is currently zoned RE2 Private Recreation and E2 Environmental Conservation. Under LEP2012 the objective of the RE2 Private Recreation zone is to provide a range of recreational activities and to promote tourism and entertainment related activities. This objective is supported by the Environment and Leisure Direction.

Residential golf communities are becoming accepted in Australia with nearly 100 golf courses with residential living in a lifestyle location. Living on a golf course provides benefits (even for non-golfers) of security, club house amenities, and manicured open green spaces. However, it is essential that its primary purpose as a tourist facility and its context within a rural setting be maintained.

It is assumed that a percentage of the permanent residents will be frequent users of the resort's recreational facilities and meal areas. This enhances the importance of the site as a setting for recreational facilities and activities. However, the usage of the recreational facilities for both tourists and the permanent residential population will be dependent on access design to ensure that both tourists and permanent residents have easy access to the recreational and tourist facilities.

The residential component will operate as an additional ancillary component of the resort as opposed to a residential release area. In this regard it is considered that what is being proposed will be reflective of other similar recreational tourist facilities which offer both tourist accommodation and permanent residential opportunities. The proponent comments that the resort will remain the main focus of the site.

**(c) Traffic Management**

It is likely that the number of vehicular movements under the adjusted development concept will be higher than the development which was originally approved at the site. This is due to the residential component being wholly utilised as permanent residences. Given the likely change in the user profile triggered by the adjusted development concept (compared with the existing approved development), there will be an impact on traffic. However as no traffic assessment has been provided with the application, the extent of this impact has not been established.

The identification of cumulative traffic impacts on the surrounding road network and key intersections will need to be further addressed. The information supplied with the proposal is insufficient to determine the capability of the site to sustain the level of development envisaged. Accordingly, it is considered appropriate that, following the issue of a Gateway Determination, the proponent prepares a traffic and accessibility study to assess the cumulative impact of the proposal on the performance of the local road network. This will need to include vehicular generation resulting from both the resort facilities/accommodation and the residential component and will also need to address access arrangements, having regard to emergency evacuation routes.

With respect to road improvements, all on-site road construction and maintenance will be the responsibility of the developer to provide as part of future development proposals for the site.

**(d) Provision of Infrastructure and Services**

The mixture of tourist accommodation and residential dwellings will require a variety of infrastructure services to cater for the future tourist and resident population. The resort is currently operating as a tourist only facility and contains services including an on-site water treatment facility, on-site electricity infrastructure (two substations) and a sewage treatment facility. The planning proposal states that the residential dwellings will have equal usage of these services.

The proposal for up to 300 residential dwellings will generate a higher demand for the above services. The adjusted development concept will seek to upgrade the on-site sewage and water treatment facilities. To assist in the financial strain that such upgrades will incur, the proponent has outlined that the permanent residential dwellings will be charged an annual fees to contribute go towards maintaining and up-grading the site's core services.

Ministerial Direction 3.1 Residential Zones requires that a planning proposal must include a condition that residential development is not permitted until land is adequately serviced or arrangements satisfactory to Council. Accordingly, any residential development on the site will not be permitted until the land is adequately provided with services.

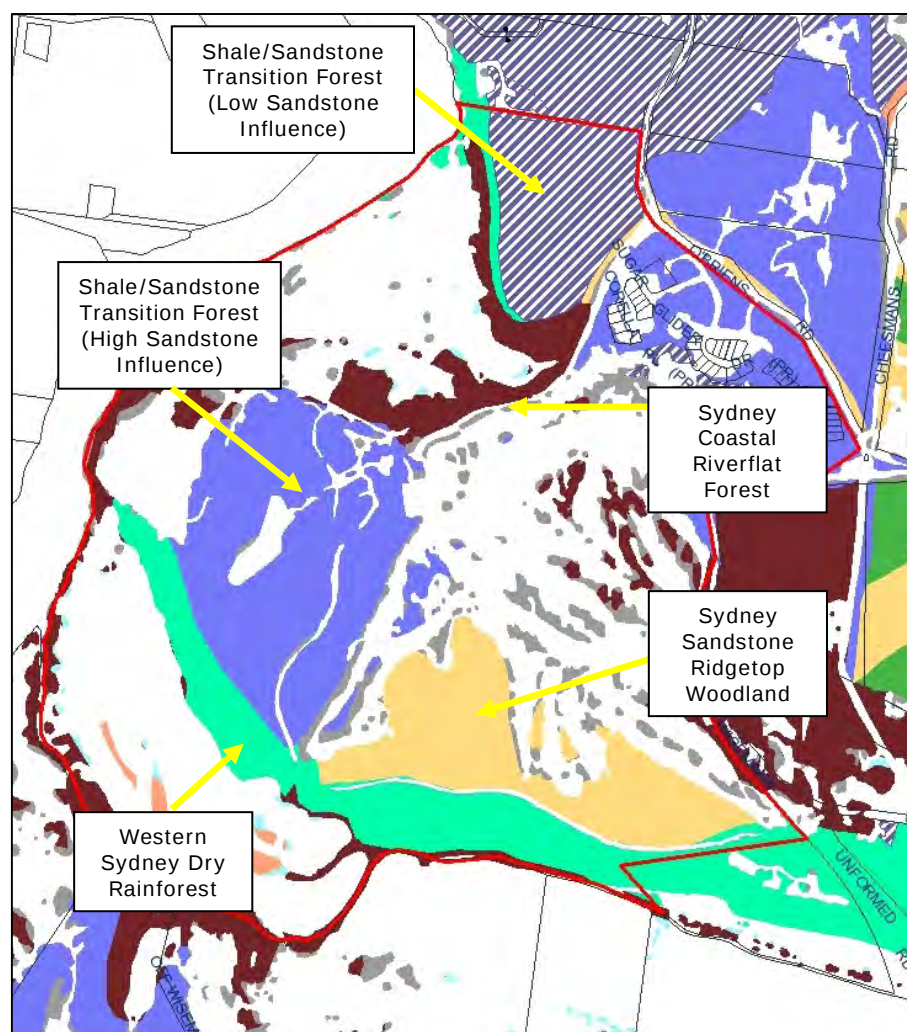
The existing development consent imposes restricted living arrangements which restrict residential use of the land to 156 days per annum, with 42 consecutive days. Whilst the proposal states that the impact of the permanent residential development of the site would be similar to the existing approval, inadequate justification has been provided to indicate this position. Accordingly, the proponent will be required to prepare an assessment to appropriately identify how the future demands on the infrastructure and servicing (including wastewater management) will be addressed.

**(e) Vegetation Management**

Council's Vegetation Mapping (2005) identifies that a number of vegetation communities are present on the site. These vegetation communities include:

- Shale/Sandstone Transition Forest (High Sandstone Influence) (Endangered Ecological Community);
- Shale/Sandstone Transition Forest (Low Sandstone Influence) (Endangered Ecological Community);
- Sydney Coastal River-flat Forest (Endangered Ecological Community);
- Western Sydney Dry Rainforest (Endangered Ecological Community);
- Sydney Sandstone Ridgetop Woodland.

An extract of Council's Vegetation Map is included in the following figure.



**Figure 4**  
Vegetation Communities

The proponent comments that the adjusted development concept will be physically located in the same, or similar, geographic location as those buildings that were originally approved under the master plan and the net impact on flora and fauna will be the same. However it is imperative to note that the master plan was approved in 1989. Since the date of the original approval there have been a number of changes to the conservation listing of a number of the ecological communities on the site. In particular,

Shale Sandstone Transition Forest and Western Sydney Dry Rainforest have listed as Endangered Ecological Communities on the *Threatened Species Conservation Act* (1995).

All five pockets of residential development will impact on the vegetation communities within the site to some degree, with three of these pockets directly impacting on endangered ecological communities. The planning proposal only provides an outline of areas subject to the proposed adjustments and no assessment has been undertaken. Accordingly, the extent of significant vegetation communities and the potential impact of future development on these communities would need to be further identified by the proponent through the preparation of an ecological assessment.

It is considered appropriate that the management of areas of significant vegetation be undertaken via the existing assessment framework. Any proposed development which is likely to have a significant impact on the critical or endangered vegetation communities will be subject to the assessment framework under the *Threatened Species Conservation Act 1997* and Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*.

#### (f) Heritage Conservation

The subject site contains two items being 'Bungool (Riverside Oaks)' and the 'Ruins of Merrymount' which are located in proximity to the Hawkesbury River, at the north western and western side of the Riverside Oaks Golf Course. Both are listed within Schedule 5 Environmental Heritage of LEP 2012, with 'Bungool' identified as a heritage item and 'Merrymount' identified as an archaeological site.

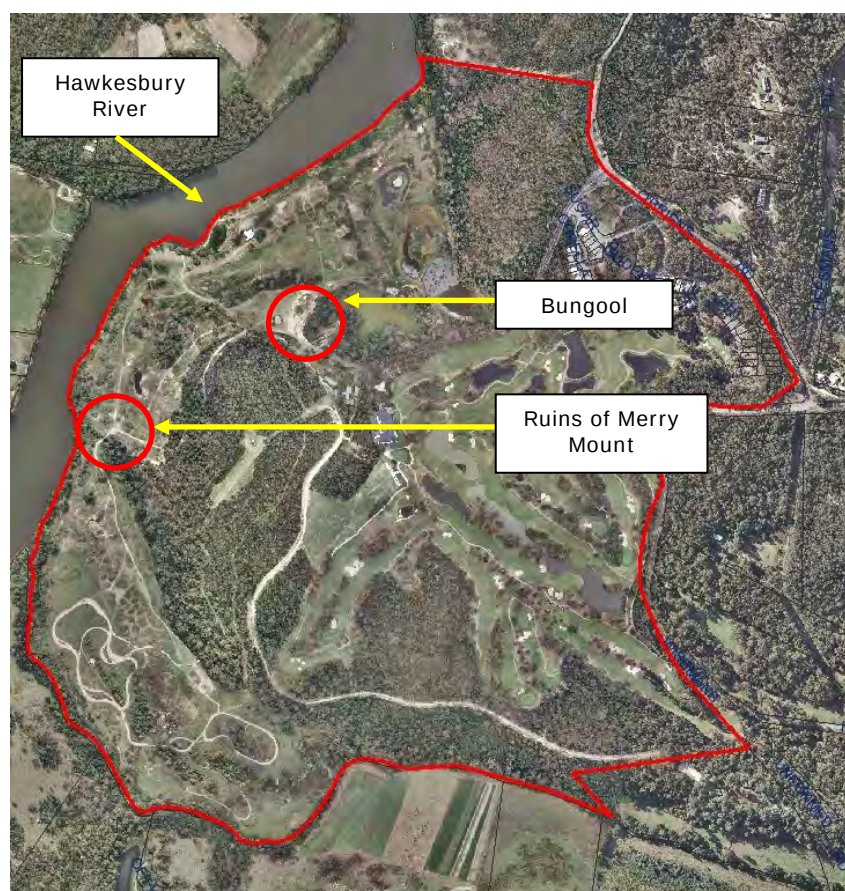


Figure 5  
Heritage Items

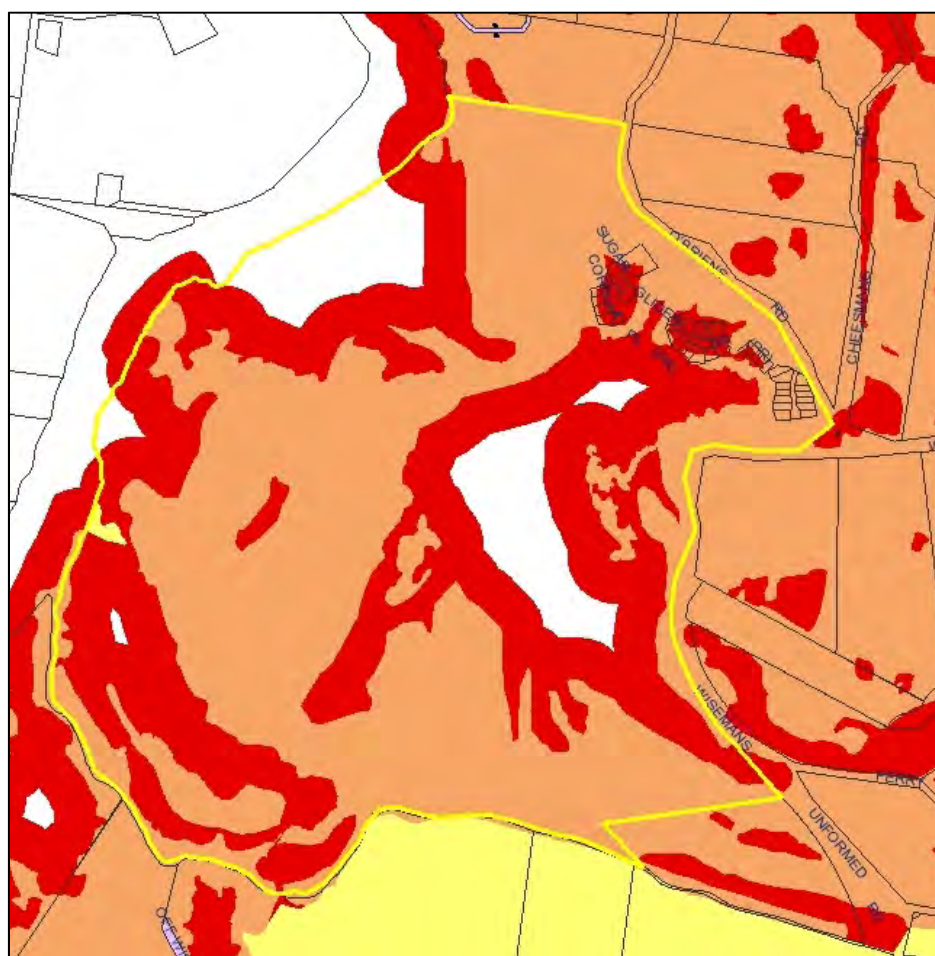
Whilst the areas of proposed residential development are not expected to impact on the heritage significance of either item, the existing heritage conservation provisions within LEP 2012 will continue to apply and will need to be addressed through the preparation of future subdivision proposals at the site. Consultation with the Daruk Aboriginal Land Council will also be necessary.

**(g) Flooding and Stormwater Management:**

Based on preliminary analysis of the proposal it has been identified that the site is significantly disadvantaged with respect to flooding. It is noted that Wisemans Ferry Road and part of the existing access road, which services the resort development, will be inundated during the 1 in 100 year flood event. Further investigation is required to identify the potential impact of flooding on the residential component of the development including the identification of appropriate emergency access routes from the site. The proponent will be required to prepare a flooding and stormwater assessment following the issue of a Gateway Determination.

**(h) Bushfire Protection**

Much of the site is identified as bushfire prone, containing Vegetation Category 1 (orange) and buffer (red) on The Hills Bush Fire Prone Land Map 2012. An extract of the Bushfire Prone Land Map is provided below.



**Figure 6**  
Bushfire Prone Land Map

Any planning proposal for land which is identified as being bushfire prone on a Bushfire Prone Land Map must be consistent with Ministerial Direction 4.4 Planning for Bushfire Protection. The Direction requires that planning proposals:

- (a) have regard to *Planning for Bushfire Protection Guideline 2006*,
- (b) introduce controls that avoid placing inappropriate developments in hazardous areas, and
- (c) ensure that bushfire hazard reduction is not prohibited within the APZ.

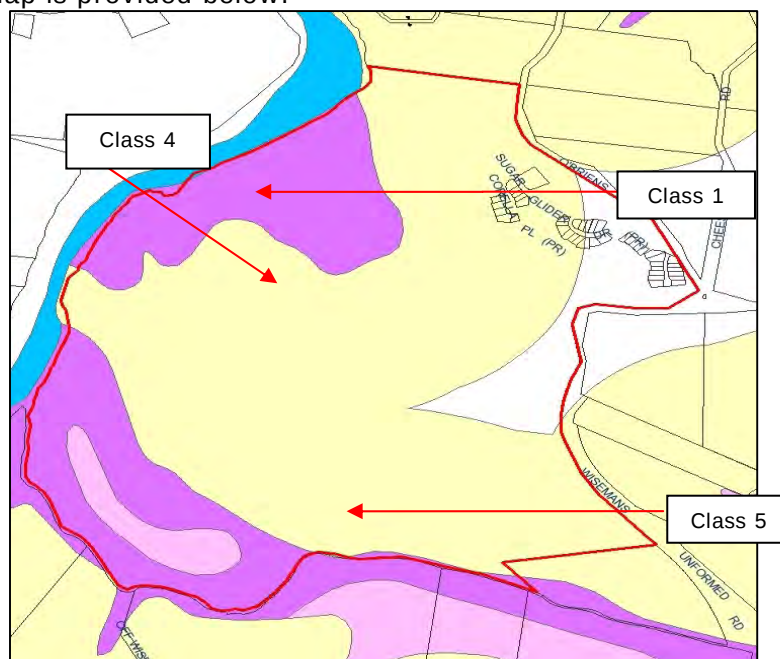
The Direction requires that Council undertake consultation with the Commissioner of the NSW Rural Fire Service following receipt of a Gateway Determination under section 56 of the *Environmental Planning (and Assessment) Act 1979* (EP&A Act), and prior to undertaking community consultation in satisfaction of section 57 of the EP&A Act. Council will need to take into consideration any comments received as part of this consultation.

Clause 5.11 of LEP 2012 requires that bush fire hazard reduction work authorised by the *Rural Fires Act 1997* may be carried out on any land without consent. This provision ensures that bush fire hazard reduction work is not prohibited within Asset Protection Zones.

Future Asset Protection Zones (APZs) will be required to provide a buffer between a bush fire hazard and future buildings. These buffers are required to be managed so as to reduce fuel loads and reduce potential radiant heat levels, flame and ember and smoke attack. The specific APZ requirements will need to be established through the preparation bushfire assessments prepared as part of future development proposals within the precinct. It will also be appropriate for bushfire evacuation routes to be identified in accordance with the *Planning for Bushfire Protection Guidelines 2006*.

#### (i) Acid Sulphate Soils

A significant portion of the site is identified as containing Classes 1, 4 and 5 Acid Sulphate Soils on the Constrained Lands Map 1 of LEP 2012. An extract of the Acid Sulphate Soils Map is provided below.



**Figure 7**  
Acid Sulphate Soils Map

Any future development on the site will be subject to Clause 7.1 of LEP 2012 which has been prepared in accordance with the Acid Sulphate Soils Model Local Environmental Plan Provisions within the Acid Sulphate Soils Planning Guidelines adopted by the Director-General.

Any planning proposal which applies to land having a probability of containing acid sulphate soils as shown on the Acid Sulphate Soils Planning Maps must be consistent with Ministerial Direction 4.1 Acid Sulphate Soils. This Direction requires that a relevant planning authority must not prepare a planning proposal that proposes an intensification of land uses on land identified as having a probability of containing acid sulphate soils unless the relevant planning authority has considered an acid sulphate soils study assessing the appropriateness of the change of land use given the presence of acid sulphate soils.

The relevant planning authority must provide a copy of any such study to the Director-General prior to undertaking community consultation in satisfaction of section 57 of the *Environmental Planning and Assessment Act 1979*. It is noted that this study has not been submitted with the proposal, however will need to be undertaken following the issue of any Gateway Determination.

#### **AMENDMENT OF LEP 2012**

Under the current RE2 Private Recreation zone residential development is prohibited. For this reason the proposal is seeking an amendment to Schedule 1 'Additional Permitted Uses' of *The Hills Local Environmental Plan 2012* (LEP 2012) to permit up to 300 permanent residential dwellings on lots of no less than 450m<sup>2</sup> at the site.

The Department of Planning and Infrastructure has prepared a draft Practice Note on the application of Schedule 1 'Additional Permitted Uses' of the Standard Instrument Local Environmental Plan. The draft Practice Note highlights that land use permissibility should preferably be controlled through zoning and the Land Use Table. However the Practice also provides that where this is not possible, and the intended outcome is adequately justified by Council, the use of Schedule 1 may be acceptable.

The approach being pursued through this proposal will provide Council with greater control over the extent of residential development which can occur on the site and will also ensure that the predominant use of the site remains as a tourist and recreation facility. Alternative approaches such as rezoning the site to a zone which permit residential dwellings or to amending the Land Use Table to identify dwelling houses as permitted with consent in the RE2 Private Recreation zone would not provide Council with the necessary control to prevent residential development from becoming the predominant use.

#### **CONCLUSION**

It is recommended that the planning proposal be forwarded to the Department of Planning Infrastructure to seek a Gateway Determination as the proposed residential development will support the overall operation of tourist resort development and will provide a rural lifestyle housing choice currently not available in the Shire. The proposal is considered to be consistent with both State and Local objectives related to promoting economic growth and employment opportunities. By presenting a unique housing opportunity the proposed redevelopment is considered to have strategic merit, subject to appropriate controls on the extent of residential development and further investigation of environmental impacts.

As set out in the report, a number of matters will need to be further addressed as this proposal progresses. These matters relate to bushfire management, flora and fauna management, acid sulphate soils, flooding and stormwater management, traffic and accessibility, infrastructure and servicing requirements. These matters will need to be addressed to demonstrate that the site is capable of sustaining the level of development envisaged within the proposal. Notwithstanding the foregoing, in principle support is considered warranted and will enable the proposal to proceed to the next stage of the plan making process. It is recommended that these studies be prepared following the issue of any Gateway Determination by the Department of Planning and Infrastructure.

**IMPACTS****Financial**

The rezoning of the subject site has no financial impacts on Council's forward budget.

**Hills 2026**

The planning proposal will promote The Hills 2026 vision for vibrant communities, balanced urban growth through the provision of 'places to play and be active'.

**RECOMMENDATION**

The planning proposal to amend Schedule 1 'Additional Permitted Uses' of The Hills Local Environmental Plan 2012 to permit up to a maximum of 300 dwelling houses on lots with a minimum area of 450m<sup>2</sup> at 74 O'Briens Road, Cattai (Lot 28 DP 270416) be forwarded to the Department of Planning and Infrastructure for a Gateway Determination.

**ATTACHMENTS**

Nil