

PLANNING PROPOSAL

LOCAL GOVERNMENT AREA: The Hills Shire Council

NAME OF PLANNING PROPOSAL: Proposed The Hills Local Environmental Plan 2012 (Amendment No (#)) – 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 450m² at 74 O'Briens Road, Cattai (Lot 28 DP 270416) (16/2013/PLP).

ADDRESS OF LAND: 74 O'Briens Road, Cattai (Lot 28 DP 270416)

SUMMARY OF HOUSING YIELD

	EXISTING	PROPOSED	TOTAL YIELD
Dwellings	0	300 (maximum)	300 (maximum)

SUPPORTING MATERIAL:

Attachment A Assessment Against State Environmental Planning Policies
Attachment B Assessment Against Section 117 Ministerial Directions
Attachment C Council Report and Resolution, 25 June 2013

PART 1 OBJECTIVES OR INTENDED OUTCOME

The objective of the proposed planning proposal is to permit, as an additional permitted use, a maximum of 300 permanent dwelling houses on lots with a minimum lot size of 450m² at the Riverside Oaks Golf Resort to create a golf course living style housing opportunity.

PART 2 EXPLANATION OF THE PROVISIONS

The proposed outcomes will be achieved by amending 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 450m² on Lot 28 DP 270416, also known as 74 O'Briens Road, Cattai.

PART 3 JUSTIFICATION

SECTION A - NEED FOR THE PLANNING PROPOSAL

1. Is the planning proposal a result of any strategic study or report

The site is located at 74 O'Briens Road Cattai (Lot 28 in DP 270416) and 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 *The Hills Local Environmental Plan 2012* (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.

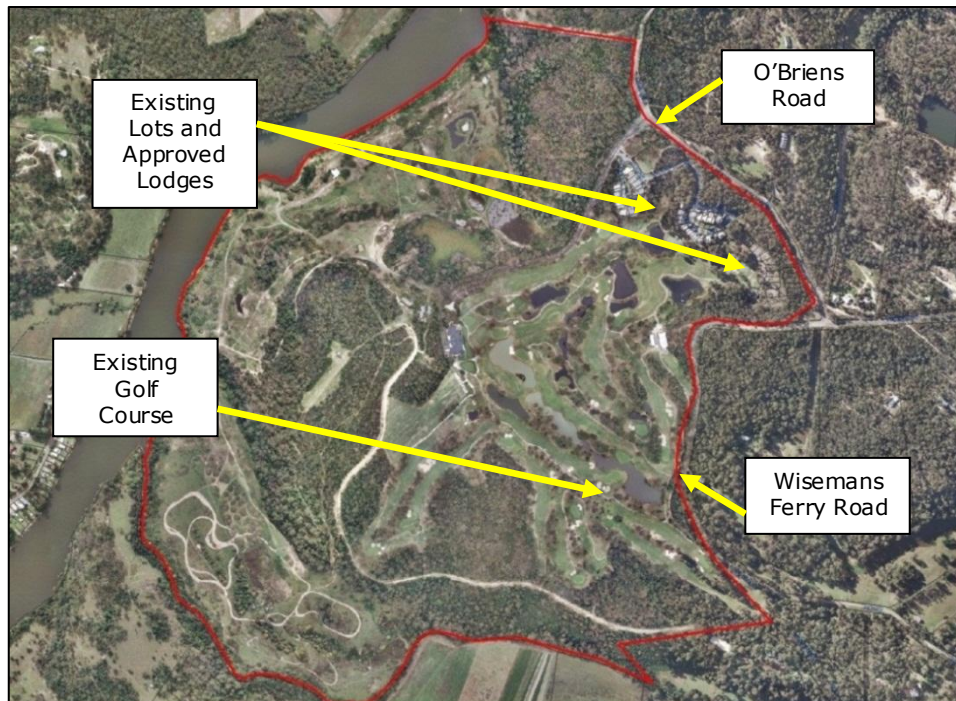


Figure 1
Site and Surrounds

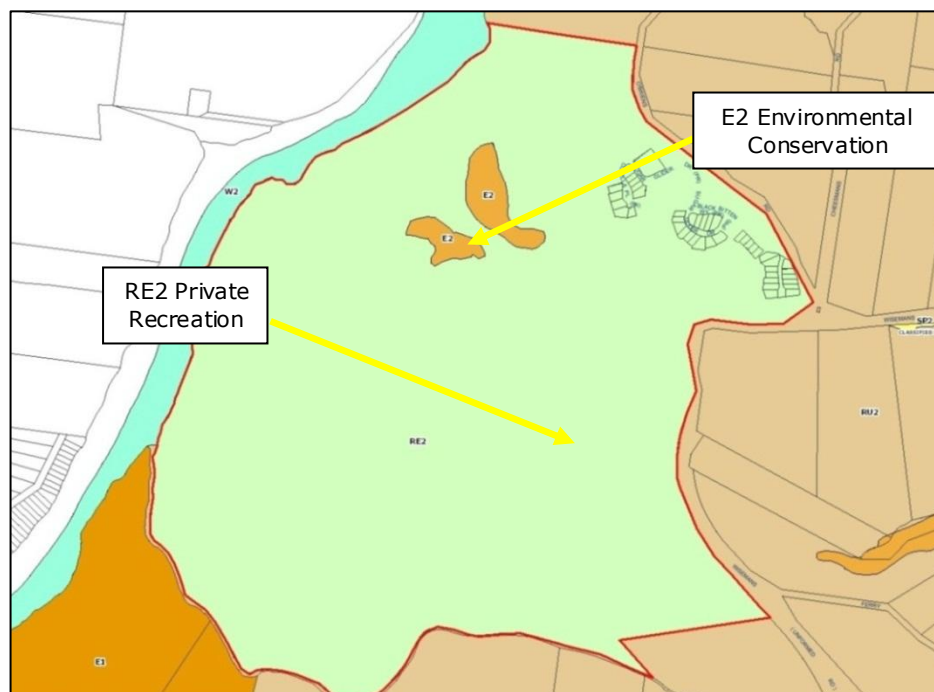


Figure 2
Land Use Zone (LEP 2012)

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
- Hotel (300 rooms)
- Retail Facilities
- Clubhouse
- Maintenance/Service Facilities
- Holiday Cabins
- Corporate Lodges
- Tennis club
- 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.

This planning proposal is not the result of any Strategic Study or report. Rather it is the result of an application from Nanshan Group Australia Pty Ltd. The application 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 450m² 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. 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). 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.

Development Type	Existing Approved Development	Proposed Adjusted Development
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 (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.

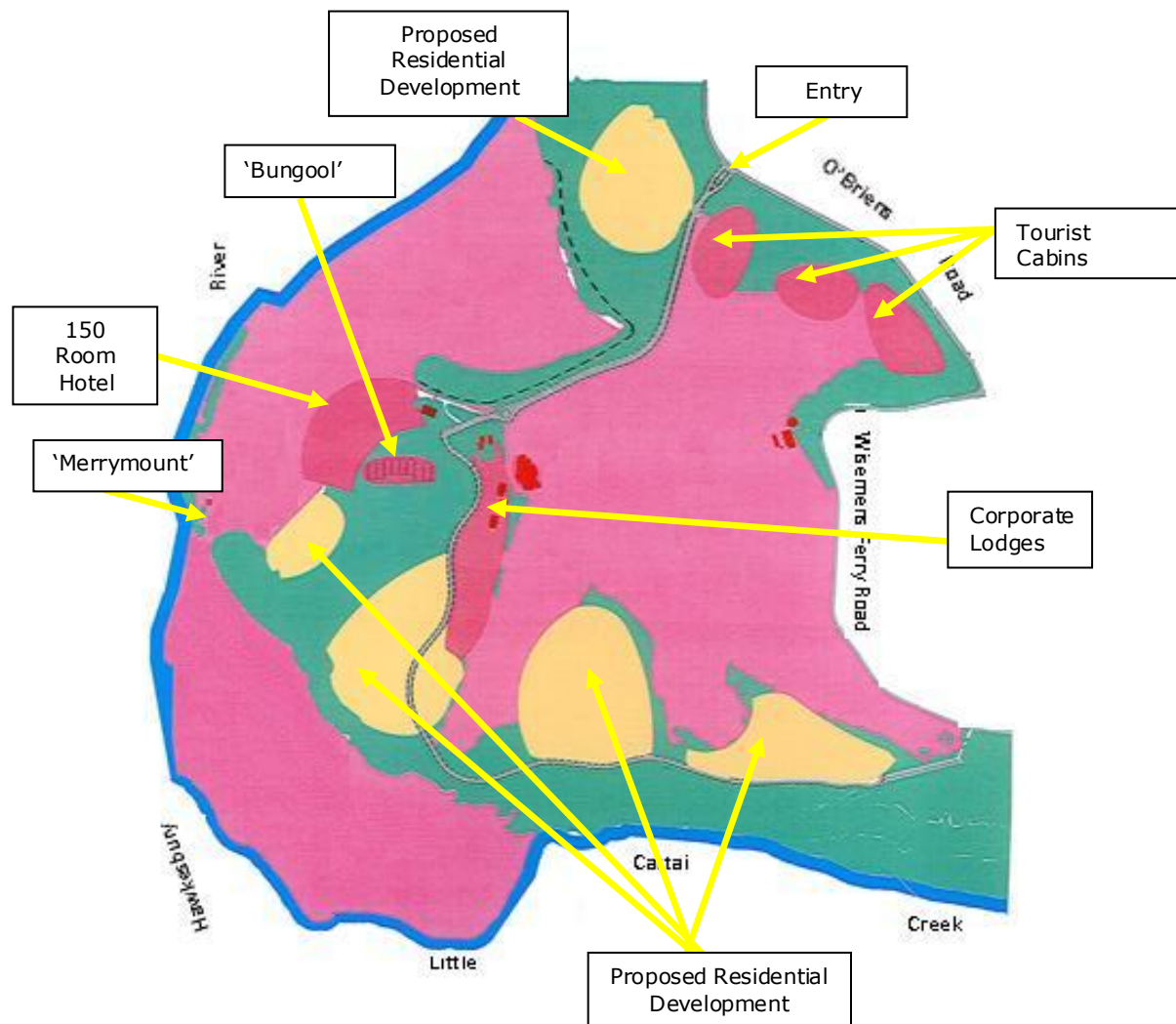


Figure 3
Adjusted Development Concept

It is noted that in December 2010 a planning proposal was prepared 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.

The current planning proposal differs from the previous proposal in terms of the number of proposed future dwellings (now a maximum of 300 rather than 700) and the size of the proposed allotments (now 450m² rather than 150m²). Additionally the previous proposal sought to allow dwelling houses as a permissible use within the RE2 Private Recreation zone.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes – The planning proposal is considered the most appropriate means of achieving the intended outcome. 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 LEP 2012 to permit up to a maximum of 300 permanent residential dwellings on lots of no less than 450m² at the site.

The Department of Planning and Infrastructure has previously 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 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.

SECTION B - RELATIONSHIP TO STRATEGIC PLANNING FRAMEWORK

3. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

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.

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.

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.

4. *Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?*

"The Hills Future" Community Strategic Plan

Council's Community Strategic Plan – "The Hills Future" identifies the community's vision for the Shire and outlines how Council will align its delivery of services and facilities to support this vision. Council's vision is for '*proactive leadership creating vibrant communities, balancing urban growth, protecting our environment and building a modern local economy*'. The two key themes that are most relevant to this planning proposal are 'Vibrant Communities' and 'Balanced Urban Growth'.

A key outcome under the theme 'Vibrant Communities' is the promotion of a connected and supported community with access to a range of services and facilities that contribute to health and wellbeing. In achieving this outcome, Strategy 4.1 requires Council to manage and maintain a diverse range of safe, accessible and sustainable open spaces and provide recreation, sporting and leisure activities and facilities. This proposal is considered to be consistent with this strategy as the permanent residential population will have access to the recreational facilities provided by Riverside Oaks Golf Resort which will include golfing facilities, on-site bushwalking paths and numerous tennis courts. The provision of such facilities within close proximity to the future residential development will encourage the permanent residential population to enjoy the health and social benefits that these facilities provide.

A key community outcome under the theme of 'Balanced Urban Growth' is the provision of lifestyle options that reflect our natural beauty. Strategy 7.1 requires Council to 'Manage new and existing development with a robust framework of policies, plans and processes that is in accordance with community needs and expectations'. The proposal is considered to be consistent with this strategy as the proposed amendment will create a unique housing opportunity whilst ensuring that scale of future development reflects the surrounding natural environment and the recreational facilities provided at the site.

Draft Local Strategy

To build on the then Hills 2026 Community Strategic Direction, a Local Strategy and supporting Directions have been prepared in response to the growth and development that will occur within the Shire. It provides an informed framework for land use planning and decision making with a focus on employment lands, residential development, centres, environment and leisure, and integrated transport.

In June 2008 Council adopted its Draft Local Strategy to provide the basis for the future direction of land use planning in the Shire and within this context implement the key themes and outcomes of the 'Hills 2026 Looking Toward the Future'. The Residential, Employment Lands, Environment and Leisure and the Rural Lands Strategy are the components of the Local Strategy which have relevance to this planning 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.

Furthermore, the Employment Lands Direction acknowledges the importance of the tourism industry and states that 'tourism will continue to be a strong niche industry in the Shire, providing jobs, specifically in the rural area'. The financial influx generated from the permanent residential lots and the usage of on-site facilities by those residents will assist in the ongoing operation of the tourist resort.

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 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.

5. Is the planning proposal consistent with applicable State Environmental Planning Policies?

An assessment of the planning proposal against applicable State Environmental Planning Policies is provided in Attachment A. A detailed discussion on the consistency of the proposal with the relevant Policies 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.

Development which is sited within the Hawkesbury-Nepean River Catchment is subject to consideration under the provisions of SREP No 20 (No. 2 – 1997). Its aim is to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context. This Policy requires Council to ensure that any development on the land protects the unique environment and character of the river valley. This requires consideration of the impacts of the development on the environmentally sensitive areas, water quality, water quantity, flora and fauna, riverine scenic quality, heritage and archaeological.

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.

For the reasons outlined above, the proposal is considered to satisfactorily address the requirements of SREP 20 for the current phase of the proposal's assessment. Notwithstanding this, consultation with the Hawkesbury Nepean Catchment Management Authority will be required following the issue of any Gateway Determination.

6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

The consistency of the planning proposal with the s.117 Ministerial Directions is detailed within Attachment B. The potential inconsistency with the relevant Ministerial Directions is provided below. Overall, more detailed information is required to fully 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.

2.1 Environment Protection Zone

The objective of this Direction is to protect and conserve environmentally sensitive areas and applies to all councils preparing a planning proposal. The Direction requires that a planning proposal includes provisions that facilitate the protection and conservation of environmentally sensitive areas and that land within an environment protection zone shall not reduce the environmental protection standards that apply to that land.

It is noted that whilst the site is principally zoned RE2 Private Recreation, it does contain two small areas of land zoned E2 Environmental Conservation zone. Under LEP2012, the objectives of the E2 Environmental Conservation zone are as follows:

- *to protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values; and*
- *to prevent development that could destroy, damage or otherwise have an adverse effect on those values.*

According to the proposed adjusted development concept, the locations of the permanent residential dwellings would be confined to the areas of the site zoned RE2 Private Recreation. Accordingly, the areas of the site zoned E2 Environmental Conservation will not be impacted. However, Council's Vegetation Mapping (2005) does identify that a number of vegetation communities are present on the site. Details regarding vegetation management are outlined within Question 7 of this proposal.

The application only identified an outline of areas subject to the proposed adjustments and did not include an ecological assessment to identify the extent or significance of vegetation communities on the site and did not include an assessment of the potential impact of future development on these communities. In this regard it is possible that this planning proposal is inconsistent with this Direction. However it is considered appropriate that the ecological assessment be prepared following the issue of a Gateway Determination.

It is considered appropriate that the management of flora and fauna, populations and ecological communities be undertaken via the existing assessment framework under the *Environmental Planning and Assessment Act 1979*, *Threatened Species Conservation Act 1995* and the *Environment Protection and Biodiversity Conservation Act 1999*. This will involve the preparation of a species impact assessment for any development which is likely to have a significant impact on the flora, fauna and ecological communities within the site. Compensatory Offset measures will also be considered for any significant impacts that cannot be avoided or mitigated. The offsetting measures will need to be developed in accordance with the "Principles for the use of Biodiversity Offsets in NSW".

2.3 Heritage Conservation

This Direction aims to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance. It requires that a planning proposal must contain provisions that facilitate the conservation of environmental heritage.

The subject site contains two heritage items; 'Bungool (Riverside Oaks)' and the 'Ruins of Merrymount'. These items 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. The location of the two items are identified on the following figure.

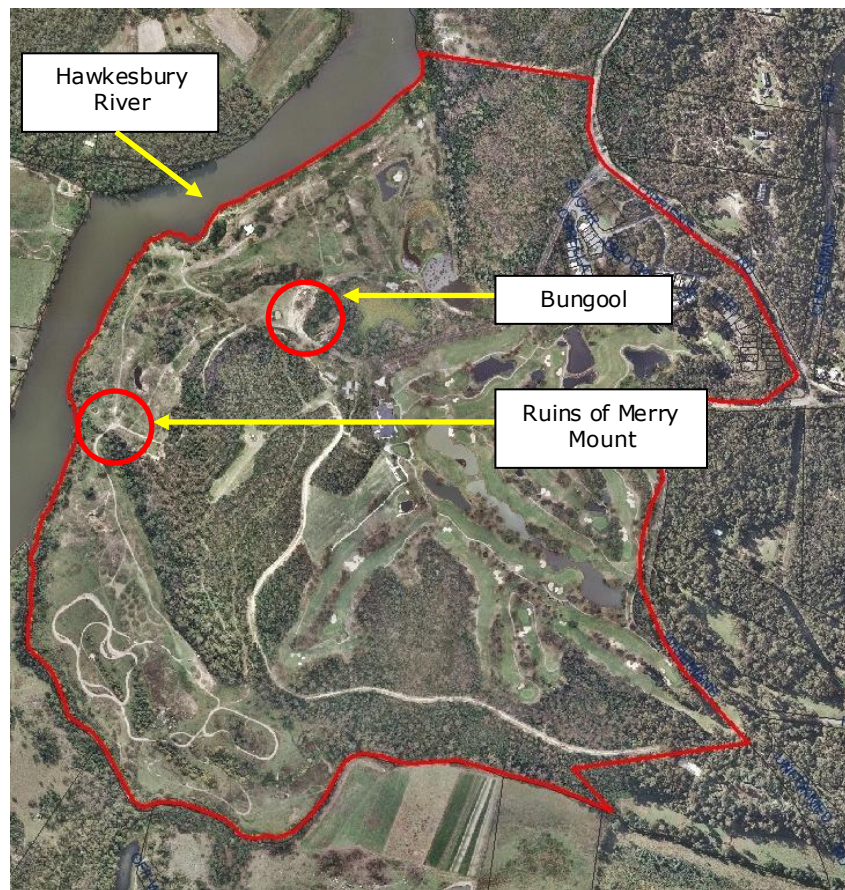


Figure 4
Heritage Items

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. Accordingly, the proposal is considered to be consistent with this Direction. Consultation with the Daruk Aboriginal Land Council will also be necessary.

3.1 Residential Zones

This Direction applies when a planning proposal will affect land within any zone in which significant residential development is proposed to be permitted. This Ministerial Direction is applicable in this instance as the planning proposal seeks to permit up to a maximum of 300 permanent residential dwellings on the site. The objectives of the Direction are:

- *to encourage a variety and choice of housing types to provide for existing and future housing needs,*
- *to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and*
- *to minimise the impact of residential development on the environment and resource lands.*

Where this Direction applies a planning proposal must address a number of requirements. The consistency of the planning proposal with the requirements of the Direction is detailed below.

- *Broaden the choice of building types and locations available in the housing market.*

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.

- *Make more efficient use of existing infrastructure and services.*

The site is already equipped with an on-site water treatment facility, on-site electricity infrastructure (two substations) and a sewage treatment facility. The facilities are currently used to service the tourist and the community title subdivision. The residential dwellings will have equal usage of these services. However, as the permanent residential dwellings will generate a higher demand for services, an infrastructure and servicing assessment will need to be prepared following the issue of a Gateway Determination to identify how the future demands will be addressed.

- *Reduce the consumption of land for housing and associated urban development on the urban fringe.*

The location of the site can be considered part of the urban fringe as it is located within the Metropolitan Rural Area in the Draft Metropolitan Strategy for Sydney 2031. Whilst the site is located within the urban fringe, it is considered that it will not increase the consumption of land for housing and associated urban development. The original development concept for the site was approved in 1989 to provide hotel accommodation and tourist facilities. Although this proposal seeks to reduce the original number of tourist accommodation units and permit up to a maximum of 300 residential dwellings, the location is approximately the same. Accordingly, no further land is to be consumed for the residential lots than would be consumed if the original development approval was completed.

- *Encourage the provision of housing that is of good design.*

The proposal seeks to amend Schedule 1 'Additional Permitted Uses' of *The Hills Local Environmental Plan 2012* (LEP 2012) to permit up to a maximum of 300 permanent residential dwellings on lots of no less than 450m² at the site. Development controls will apply to development to ensure that housing is of good design.

- *Contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it).*

An infrastructure and servicing assessment will need to be prepared following the issue of a Gateway Determination to identify how the future demands on infrastructure and services will be addressed.

- *Not contain provisions which will reduce the permissible residential density of land.*

The planning proposal seeks to permit up to a maximum of 300 permanent residential dwellings on the site. Accordingly, the proposal will not reduce the residential density of the land.

With respect to the servicing of future development, the consistency of the proposal with this Direction will be dependent on the outcome of the assessment of infrastructure and services (including wastewater management) which will be prepared following the issue of a Gateway Determination.

3.4 Integrating land Use and Transport

This Direction aims to ensure that development improves access to housing, jobs and services, increase choice of available transport, reduce travel demand, and provide for the efficient movement of freight. A planning proposal must locate zones for urban purposes and include provisions that are consistent with the aims, objectives and principles of *Improving Transport Choice – Guidelines for planning and development* (DUAP 2001) and *The Right Place for Business and Services – Planning Policy* (DUAP 2001).

The land use planning approach implemented through the Direction is to encourage 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, it will contribute to housing diversity and will facilitate the creation of a residential golf community alongside tourist accommodation.

The proposal will facilitate a unique development opportunity as 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. Whilst the planning proposal is inconsistent with this Direction, this inconsistency is considered to be justified in this instance.

4.1 Acid Sulfate Soils

The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils. An extract of the Acid Sulfate Soils Map is provided below.

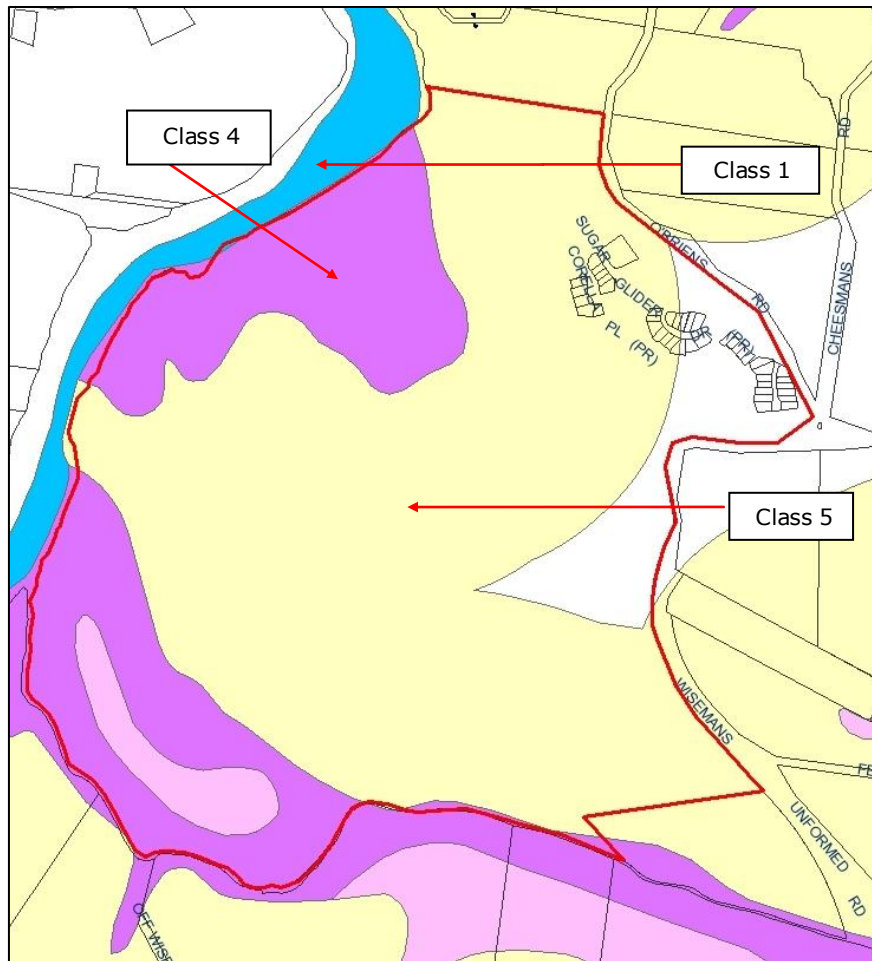


Figure 5
Acid Sulfate Soils Map

A significant portion of the site is identified as containing Classes 1, 4 and 5 Acid Sulfate Soils on the Constrained Lands Map 1 of LEP 2012. Accordingly, 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 Sulfate Soils Model Local Environmental Plan Provisions within the Acid Sulfate Soils Planning Guidelines adopted by the Director-General.

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 sulfate soils unless the relevant planning authority has considered an acid sulfate soils study assessing the appropriateness of the change of land use given the presence of acid sulfate 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*.

In accordance with the above requirement, an acid sulfate soils study will need to be prepared following the issue of a Gateway Determination. The study will assess the appropriateness of the change of land use and will give consideration to whether significant adverse environmental impacts from the change in land use will occur.

Permitting 300 permanent residential dwellings will enable land containing acid sulfate soil to be disturbed during the residential construction process. Accordingly, the consistency of the planning proposal with this Direction will be dependent on the outcome of the acid sulfate soils study.

4.3 Flood Prone Land

This Direction applies when a planning proposal creates, removes or alters a zone or a provision that affects flood prone land and requires the planning proposal to include provisions that give effect to, and be consistent with, the NSW Flood Prone Land Policy and the principles of the *Floodplain Development Manual 2005* (including the *Guideline on Development Controls on Low Flood Risk Areas*).

The Direction requires that planning proposals must not permit development that will result in significant flood impacts to other properties, permit significant increases in the development of that land or result in a substantially increased requirement for government spending on flood mitigation measures, infrastructure or services.

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.

The consistency with this Direction will be subject to the preparation of the flooding and stormwater assessment.

4.4 Planning for 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.

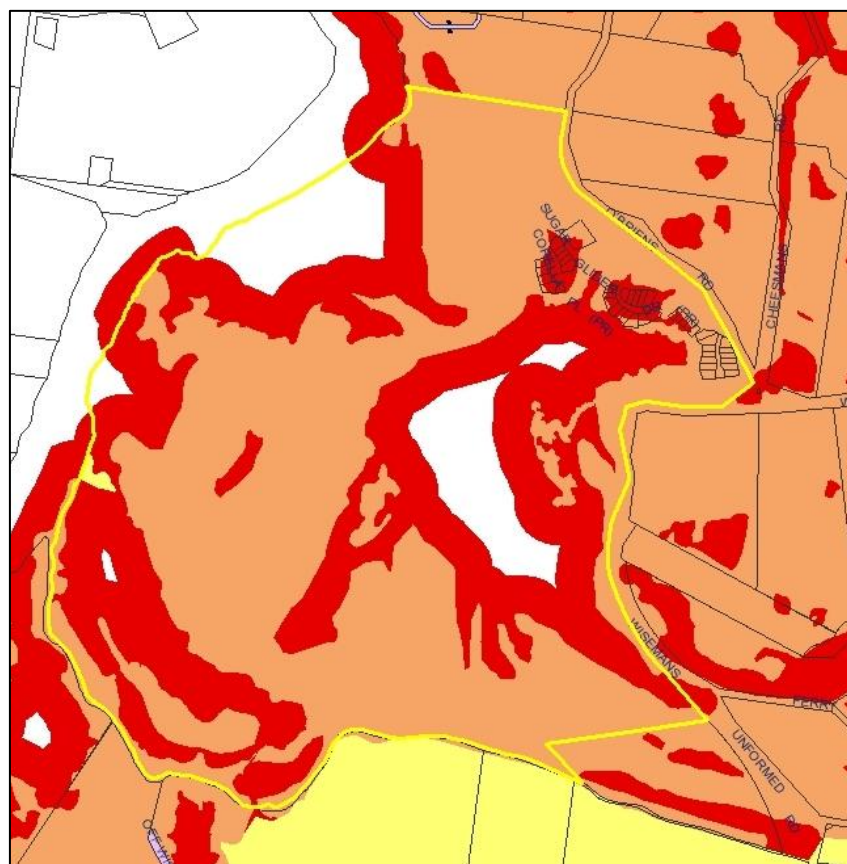


Figure 6
Bushfire Prone Land Map

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.

6.3 Site Specific Provisions

The objective of this Direction is to discourage unnecessarily restrictive site specific planning controls.

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. Whilst the planning proposal seeks to permit up to a maximum of 300 permanent residential dwellings on lots with a minimum area of 450m², the underlying land use objective of the RE2 Private Recreation zone will be maintained as the proposal will facilitate a unique housing opportunity, being a golf course living style development.

The application of additional permitted uses for this site would create an inconsistency with this Direction. However, this approach is considered to be justified as it 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 permits 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.

7.1 Implementation of the metropolitan Plan for Sydney 2036

The objective of this direction is to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in the *Metropolitan Strategy 2036*.

The planning proposal is consistent with the Strategic Directions and Key Policy Settings of the Plan. An overarching theme within the Plan is the establishment of employment and housing opportunities to satisfy the needs of a growing Sydney population. The proposal will contribute towards the targets for the North West subregion region as up to 300 residential dwellings will be directly permitted. In addition to this the extra facilities proposed to be constructed at the site will employ an additional 180 people once complete.

SECTION C - ENVIRONMENTAL, SOCIAL AND ECONOMIC IMPACT

7. *Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?*

Council's Vegetation Mapping (2005) identifies that a number of vegetation communities are present on the site. These vegetation communities, and their corresponding conservation status, is listed below.

- Shale/Sandstone Transition Forest (High Sandstone Influence)
 - *TSC Act* = Endangered Ecological Community
- Shale/Sandstone Transition Forest (Low Sandstone Influence)
 - *TSC Act* = Endangered Ecological Community
- Sydney Coastal River-flat Forest (Endangered Ecological Community)
 - *TSC Act* = Endangered Ecological Community
- Western Sydney Dry Rainforest (Endangered Ecological Community)
 - *TSC Act* = Endangered Ecological Community
 - *EPBC Act* = Critically Endangered Ecological Community
- Sydney Sandstone Ridgetop Woodland.

TSC Act = *Threatened Species Conservation Act 1995*

EPBC Act = *Environmental Protection and Biodiversity Conservation Act 1999*

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

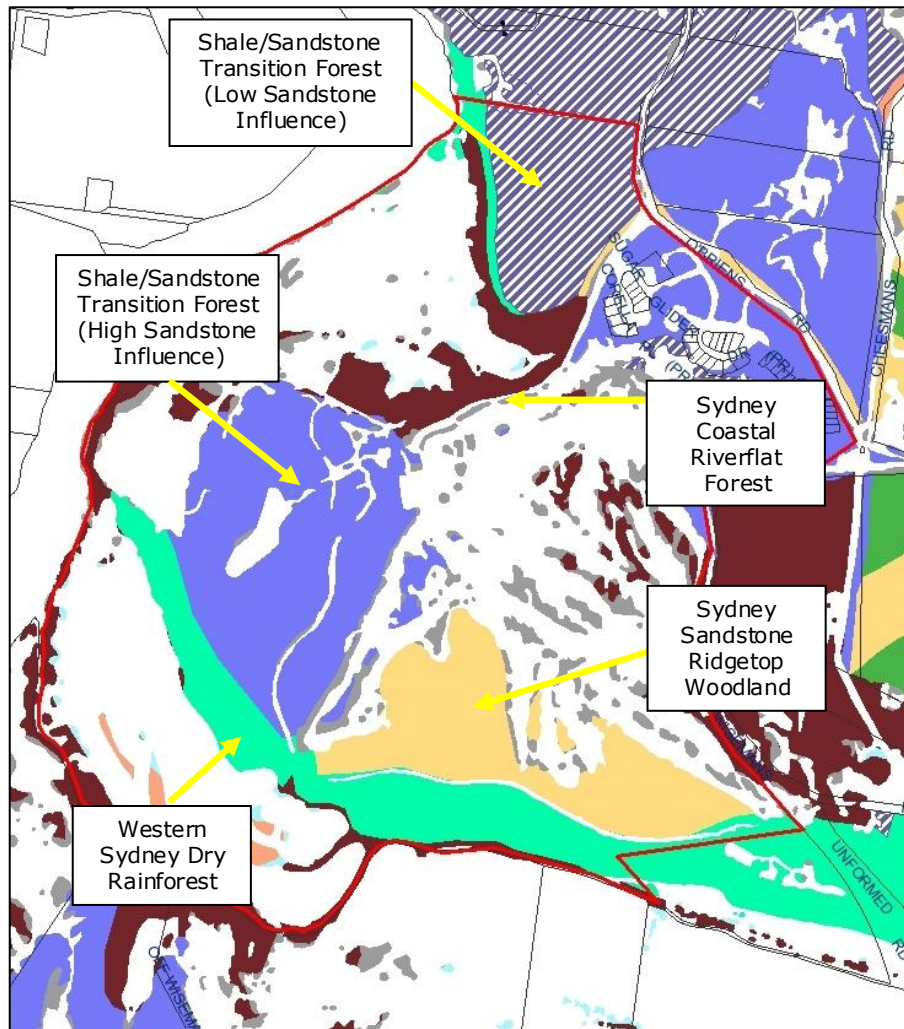


Figure 7
Vegetation Communities

Whilst 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, 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 been 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, however does not include an ecological assessment. Accordingly, the extent of significant vegetation communities and the potential impact of future development on these communities would need to be identified by the proponent through the preparation of an ecological assessment.

It is considered appropriate that the management of flora and fauna, populations and ecological communities 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.

8. *Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?*

Matters relating to the flooding and stormwater management, bushfire management, acid sulfate soils and heritage protection are discussed under Question 6 of this proposal.

9. *How has the planning proposal adequately addressed any social and economic effects?*

Social Infrastructure

It is considered that the proposal will not place any significant additional demand on social infrastructure within the vicinity of the site such as educational establishments, schools or open space facilities (either local or regional). Notwithstanding this, consultation with infrastructure providers would be required following the issue of a Gateway Determination.

Economic Effects

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 of customers 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.

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.

SECTION D - STATE AND COMMONWEALTH INTERESTS

10. Is there adequate public infrastructure for the planning proposal?

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.

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.

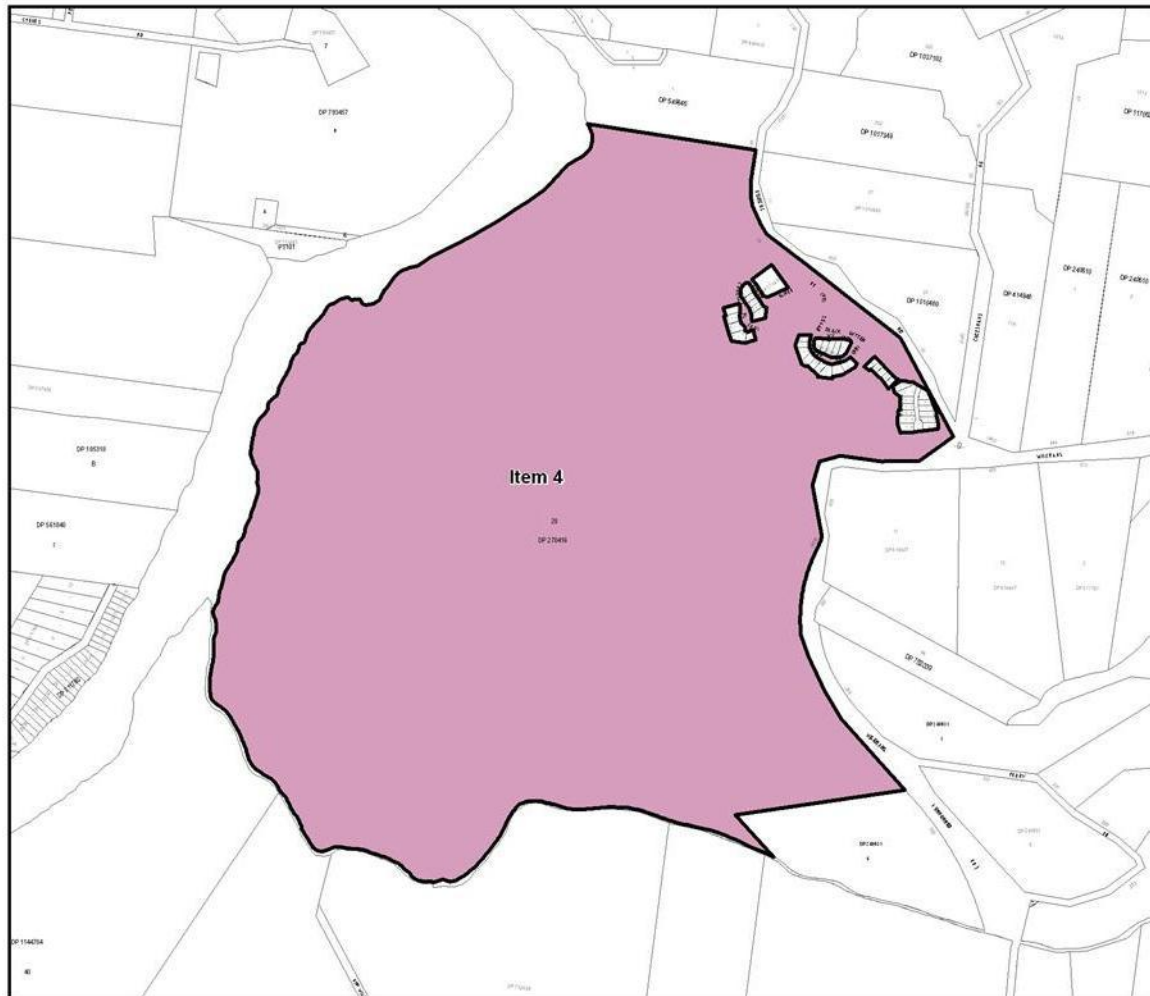
11. What are the views of State and Commonwealth Public Authorities consulted in accordance with the gateway determination, and have they resulted in any variations to the planning proposal?

The views of the State and Commonwealth Public Authorities will not be known until after the Gateway Determination. An initial list of public authorities to be consulted includes, but is not limited to, the following:

- NSW Roads and Maritime Service;
- NSW Rural Fire Service;
- Office of Environment and Heritage;
- Office of Water; and
- Catchment Management Authority – Hawkesbury/Nepean.

PART 4 MAPPING

The planning proposal seeks to amend the Additional Permitted Uses Map of LEP 2012 to identify Lot 28 DP 270416 also known as 74 O'Briens Road, Cattai, as being subject to Schedule 1 'Additional Permitted Uses' of LEP 2012.



APU Additional Permitted Uses

 refer to schedule 1

PART 5 COMMUNITY CONSULTATION

The planning proposal would be exhibited for a period of 28 days. The exhibition period would be advertised in local newspapers and on display at Council's administration building at No.129 Showground Road, Castle Hill and at Vinegar Hill Memorial Library located at No.29 Main Street, Rouse Hill Town Centre.

The planning proposal will also be made available on Council's website. In addition, notification letters will be issued to adjoining and nearby property owners advising them of the planning proposal.

PART 6 PROJECT TIMELINE

STAGE	DATE
Commencement Date (Gateway Determination)	July 2013
Completion of Required studies	September 2013
Pre exhibition government agency consultation	October 2013
Commencement of public exhibition period	November 2013
Completion of public exhibition period	December 2013
Timeframe for consideration of submissions	December 2013/ January 2014
Timeframe for consideration of proposal post exhibition	December 2013/ January 2014
Report to Council on submissions	February 2014
Date Council will make the plan (if delegated)	February 2014
Date Council will forward to department for notification (if delegated)	February 2014