

Planning Services

Plan Finalisation Report

Local Government Area: The Hills Shire

File Number: IRF17/343

1. NAME OF DRAFT LEP

The Hills Local Environmental Plan 2012 (Amendment No. 40)

2. SITE DESCRIPTION

The planning proposal applies to land at 74 O'Briens Road, Cattai, Lot 28 DP 270416 in The Hills local government area (LGA). The site is approximately 222ha and generally bound by the Hawkesbury River (north and west), O'Briens Road and Wisemans Ferry Road (east) and Little Cattai Creek (south).

The site contains the Riverside Oaks Golf Resort, which consists of golf courses, holiday accommodation and function facilities (Figure 1).

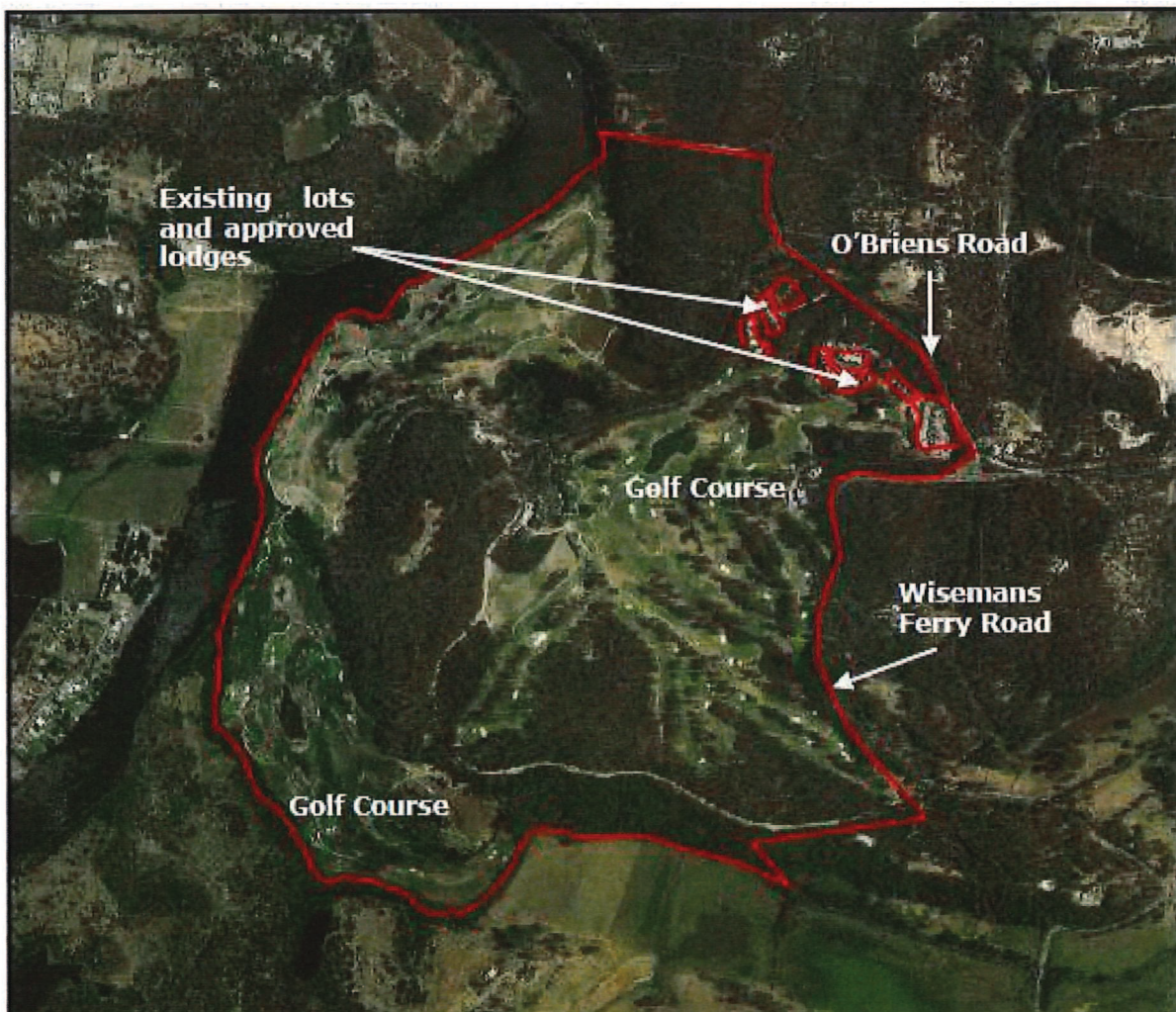


Figure 1: The site (outlined in red).

Current development approval

In December 1989, Council approved a development application for the construction of the Riverside Oaks Golf Club and Tourist Resort. The development application included the following:

- two 18-hole golf courses;
- two hotels (300 rooms);
- 188 holiday cabins (3-4-bedroom cabins) and 20 corporate lodges (240 rooms);
- a clubhouse;
- community retail facilities;
- maintenance/service facilities;
- a tennis club;
- a golf academy; and
- a driving range.

While the approved development has never been completed, it has been substantially commenced and the consent remains active. The site contains the two golf courses, the clubhouse with a corporate function room, 42 holiday cabins (29 built and 13 yet to be constructed), and five corporate lodges. The local heritage item Bungool was also approved for use as a function centre in 2012.

3. PURPOSE OF PLAN

The draft plan as submitted to the Department of Planning and Environment for finalisation sought to amend The Hills Local Environmental Plan (LEP) 2012 as follows:

1. Amend schedule 1 additional permitted uses - insert the following new clause:

Use of certain land at O'Briens Road, Cattai

1. *This clause applies to land at 74 O'Briens Road, Cattai, comprising Lot 28 DP 270416, shown as Item 8 on the additional permitted uses map.*
2. *Up to a maximum of 300 dwelling houses on lots with a minimum area of 450m² is permitted with development consent.*
3. *Residential development on the land is to occur in the following stages in conjunction with tourism infrastructure upgrades.*

Stage 1: A maximum of 59 residential dwellings and holiday cabins.

Stage 2: A maximum of 164 residential dwellings, upgrade of the main access road from O'Briens Road, and spa and treatment facilities.

Stage 3: Hotel, corporate lodges and tennis court.

Stage 4: A maximum of 77 residential dwellings.

Nothing in this clause prevents works associated with the tourism infrastructure being completed earlier than is specified above.

During the finalisation process, and after consulting with the Parliamentary Counsel's Office, the draft plan will amend The Hills LEP 2012 as follows:

2. Amend schedule 1 additional permitted uses – insert the following new clause:

Use of certain land at 74 O'Briens Road, Cattai

1. *This clause applies to land at 74 O'Briens Road, Cattai, being Lot 28 DP 270416, shown as Item 8 on the additional permitted uses map.*
2. *Development for the purposes of dwelling houses is permitted with development consent.*

3. Development consent under this clause may only be granted if the consent authority is satisfied that:

- a. the development will not result in the erection of more than 300 dwelling houses on the land to which this clause applies; and
- b. no dwelling house will be erected on a lot with a lot size of less than 450 square metres.

4. Development consent must not be granted for development under this clause unless a development control plan that provides for the phasing of development has been prepared for the land.

3. Insert additional permitted uses maps (APU_003 and APU_004) – identify an additional permitted use on the site.

The primary purpose of the draft LEP is to facilitate the development of 300 dwellings with a minimum lot size of 450m². The proposed dwellings will be developed within four residential precincts (Precincts A, B, C and D – Figure 2). The site is zoned RE2 Private Recreation and E2 Environmental Conservation under The Hills LEP 2012. The draft plan will not change the zoning of the site or the existing development standards.

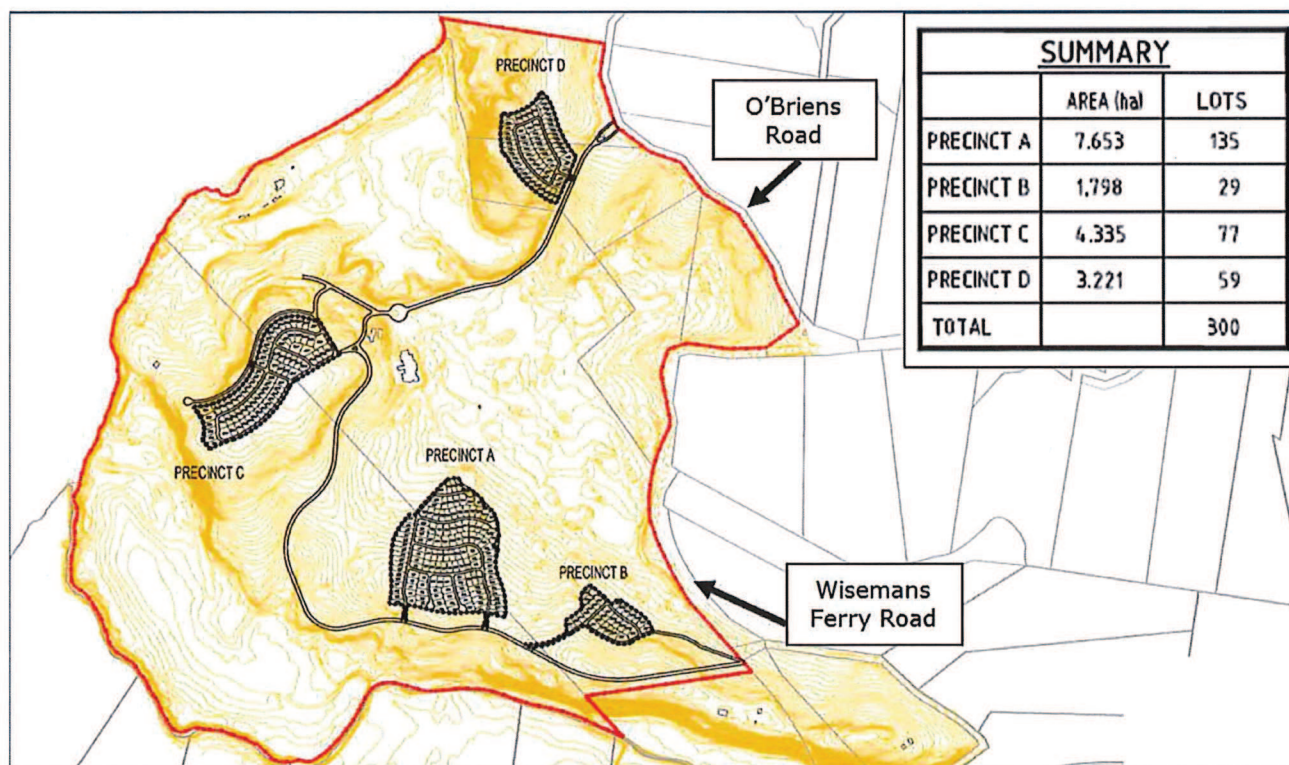


Figure 2: Proposed residential concept plan.

Council has also amended The Hills development control plan (DCP) 2012 to support the planning proposal and to help ensure appropriate staging of the site in conjunction with the delivery of tourism facilities.

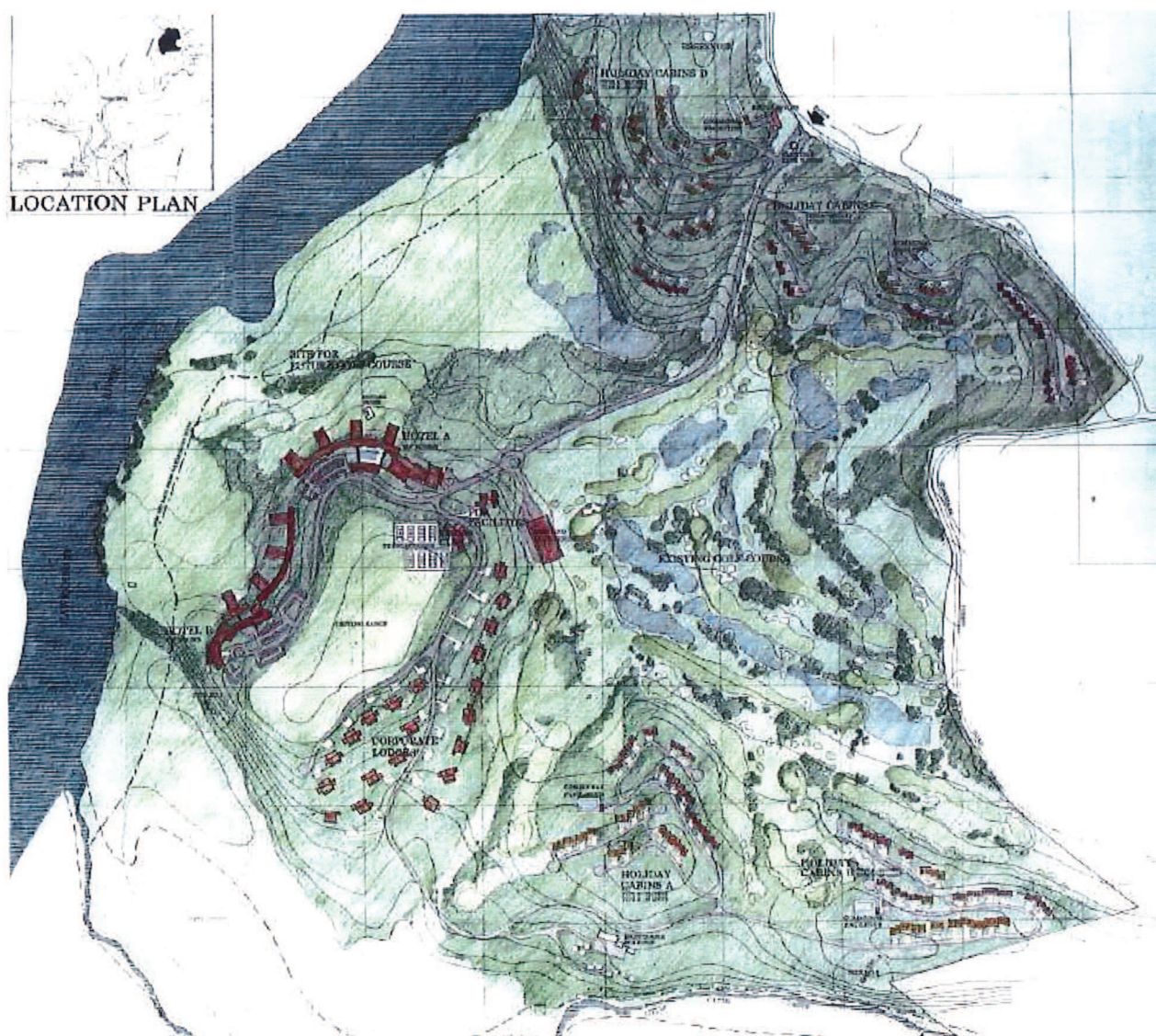


Figure 3: 1989-approved development plan.

The planning proposal will enable the proponent to amend the 1989-approved development plan to establish a permanent residential golf community (300 dwellings) alongside the existing tourist accommodation (hotel, holiday cabins and corporate lodges). The scale of the approved tourist accommodation is proposed to be reduced to allow the construction of the dwellings.

4. STATE ELECTORATE AND LOCAL MEMBER

The site falls within the Hawkesbury State Electorate. The Hon Dominic Perrottet MP is the State Member for Hawkesbury.

The site falls within the Macquarie Federal Electorate. Ms Susan Templeman MP is the Federal Member for Macquarie.

To the regional planning team's knowledge, neither MP has made any written representations regarding the proposal.

NSW Government Lobbyist Code of Conduct: There have been no meetings or communications with registered lobbyists with respect to this proposal.

NSW Government reportable political donation: A political donation disclosure statement has been provided.

5. GATEWAY DETERMINATION AND ALTERATIONS

The Gateway determination issued on 27 August 2013 (**Attachment C**) determined that the proposal should proceed subject to conditions.

Additional studies were commissioned for the planning proposal in accordance with condition 1 of the Gateway determination. The studies addressed the following: ecology; heritage; traffic and transport; bushfire hazards; acid sulfate soils; infrastructure and access; flooding and stormwater management; and justification for the use of schedule 1 (**Attachment I**).

Further details, including the Department's assessment of these studies, is provided in Appendix A of this report.

The following four Gateway extensions have been issued (**Attachment C1**):

- 21 November 2014 by 12 months;
- 6 August 2015 by six months;
- 24 February 2016 by six months; and
- 30 September 2016 by six months.

These extensions were granted to allow studies to be completed and for agencies to have sufficient time to provide comment on the proposal.

6. PUBLIC CONSULTATION

In accordance with the Gateway determination, community consultation was undertaken by Council from 17 May to 17 June 2016. Council received one written submission on behalf of the 22 owners of holiday cabins currently on-site (**Attachment E**).

The submission requested that the 42 holiday cabins be identified as residential dwellings instead of tourist accommodation. It recommends that either the 42 holiday cabins be included as part of the 300 dwellings or the total dwelling yield be increased to 342 dwellings. The submission also raised the following matters:

- the classification of the properties as holiday cabins will reduce the value of the 42 properties, resulting in adverse financial ramifications for the property owners;
- some of the holiday cabins have been occupied by the same owners for the past 10 years, therefore the owners request that the permitted use reflects the current use; and
- any future development application to construct the proposed 300 dwellings will require consent from the community association of the holiday cabins to amend the community scheme currently in place.

Council noted the community submissions and addressed the above concerns as follows:

- the principal justification for the proposal is that the funds generated by the sale of the new dwellings will enable medium-term cash inflow to underpin the tourist resort investment, therefore the inclusion of the holiday cabins is not in keeping with the aim of the proposal;
- as the lots were approved as holiday cabins, a reference in the applicant's planning documents to the buildings as being for tourism purposes is considered appropriate;
- the holiday cabins have always been part of the tourist infrastructure of the site;
- obtaining owners consent for the lodgement of future development applications on the site is a matter for the applicant to address; and

- the requested increase to the total number of residential dwellings permitted on the site will require the need to obtain an altered Gateway determination, re-exhibition and potentially further consultation with state agencies.

Council concluded that the 42 properties should remain as holiday cabins and not identified as dwellings within the planning proposal.

The Department notes that Council has responded to the community submissions. It is considered that Council has satisfactorily addressed the issues raised during the exhibition period.

7. ADVICE FROM PUBLIC AUTHORITIES

Council was required to consult the following agencies in accordance with the Gateway determination:

- Office of Environment and Heritage;
- Transport for NSW - Roads and Maritime Services;
- NSW Rural Fire Service;
- State Emergency Service;
- Sydney Water;
- Telstra;
- Endeavour Energy; and
- Hawkesbury - Nepean Catchment Management Authority.

Council has consulted these agencies. Council commenced consultation in 2014. As a result of the proponent providing additional information, further consultation was undertaken in 2016.

Agency submissions are at **Attachment D**. A copy of earlier agency submissions from 2014 are at **Attachment D1**.

Most concerns related to recommendations at the development application stage, which Council has appropriately noted. Council has addressed the public agency submissions in **Attachment F** and in its report at **Attachment G**. At its meeting on 25 October 2016, Council resolved to proceed with the planning proposal.

Outstanding agency objections

Council received two objections from the State Emergency Service (SES) in relation to flooding and evacuation, and another from the Office of Environment and Heritage (OEH) regarding flood and evacuation, biodiversity and heritage issues.

State Emergency Service

SES objected to the proposal on the basis that:

- a regional planning strategy was under development for the Hawkesbury-Nepean Valley and it is preferred that pending developments comply with this strategy;
- several aspects of the evacuation strategy are of a concern, including that the exclusion of parts of the site from the evacuation calculations and the lack of viable routes through the site for evacuation during a flood event;
- reliance on a site-specific flood plan to ensure public safety rather than a local flood plan for the broader community; and

- the site is isolated and development within a flood area will add undue complexity to evacuation rescue and resupply operations in a significant flood event.

Council noted that when the planning proposal was considered, the Hawkesbury-Nepean Regional Planning Strategy had not been released and it was considered unreasonable to delay the planning proposal further. However, further information was provided to demonstrate there would be sufficient time to safely evacuate the site during a flood event.

Council considers that the planning proposal has satisfactorily addressed issues relating to site access, evacuation and flood emergency response planning to manage the flood risk and evacuation process.

The Department met with the SES on 7 February 2018 to discuss its concerns with the proposal (these are outlined below). On 16 February 2018 (**Attachment K**), the SES wrote to the Department advising that the proposal may proceed on the basis that:

- the access roads are above the 1-in-100-year flood level; and
- any future development on the site addresses clause 7.3 (Flood Planning) of The Hills LEP 2012.

The Department agrees with SES that minimum engineering standards would need to be employed to provide a viable evacuation route throughout the site, i.e. the access roads would be required to be above the 1-in-100-year flood level as recommended in the flood report. The Department notes that this can be addressed at the development application stage, particularly consideration of clause 7.3 of The Hills LEP.

The Department has also reviewed the proposal against the Hawkesbury-Nepean Valley Flood Risk Management Strategy and considers that it is consistent with the strategy given that the site can be evacuated safely during a flood event, and that the flood evacuation and emergency planning measures for the site can be further developed through the development application process.

Office of Environment and Heritage

OEH raised concerns regarding inconsistency with section 9.1 Directions, flood risk, biodiversity, Aboriginal heritage and the draft DCP.

A summary of these issues, Council's response and the Department's comment is provided in Table 1 below. The Department considers that Council has adequately addressed the issues raised by OEH and has amended the planning proposal appropriately where required.

Table 1: Summary of OEH's concerns

| Key issue | Council's response | Department comment |
|---|---|---|
| Inconsistency with Ministerial Directions: <ul style="list-style-type: none"> 3.1 Residential Zones, 3.4 Integrating Land Use and Transport and 4.3 Flood Prone Land | Council considers that the proposal is consistent with Directions 3.1 and 3.4 | Council has satisfactorily demonstrated that the inconsistency with these Directions is justified or of a minor nature. |
| Flood risk management: <ul style="list-style-type: none"> Flood risk on future residents on the site remains significant given the current evacuation constraints. | Council considers that several flood mitigation measures have been proposed to address flooding impacts, including ensuring evacuation routes will be above | The Department is satisfied that Council has demonstrated there is sufficient time to evacuate future residents and the recreational facility during a flood event. |

| Key issue | Council's response | Department comment |
|--|--|---|
| <ul style="list-style-type: none"> Need to consider the development in a regional context to adequately assess cumulative impacts on existing evacuation capacity. | <p>the 1-in-100-year flood event; the installation of boom or lockable gates (see Figure 12 on page 9 of Appendix A for locations); the installation of a local water level recorder for the Hawkesbury River at Riverside Oaks linked to a local flood warning system; developing a flood education program; and preparing a detailed flood emergency plan.</p> | <p>Furthermore, the SES has confirmed that the proposal may proceed on the basis that evacuation roads are located above the 1-in-100-year flood level.</p> |
| <p>Biodiversity:</p> <ul style="list-style-type: none"> Significant concerns with the potential biodiversity impacts, particularly the loss of 24.5ha of critically endangered ecological communities and Shale/Sandstone Transition Forest, and impacts on the threatened Yellow-Bellied Gliders (YBG). | <p>Council considers that proposed conservation measures including retention of key habitat features for threatened fauna, maintaining habitat connectivity, biobanking, revegetation works, weed management and the preparation of a vegetation management plan provide a more balanced and sustainable ecological outcome for the site having regard to the approved 1989 master plan.</p> | <p>The Department acknowledges that the concept development plan included with the planning proposal will require the removal of vegetation. However, these areas have current development consent for works and the proposed concept accompanying this planning proposal is an opportunity to reduce the impact on vegetation compared to the development consent. The Department also supports the proposed mitigation measures as they aim to balance the removal of significant vegetation with the protection and maintenance of vegetation elsewhere on the site.</p> |
| <p>Aboriginal heritage:</p> <ul style="list-style-type: none"> the proponent's Aboriginal Heritage Due Diligence Assessment is considered to be insufficient to support the planning proposal; a more detailed assessment is required to determine if there are Aboriginal objects on the site and the appropriate mitigation measures for these objects; and any impact on Aboriginal items will require an Aboriginal Heritage Impact Permit. | <p>Council consider that this matter should be considered in more detail at the development application stage and that no further action is required.</p> | <p>The Department considers that options are available to either avoid the Aboriginal site or apply for a permit, which can be addressed during the development application process. The Department also notes there are existing provisions in clause 5.10 of The Hills LEP 2012 to address the impacts on heritage.</p> |
| <p>Draft DCP:</p> <ul style="list-style-type: none"> inconsistency between proposed controls and recommendations of the bushfire report; and recommendations in relation to the protection of vegetation and measures for mitigating impacts on YBG which are not reflected in the draft DCP. | <p>Council has updated the proposal to remove any inconsistencies and considers that the vegetation management plan will manage flora and fauna issues, and therefore it is not the role of the DCP to duplicate these requirements.</p> | <p>The Department considers that Council has addressed most of the issues raised by OEH in relation to the draft DCP.</p> |

8. POST-EXHIBITION CHANGES

Council proposed to alter the wording of the proposed additional permitted use clause in response to submissions received and Council concerns that the proposal could lead to a change in overall use of the site from tourist facility to residential land.

Department comment

Re-exhibition of the planning proposal is not considered necessary given the proposed wording of the written instrument is indicative only and was always subject to legal drafting. The changed wording does not alter the intention of the planning proposal or the application of the clause at the development application stage. The Department is satisfied that the drafting achieves the intent of the proposal as exhibited and, in conjunction with the DCP, will deliver the planning outcomes desired by Council.

9. ASSESSMENT

Section 9.1 Directions

The Gateway determination (**Attachment C**) required Council to assess the final planning proposal against the relevant section 9.1 Directions. However, at the time of the determination, the Secretary agreed that the planning proposal's inconsistency with section 9.1 Directions 6.3 Site Specific Provisions and 7.1 Implementation of A Plan for Growing Sydney are of minor significance. Therefore, no further approval is required in relation to these Directions.

The consistency of the final planning proposal with the relevant section 9.1 Directions is addressed as follows:

Direction 2.1 Environment Protection Zones

This Direction aims to protect and conserve environmentally sensitive areas. It applies to the planning proposal as the site contains endangered ecological communities and terrestrial biodiversity under The Hills LEP 2012.

The planning proposal is inconsistent with this Direction as it involves the removal of 25.74ha of vegetation on the site. However, this inconsistency is considered to be justified by a study prepared in support of the planning proposal, which considers the objectives of this Direction.

The ecological report (**Attachment G5**) recommends several conservation initiatives for the site including a 32.08ha biobank area, 31.97ha of protected vegetation and 12.07ha of replanted vegetation. These initiatives are considered suitable to offset the loss of 25.74ha of vegetation.

Part of the site is mapped on the terrestrial biodiversity map under The Hills LEP 2012, which applies clause 7.4 Biodiversity (Terrestrial) to the site. All future development applications will need to consider this clause, which aims to protect native fauna and flora, protect ecological processes and encourage the recovery of native fauna and flora and their habitats. Therefore, the current environmental protection standards will not be reduced for the site.

Council also notes that the planning proposal will have a better ecological outcome compared to the existing 1989 development approval. The proposed vegetation management plan has considered the ecological impacts on the site and developed an appropriate offset strategy for the site.

Department comment

The Department recommends that the delegate of the Secretary agree that the inconsistency of the planning proposal with Direction 2.1 Environment Protection Zones is

justified by a study prepared in support of the planning proposal, which considers the objectives of this Direction.

Direction 3.1 Residential Zones

Council notes that the planning proposal is consistent with this Direction as it will increase housing choice in the local area and will provide a golf community lifestyle. The site is currently zoned RE2 Private Recreation and will not result in rezoning rural land for additional housing. The site also contains utility infrastructure; however, additional upgrades are required.

Direction 3.4 Integrating Land Use and Transport

The objective of this Direction is to utilise and support public transport services and reduce the reliance on cars. The planning proposal is inconsistent with this Direction as the proposed residential dwellings are not within walking distance (more than 400m) of public transport (i.e. the bus stop adjacent to the site at the corner of Wisemans Ferry Road and O'Briens Road).

Transport for NSW (TfNSW) advised that bus services to the site are limited and requests that the additional bus and pedestrian infrastructure is provided from the site to the bus stop to encourage future residents to use the existing bus services.

Council noted that it would be unreasonable to require the proponent to construct the extensive footpath required; however, improvements would be provided for pedestrians. Council also highlighted that the additional 300 dwellings will provide additional patronage for bus services in the locality.

However, this inconsistency is considered to be minor as the planning proposal will facilitate a golf resort community, with the future residents likely to be retirees and overseas investors. The traffic report (**Attachment G**) also concludes that the proposed development will not have an adverse impact on the road network and will have a reduced impact compared to the existing 1989 development approval.

Department comment

The Department recommends that the delegate of the Secretary agree that the inconsistency of the planning proposal with Direction 3.4 Integrating Land Use and Transport is justified on the basis of minor significance.

Direction 4.1 Acid Sulfate Soils

The Department notes that the locations of the proposed residential precincts are generally outside the areas identified as containing high-probability acid sulfate soils risk materials and in areas of "no known occurrence" (see **Appendix A** for further details).

Therefore, the planning proposal is consistent with this Direction and future development applications will be required to address clause 7.1 Acid Sulfate Soils and undertake further work if necessary.

Direction 4.3 Flood Prone Land

This Direction aims to ensure that development of flood-prone land is consistent with the NSW Government's Flood Prone Land Policy and that potential flood impacts are considered. This Direction applies to the planning proposal as the site contains flood-prone land (1-in-100-year flood level and PMF).

The planning proposal will not rezone the recreation-zoned land and will not permit any development in floodway areas. The proposed development will not result in significant flood impacts on other properties.

However, the planning proposal is inconsistent with this Direction as it will permit residential development in the PMF extent. The flood report demonstrated that there is sufficient time to evacuate the site in the event of a flood, including to the PMF (see **Appendix A** and section 7 of this report).

Department comment

The Department recommends that the delegate of the Secretary agree that the inconsistency of the planning proposal with Direction 4.3 Flood Prone Land is considered to be justified on the basis of minor significance.

Direction 4.4 Planning for Bushfire Protection

The objective of this Direction is to protect life, property and the environment from bushfire hazards and encourage sound management of bushfire-prone areas. A bushfire report was prepared for the planning proposal as the site contains brushfire-prone land. The report concludes that the site can accommodate future residential development with the appropriate bushfire protection measures, including asset protection zones (see **Appendix A**).

However, the planning proposal is inconsistent with this Direction as it does not introduce new controls that avoid placing inappropriate developments in hazardous areas as prescribed by the Direction.

The inconsistency is justified as the Rural Fire Service (RFS) did not raise any objections to the planning proposal provided that future development applications comply with the requirements of *Planning for Bush Fire Protection 2006*. However, the RFS also recommended the proposed asset protection zones are amended and Council noted that this can be addressed at the development application stage.

Department comment

The Department recommends that the delegate of the Secretary agree that the inconsistency of the planning proposal with Direction 4.4 Planning for Bushfire Protection is considered to be justified as the RFS did not object to the planning proposal.

State environmental planning policies

The draft LEP is consistent with relevant SEPPs and deemed SEPPs.

Central City District Plan

Since the issuing of the Gateway determination, the Central City District Plan was released in March 2018.

The planning proposal aligns with the actions of the plan, including:

- Liveability Priorities and Actions – the planning proposal will provide additional housing and diversify housing choice in Cattai, and contribute to the housing target (i.e. 300 of the required 8550 dwellings for The Hills LGA); and
- Sustainability Priorities and Actions – the planning proposal will maintain and enhance biodiversity on the site as areas have been identified for biobanking, protection via a vegetation management plan, and a replanting scheme.

The planning proposal has also addressed Action 84: Respond to the direction for managing flood risk in the Hawkesbury Nepean Valley as set out in *Resilient Valley, Resilient Communities – Hawkesbury-Nepean Valley Flood Risk Management Strategy* as there is sufficient time to evacuate the site in the event of a flood. However, it is noted that the SES, OEH and the Hawkesbury-Nepean Valley Flood Risk Management Taskforce objected to the planning proposal in relation to flooding and evacuation issues. The Department considers the public agency objections to be resolved as the planning proposal

will protect property and life through several measures, as discussed in detail within **Attachment D2**.

10. MAPPING

LEP maps (**Attachment Maps**) and GIS data have been checked by the Regional Team and the ePlanning Team and have been uploaded to PCO ready for gazettal.

11. CONSULTATION WITH COUNCIL

Council was consulted on the terms of the draft instrument (**Attachment J**). Council's response to the draft LEP was received on 20 December 2017 reiterating concerns with the drafting of the LEP (**Attachment H**).

12. PARLIAMENTARY COUNSEL OPINION

On 15 January 2018, Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. This Opinion is provided at **Attachment PC**.

13. RECOMMENDATION

The planning proposal is supported as it will enable Council to provide an additional 300 dwellings and expand housing choice in the area. In addition, the planning proposal will facilitate the provision of recreational facilities within the area.

Given the above, the planning proposal should proceed to finalisation.



17/04/18

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27/04/2018

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APPENDIX A – ADDITIONAL STUDIES

A.1 Heritage

An Aboriginal Heritage Due Diligence Assessment and Preliminary Non-Indigenous Heritage Assessment (November 2013) and an Archaeological Survey Report (February 2015) were prepared to support the proposal (**Attachment I7**).

European heritage

The report noted that the site contains one local heritage item, which is “Bungool” (Riverside Oaks Golf Course) (item 71), and one local archaeological site, which is the Ruins of Merrymount (item A5) (see Figure 4). The report notes that the local heritage items are outside the proposed development area on the site.

Council advised that there are existing heritage provisions in The Hills LEP 2012 and the DCP to manage impacts on these heritage items.



Figure 4: Local heritage within the site (circled in red).

Aboriginal heritage

An Aboriginal Heritage Due Diligence Assessment and Preliminary Non-Indigenous Heritage Assessment (November 2013) and an Archaeological Survey Report (February 2015) were prepared to support the proposal (**Attachment I7**).

The report identified several Aboriginal sites within the site, most of which are outside the proposed development area on the site. However, one Aboriginal site within Precinct C (Figure 2, page 3 of the report) will be impacted by a proposed road in the concept plan. The report notes this Aboriginal site is of low archaeological significance.

The report recommends that the proposed road design be amended within Precinct C to avoid impacting on and to conserve the Aboriginal site. In addition, a 5m buffer should be preserved around the site during any future works in the area.

If impact on the Aboriginal site cannot be avoided, it will be necessary to obtain an Aboriginal Heritage Impact Permit (AHIP) prior to impacting the site. An Aboriginal Cultural Heritage Assessment Report would need to accompany the AHIP application and submitted to OEH for assessment.

Consultation undertaken by Council with the Darug Custodian Aboriginal Corporation and the Deerubbin Local Aboriginal Land Council identified that the groups consider that further assessment needs to be conducted and the site is of high significance to the Darug people (**Attachment D1**).

A.2 Ecology

The Ecological Assessment Report (March 2016) (**Attachment I1**) identified several threatened or endangered species within the site in accordance with the *Environmental Planning and Assessment Act 1979 (EP&A Act)*, the *Threatened Species Conservation Act 1995 (TSC Act)*, the *Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)* and the *Fisheries Management Act 1994 (FM Act)*.

The threatened or endangered species include the following:

- 13 threatened fauna species including Yellow-bellied Sheath-tail-bat, East-coast Freetail Bat, Grey-headed Flying-fox, Yellow-bellied Glider, Varied Sittella, Powerful Owl, Little Lorikeet, Little Eagle, Large-footed Myotis, Glossy Black-Cockatoo, Gang-gang Cockatoo, Eastern Bentwing-bat and Little Bentwing-bat;
- five endangered ecological communities (EECs) were recorded including Shale-Sandstone Transition Forest, Western Sydney Dry Rainforest, River-flat Eucalypt Forest on Coastal Floodplains, Swamp Oak Floodplain Forest and Freshwater Wetlands (Figure 5, next page).

No threatened flora species were recorded.

The report concludes that the planning proposal will result in the loss of approximately 25.74ha of vegetation on the site, consisting of the following:

- 24.55ha of Shale-Sandstone Transition Forest (EEC);
- 0.50ha of Shale-Sandstone Transition Forest (managed) (EEC);
- 0.11ha of Western Sydney Dry Forest (EEC); and
- 0.58ha of River Flat Eucalypt Forest (EEC).

The report recommends the following offset measures to mitigate the impacts of the proposed development (Figure 6, next page):

- 32.08ha will be identified as a biobanking area, comprising of:
 - 22.49ha of Shale-Sandstone Transition Forest;
 - 5.59ha of Western Sydney Dry Forest; and
 - 4ha of River Flat Eucalypt Forest;
- 31.97ha will be protected by a vegetation management plan on community land and a restriction on land title at the development application stage, comprising of:
 - 28.11ha of retained vegetation; and
 - 3.86ha as a tree retention area;
- 12.07ha will be replanted with native trees within the golf course.



Figure 5: Existing vegetation.

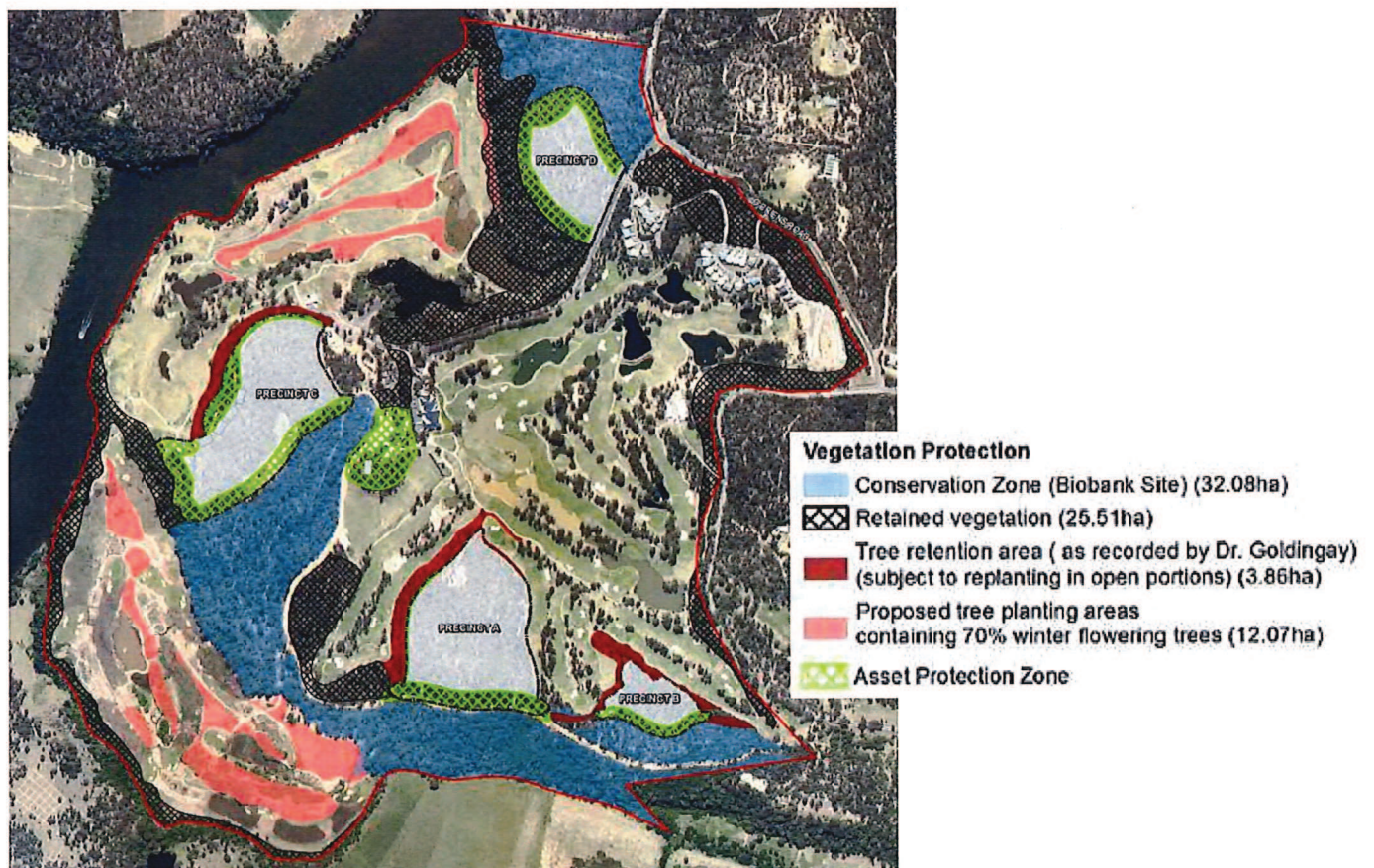


Figure 6: Vegetation management plan.

The report advised that the Yellow-Bellied Glider (YBG) population within the site might be impacted by the proposed loss of vegetation. Therefore, an additional study was undertaken and determined that the planning proposal provides sufficient connectivity across the site, resulting in limited impacts on the YBG habitat. It was also recommended that a specific management plan for the species should be prepared and approved before being submitted to Council for assessment.

Council noted that the proposed development will have a lesser impact on the endangered ecology within the site compared to the current 1989 development approval. Council also stated that the planning proposal is an opportunity to better balance the development of the site with improved ecological outcomes.

The report also notes that the planning proposal will not impact wildlife movement through the site. The green line in Figure 7 illustrates the proposed wildlife corridor through the site (which will be maintained), which connects to the vegetation on adjoining land.

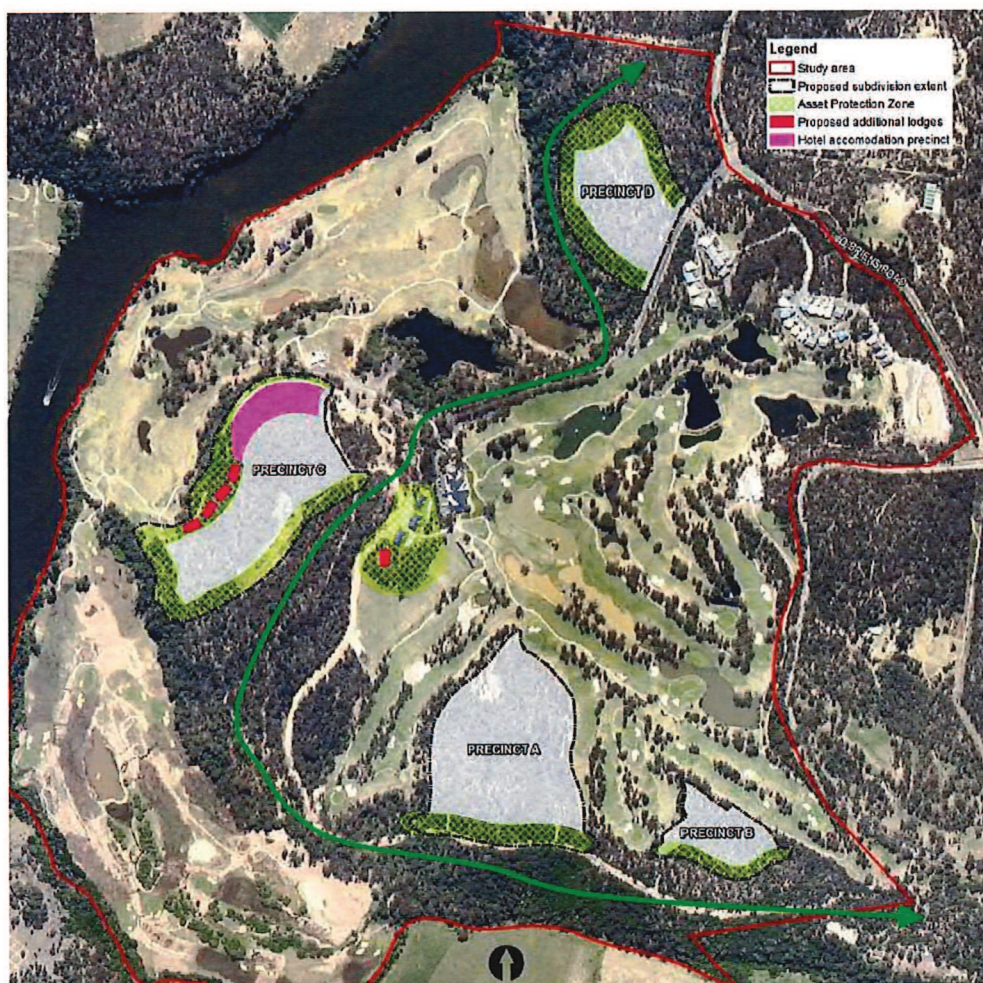


Figure 7: Proposed wildlife corridor shown in green.

Department comment

The Department concludes that although the planning proposal will remove some vegetation from the site, this is on areas already approved for development, and the current concept development plan has a lesser impact. Further, positive offset measures are recommended to mitigate the impacts. These measures are considered to be suitable and will continue to enable wildlife movement through the site. Part of the site also contains mapped terrestrial biodiversity on the terrestrial biodiversity map under The Hills LEP 2012. The portions mapped under the aforementioned clause will require consideration of the

objectives that detail the need for minimisation of environmental impacts for any subsequent development applications.

A.3 Acid Sulfate Soils

A Preliminary Acid Sulfate Soils Report (November 2013) was prepared as the site contains Acid Sulfate Soils (Class 1, 3, 4 and 5) (Figure 8).

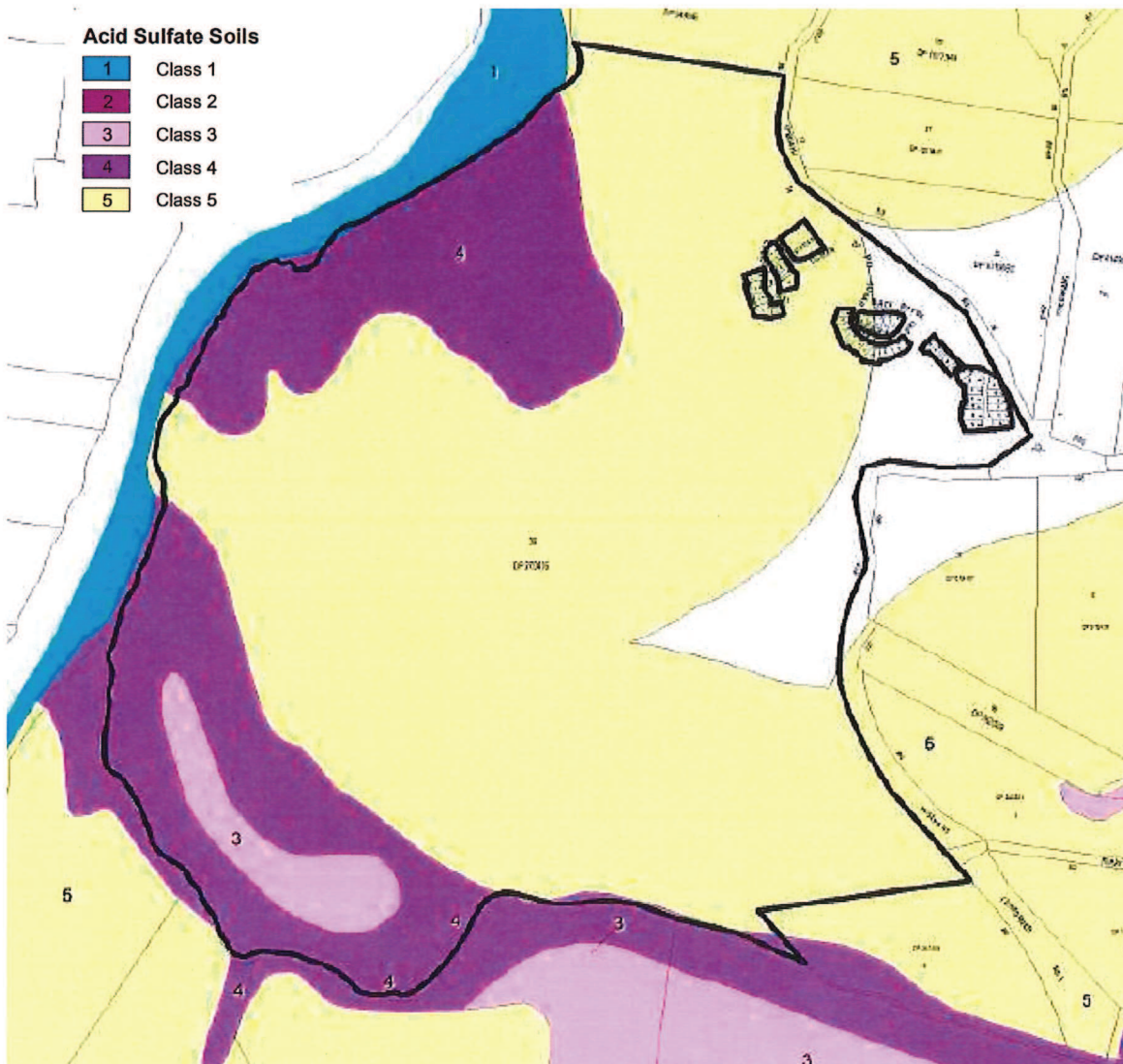


Figure 8: Acid sulfate soils map (site outlined in black).

The report notes that the locations of the proposed residential development are generally considered to be outside the areas identified as containing high-probability acid sulfate soils risk materials and in areas of "no known occurrence".

The report also recommends the following measures for future development on the site:

- undertaking further assessment to determine whether any of the Class 1, Class 3 or Class 4 land within 500m of each of the proposed development areas is located at an elevation below 5m AHD;
- where Class 1, Class 3 or Class 4 land (within 500m of any of the locations of the proposed development) is located at an elevation below 5m AHD, a preliminary hydrology study should be undertaken to determine if the works are likely to affect groundwater levels; and
- the preparation of an acid sulfate soil management plan for some or all the proposed development if required.

Council noted that any development application for residential development will need to address clause 7.1 Acid Sulfate Soils of The Hills LEP 2012, which includes the above recommendations.

Department comment

The Department concludes that the planning proposal adequately considers acid sulfate soil issues on the site and that there are appropriate provisions in place to address the matter at the development application stage.

A.4 Bushfire

Most of the site is identified as bushfire-prone land being Vegetation Category 1 (orange – highest risk for bushfire) and associated vegetation buffer (red) (Figure 9). Therefore, a Bushfire Protection Assessment Report (May 2016) was prepared.

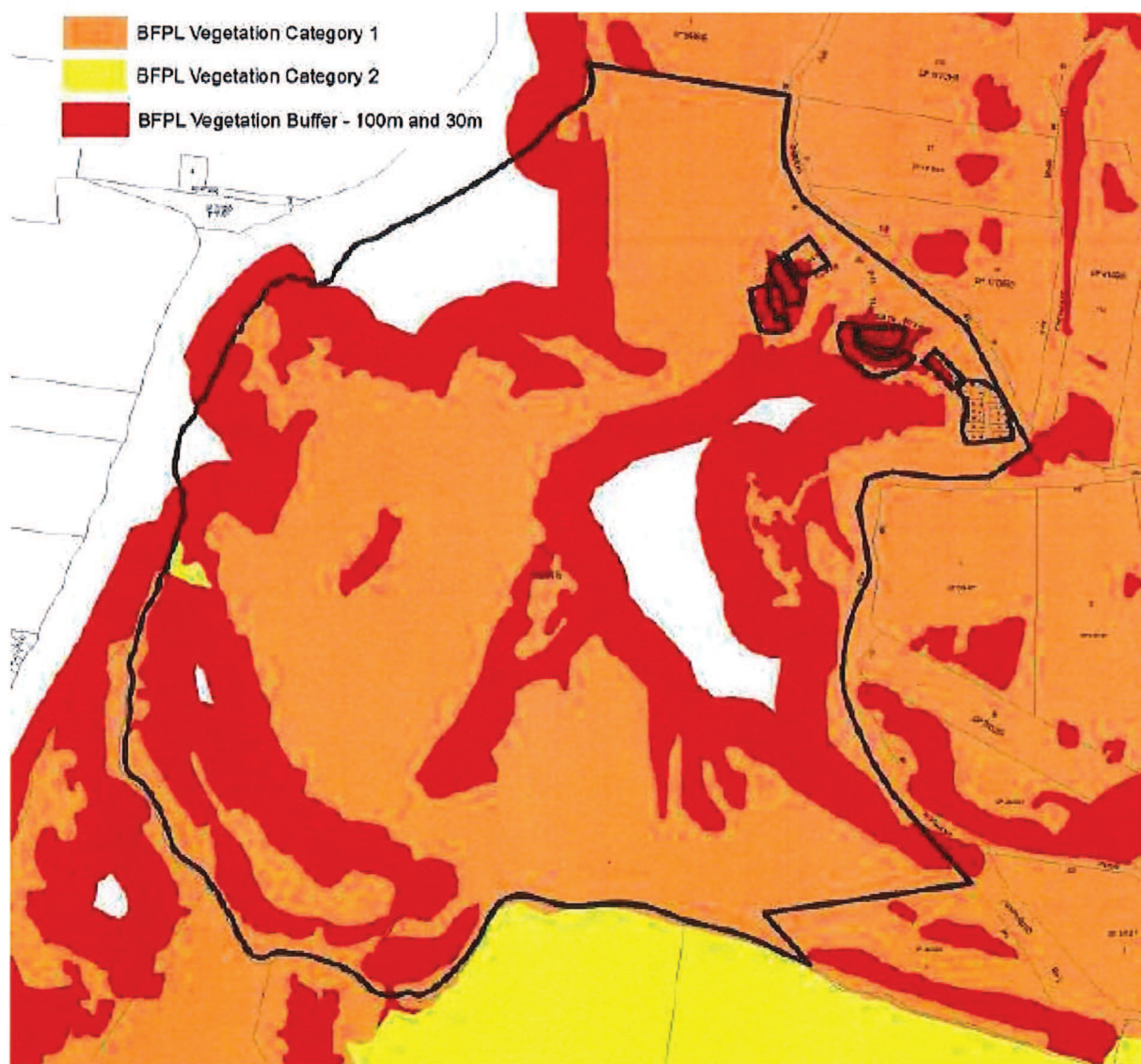


Figure 9: Bushfire-prone land map (site outlined in black).

The report concluded that bushfire risk can be mitigated if appropriate bushfire protection measures are implemented, including:

- the identification of asset protection zones (APZs);
- fuel management;

- compliance with the building construction standards in accordance with the Australian Standard;
- public and property access roads and fire trails; and
- the preparation of an emergency and evacuation plan consistent with the RFS guidelines.

Department comment

The Department is satisfied that adequate consideration and assessment of bushfire risk has taken place to support the planning proposal, and that there are a range of options available to address and reduce bushfire risk. These will be investigated further and implemented during the assessment of any future development application.

The DCP includes safety associated with bushfire as an objective for the site. One of the provisions of the draft DCP requires that the APZ does not impact the identified vegetation conservation areas within the site.

A.5 Flooding and stormwater

The site contains Halls Lagoon, a tributary from Little Cattai Creek and Wheeny Lagoon. The site is also adjacent to the Hawkesbury River (west) and Little Cattai Creek (south).

A Stormwater Management Report and Flood Study (April 2015) and Flood Evacuation Assessment Report (February 2015) (**Attachment I3**) were prepared for the proponent as the site contains flood-prone land (1-in-100-year flood level also known as 1% AEP flood and PMF) (Figures 10 and 11, next page).

The stormwater management strategy proposed for the site consists of a series of individual structural stormwater treatment measures or a “treatment train” approach to water sensitive urban design (WSUD), and includes on-lot treatment, street-level treatment and subdivision / development treatment measures. Provision of the proposed stormwater treatment measures within the development will ensure the post-development stormwater discharges will meet both Council’s and OEH’s water quality objectives.

The provision of WSUD-based stormwater treatment measures within the development will also assist in minimising the impact of changes on catchment hydrology that may impact on Little Cattai Creek and the Hawkesbury River as a result of the development.

The flood study notes that the time available for evacuation is equal to the warning time, which is estimated to be nine hours. It estimates that the time required to evacuate Precincts A, B and C would be four hours and approximately 5.6 hours to evacuate the entire site, excluding Precinct D. The evacuation of Precinct D would only add 15 minutes to the total time needed to evacuate the entire site.

The report concludes that the future residents of the site can be evacuated within the available time for Hawkesbury River flooding. In addition, even if local creek flooding coincides with the Hawkesbury River flooding, there is surplus time for the site to be evacuated. However, there is the rare potential that local flooding will isolate part of the site but only for a short period, though this is considered to be tolerable.

The report also recommends that the key evacuation routes are raised above the 1-in-100-year flood level, the installation of gates to obstruct drivers from entering flooded roads, the development of a flood warning / evacuation system and a flood education program, and the preparation of a detailed flood emergency plan. Flood mitigation measures are illustrated in Figure 11 (next page).

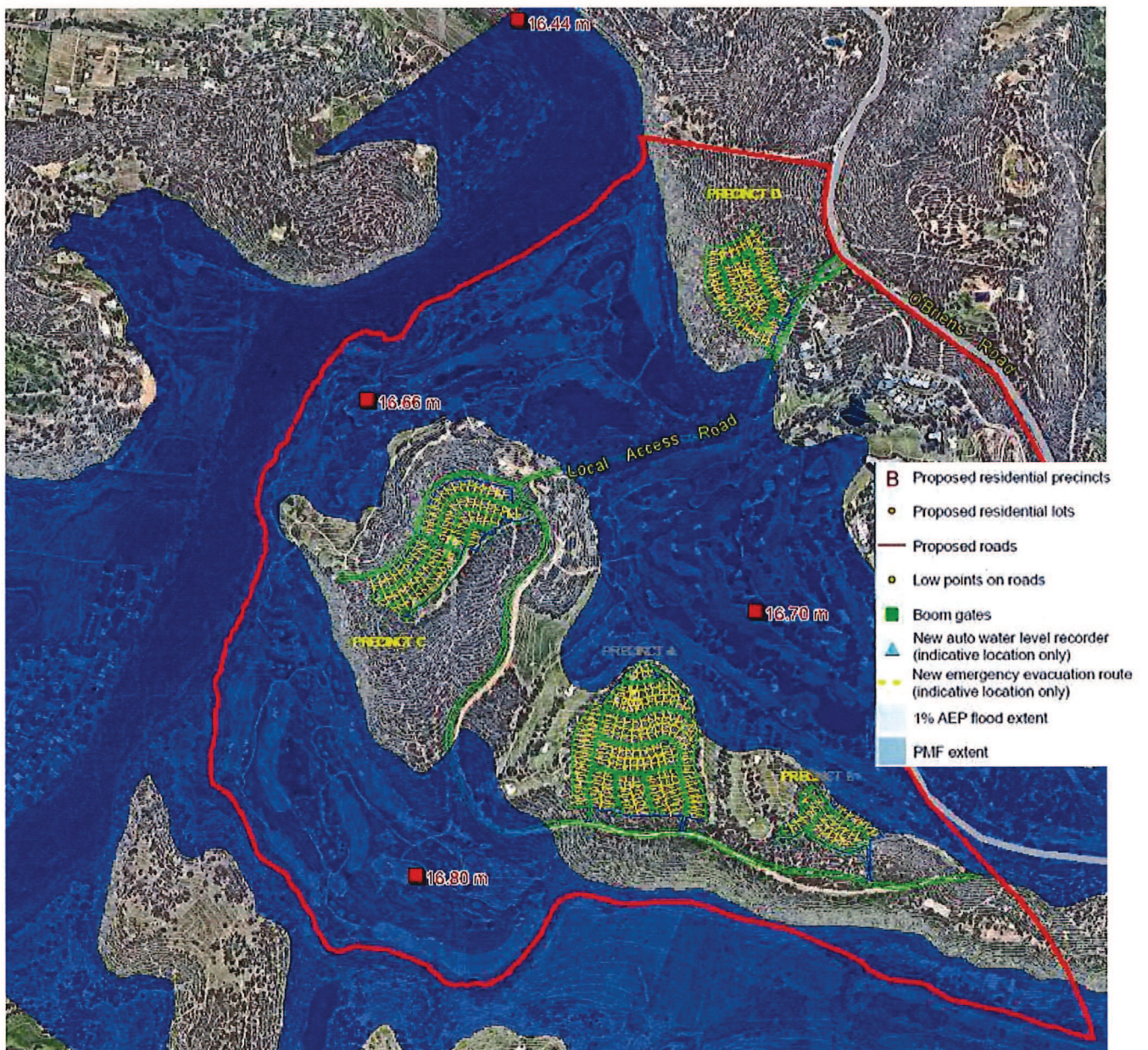


Figure 10: Flood-prone land.



Figure 11: PMF map (site outlined in red).

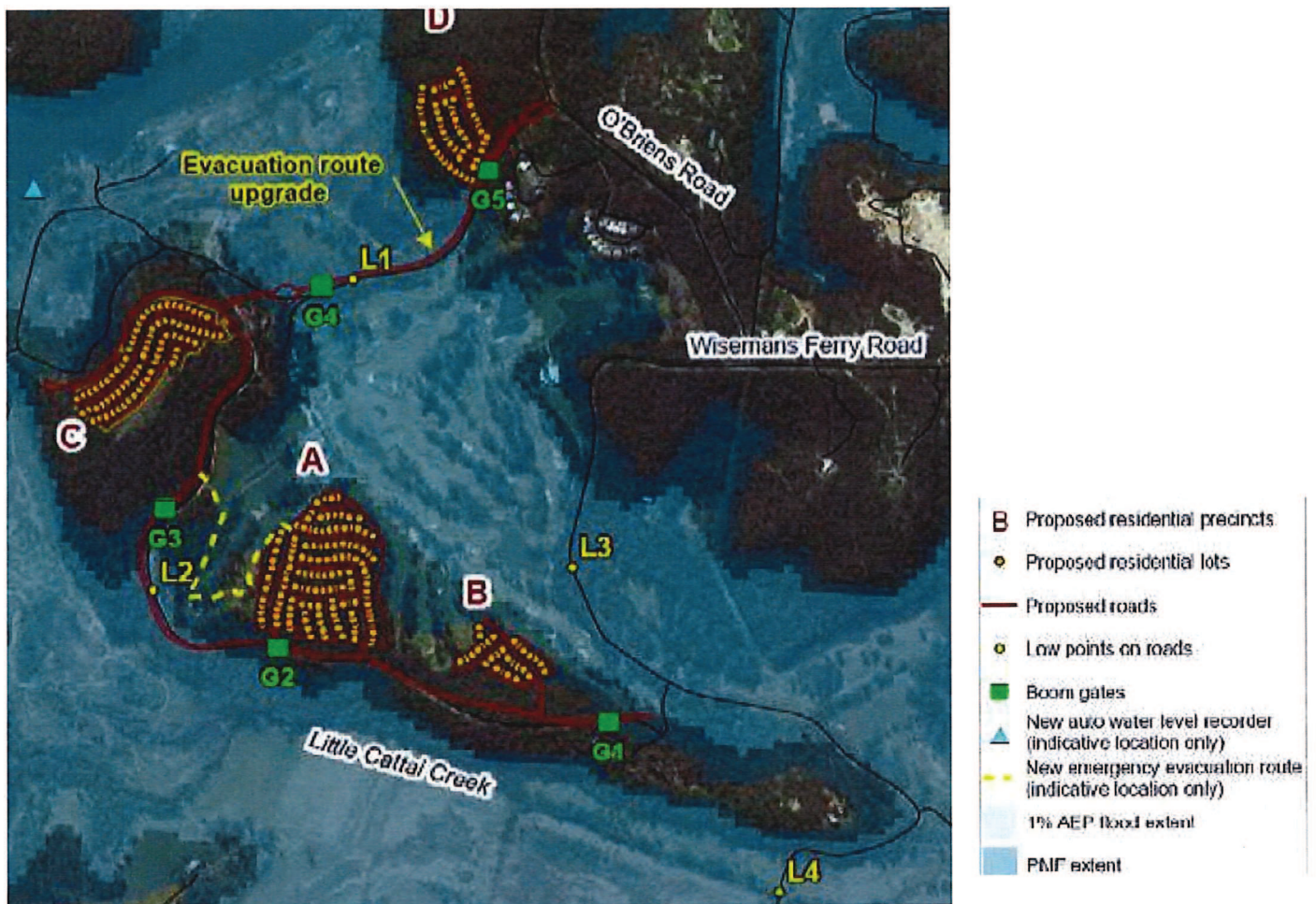


Figure 12: Flood extent and mitigation measures.

Department comment

The flood report prepared for the planning proposal has considered the additional evacuation traffic from the site on the capacity of regional evacuation routes. Traffic from the site will join other local traffic from flood-affected areas of Cattai, South Maroota, Sackville North, Lower Portland, Leets Vale and Wisemans Ferry on the Old Northern Road evacuation route.

The report estimates that approximately 1200 vehicles will evacuate flood-prone areas between Riverside Oaks and Wisemans Ferry during a flood event. Using the SES-recommended value for route capacity of 600 vehicles/hour, the time required to evacuate the site and the local area would be 8.4 hours, which is sufficient time as the Bureau of Meteorology allocates a nine-hour response time for the area.

The report also recommends a flood education program be developed for the site to ensure that future residents understand “they will need to evacuate even though their houses may not be directly threatened, in order not to be isolated for periods of several days”. This recommendation aligns with Outcome 5 of *Resilient Valley, Resilient Communities* regarding increasing awareness and preparing future residents in the event of a flood.

The Department concludes that the planning proposal is consistent with the Hawkesbury-Nepean Valley Flood Risk Management Strategy for the above reasons.

The Department is also satisfied that that the development concept has adequately considered the impact of flood-prone land, and future development areas and access roads can be located above the 1-in-100-year flood level; however, the northern portions of

Precinct A and B are affected by the PMF extent. It is also noted that the report demonstrates there is sufficient time to evacuate the site in the event of a flood.

A.6 Schedule 1 Additional Permitted Use

Council notes that including dwellings as an additional permitted use on the site would provide it with greater control over the extent of residential development on the site. Council intends to link the construction of the proposed dwellings with the staging of the tourist and recreation facilities through the site-specific DCP. Council also advised that rezoning the entire site to a residential zone would open the potential for the site to lose its predominant use as a tourist and recreation facility.

Department comment

The Department concludes that Council has justified the inclusion of an additional permitted use under schedule 1. It is considered that rezoning the site to a residential zone would not be suitable for the site.

A.7 Traffic and transport

A traffic report (November 2013) was prepared to support the planning proposal. The report advised that the planning proposal is anticipated to generate an additional 43 trips and 15 trips during the weekday morning and evening peak periods respectively compared to the existing 1989 development approval.

The report notes that the intersection of Wisemans Ferry Road and O'Brien's Road will continue to operate within capacity during the weekday peak periods, irrespective of whether the 1989 development approval or the proposed development is constructed.

The report concludes that the planning proposal will not have an adverse impact on the efficiency of the surrounding road network and no further mitigation works are recommended.

Department comment

The Department is satisfied that the planning proposal has adequately considered the traffic impacts of the proposed development on the existing road network.

A.8 Infrastructure and access

The proponent commissioned an infrastructure report (February 2014), which concludes that there is capacity in the current electrical network to supply the proposed dwellings associated with the planning proposal. However, there are potential constraints with the voltage regulation, and further assessment should be conducted at the connection stage.

The site contains utility infrastructure including an on-site water treatment facility, on-site electricity infrastructure (two substations) and a sewage treatment facility. However, the proposed dwellings will generate a higher demand. Therefore, an adjusted concept is required for sewage and water treatment as outlined in the wastewater assessment report (May 2015). The report concludes that there is sufficient land to cater for the new facilities.

Department comment

The Department considers that the proposed development can be supplied with the appropriate infrastructure. Council has consulted the relevant service providers and there are no objections to the planning proposal.