

## COUNCIL ASSESSMENT REPORT

<b>Panel Reference</b>	PPS-2019CCI032
<b>DA Number</b>	DA 1528/2019/JP
<b>LGA</b>	The Hills Shire Council
<b>Proposed Development</b>	Concept Masterplan Development Application for the redevelopment of the Riverside Oaks incorporating a Hotel Precinct (150 Rooms), Lodge Precinct (60 Rooms), Subdivision of up to 300 Lots and Associated Works.
<b>Street Address</b>	Riverside Oaks Golf Course, 74 O'Briens Road, Cattai (Lot 28 in DP 270416)
<b>Applicant</b>	Nanshan Holdings (Aust) Pty Limited
<b>Consultant/s</b> Town Planner: Architect: Ecologist: Landscape Architect: Engineering: Surveyor: Traffic: Bushfire: Contamination: Archaeological: Geotechnical:	Urbis BDA Architecture Travers Bushfire and Ecology Arcadida Landscapae Architecture BG&E SDG Traffix Travers Bushfire and Ecology Douglas Partners Artefact Heritage Douglas Partners
<b>Date of DA lodgement</b>	17 April 2019
<b>Number of Submissions</b>	Three
<b>Recommendation</b>	Approval
<b>Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011</b>	CIV exceeding \$30 million \$225 million (estimated)
<b>List of all relevant s4.15(1)(a) matters</b>	<ul style="list-style-type: none"> <li>• State Environmental Planning Policy (State and Regional Development) 2011</li> <li>• Biodiversity Conservation Act 2016</li> <li>• State Environmental Planning Policy No 55 – Remediation of Land</li> <li>• State Environmental Planning Policy (Infrastructure) 2007</li> <li>• State Environmental Planning Policy - Coastal Management 2018</li> <li>• Sydney Regional Environmental Plan No 20—Hawkesbury-Nepean River</li> <li>• The Hills Local Environmental Plan 2012/2019</li> <li>• Draft Environment SEPP</li> <li>• The Hills Development Control Plan 2012</li> </ul>
<b>List all documents submitted with this report for the Panel's consideration</b>	NA
<b>Clause 4.6 requests</b>	NA

<b>Summary of key submissions</b>	<ul style="list-style-type: none"> <li>• environmental impacts</li> <li>• traffic</li> </ul>
<b>Report prepared by</b>	Robert Buckham – Principal Coordinator Development Assessment
<b>Report date</b>	November 2021 (Electronic Determination)

#### **Summary of s4.15 matters**

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report? **Yes**

#### **Legislative clauses requiring consent authority satisfaction**

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?  
*e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP* **Yes**

#### **Clause 4.6 Exceptions to development standards**

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Not Applicable**

#### **Special Infrastructure Contributions**

Does the DA require Special Infrastructure Contributions conditions (S7.24)?  
*Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions* **Not Applicable**

#### **Conditions**

Have draft conditions been provided to the applicant for comment? **Yes**  
*Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report*

## EXECUTIVE SUMMARY

The key issues that need to be considered by the Panel in respect of this application are;

- The application is a concept application made under Section 4.22 of the EP&A Act. The concept component of the application seeks approval general spacial layout and staging of precincts across the site. No construction works are proposed as part of this Development Application. All future works will be subject to further Development Applications.
- Despite originally seeking to determine the impacts under the current biodiversity legislation for the overall masterplan across the site, the applicant has requested that the draft consent conditions enable that the number and class of credits required to be retired, be determined in subsequent development applications, relating to each of the particular precincts. The applicant has also foreshadowed that an alternative pathway will be pursued in obtaining certification of the development under the transitional arrangements in cl 34A of the *Biodiversity Conservation (Savings and Transitional) Regulation 2017*. This certification would have the effect that Part 7 of the *Biodiversity Conservation Act 2016* will not apply to the determination of the Concept DA and the former planning provisions will apply instead.
- The recommended conditions of consent seek to guide the future development applications on the site in relation to Flooding, Stormwater, Servicing, European Heritage, and Ecology.
- The proposal requires approval from the Department of Primary Industries – Natural Resource Access Regulator (NRAR) under the provisions of the Water Management Act 2000. The Department of Primary Industries - Water have provided their General Terms of Approval.
- As the application relates to the future subdivision of the site for 300 dwellings and a hotel, the application requires the approval of the RFS under Section 100B of the Rural Fires Act. The Rural Fire Service has provided a Bushfire Safety Authority.
- As the proposal identifies works on and connecting to Wisemans Ferry Road, which is identified as a classified road, the future works will require the concurrence of Transport for NSW under the Roads Act. The concept works located at the intersection of O'Briens Road and Wisemans Ferry Road and new emergency access point (bushfire) proposed on Wisemans Ferry Road are supported by Transport NSW.
- The application was publicly exhibited and notified to surrounding properties for 31 days. Three submissions have been received. The issues raised are addressed in the report and do not warrant amendments or refusal of the application.

The Development Application is recommended for approval.

## BACKGROUND

The site is known as 'Riverside Oaks Golf Resort', and is located at 74 O'Brien's Road, Cattai and is legally referred to as Lot 28 in DP 270416. The site has an area of approximately 227 hectares and is bounded by Wisemans Ferry Road to the east, Little Cattai Creek to the south and west, the Cattai National Park to the west and the Hawkesbury River to the north and west. The site is zoned predominantly RE2 Private Recreation and part E2 Environmental Conservation under LEP 2012.

It should be noted that environment zones are being renamed as conservation zones under the Standard Instrument Principal Local Environmental Plan. The E2 Environmental Conservation zone will be renamed C2 Environmental Conservation. The objectives and land use tables remain the same. Only the prefix and zone category are changing. This change will come into effect on 1 December 2021 after the Standard Instrument (Local Environmental Plans) Amendment (Land Use Zones) Order 2021 (Amendment Order) is made.

A planning proposal (16/2013/PLP) was approved for the site, having the effect of amending 'Schedule 1 - Additional Permitted Uses' of The Hills Local Environmental Plan (LEP) 2012 to permit a maximum of up to 300 dwelling houses on lots, with a minimum lot size of 450 square metres. Strategically the planning proposal was supported on the basis that the proposed residential development provided housing diversity and would support (and assist funding of) the ongoing use of the site for tourism purposes.

An amendment to the Hills Development Control Plan 2012 Part B Section 1 – Rural was also prepared in parallel with the planning proposal. The amendments to the DCP introduced site-specific controls such as lot dimensions, building platforms, setbacks, site coverage, private open space, bushland and biodiversity areas of significance to be protected, flood management and waste collection.

In addition to the above-mentioned matters, the site-specific DCP controls establish the need for a 'master plan' to be prepared, that sets among other matters the future staging of development.

## DETAILS AND SUBMISSIONS

Owner:	Nanshan Holdings (Aust) Pty Limited
Zoning:	RE2 Private Recreation and E2 Environmental Conservation
Area:	227 Hectares
Existing Development:	2 x 18 hole golf courses, clubhouse, corporate lodges, two local heritage items – 'Bungool' homestead, which is used as a function centre and the 'Merrymount Ruins'
Contributions	Not Applicable
Exhibition:	31 days
Notice Adj Owners:	31 days
Number Advised:	33
Submissions Received:	3

## PROPOSAL

The Development Application was lodged on 17 April 2019. The Masterplan application has primarily been lodged to meet the requirements of the site specific controls within the Hills Development Control Plan. The relevant clause reads:

*"The provision of residential development on the site is to be staged as follows:*

- *Stage 1: Precinct D (maximum of 59 residential dwellings), 13 holiday cabins.*
- *Stage 2: Upgrade of the main access road from O'Briens Road, Precinct A (maximum of 135 residential dwellings), Precinct B (maximum of 29 residential dwellings), spa and treatment facilities.*
- *Stage 3: 150-room hotel, 5 corporate lodges, tennis court.*
- *Stage 4: Precinct C (maximum of 77 residential dwellings).*

***A single masterplan Development Application is to be submitted for the site which indicates the staging of all proposed future development on the site."***

The application seeks consent for a concept DA that in summary comprises:

- The general location of four residential precincts (Precinct's A-D) capable of accommodating up to 300 residential lots with a minimum lot size of 450sqm;
- The general location of a hotel precinct capable of accommodating a 150-room hotel;
- The general location of a lodge precinct capable of up to 60 rooms in five golf resort lodges;
- A general road hierarchy and indicative internal road network; and
- A staging plan for the progressive development of the site.

The applicant indicates that the purpose of the concept DA is to set out the concept development strategies and framework for future development on the site. This includes establishing the general layout of the intended land uses and demonstrating the suitability and capability of the site to accommodate the development. As a concept DA, the application does not seek consent for the commencement of physical works.

## **ISSUES FOR CONSIDERATION**

### **1. State Environmental Planning Policy (State and Regional Development) 2011**

Clause 20 and Schedule 7 of SEPP (State and Regional Development) 2011 provides the following referral requirements to a Joint Regional Planning Panel:-

*Development that has a capital investment value of more than \$30 million.*

The subject application has an estimated Capital Investment Value of \$225 million. In accordance with this requirement the application was referred to, and listed with, the Sydney Central City Planning Panel for determination.

### **2. Compliance with The Hills Local Environmental Plan 2019**

The Hills Local Environmental Plan 2019, which supersedes LEP 2012, commenced on 6 December 2019. However, Clause 1.8A(1) of LEP 2019 states the following:

#### ***1.8A Savings provision relating to development applications***

*(1) If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced.*

The subject development application was lodged on 17 April; 2019, prior to the commencement of LEP 2019. Therefore, the application must be determined as if LEP 2019 had not commenced and therefore has been assessed against the provisions of LEP 2012.

### **3. The Hills Local Environmental Plan 2012**

#### **a. Permissibility**

Schedule 1 of the Hills LEP has been amended to include residential dwellings as an additional permitted use on the site.

- 1) *This clause applies to land at 74 O'Brien's 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.*

The masterplan does not include any physical works and remains consistent with the clause above as it details four residential precincts which are capable of supporting up to 300 dwelling houses on lots not less than 450m<sup>2</sup>. The hotel and corporate lodges are permitted on land zoned RE2 Private Recreation.

#### **b. Development Standards**

No works are sought to be approved under this application.

#### **c Other LEP Provisions**

The proposal has been considered against the relevant provision of the LEP. Specific regard has been given to Clauses:

- 5.10 Heritage Conservation;
- 7.2 Earthworks;
- 7.3 Flood Planning; and
- 7.4 Biodiversity (Terrestrial)

The proposal has been considered against these provisions and satisfies each of the standards and objectives relating to each of the clauses.

#### **4. Compliance with The Hills Development Control Plan DCP 2012**



The proposal has been assessed against the provisions of The Hills Development Control Plan (THDCP) particularly:-

- Part B Section 1 – Rural
- Part C Section 3 – Landscaping
- Part C Section 4 – Heritage
- Part C Section 6 – Flood Contolled Land

Site specific clauses for this site were incorporated into the DCP as part of the planning proposal. An address of site specific development controls are provided below:

<b>DEVELOPMENT CONTROL</b>	<b>REQUIREMENT</b>	<b>PROPOSED DEVELOPMENT</b>
Modification of Previous Development Consents	Previous Development Consents on Lot 28 DP 270416, 74 O'Briens Road, Cattai must be modified under the provisions of Section 96 of the <i>Environmental Planning and Assessment Act 1979</i> to remove all aspects of development that have not yet been commenced, prior to the granting of consent for any	A condition of consent is recommended that requires a Section 4.55 modification to DA No. 89/804 of to remove all aspects of development that have not yet been commenced, prior to the granting of consent for any future residential precinct development applications. Refer

DEVELOPMENT CONTROL	REQUIREMENT	PROPOSED DEVELOPMENT
	<p>residential development in accordance with Schedule 1 of LEP 2012. This includes (but is not limited to) development approved under DA No. 89/804 and later modifications:</p> <ul style="list-style-type: none"> <li>- two hotels,</li> <li>- holiday cabins and corporate lodges (that are not yet constructed),</li> <li>- retail facilities,</li> <li>- tennis courts, golf academy and driving range that were to occur in the vicinity of proposed precinct C,</li> <li>- community facilities</li> </ul>	Condition No. 3
Staging of Development	<p>The provision of residential development on the site is to be staged as follows:</p> <ul style="list-style-type: none"> <li>• Stage 1: Precinct D (maximum of 59 residential dwellings), 13 holiday cabins.</li> <li>• Stage 2: Upgrade of the main access road from O'Briens Road, Precinct A (maximum of 135 residential dwellings), Precinct B (maximum of 29 residential dwellings), spa and treatment facilities.</li> <li>• Stage 3: 150-room hotel, 5 corporate lodges, tennis court.</li> <li>• Stage 4: Precinct C (maximum of 77 residential dwellings).</li> </ul> <p>A single masterplan Development Application is to be submitted for the site which indicates the staging of all proposed future development on the site.</p>	This concept DA is accompanied by a staging plan (Refer Attachment 5). This plan indicates the staging of all proposed future development on the site.
Development Areas	<p>All dwellings, associated roads and Asset Protection Zones (APZs) shall be as shown on Figure 6. APZs and residential development must not impact upon land identified for 'conservation' on Figure 6.</p> <p>*For the purposes of this control conservation land is land identified on Figure 6 as 'Conservation Zone Biobank Site'.</p>	This concept DA seeks consent for the establishment of general location of developable areas. Minor changes are foreshadowed in terms of the land indentified in the DCP as the Conservation Zone Biobank Site as addressed in this report and shown as Attachment 6.
Bushland and Biodiversity	Conservation land on figure 6 is to be protected from development and clearing. Vegetation within this area is to be retained.	This concept DA seeks consent for the establishment of the general location of developable areas. Minor changes are

DEVELOPMENT CONTROL	REQUIREMENT	PROPOSED DEVELOPMENT
	<p>*For the purposes of this control conservation land is land identified on Figure 6 as 'Conservation Zone Biobank Site'.</p> <p>All works associated with road upgrades are to be located clear of the conservation land and vegetation identified for retention on Figure 6, including the proposed road between Precincts C and D, and any associated stormwater measures, retaining walls and the like. Culverts are not to restrict fauna movement throughout the site.</p> <p>The Yellow-bellied Glider corridor identified on Figure 7 is to be preserved and kept clear of residential development.</p>  <p>Figure 6: (Riverside Oaks Tourist Complex)</p>  <p>Figure 7: Proposed Yellow Bellied Glider Corridor</p>	<p>foreshadowed in terms of the land identified in the DCP as the Conservation Zone Biobank Site. A comparison plan is provided at Attachment 6.</p> <p>As identified in this report the applicant has undertaken a detailed biodiversity assessment. A condition of consent is recommended to enable the number and class of credits required to be retired, be determined in subsequent development applications, relating to each of the particular precincts.</p> <p>The applicant has also foreshadowed that an alternative pathway will be pursued in obtaining certification of the development under the transitional arrangements in cl 34A of the <i>Biodiversity Conservation (Savings and Transitional) Regulation 2017</i>. This certification would have the effect that Part 7 of the <i>Biodiversity Conservation Act 2016</i> will not apply to the determination of the Concept DA and the former planning provisions will apply instead.</p>
Flood Management and Safety	<p>Refer Part C Section 6 – Flood Controlled Land.</p> <p>The main access road between Precinct C and D is to be upgraded to Council's satisfaction.</p> <p>Provide a flood-free all-weather emergency access track between Precincts A and C to Council's satisfaction.</p> <p>Flood mitigation measures and warning systems, emergency</p>	<p>This concept DA seeks consent for the design of the main access road which will be upgraded as part of the overall works. The Flood Report and modelling prepared by the applicant has reviewed existing flooding conditions at the site to inform the design and finished levels of the proposed roads and buildings. A condition is recommended to</p>



DEVELOPMENT CONTROL	REQUIREMENT	PROPOSED DEVELOPMENT
	evacuation measures and flood education programs are to be implemented to the satisfaction of Council, the State Emergency Service and the Office of Environment and Heritage.	provide direction for future applications. Refer Condition 4.
Dwellings - of Storeys	Maximum of two (2) storeys.	This concept DA does not seek consent for any built form works. Notwithstanding, indicative housing typology plans have been provided to demonstrate that compliance is able to be achieved.
Private Open Space and Solar Access	Minimum dimension 4 metres x 6 metres, directly accessible from the dwelling's living areas. 50% of the principal private open space area is to receive a minimum of 2 hours direct sunlight between 9am and 3pm during mid-winter.	This concept DA does not seek consent for any built form works. Notwithstanding, indicative housing typology plans have been provided to demonstrate that compliance is able to be achieved.
Car Parking	2 spaces per dwelling (one space must be within a garage).	This concept DA does not seek consent for any built form works. Notwithstanding, indicative housing typology plans have been provided to demonstrate that compliance is able to be achieved.
Internal Road and Access Road Design	Road designs are to avoid dead-end roads / turning heads.	The proposed road layout does not propose any dead-end roads and turning heads.
Cut and Fill	Refer Section 2 – New Development in Rural DCP.	Concept bulk earthwork plans have been prepared which demonstrate the indicative cut and fill required to facilitate future development of the individual precinct. Whilst the cut and fill depths shown on the plan do not comply with the general DCP provisions (Cut 1m, Fill 600mm) the amount of earthworks is expected given the undulating terrain and steep grades existing on site. A condition is recommended to provide direction for future applications. Refer Condition 5.
Landscaping and Street Trees	Refer Part C Section 3 – Landscaping.	This concept DA does not seek consent for any built form works. Notwithstanding, indicative

DEVELOPMENT CONTROL	REQUIREMENT	PROPOSED DEVELOPMENT
		housing and road typology plans have been provided to demonstrate that compliance is able to be achieved.
Potable Water and Wastewater Servicing	Potable water and wastewater pump stations are to be located, designed and maintained to prevent the ingress of floodwater. Potable water and wastewater treatment facilities are to be upgraded / augmented as required to ensure that all lots have access to services prior to occupation. Appropriate licences are to be obtained for the water and wastewater treatment systems prior to occupation of the dwellings.	This concept DA does not seek consent for any built form works. Notwithstanding, a condition is recommended to provide direction for future applications. Refer Condition 7.
Heritage	European heritage: refer Part C Section 4 – Heritage. Aboriginal heritage: Avoid impact on areas containing known Aboriginal artefacts and culturally important sites. Where the Aboriginal Assessment identifies a site as significant, a letter from the relevant Aboriginal Lands Council is required which expresses support or recommendations for the subdivision proposal.	This concept DA does not seek consent for any built form works. Notwithstanding, A condition is recommended to provide direction for future applications. Refer Condition 8.
Waste Collection	The internal road network is to have longitudinal gradients and widths suitable for a standard heavy rigid vehicle. Where roads terminate, a 19 metre turning head is required to enable waste vehicles to enter and leave in a forward direction. Road surfaces and bridge capacities are to withstand a fully loaded waste collection vehicle (28 tonne axle load).	This concept DA does not seek consent for any built form works however the indicative details indicate that in teranl roads will comply.  A condition is recommended to provide direction for future applications. Refer Condition 5.
Road Safety Audit	Prior to the issue of any consent for residential development (including subdivision) on the site, an independent road safety audit of the intersection of Wiseman's Ferry Road / O'Briens Road shall be submitted to the satisfaction of Council and the Roads and Maritime Services.	The application was referred to Transport for NSW given the location of works on Wisemans Ferry Road who have provided concurrence.
Community	A Community Management Plan is	The formal subdivision of the land

DEVELOPMENT CONTROL	REQUIREMENT	PROPOSED DEVELOPMENT
Management Plan	<p>to be prepared to Council's satisfaction to provide for the ongoing maintenance of community facilities on the site, including (but not limited to) roads, potable water and waste water treatment facilities, and flood safety infrastructure.</p> <p>The Management Plan is to address the ongoing management and occupation of tourist dwellings and demonstrate how the restriction on permanent residential occupancy will be enforced.</p>	<p>is not proposed at this time as part of this concept DA, rather the subject of future detailed and formal applications. A community title arrangement is intended and a community management plan will form part of this.</p>

## 5. Biodiversity Conservation Act 2016

The Biodiversity Conservation Act 2016 (BC Act) establishes the requirements for the protection of biodiversity, outlines the requirements for regulating a range of development activities on land and provides mechanisms for the management of impacts resulting from development activities.

In terms of flora, the site is highly diverse and contains a number of vegetation communities some of which are endangered or critically endangered. This includes the Shale-Sandstone Transition Forest, Western Sydney Dry Rainforest, River-flat Eucalyptus Forest, Sandstone Ridgetop Woodland, Sandstone Gully Forest, Swamp Oak Floodplain Forest, Freshwater Wetlands and Paperbark Forest. In terms of fauna, the site contains thirteen threatened fauna species including the 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.

At the time of making the Planning Proposal, the applicant proposed that a "Biobank Site" would be secured by a Biobanking Agreement under Part 7A of the Threatened Species Conservation Act 1995 (TSC Act). Such arrangements are no longer possible, as the TSC Act has been repealed and replaced by the Biodiversity Conservation Act 2016 (BC Act). In order to satisfy the requirements set out in the DCP, the Applicant proposed that the conservation zone areas be subject to a 'Biodiversity Stewardship Agreement'. This concept DA seeks consent for the establishment of the general location of developable areas. Minor changes are foreshadowed in terms of the land identified in the DCP as the Conservation Zone Biobank Site. A comparison plan is provided at Attachment 6.

The applicant intended that the Masterplan Biodiversity Development Assessment Report (BDAR) assess the impacts of the Concept Masterplan in accordance with the Biodiversity Assessment Method (BAM 2017) utilising the transitional provisions of the new BAM (2020) which came into force on 22 October 2020. This Concept Masterplan DA was also submitted prior to 22 October 2020. The Precinct development applications are to be assessed in accordance with BAM 2020 and consequently the credit requirements will be finally determined in accordance with BAM 2020. The applicant also sought a reduced credit obligation which requires concurrence from NSW Department of Planning, Industry and Environment.

Additional information has been sought from the applicant on a number of occasions in relation to biodiversity including requests for amended BDAR and Stewardship Assessment Reports and clarification of offsetting. Further correspondence including the provision of a copy of the Environment Protection and Biodiversity Conservation Act 1999 (EPBC) referral made by the Applicant were submitted on 9 June 2021.

The applicant's formal credit obligation reduction request was sent to DPIE for concurrence. As part of the referral, DPIE require Council's position on the proposal (It is noted that the consent authority is the Sydney City Planning Panel and therefore the Panel is ultimately the authority to provide support for the proposed reduced credit obligation). After reviewing additional documentation submitted by the applicant as part of the reduced credit obligation, Council staff considered that they could not support the proposed application for the reduction in credit obligation for the following reasons:

- The proposal will remove large area of Shale Sandstone Transition Forest which is listed as critically endangered under the Biodiversity Conservation Act 2016 and Environment Protection and Biodiversity Conservation Act 1999 as well as known threatened species habitat that occurs on the site.
- The proposal includes residential development which will increase the number of people and indirect impacts associated with residential development such as pets, rubbish, traffic, noise and light.
- The Hills Shire Council Development Control Plan Section 13 states that a Modification of previous development consents is required. Under this clause the proponent will be required to remove all aspects of development approvals over previous development application approvals that have not yet been commenced. Therefore the justification regarding existing approvals is invalid. Any future development application that would be received that is in accordance with the 1989 Masterplan would require a separate DA and be subject to the requirements and assessment under the NSW Biodiversity Conservation Act 2016.
- The Biodiversity Development Assessment Report is not at a point which could be accepted and conditioned. This is due to additional flora and fauna survey required to be completed.

The reduced credit obligation request was formally referred to the DPIE through the NSW Planning Portal, however was subsequently rejected. No correspondence was provided to Council for the rejection.

Enquiries by Council staff and the applicant identified that the request was rejected on the basis that the referral did not contain the required information, and on the basis that Council staff did not support the request.

Although the opinions of DPIE on the merits of the request remain unknown, DPIE staff have indicated that the request was unlikely to be supported, as requests in their experience are reserved for exceptional/very limited circumstances and may have been supported in only one previous instance.

The applicant had previously indicated to Council staff, that alternative pathways were available to the applicant including obtaining certification of the development under the transitional arrangements in cl 34A of the *Biodiversity Conservation (Savings and Transitional) Regulation 2017*. This certification would have the effect that Part 7 of the *Biodiversity Conservation Act 2016* will not apply to the determination of the Concept DA and the former planning provisions will apply instead.

The applicant is now seeking to undertake this approach in order to allow the subject application to be determined. The applicant has requested that the draft consent conditions enable that the number and class of credits required to be retired, be determined in subsequent development applications, relating to each of the particular precincts.

*“We note that a concept DA can provide for a corresponding staged retirement of biodiversity credits, before each stage of development is carried out (see s 7.13(5) of the Act). However, the Biodiversity Development Assessment Report submitted with the Concept DA did not provide this breakdown of credits, as the offset strategy set out the staging of the implementation of the proposed stewardship site instead (consistent with the approach of obtaining DPIE’s concurrence to the requested credit reduction). Accordingly, a further assessment will need to be undertaken in relation to each detailed development application, to determine the portion of the credits that should be required to be retired prior to carrying out the particular works proposed under the respective development application.*

*In progressing the detailed development applications, the applicant also intends to explore the alternative pathways available to it, including certification of the development under the Transitional Provisions. This certification process is a separate process, administered by DPIE, so the conditions of consent should not fetter or preempt any such assessment and determination processes. The Concept DA conditions of consent should also not prevent the consent authority from reducing, in accordance with the Act, the number of credits required to be retired in respect of a particular detailed development application, if concurrence to this is provided by DPIE, following consideration of any feedback provided by DPIE on the issue.*

*A condition to retire credits is only required to be complied with before any development is carried out that would impact on biodiversity values (see s 7.13(5) of the Act). As the Concept DA does not authorise the commencement of any physical works on site until approved under a detailed development application, we consider this approach to be consistent with the requirements of the Act. We also consider this approach to be consistent with the Environmental Planning and Assessment Act 1979 (NSW), which states that a concept DA need not consider the likely impact of the carrying out of development that may be the subject of subsequent development applications (see s 4.22(5)). This approach would also enable the assessment report to be completed within the coming weeks, as per the expectations of the planning panel secretariat, and enable formal consideration of the Concept DA in November.*

*We suggest that the draft condition of consent be worded as follows:*

*“If Part 7 of the Biodiversity Conservation Act 2016 (NSW) (‘Act’) applies to a detailed development application to require the retirement of biodiversity credits to offset the residual impact of the works proposed under the detailed development application on biodiversity values, then any consent granted for that detailed development application must include conditions requiring the applicant to retire biodiversity credits to the number and class specified in the Biodiversity Development Assessment Report prepared for that detailed development application, unless otherwise reduced in accordance with the Act.*

*The total number and class of credits required to be retired in each detailed development application should, collectively, amount to the number and class of credits specified in the Biodiversity Development Assessment Report accompanying this concept development application, less the credit assessment relating to any detailed development application in relation to which Part 7 of the Act does not apply or the credit requirements are otherwise reduced in accordance with the Act.”*

*We also suggest that the draft conditions of consent include a standard condition that confirms that the approval of the concept DA does not authorise the commencement of physical works on site. As this is consistent with the existing Concept DA, we do not consider it is necessary to amend the development application under cl 55 of the Environmental Planning and Assessment Regulation 2000 (NSW)."*

Council staff consider that a condition of consent can be recommended that will allow for the determination of this application in this manner. Any future development applications will need to consider the legislative requirements at the time and be prepared in accordance with BAM 2020 and any other relevant matters such as published survey guidelines at the time. Council staff have recommended amendments to the condition put forward by the applicant that provides for a simplified condition that does not include the second part of the condition as it is considered unnecessary (Refer Condition No. 4).

## **6. State Environmental Planning Policy No. 55 Remediation of Land**

This Policy aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspects of the environment.

Clause 7 of the SEPP states:-

- 1) *A consent authority must not consent to the carrying out of any development on land unless:*
  - (a) it has considered whether the land is contaminated, and*
  - (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
  - (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

A Preliminary Stage 1 Environmental Site Assessment was undertaken by Douglas Partners. From the results of the investigation, Douglas Partners identified the following sources of contamination on the site:

- Hazardous building materials which may be present in the imported fill soils in Precinct C.
- Imported fill – fill stockpiles of unknown origin used to level building footprints.

Douglas Partners noted contamination on site (if present) is localised with a low risk of migration off-site. Notwithstanding, given the historical and current areas of environmental concern, it was recommended that further assessments be undertaken prior to future detailed applications on the site.

On the basis of the investigations completed, it is considered that the site can be rendered suitable for the proposed mixed-use development, subject to the implementation of the above recommendations and any remediation actions (if required). Accordingly, the concept DA is considered to satisfy the requirements of SEPP 55.

## **7. State Environmental Planning Policy (Infrastructure) 2007**

The development is identified in Schedule 3 of the SEPP as traffic generating development and therefore Clause 104 of the SEPP applies.

The application also triggers Clause 101 of the SEPP which relates to development with frontage to a classified road (Wiseman's Ferry Road) and will require an approval under

Section 138 of the Roads Act 1993, and as such the application was referred to Transport for NSW.

Transport for NSW comments are included at Attachment 9 and subject to the amended Staging Plan and design work provided, no objection is raised. A condition is recommended in this regard (Refer Condition No. 11)

**8. Sydney Region Environmental Plan No. 20 (Hawkesbury-Nepean River) No. 2 - 1997**

The aim of this plan 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. The development is unlikely to have detrimental impacts on the health of the environment of the Hawkesbury and Nepean River system.

**9. Issues Raised in Submissions**

The proposal was advertised and notified to adjoining property owners for 31 days. The issues raised in the submissions are summarised below. One submission was received from the National Parks and Wildlife Service as an adjoining owner.

ISSUE/OBJECTION	COMMENT
I believe the DA in its current form will damage the environment considered the primary asset of the location.	The environmental impacts of the development have been considered as part of the Planning Proposal on the site and the various reports and assessments undertaken as part of this application. All future applications for works will need to apply the relevant legislation at the time.
Golf is a dangerous sport especially when played by relatively unskilled players which make up the bulk of participants. For safety reasons you can't have the occupants of 300 dwellings plus guests in the 150 room hotel and the 60 lodges wandering freely around the two golf courses so restraints will have to be imposed.  As an example, a fence was needed to be built at Stonecutters Ridge Golf Course, Colebee which detracted from the environment there.	The residential precincts and tourist accommodation are separated from the existing golf courses by vegetation buffers. Any future applications will need to consider the impact of errant golf balls if necessary, however there are no controls that require a golfers conflict assessment to be carried out.
I understand there are around 2000 Kangaroos on the site. During the day most of them rest up in the woodlands designated for buildings. What will happen to them?	The biodiversity impacts will be required to be further assessed as part of all future applications for works.
The housing sites proposed are very small, about 450m <sup>2</sup> , and have poor outlooks as they are jammed in around	The bushfire and ecology impacts associated with the future precincts has been partly assessed a part of this application. All future subdivision applications will require the

ISSUE/OBJECTION	COMMENT
<p>circular drives. Bushfire restrictions demand at least 50 metres cleared area between buildings and native vegetation which will leave the constructions visually exposed from surrounding areas detracting from the rural environment.</p>	<p>approval of the Rural Fire Service and be required to be assessed against the relevant biodiversity legislation.</p>
<p>There will be a huge increase in traffic to cater for residents (potentially 500 vehicles) and guests, plus golfers and event participants. It will probably require the installation of traffic lights at the junction of O'Briens Road and Wisemans Ferry Road. These will be the only lights between Wisemans Ferry and McGraths Hill.</p>	<p>Given the increase in vehicle movements the application has been referred to Transport for NSW. No objection in principle subject to works proposed particularly at the intersection of O'Briens and Wisemans Ferry Road. Traffic lights are not proposed or required to be installed.</p>
<p>Despite regulations and best efforts, the presence of pets will kill or drive small native animals away.</p>	<p>All private residential lots will be required to be fenced.</p>
<p>Water, Sewerage and Postal Services will have to be supplied by the Developers as Public Utilities are unavailable. This is a restrictive practice as it denies cost competition and Quality Assurance cannot be guaranteed.</p>	<p>Adequate services will be required to be provided as part of future subdivision applications.</p>
<p>In order to meet NSW Government regulations (Community Land Development/Management Act 1989) one in thirty dwellings on the site will have restrictions on their usage. The owners of these properties can only live in them for 156 days of the year and no more than 42 days consecutively.</p> <p>This means that the developer can build 300 houses with no restriction on usage as the thirty existing houses which currently have these restrictions, represent the one in thirty.</p> <p>This will definitely devalue and have an impact on the sale of the existing houses.</p>	<p>The existing holiday dwellings were approved on the basis of restrictions on their use. This application does not change or alter the restrictions. The impact on the valuation of those holiday dwellings is not a planning matter.</p>
<p>The most important consideration to us is Operational Noise Impacts to Local Residents. We already experience significant noise from blowers and loud machinery operating from the golf course that is in breach of the current operating</p>	<p>The noise impacts associated with existing operations on the site have been investigated by Council's Environmental Health Team and are not subject to this application.</p>



ISSUE/OBJECTION	COMMENT
<p>approvals – operating in summer from 5am in the morning.</p> <p>Although we are not on an adjacent boundary, we are subjected to noise that travels across the River. Our neighbors are screened from this noise due to the local landform and adsorptive vegetation screening whereas as we are not. Whilst we acknowledge that the Golf course is not residential we believe the intent of this regulation should be applied as we are residential.</p> <p>As our property has, and will continue to have, a clear and direct line of sight to the subject development, strict conditions about hours of operation for noise generating activities should be in place as well as clear permissible noise levels for impacts at impacted residents.</p>	
<p>The Traffic report state that there are two bus stops “near the development” – this is not an accurate statement when considering the potential to use public transport. The closest stop is a 5 km drive away. (a 1 hour and 4 minute walk according to google maps). Bus services to this region are incredibly poor (including school bus services). To service 300 houses plus a hotel with public transport at this level of service is not acceptable. Strict requirements to improved service levels should be in place.</p>	<p>It is not expected that future residents will be able to rely on public transport much like other existing residents in the locality.</p>
<p>O'Briens Road is in very poor condition and is not line marked including around a blind corner. The poor condition of the road contributes to operational noise generated from traffic.</p> <p>As the asset owner, Council should properly build (seal and maintain) O'Briens Road including formalising the “end” of it. Contribution monies from this development should be put towards the completion of this Road.</p>	<p>Development on site will be subject to contributions which will be able to be used on local infrastructure items.</p>
<p>Formalising the “end” of the Road will assist to prevent “day tripper” vehicle and passengers from driving through private property from the end of O'Briens Road. Additional Signage should be provided to emphasise that there is no access to the river.</p>	<p>O'Briens Road is a public road which allows the public . Any upgrades will be considered separate to this application.</p>

ISSUE/OBJECTION	COMMENT
<p>Vehicles often turn right out of Riverside Oaks Golf course without taking in account local resident vehicles that pass by the entrance. This should be better sign marked as it has been the cause of near accidents as golf course users generally assume that all cars are turning into the site whereas residents bypass the entrance.</p>	<p>O'Briens Road is a public road which allows the public . Any upgrades will be considered separate to this application.</p>
<p>The proposal should include a second road access from Wisemans Ferry Road to be used as a primary access rather than just emergency access. We see this as fundamental to mitigate impacts to O'Brien's Road and its users and would support this initiative. It would also improve the "street" address for the Golf Course.</p>	<p>Transport for NSW do not support a second formalised access to the site from Wisemans Ferry Road.</p>
<p>As a resident immediately downstream of the development, it is unclear how sewage will be managed.</p>	<p>The required sewage management system will be subject to a future development application.</p>
<p>As a resident immediately downstream of the development, it is unclear how contaminated stormwater will be managed – both in terms of contamination and also in terms of impact to environmental flows to the river.</p>	<p>A detailed stormwater design and assessment will be subject to future development applications.</p>
<p>The visual assessment considers vistas from the hotel that will be enjoyed by the users of the hotel and precinct developments. This includes views to the escarpment which is our property. The Concept Development application does not consider any visual impacts to surrounding property owners by the development of the hotel or any of the buildings. Especially from our property which has a clear line of sight to the proposed location of the hotel. In particular the scale and height of the hotel should be reduced to better blend with the land form. Improved vegetation screening, materials selection, colours etc would have greater effect with a reduced building height.</p>	<p>The hotel will be subject to a future detailed development application. The impact of built form, views and vistas.</p>
<p>The Cattai area, including the current Riverside Oaks operations, is special in that there is limited night lighting so the night sky is clearly visible and not impacted by urban lighting. This is part of</p>	<p>It is acknowledged that light impacts from the development will likely increase given the additional development on the site.</p>

ISSUE/OBJECTION	COMMENT
<p>what we enjoy about living in Cattai. Additional lighting from the development as per the Concept DA, especially that from the Hotel, will impact on our enjoyment of the darker night sky and well as general night time amenity from our property which has a clear line of sight to the proposed location of the hotel.</p>	
<p>Is access to the River proposed for users of the hotel, precinct developments etc? How will this be managed/controlled? What construction would be required?</p>	<p>The concept application does not foreshadow any additional access points to the river. Any works would be subject to a further development application.</p>
<p>How will impacts from construction be managed. In particular the timing of the staged developments may lead to a long drawn out construction period that will have sustained impacts to local residents.</p>	<p>Legislation only requires that a development must commence within 5 years of a consent being granted. A timeframe cannot be set for the time an application must be completed.</p>
<p>Large populations of Eastern Grey Kangaroos are known to occasionally inhabit Riverside Oaks Golf Course. The preparation of a comprehensive Kangaroo Management Plan is strongly recommended.</p>	<p>Future applications will be required to assess the biodiversity impacts of each precinct. Any measure to manage kangaroos will be subject to consideration as part of those applications.</p>
<p>The developers must ensure that vegetation connectivity/ wildlife corridors between proposed revegetation sites and conservation zones are retained or created to provide safe wildlife movement. These corridors are to connect the southern and northern sections of the property and to ensure connectivity to properties to the north of the property boundary.</p>	<p>The environmental impacts of the development have been considered as part of the Planning Proposal on the site and the various reports and assessments undertaken as part of this application. All future applications for works will need to comply with the relevant legislation at the time.</p>
<p>Use local native species only in revegetation zones.</p>	<p>All future applications involving revegetation works will require the use of native species.</p>
<p>Appropriate licences to trap/move/relocate native fauna must be issued from the Cumberland Area office prior to any trap/move/ relocate of these species.</p>	<p>Any fauna relocation will be subject to the requirements of the relevant authority.</p>

## 10. Internal Referrals

The application was referred to the following sections of Council:

- Sustainability
- Engineering
- Flooding

- Environmental Health
- Traffic

No objection was raised to the proposal (as amended) subject to conditions. Relevant comments have also provided below:

### Heritage Comments

The application is accompanied by the following additional documentation submitted by the Applicant on 25 June 2021:

- Response to request for Information prepared by Urbis (dated 2 March 2021)
- A heritage impact statement prepared by Urbis (dated 24 June 2021)
- A landscape strategy for the hotel precinct prepared by Arcadia (dated June 2021)

The masterplan is generally in line with the previously approved and adopted concept masterplan. However, the location of the new hotel development has been relocated from Precinct C, to a new precinct identified as 'Hotel Precinct' (H) to the east, adjoining the lagoon. The Hotel Precinct is proposed to include a new hotel building to the north of the road, including restaurant, spa and parking, together with a separate car parking area to the south of the road.



Image of revised Masterplan showing location of heritage items



Image of revised Hotel Precinct (H)

### Assessment

The proposed development is required to comply with Part B Section 1 - Rural and Part C Section 4 – Heritage of The Hills DCP 2012. As a guiding principle on this site, any new development should be positioned to ensure that the visual prominence, context and significance of the heritage buildings and their setting are maintained. Conservation Management Plans were prepared for this site in 1990 and 2013.

### Curtilage Assessment

Measures are to be adopted to minimise visual impacts to retain views corridors were request included in the assessment. A curtilage assessment has been provided that identifies a physical curtilage based on the assessment of an area of land associated with each heritage item. The curtilage location reflects the area that is considered to be essential to understand the significance of the buildings in a rural setting and enable views to and from the items.

The identified physical curtilage boundaries respond to the natural topography of the site, existing ridges and crests, and existing stands of vegetation that contribute to and define a physical boundary for each place. These include significant views and vistas, topography, setting and landscape elements.

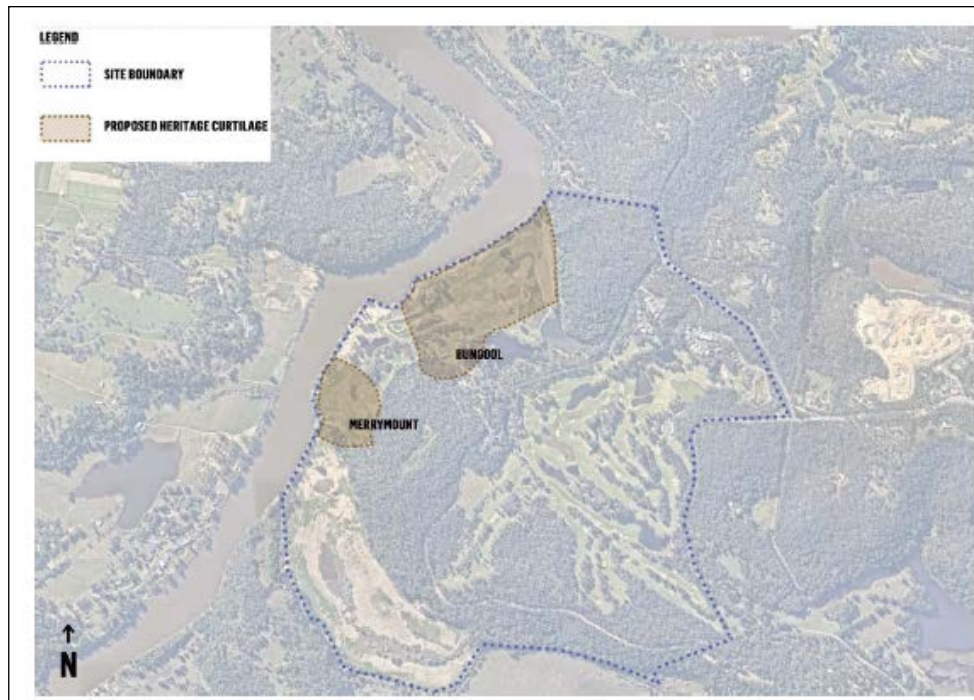


Image showing extent of nominated heritage curtilage areas

Nominated curtilage areas are bound by the site topography, natural landmark features and location of existing vegetation.

Based on the revised Masterplan concept design, segments of Precinct C, the proposed Hotel Precinct H and access road are located within the 'Bungool' curtilage. Justification for the proposed 8 storey hotel and greater separation between the precincts has not been submitted as previously requested.

The areas designated as heritage curtilage are appropriate in size and scope. While it is preferred that future development should be located outside the heritage curtilage, it is acknowledged that the siting of Precinct C is largely commensurate with the adopted master plan within Part B Section 1 – Rural of The Hills DCP 2012. Further assessment on the visual impact to the items is discussed below.

### **Visual Impact Assessment**

A full Visual Impact Assessment has been provided in the Heritage Impact Assessment showing the key view corridors to both 'Bungool' homestead and 'Merrymount', depicting how they will be retained.

#### Bungool

The proposed structures shown in the concept Masterplan to precinct C and H will not obstruct existing view corridors that have been identified above as the structures are located on the periphery of these key markers.

Given the undulating nature of the site topography and relatively small footprint of Bungool at single storey level, views taken from greater distances will either be obstructed by natural land formations and vegetation, or see a natural reduced visibility by consequence of sheer distance. Additionally, existing mature trees are located within close proximity to the structure that impede views from undefined viewpoints.

#### Merrymount

Similarly, as above, existing view corridors from critical viewpoints to the heritage item (Merrymount) will be retained if the proposed developments are constructed in the location



specified in the concept masterplan. A sample of the photo montages contained in the visual impact assessment show Merrymount in its natural setting from the existing view corridors.

The visual impact assessment provided is considered to be satisfactory insofar as identifying the existing view corridors and demonstrating how views corridors will be retained to the heritage items, at the concept stage.

### **Landscaping**

A full landscaping strategy was requested to be included in the Heritage Impact Statement as per the previous notes dated July 2020.

The landscape strategy for the Hotel Precinct H and Residential Precinct C has been included in the Heritage Impact Assessment provided in 2021. This concept includes tree plantings to both precincts and a regeneration strategy to replace native trees earmarked for removal.

Proposed tree plantings are intended to create a native natural vegetation buffer that will reduce the visual impact of the Hotel Precinct H and Residential Precinct C to Bungool Homestead.

As additional justification has not been provided with respect to the 8 storey hotel and associated overshadowing, these comments relate to the proposed landscaping to assist in screening the development and integrating the structures within the existing scenic landscape setting, should it be approved. It is difficult to determine the level of overshadowing from the proposed 8 storey hotel, however this detailed information can be assessed and appropriately addressed as part of a future development application for the erection of the building.

The landscaping strategy demonstrates the intent to facilitate replacement landscaping around the new buildings. However, further attempts could be made towards screening the development from the internal roads, though it is not known how this would integrate with the requirement to adhere to bushfire legislation. The landscaping strategy provides more information on how the strategic revegetation area was developed, however, more detailed planting solutions can also be further investigated as part of future development applications for the buildings.

### **Siting of Proposed Works**

Forward Planning initially requested a revised staging plan be submitted in 2019, showing greater separation between Precinct C and 'Bungool'. The revised master plan recently submitted does not demonstrate a greater separation between Precinct C and 'Bungool', nor has a revised staging plan been submitted.

It is recognised that the proposed road layout will involve works to an existing modified road. However, concern is still raised with the proximity of the proposed 'multi-purpose path' to 'Bungool', as this is not an existing pathway. Any future path or modifications to the existing road must not further encroach upon the heritage item (when compared to the existing roadway).

### **Conclusion**

It is acknowledged that this is a conceptual development application that will proceed towards future staged development applications. However, a number of matters have not been addressed in the revised material as discussed above. It is further acknowledged that future development applications for the buildings will allow additional opportunity for heritage input.

## **11. External Referrals**

### **Office of Environment and Heritage**

The application was lodged as integrated development as an Aboriginal Heritage Impact Permit was sought as required under Section 90 of the NPW Act as it was considered that the future works would 'harm Aboriginal objects'. Five objects are located on the site with two artefacts located in Precinct C, and three artefacts located adjacent to the precinct. As no earthworks are proposed under this application, OEHL, has identified the identified objects will not be subject to harm, therefore an AHIP will not be required under this application, therefore the application is no longer integrated development for this purpose.

### **Natural Resources Access Regulator**

The proposal was lodged as Nominated Integrated Development under the provisions of the Environmental Planning & Assessment Act, 1979 as approval is required from the Natural Resources Access Regulator under the provisions of the Water Management Act, 2000. General Terms of Approval have been provided.

### **Rural Fire Service**

As the application relates to the future subdivision of the site for 300 dwellings and a hotel, the application requires the approval of the RFS under Section 100B of the Rural Fires Act. The RFS provided comments in June 2019 relating to the Vegetation Management Plan, secondary access on Wisemans Ferry Road and O'Briens Road upgrade. A response was forwarded to the RFS in March 2020. On 26 June 2020 the RFS advised;

*The NSW RFS raises no objection to the proposed development subject to the recommendations made in the bush fire consultant's report prepared by Travers Bushfire and Ecology (Ref: 18ROME02RFS, dated 23 March 2020). This includes the provision of a two-way through road in the site, and the inclusion of the provided modelling being utilised in Section 4.14 stages of the proceeding development.*

### **Transport for NSW**

As the proposal identifies works on and connecting to Wisemans Ferry Road, which is identified as a classified road, the future works will require the concurrence under the Roads Act. The concept works located at the intersection of O'Briens Road and Wisemans Ferry Road and new emergency access point (bushfire) proposed on Wisemans Ferry Road are supported in principle. The applicant sought to stage these works

### **CONCLUSION**

The Development Application has been assessed against the relevant heads of consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, The Hills Local Environmental Plan 2012 and The Hills Development Control Plan 2012 and is considered satisfactory.

The issues raised in the submissions have been addressed in the report and do not warrant refusal of the application.

Approval is recommended subject to conditions.

### **IMPACTS**

#### **Financial**

This matter has no direct financial impact upon Council's adopted budget or forward estimates.

#### **The Hills Future Community Strategic Plan**

The proposed development is consistent with the planning principles, vision and objectives outlined within "Hills 2026 – Looking Towards the Future" as the proposed development provides for satisfactory urban growth without adverse environmental or social amenity



impacts and ensures a satisfactory built form is provided with respect to the streetscape and general locality.

## **RECOMMENDATION**

Pursuant to the provisions of Section 4.15 of the Environmental Planning and Assessment Act 1979, the application be approved as follows:-

## **GENERAL MATTERS**

### **1. Development in Accordance with Submitted Plans**

The development being carried out in accordance with the following approved plans and details, stamped and returned with this consent except where amended by other conditions of consent.

#### **REFERENCED PLANS AND DOCUMENTS**

DESCRIPTION	Dated
Masterplan Revision D	November 2021
Staging Plan SK-C001 Revision G	20 March 2020

This application does not approve any works. All works are subject to future development applications.

### **2. Compliance with Masterplan**

Approval is granted for the proposed Masterplan in accordance with the plans and details provided with the application to provide guidance for future development of the site. All Stages of works the subject of the Masterplan will require the submission and approval by the relevant authority or authorities of an application as required by the relevant legislation.

### **3. Modification Application to DA No. 89/804 Required**

A Section 4.55 modification to DA No. 89/804 is to be submitted and approved to remove all aspects of development that have not yet been commenced, prior to the granting of consent for any future residential precinct development applications.

### **4. Ecology Requirements**

If Part 7 of the Biodiversity Conservation Act 2016 (NSW) ('Act') applies to a future detailed development application to require the retirement of biodiversity credits to offset the residual impact of the works proposed under the detailed development application on biodiversity values, then any consent granted for that detailed development application must include conditions requiring the applicant to retire biodiversity credits to the number and class specified in the Biodiversity Development Assessment Report prepared for that detailed development application.

### **5. Engineering**

All future development applications are to generally comply with the following, along with any other requirements of Council at the time:

- Bulk earthworks, levels and road alignments within proposed precincts are not approved under this consent and shall be for further consideration under the respective Development Applications. Cut/fill plans to be site responsive and reduce batters/retaining walls at precinct boundaries
- Road alignment shown in concept plans are indicative only and final approval of precinct road alignment and formation/cross sections will be part of the respective precinct development applications. If as part of precinct or Access Road Development

Applications and detailed design further impacts on ecology are shown, modification of this consent may be required

- Onsite Stormwater Detention (OSD) is required for all areas not draining directly to Hawkesbury River, i.e. drain through another property prior to discharging into Hawkesbury River. Where OSD is not required a suitable outlet structure must be designed to ensure no downstream erosive impacts. OSD is to be provided in accordance with The Upper Parramatta River Catchment Trust.
- Road verge within precincts must be located outside of proposed property boundaries with services located within verge
- All Precincts are to provide Water Sensitive Urban Design measures (WSUD). WSUD measures shall be designed and constructed to comply with the requirements of Council policies and the following publications.
  - Water Sensitive Urban Design Technical Guidelines for Western Sydney (NSW Government Stormwater Trust and UPRCT, May 2004); and
  - Australian Runoff Quality (Engineers Australia 2005).

Location of Bio-retention basins/onsite stormwater detention basins not approved under consent. Applicant has expressed desire to use proprietary products to reduce development footprint. Any works outside of proposed cleared areas may require additional reporting and/or modification of this consent

- Upgrade of the following intersections is required in accordance with staging plans or where conditions of external authorities require this to be completed earlier the requirements of the external authorities takes precedence over proposed staging plan.
  - Access to site from O'Briens Road
  - O'Briens Road and Wisemans Ferry Road
  - Secondary Access Road and Wisemans Ferry Road – timing as per RFS requirements

Detailed designs of these intersections are to be approved by the relevant authorities under precinct development applications in alignment with staging required

- Prior to the issue of any consent for residential development (including subdivision) on the site, an independent road safety audit of the intersection of Wiseman's Ferry Road / O'Brien's Road shall be submitted to the satisfaction of Council and the Roads and Maritime Services.
- Prior to the release of any Subdivision Works Certificate for any precinct/stage, detailed plans for the site access to/from O'Briens Road needs to be amended to address RFS concerns regarding raised median. This will be assess and conditioned accordingly as part of the first precinct subdivision development application.
- All civil works design must comply with Councils Design Guidelines Subdivision and Development (Current Version)
- Prior to any further development application being approved on site further details are required for access roads between Precincts A and C:
  - Longitudinal section to ensure complaint grades with Councils Design Guidelines Subdivision and Development (Current Version)
  - Cross section to ensure suitable width
- Levels of proposed hotel precinct are to be reviewed and approved under the relevant Development Application for the construction of the hotel.
- Access Road design is not approved under this consent and is subject to further development applications. The access road is to be compliant with the requirements under The Hills Shire Council Part C Section 6 – Flood Control Land. Structure of access road will be subject to further flood modelling to justify the proposed design structure (Culverts/Bridge, etc). As per staging plan the access way over the floodway must be completed as part of the development of the first precinct

## **6. Flooding**

All future development applications are to generally comply with the following, along with any other requirements of Council at the time:

- Modelling provided as part of concept application is only concept in nature and will require amendment prior to release of any further development applications on the subject site.
- Modelling submitted for future developments application, related to this concept development application, must ensure compliance with the following documents/requirements:
  - The Hills Shire Council DCP (2012) Part C Section 6, Flood Controlled Land (DCP);
  - The Hills Shire Council Waterways Drainage Design Requirements;
  - The Hills Shire Council hydrologic and hydraulic (TUFLOW) modelling requirements and checklists.

Prior to the approval of any future development applications, related to this concept development application, on the subject site the applicant is required to obtain Council's concurrence regarding an approved flood model that demonstrates compliance with the above documents/requirements.

### **7. Sewage Treatment System**

Effluent from the development shall be treated and disposed of through a sewage treatment plant that is licenced by the Independent Pricing and Regulatory Tribunal (IPART) under the Water Industry Competition Act 2006.

### **8. European Heritage**

All future applications in the vicinity of 'Bungool' homestead and 'Merrymount' are required to submit a detailed Heritage Impact Assessment. In addition to standard report requirements, the following matters are to be specifically addressed;

- Colours and Materials - The colours and materials of all new structures (including future dwellings, the hotel and lodges), shall have low reflectivity, consist of natural, earthy tones, and have regard to the site's rural location, bushland character and the heritage items. The use of bright white colours is not to be supported.
- Fencing - Future applications for buildings on site shall clearly indicate any proposed fencing in the vicinity of the heritage items and shall be designed to integrate with the rural character of the site.
- Footpaths and Roads in the Vicinity of 'Bungool' Heritage Item - Any future road or footpath upgrade in the vicinity of 'Bungool' must not encroach any closer to the heritage item than already occurs with the existing roadway.
- Landscaping - A detailed landscaping plan (specifying species, location, mature height, number etc.) must be submitted with future development applications, having regard to the Landscape Strategy prepared by Arcadia dated June 2021. The Plan must be prepared in consultation with a Heritage Architect, particularly in relation to the revegetation area in the vicinity of 'Bungool'.

### **9. Compliance with NRAR Requirements**

Compliance with the requirements of the Natural Resources Access Regulator throughout all stages of this consent as outlined in their letter dated 27 February 2021 Reference IDAS114940 attached to this consent as Appendix A.

All future stages of works the subject of the Masterplan will require the submission and approval by the Natural Resources Access Regulator of an application if required by the relevant legislation at the time.

### **10. Compliance with Rural Fire Service Requirements**

Compliance with the requirements of the Rural Fire Service throughout all stages of this consent as outlined in their letter dated 26 June 2020 attached to this consent as Appendix B.

All future stages of works the subject of the Masterplan will require the submission and approval by the Rural Fire Service of an application if required by the relevant legislation at the time.

### **11. Compliance with Transport for NSW Requirements**

Compliance with the requirements of Transport for NSW as follows:

- i. The proposed works to upgrade the intersection of Wisemans Ferry Road and the proposed secondary vehicle access shall be designed to meet TfNSW requirements, and endorsed by a suitably qualified practitioner. The design requirements shall be in accordance with AUSTROADS and other Australian Codes of Practice. The certified copies of the civil design plans shall be submitted to TfNSW for consideration and approval prior to the release of the Construction Certificate by the Principal Certifying Authority and commencement of road works. Please send all documentation to [development.sydney@rms.nsw.gov.au](mailto:development.sydney@rms.nsw.gov.au).

The developer is required to enter into a Works Authorisation Deed (WAD) for the abovementioned works.

TfNSW fees for administration, plan checking, civil works inspections and project management shall be paid by the developer prior to the commencement of works

- ii. A signage and linemarking plan should be prepared and submitted to TfNSW for review and approval.
- iii. The developer shall be responsible for all public utility adjustment/relocation works, necessitated by the above work and as required by the various public utility authorities and/or their agents.
- iv. A Road Occupancy Licence (ROL) should be obtained from Transport Management Centre for any works that may impact on traffic flows on Wisemans Ferry Road during construction activities. A ROL can be obtained through <https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>.

All future stages of works the subject of the Masterplan will require the submission and approval or concurrence by the Transport for NSW of an application if required by the relevant legislation at the time.

### **ATTACHMENTS**

1. Locality Plan
2. Aerial Photograph
3. Zoning Map
4. Masterplan
5. Staging Plan
6. Ecology Comparison Plan
7. NRAR General Terms of Approval
8. RFS Bushfire Safety Authority
9. Transport for NSW Comments

# ATTACHMENT 1 – LOCALITY PLAN



- SUBJECT SITE
- ✓ PROPERTIES NOTIFIED
- SUBMISSIONS RECEIVED

**NOTE: ONE SUBMISSION RECEIVED FROM THE NATIONAL PARKS AND WILDLIFE**

**HAWKESBURY CITY COUNCIL ALSO NOTIFIED**

**THE HILLS**  
Sydney's Garden Shire


**THE HILLS SHIRE COUNCIL**

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## ATTACHMENT 2 – AERIAL MAP



 SUBJECT SITE

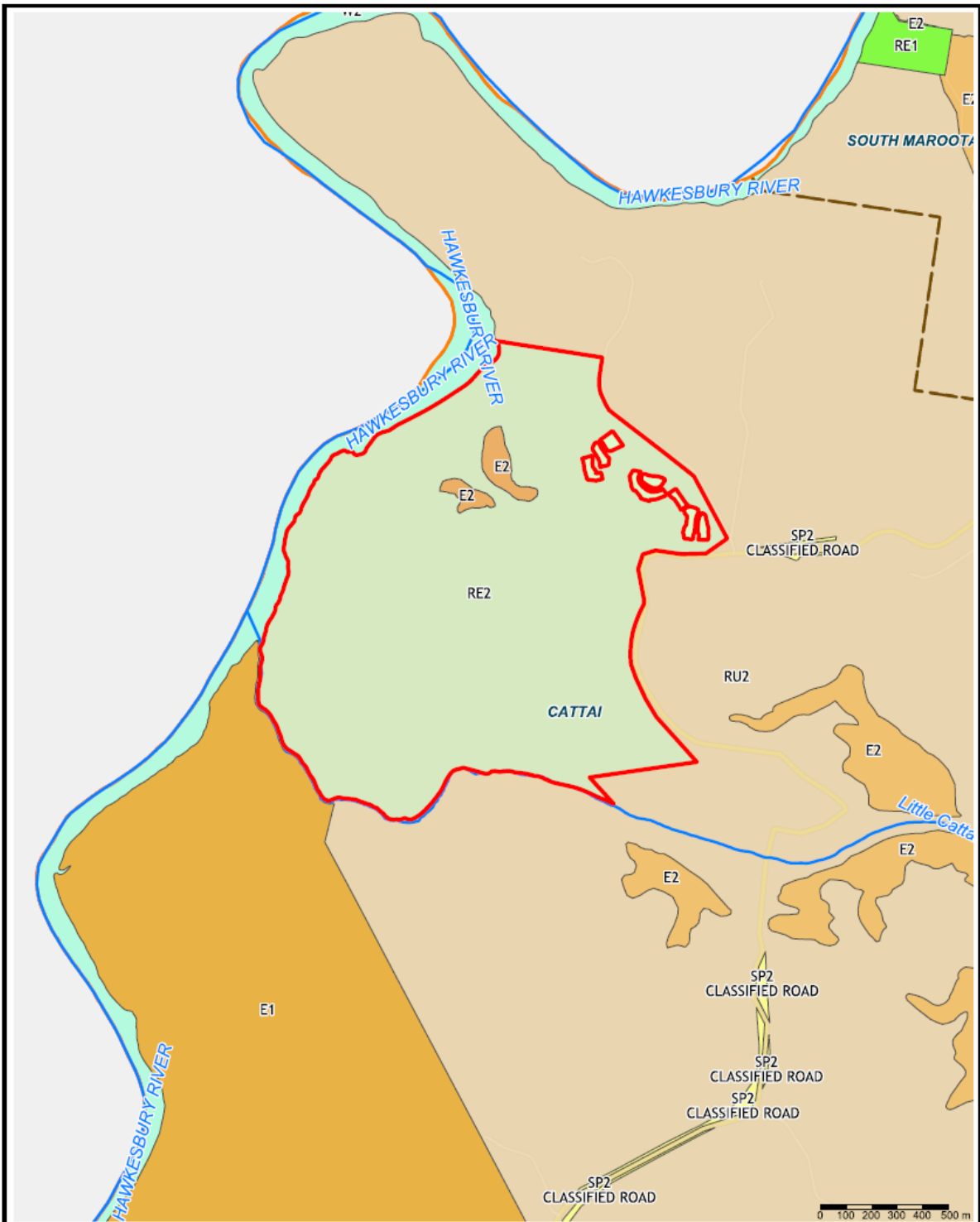
**THE HILLS**  
Sydney's Garden Shire

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# ATTACHMENT 3 – ZONING MAP



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Scale (A4): 1:20000





MASTER PLAN

The master plan includes a series of neighborhood precincts that together form the community of Riverside Oaks Tourist Resort. Each precinct is defined by a landscape typology that responds directly to the unique characteristics of the site.

KEY

- A. Resort precinct A
- B. Resort Precinct B
- C. Resort Precinct C
- D. Resort Precinct D
- H. Hotel Precinct
- 1. Merrymount Ruins
- 2. Bungool Homestead
- 3. Proposed Lodges
- 4. Clubhouse
- 5. Escarpment Park
- 6. Bushland Play
- 7. Golf Resort Entry
- 8. Riverside Lookout
- 9. Existing Holiday Cabins (excluded from master plan)

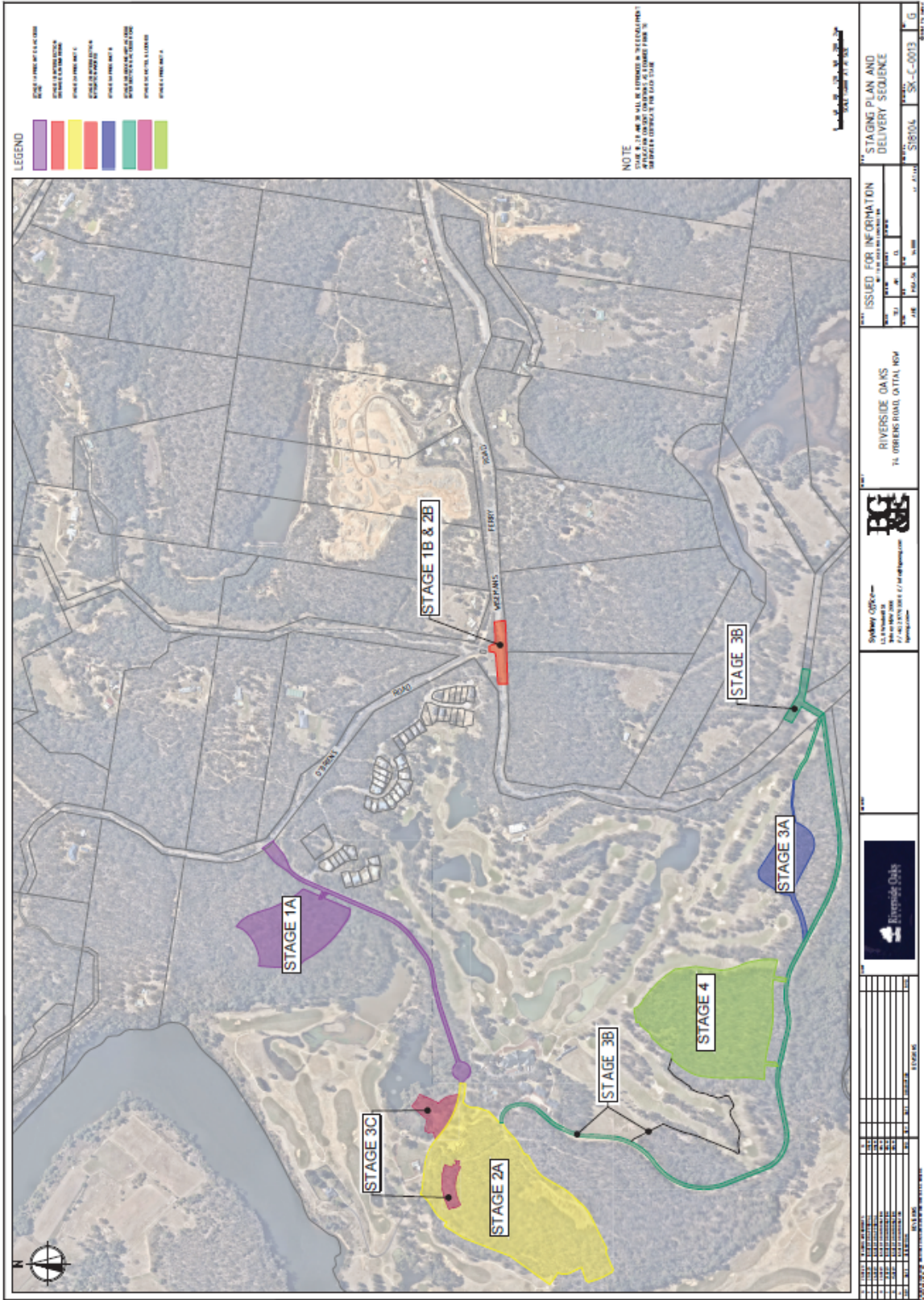
RIVERSIDE OAKS TOURIST RESORT  
DEVELOPMENT APPLICATION

PREPARED BY Arcadia Landscape Architecture  
CLIENT Nanshan Holdings  
ARCHITECT BDA Architecture  
DATE NOV 2021  
SCALE 1:8,000 @ A3  
ISSUE D

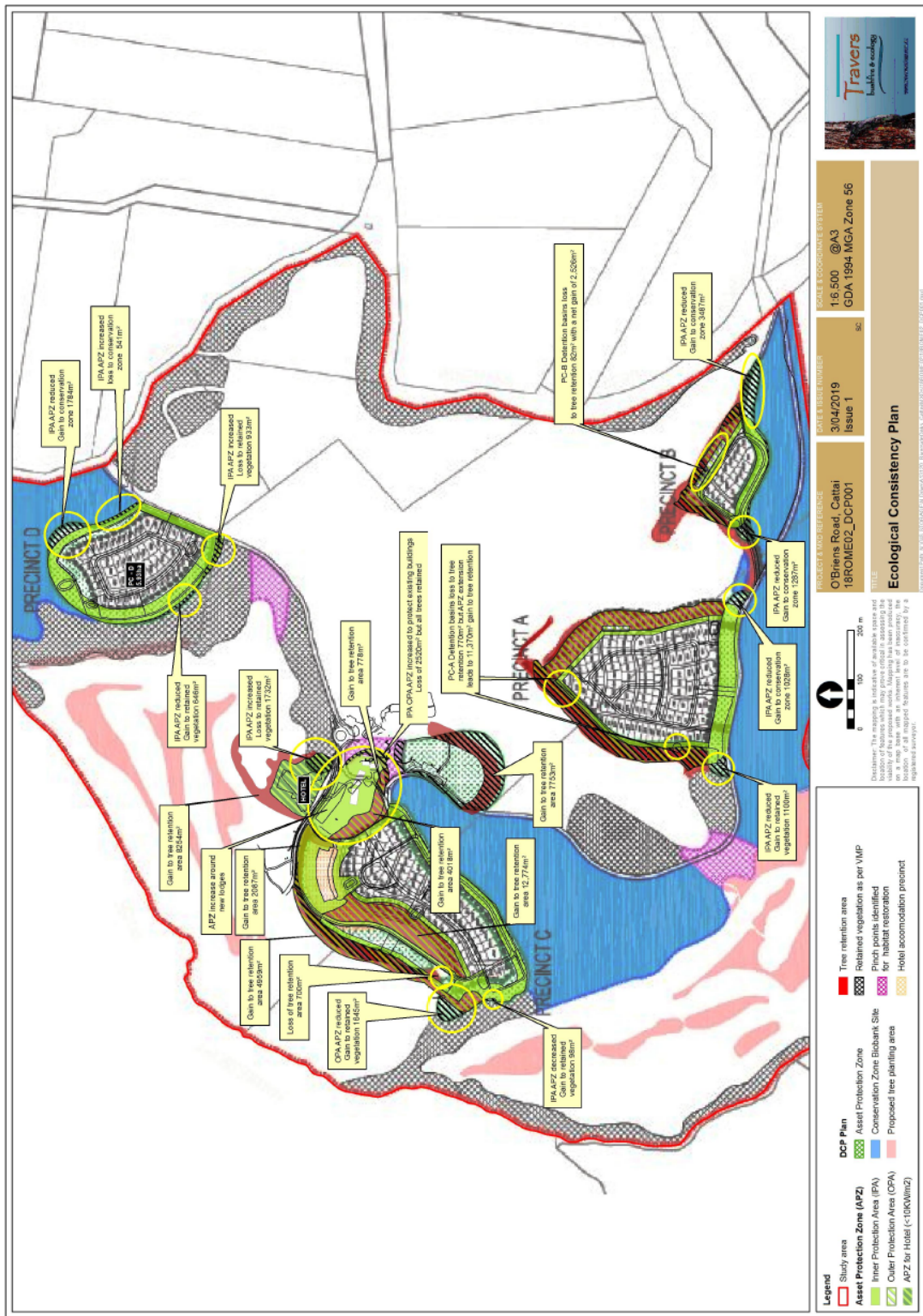




# ATTACHMENT 5 – STAGING PLAN



# ATTACHMENT 6 – ECOLOGY COMPARISON PLAN





# ATTACHMENT 7 – NRAR GENERAL TERMS OF APPROVAL



Natural Resources  
Access Regulator

## General Terms of Approval

for proposed development requiring approval  
under s89, 90 or 91 of the Water Management Act 2000

**Reference Number:** IDAS1114940  
**Issue date of GTA:** 27 February 2021  
**Type of Approval:** Controlled Activity  
**Description:** Works at Riverside Oaks including the Construction of Hotel Precinct (150 Rooms), Lodge Precinct (60 Rooms), Subdivision of up to 300 Lots and Associated Works.  
**Location of work/activity:** 74 O'Briens Rd CATTAI NSW 2756  
**DA Number:** DA1528/2019/JP  
**LGA:** The Hills Shire Council  
**Water Sharing Plan Area:** Greater Metropolitan Region Unregulated River Water Sources

The GTA issued by NRAR do not constitute an approval under the *Water Management Act 2000*. The development consent holder must apply to NRAR for the relevant approval **after** development consent has been issued by Council and **before** the commencement of any work or activity.

Condition Number	Details
<b>Design of works and structures</b>	
GT0009-00010	Before commencing any proposed controlled activity on waterfront land, an application must be submitted to Natural Resources Access Regulator, and obtained, for a controlled activity approval under the Water Management Act 2000.
<b>Erosion and sediment controls</b>	
GT0008-00001	The following plan(s): - Erosion and Sediment Controls Plan must be: A. prepared in accordance with Managing Urban Stormwater: Soils and Construction, Volume 1 (Landroom, 2004), as amended or replaced from time to time, and B. submitted with an application for a controlled activity approval.
GT0021-00004	The proposed erosion and sediment control works must be inspected and maintained throughout the construction or operation period of the controlled activity and must not be removed until the site is fully stabilised.
<b>Plans, standards and guidelines</b>	
GT0002-00680	A. This General Terms of Approval (GTA) only applies to the proposed controlled activity(s) described in the plans and associated documents found in Schedule 1, relating to Development Application as provided by Council to Natural Resources Access Regulator. B. Any amendments or modifications to the proposed controlled activity(s) may render the GTA invalid. If the proposed controlled activity is amended or modified, Natural Resources Access Regulator, Parramatta Office, must be notified in writing to determine if any variations to the GTA will be required.
GT0003-00003	The application for a controlled activity approval must include the following document(s): - outlet structures; Erosion and Sediment Control Plan; Soil and Water Management Plan.
GT0010-00008	All documents submitted to Natural Resources Access Regulator as part of an application for a controlled activity approval must be prepared by a suitably qualified person.
GT0012-00004	Any proposed controlled activity must be carried out in accordance with plans submitted as part of a controlled activity approval application, and approved by

Ground Floor, 5 O'keefe Avenue, Nowra, NSW 2541 | PO BOX 309, Nowra, NSW 2541  
nrar.enquiries@nrar.nsw.gov.au | <http://www.industry.nsw.gov.au/nrar>



## General Terms of Approval

for proposed development requiring approval  
under s89, 90 or 91 of the Water Management Act 2000

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**Reference Number:** IDAS1114940

**Issue date of GTA:** 27 February 2021

**Type of Approval:** Controlled Activity

**Description:** Works at Riverside Oaks including the Construction of Hotel Precinct (150 Rooms), Lodge Precinct (60 Rooms), Subdivision of up to 300 Lots and Associated Works.

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**DA Number:** DA1528/2019/JF

**LGA:** The Hills Shire Council

**Water Sharing Plan Area:** Greater Metropolitan Region Unregulated River Water Sources

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Natural Resources Access Regulator.

GT0030-00010 The application for a water supply work approval must include plans prepared in accordance with Natural Resources Access Regulator's guidelines located on the website, document titled "Controlled activities on waterfront land, Guidelines laying pipes and cables in watercourses on waterfront land".

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### Reporting requirements

GT0020-00004 The consent holder must inform Natural Resources Access Regulator in writing when the proposed construction of the controlled activity has been completed.

## **SCHEDULE 1**

The plans and associated documentation listed in this schedule are referred to in general terms of approval (GTA) issued by NRAR for integrated development associated with DA1528/2019/JP as provided by Council:

- SEE
- 001 ECM\_18949760\_v1\_1528 2019 JP Watercourse mapping 74 O Briens Road Cattai.pdf

## ATTACHMENT 8 – RFS BUSHFIRE SAFETY AUTHORITY



**NSW RURAL FIRE SERVICE**

The Hills Shire Council  
PO Box 7064  
BAULKHAM HILLS BC NSW 2153

Your reference: 1528/2019/JP (CNR-6345)  
Our reference: DA-2019-01533-CL55-(none)

**ATTENTION:** Robert Buckham

Date: Friday 26 June 2020

Dear Sir/Madam,

**Development Application**  
**s100B - SFPP - Hotel/Motel**  
**74 O'Briens Road Cattai NSW 2756, 28//DP270416**

I refer to your correspondence regarding the above proposal which was received by the NSW Rural Fire Service on 31/03/2020.

The NSW RFS raises no objection to the proposed development subject to the recommendations made in the bush fire consultant's report prepared by Travers Bushfire and Ecology (Ref: 18ROME02RFS, dated 23 March 2020). This includes the provision of a two-way through road in the site, and the inclusion of the provided modelling being utilised in Section 4.14 stages of the proceeding development.

For any queries regarding this correspondence, please contact Adam Small on 1300 NSW RFS.

Yours sincerely,

Nika Fomin  
**Manager Planning & Environment Services**  
**Planning and Environment Services**

1

**Postal address**

NSW Rural Fire Service  
Locked Bag 17  
GRANVILLE NSW 2142

**Street address**

NSW Rural Fire Service  
4 Murray Rose Ave  
SYDNEY OLYMPIC PARK NSW 2127

**T** (02) 8741 5555  
**F** (02) 8741 5550  
[www.rfs.nsw.gov.au](http://www.rfs.nsw.gov.au)



## ATTACHMENT 9 – TRANSPORT FOR NSW COMMENTS



15 August 2021

TfNSW Reference: SYD19/00576/10  
Client Reference: 1528/2019/JP

The General Manager  
The Hills Shire Council  
PO Box 7064  
NORWEST NSW 2153

Attention: Shae Skelton

**REVIEW PLANS FOR HOTEL PRECINCT, LODGE PRECINCT, SUBDIVISION, WORKS  
- 74 O'BRIENS ROAD, CATTAL**

Dear Sir/Madam,

Reference is made to Council's correspondence dated 23 July 2021, regarding the abovementioned application which was referred to Transport for NSW (TfNSW) for concurrence in accordance with Section 138 of the Roads Act, 1993.

TfNSW has reviewed the development application and would provide concurrence to the proposed secondary access designated for Rural Fire Services truck access from Wisemans Ferry Road under Section 138 of the *Roads Act, 1993*, subject to Council's approval and the following requirements being included in the development consent:

1. The proposed works to upgrade the intersection of Wisemans Ferry Road and the proposed secondary vehicle access shall be designed to meet TfNSW requirements, and endorsed by a suitably qualified practitioner. The design requirements shall be in accordance with AUSTRROADS and other Australian Codes of Practice. The certified copies of the civil design plans shall be submitted to TfNSW for consideration and approval prior to the release of the Construction Certificate by the Principal Certifying Authority and commencement of road works. Please send all documentation to [development.sydney@rms.nsw.gov.au](mailto:development.sydney@rms.nsw.gov.au).

The developer is required to enter into a Works Authorisation Deed (WAD) for the abovementioned works.

TfNSW fees for administration, plan checking, civil works inspections and project management shall be paid by the developer prior to the commencement of works

2. A signage and linemarking plan should be prepared and submitted to TfNSW for review and approval.
3. The developer shall be responsible for all public utility adjustment/relocation works, necessitated by the above work and as required by the various public utility authorities and/or their agents.

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Transport for NSW  
27 Argyle Street, Parramatta NSW 2150 | Locked Bag 5085, Parramatta NSW 2124  
P (02) 8849 2666 | W [transport.nsw.gov.au](http://transport.nsw.gov.au) | ABN 18 804 239 602

4. A Road Occupancy Licence (ROL) should be obtained from Transport Management Centre for any works that may impact on traffic flows on Wisemans Ferry Road during construction activities. A ROL can be obtained through <https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>.

TfNSW also notes that the previous comments and requirements, as shown in Attachment 1, are remained applicable.

If you have any further questions, Mr. Felix Liu would be pleased to take your call on 8849 2113 or email [development.sydney@rms.nsw.gov.au](mailto:development.sydney@rms.nsw.gov.au). I hope this has been of assistance.

Yours sincerely,



**Pahee Rathan**  
A/Senior Manager Land Use Assessment