

SYDNEY WESTERN CITY PLANNING PANEL
Section 4.15 Assessment Report

Panel Reference	PPWSSWC-362
DA Number	DA0266/23
LGA	Hawkesbury City Council
Proposed Development	Concept Masterplan and Stage 1 works for 'Jacaranda.' The Concept Masterplan details the staged subdivision of 580 residential lots and associated infrastructure. The proposal also involves Stage 1 preparatory works of the Concept Masterplan comprising dam dewatering, remediation works, removal of trees and vegetation, bulk earthworks and establishment of Asset Protection Zones.
Street Address	<ul style="list-style-type: none"> • 103 Spinks Road (Lot 202 DP1268299, Lot 201 DP 1268299); • Spinks Road (Lot 206 DP 1268299, Lot 205 DP 1268299, Lot 207 DP DP 1268299); • 213 Spinks Road (Lot 208 DP 1268299); • 3 Derby Place (Lot 209 DP DP1268299); • 361 Spinks Road (Lot 210 DP 1268299); and • James Street (Lot 203 DP 1268299)
Applicant/Owner	Applicant: Mrs B Dale Owners: EJC Glossodia Pty Ltd, Feecha Pty Ltd, Himba Pty Ltd, Rashka Pty Ltd, Prinsilk Pty Ltd, Pace Landholdings Pty Ltd, Frank George Pace & Pace Land Holdings Pty Ltd
Date of DA lodgement	15 August 2023
Total number of Submissions	Nil
Recommendation	Approval
Regional Development Criteria	Development that has a capital investment value of more than \$30 million.
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • Environmental Planning and Assessment Act 1979; • Environmental Planning and Assessment Regulations 2021; • Biodiversity Conservation Act 2016; • Environmental Protection and Biodiversity Conservation Act 1999; • National Parks and Wildlife Act 1974; • State Environmental Planning Policy – (Biodiversity & Conservation) 2021 ; • State Environmental Planning Policy (Resilience & Hazards) 2021; • State Environmental Planning Policy (Transport & Infrastructure) 2021; • Hawkesbury Local Environmental Plan 2012 (LEP 2012); • Hawkesbury Development Control Plan 2002 (HDCP 2002); and • Hawkesbury Council Flood Policy 2020
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Land Zoning Plan; • General Arrangement Plan; • Road Hierarchy Plan; • Staging Plans; • Road Typical Plan; • Establishment And Demolition Plan 01-04; • Erosion And Sediment Control Plan 01-04; • Erosion And Sediment Control Details; • Sediment Basin Plan And Details Sheet 01-03; • Bulk Earthworks Plan 01-03;



	<ul style="list-style-type: none"> • Grading And Stormwater Management Plan Sheet 0-04; • Site Sections Sheet 01-09; • Post-Development Catchment Plan; • Erosions And Sediment Control Catchment Plan; • Landscape Masterplan; • Dam Dewatering Plan (A,B,C,D); • Statement of Environmental Effects; • Civil And Stormwater Strategy; • Preliminary Dam Break Assessment; • Stormwater Quantity And Floodplain; • Preliminary Site Assessment; • Vegetation Management Plan; • Remediation Action Plan (A,B,C,D); • Bushfire Review of APZ And BAL; • Biodiversity Assessment Report; • Aboriginal Cultural Heritage Assessment; • Geotechnical and Salinity Assessment; • Geotechnical Assessment (A,B,C,D); • Traffic Assessment; • Internal Intersections Advice; • Waste Management Plan; and • Infrastructure Services Assessment.
Clause 4.6 requests	<ul style="list-style-type: none"> • N/A
Summary of key submissions	No Submissions received.
Report prepared by	Matthieu Santoso – Senior Town Planner
Report date	11 December 2023

Summary of s4.15 matters

Yes

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

Legislative clauses requiring consent authority satisfaction

Yes

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

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

1. Executive Summary

Celestino Pty Ltd and Pace Land Holdings Pty Ltd have lodged a Concept Masterplan Development Application for the 'Jacaranda Estate at Glossodia' which involves Staged Subdivision of 580 residential lots and associated

infrastructure. The subject Development Application seeks consent for a Concept Masterplan and Stage 1 works that will facilitate the future subdivision of the land consistent with the zoning of the land.

It is noted that the Jacaranda Estate was originally rezoned from RU1 Primary Production to urban purposes on 19 December 2014. The masterplan for the site incorporated both R2 Low Density Residential and R5 Large Lot Residential zones achieving a residential yield of 580 lots. The rezoning also included RE1 Public Recreation and SP2 Infrastructure zones that would support the community needs and servicing for the future population. The masterplan however was revised with a further Planning Proposal which reconfigured the land use zones while incorporating a C2 Environmental Conservation zone while retaining the 580 residential lots yield. Council, at its meeting on 27 April 2021 resolved to adopt the revised masterplan and accompanying land use zones which was gazetted to the Hawkesbury Local Environmental Plan 2012 on 30 September 2021.

This Concept Development Application has been made under Section 4.22 of the Environmental Planning and Assessment Act 1979 wherein a consent authority is to consider the likely impacts of the concept proposal and the first stage of development. It is noted that the delivery of the Concept Masterplan beyond Stage 1 works will be the subject to separate Development Applications. The breadth of works required to deliver the proposed development will be guided by this Concept Masterplan and therefore subsequent applications made will be required to remain consistent with the proposed Concept Masterplan.

The Concept Masterplan involves the identification of land uses throughout the development site and also details the internal road layout, external connections, street hierarchy, the location of the local water centre, as well as the general location and form of the water cycle management basins. It is noted that the Concept Masterplan comprises of four (4) precincts that have been premised on the basis of site constraints, land ownership, access arrangements, ecosystem credit offsets and retirement and servicing. The precincts however do not necessarily reflect the order of development of future Development Application stages. There may be an overlap of precinct boundaries within future Development Application stages as required depending on the subdivision layout and the associated servicing of lots, road network and access provisions.

Each precinct has been identified as achieving lot yields ranging from 115 up to 165 with a maximum 580 residential lots as prescribed in the Hawkesbury Local Environmental Plan 2012.

The application also includes the Stage 1 Preparatory Works which involves the following works:

- Demolition of all structures on the site and all improvements to the land within Precincts C&D;
- Demolition of the poultry sheds within Precinct B;
- Dewatering of all dams on site except the small dam along Currency Creek within Precinct D;
- Remediation works;
- Bulk earthworks including the Precinct A lake;
- Removal of trees and vegetation required to facilitate the earthworks and remediation; and
- Establishment of asset protection zones.

The application has been lodged as 'Integrated Development' under Section 4.49 of the Environmental Planning and Assessment Act 1979, requires referral to the following agencies for General Terms of Approval under the relevant legislation:

- NSW Rural Fire Service pursuant to the Section 100B of the Rural Fires Act 1997;
- Department of Planning and Environment - Environment and Heritage Group pursuant to Section 90 of the National Parks and Wildlife Act 1974, and;
- Department of Planning and Environment – Water pursuant to Section 91 of the Water Management Act 2000.

As the development is classified as 'Nominated Integrated Development' for approval under the Water Management Act the Development Application was notified for a period of 28 days . from the 20 September 2023 to the 20 October 2023. At the completion of the notification period and at the time of writing, no submissions have been received by Council with respect to this Concept Masterplan.



The site is zoned R2 Low Density Residential, R5 Large Lot Residential, SP2 Infrastructure, RE1 Public Recreation and C2 Environmental Conservation under the Hawkesbury Local Environmental Plan 2012. The proposed development is characterised as “subdivision” for the purposes of creating 580 allotments and ancillary works and is considered to be permissible pursuant to Clause 2.6 of the Hawkesbury Local Environmental Plan 2012.

A new Voluntary Planning Agreement (VPA) is currently being negotiated with Council for the Jacaranda development which will replace a previous VPA. The draft VPA proposes an increase in contributions from the existing VPA to \$40,000 per lot in cash and/or works in kind and/or dedication of land. The draft VPA will be addressed in a separate process to the determination of the subject Development Application given no residential allotments are being sought under this Concept Masterplan and Stage 1 works.

The estimated cost of this Development Application is approximately \$8,911,249 with the Capital Investment Value (CIV) of the development estimated at \$98 million. Consequently, the proposed development is classified as ‘Regionally Significant Development’ due to the CIV for the Concept Proposal exceeding \$30 million. As such, the matter is to be determined by the Sydney Western City Planning Panel in accordance with Clause 2 of Schedule 6 in State Environmental Planning Policy (Planning Systems) 2021.

The subject Development Application has been assessed having regard to the applicable planning controls and it is considered that the proposed development is satisfactory. In this respect, it is recommended that the subject Development Application be approved, subject to conditions.

2. Background

2.1 Planning Proposal (2014)

A Planning Proposal was gazetted on the 19 December 2014 which sought to amend the following items under the then Draft Hawkesbury Local Environmental Plan 2012:

- Rezoning of the site from RU1 Primary Production to R2 Low Density Residential, R5 Large Lot Residential, RE1 Public Recreation & SP2 Infrastructure (Sewage Systems); and
- The introduction of a 10m height limit across the zones; and
- The introduction of minimum subdivision lot sizes ranging from 1,000m², 2,000m² & 4,000m² across the site.

These amendments were informed by a Concept Masterplan illustrated in Figure 1 which was intended to guide the future subdivision and development of the site and provide for:

- A total of 580 residential allotments;
- The creation of new public open spaces within the North-Eastern portion of the site to accommodate walking and cycling, and spaces for active and passive recreation;
- Planting and rehabilitation of the riparian corridor along the entire Currency Creel boundary of the site;
- Three North-South ecological corridors and an East-West ecological corridor;
- The provision of infrastructure through the execution of both a State and local Voluntary Planning Agreement, and;
- The retention of two large dams on site.

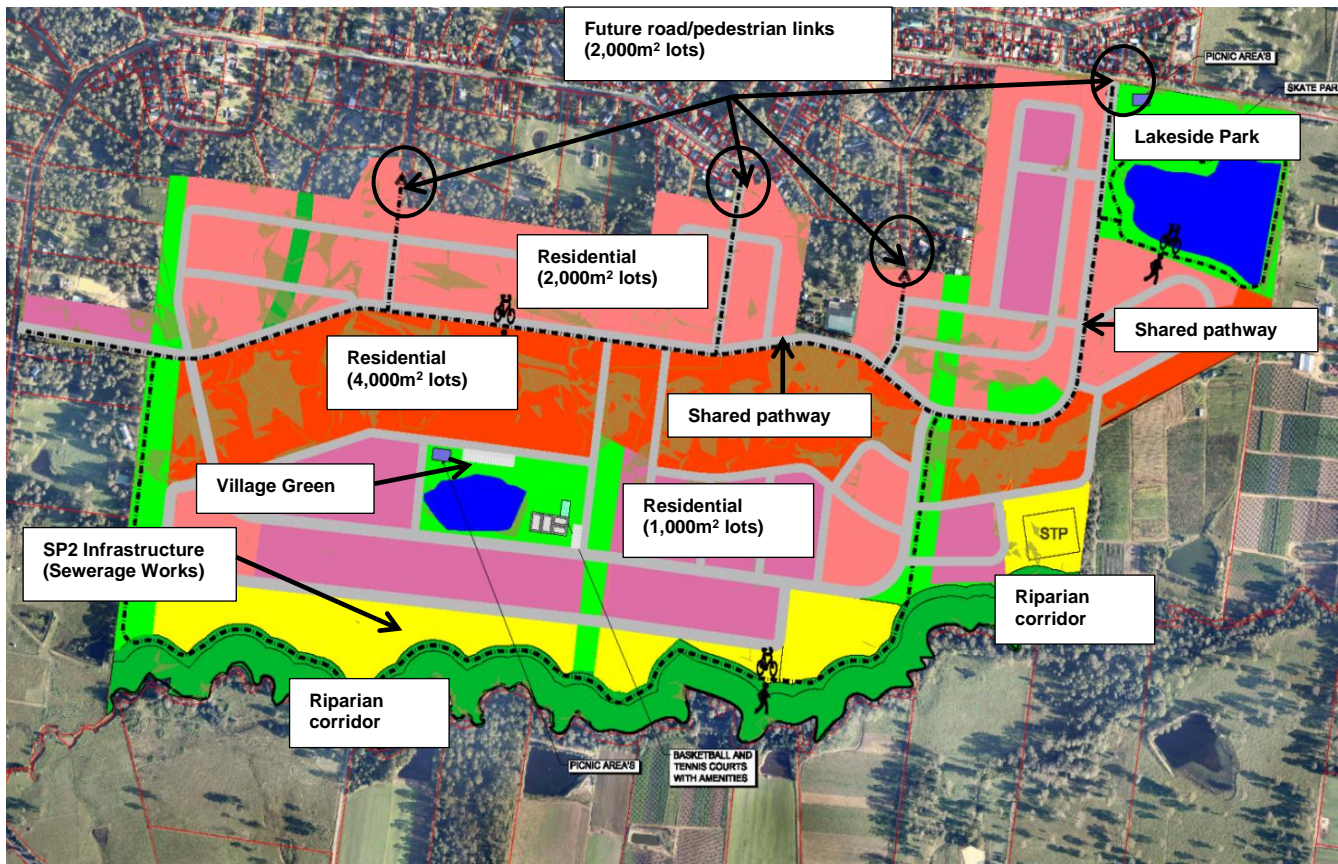


Figure 1. Previous Concept Masterplan

The Planning Proposal was accompanied by an offer by the applicant to enter into a Voluntary Planning Agreement (VPA) for the delivery of local and regional infrastructure. It provided for contributions towards local infrastructure to support the development and its future population, as well as contributions towards the upgrading of the regional road network.

2.2 Voluntary Planning Agreements

The Planning Proposal was accompanied by a Local VPA to the value of \$17.4 million (\$30,000 per lot subject to CPI indexation) for the delivery of the required local and regional infrastructure to support approximately 580 lot yield on the subject site. The Local VPA was executed in January 2017, and is included as Attachment 2 of this Report.

A State VPA enabling a total of approximately \$5.8 million Development Contributions (\$10,000 per lot subject to CPI indexation) for improvements to the State road network was also executed between the Developer and the then Department of Planning and Infrastructure.

The Local VPA will operate in lieu of a Section 7.11 or Section 7.12 Development Contributions during such a time where residential construction is to commence within the Jacaranda Precinct.

2.3 Planning Proposal (2018)

A subsequent Planning Proposal was submitted for the Jacaranda site which sought the following:

- Rezone part of R5 Large Lot Residential and RE1 Public Recreation zoned land to E2 Environmental Conservation and reconfigure part of RE1 Public Recreation zoned land containing significant vegetation and endangered habitat within the subject site to achieve improved ecological outcomes for the subject site.



- Rezone SP2 Infrastructure zoned land (other than a small area of SP2 zoned land at the south-eastern corner of the subject site proposed for a water recycling facility) along the Currency Creek corridor to part R2 Low Density Residential and RE1 Public Recreation.
- Reconfigure the R2 Low Density Residential, the remainder of R5 Large Lot Residential land and RE1 Public Recreation zoned land to yield approximately 580 residential lots on the subject site.

On 27 April 2021, Hawkesbury City Council resolved to adopt the Planning Proposal through an LEP amendment on the 30 September 2021.

2.4 Draft Local Planning Agreement

A new VPA is currently being negotiated with Council for the Jacaranda development which will replace the current VPA. The draft VPA proposes an increase in contributions from the existing VPA to \$40,000 per lot in cash and/or works in kind and/or dedication of land.

The draft VPA is considered to be a separate process to the determination of this Development Application given no residential allotments are being sought under this concept and detailed proposal.

3. Site Description & Conditions

The subject site consists of nine (9) properties and has an area of approximately 185.3ha as shown in Table 1.

Lot/DP	Lot size
Lot 201 DP1268299	15.69ha
Lot 202 DP1268299	29.05ha
Lot 203 DP1268299	24.82ha
Lot 204 DP1268299	28.39ha
Lot 205 DP1268299	23.82ha
Lot 206 DP1268299	26ha
Lot 207 DP1268299	34.89ha
Lot 208 DP1268299	4,081m ²
Lot 209 DP1268299	6,953m ²
Lot 210 DP1268299	2.023ha

Table 1. Lot Size

The subject development site is in irregular shape and contains a free range egg production farm consisting of 10 sheds within the North-Western part of the subject site, a chicken rearing farm consisting of 24 sheds within South-Western part of the subject site, eight dwellings and ancillary farm buildings and the remainder of the subject site is cleared and undeveloped with patchy tree coverage. The development site also contains eight dams, significant vegetation and endangered habitat, but the majority of the subject site is cleared and undeveloped.

The land is undulating and varies in elevation from approximately 80m AHD westerly, 70m AHD northerly, 40m AHD easterly, and 30m AHD southerly, and contains a ridgeline running east-west through the northern part of the subject site.

Currency Creek which forms the southern boundary of the subject site and bounded by a riparian vegetation corridor provides habitat for riparian fauna and holds aquatic fauna. Three unnamed watercourses which are tributaries of Howes Creek run from North to South at the northern boundary.

Topographically, a central ridge line runs through the property splitting flow paths to the North of the site and South towards Currency Creek. Grades transition from 12% towards this ridge and tapers off towards shallower grades of 1-3% around Currency Creek.

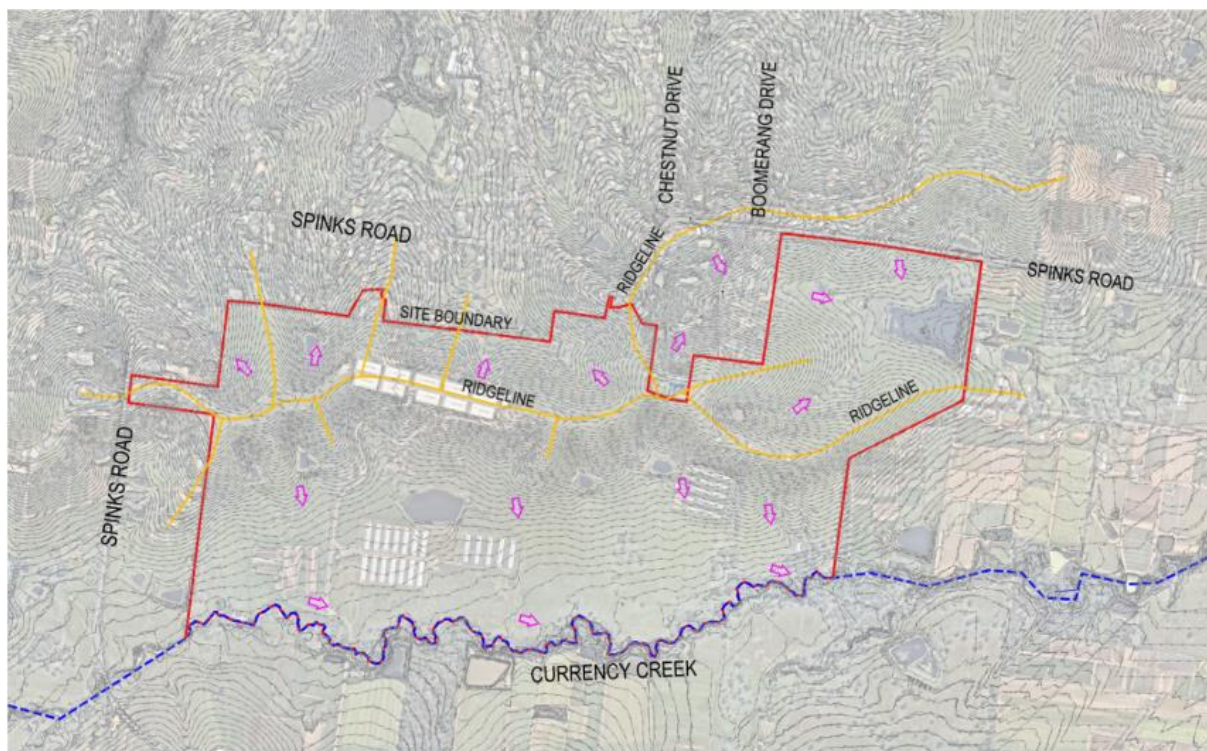


Figure 2. Topographical map. Source: Enspire Solutions

As illustrated in Figure 3 below, the subject site is bounded by Spinks Road and low-density residential land to the north, Currency Creek to the south, primary production/rural agricultural land to the east and Spinks Road and primary production/rural agricultural land to the West.

The subject site is located immediately adjoining the existing Glossodia village which is the second largest residential community north of the Hawkesbury River within the Hawkesbury Local Government Area (LGA) behind North Richmond.

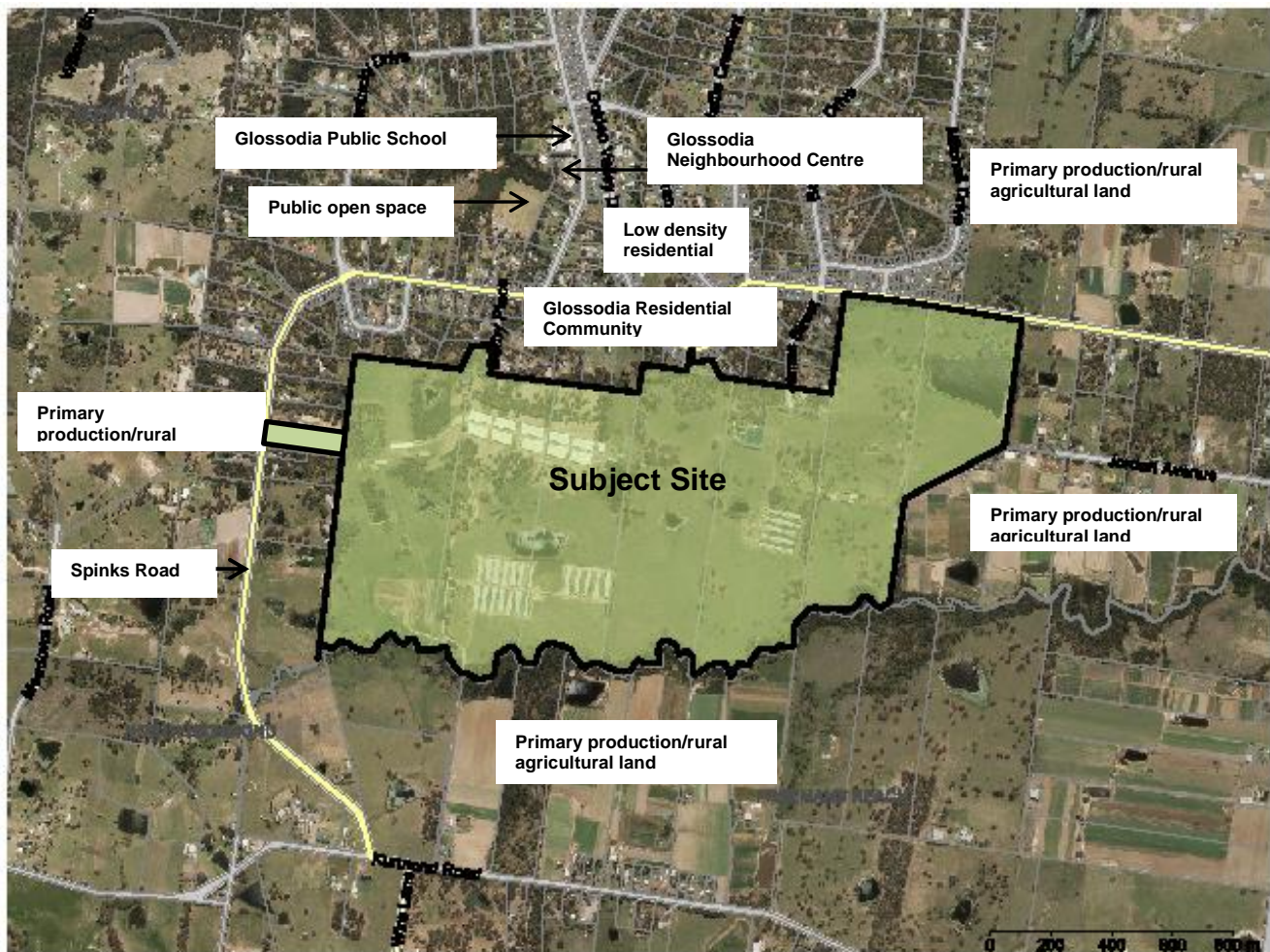


Figure 3. Subject Site and Surrounds

As shown in Figure 3 above, the subject is surrounded by a mix of land uses including residential, primary production/rural agricultural land uses, public open spaces, schools and retail uses. North of the subject site beyond Spinks Road is predominantly residential. Figure 3 also shows that the subject site is located within a reasonable walking distance (approximately 700m) to the existing Glossodia village.

Public transport routes can be found at Windsor Railway Station, approximately 9km from the site and Richmond Railway Station which is 6km away from the subject site. Both railway stations are located on the T1 & T5 lines connecting greater Windsor with the Sydney CBD. Further, bus stops are located along Spinks Road, facilitating the 668 Bus route (Windsor to Richmond via Wilberforce, Glossodia & North Richmond).

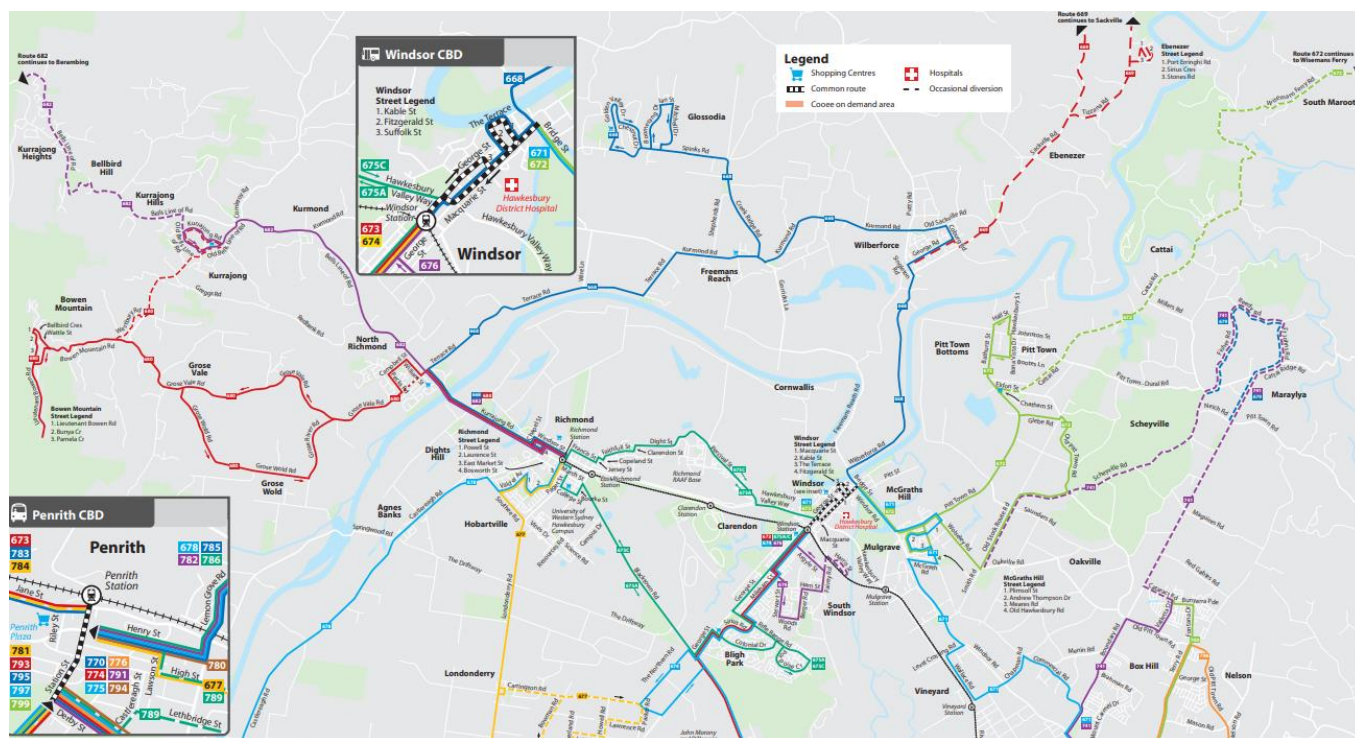


Figure 4. Bus routes in Greater Windsor.

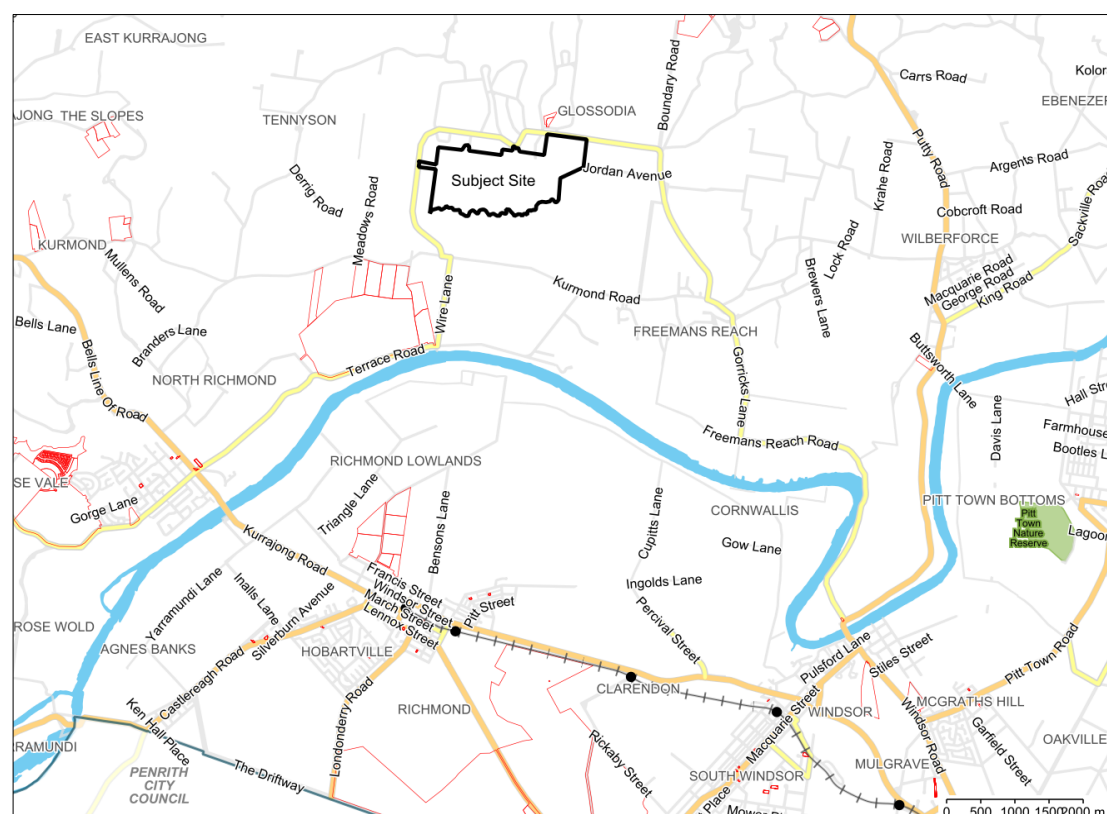


Figure 5. Greater Locality Map

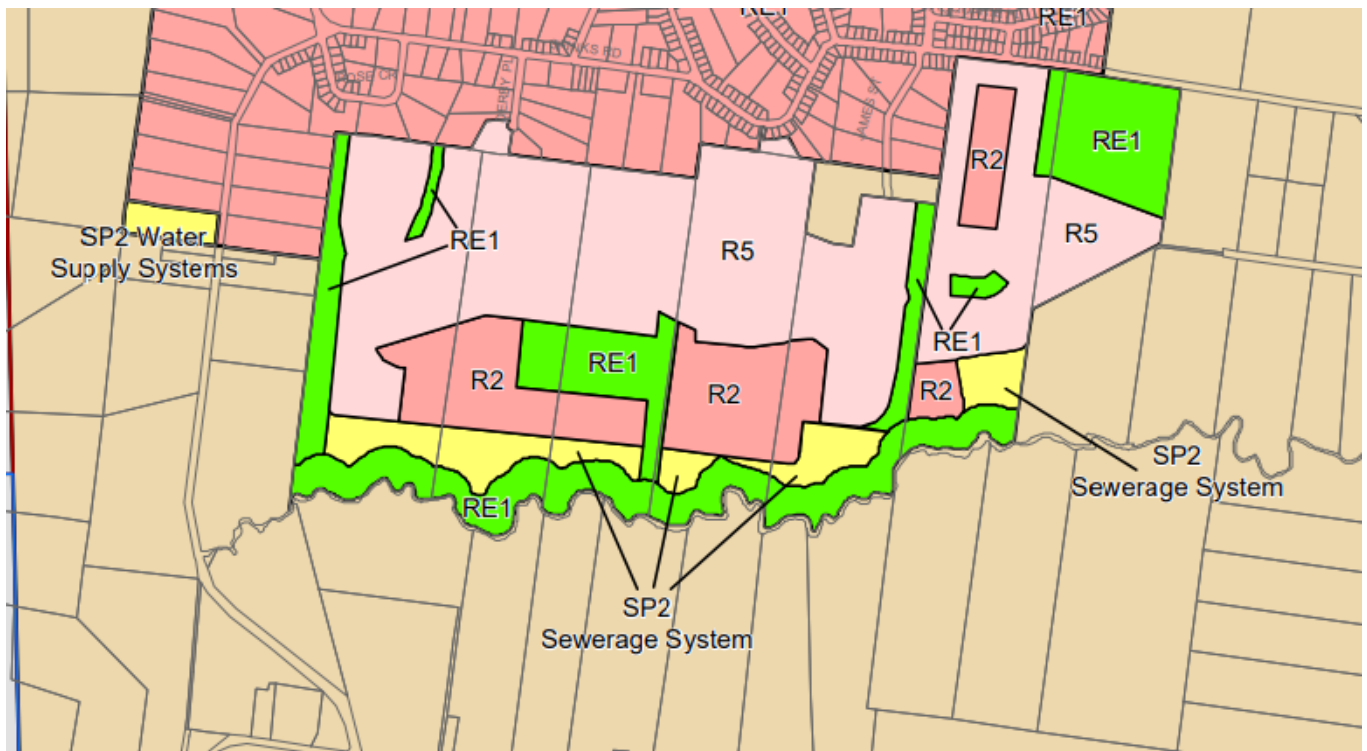


Figure 6. 2014 LEP Amendment

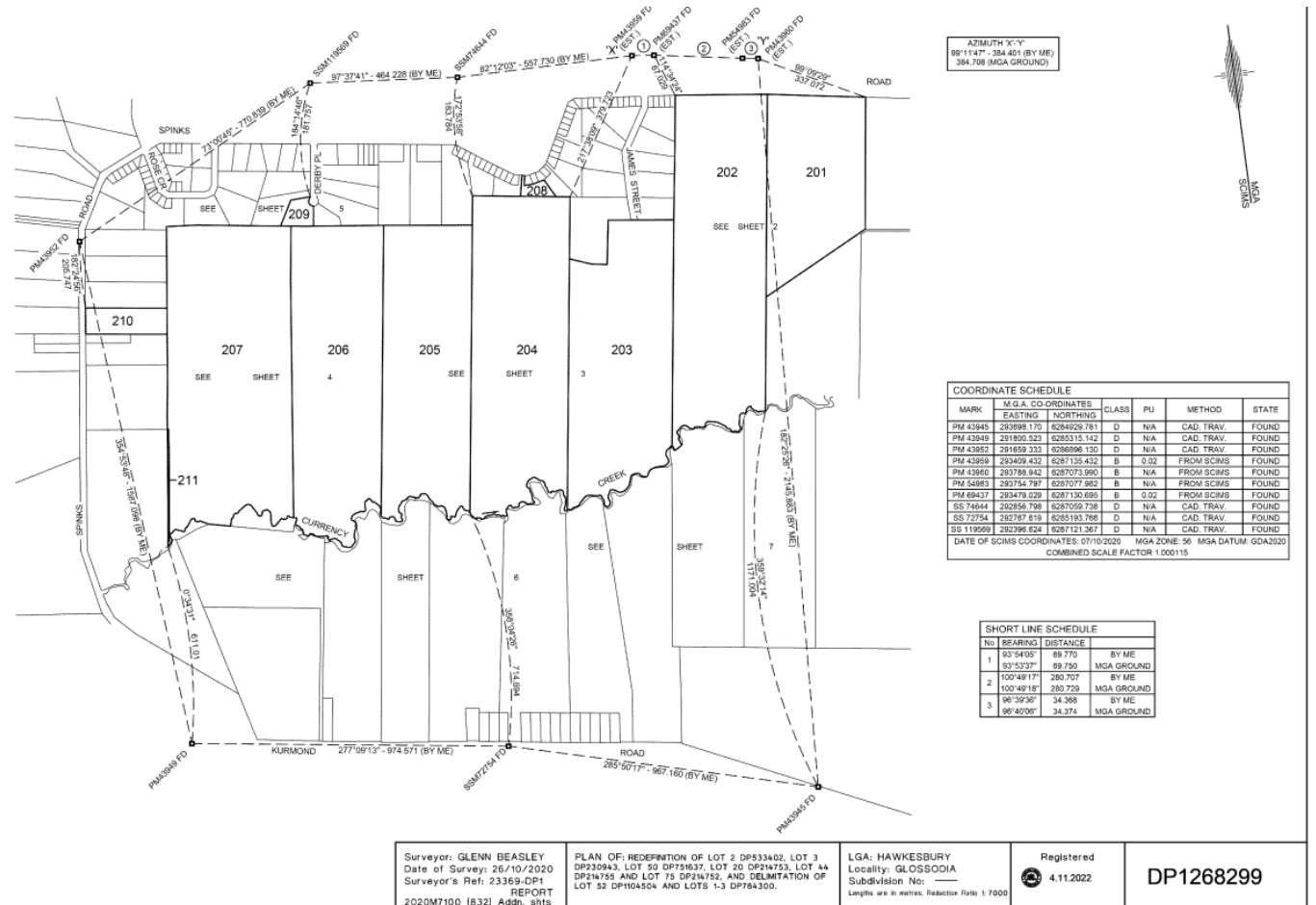


Figure 7. Deposited Plan 1268299

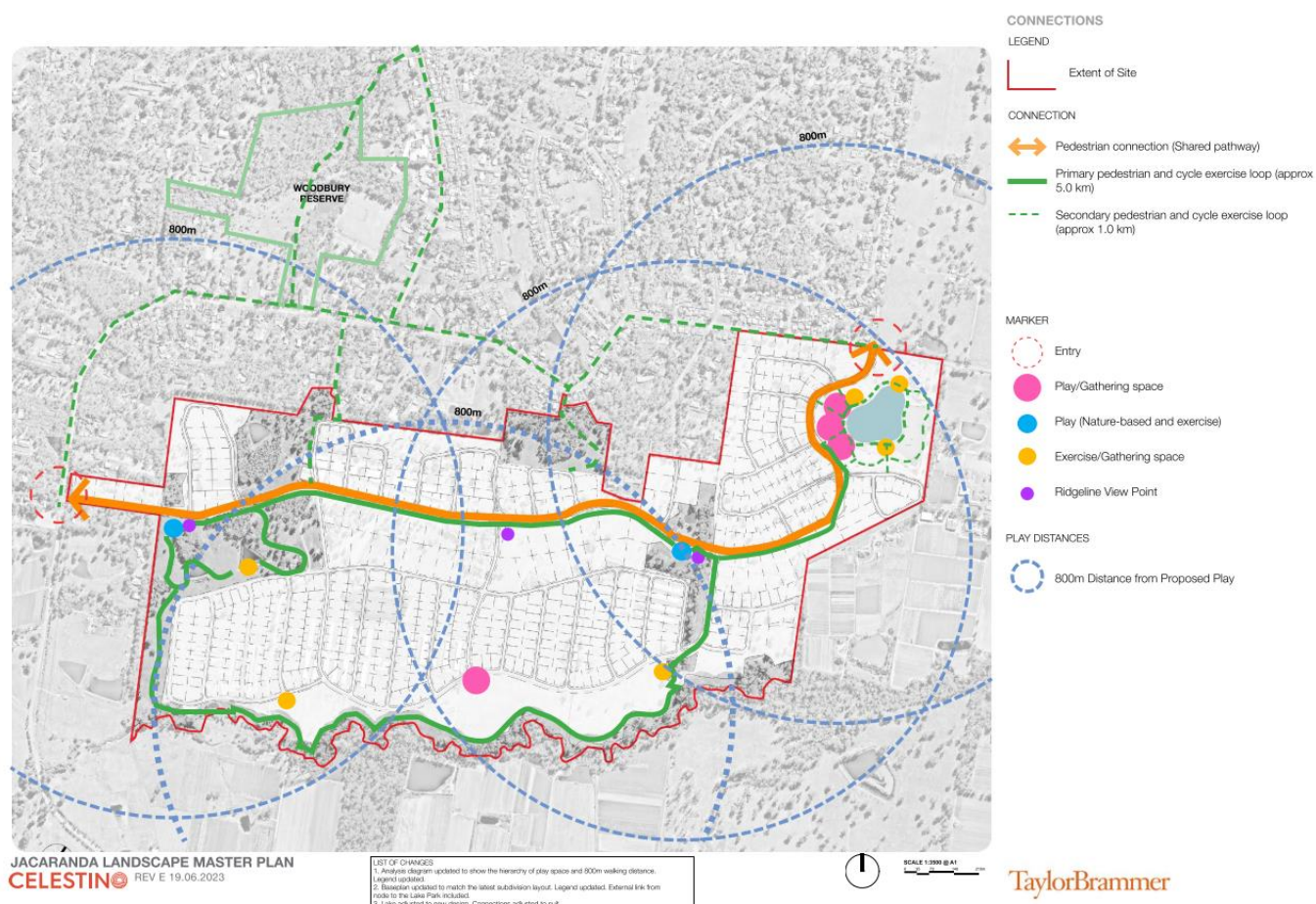


Figure 8. Walkability and Open space map. Source: Taylor Brammer

4. Proposed Development

This Concept Development Application has been made under Section 4.22 of the Environmental Planning and Assessment Act 1979 wherein a consent authority is to consider the likely impacts of the concept proposal and any first stage of development. It is noted that the delivery of the Concept Masterplan beyond the Stage 1 works will be the subject of subsequent Development Applications.

The Concept Development Application seeks the following:

- Concept land use design for the master planned community including the allocation of residential, open space, conservation and infrastructure;
- Concept public domain landscape design including open space and streets;
- Indicative residential lot yield ranges by development precinct up to a maximum 580 lots;
- Integrated Water Cycle Management Strategy;
- Contamination Management Strategy;
- Road Hierarchy Plan; and
- Vegetation Management Plan.



Figure 9. Proposed Concept Masterplan. Source: Enspire Solutions



Figure 10. Precinct Plan. Source: Enspire Solutions

As noted in Figure 10 above, the subject development site is made up of four (4) precincts A, B, C & D. The development precincts have been determined have been identified by the applicant with consideration to the site constraints land ownership, access arrangements, ecosystem credit offsets and retirement, and servicing. With regard to project delivery and timing, the applicant has advised that Pace (working on precincts C & D) and Celestino (working on precincts A & B) are working concurrently to develop the site. In this respect, a sequential delivery of the precinct from A to D would only serve to delay the delivery of Jacaranda. In this respect, Council is satisfied that future Development Applications can be approved with conditions pertaining to project delivery timing.

The concept proposal further seeks the consent of indicative lot yields within each precinct (refer to table 2) noting that the Hawkesbury Local Environmental Plan 2012 permits a maximum of 580 residential allotments within the Jacaranda precinct.

Precinct	Indicative Yield	Maximum Yield
A	150-160	300
B	140-150	
C	155-165	280
D	115-125	

Table 2. Indicative lot yield.

The proposal seeks consent for the Concept Public Domain Landscape design which encapsulates the general design approach for the open space and street networks.

The applicant has provided the below statement with regard to the Concept Public Domain landscape design.

Two major areas of open space have been sought to deliver opportunities for recreational play & public enjoyment for the future community.

- Lake Park: acting as an Eastern gateway of the site, the lake park incorporates the redevelopment of an existing waterbody into public parkland, play equipment and a public lakefront.
- Village green: adjoining the riparian lands on the edge of Currency creek.



Figure 11. Landscape Concept Masterplan. Source: Taylor Brammer

4.1 Integrated Water Cycle Management Strategy

The subject application seeks consent for the integrated Water Management Strategy which seeks a water quality treatment train comprising conventional gross pollutant traps, bioretention basins, and wetlands. The Civil and Stormwater Management Report identifies how the Concept Masterplan and sitewide stormwater management plan will manage stormwater and runoff through implementing erosion and sediment controls, site grading and stormwater management infrastructure and treatment trains.

4.2 Contamination Management Strategy

The subject application seeks consent for an overarching contamination management strategy that comprises a site assessment review of the 2009 report, completed by JBS&G in 2017. Remediation works are also sought to be carried out as part of the detailed proposal.

4.3 Road Hierarchy and Road Naming Strategy

The concept proposal seeks consent for the road hierarchy as referenced in figure 12. It should be noted that consent is not sought for the carrying out of road construction works with road naming to be completed independently with Council outside of the subject Development Application.

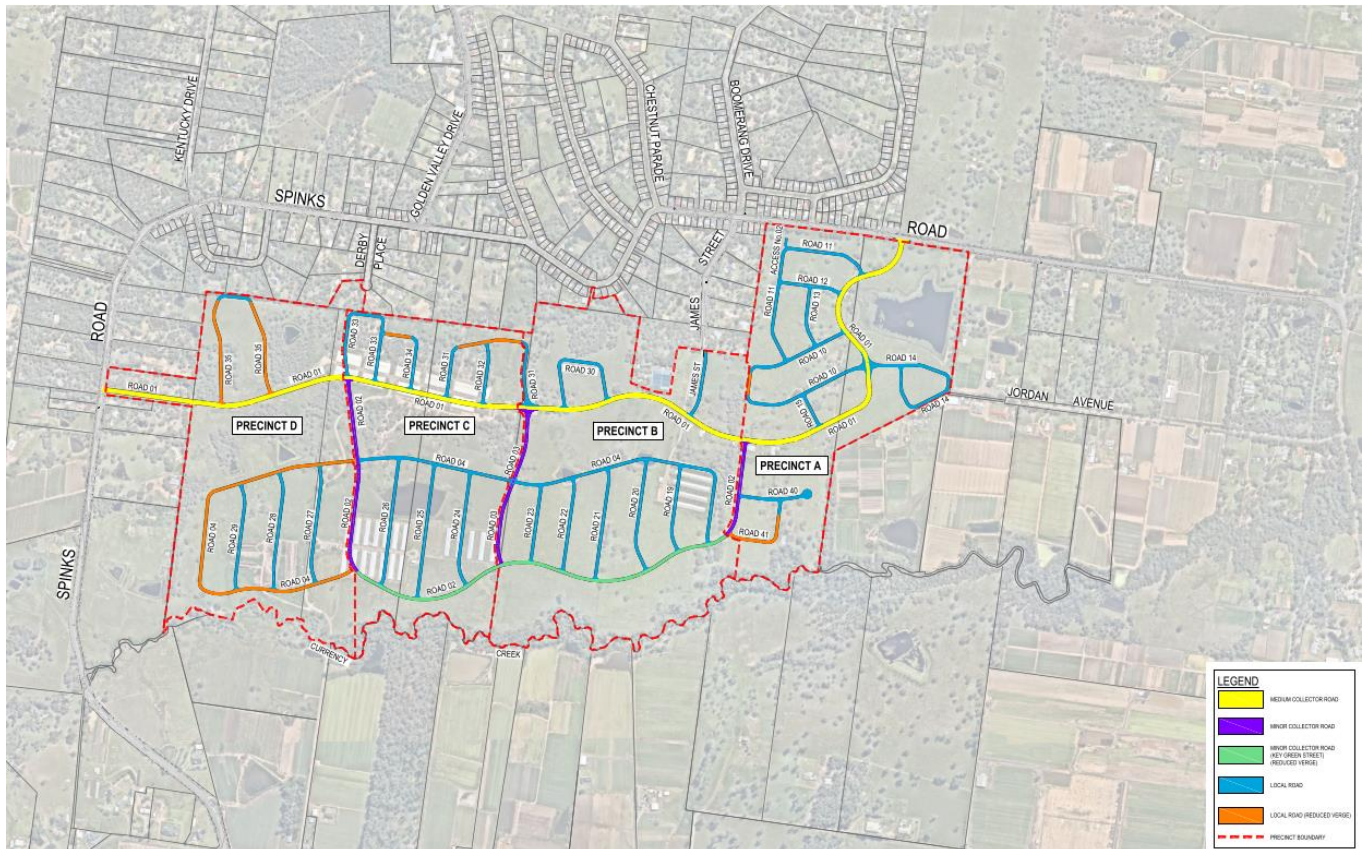


Figure 12. Road Hierarchy Plan. Source. Ensipre

4.4 Vegetation Management Plan

The proposal seeks consent for the Vegetation Management Plan (VMP) which demonstrates the intent and future management of the remaining 3.06 hectares of Currency Creek riparian area outside the biobank sites. The VMP would seek to classify the land into four management zones and provide an implementation schedule for the initial five year period.

It is noted that works required to implement the VMP will form part of a future Development Application.



Figure 13. Vegetation Management Zones. Source. EcoLogical

4.5 Preparatory Stage 1 Works.

Further to the above, consent is sought for the initial Stage 1 preparatory works. These consist of the following:

- Demolition of all structures on the site and all improvements to the land within precincts B, C & D;
- Dewatering of all dams on the site except the small dam along Currency Creek within precinct D;
- Remediation works;
- Bulk earthworks including the precinct A lake;
- Removal of trees and vegetation require to facilitate the earthworks and remediation; and
- Establishment of asset protection zones.

4.6 Demolition

Demolition is proposed for improvements in Precincts B, C & D of Jacaranda as part of the detailed proposal which includes:

- Demolition of the existing dwelling houses and outbuildings including garages, carports and sheds.
- Demolition of all rural structures including sheds and yards.
- Removal of all improvements to the land including roads, paths, fences (excluding the boundary fences), water tanks, septic tanks and utility services.
- Removal of all improvements to the land including roads, paths, fences (excluding the boundary fences), water tanks, septic tanks and utility services.
- Removal of the poultry sheds within precincts B, C & D.

4.7 Dam Dewatering

The remediation of the land and the proposed earthworks require dam dewatering of all waterbodies within Jacaranda except the dam along Currency Creek within precinct D. In addition, other future works including the integrated water cycle management and open space embellishment works are to rely on the dewatering of dams.

For the dams located within Precinct A the works include:

- Dewatering of Dam 01 and disposal of water by irrigation of land to the South;
- Dewatering of Dam 02 and disposal of water by irrigation of land to the South-West;
- Dewatering of Dam 03 and disposal of water by irrigation of land to the North-West;
- Dewatering of Dam 04 and disposal of water by irrigation of land to the North; and
- Dewatering of Dam 05 and disposal of water by irrigation of land to the North-East.

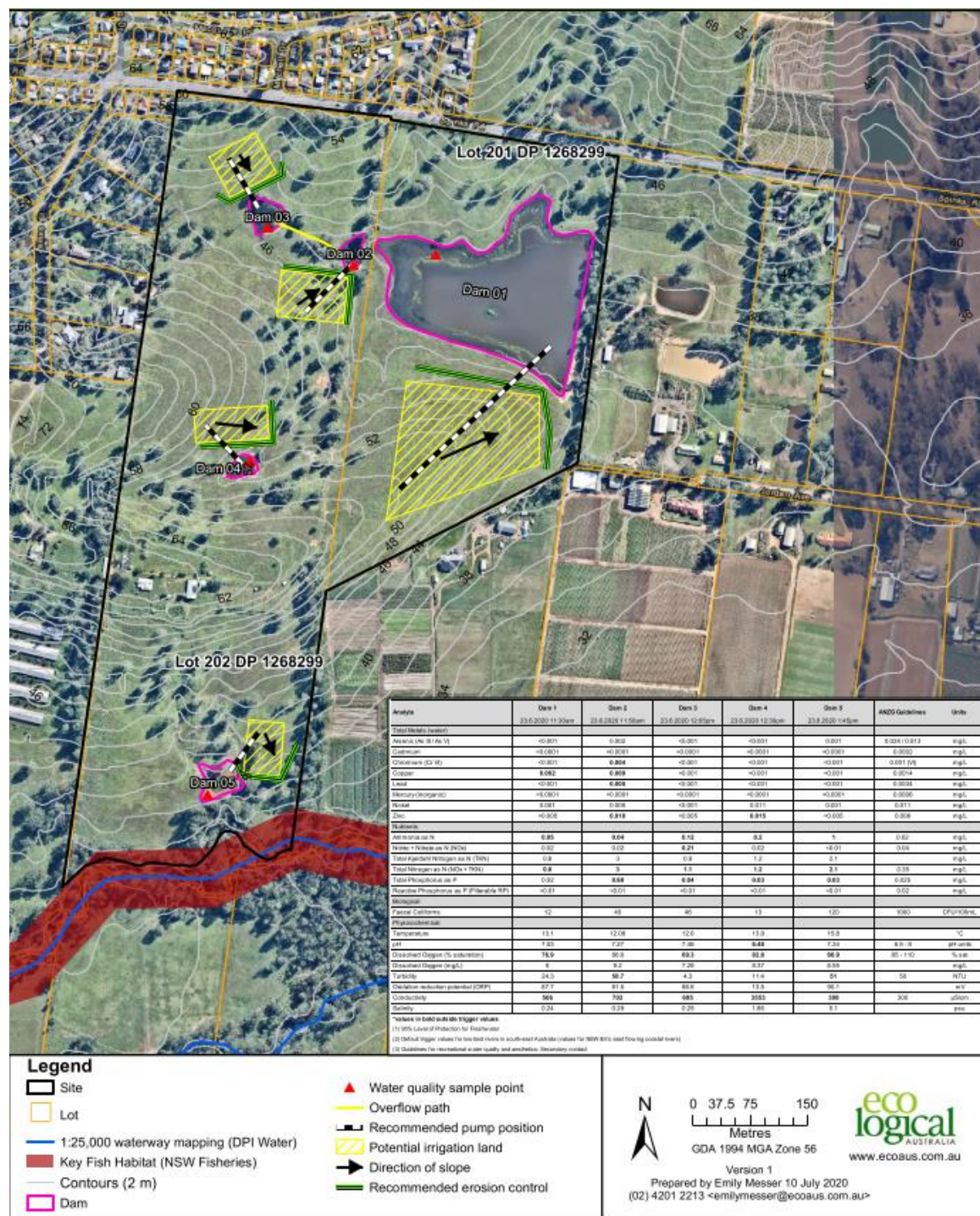


Figure 14. Precinct A dam dewatering plan. Source. EcoLogical.

For the dams located within Precinct B the works include:

- Dewatering of Dam 01 and disposal of water by irrigation of land to the South;
- Dewatering of Dam 02 and disposal of water by irrigation of land to the North;
- Dewatering of Dam 03 and disposal of water by irrigation of land to the South-East;
- Dewatering of Dam 04 and disposal of water by irrigation of land to the East; and
- Dewatering of Dam 05 and disposal of water by irrigation of land to the East.

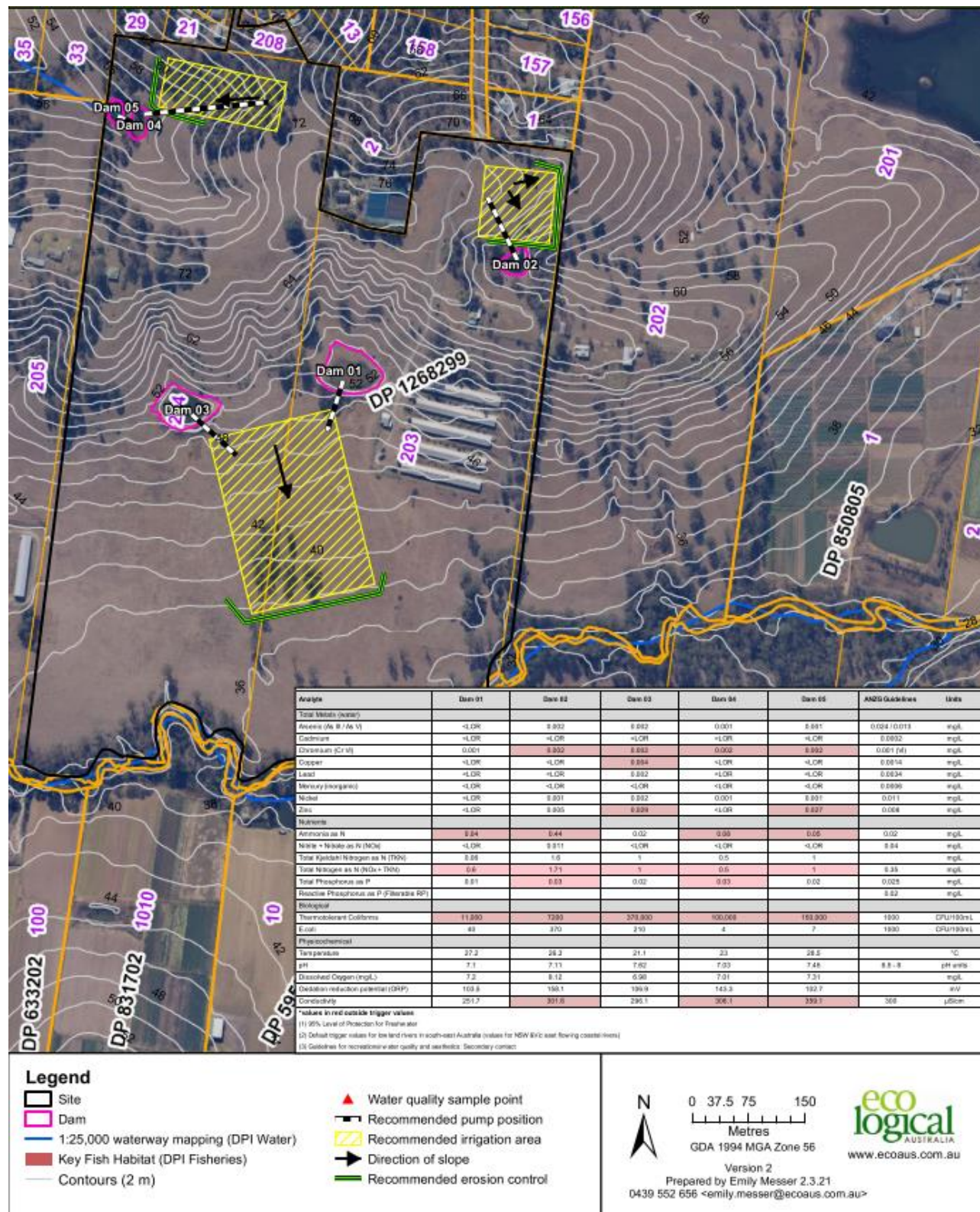


Figure 15. Precinct B dam dewatering plan. Source: EcoLogical.

For the dams located within Precinct C the works include:

- Dewatering of Dam 1 and disposal of water by irrigation of land to the East.

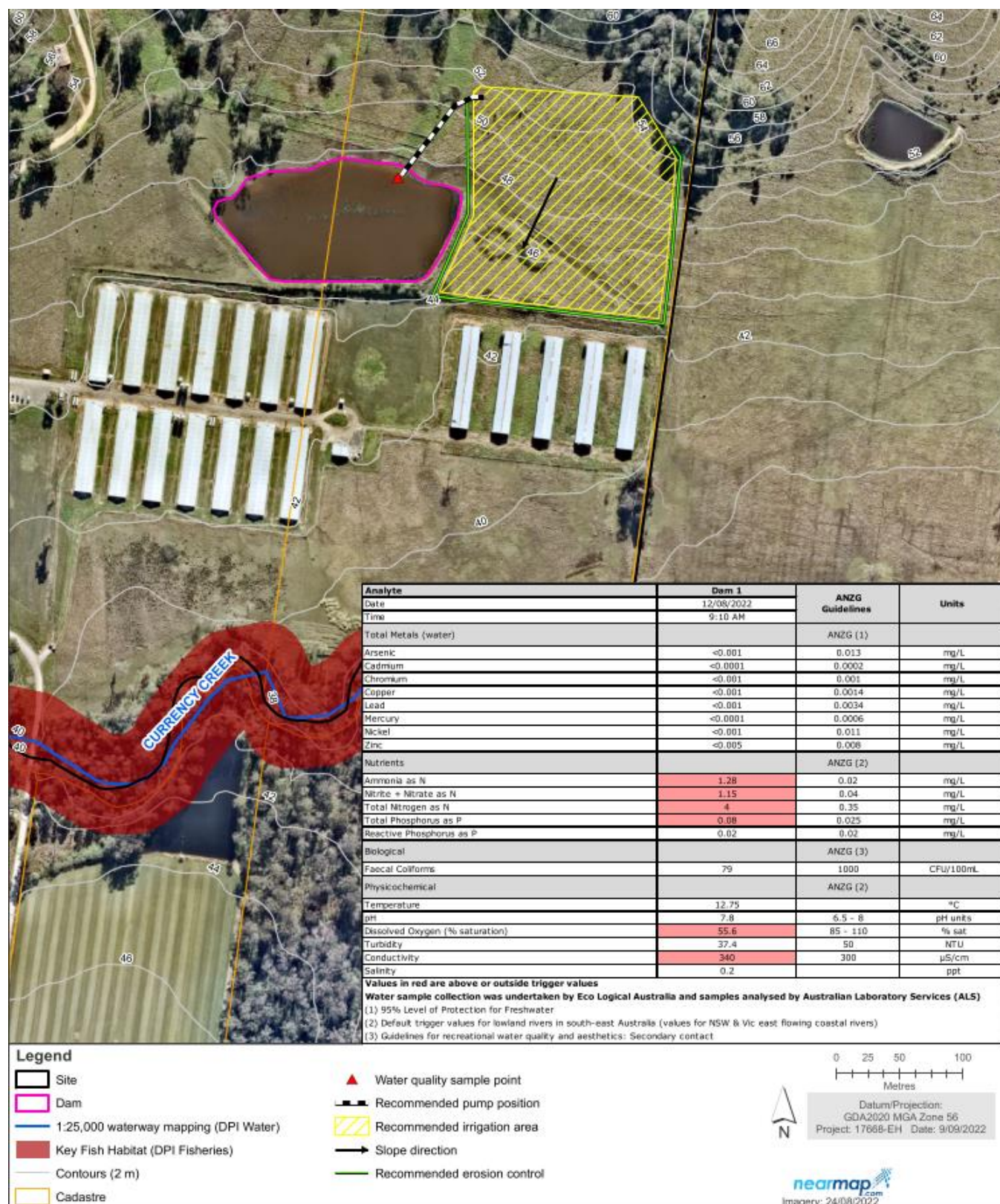


Figure 16. Precinct C dam dewatering plan. Source. EcoLogical.

For the dams located within Precinct D the works include:

- Dewatering of Dam 01 and disposal of water by irrigation of land to the South;
- Dewatering of Dam 02 and disposal of water by irrigation of land to the North-West;
- Dewatering of Dam 03 and disposal of water by irrigation of land to the South;
- Dewatering of Dam 04 and disposal of water by irrigation of land to the North; and
- Dewatering of Dam 05 and disposal of water by irrigation of land to the West.

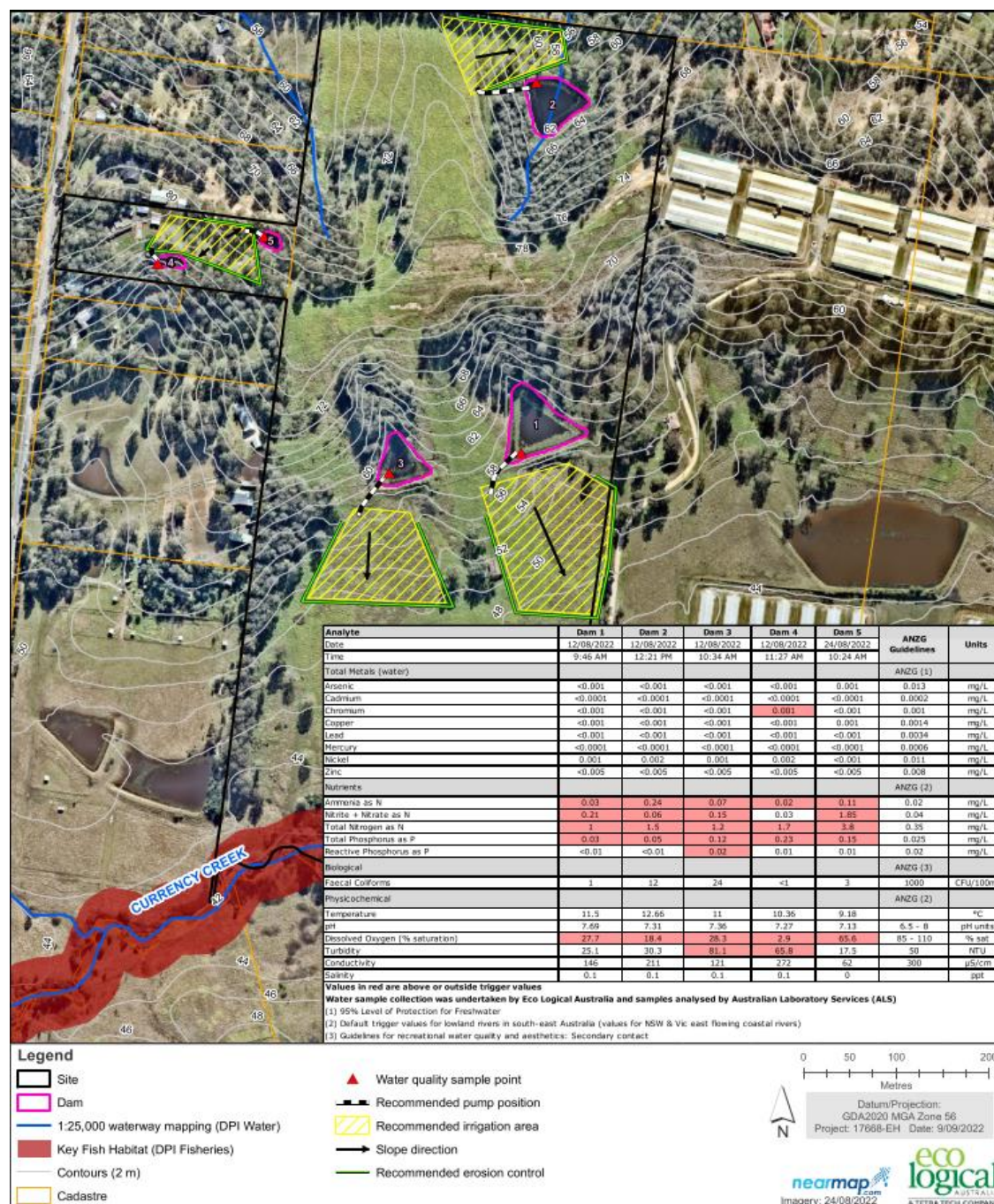


Figure 17. Precinct C dam dewatering plan. Source. EcoLogical.

It is noted that sediment and erosion controls have been included as part of the proposed works onto the site.



4.8 Remediation Works

Consent is sought for the remediation of all potential Areas of Environmental Concern (AECs) identified in the PESA completed by JBS & G in 2009. The following AECs are sought to be remediated.

- Areas formerly used as orchards;
- Former and present building and shed locations across the site;
- Former site infrastructure (including crushers and screens) in the Central, Eastern and Northern portions of the site;
- Likely storage of petroleum products (including in above ground storage tanks) across the site;
- Stockpiled material across the site;
- Fill material at the site, and,
- Historical use of the site for rural and agricultural purposes.

The particulars of remediation works are as follows:

Within precinct A:

- SP02 is to be remediated by spreading the stockpile and hand picking the fragments for offsite disposal;
- The Northern Access Road is to be excavated and the material screened for disposal, recycling, or reuse;
- BP02 is to be validated and then subject to suitability excavated and spread with other soil within the site, and;
- SS04 is to be excavated, spread, and aerated before being validated.

Within precinct B:

- Structure 01 and Structure 02 is to be remediated by hand picking the asbestos containing material (ACM) fragments for offsite disposal;
- Offsite disposal of friable asbestos impacted soil at SS02;
- SP01, SP03 and SP04 is to be excavated and spread with other suitable soil;
- Onsite reuse following visual assessment to confirm removal of larger aesthetic issues in the BP01 burn pit area, by spreading across a wider area with other suitable soil to reduce aesthetic impacts, and;;
- Offsite disposal of visible organic waste from TP09 and SP02.

Within precincts C and D:

- Identified non-friable (bonded) ACM on the ground surface of gravel drive/parking area in the vicinity of the southern chicken sheds, where sample FRAG01;
- Identified bonded ACM on the ground surface adjacent the residence in Lot 75;
- Elevated concentrations of zinc at sample locations PF10 and PF13 near the southern chicken sheds and in the former orchard area in the Northwest at composite sample locations COMP_L, N and R;
- Identified elevated concentrations of Thermotolerant/Total Coliforms, E. Coli and/or Salmonella near the chicken sheds in Precinct C (locations PF02, PF04, PF09, PF10, PF12 and PF13) and near septic tank ST02 in the Northeast;
- Identified elevated concentrations of Thermotolerant/Total Coliforms, E. Coli and/or Salmonella at septic tanks ST04 in Lot 44 and ST01 West of the Southern chicken sheds, in the manure stockpiles in the South of Precinct D (MSP01-MSP10), in fill near former chicken sheds in the north of Precinct D (FL01);
- TRH and PAHs above ecological, health and management limit criteria in stained/odours soil adjacent AST07 West of the Southern Chicken Sheds, and;
- Identified aesthetic issues including surface ACM, organic/biological material at surface and areas of burn residue in Precinct D (BA01-BA07), East of the chicken shed areas (BA08-BA10).

4.9 Bulk Earthworks

Consent is sought for bulk earthworks and land recontouring across Jacaranda including all land zoned R2 Low Density Residential and R5 Large Lot Residential and parts of the RE1 Public Recreation and SP2 Infrastructure zoned land. No earthworks are proposed within the BioBank sites, or any 'Conservation Area' identified within the Biodiversity Certification Agreement (BCA).

The earthworks include the contouring of the Precinct A lake. The earthworks are ancillary to the broader subdivision and future residential works within Jacaranda and involve changes of up to 5m+ of cut or fill. The key

areas requiring fill are the existing dams on Site and the valleys. The grading of the Site seeks to ensure future road levels are optimised to Australian standards, and that retaining on future lots is minimised. Further, the proposal has incorporated a bulk earthworks strategy that aims to minimise export of fill material.

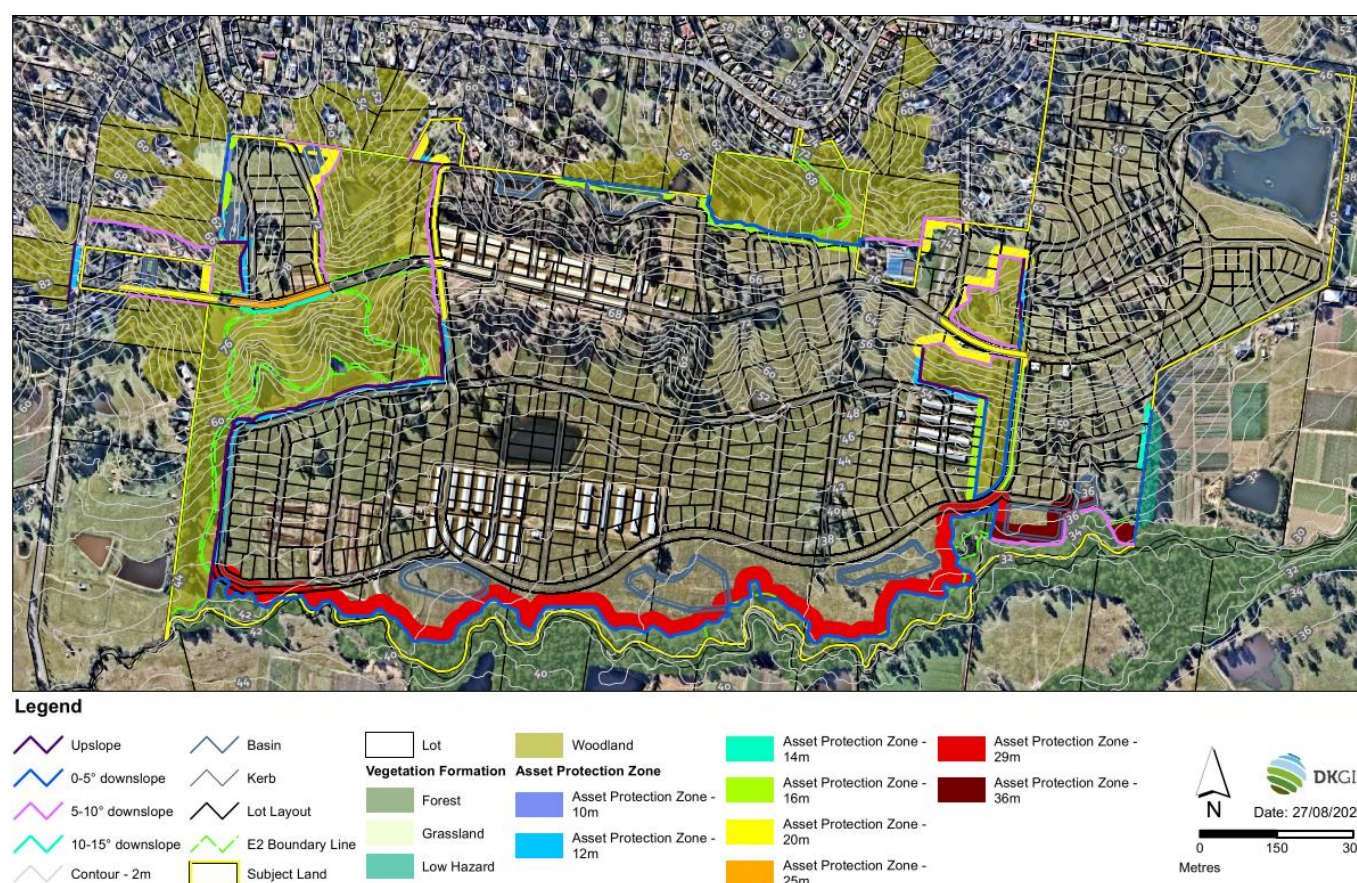
4.10 Tree and Vegetation Removal

Consent is sought under the detailed proposal for the removal of all trees and vegetation required to facilitate the earthworks and remediation. The earthworks require the majority of trees within the R2 and R5 zoned land be removed. The R2 and R5 zoned land is generally free of significant vegetation and is 'Biodiversity Certified' under the Biodiversity Conservation Act with limited scattered trees. The removal of trees will facilitate future road gradients that comply with the Australian Standards and lots that can readily accommodate future dwelling houses.

Six trees are also required to be removed on the eastern side of the lake located in Precinct A that is zoned RE1 Public Recreation that is identified as 'Retained Land' under the Biodiversity Conservation Act (i.e. the land was not considered as being impacted by development or to be conserved). These trees are required to be removed to facilitate the reconstruction of the existing dam wall and associated outlet armouring to ensure the lake can remain safe and functional within a similar footprint that allow for existing trees to the North and West, also within the 'Retained Land' area of the Biodiversity Conservation Act to remain and be incorporated within the future open space area.

4.11 Asset Protection Zones

Consent is sought for the establishment of the Asset Protection Zones (APZ) consistent with the advice of the Peterson Bushfire Assessment Report. It is proposed that the APZs will be established concurrently with the earthworks, relevant to specific areas of land. Consent is therefore sought for the removal of vegetation and trees within the APZ.



The APZs are illustrated in Figure 18. Whilst this application seeks consent for the establishment of the permanent APZs, these will be delivered in conjunction with the adjoining precinct development. It is therefore recognised that



individual subdivision applications may require the establishment of temporary APZ should the permanent APZ not yet be established.

4.12 Staging and future works

The applicant has noted that the above works will not be completed for the entire precinct in a single stage and will be carried out in staged sequences. It is noted that approval for the below works are not sought as part of the Concept Masterplan Development Application and that Council expects that subsequent Development Applications in future precincts will be the subject of the following items:

- Subdivision of the land into residential, environment and conservation lots,
- Construction and dedication of roads and street infrastructure,
- Utilities servicing lots,
- Construction of residential homes,
- Construction of the local water centre,
- Embellishment of future open space,
- Construction of community assets.

It is noted that subsequent Development applications will be required to remain consistent with the masterplan approval.

5. Application History

Date	Comment
15/08/2023	Application lodged on the NSW Planning Portal.
20/09/2023 – 20/10/2023	Application placed on public advertising
05/10/2023	TFNSW requests additional information
18/10/2023	Additional information provided to address TFNSW.
24/10/2023	Council requests additional information.
27/10/2023	Rural Fire Service provides their General Terms of Approval.
09/11/2023	Water NSW provides their General Terms of Approval.
14/11/2023	Heritage NSW provides their General Terms of Approval.
15/11/2023	Department of Planning - Water requests additional information.
17/11/2023	Additional information provided to address Council's request for additional information.
21/11/2023	Additional information provided to address Department of Planning – Water request for additional information..

6. Referrals

Stakeholder	Comment
Parks & Ecology	• Supported subject to the imposition of conditions.
Engineering	• Supported subject to the imposition of conditions.
Environment and Regulatory services	• Supported subject to the imposition of conditions.
External Referrals	
Rural Fire Service	• General terms of approval issued
Water NSW	• General terms of approval issued
Heritage NSW	• General terms of approval issued
Department of Planning - Water	• General terms of approval issued
Transport for NSW	• Supported subject to the imposition of conditions

7. Environmental Planning Instruments

7.1 Overview

The instruments applicable to this application are:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulations 2021;
- Biodiversity Conservation Act 2016;
- Environmental Protection and Biodiversity Conservation Act 1999;
- National Parks and Wildlife Act 1974;
- State Environmental Planning Policy – (Biodiversity & Conservation) 2021 ;
- State Environmental Planning Policy (Resilience & Hazards) 2021;
- State Environmental Planning Policy (Transport & Infrastructure) 2021;
- Hawkesbury Local Environmental Plan 2012 (LEP 2012);
- Hawkesbury Development Control Plan 2002 (HDCP 2002), and;
- Hawkesbury Council Flood Policy 2020.

7.2 Environmental Planning and Assessment Act 1979

Pursuant to Section 4.10 of the Environmental Planning and Assessment Act 1979, an application can be identified as ‘Designated Development’ under the Environmental Planning and Assessment Regulations 2021 (the regulations) or any other such environmental planning instrument.

The proposed artificial water body will exceed 0.5 hectares with 1.8 hectares being proposed. It is noted that whilst the final detailed design of the proposed lake will be provided in a future Development Application, the proposed lake development forms part of the Water Cycle Management Strategy sought for approval. This has also been supported by comments from WaterNSW concurrently agreeing on the dam being defined as “Dams solely used for the capture, containment and recirculation of drainage and/or effluent, consistent with best management practice or required by a public authority to prevent the contamination of a water source, that are located on a minor stream”.

In determining whether the proposed Artificial Lake can be considered as a subordinate use of the site, Council has considered the findings established in case law established in the Land and Environment Court of NSW. In the case of *Moore and Anor v Yarrowluma Shire Council [2002] NSWLEC 62*, the courts found that it was necessary to “classify or characterise the development for which consent was sought”.

The passage from the judgment of Glass JA in *Foodbarn Pty Ltd v Solicitor-General (1975) 32 LGRA 157* is a classic and oft-cited statement of the test to be applied where the task is to characterise the development which is proposed. At p 161, his Honour said:

“It may be deduced that where a part of the premises is used for a purpose which is subordinate to the purpose which inspires the use of another part, it is legitimate to disregard the former and to treat the dominant purpose as that for which the whole is being used ... Where the whole of the premises is used for two or more purposes none of which subserves the others, it is, in my opinion, irrelevant to inquire which of the multiple purposes is dominant. If any one purpose operating in a way which is independent and not merely incidental to other purposes is prohibited, it is immaterial that it may be overshadowed by the others whether in”. terms of income generated, space occupied or ratio of staff engaged.

In the context of characterising the artificial waterbody, the proposed lake forms an integral component of the water cycle management strategy. The stormwater strategy prepared has been designed to capture post-development runoff and direct these flows towards bio-retention basins. As shown in Figure 18, the proposed artificial waterbody is sought to capture runoff from catchment B (which is a size of 28.72 Ha).

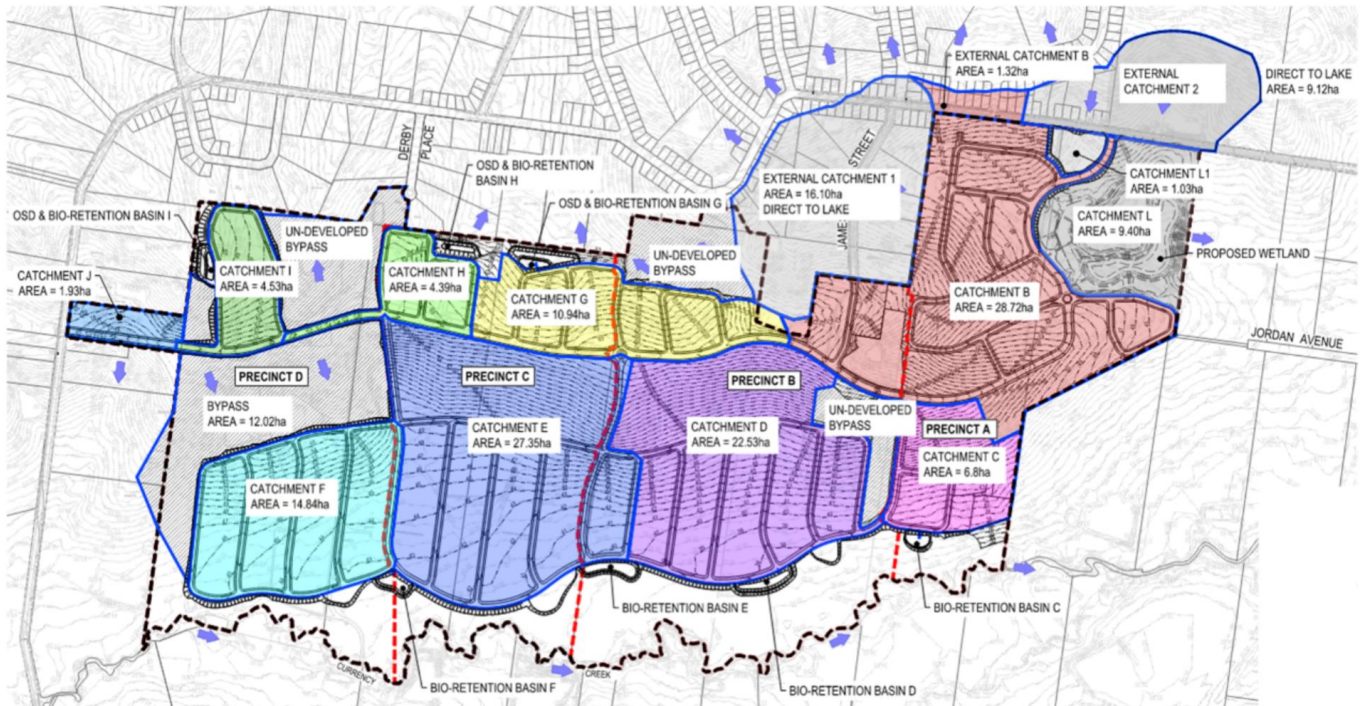


Figure 18. Proposed Erosion and Sediment Catchment Plan. Source Enspire.

It is considered that the creation of an artificial waterbody and excavation works required are incidental and subservient to delivery of residential allotments in the Jacaranda estate. It is further highlighted that the zoning to which the waterbody is sought to be redeveloped is not zoned as W1 Natural Waterways nor W2 Recreational waterways. The space is zoned RE1 Public recreation and will purpose the greater project in delivering a core component of its stormwater strategy whilst serving the residents and visitors of the proposed subdivision.

Under Clause 45 of Part 2, Schedule 3 of the Environmental Planning and Assessment Regulation 2021, Waste Management Facilities or Works is noted as follows:

Waste management facilities or works that store, treat, purify, or dispose of waste or sort, process, recycle, recover, use or reuse material from waste and comprise more than 100,000 tonnes of 'clean fill' that is likely to cause significant impacts on drainage or flooding are characterised as designated development.

Waste management facilities or works that are in or within 100 metres of a natural waterbody, or within 500 metres of a residential zone that are likely to significantly affect the amenity of the neighbourhood can also be characterised as designated development.

The proposed earthworks sought under stage 1 of the proposed development will seek to utilise material onsite that can potentially be characterised as 'waste management works' with 100m of a natural waterbody with the scale also exceeding 100,000 tonnes.

As noted in Section 4.9 of this report, the proposed earthworks are incidental in delivering consistent contours for the Jacaranda precinct.

It can be considered that the intent of Clause 45 of Schedule 1 of the Regulations remains to ascertain risk of "Waste management facilities or works" as defined below:

"Waste management facility or works means a facility or works that—
 (a) stores, treats, purifies or disposes of waste, or
 (b) sorts, processes, recycles, recovers, uses or reuses material from waste."

Further, Waste is defined under part 1 of schedule 3.

“(2) In this Schedule, **waste** includes a matter or thing that—

- (a) is solid, gaseous or liquid or a combination of solid, gaseous or liquid, and
- (b) is discarded or is refuse from processes or uses.

Example — Domestic, medical, industrial, mining, agricultural or commercial processes and uses.

(3) A substance may be **waste** for the purposes of this Schedule even if it may be—

- (a) reprocessed, re-used or recycled, or
- (b) sold or intended for sale.”

Council is of the view that the site to be recontoured as part of the detailed proposal do not meet the definition of waste as it cannot be described as material discarded or refused from processes or uses.

In this respect, Council does not consider the concept proposal is not applicable to Designated Development.

7.3 Biodiversity Conservation Act 2016

Section 1.7 of the Environmental Planning and Assessment Act 1979 requires consideration as to whether a proposed development will have a significant effect on threatened species, populations or ecological communities relating to terrestrial and/or aquatic environments under the Biodiversity Conservation Act 2016.

On 25 August 2017, the Biodiversity Conservation Act 2016 commenced, superseding the Threatened Species Conservation Act 1995 (TSC Act).

On 21 November 2017, the Minister for the Environment made the Proposed Applications for Biodiversity Certification Order 2017 (the Order) pursuant to Clause 37(2) of the Biodiversity Conservation (Savings and Transitional) Regulation 2017. The Order provided that for nominated sites, an application for Biodiversity Certification may be made for assessment under Part 7AA of the TSC Act (in lieu of the new BC Act provisions) if lodged by 25 August 2019. Clause 4(7) of the Order names the Jacaranda site, and the Biodiversity Certification application was lodged prior to this date.

The Biodiversity Certification Order for Jacaranda was published in the NSW Government Gazette on 20 August 2021. As required by the Order, a Biodiversity Certification Agreement was later executed by Council and the Applicant.

Clause 37 of the Biodiversity Conservation (Savings & Transitional) Regulation 2017 states that biodiversity certification conferred on land under the TSC Act is taken to be Biodiversity Certification conferred on the land under Part 8 of the BC Act.

The area of Biodiversity Certified land under the Biodiversity Certification Agreement is illustrated within Figure 19. Vegetation clearing is confined to R2 and R5 zoned land that is ‘Biodiversity Certified’ consistent with the BCA and does not require further assessment of the impacts to biodiversity. Per the BCA that applies to the Site, a Construction Environment management Plan (CEMP) will be required to be prepared and submitted to Council prior to clearing works commencing. In addition, prior to clearing works commencing in each of the Precincts, the responsible party under Schedule 1 of the BCA, will be required to satisfy the relevant Biodiversity Credit Retirement as summarised in Table 3, consistent with Part of the BCA.

Council has reviewed the submitted documents and has recommended suitable conditions of consent.



Figure 19. Land use map. Source. EcoLogical.

Stage/Precinct	Biodiversity Credit Type			
	HN528	HN526	Southern Myotis species	Dural Land Snail
Stage 1/Precinct A	98	42	49 credits to be retired from on-site conservation measures	0
	HN528	HN526	143 credits to be retired from off-site credits held	
Stage 2/Precinct B			0	0
Stage 3/Precinct C	184	0	0	0
Stage 4/Precinct D	HN528		0	15
TOTAL	282	42	192	15
	324			

Table 3. Biodiversity credits to be retired Source: GLN

7.4 Environmental Protection and Biodiversity Conservation Act 1999

Approval under the Commonwealth Environmental Protection and Biodiversity Conservation Act 1999 (EPBC Act) was granted by the Federal Government on 17 June 2020 for the whole of the Jacaranda development.

The EPBC Act is currently undergoing review however the Approval has effect until 19 June 2040 and means that no further assessment under this Act is required. The Approval is subject to conditions that require the staged retirement of ecosystem credits commensurate to ecological impacts. The staging for credit retirement is outlined in Table 4.

Precinct	Maximum Approved Impact (ha)	CPW like-for-like ecosystem credits required
A	0.01	n/a
B	2.64	77
C	1.45	42
D	0.63	19
Total	4.73	138

Table 4. Credits required per precinct. Source: GLN

With exception of the tree removal on the 'Retained Land', the CDA and Stage 1 Detailed Proposal are consistent with the Approval under the EPBC Act.

As part of the Significant Impact Assessment conducted as part of the Biodiversity Development Assessment Report (BDAR) , it was found that only one Matter of National Environmental Significance was deemed relevant to the proposed works, that being consideration of the Grey-headed Flying-fox.

At conclusion of the Significant Impact Assessment, it was deemed that the removal of the additional six (6) trees within the 'Retained Land' is unlikely to constitute a significant impact to the Grey-headed Flying-fox and does not trigger an action under the EPBC Act.

Further, this application seeks consent for the implementation of a VMP relating to Currency Creek riparian lands which incorporates restoration methods to the land. Other parts of the Site have been conserved as biobanks through the Biodiversity Certification process completed during the rezoning of the land for urban development. The R2 and R5 zoned land is devoid of significant vegetation and is 'Biodiversity Certified' land. The vegetation that exists is limited to scattered trees. The majority of vegetation within the R2 and R5 zoned land will be removed under this application to facilitate road gradients that comply with the Australian Standards and lots that can readily accommodate future dwelling houses.

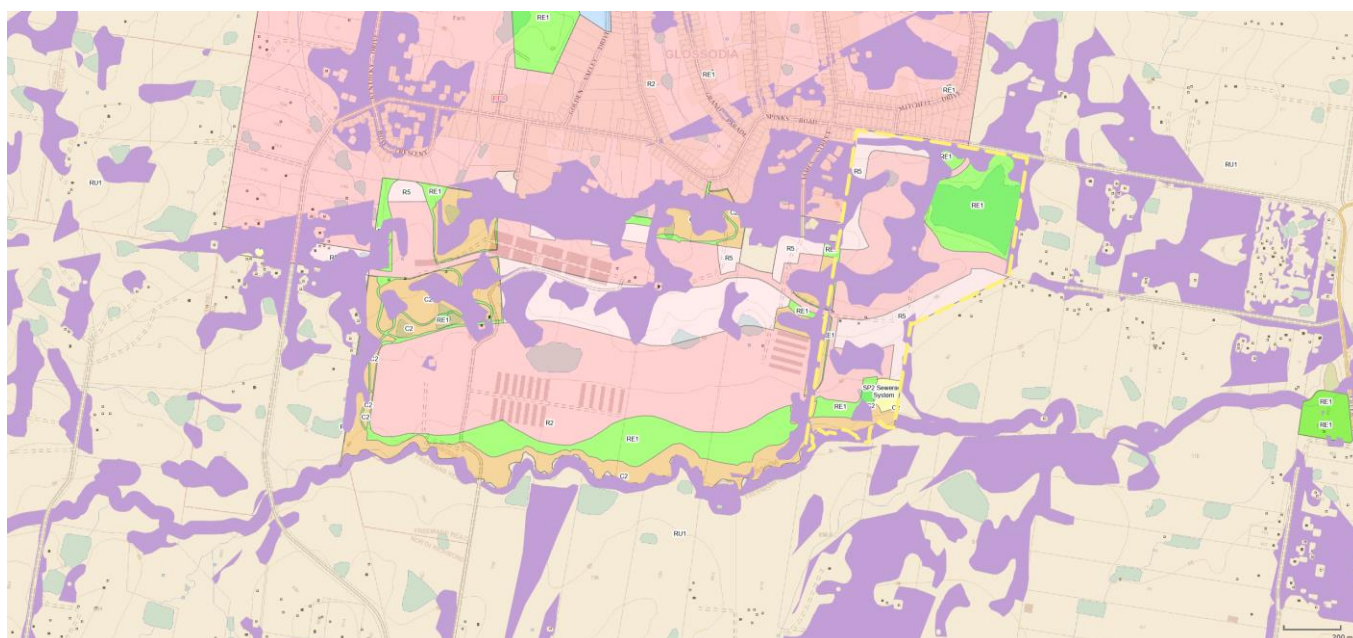


Figure 20. Biodiversity Values Map. Source: Planning Portal.

As discussed in Section 4.10, it is necessary to remove six trees located on the eastern boundary of Precinct A. This is to facilitate the breaching of the existing dam to allow for the safe reconstruction of the lake for future stormwater management - Refer to Figure 14 and 18. These trees are located in an area identified as 'Retained

Lands' under the BCA. As this land has not been identified as 'Conservation Areas' or 'Biodiversity Certified', the requirements of the BC Act continue to apply to vegetation removal in this area.

The Biodiversity Offsets Scheme (BOS) is established by Part 6 of the BC Act and provides a framework to avoid, minimise and offset impacts on biodiversity from development and ensure that any offsets are secured in perpetuity. Section 7.3 of the BC Act establishes triggers for development which trigger the BOS. Relevant to this development, the six trees located on 'Retained Land' in the BCA are identified on the Biodiversity Values Map, as shown in Figure 26. Therefore, this triggers the BOS and requirement to prepare a Biodiversity Development Assessment Report (BDAR).

In this context, a BDAR has been prepared to assess the impact on biodiversity as a result of the removal of six trees. The trees are identified as being consistent with the 'Cumberland Plain Woodland in the Sydney Basin Bioregion', albeit of a degraded condition (Integrity Score of 16.9 out of 100) and represents clearing of 0.13ha. The impact to this vegetation is not avoidable as it is required to dewater the existing dam and allow it to be reconstructed to ensure it is safe and fit for purpose as part of the overarching stormwater management approach adopted for the Jacaranda release area. The impact on this area however does allow for the avoidance of the other more significant trees located within the 'Retained Land' in the BCA.

To offset the impact on these trees, the BDAR makes the following recommendations that are to be implemented by the development and have been recommended as conditions of consent:

- Pre-clearance survey to be undertaken prior to commencing tree removal.
- Tree protection measures to be instated during construction.
- Soil and weed management.
- Contractor briefing prior to commencement of works.
- Securing and retiring:
- Securing and retiring:
 - 1x Biodiversity ecosystem credit for PCT 3320 for Cumberland Shale Plains Woodland.
 - 1x Biodiversity Species Credit for Southern Myotis.

Appropriate conditions of consent have been recommended.

7.5 National Parks and Wildlife Act 1974

The purpose of the National Parks and Wildlife Act 1974 (NP&W Act) is to conserve NSW's natural and cultural heritage, as well as foster public appreciation, understanding and enjoyment of NSW's natural and cultural heritage, and managing any lands reserved for the purposes of conserving and fostering public appreciation and enjoyment of NSW's natural and/or cultural heritage. It is also the principal legislative instrument for the protection and management of Aboriginal cultural heritage places and objects in NSW.

The applicant reviewed the Aboriginal Heritage Information Management System (AHIMS) Register and identified two Aboriginal sites (45-5-3793 & 45-5-3794) recorded within Jacaranda - one within Precinct A and a second site within Precinct D. Both have a single artefact.

A Heritage Impact Statement was prepared by GML Heritage in 2018 to inform the Planning Proposal and was the precursor to the Aboriginal Cultural Heritage Assessment prepared by Kelleher Nightingale in 2020. The Statement broadly categorised the subject development site as having low/nil significance except for two Potential Archaeological Deposits (PAD) and the identified sites.

This application proposes remediation and earthworks that will impact PAD's and both sites. As such, this application has been identified as Integrated Development and an Aboriginal Heritage Impact Permit (AHIP) under the NP&W Act will be required.

It is noted that on the 14 November 2023, Heritage NSW provided their general terms of approval in response.

7.6 Rural Fires Act 1997



Section 100B of the Rural Fires Act 1997 requires that a bush fire safety authority for a subdivision of bush fire prone land that could lawfully be used for residential or rural residential purposes, or development of bush fire prone land for any 'special fire protection purpose'.

The Site is mapped as bushfire prone land. However, the application does not propose the final subdivision of any residential lots, nor does it propose any special fire protection purpose. Notwithstanding, the application approval for a Bushfire Management Strategy which proposes to establish the APZs for future residential development. Therefore, this application seeks General Terms of Approval from the NSW Rural Fire Service (RFS). The Bushfire Management Strategy was prepared by Eco Logical Australia dated November 2018. This report investigates the impacts of bushfire on the future residential community. The primary bushfire sources are located along the southern boundary (Currency Creek) and to a lesser degree along the northern boundary (vegetation within the existing large lot residential area). Other potential bushfire sources are the proposed BioBanks.

In August 2020 Peterson Bushfire Assessment Report conducted a review of the APZ and Bushfire Attack Levels to ensure compliance with the current *Planning for Bush Fire Protection 2019* (PBP 2019). The Bushfire Hazard Assessment submitted demonstrates the capability of future development to implement appropriate Bushfire Protection Measures as required by PBP 2019.

This application was referred to RFS seeking seeks General Terms of Approval to establish appropriate Bushfire Protection Measures to be implemented in future residential development stages. It is noted that on the 27 October 2023, the RFS provided their general terms of approval.

7.7 State Environmental Planning Policy (Biodiversity and Conservation) 2021.

7.7.1 Chapter 4 – Koala Habitat Protection 2021.

Chapter 4 aims to protect koala habitat, streamline the assessment process for development applications situated in areas not covered by a comprehensive plan of management and ensure the consistent use of criteria to protect koala habitat across the state.

Clause 4.4(3)(c) of this chapter confirms that where land is Biodiversity Certified under the BC Act, the requirement to consider impacts to koala as part of the development assessment do not apply. Per earlier discussion in Section 7.4, Biodiversity Certification has been conferred on the Site under clause 126H of the TSC Act. In line with clause 37 of the Biodiversity Conservation (Savings and Transitional) Regulation 2017, the Biodiversity Certification conferred on the land under the TSC Act is taken to be Biodiversity Certification conferred on the land under Part 8 of the BC Act and therefore, Chapter 4 of the B&C SEPP does not apply to the proposed development over 'Biodiversity Certified Land' in the BCA.

With regard to the removal of the 6 trees within the 'Retained Land', the Biodiversity Certification Strategy and subsequent BCA included targeted survey for koala over the whole of the Site with no koala or signs of koala (vocalisations, scats or scratches) found on the Site. Based on this assessment, the BDAR concludes that the development is unlikely to impact koala or its habitat. On this basis, per clause 4.9(2) the B&C SEPP, Council can also form the view that the proposed development does not impact on koala or its habitat as part the development consent process.

7.7.2 Chapter 6 – Water catchments

The Site is within the Hawkesbury Nepean River Catchment and as such the provisions of the Chapter 6 apply. Chapter 6 aims to provide a strategic planning framework for environmental management associated with all new development in the catchment.

The proposed subdivision and associated works are not anticipated to have any adverse impacts on the water catchment with suitable sediment and erosion control measures proposed to be installed throughout the construction of the development. An assessment against Chapter 6 of the B&C SEPP has been undertaken below:

Clause	Comment
Part 6.2 Development in Regulated Catchments	



6.6 Water quality and quantity	Council's Development Engineers have reviewed the application and noted that the proposed development will have a neutral effect on the quality of water entering the waterway and the water flow in natural waterbodies has been minimised.
6.7 Aquatic Ecology	The Department of Planning – Water has reviewed the proposal and provided their General terms of approval. Council is generally satisfied that the proposal meets requirements.
6.8 Flooding	Council's engineers have reviewed the application and noted that the proposal can be supported subject to the imposition of conditions.
6.9 Recreation and Public Access	The proposed development does not seek to introduce any new changes with regard to public access to and from natural waterbodies.
6.10 Total Catchment Management	Noted, Council engineers upon their review do not expect an adverse environmental impact.
6.11 Land within 100m of natural water body	No water-dependent uses are proposed.
6.12 Riverine scenic area	The subject site is not located within a riverine scenic area.
6.13 Hawkesbury-Nepean conservation area sub catchments	<p>The Site is within Hawkesbury-Nepean conservation area sub-catchments and this application seeks consent for works under Clause 6.13.</p> <p>The development will minimise human interference and enhance the structure and floristics of native vegetation in the sub-catchment through the establishment of the biobanks.</p> <p>The development will not impact the scenic quality of the locality.</p> <p>Development has previously been carried out on the development site for agricultural uses.</p>
6.16 Artificial waterbodies	Bulk earthworks are proposed however the construction, design and establishment of the artificial water bodies on the site will be subject to a future Development Application.
6.21 Stormwater management	<p>Bulk earthworks are proposed however the construction, design and establishment of the artificial water bodies on the site will be subject to a future Development Application.</p> <p>Engineering documents submitted denote that future works will not cause untreated stormwater to be disposed of into a natural waterbody.</p>

7.8 State Environmental Planning Policy (Resilience and Hazards) 2021

The requirements of the State Environmental Planning Policy (Resilience and Hazards) 2021 (SEPP) apply to the subject site. In accordance with Chapter 4 of the SEPP, Council must consider if the land is contaminated, if it is contaminated, is it suitable for the proposed use and if it is not suitable, can it be remediated to a standard such that it will be made suitable for the proposed use.

Remediation works are proposed as part of this application. Subject to the processes outlined within the Detailed Site Investigation (DSI and Remedial Action Plan (RAP) the site will be made suitable for future residential land use. The mitigation measures proposed include:

- Implementation of asbestos management plans for Precincts A and Band C and D for managing known and unexpected potential asbestos risks on or in soil is required prior to remediation works commencing.

- Progress reporting and Auditor review of results from the data gap assessment is required to confirm proposed remedial strategies are appropriate, in particular for dam water sampling which may indicate the need for treatment prior to dewatering via irrigation.
- Beneficial reuse of material within areas with a less sensitive land use (e.g. open space areas and road corridors) should be implemented under the guidance of the environmental consultant with approval from the Site Auditor.
- Validation of the remediation works is required to be documented in a validation report confirming that the works have been undertaken in accordance with the RAPs and certifying the suitability of the site for the proposed development. The Validation Report is to be reviewed by an EPA Accredited Site Auditor.
- Preparation of a Section A Site Audit Statement and Site Audit Report by a NSW EPA Accredited Site Auditor reviewing the above information and confirming the suitability of the site for the intended use prior to occupation.

Council's Environmental Health Officers have reviewed the submitted material and raise no concerns with the remediation approach, subject to the imposition of conditions of consent.

7.9. State Environmental Planning Policy (Transport and Infrastructure) 2021.

The relevant matters to be considered under Chapter 2 of State Environmental Planning Policy (Transport and Infrastructure) 2021 for the proposed development outlined below.

Clause	Comment
Clause 2.48 – Electricity Infrastructure	The proposed development is not considered to be within the vicinity of any electricity infrastructure under Clause 2.48 (1).
Clause 2.98 – Development Adjacent to rail corridors	The proposed development does not adjoin in, around or on top of any rail corridors.
Clause 2.119 – Frontage to a classified road	The proposed development does not front a classified road.
Clause 2.120 – Impact of road noise or vibration on non-road development	The subject site does not adjoin a classified road.
Clause 2.122 – Traffic generating development	The application referred to Transport for NSW who have reviewed the application. A Green Travel Plan was requested prior to the condition of an Occupation Certificate, however as no occupation certificate will be required per this consent, it was discussed with TfNSW that a condition for the submission of a GTP prior to the issue of the first subdivision certificate for residential use was appropriate.

8. Hawkesbury Local Environmental Plan 2012

The relevant matters considered under the Hawkesbury Local Environmental Plan 2012 for the proposed development are outlined below:

8.1. Clause 1.2 Aims of plan.

- “(aa) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,
- (a) to provide the mechanism for the management, orderly and economic development and conservation of land in Hawkesbury.
- (b) to provide appropriate land in area, location and quality for living, working and recreational activities and agricultural production,

- (c) to protect attractive landscapes and preserve places of natural beauty, including wetlands and waterways,
- (d) to protect and enhance the natural environment in Hawkesbury and to encourage ecologically sustainable development,
- (e) to conserve and enhance buildings, structures and sites of recognised significance that are part of the heritage of Hawkesbury for future generations,
- (f) to provide opportunities for the provision of secure, appropriate and affordable housing in a variety of types and tenures for all income groups in Hawkesbury,
- (g) to encourage tourism-related development that will not have significant adverse environmental effects or conflict with other land uses in the locality."

The proposed dams are considered to be integral to supporting the livestock currently on the site. The proposed development is considered to align with the aims of the plan under clauses (a), (b) & (d).

8.2. Clause 2.3 Zone objectives and Land use table.

The site is zoned R2 Low Density Residential, R5 Large Lot Residential, SP2 Infrastructure, RE1 Public Recreation & C2 Environmental under the Hawkesbury Local Environmental Plan 2012.

The proposed development and future subdivision is carried out in accordance with zoning requirements and generally meet the objectives of each zone. Per Figure 9, the proposed residential allotments are contained within their respective zoning and no road networks are sought to encroach onto RE1 or C2 zones.

The proposed development is characterised as "subdivision" for the purposes of creating 580 allotments and ancillary works.

The term subdivision is defined under the Environmental Planning and Assessment Act 1979 as follows:

"subdivision" of land means the division of land into 2 or more parts that, after the division, would be obviously adapted for separate occupation, use or disposition. The division may (but need not) be effected--
(a) by conveyance, transfer or partition, or
(b) by any agreement, dealing, plan or instrument rendering different parts of the land available for separate occupation, use or disposition.

The subdivision is considered to be permissible under Clause 2.6 of the Hawkesbury Local Environmental Plan 2012.

Clause	Comment
Part 5 – Miscellaneous provisions	
Clause 5.1 - Relevant acquisition authority	The RE1 Public Recreation and SP2 Infrastructure zoned land are not identified on the Land Reservation Acquisition Map. Dedication of land for public purposes will be addressed under the VPA.
Clause 5.10 – Heritage Conservation	The subject site consists of two locations in which contain PADS and archaeological sites. Heritage NSW have review the submitted AHIP and provided their GTA.
5.21 Flood risk assessment	The site is not mapped as flood prone land.
Clause 4.6 Exceptions to development standards	The proposed development does not seek any variation to development standards.
Part 6 – Additional local provisions	
6.1 Acid sulphate soils	The site is considered to fall under class 5 acid sulphates. Suitable conditions of consent will be provided.



6.2 Earthworks	Council's development engineers have reviewed the proposed earthworks involved and support the application subject to the imposition of conditions.
6.4 Terrestrial biodiversity	The majority of the site has been Biodiversity Certified prior to the lodgement of the application. The proposed development is consistent with the BCA and order that applies to the land and as such appropriate conditions will be recommended.

9. Hawkesbury Development Control Plan 2002

A consideration of Part D Chapter 6 and 7 of the Hawkesbury Development Control Plan 2002 is provided below.

Clause	Compliance
Part D: Specific Development	
6. Dam Construction	The precinct A lake is proposed within the general location of the existing dam. As this will be the subject of a future design, Council has reviewed the submitted stormwater design and raises no concerns subject to the imposition of conditions.
7. Landfill	The earthworks are sought to permit the orderly, efficient and effect redevelopment of the site.

A site-specific chapter related to the Jacaranda site was adopted by Council on the 11 August 2021 and the considerations relevant to the application are provided below.

Clause	Compliance
Chapter E9 Jacaranda	
1.0 Introduction	
1.3 Development Principle and Outcomes The following principles apply to development in Jacaranda; <ul style="list-style-type: none">• Development meets appropriate standards of character and amenity.• Jacaranda is highly liveable for residents, with a quality public domain, access to local amenities and service, and is responsive to local environmental conditions;• Housing is high quality and appropriately diverse to provide suitable housing for a range of households, is pleasant and comfortable to live in and responsive to the site;• Ecologically Sustainable Development (ESD) principles including water sensitive urban design, climate responsive building design, energy efficiency, and selection/use of recycled materials where appropriate are embedded in the precinct masterplan and development outcomes.• Significant vegetation and endangered habitats are protected in accordance with the biodiversity certification approval;• Recreational and conservation lands incorporate areas of high value vegetation that is identified for conservation, and create	The proposed Concept Masterplan and subsequent detailed proposal meet several development principles listed.

<p>continuous, high amenity and easily accessible open spaces;</p> <ul style="list-style-type: none"> • The subdivision design creates an appropriate interface with adjoining rural and residential areas, and is consistent with the semi-rural character of the area, and is responsive to the topography and ecology of the site; • The street hierarchy and layout is legible (easy to navigate), responds to the topography, creates permeable connections throughout the site, including direct access to open spaces, and includes higher order collector streets that are suitable for buses. 	
2.0 Precinct-Wide Controls	
2.1.1 Place & Character	<p>The proposed Concept Masterplan is consistent with the structure plan under figure 3 of the DCP.</p> <p>Future development applications will make reference to the desired character statements as required in clause 2.</p>
2.2 Natural Environment Considerations	
2.2.1 Contamination	Contamination has been addressed per section 7.8 of this report.
2.2.2 Cultural heritage	Cultural heritage has been addressed per section 7.5 of this report. Notwithstanding, Heritage NSW has provided Council with their GTA.
2.2.3 Biodiversity	Six (6) trees are sought to be removed within retained land to the Northeast of the precinct. Justification as to how the removal of these trees allowing the dewatering of the dam to the East and reconstruction have been reviewed and considered appropriate. Further, the applicant has provided a BDAR report to which Council have reviewed and raise no objection subject to the imposition of conditions.
2.2.5 Riparian Corridor	<p>The proposal seeks a riparian corridor of an average of 40m width. The application was referred to DPE Water who have provided their GTA.</p> <p>Further, the dewatering of dams on site has been referred to Water NSW who have provided their GTA.</p>
2.2.7 Bushfire Management	The application seeks APZ which are wholly retained outside of riparian zones and biobank spaces. The application was referred to RFS who have provided their GTA.
2.3 Built Environment Considerations	
2.3.1 Connectivity	The proposed road alignment is consistent with figure 7 of the DCP and zoning of land.
2.3.2 Open Space and Public Domain	The proposed Concept Masterplan is consistent with both figures 7 & 9 of the DCP. Trees within the open space areas are retained with exception to trees required for earthworks associated with future road construction and basins.



	It is noted that Celestino have entered into a commercial agreement with a private utility service to provide the Jacaranda precinct with reticulated recycled water. Appropriate conditions have been recommended.
2.3.5 Infrastructure and Utilities	No utilities have been sought to riparian land.
2.3.6 Subdivision staging	<p>The applicant has sought that the subdivision staging and delivery of precincts to be flexible and open to concurrent delivery. Council does not raise concern with this approach provided that appropriate utility and groundwork are provided prior to the release of any new subdivisions.</p> <p>It is considered that conditions of consent can address this criteria.</p>
2.3.7 Development Yield	The proposed Concept Masterplan is consistent with this clause. Refer to table 2.
Part 3 Controls for Development in the Residential Zones	
3.1 Urban Design	
3.11 Street Hierarchy, Layout and Design	The street design proposed is consistent with he indicated in figure 22 of the DCP. Bulk earthworks proposed have been reviewed by Council's engineers and found to be generally compliant with figures 23-26 of the DCP.
3.2 Residential Design	
3.2.10 Landscaping	The proposed landscape masterplan is consistent with this clause.

10. Development Contributions

Pursuant to Council's adopted 7.12 contributions plan, a development contribution is not required as the DA does not seek the delivery of residential or subdivision development at this stage.

11. Environmental Planning and Assessment Regulations 2021

Applicable regulation considerations for compliance with the Building Code of Australia, PCA appointment and notice of commencement of works, sign on work sites, critical stage inspections and records of inspection will be covered under the recommended conditions of consent.

14. Suitability of the Site

The development site is considered suitable for the proposed development because:

- it has been rezoned for urban development;
- The proposal will facilitate future urban development and contribute to Council housing targets;
- it will ultimately facilitate additional housing to meet the housing demands of the Hawkesbury;
- it is free of any significant constraints to the proposed development;
- it is readily accessible;
- the proposed concept is consistent with the established strategic planning objectives for the site; and
- the development improves the environmental conditions on the Site through the remediation works proposed.

15. Public Consultation



In accordance with Council's Community Participation Plan 2019, the Development Application was notified for a period of 28 days from the 20 September 2023 to the 20 October 2023. At the completion of the notification period, no submissions had been received by Council.

16. Public Interest

The site is considered to have generally satisfied both Council's and external stakeholder requirements and has been the culmination of several planning proposal prior to the submission of this Development Application. It is noted that the application garnered no public submissions over the course of the notification period. In this regard, Council considers that the proposed development has been developed in line with the key objectives of the Planning Proposal, Development Control Plan and other such requirements and therefore concludes that the application remains in the public interest.

17. Conclusion

The application has been assessed relative to Section 4.15 of the Environmental Planning and Assessment Act 1979, taking into consideration all relevant state and local planning controls.

Having regard to the assessment of the proposal, Council officers are satisfied that the proposed development has been appropriately designed and will provide a suitable service to the public. It is considered that the proposal sufficiently minimises adverse impacts on the amenity of neighbouring properties.

The proposed development has been assessed having regard to the relevant planning controls and represents a form of development contemplated by the relevant statutory and non-statutory controls applying to the land. On balance, the proposal has demonstrated a satisfactory response to the objectives and controls of the applicable planning framework.

For these reasons, it is considered that the proposal is satisfactory having regard to the matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979 and is recommended for approval, subject to conditions.

19. Recommendation

Pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979, that Council grant development consent to DA0266/23 for a period of five (5) years within which physical commencement is to occur from the date on the Notice of Determination, subject to conditions of consent.

The reasons for the conditions imposed on this application are as follows:

1. To facilitate the orderly implementation of the objectives of the Environmental Planning and Assessment Act 1979 and the aims and objectives of the relevant Council Planning instrument.
2. To ensure that the local amenity is maintained and is not adversely affected and that adequate safeguards are incorporated into the development.
3. To ensure the development does not hinder the proper and orderly development of the subject land and its surrounds.
4. To ensure the relevant matters for consideration under Section 4.15 of Environmental Planning and Assessment Act 1979 are maintained.

Report prepared by

Matthieu Santoso

Senior Town Planner
Hawkesbury City Council