

DECISION NOTIFICATION FORM

Section 126 of the *Planning, Development and Infrastructure Act 2016*

TO THE APPLICANT:

Name: The Cliffs Kangaroo Island Pty Ltd
Postal address: n/a
Email: sam@thecliffs.com.au

IN REGARD TO:

Development application no: 520/P009/17	Declaration: 19 February 2014
Nature of proposed development: Construction of an international standard, links-style golf course resort, with clubhouse, accommodation (for visitors and staff), residential allotments (5), entry road, associated services and infrastructure.	

LOCATION OF PROPOSED DEVELOPMENT:

Street address: Davies and Cathers Road, Pelican Road
A15, DP70358: CT 5966/24; Q501, DP71448: CT 6171/737; A16, DP70358: CT5966/25; A7, DP70357: CT 6171/734; AL6, DP70357: CT6171/733 (and as nominated in the initial major development declaration notice).

DECISION:

Decision type	Decision	Decision date	No. of conditions	No. of reserved matters	Entity responsible for decision
Provisional development authorisation	GRANTED	18 February 2016	20	-	Governor of South Australia
Stage 2 and 3 – Water Storage Dam and Maintenance Facility– Final Plans	GRANTED	11 November 2022	21		Minister for Planning
Stage 2 – Water Storage Dam– Building Certification	STILL REQUIRED				
Stage 2 –Water Storage Dam – Development Authorisation	STILL REQUIRED				
Stage 3 –Maintenance Facility – Building Certification	STILL REQUIRED				
Stage 3 –Maintenance Facility – Development Authorisation	STILL REQUIRED			-	
Stages 4-6	STILL REQUIRED				

FROM THE RELEVANT AUTHORITY: Minister for Planning
Date: 11 November 2022



ROBERT KLEEMAN
MANAGER, CROWN AND IMPACT ASSESSMENT
as delegate of the
MINISTER FOR PLANNING

PREAMBLE:

- On 18 February 2016 notice of the Governor's decision to grant a development authorisation under section 48 of the *Development Act 1993*, in respect of a proposal to establish and operate a golf course resort on the south eastern coast of Kangaroo Island by Programmed Turnpoint Pty Ltd, was published in the Gazette at p 535.
- Variations to the development authorisation were notified in the SA Government Gazette on 30 May 2017 at p 1956 (related to modifications to the layout of the development), on 21 March 2019 at p 904 (related to a 12 month extension of time to commence construction), on 6 June 2019 at p 1721 (related to modifications to the layout of the development), on 7 November 2019 at p 3738 (related to changes to conditions of authorisation requirements for the staging of construction) and on 2 July 2020 at p 3724 (related to a 12 month extension of time to commence construction).
- On 8 April 2021, The Cliffs Kangaroo Island Pty Ltd, being the beneficiary of the development authorisation, sought a variation to the authorisation so as to permit modifications to the layout of the development.
- On 24 June 2021, the Minister for Planning and Local Government approved the variation, having been satisfied that the Public Environmental Report and Assessment Report prepared in relation to the varied Major Development remained appropriate.
- For ease of reference the conditions attached to the Kangaroo Island Golf Course Resort development previously published in the Gazette are republished below, except where varied by subsequent decision.
- On 18 May 2022, a six-month extension of time to substantially commence construction was granted by the delegate of the Minister for Planning.
- On 20 and 21 October 2022, detailed plans for the construction of a 35ML water storage dam and maintenance facility were submitted for final approval (identified as Stages 2 and 3 respectively). These were approved by the delegate of the Minister for Planning on 11 November 2022.
- On 11 November 2022, an additional six-month extension of time to substantially commence construction was approved by the delegate of the Minister for Planning.

CONDITIONS OF APPROVAL:

1. Except where minor amendments may be required by other legislation or by conditions imposed herein, the construction, operation, use and maintenance of the major development must be undertaken in accordance with the approved plans and details, drawings, designs and specifications:
 - (a) Development Application, prepared by Programmed Turnpoint Pty Ltd, dated April 2014, except as varied by the conditions listed below or to the extent that they are varied by the plans and drawings described in paragraph 1 (d-h);
 - (b) Public Environmental Report, prepared by Programmed Turnpoint Pty Ltd, dated April 2015, except as varied by the conditions listed below or to the extent that they are varied by the plans and drawings described in paragraph 1 (d-h);
 - (c) Response Document prepared by Branford Planning + Design on behalf of Programmed Turnpoint Pty Ltd, dated August 2015, except as varied by the conditions listed below or to the extent that they are varied by the plans and drawings described in paragraph 1 (d - g);
 - (d) Variation application, comprising a letter from Kangaroo Island Links Pty Ltd to the Minister for Planning, dated 26 April 2017; document titled 'Development Update – Kangaroo Island Resort, Located at Pennington Bay, Kangaroo Island South Australia' prepared by Kangaroo Island Links Pty Ltd, dated 23 February 2017; and layout plan dated 27 March 2017, except as varied by the conditions listed below or to the extent that they are varied by the plans and drawings described in paragraph 1 (e - g);
 - (e) Variation application, comprising a letter from Sinclair Brook Pty Ltd to the Department of Planning, Transport and Infrastructure, dated 5 March 2019; document titled 'The Cliffs, Kangaroo Island – Master Plan' prepared by HASSELL, dated 18 January 2019; and document titled 'The Cliffs, Kangaroo Island – Comparison Report' prepared by HASSELL, dated 28 February 2019, except as varied by the conditions listed below or to the extent that they are varied by the plans and drawings described in paragraph 1 (f - g); and
 - (f) Variation application, comprising a letter from Sinclair Brook Pty Ltd to the Department of Planning, Transport and Infrastructure, dated 9 September 2019, except as varied by the conditions listed below or to the extent that they are varied by the plans and drawings described in paragraph 1 (g); and
 - (g) Variation application, comprising a letter from URPS to the Attorney General's Department, dated 8 April 2021, and attached plan dated 25/03/2021
 - (h) Submission of final plans for the water storage dam and maintenance facility (refer Attachment 1).

2. The proponent shall have completed the development not later than 30 June 2027, failing which the authorisation may be cancelled (unless otherwise extended by the Minister for Planning).
3. In accordance with Conditions 1 and 2 above, the development shall be completed in accordance with the following, failing which I may cancel the authorisation:
 - (a) Essential infrastructure works, including power and water supply to the site, shall be completed prior to any other works (excluding works related to the construction of the golf course), and be substantially commenced no later than 30 June 2023.
 - (b) Works on the golf course shall be completed prior to the commencement of any residential development on the site, excluding land division for that purpose.
 - (c) The clubhouse and tourist accommodation must be commenced within 12 months of completion of the golf course.
 - (d) All external and internal road upgrades, including intersection works and car parking areas, shall be commenced and completed prior to occupation of development on the site, and prior to commencing commercial operations.

Prior to the Commencement of Construction Works

4. The junction of Hog Bay Road and Davies Road shall be realigned to a standard that is trafficable for construction traffic and to the reasonable satisfaction of the Department of Planning, Transport and Infrastructure and the Kangaroo Island Council. A Construction Traffic Management Plan shall be prepared to the reasonable satisfaction of the Department of Planning, Transport and Infrastructure and the Kangaroo Island Council, prior to construction commencing on site.

The following information shall be submitted for further assessment and approval by the Minister for Planning, prior to the commencement of construction works:

5. Building Rules compliance, following assessment and certification by a private certifier, the Kangaroo Island Council or by a person determined by the Minister for Planning, as complying with the provisions of the Building Rules (or the Building Rules as modified according to criteria prescribed by the Development Regulations 2008). For the purposes of this condition 'building work' does not include plant and equipment or temporary buildings that are not permanently attached to the land (refer to relevant Advisory Notes below).
6. Final detailed plans for all structures on site and for each component of the development (including site plans, floor plans, elevations, cross-sections, rendered perspectives, final golf course layout and other relevant specifications). The final design specification for the golf course Hole 14 shall address the requirements for a 'Line of Sight Exclusion Zone' related to the White-bellied Sea Eagle, as detailed in the report titled - 'Kangaroo Island Golf Resort: Threatened Species Management Plan', prepared by EBS Ecology, dated 27 March 2019.

In regard to the golf course, individual construction works plans for holes 1-4, 7-9, 12-16 and 18 and the practice putting green, prepared by a suitably qualified expert in environmental management and in consultation with the Department for Environment and Water, prior to the construction of each hole. Each work plan should identify areas of risk and specific management measures to be implemented in relation to cliff stability, sand dune erosion, threatened species, Aboriginal heritage and native vegetation protection (where relevant).

7. A Preliminary Site Investigation / Site History Report to determine whether a potentially contaminating land use has occurred on the site in the past, prepared in consultation with the Environment Protection Authority.
8. A sand drift erosion and cliff stability investigation shall be completed, in consultation with the Department for Environment and Water, and findings included into the final design of the golf course.
9. A Construction Environmental Management and Monitoring Plan (CEMMP), prepared in consultation with the Environment Protection Authority, the Department for Environment and Water and the Kangaroo Island Council. The CEMMP must incorporate measures to address (but not be limited to) the following matters:
 - (a) traffic management for the duration of demolition and construction;
 - (b) construction and works noise management to ensure compliance with the Environment Protection (Noise) Policy 2007;
 - (c) management of air quality (including odour and dust);
 - (d) sequencing of development (including construction timelines for works on site, as well as periods and hours of construction);
 - (e) occupational health and safety matters;
 - (f) bio-security and wash down procedures to minimise the transfer of pests and pathogens during the construction process;

- (g) soils (including fill importation), stockpile management and prevention of soil contamination (such as from chemical use and storage, pest plants and pathogens);
- (h) soil erosion and sediment control (including rehabilitation and stabilisation of land as construction progresses);
- (i) stormwater management, prior to implementation of a permanent solution;
- (j) groundwater (including prevention of groundwater contamination);
- (k) site contamination and remediation (where required);
- (l) Aboriginal Heritage to ensure compliance with the Aboriginal Heritage Act 1988;
- (m) waste management for all waste streams and overall site clean-up;
- (n) use and storage of chemicals, oil, construction-related hazardous substances and other materials that have the potential to contaminate the environment (including proposed emergency responses); and
- (o) site security, fencing and safety (including the management of public access and local traffic).

10. An Integrated Water Management Plan (IWMP), prepared in consultation with the Environment Protection Authority and the Department for Environment and Water. The plan must incorporate measures and actions to address (but not be limited to) the following issues:

- (a) a site plan identifying all water related features and infrastructure for the storage, treatment and/or reuse of potable water, stormwater, wastewater and irrigation water;
- (b) water balance information, including the total water needs of all components of the development;
- (c) observation wells and a water level and water quality monitoring program;
- (d) total wastewater generation from the development (based on projected wastewater volumes per day);
- (e) predicted greywater generation volumes and a description of how all greywater will be collected, stored and re-used on site (if greywater is to be collected separately to wastewater);
- (f) predicted evaporative losses from water and wastewater storages;
- (g) a description of how all wastewater will be collected, stored and re-used on site (including the capacity of the system);
- (h) a Reclaimed Water Irrigation Management Plan, prepared in accordance with the EPA Guideline 'Wastewater Irrigation Management Plan – a Drafting Guide for Wastewater Irrigators' (June 2009);
- (i) details of the proposed wastewater storage lagoon liners, prepared in accordance with the EPA Guideline 'Wastewater Lagoon Construction' (November 2014);
- (j) predicted stormwater generation volumes and details of stormwater quality improvements, including the location and sizing of bio-retention swales and basins, anticipated quality improvements and details of any other proposed stormwater quality treatment features;
- (k) management of the potential impacts from nutrient and chemical runoff from the golf course, including details regarding the management of pesticides and herbicides, in accordance with the EPA 'Guidelines for Responsible Pesticide Use' (December 2005) and the EPA 'Safe and Effective Pesticide Use: a Handbook for Commercial Spray Operators';
- (l) control of the spread of turf grasses; and
- (m) contingencies to address any detrimental effects, especially on local hydrology.

11. Preparation and implementation of a Cultural Heritage Management Plan for the site (including the infrastructure corridors), to be prepared in consultation with relevant Aboriginal heritage representatives, to establish protocols for the discovery of any Aboriginal sites, objects and/or remains during construction.

During Construction Works and Prior to Operation of the Development

12. All works shall be undertaken in accordance with the approved plans, drawings, specifications and other documentation provided in accordance with conditions 4 to 11 listed above.

The following information shall be submitted for further assessment and approval by the Minister for Planning a minimum of six months prior to commercial operation of the development:

13. Final plans, drawings, specifications and financial and maintenance arrangements (including Deeds of Agreement) associated with road infrastructure upgrades for the intersection of Hog Bay Road and Davies Road, prepared in consultation with the Department of Planning, Transport & Infrastructure and the Kangaroo Island Council. All works shall then be fully completed prior to commercial operation of the development.

14. Final plans, drawings, specifications and financial and maintenance arrangements (including Deeds of Agreement) associated with road infrastructure upgrades for Davies Road and Cathers Road, prepared to the reasonable satisfaction of the Kangaroo Island Council. All works shall then be fully completed prior to commercial operation of the development.

15. An Operational Environmental Management and Monitoring Plan (OEMMP), prepared in consultation with the Environment Protection Authority, the Department for Environment and Water and the Kangaroo Island Council. The OEMMP must incorporate measures to address (but not be limited to) the following matters:
- (a) general operational noise management (such as from machinery noise), to ensure compliance with the Environment Protection (Noise) Policy 2007;
 - (b) a Waste Management strategy detailing the collection, storage and disposal of waste (for all waste streams) to comply with the Environment Protection (Waste to Resources) Policy 2010;
 - (c) wastewater collection and treatment to comply with general obligations of the Environment Protection (Water Quality) Policy 2004;
 - (d) traffic management associated with the preparation of events;
 - (e) noise from live and/or recorded music and public address systems for events;
 - (f) a Kangaroo and Wallaby Management Strategy (including any proposed site fencing and implementation of natural barriers);
 - (g) emergency and evacuation procedures (including a Fire Management Plan prepared in consultation with the Country Fire Service); and
 - (h) ongoing sustainability initiatives (including power, water, flora and fauna management) and details of proposed methods for ongoing monitoring and reporting.
16. A Native Vegetation Management, Rehabilitation and Revegetation Plan, prepared in consultation with the Department for Environment and Water and the Kangaroo Island Natural Resources Management Board. The plan also should include details on how weeds and pests are to be managed following commencement of operations.

During Operation of the Development

17. Operations on the site shall be undertaken in accordance with the approved plans, drawings, specifications and other documentation provided in accordance with conditions 12 – 16 as listed above.
18. The development/site shall be maintained in a serviceable condition and operated in an orderly manner at all times consistent with conditions of approval, to the satisfaction of the Minister for Planning.
19. Undeveloped allotments shall be maintained in a neat and tidy condition at all times, with soil surfaces stabilised to minimise erosion, to the satisfaction of the Minister for Planning.
20. Recycled water (wastewater, greywater and stormwater) must be stored separately from the main water supply storage in accordance with relevant EPA Guidelines.
21. All liquids that have the ability to cause environmental harm must be stored within a bunded compound that has a capacity of at least 120% of the volume of the largest container, in accordance with the EPA 'Bunding and Spill Management Guidelines' (2007).

ADVISORY NOTES:

- a. Final approvals will be required for all structures on site and for each component of the development, including:
 - (i) the resort clubhouse building and associated facilities;
 - (ii) the tourist accommodation (lodges and suites);
 - (iii) storage sheds and other storage structures;
 - (iv) the water storage dam; and
 - (v) any land division to create certificates of title for separate allotments.
- b. In respect of land division documentation, surveyed plans sufficient to satisfy Lands Titles Office procedure should be provided (i.e. lodgement on EDALA to allow for further referral and assessment).
- c. Further designs and plans (i.e. subject to separate applications to the Minister for Planning) will be required should further development approval be sought for dwellings or additional tourist accommodation.
- d. Construction of each stage of the development may commence only after a Building Rules assessment and certification has been undertaken in relation to that stage and has been issued by an accredited professional undertaking Building Rules assessments, and the Minister for has received a copy of the relevant certification documentation and issued a fi.

- e. An accredited professional undertaking Building Rules assessments for each stage must ensure that the assessment and certification for any stage is consistent with this development authorisation (including any conditions or advisory notes that apply in relation to this development authorisation). This also includes the following requirements –
- (i) provide to the Minister the required building certification documentation, to the extent that may be relevant and appropriate-
 - (ii) related secondary approvals and classifications
 - (iii) proof of Construction Industry Training Fund Act 1993 payment.
- f. Should the applicant wish to vary the previously approved Major Development or any of its approved components, an application may be submitted, provided that the development application variation remains within the ambit of the Public Environmental Report and Assessment Report referred to in this development authorisation. If an application variation involves substantial changes to the proposal, pursuant to Section 114 of the *Planning, Development and Infrastructure Act 2016*, the applicant may be required to prepare an amended Public Environmental Report for public inspection and purchase. An amended Assessment Report may also be required to assess any new issues not covered by the original Assessment Report and a decision made by the Minister pursuant to Section 115(8) of the new Act.
- g. The applicant's CEMMP and other Plans should be prepared taking into consideration (and with explicit reference to) relevant EPA policies and guideline documents, including, but not limited to:
- (i) the Environment Protection (Air Quality) Policy 1994;
 - (ii) the Environment Protection (Noise) Policy 2007;
 - (iii) the Environment Protection (Water Quality) Policy 2003;
 - (iv) the Environment Protection (National Pollutant Inventory) Policy 2008;
 - (v) the Standard for the Production and Use of Waste Derived Fill (if applicable) (2013);
 - (vi) the Bunding and Spill Management Guidelines (2012);
 - (vii) the Stormwater Pollution Prevention Code of Practice for the Building and Construction Industry (1999);
 - (viii) Handbooks for Pollution Avoidance; and
 - (ix) any other legislative requirements, Guidelines and Australian Standards requiring compliance.
- h. All works and activities must be undertaken in accordance with the General Environmental Duty as defined in Part 4, section 25(1) of the *Environment Protection Act 1993* (which requires that a person must not undertake any activity, which pollutes, or may pollute; without taking all reasonable and practical measures to prevent or minimise harm to the environment), relevant Environment Protection Policies made under Part 5 of the *Environment Protection Act 1993* and other relevant publications and guidelines.
- i. A site contamination consultant must be engaged to prepare the Preliminary Site Investigation Report, in accordance with Schedules A and B of the National Environment Protection (Assessment of Site Contamination) Measure 1999 (NEPM). If the report identifies that a potentially contaminating activity has occurred, an accredited Site Contamination Auditor must provide a Site Contamination Audit Report that states the site is suitable for residential use or the site does not pose unacceptable risks to human health and the environment for the proposed commercial area (e.g. short term tourist accommodation).
- j. Statements by site contamination consultants in relation to site contamination must be clearly qualified as to the existence of site contamination at the site by specifying the land uses that were taken into account in forming that opinion as required by Section 103ZA of the *Environment Protection Act 1993*.
- k. Best practice with regard to bioretention is considered to be a design which uses the guidance contained in the Cooperative Research Centre 'Water Sensitive Cities Guidelines for Stormwater Biofiltration Systems – Summary Report' (2015), available at: www.watersensitivecities.org.au. To be effective at treating stormwater on a long term basis, it is recommended that at least 50% of the plants used for bioretention are those recommended in the Report.
- l. The applicant is reminded of its obligations under the *Native Vegetation Regulations 2003* whereby any native vegetation clearance must be undertaken in accordance with a management plan that has been approved by the Native Vegetation Council that results in a significant environmental benefit on the property where the development is being undertaken, or a payment is made into the Native Vegetation Fund of an amount considered by the Native Vegetation Council to be sufficient to achieve a significant environmental benefit in the manner contemplated by section 21(6) of the *Native Vegetation Act 1991*, prior to any clearance occurring.

- m. Kangaroos are protected under the *National Parks and Wildlife Act 1972*. South Australia has a Kangaroo Management Plan which has been approved under federal legislation, and a planning decision does not include approvals for the culling of Kangaroos, which is a separate matter to be carefully managed in consultation with the for Environment and Water and Natural Resources Kangaroo Island.
- n. The applicant is reminded of its obligations under the *Aboriginal Heritage Act 1988*, whereby any 'clearance' work that may require permission to disturb, damage or destroy Aboriginal Sites, must be undertaken with the full authorisation of the Minister for Aboriginal Affairs and Reconciliation, according to Section 23 of the Act.
- o. The applicant, and all agents, employees and contractors, such as construction crews, must be conversant with the provisions of the *Aboriginal Heritage Act 1988*, particularly the requirement to immediately contact the Department of Aboriginal Affairs and Reconciliation in the event that archaeological items (especially skeletal material) are uncovered during earthmoving.
- p. The applicant is reminded of its obligations under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), not to undertake any activity that could have a significant impact on any matter of National Environmental Significance, without first referring it to Commonwealth Minister for the Environment for consideration under the Act.
- q. The Minister has a specific power to require testing, monitoring, auditing and reporting under Section 117 of the *Planning, Development and Infrastructure Act 2016*.
- r. The proponent is reminded of requirements under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 not to undertake any activity that could have a significant effect on any matter of National Environmental Significance without the approval of the Commonwealth Minister for Environment.

**INFORMATION TO BE INCLUDED ON DECISION TO GRANT DEVELOPMENT APPROVAL
PURSUANT TO SECTION 99(4) OF THE ACT**

CONTACT DETAILS OF CONSENT AUTHORITIES:

Name: Minister for Planning	Type of consent: Development Authorisation
Postal Address: GPO Box 1815, ADELAIDE SA 5001	
Telephone 1800 752 664	Email: spcapplications@sa.gov.au

ATTACHMENT 1 – FINAL PLANS

STAGE 1

Preliminary Works

- Fencing – not development
- Weed control – not development

STAGE 2

Water Storage Dam

Name	Ref	Rev	Date
The Cliffs Kangaroo Island – Golf Course Masterplan (location of Maintenance Facility and Storage Dam only) – 2 Sheets			October 2022
FMG-Kangaroo Island Golf Course - General Construction Plan	C002	B	19.10.22
FMG- Kangaroo Island Golf Course - Details	C004	B	19.10.22
FMG- Kangaroo Island Golf Course - Sections	C005	B	19.10.22

STAGE 3

Maintenance Facility

Name	Ref	Rev	Date
The Cliffs Kangaroo Island – Golf Course Masterplan (location of Maintenance Facility and Storage Dam only) – 2 Sheets			October 2022
IKC – Elevations – 60M x 20M x 3.6M	Concept-KU-B3		4.8.22
IKC – Floor Plan Layout – 60M x 20M x 3.6M	Concept-KU-B1		4.8.22
IKC – Footing Layout – 60M x 20M x 3.6M	Concept-KU-B2		4.8.22

STAGE 4 – INDICATIVE ONLY

Golf course irrigation and course construction

STAGE 5 – INDICATIVE ONLY

Clubhouse & POD accommodation.

STAGE 6 – INDICATIVE ONLY

Carparking and internal Roads