



REZONING REPORT

Proposed Residential Subdivision

Lot 2 DP 135804
No.370 Old Northern Road
Castle Hill, NSW

Report: Rezoning - proposed Residential Subdivision
Lot 2 DP 135804
No.370 Old Northern Road, Castle Hill NSW

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April 2010

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Table of Contents

1	INTRODUCTION	1
2	SITE AND LOCALITY	2
2.1	Site Location	2
2.2	Site Description.....	2
2.3	Site History and Land use.....	2
2.4	Character of Locality	3
2.5	Topography.....	3
2.6	Vegetation.....	3
3	EXISTING ZONING.....	7
3.1	Existing Zoning – The Site	7
3.2	Existing Zoning – Adjoining sites.....	7
4	REZONING PROPOSAL	8
4.1	Purpose of the proposed Rezoning.....	8
4.2	The proposed Concept Subdivision.....	8
4.3	Draft Development Control Plan controls.....	9
4.4	Site Constraints and Opportunities	9
4.5	Review of Alternative Land uses.....	9
4.6	History of Site Investigations.....	10
4.7	Justification for the Rezoning.....	11
5	POLICY AND STATUTORY PLANNING STRATEGIES AND CONTROLS	12
5.1	Standard Instrument—Principal Local Environmental Plan	12
5.2	State Environmental Planning Policy (Infrastructure) 2007.	13
5.3	State Environmental Planning Policy No.55 – Remediation of Land.	14
5.4	Section 117(2) Direction 1.2 Rural Zones	15
5.5	Section 117(2) Direction 4.2 Mine Subsidence and Unstable Land	16
5.6	Section 117(2) Direction 4.4 Planning for Bushfire Protection.....	18
5.7	Section 117(2) Direction 7.1 Implementation of the Metropolitan Strategy.....	19

5.8	Sydney Metropolitan Strategy.....	20
5.9	Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River	21
5.10	The Hills Shire Council – Draft Local Strategy	21
5.11	Baulkham Hills Local Environmental Plan.....	23
5.12	Baulkham Hills Development Control Plan	23
6	LEP PRO FORMA CRITERIA.....	24
7	CONCLUSION	25
8	RECOMMENDATION	26
9	REFERENCES.....	27

Figures

FIGURE 1 – LOCALITY MAP

FIGURE 2 – SITE PLAN

FIGURE 3 – AERIAL PHOTOGRAPH

FIGURE 4 – EXISTING ZONING OF SITE AND SURROUNDING AREA

Tables

TABLE 1 – SCHEDULE OF PROPOSED ALLOTMENTS AND AREAS

Appendices

APPENDIX 1 – PROPOSED SUBDIVISION CONCEPT PLAN & SURVEY PLAN

APPENDIX 2 - DRAFT COMMUNITY MANAGEMENT STATEMENT

APPENDIX 3 –DRAFT DEVELOPMENT CONTROL PLAN GUIDELINES

APPENDIX 4 – DEVELOPMENT CONSENT (DA 1941/2006/HA)

APPENDIX 5 – COUNCIL CORRESPONDENCE REGARDING REZONING (MAY 2007)

**APPENDIX 6 – EXTRACT OF ZONE PROVISIONS – BAULKHAM HILLS LEP 2005 & HORNSBY
LEP 1994**

APPENDIX 7 – TRAFFIC & PARKING ASSESSMENT REPORT (MARCH 2010)

APPENDIX 8 - ROADS AND TRAFFIC AUTHORITY COMMENTS (JULY 2009)

APPENDIX 9 – BUSHFIRE CONSTRAINTS ADVICE

APPENDIX 10 - STATEMENT OF HERITAGE IMPACT

APPENDIX 11 - ECOLOGICAL REPORT (2007) AND SUPPLEMENTARY ADVICE (MARCH 2010)

APPENDIX 12 – PHASE 1 ENVIRONMENTAL SITE ASSESSMENT

**APPENDIX 13– FINDINGS OF GEOTECHNICAL PEER REVIEW INVESTIGATIONS (JULY 2006)
& SUPPLEMENTARY GEOTECHNICAL ADVICE (MARCH 2010)**

APPENDIX 14 – PROPOSED SITE SERVICING STRATEGY

1 Introduction

This Rezoning Report (the “**Report**”) has been prepared by PGH Environmental Planning, on behalf of Lanox Pty Ltd & KMSJ Pty Ltd (the “**client**”). The Report describes the existing site and locality, and outlines the justification for the rezoning.

The subject site (the “**site**”) is known as Lot 2 DP 135804, No.370 Old Northern Road, Castle Hill and has an area of 2.879 hectares. The land is presently zoned Rural 1(a) under Baulkham Hills Local Environmental Plan 2005.

The client seeks the support of The Hills Shire Council to **rezone the site from Rural 1(a) to part Residential 2(d) Protected and part Open Space 6 (a) (Existing and Proposed Public Recreation)**. This will enable it to be subdivided for **low density residential housing (under Community Title) with a net housing yield of 5.4 dwellings per hectare**, as detailed in the attached plans (the “**proposal**”).

The rezoning process will involve review and/or assessment of a number of issues (in no particular order), including:

- Bushfire.
- Vegetation (Ecological).
- Heritage
- Traffic.
- Contamination.
- Geotechnical.
- Service Infrastructure.

These matters have been addressed in this Report



**Subject property -
View of existing
residence.**

**The recently
constructed driveway
is visible in the
background to the
right of the residence.**

2 Site and Locality

An inspection of the site and surrounding area has been undertaken, resulting in the following observations. Photographs of the site are provided within this Report.

2.1 Site Location

The site is located within the suburb of Castle Hill, in The Hills Local Government Area. It is situated on the western side of Old Northern Road between its intersection with Old Castle Hill Road and Gilbert Road, Castle Hill (refer **Figure 1**).

2.2 Site Description

The site is known as Lot 2 DP 135804, No.370 Old Northern Road, Castle Hill. It has a total area of 2.879 hectares and is hatchet shaped. Access to Old Northern Road is via a 20metre wide "handle". This handle extends for a distance of 100metres from Old Northern Road, to the "body" of the site, which is rectangular and has an area of approximately 2.68hectares (refer **Figure 2**).

2.3 Site History and Land use

Currently the site contains an unoccupied brick veneer residence and detached brick garage. The following events are considered relevant to this application.

30th August 2006 – Findings of the Geotechnical Peer Review investigations undertaken by Sinclair Knight Mertz (SKM) recommended that *"Council accept the findings of the PSM report"* (refer **Appendix 13**).

14th December 2006 – Development Consent (DA 1941/2006/HA) issued for the "reconstruction of a driveway" (refer **Appendix 4**).

21st May 2007 – Council correspondence outlining matters to be addressed in any future rezoning application (refer **Appendix 5**).

25th February 2010 – Meeting with Council officers to discuss finalisation of documentation prior to submission of rezoning application.

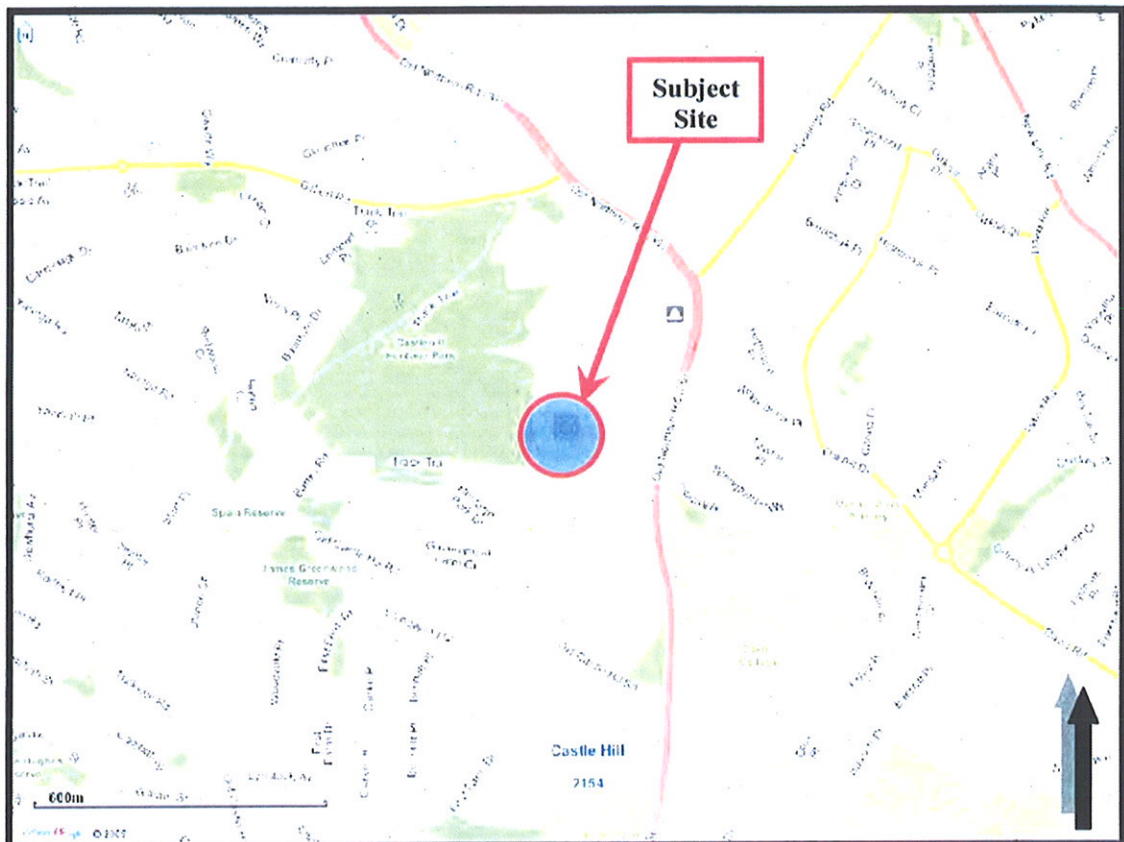


Figure 1 – Locality Map

Proposed Rezoning
 Lot 2 DP 135804
 370 Old Northern Road, Castle Hill

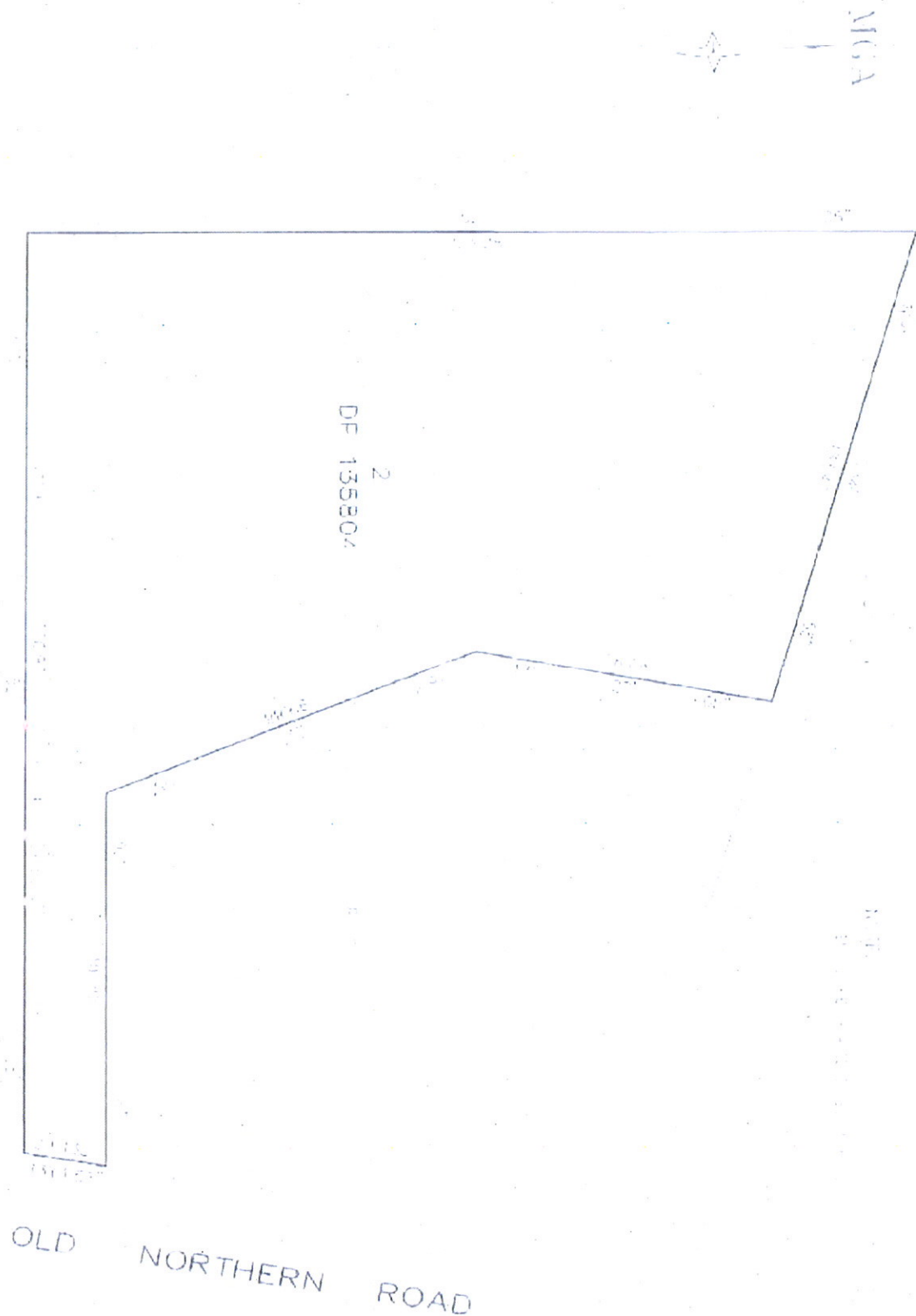


Figure 2 – Site Plan

**Source: Lockley Land Title
Solutions
(Job No.27902, Ref:31536PO)**

**Proposed Rezoning
Lot 2 DP 135804
370 Old Northern Road, Castle Hill**



2.4 Character of Locality

The site is located approximately 2 kilometres north of Castle Hill commercial centre. Land surrounding the site is identified as the area bound by Gilbert Road to the north, Old Castle Hill Road to the south, Old Northern Road to the east and Heritage Park to the west. To the east is Oakhill College which is located within the Hornsby Shire Council Local Government Area (refer **Figure 3**).

The site is bounded by No.374 Old Northern Road (single residence) to the north, Heritage Park (public heritage listed reserve) to the west, No.372 Old Northern Road (single residence) to the east and Nos.354-368 Old Northern Road (future residential housing estate with recent rezoning and current development application¹ for forty-five (45) residential lots and open space) to the south.

The locality is comprised of a mix of traditional large residential land holdings with more recent higher density detached residential housing and retirement villages ("Castle Ridge", "Castle Hill Village"). The surrounding area is a mix of both residential and rural zonings and in recent years has undergone change from a predominately rural to a predominately residential character.

2.5 Topography

The surface levels on the site fall to the west from approximately RL170m at the Old Northern Road entry to approximately RL134 m in the south western corner of the site.

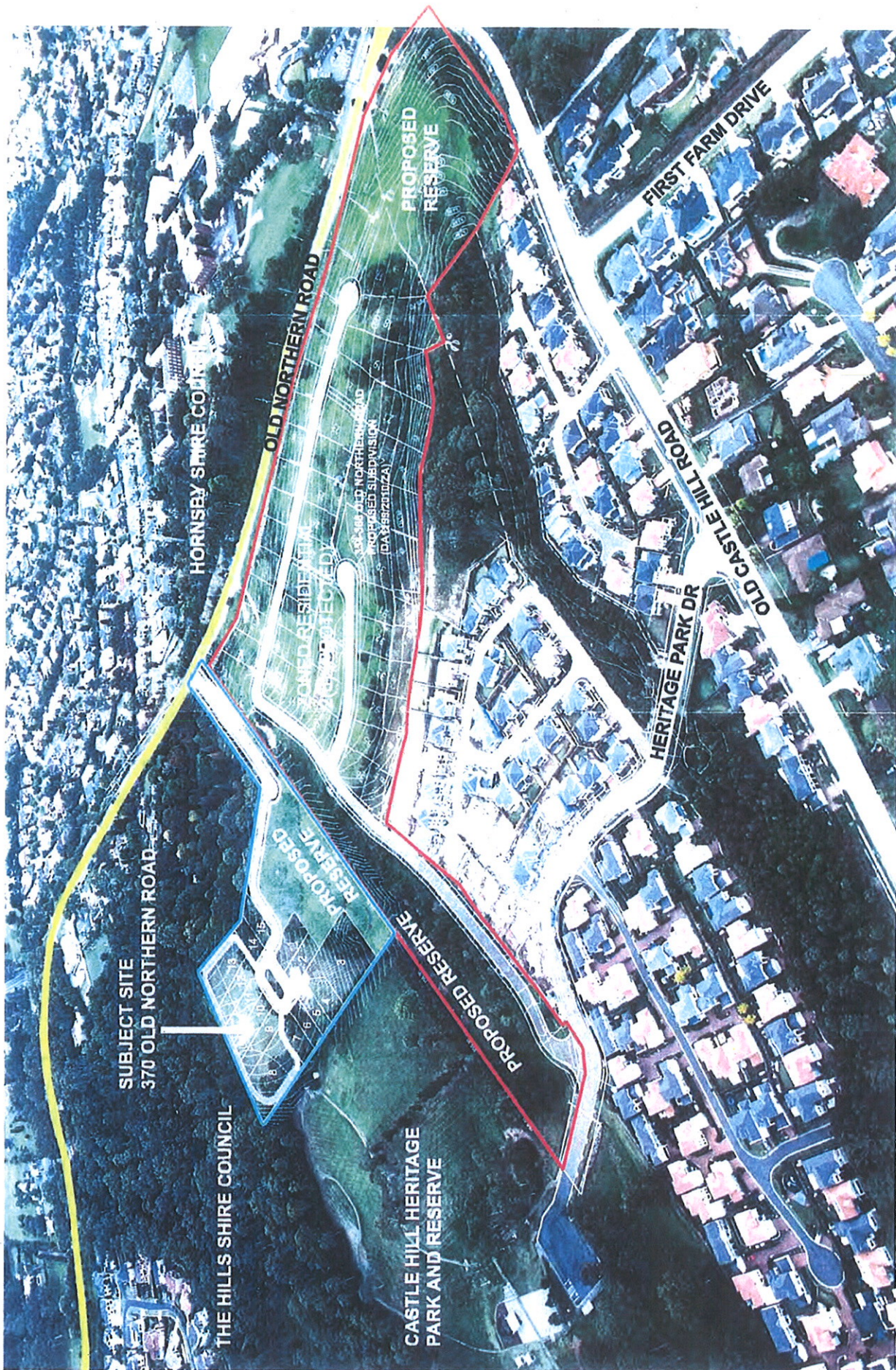
The slopes on site vary from between 10° (18%) at the top of the driveway to 5° to 7° (8% - 12%) over the major portion of the site. The land surface also falls towards a gully that runs east west along the southern boundary of the site².

2.6 Vegetation

The site is largely cleared with the exception of the south-western corner which supports a stand of remnant vegetation.

¹ DA1199/2010/ZA

² Stability Assessment Report, Pells Sullivan Meynink Pty Ltd, April 2006 (Section 4.2)



CONSULTANTS

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NO. 1
DESCRIPTION
ISSUE FOR INFORMATION
APPROVED DATE
20.04.2010

CLIENT
LANOX PTY LTD. AND KMSJ PTY LTD.
DRAWING TITLE
FIG.3
AERIAL PHOTO OF
SITE AND SURROUNDS

PROJECT
370 OLD NORTHERN ROAD
LOT 2, DPT135804

PHOTO TAKEN
19 APRIL 2010

DATE	SCALE	DRAWN
20 Apr 2010	1:1000	MA
PROJECT NUMBER	DRAWING NUMBER	ISSUE
2008117	DD02	A

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View of entrance to property from Old Northern Road.



View looking west from Old Northern Road of recently constructed access driveway.



View from the bottom of the access handle of the site, looking north towards the existing residence along the unsealed access driveway.



Reverse view from previous photograph. Looking south from existing residence to the access driveway.

The proposed bushland reserve is to the right of the access track.



View looking south-east towards the proposed bushland reserve.



View looking south-west towards the existing residential area adjoining Old Castle Hill Road.



View looking north-west along the western boundary of the site adjoining Heritage Park.

The trees mark the western boundary of the site.



View from the approximate centre of the site looking north. The tree line marks the northern boundary.



View looking east. The row of pine trees in the background marks the boundary with the neighbouring property (No.372 Old Northern Road).



View looking west from Old Northern Road over the adjoining property (No.354-368 Old Northern Road, which has been rezoned to residential).

3 Existing Zoning

The site and surrounding area is affected by Baulkham Hills Local Environmental Plan 2005 ("LEP 2005"). Old Northern Road forms the boundary between The Hills Shire and Hornsby Shire Council Local Government Areas, consequently the land to the east is affected by Hornsby Local Environmental Plan 1994 ("LEP 1994"). Extracts of the various zones are listed in **Appendix 6**.

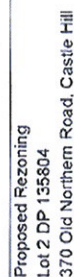
3.1 Existing Zoning – The Site

The site is presently zoned Rural 1(a). The existing zoning is illustrated in **Figure 4**.

3.2 Existing Zoning – Adjoining sites

Immediately to the north [No.374 Old Northern Road], south [No.366-368 Old Northern Road], and east [No.372 old Northern Road] the land is also zoned Rural 1(a). It is noted that the southern property [No.354-368] is currently the subject of an approved rezoning to Residential 2(d), and development application for subdivision into forty-five (45) residential lots. Finally to the west is Heritage Park (public heritage listed reserve) which is zoned Open Space 6 (a) (Existing and Proposed Public Recreation).

To the east of Old Northern Road (and within Hornsby Shire) is Oakhill College and adjoining residential area zoned Special Uses A (Community Purposes) and Residential A (Low Density), respectively.



**Figure 4 – Zoning Map
(Council areas – The Hills and Hornsby Shires).**

4 Rezoning Proposal

4.1 Purpose of the proposed Rezoning

The purpose of the proposed rezoning is to enable further residential development by amending the zoning of the site from Rural 1(a) to Residential 2(d) Protected with the southern bushland area being rezoned to Open Space 6 (a) (Existing and Proposed Public Recreation).

4.2 The proposed Concept Subdivision

The site has an area of 2.879 hectares and the proposal is to create an access road and fifteen (15) residential allotments under Community Title Subdivision ranging in area from 525m² to 2,740m² with an average size lot size 1,920m² (Inclusive of road and reserve); or 1,432m² (inclusive of proposed access road). It is intended that the balance of the site will be dedicated to Council as a bushland reserve. The overall housing yield equates to 5.4 dwellings per hectare. Concept Plans of the proposal are provided in **Appendix 1**. A schedule of the proposed allotments and areas is provided in the following **Table 1**.

Table 1 – Schedule of proposed Allotments and Areas

Proposed Lot	Area (m ²)	Proposed Lot	Area (m ²)
1	740.00	9	1,110.00
2	640.00	10	1,060.00
3	2,275.00	11	1,000.00
4	635.00	12	1,030.00
5	525.00	13	1,977.00
6	525.00	14	540.00
7	685.00	15	605.00
8	2,740.00		
Lot Total	16,107.00		
Reserve	7,300.00		
Road	5,423.00		
Total area	28,810.00		

Note: there is minor (20m²) variance in area when compared with the survey plan. This will be addressed in the final survey and will not affect residential allotment areas.

4.3 Draft Development Control Plan controls

Based upon the subdivision concept it is proposed that a draft Development Control Plan (DCP) would be prepared to address the subdivision, layout, and built form controls such as lot dimensions, site coverage, landscaping, parking, external appearance, materials etc. A draft set of controls, has been developed in consultation with the client's Heritage architect (refer **Appendix 3**).

4.4 Site Constraints and Opportunities

The site is located within Castle Hill with frontage to an arterial road (Old Northern Road). It is a hatchet shaped allotment with the body of the site situated below the road on a moderate slope, and with distant filtered views to the west.

The lands fronting Old Northern Road have two distinct levels with a prominent scarp running north-south with the dwellings located on the upper level and the lower levels generally vacant and heavily vegetated.

Until recently, access to the site was restricted, however the construction of the upgraded driveway provides for two-way traffic with dedicated footpath, consequently the land is now capable of accommodating residential development.

4.5 Review of Alternative Land uses

The rural 1(a) zoning of the land represents the traditional rural zone and from our investigations, it is based upon a historical classification rather than as an outcome of any detailed investigations into its agricultural capability.

The site and surrounding locality to the west of Old Northern Road is identified as Class 3³. These lands now contain extensive sections of urban development and the site and remnant rurally zoned land to the north is not suitable for agriculture due to its topography and heavy vegetation cover.

This Report will demonstrate that the site provides suitable opportunities for residential development.

³ Agricultural Land Classification Atlas – Sydney Basin (Hornsby 9130-4-S), New South Wales Agriculture (1995).

4.6 History of Site Investigations

As identified previously the following matters have been investigated or undertaken on behalf of the client, as part of a review of development opportunities on the site

- **Upgrading of access** – construction of a two way (6metre wide) concrete access road, plus pedestrian verge.
- **Traffic and dedication of access road** – an assessment of on-site parking, vehicular access and traffic conditions has been undertaken by Varga Traffic Planning Pty Ltd. Investigations have identified an opportunity to provide a direct access link between the site and the proposed residential subdivision located on Nos.354-368 Old Northern Road, adjoining land to the south.

This link would provide an alternative exit from the subdivision and represents a traffic management solution that would assist in relieving traffic generation at the Old Castle Hill Road intersection.

It was communicated to Council (3rd June 2009) that the client is prepared to explore the possibility of dedicating the access road to Council, which could potentially link to the proposed residential lands on the adjoining No.368 Old Northern Road. This matter is discussed in **Section 5.2**. The report is provided in **Appendix 7**.

- **Bushfire** – an assessment of the bushfire constraints has been undertaken by Eco Logical Australia Pty Ltd. The subdivision concept adopts the recommendations and makes allowance for appropriate APZ setbacks. This matter is discussed in **Section 5.6**. The report is provided in **Appendix 9**.
- **Heritage** - the site adjoins Castle Hill Heritage Park (former Government Farm No.3 - a State and locally listed item) and consequently a Statement of Heritage Impact (SoHI) has been prepared by Archnex Designs to assess potential Heritage impacts in relation to the adjoining Heritage Park.

The findings of the report in respect of the subdivision design are favourable and it makes recommendations into guidelines for built design features and external materials to be used on future buildings. The SoHI is provided in **Appendix 10**.

- **Ecological** – an assessment of the on-site vegetation was originally undertaken in 2007 by Hunter Eco. The proposed reserve area has been determined by Hunter Eco following recent site inspections.

We consider that an area, generally abutting the proposed 6(a) lands on No.368 would be similarly zoned "open space" and provide a consolidated reserve. The 2007 report and recent advice are provided in **Appendix 11**.

- **Contamination** – investigations have found no contaminants and conclude that the site is suitable for residential development. The report is provided in **Appendix 12**.
- **Geotechnical** – a detailed geotechnical investigation and stability assessment of the site was undertaken by Pells Sullivan Meynink (PSM) Pty Ltd and approved by Council's Peer Review Panel in 2006. This matter is discussed in **Section 5.5**. The peer review advice (2006) and PSM supplementary advice (2010) is provided in **Appendix 13**.
- **Service Infrastructure** – investigations identify that both water and sewer connections are readily available. The advice is provided in **Appendix 14**.

4.7 Justification for the Rezoning

This Report provides the argument and supporting evidence for Council to support a rezoning in the manner proposed. The proposed amendment is considered to be consistent with the existing land use pattern of the surrounding area which contains a range of urban housing densities. The site is conveniently located on a main road within 2 kilometres of Castle Hill, which is identified as a major business and shopping centre for the district.

The rural zoning of this land is an historical classification which requires review and the investigations undertaken by our client clearly demonstrate that there are no prohibitive issues or matters that are inconsistent with Council's strategic framework or directions issued by the State Government.

A benefit of a rezoning will be the enhancement and greater connectivity of the bushland reserve (identified as part of the rezoning of the adjoining site) with Heritage Park.

The proposal is low density and does not create an unnecessary demand upon existing infrastructure or services, rather it seeks to utilise the land in an orderly and economic manner having proper regard to identified physical and ecological constraints.

5 Policy and Statutory Planning Strategies and Controls

The site is affected by a number of state, regional and local policy and statutory planning strategies and controls as follows:

State

- Standard Instrument—Principal Local Environmental Plan.
- State Environmental Planning Policy (Infrastructure) 2007.
- State Environmental Planning Policy No.55 – Remediation of Land.
- Section 117(2) Direction 1.2 Rural Zones.
- Section 117(2) Direction 2.3 Heritage Conservation.
- Section 117(2) Direction 4.2 Mine Subsidence and Unstable Land.
- Section 117(2) Direction 4.4 Planning for Bushfire Protection.
- Section 117(2) Direction 6.3 Site Specific Provisions.
- Section 117(2) Direction 7.1 Implementation of the Metropolitan Strategy.

Regional

- Sydney Metropolitan Strategy.
- Sydney Regional Environmental Plan (SREP) No.20- Hawkesbury Nepean River.⁴

Local

- Hills Shire Council's Draft Local Strategy 2008.
- Baulkham Hills Local Environmental Plan (LEP) 2005.
- Baulkham Hills Development Control Plan (BHDCP).

5.1 Standard Instrument—Principal Local Environmental Plan

The Standard Instrument (Local Environmental Plans) Order 2006 was gazetted on 31st March 2006 and requires Council's in New South Wales to prepare a new "standard" principle Local Environmental Plan in accordance with the Order.

It establishes compulsory and non-compulsory provisions and a set of standardised zones. At this stage the Hills Shire Council has not yet placed its draft "standard principle Local Environmental Plan" on exhibition, but we understand that the site will eventually be rezoned to one (or more) of the standardised zones.

⁴ From 1st July 2009 existing REP's become 'deemed' SEPPs under new Division 2, Part 3 of the EP&A Act.

5.2 **State Environmental Planning Policy (Infrastructure) 2007.**

This Policy commenced on the 1st January 2008. The aim of this Policy is to facilitate the effective delivery of infrastructure across the State by:

- (a) *improving regulatory certainty and efficiency through a consistent planning regime for infrastructure and the provision of services, and*
- (b) *providing greater flexibility in the location of infrastructure and service facilities, and*
- (c) *allowing for the efficient development, redevelopment or disposal of surplus government owned land, and*
- (d) *identifying the environmental assessment category into which different types of infrastructure and services development fall (including identifying certain development of minimal environmental impact as exempt development), and*
- (e) *identifying matters to be considered in the assessment of development adjacent to particular types of infrastructure development, and*
- (f) *providing for consultation with relevant public authorities about certain development during the assessment process or prior to development commencing.*

Should the rezoning be supported it will be necessary for it to be referred to the Roads and Traffic Authority in accordance with the following clauses

100 Development on proposed classified road

- (1) *Consent for development for any of the following purposes on land reserved for the purposes of a classified road (but before the land is declared to be a classified road) may be granted only with the concurrence of the chief executive officer of the RTA:*
 - (a) *subdivision that results in the creation of an additional lot with dwelling entitlements,*
 - (b) *.....*

101 Development with frontage to classified road

- (1) *The objectives of this clause are:*
 - (a) *to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and*
 - (b) *to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.*
- (2) *.....*

Comment – A Traffic and Parking Assessment Report has been prepared (March 2010) to address the proposed residential subdivision. It is an addendum report that expands upon a traffic report, initially prepared in May 2009 to “review the traffic implications of a proposal to upgrade the existing access arrangements to provide improved left and right-turn facilities for traffic entering and exiting the site from the south. It is not proposed to provide a right-turn entry into the site”.

The March 2010 Report recommends upgrading of the access “to improve the safety of turning movements in/out of the site to/from the south. Key features of the proposed improvements are:

- *the provision of a new “half seagull” right-turn exit from the site, providing two separate southbound lanes in Old Northern Road, and*

- *the provision of a new "Type BAL" left-turn treatment for northbound vehicles in Old Northern Road turning left into the existing access road"*⁵.

Based upon the Roads and Traffic Authority (RTA) guidelines, a fifteen (15) lot subdivision generates approximately 13 vehicles per hour during commuter peak periods. The concluding assessment is that the proposed residential subdivision will not have any unacceptable traffic or parking implications.

By way of background the May 2009 report considered an opportunity to provide a direct access link between the site and the proposed residential subdivision located on Nos.354-368 Old Northern Road, adjoining land to the south.

This link would provide an alternative exit from the subdivision and represents a traffic management solution that would assist in relieving traffic generation at the Old Castle Hill Road intersection. In order for this to occur the intersection would need to be upgraded *"to facilitate improved access in and out of the site from the south. Key features of the proposed improvements are:*

- *provision of a new northbound left-turn deceleration lane approximately 60m in length, and*
- *provision of a new "half seagull" right-turn exit from the site, providing two separate southbound lanes in Old Northern Road"*

The May 2009 report has been reviewed by the Roads and Traffic Authority (RTA) and it is considered that these matters can be the subject of further discussions however the concept is fundamentally possible. A copy of both the traffic report and RTA advice is provided in **Appendix 7** and **Appendix 8** respectively.

5.3 State Environmental Planning Policy No.55 – Remediation of Land.

State Environmental Planning Policy (SEPP) No 55—Remediation of Land commenced in August 1998 and provides for a State-wide approach to the remediation of contaminated land. Clause 6 requires the consideration of contamination and remediation matters as part of a rezoning proposal, namely:

6 Contamination and remediation to be considered in zoning or rezoning proposal

- (1) In preparing an environmental planning instrument, a planning authority is not to include in a particular zone (within the meaning of the instrument) any land specified in subclause (4) if the inclusion of the land in that zone would permit a change of use of the land, unless:*
 - (a) the planning authority has considered whether the land is contaminated, and*

⁵ Varga Traffic Planning - Section 2, page 5.

- (b) *if the land is contaminated, the planning authority is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for all the purposes for which land in the zone concerned is permitted to be used, and*
- (c) *if the land requires remediation to be made suitable for any purpose for which land in that zone is permitted to be used, the planning authority is satisfied that the land will be so remediated before the land is used for that purpose.*

Note. *In order to satisfy itself as to paragraph (c), the planning authority may need to include certain provisions in the environmental planning instrument.*

- (2) *Before including land of a class identified in subclause (4) in a particular zone, the planning authority is to obtain and have regard to a report specifying the findings of a preliminary investigation of the land carried out in accordance with the contaminated land planning guidelines.*
- (3) *If a person has requested the planning authority to include land of a class identified in subclause (4) in a particular zone, the planning authority may require the person to furnish the report referred to in subclause (2).*
- (4) *The following classes of land are identified for the purposes of this clause:*
 - (a) *land that is within an investigation area.*
 - (b) *land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out.*
 - (c) *to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital—land:*
 - (i) *in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and*
 - (ii) *on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).*

Comment – Essentially it requires that Council consider whether it is possible, due to past land-use activities that the land may be contaminated and if so, whether it is suitable for the proposed use in its present (un-remediated) state.

A contamination report and analysis has been undertaken⁶ and it concludes that the site is clear of any contamination and subsequently is suitable for residential development (refer **Appendix 12**).

5.4 Section 117(2) Direction 1.2 Rural Zones

Objective

- (1) *The objective of this direction is to protect the agricultural production value of rural land.*

(2).....

(3).....

What a relevant planning authority must do if this direction applies

- (4) *A planning proposal must:*

⁶ JBS Environmental Pty Ltd - pages v & vi

- (a) not rezone land from a rural zone to a residential, business, industrial, village or tourist zone.
- (b) not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village).

Consistency

- (5) A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the planning proposal that are inconsistent are:
 - (a) justified by a strategy which:
 - (i) gives consideration to the objectives of this direction,
 - (ii) identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), and
 - (iii) is approved by the Director-General of the Department of Planning, or
 - (b) justified by a study prepared in support of the planning proposal which gives consideration to the objectives of this direction, or
 - (c) in accordance with the relevant Regional Strategy or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or
 - (d) is of minor significance.

Comment – The site is within an existing urban area, with surrounding lands being predominately urban in nature, comprising for example, detached residential housing, an educational establishment, and retirement village. The site does not represent “working agricultural land” and does not have any future use in terms of potential agricultural production. The adjoining land to the south has been rezoned for residential housing

The site is part of an isolated rural zoned area of land and the proposal will not erode the Shire’s rural heritage, or cultural significance within the locality. The proposed density is considered to be of a minor significance and therefore it complies with this direction.

5.5 Section 117(2) Direction 4.2 Mine Subsidence and Unstable Land

Objective

- (1) The objective of this direction is to prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.

Where this direction applies

- (2) This direction applies to land that:
 - (a) is within a Mine Subsidence District proclaimed pursuant to section 15 of the Mine Subsidence Compensation Act 1961, or
 - (b) has been identified as unstable land.

When this direction applies

- (3) This direction applies when a council prepares a draft LEP that permits development on land that:
 - (a) is within a mine subsidence district, or
 - (b) has been identified as unstable in a study, strategy or other assessment undertaken:
 - (i) by or on behalf of the council, or
 - (ii) by or on behalf of a public authority and provided to the council.

What a relevant planning authority must do if this direction applies

- (4)
- (5) *A planning proposal must not permit development on unstable land referred to in paragraph 3(b).*

Consistency

- (6) *A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the planning proposal that are inconsistent are:*
- (a) justified by a strategy which:*
 - (i) gives consideration to the objective of this direction, and*
 - (ii) identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), and*
 - (iii) is approved by the Director-General of the Department of Planning, or*
 - (b) justified by a study prepared in support of the planning proposal which gives consideration to the objective of this direction, or*
 - (c) in accordance with the relevant Regional Strategy or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or*
 - (d) of minor significance.*

Comment – The site is not affected by mine subsidence. In 2006 our client engaged Pells Sullivan Meynink (PSM) Pty Ltd to undertake a geotechnical investigation and stability assessment of the site. That assessment provided the following conclusion:

We have assessed the risk of remobilisation of the ancient landslide affecting 370 Old Northern Road and its consequences. Our conclusion is that the risks to life and property are acceptable on the basis of assessments to both AGS 2000 and Pittwater's policy.

There is a very low likelihood of remobilisation of the ancient landslide affecting the site and any movement would be quite gradual and due to high water pressures on the slide surfaces. We assess that there is a very small likelihood of the groundwater conditions required to remobilise the ancient landslide occurring during the next 100 years.

On the above basis, we recommend that no special works be undertaken with respect to the ancient landslide.

Strictly, the site classification in accordance with AS2870 "Residential slabs and footings" is Class P. The standard allows reclassification of such sites. It is our assessment that the existence of an ancient landslide has no significant impact on the design, construction or maintenance of structures on this site. On this basis, we recommend that the design of any structures be based on the reactivity (i.e. shrink/swell) of the subsurface soils.

We recommend that civil engineering and building works be undertaken in accordance with good practice for hillside developments.⁷

⁷ Pages 31 -32, Pells Sullivan Meynink (PSM) Pty Ltd , 2006

The assessment was subject to Council's adopted "peer review" process and as stated previously the findings of the Geotechnical Peer Review investigations undertaken by Sinclair Knight Mertz (SKM) recommended that "Council accept the findings of the PSM report"

PSM has reviewed the subdivision concept design and consider that the recommendations contained in the 2006 report are appropriate, and construction can occur subject to the above recommendations (refer **Appendix 13**). In our opinion the proposal complies with this direction.

5.6 Section 117(2) Direction 4.4 Planning for Bushfire Protection

Objectives

(1) *The objectives of this direction are:*

- (a) *to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and*
- (b) *to encourage sound management of bush fire prone areas.*

(2).....

(3).....

What a relevant planning authority must do if this direction applies

(4) *In the preparation of a planning proposal the relevant planning authority must consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination under section 56 of the Act, and prior to undertaking community consultation in satisfaction of section 57 of the Act, and take into account any comments so made.*

(5) *A planning proposal must:*

- (a) *have regard to Planning for Bushfire Protection 2006,*
- (b) *introduce controls that avoid placing inappropriate developments in hazardous areas, and*
- (c) *ensure that bushfire hazard reduction is not prohibited within the APZ.*

(6) *A planning proposal must, where development is proposed, comply with the following provisions, as appropriate:*

- (a) *provide an Asset Protection Zone (APZ) incorporating at a minimum:*
 - (i) *an Inner Protection Area bounded by a perimeter road or reserve which circumscribes the hazard side of the land intended for development and has a building line consistent with the incorporation of an APZ, within the property, and*
 - (ii) *an Outer Protection Area managed for hazard reduction and located on the bushland side of the perimeter road,*
- (b) *for infill development (that is development within an already subdivided area), where an appropriate APZ cannot be achieved, provide for an appropriate performance standard, in consultation with the NSW Rural Fire Service. If the provisions of the planning proposal permit Special Fire Protection Purposes (as defined under section 100B of the Rural Fires Act 1997), the APZ provisions must be complied with,*
- (c) *contain provisions for two-way access roads which links to perimeter roads and/or to fire trail networks,*
- (d) *contain provisions for adequate water supply for firefighting purposes,*
- (e) *minimise the perimeter of the area of land interfacing the hazard which may be developed,*
- (f) *introduce controls on the placement of combustible materials in the Inner Protection Area.*

Consistency

- (7) *A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the council has obtained written advice from the Commissioner of the NSW Rural Fire Service, to the effect that, notwithstanding the non-compliance, the NSW Rural Fire Service does not object to the progression of the planning proposal.*

Comment – The proposal is considered to be “infill” development and would be classified as a “Special Fire Protection Purpose” (SFPP) development and consequently is “integrated development” under Section 91 of the Environmental Planning and Assessment Act 1979.

An assessment of the bushfire constraints has been undertaken by Eco Logical Australia Pty Ltd. The subdivision concept adopts the recommendations and makes allowance for appropriate asset protection zone (APZ) setbacks along the northern boundary (25metres) and northern portion of the western boundary (60metres).

The proposal complies with the performance criteria in respect of Asset Protection Zones, Access, Services, and Emergency and evacuation planning as required by Section 4.2.7 of Planning for Bushfire Protection (PBP) 2006. In our opinion the proposal complies with this direction.

5.7 Section 117(2) Direction 7.1 Implementation of the Metropolitan Strategy

Objective

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

(2).....

(3).....

What a Relevant Planning Authority must do if this direction applies

- (4) *Planning proposals shall be consistent with:*
- (a) *the NSW Government's Metropolitan Strategy: City of Cities, A Plan for Sydney's Future, published in December 2005 ('the Metropolitan Strategy')*

Consistency

- (5) *A planning proposal may be inconsistent with the terms of this direction only if the Relevant Planning Authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General), that the extent of inconsistency with the Metropolitan Strategy:*
- (a) *is of minor significance, and*
- (b) *the planning proposal achieves the overall intent of the Strategy and does not undermine the achievement of its vision, land use strategy, policies, outcomes or actions.*

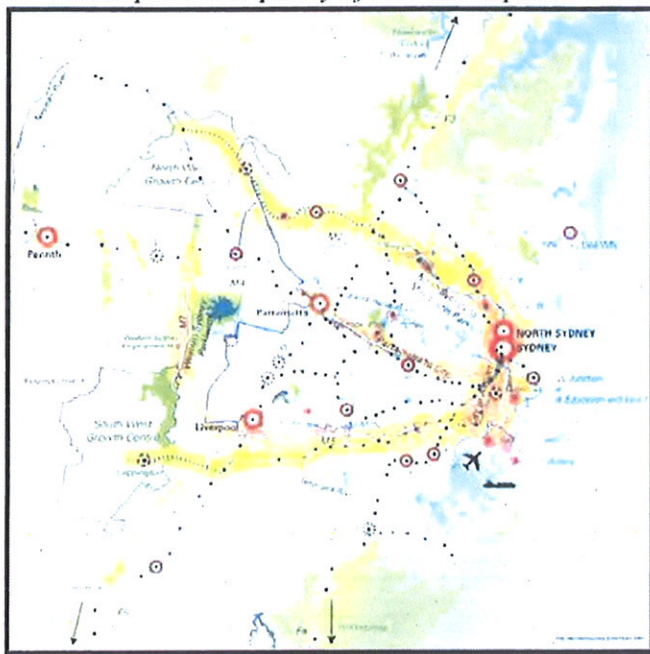
Comment – We have undertaken a review of the Strategy in the following Section of this report and consider that the proposal complies with this direction.

5.8 Sydney Metropolitan Strategy

The Metropolitan Strategy 'City of Cities A Plan for Sydney's Future' and North West Subregional Strategy were released by the Department of Planning in December 2005 and December 2007, respectively. These documents outline the broad vision for the future planning of Sydney and the North West subregion to 2031.

The Metropolitan Strategy includes *housing* as one of the seven key strategies, or subjects. It is anticipated that Sydney's population will grow by 1.1 million people between 2004 and 2031, from a current population of 4.2 million to 5.3 million by 2031. To cater for this growth, the Government has predicted the need for 640,000 new homes. The Housing strategy provides a number of objectives and initiatives for consideration. These include:

- C1. Ensure adequate supply of land and sites for residential development.
- C2. Plan for a Housing mix near jobs, transport and services.
- C3. Review local centres.
- C4. Improve Housing affordability.
- C5. Improve the quality of new development and urban renewal.



Metropolitan Strategy Map

The North West Subregional Strategy translates objectives of the Metropolitan Strategy to the local level, with Housing identified as a key component.

The Metropolitan Strategy specifies that the North West Subregion will accommodate 140,000 new dwellings by 2031, with 60,000 dwellings located in the North West Growth Centre and the remaining 80,000 dwellings located in other areas.

The proposal will enable further opportunity for low density residential development. It is considered to respond to the nominated objectives and initiatives by providing appropriately situated residential allotments and support the increased requirement to provide housing in the Hills Shire.

The site is located within a locality that contains a range of urban housing densities and adjoins a site recently identified for rezoning from rural to residential. The site is conveniently located on a main road within 2 kilometres of Castle Hill, which is identified as a major business and shopping centre for the district.

The proposal reflects a balanced approach to urban growth. It is not inconsistent with the Strategy and therefore complies with this direction.

5.9 Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Sydney Regional Environmental Plan No.20 aims to protect the environment of the Hawkesbury-Nepean River by ensuring that the impacts of future land uses are considered in a regional context. Of most relevance to the proposal is the requirement to assess the development in terms of its impacts on water quality.

The proposal involves the subdivision of the land for residential housing. Any subdivision works will be undertaken in accordance with "The Blue Book" Landcom (2004). *Managing Urban Stormwater: Soils and Construction*. It is considered that any future development can be undertaken in a manner that controls turbidity and sediment run-off without adversely impacting upon the environment.

5.10 The Hills Shire Council – Draft Local Strategy

The Hills Shire Council's Draft Local Strategy was adopted by Council on 10th June 2008 and identifies a demand for 36,000 dwellings to meet the Shire's needs by 2031.

According to the background to the document, the Local Strategy will be principally a landuse planning document to guide local planning and reflect the five key themes of 'Hills 2026 Community Strategic Direction: Looking Towards the Future', namely:

- *Resilient Local Leadership.*
- *Vibrant communities.*
- *Balanced Urban Growth.*
- *Protected Environment.*
- *Modern Local Economy.*

The Local Strategy is the principal document for communicating the future planning of the Hills Shire.

More specifically in respect of residential development is the "Residential Direction". The Residential Direction was also adopted by Council on 10th June 2008 and aims to provide the community and developers a clear strategy for the future planning and management of residential development and growth to 2031. The Direction addresses key housing issues such as special needs housing, affordability, sustainability, streetscape, and residential character. The Residential Direction includes the following four Key Directions:

- *R1 Accommodating population growth.*
- *R2 Respond to changing housing needs.*
- *R3 Provide a sustainable living environment.*
- *R4 Facilitate quality housing outcomes.*

Comment: The Structure Plan included within the Residential Direction indicates that the site is located within 2km of the Castle Hill, which is an identified Town Centre. The site responds to the four key directions and is consistent with principles of providing housing near jobs, transport and services and proposes a suitable transition between intensity of uses.

In accordance with the Local Strategy and Residential Direction the rezoning of the site and subsequent development of the site would contribute towards achieving the needs of the broader community, offering better usage of an existing area, providing increased residential housing choice and provide a social benefit to the community through dedication of part of the site as an open space bushland reserve.

5.11 Baulkham Hills Local Environmental Plan

The proposal, if supported is capable of satisfying the objectives of the Residential 2(d) zone, namely:

- a) to provide for the residential development of land within the zone having particular regard to the special environmental development constraints of that land, and*
- (b) to provide for the preservation of the vegetative, landscape, drainage, scenic and environmental qualities of the land within the zone by minimising the impact of development on the natural environment.*

5.12 Baulkham Hills Development Control Plan

The Baulkham Hills Development Control Plan (the “BHDCP”) came into force on 11th September 2007. Its primary objectives⁸ are:

- (a) “Provide a comprehensive document that contains all the development controls, standards and provisions that apply to land in the Baulkham Hills Shire, and that satisfies the legislative requirements with regards to the preparation and content of Development Control Plans.*
- (b) Clearly set out the processes, procedures and responsibilities for the involvement of the community and key stakeholders in the development of land.*
- (c) Encourage a high standard of aesthetically pleasing and functional development that sympathetically relate to adjoining and nearby developments.*
- (d) Ensure that development will not detrimentally affect the environment of any adjoining lands and ensure that satisfactory measures are incorporated to ameliorate any impacts arising from the proposed development.*
- (e) Encourage innovative and imaginative design with particular emphasis on the integration of buildings and landscaped areas that add to the character of neighbourhoods.*
- (f) Provide safe and high quality environments for the residents, workers and visitors of the Shire.*
- (g) Ensure that development incorporates the principles of Ecologically Sustainable Development (ESD)”.*

Comment Our assessment demonstrates that in the main, the proposal is capable of satisfying the relevant sections of the BHDCP, including:

- Ecologically Sustainable Development (Part A Section 6).
- Residential (Part C Section 3).
- Parking (Part D Section 1).
- Heritage (Part D Section 5).

⁸ BHDCP – Part A, Section 1.3.

6 LEP Pro Forma Criteria

This Section addresses the requirements of a "Spot Rezoning LEP"⁹ as nominated by the Department of Planning.

Evaluation Criteria	Comments
1. Will the LEP be compatible with agreed State and regional strategic direction for development in the area (e.g. land release, strategic corridors, development within 800m of a transit node)?	Yes. Section 5 provides a detailed assessment of the proposal against the relevant State and Regional policies.
2. Will the LEP implement studies and strategic work consistent with State and regional policies and Ministerial (s.117) directions?	Yes. Section 5 provides a detailed assessment of the proposal against the relevant State and Regional policies.
3. Is the LEP located in a global/regional city, strategic centre or corridor nominated within the Metropolitan Strategy or other regional/subregional strategy?	Yes/No. As discussed in Section 5 , the site is located within proximity to Castle Hill which has been identified as a major centre. In our opinion the LEP would not be inconsistent with this criteria.
4. Will the LEP facilitate a permanent employment generating activity or result in a loss of employment lands?	No. The proposal will not create employment generating activity or result in loss of employment lands.
5. Will the LEP be compatible/complementary with surrounding land uses?	Yes. Section 2 and Section 3 provides a description and assessment of the surrounding land uses. The proposal is considered to be compatible and complementary with the surrounding land uses.
6. Is the LEP likely to create a precedent; or create or change the expectations of the landowner or other landholders?	No. The proposal is not considered to create precedent.
7. Will the LEP deal with a deferred matter in an existing LEP?	No. This criteria is not seen as applicable to the proposal.

⁹ As nominated in the Department of Planning's Circular No. PS 06-005

Evaluation Criteria	Comments
8. Have the cumulative effects of other spot rezoning proposals in the locality been considered? What was the outcome of these considerations?	Yes. Consideration has been given to the potential impact of the proposal in the context of existing and future developments. The only other rezoning involves the adjoining lands to the south (No.354-368). An opportunity exists to rationalise traffic between the sites however the sites are capable of co-existing without creating adverse impacts. A common outcome will be the dedication of a bushland reserve to formalise connectivity with Heritage Park to the west.

7 Conclusion

The client seeks the support of The Hills Shire Council to rezone the site to enable it to be subdivided for low density residential housing. As part of the proposal the existing bushland area located along the southern boundary will be dedicated as public open space.

The proposal reflects a balanced approach to urban growth and seeks to promote the orderly and economic use of the land by identifying an opportunity for residential development that is generally consistent with the various policies and strategies identified in this report. In our opinion the proposal will not erode the Shire's rural heritage, or cultural significance of the locality

Whilst it is zoned rural the site does not represent "working agricultural land" and the immediate locality portrays none of the characteristics of the traditional rural community, such as farming, small business connections, and community associations. In our opinion the profile of the local community is more reflective of an urban neighbourhood.

It is our opinion that it has merit and should be supported by Council.

8 Recommendation

It is recommended that Council:

1. Prepare a draft Local Environmental Plan amendment to rezone Lot 2 DP 135804, No.370 Old Northern Road, Castle Hill, from Rural 1(a) to part Residential 2(d) (Protected) and part Open Space 6(a) (Existing and Proposed Recreational Space) generally in accordance with the submitted plan and details.

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## 9 References

### PLANNING AND STATUTORY DOCUMENTS

- Environmental Planning and Assessment Act, 1979 (“EP&A Act”).
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River (No.2-1997) (“SREP No.20”).
- Baulkham Hills Local Environmental Plan 2005 (“LEP 2005”).
- Baulkham Hills Development Control Plan (“BHDCP”).
- Planning NSW “Planning for Bushfire Protection” (2006) (“PfBFP”).

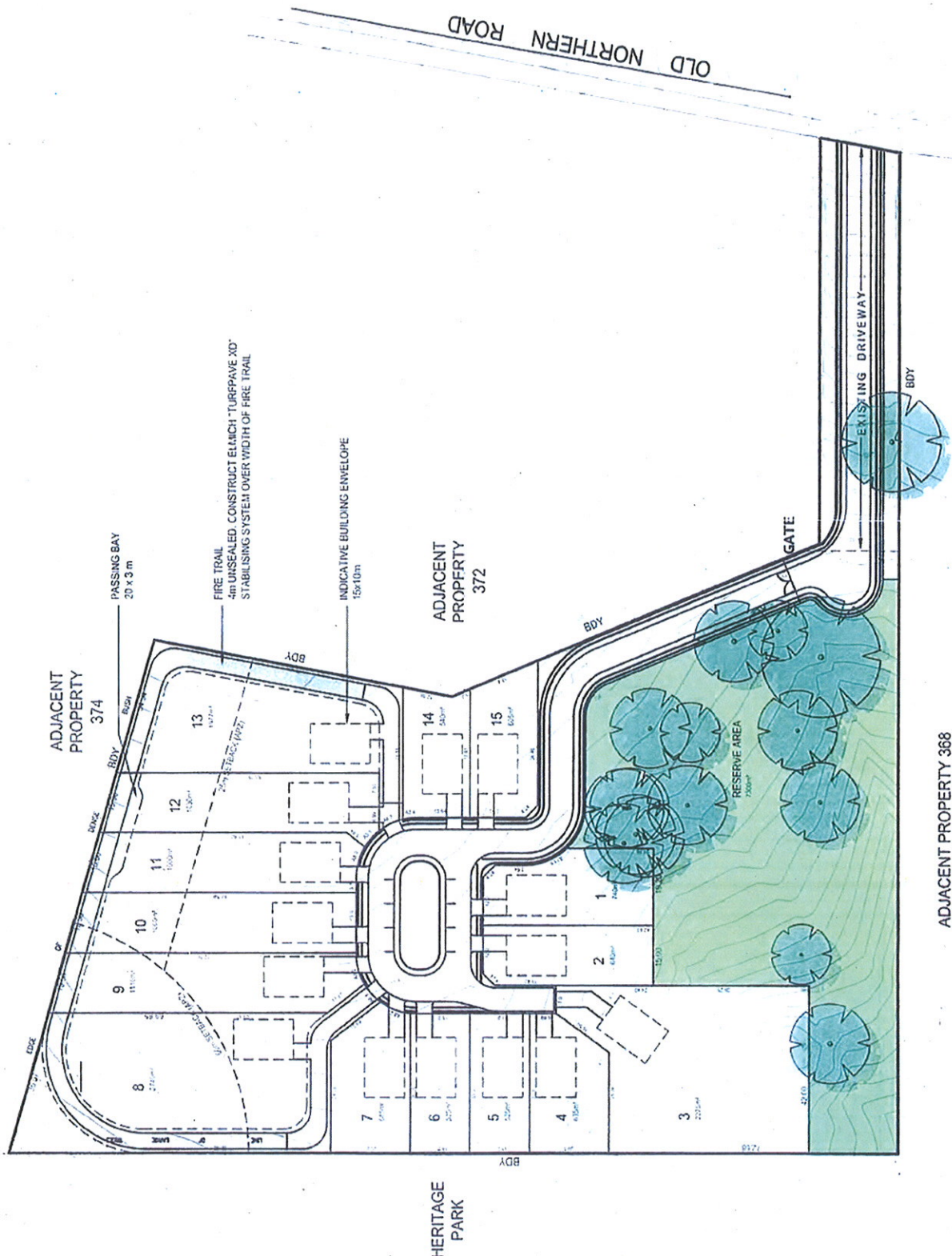
### REPORTS, DOCUMENTS AND PLANS

- Survey Plan (REF: 32767) dated 23<sup>rd</sup> January 2008 (amended 01/03/10), prepared by Lockley Land Title Solutions.
- Subdivision Concept Plan (Drawing number DD01-issue A) dated March 2010, prepared by Jackson Teece.
- Geotechnical Investigation and Stability Assessment (April 2006) prepared by Pells Sullivan Meynink.
- Correspondence (Peer Review) prepared by Coffey Geosciences Pty Ltd, 12<sup>th</sup> April 2006.
- Stability Assessment Review - proposed residential subdivision (23<sup>rd</sup> March 2010) prepared by Pells Sullivan Meynink.
- Traffic and Parking Assessment Report (May 2009) prepared by Varga Traffic Planning Pty Ltd.
- Traffic and Parking Assessment Addendum Report (March 2010) prepared by Varga Traffic Planning Pty Ltd.
- Phase I Environmental Site Assessment (April 2010) prepared by JBS Environmental Pty Ltd.
- Proposed Site Servicing Strategy (April 2010) prepared by Buckton Lysenko Consulting Engineers.
- Statement of Heritage Impact (March 2010) prepared by Archnex.
- Bushfire Constraints advice (March 2010) prepared by Eco Logical Australia Pty Ltd.
- Ecological Assessment (2007) prepared by Hunter Eco.
- Ecological Assessment - supplementary advice (19<sup>th</sup> March 2010), prepared by Hunter Eco.
- Adopted Draft Local Strategy (New Strategic Direction for Baulkham Hills Shire). The Hills Shire (adopted 10 June 2008 Minute No. 401).
- The Residential Direction (Planning Protection and Management of the Shire’s Residential Population). The Hills Shire (adopted 10 June 2008 Minute No. 414).
- Agricultural Land Classification Atlas – Sydney Basin, including the Lower Nepean – Hawkesbury Catchment, 1995, NSW Agriculture.



# **Appendix No. 1**

**Proposed Subdivision Concept Plan & Survey Plan**



| AREA SCHEDULE                    |                                            |
|----------------------------------|--------------------------------------------|
| LOT 1                            | 740 m <sup>2</sup>                         |
| LOT 2                            | 840 m <sup>2</sup>                         |
| LOT 3                            | 2275 m <sup>2</sup>                        |
| LOT 4                            | 635 m <sup>2</sup>                         |
| LOT 5                            | 525 m <sup>2</sup>                         |
| LOT 6                            | 525 m <sup>2</sup>                         |
| LOT 7                            | 685 m <sup>2</sup>                         |
| LOT 8                            | 2740 m <sup>2</sup>                        |
| LOT 9                            | 1110 m <sup>2</sup>                        |
| LOT 10                           | 1060 m <sup>2</sup>                        |
| LOT 11                           | 1000 m <sup>2</sup>                        |
| LOT 12                           | 1030 m <sup>2</sup>                        |
| LOT 13                           | 1977 m <sup>2</sup>                        |
| LOT 14                           | 540 m <sup>2</sup>                         |
| LOT 15                           | 605 m <sup>2</sup>                         |
| ROADWAY<br>RESERVE AREA          | 5423 m <sup>2</sup><br>7300 m <sup>2</sup> |
| TOTAL                            | 28810 m <sup>2</sup>                       |
| SITE AREA                        | 28810 m <sup>2</sup>                       |
| FINAL AREAS SUBJECT<br>TO SURVEY |                                            |

DRAWING TITLE  
SUBDIVISION  
CONCEPT PLAN

CLIENT  
LANOX PTY. LTD. AND KMSJ PTY. LTD.

PROJECT  
370 OLD NORTHERN ROAD  
LOT 2, DP135804

|                |                |       |
|----------------|----------------|-------|
| DATE           | SCALE          | DRAWN |
| 8 Feb 2010     | 1:1000         | MA    |
| PROJECT NUMBER | DRAWING NUMBER | ISSUE |
| 2008117        | DD01           | A     |

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