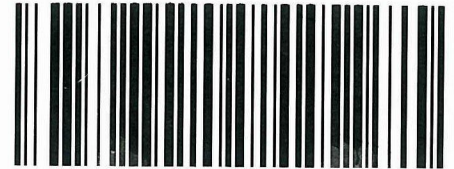


THE HILLS SHIRE COUNCIL

129 Showground Road, Castle Hill NSW 2154
 PO Box 75, Castle Hill NSW 1765

Telephone 02 9843 0555 Email council@thehills.nsw.gov.au
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PCU025357

24 August 2011
 Mr Peter Goth – Regional Director
 Sydney Metropolitan West
 Department of Planning
 3 Marist Place
 PARRAMATTA NSW 2150

Our Ref:FP196

Dear Peter,

RE: PLANNING PROPOSAL NO. 370 OLD NORTHERN ROAD, CASTLE HILL

Pursuant to section 58 of the Environmental Planning and Assessment Act 1979 it is advised that Council considered a further report to document and respond to issues raised as a result of the public exhibition process, for the subject planning proposal.

The planning proposal was exhibited from 19 April to 20 May 2011 via the following methods:

Exhibition:

- Advertisements in local newspaper
- Static displays at Council's Administration Centre and Castle Hill Library
- Dedicated web page 'Major Plans on Exhibition' on Council's website

Notification:

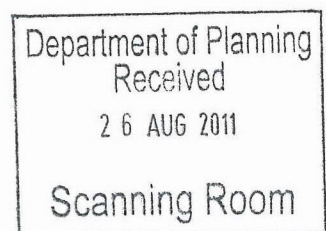
- Letters sent to adjoining and surrounding property owners

A total of eight (8) submissions in relation to the planning proposal were received by Council, including four (4) submissions from public authorities (NSW Rural Fire Service - Hills District, Sydney Water, Roads and Traffic Authority and NSW Rural Fire Service - Headquarters), two (2) individual letters of concern and one (1) letter of support.

In general, key issues were:

- a. Current proposal appears to take little or no account of its relationship with neighbouring developments, including access and possible subdivision for properties located north of the subject site.
- b. Public Authorities requirements including NSW Rural Fire Service, Sydney Water, and Roads and Traffic Authority; such as entry and exit movements to and from the site being restricted to left – in and left-out movements, Rural Fire Service would not support lot sizes less than 1000m², and obtaining a Section 73 Certificate.

Council at its meeting dated 9 August 2011 resolved the following:



English:

This letter contains important information. If you do not speak English and require a translation/interpreter you can either:

- *Come to Council's Administration Centre where we will be happy to assist*
- *Contact the Telephone Interpreter Service on 13 14 50 and ask them to call Council on 9843-0555 and enquire on your behalf.*

Korean

이 편지는 중요한 정보를 포함하고 있습니다. 만일 영어를 몰라서 번역이나 통역이 필요하시면 다음 중 한 가지를 하십시오:

- 카운슬의 행정 센터로 오시면 저희가 기꺼히 도와 드립니다.
- 전화 13 14 50 로 전화 통역 서비스에 연락해서 통역에게 9843-0555로 카운슬에 전화하여 당신 대신에 문의해 달라고 부탁하십시오.

Chinese

這封信包含有重要的訊息，如果您不會說英語和要求一個翻譯員／傳譯員，您可以：

- 來市議會的行政中心，我們很樂意幫助您。
- 打電話 13 14 50 到電話傳譯服務處，請他們打電話9843-0555到市議會幫您諮詢有關詳情。

Arabic

هذه الرسالة تحتوي على معلومات هامة. إذا كنت لا تتكلم الإنجليزية وتحتاج الى ترجمة/مترجم فيمكنك أن:

- تأتي إلى مركز إدارة المجلس حيث يساعدنا أن نساعدك
- تتصل بخدمة الترجمة الهاتفية على ١٣١-٤٥٠ واطلب منهم الإتصال بالمجلس على ٩٨٤٣-٠٥٥٥ ويقوموا بالاستفسار بالنيابة عنك.

Italian

Questa lettera contiene informazioni importanti. Se non parli inglese e hai bisogno di una traduzione o di un interprete puoi:

- o venire all'ufficio amministrativo centrale del municipio (*Council's Administration Centre*) dove saremo ben lieti di aiutarti.
- o contattare il servizio telefonico d'interpretariato (*Telephone Interpreter Service*) al numero 13 14 50 e chiedere loro di chiamare il municipio al numero 9843-0555 e chiedere ragguagli per te.

Greek

Το γράμμα αυτό περιλαμβάνει σημαντικές πληροφορίες. Αν δεν μιλάς Αγγλικά και χρειάζεσε μετάφραση/διερμηνέα μπορείς να:

- Έλθεις στο Διοικητικό Κέντρο της Δημαρχείας όπου ευχαρίστως θα σε βοηθήσουμε, η
- Τηλεφώνησε στη Τηλεφωνική Υπηρεσία Διερμηνέων στο 13 14 50 και πες τους να τηλεφωνήσουν στη Δημαρχεία στο 9843-0555 και να ζητήσουν πληροφορίες εκ μέρους σου.

1. The land known as 370 Old Northern Road, Castle Hill be rezoned to Residential 2(d) and be forwarded to the Department of Planning and Infrastructure for finalisation.
2. Following dedication of the land indicated as open space in the concept subdivision plan, a further planning proposal be submitted to the Department of Planning and Infrastructure to rezone the proposed Public Reserve from Residential 2(d) to Open Space 6(a).

Please find enclosed the amended Planning Proposal required to be finalised by the Department of Planning and Infrastructure, in accordance with the Gateway Determination dated 10 March 2011 and a request for legal drafting of the Local Environmental Planning.

Any future correspondence in relation to this matter should quote reference number FP 196. Should you require further information please contact Bronwyn Smith Coordinator Forward Planning on 9843 0269.

Yours faithfully



STEWART SEALE
MANAGER FORWARD PLANNING

ATTACHMENTS

[Final Planning Proposal](#)

[Draft LEP 2010 - Zoning map - planning proposal](#)

[Draft LEP 2010 lot size map - planning proposal](#)

[DisplayText cannot span more than one line!](#)

[BHLEP 2005 Residential 2\(d\) Map](#)

PLANNING PROPOSAL

LOCAL GOVERNMENT AREA: The Hills Shire Council

NAME OF DRAFT LEP: Draft Baulkham Hills Local Environmental Plan 2005 (Amendment No.)

ADDRESS OF LAND: This plan applies to Lot 2, DP 135804, No. 370 Old Northern Road, Castle Hill under the Baulkham Hills Local Environmental Plan 2005.

MAPS:

- Proposed standard template zoning map
- Locality map showing the existing zoning of the site and surrounding land – Refer Attachment A

PHOTOS AND OTHER VISUAL MATERIAL: Nil

- Aerial photo showing the land affected by the Planning Proposal – Refer Attachment B

1. OBJECTIVE OF PROPOSED LOCAL ENVIRONMENTAL PLAN (LEP):

The purpose of the draft plan is to rezone privately owned land being Lot 2, DP 135804, No. 370 Old Northern Road, Castle Hill currently zoned Rural 1(a) to Residential 2(d) with a minimum allotment size of 1000m² to accommodate residential development of the site.

2. PROVISIONS TO BE INCLUDED IN PROPOSED LEP:

The proposal involves an amendment to BHLEP 2005 to allow a rezoning for residential development. The rezoning will help to facilitate future subdivision for residential purposes in keeping with development in the surrounding area. It will also provide for the preservation of the existing threatened species on the site by the dedication of land for open space purposes contiguous with existing open space.

Further, this proposal should also include a minimum allotment size for the subject site of 1000m² for the following reasons:

- to permit the preservation of existing vegetation, particularly Blue Gum High Forest, and
- to permit asset protection zones to all allotments within the proposed subdivision

NSW Standard Template

Council is currently in discussions with the Department of Planning (DOP) to finalise a new draft Shire-Wide LEP, under the standard template for exhibition. Under the new Draft LEP 2010 it is proposed to zone the land E4 Environmental Living as the objectives and permitted land uses are similar to the current Residential 2(d) (Protected) zone.

Given the timing of draft LEP 2010 it is considered appropriate to introduce the E4 Environmental Living zone to BHLEP 2005 and use this for the residential component of the site. Similarly introduction of a minimum lot size map for the subject site with a minimum lot size of 1000m² will allow for an appropriate development outcome on the

site. The ultimate yield and development patterns will become certain during the rezoning process but at a minimum the appropriate development standards are:

- preservation of existing vegetation, particularly Blue Gum High Forest,
- a minimum area of 650m² on each development lot free of any restricted development designation,
- community title subdivision,
- minimum residential lot size of 1000m²
- asset protection zones to all allotments within the proposed subdivision.

It should be noted that under draft LEP 2010 the new E4 Environmental Living zone has been used for land currently zoned Residential 2(d)(Protected) at Glenhaven, Castle Hill, West Pennant Hills and Kenthurst. Such land has been identified on the basis of the vegetative, landscape, drainage and scenic qualities of the land. The E4 zone will allow for residential development while protecting the specific environmental qualities.

3. JUSTIFICATION FOR THE PLANNING PROPOSAL:

A. Need for the planning proposal

1. Is the planning proposal a result of any strategic study or report

No – this planning proposal is a result of an application from PGH Environmental Planning seeking to rezone the subject site from Rural 1(a) to Residential 2(d). Supporting information provided with the application includes

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes – The planning proposal to rezone subject site is considered the most appropriate means of achieving the intended outcomes.

3. Is there a net community benefit?

Yes – The proposed rezoning will result in a net community benefit by providing opportunities for the development of housing which;

- addresses dwelling targets
- provides for sustainable living and facilitating quality housing outcomes
- responds to housing needs
- provision for additional housing options on land close to a major centre
- meets the outcomes and strategies to provide for balanced urban growth.

B. Relationship to strategic planning framework

1. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

North West Subregional Strategy

The North West Strategy sets a target for Baulkham Hills Shire to contribute an additional 36,000 dwellings by 2031. Of this target 14,500 dwellings are identified for the North West Growth Centre and 21,500 dwellings are to be provided within the existing urban areas and release areas. Whilst the land is zoned Rural, it is adjacent to existing residential housing and capable of being serviced for residential development.

Metropolitan Development Program

The NSW Government has prepared a Metropolitan Development Program (MDP) for Sydney which aims to plan for Sydney's growth until 2031. Outside the growth centres any proposed zone change from rural to urban is required to meet the sustainability criteria. The reports submitted with the application indicate that the planning proposal would comply with the sustainability criteria contained in the Metropolitan Strategy.

2. *Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?*

Yes

- **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. This document will be used as a guide and reflect the five key elements of the Hills 2026 Community Strategic Direction : Looking for the Future namely:

- a. Resilient Local Leadership
- b. Vibrant Communities
- c. Balanced Urban Growth
- d. Protected Environment
- e. Modern Local Economy

- **Residential Direction**

Council's Residential Direction was adopted by Council on 10th June 2008 and aims to provide an additional 36,000 dwellings by 2031 for the Shire. The direction also seeks to provide for a diversity of housing choice, well located housing close to services and infrastructure, a built environment that reflects the 'garden shire' image and the development of communities that offer a sense of place and community connection. The ultimate goal is to create housing options that promote sustainable economic, environmental and social outcomes for the residents of the Shire.

- **Hills 2026**

In accordance with the 2008-2012 delivery program working towards meeting the goals of Hills 2026, the rezoning of this site may contribute towards achieving the needs of the broader community, offering flexibility and better usage of existing land and infrastructure while providing more housing through effective land use planning. The proposed future development of the site will encourage a connected community including the connectivity of public areas through to the State listed Conservation Area of Heritage Park.

The proposal to amend BHLEP 2005 supports the following Hills 2026 objectives:

- a. *Addressing dwelling targets*
- b. *Providing more housing*
- c. *Responds to housing needs*

3. *Is the planning proposal consistent with applicable state environmental planning policies?*

The plan is consistent with the relevant state environmental planning policies as indicated in Attachment C.

4. *Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?*

The plan is consistent with the relevant Ministerial Directions as outlined in Attachment D.

C. Environmental, social and economic impact

- 1. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?*

The subject site contains an area of land with remnant species of Blue Gum High Forest, a community listed as a Critically Endangered Ecological Community under the Commonwealth Environment Protection and Biodiversity Conservation Act and as an Endangered Ecological Community under the NSW Threatened Species Conservation Act.

The planning proposal has identified the area of land with the remnant species of Blue Gum High Forest and it is proposed that this be dedicated at no cost to Council. This area will then form connectivity through to Heritage Park Conservation Area.

- 2. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?*

The subject site is identified as Bush Fire Prone Land Category 1 and 2 and having vegetation buffer of 100 metres and 30 metres respectively on Council's Bush Fire Prone Land Map. Any development that may occur on the subject site would be subject to the requirements of the NSW Rural Fires Act 1997 and the asset protection zones.

The planning proposal has submitted a subdivision concept plan which indicates that Asset Protection Zones will be provided in accordance with the NSW Rural Fire Service requirements.

- 4. How has the planning proposal adequately addressed any social and economic effects?*

The proposed amendments to the BHLEP 2005 are consistent with recent policy decisions of Council and will assist with the provision for additional housing options on land close to a major centre and meet the outcomes and strategies to provide for balanced urban growth.

D. State and Commonwealth interests

- 1. Is there adequate public infrastructure for the planning proposal?*

Investigations into servicing of the site have demonstrated that existing infrastructure has sufficient capacity to accommodate the demands of the development.

- 2. What are the views of State and Commonwealth Public Authorities consulted in accordance with the gateway determination, and have they resulted in any variations to the planning proposal? (Note: The views of State and Commonwealth Public Authorities will not be known until after the initial gateway determination. This section of the planning proposal is completed following consultation with those public authorities identified in the gateway determination.)*

Following the Gateway determination, relevant agencies will be consulted. Any proposed variations to the planning proposal would be addressed in the submission following the consultation period.

4. DETAILS OF THE COMMUNITY CONSULTATION THAT IS TO BE UNDERTAKEN:

It is intended to advertise the proposed amendments in local newspapers. The exhibited material will be on display at Council’s Administration Building located at 129 Showground Road, Castle Hill between the hours of 8.30am to 4.30pm Monday to Friday. The exhibition material will also be made available on Council’s website. In addition, letters will be issued to adjoining property owners advising them of the proposed rezoning.

The Gateway determination will identify any additional consultation required.

**ATTACHMENT A
STATE ENVIRONMENTAL PLANNING POLICIES**

INSTRUMENT	RELEVANT? (YES/NO)	(IF RELEVANT) INCONSISTENT/ CONSISTENT
<u>S.E.P.P.</u>		
1	Development Standards	NO
4	Development without Consent and Miscellaneous Exempt & Complying Development	NO
6	Number of Storeys in a Building	NO
10	Retention of Low-Cost Rental Accommodation	NO
19	Bushland in Urban Areas	NO
21	Caravan Parks	NO
22	Shops and Commercial Premises	NO
30	Intensive Agriculture	NO
32	Urban Consolidation	NO
33	Hazardous and Offensive Development	NO
50	Canal Estate Development	NO
55	Remediation of Land	YES
62	Sustainable Aquaculture	NO
64	Advertising and Signage	NO
65	Design Quality of Residential Flat Development	NO
70	Affordable Housing (Revised Schemes)	NO
	Housing for Seniors or People Living with a Disability (2004)	NO
	Building Sustainability Index: BASIX 2004	NO
	Major Projects 2005	NO
	Sydney Region Growth Centres 2006	NO
	Mining, Petroleum Production and Extractive Industries 2007	NO
	Temporary Structures and Places of Public Entertainment (2007)	NO
		CONSISTENT

INSTRUMENT	RELEVANT? (YES/NO)	(IF RELEVANT) INCONSISTENT/ CONSISTENT
Infrastructure (2007)	NO	

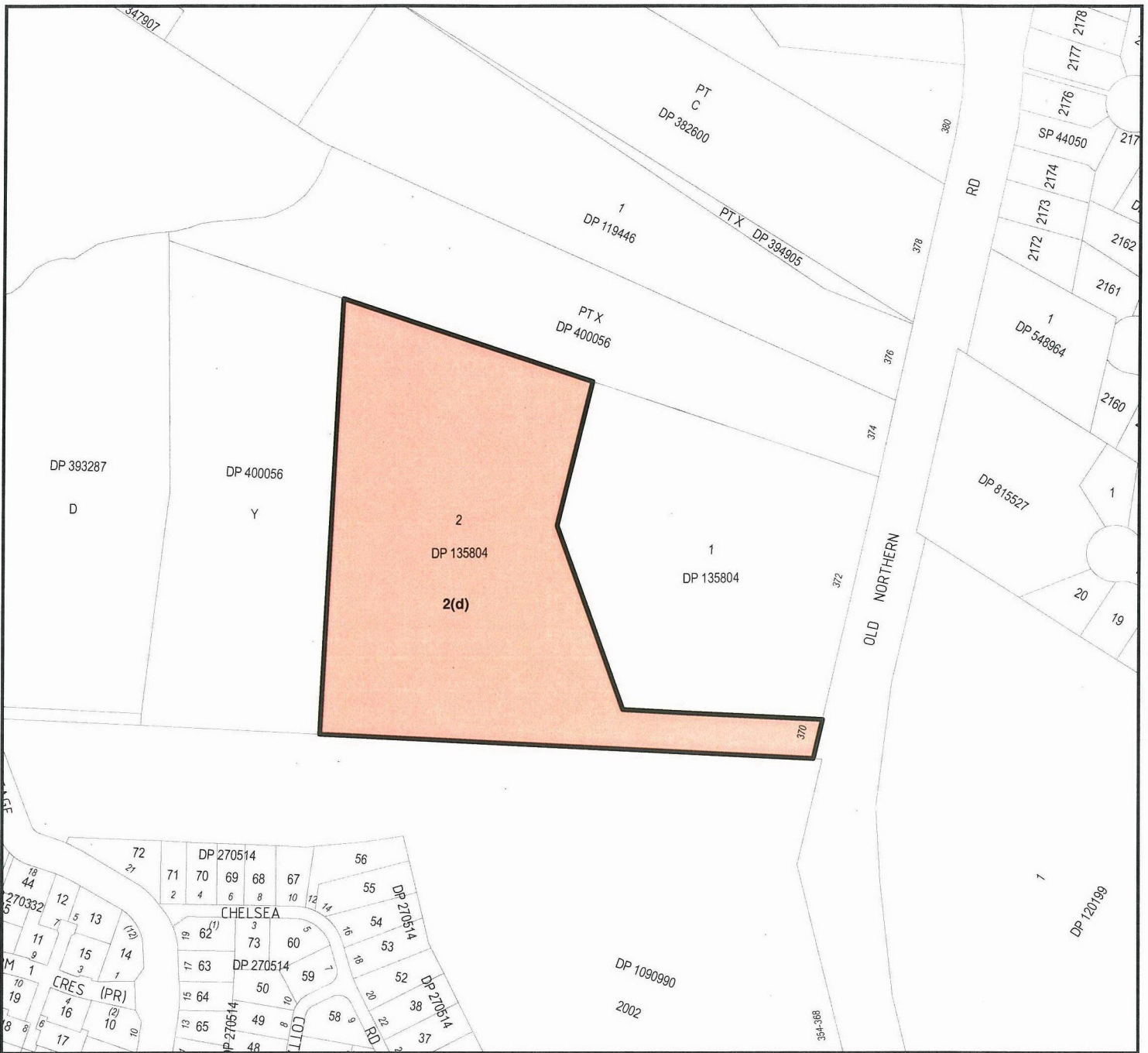
SYDNEY REP

9	Extractive Industry	NO
18	Public Transport Corridors	NO
19	Rouse Hill Development Area	NO
20	Hawkesbury – Nepean River	NO

**ATTACHMENT B
SECTION 117 DIRECTIONS**

<u>S117(2) MINISTERIAL DIRECTIONS</u>	RELEVANT? (YES/NO)	(IF RELEVANT) INCONSISTENT/ CONSISTENT
1. Employment and Resources		
1.1 Business and Industrial Zones	No	
1.2 Rural Zones	YES	CONSISTENT
1.3 Mining, Petroleum Production and Extractive Industries	NO	
1.4 Oyster Aquaculture	NO	
1.5 Rural Lands	YES	
2. Environment and Heritage		
2.1 Environmental Protection Zones	NO	
2.2 Coastal Protection	NO	
2.3 Heritage Conservation	YES	CONSISTENT
2.4 Recreation Vehicle Areas	NO	
3. Housing, Infrastructure and Urban Development		
3.1 Residential Zones	YES	CONSISTENT
3.2 Caravan Parks and Manufactured Home Estates	NO	
3.3 Home Occupations	NO	
3.4 Integrating Land Use and Transport	NO	
3.5 Development Near Licensed Aerodromes	NO	
4. Hazard and Risk		
4.1 Acid Sulfate Soils	NO	
4.2 Mine Subsidence and Unstable Land	NO	
4.3 Flood Prone Land	NO	
4.4 Planning for Bushfire Protection	YES	CONSISTENT
5. Regional Planning		
5.1 Implementation of Regional Strategies	NO	
5.2 Sydney Drinking Water Catchments	NO	
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	NO	
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	NO	
5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	NO	
5.6 Sydney to Canberra Corridor	NO	
5.7 Central Coast	NO	
5.8 Second Sydney Airport: Badgerys Creek	NO	
6. Local Plan Making		

<u>S117(2) MINISTERIAL DIRECTIONS</u>	RELEVANT? (YES/NO)	(IF RELEVANT) INCONSISTENT/ CONSISTENT
6.1 Approval and Referral Requirements	NO	
6.2 Reserving Land for Public Purpose	NO	
6.3 Site Specific Provisions	NO	



Legend

- 2(d) Residential 2(d) (Protected)
- Subject_Site
- Cadastre Parcels

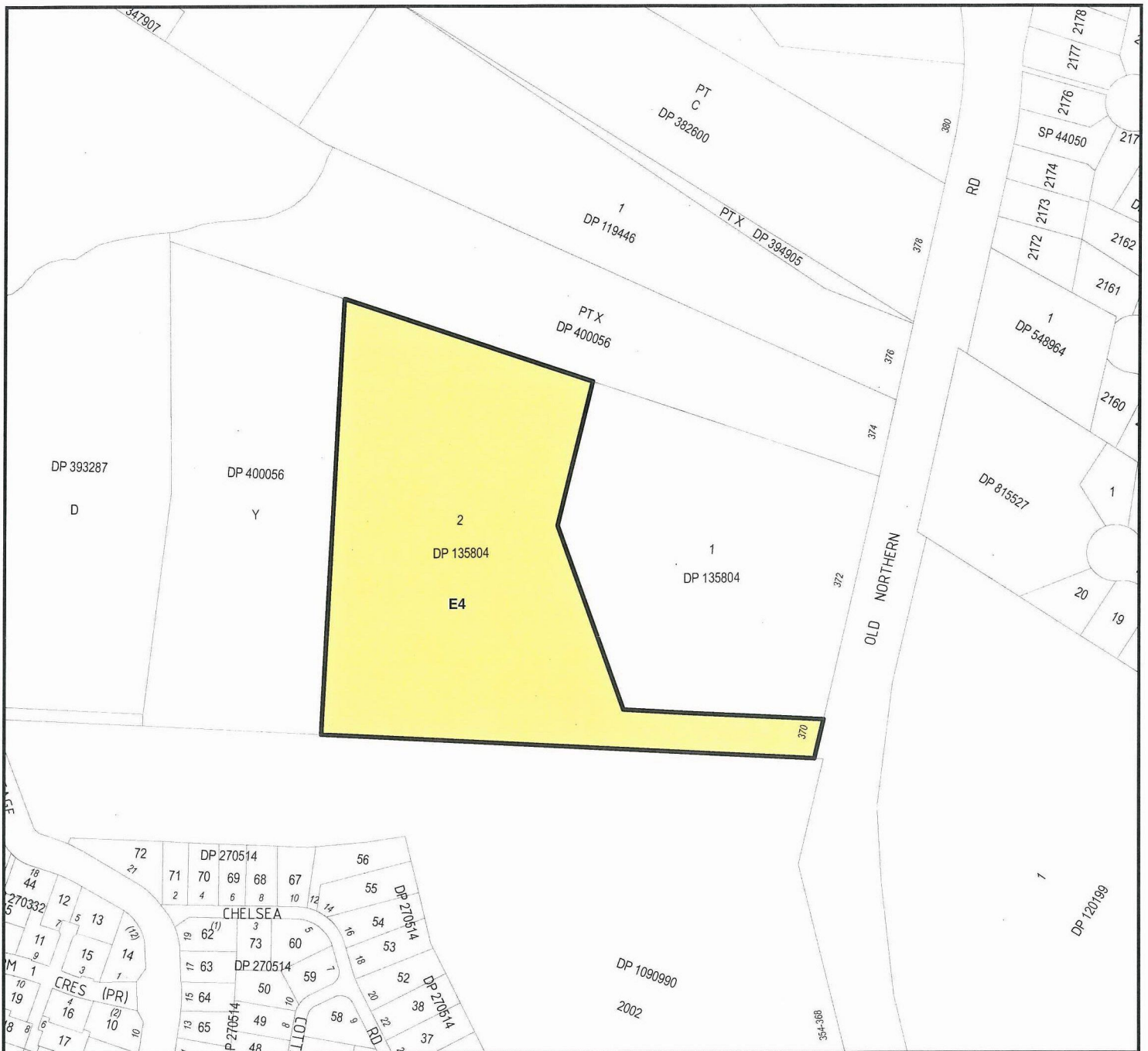
Scale 1:3,000



LOCALITY: CASTLE HILL

ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979
THE HILLS SHIRE COUNCIL
DRAFT LOCAL ENVIRONMENTAL PLAN 2005
 (AMENDMENT No.)
 (SHEET No. 1 of 3)

DRAWN BY	B. CLISSOLD	DATE	16/12/2010	STATEMENT OF RELATIONSHIP WITH OTHER PLANS: AMENDS BAULKHAM HILLS LOCAL ENVIRONMENTAL PLAN 2005
SUPERVISING DRAFTSPERSON	B. CLISSOLD	DATE	16/12/2010	
PLANNING OFFICER	B. SMITH	DATE	16/12/2010	
FILE No. CCL	FP 196			NOTIFIED ON
GATEWAY DETERMINATION		DATE	10/03/2011	CERTIFIED IN ACCORDANCE WITH THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979, AND REGULATIONS
CERTIFICATE PLAN NUMBER	10/04			

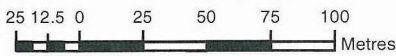


Land Zoning (LZN)

- E4 ENVIRONMENTAL LIVING
- Cadastre Parcels
- Subject_Site



Scale 1:3,000



LOCALITY: CASTLE HILL

ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979
THE HILLS SHIRE COUNCIL
DRAFT THE HILLS LOCAL ENVIRONMENTAL PLAN 2010
(AMENDMENT No.)
(SHEET No. 2 of 3)

DRAWN BY	B. CLISSOLD	DATE	16/12/2010	STATEMENT OF RELATIONSHIP WITH OTHER PLANS: AMENDS DRAFT THE HILLS LOCAL ENVIRONMENTAL PLAN 2010
SUPERVISING DRAFTSPERSON	B. CLISSOLD	DATE	16/12/2010	
PLANNING OFFICER	B. SMITH	DATE	16/12/2010	
FILE No. CCL	FP 196			NOTIFIED ON
GATEWAY DETERMINATION		DATE	10/03/2011	CERTIFIED IN ACCORDANCE WITH THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979, AND REGULATIONS
CERTIFICATE PLAN NUMBER	10/04			

ITEM **FURTHER REPORT POST EXHIBITION OF PLANNING PROPOSAL - 370 OLD NORTHERN ROAD, CASTLE HILL (FP196)**

THEME: Balanced Urban Growth

HILLS 2026 OUTCOME/S: BUG 2 Lifestyle options that reflect our natural beauty.

COUNCIL STRATEGY/S: BUG 2.1 Facilitate the provision of diverse connected and sustainable housing options through integrated land use planning.

GROUP: **STRATEGIC PLANNING**

AUTHOR: **FORWARD PLANNING COORDINATOR**
BRONWYN SMITH

RESPONSIBLE OFFICER: **MANAGER – FORWARD PLANNING**
STEWART SEALE

EXECUTIVE SUMMARY

This report recommends that Council support the planning proposal to rezone the subject site from Rural 1(a) to part Residential 2(d) (Protected) and part Open Space 6(a) with a minimum allotment size of 1000m2 for the residential component of the site. The rezoning will facilitate future subdivision for residential purposes in keeping with development in the surrounding area. It will also provide for the preservation of the existing threatened species on the site by the dedication of land at no cost to Council for open space purposes.

The planning proposal was exhibited from 19 April 2011 to 20 May 2011, and a total of eight (8) submissions in relation to the planning proposal were received by Council. The key area of concern is that no regard for the adjoining properties located north of the subject site has been given, however this does not warrant refusal of the application, and based on the information contained within this report it is recommended that the planning proposal be adopted by Council and forwarded to the Department of Planning for finalisation.

HISTORY

14/12/2006 Development Application No. 1941/2006 approved for the reconstruction of driveway to provide access to the property.

25/02/2010 Pre-lodgement meeting held regarding proposed rezoning.

28/04/2010 Planning Proposal lodged by PGH Planning Pty Ltd.

06/07/2010 Councillor Workshop held to brief Councillors on the

proposal.

- 3/09/2010** Additional information received from PGH Planning Pty Ltd regarding clearing of vegetation, access arrangements, bushfire, the Rural Lands Study, the Metropolitan Development Program, provision of services and community title subdivision.
- 9/11/2010** Council resolved to prepare a planning proposal *"to amend the Baulkham Hills Local Environmental Plan 2005 to rezone land at 370 Old Northern Road, Castle Hill from Rural 1(a) to E4 Environmental Living and Open Space 6(a) and apply a minimum lot size of 1000m² and a maximum height of 9 metres."*
- 8/12/2010** Planning proposal prepared and sent to Department of Planning.
- 10/03/2011** Council received notification from the Department to proceed with the planning proposal subject to the conditions in the Gateway Determination. The Gateway Determination required that the planning proposal be exhibited for 28 days.
- 19.4.2011 – 20.5.2011** Exhibition of the Draft Planning Proposal
- APPLICANT:** PGH Environmental
- OWNER:** Lanox Pty Ltd
KMSJ Pty Ltd
- ZONING:**
LEP 2005: Rural 1(a)
Draft LEP 2010: Environmental Living E4
- POLITICAL DONATIONS:** No disclosures

REPORT

The purpose of this report is to consider the outcomes of the public exhibition process and recommend that Council support the planning proposal and proceed with the amendments to Baulkham Hills Local Environmental Plan 2005 to give it effect.

On 9 November 2010, Council resolved to prepare a planning proposal to amend the Baulkham Hills Local Environmental Plan 2005 (BHLEP 2005) to rezone land at No. 370 Old Northern Road, Castle Hill from Rural 1(a) to partly E4 Environmental Living and partly 6(a) Open Space and a planning proposal be forwarded to the Department of Planning for a gateway determination.

The Department of Planning issued a Gateway Determination (Refer Attachment 1 to this report) to proceed with the planning proposal on 10 March 2011. However, the Department did not support the insertion of a new zone into Baulkham Hills Local Environmental Plan 2005, and requested that the proposal proceed on the basis of Council's equivalent zoning in its existing Local Environmental Plan, being Residential 2 (d) (Protected). Once Draft Local Environmental Plan 2010 is gazetted, the site is intended to be zoned partly E4 –Environmental Living and partly RE1 Public Recreation.

Further, as part of the gateway determination, the Department required that additional studies were to be undertaken with respect to the impact of the proposal on the heritage significance of the site and adjoining Conservation Area, including;

- An Archaeological assessment of the subject site
- A preliminary Aboriginal heritage assessment of the site; and
- An assessment of the impact of development on the subject land on the heritage significance of the adjoining Castle Hill Heritage Park

These additional studies were received by Council and formed part of the exhibition.

On 10 March 2011, Council considered a report and resolved to exhibit the planning proposal for 28 days; this report will document and respond to issues raised as a result of the public exhibition process.

EXISTING DEVELOPMENT

The site is located on the western side of Old Northern Road between the intersections with Old Castle Hill and Gilbert Roads, Castle Hill, and currently there is a single storey brick dwelling which is proposed to be demolished. The property is currently accessed via a concrete driveway fronting Old Northern Road, with an approximate length of 80 metres and a gradient of 20% which is acceptable for a single dwelling. Council granted development consent for the construction of the driveway in 2006. On the development consent the Roads and Traffic Authority (RTA) required the following condition of consent:

"Any future development on the subject site shall be referred to the NSW Roads and Traffic Authority for assessment of the access arrangement to the land. Any further road works required will be at no cost to the RTA."

The narrow battleaxe handle, steep slope of the site and presence of Blue Gum High Forest mean that there was limited options to design a driveway of a suitable grade within the same distance. It is anticipated that extensive site works and retaining walls would be required to support a redesigned driveway at the appropriate gradient in accordance with the Australian Standards for the type of development proposed. In this regard a gradient of 15.24% is required for the provision of service vehicles. However, under the provisions of a Community Title scheme, the occupants would be required to arrange services for the site.

The site has an area of approximately 2.879 hectares and is hatched shaped. The land is undulating and falls from Old Northern Road towards the west. The site contains some remnant threatened species but is mainly grassed. The aerial photographs of the subject site indicate that clearing has occurred on the site over the last few years but only contains a small portion of land with remnant species of Blue Gum High Forest, a community listed as a Critically Endangered Ecological Community under the Commonwealth Environment Protection and Biodiversity Conservation Act and as an Endangered Ecological Community under the NSW Threatened Species Conservation Act. Clarification on this issue has been sought from the proponent who indicated that the clearing of vegetation was noxious weeds only. Council's Flora and Fauna Project Officer commented on the planning proposal stating:

"..that there is opportunity for significant residential development on the site within Threatened species/community considerations. There are no Flora and Fauna concerns in relation to the rezoning application".

The remnant Blue Gum High Forest area has been retained on site.

Although the site is zoned rural, the environmental conditions of the site and surrounding land do not lend themselves to rural activities or land uses. Therefore, the rural zone is no longer appropriate for this site and the rezoning of the site for residential purposes similar to development occurring in the vicinity of the site is reasonable. The site is close to the

centres of both Castle Hill and Dural and is well service by existing public transport and facilities in the area.



Aerial photograph showing existing bushland

SURROUNDING LAND USES

The adjoining land uses consist of detached housing on 2ha lots to the north, Oakhill College to the east (in Hornsby Shire), detached urban housing to the south, environmentally integrated housing to the west and Council's Heritage Park to the northwest. The proposal to rezone the land to accommodate residential development is not inconsistent with the character of the surrounding area.

The adjoining land to the south, known as 368 Old Northern Road was rezoned from Rural 1(a) to part Residential 2(d) (Protected) and part Open Space 6(a) (Existing and Proposed Public Recreation) on 24 December 2009. The land zoned Open Space 6(a) is adjacent to the subject site and was zoned in this manner to preserve the Blue Gum High Forest in this location.

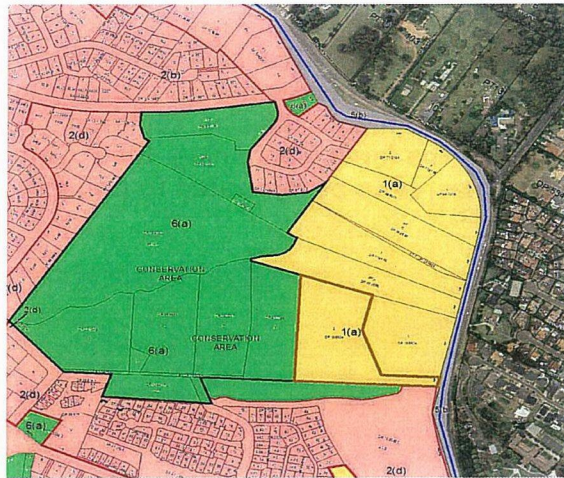


Figure 1 – Subject Site

Land to the west is zoned Open Space 6(a) and is part of Heritage Park, this area is a Heritage Conservation Area known as the Old Government Farm Site (Heritage Park).

Land to the north and east is zoned Rural 1(a) and contains extensive vegetation including Blue Gum High Forest, an endangered ecological community under the NSW Threatened Species Conservation Act, 1995. The Rural Lands Study found that the rural land in this location was unsuitable for further subdivision due to environmental constraints. In order for the properties to the north to be developed extensive studies would need to be carried out to ascertain the extent of the Blue Gum High Forest and how it could be managed in any redevelopment. It should be noted that the adjoining sites to the north have not been cleared and contain extensive bushland. (Refer to the aerial photograph)

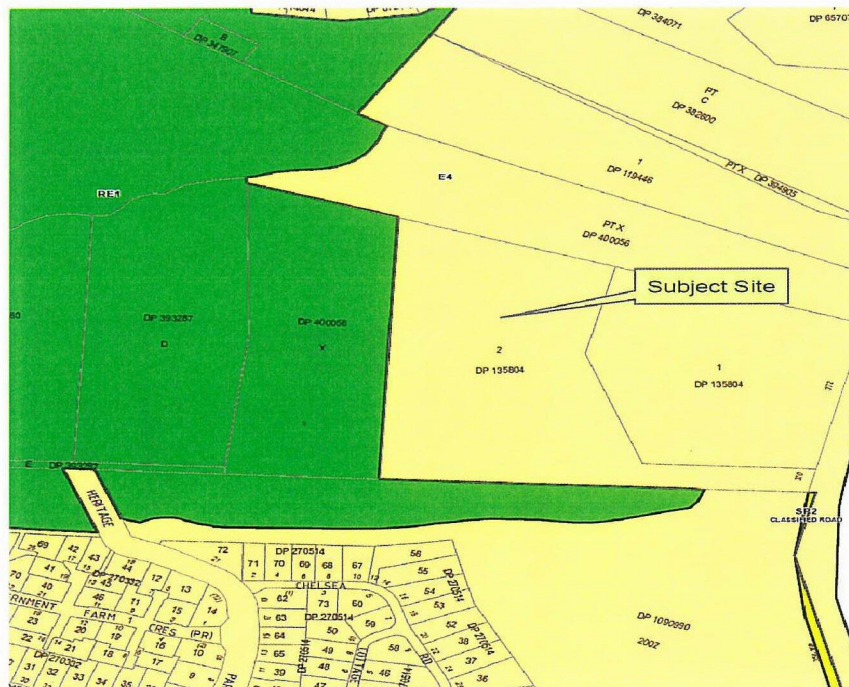


Figure 2 – Draft Local Environmental Plan 2010

Council's Draft Local Environmental Plan 2010 proposes to zone land in this location as E4 - Environmental living in recognition of constraints such as topography, vegetation and geotechnical issues (see figure 2)

THE PROPOSAL

The original proposal was supported by a concept subdivision plan which demonstrated how the site could be developed for residential purposes (Figure 3). The concept plan showed fifteen (15) residential allotments utilising community title subdivision varying in size from 525m² to 2740m². The area containing Blue Gum High Forest was shown incorporated into a bushland reserve to be dedicated to Council.

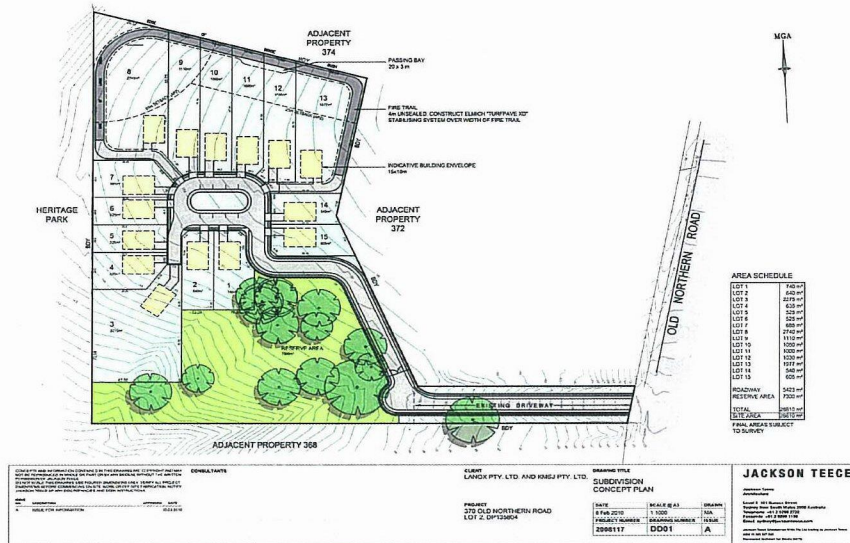


Figure 3 – Original Concept Subdivision Plan

Council and the Gateway Determination introduced a minimum lot size of 1000m² to allow for an appropriate development outcome on the site. Given the introduction of a minimum allotment size and in order to achieve the originally proposed fifteen lots within the property, the applicant has submitted an amended subdivision plan (Figure 4) to Council. This amended plan has reduced the nominated future reserve (protected threatened species – Blue Gum high forest area) by approximately 1347m².

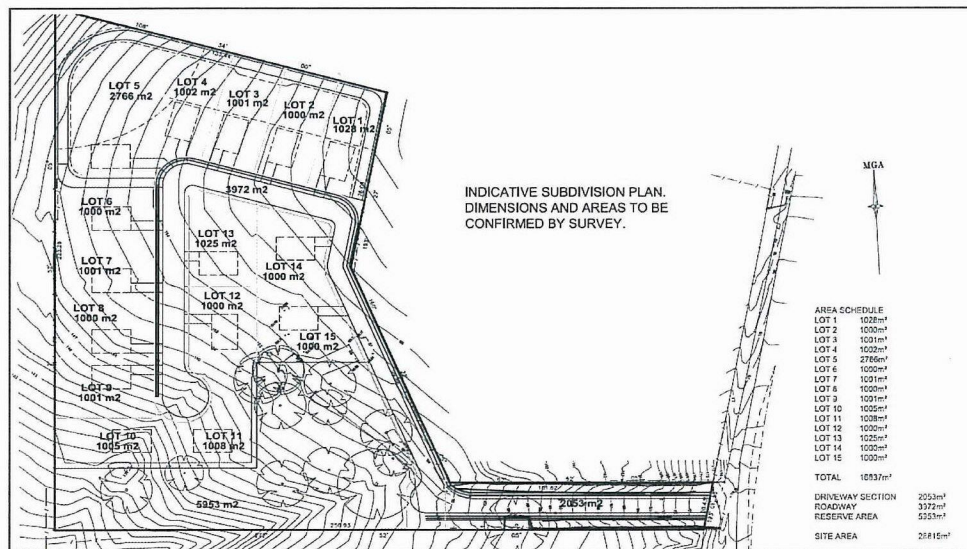


Figure 4 – Amended Concept Subdivision Plan

Given the reduction of the open space Council raised concern for the preservation of the existing Blue Gum High Forest, however the applicant provided Council with an addendum to the Ecological Report prepared by Hunter Eco dated 2007 and supplementary advice dated March 2010 stating the following:

"the revised reserve still incorporates the extent of the Blue Gum vegetation community along with the connecting corridor along the southern boundary. The area that has been cropped from the 2010 proposal contains dense acacia regrowth and is not critical to the integrity of the reserved community"

It is considered that the reduction of the open space area will not create an adverse impact to the Blue Gum High Forest.

The applicant has stated that in respect of the nominated Reserve it is the intention of the owner/applicant to dedicate this land to Council as part of a future development application for residential subdivision. Any dedication of land to Council would need to be at no cost to Council. Whilst the protection of the remnant Blue Gum High Forest is important, inclusion of the remnant in Council owned open space is not the only option for its protection. Containment within a neighbourhood lot with a community title subdivision or within individual lots within a Community Title subdivision are other options.

However, it should be noted that the dedication of this land for open space purposes would provide a greater connectivity of public areas through to the State listed Conservation Area of Heritage Park, especially given that the adjoining site to the south dedicated land containing Blue Gum High Forest for open spaces to Council.

A geotechnical Investigation and Stability Assessment prepared by Pells Sullivan Meynink Pty Ltd was submitted to Council as part of the application. The investigation and assessment have concluded the following:

"There was a very small likelihood of the groundwater conditions required to remobilise a detached ancient landslide on the site developing in the next 100 years. It was further concluded that the site does not require any special works to be undertaken for the proposed development to proceed."

A Site Specific Development Control Plan (DCP) was not considered necessary for the subject site because the minimum allotment size of 1000m² is proposed under the draft Local Environmental Plan controls and existing development controls contained within the Baulkham Hills (DCP) Part C Section 3 – Residential, will provide for the site to be developed in an appropriate manner. These include minimum building platform, setbacks cut and fill and site coverage.

EXHIBITION

A total of eight (8) submissions in relation to the planning proposal were received by Council, including four (4) submissions from public authorities (NSW Rural Fire Service - Hills District, Sydney Water, Roads and Traffic Authority and NSW Rural Fire Service - Headquarters), two (2) individual letters of concern and one (1) letter of support.

The planning proposal was exhibited from 19 April to 20 May 2011 via the following methods:

Exhibition:

- Advertisements in local newspaper
- Static displays at Council's Administration Centre and Castle Hill Library
- Dedicated web page 'Major Plans on Exhibition' on Council's website

Notification:

- Letters sent to adjoining and surrounding property owners
- All relevant Public Authorities as outlined within the Gateway Determination

Submissions Received:

A summary of all issues is included in Attachment 2 to this report.

In general, key issues are:

- a. Current proposal appears to take little or no account of its relationship with neighbouring developments, including access and possible subdivision for properties located north of the subject site.
- b. Public Authorities requirements including NSW Rural Fire Service, Sydney Water, and Roads and Traffic Authority; such as entry and exit movements to and from the site being restricted to left – in and left-out movements, Rural Fire Service would not support lot sizes less than 1000m², and obtaining a Section 73 Certificate.

The key area of concern is that no regard for the adjoining properties located north of the subject site has been given.

Comment: The Rural 1(a) zone, with a 40ha minimum allotment size has been in place since March 1991 under the provisions of Baulkham Hills Local Environmental Plan 1991. The land in this vicinity has retained its rural zone due to potential geotechnical issues in the locality. Prior to this, the subject site and adjoining properties to the north were zoned Rural 1(d), under the provisions of Interim Development Order No. 118.

A decision to maintain an equivalent zone to the existing zoning on the adjoining properties to the north in draft Local Environmental Plan 2010 was made on the basis that investigations into the constraints on development of the sites were not undertaken. It should be noted that these properties are impacted by topography issues and have a large amount of bushland which could be potentially threatened species and therefore difficult to be develop.

Should the properties located to the north of the subject site, propose a subdivision in the future, then the appropriate studies would have to be undertaken by the land owner as part of any rezoning application lodged with Council.

PUBLIC AUTHORITIES REQUIREMENTS

Rural Fire Service Hills District

The Rural Fire Service – Hills District has raised no objection at this stage to the proposal but has confirmed that final determination of the actual subdivision plan complete with setbacks and access proposals can only truly be confirmed once advice is officially sought through the development application process.

Comment: Should a development application be lodged with Council, it would be necessary for a referral to be forwarded to the Rural Fire Service for comment to ensure the final subdivision solution contains appropriate asset protection zones.

Transport – Roads and Traffic Authority

The Roads and Traffic Authority has reviewed the amended proposal and advised Council that no objection is raised to the proposed rezoning of 370 Old Northern Road to create 15 residential lots and an open space area subject to the following:

1. Entry and exit movements to and from the site shall be restricted to left-in and left-out movements only. The Roads and Traffic Authority would not support the right turn out from the site as it raises serious safety concerns.

The left-in and left-out restrictions are to be enforced by the construction of a raised concrete median at the centreline of Old Northern Road at the front of the driveway and extending an appropriate distance either side of the driveway, in accordance with the Roads and Traffic Authority's Road Design Guide. The raised concrete median shall have a minimum width of 900mm.

2. The design requirements of the deceleration lane and raised central concrete median on Old Northern Road shall be in accordance with the Road and Traffic Authority Road Design Guide and other Australian Codes of Practice. The certified copies of the design plans shall be submitted to the RTA for consideration and approval prior to the release of the subdivision certificate by Certifying Authority and commencement of road works.
3. The developer shall be responsible for all public utility adjustment/relocation works, necessitated by the above work and as required by the various public utility authorities and/or their agents.
4. The developer will be required to enter into a 'Works Authorisation Deed' ('WAD') with the RTA for the abovementioned road works, The RTA fees for administration, plan checking, civil works inspections and project management shall be paid by the developer prior to the release of the approved road design plans.
5. The deceleration lane and raised central concrete median island on Old Northern Road shall be fully constructed, prior to the release of the Linen Plans for the proposed subdivision.
6. All works/regulatory signposting associated with the proposed development are to be at no cost to the RTA.

Comment: The above comments would not prohibit the planning proposal from proceeding, however, should a subsequent development application be submitted to Council the requirements of the Roads and Traffic Authority would form part of any development consent that maybe issued for the site.

NSW RURAL FIRE SERVICE

The Rural Fire Service advises that no objection is raised to the proposed amendment provided:

1. Any proposed development allows for compliance with Planning for Bush Fire Protection 2006.
 - a. In particular asset protection zones (APZ's) should be located wholly within the development. Where adjoining public reserves or other land tenures, other than existing managed lands are to be relied upon to provide buffer zones, adequate provision is made for maintenance of asset protection zones in perpetuity.
 - b. In doing so Council is satisfied that there will be no significant impact on EEC's in the vicinity; and
2. The RFS notes the access road for subdivision, in the concept plan is greater than 200m in length and is not a through road. In this regard the Rural Fire Service would not support lot sizes less than the proposed 1000m² or further subdivision of these lots in the future without a through road or alternative access.

Comment: The above comments would not prohibit the planning proposal from proceeding, however, should a subsequent development application be submitted to Council the requirements of the Rural Fire Service would form part of any development consent that maybe issued for the site.

SYDNEY WATER

Sydney Water raises no objection to the proposal subject to the following:

Water

The current drinking water system has sufficient capacity to service the proposed future land use. The developer will need to design and construct an extension to the available 300 mm drinking main in Old Northern Road. The extension will need to be sized and

configured according to the Water Supply Code of Australia (Sydney Water Edition WSA 03-2002). In particular, infrastructure will need to be designed according to the codes for potential slip areas. Evidence of Code compliance should be attached with the extension design.

Wastewater

The current wastewater system has sufficient capacity to service the proposed future land use. The wastewater main available for connection is the available 150 mm wastewater main. The connection will need to be sized and configured according to the Sewerage Code of Australia (Sydney Water Edition WSA 02-2002). In particular, infrastructure will need to be designed according to the codes for potential slip areas. Evidence of Code compliance should be attached with the extension design.

Sydney Water Servicing

Sydney Water will further assess the impact of subsequent development when the proponent applies for a Section 73 Certificate. This assessment will enable Sydney Water to specify any works required as a result of the development and to assess if amplification and/or changes to the system are applicable. The proponent must fund any adjustments needed to Sydney Water infrastructure as a result of any development.

The proponent should engage a Water Servicing Coordinator to get a Section 73 Certificate and manage the servicing aspects of the development. The Water Servicing Coordinator will ensure submitted infrastructure designs are sized & configured according to the Water Supply Code of Australia (Sydney Water Edition WSA 03-2002) and the Sewerage Code of Australia (Sydney Water Edition WSA 02-2002).

Delivering essential and sustainable water services for the benefit of the community
Sydney Water requests the Hills Shire Council to continue to instruct proponents to obtain a Section 73 Certificate from Sydney Water. Details are available from any Sydney Water Customer Centre on 1320 92 or Sydney Waters website at www.sydneywater.com.au.

Comment: Based on the above requirements it would appear that the site is capable of being serviced and in this regard the developer would be required to enter into separate arrangements with Sydney Water.

NEXT STEP

Should Council resolve to rezone the subject land as indicated in this report, the planning proposal will be forwarded to the Department of Planning for final assessment and to arrange drafting of the legal instrument (LEP) in consultation with Council. After the legal instrument has been drafted, the Minister for Planning (or) delegate may make a Local Environmental Plan.

CONCLUSION

In summary, the proposed zone change is considered satisfactory and the site is not required for rural purposes. It is considered appropriate to rezone the land to partly Residential 2(d) (Protected) and partly 6(a) Open Space with a minimum allotment size of 1000m².

A rezoning to 2(d) Residential (Protected) will ensure that future development has regard to the environmental constraints of the land and the protection of vegetation in accordance with the Local Environmental Plan objectives of the zone. The dedication to Council of land for open space purposes will ensure the preservation of the existing threatened species on the site and connectivity to the State listed Conservation Area of Heritage Park.

IMPACTS

Financial

The rezoning of the site to partly Residential 2(d) (Protected) has no financial impact on Council's forward budget. The rezoning of part of the site to partly 6(a) Open Space would render Council liable to acquire the land in accordance with Clause 44 of Baulkham Hills Local Environmental Plan 2005. Therefore, the issue of dedicating the land identified as open space should be resolved prior to the planning proposal being forwarded to the Department of Planning and Infrastructure for finalisation.

Hills 2026

The proposal provides for additional housing options on land close to a major centre and meets the outcomes and strategies to provide for balanced urban growth.

RECOMMENDATION

1. The proposal to rezone land at 370 Old Northern Road, Castle Hill to Residential 2 (d) and Open Space 6(a) be supported, subject to satisfactory arrangement being entered into to dedicate the proposed open space to Council at no cost.
2. Subject to 1 above the planning proposal be forward to the Department of Planning and Infrastructure for finalisation.

ATTACHMENTS

1. Gateway Determination (4 Pages)
2. Summary of submissions (4 Pages)

Attachment 1 - Gateway Determination pdf
Attachment 2 - Summary of Submissions.pdf