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Department Generated Correspondence (Y)

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Our ref: PP_2011_THILL_003_00 (11/02892)

Mr Dave Walker
General Manager
The Hills Shire Council
PO Box 75
CASTLE HILL NSW 1765

Dear Mr Walker,

Re: Planning Proposal to rezone land at 370 Old Northern Road, Castle Hill from Rural 1(a) to E4 Environmental Living and Open Space 6(a), and to apply a minimum lot size of 1000sqm.

I am writing in response to your Council's letter requesting a Gateway Determination under section 56 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") in respect of the 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 1000sqm.

As delegate of the Minister for Planning, I have now determined that the planning proposal should proceed subject to the conditions in the attached Gateway Determination.

The Department does not support the insertion of a new zone into Baulkham Hills LEP 2005. Therefore, the proposal is to proceed on the basis of Council's equivalent zoning in its existing LEP, being Residential 2(d) or an appropriate alternative recommended by council.

It is noted that the Hills Shire LEP 2010 is well advanced and on track for finalisation and notification by September 2011. Should the planning proposal fail to be finalised ahead of the draft Principal LEP, the proposal would either cease to exist as it would propose to amend a repealed Instrument, or would require re-exhibition as an early amendment to the Hills Shire LEP 2010. Therefore, Council should consider exhibiting the proposal as both an amendment to the Baulkham Hills LEP 2005 and as an amendment to the Hills Shire LEP 2010, to ensure the proposal can progress regardless of the timing of council's Principal Plan. The planning proposal is to provide an explanation as to the relationship of the proposal to the progress of councils Comprehensive LEP. Alternatively, council should consider reflecting the subject proposal in the draft Hills Shire LEP if council were to request a re-certified s.65 Certificate to ensure the Standard Instrument changes are incorporated into the draft Principal LEP.

The planning proposal is to clarify that council intend to take control of the proposed Open Space 6(a) land within the subject site, and should also provide further detail regarding the protection of the existing Blue Gum High Forest.

Council are to undertake further studies in regards to the impact of the proposal on the heritage significance of the site and adjoining Heritage Conservation Area. The studies should be carried out in consultation with the NSW Heritage Branch and should be placed on exhibition with the planning proposal. The studies include:

- Archaeological assessment of the subject site.
- Preliminary Aboriginal heritage assessment of the site.

- Assessment of the impact of development on the subject land on the heritage significance of the adjoining Castle Hill Heritage Park.

The Director General's delegate has also agreed that the planning proposal's inconsistencies with S117 Direction 1.2 Rural Zones are of minor significance. No further approval is required in relation to this Direction.

The amending Local Environmental Plan (LEP) is to be finalised within 9 months of the week following the date of the Gateway Determination. Council should aim to commence the exhibition of the Planning Proposal within four (4) weeks from the week following this determination. Council's request for the Department to draft and finalise the LEP should be made six (6) weeks prior to the projected publication date.

The State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under s54(2)(d) of the EP&A Act if the time frames outlined in this determination are not met.

Should you have any queries in regard to this matter, please contact Felicity No of the Regional Office of the Department on 02 9873 8500.

Yours sincerely,



Tom Gellibrand
Deputy Director General
Plan Making & Urban Renewal

10/3/11

Gateway Determination

Planning Proposal (Department Ref: PP_2011_THILL_003_00): to rezone land at 370 Old Northern Road, Castle Hill from Rural 1(a) to E4 Environmental Living and Open Space 6(a), and to apply a minimum lot size of 1000sqm.

I, the Deputy Director General, Plan Making & Urban Renewal as delegate of the Minister for Planning, have determined under section 56(2) of the EP&A Act that an amendment to 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 1000sqm should proceed subject to the following conditions:

1. The planning proposal is to proceed using the equivalent existing zoning under Baulkham Hills LEP 2005, being Residential 2(d) or an appropriate alternative recommended by council.
2. Council are to undertake further studies in regards to the impact of the proposal on the heritage significance of the site and adjoining Heritage 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.
3. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
 - (a) the planning proposal must be made publicly available for **28 days**; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 4.5 of *A Guide to Preparing LEPs (Department of Planning 2009)*.
4. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:
 - Department of Environment, Climate Change and Water
 - Energy Australia
 - NSW Rural Fire Service
 - Roads and Traffic Authority
 - Sydney Water
 - Adjoining LGAs

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material. Each public authority is to be given at least 21 days to comment on the proposal, or to indicate that they will require additional time to comment on the proposal. Public authorities may request additional information or additional matters to be addressed in the planning proposal.

5. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

6. The timeframe for completing the LEP is to be **9 months** from the week following the date of the Gateway determination.

Dated 10th day of march 2011.



Tom Gellibrand
Deputy Director General
Plan Making & Urban Renewal
Delegate of the Minister for Planning