



Appendix No. 5

Council correspondence regarding Rezoning (May 2007)

21 May 2007

PGH Environmental Planning

Attn: Mr Patrick Hurley
PO Box 714
SPRINGWOOD NSW 2777

Dear Mr Hurley

Proposed rezoning of Lot 2, DP 135804, No. 370 Old Northern Road, Castle Hill

I refer to a meeting held at Council on 4 April 2007 during which you requested Councils opinion on the information to be submitted for the subject property to be rezoned.

The following comments are provided:

NEIGHBOURHOOD ZONING

Properties to the immediate north are currently zoned Rural 1 (a). The adjoining property to the west is zoned Open Space 6 (a) and properties to the south are zoned Residential 2 (d) (protected). Immediately to the east is zoned Special Uses 5 (b) (Existing and Proposed Roads). An extract of the zoning map for this locality is attached for your information (refer attachment 1).

It is noted the immediate property to the south is currently in the process of being rezoned from Rural 1 (a) to Residential 2 (d) (protected).

SITE CONSTRAINTS

1. Bushfire

The property is identified as being bushfire prone on Councils Bush Fire Prone Land Map (refer attachment 2). Development on this site would be subject to the requirements of the NSW Rural Fires Act 1997 and Asset Protection Zones would need to be provided where applicable.

2. Vegetation/ Flora and Fauna

Councils vegetation maps indicate that the property contains significant Blue Gum High Forest species which is listed as a critically endangered ecological community in Part 3 of Schedule 1 of the Threatened Species Conservation Act 1995 and an endangered ecological community under the Environment Protection and Biodiversity Conservation Act 1999. An extract of Councils vegetation map for 370 Old Northern Road is provided (refer attachment 3).

Any rezoning application would need to be accompanied with a flora and fauna assessment report.



3. Geotechnical Constraints

The site appears to be subject to geotechnical issues. A geotechnical report would be required to confirm the location would be capable of supporting the proposed future residential development of the site.

A review of the geotechnical report would be undertaken by an independent Geotechnical Panel (appointed by Council), comprising three geotechnical engineering consultants to determine whether proposed stabilisation techniques can support the proposal. The full cost of engaging the consultants and their review is to be borne by the developer/owner. A fee proposal for the review would be sought from the Panel. Once received, the review fee will be forwarded to you for payment to enable the panel assessment to proceed.

4. Traffic and Access

The site currently has access from Old Northern Road. A rezoning application would need to address future access issues, which would include a traffic study of the area and the impact upon existing traffic levels arising from the potential increase in traffic movement.

The Roads and Traffic Authority should be consulted with respect to future intensification of traffic movement for the classified road and whether alternative access needs to be explored.

5. Road Widening

As shown in Attachment 1, the property is affected by RTA road widening. Please note that road widening areas are not included in calculations of site area and setbacks should be measured from the edge of the road widening zone.

The Roads and Traffic Authority should be consulted with respect to road widening on classified roads.

6. Heritage

The property adjoins the Castle Hill Heritage Park, a State listed heritage item and conservation area (Item No. 01448) and as listed in Schedule 1 of the Baulkham Hills Local Environmental Plan 2005.

Council's Development Control No.10 (Heritage) should be consulted in relation to the proposed rezoning of this site. A Heritage Impact Statement and visual analysis would be required for any application. Your attention is also drawn to the open space buffers required in DCP No.25 - Land Adjoining Heritage Park and as proposed in the concept for the adjoining site No.368 Old Northern Road which is on the boundary to Heritage Park. A similar approach would be required for the subject site.

PLANNING INSTRUMENTS AND POLICIES

7. The Baulkham Hills Local Environmental Plan 2005

The LEP outlines the aims and objectives for the Shire. These include:

(2) The objectives for development of this plan are:

- (a) with respect to the natural and built environment of the Baulkham Hills local government area, that development should:

- (i) recognise and implement the principles of ecologically sustainable development, and
- (ii) protect and enhance the area's biodiversity, and
- (iii) ensure that environmentally sensitive areas are suitably protected, and
- (iv) address all natural hazard concerns, including flooding, landslip, subsidence, salinity, tidal inundation, land contamination and acid sulphate soils, and
- (v) respect, improve and integrate with the local character of the locality in which it is carried out, and
- (vi) rehabilitate the natural environment where damaged by previous activities, and
- (vii) have regard to the land uses that form the rural and urban environment of the Shire, and
- (viii) minimise the use of non-renewable resources and maximise the use of renewable resources

Any application would need to provide a detailed Statement of Environmental Effects addressing the requirements of the LEP.

8. Rural Lands Study

Between 2000 and 2005 Council undertook an investigation into the Shires rural land and their future development potential. The study found that the majority of the Shire's rural land was unsuitable for further subdivision due to environmental constraints such as bushfire, threatened species, topography and lack of infrastructure services such as sewer, water and community services.

In preparations for Council's LEP 2011 in accordance with the template, Council is undertaking a series of strategies which will include a further review of Rural lands. The subject site will be considered as part of the review and strategy work. The outcomes of this strategy work would need to be taken into account with any future proposal for the subject site.

9. Metropolitan Development Program

The NSW State Government has prepared a Metropolitan Development Program for Sydney which aims to plan for Sydney's growth until 2031. It is intended that all new land releases are approved subject to meeting Sustainability Criteria and the application of an appropriate regional infrastructure contribution.

New land release proposals are only added to the Metropolitan Development Program (MDP) if they meet the Sustainability Criteria contained in the Metropolitan Strategy.

Exceptions to this requirement are only considered where:

- The site is identified in a regional or sub-regional strategy;
- It will be a significant employment generator; or
- The allotment has already commenced a rezoning process.

It should be noted that the subject site does not appear to meet the exception requirements to enable it to be considered at this time.

Should you wish to proceed it will be necessary for the land to be included in the Metropolitan Development Program before the Department of Planning will consider progressing any rezoning of this land to allow for residential development. This will require you to liaise with the Department of Planning prior to submission of an application to rezone the land.

10. Planning Reforms

On September 2005 the Reform Act introduced changes to Parts 3 and 4 of the Environmental Planning and Assessment Act 1979. The Department of Planning has requested that Council's avoid 'spot' rezonings that relate to minor amendments to the Local Environmental Plan (LEP). The Department of Planning have advised that LEP amendments may be justified on the following grounds:

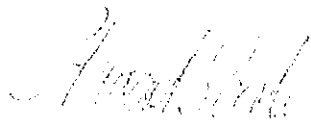
- (a) The amendment is to facilitate an employment generating activity
- (b) Existing provisions jeopardise or undermine State government policy
- (c) The amendment implements an agreed strategic direction for development in the area, including land release or preservation of strategic corridors
- (d) Matters where the Council has completed strategic work and delays in implementing recommendations would be unreasonable and inefficient

It should be noted that the subject site does not appear to meet the justification provision requirements to enable it to be considered at this time.

Following consideration of the above matters it is considered unlikely that an application for a single 'spot' rezoning to the site would be supported. As stated previously, Council is undertaking strategy work and a review that will inform the content of the new LEP. This site will be considered in addition to the adjoining remaining rural land in this area within the review of the Rural Lands Strategy.

Any future correspondence in relation to this matter should quote reference number FP 145. Should you require further information please contact Robert Sherry on 9843 0269.

Yours faithfully



Stewart Scale

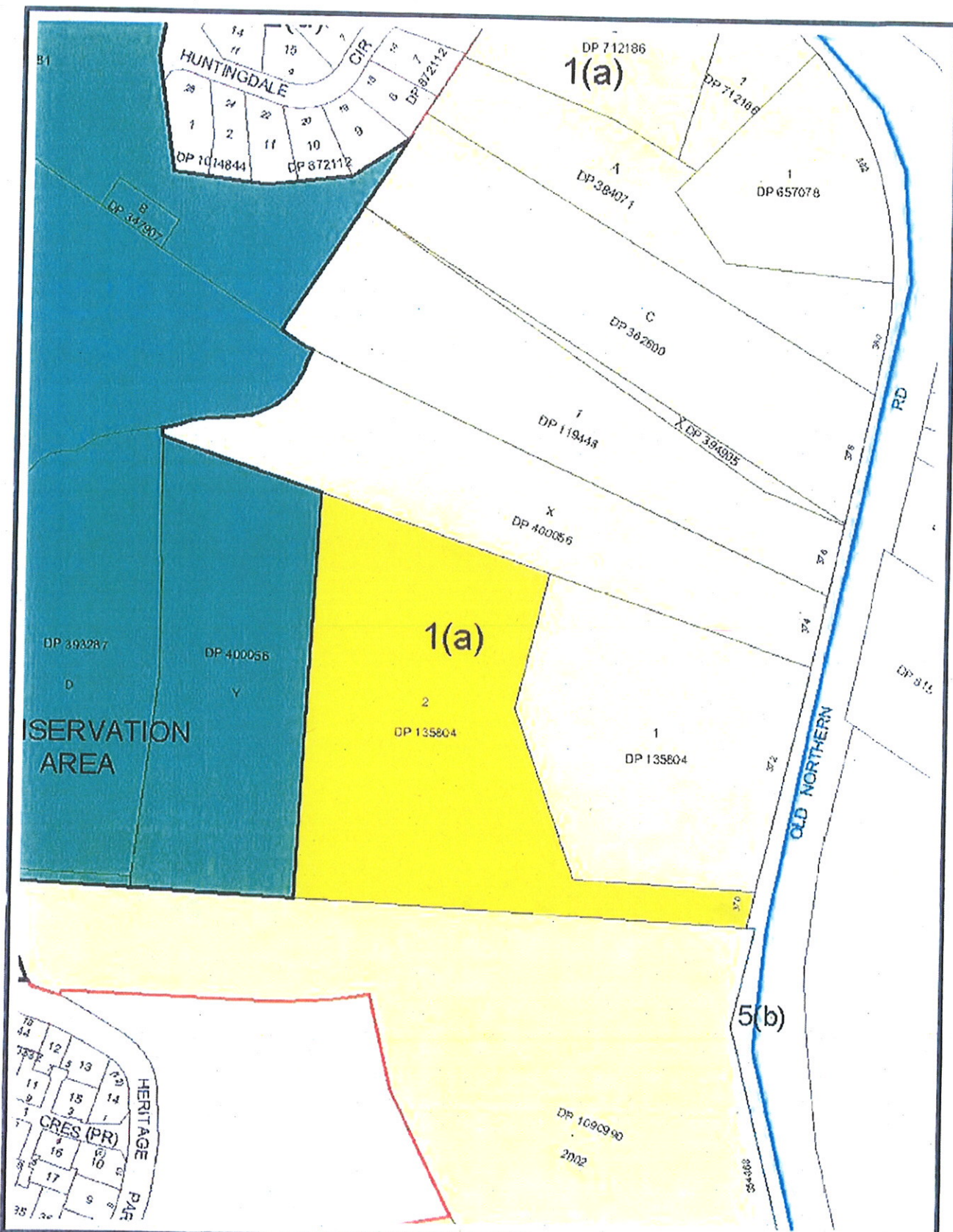
MANAGER - FORWARD PLANNING

Attachment 1: Zoning map

Attachment 2: Bush Fire map

Attachment 3: Vegetation map

Attachments to Preliminary Advice Letter

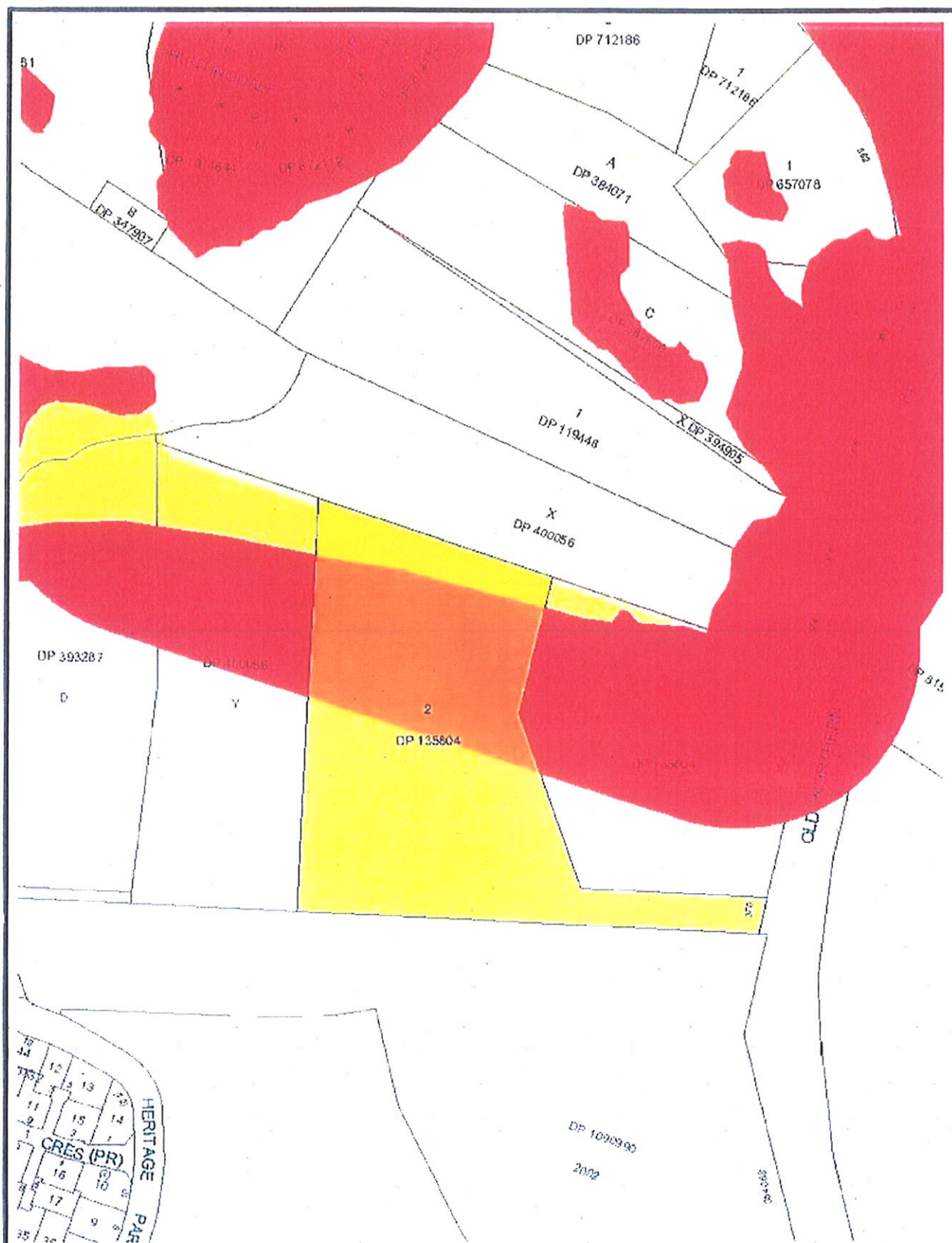


BAULKHAM HILLS SHIRE COUNCIL

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Attachment 1

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Attachment 2

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