

ITEM

PLANNING PROPOSAL TO REZONE 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
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EXECUTIVE SUMMARY

This report recommends that Council support the application to rezone land at No. 370 Old Northern Road, Castle Hill based on a change 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 proposed rezoning is supported on the basis that it will facilitate future development 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.

It is recommended that this proposal would 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 Gums, and
- to permit asset protection zones to all allotments within the proposed subdivision.

As part of the gateway determination the Minister will advise of consultation required with public authorities such as the Roads and Traffic Authority and NSW Rural Fire Service which will address suitability of access arrangements and bushfire hazard measures.

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.

23/09/2010

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.

REPORT

The purpose of this report is to consider a planning proposal request lodged by PGH Environmental Planning to rezone land at No. 370 Old Northern Road, Castle Hill.

The subject site has an area of approximately 2.879 hectares and is hatched shaped. It 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.

A Heritage Conservation Area known as the Old Government Farm Site (Heritage Park) is immediately west of the subject site and the applicant has submitted a Heritage Impact Statement.

THE PROPOSAL

The proposal is supported by a concept subdivision plan which demonstrates how the site could be developed for residential purposes (Figure 1). The concept plan shows fifteen (15) residential allotments utilising community title subdivision varying in size from 525m² to 2740m². The area containing Blue Gum High Forest is shown incorporated into a bushland reserve to be dedicated to Council.

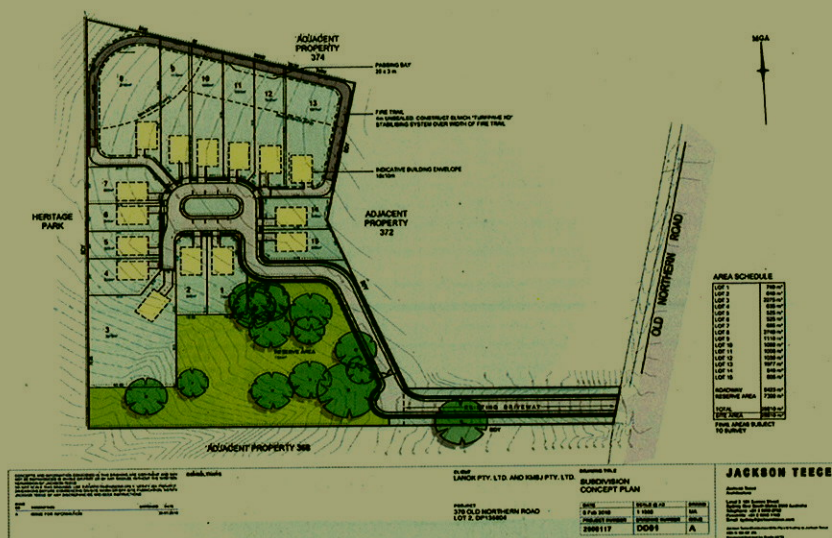


Figure 1 - Planning Proposal Concept subdivision

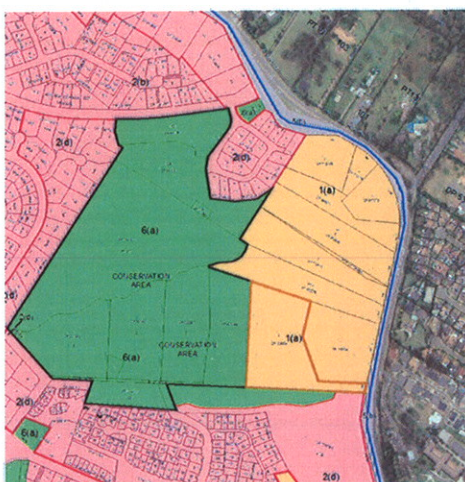
The rezoning application is supported by the following information:

- Traffic and Parking Assessment Report prepared by Varga Traffic Planning Pty Ltd dated March 2010

- Roads and Traffic Authority comments dated July 2009
- Bushfire Constraints Advice prepared by Ecological Australia dated 31 March 2010
- Statement of Heritage Impact prepared by Archnex Designs dated March 2010
- Ecological Report prepared by Hunter Eco dated 2007 and supplementary advice dated March 2010
- Phase 1 Environmental Site Assessment prepared by JBS Environmental dated April 2010
- Findings of Geotechnical Peer Review Investigations prepared by Sinclair Knight Merz dated July 2006 and Supplementary Geotechnical Advice dated March 2010, prepared by Pells Sullivan Meynink
- Proposed Site Servicing Strategy prepared by Buckton Lysenko Consulting Engineer dated April 2010
- Draft Development Control Plan specifying a minimum allotment size of 500m².

PLANNING FRAMEWORK

The subject land is currently zoned Rural 1(a) under Baulkham Hills Local Environmental Plan 2005 (BHLEP 2005).



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 was zoned Rural 1(d), under the provisions of Interim Development Order No. 118.

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. Site specific development controls apply, which set a minimum lot size of 700m².

Land to the west is zoned Open Space 6(a) and is part of 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 subject site has been cleared of vegetation in recent years, but does contain 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.

MATTERS FOR CONSIDERATION

The following matters were considered in the assessment of the planning proposal:

1. Surrounding Area

The subject site is undulating and falls from Old Northern Road towards the west. The site contains some remnant threatened species but is mainly grassed. 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.

2. Clearing of Vegetation

The aerial photographs of the subject site indicate that clearing has occurred on the site over the last few years. 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.

3. Access Arrangements

The property is currently accessed via a concrete driveway fronting Old Northern Road, with an approximate length of 80 metres. Council granted development consent for the construction of the driveway in 2006. This driveway has a gradient of 20% which is acceptable for a single dwelling. 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.

As part of the gateway determination the Minister will advise of consultation required with public authorities which will enable the suitability of access to be reviewed by the Roads and Traffic Authority and further detailed assessment.

4. Bushfire Requirements

The subject site is identified as Bush Fire Prone Land category 1 and 2 and having a 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 Bushfire Constraints Advice submitted in support of the application indicates that the subject land is capable of accommodating residential development provided that the development is designed with provision of asset protection zones along those boundaries adjacent to bushland, appropriate road design and installation of water and other services.

As part of the gateway determination the Minister will advise of consultation required with public authorities which will enable the suitability of bushfire hazard protection to be reviewed by the NSW Rural Fire Service. The balance between the need for the asset protection zones with the environmental impact will be subject to further detailed assessment should the Department of Planning proceed with the planning proposal.

5. Rural Lands Study

The Rural Lands Study was an initiative of Council to provide a comprehensive and sustainable land use strategy for the long term management of the rural area. The Rural Lands Study found that the majority of the Shire's rural land was unsuitable for further subdivision due to environmental constraints. Whilst the subject site is zoned Rural, it was not specifically addressed in the Rural Land Study and was not part of the draft LEP arising from the Rural Lands Study. Given the environmental constraints of the site a zone that reflects the environmental sensitivity is considered appropriate. In this regard the proposed E4 Environmental Living Zone in Council's Draft LEP 2010 reflects the Environmental Living sensitivity of the site and development may be controlled through the application of minimum subdivision standard (discussed later in this report).

6. Metropolitan Development Program

The NSW State 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 MDP Strategy indicates the government will consider land release proposals outside the growth centres where they are of exceptional environmental performance and do not require major infrastructure. New land release proposals are only added to the MDP if they meet the sustainability criteria contained the Metropolitan Strategy.

In summary this criteria includes the following elements:

Infrastructure provision – mechanisms in place to ensure utilities, transport, open space and communication are provided in a timely and efficient way.

Access – Accessible transport options for efficient and sustainable travel between homes, jobs, services and recreation to be existing or provided.

Housing Diversity – Provide a range of housing choices to ensure a broad population can be housed.

Employment Lands – Provide regional/local employment opportunities to support Sydney's role in the global economy.

Avoidance of Risk – land uses conflicts, and risk to human health and life, avoided.

Natural Resources- Natural resources limits not exceeded/environmental footprint minimised.

Environmental Protection – Protect and enhance biodiversity, air quality, heritage, and waterway health.

Quality and Equity in Services – Quality health, education, legal, recreational, cultural and community development and other government services are accessible.

The reports submitted with the application indicate that the planning proposal would comply with the above criteria and site specific development controls would ensure full compliance. However, should Council support the application it will be necessary for the proponent to liaise with the Department of Planning to have the land included in the MDP.

7. Provision of Water and Other Services

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

PROPOSED ZONINGS

The planning proposal that the proponent has submitted to Council seeks to amend the current planning framework in three ways:

- to rezone part of the land from Rural 1(a) to Residential 2 (d) (Protected)
- to rezone part of the land from Rural 1(a) to Open Space 6(a) and dedicate this part to Council, and
- to implement draft site specific development controls which sets the minimum allotment size at 500m² and a minimum yield of fifteen (15) dwellings.

Consideration of each of these components of the proposal is discussed below:

Rezoning from Rural 1(a) to Residential 2(d) (Protected)

Although the site is zoned rural, the environmental conditions of the site do not lend themselves to rural activities or land uses, and the site should not be retained for rural purposes. In this regard, the rezoning of the site for residential purposes similar to development occurring in the vicinity of the site is considered to be appropriate. 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.

Whilst the applicant has requested a rezoning to Residential 2(d) (Protected) a more appropriate zoning which is in keeping with Council's Draft Principal Local Environmental Plan 2010 which was endorsed by Council on 13 July 2010 and exhibition is waiting to commence. Under draft LEP 2010 it is proposed to zone the land E4 Environmental Living. The Environmental Living zone is similar in objectives and permitted land uses to the current Residential 2(d) (Protected) zone. The proposed E4 Environmental Living zone land use table is included as Attachment 1.

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 Gums,
- 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. This will be supported by controls in the DCP that identify areas with natural environmental qualities.

Rezoning from Rural 1(a) to Open Space 6(a)

As previously stated the proponent has indicated their intention to dedicate the area identified as open space to Council and seeks to have the land zoned for as Open Space

6(a). Any dedication of land to Council would need to be covered in a voluntary planning agreement prior to finalising the rezoning.

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.

Draft site specific development controls

A Site Specific Development Control Plan (DCP) is not considered necessary for the subject site because the a minimum allotment size of 1000m² is proposed under LEP 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 and cut and fill.

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 part E4 Environmental Living and part 6(a) Open Space with a minimum allotment size of 1000m².

A rezoning to E4 Environmental Living will ensure that future development has regard to the environmental constraints of the land and the protection of vegetation in accordance with the LEP objectives of the zone.

Further, the proposed rezoning of this site would facilitate future development for residential purposes in keeping with other development in the surrounding area and preservation of the existing threatened species on the site.

IMPACTS

Financial

The rezoning of the site to E4 Environmental Living has no financial impact on Council's forward budget. The rezoning of part of the site to 6(a) Open Space would render Council liable to acquire the land in accordance with Clause 44 of Baulkham Hills Local Environmental Plan 2005.

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

It is recommended that

- a. Council support the application 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.
- b. Further liaison with the proponent be undertaken regarding the dedication of the proposed 6(a) Open space area on the subject site at no cost to Council.

ATTACHMENTS

E4 Environmental Living Land Use Table 1 page.

Attachment 1 - Environmental Living Land Use Table