

ITEM

**PLANNING PROPOSAL - CASTLE HILL COUNTRY CLUB
MAPPING CORRECTION (12/2013/PLP)**

A MOTION WAS MOVED BY COUNCILLOR TAYLOR AND SECONDED BY COUNCILLOR GANGEMI THAT the Recommendation contained in the report be adopted.

THE MOTION WAS PUT AND CARRIED.

RESOLUTION

1. A planning proposal be forwarded to the Department of Planning and Infrastructure for a Gateway Determination for RMB 49 Windsor Road, Baulkham Hills (Lot 1 DP 1160957) and part of the Castle Hill Country Club, Spurway Drive, Baulkham Hills (Part of Lot 2 DP 1160957), to amend the Land Zoning Map to R3 Medium Density Residential (Part of Lot 1 DP 116957) and R2 Low Density Residential (Part of Lot 2 DP 116957), the Height of Buildings Map to 10 metres, the Minimum Lot Size Map to 700m², and amend the Heritage Map to remove Heritage Item I25 from Lot 1 DP 1160957 under The Hills Local Environmental Plan 2012.
2. Amend the property description for Heritage Item I25 under Schedule 5 of The Hills Local Environmental Plan 2012 to identify the current legal description of the Heritage Item being Lot 1 DP 563812 and Lot 2 DP 1129877.
3. Council notify the Department of Planning and Infrastructure that it seeks to exercise delegated plan making functions in respect of the planning proposal.
4. Council request the Minister for Planning and Infrastructure to dispense with the consultation requirements under Section 56 and 57 of the Environmental Planning and Assessment Act 1979, in respect of this planning proposal.

Being a planning matter, the Mayor called for a division to record the votes on this matter

VOTING FOR THE MOTION

Councillors Dr M.R. Byrne, R.K. Harty OAM, A.J. Hay, R. Tracey, M.G. Thomas, Dr J. Lowe, R. Preston, M. Taylor, Y. Keane, P. Gangemi, A.C. Jefferies, A. Haselden

VOTING AGAINST THE MOTION

None

ITEM-3	PLANNING PROPOSAL - CASTLE HILL COUNTRY CLUB MAPPING CORRECTION (12/2013/PLP)
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:	SENIOR TOWN PLANNER BRENT WOODHAMS
RESPONSIBLE OFFICER:	MANAGER FORWARD PLANNING STEWART SEALE

EXECUTIVE SUMMARY

The purpose of this report is to outline a minor housekeeping amendment to *The Hills Local Environmental Plan 2012* (LEP 2012) to amend the Land Zoning, Minimum Lot Size, Building Height and Heritage Maps for part of RMB 49 Windsor Road, Baulkham Hills (Part of Lot 1 DP 1160957) and part of the Castle Hill Country Club, Spurway Drive, Baulkham Hills (Part of Lot 2 DP 1160957).

The land which is the subject of this report forms a secondary access handle of the Castle Hill Country Club, which was previously zoned for residential development as part of the Baulkham Hills Local Environmental Plan 2005 (Amendment No.5 Gazette No. 52, 13 April 2006) – Balmoral Road Release Area.

As part of the preparation of LEP 2012 this land was inadvertently rezoned to RE2 Private Recreation. The Minimum Lot Size and Building Height Maps were also inadvertently amended to reflect the development standards applying to the remainder of the Castle Hill Country Club. This report recommends the preparation of a planning proposal to correct this mapping anomaly by reinstating the equivalent zoning and development standards to those which applied to this land prior to the commencement of LEP 2012.

In addition, it is proposed to request the Minister to expedite this amendment by dispensing with the community and public authority consultation requirements under Section 57 of the EP&A Act.

APPLICANT

The Hills Shire Council – Council initiated.

OWNERS

Castle Hill Golf Club Ltd

THE HILLS LEP 2012

Zone: RE2 Private Recreation and SP2 Infrastructure
(Classified Road)
Lot Size: 10 hectares

HISTORY

- 26/08/2005** Gazettal of Baulkham Hills Local Environmental Plan 2005. The subject site was zoned Open Space 6(b) Private Recreation.
- 14/03/2006** Council adopts Development Control Plan No. 20 Balmoral Road Release Area.
- 13/04/2006** Gazettal of Baulkham Hills Local Environmental Plan 2005 (Amendment No.5) – Balmoral Road Release Area. This amendment rezoned the subject site from Open Space 6(b) Private Recreation to Residential 2(b1) and Residential 2(a2).
- 29/03/2011 – 13/05/2011** Exhibition of Draft The Hills Local Environmental Plan 2010. The draft LEP inadvertently proposed to rezone the site to RE2 Private Recreation with a Minimum Lot Size of 10 hectares and no Building Height.
- 05/10/2012** The Hills Local Environmental Plan 2012 was published on the NSW Legislation website.
- 18/10/2012** Council officers informed the property owner that the mapping anomaly had been noted and that the anomaly would be corrected through an early housekeeping amendment of LEP 2012.

REPORT**1. THE SITE**

The site forms part of the Castle Hill Country Club and is generally located at the intersection of Fairway Drive and Windsor Road. The Castle Hill Country Club is highlighted in red on the following aerial photograph with the subject site highlighted in yellow.



Figure 1
Site location within the Castle Hill Country Club

The subject site includes part of Lot 1 DP 1160957 and part of Lot 2 DP 1160957. Whilst Lot 1 DP 1160957 is owned by the Castle Hill Country Club it does not form part of the Country Club or Golf Course. The site and the existing cadastral boundaries are identified on the following figures.



Figure 2
Subject site

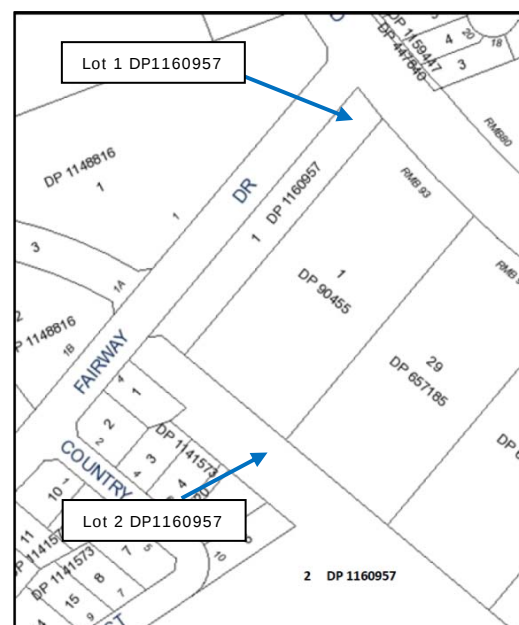


Figure 3
Cadastral Map

2. BACKGROUND

The site was zoned Open Space 6(b) Private Recreation under the original Local Environmental Plan 2005 (August 2005). This was consistent with the zoning of the Castle Hill Country Club at the time of the gazettal of LEP 2005 (see Figure 4).

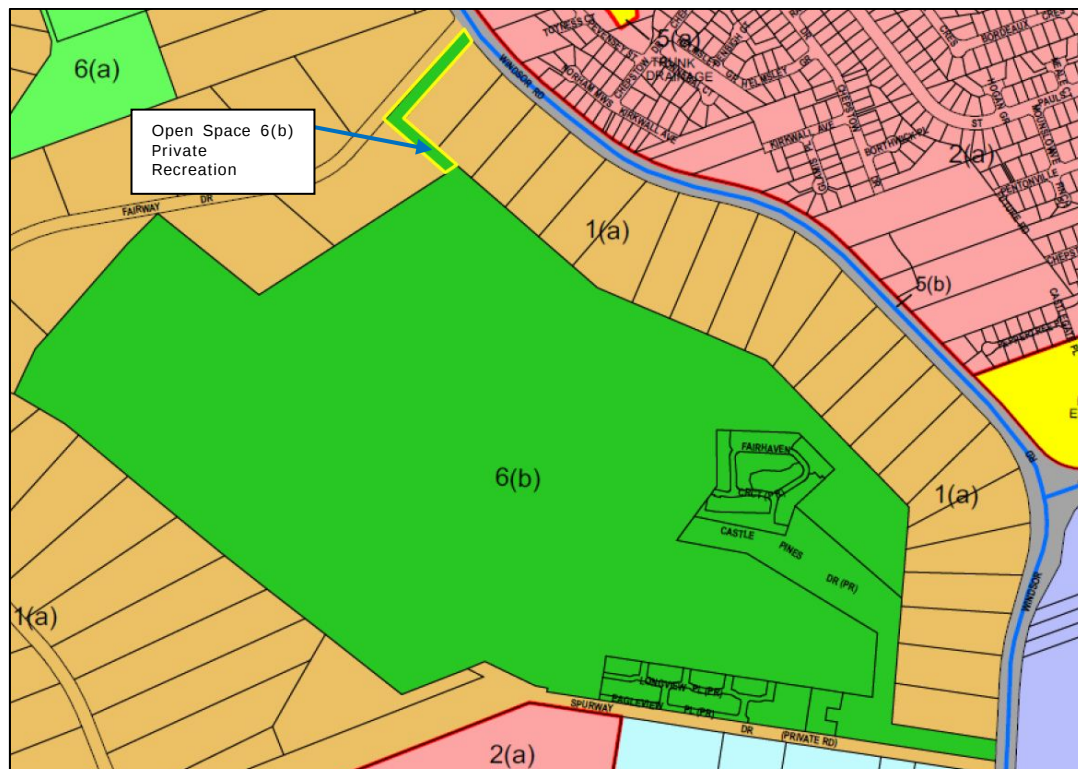


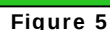
Figure 4

Land Zoning under Baulkham Hills Local Environmental Plan 2005 – 26 August 2005

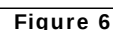
As part of the planning for the Balmoral Road Release Area it was determined that the land should be rezoned from the Open Space 6(b) Private Recreation zone to the Residential 2(b1) and Residential 2(a2) zones as part of the rezoning of the Balmoral Road Release Area. This rezoning occurred via the gazettal of Baulkham Hills Local Environmental Plan 2005 (Amendment No.5) in April 2006.

An extract of the Land Zoning Map of LEP 2005, following the gazettal of Amendment No.5, is included below as Figure 5. In support of the Balmoral Road Release Area Council prepared Development Control Plan No.20 – Balmoral Road Release Area. This plan was prepared to ensure that future development within the Balmoral Road Release Area occurred in an efficient and orderly manner. The proposed road layout as identified within the Development Control Plan is included below in Figure 6.

As can be seen, a proposed road runs along the rear boundaries of the properties fronting Windsor Road, which will provide direct vehicular access to future development lots. Following the construction of this road the existing temporary access handle will become surplus to requirements of the Golf Club. For this reason it was considered appropriate during the planning of the Balmoral Road Release Area that the subject land be rezoned consistent with adjoining residential areas.



Land Zoning under Baulkham Hills Local
Environmental Plan 2005
(Amendment No.5)



Proposed Road Layout – Baulkham Hills
Development Control Plan No.20

This anomaly needs to be corrected by reinstating the equivalent zoning and development standards to those which originally applied to the site prior to the commencement of LEP 2012. An overview of each mapping amendment is included under the Section 3 of this report.

It is also noted that the site of the Castle Hill Country Club contains a Heritage Item (Item No.125), which applies to an avenue of trees along Spurway Drive leading to the Castle Hill Country Club. At the time of preparing LEP 2012 the Castle Hill Country Club was located on a single lot (Lot 1002 DP 1129877). This lot has since been subdivided and the access handle no longer forms part of the parent lot to which the heritage item is connected. Accordingly the Heritage Map of LEP 2012 must be amended to remove the Heritage Item from Lot 1 DP 1160957 as the Heritage Item should not apply to this land. Schedule 5 Environmental Heritage must also be amended to include the current property description for Heritage Item No.125 (being Lot 1 DP 563812 and Lot 2 DP 1129877).

3. PLANNING PROPOSAL

The planning proposal will ensure that the previously adopted zoning and development standards for the site are appropriately translated into LEP 2012. The planning proposal seeks to amend LEP 2012 as follows:

- Amend the Land Zoning Map to change the zone of the subject land from the RE2 Private Recreation zone to the R3 Medium Density Residential zone for Part of Lot 1 DP 1160957 and the R2 Low Density Residential zone for part of Lot 2 DP 1160957;
- Amend the Height of Buildings Map to apply a building height of 10 metres to the subject site (previous building height);
- Amend the Minimum Lot Size Map from 10 hectares to 700m² (previous minimum lot size);
- Amend the Heritage Map to remove Heritage Item I25 from Lot 1 DP 1160957; and
- Amend Schedule 5 Environmental Heritage of LEP 2012 to include the current property description for Item No. I25 (being Lot 1 DP 563812 and Lot 2 DP 1129877).

Land Use Zone

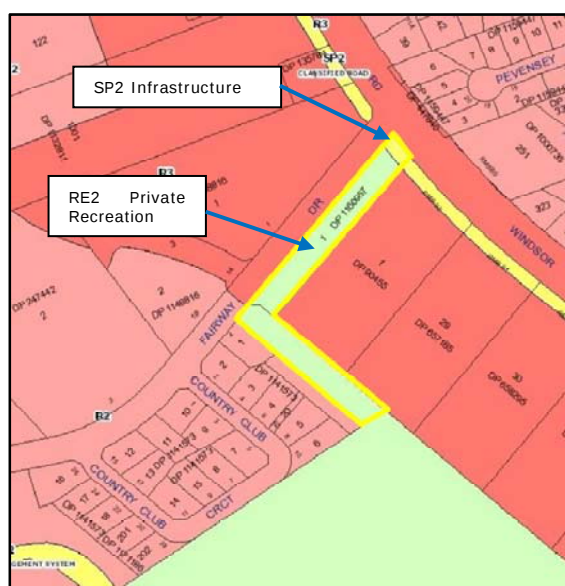


Figure 7
Current Land Zoning Map under LEP 2012

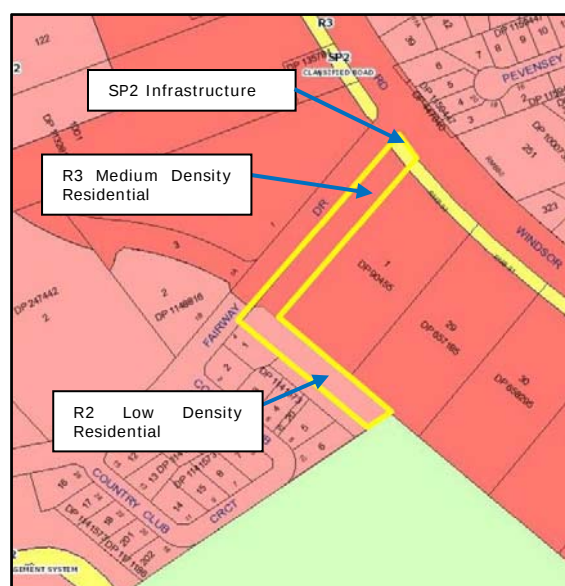


Figure 8
Proposed Land Zoning Map

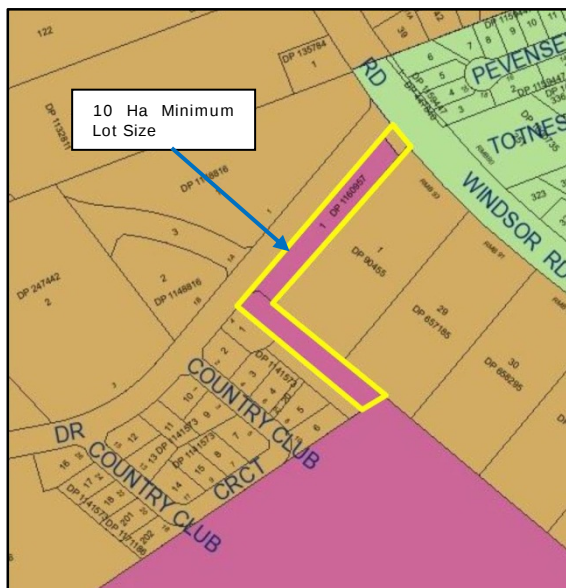
Minimum Lot Size

Figure 9
Current Lot Size Map under LEP 2012



Figure 10
Proposed Lot Size Map

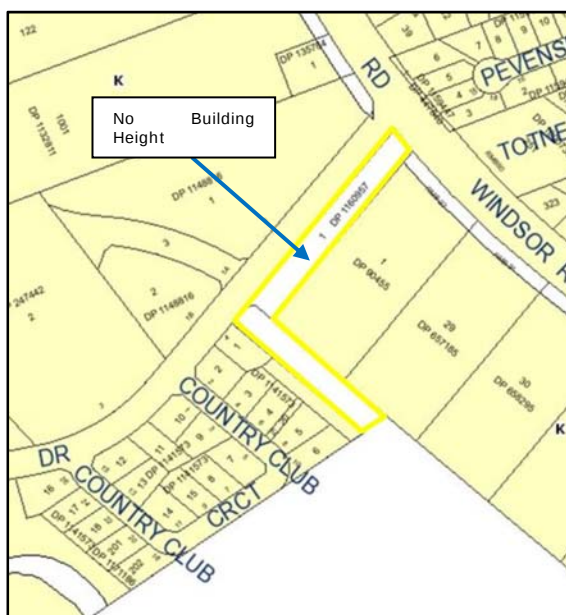
Building Height Map

Figure 11
Current Building Height under LEP 2012

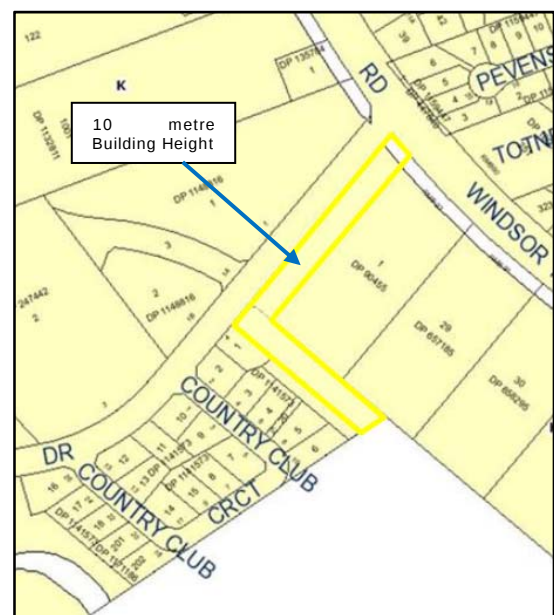


Figure 12
Proposed Building Height Map

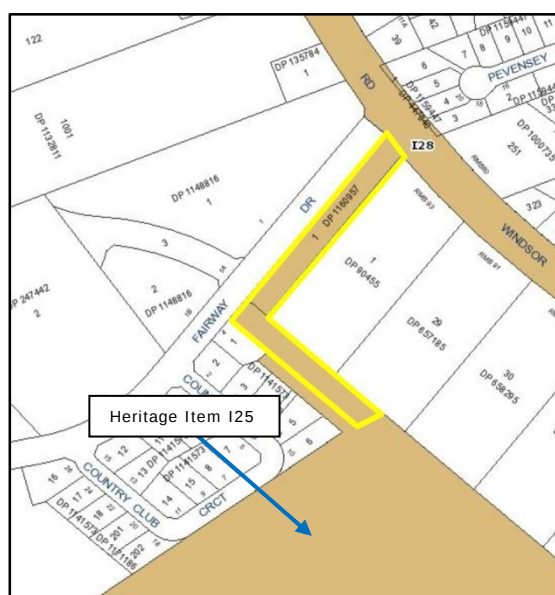
Heritage Map

Figure 13
Current Heritage under LEP 2012

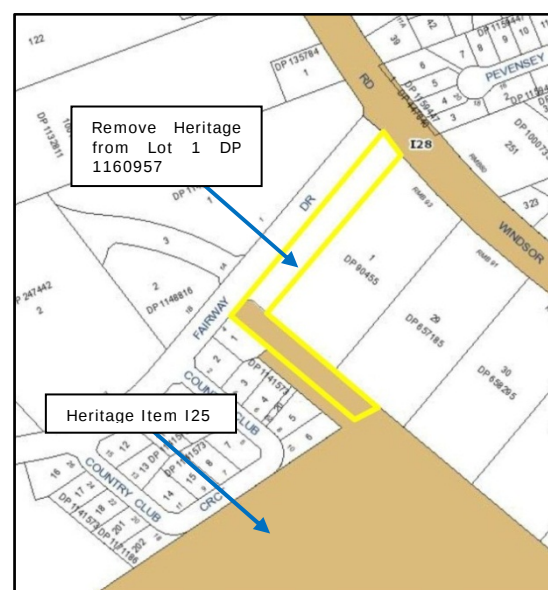


Figure 14
Proposed Heritage Map

As the planning proposal seeks to correct a mapping anomaly to reinstate the previously adopted zoning and development standards for the site, the proposal is considered to be consistent with Council's Local Strategy and Strategic Directions.

4. DELEGATION OF PLAN MAKING DECISIONS

Council has accepted delegated responsibility for the making of minor Local Environmental Plans from the Minister for Planning and Infrastructure. A review of the LEP amendment has been carried out against Planning Circular PS 12-006 and the Department's Evaluation Criteria for the Issuing of a Delegated Authorisation.

Given the amendment corrects a minor anomaly between LEP 2012 and reinstates the previously adopted zone and development standards for the site it is recommended that, if the planning proposal is supported, a request for the making of the planning proposal by Council be forwarded to the Department of Planning and Infrastructure as part of Council's Section 56 (Gateway Determination) Notification.

5. EXPEDITED AMENDMENTS OF ENVIRONMENTAL PLANNING INSTRUMENTS

Section 73A (1) of The Environmental Planning and Assessment Act 1979 (EP&A Act) includes a number of circumstances in which the Minister (or delegate) may dispense with all or part of the plan-making process, including community consultation, under Part 3 Division 4 of the EP&A Act. These circumstances include the following:

- (a) correct an obvious error in the principal instrument consisting of a mis-description, the inconsistent numbering of provisions, a wrong cross-reference, a spelling error, a grammatical mistake, the insertion of obviously missing words, the removal of obviously unnecessary words or a formatting error;
- (b) address matters in the principal instrument that are of a consequential, transitional, machinery or other minor nature; or
- (c) deal with matters that the Minister considers do not warrant compliance with the conditions precedent for the making of the instrument because they will not have any significant adverse impact on the environment or adjoining land.

The subject land was formally rezoned for residential development through the gazettal of Baulkham Hills Local Environmental Plan 2005 (Amendment No.5) – Balmoral Road Release Area in April 2006. However, as mentioned previously this land was inadvertently rezoned back to Private Recreation during the preparation of LEP 2012. As this proposal seeks to correct this anomaly by reinstating the equivalent zoning and development standards that applied to the land prior to the commencement of LEP 2012, it is considered that the proposal will not have any significant adverse impact on the environment or adjoining land.

As the proposal is considered to satisfactorily address the requirements under Section 73A (1)(c) of the EP&A Act, it is recommended that Council request the Minister to expedite this amendment by dispensing with the community consultation requirements under Section 57 of the EP&A Act. It is also recommended that Council request the Minister dispense with the requirement for consultation with State and Commonwealth public authorities (under Section 56 of the EP&A Act) as no public authority will or may be adversely affected by the proposed instrument.

IMPACTS

Financial

This matter has no direct financial impact upon Council's adopted budget or forward estimates.

Hills 2026

The planning proposal will assist in the realisation of Hills 2026 outcomes of balanced urban growth by ensuring the established vision and desired future character for the site is maintained.

RECOMMENDATION

1. A planning proposal be forwarded to the Department of Planning and Infrastructure for a Gateway Determination for RMB 49 Windsor Road, Baulkham Hills (Lot 1 DP 1160957) and part of the Castle Hill Country Club, Spurway Drive, Baulkham Hills (Part of Lot 2 DP 1160957), to amend the Land Zoning Map to R3 Medium Density Residential (Part of Lot 1 DP 116957) and R2 Low Density Residential (Part of Lot 2 DP 116957), the Height of Buildings Map to 10 metres, the Minimum Lot Size Map to 700m², and amend the Heritage Map to remove Heritage Item I25 from Lot 1 DP 1160957 under The Hills Local Environmental Plan 2012.
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4. Council request the Minister for Planning and Infrastructure to dispense with the consultation requirements under Section 56 and 57 of the Environmental Planning and Assessment Act 1979, in respect of this planning proposal.

ATTACHMENTS

Nil