

PLANNING PROPOSAL

LOCAL GOVERNMENT AREA: The Hills Shire Council

NAME OF PLANNING PROPOSAL: Proposed Baulkham Hills Local Environmental Plan 2005 (Amendment No.##) – to rezone land at Nos. 11 – 13 Garthowen Crescent and Nos. 292-296 Old Northern Road, Castle Hill.

ADDRESS OF LAND: Lots 13 and 14 DP 222257, Lot 52 DP 10761 and Lots A and B DP 401651, known as Nos. 11 – 13 Garthowen Crescent and Nos. 292-296 Old Northern Road, Castle Hill

MAPS:

- Proposed BHLEP 2005 Zoning – Refer to Attachment C
- Proposed BHLEP 2005 Height of Buildings Map – Refer to Attachment D
- Proposed Draft The Hills LEP 2010 Land Zoning Map – Refer to Attachment E
- Proposed Draft The Hills LEP 2010 Height of Buildings – Refer to Attachment G

SUPPORTING MATERIAL:

- Aerial photograph of subject site – Refer to Attachment H

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

The objective of the proposed LEP is to rezone Lots 13 and 14 DP 222257, Lot 52 DP 10761 and Lots A and B DP 401651, known as Nos. 11 – 13 Garthowen Crescent and Nos. 292-296 Old Northern Road, Castle Hill from either the:

- Residential 2(a2) zone to the Residential 2(a1) zone under *Baulkham Hills LEP 2005*; or
- R3 Medium Density Residential zone to the R4 High Density Residential zone under *Draft The Hills LEP 2010*.

2. PROVISIONS TO BE INCLUDED IN PROPOSED LEP:

The planning proposal in addition to zone changes, seeks to amend either *Baulkham Hills LEP 2005* or *Draft The Hills LEP 2010* to include a provision which increases the building height to 16m for the area of the site with frontage to Old Northern Road.

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*

The planning proposal was submitted by Peter McNamee and seeks to rezone to either the Residential 2(a1) Zone under *Baulkham Hills LEP 2005* or the R4 High Density Residential Zone under *Draft The Hills LEP 2010*. The proposal also seeks to increase the building height to 16m over part of the site with frontage to Old Northern Road. The rezoning application is supported by the following information, dated August 2011 and prepared by BTG Planning:

- Part A – Rezoning Request and Report.
- Part B – Compliance Check with Planning Strategies.
- Part C – Supporting documents:
 - Arboriculture Assessment. Prepared by UTM and dated 29 September 2004.
 - Traffic and Parking Assessment Prepared by Transport and Traffic Planning Associates and dated July 2011.
 - Geotechnical Investigation. Prepared by Asset Geotechnical and dated 7 May 2005.
 - Statement of Heritage Impact. Prepared by Archnex Designs and dated July 2011.

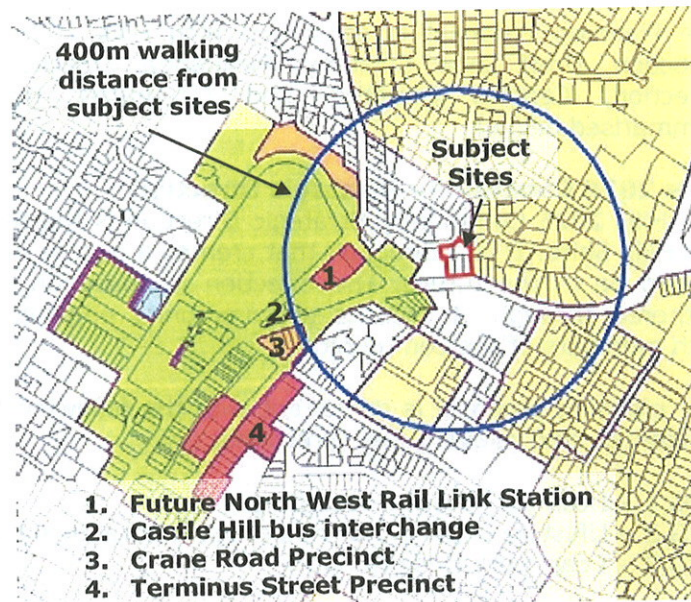


Figure 1

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)?*

Metropolitan Plan for Sydney 2036

The strategic plan prepared by the New South Wales Government entitled the Metropolitan Plan for Sydney 2036 has identified Castle Hill as a Major Centre. Continued growth of Castle Hill is anticipated in the future, including an expected growth in traffic volumes and growth in demand for retail, commercial and town centre functions including hospitality, medical services and housing. The rezoning proposal is consistent with the strategic direction of this plan as it will provide for higher residential density and the provision for a variety of housing in locations that are highly accessible by public transport, walking and cycling.

Draft North West Subregional Strategy

The *Draft North West Subregional Strategy* was prepared by the New South Wales Government to implement the Metropolitan Plan and the State Plan and is currently being reviewed by the Department of Planning and Infrastructure. The draft strategy has set out a target for The Hills Shire to provide an additional 36,000 dwellings by 2031.

The planning proposal is consistent with this draft strategy as it will provide living opportunities and capitalises on public transport infrastructure. Other than ensuring sufficient zoned land to accommodate housing targets, Council also has a role in considering proximity to public transport when planning for new dwellings to respond to State Plan targets.

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

6.1 Approval and Referral Requirements

The planning proposal is consistent with this direction.

6.3 Site Specific Provisions

It is proposed that the zoning would permit the type of development that is envisaged for the site in the future.

7.1 Implementation of the Metropolitan Strategy

The purpose of this direction is to ensure zone amendments comply with the strategic objectives and actions of the Metropolitan Plan for Sydney 2036. Inconsistencies are possible only if they are minor or the intent of the Metropolitan Plan for Sydney 2036 is achieved.

The planning proposal satisfies objectives to provide residential dwellings within close proximity to public transport, and therefore consistent with the broad strategic and policy directions conveyed in the *Metropolitan Plan for Sydney 2036*.

The planning proposal is not inconsistent with the Strategic Directions and Key Policy Settings of the Metropolitan Plan for Sydney 2036.

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 site contains a mix of Sydney Sandstone Gully Forest located towards the centre and along the western boundary of the site. Development consent issued in 2004 (DA 3532/2004/HB) permits the removal of all vegetation on the site with the exception of three (3) trees. Given this existing development approval, the planning proposal will not have any significant impact to vegetation on site.

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

No.

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

The proposed amendments to the Draft LEP 2010 or BHLEP 2005 are consistent with recent policy decisions of Council and will assist with the consolidation and intensification of housing within close proximity to the Castle Hill major Centre. This creates opportunities for living and working close to home, use of retail and entertainment facilities, increased use of public transport and reduced car usage. This ensures that the proposal will have positive social and economic effects.

D. State and Commonwealth interests

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

The proposal is located within a 400m catchment of a bus interchange and the future rail station within the Castle Hill major centre. These areas are highly accessible via either walking or cycling. It is therefore considered that

TABLE 1: LIST OF STATE ENVIRONMENTAL PLANNING POLICIES

STATE ENVIRONMENTAL PLANNING POLICY (SEPP)		APPLICABLE	RELEVANT? (YES/NO)	(IF RELEVANT) INCONSISTENT/CONSISTENT
No. 1	Development Standards	YES	NO	
No. 4	Development without Consent and Miscellaneous Exempt & Complying Development	YES	NO	
No. 6	Number of Storeys in a Building	YES	NO	
No. 14	Coastal Wetlands	NO	-	-
No. 15	Rural Landsharing Communities	NO	-	-
No. 19	Bushland in Urban Areas	YES	YES	INCONSISTENT
No. 21	Caravan Parks	YES	NO	
No. 22	Shops and Commercial Premises	YES	NO	
No. 26	Littoral Rainforests	NO	-	-
No. 29	Western Sydney Recreation Area	NO	-	-
No. 30	Intensive Agriculture	YES	NO	
No. 32	Urban Consolidation (Redevelopment of Urban Land)	YES	NO	
No. 33	Hazardous and Offensive Development	YES	NO	
No. 36	Manufactured Home Estates	NO	-	-
No. 39	Spit Island Bird Habitat	NO	-	-
No. 41	Casino Entertainment Complex	NO	-	-
No. 44	Koala Habitat Protection	NO	-	-
No. 47	Moore Park Showground	NO	-	-
No. 50	Canal Estate Development	YES	NO	
No. 52	Farm Dams and Other Works in Land and Water Management Plan Areas	NO	-	-
No. 55	Remediation of Land	YES	NO	-
No. 59	Central Western Sydney Regional Open Space and Residential	NO	-	-
No. 60	Exempt and Complying	NO	-	-
No. 62	Sustainable Aquaculture	YES	NO	
No. 64	Advertising and Signage	YES	NO	
No. 65	Design Quality of Residential Flat Development	YES	NO	
No. 70	Affordable Housing (Revised Schemes)	YES	NO	
	Affordable Rental Housing (2009)	YES	NO	
	Building Sustainability Index: BASIX 2004	YES	NO	
	Exempt and Complying Development Codes (2008)	YES	NO	
	Housing for Seniors or People with a Disability (2004)	YES	NO	
	Infrastructure (2007)	YES	NO	
	Kosciuszko National Park – Alpine Resorts (2007)	NO	-	-
	Kurnell Peninsula (1989)	NO	-	-
	Major Development (2005)	YES	NO	

TABLE 2: LIST OF SECTION 117 DIRECTIONS

DIRECTION		APPLICABLE	RELEVANT? (YES/NO)	(IF RELEVANT) INCONSISTENT/ CONSISTENT
1. Employment and Resources				
1.1	Business and Industrial Zones	YES	NO	
1.2	Rural Zones	YES	NO	
1.3	Mining, Petroleum Production and Extractive Industries	YES	NO	
1.4	Oyster Aquaculture	NO	-	-
1.5	Rural Lands	YES	NO	
2. Environment and Heritage				
2.1	Environment Protection Zone	YES	NO	
2.2	Coastal Protection	NO	-	-
2.3	Heritage Conservation	YES	YES	CONSISTENT
2.4	Recreation Vehicle Area	YES	NO	
3. Housing, Infrastructure and Urban Development				
3.1	Residential Zones	YES	YES	CONSISTENT
3.2	Caravan Parks and Manufactured Home Estates	YES	NO	
3.3	Home Occupations	YES	YES	CONSISTENT
3.4	Integrating Land Use and Transport	YES	YES	CONSISTENT
3.5	Development Near Licensed Aerodomes	YES	NO	
3.6	Shooting Ranges	YES	NO	
4. Hazard and Risk				
4.1	Acid Sulfate Soils	YES	NO	
4.2	Mine Subsidence and Unstable Land	YES	NO	
4.3	Flood Prone Land	YES	NO	
4.4	Planning for Bushfire Protection	YES	NO	
5. Regional Planning				
5.1	Implementation of Regional Strategies	NO	-	-
5.2	Sydney Drinking Water Catchment	NO	-	-
5.3	Farmland of State and Regional Significance on the SNW Far North Coast	NO	-	-
5.4	Commercial and Retail Development along the Pacific Highway, North Coast	NO	-	-
5.8	Second Sydney Airport:	NO	-	-

MINUTES of the duly convened Ordinary Meeting of The Hills Shire Council held in the Council Chambers, Castle Hill on 8 November 2011

VOTING FOR THE MOTION

Councillors G.A. Burnett, R.A. Preston, M.G. Thomas, M.R. Byrne, A.J.L. Bolitho, A.C. Jefferies, A.J. Hay, R.K. Harty

VOTING AGAINST THE MOTION

Councillors D.R. Bentham, B. Burton

ITEM-12

PLANNING PROPOSAL TO REZONE 292-296 OLD NORTHERN ROAD AND 11-13 GARTHOWEN CRESCENT, CASTLE HILL (FP 205)

Proceedings in Brief

Scott Matthews, from Wiseberry Real Estate representing the Applicant, addressed Council regarding this matter.

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

THE MOTION WAS PUT AND CARRIED.

645 RESOLUTION

A planning proposal to rezone the subject site from Residential 2(a2) to Residential 2(a1) under the Baulkham Hills Local Environmental Plan 2005 or from R3 Medium Density Residential to R4 High Density Residential under the draft The Hills Local Environmental Plan 2010(LEP 2010) be forwarded to the Department of Planning and Infrastructure for a gateway determination.

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

VOTING FOR THE MOTION

Councillors G.A. Burnett, R.A. Preston, M.G. Thomas, M.R. Byrne, A.J.L. Bolitho, A.C. Jefferies, D.R. Bentham, A.J. Hay, B. Burton, R.K. Harty

VOTING AGAINST THE MOTION

None

ITEM-6

FURTHER REPORT - DA 1386/2011/HB - DEMOLITION OF EXISTING STRUCTURES AND CONSTRUCTION OF FOUR TOWNHOUSES UNDER THE PROVISIONS OF SEPP (AFFORDABLE RENTAL HOUSING) 2009 - LOT 59 DP 23735 - 23 ARTHUR STREET, BAULKHAM HILLS

Proceedings in Brief

Gary Hudson, objector, answered questions regarding this matter.

SUSPENSION OF STANDING ORDERS

A MOTION WAS MOVED BY COUNCILLOR BENTHAM AND SECONDED BY COUNCILLOR PRESTON THAT Standing Orders be suspended to allow a speaker on the matter.

THE MOTION WAS PUT AND CARRIED.

This is Page Number 25 of the Minutes of the Ordinary Meeting of The Hills Shire Council held on 8 November 2011

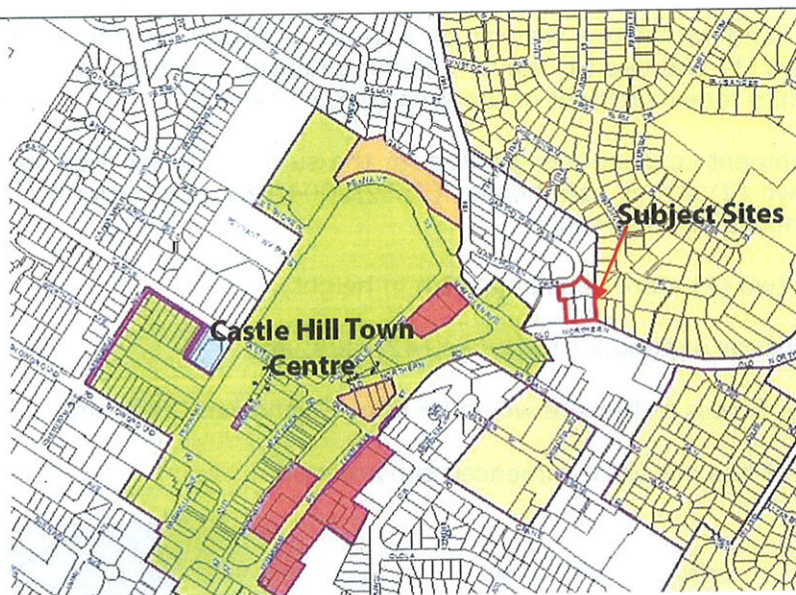


Figure 1
Location of subject site

HISTORY

9/08/2011 Planning proposal lodged for the rezoning of subject sites.

APPLICANT

Peter McNamee

OWNER

Garthowen Pty Ltd

ZONE

LEP 2005: Residential 2(a2)
Draft LEP 2010: R3 Medium Density Residential

POLITICAL DONATIONS

No disclosures

THE SITE

The subject site consists of five (5) properties and is irregular in shape with a frontage of fifty (50) metres to Garthowen Crescent and a frontage of sixty (60) metres to Old Northern Road, with a combined area of approximately 4,834m².

To the west of the site is a recently completed residential flat building consisting of thirty-four (34) dwellings contained within two (2) buildings. The building fronting Old Northern Road is four storeys (16m) in height, and the building fronting Garthowen Crescent is two (2) storeys (9m) in height.

Directly opposite the site is "Garthowen House" a large single storey dwelling which is listed in Schedule 1 of the Baulkham Hills Local Environmental Plan 2005 as an item of environmental heritage.

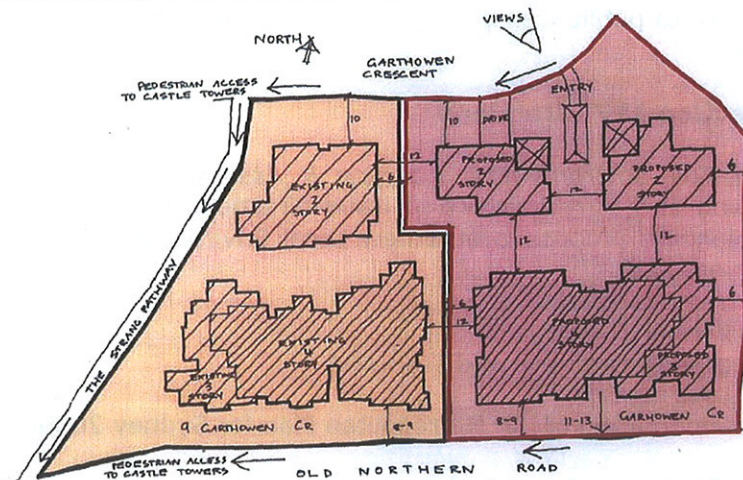


Figure 4

Concept Development Plan

(Proposed Development on right & existing development DA1137/2001 on left).

The rezoning application is supported by the following information, dated August 2011 and prepared by BTG Planning:

- Part A – Rezoning Request and Report.
- Part B – Compliance Check with Planning Strategies.
- Part C – Supporting documents –
 - Arboriculture Assessment. Prepared by UTM and dated 29 September 2004.
 - Traffic and Parking Assessment Prepared by Transport and Traffic Planning Associates and dated July 2011.
 - Geotechnical Investigation. Prepared by Asset Geotechnical and dated 7 May 2005.
 - Statement of Heritage Impact. Prepared by Archnex Designs and dated July 2011.

STRATEGIC CONTEXT

- **Metropolitan Plan for Sydney 2036**

The strategic plan prepared by the New South Wales Government entitled the Metropolitan Plan for Sydney 2036 has identified Castle Hill as a Major Centre. Continued growth of Castle Hill is anticipated in the future, including an expected growth in traffic volumes and growth in demand for retail, commercial and town centre functions including hospitality, medical services and housing. The rezoning proposal is consistent with the strategic direction of this plan as it will provide for higher residential density and the provision for a variety of housing in locations that are highly accessible by public transport, walking and cycling.

- **Draft North West Subregional Strategy**

The *Draft North West Subregional Strategy* was prepared by the New South Wales Government to implement the Metropolitan Plan and the State Plan and is currently being reviewed by the Department of Planning and Infrastructure. The draft strategy has set out a target for The Hills Shire to provide an additional 36,000 dwellings by 2031.

The planning proposal is consistent with this draft strategy as it will provide living opportunities and capitalises on public transport infrastructure. Other than ensuring sufficient zoned land to accommodate housing targets, Council also has a role in

- **The Hills Shire Local Strategy**

The Residential, Integrated Transport and Centres Directions are the relevant components of the Local Strategy to be considered in assessing this application.

- Residential Direction

Under the Baulkham Hills Local Environmental Plan 1991 the zoning of this land and the surrounding land was Residential 2(a) which permitted residential apartment buildings.

The State Government in May 1995 advised all Councils in the Sydney Metropolitan area that they had to prepare a residential strategy to address the issue of urban consolidation, failing which the Government would introduce a State Environmental Planning Policy which would enable the State Government to determine land that should be made available for multi-unit housing.

The Hills Shire Council responded with Council's Residential Strategy which was adopted in February 1997. State Environmental Planning Policy No. 53 – Metropolitan Residential Development (SEPP 53) was made on September 1997.

The aims of the State Environmental Planning Policy were;

- To encourage the provision of housing in the metropolitan area
- To broaden the choice of building types and locations available in the housing market,
- To make more efficient use of existing infrastructure and services,
- To reduce consumption of land for housing and associated urban development on the urban fringe, and
- To create housing which is of good design.

The Hills Shire was excluded from the operations of State Environmental Planning Policy 53, however the Minister advised that Council's strategy had made insufficient commitment for increased opportunities for raising densities in the established areas of the Shire. Council therefore undertook a review of its development controls and zonings, in particular those relating to apartment buildings, and to investigate the opportunities for increasing densities around transport nodes.

Council's Residential Strategy demonstrated how the Shire contributed towards the achievement of the wider metropolitan planning objective of increasing multi-unit housing and housing choice in areas well served by transport and community facilities. The result of the Residential Strategy was the identification of several precincts and sites suitable for medium and high density multi-unit development. This led to the rezoning (2001) of several different areas in Shire, which reduced development potential in some locations until further strategic planning for higher densities was undertaken. The effect was a hierarchy of high and medium density zones and identification a total of sixteen (16) sites, which were targeted for increased housing densities.

A significant component of the residential growth in the Shire since 2001 has been high and medium density development close to centres. In Castle Hill the majority of sites zoned and suitable for apartments have already been developed or have had consent granted, illustrating the high uptake of the opportunity for this form of residential development.

Council's Residential Direction seeks to guide residential development with consideration of the objectives of the Local Strategy, by providing a diversity of housing choices, and

**Figure 6**

Opportunities for future higher residential developments

– Integrated Transport Direction

A key objective of the Integrated Transport Direction is to ensure that planning and future development supports the provision of an efficient transport network. Relevant actions include promoting the delivery of key rail infrastructure and planning for a concentration of and/or intensity of land use activities around major public transport nodes.

The proposal for a high density residential outcome on the subject site is consistent with the key objective and will facilitate the use of existing and proposed public transport.

– Centres Direction

The Centres Direction aims to support the development of the Shires Centres as places where the community have access to services, jobs, shopping and public transport. The provision for a variety of housing types within and surrounding these centres supports these functions and increases lifestyle options for the Shires residents.

The proposal for a high density residential outcome on the subject is consistent with this direction.

PLANNING INSTRUMENT

The applicant seeks to rezone the land from the future R3 – Medium Density Residential Zone to R4 – High Density Residential Zone, under draft The Hills LEP 2010, to allow for the development of the site for residential flat buildings which would be prohibited if the subject site retains its future R3 zoning.

Though it is appropriate to consider a future zone that seeks to amend the future LEP, consideration is required of how the proposal could fit in within the planning framework established by *Baulkham Hills LEP 2005* (BHLEP 2005). Whilst the finalisation of draft LEP 2010 is imminent, should Council support this planning proposal it may be finalised before draft LEP 2010 comes into force. Therefore, it is prudent to consider options for the amendment of both instruments.

conducting a heritage impact assessment for a rezoning application given a detailed scheme is not yet available.

The report concluded that:

"the affect of re-zoning land for residential flat building development in the vicinity of a heritage item is something of a speculative proposition in terms of assessing potential heritage impacts. Some inferences may be drawn, however, from the affects of the erection of a residential flat development similar to that recently completed on the site now known as 9 Garthowen Crescent in the vicinity of an item such as "Garthowen".

This development was undertaken by the same owner and it is apparent that the impacts of a such development undertaken on the subject land on the significance and setting of "Garthowen" would be acceptable, given a similar (but not necessarily the same) approach in terms of matters such as scale, massing, articulation, materials, finishes, textures, colours, provision for substantial plantings, location of driveways and the like.

The subject site is located on land of which the historic Rogan's Hill Railway operated in early 1900's. The rail cutting originally cut through the middle of the subject site and adjacent properties, running parallel with Old Northern Road. During construction of the adjacent residential apartments, artefacts relating to the rail line were found. As a result, the applicant was required by Council to identify the significance of the site with plaques identifying the historic rail line within the locality. A similar condition would be applied to any future approval that may be granted.

– Built Form

It should be noted that the a development application has previously been refused on the site, the relevant grounds of refusal are as follows;

- The character, scale, size, siting and design of the proposed development was not in keeping with the established character and streetscape of the locality, and
- The development would have an unacceptable impact on the Heritage Item "Garthowen".

Whilst the development concept plan indicates the layout and built form, the final development is subject to the submission of a development application and approval by Council. However, the concept development does indicate the applicant's intention for the site when rezoned and appropriate controls should be considered at this stage.

The issue of building height in this location relates to the interface with adjoining low scale residential housing, in particular the heritage building known as "Garthowen" and the presentation to Old Northern Road. The current controls under LEP 2005 do not prescribe height restrictions relating to the site. However, the Development Control Plan specifies a maximum height restriction of 2 storeys and 7.2 metres for town houses. If the current zone permitted residential apartments a 4 storeys and 16 metre limit would apply.

Under draft LEP 2010 the proposed R3 – Medium Density Residential zone, 9 metres maximum building height is proposed in this location given that the anticipated form of development in this zone is townhouses. Draft LEP 2010 does not specify the number of permissible storeys.

Documentation received from the applicant in support of the planning proposal provides no detail of a proposed change in building height, although the indicative plan submitted with the proposal includes a four (4) storey residential building fronting Old Northern Road and a two (2) storey building fronting Garthowen Crescent.

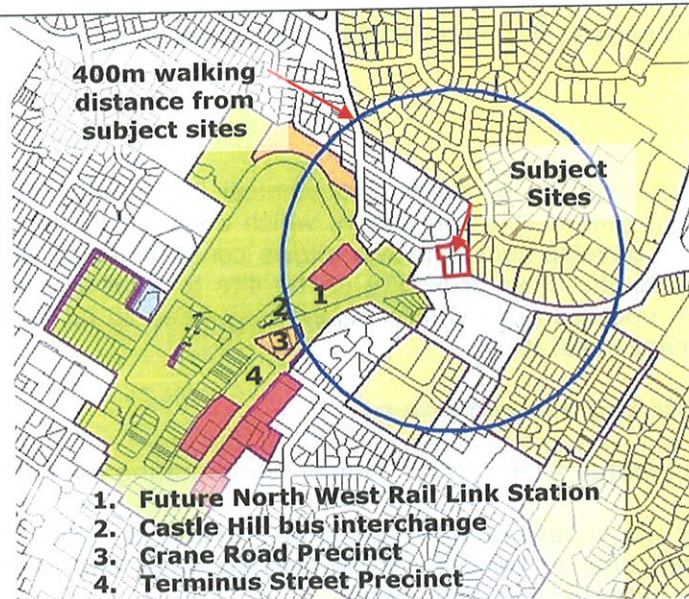


Figure 7

Transport and built form within the locality.

The proposed development is consistent with the future character of Castle Hill as a Major Centre, and will deliver substantial residential floor space in the area and contribute to increased housing diversity in the Shire which is consistent with State and Local strategies.

– Traffic - Site Specific Impact

A traffic and Parking Assessment prepared by Transport and Traffic Planning Associates dated July 2011 has been submitted as part of the planning proposal. The assessment utilises the Roads and Traffic Authorities (RTA) *Guide to Traffic Generating Developments* to identify the potential traffic generation of the site, and concludes that a potential residential apartment building on the subject site is unlikely to create any adverse traffic implications for the local road or the collection route of Old Castle Hill Road in relation to existing conditions.

– Traffic - Cumulative Impact

In April 2011, a traffic assessment was prepared for Council to support strategic work related to the Residential Direction. The analysis included the impact of future increases in traffic within the locality, including the intersection of Old Castle Hill Road which is the main collection route for Garthowen Crescent. The results of the traffic assessment indicate an increase of residential density to accommodate about 1000 units within the area would only marginally affect the operation of the surrounding road network and intersections. Given the proximity of the site to public transport such as the proposed North West Rail Link and existing Castle Hill bus interchange the resulting changes to traffic conditions in the locality are considered acceptable.

3. Environment

According to Council's vegetation mapping, the site contains a mix of Sydney Sandstone Gully Forest located towards the centre and along the Western boundary of the site. Additionally, there are areas of unclassified vegetation along the boundary fronting Old Northern Road and the North/Eastern boundary. A flora and fauna study has not been submitted with the planning proposal. However, it is recognised that the 2004

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

NEXT STEPS

Should Council determine to support the rezoning application, a planning proposal will be forwarded to the Department of Planning and Infrastructure for Gateway Determination. The Gateway Determination is likely to contain conditions that will need to be satisfied before exhibition can commence. Once the planning proposal is exhibited for public comment it will be reported back to Council for determination.

RECOMMENDATION

A planning proposal to rezone the subject site from Residential 2(a2) to Residential 2(a1) under the Baulkham Hills Local Environmental Plan 2005 or from R3 Medium Density Residential to R4 High Density Residential under the draft The Hills Local Environmental Plan 2010(LEP 2010) be forward to the Department of Planning and Infrastructure for a gateway determination.

ATTACHMENTS

Nil