

ITEM-5	PLANNING PROPOSAL - 370 OLD NORTHERN ROAD, CASTLE HILL (8/2016/PLP)
THEME:	Balanced Urban Growth
OUTCOME:	7 Responsible planning facilitates a desirable living environment and meets growth targets.
STRATEGY:	7.2 Manage new and existing development with a robust framework of policies, plans and processes that is in accordance with community needs and expectations.
MEETING DATE:	26 APRIL 2016 COUNCIL MEETING
GROUP:	STRATEGIC PLANNING
AUTHOR:	TOWN PLANNER ASHLEY COOK
RESPONSIBLE OFFICER:	MANAGER FORWARD PLANNING STEWART SEALE

EXECUTIVE SUMMARY

This report recommends that a planning proposal be forwarded to the Department of Planning and Environment for a Gateway Determination to amend Local Environmental Plan 2012 to include a local provision that facilitates an environmentally integrated housing development at 370 Old Northern Road Castle Hill. Specifically, it is recommended that the local provision facilitate an outcome that:

- a) Results in not more than 10 dwellings per hectare;
- b) Is subdivided in accordance with the Community Land Development Act 1989 for a neighbourhood scheme;
- c) Ensures the protection of the landscape and biodiversity setting of the land; and
- d) Provides for a 20 metre landscaped buffer to Heritage Park.

The planning proposal, as submitted by the applicant, to rezone the site from E4 Environmental Living to R3 Medium Density Residential and part E2 Environmental Conservation is not supported on the basis that it is inconsistent with State and Council strategic planning objectives and would undermine the hierarchical zoning approach of Council's Local Strategy that seeks to provide for a gradual transition in density of residential development from high density close to centres and transport, to lower density development in peripheral areas.

Notwithstanding the foregoing, it is considered that there is some merit in providing opportunity for an environmentally integrated housing outcome that would achieve a yield of 10 dwellings per hectare consistent with the low density character of the surrounding area that responds to the environmental values of the land and the location adjacent to Heritage Park. Such an approach would allow for a maximum of 28 dwellings on the subject site and a framework that takes account of the environmentally sensitive features of the site.

The Gateway Process will allow for some of the issues associated with the planning proposal to be considered and for consultation with the NSW Government and the public to occur, as well as further work and refinements to the planning proposal as necessary.

It is considered that a planning proposal, as proposed in this report, is suitable for forwarding to the Department of Planning and Environment for Gateway Determination and subsequently, to be publicly exhibited once review by Council's Geotechnical review Panel occurs. Should the proposal proceed to public exhibition, the applicant should submit additional information, including a revised concept plan, revised bushfire report and a heritage impact statement, to assist with the communication of the proposed development outcome to the community.

APPLICANT

Think Planners Pty Ltd

OWNERS

Constant 19 Pty Ltd

THE HILLS LOCAL ENVIRONMENTAL PLAN 2012

	Current	Proposed
Zone:	E4 Environmental Living	Part R3 Medium Density Residential and Part E2 Environmental Conservation
Minimum Lot Size:	1000m ²	1000m ² *
Maximum Height:	9 metres	9 metres

*Pursuant to Clause 4.1(4) of Local Environmental Plan 2012, strata subdivision is permitted at an area less than the minimum lot size shown on the Lot Size Map.

POLITICAL DONATIONS

Nil disclosures

HISTORY

14/12/2006

Council granted development consent for the construction of a driveway at the subject site. This driveway has a gradient of 20% which is considered 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."

27/04/2010

Planning Proposal submitted to create 15 residential lots, ranging between 525m²–2740m², utilising community title subdivision.

13/01/2012

Zone amendments notified on NSW Government website to rezone land from Rural 1(a) to Residential 2(d) under Local Environmental Plan 2005, to enable residential subdivision subject to a minimum lot size of 1,000m² (3/2010/PLP).

- 05/12/2012** The Residential 2(d) (Protected) zone under The Hills Local Environmental Plan 2005 was translated to the current zoning of E4 Environmental Living under The Hills Local Environmental Plan 2012.
- 13/03/2013** Development consent (726/2012/ZD) was granted for a 14 residential lot subdivision with one (1) community title lot and one (1) open space lot (5,953m²). The approved residential lot sizes range from 1,000m² to 2,935m² (refer Figure 1).
- 30/10/2015** Current Planning Proposal to rezone the land to R3 Medium Density Residential to facilitate a residential development, containing 21 townhouses & 23 villas, lodged with Council (8/2016/PLP).
- 24/03/2016** Revised development concept submitted to facilitate 21 townhouses & 17 villas.

BACKGROUND

The development consent for subdivision issued in 2013 has a number of conditions relevant to the assessment of the current planning proposal:

- Stage 1, Condition 5 of the consent requires the community association to be responsible for the cost associated with managing the Blue Gum High Forest within the community lot;
- Stage 1, Condition 14(a) of the consent states that the revegetated reserve (proposed lot 16) must be dedicated as public reserve at no cost to Council in accordance with the Council's resolution for the planning proposal (3/2010/PLP) dated 9 August 2011; and
- Stage 2, Condition 3 of the consent requires compliance with the NSW Roads and Maritime Services requirements, namely the construction of a concrete median to enforce left-in and left-out restrictions and the construction of a deceleration lane.

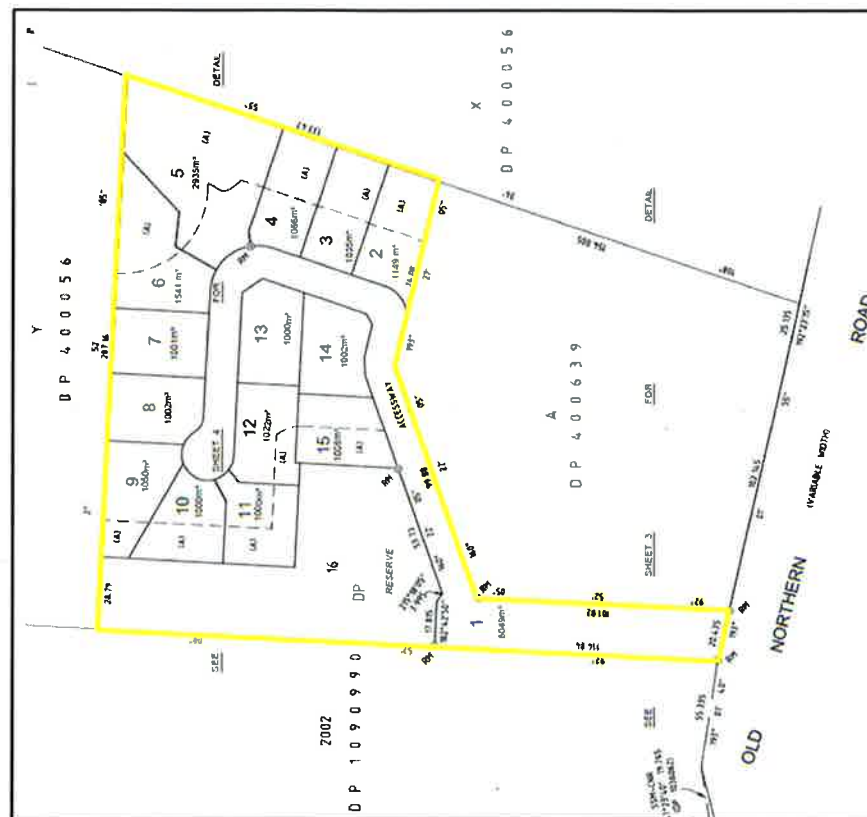


Figure 1
Approved Subdivision Plan for subject site

REPORT

The purpose of this report is to consider a planning proposal to rezone land at 370 Old Northern Road, Castle Hill from E4 Environmental Living to part R3 Medium Density Residential and part E2 Environmental Conservation to facilitate a medium density residential development on the site.

1. THE SITE

The site, known as 370 Old Northern Road, Castle Hill, is a 'battle axe' allotment with an area of 2.879 hectares. The land is undulating and falls towards the west. It is located on the western side of Old Northern Road between the intersections with Old Castle Hill Road and Hastings Road, Castle Hill, and is currently occupied by a dwelling house. The property is currently accessed via a concrete driveway fronting Old Northern Road, with an approximate length of 80 metres and a gradient of 20%. Castle Hill Centre is located approximately 2.3 kilometres by road from the subject site. However, given Roads and Maritime Services requirements for the current consent, vehicles would be required to exit left from the site and travel 5.2 kilometres to the Castle Hill Centre via Gilbert Road.

The land is currently zoned E4 Environmental Living and is partially occupied by Blue Gum High Forest, a critically endangered ecological community under both the Threatened Species Conservation Act 1995 and the Commonwealth Environment Protection and Biodiversity Conservation Act 1999. The site is also identified as bushfire prone (category 1 and buffer zone).



Figure 2
The Site and surrounds

The adjoining land to the north is zoned E4 Environmental Living and is primarily single residential dwellings on lots ranging from 1.18ha to 2.17ha (mapped minimum lot size of 40 hectares). The adjoining land to the west is the Castle Hill Heritage Park, a heritage conservation area listed on the NSW State Heritage Register.

The adjoining land to the south is identified as 'Landslide Risk' under The Hills Local Environmental Plan 2012. Although the subject site is not identified as 'Landslide Risk', a Geotechnical Assessment Report was submitted with the planning proposal and concludes that the site was last subject to an ancient landslip approximately 100,000 years ago and is unlikely to be subject to further slips.

The adjoining land to the south, known as 354-368 Old Northern Road, Castle Hill ('big dig' site) is zoned part E4 Environmental Living and part RE1 Public Recreation. It was rezoned from rural land in 2009 and is subject to a site specific section of Council's Development Control Plan (Part D Section 13). The objective of this DCP is to achieve a low density residential development that is appropriate to the site's context and enhances the existing surrounding natural characteristics.

As the 'big dig' site was heavily constrained by landslip, the DCP permitted a reduced minimum lot size of 700m² as significant land stabilisation would need to be undertaken. Consent was granted on 7 November 2013 for a subdivision into 54 residential allotments, with two (2) open space allotments and one (1) road widening allotment (1199/2010/ZB/A), shown in Figure 3.

The site is the subject of a Voluntary Planning Agreement, where the two separate public open space lots totalling 2.268 hectares in area are to be dedicated to Council.

**Figure 3**

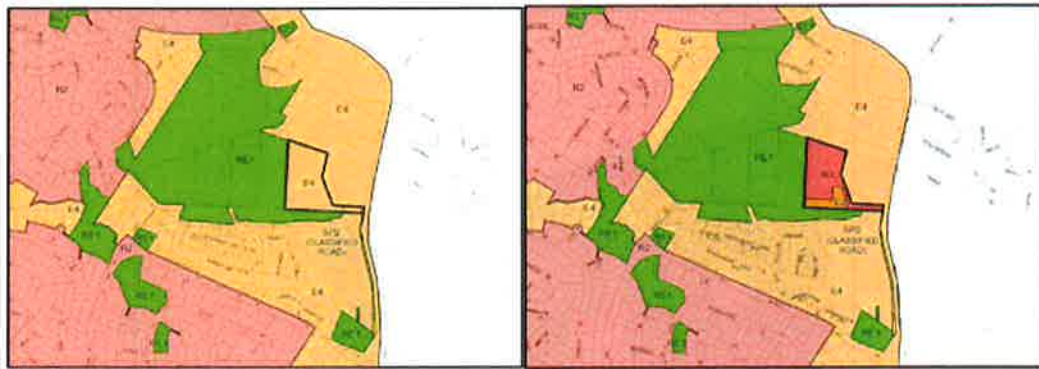
Approved Subdivision Plan at 354-368 Old Northern Road, Castle Hill

A Site Specific Development Control Plan No.25 Land Adjoining Heritage Park under Baulkham Hills LEP 2005 allowed for the approval of Environmentally Integrated Housing Development on four (4) sites to the south east of the site (identified on Figure 2) as follows:

- | | |
|-------------------|--|
| 18/12/2001 | Council approved an Integrated Housing Development and associated subdivision containing 62 dwellings at a site on western site of Heritage Park Drive (1251/2002/HC). |
| 31/10/2002 | Council approved an Integrated Housing Development containing eight (8) dwellings at the site known as 117-131 Old Castle Hill Road, Castle Hill (3719/2002/HC). |
| 14/08/2003 | Council approved an Environmentally Integrated Housing Development containing 13 dwellings at the site known as 3 Banks Road, Castle Hill (3718/2002/HC). |
| 31/08/2003 | The Land & Environment Court approved an Environmentally Integrated Housing Development containing 64 dwellings at a site on eastern side of Heritage Park Drive (1915/2004/HC). |

2. PLANNING PROPOSAL

The planning proposal seeks to rezone the land from E4 Environmental Living to part R3 Medium Density Residential and part E2 Environmental Conservation (refer to Figure 4) to facilitate a future medium density residential development opportunity resulting in 38 dwellings on the site.

**Land Zoning (LZN)**

E2	Environmental Conservation	R3	Medium Density Residential
E4	Environmental Living	RE1	Public Recreation
R2	Low Density Residential	SP2	Infrastructure

Figure 4
Existing and Proposed Zoning

The applicant has submitted a concept for redevelopment of the site for a townhouse development and strata subdivision (refer to Figures 5 and 6). The plan proposes a mix of detached and attached dwellings which would increase the potential dwelling yield from the approved 14 lot subdivision to approximately 38 dwellings with lot sizes ranging between approximately 140m² and 460m².

The proposed development intends to preserve an area of 0.6 hectares (21% of the site) which is occupied by Sydney Blue Gum High Forest within the proposed E2 Environmental Conservation zone and implement a Vegetation Management Plan. The submitted proposal notes land is to be dedicated to Council, at no cost, at the time of subdivision. The area and location of land proposed to be dedicated is consistent with the land area identified as proposed reserve in the current approved subdivision (5,953m² - refer Figure 1).

The applicant's justification for the uplift in density notes that whilst the site is not located within 800m radius of the Castle Hill Train Station, it is considered to be ideally placed to contribute to housing in good proximity to Castle Hill as it is approximately 2 km from the centre and on a connecting bus route. In support of the Planning Proposal, the Applicant has submitted a report from Colliers International (NSW) Pty Limited outlining the demand for townhouses within the Castle Hill area.



Figure 5
Proposed concept dwelling and subdivision layout



Figure 6
Future development concept

3. STRATEGIC CONTEXT

A Plan for Growing Sydney

On 14 December 2014, the NSW Minister for Planning released '*A Plan for Growing Sydney*'. The Plan is intended to guide land use planning decisions for the next 20 years and presents a strategy for accommodating Sydney's forecast population growth over this time. To achieve the Government's vision for Sydney as a "strong global City and a great place to live", the Plan sets out four (4) main goals, for Sydney to be:

- A competitive economy with world-class services and transport;
- A City of housing choice with homes that meet our needs and lifestyles;
- A great place to live with strong, healthy and well-connected communities; and
- A sustainable and resilient City that protects the natural environment and has a balanced approach to the use of land and resources.

The key principles for growth include increasing the housing diversity around city centres by accelerating housing supply and renewal and by improving housing choice. Whilst the planning proposal seeks to facilitate the delivery of housing mix and supply, concern is raised that a medium density housing outcome is not suitable in a location that is some distance from a centre or transport node.

Council has maintained a planned and deliberate approach to urban growth which identifies medium and high density housing in areas that have capacity to accommodate such growth, within and directly around major centres and town centres and major transport nodes. For more peripheral locations that are some distance from centres, a low density residential character has been maintained.

Local Strategy

Council's Draft Local Strategy was adopted in 2008. It is the principal document for communicating the future planning of the Shire and includes the objectives of longer term planning projects of the State Government as well as responding to, and planning for, local needs such as employment, housing and transport.

The Local Strategy reflects the following five key themes of "Hills 2026 Community Strategic Direction: Looking Towards the Future":

- Resilient Local Leadership;
- Vibrant Communities;
- Balanced Urban Growth;
- Protected Environment; and
- Modern Local Economy.

The Local Strategy continues to provide a clear statement of the overall strategic land use management and planning objectives for the Hills Shire. However, it is noted that the dwelling growth targets detailed within the Local Strategy represent Council's projected growth targets as at June 2008 prior to the Government's commitment to the Sydney Metro Northwest.

The Strategy is supported by seven Strategic Directions, those of relevance to this proposal being the Residential Direction, Environment and Leisure Direction, and Integrated Transport Direction. A summary of the consistency of the planning proposal with these Directions is provided below:

- *Residential Direction*

The Residential Direction was adopted in 2008 to guide the planning, protection and management of the Shire's residential development and growth to 2031. The Strategy focuses on locating higher densities close to centres and associated jobs, transport and services (R1.2) as well as the protection of residential character in low density residential areas (R4.1).

A key objective of the Direction is to plan for a built environment that caters for the community's needs and values and reflects the garden image of the Shire. Medium density housing is concentrated on the edge of the centres to assist in providing suitable transitions between high intensity land uses to lower density residential character areas.

The proposed development would result in lot sizes that are substantially smaller than the surrounding lots, creating a medium density pocket within an area characterised by larger lots, vegetation and open space. Furthermore, it is noted that an increase in residential density on the site is not required to meet projected housing growth targets.

- *Environment and Leisure Direction*

The Environment and Leisure Direction was adopted by Council in 2008 to ensure the planning, protection and management of the Shire's environment and leisure spaces. The direction aims to provide for the ongoing effective management of environmentally significant lands. A key objective of the direction is to conserve the Shire's unique diversity of plants and animals.

The site is partially occupied by Blue Gum High Forest, a critically endangered ecological community under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 and an endangered ecological community under the NSW Threatened Species Conservation Act 1995.

The area is characterised by large lots containing significant tracts of vegetation and open space. The planning proposal, as submitted, does not conserve any additional blue gum high forest than was approved under the existing 14 lot subdivision. As such, there are no additional ecological benefits as a result of the planning proposal.

- *Integrated Transport Direction*

The Integrated Transport Direction was adopted by Council in 2010 to ensure that planning and future development supports the provision of an efficient transport network. A relevant action includes planning for a concentration of and/or intensity of land use activities around major public transport nodes and higher order centres.

The subject site is not easily accessible to Castle Hill by road and the future train station and will require residents to walk 2.3 kilometres or drive 5.2 kilometres to the nearest centre. Furthermore the site topography (driveway has a 20% gradient) would significantly constrain the walking and cycling opportunities from the subject site. Therefore, future residents would be highly reliant on private car transport, contrary to the objectives of the Direction to facilitate an efficient transport network and reduce car dependency.

Ministerial Section 117 Directions

Section 117(2) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) enables the Minister for Planning to issue directions that Councils must address when preparing planning proposals for a new LEP. The Section 117 Directions which are considered to be relevant to this proposal are:

- Direction 2.1 Environment Protection Zones;
- Direction 2.3 Heritage Conservation;

- Direction 3.1 Residential Zones;
- Direction 3.4 Integrating Land Use and Transport; and
- Direction 4.4 Planning for Bushfire Protection Guidelines.

The planning proposal is considered to be inconsistent with Directions 2.1 Environmental Protection Zones, Direction 3.4 Integrating Land Use and Transport and Direction 4.4 Planning for Bushfire Protection as detailed below.

Direction 2.1 Environment Protection Zones

The entirety of the site is currently zoned E4 Environmental Living. The objectives of this zone are to provide for low-impact residential development in areas with special ecological, scientific or aesthetic values and to ensure that residential development does not have an adverse effect on those values. The site is subject to a 1,000m² minimum lot size requirement to ensure that the environmental constraints affecting the site can be appropriately managed.

Direction 2.1 requires planning proposals to not reduce the environmental protection standards that apply to the land (including modifying development standards that apply to the land). The rezoning of the site to facilitate medium density residential development reduces the environmental protection standards for the site as the R3 Medium Density Residential zone would permit more intense residential development of the site. An alternative approach that focusses on achieving an environmentally integrated housing outcome may be warranted and is explored further in Section 5 of this report.

Direction 3.4 Integrating Land Use and Transport

The principal objectives of this Direction are to increase the choice of available transport options and reduce dependence on cars. The promotion of higher density developments in locations that are not within easy walking distance to facilities, services and public transport will further increase car dependence. The proposal is considered to be inconsistent with the Direction as it will be proposing medium density residential development outside of an identified centre or transit node.

Direction 4.4 Planning for Bushfire Protection Guidelines

The objectives of Direction 4.4(1) are to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas and encouraging sound management of bush fire prone areas. The Direction requires planning proposals to contain provisions for two-way access roads which links to perimeter roads and/or to fire trail networks.

The Rural Fire Service has previously advised that it would not support lot sizes less than the proposed 1,000m² or further subdivision of these lots in the future without a through road or alternative access. As the proposal will significantly increase the permitted residential density on the site without addressing the previous concerns raised by the Rural Fire Service (dated 30 May 2011) with respect to through roads and alternative access arrangements, the proposal is considered to be inconsistent with Direction 4.4.

Any planning proposal for land which is identified as being bushfire prone on a Bushfire Prone Land Map must be consistent with Ministerial Direction 4.4 Planning for Bushfire Protection. The Direction requires that planning proposals must:

- (a) have regard to Planning for Bushfire Protection 2006,
- (b) introduce controls that avoid placing inappropriate developments in hazardous areas, and
- (c) ensure that bushfire hazard reduction is not prohibited within the APZ.

The Direction requires that Council undertake consultation with the Commissioner of the NSW Rural Fire Service following receipt of a Gateway Determination under Section 56 of the *Environmental Planning and Assessment Act 1979* (EP&A Act), and prior to undertaking community consultation in satisfaction of section 57 of the EP&A Act.

4. MATTERS FOR CONSIDERATION

The planning proposal requires consideration of the following matters:

- a. Character
- b. Traffic and Access
- c. Proposed Land Dedication
- d. Bushfire Affectation
- e. Geotechnical Constraints
- f. Demand for townhouses
- g. Appropriate site density

a) Character

The area is characterised by large lots, vegetation and open space. The adjoining properties to the north and east have a rural residential character with lot sizes in the order of 2 hectares. Castle Hill Heritage Park to the west is approximately 23 hectares and has an open landscape character with walking tracks, picnic areas, playground and amenities set within with remnant Blue Gum High Forest.

The adjoining land to the south is currently being developed for residential lots. The minimum lot size applicable to this site is 700m², however the lot sizes range up to 1,287m². This development achieves a low density residential development that is appropriate to the site's context, consistent with the environmental capacity of the site and enhances the surrounding natural characteristics. This site has a residential density of 9.37 dwellings per hectare. Public benefits include two separate areas of open space totalling 2.268 hectares are to be dedicated to Council. In addition, the development of the site has reduced risk to the public by stabilising a geotechnically unstable piece of land.

The concept site plan submitted with the planning proposal includes a medium density outcome where lot sizes would be between 140m² – 460m². This is a significant reduction on the approved minimum lot sizes of 1,000m² and inconsistent with the existing and future surrounding development. The proposed development outcome is not sympathetic to the low density and open space character of the surrounding area.

Whilst it is acknowledged that a vegetation buffer along the western boundary adjoining the Heritage Park could reduce amenity impacts resulting from the development and assist in visually shielding the development from the Heritage Park, care is needed to ensure all potential impacts are fully considered given the State heritage significance of the Old Government Farm site and the value Heritage Park has as a community and recreational asset.

The approved subdivision for the subject site (14 residential lots ranging from 1,000m² to 2,935m²) was considered to have minimal impacts to Castle Hill Heritage Park, due to the appropriate screening of buildings from the park through the use of landscaped setbacks (726/2012/ZD). Any intensification of dwellings on the site could result in potential adverse impacts to the Heritage Park and Heritage Impact Statement would be needed prior to exhibition if the proposal were to proceed to Gateway Determination.

b) Traffic and Access

The conditions of development consent (726/2012/ZD) require that, entry and exit movements to and from the site shall be restricted to left-in and left-out movements only, to be enforced by the construction of a raised concrete median at the centreline of Old Northern Road in accordance with the Roads and Maritime Services Road Design Guide.

The Traffic Assessment submitted with the current application was peer reviewed by Henson Consulting, at the discretion of the applicant. The peer review concluded the planning proposal would result in an additional 28 vehicles per hour during peak periods. This represents an increase of approximately 16 vehicle movements per hour in addition to the approved 14 residential lot subdivision. Survey data indicates approximately 1500-2000 vehicles travel on Old Northern Road during the morning and afternoon peak periods. As such the Traffic Assessment concluded that the additional vehicles during peak times were considered to have a negligible impact on traffic conditions.

The peer reviewed traffic assessment concluded the following:

"Consideration has been given to an alternative access arrangement to the site, via a roundabout located opposite the access to Oakhill College. Notwithstanding the practical implications of needing to acquire land to enable access to the site under this scenario, the traffic report found that any such roundabout would restrict north-south traffic flows and is therefore not recommended.

Accordingly, the retention of the current access to left in and left out only movements was the recommended and most efficient method of accessing the site. The report confirms that the circulatory road system comprising Old Northern Road, Gilbert Road and Showground Road is the better alternative for access from the site to various destinations."

The conditions of the development consent also require the construction of a deceleration lane for the left turn movements into the site. Should the planning proposal proceed, Roads and Maritime Services would need to be further consulted.

c) Proposed land dedication (Blue Gum High Forest)

The current proposal seeks to rezone the proposed public reserve as E2 Environmental Conservation to reflect the site's environmental qualities. The area proposed to be retained within the proposed E2 Environmental Conservation zone is consistent with the area previously identified for dedication to Council under development consent 726/2012/ZD for a 14 lot subdivision. The planning proposal does not offer any additional ecological benefits than that negotiated under the subdivision allowing 14 x 1,000m² residential lots.

Council has previously supported the dedication of the proposed public reserve to facilitate the preservation of the Blue Gum High Forest. This was on the basis of the land being dedicated at no cost to Council. The Council resolution on the previous planning proposal (August 2011) required that a further planning proposal be submitted to the Department to rezone the proposed Public Reserve for open space purposes once the land had been dedicated. Whilst the subdivision application was approved on 13 March 2013, the site has not as yet been subdivided and accordingly, the reserve has not been dedicated or rezoned to Public Recreation.

For the current planning proposal, consideration is needed as to whether the proposed E2 Environmental Conservation zone is the most suitable mechanism to secure the dedication of the land at no cost to Council. Under LEP 2012 the permissible uses in the E2 zone are limited with most land uses (including dwelling houses) prohibited in

recognition of the high environmental values of the land, and it is possible that *the Land Acquisition (Just Terms Compensation) Act 1991* could be invoked, exposing Council to an acquisition liability.

Further to the foregoing it is noted that the dedication of land will create some financial liability on Council as it would be responsible for the on-going management of the Blue Gum High Forest on the land. This report recommends an alternative approach to the rezoning of land that would seek to provide for an environmentally integrated housing outcome that recognise the environmental significance of the land and provide appropriate management measures to ensure the management and conservation of the special values of the land. In such circumstances dedication to Council would not be necessary.

This matter would need to be resolved prior to the finalisation of the planning proposal. The key factors include the management of the environmentally sensitive land and reducing Council's on-going maintenance liability on the land.

d) Bushfire Affection

Much of the site is identified as bushfire prone, containing Vegetation Category 1 (orange) and buffer (red) on The Hills Bush Fire Prone Land Map 2012. An extract of the Bushfire Prone Land Map is provided below.

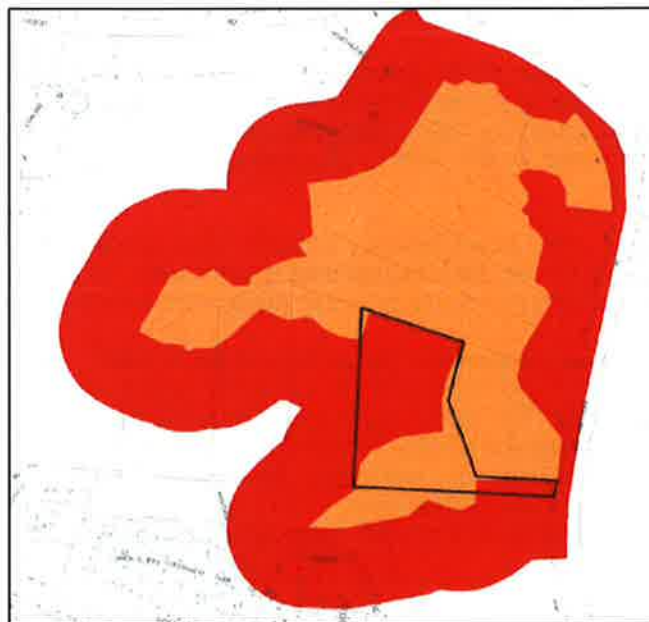


Figure 7
Bushfire Prone Land Map

Future Asset Protection Zones (APZs) would be required to provide a buffer between a bush fire hazard and future buildings. These buffers are required to manage fuel loads and reduce potential radiant heat levels and flame, ember and smoke attack. The specific APZ requirements are set through subdivision and built for development applications for the site. It will also be appropriate for bushfire evacuation routes to be identified in accordance with the Planning for Bushfire Protection Guidelines 2006.

The Bushfire Protection Assessment prepared by Eco Logical Australia Pty Ltd (dated 22 March 2016) submitted with the planning proposal recommends an asset protection zone

between 10 and 50 metres around the proposed dwellings. The following diagram identifies the proposed asset protection zones by red outline.



Figure 8

Proposed Development Layout Showing Asset Protection Zones

As part of the public authority consultation for the previous planning proposal (3/2010/PLP) which amended LEP 2005 to apply the minimum lot size of 1,000m² to the site, the Rural Fire Service provided the following comments (dated 30 May 2011):

'The Rural Fire Service advises that no objection is raised to the proposed amendment provided:

- 1. Any proposed development allows for compliance with Planning for Bush Fire Protection 2006.*
 - a. In particular asset protection zones (APZ's) should be located wholly within the development. Where adjoining public reserves or other land tenures, other than existing managed lands are to be relied upon to provide buffer zones, adequate provision is made for maintenance of asset protection zones in perpetuity,*
 - b. In doing so Council is satisfied that there will be no significant impact on EEC's in the vicinity, and*
- 2. The RFS notes the access road for subdivision, in the concept plan is greater than 200m in length and is not a through road. In this regard the Rural Fire Service would not support lot sizes less than the proposed 1,000m² or further subdivision of these lots in the future without a through road or alternative access'.*

Whilst the proposed development does not seek to substantially increase the footprint of the developable area from that which was previously approved through Development Application (726/2012/ZD), it would significantly increase the overall residential yield on the site from 14 dwellings to 38 dwellings. As the Rural Fire Service has previously, advised that it would not support any further reduction in the minimum lot size (or

increase in yield on the site), without a through road or alternative access, it is likely that similar concerns would be raised if this planning proposal proceeds.

As the only access to the site is through the access handle along the southern boundary, the provision of a through road or alternative access road would not be possible. In this regard, a higher residential density on the site would not be appropriate as the previous concerns raised by the Rural Fire Service would not be able to be addressed.

If the proposal is supported, further consultation with the Rural Fire Service would be required to ensure that the additional yield does not increase the risk to life and property on the site.

e) Geotechnical Constraints

The site is not identified on the "Landslide Risk" map of The Hills Local Environmental Plan 2012. However, it is noted that the site does adjoin land (on the corner of Old Castle Hill Road and Old Northern Road), which is identified as being subject to geotechnical constraints and which is currently undergoing significant land stabilisation works to facilitate redevelopment. As development on, or adjacent to, a known landslide area does have risks, it is considered prudent that potential geotechnical constraints be considered as part of the assessment of this proposal.

A geotechnical assessment was submitted with the planning proposal and concludes that the site was last subject to an ancient landslip approximately 100,000 years ago and is unlikely to be subject to further slips. As such, the report recommends that no special works be undertaken as they have determined there is a very low likelihood of remobilisation of the ancient landslide affecting the site.

It is noted that the previous approval for subdivision on the site, including the geotechnical assessment submitted in support of the application, was reviewed by Council's Geotechnical Review Panel. As previous applications for the redevelopment of this site have been reviewed by the Panel, it is considered appropriate that the alternative development concept for the site should also be reviewed by Council's Geotechnical Review Panel. The purpose of the Panel is to provide expert advice to the Council on geotechnical issues that may affect proposed future development in the area. If findings require amendments to the proposal/geotechnical methods, further peer review may be required. If the proposal proceeds, this review would need to occur prior to the exhibition of the proposal.

f) Demand for townhouses

The planning proposal notes Council's preference for larger apartment sizes over SEPP 65 controls to accommodate the needs of the residents in the area, which is dominated by households with children. A market study undertaken by Colliers International, commissioned by the applicant, states that townhouse development is in high demand within Castle Hill. The report finds that townhouses currently make up a total of 5% of the dwelling type in the area, which predominately features low rise apartments and low density residential developments.

The planning proposal seeks to contribute to housing supply and diversity in the Castle Hill area through the provision of townhouses and villas, which would provide residents with a low maintenance alternative to a low density residential dwelling while offering more space than apartments.

While Council does identify the need for medium density development outcomes within the Castle Hill area, there are currently undeveloped sites zoned for medium density residential development within the Castle Hill area. Once developed, Castle Hill would see an increase in more than 1,200 additional medium density dwellings. Further to

this, additional sites have been identified in the Castle Hill North Precinct Plan for townhouse/terrace development outcomes that are within 800 metres from the Castle Hill centre and future Castle Hill Train Station.

Notwithstanding the foregoing it is acknowledged that other land in the vicinity of Heritage Park such as Banks Road provides for a built form outcome that is consistent with townhouse living. The following sections of the report examine the framework under which this development was approved and whether a similar outcome is warranted for the subject site.

g) Appropriate site density

The current controls provide for a low density outcome for the site. If a single dwelling is erected on each lot under the approved subdivision plan then the density of development, based on the total site area, would equate to almost 5 dwelling per hectare. The planning proposal as submitted provides for a density of 16.6 dwellings per hectare exclusive of the land proposed to be dedicated as public reserve. It is acknowledged that under current controls there is some capacity for more than 14 dwellings on the site and investigations in to alternative development outcomes on the site have been undertaken.

Under LEP 2012, secondary dwellings are permitted in the E4 Environmental Living zone with Council consent. Should a secondary dwelling be constructed on each of the approved 14 lots, there is capacity for a total of 28 dwellings on the site which would equate to 12.3 dwellings per hectare albeit the secondary dwellings would be limited in area to 60m² or 20% of the floor area of the principal dwelling. Practically however it is unlikely that the full 28 dwelling would be achieved given that there are limited building platform areas for a number of the lots due to the site topography.

While attached dual occupancies are also permissible under the E4 Environmental Living zone, Clause 4.1A of LEP 2012 sets minimum lot sizes for residential development types in different zones. Within the E4 Environmental Living zone, a minimum site area of 2,000m² is needed for an attached dual occupancy, which would not be met with the current subdivision approval.

Under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (the SEPP) seniors housing is permitted where the site is zoned primarily for urban purposes or that adjoins land zoned primarily for urban purposes. However, under Clause 4(6), the SEPP does not apply to land described in Schedule 1 (Environmentally Sensitive Land). Schedule 1 of the SEPP includes land identified for environmental protection. As such, development for seniors housing is not permitted on land zoned E4 Environmental Living. Even if the land were zoned for urban purposes, the topography of the driveway with a gradient of 1:5 would not be acceptable for a seniors development.

Given the environmental characteristics of the land, it is considered that the current E4 Environmental Living zone is the most suitable zone for the land as it provides for low impact residential development in areas with special ecological, scientific or aesthetic values. It also seeks to ensure that residential development does not have adverse effect on those values. Notwithstanding, it is worth examining whether an alternative approach is warranted that provides for an environmentally integrated housing outcome that would achieve a yield consistent with the low density character of the surrounding area that recognises the environmental values of the land and the sensitivities created by the location adjacent to Heritage Park.

5. ENVIRONMENTALLY INTEGRATED HOUSING

Environmentally Integrated Housing was introduced as a land use to LEP 1991 in 1993 and added as a permissible use within 2(d) Residential Protected zone (equivalent to E4 Environmental Living zone). It was defined as:

environmentally integrated housing means development consisting of:

- (a) the subdivision of land, and
- (b) the erection of three or more dwellings of any type on the land so subdivided,

being development that incorporates and protects (normally as common or neighbourhood property) substantial environmentally significant or sensitive areas of land, including natural drainage channels, important vegetative and topographic features, geotechnical hazard areas and the like.

From 2001 to 2003 land to the south west of the site was assessed as environmentally integrated housing under LEP 1991 and a Site Specific DCP for Land Adjoining Heritage Park (refer details of approval in Section 1).

The desired outcome under the site specific DCP was *"an integrated development consisting of dwellings and associated facilities, in attached or detached form, which in this case are to be located so as to minimise any impact upon the visual curtilage of the Heritage Park and provide for the management of the environmentally sensitive areas in a co-ordinated manner via a community title management plan or a strata plan"*. The DCP outlined controls for the land that included a maximum density of 12 dwellings per hectare, exclusive of land to be acquired by Council for open space. A 20 metre 'Heritage Park Buffer' was also implemented in areas adjoining the Heritage Park.

The opportunity for environmentally integrated housing was continued under LEP 2005 and, as part of the LEP process, was redefined to specify a maximum yield related to the subdivision potential of the land:

environmentally integrated housing means:

- (a) *the integrated design and construction of dwellings with a resultant maximum yield of dwellings and lots that is consistent with the subdivision potential of the land, which may be indicated in a development control plan, and*
- (b) *the protection of all environmentally significant or sensitive areas (normally as common or neighbourhood property) of land, including natural drainage channels, important vegetative and topographic features, geotechnical hazard areas and the like, by the integration of buildings and works with the environment.*

With the preparation of Council's Standard Instrument LEP the opportunity for environmentally integrated housing was lost as there was no equivalent land use term in the Standard LEP Template. As the site has substantial significant vegetation, an environmentally integrated housing approach that allows for a density of dwellings consistent with the subdivision potential of the land that protects environmentally significant areas is considered a reasonable response that would provide for a similar opportunity to that provided to other land adjoining Heritage Park and potentially could provide an improved outcome over that available under the current controls. Figure 9 provides an indication of the density of residential development allowed to the south and east of the subject site. These densities range from 14.4 dwellings per hectare for the Banks Road site to 9.37 dwellings per hectare on the 'big dig' site.

Applying the same principles as contained in the LEP 2005 definition, the subject land with a total site area of 2.879ha and the subdivision potential for 1,000m² lots would yield 28 dwellings on the site. This would equate to an overall density on the site of approximately 10 dwellings per hectare. Such an outcome remains low density in character and is consistent with the density of adjacent development to the south and south west.

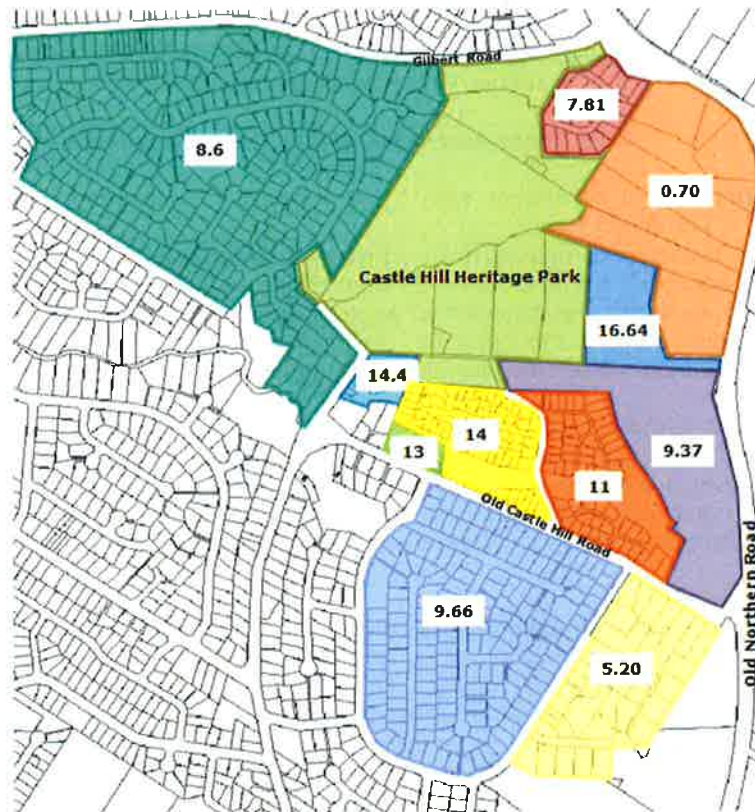


Figure 9
Comparison of density (dwellings per hectare)

A site specific provision to facilitate such an outcome for the subject site is suggested below. This approach would retain the E4 Environmental Living zone but allow for a density of 10 dwellings per hectare where specific criteria are met.

4.1E Exceptions to minimum lot sizes for environmentally integrated housing

- 1) This clause applies to Lot 2 DP135804, being land at 370 Old Northern Road, Castle Hill, as shown edged in blue on the Lot Size Map.
- 2) The objectives of this clause are as follows:
 - (a) To provide for residential development that takes account of the special values of land;
 - (b) To encourage development that will ensure the land is and developed, managed and conserved in a holistic and sensitive manner; and
 - (c) To ensure residential development is located so as to minimise any impact upon the visual curtilage of the Heritage Park.

- 3) *Despite any other provisions of this Plan, development consent may be granted for a single development application for development that is both the subdivision of land into 3 or more lots and the erection of an attached dwelling or dwelling house on each lot resulting from the subdivision, only if:*
- (a) The development will not result in a density of more than 10 dwellings per hectare;*
 - (b) The land is subdivided in accordance with the Community Land Development Act 1989 for a neighbourhood scheme;*
 - (c) Appropriate management measures will be in place that will ensure the protection of the landscape and biodiversity setting of the land; and*
 - (d) a 20 metre landscaped buffer will be provided to Heritage Park.*

Such an approach is consistent with the principles for clustering of development to provide for a better environmental outcome than would be achieved with conventional subdivision. It can be compared to the cluster subdivision approach for the Shire's rural lands or the approach for land zoned E4 Environmental Living in North Kellyville. Under the proposed approach the inclusion of appropriate measures to manage environmental outcomes, would negate the need for the dedication of land as open space and the associated ongoing maintenance liability to Council.

It is important to note that the above outcome is suggested as an alternative for the subject land, given that the site has a substantial area clear of vegetation. Such an approach would not necessarily be warranted for other land in the vicinity particularly land to the north of the site that is subject to a 40 hectare minimum lot size given extensive vegetation coverage, steep slopes and potential bushfire hazard (refer Figures 2 and 7).

Whilst concerns regarding bushfire risk remain for the subject site, the Gateway Process allows for the strategic merits of a planning proposal to be considered and for consultation with the NSW Government and the public to occur, as well as further work and refinements to the planning proposal as necessary. It is considered that the planning proposal, as amended, is suitable for forwarding to the Department of Planning and Environment for Gateway Determination and subsequently, to be publicly exhibited, once review by Council's geotechnical Panel occurs.

Should further work be required as a result of the Gateway Process and/or public exhibition of the proposal, alternative development outcomes which achieve similar strategic outcomes may be explored as part of this process. It is considered that should the proposal proceed to public exhibition, the applicant should submit additional information, including a revised concept plan, revised bushfire report and heritage impact statement, to assist with the communication of the proposed development outcome to the community.

OPTIONS

The following options for this planning proposal are presented for Council's consideration:

Option 1:

The planning proposal for 370 Old Northern Road, Castle Hill not proceed for the following reasons:

1. The proposal is inconsistent with the objectives of 'A Plan for Growing Sydney' and Ministerial Direction 3.4 Integrating Land Use and Transport as well as Council's Residential and Integrated Transport Directions in that it proposes

medium density housing in a location that is not close to an identified centre and/or significant transport node.

2. The proposal does not adequately address the reduced minimum lot size and more intense residential outcome in an environmentally sensitive location, contrary to Ministerial Direction 2.1 Environment Protection Zones.
3. The proposal is inconsistent with Council's Local Strategy and Residential Direction in that it does not provide for an outcome in keeping with the established and future low density character at the periphery of the urban area.
4. The proposal does not adequately address the potential for increased risk to life and property due to bushfire hazard particularly given previous concerns raised by Rural Fire Service with respect to the need for alternative access arrangements for any increase in density.

Option 2:

A revised planning proposal for 370 Old Northern Road, Castle Hill, based on a site specific environmentally integrated housing outcome as contained in section 5 of the report be forwarded to the Department of Planning and Environment for Gateway Determination.

Option 3:

The planning proposal for 370 Old Northern Road, Castle Hill, as submitted by the applicant, be forwarded to the Department of Planning and Environment to rezone the site from E4 Environmental Living to R3 Medium Density Residential and part E2 Environmental Conservation.

CONCLUSION

The planning proposal as submitted seeks to rezone the site from E4 Environmental Living to R3 Medium Density Residential to facilitate a medium density development consisting of approximately 38 dwellings. The proposal is considered to be inconsistent with State and Local planning policies which seek to facilitate medium density development in locations close to centres and major transport nodes. The site is considered unsuitable for such intense residential development due to the impact it would have on the low density character of the surrounding area and potentially on Castle Hill Heritage Park.

Notwithstanding the foregoing, there is considered to be some merit in providing for an environmentally integrated housing outcome that would achieve a yield of 10 dwellings per hectare consistent with the low density character of the surrounding area, which responds to the environmental values of the land and the location adjacent to Heritage Park. It is therefore recommended that a revised planning proposal be forwarded to the Department for Gateway Determination.

The Gateway Process will allow for the strategic merits of a planning proposal to be considered and for consultation with the NSW Government and the public to occur, as well as further work and refinements to the planning proposal as necessary. It is considered that the planning proposal, as amended, is suitable for forwarding to the Department of Planning and Environment for Gateway Determination and subsequently, to be publicly exhibited, once review by Council's Geotechnical Panel occurs. Should the proposal proceed to public exhibition, the applicant should submit additional information, including a revised concept plan, revised bushfire report and a heritage impact statement, to assist with the communication of the proposed development outcome to the community.

IMPACTS**Financial**

Matters relating to the dedication or otherwise of the public reserve at no cost to Council and the financial costs associated with the on-going management of the public reserve would need to be resolved prior finalisation of the planning proposal.

The Hills Future - Community Strategic Plan

The planning proposal as submitted is inconsistent with the outcomes and strategies of The Hills Future as it would detrimentally impact the character of the surrounding area and does not reflect responsible planning or good management of the Shire's natural and built environment. An alternative low density approach that recognises the environmental values of the land and the sensitivities created by the location adjacent to Heritage Park is recommended.

RECOMMENDATION

1. A planning proposal be forwarded to the Department of Planning and Environment for a Gateway Determination to amend Local Environmental Plan 2012 to include a local provision that facilitates an environmentally integrated housing development at 370 Old Northern Road Castle Hill that:
 - a) Results in not more than 10 dwellings per hectare;
 - b) Is subdivided in accordance with the Community Land Development Act 1989 for a neighbourhood scheme;
 - c) Ensures the protection of the landscape and biodiversity setting of the land; and
 - d) Provides for a 20 metre landscaped buffer to Heritage Park.
2. The geotechnical assessment and revised concept be reviewed by Council's Geotechnical Review Panel prior to exhibition.

ATTACHMENTS

Nil.

- This is Page 5 of the Minutes of the Ordinary Meeting of The Hills Shire Council held on 26 April 2016**

MINUTES of the duly convened Ordinary Meeting of The Hills Shire Council held in the Council Chambers on 26 April 2016

2. The geotechnical assessment and revised concept be reviewed by Council's Geotechnical Review Panel prior to exhibition.

THE MOTION WAS PUT AND CARRIED UNANIMOUSLY.

190 RESOLUTION

1. A planning proposal be forwarded to the Department of Planning and Environment for a Gateway Determination to amend Local Environmental Plan 2012 to include a local provision that facilitates an environmentally integrated housing development at 370 Old Northern Road Castle Hill that:
- a) Results in not more than 13.2 dwellings per hectare of the total existing site area;
 - b) Is subdivided in accordance with the Community Land Development Act 1989 for a neighbourhood scheme; and
 - c) Ensures the protection of the landscape and biodiversity setting of the land.
2. The geotechnical assessment and revised concept be reviewed by Council's Geotechnical Review Panel prior to exhibition.

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

VOTING FOR THE MOTION

Clr Dr M R Byrne
Clr Keane
Clr Taylor
Clr Preston
Clr A N Haselden
Clr Hay OAM
Clr Harty OAM
Clr Tracey
Clr Dr Gangemi
Clr Dr Lowe

VOTING AGAINST THE MOTION

None

ABSENT

Clr Thomas

Councillor Keane having previously declared a non-pecuniary and less than significant conflict of interest remained in the room.

ITEM-6

**PLANNING PROPOSAL - CIRCA COMMERCIAL
PRECINCT (19/2015/PLP)**

Proceedings in Brief

Tim Spencer - General Manager of Mulpha Norwest addressed Council regarding this matter.