

ITEM

REZONING 177 WRIGHTS ROAD, CASTLE HILL (FP 199)

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 BRONWYN SMITH
RESPONSIBLE OFFICER:	MANAGER – FORWARD PLANNING STEWART SEALE

EXECUTIVE SUMMARY

Council has received an application for rezoning the land at 177 Wrights Road, Castle Hill (Lot 1 DP 541048) from part Rural 1(a) and part Residential 2(b) to R1 – General Residential.

To ensure that future development of the site is consistent with existing low density development in the locality, it is recommended that the site be rezoned to R2 Low Density Residential with a minimum lot size of 450sqm and a maximum building height of 9m. This zoning is in keeping with Council's Uncertified Draft Local Environmental Plan (LEP) 2010.

This report recommends that Council supports the rezoning application and prepare a planning proposal to be forwarded to the Department of Planning for a gateway determination.

Applicant

Byrnes PDM Pty Ltd.

Owner

The owners of the subject site are Mr K Lam, Mr H Lam, Ms H K Lam, Mr P T Lam, Ms S Lam, Mr T Lam, Ms AT Lam, Mr AKH Lam and Ms LK Lam.

Zone

Local Environmental Plan 2005:	Part Rural 1(a) and part Residential 2(b)
Draft LEP 2010:	R2 – Low Density Residential
Site:	Lot 1, DP 541048, NO. 177 Wrights Road, Castle Hill
Area:	20,238sqm

Existing Development

The site currently contains a residential dwelling and a number of ancillary structures including a swimming pool and an outbuilding.

Political Donations

No disclosures.

HISTORY

- 26/2/2010** Pre-lodgement meeting held between applicant and Council officers.
- 5/7/2010** Applicant submitted an application for rezoning the land at 177 Wrights Road, Castle Hill.

BACKGROUND



Figure 1: Subject Site

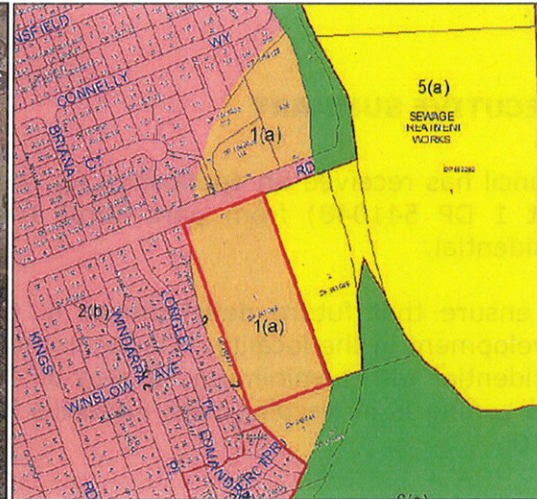


Figure 2: Existing zoning of the subject site and surrounding area

The areas surrounding the subject site have been developed over time to low density residential with the exception of the adjoining property east of the site which is the Castle Hill Sewage Treatment Plant (STP) as shown in Figure 1.

The subject site has an area of approximately 20,230sqm and is rectangular in shape. The site is located within 35m of Cattai Creek and has an eastern aspect with a cross fall of 14m from west to east.

The site is currently zoned part Rural 1(a) and Residential 2(b) under the Local Environmental Plan 2005 (BHLEP 2005), as shown in Figure 2. The subject site forms part of the buffer area around the Castle Hill STP and as such has been zoned Rural 1(a) since Baulkham Hills Local Environmental Plan (LEP) came into force on 1 March 1991.

As the subject site forms part of the buffer area around the Castle Hill STP it has retained a rural zoning despite surrounding land being rezoned to residential and developed for dwellings. A 400m buffer area from the STP was established in the late 1980s as required by Department of Planning Circular No. E3/148 (16 May 1988) which also recommended that Council's avoid rezonings that permit more intensive development in buffer zone

areas and stated that new LEPs should not permit development to encroach on existing buffer areas.

In 1994, Council prepared a draft LEP to reduce the buffer area surrounding the Castle Hill STP from 400m to 300m, and on 18 August 1995 Baulkham Hills LEP 1991 (Amendment No. 38) was gazetted which rezoned the land outside the 300m buffer to Residential 2(b).

Sydney Water's Draft NSW Best Practice Odour Guideline (April 2010) (Best Practice Odour Guideline) replaces the Sydney Water Sewage Treatment Plant Buffer Zone Policy (1997) and Department of Planning Circular No. E3/148 (1988). The Best Practice Odour Guideline recommends that existing separation distances between STPs and other land uses be maintained. The Best Practice Odour Guideline also recommends that owners of existing STPs (in this case Sydney Water) be consulted where it is proposed to reduce existing separation distances.

Given that the rezoning application proposes reducing the existing separation distance between the sewerage treatment plant and residential development, the application was referred to Sydney Water for comment.

Sydney Water has raised no objection to the proposal at a meeting held on 14 December 2009.

REPORT

The purpose of this report is to outline the proposal, discuss issues and seek Council support for the rezoning application based on Council officers' recommendation to rezone the land at 177 Wrights Road, Castle Hill from part Rural 1(a) and part Residential 2(b) to R2 Low Density Residential with a minimum lot size of 450sqm and a maximum building height of 9m.

The Proposal

The proposal seeks to rezone the land known as 177 Wrights Road, Castle Hill from the existing part Residential 2 (b) and part Rural 1(a) to R1 – General Residential for the purposes of residential subdivision and future residential development.

The proposal is supported by the following information:

- i. A Field Ambient Odour Assessment prepared by The Odour Unit dated 19 August 2009;
- ii. Flora and Fauna Study and Ecological Assessment prepared by UBM Ecological Consultants dated 22 April 2010;
- iii. Bushfire Hazard Assessment Constraints Statement prepared by Building Code and Bushfire Hazard Solutions dated 1 April 2010;
- iv. A Plan of the details and levels on the subject site prepared by Lockley Land Title Solutions dated 29 April 2010; and
- v. A Concept Subdivision Layout prepared by Green Tree Design dated 16 June 2010.

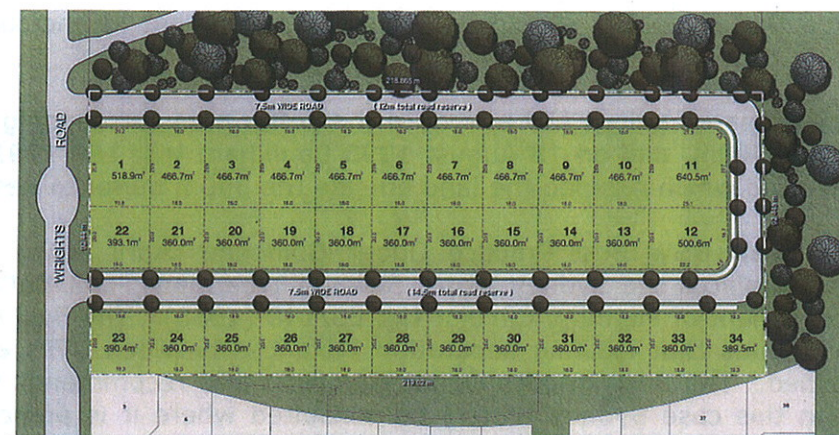


Figure 3: Concept Subdivision Proposal

MATTERS FOR CONSIDERATION

1. Density and Minimum Allotment Size

A concept subdivision plan layout (Figure 3) provided by the applicant demonstrates how the site may be developed in the future. The plan consists of 34 lots varying in size from 360sqm to 640.5sqm, with a loop road providing two points of entry into the site. Smaller lots ranging in size from 360sqm to 390.4sqm are located along the eastern boundary of the site and the central section of the site, with larger lots to the west and south which range in size from 466sqm to 640sqm. The road along the western and southern boundaries is proposed to provide a fuel-free zone and the lots to the east and south are larger in size to allow for bushfire setback controls (asset protection zones) where necessary.

The applicant states that a density of 15–17.5 dwellings per hectare can be achieved on the site, if flexible allotment sizes are permitted. The applicant further states that the strict application of a minimum allotment size to the site would be unnecessarily restrictive and would limit housing choice for future residents of the area.

Whilst the sites immediately adjoining the subject site have allotment sizes as small as 360sqm, this is not the predominant lot size in the locality. The community title development to the west of the subject site have allotment sizes of around 360sqm to 500sqm, as they were developed as small lot and environmentally integrated housing. Sites to the north are generally 600sqm or greater and further to the west beyond the community title development, allotment sizes are generally greater than 700sqm.

In addition, Council's Uncertified Draft Local Environmental Plan (LEP) 2010 proposes a 450sqm minimum allotment size for areas surrounding the subject site commensurate with the R2 Low Density Residential zoning proposed for the locality.

Therefore, should the minimum allotment size be adopted the concept subdivision plan as submitted by the proponent would be required to be amended, prior to formal lodgement.

2. Bushfire Prone Land

The site is identified as bush fire prone on Council's Bush Fire Prone Lane map (Figure 3). Accordingly, a Bushfire Hazard Assessment Constraints Statement (Bushfire Hazard Statement) prepared in April 2010 on behalf of the applicant by Building Code and Bushfire Hazard Solutions Pty Ltd was submitted to Council in support of the application.

The Bushfire Hazard Statement is based on a detailed assessment of vegetation and slope on the subject site. The Bushfire Hazard Statement notes that the cause of the bushfire hazard on the subject site is attributed to vegetation on the adjoining Castle Hill STP, Fred Caterson Reserve and community title development to the south. The Bushfire Hazard Statement notes that based on an initial bushfire constraints assessment, the subject land

is capable of being zoned for residential development provided that the development is designed with consideration to the provision of Asset Protection Zones (APZ) on the subject site, appropriate road design and installation of a static water supply for dwellings greater than 70m away from a hydrant.

The Bushfire Hazard Statement identifies the need for an 18.6m APZ to the east, a 34m APZ to the south east and a 26m APZ to the south (Figure 4). The Statement notes that any new residential allotment must show that it can accommodate a building footprint outside of the required APZs, however within the APZs, roads, swimming pools, play areas and non-habitable structures such as detached garages and work sheds are permitted.

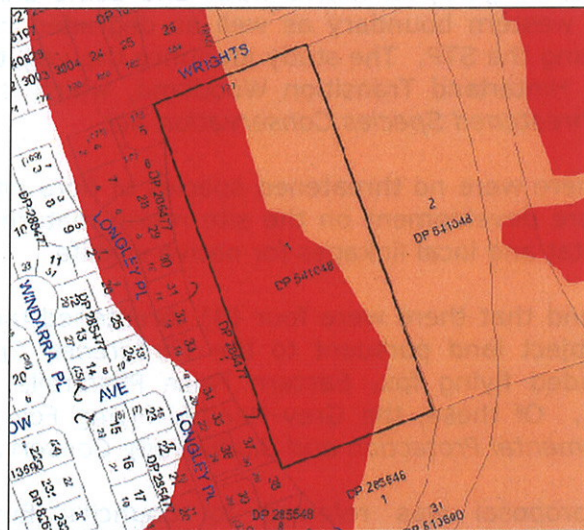


Figure 4: Bushfire Prone Land map of the subject site and surrounds

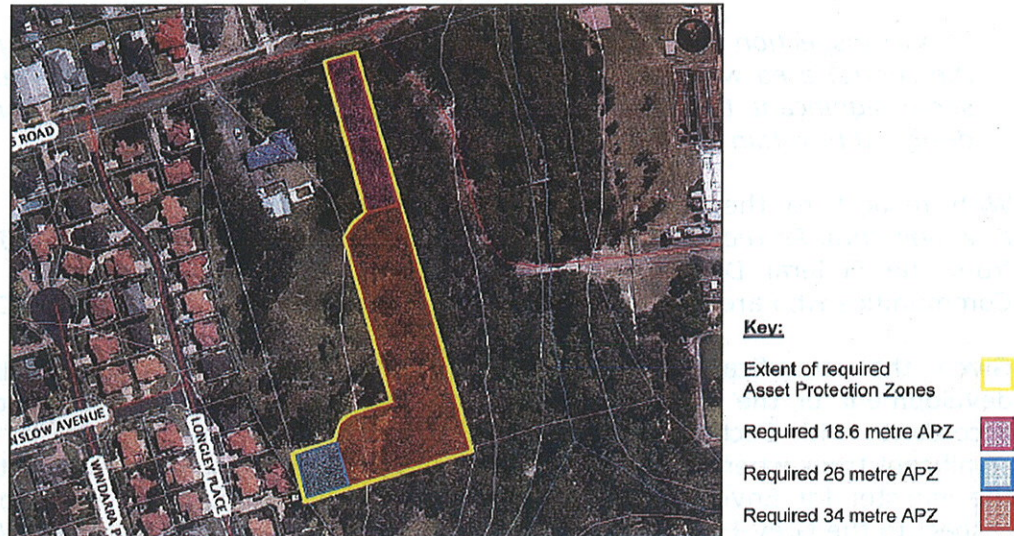


Figure 5: Required Asset Protection Zones

The statement concluded that the property has the capacity to be zoned residential as long as the proposed requirements contained within the statement were complied with. These requirements would be dealt with at the subdivision stage.

The planning proposal was referred to the local NSW Rural Fire Service for comment. The Rural Fire Service advised that subdivision of the site for housing development should take into consideration bushfire protection measures identified in *Planning for Bushfire Protection 2006*.

As part of the gateway determination the Minister will advise of consultation required with public authorities which will enable the suitability of bushfire hazard protection to be

reviewed by the NSW Rural Fire Service. The balance between the need for the asset protection zones with the environmental impact will be subject to further detailed assessment should the Department of Planning proceed with the planning proposal.

3. Flora and Fauna

According to Council's vegetation mapping, the site contains a mix of Sydney Sandstone Gully Forest located primarily on the east side of the site, and areas of unclassified vegetation on the western side of the site. A Flora and Fauna Study prepared by UBM Ecological Consultants (April 2010) was submitted in support of the rezoning application. The study identifies a small group of native trees and some understorey vegetation on site, located along the western boundary as well as degraded bushland on the eastern slopes of the site adjoining the STP. The study identifies the vegetation community on the subject site as Sydney Hinterland Transition Woodland, which is not currently listed as threatened under the *Threatened Species Conservation Act*.

The study found that there were no threatened species of flora on the subject site. They recommended that future development on the site retain mature canopy trees wherever possible to provide habitat and local linkages for native wildlife.

However, the study found that there were four (4) threatened fauna species present on, or adjacent to, the subject land pursuant to the *Threatened Species Conservation Act* including the Grey-headed flying fox, Eastern False Pipistrelle, Powerful Owl and the Cumberland Land Snail. Of these, the Grey-Headed Flying Fox is also listed under the Commonwealth *Environmental Protection and Biodiversity Conservation Act* (EPBC Act).

On this basis, the proposal was referred to Council's Environment Health and Sustainability Team for comments with respect to flora and fauna issues. The following comments were made:

"A site inspection revealed that the site is degraded and possibly subject to fill in the central area which has introduced some noxious weeds to the site. There are some significant trees on the site and any future plan of subdivision should be designed to retain as many of the significant trees as possible."

With respect to the Grey-Headed Flying Fox being listed under the Commonwealth *Environmental Protection and Biodiversity Conservation Act* (EPBC Act), advice was sought from the Federal Department of Sustainability, Environment, Water, Population and Communities who are responsible for overseeing the operation of the EPBC Act.

Given the identification of threatened fauna species and significant trees, future development of the site would require preparation of a Species Impact Statement in accordance with Section 5A of the EP&A Act and should have regard to the retention of significant trees where possible. Further, the applicant should be advised that a referral to the Minister for Environment Protection, Heritage and the Arts would be required with respect to the Grey-Headed Flying Fox which is protected under the EPBC Act.

As part of the gateway determination the Minister will advise of consultation required with public authorities.

4. Site Contamination

The site has historically been used for rural and residential purposes and currently contains a residential dwelling. The applicant indicates that there have been no known uses which would contribute to or have the potential for soil contamination. Council's Environmental Health and Sustainability department, have requested that the applicant undertake a preliminary site contamination assessment as recommended by Clause 6 of SEPP 55 Remediation of Land and include a site history which identifies any past land use activity that could potentially result in contamination as listed in Table 1 of *Managing Land Contamination, Planning Guidelines SEPP 55 Remediation of Land*.

As part of the gateway determination the Minister will advise of consultation required with public authorities in relation to this matter.

5. Traffic and Access

A traffic study was not submitted as part of the rezoning proposal, however the applicant states that the proposed rezoning, and subsequent development is "*minor in nature and would produce a relatively low yield of dwellings*" thus would not significantly increase traffic in the area.

The Roads and Traffic Authority's *Guide to Traffic Generating Development* outlines traffic generation considerations for different types of development. With respect to the proposed rezoning and concept 34 lot subdivision, the site would generate 9 vehicle trips per dwelling per day equating to a total of 306 vehicle trips per day. Whilst it is likely that the local road network could accommodate the additional traffic generated by the development, a traffic study should be submitted to Council.

6. Metropolitan Development Program

The NSW State Government has prepared a Metropolitan Development Program (MDP) which aims to plan for Sydney's growth until 2031. Outside the Growth Centres any proposed zone change from rural to urban is required to meet the sustainability criteria.

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

In summary this criteria includes the following elements:

- Infrastructure provision – mechanism in place to ensure utilities, transport, open space and communication are provided in a timely and efficient way.
- Access – accessible transport options for efficient and sustainable travel between homes, jobs, services and recreation to be existing or provided.
- Housing diversity – provide a range of housing choices to ensure a broad population can be housed.
- Employment lands – provide regional/local employment opportunities to support Sydney's role in the global economy.
- Avoidance of risk – land use conflicts, and risk to human health and life, avoided.
- Natural resources – natural resource limits not exceeded/environmental footprint minimised.
- Environmental protection – protects and enhance biodiversity, air quality, heritage and waterway health.
- Quality and equity in services – quality health, education, legal, recreational, cultural and community development and other government services are accessible.

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

7. Rezoning of remaining Rural Properties within the Sewerage Treatment Plant buffer area

To the north, south and west of the subject site are other properties which form part of the Sewerage Treatment Plant buffer area and are currently zoned Rural 1(a) (marked with an 'X' in Figure 5 below) however, the subject rezoning does not relate to these parcels of land.

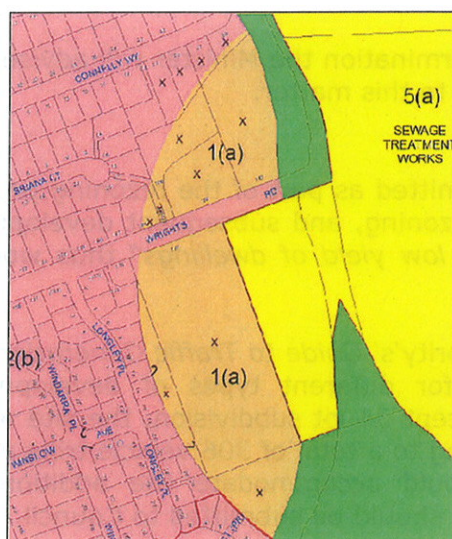


Figure 5: Properties zoned Rural 1(a) in the vicinity of the subject site

a. Draft Local Environmental Plan 2010 and Proposed Zonings

On 13 July 2010 Council endorsed the draft LEP 2010 and resolved to forward the draft LEP to the Department of Planning to seek an approval to exhibit. It is expected that exhibition of the draft LEP will commence early in 2011.

The draft The Hills Shire LEP 2010 (draft LEP) proposes an R2 – Low Density Residential zoning for all Rural 1(a) properties within the Sewerage Treatment Plant buffer area, with a minimum lot size of 40ha. This 40ha minimum was imposed to retain the existing status of these sites as a buffer and to prevent further subdivision. The decision to maintain the buffer was made at the time the draft LEP 2010 was prepared as investigations into the constraints on development of the sites, including but limited to odour impacts of the Sewerage Treatment Plant, have not been undertaken.

b. Proposed Zonings

The applicant states that the R1 – General Residential zoning best fits the proposed rezoning taking into account the nature of the site, proposed yield, lot types under the concept subdivision layout and various site constraints.

The objectives of the R1 - General Residential zone under Council's Draft LEP 2010 are:

- To provide for the housing needs of the community;
- To provide for a variety of housing types and densities; and
- To enable other land uses that provides facilities or services to meet the day-to-day needs of the residents.

Under the current Baulkham Hills LEP 2005, the equivalent zone to R1 – General Residential is Business 3(b) (Commercial). The main purpose of the R1 zone in the draft LEP 2010 is to provide a transition zone between commercial uses of land and residential uses of land. This zone has been used for land located on the periphery of the Castle Hill major centre, Rouse Hill major centre, Baulkham Hills Town Centre and Balmoral Road transit centre (future town centre). It has also been used for land at the intersection of Showground and Carrington Roads where master planning is being undertaken given the strategic location in the vicinity of the future Hills Centre station. The zone permits a wide range of uses including business premises and office premises, but does not permit retail premises apart from restaurants and neighbourhood shops.

Whilst the applicant has requested a rezoning to R1- General Residential a more appropriate zoning which is in keeping with Council's Draft LEP 2010 is preferred.

Under the draft LEP 2010 it is proposed to zone the land R2 – Low Density Residential.

The objectives of the R2 zone are:

- to provide for the housing needs of the community within a low density residential environment;
- to enable other land uses that provide facilities or services to meet the day to day needs of the residents;
- to ensure that new housing addresses the heritage, environmental, and streetscape character of surrounding low-density development.

The R2 zone has been used for existing low density residential areas in the urban parts of the Shire as well as the residential component of rural villages. Areas of Kellyville/Rouse Hill release area that currently have density requirements of 10-13 dwellings per net hectare under the Baulkham Hills Development Control Plan have also been zoned R2 Low Density Residential. In addition, the land to both the west and north of the site are proposed to be zoned R2 – Low Density Residential under the draft LEP 2010.

Having regard to the above, an R2 – Low Density Residential zoning is considered to be a more appropriate zone for the site.

8. Development Controls

As mentioned above it is proposed that the site have a minimum lot size of 450sqm and a maximum height of 9m. The provision of Local Environmental Plan minimum lot size and building height development standards, as well as the current provisions of the Baulkham Hills Development Control Plan (BHDCP) - Residential are considered sufficient to guide development of the site and as such, it is not proposed that site specific development controls be prepared.

9. Height of the Buildings

Pursuant to the draft LEP 2010, the maximum building height for the site is 10m. This height is consistent with the maximum height of land to the north of the subject site, whereas land adjoining to the west has a maximum height of 9m. Given that the rezoning will change the character of the site from rural to residential, it is considered appropriate that a building height of 9m be applied to the subject site to be consistent with the height proposed in the draft LEP 2010 for adjoining properties to the west of the subject site.

CONCLUSION

The proposal to rezone the site from part Rural 1(a) and part Residential 2(b) to R1 – General Residential has been assessed with regard to the matters for consideration outlined above. The rezoning of the site is considered satisfactory with respect to odour impacts from the Castle Hill STP, bushfire risk, flora and fauna issues. Additional consideration of site contamination and traffic impact is required. However, this can be dealt with as part of the "Gateway " Process.

To ensure the proposal is consistent with adjoining development and the draft uncertified principal LEP it is recommended that the site be rezoned to R2 – Low Density Residential with a minimum lot size of 450sqm and a maximum building height of 9m.

IMPACTS

Financial

If the rezoning is not supported, and a resolution of Council is passed not to proceed with the rezoning, 50% of the rezoning application refunded equating to \$10,609.

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

RECOMMENDATION

That a Planning Proposal to rezone the land from 1a Rural to R2 Low Density Residential with a minimum lot size of 450sqm and a maximum building height of 9m be prepared and submitted to the Department of Planning for a Gateway Determination.

ATTACHMENTS

1. Application for proposed rezoning of 177 Wrights Road, Castle Hill (137 pages)
2. Additional odour study (summer conditions) (1 page)

Attachment 2 - Additional odour study (summer conditions) - Wrights Ro...



**THE ODOUR
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Mr Adam Byrnes
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13 January 2011

SUMMER AMBIENT ODOUR SURVEY RESULTS

Dear Adam,

Please find attached the results from four additional ambient odour surveys, carried out under summer conditions, as requested. Three of these surveys were conducted on 21 and 22 December 2010, with the final survey carried out on 12 January 2011. These surveys covered three distinctly different wind directions, at light wind conditions that are typically the most problematical.

You will see from the Odour Impact Maps that the results confirm our previous finding that the Castle Hill WWTP does not adversely impact in the residential areas around the plant, and is most unlikely to be detectable on the Lam development property. Sydney Water appears to have done a fine job of mitigating the odour emissions from the plant.

We hope that this information satisfies Council's requirement for an additional summer assessment.

Yours sincerely
The Odour Unit Pty Ltd

Terry Schulz
Managing Director.

