

The Hills LEP 2012 –To rezone part of 153 Boundary Road, Box Hill from R3 Medium Density Residential to SP2 Infrastructure

Proposal Title : **The Hills LEP 2012 –To rezone part of 153 Boundary Road, Box Hill from R3 Medium Density Residential to SP2 Infrastructure**

Proposal Summary : **The intention of the planning proposal is to rezone part of 153 Boundary Road, Box Hill (Part Lot 10 DP 593517) from R3 Medium Density Residential to SP2 Infrastructure (Sewerage System) to facilitate the development of a water recycling facility under the Water Industry Competition Act 2006, to provide a sewage treatment and recycled water facility for the Box Hill North Precinct.**

PP Number : **PP_2016_THILL_003_00** Dop File No : **16/05269**

Proposal Details

Date Planning Proposal Received : **04-May-2016** LGA covered : **The Hills Shire**

Region : **Metro(Parra)** RPA : **The Hills Shire Council**

State Electorate : **CASTLE HILL** Section of the Act : **55 - Planning Proposal**

LEP Type : **Spot Rezoning**

Location Details

Street : **153 Boundary Road**

Suburb : **Box Hill** City : **Castle Hill** Postcode : **2765**

Land Parcel : **Part Lot 10 DP 593517**

DoP Planning Officer Contact Details

Contact Name : **Chris Browne**

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RPA Contact Details

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DoP Project Manager Contact Details

Contact Name : **Derryn John**

Contact Number : **0298601505**

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The Hills LEP 2012 –To rezone part of 153 Boundary Road, Box Hill from R3 Medium Density Residential to SP2 Infrastructure

Land Release Data

Growth Centre :

Release Area Name :

Regional / Sub
Regional Strategy :

Consistent with Strategy :

MDP Number :

Date of Release :

Area of Release (Ha)
:

Type of Release (eg
Residential /
Employment land) :

No. of Lots : 0

No. of Dwellings 0
(where relevant) :

Gross Floor Area : 0

No of Jobs Created : 0

The NSW Government Yes
Lobbyists Code of
Conduct has been
complied with :

If No, comment : To the best of the knowledge of the regional team, the Department's Code of Practice in relation to communications and meetings with Lobbyists has been complied with. Sydney Region West has not met with any lobbyist in relation to this proposal, nor has the Director been advised of any meetings between other departmental officers and lobbyists concerning this proposal.

Have there been
meetings or
communications with
registered lobbyists? :

No

If Yes, comment : The Department's Lobbyist Contact Register was checked on 21 April 2016, and there have been no records of contact with lobbyists in relation to this proposal.

Supporting notes

Internal Supporting
Notes :

The planning proposal is supported with conditions because it:

- satisfies State and subregional metropolitan strategy objectives, which encourage the delivery of infrastructure and new housing, by facilitating the delivery of new homes in a northwest greenfield area that is zoned residential;
- will assist in converting land zoned residential into homes on the ground by ensuring water and wastewater services are in place to service new development before development commences; and
- will supplement Sydney Water's provision of drinking water to the Box Hill North Precinct.

The intention of the planning proposal is to facilitate the development of a water recycling facility to provide a sewage treatment and recycled water facility for the Box Hill North Precinct. The facility includes two processing buildings, two 3.6 metre high recycled water storage tanks, two 5 metre high recycled water storage tanks, recycled water pump shed, access road and pump shed. The proposal seeks to rezone the subject site to SP2 Infrastructure so as to enable the delivery of the proposed facility via the Water Industry Competition Act 2006 (WIC Act), rather than via Part 4 of the Environmental Planning and Assessment Act 1979 (the EP&A Act). The WIC Act removes the requirement for development consent for the proposed facility under Part 4 of the EP&A Act.

The subject land is part lot of a larger site that forms part of the Box Hill North Precinct. The Precinct adjoins the Box Hill Precinct of the North West Growth Centre (Fig 1, Attachment A). The development application for the Box Hill North Masterplan was approved by the Sydney West Joint Regional Planning Panel on 9 February 2016. This is a concept approval which did not approve physical works. The majority of the Precinct is under single ownership by the principal developer, with the exception of six lots that are

The Hills LEP 2012 –To rezone part of 153 Boundary Road, Box Hill from R3 Medium Density Residential to SP2 Infrastructure

under separate ownership (Fig 2, Attachment A). Land subdivision and housing construction will occur through subsequent development applications.

Sydney Water was consulted on the Master Plan and advised that Sydney Water would provide for the drinking water and wastewater needs of the Precinct, but that Sydney Water's preferred strategy did not include a recycled water facility for the Precinct. The proposed infrastructure was not included in the Sydney Water Growth Plans or funding program, thereby requiring the delivery of any recycled water infrastructure to be developer funded. The intention is that Sydney Water will provide for the drinking water needs of the Box Hill North Precinct and that the proposed facility will provide for the sewage treatment and waste water demand.

The proposal involves the installation and operation of a pressured sewer network, including the treatment plant and reticulation system, and the installation and operation of a recycled water reticulation system delivering non-potable water for the intended residential development for such uses as toilet flushing, washing machines, gardens, and car washing. The proposed facility will provide equivalent treatments (ET) for 4,100 residential dwellings, approximately 100 ET for ancillary facilities, such as retail, school and community uses, and 800 ET for the lots not controlled by the principal developer.

External Supporting
Notes :

Council supports this planning proposal because it facilitates residential development of Box Hill North in a coordinated and efficient manner and, in doing so, achieves the site's highest and best use. The Box Hill North Precinct will provide a decentralised wastewater solution with capacity to service approximately 5,000 residential dwellings.

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? **Yes**

Comment :

The objective of the planning proposal is to amend The Hills LEP 2012 to rezone the subject site from R3 Medium Density Residential to SP2 Infrastructure to facilitate the development of a water recycling facility to provide sewerage treatment and recycled water facility for the Box Hill North Precinct. The system will supplement Sydney Water's provision of drinking water to the Precinct.

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment :

The planning proposal explains that an amendment to The Hills LEP 2012 will need to be made to:

- amend the Land Zoning Map (Sheet LZN_005) to rezone Part Lot 10 DP 593517 from R3 Medium Density Residential to SP2 Infrastructure (Sewerage System).

Draft maps have been provided that clearly show the part of the lot that is proposed to be rezoned. This is considered adequate.

Council intend to amend The Hills Development Control Plan 2012 and exhibit the draft amendments with the planning proposal.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA :

2.3 Heritage Conservation

3.1 Residential Zones

6.3 Site Specific Provisions

7.1 Implementation of A Plan for Growing Sydney

* May need the Director General's agreement

The Hills LEP 2012 –To rezone part of 153 Boundary Road, Box Hill from R3 Medium Density Residential to SP2 Infrastructure

Is the Director General's agreement required? **No**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

**SEPP No 33—Hazardous and Offensive Development
SEPP No 55—Remediation of Land
SEPP (Infrastructure) 2007
SREP No. 20 - Hawkesbury—Nepean River (No. 2 - 1997)**

e) List any other matters that need to be considered :

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain :

SEPP No 33. Hazardous and Offensive Industry

SEPP 33 ensures that only those proposals which are suitably located, and able to demonstrate that they can be built and operated with an adequate level of safety and pollution control, can proceed. The proposed development is considered to be a 'potentially offensive industry' as it is an industrial development which, if it were to operate without employing any measures to reduce or minimise its impact in the locality or on likely future development, would emit a polluting discharge in a manner which would have a significant adverse impact.

SEPP 33 applies if a proposal for an industrial development requires consent. As the proposal is seeking to rezone the subject site to SP2 so as to activate the WIC Act, which removes the requirement for development consent, SEPP 33 is not applicable.

Further, a Review of Environmental Factors (REF) was submitted to IPART as part of the proponent's application for a licence under the WIC Act. The REF concluded that the proposal does not present a significant risk of harm to the environment if mitigation measures are implemented appropriately.

The planning proposal is consistent with all other SEPPs.

Direction 2.3 Heritage Conservation

This Direction requires that planning proposals facilitate the conservation of items of heritage significance, particularly Items of Aboriginal heritage.

The proposal includes an Aboriginal Cultural Heritage Due Diligence Assessment Report (RPS Australia East, December 2014), which concluded that Aboriginal objects are likely to occur beneath the ground surface, that the subject area had been heavily modified by recent land uses and that the proposed works should proceed with caution. The planning proposal recommends that further consultation occur with the Deerubbin Local Aboriginal Land Council.

It is recommended that the Gateway determination include a condition that the Deerubbin Local Aboriginal Land Council be consulted.

Direction 3.1 Residential Zones

The Direction requires that planning proposals that relate to residential zoned land contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the Council, or other appropriate authority, have been made to service it), and not contain provisions which will reduce the permissible residential density of the land.

The proposal seeks to remove the residential development potential of the subject site, which currently equates to 15 dwellings, in order to enable the delivery of residential development at the remainder of the Box Hill North Precinct, which equates to approximately 5,000 dwellings.

The inconsistency with this Direction is considered to be minor and justified.

The Hills LEP 2012 –To rezone part of 153 Boundary Road, Box Hill from R3 Medium Density Residential to SP2 Infrastructure

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : The planning proposal includes maps showing the proposed:
- Land Zoning Map.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : Whilst Council has not recommended a consultation period, given the nature of the planning proposal, a community consultation period of 28 days is considered adequate.

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : The Hills LEP 2012 was published on 5 October 2012.

Assessment Criteria

Need for planning proposal : The planning proposal is a suitable and efficient way to enable provision of a 'water recycling facility' at the Box Hill North, to support the delivery of residential development of the Precinct.

Under the provisions of The Hills LEP 2012 'water recycling facilities' are a type of 'sewerage system', which is not a permissible use in the current R3 Medium Density Residential zone. If The Hills Shire LEP 2012 were amended to make 'sewerage system' a permissible use, the facility would then constitute designated development under the Environmental Planning and Assessment Regulation 2000 (the Regulations). As designated development, the facility would require development consent under Part 4 of the Environmental Planning and Assessment Act 1979 (the EP&A Act).

Rezoning the site to SP2 Infrastructure permits the use on site and construction of a water recycling facility without the need for development consent under Part 4 of the EP&A Act, as it can then be progressed under the WIC Act. S106 of the State Environmental Planning Policy (Infrastructure) 2007 (SEPP (Infrastructure)) enables sewage treatment plants or biosolids treatment facilities, water recycling facilities, and sewage reticulation systems to be developed by any person licensed under the WIC Act without consent on land in a prescribed zone. Clause 105 of SEPP (Infrastructure) lists SP2 Infrastructure zones as a prescribed zone. The proponent submitted an application for a licence to the Independent Pricing and Regulatory Tribunal (IPART) in September 2015 and the Minister for Lands and Water approved the licence on 18 May 2016.

The Hills LEP 2012 –To rezone part of 153 Boundary Road, Box Hill from R3 Medium Density Residential to SP2 Infrastructure

Consistency with strategic planning framework :

The planning proposal is consistent with A Plan for Growing Sydney.

• Direction 1.11: Deliver Infrastructure; and Action 1.11.2: Secure Sydney's Water Supplies. The proposal facilitates the supply of recycled water to a district that is zoned for residential development, reducing the volume of water that would otherwise need to be delivered by Sydney Water.

• Direction 2.1: Accelerate housing supply across Sydney; Action 2.1.1: Accelerate housing supply and local housing choices. The proposal facilitates the subdivision of land and the delivery of new housing in an area that is zoned for residential development.

The planning proposal is consistent with the West Central Subregion strategy in A Plan for Growing Sydney. It facilitates coordinated infrastructure delivery to support Council's vision for the Box Hill North precinct, a new centre suitable for housing growth.

The planning proposal is not the result of any Council studies, strategies or plans. However, it is consistent with the objectives of the WIC Act, which seeks to harness the innovation and investment potential of the private sector in the water and wastewater industries, and establish a licensing regime for private sector entrants to provide water industry infrastructure.

The proposal is also consistent with Council's 2015 - 2016 Draft Hills Shire Plan (currently on public exhibition); and Strategic Planning Direction (adopted by Council on 10 June 2008). The objective of Key Direction R1.3 of the Strategic Planning Direction is to facilitate the timely delivery of planned residential development; Strategy 1.3.1 is to facilitate the uptake of residential development opportunities; and Strategy 1.3.2 is to promote timely delivery of infrastructure to support residential development.

Environmental social economic impacts :

Environmental:

The planning proposal will not result in any impact on critical habitat or threatened species, populations or ecological communities or their habitats, given the site's agrarian character, consisting of cleared farmland to the south and a farm dam to the north.

The proposal states that the proposed facility will utilise a pressured sewerage network, linked to a water recycling facility. A pressured system is a closed system and therefore, compared with a traditional system, the facility will:

- not overflow during heavy rain or allow inflow of stormwater into the network;
- be six to eight times smaller than a traditional gravity fed system, with a smaller footprint and a more cost effective scheme;
- be less odorous;
- create a more secure, dual water supply; and
- be scalable to allow supply to increase with demand.

Under the WIC Act, IPART make recommendations to the Minister for Lands and Water as to whether or not a Network Operator and Retail Supplier Licence should be granted and any conditions to which a licence would be subject. The environmental impacts of the future development are required to be assessed under Part 5 of the EP&A Act as, under the definition of 'consent' in SEPP (Infrastructure), development that does not require consent under Part 4 of the EP&A Act will be subject to environmental assessment under Part 5. A Review of Environmental Factors (REF) was submitted to IPART as part of the proponent's application for a licence under the WIC Act, to provide IPART and the NSW Minister for Lands and Water (two environmental assessment reports and accompanying specialist studies) with information on matters affecting, or likely to affect, the environment by the construction and operation of the proposed facility and reticulation system.

The REF addressed potential impacts, during both construction and operation, from:

- removal of vegetation;
- potential for the identification of Aboriginal and non-Aboriginal heritage;
- potential for erosion;
- potential for increase in noise;
- air quality and odour;

- increase in traffic movements; and
- potential for the generation of waste during the construction phase.

The proposal seeks to facilitate a sewage treatment and recycled water facility adjacent to land zoned R3 Medium Density Residential development, which could result in adverse amenity impacts on the surrounding future residential development by the potential emission of offensive noise and/or odours.

The planning proposal includes an Acoustic Assessment (Wilkinson Murray, May 2015), which assessed the proposal against noise criteria set out in the Environmental Protection Authority's (EPA) Interim Construction Noise Guideline (EPA, 2009), Road Noise Policy (EPA, 2011) and NSW Industrial Noise Policy (EPA, 2000). The Assessment:

- concluded that predicted noise level from the facility would exceed the noise criteria at the nearest receivers; and
- found that with appropriate mitigation the predicted noise levels from the plant comply with all criteria on all occasions at the nearest existing and future residential receivers, if various recommended treatments are implemented that relate to the construction of the facility.

The approved licence has been granted subject to a satisfactory assessment of the REF. However, as the Acoustic Assessment in the REF makes specific recommendations, it is recommended that the Gateway determination include a condition that the planning proposal be amended prior to exhibition to recognise any recommendations made in the REF (for example, recommendations made in the Acoustic Assessment by Wilkinson Murray).

The planning proposal also includes an Odour Assessment (Pacific Environment Limited, May 2015), which assessed the proposal against odour criteria set out in the EPA's Approved Methods and Guidance for the Modelling and Assessment of Air Pollutants in NSW (EPA, 2005). The Assessment concluded that predicted odour concentrations from the proposed facility would comply with the required criteria. This is considered to be acceptable.

Social:

The proposed facility is intended to facilitate development of the Precinct (subdivision and built form) according to the approved master plan, via a series of development applications, to create a highly urbanised environment. The master plan identifies a road along the riparian corridor adjoining the north and west of the subject site. It does not identify a water recycling facility at the subject site. This could potentially lead to land use conflicts between the proposed facility and future residential development to the east and south.

The planning proposal has recommended that, in order to manage the perception of reduced amenity and to facilitate the efficient movement of traffic around the proposed facility, an alternative lot layout to that approved under the master plan would be required. This would include a road along the eastern boundary of the subject site, with a road reserve width of approximately 15 metres (Fig 3, Attachment A).

In order to ensure that a road is provided along the eastern boundary of the site, Council intend to amend The Hills Development Control Plan 2012 (DCP), Part D Section 17 Box Hill North, to include a new section 3.8:

3.8 Residential Development Adjoining Water Recycling Facilities Objectives

(i) To ensure that the amenity of residents, adjoining water recycling facilities, is appropriately maintained.

Controls

(a) Residential lots shall be at least 15 metres from the boundary of any sewage treatment facility or water recycling facility.

This will require a distance of at least 15 metres from the boundary of the site to any

The Hills LEP 2012 –To rezone part of 153 Boundary Road, Box Hill from R3 Medium Density Residential to SP2 Infrastructure

residential boundary within the vicinity of the site and ensure that as the land around the site is developed, appropriate separation will be incorporated within the subdivision layout. Council intend to exhibit the proposed amended DCP with the planning proposal. It is recommended that the Gateway determination include a condition that the draft DCP be exhibited with the planning proposal.

Economic:

As a majority of the Precinct is under single ownership by the principal developer, with six lots under separate ownership (Tab B), the options available for servicing those fragmented lots are limited, as there would be a significant cost differential between sewer services provided by the proposed facility or by Sydney Water. If the principal developer's land is serviced by the proposed facility, it is unlikely that the landowners of the six remaining lots would elect to seek sewer services through Sydney Water, as the cost of providing the infrastructure would be prohibitive. However, the proposed facility provides allowance for this contingency, having a capacity to service 800 equivalent treatments for the lots not controlled by the principal developer. This is considered adequate.

Assessment Process

Proposal type :	Routine	Community Consultation Period :	28 Days
Timeframe to make LEP :	9 months	Delegation :	RPA
Public Authority Consultation - 56(2)(d) :	Integral Energy Sydney Water Other		

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

Other - provide details below

If Other, provide reasons :

It is recommended that the Gateway determination include a condition that the planning proposal be amended prior to exhibition to include the complete Review of Environmental Factors.

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Covering letter.pdf	Proposal Covering Letter	Yes
1. Planning Proposal.pdf	Proposal	Yes

The Hills LEP 2012 –To rezone part of 153 Boundary Road, Box Hill from R3 Medium Density Residential to SP2 Infrastructure

2. Attachment C - Council Report and Minute - 15 March 2016.pdf	Proposal	Yes
3. Attachment D - Proponent's Application.pdf	Proposal	Yes
4. Attachment E - Heritage Due Diligence Assessment.pdf	Proposal	Yes
5. Attachment F - Acoustic Assessment.pdf	Study	Yes
6. Attachment G - Odour Assessment.pdf	Study	Yes
7. Attachment H - Concept Stormwater Management Plan.pdf	Proposal	Yes
8. Attachment I - Concept Plans.pdf	Proposal	Yes
Attachment 1 - Information Checklist.pdf	Proposal	No
Attachment 4 - Evaluation Criteria for the Delegation of Plan Making Functions.pdf	Proposal	No

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions: **2.3 Heritage Conservation**
3.1 Residential Zones
6.3 Site Specific Provisions
7.1 Implementation of A Plan for Growing Sydney

Additional Information : **It is recommended that the planning proposal proceed subject to the following conditions:**

1. Prior to undertaking public exhibition, the planning proposal is to be amended to:
 - include the complete Review of Environmental Factors (the two environmental assessment reports and accompanying specialist studies submitted to IPART with the application for a network operator's licence);
 - recognise any recommendations made in the Review of Environmental Factors (for example, recommendations made in the Acoustic Assessment by Wilkinson Murray); and
 - the draft Development Control Plan (new section 3.8) is to be exhibited with the planning proposal.
2. The planning proposal is to be publicly exhibited for a minimum of 28 days.
3. Consultation is required with the following public authorities:
 - Sydney Water
 - Endeavour Energy
 - Deerubbin Local Aboriginal Land Council
4. Zoning maps clearly identifying the subject site and showing both the current and proposed situation are to be exhibited with the planning proposal. Maps are to be consistent with the Department's Standard Technical Requirements for Spatial Datasets and Maps.
5. A public hearing is not required to be held into the matter.
6. The planning proposal be completed within 9 months of the Gateway Determination.

Supporting Reasons : **The planning proposal is supported with conditions because it:**

- satisfies State and subregional metropolitan strategy objectives, which encourage the delivery of infrastructure and new housing, by facilitating the delivery of new homes; and
- will assist in converting land zoned residential into homes on the ground by ensuring water and wastewater services are in place to service future development; and
- will supplement Sydney Water's provision of drinking water to the Precinct.

**The Hills LEP 2012 –To rezone part of 153 Boundary Road, Box Hill from R3 Medium
Density Residential to SP2 Infrastructure**

Signature:



Printed Name:

MARTIN COOPER

Date:

3/06/2016

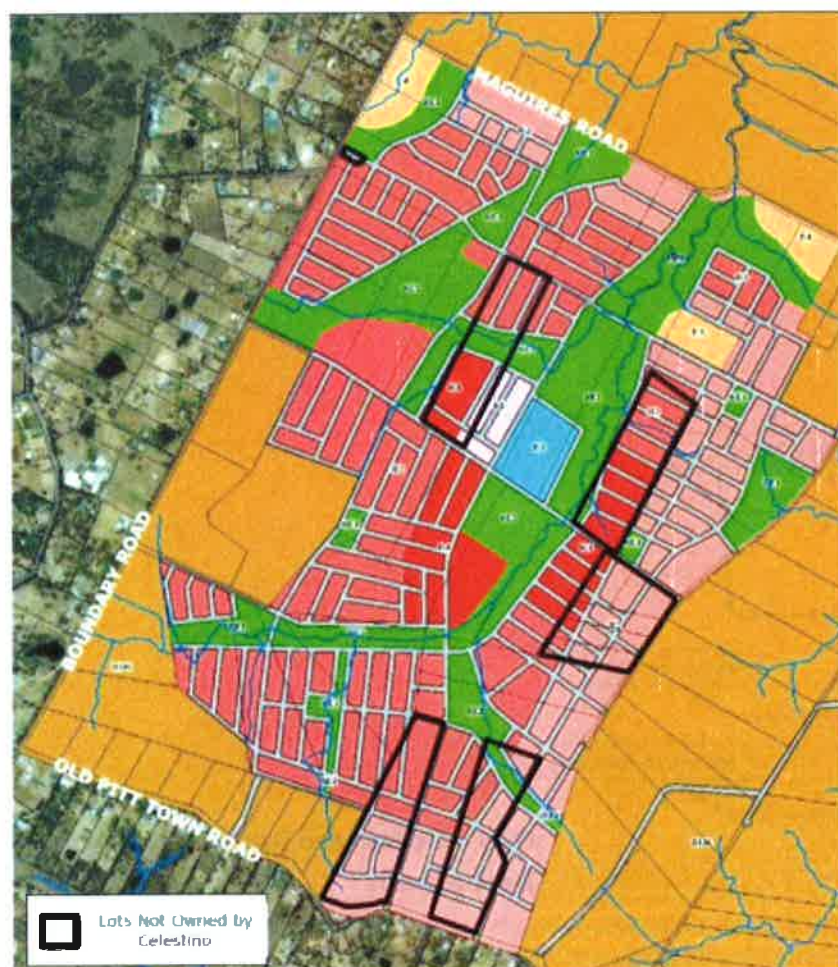


Fig 2 - Lots controlled by the Principal developer

Figure 13
Lots not controlled by the Principal Developer



Fig 3 - Preliminary road layout

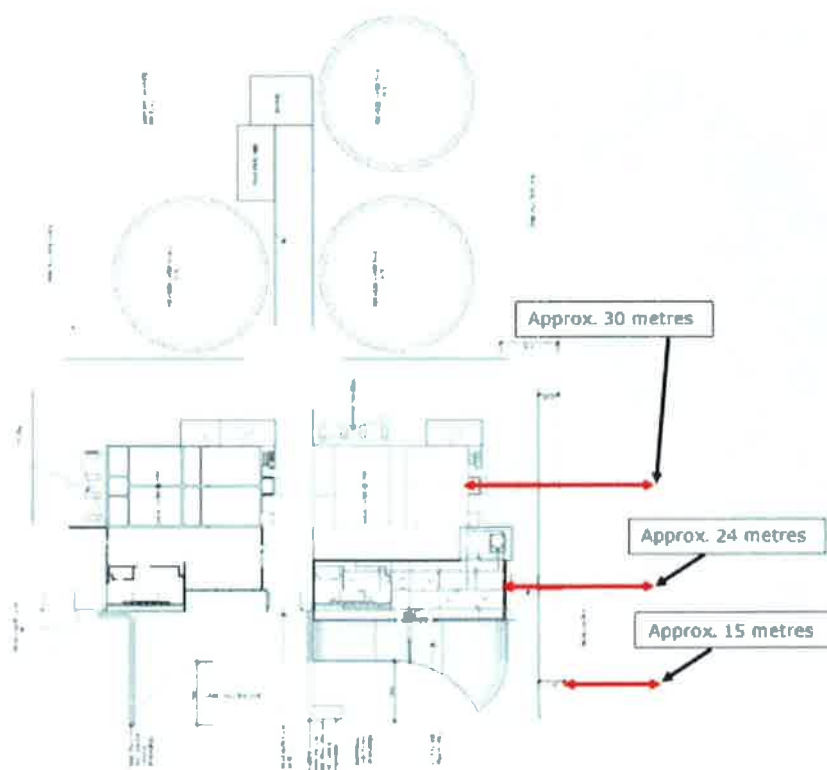


Fig 4 - Site Plan and Distances to Residential Development