

REPORT

TO: Chief Executive

FOR: Council Meeting – 23 September 2020

FROM: Planning Manager – Ben Rhodes

DATE: 11 September 2020

SUBJECT: **PLAN CHANGE 64 ROLLESTON – DECISION ON HOW TO CONSIDER THE PRIVATE PLAN CHANGE REQUEST RECEIVED FROM HUGHES DEVELOPMENTS LIMITED**

RECOMMENDATION

‘That, in respect to Plan Change 64 to the Operative Selwyn District Plan lodged by Hughes Development Limited, Council resolves to accept the request for notification pursuant to Clause 25 (2)(b) of the Resource Management Act 1991.’

1. PURPOSE

This report assesses the Hughes Development Limited (the applicants) plan change request (PC 64) against the relevant Resource Management Act 1991 (RMA) provisions.

This assessment has been provided to assist Council to make a decision on how to process the request. This is a mandatory decision that must occur within 30 working days of receiving the request and any subsequent additional information necessary to enable a reasonable understanding of what is being proposed.

2. SIGNIFICANCE ASSESSMENT/COMPLIANCE STATEMENT

This report does not trigger the Council’s Significance Policy. This is a procedural requirement of the RMA.

3. HISTORY/BACKGROUND

The PC 64 request was formally received by Council on 18 December 2019. PC 64 relates to land to the southwest of Rolleston and relates to two separate areas that flank the Faringdon South Special Housing Area as indicated on the aerial photograph in Figure 1 overleaf.

The request seeks to rezone approximately 82 hectares of land from Rural Inner Plains to a Living Z zone.



Figure 1 - Aerial photograph of site (Source: SDC Map Viewer)

The application was original lodged for consideration as a 'placeholder' while the proposed change to the Regional Policy Statement (RPS2019) was undertaken in response to the actions of the 'Our Space 2018-248 - Greater Christchurch Settlement Pattern Update - Whakahāngai O Te Hōrapa Nohoanga' document (Our Space).

The RPS2019 change is seeking to create a policy framework that will allow development to occur in areas adjoining Rolleston but outside identified 'greenfield' priority areas in the Regional Policy Statement (RPS). These development areas are identified in Our Space and referred to as Future Urban Development Areas (see Figure 2 overleaf).

The RPS2019 change would provide for development to occur when there was a capacity short fall identified through a Housing Capacity Assessment undertaken under the National Policy Statement on Urban Development Capacity (NPS-UDC). The applicant had lodged PC 64 to ensure that if, or when, there was an identified capacity shortfall they would be well placed to respond.

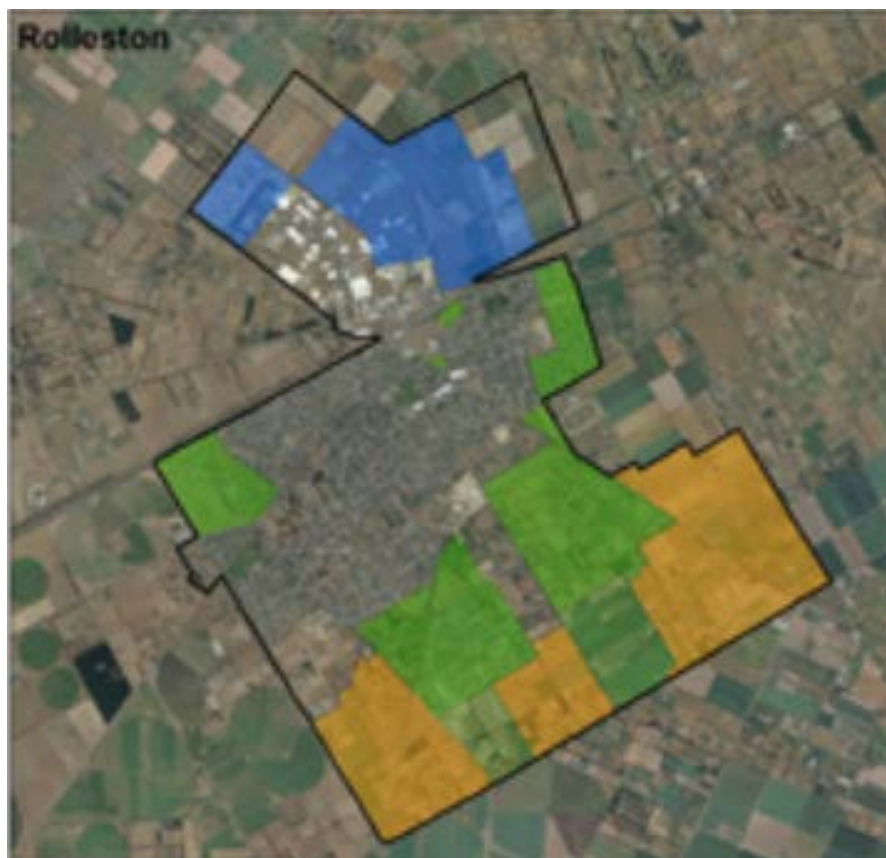


Figure 2 – Future Urban Development Areas identified in Orange (Source: Our Space)

Initially, for PC 64 to progress, the RPS2019 change would have to be completed and a capacity short fall identified. However, the government recently released the National Policy Statement on Urban Development (NPS-UD), an update on the NPS-UDC. This has provided a policy framework to allow developments providing 'significant capacity' to be accepted even when that development conflicts with the existing Regional Policy Statement direction. It is under the direction of the NPS-UD that the applicants have decided to proceed with PC 64. The direction of the NPS-UD is discussed further below in Sections 5 and 9.

Since lodgement, PC 64 has been reviewed in terms of the adequacy of the information provided. A Request for Further Information (RFI) was issued on 12 February 2020, with the applicants response received in full on 28 August 2020. The PC 64 request, along with the response to the RFI, has been peer reviewed.

Several amendments have been made to PC 64 in response to the RFI and in relation to giving effect to the NPS-UD. As part of the RFI response, the applicant has also included additional land that has been considered in the relevant technical reports.

PC 64 would largely adopt the provisions in the Operative District Plan but would seek to incorporate an Outline Development Plan (ODP) for the area, to provide guidance on lot size, reserves and the proposed location of key internal roads and connections. PC 64 also includes locations for neighbourhood centres in both locations.

Attachment 1 contains the proposed ODPs for PC 64. Access to the full request has been forwarded to Councillors and made available to members of the public on Council's website.

All the information necessary to understand the request has now been provided and that a decision can be made on how to process PC 64.

4. PROPOSAL

Any person may request a change to a District Plan and Council must consider that request. Under Clause 25 of the First Schedule to the RMA, Council must either reject, accept or adopt the request, or process it as a resource consent.

An assessment of each of these options is considered in the following section of this report.

5. OPTIONS

Option 1 – Reject the request

Under Clause 25(4), the grounds for rejecting PC 64 outright are that:

- a. That the request is frivolous or vexatious;

The content of PC 64 is not considered to be frivolous or vexatious. The request would have to be serving no serious purpose or value to be rejected on these grounds, which is not the case given the comprehensive nature of this plan change request.

- b. The substance of the request has been considered by the Council or the Environment Court in the last two years;

The substance of the request has not been considered within the last two years, either by Council or by the Environment Court.

- c. The request does not accord with sound resource management practice;

To fully determine if the request is of sound resource management practice, the merits of the application need to be assessed. PC 64 appears to accord with sound resource management practice as the area subject to PC 64 has been identified for urban development in the Rolleston Structure Plan and Our Space through the Future Urban Development Areas.

A key issue or ‘test’ for PC 64 to pass is the need for any district plan change to give effect to the higher order Regional Policy Statement (RPS). A coarse assessment of PC 64 shows that, for the most part, it can give effect to the RPS.

PC 64 does fail Policy 6.3.1 in that it is promoting an urban form beyond that identified in Map A of Chapter 6. This would, in normal circumstances, justify rejecting the plan change in whole.

However, with the introduction of the NPS-UD this consideration is not so straightforward. As outlined in Section 9 of this report the NPS-UD conflicts with RPS as it provides for ‘unanticipated’ or ‘un-sequenced’ development. In short, this provides an avenue for developments to be considered for processing even where there is a conflict with the RPS.

Given this conflict between the NPS-UD and the existing RPS Council received legal advice on how PC 64 could be considered in this circumstance. The advice outlined that Council need not rely on the RPS to reject a plan change under Clause 25 simply because the site of the plan change is outside of the 'greenfield' development areas identified on Map A of the RPS.

The NPS-UD policy of most significance is Policy 8. PC 64 claims to be in accordance with the NPS-UD Policy 8 and so should be accepted. As outlined in Section 9 below, it is agreed that the application is providing for significant capacity in line with Policy 8.

- d. The request would make the District Plan inconsistent with Part 5 of the RMA;

PC 64 is also broadly consistent with the provisions of Part 5 (Standards, Policy Statements and Plans) of the Resource Management Act 1991.

- e. The District Plan has been operative for less than two years.

The District Plan was made fully operative in May 2016, therefore the two year moratorium has lapsed.

Given the above, it is considered that with the direction of the NPS-UD and in the absence of any criteria on how to consider 'unanticipated' or 'un-sequenced' development in the RPS, that there are no sound reasons to reject PC 64 under the current set of circumstances.

Option 2: Adopt the Plan Change request

Under Clause 25(2)(a), Council may adopt the request, in whole or in part, as its own.

Adopting PC 64 means that the Council effectively takes over the plan change request so that it becomes a council-initiated plan change rather than a private plan change. Adopting PC 64 would imply that Council generally supports the proposal.

Council should only consider adoption if the change has a strategic benefit, a substantial community benefit, a cost element which might require negotiations to occur between the council and the applicant or involves a complex issue or a number of landowners that would benefit from Council coordinating the plan change process.

PC 64 proposes community benefit through positively impacting on the wider community economically (i.e. providing increased population, providing construction, and providing employment opportunities).

PC 64 may involve a cost to Council if the services (roading, water, sewer and stormwater) are ever vested in Council. This is likely to occur, in line with similar plan changes, and Council would be responsible for the operation and ongoing maintenance of the systems. Overall the cost to Council from any infrastructure vested would be minimal and in line with similar private plan change proposals.

PC 64 is not particularly complex and only involves one landowner.

The area subject to PC 64 is identified in Our Space as a Future Urban Development Area and in the Rolleston Structure Plan as a growth location. Therefore, it could be argued that PC 64 be a strategic benefit to Council. However, although the location of PC 64 is identified in relevant growth strategies there are a number of other locations identified in these documents as strategic growth areas that have also yet to develop. Without full consideration of other strategic locations in terms of timing and cost on the community and infrastructure it would not be appropriate for Council to adopt PC 64 and the costs associated with it.

There also remains a number of merit-based matters to consider at the substantive hearing stage, with the potential that other matters may be raised by interested parties through the submissions process. Adopting the request would result in Council having to fund the remainder of the process, thereby relinquishing the ability to recover costs from the applicant.

It is not recommended that the Council adopt the request for the above reasons.

Option 3: Accept the Plan Change

Accepting PC 64, under Clause 25(2)(b), would enable the plan change request to be publicly notified and for the request to be subject to the participatory processes provided under the RMA. This, in turn, would provide Council with a more informed understanding of the community's stance on this specific request.

Council retains the right to lodge submissions or further submissions to ensure there is sufficient scope to support amendments that may address any concerns with PC 64. No direct costs would be incurred by the Council or rate payers in accepting the request, although the preparation of any Council submission could not be on-charged.

As mentioned, in Option 1 above, PC 64 claims to be in accordance with the NPS-UD and can be accepted under Clause 25 even though its location is outside of the 'greenfield' development areas identified on Map A of the RPS. Given the assessment in the application, and at Section 9 below, the plan change accords with the NPS-UD and can and should be accepted for processing.

Accepting the plan change request is the recommended option under the current set of circumstances.

Option 4: Convert to a Resource Consent Application

The final option open to the Council is to process PC 64 as a resource consent.

While the request would largely rely on the existing provisions in the District Plan, the request also seeks to include an ODP for the area, to guide the consideration of future subdivision and land use applications. In the absence of content of this nature, any resource consent for subdivision or land use would be assessed against the generic provisions of the Operative District Plan, which do not provide the same level of focus or control.

Processing the request as a resource consent is not therefore considered appropriate.

Recommended Option:

Option 3, to accept PC 64 for further consideration, is recommended.

The consideration of the request at this stage is limited to a coarse scale assessment of the contents of PC 64 to ensure that the content and implications of the proposal can be generally understood and that the request is not in direct conflict with other planning processes and statutory instruments.

There are not considered to be sufficient grounds to reject the plan change request when assessed against the statutory powers available to Council under the RMA. Therefore the most appropriate course of action is to accept PC 64 for notification.

As the RMA affords the opportunity for the applicant to request changes to the District Plan, the recommended option to accept PC 64 for notification will enable the request to be publicly notified, submissions and further submissions received and for the substantive merits of the proposal to be considered at a public hearing.

Accepting the private plan change request for notification does not signal that Council necessarily supports the proposal. The opportunity remains for Council to recommend that the request be supported, amended or opposed at a later stage. The benefit in accepting the request is that public input can be received to inform the overall assessment of the merits of the proposal.

6. VIEWS OF THOSE AFFECTED / CONSULTATION

(a) Views of those affected

If the recommendation to accept the request for notification is adopted then the content of PC 64 will be subject to the statutory consultative provisions of the RMA where the opportunity for public involvement is mandatory. Council will be required to publicly notify PC 64 and serve notice on all directly affected parties and organisations who then have the opportunity to participate in the process.

(b) Consultation

The request identifies that the applicant has consulted with Selwyn District Council in preparing PC 64.

As outlined above, the recommendation to accept PC 64 will advance the request to the point where members of the public and interested parties can participate in the process through submissions, further submissions and the hearing.

(c) Iwi consultation

The applicants have carried out consultation with Te Ngāi Tūāhuriri Rūnanga and Te Taumutu Rūnanga through Mahaanui Kurataiao Ltd (MKT). No immediate concerns were raised through this process but it was requested the consideration was given to the following

- Any development should be undertaken in accordance with the Ngāi Tahu guidelines on subdivision development (outlined in the Papatūānuku chapter of the Mahaanui Iwi Management Plan;
- An Accidental Discovery Protocol for all earthworks, which is consistent with the Mahtani Iwi Management Plan, should be followed;

The outcome of this consultation is within the further information received on the Selwyn District Council website. In addition to this consultation further comment from Te Ngāi Tūāhuriri Rūnanga and Te Taumutu Rūnanga will be sought through the process including, submissions, further submissions and the hearing.

(d) Climate Change considerations

PC 64 has provided consideration of climate change, primarily through encouraging reduced greenhouse gas emissions by reducing the need for vehicle travel at local level.

The key methods addressing this are:

- Consolidated Urban Form. – PC 64 sits within Rolleston's infrastructure boundary and forms part of the Rolleston Structure Plan.
- Close proximity to Community Infrastructure – This includes Foster Park, Selwyn Aquatic Centre, two primary schools and a probable new secondary school. PC 64 also proposes two neighbourhood centres to provide for the convenience needs of local residents.
- Conducive to Mode Shift – PC 64 provides key transport linkages and connections to existing key transport routes and at 12 households per hectare is conducive to supporting future public transport. PC 64 also provides an extensive pedestrian and cycle network, with internal and external linkages

On a larger scale PC 64 supports reduced greenhouse gas emissions through supporting the growing employment base within Rolleston (eg Izone and Iport, Rolleston Town Centre). The provision of greater local housing options provides the ability of people to live near employment opportunities and increase Selwyn's self-sufficiency.

7. FUNDING IMPLICATIONS

If PC 64 is accepted for processing then the applicant is responsible for the costs associated with processing a private plan change request, with Council costs being recoverable. Council would be responsible for the cost of defending its decision should it be appealed to the Environment Court.

8. HAS THE INPUT/IMPACT FROM/ON OTHER DEPARTMENTS BEEN CONSIDERED?

The contents of the request, including relevant technical reports, were circulated to Council's Asset Managers for review. Comments received from the Asset Managers formed the basis of the RFI. The current version of PC 64 has been amended to reflect this input.

9. NATIONAL POLICY STATEMENT ON URBAN DEVELOPMENT

The NPS-UD was gazetted on the 23rd of July 2020 and came into effect on the 20th August 2020. This replaces the NPS-UDC and largely covers the same elements but provides some more flexibility, clarity, and integration with other council processes (e.g. LTP). The NPS-UD still requires capacity assessments to be undertaken and the development of a Future Development Strategy (eg Our Space) in a co-ordinated way.

As discussed earlier in this report the NPS-UD provides policy direction, in particular Policy 8, that supports the assessment of a significant development project even if it is 'unanticipated' or 'out of sequence' (un-planned). Policy 8 provides an avenue for urban plan change proposals to be considered even if located outside of Map A ('urban limits') identified in Chapter 6 of RPS.

The NPS-UD requires that Regional Councils identify criteria in the RPS to determine what is significant capacity that any given proposal would have to be considered against.

This criteria is being developed by Greater Christchurch Partnership local authorities but it is only at very early stages. In the absence of this criteria plan change proponents can apply, and rely, on the NPS-UD policy direction to have plan changes accepted even where they do not comply with Chapter 6 of the RPS.

The NPS-UD direction does not mean that every development providing capacity is appropriate and sufficient to meet the direction of the NPS-UD. In line with Policy 8 of the NPS-UD plan change proponents must demonstrate how a proposed development will add significantly to development capacity and meet the direction of the NPS. If this cannot be satisfactorily shown then the proposal can still be rejected.

PC 64, however is considered to be providing significant capacity for the following reasons:

- It contributes to well-functioning urban environment as it adjoins existing urban areas and is located inside the Rolleston infrastructure boundary and the Future Urban Development Areas identified in the Rolleston Structure Plan and Our Space respectively.
- It is well connected along existing transport routes, including Springston Rolleston Road, which is an arterial route. PC 64 also provides key transport linkages between the existing Housing Accord developments. It also provides for the continuation of the CRETS road through Faringdon (Shillingford Boulevard).
- The recent update to the Selwyn Capacity for Growth Model in June 2020 has identified a need for additional housing capacity of around 1400 households to meet medium term (10 years) supply for the Greater Christchurch Area of Selwyn. PC 64 provides for over 60% of this identified short fall.

- PC 64 provides for an additional 930 dwellings, this approximately represents:
 - o 15% more dwellings than currently exist in Rolleston.
 - o 10% more dwellings than currently exist and could be provided in existing zoned land in Rolleston
 - o 30% increase in capacity beyond what could be provided in existing zoned land in Rolleston.
- Provides for two neighbourhood centres that support the proposed residential development in conjunction with the existing centre network.

It should be noted that while the NPS-UD has enabled increased ability for private plan change requests to be accepted, the NPS-UD is not intended to override or replace the consideration of environmental effects that occurs through a plan change process.

PC 64 will need to be considered on its merits, with particular regard to the responsive planning policies in the NPS-UD. PC 64 must still meet RMA section 32 and Part 2 tests and be subject to a substantive assessment of these through the Schedule 1 process.

NPS-UD does not guarantee a plan change, even if demonstrating provision for 'significant capacity', will be approved. It has merely 'opened the door' for plan changes that may otherwise have been rejected at this Clause 25 stage.



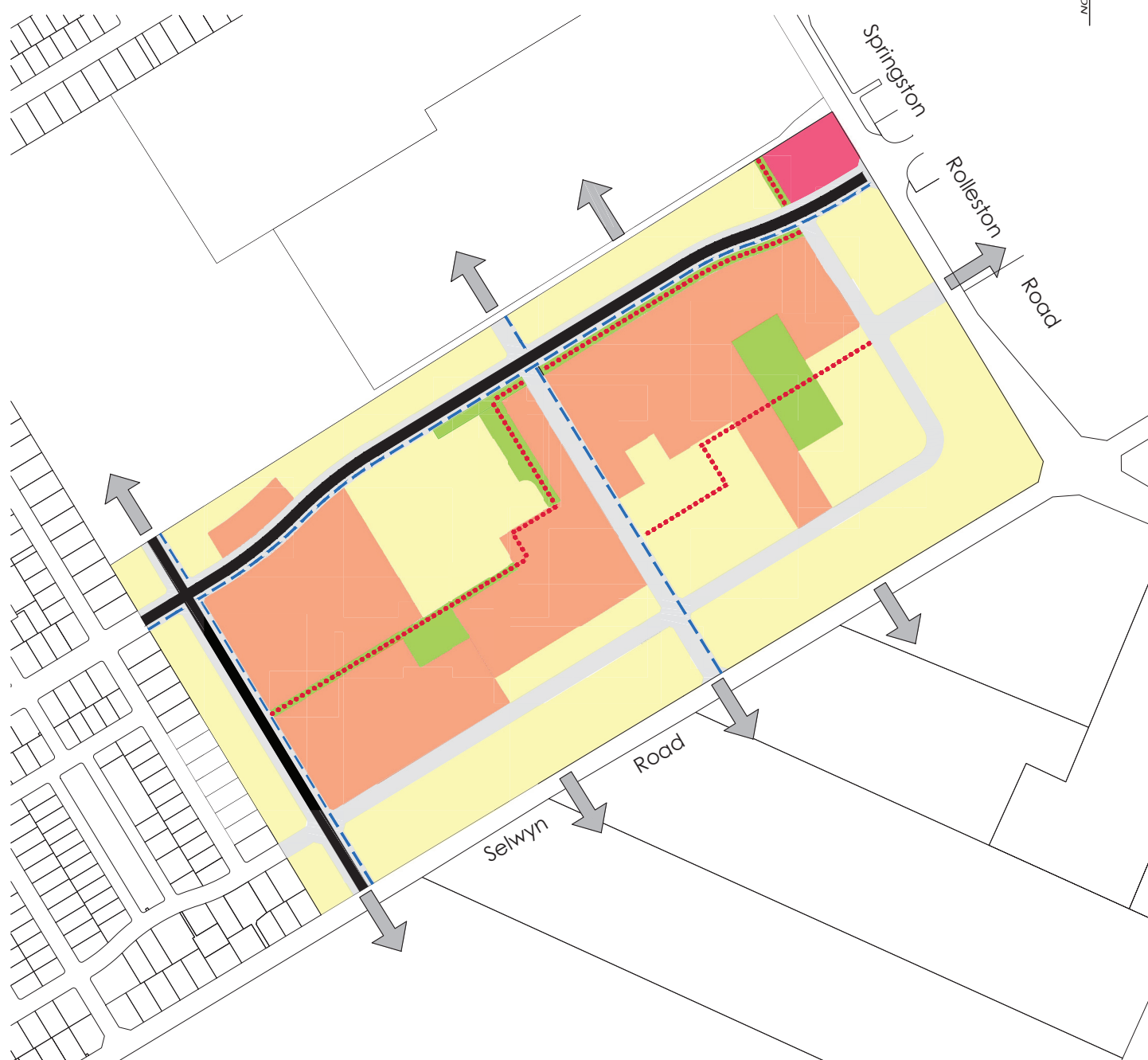
Ben Rhodes
Planning Manager

Endorsed For Agenda




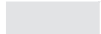

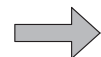





Tim Harris
GROUP MANAGER ENVIRONMENTAL AND REGULATORY SERVICES

ATTACHMENT 1: OUTLINE DEVELOPMENT PLANS

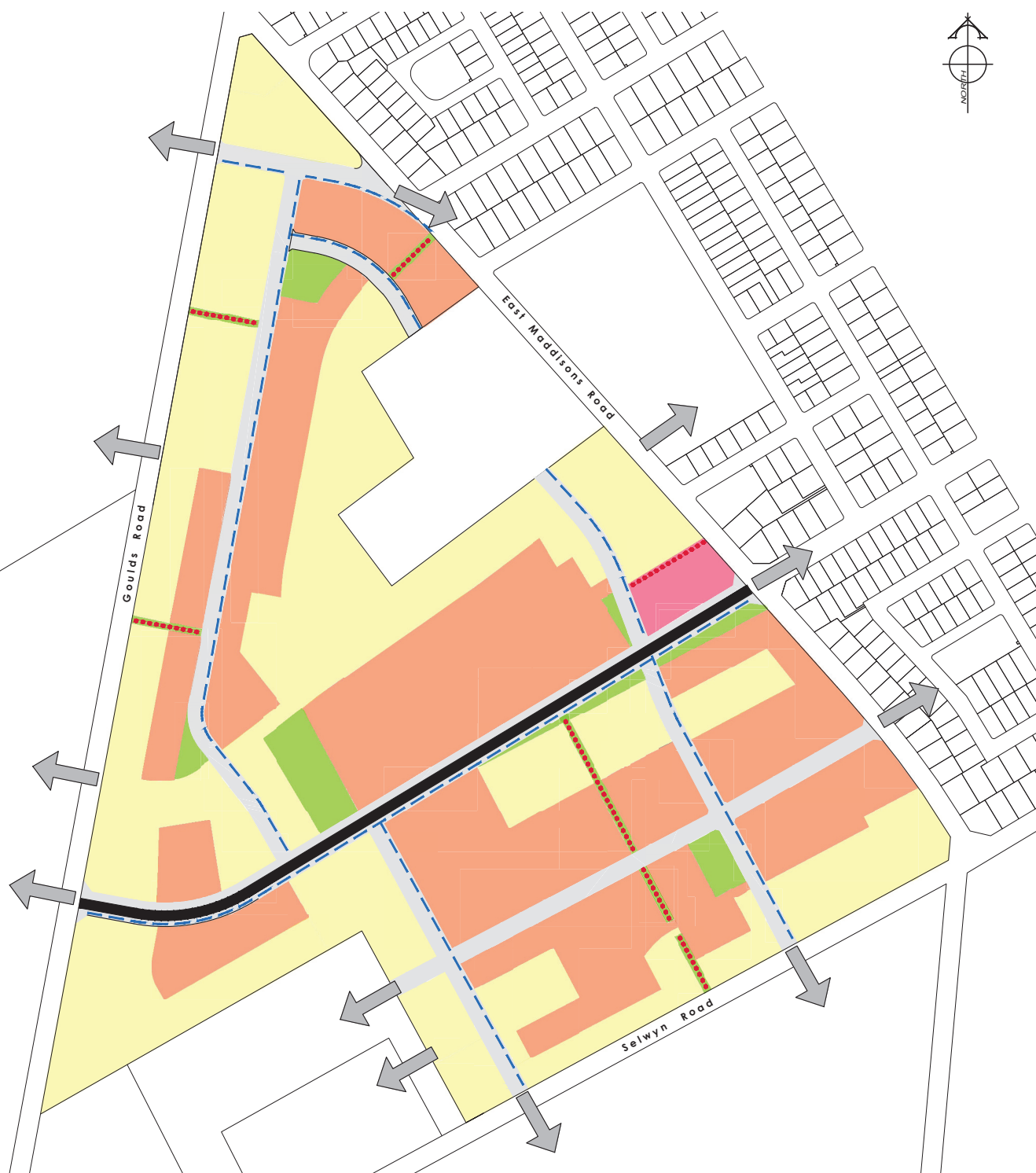


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






	Medium Density (Small Lot)		Primary Road
	Low Density		Secondary Road
	Neighbourhood Centre		Possible Future Road Connection
	Reserves		Shared Pedestrian / Cycle Lane (off road)
			Shared Pedestrian / Cycle Lane (on road)

ODP - Faringdon South East

Not to Scale



LEGEND:

	Medium Density		Primary Road
	Low Density		Secondary Road
	Neighbourhood Centre		Possible Future Road Connection
	Reserves		Shared Pedestrian / Cycle Lane (off road)
			Shared Pedestrian / Cycle Lane (on road)

ODP - Faringdon South West

Not to Scale