

REPORT

TO: Chief Executive Officer

FOR: Council Meeting – 24 March 2021

FROM: Strategy and Policy Planner, Jocelyn Lewes

DATE: 10 March 2021

SUBJECT: **PLAN CHANGE 69 LINCOLN – DECISION ON HOW TO CONSIDER THE PRIVATE PLAN CHANGE REQUEST RECEIVED FROM ROLLESTON INDUSTRIAL DEVELOPMENTS LIMITED**

RECOMMENDATION

‘That in respect to Plan Change 69 to the Selwyn District Plan lodged by Rolleston Industrial 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 Rolleston Industrial Development Limited (the proponent) plan change request (PC 69) 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

PC 69 was formally received by Council on 4 December 2020.

The request relates to land that is located generally on the south side of the Lincoln township, to the east and west of Springs Road, and to the north of Collins Road, as shown in Figure 1 below. The site has an area of approximately 190 hectares and is primarily comprised of the 178 hectare property known as 1491 Springs Road, Lincoln, in the ownership. The balance of the site comprises of four parcels in separate ownership, both from each other and from 1491 Springs Road.

To the north of the site is the existing Lincoln township, including the recently constructed and progressively developing Te Whāriki and Verdecos residential subdivisions, on the east and west sides of Springs Road respectively. To the south, east and west is Rural (Outer Plains) Zone land used predominantly for rural residential activity, grazing or similar rural activity. The western and eastern boundaries of the site are an ephemeral waterway termed Western Boundary Drain and the LII River respectively.

The site has frontage and access to/from Springs Road and Collins Road to the south. Springs Road is an arterial road providing access to Ellesmere Junction Road, Gerald Street and the Lincoln main street, and connections through to Christchurch city further north. The site also has access to Moirs Lane, an unformed legal (paper) road to the east, which connects to Ellesmere Road.

The four smaller properties included in the plan change range in size from 0.6 ha to 6.1 ha and feature an assortment of dwellings, accessory buildings and rural activity. 1491 Springs Road contains an operational dairy farm, with an existing cluster of buildings located east of Springs Road, near the northern boundary of the site. This property includes the Springs' O'Callaghan farmhouse ('Chudleigh') which was constructed in circa. 1877. While this is not presently listed as a heritage item in the Operative District Plan or by Heritage New Zealand, the Proposed District Plan does include both the farmhouse building and the adjacent heritage setting and the relevant heritage provisions have instant legal effect. As such, the proponent has made provision has been made for this feature within the plan change proposal.

Another dwelling is also located on this property between this cluster and Springs Road.

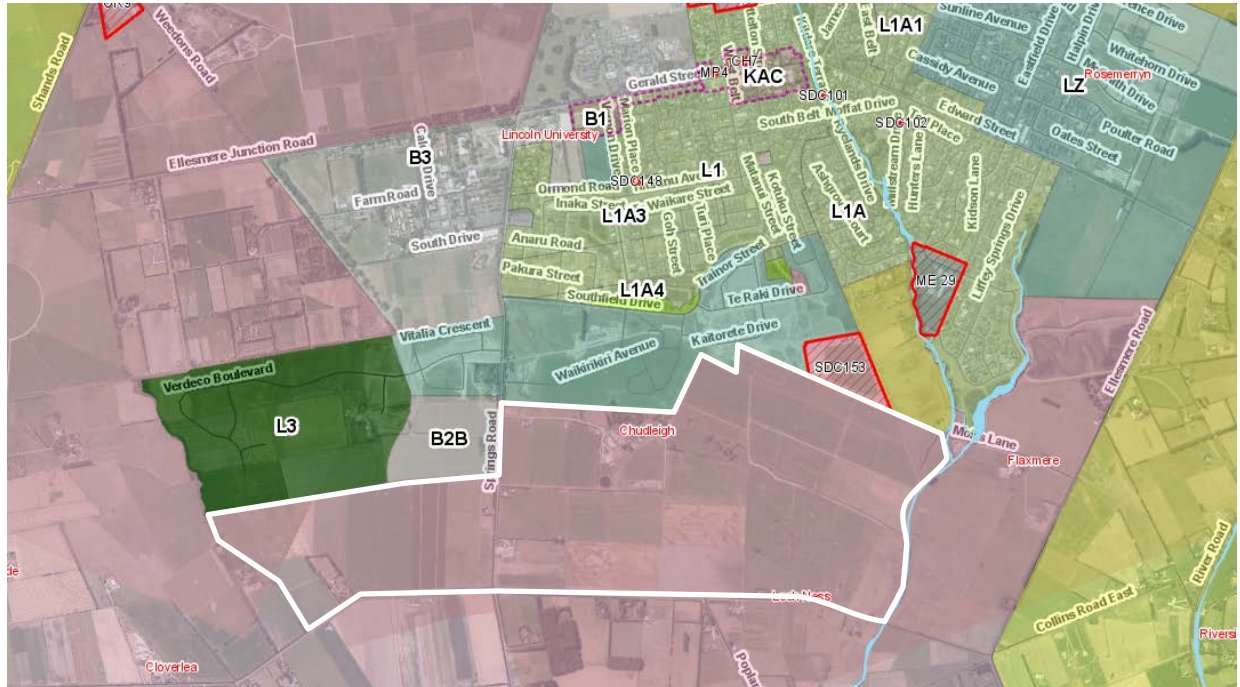


Figure 1: Aerial photograph indicating location of site (outlined in white) and current zoning (Source: Selwyn District Council Maps)

The PC 69 request seeks to rezone the site from Rural (Outer Plains) to Living Z, Living X (Lincoln) and a small area of Business 1 zoning.

The Living Z zone is proposed for the majority of the site and provides for a variety of lot sizes, including Low Density (average lot size of 600m² and a minimum individual lot size of 500m²), Medium Density (Small-lot) with a maximum average lot size of 500m² and a minimum lot size of 400m², and Medium Density (Comprehensive) with a maximum average lot size of 350m², with no minimum lot size. The Living X zone in Lincoln provides for larger lot sizes, with an average minimum lot size of 2,000m². This zoning is primarily proposed at the eastern end of the site, accounting for stormwater management requirements in this location. A Business 1 zoned local centre is proposed to provide for a small commercial area or neighbourhood shops at the intersection of Springs Road and the proposed primary road.

PC 69 would largely adopt the provisions in the operative District Plan applicable to the Living Z, Living X and Business 1 zones, while also incorporating an Outline Development Plan (ODP) for the site. The ODP graphically indicates the areas of the Living Z, Living X and Business 1 zoning, the areas subject to setback restrictions to address potential reverse sensitivity effects; the main road connections and other shared links; and proposed reserve areas. This plan is accompanied by text that further elaborates on the desired land uses, access and transport connections and open space, recreation, and community facilities.

The zoning proposed by the request is designed to achieve an overall minimum net density of 12 households per hectare, noting both the lower densities within the Living X zoned area and that the Living Z zoning allows for higher density (15hh/Ha) residential areas proposed adjacent to key open spaces and green corridors. Based on these densities and the developable area within the site, the proposed plan change is envisaged to provide for the establishment of up to 2,000 new households.

The site is bound by the Western Boundary Drain and the LII River and there are significant natural surface waterbodies and springs across the site, particularly the eastern portion. The request recognised these as both being items of significant cultural value to tangata whenua and of ecological value. The request indicates that these water bodies will be retained and protected from development, through the incorporation of large green space reserves and buffers adjacent to watercourses, as well as building setback.

The site is not currently identified within the Canterbury Regional Policy Statement (CRPS) as a priority greenfield area, nor within an area identified as a Future Development Area in Proposed Change 1 to Chapter 6 of the CRPS. The site also sits outside of the existing Lincoln township boundary and, by extension, outside of the infrastructure boundary of the township.

However, the National Policy Statement on Urban Development (NPS-UD) has provided a policy framework to allow developments providing 'significant capacity' to be accepted even when that development conflicts with the existing CRPS direction. It is on the basis of the direction of the NPS-UD that the proponent has applied for the rezoning. The direction of the NPS-UD is discussed further below in Section 5.

Since lodgement, PC 69 has been reviewed in terms of the adequacy of the information provided. A Request for Further Information (RFI) was issued on 10 December 2020, with the applicant's response received on 18 February 2021. The PC 69 request, along with the response to the RFI, has been peer reviewed by the relevant internal SDC staff or external consultants to check the adequacy of information provided. Some minor amendments have been made to the application in response to the RFI.

Attachment 1 contains the proposed ODP for PC 69. Access to the full request has been forwarded to Councillors and made available to members of the public on Council's website.

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 69 outright are that:

- a. That the request is frivolous or vexatious
- b. The substance of the request has been considered by the Council or the Environment Court in the last two years
- c. The request does not accord with sound resource management practice
- d. The request would make the District Plan inconsistent with Part 5 of the RMA
- e. The District Plan has been operative for less than two years

Section 18 of the Greater Christchurch Regeneration Act 2016 (the GCRA) also provides that a Council may reject the request in whole or in part on the ground that, within the last two years, the substance of the request or part of the request has been considered and given effect to, or rejected, under the Canterbury Earthquake Recovery Act 2011.

In terms of (b), (e), and s18 of the CGRA, the substance of the request has not been considered by the Council or the Environment Court in the last two years and the District Plan was made fully operative in May 2016, meaning that it has been operative for more than two years.

In terms of (c) and (d), the proposal is considered to be generally consistent with Part 5 of the RMA, which relates to standards, policy statements and plans. However, s75(3)(c) requires the district plan to give effect to any regional policy statement. On initial assessment, PC 69 would generally give effect to the intent of the CRPS yet, as acknowledged in the request, it would be inconsistent with the direction in the CRPS to provide for new urban development only in identified greenfield priority areas, as the site is not included in Map A of Chapter 6 of the CRPS.

Generally, a change that would be contrary to the CRPS would not be considered to accord with sound resource management practice as it would result in the District Plan being inconsistent with one of the provisions in Part 5 of the RMA. However, with the introduction of the NPS-UD, this consideration is not so straightforward, as Policy 8 of the NPS-UD provides for consideration of 'unanticipated' or 'out-of-sequence' development, where a plan change would add significantly to development capacity; if

that development capacity would also contribute to a well-functioning urban environment. This is considered to provide an avenue for plan change requests to be considered for processing even where there is a conflict with the CRPS.

While not specific to this plan change request, the Council has received legal advice on the conflict between the NPS-UD, the existing CRPS and the provisions for rejection of a plan change request under clause 25(4). The advice outlined that Council need not rely on the CRPS 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 CRPS.

In terms of (c) alone, it is considered that there is a very high legal threshold to be met for a decision to be made to reject a plan change on the basis that it does not accord with sound resource management practice. Provided with the request is substantial documentation that, in the view of the proponent, supports an assertion that the request does accord with sound resource management practice. It is appropriate therefore that the substantive nature of this material be tested through the appropriate process.

For the reasons set out in Option 3 below, it is considered at this time that the plan change request is not inconsistent with the NPS-UD in terms of providing for significant development capacity, and the RMA process would test the extent to which it would contribute to a well-functioning urban environment.

The plan change request is not considered to be frivolous or vexatious, and so it is considered that there are no sound reasons to reject PC 73 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 the request 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 75 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 69 will have some economic benefit to the wider community, through providing construction and employment opportunities and flow-on benefits of additional development occurring within the district.

The plan change may involve a cost to Council where services (roading, water, sewer and stormwater) are 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 69 is not particularly complex but it does involve a number of land owners, not all of whom are party to the plan change request. The proponent has advised that they have met or made contact with all of the property owners included in the plan change request area and some are fully supportive, whereas others are reserving their position.

However, as all landowners would be afforded the opportunity to engage in the process by way of submission, it is considered that no benefit would be gained from Council coordinating the plan change process in this respect.

There remains a number of merit-based matters to consider at the substantive hearing stage, with the potential that other matters may be raised by other 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 plan change proponent.

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

Option 3: Accept the Plan Change request

Accepting PC 69, under Clause 25(2)(b), would enable the request to be publicly notified and for the request to be subject to the substantive assessment and public participatory processes provided under the RMA. This, in turn, would provide Council with a more informed understanding of the community's view on this specific request.

Accepting the plan change would mean that the costs associated with the continued processing of the request would be the responsibility of the proponent and no direct costs would be incurred by the Council or rate payers, although the preparation of any Council submission could not be on-charged.

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 the potential plan change. 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 addressed above, PC 69 is located outside of the 'greenfield' development areas identified on Map A of the CRPS, but the NPS-UD provides for consideration of 'unanticipated' or 'un-sequenced' development, where a plan change would add significantly to development capacity; if that development capacity would also contribute to a well-functioning urban environment.

The NPS-UD directs that the RPS include criteria for determining what plan changes will be considered as adding significantly to development capacity. However, as the NPS-UD has come into force recently, and after development of the CRPS, the CRPS does not yet contain such criteria. These criteria are 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 proponent considers that the plan change request would add significantly to development capacity and has provided an analysis with the request. In this regard, it is considered that the proposal for 2,000 lots represents approximately 8% of the existing dwellings in the District currently; around 6% of projected dwellings in the District in 2030; and, 5% of that projected in 2050. In relation to the Lincoln township itself, the number of lots proposed represents approximately 69% of the existing dwellings currently; around 54% of projected dwellings in 2030; and 42% of that projected in 2050.

Taking the above into account, the request can be considered to provide significantly to development capacity, however the NPS-UD direction does not mean that every development providing capacity is appropriate. A plan change proponent must also demonstrate that the plan change would contribute to a well-functioning urban environment; and while the Council must have “particular regard” to the development capacity provided, the Council may still determine that the proposal is not the most appropriate course of action, and any plan change still needs to be considered on its merits overall. This includes that PC 69 must still meet RMA section 32 and Part 2 tests and be subject to a substantive assessment of these through the Schedule 1 process.

It is considered that the merits of the plan change proposal overall, including the weight and consideration that should be given to the development capacity provided by the request and the appropriateness of responses to such matters as the presence of significant water bodies, are best tested through the submission and hearing process.

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 69 as a resource consent.

The request seeks to rezone rural land for residential purposes, and to amend a number of site specific rules to guide future development in accordance with an ODP. These are matters best addressed through a comprehensive plan change process rather than reliance on resource consent applications which may not provide the outcomes anticipated by the District Plan.

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

Recommended Option

Option 3, to accept PC 69 for further consideration is recommended.

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. The most appropriate course of action is to accept PC 69 for notification.

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

The RMA affords the opportunity for the plan change proponent to request changes to the District Plan and prescribes the timeframes that Council must adhere to in processing the request. The recommended option to accept PC 69 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 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 subsequent hearing. 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 not continued processing is adopted, then the contents of PC 69 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 69 and serve notice on all directly affected parties and organisations, who then have the opportunity to participate in the ongoing process.

(b) Consultation

The proponent did not consult with Selwyn District Council while preparing PC 69. As addressed above, the request has been peer reviewed by the relevant internal Council staff, as well as external peer reviewers as appropriate, to consider the adequacy of information provided, and as a result of this initial review, additional information has been included in the request documentation, and some changes have been made to reflect the matters raised in the RFI.

As outlined above, the recommendation to accept PC 69 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) Māori implications

Mahaanui Kurataiao Limited who represent Tangata Whenua interest have reviewed the request and provided preliminary comments following engagement by the applicant. This assessment forms a component of the current version of the request.

(d) Climate Change considerations

The request includes an assessment of the resilience of the proposal to the effects of climate change and considers that it supports reductions in greenhouse gas emissions (at a local and Greater Christchurch scale), through the provision for alternative modes of transport, connectivity and accessibility (to local, township and regional services and amenities), and the potential for servicing by public transport (i.e. buses). It also achieves resilience to the likely current and future effects of climate change through its distance from coastal and low lying areas susceptible to sea-level rise and storm surges; and the potential for building and landscape design to address increased mean temperatures or amplification of heat extremes. The adequacy of this assessment will be tested through the submission and hearings processes.

7. FUNDING IMPLICATIONS

The plan change proponent is responsible for the costs associated with processing a private plan change request, with Council costs being fully recoverable. Council would

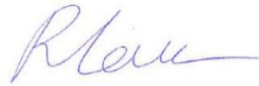
be responsible for the cost of defending its decision should it be appealed to the Environment Court

8. INPUT FROM OTHER DEPARTMENTS

The contents of the request, including relevant technical reports were circulated to Council's Asset Managers for review and comment. Queries received from them were incorporated into the request for further information.



Jocelyn Lewes
STRATEGY AND POLICY PLANNER



Robert Love
TEAM LEADER STRATEGY AND POLICY

Endorsed For Agenda














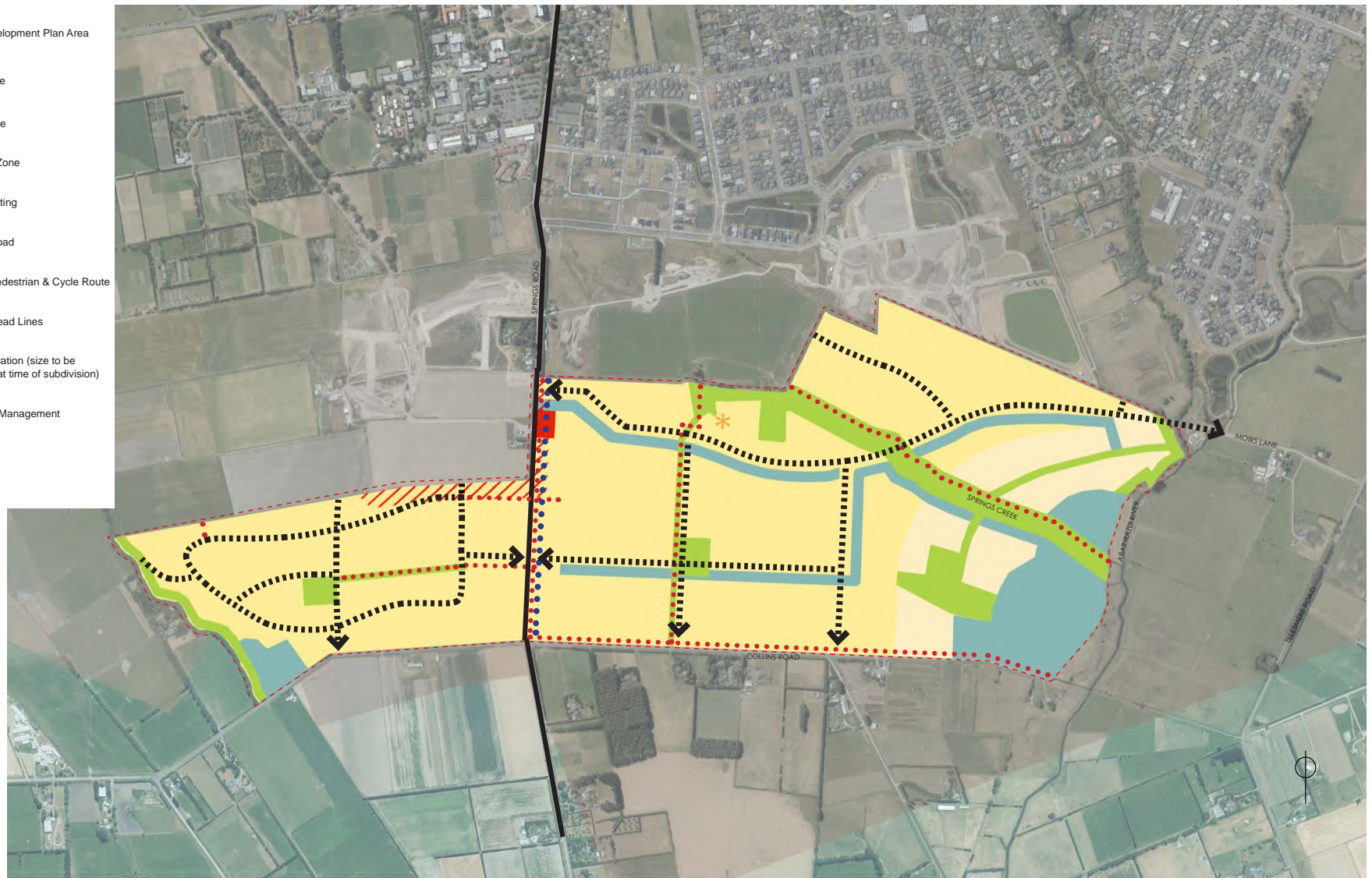
Tim Harris
GROUP MANAGER ENVIRONMENTAL AND REGULATORY SERVICES

Attachment 1: Outline Development Plan proposed by PC 69

OUTLINE DEVELOPMENT PLAN (ODP) - LINCOLN SOUTH

LEGEND

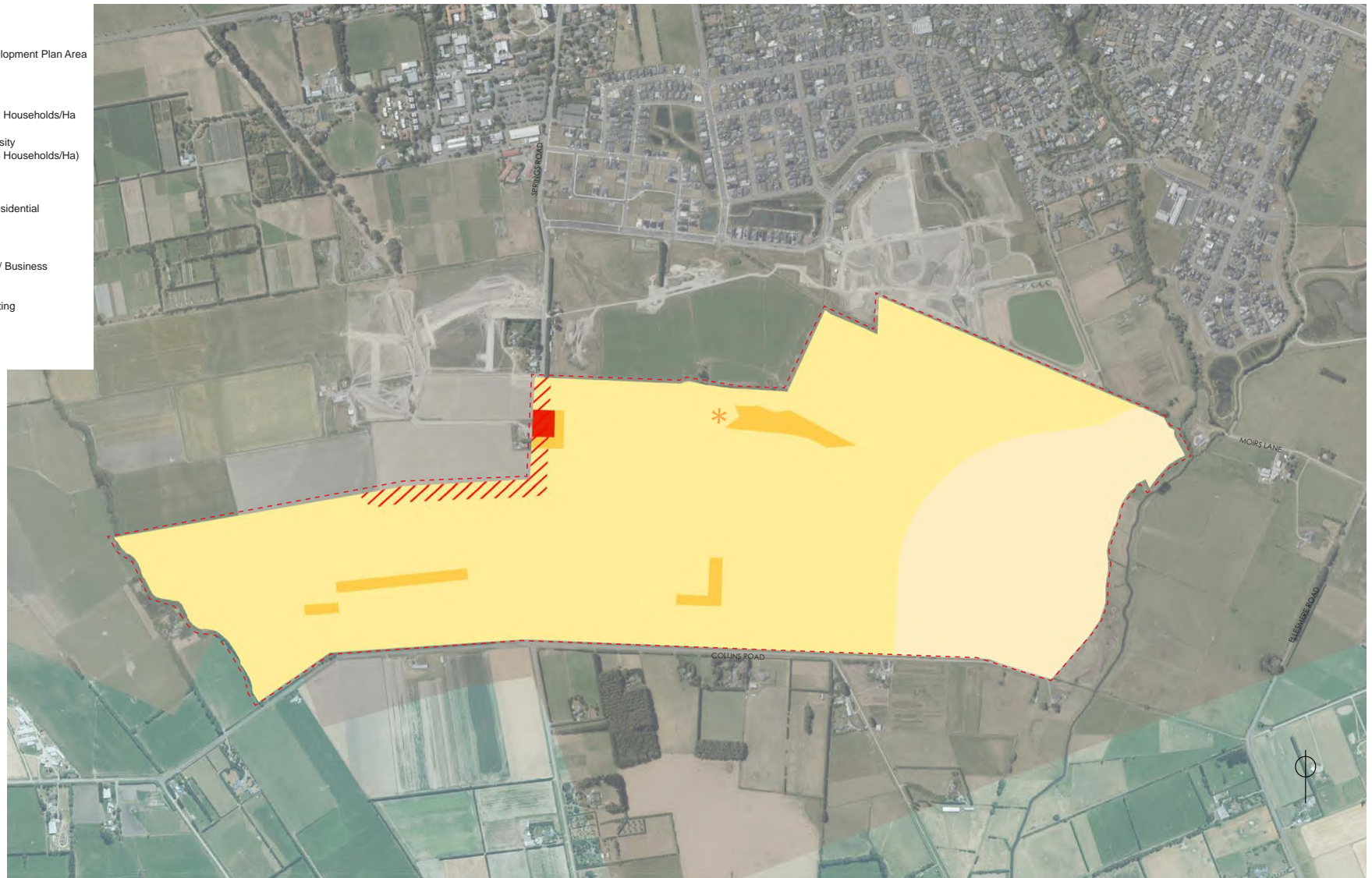
-  Outline Development Plan Area
-  Living Z Zone
-  Living X Zone
-  Business 1 Zone
-  Heritage Setting
-  Indicative Road
-  Indicative Pedestrian & Cycle Route
-  33kV Overhead Lines
-  Reserve Location (size to be determined at time of subdivision)
-  Stormwater Management
-  Setback



LANDUSE AND DENSITY

LEGEND

-  Outline Development Plan Area
- Living Z**
-  Low Density
(Minimum 12 Households/Ha)
-  Medium Density
(Minimum 15 Households/Ha)
- Living X**
-  Large Lot Residential
- Business**
-  Commercial / Business
-  Heritage Setting
-  Setback



MOVEMENT AND CONNECTIVITY

LEGEND

- Outline Development Plan Area
- Potential Bypass Road (Weedons Road)
- Primary Road
- Secondary Road
- 2.5m Shared Path (off road)
- Possible Green Link & Cycleway
- 33kV Overhead Lines
- Stock Underpass Turned into Pedestrian Link



GREEN / OPEN SPACE NETWORK

LEGEND

- Outline Development Plan Area
- Recreation Reserve
- Existing Green Space
- Green Link
- Existing Green Link
- 500m and 800m Walkable Catchment



BLUE NETWORK

LEGEND

- Outline Development Plan Area
- Stormwater Management System / Areas
- Waterway
- Existing Drain
- Existing Allendale Pump Station and Emergency Storage
- Indicative Waste Water Pump Station
- Springs Locations



OUTLINE DEVELOPMENT PLAN – SOUTH LINCOLN

Introduction

The Outline Development Plan (ODP) area comprises approximately 190 hectares and is bounded by the Te Whariki and Verdeco subdivisions to the north, Collins Road to the south, an ephemeral waterway termed Western Boundary Drain to the west, and the LII River to the east.

Land Use

The development area shall achieve a minimum net density of 12 household per hectare, averaged over the area. The zoning framework supports a variety of site sizes to achieve this minimum density requirement. Should this area be developed in stages, confirmation at the time of subdivision of each stage, and an assessment as to how the minimum net density of 12 household per hectare for the overall area can be achieved, will be required.

Medium density areas within the development area are able to be supported by adjacent amenities that include key open spaces, green corridors, waterbodies, and a small commercial centre.

For the Chudleigh Homestead and its immediate surrounds, a larger site size that accounts for the heritage values and setting associated with this building shall be provided for at the time of subdivision.

A low density area of Living X zoning is located on the eastern extent of the ODP, with a minimum lot area of 2,000m². This low density area will provide a buffer between the higher density residential areas located centrally within the ODP area, and the adjoining rural areas to the east, and will otherwise meet stormwater objectives for the site.

A dwelling setback of 50m from dwellings to the boundary of the neighbouring Business 2B Zone is provided to avoid potential reverse sensitivity effects associated with activities in that zone.

The 33kV overhead powerlines along the eastern side of Springs Road may affect direct vehicle access and can be addressed at the time of subdivision accounting for the New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34:2001).

The small local commercial centre is proposed on Springs Road towards the northern part of the ODP area in a location that complements the nearby Business 2B Zone, provides good accessibility and will meet some of the convenience needs of residents in the immediate area.

Access and Transport

The ODP employs a roading hierarchy that delivers a range of integrated transport options, including active transport connections at the boundary of the development area to adjacent neighbourhoods that facilitate the use of existing and future public transport routes. Roothing connections shall be designed to achieve permeability, whilst minimising the number of new intersections and maintaining appropriate intersection spacing. The proposed roading hierarchy will deliver an accessible and coherent neighbourhood that provides safe and efficient access to the new development.

An integrated network of roads will facilitate the safe and efficient distribution of internal traffic, provide access to properties, assist in connecting the open space reserves network both within and beyond the site and provide links to adjoining neighbourhoods.

The transport network for the area shall integrate into the pedestrian and cycle network established in adjoining neighbourhoods and the wider township. Cycling and walking will be contained within the road reserve and incorporated into the roading design of the overall road network where applicable. Adequate space must be provided to accommodate cyclists and to facilitate safe and convenient pedestrian movements.

Open Space, Recreation, and Community Facilities

Recreation reserves are provided throughout the ODP area in addition to green links and reserves that provide open space and facilitate attractive pedestrian connections. The location of these reserves has been determined based on the number of reserves established in the wider area and to ensure people living within the development block have access to open space reserve is within a 500m walking radius of their homes.

There is an opportunity to integrate the collection, treatment, and disposal of stormwater with open space reserves where appropriate. Pedestrian and cycle paths are required to integrate into the green network to ensure a high level of connectivity is achieved, and to maximise the utility of the public space. Council's open space requirements cited in the Long Term Plan and Activity Management Plans should be adhered to during subdivision design.

Springs Creek is a spring fed tributary of the Ararira/LII River with headwater springs situated within the grounds of the historic 'Chudleigh' homestead. The creek alignment has been modified over time to straighten the channel and improve its drainage function. There is opportunity to enhance and incorporate this natural feature into the wider green and blue network of the site.

An approximate 20m wide recreation reserve with possible cycleway is provided along Springs Creek and provides connectivity to the Te Whariki subdivision and its existing green links.

The proposed reserve network provides an opportunity to create an ecological corridor. Plant selection in the new reserves and riparian margins will include native tree and shrub plantings. Reserves will ensure that dwellings are setback an appropriate distance from waterbodies.

Servicing

There are a range of options available for the collection, treatment, and disposal of stormwater. Detailed stormwater solutions are to be determined by the developer in collaboration with Council at subdivision stage and in accordance with Environment Canterbury requirements. Systems will be designed to integrate into both the transport and reserve networks where practicable.

The spring-fed Lincoln Main Drain (LMD) crosses the northeast portion of the site from northwest to southeast and serves as the main drain outlet for the Te Whariki subdivision. The drain is to be diverted to the northern boundary of the development site, but detailed design will ensure its ongoing function is not compromised. There is opportunity to naturalise and enhance the LMD as part of the wider green and blue network of the site.

The provision of infrastructure to service the area shall align with the Council's indicative infrastructure staging plan, unless an alternative arrangement is made by the landowner/developer and approved by Council.

Cultural

The importance of natural surface waterbodies and springs to Manawhenua is recognised and provided for by the ODP. Measures such as a 10 metre waterbody setback for development, the naturalisation of waterway margins with indigenous planting, and increased riparian margins will support cultural values associated with the ODP area.

For all earthworks across the site, an Accidental Discovery Protocol will be implemented at the time of site development, in addition to appropriate erosion and sediment controls, to assist in mitigating against the potential effects on wahi tapu and wahi taonga values generally.