SDC PROPOSED PLAN CHANGE 11

ROLLESTON LIVING 1B DEFERRED ZONE STRUCTURE PLAN

MINUTE OF COMMISSIONER

Context

1. This minute arises out of an adjournment of the hearing into Proposed Plan Change 11 (PC11) which is a Selwyn District Council initiated plan change dealing with the Living 1B deferred zone at Rolleston. PC11 will add a new Policy to the Subdivision of Land section. The policy is specific to the intensification of the Rolleston Living 1B deferred area and provides for the use of a structure plan to control subdivision

2. Specifically, the PC11 proposes to:

   - Amend the subdivision rules to add new matters for discretion to ensure that development in the area would progress according to the structure plan;
   - Provide the land required for the formation of transport connections (roads, walkways and cycleways) and reserves to be vested in Council at the time of subdivision. Subdivisions which are not in accordance with the plan will have non-complying status.
   - Rezone the part of the area which is north of Lowes Road for Living 1 residential use, except for an area around Waterbridge Way which will be zoned as Living 1C, with an average allotment size of 2,000m^2 and area specific rules. An area around Fairhurst Place would also be zoned as Living 1C.
   - New rules will also be added to the District Plan which will make the erection of buildings within the proposed road and walkway / cycleway corridors a restricted discretionary activity, to ensure that new development does not prevent the structure plan from being realised.

3. Plan Change 11 was notified on 4 July 2009 with submissions closing on 4 August. Further submissions were notified on 22 August 2009 and closed on 22 September. A total of 31 submissions were received on Plan Change 11. Further submissions were lodged from 15 parties. Submissions covered a range of topics, including requesting that the plan change be approved, be withdrawn and that it be amended in a number of ways.

4. At the time of adjournment, I had completed two full days of hearing and a locality visit. This involved presentations/tabled evidence from the following parties:

Council

- David Hattam – Strategic Policy Planner
- Jeanette Ward - Chartered Civil Engineer, ViaStrada
- Ms Ann Greenup – Strategic Asset Manager.

Submitters:

- Andrew Palliser and Kathryn Winchester (1378) represented by Tara Allardyce
- Judy and Bruce McLeay (1365 and 1399)
- Andy Crosbie (1392)
- Tania Foster (1375)
- Stephen Bensberg (1371)
- Pineglades Naturist Club (1376) – represented Shaun Elvines
- Environment Canterbury (1366)- represented by Michael Rachlin
- Richard Ireland (1373)
- Selwyn Central Community Board (1374) – represented by Mark Alexander
- Brook Family Trust – represented by Margaret Brook (1393)
- Annette Foster (1372)
- Doug Sinclair (1362)– tabled evidence
- Corravally Ltd (1368)- tabled evidence
- Richard Bunz and Suzanne Kirk Smith (1403) - tabled evidence

5. In addition, presentations were still required from one submitter (Mr Dunlop) and two reporting officers - Mr Bell regarding Development Contributions and Ms Wright regarding the need for walking and cycling connections. Furthermore, a time had been scheduled for a response by Mr Hattam and his advisors to issues raised during the course of the hearing. It is this latter matter that this minute particularly responds to.

Matters for Clarification

6. During the course of the hearing, both during presentation from the Council and as a result of presentations from individual submitters, certain issues arose which I require some clarification upon. Several of these were able to be handled by Mr Hattam at the time that I raised them and this was appreciated as it enabled me to better understand a particular provision in the Plan Change or a point being raised by a submitter. However, there were also certain issues which were more complex and required some further thought from Mr Hattam and his advisers.

7. In terms of these more complex or fundamental issues, I felt there may be merit in affording further time for Mr Hattam and his advisors to consider these issues and respond in writing so that the responses could be properly recorded and viewed by all parties to these proceedings. I also flagged that, although there is considerable degree of polarisation between the Councils objectives for the PC11 and many submitters' concerns, there may be some merit in further consultation between the council and various submitters prior to the hearing reconvening.

8. To this end I have set out, as an attachment to this minute (Attachment A), a list of items and issues that, as a minimum, I require a response upon from the Council. The degree to which there is further discussion/consultation between the Council and submitters on these issues and in particular whether there are any agreements on how the objectives of the Structure Plan can be best implemented within the scope of the Structure Plan or outside the RMA process is a matter for the parties. Whilst I believe such further consultation could be useful, I also acknowledge and accept that the degree to which such consultation occurs will be a reflection of the degree to which the parties involved see merit in such a consultation and their motivation to initiate such discussion outside of the hearing process. All I require is a statement of consultation where such consultation has been undertaken.

Procedural Issues

9. The above aside, there were two procedural issues raised by submitters during the course of the hearing. I briefly respond to these two matters below.

10. The first matter related to whether or not Mr Dunlop had lodged a submission and thus whether he had speaking rights at the hearing. The advice I received from Mr Hattam during the hearing was that Mr Dunlop had not lodged a submission and therefore he was not afforded any speaking rights. I conveyed this to Mr Dunlop and advised him that in absence of evidence of such a submission I had no jurisdiction to hear from him. However, following the adjournment of the hearing, Mr Hattam advised me that Mr Dunlop, although not an original submitter had indeed lodged a further submission and that this had been wrongly filed in the Council records. On this basis, Mr Dunlop is accordingly afforded the opportunity to present in respect to his further submission when the hearing reconvenes later this month.

11. For the record, I observe that apart from some inconvenience to Mr Dunlop, in that he now is required to attend the resumption of the hearing should he decide to speak in support of his submission, no other person or submitters were adversely affected or disadvantaged by this procedural mishap. I state this because it was not an initial submission and as such it was not required to be publicly notified and open to further submissions. Had that not been the case there may have been a need to have opened up the further submission process and this would have caused a further delay to the hearing. As it stands, Mr Dunlop will now have the opportunity to present at the hearing and Mr Hattam will need to update his original report and table of submitters

(and associated recommendations) to account for the submission of Mr Dunlop.

12. The second procedural matter relates to the summary of the submission lodged by the Brook Family Trust. Mrs Brook raised concerns that their submission had been inaccurately summarised and in fact was a repeat of the submission by Mr McLeay. In answers to questions, she clarified that the main points of their submission had been recorded in the summary but that the summary also contained points from another submitter (Mr McLeay). Initially, I postulated that if the summary of the Brook submission was deemed to be inadequate, there might also be a case for re-notification of the summary or at least re-notification of a corrected version of the Brook summary. I have subsequently checked the summary against the Brook notice of submission and am satisfied that the summary is adequate. The submission relates to the proposed new connections in PC11 and this is clear from the summary.

13. Further to the above, I note from Mrs Brook's presentation that she received 5 further submissions to the original submission and this would suggest that the submitters also understood the position the Brook's from the summary.

14. On the above basis, I am satisfied that the procedures regarding the summary of submissions was adequate and do not need to be repeated. As an aside, in the course of my consideration of this matter, I examined the public notice advising the wider public of the opportunity to lodge further submissions. I was surprised that the notice did not specifically state that initial submissions had been received and that the opportunity for further submissions related to those submissions. Whilst I accept that this was the inference from the notice, to an untrained eye this may not have been clear. In addition, I would have expected the notice to refer to the summary of those submissions and where/how the original submissions could be viewed.

15. Whilst these above observations are not fatal to the process in that persons obviously made enquiries to the Council, it is my view that the notice could have been clearer on these two matters. This may be something that the Council might wish to reflect on in respect to future Plan Changes.

Next Steps

16. The forum for Mr Dunlop to present his further submissions (should he choose to) and for the Council officer/advisor evidence and further responses to the matters contained in this Minute and its attachment will be a reconvened hearing on 25 November 2009 at the Council Chambers in Rolleston beginning at 9am.

17. Any further consultation between the parties (Council Officers and submitters) is not mandatory. It will be at the agreement of the parties and should be initiated prior to 25 November 2009 and reported back to me at the reconvened hearing where there will be an opportunity for submitters and the Council who have entered into further consultation to report back on the nature of any agreements that have been reached.

18. If there is clear progress being made and some clear merit in further time being allocated for consultation then I am prepared at that time to further adjourn the hearing to enable that to occur. Following that, the hearing will then be adjourned for final site visits and deliberations. I will then produce a report to the Council containing my recommendations.

DATED this 16th day of November 2009.

D J McMahon
Independent Hearings Commissioner

ATTACHMENT A

SDC PROPOSED PLAN CHANGE 11
ROLLESTON LIVING 1B DEFERRED ZONE STRUCTURE PLAN

ISSUES/QUESTIONS ARISING FROM THE HEARING AND REQUIRING A RESPONSE

GENERAL DIRECTIVE TO COUNCIL OFFICERS

During the course of the hearing certain issues and questions arose in relation to the rationale for, and the operational characteristics of, Plan Change 11 (PC11). The particular focus of these matters was on the content of the proposed Structure Plan /Outline Development Plan (ODP) and the way it might proceed if PC11 was to be approved.

The purpose of identifying the following questions/issues is largely due to the existence of some fundamental opposition to the proposed and indicative open space and connection links (roads, walkways/cycleway) as shown on the ODP.

It became clear during the hearing that theses linkages that there is concerted opposition to many of these linkages (expressed both at the pre notification consultation stage and during the submission/hearing process). Furthermore, it was apparent that these linkages etc will only be able to be implemented on the basis that development occurs and even then there is the potential for the proposed linkages to be implemented in a piecemeal manner, if at all. Yet, and based on the concerns of the certain submitters at least, there will be both an interim and a permanent effect of having the linkages shown on the ODP (indirect effect) and when they are actually taken (direct effect), respectively.

In the view of such submitters, that effect will be adverse in terms of property values, development potential and amenity without any provision for compensation or betterment. To be fair, some of the submitters did support the proposed linkages and open spaces in terms of the wider benefits they might provide to Rolleston.

Given these fundamental concerns of submitters, I consider it would be appropriate to give the Council Officers the opportunity to further consider the issues raised and in particular to:

A. ISSUES RAISED BY PALLISER/WINCHESTER (1378)

1. Provision of a large scale diagram showing walkway and route of the indicative pathway through the property based on both PC11 and Appendix 23 of Operative District Plan.

2. How will Appendix 23 be implemented if PC11 is either adopted or not?

3. Assessment of the need for the walkway given the existence of proposed link roads either side of the special amenity area comprising Waterbridge Way.

4. Assessment of the effects of the cycleway on the special amenity associated with Waterbridge Way; particularly with respect to the channeling cycle traffic through it (i.e. will the special amenity of this area still be maintained?)

5. Will there still be a need for the walkway and cycleway through Waterbridge way if the spine road to the north of it is not formed in full?

B. ISSUES RAISED BY ANDY CROSBIE (1392)

1. More information on the need for the east-west walkway in the south and also consideration of other (alternative) routes such as:

    (a) From the end of Mila Haven
    (b) From Manor Drive to Cameron Crescent

    And in particular what provision has been made for those alternative routes and whether these routes are complimentary to, or alternatives to, the Jozecom/Fairhurst links shown in PC11.

2. More detail on Fairhurst Place and use of it for school access (with regard to safety and the level of use and congestion).

3. What is the need for the proposed Jozecom and Fairhurst connections to be primarily a road link rather than a walkway / cycleway?

4. To what extent would a road link running parallel to Jozecom and Fairhurst from Lowes Rood (i.e. alongside the route of the water race) assist with the linkages off Lowes Road? Would it be complimentary to and/or an alternative to the Jozecom and Fairhurst proposed links? Has any consideration been given by the Council to such a link? (NB. This issue was raised by other submitters also).

5. Check averaging rule – is there protection from slice by slice subdivision to create more sections than intended.

C. ISSUES RAISED BY PINEGLADES

1. Comment from Jeanette Ward about the route of the spine road in this area and the change from the original (consultation) version (i.e. any particular traffic safety and efficiency issues arising from the newly proposed route?)

D. ISSUES RAISED BY BROOK

1. Comment from Jeanette Ward with regard to pages 4 and 5 of the Brook submission on Fairhurst Place re traffic safety/efficiency and other associated issues raised.

2. How will the Jozecom and Fairhurst link work in a developer driven format – i.e. what happens if only one half of the route is developed (e.g. in Fairhurst Place) or only parts of both links?

3. What type of method is Council proposing to use in the negotiation for land for these links (on a case by case basis) at the time of approval of subdivisions.

E. STRUCTURE PLAN / ODP GENERALLY

1. What is the relationship between, and degree of fit of, the Rolleston Structure Plan and the Living B proposed ODP?

2. Comment on implementation of the Living B Structure Plan/ODP – with respect to how exact the proposed and indicative links and open spaces/reserves are.

F. MISCELLANEOUS ITEMS REQUESTED BY COMMISSIONER

1. Submission of Brook (received)

2. Copy of Public Notice summarising submissions/opportunity for further submissions (received)

3. Minutes of Selwyn Central Community Boards meetings to approve submissions

4. List of recommended changes to the notified Plan changes as outlined in the s42A report and which specific submission(s) provides the basis for making such alteration(s)