
Commissioner Recommendation

PLAN CHANGE 11

ROLLESTON LIVING 1B DEFERRED ZONE STRUCTURE PLAN

**Report and Recommendation of David J. McMahon
Acting as a Commissioner appointed by the
Selwyn District Council pursuant to Section 34A of the
Resource Management Act 1991**

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1 INTRODUCTION

Context

- 1.1 I was appointed by the Council to hear submissions to, and to consider and make a recommendation on, Proposed Plan Change 11, which seeks to manage the effect of urban zone intensification in the Rolleston Living 1B deferred zone.
- 1.2 PC11 has an extensive background, which I will canvas in due course, and has been the subject of a Council “section 32” report, wide consultation with land owners and occupiers, and of course the public notification and hearing to which this report is a culmination of.
- 1.3 Before discussing the details of the proposed PC11 and the submissions to it, there are some procedural issues that I need to address, beginning with my role as Commissioner.

Role of Commissioner and Report Outline

- 1.4 My appointment was made because of Selwyn District Council (“**SDC**,” “**Council**”) policy for District Plan matters or resource consent applications where there is potential for conflict – either real or perceived – to appoint independent commissioners. In this case, in order to remain neutral, and due to the number of issues that have been raised in submissions and further submissions, I was appointed to hear and determine the submissions. My role is limited to that of a recommender with the final decision as to whether or not to adopt my recommendations resting with the Council. In the event that the Council adopts my recommendations, then this report will become the Council Decision.
- 1.5 In terms of the above, having familiarised myself with the proposed PC11 and the background material (of which there is a considerable amount), read all submissions, conducted the hearing and heard from submitters and the appointed Council advisors, as well as having visited the locality on several separate occasions, I hereby record my recommendations. In this respect, this report is generally divided into the following parts:

(a) Background/PC11 Outline:

This Section includes an outline of the background to the proposed PC11, including the sequence of events leading to this report. It also outlines the main components of PC11 including an overview of the locality. This background section provides a relevant context to considering the submissions to PC11.

(b) Assessment of Issues/Submissions:

Here, I record the various submissions received to PC11, outline the concerns of the submitters to the PC11, and, where relevant, amplify on the evidence/statements presented at the hearing. I then undertake an assessment of the submissions/issues to PC11 and conclude with a recommendation on each one (refer to Appendix 1).

Preliminary Comments

- 1.6 Before moving onto the background and proposal outline, I would like to make two preliminary comments. Firstly, I record my appreciation at the manner in which the hearing was conducted by all the parties taking part. It was clear to me prior to the hearing that there was considerable background to this proposal, involving a variety of matters. In this respect, I would like to acknowledge the following endeavours:
- (a) The comprehensive nature of the reports from the various Council advisors, including Strategic Policy Planners David Hattam and Cameron Wood.
 - (b) The technical reports prepared by Jeanette Ward - Chartered Civil Engineer, of ViaStrada and Lee Wright -Road Safety Co-coordinator SDC.
 - (c) The agreement of submitters to focus on the present Plan Change rather than get bogged down in procedural issues. In particular, the willingness of submitters and advisors to accommodate a certain amount of dialogue between the parties during the course of the hearing via the questions of clarification approach I adopted. I particularly acknowledge the endeavours of Mr Hattam and Mrs Brook when the hearing was adjourned for ten days to discuss the issues arising from the Brook Family Trust submission and to explore potential solutions on a without prejudice basis.
- 1.7 All the above actions promoted a much focused proceeding that has greatly assisted me when assessing and determining the issues.
- 1.8 Secondly, I stress that the purpose of this report is to bring to the attention of the Council the relevant information and issues regarding this Plan Change. It must also be emphasised that my conclusions and recommendations contained in this report are my own and are not binding upon the Council in any way.

2 BACKGROUND

Pre-PC11 Initiatives and Origins

- 2.1 To provide some relevant context, I have adopted Mr Hattam's historical background as I find this useful in "setting the scene" from which PC11 was derived. His s42A Report states:

"Rolleston was established in 1878 following the opening of the railway line from Christchurch in 1866. However, there was not significant growth of the township until 1963 when much of the land was bought by a Christchurch based developer. By May 1971, 117 houses had been built.

In 1973, a planned town was promoted by central government and land was acquired for this purpose. The concept was abandoned two years later, but the town continued to grow steadily, to 400 houses by 1990.

Under the Ellesmere District Scheme (and the Selwyn Transitional District Plan), land within the Structure Plan¹ area was developed in two distinct styles and covered by two zonings. To the North of Lowes Road, the area was

¹ being the land subject to PC11

mostly held in long narrow parcels, for the purpose of forestry and zoned as Rural Residential R1 under the Transitional Plan (Ellesmere section). This allowed one house to be built per section and subdivision with a minimum size of 0.5ha. To the south, land was zoned as Rural B with a minimum lot size of 20ha. At this time, this area to the south was divided into two large holdings.

In August 1994, Council approved Plan Change 10 to the Transitional District Plan (Ellesmere and Paparua Sections) to allow further residential and commercial development over part of the proposed new town area. PC11 zoned the entire Structure Plan area as rural residential 1. This stipulated an average [lot size] of 1ha (and a minimum of 0.5ha).

Over the next few years, three subdivisions created rural residential development at Waterbridge Way (in the north) and Fairhurst Place and Jozecom Place in the large land-holdings to the South.

In 1998 a group of landowners lodged a private plan change to allow further expansion of the town. This resulted in Plan Change 60 (to the Transitional Plan) to rezone 542 hectares of land, sufficient for 14,000 residents and, it was thought at the time, 20 years of growth. PC11 became operative in 2003.

As part of Plan Change 60, the Structure Plan area was zoned as Residential 1 deferred (1,200m² minimum average allotment size), deferred until 2010. The purpose of the deferral was to allow the landowners, many of whom had bought newly established rural residential lots, to enjoy low-density surroundings for a limited time.

PC11 policy for the Residential 1 zone stated that “a comprehensive view of development within the respective zone is to be considered when assessing subdivision proposals” and that “it is expected that efficient roading patterns will be created which will enable the integration of the township” (p15). PC11 indicated a roading connection from Waterbridge Way to Brookside Road and to what is now Renoir Drive (via Bernini Lane), and pedestrian connections to Oak Tree Lane from Fairhurst and Jozecom Places.

Also as part of PC11, land located around the area on all sides was rezoned as Residential 1. As a result of this, the area has now become substantially surrounded by urban development.

The Proposed Selwyn District Plan was notified in December 2000. Under this revised Plan, the Structure Plan area was zoned as Living 1B, with similar provisions to the previous Residential 1 zone. The indicative roading and pedestrian connections from Plan Change 60 were carried forward in the new Plan, which was made operative in May 2008.

Recent changes in the statutory framework (such as the adoption of the Rolleston Urban Limit through Change 1 to the Regional Policy Statement) indicate that the Structure Plan area will in the future be positioned quite centrally within the urban area of Rolleston.

In 2006 the Council began a consultation exercise on how the development of the area should proceed, so that a coordinated response was in place by the time the L1B deferral was lifted in 2010. As part of this process a draft Structure Plan was produced and the views of residents sought.

In March 2009, a revised Structure Plan was circulated for public comment. An open day was held to explain the plan to interested residents and written comments invited. Around half the landowners [of PC11 affected area] participated in this exercise. As a result of the comments received, revisions were made to the plan and a second draft was circulated for comment in May [2009].

The consultation revealed that there was support for PC11 from most landowners in the north of the area, but that the views in the south were more mixed, with some landowners wanting to develop and others wanting the area to remain as it is."

- 2.2 I appreciate that this is a rather comprehensive background to PC11 but this is critical in terms of my assessment of the issues raised by submitters (particularly the issue of whether adequate consultation process has been undertaken) and by the various Council advisors. This précis will be re-visited later in my report.

Plan Change 11 (PC11)

- 2.3 In essence, PC11 seeks to manage the effects of urban zone intensification in the Rolleston Living 1B deferred zone. It draws on a number of existing and proposed statutory instruments and a lengthy public consultation exercise dating back to 2006.

- 2.4 PC11 specifically proposes to:

- (a) insert a new Policy to the *Subdivision of Land* section of the District Plan which relates to the intensification of the Rolleston Living 1B deferred area and provides for the use of a Structure Plan to control subdivision;
- (b) Amend the subdivision rules to add new matters for discretion to ensure that development in the area would progress according to the Structure Plan;
- (c) Enable that 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;
- (d) 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 2,000m² and area-specific rules. An area around Fairhurst Place would also be similarly zoned as Living 1C; and
- (e) Add new rules 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.
- (f) Introduce new rules to protect the quality of the street scene by restricting tall fences and dominant garaging.

- 2.5 The central plank of the PC11 is the addition of the Structure plan as an appendix (Appendix 34) to the District Plan. The relevant District Plan zone map is also amended. The structure Plan/map also adds indicative walkway/cycleway connections to an adjacent parcel of land, to connect Jozecom Place with East Maddisons Road. All subdivision and building development is required to be in accordance with the Structure Plan.

Notification and submissions

- 2.6 PC11 was notified on 4 July 2009 with submissions closing on 4 August. The further submissions process opened on 22 August with the notification of original submissions; it closed on 22 September 2009.
- 2.7 A total of 31 submissions and 15 further submissions were received on PC11. Submissions covered a range of topics, including requesting that PC11 be approved, be withdrawn and that it be amended in a number of ways.

The Hearing

- 2.8 The hearing was initially convened on 2 November 2009 at the Council Office in Rolleston. The hearing was initially held over the course of two full days (2 & 3 November) followed by an adjournment. Proceedings were then reconvened (for reasons I have set out below) for one day on 25 November.
- 2.9 I heard from the following people during the initial proceedings:

Council Officers / Advisors

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

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
- 2.10 In addition to those submitters who attended the hearing person, I also had access to the original notices of submissions and further submission form those submitters who were unable to attend the hearing.
- 2.11 At the time of adjournment, presentations were still required from one submitter (Mr Dunlop) and two SDC 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.

- 2.12 On 12 November I was advised by Mr Hattam that he had received written confirmation from the Craig Family (submissions 1379-82) to the effect that their submissions to PC11 had been formally withdrawn. Mr Hattam explained that this submission related to properties at 161 and 165 Brookside Road Rolleston and the submissions had opposed the inclusion of the roading link over that land. He also advised that the Council had now purchased that land. On the basis of the above advice I have not considered those submissions or the further submissions lodged in support or opposition to them to them any further.

Commissioner's Minute

- 2.13 On 16 November, I issued a minute to address some matters where further clarification was required, and to attend to some procedural issues. This also included instructions as to the reconvening of the hearing. The minute covered the following matters:

Matters for Clarification

- 2.14 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 required 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 PC11 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.
- 2.15 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 Council's 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.
- 2.16 To this end I then set out, as an attachment to the minute, a list of items and issues that, as a minimum, I required a response upon from the Council. Whilst I noted that further consultation between the Council and submitters could be useful, I also acknowledged and accepted that the degree to which such consultation occurred would be a reflection of the degree to which the parties involved saw merit in such a consultation and their motivation to initiate such discussion outside of the hearing process. I moved on to note that I only required a statement of consultation where such consultation has been undertaken.

Procedural Issues

- 2.17 The above aside, there were two procedural issues raised by submitters during the course of the hearing which required my consideration.
- 2.18 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.

- 2.19 Following the adjournment of the hearing, however, Mr Hattam advised me that Mr Dunlop, though 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 was accordingly afforded the opportunity to present in respect to his further submission when the hearing reconvened on 25 November.
- 2.20 At this time, I recorded that, apart from some inconvenience to Mr Dunlop in that he now was then 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 noted 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.
- 2.21 The second procedural matter related 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.
- 2.22 In response to my questioning at the hearing, 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 subsequently checked the summary against the Brook notice of submission and am satisfied that the summary is adequate. The submission related to the proposed new connections in PC11 and this is clear from the summary.
- 2.23 I further noted 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 Brook's position from the summary. On this basis, I was satisfied that the procedures regarding the summary of submissions were adequate and did not need to be repeated.
- 2.24 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 further submission process 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.
- 2.25 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 wishes to reflect on in respect of future Plan Changes.

- 2.26 An opportunity was afforded to all submitters to respond to any matters arising from my minute and any subsequent consultation that occurred with the council during the adjournment.

Initial legal Advice

- 2.27 Before reconvening the hearing, I received some initial legal advice dated 18th November 2009 from the Council's legal advisor (Buddle Findlay) in relation to some issues that have arisen during the course of the hearing. This covered a scope issue that arose when considering a submission by Ms Tania Foster and Mr Michael Croucher ("the Foster submission"). That submission opposes that part of PC11 which provides for the Living 1B and 1C zones. The relief sought in the submission was to *"replace the Living 1B and 1C zoning provisions within the Structure Plan area with Living 1."*
- 2.28 The Buddle Findlay correspondence, which concluded that the submission was beyond scope, is located in the Council file. I return to this issue under the heading of Zoning.

Reconvening of the Hearing

- 2.29 I reopened proceedings on Wednesday 25 November 2009. Over the course of the resumed hearing, I heard from:

Submitters

- Mr Dunlop;
- Mr Palliser (and Ms Allardyce);
- Mrs Brook;

Council advisors

- Mr Bell – Corporate Accountant
- Ms Ward -Chartered Civil Engineer, ViaStrada
- Ms Lee Wright -Road Safety Co-coordinator
- Mr Wood - Strategic Policy Planner
- Mr Hattam - Strategic Policy Planner

- 2.30 At that point, I adjourned the hearing after the conclusion of the presentations from all submitters that wished to be heard, and after the reporting officer's reports were tabled and discussed. The hearing was adjourned for three reasons, namely:

- (a) To enable me to undertake site and locality visits;
- (b) To consider whether I had sufficient information in which to undertake deliberations and produce a recommendation to the Council; and
- (c) To seek some further legal advice on some issues of scope that arose during the course of the hearing in relation to the Palliser submission (which I refer to later under the heading of walkways connections).

- 2.31 I received the abovementioned legal opinion from Council's legal advisors (Buddle Findlay) on 20 January and conducted site and locality visits on the weekend of 23rd and 24th of January. I closed the hearing. This occurred on 25th January 2010.

3 STATUTORY CONSIDERATIONS

- 3.1 Under section 34A of the Act, the Council cannot delegate its function of approving plan changes. In addressing the issues raised by submitters, I can therefore only make recommendations to the Council.
- 3.2 In formulating and arriving at a recommendation on the proposed PC11, I am required to take account of the provisions of section 74 of the Act apply, including the following matters of relevance:
- a) the extent to which PC11 achieves the purpose and principles of the Act (Part 2);
 - b) consideration of the Council's functions as set out in Section 31;
 - c) the extent to which PC11 is necessary in terms of Section 32 and is the most effective and efficient means of achieving the desired outcome;
 - d) the extent to which the proposed plan change is consistent with the Canterbury Regional Policy Statement and any Regional Plans;
 - e) the extent to which the proposed plan change is consistent with the any National Policy Statements and the New Zealand Coastal Policy Statement;
 - f) the extent to which PC11 is consistent with the District Plan;
- 3.3 The Council also has an obligation under s10(1), Schedule 1, Part 1, to consider (and make a decision on) the submissions and further submissions received on the proposed plan change. An assessment of how PC11 deals with any adverse effects on the environment is also required.

Part 2

- 3.4 I must also have regard to whether PC11 meets the purpose and principles of the Act under Part 2, including:
- Section 5 – the promotion of the sustainable management of the natural and physical resources of the District;
 - Section 6 – matters of national importance, which in this instance are not a relevant consideration for this plan change; and
 - Section 7 – other matter, which include the following relevant considerations:
 - (b) *The efficient use and development of natural and physical resources;*
 - (c) *The maintenance and enhancement of amenity values;*
 - (f) *Maintenance and enhancement of the quality of the environment;*

Section 31

- 3.5 Section 31 is also relevant to my considerations. That section sets out the functions of the District Council under the Resource Management Act, those relevant being:

- (a) The establishment, implementation, and review of objectives, policies and methods to achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district;*
- (b) The control of any actual or potential effects of the use, development, or protection of land...*
- (c) The control of subdivision of land.*

Section 32

- 3.6 In regard to Section 32, which is the driving force behind any plan change, Council prepared an assessment prior to the notification of the proposed PC11 in accordance with the requirements of s32(1)(c).
- 3.7 Prior to issuing its decision under Clause 10, the Council must also undertake a further evaluation under s32(2)(a). The content of my report should be regarded as this further evaluation, with the focus being on how to most effectively address matters raised by submitters.

Evaluation

- 3.8 My evaluation of the application in terms of its accord with Sections 31, 32 and 74 and Part 2 is contained in Section 16 of this report.

4 DISCUSSION OF ISSUES & SUBMISSIONS

Overview Approach to Assessment

- 4.1 A total of 31 submissions and 15 further submissions were received on PC11. There were no late submissions received. The general issues contained within the submissions and further submissions are divided into a number of groups below:
- (a) General support/opposition for/to PC11 (Section 5)
 - (b) Roads (Section 6)
 - (c) Walkways and Cycleways (Section 7)
 - (d) Reserves (Section 8)
 - (e) Zoning (Section 9)
 - (f) Development Contributions (Section 10)
 - (g) Street Scene (Section 11)
 - (h) Miscellaneous/Minor changes (Section 12)
- 4.2 I have used these categories as the basis for the assessment that follows. Due to the number of submissions / further submission points, this recommendation report does not contain specific recommendations on each submission point but instead discusses the issues under the grouped issues outlined above. Moreover, and for the sake of consistency, I have largely adopted the structure of Mr Hattam's reports (initial and supplementary)

regarding the discussion of key issues. I deviate from this approach where prudent, and in particular to address specific concerns that were raised over the course of the hearing.

- 4.3 Specific recommendations, drawing on this issue by issue assessment, on whether to accept, accept in part or reject the individual submissions and further submission under each issue are contained in tabular format in Appendix 1 to this report.

Preliminary/General Issues Arising

Overview

- 4.4 PC11 and submissions received have raised a number of general issues/procedural preliminary issues which are dealt with initially here as they relate to many of the submissions and further submissions that are discussed in Sections 5-12 dealing with the grouped substantive issues.
- 4.5 These preliminary issues are as follows:
- (a) General scope issues
 - (b) Further submissions
 - (c) Irrelevant Issues
- 4.6 As for the substantive issues, specific recommendations to accept, accept in part or reject the individual submissions concerned in respect to these preliminary matters are also contained in Appendix 1.

General Scope of PC11

- 4.7 The brief for PC11 study defined the area of interest and ultimately this defined the scope of area for PC11. As such PC11 relates to a limited geographical area and there is no scope for altering zoning or provisions relating to other parts of Rolleston.
- 4.8 Likewise, Plan Change sits within a process for a review of the Operative District Plan. This relates to a potential for a change in zoning or the planning framework, but does not extend to actual changes in activities in the Living 1B zone or the wider District Plan. Accordingly, aside from changes in rules affecting subdivision and density, PC11 represents a continuation of the residential zoning philosophy for the subject area.
- 4.9 Similarly PC11 does not affect or preclude other non RMA processes such as capital works programmes and design guideline programmes from occurring. To this end, I note that:
- (a) Firstly, the LTCCP process undertaken by the Council will set the parameters for Development Contribution policies that will determine the ability or otherwise of the Council to “acquire” land and “compensate” property owners. Landowners have every opportunity to become involved in the LTCCP process which is reviewed and updated yearly along with the Annual Plan.
 - (b) Secondly, the Council has recently completed consultation on guidelines for subdivision in the District. Many of the themes associated with PC11

such as connectivity/ linkages, street scene, and safety and security issues, are comprehensively canvassed in those guidelines which have since been adopted by the Council. I assume that in considering further subdivision, that both subdividers and the Council will have regard to those guidelines.

- 4.10 For the above reasons, I conclude that the scope of PC11 is well defined geographically and in terms of subject matter. Submissions which fall outside those identified parameters cannot be considered.

Further Submissions

- 4.11 In total, 15 further submissions were received on Proposed Plan Change 11 to. The further submitters seek to oppose or support the original submissions; stating (in most cases) which particular parts of the original submission their further submission relates and the reasons for their support or opposition. Some of the further submissions were supported by information explaining their reasons. I do not have any problem with this.

- 4.12 However, some further submissions also introduced new matters (i.e. the matters were not discussed within the original submissions). I do have a problem with this for the following reasons:

(a) As defined under Clause 8 of the First Schedule of the Resource Management Act 1991, any person may make a further submission, but are confined to either support or oppose the original submissions and cannot introduce additional matters.

(b) The further submission procedure is designed to ensure there is widespread public knowledge of any proposal which may have been introduced by a submitter rather than re-litigating the original Plan Change.

- 4.13 Thus, it is clear that I am not in a position to consider any new information introduced through further submissions. I have therefore confined my assessment of issues to those contained within the original submissions.

Irrelevant considerations

- 4.14 Two particular issues that were raised in submissions opposing PC11 in relation to roads and walkway / cycleways connection in the Structure Plan related to “property values” and the “designation process”.

- 4.15 In terms of the value of land issue, some submitters (1373, 1378 and 1379-82) were concerned about the impact of PC11 on the value of their property. It is well-established case law that the issue of changing property values as a result of a particular development proposed or changes in rules is not in itself a legitimate issue to be considered. Rather, it is the effects of a given proposal or rule change on the amenity of a property (which may in turn affect property value) which is the consideration I must focus on. To do otherwise and consider any potential change in property value is in effect a “double counting” of other effects (which lead to the change in value). Like Mr Hattam, I have therefore not specifically addressed this issue.

- 4.16 Some submitters (1378, 1379-82, 1383) expressed concern about future compulsory acquisition of land for roads or walkway / cycleways. These submitters all own land on the route of the proposed connection from Waterbridge Way to Brookside Road. As Mr Hattam commented at the hearing, and to which I agree, it is important to note that a designation would need to go through a public process with public input in the same way as this plan change. It is by no means clear that a designation will ever be necessary for any land in the Structure Plan. Council has decided on a preferred mechanism which doesn't include designation. I agree with Mr Hattam that the possibility of future designation is not a reason to abandon the preferred mechanism.

5 SUBMISSIONS EXPRESSING GENERAL SUPPORT/OPPOSITION FOR/TO PC11

Preamble

- 5.1 As a general introduction to this discussion, I wish to record my understanding of the differing views which separated PC11's opponents from its proponents; in particular the under-riding theme of the "public good" achieved by the proposal versus the perceived infringement of private property rights for landowners affected.
- 5.2 To this end, I believe a key consideration lies with the actual trigger which brings PC11's provisions "into play". Importantly, these new provisions enabling the council to take land for walkways, cycleways and roads will only be able to be given effect to upon redevelopment of the affected landholdings. In this regard, I see no onus on the existing landowners that would compromise their ability to enjoy their land (in its current state) to its full potential.
- 5.3 Furthermore, I believe that the findings in my recommendations reflect a careful and suitable balance of the conflicting views; and, perhaps more appropriately, achieve the most efficient and effective outcomes in terms of meeting both the purposes of the Act and the objectives of the District Plan.
- 5.4 With that said I will now turn to my evaluation of the key issues and matters raised by submissions; starting with those submissions which express either generic support or opposition for PC11.

Evaluation

- 5.5 A proportion of the submissions simply seek the withdrawal/cancellation or approval of proposed Plan Change 11. To that extent those generic submissions are in total opposition to PC11 as opposed to making any specific alteration. Conversely, other submissions seek the approval of PC11 without modification.
- 5.6 It is not possible for me to make a final ruling on such submissions without firstly considering the various issues that underpin the PC11. I do this in an issue by issue analysis in Sections 6-12 of this report. However, and without prejudging the outcome, it is obvious to me that there has been a clear and well articulated intention from the Council that the former deferred Residential 1 and the current Living 1B zones over the subject land would be no more

than “holding mechanisms” until a revised strategy was formulated for the ongoing development of this part of Rolleston. In support of this note that:

- (a) When the Structure Plan area was zoned as Residential 1 deferred under Plan Change 60 in 1998, there was a clear intention that that there would be a review of the density in this area before the deferral expired in 2010. The purpose of the deferral was to allow the landowners, many of whom had bought newly established rural residential lots, to enjoy low-density surroundings for a limited time.
- (b) The Proposed Selwyn District Plan was notified in December 2000. Under this revised Plan, the Structure Plan area was zoned as Living 1B, with similar provisions to the previous Residential 1 zone. The indicative roading and pedestrian connections from Plan Change 60 were carried forward in the new Plan, which was made operative in May 2008.

5.7 As such, I accept that PC11 is aimed at managing the transition of the Structure Plan area from a semi-rural density to an urban density. In doing, so I also understand that the Council identified a number of problems with the form of development likely to occur with the Living 1B zoning provisions. These include:

- The need for connections through the area (Roads and Walkway/Cycleways)
- The need for more roading for access
- Preservation of established attractive character
- Problems associated with many shared accessways
- Effects of tall fencing on the street scene, especially adjacent to accessways
- Effects of higher density on neighbours and wider area
- The need for planned provision of infrastructure, especially sewer

5.8 I accept the view of the Council that the pattern of development which would occur if there was no Structure Plan to manage the area would have unacceptable consequences. The appearance of the public areas would not meet the aims of the District Plan with regard to spaciousness and pleasantness. The area would not be well integrated into the surrounding township. Moreover, the lack of through connections would mean that it would be a barrier to movement for surrounding residents who will have to make detours around the area.

5.9 In this respect, I accept that PC11 is a well researched document aimed at reducing some of these effects and at ensuring the area is well integrated into the urban form by:

- Providing some connections through the area to prevent it from being a barrier to movement, and to ensure the new school is accessible.
- Providing a defined pattern of roads to ensure that there is a logical structure to the area so it is legible (easy to navigate) and less reliant on the use of accessways
- Providing for more density over the north of the area to make efficient use of infrastructure (new and existing) and provide other benefits of higher density (such as better walkability and critical mass for facilities and transport)

- Introducing special provisions for identified areas of high amenity (Waterbridge Way and Fairhurst Place) to protect the public amenity of these areas.
 - Introducing rules to ensure a high standard of public space by controlling the use of tall fencing next to roads and accessways.
- 5.10 In terms of the above, and as a starting point I accept that PC11 does represent a valid technique to give effect to the managing the transition of the Structure Plan area from a semi-rural density to an urban density.
- 5.11 Notwithstanding the above, it is clear to me that the provisions of PC11 should not be implemented at all costs. As such, it is imperative that before I make a recommendation concerning the rejection or confirmation of PC11 (with or without modification) that I consider each category of submission issue in the first instance.

5.12 Accordingly, I am unable to simply accept those submissions that seek categorical acceptance or rejection of PC11. On this basis, I do not support the relief sought to simply withdraw/cancel PC11; I recommend that any submission points seeking this be rejected.

5.13 A number of submissions received were in general support of PC11 as notified. I recommend that these submissions are accepted in part insofar as they support PC11, subject to those recommended amendments made to PC11 in response to submissions.

6 SUBMISSIONS RELATING TO ROADS

Overview

- 6.1 As alluded to in the background of this report, and as a result of other zone changes initiated by Council, the area subject to PC11 has now become substantially surrounded by urban development. This has given rise to a potential problem; namely a lack of through connections which, if not addressed, would mean that this part of Rolleston would be a barrier to movement for surrounding residents who will have to make detours around the area.
- 6.2 PC11 is aimed at reducing some of these effects and at ensuring the area is well integrated into the urban form by:
- Providing some connections through the area to prevent it from being a barrier to movement, and to ensure the new school is accessible.
 - Providing a defined pattern of roads to ensure that there is a logical structure to the area so it is easy to navigate and less reliant on the use of private accessways
- 6.3 On this basis, the Structure Plan has made provision over private land for roads cycleway and walkways whereby at the time of subdivision this land could be “acquired” as part of the Development Contribution process and developed by the Council to provide the necessary through linkages.

- 6.4 As I discuss below, the submission process threw up both support and opposition for these linkages. It would be fair to add that of all the issues it was these proposed connections – and particularly the roading linkages – that dominated the submission and hearing process. There was also some concerted interest in some of the walkway and cycleway linkages proposed.
- 6.5 Other issues concerning zone density, reserves, and street scene and development contributions were largely secondary to the concerns expressed to roading linkages. For the above reason, this recommendation report focuses intentionally on those submissions relating to roading connections and cycleway/walkway linkages. The remaining issues, whilst still important consideration, have nevertheless gained less ‘airtime’ in this report.

General support and opposition for new roads

- 6.6 A number of submissions (1372, 1374, 1375, and 1385) supported the roads that were proposed in the Structure Plan.
- 6.7 One submitter in particular (Submitter 1372) noted that the proposed roads will ensure that the transport network is efficient and convenient for a number of transport modes and supported the need for connectivity for the wider community and future generations. The submitter noted the need to balance the views of landowners against the need for good urban design.
- 6.8 This submitter further requested that the connection between Jozecom Place and Fairhurst Place should be a road rather than a walkway / cycleway and that the policy should be stronger in terms of future residents and their need for connections.
- 6.9 Other submissions in this vein included suggestion that Rule 12.1.4.48 protects adjoining landowners by ensuring provision of linkages at subdivision and a request that an additional link be provided through the Pineglades site, from the existing entrance to Bernini Lane to improve connectivity.
- 6.10 The generic support for the roading linkages from some submitters is acknowledged. At the same time however, there was specific opposition to many of the proposed roads/linkages. I deal with this opposition presently. In the meantime, I note that additional connections that have been requested but I do not agree that they should be included in the Structure Plan. I have reached this position because:
- (a) Firstly, and procedurally, there is doubt in my mind whether there is scope to extend the connections without going through a further Plan change process; and
 - (b) Secondly and perhaps more importantly, I accept the advice of Mr Hattam and Ms Ward that the roads included have been carefully selected to strike a balance between the needs of the present landowners and those of future generations. Mr Hattam in particular explained to me that the he Council has gone to some trouble to consult with affected landowners and minimise the unwanted effects of the routes it requires.
- 6.11 On the above basis, whilst additional connections may be desirable they are not essential. To this end, I note that Mr Hattam was careful to explain that the purpose of the Structure Plan is to provide a minimum level of connectivity

commensurate with an urban area, rather than to provide the degree of connectivity which will be required from a new Greenfield subdivision.

- 6.12 Accordingly, those submissions which generally support the proposed roads are recommended to be accepted in part (to the extent that there may be alterations to the length of the connections as a result of other submissions); and those submissions which seek extensions to proposed connections or additional new linkages as part of this Plan Change are recommended to be rejected.

New Roads in South of Structure Plan Area

- 6.13 The notified Structure Plan makes provision for two new roads in the southern area. They are:

- (a) An extension to both the east and west of Fairhurst Place
- (b) An extension to the south of Jozecom Place.

- 6.14 I deal with the submissions to these extensions under those two sub headings below:

Fairhurst Place Extensions

- 6.15 Two submissions opposed the proposed extension of Fairhurst Place as shown in the notified Plan change for the reason that the submitters have purchased land in the area to be away from traffic.
- 6.16 Another party expressed concerns about the need to redevelop their boundaries in response to new roads (and also footpaths), with particular concerns about the proximity of the new road to their existing house.
- 6.17 Another issue of concern raised by submitters related to the installation of new roads at the end of Fairhurst Place and specifically that this may require the removal of established hedges.
- 6.18 Essentially therefore there were two key issues for me to consider. The first being should there be roading extension to the west and east of Fairhurst place and secondly, if so, what length should those connections be?

Should there be a roading connection either side of Fairhurst Place?

- 6.19 As Mr Hattam noted, an intention of PC11 is to achieve a formed road in the area of Fairhurst Place. He noted that an informal accessway is already in use in the vicinity of Fairway Place and this could form the thoroughfare from which access to future subdivision could be obtained. Mr Hattam further suggested that there are many options for how this road could be successfully achieved without being an onerous burden on subdividers.
- 6.20 In support of this contention, Mr Hattam drew on the evidence of transportation evidence of Ms Ward who was of the view that the engineering/roading requirements of the Structure Plan were not especially more onerous than the minimum standards for rights of way in the District Plan.

- 6.21 I agree with the Mr Hattam's view that notwithstanding its current density and form of development, the area surrounding Fairway place has an urban zoning and the relevant baseline is what might be expected in an urban residential area generally. The existing quiet character has limited relevance in the determination of this plan change as this could be substantially altered under the current plan zoning – assuming that redevelopment takes place. Accordingly there is a reasonable expectation that a roading connection is both required and desirable.
- 6.22 As to when the road is developed, this will depend entirely on the degree and rate of subdivision and this rests largely in the hands of the existing and future land owners. At this point, I therefore reiterate Mr Hattam' view here that the land shown in the Structure Plan would not be used by the public as a road until all sections with right of way over the accessway had developed.
- 6.23 This is not to say that the land would not be useful until such time as it is fully vested as road in Council. In the interim, I do accept Mr Hattam's and Ms Ward's contention that it can form a corridor for walking and cycling as soon as a connection is created – this in turn would achieve a key outcome promoted by the Structure Plan.
- 6.24 This area under discussion is all private land. The Officer recorded, and I accept this to be factually correct, that the Structure Plan does not (nor is it intended to) pass over land which landowners have developed as part of their private curtilage. Significantly, the proposed road (in both directions) is largely to be formed over land that is in use as an accessway.
- 6.25 In view of this, Mr Hattam argued that many of the objections of submitters such as the Irelands, the McLeay's and the Brooks have raised are over a perceived rather than a real threat of loss of land and amenity. I take the Officer's view that these submitters/landowners are largely in charge of their own destiny in most of the relevant matters which affect them. To put it differently, they will not be affected unless they subdivide; in which case it is not unreasonable that they „do their part' to deliver an outcome which is consistent with Council requirements for the area. This is the case with any subdivision in Selwyn District, where development is subject to achieving specific standards.
- 6.26 Mr Hattam illustrated an example of what would be the likely result if the land were to be subdivided in the future without the guidance of the Structure Plan provisions. His case study of this is the property at 54 Stonebrook Drive, where two parallel accessways have been developed as previously rural residential zoned land has been re-subdivided.
- 6.27 Should Fairhurst Place develop similarly to this model, Mr Hattam noted there would be 53 sections at the end of the existing accessway. He argued that this would be a profoundly unsatisfactory urban area as the number of rubbish bins on a Friday morning around the turning head would be 106, the existing accessways would not comply with the required separation distances for shared accessways, and three of the four accessways would exceed the maximum number of sections which can be access by a right of way (11 instead of 10).
- 6.28 In his view, the solution to this issue is to provide strategic roading connections to tidy up the potential access problems. The adverse effects of

not providing roading of some sort are predictable, caused entirely by subdivision and in the Council's view are not acceptable. I adopt the Officer's view that a sensible and proportionate response, in view of the minimal extra cost, is to ensure that subdivisions will contribute to a road. Moreover, I see no good reason why a road should not be formed over the existing legal accessways as and when subdivision occurs.

- 6.29 Whilst there may be other means to achieve a road (such as standards requiring it to be formed when a certain number of sections use it for access or even a public works designation), I agree with Mr Hattam that the Structure Plan is the most efficient and effective solution. It is clear that a formed road will eventually be required as future subdivision of the land takes place. The Structure Plan establishes an appropriately flexible and reasonable way to provide for this.
- 6.30 On the above basis, I accept that on balance there is a reasonable case for requiring roading linkages either side of Fairhurst Place should the area be developed in accordance with its zoned purposes. Conversely, should the area not develop then the road will not be required.
- 6.31 To my view, therein lies the success of the Structure Plan and Development Contribution mechanism that is being proposed by PC11. In other words, the ability of the Council to require the roading connection is directly linked to the existence and timing of development occurring. If, as some submitters have suggested, there is no intention by them for further subdivision then clearly there is no need for, and no mechanism to, form the road. However, should those intentions change over the planning period (which could be as long as 20 years from now) then there is an appropriate mechanism for the roading to be provided and the subdividers to be "compensated" through the Development Contributions phase of the subdivision process.

6.32 As such, and subject to my findings below on the length of the extensions, I endorse the need for a roading connection either side of Fairhurst Place and therefore those submissions opposing such a connection are recommended to be rejected and those submissions supporting the connections are recommended to be accepted in part.

What length of new road is required either side of Fairhurst Place?

- 6.33 The length of road either side of Fairhurst place that is necessary to implement the connectivity objectives of PC11 was subject to considerable debate at the hearing. Mr Hattam himself conceded that this matter was finely balanced.
- 6.34 Both he and Ms Ward considered several options in both directions.
- 6.35 To the west, if the road is provided to the point shown in the notified Plan change (i.e. to the water race running parallel and midway between Jozecom and Fairhurst Places) then I accept it would provide logical service to future development. However, and in endeavour to respond to some of the concerns of submitters in this area (particularly Mr Ireland) Mr Hattam acknowledged that it may not be required to go this far, and could be terminated before it reaches No.36. On this point, Mr Hattam advised the hearing that Mr Dunlop, the owner of the land to the side and rear of No.36, had indicated that he intends to develop his land by means of a right of way

running behind No.36 (i.e. to the immediate west of the Ireland property and that a road beyond this point would not be useful to him. Mr Hattam acknowledged that No.2/38 could also feasibly be developed this way.

- 6.36 In his supplementary statement presented at the reconvened hearing, having reflected on the matter, Mr Hattam advised that he considered that this matter has been adequately addressed in his original hearing report and that the road should eventually be provided at least to the point shown in that report, for the reasons stated there (i.e. just to the west of the Ireland property so that it can service the Dunlop block if required).
- 6.37 I concur with Mr Hattam in this respect and note that such an arrangement does not create an onerous requirement on landowners and moreover has advantages in that;
- it limits the length of the walkway cycleway connection to Jozecom Place;
 - it provides good access for future sections; and
 - It avoids parallel accessways which could easily be combined into a road.
- 6.38 I appreciate that this recommendation will not find complete favour with Mr Ireland, however it should be some consolation to him that the road will only be formed for that length if there is further subdivision adjoin its corridor and both Mr Ireland and the owner of 2/38 hold the key to that scenario.
- 6.39 On the above basis, I conclude that road access to this point is the best solution which most fairly balances the public interest and that of different landowners. I note that no evidence has been presented which would change my view of this.
- 6.40 [On the above basis, those submissions supporting the western extension are recommended to be accepted in part \(given the slightly reduced length of the road\) and those submissions opposing the extension are recommended to be rejected. Note that this will require an alteration to the Structure Plan as shown in Appendix 2 to this report](#)
- 6.41 To the east, and like Mr Hattam, I have some sympathy with the position of the Brooks at no.35 Fairhurst Place. This land differs from that west of Fairhurst Place because the distance from the existing accessway to the school is less than the distance to Jozecom Place.
- 6.42 Mr Hattam's preference was for a road built to the position indicated in the Structure Plan (i.e. to a position close to but adjoining the Clearview school boundary (approximately half way along the frontage of no 37 Fairhurst Place). In declaring that length of road to be the best environmental outcome Mr Hattam noted that it would be the logical way to develop the land to an urban density and it would mean that there is only a short walkway to the school.
- 6.43 However, the desire for this outcome must be balanced against the wishes of the present landowner. The main outcome sought is that a walkway should connect to the school. Following discussion with the Brooks during the 10 day adjournment in the hearing, Mr Hattam advised the reconvened hearing that a possible compromise can be provided with a road which terminates

around the existing gate of the Brooks property. This would give the landowner more freedom in how they develop their land. The length of walkway would be 120m and would need to be shared with accessway for some of this length. I consider that this would be a satisfactory outcome for both the Council and the Brooks.

- 6.44 For walkway / cycleway connections, Mr Hattam advised the hearing that the Council is likely to purchase the land required as reserves contributions (as opposed to a development Contribution). He further advised that as a consequence of this the Council would in all probability try to obtain the full width of the connection at the earliest opportunity. For landowners like the Brooks, this may mean that the path is moved away from their land entirely. For example, if No.37 was to subdivide first and Council was able to obtain a sufficiently wide path, then the intent of the plan would be achieved without the need for a path over No.35. This may be significant because it may allow the shelterbelt between the sections to be preserved.
- 6.45 I return to the issue of the walkway over the Brooks land in Section 7 of this report, but in the meantime, I record that I accept Mr Hattam's recommendation for a reduced length of the proposed road to the east of Fairhurst Place

6.46 On the above basis, those submissions supporting the eastern extension are recommended to be accepted in part (given the reduced length of the road); and those submissions opposing the extension are recommended to be rejected albeit that the submission of the Brooks is recommended to be accepted in part. Note that this will require an alteration to the Structure Plan as shown in Appendix 2 to this report

Jozecom Place Extension

- 6.47 In a similar manner to Fairhurst Place, Mr Hattam noted the inherent difficulties with the accessway issue at Jozecom Place under the current provisions. He recorded that the zoning allows for up to 38 sections to be created accessing the turning head directly, resulting in 76 wheelie bins around an under-size turning head where separation distances for shared accesses cannot be achieved. In addition, it results in a walkway (under an existing provision) to be created adjacent to two parallel accessways causing a confusing and unattractive urban form, when a road could easily be provided at little extra cost.
- 6.48 Mr Hattam suggested that development of this area would not comply with the District Plan and would not produce an outcome which would meet the policies and objectives for pleasant spacious streets which have similar amenity to surrounding areas. For similar reasons outlined in the discussion under the Fairhurst place heading above, I agree with his view on this matter.
- 6.49 As with Fairhurst Place, the proposed way to 'fix the problem' is to provide more roading so that the shared accessways are not converging at the same place. I accept the views of both Ms Ward and Me Hattam that the appropriate course of action is to ensure that as and when 28 and 29 Jozecom Place develop, a road is provided. If these sections do not develop, the need for the road is diminished, and the land owner(s) is not affected. As noted before, the need for more roading is directly related to the development of these existing sections.

- 6.50 The Council is proposing to use a development contributions mechanism to spread the cost of this road amongst the landowners. Whilst I consider an indicative road is a fair requirement (without cost sharing), given the level of development which may be undertaken, this will reduce the burden on the owners of 28 and 29 and spread it amongst a wider group of beneficiaries.

6.51 For the above reasons, those submissions opposing the extension of Jozecom Place are recommended to be rejected and conversely those supporting the extension are recommended to be accepted.

Other roading issues in the southern Structure Plan area

- 6.52 Aside from the submissions relating the need for, and route of, the Jozecom and Fairhurst extensions in the south, other matters relating to removal of vegetation, security and privacy, and road widening were lodged in submissions and presented at the hearing.

- 6.53 I briefly discuss these matters separately below

Vegetation Removal

- 6.54 There was concern expressed by several submitters that the extensions to Fairhurst Place would result in some of the exiting shelter belts along the exiting accessways being removed. In visiting the sites and locality I noted the presence of such shelter belts and the degree of amenity and wind protection they afford that afford. As such, I understand and share the concerns of submitters that such importance pieces of vegetation may need to be removed to provide for the proposed road extension.

- 6.55 Notwithstanding this, I do acknowledge the evidence of Ms Ward and Mr Hattam on this issue as follows:

- In her evidence if Ms Ward clearly illustrated that a road may be formed this is comprised of two separate carriageways. In response to questions from me she indicated that the shelterbelt may be retained in the middle, but equally it may not be – it depends on the design option that is preferred and adopted.
- Similarly, Mr Hattam also noted that there was no particular need to remove the shelterbelt at this point, noting that the net effect of this is that the subdividers will not be required to form any accessway to a significantly greater expense than otherwise required and the neighbours using the other accessway (on the other side of the shelterbelt) are not greatly affected as the shelterbelt is retained.

- 6.56 I reiterate these points merely to illustrate that the retention of shelter belts or otherwise is not a matter that this forum has to determine. Rather, that specific design detail can be determined at the time that the accessway is formed which in turn is solely dependent on subdivision occurring in the first instance).

- 6.57 All I wish and need to add here is that there was undisputed evidence before me which illustrates that there are design solutions under which significant vegetation can be retained.

6.58 In terms of the above, there is no particular decision point requiring my attention in relation to any potential vegetation removal along the existing accessways as associated with Fairhurst Places as vegetation removal does not form part of PC11. However, in so far as the above submissions seek to have the road extensions to Fairhurst Place removed, those submissions are recommended to be rejected. Those submissions seeking to have the road extensions to Fairhurst Place remain in their notified form are recommended to be accepted in part given that some of those linkages have been recommended for alteration in terms of length of the route.

Security and Privacy

6.59 Some submitters suggested that the new road boundaries would create safety/security and privacy issues for the landowners adjacent to the new roads. Such submitters suggested that it would therefore be necessary for them to redevelop their boundaries in response to new roading.

6.60 In response, Mr Hattam did not accept that this is necessary. He reminded the hearing that subdivision within the area will create the urban environment for which the land is already zoned. Anticipated outcomes for this environment are houses which address the street directly (without the need for front fencing). In his view this contributes to a safe, secure and attractive neighbourhood. He also noted that this is in line with national guidance on crime prevention through environmental design (The Ministry of Justice's National Guidelines for Crime Prevention through Environmental Design in New Zealand). He suggested that measures such as tall fencing would in reality make the property more vulnerable to burglary.

6.61 In terms of specific submissions/properties, Mr Hattam commented as follows:

With particular regard to 36 Fairhurst Place,

- *I also note that the submitters own the right of way adjacent to their property and that it is within their control. The accessway (to the north of the shelterbelt) could not be redeveloped into road or footpath without their consent unless they chose to subdivide.*
- *I also note that the submitter's house is around 6m from the proposed road. This is consistent with an urban environment, where the required setback from the road is 4m.*

With regard to submission 1393 (35 Fairhurst Place)

- *I note that one side of the double row of shelterbelts appears to be entirely within the ownership of No.35 and that this would not be removed unless they chose to subdivide. I do not agree that there will be an unacceptable impact on privacy if a walkway was established on the other side of the shelterbelt.*
- *There is a walkway/cycleway proposed through this site, but this would also not be established unless No.35 is subdivided. This footpath is proposed because the direct route will provide legal access to the school, but not to the new road beyond. The school has indicated that it will allow the public to pass through its site, but it would be desirable in the long term to safeguard access to this road. There is no urgent need to establish this path in the short term.*

6.62 I understand the concerns of the submitters and hope that the above commentary does go some way to allaying their concerns. In general terms, I accept that the need to develop boundary responses to the new roads is entirely up to landowners and accept that the need to do so under the

proposed roading alignment should not be materially different to the pressure to do so under the current accessway arrangements associated with the properties affected.

6.63 In terms of the above, in so far as the above submissions seek to have the road extensions removed, those submissions are recommended to be rejected.

Widening of Jozecom & Fairhurst Place

- 6.64 Some submitters (e.g. submission 1362 - D Sinclair) were under the impression that the extensions Jozecom and Fairhurst Places will require the existing alignments to be widened and assumed that this was PC11 was seeking to achieve.
- 6.65 I can understand why this misunderstanding arose because the reports accompanying PC11 and also the evidence of Mr Hattam and Ms Wards outlined some options for how these road may be widened. For example, the material suggested that the road in Jozecom Place may need to be widened by 1.5m on each side to make space for a 7m carriageway and a footpath on one side.
- 6.66 Mr Hattam usefully clarified that this is not the function of PC11. To this end whilst I note that the lifting of the defer zoning over the Structure Plan area and the subsequent development will necessitate the widening of these roads, this will be done by a separate mechanism rather than PC11 per se. In this respect, my understanding is that either the two roads will be widening within the existing legal road corridor or if widening is required to be undertaken outside the corridor then the appropriate mechanism will be as designation procedure which is a public process allowing full involvement by affected landowners.

6.67 In terms of the above, there is no particular decision point requiring my attention in relation to any potential road widening of Jozecom and Fairhurst Places as such widening does not form part of PC11. However, in so far as the above submissions seek to have the road extensions to Jozecom and Fairhurst places removed, those submissions are recommended to be

New Roads in North of the Structure Plan Area

- 6.68 The key issue associated with the proposed spine road associated with the northern area of the Structure plan concerned the linkage routes from Brookside road to Lowes road. In this respect, there were two main issues as follows:
- (a) The southern connection of Brookside road to Waterbridge Way around 161-167 Brookside
 - (b) The northern accessway off Brookside road and its connection to the spine road running parallel to the Pineglades land; and
- 6.69 I discuss these matters separately below.

At 161-167 Brookside Road

6.70 Submitters 1379-1382 (owners of 161 and 165 Brookside Road) originally opposed the new roads on the basis of the impact they have on the amenity of their existing properties and potential future subdivisions. These submitters requested that the spine road should not pass through their sections and that there should instead be two cul-de-sacs terminating either side. However, and as mentioned earlier in this recommendation report, those submitters subsequently withdrew their submission following the council purchase of those two properties. This did however leave submission 1383 (Western Reef Ltd at 167 Brookside Road) which sought to *“re-route the footpath next to 167 Brookside Road and use cul-de-sacs terminating on either side of that site, rather than a connected road through it.”*

6.71 For the record, Mr Hattam recommended that all these submissions be rejected because of the importance of forming a north-south spine road connection from Brookside road to Lowes road. Notwithstanding, the withdrawal of submissions 1379-1382, Mr Hattam listed several reason for proceeding with the spine Road and rejecting the remaining submission (number 1383). I have included the relevant reasons in full because they are reasons I fully endorse:

- *it forms a pedestrian connection that ties together the north east and south west halves of the development. To remove it would cause pedestrians to take detours onto Brookside Road, adding around 200m to journeys.*
- *The roads have been designed to have a logical shape for the sake of legibility. To replace them with cul-de-sacs would disrupt this and make navigation through the area more difficult. The legibility of the roads is based on the spine road which will function as a local collector road, with traffic from minor roads being funnelled onto it.*
- *The roads provide only a minimal level of connectivity, far less than is expected in new subdivision, because of the difficulties in working with a partly developed area. To remove them would mean very little connectivity is provided and would be detrimental to the needs of the area and the town. It would result in longer journeys within the area and in additional vehicle kilometres being travelled to reach the major roads.*

6.72 For the above reasons, including the withdrawal of those submissions affecting 161 and 165 Brookside Road, it is recommended that the connections to the spine road off Brookside Road are confirmed as per notified PC11. As such, any remaining submissions opposing those connections are recommended to be rejected and those submissions generally supporting those connections are recommended to be accepted.

At 141/143 Brookside/Pineglades

6.73 Notwithstanding the absence of any submission per se opposing the northern connection point beginning at 135 Brookside Road, there were submissions about how the Pineglades Naturist Club (“Pineglades”) is affected by the route of the road which leads from the spine road to Campion Place. As was highlighted by Mr Elvines on behalf of the Pineglades, (for practical reasons of avoiding buildings and road design) there are essentially the three routes this road could take.

6.74 There was considerable discussion at the hearing concerning these options.

- 6.75 In addition to the Pineglades submission, there were two submissions (1377 and 1384 - the owners of 141 and 143 Brookside Road) requesting an alteration in the route of the spine road. These submitters both provided the same diagram showing an alternative route for the road over their land and land to the north east (principally 139 Brookside Road and the entrance to the Pineglades site).
- 6.76 Mr Hattam initially supported these submissions on the basis that they allow the intent of the Structure Plan to be achieved. He recommended that the alignment of this section of road be amended in line with the evidence of Ms Ward, which demonstrated a safe route for the road, with safe access to the Pineglades site, without creating a small area of land severed from No.141 Brookside.
- 6.77 Mr Hattam noted that giving effect to these submissions would create a small parcel of land on the adjoining site (No.137). He recommended that this is marked as road in the Structure Plan. He noted that the Council will need to purchase some land for stormwater management and this would be suitable for that purpose.
- 6.78 However, this issue was further complicated by the issues raised by Pineglades. In essence, Mr Hattam recommendation was changed between notification and the section 42 report and the reconvened hearing as a result of further discussions with the parties, particularly Pineglades and submitter 1377 (Mr Bruce Jones).
- 6.79 Because of these concerns, Mr Hattam's supplementary report presented at the reconvened hearing made it clear that his initial recommendations had not solved the issues of concern to these submitters (road safety and issues relating to the subdivision of 141 Brookside Road).
- 6.80 He noted that both of the submitters in the category have a preference for the original, straighter route which was suggested at consultation (and is shown in Appendix 8 of his original report). Moreover, he noted an important disconnect between the position of Pineglades and Mr Jones in that:
- (a) The Pineglades have indicated strong opposition to the final route shown at the hearing. Their submission carries some weight because the Council is reliant on a willing sale of a portion of their driveway to make a connection.
 - (b) By contrast Mr Bruce Jones would prefer this route because it would allow him to develop his land more effectively.
- 6.81 Mr Hattam conceded that there is no easy answer to this problem but in view of the key position of the Pineglades and their stated preference for the notified route (over the hearing report route), he recommend that the notified route is re-instated. He alerted me to the fact that the original straighter (pre-notification) route which was suggested at earlier consultation was amended for two reasons.
- (a) The first is that it did not suit Mr Hood (145 Brookside Road submitter 1367).

- (b) the second and principle reason was that the Council wanted to change the route of the spine road to connect with Lowes Road rather than Campion Place (essentially a change in emphasis).
- 6.82 The rationale behind (b) above was to reduce the traffic over the stretch of road under discussion. And the reason for this is that this stretch of road would lead either to Campion Place where there would be only indirect connections to the main road network, or to the Pineglades accessway which may not be formed to best practice standards. In this case, the reduction in directness is seen as an advantage as it encourages traffic onto the Collector roads.
- 6.83 Mr Hattam advised that right throughout the process constructive discussions have taken place between the Council and Pineglades about the exact position of this road but no agreement has been reached, with Pineglades preferring the route proposed in initial consultation, but not agreeing on the notified route.
- 6.84 Mr Hattam's overall view was that the notified proposal is the best route in terms of environmental outcome. However, he noted that should I consider that the case for the original route is strongest (that it is the most efficient and effective proposal) then there would not be scope to include it without disadvantaging other landowners. He therefore suggested in this circumstance that the road between the Pineglades entrance and the spine road be removed entirely in order that the issue can be revisited at a later date following further consultation with all the relevant parties.
- 6.85 My position is that there are pros and cons with both routes – the notified route and the original pre-notification route). Moreover, it seems to me that the position of Pineglades is pivotal to the success of these routes. To this end I note that Mr Hattam's discussions with the Pineglades indicate that they will agree to the provision of a link from Brookside Road to Campion Place over their entranceway if the link is not provided through to the Spine Road. That is, that this half of the link from the Spine Road to Campion Place can be achieved even if the other half cannot.
- 6.86 On the above basis, I am willing to confirm half of the link connecting the Spine Road to Campion Place but would prefer to take up Mr Hattam's suggestion of removing in its entirety the road between the Pineglades entrance and the spine road in order that the issue can be revisited at a later date. This at least provides connection from Brookside Road to Campion Place and whilst there is no access from 135 Brookside Road to Lowes road via the proposed spine road, there is still access in the vicinity of 161-165 Brookside Road to Lowes road via the proposed spine road.
- 6.87 Accordingly, those submissions opposing the spine road connections between 135 Brookside Road and the Pineglades property are recommended to be accepted to the extent that this section of the spine road is to be removed from the Structure Plan. Note that this will require an alteration to the Structure Plan as shown in Appendix 2 to this report.

7 SUBMISSIONS RELATING TO WALKWAYS & CYCLEWAYS

7.1 As with the roading connections, the submissions and concerns relating to walkways and cycle connections were broadly split into the north and south as follows:

(a) Connection from School to Fairhurst, Jozecom and East Maddisons

(b) Connection from Waterbridge Way to New Spine Road

7.2 I deal with these separately below.

Connection from School to Fairhurst, Jozecom and East Maddisons

7.3 The indicated route provides a connection to East Maddisons Road from the school and from the new road being constructed between Lowes Road and Goulds Road. On the way to the east it connects to Fairhurst Place and Manor Drive, and to Jozecom place and Frame Crescent. The connection will then link with an existing indicative walkway/cycleway which will lead into the Kajens development. The Officer noted that land had already been acquired at the end of Villa Mews for this purpose.

7.4 There was some concern about this connection from a number of submitters. The particular concerns of submitters included:

(a) That the proposed path would via the final walkway provide a connection to the new Clearview School. Reasons for this included that it would increase traffic on Fairhurst Place from people picking up and dropping off school children.

(b) Some submitters also expressed a view that the connection to the school is unnecessary. One considered that the route would serve only Frame Crescent, submitting that the connection would be unworkable and that it will not be established as properties will not be subdivided to allow it. In this submitter's view, it has not been demonstrated that the walkway is the best route.

(c) Another issue raised was that the proposed walkway would not help any families access the school as they were not aware of any school age families in Jozecom Place. This submitter also thought that the connection was unnecessary because there were other entrances to the school.

(d) One Submitter considered that the connection would not increase the number of people within a 400m radius of the school, something that was highlighted as desirable in the consultation document circulated prior to notification of PC11 (the Draft Rolleston Living 1B Deferred Zone Structure Plan Consultation Document). This submitter requested that the walkway connection be removed.

(e) One landowner adjacent to the turning head at the end of Jozecom Place opposed the walkway as they do not intend to subdivide, citing that PC11 would take away their future options.

- 7.5 Collectively, these concerns break down to two issues for my consideration. The first relating to the need for the link and the second relating to the effect of the link.

What is the need for the link?

- 7.6 In respect to the need for the link, I record that the evidence of Mr Hattam in combination with that of Ms Wright and Ms Ward on this matter was largely unchallenged as to the desirability of such link. Essentially, with a changed zoning regime and increased density being afforded by PC11 it is necessary to make advance provision for connections and it seems that this particular connection through to the school is a particularly desirable one.
- 7.7 In terms of the above I particularly acknowledge the evidence of Ms Wright who has provided a strong case of how powerful a disincentive to walking the status quo is in reality. She noted that there are potentially 180 households that may be located within a 10 minute walk of the new school under the Structure Plan, which would not be located within a 10 minute, walk of it otherwise. She suggested that other areas, such as in the Kajens development, will also benefit from the ability to use the walkway.
- 7.8 Further to this and just on block size alone there is a strong case for these proposed connections. To this end I note from Mr Hattam that the block sizes without the Structure Plan would be around 1800m (between East Maddisons and Jozecom) and 2500m (Fairhurst and Jozecom). Clearly this is simply not an appropriate amount of connectivity in an urban area.
- 7.9 The need for a connection is in my view is well established. On this basis, I conclude that this link makes a significant contribution to walkability in this part of Rolleston.

What are the effects of the link?

- 7.10 Aside from the issues previously covered relating to loss of land etc, the key issue raised in relation to this link included that it would increase traffic on Fairhurst Place from people picking up and dropping off school children. Ms Ward response to these issues in both her initial and supplementary reports presented to the hearing. In her considered view, whilst she acknowledged that preventing drop off is not possible given the public nature of roads, she predicted that the likelihood of parents using his route is low. In her view given a parent has made a decision to drive a child to school it is more likely will drive directly to the school where is there a dedicated drop off point.
- 7.11 Notwithstanding this, Ms Ward did address the potential adverse effects that might arise from the use of this connection point by vehicles; particularly the eastern leg been Fairhurst Place and the school where the final link will be from a walkway connecting to the proposed road. She noted that the two potential traffic effects could include blocking of the road and accessway and parking on the berm as children alight and walk travel along the walkway to the school.
- 7.12 To prevent these effects from accruing she suggested that a combination of a Council/school travel plan that will encourage travel behaviour change and the use of curb works to prevent use if berms for parking.

- 7.13 On balance I endorse Ms Wards evidence and would suggest that a combination of good provisions of vehicle drop off at the school combined with the expected usage of closing and walking will ensure that there will be little or no desire by parents to use the Fairhurst place entrance for drop offs and pickups. To ensure that this is the case at the conclusion of this report I have recommended some monitoring and review of this by the Council in combination with the school outside of this particular Plan change process.

The case for no 35 Fairhurst Place

- 7.14 Notwithstanding my above findings, which are based on the long term need for this connection from the School to Fairhurst, Jozecom and East Maddisons, I accept Mr Hattam's advice to me that there are particular circumstances involved with no 35 Fairhurst Place which provide a basis for some particular rule treatment for that property. In this respect, and based on Mr Hattam's revised recommendation in his supplementary report, I accept that this site is now potentially affected by two walkways (i.e. there is for now an alternative given the expectation of access through Clearview School). Mr Hattam advised me that there is no strategic need for this walkway in the short term as facilities within the recreation precinct will take some time to be developed.
- 7.15 In view of this, Mr Hattam considered that a mechanism could be put in place to allow the owners (the Brooks) some subdivision rights without the need to complete a walkway through their land, as long as the ability to provide the walkway is not compromised for the long term.
- 7.16 He said this would require a site specific rule, for instance one which allowed subdivision down to an average of 4,000m² (thus allowing 3 sections) without the need for the walkway to be provided, so long as a potential route is identified and kept clear. This will mean that any interim rural residential development is designed with regard to the future walkway / cycleway and urban layout. Mr Hattam outlined the basis for his rule at the reconvened hearing
- 7.17 I accept the appropriateness of this recommendation. For the sake of clarity, I note two matters. Firstly, these circumstances apply to no other connection in the Structure Plan and secondly while the Brooks were accepting of this rule, they made it clear to me that this was not their preferred relief.

7.18 On the above basis, those submissions that support the walkway connection between Fairhurst Place and the school are recommended to be accepted in part given that the length and orientation of that route is recommended to be altered. Those submissions that oppose the connection are recommended to be rejected. In terms of the Brook submission this is recommended to be accepted in part given the alteration of the route and the rule relief recommended.

7.19 This recommendation requires alterations to the Structure Plan and consequential amendments to the text of PC11 to be undertaken as shown in Appendix 2 to this report.

Connection from Waterbridge Way to New Spine Road

7.20 There were a number of submitters who were opposed to this connection. The relevant matters raised in these submissions are as follows:

- that the footpath is an unjustified restriction on land use and that landowners would not be able build on their land even if they are not intending to subdivide.
- objection to the restrictions on building within 2m of a proposed footpath.
- a view that there is no certainty that the footpath will be established.
- a view that there is insufficient detail on size and location for landowners to be able to assess how they are affected or where they may build.
- a view that the walkway / cycleway is superfluous as there are two new roads running parallel in the Structure Plan.
- concern about social and safety issues: loss of privacy; security issues; anti-social behaviour.

7.21 Other submitter points included:

- the walkway severs a portion of their land on 31 Waterbridge Way and that this portion of land is rendered unusable by them as the landowner.
- concerns about general traffic safety, about Waterbridge Way becoming a through route and about how the rural environment can be maintained with an influx of pedestrians and cyclists.
- general concerns about the overall loss of amenity values along Brookside Road as a result of walkways/cycleways being built in the area.

7.22 I record that this particular walkway/cycleway connection received a great deal of attention both at the hearing, and in the consultation that has occurred between Council Officers and landowners. This connection was disputed by the owner of 31 Waterbridge Way (1378). It was also originally opposed by Darren Craig (1379) whose submission was subsequently withdrawn following the purchase of 161 and 165 Brookside Road by Council. His submission was supported by a further submission from Dave Brown of 33 Waterbridge Way.

7.23 I was advised by Mr Hattam at both the initial hearing and at the reconvened hearing that various discussions had been held with the owners of 31 Waterbridge Way (confirmed by the owners, Palliser and Winchester during the course of both hearings) but that no agreement had been reached on how to deal with this issue.

7.24 I accept the Officer's view that a linkage of some form between Waterbridge way and Brookside Road will provide an appropriate degree of connectivity to the future urban area to the north off Brookside Road. In that regard, and having particular regard to the Living 1C zoning over this development, I do think a walkway/cycleway is a suitable method to be implemented in the future development of PC11 site.

- 7.25 Notwithstanding this, due to changes in circumstances (namely the purchase of 161 and 165 Waterbridge Way); I was advised by Mr Hattam at the reconvened hearing that the revised walkway shown in the Structure Plan is no longer required. It seems that the Council is able to obtain more open space on 165 Brookside Road and now merely requires a connection to Waterbridge Way, such as the one that is provided by the operative District Plan. On that basis, Mr Hattam recommended that the walkway is deleted from the Structure Plan and the pre-existing provisions are left in place.
- 7.26 Given that the Council no longer requires the specific connection introduced by PC11, and rather are content to rely on that linkage already identified in the Operative District Plan, this would have normally been the end of the matter. However, though oral submission from their legal representative (Ms Allardyce) at the reconvened hearing, the owners of 31 Waterbridge Way (Palliser and Winchester) would like the existing provisions to be deleted as part of this plan change. This in turn raised the issue of whether or not the existing walkway requirement could be removed by way of submission on PC11.
- 7.27 In response, Mr Hattam advised me that he did not consider that there is scope for the removal of the existing walkway in the operative District Plan. In any case, he considered that the walkway should be retained on its merits.
- 7.28 As mentioned in Section 2 of this report, I elected to take some legal advice on this matter which has concluded that there is no scope to remove the existing walkway. The crux of that advice is as follows:
- The existing District Plan contains an indicative walkway. PC11 proposed to upgrade this walkway to a linear reserve. To remove the walkway would leave Waterbridge Way as a cul-de-sac forevermore. This possibility was not indicated by PC11, and is therefore not a „live’ issue.
 - There is no submission or further submission that seeks that the existing indicative walkway shown in the District Plan be removed.
 - The information about the existence of the walkway, whilst a point of contention, was in the public domain at the time of notification. It is in the District Plan and was approved in Plan Change 60, which has been through the required public process.
 - PC11 does propose the removal of the walkway provisions (the amendment to 12.1.4.45) but only insofar as the walkway requirement is being modified by new provisions aimed at improving the walkway; therefore by removing the walkway requirement from the Structure Plan, the provisions of the Operative District Plan will still apply.
- 7.29 Accordingly, I recommend that the walkway, as shown on the notified version of PC11, be deleted. On the matter of the walkway requirement in the operative District Plan, I find that I do not have jurisdiction to alter that.

7.30 On the above basis, those remaining submissions that oppose the walkway connection from Waterbridge Way to the new spine road are recommended to be accepted and those that support the connection are recommended to be rejected. This recommendation requires alterations to the Structure Plan and consequential amendments to the text of PC11 to be undertaken as shown in Appendix 2 to this report.

8 SUBMISSIONS RAISING PLANNING ISSUES COMMON TO ROADS & CYCLE/WALKWAY LINKAGES

Context

8.1 In addition to the particular submissions opposing/supporting the various roading and walkway/cycleway linkages in terms of their need and alignment etc (i.e. the substantive aspects of the linkages), there were certain submissions which raised concerns about the procedural aspects underpinning the proposed aspects of the Structure Plan. These were essentially broken down into two sub-issues; namely:

(a) the method selected for introducing the proposed connection (i.e. the Structure Plan) and the existence of alternatives (e.g. designation)

(b) The way in which the Structure Plan will be implemented in practice.

8.2 I also directed questions on some of these matters to the reporting officers, particularly Mr Hattam who dealt with these in his supplementary evidence at the reconvened hearing.

8.3 I discuss these matters below.

Comparative Mechanisms

8.4 There were several aspects of the “mechanism” debate as follows:

(a) Firstly, some submitters stated that mechanisms other than the Structure Plan and development contributions should have been employed to put in place the proposed linkages. In particular, some submitters suggested that the designation mechanism would be more transparent, more equitable and therefore more appropriate. I also raised this possibility in both my questioning at the hearing and in my Minute. Ms Allardyce for the owners of 31 Waterbridge Way particularly advocated the use of designation as a means of providing a process for the fair identification and valuation of land to be used for a future public work such as a road or walkway. I doing so she was critical of the ability for Development Contributions to adequately compensate landowners for the loss of land.

(b) Secondly, and conversely to item (a) above, some other submitters feared that any future designation would give rise to compulsory acquisition of land for roads or walkway / cycleways. Those submitters all own land on the route of the proposed connection from Waterbridge Way to Brookside Road.

(c) Thirdly, and aligned with the use of designation was the issue of the cost benefit aspects of the proposal;

8.5 I comment on these individually below.

Structure Plan vs. Designation

8.6 With regard to whether designation is a more appropriate mechanism, Mr Hattam was of the view that the reasons for not pursuing a designation are

clear from the section 32 report accompanying the PC11. Those reasons included the following observations:

- (a) That the Council does not wish to force the pace of residential development. Rather, the appropriate role for Council is assessed as to be prepared to step in to ensure that development is orderly.
 - (b) A designation may not be necessary as there is every possibility that the land may be developed in a logical fashion without it, due to the number of points of entry and exit. For example Mr Hattam advised that in the consultation undertaken in March and May 2009, 8 of the 14 landowners affected by the spine road indicated (either verbally or in writing) that they intend to develop their land.
 - (c) In its dealings with landowners, Council has given assurances that it will not pursue heavy-handed options like compulsory purchase through designation, for these reasons. In view of this, the Council is concerned that to rely on a designation at this stage would appear to some landowners to be an act of bad faith.
- 8.7 I accept that legitimacy of these reasons why designation was not proposed and acknowledge that the Council has the discretion to use whichever mechanism it sees as most appropriate. My role in this exercise is simply to determine that whatever provision is adopted it represents an effective and efficient mechanism to achieve the policy being pursued. I heard no evidence to dispute the information presented in the section 32 report and therefore adopt that report in support of my finding that the Structure Plan mechanism is appropriate. I draw on this is the final sub issue relating to cost benefits, but first need to consider some submissions which oppose the prospect of designation altogether.

Plan Change a precursor to Compulsory Acquisition?

- 8.8 This category of concern was diametrically opposite to the earlier matter in that rather than supporting designation as an alternative mechanism it opposed any future designation. The rationale behind this was that these submitters feared that the Structure Plan is a precursor to a designation which in turn would give rise to compulsory acquisition of land to construct the roads and walkways.
- 8.9 The simple response here is that PC11 as notified does not propose the use of designation. Even if it did or if that changed in the future, I endorse Mr Hattam's response that it is important to note that a designation would need to go through a separate public process with public input in the same way as PC11 has. I therefore agree with Mr Hattam that a designation will not necessarily be required for any land in the Structure Plan. Moreover, I adopt Mr Hattam's view that the possibility of future designation is not a reason to abandon the preferred mechanisms introduced by PC11, regardless of whether they are ever introduced or not.
- 8.10 Finally, I note that there is a need to balance the benefits of designation (to developers) with the approach preferred by Council, to allow the area to develop at its own pace and allow people to enjoy use of their private sections in the short and medium term, if they do not wish to subdivide. It is to the matter of comparative benefits and cost that I now turn to.

Cost - Benefit Assessment

- 8.11 I note that this group of concerns sits at the heart of a number of submissions in opposition to the proposal and that it is a very serious consideration for PC11 – particularly in terms of the economic cost/benefit analysis and efficiency/effectiveness assessment required under s32.
- 8.12 In defining what the actual cost to the affected landowners is, I have already noted at the inception of my assessment in Section 4 that any financial onus placed on landowners will only be applied at the time that they decide to further develop or subdivide their land. In this regard, it is appropriate to disregard any immediate costs to the landowners as a potential effect of the proposed plan change provisions.
- 8.13 This then leaves the costs which are generated at subdivision stage, of which (according to Mr Hattam) the most relevant are:
- formation/construction of the walkways/cycleways;
 - maintenance of the walkways/cycleways; and
 - Perceived loss of capital value due to land being classified as walkway/reserve rather than being allocated directly to subdivided residential allotments.
- 8.14 In terms of the first two bullet points, these costs would largely (if not entirely) be offset by the fact that the land would be vested in Council and taken as reserve contribution for the development. In this regard, it is also appropriate to discount these two points as actual costs to these landowners or as implements that will affect the overall value of the land affected (both in its current state, and after any eventual subdivision).
- 8.15 The final consideration, being the potential loss of capital value at subdivision stage, is, in my view, more finely balanced. There is a real perception that the capital value of any future site development for land owners affected by the proposal will be diminished when considering the requirement to set aside land for walkways rather than „maximising’ the area of land to be used as part of each future residential allotment.
- 8.16 Nevertheless, and as noted by Mr Hattam, this is a practice implemented by Councils across New Zealand in development areas to ensure that future urban areas are provided with reasonable amenity – and in this case, preserving the ability for future residents and visitors to have access through the area via a number of different transport modes. The same can be said where Councils take land as roads, reserves, and for utility purposes for normal „greenfield’ subdivisions.
- 8.17 I note from Mr Hattam that the Council has a well established policy framework which supports this approach, and this is to be bolstered by the newly introduced provisions of PC11.
- 8.18 To be clear, the established „need’ for PC11 is to recognise that the future residential intensification of this area could place a significant strain on the existing network of roads, accessways and active transport needs of the immediate and adjoining neighbourhood(s). It is therefore appropriate that the action which creates this potential „strain’ (i.e. by introducing more residents into the area) is coupled with measures to alleviate the strain and to

ensure that the newly-created urban environment is efficient, self-sustaining and consistent with the outcomes anticipated by the District Plan.

- 8.19 To this end, I cannot conclude that the landowners affected by PC11 are unduly hard done by in an economic sense, nor do I believe that these concerns over the impact of PC11 on property values are significant or should be a hindrance to the eventual adoption of the proposal.

8.20 In terms of the above issues relating to the mechanism selected for introducing the proposed roading and cycleway/walkway linkages, there is no particular decision point requiring my attention in relation to any particular linkage proposed in the Structure Plan. However, in so far as the above submissions seek to have the various road, walkway and cycleway linkages removed, those submissions are recommended to be rejected. The exception to this relates to the submission opposing the cycleway/walkway connection over 31 Waterbridge Way as introduced by PC11; that submission is recommended to be accepted insofar as it relates to the Lowes Road Structure Plan introduced by PC11.

Implementation of the Structure Plan

- 8.21 Aside from those submissions addressing the various linkages proposed in the south of the Structure Plan area and the spine road connections in the north, there were some miscellaneous issues raised by both submitters and myself about the mechanism of the roading as shown on the Structure Plan.

- 8.22 This included issues such as:

- (a) how the Structure Plan might be implemented in terms of the roading pattern;
- (b) the indicative nature of roading; and
- (c) the degree of precision of the Structure Plan linkages.

- 8.23 I consider these briefly below

Concerns over Implementation

- 8.24 A reoccurring issue raised in submissions related to concerns that the implementation of the Structure Plan will be piecemeal due to the fragmented ownership pattern. This included submissions that:

- the provision of infrastructure needs a co-ordinated approach;
- there may be problems accessing land whilst waiting for roads to be built and that under the Structure Plan roads may take some time to be built whilst the ability of some landowners to develop is curtailed in the meantime;
- people will have to wait or otherwise make additional access arrangements at extra cost and still set aside Structure Plan land, “in effect paying twice;” and
- The proposals are a de-facto designation which adversely affects landowners, and that in not seeking a designation, the Council is

attempting to avoid paying for the land and shifting the burden onto landowners.

- 8.25 In responding these concerns, Mr Hattam acknowledged that implementing the Structure Plan will not be easy. But he considered that it is the fairest way to provide for the development of the area. In particular, he accepted that the difficulties are most apparent in the north of the area where properties front Brookside Road or East Maddisons Road, because connecting roads would alter the pattern of development most in these areas.
- 8.26 I concur with both the concerns of the submitters and the response of Mr Hattam. Moreover, and a point that was not lost on me, is that these difficult areas are the very areas where the Structure Plan roads are most important, precisely because they would alter the pattern of development away from one which the Council believes is unacceptable.
- 8.27 In considering these concerns and responses further, I do acknowledge the extensive consultation that the Council has carried out on this matter prior to the notification of the application. Mr Hattam particularly drew my attention to the following statistic regarding consultation:

“Over half the landowners participated in the May 2009 consultation. In the north of the area... the path of the roads was opposed by only 2 landowners, being submitters 1379-82 and 1394 (Jeannie and Alistair Hood). Following further work on the Structure Plan, Jeannie and Alistair Hood have submitted broadly in favour of the road (subject to design considerations).”

- 8.28 The need for the proposed roads is accepted by me. I particularly cite the following advantages:
- They will enable the rezoning of the area to a more intensive use (Living 1) and provide more efficient access.
 - They will enable a much greater yield of sections (e.g. 240 in the Brookside Road / East Maddisons Road areas as opposed to 161 without the Structure Plan).
 - Further, the spine road in them north has a number of points of entry and exit and access and so does not depend on all landowners developing their land.
- 8.29 Overall therefore, whilst I acknowledge those submissions that point out the potential difficulties with the Structure Plan approach, I do not consider that they make it unworkable or that they out-weigh the benefits.

Existing Indicative Roads

- 8.30 One of the matters I sought clarification on in my minute that was issued after the first adjournment of the hearing questioned how the existing indicative connections might operate in practice. I felt that such an explanation might be a benefit not only to me but also those submitters who had questioned the operation of the Structure Plan and its attendant rules.
- 8.31 Mr Hattam clarified that the relevant rules are 12.1.4.37 to 12.1.4.46. These amount to comprehensive assessment criteria on how the failure to provide an indicated connection would impact on the Rolleston urban area. They include the effect on increased vehicle use, the need for pedestrian access,

and the need for integrated development, providing for walking to school, pedestrian amenity, and access between residential areas.

- 8.32 These provisions are part of the assessment matters to be considered at subdivision stage.
- 8.33 According to Mr Hattam, many of these connections were established by Plan Change 60. His view was that, as land has developed, this mechanism has been successful in obtaining land for linkages. This includes the land for a connection at Villa Mews and Frame Crescent, and the roading, cycleway and reserve pattern throughout central Rolleston and to the east (this is not intended to be a comprehensive list).
- 8.34 Mr Hattam noted the example of Frame Crescent in which the completion of the existing linkage is awaiting the further subdivision of the land which is expected to occur over time.
- 8.35 Mr Hattam submitted that the proposed mechanism in PC11 differs from that in Plan Change 60 in that it relies on a policy to provide the framework for whether the connections are needed, rather than on assessment matters. This is in his view was a more logical way to structure the provisions as discretionary applications which fail to comply with the assessment matters can be assessed at the higher level. His opinion was that in all other ways, the provisions were profoundly similar.
- 8.36 I agree with Mr Hattam this regard and find nothing particularly unusual in the concept of the Structure Plan proposed and I hope Mr Hattam's explanation allays the perceived issues for many submitters.

The need for roads to be precisely located or otherwise

- 8.37 This was another issue in which I sought further attention from the Officer in the Minute.
- 8.38 In his response, Mr Hattam claimed there was benefit in providing some detail in the location of routes as a starting point for the design of subdivision, but that the proposed policies and rules do not require precise compliance.
- 8.39 He iterated that Rule 12.1.4.48 requires that development be in general accordance with the Structure Plan, and then goes on to list a number of matters for how this will be assessed. These include: ensuring that the Structure Plan can be achieved (a-c) and that the ability of adjoining landowners to develop is not compromised (d); that the proposal will maintain the quality of public space (e); and that there will not be excessive additional costs for the community (f).
- 8.40 I concur with this view that the amount of flexibility for the location of a road will depend on the circumstances. For instance, in the north, I note that the engineering requirements of ensuring that a road passes through a large number of sections in a logical manner means that there will be less opportunity to vary the route and comply with the policies (especially d and e). In the south, there is scope for the paths to be deviated.

- 8.41 I accept that an advantage of this method of implementation is that it allows for Council to facilitate the Structure Plan, for instance by purchasing land from a subdivider to obtain a wider corridor.
- 8.42 Mr Hattam used the hypothetical subdivision of 145B Brookside Road as an example. He noted that the plan indicates that a future developer of this land should provide half the road corridor (with the rest being provided by the Pineglades as and when they develop, if at all). In this instance, Council can either allow for an interim solution such as a narrow road or a shared walkway and accessway, or it can purchase land to obtain a full width road.
- 8.43 He illustrated this example to clarify a way in which the Structure Plan can succeed without one or more parties carrying out further subdivision or development of their land. I found this example particularly helpful.
- 8.44 Overall, and having had the opportunity to hear Mr Hattam's explanation of the mechanics of the Structure Plan and my repetition of it now, it is hoped that some of mystique surrounding the implementation of the Structure Plan has been cleared up for many submitters.

8.45 In terms of the three above implementation issues, there is no particular decision point requiring my attention in relation to any particular linkage proposed in the Structure Plan. However, in so far as the above submissions seek to have the various road linkages removed, those submissions are recommended to be rejected.

9 SUBMISSIONS RELATING TO RESERVES

- 9.1 There were only three issues raised in submissions grouped under this category; namely:
- (a) Additional provision for reserves
 - (b) The Pineglades reserve
 - (c) Individual burden to provide reserves
- 9.2 I deal with these as follows but before doing so I address the general theme behind these submissions; namely, the need to balance people's expectations on reserve provision against the practical aspects of providing reserves.
- 9.3 As a general comment on the use of reserves, Mr Hattam suggested to me that people moving into Rolleston have high expectations in regard to the provision of open space and there have been several new directions in the way in which reserves are provided. In this respect, he advised that:

[Reserves] are not necessarily just to accommodate a play structure and seat or to set aside areas for playing fields....Open space is now viewed more holistically and therefore can be co-located with other networks and connected to a series of destinations for the walker and cyclist.... The treatment of stormwater through open channels, retention ponds and soakage areas has presented a number of opportunities to maximise open space benefits, by adding reserves to these utility areas and achieving larger open areas, to give relief from infill housing..... It is important not to just dot reserves around the neighbourhood in a random fashion, but to deliberately and thoughtfully plot routes for public enjoyment.

- 9.4 Mr Hattam explained that the approach of the Structure Plan for this area has been to concentrate the reserves along the water race to form a green spine and to enable people to access their neighbourhood in a wider and more pleasant way than could be achieved by solely using the roading network.

Additional provision for reserves

- 9.5 One submission (SCCB -1374) *requested* an additional reserve on part of 177 Brookside Road, referring to Council policy (Reserves Asset Management Plan) for all residents to be within 400m-500m distance of a reserve.
- 9.6 Mr Hattam's response was that he was not certain that there is anything on the site identified by the Board, which would be worthy of preservation by incorporating it into a reserve. On the basis that there was nothing, he suggested that an additional site could be chosen to fill a gap in the reserve provision in the zone. He proffered that this is more likely to be further south, on the other side of Lowes Road.
- 9.7 I am not sure that this will satisfy the Boards submissions, but in the absence of any definitive proposal for 177 Brookside Road to become a reserve and the absence of a recommendation for such, then I am largely hamstrung. I suggest that the best forum would be for the Board to work this matter at a policy level with Council.

- 9.8 Accordingly, and on the basis that no additional reserve has been provided, this particular part of the Board's submissions is recommended to be rejected.

The Pineglades Reserve

- 9.9 PC11 (as notified) identified a "park" in a rectangular part of the Pineglades site adjoining Lowes Road frontage. Pineglades expressed concern over future compulsory acquisition (through designation) of their land for a reserve if it was identified in the Structure Plan. Their concern was that there will be a public expectation that the land indicated will be acquired (for a reserve) putting pressure on Council to obtain a designation in future.
- 9.10 Mr Hattam's initial response to this was that *"if and when this site is developed, it would be appropriate to enter into discussions with the owner with a view to securing some reserve provision with an interesting tree cover most likely to be in the arboretum. It takes a long time to establish trees in Rolleston, so acquiring some attractive, mature species would be highly desirable. The exact size and location cannot be detailed at this stage, but the intention can be clearly signalled, with a maximum acquisition of 5000m²"*
- 9.11 Having heard the concerns of the Pineglades at the hearing, and in respect to the issues of the proposed "park" on the Pineglades land, Mr Hattam agreed that the indicative "Park" notation could be removed. He advised that the Council is satisfied that it can rely on the Subdivision Design Guide and Reserves Contributions policy to obtain an adequate outcome at the time of subdivision

- 9.12 On the above basis, it is recommended that the Structure Plan is amended such that the "park" on the Pineglades site is removed. As such, the submission from Pineglades is recommended to be accepted to reflect the changes that have occurred to the Structure Plan. These changes are illustrated in Appendix 2 to this report.

Individual burden to provide reserves

- 9.13 Two submissions were concerned about the amount of land within their ownership required for reserves. The were:

- 161 Brookside Road (1379-82):
- 31 Waterbridge Way

- 9.14 Mr Hattam's original response was

161 Brookside Road (1379-82):

This property contributes substantially to the success of the 'green spine' of combined water race and reserve. As the reserve land is paid for by the Council at market rates, its provision should not disadvantage the owner.

31 Waterbridge Way.

Re-align so that the path does not intrude as much into the land or purchase the land in question and add it to the footpath/cycleway. Reserve contributions would have to cover the cost.

- 9.15 Since preparing that report, a couple of changes occurred. The first was that the Council purchased 161 and 165 Brookside Road and this led to the submission being withdrawn. Secondly, in light of the evidence of the owners and representative of 31 Waterbridge Way, Mr Hattam reconsidered the need for the link as proposed in the Structure Plan and instead elected to rely on the link in the Operative District Plan.

- 9.16 On the above basis, the concerns of both submitters have been addressed, albeit by default.

- 9.17 Accordingly, I recommend that the above submission by the owners of 31 Waterbridge Way opposing the provision for reserves be accepted to the extent that all proposed linkages over that particular land in the Structure Plan introduced by PC11 have been removed. Given that the submission from 161-165 Brookside Road has been withdrawn there is no need for me to consider this matter further. The changes to the Structure Plan are illustrated in Appendix 2 to this report.

10 SUBMISSIONS RELATING TO ZONING

- 10.1 The submissions to the removal of the "deferred residential" zoning of the area to a mix of Living 1, Living 1B and Living 1C drew four categories of submissions as follows:

- Opposition to Living 1C on Waterbridge Way
- Extend Living 1C Zoning to all of Fairhurst Place
- More Intensive Zoning
- Oppose L1 Zoning

- 10.2 I canvass those submission categories below.

Opposition to Living 1C on Waterbridge Way

- 10.3 There were two submitters opposed to the rezoning of Waterbridge Way:
- (a) One submitter (1363 - Colfield Trust) opposed PC11 as there is a desire to subdivide this property in three lots, which would not be possible with an average lot size of 2,000m².
 - (b) Another submission (A Palliser and K Winchester, 31 Waterbridge Way) opposed the rezoning because of the loss of development rights. This submitter stated that this is counter to the expectation of landowners about what they would be able to do with their land after the lifting of the deferral.
- 10.4 Both submitters argued that under the proposed Living 1C zoning regime property owners in Waterbridge Way would only be permitted to subdivide into two lots as a restricted discretionary activity under PC11. They note that they would be able to apply for a discretionary consent for a smaller-lot subdivision (1,200m² average), but are concerned that approval would be less certain and that subdivisions with smaller lots sizes would be non-complying.
- 10.5 Clarification on the status of subdivisions with individual lots smaller than 1,000m² was also requested in these submissions
- 10.6 Mr Hattam noted that the submitters are correct, in that PC11 is more restrictive than the deferred zoning, which has created a legitimate expectation about how land could be developed. He further stated that this expectation was certainly a consideration in whether land should be rezoned or not. However, he expressed that the expectation of landowners must be balanced against the need to create a successful urban area which respects its setting.
- 10.7 In this respect, I note from the material forming part of PC11 that there was never a presumption that the current review would result in a low density or higher density outcome for the entire area covered by the deferred zoning. That was an open aspect of the review. However, for the Waterbridge Way area, I particularly note that the section 32 analysis suggested that the status quo zoning (i.e. higher density) would lead to the erosion of the special character of Waterbridge Way. Mr Hattam's view was that PC11 goes to some lengths to preserve this character, claiming that consultation with landowners has shown that this aim is broadly supported within and around Waterbridge Way. I tend to concur with this and also note that of the 11 or so allotments covered by the proposed Living 1C zone only two submitters have challenged parts of it. This would seem to suggest that the other landowner's support the maintenance of the special character of the area that the Living Zone seeks to preserve.
- 10.8 Mr Hattam also helpfully explained the following:
- Under the new zoning, both of the submitters have the opportunity to submit development schemes with a 1,200m² average, provided that the character of the public area is preserved.

- Under PC11, the creation of lots smaller than 1,000m² would be non-complying (as would subdivisions with an average area less than 1,200m²).

10.9 On this basis, I accept that this still effectively allows smaller lots to be applied for, and Mr Hattam suggested such applications could be successful, provided that the special character of the zone is preserved – though development on this scale is not anticipated by PC11.

10.10 Therefore, I adopt the Officer's view that the PC11 will still allow the assessment of specific proposals on a case by case basis, and is an effective way to balance the desire to preserve the special semi-rural character of Waterbridge Way with that of preserving some development opportunities for the landowners.

10.11 According, it is recommended that the Living C zoning over Waterbridge Way be retained and that the submissions opposing that zoning be rejected.

Extend Living 1C Zoning to all of Fairhurst Place

10.12 One submitter requested that the whole area of Fairhurst Place should be subject to L1C zoning to preserve the rural feel of the area. Currently with the exception of the two properties adjoining Lowes Road, only those properties with direct frontage to Fairhurst Place are such zoned.

10.13 Mr Hattam noted that as with Waterbridge Way, PC11 attempts to balance the desire to retain aspects of the existing semi-rural character with the need to create a successful urban area which works as a component of the wider town. I agree with Mr Hattam that some compromises are inevitable in resolving this tension.

10.14 In order to integrate the area into the surrounding urban area a higher density than L1C or L1B is proposed. The reasons for this, as cited by Mr Hattam, are as follows:

- The area is well within the urban area of Rolleston. Higher density makes better use of community facilities and resources such as the town centre, recreation precinct and school as there are more people within walking distance;
- Higher density promotes a choice in transport options for residents as walking and cycling is more viable (more people within walking distance) and critical mass can be provided for public transport, alongside a major route (Lowes Road);
- Higher density is a more efficient use of infrastructure; and
- Land is used more efficiently and the need for the town to sprawl further out is reduced.

10.15 Mr Hattam linked this reasoning to a raft of Council policy including the UDS, the Rolleston Structure Plan, the Subdivision Design Guide and the Urban Design Protocol. It would also be consistent with proposed Plan Change 1 to the RPS in his view.

10.16 In confirming the extent of the Living 1C Zone at Fairhurst Place, I conclude that:

- PC11 recognises that Fairhurst Place has a special character, partly due to its appearance of spaciousness.
- PC11 attempts to preserve aspects of this by restricting the subdivision of sections nearest to Fairhurst Place; but it is not attempting to preserve the area as a semi-rural enclave within the town

10.17 On this basis, I agree I agree with the Reporting Officer that it is an appropriate way to balance the desire to retain the spacious character with the benefits of allowing additional density.

10.18 According, it is recommended that the pattern of Living 1C zoning over Fairhurst Place be retained and that the submissions requesting the extension of the Living 1C zone be rejected.

More Intensive Zoning

10.19 There were a variety of submissions seeking to further increase in density over the area covered by PC11. These included the following:

- Some submitters requested amendments to Living 1B zoning in the area, seeking that this should allow for smaller sections (1000m² average and 500m² minimum). One specific consideration given to support this was that this action would help meet demand for an increasing amount of elderly population.
- Another submission sought that the Living 1 zoning be extended across the whole of the area subject to PC11, citing the benefits of reduced demand for transport and the need to encourage comprehensive development to achieve good urban design outcomes.
- One additional site specific issue was raised, being the request for the Living 1 zoning to include the corner of Fairhurst and Lowes Road, with access on to Lowes Road.

10.20 A legal opinion obtained by Council indicates that there is no scope to increase density to Living 1 in this area because PC11 does not contemplate an increase in zoning. As such, the submission is not a “live” matter in terms of PC11.

10.21 Notwithstanding this, and even if these submissions had been ruled within scope, it is doubtful that I would have been convinced of the need for, or desirability of, a substantial change in the zoning strategy, I say this because:

- As outlined above, the Living 1C zones are appropriately located and transition well with the Living 1 zones;
- I agree that the Living 1B zoning is appropriate in the areas where it has been proposed. It is a way to manage the issues of intensification in these areas where it would be more difficult to integrate higher density with the existing development, due to the existing large houses and poor access.

- 10.22 With regard to the possibility of Living 1 zoning at the corner of Lowes Road and Fairhurst Place, I share the reporting officer's view that this would not be appropriate. Whilst the effect of increased numbers of accessways on Fairhurst Place could be mitigated, this approach would not address the increased visual presence of more houses and their need to create private space. Issues of fitting in houses around an existing dominant and awkwardly positioned house may remain and an untidy and cramped development, dominated by fences and roofs (without active frontage) may result.
- 10.23 On the above basis, I note that even if there was not a legal impediment to increase density to Living 1 in this area, I agree with the Reporting Officer that the proposed mix of Living 1, Living 1B and Living 1C is appropriate from a planning perspective. In addition, the proposed pattern of Living 1C zoning in the Fairhurst place area does not warrant change.

10.24 According, it is recommended that the submissions requesting Living 1 zoning over the entire area within PC11 area are rejected.

Oppose L1 Zoning

- 10.25 One submission opposed the L1 zoning where sections face East Maddisons Road. It requested that these sections have L1B or L1C zoning, so that new sections on the east side of the road blend in with those on the west.
- 10.26 Mr Hattam's response was to acknowledge that, as with other areas, it is important to balance the appearance of the street with the benefits of density. He added that there does have to be a boundary where zoning changes. Although this does not have to be on the road, there is no particular reason why it cannot be.
- 10.27 The proposed zoning is Living 1 which has a low density (although admittedly not as low as Living LB or 1C). I note that there are some additional rules proposed to ensure more open frontage than has occurred in some Living 1 areas which will promote the retention of an attractive street scene.
- 10.28 Mr Hattam also suggested that the large existing land parcels within the L1B deferred zone on East Maddisons Road will allow a coherent and tidy development to take place which would be consistent with the policies and objective of the Living zones.
- 10.29 For the above reasons, I do not consider that the Living 1 zoning would be out of keeping with what has been and may be built opposite.
- 10.30 In view of the above, I do not consider that an amendment to the zoning would be justified.

10.31 According, it is recommended that the submissions opposing the Living 1 zoning where sections face East Maddisons Road in the PC11 area, are rejected.

11 SUBMISSIONS RELATING TO DEVELOPMENT CONTRIBUTIONS

- 11.1 A number of submitters raised questions over how the infrastructure required in the PC11 would be funded
- 11.2 As Mr Hattam illustrated, the short answer is that infrastructure will be funded by developers in the area. Council may build roads and walkways (and pay for them) to enable develop to happen, but the costs will be recovered by means of development contributions which are payable at the time of subdivision. These will be spread amongst the developers in the area in accordance with Council Policy.
- 11.3 The means for this will be a regime of development contributions collected under the Local Government Act and is not a “live issue” for PC11. As Mr Bell - the SDC’s corporate accountant – usefully outlined at the reconvened hearing, the exact details of this will be a matter for a Special Consultative Process under the LGA, and participation will be invited from all submitters. It is not strictly a matter for the PC11 process. What is important is that Mr Hattam has shown such a regime is feasible and can be implemented without imposing an onerous burden on any landowner.
- 11.4 A number of submitters similarly requested that compensation be paid for land required for roads and walkway / cycleways and requested detail of how this would work. Some also asked whether Council would pay compensation if fewer lots could be created as a result of the land required for walkways and roads.
- 11.5 Importantly, Mr Hattam has noted that Council will pay “compensation” at the market rate for land required. However, he also rightly indicated that the mechanism to determine the compensation amount is quite complicated.
- 11.6 As I understand it, Council would buy all land required for walkway / cycleways. The cost of land for reserves would be met through reserve contributions as normal. Additionally, because Council is proposing to buy the land at the market rate, compensation would not be paid if the amount of sections that could be created was affected, as this would effectively equate to a „paying twice.’
- 11.7 With regard to the possibility of roading never eventuating, Mr Hattam suggests this is provided for in the Local Government Act and is not unique to PC11. The Act is clear that money can only be spent on the public work for which it was collected and that if the work is not carried out then it must be refunded.
- 11.8 It is worth remembering that Council can build the public work and collect contributions retrospectively. This means that there is no need to wait for all the contribute ns to be collected before work can start.
- 11.9 The same submitters were also concerned that the regime would encourage landowners to hold out and create “ransom strips”. As the development contributions would be set by Council in advance, this additional cost is essentially a concern for Council that would not affect landowners, who would already have paid their contributions at this point. Mr Hattam advised me that based on his recent experience, this is certainly an issue that Council is live to, and he did not anticipate it to be an issue.

- 11.10 Another submitter was concerned with the potential “blight” created by PC11 and whether this would affect the value Council may pay for the reserve (walkway / cycleway) land indicated on their property. They also questioned the use of development contributions as opposed to financial contributions.
- 11.11 With regard to the first point, Mr Hattam noted that the land in question already has an indicative road on it in the operative plan. Moreover, he suggested that it is the Council’s practice to pay fair value for such land, with valuations based on the land value and the underlying zoning.
- 11.12 With regard to the use of financial contributions matter, I note that this was raised as a further submission issue, and there is no original submission requesting this amendment. This effectively means I cannot consider this as a possible amendment to the PC11. Nevertheless, I note Mr Hattam’s comment that Council has recently removed Financial Contributions from the District Plan through variation 30, and the Council has therefore signalled a move away from this as a planning tool. Moreover, should a financial contributions policy for the area be established, this would not prevent Council from imposing a development contribution as well.
- 11.13 On the above basis, I see no legal factual basis for making any change to the development contributions provisions in so far as PC11 draws on that mechanism. If submitters have a concern with the arrangements for Development and Financial Contributions then it is suggested that the appropriate forum to air those concerns via SDC LTCCP process.

11.14 Accordingly, it is recommended that submissions relating to financial/development contribution are <u>rejected</u> .
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12 SUBMISSIONS RELATING TO STREET SCENE

- 12.1 Submission in this category related to specific rules introduced by PC11 in relation to three provisions affecting street scene; namely: garages, fencing and water races

Garages

- 12.2 Some submitters opposed rule 4.13.2 which limits garaging to 50% of the house frontage. It was further suggested that this would prevent a normal design of house from being erected or that it equated to an unnecessary design constraint.
- 12.3 Mr Hattam told me that this rule reflects a shift in Council Subdivision Design Policy which has recently seen the production of a Subdivision Design Guideline following a public consultation process. He submitted that the rule would contribute to a high standard of public amenity as it would lead to more houses with more active frontage; that is with doors and windows that face the street rather than blank garage doors. This contributes to visual amenity and interest and safety as there is more observation of the street from within houses. For this reason, I adopt Mr Hattam’s view that the rule is contemporary and appropriate and will lead to a positive urban design outcome.

- 12.4 Furthermore, I agree with the Officer's comment that the rule would not prevent a normal design of house, and that there are any number of standard designs of houses with garaging which is less than half the frontage and with an overall frontage width which is greater than 14m.

12.5 Accordingly, it is recommended that those submissions which oppose Rule 4.13.2 which limits garaging to 50% of the house frontage be rejected.

Fencing

- 12.6 The rule limiting the height of front fencing was opposed due to noise and privacy concerns. Additionally, one submitter claimed that Council typically asks commercial enterprises to erect 1.8m fences to attenuate noise.
- 12.7 Mr Hattam's response was twofold in that he noted:
- (a) Firstly, that the effect of tall fencing is to alter the streetscene (whether it be a street or right of way) from a typical suburban street to an alleyway. An attractive spacious street as envisaged by the plan has a degree of openness and offers views of houses and landscaping. This provides an attractive and interesting character and a safer environment because it is overlooked by windows and doors.
 - (b) Secondly, and by contrast, a fenced street or accessway appears enclosed and less pleasant and fencing provides surfaces for graffiti. The Operative District Plan requires setbacks for houses to preserve the open character of the street, yet fencing undermines the intent of this. For this reason, he considered that it was not unreasonable in those circumstances that the District Plan restricts fencing.
- 12.8 Mr Hattam also pointed out that Draft Plan Change 7 (now proposed Plan Change 7 as it was notified last month) will also restrict the erection of front fencing in Greenfield areas, so this is not intended to be a unique measure that will only apply to the Living 1B deferred zone area.
- 12.9 On the above basis, I accept that the fencing rule attempts to strike a balance between the need for privacy and the desirability of openness. It only applies to front yards (the area between the road or accessway and the house) and only then to the boundary from which access is obtained. It will be entirely possible to create private areas at the side or rear of a property, even if the side or rear faces onto a road or footpath.
- 12.10 On the above basis, my assessment of the specific individual circumstances of the submitters is as follows:
- a) For submitter 1373 (36 Fairhurst Place), the rule presently restricts the submitter's ability to fence their southern boundary. I note that the bulk of the private space is situated to the north of the section, behind the house. In effect, the house has a traditional private rear yard (which can be fenced) and a public front yard (which cannot). I consider that this is the outcome that is sought by PC11 and one which gives the property adequate privacy and security.

- b) 1378 (31 Waterbridge Way) is abutted by a footpath. They will be able to fence along this footpath because they do not use it for access. Therefore they are not affected by this rule.
- c) 1379-82 (161/165 Brookside Road) - These submissions was withdrawn and no further comment is necessary.
- d) 1383 (167 Brookside Road) is abutted by a footpath on its eastern boundary, which the submitter will be able to fence and their northern boundary will be adjacent to a road. This boundary is currently occupied with a shelterbelt, which could be retained. It would be a poor outcome if this was to be replaced by a 2m fence and I consider PC11 provisions are an appropriate control in this instance.
- e) Submitter 1393 (35 Fairhurst Place) – this property was proposed to be adjoined by a road however this has now altered to a cycleway/walkway so the rule will not apply.

12.11 On the above basis I accept the necessity and appropriateness of the rule limiting the height of front fencing.

12.12 Accordingly, it is recommended that those submissions opposing the fencing rule be rejected.

Water Races

12.13 One submitter expressed support for retention of unique character such as water races and others expressed opposition to the proposed rules (12.1.4.49 and 50). That is accepted and not challenged.

12.14 Another submission opposed the restriction on the crossing formation on Waterbridge Way. They stated that an additional crossing would be required and a requirement for it to match existing bridges would be unnecessary, onerous and expensive.

12.15 Additionally, submitters questioned on what basis Council can consider water races, considering that they would be a matter for the Regional Council. They were concerned that a walkway is not just for access but that some sort of feature is to be made of water race. They also expressed concern about a future reverse sensitivity argument arising if they want to develop land and it affects the water race or the public's view of it.

12.16 Mr Hattam's responses were as follows:

- (a) With regard to the rule about crossings, he considered that this is necessary to preserve the special character of Waterbridge Way. If a variety of crossing designs was to be established on Waterbridge Way, then this could potentially undermine the identified special character of the road. However, he did accept that there may be circumstances where a different design could be appropriate and therefore he recommended that the rule is amended to provide for some discretion.
- (b) With regard to whether Council has jurisdiction to control water races, he was satisfied that the matters concerning Council are urban amenity

matters, not ecology or water management. The submitter is correct that it is the water race as a feature that PC11 is seeking to protect.

- 12.17 On the above basis I accept that the rules balance the need for privacy (for instance allowing a fence to be erected on the submitter's side boundary, even though this would block the public's view of the water race) with that of preserving the water race for the amenity it provides to public areas. The rules are particularly aimed at preserving the appearance of the water race where it passes through front gardens and is visible from the road.
- 12.18 Notwithstanding the above, I do accept Mr Hattam's reassessment based on one of the above submissions that there is no need for the rule to cover the part of the water race which crosses the part of 31 Waterbridge Way which is not close to the road. I therefore suggest that the relevant rule (12.1.4.49) is amended to reflect this, by specifying that only the water-race 12m from the road or less is affected. This distance would cover all parts of the water-race where it runs parallel to Waterbridge Way and protect the amenity of the public area.
- 12.19 Based on the above, I find that with the exception of changes to rule 12.1.4.49, there is no need to change any of the rules affecting water races.

12.20 Accordingly, it is recommended that the submission which expressed support for retention of unique character such as water races is accepted and that all other submissions relating to the water races are rejected, with the exception of the submission relating to the crossing formation on Waterbridge Way. This submission is recommended to be accepted in part. The resulting change to Rule 12.1.49 is illustrated in Appendix 2 to this report.

13 SUBMISSIONS RAISING OTHER/MISCELLANEOUS CONCERNS

Amendments to Wording

- 13.1 In their submission, the Canterbury Regional Council (1366) asked for a number of minor amendments to the PC11 rules to make it "more effective and clearer". Mr Hattam supported these amendments with the exception of one item relating to assessment criteria for Restricted Discretionary Activity Subdivision (Rule 12.1.4.48 (c)). For the reasons outlined in his report, I adopt this recommendation.

13.2 Accordingly, it is recommended that the submission of the Canterbury Regional Council (1366) is accepted in part. The changes to wording of the rules arising from this submission are illustrated in Appendix 2 to this report.

Miscellaneous

Street Names

- 13.3 One submitter sought that the new Road to be built over the Pineglades entrance be called "Pineglades Drive". This is not a matter that can be decided by a Plan Change; rather, it would be addressed via the subdivision process. The same submitter asked that references to reverse sensitivity be removed as they thought it would undermine their ability to retain shelterbelts on their site. Mr Hattam informed me that there is no reference to reverse sensitivity in PC11 itself, and this is therefore not a valid submission.

13.4 Accordingly, it is recommended that the submission relating to roading names is rejected. However, it is suggested that the Council in another separate forum may wish to give consideration to the street name suggested by this submitter for the proposed road west of Pineglades.

LIM Notices

- 13.5 One submitter (31 Waterbridge Way) noted that they bought an affected property at the start of 2009, but were not advised in the related LIM report of re-zoning. Mr Hattam's response was that as PC11 was notified several months after this purchase, there is no reason to expect it would show up on a LIM report. Moreover, as this submission is not a matter which addresses the merits of PC11 I have not given any further consideration to it.
- 13.6 The same submitter raised considerable concerns about the LIM notice not clearly detailing the precise provision of the Operative District Plan and the fact that this property was affected by a linkage notation under Appendix 23 of the Plan. Whilst I can understand the issues raised here, it is my understanding that the LIM did list or make mention of the Appendix but the details in the attachments were not clear – something that I acknowledged in the first day of the hearing when I asked for a clearer enlargement of the existing walkway linkage over 31 Waterbridge Way. However this is not a flaw with the LIM process it is rather a flaw with the precision in Appendix 23 in the current District Plan. Also, and speaking as a practitioner myself, I would have expected a thorough "town planning" check by the conveyancing agent would have unearthed the detail behind the LIM information.

Trees

- 13.7 One submitter requested that some trees be retained to protect existing character. There is no doubt that mature trees can contribute to the character of an area and there would be benefits in retaining them, but it is not without its problems.
- 13.8 PC11 sets out to retain significant trees in reserves (such as on the Pineglades site) and in the centre of roads and the design guide encourages people to retain them where possible. However, I adopt Mr Hattam's view that it is not appropriate to mandatorily require their retention on subdivided lots through regulatory measures. This, in my view, could lead to awkward (or negative) urban design outcomes where future developments would have to „work around' existing trees.
- 13.9 Alternately, where certain trees are of such value that they require protection, the District Plan contains mechanisms to achieve this; however, the use of these tools for the protection of trees contained in PC11 site would require a separate change to the District Plan.

14 CONSEQUENTIAL MINOR CHANGES

- 14.1 Mr Hattam advised me of some minor changes that would correct minor errors and make PC11 easier to understand. These changes are able to be made under Clause 16 of the First Schedule, and as requested (by Council Officers) I authorise these changes.
- 14.2 These are:

- a) That the name *Lowes Road Structure Plan* is amended to *Lowes Road Outline Development Plan*. (By way of explanation, Mr Hattam advised me that the Council now uses the term “Structure Plan” to describe higher level documents aimed at managing the development of townships. Meanwhile, “Outline Development Plans” (ODPs) are used to indicate the position of infrastructure such as roads and reserves in new Greenfield development. He noted that the Structure Plan is in effect an ODP and it would be helpful to describe it as such. (I note this is consistent with the terminology employed in PC7 for Lincoln and Rolleston).
- b) Minor numbering changes as detailed in the annotated version in Appendix 2 to this report.

15 STATUTORY EVALUATION

Overview

- 15.1 Having, considered, in some detail, all the various submissions to PC11, I am now required to give an overall evaluation of the proposal in terms of the statutory tests set down in the RMA. To this end, and as I outlined in Section 3 of this report, Section 74 of the Resource Management Act sets out the matters that must be considered in preparing a change to the District Plan. Amongst other things, section 74 requires a local authority to comply with its functions under section 31, its duties under section 32, contents of district plans under section 75 and the overall purpose of the Act under Part 2. This includes the matters of national importance (section 6), other matters that require particular regard in achieving the purpose of the Act (section 7) and the Treaty of Waitangi (section 8).
- 15.2 As the Commissioner with delegations to make recommendations on these matters, I record below, a summary of my findings.

Section 31

- 15.3 Council’s functions under section 31 include:

“(a) the establishment, implementation, and review of objectives, policies and methods to achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district.”

- 15.4 PC11 introduces policies and methods to achieve the integrated management and development of the Structure Plan area. My discussion of submissions in the preceding sections of this report forms the basis for my considerations as to how Plan Change 11 achieves integrated management.

15.5 It is my finding that PC11 is consistent with Council’s functions under section 31 of the RMA.

Section 32

- 15.6 In accordance with Section 32 of the Act, I (on behalf of the Council) have a duty to consider alternatives, benefits and costs of the proposed change. I note that Section 32 is a process whereby initial investigations, followed by the consideration of submissions at a hearing, all contribute to Council’s analysis of costs and benefits at its final decision-making.

- 15.7 Accordingly, I find that the Section 32 report prepared for Plan Change 11 is comprehensive and was well supplemented by the submissions received and the hearing of those submissions. That process has received further benefit from the information to be presented at the hearing.
- 15.8 As proposed PC11 is adding controls to the District Plan it is necessary that the final decision-making carefully considers the costs and benefits of the new or amended provisions. I have undertaken that exercise in the preceding sections

15.9 It is my finding that PC11 represents an efficient and effective mechanism for achieving increased residential density whilst simultaneously promoting and maintaining amenity in the township of Rolleston.

Sections 74 and 75

Canterbury Regional Council Regional Policy Statement

- 15.10 Section 74 (2) (a) requires a Council to have regard to any proposed Regional Policy Statement while section 75 (3) (c) requires Council to give effect to any Regional Policy Statement.
- 15.11 PC1 to the RPS has been heard and at the time the PC11 hearing was adjourned in November a decision was due. (NB those decisions were subsequently released in December 2009 but I have not considered them as this would have required the PC11 hearing to be reopened).
- 15.12 RPS PC1 sets out the objective/policy framework for how urban growth is to be accommodated over the next 35 years in the Greater Christchurch area. It is aimed at managing the location of growth and also the resulting urban form. Relevant Objectives include:
- *Objective 1: Urban Consolidation*
 - *Objective 2: Character and Sustainability*
 - *Objective 4: Integration of Land Use, Infrastructure and Funding*
 - *Objective 7: Integration of Transport Infrastructure and Land Use*

15.13 It is my finding that, other than for some minor wording issues with the proposed rules, the Canterbury Regional Council's submission supports PC11 because it is consistent with the RPS.

Management Plans and Strategies Prepared under other Acts

- 15.14 Section 74 (2) (b) requires that a local authority give regard to management plans and strategies prepared under other Acts to the extent that their content has a bearing on resource management issues in the District.
- 15.15 Relevant Plans/Strategies and my assessment of how PC11 "stacks up" against them, is as follows:
- (a) The Greater Christchurch Urban Development Strategy (the UDS)
The UDS has been produced by a partnership of District Councils (Selwyn, Waimakariri and Christchurch City), Environment Canterbury and the New Zealand Transport Agency. Its purpose is to manage future urban development in the Greater Christchurch area until 2041.

The UDS sets the framework for managing urban growth in Greater Christchurch through a combination of staged urban expansion and more intensive use of the existing urban areas. It aims to achieve compact, sustainable urban form and high quality development.

It is my finding that, as stated in the submission of the Canterbury Regional Council, PC11 will assist in the implementation of the Greater Christchurch Urban Development Strategy.

(b) The Rolleston Structure Plan and Rolleston Urban Limit

The Rolleston Urban Limit was adopted on 11 June 2008 and expresses the Council's intentions for the location of future greenfield land development in and around Rolleston (the future shape of the town). The Urban Limit forms part of Variation 1 to Plan Change 1 to the RPS and it is anticipated that it will be implemented through that Plan Change process.

The L1B deferred zone is located well within the limits, with urban zoned land already on all sides.

The Rolleston Structure Plan was adopted in September 2009. It sets out a vision for the development of Rolleston over the next 65 years. It contains a number of guiding principles including:

- *Integrate land use and movement*
- *Regenerate existing residential areas through shared amenities*
- *Utilise existing rural roads and landscape features to develop distinctive urban areas*
- *Protect and enhance existing landscape features and incorporate into urban form*

The Structure Plan identifies the walking / cycling route from Lowes Road to Goulds Road via Oak Tree Lane as a green corridor and cycle route. It proposes an average net density of ten dwellings per hectare in the north of the Structure Plan area and seven in the south.

It is my finding that PC11 will assist in implementing these aspects of the Rolleston Structure Plan and Rolleston Urban Limit in PC1 to the RPS.

(c) Selwyn District Council Walking and Cycling Strategy

The Walking and Cycling Strategy was adopted in December 2008. It aims to enable opportunities for walking and cycling (including the provision of improved facilities and environments). It also aims to reduce the use of cars for short trips.

The strategy identifies that land-use planning tools (such as Structure Plans) can implement these goals. The principles it identifies include:

- *Designing for walking and cycling is not to be secondary to designing for motor vehicles. The environment should be designed for all modes of transport.*
- *Land use planning should facilitate ease of travelling by bicycle or on foot.*
- *Appropriate planning for walking and cycling including provision of improved*

connectivity.

- Council provision of safe and efficient road, footpath and cycle networks.
- The roading infrastructure around and near schools is to be designed to encourage walking and cycling.

It is my finding that providing for connections through the area covered by PC11 will assist in implementing the SDC Walking and Cycling Strategy.

(d) Design Guide For Residential Subdivision in the Urban Living Zones

The Council adopted this document (also known as the *Subdivision Design Guide*) on 23 September 2009. It has been produced as a resource to ensure the achievement of a high standard of residential development in the District. It outlines the type of development that is seen as being good practice, contributing to high quality public space. Some key outcomes of the Guide are:

- Connectivity, as measured by a walkable block size with an 800m perimeter (p14).
- Pleasant open streets, with a minimum of rear sections (p19).
- A hierarchical approach to road design with streets that are designed for their intended use (p20).
- The importance of contextual analysis (p3) and preserving existing character.

On the evidence heard, I accept that PC11 would enable a higher quality of development than would otherwise be the case, particularly with regard to connectivity. It would not meet the 800m walkability outcome, but this needs to be seen in the context of the difficulty of redeveloping the area. It would preserve some of the existing character through time as the area changes.

15.16 On the above basis I accept that PC11 will assist in achieving the outcomes specified in the SDC's Design Guide for Residential Subdivision in the Urban Living Zones.

15.17 Overall, it is my finding that PC11 is consistent with the various (and relevant) management plans and strategies prepared under other Acts to the extent that their content has a bearing on resource management issues in the District.

Part 2

15.18 Here I form an overall evaluation under Part 2 of the Act.

Section 5

15.19 Section 5 of the RMA requires Councils to manage the development of natural and physical resources in a way that will enable the community to provide for its social, economic and cultural wellbeing while avoiding, remedying, or mitigating any adverse effects of activities on the environment. This results in a balancing of interests and a need for tradeoffs to be made.

15.20 Sub-clause (a) of Section 5 requires resources to be sustained to meet the reasonably foreseeable needs of future generations. PC11 is concerned with the pattern of subdivision and development. In this, the needs of future generations (for connectivity and integrated urban form) need to be balanced against the desires of existing landowners.

- 15.21 The pattern of urban development created by further subdivision is likely to be longstanding and as such it is appropriate that a degree of management be applied to ensure it is well integrated with its surroundings and meets the needs of future generations.
- 15.22 Sub clause (c) of Section 5 requires that adverse effects of activities on the environment be avoided, remedied or mitigated. PC11 is aimed at avoiding and mitigating the adverse effects of poor urban form from uncoordinated ad-hoc development, in a manner consistent with the aims and objectives of the Selwyn District Plan.

Section 6

- 15.23 Section 6 identifies matters of national importance that Council must recognise in the preparation of a District Plan. In my view there are no matters listed which are relevant to PC11.

Section 7

- 15.24 Section 7 identifies a list of other matters that the District Plan should have particular regard to. Of relevance to Plan Change 11 is (b) the efficient use and development of natural and physical resources; (c) the maintenance and enhancement of amenity values; and (f) maintenance and enhancement of the quality of the environment.
- 15.25 PC11 would support the efficient use of both land and infrastructure in accordance with (b). It would also contribute to the maintenance and enhancement of amenity values in a more effective way than the existing provisions (L1B zoning). In this way it would support matters (c) and (f).

15.26 On the above basis, I find that PC11 meets the purpose and principles of the Act under Part 2, including the promotion of the sustainable management of the natural and physical resources of the District.

16 CONCLUDING REMARKS

Summary of Key Recommendations

- 16.1 In brief, the matters I have assessed and the recommendations I have reached are twofold.
- 16.2 Firstly I have recommended confirmation of the following aspects of PC11 as notified
- (a) insertion of a new Policy to the *Subdivision of Land* section of the District Plan which relates to the intensification of the Rolleston Living 1B deferred area and provides for the use of a Structure Plan to control subdivision;
 - (b) Amendment of the subdivision rules to add new matters for discretion to ensure that development in the area will progress according to the Structure Plan;
 - (c) Insertion of provisions that enable that land required for the formation of transport connections (roads, walkways and cycleways) to be vested in Council at the time of subdivision (NB some aspects of these connections

have been recommended to be altered in the Structure Plan). Subdivisions which are not in accordance with the Structure Plan will have non-complying status;

- (d) Rezoning 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 2,000m² and area-specific rules. An area around Fairhurst Place has also be similarly zoned as Living 1C; and
- (e) Addition of new rules 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.
- (f) Introduction of new rules to protect the quality of the street scene by restricting tall fences and dominant garaging.

16.3 Secondly, I have recommended alteration of PC11 in respect to the following matters:

(a) Alteration of the Lowes Road Structure Plan, including:

- i. Deletion of the proposed walkway connection over 31 Waterbridge Way
- ii. Deletion of a proposed “park” notation over land on the southern edge of Pineglades Natural Club land fronting Lowes Road
- iii. Removal of part of the spine road connections between 135 Brookside Road and the Pineglades property
- iv. Alteration to the length and mix of road and walkway/cycleway links associated with extension of Fairhurst Place.

(b) Minor alterations to proposed rules affecting subdivision assessment criteria and water race crossings

Conclusion

16.4 There are a number of themes I would like to address in closing.

16.5 Firstly in terms of **process and outcome**, this has been an interesting and challenging deliberations exercise. There are a number of reasons for this. Of these, the principle one has been the complexity of the issues involved. Whilst the driving force of PC11 - increased residential density and associated structure planning - is reasonably straightforward the related issues are anything but. These include a wide suite of sub-topics and issues ranging from the very broad considerations of zoning mix, and connectivity linkages and reserves (all covered in the zoning plan and Structure Plan), through to the precise matters of specific rules affecting street scene, fencing and water races. In the midst of that there is the issue of development contributions which is an important technique /methods to giving effect to some of the outcomes in the Structure Plan but which does not form part of PC11 itself and instead is part of the Local Government Act LTCCP process.

- 16.6 Interspersed amongst these topics there have been a host of matters to wade through including scope issues (both in terms of submissions lodged and scope of PC11 itself), the relevance of RPS PC1 (or at least its relative weighting compared to other statutory documents) and a raft of day to day planning issues such as the extent of zoning, the envelope for bulk and location controls, and allotment sizes.
- 16.7 Added to this has been the sheer **volume of material** to consider. Not only was there a large volume of initial submissions, but the number of further submissions was significant also. Prior to that there was a host of consultation material going back to 2006 and prior to that there was a paper trail leading back to the early 1970s and the Rolleston new Town aspirations of the 1973 Labour Government.
- 16.8 Further to this, there was a need for two separate sittings of the **hearing**. The initial sitting in early November 2009 was a chance for me to get acquainted with the issues and then the reconvened hearing later that month gave me an opportunity to carefully test the evidence particularly that of Mr Hattam having had the benefit of hearing from submitters prior to that.
- 16.9 The **Minute** that I issued on 16 November 2009 will have illustrated the weight of the issues raised by submitters who attended and presented at the hearing. It would be fair to say (and again this will have been apparent from the Minute) that at the end of the initial hearing, and based upon the existence of some fundamental opposition to the proposed and indicative open space and connection links (roads, walkways/cycleway) as shown on the ODP, I was not fully convinced of the merits of PC11 and its attendant mechanisms. In fact, certain issues and questions arose in my mind in relation to the rationale for, and the operational characteristics of, 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. In the view of certain 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.
- 16.10 Given these fundamental concerns of submitters, I considered it would be appropriate to give the Council Officers the opportunity to further consider the issues raised and respond in writing at the reconvened hearing on the issues raised. To this end, I set out, as an attachment to my Minute, a list of items and issues that, as a minimum, I required a response upon from the Council. I noted that the degree to which there was 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 might be best implemented within the scope of the Structure Plan or outside the RMA process, was a matter for the parties. I noted that whilst I believed 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.
- 16.11 The reconvened hearing was pivotal in the above sense for a number of reasons:

- (a) Firstly, I was made aware of certain consultation that had occurred in the adjournment with key submitters including Pineglades. Palliser/Winchester and the Brooks (Fairhurst Place) and the resultant options that had been discussed.
 - (b) Secondly, it gave me an opportunity to hear from Mr Bell on how the Development Contribution process would operate in practice and as such how the connections shown in the Structure Plan would be paid for. That was particularly valuable.
 - (c) Similarly it gave me an opportunity to hear from Ms Wright about the importance of the cycleway and walkway links within this part of Rolleston.
 - (d) Fourthly, it allowed Mr Wood to helpfully explain the contextual aspects of the Rolleston Structure Plan and how the PC11 structure and zoning plan fitted within that context and gave effect to that Plan
 - (e) Finally, it allowed Mr Hattam to respond to the raft of issues that I had raised and to report back on consultation. Moreover, it also enabled him to advise what changes he felt were necessary having had the opportunity to listen first hand to the submissions.
- 16.12 It was a combination of these presentations, along with the willingness of Mr Hattam to consider alterations to PC11, which inevitably enabled me to satisfy a large proportion of my initial concerns about PC11. Accordingly, this has enabled me to recommend that the PC11, as modified during the course of the hearing, should be accepted by the Council.
- 16.13 Overall, I conclude that:
- (a) In **overall environmental terms**, PC11 is fundamentally sound. It provides for an increase in density (Living 1) using a carefully considered regime of zoning in a defined spatial area that has the ability to absorb the growth. Further, it recognises existing amenity through the provision of the Living 1C zoning over land adjacent to Fairhurst Place and Waterbridge Way.
 - (b) In terms of **alternatives**, the do nothing option - the retention of the status quo Living 1B zoning over the entire area - is not a valid response in this instance. This is particularly so in light of the duration that the deferred zoning has been in place and the degree to which the Living 1 zone has leapfrogged this area. It is imperative that this zoning pattern is addressed now and that the framework for the appropriate linkages is put in place. PC11, through the zoning pattern and Structure Plan, form the basis to achieve this.
- 16.14 Finally, I return to the theme that I introduced at the inception of this assessment concerning the under-riding theme behind many of the submissions received in relation to land identified for transportation linkages; namely, the issues of the “public good” achieved by the proposal versus the perceived infringement of private property rights for landowners affected. This theme was representative of the differing views which separated PC11’s opponents from its proponents.

16.15 In terms of the above, I merely wish to remind both the submitters in opposition and the Council of the following: the actual trigger which brings PC11's provisions "into play" is only activated upon the inception of new subdivision. In other words, the proposed District plan provisions enabling the council to take land for walkways, cycleways and roads will only be able to be given effect to upon redevelopment of the affected landholdings. In this regard, the implications for both the submitters and Council are as follows:

(a) For submitters: Without any further subdivision occurring on their properties I see no onus on the existing landowners that would compromise their ability to enjoy their land (in its current state) to its full potential. In the event that landowners affected by the linkages do chose to subdivide then they will be compensated accordingly.

(b) For the Council, there needs to be an appreciation that without development there will be no opportunity for the proposed linkages to be formed. Accordingly, if the linkages are essential, or are not occurring at the rate anticipated, then it will be necessary for the Council to investigate alternative mechanisms.

16.16 With that said I now present my overall recommendation for PC11.

17 OVERALL RECOMMENDATION

17.1 Based on my consideration of all the material before me including the section 42A report from the council advisors, submissions, further submissions, evidence presented at the hearing and following consideration of the requirements of Section 32, I recommend to the Council that:

PC11 be approved as notified, except in relation to the matters identified in Appendix 2 where some minor changes have been recommended.

DATED AT CHRISTCHURCH THIS 23rd DAY OF MARCH 2010

A handwritten signature in black ink, appearing to read 'DJ McMahon', with a large circular flourish on the left side.

DJ McMahon
Commissioner

APPENDIX 1: SCHEDULE OF RECOMMENDATIONS ON SUBMISSIONS

Sub No	Name	Point	Decision Requested	Recommendation
1362	Doug Sinclair	1362.01	Amend the plan change to remove requirement for a walkway leading to East Maddisons Road	Reject
		Opposed	1366, 1374	Accept
		Supported	1378	Reject
1363	Colfield Trust	1363.01	Amend the proposal, to allow the subdivision of 33 Waterbridge Way into 3 lots.	Reject
		Opposed	1374, 1402	Accept
		Supported		Reject
1365	Bruce Alan McLeay	1365.01	Rezone all of Fairhurst Place as L1C	Reject
		Opposed	1403	Accept
		Supported	1396, 1397, 1398, 1399, 1400	Reject
1365	Bruce Alan McLeay	1365.02	Oppose the roads at the end of Fairhurst Place and the cutting down of the radiata hedges which would take place if they are put in. Also oppose footpath to school	Accept in part
		Opposed	1374	Accept in part
		Supported	1396, 1397, 1398, 1399, 1400	Accept in part
1366	Environment Canterbury	1366.01	Amend the wording based on the submission, related to clauses 4.9.27, 4.9.29, 12.1.4.48, 12.1.4.49, 4.9.2.	Accept in part
		Opposed		
		Supported	1378	Accept in part
1367	Wei-Ker Lin & Yi-Ya Lai	1367.01	Amend such that roads are not developed on 145B Brookside Road.	Accept in part
1368	Corravally Ltd	1368.01	Support rezoning. Request that appropriate compensation is paid	Accept in part
		Opposed		
		Supported	1378	Accept in part
1369	Douglas and Susan Lawson	1369.01	Support policies to control intensification of the area and reserve on Pineglades. We wish to have a front section on Lowes Road subdivided.	Accept in part
		Opposed	1373, 1376	Reject
		Supported		
1370	Baibensam Rentals	1370.01	Amend the plan change to reduce the average lot size to 1,000m2 in Living 1B areas with a 500m2	Reject

Sub No	Name	Point	Decision Requested	Recommendation
			minimum.	
		Opposed	1373, 1374	Accept
		Supported		
1371	Stephen David and Sharon Louise Bensberg	1371.01	Amend the plan change to reduce the average lot size to 1,000m2 in Living 1B areas with a 500m2 minimum.	Reject
		Opposed	1373, 1374	Accept
		Supported		
1372	Annette Foster	1372.01	Supports proposed walkway connections and requests that the policy is stronger in support of future residents and their ability to have improved connectivity and a choice of modes of transport.	Accept in part
		Opposed	1397, 1365, 1399, 1400, 1373, 1378	Reject
		Supported	1374	Accept
1372	Annette Foster	1372.02	Supports road connections and requests that connection from Jozecom Place to Fairhurst Place is a road	Accept in part
		Opposed	1397, 1399, 1400, 1373	Reject
		Supported	1374	Accept in part
1373	Richard and Rachel Ireland	1373.01	Amend the plan to remove link (whether road or walkway/cycleway) between Jozecom Place and Fairhurst Place	Reject
		Opposed	1366	Accept
		Supported	1396, 1397, 1365, 1400, 1373	Reject
1374	Selwyn Central Community Board		Approve plan change 11 with amendments: Additional road link and reserve.	Accept in part
		Opposed	1376	Accept
		Supported		
1375	Tania R Foster and Michael H Croucher	1375.01	Supports Rule 12.1.4.48 (linkages)	Accept
		Opposed	1378	
		Supported	1374	Accept
	Tania R Foster and Michael H Croucher	1375.02	Supports advantage being taken of unique characteristics of the area (i.e. water races).	Accept

Sub No	Name	Point	Decision Requested	Recommendation
	Tania R Foster and Michael H Croucher	1375.03	Amend to replace the Living 1B and Living 1C zoning with Living 1.	Reject
		Opposed	1397, 1365, 1373, 1403	Accept
		Supported		
	Tania R Foster and Michael H Croucher	1375.04	Amend rule 4.13.2	Reject
1376	Pineglades Naturist Club Inc	1376.01	Fair compensation be paid for roads; new road on Pineglades Naturist Club entrance be called Pineglades Drive	Accept in part
		1376.02	Amend the plan to delete the reserve on Pineglades site	Accept
		Opposed	1374	Accept in part
		Supported		
		1376.03	Remove restrictions on shelterbelts	Accept
		1376.04	Amend to allow Pineglades to erect 1.8m fencing on all boundaries	Accept in part
1377	Steven Bruce Jones	1377.01	Amend to alter the route of the spine road through 141 Brookside Road.	Accept in part
1378	Andrew Palliser and Kathryn Winchester	1378.01	Reject Plan Change zoning (L1C) as it is more restrictive than status quo	Reject
		1378.02	Remove walkway/cycleway from 31 Waterbridge Way. Portion of 31 Waterbridge Way severed by walkway	Accept
		Opposed		
		Supported	1376	Accept in part
		1378.03	Remove walkway/cycleway and roads from 161 and 165 Brookside Road. Reject Plan Change due to implementation difficulties	Reject
		Opposed	1366	Accept
		Supported		
		1378.04	Clarify payment mechanism (development contributions)	Accept
		1378.05	Remove land use rules 4.9.19, 4.9.20, 4.9.21 (building position), 4.13.1, 4.13.4 (streetscene), and subdivision rules 12.1.4.49 and 12.1.4.50 (Living 1C restrictions)	Accept in part

Sub No	Name	Point	Decision Requested	Recommendation
		Opposed		
		Supported	1376	Accept in part
1379 (with drawn)	Darren Craig	1379.01	Remove walkway/cycleway from 161 and 165 Brookside Road	No recommendation required
		Opposed	1374	
		Supported	1373, 1378, 1376	
		1379.02	Remove Roads from 161 and 165 Brookside Road. Reject Plan Change due to practical difficulties in implementation	No recommendation required
		Opposed	1374	
		Supported	1373F, 1378	
		1379.03	Clarify payment mechanism (development contributions)	No recommendation required
		Opposed	1374	
		Supported	1373F, 1378	
		1379.04	Remove land-use rules 4.9.19 - 4.9.21 (building position) and 4.13.1 - 4.13.4 (streetscene)	No recommendation required
		Opposed	1374	
1380 (with drawn)	Diane Craig	1379.01	Remove walkway/cycleway from 161 and 165 Brookside Road	No recommendation required
		Opposed	1374	
		Supported	1373, 1378, 1376	
		1379.02	Remove Roads from 161 and 165 Brookside Road. Reject Plan Change due to practical difficulties in implementation	No recommendation required
		Opposed	1374	
		Supported	1373, 1378	
		1379.03	Clarify payment mechanism (development contributions)	No recommendation required
		Opposed	1374	
		Supported	1373, 1378	
		1379.04	Remove land-use rules 4.9.19 - 4.9.21 (building position) and 4.13.1 - 4.13.4 (streetscene)	No recommendation required
		Opposed	1374	
		Supported	1373, 1378, 1376	
		1379.05	Reject the Plan Change as it restricts the number of lots that could be achieved by subdivision	No recommendation required
		Opposed	1374	
		Supported	1373, 1378	
1381 (with	Gary Craig	1379.01	Remove walkway/cycleway from 161 and 165	No recommendation

Sub No	Name	Point	Decision Requested	Recommendation
drawn)			Brookside Road	required
		Opposed	1374	
		Supported	1373, 1378, 1376	
		1379.02	Remove Roads from 161 and 165 Brookside Road. Reject Plan Change due to practical difficulties in implementation	No recommendation required
		Opposed	1374	
		Supported	1373, 1378	
		1379.03	Clarify payment mechanism (development contributions)	No recommendation required
		Opposed	1374	
		Supported	1373, 1378	
		1379.04	Remove land-use rules 4.9.19 - 4.9.21 (building position) and 4.13.1 - 4.13.4 (streetscene)	No recommendation required
		Opposed	1374	
		Supported	1373, 1378, 1376	
		1379.05	Reject the Plan Change as it restricts the number of lots that could be achieved by subdivision	No recommendation required
		Opposed	1374	
		Supported	1373, 1378	
1382 (with drawn)	Michelle Craig	1379.01	Remove walkway/cycleway from 161 and 165 Brookside Road	No recommendation required
		Opposed	1374	
		Supported	1373, 1378, 1376	
		1379.02	Remove Roads from 161 and 165 Brookside Road. Reject Plan Change due to practical difficulties in implementation	No recommendation required
		Opposed	1374	
		Supported	1373, 1378	
		1379.03	Clarify payment mechanism (development contributions)	No recommendation required
		Opposed	1374	
		Supported	1373, 1378	
		1379.04	Remove land-use rules 4.9.19 - 4.9.21 (building position) and 4.13.1 - 4.13.4 (streetscene)	No recommendation required
		Opposed	1374	
		Supported	137, 1378, 1376	
		1379.05	Reject the Plan Change as it restricts the number of lots that could be achieved by subdivision	No recommendation required

Sub No	Name	Point	Decision Requested	Recommendation
		Opposed	1374	
		Supported	1373, 1378	
1383	Western Reef Ltd	1383.01	Amend to re-route the footpath next to 167 Brookside Road and use cul-de-sacs terminating on either side of that site, rather than a connected road through it.	Reject
		Opposed	1374	Accept
		Supported	1373, 1376	Reject
1384	Correlia and Nicolaas van dar klei	1384.01	Amend to alter the route of the spine road through 137-145 Brookside Road.	Accept in part
1385	Sally Barbara Guyatt	1385.01	Allow 750m2 sections on corner of Lowes Road and Fairhurst Place	Reject
		Opposed	1373	Accept
		Supported	1397	Reject
		1385.02	Approve Plan Change	Accept
		Opposed	1397, 1373	Reject
		Supported		
1386	Stewart Leslie Haugh	1386.01	Approve Plan Change	Accept
		Opposed	1397	Reject
		Supported		
1387	Lucie Ann and Kirk Warren Martin	1387.01	Upgrade Brookside Road	Reject
		1387.02	Increase lot size on East size of East Maddisons Road	Reject
1388	Cardno TCB	1388.01	Approve Plan Change	Accept
1389	Newman Incorporation Ltd	1389.01	Fair Compensation to be paid for roads; Approve Plan Change	Accept in part
		Opposed	1397	Reject
		Supported		
1390	Worthwhile (Rolleston) Ltd	1390.01	Fair Compensation to be paid for roads; Approve Plan Change	Accept in part
		Opposed	1397	Reject
		Supported		
1391	Rodney Irvine Lee	1391.01	Amend with a minimum lot size of 900-1000m2 in the L1B areas.	Reject
		Opposed	1374	Accept in part
		Supported		
1392	Crosbie Family Trust	1392.01	Remove walkway through Jozecom Place; Fair compensation to be paid for	Accept in part

Sub No	Name	Point	Decision Requested	Recommendation
			roads	
		Opposed	1366	Reject
		Supported	1395, 1397, 1373	Accept in part
1393	Kenneth William and Margaret Ruth Brook	1393.01	Oppose roads at the end of Fairhurst Place and loss of shelterbelts	Accept in part
		Opposed		
		Supported	1395, 1397, 1365, 1399, 1400, 1373	Accept in Part
1394	Alisdair and Jeannie Hood	1394.01	Support subject to design considerations	Accept

Further Submitters

1395	Bridgman Family Trust
1396	John & Jo Wilkinson
1397	Joe & Debra Inwood
1398	Patrick J & Betty E Quinn
1399	Judith C McLeay
1400	Valarie A Donald and Graeme L Jones
1401	Brenda C and Raymond M Abernethy
1402	David M and Elizabeth A Brown
1403	Richard P Bunz and Suzanne J Kirk-Smith

Appendix 2: District Plan Amendments

Plan Change 11: Rolleston Living 1B deferred zone structure plan

In this section, text added to the Plan by Plan Change 11 is underlined and text removed is ~~striketrough~~. Underlined text in yellow was added by the commissioner as a result of the hearing. ~~Striketrough~~ text in yellow was removed from the plan change by the commissioner.

Amend Part B Issues, Objectives and Policies as follows:

- 1 Insert a new policy under Subdivision of Land – Policies and Methods:

Policy B.4.2.9

To ensure development in the Rolleston Lowes Road ~~Structure Outline~~ ~~Development~~ Plan area is in accordance with the ~~Structure Outline~~ ~~Development~~ Plan (Appendix ~~33 34~~) so that development proceeds in a logical and coherent manner that provides for internal and through connections and a high standard of public amenity by:

- a) Providing for pedestrian, cycle and vehicle movement within and through the area in accordance with the ~~structure outline development~~ plan map (Appendix ~~33 34~~), with such land to be vested in Council at the time of subdivision.
- b) Providing reserves and public amenity within the zone as identified in Appendix ~~33 34~~.
- c) Ensuring coherent, safe and attractive public areas by implementing an appropriate development pattern and density of development.
- d) Protecting the special character of Waterbridge Way and Fairhurst Place by ensuring: the retention of a lower density of development; the avoidance of obtrusively positioned buildings; the preservation of existing special features.

Explanation and Reasons

The ~~Structure Outline Development~~ Plan will promote integrated development by providing a logical road and walkway/cycleway network and providing direct street access for a larger proportion of allotments. Land required for structure plan connections will be obtained at the time of subdivision. New buildings should not be positioned in a way that would frustrate the ability of Council to obtain connections in future.

The road and walkway/cycleway connections in the structure plan have been designed to provide for permeability and for through movement. They serve the wider needs of Rolleston as well as those of the residents of the zone. Without them the area is likely to be a barrier to movement for surrounding residents.

The ~~Structure Outline Development~~ Plan aims to provide for reserves within the area on a logical basis, taking advantage of significant features such as

trees and water-races. Council will buy the land required using reserves contributions from development in the area.

Two parts of the area have been identified as having a special character:

- Waterbridge Way, due to its low density of development and unique streetscene (landscaped water-races, narrow bridges and buildings set well back from the street).
- Fairhurst Place, due to the sense of spaciousness on the street, especially for views extending south-east from Lowes Road into the distance, and the established cherry trees and front boundary planting.

A low density area (with increased setbacks) is regarded as the best way to prevent the loss of this character from cramped development. The establishment of more closely spaced (L1B density) houses and accessory buildings in locations where they are noticable from the street would undermine this. The special character results in part from the absence of any incongruously positioned dwellings in the street scene. Subdivision proposals which are likely to lead to such development due to the shape and position of lots should be avoided.

Methods

District Plan Rules

- Subdivision: General
- Structure Outline Development Plan

LTCCP

- Development Contributions Policy

Non-Statutory Guidance (Good Solutions Guide for Subdividing Large Rural Style Sections)

Amend Part C (Rules) as follows:

- 2 ~~Insert new rules to give restricted discretionary status to new buildings when positioned on or near structure plan elements and introduce increased setbacks for buildings in the new L1C zone~~

Under 4.9 Buildings:

Permitted Activities – Buildings and Building Position

4.9.19 Within the Lowes Road Structure Plan area, any building shall be positioned at least 4m away from the indicated route of any proposed road; or 1m from any proposed walkway/cycleway; routes as shown in Appendix 33-34.

- 2 Add a new restricted discretionary assessment matter under 4.6.4 to allow for assessing whether a second house would frustrate the structure plan:

Restricted Discretionary Activities – Buildings and Building Density

- 4.6.4.7 Within the Lowes Road Structure Plan Area, that the siting of the dwelling does not preclude the establishment of any roads or indicative walkways as shown in Appendix 34.

Special Character Low Density Areas (Living 1C zoning)

- 4.9.20 In Living 1C zoned areas, buildings shall have a set back from the road boundary of not less than 6m.
- 4.9.21 Dwellings and family flats shall be positioned at least 6m from any existing dwelling or family flat (or footprint of a planned dwelling or family flat for which a building consent has been granted within the previous 2 years).

An exception is where family flats are attached to the principle dwelling.

Renumber subsequent points.

Restricted Discretionary Activities – Buildings and Building Position

- 4.9.26 Any activity which does not comply with 4.9.19 shall be a restricted discretionary activity
- 4.9.27 Under rule 4.9.26 the Council shall restrict the use of its discretion to consideration of whether the erection of the building would frustrate the ability for the movement connections and reserves shown on the structure Outline Development Plan connections and reserves in Appendix 33-34 to be obtained at future subdivision. In assessing this, regard shall be given to:
- a) The location of the building with regard to whether it would obstruct prevent the implementation of the structure Outline Development Plan.
 - b) The location of the building and its impact on the amenity of proposed public space
 - c) The permanence of the building
 - d) Whether structure Outline Development Plan elements could otherwise be provided through the site:
 - i) in such a way that a logical pattern of development for the area as a whole will result.
 - ii) without compromising the ability of adjoining landowners to develop their land whilst providing for the indicated reserves and linkages.
 - iii) whilst resulting in public space of equal or better quality than the structure Outline Development Plan without excessive additional costs in the construction of roads or paths.

- 4.9.28 Any activity which does not comply with 4.9.20 or 4.9.21 shall be a restricted discretionary activity
- 4.9.29 Under rule 4.9.28 the Council shall restrict the use of its discretion to consideration of:
- a) the unique spacious character of the area and its sensitivity to incongruous or closely spaced buildings

Renumber subsequent points.

- 3 Insert new section on buildings and streetscene *

4.13 BUILDINGS AND STREETSCENE

Permitted Activities — Buildings and Streetscene

For all residential development located within the Lowes Road structure Outline Development Plan Area

- 4.13.1 The maximum height of any fence between the front building façade and the street or a private Right of Way or shared access over which the allotment has legal access, shall be 1m. For allotments with frontage to more than one road, this rule shall only apply to the façade that includes the front entrance to the allotment, with fencing on the other road frontage to be no higher than 1.8m.
- 4.13.2 Garages are to occupy no more than 50% of the width of the building façade facing the road, or a private right of way

Restricted Discretionary Activities - Buildings and Streetscene

- 4.13.3 Any activity which does not comply with 4.13.1 or 4.13.2 shall be a restricted discretionary activity
- 4.13.4 Under Rule 4.13.3 the Council shall restrict the exercise of its discretion to consideration of:
- 4.13.4.1 The degree to which an open streetscene is maintained and views between the dwelling and the public space, private Right of Way or shared accesses are retained.
- 4.13.4.2 The extent to which the visual appearance of the site from the street, or private Right of Way or shared access over which the lot has legal use of any part, is dominated by garden planting and the dwelling, rather than front fencing.
- 4.13.4.3 The extent to which the proposed fence is constructed out of the same materials as the dwelling and incorporates steps in plan, landscaping, and see-through materials such as railings or trellis.
- 4.13.5 Under Rule 4.13.3 the Council shall restrict the exercise of its discretion to consideration of:

4.13.5.1 The extent to which the front façade is dominated by habitable rooms and glazing rather than garaging.

4.13.5.2 The extent to which the opportunity for passive surveillance and overlooking of the street, private Right of Way, or shared access from the dwelling is provided.

**Note that this section is also added by Proposed Plan Change 7, which also adds the same rules, but for different zones (Greenfield Living Z). A tidying up exercise (via Clause 16 of the first schedule) is likely to be required to reconcile the numbering of the clauses if both plan changes are approved.*

4 Amend Table C12.1 – Allotment Sizes

TOWNSHIP	ZONE	AVERAGE ALLOTMENT SIZE NOT LESS THAN
Rolleston	Living 1	750m ²
	Living 1A	Minimum lot area of 300m ²
	Living 1B	1,200m ² with a minimum lot area 750m ²
	<u>Living 1C</u>	<u>2,000m² with a minimum lot area of 1,000m²</u>

5 ~~Exclude the Structure plan area from the indicative reading requirements in for Rolleston:~~

~~12.1.4.45 — Except in the Lowes Road structure Outline Development Plan Area (Appendix 33-34), the extent to which a failure to conform with the reading pattern identified in Appendix 23...~~

6 Add new assessment matters under 12.1 to require compliance with structure plan:

Restricted Discretionary Activities – Subdivision - General

Rolleston

12.1.4.48 Except as provided by rule 12.1.4.49, For allotments within or adjacent to the Lowes Road structure Outline Development Plan area, that the proposed layout is in general accordance with the structure Outline Development plan map in Appendix 33-34.

In assessing whether the layout is in general accordance with the structure plan map the following will be considered:

- a) that the ability for Council to obtain the indicated linkages is not compromised.

- b) that the ability for Council to obtain the indicated reserves is not compromised.
- c) that the layout will result in a logical pattern of development for the area as a whole.
- d) that the ability of adjoining landowners to develop their land whilst providing for the indicated reserves and linkages is not unduly compromised.
- e) That the proposal will result in public space of equal or better quality than the ~~structure~~ Outline Development plan
- f) That the proposal will not involve excessive additional costs for Council in the construction of roads or paths funded by development contributions.

12.1.4.49 For Lot 32 DP76956 BLK III Leeston SD (35 Fairhurst Place), any subdivision need not provide connections shown on the Outline Development Plan provided that the average lot size is above 4000m² and the layout plan demonstrates that the connections can be provided in a logical fashion by future re-subdivision. This exception shall not apply to the connection to the adjacent school site (along the southern boundary of 35 Fairhurst Place) and shall not apply to any subsequent re-subdivision of the lots created.

7 Add new assessment matters for subdivision in special character areas:

Rolleston Special Character Low Density Areas (Living 1C zoning)

12.1.4.50 In the Living 1C zoned area adjacent to Waterbridge Way, that the subdivision would not require the piping of a water-race or its relocation away from the path shown in the Lowes Road ~~structure~~ Outline Development plan unless:

- a) an alternative path of equal prominence is provided;
- b) the water-race is landscape to a standard equivalent to surrounding landholdings.

Except that the above shall not apply to any part of the water race which is greater than 12m from the legal road boundary.

In the assessment of this matter, consideration should be given to the likely size, shape and location of any dwellings to be built on the new lots.

12.1.4.51 In the Living 1C zoned area adjacent to Waterbridge Way, that the subdivision design minimizes the need for additional crossings of the water races by sharing accessways where possible. ~~Where this is not feasible, the water race should be crossed by a bridge of similar design, materials and colour to the existing bridges on Waterbridge Way.~~

Where new crossings are required, the assessment shall take into account:

i) The extent to which the crossing would be of similar design, materials and colour to the existing bridges on Waterbridge Way.

ii) The visibility within the streetscene of the crossing.

iii) The extent to which the design would complement the special character of its surroundings.

12.1.4.52 In Living 1C zoned areas in Fairhurst Place, that the subdivision would not require the removal of street trees in order to provide access.

Renumber subsequent points.

8 Add a new discretionary activity to section 12.1.6

12.1.6.5 Any subdivision in a Living 1C zone with an average lot size above 1,200m².

9 Add a new non-complying activity to section 12.1.7:

Non-Complying Activities – Subdivision - General

12.1.7.4 Any subdivision in the Lowes Road structure Outline Development Plan area that is not in general accordance with the structure Outline Development Plan.

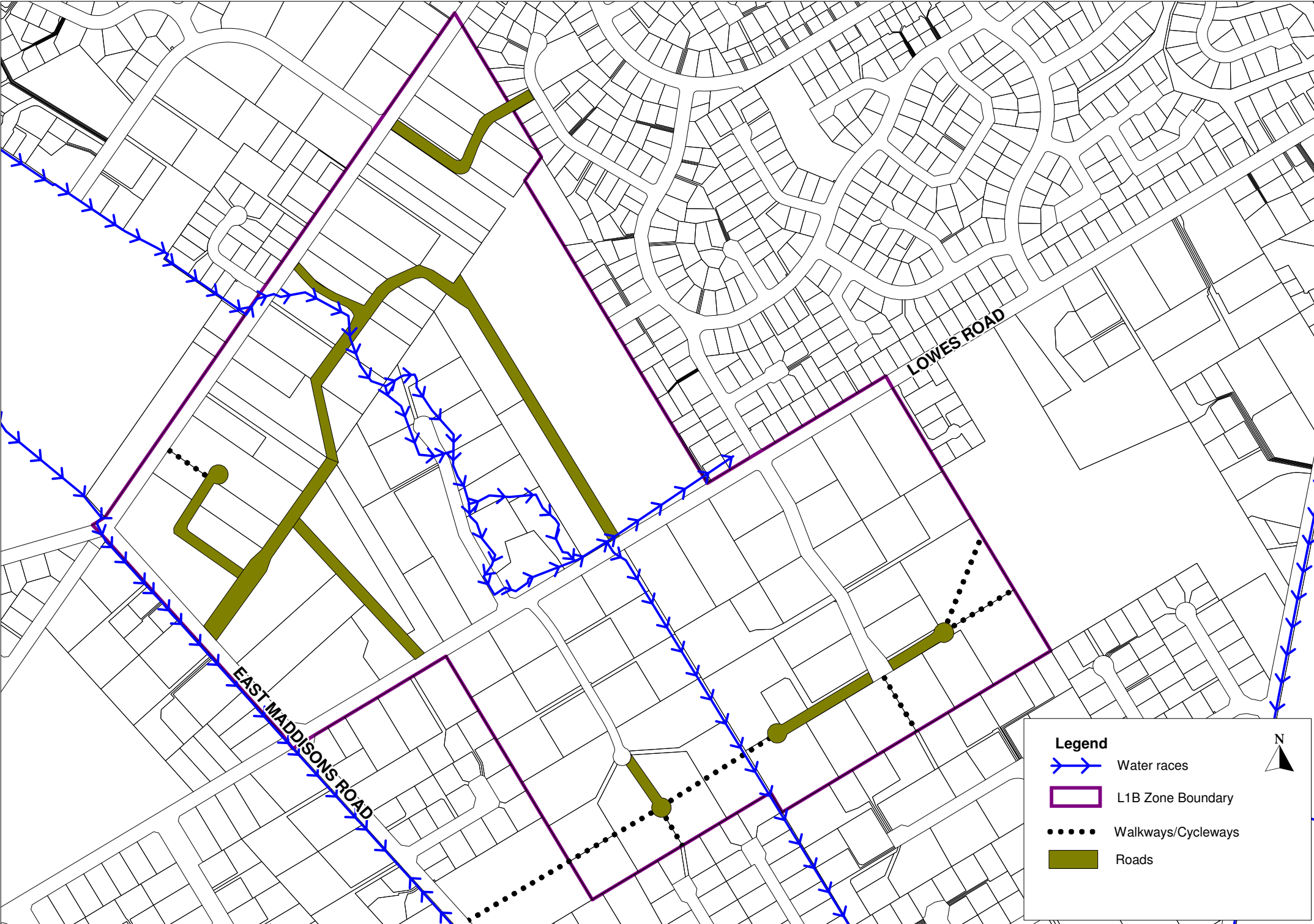
12.1.7.5 Any subdivision in a Living 1C zone with an average lot size below 1,200m².

10 Add a definition for front building façade

Front Building Façade: applies to a dwelling and refers to the elevation which most directly faces the road or right of way from which the site is accessed.

11 Insert Attachment 1 (Lowes Road structure Outline Development Plan) into appendices.

12 Amend Planning map zoning in accordance with Attachment 2.



Appendix 1 - Lowes Road Outline Development Plan

Attachment 2: Proposed New Zoning



Map B - Proposed New Zoning