

Plan Change 11: Rolleston Living 1B Deferred Zone Structure Plan

Supplementary Planning Report for Reconvened Hearing 25 November 2009

Statement of David Hattam, Strategic Policy Planner

This report has been prepared at the request of the Hearing Commissioner to provide further detail on the matters raised in the hearing.

1 Implementation

1.1 Existing Indicative Roads

The Commissioner has asked for comment on how the existing indicative roads (such as the one which passes through 31 Waterbridge Way) might operate in practice.

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

They are part of the assessment matters to be considered at subdivision stage.

There were many of these connections established by Plan Change 60. As land has developed, it is notable that the mechanism has been successful in obtaining land for links. 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).

The completion of the links such as that at Frame Crescent is awaiting the further subdivision of the land which is expected to occur over time.

The proposed mechanism differs 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 my view 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. In all other ways, the provisions are profoundly similar.

1.2 The need for roads to be precisely located, or otherwise.

The commissioner has asked for more information on this and I address it in some detail below.

The structure plan appears to show the roads and walkway / cycleways located with some precision. The revised colour plan now shows more clearly where these are in relation to the site boundaries.

There is benefit in providing some detail in the location of routes as a starting point for the design of subdivision, but the proposed policies and rules do not require precise compliance. 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).

In practice, the amount of flexibility for the location of a road will depend on the circumstances. For instance, in the north, 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 considerable scope for the paths to be deviated, although I would anticipate that consent from neighbours would be required.

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 subdivisor to obtain a wider corridor. For instance, if 145B Brookside Road were to subdivide, the plan indicates that they 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.

I make the point clearly here that there is no need for the Pineglades to carry out any development for the structure plan to succeed. A narrow connection as illustrated on the land of 145B Brookside Road would be a successful implementation of the structure plan. A road would be a more successful implementation.

1.3 Indicative Routes

It was always intended that the path of indicative roads would be approximate. There is no need for a particular route to be specified, only for the connection to be achieved. I acknowledge that this is not explicit from the policy.

However, what is clear from the policy is that all connections have this degree of flexibility built in. That is, there is no real need to distinguish between the different types of connection.

2 The logic of additional road provision south of Lowes Road

There is a logic to the provision of roads in the position specified in the structure plan.

2.1 Fairhurst Place

The intention is that a road be formed in this area, which is already in use as accessway and through which access will be required to any subdivision.

This next section relates specifically to the area already used in accessway, rather than the entire area of the structure plan.

The Council has gone to some trouble to demonstrate that there are many options for how this road could be successfully achieved without being an onerous burden on subdivisors.

We have shown that a road may be formed which is comprised of two separate carriageways. The shelterbelt may be retained in the middle, but equally it may not be (this is not a matter for this hearing to determine).

In practical terms, this allows a subdivision to be carried out on one section, and accessed over one of the two parallel existing accessways (say on 35 Fairhurst Place for example). Any such subdivision, where more than 2 sections are created, would need to provide a 4.5m sealed carriageway to comply with the District Plan. The road illustrated in appendix 5 would actually be a lesser requirement than this (a 4m sealed carriageway).

The engineering requirements of the structure plan roading illustrated in the evidence of Jeanette Ward are not especially more onerous than the minimum standards for rights of way in the District Plan. The accessway could be vested in Council at this point (subdivision) and may form a shared path for a walkway / cycleway.

There is no particular need to remove the shelterbelt at this point.

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.

As ever, we must remember that the area has 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 will be substantially altered under the current plan zoning. A walkway over neighbouring land is generally anticipated by the zoning and would not require any form of consent.

As and when the other half of the existing accessway is developed, a second carriageway can be formed, as would be required anyway, and this can be the second traffic lane for the road. At this point, the use of the accessway could become a road. The future of the shelterbelt would be decided at this point. But until all sections with right of way over the accessway had developed, the accessway would not be used by the public as a road.

However, this is not to say that the accessway would not be useful. It can obviously form a corridor for walking and cycling as soon as there is a connection. So as soon as this connection is made, the structure plan would have had a significant level of success.

This area under discussion includes the area around 36 Fairhurst Place, owned by Mr and Mrs Ireland. I state clearly for the record that the structure plan does not pass over land which they have fenced for the house (their curtilage) and is not intended to. That is, there is no requirement for a road to be formed over land in their ownership that is not already in use as accessway.

In view of this, many of the objections they raise are over a perceived rather than a real threat. In almost all matters in relation to this, the Irelands are in charge of their own destiny. They will not be affected unless they subdivide, in which case it is reasonable that they contribute to the solution to the problem.

We must consider the likely outcome of a failure to implement the structure plan. In his evidence, Mr Alexander memorably described this as "right of way hell". I have provided diagrams of how the area may develop with and without intervention in attachment 3.

There is an existing example of this at 52 Stonebrook Drive, where two parallel accessways have been developed as previously rural residential zoned land is re-

subdivided. This is the likely outcome if the structure plan is not implemented and it is the likely outcome over an area of 70 hectares. A photograph is included in attachment 4.

Without intervention, there would be 53 sections at the end of Fairhurst Place. The number of bins on a Friday morning around the turning head would be 106. The existing accessways do not comply with the required separation distances for shared accessways. 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). This outcome is profoundly unsatisfactory for an urban area.

The solution to this issue is to provide more roading to tidy up the potential access. 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. A sensible and proportionate response, in view of the minimal extra cost, is to ensure that subdivisions will contribute to a road. In view of the simplicity of implementation and the absence of a significant extra burden on subdividers, there is simply no good reason why a road should not be formed over the existing legal accessways as subdivision occurs.

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), I still maintain that the structure plan is the most efficient and effective solution. It is clear that the need is for a road and that one should be provided and paid for by subdividers and that there is one logical place for it to go.

What is more debatable is the length of road which it is necessary to specify by these means. As stated in my section 42a report, this issue is more finely balanced.

The options outlined below are illustrated in attachment 5.

To the west, if the road is provided to the point shown on the section 42a hearing report evidence (B2 in attachment 5), then it would provide logical service to future development. However, it may not be required to go this far, and could be terminated before it reaches No.36 (B3). Mr Dunlop, the owner of the land to the side and rear of No.36, has indicated that he intends to develop his land by means of a right of way running behind No.36 and that the road would not be useful to him beyond this point. No.2/38 could also feasibly be developed this way.

I consider that this matter has been addressed in my section 42a evidence and that the road should eventually be provided at least to the point shown in that report, for the reasons stated there. These are that it is not an onerous requirement; that it limits the length of the walkway cycleway connection to Jozecom Place; that it provides good access for future sections; and that it avoids parallel accessways which could easily be combined into a road. I refer the commissioner to the detailed discussion in my previous report where I conclude that road access to this point is the best solution which most fairly balances the public interest and that of different landowners. No evidence has been presented which would change my view of this.

I have some sympathy with the position of the Brooks at no.35 Fairhurst Place in the east. 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.

At the time of writing of this report, discussions had not been held with the Brooks, but they will have been by the time of the hearing and I will be able to update the commissioner at that point.

I consider that a road built to the position indicated in the structure plan (A1) would be the best environmental outcome. 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.

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. This outcome can be provided with a road which terminates around the existing gate of the property (A2). 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 walkway / cycleway connections, Council is likely to purchase the land required as reserves contributions or from other development contributions. A consequence of this is that we will 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. 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.

2.2 Jozecom Place extension Remaining a road

In a similar manner to Fairhurst Place, Jozecom Place is well set up for “right of way hell” under the current provisions. The zoning allows for up to 38 sections to be created accessing the turning head directly (see diagram). That is 76 wheelie bins around an under-size turning head where separation distances for shared accesses cannot be achieved. That is 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.

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.

As with Fairhurst Place, the way to fix the problem is to provide more roading so that the shared accessways are not converging at the same place. The obvious and appropriate course of action is to ensure that as and when 28 and 29 Fairhurst Place develop, a road is provided. If these sections do not develop, then there is less need for the road. The need for more roading is quite directly related to the development of these existing sections. If both develop, then 11 sections could be accessed from a joint right of way or road.

The Council is proposing to use a development contributions mechanism to spread the cost of this road amongst the landowners (with 28 and 29 paying a higher share as the principal beneficiaries). 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.

3 Assessment of Need For Walkways and Cycleways

The Commissioner has asked for comment in relation to the need for the following walkway / cycleway connections:

- Passing through 31 Waterbridge Way
- Connecting East Maddisons Road with Jozecom Place, Fairhurst Place and Clearview School / roading beyond the school.

This matter is dealt with in some detail below. The need for connections is also discussed in Ms Wrights evidence and also in the supplementary evidence of Ms Ward. They provide very strong arguments that a connection is needed to service the new school.

The Council has adopted a walking and cycling strategy which contains a number of key aims related to the built environment. These are quoted in section 7.4 of my original evidence and include "That designing for walking and cycling should not be secondary to designing for motor vehicles". One of the means of implementation of this strategy is via changes to the district plan, such as this one.

I also refer the commissioner to policies B2.1.7, B2.1.10, B2.1.11, B2.1.20 which between them represent a strong policy framework requiring the provision of walking and cycling connections.

I would add the following to this evidence:

3.1 Connection from Brookside Road to Waterbridge Way via 31 Waterbridge Way

This connection is disputed by the owner of 31 Waterbridge Way (1378).

It was also opposed by Darren Craig (1379) whose submission has been withdrawn following the purchase of 161 and 165 Brookside Road by Council. This submission was supported by a further submission from Dave Brown of 33 Waterbridge Way.

Discussions have been held with the owners of 31 Waterbridge Way (Palliser and Winchester) but no agreement has been reached on how to deal with this issue which I address in some detail now.

In summary, due to changes in circumstances (the purchase of 161 and 165 Waterbridge Way) the revised walkway shown in the structure plan is not required. 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 District Plan. Therefore I recommend that the walkway is deleted from the Structure Plan and the pre-existing provisions are left in place.

Palliser and Winchester would like the existing provisions to be deleted as part of this plan change.

I do not consider that there is scope for the removal of the existing walkway. In any case, I consider that the walkway should be retained on its merits.

3.1.1 The Merits of the case for the walkway

A Plan Change application has been submitted to rezone the large vacant site to the north of Brookside Road. I consider the intent of this plan change to be consistent with the Rolleston Structure Plan. It would allow around 550 houses to be built on the site. There is a strategic need for a good pedestrian link between this area and the proposed recreation precinct which is located to the south of the L1B deferred area. Such a linkage could only be provided through the Living 1B deferred area.

There is also a desire for pedestrian linkages which provide high levels of amenity, that are pleasant in their own right. In some ways, these are a form of linear reserve and may in some cases be funded by reserve contributions, either in full or in part. The connection to Waterbridge Way has this dual use.

As stated in the Section 42a report, the retention of the low density zoning in Waterbridge Way, which would not be appropriate in view of its position in the urban area, is largely justified by the amenity it will provide to the wider town, because it forms part of a walking route.

The roads either side of Waterbridge Way would to some extent cater for the strategic linkage which is required through the north of the Living 1B deferred area as suggested by submitters. But they would not provide for this need.

I note that the degree of connectivity in the north of the area, even with the structure plan, is still poor. The Council uses a measure of perimeter block size as an indicator of connectivity, with 800m being the recommended average and 1000m being the maximum (subdivision design guide and draft plan change 7). The block size even with the structure plan in place will be above 1,200m around Waterbridge Way. Without it, the perimeter of that block is around 1,600m. This is an indicator that connectivity is poor. These blocks are illustrated in attachment 1.

The purpose of connections is not only to form strategic links. There is also a need for connections to enable short journeys within an area, for example so that neighbours can visit each other without the need for a convoluted journey. The pattern of development without a link from 31 Waterbridge Way is not providing for this need.

My original evidence also shows the impact of providing the walkway on Waterbridge Way itself, that it cuts the distance to the established town centre by 400m to 1.4km. This is in itself a substantial contribution to walkability.

Waterbridge Way is 350m long. I consider that this is excessive for a cul-de-sac in an urban area without further connections. The Subdivision Design Guide suggests that cul-de-sacs should be limited to 150m.

The submissions questioned whether the walkway would ever be achieved as it requires a connection through to Brookside Road. The Council is in the process of acquiring the land behind 31 Waterbridge Way (161 and 165 Brookside Road) and has an unconditional contract to purchase this land. I therefore suggest that this argument is redundant.

The Commissioner may either introduce the structure plan walkway or leave the existing provisions unaltered. I recommend the latter course of action as the need for the new provisions no longer exists.

3.1.2 Impact on Character of Waterbridge Way

There is also the question of how the walkway may impact on the special character of Waterbridge Way. In assessing this we must be clear about the objective of the plan change, which is to manage the transition of the Living 1B deferred area to an urban zone, not to preserve the existing semi rural surroundings as such. But the plan change is also attempting to preserve character where possible for the benefit of the town's residents.

The existing plan contains two indicative walkways at the end of Waterbridge Way, one connecting to Renoir Drive in the East and one connecting to Brookside Road. This is the currently expected change for Waterbridge Way.

The addition of foot and cycle traffic is unlikely to have a significant effect on the character of the street as a whole. In my view, there would need to be quite significant traffic (hundreds of users an hour throughout the day) for this to be the case and it is then by no means certain that it would be an inappropriate change. The reason for preserving character through zoning is to benefit the town as a whole and if there were to be very substantial use of the walkway then it would clearly be achieving this.

A comparison worth making is Fairhurst Place, a road with a similar character worth preserving, which has a walkway leading from the end through to Oak Tree Lane.

3.1.3 Scope for removing the walkway altogether

I consider that this issue is clear cut and that there is no scope to remove the existing walkway even if the commissioner is of a mind to do so.

The existing District Plan contains an indicative walkway. The Plan Change 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 the plan change.

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 March 2009 Consultation Document (page 20, figure 4.1). I also discussed its existence in person with Mr Palliser at around this time. It is in the District Plan and was approved in Plan Change 60, which has been through the required public process.

The plan change 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. I do not consider that this would provide scope for the walkway's removal.

3.2 Connection from Clearview School to East Maddisons Road

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 connect with an existing indicative road which will lead into the Kajens development. Land has already been acquired at the end of Villa Mews for this purpose. Attachment 6 shows this wider connection.

The only alternative connections are through Lowes Road and Oak Tree Lane. These parallel roads are over 700m apart. Attachment 6 includes calculations of approximate journey distances with and without the structure plan. Some examples are provided below.

From the end of Jozecom Place, (point C in the attachment) the extra walking distance to the school is 750m. From Fairhurst Place (point D) it is 820m. From The Kajens Development it is around 800m, bringing the total distance to around 2.5km (as opposed to 1.7km).

Ms Wright has provided strong evidence of how powerful a disincentive to walking this is in reality. There are 180 households that may be located within a 10 minute walk of the new school under the structure plan, that would not be located within a 10 minute walk of it otherwise. There are others, such as in the Kajens development, that will also benefit from the ability to use the walkway. The need for a connection is in my view well established.

The same arguments about connectivity described above also apply here. The block sizes without the structure plan would be around 1800m (between East Maddisons and Jozecom) and 2500m (Fairhurst and Jozecom). This is simply not an appropriate amount of connectivity in an urban area.

Some submitters have questioned the exact route of the walkway and this is addressed below.

4 The Exact Route of Connections Proposed

The Commissioner has asked for further comment on the proposed routes of some of the connections. Specifically, these are:

In the north, between the Spine Road and Campion Place, passing in front of the Pineglades Naturist Club.

In the south, connecting Jozecom Place to East Maddisons Road

In the south, connecting Fairhurst Place to Jozecom Place.

In the south, connecting Fairhurst Place to Clearview School and the adjacent road.

4.1 In the North

There was some discussion at the hearing about how the Pineglades Naturist Club is affected by the route of the road which leads from the spine road to Campion Place.

There are in effect three options for the route of this road, as was highlighted by Mr Elvines. For practical reasons of avoiding buildings and road design, these are essentially the three routes this road could take.

The recommendation was changed between notification and the section 42 report because of concerns raised by Pineglades and submitter 1377 (Mr Bruce Jones). It is now clear that the recommendation has not solved the issues of concern to these submitters (road safety and issues relating to the subdivision of 141 Brookside Road).

Both of these submitters have a preference for the original, straighter route which was suggested at consultation (and is shown in appendix 8 of my original report).

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. By contrast Mr Bruce Jones would prefer this route because it would allow him to develop his land more effectively.

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), I recommend that the notified route is re-instated.

The original straighter route which was suggested at earlier consultation was amended for two reasons. The first is that it did not suit Mr Hood (145 Brookside Road). But the principle reason is 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). The reason for this is 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.

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.

My view is that the notified proposal is the best route in terms of environmental outcome.

If the Commissioner considers 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. I would therefore suggest 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.

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.

4.2 In the south, connecting Jozecom Place to East Maddisons Road

This connection passes over the land of Mr and Mrs Crosbie and Mr Sinclair. The need for a connection of this nature is established elsewhere.

This path is the most direct connection to East Maddisons Road and the indicative road from the Kajens development. It passes through a large property (726 East Maddisons Road) which it is anticipated will be subdivided in the future.

It has been suggested that there is an alternative route passing through 24 Jozecom Place and 10 Mila Haven (vacant). See attachment 7 for an illustration of alternatives discussed in this section.

I acknowledge that there is some merit in this proposed route but that it also has disadvantages. It is not as direct, but it would affect fewer landowners and it may be possible to achieve more quickly. That is, the outcome may not be as good, but it might be achieved more easily.

Because the walkway would not be required unless land is subdivided, this provision is significantly different from a designation, where the walkway would affect people's living environments in the absence of a subdivision.

Furthermore, as shown by Ms Ward in her original evidence, the Council is prepared to allow innovative design to ensure that a walkway is compatible with future urban subdivision. And Council would pay for the land that is required. I therefore do not accept that an indicative walkway is an unreasonable requirement.

I have spoken to the owners of the 10 Mila Haven and 24 Jozecom Place who are not enthusiastic about a walkway over their land. I am conscious of the possibility of shifting the perceived burden of the walkway from one landowner to another with no net benefit. I therefore do not recommend that the walkway is altered.

I also note that as the route was not shown on the notification, it would affect parties not subject to the plan change and would therefore not be within scope.

However, Council can still pursue this alternative and if it can be achieved the indicative roads could be removed from the west of Jozecom Place.

4.3 In the south, connecting Fairhurst Place to Jozecom Place.

There are a number of reasons to select the chosen route. It is the most direct route. It connects with parts of Fairhurst Place which we consider should be road for other reasons, which makes the amount of land required less. The fact that it connects with roads means that the path will have more amenity and be perceived as safer.

By contrast there are few rational alternatives to this section of the walkway / cycleway.

Potentially, the driveway of no.27 could be considered, as was proposed in the 2006 consultation. But this is only 5m wide (not wide enough for a shared accessway, never mind a shared accessway and path). The path would need to be widened by using neighbours land. There is then no particularly obvious route for the path to take over No.27 through to Fairhurst Place.

I do not recommend this as the most desirable route, although it could be brought forward at subdivision stage if landowners are keen to facilitate it.

An alternative suggested was through no.26, linking to Fairhurst Place via a path next to the water-race (connection 2 in attachment 7). Again I do not consider that this is

the best route. It would have to turn through 90 degrees, meaning that it would seem less safe as people would not be able to see from one end to the other and know who was there. In encouraging the use of walkways, the perception of risk is an important consideration, as opposed to the actual risk. If people do not feel safe, then they will not use them. This proposal would also affect the same number of landowners and therefore has no advantages.

Some submitters appeared to suggest that a road based on the path of the water-race would be a valid alternative to the notified connection. This link might be desirable and create better urban form and connectivity, but it would not be an alternative to the notified link as it would not join Jozecom and Fairhurst Place and would not shorten the journey between East Maddison Road and the school. It would simply not achieve the intended function.

In view of the above, I conclude that the notified route is the most efficient and effective way to achieve the objectives and policies of the plan.

4.4 In the south, connecting Fairhurst Place to Clearview School and the adjacent road.

As before, the need for this connection is considered elsewhere as are its effects on landowners. This discussion is focused on the two paths of the connections.

1 To Clearview School

This path passes between Nos.35 and 37. It could be provided over the land of either No.35 or No.37 or a combination. This is the direct route to the school from Fairhurst Place and beyond.

It was suggested that the path should be diverted via Manor Drive. This would require a link from Manor Drive to Cameron Crescent where there is an entrance to the school (route 3 in attachment 7). There are two disadvantages with this idea:

- The route is a considerable diversion (it is 650m from Fairhurst Place as opposed to 210m, an additional 440m). It is therefore not as good an outcome.
- The route would affect more landowners. In practical terms, the best route would appear to be to place an indicative path between Nos.10 and 14 Manor Drive, to connect with Cameron Crescent through the presently vacant 19 Cameron Crescent.

There is no reason to expect that the walkway/cycleway would be any more preferred by these three landowners than by the two landowners affected by the notified proposal.

In my view, the effect of adopting this idea would simply be to move the perceived burdens from two landowners as at present to a different three landowners, with no net benefit.

2 To the Road beyond Clearview School

The need for this connection is to provide connectivity to the new road and the surrounding residential area. From this point, there are connections to the recreation precinct to the south east and to the town centre.

The school has indicated that they may allow the public to walk through their grounds, but that this cannot be guaranteed in the long term. But the focus of the plan change is ensuring that development provides for the long term.

The need for connectivity for its own sake, to avoid prolonged journeys between residential neighbourhoods is also pertinent. The block perimeter without the structure plan would be 2.5km, as opposed to 1.4km and 2.0km with it. Again, the level of connectivity sought by the council is minimal for an urban area.

In terms of providing direct connections to known destinations (rather than within residential neighbourhoods), the link would shorten the journey to parts of the recreation precinct which is likely to contain a number of facilities and should not be thought of as a single point destination.

Attachment 6 illustrates the need for this connection.

The distance to point G in the recreation precinct from Fairhurst Place, with the walkway in place is 750m. Without it, it is 1170m, an increase in 420m.

The distance from Fairhurst Place to the existing and well used Foster Dog Park would be 1150m as opposed to 1570m.

There is also a wider benefit. For instance, the distance from Point B (East Maddisons Road) to point G in the recreation precinct is reduced by 370m. This scale of reduction would also apply to much of the Kajens development.

On this basis, I conclude that this link makes a significant contribution to walkability.

However, as has been previously stated, the need for connections is a long term need and there are particular circumstances involved with this section:

- 37 Fairhurst Place is affected by two walkways
- There is for now an alternative (given the expectation of access through Clearview School)
- There is less strategic need for this walkway in the short term as facilities within the recreation precinct will take some time to be developed.

For the sake of clarity, these circumstances apply to no other connection in the structure plan.

In view of this, I consider that a mechanism could be put in place to allow 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.

This would require a site specific rule, for instance one which allowed subdivision down to an average of 4,000m² (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.

I am due to meet with the Brooks following the distribution of this report and may have further comment on this matter at the hearing as a result of these discussions. I will provide revised rules at this stage if applicable.

5.0 Effects on Landowners

The effects on landowners were discussed at the hearing and provide a counterpoint to the arguments expressed above in favour of connections. These have been discussed above and are also discussed in relation to their specific affects on particular landowners below in section 8. In a general sense, I address them here. These are:

1. The structure plan would affect how people might subdivide their land.
2. Landowners may be affected by the change in character caused by the additional roading or walking links. This change in character would include additional nuisance such as noise or loss of privacy
3. The owner of 31 Waterbridge Way has also expressed what amounts to a financial concern, that the compensation offered would reflect the fact that the land is no longer zoned as urban, but instead as a walkway or reserve, and that the value of the land may be reduced as a result.
4. Land use restrictions over land earmarked for connections are onerous (rules 4.9.19 and 4.9.26 to 4.9.29).

I comment briefly here, but these effects are discussed in more detail elsewhere.

Concerning point 1. The redevelopment of the area into an urban area requires that some consideration be given to the urban structure that will result. It is therefore not unreasonable to consider restricting the subdivision that can occur that will not contribute to a functioning urban area.

The effect is that people will not be able to subdivide a larger section into two without giving some consideration to the structure plan. Although there may appear to be some merit in this argument (that the structure plan is unfair as this subdivision does not create an urban scale environment) the likelihood is that there will over time be subsequent subdivisions. The type of subdivision described above will then make it harder for an urban area to be achieved as connections and streets will be harder to achieve; they will involve more landowners. As the zoning is urban zoning (not low density rural residential) it is still reasonable that urban requirements apply. The objective of the zoning is not to allow for more rural residential sections, but to allow for urban sections.

In my view, the need for a good urban area to be achieved (which is the intention of the original Living 1B zoning as well as the plan change) should take precedence over the concerns of landowners, that the ability to subdivide their land how they choose (potentially into rural residential type sections which would then be more difficult to urbanise), is constrained.

As described elsewhere, there is not a substantial extra cost involved in the structure plan.

Concerning point 2, the change in character is substantially brought about by the increase in density rather than the structure plan itself. The relevant comparison is the likely of development at Living 1B density, which is allowed for under the existing Plan provisions, against the likely pattern of development without it.

Attachment 3 shows possible pattern of development (complying subdivisions) under the two scenarios.

The Council considers that the pattern of development without the structure plan is unacceptable. None of the submitters have engaged with this dilemma.

As the land is subdivided, the change in character is brought about by the subdividers who will be able to mitigate the effects of the change in character (brought about by subdivision and development) with design, as has been suggested in Ms Ward's evidence and the *Good Solutions Guide for Subdivision of Rural Residential Size Sections*. In the south, the structure plan is simply an alternative (better) form of the existing zoning. This is discussed further later on, when I have addressed submitters specific concerns.

With regard to the financing (point 3), The Council has engaged with this point to the extent that there are no walkways proposed with exact routes required. This greatly reduces the risks outlined by Ms Allardyce because there is now no specific land allocated (no specific "blight"). This is also a more conventional planning mechanism that has been used successfully in the past by the Council (with walkways being purchased using reserves contributions, paying the market value for land with the relevant zoning).

Finally, with regard to point 4, having listened to submitters, I am persuaded that the land use restrictions (rule 4.9.19, 4.9.26 and 4.9.27) would place a burden on landowners which would out-weigh its benefits. I recommend that the rules listed above are deleted. However, I also recommend that they are replaced by a less restrictive provision which manages second dwellings on a lot.

The concern which these rules were designed to address is that houses might be built in such a way that they would make the structure plan impossible to achieve. Under the District plan rule 4.6.3, the erection of a second dwelling on a residential lot is a restricted discretionary activity. The effects of a second house are substantially similar to a subdivision but it has a potential to be a way to circumvent the requirements of a subdivision. For this reason, I consider it appropriate to manage them with regard to the structure plan.

The existing assessment matters for a second dwelling (rule 4.6.4) relate to design, spaciousness and privacy. I consider that an additional assessment matter, restricted to the Living 1B deferred zone area, ensuring that there is a logical way for a connection to be provided where relevant, would be appropriate. This will ensure that connections are provided but not place an onerous burden on landowners with regard to the siting of family flats, garages and other accessory buildings.

6 Averaging Rule

The commissioner asked for comment on how the averaging rule for section sizes works and whether there are provisions in place to ensure that land cannot be resubdivided slice by slice, to achieve a smaller lot size than expected.

The rule in question is rule 12.1.3.6 which refers to table C12.1 to determine average site sizes.

There is nothing in the rules or the table to suggest that there is anything to stop a slice by slice approach to subdivision. This means that as long as a subdivision complies at the time (ie as long as the lot being subdivided meets the average) then it will comply with the plan, regardless of whether the overall average for the original parent lot would then fail to meet the average.

This is something that the Council may wish to address at a higher level than this plan change (eg it may wish to change the plan for the Living zones as a whole).

7 Scope for increasing density to Living 1 in the South of the area

A legal opinion obtained by Council indicates that there is no scope to increase density to living 1 in this area because the plan change does not contemplate an increase in zoning. As such, the submission is not on the plan change.

The same argument would appear to apply to the submission of David Bensburg (1370). Certainly, any widespread increase in density for the zoning south of Lowes Road would seem out of scope.

8 Matters Raised by Submitters

The purpose of this section is to address any additional matters raised by individual submitters (which the commissioner has not directed me to reply to specifically).

I have not addressed every issue raised or even every submission, especially when the matter is covered adequately above.

8.1 Fencing

There is some concern about section 4.13 which manages fencing on new subdivisions. This was mentioned at the hearing by the following:

Doug Sinclair (1362), 28 Jozecom Place
Andrew Palliser (1379), 31 Waterbridge Way
Richard and Rachel Ireland (1373), 36 Fairhurst Place

The concern about the rule appears to be with respect to how it affects existing residents and the ability to create privacy around existing dwellings. The rule has been written to strike a balance between the desire for open streetscapes and the need for privacy. Only the part of the section used for access would be affected.

None of the above submitters would be affected in the way that they are concerned about. For 28 Jozecom Place, a fence would be permitted next to the walkway as the house is not accessed from this boundary. The same would be true of 31 Waterbridge Way. For 36 Fairhurst Place, they would be entitled to fence the side and

rear of their property next to any private accessway that might be installed as part of subdivision of the surrounding land.

This demonstrates that the rule strikes an appropriate balance. It will obtain open frontage from new sections which can be designed to provide it, but existing sections are not adversely affected.

8.2 Individual Submissions

8.2.1 Statement from owners of 31 Waterbridge Way (1378)

The submission raises some concerns about how the plan change would affect their ability to subdivide. However, if the plan change is amended as recommended, deleting the proposed walkway and retaining the existing District Plan provisions, then the submitter is no longer affected by the plan change.

Notwithstanding the above, I make the following observations.

With regard to the effects on land value. It has always been the practice of Council to pay market value for land required for reserves and walkways and this includes all the existing reserves and walkways which have been obtained from many landowners in the establishment of Rolleston, without complaint, and all the (developed) land which was earmarked for reserves and walkways in Plan Change 60.

The mechanism proposed is not especially novel and has not proved problematic in the past.

With regard to the restrictions on ability to build on or near the proposed walkway, (para 40-43), these have been addressed above in section 5.

With regard to paragraphs 47 to 49, it is clear that Council would buy land at the market rate for Living 1C land (or the relevant underlying zoning), which is the approach we have taken in the past and the one we would take under the provisions which currently apply to 31 Waterbridge Way. The money may be provided by reserves contributions or it may be provided by money specifically derived from development contributions. But there is no problem in funding it.

The safety mechanisms referred to are all a matter of good subdivision design and the types of issues that need to be dealt with at subdivision stage in an urban area in the normal course of events.

There is a clear difference in using a designation and the mechanism proposed by Council in that the trigger is subdivision. If the land use rules associated are removed (as I have recommended) then there is little restriction on the use of land in the absence of subdivision.

When subdivision does occur, then it substantially changes the character of the area. The plan change is required to manage this change in character, which requires urban amenities including through connections.

If the land is designated, then the designation has immediate effect and will constrain the use of land. Council may require the sale of land at any time. This changes the emphasis of the Plan Change from one which is developer driven to one which removes control from landowners. This is not the intent of the plan change.

There are arguments in favour of and against using designation as a way to obtain the linkages but I do not believe that it is the most appropriate provision. This conclusion was reached following extensive consultation which revealed nervousness amongst landowners about the possibility of any form compulsory acquisition using the Public Works Act.

Connections will only need to be provided when owners wish to subdivide and not before.

8.2.2 David Bensburg

This submission asked for a reduced section size to compensate for the possible future widening of Jozecom Place (which has a legal width of 12m). This possibility is discussed in the plan change literature, but is not proposed at present. However, Council may try and achieve this.

I agree that the plan change would allow four sections on Mr Bensburg's land and that the permitted standard would be three if land is required to widen Jozecom Place. I do not foresee any adverse effects of allowing a smaller section size on the land of Mr Bensburg and his neighbours. However, I do not consider it appropriate to reduce the section size for the zone in general as it is likely to have unforeseen consequences in other sections (such as the larger 24 or 25 Jozecom Place for instance where extra lots would certainly eventuate as a result of a reduction in lot size to 1,000m²). Furthermore, I do not think that there is scope to do so within this plan change.

Zoning is by its nature a broad brush approach and there are always landowners who fall just in or just outside a zone's parameters.

I note that the degree of non-compliance in the example provided by Mr Bensburg is minor and that this type of development has been approved in the past (eg at Park View subdivision, on Brookside Road opposite Brookside Park which has an average of 1173m²). In my view, a resource consent would be the best process for this issue to be managed.

8.2.3 Pineglades Naturist Club

The Pineglades made a number of comments about roading, which are addressed elsewhere in this report (section 4.1).

With regard to the issues of the proposed park on the Pineglades land, the Council agrees that this can be removed. 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.

With regard to fencing, the Council does not wish to impinge on the rights of the Club to erect fencing for privacy. My interpretation of the policy is that it would not affect the club as a non-residential land use.

8.2.4 Tania Foster

I note the arguments made by Ms Foster for increased road connectivity. I do not dispute any of the points she made in relation to urban design and agree that a road connection would be desirable as proposed in March 2009 by the Council, not just for connectivity, but for a better streetscape.

The proposal for a road over 27 Jozecom Place and its neighbours was dropped in response to the views of other landowners.

This plan change is an attempt to reconcile the needs of future generations with that of the present landowners. The question is whether the right balance has been struck.

8.2.5 Selwyn Central Community Board

With respect to the need for additional reserves in the north of the area which was requested by the Community Board.

There are a large number of reserves in the draft CDL plan change which concerns the large vacant site north of Brookside Road. Council also retains the ability to purchase reserves from developers within the Living 1B deferred area. If Council is convinced of the need for a reserve then it retains the ability to obtain one.

The reserves which were identified in the structure plan were identified because there was something about that particular piece of land which made it desirable in its own right, due to the position of existing connections or because of on-site features. That is, the exact piece of land was required, not just a piece of land in that vicinity.

For this reason, I do not support the submission. I would also be concerned about whether there would be scope to act on it.

8.2.6 Richard and Rachel Ireland

The Irelands appear to hold a number of misconceptions about the plan change which have influenced their submission. Once these are corrected, it appears that a number of the things they have expressed concern about are over a perceived rather than a real risk.

These misconceptions are as follows:

1. There is a through road proposed past their house. This is not the case.
2. There is a requirement for them to provide a part of their curtilage (ie house and garden) for roading, either at subdivision or through some other mechanism. In reality, the indicative road has been designed so that it can be accommodated entirely on land which is presently used for access.
3. That there would be road access on 3 sides around 36 Fairhurst Place

With regard to point 1, the submitter expressed concerns about “boy racers” using the link between Fairhurst and Jozecom Places. However, it is clear that this would not be possible. There has also never been an intention to connect Fairhurst Place to East Maddisons Road by means of a road and this is not proposed in the plan change.

Confusion over point 2 may have arisen because Jeanette Ward’s road design proposal is 20m wide. However, this is only one possible road design and there is scope for it to be narrowed if necessary. In particular, there is not a need for the Irelands to remove existing fencing. Many of the points the submitter has made

about security and privacy invasion are over their perceived view of its effects, not the reality.

The retention of the shelterbelt is also not part of the plan change and this subject has been covered elsewhere.

In any case, the road would only pass the Ireland house if they chose to subdivide as they are the owners of the accessway as it passes their house.

With regard to point 3, I am not sure why the submitter thinks that there would be a road around the back of their house. A subdivision plan for the surrounding lot has been supplied by Mr Dunlop which does indicate that a right of way will pass around the back of 36 Fairhurst Place. But this is not a road and the submitter has stated that he was aware of this when he bought the house.

With the above in mind, many of the objections raised by the Irelands have little relevance to the plan change.

Again the comparison they have drawn between Fairhurst Place now and what may eventuate with the plan change is not the most relevant comparison. As stated elsewhere, the area already has urban zoning and the Council is trying to get an improved urban form from the existing zoning. The relevant comparison is between what changes will happen if the plan change is passed, and what changes will happen if it is not passed.

I will not address the points made in relation to consultation except to say that I consider the process was fair and comprehensive and certainly well in excess of what is required of Council under the RMA.

8.2.7 Brook

The points raised in this submission are covered elsewhere. I have responded by proposing reducing the amount of roading over the lot and removing a walkway connection for the reasons discussed in the main body of the report.

I will be able to report on the reactions of the landowners to these proposals at the hearing.

9 Specific Comments from the minute

Owing to the timeframes involved, this report was written before the minute was received. For the sake of ease of use, I refer to the items listed in the minute with reference to where they can be found in the above.

A Issues Raised by Palliser and Winchester

- 1 See attachment X
- 2 See 1.1
- 3 See 3.1.1
- 4 See 3.1.2
- 5 See 3.1.1

B Issues Raised by Andy Crosbie

- 1 See 4.2 to 4.4
- 2 Information to be provided by Jeanette Ward
- 3 See 2.1 and 4.2 to 4.4
- 4 See 4.3
- 5 See 6

C Pineglades

- 1 Information to be provided by Jeanette Ward

D Issues Raised by Brook

- 1 Information to be provided by Jeanette Ward
- 2 See 2.1
- 3 See 8.2.1

See also section 4.4 (2).

E Structure Plan

- 1 Comment will be provided by Cameron Wood
- 2 See 1.2

F Miscellaneous

- 1 completed
- 2 completed
- 3 Will be provided at hearing
- 4 Will be provided at hearing

10 List of Attachments

- 1 Rolleston Urban Block Sizes
- 2 Comparison of Plan Change 11 and Plan Change 60 walkway provisions over 31 Waterbridge Way
- 3 Diagrams showing permitted development scenarios with and without the Structure Plan
- 4 Photograph of 52 Stonebrook Drive
- 5 Options for Roading at the end of Fairhurst Place
- 6 Analysis of reduction in distance with the structure plan south of Lowes Road
- 7 Alternative road connections in the south.
- 8 Final Recommended Plan Change text
- 9 Final Recommended Plan Change Diagram