

PROPOSED PLAN CHANGE J:
MASSEY UNIVERSITY TURITEA HISTORIC AREA

PALMERSTON NORTH CITY COUNCIL DISTRICT PLAN

DECISION REPORT UNDER SECTION 34A OF THE RESOURCE MANAGEMENT ACT 1991

1 INTRODUCTION

Purpose of report

1. The purpose of this report is to set out my decision on submissions to an application by Palmerston North City Council ('PNCC') to change the Palmerston North District Plan ('PNDP') to induce new provisions by way of Proposed Plan Change J ('PPCJ') relating to the Massey University Turitea Historic Area.

My appointment

2. I was appointed as a sole independent commissioner by PNCC to consider and make a decision on PPCJ under s34A of the Resource Management Act 1991 ('RMA'). My appointment was made on the basis that as the Plan Change is a council initiated one it was appropriate to engage an independent commissioner to consider and determine the matter.

My role

3. It is my task as Commissioner to determine whether or not PPCJ should be adopted or not and, if adopted, whether it should be amended in some way to address the concerns of submitters or to ensure that it is consistent with the requirements of the RMA and the existing policy framework contained within with PNDP and other higher order documents.
4. I should point out from the outset that I fully endorse the s42A report prepared by Ms Tara Lennard on behalf of PNCC.¹ No hearing of submissions proved to be necessary due in large part to the relatively uncontentious nature of PPCJ and the outcome of Ms Lennard's efforts to engage with submitters during the pre-hearing phase. Accordingly, in the interests of succinctness, I have placed considerable reliance on Ms Lennard's analysis and recommendations as set out in her report in reaching my conclusions and decision, and refer to it at appropriate points in my own report. My report is limited to some minor procedural and substantive matters that I believe I should comment on.

Structure of report

5. The remainder of my report is structured as follows:
 - a) **Section 2: Material supplied and documents considered.** Provides a brief summary of PPCJ, submissions received, the outcomes of a pre-hearing meeting (notably a Joint Witness Statement), the s42A report recommendation and my site visit.
 - b) **Section 3: Statutory considerations.** Provides a brief summary of the provisions under the RMA that I have given consideration to in arriving at my decision.
 - c) **Section 4: Decision.** Sets out my decision with respect to the plan change including my reasons. For the purposes of articulating my decision I rely on the appendices attached to Ms Lennard's report.²

¹ Statement of Evidence by Tara Lennard, 28 September 2022

² Namely, Appendix A: Summary Table of Submissions, Appendix B: District Plan Provisions Amended as a Result of Submissions, Appendix C: Signed Joint Witness Statement

2 MATERIAL SUPPLIED AND DOCUMENTS CONSIDERED

Summary of PPCJ

6. Ms Lennard provided a suitable high-level summary of the elements of PPCJ in her s42A report.³ Essentially, PPCJ would identify the Turitea Historic Area (Massey Oval) at the Massey University campus as a heritage precinct, and introduce provisions to recognise and protect historic heritage values. A new PNDP definition for the historic area and changes to the Institutional Zone to introduce a new objective and policies, new activity rules, a new non-notification rule, and a new overlay are all proposed.
7. As set out in Ms Lennard's report,⁴ the development of the plan change occurred over the November 2020 to December 2021 period, and PPCJ was notified on a limited basis on 26 January 2022; reflecting the discrete nature of the proposed changes, limited spatial extent of the proposal and the absence of any identified effects on neighbouring landowners.
8. By the close of the period for making further submissions on 23 March 2022, three original submissions and one further submission had been received.

Summary of submissions received

9. The three original submissions were received from Palmerston North Defence Heritage Advisory Group ('PNDHAG'), Heritage New Zealand Pouhere Taonga ('HNZPT') and Massey University. A further submission was forthcoming from the University. As Ms Lennard noted, all submissions were supportive of PPCJ and focused on particular aspects of the plan change relating to the acknowledgement of military heritage, recognition of a university context and the purpose of maintenance and repair provisions in requesting (or, in the case of the further submission, opposing) further changes.⁵

Pre-hearing meeting and outcomes

10. A pre-hearing meeting was held on 19 May 2022, attended by Ms Lennard and NZHPT and Massey University planning witnesses, to discuss and potentially resolve the above matters.⁶ This meeting resulted in a Joint Witness Statement ('JWS') prepared and signed by Ms Lennard and the NZHPT and Massey University planning witnesses, and dated 31 August 2022.⁷
11. The JWS make clear that the witnesses agreed that a relatively small change to proposed Policy 4.1 to refer to the 'university context' was warranted and that the provisions relating to 'maintenance and repair' could remain unchanged.

s42A report recommendation

12. The agreement reached in the JWS is reflected in Ms Lennard's planning analysis and ultimate recommendation in her s42A report,⁸ which was to approve PPCJ as notified, subject to the change to proposed Policy 4.1 flagged in the JWS.

Site visit

13. I visited the site on 7 December 2022,

³ Refer paras 1.3 – 1.4

⁴ Refer paras 1.5 – 1.8

⁵ Refer paras 2.1 – 2.2, 4.1 – 4.3, 4.7 and 4.10

⁶ PNDHAG was unable to attend the pre-hearing meeting but I have no information to suggest that it is unhappy with Ms Lennard's subsequent recommendation – refer paras 4.4 – 4.6.

⁷ *Joint Witness Statement of Planning Witnesses in Response to PPCJ – Tara Lennard, Andrea Harris and Dean Raymond*, 31 August 2022

⁸ Refer paras 4.4 – 4.6, 4.8 – 4.9, 4.11 – 4.13 and 7.3

STATUTORY CONSIDERATIONS

14. In her s42A report, Ms Lennard set out the statutory considerations that she has considered in arriving at her conclusion that the plan change can be supported.⁹ These are the same considerations that I must turn my own mind to, and in sum they comprise:
- a) s31: consistency with RMA functions;
 - b) s32 and 32AA: evaluation of appropriateness;
 - c) s74: matters to be considered by a territorial authority;
 - d) s75: consistency with regional planning policies;
 - e) s5: purpose of the RMA;
 - f) s6: matters of national importance;
 - g) s7: other matters; and
 - h) s8: Treaty of Waitangi
15. I agree with and adopt Ms Lennard's findings with respect to all the above considerations, where PPCJ is concerned. Specifically, I agree with Ms Lennard that:
- a) the purpose of PPCJ is consistent with the Council's functions under s31;¹⁰
 - b) the provisions of PPCJ (inclusive of the recommended change to Policy 4.1) provide an efficient and effective means of providing for the recognition and protection of the Turitea Historic Area, are the most appropriate means of achieving the objectives of the plan change, and give effect to relevant Regional Policy Statement ('RPS') objectives and policies, and I adopt her analysis against the requirements of both s32 and s32AA in that respect;¹¹
 - c) the preparation of PPCJ has been informed by PNCC's arts and heritage plan and the regional One Plan and satisfies both s74 and s75 in that respect;¹² and
 - d) PPCJ is consistent with promoting the purpose of the RMA (s5), aligns well with s6(f) of the RMA relating to the protection of historic heritage, has particular regard to the requirements of s7(b), (c) and (f), and is not inconsistent with s8.¹³

4 DECISION

16. Based on my consideration of all the material before me, including the section 42A report from the Council's advisor, submissions (including the further submission) and the planner JWS attached as Appendix C to the s42A report, and following consideration of the requirements of sections 32, 32AA and other relevant statutory matters, and for the reasons we have set out above in Section 3, I have decided that:
- a) PPCJ be accepted as notified, and as further amended as set out in Appendix B to the s42A report;
 - b) all submissions on the plan change be accepted or rejected to the extent that they correspond with that conclusion and the matters set out in the preceding report sections (and as summarised in Appendix A to the s42A report); and
 - c) pursuant to clause 10 of the First Schedule of the Resource Management Act 1911, Council give notice of my decision on submissions to PPCJ.

DATED this 9TH day of December 2022.



D J McMahon - Independent Commissioner

⁹ Refer Sections 3, 5 and 6

¹⁰ Refer para 5.2

¹¹ Refer paras 5.3 – 5.22

¹² Refer paras 5.23 – 5.24

¹³ Refer paras 6.2 – 6.9