

**PALMERSTON NORTH CITY COUNCIL**

**PROPOSED PLAN CHANGES 4A – 4SS: ZONING ADJUSTMENTS  
UNDER PART 1 SCHEDULE 1 RESOURCE MANAGEMENT ACT 1991**

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**DECISION OF THE HEARING COMMISSIONERS**

**Commissioners: Chris Mitchell (chair), Stuart Kinnear, Cr Jan Barnett and  
Cr Chris Teo-Sherrell**

**Delegation: dated 15 September 2011**

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**Date of Hearing: 27 September 2011**

**Date of decision: 4 November 2011**

## Introduction

1. We have been appointed by the Palmerston North City Council (the Council) as commissioners under section 34A Resource Management Act 1991 (RMA) to hear and determine proposed plan changes 4A – 4SS to the Palmerston North City District Plan (which we will refer to collectively as ‘PPC 4’) and the submissions and further submissions on them.
2. PPC 4 is one of a series of changes proposed to the District Plan by the Council under its sectional review, but rather than addressing particular sections of the Plan it has reviewed a number of apparent zoning anomalies. Each of the component plan changes in PPC 4 thus addresses the zoning of specific land.
3. Our decision is structured as follows:
  - (a) formal decisions
  - (b) record of attendances at the hearing
  - (c) background
  - (d) statutory framework
  - (e) Council position
  - (f) Plan Changes 4D and 4F
  - (g) Plan Changes 4G – 4SS assessment and determination of submissions
  - (h) Plan Changes 4A – 4C and 4E assessment and determination of submissions
  - (i) Conclusions
  - (j) changes made under Schedule 1 Clause 16 RMA

## Decisions

4. **Each of Proposed Plan Changes 4B – 4SS:** is confirmed as notified, without modification.
5. The submissions and further submissions on Proposed Plan Change 4B are accepted or rejected for the respective reasons set out in paragraphs 66-75 of this decision.

6. The submissions and further submissions on Proposed Plan Change 4C are accepted or rejected for the respective reasons set out in paragraphs 78-82 of this decision
7. The submissions on Proposed Plan Changes 4E are accepted for the reasons set out in paragraphs 85-88 of this decision
8. The submissions on Proposed Plan Changes 4G – 4SS are accepted for the reasons set out in paragraphs 38-51 of this decision.
9. No submissions were made on Proposed Plan Changes 4D and 4F.
10. **Proposed Plan Change 4A:** no decision has been made at this stage.
11. For the reasons set out in paragraphs 55-64 of this decision we require further submissions from the Council on Proposed Plan Change 4A within 1 month of the date of this decision, followed by comments or submissions from the submitters on Proposed Plan Change 4A (if they wish to make any) within a further 1 week of the Council submissions.
12. We will make a formal decision on Proposed Plan Change 4A under Clause 10 of Schedule 1 when we have considered any further submissions following the directions we have given in paragraphs 11 and 65 of this decision.
13. Our further evaluation of the respective proposed plan changes under section 32(2)(a) is set out at paragraphs 53, 77, 84 and 90 of this decision.
14. **Notes:**
  - (a) for ease of reference Appendix 1 contains Proposed Plan Changes 4B – 4SS as confirmed by this decision .
  - (b) Final approval of Proposed Plan Changes 4B and 4C will be considered by the Council under Schedule 1 Clause 17 once any appeals against this decision have been resolved.
  - (c) Final approval of Proposed Plan Changes 4D – 4SS may be considered by the Council at any time after this decision as no opposing submissions were made on them.

#### **Record of attendances at the hearing**

15. The hearing of PPC3 took place on Tuesday 27 September 2011 in the Council Chamber at Palmerston North City Council. The following persons participated in the hearing:



- (a) the Commissioners: Stuart Kinnear, Chris Mitchell (Chair), Cr Jan Barnett, Cr Chris Teo-Sherrell, assisted by Committee Administrator Emily Rogers
- (b) for the Council: Daniel Batley (Policy Planner) and David Murphy (City Planner)
- (c) Ben Currie – submitter
- (d) Ashmore Trust – submitter, represented by Kevin Judd

## Background

- 16. PPC 4, comprising 45 separate proposed plan changes 4A – 4SS, was notified on 3 March 2011 in accordance with clause 5 Schedule 1 RMA. The Council received 13 submissions and 1 further submission. Most of these submissions related to more than one plan change.
- 17. An evaluation under section 32(1) was made for each of the separate proposed plan changes 4A – 4SS and the reports on those evaluations required by section 32(5) were made publicly available on 3 March 2011 as well.
- 18. PPC 4 is one of the first of a series of proposed plan changes to be initiated by the Council under its sectional review of the Operative District Plan under section 79 RMA. Section 79 requires the Council to review any provision in its District Plan which has not been the subject of review or change during the previous 10 years.
- 19. PPC 4 reviews the zoning of a number of specific properties within various parts of the City. Each of proposed plan changes 4A – 4SS relates to a specific property. Of the 45 properties encompassed within PPC 4, 39 are Council owned reserves under the Reserves Act 1977. The balance, 6 properties, are privately owned.

## Statutory framework

- 20. The PPC 4 components are described collectively as 'zoning adjustments' to specific properties. The feature that the majority of the individual properties share is an established use which is not consistent with the zoning and, more specifically, with the Plan provisions which accompany that zoning. These circumstances alone will generally not justify a change of zoning – otherwise such a change would be expected as a matter of course when a resource



consent to an 'out of zone' activity is implemented. It is at least equally important to consider the wider context.

21. First, we record the statutory framework which governs the process of Plan preparation and review under the RMA. This framework consists of inter-related provisions, the key elements being the following:
  - (a) Part 2: Section 5 sets and defines the purpose of the RMA, and sections 6-8 contain a hierarchy of matters which must be specifically considered by decision makers in this context;
  - (b) Section 31 sets out the functions of the Council under RMA
  - (c) Section 32 directs the Council to evaluate whether each of its objectives is the most appropriate way of achieving the purpose of the RMA, and then whether the policies and rules are the most appropriate way of achieving those objectives
  - (d) Sections 72-75 contain the provisions on the purpose of the Plan, Plan preparation and change, the matters to be considered by the Council, and the contents of the Plan.
  - (e) Schedule 1 Part 1 contains the detailed process under which new Plans and changes are prepared, notified for submissions and further submissions, heard and decided, and then formally adopted.
22. We will consider Part 2 as part of our overall evaluation of each change, and will return to it below.
23. In terms of the functions created by section 31, we look specifically in this context at the direction to 'achieve integrated management of effects of the use, development, or protection of land...'. Although each of the component plan changes relates to an individual property, any change to zoning must consider how that change will contribute to the management of effects overall.
24. In terms of the evaluation required by section 32, when considering the appropriateness of 'rules' (as we are here) we must have regard to 'their efficiency and effectiveness'. We must also take into account the benefits and costs of applying these rules to particular land. When making a decision under Clause 10 Schedule 1 we must carry out a further evaluation under section 32.
25. We note that under section 74(2)(b)(ii) we must have regard to any 'management plans and strategies prepared under other Acts'. This obligation is potentially particularly pertinent to those plan changes proposing the rezoning of reserves.
26. Accordingly in looking at the various components of PPC 4 we have had particular regard to the consequences of rezoning on land



beyond the specific property being rezoned. We have assumed, for example, that the proposed zoning might enable development which is significantly different in its effects than the existing development.

27. As with all decision making in this context we have thought it necessary to ask whether the proposed rezoning represents the best option for achieving the purpose of the RMA.

### Council position

28. Mr Batley spoke to his evidence which had been circulated as a report under section 42A. It is not necessary to summarise the contents of that report.
29. Mr Batley's view is that the 39 Council-owned reserves in question under Plan Changes 4G – 4SS are currently zoned in a way that does not protect their future intended use and function. The proposed plan changes are based on an in depth analysis of zoning requests, consultation, and liaison with the Parks and Reserves unit of Council which administers the reserves. Mr Batley explained that the Parks and Reserves unit is confident about the intended future use of those reserves included in this plan change, and those in respect of which any uncertainty remains have not been included in this suite of plan changes.
30. Mr Batley then spoke to the concerns and requests of submitters. With regard to Colin Macpherson's submission, he recommended declining the request to rezone 257 Napier Road as Industrial (notwithstanding the proposal in Plan Change 4A to rezone 261 Napier Road as Industrial). While Mr Batley recognised that the site at 257 Napier Road represents a unique situation in the city, it should remain zoned Rural. In his view connectivity issues make the site inappropriate for Industrial zoning, and Rural zoning is more complementary to the Rural-Residential and Residential properties in the vicinity of the site. There are also issues pertaining to the oxbow at the rear of the site, which has some amenity value.
31. Mr Batley recommended declining Ben Currie's request to rezone his land at 1 Roberts Line. Although this would be in line with the proposed rezoning of 2-8 Roberts Line (across the road) to Residential, Mr Batley considered that 1 Roberts Line is outside the scope and intent of Plan Change 4B and that the Council's Residential Land Use Strategy is relevant.
32. Mr Batley recommended declining the request of Sharon Stevens which opposes Plan Change 4A (261 Napier Road – Rural to Industrial zone). Mr Batley maintained that 261 Napier Road has a history of industrial use, and would allow the integrated management

of a small pocket of land in an industrial precinct. Mr Batley also mentioned that the site has a Horizon's stop bank on the boundary.

33. He also recommended declining the submission of John Bent which opposed Plan Changes 4A and 4C. In his view Plan Change 4A is an extension to the Napier Road industrial precinct. With regard to Mr Bent's opposition to Plan Change 4C, Mr Batley stated that the rezoning of 363 Tremaine Avenue would allow for the extension of a large industrial area, and that the site in question is surrounded by Industrial zoning. The site is already partly used for an industrial activity.

#### **Plan Changes 4D and 4F**

34. Plan Change 4D proposes the rezoning of 481 Featherston Street from Residential to Local Business. The property also has frontage to Ruahine Street. It is currently developed as a service/petrol station. That use has been in place since 1950 and the site was further developed under a planning consent granted in 1990.
35. Plan Change 4F proposes the rezoning 166 Cambridge Street Ashhurst from Local Business to Residential. Until 2006 this property was used as a garden centre. A resource consent was granted to convert it to residential use.
36. There were no submissions on either of these plan changes. Strictly speaking there is thus no decision required under Clause 10 Schedule 1. No further evaluation under section 32 is needed. The Council is free to proceed directly to adopt the proposed changes.
37. To avoid doubt, we confirm that we have considered both plan changes and we conclude that the proposed zoning changes better reflect the established and anticipated future uses of these two properties. We do not see any potential for either rezoning to cause significant effects, and regard the changes as enabling the owners of the properties to continue the use of their land without the uncertainty which would necessarily remain present with the current zonings.

#### **Plan Changes 4G – 4SS: assessment and determination of submissions**

38. Plan Changes 4G – 4SS all propose the rezoning of specific reserves. Of the 39 reserves subject to these plan changes, 35 are currently zoned Residential, 2 are currently zoned Rural (those in plan changes 4N and 4RR), 1 is currently zoned Local Business (the land in plan change 4P), and 1 is currently zoned Industrial (the land in plan change 4X).
39. The proposed new zonings are:

- (a) plan changes 4G – 4M, 4O and 4NN Residential to Conservation and Amenity
- (b) plan changes 4N and 4RR Rural to Conservation and Amenity
- (c) plan change 4P Local Business to Recreation
- (d) plan changes 4Q – 4W , 4Y – 4MM, 4OO, 4QQ and 4SS Residential to Recreation
- (e) plan change 4X Industrial to Recreation
- (f) plan change 4PP Residential to Recreation and Conservation and Amenity

40. It will be seen from the list above that (for present purposes) there are two different 'reserve' zones. The basic difference between them is that Conservation and Amenity is essentially a passive zone covering generally significant natural areas where only limited development is permitted, and Recreation permits a wider range of recreational activities and development. Section 15.2 of the Plan explains the differences in greater detail.

41. In the Recreation zone buildings for recreation, community and leisure facilities are permitted, but only on sites of at least 2,500m<sup>2</sup>. The size of any permitted building (determined by control on maximum gross floor area) then depends on the area of land available.

42. Some of the reserves are too small for buildings as a permitted activity and some function simply as access strips for larger reserves. There are some however where buildings would be permitted, though we were not given any information about specific plans to do so; and nor did any potentially affected persons raise concerns through the submission process. As well as buildings themselves, development of a reserve might result in significantly increased public use with attendant effects. Nevertheless, we note that the Recreation zone is less permissive of development than those it is proposed to replace.

43. Although the report did not specifically record the basis on which each of these reserves came into Council ownership, we were advised by Mr Batley that each of them is subject to the Reserves Act and remains required by Council as a reserve. We were also advised that the majority of them would have been vested in Council as contributions under subdivision approvals and consents.

44. In our view the appropriate Plan provisions for reserves are generally (and obviously) those which are intended for them under Section 15 of the Plan. There might be exceptional cases where a reserve is acquired or held under conditions which contemplate some specific development which would not be permitted by the Section 15



provisions, or where the Council wishes the Minister to revoke the reserve status of the land. None of those exceptions applies in these cases.

45. There were no submissions in opposition to any of these proposed plan changes.
46. There were 4 submissions supporting all of these proposed plan changes, and 1 submission supporting proposed plan changes 4L, 4Z and 4JJ.
47. We consider it appropriate, in the circumstances, to evaluate these proposed plan changes together. There are, of course, many differences among the different reserves, in terms of size, location and function, but in our view none of these differences takes any of the reserves beyond the ambit of the broad zoning provisions which are proposed to apply to them. It is also relevant to our approach that there have been no submissions in opposition to the proposed rezonings, nor any submissions with requests to modify the proposals in any way.
48. As most of these reserves were vested in the Council under subdivision consents, it follows that they must have been intended to satisfy a local need for the provision of land for recreation or amenity purposes. Although the individual reserves may require some greater or lesser degree of development by the Council to achieve these community purposes, the important point for our decision making is that the reserves are available as a resource, and that the Plan provisions applying to them should enable that Council management and/or development to occur.
49. In our view the proposed rezoning of these reserves is consistent (in terms of section 31) with the integrated management of the effects of land use, particularly by better enabling the use and development of land which was set aside for community purposes to offset the effects of new subdivision.
50. We also conclude (in terms of section 32) that the two reserve zonings referred to in paragraph 40 are, having regard to their efficiency and effectiveness, the most appropriate methods of implementing the Plan objectives for reserve land.
51. Finally we conclude that the plan changes achieve the RMA purposes of sustainable management of natural and physical resources. This is not a case where the elements of Part 2 require lengthy analysis, although some aspects of sections 5 to 8 will be particularly relevant to the protection of land as a community resource, particularly where significant natural values exist. Rather, it is a matter of asking which



of the existing Plan provisions best enable the management of these reserves on a sustainable basis.

52. **Determination:** For the reasons given above we confirm Plan Changes 4G – 4SS as notified, without modification, and **accept** the submissions of Railway Land Action Group Inc., Sharon Stevens, Environment Network Manawatu, John Bent and Powerco Ltd.
53. **Section 32 evaluation:** We have considered, and now confirm and adopt, the evaluations carried out by the Council in respect of each of plan changes 4G – 4SS, and do not consider it necessary to add anything further. We are satisfied that the proposed rezonings are, in each case, the most appropriate method of implementing the relevant Plan objectives, and that there are benefits (and no significant costs) in applying the provisions of recreation zonings to reserves.

#### **Plan Changes 4A – 4C and 4E: assessment and determination of submissions**

54. The common element in these proposed plan changes is that they involve land which has been, or could be, developed in a way which appears to be more consistent with the proposed than the current zoning applying to them. However unlike the reserves discussed above, the differences among the individual plan changes are significant and we will consider them separately.

#### **Plan Change 4A**

55. This plan change proposes the rezoning of 261 Napier Road from Rural (with a Rural-Residential Overlay) to Industrial.
56. This land has an area of 15,029m<sup>2</sup>. On the north and east boundaries the land is zoned Rural, but appears developed and used as residential and/or residential 'lifestyle'. To the west the land is zoned Industrial (and in the early stages of development). Across Napier Road to the south the land is zoned Rural.
57. The land contains a garden centre. This development and activity is classified as a restricted discretionary activity under Section 9.8.3 of the Plan (because it fronts onto a state highway – it would otherwise be controlled).
58. The proposed rezoning would add the property to the Napier Road Industrial Precinct. In this zone most development (including, as we understand it, the current activity) would be a controlled activity if it complies with relevant performance conditions.

59. Two submissions were received by the Council (by Colin Macpherson and Horizons Regional Council) which it recorded as support for Plan Change 4A and two submissions were made (by Sharon Stevens and John Bent) in opposition to it. Mr Macpherson's submission also requested that 257 Napier Road be rezoned as well. Mr Macpherson made further submissions in support of Horizons submission and in opposition to Ms Stevens' submission. None of the submitters appeared at the hearing.

60. While we have taken the submissions and further submission into account, the evaluation of them in this decision is rather limited by the details of the reasons for support or opposition to the plan change given in each submissions. Our comments are as follows:

- (a) Mr Macpherson's submission does not include any reasons for his requests. This is particularly limiting with his request that 257 Napier Road be rezoned. The only information we have on this point is from Mr Batley, and although we have critically evaluated it, there was no reasoned contrary view offered to us.
- (b) Mr Macpherson's further submission does contain helpful information on the current use of 261 Napier Road.
- (c) While in the previous paragraph we recorded that the Council considered the Horizons submission as supporting this plan change, it is by no means clear that its letter of 21 March 2011 does indeed support it: as we read the letter it merely confirms that the site is now protected from flooding to a 0.2% AEP standard. This can be contrasted with the express statement of support for plan change 4B later in the letter.
- (d) Ms Stevens opposes the plan change on the basis that the rezoning will result in a loss of productive land, and the public interest favours the retention of the existing zoning. We do not have any evidence for this. Indeed the only evidence we heard on this plan change was from Mr Batley who referred at paragraph 4.10 of his evidence, to the information on land use in the section 32 report. There is also the physical evidence that, despite its Rural zoning, the land is not currently used for food production, but rather as a garden centre.
- (e) Mr Bent's submission in opposition contains only the short statement that he wishes to retain consistency with the zoning to the north, east and south. Again, while fully understanding his point, there is little to discuss.

61. Our principal concern with this proposed rezoning is that we do not think it 'tidies up' the situation (to use Mr Batley's expression) but rather that it might create another set of problems. Looked at broadly, this stretch of Napier Road has been subject to rezoning under private plan changes from the east and the west, leaving a real

question over the future of the land between the Napier Road Industrial Precinct and Roberts Line. That question will no doubt be addressed at some stage during the Sectional Review of the Plan.

62. In a sense, our concerns are similar to those expressed by the Council in relation to Mr Macpherson's request to rezone 257 Napier Road.
63. Specifically we are mindful that an Industrial zoning would allow a scale and character of development that might adversely affect the owners or occupiers of the properties to the immediate east. These properties are Lot 1 DP16031 and Part Lot 1 DP 25691. There might be visual, noise and dust adverse effects associated with activities which would be a good fit with the Napier Road Industrial Precinct but the matters of control would not avoid or mitigate them. These effects do not arise with the current development of 261 Napier Road.
64. We conclude that, in concept, Industrial *might* be a suitable zoning for this land, but a further suite of controls would be necessary to protect the amenities of residents to the east before we would be prepared to approve such a zoning. We do not propose to direct the substance of those further controls, save to note that simply extending the buffer planting requirement would not be sufficient. If controlled activity status is to be retained for development on this site, the new controls would have to be comprehensive, integrated, and directed to the potential effects identified above. If new development is to be a restricted discretionary activity then it would suffice to identify those matters as matters of discretion.
- 65. Directions on Plan Change 4A:**
- (a) Within one month of this decision Council should, after consultation with the owner of 261 Napier Road and the owners and occupiers of the eastern land (Lot 1 DP 16031 and part Lot 1 DP 25691), submit a memorandum with proposed controls, or matters of discretion, that address the matters raised in paragraphs 63-64 of our decision. That memorandum is to be sent to all submitters on Plan Change 4A.
  - (b) Any person who made a submission on this plan change may submit comments in writing (by email to the Committee Administrator will be sufficient) on the proposals in the Council's memorandum within 1 week of receiving that memorandum
  - (c) We will then make a formal determination on this plan change and the submissions
  - (d) To avoid doubt, Council is free to withdraw this plan change without prejudice to proposing either the same or a different zoning at some later stage of the sectional review of the Plan

## Plan change 4B

66. This plan change proposes the rezoning of 2-8 Roberts Line and 405 Napier Road from Rural to Residential. The land is in 5 lots with a total area of some 4.138ha. The land is on the corner of Roberts Line and Napier Road. To the north and east the land is zoned Residential. The land to the west and south (separated from the site by above named roads) is zoned Rural. The land is used primarily as a nursery business.
67. Under the proposed rezoning the land would be subject to the (extended) structure plan for the Napier Road Residential Area which was approved under the private plan change process in 2009 as Plan Change 36.
68. Five submissions were made on this plan change. Four submissions (from T Currie, Horizons Regional Council, Ashmore Trust and J Bent) support the plan change. A submission from B Currie requests that his land at 1 Roberts Line be similarly rezoned. There were no submissions in opposition. There were no further submissions.
69. As we noted in relation to Plan Change 4A, detailed evaluation of the submissions is somewhat artificial where the submission is simply a statement of position. On that basis three of the four submissions in support do not need any further evaluation. Their support is acknowledged. The submission from Ashmore Trust reflects its interest as owner of the adjoining Napier Road Residential Precinct Land.
70. On behalf of Ashmore Trust Kevin Judd made a submission at the hearing. He emphasised that the rezoning would be a logical extension to his client's land and would, when developed, provide access to Roberts Line for a subdivision that would otherwise be a long *cul de sac*. He proposed an amendment to the indicative access through 2-8 Roberts Line which would take the Roberts Line access point further away from Napier Road and thus create a better traffic environment.
71. We understand from Mr Batley that future development of this area would be in 'general accordance' with the structure plan, so the alignment of any road through to Roberts Line does not necessarily need to follow the yellow dotted line shown on that plan. We do not think that there is any benefit in us trying to decide the best alignment for a future road. That decision can be made when specific development concepts are submitted for assessment and on the basis of information at the time.

72. Mr Ben Currie's submissions is neither in support of nor in opposition to the plan change. He requests that the rezoning be extended to his property across the road at 1 Roberts Line. This land is also some 4ha in area and is used as a nursery. Mr Currie outlined the kind of development of the land he thought desirable. We noted that his aspirations in this regard would be for a development that is of significantly lower density than that which could occur as of right under the Residential zone, but also of significantly higher density than that permitted under the Rural-Residential Overlay. It would be a hybrid that *might* be a good fit for the area, but would require integrated design before it could be properly evaluated.
73. Mr Batley's view is that this request is outside the scope of the plan change.
74. We agree that Mr Currie's request is outside the scope of Plan Change 4B. As with all the components of PPC 4, this plan change is property specific, and the proposal is being advanced for reasons which are particular to this property. Other than physical proximity, there is no connection between the land which is subject to this plan change (2-8 Roberts Line) and Mr Currie's land at 1 Roberts Line. Even if we had a legal basis for considering Mr Currie's request we would require much more information on the effects of rezoning and the kinds of conditions which might need to accompany it to manage effects such as flooding and traffic.
75. We emphasise that our conclusion on this point does not close the door on the future rezoning of Mr Currie's land. As we have noted in relation to plan change 4A above, the future of this strip of Rural zoned land is an open question that may well be considered during the current sectional review of the Plan. If that is not the Council's intention, then Mr Currie is free to advance specific plans for rezoning and/or development either by way of private plan change or resource consent application. In either option we would recommend that he obtain professional advice on the best means of advancing his plans for the land.
76. **Determination:** for the reasons given above, we accept Plan Change 4B as proposed. The submissions in support from T Currie, Horizons Regional Council, Ashmore Trust and J Bent are **accepted**. The submission from B Currie requesting the rezoning of 1 Roberts Line is **rejected** as outside the scope of this plan change.
77. **Section 32 evaluation:** we have considered the evaluation made by the Council under section 32(1). We accept and adopt that evaluation and do not need to add anything further to it.

## Plan Change 4C

78. This plan change proposes the rezoning of 363 Tremaine Avenue from Residential to Industrial. The site is used partly for residential and partly for commercial purposes and is adjoined on 3 sides by Industrial zoned land which has other commercial activities. The site is 998m<sup>2</sup> in area.
79. The reason for the proposed rezoning is essentially that the existing zoning is now anomalous. The proposed rezoning will enable a better use and development of the land. Mr Batley noted in his report that rezoning would enable the development of a better access to the large industrial site at the rear of the property. The existing access is frequently used by heavy vehicles and an improvement to it would reduce effects on Tremaine Avenue.
80. One submission was made by John Bent opposing this plan change. The brief reason given for the opposition is 'for consistency with the adjoining eastern and southern zoning'. Mr Bent did not appear at the hearing. No other submissions or further submissions were made.
81. We agree that the proposed Industrial zoning is the most appropriate for this land, given its current and likely future use. We cannot see any resource management advantages in retaining the current Residential zoning.
82. In examining any proposal to rezone land at the 'edge' of residential areas we should always be mindful of the potential for future adverse effects beyond any which currently exist. We think that it is highly unlikely that this rezoning will create any adverse effects. The site is physically a residential 'island' on this side of Tremaine Avenue, and the likelihood is that it will be subsumed into one or more surrounding properties which are already industrial. The outcome referred to Mr Batley in relation to access would be a positive effect of rezoning.
83. **Determination:** for the reasons given above we accept plan change 4C as notified. The submission in opposition from Mr Bent is *rejected*.
84. **Section 32 evaluation:** we have considered the evaluation made by the Council under section 32(1). We accept and adopt that evaluation and do not need to add anything further to it.



## Plan Change 4E

85. This plan change proposes the rezoning of 368-372 Albert Street from Local Business to Residential. The land has an area of 3260m<sup>2</sup>. It is currently being developed for residential purposes under a resource consent for an 8 lot subdivision granted in 2005.
86. The site is within a residential area, and it is plain that it will become entirely residential as further development proceeds under the approved subdivision.
87. Two submissions were received (from Ms O Scott and from Mr and Mrs CG and J Hubbard), both in support of the plan change. (We note that the Hubbard submission said 'do not oppose' rather than 'support' but we have treated it as the latter). The submissions do not express any reasons for their support, though Ms Scott notes that 'the four houses on the section look really good!'
88. In our view the land should be zoned Residential. The existing zoning no doubt reflected the previous use of the site as a garden centre. The proximity and potential expansion of the nearby shopping centre may also have been a factor in the zoning. However that expansion will not now occur in the foreseeable future (at least on this land) and there are no resource management reasons to keep a Local Business zoning.
89. **Determination:** for the reasons given above we accept plan change 4E as notified. The submissions of Olga Scott and Graham and Jennifer Hubbard are *accepted*.
90. **Section 32 evaluation:** we have considered the evaluation made by the Council under section 32(1). We accept and adopt that evaluation and do not need to add anything further to it.

## Conclusions

91. We have decided that, with the current exception of Plan Change 4A, the components of PPC 4 are in accordance with good resource management practice and will assist the Council, people and communities to achieve the statutory purpose of sustainable management of natural and physical resources.
92. Specifically, the rezonings that we have approved will enable the owners of the properties concerned to use their land under a more appropriate set of Plan provisions than applied before the changes.



Dated at Palmerston North : 4 November 2011



Jan Barnett  
Commissioner



Chris Mitchell  
Commissioner (Chair)



Stuart Kinnear  
Commissioner



Chris Teo-Sherrell  
Commissioner