

**PALMERSTON NORTH CITY COUNCIL  
PLAN CHANGE C: KIKIWHENUA RESIDENTIAL AREA**

**COMMISSIONERS' MINUTE**

**Introduction**

1. Following the adjournment of the hearing of Plan Change C ('PC C') on 21 August 2019, Commissioners met on 30 August. This Minute records a number of preliminary findings, outstanding issues and consequential directions to enable PC C to progress.
2. In short, three issues remain of significant interest and relevance, and all require some further work by the Council:
  - a. the position of submitters on the west side of Te Wanaka Road
  - b. the timing of a safe intersection between Pioneer Highway and Te Wanaka Road
  - c. the recognition and protection of Rangitāne ancestral land within the proposed Kikiwhenua Residential Area.
3. Each of these matters is discussed in detail below, but first the main preliminary findings are summarised.

**Preliminary findings**

4. We are satisfied that the Kikiwhenua Residential Area is generally suitable for residential development and that, subject to the resolution of the issues listed in paragraph 2 above, the land should be rezoned Residential to enable residential and ancillary development.
5. Either on its own, or as part of the wider Kakatangiata Area, the Kikiwhenua Residential Area fits well with the Council's strategic planning in respect of future greenfield development, and will contribute significantly to the achievement of Council's obligations under the National Policy Statement for Urban Development Capacity.
6. With some relatively minor exceptions, we are satisfied that the proposed structure plan is appropriate.
7. We are satisfied that appropriate infrastructure to service development of the Kikiwhenua Residential Area is available, or can be efficiently created as part of subdivision and development.
8. Before any development of the Kikiwhenua Residential Area can occur, we think that a safe intersection between Te Wanaka Road and Pioneer Highway must be either created or committed to, so that it is available before any new development is completed. We note that there is no disagreement on the need for this, and our concern arises

from the absence of certainty on when a safe intersection will be in place.

9. We have concluded that a consequence of the proposed Kikiwhenua Residential Area is to make much of land on the western side of Te Wanaka Road incapable of reasonable use under the Race Training Zone. In this respect, we accept the evidence of the submitters who live on or own land in that area, and we do not accept the contrary evidence on behalf of the Council. However, we also find that requests for the extension of residential zoning to the western side of Te Wanaka Road are outside the scope of PC C and thus not within our authority to accept.
10. We are not satisfied, yet, that PC C provides an appropriate level of recognition and protection of sites of significance to Rangitāne. Our difficulty is that whilst Rangitāne clearly had some involvement in the development of PC C, it did not make a submission on it. The Cultural Impact Assessment was not made available to us until the hearing was well underway, and Commissioners were limited in their ability to engage in the content of the CIA in relation to the adequacy of proposed provisions as the report writer was not in attendance. We note that the CIA was not available to any other participant in the hearing, nor to any potential submitter.
11. We now return to the issues listed in paragraph 2 which require a degree of resolution before we can proceed further.

### **The position of western Te Wanaka Road**

12. PC C involves rezoning around half of the land currently zoned Race Training to Residential. The Race Training Zone ('RTZ') can be described as highly specific in its purpose and its single Objective, and narrow in the range of activities which are permitted within it. These things are self-evident from the provisions of District Plan Section 21: Race Training Zone.
13. In a physical sense, the land within the RTZ is currently separated from urban development by the Mangaone Stream, the Awapuni Racecourse and rural land to the north and west. This separation is critical to the functioning of the RTZ. It is necessary to emphasise this point, because the evidence of various submitters has persuaded us that leaving a 'remnant RTZ' not only serves no resource management purpose, but also disadvantages the owners and occupiers within this zone.
14. The starting point is the nature of horses. Despite their size, they are often nervous animals who react to perceived risk or stress by using their superior speed to run away from it. With race horses these characteristics are amplified. Looking at it another way, a horse who is not nervous, and not inclined to run away, is unlikely to be a successful

racer. An area dedicated to the training and care of race horses thus needs to be within an environment where they will not be subject to the stresses of unfamiliar people, activities and noise. A stressful environment is not a suitable training environment. The current RTZ environment is suitable for race horses because of the physical separation described in the last paragraph. The residents within the RTZ understand this, and are sensitive to it in the way they carry on their own day to day activities.

15. We accept the submitters' evidence that a residential development on the scale envisaged within the Kikiwhenua Area would create an environmental change, a short distance away on the other side of Te Wanaka Road, which is completely unsuitable for race horses.
16. Council has noted that the properties on the western side of Te Wanaka Road are not currently used for race training purposes, with the exception of Kamada Park. The submitters agree that this is correct. What the submitters also say, however, is that the proposed residential zoning in the eastern half of the RTZ (which has been discussed for some time) will have dissuaded any potential race training activities from establishing in the western half. Whether this is so or not, we have concluded that, even though the western Te Wanaka Rd properties are not currently used for RTZ purposes, PC C will turn this disuse into a practical impossibility. Race horses and moderately intensive residential development simply do not mix. This makes the remaining RTZ a pointless, inefficient and costly resource management control.
17. Given this finding, it appears to us that while PC C is a good proposal within its own terms, its effect is to create a significant problem for many of those left in the remnant RTZ. In resource management terms, that outcome attaches a significant environmental cost to PC C, and one which is imposed on people who do not share in its benefits. However, it also seems to us that this is by no means a necessary outcome.
18. We are not in a position to rezone the remnant RTZ area, even if the submissions requesting this rezoning had been within the scope of PC C. A significant level of consultation and technical analysis, across a range of issues associated with any rezoning, is necessary before any proposal could be advanced on a solid basis. We think that the Council should initiate this work without delay.
19. In our view, a variation to PC C which addresses the issues we have raised in relation to the remaining RTZ land is appropriate. We therefore request Council to prepare and notify such a variation so that all RTZ issues can be managed on an integrated basis.
20. Our reasons, additional to those set out above, for asking the Council to proceed with a variation to PC C are as follows:

- a. The western side of Te Wanaka Road is within the Kakatangiata Area identified by Council for future urban growth. Mr Aplin- Thane indicated that work on a further plan change could start as soon as later in 2020. Whilst both the ultimate decision, and its timing, are matters for the Council rather than officers, his advice does indicate that our preferred solution is generally consistent with current Council strategy.
- b. A variation to PC C would not necessarily delay the Kikiwhenua Area to any significant degree. We note below further matters which need also need clarification or progress before any rezoning can be acted on.
- c. A variation to PC C would enable the submitters on the western side of Te Wanaka Road to advance their wishes and concerns. Their current position is unsatisfactory - not only because of the effect of PC C discussed above, but also because scope limitations preclude them pursuing what they actually want, and they are thus left with the option of appeals against the Kikiwhenua Residential Area to maintain a status quo which is a distinctly second best option.
- d. Without any certainty as to the future of the western side of Te Wanaka Road, we would require, at least, both modification to the Structure Plan for the Kikiwhenua Residential Area, and specific building controls on the eastern side of Te Wanaka Road. Both of these responses would be unnecessary if both sides of the road were to be approached on an integrated basis.

21. We conclude this part by emphasising two points:

- a. We are not expressing any view as to what a variation should propose. This, again, should be a policy decision for Council after receiving the results of consultation and any expert technical assessments. However there would be an expectation, we think, that an extension of the proposed residential zone would be one option to be considered and would be consistent with Council's medium term strategy, and that any variation which did not propose a Residential zone would have scope for the current owners to renew their submission requesting it.
- b. We are not suggesting that PC C would be rejected if Council does not wish to initiate a variation to it. Given our findings on the suitability of the land for residential development, the rejection requested by submissions would seem a perverse option. However the significant problem we have identified would remain, and we would need to seriously consider whether some deferment or timing conditions should be imposed on the Kikiwhenua Residential Area.

### **Traffic Safety**

22. The current traffic environment is, in our view, unsafe. Pioneer Highway has a 100km/h speed limit at the intersection with Te Wanaka

Road. On our observation, the ability for a driver travelling east (into the City) along Pioneer Highway to turn safely into Te Wanaka Road is completely dependent on absence of other traffic. One submitter mentioned that business vehicles tend to turn left out of Te Wanaka Road and then head towards Longburn to turn around and come back to the City - inefficient but evidently safer. This current unsafe environment, we emphasise, has very little traffic on Te Wanaka Road.

23. Plainly, any development of the Kikiwhenua Residential Area must be contingent on the reduction of the speed limit on Pioneer Highway, and the construction of a safe intersection with Te Wanaka Road. That is the view of the Council's expert, Harriet Fraser.
24. We struggle to understand the Council view that PC C should be approved without any linkage to the availability of a safe intersection. The Council's position, as we understand it, is that the proposed provisions will achieve this through the design and consent process. Aside from controlled activity subdivisions (which are limited to network utilities) there are no relevant standards. We do not think that the proposed assessment criteria for other subdivisions are adequate for this purpose.
25. Pioneer Highway is a state highway under the control of New Zealand Transport Agency ('NZTA'). The evidence from NZTA indicates the way forward. First, a review of the speed limit on Pioneer Highway is unlikely to occur for some time, and even then, the outcome cannot be predicted. Second, and alternatively, speed limits can be altered in the context of road works - so, for example, if Council obtained approval from NZTA to build a roundabout at the intersection, then the necessary speed controls could be imposed outside the general review process.
26. In our view, it would not be good resource management practice to approve PC C without being satisfied that a safe intersection will be available prior to development commencing. That will require, at least, the necessary approvals and financial commitments from Council and NZTA. The alternative is to approve PC C, rezoning a large area of land to Residential with all its attendant consequences and expectations, in the hope that some other process will address and resolve a key resource management issue. We are not prepared to do this.

### **Rangitāne sites and cultural impact**

27. We understand that all, or some significant parts of, the proposed Kikiwhenua Residential Area are Rangitāne ancestral land and contain sites of significance. In assessing PC C we thus have obligations under sections 6(e) and (f) RMA. We also note City View Objective 17:

*17. The natural and cultural heritage features of the City are preserved and enhanced, including the margins of the Manawatu River and sites of significance to tangata whenua.*

28. We do not think that we have been given sufficient material to assess whether sites of significance are indeed given any necessary protection. We would have expected the three sites in question to be either accurately identified, or for provision requiring their spatial identification for Plan purposes. Without that, it is difficult to be satisfied that they are being given an appropriate degree of recognition or protection.
29. We acknowledge the receipt, as part of Mr Robinson's evidence, of an extract from a memorandum of partnership ('MoP') between Rangitāne o Manawatu. This MoP is also referred to in the section 32 report. However the details of that memorandum were not made available to us, and we cannot make any assumptions as to its contents.
30. Specifically, we require further information on the following:
- a. **Kikiwhenua:** the land is shown in yellow on Map 7A.2 and the proposal is to rezone it from RTZ to Recreation Zone. It appears that the proposed Recreation Zone is more extensive than the identified Kikiwhenua site. However the site is within the Kikiwhenua Residential Area. It is not clear from our reading of R7A.5.2.3 whether it is anticipated by (c) that Kikiwhenua (and indeed the Recreation Zone) can be part of a future subdivision. We request further information on how this is intended to work. The issue arises in a similar way with land owned by Rangitāne which is not to be within the Residential Zone but is nevertheless referred in subdivision provisions.
  - b. **Urupa:** we have little information about the urupa, save for a comment that it lies within land owned by Rangitāne. On Map 7A.2 the land within which we understand the urupa lies is traversed by a pedestrian and cycle track. We request confirmation, if the previous sentence is correct, that Rangitāne consents to this. And we also request confirmation that the urupa lies entirely within Rangitāne land.
  - c. **Awapuni:** we remain unclear as to the significance of the Awapuni site. Was it, as suggested in the section 32 report, part of the lagoon, or was it, as we thought more likely, the site of a kainga? We appreciate that the notation on the CIA (Figures 4 and 5) correspond with the former, but Fig.4 also shows the former lagoon in a different place. (R7A.5.2.3 (c) also refers to the Awapuni Pa, distinctly from Kikiwhenua and the urupa.) In either event, we are not clear what, if any provision is proposed for this site, and it appears from Map 7A.2 to be covered by a stormwater pond.

31. We now turn to the Cultural Impact Assessment ('CIA') prepared by Rangitāne for the purposes of PC C. The Introduction to the CIA concludes with the following paragraph:

*This report is the intellectual property of Tanenuiarangi Manawatu Incorporated and while PNCC can use this report for internal purposes with regards to the project, they shall consult with Tanenuiarangi Manawatu Incorporated if this report is going to be used for any external purposes, such as being provided as part of the resource consent process. Tanenuiarangi Manawatu Incorporated do not wish to limit the ways in which PNCC can use this report but only ask that the mana of Rangitāne o Manawatu is maintained at all times.*

32. In the end, the report has been used, as intended, by the Council in the preparation of PC C and by its officers and consultants in the preparation of reports and evidence at the hearing. That being the case, there was no basis on which it should have been regarded as 'confidential' in the way stated in the section 32 report. The RMA provides, in specific situations, for restrictions on the publication or communication of material which might give 'serious offence to tikanga Maori', or might disclose 'the location of waahi tapu' (section 42(1)). Even in either of those situations, however, any restriction must outweigh the public interest in making the information available. Finally, the decision is to be made in the context of the hearing.
33. Our provisional view, which we have now given the Council on several occasions, is that there does not seem to be any basis for restricting the whole, or the great majority of the report. Any restriction will be narrow in scope and must be supported by reasons from either Rangitāne or Council. Our starting point is that there is no indication in the report itself that any such reasons exist. Tanenuiarangi Manawatu Incorporated has simply asked for the courtesy of consultation on use, and for its mana to be respected.
34. It should not need to be emphasised that the preparation of Plans and changes is a public process, and that whatever reasons influence the Council to advance particular proposals ought to be subject to full public scrutiny and evaluation, except in the very limited circumstances provided by section 42. This transparency and contestability is a necessary foundation for public confidence in the planning process - this is the countervailing public interest against which any request under section 42(1) must be assessed.

### **Other matters**

35. We accepted Mr Jessen's advice that consideration of the consultation draft of an NPS on Highly Productive Land was not necessary. Nevertheless, having reviewed the document, it appears to distinguish between unplanned or opportunistic urban expansions into productive

land on the one hand, and urban expansions consistent with an established strategic direction on the other. PC C is in the latter category.

36. We think that there needs to be explicit provision for recreation and community facilities within the Kikiwhenua Residential Area. We do not regard the 'green corridor' around the Mangaone Stream (which is owned by Rangitāne), or the stormwater pond, as satisfying these needs.
37. We do not think that the retention of the existing shelter belt trees needs to be encouraged by the subdivision assessment criteria. The retention of these trees does not appear compatible with the nature of the proposed development. New planting is a different matter.
38. We do not accept the recommended change of description to the potential future link between Te Wanaka Road and Grand Oaks Drive. The wording in Map 15.1 was settled in the decision on PC21, and any change to that Map is not within scope of PC C. Map 7A.2 should therefore remain as notified as it should not be inconsistent with Map 15.1. However we think that the recommended Note 2 on Map 7A.2 is useful subject to amendment by deleting 'Secondary' and substituting 'Any future'.
39. We indicated in paragraph 20 d above that if the western side of Te Wanaka Road is not zoned Residential then we will set lower building heights along the eastern frontage of Te Wanaka Road and seek to ensure that any northern secondary road connection intersects with Te Wanaka Road at a point where it does not face the existing houses on the west side.

### **Other relevant processes**

40. In this hearing, the relevance of separate and future statutory processes was unusually prominent. We accept that, although resource management decision making should be as holistic as possible, there are matters which will have to be considered under other processes. However, we were a little uncomfortable with the relative frequency with which matters of concern to us, or to submitters, were deflected to future decision making by someone else.
41. This becomes problematic where these future decisions directly or potentially affect our view of what is being proposed by PC C. The critical issues have been outlined above. But there are others as well, including the details as to how a significant new community will be safely and effectively linked to the rest of the City, and how and when appropriate community facilities within the new community will be established. In this sense, we regard community infrastructure no differently from water, waste and roading infrastructure which is assessed in much greater detail. In our view, these are Council

planning responsibilities, regardless of who pays for them or which part of Council manages them.

## Directions

42. We have four separate directions to align with the issues identified above. In relation to our requested variation, and to the need for a commitment to a new intersection we recognise that these are, or may be, policy choices for the Council, and also that we are nearing the triennial election. We have therefore asked the Council, at this stage, simply for a description of the decision making processes, and the likely time within which a decision could be made. In relation to other matters which may be answered by Council staff, we have set a response time on the basis that it will be extended if necessary. We are also conscious that we need to make a decision on PC C as 'promptly as reasonably possible'.
43. **Direction 1:** In relation to our request for a variation to PC C to include rezoning of land on the western side of Te Wanaka Road, we direct that Council advise the details of the process it will follow to make a decision on this request, and its estimate as to when the Council will decide whether or not to notify such a variation. We anticipate that this information can be supplied by the end of October 2019.
44. **Direction 2:** In relation to our request for a commitment to build a safe intersection between Pioneer Highway and Te Wanaka Road prior to the completion of any development within the Kikiwhenua Residential Area, we direct the Council advise the details of the process it will follow to make a decision on this request, and its estimate as to when the Council and NZTA could grant the approvals necessary for us to regard the commitment as firm. We anticipate that this information can be supplied by the end of October 2019.
45. **Direction 3:** In relation to our request for further information on the identification, and protection if appropriate, of the three sites of significance to Rangitāne, we direct the Council to discuss these issues with Rangitāne, and with relevant land owners as necessary, and report to us on the way in which each site should be spatially identified, and on whether specific measures are required, as part of PC C, to preserve or protect any of the sites. This report should be sent by 31 October 2019.
46. **Direction 4:** In relation to the Cultural Impact Assessment, a report should be sent to us identifying the reasons for which any order is sought under section 42(1), and why those reasons outweigh the public interest in making the report public. This report should be sent to us by 20 September 2019.

A handwritten signature in blue ink, appearing to read "Chris Mitchell", on a light green background.

**Chris Mitchell  
Chair**

**13 September 2019**