

**DECISION FOLLOWING THE HEARING OF AN APPLICATION FOR RESOURCE CONSENT UNDER THE RESOURCE MANAGEMENT ACT 1991 (RMA)**

**Proposal**

To demolish and redevelop part of the 200 Heretaunga Street West Block in the Hastings CBD by introducing a new mid-block pedestrian laneway from Heretaunga Street West through the centre of the block to a public park/greenspace and a medium density residential apartment building located on the Queen Street West side of the block, including all associated construction works.

The resource consent is **GRANTED** subject to conditions. The reasons are set out below.

**Application Details**

<b>Application number:</b>	RMA20220352
<b>Applicant:</b>	Hastings District Council
<b>Site address:</b>	206 and 218 Queen Street West and 223 Heretaunga Street West, Hastings
<b>Legal Description:</b>	Lot 1 DP 13663 (ROT HBF3/551) Lot 1 DP 5310 and Lot 1 DP 22385 (ROT HBP2/185) Lot 2 DP 22385 (ROT 584846) Lot 3 DP 22385 (ROT 1023932) Lot 3 DP 16426 (No ROT)
<b>Site Area:</b>	2,606m <sup>2</sup>
<b>Relevant district plan and zoning:</b>	Hastings District Plan (Operative in Part, March 2020) – Hastings Central Commercial Zone.
<b>Relevant district plan provisions:</b>	Section 7.3 Hastings Commercial Environment Section 18.1 Heritage and Notable Trees Section 25.1 Transport and Parking  <u>Entire site:</u> Central Retail Core Precinct Overlay Central Character Precinct Overlay  <u>206 Queen Street West:</u> Historic Heritage Feature – HB46: Hawke’s Bay Farmers’ Co-operative Association Limited Garage – Category II  <u>223 Heretaunga Street West:</u> Designated Retail Frontage
<b>Application activity status:</b>	Restricted Discretionary Activity (Rule CCR20) Non-Complying Activity (Rules CCR24 and H17).

**Hearing Details**

<b>Hearing days:</b>	13 April 2023
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<b>Independent Commissioner:</b>	Kitt Littlejohn
<b>Appearances:</b>	<p><b><u>Hastings District Council (as Applicant):</u></b>  Megan Gaffaney – Team Leader, Project Overview  Brent Scott – Architect (Architectural Design)  Ann Galloway – Architect (Heritage)  Sam Green – Civil Engineer  Janeen Kydd-Smith – Planning  Asher Davidson - Legal</p> <p><b><u>Submitters</u></b>  Walter Breustedt  Alan Passchier  Fire &amp; Emergency NZ (tabled advice as to position on application)</p> <p><b><u>Hastings District Council (Consent Authority):</u></b>  Jacqui Manning, Consulting Reporting Planner  Caleb Sutton, Environmental Consents Manager  Kelly Nikora – 3 Waters Senior Engineer  Christine Hilton – Hearings Adviser</p>
<b>Commissioners’ site visit</b>	13 April 2023
<b>Hearing Closed:</b>	20 April 2023

## INTRODUCTION

1. This decision is made on behalf of the Hastings District Council by an Independent Hearing Commissioner<sup>1</sup> and has been prepared in accordance with ss 18A<sup>2</sup> and 113<sup>3</sup> of the Resource Management Act 1991 (**RMA**). It sets out the findings and determinations made following the hearing of the application by Hastings District Council (as the Applicant) to demolish the existing building block at 206 and 218 Queen Street West and 223 Heretaunga Street West while retaining the façade of each building, and to redevelop the site into a medium density residential apartment building with a new mid-block pedestrian laneway from Heretaunga Street West through the centre of the block to a public park/greenspace (**Application**).<sup>4</sup>

## Procedural matters

2. The application by Hastings District Council (**Council**) was publicly notified on 8 October 2022, with the submission period closing on 7 November 2022.<sup>5</sup> A total of 37 submissions were received, with the majority in support of the Application in totality or in part, four were neutral

<sup>1</sup> Kitt Littlejohn, appointed and acting under delegated authority under ss 34 and 34A of the RMA.

<sup>2</sup> Section 18A requires persons exercising powers and performing functions under the RMA to take all practicable steps, inter alia, to use timely, efficient, consistent, and cost-effective processes that are proportionate to the functions or powers being performed or exercised.

<sup>3</sup> Section 113 sets out the matters to be included in any decision on a resource consent application. Although not structured to follow the format of s 113, this decision has addressed and included all of the matters required by s 113.

<sup>4</sup> A full description of the Application is set out in pages 4 – 9 of the Assessment of Environment Effects submitted by the applicant.

<sup>5</sup> Section 3 of the s 42A Report.

with no indication of whether they seek that the Application be declined or granted, and one strongly opposed to the Application.

3. I was delegated the task of determining the Application on 22 November 2022 and oversaw the issuing of directions for the pre-exchange of reports and evidence, which were issued on 7 March 2023.
4. I conducted a visit to the proposed site and the surrounding area on 13 April 2023, accompanied by those in attendance at the hearing, including consultants engaged by Council for the Application and several other interested persons.

### **Materials considered and hearing process**

5. Prior to the commencement of the hearing the following materials were provided to me and reviewed:
  - (a) A copy of Council's Application, including its supporting Assessment of Environmental Effects (**AEE**)<sup>6</sup>, prepared in accordance with Schedule 4 of the RMA;<sup>7</sup>
  - (b) Further information provided in response to requests from Council officers under s 92 of the RMA by Ms Janeen Kydd-Smith, a planner engaged by the Applicant Council;<sup>8</sup>
  - (c) A copy of all submissions made on the Application;
  - (d) A report on the Application and submissions received prepared under s 42A of the RMA by Ms Jacqueline Manning<sup>9</sup>, a consultant planner engaged by the consent authority; and
  - (e) Briefs of evidence in support of the application from the Applicant Council.<sup>10</sup>
6. The s 42A report prepared by Ms Manning analysed all of the information received in relation to the Application in a thorough and considered manner. The report was supported by advice and assessments from Mr Kelly Nikora, Council's Three Waters Senior Engineer, and Mr Ian Bowman, an architect, both of whom had been engaged by the Council as consent authority to carry out a peer review of the information provided as part of the Application.<sup>11</sup> In the s 42A report, Ms Manning concluded that through the imposition of the draft conditions she recommended (or similar), consent for the Application may be granted, and she recommended that outcome.
7. The s 42A report was taken "as read" at the hearing, as were the briefs of pre-exchanged evidence. Witnesses were given the opportunity to summarise and/or highlight aspects of their written briefs.

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<sup>6</sup> Assessment of Environmental Effects Report by Sage Planning HB Limited dated 15 August 2022.

<sup>7</sup> Unless otherwise specified, references to sections and sub-sections are references to sections and sub-sections in the Resource Management Act 1991.

<sup>8</sup> Letter from Sage Planning HB Limited dated 17 October 2022.

<sup>9</sup> Dated 20 March 2023.

<sup>10</sup> Ms Gaffaney (28 March 2023); Ms Galloway (28 March 2023); Mr Scott (28 March 2023); Ms Kydd-Smith (27 March 2023); Mr Devine (27 March 2023); and Mr Green (28 March 2023). Refer Schedule 1 for a summary of the evidence presented.

<sup>11</sup> Mr Nikora provided his assessment of the proposed conditions by way of a memorandum dated 23 February 2023, while Mr Bowman peer reviewed the Heritage Impact Assessment report.

8. A few of the submitters, who had indicated in their submission that they wished to be heard at the hearing, presented summary statements. There was no expert witness evidence presented by any of the submitters.
9. For the Applicant's reply, I sought clarification from Ms Asher Davidson, legal counsel for the Applicant Council, regarding the current state of the case law as to the approach to the assessment of the test required by s 104D(1)(b) of the Resource Management Act 1991 and whether a proposal is contrary to the objectives and policies of a district plan. On 20 April 2023, Ms Davidson filed legal submissions in reply.
10. Upon receiving Ms Davidson's submissions, I was satisfied that I have heard from all relevant parties and have all relevant information on the Application at hand. I formally closed the hearing on 20 April 2023.
11. A minute setting out the procedural matters undertaken prior to the commencement of the hearing and a record of the hearing was prepared by the Council's administration team and is included in **Schedule 1** to this decision.

### **Summary of evidence**

12. Section 113 of the RMA requires me to provide a summary of the evidence heard at the hearing. A summary of the evidence presented at the hearing is included in **Schedule 1**. I have discussed relevant aspects of the evidence as necessary in the body of this decision.

### **THE SITE, PROPOSAL AND CONSENT REQUIREMENTS**

13. A detailed description of the proposal and the site are set out in the Application and the s 42A report. The following summary is derived from these materials and, in relation to the site, informed by my site visit.

#### **The site**

14. The site of the proposed redevelopment and its associated construction works is located in Hastings CBD and comprises six land parcels owned by Council with a combined area of approximately 2,606m<sup>2</sup>. The site is in the centre of the 200 block west of Hastings CBD, between Queen Street West and Heretaunga Street West, and located within the 'Central Commercial Zone' and the 'Central Commercial Precinct' under the Hastings District Plan (Operative in Part, March 2020) (**HDP**).
15. Currently on the site are two buildings which are vacant and an electricity utility building. One of the two vacant buildings is the Hawke's Bay Farmers' Co-operative Association Limited Garage building (**HB Garage Building**), which has its frontage to Queen Street West. It was constructed in 1925 and is listed as a 'Category II' (2) item in both the HDP and the Heritage New Zealand List / Rārangī Kōrero. The HB Garage Building occupies approximately 80% of the overall redevelopment site.
16. The other vacant building is a single-storey building that is located behind the HB Garage Building, with frontage onto Heretaunga Street West. This building is a vacant retail store. Interspersed between the 200 block west of Hastings CBD and along the back of the two buildings are carparking spaces and shared vehicle and pedestrian lanes.

17. The surrounding environment of the site is characteristic of the CBD, with a mixture of commercial buildings of various character from heritage to modern design of 1-2 storey and of varying age, construction, appearance, use and condition.
18. The subject site is in proximity to amenities, such as William Nelson Park, a Countdown supermarket, King Street Carpark and primary retail shops and services along Heretaunga Street West.

### **The proposal**

19. The Applicant Council seeks consent to substantially demolish both vacant buildings whilst retaining the façade of each, and to redevelop the site to construct a medium density apartment building with two street level commercial tenancies and a mid-block pedestrian laneway from Heretaunga Street West through the centre of the block passing adjacent to the apartment building through a public park/greenspace to Queen Street West. Existing vehicular service access routes within the block will be retained and improved and new public carparking spaces will also be provided.
20. The Council's proposal for the site would comprise the following building and site development components:<sup>12</sup>
  - (a) Demolition of all existing buildings on the site, including the HB Garage Building, while retaining the buildings' facades to Queen Street West and Heretaunga Street West;
  - (b) Earthworks and removal of an old fuel tank/s to prepare the site for construction works, building foundations and site landscaping;
  - (c) Construction of a new three-storey mixed-use commercial and 20-unit residential apartment building located on the Queen Street West side of the block, with 17 private parking spaces on the ground floor;
  - (d) Widening an existing formed right-of-way from Queen Street West;
  - (e) Provision of 18 public parking spaces along the exterior of the building;
  - (f) Construction of a pedestrian laneway from Heretaunga Street West through to a public park/greenspace; and
  - (g) Provision of a public park/greenspace.
21. The proposed new medium density residential development would comprise 6 two-bedroom apartments and 14 one-bedroom apartments, with a total of 20 apartments at first and second floor levels, each having a front and back external terrace/deck and internal access from the ground floor entry lobby to the carparks.
22. The Application proposes to provide 17 car parks (inclusive of 1 accessible car park) for the apartment buildings at ground floor level, as well as utility spaces for storing rubbish and recycled material prior to collection. The ground floor level of the proposed apartment building will contain two units for commercial tenancies, and there will also be eighteen public car parks provided for along the exterior of the building.

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<sup>12</sup> Applicant's AEE, at 1.4.1

## **The history of the Hawke's Bay Farmers' Co-operative Association Limited Garage building**

23. A detailed history of the HB Garage Building is set out in the AEE<sup>13</sup> and the Heritage Impact Assessment prepared by Ms Ann Galloway.<sup>14</sup> I briefly set out the history of the site below.
24. Founded in 1891, the Hawke's Bay Farmers' Co-operative Association (**Hawke's Bay Farmers' Co-op**) was established to enable the region's primary producers to secure a financial interest in the marketing of their produce. However, with the rising popularity of the motorcar in the early twentieth century, the Hawke's Bay Farmers' Co-Op was prompted to enter into the motor trade industry and was one of the earliest to do so in Hastings. A garage was constructed behind its main building in 1925, and at the time of its completion, this garage was likely to have been one of the first purpose-built garages with underground fuel storage and bowsers in New Zealand. At the time, motor garages did nearly everything from constructing and selling cars, to servicing and filling them with petrol.
25. During an earthquake in 1931, the HB Garage Building suffered a severe crack in one of its walls but was otherwise undamaged. A building permit in 1934 for an extension of the garage and two building consents in 1991 and 1996 has since altered the appearance and interiors of the HB Garage Building.
26. The HB Garage building ceased use as a garage from around 1966, with the petrol pumps being removed. There were plans drawn in 1972 to convert part of the building into a retail liquor store, and the extension to the garage was converted to car parks before later being turned into another retail store in 1996.
27. Council took ownership of the HB Garage building in 2018, at which time it had been vacant and not actively maintained for well over a decade.

## **Background to the proposal**

28. Since 2018, Council has undertaken investigations and explored many design concepts for the site, including a range and combination of land uses for the re-development of the site. This included fully investigating seismic strengthening and adaptive reuse of the HB Garage Building for other uses. This included assessing the costs of partial and total seismic strengthening the building.
29. A preliminary structural appraisal of the HB Garage Building noted severe seismic structural weaknesses, including lack of roof bracing, inadequate support and tying of facades to side walls, and inadequate foundations.<sup>15</sup> It also found that the building was significantly less than 34% of the New Building Standard. Further investigation confirmed this and concluded that the cost of restoring the HB Garage building would be considerable and uneconomical, as well as requiring a very high level of structural intervention in the building to the extent where the heritage values of the building would be significantly compromised.<sup>16</sup>

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<sup>13</sup> Appendix A of the AEE, History of site – Hawke's Bay Farmers' Co-op Association Garage, prepared by Michael Fowler.

<sup>14</sup> Appendix J of the AEE, Heritage Impact Assessment, Ann Galloway Architect Ltd, December 2022.

<sup>15</sup> Draft report, Strata Group, November 2020.

<sup>16</sup> Peer review from Jon Devine

30. Given the Council's role as a local authority, it holds economic responsibility in terms of best practice and financial responsibility to ratepayers. Thus, it came to the view that restoration of the HB Garage Building in whole or part was not fiscally responsible or tenable.
31. The Council then undertook extensive consultation to ensure the community had opportunities to view and provide feedback on its proposal, which progressed through various design processes. Overall, Council has undertaken a comprehensive design and consultation process to ensure the redevelopment will directly benefit the Hastings community.
32. On 8 December 2020, Council made the decision to proceed with the redevelopment on the basis that the HB Garage Building would have to be partially demolished, but that its façade would be retained.

### **Consent requirements**

33. As set out in the AEE and the s 42A report, the proposal is non-compliant with the HDP rules for the following matters:
  - (a) Restricted Discretionary Rule CCR20, due to the proposal's failure to meet the performance standards of:
    - Rule 7.3.5D: less than 75% of the Active Retail Frontage (at 223 Heretaunga Street West) will have a clear, glazed window display space, in that no provision for display windows fronting Heretaunga Street West is made; and
    - Rule 7.3.6I (7): each residential unit will not have an outdoor service, rubbish and recycling storage space of 5m<sup>2</sup>, as the residential units and internal commercial tenancy will have access to two waste and recycling storage areas of approximately 10m<sup>2</sup> each, within the ground floor of the buildings, while the commercial tenancy facing Queen Street West will have its own waste and recycling storage area;
  - (b) Non-complying Activity Rule CCR24, due to the proposal's failure to meet performance standard of Rule 7.3.5D, as set out above, as a result of external alterations of buildings in the Central Character Precinct and construction of new buildings in the Central Character Precinct and Central Commercial Zone; and
  - (c) Non-complying Activity Rule H17 as the proposal involves the demolition of a Heritage Item identified in Schedule 1 (Category II).
34. The s 42A report identified a further consent requirement under the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011 (**NESCS**), namely a restricted discretionary activity consent under Regulation 10, due to:
  - (a) The proposal exceeding the permitted activity thresholds for earthwork volumes and duration, including that associated with the removal of the fuel tank/s under Regulation 8;
  - (b) The proposal not meeting the permitted activity requirements for a change of use of the piece of land under Regulation 8;

- (c) The PSI identifying contaminants on site in elevated levels above expected background concentration levels; and
  - (d) There being a DSI in support of the proposal.
35. With all requirements bundled together, the proposal is to be assessed as a non-complying activity. This overall non-complying status and how it drives assessment of the Application ultimately leads to a focus on the specific features of the activity, its effects and evaluation against the relevant policy framework.

## REVELANT STATUTORY REQUIREMENTS

### Section 104(1)

36. Section 104(1) sets out the mandatory matters to which I must have regard when considering the Application and the submissions received. For this Application, the matters comprise: the actual and potential effects on the environment of allowing the activity and the relevant provisions of any applicable national and regional policy statements and regional and district plans. Section 104(1)(c) also allows regard to be given to any other matter considered relevant and reasonably necessary to determine the Application.
37. The approach to be taken to the various matters in s 104(1) is well established: the directive “must have regard to” does not mean “must give effect to”. Rather it simply requires decision-makers to give genuine attention and thought to the matters set out.<sup>17</sup> The relative weight to be given to the matters listed in s 104(1)(a)-(c) is for the decision maker, on the evidence. Flexibility is important when approaching this task, in the sense that the relative importance that various considerations have, and the manner in which they interrelate, will vary according to context.<sup>18</sup>
38. In accordance with this guidance, I record that I have approached my assessment of the policy and plan provisions engaged by the Application by giving greatest weight to the most specific relevant provisions, namely those in the HDP. Together, these provisions can be assumed to “give effect to” the Hawkes Bay Regional Policy Statement (**RPS**) and so comprise the most refined or detailed manifestation of those policies in relation to the natural and physical resources affected by the proposal and their sustainable management.
39. I have then considered the RPS, NESCS and the National Policy Statement on Urban Development as the next most contextually relevant, higher-order policy provisions.
40. I also considered two other matters relevant to the Application, these being the HB Garage Building being listed with Heritage NZ and the effect of granting consent on the integrity of the HDP.

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<sup>17</sup> *Foodstuffs (South Island) Ltd v Christchurch CC* (1999) 5 ELRNZ 308; [1999] NZRMA 481 (HC).

<sup>18</sup> *Albert Road Investments Ltd v Auckland Council* [2018] NZEnvC 102. See also *The Warehouse Ltd v Dunedin CC* EnvC C101/01; *R v CD* [1976] 1 NZLR 436.



## **Part 2**

41. The consideration of applications under s 104(1) is “subject to Part 2”, the meaning of which is well settled.<sup>19</sup> The extent to which express recourse to Part 2 may be required when considering an application for resource consent will depend on whether the relevant plan(s) have been prepared having regard to Part 2 and include a coherent set of policies designed to achieve clear environmental outcomes. If not, or if in doubt, it will be appropriate and necessary to refer to Part 2.
42. In the case of this Application, resort to Part 2 on the grounds that the relevant planning framework was incoherent does not appear necessary due to the currency and legitimacy of the HDP as the primary planning document to be considered.

## **Section 104D**

43. In light of the Application being non-complying, s 104D(1) sets out that I may only grant consent if I am satisfied that either the adverse effects of the Application on the environment will be minor, or that the Application is for an activity that will not be contrary to the objectives and policies of the applicable plan (i.e., the HDP). This is effectively the “gateway” test, whereby one of the criteria set out in s 104D(1) must be passed before consent can be granted, with no primacy given to either of the two limbs.

## **Section 104(2)**

44. Section 104(2) gives consent authorities the discretion to disregard adverse environmental effects of a proposed activity if the applicable plan permits an activity with that effect. I record that no such matters were expressly relied on by the Applicant in its effects assessment.

## **Section 104B**

45. My jurisdiction in respect of the Application is set out in s 104B: after considering the application I may grant or refuse consent. It is trite that I must exercise this discretion for a proper purpose, namely to promote the sustainable management of natural and physical resources.

## **Section 108**

46. If I grant consent, I may impose conditions under s 108, provided they comply with s 108AA of the RMA. This latter section prevents a consent authority imposing a condition unless the applicant for the consent agrees to it, or the condition is “directly connected” to an adverse effect of the activity on the environment and/or an applicable district or regional rule or a national environmental standard. Conditions may also be imposed if they relate to administrative matters that are essential for the efficient implementation of the resource consent.
47. An important component of the Application is the proposed set of conditions agreed between the experts engaged by the Applicant and Council as the consent authority to manage the actual and potential adverse effects of the Application to an appropriate level. These conditions were presented to me shortly before the hearing, following discussions between the parties’

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<sup>19</sup> *R J Davidson Family Trust v Marlborough DC* (2018) 20 ELRNZ 367 at [73] – [76].

experts after the exchange of evidence. I have treated this draft condition set as the conditions that Council as the Applicant would agree to for the purposes of s 108AA(1)(a). Any amendments that I might consider necessary or appropriate to these conditions arising from my consideration of the evidence etc will therefore need to meet the requirements of s 108AA(1)(b) or (c).

### Relevant policy statements and plans

48. In considering and determining the Application, I find that s 104(1)(b) requires me to have regard to relevant provisions of the following policy statements and plans:
- (a) National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (**NESCS**);
  - (b) National Policy Statement on Urban Development (**NPSUD**);
  - (c) The Hawkes Bay Regional Policy Statement (included within the Hawkes Bay Regional Resource Management Plan (2006)) (**RPS**); and
  - (d) The Hastings District Plan (Operative in Part, March 2020).
49. For the purposes of this decision, I find the following objectives and policies of the HDP to be of greatest relevance for the purposes of s 104(1)(b).

<b>Heritage Items and Notable Trees</b>	
OBJECTIVE HO1	Significant Heritage Items are protected and the heritage character and history of the District is preserved.
OBJECTIVE HO2	To promote the continued use of recognized heritage buildings in the District where this encourages their retention, restoration and maintenance.
OBJECTIVE HO3	To protect historic areas in the Hastings CBD which contribute to the heritage character of the area.
OBJECTIVE HO4	Encourage the upgrade of heritage buildings where there is an identified safety risk.
POLICY HP2	Ensure activities do not adversely affect the character of Heritage Items.
POLICY HP4	Ensure new development and alterations to existing buildings do not compromise the architectural significance of historic buildings.
POLICY HP5	Allow heritage buildings to be used for a range of activities where this promotes the retention of the building.
POLICY HP8	To facilitate and encourage alteration to heritage items to improve structural performance, fire safety and physical access while minimising the significant loss of associated heritage values.
<b>Earthworks, Mineral, Aggregate and Hydrocarbon Extraction</b>	
OBJECTIVE EMO5	To ensure that earthworks and mineral extraction do not compromise outstanding natural features, historic heritage and cultural heritage.

POLICY EMP14	Historic Heritage Features will be protected from the effects of earthworks and mining activities.
<b>Noise</b>	
OBJECTIVE NSO2	To ensure the adverse effects of noise do not unreasonably affect people's health.
POLICY NPS5	Noisy construction and demolition activities will be allowed subject to restrictions to ensure the protection of the community from unreasonable noise.
POLICY NPS6	Provide for noisy activities of limited duration and frequency which are of importance to the community, subject to appropriate controls.
<b>Central Commercial Zone</b>	
OBJECTIVE CCO1	To encourage and promote the use, development and operation of the Hastings Central Commercial Zone as the principal commercial heart of the District through District Plan provisions which promote its vibrancy and contain it within a defined boundary.
POLICY CCP5	Ensure that activities undertaken in the Central Commercial Zone avoid, remedy or mitigate adverse effects on other uses including noise, lighting and glare and visual impacts.
<b>Transport and Parking</b>	
OBJECTIVE TPO1	Ensure that land uses and new subdivision are connected to the transportation network in a manner that provides for the efficient and sustainable movement of people and goods in a safe manner.
OBJECTIVE TPO2	Enable land in urban areas to be used for higher value purposes other than car parking by no longer regulating car parking provision other than accessible parking in the district plan.
OBJECTIVE TPO3	To achieve sustainable transport modes, including walking, cycling and public transport.
OBJECTIVE TPO4	To maintain a transport network that supports the social and economic wellbeing of the District while avoiding adverse effects on the natural and physical environment and on the safety of the travelling public.
POLICY TPP10	Provide for public off-street parking in the Hastings Central Commercial Zone, Havelock North Retail Zone and Flaxmere Commercial Zone.
POLICY TPP10	Establish appropriate design standards for car parking spaces, and parking and loading areas.
POLICY TPP13	Prioritise transport modes in the Commercial Zones with pedestrians being at the top of the hierarchy followed by cyclists, service vehicles, public transport, and private vehicles.

## **ACTUAL AND POTENTIAL EFFECTS ON THE ENVIRONMENT – ss104(1)(a) and 104D(1)(a)**

### **Introduction**

50. In order to be satisfied that the adverse effects of the Application will be minor, I considered the actual and potential effects of the proposed redevelopment on the surrounding environment of the site.
51. In the AEE, Ms Kydd-Smith carried out an assessment of the following effects of the Application in detail:
- (a) Amenity effects;
  - (b) Effects of the construction of the new apartment building in the Central Character Precinct of the Central Commercial Zone;
  - (c) Effects of the demolition of the HB Garage Building on the existing character of the Central Character Precinct of the Central Commercial Zone;
  - (d) Best practice urban design for mixed use development in the Central Commercial Zone;
  - (e) Effects on historic heritage values;
  - (f) Potential archaeological effects;
  - (g) Transport and parking effects;
  - (h) Noise effects;
  - (i) Stormwater effects;
  - (j) Soil contamination effects; and
  - (k) Positive effects.
52. Ms Kydd-Smith's conclusion in the AEE is that the adverse effects of the proposal will be no more than minor, given that they can be avoided, remedied or mitigated by consent conditions.
53. In contrast, Ms Manning in the s 42A report finds that the demolition of the HB Garage Building will result in adverse effects on the heritage fabric of the district that are more than minor. Aside from this point, however, Ms Manning generally agrees with Ms Kydd-Smith's assessment of the other effects of the Application.
54. Following my review of the AEE and the s 42A report, as well as the evidence filed by the technical experts for the Council as both Applicant and consent authority, I agree with Ms Manning's findings that the general effects of the redevelopment proposed by the Application will be less than minor, except for the adverse effects of the demolition of the listed heritage building on the heritage fabric of the Central Commercial Zone. I now turn to consider the adverse effects from the demolition of the HB Garage Building.

## Demolition of the HB Garage Building

55. I accept the evidence that the HB Garage Building holds important historic and social heritage values, with the building having connections to the early Hawke's Bay farming community, as well as the early motoring fraternity and visitors of the later retail occupancies. The building also contributes significantly to the heritage value of the streetscape in the Hastings CBD through its form, materiality and scale, as recorded in the Heritage New Zealand Pouhere Taonga listing.
56. There is no contention that demolition of this heritage building is not a desirable outcome. However, it is also accepted by all parties, and particularly by the structural and architectural experts, that the structural condition of the HB Garage Building is very poor and the building requires extensive seismic strengthening the outcome of which would substantially compromise the existing structural simplicity of the building and its resultant heritage values.
57. I note that the submissions received in relation to the Application generally support the proposal, including the demolition of the HB Garage Building as part of it. Two submitters, Historic Places Hawke's Bay and Heritage New Zealand, hold a neutral position (neither support nor oppose) as to the Application, given that they do not advocate for the demolition of any heritage building as the best heritage outcome, but they recognise that Council has explored all other options diligently before deciding on the retention of the façade and demolition of the remaining structures. In particular, Heritage New Zealand records in its submission that it is satisfied that the community engagement with the site and its history during the consultation process, and the physical retention and re-use of aspects of its existing structure, assist to mitigate the loss in the heritage fabric.
58. Ms Galloway, who prepared the Heritage Impact Assessment report (**HIA**) for the Applicant Council, noted that the effects of demolition will not only relate to the loss of the building itself, but also have an impact on the historic character of Hastings CBD. This view was backed by Mr Bowman, who peer reviewed the HIA on behalf of Council as the consent authority. I accept the experts' proposition that the nature and scale of effects on Hastings CBD's historic heritage value will be moderate to significantly adverse.
59. There are suggestions, however, that because the HB Garage Building is identified as a Category II building rather than a Category I item under the HDP, the difference in the level categorisation provides for useful context in the consideration of the Application and the adverse impacts arising from the demolition of the building.
60. Furthermore, Ms Manning considers that the positive outcomes that would flow from the granting of the Application, such as added urban character and amenity values in the CBD and provision of more housing and commercial capacity in the CBD, balances out the adverse effects from the demolition of the HB Garage Building, and that the net result is acceptable within the HDP policy framework.
61. I accept that a building having a Category I status may, as a result of various specific factors, be recognised under the HDP to be of greater relative value than a Category II building. However, this is not a consideration that I can give much weight to nor can this be a factor that I take into account as part of my assessment under s 104D.

62. For the purposes of s 104(1), I find that the effects on the environment of the Application will be both adverse and positive. On the one hand a substantial portion of the HB Garage Building and its heritage values will be lost from the Hastings CBD, but on the other hand, that loss will enable the development of new community facilities and living opportunities, which together will reinvigorate this CBD block and undoubtedly provide amenity and activity for more people than the landholdings in their current configuration presently do. Overall, if implemented in accordance with the proposed conditions, I find that the effects of the redevelopment will be positive, despite the adverse effects arising from the loss of heritage values.
63. However, given the Application's non-complying activity status, the gateway test in s 104D(1)(a) requires me to be satisfied that any adverse effects of the proposal will be minor, which prevents me from considering the proposal's positive effects. In this regard, I accept the evidence of Ms Galloway and Mr Bowman that the demolition of the HB Garage Building would result in the adverse effect of the almost complete and irreversible loss of historic heritage values associated with the Hawke's Bay Farmers' Co-op and its history in the region and that this is an adverse effect on the environment that is more than minor. Accordingly, the Application cannot meet the first limb of the gateway test under s 104D.

#### **OBJECTIVES AND POLICIES – s104D(1)(b)**

64. The second limb of the gateway test under s 104D allows for the granting of consent if the activity proposed is not contrary to the relevant objectives and policies of the HDP.
65. Ms Davidson's legal submissions in reply for Applicant Council helpfully set out the legal approach to the assessment of whether a proposal is contrary to the objectives and policies of a district plan for the purposes of s 104D.
66. I accept the submission that the approach in *Akaroa Civic Trust v Christchurch City Council* [2010] NZEnvC 110 is still the accepted approach in assessing a proposal for the purposes of s 104D(1)(b), in that I am to assess the proposal in terms of whether it is not contrary to the relevant objectives and policies as a whole.
67. The proposed demolition and redevelopment at the site are assessed as non-complying activities due the infringement of two performance standard rules under the HDP. These infringements relate to the demolition of a heritage building and the lack of provision for display windows fronting Heretaunga Street West.

#### **Demolition of the HB Garage Building**

68. The HDP addresses heritage resources by identifying important Heritage Items and assigning different levels of classification for listing and regulatory protection. The listing of a Heritage Item or a heritage building does not offer it direct protection under the Heritage New Zealand Pouhere Taonga Act 2014, but instead is primarily a means of identification for the purposes of information and advocacy.
69. When read as a whole, the objectives and policies relating to Heritage Items strongly support retention, restoration and maintenance of heritage buildings, allowing for a range of use and encouraging upgrades of unsafe buildings. The objectives and policies also require consideration be given to alternatives for new uses and enabling safety upgrades, which makes clear that demolition of a heritage building is to be a last resort.

70. Council has put forward an application that has undergone a comprehensive process that seriously considered the possibility of upgrading or strengthening the HB Garage Building so that the building can be retained and used for a range of activities. I find that Council has made extensive efforts to consider alternatives to avoid the demolition of the HB Garage Building and to achieve those outcomes set out in the HDP, including contemplating the retention and upgrading of some of the original architectural elements of the building.
71. I find that Council has also demonstrated that the demolition of the HB Garage Building is very much a last resort due to the financially onerous and impracticable nature of strengthening the building, and thus the proposal is not “inappropriate” for the purposes of s 6(f) of the RMA, or under the HDP which implements that directive. The solution of retaining and strengthening the façade, as well as introducing a new steel frame representing the portion of the face which is to be demolished and to replicate the original asymmetry of the building, also ensures that some of the heritage features and character of the building will not be completely lost.
72. I also consider that the Council has achieved the spirit of the objectives and policies through the extensive consultation process it conducted, in the sense that through its consultation with the public on what should happen to the HB Garage Building and how the building came about to be identified as a Category II building under the HDP, it has promoted a greater public awareness and understanding of this particular building’s history and character.
73. Although the Application does not fully give effect to the relevant objectives and policies of the HDP, in that it does not avoid demolition of a listed heritage building, I concur with Ms Manning that the proposal does not offend Policies HP2, HP4, HP5 and HP8 to the extent that it is contrary to, or inconsistent with the policy direction of the HDP, and that Council has genuinely made efforts to retain, restore and maintain the HB Garage Building. The proposal also comfortably achieves other relevant objectives (e.g., CCO1).

### **Active Retail Frontage along Heretaunga Street West**

74. As a result of the proposed demolition of the building on 223 Heretaunga Street West and the retention of the existing building façade to create a laneway for the general public to access a proposed green space, the Application is not compliant with one of the built form standards for the Central Commercial Zone. The Active Retail Frontage standard at 7.3.5D requires building designs with a continuous retail frontage appearance at ground floor level and provision for display windows fronting the street so that at least 75% of the street frontage has a clear, glazed window display space.
75. The area below the veranda, where the existing shop frontage to Heretaunga Street West is located, is proposed to be removed and replaced with an open public thoroughfare to create the entrance to the proposed laneway, and thus there is no practical need for a display window that fronts the street.
76. I agree with Ms Kydd-Smith’s view in the AEE that these non-compliances and policy non-conformities are not inappropriate given the proposed use of the site, interconnectivity between two street frontages and linkage to adjoining spaces. Accordingly, I find that the proposal is not contrary to the objectives and policies of the HPD relating to the design of retail store frontage.

## CONCLUSIONS ON ASSESSMENT

77. Following my analysis of the Application, based on the various experts' evidence, I find that a grant of consent is not barred by s 104D. Allowing the redevelopment of the site as proposed will not be contrary to the objectives and policies of the HDP as a whole. Furthermore, by reference to my assessment of the effects of the proposal, I am satisfied that any adverse effects can be avoided or mitigated to an acceptable level by reference to the policy criteria for such matters in the HDP, and that granting consent would give effect to the Hastings City Centre Strategy by strengthening the city centre identity and improving the vibrancy of Hastings City Centre, while also achieving the sustainable management purpose of the RMA.
78. One remaining matter requires comment – the issue of 'district plan integrity' or 'precedent' as it is often referred to. Although I have found that the proposal is not contrary to the objectives and policies of the HDP and comment on these matters is not strictly required, I nonetheless consider it appropriate, given the nature of the non-compliance with the heritage provisions in this case, to state my findings in this regard.
79. In summary, I am satisfied that a grant of consent for demolition in this case will not give rise to an adverse precedent or imperil the integrity of the HDP's heritage protection provisions. This is because, in combination, the building and the proposal have important distinguishing features that are unlikely to be replicated by other proposals to substantially demolish a listed heritage building in the Hastings CBD. I note the following matters:
- (a) The evidence is that the HB Garage Building is the only Category II building in the CBD in such a poor state of repair, and which has been vacant for some time; further, that most of the other higher value heritage buildings are much stronger and thus more able to be economically strengthened and beneficially reused; and
  - (b) The proposal seeks to partially replace the building with significant new community focussed spaces, facilities and assets that will assist to reinvigorate the Hastings CBD and give effect to the Hastings City Centre Strategy.

## PROPOSED CONSENT CONDITIONS

80. At the start of the hearing, Ms Kydd-Smith (for the Applicant Council) and Ms Manning (for Council as the consent authority) provided to me an agreed suite of draft conditions<sup>20</sup>, with no outstanding matters of contention.
81. During the hearing, we discussed a few minor aspects of the conditions that appeared unnecessary or required clarification. These related to: the defined term "LMP"; providing clarity that references to the "Council" in the consent were to Council as regulatory authority and not as the consent holder; condition 15; and condition 52.
82. I have reviewed the agreed suite of draft conditions in detail and the evidence presented in relation to the effects of the proposal on the environment. Overall, I consider that with minor changes to address the matters referred to above, the conditions are appropriate.

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<sup>20</sup> Draft Conditions Rev 4 (a "tracked changes copy" and a "clean" copy) were provided to Council's Hearing Advisor by email dated 12 April 2023.



83. With respect to conditions, I have also reflected on Mr Breustedt's informative presentation and agree that all practicable opportunities should be employed to maximise opportunities for tree cover and shading within the new public spaces to be developed. Accordingly, I consider it appropriate to amend condition 60(g) and include a new sub-condition within condition 56. The former now includes: "*with an objective, where practicable, on maximising soft landscaping, including opportunities for canopy trees*", as part of the landscape design for the Public Park/Greenspace Plan, whereas the latter now includes: "*Consideration of the provision of 'soft' landscaping within the street and access areas, where practicable, including opportunities for canopy trees to provide shading to adjoining apartments*" as a component of the street and access detailed design.

## **DECISION**

84. Pursuant to ss 104, 104D and 108 of the RMA, for the reasons set out above, resource consent is granted to the Application in the form included in **Schedule 2**.

Signed:

A handwritten signature in blue ink, appearing to read 'KRM Littlejohn', with a long horizontal flourish extending to the right.

**K R M Littlejohn**

Independent Commissioner

8 May 2023

## SCHEDULE 1

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Thursday, 13 April 2023

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*Te Hui o Te Kaunihera ā-Rohe o Heretaunga*  
**Hastings District Council: Commissioner Hearing**

*Ngā Minitī*

# Minutes (in the form of a Procedural Note)

## 206 Queen Street West, Hastings

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*Te Rā Hui:*  
Meeting date: **Thursday, 13 April 2023**

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Venue **Council Chamber  
Ground Floor  
Civic Administration Building  
Lyndon Road East  
Hastings**

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Time start - end **9.00am – adjourned at 12.38pm  
The hearing was formally closed on Thursday, 20 April 2023**

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**Notified Resource Consent Application  
For Proposed Medium Density Residential Living in the  
Hastings Central Commercial Zone (RMA20220352)**

Go to  
[www.hastingsdc.govt.nz](http://www.hastingsdc.govt.nz)  
to see all documents

## Ngā Minitī

# Minutes

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**Kua Tae ā-tinana:** **Chair:** Commissioner Kitt Littlejohn  
**Present:**

**Kua Tate:**  
**In attendance:**

**“For Hastings District Council – as Regulating Authority”**

- Caleb Sutton - Environmental Consents Manager
- Jacqui Manning - Consultant Reporting Planner
- Kelly Nikora - 3 Waters Senior Engineer (Growth & Development)
- Christine Hilton - Democracy & Governance Advisor

**Kei Konei:**  
**Also present:**

**“For Hastings District Council – as Applicant”**

- Asher Davidson, Legal Counsel - assisting Council as Applicant
- Megan Gaffaney, Planner – acting as Project Manager for Council
- Brent Scott – assisting Council with architectural drawings
- Ann Galloway, Architect – Heritage Consultant
- Sam Green - Engineer
- Janeen Kydd-Smith - Consultant Planner

**Kei Konei:**  
**Also present:**

- John O’Shaughnessy – Group Manager: Planning & Regulatory Services

**“Submitters present”**

**Speaking**

- Walter Breustedt
- Alan Passchier – speaking to his submission and also speaking on behalf of Nick and Jenny Stewart

**Not Speaking**

- Barbara Arnott, Chair of Historic Places Hawke’s Bay
-

*(References in italics and in brackets, in this Procedural Note, are Council's records system references – during the period of processing the records for this hearing the system was updated. Therefore, some records are saved showing the overall RMA number - RMA20220352 – while earlier records are saved under the Property ID number 25706, within that overall RMA number).*

## **1. APOLOGIES & LEAVE OF ABSENCE – NGĀ WHAKAPĀHATANGA ME TE WEHENGĀ Ā-HUI**

A number of submitters had indicated in their respective submissions that they wished to speak at the hearing. However, while provision was made for them to speak, they did not attend the hearing.

## **2. NOTIFIED RESOURCE CONSENT APPLICATION FOR PROPOSED MEDIUM DENSITY RESIDENTIAL LIVING IN THE HASTINGS CENTRAL COMMERCIAL ZONE - 206 QUEEN STREET WEST, HASTINGS (RMA20220352)**

In the letters sent out to the parties, on 7 March 2023, confirming the hearing date/s, they were also advised that following close of submissions the Applicant had provided further information including revised documentation and amended plans for the proposal. The revisions and additional information were considered to be within the scope of the original application that was notified. At that time, the website link was provided for parties to review the final plans and information and this information was also included in the circulated agenda documentation set out below.

**Council's Document Reference:** Covering reports (23/84 and 23/86) and planning report (RMA20220352#0029) together with following associated agenda documentation and a number of evidence agendas (containing pre-circulated evidence from Expert Witnesses on behalf of the Applicant) had been circulated prior to the meeting within an evidence exchange timeframe, as per the Commissioner's Directions, and put onto the council's website.

- Agenda and four attachment documents – (CG-17-24-00002; CG-17-24-00003; CG-17-24-00004; CG-17-24-00005 and CG-17-24-00006).
- Pre-circulated Applicant evidence – (CG-17-24-00007).

### **Prior to hearing**

- (Tues, 28/3/23) – Evidence due and received from six witnesses for the applicant (RMA20220352#0032 to RMA20220352#0037).
- (Wed, 12/4) - the final draft suite of agreed conditions/comments/changes (both a tracked change set and a clean copy), prepared as a result of conferencing between the Council and Applicant, had been emailed to the Commissioner and all parties (RMA20220352#0054).
- No pre-circulated expert submitter evidence was received in relation to this hearing.

### **Speakers at the Hearing (13 April 2023) – (speaking list – RMA20220352#0041)**

Those present were asked to introduce themselves.

Prior to the hearing, after reading the pre-circulated evidence, the Commissioner had advised that he did not have questions to ask of the following parties and they were not required to attend the hearing to give evidence:

- **Ian Bowman** - in regard to his role of peer reviewing the heritage documentation, on behalf of Council.
- **Jon Devine, structural engineer** - who had prepared evidence (*RMA20220352#0034*) as an expert witness for the Applicant.

Prior to the hearing the Commissioner had also initially requested that the Council's 3 Waters Senior Engineer (Growth & Development), **Kelly Nikora**, be present in order to answer any relevant questions that may arise during the presentation of expert servicing evidence by Sam Green, who was appearing for the Applicant.

At the start of the hearing itself, the Commissioner noted that the final draft suite of agreed conditions/comments/changes (both a tracked change set and a clean copy) had now been circulated (on 12/4). These had resulted from conferencing between the Council and Applicant prior to the hearing and there were no outstanding matters of contention. As a result, the Commissioner advised he would not have questions of Mr Nikora.

Mr Nikora confirmed that he had read the final draft conditions and was satisfied with the conditions relating to network certainty. He would still be available if any questions did arise that the Commissioner may want to ask of him.

### **Site Visit**

The Commissioner advised that he had visited the site prior to the hearing, but would like to view the inside of the building. **Megan Gaffaney, acting as Project Manager for Council**, would arrange keys to access the building.

The Commissioner advised that after hearing the evidence at the hearing session he proposed to visit the site, during the lunch break. He asked the Applicant's expert witnesses to accompany him, solely to clarify any relevant details of their evidence that may be presented at the hearing this morning – if he asked for such clarification about that evidence. The Commissioner also invited the other parties present to also attend if they wished to do so.

The Commissioner emphasised that any details raised during the site visit would only address information that had already been presented as part of the evidence at the hearing. Following the site visit the hearing would resume and he would ask any further questions that he may have as a result of viewing the building.

### **Presentation of Evidence**

#### **Applicant**

The evidence from the expert witnesses appearing for the Applicant had been pre-circulated and none of these parties had any Summary Statements of Evidence to present as they considered this evidence had been very thoroughly prepared. The expert witnesses' respective evidence was taken as read and they were available to respond to questions from the Commissioner.

**Asher Davidson**, Legal Counsel for the Applicant, advised that she did not have any Legal Submissions to present.

The Commissioner advised that he would find it helpful if Ms Davidson could include, in her Right-of-Reply Submissions, whether there was any further or more recent case law he could refer to in regard to non-complying activity thresholds.

**Megan Gaffaney, Acting as Project Manager for the Council** showed and spoke to a power point presentation (*RMA20220352#0047*), highlighting the main points in that presentation. She and other witnesses for the Applicant responded to a number of questions of clarification asked by the Commissioner.

The Commissioner also asked questions of clarification in regard to Mrs Gaffaney's pre-circulated evidence (*RMA20220352#0032*).

A power point presentation (*RMA20220352#0045*) was then shown by **Brent Scott** who had assisted the Applicant with architectural drawings. Mr Scott then responded to a number of questions of clarification asked by the Commissioner in regard to the presentation and his pre-circulated evidence (*RMA20220352#0033*).

**Ann Galloway, Architect – Heritage Consultant**, responded to questions of clarification asked by the Commissioner in regard to her pre-circulated evidence (*RMA20220352#0035*).

**Sam Green - Engineer** responded to questions of clarification asked by the Commissioner in regard to his pre-circulated evidence (*RMA20220352#0036*).

**Janeen Kydd-Smith, Consultant Planner for Applicant**, responded to questions of clarification asked by the Commissioner in regard to her pre-circulated evidence (*RMA20220352#0037*).

The Commissioner asked Mrs Kydd-Smith to also go through the final draft suite of agreed conditions/comments/changes (both a tracked change set and a clean copy) which had been circulated prior to the hearing, on 12/4 following conferencing between the Council and Applicant (*RMA20220352#0054*).

Mrs Kydd-Smith addressed the above noted draft suite of agreed conditions in some detail. She and other expert witnesses for the Applicant, as appropriate, responded to questions of clarification asked by the Commissioner.

It was also noted that the reporting planner, **Jacqui Manning**, could address any aspects in regard to the above noted draft suite of agreed conditions later in the proceedings when she addressed the hearing. The Commissioner would ask questions of Ms Manning at that time.

The hearing adjourned for morning tea at 10.35am  
and resumed at 10.55am

## Presentation of Evidence...(Continued)

### Submitters

**Walter Breustedt** addressed his submission (*Page 75 in Agenda Document 5, part of 25706#001#0061*). He showed and spoke to a power point presentation (*RMA20220352#0044*), highlighting the main points in that presentation.

Mr Breustedt also tabled and spoke to a booklet titled “More Urban Green... ..Less Sealed Surfaces” compiled by biodiversity Hawke’s Bay (*RMA20220352#0048*). Following the hearing session he forwarded a copy of that booklet to be passed onto the Commissioner.

Mr Breustedt also advised that, with the consent of the Commissioner, he could forward a diagram showing a construction detail titled “Drainage Under Permeable paving”, (*RMA20220352#0049*). The Commissioner granted Mr Breustedt leave to forward this diagram, to be passed onto him for his consideration.

The Commissioner asked questions of clarification in regard to Mr Breustedt’s submission and the booklet and diagram that the Submitter had presented/referred to.

The Commissioner also asked some questions of clarification of the Applicant’s expert witnesses in regard to the above noted evidence presented/referred to by Mr Breustedt.

**Alan Passchier** addressed the hearing, speaking to his submission (*Page 19 in Agenda Document 5, part of 25706#001#0061*).

Mr Passchier advised that he was also speaking on behalf of Submitters **Nick and Jenny Stewart** – (*their submission was on Page 15 in Agenda Document 5, part of 25706#001#0061*) - (although he didn’t provide any supporting written statement to this effect).

The Commissioner did not ask any questions of clarification of Mr Passchier.

At this stage it was noted that Submitter **Fleur Rohleder (at Beca - on behalf of Fire & Emergency NZ)** had originally intended to forward a letter to be read out at the hearing, on behalf of her client. A copy of the final draft suite of agreed conditions/comments/changes (both a tracked change set and a clean copy) had been forwarded to Ms Rohleder (*RMA20220352#0054*).

Ms Rohleder had since advised that she would no longer have time to write a letter but stated, in an email, the points she would like to make on behalf of her client. These points were to support the conditions and to thank HDC for their recommendation of the firefighting water supply and access condition. This email (*RMA20220352#0059*) was read out at the hearing.

None of the other Submitters who had indicated they wanted to speak at the hearing had attended.

**Jacqui Manning, Consultant Reporting Planner** addressed the hearing. She did not go through her pre-circulated report, but responded to some of the planning related questions that the Commissioner had raised during the hearing. She also addressed the earlier noted draft suite of agreed conditions (*RMA20220352#0054*) and expanded on some of these conditions. She also responded to some further questions from the Commissioner.

**Caleb Sutton, Environmental Consents Manager**, also spoke briefly and responded to points of clarification raised by the Commissioner.



As had been outlined by the Commissioner at the start of the hearing, a site visit would take place during the lunch adjournment.

The hearing adjourned for lunch and a site visit at 11.35am  
and resumed at 12.33pm

At this point the Commissioner advised that he did not have any further questions of the parties.

The Commissioner requested that the Right of Reply from the Applicant be provided in writing for his consideration **by Asher Davidson**, by Friday, 21 April 2023.

As part of the Reply Submissions, the Commissioner advised that it would be useful for him to know where any current heritage buildings were located in the Hastings CBD and their status.

The meeting adjourned at 12.38pm

Following the hearing:

- (Thurs, 13/4) – Submitter, Walter Breustedt forwarded a copy of the following two items that he had referred to during the presentation of his submission:
  - A booklet titled “More Urban Green... ..Less Sealed Surfaces” compiled by biodiversity Hawke’s Bay (*RMA20220352#0048*). With the agreement of the Commissioner, this booklet was subsequently circulated to all parties.
  - A diagram showing a construction detail titled “Drainage Under Permeable paving”, which the Commissioner granted him leave to forward for consideration (*RMA20220352#0049*).
  - With the agreement of the Commissioner, this diagram was subsequently circulated to all parties – as “additional information provided at hearing by submitter”.
- (Thurs, 20/4) – Received Legal Submissions in Reply from Asher Davidson, for the Applicant (*RMA20220352#0053*).
- (Thurs, 20/4) – The Commissioner advised that he was formally closing the hearing as at this date (*RMA20220352#0061*).

Confirmed:

Commissioner:

Date:

## SCHEDULE 2

## RESOURCE CONSENT

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This Resource Consent authorises the holder to undertake land use activities at 206 and 218 Queen Street West and 223 Heretaunga Street West, Hastings (Lot 1 DP 13663 (ROT HBF3/551), Lot 1 DP 5310 and Lot 1 DP 22385 (ROT HBP2/185), Lot 2 DP 22385 (ROT 584846), Lot 3 DP 22385 (ROT 1023932) and Lot 3 DP 16426 (No ROT)) under section 9 of the Resource Management Act 1991 to substantially demolish buildings whilst retaining the façade of each, to redevelop the site to construct a three-storey mixed-use commercial and 20-unit residential apartment building with 17 parking spaces, to develop a mid-block pedestrian laneway from Heretaunga Street West through the centre of the block passing adjacent to the apartment building and through a public park/greenspace to Queen Street West, with existing vehicular service access routes within the block being retained and improved and new public carparking spaces provided, including all associated construction works.

Under sections 108 and 108AA of the Resource Management Act 1991 this Resource Consent includes and is subject to the conditions in Schedule A.

## SCHEDULE A

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### Interpretation

Wherever used in the conditions below, the following terms shall have the prescribed meaning:

**CCTV** mean closed circuit television

**Council** means the Hastings District Council (in its regulatory capacity)

**CMP** means Construction Management Plan

**CSMP** means Site-wide Contaminated Site Management Plan

**DMP** means Demolition Management Plan

**DSI** means Detailed Site Investigation

**ECOP** means **Council's** Engineering Code of Practice 2020

**Hastings District Plan** means the Partially Operative Hastings District Plan (March 2020)

**HB Farmers' Garage** means Hawke's Bay Farmers' Cooperative Garage building

**Main building** means the residential and commercial mixed-use building located on the Queen Street West frontage of the site

**Manager** means the Environmental Consents Manager, Planning and Regulatory Services, of **Council** or their nominee

**NES-CS** means the Resource Management (National Environment Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011

**RMA** means the Resource Management Act 1991

**RAP** means Remedial Action Plan

**SDCP** means Sediment and Dust Control Plan

**Site** means the land subject to this resource consent at 206 and 218 Queen Street West and 223 Heretaunga Street West, Hastings [legally described as Lot 1 DP 13663, Lot 1 DP 5310, Lot 1 DP 22385, Lot 2 DP 22385, Lot 3 DP 22385, and Lot 3 DP 16426]

**SQEP** means Suitably Qualified Environmental Practitioner

## General

1. The demolition, development and associated landscaping, car parking, lighting, servicing, and earthworks shall be in general accordance with the proposal, plans and information submitted in the application documentation and formal responses to further information requests<sup>1</sup> (HDC Ref: PID 25706 - Resource Consent: RMA20220352 #0094, #0019, and #0111 to #0114)<sup>2</sup>, unless otherwise altered by the conditions of this consent.

**Notes:**

- *Where there is any apparent conflict between the revised application referred to by condition 1 and the following conditions of consent, the following consent conditions shall prevail.*
- *The consent holder should note that this resource consent does not override any registered interest on the Record of Titles for the **site**.*

2. The consent holder shall ensure that a copy of this consent and all documents and plans referred to in this consent are kept on **site** at all times while work is being undertaken, and:
  - a. Provided to all parties undertaking works authorised by this consent; and
  - b. Presented to any **Council** officer on request.

**Notes:**

- *The retention on site via electronic means is deemed to satisfy the condition.*

3. The consent holder shall give the **Manager** at least two working days notice of:
  - a. the intention to commence each phase of works authorised by this consent;
  - b. the completion of each phase of works authorised by this consent; and
  - c. the intended first occupancy (commercial and/or residential) of the **main building** on the **site**.

**Notes:**

- *Failure to notify **Council** as stated in the above condition may result in enforcement action.*

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<sup>1</sup> Pursuant to s92 (**RMA**)

<sup>2</sup> HDC Ref: RMA20220352 – A revised 20-unit development lodged with Council by Sage Planning HB Limited, dated 6 February 2023

- In respect of this condition, the reference to “phase of works” on the **site** is reference to the demolition and earthworks (i.e. **site** remediation, filling) phase, and construction works (building, services, and public park & greenspace landscaping, fencing, and paving) phase.
- Please contact the Monitoring Inspector on phone (06) 871 5000 or email [rcmonitoring@hdc.govt.nz](mailto:rcmonitoring@hdc.govt.nz).

## Heritage Item

### ***Photographic Record***

4. Prior to the commencement of any **site** works, a photographic record of the **HB Farmers Garage** at 206 Queen Street West shall be prepared and submitted to the **Manager**.
  - a. The record shall particularly include the building’s steel barrel vault trusses, curved roof form, exposed concrete structural frame, brick infill panels, fuel inlet valves, evidence of the former service pits (visible in the existing floor slab), evidence of the former mezzanine floor (as indicated by plans and column remnants), roof ventilators and the expressed beam and column structure.
5. Prior to the commencement of any **site** works, a photographic record of the building at 223 Heretaunga Street West, shall be prepared and submitted to the **Manager**.

### ***Façade Strengthening - HB Farmers’ Garage***

6. Prior to commencement of any **site** works, the consent holder shall prepare and submit to the **Manager**, details of the final design for the strengthening of the façade which shall be certified by a suitably qualified and experienced heritage architect as achieving/ including the following:
  - a. seismic strengthening elements located to correspond with the existing structural frame and members at parapet level follow the curved form of the parapet;
  - b. the secondary frame shall reflect the original 1925 façade, such that horizontal elements align with the parapet and mid-floor structural frames; and
  - c. details of member dimensions, junctions and connections, and the design of the screen elements are provided.

## Overall Site Development

### ***All Roof Surfaces***

7. All roof surfaces shall be constructed from inert materials or painted with non-metal-based paint and maintained in good order.

### ***Paint Colours***

8. The exterior of the two retained building façades and any painted surfaces of the exterior of the **main building**, shall be finished in colours in accordance with the following:
  - a. Exterior walls shall be painted in any colour from the British Standard Colour Range BS5252 A, B, or C31, C33, or C35 categories.

- b. Trims (including window frames, doors, balustrades, or any architectural detailing or plaster decoration on the exterior façades) shall be painted in any colour from the British Standard Colour Range BS5252 A, B, C, or D categories.

**Note:**

- *The British Standard BS5252 Colour Range colour chart is available from any paint supplier.*
- *Further guidance for colour scheme planning is provided within the Hastings CBD Architectural Design Guide.*

**Main Building Exterior Design**

9. Prior to commencement of any **site** works, the consent holder shall prepare and submit to the **Manager** a final design for the exterior of the **main building** to the **site**, which shall be certified by a suitably qualified and experienced heritage architect as achieving/ including the following:
  - a. the style of the **main building** is contemporary but respects the character of adjacent heritage buildings regarding size, disposition of openings, bulk, scale and articulation, building materials, depth of window reveals, and width of columns;
  - b. plastered walls of the **main building** have a simple cornice in keeping with detailing of adjacent heritage buildings (i.e. not simply a metal cap flashing);
  - c. brick elements are unpainted; and
  - d. the **main building** is differentiated from the retained façade of the **HB Farmers Garage** by a 6-metre-wide setback.

**223 Heretaunga Street Façade**

10. The new glazed canopy and frame associated with the retained façade of the building at 223 Heretaunga Street West shall be within the existing veranda fascia.
11. All structural works to support retention of the existing façade of the building at 223 Heretaunga Street West shall be constructed so that no part of the structure protrudes above the existing façade or beyond the existing recession plane of the existing building.

**Building Acoustic Insulation Design**

12. Prior to commencement of the construction of the **main building** on the **site**, an Acoustic Design Report prepared by a suitably qualified and experienced acoustic engineer shall be provided to the **Manager** detailing how the residential units will be designed to comply with the noise limits specified in General Performance Standard and Term 25.1.7C of the **Hastings District Plan** for noise sensitive activities in the Central Commercial Zone.
  - a. The Acoustic Design Report's author shall provide to the **Manager** a certificate confirming that the means given within the Acoustic Design Report will be adequate to ensure compliance with the acoustic design requirements specified in the Standard and Term.

**Note:**

- *To achieve compliance while at the same time ensuring adequate ventilation, noise sensitive rooms with doors and windows or other openings to the outdoors may need to utilise other*

*methods to meet the ventilation requirements of the Building Act and relevant codes thereunder.*

- *The Acoustic Design Report may be lodged with the building consent for the **main building**, and in doing so the consent holder should advise the Monitoring Inspector on phone (06) 871 5000 or email [rcmonitoring@hdc.govt.nz](mailto:rcmonitoring@hdc.govt.nz).*

### **The Site**

13. Prior to the commencement of construction of the **main building** on the **site**, the consent holder shall provide to the **Manager** the documentation confirming that:
  - a. the access lane and external car parking to the northern boundary and western boundary of the **site** (and **main building**) having been vested in **Council** as a 'Service Lane'.
  - b. the land to form the public park & greenspace area from Queen Street West through to Heretaunga Street West is legally held as one parcel or in such a manner that the parcels of land cannot be partitioned off without the prior approval of **Council**.

#### **Note:**

- *The vesting of the 'Service Lane' should not result in any parcel of land not having legal and physical access to road.*

## **Demolition, Earthworks, and Construction**

### **Noise**

14. At all times all noise from demolition, maintenance, earthworks, and construction work shall comply with and be measured and assessed in accordance with NZS 6803:1999 *Acoustics – Construction Noise*.

#### **Note:**

- *NZS 6803:1999 Acoustics – Construction Noise in general allows for the production of significant noise between the hours of 7.30am to 6pm Monday to Saturday and no works on Sundays and Public Holidays. The standard also contains provisions relating to the measurement of noise from construction, maintenance, and demolition work.*

### **Sediment and Dust Control**

15. The consent holder shall at all times during earthworks and construction works take all reasonably practicable measures to minimise the deposition of dust and particulate matter beyond the **site** boundaries.

#### **Note:**

- *The RC Monitoring and Compliance Officer of the **Council** will determine any non-compliance with this condition on the basis that in their opinion the dust or particulate matter is noxious, offensive, or objectionable.*

16. There shall be no off-site deposit of sediment or detritus from the area of the works and no deposit of sediment or detritus resulting from demolition and earthworks in any watercourse, stormwater drain, or public road.

17. No less than 20 working days prior to the commencement of any works on **site**, the consent holder shall submit a **SDCP** to the **Manager** for certification.

**Note:**

- *The purpose of the **SDCP** is to ensure effects related to earthworks and demolition relating to dust and sediment control are effectively managed.*

18. The **SDCP** shall be prepared by a suitably qualified expert(s) and address/include the following:

- a. the author's qualifications and experience in this area.
- b. erosion and sediment control measures including (but not limited to);
  - i. measures to prevent fugitive dust and windblown sediment beyond the **site** boundary to satisfy condition 15;
  - ii. measures / procedures to manage sediment content in construction stormwater;
  - iii. details of any measures to control mud and detritus from vehicles onto the surrounding road network or adjoining land to satisfy condition 16; and
- c. maintenance of local drainage paths from adjoining properties.

**Notes:**

- *The **Manager** will either certify, or refuse to certify, the **SDCP** within 20 working days of receipt.*
- *Should the **Manager** refuse to certify the **SDCP**, then the **Manager** will provide a letter outlining why certification is refused based on the parameters contained in this condition.*
- *Provided that the information requirements are addressed by the **SDCP**, certification will not be withheld.*

**Demolition**

19. No less than 20 working days prior to the commencement of any **site** demolition works, the consent holder shall submit a **DMP** to the **Manager** for certification.

**Note:**

- *The purpose of the **DMP** is to ensure demolition effects including noise, human health, vehicle traffic and vibration are effectively managed, and the site is left in a stabilised, tidy, and safe manner.*

20. The **DMP** shall be prepared by a suitably qualified expert(s) and detail the following (at the minimum):

- a. the author's qualification/s and experience in this area;
- b. the suitably qualified engineer retained to supervise the protection, support, and strengthening of the two facades during demolition;
- c. description of how the works will be carried out, including timing and staging, and how the demolished material will be removed from the site;
- d. measures to ensure those parts of the heritage building(s) to be retained are protected and that conditions 4 to 6 have been met;
- e. demolition works hours of operation and anticipated timeframe for completion;
- f. how traffic will be managed, including:



- i. measures to manage demolition vehicle traffic and parking;
- ii. details of on-site access, turning and manoeuvring for heavy vehicles (if any);
- g. identification of all possible receptors identified within the **DSI** associated with demolition works;
- h. how general public safety will be maintained at and around the **site**, including the location and content use of any demolition/health and safety signage;
- i. demolition noise control measures;
- j. A copy of the approved Archaeological Authority from Heritage New Zealand Pouhere Taonga;
- k. contact details for **site** manager;
- l. measures for communicating with neighbouring landowners and occupants about proposed works prior to works commencing;
- m. complaints procedures and register;
- n. procedures for the monitoring, audit, and review of the **DMP**; and
- o. a Site Remedial Plan for post-demolition including measures ensuring that the **site** is left in a stabilised, tidy, and safe state in the interim period between completion of the demolition works and the commencement of development on the **site**.

**Notes:**

- *The demolition and strengthening work will require a building consent prior to commencement of work.*
- *The **DMP** does not address the uplifting and removal of the concrete floor or fuel tank(s) as these require further investigation upon removal of the surrounding building structure and could require management.*
- *The **Manager** will either certify, or refuse to certify, the **DMP** within 20 working days of receipt.*
- *Should the **Manager** refuse to certify the **DMP**, then the **Manager** will provide a letter outlining why certification is refused based on the parameters contained in this condition.*
- *Provided that the information requirements are addressed by the **DMP**, certification will not be withheld.*
- *The **Manager** may seek advice from a Certified Environmental Practitioner in respect of the information required by condition 20(g).*

21. All works shall be completed in accordance with the **ECOP**.

**Note:**

- *All works within the boundaries of the legal road will need to be undertaken by a contractor who is pre-approved to do so by the **Council**.*

**Contaminated Site Management Plan and Remedial Action Plan (NES-CS)**

22. No less than 20 working days prior to the commencement of the removal of the concrete floor of the **HB Farmers' Garage**, removal of the tank(s) and/or the commencement of any earthworks on the **site** the consent holder shall provide a **CSMP / RAP** prepared by a Suitably Qualified and Experienced Practitioner under the **NES-CS** to the **Manager** for certification.

**Note:**

- *The objective of the **CSMP / RAP** is to ensure, the protection of the health of any worker, and that ground level demolition, fuel tank removal, excavations, and remediation or removal of*

*soil, are undertaken in accordance with this consent and best practice, and effects are effectively managed.*

23. The **CSMP / RAP** shall address the following (at the minimum):
- a. excavation protocols;
  - b. health and safety protocols, including identification of all possible receptors associated with the uplifting and removal of the concrete floor and fuel tank(s), the potential health risks, and the measures to address those risks;
  - c. dust suppression and sediment control beyond that contained within the certified **SDCP**;
  - d. unexpected discovery of contamination protocols;
  - e. contaminated soil management procedures and options for remediation, including off-site disposal of contaminated soil under controlled conditions to an authorised facility or landfill for disposal in accordance with the requirements of the disposal site and the relevant authority; and
  - f. contact details for the suitably qualified and experienced land contamination expert appointed to oversee and manage the earthworks.

**Notes:**

- *The **Manager** will seek advice from a Certified Environmental Practitioner in respect of the technical **NES-CS** matters.*
- *The **Manager** will either certify, or refuse to certify, the **CSMP / RAP** within 20 working days of receipt.*
- *Should the **Manager** refuse to certify the **CSMP / RAP**, then the **Manager** will provide a letter outlining why certification is refused based on the parameters contained in this condition.*
- *Provided that the information requirements are addressed by the **CSMP / RAP**, certification will not be withheld.*

**Construction Management Plan (CMP)**

24. No less than 20 working days prior to the commencement of any construction works on the **site** the consent holder shall submit a **CMP** prepared by a suitably experienced and qualified expert to the **Manager** for certification.

**Note:**

- *The objective of the **CMP** is to ensure the construction activities are undertaken in accordance with this consent and best practice, and effects are effectively managed.*

25. The **CMP** shall detail the following (at the minimum):
- a. the author's qualification/s and experience in this area;
  - b. identification of material laydown areas;
  - c. construction works hours of operation and anticipated timeframe for completion;
  - d. methodology for the timing and staging of the **main building** construction and associated site works;
  - e. how traffic will be managed, including:
    - measures to manage construction vehicle traffic and parking;
    - details of on-site access, turning and manoeuvring for heavy vehicles (if any);

- f. how general public safety will be maintained at and around the site, including the location and content use of any health and safety signage proposed;
- g. construction noise control measures adopted to satisfy condition 14;
- h. procedures for the management of vibration effects, including (where relevant) measures to operate within the limits set out in German Standard DIN 4150 1999-02 Structural Vibration – Effects of Vibration on Structures;
- i. contact details for site manager;
- j. measures for communicating with neighbouring landowners and occupants about proposed construction works prior to works commencing;
- k. complaints procedures and register; and
- l. procedures for the monitoring, audit, and review of the CMP.

**Notes:**

- *The **Manager** will either certify, or refuse to certify, the **CMP** within 20 working days of receipt.*
  - *Should the **Manager** refuse to certify the **CMP**, then the **Manager** will provide a letter outlining why certification is refused based on the parameters contained in this condition.*
  - *Provided that the information requirements are addressed by the **CMP** certification will not be withheld.*
26. Should the **Manager** refuse to certify the **SDCP**, **DMP**, **CSMP** / **RAP**, or **CMP** the consent holder shall submit a revised **SDCP**, **DMP**, **CSMP** / **RAP**, or **CMP** to the **Manager** for certification.
- a. The certification process shall follow the same procedure and requirements as outlined in conditions 17 & 18, 19 & 20, 22 & 23, and 24 & 25, as relevant.
  - b. No demolition work shall commence on the **site** prior to the **SDCP** and **DMP** being certified.
  - c. No earthworks or removal of the concrete floor and fuel tank(s) shall commence prior to the **SDCP** and **CSMP** / **RAP** being certified.
  - d. No construction of the **main building** shall commence prior to the **CMP** being certified.
27. Prior to any demolition, soil disturbance, and/or earthworks activities, the consent holder shall ensure that all environmental controls and sediment / erosion measures outlined in the **SDCP**, **DMP** and **CSMP** / **RAP** are in place.
- a. These measures shall be maintained throughout the duration of the demolition, earthworks, and construction work phases at the **site**.
28. All demolition, earthworks, disturbance works associated with the remediation or removal of contaminated soils, fuel tank(s) removal, and construction work on the **site** shall be carried out in accordance with the certified **SDCP**, **DMP**, **CSMP** / **RAP**, and **CMP** for the works.
29. The **SDCP**, **DMP**, **CSMP** / **RAP**, and **CMP** may be amended at any time by the consent holder.

- a. Any amendments to the **SDCP, DMP, CSMP / RAP**, or **CMP** shall be submitted by the consent holder to the **Manager** for certification.
- b. If the amended **SDCP, DMP, CSMP / RAP**, or **CMP** are certified, then they become the certified plan for the purposes of conditions 27 and 28.
- c. Any amendments to the **SDCP, DMP, CSMP / RAP**, or **CMP** shall be:
  - i. consistent with the conditions of this resource consent; and
  - ii. prepared by a suitably qualified expert(s).

**Note:**

- *Any amendment to the **SDCP, DMP, CSMP / RAP**, and/or **CMP** cannot be implemented until certification is received.*

30. Any excavated soil, identified by the **CSMP / RAP**, as requiring off-site disposal, is to be removed under controlled conditions to an authorised facility or landfill for disposal in accordance with the requirements of the disposal site and the relevant authority.
31. Within two (2) months of the completion of the **site** remediation earthworks, the consent holder shall submit a **Site Validation Report** to the **Manager**.
32. The **Site Validation Report** required by condition 31 shall:
  - a. Be prepared in general accordance with the Contaminated Site Management Guidelines No.1 Guidelines for Reporting on Contaminated Sites in New Zealand, Ministry for the Environment, 2011.
  - b. Include, but not be limited to:
    - i. A summary of the works undertaken;
    - ii. Reports of any complaints and breaches of the procedures set out in the **CSMP / RAP**, or with the conditions of this consent;
    - iii. A summary of any testing undertaken, tabulated analytical results, and interpretation of the results in the context of the **NES-CS**;
    - iv. Volumes of soil and copies of the disposal dockets for the material removed from the **site**;
    - v. A figure showing the areas where contaminated soil (i.e. above guideline values specified in the **CSMP / RAP** are left on **site**; and
    - vi. Results of testing of any imported fill material to ensure compliance with the definition of 'cleanfill', as per 'A Guide to the Management of Cleanfills', Ministry for the Environment (2002).
33. If work on **site** is abandoned, the consent holder shall take adequate preventative and remedial measures to control sediment discharge and shall thereafter maintain those measures for so long as is necessary to prevent sediment discharge from the **site**.

## Engineering

### **Pre-Site Works**

34. Prior to any **site** works commencing,

- a) the roles and responsibilities for design and development for the duration of the demolition, earthworks, and construction phases of the development; and
- b) the details of the Chartered Engineer who will act as the consent holder's representative for the duration of the development,

shall be provided to the **Manager**.

35. Notwithstanding any Building Consents, prior to any **site** works commencing, other than building demolition, the consent holder shall submit engineering design drawings, plans and specifications for all proposed engineering works prepared by a suitably qualified Civil Engineer for certification by the **Manager** to satisfy conditions 34, 38 to 41, 44, 45, and 47 to 55.

- a) All design and works shall be in accordance with **Council's ECOP**.
- b) No works shall commence until the engineering design drawings, plans and specifications are certified by **Council's** Development Engineer.
- c) All works shall be carried out in strict accordance with the certified engineering drawings, plans, and specifications.

**Notes:**

- *Engineering drawings shall contain sufficient detail to clearly illustrate the proposal to enable assessment of compliance with **Council's ECOP**.*
- *The information will not be deemed complete unless accompanied by Form 4, as contained within Appendix 62 of the **Hastings District Plan**, signed by a CPEng Civil Engineer certifying that the road, accesses/parking area, stormwater system and overland flow path, wastewater and water systems have been designed in accordance with **Council's ECOP**.*
- *One hard copy and one electronic version (PDF) of complete engineering plans (including engineering reports, calculations, and specifications) shall be submitted to **Council's** Development Engineer.*
- *All drawings submitted shall clearly mark all drains/connections, OFP, road and services as being either public or private.*
- *The engineering plans and documents are to be submitted to the developmentengineer@hdc.govt.nz email address and shall include in the subject line RMA20220352 number, property address and what is related for (i.e. EPA approval for ...)*
- *The engineering plans submitted for approval shall be accompanied by a technical memo specified what is for the application, which condition of RC is related to, supporting documents, roles, and responsibilities.*

**Post Site Works**

36. Prior to occupation of the **main building** and starting the related activities the consent holder shall provide to the **Manager**:

- a) As built drawings (height datum and benchmark specified) and details, including WASABI, **CCTV** for 3 Waters public/private including (detention tanks / depression and any stormwater pre-treatment), road (including any modification), parking, overland flow path, and earthworks.

- i. The as built and WASABI shall notate and specify clear public/private assets.
  - b) A "Construction review" producer statement issued by the contractor(s) for the services constructed related to the development.
  - c) **CCTV** inspection records (DVD), in accordance with **Council's CCTV** technical specification, for all public/private wastewater mains and all storm water mains and sump leads.
  - d) All Road Assessment and Maintenance Management (RAMM) as-built plans and data for the new road/access works and modification
    - i. This shall be inclusive of kerb lines, cesspits, footpaths, intersection control devices, pavement marking, and if any street lighting, street furniture, street names, speed signage, directional signs, audible/visual signs, landscaping, etc.
  - e) A report from an appropriately qualified and registered electrician certifying that the lights have complied with the relevant safety standards and that they are connected to the network and are operational.
37. An Engineering Completion Certificate certifying that all works have been constructed in accordance with the certified Engineering Plans shall be provided to the **Manager** within 2 (two) months of the first of either:
- a) the completion of the engineering works; and / or
  - b) prior to the occupation of the **main building** and starting the activity.

### ***Earthworks***

- 38. The final **site** earthworks design shall detail the earthworks to be carried out, overland flow paths and proposed finished ground levels.
- 39. The earthworks design required under condition 38 shall not include any changes in the existing ground level of the external boundaries of the **site** and shall be produced by a suitably qualified and experienced professional for earthworks.
- 40. No filling shall take place that will obstruct the overland flow path from higher ground.
- 41. Earthworks shall be undertaken in a manner which ensures that the land within the **site**, and on adjoining properties, remains stable at all times and the integrity of any existing public drains will not be adversely affected.
- 42. There shall be no obstruction of access to public footpaths/berms, private properties, public services/utilities, or public reserves resulting from the demolition, construction and/or earthworks activities unless otherwise as contained within the certified **SDCP, DMP, and CMP**. All materials and equipment shall be stored within the **site's** boundaries.

43. Only 'clean fill' shall be imported onsite (i.e. no rubbish, no stumps, no concrete, bricks any no other substance containing; combustible, putrescible, degradable or leachable components, hazardous substances, products or materials derived from hazardous waste treatment, hazardous waste stabilisation or hazardous waste disposal practices, medical and veterinary waste, asbestos or radioactive substances or liquid waste).

**Note:**

- Imported 'clean fill' will also need to comply with the relevant standards in the **NES-CS**.

**Public Drains**

44. All public drains located on private property shall be detailed on a plan specifying the dimensions of an easement to protect the public drain/s.
45. All public drains detailed on the plan specified in condition 44 shall be protected by an easement in gross in favour of **Council**.

**Note:**

- Section 108 of the Land Transfer Act (2017) sets out how an easement may be registered using an easement instrument under section 109 of that Act. Easements may also be established at the time of subdivision prior to the certification process under s224 of the RMA.

46. Prior to the occupation of the **main building** and starting the activity the consent holder shall provide to the **Manager** documentation of legally satisfying creation of the easements required by condition 45 43.

**Servicing**

47. The development must be supplied with connections to the following service infrastructure in accordance with the Engineering Servicing Report ref# J22172-6 by Infir dated 16 December 2022 (HDC Ref: PID 25706 - Resource Consent: RMA20220352 #0114):
- a) A public sewer connection located on King Street;
  - b) A public storm water connection located on King Street;
  - c) A water supply connection to the water main for potable and the new connection is to include a manifold fitted with suitable commercial water meter; and
  - d) A water supply connection, system, and access for firefighting purpose in accordance with the New Zealand Fire Service Fire Fighting Water Supplies Code of Practice SNZ PAS 4509:2008. The new connection is to include a RPZ back flow preventer.

**Notes:**

- *Firefighting capacity – There is adequate capacity in the existing network to meet only the FW2 requirements stated from the Fire Hydrants.*
- *A service connection approval will be required, and need to be obtained from **Council**, for any new connection to the public infrastructure system, prior to application for a building consent or connection to any public network.*

- The connection application form including lodgement and fees can be found at the following **Council** website: For New service connection application guidance refer to: <https://www.hastingsdc.govt.nz/index.php/services/water/water-service-connections/>

48. All works on the existing public three waters networks must be carried out by a **Council** approved contractor.
49. The development must be supplied with an underground connection to power.

### **Stormwater Management**

50. Stormwater reticulation discharge from the **site** for the development shall not exceed the pre-development level. This shall be achieved by the provision of off-line stormwater attenuation tanks and attenuation in the carparking / vehicle manoeuvring area, and directing all additional drainage to King Street North, and in accordance with the “206 Queen Street West Servicing Report” (prepared by Infir and referenced J22172-6, dated 16 December 2022) (HDC Ref: PID 25706 - Resource Consent: RMA20220352 #0114).

### **Water supply**

51. Water Reticulation design shall include:
  - a) Connections shall be fitted with an RPZ testable back flow preventer and include manifold fitted with suitable commercial water meter located outside the boundary;
  - b) Any existing water connections which will be reused; and
  - c) Any existing water connections which will be abandoned and capped off;

### **Wastewater**

52. Wastewater reticulation design shall include:
  - a) Detailed wastewater analysis and/or modelling report demonstrating there is, or will be, at the time of connection, sufficient capacity; or
  - b) Detailed alternative on-site design which demonstrates that any potential adverse effects on the capacity of the wastewater network at the time of connection can be mitigated;
  - c) Construction methodology which includes full detail of the installation of the new diversion of wastewater 150 mm pipe and earthwork/construction within zone of influence to existing and new wastewater public pipes;
  - d) Detail of building/construction within zone of influence of existing and proposed wastewater public pipes;
  - e) Contingency plan for the replacement/offsetting of the existing live sewer main;
    - **Note:** The details of that contingency plan will need to be agreed prior to earthwork and construction.
  - f) Preconstruction **CCTV** and condition report of the existing public wastewater pipe located within the site; and



- g) Any existing wastewater connections which will be reused shall be demonstrate that are fit for purpose and in good condition.

**Notes:**

- *Although changes to demand on the wastewater network in the vicinity of the site have occurred, there remains limited capacity within the network. The analysis and / or modelling required by condition 52(a) is necessary and where the demand generated by the development is to exceed the network's capacity, design of upgrades will be required per condition 52(b).*
- *If any agreement with **Council's** Asset Manager related to the design and/or construction of the **Council** wastewater pipe or any required remediation or replacement of the existing 150mm diameter wastewater public pipe located within the **site** will be in place at the time of Engineering design plan application a copy of the agreement and full detail design, calculation and related documents shall be provided with the Engineering design application.*

### Vehicle Crossing, Parking, Loading, and Manoeuvring

53. Access and parking shall include:

- a) All parking spaces, access and manoeuvring areas shall be of a sufficient size and layout to accommodate a 'passenger vehicle' as defined in the "Austroads Design Vehicles and Turning Path Templates Guide" AP-G34-13, Austroads, 2013 – (refer to Appendix 72 of the Hastings District Plan for the dimensions of this vehicle);
- b) Parking areas, together with access and turning space, shall be designed to ensure that vehicles negotiate the parking area at a safe speed and are not required to reverse either onto or off a street; and
- c) There shall be illumination of access drives and internal pedestrian areas within the carparks to allow for safe use of the parking areas during the hours of darkness to users. Such illumination shall be shaded and directed away from adjoining roads and shall be less than 8 lux spill measured at a height of 1.5m above the ground at the boundary of the site.

54. Vehicle crossing(s) design shall include:

- a) Detailed design of the interface between the access way and the footpath at the Queen Street West crossing shall be in accordance with Section 8 'Vehicular Access' of the '206 Queen Street West, Hastings Residential & Commercial Development Parking Assessment', prepared by Urban Connection, dated November 2022 (HDC Ref: PID 25706 - Resource Consent: RMA20220352 #0111).

**Note:**

- *The design will require approval by **Council's** Transportation Manager.*
- b) A copy of the approved Corridor Access Request, complete with Traffic Management Plan.

55. Street and access design shall include:

- a) Street lighting and other structures/facilities on the roads/accesses to be vested in **Council** (including traffic calming devices, tree pits, pot planting, if any stormwater devices and safety measurements, marking and street signs, etc.);

- b) Consideration of the provision of 'soft' landscaping within the street and access areas, where practicable, including opportunities for canopy trees to provide shading to adjoining apartments;
  - c) Detail of any visual signs and traffic management measures be provided to reduce vehicle speeds when exiting the site. Any design at the driveway / footpath interface should be such that pedestrians clearly have priority; and
  - d) Design and details of any fences / retaining walls and other structures.
56. Prior to occupation of the **main building** and starting the related activities the:
- a) access / car park area for the development shall be constructed with stormwater control, in compliance with **Council's ECOP**.
  - b) existing vehicle crossing on Queen Street West shall be provided for access to the site. The vehicle crossing shall be structurally constructed in accordance with **Council's ECOP** – detail C19 and the layout approved under vehicle crossing application.
- Note:**
- *The layout will be required to be approved prior to commencement of construction under a vehicle crossing application to **Council**.*
57. Any redundant vehicle crossing shall be reinstated at berm in accordance with **Council's ECOP**.
- Notes:**
- *For vehicle crossing guidance refer to: <https://www.hastingsdc.govt.nz/services/roads-and-streets/vehicle-crossings/>*
  - *That all work within the road reserve shall be undertaken by a contractor being pre-approved by **Council** to work within the public road reserve.*
  - *The distance between the vehicle crossing and a storm water connection to the kerb and channel with the kerb outlet being positioned to a minimum of 1.0 m clear of any vehicle crossing.*
  - *The distance between the vehicle crossing and a power pole/power box/streetlight being positioned to a minimum of 1metre clear of any vehicle crossing.*
58. All damage to the footpath, kerb or any other roading assets resulting from the re-development of the **site** shall be repaired.
- Notes:**
- *The reinstatement works will be at the consent holder's expense.*
  - *All works within the boundaries of the legal road will need to be undertaken by a contractor being pre-approved by **Council** to work within the road reserve.*
  - *All works within the boundaries of the legal road will require an inspection by an officer of the Asset Management Division of **Council** prior to backfilling or covering over, including the formation prior to pouring of concrete.*

## Public Park & Greenspace Landscaping, Fencing and Paving

59. Prior to the construction of the public park/greenspace area and associated walls/fencing and paving, the consent hold shall submit to the **Manager** for certification a detailed design for the construction of the Public Park/Greenspace Plan.
60. The Public Park/Greenspace Plan shall be prepared by a suitably qualified expert(s) and address the following (as a minimum):
- Landscape planting, including the species types, numbers, sizes and locations of planting;
  - Consideration of the expression of the pre-1867 natural environment through use of stormwater gardens and capturing water for an urban wetland environment;
  - Walls and fencing around the perimeter of the park/greenspace;
  - Final installation details for re-use of steel roof trusses from the **HB Farmers' Garage**, including dimensions of new members (e.g., posts and beams), and detail of junctions and connections;
  - Type and location of interpretative material that will be incorporated into the design of the park/greenspace to inform the public of the architectural and social history of the site, including the history of the **HB Farmers' Garage** and the design rationale for the 'ghost' frame used to strengthen the retained façade of the building;
  - Type and location of lighting to be provided within the park/greenspace;
  - Consideration of the provision of 'hard' and 'soft' landscaping (i.e., permeable / impermeable surface) with an objective, where practicable, on maximising soft landscaping, including opportunities for canopy trees; and
  - Consideration of the provision of shaded areas.

### Notes:

- The **Manager** will either certify, or refuse to certify, the Public Park/Greenspace Plan within 20 working days of receipt.*
- Should the **Manager** refuse to certify the Public Park/Greenspace Plan, then the **Manager** will provide a letter outlining why certification is refused based on the parameters contained in this condition.*
- Provided that the information requirements are addressed by the Public Park/Greenspace Plan, certification will not be withheld.*

61. The **site** shall be constructed and landscaped in accordance with the certified Public Park/Greenspace Plan.
62. Within 20 working days of the establishment of the landscaping, the consent holder shall submit a completion certificate demonstrating compliance with ~~this~~ condition 61 to the **Manager**.
- The completion certificate shall be prepared and signed by a suitably qualified expert.
63. The consent holder shall ensure that all landscaping within the park/greenspace is maintained (including, but not limited to weeding, mowing, pruning, and watering) on a

regular and as-needed basis so as to ensure the successful implementation of the certified Public Park/Greenspace Plan.

64. Any plant specimens that are removed, die or become damaged, or are defective within 5 years of implementation of the certified Public Park/Greenspace Plan shall be replaced with specimens of a similar size and species as originally proposed to ensure successful implementation of the landscaped areas.
65. The Public Park/Greenspace Plan may be amended at any time by the consent holder.
  - a. Any amendments shall be submitted by the consent holder to the **Manager** for certification.
  - b. If the amended Public Park/Greenspace Plan is certified, then it becomes the certified plan for the purposes of conditions 61 to 64.
  - c. Any amendments to the Public Park/Greenspace Plan shall be:
    - i. consistent with the conditions of this resource consent; and
    - ii. prepared by a suitably qualified expert or experts.

## Monitoring and Review

66. The consent holder shall pay **Council** engineering and compliance fees for plan approvals, **site** inspections and consent compliance monitoring, plus any further monitoring charge or charges to recover the actual and reasonable costs that have been incurred to ensure compliance with the conditions attached to this consent.

### **Notes:**

- *A monitoring deposit of \$200 (including GST) will be payable to cover the reasonable costs of monitoring compliance with the conditions of the consent in accordance with **Council's** schedule of charges.*
- *Refer to **Council's** current schedule of Building and Planning fees for guidance on the current rate chargeable.*
- *In the event of non-compliance being detected by monitoring or justified complaint and/or the costs of monitoring consent exceeding the deposit, the costs to **Council** of any additional monitoring will be recovered from the consent holder in accordance with **Council's** advertised schedule of fees.*

67. The conditions of this consent may be reviewed by **Council** pursuant to Section 128 of the Resource Management Act 1991 by the giving of notice pursuant to Section 129 of the Resource Management Act 1991 (with the reasonable costs of the review process being borne by the consent holder) on the anniversary of commencement of consent.
  - a. The purpose of the review may be for any of the following purposes:
    - i. To respond to any adverse effect on the environment which may or may potentially arise from the exercise of this consent and which was not apparent at the time of the grant of this consent. The effects include (but are not limited to) those that may arise in relation to noise and traffic effects;
    - ii. To require the consent holder to adopt the best practicable option to mitigate any adverse effect on the environment; and

- iii. To ensure that the conditions are effective and appropriate in managing the effects of the activities authorised by this consent

### Advice notes

- *Please note that a resource consent is not a consent to build and does not constitute building consent approval. A building consent must be issued prior to any building work being undertaken. A separate application is required for a building consent if any earth-retaining structure is intended as part of this work and the wall is higher than 1.5 metres or is subject to surcharging.*
- *It is the consent holder's responsibility to comply with any conditions imposed on this resource consent prior to and during (as applicable) exercising this resource consent.*
- *All costs arising from any of the above conditions shall be borne by the consent holder, pursuant to Section 36 of the **RMA**.*
- *Under Section 125 of the **RMA**, this resource consent will lapse in five years, unless it is given effect to within that time.*
- *The consent holder is responsible for ensuring all works meet, or the necessary resource consents are obtained from Hawke's Bay Regional Council in respect of, the Hawke's Bay Regional Resource Management Plan.*
- *The consent holder is responsible for obtaining all other necessary consents, permits, and licences, including those under the Building Act 2004, and the Heritage New Zealand Pouhere Taonga Act 2014. This consent does not remove the need to comply with all other applicable Acts (including the Property Law Act 2007 and the Health and Safety in Employment Act 1992), regulations, relevant Bylaws, and rules of law. This consent does not constitute building consent approval.*
- *Works within the legal road will require a Corridor Access Request (CAR)*
- *As advised by the consent holder, an approved Archaeological Authority from Heritage New Zealand Pouhere Taonga will be required under the Heritage New Zealand Pouhere Taonga Act 2014 (HNZPTA) to modify or destroy archaeological sites prior to the commencement of site works.*