

IN THE MATTER of the Resource Management Act 1991
AND

IN THE MATTER of an appeal under clause 14 of
Schedule 1 to the Act

BETWEEN HOUSE MOVERS SECTION OF THE
NEW ZEALAND HEAVY HAULAGE
ASSOCIATION INC

(ENV-2015-WLG-000073)

Appellant

AND HASTINGS DISTRICT COUNCIL

Respondent

BEFORE THE ENVIRONMENT COURT

Environment Judge C J Thompson sitting alone pursuant to section 279 of the Act.

IN CHAMBERS

CONSENT ORDER

Introduction

[1] The Court has read and considered the appeal and the parties' draft consent order received 31 August 2016 and the memorandum received 29 November 2016.

[2] No person gave notice of an intention to become a party under s274.

[3] The Court is making this order under s 279(1)(b) of the Act, such an order being by consent, rather than representing a decision or determination on the merits pursuant to s 297. The Court understands for the present purposes that:

- (a) All parties to the proceedings have executed the memorandum requesting this order; and
- (b) All parties are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction, and conform to relevant requirements and objectives of the Act, including in particular Part 2.



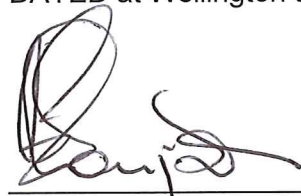
Order

[4] The Court orders, by consent, that the appeal is allowed to the extent that the Proposed Hastings District Plan be amended as set out in **Appendix A** to this consent order

[5] The appeal is otherwise dismissed.

[6] There is no order as to costs.

DATED at Wellington this 7th day of December 2016



C J Thompson
Environment Judge



Appendix A

1. Amend all rule tables of the zones listed in **Appendix B** as follows:

Rule	Land Use Activity	Activity Status
[X]	Relocated Buildings	CP
[consecutive numbering]	Relocated Buildings not complying with performance standards in [X.Y.Z]	RD

2. Insert new permitted activity performance standard [X.Y.Z] to the section 'Specific Performance Standards and Terms' in the zones listed in **Appendix B** as follows:

- a. No more than one unfinished relocated building shall be placed on a single site in existence at [consent order date]. For the purposes of this standard 'unfinished' means that the external reinstatement work required for the relocated building is yet to be completed.
- b. Any relocated building intended for use as a dwelling must have previously been designed, built and used as a dwelling.
- c. A Building Pre-Inspection report shall accompany the application for a building consent for relocation to the destination site. That report is to identify all reinstatement works that are to be completed to the exterior of the relocated building in order to achieve a tidy and workmanlike external appearance. The Building Pre-Inspection report shall be prepared by:
 - A. A Hasting District Council Building Compliance Officer (or equivalent);
 - B. A member of the New Zealand Institute of Building Surveyors;
 - C. A licensed building practitioner (carpenter or design category); or
 - D. A building inspector from the local authority where the building is being relocated from.
- d. The landowner of the destination site for the relocated building must certify to the Council that the reinstatement work identified in the Building Pre-Inspection Report will be completed within the timeframes specified in standard g. A, B and C.
- e. The relocated building shall not be placed on the destination site until a building consent has been issued for the relocation, unless otherwise agreed in writing by the Hastings District Council.

- f. The Council shall be notified at least 48 hours before the building is relocated of the intended delivery date. This standard will be met provided the building is relocated within 5 days of the notified date.
- g. Reinstatement works shall be undertaken within the following timeframes:
 - A. The building shall be located on permanent foundations in accordance with the building consent and the roof made weathertight no later than 1 month of the building being moved to the site. For the purposes of this standard 'weathertight' means that the roof is completely repaired, replaced or installed as per the requirements of the Building Pre-Inspection Report.
 - B. The remaining work to make the building 'weathertight' shall be completed within 4 months of the building being moved to the site. For clarification, this means that all windows, doors and exterior cladding are completely repaired, replaced or installed as per the requirements of the Building Pre-Inspection Report.
 - C. All remaining reinstatement work required by the Building Pre-Inspection Report and the building consent to reinstate the exterior of any relocated building shall be completed within 9 months of the building being delivered to the site. Without limiting (c.) (above) reinstatement work is to include connections to all infrastructure services and closing in and ventilation of the foundations and the repair of any damage to the exterior of the building that may occur during transit to the destination site.
- h. The landowner of the destination site must deposit a refundable monitoring fee of \$750 with the Council at the same time as submitting the Building Pre-Inspection Report with the Council.

Advice Notes:

- i. Photographs showing progress of reinstatement works may be provided to Council's Environmental Compliance Officer. A final site inspection will still be required to determine compliance on completion of reinstatement works*
- ii. The onsite inspection by a Hastings District Council Building Compliance officer (or equivalent position) provided for in (iv) above shall occur at the time of the foundation inspection for the building consent process, and will not incur additional costs.*
- iii. Council has Building Pre-Inspection Reports available on request*

- 3. Insert new restricted discretionary assessment criteria [A.B.C] in the zones listed in **Appendix B** as follows:

Assessment Criteria for relocated building activities that fail to meet one or more of the specific performance standards and terms outlined in rule [X.Y.Z].

In considering applications for relocated buildings as restricted discretionary activities, Council has limited its discretion to those particular matters outlined below and retains the discretion to grant or refuse consent and to impose conditions in relation to those matters only. As a restricted discretionary activity, applications may be notified under the Act.

- a. Whether the proposal will adversely affect the character and amenity of neighbouring sites and the surrounding area by more than one unfinished building being relocated onto the site at any one time; consideration will be given to any cumulative impacts on neighbouring sites and the surrounding environment, and whether these can be sufficiently mitigated or whether the site has the ability to internalise these effects;
- b. Whether the proposed relocated building(s) will maintain the amenity of the streetscape including the prevailing site development characteristics of the street and surrounding area (including the relationship of the building to the street, and the landscaping treatment of the front yard area);
- c. Whether the siting of the building complies with the general performance standards of the zone in which it is to be located;
- d. Whether the building is compatible with the scale, character, style and era of other buildings on neighbouring sites and in the surrounding area; and whether reinstatement work, other alterations to the building, landscaping of the site, or other measures could assist in integrating the building into the surrounding environment;
- e. The overall condition of the building and the extent, nature (including design and materials to be used) and timing of the proposed reinstatement works that are required;
- f. Where the proposal exceeds the timeframes for reinstatement work specified in the performance standards, consideration will be given to the extent to which the timeframes will be exceeded in addition to the current condition of the building and extent of the reinstatement works required, and any proposed mitigation options (including whether any reinstatement works could be undertaken off site in a storage yard prior to relocation) to address adverse effects on amenity given the length of time the building will remain on the site in an unfinished state.
- g. Whether a performance bond should be required as a guarantee that external reinstatement works are completed. The performance bond should not exceed the cost of external reinstatement works identified in the Building Pre-Inspection Report.

- h. The matters outlined in (f) and (g) above will be considered in an overall assessment of the appropriateness or reasonableness of extending the reinstatement timeframes to the extent proposed, having regard to the social and economic wellbeing of the applicant.

4. Amend Rule table 9.3.4C – Flaxmere Community Residential Zone as follows:

Rule	Land Use Activity	Activity Status
FCR8	Relocated buildings where the building was constructed after (or during) 1970	<u>CP</u>
[consecutive numbering]	Relocated buildings where the building was constructed after (or during) 1970 not complying with performance standards in [X.Y.Z]	<u>RD</u>

5. Insert new permitted activity performance standards **[X.Y.Z]** to the section 'Specific Performance Standards and Terms' in the Flaxmere Community Residential Zone as follows:
- No more than one unfinished relocated building shall be placed on a single site in existence at **[consent order date]**. For the purposes of this standard 'unfinished' means that the external reinstatement work required for the relocated building is yet to be completed.
 - Any relocated building intended for use as a dwelling must have previously been designed, built and used as a dwelling.
 - A Building Pre-Inspection report shall accompany the application for a building consent for relocation to the destination site. That report is to identify all reinstatement works that are to be completed to the exterior of the relocated building in order to achieve a tidy and workmanlike external appearance. The Building Pre-Inspection report shall be prepared by:
 - A Hasting District Council Building Compliance Officer (or equivalent);
 - A member of the New Zealand Institute of Building Surveyors;
 - A licensed building practitioner (carpenter or design category); or
 - A building inspector from the local authority where the building is being relocated from.
 - The landowner of the destination site for the relocated building must certify to the Council that the reinstatement work identified in the Building Pre-Inspection Report will be completed within the timeframes specified in standard g. A,B and C.

- e. The relocated building shall not be placed on the destination site until a building consent has been issued for the relocation, unless otherwise agreed in writing by the Hastings District Council.
- f. The Council shall be notified at least 48 hours before the building is relocated of the intended delivery date. This standard will be met provided the building is relocated within 5 days of the notified date.
- g. Reinstatement works shall be undertaken within the following timeframes:
 - A. The building shall be located on permanent foundations in accordance with the building consent and the roof made weathertight no later than 1 month of the building being moved to the site. For the purposes of this standard 'weathertight' means that the roof is completely repaired, replaced or installed as per the requirements of the Building Pre-Inspection Report.
 - B. The remaining work to make the building 'weathertight' shall be completed within 4 months of the building being moved to the site. For clarification, this means that all windows, doors and exterior cladding are completely repaired, replaced or installed as per the requirements of the Building Pre-Inspection Report.
 - C. All remaining reinstatement work required by the Building Pre-Inspection Report and the building consent to reinstate the exterior of any relocated building shall be completed within 9 months of the building being delivered to the site. Without limiting c. (above) reinstatement work is to include connections to all infrastructure services and closing in and ventilation of the foundations and the repair of any damage to the exterior of the building that may occur during transit to the destination site.
- h. The landowner of the destination site must deposit a refundable monitoring fee of \$750 with the Council at the same time as submitting the Building Pre-Inspection Report with the Council.

Advice Notes:

i. Photographs showing progress of reinstatement works may be provided to Council's Environmental Compliance Officer. A final site inspection will still be required to determine compliance on completion of reinstatement works

ii. The onsite inspection by a Hastings District Council Building Compliance officer (or equivalent position) provided for in (iv) above shall occur at the time of the foundation inspection for the building consent process, and will not incur additional costs.

iii. Council has Building Pre-Inspection Reports available on request

6. Replace restricted discretionary assessment criteria 3 in table 9.3.8B in the Flaxmere Community Residential Zone as follows:

In considering applications for relocated buildings as restricted discretionary activities, Council has limited its discretion to those particular matters outlined below and retains the discretion to grant or refuse consent and to impose conditions in relation to those matters only. As a restricted discretionary activity, applications may be notified under the Act.

3) RELOCATED BUILDINGS ASSESSMENT CRITERIA

(a) Whether the structural integrity of the building is able to be improved and suitable for the intended residential use

(b) Whether the building (and/or the proposed alterations to it) is capable of fitting in with the character and style of the buildings in the surrounding area

(c) The extent to which the proposal meets the criteria in 9.2.7A

(a) Whether the proposal will adversely affect the character and amenity of neighbouring sites and the surrounding area by more than one unfinished building being relocated onto the site at any one time; consideration will be given to any cumulative impacts on neighbouring sites and the surrounding environment, and whether these can be sufficiently mitigated or whether the site has the ability to internalise these effects;

(b) Whether the proposed relocated building(s) will maintain the amenity of the streetscape including the prevailing site development characteristics of the street and surrounding area (including the relationship of the building to the street, and the landscaping treatment of the front yard area);

(c) Whether the siting of the building complies with the general performance standards of the zone in which it is to be located;

(d) Whether the building is compatible with the scale, character, style and era of other buildings on neighbouring sites and in the surrounding area; and whether reinstatement work, other alterations to the building, landscaping of the site, or other measures could assist in integrating the building into the surrounding environment;

(e) The overall condition of the building and the extent, nature (including design and materials to be used) and timing of the proposed reinstatement works that are required;

(f) Where the proposal exceeds the timeframes for reinstatement work specified in the performance standards, consideration will be given to the extent to which the timeframes will be exceeded in addition to the current condition of the building and extent of the reinstatement works required, and any proposed mitigation options (including whether any reinstatement works could be undertaken off site in a storage yard prior to relocation) to address adverse effects on amenity given the length of time the

	<u>building will remain on the site in an unfinished state.</u>
(g)	<u>Whether a performance bond should be required as a guarantee that external reinstatement works are completed. The performance bond should not exceed the cost of external reinstatement works identified in the Building Pre-Inspection Report.</u>
(h)	<u>The matters outlined in (f) and (g) above will be considered in an overall assessment of the appropriateness or reasonableness of extending the reinstatement timeframes to the extent proposed, having regard to the social and economic wellbeing of the applicant.</u>

7. Amend Rule table 9.2.4 Flaxmere Residential Zone as follows:

Rule	Land Use Activity	Activity Status
FR12	Relocated buildings where the building was constructed after (or during) 1970	CP
[consecutive numbering]	Relocated buildings where the building was constructed after (or during) 1970 not complying with performance standards in [X.Y.Z]	RD

8. Insert new permitted activity performance standards [X.Y.Z] to the section 'Specific Performance Standards and Terms' in the Flaxmere Residential Zone as follows:

- a. No more than one unfinished relocated building shall be placed on a single site in existence at [consent order date]. For the purposes of this standard 'unfinished' means that the external reinstatement work required for the relocated building is yet to be completed.
- b. Any relocated building intended for use as a dwelling must have previously been designed, built and used as a dwelling.
- c. A Building Pre-Inspection report shall accompany the application for a building consent for relocation to the destination site in order to achieve a tidy and workmanlike external appearance. That report is to identify all reinstatement works that are to be completed to the exterior of the relocated building. The Building Pre-Inspection report shall be prepared by:
 - A. A Hasting District Council Building Compliance Officer (or equivalent);
 - B. A member of the New Zealand Institute of Building Surveyors;

- C. A licensed building practitioner (carpenter or design category); or
 - D. A building inspector from the local authority where the building is being relocated from.
- d. The landowner of the destination site for the relocated building must certify to the Council that the reinstatement work identified in the Building Pre-Inspection Report will be completed within the timeframes specified in standard g. A, B and C.
 - e. The relocated building shall not be placed on the destination site until a building consent has been issued for the relocation, unless otherwise agreed in writing by the Hastings District Council.
 - f. The Council shall be notified at least 48 hours before the building is relocated of the intended delivery date. This standard will be met provided the building is relocated within 5 days of the notified date.
 - g. Reinstatement works shall be undertaken within the following timeframes:
 - A. The building shall be located on permanent foundations in accordance with the building consent and the roof made weathertight no later than 1 month of the building being moved to the site. For the purposes of this standard 'weathertight' means that the roof is completely repaired, replaced or installed as per the requirements of the Building Pre-Inspection Report.
 - B. The remaining work to make the building 'weathertight' shall be completed within 4 months of the building being moved to the site. For clarification, this means that all windows, doors and exterior cladding are completely repaired, replaced or installed as per the requirements of the Building Pre-Inspection Report.
 - C. All remaining reinstatement work required by the Building Pre-Inspection Report and the building consent to reinstate the exterior of any relocated building shall be completed within 9 months of the building being delivered to the site. Without limiting c. (above) reinstatement work is to include connections to all infrastructure services and closing in and ventilation of the foundations and the repair of any damage to the exterior of the building that may occur during transit to the destination site.
 - h. The landowner of the destination site must deposit a refundable monitoring fee of \$750 with the Council at the same time as submitting the Building Pre-Inspection Report with the Council.

i. Photographs showing progress of reinstatement works may be provided to Council's Environmental Compliance Officer. A final site inspection will still be required to determine compliance on completion of reinstatement works

ii. The onsite inspection by a Hastings District Council Building Compliance officer (or equivalent position) provided for in (iv) above shall occur at the time of the foundation inspection for the building consent process, and will not incur additional costs.

iii. Council has Building Pre-Inspection Reports available on request

9. Replace restricted discretionary assessment 9.2.8B in the Flaxmere Residential Zone as follows:

Assessment Criteria for relocated building activities that fail to meet one or more of the specific performance standards and terms outlined in rule [X.Y.Z].

In considering applications for relocated buildings as restricted discretionary activities, Council has limited its discretion to those particular matters outlined below and retains the discretion to grant or refuse consent and to impose conditions in relation to those matters only. As a restricted discretionary activity, applications may be notified under the Act.

- a. Whether the proposal will adversely affect the character and amenity of neighbouring sites and the surrounding area by more than one unfinished building being relocated onto the site at any one time; consideration will be given to any cumulative impacts on neighbouring sites and the surrounding environment, and whether these can be sufficiently mitigated or whether the site has the ability to internalise these effects;
- b. Whether the proposed relocated building(s) will maintain the amenity of the streetscape including the prevailing site development characteristics of the street and surrounding area (including the relationship of the building to the street, and the landscaping treatment of the front yard area);
- c. Whether the siting of the building complies with the general performance standards of the zone in which it is to be located;
- d. Whether the building is compatible with the scale, character, style and era of other buildings on neighbouring sites and in the surrounding area; and whether reinstatement work, other alterations to the building, landscaping of the site, or other measures could assist in integrating the building into the surrounding environment;
- e. The overall condition of the building and the extent, nature (including design and materials to be used) and timing of the proposed reinstatement works that are required;

- f. Where the proposal exceeds the timeframes for reinstatement work specified in the performance standards, consideration will be given to the extent to which the timeframes will be exceeded in addition to the current condition of the building and extent of the reinstatement works required, and any proposed mitigation options (including whether any reinstatement works could be undertaken off site in a storage yard prior to relocation) to address adverse effects on amenity given the length of time the building will remain on the site in an unfinished state.
- g. Whether a performance bond should be required as a guarantee that external reinstatement works are completed. The performance bond should not exceed the cost of external reinstatement works identified in the Building Pre-Inspection Report.
- h. The matters outlined in (f) and (g) above will be considered in an overall assessment of the appropriateness or reasonableness of extending the reinstatement timeframes to the extent proposed, having regard to the social and economic wellbeing of the applicant.

10. Make the following amendments to Section 7.2 Hastings Residential Environment:

- a. Explanation to Policy RP1 to be amended as follows:

...

Hastings General Residential Zone

...

The removal, re-positioning (within a site) and relocation of residential buildings in the District assists in the efficient use of residential land within the existing urban area of Hastings and contributes to achieving the goals of HPU DS. The provisions of the General Residential Zone acknowledge the positive contribution of these activities by providing for removal, and re-positioning of residential buildings as permitted activities in that these are encompassed in the definition of Residential Activity. Relocated buildings are also provided for as permitted activities subject to meeting specific performance standards that building activities are required to obtain a resource consent in order to ensure that ensure these buildings are appropriately repaired and upgraded in a timely manner to maintain the character of the residential environment that the building is moving into.

- b. Explanation to Policy RP4:

...

The removal, re-positioning and relocation of residential buildings support the achievement of the HPU DS intensification targets. As such the removal and re-positioning of buildings are provided for as permitted activities in the Hastings General Residential and City Living Zones as these activities are encompassed in the definition of Residential Activity. In the Hastings Character Residential Zone the re-positioning, removal or demolition of post

1950s dwellings is permitted. However, re-positioning, removal or demolition of dwellings built prior to 1 January 1950 are discretionary activities in order to retain these character homes in their original location.

Relocated building activities are managed in the Hastings General Residential and City Living Zones through a Controlled Permitted Activity status subject to specific performance standards in order to ensure that these buildings are appropriately repaired and upgraded to maintain the character of each particular residential environment. Within the Hastings Character Residential Zone relocated buildings are considered on the same basis as the construction of new residential buildings, as restricted discretionary activities (non-notified).

11. Make the following amendment to Section 8.2 Havelock North Residential Environment:

a. Explanation to Policy HNRO1 to be amended as follows:

...

The removal, re-positioning and relocation of residential buildings in the District assists the efficient use of residential land within the existing urban area of Havelock North and contributes to achieving the goals of HPUDS. The provisions of the General Residential Zone acknowledge the positive contribution of these activities by providing for removal and re-positioning of residential buildings as permitted activities in that these are encompassed in the definition of Residential Activity. Relocated building activities are also provided for as permitted activities subject to compliance with specific performance standards ~~required to obtain a resource consent~~ in order to ensure that these buildings are appropriately repaired and upgraded in a timely manner to maintain the character of the residential environment that the building is moving into.

12. Make the following amendment to Section 9.2 Flaxmere Residential Zone:

a. Explanation to Policy FRP1 to be amended as follows:

...

Given the era of Flaxmere's development, however, the relocation of older buildings out of character in style to the Flaxmere residential area does have the potential to adversely affect amenity, therefore such activities will require Restricted Discretionary activity Resource Consent assessment. It is acknowledged that the removal, re-positioning (within a site) and relocation of residential buildings in the District assists the efficient use of residential land within the existing urban area of Flaxmere and contributes to achieving the goals of HPUDS. The provisions of the Flaxmere Residential Zone acknowledge the positive contribution of relocated buildings by providing for these where the building was constructed after or during 1970, as a permitted controlled-activity subject to compliance with specific performance standards.

The District Plan enables existing activities within the settlement to continue and includes Standards where necessary to enhance amenity and residential living standards. There is also flexibility involved in encouraging necessary improvements where required such as outdoor living areas; standard site sizes relating to future developments; relocated buildings and also urban design controls for consideration in any development. The Plan also enables appropriate non-residential uses such as Day Care Centres, Home Occupations, Education Facilities, Health Care Facilities and Places of Assembly recognising their importance in servicing the existing residents but sets Standards and Consent requirements to ensure they do not adversely affect the amenity of the residential environment.

13. Make the following amendment to Section 10.2 Clive-Whakatu Residential Zone:

a. Explanation to Policy CWRP3 to be amended as follows:

...

The removal, re-positioning and relocation of residential buildings in the District assists the efficient use of residential land within the existing urban areas of Clive and Whakatu and contributes to achieving the goals of HPUDS. The provisions of the Clive – Whakatu Residential Zone acknowledge the positive contribution of these activities by providing for removal and re-positioning of residential buildings as permitted activities in that these are encompassed in the definition of Residential Activity. Relocated building activities are also permitted activities subject to compliance with specific performance standards required to obtain a resource consent in order to ensure that these buildings are appropriately repaired and upgraded in a timely manner to maintain the character of the residential environment that the building is moving into.

14. Make the following amendment to Section 12.2 Coastal Settlements Zone:

a. Explanation to Policy CSZP2 to be amended as follows:

...

The removal, re-positioning and relocation of residential buildings in the District assists the efficient use of residential land within existing urban areas and contributes to achieving the goals of HPUDS. The provisions of the Coastal Settlement Zone (except within the Tangoio Beach Structure Plan area shown in Appendix 19) acknowledge the positive contribution of these activities by providing for removal and re-positioning of residential buildings as permitted activities in that these are encompassed in the definition of Residential Activity. Relocated building activities are required to obtain a resource consent in order to also permitted activities provided that specific performance standards are met to ensure that these buildings are appropriately repaired and upgraded in a timely manner to maintain the character of the residential environment that the building is moving into.

Within the Tangoio Beach Structure Plan area (Appendix 19) residential activities including relocated buildings require a controlled activity resource consent to ensure that the design of the buildings are visually compatible with the surrounding landscape, in character with the former small scale bach community, and respect the relationship with the coastal environment.

15. Make the following amendment to Section 12.3 Waimarama Settlement Zone:

- a. Explanation to Policy WSZP6 to be amended as follows:

...

The removal, re-positioning (within a site) and relocation of residential buildings in the District assists the efficient use of residential land within the existing urban areas and contributes to achieving the goals of HPU DS. The provisions of the Waimarama Settlement Zone acknowledge the positive contribution of these activities by providing for removal and re-positioning of residential buildings as permitted activities in that these are encompassed in the definition of Residential Activity. Relocated building activities are also permitted activities provided that specific performance standards are met ~~required to obtain a resource consent in order to~~ ensure that these buildings are appropriately repaired and upgraded in a timely manner to maintain the character of the residential environment that the building is moving into.

**Appendix B – Zones of the Proposed Hastings District
Plan to be Amended in Accordance with Appendix A
Clauses 1, 2, and 3**

1. Hastings General Residential Zone
2. Hastings City Living Zone
3. Havelock North General Residential Zone
4. Havelock North Character Residential Zone (except Toop Street Special Character Area)
5. Havelock North Rural Residential Zone
6. Havelock North Village Centre – Mixed Use Zone
7. Clive – Whakatu Residential Zone
8. Haumoana – Te Awanga Residential Zone
9. Coastal Settlement Zone (except Tangoio)
10. Waimarama Settlement Zone
11. Rural Residential Zone
12. Plains Production Zone
13. Plains Settlement Zone