

# Proposed Horowhenua District Plan

## Relocated Buildings

### Officer Right of Reply and Response to Commissioners Questions

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We have considered the evidence presented by House Movers Section of NZ Heavy Haulage Association Inc (submitter no.40) at the Urban Environment hearing on 23<sup>rd</sup> April 2013. In addition, we have considered the questions and comments from the Commissioners raised during the hearing.

The submission points raised by the submitter fall across all zones in the Proposed Plan therefore this right of reply covers the matters across the plan and has been worked collectively between officers and planning consultants.

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The House Movers Section of the New Zealand Heavy Haulage Association Inc ('NZ Heavy Haulage') submitted on the relocated building provisions in the Proposed Plan, across all zones, seeking permitted activity status for the removal and relocation of buildings to their new destination sites, subject to complying with performance standards.

As this issue and relief sought applied across all Zones, it was covered in the Section 42A Report for each zone, but the same evaluation and recommendation was made across all zones (Open Space Zone Section 42A Report (Section 4.8), Urban Environment Section 42A Report (Section 4.6) and Rural Environment Section 42A Report (Section 4.34). This right of reply applies to all zones, as it is considered the issues and effects associated with relocated buildings are the same for all zones.

NZ Heavy Haulage presented submissions of Counsel (Rowan Ashton) at the Urban Environment hearing on 23<sup>rd</sup> April 2013. These submissions set out their key provision strategy and in summary contended that:

- There is no difference between a relocated building being established on a destination site, compared to a new house being built and the risk of construction ceasing and leaving an unfinished in situ building.
- The use of performance standards are more appropriate than conditions on a resource consent to ensure buildings are reinstated and established into the destination sites, due to greater certainty, lower costs, and ability to use enforcement powers provided in the RMA if a standard is breached.
- There is inequity between the management of new buildings and relocates referring to the Proposed Plan's 'unsightly building' rule as it applies to unfinished construction, yet does not impose a timeframe or landscape requirements to ensure completion.
- A resource consent requirement introduces a neighbours right to veto for relocates, yet this is not a right imposed on new dwellings.
- The use of bonds as a condition of consent for relocates, when not used for new builds was rejected by the Environment Court. To this end, the statement of evidence from Paul Britton emphasised the financial burden of bonds on those individuals seeking to carry out a relocate exercise.

- Assurance the necessary works to the relocate building will be carried out and finished in accordance with the permitted activity conditions can be given through the process of a pre-inspection report with owner certification. The owner certifies that all necessary work is identified in advance and to be completed in accordance with the permitted activity performance standards. Paul Britton was asked by the Hearing Panel whether their company is involved in the process of establishing each relocated building, or whether it was purely the act of relocating the building to the site. Paul Britton confirm that their company is not involved with the works post relocation, but suggested anecdotally that most people undertaking a building relocation are seeking to make a home and therefore want to progress the works so they can live it in. Mr Britton did comment that there will be those who do not progress works on relocates and/or do a poor job, but these types of situations would occur no matter what the rules in the District Plan require.

### **Does the Horowhenua District have a current resource management issue with the placement of relocated buildings?**

The Hearing Panel sought further comment on whether 'relocated buildings' are a resource management issue in the Horowhenua, and if so, how significant an issue.

Since 1999 (when the current District Plan was made operative) there have been nearly 400 relocated buildings sited in the District (192 relocated buildings were actively monitored and recorded between 1 July 1999 to May 2013). A number of these buildings have come from outside the district, including a significant number of former NZ Defence Force buildings with surplus buildings from bases in Waiuoru, Linton and Ohakea. In addition, there are number of building relocation companies operating in the Lower North Island who store and supply relocated buildings to the Horowhenua. Therefore, there has been a ready supply of buildings for relocation in relatively close to the Horowhenua.

Over the last 14 years, Council has received enquiries from people who wish to relocate buildings, as well as enquiries and complaints from residents when a building is relocated next door or in their neighbourhood.

To better understand community views on relocated buildings, as part of the consultation to inform the District Plan Review, specific feedback was sought on this issue. In the Discussion Document (including a summary version) released for community feedback in October 2011, one of the "district wide" matters was relocated buildings.

The discussion document explained the types of issues that relocated buildings can have due to their varying age, condition and design and acknowledges that the public has had previous concerns about the design, but also where buildings are left in an unfinished state for long periods. The Discussion Document outlined three options to manage relocated buildings in the District Plan and included the key advantages/disadvantages so that the community would understand the pros and cons of each option. The options were:

- Option A to change the District Plan and permit relocated buildings,
- Option B to change the District Plan and require a Restricted Discretionary Activity consent for relocated buildings, or
- Option C retain status quo of a Controlled Activity but impose a shorter timeframe of 6 – 9 months for completion of exterior upgrade works.

To assist in responding to these three options, four questions were then asked on relocated buildings:

47. *Should Council be concerned about relocated buildings being upgraded or reinstated once they have been transported to their new location?*
48. *Is it the architectural style and features of the relocated buildings that are of concern, or is it the finishing and landscaping of these buildings which is more the problem?*
49. *What is an appropriate timeframe for any reinstatement or upgrade of the exterior to be undertaken for relocated buildings?*
50. *Should Council have the discretion to decline applications for relocated buildings if they are out-of-character for the area or are in poor condition?*

Of the 192 responses to the Discussion Document, 125 responded to the questions on relocated buildings.

Of the responses to question 47, 50 responses agreed, at some level, that Council should be concerned about relocated buildings. Some of the written comments included:

- *Yes-more care needs to be taken. Consent from neighbours is not enough- full impact not realised until too late*
- *Should control how it fits with surroundings- size & placement*
- *Appropriate conditions to protect visual amenity & building structure*
- *Council should have details before relocation*
- *Yes but only the finishing & what is required under the building code*
- *Yes- planning design guides should apply*
- *Yes- good, sound buildings should be used*

Conversely, 17 responses to question 47 did not think the Council should be concerned about relocated buildings, with a selection of written comments including:

- *No as long as building & health codes are met*
- *No providing building is restored & not left derelict looking*
- *Council should help & encourage relocates*
- *Option A- allow individual choice of home style, location & situation irrespective of the surrounding neighbourhood*

A majority of responses (54 out of the 83) to question 48 considered the finishing and landscaping of the buildings to be the concern with relocated buildings, rather than the architectural merits of the design or style of building.

The timeframe expected for relocates to be reinstated (question 49) was relatively even across 6 months and 1 – 2 years.

The majority of those answering question 50 (109) considered it appropriate for Council to have the discretion to decline applications for relocated buildings if they are out-of-character for the area or are in poor condition.

I consider the community's feedback through this consultation on relocated buildings demonstrates that relocated buildings in the district are a resource management issue from a community perspective. Given the majority of respondents consider the Council should be concerned about relocated buildings for a range of reasons, primarily to ensure buildings are finished and reinstated in a timely way, and not because of their perceived difference in style or architecture. It is also noted that some of the community consider the reuse of buildings to be a good idea.

In the experience of Council officers, relocated buildings are also a significant resource management issue, in particular, due to effects on visual amenity. During the processing and compliance monitoring for relocated buildings, effects on visual amenity have been a key matter. Information has been sourced from Council's resource consent and monitoring records to demonstrate this issue.

Council records (1999 – 2011) on resource consents show that, on average over 30 applications for relocated buildings are made annually. The consent monitoring compliance officer advises approximately two thirds (119 of 192 monitored) of relocated buildings did not complete the reinstatement or finishing works within the required 12 month timeframe, or breached other conditions such as the entranceways.

Specific examples of relocated dwellings that have not been finished within time include and have involved recent Council monitoring (this is a brief list):

- 36 Morgan Crescent, Levin: Relocated in April 2005, uncompleted during compliance check in September 2012. Still uncompleted but progress made to complete since Sept 2012
- 14 Tokomaru Road, Tokomaru: Relocated in April 2006, uncompleted during compliance check in July 2012. Still uncompleted but progress made since July 2012
- 70 Rewa Rewa Street, Tokomaru: Relocated in June/July 2007 without building consent. Council note aware of relocation until July 2012. To be removed instead of fixed
- 8 Vogel Street, Shannon: Relocated in March 2008, uncompleted during compliance check in May 2012. Still uncompleted but progress made since May 2012
- 42 Tame Porati Street, Manakau: Relocated in May/June 2008, uncompleted during compliance check in May 2012. To be removed instead of fixed up
- 45A Stafford Street, Shannon: Relocated in August 2008 and compliance check in February 2009. Still uncompleted but progress made since February 2009
- 46A Purcell Street, Foxton: Relocated garage placed on ground but not the final concrete slab in September 2010. Still has not been completed
- 185A Hokio Sand Road, Levin: Relocated in June 2010. Completed after 13 months following compliance check.

Furthermore, Council has received complaints on relocated buildings, with specific concern over amenity (as opposed to the type or style of the building) in these following areas:

- 1 Taonui Street, Waitarere Beach
- 1-5 Puketea Street, Tokomaru
- 569 Waitarere Beach Road, Waitarere Beach
- 42 Tame Porati Street, Manakau

Given the above community views and advice from Council officers, I considered relocated buildings are a significant resource management issue in the Horowhenua District and requires management in the Proposed Plan.

**Is there evidence to suggest that without the current use of the Controlled Activity consent process (therefore the use of Section 108 bonds), that the effects on amenity, particularly residential, coastal and rural character and amenity values would be significant and require management in the district plan?**

The examples of relocates provided by Heavy Haulage were all positive and good results were achieved. However, Consent monitoring of the 85 consents processed for relocated buildings (over 2009 – 2012) shows that two-thirds required action from the Council to ensure progress was made on the completion. Some of these examples also generated new non-compliances, for things like the formation of vehicle access entranceways.

Therefore, while there are few examples on the ground of relocated buildings that have a poor level of amenity, there are several examples of the Council intervening to ensure compliance with conditions. This Council time spent on monitoring consent conditions is charged back to the individual consent holders who have generated this administration time. Consequently the cost of administrating and ensuring compliance is on the application and individual seeking to relocate buildings, rather than the ratepayer.

It is noted that Heavy Haulage emphasis the costs of third party (neighbour) involvement as part of the controlled activity resource consent process. As a controlled activity resource consent Council does not require written approvals from affected parties. In the case of the Proposed Plan rule it is noted that there is no explicit non-notification clause. Therefore Officers would support a recommendation to include a non-notification clause on the zone-wide relocated building Controlled Activity Rules.

**Activity Status – Permitted Activity vs Controlled Activity**

Further to the evaluation in the Section 42A Reports, we have considered the evidence and discussion at the hearing. We have further considered the efficiency, effectiveness, benefits and costs of providing for relocated buildings as a permitted activity versus a controlled activity.

In terms of efficiency, it is considered a permitted activity is slightly more efficient than a controlled activity in terms of timeliness for applicants. Avoiding the need for resource consent simplifies the process and associated monitoring. However, the applicant may potentially incur more time prior to lodgement in compiling the information to satisfy the submitted permitted activity standards (i.e. pre-inspection report). From Council's perspective, prior to relocation of the building, a permitted activity is considered slightly more efficient than a controlled activity, primarily due to avoiding the resource consent process. However, post-relocation, a permitted activity is considered significantly less efficient than a controlled activity due to potentially significant enforcement issues and monitoring issues responding to complaints. As evidenced above, even with the current programmed compliance monitoring for relocated buildings as part of the resource consent, Council receives complaints on un-completed relocated buildings. The permitted activity status would remove this compliance monitoring, and monitoring would therefore become reactive (to complaints) rather than proactive. Therefore, overall, controlled activity is considered more efficient than permitted activity for relocated buildings.

In terms of effectiveness, the submitted permitted activity conditions would place significant onus on the quality of the information submitted. If good quality information is submitted

detailing the work required, and that this work was undertaken in a timely manner, then a permitted activity could be relatively effective. However, a permitted activity status would be ineffective if poor quality information was submitted, and/or the completion work was not undertaken in a timely manner. Similar effectiveness evaluation applies to a controlled activity, where the processing and enforcement of the resource consent relies on good quality information and work being completed in a timely manner. However, the key difference in the effectiveness between a controlled activity and permitted activity relate to enforcement and completion of work. As a permitted activity, there is no planned or programme of enforcement. Rather, enforcement is undertaken in response to complaints. Therefore, if work is not completed in a timely manner, an uncompleted relocated building could be adversely affecting amenity values for some time. Conversely, for a controlled activity, conditions are imposed on the resource consent including a timeframe for completing the works (12 months), a bond is taken relating to the value of the works required, and a compliance monitoring programme applies. These conditions and monitoring programme are considered effective in ensuring all reinstatement work is completed in a timely manner. Given the above, it is considered a controlled activity is more effective than a permitted activity in managing the effects on amenity values from relocated buildings.

In terms of benefits, relocating buildings is considered an efficient use of resources as it re-uses buildings and provides for affordable housing. The benefits of a permitted activity include certainty that buildings can be relocated, one Council process (i.e. building consent) and time savings. The benefits of a controlled activity include certainty that buildings can be relocated (consents must be granted), and a targeted assessment and conditions imposed to mitigate effects for each building. Therefore, permitted activity and controlled activity are considered to have some similar and slightly different benefits.

In terms of costs, a permitted activity is likely to have lower costs for applicants. These lower costs are due to a single consent process (both in time and monetary). However, the costs incurred by Council are likely to be higher. These higher costs are associated with responding to complaints and taking enforcement action. These higher costs would be funded by rates rather than user-charges as currently applied through the resource consent process. For the controlled activity, applicants would experience higher costs compared to a permitted activity, while Council's costs would be lower as they are passed onto applicants through user-charges (fees). One specific concern expressed by the submitter about the resource consent costs was the potential for public notification. To address this concern, it is recommended that a non-notification clause be added to all building relocation rules to enable applications to be determined on a non-notified basis.

Overall, in our opinion, we consider a controlled activity status the more effective and efficient than a permitted activity in achieving the objectives of maintaining and enhancing the amenity values of the different environments.

Notwithstanding the above, the Hearing Panel sought further comment on specific aspects of the permitted activity conditions suggested by the submitter and we respond below.

The provisions suggested by Heavy Haulage largely provide for buildings that are going to be used for dwellings, rather than all buildings. We are unclear on how the submitter's rules would provide for buildings that are not proposed for use as dwellings, such as buildings for use as schools, offices or storage. Presumably condition (i) is not applied, but conditions (ii) – (v) continue to apply in those circumstances.

The submitter's rule specifically excludes previously used garages and accessory buildings from the list of requirements that would ordinarily apply to dwellings. Therefore the pre-inspection report and 12 month timeframe for reinstatement would not apply to these types of smaller, secondary buildings.

On further consideration, it is considered that smaller relocated buildings of 40m<sup>2</sup> in gross floor area would have comparatively less effects on amenity and character, compared to a larger relocated dwelling or building..

Therefore, it is recommended that relocated buildings less than 40m<sup>2</sup> be a permitted activity.

The submitter’s provisions would require a “pre-inspection report” to accompany a Building Consent Application. It is considered there is a lack of clarity in the intent and purpose of this report, as to whether it is for building consent purposes (i.e. structural integrity, weather tightness, thermal insulation, fire safety, etc) or for resource management purposes (i.e. visual amenity, condition of external materials, etc). It is considered the form/example of the Pre-Inspection Report provided would require the level of improvement needed to satisfy the Building Act, but not the level of external amenity and appearance that the community desire or consider comparable to new buildings. It is noted that works undertaken to satisfy the Building Consent requirements need to be commenced within 12 months and completed within 24 months of the consent being issued. This matter could be remedied by making the pre-inspection report clearer in terms of what degree of reinstatement of the exterior of the building is expected to meet the permitted activity standard. For example, Part 1 of the Pre-Inspection Report sets out the following:

1. External Condition			
	Type	Condition	Comments (please specify any reinstatement work necessary)
Exterior Cladding	e.g Fibroplank Weatherboard	Good	
Wall Frame (exterior)		Good	
Roofing		Good	
Spouting		Good	
Downpipes		Good	
Joinery		Good	
Decoration (exterior)			

The “condition” and “comments” column appear to be at the applicants discretion as to how much reinstatement work is necessary, or whether any work is required at all. It is not clear how the Council could ensure the reinstatement work is completed to maintain the level of external amenity. There also does not appear to be a requirement relating to foundations (baseboards) to assist the building establish on the site.

The report template may be useful for a stocktake of the existing condition and identifying what works is required to satisfy the Building Act. Whereas by demonstrating on simple plans/ drawings of the relocated building, and description the type of works planned by an applicant (in the form of an Assessment of Environmental Effects supporting a Controlled Activity resource consent application) would give the Council more certainty in understanding the level of reinstatement and the overall end result anticipated, and therefore considered more appropriate than using the pre-inspection report.

## Conclusion

It is considered that the reinstatement of relocated buildings on destination sites is a current resource management issue to be managed within the Proposed Plan.

The Proposed Plan enables a range of housing opportunities and reuse of buildings, but does so in a way that allows the Council to effectively and efficiently manage potential adverse effects on the amenity and character of the Horowhenua district.

Streamlining processes between the Building Act and the RMA to be able to offer cost effective resource management is acknowledged. However, in the instance of managing relocated buildings it is considered more efficient and effective to assess each relocated building through a resource consent process to ensure it does not adversely affect amenity values. The resource consent process is considered to provide more effective enforcement mechanisms to manage the effects on amenity in the event work is not completed in a timely manner. It is considered appropriate the costs of relocating buildings falls on the proponent (benefactor) rather than the community (Council).

## **Recommendation**

Collectively, officers consider the recommendations made in the Section 42A reports on all submissions made by Heavy Haulage are still appropriate, subject to amendments to include a non-notification clause and provide relocated buildings of up to 40m<sup>2</sup> as permitted activities.

## **Recommended Amendment**

### **15.2 Controlled Activities**

The following activities are controlled activities in the Residential Zone provided activities comply with all relevant conditions in Rule 15.7 and Chapters 21, 22, 23 and 24. Refer to Rule 15.7 for matters of control and conditions:

- (a) The placement of any Relocated building and/or accessory building on any site. (Refer Rule 15.7.1)

#### Except

Any relocated buildings up to and including 40m<sup>2</sup> in gross floor area.

### **15.7 Matters of Control and Conditions for Controlled Activities**

The matters over which Council has reserved its control and the conditions are detailed below for each controlled activity:

#### **15.7.1 Relocated Buildings (Refer to Rule 15.2(a))**

- (a) Matters of Control
- (i) The length of time taken to re-construct, repair, or refurbish the building.
- (ii) Conditions for upgrading the exterior of the building and upgrading and reinstating the site, including any one or more of the following:
- redecoration or reinstatement of any roof or exterior cladding;
  - reinstatement of any porches, terraces, baseboards and steps;
  - replacement of broken window panes, broken or rotten timber, guttering, drainpipes;



- reinstatement of that part of a dwelling where a chimney has been removed;
  - reinstatement of the site and access to the site; or
  - details and length of time to complete site landscaping.
- (iii) A bond, of the nature provided for in the RMA, further secured by deposits of cash with the District Council, bank guarantee, or otherwise, to the satisfaction of the District Council, to ensure compliance with consent conditions. The bond shall be paid prior to the movement of the building to its new site, and shall be to the value of the work required, as assessed by a suitably qualified person approved by the Environmental Services Manager at the cost of the applicant. The required work will be expected to be completed within a 12 month period. Portions of the bond may be refunded as substantial portions of the work are completed.
- (b) Conditions
- (i) Relocated buildings shall comply, in all respects, with the relevant permitted activity conditions in other parts of the District Plan.
- (c) Non-Notification
- (i) Under Section 77D of the RMA, an activity requiring resource consent under Rule 15.7.1 shall not be publicly notified, except where:
- The Council decides special circumstances exist (pursuant to Section 95A(4)), or
  - The applicant requests public notification (pursuant to Section 95A(2)(b)).

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Response prepared by Claire Price and Hamish Wesney

Reviewed by David McCorkindale

Dated 27<sup>th</sup> May 2013

## Relocated Building Examples in Horowhenua

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### 569 Waitarere Beach Road, Waitarere Beach

(File Ref: D13/37138)

Date of relocation: November 2011

Date photo was taken: July 2012



Date photo below was taken: December 2012



**46A Purcell Street, Foxton**

File Reference: D11/36606

Date of relocation: September 2010

Date photo was taken: October 2011



**42 Tame Porati Street, Manakau**

File Reference: D12/32235

Date of relocation: June 2008

Date photo was taken: May 2012



## 36 Morgan Crescent, Levin

File Reference: D12/68310

Date of relocation: April 2005

Date photo was taken: September 2012



## 14 Tokomaru Road, Tokomaru

File Reference: D12/48205

Date of building relocation: April 2006

Date photo was taken: July 2012



## 70 Rewa Rewa Street, Tokomaru

File Reference: D12/47167

Date of building relocation: June/July 2007

Date photo was taken: July 2012



**8 Vogel Street, Shannon**

File Reference: D12/36347

Date of building relocation: March 2008

Date photo was taken: May 2012

