

Before the Environment Court

ENV-2017-WLG-

In the matter of the Resource Management Act 1991

and

In the matter of an appeal under clause 14 of the First Schedule of the Act

between

House Movers Section of the New Zealand Heavy Haulage Association Inc

Appellant

and

Manawatu District Council

Respondent

Notice of Appeal

Dated this 12th day of June 2017

Counsel:
Stuart Ryan
Barrister
Level 11, 59-67 High Street
PO Box 1296, Shortland Street,
AUCKLAND 1140
Tel (09) 357 0599

Counsel

Stuart Ryan

09 357 0599

stuart@stuartryan.co.nz

To The Registrar
Environment Court
Wellington

Name of Appellant

1. House Movers Section of the New Zealand Heavy Haulage Association Inc.

Decision under Appeal

2. The decision under appeal, dated 22 February 2017, was made by Manawatu District Council in relation to a plan review for Manawatu District.
3. The decision appealed is the entire decision of the respondent as it relates to relocated buildings and dwellings (the decision). For the purposes of this appeal the terms "building" and "dwelling" are used interchangeably, and include one another.

Reasons for Appeal

4. The respondent's decision:
 - a. Will not promote sustainable management of the natural and physical resources of the district, or achieve the purpose of the Resource Management Act 1991 ("Act");
 - b. Is contrary to Part II and other provisions of the Act;
 - c. Will not meet the reasonably foreseeable needs of future generations;
 - d. Will not enable social, economic, and cultural well-being of both people and communities, and their health and safety;
 - e. Is otherwise contrary to the purposes and provisions of the Act, and other relevant planning documents;
 - f. Is inappropriate, unnecessary and inconsistent with the purpose and principles of the Act;
 - g. Fails to properly take into account the positive or beneficial effects of the reuse of buildings by their relocation within, and

into the district and generally, and is not necessary to avoid, remedy, or mitigate any adverse effects of relocated buildings;

- h. Is not consistent with the objectives, policies and rules of the Plan.
 - i. The objectives, policies and methods (including rules) of the decision are not the most appropriate for the Respondent in exercising its functions under the Act
 - j. Does not represent the most appropriate means of exercising the respondent's functions, having regard to the efficiency and effectiveness of the decision, compared with other available methods, and is therefore not appropriate or justified in terms of section 32 and other provisions of the Act.
5. In particular, but without limiting the generality of the above, the decision:
- a. Fails to apply the decision and reasoning of the Environment Court in *New Zealand Heavy Haulage Association Inc v Central Otago District Council*, C45/2004 and C61/2004). The reasoning and relief as determined by the Court is relied on by the appellant as if set out *in extenso* herein.
 - b. In regulating the internal environment of buildings and dwellings the decision goes beyond the lawful power of the respondent to regulate for resource management purposes.
 - c. Fails to recognise that permitted activity performance standards as sought by appellant are reasonable, practicable, enforceable, cost-effective and efficient.
 - d. In regulating the external appearance of relocated dwellings, (but not for new or existing dwellings) fails to recognise the environment as it exists in the district.
 - e. In regulating the external appearance of relocated dwellings, imposes controls and restrictions which are unreasonable and which lack proportionality when compared to the absence of regulation over the external appearance of new and *in situ* dwellings within the District.

Relief

6. Withdraw or cancel the Change as it relates to the *demolition* and *removal, relocation* and *re-siting* of buildings (including dwellings) of buildings and dwellings, or in the alternative, without prejudice to this relief, all or any of the following relief.
7. Provide for the *demolition* and *removal, relocation* and *re-siting* of buildings (including dwellings) as a permitted activity in all zones (except in relation to any scheduled or listed heritage buildings, or any specific conservation, outstanding landscape or historic heritage zones).
8. Modify and/or amend, and/or rewrite the activity classification (to permitted), and the objectives, policies, rules, assessment criteria, and other methods of the change, so as to reflect the decision and outcome in *New Zealand Heavy Haulage Association Inc v Central Otago District Council* (C45/2004 and C61/2004) as it relates to regulating relocated dwellings (or to same or similar effect).
9. Delete any provision in the plan for works to be undertaken by persons certified by Council.
10. Provide for a certification condition, as required by the Environment Court in *New Zealand Heavy Haulage Association Inc v Central Otago District Council* (C45/2004 and C61/2004).
11. Expressly provide for non-notification and non-service of any resource consent application for relocated buildings and dwellings (if not a permitted activity).
12. If the relief above is not upheld, in the alternative, provide for relocation as a permitted activity subject to performance standards as follows (or to same or similar effect)

Permitted activity rules/standards

- a. *Any relocated building intended for use as a dwelling (excluding previously used garages and accessory buildings) must have previously been designed, built and used as a dwelling.*
- b. *A building pre-inspection report shall accompany the application for a building consent for the destination site. That report is to identify all reinstatement works that are to be completed to the exterior of the building.*

- c. *The building shall be located on permanent foundations approved by building consent, no later than [1] month of the building being moved to the site.*
 - e. *All other reinstatement work required by the building inspection report and the building consent to reinstate the exterior of any relocated dwelling shall be completed within [12] 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.*
 - f. *The proposed owner of the relocated building must certify to the Council that the reinstatement work will be completed within the [12] month period.*
13. Such other relief including and consequential relief as necessary to the objectives and policies, rules, assessment criteria, and other methods, as will achieve the reasons for this appeal, and the appellant's submission.
14. Costs.

Attachments

15. The following documents are attached to this notice:
- a. A copy of the appellant's submission;
 - b. A copy of Council's decision.
 - c. A list of names and addresses of persons to be served with a copy of this notice.

House Movers Section of the New Zealand Heavy Haulage Association Inc
by its counsel:



.....
Stuart Ryan

Dated the 12th June 2017

Address for service of appellant:

House Movers Section of the New Zealand Heavy Haulage Association Inc
c/- Stuart Ryan, Barrister
PO Box 1296, Shortland Street
Auckland 1140

Attention: Stuart Ryan

Telephone: 09 357 0599

Email: stuart@stuartryan.co.nz

Advice Notes**Advice to recipients of copy of notice of appeal*****How to become party to proceedings***

You may be a party to the appeal if you made a submission or a further submission on the matter of this appeal.

To become a party to the appeal, you must:

- within 15 working days after the period for lodging a notice of appeal ends, lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court and serve copies of your notice on the relevant local authority and the appellant; and
- within 20 working days after the period for lodging a notice of appeal ends, serve copies of your notice on all other parties.

Your right to be a party to the proceedings in the court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing or service requirements (see form 38).

How to obtain copies of documents relating to appeal

The copy of this notice served on you does not attach a copy of the appellant's submission, or the decision appealed. These documents may be obtained, on request, from the appellant.

Advice

If you have any questions about this notice, contact the Environment Court in Auckland, Wellington, or Christchurch.

Annexure A

Copy of submission of the appellant.

Manawatu District Plan Review - Submission on Proposed Plan Change 55

Manawatu District Council
135 Manchester Street
Private Bag 10001
Feilding 4743

Attention: Principal Planning Adviser - Wendy Thompson

Email: districtplanreview@mdc.govt.nz

Submission on: Proposed Plan Change 55

Name: House Movers Section of New Zealand Heavy Haulage Association (Inc), Britton Housemovers Ltd, and Central Housemovers Ltd (together referred to as "House Movers")

Address: House Movers Section of New Zealand Heavy Haulage Association (Inc)
C/- Stuart Ryan
P.O. Box 1296
Shortland Street
Auckland 1140

Introduction

1. The House Movers Section of the New Zealand Heavy Haulage Association (Inc) represents firms and individuals engaged in building removal and relocation throughout New Zealand. Britton Housemovers Ltd, and Central Housemovers Ltd are members of the Association. The members and the Association are together referred to as "House Movers"
2. The House Movers wish to ensure that regulatory controls through District Plans properly reflect the purpose and intentions of resource management legislation as expressed in the decision of the Environment Court in *New Zealand Heavy Haulage Association Inc v The Central Otago District Council* (Environment Court, C45/2004, Thompson EJ presiding). In this decision the Environment Court held that there was no real difference in effect and amenity value terms between the in situ construction of a new dwelling and relocation of a second-hand dwelling, subject to appropriate permitted activity performance standards. Where new buildings are a permitted activity, so too should relocated buildings.
3. There are several aspects to the shifting of buildings, including removal (off a site), relocation (onto a site), and re-siting (within a site).

The provisions which this submission relates to are:

4. All provisions (including objectives, policies, rules, assessment criteria, methods and reasons) regulating the removal, re-siting, and relocation of buildings including (without limitation) Part 3G of Proposed Plan Change 55.

Reasons for submissions - removal, re-siting, and relocation of dwellings and buildings:

5. Rules 3G.4.1 classifies relocated buildings as a controlled activity provided that the specified performance standards are complied with. Control is proposed to be reserved over:
 - a. Requirements for remedial works and upgrading the exterior of the building to ensure visual amenity of the surrounding area is maintained. The time allowed for

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House Movers Section of New Zealand Heavy Haulage Association (Inc)

remedial works and upgrading to be completed once the relocated building is located on its destination site.

- b. A bond, of the nature provided for in the Resource Management Act (1991), further secured by deposits of cash with the District Council, to ensure compliance with consent conditions. The bond must be paid prior to the movement of the building to its new site, and shall be to the value of any remedial or upgrading work as identified in 3G.4.1(a), as assessed by a suitably qualified and experienced person.
 - c. The immediate installation of the relocated building onto permanent foundations upon delivery to the destination site.
 - d. The suitability of the relocated building for the intended reuse.
 - e. How the age and character of the building is consistent with the level of amenity in the surrounding environment.
 - f. How the standards for permitted activities in the relevant zone and other parts of this Plan have been met.
6. Controlled activity resource consents are proposed to be non-notified unless there are special circumstances or the applicant requests public notification.
 7. Any relocated building that does not meet the Controlled Activity standards or does not comply with the relevant Permitted Activity standards in all other parts of the District Plan is proposed to be a restricted discretionary activity.
 8. The House Movers oppose the proposed treatment of relocated buildings as a controlled activity. The proposed activity classification does not reflect the *Central Otago* decision.
 9. The proposed plan change does not expressly provide for removal (from a site) or re-siting (within a site). Removal and re-siting should be expressly provided for as a permitted activity.
 10. It is submitted that the proposed regulation of relocation, removal and re-siting of buildings, does not meet the aims of the Resource Management Act, in particular:
 - a. The classification of removal, re-siting, and relocation of buildings is inconsistent and contrary to sustaining the potential of natural and physical resources of the district in accordance with Section 5 RMA, and Part 2 of the Act generally.
 - b. It is inconsistent with sustainable management to require resource consent for removal, re-siting, and relocation of buildings, but to provide for construction of new buildings as a permitted activity.
 - c. Relocation of buildings is an affordable housing/construction option, and consistent with sustainable management by providing for the recycling and reuse of materials which would otherwise go to landfill. Activity classification should take into account the positive effects from activities.
 - d. Controls on removal, re-siting, and relocation of buildings in the proposed plan are not necessary to assist Council to carry out its functions.
 - e. Controls on removal, re-siting, and relocation of buildings in the proposed plan do not meet section 32 criteria of the RMA. It is denied that Council has carried out a

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proper section 32 assessment on removal, re-siting, and relocation of dwellings and buildings, or if any section 32 assessment has been carried out, it is not sufficient in that Council has failed to have regard to the extent to which the objectives, rules and policies and other methods are necessary; to consider other means that may be used to achieved the same objectives and policies (including the "do nothing" option); to carry out a proper evaluation of the benefits and costs (both monetary and non-monetary) of regulation of removal, re-siting, and relocation of buildings; or be satisfied that the regulation in the proposed plan is the most appropriate, efficient and effective means of exercising Council's functions.

- f. Controls in the plan on removal and relocation of buildings are inconsistent with the criteria in Sections 75 and 76 of the RMA.
- g. Controls in the plan on removal, re-siting, and relocation of buildings are not proportionate to controls on new dwellings and buildings in the plan.
- h. In practical terms, any potential adverse effect on amenity values from building relocation is remedied after an initial establishment period. The same establishment period is present whenever a new dwelling is constructed, and whereas the Council has not generally promoted similar controls for new dwellings.
- i. The proposed plan fails to apply the decision of the Environment Court in *New Zealand Heavy Haulage Association Inc v The Central Otago District Council* (Environment Court, C45/2004, Thompson EJ presiding). Central Otago District treated relocated dwellings a discretionary activity in its proposed plan. The position of Central Otago District was not upheld by the Environment Court. Following a defended hearing the Court allowed for relocation of dwellings as a permitted activity subject to a number of performance standards. As a default rule, i.e. where unable to meet permitted activity standards, relocation was provided for as a restricted discretionary (non-notifiable) activity.
- j. The proposed plan does not recognise the transaction costs of not expressly exempting relocation and removal of buildings from any requirement to obtain neighbour approval.
- k. The submitter pleads the reasons given by the Court in *New Zealand Heavy Haulage Association Inc v The Central Otago District Council* as if set out herein.

Relief - the following decisions are sought on removal, re-siting, and relocation of dwellings and buildings

- 11. Delete all provisions (including objectives, policies, rules, assessment criteria and other methods and reasons) on removal, re-siting, and relocation of buildings.
- 12. Rewrite the proposed plan change, and its policies and objectives, rules, methods and reasons to reflect the reasons for this submission.
- 13. Amend the definitions section of the plan to accord with trade practice and usage so as to distinguish between the activities of removal, re-siting, and relocation of dwellings and buildings.
- 14. Recognise in the objectives, policies and rules and methods of the plan the need to provide for the coordination between Building Act and Resource Management Act, to avoid regulatory duplication.

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15. Expressly provide in the proposed plan change (whether in the definitions or in the activity rules) for the *demolition* and *removal* and *re-siting* of buildings as a permitted activity in all areas and zones, except in relation to any scheduled identified heritage buildings, or any properly established conservation heritage precinct.
16. In the event that *demolition* and *or removal* and *re-siting* of buildings is not a permitted activity due to non-compliance with performance standards, then as a default rule, provide for relocation of dwellings and buildings no more restrictively than a controlled activity, provided that such application be expressly provided for on a non-notified, non-service basis.
17. Replace the policy provisions relating to relocated dwellings and buildings with objectives, policies, rules, assessment criteria, methods, reasons and other provisions which expressly provide for *relocation* of buildings as "permitted activities" in all zones/areas, so as to achieve performance standards no more restrictive than provided for in paragraph 18 below.
18. Provide for the relocation of dwellings and buildings subject to the following performance standards/conditions (or to same or similar effect):

Relocation of buildings

Relocated buildings are permitted where the following matters can be satisfied:

- a) Any relocated building can comply with the relevant standards for Permitted Activities in the District Plan;
 - b) Any relocated dwelling must have been previously designed built and used as a dwelling;
 - c) A building inspection report shall accompany the building consent for the building/dwelling. The report is to identify all reinstatement work required to the exterior of the building/dwelling; and
 - d) The building shall be located on permanent foundations approved by building consent, no later than 2 months of the building being moved to the site.
 - e) All work required to reinstate the exterior of any relocated building/dwelling, including the siting of the building/dwelling on permanent foundations, shall be completed within 12 months of the building being delivered to the site.
19. As a default rule, in the event that *relocation* of a buildings/dwelling is not a permitted activity (as provided for in paragraph 17 and 18 above) due to non-compliance with performance standards, provide for relocation of dwellings and buildings no more restrictively than a restricted discretionary activity (provided that such application be expressly provided for on a non-notified, non-service basis) subject to the following assessment criteria (or to the same or similar effect):

Restricted Discretionary Activity

(on a non-notified, non-service basis)

Where an activity is not permitted by this Rule, Council will have regard to the following matters when considering an application for resource consent:

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- i) Proposed landscaping;
 - ii) the proposed timetable for completion of the work required to reinstate the exterior of the building and connections to services;
 - iii) the appearance of the building following reinstatement
20. Delete any provision for a performance bond or any restrictive covenants for the removal, re-siting, and relocation of dwellings and buildings.
21. Restrict (as a discretionary activity rule) the use of restrictive covenants for the removal, re-siting, and relocation of dwellings and buildings.
22. Make any further or consequential amendments to give effect to this submission, including such amendments as required to the provisions, definitions, other matters, rules, objectives, policies and reasons of the proposed plan change to give appropriate recognition to the positive effects of removal, re-siting, and relocation of dwellings and buildings and dwellings, in accordance with the reasons for this submission, and the relief sought as a whole.
23. Suggested drafting to give effect to this submission is attached as **Schedule 1**, (or the same or similar effect but without limiting the relief sought).
24. A suggested pre-inspection report (as a non-statutory form) is attached as **Schedule 2**.

Conclusion

25. The House Movers **do** wish to be heard in support of these submissions.
26. If others are making a similar submission, the House Movers would be prepared to consider presenting a joint case with them at any hearing.

Dated: 10 August 2016

House Movers Section of New Zealand Heavy Haulage Association (Inc)

by its counsel:



.....
R H Ashton

Manawatu District Plan Review - Submission on Proposed Plan Change 55

House Movers Section of New Zealand Heavy Haulage Association (Inc)

Address for Service:

House Movers Section of the New Zealand Heavy Haulage Association (Inc)
C/- Stuart Ryan
P.O. Box 1296
Shortland Street
Auckland 1140

Phone (09) 357-0599

Fax (09) 281 1110

E-mail: stuart@stuartryan.co.nz

rowan@stuartryan.co.nz

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Schedule 1 – Suggested Rules

Permitted Activity Standards for Relocated Buildings

- i. Any relocated building must comply with the relevant standards for Permitted Activities in the District Plan.
- ii. Any relocated building intended for use as a dwelling (excluding previously used garages and accessory buildings) must have previously been designed, built and used as a dwelling.
- iii. A building pre-inspection report shall accompany the application for a building consent for the destination site. That report is to identify all reinstatement works that are to be completed to the exterior of the building.
- iv. The building shall be located on permanent foundations approved by building consent, no later than 2 months of the building being moved to the site.
- v. All other reinstatement work required by the building inspection report and the building consent to reinstate the exterior of any relocated dwelling shall be completed within 12 months of the building being delivered to the site. Without limiting (iii) (above) reinstatement work is to include connections to all infrastructure services and closing in and ventilation of the foundations.
- vi. The proposed owner of the relocated building must certify to the Council that the reinstatement work will be completed within the 12 month period.

Definitions

“Relocated Building means any previously used building which is transported in whole or in parts and re-located from its original site to its destination site; but excludes any pre-fabricated building which is delivered dismantled to a site for erection on that site.

“Removal of a Building means the shifting of a building off a site”

“Relocation of a Building means the placement of a relocated building on its destination site”

“Re-siting of a Building” means shifting a building within a site.

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Schedule 2 – Suggested Pre-inspection Report



Building Pre-Inspection Report for Relocation

*New Location Address
Region*

For: *Council Name*

Date of report

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APPENDIX A – PHOTOGRAPHS

1.0 GENERAL INFORMATION

1.1 Introduction

This Building Pre-Inspection report accurately records the external condition of the *dwelling house/garage/ancillary building* to be relocated and to establish all reinstatement works required to the exterior of the building after relocation to a workmanlike standard and to achieve a tidy appearance to meet requirements of the District Plan .

Limited inspection of the interior has been undertaken for the purpose of the Report.

The Report confirms whether the building is considered Safe and Sanitary.

The Report also identifies site-specific requirements including but not limited to the requirement for; the construction of the new foundations, new retaining walls, service connections, water and sewerage treatment (if applicable).

The Report also provides photographs of the surroundings of the destination site. These photos provide context for the standard to be achieved in reinstating the relocated building.

The Report must be read in conjunction with the condition table and photographs provided, which assist in providing a representation of the condition of the premises prior to the commencement of the relocation.

The Report has been prepared by *Name of Company Name* as per our instruction/agreement dated _____ on behalf of our clients *Name*

1.2 Applicants Contact Details

Applicant:	<i>Applicant (clients) name</i>
Contact address:	<i>Contact address</i>
Telephone:	
Email:	
Any Additional information:	

Agent:	<i>Authorised agent</i>
Contact address:	<i>Contact address</i>
Telephone:	
Email:	
Any Additional information:	

1.3 Building details

Type of building	<i>Dwelling house, garage, ancillary building</i>
Approximate age of building:	<i>Provide date range i.e. 1940-1950</i>
Brief Description:	<i>Number of storeys, approximate size, roof, walls, floor construction, additional features</i>
Proposed site address:	<i>Address of the intended site of the relocated building</i>
Site address where the building was inspected:	<i>Address...</i>
Proposed Use of Building	<i>Dwelling house, residential garage, ancillary</i>
Previous Use of the Building	<i>Relocated building must have been previously designed, built and used as a dwelling (Except previously used garage and ancillary buildings)</i>
Inspection Dates & Weather:	<i>Date and weather at the time of inspection</i>
Inspection by:	<i>Name of inspector</i>
Other persons present:	<i>Name of other parties present</i>
Building Consent Status	<i>Has Building Consent documentation been prepared for the relocation works.</i>

1.4 Reporting Conditions

This Report has been prepared under the following conditions of engagement:

- The survey is based on a visual inspection only; therefore it is not possible to guarantee that all concealed areas containing defects will be accessible (floor voids, roof voids, etc). No intrusive investigation will therefore be undertaken.
- Signs of water ingress will be searched for during the completion of the survey, however the Report cannot warrant that the building is free from water penetration, from defective roofing, cladding, rainwater goods, rising damp or the like unless evident at the time of our visual survey.
- Only areas where safe access is possible have been inspected.
- The Report is provided for the use of the client identified in section 1.1 and the council and may not be used by others without written permission. The writer of this report accepts no liability to third parties who may act on the report.
- This Report must be read in conjunction with photograph and condition tables provided.
- This Report is for the purposes of the District Plan. The Report also requires a safe and sanitary declaration for the purposes of the Building Act 2004.

1.5 Exclusions

This report **does not** include comment about the following:

- a) The structure of the building unless otherwise commented upon;
- b) The surrounding neighbourhood;
- c) The value of the property;
- d) Illegal Works; and
- e) Internal condition of the building unless otherwise commented upon.

Additionally, no search has been made of:

- f) Local Authority rates;
- g) Government Valuation; or
- h) LIM or PIM reports.

1.6 Definitions

The following defines the condition comments of the elements surveyed:

- Good: Items that have suffered minimal weathering, wear or decay and are free from any visual defects.
- Reasonable: Items that have worn through 'normal' use and weathering, and is in commensurate condition to the building age and use.
- Poor: Items that are worn, decayed or weathered either due to the age, abnormal use or lack of maintenance.

1.7 Areas Accessed

Example:

The external envelope of the subject building viewed from ground floor level and where safely accessed by ladder from ground level.

Internally, our inspection was limited to those parts of the buildings that could be safely accessed and a head and shoulders inspection of the roof space.

Access was gained into the subfloor space....

2.0 MANDATORY CONDITION TABLE

RMA 1991 – Mandatory External Reinstatement					
Item	Construction Element	Description	Condition	Required Upgrades & Comments	Photograph
1	Roof	<i>Corrugated iron/fibre cement sheet, concrete tile, metal tile, butynol membrane, other</i>	<i>Good/Reasonable/ Poor</i>	<i>None/ Repaint/ Re-roof etc</i>	 <p><i>Insert multiple photographs if/as required under any of the below sub-headings.</i></p>
2	Spouting and Downpipes	<i>PVC, metal, butynol membrane, other</i>	<i>Good/Reasonable/ Poor</i>	<i>None/ Repaint/ Replace etc</i> <i>Example: Repair all timber fascias, barges as well as rainwater goods to ensure surface moisture discharges into new Council approved outlet at new site location.</i>	

2.0 MANDATORY CONDITION TABLE

RMA 1991 – Mandatory External Reinstatement					
Item	Construction Element	Description	Condition	Required Upgrades & Comments	Photograph
3	Wall Cladding	<i>Fibre cement weatherboard/sheet, timber weatherboard, Board and batten, metal sidings, other</i>	<i>Good/Reasonable/ Poor</i>	<i>None/ Repaint/ Replace etc</i>	
4	Foundation cladding	<i>NA</i>	<i>NA</i>	<i>Foundation cladding is to be installed as specified in the Building Consent</i>	
5	Window and Door Joinery	<i>Powder coated aluminium, timber, steel, single glazed, double glazed</i>	<i>Good/Reasonable/ Poor</i>	<i>None/ Install new joinery/Repair and redecorate existing joinery</i> <i>Example: Repair and repaint window and door joinery. Replace all broken glass immediately after relocation.</i>	

3.0 BUILDING ACT REQUIREMENTS

This Report is for purposes required by the District Plan. It is not a report to address matters required by the Building Act.

A building consent is required for the relocation of this building and all subsequent works as a consequence. The building work must be designed and undertaken by Licensed Building Practitioners with the appropriate category of licence (certain homeowner exemptions may apply). This Pre-inspection Report must be submitted to council with an application for building consent.

The building consent documents must be provided to council along with the appropriate fees and proof of ownership (Certificate of Title less than 3 months old or sale and purchase agreement for the proposed site).

The site specifics must be appropriately designed to include foundations, considering, layout, sizing, position, bracing, ventilation, access etc.

4.1 SAFE AND SANITARY

Comment is required.

Building Surveyor MUST give a declaration regarding whether the building is/isn't Safe and Sanitary.

Note:

If the building is not considered safe and sanitary then give reasons. (example: evidence of leaky building)

4.2 HEALTH & SAFETY

Set out below is a description of the health and safety concerns identified.

Example:

Building materials identified are suspected to contain asbestos. This includes, but not limited to fibre cement claddings, vinyl flooring and soffit linings. Asbestos is relatively safe when encapsulated, but is dangerous to health when fibres become air borne. This can occur when the building materials are damaged or become degraded.

No specialist laboratory testing has been carried out to confirm the presence or absence of asbestos or any other material hazardous to health. All comments are based upon a visual inspection only.

It is recommended that a specialist asbestos surveyor be instructed to identify the risks present.

5.0 ESTIMATE OF COSTS OF EXTERNAL REINSTATEMENT WORKS

The estimate of costs of external reinstatement works is the sum of [*to insert*]

Note:

Allow a contingency sum for any damage in transit

“Reinstatement Works” means the extent of the work required to the exterior of the Relocated Building as specified in the Building Pre-Inspection Report for the purposes of the District Plan. The exterior reinstatement works will not include matters regulated by the building legislation or connection to foundations; but may include matters required by the District Plan for work to be undertaken and completed to the exterior of the building to a workmanlike standard and to achieve a tidy appearance, including, without limitation:

- (a) Repair of broken windows and window frames;*
- (b) Repair of rotten weatherboards or other damaged wall cladding;*
- (c) Necessary replacement or repair of roof materials;*
- (d) Cleaning and/or painting of the exterior where necessary e.g. roof, walls, window frames etc;*
- (e) Repair of transit damage; and/or*
- (f) Replacement and painting of baseboards or other foundation cladding.*

6.0 BUILDING SURVEYORS SIGNATURE

I, certify that the information provided is true and correct and that the building described above appears to have applied with the relevant Building Regulations at the time of its construction, and (if a dwelling) the building has been previously designed, built and used as a dwelling (Except previously used garage and ancillary buildings).

Author

Peer Reviewer

Signed:

If undertaken/available

Qualifications *LBP Category, BOINZ, RICS, NZIBS, ANZIA etc*

For and On Behalf of *Company Name*

Address

Inspectors business address

Telephone

Telephone business number

Email

Email business address

7.0 OWNER CERTIFICATE AND DECLARATION

As a requirement of the [insert council name] District Plan/Resource Consent, I/we _____ CERTIFY that I/we will ensure that within 12 months from the building being delivered to site the buildings external reinstatement, infrastructure, closing in, ventilation of foundations, and connections to services (mains or private) will be completed.

I acknowledge that failure to complete any mandatory work identified in 2.0 'Mandatory Condition Table' relating to the reinstatement of the building may lead to council taking action under the terms of the Relocated Buildings Bond and/or enforcement action under the Building Act 2004, or Resource Management Act 1991, including by way of a notice to fix, infringement notice, abatement notice, enforcement order, or prosecution.

Signed:..... (PRINT).....

Owner

Signed:..... (PRINT).....

Owner

Signed:..... (PRINT).....

Owner



Elevation description i.e. Front Elevation

Elevation description i.e. Rear Elevation

Elevation description

Elevation description

Elevation description

Elevation description

<i>Elevation description</i>	<i>Elevation description</i>	<i>Elevation description</i>
<i>Elevation description</i>	<i>Elevation description</i>	<i>Elevation description</i>

Destination Site Photographs

Additional Comments and Notes

Annexure B

A copy of relevant extracts from Council's decision

BEFORE THE MANAWATU DISTRICT COUNCIL

IN THE MATTER the sectional review of the Manawatu
District Plan

AND

IN THE MATTER of Plan Change 55

COMMISSIONERS' DECISION

Dated: 22 February 2017

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- (i) Issue 9 - A basket of matters raised by Federated Farmers relating to rural interests;
- (j) Issue 10 – Issues raised by Horticulture New Zealand and Federated Farmers; and

Issue 1 – The treatment of relocated buildings

Overview

- [12] Relocated buildings are a district wide resource management issue and are therefore addressed in the district wide section of the Plan.
- [13] MDC considered that relocated buildings are a resource management issue that requires regulation. The relocation of residential buildings is common place throughout the various zones in the Manawatu district. There are problems with the state of some of those buildings, the quality of reinstatement and the timing of reinstatement. These problems all have an impact on the amenity of residents within the district. The risk of adverse amenity effects is most acute, by reason of density, in the Residential and Village Zones. This is an area where community concern has been identified.
- [14] PC55(R1) proposed a bi-furcated rule stream depending on the zone in which the building is to be located. In the case of relocated buildings in the Outer-Business, Industrial, Residential and Village Zones, buildings could only be relocated as a permitted activity if they did not exceed 40m² in gross floor area (“gfa”) as provided in R3G.4.1. Otherwise, they defaulted to the controlled activity class under R3G.4.3. In the Rural Zone, relocated buildings are permitted activities provided the performance standards in R3G.4.2 are met. R3G.4.2 contains the permitted activity standards. These standards are designed to ensure that MDC receives a building pre-inspection report of sufficient quality to identify the reinstatement works that are required to bring the building up to a workmanlike standard and tidy appearance. To ensure the quality of the report, one performance standard requires that building pre-inspection report is prepared by a licensed building practitioner or building inspector. Other performance

conditions require a commitment to complete those works within 12 months and for the owner to complete a certificate that the work has been complete. Another standard is that any *“relocated building must be installed on permanent foundations immediately upon delivery to the destination site”*.

- [15] The reason MDC wished to retain control through the requirement for consent in the Residential, Village, Industrial and Outer Business Zones (for buildings larger than 40m² gfa) is because the performance standards in R3G.4.3 may not be sufficient to protect the amenity of the area in which the building will be situated and there is a need to respond to the specific site context when deciding the requirements for any particular relocated building.

Evidence in support of the submission by the New Zealand Heavy Haulage Association Inc

- [16] The New Zealand Heavy Haulage Association Inc, and in particular the House Movers section (**“House Movers”**), was the main submitter on this issue. A member of House Movers is the well-known Whanganui based business called Britton House Movers Limited that operates throughout the lower North Island which was also a submitter.
- [17] The thrust of the House Movers submission was that all relocated buildings should be permitted activities. House Movers accept that there needs to be performance standards applying to that activity. Some of the performance standards were contested, as were some of the requirements of the pre-inspection report prescribed by the new Appendix 3G.1 of PC55. This proposed building pre-inspection report contained information requirements in order to achieve a robust management regime outside a resource consent that also created enforceable obligations.
- [18] The evidence for House Movers was given by Paul Britton. He emphasised the importance of the relocated buildings in the lower North Island, and in particular, the Manawatu. He identified how the industry was important to move residential properties to meet housing demand. Mr Britton said that in many cases relocation was less disturbing than where there is

construction of a new dwelling because of the shorter construction period.

At [21] Mr Britton said:

When a relocatable home arrives on site, it may (depending on size) arrive in two sections. Generally the aim will be to get the house to the section around day break. The roof may have been lowered and draped with tarpaulins. The initial visual impact can be unexpected for neighbours. It can trigger calls to councils. However, this is temporary and typically within a few days the home will have been placed on a new foundation, re-joined and roof reinstated. There is a need to get this work quickly so that the house is made weatherproof.

[19] Mr Britton considered that all relocated buildings can be addressed by way of permitted performance standards and treated as a permitted activity. Mr Britton said that reinstatement work required by performance standards should work in with Building Act 2004 controls, which the territorial authority also administers.

[20] Submissions were presented on behalf of House Movers by Rowan Ashton. He cited the Environment Court decision *New Zealand Heavy Haulage Association Incorporated v Central Otago District Council*,¹ as authority for the proposition that relocated buildings should be dealt with as a permitted activity. In that case, the Environment Court rejected plan provisions proposed by the territorial authority that control relocated buildings as a restricted discretionary activity. Instead, the Environment Court endorsed a permitted activity rule with performance conditions that, amongst other things, required a pre-inspection building report and completion of the work identified in that report within six months.

[21] Mr Ashton also argued that a one month period to place the building on permanent foundations was appropriate.

MDC's evidence in reply

[22] Ms Harris worked with Brittons to revise the building pre-inspection report template (in Appendix 3G.1), and to refine its wording so that what was required was clear, able to be monitored and enforceable. There did not

¹ Decision No. C45/2004.
Commissioners' Decision – PC55

seem to be any dispute that these sorts of characteristics were essential for the permitted performance standards to work.

- [23] In PC55(R2) Ms Harris changed the rules so that controlled activity resource consent was only required for buildings in excess of 40m² gfa in the Residential and Village Zone. Not the Industrial and Outer Business Zones. She did not support a permitted activity standard for relocated buildings in all cases in the Residential and Village Zones. She also did not support a one month period of grace to establish permanent foundations as proposed by House Movers. Ms Harris considered that obtaining a building consent in advance and ensuring that foundations were permanent as part of the building relocation process were significant steps in ensuring amenity was adequately protected and to ensure that foundation design had been addressed at the outset. If it became apparent that special foundation design was required after the building was on site, then that may delay the period when the building is placed on proper foundations. In most situations, while the building is not on permanent foundations, it is likely to appear as a significantly incongruous element in its setting.

Our conclusion on Issue 1

- [24] The parties are in agreement about the information required by the building pre-inspection report template in Appendix 3G.1. We agree that the wording changes make the requirements clearer and more enforceable. They provide an assurance that better quality information is obtained both on what is required to reinstate the building and also ensuring adequate information is provided to demonstrate it is done. We therefore support the changes to Appendix 3G.1 in PC55(R2).
- [25] We do not agree with House Movers that there should be a one month grace period for establishing the relocated buildings on permanent foundations for the following reasons:
- (a) Mr Britton's own evidence said that it was normal to place the building on permanent foundations promptly;

- (b) There is an appreciable risk that if the issue of foundations is not addressed prior to relocation, then greater adverse effects may arise from the unanticipated requirements relating to foundation design;
- (c) Site contouring and management generally occurs alongside foundation preparation. It is desirable that these issues occur as a single 'transaction'; and
- (d) Mr Britton said that the performance standards should tie in with the Building Act requirements. This is best achieved by the performance standard requiring the building to be placed on permanent foundations immediately.

[26] We doubt that inclement weather conditions would make the proposed performance condition unworkable in some cases. The requirement of the conditions means that some planning and foresight is required which is desirable to achieve amenity protection. The word "immediately" in the standard does not mean "instantaneously".

[27] We did not receive from House Movers the final decision of the Environment Court in the *Central Otago* decision recording the final terms of the approved permitted activity rule. It is unclear whether House Movers' proposed grace period is consistent with that decision or not. Mr Ashton's submissions suggested that that grace period was completely new because it is identified as bold at [3.1] of his submissions.

[28] We support the view of Ms Harris that the controlled activity standards should continue to apply for relocated buildings in the Residential and Village Zones. We accept that the dataset of complaints is somewhat incomplete about relocated buildings. The collective experience of the Panel is that the issue is real for some communities where land is zoned Residential or Village. The Environment Court in the *Central Otago* decision did acknowledge that to some extent these sorts of controls were for the community to determine, and in this case the Panel, using its collective experience, does consider that there is a need for a further level of control

beyond the performance activity standards for permitted activities in the case of relocated buildings in the Residential and Village Zones.

[29] We note that the *Otago* decision set a performance standard of six months rather than 12 months to complete work. This reinforces the point made by Ms Harris, that in the Residential and Village Zones, it may be appropriate for MDC through the controlled activity control to set a shorter period (rather than the default 12 months in other zones) within which reinstatement works must be complete. In addition, we accept the evidence of Ms Harris that the site, locality and context may mean that specific requirements are appropriate to protect amenity, which are not achieved by generic performance standards across all zones. The controlled activity status is not unreasonable. Ms Harris has quite properly conceded that this consent would be dealt with on a non-notified basis and appropriate changes to PC55 have been made in PC55(R2) to ensure non-notification of an application.

[30] Overall, we are satisfied with the treatment of relocated buildings as amended in PC55(R2).

Issue 2 – The regulatory treatment of network utilities within ONFLs

[31] Section 3A of PC55 addresses network utilities. Network utilities are developed, operated and upgraded district wide. Proposed Objectives 1 and 2 set the goals for enabling and protecting network utilities. Objective 3, and its implementing policy, addresses network utilities in three special classes of natural or physical resources:

- (a) Outstanding Natural Features and Landscapes in Appendix 1C of MDP;
- (b) Historic heritage scheduled in Appendix 1E of the MDP; and
- (c) Heritage sites in Appendix 1F in MDP.

Annexure C

Names and addresses of persons to be served:

Manawatu District Council