

**BEFORE THE ENVIRONMENT COURT
I MUA I TE KOOTI TAIAO O AOTEAROA**

IN THE MATTER of the Resource Management Act 1991
AND of an appeal under cl 14 of the First
Schedule to the Act
BETWEEN HOUSE MOVERS SECTION OF THE NEW
ZEALAND HEAVY HAULAGE
ASSOCIATION INCORPORATED
(ENV-2017-WLG-000062)
Appellant
AND MANAWATU DISTRICT COUNCIL
Respondent

Environment Judge B P Dwyer sitting alone pursuant to s 279 of the Act

In Chambers at Wellington

CONSENT ORDER

- [A] Under s 279(1)(b) of the Act, the Environment Court, by consent, orders that:
- (1) The provisions of Plan Change 55 (3G Relocated Buildings) to the Manawatu District Plan imposed in that part of the decision the subject of this appeal are to be amended in the manner set out in **Appendix A**.
 - (2) The appeal is otherwise dismissed.
- [B] Under s 285 of the Act, there is no order as to costs.

REASONS

Introduction

- [1] The Court has now read and considered the appeal and the memoranda of the parties dated 16 February and 19 April 2018.

HOUSE MOVERS SECTION OF THE NEW ZEALAND HEAVY HAULAGE ASSOCIATION
INCORPORATED v MANAWATU DISTRICT COUNCIL



Other relevant matters

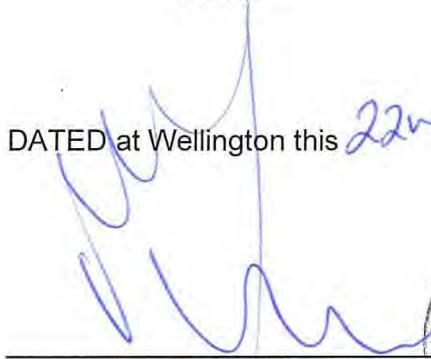
[2] No person gave notice of an intention to become a party under s 274 of the Act.

Orders

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

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

DATED at Wellington this *22nd* day of May 2018



B P Dwyer
Environment Judge



Appendix "A"
PC55 Provisions – 3G Relocated Buildings



3G RELOCATED BUILDINGS

3G.1 Introduction

Relocating buildings provides for the sustainable and economic reuse of buildings that are no longer required in their current location. Buildings may have been previously used, or purpose built for relocation. The age and condition of previously used buildings that are commonly relocated within the Manawatu District often means that remedial and upgrading works are required to be undertaken. These works ensure that the building does not result in adverse visual effects on the surrounding environment. It is therefore important that relocated buildings are managed to ensure amenity values are maintained.

The relocation of significant historic built heritage scheduled in Schedule 4a and Appendix 1E (Buildings and Objects with Heritage Value) is a separate matter not addressed through this chapter. Consideration of these buildings is required under the provisions of Chapter 4 – Historic Heritage.

3G.2 Resource Management Issues

The following resource management issues have been identified:

1. The need to recognise the sustainable use and economic benefits associated with the reuse of buildings by relocating them to a new site
2. The need to manage the adverse visual effects that can occur from relocating buildings to a new site.
3. New buildings that are small scale and purpose built to be relocated are less likely to result in adverse visual effects on the environment.

3G.3 Objectives and policies

Objective 1

To enable the relocation and establishment of relocated buildings only where reinstatement works will ensure the building maintains the visual amenity values of the surrounding area.

Policies

- 1.1 To ensure any reinstatement and upgrading works undertaken are completed in a timely and efficient manner.
- 1.2 To ensure any reinstatement and upgrading works will result in a relocated building achieving a level of visual amenity the same or better than the surrounding area.



- 1.3 To encourage relocated buildings that are of an age, character and condition that requires minimal reinstatement work.

3G.4 Rules

Rules in this chapter apply District-wide and the chapter needs to be read in conjunction with the District Plan maps, relevant appendices and provisions of the applicable zone.

3G.4.1 Permitted Activities

The following are permitted activities provided that they comply with the standards in Rule 3G.4.2:

~~a. In the Residential and Village Zones~~

~~i. Relocated buildings up to and including 40m² in gross floor area.~~

~~ii. New buildings that are designed and purpose built to be relocated.~~

~~b.a. All relocated buildings in the Residential, Village, Rural Zone, Outer Business and Industrial Zones.~~

3G.4.2 Standards for Permitted Activities

The permitted activities specified in Rule 3G.4.1 above must comply with the following conditions:

a. Any relocated building intended for use as a dwelling must have previously been designed, built and used as a dwelling.

~~b. The relocated building must be installed-placed on permanent foundations as soon as practicable, and not later than one month from arrival onsite. If a building is not immediately placed on foundations public access to the site shall be restricted, including with signage. immediately upon delivery to the destination site.~~

~~Guidance Note: For the purposes of this standard, restricted means industry methods and techniques used to restrict public access to a site, including signage, and as necessary to achieve compliance with health and safety legislation. The methods and techniques should reflect the location of the site and the ability of people to gain access.~~

~~c. The Council shall be notified no later than 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.~~

~~d. The relocated building is not located within the Flood Channel Zone.~~



e.e. Compliance with all standards specified for permitted activities in the relevant zone and other parts of this Plan.

e.f. A building pre-inspection report shall be submitted by the owner of the relocated building to the Council at the same time as an application is made for a building consent for the relocated building. That report shall be on the form contained in Appendix 3G.1 and is to identify all reinstatement works that are to be completed to the exterior of the building to achieve a workmanlike standard and tidy appearance, and shall certify whether the relocated building is safe and sanitary.

f.g. The building pre-inspection report shall be prepared by:

- A licenced building practitioner (carpenter or design category); or
- A building inspector from the local authority where the building is being relocated from.

g.h. All reinstatement work required by the Condition Table in Section 2.0 of the building pre-inspection report (in Appendix 3G.1) to reinstate the exterior of any relocated building shall be completed within 12 months of the building being delivered to the destination site.

h.i. The owner must complete the Owner Certificate and Declaration in Section 76.0 of the building pre-inspection report (in Appendix 3G.1) to certify to the Council that all the reinstatement work will be completed within 12 months of the building being delivered to the destination site.

i. The relocated building owner will supply to the Council photos showing the exterior of the building 12 months after relocation to show the reinstatement works required by Condition Table 2.0 of the Building Pre-Inspection Report have been achieved.

Guidance Note: Compliance with the permitted activity standards of the Plan does not ensure compliance with the Building Act 2004. The standards do not in any way derogate from or impinge on Council's functions, powers and obligations under the Building Act.

3G.4.3 — Controlled Activities

~~Any relocated building that is not provided for as a permitted activity under Rule 3G.4.1 or does not meet the Performance Standards in Rule 3G.4.2 is a controlled activity, provided they comply with the following standards:~~

~~a. Any relocated building intended for use as a dwelling must have previously been designed, built and used as a dwelling.~~

~~b. The relocated building is not located within the Flood Channel Zone.~~



e. Compliance with all standards specified for permitted activities in the relevant zone and other parts of this Plan.

d. A building pre-inspection report shall be submitted by the owner of the relocated building to the Council at the same time as an application is made for a building consent for the relocated building. That report shall be on the form contained in Appendix 3G.1 and is to identify all reinstatement works that are to be completed to the exterior of the building to ensure the visual amenity of the area where the building is to be located is maintained.

e. The owner must complete the Owner Certificate and Declaration in Section 7.0 of the building pre-inspection report (in Appendix 3G.1) to certify to the Council that all the reinstatement work will be completed within 12 months of the building being delivered to the site.

For this activity, Council has reserved its control over, and may impose conditions on a resource consent when considering, the following matters:

○ Requirements for reinstatement works and upgrading the exterior of the building to ensure visual amenity of the surrounding area is maintained.

○ The time allowed for reinstatement works and upgrading of the exterior of the building to be completed once the relocated building is located on its destination site.

○ The immediate installation of the relocated building onto permanent foundations upon delivery to the destination site.

○ The suitability of the relocated building for the intended reuse.

○ How the age and character of the building is consistent with the level of amenity in the surrounding environment.

○ How the standards for permitted activities in the relevant zone and other parts of this Plan have been met.

3G.4.4 Non-Notification of Controlled Activities

Under section 77D of the Resource Management Act (1991), an activity requiring resource consent under Rule 3G.4.3 will not be publicly or limited notified.

3G.4.35 Restricted Discretionary Activities

The following activities are a Restricted Discretionary Activity, in all zones, in respect to relocated buildings:



- Any relocated building that does not meet the Permitted ~~and Controlled~~ Activity standards or does not comply with the relevant Permitted Activity standards in all other parts of the District Plan.

For this activity, the Council has restricted its discretion to considering the following matters, only to the extent that they are relevant to the standard that is not met:

- Scale of built form and location on site.
- Exterior remedial and upgrading works.
- Time for remedial and upgrading works to be completed.
- The extent of non-compliance with the standard(s) in the Plan.

In determining whether to grant a resource consent and what conditions to impose, the Council will, in addition to the objectives and policies of the Relocated Buildings section and the relevant Zone, assess any application in terms of the following assessment criteria:

- i. Whether the application remains consistent with the intention of the standard(s) it infringes.
- ii. The extent to which there will be adverse effects where an application does not meet the standards.
- iii. Whether the application will result in adverse effects on the character and visual amenity values of the immediate surroundings or wider streetscape.
- iv. The need for reinstatement works and upgrading to ensure visual amenity of the surrounding area is maintained, including landscaping proposed.
- v. The proposed time for reinstatement works and upgrading to be completed once the relocated building is located on its destination site.

~~v.vi.~~ The suitability of the relocated building for the intended reuse.

3G.4.46 Discretionary Activities

Any relocated building not provided for as a Permitted, ~~Controlled~~ or Restricted Discretionary Activity or is located in the Flood Channel Zone is a Discretionary Activity.



Appendix 3G.1 Building Pre-Inspection Report

Building Pre-Inspection Report

PAGE

6

Building Pre-Inspection Report

[insert new location address]

[insert District]

For: Manawatu District Council

[insert date of report]



1.0 GENERAL INFORMATION

1.1 Introduction

This Building Pre-Inspection Report (Report) has been prepared in accordance with the requirements of the Manawatu District Plan. It accurately records the external condition of the *[dwelling house/garage/ancillary building]* to be relocated and sets out all reinstatement works required to the exterior of the building after it has been relocated 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 building consent application which must be lodged with the Manawatu District Council at the same time as this Report is submitted to the Council.

The Condition Table set out in Section 2 of this Report and associated photographs assist in providing a representation of the condition of the building prior to the commencement of the relocation.

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 has been prepared by *[Name]* of *[Company Name]* as per our instruction/agreement dated *[date]* on behalf of our clients *[Name]* in accordance with the requirements of the *Manawatu District Plan*.

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's name]</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>
Is the building being split for transportation	<i>[Yes/No]</i>
Will the split affect wall cladding	<i>[Yes/No – details, number of sections, identify the location of the cut(s)]</i>
Will the split affect roof cladding	<i>[Yes/No – details, number of sections, identified the location of the cuts(s)]</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 Site Characteristics (this section may be filled in by the owner of the destination site)

Existing character of the site	<i>[Description of the site where the relocated building is to be located]</i>
Topography of the surrounding environment	<i>[Description of the surrounding environment, is it hilly, flat, building concealed from the road, etc]</i>
Areas of Vegetation on and around the site	<i>[Description of the vegetation on site, proximity of the building location to any areas of indigenous vegetation]</i>
Areas of any cultural or heritage value identified in the District Plan	<i>[Description of any cultural or heritage values on or near the site.]</i>

1.5

be how the building was inspected.



[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....]

1.6

Reporting Conditions

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

- The building inspection undertaken for the purpose of this Report 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 building inspection undertaken for the purpose of this Report, 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 applicant identified in section 1.1 of this Report and the Manawatu District Council and may not be used by others without written permission by those parties. 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 meeting the requirements of the Manawatu District Plan. It is not a Report to address matters required by the Building Act 2004. 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.

1.7

Exclusions

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

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

Additionally, no search has been made of:

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

1.8

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.





2.0 Condition Table

RMA 1991 – Mandatory External Reinstatement

Item	Construction Element	Description	Condition	Required Upgrades & Comments	Photograph
1	Roof	[Corrugated iron/fibre cement sheet, concrete tile, metal tile, butynol membrane, other]	[Good/Reasonable/Poor]	[None/ Repaint/ Re-roof etc Additional comments required if the roof was removed during relocation]	[Insert multiple photographs if/as required under any of the below sub-headings.]
2	Spouting and Downpipes	[PVC, metal, butynol membrane, other]	[Good/Reasonable/Poor]	[None/ Repaint/ Replace etc 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.]	
3	Wall Cladding	[Fibre cement weatherboard/ sheet, timber weatherboard, Board and batten, metal sidings, other]	[Good/Reasonable/Poor]	[None/ Repaint/ Replace etc]	
4	Foundation cladding	[Baseboards (likely to have been removed)]NA	NA[Good/ Reasonable/ Poor]	[Foundation cladding is to be installed as specified in the Building Consent]	
5	Window and Door Joinery	[Powder coated aluminium, timber, steel, single glazed, double glazed]	[Good/Reasonable/Poor]	[None/ Install new joinery/Repair and redecorate existing joinery Example: Repair and repaint window and door joinery. Replace all broken glass immediately after relocation.]	

3.0 **SAFE AND SANITARY**

Comment is required.

Licensed Building Practitioner 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 defects such as rot, transport damage).

4.0 **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. roofs, walls, window frames etc
- (e) Repair of transit damage; and/or
- (f) Replacement and painting of baseboards or other foundation cladding.



35.0 LICENSED BUILDING PRACTITIONER 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

[name]

[name]

Signed:

If undertaken/available

Qualifications *LBP Category*

For and On Behalf of Company Name

Address

Inspectors business address

Telephone

Telephone business number

Email

Email business address

6.0 OWNER CERTIFICATE AND DECLARATION

As a requirement of the Manawatu District Plan, I/we _____ CERTIFY that I/we will ensure that within 12 months from the building being delivered to the destination site the reinstatement work required in the Condition Table in Section 2.0 of this Report will be completed.

I acknowledge that failure to complete any reinstatement work identified in the Condition Table in Section 2.0 may lead to the Manawatu District Council taking action under the Resource Management Act 1991, including by way of infringement notice, abatement notice, enforcement order, or prosecution. This report does not restrict the Council to undertake enforcement action under other legislation.

I acknowledge that where reinstatement work is not completed within 12 months of the building being delivered to the destination site that a resource consent application will be required for the relocated building. I understand that the Council may charge fees from time to time for activities relating to relocated buildings, as set out in its Annual Fees and Charges.

I certify that the description of the destination site and accompanying photos are true and correct.



I will provide to the Council photos showing the exterior of the building 12 months after relocation to show reinstatement works required by Condition Table 2.0 of the Building Pre-Inspection Report have been achieved.

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

Owner

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

Owner

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

Owner





<i>Elevation description i.e. Front Elevation</i>	<i>Elevation description i.e. Rear Elevation</i>	<i>Elevation description</i>
<i>Elevation description</i>	<i>Elevation description</i>	<i>Elevation description</i>



Destination Site Photographs

Additional Comments and Notes

