
Thursday, 21 May 2020

Te Hui o Te Kaunihera ā-Rohe o Heretaunga

Hastings District Council

Commissioner Hearing

Kaupapataka

Decision Agenda

**(May Holdings 2019 Ltd – 502 Karamu Road,
Hastings)**

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TE KAUNIHERA Ā-ROHE O HERETAUNGA

Thursday, 21 May 2020

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

Item 2

Te Rārangi Take

Report to Commissioner Hearing

Nā:
From: Christine Hilton, Democracy and Governance Advisor

Te Take:
Subject: Decision from hearing - S357 Objection to decision made under delegated authority to decline consent for the establishment of a standalone office activity at 502 Karamu Road, North, Hastings (Lot 3 DP 15279 contained in RT HBH1/962) (May Holdings 2019 Ltd) - RMA20190570

1.0 PURPOSE AND SUMMARY - TE KAUPAPA ME TE WHAKARĀPOPOTOTANGA

- 1.1 The purpose of this report is to have a means to put the Commissioner Decision from the May Holdings 2019 Ltd Hearing held on 21 May 2020 onto the website following completion of the hearing and release of the decision.

2.0 RECOMMENDATIONS - NGĀ TŪTOHUNGA

That the Commissioner Decision from the May Holdings 2019 Ltd Hearing held on 21 May 2020 be put onto the website so it can be viewed by members of the public.

Attachments:

[!\[\]\(e3275251d0893157c3584e20c81dc3ba_img.jpg\)](#) Commissioner hearing - signed decision 11531#0210

In the matter

of the Resource Management Act 1991

And in the matter

of an objection by May Holdings 2019 Ltd to the Hastings District Council's decision to decline consent for the establishment of a standalone office activity at 502 Karamu Road, Hastings, legally described as Lot 3 DP 15279-RMA20190570.

Decision of Hearing Commissioner
Dated: 28 July 2020

Item 2

Attachment 1

Introduction

1. The objector May Holdings 2019 Ltd, had lodged an objection under section 357 of the Resource Management Act 1991 ("RMA") to a decision of the Hastings District Council to decline consent for the establishment of a standalone office activity at 502 Karamu Road, Hastings
2. I was appointed pursuant to section 34A of the RMA to hear, consider and determine the objection.

Hearing

3. I conducted a hearing on 21 May 2020 via remote access (Zoom) during the period of the Covid-19 Pandemic Alert Levels 2, 3 and 4 Lockdown. I advised that due to this situation I had not undertaken a site visit prior to the hearing. However, I had the opportunity to undertake a site visit (from Karamu Road) on Friday 17 July. I undertook this visit on my own and no parties were present.
4. Those in attendance at the hearing were as follows:

Objector

Mr Matthew Lawson – Counsel
Mr Mark Nicol - Objector
Mr Alister Hardstone - Consultant Planner
Mr Matt Holder - Proposed Tenant

Council

Mr Liam Wang - Reporting Officer & Environmental Planner
Mr Caleb Sutton - Team Leader Environmental Consents/Subdivision
Mr Murray Arnold - Environmental Consents Manager
Mrs Christine Hilton - Democracy & Governance Adviser
Mrs Yvonne Moorcock - Business Support Team Leader

5. I requested that the right of reply be in writing and this was provided to me on 5 June 2020. I subsequently closed the hearing on 7 July 2020 after I had received details of relevant case law referred to by Mr Lawson at the hearing and in his reply submissions. This occurred on 2 July 2020.
6. In order to assist me to determine the objection, I received and considered the following:

- Section 42A Report
- Opening and closing submissions of Mr Lawson and associated case law
- Expert evidence
- Applicant's assessment of environmental effects
- Section 92 Further information request
- Planning report (Notification and substantive assessment)
- Letter of Support from the Hastings City Business Association
- First Economic impact assessment (prepared by Urban Economics)
- Peer review report on the UE report (prepared by M.E Consulting)
- Second Economic impact assessment (prepared by Property Economics)
- Decision on the underlying consent RMA20190261
- Environment Court judgements submitted by Mr Lawson

Summary of Submissions/ Evidence Presented

7. Objector

Mr Lawson highlighted the main points in his pre-circulated legal submissions with some interpolation, expanding in some detail on issues raised in those submissions.

Among the points raised by Mr Lawson, he emphasised that the intended tenant was a multi-disciplinary land management and development consultancy seeking a secure base/depot for the storage, loading, and unloading of equipment used. This was not an application for a standalone office as a significant amount of the tenant's work was undertaken off-site. He believed the proposal falls to be considered as a non-complying commercial activity and therefore consideration of any distributional effects is required, of which he noted there were none. Mr Lawson referenced the economic impact assessment which he based his opinion on.

He also noted that consideration should be given to Part 2 matters as the District Plan had been developed prior to the National Policy Statement on Urban Development Capacity coming into force. Mr Lawson further outlined that the proposal was an efficient use of the existing land and premises which was something there had not been demand for until the current proposal was put forward.

Mr Lawson addressed the issue of precedent and plan integrity and noted that copies of case law supporting his submissions would be forwarded to me.

Mr Nicol addressed his pre-circulated statement of evidence regarding the site and his discussions with the proposed tenant and the Council, and the use of the site and existing building located on it. He also noted that the support of the Hastings Business

Association provided him with the confidence to proceed with the proposal and seek consent.

Mr Hardstone highlighted the main points in his evidence. In response to a question from me, he concurred with Mr Lawson's earlier statements that the proposal was not a standalone office. He further noted that in his opinion the proposal would be more appropriately assessed as a commercial activity and it fell outside of the commercial service activity definition. Mr Hardstone outlined that the proposal comprised an office with substantial commercial activities being undertaken both on and off site.

He was of the view that the incorrect classification of the proposal by the Council had resulted in an assessment and reasoning that was not supported by the evidence including the AEE.

Mr Hardstone concluded that the proposal passed both gateway tests and that as a commercial activity would not be contrary to the objectives and policies of the District Plan in respect of the Large Format Retail Zone provisions.

8. **Council**

Mr Wang explained how he had assessed the proposal. He noted that the key purpose of Policy LFRP2 was to ensure that small scale retail activity, and standalone office activity did not establish in the Large Format Retail zone resulting in distributional effects that could undermine the vitality and viability of the Hastings CBD. He believed that the proposal will be contrary to this policy.

He did not believe that undertaking works off-site was unique, neither was the storage of specialist equipment. The development plans relating to the underlying consent for the extension of the building had not indicated storage for any equipment. The underlying consent for the extension had a condition that the premises can only be used for commercial service activities. He commented on the letter from the Hastings City Business Association submitted in support of the application on the basis that there were no distributional effects arising from the proposal, and that the group advocated on behalf of its member businesses in Hastings .

Mr Wang referred to the definition of a commercial service activity and expanded on this issue and the plan's aim to locate main retail and office activities in the CBD. He considered the proposal was not a commercial service activity and was a standalone office activity. He reiterated that he did not wish to change his recommendation that the application should be declined.

Mr Wang confirmed that he believed it was relevant to consider the possible adverse precedent effect of other office activities relocating to outer areas of commercial zones if the objection was upheld. He would have the same concerns whether the activity was a standalone or a commercial activity.

9. **Objectors Right of Reply**

Mr Lawson provided a partial oral right-of-reply on the basis that he would submit a full reply in writing as requested by me.

He referred to the resource consent that had already been granted for redevelopment of the site, commenting on the land use consent and highlighted that the resource consent granted to reconfigure the building was not specific to it only being for a large format retail use. It could be any permitted use or any other consented use.

At this point, I sought to clarify that, if I were of a mind to uphold the objection, there would be no impediment to doing that, notwithstanding the wording about applying for a standalone office activity. Mr Lawson confirmed that he believed this was correct and expanded on his comments in some detail – including referring to Rules LFRR14, LFRR15 and Policy LFRP2 and the peer review undertaken by the Council.

Mr Lawson referred to the efficient use of both the natural and physical resources, including the existing building and services on the site. He did not believe that cumulative effects needed to be considered in this situation given that there were no effects arising from granting consent to the proposal and that potential cumulative effects would only arise if there were effects.

He noted that that it was not appropriate for the focus of the Council report to be on a standalone office activity and to ignore the full description of the activity for which consent was sought. Mr Lawson submitted that the application was for an activity that in any other planning realm would be defined as a commercial service activity.

Mr Lawson stated that while precedent and plan integrity issues had been raised, no evidence had been provided by the Council to support the concerns expressed. He also provided extensive case law references on these matters.

I requested Mr Lawson to forward copies of the case law references that he had referred to in his submissions. I also requested that draft conditions to be forwarded that could be applied, if the consent was to be granted, requesting the parties to work together on these and to show which suggested conditions the parties agreed to, and which were not agreed. I wish to note that draft conditions were provided attached

to the reply submissions and were generally agreed by both the applicant and Council apart from some matters related to advice notes.

Original Decision

10. The decision to refuse consent was made by the Council under delegated authority to staff, on 27 March 2020. The reasons for refusing consent were as follows:
 1. *"As identified by the Section 95 and 104 report for this application, there are no affected persons in terms of Section 95E of the Resource Management Act 1991.*
 2. *The reasons for the decision are set out in detail in the s95 and 104 report for this application. In summary:*
 - a) *When assessed on its own, the proposal will likely have less than minor effects on the environment and will have positive effects for the landowner and intended tenant.*
 - b) *The newly operative District Plan seeks to retain the large format retail function for this zone, and to limit the creep of commercial office activities into the zone. To this end the Plan provides strong direction by making standalone offices non-complying activities. This type of office activity is the type of development the District Plan seeks to avoid.*
 - c) *The proposal is directly contrary to LFRP2 which requires Council to "ensure" standalone office development does not occur in the LFR Zone.*
 - d) *The proposal has no particular differentiating features and will set an adverse precedent. This will undermine the integrity of the newly operative HDP, particularly in relation to the integrity of the LFR zone and Central Commercial zone*
 - e) *While this activity will not of itself have distributional effects, the grant of consent to the proposal would create a risk of adverse distributional effects on the Hastings CBD through other office activities seeking to establish in the LFR zone where there is potentially larger space, at lower cost. This would cut across the policy direction of the HDP, which itself seeks to implement the requirements of the RPS*
 3. *The requirements of Part 2 are reflected in the objectives and policies of the HDP*
 4. *While acknowledging there would be positive effects associated with the grant of consent, it is concluded that the proposal is inconsistent with and/or contrary to the objectives and policies of the Hastings District Plan*
 5. *Approving such consent would undermine the integrity of the newly operative Hastings District Plan."*

Objection

11. The objector subsequently lodged an objection to that decision which was received by the Council on 8 April 2020.
12. The objection against that decision was made under section 357A of the Resource Management Act 1991 and the reasons for the objection are summarised¹ as follows:
 - *"The Decision recognised that the proposed activity will likely have a less than minor effect on the environment. The Council has not appropriately considered this in terms of Section 104D of the RMA as Council can approve the application on that basis alone.*
 - *Two independent market economic experts and the HBA supported the application, believing that the proposal will not create any adverse distributional effect or adverse precedent, and would have positive effects.*
 - *The applicant had offered a condition to make the consent personal to the occupier being Development Nours Limited only as a multi-disciplinary land development consultancy, as a means of differentiation.*
 - *The proposed activity has unique requirement for storage of equipment differentiating it from other office type activities.*
 - *In absence of suitable alternative options, the Council should have considered the proposal at this location on the basis of there being no significant distribution effects (as assessed by experts) and the specificity of the occupancy as obviating the potential for the establishment of precedent.*
 - *The decision identifies only one District Plan Policy (Policy LFRP2) that the proposal is seen to be contrary to. The appellant does not accept that the proposal is contrary to this Policy when the entirety of the policy and wider context is considered.*
 - *The proposed tenant is a commercial service activity in nature, albeit not a listed use under the District Plan's definition and is not a standard stand-alone office activity.*
 - *The proposal will see a commercial service use provided for in the Large Format Retail Zone, which will maximise the efficient use of the land within the zone, especially given the property's small size.*
 - *The decision did not consider the National Policy Statement on Urban Development Capacity (NPS-UDC) under Section 104 of the Resource Management Act."*

¹ S42A Report- Para 2.1.2

Original Proposal

13. The proposal was fully described in section 4 of the Assessment of Environmental Effects and I noted that the office elements of the activity are in support of engineering staff where 50% of such staff are out of the office four days per week; surveying staff spend 75% of their work day out in the field and 25% of planning work is located out of office. Mr Lawson noted that the proposed office activity would operate in support of the commercial activities of the multidisciplinary land development consultancy. He further described² the nature of the proposed activity on the subject site as also being a depot for off-site work, an element of manual work including fieldwork related to engineering, surveying, and soil testing activities.
14. Mr Lawson also noted³ that irrespective of what the proposal is defined as, it falls to be considered as a non-complying activity, whether as a standalone office or as a non-complying activity that is not provided for as a permitted, controlled, restricted discretionary or discretionary activity. Regardless of the descriptive terms used he believed there was no change to the character, scale, or intensity of effects, which have been agreed by both parties to be no more than minor.
15. I concur with the conclusions reached and that despite how the proposal is described its scale, character and intensity are the same, and no effects are greater than minor.

Statutory Context

16. The relevant provisions of the RMA relating to this matter in respect of hearing and determining the objection are outlined in section 357D. These are outlined as follows:
 - (1) *The person or body to which an objection is made under sections 357 to 357B may—*
 - (a) *dismiss the objection; or*
 - (b) *uphold the objection in whole or in part; or*
 - (c) *in the case of an objection under section 357B(a), as it relates to an additional charge under section 36(5), remit the whole or any part of the additional charge over which the objection was made.*
 - (2) *The person or body to which the objection is made must, within 15 working days after making its decision on the objection, give to the objector, and to every person whom the person or body considers appropriate, notice in writing of its decision on the objection and the reasons for it.*

² Lawson Opening Submissions- Para 20

³ Lawson Opening Submissions-Paras 17 & 18

Consideration of the Objection**Effect being less than minor and S104D**

17. The objection stated that the original decision of the Council did not consider appropriately the application under s104D. This section relates to the gateway tests which must be met in order for any non-complying activity application to be considered for the grant of a consent.
18. I concur with the reporting officer that merely having effects that are considered to be no more than minor and meeting the gateway tests is not a sufficient basis for granting consent. All matters under s104 required consideration.
19. I further note that any effects on the environment had been assessed as less than minor and therefore the proposal met the test of s104D(1)(a) and the application could therefore be considered by the consent authority.
20. Mr Wang in his s42A report was satisfied that s104D had been applied correctly. I concur with that view.
21. I note that Mr Hardstone, the applicants planning consultant, did not raise this as an issue in his expert evidence although he noted that in his opinion, the proposal passed both gateway tests.

Economic Impact Assessments and Letter of Support

22. It is noted that the applicant provided two independent economic impact assessments that confirmed that the proposal would not result in adverse distributional effects in respect of the Hastings CBD. This conclusion was also supported by the peer review report commissioned by the Council.
23. Mr Wang highlighted a concern that given there was no differentiating factor in respect of the proposal and why it needed to locate on the subject site, that there was a risk that if consented, the proposal could give rise to other similar activities being established on the site, which would undermine the District Plan framework which was intended to protect the vibrancy of the CBD.
24. I noted that the peer review report⁴ stated that any matters related to precedent were a planning matter and the reports consideration only focussed on matters from an economic perspective.

⁴ Market Economics Peer Review- Section 5

25. The applicant submitted a letter of support from the Hastings Business Association. I was advised that the association represented businesses in Hastings City and while not expert evidence per se in respect of distributional effects, does indicate that the proposal does not create any concern in respect of the vibrancy and viability of the Hastings CBD. Essentially the letter supports the conclusions reached by the economic impact assessments that the proposal would not result in any significant distributional effects.
26. I note Mr Heath's statements contained in his report⁵ where he outlined that the proposal is vehicle oriented and a multi-disciplinary service emphasis and requires vehicles and equipment to be stored overnight. He was of the view that the proposal had no potential to generate any consequential distributional effects on the Hastings CBD nor considered it to be inconsistent with policy LFRP2 from an economic perspective in respect of the RMA.
27. In respect of Policy LFRP2, Mr Heath noted that it was not an avoid policy which suggested that standalone office development is not an 'affront' to the policy and that such offices could potentially establish in the zone if distributional effects would not undermine the vitality and vibrancy of the CBD. While I acknowledge that a standalone office is not being consented, I highlight the matter that the policy framework does provide for activity where there are not any distributional effects.

Activity Definition

28. The proposal has been considered and assessed by the Council as a 'standalone office activity'. It is noted that such activity is not defined by the District Plan.
29. The District Plan through Policy LFRP2 contains directive wording about ensuring standalone office activity is not established in the Large Format Retail Zone (LFR).
30. I further note that the definition of 'commercial service activity' is outlined in the s42A report⁶
- " the use of land or buildings to carry out a business providing personal, property, financial, household, private, and business, services to the general public or trades people and is limited to (and does not include standalone retail activity)..."*
31. The definition then goes on to specify a range of activities that are considered to be commercial service activities. This list includes such activities as credit unions,

⁵ Property Economics Report-Section 6

⁶ S42A Report- Para 4.4.5

investment co-operatives, building societies, health care services, real estate agents, and valuers.

32. Mr Wang noted that the definition had been reviewed as part of the District Plan review process to address interpretation issues. He further outlined that the proposal was not within the list of specified activities and therefore by definition was not considered to be a commercial service activity.
33. I noted Mr Hardstone's view that the proposal was more appropriately assessed as a 'commercial activity'. He considered that the proposal was not a 'Standalone Office Activity,' that it fell outside of the definition of 'Commercial Service Activity' and comprised an office with substantial commercial activities being undertaken both on and off site. He further noted that the proposal would still require consideration as a non-complying activity under Rule LFRR15, but that this would better accommodate the nature of the proposal.
34. While the application does reference that a 'standalone office' is being applied for, consideration is required to be given to the overall nature of the proposal beyond just a particular name or description. Mr Lawson highlighted this point in his reply submissions⁷ as did Mr Hardstone⁸ where he observed that many of the activities identified in the definition of 'Commercial Service Activity' and some are listed above, would likely involve a similar or greater component of office type activities as well as retail activities than the proposal. He further noted that valuation activity would be largely indistinguishable from the proposal, given that in his experience they operate in a similar manner to surveyors, planners, and engineers.
35. It would also seem to me that any effects, if there are any, would also be of a similar nature.
36. Having considered the evidence before me, I have a similar view to that expressed by Mr Hardstone in his evidence, and that the proposal is more akin to a commercial activity that is similar in characteristics and operation to that of some of the listed activities in the 'Commercial Service Activity' definition. It appears to me somewhat challenging to distinguish the differences between some of the listed activities in the 'Commercial Service Activity' definition from those of the proposal. Office activities are likely to be a key component of many of those activities together with providing for off-site activities.
37. Mr Hardstone in addition, noted that the proposal would be more appropriately assessed as a commercial activity given that it falls outside of the definition of

⁷ Reply Submissions- Para 13

⁸ Hardstone Evidence- Para 10

‘Commercial Service Activity’ and comprises an office with substantial commercial activities being undertaken both off and on site. He was of the view that the proposal would still need consideration as a non-complying activity under Rule LFRR 15. He considered that this would better accommodate the nature of the proposed activity.

38. It would seem that when the application and AEE were prepared that this approach would have provided better clarity on what was proposed and therefore how it should be assessed.
39. I also note that Mr Wang in his s42A report (para 4.4.7) commented that the applicant may have been intending that the proposal was an activity not provided for under Rule LFRR15, and the applicant has provided further detail through the hearing why the proposal is more analogous with a ‘commercial service activity’.

Precedent Effects/ Plan Integrity

40. As outlined in the previous discussion on ‘Activity Definition’, I am of the view that the proposal has similar characteristics to some of the listed activities in the ‘Commercial Service Activity’ definition. Given this situation, I do not believe that granting consent to the proposal given the similarity of activities, that any plan integrity issues are likely to arise. Commercial activities are provided for in the LFRZ and activities such as valuers and other office type activities are provided for in the definition of ‘Commercial Service Activity.’
41. In respect of precedent effects, any proposal is to be considered on its merits and it is noted that the proposal can pass at least one of the s104D gateway tests. It is not considered to have any environmental effects greater than minor. While there are characteristics of the proposal that are similar to several of the listed uses within the ‘Commercial Service Activity’, the applicant’s proposal is to offer an ‘Augier’ condition making the consent personal to the nominated occupier of the subject site. This provides some reassurance that the proposal has particular characteristics that are unlikely to arise in respect of any other applications to locate in the zone, and as noted by Mr Wang, provides some assurance that the proposed non-LFR activity would not become entrenched on this particular site.
42. I do not agree with the concern about office type activities establishing in the zone and compromising the zone intent when various forms of office related activities are provided for in the definition of “Commercial Service Activity’.
43. No evidence was adduced to support concerns in respect of any precedent effect or impact on plan integrity either real or perceived, the proposal may have. Mr Lawson⁹

⁹ Lawson Opening Submissions- Paras 56-59

referred to various Environment Court judgments which discussed plan integrity and precedent matters and concluded that given the matters discussed in those various judgments, no matters relating to plan integrity and precedent arose in respect of the subject proposal particularly having regard that there were no distributional effects arising from the proposal.

Efficient Use of Land

44. The proposal would see the use of an existing site and buildings with redevelopment to utilise a resource that has been not used for some years¹⁰. I noted that resource consent had been granted to alter and expand the building for any permitted activity or activity for which resource consent has been granted. The subject site is just over 1000m² and Mr Lawson¹¹ outlined that the site was considered to be too small to accommodate a large format retail activity, which by its' definition requires a minimum gross floor area of 1000m² and could not establish on the site and meet the relevant District Plan floor area, bulk, location and setback requirements.
45. Mr Wang also noted that the relatively small site size was potentially restrictive for large format retail activities and outlined that such activities would require larger parcels of land and that some form of amalgamation of land parcels would be required. While he contended that permitting the proposal had the potential to adversely affect the potential for amalgamation, consent has been granted for building redevelopment. Similar arguments would apply for other uses provided for by the District Plan.
46. The proposal would provide for an efficient use of existing physical and land resources and does not preclude at some future time, land aggregation and development of large format retail activities. Also as previously noted, it is not considered that there are any distributional effects arising in respect of the Hastings CBD through the proposal being granted consent.

Policy Framework

47. In respect of District Plan policy considerations, the application or assessment against the policy framework depends on whether the proposal is considered to be a stand-alone office or is some type of commercial activity that is not defined, or does not fall within the District Plan definitions. While Mr Wang is of the view that the proposal falls to be considered as a 'Standalone Office', Mr Hardstone and Mr Lawson are of the view that the proposal should be considered as a commercial activity, and while

¹⁰ Nicol Statement

¹¹ Lawson Submissions- Para 7

still requiring consent as a non-complying activity, it would not trigger any consideration of policy LFRP2.

48. Mr Hardstone believed the proposal is consistent with Policy LFRP3 by continuing to provide for commercial service activities in the LFRZ. He further noted that even if the proposal was considered to be a 'Standalone Office' it was his view that it would be consistent with Policy LFRP2 as it is acknowledged that there were no distributional effects that would undermine the vitality and vibrancy of the Hastings CBD.
49. As noted elsewhere in this decision, I conclude that the proposal is appropriate to be considered as a commercial activity, that has both onsite and offsite characteristics. Because of that classification, it does not trigger or bring into the assessment, the need for consideration of Policy LFRP2. In addition, I do not find that the proposal is inconsistent with the policy and objective framework of the District Plan and concur with the conclusions reached by Mr Hardstone in his evidence on this matter.
50. My consideration of this issue also relies significantly on the findings of the economic assessments that there are no distributional effects on the CBD arising from the proposal and that the Hastings Business Association were in support and acknowledged that there were no distributional effects arising from it.
51. The above findings also recognise the particular circumstances of the proposal, and that it has some distinguishing characteristics in terms of both on-site and off-site activities.
52. Given these conclusions, I am of the view that the proposal is not inconsistent with the overall direction and approach of the District Plan.

National Policy Statement on Urban Development Capacity (NPS-UDC)

53. I note that the original s42A report and decision considered the NPS-UDC. I am required to have regard to higher order planning documents such as National Policy Statements and have done so in respect of the NPS-UDC.
54. The NPS-UDC takes a broad policy approach that decision-makers need to consider when making any planning decisions. I have considered the proposed activity and any associated effects that it may have.

Conclusion

55. The focus of Policy LFRP2 is to ensure small scale retail activities and standalone offices do not establish in the large format retail zone resulting in distributional effects that

undermine the vitality and vibrancy of the CBD. The proposal is not a retail activity, or a standalone office as discussed and concluded earlier in this decision.

56. The proposal is considered to be a commercial activity that is not provided for by the District Plan in the Large Format Retail Zone and been considered as a non-complying activity. Therefore the proposal in my opinion, does not offend the policy framework as it applies to the Large Format Retail Zone particularly given the economic impact assessments concluded that there were no distributional impacts affecting the CBD's vitality and vibrancy by the proposal. It is noted that both planning experts reached this conclusion.
57. It has been somewhat difficult to reconcile the differences in effects and having regard to the policy framework, between for example a valuers' office, and a multi-disciplinary consultancy that includes valuation as an activity within it. The proposal has characteristics of a similar nature to several of the activities defined in the 'Commercial Service Activity'.
58. Given the nature of the proposal and that it does not fall clearly within the activity of a standalone office, commercial service activity or office, the proposed 'Augier' condition making any consent personal to the nominated occupier (Development Nous Ltd) is an appropriate approach and further recognises both the on-site and off-site activities of the proposal. This includes making it clear that the proposal has some distinguishing characteristics that set it aside from the more typical office activity.
59. The proposal provides for the efficient use and development of the land and building resource, is considered to meet the various statutory provisions of the RMA and is consistent with its the purpose and principles.
60. It is concluded that upholding the objection is appropriate in the circumstances.

Decision

Pursuant to section 357 of the Resource Management Act 1991, the Hastings District Council upholds the objection of May Holdings 2019 Ltd and grants consent to the establishment of a commercial office activity at 502 Karamu Road North, Hastings in respect of Lot 3 DP 15279 contained in RT HBN1/962, RMA 20190570; in accordance with the application dated 19 December 2019 including the Assessment of Environmental Effects, and subject to the following conditions;

1. *This consent authorises a multidiscipline land development consultancy only. Tenancies for standalone office activities not forming part of the multidiscipline land development consultancy are not authorised by this consent.*

For the purpose of this condition, the term "multidiscipline land development consultancy" is defined as a commercial entity or a group of commercial entities under the same ownership that provides land development consultancy services and incorporates all of the following activities as part of its core business:

- *Resource Management/Town Planning*
- *Land Development Engineering*
- *Land Surveying*
- *Land Valuation*
- *Property development*
- *Landscape architecture; and*
- *Environmental sciences- soil, water, acoustics, air, ecology*

2. *That in accordance with section 108(2)(d) of the RMA, a land covenant giving effect to condition 1 of the consent shall be registered against the Record of Title for the subject site prior to the occupation of such activity.*

Advice note- The Council will agree to the request to remove the covenant in the event that the consent is surrendered, for instance because the consented activity later becomes a permitted activity such that consent is no longer required under the District Plan

3. *That prior to the occupation of the site, all parking spaces and loading bay shall be marked out to ensure compliance with all relevant standards under Section 26.1.6 of the Operative Hastings District Plan in particular:*
 - a. *A minimum of one carpark space for every 50 m² of gross floor area used for the consented office activity, shall be provided and,*
 - b. *Sufficient on-site manoeuvring space shall be provided so that vehicles can exit the site in a forward direction.*

Reasons for upholding the objection are outlined in the decision report but can be summarised as follows:

1. *That it is appropriate to consider the proposal as a commercial activity given it has a range of characteristics of a 'commercial service activity' and comprises of similar activities as contained in the definition of 'commercial service activity.'*
2. *That there are no effects on the environment that are greater than minor.*
3. *The proposal provides for the efficient use and development of the existing land and building resource.*

4. *The proposal does not give rise to any distributional effects in respect of the Hastings CBD and this is supported by the economic impact assessments.*
5. *The proposal meets the various statutory provisions to be given regard in terms of the Resource Management Act 1991.*
6. *The proposal is consistent with the purpose and principles of the Resource Management Act 1991.*



William Wasley
Commissioner

28 July 2020

Item 2

Attachment 1