



Hastings District Council

Civic Administration Building
Lyndon Road East, Hastings

Phone: (06) 871 5000

Fax: (06) 871 5100

OPEN DOCUMENT 2

COMMISSIONER HEARING

May Holdings 2019 Ltd s357 Objection hearing

Meeting Date: **Thursday, 21 May 2020**
Time: **9.30am**
Venue: **Virtual Meeting via Remote
Access during the Period of
the Covid-19 Pandemic Alert
Level 2, 3 and 4 Lockdown**

ITEM	SUBJECT	PAGE
2.	S357 OBJECTION - APPEAL OF 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)	
	<u>Document 2</u> Containing these attachments	
	Attachment B Description of Proposal and Assessment of Environmental Effects	Pg 1
	Attachment C S92 Further Information Required Letter	Pg 27
	Attachment D Report for standalone Offices in LFR	Pg 29

Attachment E Land Use Consent decision
Standalone Offices in LFR

Pg 55

Attachment F Supporting Documents

Pg 57

Form 9 – Application for Resource Consent

Proposed Office Activity- 502 Karamu Road, Hastings

Prepared for May Holdings 2019 Ltd



Form 9
Application for Resource Consent

Section 88, Resource Management Act 1991

To The Chief Executive
Hastings District Council
Private Bag 9002
Hastings 4156

We, May Holdings 2019 C/- Development Nous Ltd, apply for the following type(s) of Resource Consent:

Land use consent is sought to establish a stand alone office activity at 502 Karamu Road North
The proposal is outlined in the application attached.

The names and addresses of the owner and occupier of land to which the application relates are as follows:

G Thomas, L Orum and M Orum .

The location of the proposed activity is as follows:

502 Karamu Road, being that land legally described as Lot 3 DP 15279 contained in Record of Title HBH1/962 being approximately 1005m² in total area.

Additional Resource Consents are needed for the proposed activity:

- Nil

We attach, in accordance with the Fourth Schedule of the Resource Management Act 1991, an assessment of environmental effects in the detail that corresponds with the scale and significance of the effects that the proposed activity may have on the environment.

We attach any information required to be included in this application by the district plan, the Resource Management Act 1991, or any regulations made under that Act:

- Nil



Lisa Poynton for Development Nous Ltd

Consultant to and duly authorised to sign on behalf of May Holdings Limited

19 December 2019

Address for invoicing (debtor):	Development Nous Ltd PO Box 385 Hastings 4122
Address for service of applicant:	C/- Development Nous Ltd PO Box 385 Hastings
Telephone:	06 876 2159 027 288 8762
Email:	lisa.poynton@developmentnous.nz
Contact person:	Lisa Poynton

Assessment of Environmental Effects
H20190019 – 502 Karamu Road
May Holdings 2019

Item 2

1.0 INTRODUCTION

This Resource Consent application is prepared on behalf of May Holdings 2019 Ltd in accordance with the requirements of Section 88 and the Fourth Schedule of the Resource Management Act 1991, and it is intended to provide the information necessary to fully understand the proposal and any actual and potential effects that the proposed activity may have on the environment.

A Resource Consent pursuant to Section 88 of the Resource Management Act 1991 is sought from the Hastings District Council to allow for the establishment of a standalone office activity within the Large Format Retail Zone, which is a Commercial Service activity in nature, however is not a specified Commercial Service activity under the District Plan definition.

2.0 SITE & LOCATION

The site subject to this application is located at 502 Karamu Road North, Hastings being that land legally described as Lot 3 DP 15279 contained in Certificate of Title HBH1/962, being approximately 1005m² in total area.

The site is located fronting Karamu Road, Hastings near the major intersection of Karamu Road North and St Aubyn Street East, 500m east of Heretaunga Street in Hastings City and 120m from "The Park MegaCentre" (which was historically Nelson Park).

The site contains an existing 206m² building previously utilised as a bar restaurant under the name of "The Cat Bistro" (formerly "The Cat & Fiddle Ale House") and is currently vacant. The building is located on the Karamu Road frontage. Resource consent was granted on 11 September 2019 to allow the building to be re-clad and a 251m² extension to be undertaken (HDC ref RMA20190261)

The site is accessed directly from Karamu Road via an existing heavy vehicle crossing located on the eastern edge of the building which leads to the rear of the building. HDC RMA20190261 confirmed that at least 14 parks will be available on the site and set out the known site history, which need not be repeated here.

The character of the area is mainly comprised of large buildings housing retail and commercial service uses, as indicated in the aerial photograph below:



Figure 1 – aerial photograph of site showing surrounding area.

Attachment B

Assessment of Environmental Effects
H20190019 – 502 Karamu Road
May Holdings 2019

Sites within the block between St Aubyn St and the Park Mega Centre are between 535m² and 1690m² in area and house a mixture of standalone retail activities and commercial service activities, as noted in the table below.

Address	Site Area	Current Tenant	Activity	District definition of activity	Plan of
400 Karamu Road	535m ²	At The Lights Fish and Chips	Food Service	Commercial Service	
		The Gas Centre	Retail – plumbing and gas fitting	Standalone retail	
406 Karamu Road	822m ²	Big Barrel Liquor	Retail sales – liquor	Standalone retail	
408 Karamu Road	1303m ²	Reece Plumbing Supplies	Plumbing Supplies sales	Standalone retail	
412 Karamu Road North	1444m ²	Vacant			
500 Karamu Road North	1082m ²	Eastek	Homewares technology showroom	Commercial Service	
502 Karamu Road North	1005m ²	The Cat Bistro - vacant	Former Food and Beverage Sales	Commercial Service	
504 Karamu Road North	992m ²	Smith and Smith Glass, Ansin and Monteith	Windscreen repair, Auto electricians	Industrial	
508 Karamu Road	1690m ²	Auto Super Shoppe	Retail sales – car parts	Standalone retail	
510 Karamu Road	989m ²	Mayfair Mower Court	Mower sales and repairs	Industrial	
505 Karamu Road/207 Warren St North	4481m ²	Hawkes Bay and Hawkes Bay Lexus	Car sales (and servicing)	Commercial Service	
503 Karamu Road	3172m ²	My Ride/Mico Plumbing	Bicycle Sales/Plumbing Supplies	Standalone retail	
409-411 Karamu Road	1331m ²	Jetts	Gymnasium	Commercial	
		Horny Goat	Drive Through Coffee/Food Sales	Commercial Service	
403 Karamu	1901m	The Clean	Car Washing Facility	Commercial Service	

Street parking within this precinct is limited, with no on-street parking directly fronting the building as sites in this zone typically have off-road car parking areas.

Site Map

The current site layout is shown in the below aerial photograph:

Assessment of Environmental Effects
H20190019 – 502 Karamu Road
May Holdings 2019

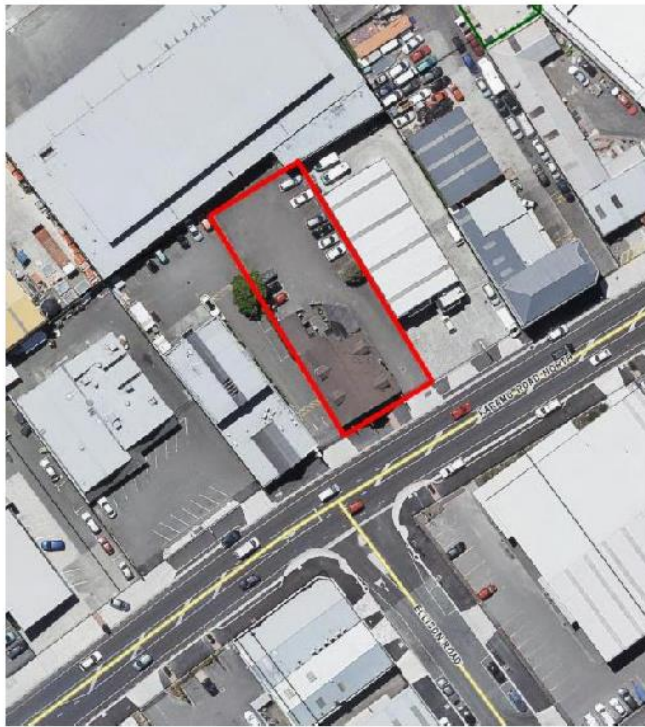


Figure 2 – Aerial photograph of the site and immediate surrounds

3.0 BACKGROUND

Existing Resource Consents

The following resource consents apply to this site:

- RMA20000444 - Nov 2, 2000 - to close off car park area, to allow for outdoor events
- RMA20020531 - Dec 16, 2002 - for a Certificate of Compliance - Cat & Fiddle
- RMA20190261- Sep 11, 2019 – to add 251m² ground floor area to an existing 195m² building that is to be used for commercial service activities.

4.0 NATURE OF THE PROPOSAL

It is proposed to establish new offices for land development consultancy services within the upgraded building. The nature of the services would include – but would not necessarily be limited to:

- Town Planning
- Surveying
- Environmental Engineering
- Valuation
- Project Management
- Soil Contamination Testing
- Landscape Architecture.

*Assessment of Environmental Effects
H20190019 – 502 Karamu Road
May Holdings 2019*

Item 2

The intended anchor tenant is Development Nous Limited (DNL), a multi-disciplinary land development consultancy currently based in Queen Street East. The business provides planning, surveying, engineering, landscape architecture and valuation services and has grown steadily over the past two decades (under various company names), to the point where the current staff of 20+ means that the current building is no longer fit for purpose and is stifling the potential for further growth. The current building is at capacity in terms of desk spaces, and this is with at least 3 staff working remotely for the majority of the time. There is a single meeting room within the building and no staff room. There is also insufficient storage space within the building, meaning that a container is used to store larger equipment outside. The site also lacks a loading space and secure storage for the work vehicles. The site is 12.7m wide, which allows for five carparks. There is an agreement with the owner of the adjoining site to share some parks to make it up to 7, and for a storage container to be located on that site. The business is office based, however there is a significant field work component to the Civil and Geotechnical Engineering and Surveying branches of the operation. Staff from the various departments are based in the field or out of the office for significant portions of the working week, as outlined in the table below, as each project requires a site visit from a member of the team from each required discipline.

Department	Percentage of Time out of the Office
Engineering	50% of Engineering Staff out of the office 4 days per week.
Surveying	75% of Surveying work is in the field – 2 of the surveying staff would be in the field ~35 hours per week.
Planning (includes Landscape Architects and Valuers and Soil Testing)	25% of Planning work is based out of the office.

The Surveying and Engineering staff in particular require large and sometimes heavy pieces of equipment to carry out their work on site and can make multiple trips in and out of the office on any given day, depending on workloads. The equipment is expensive and requires a secure storage when not in use, and overnight.

Customer visits to the site are estimated at 40 per week, and there are approximately 10 courier visits to the site per day. There are large deliveries to the site at times, which cannot always be contained securely within the current yard area. Large deliveries (including deliveries of pallets to the site containing survey materials which can include the likes of marker paint, survey pegs, warratahs and post hole borers) are generally unloaded on the street due to space constraints. Photographs of a recent delivery (13 December 2019) are included in Appendix C to illustrate this point.

On this basis, new premises have been sought, and various locations in Hastings, Havelock North and Napier were considered. The criteria in terms of the building were that it be of a suitable size (300-450m²), modern/purpose built and not Earthquake Prone, either on a single level or with storage available at ground level, to allow for ease of moving equipment into and out of vehicles. With regards to the location, the criteria were that the site ideally be close to a CBD and within walking distance of Council and other related professional offices, have sufficient onsite parking for staff, work vehicles and customers and able to be secured at night and not be within a high liquefaction area. Alternate locations are discussed below.

Attachment B

Assessment of Environmental Effects
H20190019 – 502 Karamu Road
May Holdings 2019

5.0 DISTRICT PLAN PROVISIONS

Zoning

Under the Proposed Hastings District Plan (as amended by decisions)- hereon referred to as “the District Plan”, the subject land is zoned **Large Format Retail**. The site is not subject to any designations or further notations on the Hastings District Council’s GIS Planning maps.

The sites zoning is confirmed by this extract from the District Plan Maps.



Activity - Definition

The proposed activity meets the general definition of a Commercial Service Activity, being “**means 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 does not include standalone retail activity)...**” as it would be the use of buildings to carry out a business that provides property and business services to the general public. However, whilst the valuing component of the activity is specified in the list in the definition, the planning, engineering and surveying components are not, despite the nature of the activities carried out and the vehicle movements generated by the activity.

The proposal would therefore best meet the definition of an “office” – “**means a room, set of rooms, space or building used as a place of business for non-manual work such as administration, clerical, consulting, advising or information processing**” as the activities carried out within the building would be within the ambit of administration, clerical, consulting, advising and information processing, albeit in support of activities that do have a manual component, being surveying and civil/geotechnical engineering.

Rule LFRR14 states that Standalone Office Activities are a Non-Complying Activity in the Large Format Retail Zone. However, whilst “Standalone Retail Activity” is defined, the District Plan does not have a separate definition for a “Standalone Office Activity”. The dictionary definition of “standalone” indicates that it would be independent – presumably this definition is meant to indicate an activity that is independent of a retail or manual service component. Again, it could be argued that the Civil and Geotechnical Engineering, Soil testing and Surveying aspects of the proposal do have a significant ‘manual’ (fieldwork) component, however this definition would appear to be the ‘best fit’ in terms of the current District Plan.

Chapter 7.3: Hastings Commercial Environment

Chapter 7.3 of the District Plan stipulates the Performance Standards/ Conditions for permitted activities in the Hastings Commercial Zone. The general bulk and location standards set out at Chapter 7.3.5B-7.3.5L have been assessed and approved as part of RMA20190261 and need not be repeated here.

The remaining relevant standards from General Performance Standards and Terms - Section 7.3.5 and Specific Performance Standards and Terms - Section 7.3.6 of the Hastings District Plan are assessed below:

Assessment of Environmental Effects
H20190019 – 502 Karamu Road
May Holdings 2019

Item 2

Attachment B

7.3.5 GENERAL PERFORMANCE STANDARDS AND TERMS			
Rule	Performance Standard/Term	Proposed	Compliance?
7.3.5M ADVERTISING AND SIGNS	Activities shall comply with the provisions of Section 28.1 of the District Plan on Advertising Devices and Signs.	Signage will meet the requirements of Performance Standards 28.1.6A and 28.1.7A-D in terms of the standards that apply to the Commercial Zones in general and the Large Format Retail Zone	Yes
7.3.5N TRANSPORT AND PARKING	Activities shall comply with the provisions of Section 26.1 of the District Plan on Transport and Parking.	Office activities are required to provide parking at a rate of 1 park per 50m ² . 14 spaces and one loading space are provided onsite, which is more than the 9 onsite parks that would be required for a 457m ² office activity. Loading and Manoeuvring can be achieved on site. See Site Plan attached (which is as approved under RMA20190261)	Yes
7.3.5O NOISE	Activities shall comply with the provisions of Section 25.1 of the District Plan on Noise. <i>Note:</i> Acoustic insulation requirements apply to all noise sensitive activities within all Commercial Zones except for the Suburban Commercial Zone.	The use of the site for office activities is expected to comply with the District Plan standards for the zone.	Yes

Activity Status

Given the proposed activity on the site is not specifically provided for as a Commercial Service activity, the proposal is a Non-Complying Activity under Rule LLFRR14.

6.0 STATUTORY CONSIDERATIONS

Section 104B

Section 104B of the Resource Management Act 1991 states that Council may grant or refuse a Resource Consent for a **Non-Complying Activity**.

Section 104D

Section 104D of the Resource Management Act 1991 states that:

104D Particular restrictions for non-complying activities

(1) Despite any decision made for the purpose of notification in relation to adverse effects, a consent authority may grant a resource consent for a non-complying activity only if it is satisfied that either—

(a) the adverse effects of the activity on the environment (other than any effect to which section 104(3)(a)(ii) applies) will be minor; or

(b) the application is for an activity that will not be contrary to the objectives and policies of—

(i) the relevant plan, if there is a plan but no proposed plan in respect of the activity; or

(ii) the relevant proposed plan, if there is a proposed plan but no relevant plan in respect of the activity; or

(iii) both the relevant plan and the relevant proposed plan, if there is both a plan and a proposed plan in respect of the activity.

Assessment of Environmental Effects
H20190019 – 502 Karamu Road
May Holdings 2019

Section 104

When considering an application for Resource Consent and any submissions received, the Council as consent authority must, subject to Part 2, have regard to –

Section 104(1)

- (a) any actual and potential effects on the environment of allowing the activity; and
- (b) any relevant provisions of –
 - (i) a national policy statement;
 - (ii) a New Zealand coastal policy statement;
 - (iii) a regional policy statement or proposed regional policy statement;
 - (iv) a plan or proposed plan; and
- (c) any other matter the consent authority considers relevant and reasonably necessary to determine the application.

Section 104(2)

When forming an opinion for the purposes of subsection (1)(a), a consent authority may disregard an adverse effect of the activity on the environment if the plan permits an activity with that effect.

Part 2 Matters

Section 104 is subject to Part 2 of the Act (Sections 5-8).

Sections 5-8 are provided below:

5. Purpose

- (1) The purpose of this Act is to promote the sustainable management of natural and physical resources.
- (2) In this Act, "sustainable management" means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while –
 - (a) Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and
 - (b) Safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and
 - (c) Avoiding, remedying, or mitigating any adverse effects of activities on the environment.

6. Matters of national importance

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognize and provide for the following matters of national importance:

- (a) The preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development;
- (b) The protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development;
- (c) The protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna;
- (d) The maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers;
- (e) The relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.

Assessment of Environmental Effects
H20190019 – 502 Karamu Road
May Holdings 2019

- (f) The protection of historic heritage from inappropriate subdivision, use, and development.
- (g) The protection of recognised customary activities.

7. Other matters

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to –

- (a) Kaitiakitanga:
- (aa) The ethic of stewardship:
- (b) The efficient use and development of natural and physical resources:
- (ba) The efficiency of the end use of energy:
- (c) The maintenance and enhancement of amenity values:
- (d) Intrinsic values of ecosystems:
- (e) Repealed.
- (f) Maintenance and enhancement of the quality of the environment:
- (g) Any finite characteristics of natural and physical resources:
- (h) The protection of the habitat of Trout and Salmon:
- (i) The effects of climate change:
- (j) The benefits to be derived from the use and development of renewable energy:

8. Treaty of Waitangi

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti O Waitangi).

These sections are all considered further below.

7.0 OTHER CONSIDERATIONS

National Environmental Standard (NESCS)

The Resource Management (*National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health*) Regulations 2011 (2011 NESCS) imposes a nationally consistent regulatory framework to the identification, assessment and reporting of sites at the time of development that are currently in use for, or are known or likely to have been in previous uses involving activities identified on the *Hazardous Industries and Activities List (HAIL)*.

The NESCS must be considered if a subdivision or change of use occurs over a 'piece of land' as described in sub clause (5)(7), being a piece of land that has or has had an activity undertaken on it which is listed in the Hazardous Activities and Industries List (HAIL).

In determining if the site is a 'piece of land' under the NESCS (i.e. a HAIL site) the NESCS provides two methods which can be used:

6 Methods

- (1) Sub-clauses (2) and (3) prescribe the only 2 methods that the person may use for establishing whether or not a piece of land is as described in regulation 5(7).
- (2) One method is by using information that is the most up-to-date information about the area where the piece of land is located that the territorial authority—
 - (a) holds on its dangerous goods files, property files, or resource consent database or relevant registers; or
 - (b) has available to it from the regional council.
- (3) The other method is by relying on the report of a preliminary site investigation—

Assessment of Environmental Effects
H20190019 – 502 Karamu Road
May Holdings 2019

- (a) stating that an activity or industry described in the HAIL is, or is not, being undertaken on the piece of land; or
 - (b) stating that an activity or industry described in the HAIL has, or has not, been undertaken on the piece of land; or
 - (c) stating the likelihood of an activity or industry described in the HAIL being undertaken, or having been undertaken, on the piece of land.
- (4) The person must—
- (a) choose which of the 2 methods to use; and
 - (b) meet all the costs involved in using the method that the person has chosen.

The current proposal is for an activity within a building that has already been approved which had consideration under the NESCS. No change of use has occurred since that would introduce new HAIL activities to the site. As such, no consent under the NESCS is required.

8.0 ASSESSMENT OF ENVIRONMENTAL EFFECTS

Permitted Baseline

As noted above, Section 104(2) allows for the consideration of the Permitted Baseline for the site. In this case, the permitted baseline is considered to be the effects associated with listed Commercial Service Activities.

It is noted that the office component of many of the activities listed below would be similar in nature to and have similar or greater effects to those generated by the proposed activity, in terms of staff numbers, hours of operation and customer visits to the site. Any of the activities on the list below could establish within the Large Format Retail Zone as a matter of right, subject to compliance with the Performance Standards, so would be able to occupy a site that could contain a Large Format Retail activity.

“Commercial Service Activity: means 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):

- Bicycle sales and repair services
- Building improvement centres
- Car or Machinery Repairs and Servicing (includes the sale of parts, including tyres, but does not include the repair or servicing of heavy industrial machinery or equipment, trucks or panel beating)
- Charity Services and/or associated Op Shops
- Commercial, agricultural and industrial machinery and equipment sales and service
- Copy and printing services
- Counter insurance services
- Credit unions, building societies and investment co-operatives
- Customer banking facilities
- Customer postal services
- Dairies
- Drive-through restaurants
- Dry-cleaning and laundrette services
- Electrical repair services
- Entertainment/recreation services
- Food and beverage sales (except supermarkets)
- Funeral Parlours (not including crematoriums)
- Furniture upholstery services
- Garden supply stores
- Hairdressing & beauty salons and barbers
- Health care services
- Hire of goods and equipment
- Key cutting services and locksmiths
- Money lenders

Assessment of Environmental Effects
H20190019 – 502 Karamu Road
May Holdings 2019

- Motels
- Motor vehicle sale yards and associated parts servicing and repair workshops
- Real estate agents and valuers
- Service Stations
- Shoe and clothing repair services
- Sports Betting Agencies
- The display and sale of floor coverings (but not their manufacture)
- The manufacture and sale of curtains and blinds
- Travel agency services"

Council may therefore choose to disregard effects associated with the current proposal if they are satisfied that one or more of the activities on the list above would have the same or similar effects.

Actual or Potential Effects

The actual or potential effects on the environment of the proposed activity are considered to be no more than minor overall.

Section 3 of the Resource Management Act 1991 provides the meaning of "effect". This includes any positive or adverse effect, whether temporary or permanent and can include past, present or future effects including cumulative effects.

The relevant assessment criteria from Section 7.3.7.2 of the Hastings District Plan is as follows:

7.3.7.4A DEVELOPMENT IN THE LARGE FORMAT RETAIL ZONE

- (a) *The proximity of the site to the CBD core and whether allowing the development could encourage zone creep;*

The site is located approximately 127 metres from the edge of the Central Commercial Zone and the outer reaches of the CBD. The proposal would not encourage zone creep given the nature of the adjoining activities and would complement the surrounding activities, which are variously defined as industrial, commercial service or commercial as per the table in Section 2 above. There is no Large Format Retail activity on any of the immediately surrounding sites on Karamu Road – Harvey Norman's distribution warehouse is to the rear of the site, and Eastek and Smith and Smith/Ansin and Monteith are located on either side.

- (b) *The extent to which the activity promotes the optimum and efficient use of the commercial land resource and doesn't detract from the vibrancy and vitality of the central commercial area;*
 (c) *The extent to which the activity helps promote a mega centre form of retail development and/or helps contribute to the functioning of the Zone;*

Whilst the proposal is not for Large Format Retail activities, it would be a continuation of the types of activity that have been carried out within this part of Karamu Road. The establishment of an office within the building and the proposed extension are an efficient use of a site that has been vacant for approximately 2 years. The new activity would increase the vitality of the area and provide a new tenant on the gateway route that is Karamu Road. Allowing the activity to move will leave a small/medium sized office building free within the Central Business District for another use to establish within and would not notably detract from the vibrancy and vitality of the area.

- (d) *The scale of the activity and whether the Large Format Retail Zone is the most appropriate location for the activity, this should include (but is not limited to) the number of employees and whether the activity locating in the Large Format Retail Zone results in a significant loss of employment activity in the CBD core;*

Assessment of Environmental Effects
H20190019 – 502 Karamu Road
May Holdings 2019

- (e) Whether the activity exists in the Central Commercial Zone currently and is seeking to relocate to the Large Format Retail Zone;

The proposal involves relocating an existing business of 20+ staff approximately from the Central Commercial Zone as the current site and building are no longer fit for purpose, as outlined in Section 4 above. The proposed site within the Large Format Retail zone would allow for a modern office building to be established, with better onsite parking and security to allow the company to continue to grow and operate more efficiently.

- (f) Whether alternative sites have been considered, such as in the Central Commercial Zone, which would be more appropriate for the activity;

A number of alternatives were considered before arriving at the subject site as the preferred location due to its ability to meet the requirements for floor area, onsite parking, security, storage area and building configuration.

The following is a brief summary of other options that were considered, and the reasons that they were not pursued as the preferred option in this case:

Option	Reasons not pursued
Stay on current site, add an additional storey	The cost of the additions and the required earthquake strengthening were prohibitive. Undertaking a significant addition would interrupt the business for a significant period of time, and would not overcome the current parking/security issues at the current site. In recent times, there have been three rubbish fires, windows broken and vehicles damaged after hours.
Former ANZ Building – 100 Karamu Road	This building was discounted due to it being on multiple levels, which would make moving gear in and out difficult via stairs, and because it had no onsite parking or loading space.
Former NZCU building – 303 Karamu Road	This building was discounted due to a significant fit-out being needed, and because the building was much larger than the floor area sought for Development Nous Limited at over 800m ² . This would mean an additional tenant would have been required, and none could be secured under the terms wanted by the developer/building owner.
Former NZ Aerial Mapping building – 210 Warren Street	This building was discounted due to its size – which would have required multiple other tenancies to fill, and because of water tightness issues.
Former Hawke's Bay Today Site – corner of Karamu Road and Queen Street East	This was discounted due to the same parking/secure storage issues as the current site has. The large redevelopment of the site and staged nature of the rebuild was considered to have too much potential to disrupt business and the office with construction noise, and the uncertainty over other tenants meant that the potential for DNL to cause a nuisance to other

*Assessment of Environmental Effects
H20190019 – 502 Karamu Road
May Holdings 2019*

	tenants and vice versa could not be fully considered.
Joll Road Development	This was discounted due to it being an upper floor tenancy, which would have restricted gear movements and could have caused a nuisance for other tenants. There were also parking and traffic restrictions and it lacked the central location that Hastings City provides.
Various Napier locations	Locations were sought in Napier, which appealed as it would have allowed Development Nous Limited to operate closer to our competitors (noting that DNL is the only medium sized resource management consultancy based in Hawke's Bay that does not have a physical office in Napier) but a suitable site could not be found, mainly for traffic/parking reasons.

As shown by this table, a number of reasonable potential alternatives were investigated, but none provided for the business operations as well as the proposed location.

(g) The size of the site and the extent to which allowing the activity could compromise the functioning of the Zone for other activities by preventing these activities from occupying such a site or land amalgamation occurring to accommodate buildings with larger footprints;

The site is 1005m² in area, and too small for a compliant Large Format Retail (LFR) activity by itself. Allowing the establishment of a stand-alone office on this site would not affect the future potential of the site to be amalgamated and used for LFR in conjunction with another site. Undertaking the improvements allowed for under RMA2019261 would likely increase the value of the site, but it would not change the ability for the site to be sold and redeveloped in the future.

(h) The cumulative effect of allowing the activity to locate in the Large Format Retail Zone;

The proposal is not considered to result in any cumulative effect in terms of the Large Format Retail zone. The effects of the proposal would be in line with those associated with a Commercial Service activity as was previously established on the site for almost 30 years, and would be in keeping with the other activities that are already established on the smaller LFR sites located on this part of Karamu Road, so there would be no change in effects on. There are no stand-alone office activities located within the same block on Karamu Road, so no cumulative effects would result.

(i) Whether the activity is required for the operation of other activities in the vicinity;

Whilst there may be some complementary attributes of the activity in terms of surrounding uses, the proposal would not directly be required for the operation of any surrounding activities.

(j) Whether the activity will be located on an Arterial Road as shown in the District Planning Maps, thereby occupying a high profile location that would be more appropriate for Large Format Retailing Activities;

The site is located on Karamu Road, and will occupy a building that has been empty long term. The site does gain profile from being on Karamu Road, but has not been an attractive prospect to the current market for Large Format Retail, likely due to its relatively small size and the need to purchase at least one adjoining site in order to have a sufficient area for Large Format Retail activities and the associated parking requirement.

*Assessment of Environmental Effects
H20190019 – 502 Karamu Road
May Holdings 2019*

Item 2

(k) Whether the site, given its size, shape, frontage, topography and existing development, can adequately accommodate the activity, plus off-street parking, planting and other requirements;

The proposal will allow for adequate space for office activities for the current staff, with some future proofing in terms of having sufficient space to allow for additional staff to join in the future or for remote staff to be accommodated within the building. There is sufficient capacity for parking in terms of the District Plan minimums and a loading space is also provided for and confirmed via the current resource consent. Onsite loading and unloading of goods will be able to safely occur at the rear of the building. Landscaping will be improved at the front of the site, in accordance with RMA20190261.

(l) The extent to which the activity will create an adverse effect on the traffic network and traffic safety. The safe and efficient movement of all traffic needs to be ensured. It should be demonstrated that traffic generation and vehicles entering and leaving the site will not adversely affect traffic flows on the road, or cause a traffic hazard;

(m) The proximity of the site to public transport hubs and the extent to which the activity's location will require a reliance on private transportation;

The site has effectively operated in the past as a commercial service site for food and beverage sales. The existing crossing and the majority of the parking area will be used and are not considered to represent a risk to traffic safety. The closest transport hub (bus stop) is located at Kmart, which is within easy walking distance to the site. The activity by its nature is dependent on private vehicles for fieldwork, however the change in location will have a neutral effect on either staff or customers being able to arrive using public transport.

(n) Whether the activity can accommodate all required car parking within the site. It is not considered appropriate to have remote car parking and/or direct customers and staff to alternative sites for car parking, and the amount of vehicles parked on the street should be minimised;

The proposal represents an improved situation in terms of parking – 13 parks for 20+ staff (assuming at least one park will be reserved for customer parking only) – compared to current five parks onsite (increased to 7 carparks as a result of an agreement with an adjoining neighbor). Staff with work vehicles are encouraged to carpool where this is practical. However, the current situation is that those staff who do not have work vehicles are required to park off-site. The closest all day parking within the immediate vicinity of the site are the 23 parks located in Avenue Road and 24 parks on Warren Streets parks adjacent to Harvey Norman – but given the proliferation of business uses within the vicinity that do not cater for staff parking, these are usually all full by 8am weekdays, meaning that staff without work vehicles generally have to park in P120 or P180 parks and move their cars multiple times per day. This is less than ideal in terms of staff health and safety (break times are often used for moving cars rather than having a break) and productivity – meeting overruns can result in tickets, or concentration and productivity can be interrupted by the need to move a vehicle. There is also the chance that meetings with clients could exceed the specified time limits (longer meetings of two hours plus would occur currently at least once a week) also, meaning that clients could be subject to parking fines also. This situation is less than optimal in terms of maintaining availability for clients.

Attachment B

Assessment of Environmental Effects
H20190019 – 502 Karamu Road
May Holdings 2019



Figure 3 - Extract from Hastings Parking Guide 2018

There currently no onsite parks available for customers, who have to either use paid parking on the street in front of the site, or park away from the site in free parking.

(o) The extent to which landscaping will be provided to enhance streetscape amenity;

Landscaping approved as part of RMA20090261 and has been confirmed as being of a standard that would enhance the streetscape along Karamu Road

(p) Whether the activity promotes the sustainable management of natural and physical resources, thereby minimising adverse environmental effects of new developments (including reverse sensitivity); and

The proposal will represent an efficient use of an existing building, which will be upgraded and extended in accordance with the building code requirements. The building will be better insulated and have modern building materials so will be warmer and more in keeping with the principles of sustainable management. Consideration is being given to installing solar panels which would provide some of the electricity demand for the site in a more carbon neutral manner. Economically, the proposal will allow for the continued and potentially extended operations of DNL activities and will allow the company to remain based within the Hastings District. A longer lease term is on offer which provides for a better return on investment and greater certainty to DNL as the tenant. As previously assessed, the proposed use of the site for a standalone office (albeit with many similarities to a commercial service activity) will not have a significant effect on the current or future functioning

Assessment of Environmental Effects
H20190019 – 502 Karamu Road
May Holdings 2019

of the LFR zone. The site is in the middle of an enclave of smaller sites which do not contain LFR activities, so no current LFR use would be lost.

(q) Whether the activity achieves the assessment criteria in Section 7.3.7.2K.

Section 7.3.7.2K relates to temporary events which do not relate to this proposal.

Section 7.3.7.2L

The effect of the proposed building in terms of Section 7.3.7.L – Criteria for Activities and Buildings in the Large Format Retail Zone has been assessed as part of RMA2019261 and need not be repeated here.

Visual and Amenity Effects

The visual and amenity effects of the building can be considered as part of the existing environment, given that they are subject to a live resource consent. The building will be upgraded and improved externally, which will contribute to the legibility and attractiveness of the site and will bring up the general standard in this zone.

Signage will be able to be installed at the rate set out for Commercial Zones in the District Plan – in this case the site has 20 metres of frontage to Karamu Road, so 14m² of signage would be permitted.

Effects on Infrastructure

The proposed activities will all be contained within existing building that is already serviced. Previously the building contained 5 toilets and a shower, a commercial kitchen and bar, and large tap room. It is not deemed that the new fit out will exceed the infrastructure loading currently accommodated for on the premises. Accordingly, any actual or potential adverse effects on infrastructure will be no more than minor.

Traffic and Linkages

The proposed parking to be provided, comprising 14 car parks and 1 loading bay for staff and visitor parking will be appropriate for the activity and will be in excess of the District Plan requirement. The existing crossing onto Karamu Road North will be utilised, which has sufficient sightlines and meets District Plan requirements.

A vehicle loading bay has been allowed for in the proposal located to the rear of the building.

Other Matters

Noise Generation

The proposal will be for normal office activities, which would have normal opening hours of 8am-5pm Monday-Friday, though staff may be onsite outside of these hours. Such activities are expected to operate within the Permitted Activity standards for the zone as set out in the District Plan.

Assessment of Environmental Effects
H20190019 – 502 Karamu Road
May Holdings 2019

Reverse Sensitivity

There are no identified reverse sensitivity effects presented by this application. The surrounding uses will not be directly affected by the establishment of a standalone office in this location, given that the effects will be similar to those already existing and those generated by the surrounding activities.

Natural Hazards

This site is not subject to any known natural hazards that would render the proposed land use inappropriate for the site.

Ecosystems, Cultural and Spiritual Effects

The proposed extension will not have any adverse effects on natural or physical resources having aesthetic, recreational, scientific, historical, spiritual or cultural or other special value for present or future generations. Additionally, there will be no adverse environmental effects on flora or fauna or animals and any physical disturbance of habitats in the vicinity.

Hazard Substances

The proposed office activity does not involve the use or storage of hazardous substances.

LFRA01

Developments that have crime prevention and low impact urban design measures integrated into their overall design and provide a high standard of on-going amenity.

LFRA02

Gateway routes into the Hastings Central Commercial Zone and the definition of the street edges are enhanced by built development.

LFRA03

The Large Format Retail Zone provides for activities that complement and do not compete with the function of the Central Commercial Zone and the Core Retail Precinct in particular.

LFRA04

Car parking, pedestrian and vehicular access which provides strong physical and visual linkages to the Central Commercial Zone via a safe and efficient road network.

LFRA05

The amenity of nearby residential areas is protected and residences are free from unreasonable and excessive noise, visual intrusion, shading and glare.

LFRA07

A Zone with limited office activities.

Precedent and Plan Integrity

Section 104(1)(c) requires consent authorities to consider 'other matters' which are considered relevant in determining an application for resource consent. In this case, the potential for consideration of precedent and plan integrity are relevant to the determination of the application.

Precedent effects are 'other matters' that may be considered under Section 104(1) (c). A precedent effect is created where the granting of consent could lead to similar applications for which Council, being consistent in its approach, would need to consider granting.

Additionally, the granting of consent to Non-Complying activities (where the proposal lacks any unique qualities) may be considered to undermine the confidence of the public in the consistent administration of the District Plan. Any potential impact upon the integrity and consistent administration of the District Plan is also a relevant consideration of Section 104(1)(c).

Assessment of Environmental Effects
H20190019 – 502 Karamu Road
May Holdings 2019

Item 2

It is considered that this application will not set an adverse development precedent. Whilst the proposal is for a Non-Complying Activity, the effects of the proposal would be minor, in that they would be within the ambit of what could reasonably be expected from a Commercial Service Activity, including the previous activities on the site.

The individual site circumstances, and the nature of the activities that are carried out by the business, being more closely aligned with a service rather than strictly administrative activity that are central to the application are such that the applications cannot be considered to establish any development precedent and similarly cannot be seen to compromise the integrity of the Hastings District Plan or to jeopardise the public's confidence in the District Plan.

This is reinforced in paragraphs 19, 24 and 25 of the *Beacham* Decision where the Court traversed the issue of plan integrity. Its stated-

[19] The real issue in this appeal is whether allowing this application would be so contrary to the relevant objectives, policies and other provisions of the District Plan that it would harm its integrity and effectiveness as an instrument enabling the Council to avoid, rather than to remedy or mitigate, the adverse effects the Plan formation process has identified.

*[24] We have said before, and must say again, that the floodgates argument does tend to be somewhat overused and needs to be treated with some reserve. The short and inescapable point is that each proposal has to be considered on its own merits. If a proposal can pass one or other of the s104D thresholds, then its proponent should be able to have it considered against the s104 range of factors. If it does not match up, it will not be granted. If it does, then the legislation specifically provides for it as a true exception of what the District Plan generally provides for. Decision-makers need to be conscious of the views expressed in cases such as *Dye v Auckland RC* [2001] NZRMA 513 that there is no true concept of precedent in this area of the law. Cases such as *Rodney DC v Gould* [2006] NZRMA 217 also make it clear that it is not necessary for a site being considered for a non-complying activity to be truly unique before Plan integrity ceases to be a potentially important factor. Nevertheless, as the Judgement goes on to say, a decision maker in such an application would look to see whether there might be factors which take the particular proposal outside the generality of cases.*

[25] Only in the clearest of cases, involving an irreconcilable clash with the important provisions, when read overall, of the District Plan and a clear proposition that there will be materially indistinguishable and equally clashing further applications to follow, will it be that Plan integrity will be imperilled to the point of dictation that the instant application should be declined.

Monitoring

In terms of Clause 1(i) of the Fourth Schedule to the Resource Management Act, no monitoring is proposed and the scale or significance of the subject activity's effects are such that monitoring will not be required, other than that undertaken by the Council as part of its normal monitoring programme.

9.0 RELEVANT DISTRICT PLAN OUTCOMES

The following are the relevant anticipated outcomes for the Large Format Retail Zone as set out in Section 7.3.2.3 of the District Plan-

- **LFRA01** - Developments that have crime prevention and low impact urban design measures integrated into their overall design and provide a high standard of on-going amenity.

Attachment B

Assessment of Environmental Effects
H20190019 – 502 Karamu Road
May Holdings 2019

- **LFRA02** - Gateway routes into the Hastings Central Commercial Zone and the definition of the street edges are enhanced by built development.
- **LFRA03** - The Large Format Retail Zone provides for activities that complement and do not compete with the function of the Central Commercial Zone and the Core Retail Precinct in particular.
- **LFRA04** - Car parking, pedestrian and vehicular access which provides strong physical and visual linkages to the Central Commercial Zone via a safe and efficient road network.
- **LFRA05** - The amenity of nearby residential areas is protected, and residences are free from unreasonable and excessive noise, visual intrusion, shading and glare.
- **LFRA07** - A Zone with limited office activities.

There has been no appetite for LFR redevelopment of any of the sites within this block (400-510 Karamu Road North) in the 15 years that the LFR zone has been in existence, and these sites within this enclave of smaller sites could not generally contain a compliant LFR activity by themselves. This block has its own amenity and sense of place, being occupied by various smaller activities which provide a visual link between the CBD and the LFR activities in The Park complex. In terms of the relevant outcomes for this zone, the proposal will accord with all of the outcomes listed above for the reasons outlined already in this assessment and under RMA20190261 in terms of the visual effect of the proposed alterations and extensions. In terms of LFRA07 in particular, we contend that the site is one of the most suitable within the zone for the establishment of office development because of the size constraints which would prevent a standalone LFR activity from establishing as of right on the site, meaning that effects on LFR activities would be minimised. Granting consent to this proposal would not remove the ability of the site to be incorporated into a larger scale LFR development in the future (if there was a desire), however an amalgamation of at least two sites would need to occur for the permitted activity standard to be met.

As has been identified the site has good onsite parking and manoeuvring, sightlines, access and linkage to the CBD for pedestrians and cyclists.

10.0 DISTRICT PLAN OBJECTIVES AND POLICIES

As required by the Resource Management Act 1991, the Proposed Hastings District Council District Plan (as amended by decisions) goes further to stipulate a number of Objectives, Policies and methods that apply to the subject zones. The primary focus of these is to address those issues the Council considers to be significant in carrying out its functions under the Resource Management Act 1991.

Section 7.3.3 sets out the objectives and policies for the Hastings Commercial Environment, including the Large Format Retail Zone. Those applicable to the subject site and zone include (as relevant).

OBJECTIVE LFRO1 To provide for large format retail developments in appropriate locations.

POLICY LFRP1 To provide for large format retail developments within a defined area to the northeast of central Hastings, so that the role of the Central Commercial Zone is reinforced.

POLICY LFRP2 To ensure that small scale retail activity and standalone office activity does not establish within the Large Format Retail Zone, resulting in distributional effects which undermine the vitality and vibrancy of the Hastings Central Business District.

Assessment of Environmental Effects
H20190019 – 502 Karamu Road
May Holdings 2019

Item 2

POLICY LFRP3 To continue to provide for commercial service and limited industrial activities within the Large Format Retail Zone, thereby maximising the efficient use of the land resource within this Zone.

OBJECTIVE LFRO2 To promote high quality large format retail developments that maintain and enhance the amenity of the Zone and its usual linkages with adjoining zones by controlling bulk, location, external design and landscaping of developments.

POLICY LFRP5 To ensure that a high level of amenity is achieved within the Large Format Retail Zone.

POLICY LFRP6 Provide strong visual physical linkages between the Large Format Retail Zone and the commercial centre of the City, by controlling the orientation and design of the developments, the landscaping and streetscape elements.

Comments:

The proposal is for a stand-alone office activity, albeit with all of the traits identified for a Commercial Service Activity.

In relation to the explanation of the existing characteristics of the zone described under Policy LFRP3, the proposal meets these characteristics, in that the activity is single purpose (Land Development Consultancy) and destination specific in nature. The activity is vehicle orientated (given the number of staff that frequently operate out of the office, particularly in the surveying and engineering departments) and requires storage space and parking not currently available on the existing site or on any available site within the zone. The activity has a service specific emphasis and requires a convenient location.

The proposal would not cause a distributional effect, as it would effectively be replacing a former Commercial Service activity site and would not involve the relocation of a smaller retail activity to the Large Format Retail Zone. The proposal is an efficient use of an existing site that is unsuitable in terms of providing for a complying LFR activity, given its size. The proposal would therefore not have a negative effect on the function or the vibrancy of either the Large Format Retail or the Central Commercial Zone.

Compatibility with LFRP5 and LFRP6 was confirmed under RMA2019261 and no changes to the proposed building exterior are proposed under this application.

As the proposed activity shares the characteristics of a Commercial Service Activity, and because of the constraints of the site, the proposal is not considered to be contrary to the objectives and policies of the Large Format Retail Zone.

Having regard to Objectives LFRAO1-8, the proposed extension will not be contrary to the intent of these. The site is already developed, and the proposed works are an extension of this without competing with the functioning of the Hastings Commercial zone or Core Retail Precinct.

Summary / Evaluation of Objectives & Policies

Based on the above, on balance the proposal will not be inconsistent with the Objectives and Policies of the Hastings District Plan.

Attachment B

Assessment of Environmental Effects
H20190019 – 502 Karamu Road
May Holdings 2019

11.0 CONSULTATION / NOTIFICATION

Consultation has been undertaken with the Hastings City Business Association who have confirmed via a letter that they support the proposal (Attached as Appendix D). There are no other parties considered to be affected. There is a live resource consent for the building redevelopment associated with this proposal, and no party would be affected by an office activity establishing on the site, especially one which closely aligns with the general definition of Commercial Service Activity and has been assessed as not having any adverse effects that would be more than minor in scale.

In terms of Section 95A, there are no effects on the environment that would warrant public notification. Notification is not requested in this instance, and there are no special circumstances or rules requiring notification that would apply.

In terms of Section 95B, there are no effects on the local environment or specific parties that would warrant limited notification in this case.

12.0 PART 2 MATTERS

It is considered that the proposed land use consent will not be contrary to the provisions of Part 2 of the Resource Management Act and represents sustainable management as envisaged by Section 5 of the Act.

Section 5 – Purpose

The purpose of the Resource Management Act is outlined in Section 5. This section relates to the promotion of the sustainable management of natural and physical resources, while enabling people and communities to provide for their social, economic and cultural wellbeing and for their health and safety.

The proposal does not threaten the life supporting capacity of air, water, soil or ecosystems, with commercial utilisation of the soil resource precluded by existing development.

In terms of the social, economic and cultural wellbeing of people and communities for their health and safety, the proposed development would allow for the continued and potentially expanded operations of a well-established business that employs over 20 staff.

Section 6 – Matters of National Importance

Section 6 of the Resource Management Act sets out the matters of National Importance that the Council shall recognise and provide for in exercising its responsibilities under the Act. No Matters of National Importance are relevant to this application.

Section 7 – Other Matters

Section 7 sets out matters that must be given particular regard when considering Resource Consent applications. Of relevance to this application are:

- (b) *The efficient use and development of natural and physical resources.*
- (c) *The maintenance and enhancement of amenity values.*
- (f) *Maintenance and enhancement of the quality of the environment.*

*Assessment of Environmental Effects
H20190019 – 502 Karamu Road
May Holdings 2019*

The nature and scale of the proposal are such that it would continue to enable efficient use of the site and would not adversely affect amenity values or the quality of the environment.

Section 8 Matters

Section 8 of the Act provides for the Council to take into account the principles of the Treaty of Waitangi. There are not any specific Treaty of Waitangi issues requiring direct consideration.

13.0 SECTION 104D GATEWAY TESTS

As the proposal is for a Non-Complying Activity, some assessment in terms of the two gateway tests under Section 104D is appropriate.

The preceding assessment has confirmed that the effects of the proposal would be no more than minor in this instance. The effects of the activity would be in line with what could be expected in this zone if a listed Commercial Service Activity was established on the site, and there would not be any significant effects in terms of the Environment. The proposal will allow for the activity to relocate to an upgraded building which is being specifically fit out for the activity. There will be sufficient onsite space for storage and work vehicle, staff and customer parking on a site that is already safely integrated into the roading network. Impacts on the LFR Zone and surrounding LFR activities would be minimal, given the nature of the immediate surrounds and the size of the current title. The proposal therefore meets the first of the Section 104D gateway tests.

The proposal also does not offend the objectives and policies of the District Plan, as the establishment of the office activity would not cause distributional effects and the amenity of the zone would be enhanced.

As such, both gateway tests can be met, and Council can consider granting the application on this basis.

14.0 SUMMARY

This is an application to establish a standalone office within a building that is subject to a live consent to extend and upgrade the building. The proposed tenant is Development Nous Limited, and the application has demonstrated that their current premises are no longer suitable, nor is there a suitable alternative site within the Central Commercial Zone.

Assessment of environmental effects – section 104(1)(a) RMA

It is considered that the actual and potential adverse effects of this proposal will be no more than minor in terms of Section 104 in that:

- The Hastings District Plan envisages other uses in the Large Format Retail Zone, and it will be consistent with the effects generated by permitted activities, such as Commercial Service activities.
- The site is of a size that makes it unsuitable for Large Format Retail activities as a standalone site.
- There are no Large Format Retail Activities on any adjoining site, and no site currently used for Large Format Retail would be taken out of circulation.

*Assessment of Environmental Effects
H20190019 – 502 Karamu Road
May Holdings 2019*

- The site has a long history (circa 30 years) of Commercial Service Activity occurring on the site.
- The design of the office building has been approved under the current resource consent RMA2019261.
- Access to the site is established and sufficient secure parking and storage will be able to be provided;
- The proposed activity is considered to be more closely aligned with the general definition of a Commercial Service Activity, which is specifically provided for in the LFR Zone than an Office Activity. This is due to the degree of fieldwork/off site work that is carried out by and would be the dominant type of work undertaken by DNL, as opposed to being an activity where administrative or clerical work dominates.
- The site is not subject to natural hazards;
- The site is able to be serviced;
- There are no known archaeological sites within or near the building site;
- There will be no disruption of views and there will be no effect on the way the site is viewed externally;

The proposal is consistent with the relevant provisions of the Hastings District Plan, and is likely to have no significant adverse effects on the environment. It is recommended that consent to this application be granted, subject to conditions

**Lisa Poynton
Development Nous Ltd**

Item 2

Attachment B

If calling ask for Liam Wang
TRIM/File Ref 11531#0166

27 January 2020

Development Nous Limited
212 Queen Street East,
Hastings 4122

Dear Sir/Madam

Application for Resource Consent: 502 Karamu Road North HASTINGS 4122, RMA20190570

An initial assessment of your application for resource consent has been completed.

Under Section 92 of the Resource Management Act (RMA) 1991, the Hastings District Council requests further information to fully assess your proposed activity, its effect on the environment and the ways in which any adverse effects on the environment might be mitigated.

1. Please provide a report prepared by a suitably qualified professional assessing the potential distributional effects that may arise from the proposed activity.

Explanation

Policy LFRP2 states that:

"To ensure that small scale retail activity and standalone office activity does not establish within the Large Format Retail Zone, resulting in distributional effects which undermine the vitality and vibrancy of the Hastings Central Business District."

The application's assessment that the proposed office is not entirely a "standalone office activity" is not supported. Field works associated with Civil and Geotechnical Engineering, Soil testing and Surveying are generally carried out off-site and does not necessitate the need to locate the office activity at this particular location.

The report on distributional effects is therefore required to demonstrate to how the proposal will be consistent with this policy.

Note: The Council may decide to peer-review the report provided under section 92(2) of the RMA.

In accordance with section 92A of the Act you must within 15 working days of the date of this request, take one of the following options:

1. Provide the information; or
2. Inform the Council in a written notice that you agree to provide the information; or specify a reasonable timeframe for providing the information for agreement of Council, or;
3. Inform the Council in a written notice that you refuse to provide the information.

Please note that Section 95C(2) of the Resource Management Act requires Council to publicly notify your application if:

- i) the information is not received within either 15 days, or;

- ii) the information is not received within any agreed timeframe, or;
- iii) if you decline to provide the information.

Council's deposit fee for public notification is **\$15,000.00**.

A decision on your application has been placed on hold awaiting your response to this request, in accordance with Section 88B of the Act. Where possible however, the application will continue to be processed as allowed by the information already supplied.

Please contact me if you have any questions regarding the above information request or the further processing of the application.

Yours sincerely



Liam Wang
Environmental Planner (Consents)
liamwj@hdc.govt.nz

Item 2

Attachment C

Application Received: 20 December 2019	PID: 11531	RMA20190570
Applicant:	May Holdings 2009 Limited	
Address of Site:	502 Karamu Road North, Hastings	
Legal Description:	Lot 3 DP 15279 Contained in RT HBH1/962	
Area:	1005 m ²	
Zoning:	Large Format Retail	
Overlays:	Hastings CBD Commercial Precincts – Large Format Retail Precinct	
Proposal:	Standalone office activity within the large format retail zone	
District Plan Provisions:	Rule LFRR14	
Assessment of Status:	Non-Complying Activity	
Report Prepared By:	Liam Wang	

SECTION 95A AND 95B NOTIFICATION REPORT & SECTION 104 ASSESSMENT REPORT

NOTE: The Proposed District Plan became operative (in part) after the application was lodged but prior to approval, and is now the Operative Hastings District Plan (2020) (HDP). The Plan becoming operative did not change the activity status of the application. The proposal has been assessed against the HDP.

1.0 THE SITE AND SURROUNDING ENVIRONMENT

Section 2.0 of the applicant's assessment of environmental effects (AEE) has provided a description of the site and its surrounding area. Relevant parts of the description are reproduced below:

The site subject to this application is located at 502 Karamu Road North, Hastings being that land legally described as Lot 3 DP 15279 contained in Certificate of Title HBH1/962, being approximately 1005m² in total area.

The site is located fronting Karamu Road, Hastings near the major intersection of Karamu Road North and St Aubyn Street East, 500m east of Heretaunga Street in Hastings City and 120m from "The Park MegaCentre" (which was historically Nelson Park).

The site contains an existing 206m² building previously utilised as a bar restaurant under the name of "The Cat Bistro" (formerly "The Cat & Fiddle Ale House") and is currently vacant. The building is located on the Karamu Road frontage. Resource consent was granted on 11 September 2019 to allow the building to be re-clad and a 251m² extension to be undertaken (HDC ref RMA20190261)

The site is accessed directly from Karamu Road via an existing heavy vehicle crossing located on the eastern edge of the building which leads to the rear of the building. HDC RMA20190261 confirmed that at least 14 parks will be available on the site and set out the known site history, which need not be repeated here.

The character of the area is mainly comprised of large buildings housing retail and commercial service uses.

I concur with the applicant's description of the site as reproduced above. In addition, I note that condition 2 of RMA20190261 states:

Future use of the building shall comply with the Proposed Hastings District Plan rules and standards for the Large Format Retail zone, unless otherwise approved by a separate resource consent.

Item 2



Figure 1 Aerial photo showing the subject site (outlined by red lines) and its surrounding area.

Attachment D

2.0 THE PROPOSAL

The applicant is seeking to establish a standalone office activity on site. The office activity will be a multi-disciplinary consultancy providing planning, surveying, engineering and other related services (Development Nous Limited).

Section 4.0 of the applicant's assessment of environmental effects (AEE) has provided a description of the proposed activity and reasons why the application is being pursued. Relevant parts of the description, with modifications arising from further information provided, are reproduced below:

The ~~intended anchor~~ sole tenant is Development Nous Limited (DNL), a multi-disciplinary land development consultancy currently based in Queen Street East. The business provides planning, surveying, engineering, landscape architecture and valuation services and has grown steadily over the past two decades (under various company names), to the point where the current staff of 20+ means that the current building is no longer fit for purpose and is stifling the potential for further growth.

The current building is at capacity in terms of desk spaces, and this is with at least 3 staff working remotely for the majority of the time. There is a single meeting room within the building and no staff room. There is also insufficient storage space within the building, meaning that a container is used to store larger equipment outside. The site also lacks a

loading space and secure storage for the work vehicles. The site is 12.7m wide, which allows for five carparks.

There is an agreement with the owner of the adjoining site to share some parks to make it up to 7, and for a storage container to be located on that site. The business is office based, however there is a significant field work component to the Civil and Geotechnical Engineering and Surveying branches of the operation. Staff from the various departments are based in the field or out of the office for significant portions of the working week, as outlined in the table below, as each project requires a site visit from a member of the team from each required discipline.

Department	Percentage of Time out of the Office
Engineering	50% of Engineering Staff out of the office 4 days per week.
Surveying	75% of Surveying work is in the field – 2 of the surveying staff would be in the field ~35 hours per week.
Planning (includes Landscape Architects and Valuers and Soil Testing)	25% of Planning work is based out of the office.

The Surveying and Engineering staff in particular require large and sometimes heavy pieces of equipment to carry out their work on site and can make multiple trips in and out of the office on any given day, depending on workloads. The equipment is expensive and requires a secure storage when not in use, and overnight.

Customer visits to the site are estimated at 40 per week, and there are approximately 10 courier visits to the site per day. There are large deliveries to the site at times, which cannot always be contained securely within the current yard area. Large deliveries (including deliveries of pallets to the site containing survey materials which can include the likes of marker paint, survey pegs, warratahs and post hole borers) are generally unloaded on the street due to space constraints.

On this basis, new premises have been sought, and various locations in Hastings, Havelock North and Napier were considered. The criteria in terms of the building were that it be of a suitable size (300-450m²), modern/purpose built and not Earthquake Prone, either on a single level or with storage available at ground level, to allow for ease of moving equipment into and out of vehicles. With regards to the location, the criteria were that the site ideally be close to a CBD and within walking distance of Council and other related professional offices, have sufficient onsite parking for staff, work vehicles and customers and able to be secured at night and not be within a high liquefaction area.

The applicant has supplied an economic impact assessment prepared by Urban Economics (the **UE report**), dated 4 February 2020 assessing the potential distributional effect that the proposed activity may have (HDC Reference: 11531#0168). A further letter from Urban Economics, dated 19 February 2020, was provided as part of the s 92 response.

The Council commissioned a peer review report on the UE Report and subsequent letter. The report, dated 25 February 2020, was prepared by Market Economics (the **Peer Review report**) (HDC Reference: 11531#0176).

After the peer review report, the applicant provided a second economic report from Property Economics, dated February 2020, responding to matters raised in the Peer Review Report. (the **PE Report**)(HDC Reference: 11531#0175)

Details of those reports will be considered and discussed throughout this report.



Figure 2 Site Plan showing the existing building and proposed extension (shown in grey) approved under RMA20190261.

2.1 Record of Title

I have reviewed the following Records of Title:

- Lot 3 DP 15279 Contained in RT HBH1/962

I am satisfied that none of existing interests registered on the title are relevant to the Council's consideration of the proposed activity.

3.0 **REASONS FOR CONSENT AND ACTIVITY STATUS**

3.1 National Environmental Standards

3.1.1 National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011 (NЕСS)

The NESCS requires consideration at the time of change in landuse, subdivision or earthworks on a piece of land upon which an activity on the Hazardous Activities and Industrial List (HAIL) has/is or is more likely than not been undertaken.

The proposed activity does not trigger NESCS. The building is existing and has been previously approved by a resource consent. The broad activity category (commercial) will remain the same after the consent. The proposal therefore does not involve subdivision, disturbance of soil or change of land use.

Accordingly the NESCS does not apply to this activity.

3.1.2 National Environmental Standard for Sources of Human Drinking Water

The property is situated with the "Source Protection Zone 2A" for Eastbourne Water supply. There is no registered source for human drinking water within the 500 m radius of the site.

The consent application is seeking to utilise an existing building for commercial use. The site is located in the Hastings CBD, and all demand on water supply and waste water disposal will be managed through Council's reticulated networks. No additional building works are proposed.

Accordingly, it is concluded that the proposal will not adversely affect any source of human drinking water.

3.3 Operative Hastings District Plan (March 2020)

The site is zoned **Large Format Retail** under the HDP.



Figure 3 Proposed Plan Map showing the subject site (outlined by red lines) and its surrounding area.

The land is subject to the following overlays.

- Large Format Retail Precinct

Appendix 31 of the HDP divides Hastings CBD into different Precincts. There are two Precincts in the Large Format Retail zone, “large format retail precinct” and “Mega Centre retail precinct”.

The HDP contains specific objectives and policies in relation to those precincts. These matters will be considered as part of the assessment.

3.3.1 District Wide Activity (if any)

Rule 27.1.5 (b) provides for *earthworks in association with a Building Consent, where the area of earthworks includes no more than 150% of the area of the associated building footprint as a permitted activity.*

The proposed activity is unlikely to require any additional earthworks. The building and access are existing and have been previously approved under resource consent RMA20190261. The consent sought relates purely to the use of the site, additional works (if any is required under the consent) will be minimal.

For this reason, this report will not assess the proposal’s compliance with earthworks provisions. However, any future earthworks will still be required to comply with the general earthworks standards contained in Chapter 27.1 of the Proposed Plan.

3.3.2 Land Use

The proposed activity will require a land use consent for the following reasons:

- **Rule LFRR14 – Non-Complying Activity** – standalone office activity within the Large Format Retail zone.

Section 5.0 of the applicant's AEE provided the following assessment on the nature of the activity:

The proposal would therefore best meet the definition of an "office" – "means a room, set of rooms, space or building used as a place of business for non-manual work such as administration, clerical, consulting, advising or information processing" as the activities carried out within the building would be within the ambit of administration, clerical, consulting, advising and information processing, albeit in support of activities that do have a manual component, being surveying and civil/geotechnical engineering.

Rule LFRR14 states that Standalone Office Activities are a Non-Complying Activity in the Large Format Retail Zone. However, whilst "Standalone Retail Activity" is defined, the District Plan does not have a separate definition for a "Standalone Office Activity". The dictionary definition of "standalone" indicates that it would be independent – presumably this definition is meant to indicate an activity that is independent of a retail or manual service component. Again, it could be argued that the Civil and Geotechnical Engineering, Soil testing and Surveying aspects of the proposal do have a significant 'manual' (fieldwork) component, however this definition would appear to be the 'best fit' in terms of the current District Plan.

I concur that the proposed activity is a type of "office activity" and is appropriately assessed as a 'standalone office activity' under LFRR14.

I note that office activities often require off-site components of various degrees. These off-site activities can include visiting customers, work sites/fields and attending meetings, and in this case, field works related to surveying and engineering component of the business.

While the site visits are essential for the running of the business, they do not directly relate to the subject site and the office activity (or to any specific location). Such off-site activities do not change the nature of office activities on the subject site – the office activity generally provides for *administration, consulting and processing* of site visits and information gathered from those visits.

I have therefore concluded that the proposed activity is a standalone office activity and should be considered under Rule LFRR14.

3.4 Overall Status

Overall, the proposal will be considered as a **Non-Complying Activity**

4.0 **NOTIFICATION ASSESSMENT (SECTIONS 95A and 95B)**

4.1 Public Notification

Step 1: mandatory public notification in certain circumstances

The applicant has not requested the application be publicly notified (S95A(3)(a)); nor has any further information been requested that the applicant has refused to provide to the Council (S95A(3)(b)).

The application stands alone i.e. it has not been made jointly with an application to exchange reserve land (S95A(3)(c)).

As the proposed activity does not meet any of the criteria listed in Section 95A(3), it therefore concluded that mandatory public notification is not required (S95A(2)(b)).

Step 2: if not required by step 1, public notification precluded in certain circumstances

In respect of section 95A(5)(a) the proposal is not subject to a rule or a National Environmental Standard that precludes notification.

In terms of Section 95A(5)(b) the application is seeking to establish a standalone office activity within the Large Format Retail zone. The proposal has a non-complying activity status and is not for a subdivision, residential or boundary activity. It is also not a precluded activity under Section 360H of the Act.

The proposal does not meet any of the criteria listed under the section. Therefore, public notification is not precluded under S95A(5)(a) or S95A(5)(b).

Step 3: if not precluded by step 2, public notification required in certain circumstances

In terms of S95A(8)(a) the proposal is not subject to a rule or national environmental standard that requires public notification.

In terms of S95A(8)(b) an assessment of whether the effects of the proposal will be more than minor is discussed below.

As provided in S95D, a consent authority that is deciding, for the purpose of [section 95A\(8\)\(b\)](#), whether an activity will have or is likely to have adverse effects on the environment that are more than minor—

(a) must disregard any effects on persons who own or occupy—

(i) the land in, on, or over which the activity will occur; or

(ii) any land adjacent to that land; and

(b) may disregard an adverse effect of the activity if a rule or national environmental standard permits an activity with that effect; and

(c) in the case of a restricted discretionary activity, must disregard an adverse effect of the activity that does not relate to a matter for which a rule or national environmental standard restricts discretion; and

(d) must disregard trade competition and the effects of trade competition; and

(e) must disregard any effect on a person who has given written approval to the relevant application.

In accordance with Section 95D(a), I have disregarded effects on persons who own or occupy the properties identified by red dots in the following plan (being the adjacent land):



Figure 4 Planning map showing the subject site (outlined by red lines) and adjacent sites (indicated by red dots)

In relation to Section 95D(e), no written approval has been received by the Council for this consent.

In relation to Section 95D(b), I note that the AEE identifies the potential effects associated with “Commercial Service Activity” (which are a permitted activity in the LFR Zone, subject to compliance

with relevant performance standards) are part of the permitted baseline and, where the proposed activity would have the same effects, they should be disregarded when assessing the proposal. I have not reproduced the lengthy definition of Commercial Service Activity, but note that it includes activities such as copy and printing services, banking, dairies, drive-through restaurants, health care services and real estate agents etc. I generally concur with the applicant that the proposed office activity will have similar, or less, effects than permitted commercial service activities in terms of noise, traffic movement and generation, lighting and glare and parking demand. In my effects assessment below, I have taken this permitted baseline into account.

As the proposal is overall being considered a Non-Complying Activity, there is no restriction on the effects that can be assessed. My assessment of whether there are adverse effects on the environment that are more than minor is as follows:

Environmental nuisance effects – lighting and noise

The proposed activity is for a standalone office activity. Such activity is expected to generate minimal amounts of environmental nuisance effects. Noise generated will likely be typical office conversations and vehicle movements. External Lighting will likely be minimal as the activity will generally only be operating during normal business hours, and any security lighting around the rear carpark is unlikely to effect adjoining properties which operate during normal business hours and are non-residential. The activity is also unlikely to generate offensive odour.

As such, I have concluded that the proposed activity will likely comply with all relevant performance standards (7.3.5H and 7.3.5O). Any potential effects in this aspect will therefore be comparable to a complying activity and can be considered **less than minor**.

Traffic and parking

Table 26.1.6.1-4 of the Proposed Plan requires 1 parking space per 50 m² gross floor area for professional office areas. The existing building, after extension, will have a gross floor area of 467 m². 10 parking spaces are therefore required under the Proposed Plan. 14 parking spaces and 1 loading bay area will be provided on site, which will meet the Proposed Plan requirements.

Council's Development Engineer, as part of previous consent RMA20190261, has confirmed that the vehicle crossing is sufficient to accommodate future traffic. Furthermore, given the nature of the activity, traffic movement generated by the activity will likely be minimal, compared with other permitted activities such as commercial services and restaurants in the zone.

For those reasons, I have concluded that in terms of traffic movement and parking demand, the proposal will likely to have **less than minor** effect to the wider commercial environment and road network.

Reverse Sensitivity

I have considered whether a standalone office activity would be sensitive to effects generated by activities that are existing or otherwise permitted within the LFR Zone, noting that commercial service activities include activities which may involve greater effects on amenity than other commercial areas where office activities are anticipated. For instance, existing activities in the area include 508 Karamu Road which undertakes mechanical repairs and sale of car parts etc.

I am satisfied that a standalone office, being a type of commercial activity, will generally have a higher tolerance to effects such as noise, lighting and traffic generation, from other activities. I therefore consider the activity will have no more than minor reverse sensitivity effects

Servicing

I have considered whether the proposal will have any adverse effects in terms of its requirements for servicing. Subject to implementation of RMA20190261, the existing building (and extension) will be fully serviced by Council's reticulated networks. Council's development engineer has reviewed the consent RMA20190261 and was satisfied that the site can be sufficiently serviced.

Given the nature of the activity and that no additional works will be required, I have concluded that the proposed activity can be sufficiently serviced without adverse effects associated with servicing.

Distributional Effects

The PE Report helpfully defines distributional effects as arising “*where a new business (or cluster of business) affects an existing centre to such a degree that it would erode a centre’s viability, causing a decline in its function and amenity, and disenabling the people and communities who rely upon those existing (declining) centres for their social and economic wellbeing*” (PE Report, p8). Such effects are relevant for this application, due to the objectives and policies for the Hastings Commercial Area, specifically LFRP2 which provides a policy of the LFR Zone is:

“To ensure that small scale retail activity and standalone office activity does not establish within the Large Format Retail Zone, resulting in distributional effects which undermine the vitality and vibrancy of the Hastings Central Business District.”

All of the economic reports prepared in relation to the application state that this particular application will not, of itself, result in adverse distributional effects on the Hastings CBD. This is also reflected in the Hastings Business Association’s letter of support for the proposed activity.

There are other issues that arise in terms of consistency with relevant objectives and policies, and the potential for a precedent to be created, however for the purposes of this notification assessment, I am satisfied that there will be no more than minor adverse distributional effects as a result of the proposal.

Conclusion

On the basis of the assessment above, I have concluded the proposal will likely to create **no more than minor** effect to the wider environment.

Step 4: public notification in special circumstances

I have considered whether there are special circumstances which exist in relation to the application which would warrant the application being publicly notified. I do not consider there are any such special circumstances for the following reasons:

- As stated above, the effects on the environment are likely to be no more than minor;
- The proposed activity, while not being anticipated within this zone, does not contain any feature or character that is unusual or special that would warrant public notification by special circumstances.

Decision:

I am satisfied that the application can be considered without full notification to the public in accordance with S95A(9)(b).

4.2 Limited Notification Assessment Section 95B

Step 1: certain affected groups and affected persons must be notified

No protected customary rights groups or affected customary marine title groups are involved in this proposal nor is the proposed activity on or adjacent to, or may affect, land that is the subject of a statutory acknowledgement. Therefore, limited notification is not required to any such groups under S95B(4).

Step 2: if not required by step 1, limited notification precluded in certain circumstances

Section 95B(5) requires determination as to whether any of the criteria in subsection (6) is met.

In terms of section 95B(6)(a) the proposal is not subject to a rule or a National Environmental Standard that precludes limited notification.

In terms of section 95B(6)(b) the application is for a land use resource consent that has a Non-Complying activity status, and is not for a prescribed activity.

Therefore, the application is not precluded from limited notification under section 95B(6).

Step 3: if not precluded by step 2, certain other affected persons must be notified

Under Section 95E, a consent authority must decide that a person is an affected person if the activity's effects on them are minor or more than minor (but are not less than minor), subject to the limitations in Section 95E(2). Where written consent is obtained Council must disregard any effect on a person who has given written approval to the relevant application (Section 95E(3)).

In relation to section 95E(2) and (3), I note:

- I have taken into account the fact that commercial service activity, complying with relevant performance standards, will have similar effects to a standalone office activity;.
- The activity is not for a controlled or a restricted discretionary activity. The Council can consider all relevant effects for the purpose of notification assessment.
- No written approval has been received by the Council in relation to this application.

For the purposes of the limited notification assessment, persons on adjoining properties are not excluded from consideration. However, I am satisfied that the same conclusions as outlined above can be drawn for the purposes of the limited notification assessment. For the same reasons set out above, I conclude that there are no persons who will be affected by the activity in a minor or more than minor way.

I note I have given particular attention to whether persons occupying the adjoining properties, which were excluded from the assessment above, might suffer from reverse sensitivity effects as the result of a standalone office establishing at 502 Karamu Road. In particular, 504 Karamu Road is a windscreen repair and auto-electrical shop, and 503 Karamu Road is a retail outlet for plumbing and bicycle sales. However, I am satisfied, for the same reasons set out above in relation to reverse sensitivity effects, that no such effects that are minor or more than minor will not arise.

Conclusion

On the basis of the assessment above, I have concluded that no person will be affected in a minor or more than minor way by the proposal.

Step 4: further notification in special circumstances

It is considered that there are no special circumstances that exist in relation to the application that would warrant notification of the application to any other persons not considered earlier in this report.

All relevant matters and parties are sufficiently addressed above in this report. Additionally, the proposal does not contain any feature or character that is unusual or special to the extent that it would result in any other effect not considered by the assessment above.

Thus, no limited notification to any other affected persons is deemed necessary in accordance with Section 95B(10).

Decision:

I am satisfied the application can be considered without notification on a limited basis to any person.

4.3 Notification Decision

It has been determined that the application does not need to be notified under section 95A and does not need to be limited notified under section 95B, and there are no special circumstances to warrant public or limited notification, therefore the application can be processed on a non-notified basis.

Notification Decision made under delegated authority by:

Liam Wang
Environmental Planner – Consents
Hastings District Council
14 May 2020

5.0 STATUTORY CONSIDERATIONS

In considering any application for resource consent, the council must have regard to the following requirements under s104(1) - which are subject to Part II (the purpose and principles):

- (a) any actual and potential effects on the environment of allowing the activity; and**
- (ab) any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity; and**
- (b) any relevant provisions of—**
 - (i) a national environmental standard:**
 - (ii) other regulations:**
 - (iii) a national policy statement:**
 - (iv) a New Zealand coastal policy statement:**
 - (v) a regional policy statement or proposed regional policy statement:**
 - (vi) a plan or proposed plan; and**
- (c) any other matter the consent authority considers relevant and reasonably necessary to determine the application.**

As a Non-Complying Activity, Section 104B of the Resource Management Act 1991 states that Council may grant or refuse the application. If it grants the application, it may impose conditions under s108. In considering the application, the Council can take any effect that may arise from the proposed activities into account.

Section 104D of the Act states that a consent authority shall not grant resource consent for a Non-Complying Activity unless it is satisfied that:

- (a) The adverse effects of the activity on the environment will be minor; or**
- (b) The application is for an activity, which will not be contrary to the objectives and policies of:**
 - (i) the relevant plan, if there is a plan but no proposed plan in respect of the activity;**
 - or**

...

If the Council is satisfied that the proposal satisfies either of the limbs of the test then the application can then be considered for approval, subject to consideration under s104. If the proposal does not satisfy either limb, the application cannot be granted consent.

6.0 ACTUAL AND POTENTIAL EFFECTS ON THE ENVIRONMENT - s104(1)(a)

6.1 Effects that must be disregarded

6.1.1 Any effect on a person who has given written approval to the application - s104(3)(a)(ii)

No written approvals have been provided.

6.1.2 Effects that may be disregarded - Permitted baseline assessment - s104(2)

When considering any actual or potential effects, the council (as consent authority) may disregard an adverse effect on the environment if a national environment standard or the plan permits an activity with that effect (the permitted baseline). The Council has discretion whether to apply this permitted baseline.

As discussed in Section 4 above, I am satisfied that Commercial Service Activities complying with the relevant performance standards are within the permitted baseline for this proposal, and I have taken this into account in my effects assessment.

For the avoidance of doubt, distributional effects of the proposal do not form part of the permitted baseline as the effects associated with a standalone office activity, which is specifically discouraged in the LFR Zone, are different from those associated with commercial service activities which are specifically provided for.

6.2 Assessment of Effects

Section 4 of this report has considered a number of effects that may result from the proposed activities. It was considered that for the purpose of notification assessment, these effects will be less than minor. I adopt that section for the assessment of effects required under s 104(1)(a).

I note that, in addition to the adverse effects which are relevant for the purposes of notification, s 104(1)(a) also requires that regard be had to the positive effects of the activity. In this regard, there would be positive economic effects for the landowner in being able to obtain rental income for the property, which has been vacant for some time.

There are also positive effects for the intended tenant, in terms of having an appropriate space for their activities, and likely having some potential to expand their number of employees in the future. In this regard I take into account the evidence in the AEE that the proposed tenant has attempted to find appropriately zoned land but has been unable to. In that respect, the same effects would not be able to arise from establishing the activity on another site, at least in the short term.

7.0 ANY MEASURE PROPOSED OR AGREED TO BY THE APPLICANT FOR THE PURPOSE OF ENSURING POSITIVE EFFECTS ON THE ENVIRONMENT - S104(1)(ab)

No specific measures are proposed or have been agreed to by the applicant.

8.0 RELEVANT STATUTORY DOCUMENTS - s104(1)(b)

8.1 National Environmental Standards - s104(1)(b)(i)

8.1.1 National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NESCS)

The proposed activity does not trigger NESCS. The building is existing and has been previously approved by a resource consent. The broad activity category (commercial) will remain the same after the consent. The proposal therefore does not involve subdivision, disturbance of soil or change of land use.

Accordingly the NESCS does not apply to this activity.

8.1.2 National Environmental Standard for Sources of Human Drinking Water

The property is situated with the "Source Protection Zone 2A" for Eastbourne Water supply. There is no registered source for human drinking water within the 500 m radius of the site.

The consent application is seeking to utilise an existing building for commercial use. The site is located in the Hastings CBD, and all demand on water supply and waste water disposal will be managed through Council's reticulated networks. No additional building works are proposed.

Accordingly, it is concluded that the proposal will not adversely affect any source of human drinking water.

8.2 National Policy Statements - s104(1)(b)(iii)

8.2.1 National Policy Statement on Urban Development Capacity 2016

The National Policy Statement on Urban Development Capacity (NPSUDC) came into effect in 2016. The NPSUDC directs local authorities to provide sufficient development capacity in their resource management plan, supported by infrastructure, to meet demand for housing and business space. Some of the provisions relate to "planning decisions", which is defined to mean "*any decision on any plan, a regional policy statement, proposed regional policy statement, or any decision on a resource consent*". The Napier-Hastings Urban area is considered as a "Medium growth urban area", and is subject to provisions of the NPSUDC. This proposal requires a 'decision on a resource consent' and the NPSUDC is relevant.

The following objectives and policies of the NPSUDC are considered relevant for this consent:

Group A – Outcomes for planning decisions

Objectives:

OA1: *Effective and efficient urban environments that enable people and communities and future generations to provide for their social, economic, cultural and environmental wellbeing.*

OA2: *Urban environments that have sufficient opportunities for the development of housing and business land to meet demand, and which provide choices that will meet the needs of people and communities and future generations for a range of dwelling types and locations, working environments and places to locate businesses.*

OA3: *Urban environments that, over time, develop and change in response to the changing needs of people and communities and future generations.*

Policies:

PA4: *When considering the effects of urban development, decision-makers shall take into account:*

- a) The benefits that urban development will provide with respect to the ability for people and communities and future generations to provide for their social, economic, cultural and environmental wellbeing; and*
- b) The benefits and costs of urban development at a national, inter-regional, regional and district scale, as well as the local effects.*

Comment:

As a starting point, I note that I do not consider PA1, PA2 or PA3 to be directly relevant when assessing this application. PA1 relates to ensuring sufficient capacity is zoned and serviced over the short to long term, and PA2 relates to infrastructure to support development. Those matters do not arise here. PA3 relates to making planning decisions “*that affect the way and the rate at which development capacity is provided...*”. “Development capacity” is defined as meaning the capacity of land intended for urban development based on the zoning, objectives, policies, rules and overlays that apply to land in the plans, and the provision of infrastructure. The current decision does not “provide” development capacity in that sense, and therefore I do not consider that policy to be directly relevant.

The ‘Group A’ objectives and policies are primarily met by the HDP, which zones land specifically for commercial use, and divides commercial uses into categories, for instance by reference to their amenity levels. I do not consider the NPSUDC requires ‘second guessing’ of the appropriateness or adequacy of the HDP zones when assessing a resource consent.

What is required to be taken into account is the benefits that would flow from allowing urban development, with respect to the ability of people and communities and future generations to provide for their special, economic and cultural and environmental wellbeing. In this regard, I acknowledged that granting consent to the proposal would have economic and social benefits for the applicant in allowing their business to relocate and expand to more spacious and suitable premises; and economic benefits for the landowner in being able to lease their premises which have been vacant for a relatively long time.

I must also take into account the benefits and costs of urban development at the scales stated in PA4(b). I do not consider there are national, inter-regional or regional costs and benefits that arise, however there are potentially district as well as local costs and benefits. Relevant district costs would arise if granting consent to the application had the direct or indirect effect of undermining the Hastings CBD, as this serves an important social and economic function. I discuss this further below under the assessment of objectives and policies of the HDP.

Group B – Evidence and monitoring to support planning decisions and Group C – Responsive PlanningObjectives:

OB1: A robustly developed, comprehensive and frequently updated evidence base to inform planning decisions in urban environments.

OC1: Planning decisions, ...that enable urban development which provides for social, economic, cultural and environmental wellbeing of people and communities and future generations in the short, medium and long-term.

OC2: Local authorities adapt and respond to evidence about urban development, market activity and the social, economic, cultural and environmental wellbeing of people and communities and future generations, in a timely way.

Comment:

I note that the Group B policies are directed at undertaking assessments of capacity and are not directly relevant to this proposal. Likewise, the Group C policies are directed at taking action in response to the capacity assessments undertaken as part of the Group B assessments, and do not directly apply here. It is relevant, though, to consider the most recent Housing and Business Capacity Assessment (HBCA) for the Napier-Hastings Urban Area published in October 2019. The report was prepared for the Hawkes Bay Regional Council to meet the requirements of Policy PB1 of the NPSUDC".

The report concluded that:

8.2.11 In the City centres there is surplus space and evidence of under-utilisation. Re-development and refurbishment will increase the capacity of the existing zones and will encourage greater activity within the current commercial precincts. Continued regional growth will lead to increased demand for accommodation across most sectors. The projections within the CBRE report of 2012 suggest a shortage of capacity. The vacancy rates in the retail areas have decreased since and there has been an increase in supply within existing zoned precincts. There remains capacity for current growth.

8.2.12 It is unlikely that the apparent population growth currently being experienced across the region will continue at a similar rate to that of the last three years. This combined with emerging trends suggests ample capacity through until at least 2025. Accordingly Logan Stone recommend a full review of the capacity for commercial requirements be undertaken circa 2023.

8.2.13 Finally an examination of MBIE price efficiency ratios (MBIE, 2018) reveals that commercial values are higher than adjoining industrial values by a large margin at Ahuriri, Georges Drive and Greenmeadows in Napier and Karamu Road North in Hastings. This may mean that commercial expansion in those locations may be worth considering when the review is undertaken.

The report concluded that there will likely be a shortage of office space in the medium term in both Hastings and Napier. The report further identified Karamu Road North as a potential area for future commercial expansion. However, the existing capacity is likely to be able to accommodate for the demand to at least 2025, and the report only recommended this option to be considered at the time of the review.

This is also reflected in the *Heretaunga Plains Urban Development Strategy* (HPUDS), which was published in 2017. Section 2.3 of the report identified that:

Both Napier and Hastings Councils have implemented Commercial Strategies. Based on accepted population growth/floor area models there would be a need for additional land over the study period. However specific on the ground assessment that has been done as part of the commercial strategies and Large Format Retail plan changes signal that the allocation of additional Commercial land is not considered to be necessary within the strategy period as it is considered that this can be accommodated within the existing commercial environments.

The HPUDS clearly sends the signal that future commercial development is expected to be accommodated within the existing commercial areas through intensification. HBCA, which is a fairly recent study, has not identified any immediate urgent shortage of office land.

I do not read the NPSUDC as requiring, as part of a planning decision on a site specific application, an assessment of the availability of commercial land to meet the particular demands of a particular business. Such an assessment may be relevant when assessing whether the proposal is consistent with objectives and policies of the plan and whether a precedent might be established by the grant of consent. However I do not consider the NPSUDC supports the grant of consent to a non-complying activity on the basis that the particular business has not found available space, which meets its particular criteria.

8.3 New Zealand Coastal Policy Statement - s104(1)(b)(iv)

The purpose of the New Zealand Coastal Policy Statement (NZCPS) is to state policies in order to achieve the purpose of the RMA in relation to the coastal environment of New Zealand. In this instance, the site does not directly connect to the coast, therefore the NZCPS is not relevant.

8.4 Hawke's Bay Regional Policy Statement – s104(1)(b)(v)

The Hawke's Bay Regional Resource Management Plan 2006 (RRMP) includes the regional policy statement (RPS) for the Hawke's Bay Region, which contains the following relevant objectives and policies:

OBJ UD1 Urban Form

Establish compact, and strongly connected urban form throughout the Region, that:

(a) Achieves quality built environments that:

...

iv. are healthy, environmentally sustainable, functionally efficient, and economically and socially resilient, and...

OBJ UD3 Provision for Business Land

Identify and provide for land requirements for the growth of business activities in the Heretaunga Plains sub-region in a manner that supports the settlement pattern promoted in OBJ UD1.

POL UD2 Provision for Business Activities

In the Heretaunga Plains sub-region, district plans shall provide for business activities to 2045, in a manner which:

a) Reinforces the role of ...Hastings cities as the commercial and business core of the Heretaunga Plains ...

b) Promotes the utilisation, redevelopment and intensification of existing commercial land;

...

These provisions are reflected in the HDP in terms of its zoning of certain land for commercial activities, with separate areas for the CBD and LFR activities. These give effect to the RPS objective of identifying Hastings as the commercial and business core.

These provisions of the RPS are not directly applicable to whether the application is or is not appropriate. However they are relevant to the extent that the HDP gives effect to these matters of regional significance, so a proposal which is inconsistent with the HDP is, by implication, inconsistent with the RPS. I consider the consistency of the proposal with the relevant HDP objectives and policies below.

The following provisions are also considered relevant.

OBJ 16 *For future activities, the avoidance or mitigation of off site impacts or nuisance effects arising from the location of conflicting land use activities.*

OBJ 17 *For existing activities (including their expansion), the remedy or mitigation of the extent of off site impacts or nuisance effects arising from the present location of conflicting land use activities.*

OBJ 33B *Adverse effects on existing landuse activities arising from the development of physical infrastructure are avoided or mitigated in a manner consistent with Objectives 16, 17, 18, 32 and 33.*

Section 4 of this report has identified that in terms of potential environmental nuisance effects, the proposed activity will be unlikely to cause any adverse effects.

8.5 Operative Hastings District Plan (March 2020) - s104(1)(b)(vi)

8.5.1 Assessment Criteria s104(1)(b)(vi)

The proposed activity is overall considered a Non-Complying activity. In assessing the application, the Council is not limited to any assessment criteria and can consider the full range of effects associated with the proposed activity.

However, the Hastings District Plan records assessment criteria for non-complying activities which includes the following assessment criteria listed Section 7.3.7.4A (Development in the Large Format Retail Zone) below.

- (a) *The proximity of the site to the CBD core and whether allowing the development could encourage zone creep;*
- (b) *The extent to which the activity promotes the optimum and efficient use of the commercial land resource and doesn't detract from the vibrancy and vitality of the central commercial area;*

Comment:

The economic impact assessments provided by the applicant have shown that the proposed activity, when considered on its own will not detract from the vibrancy and vitality of the Central Commercial Area.

However, the risk of setting an adverse precedent will need to be considered. This is further discussed in Section 9 of this report.

- (c) *The extent to which the activity helps promote a mega centre form of retail development and/or helps contribute to the functioning of the Zone;*

Comment:

There is no direct relationship between the proposed activity and other existing commercial service and LFR activities within the zone. The activity does not promote a mega centre form of retail or help contribute to the function of the zone as one designed to provide for large format retail.

I agree that the proposal will end the prolonged vacancy period and the adverse effects associated with a vacant building – attracting crime and reducing the vibrancy of the immediate area. However that is not the type of benefit which is relevant under this assessment criterion.

- (d) *The scale of the activity and whether the Large Format Retail Zone is the most appropriate location for the activity, this should include (but is not limited to) the number of employees and whether the activity locating in the Large Format Retail Zone results in a significant loss of employment activity in the CBD core;*
- (e) *Whether the activity exists in the Central Commercial Zone currently and is seeking to relocate to the Large Format Retail Zone;*

Comment:

The activity currently exists within the Central Commercial zone and is seeking to relocate to the LFR zone into a larger site to accommodate expansion of the business. There will be a net loss of employees working in the CBD core although the loss is not considered to be significant. If the grant of consent created a precedent, there may be more significant losses for the CBD in future, however this is considered as an 'other matter' below.

It is not considered that the Large Format Zone is the most appropriate location for the activity. Ideally, the activity would be able to be accommodated in the CBD or a similar zone which provides for office activity. The Large Format Retail Zone location is something of a 'last resort' due to the unavailability of suitable sites in appropriately zoned areas.

- (f) *Whether alternative sites have been considered, such as in the Central Commercial Zone, which would be more appropriate for the activity;*

Comment:

The applicant has considered a number of other options located in both Napier and Hastings. The AEE concludes that those alternatives were not pursued because they lacked the required characteristics to meet the applicant's requirements, based on:

- Lack of secure storage located at the ground floor in order to accommodate specialist surveying and engineering equipment;
- Lack of sufficient car parking spaces;
- Floor area being too great / too small;
- Uncertainty over the need to have multiple tenancies;
- Earthquake strengthening requirements; and
- Cost associated with additional building works required.

This assessment does not indicate that there is a lack of development capacity or options for accommodating office activities generally, but rather that the specific requirements of this business cannot be met by existing buildings within suitably zoned land.

The consideration of alternative options was largely based on commercial considerations and has little planning relevance. Instead, it shows there are number of options for office floor space in zones that permit standalone office activities as of right.

- (g) *The size of the site and the extent to which allowing the activity could compromise the functioning of the Zone for other activities by preventing these activities from occupying such a site or land amalgamation occurring to accommodate buildings with larger footprints;*

Comment:

The existing building, including the extension approved under the previous resource consent forms part of the existing/consented environment. The proposal is seeking to introduce a non-complying activity without changing the existing physical environment.

The Peer Review Report expresses a concern that there is a "risk that the application would reduce the potential for the LFR zone to accommodate LFR activity, by removing one parcel (the Site) from the pool of parcels available for LFR redevelopment, and also potentially reducing the likelihood that adjacent parcels might be redeveloped for LFR (given removed ability to combine sites and also the precedent risk)."

This is the type of risk the assessment criteria seeks to take account of.

Part of the purpose of the LFR Zone is to ensure there is capacity to develop large format retail, so that this type of development does not occur in the CBD or out of the commercial centre, where it would have adverse effects on the environment, and on the social functioning of the commercial centre as a whole. Approving an application for use of part of the zone for office activity means that

land will not be available for LFR in the future, which may result in it seeking to establish somewhere else. In the same way as the current application argues there is insufficient suitably sized office space available in a suitable zone, a LFR activity could make the same argument that the presence of a standalone office within the LFR Zone means there is no space available for it, and seek to establish in a zone where LFR is not anticipated. The location of the subject site in the middle of the block exacerbates this risk.

In terms of this assessment criteria, I rely on the Peer Review Report to conclude that the proposal could compromise the overall functioning of the LFR Zone by preventing LFR activities from occupying the site, and potentially amalgamating the surrounding land to accommodate a larger footprint building. I acknowledge that there has been little demand for such development to date, but note that the HDP has a lifetime of 10 years, and it is appropriate to take a relatively long term view in terms of ensuring suitably zoned land is available for the life of the plan.

(h) The cumulative effect of allowing the activity to locate in the Large Format Retail Zone;

Comment:

As there are minimal office-type activities currently established within the LFR zone, there will be no cumulative effect associated with the grant of this application.

(i) Whether the activity is required for the operation of other activities in the vicinity;

Comment:

The proposal is not required for the operation of any surrounding activities.

(j) Whether the activity will be located on an Arterial Road as shown in the District Planning Maps, thereby occupying a high profile location that would be more appropriate for Large Format Retailing Activities;

Comment:

The site is located on Karamu Road North, which is classified as a "Regional Arterial" road under the Proposed Plan. The road provides one of the main thoroughfares between Hastings and Napier, and experiences high traffic movements.

The applicant's AEE considered the lack of interest in this site, demonstrated through the prolonged vacancy period indicated the appropriateness of this site for LFR activities was reduced. However, such assessment is a short term view and did not take into account the potential for amalgamation (see assessment criterion (g)).

(k) Whether the site, given its size, shape, frontage, topography and existing development, can adequately accommodate the activity, plus off-street parking, planting and other requirements

Comment:

The applicant's AEE has demonstrated the proposed activity can be fully accommodated on site. The site contains sufficient number of parking spaces to meet the current and future needs.

(l) The extent to which the activity will create an adverse effect on the traffic network and traffic safety. The safe and efficient movement of all traffic needs to be ensured. It should be demonstrated that traffic generation and vehicles entering and leaving the site will not adversely affect traffic flows on the road, or cause a traffic hazard;

Comment:

As assessed in the notification report, the proposed activity is unlikely to adversely affect the safe and efficient movement of traffic in the road network. The potential volume and pattern of traffic generated by the activity will be more or less similar to a complying commercial service activity.

(m) The proximity of the site to public transport hubs and the extent to which the activity's location will require a reliance on private transportation;

Comment:

The activity by its nature is dependent on private vehicles for site visits. This nature cannot be changed by the location of the office activity.

- (n) *Whether the activity can accommodate all required car parking within the site. It is not considered appropriate to have remote car parking and/or direct customers and staff to alternative sites for car parking, and the amount of vehicles parked on the street should be minimised;*

Comment:

The application has demonstrated that the proposal will be able to meet the minimum number of parking spaces required under Section 26.1 of the Proposed Plan.

- (o) *The extent to which landscaping will be provided to enhance streetscape amenity;*

Comment:

Additional landscaping has been approved as part of RMA20190261, which this application relies on. The current application is in relation to the activity on site and does not include any additional physical works nor any change to the exterior of the building. The consented baseline under RMA20190261 will remain unaffected.

- (p) *Whether the activity promotes the sustainable management of natural and physical resources, thereby minimising adverse environmental effects of new developments (including reverse sensitivity); and*

Comment:

The proposed activity will utilise the existing building that has stayed vacant for a prolonged period of time (18 months). The activity will therefore make efficient use of an existing resource and also allow the owner to receive a financial return again. However, the following matters below should also be considered.

For the purpose of this assessment, some caution should be exercised when considering the extension approved as part of RMA20190261 as part of the “existing” building or environment. While being part of the consented environment, the consent was approved on the basis that the extension is only to be used for complying activities (LFR or Commercial Service).

The consent is very recent. The fact that the land owner is willing to invest into an extension, sought a consent for it, and explicitly agreed the condition limiting the type of activities on site (HDC Reference: 11531#0126), indicates that there was at least some level of expectation that a complying activity of such size would occur on this site.

- (q) *Whether the activity achieves the assessment criteria in Section 7.3.7.2K.*

Comment:

Section 7.3.7.2K relates to temporary events which do not relate to this proposal.

8.5.2 Relevant Objectives and Policies

The following objectives and policies are considered relevant to the proposal:

Urban Strategy

Objective UDO1 To reduce the impact of urban development on the resources of the Heretaunga Plains in accordance with the recommendations of the adopted Heretaunga Plains Urban Development Strategy (HPUDS).

Objective UDO3 To establish an effective and sustainable supply of residential and business land to meet the current and future demands of the Hastings District Community.

OBJECTIVE UDO4 To retain and protect the versatile land resource that is the lifeblood of the local economy from ad hoc urban development

POLICY UDP9 To avoid the unnecessary expansion of urban activity onto the versatile land of the Heretaunga Plains

Comment

these objectives and policies are relevant as background only, but is useful to understand the reasoning behind the HDP's approach to zoning and ensuring there are areas of land set aside for activities with different demands. The overarching purpose is to ensure urban development is located within the urban area to minimise pressure for development on productive land in the Heretaunga Plains.

Commercial Strategy

This section usefully outlines the approach taken in zoning commercial areas, noting:

"The Council has taken a pro-active approach to maintaining its Commercial environment. It commissioned a Retail Strategy which was completed by McDermott Miller in 2003. This recommended an expansion of the retail area of the City to provide for Large Format Retail development on the fringe of the commercial core rather than let it develop at a greater distance where cross over activities would be more difficult to achieve."

Relevant objectives and policies include:

OBJECTIVE CSO1 - To provide for the current and future commercial needs of the community to support the economic development of the District and protect the finite soil resource of the Heretaunga Plains from ad hoc development .

POLICY CSP1 - Provide for commercial development within the nominated Commercial Zones in the District.

Explanation

The vibrancy of the commercial area is very much dependant on having sufficient land for commercial activities while not having an over-supply that will dilute the level of activity within the Zones. For this reason the Council places limits on the scale of commercial activity in the Plains Production Zone and actively discourages out of zone activities due to the adverse effects that they have on the zoned Commercial areas.

Comment

Again, these are relevant to understanding the purpose of the commercial zones, and emphasise the importance of maintaining availability of appropriately zoned commercial land for different types of commercial activity.

To the extent that locating the standalone office in the LFR zone reduces the availability of that land for LFR development, it is not consistent with the intent of these policies.

OBJECTIVE CSO2 – To ensure that the commercial environments across the District are of an appropriate size and scale to meet the needs of the community that they service, and are complementary to other commercial areas within the District.

POLICY CSP3 To maintain the three tier Commercial hierarchy of the District.

Comment – The proposed activity is currently located in the Central Commercial zone, which forms part of the "tier one" commercial area – being the hub of commercial activities for the District. The subject site is located within the same environment, therefore a potential relocation will not result in the activity being located in an inappropriate environment.

The proposal is therefore considered **consistent** with this objective and associated policy.

Hastings Strategic Management Area

The Introduction to this chapter sets out a description of the Hastings Commercial Environment, including the following:

"Hastings City is one of two key cities in Hawke's Bay. Both Hastings and Napier cities, through their respective commercial strategies, have adopted a consistent approach to large format retail developments by promoting the establishment of large format retail activities in close proximity to their central commercial areas. This is to ensure that large format retail

developments make a positive contribution and are complementary to their central commercial areas, reinforcing the role that these traditional centres play in providing vibrant community focal points for the region. The commercial strategy is supported by a number of alternative methods which will ensure that commercial type development within the District is conveniently located, and that the special character values of the core Central Business District are maintained and enhanced.”

Relevant objectives and policies include:

OBJECTIVE HSMAO1 – To enable opportunities for employment, economic growth and residential development in the Hastings Strategic Management Area.

POLICY HSMAP1 – Promote the development of a diverse range of land uses activities within defined areas.

Comment

Again, this objective and policy emphasise the intention to provide for different types of commercial activity by setting aside particular zones where they are facilitated.

Hastings Commercial Environment – Large Format Retail Zone

OBJECTIVE LFR01 To provide for large format retail developments in appropriate locations.

POLICY LFRP1 To provide for large format retail developments within a defined area to the northeast of central Hastings, so that the role of the Central Commercial Zone is reinforced.

Comment:

This objective and policy directly relates to the purpose of the LFR zone. In the explanation section, it states:

The Large Format Retail Zone was established in response to market presence of large format retailers and a lack of suitably zoned sites to meet demand. This area was chosen for this purpose, so that the effects of these developments can be managed and successful linkages can be established with the Central Commercial Zone. Activities that are likely to generate large numbers of customers should be sited close to the City Centre, on sites with good pedestrian and vehicular access to the Hastings CBD to ensure the continued vibrancy and vitality of this area ...

The location of the zone was chosen because of its proximity to the CBD, good transport linkage and lack of land availability in the city centre. It is also expected that the zone would reinforce of the role of the CBD, which will be discussed separately in the assessment against the objectives for the central commercial zone.

Approving this consent will result in standalone office activities being established in the LFR zone. This will result in less land being available for potential LFR development, including that the potential for the block to be redeveloped as a LFR activity will be affected. This will undermine the objective which seeks to provide LFR activities within the zone.

As discussed further below, it is considered that granting consent may create a precedent which would further undermine this objective.

I have therefore concluded that the proposed activity will be **inconsistent** to Policy LFRP1.

POLICY LFRP2 To ensure that small scale retail activity and standalone office activity does not establish within the Large Format Retail Zone, resulting in distributional effects which undermine the vitality and vibrancy of the Hastings Central Business District.

Explanation

It is considered that one of the most significant potential adverse effects of allowing any new commercial developments are that of distributional effects, due to the relocation of existing retail activities from the Central Commercial Zone to the Large Format Retail Zone. It is considered that the concentration of small scale retail and office activity in the Retail Core is one of the main contributors to the vibrancy

and vitality of this area. Council's policy response therefore, is to discourage small scale retail and standalone office activity from establishing in the Large Format Retail Zone.

Comment:

The proposed activity is directly contrary to this policy in that it seeks to establish standalone office activity within the LFR Zone. I do not consider that a proposal needs, of itself, to result in distributional effects on the Hastings CBD to be contrary to this policy. It is unlikely that any single office or retail activity would have that effect. The explanation makes clear that the intent is that such activity will not be able to establish within the LFR Zone because eventually there would be a distributional effect.

I have therefore concluded that the proposed activity will be **contrary** to Policy LFRP2.

POLICY LFRP3 To continue to provide for commercial service and limited industrial activities within the Large Format Retail Zone, thereby maximising the efficient use of the land resource within this Zone.

Comment:

This policy recognises the existing commercial service and industrial activities within the zone. The applicant submitted that while the proposed activity is not specially listed as a "Commercial Service Activity", it is largely similar to a permitted activity of this nature.

While there is some similarity in effects between office and commercial service activity, I do not consider this means the proposal is consistent with this objective, particularly where LFRP2 is specific that standalone office activity should not be established in the LFR Zone.

To the extent this policy is relevant, the proposal is not consistent because it removes a tenancy from the pool of sites that could otherwise be used by a commercial service activity, which the zone seeks to accommodate. That there has been no demand for such use of the site for some time is relevant but not decisive, given the 10 year life of the HDP.

Overall, I have concluded that the proposed activity is **not consistent** with this policy.

POLICY LFRP4 To maximise the ability for amalgamating land for Large Format Retail Use by restricting residential development in the Zone.

Comment:

The proposed activity is not related to this policy, and it does not relate to residential development.

However, the policy does indicate that there is a general expectation that some degree of amalgamation will be required in order to accommodate for large format retail activities within this zone. As discussed in the ME report and Section 6.2 of this report, such potential can be undermined by introducing a new activity that may not be compatible to typical LFR activities.

Central Commercial Zone

OBJECTIVE CCO1 To encourage and promote the use, development and operation of the Hastings Central Commercial Zone as the principal commercial heart of the District through District Plan provisions which promote its vibrancy and contain it within a defined boundary.

POLICY CCP1 To maintain and enhance the character and amenity of Hastings City by defining it as a community focal point for retail, commercial, administrative, community, educational and entertainment activities by encouraging groups of compatible activities including medium/high density residential mixed use development to locate there, whilst managing the commercial sustainability of the area.

Comment:

The proposed activity, when considered on its own, will be unlikely to undermine the role of the central commercial zone. Given its relatively minor scale, it will not significantly affect the vibrancy or

commercial sustainability of Hasting's CBD, and this is supported by the expert reports and peer review.

While the activity will not undermine the CBD, nor will it 'promote' the use of the CBD. I have therefore concluded that the proposed activity is **neutral** in respect of this objective and policy.

Overall evaluation against Objectives and Policies

When assessing a proposal against the objectives and policies of the HDP, 'the requirement is to undertake "a broad overall consideration of the purpose and scheme of the District Plan rather than a narrow assessment of the proposal against individual objectives and policies."' (Stone v Hastings District Council [2019] NZEnvC 101 at [80], citing *Bunnings v Hastings District Council* (2011) 16 ELRNZ 767 at [127].

The HDP is clear that the commercial strategy is to provide separate zoned areas for different types of commercial activity, and that the LFR zone is explicitly not to be used for standalone office activity. Evaluating all of the relevant objectives and policies above, I conclude that the proposal is **contrary** to the purpose and scheme of the HDP in terms of how it seeks to provide for commercial activity in the District generally, and how it manages large format retail and office activity specifically.

9.0 SECTION 104(1)(C) ANY OTHER RELEVANT MATTERS

9.1 Precedent and the Integrity of the HDP

The potential for the grant of consent to an activity to create an adverse precedent is an 'other matter' that may be considered under section 104(1)(c). A precedent can be created where a consent is granted and could lead to similar applications for which Council, being consistent in its approach, would need to consider granting. Where the applications relate to activities which are contrary to the direction of the district plan, this can undermine the integrity of the plan and lead to cumulative adverse effects.

Given my conclusion that the proposal is contrary to the HDP overall, it is relevant to consider whether allowing the proposal to proceed would create a precedent which would undermine what the HDP seeks to achieve.

The relevance of precedent was considered in *Rodney District Council v Gould* [2006] NZRMA 217 at [102] as follows:

"It is to be observed that on this approach, it is where the circumstances of a particular case lack any evident unusual quality that granting consent may give rise to concerns about public confidence in the consistent application of the rules in the District Plan. Conversely, where the circumstances of a particular case can be seen as having some unusual quality, the constraints of what is now s 105(2A)(b) may be overcome. In an appropriate case the Environment Court can decide that there are aspects of a proposal which take it outside the generality of cases, so that the case may be seen as exceptional, and if it can be said that the proposal is not contrary to the objectives and policies of the plan, it will not be necessary also to consider and make findings, on the issues of public confidence in the administration of the District Plan and District Plan integrity. Concerns about precedent, about coherence, about like cases being treated alike are all legitimate matters able to be taken into account, as the recent discussion of Baragwanath J in [Murphy v Rodney District Council](#) [2004] 3 NZLR 421 again emphasises. But if a case is truly exceptional, and can properly be said to be not contrary to the objectives and policies of a District Plan, such concerns may be mitigated, may not even exist."

In this case, features of the proposal relied upon to distinguish it from other proposals are:

- It is a multi-disciplinary practice and includes a diverse range of professions;
- It involves a significant level of off-site works;
- Storage requirement for specialist equipment.

I do not consider these features distinguish this proposal from other types of office activity which might seek to establish in the LFR Zone if a precedent was established.

The fact that the office involves multiple disciplines really only explains why there are a relatively large number of employees – it is not a feature which is particularly relevant for differentiating between activities. Similarly, as discussed above, a number of offices will house workers who spend time off-site and who use specialist equipment which is stored at the office.

I do not consider these features differentiate the proposal from other offices involving a relatively high number of workers, such as a law, accounting or engineering firm which might have a similar number of employees.

In *Stone v Hastings District Council*, the Environment Court accepted that the fact that the HDP had only recently been prepared was a relevant factor in deciding whether to grant an application which, on its face, is directly contrary to the objectives and policies of the HDP. The Court there said:

“We agree. The PDP has recently been prepared and should be respected as containing the most recent statement of the community's aspirations for its district. To grant consent may give rise to concerns about public confidence in the consistent application of the rules in the PDP.”

In my opinion to grant consent to a proposal for standalone office activity, in the face of a policy requiring the Council to ensure that standalone office activity does not establish in the LFR Zone is a direct challenge to the integrity of the Plan. There is nothing about this application that, in my opinion, differentiates it from other standalone offices – particularly ones requiring a larger area - that might seek to establish in the LFR zone.

10.0 PARTICULAR RESTRICTIONS FOR NON-COMPLYING ACTIVITIES - s104D

Under s104D a non-complying activity must pass at least one of the 'gateway' tests of either s104D(1)(a) or s104D(1)(b) before a decision can be made on whether to grant a resource consent application under s104B.

If an application fails to pass both tests of s104D(1) then it must be declined.

The proposal meets the test of s104D(1)(a) as the effects of the environment have been assessed as being less than minor. Therefore Council can consider granting the application.

11.0 PART II OF THE RESOURCE MANAGEMENT ACT 1991

The Act seeks to promote the sustainable management of natural and physical resources. Part II of the Act deals with the purposes and the principles of the Act.

In *Stone v Hastings District Council*, the Environment Court held (at [126]):

The recent Court of Appeal decision in RJ Davidson v Marlborough District Council finds that there is no need for separate resort to Part 2 where the plan has been competently prepared under the Act, as it would not add anything to the Court's evaluative exercise. The Court held:

“[74] ... If it is clear that a plan has been prepared having regard to pt 2, and with a coherent set of policies designed to achieve clear environmental outcomes, the result of a genuine process that has regard to those policies in accordance with s 104(1) should be to implement those policies in evaluating a resource consent application. Reference to pt 2 in such a case would likely not add anything. It could not justify an outcome contrary to the thrust of the policies. Equally if it appears the plan has not been prepared in a manner that appropriately reflects the provisions of pt 2, that will be a case where the consent authority will be required to give emphasis to pt 2.

[75] If a plan that has been competently prepared under the Act it may be that in many cases the consent authority will feel assured in taking the view that there is no need to refer to pt 2 because doing so would not add anything to the evaluative exercise. Absent such assurance, or if in doubt, it will be appropriate and necessary to do so. That is the implication of the words 'subject to Part 2' in s 104(1), the statement of the Act's purpose in s 5, and the mandatory, albeit general, language of ss 6, 7 and 8."

There is no challenge in this case to the competency of the HDP, which has only just been made operative. As required by the RPS, and consistent with the NPSUD, provision for commercial uses has been informed by appropriate study into demand for business land. While the applicant has been unable to find appropriately zoned sites it considers suitable for its particular needs, that does not challenge the appropriateness of the commercial strategy of the HDP as a whole.

I therefore consider the requirements of Part 2 are reflected in the objectives and policies of the HDP.

For completeness I note that I have, under the assessment of effects in s 104 above, and in relation to the NPSUD, considered the positive effects that would flow from the grant of consent to the applicant.

12.0 CONCLUSION

Based on the assessment above, it is recommended that the consent application should be **declined**. In summary:

- When assessed on its own, the proposal will likely to have less than minor effects on the environment, and will have positive effects for the landowner and intended tenant.
- 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.
- The proposal is directly contrary to LFRP2 which requires Council to "ensure" standalone office development does not occur in the LFR Zone;
- 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.
- 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.

For those reasons, and 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 HDP. Approving such consent would undermine the integrity of the newly operative HDP.

It is for these reasons that I have recommended that the application be declined.

Decision:

Pursuant to Rule LFRR14 of the Proposed Hastings District Plan (As Amended by Decisions 12 September 2015) and Sections 104 104B and 104D of the Resource Management Act 1991, consent as a Non-Complying Activity is **REFUSED** to May Holdings 2019 Limited to establish a standalone office activity 502 Karamu Road North, Hastings (Lot 3 DP 15279 contained in RT HBH1/962).

With the Reasons for this Decision Being:

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 to 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

Recommended by:

Liam Wang
ENVIRONMENTAL PLANNER (CONSENTS)

**Decision issued under Delegated
Authority by:**



**Murray Arnold
ENVIRONMENTAL CONSENTS MANAGER
PLANNING AND REGULATORY SERVICES**

Date:

27 March 2020

Item 2

Attachment E



Hastings City
BUSINESS ASSOCIATION

107B Market Street South
Hastings

PO Box 420
Hastings 4156

P: 06 876 9093
E: manager@hastingscity.co.nz

18 December 2019

We, the Hastings Business Association, wish to confirm our support for the re-development of the former "The Cat Bistro" in Karamu Road, which has remained vacant for some time.

We understand the likely Tenants will involve a Hawkes Bay owned and operated Land Development Consulting Practice that includes Town Planning, Surveying, Engineering, Landscape Architecture and Project Management Services.

This business has outgrown its current premises in Queen Street, East and requires additional staff space, onsite carparking, loading and security. The business involves a number of company and client vehicle movements and the loading and unloading of equipment. Vehicles and equipment need to also have an ability to be securely stored overnight.

We do not believe that this relocation and overall redevelopment of the former Cat site will adversely affect the ongoing functioning and viability of the C.B.D.

Yours faithfully

Craig Riddiford

Chairman

Hastings City Business Association is incorporated under the Incorporated Societies Act 1908

Item 2

Attachment F