
Thursday, 13 April 2023

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

Ngā Minitī

Minutes (in the form of a Procedural Note)

206 Queen Street West, Hastings

Te Rā Hui:
Meeting date: **Thursday, 13 April 2023**

Venue **Council Chamber
Ground Floor
Civic Administration Building
Lyndon Road East
Hastings**

Time start - end **9.00am – adjourned at 12.38pm
The hearing was formally closed on Thursday, 20 April 2023**

**Notified Resource Consent Application
For Proposed Medium Density Residential Living in the
Hastings Central Commercial Zone (RMA20220352)**

Go to
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to see all documents

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Minutes

Kua Tae ā-tinana: **Chair:** Commissioner Kitt Littlejohn
Present:

Kua Tate:
In attendance:

“For Hastings District Council – as Regulating Authority”

- Caleb Sutton - Environmental Consents Manager
- Jacqui Manning - Consultant Reporting Planner
- Kelly Nikora - 3 Waters Senior Engineer (Growth & Development)
- Christine Hilton - Democracy & Governance Advisor

Kei Konei:
Also present:

“For Hastings District Council – as Applicant”

- Asher Davidson, Legal Counsel - assisting Council as Applicant
- Megan Gaffaney, Planner – acting as Project Manager for Council
- Brent Scott – assisting Council with architectural drawings
- Ann Galloway, Architect – Heritage Consultant
- Sam Green - Engineer
- Janeen Kydd-Smith - Consultant Planner

Kei Konei:
Also present:

- John O’Shaughnessy – Group Manager: Planning & Regulatory Services

“Submitters present”

Speaking

- Walter Breustedt
- Alan Passchier – speaking to his submission and also speaking on behalf of Nick and Jenny Stewart

Not Speaking

- Barbara Arnott, Chair of Historic Places Hawke’s Bay
-

(References in italics and in brackets, in this Procedural Note, are Council's records system references – during the period of processing the records for this hearing the system was updated. Therefore, some records are saved showing the overall RMA number - RMA20220352 – while earlier records are saved under the Property ID number 25706, within that overall RMA number).

1. APOLOGIES & LEAVE OF ABSENCE – NGĀ WHAKAPĀHATANGA ME TE WEHENGĀ Ā-HUI

A number of submitters had indicated in their respective submissions that they wished to speak at the hearing. However, while provision was made for them to speak, they did not attend the hearing.

2. NOTIFIED RESOURCE CONSENT APPLICATION FOR PROPOSED MEDIUM DENSITY RESIDENTIAL LIVING IN THE HASTINGS CENTRAL COMMERCIAL ZONE - 206 QUEEN STREET WEST, HASTINGS (RMA20220352)

In the letters sent out to the parties, on 7 March 2023, confirming the hearing date/s, they were also advised that following close of submissions the Applicant had provided further information including revised documentation and amended plans for the proposal. The revisions and additional information were considered to be within the scope of the original application that was notified. At that time, the website link was provided for parties to review the final plans and information and this information was also included in the circulated agenda documentation set out below.

Council's Document Reference: Covering reports (23/84 and 23/86) and planning report (RMA20220352#0029) together with following associated agenda documentation and a number of evidence agendas (containing pre-circulated evidence from Expert Witnesses on behalf of the Applicant) had been circulated prior to the meeting within an evidence exchange timeframe, as per the Commissioner's Directions, and put onto the council's website.

- Agenda and four attachment documents – (CG-17-24-00002; CG-17-24-00003; CG-17-24-00004; CG-17-24-00005 and CG-17-24-00006).
- Pre-circulated Applicant evidence – (CG-17-24-00007).

Prior to hearing

- (Tues, 28/3/23) – Evidence due and received from six witnesses for the applicant (RMA20220352#0032 to RMA20220352#0037).
- (Wed, 12/4) - the final draft suite of agreed conditions/comments/changes (both a tracked change set and a clean copy), prepared as a result of conferencing between the Council and Applicant, had been emailed to the Commissioner and all parties (RMA20220352#0054).
- No pre-circulated expert submitter evidence was received in relation to this hearing.

Speakers at the Hearing (13 April 2023) – (speaking list – RMA20220352#0041)

Those present were asked to introduce themselves.

Prior to the hearing, after reading the pre-circulated evidence, the Commissioner had advised that he did not have questions to ask of the following parties and they were not required to attend the hearing to give evidence:

- **Ian Bowman** - in regard to his role of peer reviewing the heritage documentation, on behalf of Council.
- **Jon Devine, structural engineer** - who had prepared evidence (*RMA20220352#0034*) as an expert witness for the Applicant.

Prior to the hearing the Commissioner had also initially requested that the Council's 3 Waters Senior Engineer (Growth & Development), **Kelly Nikora**, be present in order to answer any relevant questions that may arise during the presentation of expert servicing evidence by Sam Green, who was appearing for the Applicant.

At the start of the hearing itself, the Commissioner noted that the final draft suite of agreed conditions/comments/changes (both a tracked change set and a clean copy) had now been circulated (on 12/4). These had resulted from conferencing between the Council and Applicant prior to the hearing and there were no outstanding matters of contention. As a result, the Commissioner advised he would not have questions of Mr Nikora.

Mr Nikora confirmed that he had read the final draft conditions and was satisfied with the conditions relating to network certainty. He would still be available if any questions did arise that the Commissioner may want to ask of him.

Site Visit

The Commissioner advised that he had visited the site prior to the hearing, but would like to view the inside of the building. **Megan Gaffaney, acting as Project Manager for Council**, would arrange keys to access the building.

The Commissioner advised that after hearing the evidence at the hearing session he proposed to visit the site, during the lunch break. He asked the Applicant's expert witnesses to accompany him, solely to clarify any relevant details of their evidence that may be presented at the hearing this morning – if he asked for such clarification about that evidence. The Commissioner also invited the other parties present to also attend if they wished to do so.

The Commissioner emphasised that any details raised during the site visit would only address information that had already been presented as part of the evidence at the hearing. Following the site visit the hearing would resume and he would ask any further questions that he may have as a result of viewing the building.

Presentation of Evidence

Applicant

The evidence from the expert witnesses appearing for the Applicant had been pre-circulated and none of these parties had any Summary Statements of Evidence to present as they considered this evidence had been very thoroughly prepared. The expert witnesses' respective evidence was taken as read and they were available to respond to questions from the Commissioner.

Asher Davidson, Legal Counsel for the Applicant, advised that she did not have any Legal Submissions to present.

The Commissioner advised that he would find it helpful if Ms Davidson could include, in her Right-of-Reply Submissions, whether there was any further or more recent case law he could refer to in regard to non-complying activity thresholds.

Megan Gaffaney, Acting as Project Manager for the Council showed and spoke to a power point presentation (*RMA20220352#0047*), highlighting the main points in that presentation. She and other witnesses for the Applicant responded to a number of questions of clarification asked by the Commissioner.

The Commissioner also asked questions of clarification in regard to Mrs Gaffaney's pre-circulated evidence (*RMA20220352#0032*).

A power point presentation (*RMA20220352#0045*) was then shown by **Brent Scott** who had assisted the Applicant with architectural drawings. Mr Scott then responded to a number of questions of clarification asked by the Commissioner in regard to the presentation and his pre-circulated evidence (*RMA20220352#0033*).

Ann Galloway, Architect – Heritage Consultant, responded to questions of clarification asked by the Commissioner in regard to her pre-circulated evidence (*RMA20220352#0035*).

Sam Green - Engineer responded to questions of clarification asked by the Commissioner in regard to his pre-circulated evidence (*RMA20220352#0036*).

Janeen Kydd-Smith, Consultant Planner for Applicant, responded to questions of clarification asked by the Commissioner in regard to her pre-circulated evidence (*RMA20220352#0037*).

The Commissioner asked Mrs Kydd-Smith to also go through the final draft suite of agreed conditions/comments/changes (both a tracked change set and a clean copy) which had been circulated prior to the hearing, on 12/4 following conferencing between the Council and Applicant (*RMA20220352#0054*).

Mrs Kydd-Smith addressed the above noted draft suite of agreed conditions in some detail. She and other expert witnesses for the Applicant, as appropriate, responded to questions of clarification asked by the Commissioner.

It was also noted that the reporting planner, **Jacqui Manning**, could address any aspects in regard to the above noted draft suite of agreed conditions later in the proceedings when she addressed the hearing. The Commissioner would ask questions of Ms Manning at that time.

The hearing adjourned for morning tea at 10.35am
and resumed at 10.55am

Presentation of Evidence...(Continued)

Submitters

Walter Breustedt addressed his submission (*Page 75 in Agenda Document 5, part of 25706#001#0061*). He showed and spoke to a power point presentation (*RMA20220352#0044*), highlighting the main points in that presentation.

Mr Breustedt also tabled and spoke to a booklet titled “More Urban Green... ..Less Sealed Surfaces” compiled by biodiversity Hawke’s Bay (*RMA20220352#0048*). Following the hearing session he forwarded a copy of that booklet to be passed onto the Commissioner.

Mr Breustedt also advised that, with the consent of the Commissioner, he could forward a diagram showing a construction detail titled “Drainage Under Permeable paving”, (*RMA20220352#0049*). The Commissioner granted Mr Breustedt leave to forward this diagram, to be passed onto him for his consideration.

The Commissioner asked questions of clarification in regard to Mr Breustedt’s submission and the booklet and diagram that the Submitter had presented/referred to.

The Commissioner also asked some questions of clarification of the Applicant’s expert witnesses in regard to the above noted evidence presented/referred to by Mr Breustedt.

Alan Passchier addressed the hearing, speaking to his submission (*Page 19 in Agenda Document 5, part of 25706#001#0061*).

Mr Passchier advised that he was also speaking on behalf of Submitters **Nick and Jenny Stewart** – (*their submission was on Page 15 in Agenda Document 5, part of 25706#001#0061*) - (although he didn’t provide any supporting written statement to this effect).

The Commissioner did not ask any questions of clarification of Mr Passchier.

At this stage it was noted that Submitter **Fleur Rohleder (at Beca - on behalf of Fire & Emergency NZ)** had originally intended to forward a letter to be read out at the hearing, on behalf of her client. A copy of the final draft suite of agreed conditions/comments/changes (both a tracked change set and a clean copy) had been forwarded to Ms Rohleder (*RMA20220352#0054*).

Ms Rohleder had since advised that she would no longer have time to write a letter but stated, in an email, the points she would like to make on behalf of her client. These points were to support the conditions and to thank HDC for their recommendation of the firefighting water supply and access condition. This email (*RMA20220352#0059*) was read out at the hearing.

None of the other Submitters who had indicated they wanted to speak at the hearing had attended.

Jacqui Manning, Consultant Reporting Planner addressed the hearing. She did not go through her pre-circulated report, but responded to some of the planning related questions that the Commissioner had raised during the hearing. She also addressed the earlier noted draft suite of agreed conditions (*RMA20220352#0054*) and expanded on some of these conditions. She also responded to some further questions from the Commissioner.

Caleb Sutton, Environmental Consents Manager, also spoke briefly and responded to points of clarification raised by the Commissioner.

As had been outlined by the Commissioner at the start of the hearing, a site visit would take place during the lunch adjournment.

The hearing adjourned for lunch and a site visit at 11.35am
and resumed at 12.33pm

At this point the Commissioner advised that he did not have any further questions of the parties.

The Commissioner requested that the Right of Reply from the Applicant be provided in writing for his consideration **by Asher Davidson**, by Friday, 21 April 2023.

As part of the Reply Submissions, the Commissioner advised that it would be useful for him to know where any current heritage buildings were located in the Hastings CBD and their status.

The meeting adjourned at 12.38pm

Following the hearing:

- (Thurs, 13/4) – Submitter, Walter Breustedt forwarded a copy of the following two items that he had referred to during the presentation of his submission:
 - A booklet titled “More Urban Green... ..Less Sealed Surfaces” compiled by biodiversity Hawke’s Bay (*RMA20220352#0048*). With the agreement of the Commissioner, this booklet was subsequently circulated to all parties.
 - A diagram showing a construction detail titled “Drainage Under Permeable paving”, which the Commissioner granted him leave to forward for consideration (*RMA20220352#0049*).
 - With the agreement of the Commissioner, this diagram was subsequently circulated to all parties – as “additional information provided at hearing by submitter”.
- (Thurs, 20/4) – Received Legal Submissions in Reply from Asher Davidson, for the Applicant (*RMA20220352#0053*).
- (Thurs, 20/4) – The Commissioner advised that he was formally closing the hearing as at this date (*RMA20220352#0061*).

Confirmed:

Commissioner:

Date: