

Friday, 21 July 2023

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

Kaupapataka

Hearing Decision

LIMITED NOTIFIED RESOURCE CONSENT APPLICATION TO CONSTRUCT AND OPERATE A CHURCH HALL AND CONSTRUCT A CARPARK AT 32 REYNOLDS ROAD, HAVELOCK NORTH - HASTINGS GOSPEL HALL TRUST INC (RMA20220170)

Te Rā Hui:
Meeting date: **Friday, 21 July 2023**

Te Wā:
Time: **9.00am**

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

Te Hoapā:
Contact: **Democracy and Governance Services
P: 06 871 5000 | E: democracy@hdc.govt.nz**

Te Āpiha Matua:
Responsible Officer: **Group Manager: Planning & Regulatory Services - John O'Shaughnessy**

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HASTINGS DISTRICT COUNCIL
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TE KAUNIHERA Ā-ROHE O HERETAUNGA

Kaupapataka

Agenda

Te Komihana Whakahoahoa:
Hearing Commissioner:

Heamana
Chair: Commissioner Bill Wasley

Apiha Matua:
Officer Responsible:

Group Manager: Planning & Regulatory Services – John O'Shaughnessy

Mahere Maarama:
Reporting Planner:

Consultant Planner – Stella Morgan

*Te Rōpū Manapori me te
Kāwanatanga:*
**Democracy & Governance
Services:**

Christine Hilton (Extn 5633)

Te Rārangi Take

Order of Business

Decision for Limited Notified Resource Consent Application to Construct and Operate a Church Hall and Construct a Carpark at 32 Reynolds Road, Havelock North - Hastings Gospel Hall Trust Inc (RMA20220170)

HEARING DECISION DOCUMENT

Document 1 The covering administrative report **Pg 1**

Attachments:

- | | | | |
|---|---|------------------|------|
| 1 | Attachment 1 - RMA20220170 - Signed Commissioner Decision – 32 Reynolds Road, Havelock North Hearing held on 21 July 2023 | RMA20220170#0089 | Pg 3 |
|---|---|------------------|------|
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Friday, 21 July 2023

Item 2

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

Te Rārangi Take

Commissioner Hearing

Nā:
From: **Christine Hilton, Democracy and Governance Advisor**

Te Take:
Subject: **Decision for Limited Notified Resource Consent Application to Construct and Operate a Church Hall and Construct a Carpark at 32 Reynolds Road, Havelock North - Hastings Gospel Hall Trust Inc (RMA20220170)**

1.0 Purpose and summary - *Te Kaupapa Me Te Whakarāpopototanga*

- 1.1 The purpose of this report is to have a means to put the Commissioner Decision from the hearing held on 21 July 2023 to address the Limited Notified Resource Consent Application to Construct and Operate a Church Hall and Construct a Carpark at 32 Reynolds Road, Havelock North – Hastings Gospel Hall Trust Inc (RMA20220170).

2.0 Recommendations - *Ngā Tūtohunga*

That the Decision from the Commissioner Hearing addressing a Limited Notified Resource Consent Application to Construct and Operate a Church Hall and Construct a Carpark at 32 Reynolds Road, Havelock North - Hastings Gospel Hall Trust Inc (RMA20220170) dated 21 July 2023 be put onto the website so it can be viewed by the parties and members of the public.

Attachments:

- A [↓](#) RMA20220170 - Signed Commissioner Decision – 32 Reynolds Road, Havelock North hearing held on 21 July 2023 RMA20220170#0089

IN THE MATTER of the Resource Management Act 1991 (**Act**)

AND

An application to the Hastings District Council for resource consent by Hastings Gospel Trust Inc (RMA20220170) to construct and operate a church hall and construct a carpark at 32 Reynolds Road Havelock North, legally described as Lot 8, DP 10013.

1. APPLICATION

An application for resource consent had been made by the Hastings Gospel Hall Trust Inc, to construct and operate a single storey place of assembly being a hall, with associated carpark, landscaping, and stormwater infrastructure, on the subject site.

The proposal is summarised in the section 42A report (s42A) as follows:

- “- Demolition of the existing dwelling and shed on the site.*
- Approximately 325m³ of establishment earthworks.*
- Construction of a single-storey building, comprising:*
 - o 88m² gross floor area, with a maximum height of 5m;*
 - o gable roof and weatherboard cladding; and*
 - o a main hall area, two toilets, foyer, and entry areas.*
- Associated carpark and stormwater infrastructure, comprising:*
 - o formation of a hardstand area for 12 carparks, including one accessible carpark and associated manoeuvring space; and*
 - o on-site soakage trench down either side of the carpark, with catch pits with Hynds Stormshield, for the detention and treatment of stormwater on-site.*
- Boundary fencing and landscaping”.¹*

2. SITE AND SURROUNDING ENVIRONMENT

The location of the proposal and surrounding environment is described as follows in the applicant’s Assessment of Environmental Effects (AEE) report as follows:

‘The site is rectangular in shape within an area of 0.0759ha. The site is relatively flat and currently contains one residential building and two (2) small garden or utility sheds.

The western side is bound by a transient space, being an accessway which serves two rear residential sites. The neighbouring residential building on the site to the rear of the property is largely shielded by an ancillary building on that site. An existing fence approximately 1.8m high and plantings on that site shield the residential building and outdoor living space on the neighbouring site to the east.

¹ S42A Report-Para 3

There is a low fence fronting the property and there are no mature trees or plantings along the front boundary. The existing berm tree appears to be in a poor state of health. The site has a smattering of various types of plants including a small number of mature trees, however, it is predominantly grassed...²

As noted in the s42A report, the wider Reynolds Road area comprises mixed-era low density residential housing with an appropriately 20m wide road corridor comprising 2 lanes and grass verges with deciduous trees planted at regular intervals along both sides of the road. It is a through road and provides access to other parts of the local roading network.

The subject site which is located on the northern side of Reynolds Road is lower than the southern side.

Residential sites are generally flat and rectangular in shape with low height fencing or maintained low height hedges/shrubs along the street frontage.

3. APPOINTMENT

I was appointed by the Hastings District Council ("the Council") as an Independent Hearings Commissioner ("Commissioner") in terms of s34A of the Resource Management Act 1991 (the Act/ RMA) to hear the applicant, submitters, and the Council's reporting officer and to decide on the application.

The information available to me prior to the hearing included the application, the AEE report and other information; submissions; the pre-circulated expert evidence; and a s42A report prepared by the Council's reporting officer, Ms Stella Morgan.

4. HEARING

The hearing was held in the Council Chambers, Hastings District Council offices on Friday, 21 July 2023.

Appearances were from:

Applicant

- Mr Matthew Lawson – Counsel
- Mr Andy Smith- Applicant representative
- Mr Rhys Hegley- Acoustic Consultant via Zoom
- Mr Philip Mc Kay-Planning Consultant

Submitters

- Mr Philip Morrison
- Ms Amy Janes
- Mr Tim Hickman (on behalf of Mr Bruce and Mrs Dale Robertson who were unable to attend)

² Applicant's AEE-Pg 2

Council

- Ms Stella Morgan - s42A Reporting Officer
- Mr Caleb Sutton – Environmental Consents Manager
- Mrs Christine Hilton- Democracy and Governance Adviser

5. ADJOURNMENT & CLOSURE

I adjourned the hearing on 21 July 2023 to allow the provision of Mr Lawsons' right of reply submissions, which I had requested to be in writing, and the provision of the reporting officers' comments in writing, that she had provided verbally at the hearing as part of her s42A report presentation.

The hearing was formally closed on 14 August 2023.

6. SITE VISIT

I conducted a site visit prior to the hearing on 21 July 2023. No parties were present.

7. ACTIVITY STATUS AND BUNDLING PRINCIPLE

The s42A report³ outlined that the application was lodged on 27 April 2023. I was advised that all parts of the Hastings District Plan are operative⁴ that are of relevance to the proposal and that the subject site is within the Havelock North Character Residential Zone.

The zone provides for places of assembly, as a discretionary activity. In addition, the DP allows for up to 50m³ of earthworks per residentially zoned site as a 'permitted activity' being Rule EM1. Earthworks exceeding this volume are required to be assessed as a 'restricted discretionary activity' through Rule EM6.

As the proposal involves 325m³ earthworks associated with the development of the building platform and parking area construction, it must be assessed as a 'restricted discretionary activity'.

The principle of bundling applications, a concept developed by the Environment Court, applies in respect of this manner. Where an activity is unable to comply with district plan provisions that have a differing activity status, they must be considered at the most onerous activity status and assessed using the more stringent criteria (King & Ors v Auckland City Council; [2000] NZRMA 145).

Given this situation, the proposal falls to be considered as a discretionary activity being the most stringent status for all the activities being bundled above. Ms Morgan and Mr McKay agreed with the discretionary activity status.

³ S42A Report- Paras 6.2 & 6.3

⁴ S42A Report- Para 5.2

8. STATUTORY PROVISIONS CONSIDERED

In considering the application, I have had regard to the matters to be considered as set out in sections 104(1), 104B and 108 of the RMA, recognising the status of the land use activity as a discretionary activity. The Act (section 104B) provides for discretionary activities to be granted or refused by the consent authority, and if consent is granted conditions pursuant to s108 of the Act may be attached to the consent.

Section 104(1) RMA sets out those matters that Council must have regard to, subject to Part 2, when considering an application for resource consent and any submissions received, namely:

- (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.*

This decision considers those matters of relevance to this proposal.

9. NOTIFICATION AND SUBMISSIONS

The proposal was subject to limited notification on 17 March 2023 with the period for receipt of submissions having closed on 18 April 2023. Four submissions were received being all in opposition and requesting that the application be declined. These are summarised as follows.

Submission Number	Name of Submitter(s)	Decision Sought
1.	Amy Janes & Craig Joseph Henry Thomas (38 Reynolds Road)	Decline
2.	Melanie Anne august & David Michael August (43 Reynolds Road)	Decline
3.	Bruce & Dale Robertson (45 Reynolds Road)	Decline
4.	Philip & Elizabeth Morrison (owners of 51 Reynolds Road)	Decline

The following extract from the s42A report summarises key issues raised in the submissions. I have considered the full submissions from submitters⁵.

- Loss of an established residential property in a time of housing shortage – no kitchen or domestic facilities so can never be used for housing or as a facility that welcomes the neighbourhood community of Reynolds Road.
- Proposal is for a non-residential purpose for people who live outside of the neighbourhood, and there are no other non-residential activities known on the street – not appropriate in a character residential zone.
- A private assembly hall of people who refuse to associate with the neighbours and do not welcome them at their premises does not reflect the existing tight knit community of Reynolds Road.
- Impact on the residential character of Reynolds Road from majority of the site as a sealed carpark, and the proposed building is considered unattractive.
- Increase in noise and traffic in Reynolds Road in early hours with vehicles arriving in short succession, opening the proposed sliding gate, and people opening and shutting car doors before 6am or after 8pm, in an otherwise quiet street.
- No noise assessment carried out, and the noise that would be generated has been understated.
- Potential of 6 vehicles parking on the roadside is a concern as the carriageway width is designed for low volume of traffic, not regular meetings.
- No confidence that the use will be restricted to the two meetings per week applied for – what is to stop regular meetings making use of the hall as a drop off point – concern about a lack of safeguards against violations of the agreed limited use of the site.
- Applicant has previously misrepresented their intentions – neighbours were told it was purchased to help family members get on the property ladder.
- Earthworks and earth moving vehicles traversing fragile water pipes in Reynolds Road.
- Concern that the application was not notified to all residents of Reynolds Road.
- Concern that proposal will deter potential purchasers of properties in Reynolds Road and may affect property values.
- Concern that proposal has the potential for encouraging other non-community participating households belonging to the same denomination to also locate on the street.
- Request that the Applicant seek an alternative site in a non-residential area.

I wish to note that Ms Morgan outlined in her s42A report that the Council had received correspondence from some residents of Reynolds Road expressing concerns that they had not been limited notified. Given this situation, I advised at the hearing that any concerns regarding

⁵ S42A Report-Para 6.2

the limited notification process were beyond my jurisdiction and were a matter for the High Court judicial review process. Therefore, I give no further consideration to this matter.

No written approvals were received.

10. PRINCIPAL MATTERS FOR CONSIDERATION

The principal issues that were highlighted for consideration included:

- Effects on neighbourhood character
- Effects on amenity values
 - visual effects
 - noise effects
 - traffic and parking effects
 - construction effects
- Effects on infrastructure (water, wastewater, and stormwater)
- Effects on aesthetic, recreational, scientific, historical, spiritual, or cultural values
- Effects of natural hazards
- Other matters

11. HEARING-LEGAL SUBMISSIONS, SUBMISSIONS AND EXPERT EVIDENCE

Legal submissions (opening and closing) were provided along with expert technical evidence from the applicant's witnesses which had been pre-circulated, and then summarised at the hearing. As part of Mr Smith's presentation, he tabled various letters in support of the applicant's activities on other sites in the Hastings District.

Those submitters who appeared also provided statements and summaries of their submissions.

The s42A report was taken as read, with Ms Morgan responding to various matters raised during the hearing.

All documents presented at the hearing are held by the Council as part of the hearing record.

12. MAIN FINDINGS

The main findings that have led to this decision are as below. They, along with the reasons for the decision, have been reached after considering the application details, the submissions, the evidence presented at the hearing and the s42A report and legal submissions. Further consideration has been given to all the relevant statutory and planning provisions, the principal issues that were in contention, and the details gathered from my visit to the site and locality.

- **Effects on neighbourhood character**

The DP essentially sets the context for the consideration of any effects on neighbourhood character, and the introduction to the Havelock North Residential Zone chapter is helpful in that regard and is outlined as follows:

‘There is also recognition that some non-residential activities can be provided for in the Residential Zone. However, there is concern that such activities can be incompatible with the surrounding residential uses, and can therefore create negative effects such as noise, car parking congestion, and loss of visual amenity. The effects of non-residential activities must be made compatible with those of residential activities. Some non-residential activities, such as schools, day care centres and churches, have a convenience role in a residential setting and the positive effects, such as reduction in travel time, should be recognised. These activities should be provided for but at the same time require controls to limit the extent of effects on surrounding properties.’⁶

As already noted, the proposal is a specified ‘discretionary activity’ in the Havelock North Residential Character Zone, and therefore the DP anticipates places of assembly being located in the zone, subject to the effects being compatible with those of residential activities.

In considering the submissions made, there are concerns that the proposal is for a non-residential purpose in an established residential neighbourhood, that it will be out of character with the rest of the street, and that it represents a loss of a residential property in a time of housing shortage. Additional concerns include the building being used as a private assembly hall for people who live outside of the neighbourhood rather than being a facility that is open and welcoming to the existing neighbouring community, and a belief that this exclusivity will be out of character with the existing tight-knit community of Reynolds Road. Some submitters also questioned why the application was not notified to all the residents of Reynolds Road and there was a suggestion that the applicant seeks an alternative site in a non-residential area.

The s42A report provides an assessment in respect of neighbourhood character and considers the submissions in respect of this matter. Ms Morgan has assessed the compatibility of the proposal with those of residential activities.

I generally concur with, and adopt that assessment which is outlined as follows:

“...the proposed activity is small in nature and scale. From a visual perspective, the proposed building and associated fencing and landscaping is not dissimilar in size and appearance to that of a small single-storey, gable-roof residential dwelling.

The use of the site to the exclusion of the general public is the prerogative of the landowner, as is the case for any other private property, and is not something that can be addressed when considering a resource consent application. It is not known if the proposed hall is meeting a local need or not but, in my opinion, it is likely meeting a wider community need, albeit serving a specific congregation/community.

I consider the low level of activity (maximum of 45 people, confined to two 1-hr meetings per week) is potentially less intrusive in the neighbourhood than a residential activity occupying the site all day, every day. A residential activity may involve a home

⁶ S42A Report-Para 8.2.1

occupation or social events and activities with the potential to be considerably more dynamic and noisy, more often, and for longer periods of time. Under this proposal, the site would remain empty with no people or vehicles coming and going for the vast majority of the time.

I also consider that with the additional mitigation measures proposed by the Applicant (such as measures to reduce potential noise through closing windows and external doors while in use and installing noise fences; managing stormwater on-site through low impact stormwater design; provision of adequate on-site parking; and the landscape planting proposed), any actual or potential adverse effects on the character of the immediate neighbourhood will be further reduced.

For these reasons, I am of the opinion that the proposed activity will have a less than minor adverse effect on neighbourhood character.⁷

In response to a submitter's suggestion that the proposal be sited in a non-residential area, the applicant can apply for such an activity in the residential zone as such activities are envisaged to locate in residential zones subject to addressing any likely environmental effects. The general policy framework of the DP encourages such locations through the discretionary use activity status whereas in other zones such as those that are rural in nature, such activities are non-complying activities.

In respect of the question posed by some submitters why notification of the application was not to other residents in Reynolds Road, I have already noted previously in this decision that any issues related to that matter are for the High Court judicial review process and are beyond my jurisdiction.

A matter raised by submitters were concerns that there was a lack of confidence that that use of the hall would be restricted to two times per week, and what would restrict the applicant to increasing the use beyond the current proposal.

The applicant has applied to use the facility twice a week for the days and times outlined in the application. Consent can only be granted for what has been applied for. If the applicant wished to change the frequency, or days or times or any combination of those, a further resource consent application would need to be applied for. Were such requirements not complied with, the Council in its monitoring and enforcement role, is obligated to ensure compliance occurs, and has powers to do so.

Having outlined this, an applicant is able at any time to apply to vary conditions of consent. In considering this application I only have jurisdiction to consider what is before me and whether an applicant complies or not with conditions is not for me to speculate on.

Having considered all relevant matters including the DP policy and objective framework, evidence, s42A report and submissions, I conclude that the proposal with the mitigation proposed will have a less than minor effect on neighbourhood character.

⁷ S42A Report-Para 8.2.1

- **Effects on amenity Values**

Visual effects

Several submissions raised concerns about the impact on the residential character of Reynolds Road area due to a considerable part of the site being sealed for a carpark, and one submitter considered the proposed building to be unattractive.

The S42A report outlines an assessment provided by the applicant in respect of the Reynolds Road area being characterised as follows:

- *Trees and landscaping are the dominant visual elements with plantings typically located at the front of properties.*
- *Buildings are broken up by and in some cases screened behind hedges, fences, and mature exotic trees.*
- *Varied fence heights and landscaping means that the streetscape changes as the observer's viewpoint changes.*
- *The use of exotic specimens means that the streetscape changes with the seasons.*
- *Architecture is mixed without a high concentration of any one style representative of an era in building style.*
- *The majority of buildings are single story and are set towards the middle or back of the property; and*
- *The majority of sites have a primary residential building, and some sites have smaller ancillary buildings such as garages and/or garden sheds⁸.*

It is noted that the proposal involves the construction of a single storey building being modest in size (88m²) and to be located toward the rear of the property. That scale, together with a gabled roof and weatherboard cladding is similar to existing dwellings in the area.

While the carpark would result in generally a larger area of surfacing that perhaps expected in such a residential area, the associated fencing and landscaping proposed will soften the dominance of the carpark together with the planting and fencing along the front boundary. Fencing being the acoustic fence and planting along the side boundaries will also assist in lessening the dominance of the carpark. The planting proposed is intended to be a combination of species that are similar to plantings on residential properties in the area.

As outlined in the s42A report, the proposal includes open pool style fencing along the front yard boundary with deciduous trees proposed along the street frontage. These are intended to break up views into the site and soften views from the road and properties directly across Reynolds Road.

At the hearing I raised whether there were alternative options to address potential amenity effects of the sealed carpark. Ms Morgan responded that no expert evidence had been presented for or against potential adverse amenity effects of the proposed sealed

⁸ S42A Report- Para 8.2.2.1

carpark and was of the view that taking into account the proposed landscaping and fencing along the front of the site and distance of the subject site from properties across the road, that consideration of alternatives is unnecessary and any adverse effects on neighbouring amenity will be less than minor.

Some submissions have outlined policies in respect of the Havelock North Residential environment. I have considered these as part of my consideration of the evidence of Mr McKay and Ms Morgans s42A report. I note that Policy HNRP11 encourages the design and appearance of buildings and fencing to be in keeping with the character of the existing streetscape. The evidence before indicates that the applicant is proposing to do this by the residential scale of the buildings, fencing similar to what exists in the residential area and associated planting. Furthermore, policy HNRP12 discusses the maintenance and enhancement of landscape character by ensuring development is in scale to surrounding activities and structures together with landscaping, screening, and tree planting. In my view the proposal seeks to align with this policy also.

Having regard to the AEE and subsequent response from the applicant to a s92 further information request, and Ms Morgan's assessment, I am satisfied that the proposal from a visual effect perspective, will have no more than minor effects.

Noise effects

It is noted that the applicant provided an acoustic assessment as a result of a s92 further information request from the consent authority, to verify compliance with the DP noise performance standards. The AEE had outlined that the proposal would comply with such standards.

The conclusion reached by the Hegley Noise Assessment was in respect of operational noise, and with the mitigation proposed, the proposal would comply with the relevant DP noise rules, and therefore any such effects would be less than minor.

The mitigation proposed includes the erection of a noise fence along the full length of the western and eastern boundaries of the subject site to control noise from carpark activities. In addition, the assessment identified construction techniques to be used in the construction of the church hall to minimise noise to the outside environment. It was also a recommendation that the church hall windows remain closed during services.

Ms Morgan concurred with the mitigation proposed, and mitigation conditions were recommended to be imposed if consent was granted.

Concerns regarding noise were raised by several submitters. The Robertson submission highlighted a concern about noise given the Robertson property is higher than the subject site. In pursuing this matter with Mr Hegley, he advised that a doubling of the distance from a noise source would result in a 6dBA reduction in the noise received, and therefore the properties across the road would not be subjected to noise effects greater than what

is anticipated by the DP provisions. The noise levels from the activity would be compliant including the more stringent provisions that apply prior to 7am.

I observe that there is no proposed acoustic treatment of the front boundary, as outlined by Mr Hegley that none is required as per the previous discussion in this section of the decision.

Ms Jane highlighted a concern about noise arising from the activity in the carpark such as the opening and closing of car doors particularly in relation to the early morning services. As noted by Mr Hegley, the activity will comply with the relevant noise provisions of the DP with the mitigation proposed such as the acoustic fence. Ms Jane's concern regarding noise only related to noise from carpark activity and was not concerned about noise emanating from the church hall.

In response to Ms Jane's concern regarding the assessment of noise, the Hegley Noise Assessment notes that noise is measured in accordance with the appropriate ISO and NZ Standards and noise measurements are therefore not measured by the averaging of all noises.

No alternative acoustic evidence was presented at the hearing by any party other than the applicant. However, I note that Ms Morgan had concluded that on the basis on Mr Hegley's assessment, she was satisfied with the mitigation proposed and that any noise effects from the proposal would be less than minor. Mr McKay was of a similar view.

In conclusion I am satisfied that the proposal can meet the relevant DP noise provisions with the mitigation proposed and appropriate conditions of consent are imposed requiring that mitigation.

Traffic and parking effects

The proposal involves up to an estimated 45 people using the facility at any one time and it is anticipated that 9 vehicle movements on average would occur twice a week. This would equate to an average of 2-3 traffic movements per day across a 7- day period⁹.

In considering submissions and matters raised at the hearing, submitters are concerned about an increase in traffic in Reynolds Road in the early hours with vehicles arriving in short succession before 6am or after 8pm, and the potential for 6 vehicles parking on the road- side as they consider the carriageway width is designed for a low volume of traffic and not regular meetings.

On site parking is proposed for 12 vehicles and if the carpark was full, vehicles could be parked on Reynolds Road.

I note that the DP general performance standard 8.2.5L for the Havelock North residential zones restrict traffic movements to a maximum of 30 per day averaged over a 7-day

⁹ Response to s92 request-18 May 2022

period. With an anticipated 12 vehicle movements occurring twice a week this would equate to a 7-day daily average of 3.43 vehicle movements. Given this situation the proposal will generate less vehicle movements than an average residential dwelling.

I have also considered the advice of Council's Development Engineer who has not identified any concerns in relation to traffic generation. He is also satisfied that the design of the proposed carpark and entranceway will accommodate vehicles safely.

Ms Morgan at the hearing noted that 'Reynolds Road' was a low volume road, defined in the DP as an 'Access Road' whose purpose is to provide access and connectivity and provide access to the wider network.

I conclude that notwithstanding the concerns of some submitters, that the traffic generated by the proposal and associated parking can be accommodated within the existing Reynolds Road environment and any traffic effects will be less than minor.

Construction effects

As noted in the s42A report, construction effects include dust and noise associated with earthworks and overall establishment of the carparking area and building site.

The proposed development is relatively small scale in nature and not dis-similar to the construction of a residential dwelling and having associated fencing and landscaping activities. Given this situation, any construction activities are proposed to be short term in nature and any effects will be temporary.

Standard conditions of consent generally include conditions requiring Contractors undertaking development activities to adhere to NZS 6803:1999: Acoustics - Construction Noise and Hastings District Council's Engineering Code of Practice.

I note that a submitter had highlighted concerns about earthworks and earth moving vehicles traversing fragile water pipes in Reynolds Road. The s42A report contained advice from Council's Development Engineer that the Council is not aware of fragile pipes in Reynolds Road and that general engineering conditions of consent, will address any potential for damage to occur.

Given construction activities associated with the proposed development will be of limited duration and relatively small scale, and with standard conditions of consent imposed, I consider that any adverse effects as a result of construction activities can be appropriately mitigated, and any effects will be less than minor.

- **Effects on infrastructure (water, wastewater, and stormwater)**

The applicant has demonstrated that it is intended to use rain gardens, soakage trenches and catch pits to ensure any environmental effects of stormwater runoff are avoided, remedied, or mitigated by the detention and treatment of that stormwater.

The on-site disposal of stormwater will occur, and the proposed design is considered to adequately address a 1 in 100- year event and this satisfies Council requirements.¹⁰

¹⁰ S42A Report- Para 8.2.3.1

I am satisfied that any potential stormwater effects can therefore be appropriately mitigated on the subject site.

It is intended that the proposal will be connected to the Council's reticulated water and wastewater networks, and that there are no serving effects in respect of these matters.

- **Effects on aesthetic, recreational, scientific, historical, spiritual, or cultural values**

I was not advised of any matters with respect of any potential adverse effects on the above- mentioned matters, nor were any sites of cultural value highlighted to me.

- **Effects of natural hazards**

The AEE noted that any flood risk is low, liquefaction damage is unlikely and earthquake amplification is moderate-low. Such matters can be addressed through the building consent process and therefore any risks or effects from natural hazards can be appropriately mitigated and managed and will be less than minor.

- **Other matters raised- in submissions/ at the hearing.**

One submitter highlighted a concern about the impact of the proposed hall on property sales in Reynolds Road and that it may deter potential purchasers from purchasing in Reynolds Road. This could then affect property values. Another submitter noted that it could potentially result in members of the congregation relocating to live on Reynolds Road.

Any decreases in property sales or values potentially reflect the effects of an activity on the environment and therefore it is appropriate to consider effects directly as opposed through changes in property values. Therefore, effects on property values per se are not a relevant consideration in the determination of a resource consent.

In response to members of the applicant's congregation wishing to live in Reynolds Road, that is a personal decision of those who may wish to do so and is not a matter for consideration in respect of this consent application. Whether people decide to or not participate in the community they live in, is a decision for those people and not a resource management consideration in respect of the policies and objectives I need to consider.

In considering the matters raised by Mr Hickman representing Mr and Mrs Robertson, there are some matters I wish to note and not previously discussed in the 'Main Findings' section of this decision. While concerns were expressed about the nature of early engagement with neighbours, and why the subject site was being purchased, this background is not relevant to my consideration of the application. As I have noted elsewhere in this decision, I can only consider the application within the RMA legislative context and the applicable DP provisions. Furthermore, any comparison with a submitter's hobbies is not a relevant matter for me to consider.

Furthermore, concerns about Council processes and the role of Council officers as highlighted by Mr Hickman, is beyond the scope of my consideration of the proposal.

Mr Morrison at the hearing requested further information about the draft monitoring condition given that only \$210 plus GST had been allocated to it per year.

Ms Morgan advised that the Council has a responsibility for monitoring and enforcement and can recover reasonable costs from a consent holder. The proposed fee is a deposit only and additional costs are recoverable. In respect of what steps community members need to take should they observe any violation of conditions, Ms Morgan outlined that if any issues arise, neighbours should talk to the consent holder in the first instance and suggested that the applicant may wish to provide contact details for this purpose. If there was no resolution, then a written complaint can be made to the Council who will then follow up such a complaint.

13. DISTRICT PLAN OBJECTIVES AND POLICIES

An extensive analysis of District Plan objectives and policies had been provided in the s42A report which had also relied on a similar analysis contained in the AEE. I adopt that analysis and therefore do not undertake such an analysis in this decision report.

The proposal is for a 'place of assembly' located within a residential area located in the Havelock North Character Residential Zone. It comprises a small-scale building and associated car parking for two events per week with associated acoustic fencing along the side boundaries and open style pool fencing along the front yard with landscaping on the street side.

It has been demonstrated that stormwater can be managed on site, and any construction effects including site earthworks will be managed through adherence to New Zealand construction noise standard NZS 6803:1999 and Hastings District Council Engineering Code of Practice 2011.

I am satisfied that the proposal is consistent with the relevant objectives and policies of the Hastings District Plan. These seek to provide for non-residential development such as the proposal, within residential neighbourhoods where they are of a scale and design that is compatible with the surrounding residential environment and where amenity effects including design, traffic generation, noise, and scale do not compromise the character of the residential environment.

14. NATIONAL POLICY STATEMENTS AND ENVIRONMENTAL STANDARDS

No National Environmental Standards or National Policy Statements were brought to my attention requiring consideration in respect of the proposal.

15. HAWKES BAY REGIONAL RESOURCE MANAGEMENT PLAN (RRMP)

The s42A report provided an assessment of the proposal in respect of the RPS provisions. I was advised that the RPS is embedded in the Hawke's Bay RRMP.

Ms Morgan outlined that places of assembly were anticipated as being located in urban areas across the region, and that locating such activities in urban areas would contribute to socially resilient communities while protecting the versatile soils of the Heretaunga Plains.

The RPS also notes that reverse sensitivity effects need to be avoided, mitigated, or remedied. Having considered the AEE report¹¹ and discussion on reverse sensitivity, I concur with the conclusions reached, and the proposal will not be sensitive to effects arising from adjacent existing residential activities, nor is it likely to affect residential activities in the locality. Conditions of consent will assist with the avoidance, remediation, or mitigation of any such potential effects.

Having considered the AEE and Ms Morgan's assessment, I conclude that the proposal is generally consistent with the relevant provisions of the RPS.

16. ANY OTHER MATTERS-

Section 104(1)(c) provides for the consideration of 'any other matters the consent authority considers relevant and reasonably necessary to determine the application'. No such matters were highlighted to me during the hearing.

I consider that there are no other matters that are reasonably necessary to determine the application.

17. PART 2 MATTERS: RMA

Section 5 of the Act defines sustainable management as "*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".*

Case law¹² has clarified that if a plan has been prepared having regard to Part 2 matters and with a coherent set of policies, resorting to Part 2 matters would likely not add anything to evaluating a resource consent application.

In *Stone v Hastings District Council*¹³ the Environment Court held that the Hastings District Plan "*has a coherent set of policies designed to achieve clear environmental outcomes. ...*

¹¹ AEE Report- Pg 13

¹² *RJ Davidson Family Trust v Marlborough District Council* [2018] 3 NZLR 283, NZCA 316

¹³ [2019] NZEnvC 101

Further, the PDP has only recently been made operative and we understand there to be no challenge to the competency of the plan."

However, I have considered the assessment Ms Morgan undertook in respect of Part 2 matters for completeness, and generally concur with it. No challenges were highlighted in respect of the 'competency' of the plan.

I have considered Part 2 matters to provide a rounded decision, but it has not been determinative in respect of my decision on the proposal.

I consider that the proposal is consistent with the sustainable management purpose of the RMA (section 5) given it will provide for the social and economic wellbeing of the applicant and its community.

Having regard to the AEE, expert planning evidence and the s42A report, I conclude any adverse effects will be avoided, remedied, or mitigated to the extent that they will be less than minor. In considering the submissions received, I am of the opinion that the proposal as outlined, together with the imposition of consent conditions will ensure that any effects will be less than minor.

In respect of section 6 (matters of national importance), no such matters were brought to my attention requiring consideration.

Section 7 of the RMA identifies "other matters" to be given particular regard in the consideration of any proposal for resource consent. Of relevance is the maintenance and enhancement of amenity values, and the quality of the environment.

I note that the AEE concluded that any adverse effects on amenity values and the quality of the environment will be avoided, remedied, or mitigated to the extent that they will be less than minor, such that amenity values and the quality of the environment will be maintained. These conclusions were also reached by the reporting officer in her s42A report, and no expert evidence was presented to the contrary.

Having considered these matters, and for reasons already discussed, I concur.

Section 8 of the RMA states that Council must take into account the Principles of the Treaty of Waitangi in relation to managing the use, development and protection of natural and physical resources. No relevant matters were brought to my attention requiring consideration.

Overall, and in exercising a broad judgment, I conclude that proposal is consistent with the purpose and principles of the Act.

18. CONCLUSIONS

The proposal provides for a community activity within a residential area that is relatively small in scale and provides for landscaping that will maintain and enhance existing amenity values.

I am satisfied through the evidence and analysis provided that the proposed activity is in keeping with the character of the local area and is consistent with the objectives and policies for the Havelock North Strategic Management Area.

In respect of noise effects, the proposed mitigation relating to building design, acoustic fencing, and on-site operational practices provide for compliance with the relevant DP noise provisions.

Traffic generated by this proposal is low volume and intermittent and vehicle parking will be provided on site. In respect of traffic movements, the proposal will generate less traffic than that from an average residential dwelling.

I am also satisfied that with appropriate conditions in place, submitter concerns regarding hours of operation, construction effects and effects of the proposal on the Reynolds Road residential neighbourhood including residential character, noise, and traffic effects, can be appropriately avoided remedied or mitigated.

Overall, any adverse effects of the proposed activity on the environment can be appropriately avoided, remedied, or mitigated, and that the proposal is considered consistent with the relevant objectives and policies of the District Plan.

In my opinion, it is considered appropriate to grant consent to the proposal subject to conditions.

19. DECISION

Pursuant to Rule HNCR21 of the Operative Hastings District Plan (2020) and Sections 104, 104B and 108 of the Resource Management Act 1991, the Hastings District Council grants discretionary activity consent to Hastings Gospel Hall Trust Inc to establish a Place of Assembly, on a site located at 32 Reynolds Road, Havelock North, being Lot 8 DP 10013, RT: HB189/78 subject to the following conditions:

GENERAL

1. That unless altered by the conditions of this consent, the development of the site and the operations of the activity shall proceed in accordance with the information submitted in the application, being:
 - a) Resource Consent Application RMA20220170, received 27 April 2022 [HDC Ref: 72055#0004, 0005, & 0021, 0007 and 0008].
 - b) Further information received in emails from Ellen Robotham, Mitchell Daysh as follows:
 - Initial response received 18 May 2022 [HDC Ref: 72055#0009 & # 0012]
 - Further response received 23 May 2022 [HDC Ref: 72055#0013]
 - Further response received 7 June 2022 [HDC Ref: 72055#0015]
 - Further information received 15 June 2022 [HDC Ref: 72055#0022]
 - Further response received 30 June 2022 [HDC Ref: 72055#0025]
 - c) Assessment of Noise Effects – Rhys Hegley (Hegley Acoustic Consultants) received 31 May 2023 [HDC Ref: 72055#0016]

unless otherwise amended by the following conditions on consent.

HOURS OF OPERATION

2. The activity shall be limited to services of approximately one hour on each of the following days:
 - Sunday morning service commencing no earlier than 6.00am for a communion service.
 - Monday evening service commencing no later than 8.00pm for prayer meetings.

ADVICE NOTE:

Any activities beyond that stated in condition 2 will require further consideration by way of an application to Council to vary this consent. Notification to neighbours will depend on the nature of the effects of any variation being sought.

NOISE

3. An acoustic fence a minimum of 1.8m high, and certified by a suitably qualified acoustic expert, shall be constructed along the east and west boundaries of the property. There must be no openings in the construction of the acoustic fences, which must fix to the ground without gaps. The fences must be built from a material with a surface density of at least 10kg/m². 20mm plywood or 20mm timber palings are examples of suitable materials. Such fences are to be constructed prior to operations taking place within the place of assembly.
4. That the consent holder shall maintain all acoustic fences fence as acoustically effective (refer condition 3 above) for the duration that this consent is given effect to.
5. Within 1 month of the consent commencing the consent holder shall submit a design to Council's Environmental Consents Manager (or nominee), for the completion of the building design that meets as a minimum, one of the following:
 - Either A
A design in accordance with the mitigation as set out in section 4.3 of the assessment of noise effects report prepared by Hegley acoustic consultants (June 2023), HDC Ref: 72055 #00161 which is detailed below:

A.

Roof

- Profiled metal cladding or concrete roof tiles.
- Fiberglass or polyester blanket in the ceiling cavity, at least 75mm thick; and
- A ceiling of at least 13mm plasterboard (≥8.4kg/m²).

Walls

- Timber weatherboards or 6mm fibre cement sheet cladding.
- Fiberglass or polyester blanket in the wall cavity, at least 75mm thick; and
- A wall lining of at least 10mm plasterboard (≥6.4kg/m²).

Glazing

- 6mm float glass or double glazing consisting of at least 6/ 12/ 4; and
- Aluminium frames with rubber compression seals.

External Doors

- Solid core doors with rubber compression seals.

Or B

B.

An alternative building design that has been certified by a suitably qualified acoustic expert as providing compliance with the noise limits of condition 7.

6. All doors and windows shall remain closed during meeting times.
7. The site shall be designed and managed to ensure the following noise levels shall not be exceeded at any point beyond the site boundary:

Control Hours

0700 – 1900 hours

1900 – 2200 hours

2200 – 0700 hours the following day

2200 – 0700 hours the following day

Noise Level

50dB LAeq(15min)

45dB LAeq(15min)

40dB LAeq (15min)

75dB LAFmax

- The noise shall be measured in accordance with the requirements of NZS6801:2008 Acoustics – Measurement of Environmental Sound and assessed in accordance with the requirements of NZS6802:2008 Acoustics -Environmental Noise.

LANDSCAPING

8. Landscaping shall be completed in accordance with the plans as set out in the Application and the plant species specifications provided in the letter from Greenleaf Nurseries dated 10 May 2022 [HDC ref 72055#0009: including:

- Front boundary

- a) Acer rubum autumn blaze (45 litre minimum)

- b) lomandra lime tuff (PB3 minimum)

- Side boundary planting

- a) Thuja occindetalis pyramidalis (18 litre minimum)

- Planting in front of hall building

- b) Lomandra Little Con (PB 3 min)

TRANSPORT

9. Prior to the opening of the facility the consent holder shall submit for approval, an engineering design for the construction of the vehicle crossing in accordance with drawing C19 (commercial) of the Engineering Code of Practice 2011.
10. Prior to the use of the facility the vehicle crossing shall be constructed in accordance with the approved engineering design by a contractor being pre-approved by Hastings District Council to work within the public legal road. The vehicle crossing shall be a maximum of 6.0 metres wide at the road boundary and will be constructed in a position to be agreed with the transportation engineers.

11. That an application for the vehicle crossing to serve the activity shall be submitted to the Hastings District Council for approval prior to commencement of works on site.
12. Prior to the use of the facility any redundant vehicle crossing(s) shall be fully reinstated as full height kerb, footpath, and berm to the satisfaction of the Transportation Compliance Engineer.
13. The preparation works for the vehicle crossing shall be approved by an Officer of the Hastings District Council prior to final surfacing.
14. That all works within the public legal road shall be undertaken by a contractor who is pre-approved to do so by Hastings District Council and the work shall be inspected by the Council Transport Engineer (or nominee) prior to permanent surfacing.
15. That prior to commencement of works on site engineering design drawings shall be submitted for approval for the car parking areas which shall be formed and provided with a permanent surface, and appropriate storm water control mechanisms with all parking bays clearly marked.
16. All costs associated with design, approval, construction, and Council inspection shall be met by the applicant.

STORMWATER

17. Within 1 month of the consent commencing the consent holder shall submit a design to Council's Environmental Consents Manager (or nominee) for the completion of the on-site stormwater design to provide sufficient capacity for a 1-in-100- year event. The design shall be certified by a suitably qualified stormwater expert as being in accordance with the mitigation as set out in Section 6 of the Stormwater Design Report prepared by LHT Design Ltd (Version B dated 10/05/2022), [HDC Ref: 70255#0009]

LIGHT AND GLARE

18. All external lighting shall be shaded or directed away from any adjoining residential dwellings or roads and shall be less than 8 lux- spill measured at a height of 1.5 metres above the ground at the boundary of the site.

CONSTRUCTION ACTIVITIES

19. Construction noise from the site shall be assessed and managed in accordance with the New Zealand construction noise standard NZS 6803:1999. Noise from construction activities, and maintenance shall not exceed the noise limits of table 2 in this standard.
20. That earthworks shall be limited to the hours of 7.00 am – 5.00 pm Monday – Friday, and 8.00 am – 5.00 pm Saturday.
21. That there shall be no off-site deposit of sediment or detritus from the area of the works and no deposit of sediment or detritus into any watercourse or storm water drain.
22. That while the earthworks are being undertaken and prior to re-vegetation or sealing, areas of exposed earth shall be regularly dampened with water to ensure that no wind born dust is deposited outside the site boundaries.

MONITORING

23. That a monitoring deposit of \$210 (including GST) shall be payable to cover the reasonable costs of monitoring compliance with the above conditions in accordance with Council's schedule of charges.

In the event of non-compliance being detected by monitoring or justified complaint and/ or the costs of monitoring consent exceeding the deposit, the costs to Council of any additional monitoring shall be paid by the consent holder in accordance with Council's revised schedule of fees.

Advice Notes:

1. *Vehicle Crossing Applications should be made to the Transportation Compliance Engineer Application Forms can be downloaded from the Council website at:*
 - <http://www.hastingsdc.govt.nz/files/all/documents/forms/roading/vehicle-crossing-request-form.pdf>
2. *All infrastructure services for this site are also subject to Building Consent Requirements.*
3. *To avoid doubt; except as otherwise allowed by this resource consent, all land use must comply with all remaining standards and terms of the relevant Hastings District Plan. The proposal must also comply with the Building Act 2004, Engineering Code of Practice and Hawke's Bay Regional Plans. All necessary consents and permits shall be obtained prior to development.*
4. *Under section 125 of the RMA, this consent lapses five years after the date it is granted unless:*
 - a) *The consent is given effect to, or*
 - b) *The Council extends the period after which the consent lapses.*

Reasons for granting consent are outlined in the decision report but can be summarised as follows:

1. *The proposal is consistent, when taking an overall broad consideration, with the policy and objective framework of the District Plan and is provided for as a discretionary activity subject to any effects being mitigated, avoided, or remedied, and these can be achieved by conditions of consent.*
2. *The proposal meets the various statutory provisions to be given regard in terms of the Resource Management Act 1991.*
3. *The proposal is consistent with the purpose and principles of the Resource Management Act 1991.*



**William Wasley
Independent Commissioner
3 September 2023**