

Chapter: RELO Relocated Buildings and Shipping Containers

Feed-back No.	Section	Sub-section	Plan Provision	Feedback	Relief sought
141.137	RELO – Relocated Buildings and Shipping Containers	General		<p><i>There seems to be a large gap between the management approach for shipping containers in the General Industrial Zone and the approach for all other zones (including the General Rural Zone).</i></p> <p><i>Specifically, the Controlled Activity conditions for the placement of a shipping container on a site in all other zones could be the basis of a permitted activity condition in the Rural Zone, because within the rural zone, it would the controls proposed (around location and visibility, maximum area and stacking) would effectively manage the potential for adverse effects.</i></p>	Consider
54.1	RELO – Relocated Buildings and Shipping Containers	General	General	<p><i>NB: I have been unable to edit font size or adequately format the feedback using this form. For a more readable format refer to letter attached. Letter also includes Schedules 1 and 2 of this feedback.</i></p> <p><i>Draft Timaru District Plan – Feedback</i></p> <p><i>Introduction</i></p> <p><i>1. I write for the [REDACTED]</i></p> <p><i>2. The Timaru District Council has sought feedback on the Draft Timaru District Plan (Draft Plan). This feedback relates specifically to the management and activity status of the relocation of buildings in the Draft Plan. A proposed plan has not yet been formally notified.</i></p> <p><i>3. [REDACTED] wishes to ensure that regulatory controls through district plans properly reflect the purpose and intentions of the Resource Management Act 1991 (RMA) as expressed in the decision of the Environment Court in [REDACTED] v The Central Otago District Council (Environment [REDACTED] presiding). In this case the Environment Court held that there was no real difference in effect and amenity value terms between the in</i></p>	

			<p><i>situ construction of a new dwelling and relocation of a second-hand dwelling, subject to appropriate permitted activity performance standards.</i></p> <p><i>Rules in the operative Plan</i></p> <p>4. <i>The rules in the operative District Plan provide for relocated buildings as controlled in all zones except the Industrial Zone, with control reserved over a series of matters including the provision of a bond or guarantee for the value of the work required (Rule 6.14.2 and performance standard 6.14.3).</i></p> <p><i>Rules in the draft Plan</i></p> <p>5. <i>The Draft Plan provides for relocated buildings in a separate chapter, titled RELO – Relocated Buildings and Shipping Containers. The chapter provides that placement of a relocated building (or shipping container) on a site in the General industrial zone is permitted (RELO-R1). Placement of a relocated building on a site in all other zones is controlled, where (RELO-R2):</i></p> <p><i>CON-1</i></p> <p><i>The applicant has entered into a contract with a Licensed Building Practitioner; and</i></p> <p><i>CON-2</i></p> <p><i>The contract confirms that within six months of the building being located on the site:</i></p> <ul style="list-style-type: none"><i>i. the building will be permanently sited on foundations; and</i><i>ii. any damage to the exterior of the relocated building will be repaired; and</i> <p><i>CON-3</i></p> <p><i>The proposed use of the building remains the same as its previous use.</i></p>	
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Matters of control are reserved to:

1. duration and timing of reconstruction, repair and reinstatement works.

6. The Draft Plan defines “Relocated Building”, however it does not define the terms “removal” or “re-siting”, nor does it provide rules in relation to these activities.

Legal context

The Central Otago decision

7. The rules regulating the relocation of buildings in the operative and the draft District Plans reflect activity classifications for relocating buildings which are substantially more restrictive and out of step with the decision of the Environment Court in [REDACTED] v The Central Otago District Council ([REDACTED]). The Central Otago decision was determined by Environment Court after notification of the operative district plan.

8. In the Central Otago case the Environment Court:

- rejected discretionary activity status for relocated dwellings.*
- upheld permitted activity status, subject to standards approved by the Court. The standards were drafted to integrate Building Act and RMA processes.*
- Approved the control of relocated dwellings being comparable to the control of new and existing dwellings, saying (at paragraph 22):*

"if in situ built housing is a permitted activity [i.e. existing and new dwellings], then so should be relocatable housing".

9. [REDACTED] has observed that second-generation plans which have not provided for relocation as a permitted activity have tended to do so for 'legacy reasons'. It is suggested that legacy reasons do not provide a proper or sound justification in terms of section 32 of the RMA for a 'roll over' of existing rules.

10. In classifying an activity as permitted, it is open for Council to specify standards and terms. Under the RMA, permitted activity standards and terms are equally as enforceable as conditions imposed upon the grant of a resource consent for a controlled activity. In addition to enforceability, standards have the benefit of being certain i.e. known in advance, and provide for lower cost regulation, consistent with section 32 RMA.

11. In the Central Otago case [REDACTED] did not seek a total absence of controls on relocation; rather the Court upheld relocation as a permitted activity with standards. This included a standard for reinstatement within a reasonable time period.

12. The standards applied in the Central Otago decision provide for the coordination between Building Act and RMA controls. Most territorial authorities provide for building inspection reports of second-hand/relocated dwellings prior to the dwelling being located within the district. The building inspection report (as a non-statutory form) can make provision for a stipulation requiring applicants to certify compliance within the reinstatement period (as per the approved standard in the Central Otago case).

National Policy Statement on Urban Development 2020

13. The National Policy on Urban Development 2020 (NPS-UD) took effect on 20 August 2020. Qualifying as tier 3 authority under the NPS-UD, the Timaru District Council is required to give effect to certain aspects of the policy, including, without limitation:

a. Provide at least sufficient development capacity in its region to meet the expected demand for housing (cl 3.2); and

			<p><i>b. Monitor housing affordability in relation to each urban environment in their region or district (cl 3.9).</i></p> <p><i>14. These rules are with a view to giving effect to the NPS-UD’s objectives and policies. These include Objective 2, which states “Planning decisions improve housing affordability by supporting competitive land and development markets”.</i></p> <p><i>15. Permitting relocated dwellings promotes housing affordability, because relocating a dwelling is often more cost-effective for individuals than a new build. The removal, re-siting and relocation of dwellings allows for the adaptive reuse of existing buildings and materials, and therefore encourages an increase in housing supply in a sustainable manner, in accordance with the purpose of the RMA.</i></p> <p><i>Outcomes sought</i></p> <p><i>Compatibility with Central Otago decision</i></p> <p><i>16. It is suggested that the Relocated Buildings and Shipping Containers Chapter be amended to reflect the Central Otago decision of the Environment Court.</i></p> <p><i>17. Essentially the rules for relocated dwellings in the District should be the subject to the same land use planning controls as apply to new and in situ existing dwellings.</i></p> <p><i>18. Where zones provide for in situ dwellings as a permitted activity [REDACTED] seeks that relocation, re-siting and removal of dwellings also be permitted, subject to the zone’s performance standards (and additional standards relating specifically to relocated buildings).</i></p> <p><i>19. Attached as schedule 1 is suggested drafting to reflect the Central Otago decision. A suggested pre-inspection report (which may either be a non-statutory form, or prescribed in the plan, or to similar effect) is attached as schedule 2.</i></p> <p><i>Separation of ‘relocated building’ and ‘shipping container’ rules</i></p> <p><i>20. [REDACTED] is primarily concerned with the relocation of dwellings. As a matter of clarity, it is suggested that the rules concerning shipping containers be separated from the rules relating to relocated buildings.</i></p> <p><i>Removal of requirement to contract with LBP</i></p>	
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			<p>21. [REDACTED] objects to conditions CON-1 and CON-2 of rule RELO-R2 of the Draft Plan, which requires any applicant to have entered into a contract with a licenced building practitioner (LBP) which specifies the timeline for reinstatement and repair.</p> <p>22. [REDACTED] seeks that the Plan instead adopts the drafting suggested in schedule 1, for the following practical reasons:</p> <p>a. An LBP is typically employed within a house relocation company to ensure that the new foundations meet the standards of the district plan. However, the LBP is likely to be a different person from the practitioner undertaking the reinstatement and repair work on the house, which may or may not require an LBP. As such, the LBP will not be in an appropriate position to specify the timeline for compliance.</p> <p>b. The LBP may not be known at the time of the consent being lodged with the Council for the foundations work. It is likely that anyone requiring resource consent for a relocated dwelling will seek to engage an LBP after consent is granted.</p> <p>c. In practice, most councils around the country require the property owner to undertake or certify that the work will be completed in a specific timeframe, in compliance with the plan. Breach of a plan rules carries significant enforcement risk for users of a plan, and should provide sufficient incentive for compliance without the need for a contract.</p> <p><i>Address distinction between removal, relocation and re-siting in definitions section</i></p> <p>23. In industry practice, there are several aspects to the shifting of buildings:</p> <ul style="list-style-type: none">· removal (off a site),· relocation (onto a site), and· re-siting (within a site).	
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24. To avoid the unintended application of any default rule, many district plans provide for the removal, re-siting or demolition of dwellings (not subject to express heritage controls) as a permitted activity. [REDACTED] suggests that the following definitions be provided:

Relocation

Includes any building that is removed from one site and relocated to another site, in whole or in parts. It excludes any new building which is designed for, or intended to be used on, a site but which is constructed or prefabricated off-site, in whole or in parts, and transported to the site.

Removal

Means the shifting of a building off a site and excludes demolition of a building.

Re-siting

Means shifting a building within a site.

25. It is usually possible to define a residential unit or residential activity in such a way as to allow for removal or re-siting as of right i.e. as a permitted activity. It is suggested the definition of "residential activity" in the definitions section could have added to the definition the words (or to the same or similar effect):

"... and includes the construction, alteration, demolition, relocation, removal and re-siting of a dwelling".

Where non-compliance with standards

26. [REDACTED] proposes a non-notified restricted discretionary activity status for relocated buildings that do not comply with the permitted activity performance standards, reflecting the Central Otago decision. [REDACTED] proposes the following assessment criteria:

Restricted Discretionary Activity

(on a non-notified, non-service basis)

			<p>Where an activity is not permitted by this Rule, Council will have regard to the following matters when considering an application for resource consent:</p> <p>i) Proposed landscaping;</p> <p>ii) the proposed timetable for completion of the work required to reinstate the exterior of the building and connections to services.</p> <p>Scheduled heritage items</p> <p>27. If there are specific heritage items listed or scheduled, then the plan may provide for demolition, removal or relocation to be a discretionary activity for expressly scheduled items.</p> <p>██████████ would welcome any opportunity to discuss this feedback with officers in advance of notification of the proposed plan</p>					
133.9	RELO – Relocated Buildings and Shipping Containers	Rules	RELO-R3 Placement of a shipping container on a	<p>CON-2 states that the maximum total area of all shipping containers must not exceed 20m². The fact that the word “all” is used would suggest that the intention is that more than one container could be placed on a site. Then the wording states that the maximum total area for the containers is not to exceed 20m². One 20’ container has a foot print of approx. 13.2m² while a 40’ container has a foot print of 26.4m². This proposal would therefore prevent the placement of any 40’ containers. There should be at least the ability to place at least 2 x 40’ containers on small properties and more on larger properties.</p>	That properties of less than 40ha to be able to place containers with a maximum area of 60m ² and for properties over 40ha say 120m ²			
141.138	RELO – Relocated Buildings and Shipping Containers	Rules	RELO-R3 Placement of a shipping container on a	<table border="1"> <tr> <td>RELO-R3 Placement of a shipping container on a site in all other zones</td> <td>Support in part/Oppose in part</td> <td>██████████ considers that the policy should also recognise outdoor lighting associated with rural production.</td> </tr> </table>	RELO-R3 Placement of a shipping container on a site in all other zones	Support in part/Oppose in part	██████████ considers that the policy should also recognise outdoor lighting associated with rural production.	<p>Amend to provide a permitted activity rule in the Rural Zone:</p> <p>RELO -R3 Placement of a shipping container on a site in all other Zones</p> <p>In the General Rural Zone</p> <p>Activity Status: Permitted</p>
RELO-R3 Placement of a shipping container on a site in all other zones	Support in part/Oppose in part	██████████ considers that the policy should also recognise outdoor lighting associated with rural production.						

					<p>Where:</p> <p>CON-1</p> <p>The shipping container is either:</p> <ol style="list-style-type: none">1. located more than 20m from a road boundary; or2. is not visible from the road; and <p>CON-2</p> <p>The maximum total area of all shipping containers on the site must not exceed 20m²; and</p> <p>CON-3</p> <p>There is no stacking of shipping containers.</p> <p>All other Zones</p> <p>Activity Status: Controlled</p>
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