

Monday, 10 October 2022

*Te Hui o Te Kaunihera ā-Rohe o Heretaunga*

**Hastings District Council**

**Commissioner Hearing**

*Kaupapataka*

# Agenda

**Limited Notified Resource Consent Application From No.8 Studios  
Limited To Establish A Screen Production Studio In The Rural Zone At  
Gordon Road and 376 Parkhill Road, Te Awanga (RMA20210474)**

**Pre-circulated expert submitter evidence Parkhill Studios**

*Te Rā Hui:*  
Meeting date: **Monday, 10 October 2022**

*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](mailto: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**

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Monday, 10 October 2022

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*Te Hui o Te Kaunihera ā-Rohe o Heretaunga*

**Hastings District Council: Commissioner Hearing**

*Kaupapataka*

# Agenda

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*Te Komihana Whakahoahoa:*  
**Hearing Commissioner:**

*Heamana*  
**Chair:** Commissioner Kitt Littlejohn

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*Apiha Matua:*  
**Officer Responsible:**

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

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*Mahere Maarama:*  
**Reporting Planner:**

Consultant Planner – Janeen Kydd-Smith

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

Christine Hilton (Extn 5633)

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## *Te Rārangi Take*

# Order of Business

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### 1.0 Apologies & Leave of Absence – *Ngā Whakapāhatanga me te Wehenga ā-Hui*

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### 2.0 Pre-circulated expert submitter evidence for Parkhills Studio hearing - Limited Notified Resource Consent Application From No.8 Studios Limited To Establish A Screen Production Studio In The Rural Zone At Gordon Road and 376 Parkhill Road, Te Awanga (RMA20210474)

#### **DOCUMENTS CIRCULATED FOR HEARING - COMPILED AS ONE DOCUMENT**

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

**Attachments:**

- |   |   |             |      |
|---|---|-------------|------|
| 1 | Attachment 1 - Statement of expert submitter evidence | 104672#0345 | Pg 3 |
|   | - Cameron Drury (Planning evidence)                   |             |      |
-

Monday, 10 October 2022

Item 2

*Te Hui o Te Kaunihera ā-Rohe o Heretaunga*

**Hastings District Council: Commissioner Hearing**

*Te Rārangi Take*

# Report to Commissioner Hearing

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

*Te Take:*  
*Subject:* **Pre-circulated expert submitter evidence for Parkhills Studio hearing - Limited Notified Resource Consent Application From No.8 Studios Limited To Establish A Screen Production Studio In The Rural Zone At Gordon Road and 376 Parkhill Road, Te Awanga (RMA20210474)**


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

- 1.1 The purpose of this report is to have a means to attach the pre-circulated expert submitter evidence for the above hearing and to put it onto the website prior to the hearing.
- 1.2 This expert submitter evidence has been received from Cameron Drury (planning).

## **2.0 Recommendations - *Ngā Tūtohunga***

That the Pre-circulated expert submitter evidence for Parkhills Studio hearing - Limited Notified Resource Consent Application From No.8 Studios Limited To Establish A Screen Production Studio In The Rural Zone At Gordon Road and 376 Parkhill Road, Te Awanga (RMA20210474) be put onto the website prior to the hearing on 10 October 2022 so it can be viewed by the applicant, other parties and members of the public.

## Attachments:

A  Statement of expert submitter evidence - Cameron Drury (Planning evidence) 104672#0345

Before the Hearing Commissioner appointed by Hastings District  
Council

In the matter of the Resource Management Act 1991  
(the Act)

And in the matter an application from No.8 Studios  
Limited to establish a screen  
production studio in the Rural Zone at  
Gordon Road and 376 Parkhill Road,  
Te Awanga (RMA20210474)

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Statement of Planning Evidence of Cameron James Drury

4 October 2022

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Sainsbury Logan & Williams  
Solicitors  
Cnr Tennyson Street & Cathedral Lane  
**Napier**  
PO Box 41  
Phone: 06 835 3069  
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Ref: Lara Blomfield

## **INTRODUCTION**

### **Qualifications and experience**

- 1 My name is Cameron Drury. I graduated from Massey University with a bachelor's degree in Environmental and Resource Planning in 2003 and have 18 years' professional planning experience.
- 2 I am currently a Principal Planner and Director of Strategy Planning Limited. Prior to this I have worked for a number of private consultants as an Environmental Planner and both the Hawke's Bay Regional Council and Napier City Council as a Consents Planner.
- 3 I am a Full Member of the New Zealand Planning Institute.
- 4 I confirm I have read the application material, Section 42A Report, the applicant's evidence in chief and have visited the local area in which the site is located.

### **Expert witness Code of Conduct**

- 5 I have been provided with a copy of the Code of Conduct for Expert Witnesses contained in the Environment Court's Practice Note dated 1 December 2014. I have read and agree to comply with that Code. This evidence is within my area of expertise, except where I state that I am relying upon the specified evidence of another person. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

## **PURPOSE AND SCOPE OF EVIDENCE**

- 6 My evidence is provided in support of matters raised in the submissions made by the following parties:
  - 6.1 Ocasor Limited (Submission 2)
  - 6.2 Madeline Riordan (Submission 6)
  - 6.3 Chris Hursthouse (Submission 7)

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- 6.4 A M & C J Caseley (Submission 8)
  - 6.5 Parkhill Family Trust (Annah & Jonathon Kight) (Submission 9)
  - 6.6 Estate R C Macniven (Road Related Improvements Only)  
(Submission 10)
- 7 Submission 9 indicated support in principle for the film studio but raised concerns around road safety and increased noise arising from the selected road access solution. Submission 10 was somewhat similar and focused on road safety.
- 8 Submissions 2, 6, 7 and 8 sought that the application be declined because of concerns including:
- 8.1 Reverse Sensitivity<sup>1</sup>
  - 8.2 Road safety
  - 8.3 Effects on rural character and amenity values arising from increased traffic
  - 8.4 The scale of commercial development and use of rural land
  - 8.5 Conflicting land use.
- 9 With these matters including those raised in Submissions 9 and 10, my evidence will firstly focus on the following:
- 9.1 Effects on rural character and amenity values arising from increased traffic
  - 9.2 Reverse Sensitivity
  - 9.3 Road safety
- 10 I will then consider:

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<sup>1</sup> Ocasor Ltd's submission is concerned with reverse sensitivity only.



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- 10.1 The applicability of the National Policy Statement: Highly Productive Land (NPS: HPL)
- 10.2 The scale of commercial development from an assessment of alternatives perspective
- 10.3 The broader issue of conflicting land use from a Regional Policy Statement perspective.
- 10.4 The draft conditions provided in Attachment 38 of the Section 42A Report.

**EFFECTS ON RURAL CHARACTER AND AMENITY VALUES  
ARISING FROM INCREASED TRAFFIC**

- 11 The Reporting Officer states that the effects of increased noise arising from increased traffic should be considered (page 68 of the Section 42A Report). Mr Mackay agrees (his paragraph 82).
- 12 In paragraph 4.14 of his evidence Mr Styles states there will be a significant change in the noise environment across the day generally and especially in the morning peak hour as result of increased traffic.
- 13 In paragraph 48 of his evidence Mr Peakall also describes an increase of 8-12 decibels of traffic noise as significant.
- 14 The Reporting Officer stated that there is potential for more than minor effects on the character and amenity of the Parkhill Road area associated with noise from the increased volume of traffic (Page 68 of the Section 42A Report). I agree with this view. I also note references in the Applicant's evidence to night time filming. It seems this may comprise a greater component of the activity than initially proposed. Details of what this may involve have not been fully explained or assessed in terms of effects on the character and amenity values.
- 15 However, in my view, it is a mistake to limit consideration of amenity effects associated with increased traffic solely to noise. Other adverse amenity

effects arise from increased traffic such as visual effects (of many more vehicles on the road than previously), changes in night time amenity (arising from increased vehicles lights) and vibration effects, particularly from heavy vehicles.

- 16 Increased traffic can change the character of an area. The rural character enjoyed in this particular area has included relatively low vehicle movements along Parkhill Road. That will change significantly if consent is granted for this proposal and the road classification, and receiving environment as a result, increases from a rural access road to a Secondary Collector road<sup>2</sup>.
- 17 Methods involving operating hours, restrictions on travel times, acoustic screening along the road and limiting vehicle movements have been raised, but nothing firm has been proposed.
- 18 Through paragraphs 58 – 66 of his evidence Mr Slade raises the need for flexibility and discusses different operating scenarios in regard to filming times referring to both day and night and associated traffic movement profiles – essentially concluding it is difficult to define operations.
- 19 Mr McKay states (paragraph 90 of his evidence) that he proposes to work through the potential wording for a condition to reduce traffic numbers for consideration at the Hearing. In paragraph 68 of his evidence Mr Slade lists a number of approaches that may be considered in this.
- 20 Obviously I have not yet seen that proposed condition, but I have concerns around the effectiveness of such a condition and the enforceability of the approaches it may contain, and question whether the adverse effects on rural character and amenity can actually be addressed, particularly given the spontaneous demands of the operation as described by Mr Slade. Even taking a narrow view of the effects of increased traffic on amenity (which I think is wrong) and limiting consideration to the additional traffic noise, at this stage that effect has not been adequately remedied or mitigated.

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<sup>2</sup> As outlined in paragraph 3.13 of Mr Smith's evidence and acknowledged in 49 of Mr James's evidence

21 In this regard I agree with the Reporting Officer's statement (page 94 of the Section 42A Report) that the proposal will be inconsistent with Objective RZO2, Policy RZP4, Policy RZP9, Objective NSO1 and Policy NSP7.

22 Turning to Mr McKay's views on the matter, he firstly considers Policy RRSP4 which states:

Rural land close to urban areas or on primary collector, arterial or national traffic corridors will be managed to avoid sporadic and uncontrolled conversion to activities that will individually or cumulatively adversely affect the sustainability of the rural resource base and the efficiency of the road network.

23 In paragraph 72 he explains why he does not consider the proposal to be inconsistent with this Policy. It is more of a matter of acknowledging this policy is not actually applicable, rather than claiming consistency with a relevant provision, however.

24 Mr McKay then considers Policy RZP10<sup>3</sup> and suggests this policy provides for new activities in the Rural Zone to have some effect on the road infrastructure, and goes on to outline Permitted and Discretionary Activities that may lead to increased traffic.

25 Of a similar tone, Mr Peakall in paragraph 55 of his evidence refers to advice from Mr McKay that different types of activities can be lawfully established in the zone that generate similar traffic flows with higher proportions of heavy vehicles.

26 I do not agree with the permitted baseline argument implicit in Mr McKay's and Mr Peakall's evidence. First if a permitted baseline argument is run, the only relevant considerations are the effects associated with activities permitted in the district plan. Effects associated with discretionary activities are irrelevant. Second, the only permitted activities mentioned are industrial facilities processing crops and wineries of up to 2,500m<sup>2</sup> – neither of which

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<sup>3</sup> Policy RZP10 - Provide for industrial and commercial activities in the Rural Zone with limits on scale to protect soil values and maintain rural character.

are likely to generate traffic flows at the level contemplated by this film studio proposal.

- 27 Mr McKay then considers Policy RZP9 in paragraph 84 of this evidence. Policy RZP9 states:

Noise levels for activities should not be inconsistent with the character and amenity of the Rural Zone

- 28 While the explanation to the policy recognizes 'activities associated with rural production can generate significant amounts of noise', the remainder of the explanation makes it clear that performance standards have been set for noise in order to maintain the character of the area and maintain appropriate amenity standards for residents of the zone, while not unduly restricting normal activities associated with the rural zone. Those standards will be exceeded if consent is granted to this proposal for a film studio which is not a normal activity in a rural zone.

- 29 Importantly 'noisy' rural activities (such as tractor work or crop spraying) are sporadic and only occur for short periods of time. They do not occur daily for days on end such as would be the case with the proposed heavy traffic flows to and from the film studio. In my view this limits the applicability of the permitted baseline argument.

- 30 The applicant has offered no robust mitigation of the adverse effects of increased traffic flows on the existing rural character enjoyed by Parkhill Road residents. Such mitigation might include the use of low noise generating road surfaces, voluntary speed limits, precluding the use of engine brakes, the provision of acoustic fences on the road boundary (as agreed with affected properties), installation of double glazing, and further limiting the early morning and late afternoon hours in which film studio traffic can use the road.

#### REVERSE SENSITIVITY

- 31 The Reporting Officer has stated (page 81 of the Section 42A Report) that with the imposition of the recommended conditions of consent for the



acoustic insulation of the SPS facility, any potential reverse sensitivity effects on neighbouring permitted activities associated with indoor screen production activities will be less than minor.

32 There still remains a risk however that that this will not be completely effective – either through design inadequacies or management, thus the risk of reverse sensitivity and potential effects on Ocasor Limited remain.

33 I support in principle a non-complaints mechanism alongside the recommended conditions pertaining to acoustic insulation treatment. This would also address the issue of reverse sensitivity arising from outdoor filming activities.

34 I have seen the no complaints undertaking proposed by Mr McKay (para 42 of his evidence). I make the following comments:

34.1 The condition/undertaking can only bind the applicant; it cannot bind third parties. To be enforceable this condition/undertaking should read:

No.8 Studios acknowledge that the site of their Parkhill Studios is located in a productive rural area where agricultural management practices such as agrochemical spraying, use of farm machinery, the operation of bird scarers, forestry establishment, tending and harvesting and other similar activities may occur. No.8 Studios also acknowledge that the Winirana property adjacent to the Parkhill Studio site includes both farming and production forestry activities and is likely to include one or more residential dwellings in the future. No.8 Studios undertakes that they shall not:

- Bring any proceedings for damages, negligence, nuisance, trespass, or interference arising from the use of that land, or
- Make or lodge; or
- Be party to; or
- Finance or contribute to the cost of;

Any application, proceeding or appeal (either pursuant to the Resource Management Act 1991 or otherwise) designed or intended to limit, prohibit or restrict the continuation of the operations of any lawfully established, permitted or consented rural activity (including forestry, agricultural and residential activities) on the Winirana land, including

without limitation any action to require such rural activities carried out on that land to be modified.

34.2 A further condition should be imposed which states that:

No.8 Studios must ensure by way of contractual obligation that no users of Parkhill Studios shall:

- Bring any proceedings for damages, negligence, nuisance, trespass, or interference arising from the use of that land; or
- Make nor lodge; nor
- Be party to; nor
- Finance nor contribute to the cost of,

Any application, proceeding or appeal (either pursuant to the Resource Management Act 1991 or otherwise) designed or intended to limit, prohibit or restrict the continuation of the operations of any lawfully established, permitted or consented rural activity (including forestry, agricultural and residential activities) on the Waimana land, including without limitation any action to require such rural activities carried out on that land to be modified.

34.3 I also recommend that a condition be imposed requiring:

- (i) the terms of that contractual obligation to be provided to Hastings District Council for certification that it is appropriate prior to the use of the Parkhill Studios; and
- (ii) the proposed wording to be provided to Ocasor for input/comment prior to its submission to HDC for certification.

35 To best manage the risk of reverse sensitivity, it is my view that the non-complaints mechanism would need to apply to both the consent holder and the landowner given the landowner's commercial interest in the activity. Based on the wording in Mr McKay's suggested condition on page 13 of his evidence, it is possible that the landowner could make a complaint without the consent holder being party to it or contributing to associated costs.

36 The usual practice for a no complaints covenant is (as the name suggests) for a land covenant registered on the title, which binds the owner. How this

could be achieved, even if limited to the potential conflict raised by the film studio should be investigated.

37 As was the case when Mr Styles prepared his evidence<sup>4</sup>, this matter is yet to be resolved and until that time, the concern about reverse sensitivity effects, which is legitimate, remains.

38 In this regard, I do not agree that the proposal can be considered consistent with Policy RZP11<sup>5</sup> as there is no reliable mechanism acknowledging existing management practices associated with permitted activities in the zone – particularly those arising from Ocasor Limited's operations.

39 As evidenced in Policy UD12<sup>6</sup> of the RPS, there is a strong theme in the RPS to avoid, remedy or mitigate reverse sensitivity effects when making decisions on built environment matters. Again, it cannot be said that the proposal meets this expectation.

#### ROAD SAFETY

40 I defer to the evidence of Mr Paul Durdin in relation to road safety and the suitability of the proposed roading and intersection upgrades in general.

41 I consider the provision of pathways to be as much of a planning matter as it is a Traffic Engineering matter, however.

42 In this regard, it is stated in Submission 9 that:

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<sup>4</sup> Para 5.13

<sup>5</sup> Policy RZP11 - Require that any activity locating within the Rural Zone will need to accept existing amenity levels and the accepted management practices for primary production

<sup>6</sup> MATTERS FOR DECISION-MAKING (REGION)

POL UD12 In preparing or assessing any rezoning, structure plans, or other provisions for the urban development of land within the Region, territorial authorities shall have regard to:

1) Avoidance, remediation or mitigation of reverse sensitivity effects arising from the location of conflicting land use activities;

A considerable number of children walk and ride their bikes to school. With the proposed increase in traffic, the proposed improvements to the roading network does not appear to have allowed for a shared footpath/ cycle path down Parkhill Road or pedestrian crossing across the corner of Raymond and Parkhill Road to the Kindergarten. No footpath or pedestrian crossing would make the road extremely dangerous for children, cyclists and walkers who will be sharing the road with the significant increase in traffic flow, including trucks and cars.

43 I make the following points in regard to this matter:

43.1 As outlined in paragraph 3.13 of Mr Smith's evidence and acknowledged in 49 of Mr James's evidence, the demand of the proposal will see Parkhill Road (south of Raymond Road) transitioned from a rural access road to a Secondary Collector road.

43.2 For Secondary Collector Roads, Table C3 of the HDC Engineering Code of Practice 2020 states:

- (i) Although footpaths are generally not required, they are for safety provisions to support adjoining communities.
- (ii) Cycle lanes or sealed shoulders are desirable on sealed roads.

43.3 When upgrading an existing road, especially to a new classification, it is appropriate in my view to facilitate the use patterns of existing users and not just new future users. While design exercises can be undertaken to minimum standards, the appropriate response is to listen to existing users and to facilitate their needs rather than just imposing change.

43.4 While I acknowledge Mr Smith's view outlined on page 52 of the Section 42A Report that pedestrian movements could still safely occur along the grass shoulder, this is unlikely to be an option during wet ground conditions, and while users may have walked along the formed road in the past during such times, this would not be a safe outcome with the degree of increased traffic arising from the proposal.

43.5 In weighing the matters raised in submissions, I consider it necessary to amend Condition 61 (if consent is granted) to enable engagement



with adjoining landowners to quantify the needs of pedestrians and cyclists and to require a separated all weather shared path to be included in the engineering designs for the upgrade of Parkhill Road south of its intersection with Raymond Road.

- 44 I consider this suggested approach to be consistent with Objectives TPO1, TPO3 and TPO4 and Policies TTP1, TTP3, TTP12, TTP14 and TPP15, all of which have a common theme of providing for and increasing different modes of transport (to manage effects of traffic) and avoiding effects on the safety of the travelling public<sup>7</sup>.
- 45 Policy TPP15 is to identify the function of roads when managing effects. Partner this with Policy TTP1, which through a review of its explanation includes maximising opportunities for walking and cycling, then the suggested provision of a separated shared path approach is very much the policy outcome expectation.

#### **THE APPLICABILITY OF THE NATIONAL POLICY STATEMENT: HIGHLY PRODUCTIVE LAND (NPS: HPL)**

- 46 The purpose of the NPS: HPL is to protect highly productive land for use in land-based primary production, both now and for future generations. This includes avoiding further urban expansion onto highly productive land where that land has not already been specified for future urban use. The NPS: HPL

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<sup>7</sup> Objective TPO1 - Ensure that land uses and new subdivision are connected to the transportation network in a manner that provides for the efficient and sustainable movement of people and goods in a safe manner.

Objective TPO3 - to achieve sustainable transport modes, including walking, cycling and public transport.

Objective TPO4 - To maintain a transport network that supports the social and economic wellbeing of the District while avoiding adverse effects on the natural and physical environment and on the safety of the travelling public.

Policy TTP1 - Ensure that subdivision and land use are integrated with the transport network and that the traffic effects are mitigated, including through the use of sustainable transport modes.

Policy TTP3 - Increase the use of sustainable transport modes to mitigate the effects of traffic

Policy TTP12 - Ensure linkages and facilities are available to enable the provision for alternative modes.

Policy TTP14 - Ensure that infrastructure associated with alternative transport modes is safe, convenient and accessible to all sectors of the community.

Policy TPP15 - To identify the functions of roads to manage the effects in relation to land use and the environment.

applies to any planning decision made after 17<sup>th</sup> October, which will be the case unless a decision on this matter is made on or prior to 16 October.

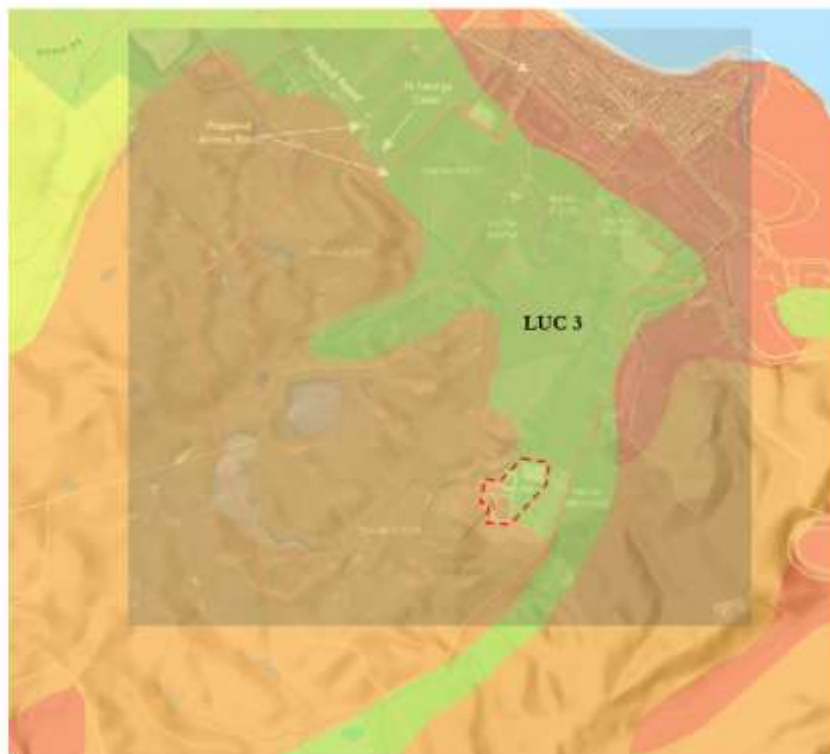
- 47 Section 104(1)(b) requires “regard” to be given to the NPS: HPL, alongside other plan provisions, and it is subject to Part 2.
- 48 Regional Councils are required to map highly productive land within their region within the next three years. However prior to this exercise being undertaken, any general rural or rural production zoned land that is LUC 1, 2 or 3 is to be treated as highly productive land.
- 49 As referenced in paragraph 16 of Mr Mackay’s evidence, the Hawke’s Bay Regional Council already has LUC maps available, and when overlaying the location of the proposed facility as indicated in **Figure 1** below, it appears that a large portion of it is on land classified as LUC 3, which is defined in the NPS: HPL as highly productive land.
- 50 Establishing a commercial activity on highly productive land is effectively what the NPS: HPL has been developed to avoid.
- 51 I recognize this overlaying needs to be checked via proper drawing software able to overlay drawings according to co-ordinates, but if this is the case, then contrary to the views expressed in the application, assessment by the Reporting Officer<sup>§</sup> and the evidence of Mr Gaddum<sup>§</sup>, the facility would be located on “highly productive land”. I note however that neither witness is nor has claimed expert status in respect to soil science.

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<sup>§</sup> Page 72 of the Section 42A Report

<sup>§</sup> Paragraph 19

Figure 1



52 In light of this, proper regard must be given to the effects of proposal on the productive land resource; i.e. the conclusions in the application and Section 42A Report pertaining to this matter in respect to both Section 104(1)(a) and (b), as well as Part 2 need to be tested. In particular, this calls into question the Officer's views in respect to:

52.1 Objective RRSO1 and Policy RRSP2,

52.2 Objectives RSMO1 and RSMO2 and Policy RMSP3,

52.3 Objective RZO1 and Policies RZP5 and RZP10.

- 53 In respect to Objective RRSO1<sup>10</sup> of the Rural Resource Strategy, allowing a commercial development some 100 times the limit included in the District Plan for commercial activities on highly productive land is at odds with promoting the maintenance of the life-supporting capacity of the Hastings District's rural resources. It also challenges the expectation of Objective RZO1<sup>11</sup> to ensure that the productive nature of the land within the Zone is not diminished.
- 54 Although it is appropriate to recognise the theme in Policy RRSP2<sup>12</sup> and Objective RSMO2<sup>13</sup> of providing for a range of land uses to establish, it is equally important to recognize the criteria or limits placed around this.
- 55 Here Policy RMSP3<sup>14</sup> sends a clear message that enabling such activities is for the purpose of supplementing traditional pastoral activities<sup>15</sup>. It also speaks of controlling the scale and intensity of such activities, which is given effect through Policy RZP5<sup>16</sup> which requires limits to be placed around such matters in order to maintain sustainable management of the soil resource. The same message is echoed in RZP10<sup>17</sup>.

<sup>10</sup> Objective RRSO1 - To promote the maintenance of the life-supporting capacity of the Hastings District's rural resources at sustainable levels.

<sup>11</sup> Objective RZO1 - To ensure that the productive nature of the land within the Zone is not diminished.

<sup>12</sup> Policy RRSP2 - Provide for a wide range of activities to establish, which complement the resources of the rural area, provided that the sustainability of the natural and physical resources of the area is safeguarded.

<sup>13</sup> Objective RSMO2 - Provide for a range of activities within the Rural environment such that they do not compromise the productive nature of the land and soils and the established Commercial and Industrial Zones in the District.

<sup>14</sup> Policy RMSP3 - Control the scale and intensity of commercial and industrial activities across the rural RMA.

<sup>15</sup> "The Rural SMA provides for a range of activities and farm and associated buildings that are of a scale to meet the needs of the primary production sector. At the time that the issues for the Rural SMA were identified there was a clear signal from the community that traditional pastoral activities needed to be supplemented with other land uses in order to support the viability of the farming units."

<sup>16</sup> Policy RZP5 - Require limits to be placed on the scale and intensity of any industrial and commercial activity locating within the Zone to maintain the amenity of the area, the sustainable management of the soil resource and the sustainability of the District's Commercial and Industrial Zones.

<sup>17</sup> Policy RZP10 - Provide for industrial and commercial activities in the Rural Zone with limits on scale to protect soil values and maintain rural character.



- 56 These Objectives and Policies are ultimately implemented through Performance Standard 5.2.6C, which limits commercial activities to 100m<sup>2</sup>.
- 57 It is difficult to sustain an argument that a commercial activity some 100 times greater than this limit is the type contemplated by these provisions, certainly when it is located on highly productive land.
- 58 Noting that the farming property comprises a relatively small proportion of land classified as LUC 3, the protection of such land within the property, both now and for future generations, is perhaps even more important.
- 59 In my view, the proposal fails to meet many of the basic circumstances to be supported by these provisions.
- 60 More importantly, if the land is LUC class 3 then the use of that land for a film studio would be contrary to, and would not give effect to, the NPS: HPL. In my view that would weigh heavily in favour of declining consent.
- 61 Finally, if this matter is to be considered further, and noting that no expert evidence has been provided on the matter of the soil's productive capacity, and just as importantly the value of the area to the property in respect to Objectives RRSO1 and RZO1, I recommend that an independent report be commissioned under Section 41C(4) to inform an appropriate planning assessment.

#### **THE SCALE OF COMMERCIAL DEVELOPMENT FROM AN ASSESSMENT OF ALTERNATIVES PERSPECTIVE**

- 62 Section 1.2.1 of the application refers to a 2-part exercise in arriving upon the proposed site. The first part involved investigating the potential for the film industry to establish in Hawke's Bay and within the Hastings District by the economic development arm of the Hastings District Council ("HDC") and consideration of the various zoning options by Mitchell Daysh, the applicant's current Planning advisors.

- 63 Consideration of the various zoning options is referred to in the application as the SPS Planning Report. The following conclusion is stated on page 5 of the application:

Conclusion

In general, the SPS Planning Report identified that the most appropriate consenting pathway for a SPS would be to locate an SPS in a General Industrial Zone, followed by a Rural Zone. The Report concluded that that both of these options would be possible, but within the Rural Zone in particular it would be location dependant and would need to be subject to a site-specific assessment. Subject to an appropriate site being identified, it may then be considered consistent with most of the relevant objectives and policies for a Rural Zone location.

- 64 The second part, involving the selection of a site within the zones, was undertaken by No.8 Studios.
- 65 These exercises are referred to on page 91 of the Section 42A Report in considering the effects of the proposal on the sustainability of the District's Commercial and Industrial Zones and throughout the applicant's policy assessment in the original application.
- 66 Mr Slade refers to 48 sites being considered and implies in paragraph 42 that the site in question was assessed as the most favourable.
- 67 No evidence of these assessments has been provided however, and it is unclear exactly what factors were weighed and or scored in arriving upon this view. I consider this relevant when:
- 67.1 considering effects on the soil resource;
- 67.2 having regard to the NPS: HPL; and
- 67.3 considering what remain to be potential significant adverse effects in respect to traffic safety, traffic noise<sup>18</sup> and adverse effects on the existing rural character of the area and in particular the residences along Parkhill Road arising from increased traffic, which would necessitate an assessment of alternative locations or methods for

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<sup>18</sup> I accept that high levels of traffic and associated noise prior to 7am will be significant in terms of the noise provisions of the District Plan' (Para 118 Evidence of Mr McKay)

undertaking the activity according to Clause 6(1) of Schedule 4 of the RMA.

68 Mr McKay spends some time through paragraphs 91 – 111 of his evidence on the appropriateness of the proposed 'large scale commercial activity' for the site.

69 In paragraph 102 he refers to the proposal having a 'tie' with the Rural Zone setting via some filming potentially occurring outdoors in lieu of 'a relationship to goods produced in the Rural Zone' - which is a key criteria when considering whether industrial or commercial activities should be allowed in the zone.

70 This is a long bow to draw, and I would suggest many sites within the district would be able to provide the same level of accessibility to such environments.

71 In paragraph 105 Mr McKay refers to Policy RZP5 seeking to limit commercial and industrial activity for the purpose of maintaining the sustainability of the District's Commercial and Industrial Zones. This is not the only reason however, and as outlined above, the Policy also includes maintaining the sustainable management of the soil resource as a reason for those limits.

72 While the proposal may not threaten the integrity of the District's Industrial or Commercial Zones<sup>19</sup>, it is at odds with the District Plan and the NPS: HPL's approach to managing productive soil.

73 In Paragraph 107 the offering of a legal undertaking of a 'no-complaints condition is relied upon to address the potential for reverse sensitivity issues. This still remains unresolved, however.

74 Lastly, Mr McKay revisits the productive soil issue. In paragraph 108 he states he does not consider the loss of the rural land resource as proposed to be significant. Again, this outcome is at odds with the NPS: HPL.

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<sup>19</sup> Para 105 Evidence of Mr McKay

- 75 Based on this, and while Mr McKay may consider the proposal appropriate for the Rural Zone in general, in my view the proposal challenges the integrity of the District Plan provisions as to when a commercial activity may be allowed to establish on a site in the Rural Zone.
- 76 Furthermore, while Policy UD2 relating to the provision for business activities pertains to the development of District Plans, there is a clear theme that the utilisation, redevelopment and intensification of existing commercial land and industrial land should be considered first, that the location of new business opportunities should utilise the availability, capacity and quality of existing infrastructure, locate in close proximity to major transport hubs and multi-modal transport networks, avoid encroaching onto versatile land, avoid, remedy or mitigate reverse sensitivity effects and locate in close proximity to a labour supply.
- 77 It also seeks that new business avoid or mitigates locational constraints such as active earthquake faults, locations where there is no wastewater reticulation (and the land is poor draining) and water short areas affecting the provision of adequate water supply.
- 78 In developing on a secluded Rural Zone site away from established roading networks and broader labour supplies, requiring significant roading upgrades, establishing on land classified as LUC3, giving rise to off-site effects, relying on a significant on-site wastewater treatment and disposal system needing to accommodate fluctuating flows and having to rely on stored or imported water for water supplies, the proposal is at odds with this Policy.

#### CONFLICTING LAND USE

- 79 Objective 16 of the Regional Policy Statement is very clear that the expectation for future activities is that off-site impacts or nuisance effects arising from the location of conflicting land use activities are avoided or mitigated. It states:

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.



80 The application currently gives rise to off-site impacts in respect to traffic safety and noise, amenity and rural character effects associated with increased traffic that are not resolved, and a reserve sensitivity risk that remains unresolved.

81 For all of those reasons, and despite the views of the Reporting Officer, I consider the proposal to be inconsistent with Objective 16 of the RPS.

#### DRAFT CONDITIONS

82 While I understand the suite of draft conditions provided in Attachment 38 of the Section 42A Report are only preliminary, I make the following initial observations:

82.1 Condition 11 should also refer to construction traffic departing and should be amended to align with the time restrictions in Condition 22 pertaining to Saturdays.

82.2 Condition 14 should be amended to include a requirement for the Construction Traffic Management Plan to identify and demonstrate compliance with the relevant conditions of consent.

82.3 Condition 24 allows operations to commence from 6.00am. This is contrary to the evidence of Mr Styles who considers that a 6am start is likely to generate noise levels that will be dominant and intrusive (para 4.19 and 4.23).

82.4 A description of what is defined as a 'heavy commercial vehicle' as referred to in Condition 25 should be included.

82.5 The second sentence of Condition 25 requires clarification.

82.6 Condition 32 requires clarification.

83 Noting that the draft conditions are preliminary and not fully complete, I would welcome the opportunity for further review and comment (if consent is to be granted).

## SUMMARY

84 In summary the proposal:

84.1 results in numerous off-site effects that remain unresolved;

84.2 it is at odds with the direction of NPS; HPL;

84.3 challenges the integrity of the District Plan provisions regarding the establishment of a commercial activity on a site in the Rural Zone;

84.4 is at odds with the principles of the RPS when providing for business activities; and

84.5 is inconsistent with Objective 16 of the RPS pertaining to conflicting land uses.

85 Lastly, it lacks any analysis of alternative sites in the face of requesting such departures. Cumulatively, these factors weigh strongly against a grant of consent.

Cameron James Drury

4 October 2022