

Monday, 10 October 2022

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

Kaupapataka

Hearing Decision – No8. Studios

**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)**

<i>Te Rā Hui:</i> Meeting date/s held:	Monday, 10 October 2022 and continued on Wednesday, 12 October 2022
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<i>Te Wā:</i> Time:	9.00am
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<i>Te Wāhi:</i> Venue:	Council Chamber Ground Floor Civic Administration Building Lyndon Road East Hastings
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<i>Te Hoapā:</i> Contact:	Democracy and Governance Services P: 06 871 5000 E: democracy@hdc.govt.nz
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<i>Te Āpiha Matua:</i> Responsible Officer:	Group Manager: Planning & Regulatory Services - John O'Shaughnessy
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TE KAUNIHERA Ā-ROHE O HERETAUNGA

Monday, 10 October 2022

Te Hui o Te Kaunihera ā-Rohe o Heretaunga

Hastings District Council: Commissioner Hearing

Te Komihana Whakahoahoa:
Hearing Commissioner:

Heamana
Chair: Commissioner Kitt Littlejohn

Apiha Matua:
Officer Responsible:

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

Mahere Maarama:
Reporting Planner:

Consultant Planner – Janeen Kydd-Smith

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

Christine Hilton (Extn 5633)

Te Rārangī Take

Order of Business

**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)**

HEARING DECISION DOCUMENT - COMPILED AS ONE DOCUMENT

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

Attachments:

1	Attachment 1 - RMA20210474 Decision - No8. Studios	RMA20210474#0010	Pg 3
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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: 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 put the Commissioner Decision from the hearing held on 10 October 2022 to address the 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)) onto the website, following completion of the hearing and release of the decision.

2.0 Recommendations - *Ngā Tūtohunga*

That the Commissioner Decision from the hearing to address the 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) held on 10 October 2022 be put onto the website so it can be viewed by members of the public.

Attachments:

[A](#) RMA20210474 Decision - No8. Studios

RMA20210474#0010

DECISION FOLLOWING THE HEARING OF AN APPLICATION FOR RESOURCE CONSENT UNDER THE RESOURCE MANAGEMENT ACT 1991 (RMA)

Proposal

To construct and operate a screen production studio comprising two studio buildings, a production building, a construction workshop, a catering café and associated carparking and trailer parking areas, including construction of an approximately 2.5km long private access road, public roading improvements and all associated construction works.

The resource consent is **GRANTED** subject to conditions. The reasons are set out below.

Application Details

Application number:	RMA20210474
Applicant:	No 8 Studios Limited
Site address:	Gordon Road and 376 Parkhill Road, Te Awanga
Legal Description:	Lots 6-8 DP 519212 (RT 815158, owned by Te Awanga Downs Trustee Limited); and Lots 1-2 DP 24898 (RT HBV3/731, owned by Hawke's Bay Wine Investments Limited and referred to in this decision as 'Te Awanga Estate').
Site Area:	229.5950ha (Lots 6-8 DP 519212) and 17.3590ha (Lots 1-2 DP 24898).
Relevant district plan and zoning:	Hastings District Plan (Operative in Part, March 2020) - Rural Zone.
Relevant district plan provisions:	Section 5.2 Rural Zone - Rules RZ5, RZ16 and RZ24 Section 5.2.5 Rural Zone - General Performance Standards and Terms Section 5.2.6B Industrial Activities Section 5.2.6C Commercial Activities Section 26.1.6 Transport and Parking General Performance Standards and Terms Section 27.1.5 Earthworks Rule EM6 Archaeological Sites Overlay
Application activity status:	Restricted Discretionary Activity (Rules RZ16 and EM6) Discretionary Activity (Rules RZ23 and RZ24).

Hearing Details

Hearing days:	10 and 12 October 2022
Independent Commissioner:	Kitt Littlejohn
Appearances:	No 8 Studios Limited (Applicant): Martin Williams - Legal Counsel Derek Slade – Applicant Representative Christopher Nilsson - Landowner Richard Gaddum – For 'Save the Plains'

	<p>Shannon Bray – Landscape & Visual Effects Stephen James – Traffic & Transportation Effects Stephen Peakall – Noise Effects Philip McKay - Planning</p> <p><u>Submitters</u></p> <p><u>Parkhill Residents</u> Lara Blomfield – Legal Counsel Cameron Drury – Planning Joseph Durdin – Traffic & Transportation Effects Kimberley McKay – Resident (328 Parkhill Road) Rachel Deakin – Resident (332 Parkhill Road) Annah Kight – Resident (299 and 307 Parkhill Road) Andrew Caseley – Resident (227 Parkhill Road)</p> <p><u>Ocasor Limited</u> Lara Blomfield – Legal Counsel Mark Morice – Submitter representative Cameron Drury – Planning</p> <p><u>Te Awanga Kindergarten</u> Paul Hursthouse</p> <p><u>Hastings District Council:</u> Janeen Kydd-Smith – Section 42A reporting officer Jon Styles – Noise Effects Michael Smith – Transportation Effects Bruce Conaghan – HDC Transportation Policy and Planning Manager Christine Hilton – Hearings Adviser</p>
Commissioners' site visit	11 October 2022
Hearing Closed:	16 November 2020

INTRODUCTION

1. This decision is made on behalf of the Hastings District Council (**Council**) by an Independent Hearing Commissioner¹ and has been prepared in accordance with ss 18A² and 113³ of the RMA. It sets out the findings and determinations made following the hearing of the application by No 8 Studios Limited (**No 8**) to construct and operate a screen production studio (**SPS**), at Gordon Road and 376 Parkhill Road, Te Awanga (**Application**).⁴

Procedural matters

2. The application by No 8 was limited notified to affected persons on 27 May 2022, with the submission period closing on 27 June 2022.⁵ A total of 10 submissions were received, one in support, six in opposition, two in support subject to the imposition of conditions, and one seeking the inclusion of conditions but without an indication of whether it seeks that the Application be declined or granted.
3. I was delegated the task of determining the Application on 29 June 2022 and oversaw the issuing of directions for the pre-exchange of reports and evidence, which were issued on 6 September 2022. These directions were varied with respect to the timing of the provision of expert traffic evidence on 16 September 2022 following the receipt and consideration of memoranda from Ms Blomfield, counsel for some of the submitters, and Mr Williams, counsel for No 8.
4. I conducted a visit to the proposed site of the SPS and the surrounding area on 11 October 2022, accompanied by a Council employee and representatives of the landowner, none of whom were directly involved in the hearing of the Application.

Materials considered and hearing process

5. Prior to the commencement of the hearing the following materials were provided to me and reviewed:
 - (a) A copy of No 8's Application, including its supporting Assessment of Environmental Effects (**AEE**)⁶, prepared in accordance with Schedule 4 of the RMA;⁷
 - (b) Further information provided by No 8 in response to requests from Council officers under s 92;
 - (c) A copy of all submissions made on the Application;

¹ Kitt Littlejohn, appointed and acting under delegated authority under ss 34 and 34A of the RMA.

² Section 18A requires persons exercising powers and performing functions under the RMA to take all practicable steps, inter alia, to use timely, efficient, consistent, and cost-effective processes that are proportionate to the functions or powers being performed or exercised.

³ Section 113 sets out the matters to be included in any decision on a resource consent application. Although not structured to follow the format of s 113, this decision has addressed and included all of the matters required by s 113.

⁴ A full description of the Application is set out in s 4 of the s 42A Report.

⁵ Section 7 of the s 42A Report.

⁶ Assessment of Environmental Effects Report by Mitchell Daysh Limited dated 16 September 2021.

⁷ Unless otherwise specified, references to sections and sub-sections are references to sections and sub-sections in the Resource Management Act 1991.

- (d) A report on the Application and submissions received prepared under s 42A by Ms Janeen Kydd-Smith⁸, a consultant planner engaged by the Council;
 - (e) Briefs of evidence in support of the application from No 8⁹ and expert briefs of evidence from submitters;¹⁰ and
 - (f) A Joint Witness Statement – Traffic¹¹, prepared by the traffic engineers engaged by No 8, the Council and the submitters respectively, following expert witness conferencing conducted by them.
6. The s 42A report prepared by Ms Kydd-Smith analysed all of the information received in relation to the Application in a thorough and considered manner. The report was supported by statements of evidence from Mr Michael Smith, a traffic engineer, and Mr Jon Styles, an acoustic engineer, both of whom had been engaged by the Council to advise it on these technical matters. In the s 42A report, Ms Kydd-Smith reserved making any recommendation on the granting or declining of the Application, advising that she wished to hear the applicant's evidence at the hearing in relation to unresolved matters. Despite that, she helpfully included a proposed set of conditions for consideration in the event that a grant of consent was to be made.
7. The s 42A report was taken "as read" at the hearing, as were the briefs of pre-exchanged evidence. Witnesses were given the opportunity to summarise and/or highlight aspects of their written briefs. Four of No 8's witnesses presented written summary statements,¹² with one of those statements (from Mr James) including rebuttal comments in relation to matters that were unresolved following expert traffic witness conferencing.
8. Expert witnesses for the submitters also presented summary statements as part of the submitters' presentation. These summary statements also incorporated rebuttal and further supplementary evidence.¹³
9. After hearing the evidence from submitters, I recalled Mr Slade, a witness for No 8, to question him further on matters concerning the operation of the proposed SBS that were within his knowledge and experience.
10. At the conclusion of hearing evidence from No 8 and the submitters, Ms Kydd-Smith and the expert consultants advising her summarised their assessments and provided responses or further comments on matters that had arisen during the hearing relevant to their areas of expertise. Ms Kydd-Smith advised that based on the evidence she had heard and the matters raised by her expert advisers, due to a lack of clarity as to how certain effects would be managed she remained unable to recommend that consent be granted to the Application.
11. At the end of proceedings, the hearing was adjourned pending advice from Mr Williams, Counsel for No 8, as to how the applicant wished to present its reply to the matters raised at

⁸ Dated 16 September 2022.

⁹ Mr James (23 September 2022); Mr Slade (27 September 2022); Mr Gaddum (27 September 2022); Mr Nilsson (27 September 2022); Mr Bray (27 September 2022); Mr Peakall (27 September 2022); Mr McKay (27 September 2022). Refer Schedule 1 for a summary of the evidence presented.

¹⁰ Mr Durdin (4 October 2022); Mr Drury (4 October 2022). Refer Schedule 1 for a summary of the evidence presented.

¹¹ Dated 6 October 2022.

¹² Mr Slade, Mr Peakall, Mr James and Mr Mackay (all dated 10 October 2022).

¹³ Mr Durdin (10 October 2022); Mr Drury (10 October 2022)

the hearing. A memorandum was received on 13 October 2022, and directions were issued which envisaged further expert conferencing and the filing of a written reply.¹⁴ On 11 November 2022, No 8 filed legal submissions in reply, a supplementary statement of evidence from Mr Slade, a rebuttal affidavit from Mr James, a (second) Joint Witness Statement of traffic experts (dated 10 November 2022) and various other supporting materials.

12. By minute dated 16 November 2022, I confirmed receipt of No 8's reply materials and formally closed the hearing.
13. A minute setting out the procedural matters undertaken prior to the commencement of the hearing and a record of the hearing was prepared by the Council's administration team and is included in **Schedule 1** to this decision.

Summary of evidence

14. Section 113 of the RMA requires me to provide a summary of the evidence heard at the hearing. The volume of evidence and representations presented at the hearing was considerable, but the key issues and themes were consistent with the comprehensive summary set out in the s 42A report. By way of general observation, the majority of submitters (being owners of properties along Parkhill Road) have concerns around the safety for users of Parkhill Road if the SPS is allowed to establish and operate as proposed, the level of traffic noise that would result from the increased traffic volume on Parkhill Road, as well as the resultant effect on the rural character and amenity of the area.¹⁵
15. A summary of the written evidence presented at the hearing is included in **Schedule 2** to this decision. Where necessary, I discuss evidence directly relevant to the issues in contention with the Application later in this decision.

THE SITE, PROPOSAL AND CONSENT REQUIREMENTS

16. A detailed description of the proposal and the site are set out in the application documents and the s 42A report. The following summary is derived from these materials and, in relation to the site, informed by my site visit.

The site

17. The site of the proposed SPS and its associated access comprises three separate records of title.¹⁶ Two of these titles are owned by Te Awanga Downs Trustee Limited and have a combined area of approximately 359ha. No 8 proposes to lease approximately 24ha of this property for its development and an additional area for the majority of its access road. To connect its access road to Parkhill Road proper, No 8 will also require an easement over the third land parcel, which is owned by Te Awanga Estate.
18. No plan clearly identifying the area to be leased was included with the Application. Indicative areas are shown in Figure 1 of the AEE and Figure 3 of Appendix C1 (Landscape Report). The clearest plan of the proposed lease area is Figure 3 in Appendix F of the AEE (Archaeological Assessment). Although it is labelled "24ha approx.", I propose to rely on this

¹⁴ Commissioner direction by way of email dated 19 October 2022.

¹⁵ Section 42A report, at section 7.2

¹⁶ Te Awanga Downs Trustee Limited is the registered proprietor of two of those titles, and the third property is registered under the name of Te Awanga Estate.

plan as identifying the location of the proposal within the site and extent of the land area to which the Application relates (referred to as the **SPS Site**).

19. The wider farm site is located in Te Awanga Downs and is approximately 1.5km to the south, and inland from, the Te Awanga residential area. Its topography comprises a flat area to the north and northeast near Te Awanga, which is then bordered by undulating terraces before transitioning to coastal hill country for the remainder of the site. Due to the intervening hills, the proposed SPS will not be visible from Te Awanga or from any other public vantage points.
20. The site is also located within the wider area of interest of the Heretaunga Claims Settlement Act 2018 and is within the Statutory Acknowledgement of the Maraetotara River and Tributaries (OTS110-28). The ephemeral streams in the vicinity of the site are tributaries of the Maraetotara River.

The proposal

21. No 8 seeks consent to construct and operate a SPS to be known as 'Parkhill Studios'. Based on the AEE and the evidence¹⁷ the core land use activities for which consent is sought is to use land and buildings for the filming and production of movie, television or web-based streaming content for display off-site. This involves bringing people, equipment and materials to the site for the construction of sets and scenes, rehearsal and performance by actors, and its filming and subsequent production into content.
22. The SPS would comprise the following building and site development components:¹⁸
 - (a) Two studio buildings with a covered breezeway between each adjoining building totalling approximately 6,440m² of gross floor area and a proposed building height of 15m;
 - (b) A construction workshop of approximately 1,050m² gross floor area and a proposed building height of 9m;
 - (c) A double storey production building with a footprint of approximately 1,080m², a gross floor area of approximately 2,160m² and a proposed height of 7m;
 - (d) A catering café of approximately 420m² gross floor area and a proposed building height of 5.5m;
 - (e) Parking for cars in 3 separate areas, totalling approximately 325 standard car parks and 7 accessible spaces;
 - (f) A separate parking area for up to 12 accommodation trailers / caravans / campervans;
 - (g) The construction of an approximately 2.5km private road across existing farmland into the site, including a gate house near the entrance to the SPS complex;
 - (h) Helicopter pad;
 - (i) A stormwater detention pond;

¹⁷ Evidence of D Slade, dated 27 September 2022.

¹⁸ Applicant's AEE, at 1.4.1

- (j) On-site landscaping; and
 - (k) Earthworks associated with both the construction of the SPS and private access road.
23. Upon completion of the development the total building gross floor area would be approximately 10,070m², with an impervious surface coverage (comprising buildings and hardstand areas) on the site (excluding the access road up to the lease area) of approximately 2.288ha.
24. The purpose of the proposed SPS is to provide a modern production facility to be made available for production companies to hire out for the filming of movie, television or streaming service productions. No 8 considers that the proposed SPS would be more economically viable than existing studios in Auckland due to ease of access for workers and more favourable traffic conditions. I was advised that overseas production companies have shown considerable interest in the possibility of a SPS facility in Hawke's Bay.
25. According to the Application's Assessment of Effects on the Environment (**AEE**)¹⁹, the level of activity at the proposed SPS would ebb and flow depending on the workforce on site at any one time. Approximately 70 staff are anticipated to occupy the site permanently, and during the filming of a production there may be over 350 additional people on site, such as actors and support crew. Each filming stage would continue for up to 2 months, with a gap of 2 to 3 months then likely before the next filming project. Each production project is typically expected to last an average 22 weeks.
26. In the Application the proposed operating hours of the SPS were expressed as follows: ²⁰
- Operating hours are proposed from 6:00am to 6:00pm, with filming generally starting at 8:30am. It is proposed 11-hour workdays; therefore, operation closing time by 6pm and each workday to be 11 hours long.*
27. At the hearing, the proposed operating hours became contentious following No 8's evidence²¹ that it intended to undertake night-filming activities on site from time to time and therefore opposed a condition proposed in the s 42A report limiting hours of operation to 6:00am to 6:00pm, Monday to Friday. Counsel for the Parkhill Road Residents, Ms Blomfield, submitted that this change to the operating hours of the SPS was out of scope, and thus unable to be approved.²² In her closing comments, Ms Kydd-Smith agreed and considered that a condition as to operating hours consistent with the statements in the AEE should be maintained if consent was granted.²³ This issue was covered in detail in the closing submissions for No 8. I return to this as a separate matter in contention later in this decision.

Site access

28. Access to the SPS on the site would be via a proposed new private access road that would be constructed from the formed, southern end of Parkhill Road, with the first 150m being over part of the property owned by Te Awanga Estate, and then traversing over the subject site from the

¹⁹ Report by Mitchell Daysh Limited dated 16 September 2021.

²⁰ Application, section 1.4.3.

²¹ Evidence Derek Slade, 27 September 2022, para 66.

²² Submissions for Parkhill Road Residents, 10 October 2022, para 47.

²³ Response of s42A Reporting Officer – Janeen Kydd-Smith, 12 October 2022, p3.

north to the SPS location at the southern end of the site. The proposed access will also be available for use by Te Awanga Downs.

29. The application originally included a proposal to provide access to the site for 'A-class' actors via Gordon Road, however, this was subsequently removed from the proposal presented at the hearing.
30. The site access was further amended in response to Te Awanga Estate's request to minimise the vineyard rows affected by the access.²⁴ The access road was moved closer to the property's northern boundary (within approximately 3m of the boundary) and the turning circle at the end of Parkhill Road was extended slightly further south along the legal road and within the entrance to the Te Awanga Estate property.
31. The detailed design aspects of the access road include:
 - (a) A barrier arm and vehicle pull over area within the site, about 90m from the bend in the access road;
 - (b) A posted speed limit of 50km/h;
 - (c) Sight distances to be detailed at the time of lodgement for building consent but in line with the requirements of the Hastings District Plan standards and the Hastings District Engineering Code of Practice;
 - (d) A 'legal width' of 20m and a sealed carriageway width of 6m;
 - (e) The proposed access will be constructed to comply with the relevant Hastings District Plan standards and the Hastings District Engineering Code of Practice; and
 - (f) Where the proposed access road intersects with the existing access road to Outfoxed and the Clifton Cricket Club within the Te Awanga Downs site, stop signs will be installed and the proposed access road will be sealed for 20m either side of the intersection.
32. I note that Fire and Emergency New Zealand has confirmed the proposed access road will meet or exceed their requirement for access, and that the final details and checks for ensuring emergency access would be provided in the detail design and building consent stage of the development.

Road network improvements

33. In the Application, No 8 proposed to make the following improvements to the roading network to mitigate the effects of the anticipated increase of traffic associated with the SPS:²⁵

Parkhill Road (south of Raymond Road)

- Widening of traffic carriageway to 6m.
- Centreline marking.

Parkhill Road / Raymond Road Intersection

²⁴ See: Figure 5 in the s 42A report.

²⁵ AEE, page 12.

- Install raised pedestrian crossing platforms.
- Install splitter island.
- Relocation of sign to improve traffic sightlines.
- Provision of angle car parking on the Parkhill Road verge adjacent the kindergarten.
- Improve lighting of intersection.

Parkhill Road / East Road Intersection

- Install Flexi-posts along right turn bay.
34. The final details of the road network improvements, including vehicle tracking and sight distances, would be developed during the detailed design phase of the project. No 8 also proposes that a Road Safety Audit (**RSA**) be completed on the final detailed design.
35. In closing, No 8 altered its proposed road network improvements in response to matters raised at the hearing. First, an additional crushed limestone walkway on the western side of Parkhill Road between the site entrance and the Te Awanga Kindergarten and suitable for cyclists and pedestrians was offered as part of the Parkhill Road widening and upgrade works. Second, additional design features were proposed for the Parkhill Road / East Road intersection as follows:
- Install additional safety features, such as raised reflective pavement markers (RRPMs) along the intersection's curve, particularly the right turn bay facility to delineate the appropriate travelling path so that vehicles approaching from either direction do not pass over the right turn bay facility.
 - Widen Parkhill Road and East Road to accommodate heavy vehicle turning movements.
 - Move the right turn bay limit line on Parkhill Road forward to allow better visibility down East Road.
36. Despite a second expert witness caucusing conference between the traffic experts, the detailed design of the road network improvements, the reliance on an RSA and the proposed safety improvements to the Parkhill Road / East Road intersection remained matters in contention at the close of hearing.

Consent requirements

37. A detailed assessment of the rules infringed by the proposal for which land use consent under s 9 is required is set out in Appendix G to the AEE. It identifies the following matters:
- (a) Discretionary activity consent for a permitted activity (commercial activity) in the Rural Zone not meeting Specific Performance Standard 5.2.6C(1) (total gross floor area of buildings exceeding 100m², no person resident on the site carrying out the activity and more than 3 persons employed on site).
 - (b) Restricted discretionary consent for earthworks involving a cut depth in excess of 2.5m vertical (Standard 27.1.6D).

38. The proposal does not infringe any rules relating to site access, safe vehicle sightline distance, loading or parking that apply in the Rural Zone, and there are no other rules limiting site activity vehicle numbers. The proposal also complies with all applicable noise standards in the HDP.
39. The s 42A report identified a further consent requirement under the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011 (**NESCS**), namely a discretionary activity consent under Regulation 11 for earthworks involved in the road improvement works to Parkhill Road. I agree.
40. The s 42A report also reasoned that the proposal had elements of an industrial land use, and thus triggered the same performance standard infringements for that activity, which is also permitted in the Rural Zone. On the basis of the definitions of 'commercial activity' and 'industrial activity' under the Hastings District Plan (Operative in Part, March 2020) (**HDP**), I find that the SPS does not fit comfortably into either and is quite unique. Regardless of this definitional issue however, no party argued that the proposal was to be treated as anything other than fully discretionary. This status and how it drives assessment of the Application ultimately leads to a focus on the specific features of the activity, its effects and evaluation against the relevant policy framework.

RELEVANT STATUTORY REQUIREMENTS

Section 104(1)

41. Section 104(1) sets out the mandatory matters to which I must have regard when considering the Application and the submissions received. For this Application, the matters comprise: the actual and potential effects on the environment of allowing the activity and the relevant provisions of any applicable national and regional policy statements and plans. Section 104(1)(c) also allows regard to be given to any other matter considered relevant and reasonably necessary to determine the application.
42. The approach to be taken to the various matters in s 104(1) is well established: the directive "must have regard to" does not mean "must give effect to". Rather it simply requires decision-makers to give genuine attention and thought to the matters set out.²⁶ The relative weight to be given to the matters listed in s 104(1)(a)-(c) is for the decision maker, on the evidence. Flexibility is important when approaching this task, in the sense that the relative importance that various considerations have, and the manner in which they interrelate, will vary according to context.²⁷
43. In accordance with this guidance, I record that I have approached my assessment of the policy and plan provisions engaged by the Application by giving greatest weight to the most specific relevant provisions, namely those in the HDP. Together, these provisions can be assumed to "give effect to" the Hawkes Bay Regional Policy Statement (**RPS**) and so comprise the most refined or detailed manifestation of those policies in relation to the natural and physical resources affected by the proposal and their sustainable management.

²⁶ *Foodstuffs (South Island) Ltd v Christchurch CC* (1999) 5 ELRNZ 308; [1999] NZRMA 481 (HC).

²⁷ *Albert Road Investments Ltd v Auckland Council* [2018] NZEnvC 102. See also *The Warehouse Ltd v Dunedin CC* EnvC C101/01; *R v CD* [1976] 1 NZLR 436.

44. I have then considered the RPS and the National Policy Statement for Highly Productive Land (NPS:HPL) as the next most contextually relevant, higher-order policy provisions.

Section 104(2)

45. Section 104(2) gives consent authorities the discretion to disregard adverse environmental effects of a proposed activity if the applicable plan permits an activity with that effect. Although the AEE notes that the HDP provides for various activities to be undertaken within the Rural Zone as permitted activities, no reliance is placed on a “permitted baseline” of effect for the purposes of its s 104(1)(a) assessment. There was discussion in the planning evidence²⁸ provided to the hearing about whether a “permitted baseline argument” was being advanced and if so, whether it was made out, but No 8 confirmed in reply that it was not asserting a permitted baseline of adverse effect for the purposes of s 104(2).²⁹ On this basis, I have disregarded s 104(2).

Part 2

46. The consideration of applications under s 104(1) is “subject to Part 2”, the meaning of which is well settled.³⁰ The extent to which express recourse to Part 2 may be required when considering an application for resource consent will depend on whether the relevant plan(s) have been prepared having regard to Part 2 and include a coherent set of policies designed to achieve clear environmental outcomes. If not, or if in doubt, it will be appropriate and necessary to refer to Part 2.
47. In the case of this Application, no party submitted that I ought to expressly resort to Part 2 on the grounds that the relevant planning framework was incoherent. All accepted the currency and legitimacy of the HDP as the primary planning document to be considered.
48. I agree and find that it is not necessary to resort directly to Part 2 to determine the application.

Section 104B

49. My jurisdiction in respect of the Application is set out in s 104B: after considering the application I may grant or refuse consent. It is trite that I must exercise this discretion for a proper purpose, namely to promote the sustainable management of natural and physical resources.

Section 108

50. If I grant consent, I may impose conditions under s 108, provided they comply with s 108AA. This latter section prevents a consent authority imposing a condition unless the applicant for the consent agrees to it, or the condition is “directly connected” to an adverse effect of the activity on the environment and/or an applicable district or regional rule or a national environmental standard. Conditions may also be imposed if they relate to administrative matters that are essential for the efficient implementation of the resource consent.

²⁸ Evidence of P A McKay, 27 September 2022, para 81; Evidence of C J Drury, 4 October 2022, para 26; Summary Evidence of P A McKay, 10 October 2022, para 18.

²⁹ No 8 Submissions in Reply, 11 November 2022, para 33.

³⁰ *R J Davidson Family Trust v Marlborough DC* (2018) 20 ELRNZ 367 at [73] – [76].

51. An important component of the Application is the conditions proposed by No 8 to manage the actual and potential adverse effects of the SPS to an appropriate level. I have treated the Applicant's final revised condition set produced in reply as the conditions that it would agree to for the purposes of s 108AA(1)(a). Any amendments that I might consider necessary or appropriate to these conditions arising from my consideration of the evidence etc will therefore need to meet the requirements of s 108AA(1)(b) or (c).

Relevant policy statements and plans

52. In considering and determining the Application, I find that s 104(1)(b) requires me to have regard to relevant provisions of the following policy statements and plans:
- (a) National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (**NESCS**);
 - (b) National Policy Statement for Highly Productive Land (**NPS:HPL**);³¹
 - (c) The Hawkes Bay Regional Policy Statement (included within the Hawkes Bay Regional Resource Management Plan (2006)) (**RPS**); and
 - (d) The Hastings District Plan (Operative in Part, March 2020) (**HDP**).
53. For the purposes of this decision and my consideration of the principal issues in contention, I find the following objectives and policies of the HDP to be of greatest relevance for the purposes of s 104(1)(b).

Rural Resource Strategy	
OBJECTIVE RRSO1	To promote the maintenance of the life-supporting capacity of the Hastings District's rural resources at sustainable levels.
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.
POLICY RRSP4	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.
Rural Strategic Management Area	
OBJECTIVE RSMO1	The primary production role and associated amenity of the Rural environment is retained.
POLICY RSMP2	Require that activities and buildings in the Rural SMA are of a scale that is compatible with that environment.
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.

³¹ This National Policy Statement was published on 20 September 2022, after the Application was lodged, the submission period had closed and the s42A report was released.

POLICY RSMP3	Control the scale and intensity of commercial and industrial activities across the rural SMA.
Rural Zone	
OBJECTIVE RZO1	To ensure that the productive nature of the land within the Zone is not diminished.
OBJECTIVE RZO2	Retention of the natural and rural character and amenity values of the Rural Zone.
OBJECTIVE RZO3	To enable the flexible use of land while not limiting the ability of land uses relying on the productivity of the land or soils to undertake their activities.
POLICY RZP4	Require that any new development or activity is complementary to the amenity of the Zone which predominantly comprises open pastoral characteristics with low scale and sparsely located buildings.
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.
POLICY RZP9	Noise levels for activities should not be inconsistent with the character and amenity of the Rural Zone.
POLICY RZP10	Provide for industrial and commercial activities in the Rural Zone with limits on scale to protect soil values and maintain rural character.
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.
POLICY RZP19	Require activities within the Zone to meet access and egress requirements to ensure the safe and efficient movement of vehicles on the District and Regional road network.
Noise	
OBJECTIVE NSO1	To manage the emission and mitigate the adverse effects of noise so as to maintain or enhance the acoustic environment.
POLICY NSP1	Control the emission levels of noise throughout the District, based on existing ambient noise and accepted standards for noise generation and receipt.
OBJECTIVE NSO3	To avoid noise sensitive activities where they will be located in existing high noise environments and the adverse effects of that noise cannot reasonably be mitigated.
POLICY NSP7	Manage noise from the road network to ensure the community is not exposed to unacceptable levels of road traffic noise.
Transport and parking	
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.

POLICY TPP1	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.
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PRINCIPAL ISSUES IN CONTENTION

Introduction

54. Section 113 requires identification of the principal issues that were in contention with the Application and the setting out of findings thereon. On the basis of the issues raised in submissions and the evidence presented by submitters personally, much of the application and its claimed effects were disputed and thus in contention. However, as resource consent applications involve assessments of future states of affairs, those assessments are heavily reliant on opinion evidence provided by experts who have suitable qualifications and experience in matters of effects assessment. As the rules of evidence applying to all judicial and quasi-judicial enquiries generally disallow reliance on opinion evidence unless given by qualified persons, resource management decision makers invariably prefer expert opinion over non-expert opinion when confronted with both. This is not to say that non-expert opinions are unimportant or must be ignored. But when they are inconsistent with or not supported by expert opinion, they can be given little weight.
55. Lay submitters' most valuable contributions to resource consenting processes are in providing evidence of the environment as it is and what they value about it, as this provides a sound evidential base for experts (and decision makers) to base their assessments of the future effects of activities on. The detailed evidence put forward by submitters in the present case was no exception and was informative to my assessment of the Application and its potential effects on the environment.
56. The purpose of this preface is to explain why I have placed most weight in my analysis that follows on the opinions of the expert witnesses in relation to the three key effects matters in contention (planning, noise, traffic/transport). I have taken the same approach on the other technical effects matters raised by the Application (i.e., engineering, servicing, natural hazards, effects on landscape character).

Matters not in contention

57. I set out the issues that were in contention based on the evidence and submissions presented to me at the hearing below. Before I discuss those issues, it is appropriate that I record that there were aspects of the application that were not in contention on the basis of the expert assessments included in the AEE, their review by Council specialists, and the expert evidence at the hearing. In summary, these were:
- (a) The landscape and visual effects of the SPS, on the basis that the SPS Site where all of its buildings etc will be located is highly screened from public (and private) vantage points by topography and overall landscape scale;³²

³² Wayfinder Landscape Planning and Strategy Limited's Landscape and Visual Effects Assessment, Rev 2, 23 August 2021, at pages 13 – 16; The s 42A report at 9.2.4; Also see: Statement of Evidence of S Bray on behalf of Number 8 Studios Limited dated 27 September 2022.

- (b) Natural hazard effects associated with the fault trace line and the Detention Dam and catchments downstream from the SPS;³³
 - (c) Effects of undertaking earthworks to construct the proposed access road and SPS buildings etc;³⁴
 - (d) The noise effects of the occasional use of the SPS Site by helicopters;³⁵
 - (e) The noise effects from the operation of the SPS on the SPS Site (excluding noise from traffic accessing the site over the road network);³⁶
 - (f) Effects of the use of the site on the rural land resource;³⁷
 - (g) The servicing of the SPS for electricity, water supply, and the treatment and disposal of wastewater and stormwater;³⁸
 - (h) Archaeological and cultural effects;³⁹
 - (i) Ecological effects, including on local birdlife;⁴⁰
 - (j) Potential adverse effects associated with the disturbance of landfill/contaminated soil within the road reserve associated with the widening of Parkhill Road.⁴¹
 - (k) Positive regional economic and vocational benefits.⁴²
58. Many of the conclusions in relation to the acceptability of these matters are premised on certain conditions being imposed and complied with by No 8 in the implementation of any consent it may be granted.⁴³ I return to the proposed conditions later in this decision.

Summary of principal issues of contention

59. On the basis of the s 42A report and the detailed expert evidence, submissions and representations presented at the hearing, I find the Application raises the following principal issues that are contentious:
- (a) The NPS:HPL and whether the proposed earthworks for and development of the SPS on rural land must be avoided;
 - (b) The appropriateness of a large-scale commercial activity in a Rural Zone;

³³ Section 42A report at 9.2.10.

³⁴ Section 42A Report, at 3.2.

³⁵ Ibid, at 9.2.3.4.

³⁶ Ibid, at 9.2.3.2.

³⁷ Ibid, at 9.2.6.

³⁸ Ibid, at 9.2.9.

³⁹ Ibid, at 9.2.8.

⁴⁰ Ibid, at 9.2.11.

⁴¹ Ibid, at 9.2.13.

⁴² Ibid, at 9.2.12; Oral evidence of Mr Daniel Betty presented at the hearing. XXXXX

⁴³ Effects Summary in the s 42A Report at 3.12.

- (c) The traffic and transportation effects of the SPS on Parkhill Road and the wider roading network;
- (d) The noise amenity effects associated with the anticipated increase of traffic volumes along Parkhill Road;
- (e) The reverse sensitivity “effects” of the SPS on neighbouring forestry activities;
- (f) The proposal to operate on the site outside of the hours of 6am to 6pm;
- (g) The proposed conditions of consent.

60. I address and make findings on these issues below.

(a) NPS:HPL

61. The NPS:HPL did not exist as a relevant statutory document to be considered in the processing of the Application under s 104(1)(b) until after the s 42A report was prepared.⁴⁴ Nonetheless, in the absence of transitional provisions excluding it from consideration in relation to resource consent applications that were already lodged and being considered, the Application must be assessed in relation to it. This is because clause 3.9(1) of the NPS:HPL states that inappropriate use or development of highly productive land that is not land-based primary production must be avoided, and at least part of the SPS Site would appear to be “highly productive land”.⁴⁵
62. In his written evidence on behalf of submitters which was prepared after the NPS:HPL was released, Mr Drury argued that the development of the SPS as a commercial activity on highly productive land was effectively what the policy statement had been developed to avoid. He contended that there was insufficient evidence to confirm that the land at the SPS Site was not highly productive, that the proposal would therefore be contrary to the NPS:HPL and this “weighed heavily” in favour of declining consent.⁴⁶ Mr Drury recommended that “if this matter is to be considered further”, an independent report should be commissioned under s 41C(4) to better inform the assessment.⁴⁷
63. In his legal submissions for No 8 at the hearing, Mr Williams referred to evidence to the effect that the SPS would not have any more than minor impacts on rural productive land resources, but nonetheless accepted the relevance of the NPS:HPL and its implications for the Application. To address the issue, he indicated that No 8 offered a condition precedent whereby it would have to confirm that the proposed SPS buildings and impermeable surfaces would not be located on highly productive land as determined by the NPS:HPL.⁴⁸ Recent caselaw confirming the legitimacy of such a condition was cited.⁴⁹
64. At the hearing, counsel for the Parkhill Road Residents group indicated that No 8’s condition precedent proposal was a “potentially neat solution to this issue”, and in her closing comments

⁴⁴ The NPS:HPL was released on 20 September 2022 and took legal effect prior to the close of the hearing.

⁴⁵ Evidence of P A McKay, 27 September 2022, para 20.

⁴⁶ Evidence of C J Drury, 4 October 2022, para 46 to 60.

⁴⁷ Ibid, para 61.

⁴⁸ No 8 Opening Submissions, 10 October 2022, para 36. In tandem with this offer was a request for some flexibility within the proposed consent conditions as to the final location of buildings within the SPS Site.

⁴⁹ *Lysaght v Whakatane District Council* [2022] NZCA 423, at [61] to [62].

for the Council, Ms Kydd-Smith also advised that she was supportive of the conditions proposed on the basis that No 8 was well aware of the potential risks to being able to exercise any consent.⁵⁰

65. I agree that the condition precedent proposal offered by No 8 is a lawful, effective and efficient way to deal with this unanticipated issue. The condition will protect highly productive land from inappropriate development and thus ensure that the proposal does not offend the NPS:HPL.
66. In her closing comments, Ms Kydd-Smith noted that No 8's conditions precedent explicitly exempted the proposed SPS access road from the limitations inherent in the restriction not to undertake any built development on LUC 1 - 3 land. She noted though that subclause 3.9(2)(a) of the NPS:HPL states that a use of development of highly productive land is inappropriate except where (as relevant to this proposal) it is use or development that provides for supporting activities on the land and the measures in subclause (3) are applied. In his closing submissions, Mr Williams endorsed this analysis and confirmed that the access road could be established as an exemption to the NPS:HPL to support "as of right" farming activities on the site and on that basis he maintained that No 8's conditions precedent should not apply to it.⁵¹
67. I am satisfied that the conditions precedent in relation to the NPS:HPL do not need to extend to the access road as that specific land use is exempted from its provisions.

(b) Commercial activity in a Rural Zone

68. The HDP objectives for the Rural Resource Strategy, Rural Strategic Management Area and Rural Zone provide for activities not traditionally based on primary production from the land to establish in the Rural Zone subject to certain policy outcomes being met. These include:
- (a) the sustainability of the rural resource being safeguarded (RRSP2);
 - (b) the scale of activity being compatible with the rural environment (Policy RSMP2);
 - (c) the scale and intensity of commercial and industrial activity being controlled (RSMP3) so as to protect soil values, maintain amenity (RZP5) and rural character (RZP10); and maintain the sustainability of the District's Commercial and Industrial Zones (RZP5).
69. The primary method to achieve these policy outcomes is a rule that permits commercial and industrial activities to establish in the Rural Zone, subject to meeting certain performance criteria, one of which limits the Gross Floor Area of buildings associated with these activities to 100m². A discretionary consent is required for commercial activities proposing to establish buildings with a GFA in excess of this.
70. Mr Drury's opinion is that the scale of the GFA proposed by the SPS (being some 100 times greater than the permitted activity limit), means that it is not an activity contemplated in the zone.⁵² However, there is little support in the HDP for such a simplistic scale-based argument. All GFA in excess of 100m² associated with commercial and industrial activities in the zone is discretionary and as Mr McKay notes there is no other regulatory direction that over a certain

⁵⁰ Response of s 42A Reporting Officer – Janeen Kydd-Smith, 12 October 2022, p 7.

⁵¹ No 8 Submissions in Reply, 11 November 2022, para 172 – 174.

⁵² Evidence C J Drury, 4 October 2022, para 57.

scale, GFA is necessarily inappropriate.⁵³ The discretionary activity status provides for an overall assessment of effects and an evaluation against the policy outcomes desired by the HDP on a case by case basis, regardless of scale.

71. Ms Kydd-Smith's advice in relation to this issue is that even at the scale of GFA proposed, the SPS would not compromise versatile soils or the operation of the wider Te Awanga Downs farm and Rural Zone due to the scale of the receiving environment, and would be unlikely to impact on the sustainability of the commercial and industrial zones due to its specific nature and scale, which in turn would not compete with activities established in those zones.⁵⁴ Mr Drury also accepted that the SPS would not threaten the *"integrity of the District's Industrial or Commercial Zones"*⁵⁵, but maintained a concern with its impact on versatile soils (given the advent of the NPS:HPL) and with respect to its proposals to manage reverse sensitivity. I have addressed issues relating to the NPS:HPL previously in this decision, and discuss reverse sensitivity shortly.
72. On these two policy outcomes relevant to discretionary commercial activities in the Rural Zone, Mr McKay maintained his position as set out in the AEE.⁵⁶
73. With respect to the effects of the SPS on rural character and amenity, the consensus from the evidence presented is that as far as the operation of the SPS within the SPS Site is concerned, subject to appropriate conditions of consent, the adverse effects will be minor. The SPS buildings will not be visible from public or private viewing points beyond the site and its operations will easily comply with the relevant noise standards.⁵⁷ However, there was less consensus about the impact of the traffic associated with the construction and operation of the SPS on the rural character and amenity of the area. I accept that the scale of these effects are related to the scale of the proposal and that they are relevant to my evaluation of the proposal against the relevant policies noted above. I return to these matters shortly.
74. For present purposes though, subject to being satisfied as to the off-site traffic and related noise effects of the proposal, I find that the scale and proposed location of the SPS do not offend any of the relevant policy criteria set out above for commercial (or industrial) land uses in the Rural Zone to be considered acceptable.

(c) Traffic and transportation effects

75. The Traffic Impact Assessment (**TIA**) included with the AEE⁵⁸ undertook a detailed assessment of the likely traffic effects of the Application. Determining such effects for the purposes of assessment is a specialised area and requires a prediction, usually based on modelling, of the likely vehicle types and numbers of trips to and from the subject site, as well as the times of day of those trips. This modelled prediction of traffic generation is then added to the existing traffic environment (usually constructed from historic data) so that an understanding of what the effects on the performance of the existing environment will be like if the development proposal eventuates.

⁵³ Evidence P A McKay, 27 September 2022, para 94.

⁵⁴ Section 42A Report, pp 90 – 92.

⁵⁵ Evidence C J Drury, 4 October 2022, para 72.

⁵⁶ Evidence P A McKay, 27 September 2022, para 98.

⁵⁷ Evidence S Bray, 27 September 2022; Summary Statement of J Styles, 12 October 2022, para 2.1(c).

⁵⁸ Appendix D of the AEE.

76. In the case of the SPS, the assessment (as to overall vehicle generation and effects) was based on what Mr Williams described as various layers of conservatism, which included:⁵⁹
- (a) Applying a 'worst case' assessment to the scale of activity in terms of numbers of staff and contractors associated with a given production;
 - (b) Then assuming that during the course of any production, staff at that level would adopt a vehicle occupancy rate of no more than two persons per vehicle, rather than being transported to and from the site by ride sharing or provision of mini buses (which was being proposed by No 8 via detailed consent conditions);
 - (c) Assuming that peak site generated traffic would precisely coincide with the network peaks (existing traffic) and assuming school hour peak traffic volumes rather than actual network peak volumes for that purpose, even though the conditions proposed by No 8 would be directed at avoiding that prospect;
 - (d) Beyond that, sensitivity testing the intersection capacity using SIDRA modelling for a level of traffic generation from the proposed SPS, which is 50% higher than already conservatively assumed in these various ways.
77. The TIA was reviewed by a consultant traffic engineer engaged by the Council.⁶⁰ His assessment, in the form of a brief of evidence, was included with the s 42A report⁶¹. Due to limited historic traffic generation rate data for film studios, Mr Smith considered a further 10% to 25% increase in the overall predicted traffic generation was "realistic" and used the resulting number as the anticipated ADT volume for the purposes of his assessment.
78. In his evidence for the Parkhill Road Residents group, Mr Durdin did not take issue with the traffic generation modelled by Mr James and further increased by Mr Smith and simply relied on the worst case scenario for his assessment.⁶²
79. On the evidence before me, I find that the modelling of traffic generation from the operation of the SPS is conservative and is likely to represent an over-estimation of traffic generation from the facility. It follows that the other effect of concern arising from this traffic – vehicle noise – is also likely to be over-stated. The benefit of the approach taken by the experts though is that by testing the effects of the proposal using an over-estimate of generation it gives confidence that there are reasonable margins of error built into the assessment of these matters.
80. By way of summary, the TIA described the traffic effects of the SPS as follows:
- (a) The construction period would be 9-12 months in duration and typical construction traffic would involve 10-50 vehicle movements to and from the site, with the percentage of heavy vehicles being typically 20% and resulting in a maximum of 10 heavy vehicles per day.
 - (b) Based on the modelling (discussed above) it is expected that the SPS will generate 470 traffic movements per day when operating at full capacity during filming, which will

⁵⁹ No 8 Opening Submissions, 10 October 2022, para 49.

⁶⁰ Mr Michael Smith.

⁶¹ Attachment 36, Evidence of M A Smith, 14 September 2022.

⁶² Evidence J P Durdin, 4 October 2022.

increase the vehicle movements per day on the section of Parkhill Road south of the intersection with Raymond Road from 187 vpd to 657 vpd.

- (c) Traffic associated with operation of the SPS will generally be 'tidal' (i.e., arriving at the start of the day and departing at the end of the day), with such movements not expected to coincide with the wider road network's AM and PM peak hours, or the Haumoana School's PM peak hour, and there is sufficient capacity within the Parkhill Road / Raymond Road intersection to accommodate the additional traffic generated by the application.
 - (d) The SPS will increase the use of the East Road / Parkhill Road intersection with the predominant movements of traffic from the SPS using this intersection being by way of right turns into Parkhill Road and left turns out of Parkhill Road.
81. Based on the AEE and No 8's evidence to the hearing,⁶³ traffic generation from the operation of the SPS will be most intensive during two specific periods, namely:
- (a) "site set up" taking approximately two weeks per production where large trucks would transport props and equipment to the site. During this period, which is likely to occur twice per year, up to 14 heavy commercial vehicle movements per day (seven in and seven out)⁶⁴ are expected outside peak hours of the road network (8.00am – 9.00am and 4.30pm – 5.30pm) and school pick-up hour (2.30pm – 3.30pm); and
 - (b) "production" taking approximately 22 weeks per production, when additional people (including cast and crew) would access the site on a daily basis, generating an expected 470⁶⁵ private vehicle movements per day with peak flows from 6.00am – 7.00am and 5.00pm – 6.00pm. Peak morning and afternoon vehicle flows are expected to be approximately 118 per hour.
82. As already noted, the TIA was reviewed by a consultant traffic engineer engaged by the Council and his assessment was included with the s 42A report⁶⁶. No 8's consultant traffic engineer, Mr James, commented on this evidence⁶⁷ and the traffic engineer engaged for the Parkhill Road Residents group commented further on aspects of concern arising from the TIA and the evidence of his peers.⁶⁸
83. On 16 September 2022, I directed the three traffic engineers considering the Application to conference and prepare a joint witness statement identifying the traffic engineering aspects of the proposal on which they were agreed and not agreed. I am grateful for the work undertaken by the experts in this regard. The Joint Witness Statement – Traffic, dated 6 October 2022, discussed the traffic issues arising from the Application under the following topic headings:
- (a) East Road / Parkhill Road intersection;

⁶³ Evidence of S C James dated 23 September 2022, at paragraph 12.

⁶⁴ Mr Slade's further evidence was that most of these trucks transporting production materials to the site for site set up would likely stay on site.

⁶⁵ Or up to between 704 vpd and 775 vpd according to Mr Smith (Evidence M A Smith, 14 September 2022, Figure 10.

⁶⁶ Attachment 36, Evidence of M A Smith, 14 September 2022.

⁶⁷ Evidence of S C James, 23 September 2022, from paragraph 102.

⁶⁸ Evidence J P Durdin dated 4 October 2022.

- (b) Raymond Road / Parkhill Road intersection;
 - (c) Parkhill Road; and
 - (d) Private road.
84. With respect to (b), (c) and (d), the traffic experts agreed that other than some minor matters to be picked up in detailed design (which were feasible to do), and subject to final approval by Council as road controlling authority:
- (a) With the proposed mitigation measures, the Raymond Road / Parkhill Road intersection would provide acceptable safety outcomes for existing users plus users generated by the proposal and had sufficient capacity to accommodate the additional traffic;
 - (b) With the proposed mitigation measures (including widening to 6m), Parkhill Road would provide acceptable safety outcomes for existing road users plus users generated by the proposal (including cyclists and pedestrians), and had sufficient capacity to accommodate the additional traffic; and
 - (c) The proposed entrance to the site and private road design were safe and provided adequate capacity for traffic generated by the SPS, other users of the Te Awanga Downs farm, and emergency vehicles.
85. In its closing submissions, No 8 incorporated additional matters of detail in relation to these three aspects in its proposed conditions. As noted earlier, it also offered to form a crushed limestone path for cyclists and pedestrians adjacent to the upgraded carriageway.
86. On the basis of the agreed expert traffic evidence on these matters, I find that the adverse effects of the traffic likely to be generated by the SPS will be mitigated to an acceptable level by the proposed road improvement works and that overall, the effects of the additional traffic on the transportation network will be minor and the network will operate safely.
87. With respect to the remaining traffic related aspect of the application outstanding (the East Road / Parkhill Road intersection), after hearing from Mr James, Mr Smith and Mr Durdin, to further assist my deliberations on the traffic safety issue at the East Road intersection, I directed the traffic experts to undertake a second expert witness conference following the preparation and circulation by No 8 of more detailed design drawings.⁶⁹ The expert conferencing took place on 4 November 2022 and a further joint witness statement was produced.⁷⁰
88. The outstanding issues discussed with respect to this intersection were:
- (a) Whether the intersection layout, with the modifications proposed by No 8, could accommodate the tracking of heavy vehicles safely without significant modification;

⁶⁹ The updated design plans for the East Road intersection, together with updated conditions set, were provided by No 8 on 31 October 2022.

⁷⁰ Joint Witness Statement signed and dated 10 November 2022.

- (b) Whether the proposed design would manage the speed of vehicles turning left from the intersection and avoid heavy vehicle rollovers;
 - (c) Whether the proposed modifications to the right turn bay / widening of the inside of the curve would address safety concerns;
 - (d) Whether the level of design put forward by No 8 was adequate, such that a safe intersection design would be achieved following a Road Safety Audit and approval of the Council.
89. The experts' positions on each of these issues were helpfully recorded in detail in their second Joint Witness Statement, but little agreement was reached on any of them with Mr Smith and Mr Durdin maintaining their concerns that the current level of design did not satisfy them that the intersection could operate safely with the addition of the large trucks associated with the operation of the SPS. Mr Smith in particular remained critical of No 8's reliance on consent conditions to address the disputed designs by way of the Road Safety Audit process and approval of the Council's traffic engineers. He considered that even if No 8's design was put through a Road Safety Audit, it does not necessarily mean that a safe outcome will be delivered
90. Mr James swore an affidavit in rebuttal to the matters outstanding from the second witness conference on 14 November 2022, and this was filed with No 8's closing submissions. In his affidavit, Mr James explains the additional design and testing (using vehicles operating through the intersection) work completed since the adjournment of the hearing. He then addresses each of the four outstanding issues in a measured and comprehensive manner.
91. On the basis of Mr James' primary and further rebuttal evidence, I am satisfied that this intersection can be improved in the manner proposed by No 8 to be able to safely accommodate turning movements for heavy vehicles associated with the SPS. In particular:
- (a) The road marking and widening proposals described by Mr James will adequately provide for the tracking of heavy vehicles through the intersection in both directions;
 - (b) The left-turn-out apron can be designed to manage the speeds of vehicles exiting Parkhill Road into the intersection, and avoid the risk of heavy vehicle roll over;
 - (c) The right turn bay / widening on the inside curve is appropriate and will assist to avoid heavy vehicles over hanging the existing right turn bay and provide adequately for cyclists and other road users; and
 - (d) The level of design prepared to this stage is adequate for me to conclude that following a Road Safety Audit and approval of the Council, this intersection can be improved to operate safely.
92. I reach these findings appreciating a number of other factors.
93. First, the intersection already currently serves heavy vehicles and the crash record does not identify a safety issue. It is also rated 'low-risk' by Waka Kotahi.

94. Second, the continued (and potentially increased) use of this intersection by heavy vehicles associated with rural production activities is anticipated and there is no limit on the amount of vehicle trips able to be generated by permitted activities in the Rural Zone.
95. Third, the increase in traffic movements, particularly as to heavy commercial vehicles, would occur over a two week period before each production, roughly occurring twice a year, and would involve a predicted seven additional vehicles per day travelling to the site over that period.
96. In *East Park Development Limited v Auckland Council*,⁷¹ a consent condition intended to restrict traffic entry onto and exit from a site through a busy intersection was successfully opposed. The Council and submitters in that case were concerned that there would be a heightened risk of accidents and delays from increased traffic utilising the intersection to make a right turn across three lanes of oncoming traffic to access the site. In addressing these arguments, the Court noted:

[15] It has been said often enough that the RMA is not a no-risk statute. No road, and no intersection, is completely free from risk. Certainly, there are occasions when the evidence is plain that a certain development or design is highly likely to cause an unacceptable situation. That is not the case here.

[16] Ms Curran submitted that the precautionary principle should be applied to the issue. While this might not be the kind of situation where the precautionary principle, as first formulated ... strictly applies, we do accept her point that a conservative approach is appropriate when life and limb is at risk. But even on a conservative approach, the possibility of an increased risk is nebulous to a degree that to act on it would be unrealistic.

97. Overall, I am satisfied that the measures proposed by No 8 to mitigate the traffic safety risks from the increased use of the East Road / Parkhill Road intersection by heavy vehicles are appropriate and that allowing the Application to proceed on the basis that such improvements are undertaken would not give rise to a situation that is highly likely to cause an unacceptable situation in the context of this intersection and the proposed use. Put another way, assessed conservatively (or in a precautionary manner), I find that the extent and nature of the traffic safety risk presented by this aspect of the Application does not provide a sufficiently strong basis to refuse consent.
98. It follows from this finding that I am also satisfied that the SPS will be appropriately integrated with the transport network and its traffic effects mitigated by the proposed roading improvements (Policy TPP1), and consequently, that the overall HDP objective of ensuring that people and goods are moved around the district in an efficient, sustainable and safe manner will be achieved (Objective TPO1).
99. A final traffic effect related concern requires further comment, namely, that regardless of safety, the increase in vehicle movements along the section of Parkhill Road west of the Te Awanga kindergarten will adversely affect the amenity of this area, in particular for those who live along this section of the road. This amenity arises from the fact that this part of Parkhill Road is not

⁷¹ *East Park Development Limited v The Auckland Council* [2012] NZEnvC 190, at [15] and [16].

a through-route and effectively serves only to provide access to the wider road network for the properties that have frontage to it. Its limited transportation function in this regard is reflected in both its standard of formation and its moderate daily usage.

100. In connecting the SPS to Parkhill Road, its usage by associated vehicles will increase considerably and this will undoubtedly change the 'quiet country lane' character of Parkhill Road, and the amenity derived from its low vehicle numbers. However, based on the nature of the SPS activity and its anticipated traffic generation profile, I find that the overall impacts on the 'quiet country lane' amenity currently enjoyed by the Parkhill Road residents will be minor. Although there will be peak periods when there will be a steady flow of traffic to and from the SPS, for most of the day, based on the best evidence I have⁷², traffic flows will be minimal.

101. In relation to this issue, I find it also relevant that:

- (a) Parkhill Road is a public road, over which the public may pass and repass 'without let or hindrance' and every person with property fronting it may enter their property and leave it to the road;⁷³
- (b) Parkhill Road serves a large area of land zoned Rural Zone and there are no rules in the HDP seeking to protect the amenity of sensitive land uses fronting rural roads from an increase in vehicles utilising those roads to service rural activities; and
- (c) The Council has an array of powers to regulate the use of roads beyond the RMA (i.e., the Local Government Act 1974 (Part 21); the Land Transport Act 1998, Heavy Motor Vehicle Regulations 1974),⁷⁴ but none appear to have been utilised to control the use of Parkhill Road, for example, by heavy vehicles.

102. It follows that I am satisfied that the scale of the land use proposed by the SPS, specifically its anticipated vehicle generation, will maintain the rural character and amenity of the Rural Zone (Policy RPZP10).

(d) Noise effects from increased traffic

103. The HDP manages the noise effects of activities on land by applying different noise limits to them depending on zone. This method is the 'voice' of Policy NSP1, and together they operate to achieve Objective NSO1. It is relevant in this regard that there is no method in the HDP that controls the emission of noise from vehicles on a public road. In fact, General Performance Standard 25.1.6B(d) specifically exempts the noise of vehicles travelling on a public road from control. Vehicle noise on roads is not entirely without any regulation however as is evident from the wording of Policy NSP7 and its associated Objective NSO3. But the method to achieve this policy is to require sensitive land uses locating adjacent to Specified Road Noise Boundaries to protect themselves from the vehicle noise by insulation and ventilation (General

⁷² See Evidence of S C James dated 27 September 2022, Table 5. Note, in questioning, Mr Durdin confirmed that based on his enquiries from colleagues experienced in such matters, the tidal flows for traffic associated with screen production activities set out in Mr James' evidence were generally accurate.

⁷³ *Norsho Bulc Limited v Auckland Council* [2017] NZEnvC 109, at [96].

⁷⁴ *Ibid*, at [97] et seq.

Performance Standard 25.1.7D); it is not to control the number or type of vehicles on the adjoining roads.

104. I conclude therefore that the HDP's approach to the management of noise from vehicles on roads is permissive and this is deliberate, no doubt recognising the importance of vehicular transportation for people and the local and regional economy.
105. Notwithstanding this clear policy framework, traffic noise generated by the SPS is still a relevant effect for assessment under s 104(1)(a).⁷⁵ In this regard, I had the benefit of expert evidence from two experienced acoustic engineers who were largely in agreement.
106. Notably, both Mr Peakall and Mr Styles were of the opinion that noise effects generated on the site from construction of the new access road and the SPS buildings etc, and from the operation of the SPS facility once complete, would easily comply with the applicable noise standards applying in the HDP to construction activities and land uses. They were also both satisfied that noise associated with construction works on Parkhill Road and the Parkhill / Raymond Road intersection can be managed to an acceptable level by the proposed conditions of consent.⁷⁶ Consequently, the only issue in contention on the acoustic evidence is the noise effects of vehicles on Parkhill Road arising from the operation of the SPS.
107. In his report to the Council, based on the vehicle generation predictions provided with the AEE, Mr Styles assessed the predicted noise levels during the peak hour and over a 24-hour period.⁷⁷ Based on this assessment Mr Styles was of the view that the noise from the increased traffic volumes will be a significant increase in the current noise levels. Mr Peakall also carried out a noise level assessment and his predictions were similar to Mr Styles'.⁷⁸ Both experts agree that the two most affected sites would be 299 and 307 Parkhill Road, but Mr Peakall notes that it would only be a noticeable increase in traffic noise and movements during the busier hour of road usage and that, overall, the noise levels throughout the day would not be as noticeable and would not be unreasonable in the context of the Rural Zone.
108. Determining whether the noise effects of a proposal are reasonable or not, which in this case means whether they are consistent with the character and amenity of the Rural Zone (Policy RZP9), a consideration of factors beyond mere acoustical analysis is required. Case law confirms that this is an assessment of fact and degree,⁷⁹ which allows consideration of factors such as the frequency, intensity, duration, offensiveness/character and location of the noise.⁸⁰ The Environment Court has also taken into account specific sub-factors where appropriate such as the zoning of the land, its characteristics, background noise sources and levels,⁸¹ the

⁷⁵ *EDNZ Limited v Hastings District Council* Decision No. W020/02 at [132] – [133].

⁷⁶ Summary Statement of J R Styles dated 12 October 2022, at para 2.1; Summary of Statement of Evidence of S J Peakall dated 10 October 2022, at para 16.

⁷⁷ Evidence of Jon Styles dated 14 September 2022, at para 4.13

⁷⁸ Mr Peakall's assessment can be found at paragraph 46 of his Statement of Evidence dated 27 September 2022, and Mr Styles' assessment is contained in page 58 of the Section 42A Report.

⁷⁹ *Ngataranga Bay 2000 Inc v Attorney General*, A16/94, at 14.

⁸⁰ *Nelson City Council v Harvey* (2011) NZEnvC 48 at 70; *Brooks v Western Bay of Plenty DC* [2011] NZEnvC 216.

⁸¹ *Forrest Hill Childcare Centre Limited v North Shore CC* EnvC A090/98.

legitimate amenity expectations of those living in close proximity,⁸² the permitted noise standards in the relevant plan,⁸³ and the proposed conditions of consent.⁸⁴

109. In relation to these factors, I find as follows:

- (a) The highest expected noise levels (from heavy vehicles) will be infrequent (approximately twice yearly for a short period), and, from day-to-day operational traffic, peak based (i.e., twice per day);
- (b) Although peak traffic noise (as represented by the $L_{Aeq(1hr)}$ descriptor) will be high and exceed the 55 dB $L_{Aeq(15min)}$ noise limit that otherwise applies for activities occurring on land in the Rural Zone, the noise over the course of any day (as represented by the $L_{Aeq(24hr)}$ descriptor) will comply with and is below the trigger threshold of the 57 dB $L_{Aeq(24hr)}$ road noise standard in NZS6806:2010 *Acoustics – Road traffic noise – new and altered roads*;
- (c) Vehicle noise, including heavy vehicle noise, is not uncharacteristic in the Rural Zone generally, or in Parkhill Road specifically; and
- (d) The land in this part of the district is all zoned for rural activities and the noise from vehicles servicing those activities over the road network is exempted from control under the HDP.

110. Based on these factors, the fact that the volume of traffic (and hence its noise) is likely to be over-estimated and having regard to Policy RZP9 of the HDP and the recognised 'right to farm' philosophy built into the HDP, I consider that the noise from vehicles on Parkhill Road associated with the operation of the SPS will be acceptable and consistent with the character of the Rural Zone. This does not mean that the noise will not be noticeable. At times it will impact on the 'quiet country lane' amenity presently enjoyed by persons who have chosen to live on Parkhill Road. However, based on the provisions of the HDP, particularly in relation to its aspirations for continued diversification of rural land use to support the local economy and to not control noise from vehicles on roads (or even the volume of traffic using roads), I find that the amenity expectations of local residents are unrealistic. The amenity enjoyed at this location is, in effect, opportunistic and only exists while this rural area is not utilised as provided for in the HDP. To deny otherwise acceptable development an opportunity to develop out of concern for diminishing the amenity of sensitive land uses that have slowly been allowed to establish in the area would be a manifest adverse reverse sensitivity effect and inappropriate in my view.

111. Accordingly, I am satisfied that the traffic related noise effects can be managed appropriately by conditions of consent, and specifically those that endeavour to minimise traffic and thus traffic noise levels prior to 7am. I discuss specific unresolved conditioning issues later in this decision.

⁸² *Speedy v Rodney District Council* Decision No. A134/93.

⁸³ *Yaldhurst Quarries Joint Action Group v Christchurch CC* [2017] NZEnvC 165, at 209.

⁸⁴ *Re Meridian Energy Limited* [2013] NZEnvC 39, at 247-248.

(e) Reverse sensitivity

112. Concerns that noise from forestry activities in the vicinity of the SPS Site would potentially create reverse sensitivity effects (i.e., complaints and legal action from the owners or users of the SPS) remained unresolved at the hearing, but mostly in relation to the effectiveness of the method proposed by No 8 to manage the potential for complaints from users of the SPS. There was agreement that the proposal by No 8 to acoustically insulate its studios would be effective to minimise the potential for disturbance from forestry operations on indoor activities. It was also agreed that the conventional approach of a consent holder binding itself and its successors in title not to complain about legitimately operating adjoining land uses was also appropriate.⁸⁵
113. The issue that arises in this case in relation to this second aspect, is that No 8 will not own the SPS Site and so a land covenant in gross, as a means of providing notice to successors in title, could not be offered. Instead, No 8's proposal is that it provide an undertaking to the owners of the adjoining forestry block that it will take no actions to restrict lawful forestry operations and that it will require all persons hiring the SPS for filming and production activities to contractually agree to comply with that undertaking.⁸⁶
114. As the owner of the SPS facility, and the person offering the proposed undertaking, there can be no doubt that No 8 will be fully aware of it. In the course of hiring the SPS to third party production companies it will also be in a position to require acknowledgement of and compliance with the undertaking by those parties. In this regard, I note that such a mechanism as is proposed would have been required in any event even if No 8 was the land owner, as hire parties would be unlikely to search the land title in advance of hiring the venue in my view. Overall, subject to the two matters I discuss below, I am satisfied that the proposal to provide an undertaking and to bind site users to comply with it will satisfactorily address this aspect, and that a formally registered land covenant in favour of the adjoining land owner is not necessary.
115. In relation to No 8's condition proposals, I consider that two changes are required. First, the proposed undertaking needs to be legally effective in the same way that a land covenant in gross (in the common form proposed here) is. Notably, this common form of covenant gives no specific legal rights to the adjoining activity. Rather, it simply provides notice to the sensitive user and operates to remove any defence to a proceeding by the adjoining landowner for breach. Ensuring the undertaking proposed to be given by No 8 is legally effective should therefore be included in the proposed conditions.
116. Second, I consider that there should be a condition requiring No 8 to advise the Council if the ownership or control of the SPS changes and to confirm that the new owner or controller has reiterated the undertaking in question. This mechanism avoids the unlikely situation where the SPS is sold to another person who is unaware of the land use consent conditions.
117. The other reverse sensitivity issue that arises relates to the potential for filming on the site outside of the studios to be disrupted by forestry activities. In the s 42A Report, Ms Kydd-Smith sought confirmation from No 8 as to whether outdoor filming was intended as part of the

⁸⁵ Common reference from council, No 8 and neighbours

⁸⁶ See No 8's Reply Version proposed conditions 25 and 25A.

Application, and if so, what conditions No 8 was offering as a means of mitigating potential reverse sensitivity effects on neighbouring permitted activities.⁸⁷

118. Although No 8 has indicated that outdoor filming is proposed,⁸⁸ this was mostly in relation to night-filming (discussed below), and it was unclear from the evidence how frequently outdoor filming might occur during the proposed 6AM to 6PM operating hours. I assume therefore that No 8's position is that its proposed conditions in this regard (the undertaking and hire party contract) would apply to all filming involving the SPS, both indoor and outdoor.
119. Overall, I am satisfied that the conditions requiring hire parties to acknowledge and comply with the undertaking will be sufficient to manage this potential reverse sensitivity issue. Furthermore, I expect that No 8 will ensure that it is on prior notice of any proposal for outdoor filming on the site and will make due enquiries of the adjoining forestry operator well in advance so that its hire parties can be assured of uninterrupted outdoor filming.
120. In summary, subject to the amendments noted above, I find that the potential reverse sensitivity effects of the SPS locating in the Rural Zone will be adequately mitigated by the conditions of consent, and that the SPS will not limit or constrain other permitted rural activities from operating.

(f) Change to operating hours

121. In the Application the proposed operating hours of the SPS were expressed as follows:⁸⁹

Operating hours are proposed from 6:00am to 6:00pm, with filming generally starting at 8:30am. It is proposed 11-hour workdays; therefore, operation closing time by 6pm and each workday to be 11 hours long.

122. As noted earlier, at the hearing, the proposed operating hours became contentious following No 8's evidence⁹⁰ that it intended to undertake night-filming activities on site from time to time and therefore opposed a condition proposed in the s 42A report limiting hours of operation to 6:00am to 6:00pm, Monday to Friday. Both Counsel for the Parkhill Road Residents group and Ms Kydd-Smith consider that this change is out of scope and that a condition as to operating hours consistent with the statements in the AEE should be maintained if consent was granted.⁹¹
123. In his closing submissions, Mr Williams accepted that there was no reference to operating hours other than 6AM to 6PM in the AEE and no assessment of the effects of filming, (particularly outdoors) at night and outside these areas.⁹² In reliance on supplementary evidence from Mr Slade, filed with the closing submissions, Mr Williams sought to argue, by reference to established legal principles that the amendment to the Application was within scope.

⁸⁷ Section 45A Report, at page 5.

⁸⁸ Evidence of D J Slade dated 27 September 2022, at paragraph 63.

⁸⁹ AEE, section 1.4.3.

⁹⁰ Evidence Derek Slade, 27 September 2022, para 66.

⁹¹ Response of s42A Reporting Officer – Janeen Kydd-Smith, 12 October 2022, p3.

⁹² No 8 Closing Submissions, 11 November 2022, paras 95, 96.

124. As accepted in *Re Waiheke Marinas Limited*, the principles for determining whether changes to a proposal in a resource consent application are “within scope” are summarized in *H.I.L. Limited v Queenstown Lakes District Council*.⁹³ These principles are⁹⁴:

- (1) *A change to a notified application is within the jurisdiction of the court if its ambit is fairly and reasonably within the scope of the original notified application: Shell New Zealand Limited v Porirua City Council.*
- (2) *Particular factors to be considered include (see Atkins v Napier City Council):*
 - *scale, intensity and character of the altered activity;*
 - *the altered scale, intensity and character of the effects or impacts of the proposal;*
 - *potential prejudices to both parties and the public;*
- (3) *Only if an amended application fails the Shell New Zealand test, might the Estate Homes approach – summarized in the two previous paragraphs – possibly apply.*

125. Whether or not the changes to an application fall within the permissible ambit will depend on the facts of any particular case, with questions of fact and degree having to be considered in each case and the changes to be analysed against the original application. A straight reduction in the scale, intensity or character of a proposal will often be found to be within scope.⁹⁵

126. As accepted by No 8, operation of the SPS outside the proposed operating hours stated in the AEE was not a feature of the Application when lodged. Although Mr Williams referred to evidence presented by Mr Slade and Mr James,⁹⁶ this evidence was presented well after the Application was notified and cannot assist to define the scope of the activity. The proposal to amend the application to the Application now to allow activities at the SPS Site outside of those hours cannot therefore be said to fall fairly and reasonably within the ambit of the Application as notified. The proposed change fails the *Shell New Zealand* test.

127. It is clear that extending the hours of operation will change the character and scale of the proposed activity, although by what degree and to what effect is unclear on the evidence before me. Based on Mr Slade’s supplementary evidence and various deductions from the expert traffic and noise evidence, it is likely that the effects of the proposed change will not be excessive, particularly if the conditions of consent apply to the extended operating hours.

128. Even so, I consider that allowing this change to be made at the hearing prejudices other parties to the proceeding who are most likely to be impacted by it because they have not had a considered opportunity to respond to it in the normal way.

129. For this reason, I find that that the proposal to change the application, even on the limited basis proposed by No 8 in closing⁹⁷ is out of scope and I am unable to consider it. Additional resource consent will need to be sought to allow for the operation of the SPS after 6PM and earlier than 6AM. Whether or not filming activities outside of the proposed operating hours

⁹³ *Re Waiheke Marinas Limited* [2015] NZEnvC 66 at para [10].

⁹⁴ *H.I.L. Limited v Queenstown Lakes District Council* [2014] NZEnvC 45 at para [42].

⁹⁵ *Re Waiheke Marinas Limited* [2015] NZEnvC 66 at para [11].

⁹⁶ No 8 Closing Submissions, 11 November 2022, paras 97, 98.

⁹⁷ See No 8’s Reply Version proposed condition 29A.

can be accommodated by the Temporary Events provisions (Rules RZ7 and PP7 of the HDP), as suggested by Ms Kydd-Smith, will be a matter for No 8 to consider.

CONCLUSIONS ON SECTION 104 ASSESSMENT OF APPLICATION AND SUBMISSIONS

130. Following my analysis of the principal issues in contention with the Application, and based on my findings in relation to the matters that were not in contention, I find that the Application merits approval under s 104B. Allowing the SPS to establish and operate as proposed will have positive effects and overall its adverse effects will be avoided or mitigated to an acceptable level by reference to the policy criteria for such matters in the HDP. Furthermore, a grant of consent will achieve the objectives and policies of the HDP in relation to sustainable rural land use and will therefore also achieve the sustainable management purpose of the RMA.

131. I now turn to the issue of the conditions that ought to be imposed on the consent to be granted.

Proposed consent conditions

132. The s 42A report attached a preliminary draft recommended conditions to be imposed on any resource consent that might be granted, with Ms Kydd-Smith reserving the right to make changes to the wording of those conditions if necessary to respond to any evidence provided by No 8 during the hearing.⁹⁸

133. At the start of the hearing, No 8 provided feedback on the draft conditions in the s 42A report, indicating that it generally accepted the proposed conditions with some amendments.⁹⁹ The amendments it sought were as follows:

- (a) New conditions relating to the NPS:HPL (70, 71 and 1A);
- (b) Amendments to the conditions in relation to acoustic screening for Te Awanga Kindergarten (amended condition 14, deleted conditions 16 to 19);
- (c) New condition relating to traffic and traffic noise management (20);
- (d) Deletion of hours of operation conditions (24, 25);
- (e) New condition relating to reverse sensitivity (24) and deleting conditions requiring specific acoustic insulation (27 to 31);
- (f) Details to be completed for the intersection improvement works (63 to 65);
- (g) A new review condition (72); and
- (h) Various other corrections and cross referencing amendments.

134. At the hearing, submitters and their expert witnesses also helpfully provided comment on the draft conditions and on No 8's proposed amendments to them (all without prejudice to their primary position that consent should be refused).

⁹⁸ See: Attachment 38 to the s 42A report.

⁹⁹ See: Preliminary Draft Recommended Consent Conditions (Applicant's Opening Version).

135. In preparing its closing submissions, No 8 reflected further on the proposed conditions and the feedback of parties to them throughout the hearing. A revised set of proposed conditions¹⁰⁰ was presented for my consideration.
136. Many of the proposed conditions that relate to undertaking building development works are relatively standard and not in dispute. Unsurprisingly, though many of the conditions relating to the extent of works to be completed by No 8, the operation of the SPS and the management of its effects on the environment were contentious.
137. I have reviewed No 8's proposed conditions in detail, the feedback provided on the Council's draft conditions during the hearing, the evidence presented and my findings in the principal issues in contention considered to this point. Overall, I adopt and agree with the conditions proposed by No 8 in closing, subject to the following amendments which I consider to be necessary and appropriate:¹⁰¹
- (a) The conditions have been restructured to better reflect the sequence of the activities they authorise (General, Pre-development, Development in progress and Operational);
 - (b) The hours of operation of the completed SPS are limited to the hours of 6:00am to 6:00pm Monday to Saturday inclusive and no consented activities are to take place outside of these hours or on Public Holidays;
 - (c) The reverse sensitivity undertaking and associated conditions (now, 77, 78 and 79) have been amended (see my discussion above on these matters);
 - (d) The review condition has been revised to incorporate an opportunity for a review after the submission of the traffic noise monitoring required by condition 85.
138. In imposing the conditions relating to the Transportation Management Plan (now conditions 72 to 76), and in relation to Traffic noise monitoring (now conditions 85 and 86) substantially in the form offered by No 8, I record that I agree with No 8's closing submissions as to their appropriateness and reasonableness in the circumstances.¹⁰² Coupled with the traffic monitoring and modified review condition, I am satisfied that even though the conditions provide management flexibility to the consent holder, that flexibility comes with a significant incentive to minimise traffic and traffic related effects in a meaningful way, or risk restrictions being placed on the operation of the SPS.

¹⁰⁰ Preliminary Draft Recommended Consent Conditions (Applicant's Opening Version).

¹⁰¹ Note, I do not describe amendments that I have made to the proposed conditions to improve their structure, clarity and enforceability.

¹⁰² No 8 Closing Submissions, 11 November 2022, paras 116 – 147.

DECISION

139. Pursuant to sections 104, 104B and 108 of the RMA, for the reasons set out above, resource consent is granted to the Application in the form included in **Schedule 3**.

Signed:

A handwritten signature in blue ink, appearing to read 'KRM Littlejohn', with a long horizontal flourish extending to the right.

K R M Littlejohn
Independent Commissioner
19 December 2022

Schedule 1 – Summary of evidence

No.8 Studios Limited's evidence

1. **Mr Derek Slade** (representative of No.8 Studios Limited). Mr Slade's evidence provided background to the inception of the proposal, as well as insight into the film production industry in New Zealand and the operations of a screen production studio. Mr Slade also explained the community engagement undertaken by No.8 Studios Limited with regards to the proposal, including the Te Awanga Kindergarten, the Winirana forestry block forestry managers, local hapū organisations and representatives, and the Save the Plains interest group.
2. **Mr Philip McKay** (Associate Planner at Mitchell Daysh Limited). Mr McKay summarised the findings of his inputs to the proposal, addressed the submissions of relevance to his area of input and set out his assessment of key planning matters.
3. **Mr Stephen James** (Principal Safety Engineer at Urban Connection Limited, a transportation engineering consultancy). Mr James' evidence provided a summary of his assessment of the application and its traffic effects. Mr James also addressed the specialist input from Mr Mike Smith, which was included with the Council's s 42A Report, and the submissions that had been received that raised issues relevant to traffic and transportation matters.
4. **Mr Stephen Peakall** (Acoustical Consultant with Marshall Day Acoustics). Mr Peakall outlined in his evidence an extensive assessment of the predicted noise levels generated by the application and the associated noise amenity effects.
5. **Ms Shannon Bray** (director of Wayfinder Landscape Planning and Strategy Limited). Ms Bray summarises her assessment of the landscape and visual effects of the application in her evidence.
6. **Mr Christopher Nilsson** (Te Awanga Downs Family Trust, who is the owner of the site). Mr Nilsson indicated in his evidence the Te Awanga Downs Family Trust's support for the proposal based on the suitability of the site for the film studio and the financial win for the province.
7. **Mr Richard Gaddum** (spokesperson for the "Save the Plains" group). Mr Gaddum, on behalf of the "Save the Plains" group, indicated support for the proposal and explained that the soil on the site is not considered "highly productive" and there is no need for protection from development.
8. At the hearing, Mr Slade, Mr McKay, Mr James and Mr Peakall filed summary statements which summarised their respective briefs of evidence.
9. For the applicant's reply, **Mr Martin Williams** (legal counsel for the applicant) filed a rebuttal affidavit from Mr James and a supplementary statement of Mr Slade alongside his reply submissions. Mr James' rebuttal affidavit provided further responses to the four outstanding issues of concern that were discussed at the further traffic expert witness conference relating to the proposed concept design and associated safety implications of the Parkhill Road / East Road intersection. Mr Slade's brief supplementary statement explains the expected operational requirements of night-time filming (referencing the

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“Bluebook” and the process for transitioning to night filming) and the anticipated vehicle movements associated with night filming activities.

Submitters’ evidence

10. Half of the 10 submitters formed the Parkhill Road Residents group and **Ms Lara Blomfield** presented legal submissions on behalf of these submitters:
 - (a) Andrew and Catherine Caseley (owners of 227 Parkhill Road);
 - (b) Madeleine Riordan (occupant of 272 Parkhill Road);
 - (c) Christopher Hursthouse (occupant of 272 Parkhill Road);
 - (d) Parkhill Family Trust (owner of 299 and 307 Parkhill Road); and
 - (e) Estate of R Macniven (owner of 272 and 326 Parkhill Road).
11. Ms Blomfield also presented separate legal submission on behalf of **Ocasor Limited** (which owns the Winirana forestry block on the neighbouring property that shares a boundary with the site).
12. There are two expert witnesses who have filed evidence in support of the submitters’ concerns. In his brief of evidence for the Parkhill Road Residents group and Ocasor Limited, **Mr Cameron Drury** (director of Stradegy Planning Limited) discussed the effects of the application that are of concern to the submitters he represented, namely the effects of increased traffic on the rural character and amenity values, reverse sensitivity issues and road safety. Mr Drury also considers the applicability of the National Policy Statement on Highly Productive Land, amongst other planning matters, and the proposed conditions in the s 42A report.
13. **Mr Joseph Durdin** (technical director of Abley Limited, a transport planning and engineering consultancy). Mr Durdin summarises the discussions between the traffic experts in the first expert witness conferencing and reiterates his concerns on key transport matters associated with the proposed activity and his view that the proposal will generate adverse effects that not mitigated by the proposed improvements.
14. In addition to Ms Blomfield’s legal submissions and the two expert witnesses’ briefs, I also heard evidence from several of the submitters in person at the hearing, with those unable to attend the hearing relying on their submissions that were filed when they were notified of the application.
15. **Mr Robert Kingscote** (as trustee for the RC Macniven Estate, owner of 272 and 326 Parkhill Road). Mr Kingscote confined his comments on the application to traffic issues only, and he sought for a consent condition to require the road south of the Raymond Road intersection be laid in asphalt concrete (low-noise road surface) by the applicant to mitigate increased traffic noise.
16. **Ms Kimberly McKay** (328 Parkhill Road). Ms McKay was not deemed an “affected person” and is not a submitter, but she presented evidence at the hearing on behalf of her son, Christopher Hursthouse and Madeleine Riordan (both tenants and occupants of

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272 Parkhill Road). Ms McKay considers the proposal to be a large scale industrial activity and is inappropriate in this rural location, and she notes the associated traffic and traffic noise effects from the proposed activity will result in a severe reduction in amenity value for the submitters at 272 Parkhill Road.

17. **Ms Rachel Deakin** (332 Parkhill Road). Ms Deakin and her husband live on Parkhill Road and are neighbours to the proposed 2.5km private road, which will run adjacent to their fence line. Ms Deakin and her husband were identified as “affected persons” for the original resource consent application when the Te Awanga winery building was constructed, and although they were not deemed “affected persons” for the limited notification of the current proposal, Ms Deakin was asked to present lay evidence by the Parkhill Road Residents group at the hearing. In her evidence, Ms Deakin voices her opinion that the proposed building is an industrial activity that should not be built on rural land and she is concerned that the proposal will impact on the amenity of her residence and the enjoyment of the road and surrounding areas by her and other walkers, horse treks, bike riders and on occasions, stock movements.
18. **Ms Annah Kight** (on behalf of Parkhill Family Trust at 299 and 307 Parkhill Road). Ms Kight acknowledged Parkhill Family Trust’s conditional support of the application, but notes the concerns surrounding road safety, traffic noise and loss of amenity value as a result of the proposed activity, particularly the safety impacts of increased traffic on school children biking on Parkhill Road and other users of Parkhill Road.
19. **Mr Andrew Caseley** (227 Parkhill Road). Mr Caseley and his wife are opposed to the proposed location of the application. Mr Caseley voiced his concerns surrounding the application’s detrimental impacts on the road infrastructure and the existing character and amenity values of Parkhill Road, given the rural and rural residential environment of the area being predominantly quiet and peaceful.
20. **Mr Mark Morice** (shareholder and director of Morice Limited, a primary and forestry industry asset valuation and advisory business). Mr Morice’s evidence at the hearing was presented on behalf of Ocasor Limited and his evidence provided background on the management and operation of Winirana, and how reverse sensitivity effects would affect the current activities on Winirana.
21. **Mr Paul Hursthouse** (on behalf of the Te Awanga Kindergarten). Similar to the other submitters, the kindergarten is extremely concerned about the road safety implications of the application on the children enrolled at the kindergarten and their families, and the significant detrimental effect of the construction, commuter and service traffic that will be generated given the kindergarten is situated close to Parkhill Road.

Council reporting officers/specialists’ further evidence

At the conclusion of the submitters’ evidence, the reporting officer and the two expert witnesses provided Council’s response orally at the hearing and by way of written statements for my consideration. The purpose of the statements was to address remaining unresolved issues from the hearing.

22. **Ms Kydd-Smith’s** statement addressed some of the points raised by submitters during the hearing. In her statement, Ms Kydd-Smith also considered the deletion of recommended conditions 24 – 25 relating to the operating hours to be out of scope, given

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Schedule 1 – Summary of evidence

that the timing of traffic accessing the site was a key aspect of both the noise and traffic assessments and so would be a potentially altered character and effects/impacts of the proposal if the operating hours restriction was removed.

23. After summarising the key points raised by the technical experts during the hearing, Ms Kydd-Smith holds the view that the operation noise effects and the safety effects at the Parkhill Road / East Road intersection are more than minor. Ms Kydd-Smith concluded that in order for her to be comfortable recommending granting of consent, more information would need to be available, including detailed design of the Parkhill Road / East Road intersection, conditions that satisfactorily address noise mitigation.
24. **Mr Smith** raised concerns with the change to the proposal to allow for outdoor filming and night time operations, as there has been no assessment of the traffic effects on these basis. Mr Smith also remains concerned that the proposed Parkhill Road / East Road intersection mitigation measures are inappropriate and requires detailed design to prove a viable and safe intersection can be delivered.
25. In his statement, **Mr Styles** summarised the matters that he and Mr Peakall agreed on and the matters that they are still in disagreement on. The matters that remain unagreed are relating to the traffic noise levels on Parkhill Road, its effects on the Kindergarten and management of reverse sensitivity. Mr Styles also addresses key points raised by submitters in his statement.

Schedule 2



Monday, 10 October 2022

Te Hui o Te Kaunihera ā-Rohe o Heretaunga

Hastings District Council: Commissioner Hearing

Ngā Minitī

Minutes (in the form of a Procedural Note)

No.8 Studios Limited

Te Rā Hui:
Meeting
date/s:

**Monday, 10 October 2022 (Day 1) AND
Wednesday, 12 October 2022 (Day 2)**

Venue

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

Time start - end

**9.00am – adjourned at 5.12pm (Day 1) AND
9.00am – adjourned at 4.55pm (Day 2)
The hearing was formally closed on Wednesday, 16 November
2022**

**(Limited Notified Resource Consent Application To Establish A Screen
Production Studio In The Rural Zone At Gordon Road and 376 Parkhill
Road, Te Awanga (RMA20210474))**

Go to
www.hastingsdc.govt.nz
to see all documents

HASTINGS DISTRICT COUNCIL
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Phone **06 871 5000** | www.hastingsdc.govt.nz
TE KAUNIHERA Ā-ROHE O HERETAUNGA

Monday, 10 October 2022

Te Hui o Te Kaunihera ā-Rohe o Heretaunga

Hastings District Council: Commissioner Hearing Meeting

Ngā Minitī

Minutes - Day 1 (Monday, 10 October 2022)

<i>Kua Tae ā-tinana:</i> Present:	Chair: Commissioner Kitt Littlejohn
<i>Kua Tatū:</i> In attendance:	<p><u>"For Regulating Authority"</u></p> <p>Caleb Sutton – Council's Environmental Consents Manager Asher Davidson - Legal Counsel Janeen Kydd-Smith, Consultant Planner – Reporting Planner Mike Smith – Traffic Expert (Stantec) (<i>appearing via Zoom</i>) Jon Styles – Noise Expert (Styles Group) (<i>appearing via Zoom</i>) Bruce Conaghan – Council's Transportation Policy & Planning Manager Christine Hilton - Council's Democracy & Governance Advisor</p>
<i>Kei Konei:</i> Also present:	<p><u>"Applicant"</u></p> <p>Derek Slade – Partner, No8. Studios Limited Tony Keddy – Partner, No8. Studios Limited Martin Williams - Legal Counsel for Applicant Callum Beattie – (supporting Martin Williams) Shannon Bray – Landscape Architect (Wayfinder) Stephen James – Traffic Expert (Urban Connection) Stephen Peakall – Noise Expert (Marshall Day Acoustics) (<i>appearing via Zoom</i>) Philip McKay – Planning Consultant (Mitchell Daysh) Chris Nilsson – owner of the subject site known as "the Farm" (<i>appearing via Zoom</i>) Richard Gaddum – "Save the Plains" (supported by Mike Donnelly) Daniel Betty – author of one of the circulated letters of Support tabled at hearing</p>
	<p><u>"Submitters"</u></p> <p>Lara Blomfield – Legal Counsel for AM and CJ Caseley Partnership and Others (the Parkhill Road Residents) Andrew and Catherine Caseley Paul Hursthouse Paul Durdin - Traffic Expert (Abley Limited) (<i>appearing via Zoom</i>) Cameron Drury – Planning Consultant (Strategy Planning Limited) Robert Kingscote – Trustee for Estate of RC Macniven (<i>appearing via Zoom</i>) Kimberly McKay – speaking on behalf of Chris Hursthouse and Madeleine Riordan Annah Kight - Parkhill Family Trust Rachel Deakin and Gary Deakin</p>

	<p>Matt and Amy Nilsson – they managed the subject site – <i>not speaking at hearing, present as observers</i></p> <p>Tony Harrison, Technical Director, Urban Connection - <i>present as an observer</i></p> <p>Eve Kireka, representing some of manawhenua from Haumoana, Waimārama and Maraetōtara – <i>present as an observer.</i></p>
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(References in these minutes, in italics and in brackets, are Council's records system references).

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

The following Submitters did not want to speak, but would attend as Observers:

- Matt and Amy Nilsson (104672#0372)

Apologies for absence had been received from the following two Submitters:

- Mark and Jan Toms (104672#0373)
- Marc and Joanne Anderson (104672#0374) – *they forwarded an email summary of their concerns set out in four bullet points, to be considered at the hearing.*

2. 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)

Council's Document Reference: Covering report (22/389) and planning report (104672#0288) together with following associated agenda documentation and a number of evidence agendas (containing Evidence In Chief from Expert Witnesses) had been circulated prior to the meeting, as per the Commissioner's Directions, and put onto the council's website.

- *Agenda and two attachment documents – (CG-16-28-00026 to CG-16-28-00028).*
- *Pre-circulated Applicant evidence and attachment document – (CG-16-28-00030 and CG-16-28-00031).*
- *Pre-circulated Expert Submitter evidence – (CG-16-28-00033).*
- *Pre-circulated Traffic evidence – Applicant – (CG-16-28-00032).*
- *Pre-circulated Traffic evidence – Submitters – (CG-16-28-00034).*

Documents Not put onto the website prior to the hearing due to timing:

- *Joint Witness Statement (JS) traffic evidence (104672#0351 and 104672#0363) received on 7/10/22, as per the Commissioner's Directions.*

Legal submissions and additional evidence for the Applicant and Submitters were circulated and presented at the hearing, as detailed in these minutes – in the form of summary statements in the case of expert witnesses.

Prior to start of hearing

- (Wed, 14/9) – Commissioner confirmed extended evidence exchange timeframe (104672#0316) – extending by one day, due to additional public holiday on Monday, 26 Sept.
- (Wed, 14/9) – Email and memorandum from Lara Blomfield (Legal Counsel for Mr & Mrs Caseley)(104672#0297 and 104672#0298) seeking time extension for filing expert Submitter traffic evidence.

- (Wed, 14/9) - Response from Commissioner to memorandum from Lara Blomfield (104672#0299) – Direction to Martin Williams, if the applicant objected to proposed extended timeframe.
- (Fri, 16/9) - Memorandum from Martin Williams, on behalf of Applicant, (104672#0302 and 104672#0303) in response to Memorandum from Lara Blomfield.
- (Fri, 16/9) - Further Memorandum received from Lara Blomfield, on behalf of Mr & Mrs Caseley, (104672#0305 and 104672#0306) in response to Memorandum from Martin Williams.
- (Fri, 16/9) - Letters to all parties with website links to agenda documents (104672#0289 and 104672#0290) including advice of extended evidence timeframes due to public holiday.

Commissioner Direction and Filing of Applicant's Evidence and Expert Traffic Evidence

- (Fri, 16/9) - Direction from Commissioner (104672#0310) setting variances to the timeframe for expert briefs, for the filing of: - Applicant's Expert Traffic Evidence (by 23/9); Submitter's Expert Traffic Evidence (by 4/10); and the Joint Witness Statement (by 7/10) following Expert Traffic Conferencing.
- (Fri, 23/9) – First Part of expert traffic evidence received from Applicant (104672#0313 to 104672#0315). Stephen James' evidence (104672#0313 to 104672#0315). Remainder of applicant evidence was forwarded on 27 and 28 September.
- (Tues, 27/9) – Evidence (eight pieces of evidence from witnesses) (104672#0321 to 104672#0328).
- (Tues, 27/9) - Evidence (final attachment to Shannon Bray's evidence – Appendix A – Attachment 1) (104672#0332).
- (Wed, 28/9) – Evidence (two remaining attachments to Stephen Peakall's noise evidence – Appendices A and B) (104672#0336 and 104672#0337).
- (Wed, 28/9 - Evidence (final attachment (Appendix E) to Stephen James' traffic evidence) (104672#0341).

Expert Submitter Evidence

- (Tues, 4/10) – Expert Submitter planning evidence (from Cameron Drury) (104672#0345).
- (Tues, 4/10) – Expert Submitter traffic evidence (from Paul Durdin) (104672#0348).
- (Fri, 7/10) Joint Witness Statement (JWS) traffic evidence (104672#0351 and 104672#0363) – following conferencing between Applicant's Stephen James (Principal Safety Engineer at Urban Connection Limited); Paul Durdin (Abley Limited) – (traffic engineer for Submitters Mr & Mrs Caseley and others) and Mike Smith (from Stantec for HDC).

Speakers for Day 1 of Hearing (10 October 2022) – (speaking list - 104672#0368)

Those present were asked to introduce themselves.

While not a party to the hearing, Ms Eve Kireka, representing some of manawhenua from Haumoana, Waimārama and Maraetōtara, advised the Commissioner that they had been expecting to have further discussions with the applicant's representatives and had been unaware this was now being addressed as a limited notified application and that submissions had closed.

Presentation of Evidence

Applicant

Mr Martin Williams, Legal Counsel, circulated three documents, on behalf of the Applicant, being:

- "Outline of Legal Submissions" (104672#0354).

- a copy of the “Preliminary Draft Recommended Consent Conditions (Applicant’s Opening Version)” (104672#0355) – *incorporating suggested amendments to the reporting planner’s preliminary draft conditions (104672#0285) that had been in the Agenda Attachment Document Vol 2 as Attachment 38.*
- hardcopies of the various High Court and Environment Court Decisions (five) referred to in the Legal Submissions (*cover pages of each decision involved are saved under 104672#0364*).

Mr Williams read his “Outline of Legal Submissions”, highlighting and interpolating in detail on a number of points. He responded to questions and points of clarification sought by the Commissioner in regard to the circulated Legal Submissions, the proposed conditions and the Court decisions.

Mr Derek Slade, Applicant, circulated and read his Summary of Statement of Evidence (104672#0356) – *his pre-circulated Evidence in Chief (104672#0323) had been put onto the website, prior to the hearing, as part of the applicant evidence documentation.* This evidence included a reference (in Paragraph 13) to possible night filming - *which had not been raised previously in any documentation.*

Prior to the hearing, the Applicant’s Legal Counsel had advised (104672#0371) that the Applicant may call a number of supporting lay witnesses at the hearing. Instead of taking this approach, seven letters of support (104672#0388) were circulated as part of Mr Slade’s evidence. Mr Slade responded to questions and points of clarification sought by the Commissioner in relation to his evidence - including his background and experience in the film industry; and how a studio facility could operate on the subject site.

Mr Stephen James, Traffic Expert, circulated and read his Summary of Statement of Evidence (104672#0357) on behalf of the Applicant – *his pre-circulated Evidence in Chief (104672#0314, 104672#0315, and 104672#0341) had been put onto the website, in three parts, prior to the hearing as part of the applicant evidence documentation.* He also referred to the (First Round of) Expert Traffic Conferencing undertaken prior to the hearing and the outcome of that, including the Joint Witness Statement that had been circulated on Friday, 7 October (104672#0351 and 104672#0363). He responded to questions and points of clarification sought by the Commissioner in relation to his evidence and the Expert Traffic Conferencing that had taken place and confirmed that he would be available to attend Day 2 of the hearing, set for Wednesday, 12 October.

The hearing adjourned at 11.15am for morning tea
and resumed at 11.45am

Mr Shannon Bray, Landscape Architect, did not circulate any further evidence at the hearing on behalf of the Applicant, but referred to his originally pre-circulated Evidence in Chief (104672#0321; 104672#0324; 104672#0327; and 104672#0332) - *this had been put onto the website, in four parts, prior to the hearing as part of the applicant evidence documentation.* He responded to questions and points of clarification sought by the Commissioner in relation to his evidence.

Mr Stephen Peakall, Noise Expert, (appearing via Zoom) circulated and read his Summary of Statement of Evidence (104672#0358) on behalf of the Applicant – *his pre-circulated Evidence in Chief (104672#0326, 104672#0337, and 104672#0336) had been put onto the website, in three*

parts, prior to the hearing as part of the applicant evidence documentation. He responded to questions and points of clarification sought by the Commissioner in relation to his and other evidence presented at the hearing, addressing the monitoring and reviewing of noise emissions.

Mr Chris Nilsson, owner of the subject site known as “the Farm”, (appearing via Zoom) did not circulate any further evidence at the hearing on behalf of the Applicant, but read his originally pre-circulated Evidence in Chief (104672#0322) - *this had been put onto the website, prior to the hearing, as part of the applicant evidence documentation.* He responded to questions and points of clarification sought by the Commissioner in relation to his evidence.

Mr Richard Gaddum, representing “Save the Plains” Group, did not circulate any further evidence at the hearing on behalf of the Applicant, but read his originally pre-circulated Evidence in Chief (104672#0325) - *this had been put onto the website, prior to the hearing, as part of the applicant evidence documentation.* He responded to questions and points of clarification sought by the Commissioner in relation to his evidence, including indicating on a soils map (updated December 2001 – *and not retained as evidence*) where it was believed the area of LUC 3 land was located on the subject site.

Mr Daniel Betty was then called as an **additional supporting witness** and gave brief oral evidence in support of the application on behalf of the Applicant, including outlining his experience in the film industry. He had written one of the letters of support (*which formed part of 104672#0388*) that had been circulated by Mr Slade earlier in the hearing.

Mr Phil McKay, Planning Consultant, circulated and read his Summary of Statement of Evidence (104672#0359) on behalf of the Applicant – *his pre-circulated Evidence in Chief (104672#0328) had been put onto the website, prior to the hearing as part of the applicant evidence documentation.* He responded to questions and points of clarification sought by the Commissioner in relation to his evidence.

The hearing adjourned at 1.25pm for lunch
and resumed at 2.05pm

Presentation of Evidence...(Continued)

Submitters

Ms Lara Blomfield , Legal Counsel acting for A and C Caseley Partnership and a number of other Submitters circulated and read her Submissions of Counsel (104672#0360) highlighting and interpolating in regard to a number of points. She responded to questions and points of clarification sought by the Commissioner in regard to the circulated Legal Submissions.

Ms Blomfield advised that, given the proposed amended conditions (104672#0355) Mr Williams had circulated at the start of the hearing, Paragraph 13 of her Submissions could be struck out. She commented on the difference/s between the original draft conditions the reporting planner had included in the agenda (104672#0285) and the version circulated by Mr Williams

(104672#0355), advising that the Submitters giving evidence would also comment on the two versions of the proposed conditions.

Ms Blomfield responded to a question raised by the Commissioner and highlighted that the residents felt “blindsided” by the reference in **Mr Slade’s** earlier evidence to possible night filming – *which had not been raised in the notified application on which submissions had been made, nor referred to in the s42A report*. Ms Blomfield confirmed that she considered this matter was effectively an amendment to the application, which was beyond the legal scope of the hearing.

The Commissioner advised that he would also ask **Mr Williams** to comment on whether such an amendment to the application would prevent the granting of consent, if the Commissioner was of a mind to take this course of action.

Mr Paul Durdin, Traffic Expert (*appearing via Zoom*) circulated and read his Summary of Statement of Evidence (104672#0361) on behalf of AM and CJ Caseley – *his pre-circulated Evidence in Chief (104672#0348) had been put onto the website, prior to the hearing as part of the Submitter expert traffic evidence documentation*. He also commented on the earlier noted two versions of the proposed conditions. He responded to questions and points of clarification sought by the Commissioner in regard to his evidence including the Expert Traffic Conferencing that had taken place prior to the hearing and the outcome of that conferencing, including the Joint Witness Statement that had been circulated on Friday, 7 October (104672#0351 and 104672#0363).

The hearing adjourned at 3.40pm for afternoon tea
and resumed at 3.50pm

Ms Blomfield circulated and read the evidence on behalf of **Mr Robert Kingscote, Trustee for Estate of RC Macniven**, (104672#0353). Mr Kingscote (*appearing via Zoom*) responded to questions from the Commissioner.

Kimberly McKay, circulated and read evidence (104672#0362) in two parts (evidence and an Addendum) speaking on behalf of **Chris Hursthouse and Madeleine Riordan**. Ms McKay commented on the earlier noted two versions of the proposed conditions. She responded to some questions and points of clarification sought by the Commissioner in regard to this evidence.

The Hearing adjourned at 5.12pm
And would reconvene on Wednesday, 12 October at 9.00am

Site visit on Tuesday, 11 October 2022:

Martin Williams offered the assistance of Matt Nilsson, who was not speaking at the hearing, who could meet the Commissioner at the site and, travelling in a separate vehicle, could lead the Commissioner over the property to any specific areas the latter wished to view.

Pre-circulation of some Submitter evidence – following adjournment of the hearing and prior to the reconvening of the hearing on 12 October 2022.

During this adjournment, as had been agreed with the Commissioner, evidence from several submitters being represented by Ms Blomfield was forwarded onto the Commissioner, and the

Item 2 Limited Notified Resource Consent Application From No.8 Studios Limited To Establish A Screen Production Studio In The Rural Zone At Gordon Road and (RMA20210474)

RMA20210474 Decision - No8. Studios



other parties, so it could be pre-read prior to Day 2 of the hearing to assist with timing matters at the hearing:

- Annah Kight (104672#0385)
- Rachel Deakin (104672#0386)
- Mark Morice (Ocasor Limited) (104672#0378)

Minutes - Day 2 (Wednesday, 12 October 2022) at 9.00am

<i>Kua Tae ā-tinana:</i> Present:	Chair: Commissioner Kitt Littlejohn
<i>Kua Tatū:</i> In attendance:	<p><u>"For Regulating Authority"</u></p> <p>Caleb Sutton – Council's Environmental Consents Manager Asher Davidson - Legal Counsel Janeen Kydd-Smith, Consultant Planner – Reporting Planner Mike Smith – Traffic Expert (Stantec) (<i>appearing via Zoom</i>) Jon Styles – Noise Expert (Styles Group) (<i>appearing via Zoom</i>) Bruce Conaghan – Council's Transportation Policy & Planning Manager Christine Hilton - Council's Democracy & Governance Advisor Michelle Waldron – Council's Planning Technician</p>
<i>Kei Konei:</i> Also present:	<p><u>"Applicant"</u></p> <p>Derek Slade - Partner, No8. Studios Limited Martin Williams - Legal Counsel for Applicant Callum Beattie – (supporting Martin Williams) Stephen James – Traffic Expert (Urban Connection) (<i>present for part of meeting</i>) Stephen Peakall – Noise Expert (Marshall Day Acoustics) (<i>appearing via Zoom</i>) Philip McKay – Planning Consultant (Mitchell Daysh) Chris Nilsson - owner of the subject site known as "the Farm" (<i>observing via Zoom</i>) Richard Gaddum – "Save the Plains" (supported by Mike Donnelly)</p> <p><u>"Submitters"</u></p> <p>Lara Blomfield – Legal Counsel for AM and CJ Caseley Partnership and Others (the Parkhill Road Residents) – <i>present for morning session (until 1.35pm)</i> Andrew Caseley Paul Durdin – Traffic Expert (Abley Limited) (<i>appearing via Zoom</i>) Cameron Drury – Planning Consultant (Stradegy Planning Limited) Robert Kingscote – Trustee for Estate of RC Macniven (<i>observing via Zoom</i>) Kimberly McKay - attending on behalf of Chris Hursthouse and Madeleine Riordan Annah Kight – Parkhill Family Trust Rachel Deakin and Gary Deakin Mark Morice – Ocasor Ltd</p> <p>Rod Heaps – reading letter on behalf of Heather Shaw (<i>a witness for the submitters represented by Ms Blomfield</i>)</p> <p>Helen McNaughten and Paul Hursthouse – speaking on behalf of Te Awanga Kindergarten</p> <p>Tony Harrison, Technical Director, Urban Connection (<i>observer via Zoom</i>)</p>

Speakers for Day 2 of Hearing (12 October 2022) – (speaking list - 104672#0369)

Site Visit

The Commissioner advised that he had undertaken a site visit on Tuesday, 11 October, accompanied by a council planner who had not been involved with this hearing. He had visited the subject site and its environs, and viewed the intersections (during off-peak traffic times) that had been addressed via evidence being presented at the hearing and discussed during Expert Conferencing prior to the hearing.

Presentation of Evidence...(Continued)

Submitters...(Continued)

The Commissioner confirmed that he had pre-read the three sets of evidence that had been forwarded to him prior to the start of today's session, as had been agreed – i.e. evidence from Annah Kight (104672#0385); Rachel Deakin (104672#0386); and Mark Morice (Ocasor Limited) (104672#0378).

Ms Blomfield advised that **Rachel Deakin** now wanted to read out her evidence, rather than only respond to the Commissioner's questions about that evidence at today's hearing session.

Annah Kight, Parkhill Family Trust, responded to questions from the Commissioner in relation to the evidence (104672#0385) that the latter had pre-read prior to this session of the hearing. Referring to an A3 colour page (Page 46 of Attachment 21, contained in Vol 2 of the agenda attachment documents), Ms Kight identified the route noted in her evidence as being used by children to bike to school (104672#0392 and 104672#0393), from Clifton Road to Parkhill Road, via a paper road (private driveway).

At this point, the Commissioner sought clarification as to the basis on which **Rachel Deakin** was giving evidence (as she had not made a submission). Rachel Deakin advised that she and her husband had not been a notified party and felt they should have been – this was further detailed in her evidence. She then read her evidence (104672#0386) which had been pre-circulated. Ms Deakin responded to questions from the Commissioner. Referring to a colour A4 copy of Page 42 in Attachment 2 (in the Applicant's pre-circulated traffic evidence agenda), Rachel identified the location of the property owned by herself and her husband.

Andrew Caseley circulated and read his evidence (104672#0387), on behalf of himself and his wife, interpolating in regard to a number of points. Mr Caseley responded to questions from the Commissioner in regard to his evidence and the two versions of the proposed conditions circulated earlier in the hearing.

At this point, Ms Blomfield advised that a letter written by **Mrs Heather Shaw** (104672#0394) would be read by **Mr Rod Heaps**. In response to a query from the Commissioner, Ms Blomfield clarified that Mrs Shaw owned the property bordering the Applicant's site. Mrs Shaw was being called as a witness for the submitters Ms Blomfield was representing.

Mr Heaps read the letter in question (104672#0394). The Commissioner noted that as Mrs Shaw was not present at the hearing, he was unable to ask questions of clarification of that witness.

Cameron Drury, Consultant Planner for the Submitters presented his Summary Statement of Evidence (104672#0389) with detailed interpolation being made in regard to a number of points. This planning evidence was presented *on behalf of the following Submitters - AM & CJ Caseley; Madeline Riordan; Chris Hursthouse; Parkhill Family Trust (A and J Kight); Estate of R C Macniven; and Ocasor Limited (M Morice) – his pre-circulated Evidence in Chief (104672#0345) had been put onto the website, prior to the hearing as part of the Submitter expert evidence documentation.*

As part of the presentation of this evidence, Mr Drury circulated a written copy of the additional points that he had raised during his interpolations (104672#0390). He also circulated a “marked up” copy of his Statement of Evidence which showed where these interpolations had occurred (104672#0391). Mr Drury responded to extensive questions from the Commissioner regarding his evidence, and questions in relation to the two versions of the proposed conditions circulated earlier in the hearing.

The Hearing adjourned for a break at 11.25am
and resumed at 11.45am

Mr Drury continued to respond to questions from the Commissioner regarding his evidence, and questions in relation to the two versions of the proposed conditions circulated earlier in the hearing.

Helen McNaughten, GM of Napier Free Kindergartens Association and **Paul Hursthouse** spoke on behalf of Te Awanga Kindergarten and presented evidence to the hearing (104672#0395). Ms McNaughten and Mr Hursthouse responded to questions from the Commissioner. The Submitter also offered to provide tabled evidence in regard to the Ministry of Education’s licencing requirements, if the Commissioner felt this was considered appropriate. The Commissioner advised that he did not consider this additional information would add to the evidence that had already been presented by this submitter.

Ms Blomfield circulated and read her Legal Submissions on behalf of **Ocasor Limited** (104672#0380) and responded in some detail to questions from the Commissioner. It was noted that **Cameron Drury** had presented his Summary Statement of Evidence earlier in this session in three parts (104672#0389; 104672#0390; and 104672#0391) on behalf of a number of submitters, including Ocasor Limited.

In response to a query from the Commissioner, **Mr Caleb Sutton, Environmental Consents Manager** advised that he would double-check the National Environmental Standard for Plantation Forestry in relation to the noise limits applying to forestry blocks and whether that applied at the notional boundary – i.e. 20m from a rural dwelling.

Mr Mark Morice presented his evidence (104672#0378), on behalf of **Ocasor Oy** which owns an adjoining farming and forestry property known as “**Winirana**”. This evidence had been pre-circulated to the Commissioner prior to today’s hearing session, as noted earlier in this record. Mr Morice responded to questions from the Commissioner regarding his evidence, clarifying some

points/terms and also referring to the two appendices which formed part of the evidence – he advised that Pan Pac would address any complaints received (if any) during harvesting; identified stand/s yet to be harvested; and the location of the proposed studio in relation to the adjoining Ocasor site.

Ms Blomfield responded to an earlier question raised by the Commissioner and provided a reference for the latter to look at, regarding definitions under the Forestry Noise Standard relating to permitted activity conditions for plantation forestry and noise limits and distances to closest dwelling/legal boundary - being (NPS4) Regulation 98(2) and 98(7).

The Commissioner advised he had some supplementary questions to ask of **Mr Slade** and the Applicant's Traffic Expert, **Mr James**, before hearing the evidence from Council's roading experts. **Mr Williams** advised that Mr James, was not in attendance at the hearing this afternoon but could be available, via Zoom, if needed.

The Commissioner sought clarification from **Mr Slade** regarding several matters, including the number/timing of projected vehicle movements to and from the site – for e.g. those movements associated with setting up equipment; deliveries of supplies; and removing materials/equipment on completion of filming. The Commissioner asked how that information correlated with **Mr James'** traffic evidence and associated impacts of filming productions of varying scales.

The Commissioner was advised that Submitters **Marc and Joanne Anderson** had sent an email (104672#0374) passing on their apology for non-attendance at the hearing. This email was circulated and it was noted that it also contained four bullet points highlighting the Submitter's main concerns.

The hearing adjourned for lunch at 1.35pm
and resumed at 2.25pm

Afternoon Session

Bruce Conaghan, Council's Transportation Policy & Planning Manager clarified his role at this hearing. If needed, he was available to answer questions from the Commissioner relating to technical matters - regarding how the Council's public roading system may potentially be affected by the application or by evidence presented at the hearing. He responded to questions from the Commissioner, including traffic management plan terminology and explained the difference between a construction traffic management plan and a transportation management plan.

Mr Conaghan had expertise and experience regarding Road Safety Audits and the associated process. Ideally any potential issues would have been addressed at the design stage. He explained that an audit was not legally binding; auditors can only assess the information presented; auditors can point out if a traffic design was flawed and needed to be reviewed, but could not offer a solution. If changes were subsequently made to a design, it would need to be re-audited.

Mike Smith, Stantec, Traffic Expert (*appearing via Zoom for the Regulating Authority*) presented his evidence orally, with a hard copy of his Summary of Statement of Evidence (104672#0401) being circulated the following day – *his pre-circulated Evidence in Chief (104672#0275) had been put onto the website, prior to the hearing as part of the agenda documentation.* He responded to

questions and points of clarification sought by the Commissioner in regard to his evidence including the Expert Traffic Conferencing that had taken place prior to the hearing and the outcome of that conferencing, including the Joint Witness Statement circulated on Friday, 7 October (104672#0351 and 104672#0363).

Jon Styles, Noise Expert (*appearing via Zoom for the Regulating Authority*) presented his evidence orally, with a hard copy of his Summary of Statement of Evidence (104672#0399) being circulated the following day – *his pre-circulated Evidence in Chief (104672#0276) had been put onto the website, prior to the hearing as part of the agenda documentation*. He responded to questions and points of clarification sought by the Commissioner in regard to his evidence.

Janeen Kydd-Smith, Reporting Planner presented her evidence orally, with a hard copy of her Response of s42A Reporting Officer evidence (104672#0400) being circulated the following day – *her pre-circulated s42A report (104672#0288) and Preliminary Draft Conditions (104672#0285) had been put onto the website, prior to the hearing as part of the agenda documentation*. The Commissioner did not ask any questions of Ms Kydd-Smith in regard to her evidence.

Asher Davidson, Legal Counsel, advised that while there were no particular legal issues to address, she wished to briefly comment on the matters of reverse sensitivity and the use of covenants.

Martin Williams, Legal Counsel for the Applicant, requested that his client and expert witnesses have some time to review and consider the evidence presented by the various parties at the hearing. He proposed some steps for the Commissioner's consideration regarding timing for holding further expert traffic conferencing and the filing of his subsequent Closing Legal Submissions.

The Commissioner requested that this information be provided in writing by Mr Williams, by Friday, 14 October 2022, for his consideration.

The meeting adjourned at 4.55pm

Following the hearing

- (Thurs, 13/10) – Email (104672#0396) from Helen McNaughton and Paul Hursthouse requesting that further information be passed onto the Commissioner regarding a link to an article that supported points in their evidence, made on behalf of the Te Awanga Kindergarten.
- (Thurs, 13/10) – Email response from Commissioner (104672#0397) that - as no reasons were provided to explain why the material could not have been submitted during the hearing or how it had probative evidential value in its own right – he would not be assisted by receiving this further information and refused leave for this to be introduced.
- (Thurs, 13/10) - dated 14/10 - Memorandum forwarded from Martin Williams, as per the Commissioner's Direction, with suggestions for timing of the next steps (104672#0403)
- (Wed, 19/10) Email from Commissioner with Direction sent to all parties, together with Mr Williams' Memorandum (104672#0404 and 104672#0403).
- (Mon, 31/10) – Received updated design plans for East Road/Parkhill Road intersection with updated conditions to consider. (104672#0410).

Item 2 Limited Notified Resource Consent Application From No.8 Studios Limited To Establish A Screen Production Studio In The Rural Zone At Gordon Road and (RMA20210474)

RMA20210474 Decision - No8. Studios



- (Thurs, 10/11) – Outcome of Joint Witness Statement following further expert conferencing in week 28/10 to 4/11. (104672#0411).
- (Fri, 11/11 and Mon, 14/11/22) - Received Closing Legal Submissions from Martin Williams for Applicant (in **three** parts) – (104672#0412; 104672#0413; and 104672#0414).
- (Wed, 16/11) – Closure of hearing by Commissioner (RMA20210474#0002) – (Note: RMA reference number is now used, instead of the property identification number (PID)).
- (Wed, 16/11) – Request by Andrew Caseley and others to file supplementary papers, given the volume and content of Applicant's Closing Legal Submissions (RMA20210474#0003).
- (Wed, 16/11) – Issuing of Commissioner Minute in response – refusing request by Andrew Caseley and others (as noted above) (RMA20210474#0004 and RMA20210474#0005).
- (Fri, 2/12) – Advice that the timeframe for issuing the hearing decision was being extended under s 37A(4)(b)(i) of the Act due to the scale and complexity of the matter. This information was emailed to all parties. New date for decision to be out – by 19 January 2023.

Confirmed:

Commissioner:

Date:



RESOURCE CONSENT

This Resource Consent authorises the consent holder to undertake land use activities at Gordon Road and 376 Parkhill Road, Te Awanga (Lots 6-8 DP 519212 (RT 815158) and Lots 1-2 DP 24898 (RT HBV3/731)) under section 9 of the Resource Management Act 1991 to construct and operate a screen production studio comprising two studio buildings, a production building, a construction workshop, a catering café and associated carparking and trailer parking areas, including construction of an approximately 2.5km long private access road, public roading improvements and all associated construction works.

Under sections 108 and 108AA of the Resource Management Act 1991 this Resource Consent includes and is subject to the conditions in Schedule A.

SCHEDULE A

GENERAL

1. The development shall proceed in general accordance with the plans and information submitted in the resource consent application referenced RMA20210474 by the Council, received 17 September 2021, and including:
 - a) Resource Consent Application and Assessment of Environmental Effects (incorporating all Appendices thereto) prepared by Mitchell Daysh Ltd, 16 September 2021;
 - b) Response to section 92 further information request (including all attachments thereto), prepared by Mitchell Daysh Limited, 18 November 2021;
 - c) Further information supplied by email by Mitchell Daysh Limited on 9 June 2022 (Minor Amendment to Internal Access Plans); and
 - d) Further information supplied by way of evidence to the resource consent hearing held on 10 and 12 October 2022 by and on behalf of No 8 Limited.
2. Where there is inconsistency between the plans and information described in Condition 1 and the consent conditions, the consent conditions prevail.
3. A monitoring deposit of \$190.00 (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.
4. 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 the Council's advertised schedule of fees.

Consent Lapsing

5. In accordance with section 125(1)(a) of the Resource Management Act 1991 (“Act”), this consent will lapse 5 years after the date it commences under section 116 of the Act, unless it is given effect to prior to that date.

Minor variations to layout of buildings

6. Minor variations may be made to the location of buildings and car parking or other areas of impermeable surface authorised by this consent provided the consent holder first submits plans showing the minor variations to the Environmental Consents Manager, Hastings District Council (or nominee), supported by a suitably qualified expert opinion that landscape, visual, noise, earthworks or related effects arising from the minor variations are immaterial by comparison with the development as shown on the plans described in Condition 1.

Resource Consent to be made available during construction

7. For the duration of the consented works herein, a copy of this resource consent shall be held on the site in a safe and secure location and be made available to Hastings District Council staff, contractors or Agent upon request.
8. The consent holder shall ensure that all personnel, consultants and contractors engaged to undertake work authorised by this consent are made aware of, have access to, and abide by the conditions of this resource consent document, including all management plans referenced in these conditions.

Access to Screen Production Studios Site

9. All vehicles associated with the construction and operation of the Screen Production Studios facility shall only use the access from Parkhill Road to access and exit the Screen Production Studios site. No vehicles associated with the Screen Production Studios shall use the existing Te Awanga Downs’ access from Gordon Road, Te Awanga, at any time except where required in an emergency eg. fire, earthquake or tsunami.

PRE-DEVELOPMENT CONDITIONS

Condition precedent

10. Prior to any earthworks or construction activities commencing on the site, the consent holder shall submit a report prepared by a suitably qualified and experienced pedologist or soil scientist to the Environmental Consents Manager, Hastings District Council (or nominee) certifying that the land to be occupied by any buildings or impermeable surfaces (other than roads) is not land classified as LUC 1, 2 or 3 land as defined in the National Policy Statement for Highly Productive Land 2022 (“NPS-HPL”).
11. For the avoidance of doubt, this resource consent does not authorise any built development or impermeable surfaces (other than access roading) on LUC 1, 2 or 3 land as defined in the NPS-HPL.

Construction Management Plan

12. Prior to the commencement of any earthworks or construction works on the site, a Construction Management Plan (“CMP”) shall be provided to and approved by the

Environmental Consents Manager, Hastings District Council (or nominee), which will establish (as a minimum) standard industry best practices for the management of dust, noise, traffic, hours of operation and sediment runoff during construction.

The CMP shall include:

- a. A statement giving the author's qualifications and experience in this area; and
 - b. An Erosion and Sediment Control Plan ("ESCP"), which will cover (as a minimum):
 - i. The management practices that will be employed during the construction phase to prevent dust nuisance on neighbouring properties and the environment generally (for example, staging of earthworks and dampening down areas with water, if necessary);
 - ii. The management practices that will be employed to manage and minimise construction stormwater discharges, in accordance with the Hawke's Bay Regional Council Erosion and Sediment Control Guidelines, including:
 - Staging of earthworks and minimising exposed areas;
 - Clean and dirty water diversion channels and bunds;
 - Silt fences;
 - Formation of a sediment retention pond, with provision for the application of flocculation treatment if necessary;
 - Construction design so that runoff is contained within the excavations and conveyed to the sediment pond as necessary; and
 - Re-vegetating and rehabilitating exposed areas as soon as practicable following completion of the works.
13. Site works shall be undertaken in accordance with the CMP and ESCP approved under Condition 12, and erosion and sediment controls shall be installed and maintained to the satisfaction of the Environmental Consents Manager, Hastings District Council (or nominee), throughout the period of works.

Construction Traffic Management Plan

14. Prior to the commencement of site preparation works and any construction relating to the activities authorised by this consent, the consent holder shall submit a Construction Traffic Management Plan ("CTMP") for the certification of the Environmental Consents Manager, Hastings District Council (or nominee). The purpose of the CTMP is to address the temporary adverse effects of traffic related to the construction and development of the Screen Production Studios, associated access road and upgrading of Parkhill Road and the Parkhill Road/Raymond Road and Parkhill Road/East Road intersections. The CTMP shall be prepared by a suitably qualified and experienced transportation expert and shall address the following matters as a minimum:
- a. proposed numbers and timing of heavy vehicle movements throughout the day and the proposed transport routes.

- b. measures for managing on-site parking for contractors and workers;
 - c. the provision for a temporary acoustic screen if required to ensure that noise levels received at the Te Awanga Kindergarten do not exceed the limits in Condition 63 during construction of the Parkhill/Raymond Road intersection improvement works required by Condition 55;
 - d. the use of best endeavours to schedule construction of the Parkhill/Raymond Road intersection improvement works required by Condition 55 to take place in school holiday periods;
 - e. measures to ensure safe access to, within and from the site for vehicles carrying construction materials and for earthworks;
 - f. measures for management of construction traffic;
 - g. hours of heavy vehicle movements for earthworks and other construction works;
 - h. location of traffic signs on surrounding roads and proposed signage for traffic management purposes, and to warn motorists and pedestrians on Parkhill Road and Raymond Road and at Te Awanga Estate, during construction;
 - i. measures to ensure satisfactory and safe vehicle, pedestrian and cycle access is maintained to adjacent properties at all times; and
 - j. contact details of the site manager.
15. All construction works shall be carried out in accordance with the CTMP approved under Condition 14.

Earthworks

21. Prior to the commencement of earthworks on the site, the following shall be provided to and approved by the Environmental Consents Manager, Hastings District Council (or nominee):
- a. Final details of the engineering and construction design of earthworks, including any proposed staging of works, by a suitably qualified and experienced person. These details shall include the final cut and fill plan for the site, and confirm final volumes and areas, and sediment and erosion controls. The plan shall show there will be no changes in the existing ground level of the external boundaries of the site and, where any residential areas require finished ground levels to be higher than existing, show how these will be earth-worked and the additional height provided below the topsoil level. Increasing the depth of topsoil will not be acceptable. The details shall include cross-sectional profiles, stormwater management system design, overland flow paths, and proposed finished ground levels within the site.
22. All site works shall be undertaken in accordance with the design of earthworks approved under Condition 21 to the satisfaction of the Environmental Consents Manager, Hastings District Council (or nominee), throughout the period of works.
23. Earthworks shall not commence until engineering design plan approval under Condition 21 from Council has been given.

24. A registered and professionally qualified engineer must certify that the sedimentation controls have been constructed in accordance with the approved design (under Condition 21), prior to commencement of earthworks.
25. The consent holder shall install erosion and sediment controls prior to the commencement of the earthworks and these controls must be maintained throughout the period of the earthworks, to the satisfaction of the Environmental Consents Manager, Hastings District Council (or nominee).
26. Earthworks activity on the subject site shall not result in the deposition of earth, mud, dirt or other debris on any public road. In the event that such deposition does occur, it shall be immediately removed. In no instance are roads to be washed down with water without appropriate erosion and sediment control measures in place to prevent contamination of the stormwater drainage system, watercourses or receiving waters.
27. 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 stormwater drain.
28. As part of the earthworks, no filling shall take place that will obstruct overland flow from higher ground upstream.
29. The location, dimensions and depth of any area of fill shall be identified on an as-built plan of the site and provided to the Environmental Consents Manager, Hastings District Council (or nominee), upon completion of the earthworks on the site. The final as-built plan shall confirm the new overland flow paths and confirm that there are no changes to ground levels on neighbouring boundaries.
30. The contractor(s) shall confirm in writing that only 'clean fill' will be imported onsite (i.e. no rubbish, no stumps, no concrete, bricks and no other substance containing: combustible, putrescible, degradable or leachate components, hazardous substances, products or materials derived from hazardous waste treatment, hazardous waste stabilisation or hazardous waste disposal practices, medical and veterinary waste, asbestos or radioactive substances or liquid waste).

The consent holder shall supply this written confirmation to the Environmental Consents Manager, Hastings District Council (or nominee), prior to the placement of any fill material on the site.

Note: imported 'clean fill' will also need to comply with the relevant standards in the NES for Assessing and Managing Contaminants in Soils to Protect Human Health.

Landscape planting and revegetation

31. Prior to construction of the Screen Production Studios access road from Parkhill Road, a detailed Landscape Plan for the berms of the access road (in accordance with the Wayfinder Plans 'Sheet 02' and 'Sheet 03' submitted with the application, in 'Attachment 1', dated 12 November 2021), prepared by a suitably qualified and experienced person, shall be provided to the Environmental Consents Manager, Hastings District Council (or nominee). The landscape plan shall show:
 - a. Planting specifications detailing the specific planting species and achieve a mix of ground cover and specimen trees.

- b. The number of plants and their locations, heights and PB sizes.
 - c. Confirmation that the location of planting within the access road berm is appropriate for the species type and leaves sufficient space for ongoing access road corridor maintenance and will not interfere with the achievement of safe sightline distances along the access road,
 - d. Provision for automated irrigation systems for the landscaping to ensure plantings establish, survive and remain in good health.
32. All planting required under Condition 31 shall be maintained by the consent holder in accordance with the approved Landscape Plan.
- “Maintained” in Condition 32 means – the replacement of any dangerous, dead or dying matter, and the general preservation of the landscaping to a healthy standard for the duration of the activity on the site to the satisfaction of the Environmental Consents Manager, Hastings District Council (or nominee).*
33. The consent holder shall ensure that at the completion of the works, any newly established surfaces and grassed slopes or vegetated areas that were cleared or damaged, as a result of the activity, are revegetated as soon as practicable.
34. Within 12 months of construction of the Screen Production Studios access road being completed, planting along the berms of the access road shall be undertaken in accordance with the Wayfinder Plans submitted with the application (refer to ‘Attachment 1, dated 12 November 2021).

Parking and loading

35. Full engineering designs, as specified in the Hastings District Council Engineering Code of Practice 2020, relating to the proposed on-site parking and loading spaces for the Screen Production Studios, shall be prepared by a suitably qualified Chartered Professional Engineer or other appropriately qualified person. These plans shall be submitted to the Environmental Consents Manager, Hastings District Council (or nominee) for approval prior to construction of the parking and loading spaces.
36. The parking and loading spaces shall be constructed and marked out in accordance with the approved design under Condition 35 above, prior to occupation of the Screen Production Studios buildings.

Studio access road and connection to Parkhill road

37. Full engineering designs for the Screen Production Studios access road and its connection to Parkhill Road shall be prepared by a suitably qualified Chartered Professional Engineer or other appropriately qualified person. These engineering plans shall be submitted to the Transportation Manager, Hastings District Council (or nominee) for approval prior to earthworks and construction commencing. The engineering plans shall provide full details for the Studio access road and its roundabout intersection at the southern end of Parkhill Road which connects the access road to Parkhill Road and the existing vehicle access to Te Awanga Estate Winery.
38. A full topographical survey and geometric design shall be undertaken as part of preparing the full engineering designs under Condition 37, and Conditions 39 and 40, and the final design of

the roundabout intersection shall be subject to a formal Road Safety Audit by an independent and appropriately trained practitioner for Road Safety Audits that adopts the following process:

Designer response	Designer to respond with clear determination of remedial measures to address the issue raised by the Auditors.
Safety Engineer comment	HDC Road Safety Engineer to review and provide feedback on issue, considering the matters raised, and how the designers proposed remedial treatment will address or mitigate the identified road safety issue.
Client decision	The applicant's design team, including project manager and persons with authorisation for approval should respond to the matters presented by the Auditors, designers response and Safety Engineers comments.
Action taken	Identify specific actions to be taken, and to whom they have been assigned. For any significant or serious rated matters raised in the RSA, specific response back to HDC Engineering and Planning Teams should be given to ensure total closure of the matter.

39. At the same time that the full engineering design plans are submitted to Council under Condition 37, the consent holder shall submit to the Environmental Consents Manager, Hastings District Council (or nominee) for approval, details of the method / arrangement to be put in place to ensure emergency service vehicles have unrestricted access to the Screen Production Studios at all times.
40. At the same time that the full engineering design plans are submitted to Council under Condition 37, the consent holder shall submit to the Transportation Manager, Hastings District Council (or nominee) for approval, details of the design for the access road intersection with the existing internal access road on the site used by Outfoxed, the Clifton County Cricket Club etc. ('the Outfoxed access road'), including the road alignment, intersection angles, maximum intervisibility sight lines to be achieved. The design of the intersection shall also include details of the method of operation that will be used to prevent uncontrolled access of traffic from the Outfoxed access road to Parkhill Road over the Screen Production Studios access road.
41. The roundabout intersection for the access road shall be of a sufficient diameter to accommodate NZ standard tracking curves for a semi-trailer, with an absolute minimum radius of 12.5 metres (25 metres diameter) outside tracking sweep path.
42. The full engineering design plans under Condition 37 shall include details of the turn-around areas located at each security point / barrier arm along the Screen Production Studios access Road, to ensure that all reasonably expected vehicle types can undertake a U-Turn movement if required.
43. The access road and roundabout intersection construction work shall not commence until engineering design plan approval has been given under Condition 37.

44. The works for the Screen Production Studios access road and roundabout intersection shall be undertaken in accordance with the final engineering designs approved under Condition 37, to the satisfaction of the Transportation Manager, Hastings District Council (or nominee), throughout the period of works.

Parkhill Road upgrading

45. Full engineering designs for the upgrade of Parkhill Road south of its intersection with Raymond Road shall be prepared by a suitably qualified Chartered Professional Engineer or other appropriately qualified person. These engineering design plans shall be submitted to the Transportation Manager, Hastings District Council (or nominee) for approval prior to earthworks and construction commencing. The engineering plans shall provide full details for the road widening (to accommodate a sealed pavement width of 6.0 metres), longitudinal drainage and traverse drainage features, and residential access sight lines.
46. Prior to submitting the engineering plans for the upgrade of Parkhill Road pursuant to Condition 45, the consent holder shall first consult with the residents of Parkhill Road, adopting the consultation process required by Condition 73 with any comments received on the draft engineering design plans for the upgrade of Parkhill Road and the consent holder's proposed response to those comments to be submitted with the engineering plans as required by Condition 45.
47. The engineering design plans for the upgrade of Parkhill Road must include provision for a crushed limestone walkway to be constructed at the consent holder's cost on the western side of Parkhill Road between the site entrance and Te Awanga Kindergarten with a width of no less than 1 metre. The limestone path must be suitably designed, constructed and formed to provide for both cycling and walking.
48. Where appropriate residential access sight lines on Parkhill Road cannot be achieved as part of the road upgrade, the full engineering designs under Condition 45 shall include details of mitigation measures to achieve a reasonable and appropriate level of road safety for vehicle movements from residential accesses (e.g., warning signs (Access), road markings, active warning signs, etc.).
49. The upgrading works shall be undertaken in accordance with the final engineering designs approved under Condition 45, to the satisfaction of the Transportation Manager, Hastings District Council (or nominee), throughout the period of works.
50. All roading works within the boundaries of the public road shall be undertaken by a contractor who is pre-approved by Hastings District Council to work within the road reserves.

Note: All work within the boundaries of the public road requires a Corridor access request application to be submitted and approved by the Transportation Manager, Hastings District Council (or nominee), prior to commencement of the specific work items.

Contaminated Soils Management

51. Prior to any earthworks /soil disturbance commencing for the upgrading of Parkhill Road (south of the intersection with Raymond Road), the consent holder shall submit to the Environmental Consents Manager, Hastings District Council (or nominee), a Preliminary Site Investigation ("PSI") from an appropriately qualified expert ("SQEP") under the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health Regulations 2011 ("NESC") to confirm if there is landfill or soil within any area of the proposed

works in the vicinity of the property 332 Parkhill Road that is contaminated.

52. If soil contamination is identified in the PSI under Condition 51, the consent holder shall submit to the Environmental Consents Manager, Hastings District Council (or nominee) a Contaminated Site Management Plan / Remediation Action Plan prepared by a SQEP under the NESCS that includes the following:
 - a. Health and safety protocols, including procedures to avoid direct contact with contaminated soil
 - b. Excavation protocols, including procedures to control dust generation during works, ensuring clean water is diverted away from excavations, erosion and sediment controls.
 - c. Unexpected discovery contamination protocols
 - d. Contaminated soil management procedures, including requirements for where and how contaminated material will be disposed of, and options for remediation.
53. The works within the Parkhill Road reserve shall be undertaken in accordance with the Site Management Plan / Remediation Action Plan approved under Condition 51 above, to the satisfaction of the Environmental Consents Manager, Hastings District Council (or nominee), throughout the period of works.
54. Upon completion of remediation, a Site Validation Report ("SVR") shall be prepared by a suitably qualified expert and submitted to Council confirming that the remediated area and the receiving area for the excavation soil respectively comply with the relevant concentration standards contained in the NESCS (subject to amendment and/or revised Ministry for the Environment guidance). The SVR shall be prepared in accordance with the CLMG NO.1: Reporting on Contaminated Sites in New Zealand.

Parkhill Road/Raymond Road and Parkhill Road/East Road intersection improvements

55. Full engineering designs for the upgrade of Parkhill Road and its intersections with Raymond Road and East Road shall be prepared by a suitably qualified chartered professional engineer or other appropriately qualified person, and be consistent with Urban Connection, Parkhill Road and Raymond Road Intersection 04.033-SK002, Rev. A (in respect of the Parkhill/Raymond Road intersection) and Urban Connection, Overall Layout Plan 17-058-14-SK001 Rev. A (in respect of the Parkhill/East Road intersection). These engineering designs shall be submitted to the Transportation Manager, Hastings District Council (or nominee) for approval prior to earthworks and construction commencing.
56. A full topographical survey and geometric design shall be undertaken as part of preparing the full engineering designs for the Parkhill Road/Raymond Road and Parkhill Road/East Road intersections under Condition 55 above and the final design of each intersection shall be subject to a formal Road Safety Audit by an independent and appropriately trained practitioner for road safety audits approved by the Transportation Manager, Hastings District Council (or nominee) that adopts the process in Condition 38 of this consent. The final design plans submitted for approval for each intersection must respond to and address any significant or serious matters raised in the Road Safety Audit including (without limitation) having regard to:
 - The upstand of the apron (to ensure that the design does not increase vehicle speeds through the intersection).

- The superelevation of the intersection (to avoid the potential for vehicle roll over, in combination with apron upstand height).
57. The Parkhill Road/Raymond Road and Parkhill Road/East Road intersections shall be upgraded by the consent holder in accordance with the final engineering designs approved under Condition 55, to the satisfaction of the Transportation Manager, Hastings District Council (or nominee), prior to any construction works for the Screen Production Studio taking place on the site.

Stormwater

58. Full engineering designs for the management of stormwater on the Screen Production Studios site (including attenuation and storage devices, and any low-impact design measures) shall be prepared by a suitably qualified and experienced person, in accordance with the recommendations in the Infir Infrastructure Solutions' *'Parkhill Studios Stormwater Servicing Report J21120-1'*, dated 6 August 2021 ("**Infir report**"). These designs shall be submitted to the Environmental Consents Manager, Hastings District Council (or nominee) for approval construction commencing on the Screen Production Studios site. These engineering designs shall achieve the following:
- a. Runoff to the attenuation pond as outlined in the Infir report.
 - b. Total sealed and hardstand areas not exceeding the values used in the Infir report.
 - c. An attenuation pond of at least 4,500m³, releasing water at the values stated in the Infir report.
 - d. A scour resistant discharge to the mid-catchment reservoir catchment.
 - e. Volume neutrality below the crest of the mid-catchment detention dam.
59. All stormwater management on the Screen Production Studios site shall be completed in accordance with the designs approved under Condition 59 above.

Archaeological discovery

60. The consent holder shall obtain an Archaeological Authority from Heritage New Zealand Pouhere Taonga to modify, damage or destroy archaeological sites prior to any earthworks and construction works commencing on the Screen Production Studios site, including for the access road.

DEVELOPMENT IN PROGRESS CONDITIONS

Public road improvements works to be completed

61. All public roading improvements works shall be completed in accordance with the approved engineering design plans prior to any construction works for the Screen Production Studios development (including the access road and associated roundabout intersection at the southern end of Parkhill Road) commences.

Works within Road Reserve

62. Satisfactory public vehicle and pedestrian access shall be maintained at all times when

undertaking works within the road reserve, unless alternative arrangements are made to the satisfaction of Hastings District Council. All necessary precautions shall also be taken to protect the public from open trenches and all other hazards associated with the construction works.

Construction Noise and Traffic

63. All works shall be carried out to comply with the construction noise standard *NZ6803:1999 Acoustics Construction Noise*. The noise from construction work shall comply with the guideline limits for 'long term' duration works as set out in the Standard.
64. Construction Noise shall be measured and assessed in accordance with *NZS6803:1999 Acoustics – Construction Noise*.
65. Construction traffic shall be restricted to travelling on Parkhill Road to the Screen Production Studios site between the hours of 7.30 am – 6.00 pm Monday to Saturday.

Hours of Operation – Construction Activities

66. Construction activities (including earthworks) on the Screen Production Site, Parkhill Road and at the Parkhill Road/Raymond Road intersection shall only take place between the hours of 7.30 am and 6.00 pm, Monday to Saturday.
67. No construction activities (including earthworks) shall be carried out outside the hours of construction in Condition 66, or on Public Holidays.

Hours of Operation – Construction Traffic

68. The consent holder shall ensure that all vehicles associated with earthworks and construction activities shall only enter the Screen Production Studios site between the hours of 7.30 am and 6.00 pm Monday to Friday, and 8.00 am to 1.00 pm Saturday.
69. No construction traffic shall enter the Screen Production Studios site outside the hours of construction set out in Condition 68, or on Public Holidays.

OPERATIONAL CONDITIONS

Light and glare

70. All exterior lighting on the Screen Production Studios site shall be shaded or directed away from any residential buildings 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.

Hours of Operation

71. The hours of operation for the Screen Production Studio activities authorised by this consent, other than in emergencies, shall be limited to the hours of 6:00am to 6:00pm Monday to Saturday inclusive. No consented activities shall take place outside of these hours or on Public Holidays.

Transportation Management Plan

72. Prior to the commencement of any Screen Production Studio activities on the site, the consent holder shall submit to the Environmental Consents Manager, Hastings District Council (or

nominee), a Transportation Management Plan (“TMP”), for certification that it meets the following objectives:

- To avoid (where possible) and otherwise minimise the interaction of site related (heavy commercial vehicle and staff/contractor) vehicles and other traffic on the adjacent road network during peak hours, including during the drop-off and pick-up times for the Te Awanga Kindergarten and Haumoana Primary School.
- To ensure that noise associated with vehicle movements to and from the site does not exceed a reasonable level, including in early morning hours of any given day (before 7.00 am).

The TMP shall include:

- a. The management steps and other methods that will be taken by the consent holder to avoid or minimise site related heavy commercial vehicles entering the site during site set-up within the following hours:
 - 8:00 am to 9:00 am
 - 2:30 pm to 3:30 pm
 - 4:30 pm to 5:30 pm

(Restricted Hours)
- b. The management steps and other methods that will be taken by the consent holder to minimise site related traffic (other than heavy commercial vehicles during site set up) entering the site within the Restricted Hours.
- c. The management steps and other methods required by a. and b. above must include, at a minimum:
 - Directions to heavy commercial vehicle drivers and companies employing/contracting those drivers to avoid entering the site during the Restricted Hours.
 - Terms and conditions of staff employment contracts and equivalent terms for all (non-employment) contracts with film and other production personnel retained by the consent holder, requesting those staff/contractors to avoid entering the site during the Restricted Hours wherever possible.
 - The timing of calls for specific shoots during the day to maximise production and filming staff and contractors entering the site outside of the Restricted Hours.
- d. The management steps and other methods that will be taken by the consent holder to minimise the number of vehicles entering the site on any given day before 7:00 am including:
 - Promotion and facilitation of ride sharing between staff and contractors, including through web-based technologies as available for the purpose.
 - Provision of mini bus transportation for production and film staff and contractors

from principal places of accommodation.

73. Prior to submitting the draft TMP for certification under Condition 72, the consent holder must initiate consultation with the owners and occupiers of all properties having their principal access to Parkhill Road between the intersection of Parkhill Road and Raymond Road and the site entrance (the Properties) as to the content of the TMP. Specifically, the consent holder must:
- Deliver a copy of the draft TMP to the preferred email or postal address identified by the property owners (having first requested that information as to preferred delivery address from each owner an occupier of the Properties).
 - Invite comments on the draft TMP, to be received within 15 working days of delivering the draft TMP to the owners/occupiers of the Properties.
 - Include those comments with the draft TMP as submitted to the Environmental Consents Manager under Condition 72 along with an explanation of how the comments have been responded to within the draft TMP.
74. The consent holder shall ensure that all Screen Production Studio activities are undertaken in accordance with the certified TMP and shall require as a condition of any contract with a film production company using the Screen Production Studio that that company must also comply with the TMP, to the same extent and in the same manner as if it were the consent holder.
75. The TMP must be updated no less than every two years following commencement of this consent and certified that it meets the objectives stated in Condition 72 following the process as to consultation with neighbouring residents required under Condition 73.
76. The consent holder shall maintain a record / log of every heavy commercial vehicle movement to and from the Screen Production Studios site and make the log available to the Council at its request.

Reverse Sensitivity – Rural Activities

77. Prior to commencement of Screen Production Studio activities on the site, the consent holder shall provide confirmation to the Environmental Consents Manager, Hastings District Council (or nominee), that a legally enforceable undertaking on the following terms has been provided to the owners and occupiers of the Winirana property contained within Records of Title HBP3/1324 and HBP4/57:

No.8 Studios acknowledge that the site of their Parkhill Studios is located in a productive rural area where agricultural management practices such as agrichemical spraying, use of farm machinery, the operation of bird scarers, forestry establishment, tending, 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 neither they, nor any users of Parkhill Studios shall:

- (a) Bring any proceedings for damages, negligence, nuisance, trespass, or interference arising from the lawful use of the Winirana property; or*

(b) Make, lodge, be party to, finance or contribute to 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 property, including without limitation any action to require such rural activities carried out on that land to be modified.

78. The consent holder must require as a condition of any contract with a film production company using the site that that company must comply with this condition in its own right, including as to the provision of the required undertaking, to the same extent and in the same manner as if it were the consent holder.
79. The consent holder shall give notice of any change of ownership or control of the Screen Production Studio facility to the Environmental Consents Manager, Hastings District Council (or nominee) and confirm that any new owner of the facility has provided the undertaking required by Condition 77 in its own name.

Screen Production Studios - Operational Noise

80. Activities on the Screen Production Studios site shall not exceed the following noise limits at any point within the notional boundary of any noise sensitive activity on any other site within a Rural Zone, or at any point within the boundary of any site, in any zone other than an Industrial Zone:

<u>Control Hours</u>	<u>Noise Level</u>
0700 to 1900 hours	55 dB Laeq (15 min)
1900 to 2200 hours	50 dB Laeq (15 min)
2200 to 0700 hours the following day	45 dB Laeq (15 min)
2200 to 0700 hours the following day	75 dB LAFmax

Helicopter Usage

81. All helicopter take-offs and landing shall be undertaken from the helipad shown on the [insert site plan ref].
82. The frequency of helicopter movements* shall not exceed:
- a. 4 aircraft movements on any day
 - b. 12 aircraft movements in any rolling 7-day period
 - c. 24 aircraft movements per month
 - d. 96 movements per calendar year.

**A single aircraft movement comprises one landing or takeoff.*

83. No landing or take-offs shall take place between the hours of 8:00 pm and 07:00 am.
84. The consent holder shall maintain a record / log of every helicopter movement to and from the Screen Production Studios site, and make the log available to the Council at its reasonable request.

Traffic noise monitoring

85. The consent holder shall commission a suitably qualified expert to measure and/or determine the level of noise generated by traffic travelling to and from the site during the first two screen productions completed following the commencement of this consent, and to provide a report to the Environmental Consents Manager, Hastings District Council (or nominee) within two months of that date, addressing the following matters:
- Noise levels generated by site related traffic as measured or determined at Te Awanga Kindergarten and the notional boundary of the following properties including for the period between 10.00 pm to 7.00 am on day(s) during which consented activities are taking place on the site:
 - 227 Parkhill Road
 - 23 Home Road
 - 9 Tirohanga Road
 - 11 Tirohanga Road
 - 272 Parkhill Road
 - 299 Parkhill Road
 - 307 Parkhill Road
 - 353 Parkhill Road
 - 373 Parkhill Road
 - An assessment of the ambient/background noise levels at these receiver locations.
86. The method by which ambient noise and noise from traffic travelling to and from the site is to be measured or determined shall be submitted to the Environmental Consents Manager, Hastings District Council (or nominee) prior to any noise measurements or assessments taking place pursuant to this condition.

Review condition

87. The conditions of this consent may be reviewed by the Council pursuant to s 128, s 129, s 130, s 131 and s 132 of the Act at the following times:
- one year following the commencement of this consent;

- within six months of receiving the results of the traffic noise monitoring required by Condition 85;
- every 5 years following the commencement of this consent,

for any of the following purposes:

- a. To deal with any adverse noise effect arising from the exercise of the consent associated with traffic generated by the activities approved under this consent including in response to the traffic noise monitoring report required by condition 85; and
- b. To require modifications or improvements to the roading network to provide for the continued safe and efficient operation of traffic to and from the site including at the intersections Parkhill Road/Raymond Road, Parkhill Road/East Road, and over the section of Parkhill Road between Raymond Road and the site.

ADVICE NOTES:

1. To avoid doubt, except as otherwise allowed by this resource consent, all land uses must comply with all remaining standards and terms of the relevant Hastings District Plan. The proposal must also comply with the Building Act 2004, Hastings District Council Engineering Code of Practice, and Hawke's Bay Regional Plans. All necessary consents and permits shall be obtained prior to development.
2. A building consent for the Screen Production Studios will be required from Hastings District Council.
3. No archaeological sites, waahi tapu, taonga or koiwi may be damaged, destroyed or modified unless the necessary authorities pursuant to the New Zealand Pouhere Taonga Act 2014 has been obtained first.
4. In the event of non-compliance being detected by monitoring or justified compliant 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 the Council's advertised schedule of fess.
5. Under section 125 of the Resource Management Act 1991 a resource consent will lapse if not given effect to within 5 years of the date the consent was granted, unless an extension is authorised under section 125(1A)(b).
6. Should the consent holder decide to seek an exemption for the use of highly productive land under clause 3.10 of the NPS-HPL, a further application for resource consent and/or application to change or vary the conditions of this resource consent (pursuant to s 127 of the RMA) will be required.