

Before an Independent Hearing Commissioner at Hurunui District Council

*under:* the Resource Management Act 1991

*in the matter of:* application RC210098 for land use consent to install  
and operate a Gravity-Based Recreation Activity within  
the Conical Hill Reserve, Hanmer Springs

*between:* **Hanmer Springs Thermal Pools & Spa**  
*Applicant*

*and:* **Hurunui District Council**  
*Consent Authority*

Statement of Evidence of Jane Whyte

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Dated: 23 September 2021

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## **STATEMENT OF EVIDENCE OF JANE WHYTE**

### **INTRODUCTION**

- 1 My full name is Margaret Jane Whyte.
- 2 I hold the degrees of Bachelor of Arts and Master of Regional and Resource Planning from Otago University. I am a full member of the New Zealand Planning Institute.
- 3 I am a Director of ResponsePlanning Consultants Limited. I have over 29 years planning and resource management experience.
- 4 A core area of my experience is the preparation and evaluation of assessments of effects and resource consent applications.
- 5 I have appeared as a witness at Council hearings and before the Environment Court on numerous occasions, relating to both resource consent and district and regional plan matters. I am also a certified hearings commissioner.
- 6 I am familiar with the proposal to operate a Gravity-Based Recreation Activity within the Conical Hill Reserve, Hanmer Springs to which this matter relates. I assisted in the preparation of the resource consent application and undertook the statutory assessment that was included in the application. I am familiar with the site and the surrounding environment.

### **CODE OF CONDUCT**

- 7 Although these proceedings are not before the Environment Court, I have read the Environment Court's Code of Conduct for Expert Witnesses in its Environment Court Practice Note 2014 and I agree to comply with it as if these proceedings were before the Court. My qualifications as an expert are set out above. I confirm that the issues addressed in this brief of evidence are within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

### **SCOPE OF EVIDENCE**

- 8 My evidence will deal with the following:
  - 8.1 Proposal, Site and Surrounding Environment;
  - 8.2 Relevant legislative and planning framework;
  - 8.3 Consideration of the application against the matters in sections 104 of the RMA, including conditions of consent; and

#### 8.4 Part 2 Matters.

##### **SUMMARY OF EVIDENCE**

- 9 The proposal is a recreation activity on a site that is specifically identified in statutory documents as a location suitable for recreation activities, being an Open Space Zone under the Hurunui District Plan and a Recreation Reserve under the Reserve Act.
- 10 The permitted baseline is appropriate to apply in this situation. What this means is that the activity being a recreation activity is fundamentally an appropriate activity on the site. The key matters to consider therefore are whether the effects of the proposal can be avoided, remedied or mitigated. Providing the effects are appropriately managed then the direction given in the statutory documents, including the objectives and policies of the District Plan, are supportive of the activity.
- 11 The evidence addressing landscape, amenity values, traffic and carparking, noise, recreation values and ecology show that any adverse effects are able to be effectively managed and with the imposition of conditions of consent will be no more than minor. In addition, there are a number of positive effects that will result from the proposal. These are: an additional recreation offering, enhanced native revegetation, and enhanced management of lizards. On this basis I conclude that the proposal achieves the relevant objectives and policies of the District Plan. When considering other relevant matters, including the Reserve Management Plan, the proposal is appropriate. I have identified no statutory planning basis meaning that consent should not be granted.
- 12 Conditions of consent, including monitoring and review conditions, can be imposed on the consent and will ensure that any effects of the proposal occur as anticipated. The monitoring and review conditions will enable any effects that arise from the proposal that are different to those anticipated to be addressed, if they arise. Conditions of consent addressing the matters raised in the section 42A report and in the evidence of the applicant are attached to my evidence as Appendix 1.
- 13 There is a high level of consistency between Ms Bewley in our consideration of the relevant statutory matter and effects of the proposal on the environment. The key area of difference is that I have reached a definitive view on the two matters of uncertainty expressed by Ms Bewley. These are the effects of noise on horses, and effects of the proposal in relation to kārearea/falcon. I consider that any adverse effects are adequately avoided, remedied or mitigated and that objectives and policies relevant to these matters are met.

### **PROPOSAL, SITE AND SURROUNDING ENVIRONMENT**

- 14 The proposal, site and surrounding environment have been described in the application, the evidence of Mr Abbot, Mr Milne, Mr Greenaway, Mr De Verteuil and Dr Trevathan and in the Section 42A report. I rely on these descriptions, evaluations and evidence.
- 15 I now turn to highlight key matters relating to the proposal, the site and the surrounding environment of most relevance to my evidence.
- 16 The site is zoned Open Space in the Hurunui District Plan. This zone provides areas of open space and is intended to meet recreational requirements within the Hurunui District.
- 17 The site is located within part of the Conical Hill Reserve at the northern end of Hanmer Springs. The reserve is a Recreation Reserve under the Reserves Act. There is an operative Reserve Management Plan for the Reserve.
- 18 The Conical Hill Reserve is located on the northern edge of the Hanmer Springs Village. It adjoins residential areas. The reserve itself is located within a wider area of land with forestry as well as other recreational activities including walking, mountain biking and horse riding activities. Both the site and the surrounding area has been subject to disturbance and activities over time, including the removal of trees and formation of tracks. Neither the site nor the surrounding environment is a pristine unmodified environment.
- 19 The activity proposed is a recreation activity. This recreation activity is proposed to be located on a site specifically identified as a location suitable for recreational activities. This is both under the Reserves Act through the classification of Recreation Reserve and the Resource Management Act through the District Plan zoning of Open Space.
- 20 Two submissions have suggested that the application is incomplete as it did not address the residential zoning relating to access at 34 Acheron Heights. The residential zoning was not assessed as the proposed activity is not occurring on residential land. The proposal is making no changes to existing access arrangements on land zoned residential.

### **RELEVANT LEGISLATIVE AND PLANNING FRAMEWORK**

- 21 Ms Bewley and I are in agreement that the proposal is to be considered as a discretionary activity. I address the relevant provisions of the Hurunui District Plan later in my evidence.
- 22 As a discretionary activity the proposal is to be considered under Section 104B of the Resource Management Act. Under Section 104B

a consent authority may grant or refuse the application and if it grants the application may impose conditions under section 108.

- 23 When considering an application for resource consent and any submissions received the consent authority must, subject to Part 2, have regard to:<sup>1</sup>
- (a) *Any actual and potential effects on the environment of allowing the activity; and*
  - (ab) *any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity; and*
  - (b) *Any relevant provisions of –*
    - (i) *a national policy statement;*
    - (ii) *a New Zealand coastal policy statement;*
    - (iii) *a regional or proposed regional policy statement;*
    - (iv) *a plan or proposed plan; and*
  - (c) *Any other matter considered relevant and reasonably necessary to determine the application.*
- 24 The key matters to consider in relation to this application and the submissions are:
- 24.1 any relevant provisions of the Hurunui District Plan and
  - 24.2 the actual and potential effects on the environment of allowing the activity; and
  - 24.3 the relevant Reserve Management Plan as an other matter under Section 104(c).
- 25 I have considered the Canterbury Regional Policy Statement (CRPS). I have not identified any deficiencies or uncertainties in the District Plan that mean the provisions of the CRPS cannot be considered to have already been given effect to in the District Plan. On this basis I have not addressed the Canterbury Regional Policy Statement further in my evidence.
- 26 I have also considered whether there are any provisions in any National Policy Statement that require particular consideration be given to these higher order documents as matters have not been given effect to through the Hurunui District Plan. This is potentially the situation for the National Policy Statement-Urban Development and the National Policy Statement Freshwater Management both of

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<sup>1</sup> Resource Management Act 1991, section 104.

which post-date the Hurunui District Plan becoming operative. I have identified no matters of relevance to this proposal and therefore have not addressed any National Policy Statements further.

- 27 Ms Bewley has identified the existence of a draft National Policy Statement for Indigenous Biodiversity. This is a draft document and currently has no statutory basis. I agree with Ms Bewley that it is not a matter relevant to this proposal and I have not considered it further.
- 28 I agree with Ms Bewley that none of the current National Environmental Standards apply to this proposal. I have therefore not addressed these further.
- 29 I recognise that there are a number of other documents that are relevant to the site. These include the Conical Hill Reserve Forest Management Programme 2012-2022, The Conical Hill Landscape Concept Plan, the Conical Hill Revegetation Plan and the Hurunui District Council Tree Management Policy. These matters, to the extent relevant, were addressed in the application and are addressed in evidence for the applicant for any relevant matters arising since the application was lodged. These matters were also addressed in the Section 42A report by Ms Bewley. I agree with the evaluation undertaken in the application, the evidence and by Ms Bewley and do not address these matters further in my evidence.
- 30 Some submitters have suggested that the proposal should be sited in an alternative location. Mr Abbot has described how in response to initial community feedback the proposed location was changed to its present location. Clause 6 of the First Schedule of the Resource Management Act requires that if it is likely that the activity will result in any significant adverse effect on the environment a description of any possible alternative locations or methods for undertaking the activity be provided. This is not a proposal where any significant adverse effects on the environment are identified and therefore there is no requirement to describe possible alternative locations or methods. I have not considered alternatives further.
- 31 Some submitters have also raised potential precedent effect as an issue for this resource consent, particularly in relation to not providing on-site carparking. While precedent effect is a legal matter, as a planner I understand that it can be another matter considered under Section 104(c). In this situation, resource consent, including not providing on-site or any carparking, is a discretionary activity. The District Plan identifies that there are circumstances where such an activity must be contemplated: otherwise, a different activity status, such as a non-complying or prohibited, could have been applied. I consider that the matter of

not providing carparking is a matter that should be considered on its merits, rather than as a precedent.

32 For completeness, my evidence also addresses the relevant matters in Part 2 of the Resource Management Act.

33 I now address the three matters of particular relevance I identified in paragraph 23.

### **RELEVANT PROVISIONS OF THE HURUNUI DISTRICT PLAN**

34 The site is zoned Open Space in the Hurunui District Plan. This is the zone within the District Plan that specifically provides for areas of open space and areas to meet recreational requirements within the District.

35 The relevant rules are set out in the application and the Section 42A report and I do not repeat them here. I agree with Ms Bewley that the activity is to be considered as a discretionary activity.

36 The other provisions to consider are the objectives and policies and assessment matters. The objectives and policies were addressed in the resource consent application and are further addressed in the Section 42A report of Ms Bewley. I have addressed relevant matters pertaining to the objectives and policies in my evidence. The assessment matters also informed the evaluations undertaken within the application and have been further considered by Ms Bewley in the Section 42A report. I have not identified anything in the assessment matters that require further consideration in my evidence.

37 I do not seek to repeat any of these previous assessments which are available to the Commissioner. I address matters of particular relevance to the proposal and matters that have arisen subsequent to the application being lodged, including the submissions.

### **Hurunui District Plan Objectives and Policies**

38 The objectives and policies of the District Plan, particularly those addressing amenity values, are written in such a way that if it is determined the effects of the activity proposed within the zone are managed effectively then there will be no conflict or tension with the objectives and policies in the Hurunui District Plan.

### ***Settlements***

39 The objectives and policies relating to settlements are relevant. Of particular relevance are the open space policies, those relating to the qualities of the Hanmer Basin and those addressing amenity values.

- 40 Objective 4 is the objective that sets the outcome for settlements. It seeks adaptive, vibrant and healthy settlements that meet the economic, social and cultural needs of the District and North Canterbury; while retaining their own character, environmental quality and sense of community. The proposal achieves this objective. The proposal fits within the character of Hanmer Springs and seeks to contribute to an adaptive, vibrant and healthy settlement. It does so in a way that retains the environmental qualities of Hanmer Springs.
- 41 When looking at the general policies applying to settlement areas maintaining environmental qualities, character and amenity values are key themes. This is evident in Policies 4.4 and 4.6. The amenity values and environmental qualities to be maintained are those appropriate to the zone. Policy 4.6 is specific in that it seeks to control site-specific environmental effects, such as noise emissions, light spill and traffic generation, to levels appropriate to the zone. Policy 4.3 recognises interrelationships by acknowledging that in the district, specific zones cannot be completely discrete in what they contain and the policy identifies how potentially conflicting activities are to be managed.
- 42 A number of submissions have raised concerns regarding noise, traffic generation and lack of carparking provision and the potential effects of the proposal on the character, environmental qualities and amenity values within the site, the wider reserve and adjacent residential areas. Some have also identified that the objectives and policies of the District Plan are not met. I consider there is a clear correlation between managing the adverse effects of activities (particularly effects on environmental qualities, character and amenity values) and achieving the objectives and policies. The effects assessment included in the application and the evidence I rely upon identifies that the proposal can be established and will be operated in a manner that does manage adverse effects. I consider that the proposal and the effects that will occur are consistent with the objective and relevant policies.
- 43 The key policies relating to the Open Space Zones are Policy 4.19 and 4.20. The policy approach to Open Space Zones is to provide for greenways and open spaces throughout settlements and to provide for open space zones to meet recreational requirements within settlements. The importance of open space meeting recreational requirements which maintain and enhance amenity values and provide connectivity and public access are also recognised in Policy 4.20. Mr Greenaway in his evidence has addressed key matters relevant to the proposal from a recreational perspective. I have identified no tension with the proposal and the Open Space policies.



- 44 Ms Bewley in her Section 42A report expressed reservations relating to the consistency of the proposal with Policy 4.3 in regard to maintaining amenity values, Policy 4.6 in regard to controlling noise emissions, and Policy 4.20 in regard to amenity values relating to recreational requirements. She considered further information was required to enable an assessment of the noise effects of the proposal on horses. The evidence provided by Dr Trevathan and Mr Greenaway addresses potential effects of the activity in relation to horses in the vicinity. I am satisfied that the matters relating to noise and amenity values are addressed meaning that the proposal is consistent with these policies.

***Hanmer Springs***

- 45 The suite of provisions addressing Hanmer Springs are relevant. This is objective 4.1 and policies 4.21, 4.22, 4.23 and 4.24. Some submitters have raised concerns that the proposal in its location is not consistent with the character and values of the site and the wider area. In particular, concerns are raised with the design of some structures and the proposal not achieving outcomes sought by the design standards.
- 46 Key matters relating to the character of the activities, the site and the wider area have been addressed in the application and in the evidence of Mr Milne. When addressing the actual or potential effects of the proposal consideration has been given to the character of the area and the design and location of the buildings and the location and colour of structures has been cognisant of the character to be maintained. The design standards have also been considered. This is addressed in the evidence of Mr Milne who addresses the materials that the poles and toilet building are constructed from, and the roof slope of the toilet building being less than 20 degrees and concludes that the buildings and structures are suitable and appropriate for the site. Mr Milne has identified mitigation in the form of the colour of the poles and the landscaping proposed for the site, particularly around the buildings.
- 47 The proposal has been designed in a manner that will maintain and, through the revegetation proposed, enhance the amenity values and alpine character of the township. I consider that the proposal is consistent with the objective and policies identified.

***Natural Hazards***

- 48 The site is located in a Slope Hazard 4 Moderate-High Risk area; therefore the objectives and policies relating to natural hazards are relevant. Natural hazard concerns are raised in some of the submissions. Ms Bewley has described the natural hazard matters addressed in the submissions. These include landslips, subsidence, erosion and wind, fire and earthquakes.

- 49 I agree with Ms Bewley that there are no specific objectives and policies in the District Plan that address Slope Hazard Areas. Therefore, it is general Objective 15 and Policy 15.1 that are relevant. This objective and policy are applicable to all natural hazards.
- 50 Objective 15 enables use and development of land while avoiding or mitigating the adverse effects of natural hazards. Policy 15.1 is a strongly worded policy which is to avoid use and development of land in areas subject to natural hazards if the risk from the natural hazard is unacceptable, having taken into account the likelihood of the natural hazard event and the potential consequences for people, property, infrastructure and the environment, including the level of uncertainty about the likelihood or consequences. When considering the slope hazard the geotechnical information provided in support of the application from ENGEO Limited has not identified geotechnical matters, including from the removal of trees from the site, that create an unacceptable risk. This being the case the circumstances requiring avoidance in Policy 15.1 are not relevant to this proposal. Objective 15 is enabling and does not create any impediment to this proposal.
- 51 Fire risk is a matter that has been addressed in the submission of Fire Emergency New Zealand (FENZ) and Ms Bewley has addressed this in her Section 42A report. The matter of fire risk as a natural hazard is one of management, rather than avoidance. The management of this can be addressed through the development of an Operations Procedure for the site. This is proposed to be reinforced as a condition of consent in Condition 11. This condition of consent ensures that the natural hazard relating to fire is managed in a manner consistent with Objective 15.
- 52 Ms Bewley has addressed hazards associated with earthquakes and wind. I concur with her evaluation and have nothing further to add.
- 53 I have identified no tension between the proposal and natural hazard provisions. I consider the proposal is consistent with the relevant natural hazard objectives and policies.
- Biodiversity***
- 54 Ms Bewley has identified the relevant biodiversity objectives in Chapter 13 of the Hurunui District Plan. I agree that the provisions she has identified, being Objective 13, Policy 13.1, Policy 13.2, Policy 13.3 and Policy 13.4 are relevant. There are no rules relating to biodiversity matters that this proposal breaches. I have also not identified any rules in the District Plan that actively protect any indigenous species present on this site. The relevance of this is that there are no rules that provide for the active biodiversity management and protection of biodiversity values on this site within the Hurunui District Plan. There are a number of activities that

could occur within the Open Space Zone, including earthworks and the erection of structures, as permitted activities that would not trigger any consideration of the Chapter 13 objectives and policies.

- 55 The key biodiversity matters for the site are related to indigenous species being present on the site or within the wider area and the effect that construction and operation of the activity could have on these species and their habitat. A number of submissions have raised indigenous biodiversity as matter of concern with the proposal, with a focus on lizards and birds, including the kārearea/falcon.
- 56 The focus of the objectives and policies are to provide for the protection of ecosystem values, ecosystem functioning and areas of significant indigenous biodiversity. This is to be done through identification and by avoiding, remedying or mitigating adverse effects using appropriate mechanisms including where identified through a resource consent process. Of particular note in the policies is a focus on encouraging landowners to take opportunities and consider site specific management factors to promote the restoration and enhancement of indigenous vegetation and habitats.
- 57 As identified in the application there is site specific work being done in relation to lizards that are present on the proposal site. This has involved the development of a lizard management plan that will provide enhanced management and provide greater protection for these species than currently exists on the site.
- 58 The applicant will require a wildlife permit from the Department of Conservation in relation to Lizards. The applicant is well underway in the process of obtaining a Wildlife Permit from the Department of Conservation and a Lizard Management Plan has been prepared by Dr Mandy Tocher. This will ensure that the proposal will provide for the protection of significance indigenous biodiversity, which is not currently occurring on the site, including undertaking pest management activities. This will provide for protection of indigenous biodiversity.
- 59 As expressed by Mr Abbot the applicant accepts that if a wildlife permit from the Department of Conservation is not forthcoming then the proposal cannot go ahead. This relationship is addressed in Condition 10 in Appendix 1. I have recommended a change to the wording in Condition 10 to reflect that a wildlife permit will be required.
- 60 Ms Bewley in her Section 42A report considered that in relation to lizards that the proposal is consistent with the relevant objectives and policies relating to biodiversity and I concur with her view.

61 Ms Bewley retained some reservation regarding the effects of the proposal in relation to the kārearea/falcon, which was a matter raised by submitters. The potential presence of kārearea/falcon was addressed as part of the lizard management plan forming part of the wildlife permit application. Dr Tocher has addressed kārearea/falcon in her evidence and states that with the adherence of forestry protocols and with adaptive management being applied to any potential collisions the proposal will not impact significantly on the local kārearea/falcon population. I have included potential conditions of consent addressing these matters as Conditions 10a and 10b in Appendix 1. Based on the evidence of Dr Tocher I am satisfied that the proposal is consistent with the objectives and policies relating to biodiversity.

***Transport***

62 Finally, I consider the relevant transport objectives and policies. These are Objective 8.1, Policy 8.1 and Policy 8.5 and were addressed in the application and have also been addressed by Ms Bewley. A number of submissions raised concerns regarding traffic and car-parking and in particular that the proposal does not provide on-site parking.

63 These matters have been addressed by Mr De Verteuil who considers that the proposal addresses traffic and carparking matters appropriately. Key matters are reinforced through conditions of consent.

64 I have given particular consideration to Policy 8.5 which is “To require on-site parking, loading, manoeuvring and access to provide for the needs of each activity while maintaining the safety and efficiency of the road network” in the context of this proposal not providing on-site carparking. In my view not providing on-site carparking<sup>2</sup> is not sufficient for a proposal to be inconsistent with this policy.

65 Importantly to the consideration of this policy is what are the needs of each activity and how can they be provided for while maintaining the safety and efficiency of the road network. Mr De Verteuil has not identified any road safety or efficiency concerns with the proposal.

66 The site of the proposed activity is not accessible by vehicles and wheeled vehicles are not permitted by the Reserve Management Plan. The only way to access the start and stop station and any part of the ride is on foot, as a pedestrian. This is consistent with the current use of the reserve which is also not accessible by vehicles. The pedestrian focussed access to the reserve and the proposed

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<sup>2</sup> I am familiar with other proposals in the Hurunui District that have not provided on-site carparking and have not been considered inconsistent with this policy.

activity show that it is not necessary for on-site vehicle access, manoeuvring or parking to be provided to the activity. Therefore, in the context of Policy 8.5 there is not a need for on-site vehicle access, carparking and manoeuvring areas for this activity.

- 67 In my view, consideration of the need for provision of vehicle access or on-site or off-site carparking is a matter of merit requiring considering the effects of the proposal rather than being one where there is tension or inconsistency created with the policy. When addressing the effects of the proposal Mr De Verteuil has concluded that the effects of the activity can be appropriately managed without providing vehicle access to the site and carparking.
- 68 In terms of promoting safety, Ms Bewley has identified the desire to provide improved pedestrian access to the site by installing a pedestrian crossing on Conical Hill Road, realigning the footpath at the corner of Conical Hill Road and Oregon Heights and through preparing a wayfinding plan. Mr De Verteuil supports the provision of the wayfinding plan, but does not support installing a pedestrian crossing on Conical Hill Road and realigning the footpath at the corner of Conical Hill Road being conditions of consent.
- 69 With or without the imposition of the conditions that De Verteuil does not support I consider the relevant objective and policies are achieved.

***Overall Consideration***

- 70 I consider that the proposal does achieve and is consistent with the relevant objectives and policies of the Hurunui District Plan.

**ACTUAL AND POTENTIAL EFFECTS ON THE ENVIRONMENT**

- 71 I agree with Ms Bewley regarding the key effects that are to be considered in relation to the proposal. When considering any effects on the environment it is appropriate to consider both the existing environment and the permitted baseline.
- 72 With respect to the existing environment it is necessary to recognise that both the site and the surrounding environment have been subject to a range of activities and modification. This includes tree removal (on the site), forestry harvesting and replanting activities (in the surrounding area). The existing environment also includes heavy vehicle movements and recreational activities such as walking (on the site and the surrounding area), mountain biking (in the surrounding area) and horse riding (in surrounding area)
- 73 I consider it is appropriate to apply the permitted baseline when considering this resource consent. This is of particular relevance to the activity proposed which is a recreation activity. As one would reasonably expect, recreation activities are provided for as

permitted activities within the Open Space Zone, subject to meeting permitted activity standards. While this proposal does not meet all of the permitted activity standards, it is not fanciful to consider that another recreation proposal, including a commercial recreation proposal, could establish as of right. This is important when considering the outcomes that the District Plan anticipates for land within the Open Space Zone. In my view the District Plan does provide opportunities for new recreational activities as permitted activities within the zone. The District Plan through the rules, objectives and policies does not advance an approach that there should be no change to the existing environment.

- 74 The specific effects, both positive and adverse, have been considered in the evidence I have relied upon. I do not seek to repeat these individual assessments. However, in my evidence I consider any relationships between individual assessments, and reference where objective and policy direction influence how effects are to be considered. I also address the conditions recommended to be imposed on any consent. I have attached proposed conditions in Appendix 1 of this evidence. These conditions are those identified in Ms Bewley's Section 42A report with modification to address additional matters arising in the evidence of the applicant.

**Landscape and Visual Amenity Effects**

- 75 Landscape and visual amenity effects were addressed within the application. Subsequent to this, Mr Milne's evidence has addressed matters arising in relation to the Section 42A report and submissions.
- 76 Having considered the relevant matters, Mr Milne concludes that the adverse effects of the activity from a landscape and visual amenity perspective are able to be effectively mitigated.
- 77 In particular, he notes that when addressing landscape and visual amenity the proposal has sought to mitigate adverse effects through the design of the buildings and structures and the selection of their locations.
- 78 The design standards and the outcomes they seek have been considered in developing the proposal. The start and stop stations are designed and will be of a colour that meets the design standards for the area. In addition, Mr Milne has recognised that the pole structures will be painted a recessive colour. With respect to the proposed toilet, he acknowledges that while the building material being fibreglass is not a building material recognised in the design standard and the roof pitch of the proposed toilet is less than 25%. Mr Milne considers that the material and roof pitch are a function of the design of the pre-fabricated toilet building and the necessity for ease of maintenance of these types of buildings.

- 79 The toilet is not a critical component of the activity; however, it is a functional space that will provide a useful facility not only for those using the proposed recreational activity, but also the recreation reserve in general. The site for the toilet building has been carefully selected to reduce its visual impact. There is also specific landscaping of the building proposed to ensure its setting is in keeping with the surrounding environment. Therefore, while the proposed toilet material and roof pitch does not achieve the design standards, the effects of this are appropriate due to its scale, siting and the landscaping proposed as mitigation.
- 80 Proposed Conditions 1, 3, 12, 13, 14, 15 and 16 specifically address matters relevant to visual effects and landscape. In Appendix 1 I have included the change to Condition 16 recommended by Mr Milne.
- 81 Having considered information provided in the application, the evidence of Mr Milne, and the conditions of consent I am of the view that any adverse effects of the proposal on landscape and amenity values are properly addressed and are mitigated.
- 82 My conclusion as to the appropriateness of any adverse effects on landscape values concurs with Ms Bewley.

#### **Noise Effects**

- 83 Noise effects were addressed within the application. Subsequent to this, Dr Trevathan's evidence has addressed matters arising in relation to the Section 42A report and submissions addressing noise.
- 84 Having considered the relevant matters, Dr Trevathan concludes that the adverse effects of the activity from a noise perspective are able to be mitigated. This concurs with the conclusion of the Council advice considered as part of the Section 42A report.
- 85 The District Plan contains noise standards which both Dr Trevathan and Mr Walton acknowledge will not adequately capture the potential noise effects of the proposed activity. Potential vocalisations are identified as the dominant noise source.
- 86 The proposal addresses potential noise effects through the location and design of the pole structures, and providing the ability that the speed of the ride can be slowed towards the stop station. This mitigates potential adverse effects. Dr Trevathan and Mr Walton have also identified that the noise predictions are conservative.
- 87 In relation to conditions of consent, Dr Trevathan has not recommended any specific conditions of consent relating to operational noise be imposed on the consent. Condition 17(i) which is the proposed review condition specifically includes the ability to review the conditions of consent to address any noise effect that

may arise from the exercise of the consent. Condition 9 provides for the management of construction noise.

- 88 Having considered information provided in the application, the evidence of Dr Trevathan, and the report of Mr Walton (including their consideration of the relevant submissions and conditions of consent) I am of the view that any adverse effects of the proposal are adequately addressed and relevant matters are reinforced in the proposed conditions of consent.
- 89 My conclusion as to the appropriateness of any adverse effects of noise concurs with Ms Bewley, other than in relation to the effects of noise on horses.
- 90 Ms Bewley at the time of writing her Section 42A report had some reservations with respect to effects associated with noise from the recreational activity on horse-riding in the area. This matter has been addressed in the evidence of Dr Trevathan, Mr Greenaway and I understand advice has been sought from a rural vet. In light of this I do not share the reservations of Ms Bewley as to potential noise effects on horses as a recreational activity in the area. I do not consider there is a need for any conditions to be imposed relating to this matter.

#### **Traffic and Parking Effects**

- 91 Traffic and parking effects were addressed within the application. Subsequent to this Mr De Verteuil in his evidence has addressed any matters arising in relation to the Section 42A report and submissions addressing matters related to traffic and parking. As identified in the evidence of Mr Greenaway, I observe that wheeled vehicles are specifically excluded from the reserve through the Reserve Management Plan. It is therefore appropriate that the proposal does not provide any on-site vehicle access or carparking consistent with the reserve management plan.
- 92 Mr De Verteuil having considered the relevant matters concludes that the adverse effects of the activity from a traffic and car-parking perspective are able to be mitigated. This concurs with the conclusion of the Council advice considered as part of the Section 42A report.
- 93 In addressing traffic and parking effects, given the activity is only able to be accessed by pedestrians, necessary focus is directed to ensuring safe and efficient pedestrian access to and from the site.
- 94 In relation to conditions of consent, Mr De Verteuil is supportive of three of the five matters addressed by Mr Smith. Ms Bewley has reformed these matters as conditions of consent improving their



clarity and enforceability.<sup>3</sup> Mr De Verteuil's evidence is supportive of the matters addressed in Ms Bewley's conditions 4, 5 and 8. Mr De Verteuil considers that condition 7 is a matter already programmed by the Council and as such is not a matter the applicant needs to address. He also considers conditions 6 is not necessary to address effects of the proposal. Appendix 1 reflects the evidence of Mr De Verteuil.

- 95 No on-site or off-site carparking is proposed. Monitoring of on-street carparking is proposed to ensure that the effects that occur are as predicted. Conditions 4 and 5 provide for the necessary monitoring to occur. These were outlined in Ms Bewley's report. In addition to these two conditions I have recommended an additional condition be imposed requiring the monitoring information collected be provided to the consent authority. This is Condition 5a in Appendix 1.
- 96 Having considered information provided in the application, the evidence of Mr De Verteuil, the report of Mr Smith included in the Section 42A report, which includes consideration of the relevant submissions; and the conditions of consent I am of the view that any adverse effects of the proposal are adequately addressed and relevant matters are reinforced in the proposed conditions of consent.
- 97 My conclusion as to the appropriateness of any adverse effects of traffic concurs with Ms Bewley.

### **AMENITY VALUES AND CHARACTER**

- 98 Matters relevant to amenity values and character cover a range of matters including visual amenity, character, noise, traffic, character and recreation values. These matters were addressed in the application.
- 99 Subsequent to this, the evidence of Mr Milne, Dr Trevathan, Mr De Verteuil and Mr Greenaway addresses matters that are relevant to amenity values and character. In particular, Mr Milne has addressed considerations relevant to matters of peace tranquillity and natural amenity.
- 100 Specific matters relevant to each discipline have been addressed in evidence. My focus here is on addressing any integration matters arising between the disciplines that affect amenity values and character.

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<sup>3</sup> The correlation of the conditions referred to by Mr Smith and Ms Bewley respectively are a is 6; b is 5; c is 6; d is 7 and e is 8.

- 101 Conditions of consent are proposed to address matters relevant to amenity values and character. These include Condition 3 limiting hours of operation, Condition 8 addressing a wayfinding plan, Condition 9 addressing noise, Conditions 12-16 addressing tree removal and landscaping and Condition 1 and 2 requiring that the activity be undertaken in accordance with the plans and information provided.
- 102 Having considered information provided in the application, the evidence of Mr Milne, Dr Trevathan, Mr De Verteuil, and Mr Greenaway, which includes their consideration of the relevant submissions; and the conditions of consent I am of the view that any adverse effects of the proposal are adequately addressed and relevant matters are reinforced in the proposed conditions of consent.
- 103 My conclusion as to the appropriateness of any effects relating to amenity values and character generally concurs with Ms Bewley. The area of difference with Ms Bewley related to amenity values is in relation to potential noise and its effects on horses. I have previously addressed this matter under the heading noise.

#### **RECREATION EFFECTS**

- 104 Recreation effects were addressed within the application. Subsequent to this Mr Greenaway in his evidence has addressed any matters arising in relation to the Section 42A report and submissions addressing matters related to recreation.
- 105 Mr Greenaway having considered the relevant matters concludes that any actual or potential adverse effects of the activity from a recreation perspective are effectively managed. He also notes that the proposed activity will provide an additional recreational opportunity.
- 106 Having considered the information provided in the application, and the evidence of Mr Greenaway (including his consideration of matters raised in submissions) I have not identified any particular matters relating to recreation that need to be addressed in conditions of consent. I am of the view that any potential adverse effects of the proposal are adequately addressed. The proposal will also have positive effects through providing an additional recreational opportunity.
- 107 My conclusion as to the appropriateness of any recreation effects generally concurs with Ms Bewley. However, I note that Ms Bewley at the time of writing her Section 42A report had some reservations with respect to effects associated with noise from the recreational activity on horse-riding in the area. I have previously addressed this matter under the heading noise.

**NATURAL HAZARDS EFFECTS**

- 108 The site of the activity is within a Slope Hazard 4 Moderate-High Risk.
- 109 Geotechnical information was provided in the application. When considering the slope hazard, including whether removal of trees could create an unacceptable risk, the geotechnical information provided in support of the application from ENGEO Limited did not identify any matters of risk relating to geotechnical considerations.
- 110 Natural hazards is a matter raised in some of the submissions. As described by Ms Bewley in the Section 42A report, concerns relate to landslips, subsidence, erosion and stormwater, earthquake, wind and fire.
- 111 Fire risk is a matter that has been addressed in the submission of Fire Emergency New Zealand (FENZ) and Ms Bewley has also addressed this in her Section 42A report. In my view the issue of fire risk as a natural hazard can be addressed through the development of an Operations Procedure for the site. This is proposed as Condition 11. This condition of consent ensures that the natural hazard relating to fire is appropriately addressed.
- 112 Ms Bewley has addressed earthquake matters and wind. I concur with her evaluation and have nothing further to add.
- 113 In my evaluation of the relevant objective and policy direction for natural hazards I have noted that there are no circumstances relevant to this proposal where avoidance is necessary.
- 114 I have not identified any matters other than fire that need to be reinforced through conditions of consent.
- 115 Having considered the relevant matters it is considered that any adverse effects of the activity from a natural hazard perspective are able to be appropriately mitigated. This concurs with view of Ms Bewley.

**BIODIVERSITY EFFECTS**

- 116 Biodiversity effects, particularly on indigenous species, were addressed within the application.
- 117 The primary management approach in relation to the management of lizards is through the Wildlife Permit process administered by the Department of Conservation. This has involved the preparation of a Lizard Management Plan for the site. The link between the Lizard Management Plan and the resource consent is provided by a proposed Condition 10 which requires a Wildlife permit to be

obtained and confirmation of this be provided to the consent authority. I recommend that Condition 10 be changed to now reflect the knowledge that a Wildlife Permit is required from the Department of Conservation. This change is reflected in Appendix 1.

- 118 Subsequent to this, Dr Tocher in her evidence has addressed matters arising in relation to the Section 42A report and submissions addressing matters related to kārearea/falcon.
- 119 Dr Tocher, having considered the relevant matters, concludes that any actual or potential adverse effects of the activity in relation to kārearea/falcon are able to be mitigated. She has identified procedures to be met during construction and has recommended an adaptive management approach be implemented during operation. Based on these recommendations I have drafted Condition 15a to address pre and construction related activities and Condition 15b to address the operation adaptive management approach relating to potential collision effects.
- 120 Having considered information provided in the application, the evidence of Dr Tocher responding to relevant submissions; and the conditions of consent I am of the view that any adverse effects of the proposal are adequately addressed and relevant matters are reinforced in the proposed conditions of consent.
- 121 My conclusion as to the appropriateness of any adverse effects of lizard and gecko management concurs with Ms Bewley. Ms Bewley at the time of writing her Section 42A report had some reservations with respect to effects on kārearea/falcon. Based on the evidence of Dr Tocher I do not share the reservations of Ms Bewley.

#### **RESERVE MANAGEMENT PLAN**

- 122 I consider that the Reserve Management Plan and the Reserves Act is an 'other' matter that is appropriately considered under Section 104 of the Resource Management Act 1991.
- 123 The Reserve Management Plan was addressed in the application. Mr Greenaway has also addressed this further in his evidence. I do not repeat these evaluations. I do note that commercial recreational activities are not precluded from occurring within this reserve. If a lease or licence is granted then I concur with Ms Bewley that the proposal will be consistent with the Reserve Management Plan.
- 124 In order for the proposed activity to proceed it will require both a resource consent and a lease or licence from the Hurunui District Council as the reserve manager. If neither or only one of these is forthcoming then the activity cannot go ahead.

**PART 2 OF THE RESOURCE MANAGEMENT ACT**

- 125 For completeness, I have also considered the relevant matters in Part 2 of the Resource Management Act. These matters were identified and addressed in the application documentation.
- 126 I have considered these matters in light of the Section 42A report, the submissions and the evidence and consider that all of the relevant matters in Part 2 of the Resource Management Act have been addressed.

**CONCLUSIONS**

- 127 The proposal is consistent with the relevant objectives and policies of the Hurunui District Plan.
- 128 Any adverse effects of the proposal are appropriately avoided, remedied or mitigated. Where necessary conditions of consent are proposed to reinforce actions to mitigate adverse effects.
- 129 The proposal will have a number of positive effects on the environment. In particular, this is through the provision of an additional recreation offering in Hanmer Springs and through enhanced management of biodiversity values on the site.
- 130 The proposal will be consistent with the Reserve Management Plan which applies to the site.
- 131 There is no statutory planning or resource management reason consent should not be granted.

Dated: 23 September 2021



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Jane Whyte

## APPENDIX 1 - PROPOSED CONDITIONS OF CONSENT

This document is based on the conditions in the Section 42A report, with changes to conditions addressed in my evidence shown as strike through and underlined text.

### **General**

1. *The activity shall proceed in general accordance with the plans and details submitted with the application and referenced as RC210098 in Council records.*
2. *The activity shall be located in accordance with the Overall Development Plan on sheet 11 of the Graphic Attachment to Landscape and Visual Assessment Addendum, with the exception that towers T1-T7 may be relocated within ten metres of the location shown. The final location of each structure shall be subject to a detailed on site geotechnical assessment undertaken by a suitably qualified and experienced person, which shall be provided to and certified by the Council before any physical construction works can proceed.*
3. *The hours of operation shall be limited to 10am-6pm seven days a week, except in the months of December to February, where the hours shall be limited to 9am-7pm.*

### **Traffic**

4. *Monitoring of on street parking shall be undertaken by an independent and suitably qualified transportation engineer prior to the activity commencing and thereafter twice annually for two years after the activity has commenced, with this monitoring to be undertaken on a school holiday or public holiday weekend.*
5. *Monitoring under condition 4 shall extend to the extent of parking associated with the activity on Acheron Heights.*
- 5a. *Results of monitoring undertaken in relation to conditions 4 and 5 shall be provided to the Hurunui District Council within eight weeks of each monitoring period being completed.*
- ~~6. *Prior to the activity commencing on site, a pedestrian crossing shall be installed across Conical Hill Road, on the south side of Thomas Hanmer Drive. The form and design of the pedestrian crossing shall be consulted on and approved by Council.*~~

- ~~7. Prior to the activity commencing on site, the footpath realignment at the corner of Conical Hill Road and Oregon Heights shall be completed in accordance with KF Consilium, Drawing No: 2001h/SK.~~
8. A wayfinding plan shall be prepared and submitted to Council for certification prior to the activity commencing. Any signage required to be installed in accordance with the certified wayfinding plan shall be installed prior to the activity commencing.

### **Noise**

9. Noise arising from construction activities shall comply with the noise standards contained in NZS 6803:1999 "Acoustics – Construction Noise."

### **Herpetofauna**

10. Prior to any physical construction works occurring on site the Consent Holder will provide the Hurunui District Council with confirmation that a Wildlife Act permit has been obtained from the Department of Conservation.
- ~~10. Prior to any physical construction works occurring on site the Consent Holder will provide the Hurunui District Council with either:~~
- ~~(a) confirmation, in liaison with the Department of Conservation, that no Rough Gecko habitat or Canterbury Grass Skink habitat will be disturbed as a result of construction of the activity, or~~
- ~~(b) if there is potential for Rough Gecko habitat or Canterbury Grass skink habitat, or other lizards to be affected the Consent Holder will not undertake physical works associated with the construction of the activity unless any permit required under the Wildlife Act has been obtained from the Department of Conservation.~~

### **Kārearea/falcon**

- 10a. The consent holder will:
- (a) Prior to any physical construction works occurring on site the Consent Holder will provide the Hurunui District Council confirmation, that any contracts for construction activities include a requirement to adhere to best practice forestry guidelines; namely that a pre-works walk-through of the footprint is required to be carried out from works to be carried out between August to March, no more than 3-days ahead of

works, with the purpose of identifying the location of breeding behaviour and scrapes/nests such that:

(i) If dive-bombing is observed, or eggs found, or small white fluffy chicks/large grey chicks are found, planned works must withdraw 200 m for 75, 45, 20 days respectively.

(ii) If feathered chicks that cannot fly are found, planned works must withdraw 100 m for 15 days.

(iii) If young falcon that can fly are found, works can continue as planned.

(b) If the location of the scrape/nest cannot be identified then any works within 200 m of the location where aggressive breeding/dive-bombing was observed must cease until chicks have fledged (75 days).

(c) If any works are required to cease under condition 10(a) or 10(b), this shall be reported to Hurunui District Council within 14 days the works ceasing.

10b. Following commissioning of the activity, the consent holder shall report any evidence of near misses, injury and/or mortality of kārearea/falcon through interaction with infrastructure or riders associated with the activity to the Hurunui District Council and the Department of Conservation. In the event that collisions occur at a frequency of more than 1 every 2 years then the consent holder shall, as soon as practicable provide a report to the Hurunui District Council detailing a suitable monitoring and management regime to be implemented to address any net negative impact at the local population level.

#### **Fire risk**

11. A Fire Emergency Operations Procedure shall be drafted in consultation with Fire Emergency New Zealand and a copy provided to the Council prior to the activity commencing on the site.

#### **Landscaping**

12. Any tree planting, aftercare, maintenance of mature trees and tree felling operations on site shall be carried out or supervised on site by competent/qualified operators in accordance with established arboricultural/horticultural work practices and industry standards.



13. *A landscaping plan shall be submitted and approved by Council identifying the existing and proposed landscaping between T7 and the stop station and the site boundary to the south. The landscape plan should include a pest and weed maintenance strategy setting out how the landscape plantings are to be maintained and monitored.*
14. *Landscaping shall be established in accordance with the Graphic Attachment to Landscape and Visual Assessment Addendum prepared by Rough & Milne Landscape Architects, in particular, the Preliminary Revegetation Strategy, (sheet 31), or as otherwise approved by Council.*
15. *The planting required under conditions 13 and 14 shall be implemented, if not prior to, within the first planting season (1<sup>st</sup> April to 30<sup>th</sup> August) following completion of construction.*
16. *All planting required by conditions 13 and 14 shall be maintained with any diseased, damaged or dying plants to be replaced ~~immediately~~ as soon as reasonably practicable upon failure, with plants of a similar species.*

**Review condition**

17. *Pursuant to section 128 of the Resource Management Act 1991, the Hurunui District Council may, at any time, serve notice on the consent holder of its intention to review the conditions of the consent in order to:
  - (i) *respond to any adverse effect on the environment in relation to on-street carparking or noise which may arise from the exercise of the consent and which it is appropriate to deal with at a later stage;*
  - (ii) *require the consent holder to adopt the best practicable option to mitigate any adverse effect on the environment; and ensure that the conditions are effective and appropriate in managing the effects of the activities authorised by this consent**