

BEFORE A Commissioner appointed by the
Hurunui District Council

AND

IN THE MATTER OF the Resource Management Act
1991

AND

IN THE MATTER OF a publicly notified application
under Section 95A of the Act

BETWEEN **Hanmer Springs Thermal Pools
and Spa**

The Applicant

AND **Hurunui District Council**

Consent Authority

SECTION 42A OFFICER'S REPORT PREPARED BY KELSEY BEWLEY

List of Abbreviations

| | |
|---------------|---|
| The Applicant | Hanmer Springs Thermal Pools and Spa |
| HDP | Hurunui District Plan |
| RMA | Resource Management Act 1991 |
| RMP | Reserve Management Plan |
| dNPSIB | Draft National Policy Statement for Indigenous Biodiversity |

Table of Submitters and Abbreviations

| Submitter Number | Full Submitter Name | Abbreviation | Support/Oppose | Wish to be heard |
|------------------|----------------------------------|------------------------|----------------|------------------|
| 1 | Stephen Pawson | S. Pawson | Oppose | Yes |
| 2 | Stephen Carter | S. Carter | Oppose | No |
| 3 | Sharon Weinberg | S. Weinberg | Oppose | No |
| 4 | Serge A Bonnafoux | S. Bonnafoux | Oppose | Yes |
| 5 | Sandra Jacks | S. Jacks | Oppose | No |
| 6 | Ross Carter | R. Carter | Oppose | Yes |
| 7 | Hanmer Springs Horse Riders Inc | HSHR | Oppose | Yes |
| 8 | Positive Progress Hanmer Springs | PPHS | Support | Yes |
| 9 | Peter & Michelle Corbishley | P. & M. Corbishley | Oppose | Yes |
| 10 | Pauline Sargisson | P. Sargisson | Oppose | Yes |
| 11 | Claire and Nigel Shatford | C. & N. Shatford | Oppose | Yes |
| 12 | Mark Renwick | M. Renwick | Oppose | No |
| 13 | John & Shirley Mercer | J. & S. Mercer | Oppose | No |
| 14 | Joanne Adams | J. Adams | Oppose in part | No |
| 15 | Graeme Back | G. Back | Support | No |
| 16 | Gavin Martin | G. Martin | Oppose | Yes |
| 17 | William Smith | W. Smith | Oppose | Yes |
| 18 | Simon Wilkinson | S. Wilkinson | Support | No |
| 19 | Sheridan and Simon Langford | S. & S. Langford | Oppose | Yes |
| 20 | Scott Currie & Angela Renwick | S. Currie & A. Renwick | Oppose | No |
| 21 | Sandra Samson | S. Samson | Oppose | No |
| 22 | Pamela & Nabil Yaakoup | P. & N. Yaakoup | Oppose | No |
| 23 | Michael Malthus | M. Malthus | Support | No |
| 24 | Melvyn Fordyce | M. Fordyce | Oppose | No |
| 25 | Mary Clay & Damian Blogg | M. Clay & D. Blogg | Oppose | Yes |
| 26 | Malcolm Campbell | M. Campbell | Support | No |
| 27 | Lisa Lochhead | L. Lochhead | Oppose | No |

| | | | | |
|----|---|-----------------------|-----------------|-----|
| 28 | Koru Codlin and Megan Murphy | K. Codlin & M. Murphy | Oppose | No |
| 29 | Kenneth Morris | K. Morris | Support | No |
| 30 | June Manion | J. Manion | Support | No |
| 31 | Julie and Nicholas Rogers | J. & N. Rogers | Oppose | Yes |
| 32 | John and Julie Davison | J. & J. Davison | Oppose | No |
| 33 | Jeffery Gould | J. Gould | Oppose | No |
| 34 | Jason Fletcher | J. Fletcher | Support | Yes |
| 35 | Janet Robertson | J. Robertson | Oppose | Yes |
| 36 | Jacqui Anderson | J. Anderson | Support | No |
| 37 | Jackie Frame | J. Frame | Support | No |
| 38 | Ilija Tapsell | I. Tapsell | Oppose | No |
| 39 | Harley Manion | H. Manion | Support | No |
| 40 | Gillian Curtis | G. Curtis | Oppose | Yes |
| 41 | Friends of Conical Hill | FoCH | Oppose | Yes |
| 42 | Erica Spackman | E. Spackman | Oppose | Yes |
| 43 | Elizabeth Bermingham | E. Bermingham | Oppose | Yes |
| 44 | Dave Rodley | D. Rodley | Oppose | Yes |
| 45 | Dave Harwood | D. Harwood | Support in part | No |
| 46 | Craig Woodham | C. Woodham | Support | No |
| 47 | Colin Conaghan (The Glenmoriston Trust) | C. Conaghan | Oppose | No |
| 48 | Clayton Sargisson | C. Sargisson | Oppose | No |
| 49 | Christopher Hughey | C. Hughey | Support | No |
| 50 | Ashleigh Taylor | A. Taylor | Oppose | No |
| 51 | Fire Emergency New Zealand | FENZ | Neutral | Yes |
| 52 | Claudia Gorham | C. Gorham | Oppose | Yes |
| 53 | Cecilia Rodley | C. Rodley | Oppose | Yes |
| 54 | Anne Carter | A. Carter | Oppose | No |
| 55 | Ann Brower | A. Brower | Oppose | Yes |

Introduction

1. My name is Kelsey Bewley. I am employed as a Senior Planner by the Hurunui District Council (“the Council”). I hold the qualification of Bachelor of Environmental Management and Planning from Lincoln University. I am an Associate member of the New Zealand Planning Institute.
2. I have seven years’ planning experience, having worked at Hurunui District Council for five years and ten months and Croydon Council in London for one year and four months. My experience includes undertaking various policy projects including the preparation of plan provisions and accompanying s32 evaluation reports and preparing and presenting s42A reports. I also have experience in processing resource consents, predominately on a non-notified basis, although I have processed one other notified resource consent previously.
3. This report is prepared in accordance with section 42A of the Resource Management Act 1991 (“RMA”). The purpose of this report is to bring to the attention of the Commissioner, all the relevant factual information and issues which should be considered in deliberating on the application sought by the Hanmer Springs Thermal Pools and Spa (“the Applicant”). This reports provides an assessment of the proposal in accordance with the relevant matters specified in the RMA.
4. One independent Commissioner has been appointed to hear the application, as the Hurunui District Council has the following conflict of interest:
 - The Hurunui District Council owns/manages the land of the application site.
 - The Hanmer Springs Thermal Pools and Spa is owned by the Hurunui District Council, so therefore, the Council is the applicant.
5. Although this is a Council hearing, I confirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note and that I agree to comply with this Code of Conduct. I confirm that I have considered all the material facts that I am aware of that might alter or detract from the opinions that I express, and that this evidence is within my area of expertise, except where I state that I am relying on the evidence of another person.
6. For the avoidance of doubt, it should be emphasised that any conclusions reached, or recommendations made in this report are not binding on the Commissioner and it should not be assumed that the same conclusions or recommendations would be reached having considered all the evidence brought before the Commissioner.
7. I have visited the application site prior to the preparation of this report and am familiar with the site and surrounds, having previously been involved in the preparation and consultation of a Landscape Concept Plan for Conical Hill Reserve.
8. The application submitted by the Applicant includes a number of technical reports. The full application is available for viewing via the Hurunui District Council’s webpage www.hurunui.govt.nz/flyride

9. This report is one of three reports prepared for the Council addressing this resource consent application. The other two reports have been prepared by Marshall Day Acoustics regarding noise, attached as **Appendix A** to this report, and Abley, regarding transport, and car parking, attached as **Appendix B** to this report.
10. This report draws on conclusions made in technical reports provided by a number of experts. Conclusions made in each report are referenced in this report.
11. The following is the list of appendices attached to this report:
 - Appendix A – Noise assessment by Gary Walton, Marshall Day
 - Appendix B – Transport assessment by Dave Smith, Abley
 - Appendix C – Hurunui District Plan Assessment Criteria

Proposal

12. The proposal is outlined in detail in paragraphs 4-31 of the application and paragraphs 9-40 of the addendum application. The proposal is summarised below.
13. Consent is sought to install and operate a gravity-based recreation activity (flyride) on the western face of the Conical Hill Reserve. The flyride will consist of a cable track system, which will be constructed on seven poles situated on the ride route. The ride experience will be provided by suspended trolleys which hang from the cable track. The flyride will change direction at each of the seven poles which will also provide tension and anchoring for the ride. The proposal will include two additional platforms being the start and stop stations that will provide for rider access. An accessible toilet is also proposed to be located at the start station.
14. In order to access the proposed flyride, users must use existing pedestrian focussed tracks to access the start of the ride at the top of Conical Hill, as the proposed flyride will only operate with customers on the way down the hill. There is no customer car access proposed or provided to any part of the site, nor any new carparking proposed.
15. The ride will extend over a distance of approximately 500 metres from start to stop. The ride will have potential for three different ride speeds being fast, medium and slow. The fastest ride will be approximately 70 seconds long and the slowest approximately 120 seconds.
16. The level of activity proposed is based on a proposed target of 50-60 passengers per hour. The typical operation will have a capacity of 50 persons per hour, however with the ability for some tandem rides, this could enable up to 60 persons per hour.
17. The proposed hours of operation will consist of core hours being 10am to 6pm, 7 days a week, with the Applicant seeking the opportunity to extend these hours during summer with the potential to start at 9am and finish at 7pm.

Site and locality

18. The 11.7 hectare site is located within the Conical Hill Reserve, located at Conical Hill Road and having the legal address of 54 Lucas Lane, Hanmer Springs, which is at the north end of the Hanmer Springs township. The land is classified under the Reserves Act as 'Recreation Reserve' and is legally described as N3201 GAZ 81-2429 RES 3661 3802 HANMER PLAINS RES BLKS I II LYNDON SD – CONICAL HILL. The site is subject to a Reserve Management Plan, which will be discussed in further detail later in this report.
19. The site is only publicly accessible via walking tracks with the main point of access to the site being from the north end of Conical Hill Road, where the Conical Hill walking track begins. There is also an access track from Lucas Lane, a forestry road to the north, which terminates at the walking track just below the summit and several mountain biking and walking tracks, which access the site from the north and east. Another path connects to the walking track from Acheron Heights. There are approximately 1.8km of formal tracks on Conical Hill, used exclusively for recreation. A lookout structure at the 550 metre summit of Conical Hill, provides views overlooking the village, south across Hanmer Basin and north toward Jacks Pass and the Hanmer Range.
20. The Conical Hill Reserve Management Plan states that *'originally Conical Hill was covered in kanuka and tussock, reflecting the Maori name for the Hanmer Plains, 'Mania Rauhea' or 'plain of shining tussock.' In the early 1900's a zigzag track was cut almost to the summit: the same track is used today. Between 1903 and 1913 prison labourers planted over 1000 hectares of exotic forests around Hanmer Springs, making them some of New Zealand's oldest. This afforestation programme included most of Conical Hill Reserve which was first planted in 1910.'*
21. The terrain of the site is considered as medium to steep, and the site is predominately forested and enclosed, except for clearings on the south face of the hill and around the summit.
22. The site is zoned Open Space in the District Plan and is adjoined on the northern, western and eastern boundaries by a large site used for forestry purposes. To the south, at the base of Conical Hill, the site adjoins several residential properties.
23. The site contains the Conical Hill Lookout and plaque which is identified as a historic building (H101) in the District Plan. The proposed activity will not affect this historic building.
24. The majority of the site is located within a slope hazard 4 – Moderate-High Risk area. The majority of the proposed flyride will be located within the slope hazard 4 area, with the proposed start station and the toilet being the only part of the proposal outside of the area.
25. The western, northern, eastern and part of the southern areas of the site running parallel to the boundaries, are subject to a 50 metre forestry setback. The proposed start station, toilet, tower 2, tower 5 and tower 6 will all be located within this area.

Background

26. On 26 February 2021, the Council received a resource consent application (RC210029) from Hanmer Springs Thermal Pools and Spa to install and operate a gravity-based recreation activity (flyride) on the western face of the Conical Hill Reserve. In accordance with section 95A of the Resource Management Act 1991, the Applicant requested that the resource consent application be publicly notified. The application was publicly notified on 18 March 2021 and the submission period closed on 19 April 2021, with 33 submissions being received.
27. On 11 May 2021, the Applicant requested that the processing of the application be suspended while the design of the project was refined. An addendum to the application was received on 1 July 2021. The addendum included changes to the proposal that were different to those described and assessed in the initial application such as changes to the design of the proposed start and stop stations, increased pole heights and an increased number of trees being removed. These changes were considered out of scope of the original application and therefore, the original resource consent application and the addendum were processed and notified as a new application (this application, RC210098).

Planning Framework

Hurunui District Plan

28. The Hurunui District Plan (*'HDP'*) was made operative on 21 June 2018.
29. The application site is zoned Open Space in the District Plan. The rules applying to the Open Space Zone are contained in Rules 4.20-4.23. The planning maps indicate that the site is located within a slope hazard 4 area which is identified in Appendix 15.1 – Schedule of Natural Hazard Areas. There are no other relevant planning notations.
30. I consider the following rules in the Plan are relevant to the proposal:

Chapter 4 – Settlements

4.20 Permitted activities

1. Any activity listed below is a permitted activity, provided it complies with the standards for permitted activities in Rule 4.21:

(a) Reserves and recreational activities and facilities;

(b) Recreational activities;

(c) Community amenity facilities;

(d) Temporary activities; and

(e) Buildings and structures, signs and earthworks ancillary to permitted activities.

31. Rule 4.20(1)(e) provides that buildings and structures, signs and earthworks ancillary to permitted activities are permitted activities if the relevant standards for permitted activities in Rule 4.21 are complied with. It is considered that the activity proposed is ancillary to a permitted activity, being reserves and recreational activities and facilities. The standards for permitted activities in Rule 4.21 are complied with by the proposal, with the exception of the following standards:

4.21 Standards for permitted activities

1. Height

(a) The maximum height of any building or structure is 8 m.

32. Five of the poles proposed are higher than 8 metres, being 11 metres, 8.5 metres, 9.8 metres, 11.5 metres and 8.5 metres.

4. Noise

(a) All activities shall be designed and conducted so as to ensure that the following noise limits are not exceeded, at or outside the boundary of the site:

55 dB LAeq (1-hr) 7am-7pm daily;

45 dB LAeq (1-hr) 7pm-7am daily; and

75 dB LAFmax all days between 10pm and 7am.

33. Noise will be exceeded outside the northern and western boundaries of the site, in some circumstances.

8. Carparking and access

(a) The following standards for on-site parking shall apply where an activity is established on a site, there is a change of activity or a building is constructed or substantially reconstructed, altered or added to.

(i) On-site car parking requirements:

- Events:

1 per 3 licensed or design visitor capacity; and

1 per 2 employees; and

- Sports grounds without permanent seating: 1 per 3 players.

34. No car parking is proposed in the application. However, the district-wide on-site car parking standards in Rule 8.4.3.5, outlined further below, are considered to apply to the application and as such, it is considered that the application must meet Rule 8.4.3.5 instead of Rule 4.21.8, above, in terms of car parking.

14. Additional Design Standards for Hanmer Springs

In addition to all other Open Space rules, any building in the Hanmer Springs Settlement Area shall comply with:

(b) Roof Pitch:

...

(ii) Accessory buildings shall have a pitch of at least 20 degrees.

(c) Cladding material (excluding Old Town area):

At least 70% of the exterior cladding of the building shall comprise one or more of the following materials:

Natural unpainted timber.

Painted timber or fibre cement weatherboard.

Boulders or large stones.

(iv) Cob (adobe blocks or rammed earth).

(v) Timber battens fixed over plywood or cement board sheets, provided that:

- The battens are laid vertically;

- The batten size is 75 mm wide by 25 mm deep;

- The battens are placed at 200 mm centres; and

- *The battens and plywood or cement board sheets are painted or stained in accordance with Rule 4.6.19(h); and*
- (vi) Shiplap of the minimum dimensions of 150 mm x 25 mm and the maximum dimensions of 200 mm x 25 mm;*
- (vii) Rusticated cement weatherboard, "Triclad" weatherboard or boards of equivalent profile, provided that the maximum exposure of each weatherboard is 175 mm or less;*
- (viii) "Frontier" weatherboard, or a board of equivalent profile, with a maximum visible exposure of 200 mm;*

35. The roof pitch of the proposed toilet will be less than 20 degrees. The poles and line of the proposed flyride are captured under the definition of 'building,' being structures which are more than 2.5 metres in height. The poles and line are constructed of steel which is not a permitted cladding material under the Hanmer Springs design standards. The cladding of the proposed toilet is fibreglass which is also not a permitted cladding material under the Hanmer Springs design standards.

4.22 Discretionary activities

The following activities are discretionary activities:

1. *Any activity not specified as a permitted or non-complying activity, including any permitted activity that does not comply with one or more of the standards for permitted activities under Rule 4.21.*

36. The proposal does not comply with the standards for permitted activities in relation to height, noise and additional design standards for Hanmer Springs, and is not listed as a non-complying activity. Therefore, the activity is a discretionary activity in terms of Rule 4.22.1.

Chapter 8 – Transportation

8.4.3 Standards for permitted activities

5. On-site car parking standards:

The following standards for on-site car parking apply where:

- *An activity is established on a site;*
- *There is a change of activity; or*
- *A building is constructed or the floor area of a building is substantially altered or added to.*

(a) General Requirements

- (i) Minimum on-site parking standards will apply to all specified activities in accordance with the table below. Where a particular site contains more than one activity, the parking requirement for each activity must be separately determined where the gross floor area of an activity exceeds 10% of the total gross floor area; otherwise the activity will be assessed as ancillary to the main use. Where an activity falls under the definition of more than one activity, then the higher parking requirement will apply. Where an activity does not fall within a particular category, the activity which is closest in definition will apply. In determining parking requirements, any fraction more than one-half must be regarded as one space. Unless otherwise specified, all standards are the minimum required for the relevant activity. Where a parking requirement for employees is specified, this will be based on the maximum number of employees on-site at any one time...*

On-site parking requirement

| Activity type | On-site parking requirement | Explanation |
|----------------------|--|--|
| Turnover | 1 per 4 licensed or design visitor capacity (whichever is the greater). Plus 1 per 2 employees. | This applies to activities which involve a relatively high turnover of visitors. Parking is generally required to either drop-off and pick-up users, or for groups of visitors at staggered intervals. Examples of "turnover" facilities include hospitals, day care centres, institutional care, prisons and sport centres. |

37. As the application comprises a new activity which is to be established on site, carparking is required to be provided. As the proposed activity does not clearly fall within a particular category specified in Rule 8.4.3.5, the activity type, which is closest in definition applies, which is considered to be 'Turnover.' As previously outlined, no carparking is proposed as part of this application.

8.4.5 Discretionary activities

1. Any activity under Rule 8.4.2 that does not meet the conditions for permitted activities in Rule 8.4.3, and is not otherwise a restricted discretionary activity, is a discretionary activity.

38. Therefore, in relation to carparking, the proposal is a discretionary activity in terms of Rule 8.4.5.1.

Chapter 15 – Natural Hazards

15.4.2 Permitted activities

1. The following activities are permitted activities:

(a) Any activity within a Natural Hazard Area or a Natural Hazard Assessment and Awareness Area that complies with the standards in Rule 15.4.3.

15.4.3 Standards for permitted activities

1. The following standards apply to activities within a Natural Hazard Area identified in the planning maps and in Appendix 15.1:

(a) In areas listed in Appendix 15.1 Schedule of Natural Hazard Areas, there is to be no siting, erection, replacement of, or extension to, any building or structure except for:

(i) community amenity facilities; or

(ii) fencing; or

(iii) farm accessory buildings (not including those containing any intensive farming) and non-habitable residential accessory buildings; or

(iv) normal maintenance, including repairs, which does not alter the character, footprint, intensity or scale of the existing building or structure; or

(v) those activities specified in (c), (d) and (e) below; and

(b) There is to be no trimming or removal of trees in Land Instability Areas except for maintenance and pruning limited to;

(i) living branches that have a diameter of 50 mm or less, or are within 2 m of the outermost foliage; or

(ii) any dead wood; or

(iii) activities in accordance with an approved reserve management plan; or

(iv) works required by the Electricity (Hazards from Trees) Regulations 2003.

39. The area of the site where the proposed flyride will be located is within a slope hazard 4 area which is identified in Appendix 15.1 – Schedule of Natural Hazard Areas. As identified on pages 29 and 30 of the *Graphic Attachment to Landscape Visual Assessment Addendum*, the Applicant proposes to remove or trim a number of trees which are located within a Land Instability Area (slope hazard 4 area). The removal and trimming of trees do not meet any of the standards for permitted activities outlined in Rule 15.4.3.1(b).

15.4.5 Discretionary activities

1. *Any activity that does not meet any one or more of the standards for permitted activities in Rule 15.4.3 and is not classified as a restricted discretionary activity under Rule 15.4.4 or a non-complying activity under Rule 15.4.6.*

40. The activity does not meet the standards for permitted activities in Rule 15.4.3.1(a) and (b) and is not classified as a restricted discretionary activity or a non-complying activity. Therefore, the proposal is a discretionary activity in terms of Rule 15.4.5.1 of the HDP.

Overall Activity Status

41. Overall, as Rules 4.21.1, 4.21.4, 4.21.14, 8.4.3.5 and 15.4.3.1 are not met, I consider the proposal is a **discretionary activity** in terms of Rules 4.22, 8.4.5 and 15.4.5.1 of the District Plan.

National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health

42. The National Environmental Standards for Assessing and Managing Contaminants in Soil to Protect Human Health (“NESCS”) came into effect in January 2012. The NESCS applies when a person wishes to carry out an activity described in regulation 5(2) to 5(6) on a piece of land described in regulation 5(7) or 5(8).
43. Based on the Applicant’s review of Environment Canterbury’s Listed Land Use Register, the site does not contain any activities listed in the Hazardous Activities and Industries List (“HAIL”) and therefore the NESCS does not apply.

Submissions

44. The application was publicly notified on 8 July 2021 with submissions closing on 5 August 2021. A total of 55 submissions were received with all 55 submissions being received within the notification period. 39 submissions opposed the application, 13 submissions supported the application, one submission supported the application in part, one submission opposed the application in part and one submission was neutral. Of the 55 submitters, 24 submitters indicated that they wished to be heard. A table of the submitters is included on pages 3 and 4 of this report. All submissions are available for viewing via the Hurunui District Council’s webpage www.hurunui.govt.nz/flyride
45. Having reviewed the submissions, I consider that the matters raised can be summarised as below:
- Visual effects and landscape character
 - Amenity values
 - Noise
 - Parking and traffic

- Property devaluation
- Recreation character
- Biodiversity
- Fire risk
- Natural hazard risk
- Positive effects

46. To address these submissions and provide an assessment of actual and potential effects, I have assessed the submissions received according to themes identified above, later in this report and have provided responses to those themes. Where I have addressed individual submitters, I have referred to the submitters by the abbreviation (where set out at the start of this report) and the submission number allocated to them.
47. I have not addressed some concerns raised by submitters as they fall outside of the scope of what can be considered in this process. Some of these concerns are:
- Effects of the proposal on property values.
 - Conflict of interest
 - Change of ownership of activity
48. Four submitters have raised concerns regarding the potential effects of the proposed flyride on property values. As determined by case law, effects on property values are not something that can be considered by a consent authority when making a determination on a resource consent.
49. In terms of submitters outlining a conflict of interest, this has been acknowledged by Council and as such, an independent Commissioner has been appointed to hear and decide the application.
50. At least two submitters have raised concerns regarding the loss of control of the activity and managing the effects of the activity, if it were to be sold. In response to this, if a resource consent was to be granted for the activity, it would be attached to the land to which it relates, and the activity would be required to be carried out in accordance with the conditions of the resource consent, irrespective of the owner.
51. Several submitters have outlined that they do not consider the proposal achieves or is consistent with the relevant objectives and policies of the HDP and is inconsistent with the Reserve Management Plan (“RMP”). In addition, several submitters also consider the proposal breaches or has not considered section 6 of the RMA, with significant fauna habitat, historic heritage, outstanding natural features and landscapes, and the management of significant risks from natural hazards being referenced by some of those submitters. D. Rodley (#44) and C. Rodley (#53) consider the proposal is inconsistent with the Conical Hill Reserve Concept Plan. I note that I consider the proposal against the relevant objectives and policies of the HDP, the RMP and relevant Part 2 matters, later in this report.
52. No written approvals have been provided with the application.

Statutory Considerations

53. When considering an application for resource consent for a discretionary activity and any submissions received, the consent authority must have regard to the matters listed in sections 104 and 104B of the Resource Management Act 1991. The relevant parts of these sections are as follows:

104 Consideration of applications

- (1) *When considering an application for resource consent and any submissions received, the consent authority must, subject to Part II, have regard to –*
- (a) any actual and potential effects on the environment of allowing the activity; and;*
 - (ab) any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity; and*
 - (b) any relevant provisions of –*
 - (i) a national environmental standard:*
 - (ii) other regulations:*
 - (iii) a national policy statement:*
 - (iv) a New Zealand coastal policy statement:*
 - (v) a regional policy statement or proposed regional policy statement:*
 - (vi) a plan or proposed plan; and*
 - (c) any other matter the consent authority considers relevant and reasonably necessary to determine the application.*

(2) When forming an opinion for the purposes of subsection (1)(a), a consent authority may disregard an adverse effect of the activity on the environment if a national environmental standard or the plan permits an activity with that effect.

...

(3) A consent authority must not, –

(a) when considering an application, have regard to –

(i) trade competition or the effects of trade competition; or

(ii) any effect on a person who has given written approval to the application:

(b) [Repealed]

(c) grant a resource consent contrary to –

(i) section 107, 107A, or 217:

(ii) an Order in Council in force under section 152:

(iii) any regulations:

(iv) wāhi tapu conditions included in a customary marine title order or agreement:

(v) section 55(2) of the Marine and Coastal Area (Takutai Moana) Act 2011:

104B Determination of applications for discretionary or non-complying activities

After considering an application for a resource consent for a discretionary activity or non-complying activity, a consent authority –

- (a) may grant or refuse the application; and*
(b) if it grants the application, may impose conditions under section 108.

Consideration of application

Actual and potential effects on the environment (section 104(1)(a))

54. In considering an application for resource consent, section 104(1)(a) of the RMA requires the consent authority to have regard to any actual and potential effects on the environment. Having reviewed the application, the submissions received and the HDP, the key environmental effects to be addressed can be summarised as follows:

- Visual effects and landscape character
- Amenity values
- Noise
- Parking and traffic
- Recreation character
- Ecological effects
- Fire risk
- Natural hazard risk
- Positive effects

55. In considering the effects on the environment, I have taken into account the relevant assessment criteria and in particular those contained in sections 4.24.3 (Height), 4.24.5 (Noise), 4.24.11 (Recreation activities), 4.24.12 (Traffic generation), 4.24.17 (Hanmer Basin), 13.5 (Biodiversity), 8.5 (Parking), and 15.5 (Natural Hazards) of the HDP. A copy of these assessment criteria is contained in **Appendix C**.

Section 104(2) – Permitted baseline

56. Prior to undertaking an assessment of the effects of this proposal, it is useful to consider discretion available under section 104(2) of the RMA (referred to as the “permitted baseline”) whereby a consent authority may disregard an adverse effect of an activity on the environment if the Plan or national environmental standard permits an activity with that effect. Case law has established that this relates to the effects of non-fanciful hypothetical activities which could be carried out as of right under the Plan. I note that the use of section 104(2) is discretionary.

57. I have outlined the permitted baseline in regards to my assessment of visual effects and recreational character, below however have still assessed the adverse effects, for the benefit of doubt.

Visual effects and landscape character

58. A number of submitters have raised concerns regarding proposed visual effects and effects on landscape character. In particular, their concerns relate to the proposed visual effects of the towers, lines and stop start stations in addition to the visual impact of the removal of trees.

59. I consider that any actual and potential visual effects from the proposal will relate to the addition of built form, and the associated proposed earthworks and tree removal.
60. A landscape and visual amenity assessment prepared by Angie Nelson of Rough & Milne Landscape Architects (Rough & Milne) is attached as Appendix 1 of the application and an updated version is attached as Appendix 1 to the addendum application. This is accompanied by a Graphic Attachment to Landscape and Visual Assessment Addendum (GA) (Appendix 2) and visual simulations (Appendix 3). The landscape and visual amenity assessment addresses all aspects of the proposed built form, visual effects and landscape amenity in detail. I have relied on the Rough & Milne documentation and Ms Nelson's professional judgement in regard to landscape character and visual effects.
61. I note that the site is described as having a forested character and that while the site is zoned as Open Space in the HDP, it is not considered open in the sense of open character. Ms Nelson identifies the site as being predominantly forested and enclosed with the exception of clearings on the south face of the hill and around the summit. Being familiar with the site, I agree with this description. Ms Nelson considers that the proposed tree removal associated with the proposal, will maintain the overall forested character of the site. Having reviewed the Tree Removal & Pruning Preliminary Plan on sheets 29-30 of the GA, and the information in the application regarding the selective removal of trees, I agree that the forested character of the site will be maintained and that there will not be a significant change to the overall landcover of the hillside. I also note that the Applicant is proposing revegetation with native planting, which when established, will in my opinion improve the ecological naturalness of the hillside.
62. I note that the landscape and visual amenity assessment describes the receiving environment of the township as a 'low-key alpine village.'
63. I further note that the Hanmer Springs design standards seek to maintain and enhance the amenity values and alpine character of the Hanmer Springs Township and surrounding environment. As outlined in the planning framework section of this report, the proposed toilet would not comply with the Hanmer Springs design standards in respect to roof pitch and the proposed steel construction of the poles and line of the proposed flyride is not a permitted cladding material under the Hanmer Springs design standards.
64. The Hanmer Springs design standards have recently been reviewed via a Council Plan Change (PC5). At the time of drafting this report, a decision had not been issued however it is worth noting that PC5 does not propose changing the roof pitch provision in terms of accessory buildings or the inclusion of steel as a permitted cladding material. PC5 however, does propose that all buildings within the Open Space Zone must comply with exterior colour requirements, which is not a current requirement. It is noted that the colour of the proposed poles and roof structures of the start and stop stations will have a light reflectance value of less than 10% and will be either dark grey, green or brown in colour, and as such will meet the provisions of proposed PC5.
65. Ms Nelson considers the proposed built form as being small scale in the context of the site and the receiving environment. Having reviewed the visual simulations, I concur with this view. Ms Nelson considers that the removal of trees will potentially contribute to an

increased perception of built form and activity from the wider receiving environment and considers adverse effects on the naturalness and scenic quality of the hillside as perceived from the township to be low.

66. The assessment of visual amenity has considered several different viewpoints of the site within Hanmer Springs. The visual amenity effects rating from each viewpoint, as considered by Ms Nelson, is summarised below.
67. In terms of viewpoints 1 and 2 (Sheet 33 of GA), the short term adverse visual effects have been assessed as very low while revegetation planting establishes, which will be fully mitigated in the long term.
68. In terms of viewpoints 3 and 4 (Sheet 34 of GA), the short term adverse visual effects have been assessed to be low, easing to very low on the establishment of revegetation planting.
69. In terms of viewpoints 5 and 6 (Sheet 35 of GA), the adverse effects in the short term are considered to be moderate-low, easing to low on the establishment of revegetation planting.
70. I note that viewpoints 1-6 are located at a greater distance from the remaining viewpoints and that as a result the proposed flyride is not readily visible. I consider that due to the proposed built form being of a small scale in the context of the receiving environment, that the proposed flyride would not appear visually dominant or out of character. I consider that the proposed poles of a dark recessive colour, would largely blend into the vegetated backdrop of the hillside. I note that the stop station will comply with the Hanmer Springs design standards. It is my opinion, that as the existing revegetation planting surrounding the stop station becomes established, adverse effects on visual amenity will be further reduced. Given these matters, I consider that the proposed development in respect to these viewpoints, would not appear out of character and would maintain the alpine village character.
71. In terms of viewpoints 7 and 8 (Sheet 36 of GA), the adverse visual effects are considered moderate-low in terms of viewpoint 7 and moderate in terms of viewpoint 8.
72. In terms of viewpoints 8 and 9 (Sheet 37 of GA), the adverse visual effects are considered to be moderate.
73. In terms of viewpoint 10 (Sheet 37 of GA), the adverse effects on visual amenity are assessed as moderate and it is considered that it is likely that effects may be reduced to moderate-low in time as vegetation becomes established.
74. I note that viewpoints 7-10 are closer in proximity to the site which is likely to result in an increased visual effect. This has been reflected by the higher visual amenity effects rating of 'moderate' and 'moderate-low' given by Ms Nelson from these viewpoints. She attributes the higher visual rating primarily to the proposed tree removal, potential skyline effects and increased visibility of the ride and platform elements. I note that the proposed built form will be of a small scale and design and as such, I consider that these structures would not appear visually dominant and would maintain the alpine village character of Hanmer Springs.

75. I note that Ms Nelson forms an overall conclusion that the proposal will not be at odds with the surrounding environment and will represent a level of change that is acceptable within this setting.
76. Whilst the proposal will result in the addition of built form on Conical Hill Reserve and associated visual effects, I consider that overall, given the design of the proposal, the proposed development would not be out of character with the surrounding environment and the existing and proposed revegetation will further mitigate any actual and potential visual effects of the proposal.

Amenity values

77. A number of submitters referred to potential effects on amenity values including:
- The use of private land to access the flyride activity
 - Effects on peace and tranquillity
 - Loss of privacy
 - Increase in traffic on the road
78. The HDP (Policy 4.3) requires that activities are managed to ensure that amenity values within specific zones are maintained. I consider that the proposed flyride activity has the potential to adversely affect amenity values, in terms of noise and potential loss of privacy.
79. I have addressed effects associated with noise and use of private land to access the proposed flyride later in my report. In terms of the potential loss of privacy, I note that the sites to the south of the western side of Conical Hill Reserve comprise existing residential activities and vacant residential zoned land. I further note that the proposed stop station will be located approximately 70 metres to the existing dwelling at 24 Oregon Heights and approximately 94 metres from the existing dwelling at 17 Oregon Height and that proposed T7 will be located approximately 100 metres and 88 metres from these dwellings, respectively. I also note that the Applicant is requesting micro-siting of the poles by 10 metres. These two dwellings are the closest existing dwellings to the proposed flyride, and as such, I consider that there may be actual and potential effects from the proposed flyride in terms of loss of privacy on the owners and/or occupiers of these properties.
80. Ms Nelson considers that in respect to privacy, there is an existing walking track which overlooks the dwellings at the base of the hill, similarly, the proposed stop station will overlook these dwellings but will be located at a greater distance away from the dwellings, than the walking track. Therefore, Ms Nelson considers this will not result in a significant change in the privacy experienced from these residences.
81. I agree with Ms Nelson that the design and small scale of the proposed stop station will ensure the scenic outlook and visual amenity from the nearby dwellings will not be detrimentally affected. I also agree with Ms Nelson that the existing walking track which is setback approximately 32 metres to 24 Oregon Heights and approximately 53 metres to 17 Oregon Heights overlooks these dwellings and contributes to an existing loss of privacy for these dwellings. However, I note that due to the topography of the land and the nature of the flyride, that proposed T7, and the stop station will be at a higher elevation than the

walking track. I note that the proposed finished floor level of the stop station is 487.57 and T7 has a proposed height of 7.3 metres.

82. Further to this, the car parking assessment prepared by Novogroup, and the peer review prepared by Abley identify that the primary entrance to the site will be located at the end of Conical Hill Road, where Acheron Heights starts. The *Strava Running Heatmap* in both car parking assessments indicate that this existing walking track in close proximity to the dwellings is less used than other entrances to the site. I note that the level of activity proposed for the flyride is based on a proposed target of 50-60 passengers per hour. Therefore, I consider that the level of activity on the site will increase in proximity to the existing dwellings located at 17 and 32 Oregon Heights which may result in a further loss of privacy as passengers of the flyride traverse through T7 and the proposed stop station overlooking these properties.
83. I note that the existing dwellings (and potential future dwellings) are likely to be constructed so that windows and living spaces are orientated towards the views of the mountains to the south-east, which I consider is a mitigating factor. Although I do note that a submitter (C. Conaghan #47) has outlined that the kitchen/dining of the dwelling at 17 Oregon Heights extends onto a wooden deck facing north.
84. It is my opinion that any actual and potential effects, in terms of loss of privacy on surrounding dwellings would be mitigated by the setback distance of proposed T7 and the stop station and the provision of screening. I note that native revegetation planting has recently been undertaken in the area between the proposed stop station and proposed T7 and the existing residential properties to the south and that once established, would provide a form of screening. However, I note that the area has become overgrown with exotic weed species which is posing an issue to the ongoing maintenance of the area.
85. Therefore, I recommend that a condition be imposed requiring a landscaping plan to be submitted and approved by Council, which outlines the existing and proposed landscape planting 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 these plantings are to be maintained and monitored.
86. Subject to imposition of the above condition, I consider that any actual or potential effects in terms of loss of privacy would be adequately mitigated.

Noise

87. I note several submitters have raised concerns about the potential noise effects that may be generated by the operation of the flyride in addition to noise from people using the ride, and flyride users accessing the site.
88. An acoustic assessment prepared by Acoustic Engineering Services Limited ("AES") is attached as Appendix 4 to the application.
89. In addition, the Council commissioned Marshall Day Acoustics to provide an independent peer review of the acoustic assessment prepared by AES and address the points raised in

submissions. The peer review report prepared by Mr Walton from Marshall Day Acoustics is attached as **Appendix A**.

90. The HDP requires that all activities within the Open Space Zone must be designed and constructed so as to ensure that the following noise limits are not exceeded, at or outside the boundary of the site:
55 dB LAeq (1-hr) 7am-7pm daily;
45 dB LAeq (1-hr) 7pm-7am daily; and
75 dB LAFmax all days between 10pm and 7am.
91. Both Mr Trevathan and Mr Walton agree that compliance of the HDP noise limits is unlikely to be achieved at all times at the western and northern boundaries of the site. Mr Walton considers this to be a technical non-compliance, noting the unsensitive Rural Zone boundary is so close to the ride area.
92. Mr Walton agrees that the HDP noise limits are not suitable to adequately assess potential noise effects from the activity. He notes that even with the application of an adjustment to account for special audible characteristics, the hourly averaging of noise to assess against the 55 dB LAeq (1hr) HDP noise limit will not represent the impulsive peaks in noise from the activity. Mr Walton agrees that 45 dB LAFmax is an appropriate guideline to evaluate noise effects from the activity and notes the assessment does not propose this as an absolute noise limit on the activity but instead, is intended to represent the 'tipping point' beyond which adverse noise effects may become apparent.
93. Mr Walton accepts the assumption that the system-generated noise from the ride itself will be minimal and will have a less than minor noise effect.
94. Mr Walton considers that 'vocalisations' of users of the ride will be the dominant noise source and that the level assumed in the AES calculations seems suitably conservative (i.e. is at the upper-end of what might be expected). Mr Walton states that noise effects will be determined by how frequently high-level vocalisation events occur but considers that noise effects are unlikely to exceed the 'minor' threshold at the closest dwellings.
95. With respect to concerns raised by submitters regarding the potential noise associated with vehicles being parked, Mr Walton considers that given the likely spatial distribution of parking, it is unlikely that sufficient additional noise would be produced that would exceed any common noise level guidance.
96. Furthermore, in relation to potential noise associated with pedestrians walking to the start of the track, Mr Walton considers that it appears unlikely based on the information available that the extra noise alone would be a notable effect in terms of the change in noise level. Mr Walton further states that if the number of passing events becomes more frequent, then locals may perhaps notice an increase in the general use of the area that could increase their perception of pedestrian noise.
97. The HDP also requires that construction noise shall not exceed the recommended limits in, and shall be measured and assessed in accordance with, the provisions of NZS 6803:1999 "Acoustics - Construction Noise (NZS for Construction Noise)."

98. Mr Trevathan in his assessment, states that noise generated by construction activities associated with the development of the proposed flyride structure and associated buildings has the potential to adversely affect adjoining properties, especially if carried out during the early morning or evening hours. Mr Trevathan recommends that the Applicant adopts best practice procedures to reduce the likelihood of annoyance, nuisance and adverse health effects to people in the vicinity of construction work, and that these activities are planned and managed in accordance with the NZS 6803:1999 “Acoustics - Construction Noise (NZS for Construction Noise).
99. Mr Walton is of the opinion that it may be difficult to define a simple and appropriate performance standard for the purpose of protecting amenity, however, considers measurements should be conducted once the ride is operational to verify that noise emissions are in accord with the application. I note that the Applicant has identified that a review condition may be imposed on the resource consent that will enable the conditions to be reviewed, should the effects on the environment not be as expected. I agree that the imposition of a review condition in accordance with section 128 of the RMA would be appropriate.
100. I further note that Mr Trevathan states that noise levels at the nearest dwelling due to ride users will typically not exceed 45 dB LAF_{max}, provided that the design and operation of the proposed flyride is conducted so as to limit, as far as practicable, the likelihood of users generating high levels of noise as they traverse the final two spans (T7 and T8) of the rise. Mr Trevathan considers these limitations may involve exercising control of the speed of the trolleys, or other aspects of the ride design. As there is a degree of uncertainty on the noise levels of riders traversing the final two spans, I note that a review condition in this regard would be appropriate.
101. I note that Hanmer Springs Horse Riders Inc. (#7) raised concerns about the potential for horses using the existing track to be spooked by sudden noise from the proposed flyride, overhead. I note that this existing track is located on the adjoining site to the west of the proposed flyride location. While the proposed flyride would run adjacent to the existing track, the closest point between the track and the proposed ride is adjacent to Tower 6, with a separation of approximately 50 metres. Mr Walton notes that the AES noise assessment suggests levels of 70-75 dB LAF_{max} at ground level at this distance. Mr Walton considers at this level, noise from vocalisations will be clearly audible over the background noise level to the human ear. Mr Walton notes, however, that there will be some existing impulsive noise in the environment – for example from mountain bikers and walkers, along with natural sounds such as birds, that would have the potential to occasionally generate similar levels. Mr Walton considers that due to the lack of specific research on horses’ sensitivity to noise sources, he cannot simply objectively quantify the extent of this issue. Therefore, there is uncertainty regarding the noise effects from the proposed flyride on horses using the adjacent existing track.
102. In conclusion, Mr Walton states that noise effects will be determined by how frequently high-level vocalisation events occur but considers that noise effects are unlikely to exceed the ‘minor’ threshold at the closest dwellings. Mr Walton accepts Mr Trevathan’s position of a less than minor effect overall. I have relied on Mr Walton’s and Mr Trevathan’s

expertise in relation to noise effects from the proposal. Given their conclusions, and with the imposition of a review condition in relation to noise, I am satisfied that any actual and potential effects in relation to noise would be adequately mitigated, except for the uncertainty of noise effects on horses, as outlined above.

Traffic and parking

103. In total, 42 submissions related to transportation matters. These submissions are summarised and addressed in section 6 of the transportation assessment prepared by Abley and attached as **Appendix B** to this report. In brief, concerns of submitters relate to:
- Lack of suitable and adequate car parking
 - Traffic congestion and volumes of traffic on public roads
 - Conflict with driveways and private properties
 - Safety concerns, including pedestrian safety
 - Emergency vehicle access
 - Inadequacy of proposed conditions
104. A parking assessment prepared by Novo Group Ltd (“Novo Group”) forms part of the application.
105. The Council has commissioned Abley to provide an independent peer review of the car parking assessment prepared by Novo Group and address all submission points relating to transportation matters. The technical evidence by Mr Smith from Abley is attached as **Appendix B**.
106. Rule 8.4.3.5 of the HDP, requires that the proposal provide on-site carparking. As the proposed activity does not clearly fall within a particular activity type under Rule 8.4.3.5, the activity type which is closest in definition applies. I consider that the activity type which is closest in definition to the proposed activity is ‘Turnover,’ due to the proposed activity including groups of visitors at staggered intervals. The on-site parking requirement for ‘turnover’ activities is 1 car park per 4 licensed or design visitor capacity (whichever is the greater), plus 1 car park per 2 employees. As the proposed flyride has a maximum capacity limit of 60 persons per hour and on average 3 employees will be required for the operation of the activity, a minimum of 17 car parks, including 1 accessible space is required in terms of the HDP.
107. The proposal does not provide for any on-site car parking with users of the proposed flyride expected to utilise existing on-street parking near the entrances to Conical Hill Reserve or walk from the Hanmer Springs township.
108. Vehicle access during construction of the proposal and vehicle access for continued staff and operational requirements will occur from formed forestry roads on land adjacent to the site via a private agreement.
109. All other access is proposed to be via existing pedestrian entrances with the primary entrance to the flyride being at the end of Conical Hill Road, where Oregon Heights starts.

Alternative routes include the east side of Acheron Heights, west side of Lucas Lane and the Majuba Walk trail.

110. The Applicant is seeking that the following review condition be imposed on the resource consent that will enable the re-consideration of car parking, should adverse effects that are different to those anticipated occur:

That pursuant to section 128 of the Resource Management Act 1991, the Council may review the conditions by serving notice on the consent holder within 1 month of any 24-month period following the date of this decision, in order to deal with any adverse effects on the environment that may arise from the exercise of this consent.

111. Section 128 of the RMA provides for a consent authority to serve notice on a consent holder of its intention to review the conditions of a resource consent at any time or times specified for that purpose in the consent for the purpose of dealing with any adverse effect on the environment which may arise from the exercise of the consent and which it is appropriate to deal with at a later stage.

112. Mr Smith has reviewed the parking assessment prepared by Novo Group which evaluated the existing parking demand by conducting a parking survey along nearby streets to Conical Hill, and he has assessed the adverse transport effects to determine the extent caused by the parking shortfall. Mr Smith has also assessed and addressed the transport related submissions.

113. Mr Smith considers the Novo Group parking assessment to be generally satisfactory, however, raises several areas of uncertainty in relation to the parking assessment. These include the current level of parking demand whilst New Zealand is under travel restrictions, the vehicle mode share for visitors and the extent of use of various accesses to the reserve.

114. In terms of safety, Mr Smith has considered the crash assessment prepared as part of the parking assessment and has identified several additional concerns that are not highlighted by crash data. These concerns are outlined below:

- The absence of a give way control at the Conical Hill Road and Thomas Hanmer Drive intersection, coupled with the close proximity of the driveway at 84-86 Conical Hill Road may give rise to confusion with respect to vehicles yielding at this intersection. The potential conflict may be exacerbated by the increased numbers of vehicles turning and crossing pedestrians associated with the flyride activity, without dedicated infrastructure.
- There is no footpath on the west side of Conical Road or a designated crossing location on Conical Hill Road to access the footpath on the east side of the corridor. Visitors who park on Thomas Hanmer Drive will need to cross Conical Hill Road and may choose to do so at a variety of locations at or near the intersection including potentially in the path of manoeuvring vehicles and/or where there is limited visibility.

115. Therefore, Mr Smith recommends that a formal pedestrian crossing facility be installed to provide for safe pedestrian movement across Conical Hill Road on the south side of Thomas Hanmer Drive.

116. In regard to pedestrian safety at the Conical Hill Road access, Mr Smith outlines that along the lower part of Oregon Heights, there is only a footpath on one side of the road, and people parking in this area must walk along the road to access the footpath. Mr Smith understands that the Council has designed improvements to the entrance to Conical Hill for pedestrians and this is intended to be constructed in the current financial year. Mr Smith considers that the designed improvements will improve access and accessibility for pedestrians and recommends that these improvements are completed before the proposed flyride is open to the public.
117. From a parking supply perspective, Mr Smith is of the opinion that there is a risk that parking demands will exceed those shown in the Novo Group assessment at peak times. Mr Smith states that should there be a substantial increase in parking demand and corresponding walk access times, he considers the likelihood of adverse effects would increase.
118. As such, Mr Smith recommends that the parking occupancy on local streets adjacent to the flyride be monitored. Mr Smith proposes undertaking monitoring twice yearly coinciding with school holidays and/or public holidays within the first two years of operation, such that any parking shortfalls would be identified in a timely manner. Mr Smith further recommends monitoring of parking in a school holiday or public holiday weekend prior to the activity opening, to provide baseline data.
119. Mr Smith addresses submissions relating to a concern about the lack of parking and considers that as the Novo Group parking assessment was carried out on a long weekend during school holidays, he would expect this to be representative and for there to be plenty of parking available for flyride users on an average day. Mr Smith notes that there is a risk that with travel restrictions due to Covid19, the typical peak parking demands may be greater and therefore, recommends the monitoring be undertaken as I have outlined above.
120. In terms of traffic congestion, Mr Smith considers that the level of additional traffic associated with the flyride activity would be well within the capacity of the local roads.
121. In regard to concerns raised by some submitters about flyride users utilising the private section of Oregon Heights to park and use the existing private path, Mr Smith recommends wayfinding be installed to prevent the unauthorised entry into this private area and that suitable information on the site's entry location be provided. Mr Smith also recommends that wayfinding be extended to Lucas Lane to discourage its use, in response to some submitters concerns about the existing condition of Lucas Lane.
122. In response to a submitter's concern about the increased use of Acheron Heights to access Conical Hill, Mr Smith recommends that the monitoring as previously outlined, be extended to Acheron Heights. Mr Smith has recognised that if vehicles were parked on both sides of Acheron Heights, a 4 metre clearance for emergency vehicle access as stated in Fire and Emergency New Zealand's guidelines, would not be achieved. Although Mr Smith acknowledges this is an existing issue, he considers it may be exacerbated by additional parking demand associated with the flyride activity. Mr Smith recommends the following mitigation measures:

- That parking monitoring proposed be extended to Acheron Heights.
- Should monitoring find that vehicles associated with the activity are encroaching beyond the cul-de-sac head along both sides of the corridor, that wayfinding be installed to reinforce that access to the flyride is via Conical Hill Road. In this case, Mr Smith further recommends that parking be restricted to one side of the road on Acheron Heights, although notes this is a matter for the Community Board and not the Applicant.

123. Mr Smith concludes that any traffic effects associated with the proposal are considered acceptable subject to addressing the following:

- Monitoring of on street parking associated with the Flyride activity to be undertaken by an independent suitably qualified transportation engineer before the attraction opens (as a baseline) and twice annually for two years after opening, and to coincide with a school or public holiday weekend. Should the extent of parking activity be substantially greater than that identified in the parking assessment, then Council and the applicant should agree on what constitutes an adverse effect, how this can be mitigated and capture this within the wording of a condition of consent.*
- Monitoring should extend to the extent of parking associated with the activity on Acheron Heights. Should parking demand extend to both sides of the corridor such that vehicles potentially impede Emergency and Fire Appliances access then the applicant should work with Council to install No Stopping At All Times (NSAAT) markings on one side of Acheron Heights or agree on other suitable mitigation including the implementation of wayfinding.*
- A formal crossing facility should be installed to provide for safe pedestrian movement across Conical Hill Road on the south side of Thomas Hanmer Drive. The specific location, form and design of the crossing should be agreed and approved by Council.*
- It is recommended that pedestrian improvements to the Conical Hill access (programmed to be delivered by Council in 2021/22 financial year) be completed prior to the Flywire activity being open to the public which will improve the safety and accessibility of Conical Hill for pedestrians.*
- It is recommended that a Wayfinding Plan be prepared including signage to encourage the use of the Conical Hill access for Flyride activity visitors, coupled with signage to discourage the use of private accessways, Lucas Lane and Acheron Heights.*

124. I have relied on Mr Smith's expertise in relation to transport effects from the proposal and have accepted his proposed conditions, albeit reworded slightly.

125. Subject to imposition of the suggested conditions, I consider that any actual or potential effects in terms of transportation would be adequately mitigated.

Recreation character

126. I note that several submitters have raised concerns about amenity value effects of the proposal on other users of Conical Hill Reserve, including noise and visual effects. I further note that other submitters do not consider it appropriate for a commercial activity to be established on the site due to its reserve status.

127. In terms of the permitted baseline, the HDP provides for recreational activities in an Open Space Zone as a permitted activity and the Reserve Management Plan provides the ability for licences to be obtained for commercial recreation activities.

128. I note that several submitters express general concern about the effects of noise from the proposed flyride on other recreational users of the forest area and Conical Hill walking tracks.

129. In his acoustic assessment, Mr Trevathan states that noise levels of up to 65 dB_{LAFmax} are expected over a small portion of the Conical Hill summit pathway. He considers that because this pathway is only occupied intermittently, and by people who are in the area for a brief period and are also engaged in active outdoor pursuit, he does not expect this aspect of the noise to have any adverse effect. In response, Mr Smith identifies that from previous research, 'back-country' visitors consistently show greater sensitivity to sounds than 'front-country' visitors and as such, considers visitors to the town-facing areas of the walkway are likely to be relatively accepting of noise, noting their proximity to an urban area. Mr Smith also states that based on the extrapolation from the noise contours of the AES assessment, vocalisations could be audible out to Clarence Valley Road to the west, under some conditions. Mr Smith considers that the scale of effect from this will vary but that he does not anticipate it to be more than minor, given the frequency of the events. I have relied on Mr Smith's expertise and experience in this matter.

130. The application is supported by a Recreation Effects Assessment prepared by Rob Greenaway & Associates, attached as Appendix 3 to the application. The report assesses the effects of the proposed flyride on existing recreational users of Conical Hill and reviews its compatibility with the provisions of the Reserves Act and the Hurunui District Council Reserves Management Plan (2012).

131. Mr Greenaway identifies five assessment matters appropriate to review the effects of the proposal on existing recreation values. Mr Greenaway is of the opinion that of the five assessment matters, only one raises the potential for concern, that is, whether the flyride will 'dominate' the recreation experience on Conical Hill. The report notes *that the track to the summit from both the north and the south are well-separated from the flyride by the contours of the hill and by mature vegetation, and the walking experience will largely remain as it is. The start station will be obvious from summit, but will not dominate the key experience, which is the view to the south from the viewing structure. Vegetation may be*

used to screen the start station, but sounds of activity will likely be heard. Having regard to this, I agree that the flyride is unlikely to dominate the experience on Conical Hill.

132. Overall, Mr Greenaway concludes that the proposal is acceptable from a recreation perspective.

133. I have relied on the expertise of Mr Greenaway in relation to the effects of the proposed flyride on existing recreational users of Conical Hill. Given his assessment and conclusions, I am satisfied that the amenity values and recreation character of the site will be maintained.

Ecological effects

134. A number of submitters have raised concerns relating to ecological effects including:

- Adverse effects on native geckos and skinks, including loss of life and habitat, noise and activity associated with the flyride and the feasibility and risk of survival in terms of relocation.
- Removal of trees, including indigenous vegetation.
- Adverse effects on the Karearea/New Zealand falcons that nest on site
- Adverse effects of other bird life in the area, including loss of habitat, noise disturbance and increased activity

135. As outlined in the application, the site provides habitat for gecko and skinks, including the Rough Gecko, Canterbury Grass skink, Southern Alps Gecko and Pygmy Geckos.

136. It is noted that the Rough Gecko has a threat category of 'Threatened – Nationally Vulnerable' and the Canterbury Grass Skink has a threat category of 'At Risk: Declining.' The other species are not identified as threatened species.

137. I consider that any adverse effects on the gecko and skink habitat will be during the construction phase of the proposal.

138. It is noted that while the location of the seven poles of the flyride have been identified in the *Graphic Attachment to Landscape and Visual Assessment Addendum* of the application, the application seeks the ability for micro-siting to occur. The extent of micro-siting sought is that a pole may be relocated within ten metres of the location shown. The application outlines that the micro-siting allowance is sought to enable the exact location of the poles to be refined to ensure the most appropriate location for each pole addressing ground conditions and also enabling options for avoiding and managing any skink and gecko habitat areas.

139. The key management approach to lizards is through the Wildlife Act 1953 which is administered by the Department of Conservation.

140. In order to link the resource consent consideration with the Wildlife Act matters, the Applicant proposes that in addition to the ability to micro-site that the following condition be imposed on the resource consent:

Prior to any physical construction works occurring on site the applicant will provide the consent authority 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 this proposal, or

(b) if there is potential for Rough Gecko habitat or Canterbury Grass skink habitat, or other lizards to be affected the applicant will not undertake physical works associated with the construction of this proposal unless any permit required under the Wildlife Act has been obtained from the Department of Conservation.

141. As outlined in the application, this provides one of three potential outcomes for the Applicant. The first is that that habitat will not be disturbed. The second is that habitat, and any geckos and skinks could only be disturbed in accordance with a specific permit provided under the Wildlife Act in accordance with the requirements of the Department of Conservation. The third outcome is that works associated with the proposal will not be able to proceed.
142. I note that the addendum application outlines that the wildlife permit application process is proceeding with the Department of Conservation, in coordination with a herpetologist working on behalf of the Applicant.
143. In terms of effects on birdlife, I note that the Conical Hill Forest Management Programme 2012-2022 identified that the New Zealand falcon is present on Conical Hill. I further note that this Eastern form of the falcon has a conservation status of 'At Risk – Recovering.'
144. As part of an information request to the Applicant, the Applicant outlined that the herpetologist working on behalf of the Applicant surveyed birds sighted during February and April 2021, within the proposed footprint of the proposal. While no falcons were sighted, bellbird, tui, grey warbler, South Island fantail, silvereye and tomtit (all 'Not Threatened') and Eurasian blackbird ('Introduced and Naturalised') were sighted. The applicant also outlined that the Department of Conservation have not raised any concerns about the proposal having effects on birdlife in their correspondence in applying for a wildlife permit.
145. Although the Applicant has provided the above information regarding the New Zealand native falcon on Conical Hill, I do not believe I have sufficient information or hold the relevant expertise to determine whether the construction and operation of the proposed flyride will have any actual or potential effects on the New Zealand falcon (Eastern form). Therefore, I have not been able to reach a conclusion on this matter.
146. One submitter also referenced sighting bellbird, tui and the New Zealand pigeon which also has a conservation status of 'Not Threatened.'
147. With respect to indigenous vegetation, I note that a tree removal and pruning preliminary schedule is provided on sheet 30 of the *Graphic Attachment to Landscape and Visual Assessment Addendum* of the application. The schedule outlines that some removal

and disturbance of kanuka and broom which are native species to New Zealand, is proposed to establish the flyride.

148. The addendum application states that the kanuka is undergrowth and intermixed with broom and other exotic species, as such it is not an identifiable area of indigenous vegetation.

149. Rule 13.4.2.4 of the HDP, provides for indigenous vegetation clearance within settlement zones except Mt Lyford, as a permitted activity. Therefore, the removal of kanuka, broom or any other indigenous vegetation clearance, is a permitted activity given the zoning of the site.

150. I note that a preliminary revegetation strategy has been provided on sheet 31 of the *Graphic Attachment to Landscape and Visual Assessment Addendum* of the application. The preliminary revegetation strategy identifies an area of approximately 940 m² for revegetation utilising native plant species. I note that any planting in settlement zones is a permitted activity. It is my opinion that the proposed revegetation with native plant species will promote the restoration and enhancement of indigenous vegetation and habitats.

151. I consider that any actual or potential effects of the proposal on the geckos and skinks on site, is most appropriately addressed and managed under the Wildlife Act 1953. I agree with the Applicant that it is appropriate to link the resource consent consideration with the Wildlife Act matters by imposing conditions of consent. As such, I recommend that the following conditions of consent be imposed:

- *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 experience person, which shall be provided to and certified by the Council before any physical construction works can proceed.*
- *Prior to any physical construction works occurring on site the Consent Holder will provide the consent authority 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 this proposal, or*
 - (b) if there is potential for Rough Gecko habitat or Canterbury Grass skink habitat, or other lizards to be affected the applicant will not undertake physical works associated with the construction of this proposal unless any permit required under the Wildlife Act has been obtained from the Department of Conservation.*

152. Subject to imposition of the above conditions, I consider that any actual or potential effects on geckos and skinks on site, would be minimised.

Fire risk

153. Five submitters have raised concerns about fire risk to people and property, including the heightened risk in summer, an increase in people, wind conditions, and the terrain making it difficult to control fires.
154. In addition, submitters have raised concerns about emergency vehicle access, regarding current and future traffic congestion in the form of parking, and that the Fire Emergency New Zealand 4.0 metre gap requirement for access is often not achievable.
155. Fire Emergency New Zealand (FENZ) (#51) state that they have no concerns with the proposal, however, note that the 'level of fire risk' as mentioned in the application is not described in detail and so there is uncertainty as to what this means and when this will be required. FENZ state they are neutral towards the proposal but consider that if consent is granted, a requirement for an emergency operations procedure should be in place. FENZ state this may include where the ride can still be operated if there is a fire or high fire season, and what operations procedures shall be in place during these events. FENZ seek that an Operations Procedure (including for fire emergencies) be required to be in place prior to the activity being opened for the public.
156. I note that there are no objectives, policies or rules in the HDP which relate directly to managing fire risk, other than in Mt Lyford. However, I note that fire is included in the definition of 'natural hazard' in the HDP, as outlined below.
- Natural hazard means any atmospheric or earth or water related occurrence (including earthquake, tsunami, erosion, volcanic and geothermal activity, landslip, subsidence, sedimentation, wind, drought, fire, or flooding) the action of which adversely affects or may adversely affect human life, property or other aspects of the environment.*
157. Objective 15.1 seeks to enable subdivision, use and development of land while avoiding or mitigating the adverse effects of natural hazards. Policy 15.1 seeks to avoid new subdivision, use and development of land in areas identified as 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.
158. I note that the proposed start station, toilet, T2, T5 and T6 will be located within the 50 metre forestry setback. However, I further note that there are no provisions which relate to this setback which apply to the Open Space Zone and that the provision regarding the 50 metre forestry setback is only applicable to new dwellings or principal buildings in the Rural Zone. My understanding is that the intention of this provision is to control potential cross boundary effects from felling, maintenance, spraying, trimming or other forestry activities, such as noise, traffic, visual effects, and a heightened risk of fire spread.
159. Although the 50 metre forestry setback does not apply to the site, I consider it is appropriate to address all actual or potential effects of the proposal, including the potential risk of fire.
160. In this regard, the application states there will be days when operation will not occur for reasons of weather, such as if the level of fire risk means the operation cannot occur

safely. I also note that FENZ recommend a requirement for an emergency operations procedure to be in place prior to the activity being opened for the public. FENZ state that this emergency operations procedure may include where the ride can still be operated if there is a fire or high fire season and what operations procedures shall be in place during these events.

161. I agree with FENZ on the requirement for an emergency operations procedure being in place prior to the activity being opened for the public. I consider that this should be drafted in consultation with FENZ.

162. I also note that the application will be required to satisfy the requirements of clauses C1-C6 of the New Zealand Building Code (NZBC) which relate to protection from fire which will be addressed through the building consent process. At the time of drafting this report, the building consent was still being processed but the Building Consent Processor confirmed that the building consent application for the flyride would need to satisfy the requirements of clauses C1-C6 of the NZBC, for the building consent to be issued.

163. In terms of emergency vehicle access, I note that this has been addressed in the transportation report by Abley and a condition of consent has been proposed as a mitigation measure.

164. I consider that fire risk will be largely addressed through the building consent process but also recommend that the following condition be imposed on the resource consent:

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.

165. Subject to imposition of the above condition, I consider that any actual or potential effects in terms of fire risk would be minimised and that the proposal will be consistent with Objective 15.1 and Policy 15.1 of the HDP.

Natural hazard risk

166. A number of submitters have raised concerns regarding natural hazard risk to people and property from the proposed removal and pruning of trees and the proposed buildings and structures associated with the activity. In particular, submitters have outlined concerns regarding landslips, subsidence, erosion and stormwater, particularly given the site is identified as being within a slope instability area. Some submitters have also raised concerns about increased natural hazard risk in the event of an earthquake, given the proximity to fault lines, and the potential risk associated with severe wind gusts.

167. As outlined earlier, the majority of the site is located within a slope hazard 4 – Moderate-High Risk area. The majority of the proposed flyride will be located within the slope hazard 4 area, with the proposed start station and the toilet being the only part of the proposal located outside of this slope hazard 4 area. The area where the start station and toilet are located is not subject to any hazard mapping.

168. I note that there are no objectives or policies which relate directly to slope hazard areas but that Objective 15.1 and Policy 15.1 which have been outlined in the preceding, fire risk analysis, are relevant.
169. I note that the proposal provides for the removal of 72 trees. The Applicant notes that the number of trees to be removed is an estimate and that there may be some additional removal and pruning of trees required relating to the construction of the access tracks and to ensure the necessary clearances are achieved from the power/data cable. The Applicant notes that all efforts will be undertaken to minimise the removal of trees.
170. A high level geotechnical assessment prepared by ENGEO Ltd was provided by the Applicant after a further information request from Council for the initial resource consent application. The Applicant has since provided a detailed Geotechnical Design Report prepared by ENGEO Ltd. In this report, ENGEO Ltd confirm that having reviewed the tree removal plan proposed, it is their opinion that the vegetation removal will have a negligible impact to the global stability of the slope. In addition, this report has been assessed by Council's Building Processing Officer who has verified that the report satisfies section 71 of the Building Act 2004, which addresses natural hazards in terms of protecting the land, building work, or other property from natural hazards. I have relied on ENGEO's and the Council's Building Processing Officer's judgement regarding this matter.
171. Several submitters have made reference to the area being subject to earthquakes and fault lines. There is no known fault lines or associated Fault Avoidance, or Fault Awareness Zones located on the site.
172. In addition, one submitter has referenced Lucas Lane as being subject to severe wind gusts. The definition of 'Natural Hazard' in the HDP includes wind. I note that there are no provisions in the HDP which relate directly to wind but similarly to fire, Objective 15.1 and Policy 15.1 are relevant as they relate to all natural hazards. I note that the structural design of the project in terms of withstanding loadings of wind will be addressed at building consent stage.
173. Overall, I consider that any actual or potential effects in relation to natural hazard risk can be appropriately mitigated and managed and that the proposal will be consistent with Objective 15.1 and Policy 15.1 of the HDP.

Positive effects

174. As previously outlined, 13 submissions supported the application, and one submission supported the application in part. Most of these submitters considered the proposal would have positive effects. These positive effects are summarised below:
- The proposal is unique in that it is the first one in New Zealand
 - Additional employment provided
 - The proposal can be provided with no cost to the ratepayer
 - Economic benefit to Hanmer Springs and district
 - Minor adverse effects are outweighed by benefits
 - Proposal will bring more visitors to the village
 - Proposal will add and enhance diversity of activities in Hanmer

- Proposal is compatible with and will complement existing activities.

175. I agree with submitters that the proposal will provide positive effects and I am mindful that it is difficult to accurately identify and quantify the full extent of likely positive effects that will result from the proposal. I consider that the proposal will provide a new recreational attraction to Hanmer Springs which is identified in the HDP as a tourism and holiday focussed settlement. In addition, the proposal would generate employment opportunities and as such I consider it would create positive economic effects which would benefit the wider community and district.

Other matters

176. A number of other matters were raised by submitters. While I have not addressed all other matters raised in submissions individually, I have summarised and addressed the below matters which were raised by several submitters:

Alternative locations

177. Several submitters consider that alternative sites are available and more appropriate, where potential adverse effects will be less than the proposed location of Conical Hill. Alternative sites explicitly recommended by submitters include:

- Chatterton Park
- Somewhere near the hilly parts of the forest
- Directly behind Conical Hill, with additional planting proposed
- Other hills

178. Section 88(2)(b) of the RMA requires that an application for resource consent include an assessment of the activity's effects on the environment, that is required by Schedule 4. Schedule 4 requires that the assessment of the activity's effects on the environment must include a description of any possible alternative locations or methods for undertaking the activity, if it is likely that the activity will result in any significant adverse effect on the environment.

179. I note that the application does not consider any alternative locations but states that discussions with the local community, resulted in a change to the location of the ride from what was initially proposed, with the proposal originally being located further east of the reserve.

180. As outlined above in my preceding assessment of environmental effects, I am unable to conclude whether the activity will result in any significant adverse effect on the environment in terms of effects on the New Zealand native falcon and noise effects on horses using the existing adjacent track.

Precedent

181. Some submitters have also raised concerns regarding the proposal breaching rules, specifically pole heights but in particular not providing carparking, setting a precedent for future applications.

182. In regard to precedent effect, Case Law has established through the High Court in *Rodney District Council vs Gould*, that concerns relating to precedent effect are not mandatory considerations, but is a matter that decision makers *may have regard to*, depending on the facts of a particular case including: Whether a proposal is contrary to the objectives and policies of the plan; and if so, whether in the circumstances of a particular case, a proposal can be seen as having some unusual quality.

183. I also consider that any new resource consent application must be considered on its merits including the consideration of cumulative effects.

Existing access via 34 Acheron Heights

184. I note that two submitters raise a number of concerns related to the existing and continued use of 34 Acheron Heights as a pedestrian access to Conical Hill Reserve. I consider several matters raised such as impacts on financial investment, health and safety risks in terms of loose terrain and effects on the water reservoir and water supply are not considered relevant resource management matters in relation to the proposal.

185. In regard to the concerns raised regarding an increase in large volumes of pedestrians using the Acheron Heights access, Mr Smith from Abley considers that flyride customers will use the main entrance from Conical Hill Road as this is a more direct route from town. Mr Smith does not expect pedestrian volumes through the Acheron Heights access to increase significantly but does consider this can be reinforced through wayfinding encouraging the use of the Conical Hill Road access, which has been included as a proposed condition.

186. In terms of an increase in noise from the use of the Acheron Heights access, Mr Walton from Marshall Day Acoustics has based his assessment on the Novo Group parking assessment and considers there will be little total noise increase expected.

187. I have relied on the expertise of both Mr Smith and Mr Walton in regard to any potential or actual effects on amenity values of neighbouring site owners from the use of the Acheron Heights access.

Conclusion with respect to effects on the environment

188. It is my opinion that the proposal would result in the addition of built form and associated visual effects. However, I am satisfied that these effects would be mitigated through the design of the structures and proposed revegetation.

189. In regard to effects on amenity values, I consider effects in terms of loss of privacy on surrounding dwellings, would be mitigated by the setback distance of the proposed poles and stop station and through conditions of consent relating to landscaping.

190. I consider any transportation and noise effects of the proposed activity would be adequately mitigated through the proposed conditions of consent with the exception of the matter I refer to paragraph 193 below.

191. I am satisfied that effects in terms of natural hazard risk would be mitigated through the design of the structures and the need to meet the requirements of the Building Act.

192. In terms of ecological effects, I consider that subject to the imposition of the proposed conditions, that any effects on geckos and skinks on site, would be minimised.

193. As outlined in my assessment of environmental effects, I am not satisfied that I currently have sufficient information to consider and determine the actual and potential effects on New Zealand falcon (Eastern form) which has a known presence on the site and the noise effects on horses using the adjacent track.

Relevant objectives, policies, and other provisions of a plan or proposed plan (s.104(1)(b))

Hurunui District Plan

194. The HDP sets out a number of objectives and policies, which I consider relevant to the application. These are outlined and discussed below.

General objectives and policies:

Objective 4

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.

Policy 4.3

To recognise that in the district, specific zones cannot be completely discrete in what they contain. Potentially conflicting activities are managed to ensure environmental standards, character and amenity values are maintained while not diminishing the value or detracting from the primary purpose of the zone.

Policy 4.4

To provide for and manage subdivision, land development and use in the tourism and holiday focussed settlements such as Hanmer Springs and the coastal settlements in a manner that protects and enhances the special character and environmental qualities of those settlements.

Policy 4.5

To recognise that some settlements have been developed in locations subject to natural hazards, especially flooding and coastal erosion, which may be exacerbated by climate change, and to discourage further development or investment of public resources in these areas, particularly seaward of coastal hazard lines.

Policy 4.6

To control site-specific environmental effects, such as noise emissions, light spill and traffic generation, to levels appropriate to the zone.

Policy 4.17

To ensure any business development adjoining residential areas is designed and sited to protect the privacy, amenity values and outlook of residential areas

195. It is my opinion that the proposal will maintain the alpine character of Hanmer Springs due to the design of the proposed structures and that the proposal in general is consistent with the above objective and policies.

196. I am unable to conclude whether the proposal is consistent with the Policy 4.3 in regard to maintaining amenity values and Policy 4.6 in regard to controlling noise emissions, as I consider further information is required to enable an assessment of the effects of the proposal on noise effects on horses.

Open Space policies:

Policy 4.19

To promote the establishment of an integrated pattern of greenways and open spaces through the settlements.

Policy 4.20

To provide for open space zones to meet recreational requirements within settlements, which maintain and enhance amenity values and provide connectivity and public access.

197. The proposal is located within an existing Open Space Zone which has an established network of walking tracks. While the proposal does not expand this network, it will provide a new recreational activity within Conical Hill Reserve. However, I note that as there is uncertainty with respect to horses' sensitivity to noise sources, as previously outlined in this report, I cannot conclude that the proposal will achieve Policy 4.20 in terms of maintaining and enhancing amenity values.

Hanmer Springs objectives and policies:

Objective 4.1

The protection and enhancement of the special qualities of the Hanmer Basin.

Policy 4.21

To ensure all residential and business developments are designed to maintain or enhance the amenity values and alpine character of the Hanmer Springs Township.

Policy 4.22

To recognise and promote the alpine village character of the township and the heritage values of the older part of the village.

Policy 4.23

To ensure that the individual character areas of the Hanmer Springs Township, as defined by the community, are maintained and enhanced through the design standards listed in the District Plan.

198. Overall, I am satisfied that the proposal would recognise and promote the alpine village character of Hanmer Springs through the specific design elements of the structures and selection of materials and colours which are consistent with the Hanmer Springs design standards. I am also satisfied that the design and location of the proposed structures would be in sympathy with the environment.

Policy 4.24

To protect potential notable specimens or groups of trees within Hanmer Springs to maintain and enhance the town's level of amenity.

199. I note that there are no notable trees identified in the District Plan within the application site. I further note that the proposal involves the selective removal of approximately 72 trees and some areas are proposed to be revegetated with appropriate indigenous plantings. I am satisfied that the forested character of the site will be maintained.

Transport objectives and policies

Objective 8.1

A safe and efficient transport network that services the current and future needs of all users.

Policy 8.1

To provide for the safe and efficient use and development of the land transportation network.

Policy 8.5

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.

200. While no on-site parking is proposed, I am satisfied that the safety and efficiency of the road network will be maintained, based on the information provided in the traffic assessments and through the conditions of consent proposed.

201. I am satisfied that the level of additional traffic associated with the proposal would be well within the capacity of the local roads.

Ecosystems and Indigenous Biodiversity objectives and policies

Objective 13

Exercise Kaitiakitanga/guardianship by managing ecosystems and indigenous biodiversity within the district through:

- (a) The protection of ecosystem values, ecosystem functioning and areas of significant indigenous biodiversity;*
- (b) The maintenance of other indigenous biodiversity;*
- (c) The encouragement and support for restoration and enhancement of ecosystems and indigenous biodiversity; and*
- (d) Recognising and valuing indigenous biodiversity as an essential part of mahinga kai and the relationship of Ngāi Tahu with its ancestral lands and waters.*

Policy 13.1

To identify areas of significant indigenous biodiversity value by applying criteria (set out in Appendix 13.1).

Policy 13.2

To protect areas identified as having significant indigenous biodiversity value, by avoiding, remedying or mitigating adverse effects using appropriate mechanisms including where identified through a resource consent process.

Policy 13.3

When considering resource consent applications:

- (a) ensure that any adverse effects of the activity on the indigenous biodiversity of the district's environment are avoided, remedied or mitigated;*
- (b) encourage landowners to take opportunities and consider the site specific management factors to promote the restoration and enhancement of indigenous vegetation and habitats;*
- (c) encourage provision of mechanisms that assist in protection or enhancement of significant indigenous biodiversity such as QE II covenants and the use of Biodiversity Management Plans;*
- (d) provide for consideration of biodiversity offsets where it has been demonstrated that the adverse effects have been avoided as far as practical in the first instance, minimised when total avoidance is impracticable, and any remaining adverse effects are remedied or mitigated and where the adverse effects cannot be avoided, remedied or mitigated it is demonstrated that, with the offset, that will achieve no net loss; and*
- (e) provide for conservation lots to be created, or reduced site areas to be considered, where significant indigenous biodiversity is protected.*

Policy 13.4

To encourage landowners to protect and enhance areas of indigenous biodiversity, and support them in a co-operative manner by considering a range of options and protection mechanisms.

- 202. I consider that any effects of the proposal on geckos and skinks on site, is most appropriately addressed and managed under the Wildlife Act 1953.
- 203. I also consider that indigenous biodiversity on the site would be enhanced by the indigenous revegetation proposed.
- 204. I am unable to conclude whether the proposal would be consistent with the ecosystems and indigenous biodiversity objectives and policies, when the effects of the proposal on New Zealand native falcon cannot be adequately assessed.

Natural hazards

Objective 15.1

Subdivision, use and development of land is enabled while avoiding or mitigating the adverse effects of natural hazards.

Policy 15.1

To avoid new subdivision, use and development of land in areas identified as subject to natural hazards:

- 1. *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; and...*

- 205. As outlined in my assessment of environmental effects, I consider that given the design of the proposal, any adverse effects of natural hazards would be mitigated. I also consider that the proposal is consistent with Policy 15.1, having satisfied the requirements of section 71 of the Building Act.
- 206. I consider that overall, the majority of the proposal is generally in accordance with the relevant objectives and policies of the HDP, as outlined above. However, I am unable to

reach an overall conclusion on whether the proposal is in accordance with the objectives and policies of the HDP, in particular Policy 4.3, Policy 4.6 and the objectives and policies relating to ecosystems and indigenous biodiversity.

Other relevant Statutory Documents (s.104(1)(b))

National Environmental Standards

207. There are currently nine National Environmental Standards (“NES”) in effect. These are the NES for Air Quality 2004, NES for Sources of Drinking Water 2007, the NES for Electricity Transmission Activities 2009, the NES for Telecommunication Facilities 2016, the NES for Assessing and Managing Contaminants in Soil to Protect Human Health 2011, the NES for Plantation Forestry 2018, the NES for Freshwater 2020, and the NES for Marine Aquaculture 2020, and the NES for Storing Tyres Outdoors 2021.
208. It is in my opinion that none of the NES are applicable to this application.

National Policy Statement

209. There are currently five national policy statements in effect under the RMA: The National Policy Statement on Electricity Transmission 2008, the New Zealand Coastal Policy Statement 2010, the National Policy Statement on Renewable Electricity Generation 2011, National Policy Statement on Freshwater Management 2020 and the National Policy Statement on Urban Development 2020.
210. The government has also released a draft National Policy Statement for Indigenous Biodiversity and a proposed National Policy Statement for Highly Productive Land.
211. The application site is located outside of the Coastal Environment Area and the activity does not involve the generation or transmission of electricity, freshwater, or urban development. As the proposal will result in minor removal and disturbance of kanuka and broom, and there are native gecko and skink on site, I consider the draft National Policy Statement for Indigenous Biodiversity relevant to this application.
212. The Government released the Draft National Policy Statement for Indigenous Biodiversity (dNPSIB) in November 2019. Once brought into effect, the Council would be required to give effect to the NPS. In summary, the dNPSIB requires territorial authorities to undertake a district wide assessment to determine if an area contains significant indigenous vegetation and /or significant habitat of indigenous fauna and manage adverse effects on Significant Natural Areas (SNAs).
213. I note that currently the HDP does not map SNAs. While I consider the dNPSIB is relevant to this proposal, it has no legal weighting until it comes into force, and the final form of any NPS is as yet unknown.

Regional Policy Statement

214. The Canterbury Regional Policy Statement provides an overview of the resource management issues in the Canterbury Region, and the objectives, policies and methods to achieve integrated management of natural and physical resource.

215. I consider that Chapter 9 – Ecosystems and indigenous biodiversity is relevant to this application. As discussed above, based on the information I have at the time of reporting, effects on New Zealand native falcon are unable to be adequately assessed. Therefore, I am unable to assess the proposal against the relevant objectives and policies of Chapter 9.

Reserves Act 1977 and Reserve Management Plan

216. As previously outlined, the site is classified under the Reserves Act as a 'Recreation Reserve.' As such, the Reserve Management Plan ("RMP") and Reserves Act 1977 apply to the site.

217. *Policy 5: Commercial Activities* of the RMP outlines that any commercial activity is only permitted on reserve land if specifically allowed for in an individual reserve policy or otherwise licensed by Council. The Conical Hill Reserve Management Plan does not specifically allow for commercial activities on Conical Hill. Therefore, the Conical Hill Reserve Management Plan is required to either be amended to provide for the flyride activity or the flyride will need to be licensed by Council. The resource consent application outlines that a licence will be applied for.

218. Section 54 of the Reserves Act 1977 provides the ability for leases and licences to be granted in respect of recreation reserves. The relevant provisions and process are outlined in paragraphs 60 to 62 of the application.

219. Paragraphs 64 to 108 of the application addresses compliance of the proposed activity with the RMP district-wide matters and the Conical Hill Reserve Management Plan. I agree with this assessment and consider the proposal will be consistent with the RMP, provided a licence is provided under the Reserves Act for the activity and a lease is provided for the associated buildings.

Relevant other matters (s104(1)(c))

Conical Hill Landscape Concept Plan

220. In January 2018, Council commissioned Align Ltd to prepare a Landscape Concept Plan (Concept Plan) on upgrading Conical Hill Reserve, in accordance with the Conical Hill Reserve Management Plan. The Concept Plan included creating refurbishments in key areas, increasing legibility and information and ecological planting design.

221. Extensive consultation with the Hanmer Springs community was undertaken on the Concept Plan from 9th November 2018 – 21st January 2019.

222. On 16 May 2019, the Council adopted a work programme relating to the feedback on the Concept Plan.

223. I note that the improvements to the entrance to Conical Hill for pedestrians, shown in Figure 6.3 of the Abley report formed part of this work programme.

224. Although the Conical Hill Landscape Concept Plan and associated approved work programme, is not a statutory document so holds no legal weight, I consider the proposal is consistent with the Concept Plan and approved work programme.

Conical Hill Reserve Forest Management Programme 2012-2022

225. The Conical Hill Reserve Forest Management Programme 2012-2022 (the Programme) was approved by the Hanmer Springs Community Board in May 2012, to facilitate the most appropriate use and continued management of Conical Hill Reserve.
226. The Goal of the Programme is *“To add to the Hanmer Springs wellness and educational experience by having a highly maintained, near natural and pest free environment on Conical Hill.”*
227. The Programme seeks to control weeds, in particular broom and small wilding pines/firs and encourage native regeneration of tree species already making a presence on the reserve.
228. I note that the proposal involves the removal of predominantly pines and fir species and that native revegetation is proposed.
229. Although the Conical Hill Reserve Forest Management Programme, is not a statutory document so holds no legal weight, I consider that the proposal is consistent with this document.

Conical Hill Revegetation Plan

230. In March 2016, the Council commissioned Align Ltd to prepare a revegetation plan for an area of Conical Hill that was cleared of pine trees in 2013. Pole T7, the stop station and a walking track for stop station access are proposed to be located within this identified revegetation area. The revegetation plan which used native species for replanting has been completed and the area is subject to ongoing maintenance including removal of exotic species.
231. The application proposes revegetation planting for the construction access tracks and for the disturbed areas of earthworks around the towers and platforms, using indigenous plants.
232. As such, I consider that any actual or potential effects on the existing revegetated area will be mitigated by the proposed revegetation planting, using indigenous plants.

Hurunui District Council Tree Management Policy

233. The Policy covers trees within the Hurunui District that the Council has the responsibility to manage, including on recreation reserves. The objective of the Policy is to provide a policy direction on the management of Council owned trees in the district.
234. I consider the following provisions of the Policy relevant to the proposal:

2.9 Replacement Planting

As far as practicable, replacement planting will be in accordance with the planting design of the original landscape or management plan for the park or reserve, unless approved changes have been made to the plan or a particular species has been found to be unsuitable.

235. I note that the Conical Hill Reserve Management Plan has a specific policy which outlines that native species regeneration is encouraged and that the proposed revegetation plant palette outlined in the Preliminary Revegetation Strategy in the application is consistent with the native species identified in the Conical Hill Landscape Concept Plan.

4 Indigenous Vegetation Planting.

Indigenous plantings will be carried out in locations that are considered appropriate and of sufficient size to function effectively as an ecosystem or as part of a corridor to other such areas.

As far as practicable, trees and vegetation to be used for re-vegetation and the establishment of new areas of native plantings, will consist of species sourced from seed obtained from native plants indigenous to the particular area of the Hurunui District being planted.

236. Indigenous vegetation planting has been previously considered in the Conical Hill Reserve Management Plan, Conical Hill Reserve Forest Management Programme and the Conical Hill Landscape Concept Plan as being appropriate for the site.

19 Removal of Council Trees and Vegetation.

Council may remove trees and vegetation in accordance with good tree management principles or where the following has been established... [specific list].

237. While the tree removal isn't in accordance with any of the matters listed, I consider that the trees and vegetation proposed to be removed will be in accordance with good tree management principles, in accordance with the following proposed condition of consent:

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

238. Appendix A of the Policy lists recommended tree species for parks and reserves. I note that while none of the native species to be used for revegetation planting in the application are listed in Appendix A, I am satisfied that given the above assessment, they are appropriate for the site.

Part 2 Matters

239. Part 2 of the RMA contains the purpose and principles of the RMA. The purpose of the RMA is to "promote sustainable management of natural and physical resources."

240. Section 5 sets out the purpose of the legislation being the sustainable management of natural and physical resources. Sustainable management means *managing the use, development and protection of natural and physical resources in a way, or at a rate, which enables people or communities to provide for their social, economic and cultural well-being, and for their health and safety while –*

- (a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- (b) safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
- (c) avoiding, remedying, or mitigating any adverse effects of activities on the environment.*

241. Section 6 and 7 contain Matters of National Importance and Other Matters. Those considered to be relevant are:
- 6(c) *the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna*
 - 6(h) *the management of significant risks from natural hazards*
 - 7(b) *the efficient use and development of natural and physical resources;*
 - 7(c) *the maintenance and enhancement of amenity values;*
 - 7(d) *intrinsic values of ecosystems*
 - 7(f) *maintenance and enhancement of the quality of the environment*
242. The HDP has recently been reviewed. Its provisions were prepared under the higher order planning documents and, through its preparation and the process of becoming operative, have been assessed against the matters contained within Part 2.
243. Consistent with conclusions reached elsewhere in this report, I am unable to conclude whether the proposal supports the purpose of the Act when the effects of the proposal on New Zealand native falcon and the noise effects on horses cannot be assessed.

Conclusion and Recommendation

244. After considering the actual and potential effects on the environment of allowing the application, I am unable to conclude, overall, on the adverse effects of the proposal.
245. However, I do consider that the proposal would have a number of positive benefits at a local level. The proposed development would provide an additional recreational activity and the positive economic effects would benefit the wider community.
246. I am unable to conclude, overall, whether the proposal is contrary to the objectives and policies of the HDP.
247. Until such time as sufficient information is provided to enable an assessment of the effects of the proposal on the New Zealand native falcon, I am unable to conclude, overall, whether the proposal is contrary to the objectives and policies of the HDP and cannot make any recommendation on the proposal.
248. Notwithstanding this, I have outlined some preliminary conditions of consent below. I consider that further detail and work on these conditions is required, should the Commissioner be of a mind to grant consent.

RC210098

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 seven days a week:*
 - *10am-6pm, 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.*
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 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.

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 (1st April to 30th 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 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 car parking 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*



Kelsey Bewley
Senior Planner
16 September 2021

APPENDIX A

NOISE ASSESSMENT

APPENDIX B

TRANSPORT ASSESSMENT

APPENDIX C

ASSESSMENT CRITERIA