

IN THE MATTER of the Resource Management Act 1991

AND

**IN THE MATTER of a Private Plan Change to the Matamata -
Piako District Plan under Schedule 1 of the
Act, referenced as Proposed Plan Change 50**

IN RELATION TO:

An application by Rings Scenic Tours Limited to include a Development Concept Plan (DCP) in the Matamata-Piako Operative District Plan for the Hobbiton Tourism Venue, Buckland Road, Matamata.

MATAMATA - PIAKO DISTRICT COUNCIL HEARING

APPOINTMENTS

The Matamata - Piako District Council (MPDC) confirmed the appointment of Murray Kivell as an independent Hearings Commissioner Chair, and Adrienne Wilcock and Donna Arnold as Hearing Commissioners pursuant to Sections 34 and 34A of the Resource Management Act 1991 (RMA 1991) to hear and decide this Private Plan Change request (Plan Change 50).

We provide this report and accompanying decision to the Matamata - Piako District Council. This report has been prepared after considering all the submissions and further submissions received to the Plan Change, the presentations by the submitters at the hearing, the section 32 evaluation reports, the reports prepared by the Applicant and the Council officer team and the evidence also presented at the hearing including the Right-of-Reply from the Applicant.

NOTICE OF DECISION PURSUANT TO CLAUSES 29 & 10 OF THE FIRST SCHEDULE OF THE RESOURCE MANAGEMENT ACT 1991

DETAILS OF THE APPLICATION FOR PRIVATE PLAN CHANGE: DEVELOPMENT CONCEPT PLAN – HOBBITON TOURISM VENUE

Application Reference: MPDC	Plan Change 50 (PC 50)
Site Address	487, 501, 502 Buckland Road, Matamata
Applicant's Name	Rings Scenic Tours Limited (RSL)
Owner's Name	IR & MC Alexander (Scottsdale Farm)
Legal description of site	Pt Lot 3 DP 9575 (SA15C/297), Section 239 Matamata Settlement (SA19C/893), Pt Sec 137 Blk V Tapapa SD (SA265/12), Pt Lot 2 DP 16907 and Lot 3 DPS 13550 (SA41A/384), Section 229 Matamata Settlement (SA19C/883), Section 240 Matamata Settlement (SA19C/894), Section 244 Matamata Settlement (SA21B/269) Section 238 Matamata Settlement (SA19C/892) and Section 236 Matamata Settlement (SA19C/890)
Total site area	Approximately 370 hectares
Land use Zoning	Rural Zone
Site Notations	N/A
Lodgement Date	15 January 2018
Plan Change Acceptance by Council	14 February 2018
Notification Date	4 April 2018 with submission period to 3 May 2018.
Submissions Received (15)	Monique Moore, 719 Buckland Road David Reichmuth, 21 Buckland Road Nelson Mc Cosh, 632 Buckland Road Carolyn and John Evans, 156 Buckland Road John Evans, 156 Buckland Road Gregar Family Trust, 774 Buckland Road and 385 Buckland Road Gasquoine Holdings Ltd, 696 Buckland Road Glenda O'Sullivan. 127 Buckland Road Kaye Ring, 330 Rangitanuku Road Power Co Ltd, Swap Contractors Ltd and NZ Transport Agency (NZTA) Opal Hot Springs and Holiday Park
Late Submission (1)	Derrys Farm Ltd, 496A Puketutu Road
Further Submission Period	6 June 2018 with further submission period to 20 June 2018
Further Submissions Received (4)	Powerco Limited J Swap Contractors Limited NZ Transport Agency Matamata-Piako District Council
Pre-hearing Meeting	N/A
Hearing Dates Convened	8, 9 April and 29 May 2019
Directions 1 (summary)	10 April 2019 – Exchange of revised/recommended provisions for DCP
Directions 2 (summary)	30 May 2019 – Request for updated DCP provisions

	and updated MOU
Site Visit Completed	<p>4 April 2019</p> <p><u>Attendees at site visit:</u></p> <p>Panel members Kivell, Wilcock and Arnold</p> <p>Members accompanied by Dennis Bellamy, Group Manager Community Development</p> <p>Adam Lynch, RSL Chief Operating Officer (onsite)</p>
Appearances at hearing	<p><u>Applicant/Private Plan Change Promoter:</u></p> <p>Dr. Joan Forret, Legal counsel</p> <p>Stephen Bigwood, Consultant Planner</p> <p>Cameron Inder, Transportation Engineer</p> <p>James Bell-Booth, Acoustics Consultant</p> <p>Michael Graham, Landscape Architect</p> <p>Russell Alexander, Rings Scenic Tours Limited (RSL)</p> <p><u>Submitters:</u></p> <p>David Reichmuth supported by Eveline Reichmuth</p> <p>John Evans</p> <p>Gregan Family Trust represented by trustee Richard Smith, Dennis and Ben Gregan</p> <p>Glenda O'Sullivan</p> <p>Derrys Farm - Mrs Nola Broomhall</p> <p>Swaps Contractors Ltd represented by Richard Harkness</p> <p>NZTA represented by Robert Swears, Claudia Jones and Rodney Albertyn</p> <p><u>District Council:</u></p> <p>Rachel Abraham, Legal counsel</p> <p>Ally van Kuijk, MPDC District Planner (presented on behalf on Mr Rademeyer)</p> <p>Alastair Black, Transportation Engineer</p> <p>Rachel Gilbert, Landscape Architect (via conference call)</p> <p>Nevil Hegley, Acoustics Consultant</p>
Hearing Close	19 June 2019

DECISION

The Decision is set out below.

Acting under delegated authority from the Matamata-Piako District Council to hear the submissions and further submissions on Proposed Plan Change 50 (PPC50), the Commissioners, pursuant to Clauses 29 and 10 of the First Schedule of the Resource Management Act 1991, and with reference to the Matamata-Piako Operative District Plan, confirms:

- A) Private Plan Change 50 is approved, with modifications described below; and**
- B) The submissions and further submission which support the Plan Change and/or seek further changes to the Plan Change are accepted to the extent that the Plan Change is approved with the modifications described below; and**
- C) All other submissions and further submissions, including those that oppose the Plan Change, are rejected.**

The Reasons for the Decision are that the Private Plan Change will:

- (i) With the modifications adopted, assist the Council to carry out its functions so as to achieve the purpose of the Resource Management Act 1991.
- (ii) With the modification adopted, ensure that the Plan Change aligns with the Operative Waikato Regional Policy Statements, and the Operative Matamata-Piako District Plan.
- (iii) The changes are required to ensure that all of the actual and potential adverse effects on the environment are considered and that provisions are in place to ensure that the adverse effects are avoided, remedied, or mitigated.
- (iv) The section 32 evaluation and section 32AA RMA further evaluation have shown that the Plan Change as modified represents the most appropriate way to achieve the purpose of the Resource Management Act 1991.
- (v) The Plan Change as modified is in accordance with the purpose and principles of the Resource Management Act 1991.
- D) The Plan Change is recorded in Schedule 1. Modifications made to the Plan Change are recorded in Schedule 2.**
- E) That the late submission by Derrys Farm Limited received on 4 May 2018 be accepted.**

The Reasons:

- (i) The submission does not raise any new matters not already referenced in other submissions.

- (ii) The acceptance of the late submission will enable the relief sought by Derrys Farm Limited to be considered. The interests of the community will be better served by acceptance of the late submission.
- (iii) The submission was only marginally late and was received well before notification of the summary of submissions and as such has not caused a delay in the processing of the Plan Change.

That the Opal Hot Springs and Holiday Park's submission be struck out.

The Reasons

- (i) The submission relates solely to trade completion and the effects of trade competition and is therefore invalid under clause 6 of Schedule 1 to the RMA.

- F) **Schedule 3 records the Memorandum of Understanding** between Rings Scenic Tours Limited and the Matamata-Piako District Council (unsigned) that relates to the improvements to the road network that serves Hobbiton.

DECISION REPORT

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Schedule 1:

Proposed Plan Change 50: Development Concept Plan for Hobbiton
[Text and planning maps for DCP]

Schedule 2:

Changes made as part of the Commissioners' Decision
[Recorded as track changes version]

Schedule 3:

Memorandum of Understanding

1 INTRODUCTION

- 1.1 This hearing was to consider and determine this application for a private plan change to the Matamata-Piako (MPDC) Operative District Plan (District Plan). The Plan Change seeks to establish an appropriate planning framework to enable the ongoing operation and growth of tourism activities at the 'Hobbiton' site while managing adverse effects.

Procedural Matters

- 1.2 There were two procedural matters to record and these relate to:
- The consideration of a late submission by Derry Farms Limited; and
 - The status of a submission by Opal Springs and Holiday Park submission.
- 1.3 The Panel's determination on these two matters, following considering advice from the Council and the Applicant's legal counsel, on both matters, and on which there was common ground, are:
- Derry Farms Limited late submission is accepted pursuant to section 37 RMA 1991, noting that the submission raises issues consistent with other submitter points and its lateness does not contribute any disadvantage to the Applicant or any submitters; and
 - Opal Hot Springs and Holiday Park submission is based on trade competition concerns and must be disregarded under section 74 RMA 1991.

2 THE PLAN CHANGE – OVERVIEW

- 2.1 It assists to provide an overview of the rural setting of the 'Hobbiton Movie Set', the scale of the two sites that comprise the tourism venue, to record the growth and world wide appeal that the venue has attracted in terms of visitors, and the expectation now placed on the planning controls to manage this venue under the Development Concept Plan (DCP).

Locality

- 2.2 The application site is located at 487, 501 and 502 Buckland Road, Matamata.
- 2.3 Mr Bigwood describes the locality in the following terms, in his paragraph 2.4 and 2.5:

The plan change site comprises predominantly rolling pastoral hill country used for rural purposes associated with sheep and beef farming. The site is typical of land use activities in the area, although other activities established in the area include dairy farming, cropping, a litter poultry farm, hard rock quarries, engineering workshop, and bed and breakfast/homestay accommodation.

The plan change site is located on both the northern and southern side of Buckland Road, which is classified as a Local Road under the District Plan roading hierarchy. The Hobbiton Movie Set is located near several major State Highways including State Highway 1 (SH1), 29 (SH29), 28 (SH28) and 27 (SH27). Nearby townships include Matamata located approximately 16km north east of the site, and Cambridge located approximately 25km west. Hobbiton Movie Set is also in close proximity to the major centres of Auckland (175km), Rotorua (70km), Hamilton (45km) and Tauranga (59km).

Site

- 2.4 The 'site' comprises two 'venues' or precincts and these are described in Mr Bigwood's evidence at his paragraphs 3.3 and 3.4:

The Shire's Rest is located on the southern side of Buckland Road (at 487 and 501 Buckland Road) and is utilised as the primary departure and end location for all Hobbiton Movie Set tours. The Shire's Rest contains the ticketing office, a café/function venue, souvenir shop, ice cream and coffee shop, offices (including offices under construction), ablution facilities, tourist facilities and parking areas for private vehicles and RST staff and tour buses.

Hobbiton Movie Set is located on the northern side of Buckland Road (at 502 Buckland Road) and is utilised for movie tours by restricted bus access. The movie set location is 1.3km north of Buckland Road and sheltered from views to the road and private properties. The tour site contains movie set structures (including The Green Dragon Inn, The Watermill, Hobbit holes, Bag End Tree and the Bridge and Jetty surrounding a man-made lake), a dining Marquee and kitchen facilities, gift shop, ablution facilities, workshops (for painting, engineering and woodworking), plant nursery, turf growing area, wastewater disposal systems and parking areas for RST staff and tour buses. Tours and events include catering, from the on-site commercial kitchens, with meals and beverages provided predominantly at The Green Dragon Inn, The Watermill and Marquee.

Operations

- 2.5 A general overview of visitor management is described in the following terms, also by Mr Bigwood at paragraph 3.5:

Tours of the Hobbiton Movie Set operate between 8.00am and 7.30pm during daylight savings hours and 8.30am to 5.30pm at all other times, with all days of the year excluding Christmas Day being open for operation. Tours can depart up to every 5 minutes during peak periods, but are more usually operated every half hour. The site can operate with a peak capacity of 3,500 visitors per day (during daylight savings). Events such as weddings, corporate functions, movie screenings and concerts typically operate outside tour hours so as not to disrupt tour schedules, but at times also operate alongside tours.

Burgeoning Tourism Profile for Hobbiton

- 2.6 In his Section 2 Overview, the s42A reporting planner Mr Rademeyer provides the context for the Panel's consideration of the planning issues, stating:

In 1999, the movie set for the filming of Sir Peter Jackson's "Lord of the Rings" trilogy was constructed on the Alexander family's 500 ha sheep and beef farm located in the rural area at 487, 501 and 502 Buckland Road, approximately 10km south-west of Matamata (see Figure 1). In 2011, the set was rebuilt for the filming of "The Hobbit" trilogy, and thereafter retained as a permanent tourist attraction.

RST has been operating tourism activities at the Hobbiton Site since 2002. The current activities at the site include tours of the movie set, a restaurant/bar, café, shop, visitor centre, and ancillary office, and maintenance and staff facilities. In addition, special events such as movie premieres, weddings, parties, functions, and themed concerts are held at the site. Since the tours were first established, annual visitor numbers have

increased year on year, with a significant increase from 2011 onwards. The site is now well established as an internationally renowned tourist attraction. It is New Zealand's third largest tourist destination, currently attracting some 600,000 visitors per year including 17% of all international visitors.

The economic benefit of Hobbiton to the District is also substantial, estimated in 2017 to be in the order of \$78 million of additional annual expenditure, providing employment for 393 fulltime equivalent jobs.

And

Rapid growth in visitor numbers has resulted in non-compliance with current consent limits on Annual visitors. The current regulatory regime has proved to be problematic as a result of the time involved to obtain new resource consents required for each stage of expansion of the site or change in activities.

From RST's perspective, the current regulatory regime is not sufficiently responsive to enable the company to react to changes in visitor demand. In addition, the lack of regulatory certainty does not provide confidence to justify the scale of investment and long-term commitment required to enable the company to utilise the site's full tourism potential.

From the Council's perspective, the current piecemeal assessment of consecutive development stages at the site under separate resource consent applications, is inefficient and prevents an integrated, holistic, evaluation of the long-term consequences.

Use of the Development Concept Plan (DCP)

- 2.7 The Plan Change is to introduce new provisions, including a site-specific Development Concept Plan that will recognise the uniqueness and importance of the site and enable the ongoing operation and growth of tourism activities within a sustainable planning framework.

- 2.8 Mr Rademeyer comments that:

Under the DCP, the existing activities that are subject to the current resource consents will be authorised and expansion of the site will be provided for, subject to site-specific performance standards that are aimed at managing the effects of the ongoing tourism-related use of the site.

The use of Development Concept Plans as a planning mechanism to manage sites with unique or out-of-zone locations, or challenging regulatory requirements, is well-established in the District Plan. Currently most of the District's large processing sites and the Totara Springs Christian Centre are similarly managed under site-specific DCPs that override the Plan's generic Zone provisions.

3 RELEVANT STATUTORY PROVISIONS CONSIDERED

- 3.1 The section 42A report outlines in section 8.1 the statutory considerations for a private plan change under the RMA 1991. Mr Bigwood adopted the same position in this regard. The Panel therefore relies on this summary as set out below:

Procedural Considerations

- 3.2 Summarised, Part 2 of the First Schedule deals specifically with requests for private plan changes:
- Clause 21 - enables 'any person' to request a change to the District Plan.
 - Clause 22 - stipulates the required form of request (including the purpose and reasons for the Plan Change, a section 32 evaluation and a description of effects). Where environmental effects are anticipated, the request must describe those effects, taking into account clauses 6 and 7 of Schedule 4, in such detail as corresponds with the scale and significance of the actual or potential environmental effects anticipated from the implementation of a plan change.
 - Clause 23 - relates to local authority further information requests.
 - Clause 24 – enables modification of the request, with the agreement of the person who made the request.
 - Clause 25 - outlines timeframes associated with the receipt of a Plan Change request and the alternative methods of dealing with the request by a local authority (i.e. to adopt in part or whole by the local authority as if it were its own Plan Change, or accept the request in whole or part, and proceed to notification, or treat the request as an application for Resource Consent).
 - Clause 26 – determines the timeframes for notification.
 - Clause 26A – mandates compliance with any Mana Whakahono a Rohe that provides a role for iwi authorities in relation to any plan or change requested.
 - Clause 27 – provides appeal rights to the person who requests a plan change, against a decision made under Clause 25.
 - Clause 28 – makes provision for withdrawal of requests.
 - Clause 29 - sets out procedures applying to submissions, attendance at Hearings and appeal rights.

Decision making Considerations

- 3.3 A local authority is required to make a decision on the provisions and matters raised in submissions to a Plan Change (Clause 10, Schedule 1).
- 3.4 A decision must include reasons for acceptance or rejection of submissions and may also address submissions in groups and include consequential alterations to the Plan Change and any other relevant matter arising from submissions. A local authority may decline, approve or approve with modifications a Private Plan Change and give reasons for its decision. (Clause 29(4), Schedule 1 of the RMA).

Statutory Considerations

- 3.5 Section 74(1) requires that a territorial authority prepare and change its plan in accordance with:
- its functions under s31 of the RMA;
 - the provisions of Part 2 of the RMA;
 - its duty under s32 of the RMA; and
 - any regulations.
- 3.6 Section 31 specifies the functions of territorial authorities including:

the establishment, implementation and review of objectives, policies and methods to achieve integrated management of the effects of the use, development or protection of land and associated natural and physical resources of the district, (including for the

*purposes of avoidance or mitigation of natural hazards and the maintenance of indigenous biological diversity); and
the control of effects of use, development or protection of land, including noise.*

3.7 Section 75 determines that District Plans must state (s75(1)):

- (a) the objectives for the district; and*
- (b) the policies to implement the objectives; and*
- (c) the rules (if any) to implement the policies.*

and what they may state (s75(2)):

- (a) the significant resource management issues for the district;*
- (b) the methods, other than rules, for implementing the policies for the district;*
- (c) the principal reasons for adopting the policies and methods;*
- (d) the environmental results expected from the policies and methods;*
- (e) the procedures for monitoring the efficiency and effectiveness of the provisions;*
- (f) the processes for dealing with issues that cross territorial authority boundaries;*
- (g) the information to be included with an application for a resource consent; and:*
- (h) any other information required for the purpose of the territorial authority's functions, powers, and duties under this Act.*

3.8 It also outlines that a District Plan must give effect to (s75 (3)):

- (a) any national policy statement;*
- (b) any New Zealand coastal policy statement; and*
- (c) any regional policy statement.*

and that a district plan must not be inconsistent with (s75(4)):

- (a) a water conservation order; or*
- (b) a regional plan for any matter specified in s30(1).*

3.9 Section 77A (quoted below) is also relevant and allows a council to specify conditions in rules in a plan so long as they relate to matters in s108 RMA:

Power to make rules to apply to classes of activities and specify conditions

(1) A local authority may—

- (a) categorise activities as belonging to one of the classes of activity described in subsection (2); and*
- (b) make rules in its plan or proposed plan for each class of activity that apply—*
 - (i) to each activity within the class; and*
 - (ii) for the purposes of that plan or proposed plan; and*
- (c) specify conditions in a plan or proposed plan, but only if the conditions relate to the matters described in section 108 or 220.*

Section 32 Evaluation

3.10 Section 32 requires an evaluation:

- Of the extent to which the objectives of the Plan Change are the most appropriate way to achieve the statutory purpose of the RMA;
- Whether the provisions are the most appropriate way to achieve the objectives taking into account the options, efficiency and effectiveness of the provisions;
- The costs/ benefits of the environmental, social, cultural and economic effects (including opportunities for economic growth and employment); and:

- The risk of acting/ not acting if there is uncertainty about the subject matter of the provisions.

3.11 Under Section 32AA a further evaluation is required of any modifications to the Plan Change Request.

Part 2, RMA

3.12 Any Plan Change must be assessed in terms of Part 2 of the RMA (Purpose and Principles), including determining whether the Plan Change:

- *Achieves the sustainable management of natural and physical resources within the purpose of the RMA (s5);*
- *Recognises and provides for matters of national importance under the RMA (s6);*
- *Has regard to 'other matters' listed at s7 of the RMA;*
- *Takes into account the principles of the Treaty of Waitangi (s8);*

4 THE APPLICANT'S EVIDENCE PRESENTED

Overview of Evidence

- 4.1 As required under the Act all expert evidence was pre-circulated in accordance with the timeframes set out in the Act. The Panel read all the materials prior to the hearing and we took our own notes regarding the Applicant's presentations and responses to our questions.
- 4.2 For this reason, our summaries of the Applicant's evidence presented, the submitters evidence presented and the Council's evidence presented is not intended to provide a full coverage of the matters raised.
- 4.3 We also refer to and rely on Appendix A to the s42A report that details the submissions and further submissions received grouped under seven topics. Our *Section 9 Principal Issues in Contention and Findings* covers those and other key planning matters.
- 4.4 **Dr. Forret, legal counsel for the Applicant**, informed the Panel that the hearing was to consider a private plan change request to provide for the existing and future development of Hobbiton. It is not a hearing for a resource consent. This point was repeatedly made to the Panel when we were asked to change or delete the provisions advanced by the Council team for inclusion in the DCP.
- 4.5 Ms Forret accepted that Hobbiton is operating in excess of the 300,000 annual visitor limit that has been consented. Dr Forret explained that evidence will show that visitor numbers are limited by the capacity of the site to maintain a genuine visitor experience and that capacity is to be set through this private Plan Change at 3,500 movie set tour visitors per day.
- 4.6 We understand that the Hobbiton site has been close to operating at its capacity number during the 2019 summer season. Ms Forret asserted that there is no evidence that there are adverse effects on the environment that are not being effectively mitigated, or which will not be mitigated once the planning provisions proposed in the DCP are in place.

- 4.7 Dr Forret explained that the effects of what is proposed in the DCP must be assessed against the current consented environment that could lawfully result, if the activity was carried out over the high tourist season alone. That is, without daily limits, without vehicle limits and without peak hour vehicle limits. That is also without distinction between “themed” and “non-themed” events including movies as sought to be imposed by the Council.
- 4.8 Dr Forret stated that there is no evidential basis for imposing a restriction on vehicle numbers, on peak traffic or on total annual visitors provided there is a daily cap on the number of movie set tour visitors and there are limits on the number of event attendees that can be on the site outside of normal tour hours.
- 4.9 Further, there is no evidence from the traffic experts that there has been a significant or even concerning increase in the rate of accidents and in fact, the level of accidents seems to be reasonably constant despite a significant increase in visitor numbers. That suggests the current mitigation is effective and the Applicant is proposing further mitigation to assist manage traffic safety.
- 4.10 The Applicant presented amended plans which included the consented areas for storm water that allow for ponds adjoining the notified version of “Precinct 1” and wastewater consents for various infrastructure adjoining the notified version of “Precinct 2”.
- 4.11 We were advised that the signed MOU between the Matamata-Piako District Council (MPDC) and the Applicant (RST) reflects an agreement already in place as to how the mitigation works that underpin this DCP will be paid for and implemented. The Plan Change anticipates that there will be additional specific mitigation measures undertaken and the expert reports also take that mitigation into account.
- 4.12 Dr Forret concluded by saying why the Applicant opposed additional changes in the DCP proposed by the Council, and that these matters are covered in the expert witness’s presentations.
- 4.13 **Mr Russell Alexander** has been CEO of Rings Scenic Tours Limited since 2011. He has been involved with the establishment and on-going development of the Hobbiton Movie Set Tours operation since its inception in 2002. The movie set tours then operated under a Resource Consent allowing up to 150,000 visitors per annum, employing 17 staff.
- 4.14 In 2008/2009 The Hobbiton sections of “The Hobbit” were filmed there and following negotiations a Joint Venture tourist attraction was formed. This permanent set was upgraded and is now a large tourist attraction employing over 300 staff and in recent years attracting over 600,000 tourists per year.
- 4.15 In 2013 the Resource Consent for 250,000 visitors was applied for, however this number was insufficient and the consent was adjusted to 300,000. With the unprecedented growth RST Ltd now has applied for a zoning change and DCP. The decision now is to cap daily numbers to 3,500 in order to ensure the quality of the experience remains.
- 4.16 Mr Alexander also commented on the economic and employment impact on the local economy. We were advised that Hobbiton has generated \$78m for the region and 393 jobs. In 2017 a new computerised ticketing system was introduced and has seen 86% of visitors now pre-booking.

- 4.17 In relation to the traffic concerns raised in the submissions, Mr Alexander commented that “A lost tourist is a dangerous tourist”. He also noted that roading improvements, erection of signage and other initiatives over the years such as the computerised booking system had spread traffic flow, and further on-site parking spaces have been developed, all aimed to ensure the safety of tourists and locals alike.
- 4.18 Mr Alexander believes that this Plan Change will enable them to operate and continue to provide a valuable tourist facility for the District and Region whilst mitigating any negative impact on the environment and local area.
- 4.19 **Mr James Bell-Booth** is an acoustic consultant with Marshall Day. He considered potential sound emissions from concerts and outdoor cinema screenings in the two activity areas identified as Precincts 1 and 2 that comprise the DCP. We were advised that the current operating noise limits for Hobbiton in Section 5 of the MPDC District Plan are 50dB La10 between 7.00am and 8.00pm and 40 dB La10 between 8.00pm and 7.00am. The limits apply at the notional boundary of any rural dwelling.
- 4.20 Following modelling work to assess the local receiving environment, Mr Bell-Booth recommended DCP conditions which included extending the daytime period noise limits from 8pm to 10.00pm, and as a consequence, amending the night time period noise limit from 10pm to 8 (not 7) am. In addition, there be a limit of 12 Outdoor movie screening and 6 concerts with a completion time of 11pm in daylight saving otherwise 10.00pm and not exceeding stated sound levels. He considered the levels to be reasonable provided these events only occur for a limited number of times per year, finish at a reasonable time and that communication with neighbours occurs to ensure that they are aware of the events.
- 4.21 He also suggested conditions which require written notice be provided to the occupiers of all properties within a 3km radius of the Precinct, a minimum of 14 days prior to the “event”, a single Noise Management Plan to be completed and monitoring of sound levels during the first occurrence of each event type.
- 4.22 Mr Bell-Booth also commented on the submitters concerns regarding noise and the Council’s acoustic advice and we noted that there were points of professional difference regarding the preferred set of acoustic conditions for the DCP.
- 4.23 In conclusion, Mr Bell-Booth stated that, under these proposed DCP limits, the acoustic amenity of the surrounding community will not be adversely affected and that noise from the operation of the site can and will be appropriately controlled.
- 4.24 **Mr Michael Graham** is a registered landscape architect and a Director of Mansergh Graham Landscape Architects, Hamilton. He outlined the landscape and visual effects likely from the proposed plan change to introduce a DCP for the Hobbiton Movie Set based around Precinct 1 (The Shire’s Rest) and Precinct 2 (Hobbiton Movie Set).
- 4.25 In his opinion, the existing character of the site and the surrounding area will not be adversely affected by the plan change in relation to landscape and visual amenity.
- 4.26 Mr Graham’s assessment also addressed the relevant planning matters which the development is subject to; namely, the provisions of the Operative MPDC DP, The Waikato Regional Plan and the RMA (1991). He contributed to the development and review of the objectives, policies and performance standards

- 4.27 We were advised that since the preparation of the evidence, Mr Graham has had discussions with the MPDC's consultant landscape architect on the refinement of several performance standards; notably:
 '3. Visual Form and Appearance of New Buildings';
 '4. Landscaping'; and
 '12. Signage'
- 4.28 Also, as a result of a submission from MPDC, the boundaries for the Precincts were modified to capture Stormwater and Wastewater developments.
- 4.29 Mr Graham revised his findings and the minimal changes does not cause him to alter his original conclusions.
"I consider therefore that with the inclusion of the recommended performance standards, the type of future development expected with the DCP will remain consistent with the overall intent of the relevant landscape and amenity objectives, policies and rules of the Operative District Plan and sections 6(a), 6(b), 7(c) and 7(f) of the RMA."
- 4.30 **Mr Cameron Inder** is a Transportation Engineer at Bloxam Burnett & Oliver, Hamilton. His familiarity with the venture goes back to his first site visit in August 2015. He described to the Panel the expected effects of the proposal on the transport environment, along with the mitigation measures recommended and that have been implemented to date to address those effects, and items/works that remain to be completed.
- 4.31 His ITA report looked at traffic generating characteristics of the venture which included the timing of tours, arrival and parking of visitors via bus/private car. The site operates with a peak capacity of 3,500 visitors per day doing the movie set tour, and we understand this equates to a peak daily traffic generation of approximately 2,100 trips per day and 350 veh/hr in the peak hour. This included trips from all staff and visitors but excluded trips associated with events outside of normal movie set tour hours.
- 4.32 Mr Inder considered that events of 500 visitors or less (outside of normal Movie Set Tours hours) should be permitted as part of the DCP without requiring a Traffic Management Plan.
- 4.33 The ITA also concluded that it is unlikely that Hobbiton will exceed 650,000 movie tour visitors per year in future. It is in Mr Inder's opinion that a DCP rule setting the maximum daily cap of 3,500 movie set tour visitors, is the key to ensuring that future growth of Hobbiton is enabled by the DCP without materially greater transport effects occurring than is assessed in the ITA report.
- 4.34 Mr Inder noted that Precinct 1 will soon have a minimum all-weather parking capacity of 379 spaces once the new office building is completed with further overflow parking available in the summer months within the site. Overnight camping and accommodation units are being proposed, and while their number is not settled, neither of these facilities is expected to generate any additional traffic to the site in his opinion.
- 4.35 Mr Inder supports a speed limit reduction to 80km/h on Buckland Road. Buckland Road West and East safety issues were also commented on and a list of Transport Safety Improvement Measures were identified, of which some have already been completed.

- 4.36 The ITA also addressed the SH29/Hopkins Road intersection and roads leading to this. This intersection has been identified by the NZ Transport Agency as one of ten receiving an electronic signage to reduce the legal speed limit upon detection of a vehicle turning into or out of a side road.
- 4.37 Improved signage at Hobbiton (Shire's Rest) has already been carried out by RST and issues such as pedestrians crossing the road for photo opportunities have been addressed by the placement of signage to discourage visitors to do this. The roading issues affecting the residents at 385 and 399 Buckland Road were also canvassed.
- 4.38 Mr Inder also presented a Statement of Rebuttal Evidence to the Panel in response to evidence of Mr Robert Swears on behalf of NZTA and the evidence of Mr Richard Harkness on behalf of J Swap Contractors Ltd.
- 4.39 In conclusion, Mr Inder continues to support the traffic related Performance Standards proposed by the applicant including the 3,500 movie set tour visitors per day cap, excluding events held outside of normal movie set tour hours. He is confident this is the only cap needed to manage the expected traffic volumes and associated effects of the Plan Change while still allowing growth in tourist visitor numbers through shoulder and off-peak seasons of the year.
- 4.40 **Mr Stephen Bigwood** is Planning Manager at Bloxham, Burnett & Oliver, Hamilton. Mr Bigwood presented expert planning evidence in support of the proposed private plan change including a description of the site and surrounding environment, background and reasoning for the private plan change sought by the Applicant together with a summary of private plan change provisions. We have already referenced some of his opinion evidence above.
- 4.41 He outlined that the Hobbiton Movie Set and The Shire's Rest operate under a suite of existing Resource Consents from the Waikato Regional Council and the Matamata Piako District Council. Mr Bigwood said that this Plan Change is a continuation of an activity which is permitted and that the Plan Change is to insert a new DCP into the District Plan adding new objectives, policies and rules related to tourism and specifically the Hobbiton Movie Set. In addition, the Plan change seeks to insert a new issue and definitions to change the roading hierarchy in part of Buckland and Puketutu Roads.
- 4.42 Mr Bigwood responded to the submissions that raised the lack of confidence in consultation, compliance enforcement, the impacts on the rural environment, and landscape and amenity effects. Other submissions concerning the impact on Matamata and the wider road network, roading and electricity Infrastructure were also addressed by Mr Bigwood.
- 4.43 Mr Bigwood provided a set of Recommended Performance Standards for permitted Activities in Precincts 1 and 2. He highlighted a number of fundamental changes that the Applicant was seeking under: Construction Noise, Visitor numbers, Accommodation, Complaints Procedures, Community Liaison, Site Management and Monitoring.
- 4.44 Mr Bigwood highlighted his concerns regarding the recommended changes proposed by the Council to the DCP provisions at a policy level and with the Activity Schedule. His table 1 provides the Panel with a useful summary of these matters. In relation to the new Definitions proposed, he did not support the Council's approach to divide

events in the proposed DCP into “Themed” and “Non-Themed Events” or the definition proposed for “Tourism Retailing”.

- 4.45 Mr Bigwood concluded that in his opinion this plan change, as modified in terms of the recommended changes to the text and plans which are attached to his evidence, will deliver the planning outcomes set out in the objectives and policies, and will meet the tests of the RMA 1991 and therefore should be approved in its modified form.

5 THE SUBMITTERS’ EVIDENCE PRESENTED

Overview

- 5.1 There were nine submissions from residents living on Puketutu and Buckland Roads. One submission was received from a resident on Rangitanuku Road, Te Poi. Submissions were also received from PowerCo Ltd, Swap Contractors Ltd and the NZTA.
- 5.2 Ten submissions support the Plan Change in part and want Council to approve the Plan Change subject to amendments. Four submissions oppose the Plan Change or parts of the Plan Change and sought the Plan Change be declined and one submission was neutral to the Plan Change.
- 5.3 As summarised below, there are many specific requests in the submissions which require a decision. As detailed in *Section 8 Principal Issues for Determination & Findings* we have grouped submission points, into common topics or themes, and therefore the following summary does not evaluate the merits of the matters raised by each submitter.
- 5.4 We have not evaluated the further submissions because the scope of any further submission is limited to support of or opposition to a submission. The supporting reasons may well be relevant however, and the Panel may well have taken those points into account.
- 5.5 **Ms Monique Moore** in her written submission supports the Plan Change with amendments. She identified traffic safety as a key issue with a request for a 70km speed limit along the entire road with a 50 km speed limit outside the Hobbiton site with the inclusion of judder bars and a pedestrian crossing. Ms Moore also requested that a white line to be painted along the entire road and that blind corners be straightened.
- 5.6 **Mr David Reichmuth** who was also heard at the hearing, opposes the Plan Change due to RST’s lack of compliance with their existing resource consents. Further, the Council had not held RST to account with regard to the consent for 300,000 tourists when they are now catering for over 600,000 visitors a year.
- 5.7 He suggested that the town’s infrastructure cannot cope with all the tourists along with the amount of traffic on Buckland Road. He gave a heart-felt assessment on how he and his wife have been adversely affected by the scale of Hobbiton and the tourists it attracts. He talked of the lack of compliance and events being run that haven’t been consented; this is with reference to banquet night events as one example. He felt the correct way to have done this was to have obtained the necessary consents first as he feels that Hobbiton has disregarded both the consent and the people of Buckland Road.

- 5.8 He presented photo evidence of tourists blocking their tanker entrance thus holding up a tanker waiting to turn in, and people entering their property to take photos of their house and garden. He also talked about the traffic noise that goes all day, from early in the morning until late at night. This is often due to the evening banquets that are held at least four days a week with it being daily over the summer. He provided a copy of the online booking form. He talked about the littering and tourists toileting on the side of the road. He did not think there was any need for RST to provide any accommodation but was not against the campervan parking. He described living on Buckland Road now as being a 'nightmare'.
- 5.9 **Mr McCosh**, in his written submission, is against the Plan Change especially due to the negative effects of noise to neighbouring properties and road safety. Noise was of particular concern as his property was initially omitted from the acoustic study. His property is immediately adjacent to Precinct 2. His concerns also lay with fireworks causing distress and injury to livestock, especially horses.
- 5.10 He wrote of the apparent contempt of RST with regard to the consent breach and the lack of transparency and consultation with neighbours. He highlighted the contradiction of the rural landscape being an attraction for tourists and the subsequent detraction from the rural landscape with what is being proposed. He had also had trespassers on his property seeking to get closer to the movie set and expressed concern at the unsafe driving of tourists on the road.
- 5.11 His summary from his submission says: "From the points above the application for plan change should be declined as the proponent has provided inaccurate modelling, lack of due diligence and the effects on the rural environment, particularly horses and livestock have not been considered at all."
- 5.12 **Ms Kaye Ring**, in her written submission accepts the Plan Change with an amendment to make Rangitanuku Road a Collector Road, citing that tourists travel via the road from Rotorua. She also proposed the installation of a turning lane into the road off State Highway 29.
- 5.13 **Mr Simon Roche** on behalf of **Power Co**, was neutral to the application in their written submission, but highlighted points about health and safety and risk to power supply; that trees not be planted near electricity infrastructure be that overhead or underground, and that they be notified of any works near their infrastructure to protect their assets. He stated that there was currently insufficient capacity in the network in the area for the proposed development and that a second transformer at the Lake Road sub-station will be installed in 2019, which will cater for the growth. The company seek to be consulted on any building near PowerCo's infrastructure; and to include proposed performance standards specific to electricity infrastructure.
- 5.14 **John and Carolyn Evans** support the Plan Change with amendments to address traffic and road safety. Mr and Mrs Evans were also heard at the hearing. They have lived on Buckland Road for 20 years. They commented on the unpredictability of drivers for example, doing "u turns", driving on the wrong side of the road and stopping in unsafe areas. He also stated that while accidents have been recorded, many near misses have not.
- 5.15 Mr Evans suggested applying an 80km/hr speed limit on Buckland and Puketutu Roads, levelling out blind corners, and suggested that mirrors aren't an adequate solution to providing safe access to 399 and 385 Buckland Road. He sought a roundabout be put in at Highway 29 and Hopkins Road intersection ('Chookies Corner').

- 5.16 He invited with the Panel's permission, Annette Conder to speak about her experiences with accidents and incidents at the intersection at 'Chookies Corner' where she runs a business and has lived for 26 years. Ms. Conder observed that over the last 5 years there had been a noticeable increase in accidents. Her team have a 'rescue' plan to follow due to the number of accidents now occurring. She expressed disappointment at NZTA's slow response to installing safety measures (the electronic signs).
- 5.17 Mr Evans provided the Panel with a copy of a survey of 60 residents in the area to which he received 26 responses. He noted that the majority want a roundabout at the highway intersection and an 80km speed limit. He wants to see long term solutions and to have things fixed properly.
- 5.18 Mr Evans wants a resource consent with teeth and not to promote unfettered growth. He feels ignored by RST. There had not been any community meetings until recently. He felt there was a lack of good communications generally.
- 5.19 **NZTA** supports the plan change with the following suggested amendments as presented their submission. **Mr Swears**, a Transportation Engineer from WSP Opus addressed these points: that a performance measure be included, that the 387,000 vehicle movements be capped and if the number is exceeded that the activity becomes Restricted Discretionary Activity under Performance Standard 1.2.2. Discretion is restricted to the assessment of the ITA that addresses the non-compliance.
- 5.20 Mr Swears did not see the additional signage proposed near Karapiro as being necessary or relevant, nor the upgrade to the SH29/Hopkins Road intersection; however, "more information is needed from the Applicant before this can be confirmed" (Paragraph 8). He also stated that access via Buckland Road west and SH1/Karapiro Road "should be strongly discouraged" (Paragraph 8).
- 5.21 Mr Swears said that no consideration had been given to the peak hour traffic effects and that daily "and desirably hourly" thresholds on visitor numbers and vehicle movements were required as part of the Plan Change provisions.
- 5.22 The Agency's further submission noted support in part for specific performance standards as earthworks, traffic management, parking, and visitor numbers set out in the primary submission of the Council, opposed submissions of others concerning signage, the installation of a roundabout on SH29/Hopkins Road, and any upgrade to the western end of Buckland Road.
- 5.23 **Ms Claudia Jones**, a consultant planner spoke to a brief of evidence, also on behalf of the Agency. She indicated that the Agency was satisfied that the performance standard managing directional signage on the state highways was appropriate for the Hobbiton Movie set provided that written consent from the Agency is obtained.
- 5.24 **Mr Richard Harkness**, an experienced consultant planner from Aecom, presented evidence on behalf of the **J Swap Contractors Limited**. They are in support of the Plan Change with amendments. A submission and a further submission were lodged to the Plan Change. The matters brought to our attention concerned: the lack of physical mitigation proposed for the local road network and key intersections that will be affected by the proposed Change, the impact on infrastructure in Matamata and the funding required because of the increased visitor numbers and their demands on these facilities. As drafted, the Plan Change didn't adequately deal with these issues.

- 5.25 Mr Harkness suggested that an appropriate threshold be set both annual and daily and felt that visitor numbers per day of 3,500 was too open ended. He also suggested that there be a definition of events themed and significant. With regard to the matters of discretion he asserted that you need to be able to describe and assess the impact. Development contributions should be considered for any other roading improvements and future improvements.
- 5.26 We note that the further submission principally supported several submissions from the Buckland Road residents regarding road upgrading along with 'caps' for daily visitors and visitor accommodation as sought by the Council.
- 5.27 The **Matamata-Piako District Council** lodged a submission and further submission to the Plan Change. The matters raised could be considered 'minor' (a term used in the Background to the Submission) and 'can be addressed through further discussions with the Applicant' focused on the Activity Schedule, the Performance Standards and Discretions. The Panel notes that these matters were to be addressed by the s42A reporting team for the Council.
- 5.28 The further submission supported the Agency request for a cap on vehicle movements (387,000 per year) and supported 'in principle' the Gregan Family Trust submission for annual community meetings between RST and local residents.
- 5.29 **Gregan Trust** were represented by owners **Dennis and Ben Gregan** and trustee **Richard Smith** at the hearing. They also requested to have **Mr Howe** who lives at 399 Buckland Road who did not make a submission but now wanted to have an opportunity to speak in support of the Gregans. The Hearing Panel agreed. The Gregan Trust accept the Plan Change with conditions; namely, require RST to be transparent with regard to noise pollution at night events, include several road safety improvements and the holding of community meetings.
- 5.30 The Gregans have two properties either side of the RST site located at 385 and 774 Buckland Road which they regularly travel between with farm machinery. They have noticed significant changes since 2008 and Mr Howe has lived on the road since 2004. They think the road is too narrow as there is no room to move off the road and to provide for tractors to turn into their (Gregan) driveway.
- 5.31 They are not happy with the proposed installation of mirrors at their entranceway and are happy to give up land for lowering of the carriageway to construct a safe alignment. They requested that the road be widened for an additional photo taking area as there is a popular view across the road from the gateway of 399.
- 5.32 They also propose an 80km speed limit. Mr Howe's wife was in the recent accident on the western side where there was a head on, on a blind corner with a tourist driver. They believe an underpass should be installed for the buses as by their calculation a bus would cross Buckland Road every 4.48 minutes in peak periods. They are concerned with how the traffic will be managed and regulated under the proposed Plan Change.
- 5.33 They also expressed concern with the noise from events and the numbers attending, and felt the details in the Plan Change were vague. They felt the locals had the right to expect the reasonable and quiet enjoyment of their land and that RST disclose their intentions for all functions that have potential to cause nuisance.
- 5.34 Mr Smith also submitted that there should be at least an annual community meeting where matters of concern could be raised where residents were being affected by the business activities. These meetings should foster a stronger community.

- 5.35 **Gasquoine Holdings Ltd** in their written submission, accepts the Plan Change with amendments. While acknowledging that the Hobbiton movie tours have a positive effect on the wider Matamata economy, it has had a negative impact on the residents of Buckland Road with reference to road safety. While some safety improvements have been already carried out Mr Gasquoine highlighted the need for the painting of a centre line down the west side of Buckland Road, more directional arrows, and more designated pull off areas for photo opportunities. He noted that tourists also camp in driveways and road verges, and are not always self-contained. He suggested no camping signs be erected.
- 5.36 He also suggested that the public toilets in town were no longer adequate and that a user pays ablution block be constructed. Mr and Mrs Gasquoine stated that they had been raising these issues with Council for quite some time as it is Council's responsibility to provide for such infrastructure.
- 5.37 **Mrs Glenda O'Sullivan** also presented at the hearing and she stated that the Plan Change be declined until more consultation is carried out with the Buckland road residents with regard to road safety primarily and the negative effects of tourists on their road. The issues noted concerned speed, 'u turns', stopping and reversing in the middle of the road, and travelling on the wrong side of the road. She also mentioned a concern about traffic exiting from the night events and the noise and the potential for drivers driving under the influence of alcohol, for which she felt had not been addressed in the application. Tourists have been seen picnicking in their paddocks and as a result she no longer allows her daughter to play in the front yard anymore. She would like signs erected saying private land to deter visitors entering their property.
- 5.38 She expressed disappointment at the lack of action by NZTA with regard to the effects of accidents at the State Highway 29 intersection. She no longer allows her child to catch the school bus at the gate citing safety issues. Her son has experienced numerous near misses in the area. She said that they can no longer mow their road frontages due to the widening of the road, which subsequently reduced visibility for vehicles exiting their driveway.
- 5.39 Mrs O'Sullivan had concerns on whether the change in status to a Collector road would enable the Council to further widen the road for increased traffic volumes. She expressed concern on the pressure on the first response services for the whole district- fire brigade, St Johns and Police because of the increased incidents as a result of the increased volume of traffic. Mrs O'Sullivan also raised the question of who pays for the upgrading of the infrastructure and that surely those who directly benefit should pay. She strongly opposes the increase of daily visitor numbers to 3,500.
- 5.40 **Derrys Farm Ltd - Mrs Nola Broomhall's** view is to decline the Plan Change. She began her submission by stating she has lived in the area for 50 years and has resided at her current address at her property on the corner of Puketutu and Buckland Roads for 47 years. She has seen changes and challenges as things get bigger and asked the question of when is enough, enough?
- 5.41 Her plea was that there is a duty of care and responsibility for the safety of everyone. These roads not only serve tourists but also working farms with tankers, agricultural contractors, fertiliser trucks and the like. She said that the little country road has become a highway and progress needs managing, with regard to infrastructure and improvements. Traffic noise has increased and while initially a number of vehicles left the road and ended up through her road fence into the front paddock, this has abated considerably with improvements carried out. However, there is room for more appropriate placement of signage and speed limits. Mrs Broomhall is against agreeing

to additional growth because extra activities resulted in extra numbers and extra problems.

- 5.42 With the increases, there is an impact on the natural rural environment and potential devaluation of their properties due to the negative effects of the Hobbiton business in their neighbourhood.

6 THE COUNCIL OFFICERS' EVIDENCE (SECTION 42A REPORT & RESPONSES)

- 6.1 The s42A Report provided a whole of Council response to the resource management issues raised by the application and the questions raised by submitters regarding the merits of the applicant's proposal. In reporting officer, Marius Rademeyer's absence due to injury, it was agreed by the Panel that MPDC District Planner Ms. Ally van Kuijk would present the report. The statement of evidence for landscaping of Ms. Bridget Gilbert was provided on the day, and due to other commitments, she could not attend to present her evidence.

- 6.2 **Ms Abraham, legal counsel** spoke of the legal issues raised by the Hobbiton private plan change request. She addressed the Panel on four matters: the legal framework, the 'environment' that PC50 is to be assessed against, the principles for what constitutes a permitted activity, and the law on scope.

- 6.3 Ms Abraham traversed those matters generally as we have set out in our *section 3 Relevant Statutory Provisions*.

- 6.4 In relation to the 'environment' to be assessed, Ms. Abraham indicates that the environment includes a future state as may be modified by permitted activities and existing consents and case law affirms that this approach also applies in a plan change context. In assessing such effects of PC50, it is those effects over and above the effects of lawfully consented activity that are to be considered.

- 6.5 Turning to the legal framework for permitted activity rules, Ms Abraham cited various cases, noting that the permitted rules must be sufficiently certain to be understandable and functional. Ms Abraham also noted that some rules would require some assessment, and caselaw supports this view that a "degree of evaluation in a rule did not invalidate it" (paragraph 8).

- 6.6 The Council position is summed up:

"Ultimately, the rules need to be assessed on their own merits and context. In this case, I submit that the Hobbiton DCP is of such scale and significance that an approach providing greater oversight and monitoring from the territorial authority, and greater ongoing community engagement, than might be present in other DCP's in the district is warranted. While the council has confidence in the conduct of the Applicant and the responsible manner in which it runs the operation, PC50 provisions may be in operation for 10 years and are able to apply to any future operators of Hobbiton. A trust us approach is not appropriate."

- 6.7 The need to establish a regime that will future proof Hobbiton and any future operators was therefore paramount in the Council's opinion.

- 6.8 A DCP is an enabler, a set of de facto zone provisions and therefore the proposed standards should, in this case include matters as monitoring and community liaison. Such provisions are considered reasonable and necessary in order for Council to fulfil

its obligations under the RMA. The history of the Applicant's non-compliance with consent conditions is also of consideration from the Council's perspective.

6.9 In relation to the question of scope, Ms Abraham cited caselaw to affirm:

"The court cannot permit a planning instrument to be appreciably amended without real opportunity for participation by those potentially affected. And care must be exercised on appeal to ensure that the objectives of the legislature in limiting appeal rights to those fairly raised by the appeal are not subverted by an unduly narrow approach."

6.10 This approach supported the Council position that the amendments proposed to the DCP provisions outlined in the Annexure B to the section 42A report are reasonably foreseen logical consequences of submissions made on PC50 and therefore are not unfair procedurally.

6.11 **Mr Alastair Black's** summary concluded that with appropriate performance standards, the transportation effects of the proposal could be managed to be acceptable. He noted that these provisions should include additional infrastructure (road) improvements and performance standards including maximum visitor numbers/trip generation, minimum car park numbers, minimum standards for site access and a framework for managing travel to events at the site. An ongoing monitoring and reporting framework is required to monitor trip generation of tours, trip generation of events held outside tour hours, parking demand and the provision of information to tour operators, deliveries and staff.

6.12 In reviewing the submissions, Mr Black invited the Panel to consider the following additional mitigation and infrastructure improvements:

- Complete the recommended Safety Improvements for Buckland Road as proposed in the ITA (refer to his Appendix D);
- Erect appropriate motorist service signs in advance of pull off areas;
- Install no-stopping markings and signs adjacent to 21 Buckland Road for a minimum of 140 m on Puketutu Road and 600m on Buckland Road;
- Design and construct further improvements to improve conspicuity of the Buckland/Puektutu intersection. As a minimum, this should include reviewing the effectiveness of a splitter island, line marking, signage and lighting;
- Install chevron signs and advisory speed signs near 1241 Buckland Road;
- Install centreline along the length of Buckland road west (also including Waipa DC area);
- Design and construct improvements to provide 140m sight distance at the vehicle crossings to 385 and 399 Buckland Road;
- Reduce the risk of pedestrian crashes at the Hobbiton site accesses by improving barriers to pedestrians crossing the road by providing designated photo opportunities within the site;
- Provide additional travel information to staff to ensure that staff and deliveries use the preferred east route when travelling to and from the site. Travel information should specifically state that Rangitunuku Road should be avoided.

6.13 An experienced acoustics and noise expert, **Mr Nevil Hegley**, commented on the applicant's requested increase in dB levels and extended hours suggesting this could

be mitigated by use of a low-level speaker system that while it costs more, it is very effective in minimising the potential affects to neighbours. At 50dB the nearest neighbour would be able to hear the music enough to be able to identify the song. The examples of concerts given in the Marshall Day report also quoted the crowds of much greater numbers than would be attending Hobbiton's events. The use of domestic fireworks is of much lesser effect than commercial fireworks. Alternative noise standards were promoted that in Mr Hegley's opinion were appropriate for the rural environment wherein Hobbiton complex is sited.

6.14 At the commencement of day 2 a conference call was held to consider **Ms Gilbert's** landscape evidence. This occurred as part of the formal hearing with all parties and interested submitters in attendance.

6.15 Ms Gilbert's report concluded that further information is required to confirm that the proposed Hobbiton plan change provisions are appropriate from a landscape perspective, and specifically:

- The incorporation of specimen trees and hedgerow along Buckland Road frontage to screen the extended area in Precinct 1 - there was an ensuing discussion regarding the practicality given the location of a farm track in this area that would compromise access to part of the farming operation should planting be required;
- Riparian planting to 10 metres, bordering the storm water using native species – we understand that there is a planting requirement as part of the discharge consent;
- Revised precinct 2 area should not include the waste water disposal areas; and
- A Mitigation Plan be required to show the location of planting of 'specimen trees' in Precinct 1.

6.16 During our pre-arranged phone call, Ms Gilbert justified the need for a planting plan due to potential future growth anticipated, that would be allowed as a permitted activity. This in her opinion justified the need upfront for planting as a performance standard. Ms Gilbert also acknowledged the work and expense that has been undertaken in shifting some specimen trees within the precincts.

6.17 **Ms van Kuijk** provided us with an overview of the key matters in the s42A report focusing mainly on the points of difference between the Council and the Applicant's preferred sets of DCP provisions.

6.18 These matters are canvassed fully in our *Section 8 Principal Issues for Determination & Findings*.

7 THE APPLICANT'S RIGHT OF REPLY

7.1 **Ms Forret** presented the Right-of-Reply for the Applicant on the resumption of the hearing on Wednesday 29 May. Her reply comprised extensive documentation that included her legal submissions along with a series of Attachments (A-J). Messrs Alexander, Bigwood and Inder also assisted with responding to the Panels' numerous questions seeking clarification on various matters of detail below.

7.2 The matters canvassed included:

- The purpose of the DCP as part of the District Plan;
- Precinct Plans;
- Key Issues: Vehicle Numbers;
Themed vs Non-themed events;
Landscape Plan;
Noise;
- MPDC evidence and revised DCP;
- Memorandum of Understanding (MOU);
- Submitters: David and Eveline Reichmuth;
NZTA;
J Swap Contractors;
Gegan Family Trust;
John Evans;
Glenda O'Sullivan;
Derry's Farm.

7.3 At the conclusion of the Applicant's right-of-reply the Panel directed and recorded in writing our request for an updated revision of the suggested amendments to the DCP provisions in response to our further questions. This was received by the Panel and made available to all parties on or after 12 June 2019. This was a substantial package of information and many of the matters presented concern matters we now turn our attention to in Section 8.

8 PRINCIPAL ISSUES FOR DETERMINATION & FINDINGS

8.1 The Panel has assessed the principal resource management issues in the following format:

- Issue/Topic heading (generally grouped); and
- Description/Evaluation and Determination.

8.2 As background, Schedule 1, Clause 10(2) requires this Panel to give reasons for accepting or rejecting submissions, and we may group them according to 'the provisions of the proposed plan to which they relate' or 'the matters to which they relate'. Sub clause (3) states that we are not required to make a decision that addresses each submission individually.

Overview – the Panel's Views

8.3 Based on the application documents, the submissions, further submissions, the further written and oral evidence presented to the Panel, and the Council officers' reports, the principal issues of contention as determined by the Panel can be grouped under three broad headings:

1. Establish and futureproof a new zoning framework in a DCP to enable the continued operation and expansion of the Hobbiton venue;
2. Manage the onsite effects of activities and development associated with permitted activities in the DCP:
 - Noise;
 - Lighting and glare;
 - Building scale (location, intensity and form); and
 - Infrastructure services.

3. Manage offsite effects of activities and development associated with the continued operation and expansion of Hobbiton, in a DCP:

- Traffic effects;
- General amenity effects; and
- Impacts on neighbouring properties.

- 8.4 The Panel has focused this part of our report on the detailed review of the specific provisions where the parties (the Applicant, the Council and or the submitters, and further submitters as a consequence) have raised planning concerns. Therefore, the Panel does not make comment on matters that are not subject to any request for change unless there is a specific shortcoming identified from our own review.

Overview – Reporting Officer Views

- 8.5 The s42A report summarises the key submission and further submission points under the following topic headings:

Topic 1: Lack of benefits/demand;

Topic 2: Lack of confidence in consultation, assessment, clarity/transparency and compliance/enforcement;

Topic 3: Rural environment, landscape and amenity effects;

Topic 4: Impact on Matamata township and wider road network;

Topic 5: Buckland and Puketutu Roads;

Topic 6: Specific changes requested by submitters;

Topic 7: Electricity infrastructure

- 8.6 We note that Mr Bigwood, the Applicant's planner also has conveniently assessed the submission points under the same framework in his *Section 6 Response to Submission Topics*.
- 8.7 We address our *Issue 1* first, the adoption of the DCP approach to facility/venue management.

New zoning framework as a DCP in the Operative District Plan

Description

- 8.8 Under the current District Plan the site is zoned Rural and operates under a suite of resource consents and consent variations granted by the Council. These consents were consolidated in 2011.10419.4 issued in 2017 for site-specific development and tourist activities in the Rural zone.

- 8.9 Mr Bigwood provides the following context to the Applicant's plan change request:

The DCP has been developed to address conflicts between the current suite of objectives and policies in the District Plan created by the underlying Rural zoning and the character of the tourism activity, as well as removing the ongoing difficulties and uncertainties for the management and growth of the Hobbiton Movie Set activities imposed by a suite of resource consents. Once the Plan Change is approved, the District Council's land use consents will be surrendered.

- 8.10 The Applicant now seeks a site-specific DCP, to recognise and provide for the unique set of activities within the District Plan. These provisions seek to 'sleeve':

- Text and a new objective in the “Significant” Resources section of the Plan;
- A new policy enabling on new /significant tourist attractions, while managing adverse effects on a site-specific basis;
- A new policy in the “Amenity” section of the Plan;
- A change to the roading hierarchy to reflect to increase in traffic associated with visitor numbers to the site;
- The definition of the DCP to include the whole of the Alexander farm property within which there are two activity precincts:
 - Precinct 1 – Shires Rest’ café etc;
 - Precinct 2 – Movie set structures;
 - Buffer Area – broadly, the balance of the Alexander farm property;
- A series of maps and plans to define the property and the two precincts;
- New definitions: “Events” (or “Themed”/ ”Non-themed Events”), “tourism retailing” for example.

- 8.11 Existing resource consents will be authorised under the DCP, and expansion of the site will be provided for, subject to performance standards to manage adverse effects of the ongoing tourism-related uses of the site. The analogy is, to set up a “one-stop shop” planning instrument and is the phrase used in the s42A report in *Section 3. Plan Change request*; an appropriate description in our view.
- 8.12 The Panel notes that there is an existing Memorandum of Understanding in place and the Applicant and Council generally seek to have this extended as a part of the consideration of the Plan Change.

Determination

- 8.13 The adoption of a DCP framework is a proven planning mechanism being zone equivalent provisions utilised in the District Plan to provide for the management and growth of one-off, large-scale activities and enterprises in the District. This a pragmatic planning pathway in the Panel’s opinion that avoids the past costly, time-consuming and potentially on-going piecemeal responses by in this case, the Applicant and the Council to manage this scale of activity incrementally by way of resource consents. This approach has not worked well given the unique nature of the activity - a world class tourism venture described by Ms. Forret “as the largest generator of external tourist visits in the North Island and one of the top three tourism sites in New Zealand” (Right-of-Reply, paragraph 4).
- 8.14 Overall, the new planning framework offers an appropriate, responsible and responsive approach to the management of the Hobbiton ‘complex’ and therefore can be supported. Therefore, submissions that seek the Plan Change request be declined are rejected by the Panel.
- 8.15 The consideration of those detailed provisions that form the substance of the Plan Change follow in our sub-section ***Provisions Relating to Issues, Objectives, Policies and Rules***, after our consideration of the **issues and effects topics** and their assessments as has been described in the s42A report.

- 8.16 Returning to the consideration of those issues identified and considered by both the s42A reporting planner and the Applicant's planner we determine the following matters.

Topic 1: Lack of benefits/demand

- 8.17 Business profitability or otherwise, for the consent holder, RST is not a resource management issue. However, it is relevant under the RMA to consider the economic benefits of the enterprise to the local economy. This is well documented in this case. We refer back to our paragraph 2.6 on this point.
- 8.18 With the purpose of the RMA being to sustainably manage the use of resources in a way that enables people and communities to provide for their economic well-being, then the Panel considers that this proposal overall does promote that purpose.
- 8.19 A second matter raised was the need/justification for providing accommodation facilities and overnight park-over facilities in Precinct 1 as part of the DCP. As pointed out, our focus must be on the environmental effects arising from the establishment of such facilities. We note also that the number of accommodation units/chalets was not presented as a specific development proposal to the Panel.
- 8.20 We understand that RST is wishing to provide for park-over camping facilities to cater for the often indiscriminate/unregulated parking of campers on road verges currently, and that such a facility can be provided for at The Shire Rest carpark, albeit that the scale of this was not made clear to the Panel. We were told that overnight parking will however only be for 'self-contained vehicles' (with sewerage treatment/containment facilities). A zone rule can require this, and a regional resource consent may also be a requirement.

Determination

- 8.21 When considering the merits of providing for accommodation facilities and overnight park-over facilities in Precinct 1 as part of the DCP, the Panel records that there was a lack of detail regarding the scale and intensity associated with both development opportunities and the limited consideration of the resulting environmental/amenity effects. This is both individually and cumulatively resulting from these activities operating 24/7. The evidence presented was 'broad brush' and without substantive consideration to potential amenity impacts that might result. The site could potentially operate every day and all night throughout the year and this was a matter of concern for submitters – their issue being with 'unfettered development'. For these reasons, the Panel does not support accommodation facilities and overnight park-over facilities in Precinct 1 as being permitted, but does consider it appropriate that such activities properly managed could be considered under a Discretionary Activity as part of the DCP. This approach would provide for a comprehensive consideration of either or both proposals in our opinion. For the record, the Reichmuth submission gives the scope for the Panel to make this determination.
- 8.22 The hosting of movie nights is sought. Movie nights is a permitted activity on the site under the resource consent 2011.10419 condition 19, and therefore is proposed to be part of the Activity Table applicable under the DCP. However, several submitters view movie screenings as being unacceptable and that these activities should operate elsewhere and more appropriately in the neighbouring towns. The Panel views these submissions as reflecting 'out-of-zone trading' in the rural area. In relation to concerns about drivers being drunk or influenced by other drugs when attending screenings, we

heard no evidence on this matter to consider nor impose restrictions. We agree with Mr Bigwood that this is concern is based on speculation.

- 8.23 In this regard, the Council does seek restrictions be placed on movie screenings and to exclude those that are “not Hobbiton-themed”. The Council position is unequivocal:

The regulatory framework for the site must balance its tourist potential with its location in a rural environment. Such a balance can best be achieved by limiting onsite activities to those that relate closely to the Hobbiton theme, being the aspect of the site that has tourism significance.

As stated by the submitters, there is no justification from a resource management perspective, to enable the site to be used generally as a movie theatre for genres that have no reference to the site’s tourism significance.

It is recommended that the request to decline the Plan Change be rejected, but that amendments are made to the Plan Change provisions to require resource consent for larger scale activities that are not Hobbiton-themed.

- 8.24 The Panel’s views are twofold:

- movie screenings without qualification and limited to twelve events over a twelve-month period, are acknowledged as part of the permitted baseline; and
- no compelling planning evidence was presented on what might constitute “non-Hobbiton themed” screenings and what a ‘zone’ performance condition might look like or how RST and the Council might administer such a performance condition. As Ms. Forret pointed out; does giving everyone a party hat with Bilbo Baggins on the front constitute theming? Or should every wedding guest be given a small gold ring to satisfy the requirement? (Right-of-Reply, paragraph 27)

Determination

- 8.25 The Panel is not persuaded by the evidence and therefore is not in a position to support a restriction on ‘non-Hobbiton themed’ screenings. It can however place performance conditions on the environmental effects arising from such ‘events’ and the frequency of such events as part of an annual calendar should we choose to.

Topic 2: Lack of confidence in consultation, assessment, clarity/transparency and compliance/enforcement

- 8.26 The Panel repeatedly heard strong views about the process RST had undertaken to inform the local community about the Plan Change. It seemed to the Panel that RST had lost the support and the confidence of the local community as the complex’s popularity burgeoned with visitor numbers well exceeding those consented limits. Many effects associated with this rapid and continual growth were impacting directly on neighbouring property owners resulting in their reduced amenity including the operation of established farming enterprises in the locality.

- 8.27 Both planning advisors confirm that the past conduct of an applicant is not grounds for refusing consent, and the matter then is one of enforcement. The Panel agrees. On the merits of the Plan Change requiring annual community meetings to address this perceived shortcoming, the Panel accepts the opinion of Mr Bigwood that this is not an appropriate performance condition to include in Zone rules.

Determination

- 8.28 The Panel does not support the inclusion of a performance condition requiring RST to provide a Site Management and Monitoring Plan on an annual basis to the Council to

record the monitoring and compliance with the proposed performance standards set out in the DCP.

Topic 3: Rural environment, landscape and amenity effects

Topic 4: Impact on Matamata township and wider road network

Topic 5: Buckland and Puketutu Roads

8.29 When bundled together, these topics generally align with the Panel's *Issue 2 and Issue 3* described in paragraph 8.3; with its focus on reverse sensitivity issues.

8.30 The Panel has brought these environmental 'themes' together to enable a fuller consideration of matters that are inter-related in terms on their impacts on wellbeing and amenity.

Amenity effects considered

8.31 The term 'amenity values' is defined in the Act as:

Those natural and physical qualities and characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes.

8.32 The Act includes 'amenity values' within the definition of 'environment', and as a consequence, it is part of the consideration of the sustainable management and 'avoiding, remedying or mitigating any adverse effects on the environment' (Section 5(d)).

8.33 It can also turn on the consideration of reverse sensitivity effects; this is the situation here, where the 'Hobbiton experience' has been 'introduced' into a rural environment. The potential arises where the effects of the new (or the most recently located) activity impact on the wider locality. In this case, the Plan Change provisions should seek to avoid conflict and protect rural amenity. To complicate matters further, RST presently operate under resource consents so a permitted baseline has been established; the question is however, with the complex's exceedance in visitor numbers, what exactly is the permitted baseline and its associated **additional** environmental (and amenity) effects on the neighbouring environment?

8.34 The impact on rural amenity is in the Panel's opinion, in part established and managed through the formation of the buffer area on the Alexander property in the DCP. The Buffer Area effectively 'wraps around' the two precincts with the exception of the common boundary to the McCosh property.

8.35 The Rural Buffer Area is set up to maintain those permitted activities on the Alexander property that remains in the Rural Zone. This approach is supported.

8.36 Landscape effects were addressed with divergent opinions as to the development's ongoing visual and amenity impacts on the neighbouring rural environment. One approach sought a formal spatial mitigation plan and planting framework. The alternate approach sought to provide landscaping to mitigate any adverse effects of future buildings on the local environment.

8.37 It also warrants determining the purpose, size, location and shape of the two Precincts, namely Precinct 1 (Shire's Rest) and Precinct 2 (Hobbiton Movie Set). Opinion varied as to whether the stormwater area that serves Precinct 1 being constructed at present under a regional resource consent should form part of Precinct 1, and whether the two

wastewater disposal areas operating under regional consents should form part of Precinct 2.

Determination

- 8.38 The Panel supports the adoption of the Rural Buffer Area on the Alexander property as a measure to maintain rural amenity in the Rural Zone adjacent to the Precincts.
- 8.39 In relation to the definition of the two Precincts, the Panel determines that:
- Precinct 1 should encompass the consented stormwater area; and
 - Precinct 2 should encompass the two wastewater disposal areas.
- This is because these services relate directly to the activities occurring in each precinct. We also understand that similar approaches are adopted in other DCPs.
- 8.40 In relation to maintaining the “quiet rural environment” the evidence of both noise experts is similar; the majority of activities undertaken on the two precincts can meet the established Rural Zone noise standards. The exceptions are the movie screenings and amplified music events and we discuss these matters further in paragraphs 8.104-8.112.
- 8.41 In relation to landscape ‘management’, the Panel prefers the approach of Mr Graham that the planting/landscape framework reflect directly in its relationship to existing and any future buildings in Precinct 1, so as to mitigate any potential adverse visual impacts. This affords flexibility in approaching the overall development of the site while placing an obligation on the development to ‘nestle’ new development within a planting framework. The Panel is satisfied that this planting-design outcome can be achieved through formulae-based performance standards to mitigate visual impacts on immediately neighbouring properties.
- 8.42 The Panel also records that it is accepted and beyond doubt that the RMA cannot concern itself with the effects of a proposal on property values and so these submission points are disregarded.

Impacts on Matamata

- 8.43 The views of many submitters is that the Hobbiton complex has adverse effects on Matamata and is increasing pressure on limited public services such as toilet facilities, parking and the local road network. Concerns about road safety for locals and visitors alike was a common and strongly expressed concern.
- 8.44 The Panel acknowledges that the District is marketing itself on the ‘back’ of the “Hobbiton experience” to gain an increasing share of the national and international visitor arrivals market. Like all vibrant tourism ventures there are benefits and impacts on the local community. However, the Panel understands that a Memorandum of Understanding (MOU) has been agreed and part implemented as a partnership between the Council and the RST to apportion in a reasoned and transparent manner some of the ‘impact costs’ to the RST for the required road upgrades.

Determination

- 8.45 The MOU is in our opinion an established, pragmatic and transparent arrangement to deal with complex road safety effects as we discuss below in paragraph 8.49 and in more detail in paragraphs 8.64-8.75.

Buckland and Puketutu Roads

- 8.46 The Buckland and Puketutu Roads are the most directly impacted roads. This view is supported by both the Applicant and the Council’s traffic experts. Appendix E to the

evidence of Mr Bigwood provides the MOU and the previously agreed mitigation and the funding from the RST to the Council to complete the works. We note that both traffic experts seek additional works to improve the safety of Buckland and Puketutu Roads and these are also set out in Appendix E to Mr Bigwood's evidence. We also note that in Ms Forret's written right-of-reply and in the post-hearing documentation requested by the Panel a further amended MOU was tabled that reflected a two-party agreement except in relation to one matter – the extent of any 'upgrade and cost apportionment for access arrangements for 399 and 385 Buckland Road'. This matter is noted further in paragraph 8.64 and remains a matter for ongoing discussion between the parties, and that the Panel is not in a position to determine this, based on the evidence presented to us.

- 8.47 We agree with Mr Bigwood that the MOU should not form part of the Plan Change but sit outside the planning provisions as a separate and enforceable agreement between the parties, which if necessary, can be changed with relative ease compared to the alternative of proceeding through a Plan Change process.

Determination

- 8.48 The MOU should not form part of the Plan Change but sit outside the planning provisions as a separate and enforceable agreement between the parties, which if necessary, can be changed. This avoids a potentially complicated and costly Plan Change process in the future.
- 8.49 Accepting that the MOU will sit outside the District Plan and will comprise a written record of the party agreements including the final set of drawings then these should be clearly referenced to provide the complete record of the location and scope of the 'upgrade works'. To this end, we have added a table listing the relevant drawings (Appendix 1, List of Drawings) and titled a Location Plan (Appendix 2) and a further plan relating to the Signage Strategy (Schedule 2) to form a complete record of the elements to the MOU. Minor editorial/ cross referencing within the MOU may still be necessary as consequential amendments prior to the parties signing this document.

Safety and Efficiency of the Local and National Road Networks: Off Site Effects

- 8.50 The most challenging resource management issue to address for the Applicant, the Council, the submitters and this Panel is the question of the safety of the road network in the general vicinity of Hobbiton. The critical question is whether the traffic increases already experienced associated with Hobbiton's immense popularity can be managed through performance standards and what those standards should be as part of the DCP.

Understanding the Consented Baseline

- 8.51 Resource Consent 2011.10419.4 is a consent issued in 2017 as a fourth variation to an issued consent. The consent is provided as Attachment D to Mr Bigwood's evidence.
- 8.52 From Messrs Bigwood's and Inder's evidence the Panel notes, with reference to this consent:
- The scale of the activity authorised is 300,000 for all activities including movie set tours, movie screenings, events and conferences (condition 7);

- The total number of “events” (movie screenings, public gatherings such as parties and weddings, and conferences, but excluding movie set tours) shall not exceed 12 during any twelve-month period. No more than one event shall be staged on any one day (condition 19);
- “Events” with less than 300 people in attendance shall restrict vehicle movements to no more than 50 vehicles or 100 vehicle movements (condition 20);
- For ‘events’ over 300 people, a specific Event Traffic Management Plan is required to be submitted for approval, twenty days prior to the event (condition 21);
- 219 all-weather parking spaces with 39 for staff use and 82 grassed parking spaces (condition 26);
- A review conditions enabling “traffic impacts arising from the consented activity...” when annual visitor numbers exceeded **275,000** (condition 28);
- Monitoring conditions recording total daily visitor numbers amongst other parameters (condition 30 and 30A); and
- a review condition and the circumstances when a review will be triggered that included accident rates and cost recovery matters (condition 32).

8.53 Activities enabled by this consent are part of the consented environment and therefore the resulting adverse effects are deemed acceptable. This provides the basis upon which to assess the additional effects arising from this proposal and Plan Change request.

8.54 The key question then is: Do the additional traffic effects now experienced associated with annual visitor numbers up to **650,000** visitors being above that previously stipulated of 275,000 have adverse safety and efficiency effects on the local and national/State highway network that are able to be managed as to be acceptable?

The Proposal and the Traffic Effects

8.55 The opinions of the three transportation experts are not settled on this matter. The Panel’s views on these often-contrasting opinions is set out below.

8.56 The proposal seeks development/activity entitlements, with reference to Mr Inder’s statement of evidence, as:

- 3,500 movie set visitors per day as the sole traffic management cap (paragraph 4.1) and broadly equating to 650,000 visitors a year;
- Permitted ‘events’ for up to 500 people per event (previously 300 people) or combined, outside movie set tour hours and 250 inbound vehicle trips, with no restriction on frequency (paragraph 4.8);
- ‘Events’ greater than 500 people per event (previously 300 people) requiring an Event Traffic Management Plan, as a restricted discretionary activity (paragraph 4.8);
- Minimum onsite parking of 343 all-weather car parking spaces in Precinct 1 to meet the demand for the complex operating at the 3,500 visitor per day capacity limit (paragraph 4.18) noting that the precinct will soon have 379 spaces, and further 71 spaces are available during the summer months as overflow (paragraph 4.19); and

- Overnight park-over campervan facility for an un-specified number and an un-specified number of accommodation units in Precinct 1 (paragraph 4.21).

A Single Cap for Traffic Management?

- 8.57 The key question concerns the type of 'cap' or caps appropriate for the management and monitoring of traffic effects that will state the performance conditions for compliance in the DCP. The Applicant seeks there be one cap, a visitor cap - 3,500 movie set visitors per day representing up to 650,000 visitors a year. This is because this cap influences peak daily and hourly traffic generation and therefore the level or intensity of traffic effects on the road network both locally and to a lesser extent on the adjoining State highways. Ms Forret strongly emphasized Mr Inder's opinion on this point in her Right-of-Reply along with the practicality of trying to implement such other performance measures (paragraphs 14-22).
- 8.58 Messrs Swears and Black seek that other traffic-based caps be adopted and for more robust monitoring to occur and be reported on. This suggested 'cap' is in the form of a trip generation cap. An annual cap of 387,000 vehicle movements per year is sought and/or a cap of 2,100 (or up to 2,500) vehicle movements per day and/or 350 vehicles per hour as a performance condition(s) and/or a maximum of 650,000 visitors a year.

Determination

- 8.59 The Panel accepts the Applicant's proposition that the company can most effectively and directly 'manage' the visitor cap based on the computer-based booking system now in place. This requires **all** bookings to be made and confirmed on-line and for the allocation of visitor numbers to pre-determined time periods throughout the day for visitors to take the movie set tours.
- 8.60 This approach does not directly consider trip generation but the Panel acknowledges that the cap as a performance standard effectively acts as 'control' on the other trip generation parameters suggested – the annual visitor cap, the daily vehicle movements cap, vehicle movements per year or the peak vehicle movements per day cap. The Panel was mindful that any performance measure adopted must be able to be monitored, reported on and if necessary, lead to enforcement action by the Council. The Panel therefore was not satisfied of the practicality of all alternate traffic management measures proposed as to warrant their adoption.
- 8.61 However, the Panel is mindful of the concerns of both the transportation experts for the Council and the NZ Transport Agency that a single cap is not adequate. Further, the public concerns have been made very clear to the Panel that questions of overall safety of the local road network **must** be addressed and managed by this Plan Change.
- 8.62 **The Panel therefore determines that a daily visitor cap of 3,500 visitors (movie set tours) is required and that the relationship between the booking system information and traffic numbers be monitored and reported by the RST to the Council on request.** This will provide an improved measure of public accountability for the Applicant's business activity and its resulting effects on the road network. This provides both a self-imposed management cap and a community-reporting obligation,

on request from the Council. The performance standards adopted therefore reflect this approach.

Management of the State highway and local road networks

- 8.63 The transportation experts are broadly agreed on the key roads and the management responses to address safety and efficiency. Our summary of this and any points of difference we set out now. Where reasonable and practical to adopt, implement and enforce the Panel has erred on the side of trying to ensure public safety is the paramount consideration.

Determination - Buckland Road

- 8.64 Buckland Road East and West (part) is a local road within the jurisdiction of the MPDC. The upgrade works proposed are:

- Reclassify Buckland Road as a Collector Road in the District Road Hierarchy;
- As a minimum, install convex mirrors mounted on poles in the berm opposite vehicle crossings #385 and #399 Buckland Road to improve exiting sight distance;
- Investigate road design and seal widening measures to allow pull-off areas and improved sight lines adjacent to 385 and 399 Buckland Road to enable the safer use of these entranceways;
- Pavement mark white direction arrows in each lane on Buckland Road east at 900m, 2660m and 4410m to reinforce to tourists that New Zealand drives on the left;
- Install 100mm white painted edge lines on both sides of Buckland Road from 0 to 5370m;
- Install double yellow “no passing” centre line on Buckland Road from 1800m to 6000m, inclusive of lead in markings;
- Install no stopping edge line markings on the eastbound lane and no stopping signs on the eastbound berm of Buckland Road from 2610m to 3510m and from 3760m to 4540m. These are unsafe locations that tourists regularly pull over to take scenic photos;
- Create safe, chip sealed surfaced pull off areas in the berm at 3750m and 4550m on the northeast side of Buckland Road, for tourists to park off the road shoulder to take photos;
- Construct gated speed calming entrance signs (threshold treatments) on Buckland Road either side of Hobbiton at 5210m and 4540m, with “Welcome to Hobbiton Movie Set” or similar wording agreed with MPDC. Threshold treatments to be in accordance with Council standards;
- Complete the Recommended Safety Improvements for Buckland Road proposed in “Appendix 1 – Drawings” attached as Appendix 2 to the Applicant’s Right of Reply dated 12 June 2019. For example, only one of the pull off areas proposed has been constructed and the truck signs have not been removed;
- Erect appropriate motorist service signs in advance of the pull-off areas;
- Install no-stopping markings and signs adjacent to 21 Buckland Road for a minimum of 600m on Buckland Road;

- Install chevron and speed advisory signs on the curves near 1072, 1077 and 1241 Buckland Road;
- Install dashed centreline markings along the length of Buckland Road (west) from the Waipa DC / MPDC boundary, tying into the existing centreline markings on Buckland Road on the northern side of the Hobbiton Movie Set site;
- Install white directional arrow markings on each lane of Buckland Road west of the Hobbiton Movie Set site at the general locations shown on Drawings 144150/00/P/111 to 144150/00/P/115 Revision A dated 30 May 2019 included in “Appendix 1 – Drawings” attached as Appendix 2 to the Applicant’s Right of Reply dated 12 June 2019;
- Reduce the risk of pedestrian crashes at the Hobbiton site vehicle crossings by installing “No Pedestrian Access” signs (MOTSAM RG-23) at the vehicle entrance and exist to The Shire’s Rest to discourage pedestrians from crossing Buckland Road.



RG-23

- Provide a designated photo opportunity within the site to discourage pedestrians from crossing Buckland Road;
- Provide additional travel information to staff and delivery companies to use the preferred Buckland Road (east) route when travelling to and from the site; and
- Reduce the posted road speed from 100 kph on further review under the Council bylaw process to 80 kph or perhaps 70kph.

Determination - Puketutu Road

8.65 Puketutu Road is a local road in the jurisdiction of the MPDC. The upgrade works proposed are:

- Reclassify the section of Puketutu Road and Hopkins Road as a Collector Road in the District Plan;
- Reduce the posted road speed from 100 kph on further review under the Council bylaw process to 80 kph; and
- Install no-stopping markings and signs for a minimum of 140m on Puketutu Road along the frontage of Lot 1 DPS 76602.
- Delete the white directional arrow on the northbound lane of Puketutu Road, on the south side of the Buckland Road/ Puketutu Road intersection.

Determination - Rangitanuku Road

8.66 Rangitanuku Road is a local road in the jurisdiction of the MPDC. After considering the expert traffic evidence we see no need for any additional traffic management measures to be adopted. We note that Mr Black advises that travel information should discourage visitors to Hobbiton from using this road. We determine that this approach can be implemented through managing or re-calibrating website searches as noted above.

Determination - SH29/Hopkins/Puketutu Road intersection

8.67 SH29 clearly is the responsibility of the NZ Transport Agency whilst Hopkins and Puketutu are the responsibility of the MPDC as the road controlling authority.

8.68 Within the MPDC jurisdiction:

- Reduce the posted road speed on a section of Hopkins and Puketutu Roads on further review under the district bylaw process from 100 kph to 80 kph.

8.69 In this regard, the Panel notes that the NZTA is/has implemented an Intersection Speed Zone intended to reduce the crash risk. We understand this to mean, with reference to Mr Inder's evidence at paragraph 5.30:

"... are electronic signs that detect when someone is turning into or out of a side road and temporarily reduce the legal speed limit on the state highway (usually from 100km/h to 60km/hr or 70km/hr)"

8.70 The Panel records that no expert supports the construction of a Roundabout to address what appears to the Panel to be long standing traffic safety concerns. This position is difficult to reconcile alongside the comments of Mr Swears who on behalf of the Agency states:

....the intersection configuration is complex and, based on current design guidance, I consider it unlikely such an intersection would be designed and constructed in this form if it were being constructed today (paragraph 27)

And

...I expect the crash severity would reduce if the intersection was a roundabout rather than a priority-controlled T intersection." (paragraph 31)

8.71 The Panel therefore is disappointed that for various reasons including the suggestion of funding that an upgrade is 'unlikely' as it would not have high priority for conversion from a 'T' intersection to a roundabout.

8.72 For completeness, we record that in each case, the Council's transportation consultant supports the review of speed limits while noting that this is a bylaw matter. We suggest this is a priority action for the Council to initiate.

8.73 For completeness, we record that there is no preferred treatment to upgrade the intersection of Buckland and Puketutu Roads.

Advisory - Comprehensive Signs Strategy

8.74 The Applicant appended a Signs Strategy to the ITA as a further measure to reduce the potential for tourists to become lost and increase the safety risk to other road users. This strategy remained an integral part of the Applicant's traffic management strategy throughout the course of the hearing. In all cases, the Panel strongly support these measures being introduced; paraphrasing:

- SH1 southbound before reaching the intersection with Karapiro Road to try and reduce visitor use of Karapiro and Buckland Road “West”;
- SH1/SH29 on both State highways; and
- SH27/SH29 intersection.

8.75 This is a Panel recommendation made direct to the NZ Transport Agency. It is made on the basis that Hobbiton is a well-established, globally recognised visitor attraction. There cannot be a dispute on this point given the evidence we heard. There is a duty on the Agency to promote safe driving by local and New Zealand drivers, and international drivers. All drivers benefit from being well informed with timely driver information when using the nation’s State highway network. The benefits are self-evident to the Panel and strongly stated by the local community at the hearing. Tourist signage for Hobbiton is not only necessary it is essential in our opinion.

Topic 6: Specific changes requested by submitters

8.76 These matters relate to suggested changes to the DCP’s provisions and the Panel deals with these commencing at *Section 8.70 Provisions Relating to Issues, Objectives, Policies and Rules*.

Topic 7: Electricity infrastructure

8.77 This issue relates to the Powerco submission. New performance standard criteria are sought relating to building setbacks, planting and earthworks near electrical assets.

Determination

8.78 We support and accept the planning assessments that the matters are better dealt with as Advice Notes.

Provisions Relating to Issues, Objectives, Policies and Rules

8.79 As a first step we review the suggested new paragraphs and text relating to Issues, Objectives and Policies. We then consider the management of the onsite effects and off-site effects as we generally summarised them in our paragraph 8.3 above.

Issues, Objectives and Policies (Part A of the Operative District Plan).

8.80 The Panel notes that there is no disagreement between the Applicant and the Council reporting team on the inclusion on new text under *Section 2.2 Significant Resources of the District* and a new policy (P10) in *Section 3.5.2 ‘Amenity’* under the sub-heading *‘Design, Appearance and Character’*. We make this observation as this provides the strategic context to our further assessment.

Determination

8.81 The Panel support and accept the inclusion of both this high-level statement as drafted (and without change) in the District Plan as well as the inclusion of policy P10 as drafted (and without change).

Add bullet point to Section 2.3 ‘Significant Resource Management Issues’

- 8.82 There is agreement on this point and therefore no need for a determination by the Panel.

Insert new objective and new policies in Section 2.4 related to 'Tourism'.

- 8.83 Council sought the addition of two further bullet points to new paragraph 2.3.9:

"....including:

- Improvements to the District's road network, infrastructure networks and community facilities utilised by tourists; and*
- Consideration to making provision within the Council's Development Contributions Policy under the Local Government Act 2002 for the purpose of contributing fairly to the costs of capital expenditure to service the growth or a targeted rate under the Local Government (Rating) Act 2002 to fund the District wide impact of tourism growth."*

And, the addition of two supporting policies; namely P3 and P4 (that we have not quoted here).

Determination

- 8.84 The Panel heard contrasting opinion on the merits for the inclusion of two of the four new policies promoted by Council for inclusion in the DCP; namely Policies P3 and P4. When comparison is made with the other commentaries in section 2.3 the Panel considers that there is unwarranted detail in the proposed statement that already is broadly covered by the second sentence that states:

.....A significant resource management issue that the District Plan must address is seeking to encourage tourism whilst ensuring that adequate measures are in place to avoid, remedy and mitigate the localised environmental effects of tourist attractions.

(Our emphasis)

- 8.85 With respect to proposed Policies P3 and P4 we rely and accept the assessment of Mr Bigwood that these provisions are contained within the existing policies of the Plan under Land and development (Section 3.3) and Transportation (Section 3.8) for example. In relation to Development Contributions, there is an established policy framework under the Local Government Act that Council retains discretion to rely on in any particular circumstance and therefore it does not warrant duplication as a standalone policy.
- 8.86 In relation to P3 the proposed policy states: *"...shall include consideration of adverse effects on the wider community including increased traffic movements on the District's road network, adverse effects on amenity values, and the impact on town centres, community facilities and other infrastructure used by tourists."* The Panel considers this to be an all-embracing 'environmental wish list'. It is difficult to see how this policy would be given effect to in consent decision making, including the assessment of increased traffic impacts as has been demonstrated by the evidence presented to us in relation to Hobbiton. An AEE would be expected to assess all relevant environmental effects as required by the Act and the suite of performance standards we discuss later will deal with activity-specific effects in our opinion without recourse to this proposed policy.
- 8.87 The Panel therefore determines that both proposed policies P3 and P4 be deleted from the Plan Change.

Managing Onsite & Off-site Environmental Effects

- 8.88 The *Activity Schedule* proposed for the DCP comprises five components to the regulatory framework of permitted and consentable classes of activities able to establish and operate in the DCP for Hobbiton, specifically:

- A1 General;
- A2 Permitted Activities;
- A3 Restricted Discretionary Activities;
- A4 Discretionary Activities; and
- A5 Non-Complying Activities.

The matters we must decide upon are as follows and are recorded in italics:

A1 General, b) For discretionary and non-complying activities, the matters of discretion within DCP Rule 1.2 may be used as a guide

Determination

- 8.89 Council sought to introduce the Non-Complying Activity status into the Plan Change to specifically provide for a new class of activity a “non-themed” event. We accept and rely on Ms Forret’s closing argument that any separation between ‘themed’ and ‘non-themed’ is arbitrary and does not address any distinguishable adverse effect. We therefore determine that a distinction in these terms is not warranted based on the broad similarity of potential environmental effects. A distinction is at best subtle between the two prospective activity types. We also accept the planning opinion of Mr Bigwood in this respect as stated in his paragraph 7.13.

- 8.90 We confirm that the Discretionary Activity class is the most appropriate for the Council to apply in a cascade of consent classes in the DCP. This activity class enables the Council to either grant consent with conditions, or decline a resource consent.

A2.3 Precincts 1 and 2: b) Themed Events. c) Non-Themed Events.

Determination

- 8.91 As a direct consequence of our decision above, we determine that the class of ‘Non-Themed’ events be deleted. Further deletions to the DCP provisions automatically follow from this determination; for example, A5 Non-Complying Activities.

A2.3 Precincts 1 and 2

l) Domestic wastewater treatment systems and land disposal areas situated in a location as shown on the DCP.

m) Stormwater treatment and attenuation facilities situated in a location as shown on the DCP.

A2.4 Rural Buffer Area:

a) Domestic wastewater and treatment systems and land disposal areas associated with Hobbiton situated in a location as shown on the DCP.

b) Stormwater treatment and attenuation facilities situated in a location as shown on the DCP.

Determination

- 8.92 Having determined that the Precincts will include the services that directly support the Hobbiton complex then the scope to provide for the same in the Buffer (rural) area is appropriate. These changes essentially are drafting ‘tidy-ups’.

A3 Restricted Discretionary Activities

The following are restricted discretionary activities:

a) An activity permitted in A2, excluding a non-themed event, that:

.....

(v) Fails to comply with one or more of the other relevant performance standards within DCP Rule 1.1.

Determination

8.93 This change essentially is a consequential change to the provisions.

A4 Discretionary Activities

The following are discretionary activities:

a) An activity permitted in A2, excluding a non-themed event, that:

(i) Does not comply with performance standard 1.1.7; and/ or

(ii) Does not comply with performance standard 1.1.8; and/ or

(iii) Does not comply with performance standard 1.1.14; and/ or

(iv) Complies with performance standard 1.1.16; and

(v) Complies with all other relevant performance standards within DCP Rule 1.1; or

(vi) Fails to comply with one or more of the other relevant performance standards within DCP Rule 1.1.

b) An activity permitted under A2 with a defined location, that is not as shown on the DCP.

A5 Non-Complying Activities

The following are non-complying activities:

a) A non-themed event that does not meet all of the performance standards in DCP Rule 1.1.

b) An activity not listed in A2.

Determination

8.94 *A5 Non-Complying Activities* is deleted from the DCP Activity Class for the reasons outlined above in paragraph 8.90. Re-stated, the Discretionary Activity class is appropriate in this case, as activities that do not fall to be permitted or restricted discretionary activities default to a Discretionary Activity and require a merits assessment as part of a consenting process.

Rule 1.1: Performance Standards for Permitted Activities in Precincts 1 & 2

8.95 For the record the Applicant and the Council agree to the scope and content of the following performance standards under Rule 1.1:

- 1 Building envelope for all buildings associated with, and ancillary to, a permitted activity in this DCP;*
- 2 Building coverage;*
- 5 Landscaping of Car Parking Areas;*
- 11 Street Lighting; and*
- 16 Earthworks and Cleanfill.*

8.96 The matters that do require our determination are the following performance standards:

3 Visual Form and Appearance of New Buildings

Determination

- 8.97 The addition of the 'wall materials' of 'stone' and 'brick' is accepted recognising this is to address an inconsistency with the drafting with clause d) of the same performance standard.

4 Landscaping for new buildings

Determination

- 8.98 A specific set of performance standards to ensure plantings and landscaping undertaken is in relation to new buildings will more effectively address the planting required in relation to actual site development and therefore better mitigate any adverse visual effects that may result.

6 Access

Determination

- 8.99 The change is a correction to replace the term 'vehicle accesses' with the term used in the District Plan which is 'vehicle crossings', and is accepted.

7 Road safety, Trip generation, Car Parking, Loading, Formation and Manoeuvring

Determination

- 8.100 The performance standard descriptor is amended to refer to: *Road Safety, Car Parking, Loading, Formation and Manoeuvring*. The deletion of the 'daily average of 2,100 trips' calculated over a 7-day period is accepted given its general impracticality to administer. Further, we accept the Applicant's position that compliance will be problematic, and then the issue arises what reasonable consequential action could the Applicant take as a result from any non-compliance. Then, what enforcement action might be possible to address this non-compliance apart from closing down the complex for some period of time, as determined appropriate by the Council.
- 8.101 The Panel acknowledges the critical role that the MOU will play with the Applicant and the Council agreeing to the upgrade works and their funding apportionment.

8 Visitor Numbers

Determination

- 8.102 It is determined that a single traffic management cap is appropriate of total visitor numbers not exceeding 3,500 people per day for movie set tours. This is in the context of the operation generating up to 650,000 visitors (movie set tours) a year.
- 8.103 It is also determined that there is an obligation on the operator to record a range of visitor data, such as daily visitor numbers (movie set tour tickets), daily number of bookings, daily number of visitors booked in groups of 8 or more, and daily numbers of staff, and to provide this information to the Council on request. In this way, the unique

and seasonal nature of the enterprise can be better understood by the Council including the effects of increased promotion of the autumn shoulder period.

9 Noise

Determination

8.104 Professional opinion between Messrs Bell-Booth and Hegley is not settled regarding noise management for the Hobbiton DCP. The evidence and contrasting opinions relate to:

- The hours and performance standards to apply for daytime noise – Condition 9a);
- The hours and performance standards for outdoor movie screening events limited in frequency to 12 times a year – condition 9c); and
- Hours and performance standards for outdoor amplified music/concert events being limited to 6 times a year – condition 9d); and
- Fireworks displays – condition 14 and is a separate matter we consider in paragraphs 8.116 and 8.117.

We summarise the positions on the above three matters as follows.

Daytime noise performance standards

8.105 The Council seek to retain the existing daytime and noise performance standards that apply in the Rural Zone, noting that these standards are accepted as appropriate by the community. We were informed that there have been no issues or complaints received by the Council concerning noise from Hobbiton's operations. We were informed that several submitters raised concerns regarding noise effects, for example David Reithmuth, Gregan Family Trust and Nelson McCosh.

8.106 We were advised that the Applicant's proposed daytime extension from 8pm to 10pm is not precedent setting as other DCPs have varied noise standards to reflect the nature and scale of their activity.

8.107 Mr Hegley advised that the 2-hour time extension would provide for a 10dB increase and 'as a guide, an increase of 10dB is an apparent doubling of the noise' (paragraph 2.1 of his statement of evidence).

Performance standards for outdoor movie screening events

8.108 The Applicant seeks provisions for twelve movie events till 11pm rather than 10.30pm and with noise levels not to exceed, by way of summary, 55 dB LAeq when measured at the notional boundary of any rural dwelling located outside the DCP area. Mr Hegley invited us to consider an option of controlling noise by a further 10dB LAeq by the applicant using more speakers at a lower level to achieve a 40dB LAeq. This could be introduced as an additional clause to the condition.

Performance standards for outdoor amplified music/concert events

8.109 The Applicant seeks six outdoor amplified music/concert events, and by way of summary, not exceed 6 hours duration and 65 (rather than 60) dBLAeq concluding by 10.30pm during daylight savings.

8.110 Considering these matters together, we note that RST hold resource consents enabling up to twelve movie screenings and six concerts/events a year. Therefore, the frequency of such events is not a matter we are able to consider in these deliberations. Secondly, any reported non-compliance with the performance standards settled on for the DCP will trigger the need for a resource consent for future events. Thirdly, the

effects of noise on the local environment that includes the amenities on neighbouring farming families can be managed to maintain existing amenity through:

- the adoption of performance standards particular for each 'type' of event when measured at the notional boundary of any rural dwelling (a standard practice);
- requiring neighbouring property owners be informed ahead on any concert event; and
- requiring a noise management plan to be prepared, implemented and monitored for each event and the findings submitted to the Council.

8.111 On this basis, the Panel determines, by way of summary, that on balance:

- Daytime noise performance standards – accept that the daytime noise provisions be adjusted to reflect the operational characteristics of the complex;
- Performance standards for outdoor movie screening events – accept that the noise provisions be adjusted to reasonably accommodate the characteristics of such events; and
- Performance standards for outdoor amplified music/concert events - accept that the noise provisions be adjusted to reasonably accommodate the characteristics of such events.

8.112 We make this determination recognising that there was limited evidence presented from submitters that noise is or may be a nuisance resulting from those concert events/movie nights that have been held under the current resource consents. We further note that the submission points on this were broadly expressed. On this basis, we accept the Applicant's approach to events management and the condition requiring a noise management plan. We consider this affords sufficient safeguards for subsequent event management, monitoring and reporting. The Panel accepts this approach as being practical while recognising that it is paramount that the Applicant effectively manage all events and fulfil its reporting obligations to Council and maintain a good relationship with its neighbours.

10 Lighting and Glare

Determination

8.113 The Panel determines that, on the basis that events such as outdoor movie screenings won't finish to after 10pm summer time that the lighting performance standards should reflect this and extend to 11pm to ensure the safety of patrons leaving the venue.

12 Signage

Determination

8.114 Apart from the adoption of some provisions as an Advice Note there are no other matters that the Panel is required to deliberate on; so the performance standards for signage are settled.

12 Events

Determination

8.115 The Panel has previously determined that there is no planning merit to distinguish between 'themed' and 'non-themed' events.

- 8.116 The Panel accepts the adoption of fireworks standards that recognise that professionally managed fireworks will require, amongst other matters the notification to neighbours.

13 *Fireworks Displays*

Determination

- 8.117 The Panel accepts the performance standards promoted by the Applicant that distinguishes fireworks displays by: the everyday use of domestic fireworks displays purchased lawfully from approved outlets which are not subject to noise limits, and professional fireworks displays involving non-domestic fireworks being subject to a management plan (Ms Forret's right-of-reply, paragraphs 52-54).

14 *Accommodation*

Determination

- 8.118 There was considerable discussion of the scope and scale of any accommodation facilities realistically able to establish on the site described as Precinct 1. The Applicant did not proffer any indication of their intentions but asked the Panel to rely on a number of performance standards that operating together would constrain overall, the scale of any future development. These standards were 2. *Building Coverage*, now limited to 7.4% or 6,342m² in total; 3. *Visual Form and Appearance of New Buildings*; 4. *Landscaping for New Buildings*, 5. *Landscaping of Car Parking* and 7. *Road safety, Car Parking, Loading, Formation and Manoeuvring*.
- 8.119 The Panel desired certainty that cumulatively, these performance standards will govern the opportunity for accommodation to be developed on site but there was no acknowledgement from the Applicant of the amenity effects that might result. The Panel's determination therefore is not to support the provision of these facilities as a permitted activity but rather, as a Discretionary Activity.
- 8.120 In relation to '*Overnight Park Over Camping*' we note that 'self-contained' campervans are proposed to be provided for. It is unclear to the Panel how many campervans the Applicant would provide for and where on the carparking area they could stay over, and whether there would be a charge on such arrangements. While some safety benefits were promoted to us from providing for this overnight facility, the concern that the Panel has is that it would likely become general knowledge that such a facility is available as to draw more patronage from what is termed 'freedom campers'. Further, several similar facilities are already provided for in the area to cater for this type of (self-managed travel and accommodation. The Panel's determination therefore is not to support the provision of these facilities as a permitted activity but rather, as a Discretionary Activity, as we have discussed previously.

15 *Community Liaison*

Determination

- 8.121 The Panel accepts the Applicant's argument that the imposition of a performance standard regarding community liaison while acceptable for resource consents is not in

our opinion acceptable in a DCP; that is, as a de facto zone provision. On enquiry, we also record that the current suite of resource consents did not include such a provision(s) as a condition of consent.

16 Site Management and Monitoring

Determination

8.122 The Panel also concludes for similar reasons that a Site Management and Monitoring Plan is not an appropriate resource management provision in this context. However, we have already stated that the community has lost its trust in the general management of Hobbiton and the company's lack of communication with their neighbours.

8.123 In this regard, we note that the provisions now confirmed in the DCP provide for:

- Monitoring of noise associated with outdoor movie screenings and outdoor amplified music/concert events;
- Monitoring of events involving more than 500 patrons including notification of neighbours where events involve fireworks; and
- Monitoring of traffic data such as daily visitor numbers, daily number of bookings, daily number of visitors booked in groups of eight or more (likely to be tour groups in mini vans or large buses), and daily staff numbers under Rule 8b, and for this information to be available on request to the Council.

8.124 The Panel wishes to record as part of our decision the following paragraph (8(h) of Ms. Forret's right-of-reply in this regard:

"RST is willing to enter into voluntary neighbourhood consultation and is developing a Community Engagement Plan. Mr Alexander recognises that a prudent business will maintain good relationships with its neighbours and accepts that the rapid expansion of the site has meant that this aspect has not been addressed recently. That omission is to be rectified as part of the Community Engagement Plan."

8.125 The Panel strongly endorses these sentiments and wishes to take Mr Alexander at his word in the future management of Hobbiton.

17 Domestic wastewater treatment systems and disposal areas/ stormwater treatment and attenuation facilities

Determination

8.126 The Panel has already settled this matter in paragraph 8.92.

9 PART 2 MATTERS

9.1 For completeness we make brief comment on the statutory framework and Part 2. As noted in paragraph 3.12, Section 5 sets out the purpose of the Act and sections 6-8 contain the hierarchy of considerations which must be specifically considered by decision – makers.

9.2 A number of aspects of Part 2 are relevant. There are no matters of national importance under Section 6 that require our consideration. With respect to Section 7 Other Matters, we have considered the following matters in our overall evaluation:

(b) the efficient use and development of natural and physical resources;

(c) the maintenance and enhancement of amenity values;

(f) maintenance and enhancement of the quality of the environment; and

(g) any finite characteristics of natural and physical resources

9.3 We conclude, from our overall review of the evidence received and considered from the Applicant, all submitters and the Council, that appropriate consideration has been given to these above matters to satisfy us that the Plan Change to establish a customised planning framework for Hobbiton is in accordance with Part 2 of the Act.

10 SECTION 32AA RMA

10.1 As noted in our paragraphs 3.10 and 3.11, we are required to undertake a further evaluation of the Plan Change as part of our decision making. A section 32 Evaluation Report dated January 2018 accompanied the lodgement of the Private Plan Change Request. A Section 32 and Section 32AA evaluation was provided in section 12 of the s42A Report.

10.2 Set out below is our Section 32AA further evaluation of the modifications we have determined necessary to the Plan Change request. We must be satisfied that, with these amendments, the policies, rules and methods are, having regard to their efficiency and effectiveness, the most appropriate means to achieve the relevant objectives.

10.3 Firstly, we adopt where relevant, both these preceding s32 analyses where no changes have been made in this decision. We also note that two options were considered by these analyses and we adopt the same evaluation framework:

- Do nothing and retain the current Operative District Plan approach; or
- Change the objectives, policies and rules to be proposal-specific to the Hobbiton site by way of a Plan Change.

10.4 The key amendments promoted by the Council reporting team were summarised in their section 12.2 as:

- *A “cap” on daily and annual trip generation to align with the assessment of traffic effects undertaken in the ITA;*
- *Revision and strengthening of the visual and landscape performance standards to ensure that the recommendations of RST’s Landscape and Visual Assessment Report are required as mitigation measures. In addition, the changes are required to give effect to new Policy 10 in “Section 3.5.2 Amenity – Design Appearance and Character” quoted below:*
 - *“P10 - To ensure that the design of future development at Hobbiton Movie Set is sympathetic to the rural landscape and environment.”*

- A “cap” on overnight accommodation, limits on fireworks displays, and a reduction in permitted noise levels to mitigate amenity effects.
- Robust monitoring requirements to provide certainty that the performance standards required to mitigate adverse effects, are being complied with.
- Discouraging large-scale “non-themed” events that can be accommodated elsewhere with less adverse effects and in more appropriate locations, in order to promote the integrated management of the effects of land use.

10.5 The conclusion also warrants recording:

It is considered that the modifications proposed under Option 2 is preferred as it will result in very similar benefits to those identified in RST's initial s32 evaluation, while providing enhanced certainty that the adverse effects of the future development of Hobbiton are understood and appropriately managed.

10.6 We record that the purpose and scope of the Private Plan Change request has been endorsed, as we have set out in *Section 8 Principal Issues for Determination and Findings: New zoning framework as a DCP in the Operative District Plan*.

10.7 The substantive changes now determined by the Panel mirror to some extent the amendments summarised in paragraph 10.4 above, and include:

- Some amendments to Section 2.2 and 2.3 Significant Resource Management Issues, and a new policy;
- The majority of changes have been made to the rules/performance standards, (notably a threshold of 3,500 movie set tours a day, adjusted noise and lighting controls, the management of fireworks displays, and visitor monitoring) and definitions (notably deleting the distinction between ‘themed’ and ‘non-themed’ events) and these are detailed in our *Section 8 Determinations* as a whole;
- The Deletion of the Non-Complying activity status and inclusion of Discretionary activity status as a default planning control for activities establishing in the DCP that would otherwise have been permitted or restricted discretionary;
- The adjustment of the Precinct footprints to include the infrastructure services that will serve the Hobbiton Complex;
- A raft of road management and speed limit reviews that will require their consideration through separate (non-RMA) statutory processes and including a Memorandum of Understanding (MOU) between the Applicant and the Council to improve the safety and efficiency of the public road network that serves Hobbiton.

10.8 We are satisfied that these changes where enabled under the RMA, are the most appropriate way to achieve the purpose of sustainable management in the context of this unique natural and physical resource. The Panel determines that the provisions will enable development to continue as part of the Hobbiton complex while maintaining the amenity levels of the local environment and the safe and efficient operation of the local and national roading network for residents and visitors alike.

10.9 The Panel acknowledges however, that establishing the balance between providing for continued commercial development of Hobbiton and maintaining amenity and

wellbeing for the existing community and the neighbouring farming enterprises has not been a straightforward exercise.

10.10 In summary, in the context of considering s32AA of the RMA, the Panel is satisfied overall, that as a result of our evaluation of all the evidence, these changes including consequential changes make the provisions of the Plan Change more appropriate, efficient and effective in achieving the purpose of the Act. Furthermore, the substantive reasons are recorded under the *Determinations* throughout this Decision report.

10.11 Plan Change 50 creates a customised management framework for the ongoing development of Hobbiton an internationally unique and significant tourist facility. The DCP will provide an important and transparent framework for the land owner, the Council and the community to provide for the ongoing economic, social and cultural wellbeing of the wider community. It does require the landowner to be held accountable for the management of its facilities so that the environmental effects of its operations are no more than minor on the community, and for the Council to ensure reporting does demonstrate compliance with the rules and performance standards put in place by this Plan Change.

10.11 In concluding, the Panel also wishes to acknowledge the patience of all the parties to this hearing and in particular those submitters who took their time to submit, attend and explain their concerns to us.

11 THE DECISION & REASONS

11.1 The decision is set out below.

Acting under delegated authority from the Matamata-Piako District Council to hear the submissions and further submissions on Proposed Plan Change 50 (PPC50), the Commissioners, pursuant to Clauses 29 and 10 of the First Schedule of the Resource Management Act 1991, and the Matamata-Piako Operative District Plan, confirms:

- A) **Private Plan Change 50 is approved, with modifications described below; and**
- B) **The submissions and further submission which supported the Plan Change and/or sought further changes to the Plan Change are accepted to the extent that the Plan Change is approved with the modifications described below; and**
- C) **All other submissions and further submissions, including those that opposed the Plan Change, are rejected.**

The **Reasons** for the Decision are that the Private Plan Change will:

- (i) With the modifications adopted, assist the Council to carry out its functions so as to achieve the purpose of the Resource Management Act 1991.

- (ii) With the modification adopted, ensure that the Plan Change aligns with the Operative Waikato Regional Policy Statement, and the Operative Matamata-Piako District Plan.
 - (iii) The changes are required to ensure that all of the actual and potential adverse effects on the environment are considered and that provisions are in place to ensure that the adverse effects are avoided, remedied, or mitigated.
 - (iv) The section 32 and section 32AA RMA evaluation and further evaluation have shown that the Plan Change as modified represents the most appropriate way to achieve the purpose of the Resource Management Act 1991.
 - (v) The Plan Change as modified is in accordance with the purpose and principles of the Resource Management Act 1991.
- D) **The Plan Change is recorded in Schedule 1. Modifications made to the Plan Change are recorded in Schedule 2.**
- E) **That the late submission by Derrys Farm Limited received on 4 May 2018 be accepted.**


The Reasons:

- (i) The submission does not raise any new matters not already referenced in other submissions.
- (ii) The acceptance of the late submission will enable the relief sought by Derrys Farm Limited to be considered. The interests of the community will be better served by acceptance of the late submission.
- (iii) The submission was only marginally late and was received well before notification of the summary of submissions and as such has not caused a delay in the processing of the Plan Change.

That the Opal Hot Springs and Holiday Park's submission be struck out.


The Reason

- (i) The submission relates solely to trade completion and the effects of trade competition and is therefore invalid under clause 6 of Schedule 1 to the RMA.
- F) **Schedule 3 records the Memorandum of Understanding** between Rings Scenic Tours Limited and the Matamata-Piako District Council (unsigned) that relates to the improvements to the road network that serves Hobbiton.



Murray Kivell,

Hearings Commissioner (Chair)



Adrienne Wilcock

Commissioner



Donna Arnold

Commissioner

12 July 2019

Schedule 1:

Proposed Plan Change 50: Development Concept Plan for Hobbiton

Schedule 2:

Changes made as part of the Commissioners' Decision (recorded as track changes version)

Schedule 3:

Memorandum of Understanding (MOU) - unsigned

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Schedule 1:

Proposed Plan Change 50: Development Concept Plan for Hobbiton

Schedule 2

Changes made as part of the Commissioners' Decision (recorded as track changes version)

Schedule 3:

Memorandum of Understanding