

Decision following the hearing of an application for resource consent under the Resource Management Act 1991



Proposal

To hold a one-off night-time match on a Sunday being a T20 cricket match between India and NZ. The match is proposed to take place on the 26 January 2020 (the Sunday of Auckland Anniversary Weekend 2020). The application is a restricted discretionary activity.

This resource consent is **GRANTED**. The reasons are set out below.

Application number:	LUC60338953
Site address:	42 Reimers Avenue, Kingsland
Applicant:	Eden Park Trust Board
Legal description:	Lot 3-4 DP 46401 and Sec 20 SO 440383
Zoning:	Special Purpose - Major Recreation Facility Zone and Eden Park Precinct
Lodgement:	17 May 2019
Notification:	25 June 2019
Submissions closed:	23 July 2019
Hearing commenced:	Tuesday 8 October and Wednesday 9 October 2019, 9.30 am
Hearing panel:	David Hill (Chairperson) Nigel Mark-Brown Pamela Peters
Appearances:	<p><u>For the Applicant:</u> Bronwyn Carruthers, Legal Nicholas Sautner, Corporate Todd Langwell, Transport Christopher Day, Noise Mark Vinall, Planning Anthony Crummy, New Zealand Cricket</p> <p><u>For the Submitters:</u> Jose Luis Fowler Eden Park Resident's Association c/o Tony Wright and Shona Tagg Victoria Toon Jessica Meurant Sam Jack Eden Park Neighbours Association c/o Frank Grgec and Colin Lukas Jeremy Todd David Boersen</p>

	<p>Daniel Carpenter</p> <p><u>Tabled statements:</u> Denise and Ian Civil Rishi Gangotra Martin Cooper</p> <p><u>For Council:</u> Fennel Mason, Principal Project Lead Michael Campbell, Planner Ian Clark, Traffic Engineer Jon Styles, Acoustic Specialist Sam Otter, Hearings Advisor</p>
Hearing adjourned	Wednesday, 9 th October 2019
Hearing Closed:	Friday 11 th October, 2019

Introduction

1. This decision is made on behalf of the Auckland Council (“**the Council**”) by Independent Hearing Commissioners David Hill (Chairperson), Nigel Mark-Brown and Pamela Peters, appointed and acting under delegated authority under sections 34 and 34A of the Resource Management Act 1991 (“**the RMA**”).
2. This decision contains the findings from our deliberations on the application for resource consent and has been prepared in accordance with section 113 of the RMA.
3. The applications were publicly notified on 25th June 2019. A total of 888 submissions were received, with 857 in support; two in a neutral position and 29 in opposition, including two late submissions (which we resolved to accept having taken into account those matters required by s37A RMA and there being no objection from the applicant).
4. No written approvals were lodged. No trade competition matters were raised.

Summary of proposal and activity status

5. The applicant proposes to hold a one-off night-time match on a Sunday being a T20 cricket match between India and NZ. The match is proposed to take place on the 26 January 2020 (the Sunday of Auckland Anniversary Weekend 2020).
6. The proposal requires resource consent under the I310 Eden Park Precinct provisions of the AUP(OP) for the following reasons:
 - (a) While Activity Table I310.4.1 (A4) states that organised sports and recreation undertaken during the night-time requires consent as a Controlled Activity, as not all relevant standards are met, this is a **restricted discretionary activity** under General Rule C1.9(2).
 - (b) Standard I310.6.1(1) states that the noise level from any activity (as measured within the boundary of any site in a residential zoned property, not owned by the Eden Park

Trust) must not be greater than the noise limits in Table I310.6.1.1. As the scheduled finish time is outside those hours, this standard is not met.

- (c) Standard I310.6.11(5) states that night-time activities must not be undertaken on a Sunday. This standard is not met.
- (d) Standard I310.6.11(2) states that there must be no more than one day/night cricket test match within any 12 month period. That standard is not met.¹

7. General rules C1.6 Overall activity status states:

- (4) *Where an activity is subject to a precinct rule and the activity status of that activity in the precinct is different to the activity status in the zone or in the Auckland-wide rules, then the activity status in the precinct takes precedence over the activity status in the zone or Auckland-wide rules, whether that activity status is more or less restrictive.*

8. Overall the proposal is a Restricted Discretionary Activity.

Procedural matters

9. Under sections 37 and 37A of the RMA, the time limit for the receipt of submissions is waived to accept the late submission(s) of Mandy McMullin and Dr Dave Gilbert for the following reasons:

- The views and subject matter covered by the two late submissions are similar to expressed by other submitters; and
- The applicant had no objection to their acceptance.

Relevant statutory provisions considered

10. In accordance with section 104 of the RMA, we have had regard to the relevant statutory provisions including the relevant sections of Part 2 and section(s) 104 and 104C RMA.

Relevant standards, policy statements and plan provisions considered

11. In accordance with section 104(1)(b)(i)-(vi) of the RMA, we have had regard to the relevant provisions of the regional policy statement and plan of the AUP(OP) in terms of the matters over which Council has restricted its discretion, in particular the following:

- Auckland Unitary Plan –
 - I310 Eden Park Precinct – I310.8.1(1) Matters of discretion – noise, and I310.8.2(1) Assessment criteria - noise;
 - General Rules C1.9(2) & (3) Infringements of Standards.
 - H26 Special Purpose - Major Recreation Facility Zone – Objective (2) and Policy (4).

12. No national policy statement or environmental standard was engaged.

¹ We note that this standard was not referred to directly in the application or subsequent material but we include it here out of caution as the hours involve more than 30 minutes before sunset (8.37pm on 26 January 2020) and it is arguable as to whether a T20 is a test or not as that latter term is not further defined – but if it is then the previous Friday, 24th January T20 game also qualifies.

13. We did not consider any other matter relevant and reasonably necessary to determine the application in terms of section 104(1)(c) of the RMA.
14. We have not considered any matters beyond those for which Council has restricted its discretion.

Local Board comments

15. No Local Board comments were provided.

Summary of evidence heard

16. The Council planning officer's s42A recommendation report was circulated prior to the hearing and taken as read.
17. The evidence presented at the hearing responded to the issues and concerns identified in the Council planning officer's s42A recommendation report, the application itself and the submissions made on the application.
18. The submissions made and evidence presented by the applicant at the hearing is summarised below.

Ms Bronwyn Carruthers (counsel) confirmed the application noting that she proposed that the game would start at 8pm with a scheduled finish time of 11pm. However, she advised Eden Park Trust had recently been informed by NZ Cricket that the ICC has amended the scheduled time for T20 matches to 3 hour and 10 minutes match time² – which means that the 8-11 period is no longer appropriate. Accordingly, the Eden Park Trust and NZ Cricket have agreed to a 10-minute earlier start time of 7.50pm so as to remain with a scheduled finish time of 11pm.

A letter dated 4th October from NZC Anthony Crummy to Chief Executive, Nick Sautner Eden Park Trust was provided as evidence of this agreement.

In addition, Ms Carruthers identified two legal issues arising from the submissions: the precedent of a Sunday night fixture and the legitimate scope of conditions for the applicant. Ms Carruthers stated this application would not create a precedent because this particular Sunday 26th January 2020 is not a regular Sunday, it is a Sunday of a long weekend, followed by a public holiday. In legal terms, she stated if a future application is made for a fixture on a 'normal Sunday', no reliance can be placed on this consent (if granted) either in the sense of legal precedent or that like-cases should be treated alike.

Ms Carruthers also cautioned the Panel on the limitation to impose conditions that rely on third party compliance or one that nullifies the consent and renders the approval invalid.

Mr Nick Sautner, Chief Executive Officer, Eden Park Trust (EPT), spoke of the history of Eden Park and the part it currently plays in Auckland's city life, sporting and functions. He described the planned 2020 Indian cricket tour and the celebration planned for Aucklanders, on what will India's Republic Day coinciding with Auckland's Anniversary weekend. He stated it was an intentional decision to celebrate cricket, the relationship between the countries in NZ's largest city, with the largest Indian community. The 7.50pm

² Being two sessions of 1 hour 25 minutes each, separated by a 20 minute interval between innings (ICC Men's T20 International Playing Conditions Rule 12.7.1).

or 8pm timing maximises the broadcasting reach back into the Indian market, given the time zone difference.

He stated that EPT has developed processes and procedures for managing and mitigating the effect of EPT operations on residential amenity and traffic flows. He added these processes are always evolving and aiming to improve. He advised EPT continue to engage with local residents and businesses through the Community Liaison Group (CLG) and provides regular communications via 'the Hood', the Eden Park's supporters club.

Mr Mark Vinall, planner and director of Tattico Ltd, stated that Eden Park is a Major Recreational Facility, and its planning provisions are contained within the Eden Park Precinct. He agreed with the s42A report that the application is a restricted discretionary activity under the AUP(OP) 2016. He concluded that overall the effects are acceptable and that, in reliance upon EPT's expert assessments, adverse effects will be appropriately avoided, remedied or mitigated. He explained the match will be held on a Sunday evening preceding a public holiday and will be managed in accordance with the Eden Park Operating Management Plan (which includes a suite of management plans, including traffic, community consultation and communication and event plans) approved for night-time activities. He concluded that the proposal was in accordance with the relevant statutory framework and should be granted consent subject to conditions.

Mr Vinall noted that Standard I310.6.11(5) of the Eden Park Precinct states that organised sports and recreation activities undertaken at night must not take place on a Sunday, making the application a restricted discretionary activity as required under Rule C1.9(3) Infringement of Standards. He advised that Night time is defined under the AUP(OP) as starting 30 minutes before sunset which, on Sunday 26th January 2020, will be 8.37pm – meaning the game is a day-night match.

Mr Vinall observed that while the AUP does not permit activities on a Sunday night, such are not prohibited - any such activity is to be assessed as a restricted discretionary activity. He pointed out that the Eden Park Precinct does not contain any objectives or policies that seek to avoid Sunday activities. He pointed out that EPT is seeking a single Sunday event during a long weekend which, combined with a recommended condition that there be no night match on Saturday 25th January 2020, will ensure the respite that is anticipated in the AUP(OP).

Mr Todd Langwell, transport engineer and director of Traffic Planning Consultants Ltd, provided traffic engineering evidence for the applicant. He stated under the AUP(OP) Eden Park Precinct standards (I310), events such as this T20 cricket match are anticipated and provided for, except for the fact that this is planned on a Sunday night. He did not anticipate the transport effects would be any different than on a Saturday. He concluded the traffic effects of the proposal can be accommodated on the road network without compromising its function, capacity or safety.

He observed that traffic flows on the surrounding road network on a Sunday are typically lower than on a Saturday- suggesting the overall effects will be less, with additional capacity within the network.

With the anticipated crowd size expected to be between 35,000 and 45,000 people, Mr Langwell explained there were three methods, for mitigation of transport effects:

Firstly, a comprehensive Traffic Management Plan would be implemented to manage the local effects around Eden Park. He considered a TMP-5 is likely to be implemented, but this will depend on the crowd size and final approval by Auckland Transport.

Secondly, the EPT and NZ Cricket anticipate working with Auckland Transport to provide additional public transport services. Mr Langwell stated these would be subject to commercial terms being agreed between the parties.

Lastly, EPT would manage effects by implementing a communications strategy.

Mr Christopher Day, acoustic engineer and principal of Marshall Day Acoustics Ltd, gave evidence for the applicant on noise-related matters. He concluded the only noise effect matters not allowed under the Eden Park Precinct provisions, and that therefore required assessment, relate to the game being on a Sunday night and the need to extend the scheduled finish time from 10 pm to 11pm (which involves extending the 55dB L_{A10} daytime noise limit (which otherwise reduces to 40dB L_{A10} at 10.30pm) by 30 minutes).

He stated the start and finish times do not change the overall noise exposure to residents but, it will mean that any sleep disturbance effects for the closest neighbours will be extended by one hour, more than permitted. Mr Day explained the infrequent occurrence of this extended finish time and the advance warning, in this case, mean the noise effects are considered reasonable.

Concerning the submitters' criticism that T20 and ODI games may go on longer than the scheduled finish times, Mr Day had researched the previous T20 and ODI matches held on Eden Park. He stated 42% of games finished before and, 58% finished after the scheduled time. He said the longest overrun of a T20 match was 37 minutes – due to rain delay. We note that in reply Ms Carruthers indicated that, having reviewed that information, some errors had been found and that in fact the amount of overrun time was considerably less.

Mr Day supported the s42A report conclusion that the noise effects can be adequately mitigated by the proposed conditions.

19. The representations made by the submitters are outlined as follows:

Positive effects:

- Significant positive social and economic effects will accrue including enjoyment of a sporting occasion for many people including those who live nearby, the event would celebrate cultural diversity and bring people together, there are clear economic benefits to local business, and utilisation of the stadium which is the only suitable venue and is, in that respect, a scarce physical resource.

Adverse effects:

- Concern about hours of operation and events running past the scheduled finish time;
- Noise effects – crowd noise, spectators leaving the venue, the PA system, the lack of an acoustic barrier on the east stand;
- Traffic and transport effects - congestion on nearby roads, restricted access to private property due to road closure, on street parking and waiting, lack of public transport;
- Antisocial behaviour including fighting and drunkenness; and

- Lighting spill.

20. The applicant's right of reply was given by Ms Carruthers and highlighted the following:

- There is wide support for the application as evidenced both in the weight of submissions in support and from the submitters who chose to appear;
- Submitters at the hearing opposing the proposal – or, perhaps, more correctly, conditionally supporting - did not express concern with a Sunday game (subject to mitigations sought);
- Change of time by applicant for the scheduled game 7.50 pm -11 pm;
- Corrected actual finish times (i.e. overruns) for eight T20 games over past five years:
- Of the key environmental effects:
 - Lighting – The high stadium lights would be shut down as soon as possible, as detailed in application;
 - Music - the Applicant has offered to close down music on the PA systems quickly as soon as the game is over, in a similar way to the lights;
 - Traffic – traffic-related matters will be managed by way of the appropriate level of Management Plan as required under EPT's primary consent;
 - Local Liquor Ban – this is enforced by the Police. It is not an EPT matter or under its control; and
 - Hotline – this is available for residents during and after events to lodge concerns or complaints. It is not restricted to neighbours within a particular radius.

Principal issues in contention

21. After analysis of the application, legal submissions and evidence (including proposed mitigation measures), reviewing the Council planning officer's s42A recommendation report, reviewing the submissions and concluding the hearing process, the proposed activity raises a number of issues for consideration. The principal issues in contention are.

- Playing on a Sunday;
- The scheduled hours for this T20 cricket match;
- The noise effects;
- Traffic;
- Light Spill;
- Negative crowd behaviour's impact on the Eden Park neighbouring community; and
- Positive local, city and national effects.

Main findings on the principal issues in contention

22. Our main findings on the principal issues that were in contention follow.

Play on a Sunday

23. While this was not a matter in explicit contention, we address it upfront for the record.
24. Mr Campbell had attached to the s42A report a copy of the Environment Court's decision of 12 February 2008, which established (by consent order) the framework for the redevelopment of Eden Park and associated sporting activities. Relevant to this application, that consent has conditions relating to start and finish times for day/night game, prohibition on Sunday sporting events (other than for the respective 2011 and 2015 World Cups), and floodlight dimming and turn off times.
25. Those, and other, conditions were uplifted into the AUP(OP) process and emerged as the I310 Eden Park Precinct – as explained by Mr Vinall. However, that process realigned some of those conditions such that they were translated as standards rather than rules. One of those conditions was the following:
- (17a) (Sunday Sporting Events) There shall be no night-time sporting events on Sundays. *This condition does not apply to RWC2011 or CWC2015.*
26. That condition translated into I310 under Standard I310.6.11 Organised sports and recreation activities undertaken at nighttime on the Number 1 field as:
- (5) *These activities must not be undertaken on a Sunday*
27. In response to a question Mr Vinall confirmed that EPT had sought to have a number of matters such as this removed through the AUP process but that the general direction of the Independent Hearing Panel was that where the Court had settled a matter it was unlikely to agree to upset that in a more than minor way. In this particular instance it would appear that the minor way was to place the erstwhile condition into a standard, not meeting which then opened the issue up to a restricted discretionary merit assessment.
28. Accordingly, we agree that there is no proscription against a Sunday event such as that proposed, and we are able to assess the merits of that in terms of the matters of discretion and assessment criteria that apply.
29. In any event, we note that few submitters in opposition expressed concern about the Sunday nature of the event (given that it is on a three-day public holiday weekend).

Finding

30. We find that there is no good resource management reason for not permitting this T20 match to occur on the Sunday proposed, and that to do so is not inconsistent with the Precinct provisions.

The scheduled hours for this T20 Cricket Game

31. The application sought consent for a 8pm-11pm game. As noted above, we were advised at the hearing that the start time would be moved forward 10 minutes so that a 7.50pm to 11.00pm (i.e. 3 hours and 10 minutes) scheduled match time applies.
32. Submitters in opposition queried the three hour time window, noting that T20 games and patron dispersal often goes well beyond this envelope – with effects lasting considerably longer. Submitters also questioned the openness and integrity of an application for a 8pm-11pm game when it was recognised that it could be longer. Particularly when that later

finishing time is not compliant with the 40dB L_{A10} night-time residential noise standard after 10.30pm.

33. We queried why the consent sought did not simply cover the entire likely envelope of hours required to complete the game and associated dispersal. We were told that the relevant AUP Eden Park Precinct standard specifically uses the term “scheduled to finish” with respect to the finish time. It does not require consideration of matters relating to overtime or crowd dispersal.
34. The relevant standard states:
(4) Day/night cricket test matches must be scheduled to finish no later than 10.00pm;
35. As the ICC has specified a 3 hours and 10 minutes envelope for a T20 game, that sets the scheduled time to finish from the start point.
36. That, of course, does not mean that any related effects beyond the scheduled finish are thereby exempt from consideration. Those are encompassed by the failure to meet the no games on Sunday standard – which brings all associated effects into consideration (subject to the matters over which Council has restricted its discretion). That is a point about which there seemed to be confusion among submitters.
37. However, and relevantly, Eden Park Precinct I310.2 Objective (3) states:
The adverse effects of the operation of Eden Park are avoided, remedied or mitigated as far as is practicable recognising that the primary activities will by virtue of their nature, character, scale and intensity, generate adverse effects on the surrounding land uses which are not able to be fully internalised.
38. That is further reinforced by policies I310.3 (4) and (5).

Finding

39. We find the application for a T20 match starting at 7.50pm and scheduled to finish at 11pm to be sufficiently consistent with the expected environmental outcomes for the Eden Park Precinct as expressed through the relevant provisions of the AUP(OP).
40. In particular we note that the Precinct provisions specifically use the phrase “scheduled to finish” for sporting events, and that it is thereby understood that games and matches will both finish earlier and later depending on multiple factors. We understood from Counsel that this interpretative “device” is commonly used for sporting venues throughout New Zealand.

Noise

41. The changes in noise effects from that permitted under the Eden Park Precinct rules are:
 - to allow the proposed game to take place on a Sunday night instead of a weekday or Saturday; and
 - to extend the scheduled finish time from 10 pm to 11pm.
42. The assessments of effects by the respective acoustic experts took into account the accepted fact that T20 games can finish before, at or later than the scheduled finish time.

43. The evidence of the applicant's noise expert, Mr Day, was that the noise effects from a Sunday night game with a public holiday the next day is no different to a night game on a Friday or Saturday, and are less than for a midweek night game. His opinion was that a Sunday followed by a public holiday is better suited to a night game than a weekday in that people do not have to go to work and school the next day.
44. Council's noise expert Mr Styles agreed, noting in his report that the effects of having the night game on a Sunday preceding a public holiday would be little different for most people from a match on a normal Saturday night. As there is already a scheduled T20 on the Friday prior to this proposal, Mr Styles recommended that a condition of consent be imposed to preclude a night game occurring on the Saturday immediately before the proposed match. While the applicant indicated that there was no such present intention, we agree this would be a sensible safeguard condition.
45. With respect to the proposed extended scheduled finish time of 11 pm Mr Day's view is that it would result in any sleep disturbance effects for the closest residents being extended by one hour. Mr Day considered this to be reasonable for this location taking into account the infrequent occurrence of the extended finish and the advance warning notification to residents.
46. An assessment by Mr Day of a "worst case" basis of a 40 minute overrun of the scheduled finish time concluded that the noise would be noticeable but be mitigated by the fact that the AUP(OP) noise levels for the PA system could be met (with windows closed), the crowd size would likely be less in that circumstance (as overruns of that length are generated by rain delays), and the public holiday nature of the weekend (meaning that more people than normal have no work the next day, there is no school, and more people than normal are away for the long weekend).
47. In reply to questions at the hearing Mr Day advised that there is a variation in what level of noise different people find acceptable. He noted that children, once asleep, generally sleep through loud noise.
48. Mr Styles' assessment was that the proposed match will generate noise levels from the sound system that are 20 dB above the noise standards for Eden Park (as set out in Table I310.6.1.1 of the Precinct provisions) from 10:30 pm to the scheduled finish time and that this will be significant to the surrounding community.
49. Mr Styles opinion was that the adverse noise effects are mitigated by the following factors:
 - 1) The affected residents would be given advance warning of the match that might finish late so they can plan around it if desired;
 - 2) The extra match time (30-70 minutes) of noise up to 20dB above the AUP limits is limited to 1 occasion:
 - 3) The late finish will be on Sunday night which does not precede a normal working / school day; and
 - 4) The effectiveness of the Operating Management Plan (OMP).
50. Submissions to the application included concerns about crowd noise, spectators leaving the venue, PA system and the lack of an acoustic barrier on the East Stand.

51. Effects of crowd noise and from the PA system were included in the assessments by Mr Day and Mr Styles.
52. With respect to the (absent) acoustic barrier³, Mr Day stated that it would have no effect on the level of the PA sound system because if the acoustic barrier was in place the sound level could then be higher inside the ground while still complying with the Precinct noise standard at the residential interface. The acoustic barrier would have a small effect only on reducing the level of crowd noise received by the closest residents on the eastern side of Cricket Avenue
53. Ms Carruthers submitted that the applicant did not accept that a barrier was needed to further mitigate effects, and even if it was decided a barrier was required or desirable it would not be able to be installed in time for the proposed match, and thus could not be made a condition of consent (thereby effectively frustrating any grant of consent).
54. On being advised that the applicant has brought forward the scheduled start time to 7:50 pm to ensure the scheduled finish time of 11 pm, we questioned whether an even earlier start time was possible, which would result in an earlier finish time. Mr Crummy, from NZ Cricket, advised that it was not possible to start earlier than 7:50 pm due to its contractual obligations with the broadcaster in India.
55. We accept the evidence of the two noise experts that the noise effects from a Sunday night game with a public holiday the next day is no different to a night game on a Friday or Saturday and are less than for a midweek night game.
56. Subsequent to the hearing a revised set of acoustic consent conditions was provided by the applicant in response to recommendations from Mr Styles and in response to concerns of submitters. These additional conditions propose that:
 - no night match be held on Saturday 25 January 2020; and
 - the OMP be updated to include provisions requiring all noise sources controlled by the consent holder, including amplified music, be promptly shut down upon cessation of the event enabled by the consent, and to give surrounding residents advance warning that the match is scheduled to finish at 11 pm.

Finding

57. We find that, with the amended consent conditions proposed, adverse noise effects are acceptable as they fall within the relevant objectives and policies of Chapter H26 Special Purpose – Major Recreation Facility Zone and I310 Eden Park Precinct - including the requirement to avoid, remedy or mitigate adverse effects of activities within the Eden Park facility.

Traffic

58. While some submitters expressed concerns about the effect the game would have on traffic-related convenience, the traffic experts were agreed that this was not an unusual event, that the TMP system implemented for games would manage the issues, and that there were no special circumstances that needed to be addressed. We understood that matters related to public transport – buses, trains and taxis/ubers – was under active

³ We understood that this is a requirement of an earlier consent that has not, yet, been implemented.

discussion presently and would be resolved well in advance of the event if consent is granted.

Finding

59. We find that traffic-related issues will be managed appropriately in line with EPT's experience and the TMP system determined in conjunction with Auckland Transport.

Lighting

60. The assessment of effects supporting the consent application noted that the lighting system is designed to concentrate lighting emissions onto the field of play and lower bowl seating area and to minimise light spill out of the stadium structure. The game day use of field lighting is managed in compliance with AUP(OP) standards. Regular checks are conducted to ensure individual fittings are in keeping with the original operational design parameters.
61. A number of submissions expressed concern about light spill, particularly if the match runs over the scheduled finish time. In his evidence for the applicant Mr Sautner advised that at the end of a match the stadium lights are switched off in a sequence once the ground is cleared and the majority of patrons have departed public areas.
62. The applicant, in order to address concerns of submitters, has offered a condition to require the OMP to be updated to include provision for the stadium floodlights to be promptly shut down following cessation of the match. In his planning evidence for the applicant, Mr Vinal considers that with the inclusion of the additional offered condition the lighting effects will be acceptable and in accordance with the provisions of the Eden Park Precinct. In that regard we note that AUP(OP) standard I310.6.2(5)(d) states:
- The playing field floodlights must be switched to an average level no higher than 300 lux on the field, no later than 15 minutes after the finish of play, and must be turned off no later than 30 minutes after the finish of play.*
63. In the s42A hearing report, Mr Campbell concluded that the lighting effects will be largely similar to a typical event held at Eden Park and such effects will therefore be acceptable.

Finding

64. We find that the light effects will be acceptable as the park flood light system is designed to minimise light spill, is in compliance with Unitary Plan standards and a condition is included which requires that lights will be shut down promptly at the end of the match.

Crowd behaviour beyond Eden Park

65. The effects of crowd behaviour arriving at or departing from the Park is an important aspect in managing the overall amenity effects on the surrounding residents. We agree with the applicant's AEE assessment⁴ that any actual adverse effects associated with the change from a weekday or Saturday to a Sunday will be limited and be broadly similar to a typical night event. Furthermore, as the match falls on a public holiday weekend and within the daylight saving period, it is probable that more of the immediate residents will either be out of town or involved in other activities across the city than might be the case at other times of the year.

⁴ Refer AEE report by Tattico – Pages 18-22

66. The application prepared by Tattico Limited states that all matches enabled by this application will be managed in accordance with the OMP. The OMP includes the following elements:
- Community Consultation and Communication Management Plan; and
 - Transport and Traffic Management Plans; and
 - Event Management Plans.
67. The OMP includes both internal and external processes and procedures designed to provide a safe and compliant environment for patrons within the stadium and mitigate the effects that this event may have on surrounding residential amenity. We understand that the OMP mechanisms have generally proven effective in managing crowd behaviour before and after events – noting that matters such as liquor pre-loading and policing the restricted liquor areas is not one for the applicant.
68. We heard a range of opinions from submitters on this matter - with essentially irreconcilable anecdotes on the question of bad behaviour. Many submitters had witnessed no such instances; others catalogued instances. Suffice to say that, for us, the relevant question is whether either plans are in place or the appropriate authorities are identified for managing any reasonably foreseeable contingency. We are satisfied that is the case.

Finding

69. We find that the adverse effects of nighttime use of the stadium can be adequately avoided, remedied or mitigated through the consultation and communication process and procedures identified in the application and in the OMP.

Positive local, city and national effects

70. The s42A report states:

Eden Park is an internationally renowned venue that has been home to some of New Zealand's most iconic sporting moments, including two Rugby World Cup tournaments and various Cricket world cup matches.

The proposed match will provide positive economic benefits to the Auckland economy and it will contribute to the wellbeing of the community through joyous, and sometimes controversial moments in New Zealand sporting history.

71. Rule C1.8 (3) of Chapter C General Rules states:

The absence of any specific reference to positive effects in the objectives, policies, matters of discretion or assessment criteria does not mean that any positive effects of allowing an activity are not relevant to the consideration of an application for resource consent for that activity."

72. Mr Sautner spoke of the positive effects of an Auckland anniversary weekend of celebration, with cricket with India and the relationship between the two countries as a central part of the weekend.

73. Submitters in support of the application who appeared echoed that sentiment. The Eden Park Residents Association, for example, told us of the research it had undertaken that demonstrated overwhelming support for the proposed game by the majority of those who live in close proximity to the Park – and who enjoy the Eden Park environment and have a

very positive relationship with the EPT. We also heard of the clear economic benefit to the many small businesses in the area arising directly from events held at the Park.

Finding

74. While the economic and social benefits of this event are not something that can be readily quantified, we are satisfied that such clearly outweigh the relatively minor adverse effects that could arise from granting this application.

Section 104 RMA

75. As a restricted discretionary activity application only those matters over which Council has restrict its discretion are to be considered under s104C RMA. We have considered those matters accordingly. Furthermore, Part 2 RMA is only engaged to the extent required with reference to those same matters (and then only to the extent necessary having considered current caselaw around *RJ Davidson*).
76. In this instance we are not persuaded that any further utility is gained by reference to Part 2 RMA as the Eden Park Precinct provisions of the AUP(OP) are recent, transparent on their face, and deal with the relevant RMA issues.

Decision

77. In exercising our delegated authority under sections 34 and 34A of the RMA and having regard to the foregoing matters, sections 104 and 104C and Part 2 of the RMA, the application by Eden Park Trust for land use resource consent for the purpose of holding a day/night one-off T20 international cricket match between India and New Zealand on Sunday, 26 January 2020 at Eden Park, 42 Reimers Avenue, Mt Eden, is granted for the reasons and subject to the conditions set out below.

Reasons for the decision

78. Consent is granted for the reasons discussed throughout this decision and, in summary, because:
- i. The activity falls squarely within the range of activities for which the Precinct provisions were developed;
 - ii. The relevant adverse effects of the activity (as an RDA) can be managed so that they are minor in the context of the zone and Precinct;
 - iii. Conditions can be imposed that reduce the likelihood of any adverse effects becoming more than a minor nuisance on neighbours and the general public;
 - iv. There is widespread support for the activity and positive economic and social benefits; and
 - v. Granting consent better reflects the intention of the Precinct and Zone than would a refusal.

Conditions

1. The activity shall be carried out in accordance with all information submitted with the application, detailed below, and all referenced by the Council as LUC60338953.
 - Application Form, and Assessment of Environmental Effects prepared by Tattico Limited dated May 2019 and all referenced by the Council as consent number LUC60338953, including the following:

Report title and reference	Author	Rev	Dated
Eden Park Operating Management Plan	Eden Park	-	Dec 2016
Traffic Assessment	TPC	C	15 May 2019
Acoustic Assessment	Marshall Day	-	13 May 2019

Other additional information	Author	Rev	Dated
Letter from Tattico	Tattico	-	14 Aug 2019
Letter from NZ Cricket	NZ Cricket	-	9 Aug 2019
Marshall Day Section 92 Response	Marshall Day	-	21 Aug 2019
Email from Tattico	Tattico	-	6 Sept 2019

2. The consent holder shall pay the Council an initial consent compliance monitoring charge of \$990 inclusive of GST), plus any further monitoring charge or charges to recover the actual and reasonable costs incurred to ensure compliance with the conditions attached to this consent/s.

Advice note:

The initial monitoring deposit is to cover the cost of inspecting the site, carrying out tests, reviewing conditions, updating files, etc., all being work to ensure compliance with the resource consent. In order to recover actual and reasonable costs, monitoring of conditions, in excess of those covered by the deposit, shall be charged at the relevant hourly rate applicable at the time. The consent holder will be advised of the further monitoring charge. Only after all conditions of the resource consent have been met, will the Council issue a letter confirming compliance on request of the consent holder.

3. This consent shall be limited to one T20 international cricket match between New Zealand and India to be held on Sunday, 26 January 2020 (the event). There shall be no night match held on Saturday, 25 January 2020 at Eden Park.
4. The consent holder shall operate the event in accordance with all existing consent conditions and in accordance with the Eden Park Operational Management Plan (OMP) authorised under LUC60301178 as part of this resource consent (except as required by conditions imposed under this consent).

Transport

5. The consent holder shall continue to implement an appropriate Transport Management Plan (TMP) around the stadium and a communications strategy in accordance with the OMP

authorised under LUC60301178 for the match approved by this consent. The updated or supplementary TMP shall include provision for liaison with Auckland Transport regarding additional train services and carriages on the Western Line and special event bus services on Sunday 26 January 2020. The updated or supplementary TMP and communications strategy shall be submitted to and for certification by the Team Leader Central Monitoring at least eight (8) weeks prior to the event enabled by this consent and shall be implemented for the event, unless altered with the agreement of the Team Leader Central Monitoring.

Acoustic

6. The OMP shall be updated in respect of events enabled by this consent to include provisions requiring all noise sources controlled by the consent holder to be promptly shut down upon cessation of match play enabled by this consent. The OMP shall also be updated to give surrounding residents advanced warning that the match is scheduled to finish at 11pm. The updated (or supplementary) OMP shall be submitted to and for certification by the Team Leader Central Monitoring at least eight (8) weeks prior to the event enabled by this consent and shall be implemented for each event, unless altered with the agreement of the Team Leader Central Monitoring.

Lighting

7. The OMP shall be updated in respect of the event enabled by this consent to include provisions requiring the stadium floodlights to be promptly shut down following the cessation of match play enabled by this consent (while providing the required lighting levels needed to provide safe egress from the venue). The updated OMP shall be submitted for certification by the shall be submitted to and for certification by the Team Leader Central Monitoring at least eight (8) weeks prior to the event enabled by this consent and shall be implemented for each event, unless altered with the agreement of the Team Leader Central Monitoring.

Amplified Music

8. The OMP shall be updated in respect of the event enabled by this consent to require amplified music to be promptly shut down following the cessation of match play enabled by this consent. The updated OMP shall be submitted for certification by the shall be submitted for certification by the Team Leader Central Monitoring at least eight (8) weeks prior to the event enabled by this consent and shall be implemented for each event, unless altered with the agreement of the Team Leader Central Monitoring.



David Hill
Chairperson
Independent Hearings Commissioner Panel

Date: 25 October 2019