

Decision on an application for resource consent under the Resource Management Act 1991



Restricted discretionary activity

Application number: LUC60326896
Applicant: Jaafar Holdings Limited
Site address: 400 – 450 Mount Wellington Highway, Mount Wellington, Auckland 1060
Legal description: LOT 1 DP 533618, Lot 1 DP 203872, Section 2 SO 457739, Section 1 SO 457739

Proposal:

To construct two freestanding “v”-shaped two-faced digital LED billboard structures (12m x 3m, and 7.5m in height) with changeable messaging capability to replace two existing freestanding “v”-shaped static billboard structures.

Resource consent is required for the following reasons:

Land use consent (s9) – LUC60326896

Auckland Unitary Plan (Operative in part)

District land use (operative plan provisions)

Business – General Business Zone

- To construct and establish two freestanding “v”-shaped landscape oriented digital billboards on a site zoned Business – General Business Zone which is a **restricted discretionary activity** under rule E23.4.1(A20).
- To construct and establish two freestanding “v”-shaped landscape oriented digital billboards, which are considered as buildings under the AUP(OP), in the Business – General Business Zone is a **restricted discretionary activity** under rule H14.4.1(A42).

Decision

I have read the application, supporting documents, and the report and recommendations on the application for resource consent. I am satisfied that I have adequate information to consider the matters required by the Resource Management Act 1991 (RMA) and make a decision under delegated authority on the application.

Acting under delegated authority, under sections 104, 104C, and Part 2 of the RMA, the resource consent is **GRANTED**.

Reasons

The reasons for this decision are:

1. The application is for restricted discretionary resource consent, and as such under s104C only those matters over which council has restricted its discretion have been considered. Those matters are:

New buildings and alterations and additions to buildings not otherwise provided for–
H14.8.1(4)

- a. the design and appearance of buildings in so far as it affects the existing and future amenity values of public streets and spaces used by significant numbers of people. This includes:
 - i. the contribution that such buildings make to the attractiveness pleasantness and enclosure of the public space;
 - ii. the maintenance or enhancement of amenity for pedestrians using the public space or street;
 - iii. the provision of convenient and direct access between the street and building for people of all ages and abilities;
 - iv. measures adopted for limiting the adverse visual effects of any blank walls along the frontage of the public space; and
 - v. the effectiveness of screening of car parking and service areas from the view of people using the public space.
- b. the provision of floor to floor heights that will provide the flexibility of the space to be adaptable to a wide variety of use over time;
- c. the extent of glazing provided on walls fronting public streets and public spaces and the benefits it provides in terms of:
 - i. the attractiveness and pleasantness of the public space and the amenity for people using or passing through that space;
 - ii. the degree of visibility that it provides between the public space and the building interior; and
 - iii. the opportunities for passive surveillance of the street from the ground floor of buildings.
- d. the provision of verandahs to provide weather protection in areas used, or likely to be used, by significant numbers of pedestrians;
- e. the application of Crime Prevention through Environmental Design principles to the design and layout of buildings adjoining public spaces;
- f. the effects of creation of new roads and/or service lanes on the matters listed above;
- g. the positive effects that landscaping, including required landscaping, on sites adjoining public spaces is able to contribute to the amenity values of the people using or passing through the public space;

- h. taking an integrated stormwater management approach; and
- i. all the above matters to be assessed having regard to the outcomes set out in this Plan and the functional requirements of the activities that the buildings are intended to accommodate.

Restricted Discretionary Activities for Signage – E23.8.1

- f. visual amenity;
 - g. scale and location;
 - h. lighting and traffic safety;
 - i. duration of consent; and
 - j. cumulative effects.
2. In accordance with an assessment under ss104(1)(a) and (ab) of the RMA, the actual and potential effects from the proposal will be acceptable as:
 - Adverse streetscape character and visual amenity effects are acceptably mitigated as a result of the proposed billboard's relative like-for-like replacement of the existing billboards in respect of the orientation (to the street frontage), scale and dimensions, thus mitigating visual amenity effects associated with the billboard's changeable messaging capability.
 - Adverse traffic safety effects will be mitigated to an acceptable nature by way of the billboards' position (siting and height), control of content to mitigate any conflict or confusion with traffic signals, and the use of a thirty (30) second dwell time, which will ensure that driver safety levels are not compromised, and the safe and efficient operation of the roading network in general is not compromised.
 - Adverse cumulative effects are mitigated to an acceptable level by the site's physical separation from other billboards as the proposed billboard structures are to be positioned in a similar location as the existing static billboards that will be removed from the site bringing no change in the amount of signage in the vicinity.
 - With reference to s104(1)(ab), there are no specific offsetting or environmental compensation measures proposed or agreed to by the applicant to ensure positive effects on the environment and/or within the relevant matters of discretion.
 3. In accordance with an assessment under s104(1)(b) of the RMA the proposal is consistent with the relevant statutory documents, insofar as they relate to the matters over which discretion is restricted, being the Auckland Unitary Plan (Operative in Part). In particular:
 - The proposed billboard, replacing two existing billboards, is of a location, scale and dimension, and orientation, that ensures adverse character and visual amenity impacts are minimised and specifically will not result in a visually cluttered streetscape nor dominate the adjacent building;
 - There are no nearby historic heritage features that could be impacted on by the proposed billboard's location and orientation
 - The safe and efficient operation of the adjacent roading network will not be unduly compromised by the intended operation of the proposed billboard;

- Appropriate measures have been proposed and accepted by the applicant to ensure that adverse amenity impacts are adequately managed; and
 - The billboard will be operated in a manner consistent with the measures anticipated by Section E23 Signs of the Auckland Unitary Plan (Operative in Part).
 - Council's decision version of Plan Changes 14 of the AUP(OP) was publicly notified on 22 August 2019. Plan changes 14 is specifically relevant to the proposal. This means that all the changes in the decision version of these plan changes now have legal effect. As the outcomes are the same under both the operative and proposed plan frameworks, no weighting is required.
4. As a restricted discretionary activity, no other matters can be considered under s104(1)(c).
 5. In the context of this restricted discretionary activity application, where the relevant objectives and policies and matters for discretion in the relevant statutory documents were prepared having regard to Part 2 of the RMA, they capture all relevant planning considerations and contain a coherent set of policies designed to achieve clear environmental outcomes. They also provide a clear framework for assessing all relevant potential effects and there is no need to go beyond these provisions and look to Part 2 in making this decision as an assessment against Part 2 would not add anything to the evaluative exercise.
 6. This proposal achieves the sustainable management purpose of the RMA under Part 2 as the proposed billboard will not detract from the quality of the site and will generally maintain amenity levels associated with the surrounding environment. As such, the proposal adequately provides for the sustainable management of natural and physical resources required in Part 2 of the Act.

Conditions

Under sections 108 and 108AA of the RMA, this consent is subject to the following conditions:

Activity in accordance with application

1. The proposed billboards shall be carried out in accordance with the documents and drawings and all supporting additional information submitted with the application, detailed below, and all referenced by the council as resource consent number LUC60326896:
 - Application Form, and Assessment of Environmental Effects prepared by Anthony Blomfield of Bentley & Co Ltd, dated September 2018.

Report title and reference	Author	Rev	Dated
Traffic Engineering Report	Stantec	-	12/09/2018
Urban Design Assessment, 400-450 Mount Wellington Highway	Richard Knott Limited	-	28/06/2019
Drawing title and reference	Author	Rev	Dated
400 - 450 MT Wellington Highway Site plan – southern billboard, drawing no.	Adaptable Signs	B	13/08/2018

1808-004			
400 - 450 MT Wellington Highway Site plan – northern billboard, drawing no. 1808-003	Adaptable Signs	B	13/08/2018

Other additional information	Author	Rev	Dated
S92 Response Letter titled: “s92 Request for Further Information - LUC60326896”	Bentley & Co Ltd	-	09/04/2019
Letter titled: “LUC60326896 - Jaafar Holdings - 430 Mt Wellington Highway Assessment of modified billboards heights”	Stantec	-	17/03/2019
Email correspondence titled: “430 Mount Wellington Highway - traffic signal overlap”	Anthony Blomfield	-	18/03/2019

Lapsing of consent

2. Under section 125 of the RMA, this consent lapses five years after the date it is granted unless:
 - a. The consent is given effect to; or
 - b. The council extends the period after which the consent lapses.

Monitoring fee

3. 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.

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.

Malfunction of LEDs

4. The consent holder shall ensure that in the event of any malfunction of the LEDs or the control system the display is switched off until the malfunction is repaired.

Billboard message display

5. All messages shall be consistent with the NZTA Traffic Control Devices Manual Part 3 Advertising Signs unless otherwise agreed by Council.
6. Image content shall be static, and shall not contain incorporate flashes, movement, animation or other dynamic effects.
7. A split display (that is two adverts) shall not be displayed at any one time.
8. Images shall not use graphics, colours (red, green, orange, white or yellow) or shapes in isolation or in combination in such a way that they would resemble, cause confusion with, or distract from a traffic control device; nor invite or direct a driver to do something, when viewed by approaching motorists.

Image transition and dwell time

9. The transition time – the time to change from one image to the next - shall be via a 0.5 second dissolve.
10. Dwell time - the display time for each image - shall be a minimum of thirty (30) seconds and the image has to change at the same time for all proposed LED billboards or as otherwise required by monitoring the effects of this display time under condition 16.

Image rotation

11. The rotation of the images of the billboard shall ensure that no images are linked to “tell a story” across two or more sequential images, (i.e. where the meaning of an image is dependent upon or encourages viewing of the immediately following image).

Luminance during daylight

12. The luminance level of the LED display during daylight hours shall vary to be consistent with the level of ambient light, and ensure that the LED display is not significantly brighter than the ambient light level and is only illuminated to the extent necessary to ensure that it is legible. To achieve this, the brightness of the LEDs shall be automatically controlled with an in-built detector/sensor. The method of automation shall be to the satisfaction of the Council (Team Leader, Central Monitoring in consultation with the Council's Environmental Health Officer).

Night time luminance

13. The maximum night time (dusk to dawn) luminance shall be 250 cd/m².

Day time luminance

14. The maximum day time (dawn to dusk) luminance shall be 5,000 cd/m².

Monitoring

15. The consent holder shall monitor and record the maximum ‘intensity’ of the LEDs produced as a result of the automation required by condition 12 following the commencement of the display of images to certify that the luminance of the billboards is in accordance with Conditions 13 and 14. The monitoring and recording shall include (but not be limited to):

- a. The method of recording the levels shall be to the satisfaction of the Council (Team Leader, Central Monitoring in consultation with the Council's Environmental Health Officer).
- b. To undertake the work required by this condition, the consent holder shall engage an independent lighting practitioner to record and confirm luminance readings of the billboards at three times, including:
 - i. one recording at midday;
 - ii. one recording during the hours of darkness; and
 - iii. one recording during morning or early evening;
- c. The consent holder shall submit a luminance certification report to Council (Team Leader, Central Monitoring) within thirty working days following commencement of the display of images.

Review condition

- 16. Under section 128 of the RMA the conditions of this consent may be reviewed by the Manager Resource Consents at the consent holder's cost in the following circumstances:
 - a. On an annual basis or upon receipt of one or more complaints to Council following commencement of consent in order:
 - i. To deal with any adverse effect on the environment which may arise or potentially arise from the exercise of this consent and which it is appropriate to deal with at a later stage, in particular adverse effects in relation to luminance and traffic safety.
 - b. If the changes are proposed at the Mount Wellington Highway and Sylvia Park Road Intersection road network in order:
 - ii. To deal with any adverse effect on the operation of the intersection which may arise or potentially arise from the exercise of this consent, in particular adverse effects in relation to traffic safety.

Advice note:

Under section 128 of the RMA the conditions of this consent may be reviewed by the Manager Resource Consents at the consent holder's cost in the following circumstances:

- a. *At any time, if it is found that the information made available to the council in the application contained inaccuracies which materially influenced the decision and the effects of the exercise of the consent are such that it is necessary to apply more appropriate conditions;*
- b. *In the event that the results of any monitoring undertaken by Council are such that unacceptable adverse traffic effects are generated, mitigation measures such as reducing the luminance of the billboard, reducing the number of moving images, increasing the dwell time, increasing the transition time (or a combination of these measures) may be applied.*

Advice notes

1. *The consent holder is advised that the content of any of the changeable messages displayed on the billboard hereby consented is to comply with Clauses 13 and 23 of the Auckland Council / Auckland Transport Signage Bylaw 2015.*
2. *Any reference to number of days within this decision refers to working days as defined in s2 of the RMA.*
3. *For the purpose of compliance with the conditions of consent, "the council" refers to the council's monitoring inspector unless otherwise specified. Please email monitoring@aucklandcouncil.govt.nz to identify your allocated officer.*
4. *For more information on the resource consent process with Auckland Council see the council's website: www.aucklandcouncil.govt.nz. General information on resource consents, including making an application to vary or cancel consent conditions can be found on the Ministry for the Environment's website: www.mfe.govt.nz.*
5. *If you disagree with any of the above conditions, and/or disagree with the additional charges relating to the processing of the application(s), you have a right of objection pursuant to sections 357A and/or 357B of the Resource Management Act 1991. Any objection must be made in writing to the council within 15 working days of your receipt of this decision (for s357A) or receipt of the council invoice (for s357B).*
6. *The consent holder is responsible for obtaining all other necessary consents, permits, and licences, including those under the Building Act 2004, and the Heritage New Zealand Pouhere Taonga Act 2014. This consent does not remove the need to comply with all other applicable Acts (including the Property Law Act 2007 and the Health and Safety at Work Act 2015), regulations, relevant Bylaws, and rules of law. This consent does not constitute building consent approval. Please check whether a building consent is required under the Building Act 2004.*

Delegated decision maker:

Name: Aruna Pillay

Title: Team Leader, Resource Consents

Signed:



Date: 30 August 2019