

Decision on an application to change conditions of a resource consent under section 127 of the Resource Management Act 1991



Discretionary activity under section 127(3)

Application number(s): LUC60326896-A
Applicant: Jaafar Holdings Limited
Original consent number(s): LUC60326896
Site address: 440 Mount Wellington Highway Mt Wellington 1060
Legal description: LOT 1 DP 533618, LOT 2 DP 533618, LOT 3 DP 533618

Proposal:

To vary conditions 1 and 10 of LUC60326896 to enable the two LED screens on the south billboard structure and the south facing LED screen on the north billboard structure to display images with a dwell time of 8 seconds.

Note: For the avoidance of doubt, the north facing LED screen on the northern billboard structure is to retain an image dwell time of 30 seconds.

Note: For the avoidance of doubt, any reference in this decision to 'vary' or 'variation application' shall be taken to mean an application to change or cancel consent conditions under s127 of the RMA.

This discretionary activity under s127 of the Resource Management Act 1991 (RMA) is for changes to conditions 1 and 10 of consent LUC60326896. The proposed s127 variation involves the following amendments (with ~~strikethrough~~ for deletion, underline for insertions):

Land use consent (s9) – LUC60326896-A

Changes to condition 1

(N.B.: the proposed changes are underline for insertion; ~~strikethrough~~ for deletion.)

Activity in accordance with application

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, and as varied by LUC60326896-A:

- Application Form, and Assessment of Environmental Effects prepared by Anthony Blomfield of Bentley & Co Ltd, dated September 2018.
- Application for a Change of Resource Consent Conditions prepared by Anthony Blomfield of Bentley & Co Ltd, dated May 2023.

- S92 Response, titled 'RE: Meeting agenda- LUC60326896-A 440 Mt Wellington Highway' dated 15 Sep 2023 by Anthony Blomfield of Bentley & Co Ltd.

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
<u>Proposed Consent Variation, Digital Billboard Dwell Times, 430-440 Mt Wellington Highway Mt Wellington, Traffic Engineering Report</u>	<u>Harries Transportation Engineers Ltd</u>		<u>15/05/2023</u>
<u>Memorandum re: LUC60326896-A : Jaafar Holdings Limited Digital Billboard Dwell Times - 440 Mt Wellington Highway, Mt Wellington Response to S.92 Request for Further Information – Traffic Engineering</u>	<u>Harries Transportation Engineers Ltd</u>		<u>4/7/2023</u>

Changes to condition 10

Image transition and dwell time

10. Dwell time - the display time for each image – ~~shall~~ must be:

a. a minimum of thirty (30) seconds for the screen labelled as 'Face 2' on the northern billboard as illustrated on approved resource consent plan (LUC60326896) titled: "Site Plan – Northern Billboard" drawing number: 1808-004 Rev B dated 13/08/2018 prepared by Adaptable Signs; and

b. a minimum of eight (8) seconds for the screen labelled as 'Face 1' on the northern billboard as illustrated on the approved resource consent plan (LUC60326896) titled: "Site Plan – Northern Billboard" drawing number: 1808-004 Rev B dated 13/08/2018 prepared by Adaptable Signs;

c. a minimum of eight (8) seconds for the two screens labelled as 'Face 1' and 'Face 2' on the southern billboard as illustrated on the approved resource consent plan (LUC60326896) titled: "Site Plan – Southern Billboard" drawing number 1808-003 Rev B dated 13/08/2023 prepared by Adaptable Signs.

d. ~~and~~ The image on the screens described in b. and c. of this condition must ~~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.

Decision

I have read the application, supporting documents, and the report and recommendations on the application for variation. I am satisfied that I have sufficient information to consider the matters required by the RMA and make a decision under delegated authority on the application.

Acting under delegated authority, under sections 127, 104, 104B and Part 2 of the RMA, the application for variation to conditions of a resource consent is **GRANTED**.

Reasons

The reasons for this decision are:

1. The proposal is appropriately considered under s127 as the changes will not result in a fundamentally different activity or materially different effects.
2. In accordance with an assessment under s104(1)(a)-(ab) and s127(3) of the RMA, the actual and potential effects from the variation will be acceptable as:
 - a. Adverse visual amenity, streetscape and character effects are considered acceptable because the digital billboards have already been established to display changeable images at this location, the existing amenity of the surrounding area is low due to the commercial, industrial character and road dominated nature of the surroundings, and the proposed 8 seconds dwell time meets the minimum dwell time anticipated by the AUP-OP.
 - b. Adverse traffic safety effects on the road network and pedestrians are considered acceptable by all the Transportation Engineers of Auckland Transport (AT), New Zealand Transport Agency (NZTA) and Council, because the billboard screens subject to dwell time changes do not face onto the NZTA managed road network, the billboards subject to the variation do not overlap with traffic signals from the perspective of the approaching drivers to cause safety issue and no changes to luminance are proposed from the original consent.
 - c. Adverse cumulative effects are considered negligible as there are no changes to either of the two existing (consented) billboards structure, size or location, and the dwell time change will not be particularly appreciated visually due to low pedestrian volumes and commercial/industrial nature of this area.
 - d. No persons on adjacent sites would be affected visually due to the less sensitive nature of the existing activities being industrial, commercial and surface car parking within these sites, and the planned business and industrial zoning of these sites, as well as the wide separation distances from the subject site due to extensive road network.
 - e. 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.
3. In accordance with an assessment under s104(1)(b) and s127(3) of the RMA, the variation is consistent with the relevant statutory documents below:

E23. Billboards

- a. The relevant objectives and policies of E23.2 and E23.3 will be achieved because the visual amenity value of the existing surrounding environment will be maintained, while reduced dwell-times are enabled which contribute to the social and economic well-being of communities. The reduction in image dwell times has been assessed by Traffic

Engineers of AT, the council and NZTA and concluded to be acceptable, and to maintain the traffic and pedestrian safety of the surrounding road network.

4. In accordance with an assessment under s104(1)(c) and s127(3) of the RMA, no other matters are considered relevant.
5. In the context of this variation application, where the objectives and policies of 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. Overall, the proposal is consistent with the relevant statutory documents and legislation and will result in acceptable or adequately mitigated effects.

Conditions

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

Changes to condition 1

(N.B.: the proposed changes are underline for insertion; ~~strikethrough~~ for deletion.)

Activity in accordance with application

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, and as varied by LUC60326896-A:

- Application Form, and Assessment of Environmental Effects prepared by Anthony Blomfield of Bentley & Co Ltd, dated September 2018.
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Memorandum re: LUC60326896-A : Jaafar Holdings Limited Digital Billboard Dwell Times - 440 Mt Wellington Highway, Mt Wellington Response to S.92 Request for Further Information – Traffic Engineering	Harries Transportation Engineers Ltd		4/7/2023
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Changes to condition 10

Image transition and dwell time

10. Dwell time - the display time for each image – ~~shall~~ must be:

a. a minimum of thirty (30) seconds for the screen labelled as ‘Face 2’ on the northern billboard as illustrated on approved resource consent plan (LUC60326896) titled: “Site Plan – Northern Billboard” drawing number: 1808-004 Rev B dated 13/08/2018 prepared by Adaptable Signs; and

b. a minimum of eight (8) seconds for the screen labelled as ‘Face 1’ on the northern billboard as illustrated on the approved resource consent plan (LUC60326896) titled: “Site Plan – Northern Billboard” drawing number: 1808-004 Rev B dated 13/08/2018 prepared by Adaptable Signs;

c. a minimum of eight (8) seconds for the two screens labelled as ‘Face 1’ and ‘Face 2’ on the southern billboard as illustrated on the approved resource consent plan (LUC60326896) titled: “Site Plan – Southern Billboard” drawing number 1808-003 Rev B dated 13/08/2023 prepared by Adaptable Signs.

d. and ~~The image on the screens described in b. and c. of this condition must have 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.~~

Advice notes

1. *A copy of the consolidated set of conditions of consent as amended is included as attachment 1 to this section 127 decision.*
2. *The consent holder is reminded that the decision on this section 127 application does not affect the lapse period for the resource consent.*
3. *This decision is to be read in conjunction with any other relevant approved resource consent(s) and does not negate the consent holder’s requirement to continue to comply with the conditions of any previously granted resource consent(s) that have been implemented.*

Delegated decision maker:

Name: Sarah Wilson

Title: Senior Planner, Resource Consents

Signed:

A handwritten signature in dark ink, appearing to read 'S. Wilson', is written over a horizontal dotted line.

Date: 17 October 2023

Attachment 1: Consolidated conditions of consent as amended

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, and as varied by LUC60326896-A:
 - Application Form, and Assessment of Environmental Effects prepared by Anthony Blomfield of Bentley & Co Ltd, dated September 2018.
 - Application for a Change of Resource Consent Conditions prepared by Anthony Blomfield of Bentley & Co Ltd, dated May 2023.
 - S92 Response, titled '*RE: Meeting agenda- LUC60326896-A 440 Mt Wellington Highway*' dated 15 Sep 2023 by Anthony Blomfield of Bentley & Co Ltd.

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Memorandum re: LUC60326896-A : Jaafar Holdings Limited Digital Billboard Dwell Times - 440 Mt Wellington Highway, Mt Wellington Response to S.92 Request for Further Information – Traffic Engineering	Harries Transportation Engineers Ltd		4/7/2023
Drawing title and reference	Author	Rev	Dated
400 - 450 MT Wellington Highway Site plan – southern billboard, drawing no. 1808-004	Adaptable Signs	B	13/08/2018
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 –must be:
 - a. a minimum of thirty (30) seconds for the screen labelled as 'Face 2' on the northern billboard as illustrated on approved resource consent plan (LUC60326896) titled: "*Site Plan – Northern Billboard*" drawing number: 1808-004 Rev B dated 13/08/2018 prepared by Adaptable Signs; and
 - b. a minimum of eight (8) seconds for the screen labelled as 'Face 1' on the northern billboard as illustrated on the approved resource consent plan (LUC60326896) titled: "*Site Plan – Northern Billboard*" drawing number: 1808-004 Rev B dated 13/08/2018 prepared by Adaptable Signs;
 - c. a minimum of eight (8) seconds for the two screens labelled as 'Face 1' and 'Face 2' on the southern billboard as illustrated on the approved resource consent plan (LUC60326896) titled: "*Site Plan – Southern Billboard*" drawing number 1808-003 Rev B dated 13/08/2023 prepared by Adaptable Signs.
 - d. The image on the screens described in b. and c. of this condition must change at the same time 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.*

Resource Consent Notice of Works Starting

Please email this form to monitoring@aucklandcouncil.govt.nz at least **5 days** prior to **work starting** on your development or post it to the address at the bottom of the page.

Site address:				
AREA (please tick the box)	Auckland CBD ☐	Auckland Isthmus ☐	Hauraki Gulf Islands ☐	Waitakere ☐
Manukau ☐	Rodney ☐	North Shore ☐	Papakura ☐	Franklin ☐
Resource consent number:			Associated building consent:	
Expected start date of work:			Expected duration of work:	

Primary contact	Name	Mobile / Landline	Address	Email address
Owner				
Project manager				
Builder				
Earthmover				
Arborist				
Other (specify)				

Signature: Owner / Project Manager (indicate which)	Date:
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Once you have been contacted by the Monitoring Officer, all correspondence should be sent directly to them.

SAVE \$\$\$ minimise monitoring costs!

The council will review your property for start of works every three months from the date of issue of the resource consent and charge for the time spent. You can contact your Resource Consent Monitoring Officer on 09 301 0101 or via monitoring@aucklandcouncil.govt.nz to discuss a likely timetable of works before the inspection is carried out and to avoid incurring this cost.