

Decision as to notification of an application for resource consent under the Resource Management Act 1991



Controlled and restricted discretionary activity

Application number: LUC60301178 (land use consent)
Applicant: Eden Park Trust
Site address: 4-42 Reimers Avenue, Kingsland
Legal description: Lot 1 & 2 DP 45553 and Lot 3-4 DP 46401, Lot 124 DP 3513 (62 Walters Rd), Pt Lot 125 DP3513 (60 Walters Rd), Lot 126 and Pt Lot 125 DP 3513, Lot 127 DP 3513, Lot 128 DP 3513, Lot 129 DP 3513, Lot 130 DP 3513, Lot 131 DP 23513, Lot 132 DP 3513, Lot 133 DP 3513, Lot 134 DP 3513, Lot 135 DP 3513, Lot 136 DP 3513, Lot 137 DP 3513, Lot 138 DP 3573, Lot 139 DP 3513, Pt Lot 140 DP 3513, Pt Lot 141 DP 3513, Pt Lot 140-142 DP 3513, Pt Lot 142-143 DP 3513, Pt Lot 143 DP 3513, Pt Lot 143 DP 3513, Pt Lot 56 DP 4194, Lot 57 DP 4194, Lot 58 DP 41911, Lot 59 DP 4194, Lot 60 DP 4194, Lot 21 DP 4194, Lot 19-20 DP 4194, Lot 18 DP 3841, Lot 17 DP 3841, Pt Lot 16 DP 3841, Lot 2 DP 46401, Lot 1 DP 46401, Pt Lot 13 DP 3841, Pt Lot 12 DP 3841, Pt Lot 7 DP 3841, Lot 6 DP 3841, Lot 2 DP 83356, Lot 1 DP 83356, Lot 3 DP 3841, Lot 2 DP 3841, Pt Allot 137 Sec 10 Suburbs of Auckland, Pt Allot 137 Sec 10 Suburbs of Auckland, DP 28687, Pt Allot 137 Sec 10 Suburbs of Auckland, Lot 1 DP 132323, Lot 1 DP 132323, Pt Allot 137 Sec 10 Suburbs of Auckland, Pt Allot 137 Sec 10 Suburbs of Auckland, Pt Allot 137 Sec 10 Suburbs of Auckland

Proposal:

To enable Eden Park to host 'ODI' cricket matches with a scheduled finish time of 10pm on a week day/night (as currently provided in Eden Park's resource consent for night-time activity) and T20 cricket matches held during a week night between 7:00pm and 10pm.

The reasons consent is required are:

Land use consents (section 9) – LUC60301178

Auckland Unitary Plan Operative in Part ("AUP: OP")

District land use

- Consent is required as a controlled activity pursuant to I310.4.1(A4) for "*organised sports and recreation undertaken during the night time*".

- Consent is required as a restricted discretionary activity pursuant to C1.9(2) for “*an activity that is classed as a permitted, controlled or restricted discretionary activity but that does not comply with one or more of the standards applying to that activity is a restricted discretionary activity unless otherwise specified by a rule applying to the particular activity*”.

NOTIFICATION DECISION

Having read the application, supporting documents, and the report and recommendations prepared on behalf of the Council, I am satisfied I have sufficient information to consider the matters required by the Resource Management Act 1991 (“RMA”) and to make a decision regarding notification.

Public notification

Under section 95A of the RMA this application is to proceed without public notification because:

1. The adverse effects on the environment will be less than minor because the effects are able to be mitigated through well tested traffic, event and communications management strategies proposed by the applicant and are otherwise consistent with the effects either anticipated to arise from the operation of Eden Park under the AUP: OP or form part of the existing/consented environment.
2. There is no district or regional rule or national environmental standard that requires public notification and nor has the applicant requested it.
3. There are no special circumstances that warrant public notification under section 95A(4) because there is nothing exceptional or unusual about the application to suggest that public notification should occur.
4. There is adequate information and nothing about the specifics or issues of the proposed activity that warrants the exercise of any residual discretion under section 95A (1) for public notification to inform substantive decision making better in achieving the purpose of the RMA.

Limited notification

Under section 95B of the RMA this application is to proceed without limited notification because:

1. There are no adversely affected persons because the effects are able to be mitigated through well tested traffic, event and communications management strategies proposed by the applicant and are otherwise consistent with the effects either anticipated to arise from the operation of Eden Park under the AUP: OP or form part of the existing/consented environment.
2. There are no protected customary rights groups in the region adversely affected by this proposal.

Accordingly, this application is being determined on a **NON-NOTIFIED** basis.



Leigh McGregor

Duty Commissioner

9 August 2017

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DECISION

Having read the application, supporting documents, and the report and recommendations prepared on behalf of the Council, I am satisfied I have sufficient information to consider the matters required by the Resource Management Act 1991 (“RMA”) and to make a decision on this application.

Pursuant to sections 104, 104A, 104C and Part 2 of the RMA the application is **GRANTED**.

The reasons for this decision are:

1. The application requires a controlled and a restricted discretionary activity resource consent. Under sections 104A and 104C only those matters over which the Council has reserved its control or restricted its discretion can be considered. Those matters are identified in I310.7.1, I310.7.2, C1.8 and C1.9(3). In addition, conditions can only relate to those matters.
2. In terms of section 104(1)(a) of the RMA the actual and potential effects of the proposal will be avoided, remedied or mitigated as the proposed ODI and T20 cricket matches are activities that will generate effects that can be mitigated through traffic, event and communications management strategies, and are otherwise consistent with the effects either anticipated to arise from the operation of Eden Park under the AUP: OP or are part of the existing/consented environment and are less than minor overall.
3. The proposal is consistent with the relevant statutory documents required to be taken into account by section 104 (1)(b). In particular:
 - The proposal is consistent with the high-level policy matters set out in the regional chapter of the AUP: OP, noting that the proposed ODI and T20 cricket matches will be played in an existing major recreation facility and this is consistent with the regional policy matters set out in that instrument.
 - The proposed ODI and T20 cricket matches are broadly consistent with the objectives and policies for the Major Recreation Facility zone which provides for large multi-functional facilities capable of hosting large-scale sports events while ensuring that any adverse effects arising from these activities are minimised and appropriately managed. Importantly, the policy direction explicitly recognises the need for major recreation facilities to provide for the social and economic wellbeing of people and communities and to respond to changes in recreation and leisure trends.
 - The proposal is broadly consistent with the objectives, policies and assessment criteria for the Eden Park Precinct. Its objectives and policies recognise that Eden

Park is a multi-purpose stadium being one of New Zealand's premier sports facilities and specifically recognises and provides for its efficient ongoing use. The precinct provisions seek to manage the adverse effects of the operation of Eden Park, having regard to the amenity of surrounding properties, while at the same time recognising that the Park's primary activities may generate adverse effects that are not able to be entirely internalised. This consent provides for an earlier start time for a T20 cricket match and a later finish time for both T20 and ODI cricket matches held during the week. The cricket matches will still fall within the standards that limit the number and frequency of night time sports events.

4. As a controlled and restricted discretionary activity no 'other matters' are to be considered under section 104(1)(c).
5. The proposal is consistent with Part 2 of the RMA. In particular, the proposal will provide for an efficient use of an existing resource in a manner that is compatible in the context of existing development on the subject land and in the wider locale.

CONDITIONS OF CONSENT

Pursuant to section 108 of the RMA, this consent is subject to the following conditions:

1. The proposed activity is to be carried out in accordance with the information submitted with the application, detailed below, and all referenced by the Council as consent number LUC60126194.
 - Application form and Assessment of Environmental Effects prepared by Tattico Limited, dated 25 May 2017 and attachments.
2. Under section 125 of the RMA, this consent will lapse five years after the date it is granted unless:
 - a. The consent is given effect to; or
 - b. On application the Council extends the period after which the consent will lapse.
3. The consent holder is to pay the Council an initial consent compliance monitoring charge of \$ 1,000.00 (inclusive of GST), plus any further monitoring charge or charges to recover the actual and reasonable costs incurred to ensure compliance with the conditions of this consent.

Advice note:

The initial monitoring charge 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, inspections, in excess of those covered by the base fee paid, shall be charged at the relevant hourly rate applicable at the time. The consent holder will be advised of the further monitoring charge or charges as they fall due. Such further charges are to be paid within one month of the date of invoice. 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.

4. All 'organised sport and recreation activities undertaken at night time on the Number 1 field' must meet the following standards:
 - i. There must be no more than 25 activities within any 12 month period;
 - ii. There must be no more than one day/night cricket test match within any 12 month period;
 - iii. Night games scheduled between Monday to Friday (inclusive) are allowed to commence before 7:30pm but must be scheduled to finish no later than 10:00pm. Activities on public holidays are excluded from these time limits;
 - iv. These activities must not be undertaken on a Sunday;
 - v. These activities must not exceed four occurrences within any 35 day period;
 - vi. The crowd attending any of these activities must not exceed 50,000 persons;
 - vii. For the purpose of these standards, a day/night cricket test match of up to five days in duration is to be counted as one activity.

Advice Note:

"Night time" is defined in the AUP: OP as 'night time activities are those undertaken between 30 minutes before sunset on one day and 30 minutes before sunrise on the following day. For clarity, any activity that continues longer than 30 minutes before sunrise remains defined as a night time activity.'

5. The consent holder must implement, to the satisfaction of the Council, an up-to-date Eden Park Operating Management Plan tailored to the events authorised by this consent that combines a Community Consultation and Communication Management Plan with a suite of Events Management Plans and Transport and Traffic Management Plans (authorised by Auckland Transport).
6. Pursuant to section 128 of the RMA condition (5) of this consent may be reviewed by the Council at the consent holder's cost at any time on an ongoing basis to deal with any adverse effect on the environment which may arise or potentially arise from the exercise of this consent, in particular with respect to the effectiveness of the management plans, and which it is appropriate to deal with at a later stage.

ADVICE NOTES

1. *For the purpose of compliance with the conditions of consent, "the Council" refers to the Council's monitoring inspector unless otherwise specified. Please contact monitoring@aucklandcouncil.govt.nz to identify your allocated officer.*
2. *If you disagree with any of the above conditions, and/or disagree with the additional charges relating to processing of the application, you have a right of objection pursuant to sections 357A and/or 357B of the Resource Management Act. Any objection must be made in writing to the Council within 15 working days of notification of this decision and/or additional charges.*
3. *The consent holder is responsible for obtaining all other necessary consents, permits, and licences, including those required by 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 statutes (including the Property Law Act 2007 and the Health and Safety at Work Act 2015), regulations, relevant bylaws, and rules of law.



Leigh McGregor

Duty Commissioner

9 August 2017