

# 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:** LUC60351212-C  
**Original consent number:** LUC60351212  
**Applicant:** The Eden Park Trust  
**Site address:** 42 Reimers Avenue, Kingsland  
**Legal description:** Pt Allot 137 Sec 10 Suburbs of Auckland, DP 28687, Lots 2, 2, 6, 17 and 18 DP 3841, Part Lots 7, 12, 13 and 16 DP 3841, Lots 1 and 2 DP 83356, Lot 1 DP 45553 & Lot 3-4 DP 46401, Lots 1 and 2 DP 46401, Lots 19, 20 and 21 DP 4194, Part Lot 140-142 DP 3513, Part Lot 142-143 DP 3513, Part Lot 143 DP 3513, Part Lot 143 DP 3513, Part Lot 56 DP 4194, Lots 57, 58, 59 and 60 DP 4194, Part Lot 141 DP 3513, Part Lot 140 DP 3513, Lots 123, 124, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, and 139 DP 3513, Part Lot 125 DP 3513, Lot 126 and Part Lot 125 DP 3513, Lot 1 DP 132323

## Proposal:

To change Condition 8 of the approved consent LUC60351212 to enable a proposed concert to be held on 3 December 2022 without a full free weekend in a five-week period. The application is required due to the postponement of a concert from April to November 2022 following Covid restrictions and pre-scheduled events in November/December. For the avoidance of doubt, the concert event will comply in all other respects with the conditions of consent, including the concert performance counting as one of the six authorised to occur in any 12-month period.

*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 Condition 10 of the approved resource consent LUC60351212 are shown in red underlined below.

## Condition 8

There shall be at least one weekend (inclusive of Friday night) in every 35-day period that is free of any concert or organised sports and recreation undertaken during night-time on the number 1 field, except for the period of 5 November 2022 to 10 December 2022. There will be no night-time events for the period 11 December 2022 to 30 December 2022 (inclusive).

## Recommendation

It is recommended that under sections 127, 104, 104B and Part 2 of the RMA, the application to change conditions of a resource consent is **GRANTED**.

## Reasons

The reasons for this recommendation 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 (including cumulative effects) from the variation will be acceptable as:
  - a. With implementation of the established procedures and processes in management plans, including the communication protocols, it is considered that any adverse effects generated by this concert event on surrounding residential and business properties in terms of 'crowd behaviour and event effects' can be adequately avoided, remedied or mitigated so that they will be less than minor.
  - b. Transport or traffic effects will remain unchanged and will be appropriately managed through the required Traffic Management Plan and communication procedures required by the conditions.
  - c. The proposed amendment to Condition 8 of the approved consent does not change the existing noise conditions imposed through the approved consent to avoid, remedy or mitigate any adverse noise effects on the surrounding environment to acceptable levels. Overall, any actual or potential adverse noise related effects generated as a result of the proposed amendments to Condition 8 are considered to be less than minor.
  - d. The proposed amendment to Condition 8 of the approved consent does not change the existing lighting conditions imposed through the approved consent to avoid, remedy or mitigate any adverse lighting effects on the surrounding environment to acceptable levels.
  - e. Any actual or potential adverse cumulative effects (including cumulative effects on the amenity of the local community) resulting from the proposal are considered to be less than minor due to the total number of night-time events being less than what could be undertaken on a permitted/consented basis and there being intervals of limited activity and activity free weekends. Further, during the period of the most concentrated activity there is one weekend free of night-time events and there are efficiencies gained utilising a single stage for multiple concert events, limiting the length and duration of pack-in and pack-out activities. It is also recognised that there have been longer periods of 'respite' (periods of time that are free of events) before this period due to the previous Covid-19 restrictions, which is a unique situation relevant to the consideration of the cumulative effects of this application.

3. In terms of positive effects, the proposal provides a range of social and economic benefits associated with an international event, particularly for event patrons and local hospitality providers, while also supporting the ongoing operation of the Stadium.
4. In accordance with an assessment under s104(1)(b) and s127(3) of the RMA, the variation is consistent with the relevant statutory documents. In particular, regard has been had to the relevant objectives and policies contained in sections E23, E25, E27, H26, I310 of the AUP(OP and to the relevant assessment criteria listed in I310. I am satisfied the proposal is consistent with the outcomes sought by the AUP because the adverse effects of the proposal will be adequately mitigated through the use of a comprehensive range of management measures.
5. In accordance with an assessment under s104(1)(c) and s127(3) of the RMA, no other matters are considered relevant.
6. 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.
7. Overall, the proposal is acceptable and appropriate in the context of the relevant plan provisions.

## Advice notes

1. *The consent holder is advised that the decision on this section 127 application does not affect the lapse period for the resource consent.*
2. *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.*
3. *For the purpose of compliance with the conditions of consent, "the council" refers to the council's monitoring officer unless otherwise specified. Please email [monitoring@aucklandcouncil.govt.nz](mailto: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](http://www.aucklandcouncil.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: Fennel Mason

Title: Principal Project Lead, Resource Consents

Signed:



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Date: 15 September 2022

## Resource Consent Notice of Works Starting

Please email this form to [monitoring@aucklandcouncil.govt.nz](mailto: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.

<b>Site address:</b>				
<b>AREA (please tick the box)</b>	<b>Auckland CBD</b> <input type="checkbox"/>	<b>Auckland Isthmus</b> <input type="checkbox"/>	<b>Hauraki Gulf Islands</b> <input type="checkbox"/>	<b>Waitakere</b> <input type="checkbox"/>
<b>Manukau</b> <input type="checkbox"/>	<b>Rodney</b> <input type="checkbox"/>	<b>North Shore</b> <input type="checkbox"/>	<b>Papakura</b> <input type="checkbox"/>	<b>Franklin</b> <input type="checkbox"/>
<b>Resource consent number:</b>			<b>Associated building consent:</b>	
<b>Expected start date of work:</b>			<b>Expected duration of work:</b>	

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

<b>Signature:</b> Owner / Project Manager (indicate which)	<b>Date:</b>
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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](mailto:monitoring@aucklandcouncil.govt.nz) to discuss a likely timetable of works before the inspection is carried out and to avoid incurring this cost.

1 Greys Avenue | Private Bag 92300, Auckland 1142 | [aucklandcouncil.govt.nz](http://aucklandcouncil.govt.nz) | Ph 09 301 0101

# Report for an application to change/cancel conditions of a resource consent under section 127 of the Resource Management Act 1991



Discretionary activity under section 127(3)

**Application number:** LUC60351212-D

**Applicant:** Eden Park Trust

**Original consent number:** LUC60351212

## **Proposal:**

To change Condition 10 of the approved consent LUC60351212 to host a concert (Main Act: Ed Sheeran) at Eden Park on Friday 10th of February 2023 with a crowd size of up to 58,000 people, with earlier gate opening and support act times, and a longer duration than enabled through the consent (noting that the cumulative amount of music from supporting acts and the main act will not exceed four hours in duration as specified in the condition).

*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 s.127 of the RMA.*

This discretionary activity under s.127 of the Resource Management Act 1991 (RMA) is for changes to Condition 10 of the approved resource consent LUC60351212 are shown in underline below (as set out in the officer report).

## Condition 10:

*Any concert held on a weekday (other than a public holiday) is restricted as follows:*

- (a) The gates to the number 1 field shall not be open before 5pm, except for the concert held on Friday 10 February 2023 where the gate shall not be open before 3pm.*
- (b) The concert shall not start before 6.30pm for supporting acts and 7.30pm for the main act; with the exception of the concert held on Friday 10 February 2023 where the support act shall not start before 6pm.*
- (c) The concert shall finish no later than 10.30pm*
- (d) The total duration of the concert, being time between the commencement of the first (or single) performance/act and the conclusion of the last (or single) performance/act, shall not exceed four 4) hours; with the exception of the concert held on Friday 10 February 2023 where the duration shall not exceed 4 hours and 30 minutes (with a cumulative duration of not more than 4 hours).*
- (e) The crowd shall not exceed 50,000 persons, with the exception of the concert held on Friday 10 February 2023 where the crowd size shall not exceed 58,000 persons.*

## Decision

### A. Preamble

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

In particular, I have had regard to the analysis and recommendations set out in the report by the Council's Consultant Planner, Brooke Dales (dated 10 October 2022) (**officer report**), and the transportation review undertaken on behalf of the Council by Ian Clark, of Flow Transportation (12 July 2022). However, I have undertaken my own consideration and analysis of the application materials, including the Assessment of Environmental Effects (**AEE**) prepared by the applicant's planning consultants, Tom Morgan and Mark Vinall, of Tattico Ltd (dated October 2022) and the Transportation Assessment prepared by Traffic Planning Consultants (dated September 2022).

I have also re-familiarised myself with the conditions of the original decision that the application seeks to vary and have reviewed the notification determination made by the Duty Commissioner in respect of a previous application (LUC60351212-B). That determination (dated 11 August 2022) was based on a similar proposal, but for 60,000 people, 2,000 more than is proposed in this present application. While this is a new application and I am not bound by that previous determination, I have considered the three main grounds on which it appeared to be based:

- That the proposal represents a substantial change in character and intensity that may result in adverse environmental effects, including amenity effects;
- There is considerable public interest in the concert activities permitted under the existing consent; and
- It would not be possible without public input to determine whether the proposal will have or likely to have adverse effects on the environment that are more than minor, and that the parties that could consider themselves adversely affected by the proposal will not be known unless this is tested via a public notification process.

Having considered all of the above matters, I make the following determinations with respect to the relevant notification tests under ss.95A and 95B of the RMA.

### B. Public notification

Under s.95A of the RMA, this application shall proceed without public notification because:

1. Under step 1, public notification is not mandatory as:
  - (a) the applicant has not requested it;
  - (b) there are no outstanding or refused requests for further information; and
  - (c) the application does not involve any exchange of recreation reserve land under s.15AA of the Reserves Act 1977.
2. Under step 2, public notification is not precluded as:

- (a) there is no plan rule or regulation in an NES that specifically precludes public notification of the application; and
  - (b) the application is for activities other than those specified in s.95A(5)(b).
3. Under step 3, public notification is not required as:
- (a) The application is for activities that are not subject to a plan rule or regulation in an NES that specifically requires it.
  - (b) The activities will have or are likely to have adverse effects on the environment that are no more than minor because:
    - (i) With implementation of the established procedures and processes in management plans, including the communication protocols, I accept the assessment of the AEE and the officer report that any adverse effects generated by this concert event on surrounding residential and business properties in terms of 'crowd behaviour and event effects' can be appropriately avoided, remedied or mitigated so that they will be less than minor. In particular, and as a single concert event, I do not consider that the proposal will represent a substantial change in character and intensity for concert activities at Eden Park that would result in adverse effects, including amenity effects on the surrounding environment.
    - (ii) In terms of potential transportation effects, I adopt the conclusions of the Transportation Assessment and the reference to that assessment set out in the AEE (page 27), as relevant to considerations under s.95D, as follows:

*The proposal has the potential to generate adverse traffic and transport related effects on the surrounding environment due to the crowd size of up to 58,000 people with an earlier gate opening time and support act times, and a longer duration than enabled through the consent (noting that that the cumulative amount of music from supporting acts and the main act will not exceed four hours in duration as specified in the condition). Overall, the Traffic Assessment concludes that "transport or traffic effects will remain unchanged and will be appropriately managed through the required Traffic Management Plan and communication procedures required by the conditions".*

*In considering the potential adverse effects of the proposal on the surrounding environment, potential adverse effects relating to crowd behaviour and events, event noise and lighting on the surrounding environment have been assessed and given that compliance will be achieved with all the remaining conditions of consent any associated effects are able to be appropriately avoided, remedied or mitigated to acceptable levels.*

Therefore, and having regard to the transportation review provided on behalf of the Council, and the allocated seating arrangements for concert patrons, it is my finding that the transport effects of the proposed concert will be less than minor, relative to the current consent, subject to implementation of the



appropriate traffic and transport management plans, as proposed and as is required by the current consent.

- (iii) The approved consent includes conditions to manage noise effects which will remain in place for the concert. While an additional 8,000 people may attend the concert, existing Condition 23 excludes crowd noise from noise measurements and the noise limits prescribed in Condition 16 are proposed to be complied with for this event. Any actual or potential adverse noise related effects generated as a result of the proposed amendments to Condition 10 of the approved consent for the concert are therefore considered to be less than minor and consistent with the noise anticipated by the existing conditions. Overall, any actual or potential adverse noise and amenity related effects generated as a result of the proposed amendments to Condition 10 of the approved consent for the Friday 10th February 2023 concert are considered to be less than minor.
- (iv) The proposed changes will enable an earlier gate opening time, earlier support act times and a longer total duration, but will not change the cumulative amount of music from supporting acts and the main act (and will not exceed four hours in duration), nor the finishing time of 10:30pm. The proposal will not therefore impact on the existing lighting conditions of the existing consent which will continue to avoid, remedy or mitigate any adverse lighting effects on the surrounding environment.
- (v) The existing consent anticipates multiple concert events with the number or frequency of concert event-related conditions (6-8 inclusive) restricting the number of concerts to no more than six events in a 12- month period, no more than four concerts in a four-week period and ensuring at least one weekend in every 35 day period shall be free of any concert or organised sports and recreation undertaken at night-time on the Number 1 field. The proposed concert date (and the second concert event on 11 February 2022) has been scheduled to comply with these existing conditions.
- (vi) No additional cumulative related effects are anticipated as a result of people arriving early as the concert is all-seated event and congregating people will most likely assemble either at local hospitality venues and then go straight to their seat following entry to the stadium or congregate on the Outer Oval and enjoy the hospitality offered in this space. Additionally, while the total duration of this proposed concert exceeds the conditioned total duration requirement by 30 minutes, this increase relates to the start time of the support act and the finish time for the main act, and the total cumulative amount of music from supporting acts and the main act will not exceed four hours in duration in accordance with Condition 10(d). Overall, noting the above factors, it is considered that any actual or potential adverse cumulative related effects resulting from the proposal are able to be appropriately mitigated and or will be less than minor.

- (vii) From a broader temporal consideration of cumulative effects, I also understand that in the past 12 months Eden Park has only been used at a 'TMP-5' level for sports events, and that the consent allocation of six concerts for the same period has therefore not been exercised.
4. If an application has not been publicly notified as a result of any of the previous steps, step 4 (s.95A(9)) requires me to determine whether special circumstances exist that warrant it being publicly notified. My assessment of special circumstances is as follows:
- (a) My understanding of special circumstances is made with reference to several cases briefly described below:
- The Court of Appeal has defined 'special circumstances' as those that are unusual or exceptional, but they may be less than extraordinary or unique (*Peninsula Watchdog Group (Inc) v Minister of Energy* [1996] 2 NZLR 529).
  - In *Murray v Whakatane DC* [1997] NZRMA 433, Elias J stated that circumstances which are 'special' will be those which make notification desirable, notwithstanding the general provisions excluding the need for notification. In determining what may amount to 'special circumstances' it is necessary to consider the matters relevant to the merits of the application as a whole, not merely those considerations stipulated in the tests for public or limited notification.
  - In *Urban Auckland v Auckland Council* [2015] NZHC 1382, Venning J identified a number of additional potential grounds for special circumstances and found that special circumstances did exist based on a combination of an error of law in the using the activity status to determine notification, the public ownership of the applicant, the impact of future developments and significant public interest and controversy.
- (b) The officer report for the application has recommended that "*there are no special circumstances that warrant the application being publicly notified because there is nothing exceptional, abnormal or unusual about the application, and the proposal has nothing out of the ordinary run of things to suggest that public notification should occur*".
- (c) I note that the previous Commissioner decision reached a conclusion as to the public interest factor in terms of step 3 provisions (and possibly with reference to s.127(4)), but the concerns expressed appeared to also be applicable to special circumstances tests, including the potential level of public interest and whether there may be parties who would consider themselves to be adversely affected.
- (d) In this regard, I note that while the proposed change to the original consent, for a single (week-day) concert, represents a change to the operating parameters of that consent, I consider that, for the reasons set out in respect of step 3 above, that these will not give rise to adverse effects of any significance, and I agree with the statement in the AEE (page 27) that:

*...the conditions imposed including the requirement of a Traffic Management Plan addressing vehicle movements including managing traffic movements around Eden Park during peak commuter periods appropriately avoid or*

*mitigate transport related effects associated with concert events held at Eden Park to acceptable levels.*

- (e) My acceptance of that assessment militates against a finding that a 'special circumstance' arises that would warrant public notification of the application. I also note that while comment has been sought by Council officers from the Albert Eden Local Board, no response was received. I further note that while activities at Eden Park are of broad public interest, its use as a concert venue is now a consented activity, and the proposed changes represent a minor, and singular, amendment to the parameters against which such concerts are undertaken.
- (f) Accordingly, it is my finding that there are no special circumstances that would give rise to the need for the application to be publicly notified.

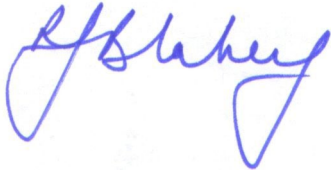
### C. Limited notification

Under s.95B of the RMA this application shall proceed without limited notification because:

1. Under step 1, limited notification is not mandatory as:
  - (a) there are no protected customary rights groups or customary marine title groups affected by this proposal; and
  - (b) no persons to whom a statutory acknowledgement is made is adversely affected by this proposal.
2. Under step 2, limited notification is not precluded as:
  - (a) there is no plan rule or regulation in an NES that specifically precludes limited notification of the application; and
  - (b) the application is for activities other than that specified in s.95B(6)(b).
3. Under step 3, limited notification is not required as:
  - (a) This application is not for a boundary activity.
  - (b) There are no adversely affected persons because no persons, including persons who made a submission on the original application or persons owning and occupying adjacent land, are considered adversely affected by the variation because the adverse effects of the proposed changes upon persons will be less than minor for the same reasons as outlined above in the s.95A determination. In summary, any potential adverse effects relating to crowd behaviour and events, local traffic effects, event noise and lighting on the surrounding environment have been assessed and given that compliance will be achieved with all the remaining conditions of consent it is my finding that any associated effects are able to be appropriately avoided, remedied or mitigated so that any effects on person will be less than minor.
4. Under step 4 (s.95B(10)), there are no special circumstances that warrant the application being limited notified to any other persons because, in adopting the recommendations of the officer report and having regard to my previous findings with respect to s.95A(9), there is nothing exceptional, abnormal or unusual about the application, and the proposal has

nothing out of the ordinary run of things to suggest that notification to any other persons should occur.

Accordingly, this application shall proceed on a **NON-NOTIFIED** basis.

A handwritten signature in blue ink, appearing to read 'R. Blakey', with a stylized, cursive script.

**Richard Blakey**

**Duty Commissioner**

13 October 2022

# Report for an application to change/cancel conditions of a resource consent under section 127 of the Resource Management Act 1991



Discretionary activity under section 127(3)

**Application number:** LUC60351212-D

**Applicant:** Eden Park Trust

**Original consent number:** LUC60351212

## **Proposal:**

To change Condition 10 of the approved consent LUC60351212 to host a concert (Main Act: Ed Sheeran) at Eden Park on Friday 10th of February 2023 with a crowd size of up to 58,000 people, with earlier gate opening and support act times, and a longer duration than enabled through the consent (noting that the cumulative amount of music from supporting acts and the main act will not exceed four hours in duration as specified in the condition).

*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 s.127 of the Resource Management Act 1991 (RMA) is for changes to Condition 10 of the approved resource consent LUC60351212 are shown in underline text below.

## Condition 10:

*Any concert held on a weekday (other than a public holiday) is restricted as follows:*

- (a) *The gates to the number 1 field shall not be open before 5:00pm except for the concert held on Friday 10 February 2023 where the gate shall not be open before 3:00pm;*
- (b) *The concert shall not start before 6.30pm for supporting acts and 7.30pm for the main act with the exception of the concert held on Friday 10 February 2023 where the support act shall not start before 6:00pm;*
- (c) *The concert shall finish no later than 10.30pm;*
- (d) *The total duration of the concert, being time between the commencement of the first (or single) performance/act and the conclusion of the last (or single) performance/act, shall not exceed four (4) hours with the exception of the concert held on Friday 10 February 2023 where the duration shall not exceed 4 hours and 30 minutes (with a cumulative duration of not more than 4 hours); and*
- (e) *The crowd shall not exceed 50,000 persons with the exception of the concert held on Friday 10 February 2023 where the crowd size shall not exceed 58,000 persons.*

## Decision

I have read the application, supporting documents, and the officer report and recommendations on the application for resource consent. I am satisfied that I have sufficient

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 ss.127, 104, 104B and Part 2 of the RMA, the application to change conditions of a resource consent is **GRANTED**.

## Reasons

The reasons for this decision are:

1. The proposal is appropriately considered under s.127 as the changes will not result in a fundamentally different activity or materially different effects.
2. In accordance with an assessment under s.104(1)(a)-(ab) and s.127(3) of the RMA, it is my finding that the actual and potential effects (including cumulative effects) from the variation will be acceptable as:
  - (a) With implementation of the established procedures and processes in management plans, including the communication protocols, it is considered that any adverse effects generated by this concert event on surrounding residential and business properties in terms of 'crowd behaviour and event effects' can be adequately avoided, remedied or mitigated so that they will be less than minor.
  - (b) Transport effects of the proposed concert for 58,000 people on a Friday evening will be less than minor, relative to the current consent, subject to the implementation of an appropriate traffic and transport management plan, as is already required by the current consent, and on the basis of the concert being an all seated event, with the main act not starting until 8.30pm. All of these factors are specified in this current application and by existing conditions that remain unchanged.
  - (c) The approved consent includes conditions to manage noise effects which will remain in place for the concert. While an additional 8,000 people may attend the concert, existing Condition 23 excludes crowd noise from noise measurements and the noise limits prescribed in Condition 16 will still be complied with for this event. Compliance with the existing specific noise conditions further mitigates any noise related effects generated from the concert to acceptable levels. Overall, any actual or potential adverse noise-related effects generated as a result of the proposed amendments to Condition 10 of the approved consent for the concert are considered to be acceptable and consistent with the noise anticipated by the existing conditions.
  - (d) The proposed changes will enable an earlier gate opening time, earlier support act times and a longer total duration, but will not change the cumulative amount of music from supporting acts and the main act (and will not exceed four hours in duration), nor the finishing time of 10:30pm. The proposal will not therefore impact on the existing lighting conditions of the existing consent which will continue to avoid, remedy or mitigate any adverse lighting effects on the surrounding environment.
  - (e) The existing consent anticipates multiple concert events with the number or frequency of concert event-related conditions (6-8 inclusive) restricting the number of concerts to no more than six events in a 12- month period, no more than four concerts in a four-week period and ensuring at least one weekend in every 35 day

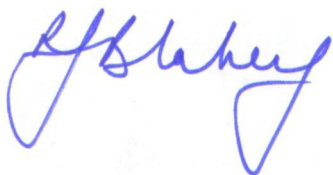
period shall be free of any concert or organised sports and recreation undertaken at night-time on the Number 1 field. The proposed concert date (and the second concert event on 11 February 2022) has been scheduled to comply with these existing conditions.

- (f) No additional cumulative related effects are anticipated as a result of people arriving early as the concert is all-seated event and congregating people will most likely assemble either at local hospitality venues and then go straight to their seat following entry to the stadium or congregate on the Outer Oval and enjoy the hospitality offered in this space. Additionally, while the total duration of this proposed concert exceeds the conditioned total duration requirement by 30 minutes, this increase relates to the start time of the support act and the finish time for the main act, and the total cumulative amount of music from supporting acts and the main act will not exceed four hours in duration in accordance with Condition 10(d). Overall, noting the above factors, it is considered that any actual or potential adverse cumulative related effects resulting from the proposal are able to be appropriately mitigated and will be acceptable.
3. In terms of positive effects, the proposal provides a range of social and economic benefits associated with an international event, particularly for event patrons and local hospitality providers, while also supporting the ongoing operation of the Stadium at Eden Park.
  4. In accordance with an assessment under s.104(1)(b) and s.127(3) of the RMA, the variation is consistent with the relevant statutory documents. In particular, regard has been had to the relevant objectives and policies contained in sections E23, E27, H26, I310 of the AUP(OP) and to the relevant assessment criteria listed in the Eden Park Precinct I310. I am satisfied the proposal is consistent with the outcomes sought by the AUP(OP) because the adverse effects of the proposal will be adequately mitigated through the continued application of the event management plans and associated requirements of the existing consent.
  5. In accordance with an assessment under s.104(1)(c) and s.127(3) of the RMA, no other matters are considered relevant.
  6. 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.
  7. Overall, the proposal is acceptable and appropriate in the context of the relevant provisions of the AUP(OP).

## Advice notes

1. *The consent holder is advised that the decision on this s.127 application does not affect the lapse period for the resource consent.*

2. *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.*
3. *For the purpose of compliance with the conditions of consent, "the Council" refers to the Council's monitoring officer unless otherwise specified. Please email [monitoring@aucklandcouncil.govt.nz](mailto: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](http://www.aucklandcouncil.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 ss.357A and/or 357B of the RMA. Any objection must be made in writing to the Council within 15 working days of your receipt of this decision (for s.357A) or receipt of the Council invoice (for s.357B).*
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.*



**Richard Blakey**

**Duty Commissioner**

13 October 2022



## Resource Consent Notice of Works Starting

Please email this form to [monitoring@aucklandcouncil.govt.nz](mailto: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.

<b>Site address:</b>				
<b>AREA (please tick the box)</b>	<b>Auckland CBD</b> <input type="checkbox"/>	<b>Auckland Isthmus</b> <input type="checkbox"/>	<b>Hauraki Gulf Islands</b> <input type="checkbox"/>	<b>Waitakere</b> <input type="checkbox"/>
<b>Manukau</b> <input type="checkbox"/>	<b>Rodney</b> <input type="checkbox"/>	<b>North Shore</b> <input type="checkbox"/>	<b>Papakura</b> <input type="checkbox"/>	<b>Franklin</b> <input type="checkbox"/>
<b>Resource consent number:</b>			<b>Associated building consent:</b>	
<b>Expected start date of work:</b>			<b>Expected duration of work:</b>	

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

<b>Signature:</b> Owner / Project Manager (indicate which)	<b>Date:</b>
--	--------------

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](mailto:monitoring@aucklandcouncil.govt.nz) to discuss a likely timetable of works before the inspection is carried out and to avoid incurring this cost.

# Determination on an application to change/cancel conditions of a resource consent under section 127 of the Resource Management Act 1991



Discretionary activity under section 127(3)

**Application number:** LUC60351212-F

**Applicant:** Eden Park Trust

**Original consent number:** LUC60351212

## Proposal:

To change Condition 6 of the approved consent LUC60351212 to allow 'six concert events in a calendar year' rather than 'six concert events a 12-month period'. The reasons for the request primarily relate to the logistics of scheduling concerts with other events in a calendar year.

*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 s.127 of the RMA.*

This discretionary activity under s.127 of the Resource Management Act 1991 (**RMA**) is for changes to Condition 6 of the approved resource consent LUC60351212 with deletions shown as ~~strikethrough~~ and additions as in underline below.

## Condition 6

No more than six concert events may be held in any ~~12-month period~~ calendar year.

## 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 sufficient information to consider the matters required by the RMA and make a decision under delegated authority on notification.

In particular, I have had regard to the analysis and recommendations set out in the report by the Council's Consultant Planner, Brooke Dales (dated 19 December 2023) (**officer report**), and the specialist reviews undertaken on behalf of the Council by Ian Clark, of Flow Transportation (11 December 2023) and Jon Styles, of Styles Group (13 December 2023). However, I have undertaken my own consideration and analysis of the application materials, including the Assessment of Environmental Effects (**AEE**) prepared by the applicant's planning consultant, Mark Vinall, of Tattico Ltd (dated December 2023), the Transportation Assessment prepared by Traffic Planning Consultants (dated September 2022) and the Acoustic Assessment by Marshall Day (6 November 2023), and the additional information provided on 5 December 2023. I have considered the feedback of the Albert-Eden Local Board (20 December 2023).

In undertaking my consideration of the above I have also taken note of the matters raised in Mr Styles' original review regarding the potential for an aggregation of concert events (of more than six events) in any 12-month period, being a matter also referred to in the comments of the Local Board. In this regard, Activity Rule I310.4.1(A16) of the Auckland Unitary Plan (Operative in Part) (**AUP(OP)**) provides that more than six concerts in any 12-month period is a non-complying activity. While a change to conditions under s.127 is required to be assessed as a discretionary activity in accordance with s.127(3), it also provides that ss.88-121 applies to the assessment. The officer report has addressed this aspect of the proposal (at page 5), stating that:

*...The proposed changes as detailed in section 3 of this report are considered to fall within the scope of the original resource consent which authorises the concerts as detailed in section 3 of this report. The activity remains fundamentally the same with the proposed changes not resulting in materially different adverse effects...*

In this regard, I am satisfied that the assessment within the officer report has addressed all relevant and potential effects, and the AEE also provides an appropriate assessment of the relevant statutory considerations (including the objectives and policies for the Eden Park Precinct), and that the proposed change to Condition 6 is within the scope of effects that were determined in the original decision.

Having considered all of the above matters, I make the following determinations with respect to the relevant notification tests under ss.95A and 95B of the RMA.

### Public notification

Under s.95A of the RMA, this application shall proceed without public notification because:

1. Under step 1, public notification is not mandatory as:
  - a. the applicant has not requested it;
  - b. there are no outstanding or refused requests for further information; and
  - c. the application does not involve any exchange of recreation reserve land under s.15AA of the Reserves Act 1977.
2. Under step 2, public notification is not precluded as:
  - a. there is no plan rule or regulation in an NES that specifically precludes public notification of the application; and
  - b. the application is for activities other than those specified in s.95A(5)(b).
3. Under step 3, public notification is not required as:
  - a. the application is for activities that are not subject to a plan rule or regulation in an NES that specifically requires it; and
  - b. the activities will have or are likely to have adverse effects on the environment that are no more than minor because:

#### *Event-related Amenity Effects*

- With implementation of the established procedures and processes in management

plans, including the communication protocols, I find that any adverse effects generated by concert events on surrounding residential and business properties in terms of 'event-related amenity effects' will continue be adequately avoided, remedied or mitigated so that they will be less than minor.

#### *Traffic and Transport*

- Transport and traffic effects will remain unchanged and will be appropriately managed through the required Traffic Management Plan and communication procedures required by the conditions.

#### *Event Noise*

- The proposed change to align to a calendar year will not change the overall noise exposure (long-term average number of concerts), nor the start/finish time, duration, or noise limits of individual concerts. In addition, the frequency controls in Conditions 7 and 8 will continue to apply to provide community respite (that being, no more than four concerts in four weeks and at least one weekend free in every five). While the proposed change could enable a greater concentration of concerts in summer months this would be necessarily balanced by corresponding reduction in concerts for the remainder of the relevant (calendar) period, resulting in there being no change to the overall noise effects as a result of the proposed change to Condition 6.

#### *Lighting*

- Lighting effects generated by concert events were addressed in the approved consent, with a Pre and Post Event Management Plan set out in Condition 34 requiring measures to minimise light spill to adjacent residents from pack-in and pack-out activities and the testing/checking of concert performance lighting. Condition 49 of the approved consent specifies that all concert performance lighting must cease by 10.30pm. In addition, Condition 50 of the approved consent specifies that following the conclusion of the concert, the stadium floodlights may operate in egress mode and must be shut off no later than 45 minutes after the conclusion of the concert. The proposed change to Condition 6 of the approved consent does not change the existing lighting conditions imposed through the approved consent to avoid, remedy or mitigate any adverse lighting effects on the surrounding environment to acceptable levels.

I also note the commentary within the AEE that the floodlights for Eden Park have been recently upgraded to LED technology which allows for the field lighting to be switched on and off instantaneously and removes the former requirement for floodlights to dim down over a period of time.

#### *Cumulative Effects*

- It is acknowledged that the proposed change may impact the spread and spacing of concerts particularly over the summer concert period (generally November to March). There are standards in the AUP and conditions in the concert consent that control the frequency or intensity of activity that may occur and ensure certain minimum respite periods. The frequency of concert performances is also constrained by the timeframes required to set-up and dismantle infrastructure

required for the concert event, which is typically a period of five days prior to the concert and three days following the performance. The exception to this is where a single artist plays on consecutive nights, however while this results in a more performances within a condensed period, the effects generated by pack-in and pack-out are reduced. The combination of the permitted night-time activity standards (I310.6.11 of the Eden Park Precinct), together with Conditions 7 and 8 of the concert consent, will in my finding be sufficient to avoid or mitigate the potential adverse cumulative effects that might arise from any increased incidence of events over the summer months. Overall, noting the above factors, I conclude any actual or potential adverse cumulative related effects resulting from the proposal are able to continue to be appropriately mitigated and or will be less than minor.

4. Under step 4, there are no special circumstances that warrant the application being publicly notified because there is nothing exceptional, abnormal or unusual about the application that would suggest that public notification should occur.

#### Limited notification

Under s.95B of the RMA this application shall proceed without limited notification because:

1. Under step 1, limited notification is not mandatory as:
  - a. there are no protected customary rights groups or customary marine title groups affected by this proposal; and
  - b. no persons to whom a statutory acknowledgement is made is adversely affected by this proposal.
2. Under step 2, limited notification is not precluded as:
  - a. there is no plan rule or regulation in an NES that specifically precludes limited notification of the application; and
  - b. the application is for activities other than that specified in s.95B(6)(b).
3. Under step 3, limited notification is not required as:
  - a. this application is not for a boundary activity; and
  - b. there are no adversely affected persons because:
    - No persons, including persons who made a submission on the original application or persons owning and occupying adjacent land, are considered to be adversely affected by the variation because the adverse effects of the proposed changes upon persons will be less than minor for the same reasons as outlined above in my findings with respect to s.95A, and which are relied upon in a s.95B context as set out below:
      - With implementation of the established procedures and processes in management plans, including the communication protocols, I conclude that any adverse effects generated by concert events on surrounding residential and business properties in terms of 'event-related amenity effects' will

continue be adequately avoided, remedied or mitigated so that they will be less than minor.

- Transport or traffic effects will remain unchanged and will be appropriately managed through the required Traffic Management Plan and communication procedures required by the conditions.
- The proposed change to align to a calendar year will not change the overall noise exposure (long-term average number of concerts), nor the start/finish time, duration, or noise limits of individual concerts. In addition, the frequency controls in Conditions 7 and 8 will continue to apply to provide community respite (that being, no more than four concerts in four weeks and at least one weekend free in every five). While the proposed change could enable a greater concentration of concerts in summer months this would be necessarily balanced by corresponding reduction in concerts for the remainder of the relevant (calendar) period, resulting in there being no change to the overall noise effects as a result of the proposed change to Condition 6.
- Lighting effects generated by concert events were addressed in the approved consent, with a Pre and Post Event Management Plan set out in Condition 34 requiring measures to minimise light spill to adjacent residents from pack-in and pack-out activities and the testing/checking of concert performance lighting. Condition 49 of the approved consent specifies that all concert performance lighting must cease by 10.30pm. In addition, Condition 50 of the approved consent specifies that following the conclusion of the concert, the stadium floodlights may operate in egress mode and must be shut off no later than 45 minutes after the conclusion of the concert. The proposed change to Condition 6 of the approved consent does not change the existing lighting conditions imposed through the approved consent to avoid, remedy or mitigate any adverse lighting effects on the surrounding environment to acceptable levels (including with respect to the change in lighting technology used at Eden Park, as described in the AEE).
- In considering cumulative effects on persons, it is acknowledged that the proposed change may impact the spread and spacing of concerts particularly over the summer concert period (generally November to March). There are standards in the AUP(OP) and conditions in the concert consent that control the frequency or intensity of activity that may occur and ensure certain minimum respite periods. The frequency of concert performances is also constrained by the timeframes required to set-up and dismantle infrastructure required for the concert event, which is typically a period of five days prior to the concert and three days following the performance. The exception to this is where a single artist plays on consecutive nights, however while this results in a more performances within a condensed period, the effects generated by pack-in and pack-out are reduced. The combination of the permitted night-time activity standards (I310.6.11 of the Eden Park Precinct), together with Conditions 7 and 8 of

the concert consent, will in my finding be sufficient to avoid or mitigate the potential adverse cumulative effects that might arise from any increased incidence of events over the summer months. Overall, noting the above factors, I conclude any actual or potential adverse cumulative related effects resulting from the proposal are able to continue to be appropriately mitigated and or will be less than minor.

4. Under step 4, there are no special circumstances that warrant the application being limited notified to any other persons because there is nothing exceptional, abnormal or unusual about the application that would suggest that notification to any other persons should occur.

Accordingly, this application shall proceed on a **NON-NOTIFIED** basis.



**Richard Blakey**

**Duty Commissioner**

21 December 2023

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



Discretionary activity under section 127(3)

**Application number:** LUC60351212-F

**Applicant:** Eden Park Trust

**Original consent number:** LUC60351212

## Proposal:

To change Condition 6 of the approved consent LUC60351212 to allow 'six concert events in a calendar year' rather than 'six concert events a 12-month period'. The reasons for the request primarily relate to the logistics of scheduling concerts with other events in a calendar year.

*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 s.127 of the RMA.*

This discretionary activity under s.127 of the Resource Management Act 1991 (**RMA**) is for changes to Condition 6 of the approved resource consent LUC60351212 with deletions shown as ~~strikethrough~~ and additions as in underline below.

## Condition 6

No more than six concert events may be held in any ~~12-month period~~ calendar year.

## 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 sufficient information to consider the matters required by the Resource Management Act 1991 and make a decision under delegated authority on the application.

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

## Reasons

The reasons for this decision are:

1. The proposal is appropriately considered under s.127 as the changes will not result in a fundamentally different activity or materially different effects.
2. In accordance with an assessment under s.104(1)(a)-(ab) and s.127(3) of the RMA, the actual and potential effects (including cumulative effects) from the variation will be acceptable as:



- a. With implementation of the established procedures and processes in management plans, including the communication protocols, I conclude that any adverse effects generated by concert events on surrounding residential and business properties in terms of 'crowd behaviour and event effects' can continue to be adequately avoided, remedied or mitigated so that they will be less than minor.
- b. Transport or traffic effects will remain unchanged and will be appropriately managed through the required Traffic Management Plan and communication procedures required by the conditions.
- c. The proposed change to align to a calendar year does will change the overall noise exposure (long-term average number of concerts), nor the start/finish time, duration, or noise limits of individual concerts. In addition, the frequency controls in Conditions 7 and 8 will continue to apply to provide community respite (that being, no more than four concerts in four weeks and at least one weekend free in every five). While the proposed change could enable a greater concentration of concerts in summer months this would be necessarily balanced by corresponding reduction in concerts for the remainder of the relevant (calendar) period, resulting in there being no change to the overall noise effects as a result of the proposed change to Condition 6.
- d. The proposed change to Condition 6 of the approved consent does not change the existing lighting conditions imposed through the approved consent to avoid, remedy or mitigate any adverse lighting effects on the surrounding environment to acceptable levels. I note in this regard the improved lighting technology used at Eden Park which enables lighting to be switched off immediately, rather than dimming over time.
- e. Any actual or potential adverse cumulative effects (including cumulative effects on the amenity of the local community) resulting from the proposal are considered to be less than minor. While it is acknowledged that the proposed change may impact the spread and spacing of concerts particularly over the summer concert period (generally November to March), there are standards in the AUP(OP) and conditions in the concert consent that control the frequency or intensity of activity that may occur and ensure certain minimum respite periods. The frequency of concert performances is also constrained by the timeframes required to set-up and dismantle infrastructure required for the concert event, which is typically a period of five days prior to the concert and three days following the performance. The exception to this is where a single artist plays on consecutive nights, however while this results in a more performances within a condensed period, the effects generated by pack-in and pack-out are reduced. The combination of the permitted night-time activity standards (I310.6.11 of the Eden Park Precinct), together with Conditions 7 and 8 of the concert consent, will in my finding be sufficient to avoid or mitigate the potential adverse cumulative effects that might arise from any increased incidence of events over the summer months. Overall, noting the above factors, I conclude any actual or potential adverse cumulative related effects resulting from the proposal are able to continue to be appropriately mitigated and or will be less than minor.

3. In terms of positive effects, the proposal provides a range of social and economic benefits, particularly for event patrons and local hospitality providers, while also supporting the ongoing operation of the Stadium.
4. In accordance with an assessment under ss.104(1)(b) and 127(3) of the RMA, the variation is consistent with the relevant statutory documents. In particular, I have had regard to the relevant objectives and policies contained in sections E23, E25, E27, H26, I310 of the AUP(OP) and to the relevant assessment criteria listed in I310. I am satisfied that the proposal is consistent with the outcomes sought by the AUP(OP) because the adverse effects of the proposal will be adequately mitigated through the use of a comprehensive range of management measures, and the proposal is not inconsistent with or contrary to any objectives and policies of the AUP(OP), including in respect of section I310.
5. In accordance with an assessment under ss.104(1)(c) and 127(3) of the RMA, no other matters are considered relevant.
6. 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.
7. Overall, the proposal is acceptable and appropriate in the context of the relevant plan provisions.

## Advice notes

1. *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.*
2. *For the purpose of compliance with the conditions of consent, "the Council" refers to the Council's monitoring officer unless otherwise specified. Please email [monitoring@aucklandcouncil.govt.nz](mailto:monitoring@aucklandcouncil.govt.nz) to identify your allocated officer.*
3. *For more information on the resource consent process with Auckland Council see the Council's website: [www.aucklandcouncil.govt.nz](http://www.aucklandcouncil.govt.nz).*
4. *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 ss.357A and/or 357B of the RMA. Any objection must be made in writing to the Council within 15 working days of your receipt of this decision (for s.357A) or receipt of the Council invoice (for s.357B).*
5. *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.*



**Richard Blakey**

**Duty Commissioner**

21 December 2023

## Resource Consent Notice of Works Starting

Please email this form to [monitoring@aucklandcouncil.govt.nz](mailto: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.

<b>Site address:</b>				
<b>AREA (please tick the box)</b>	Auckland CBD <input type="checkbox"/>	Auckland Isthmus <input type="checkbox"/>	Hauraki Gulf Islands <input type="checkbox"/>	Waitakere <input type="checkbox"/>
Manukau <input type="checkbox"/>	Rodney <input type="checkbox"/>	North Shore <input type="checkbox"/>	Papakura <input type="checkbox"/>	Franklin <input type="checkbox"/>
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)				

<b>Signature:</b> Owner / Project Manager (indicate which)	<b>Date:</b>
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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](mailto:monitoring@aucklandcouncil.govt.nz) to discuss a likely timetable of works before the inspection is carried out and to avoid incurring this cost.

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



Discretionary activity under section 127(3)

**Application number:** LUC60351212-G

**Applicant:** Eden Park Trust

**Original consent number:** LUC60351212

## Proposal:

To change Condition 6 of the approved consent LUC60351212 to allow 'seven (7) concert events in the 2024 calendar year'.

*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 s.127 of the Resource Management Act 1991 (RMA) is for changes to Condition 6 of the approved resource consent LUC60351212 with deletions shown as ~~strike through~~ and additions in underline below.

## Condition 6

No more than six concert events may be held in any calendar year, except for the concert event held on 9 October 2024.

## Decision

I have read the application, supporting documents, and the report and recommendations on the application for resource consent. That information is set out in my prior determination on the notification tests of the RMA. I am satisfied that I have sufficient 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 127, 104, 104B and Part 2 of the RMA, the application to change conditions of a resource consent is **GRANTED**.

## Reasons

The reasons for this decision are:

1. The proposal is appropriately considered under s.127 as the changes will not result in a fundamentally different activity or materially different effects.
2. In accordance with an assessment under ss.104(1)(a)-(ab) and 127(3) of the RMA, the actual and potential effects (including cumulative effects) from the variation will be acceptable as:

- a. Noting the Local Board comments on the impacts from concerts in terms of noise, public transport disruption, traffic impacts and litter, the ongoing and evolving implementation of the established procedures and processes in management plans, including the communication protocols, it is considered that any adverse effects generated by concert events on surrounding residential and business properties in terms of 'event related amenity effects will continue be adequately avoided, remedied or mitigated so that they will be less than minor.
- b. Transport or traffic effects will remain unchanged and will be appropriately managed through the required Traffic Management Plan (TMP) and communication procedures required by the conditions. The applicant's transportation assessment confirms that from a transport perspective, the effects of an additional concert event will be mitigated and managed through the TMP and traffic related conditions. In considering all of these assessments, it is my finding that any additional transport or traffic effects associated with the changes will be less than minor.
- c. The existing consent includes conditions to manage the effects of noise generated by sound systems associated with concerts, sound checks, and the balancing of sound systems and any pyrotechnics displays that form part of the concert performance and the requirements for noise monitoring to ensure that noise levels are appropriately measured. In considering all of these factors, it is my finding that any actual or potential adverse noise related effects generated as a result of the proposed changes to Condition 6 will be less than minor.
- d. Lighting effects generated by concert events were addressed in the approved consent, with a Pre and Post Event Management Plan set out in Condition 34 requiring measures to minimise light spill to adjacent residents from pack-in and pack-out activities and the testing/checking of concert performance lighting. Condition 49 of the approved consent specifies that all concert performance lighting must cease by 10.30pm. In addition, Condition 50 of the approved consent specifies that following the conclusion of the concert, the stadium floodlights may operate in egress mode and must be shut off no later than 45 minutes after the conclusion of a concert. The proposed change to Condition 6 of the approved consent does not change the existing lighting conditions imposed through the approved consent to avoid, remedy or mitigate any adverse lighting effects on the surrounding environment to acceptable levels.
- e. Any actual or potential adverse cumulative effects (including cumulative effects on the amenity of the local community) resulting from the proposal are considered to be less than minor. The proposed change does not exceed the 35 large night-time events permitted/authorised through the Eden Park precinct standards and Concert Consent. The size, number, and distribution of events in the previous and current calendar years is variable. Historically Eden Park has rarely reached 25 night-time matches in a year (including the recent World Cup tournaments), nor has there been six concerts in a calendar year to-date and crowd sizes also vary with larger crowds for concerts and international sports events and smaller crowds for domestic sport. In the 2024 calendar year, 26 night-time sports and concert events are planned/scheduled out of the 35 permitted/authorised. The extra concert planned for 2024 is also balanced by the lesser number of concerts held in the previous calendar year (two concerts); with a total of nine concerts in 2023/2024, below the 12 provided for through the Concert Consent. With the

extra concert event being a consecutive night, there will be no additional pack-in or pack-out activity. The combination of the overall cap on the total number of night-time events permitted/authorised at Eden Park together with the frequency and respite requirements combine to ensure that any potential cumulative effects resulting from the proposed change are avoided and mitigated and less than minor overall. Overall, noting the above factors, it is my finding that any actual or potential adverse cumulative related effects resulting from the proposal are able to be appropriately mitigated and or will be less than minor.

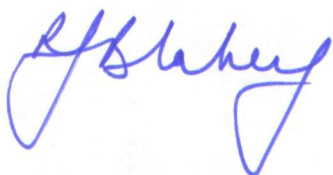
3. In terms of positive effects, the proposal provides a range of social and economic benefits, particularly for event patrons and local hospitality providers, while also supporting the ongoing operation of the Stadium.
4. In accordance with an assessment under ss.104(1)(b) and 127(3) of the RMA, the change to Condition 6 will be consistent with the relevant statutory documents. In particular, regard has been had to the relevant objectives and policies contained in sections E23, E25, E27, H26, I310 of the AUP(OP) (and would not be contrary to them) and to the relevant assessment criteria listed in I310. I am satisfied the proposal is consistent with the outcomes sought by the AUP(OP) because the adverse effects of the proposal will be adequately mitigated through the use of a comprehensive range of management measures.
5. In accordance with an assessment under ss.104(1)(c) and 127(3) of the RMA, no other matters are considered relevant.
6. 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.
7. Overall, the proposal is acceptable and appropriate in the context of the relevant plan provisions.

## Advice notes

1. *The consent holder is advised that the decision on this section 127 application does not affect the lapse period for the resource consent.*
2. *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.*
3. *For the purpose of compliance with the conditions of consent, "the Council" refers to the Council's monitoring officer unless otherwise specified. Please email [monitoring@aucklandcouncil.govt.nz](mailto: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](http://www.aucklandcouncil.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 ss.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 s.357A) or receipt of the Council invoice (for s.357B).*
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.*



**Richard Blakely**

**Duty Commissioner**

5 July 2024

## Resource Consent Notice of Works Starting

Please email this form to [monitoring@aucklandcouncil.govt.nz](mailto: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.

<b>Site address:</b>				
<b>AREA (please tick the box)</b>	Auckland CBD <input type="checkbox"/>	Auckland Isthmus <input type="checkbox"/>	Hauraki Gulf Islands <input type="checkbox"/>	Waitakere <input type="checkbox"/>
Manukau <input type="checkbox"/>	Rodney <input type="checkbox"/>	North Shore <input type="checkbox"/>	Papakura <input type="checkbox"/>	Franklin <input type="checkbox"/>
<b>Resource consent number:</b>			<b>Associated building consent:</b>	
<b>Expected start date of work:</b>			<b>Expected duration of work:</b>	

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

<b>Signature:</b> Owner / Project Manager (indicate which)	<b>Date:</b>
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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](mailto:monitoring@aucklandcouncil.govt.nz) to discuss a likely timetable of works before the inspection is carried out and to avoid incurring this cost.