

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



Application number: LUC60104363-D
Consent holder: Wilberforce (Sale Street) Limited
Site address: LUC60104363 (R/LUC/2015/2748)
Legal description: 70 Sale Street, Auckland Central

Proposal:

To change Condition 5A, cancel Condition 57, and impose three new conditions to enable changes to the approved building including increasing the gross floor area (GFA) of the building from 7,795m² to 7,879m² (84m²), alterations to building design, approved parking and berm landscaping, and removal of the loading zone within the building and replacement with an on-street loading bay, and removal of vehicle crossing servicing 68 Sale Street.

Decision

I have read the application, supporting documents, and the report and recommendations on the application to cancel, change and vary the conditions of an existing land use 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.

Public notification

Under section 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 s15AA of the Reserves Act 1977.
2. Under step 2, public notification is not precluded as:
 - a. there is no rule or NES that specifically precludes public notification of the activities, and
 - b. the application is for an activity other than those specified in s95A(5)(b).
3. Under step 3, public notification is not required as:
 - a. the application is for an activity that is not subject to a rule that specifically requires it, and
 - b. the adverse effects on the environment as a result of the changes will be no more than minor because:

- i. The proposed planter box removal will only affect the visual appearance of the building's northern elevation, and the balustrade changes are internal and not visible from the surrounding streetscape.
 - ii. The additional GFA of 84m² is limited to the ground level of the site, due to the proposed retail changes, and will not result in any changes to the overall bulk or adverse effects in terms of dominance and shading.
 - iii. In terms of pedestrian amenity, the works involve waste servicing from the street as, due to detailed design changes, the basement clearance height from Sale Street is reduced to 2.2m, and waste collection vehicles will no longer be able to access the basement. Any consequent adverse effects will be temporary and no more than minor as bins will only be placed along Sale Street for collection on rubbish collection days. In addition, the applicant's waste management plan outlines who will be responsible for managing the bins, how waste will be collected, and the frequency and times of waste collections.
 - iv. The proposed changes to parking layout (in terms of number of spaces and internal vehicle manoeuvring) are contained within the site's basement, ground floor and first floor levels, and will not adversely affect the wider traffic network. The proposed changes to the building's parking levels generally meet the AUP (OP)'s requirements for regular user car parking spaces, with the exception of the small carparking space labelled as 'Small CP 1.01' on the first floor, which does not comply. This space will be clearly identified as a parking space for small cars only (no longer than 3.84m), with a covenant on the title of the parent lot or future primary unit to clearly indicate that this space is to be used as a small carparking space only.
 - v. Although the gradients of the Sale Street and Cook Street vehicle accesses do not comply with the AUP(OP)'s requirements, the proposed gradient changes are less steep than those consented under the original resource consent.
 - vi. Any adverse effects from the proposed loading shortfall within the building are proposed to be mitigated through a new on-street loading zone. The loading zone will be used outside of peak traffic hours and, as noted in the AEE, there is a 3m clearance between the centre line of the road and the edge of the loading space, which allows cars to pass stationary trucks without conflict with eastbound traffic. In addition, traffic speeds and volumes along Sale Street are relatively low, particularly east bound in front of the site where traffic comes off Union Street.
4. Under step 4, there are no special circumstances that warrant the application being publicly notified because there is nothing exceptional or unusual about the application, and the proposal has nothing out of the ordinary run of things to suggest that public notification should occur.

Limited notification

Under section 95B of the RMA this application shall proceed with 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 rule or NES that specifically precludes limited notification of the activities, and
 - b. the application is for an activity other than those specified in s95B(6)(b).
3. Under step 3, limited notification is required as:
- a. while this application is not for a boundary activity or prescribed activity,
 - b. there are persons adversely affected by the changes, specifically because:
 - i. while the proposed absence of any on-site loading space will not impact on traffic operation or movements along Sale Street for any persons, as the loading zone will be utilised outside of peak hours to minimise or avoid traffic conflicts, the proposed loading zone location within the road reserve (which has been selected in consultation with Auckland Transport, the road network authority) has the potential to affect access to the adjacent property at 68 Sale Street. The proposed works involve the removal of the existing vehicle crossing adjacent to 68 Sale Street. While the application indicates that this vehicle crossing is not legal, and the proposed reinstatement of kerb and channel is positive for pedestrians, no evidence is provided in support of that contention and no consultation is recorded with the owners of 68 Sale Street regarding the location of the proposed loading zone. As such those persons must be deemed affected to at least a minor extent.
4. Under step 4, there are no special circumstances that warrant the application being limited notified to any persons because there is nothing exceptional 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. Per s127(4)(a) of the RMA, the original consent was processed on a non-notified basis.

Accordingly, this application shall proceed on a **LIMITED NOTIFIED** basis to the owners/occupiers of 68 Sale Street.



David Hill
Duty Commissioner

5 July 2018