

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



Restricted discretionary activity

Application number: LUC60311110
Applicant: St Jerome's Laneway NZ Limited
Site address: 33-43 Princes Street, Auckland Central
Legal description: SEC 1 SO 374931 57534m2, SEC 4 SO 374931 5774m2, PT SEC 6 City AUCKLAND, PT SEC 13 CITY AUCKLAND

Proposal:

To hold a temporary event on 29 January 2018, and to repeat the event for a further 4 years on Auckland Anniversary weekend, expiring after completion of the event in 2022.

The resource consents required are:

Land use consents (s9) – LUC60311110

Auckland Unitary Plan (Operative in part)

- Temporary activity for a festival on a Site and Place of Significance to Mana Whenua, being Te Reuroa (restricted discretionary activity under rule D21.4.1(A3)).
- Exceedance of permitted noise event duration of six hours as per rule E40.6.5(1)(a). The activity will exceed the permitted duration by 4.5 hours. In accordance with rule C1.9(2) is a restricted discretionary activity.

Decision

I have read the application, supporting documents, and the report and recommendations on the consent application. 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 104, 104C and 108 the application is **GRANTED**.

Reasons

The reasons for this decision are:

1. In accordance with an assessment under s104(1)(a) of the RMA the actual and potential effects from the proposal will be acceptable as:

- a. The proposed annual event is temporary in nature and effects relating to noise, heritage and visual amenity are less than minor for the reasons discussed below.
- b. The proposed mitigation measures put forward by the applicant will ensure suitable management of noise effects and the confirmation of suitable conditions from and Council's Heritage Officer, Ms Kienholz and Council's Heritage Arborist Nick Stott, are considered to provide suitable management of heritage and arboricultural effects. This will ensure that any potential adverse effects are less than minor.

In terms of positive effects:

- c. The social, cultural and economic benefits of bringing people together to enjoy live music.
 - d. The promotion of the City Centre's public open space and its surrounding local food and beverage operators.
2. In accordance with an assessment under s104(1)(b) of the RMA the proposal is consistent with the relevant statutory documents.

Objectives and Policies of the AUP (Operative in Part)

Temporary Activities (E40.2). The proposal meets the objectives and policies for temporary activities as the proposal contributes to a vibrant city and enhances the social and economic well-being for the area while mitigating potential adverse effects on Albert Park.

Mana Whenua (D21.2). The proposal meets the objectives and policies pertaining to Mana Whenua as the values of the site of significance will be protected as there will be no ground penetration and measures will be taken to protect the park's surfaces.

Historic Heritage (D17.2). The proposal is not contrary to the objectives and policies of historic heritage as there will be no earthworks involved; all built heritage will be fenced off from the public as to not incur any potential damage and the temporary nature of the activity will allow for the area to be returned to its original state after each annual event.

Assessment Criteria:

The applicant, on pages 25-26 of the AEE identifies the assessment criteria under the AUP (Operative in Part). I agree with the applicant's assessment and consider the assessment criteria under D17.2 and D17.3 and D21.2 and D21.3 are met by this proposal, as the built heritage of the site will be protected throughout the event and the associated iwi have been consulted. I further consider assessment criteria E40.8.2 met as the noise will be mitigated, the lighting will comply with the standards of the AUP (OP) and as mentioned above, and a traffic management plan will ensure that traffic and pedestrian safety are adequately addressed.

3. As a restricted discretionary activity no other matters can be considered under s104(1)(c).
4. Overall the proposal results in actual and potential effects on the environment that are acceptable. The proposal is consistent with the relevant statutory documents, in particular, the Auckland Unitary Plan (Operative in Part). As such the application can be granted consent.

2. Conditions

General conditions

Under section 108 of the RMA, it is recommended that this consent is subject to the following conditions:

1. The activity shall be carried out in accordance with the plans and all information submitted with the application, detailed below, and all referenced by the council as consent number LUC60311110.
 - Application Form, and Assessment of Environmental Effects prepared by Tom Morgan of Tattico Limited, dated November 2017 and;
 - Acoustic Report, titled, Albert Park Assessment of Noise Effects, Report No 9681v2, prepared by Nevil Hegley, dated 7 October 2016 and;
 - Heritage Management Plan, St Jeromes Laneway Festival Albert Park, Monday January 29 2018, prepared by Artist Touring Logistics Ltd.
 - Subsequent email from Tom Morgan dated 14/11/2017.

Plan title and reference	Author	Rev	Dated
Front , End Elevations & Plan View Drawing 0967-01-A	Camelspace	A	03/10/12
Loading Estimate Renault Kerax 440.35 6x4 Tractor – Stageline SAM550	Truck Science	N/A	09/08/2013
3 rd Stage – Laneways 2016 , Drawing Number A3339-11-C	Camelspace	C	29/01/2016

2. Any amendment to the site layout plan shall be submitted to Council (Team Leader Central Monitoring in conjunction with Team Leader Heritage and Team Leader Environmental Programmes Team, Parks) for certification, at least 2 weeks prior to the event commencing.

Duration

3. Pursuant to section 123 of the Resource Management Act 1991 this consent is limited to the period of Thursday 25th January to Wednesday 31st January 2018. (Inclusive of pack in and pack out) and similar periods for 2019-2022, being inclusive of Auckland Anniversary Day. Any minor alteration of calendar dates or dates due to unforeseen circumstances shall be at the discretion of the Council. (Team Leader Central Monitoring).
4. The day of the event specifically, shall start after the hours of 9am and finish before 11pm.
5. The consent holder shall pay the council an initial consent compliance monitoring charge of \$320 inclusive of GST), plus any further monitoring charge or charges to recover the actual and reasonable costs incurred to ensure compliance with the conditions attached to this consent.

Advice note:

The initial monitoring deposit is to cover the cost of inspecting the site, carrying out tests, reviewing conditions, updating files, etc., all being work to ensure compliance with the resource consent. In order to recover actual and reasonable costs, monitoring of conditions, in excess of those covered by the deposit, shall be charged at the relevant hourly rate applicable at the time.

The consent holder will be advised of the further monitoring charge. Only after all conditions of the resource consent have been met, will the council issue a letter confirming compliance on request of the consent holder.

Pre Commencement

6. To aid objective assessment and monitoring of the condition of Albert Park before and after the event, a park inspection will be carried out by a representative of the Cultural Heritage Implementation Team and Community Facilities Team. Should any scheduled feature, in the opinion of Council, be damaged in the course of activities covered by this consent, the consent holder shall meet all costs of repair and/or restoration and those works shall be in consultation with Heritage Unit Staff. The consent holder shall contact Council (Team Leader Heritage, Plans and Places and Team Leader Community Facilities) to organise dates to undertake an inspection prior to pack in and after of pack out.

Advice Note:

Cultural Heritage and Community Facilities are the two main departments who hold an interest in Albert Park. If other parties who are deemed to be interested in the Park, it will be at the discretion of Council to advise the consent holder that they are to be represented at time of the park's inspection.

7. To ensure any internal changes do not have any adverse effects on the park's grounds, trees or built heritage, the consent holder at least 6 weeks prior to pack-in works commencing on site for each annual event shall provide to Council (Team Leader Central Monitoring), for verification, a final site plan detailing the position of the structures and associated features.

Advice Note:

The period of 6 weeks is considered appropriate; it is to allow for the annual shutdown of Council departments over the Christmas period. Any unexpected issues can be resolved within this timeframe prior to the event.

Heritage

8. No ground disturbance or ground penetration shall occur within the fenced off heritage areas (Old Government House) and Buildings 106 and 107 of the Merchant House within Albert Park.
9. All vehicle movement shall remain on sealed areas. If vehicles must encroach on to the grass during pack in and pack out, approval by Council (Team Leader Central Monitoring in conjunction with Environment and Programmes Team, Parks) shall be sought and protective matting shall be used beneath vehicles.
10. The chiller truck park near the main entrance shall have protective matting placed underneath to protect the turf.
11. Protective matting shall be used for all concrete block weights.
12. Protective matting shall be placed in area of high foot traffic (e.g. where crowds are likely to gather in large concentrations, such as in front of portaloos, and food and drink stalls.

The consent holder has specified in the Heritage Management Plan that the Albert Park Band Rotunda will be off limits to the public and monitored during the event. This should also apply to

all heritage features, sculptures and structures in the Albert Park (eg Boer War Memorial, the Queen Victoria Statue, the Sir George Grey statue, the Albert Park fountain). Any climbing on heritage features shall be stopped.

13. No signage shall be placed, hung or otherwise attached upon any of the Albert Park trees, features, structures, sculptures or fences unless agreed prior to the event and permission granted from the relevant Council arborists or heritage officers. Copies of these approvals are to be provided to the Council (Team Leader Central Monitoring).
14. The consent holder shall ensure that in the unlikely situation where subsurface archaeological remains should be unearthed during the event (e.g. intact shell midden, hangi, storage pits relating to Maori occupation, or cobbled floors, brick or stone foundation, and rubbish pits relating to 19th century European occupation), work shall cease in the immediate vicinity of the remains and the Council, (Team Leader Cultural Heritage Implementation Team, Heritage Unit, Plans and Places) and Heritage New Zealand should be notified.

Advice note:

- 1 *If any archaeological features are uncovered on the site, works should cease and the Team Leader Central Monitoring and Heritage New Zealand Pouhere Taonga (09 307 9920) should be notified immediately. The Heritage New Zealand Pouhere Taonga Act 2014 provides for the identification, protection, preservation and conservation of the historic and cultural heritage of New Zealand. It is an offence under this Act to destroy, damage or modify any archaeological site without an authority from Heritage New Zealand Pouhere Taonga. An archaeological site is defined as a place associated with pre-1900 human activity where there may be evidence relation to history of New Zealand. Archaeological features' may include old whaling stations, ship wrecks, shell middens, hangi or ovens, pit depressions, defensive ditches, artefacts, or koiwi tangata (human skeletal remains), etc. For guidance and advice on managing the discovery of archaeological features, contact the Team Leader Cultural Heritage Implementation on 09 301 0101.*
- 2 *The Heritage New Zealand Pouhere Taonga Act 2014 (hereafter referred to as the Act) provides for the identification, protection, preservation and conservation of the historic and cultural heritage of New Zealand. All archaeological sites are protected by the provisions of the Act (section 42). It is unlawful to modify, damage or destroy an archaeological site without prior authority from Heritage New Zealand Pouhere Taonga. An Authority is required to modify damage or destroy an archaeological site whether or not the land on which an archaeological site may be present is designated, a resource or building consent has been granted, or the activity is permitted under Unitary, District or Regional Plans.*
- 3 *According to the Act (section 6) archaeological site mean, subject to section 42:*
 - 1) *Any place in New Zealand, including any building or structure (or part of a building or structure (or part of a building or structure) that –*
 - *was associated with human activity that occurred before 1900 or is the site of the wreck of any vessel where the wreck occurred before 1900 and*
 - *provides or may provide, through investigation by archaeological methods, evidence relating to the history of New Zealand; and*
 - 2) *includes a site for which a declaration is made under section 43(1)*

It is the responsibility of the consent holder to consult with Heritage New Zealand Pouhere Taonga about the requirements of the Act and to obtain the necessary Authorities under the Act should these become necessary, as a result of any activity associated with the consented proposals.

For information please contact the Heritage New Zealand Pouhere Taonga Northern Regional Archaeologist – 09 307 0413 / archaeologistMN@historic.org.nz

Acoustics and Noise

15. The consent holder shall submit to Council (Team Leader Central Monitoring in conjunction with Environmental Health – Noise) a noise management plan for certification 2 weeks prior to the commencement of each annual event. The management plan shall specify how and where noise measurements will be undertaken and may include measurement points at the mixing desks (once the locations have been confirmed); reverse calculated based on the noise levels in the following condition.
16. The consent holder shall forward the names and contact details of a person who can be contacted on the day and who will be present on the day and whilst the event is operating and who have the authority to adjust noise levels should they measure to be above the noise levels as stated in the AUP (Operative in Part) E40.6.5 (70dB LA_{eq} and 80dBA L_{A01}) at assessment points 5 and 6 identified on the plan below. These details shall be provided to the Principal Specialist Environmental Health – Noise at Auckland Council at least five days prior to the start of the event.

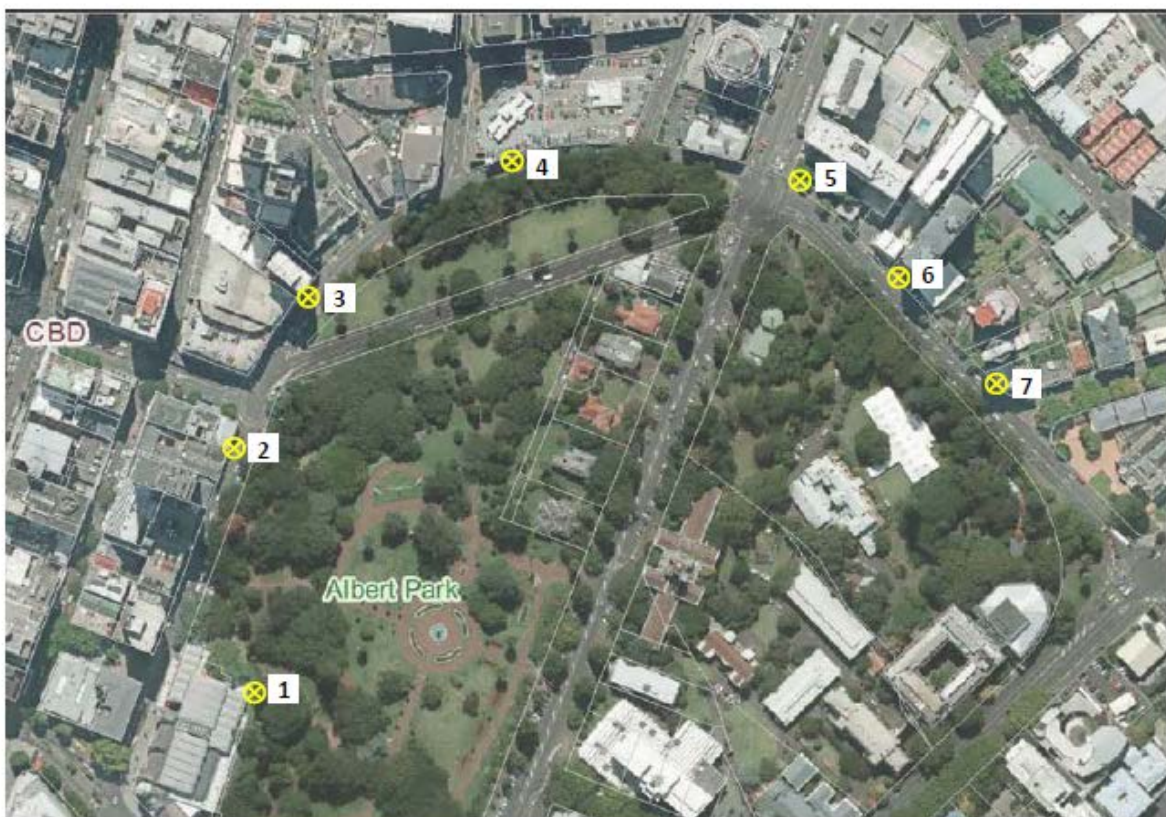


Figure 9. Noise Assessment Points

17. The consent holder shall employ the services of a suitably qualified acoustic specialist to be on-site during the event to ensure noise levels do not exceed the noise level specified in the above

condition at points 5 and 6. A noise report showing the level of noise at the measurement points 5 and 6 (predicted to be most affected (Waterloo Quadrant) shall be forwarded to Council (Team Leader Central Monitoring in consultation with the Principal Specialist Environmental Health – Noise) within five days of the measurements having been taken.

18. The consent holder shall have monitoring conducted by a suitably qualified acoustic specialist to demonstrate compliance with the above acoustic conditions. The consent holder's acoustic consultant shall provide an update to a nominated Council representative each hour of the event with the noise levels from that hour. Should this monitoring reveal that the acoustic conditions are not being complied with, the event organiser must be advised immediately and suitable mitigation measures (as agreed with Council's Principal Specialist Environmental Health – Noise) implemented to ensure that the levels are reduced to compliant levels.
19. Due to the event being ticketed, accreditation to allow for two Council Noise Specialists shall be provided to Council (Principal Specialist Environmental Health – Noise) at least 5 days prior to the start of the event.
20. All public address sound equipment unless required for emergency services, amplified music and the overall event shall cease by 11pm on the night of the event.

Arboricultural

21. No ground penetration shall occur within the dripline of any trees.
22. The consent holder shall advise Council (Team Leader Central Monitoring in conjunction with Council's Arborist) in writing of any damage resulting from the activities associated with the pack in and pack out and during the festival which, is likely to result in any significant adverse effect to any part of a notable tree, either immediately or long term or which has reduced, or will reduce the visual amenity of the tree. This advice shall be completed within twenty-four (24) hours of any damages to the trees occurring.
23. Where in the opinion of Council (Team Leader Central Monitoring in Conjunction with Council's Arborist) remedial works are required as a result of such damage, all costs associated with the remedial works, including any such works carried out by the Council, shall be met by the consent holder.
24. The consent holder shall follow the requirements for tree protection, as outlined in the attached appendix to this consent.

Advice notes

1. *Any reference to number of days within this decision refers to working days as defined in s2 of the RMA.*
2. *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.*
3. *For more information on the resource consent process with Auckland Council see the council's website www.aucklandcouncil.govt.nz. General information on resource consents, including making an application to vary or cancel consent conditions can be found on the Ministry for the Environment's website: www.mfe.govt.nz.*

4. *If you disagree with any of the above conditions, or disagree with the additional charges relating to the processing of the application, you have a right of objection pursuant to sections 357A or 357B of the Resource Management Act 1991. Any objection must be made in writing to the council within 15 working days of notification of the decision.*
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.*
6. *The consent holder will be responsible for ensuring all necessary permits, such as Corridor Access Requests (CAR) permits for road closures around Alert Park, are obtained from Auckland Transport. See Auckland Transport's website www.aucklandtransport.govt.nz for more information.*

Delegated decision maker:

Name: Karen Long
Title: Team Leader, City Centre
Resource Consents

Signed:



Date:

5/12/2017