

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



Application number: R/VCC/2014/3424/1
Consent holder: Pacific Car Wash Systems (2008) Ltd.
Site address: Road reserved operated by Auckland Transport, located west of 277 St Johns Road, Meadowbank.
Legal description: Road Reserve, unzoned land

Proposal:

To change conditions 1a, 7, 8 of resource consent R/LUC/2014/3424/1 to enable a 24 hour 7 day operation of the consented 54.6m² fully automated car wash facility.

The resource consents are:

Auckland Council District Plan (Auckland City Isthmus Section 1999)

- The proposal will result in the infringement of residential noise limits (Rule 7.8.1.10) by a maximum of 13dB to the property at 315-317 St Johns Road (Sunhill Garden Centre). This is a discretionary activity pursuant to Rule 4.3.1.2B (Development Control Modification).

Proposed Auckland Unitary Plan

- Resource consent is not required under the PAUP.

Having read the application, supporting documents, specialist comments and the council planner's report and recommendations on the application, I am satisfied I have sufficient information to consider the matters required by the Resource Management Act 1991 (the RMA) and to make a decision on notification.

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

- The resulting increase in traffic volumes from this variation to the conditions of consent are predicted to be small in nature with a maximum of 2 additional vehicles using the carwash. Accordingly any night time increase in vehicle movement will have a less than minor effect on St Johns Road being a Regional Arterial Road with high traffic and high ambient noise levels.
- Any lighting effects from the carwash are less than minor as there is no flood lights proposed and any lighting emitted from the activity will be to a lower degree than what is already provided by the existing fluorescent overhead street lighting along St Johns Road.
- It is also noted that the surrounding receiving environment is comprised of vacant Residential 6a zoned land to the east of the application site, commercial activities located to the north that will not be in operation during the night time

hours, vacant sites to the west of the application site and residential sites to the south with sufficient separation distance and vegetative screening to absorb any additional noise emission during the night time operation of the carwash facility.

- There is no district or regional rule or national environment standard that requires public notification and the applicant has not requested it.

2. Having regard to the general discretion to notify under section 95A(1) and the special circumstances discretion under section 95A(4), I find there are no relevant reasons to warrant public notification.

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

- There are no persons adversely affected by the changes because any adverse effects of the proposed variation will be less than minor because:
 - Auckland Transport has provided licence to occupy the application site.
 - The proposed extended hours of operation will not clash with the parking requirements for the commercial activities situated near the application site within the road reserve.
 - The predicted residential noise level infringements are considered to be small in nature and are mitigated through the existing separation distance and vegetative screening for persons occupying the sites at 279 and 275 St Johns Road.
 - 277 St Johns road is a vacant site with no residential development anticipated to occur within the immediate foreseeable future as no resource consent is associated with this site to date.
 - 348 St Johns Road is a vacant site does not have access on St Johns Road. The site is zoned Open Space 2 therefore noise sensitive activities are not anticipated to occur during the night time activity of the carwash.
 - The anticipated traffic increase during the night time hours are predicted to be low. St. Johns road being a regional arterial road has sufficient capacity to cater for the night time increase in traffic.
- There are no protected customary rights groups or marine title groups in the region affected by the change.

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



Janine Bell

Duty Commissioner

25 January 2016

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Proposed Auckland Unitary Plan

- Resource consent is not required under the PAUP.

Having read the application, supporting documents, specialist comments and the council planner's report and recommendations on the application, I am satisfied I have sufficient information to consider the matters required by the Resource Management Act 1991 (the RMA) and to make a decision on the application.

Decision

Under sections 104, 104B, 127 and Part 2 of the RMA this application to change conditions 1a, 7, 8 of resource consent R/LUC/2014/3424/1 to enable a 24 hour 7 day operation of the consented 54.6m² fully automated car wash facility is **GRANTED**.

Reasons

The reasons for this decision are:

- In accordance with an assessment under s104(1)(a) of the RMA the actual and potential effects from the proposal will be acceptable because:
 - The proposed activity is considered to be within scope of the original car wash activity.
 - The additional hours of operation of the automated car wash will have less than minor noise effects on the environment including adjacent sites and persons for the following reasons:

- The Council's Acoustic Specialist consultant, Mr. Graham Warren of Marshall Day Acoustics has reviewed the applicant's acoustic report and concludes that the adverse noise effects are less than minor. This is due to the existing high traffic volumes and associated traffic noise on St Johns Road resulting in existing elevated ambient noise levels, the non-noise sensitive character of proximate activities.
- The adverse traffic effects from additional vehicles accessing during the additional hours are concluded to be less than minor as the applicant states that based on data from existing similar operations, a peak throughput rate of 2 cars per hour during night-time periods, typically occurring for less than 30 % of the night-time period. The provided data shows that carwash use during the night typically occurs at the start and end of the night, with no recorded washes occurring between 23:00-05:00.

It is considered that for a carwash facility that is placed on its own with the absence of a service station will generate low amount of users during the proposed new extended hours and St Johns Road being a regional arterial road, will have sufficient capacity to cater for the additional traffic during the night time hours.

It is also noted that the Council's Principal Traffic Engineer, Mr. Vinh Bui, considers the proposal acceptable, as there will be low to nil demand in parking for the adjacent commercial activities during the additional night time hours which consent is sought for.

- The proposed internal lighting has been reviewed by the Council's Environmental Health Specialist, Reuben Naidoo. Although no flood lights are proposed and the internal lights will be directed away from the road reserve and the residential dwellings, as the proposed lighting consists of LED lighting, a condition of consent to provide a lighting report within one month of operation commencing, is recommended as a condition of consent to confirm that the proposed lighting complies with the Auckland Council Lighting Bylaw.,
 - In terms of positive effects, the proposal will enable further activity on this underutilised land whilst mitigating any adverse effects associated to noise and traffic effects.
- In accordance with an assessment under s104(1)(b) of the RMA the proposal is consistent with the relevant statutory documents, In particular:

Auckland Council District Plan (Auckland City Isthmus Section 1999)

Relevant objectives and policies

Clause 12.6.1 Rooding Objectives and Policies

The proposal is consistent with the roading objectives and policies as the proposed additional hours will not attract a large amount of additional traffic to the site.

Furthermore, the vehicles accessing the site during the additional hours will be off the main St Johns road (being a regional arterial road) providing a safe environment for road users and will not result in adverse traffic effects.

Residential 6 zone

The proposal is not contrary to Clause 7.6.6 of the operative District Plan which sets out the objectives and policies of the medium intensity zone which aim to provide an area of land suitable for medium intensity development whilst protecting the external environment and the amenity of the surrounding area.

It is noted that the neighbouring sites to the east being 277 and 279 St Johns Road is zoned Residential 6a. They are largely vacant sites at the moment and are land owned by Auckland Council and Auckland Transport.

It is noted that the area north of the application site being Residential 6b zoned land is not utilised for residential activities but for commercial activities including a garden centre and a fruit shop.

The granting of this resource consent will not be contrary to the objectives and policies of the Residential 6 zone land as the proposed additional hours of operation will not hinder the access to any future residential sites that may be developed in the above mentioned sites.

Proposed Auckland Unitary Plan

Traffic Objectives and Policies

Under the PAUP the application site is zoned Road and located within the Tamaki Precinct.

The relevant PAUP objective and policies are related to Transport objectives and policies outlined in Part 2 Chapter C.1.1.2 which seek to provide safe access, parking and loading facilities that support viable business and residential activities whilst mitigating and managing adverse effects.

The proposed additional hours will not impact the viable access, safety of the surrounding sites and will incur limited amount of extra vehicle trips during the extra hours of operation.

Accordingly, the proposed additional hours of the automated carwash facility is consistent with the relevant transport objectives and policies under the PAUP.

Residential Objectives and Policies

Under the PAUP the land located on the eastern area of the application site including 275,277,279,315-317 St Johns Road has the following common zone and relevant overlay status

- Zone: Mixed Housing Suburban
- Precinct: Tamaki
- Overlay:
 - Infrastructure: High Land Transport Route Noise

For the same reasons discussed above for the operative District Plan, the proposal is not contrary to the residential objectives and policies of the Mixed Housing Suburban Zone.

- The proposed extended hours of operation of the automated car wash facility is consistent with Part 2 of the RMA as it enables a compatible land use activity in the subject site within the receiving environment which is currently underutilised, whilst mitigating the adverse noise and traffic effects to nearby residential development.

Changes

Under section 127 of the RMA conditions 1a, 7, 8 of resource consent R/LUC/2014/3424/1 are changed as set out below. **Bold underlined text** denotes new text. *Strikethrough text* denotes deleted text.

General Conditions

These conditions apply to all resource consents.

1. The carwash 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 R/LUC/2014/3424/1
 - a. Application Form and Assessment of Effects prepared by Hardacre Planning Limited, dated 8 August 2014 & as varied by S127 Application report prepared by Hardacre Planning Limited, dated 4 May 2015.

Report title and reference	Author	Dated
Acoustic assessment	Golder Associates	12 Sept 2014
<u>Acoustic assessment- Carwash south of 315 St Johns Road, St Heliers</u>	<u>Golder Associates</u>	<u>20 January 2015</u>
Traffic assessment	Flow Transportation Specialists	1 Aug 2014
Trade Waste Discharge Operation and quantification	Brockett and Associates Limited	June 2012
Stormwater calculations	Airey Consultants Limited	30 July 2014
Plan title and reference	Author	Dated
Dwg 1: Site plan 1:500	Airey Consultants Limited	28/7/14
Dwg 2: Site plan 1:200	Airey Consultants Limited	28/7/14
Dwg 3: 1:100	Airey Consultants Limited	28/7/14
3D drawing	Unknown	Received at Council 28/9/14
<u>3D drawing</u>	<u>Unknown</u>	<u>Received at Council 11 May 2015</u>
Approvals and leases	Provider	Dated
Licence to occupy land: Road corridor adjoining 315-317 St Johns Road	Auckland Transport	27/8/14

Asset owner approval - trees	Jon Redfern, Auckland Council	22/10/14
Affected party approval	Gaech Chhoun (Fruit Shop)	14/11/14
Affected party approval	Kelvin Syme (Garden Centre)	14/11/14

2. This consent (or any part thereof) shall not commence until such time as the following charges, which are owing at the time the Council's decision is notified, have been paid in full:
 - a. All fixed charges relating to the receiving, processing and granting of this resource consent under section 36(1) of the Resource Management Act 1991 (RMA); and
 - b. All additional charges imposed under section 36(3) of the RMA to enable the Council to recover its actual and reasonable costs in respect of this application, which are beyond challenge.
3. The consent holder shall pay any subsequent further charges imposed under section 36 of the RMA relating to the receiving, processing and granting of this resource consent within 20 days of receipt of notification of a requirement to pay the same, provided that, in the case of any additional charges under section 36(3) of the RMA that are subject to challenge, the consent holder shall pay such amount as is determined by that process to be due and owing, within 20 days of receipt of the relevant decision.

Advice Note:

Development contributions levied under the Local Government Act 2002 may be payable in relation to this application. The consent holder will be advised of the development contributions payable separately from this resource consent decision. Further information about development contributions may be found on the Auckland Council website at www.aucklandcouncil.govt.nz.

4. Under section 125 of the RMA, this consent lapses five years after the date it is granted unless:
 - a. The consent is given effect to; or
 - b. The Council extends the period after which the consent lapses.
5. The consent holder shall pay the Council an initial consent compliance monitoring charge of \$540 (inclusive of GST), plus any further monitoring charge or charges to recover the actual and reasonable costs that have been incurred to ensure compliance with the conditions attached to this consent.

Advice Note:

The initial monitoring charge is to cover the cost of inspecting the site, carrying out tests, reviewing conditions, updating files, etc, all being work to ensure compliance with the resource consent. In order to recover actual and reasonable costs, inspections, in excess of those covered by the base fee paid, shall be charged at the relevant hourly rate applicable at the time. The consent holder will be advised of the further monitoring charge or charges as they fall due. Such further charges are to be paid within one month of the date of invoice. Only after all conditions of the resource consent have been met, will Council issue a letter confirming compliance on request of the consent holder.

Flooding

6. Flood sensitive electrical equipment shall include flood protection, and be located a minimum of 0.3 metres from the ground.

Noise

- ~~7. Within 20 working days of the premises operating under the provisions of this consent, the consent holder is to provide an acoustic report to the satisfaction of the Team Leader Central Monitoring. The report shall demonstrate that the proposal, when operating at maximum capacity within its approved hours complies with:
 - (i) the noise limits outlined in Rule 7.8.1.10 when assessed at all residentially zoned properties with the exception of 315-317 St Johns Road; and
 - (ii) a noise level of L_{40} 60dBA when assessed at the boundary of 315-317 St Johns Road.~~
- ~~8. If within the condition above the proposal does not comply with the requirements of the consented noise levels, then within 10 working days of the date that the noise report was submitted to the Council, the applicant shall submit and have approved details of works to be undertaken to ensure compliance with these noise levels. This report on works shall also specify time frames for the work to be done, interim control measures and the compilation of a further acoustic report demonstrating compliance with the above noise limits.~~

Noise

9. The consent holder shall ensure the noise level from activities within the site do not exceed the following limits when measured within:
 - (a) The boundary at 275 and 273 and the notional boundary (20m from the façade of the dwelling) at 279 St Johns Road:

<u>0700 – 2200 hours</u>	<u>55 dB L_{Aeq}</u>
<u>2200 – 0700 hours</u>	<u>45 dB L_{Aeq} and 75 dB L_{Amax}</u>
 - (b) The boundary of the sites at 315 – 317 St Johns Road (Lot 1 DP 74916 and Lot 2 DP 74916)

<u>At all times</u>	<u>60 dB L_{Aeq}</u>
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10. Noise levels shall be measured and assessed in accordance with the requirements of New Zealand Standards NZS 6801:2008 Measurement of Sound and NZS 6802:2008 Assessment of Environmental Sound.
11. Monitoring of noise emission levels shall be undertaken as received at 275 St Johns Road, during the period 2200 hours to 0700 hours during operation of the carwash for the purposes of checking compliance with the night-time limit of 45 dB L_{Aeq} and 75 dB L_{Amax} (Condition 9). This monitoring shall be undertaken by a suitably qualified Acoustic Engineer within four weeks of the full operation of the carwash commencing and the results reported to the Council within 14 days of the completion of the monitoring.
12. If required by the Council, following receipt of a reasonable and legitimate complaint of noise from occupiers in the vicinity, the consent holder shall undertake monitoring of noise emission levels within 5 days of notification by the Council at relevant

representative positions determined by the Council and the results reported to Council within 14 days of completion of the monitoring.

13. In the event of the monitoring, as required by 11 and 12 above, demonstrating that there is non-compliance with the noise limits of condition 9, the consent holder shall immediately cease the activity between the hours of 2200-0700 until such time as the consent holder can demonstrate that compliance with Condition 9 is achieved and details of the remedial action provided to the Council.

Tree removal

14. The consent holder shall directly contract the council arborist advisor Local Sports Parks, Central Area (Howell Davies on 301 0101) to arrange for the removal of the council owned Ash tree growing outside 277 St Johns Road, Meadowbank.
15. A council approved arboricultural contractor shall remove the tree located in the council verge area; unless prior written permission has been provided by Auckland Council.
16. A minimum of 10 working days' notice shall be given to enable the works to be programmed with the council contractor.
17. The consent holder shall be directly responsible for all costs (\$545 per tree) associated with the Ash removal (stump grinding if required) and replacement plantings of the tree (minimum size 80L/PB150)
18. Two replacement plants shall be planted within the road reserve near to the location of the Ash tree. This shall be to the satisfaction of Auckland Council's Team Leader – Central Monitoring, and be maintained thereafter by the consent holder, for a minimum duration of 1 year.

Earthworks

19. All earthworks shall be managed to ensure that no debris, soil, silt, sediment or sediment-laden water is discharged beyond the subject site to either land, stormwater drainage systems, watercourses or receiving waters. In the event that a discharge occurs, works shall cease immediately and the discharge shall be mitigated and/or rectified to the satisfaction of the Team Leader Central Monitoring.

Lighting

20. The consent holder shall within one month of commencement of operation of the lights, provide a lighting report prepared by a suitably qualified lighting engineer, to the satisfaction of the Team Leader: Compliance Monitoring, to confirm compliance with the lighting requirements of the Auckland Council Lighting Bylaws.

Advice notes

1. *The consent holder is reminded that the decision on this section 127 application does not affect the lapse period for the resource consent.*
2. *The consent holder shall obtain all other necessary consents and permits, including those under the Building Act 2004, and comply with all relevant Council Bylaws. This consent does not constitute building consent approval. Please check whether a*

building consent is required under the Building Act 2004. Please note that the approval of this resource consent, including consent conditions specified above, may affect a previously issued building consent for the same project, in which case a new building consent may be required.

3. *A copy of this consent shall be held on site at all times during the establishment and construction phase of the activity.*
4. *The consent holder is requested to notify Council, in writing, of their intention to begin works, a minimum of seven days prior to commencement. Such notification should be sent to the Resource Consent Monitoring Team Leader (email: rcmadmin@aucklandcouncil.govt.nz or fax: 353 9186) and include the following details:*
 - i) *name and telephone number of the project manager and the site owner*
 - ii) *site address to which the consent relates*
 - iii) *activity to which the consent relates*
 - iv) *expected duration of works*
5. *This consent does not relieve the consent holder of his/her responsibility to apply for any other consents which may be required by the Auckland Council and/or Heritage New Zealand Pouhere Taonga Act 2014.. This consent is issued under the Resource Management Act 1991 and does not remove the need to comply with all other applicable Acts (including the Property Law Act), regulations, Bylaws, and rules of law.*
6. *The scope of this resource consent is defined by the application made to Auckland Council and all documentation supporting that application.*
7. *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 Council within 15 working days of notification of the decision.*
8. *All earthworks shall be undertaken to ensure that all potential sediment discharges are appropriately managed. Such means and measures may include:*
 - i) *Catchpit protection*
 - ii) *run-off diversions*
 - iii) *sediment retention ponds*
 - iv) *silt and sediment traps*
 - v) *silt fences.*



Janine Bell

Duty Commissioner

25 January 2016

Attachment 1: Consolidated conditions of consent as amended.

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3. The consent holder shall pay any subsequent further charges imposed under section 36 of the RMA relating to the receiving, processing and granting of this resource consent within 20 days of receipt of notification of a requirement to pay the same, provided that, in the case of any additional charges under section 36(3) of the RMA that are subject to challenge, the consent holder shall pay such amount as is determined by that process to be due and owing, within 20 days of receipt of the relevant decision.

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10. If required by the Council, following receipt of a reasonable and legitimate complaint of noise from occupiers in the vicinity, the consent holder shall undertake monitoring of noise emission levels within 5 days of notification by the Council at relevant representative positions determined by the Council and the results reported to Council within 14 days of completion of the monitoring.
11. In the event of the monitoring, as required by 11 and 12 above, demonstrating that there is non-compliance with the noise limits of condition 9, the consent holder shall immediately cease the activity between the hours of 2200-0700 until such time as the consent holder can demonstrate that compliance with Condition 9 is achieved and details of the remedial action provided to the Council.

Tree removal

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13. A council approved arboricultural contractor shall remove the tree located in the council verge area; unless prior written permission has been provided by Auckland Council.
14. A minimum of 10 working days notice shall be given to enable the works to be programmed with the council contractor.
15. The consent holder shall be directly responsible for all costs (\$545 per tree) associated with the Ash removal (stump grinding if required) and replacement plantings of the tree (minimum size 80L/PB150)
16. Two replacement plants shall be planted within the road reserve near to the location of the Ash tree. This shall be to the satisfaction of Auckland Council's Team Leader – Central Monitoring, and be maintained thereafter by the consent holder, for a minimum duration of 1 year.

Earthworks

17. All earthworks shall be managed to ensure that no debris, soil, silt, sediment or sediment-laden water is discharged beyond the subject site to either land, stormwater drainage systems, watercourses or receiving waters. In the event that a discharge occurs, works shall cease immediately and the discharge shall be mitigated and/or rectified to the satisfaction of the Team Leader Central Monitoring.

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18. The consent holder shall within one month of commencement of operation of the lights, provide a lighting report prepared by a suitably qualified lighting engineer, to the satisfaction of the Team Leader: Compliance Monitoring, to confirm compliance with the lighting requirements of the Auckland Council Lighting Bylaws.

Advice notes

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3. *A copy of this consent shall be held on site at all times during the establishment and construction phase of the activity.*
4. *The consent holder is requested to notify Council, in writing, of their intention to begin works, a minimum of seven days prior to commencement. Such notification should be sent to the Resource Consent Monitoring Team Leader (email: rcmadmin@aucklandcouncil.govt.nz or fax: 353 9186) and include the following details:*
 - i) *name and telephone number of the project manager and the site owner*
 - ii) *site address to which the consent relates*
 - iii) *activity to which the consent relates*
 - iv) *expected duration of works*
5. *This consent does not relieve the consent holder of his/her responsibility to apply for any other consents which may be required by the Auckland Council and/or New Zealand Historic Places Trust. This consent is issued under the Resource Management Act 1991 and does not remove the need to comply with all other applicable Acts (including the Property Law Act), regulations, Bylaws, and rules of law.*
6. *The scope of this resource consent is defined by the application made to Auckland Council and all documentation supporting that application.*
7. *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 Council within 15 working days of notification of the decision.*
8. *All earthworks shall be undertaken to ensure that all potential sediment discharges are appropriately managed. Such means and measures may include:*

- i) Catchpit protection*
- ii) run-off diversions*
- iii) sediment retention ponds*
- iv) silt and sediment traps*
- v) silt fences.*