

# Decision as to notification of a resource consent application under the Resource Management Act 1991



**Applicant:** Manuka Catering Limited

**Site address:** 20 Seaview Road, Piha

**Legal description:** Lot 6 DP 40332

**Proposal:** Land use consent is sought to increase the Piha Café hours of operation by three hours from 7pm to 10pm daily, seven days a week. The café is currently authorised to operate between 7am – 7pm, seven days per week.

## Resource consents required:

### District land use consents (LUC-2014-230)

#### Auckland Council District Plan: Waitakere Section

- Limited discretionary activity consent is required under Coastal Villages Environment rule 8.3 for a non-residential activity involving an increase to the scale and/or intensity of an existing lawfully established non-residential activity which complies with the performance standards set out in rule 8.3(i)(a) and (b). Specifically, the proposed activity does not involve any additions to existing buildings or any new buildings, and retail sales would be limited to restaurant food.
- Limited discretionary activity consent is required under Coastal Villages Environment rule 9.3 for a non-residential activity involving an increase in vehicle trips to and from an existing lawfully established non-residential activity where that activity meets the standards of rule 8.3.

Overall the proposal is to be considered as a restricted discretionary activity.

## NOTIFICATION DECISION

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

Under section 95A this application shall not be publicly notified because:

1. The adverse effects on the environment of this proposal will be no more than minor because:

- a. The scale, character and intensity of the existing café complements the amenity values and neighbourhood character of the Piha community. The café is also appropriately located within a small hub of other community and commercial activities on Seaview Road, and is set-back from the road frontage.

The increase to the café's hours of operation is of a scale that will not noticeably detract from the prevailing amenity values and neighbourhood character, and will be consistent with a number of existing community facilities in Piha which already offer evening dining up to and beyond 10pm.

The café will be required to operate in a manner that complies with the permitted noise and artificial lighting levels for the Coastal Villages Environment. Subject to compliance with conditions of consent, the activity should have no more than a minor adverse effect on the prevailing amenity values and neighbourhood character of Piha, including its residential coherence, its characteristic levels of quietness (as anticipated by the District Plan) and darkness.

- b. Expert assessments have confirmed that any changes to the volume and nature of wastewater flows as a result of the proposed activity will be safely and effectively accommodated by the existing wastewater treatment system, and will remain within the scope of the existing wastewater discharge permit 33789. Any adverse wastewater or odour effects associated with the proposal will be less than minor and adequately mitigated by the conditions of both this consent and the existing wastewater permit;
  - c. The on-site parking facilities will cater for the majority of customers who arrive by vehicle. Any overflow parking during peak periods can be safely accommodated on Seaview Road. Traffic generation associated with the café's evening operations will be negligible in relation to existing traffic flows and can be safely accommodated by the road network. Overall the proposal is acceptable from a traffic engineering perspective and will have less than minor adverse effects on the safe and efficient operation of the road network.
2. There is no district or regional rule or National Environment Standard that requires public notification and nor has the applicant requested it.
  3. There are no other reasons, including special circumstances, to warrant notification.

Under section 95B of the Act this application shall not be notified on a limited basis because the Auckland Council District Plan (Waitakere Section) provides that written approvals of affected persons will not be required, nor in terms of limited notification does notice to adversely affected persons need to be served for limited discretionary activities.

There are no customary rights order holders in the Auckland region that would be affected by this proposal.

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



Leigh McGregor  
Duty Commissioner

Date: 9 May 2014

**Decision on a resource consent application under section 88 of the Resource Management Act 1991**



**Applicant:** Manuka Catering Limited

**Site address:** 20 Seaview Road, Piha

**Legal description:** Lot 6 DP 40332

**Proposal:** Land use consent is sought to increase the Piha Café hours of operation by three hours from 7pm to 10pm daily, seven days a week. The café is currently authorised to operate between 7am – 7pm, seven days per week.

**Resource consents required:**

**District land use consents (LUC-2014-230)**

Auckland Council District Plan: Waitakere Section

- Limited discretionary activity consent is required under Coastal Villages Environment rule 8.3 for a non-residential activity involving an increase to the scale and/or intensity of an existing lawfully established non-residential activity which complies with the performance standards set out in rule 8.3(i)(a) and (b). Specifically, the proposed activity does not involve any additions to existing buildings or any new buildings, and retail sales would be limited to restaurant food.
- Limited discretionary activity consent is required under Coastal Villages Environment rule 9.3 for a non-residential activity involving an increase in vehicle trips to and from an existing lawfully established non-residential activity where that activity meets the standards of rule 8.3.

Overall the proposal is required to be determined as a restricted discretionary activity.

## **DECISION ON THE APPLICATION**

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

Under sections 104 and 104C of the Act, this resource consent is **GRANTED**.

The reasons for this decision are:

- In terms of section 104(1)(a) of the Act, any actual and potential effects on the environment of the proposal are acceptable and any adverse effects will be adequately avoided, remedied or mitigated by compliance with appropriate conditions of consent. In particular:
  - The existing wastewater treatment system will adequately accommodate the increased wastewater flows associated with the extended operating hours of the café without adversely affecting the water quality of the receiving environment. Any adverse odour effects associated with cooking smells and the wastewater treatment system will be adequately avoided, remedied or mitigated.
  - The proposal is appropriate from a traffic engineering perspective. The on-site parking facilities at the café will cater for the majority of customers who arrive by vehicle. Any overflow parking during peak periods can be safely accommodated on Seaview Road. Traffic generation associated with the extended hours for the café will be negligible in relation to existing traffic flows and can be safely accommodated by the road network.
  - Adverse effects on the amenity values and neighbourhood character of the Piha community will be adequately avoided, remedied or mitigated by compliance with the conditions of consent which require that the activity is to comply with the permitted noise and lighting standards for the Coastal Villages Environment.
  - The extended hours of operation will enable a more efficient use of the existing café premises, thereby providing for the economic wellbeing of the café operator and employment opportunities for local residents without detracting from the prevailing amenity values;
  - The extended hours of operation would provide for the social wellbeing of local residents and visitors by enabling an opportunity for evening dining in Piha.

- In terms of section 104(1)(b)(vi) the proposal is consistent with the relevant objectives and policies of the Operative Auckland District Plan: Waitakere Section including (but not limited to) the recent amendments made by Plan Change 36.
- For the purpose of section 104(1)(c) of the Act the application is consistent with the purpose and objectives of the Waitakere Ranges Heritage Area Act 2008.

## **CONDITIONS OF CONSENT**

Under section 108 of the Act, this consent is subject to the following conditions:

### **General 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 LUC-2014-230:
  - Application form and Assessment of Environmental Effects prepared by Campbell Brown Planning Limited, dated 19 February 2014; and
  - Plans prepared by Toa Limited dated April 2011, including:
    - Sheet RC100 Revision 3, titled Proposed Coverage Plan; and
    - Sheet RC02 Revision 2, titled Proposed Elevation
  - Traffic Assessment prepared by Traffic Engineering and Management Limited, dated 2 February 2014
  - Wastewater Assessment prepared by Ormiston Associates, dated 18 February 2014 and the supplementary report dated 20 March 2014 (both referenced as "1908/2689")
  - Acoustic assessment prepared by Styles Group, dated 12 February 2014.
2. This consent (or any part thereof) shall not commence until such time as the following charges, owing at the time this decision is notified, have been paid to the Council in full:
  - a. All fixed charges relating to receiving, processing and granting this resource consent under section 36(1) of the Act; and
  - b. All additional charges imposed under section 36(3) to enable the Council to recover its actual and reasonable costs in respect of this application, being costs which are beyond challenge.

3. The consent holder shall pay any subsequent further charges imposed under section 36 of the Act relating to receiving, processing and granting 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) 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.

### **Lapse of Consent**

4. Under section 125 of the Act, this consent will lapse five years after the date of its commencement unless:
  - a. The consent is given effect to; or
  - b. On application by the consent holder the Council extends the period after which the consent will lapse.

### **Consent Compliance Monitoring Charge**

5. The consent holder shall pay the Council an initial consent compliance monitoring charge of \$520 (inclusive of GST), plus any further monitoring charge or charges to recover the actual and reasonable costs incurred to ensure compliance with the conditions of this consent.

#### **Advice Note:**

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

### **Patron Numbers**

6. The number of seated patrons (including indoor and outdoor areas) must not exceed 35 persons at any one time.

### **Operating Hours**

7. This consent authorises the café to be operated between the hours of 7pm – 10pm, seven days per week only.

#### **Advice Note:**

*The existing consent LUC 2007-0252 authorises the café to be operated between 7am and 7pm. That consent is to be read in conjunction with this consent.*

## **Wastewater**

8. The wastewater disposal system must be constructed, operated and maintained in accordance with the report by Ormiston Associates Limited entitled 'On-site Wastewater Treatment and Land Disposal Assessment for Proposed Café at 20 Seaview Road, Piha' dated December 2006, and further information letters supplied to the Auckland Council dated 14 April 2007, 15 June 2007, and 19 September 2007, and in accordance with terms and conditions of the ARC Wastewater Consent No. 33789 and those terms and conditions shall prevail in the event of any conflict.
9. Wastewater flow must not exceed 3,300 litres per day.
10. No coffee grinds, cooking and edible oils, milk, wine or other materials that may compromise the efficient functioning of the wastewater system are to be discharged to the approved wastewater system.
11. An amended kitchen management plan must be produced by the consent holder to identify methods for achieving compliance with condition 10, including details of waste wine storage and offsite disposal at a suitable location. The amended kitchen management plan is to be submitted to the Manager: Resource Consents for approval prior to café opening later than 7pm for the first time. The approved kitchen management plan is to be implemented, and maintained for the life of the consent.
12. High water level alarms must be included in all pump chambers and an audible alarm installed in the café building. In the event of the alarm sounding, the wastewater system must be immediately inspected by the consent holder for functionality and the Auckland Council Plumbing and Drainage Inspector contacted on telephone (09)301-0101.
13. All vents of the approved wastewater system shall be fitted with carbon filters to reduce odour emissions.
14. Pursuant to section 128 of the Act, six months following commencement of this consent and at 12-monthly intervals for the next six years thereafter, the Council may serve notice on the consent holder of its intention to review conditions of this consent relating to the wastewater discharge, for the purpose of dealing with any adverse effect on the environment which may arise from the exercise of the consent and which it is appropriate to deal with at a later stage. If appropriate, the Council may require adoption of the

best practicable option to remove or reduce any adverse effect on the environment.

### Traffic

15. The approved car park (#10) located to the east of the café building shall be sign-posted and otherwise utilised for staff car parking only.
16. Service vehicles shall access the site only in the one-hour period immediately at the start and finish of opening hours of the café.

### Odour

17. No noxious or offensive or objectionable odours shall be discernible at the boundaries of the site at any time. Solid waste shall be collected/removed from the site at a minimum frequency of once per week in order to avoid odour nuisance.

### Noise

18. Noise emissions from activities at the site shall not exceed the following noise limits as measured from within any other site in the Coastal Villages Environment:

7.00am - 7.00pm Monday - Saturday		7.00pm - 10.00pm Monday – Saturday	
7.00am - 10.00pm Sundays & Public Holidays			
$L_{10}$ 50dBA	$L_{Max}$ n/a	$L_{10}$ 45dBA	$L_{Max}$ n/a

- a. Except for land to the east of the site boundary enclosed by lines at a 45° angle from the extended eastern boundary line, commencing at the north-eastern corners of the subject site for which the applicable noise limit is 50 dBA  $L_{10}$  applying to all days of the week between the hours of 7:00am and 7:00pm;
- b. The noise shall be measured in accordance with the requirements of NZS6801:1991 *Measurement of Sound* and assessed in accordance with the requirements of NZS6802:1991 *Assessment of Environmental Sound*;
- c. Prior to the café opening beyond 7pm for the first time, the 1.8m high glass screen authorised by the consent LUC-2010-1290 (refer Sheet RC100 Rev 3) must be constructed on the western boundary along the length of the uncovered deck to the satisfaction of the Team Leader, Western Resource Consenting & Compliance. Existing acoustically

effective fencing on the eastern side of the site shall be maintained to control noise from the site and to achieve compliance with the noise limits in condition 18 a and b (above);

- d. Monitoring of noise emission levels shall be undertaken within three months of the café opening beyond 7pm for the first time, in accordance with the relevant New Zealand acoustic Standards and provided to the Auckland Council within 10 days of completion;
- e. Monitoring of noise emission levels shall be undertaken by the consent holder at any time following a reasonable request from the Auckland Council to do so;
- f. In the event of non-compliance with conditions 18(a) and/or 18(b), the consent holder shall take immediate steps to achieve compliance within two weeks of being made aware of the non-compliance. If compliance is not achieved within two weeks, the activity shall cease until compliance is achieved. Further monitoring shall be undertaken in accordance with the requirements of conditions 18b and 18d (above).

19. Music, whether live or recorded, is not permitted to be played on the site outside the café building at any time.

20. Between the hours of 7pm and 10pm, the café shall comply with the following operational requirements to reduce noise effects:

- a. The café shall offer indoor dining only and the outdoor area shall be closed to patrons;
- b. the hatch in the eastern wall of the cafe is to be kept closed;
- c. any music played indoors is kept to a very low background ambient level that does not interfere with normal speech; and
- d. The car park is to be vacated by 10pm.

21. Prior to the café opening for the first time beyond 7pm, the consent holder shall submit a noise management plan (“NMP”) to the Team Leader, Western Resource Consenting and Compliance for approval. The NMP shall include the measures required by conditions 18 to 20 and also address the following matters:

- a. measures to control number and/or behaviour of people, including smokers, who will be required to use the outdoor area after 7pm; and
- b. Provide a process for handling and responding to noise complaints.

The approved NMP is to be implemented and maintained by the consent

holder.

22.Pursuant to section 128 of the Act, six months following the commencement of this consent and at 12-monthly intervals for the next six years thereafter, the Council may serve notice on the consent holder of its intention to review conditions of this consent relating to noise, for the purpose of dealing with any adverse effect on the environment which may arise from the exercise of the consent and which it is appropriate to deal with at a later stage. If deemed appropriate the Council may require adoption of the best practicable option to remove or to reduce any adverse noise effect on the environment.

### **Lighting**

23.All artificial outdoor lighting on the site:

- a. Shall not result in more than 10 lux spill (horizontal and vertical) of light as measured at any part of the boundary of an adjoining site; and
- b. Shall be shielded in such a manner that light emitted by the fixture is projected below a horizontal plane running through the lowest point on the fixture where light is emitted, or is shielded in such a manner that the lower edge of the shield is at or below the centre line of the light source; and
- c. Shall comply with AS/NZS 1158.



**Leigh McGregor**  
**Duty Commissioner**

Date: 9 May 2014