



MT HOBSON GROUP
Town Planning & Resource Consent Solutions

4 November 2013

Auckland Council
Attn: Karen Long
Private Bag 92300
Auckland 1142

Dear Karen

106-108 Albert Street, Auckland Central – Application to Vary the Consented Mixed Use Development to Facilitate a Hotel with Ancillary Areas, Residential and Retail Development.

On behalf of our clients, NDG, we enclose an application for resource consent. Accordingly, accompanying this application is the following:

- Completed application forms, base deposit cheque and Certificate of Title
- Plans and Urban Design Statement by Paul Brown Architects
- Assessment of Environmental Effects by Mt Hobson Group
- Legal Opinion by BerrySimons
- TIA by TPC
- Wind Assessment by UniServices
- Infrastructure report by Norman, Disney and Young
- Construction Comment by Scarborough Construction

The information within this application is sufficient for reaching a decision on non notification and as a result it would not be appropriate to return the application via the provision of s88 of the Act. The writer is the contact person on either email nick@mhg.co.nz or by phone 950 5108.

We consider the attached information sufficient for the assessment of the application and to enable the Council to reach a determination that the proposal is appropriate for approval.

Yours Sincerely

Nick Mattison

Level 1, 24 York Street, Parnell, Auckland 1010
Postal Address: PO Box 37964, Parnell, Auckland. 1151
www.mthobsonproperties.co.nz Email: nick@mhg.co.nz
Ph: 09 950 5108 Fax: 09 9205111 Mob: 027 241 3936

Form A

Application for resource consent



Resource Consents Department Under Section 88 of the Resource Management Act 1991

To: Auckland Council
Private Bag 92300
Auckland 1142

You may post or deliver your application to your nearest Auckland Council service centre.

This form provides the council with your contact information and details about your proposal. If you need help completing this form or you are unsure about which form to use, visit www.aucklandcouncil.govt.nz/resourceconsents where you will find helpful guidance notes, or contact the council on 09 301 0101.

If you fail to complete this form and provide the necessary information, including the deposit fee, your application may not be accepted for processing.

Office use only
Application no(s):
Receipt date:
Deposit paid:
Consent:
<input type="checkbox"/> District
<input type="checkbox"/> Regional
<input type="checkbox"/> Integrated
Stream number:

1. Site location details

Site(s) to which this application relates is described as:

No: 106 - 108 Street: Albert

Suburb: **Auckland Central**

Legal description(s)

2. General application details

This application is for (tick all the boxes necessary to cover the proposal):

District consent

- Land use consent (District/ City) Subdivision consent

Relevant operative district plan section

- Auckland Central Area Auckland Gulf Islands Auckland Isthmus
- Franklin Manukau North Shore
- Papakura Rodney Waitakere

Regional consent

- Discharge permit Coastal permit Water permit
- Land use consent (Regional) Other (give details)

Relevant operative regional plan

- Coastal Sediment control Air, Land, Water
- Farm dairy discharges

Consent under the Proposed Auckland Unitary Plan (PAUP)

- Land use consent (District) Discharge permit Water permit

Postal address: (If different from above)

Postcode:

Phone (day):

Mobile: 022 419 0332

Email: xiantou74@hotmail.com

Please tick if email preferred contact

The applicant is the:

- Owner
 Occupier
 Leasee
 Prospective purchaser (of the site to which the application relates)
 Other (please specify)

Name and address of owner of land to which the application relates: (If different from above)

Name: FuRu Ding

Address:

Postcode:

5. Agent's or consultant's details (All correspondence will be sent to the agent and may also be sent to the applicant unless otherwise stated in Section 6.)

Company: MHG

Contact: Nick Mattison

Postal address:

PO Box 37964, Parnell, Auckland
Postcode: 1052

Phone (day): (09) 950 5108

Mobile: 027 241 3936

Email: nick@mhg.co.nz

Please tick if email preferred contact

6. Alternative addresses for correspondence and payee of invoices

All correspondence (excluding invoices) sent to:

- Applicant
 Agent/Consultant
 Other (name and address)

Name:

Address:

Postcode:

All invoices made out to and sent to:

- Applicant Agent/Consultant
- Other (name and address)

Name:

Address:

Postcode:

7. Description of proposed activity (If insufficient space, please provide on additional pages.)

s127 to vary the approved mixed use (retail and apartment) consented development to be replaced with a mixed use (retail, cinema, apartments and ancillary areas) development consisting of basement parking, a podium and tower.

8. Pre-application information

Have you had a pre-application meeting with the council regarding this proposal?

- Yes No Copy of minutes attached

Date of meeting: Numerous with Karen Long and associated staff

If 'yes', provide the reference number and/or name of staff member: Karen Long

9. Site visit requirements

9.1 Is there a locked gate or security system restricting access by council staff?

- Yes No

9.2 Is there a dog on the property?

- Yes No

9.3 Provide details of any entry restrictions or hazards that council staff should be aware of, e.g. health and safety, organic farm, measures to inhibit the transfer of Psa-V etc.

None

10. Notification of your application

Are you requesting that the application be publicly notified?

- Yes No

If 'yes', please provide an executive summary below and an electronic version of your application for notification purposes.

Please refer to the Standards for submitting documents electronically found at the council's website

www.aucklandcouncil.govt.nz/resourceconsents

11. Information to be submitted with your application

To satisfy the requirements of Section 88(2) of the Resource Management Act 1991 (RMA), please attach the following information to your application.

- Four copies (including one unbound) of all information, including plans, for all applications. If you are providing a PDF CD version of all information, only two hard copies are required. Refer to Guidance note 2 for guidance on the preparation of plans.
- Application deposit fee – Refer to the council's Fees and charges schedule. Indicate method of payment below.

<input checked="" type="checkbox"/> Cheque attached Amount paid \$ 750	<input type="checkbox"/> Credit card
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<input type="checkbox"/> Customer account Customer account number:

- Certificate(s) of Title less than three months old for the site to which this application relates. Attach the title and any consent notices, covenants, easements attached to the title if relevant or affected by the proposed activity.
- Locality plan or aerial photo. Indicate the location of the site in relation to the street and other landmarks. Show the street number of the subject site and those of adjoining sites.
- Detail(s) of the resource consent(s) being applied for including reference to specific rule(s) and reasons for consent.
- An assessment of effects on the environment in accordance with Schedule 4 of the RMA at a level of detail that corresponds with the scale and significance of the effects that the proposed activity may have on the environment. This may require one or more technical specialist reports. Include a full description of the proposed activity, the effects that may be generated and how these would be managed. For more information refer to Schedule 4 of the RMA and the council's Guidance note 3.
- The Proposed Auckland Unitary Plan (PAUP) was notified on 30 September 2013. Some rules in the PAUP have legal effect from that date, in accordance with Section 85B of the RMA. Where the proposal infringes one or more of these rules, additional consent applications are required. Please ensure that the assessment of environmental effects that accompanies your application(s) includes reference to and consideration of any PAUP requirements.
- Include other information required by the relevant section of the operative district plan, an operative regional plan, the PAUP, the RMA or any regulations made under that act.
- Include details (name, postal and site address) of consultation undertaken (including with iwi) and any responses from persons consulted. For more information refer to schedule 4 of the RMA and Guidance note 1.
- A completed Form B where relevant to your application.

12. Additional information – for regional consents or permits only under operative regional plans or the PAUP

12.1 Map reference of proposed works: mE mN

Use New Zealand Transverse Mercator (NZTM), e.g. 1756730mE 5919740mN.

Ensure that the location of your activity is marked to an accuracy of 10 metres on your location plan. You can obtain your map coordinates and an aerial photo from the Auckland Council GIS viewer found on the home page of the council's website, www.aucklandcouncil.govt.nz

12.2 Please provide the map reference of discharge points if relevant.

Map reference of proposed discharge or take point(s): mE mN

Is the discharge/take location on the same property as the application site?

- Yes No

If 'no', complete the details below.

Name or property owner: (If not the same)

Address:

Postcode:

Legal description:

- Documentation confirming easement and/or covenants for wastewater, including a certificate of title for the property where the discharge occurs.

If required, also attach land owner approval.

12.3 Give the name of any stream, river or lake (or if the stream is unnamed, state which water body it is a tributary of).

Stream name: or tributary of:

12.4 Please indicate the duration for which you are requesting a permit (if relevant):

. years

13. Signature of the applicant(s) or agent

Please read these notes before signing the application form

Payment of fees and charges

The council may charge the applicant for all costs actually and reasonably incurred in processing this application. Subject to the applicant's rights under sections 357B and 358 of the RMA to object to any costs, the applicant undertakes to pay all and future processing costs incurred by the council. The council may issue interim invoices for applications. If any steps, including the use of debt collectors and/or lawyers, are necessary to recover unpaid processing costs, the applicant agrees to pay all collection costs. If this application is made on behalf of a trust (private or family), a society (incorporated or unincorporated) or a company, in signing this application the applicant binds the trust, society or company to pay all the above costs and guarantee to pay all the above costs in their personal capacity. Refer to the council's Fees and charges schedule found at: www.aucklandcouncil.govt.nz/resourceconsents

Note: Some regional permits include ongoing annual charges in addition to the processing fee. These are payable by the consent holder.

Development and financial contributions

When granting consent to certain activities, the council may levy a monetary contribution. Development contributions are levied under the Local Government Act 2002 in accordance with the council's Development Contribution Policy. Financial or reserve contributions are levied under the RMA under the relevant operative district plan or the PAUP. When such contributions become due, the consent holder is responsible for their payment. Unless otherwise advised, the name and contact address of the person responsible for payment of any contributions will be taken as the applicant.

Alternative contact and address for development and financial contributions:

Name:

Address:

Postcode:

Site visit

By signing this form, if you are the owner of the application site, you confirm that the council may undertake a site inspection.

Privacy information

The council requires the information you have provided on this form to process your application under the RMA and to collect statistics. The council will hold and store the information, including all associated reports and attachments, on a public register. The details may also be made available to the public on the council's website. These details are collected to inform the general public and community groups about all consents which have been processed or issued through the council. If you would like to request access to, or correction of any details, please contact the council.

Declaration for the applicant or authorised agent or other


I/we confirm that I/we have read and understood the notes above.

If a private or family trust is the applicant, at least two New Zealand-based trustees are required to provide contact details and sign this form.

Applicant's name: **Ding Furu**

Applicant's signature:

Date: **29 October 2013**

Applicant's name: 

Applicant's signature:

Date:

Applicant's name:

Applicant's signature:

Date:

Declaration for the agent authorised to sign on behalf of the applicant

As authorised agent for the applicant, I confirm that I have read and understood the above notes and confirm that I have fully informed the applicant of their/its liability under this document, including for fees and other charges, and that I have the applicant's authority to sign this application on their/its behalf.

Agent's full name:

Agent's signature:

Date:

Auckland Council, Private Bag 92300, Auckland 1142
Phone: 09 301 0101

Auckland City District Plan – central area section



Form B1

Office Use Only:	
Application No:	_____
Receipt Date:	_____
Deposit Paid:	_____

Attach four copies of any information identified in Form B in support of this application. This form and checklist is intended as a guide to help you to ensure that all the required information is submitted with your application. The level of information should be both relevant and appropriate to the scale of the proposal and reflected in your Assessment of Environmental Effects. This may require the need for Specialist(s) Reports.

Please ensure you complete this form in full and include with your application. **This form needs to be attached with Form A when submitting an application.** Delays in processing the application will occur if inadequate information is supplied.

This checklist is not exhaustive and you may be required to submit other information with your application. During the course of processing the application it may be identified that further information is required to continue with the assessment to enable a better understanding of the effects of the application.

SECTION 1

1.0 GENERAL

I have attached information as per information requirements for Resource Consents, as specified in the Auckland City District Plan 2004 – Central Area Section – Clause 15.3.2.

I have attached the following specialist(s) report(s) (provide title, author and date in the space below).

Urban Design Statement - Paul Brown Architects.
Legal Opinion - Berry Simons.
ITA by TPC.
Wind Assessment - Uni Services.
Infrastructure Report - Norman, Disney & Young
Construction Comment - Scarborough Construction.

I have attached plan(s) prepared in accordance with Guidance Note 1, Preparation of Plans.

- Site Plan showing the EXISTING situation on the subject site.
- Plan/s showing the PROPOSED Activity
- Elevation Drawings of all buildings / structures to be built or altered
- And/or
- General Subdivision requirements (applicable to subdivision applications only)

In addition to the guidance notes I have attached plans that identify the following.

Drawings

- a) Elevations of the proposed building(s). These should show:
 - i) The external appearance of the building including doors and windows.
 - ii) Height relative to mean street level or ground level, whichever is applicable.
 - iii) Maximum permitted height marked showing the effect of the volcanic view shafts and the admission of sunlight planes to public places.
 - iv) Mean street level.
- b) Floor Plan
 - i) These should show the use of all parts of the building including basement levels, lift towers, car parking, etc.
 - ii) Where a bonus is sought this should be shown on separate plans as a defined area.

Floor Area Calculations / information

Calculations of the gross floor area of any proposed building are required. These should include:

- a) site area
- b) gross floor area of the building(s) at each and every level
- c) calculation of Mean Street Level for each street frontage
- d) A schedule of development bonuses sought, references to the plans, and stating:
 - i) development bonus element
 - ii) gross area occupied by the development bonus or the number of bonus elements provided
 - iii) bonus floor area sought.

1.0 GENERAL contd

- e) A schedule of any exemptions being sought from gross floor area or average floor area calculation (referenced to the plans) specifying the activity for which exemption is sought and the floor area it occupies.
- f) Calculation of average floor area, calculated floor area, permitted gross floor area, proposed gross floor area, and maximum total floor area ratio.

Traffic / Car Parking Information

The following information is required:

- a) Number of car and loading spaces permitted/required by the Plan.
- b) Number of car and loading spaces proposed for the development.
- c) Type of spaces, ie, short-term public visitor, or leased or commuter parking.
- d) Ramp grades and levels.
- e) Warning devices (if proposed).

Design Details

Detailed information is required on the following aspects where they are relevant to the application:

- a) The design, layout and detailed treatment of any bonus element classed as a pedestrian facility (eg plaza) or landscaping.
- b) Wind, sunlight and shading information.
- c) Type and colour of materials to be used on building exteriors.
- d) Type, colour and degree of reflectivity of glazing.
- e) Design of verandahs (where these are required by the Plan).
- f) Perspective of the proposal from street level.

Wind tunnel tests are often required. The results of the tests should, where possible, be included with the application.

Additional Information which may be required

- a) Where a development is proposed within an area subject to special controls, eg, Karangahape Road frontage height and setback control, sufficient detail shall be supplied to enable an assessment of the proposal in terms of the special control requirements.
- b) Where an application is affected by the volcanic cone visual protection plane, the details of any infringement should be stated and a photograph supplied showing the infringement in relation to other buildings in the City and in relation to the volcanic cone whose view is protected.
- c) Where an application relates to a building which does not comply with the development controls for a permitted activity, sunlight and shading plans may be required showing shading effects of the building(s) on the adjacent street and other public places. Check with City Planning staff as to specific details.

SECTION 2

2.0 PLANNING OVERLAY MAP ANALYSIS

- Strategic Management Area Precinct Activity Area
- General Height Control Special Height Control
- Site Intensity (calculations to be provided) Bonus Area (calculations to be provided)
- Designations Has the requiring authority's approval been obtained? (if this is an outline plan of works application you do not need to use this checklist, instead refer to s176A of the Resource Management Act 1991)
- Heritage items Please contact Council's Heritage Department and discuss the proposal prior to the lodgement of the application.
- Transportation Controls:
 - Road Classification
 - Parking Type
 - Vehicle access restriction / interchange control?
- Limitations (eg contamination, soil warning area, flood plain)

SECTION 3

3.0 GENERAL PLAN REQUIREMENTS

Is the subject site contaminated; have chemicals been stored/sprayed used previously on the site (e.g. formerly used for horticultural purposes, or industrial activities) – refer Part 11 of the Plan:

<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
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If yes, a soil contamination assessment from a suitably qualified person may be required to be provided with the application.

3.0 GENERAL PLAN REQUIREMENTS contd

Does the proposal involve significant earthworks?

<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
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If yes, a site management plan may be required to be provided with the application, this should detail (but not limited to) the following: sediment and erosion control plan; timelines; noise and dust controls; hours of operation.

Does either the site and /or proposal involve the storage or use of hazardous substances?

<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
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If yes, provide an appropriate assessment in terms of the matrix in Part 11 of the Plan.

Does the site contain any scheduled items and/or heritage areas?

<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
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Please contact Council's Heritage Department and discuss the proposal prior to the lodgement of the application.

Does the proposal involve works to a street tree or a tree in an open space precinct?

<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
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Refer Part 14.2 of the Plan - Council's ACR Services' landowner approval will be required and it is recommended that approval is obtained prior to lodgement of the application.

Is the proposal for or part of a network utility service?

<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
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If, yes provide adequate assessment of the proposal in relation to Part 12 of the PDP. Technical reports may also be required.

Does the proposal include any signs?

<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
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Identify these on the plans, including scale and type and provide an assessment.

Does the proposal comply with the General Development controls of Part 6?

<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
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In all cases indicate compliance or otherwise with the relevant controls, where there is non-compliance provide adequate assessment.

Does the proposal comply with the Noise, Signs & Artificial Lighting rules of Part 7?

<input checked="" type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
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Note: Noise reports with recommendations and mitigation measures may be required from a suitably qualified consultant for construction projects, residential developments, food & beverage and entertainment activities. (note: this is not an exhaustive list, and Council may request a noise report where compliance with noise rules requires confirmation).

Does the proposal trigger need for a Financial Contribution?

<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
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(Part 8 – Financial Contributions, Part 14.7 - Viaduct Harbour Precinct, or Part 14.9 – Wynyard Quarter)?

SECTION 4

4.0. PRECINCT AND ACTIVITY AREA RULES

Refer to the specific requirements for your proposal:
Where appropriate provide an assessment against the Objectives and policies and Assessment Criteria.
Confirm compliance with or provide an assessment against the relevant Development Controls— include calculation tables.

For Wynyard Quarter, does the proposal involve approval for a comprehensive area structure plan?

<input type="checkbox"/> Yes	<input type="checkbox"/> No
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Refer to information requirements of clause 14.9.8.1.

For Wynyard Quarter, does the proposal provide 10 or more car parking spaces or result in an average daily traffic generation of 100 movements of more or otherwise require a travel demand management plan?

<input type="checkbox"/> Yes	<input type="checkbox"/> No
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4.0 PRECINCT AND ACTIVITY AREA RULES contd

For Victoria Quarter, does the proposal provide 25 or more car parking spaces or result in an average daily traffic generation of 100 movements or more?

<input type="checkbox"/> Yes	<input type="checkbox"/> No
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Refer to information requirements of clause 14.10.7.2.19 relating to travel demand management plans.

SECTION 5

5.0 TRANSPORTATION (PART 9 OF THE PLAN)

Does the proposal comply with the parking and loading requirements for the activity?

<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
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Provide a table showing existing and proposed requirements; and relevant parking maximums.

Does the proposal comply with carpark dimensions, manoeuvring requirements and gradients of parking spaces and driveways?

<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
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Show compliance and assess areas of non-compliance. A report from a suitably qualified consultant to address areas of non-compliance may be required.

Does the proposal include parking for more than 100 vehicles? (excluding parking ancillary to existing Port activities)?

<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
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Does the proposal include vehicle access located within an Identified Interchange Control Area?

<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
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(Overlay Map 7 and clause 9.7.3.6)

Does the proposal include vehicle access to a site subject to a Vehicle Access Restriction?

<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
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(clause 9.7.3.5)

Does the proposal include vehicle access within a Defined Road Boundary?

<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
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(clause 9.7.3.7)

Does the proposal include car parking in excess of Clause 9.7.17?

<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
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Does the proposal involve the transfer and utilisation of unrealised parking within the Tertiary Education Precinct in accordance with clause 9.7.17?

<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
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SECTION 6

6.0 SUBDIVISION RULES (PART 14 OF THE PLAN)

Is the proposal for a cross lease, unit title or company lease?

<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
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Provide sufficient information to demonstrate that the buildings have existing use rights, comply with the district plan, or have resource consent.

6.0 SUBDIVISION RULES (PART 14 OF THE PLAN) contd

Does the proposal require works on a neighbouring site?

<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
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A right of entry consent from the owners of these sites is required.

SECTION 7

7.0 OTHER REQUIREMENTS AND OTHER LEGISLATION

Does the proposal involve a building listed on the New Zealand Historic Places Trust register?

<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
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If yes it is recommended you obtain NZHPT written approval prior to lodgement of the application.

Does the proposal involve works on land owned by the Council, e.g. a reserve or park?

<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
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Council's ACR Policy landowner approval will be required and it is recommended that approval is obtained prior to lodgement of the application.

Does the proposal require the separation of or upgrading of any stormwater or water lines?

<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
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Contact Council's Development Engineering team prior to lodgement of the application.

Does your Certificate of Title contain a limited as to parcels limitation?

<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
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Obtain written confirmation from a registered surveyor that the boundary lines are accurate and the coverage calculations appropriate prior to lodgement of the application.

Will your proposal require the removal of a building line restriction from your Certificate of Title?

<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
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Contact Council's Transport Department for more information.



MT HOBSON GROUP

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S127 RESOURCE CONSENT APPLICATION

106-108 ALBERT STREET, AUCKLAND CENTRAL

**VARIATION TO CONDITIONS OF CONSENT TO PROVIDE FOR AN ALTERNATIVE
DESIGN WITH INCREASED PODIUM HEIGHT AND THE ESTABLISHMENT OF A
HOTEL OPERATION IN THE TOWER**

APPLICANT – NDG ASIA PACIFIC (NZ) LIMITED



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APPLICANT AND SITE DETAILS

APPLICANT:	NDG Asia Pacific (NZ) Limited
SITE:	106-108 Albert Street, Auckland Central
AREA:	4,417m ²
LEGAL DESCRIPTION:	Lot 1 DP 339812

1.0 Proposal and Background

Background

- 1.1 Consent was sought to develop the inner city site located between Elliot Street, Victoria Street West and Albert Street. The application was publicly notified on 14 January 2007, with 20 submissions being received by the Council, including 2 late submissions. A public hearing was held on 24, 25 and 27 September 2007. The following synopsis of the proposal was incorporated in to the commissioners' decision:

"The building the Applicant intends to construct will be comprised of 6 levels of underground basement parking for 481 vehicles to be accessed from the lower part of Albert Street, a three level retail shopping podium to occupy the full width of the sit, and a 57 level residential tower to be located on top of the podium and on its western half.

The residential tower will contain 259 apartments designed to comply with the standards set by Plan Change 2 to the District Plan, and will also include two sky gardens to break up the façade of the building, to assist with wind mitigation particularly at podium and street level, and also to provide common areas for the occupiers of the apartments. The retail podium will include landscaped areas as will the tower which will contribute both to the streetscape and to the outlook gained from a number of surrounding buildings. The development will accommodate a range of activities including residential apartments, retail outlets, food and beverage activities, and other uses permitted by the District Plan.

The building design includes public pedestrian through-links inside the retail podium from Elliot Street to Albert Street and Victoria Street West, as well as an enclosed escalator access directly from Elliot Street to Albert Street on the southern exterior of the podium. In its evidence, the Auckland Regional Transport Authority supports the connectivity, accessibility and public access that will be provided by



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the redeveloped site as it would be efficient in terms of integrating land use and transport. On Albert Street, this public pedestrian access will exit onto a plaza which will link with the one already established outside the adjacent Rifleman Building. The public pedestrian areas within the new building will be closed overnight and there will be no public viewing from the residential tower at any time.

When completed, Elliot Tower will be the second tallest building in the central city and highly visible on the skyline. Under the Auckland District Plan (Central Area Section) an applicant is entitled to build to the height and size that this Applicant proposes. In fact, this will be a less bulky building than might otherwise be built, though somewhat higher, given the tower footprint only covers around 20% of the site. The fact that the tower on the development is to be used for residential purposes means that outlook and light will be maximised. A 1:13 floor plate would be permitted as a result of residential bonuses but is not being fully utilised in this case.

The site is located within the Core Strategic Management Area where building height is unlimited other than by special height controls that ensure sunlight access is maintained to Albert Park and to Aotea Square. There is no infringement of these controls, nor of the sightlines to the Museum and to Mount Eden which are included in the District Plan provisions.

The District Plan does not direct that central area development take a particular form or skyline outline. The current dominance of the city's skyline by the Sky Tower, as well as the views to be obtained from that structure, is not protected by the District Plan nor by any other method."

- 1.2** These matters have been specifically addressed in the decision (**Attachment 1**). After the first pre application meeting with the Council for the new development concept upon the site with consent sought via the provisions of s127 of the RMA it was considered important to understand the evolution of the original consent and how only the above issues were left by the time of the hearing. This context is considered important to understand whether the latest proposal is not generating effects which previously were considered inappropriate. If this was the case the provisions of s127 would not be suitable as the proposal would not be the same or similar with respect to the effects it generates upon the environment.

The proposal was the subject of numerous pre-application meetings with Council Staff and four presentations to the Urban Design Panel.

1.3 Urban Design Panel Comments: 16 February 2006



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The panel considered that the design approach now adopted offers significant potential for a high quality development of this site.

The panel appreciates the opportunity to view the proposal at an early stage and looks forward to reviewing design development.

A. The panel considers the following to be fundamental in urban design terms:

- (i) That further study of the proposal within the macro scale of the CBD and beyond be undertaken, in particular to ensure the fulfilment of Proposed Plan Change: Plan Modification No 2 (5) (a) (8) (1):

"(a) Building design should be of the highest quality, showing creativity, innovation and responsiveness to the local context in a way that contributes to the identity of Auckland at every scale including the appearance of the CBD from outside the Central Area, the CBD skyline, streets, neighbourhoods and Quarters/Precincts."

On the basis of the concept design as presented the panel has concerns about the overall height of the building given its uniform footprint at all residential levels.

- (ii) That the design of the façade of the residential tower be developed to achieve excellence in modulation and appearance. The panel considers that the removal of the top sky garden represents a loss to the design.
- (iii) That the podium design be developed in order to achieve long term, viable active street edges at all podium levels.

B. The panel considers the following to be significant in urban design terms:

- (i) That the design of the capping treatment at roof level be further explored in order to achieve a convincing termination of the residential tower, including its relationship to the Sky Tower.
- (ii) That the articulation of the podium be further considered in order to achieve an appropriate relationship with the residential tower.
- (iii) That the traffic impact of the development is carefully considered especially in relation to the Victoria/Albert Streets corner and pedestrian access.



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- (iv) That the applicant liaises with Auckland City in respect of streetscape improvements and prepare design proposals for review.

C. The Panel makes the following other comments:

- (i) The panel supports the idea of a sculptural treatment at the top of the tower and looks forward to further proposals for this.

1.4 Urban Design Panel Comments: 30 March 2006

A. The Panel considers the following to be fundamental in urban design terms:

- (i) That the applicant produce several views of the proposed building in relationship to the Sky Tower and the cityscape, including the proposed St James apartment block, in which material, colour, balconies and other façade treatments are accurately rendered. Such drawings will need to be of a large size than those included in the 30 March presentation.

The panel remains divided in its view on the acceptability of the height of the building and looks forward to the above information to assist further deliberation of this issue.

- (ii) That the façade treatment including materials, details, colour and the strategy proposed for ventilation and associated plant is more fully developed and described as a part of the overall aesthetic of the facades, and to assist the panel in the evaluation of the point above.

B. The panel considers the following to be significant in urban design terms:

- (i) That the applicant confirm traffic management is acceptable at the intersections of Lower Albert Street with Wellesley and Victoria streets.

C. The panel made the following other comments:

- (i) The panel recommends the applicant liaise with Auckland City, with a view of including the proposed development within an accurately calibrated 3 dimensional model of the CBD.

1.5 Urban Design Panel Comments: 4 May 2006

The panel thanks the applicant for a comprehensive and highly informative presentation and the excellence of the work done to illustrate the proposal; from a variety of viewpoints.



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The panel appreciates the level at which it has been able to engage with the applicant in debating the proposal over a number of presentations.

The panel is satisfied that the overall height and design quality of the tower will make a positive contribution to the central area skyline. It is also recognised that the skyline in the central area will change in the future and that this tower is located within part of the city within which such building could be accepted.

The panel considers that the design concept has the potential to achieve an excellent urban design outcome. This will be dependent on the highest level of detailed design and it is imperative that the standard of the design as presented be maintained.

Noting the significance of this proposal, the panel anticipates a design review at resource consent state and requests the following information be provided:

- Final floor plans at all levels
- Developed design of the tower and podium facades including any ventilation requirements through the façade and other critical details, including confirmation of key facade materials
- Developed design of the tower roof
- Indicative details of the treatment of sky gardens and shared facilities on the podium roof
- Outcomes of the wind tunnel tests
- Confirmation of fire-egress and service engineering requirements

1.6 Urban Design Panel Comments: 12 February 2007

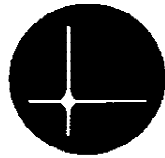
Note: at this stage the design was modified to include porte cochere to the Albert Street frontage.

The panel thanks the applicant for their comprehensive and informative presentation and particularly the work done to illustrate the proposals at street level especially the Victoria and Albert Street corner.

Issues

The panel supports the idea of the porte cochere in principle to provide an address and amenity for the building operation. However, the panel is concerned that there is potential conflict between the traffic and pedestrian movements at the complex Victoria and Albert Street corner.

The panel considers that supporting traffic data providing anticipated vehicle movements using the porte cochere is required. This will enable an objective evaluation of possible vehicle queuing at the porte cochere entree adjacent to the Victoria and Albert Street corner and any interference with pedestrian or traffic circulation.



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The panel reiterates that the design concept has the potential to achieve an excellent urban design outcome, dependent on the highest level of detailed design and the standard of design being maintained.

- It is noted that final floor plans at all levels have been submitted
- The design and development of the facades is on-going with final selection of materials to be submitted.
- The principles of the developed design of the roof, feature panels incorporating solar heating are proceeding.
- Detail wind studies of the sky gardens are to be submitted to allow evaluation of the current conceptual layouts. An overall peer review of the Auckland University wind tunnel testing of the project is being submitted. The panel would like to see further information regarding the sky gardens concept including illustration and evaluation of existing building examples.
- An evaluation is required of the pedestrian protection under the main feature canopy at the entry to the retail at the corner of Victoria and Elliott Street.
- The panel considers that the outlook provision from the windows in the southern face of the building appears satisfactory, with many of the spaces having outlook in two directions.

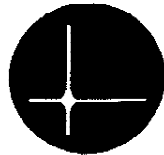
1.7 Summary

The key matters discussed through the urban design panel meetings were those around the scale of the building and its place within the cityscape, urban design (modulation of the façade and treatment of the cap of the building), the podium structure and its interaction with the streetscape, the ability to accommodate pedestrian and traffic movements. All matters reviewed through the UDP process have been covered in more detail within the Council Planner's report and finally addressed in the Commissioners' decision.

1.8 **Reasons for Consent Approval**

Consent was granted pursuant to section 113 of the Resource Management Act on the 19 October 2007 for the following reasons associated with the restricted discretionary activity.

(a) "In terms of section 104(1)(a) and 104C of the Act, any actual and potential adverse effects on the environment will be no more than minor and satisfy the relevant criteria for which discretion has been applied. The overall design and appearance of the building is acceptable within this locality where the highest intensity of development is anticipated by the District Plan, in terms of its urban design quality, its overall design and appearance in relation to views



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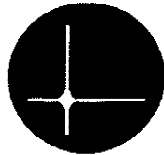
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of the building (both views of the skyline and within the CBD), and its relative scale and dominance at the streetscape environment.

- (b) Adverse effects of the height of the building are visually offset by the design, positioning and slender form of the residential tower and the varied architectural form of the building facades. The proposal complies with site Intensity controls of the District Plan. In addition, subject to a particular condition requiring modification to the design of the Albert St/Victoria St pedestrian entrance and façade treatment, any potential adverse effects upon the character of public and pedestrian spaces adjacent to the proposal are considered to be less than minor.*
- (c) Matters including shading, wind, glare are mitigated through compliance with standards in the District Plan and conditions. In addition, the proposal has a high level of residential amenity and outlook.*
- (d) Adverse effects relating to traffic, car parking and construction traffic can be adequately mitigated subject to conditions of consent. In addition, the proposed methodologies for dealing with construction issues (including a requirement for a Construction and Traffic Management Plan) will also ensure any adverse effects are no more than minor. The proposal will have a less than minor effect on the capacity and operation of the surrounding road network and will not be inconsistent with the District Plan transportation objectives and policies.*
- (e) Positive effects include the provision of pedestrian circulation, a public through-site link and interactive pedestrian plaza area.*
- (f) In terms of section 104(1)(b) of the Act, the proposal is consistent with the relevant policy statements and plans, including the policies, objectives and assessment criteria of the Auckland City Operative District Plan Central Area Section 2004, in particular those relating to the Core Strategic Management Area (SMA 1), Queen St Precinct, Pedestrian Orientated Area Contamination and Transportation. The urban design and form of the proposal is consistent with the objectives, policies and criteria of Plan Change 2 and residential amenity."*

A copy of the Council decision is included as **Attachment 1**.

1.9 Proposal



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Post consent the site was purchased by NDG Asia Pacific (NZ) Limited ("NDG"). NDG proposes to proceed with a modified design for the Elliott Tower proposal and seeks authorisation from the Auckland Council to amend the conditions of the existing resource consent to provide for the amended design.

The applicant is seeking the following principal changes to the consented development upon the site:

- 1) Increase the podium from three to eight levels.
- 2) Increased podium provides for retail, hotel lobby, cinema, ballroom, meeting rooms, restaurant and function spaces. A lot of the spaces are ancillary to the hotel rooms.
- 3) Provision of 36 residential apartments in comparison to 259 approved.
- 4) Convert residential apartments in to 269 hotel suites and provide for associated areas for the operation of a six star hotel.
- 5) Reduction in on-site parking from 481 spaces to 300 spaces.
- 6) Gross floor area proposed at 57,352m² where previously consented at 56,504m². Permitted GFA 57,421m² thereby the proposal is under this standard by 69m².
- 7) Reduction in the amount of storeys from 67 to 52 while retaining the same height through increased floor to ceiling heights.

The proposal is clearly illustrated in the plans prepared by Paul Brown Architects included as **Attachment 2**. Included as **Attachment 3**, is a floor area comparison which breaks down the proposal floor by floor, details the amount of GFA per level and also what is established. We note that there has been extensive discussions between the applicants' representatives and Council Officers about the alterations proposed and how the proposal has evolved over the last few years.

1.10 Reasons for the Application

Resource consent is required for the following reason:

- Section 127(3)(a) of the Resource Management Act, 1991, requires that a change to or deletion of a condition of consent requires assessment as a discretionary activity.
- Rule 6.15(ii) requires that in any one residential apartment building containing in excess of 20 residential units, the combined number of one bedroom units and studios shall not exceed 70% of the total number of apartments within the building. The proposal is for 36 residential units with eight of these being two bedroom and the rest (28) being one



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bedroom. The proposal provides for 78% of the residential units to be one bedroom and consent is therefore required as a restricted discretionary activity.

The applicant requires multiple changes to conditions of consent and the deletion of some to reflect the updated design and use proposed. These changes are spelt out below.

The applicant will also require consent under the Proposed Auckland Unitary Plan. It is considered unlikely that consent would be required under the National Environmental Standard for Contamination considering its historic use as a commercial site and now as a temporary car park. At this point additional consent would be required for earthworks.

- Earthworks: Part 3, Chapter H, Sub-Section 4.2.1.1 – the undertaking of over 2,500m² and 2,500m³ of site works requires resource consent as a restricted discretionary activity.

With respect to stormwater being the other major regional issue which often triggers consent the following is noted:

- Stormwater: Part 3, Chapter H, Sub-Section 4.14.1.1 – impervious areas existing at the date of notification of the plan are permitted activities. The entire site effectively is covered in impervious areas which is lawfully established via the resource consents for the temporary carpark operation. Consent as a restricted discretionary activity would only have been required if impervious areas were increased by 1,000m².

Note

There are 36 residential apartments proposed. These are made up of eight two bedroom and 28 one bedroom apartments. The apartments are to be established on Levels 13-16. The units comply with minimum sizes, outlook and daylight as set out in Rules 6.15 and 6.16.

1.11 Appropriateness of Utilising the Provisions of s127 of the Resource Management Act

The applicant commissioned Simon Berry of Berry Simons to undertake a legal review of whether a s127 is the appropriate mechanism for authorising the proposal on the site. Mr Berry's opinion is included as **Attachment 5**. He states:

"In conclusion, it is our opinion that:

- (a) It is appropriate that the revised design of the Elliott Tower be assessed and (if appropriate, authorised) by way of application for change of conditions rather than a fresh application.*



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(b) It would be appropriate to process the NDG application on a non-notified basis.

I agree with the opinion reached by Mr Berry. There are fundamental matters which remain consistent between the proposals (consented and proposed) which ensure that a variation to the established consent is the appropriate mechanism having consideration to the relevant tests of the RMA inclusive of the relevant provisions of the Auckland District Plan (Central Area Section) and the Proposed Unitary Plan (Objectives and Policies only) as consent for earthworks will be applied for separately.

1.12 Relief Sought

The consent holder is making an application under Sections 88 and 127 of the Act to provide for an alternative residential unit mix and change or delete the conditions as set out below. The changes and deletions are considered draft proposals to be worked through with Auckland Council to ensure that all matters are satisfactorily covered and to take into account changes to delegations as a result of the formation of Auckland Council and CCO's . If Council requires the implementation of additional conditions or changes to other conditions then the applicant is receptive to working these through.

1.12.1 Change General Condition 1 – this sets out the plans the building must be established in accordance with being those prepared by Moller Architects, entitled “Elliott Tower, 106-108 Albert St, Resource Consent Application, Dae Ju Housing Co Ltd, October 2006”. Condition 1 is proposed to read:

This Land Use Consent (Council reference XXXXX) shall proceed in general accordance with the following documents submitted and approved by the Council as part of this application:

- *Plans prepared by Paul Brown Architects, titled “Elliot Tower Auckland City Auckland”, Sheet references:*

Reference Number	Title	Architect/Author	Date
436-RC-101 Revision G	Site survey plan	Paul Brown	25/10/13
436-RC-199 Revision B	Reference Plan Basement Level B6	Paul Brown	25/10/13
436-RC-200 Revision K	Reference Plan Basement	Paul Brown	25/10/13



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	Level B5		
436-RC-201 Revision N	Reference Plan Basement Level B4	Paul Brown	25/10/13
436-RC-202 Revision O	Reference Plan Basement Level B3	Paul Brown	25/10/13
436-RC-203 Revision P	Reference Plan Basement Level B2	Paul Brown	25/10/13
436-RC-204 Revision Q	Reference Plan Basement Level B1	Paul Brown	25/10/13
436-RC-205 Revision H	Reference Plan Level 1	Paul Brown	25/10/13
436-RC-206 Revision I	Reference Plan Level 2	Paul Brown	30/10/13
436-RC-207 Revision I	Reference Plan Level 3	Paul Brown	30/10/13
436-RC-208 Revision H	Reference Plan Level 4	Paul Brown	25/10/13
436-RC-209 Revision P	Reference Plan Level 5	Paul Brown	30/10/13
436-RC-210 Revision M	Reference Plan Level 6	Paul Brown	25/10/13
436-RC-211 Revision O	Reference Plan Level 7	Paul Brown	25/10/13
436-RC-212 Revision P	Reference Plan Level 8	Paul Brown	25/10/13
436-RC-213 Revision O	Reference Plan Level 9 Roof Deck	Paul Brown	25/10/13
436-RC-214 Revision M	Reference Plan Level 10 Pool/Gymnasium	Paul Brown	25/10/13
436-RC-215 Revision G	Reference Plan Level 11 Spa	Paul Brown	25/10/13
436-RC-216 Revision G	Reference Plan Level 12 Hotel Administration Office	Paul Brown	25/10/13
436-RC-217 Revision G	Reference Plan Level 13-16 Apartments	Paul Brown	25/10/13



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436-RC-218 Revision H	Reference Plan Level 17-28 & 30-41 Hotel Rooms/Suites	Paul Brown	30/10/13
436-RC-219 Revision H	Reference Plan Level 29 Plant	Paul Brown	30/10/13
436-RC-220 Revision G	Reference Plan Level 42-43 Apartment/Hotel Rooms/VP Suite	Paul Brown	25/10/13
436-RC-221 Revision L	Reference Plan Level 44-45 Hotel Rooms/ Presidential Suite	Paul Brown	25/10/13
436-RC-222 Revision M	Reference Plan Level 46 Plant	Paul Brown	25/10/13
436-RC-223 Revision G	Reference Plan Level 47 Restaurant	Paul Brown	25/10/13
436-RC-224 Revision D	Reference Plan Level 48 Restaurant	Paul Brown	25/10/13
436-RC-225 Revision D	Reference Plan Level 49 Roof/Plant	Paul Brown	25/10/13
436-RC-226 Revision D	Reference Plan Level 50 Pant	Paul Brown	25/10/13
436-RC-227 Revision D	Reference Plan Level 51 Pant	Paul Brown	25/10/13
436-RC-228 Revision D	Reference Plan Level 52 Roof	Paul Brown	25/10/13
436-RC-250 Revision C	Part Plan Level 2	Paul Brown	25/10/13
436-RC-251 Revision E	Part Plan Level 3	Paul Brown	25/10/13
436-RC-302 Revision G	North Elevation-Victoria Street South Elevation	Paul Brown	30/10/13



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436-RC-303 Revision F	East Elevation Elliot Street	Paul Brown	25/10/13
436-RC-304 Revision F	West Elevation Albert Street	Paul Brown	25/10/13
436-RC-305 Revision F	North Elevation Victoria Street	Paul Brown	25/10/13
436-RC-306 Revision G	South Elevation	Paul Brown	30/10/13
436-RC-311 Revision C	East Elevation- Elliot Street Podium	Paul Brown	25/10/13
436-RC-312 Revision C	West Elevation- Albert Street Podium	Paul Brown	25/10/13
436-RC-313 Revision D	North Elevation- Victoria Street Podium	Paul Brown	30/10/13
436-RC-314 Revision C	South Elevation Podium	Paul Brown	25/10/13
436-RC-350 Revision F	Reference Sections	Paul Brown	25/10/13
436-RC-352 Revision C	Part Section	Paul Brown	25/10/13
436-RC-353 Revision D	Part Section	Paul Brown	25/10/13
436-RC-354 Revision C	Part Section	Paul Brown	25/10/13
436-RC-355 Revision C	Part Section	Paul Brown	25/10/13
436-RC-356 Revision F	Part Section	Paul Brown	30/10/13
436-RC-360 Revision C	Part Section	Paul Brown	25/10/13

- *The AEE prepared by MHG, dated October 2013.*
- *The Architectural and Urban Design Statement prepared by Paul Brown and Architects dated October 2013.*
- *The Legal Opinion prepared by BerrySimons dated 1 November 2013.*
- *The Traffic Impact Assessment prepared by TPC dated November 2013.*
- *The wind assessment prepared by UniServices dated 17 September 2013.*
- *The Infrastructure report prepared by Norman, Disney & Young dated 31 October 2013.*

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- *The External Lighting Memo by WSP New Zealand dated 11 September 2013.*
- *Confirmation of reliance on Traffic Management Plan for construction by Scarborough Construction dated 26 September 2013.*
- *The underlying documentation associated with resource consent LUC:20060773001 except where it has been superseded by the plans and documents listed above.*

1.12.2 Condition 4 is proposed to be changed to read:

The final detailed design of the access into the porte cochere on the Albert Street frontage shall be submitted for approval to Council (Team Leader Compliance and Monitoring in conjunction with Urban Design and Auckland Transport Team) establishing final treatment, grades and integration for building consent purposes.

1.12.3 Condition 12 is proposed to be changed to read:

All vehicle crossings shall be designed and constructed as set out in the plans prepared by Paul Brown Architects reference 436-RC-206 and 436-RC-20. Any such designs shall integrate as far as practicable with any proposed Council footpath upgrades to the satisfaction of Council (Team Leader Compliance and Monitoring in conjunction with Auckland Transport Team while aligning with the plans submitted to the Council.

1.12.4 Condition 14 is proposed to be changed to read:

The parking spaces shall be assigned in accordance with the permitted standards of Rule 9.7.1.1. The eight two bedroom units (>80m²) at two per apartment, the one bedroom apartments (<79m²) at one per apartment and the remainder (256) allocated to the use of the retail, cinema and hotel operations.

1.12.5 Condition 19 is proposed to be changed to read:

The footpath area and ramp along the Albert Street frontage shall be designed to the satisfaction of Council (Team Leader Compliance and Monitoring), to provide a suitable grade for pedestrians and the footpath (pedestrian ramp) must be continuous, include no steps, and any vehicle access must be over the footpath (refer condition 12), to maintain pedestrian priority and convenience.

1.12.6 Condition 20 is to be deleted as it no longer reflects the design submitted.

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~~The upper Albert Street Plaza shall be redesigned to eliminate the need for steps and to optimise a grade transition from the Albert Street footpath to this area, to the satisfaction of the Manager: City Planning.~~

1.12.7 Condition 22 is proposed to be changed to read:

The footpath to the Albert St slip lane building edge shall be a minimum width of 3m. The vehicle crossing should comply with condition 12.

1.12.8 Condition 23 is proposed to be changed to read:

An easement in gross in favour of the Council (or an equivalent legal instrument to the same effect) is to be applied to that area of footpath within the site along the Albert Street frontage of the site as shown on the plan to the satisfaction of Council (Team Leader Compliance and Monitoring) . This easement (or equivalent) is to provide for continuous and interrupted public pedestrian access which shall be constructed and maintained by the consent holder to a public footpath standard.

1.12.9 Condition 43 is proposed to be changed to read:

Prior to the issue of a S224(c) certificate for any of the apartments within the building or the occupation of the hotel units the consent holder is to prepare a management plan for the operation of the porte cochere, to the satisfaction of the Council (Team Leader Compliance and Monitoring in conjunction with Auckland Transport Team). The porte cochere management plan shall include details of measures to enforce time restrictions on waiting vehicles, and will include a concierge being present on site at all times. The porte cochere shall be managed in accordance with the approved plan and no changes shall be made to that plan without the prior written approval of the Council (Team Leader Compliance and Monitoring in conjunction with Auckland Transport).

1.12.10 Condition 46 is proposed to be deleted as the plans have been replaced and worked through Urban Design Panels and consultation with Council.

~~Retail activities fronting Elliott St shall be re-designed to provide an entrance to each retail unit from the Elliott St frontage. Details of the design of such entrances shall be submitted for approval prior to the lodgement of the building consent application to the satisfaction of the Council (Manager: Central Area Planning). Each such entrance is to be kept unlocked and unobstructed (including no frosted~~



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~~glass being used) so that an active pedestrian access is achieved at all times during the hours when these premises are open for trading.~~

1.12.11 Condition 47 is proposed to be changed to read:

The final design details and materials, finishes of the exterior roof features shall be submitted to the Council (Team Leader Compliance and Monitoring) for approval prior to the lodgement of a building consent application.

1.12.12 Condition 48 is proposed to be changed to read:

All rooftop projections as defined in section 6.6 of the District Plan shall be enclosed within the structure of the building form, to the satisfaction of the Council (Team Leader Compliance and Monitoring). Note: Any future antennas located on the roof top area will require a further resource consent and should be designed to complement the approved roof design.

1.12.13 Conditions 49 – 53 are proposed to be deleted as the Sky Gardens no longer form part of the application as intended by these conditions. We note that there are two ‘breaks’ in the building which visually replicate the ‘Sky Gardens’ however these are not designed to provide communal landscaped open space. Due to the size and length of these conditions they have not been incorporated.

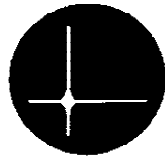
1.12.14 Condition 61 is proposed to be changed to read:

Prior to occupation of any residential or hotel unit on the site, the consent holder shall submit a report from a suitably qualified acoustic engineer that confirms to the satisfaction of the Council (Resource Consents Monitoring Team Leader, Auckland City Environments) that the building has been designed and constructed to achieve compliance with the permitted standards of Part 7 of the Auckland District Plan (Central Area Section).

1.12.15 Condition 62 is proposed to be changed as follows:

The building shall be designed and such changes made to the building as are necessary to comply with the following rules of the District Plan Central Area Section 2004:

- Rule 6.12 Wind Environment Control; and
- Rule 6.13 Glare Control.



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1.12.16 Condition 63 is proposed to be deleted as solar panels no longer form part of the application.

~~The solar panels to be installed on the roof of the residential tower are to be constructed and maintained using non reflective materials.~~

1.12.17 Condition 71 is proposed to be deleted as the 'Sky Gardens' are no longer proposed. There are breaks in the building for wind reduction purposes however as this is their primary function condition 71 is no longer considered relevant.

~~The sky gardens are to be maintained as open landscaped space. This is in order to mitigate adverse wind effects as well as to provide common amenity areas for residents of the building. In the event that any subdivision of or within Elliott Tower occurs, clear written notice must be provided to each new owner, by way of consent notice if necessary, of their ongoing legal and financial responsibility for the continuance and maintenance of the common areas in the building (including in particular the sky gardens).~~

1.12.18 A new condition is proposed to ensure that lighting associated with the development is to an appropriate standard and does not generate adverse effects upon the surrounding environment. The condition can be numbered however the Council determines appropriate.

The maximum measurable luminance of any illuminated building façade should not exceed 50-150cd/m². An area weighted average is also not to be exceeded of 30cd/m² for any single contiguous façade area greater than 700m². Any illuminance generated from any light source associated with the development shall not exceed 50 lux at the property line of the nearest residential property or light sensitive receiver.

2.0 Site and Locality

2.1 The subject site is a large land holding of 4,417m² and legally described as Lot 1 DP 339812. The site has three road frontages being Albert (Lower Albert being more accurate), Victoria and Elliot Streets. There is a substantial change in levels between Elliot and Albert Streets being those that run parallel to the site in a north-south direction.

2.2 The site has been lawfully consented for the use as a temporary short term visitor and commuter car parking facility accommodating 139 spaces. Entry/Exit off Elliot Street is provided for and is the principal point. Entry only vehicle access is provided off Lower Albert Street. An application for temporary retail activities in containers along the Elliot Street frontage is currently being processed by



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Auckland Council Ref :R/LUC/ 2013/4055. The retail activities are of a temporary nature and will be removed once the tower development commences.

2.3 Light towers are scattered around the site while pay stations are located on the lower level car park where short term visitor parking is concentrated. Landscaping is required to be established on the site in accordance with the most recent resource consent for the operation of a temporary car park.

2.4 The site also accommodates the vertical bungy operation along with some billboards.

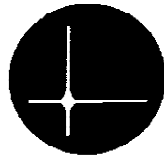
2.5 The surrounding environment is characterised by high rise developments which is reflective of the central Auckland location. Lower Albert Street is effectively a service lane and is car orientated. Victoria Street is a main connection corridor for vehicles and pedestrians traveling east-west across the city. This road has been slightly undervalued from a pedestrian perspective historically and the Council along with Auckland Transport have concept plans for the enhancement of the road reserve to enhance the pedestrian experience. Elliot Street has been upgraded and is a shared space. It still provides for clear lines for motor vehicles to operate within. Elliot Street is an effective shared space which has had its amenity enhanced through the upgrade.

2.6 Submitters

All submissions have been considered as part of this application and have helped inform and shape the matters discussed with the Council. A breakdown of each submitters concerns and requests are included in **Attachment 4** along with full copies of all submissions. The following submitters appeared at the hearing of the application:

- Sky City Entertainment Group Limited (“Sky City”).
- Kiwi Property Holdings Limited (“KPHL”) – owner of the neighbouring building known as the “Phillips Fox Tower”.
- DLA Phillips Fox (“Phillips Fox”) – a law firm that has offices in the Phillips Fox Tower.
- Colwall Property Investment Limited (“CPIL”) – owner of a neighbouring building.
- Auckland Regional Public Health Services (“ARPHS”).
- Mr C Lane.
- Evidence was also tabled on behalf of the Auckland Regional Transport Authority (“ARTA”).

2.7 Main Issues in Contention as Part of Underlining Consent



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The main issues in contention at the hearing related to:

- (a) The proposed inclusion of a porte cochere entrance on the Albert Street frontage of the building.
- (b) The impact of construction traffic on buildings in Elliott Street, in particular the Phillips Fox Tower.
- (c) Urban design and visual impacts associated with the height of the tower.
- (d) The height of the proposed building;
- (e) The effect Elliott Tower might have on the 'iconic' status of the Sky Tower;
- (f) Potential effects on telecommunications and broadcast facilities located in the upper part of the Sky Tower and the impact of radiofrequency emissions from those facilities on the apartments in the upper stories of the Elliott Tower.

2.7.1 The main issues can be bundled in to three topics being:

- Car Orientated/Traffic Related
- Design and visual impact
- Telecommunications and Broadcast

3.0 Assessment of Effects

The applicant has been through a detailed review process which has included three pre application meetings, two Urban Design Panels and the submission of draft reports for Council comment. Bryce Hall of TPC submitted his draft TIA to Council's consultant Traffic Engineer. Pravin of T2 provided feedback on the draft report which has been reviewed and where required the TIA has been updated to provide the additional clarification and commentary. The report has been worked on to ensure that these critical components have been addressed to a satisfactory level.

As noted above there were considered to be three main overarching matters considered during the hearing process which once considered and determined to have an appropriate level of adverse effects resulted in the underlining consent being approved. The main issues to resolve as part of this s127 application are the use of the Porte Cochere, volume of traffic, construction management and the design of the building. Other matters, inclusive of the apartment mix which is an additional resource consent matter, are considered however these are the most pertinent to consider and resolve.

3.1 Porte Cochere/Traffic/Parking/Construction Management

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Traffic Planning Consultants were the traffic engineers for the original consent application. Bryce Hall (Director) has undertaken an updated traffic impact assessment reviewing the updated proposal against the established consent. The TIA is included as **Attachment 6**. Within his conclusion he states:

Based on the analyses described in this report, the following conclusions can be made in respect of the proposed Elliot Tower Hotel at 106-108 Albert Street in the central city:

- The traffic generation of the currently proposed development is likely to be in the range of 675 to 1,025 traffic movements per day with peak hour traffic flows of 90 and 165 traffic movements per hour during the AM and PM Peak hours respectively.
- The peak hour traffic generation of the currently proposed development is similar or lower than the traffic generated by the previously consented development and hence can be accommodated with little or no effect.
- The level of traffic using the proposed porte cochere is likely to increase by 250 to 500 traffic movements per day with additional hourly traffic generation of about 40 traffic movements per hour.
- The additional traffic generated by the porte-cochere can be accommodated on the road network with little or no effect and without adversely affecting pedestrian safety.
- There will be 300 parking spaces provided on the site for the completed development which is less than the maximum permitted by the District Plan.
- The vehicle access from Albert Street has been designed to a high standard and to minimise the potential for traffic congestion to occur associated with vehicles entering / exiting the site.

Despite not commenting on it within his conclusion points Mr Hall has considered the impacts during construction of traffic in Part 5.3 of his report. He has calculated that 30 truck movements per day will be associated with the construction of the tower and all associated works. Mr Hall developed the original Construction Traffic Management plan which is required to be finalised as per Condition 25 which is not sought to be altered via this s127.

I also note that the updated drawings have been reviewed by BGT Structures with respect to the changes for the basement excavations. Within their letter (**Attachment 6**) they stipulate that the updated drawings have significantly reduced the volume of excavation. This has flow on effects which



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are positive for truck movements on the surrounding network. The excavation and site work period will be reduced thereby resulting in a level of adverse effects lower than consented with respect to construction traffic vehicle movements.

The ability to construct the new design while meeting the intent of the original conditions focused on construction and traffic management which sought to minimise disruption to the surrounding road network has been reviewed by Scarborough Construction (**Attachment 7**). Gary Scarborough states:

"We confirm that the traffic management plan as referred to within the Resource Consent, specifically "Option 4" is still relevant and applicable to method by which the proposed new building would be constructed."

I rely upon the expertise of Mr Hall and the associated commentary of BGT Structures and Scarborough Construction and consider that the effects of the new proposal from a traffic management perspective are the same or similar to those consented.

3.2 Design and Built Form

The proposal results in a new treatment to the tower and the establishment of an eight storey podium compared to the consented three levels. It is important to note that the original podium was not restricted via planning rules or controls but was the built form sought for consent by the applicant via their specialists.

The proposed podium and its relationship to the street complies with the permitted building envelope associated with this site. The effect therefore of the podium is whether visually it is appropriate to the established context since the rules in the district plan treat the built form as a restricted discretionary activity.

To ensure that the design was deemed to be appropriate for its environment the applicant's representatives have presented at three Urban Design Panels and throughout liaised with Peter Joyce the Council's Urban Design Specialist. The outcome of these meetings was support for the design presented at Urban Design Panel 2. This has been slightly modified and confirmed with Peter Joyce which has ensured that a third UDP was not required.

Paul Brown has provided an architectural statement (**Attachment 4**) which has been set out to follow the urban design report prepared by Sue Evans on behalf of Auckland Council on the original application. The relevant assessment criteria for considering new buildings (5.6.3.1.d – General



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Criteria and 14.4.7.2 – Queen Street Valley Precinct) are included within the urban design report and the proposal evaluated against these. The proposal is considered consistent with these criteria. Paul Brown within his conclusion states:

“The proposed building fulfils the requirements for a quality addition to Auckland that will have a positive impact on the existing urban fabric. From the tower that is designed in juxtaposition to the skytower with an essentially linear north south composition in contrast to the circular composition of its taller neighbour. It also faces the sky tower and reflects its presence with a physical distortion of the Western elevation. This will create a more legible skyline in Auckland where the two tallest buildings complement each other rather than fight. At street level the building is composed of finer grain elements that respect the character of the precinct and add interest and vitality to the immediate and surrounding streets. The Fine grain and complexity of the podium provide an addition that does not dominate the surroundings but does add to them in a positive way. This is a building that confidently takes its place in Auckland and will create a significant renaissance to area around Aotea Square that has been languishing in recent years as development has focussed on the waterfront.”

I rely upon the expertise of the architects and urban designers with respect to the appropriateness of the built form within this environment as it is currently and as it will evolve over the coming years. I note the following salient points which have been discussed or are required to be addressed.

- The built form complies with the bulk and location controls of the Auckland District Plan (Central Area). GFA is proposed at 57,352 compared to the consented level of 56,504 both of which are below the permitted level of 57,421m².
- The proposal is fundamentally the same being a podium with tower above. While the podium has increased in size it has done so within anticipated levels subject to appropriate design.
- The architectural treatment at the top of the tower is to be lit in accordance with appropriate environmental standards and a condition of consent is proposed to restrict luminance levels. WSP have commented on appropriate external lighting levels (**Attachment 7**).

3.3 Apartment Mix

The proposal incorporates 36 residential apartments comprised of eight two bedrooms and 28 one bedrooms. The two bedrooms make up 22% of the units where 30% is anticipated in the district plan. With respect to the units they are a small component of the overall accommodation yield provided on



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site. With 266 hotel rooms proposed the residential units comprise 11.9% of the overall accommodation yield.

The residential apartments exceed permitted standards with respect to their size with the two bedrooms having sufficient space to meet the permitted standard for three bedroom apartments. The residential units are designed to a high standard and the unit mix is considered appropriate.

3.4 Infrastructure/Servicing

Norman, Disney and Young provided the original infrastructure report associated with the retail and apartment development. The applicant commissioned a review from them and in conclusion they state:

"The local wastewater system has sufficient capacity to serve the proposed development.

Peak storm water flows to the council's system would be reduced by the proposed development.

Water supplies appear sufficient to serve the proposed development."

There are no infrastructure issues associated with the development proposal.

3.5 Lighting

Lighting associated with the tower is an important element. WSP engineers were commissioned to carry out a review and establish parameters for external lighting (**Attachment 7**) associated with the Elliot Tower. They reviewed the Auckland Council Bylaws but determined that these were not appropriate for the question of façade lighting of a large tower. They have utilised Environmental Impact Analysis – D.2 Artificial Light and Glare (City of LA) as being the most appropriate standard for a building of this scale. Their assessment has resulted in a condition of consent being offered to restrict lighting to certain levels. The crown of the building is the critical component as it will be a prominent feature during the evening on the Auckland skyline. A Lux level of 30-40 is proposed which would meet the stringent standards of the Environmental Impact Assessment associated with the City of LA. Lighting of the tower is considered appropriate with no adverse effects generated.

3.6 Wind



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Due to the size of the building and as a result of the remodelled built form (in part noting the principal elements are still the same) an updated wind assessment by UniServices has been carried out which has been included as **Attachment B**. In conclusion they state:

"The wind environment in the vicinity of the site of the proposed development of the Elliot Tower at 106-108 Albert Street has been studied in the wind tunnel using erosion techniques.

The wind tunnel tests and subsequent analysis in terms of the City of Auckland District Plan, Central Area Section, Operative 2004 (Rule 6.12) resulted in most areas in the vicinity of the modelled existing buildings to be categorised as either A, B, or category C.

The presence of the model of the proposed building in the tests has caused a significant change to the wind comfort categories determined from the tests. Many areas in the vicinity of the modelled proposed development have been increased from category A to category B and there are areas of category C either side of the north-eastern corner of the building. However, the area of category C on the plaza over Lower Albert Street has largely been reduced to category B.

Figure 10.1 of the District Plan states that carriageways should be no worse than category D, and that general footpaths and areas around buildings should be no worse than category C. The wind environment on Elliott Street, Victoria Street West and Albert Street in the vicinity of the proposed apartment building meets this requirement, and therefore the building complies with the City of Auckland Council District Plan, Central Area Section, with regard to wind control."

I rely upon the expertise of Associate Professor PJ Richards. Compliance with permitted standards will be achieved and as a result the effects are the same or similar to those approved under the existing consent and deemed appropriate in the district plan.

3.7 Summary

The proposal has been considered in depth over the last 18 months. From the outset it was critical to resolve all traffic and design related matters. The architects and traffic engineer have worked in with council specialists inclusive of the Urban Design Panel. The proposal is considered to have the same or similar effects and the establishment of the retail podium, hotel operation and residential units will have minor adverse effects being the same level as the consented tower development.

4.0 Adversely Affected Parties



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As set out previously the original consent was publicly notified (at the applicant's request). While there were 20 submitters to the application only seven presented at the hearing (one via tabling evidence). The hearing determined that the potential adverse effects were appropriate subject to the imposition of conditions. We have considered the submissions and the findings associated with the original decision and considered against the updated proposal. We note the following:

- The building retains a similar built form with respect to the tower and therefore its effect on the skyline will be similar to that consented and deemed appropriate to not undermining the status of the Skytower.
- Due to the tower format being retained to similar dimensions and height the effects on Skytower's telecommunication and broadcast facilities will be the same or similar.
- The design overall has been reviewed and considered appropriate by the Urban Design Panel and been the subject of discussion and meetings with the Council's Urban Design Specialist Peter Joyce.
- Parking on site is reduced thereby reducing traffic movements on the surrounding network most notably during peak commuter periods.
- The excavation is reduced thereby reducing truck movements during the site works period.
- Conditions of consent requiring detailed construction and traffic management plans are retained.
- The excavations have been bought in from the site boundaries and reduced in size thereby simplifying the engineering required to ensure that the road reserve or the adjoining property at 130 Albert Street are not affected (as was the case under the original consent).

There are no adversely affected parties as a result of the changes proposed.

5.0 Notification Recommendation

5.1 With respect to this proposal the relevant provisions of the Resource Management Act are as follows:

- Section 95A(2) of the Act states that a consent authority must publicly notify and application if (a) the activity is likely to result in adverse effects that are more than minor or (c) a rule requires public notification of the application.

Comment

Our assessment of the application concludes that any actual or potential adverse effects of the proposed variation and deletion to consent conditions, principally effects associated with traffic and design will be minor. Furthermore there is no rule within the District Plan that specifically requires notification of this activity.



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- Section 95A(4) of the Act states that a consent authority may notify an application if it decides that special circumstances exist in relation to the application.

Comment

In the context of this application, we note that the consent requirement, being the modification of consent conditions, has been specifically provided for as a discretionary activity and that the establishment of a hotel, apartments and retail are permitted activities. The built form would normally require consent as a restricted discretionary activity as the original consent was assessed. Therefore, the activity proposed by this application is anticipated within this zone subject to the provision of an appropriate built form. On this basis we consider that an application for these activities cannot be considered as exceptional or giving rise to special circumstances in the context of this section of the Act.

- Section 95D(a) of the Act states that a consent authority, in deciding whether the adverse effects of a proposal are more than minor, must disregard any effects on persons who own or occupy (i) the land in, on or over which the activity will occur or (ii) any land adjacent to that land.

Comment

S95D(a)(i) suggests that the approval of the owner of the land to which the activity relates is implicit therefore adverse effects on the owner of the subject land are disregarded.

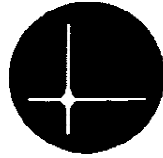
S95D(a)(ii) suggests that there should be no consideration of adverse effects on persons who own any adjacent land which, in our experience, is land abutting, opposite or within the immediate vicinity of the site.

In our view the latter subsection suggests that any effect generated by this proposal on the owners of the adjacent land should be disregarded, in terms of the notification assessment under s95A(2). On this basis any adjacent land owner cannot, under s95D(a)(ii), be considered to be adversely affected by this proposal.

- Section 95E(1) of the Act states that a consent authority must decide that a person is an affected person unless the adverse effects of an activity on that person are less than minor.

Comment

As stipulated previously those parties that are located within the immediate environment are not considered to be adversely affected as any potential effects arising from this application are the same



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or less upon them as a result of the reduced excavation and parking supply. The reduced excavation results in a shortened construction timeframe with fewer truck movements on the established roading network. Scarborough construction has also reviewed the plans and the conditions of consent and confirmed that construction management can occur within the draft traffic and construction management plans which are to be finalised to the satisfaction of the Council.

This reduction in vehicle movements continues through to when the building is completed and fewer parking spaces are provided on site thereby reducing vehicle movements most notably during commuter peak periods with the reduction in residential units on site and the conversion to hotel rooms.

Consideration has been given to all submitters with detailed consideration of those that presented during the hearing. The effects are largely considered the same with some positive effects directly associated with matters raised by submitters. These parties are not considered adversely affected by the change of use and associated design.

5.2 Overall in our opinion this application satisfies the relevant provisions of s95 of the Act and can be processed without notification and that no persons should be considered to be adversely affected by this proposal.

6.0 Statutory Assessment

Matters to be considered by the Council when assessing an application for resource consent under s104 of the Act include (subject to Part II), any actual and potential effects on the environment and any relevant objectives, policies, rules or other provisions of a Plan or Proposed Plan.

6.1 Actual and Potential Effects on the Environment (Section 104(1)(A))

In Sections 2 and 3 of this report the potential adverse effects of the proposal on the environment have been discussed and were found to be the same or similar to those approved upon the site. The level and nature of effects are considered to be less than minor in nature.

It is considered that the granting of consent to allow the proposal is consistent with promoting the sustainable management purpose of the Resource Management Act 1991. In particular, the proposal will enable the applicant and the community (during the construction period and via on-going employment opportunities) to provide for their economic wellbeing. The site is significantly under-



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utilised at present and its redevelopment to the scale proposed will have a decent economic impact that is a critical consideration for the Council.

The potential for adverse effects on the environment are limited considering the consented built form and the changes set out in this application being considered the same or similar most noticeably with respect to traffic and design. It is also considered that the amenity of the area will be significantly enhanced through the activation of the street edge, an appropriately scaled podium and architectural treatment. The proposal will be consistent with the character of the surrounding environment which is made up of tower developments intended to provide for commercial activities and intensification.

6.2 District Plan and any Relevant Statutory Documents (Section 104(1)(B))

Auckland District Plan (Central Area)

The following provisions of the District Plan are considered relevant to determining the application:

6.2.1 Objectives and Policies

The relevant objectives and policies were considered as part of the council planners report. The following considers these against the updated scheme.

General Objectives and Policies – Resource Management Section 3

6.2.2 ***A Quality Environment 3.5.1***

Objective

To manage the use and development of the Central Area's natural, physical and cultural resources to protect heritage features and important viewshafts, maintain or enhance its built and streetscape character and to ensure an attractive, healthy, clean and safe environment.

Policies

c) By managing the effects of development and activities on the environment to ensure the special qualities are not eroded.

e) By providing for an urban form that encourages the concentration of taller buildings in the core and lower buildings towards the periphery.



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g) By maintaining and improving the environmental quality of the public realm including the streetscape and the adjoining built environment.

i) By encouraging a high quality living environment through appropriately sized and located internal living spaces with adequate external outlook space.

j) By promoting excellence and diversity in architecture and encouraging high quality urban design directed at enhancing the relationship of buildings with public open space and having regard to the significant heritage elements and built form of existing scheduled heritage buildings.

6.2.3 An Accessible Centre 3.5.2

Objective

To facilitate access throughout the Central Area for passenger and goods transport, private vehicles visiting and servicing the Central Area and for pedestrians and cyclists.

Policies

c) By providing for safe, attractive, and visible places for people who walk and cycle.

d) By providing for car parking to facilitate the public visiting the Central Area

6.2.4 An Alive and Exciting People Place 3.5.3

Objective

To promote the Central Area as an exciting, appealing and distinctive centre with a wide variety of attractions reflecting its mix of people.

Policies

a) By providing convenient access to community activities and facilities.

b) By managing the adverse effects of activities on each other, on people and on the environment.



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- c) By encouraging high quality urban design that results in a safe, comfortable, distinctive and visually pleasing environment.*

6.2.5 A Place of Opportunities

Objective

To ensure that the Central Area is acknowledged as an outstanding centre in business, culture, arts, accommodation/non permanent accommodation, entertainment and learning and is responsive to new ideas and change.

Policies

- a) By promoting the Central Area as an attractive place where people will want to conduct business and to live, shop, visit, learn, recreate and undertake cultural activities or meet other people.*
- b) By providing a wide variety of opportunities.*
- c) By facilitating and encouraging the varied reuse of buildings and infrastructure.*
- d) By facilitating and encouraging redevelopment and the construction of new buildings and infrastructure to meet the needs of business and other activities in the Central Area.*

Queen Street Valley Precinct

6.2.6 Objective 14.4.3.1

To foster an environment that encourages activities which will enhance the vitality and interest of the Precinct.

Policies

- a) By ensuring that significant portions of ground floor frontages are made available for activities such as shops, food and beverage outlets and services to reinforce pedestrian activity.*

6.2.7 Objective 14.4.3.2

To maintain and enhance the Precinct as an attractive, safe and comfortable environment where any adverse effects on the microclimate are avoided or mitigated.



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Policies

- b) By maintaining and enhancing the quality of public open spaces, including streets, through appropriate landscaping and paving.*
- c) By preserving sunlight access to specified public spaces.*
- d) By ensuring that the public open space and pedestrian routes are protected from adverse ground level wind conditions, glare and shade.*
- e) By enhancing the urban design quality and attractiveness of streets and other public open spaces.*
- f) By ensuring that street frontages are maintained and that aggregated vehicle and service access provisions to buildings do not dissipate the street frontages.*
- g) By protecting views along the streets by limiting any encroachment of development on sight-lines.*
- h) By encouraging pedestrian pathways.*

6.2.8 Objective 14.4.3.4

To maintain and enhance the built and streetscape character of the Precinct and maintain a built form which is of an appropriate scale in relation to the form and scale of existing character buildings.

Policies

- a) By encouraging a quality of urban design which respects the form, scale and architecture of existing character buildings.*
- b) By applying a building development control package which seeks to maintain the character, sense of scale and access to daylight levels and visible sky.*
- c) By maintaining the small-scale variation and detail of shopfronts.*
- d) By requiring development of building frontages to streets or other public open spaces to maintain a height above street level which retains a sense of intimacy and character.*
- e) By reinforcing the character of the Precinct by requiring the design of new buildings or new work on existing buildings to respect the design elements of the existing buildings where specified.*

6.2.9 Comments

The development is for a high rise mixed use development consisting of a podium with tower above. The application is for a variation to the consented built form and use of the building. The applicant is mindful of the requirement to provide a high quality built form considering its status in the skyline of Auckland City and also its three street frontages all of varying characteristics. The site is currently



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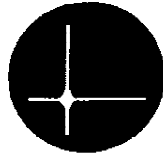
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covered in impervious surface and has a temporary carpark operating from it. The provisions actively encourage the development of new buildings.

The height of the building is only controlled by the sunlight admission plane (and site intensity) and therefore a property suited to high rise development. The height of the building does not seek to exceed that consented and complies with all development controls. The sunlight admission plan and compliance with this is clearly detailed on the elevations provided by Paul Brown Architects.

The objectives and policies are clear that the quality of the built form is important for ensuring a high quality central area is created. The proposal has been through an extensive process of design critic in the form of the Urban Design Panel (2 meetings) and on-going discussions and meetings with Peter Joyce (Council's Urban Designer). The design is supported and considered appropriate for its environment and suitable as a prominent built form in the Auckland skyline. The design process has also had specific consideration of the size of the podium and how this fits in to the established context most notably with respect to Elliot Street. Paul Brown within his architectural statement comments on this however I note that there is a clear rhythm and scale to Elliot Street that the proposal is consistent with.

Paul Brown Architects have designed each street frontage to have as an active edge as practicable. Elliot Street is the easiest of the three to accommodate considering the floor level of the building aligns with the footpath level providing for an easy transition between the public and private realm. Shops which have frontage to Elliot Street at ground level are required to provide for direct access thereby ensuring an appropriate level of connectivity. This connection between shops and the street is continued along Victoria Street with staggered entrances to shops. Due to the grade of Victoria Street there is no ability to walk directly from the road in to shops. Paul Brown Architects have provided for entrances to each shop which internally is a compromise however achieves a higher integration with the public realm. On Albert Street there is a lack of pedestrian connectivity which is largely a result of lower Albert Street which while providing valuable vehicle access effectively restricts pedestrians being able to walk in front of properties. The proposal includes an entrance to the mall, the thru site link and the hotel and residential apartments foyer. An easement is provided across the front of the property thereby enabling pedestrians to traverse across the front of the site. This is required via a condition of consent on the original application and is not proposed to be altered. Pedestrians are accommodated to a high standard and integration between the public and private realms is achieved. While the podium effectively houses a central mall complex it is not inward facing and has accommodated an open and responsive façade which will integrate and enhance the surrounding street network.



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The architects have provided for clear entrances in to and through the building. While not required the applicant has sought to provide the through site link along the southern edge of the building to enhance pedestrian connectivity. While there is a loss of developable space due to the provision of the through site link there are clear benefits to the connectivity of the street network and provides an appropriate alternative to walking along Victoria street which has a relatively steep grade associated with it. Along with the through site link there are the main entrances in to the podium structure with the most visually prominent and appealing being on the corner of Elliot and Victoria Streets. This was a feature of the Moller design and while modified and provided in an alternative format is a feature of the Paul Brown design.

The building does include 36 residential apartments. These units are all designed to meet the permitted standards with respect to size and outlook. The units are a small component off the amount of rooms within the tower with 266 hotel suites proposed.

The establishment of non-permanent accommodation provides for a high quality of accommodation for tourists, visitors and locals wanting to utilise the facility. The establishment of the hotel will increase employment opportunities while bring visitors in to the heart of the central area. The facilities associated with the hotel inclusive of the restaurant on the upper floors brings international style hotel accommodation to the Auckland CBD.

The proposal relies upon the consented built form and its associated effects and seeks to remodel it to suit the new proposal. With respect to a s127 as has been set out the effects have to be the same or similar in character. They are considered to be as set out in the assessment above. The underlying consent was considered appropriate and consistent with the objectives and policies and due to the similarities so too does this proposal.

6.2.10 Assessment Criteria

Generally a variation of a resource consent condition does not carry any specific assessment criteria with respect to the provisions of the District Plan. Instead it is required that the assessment have regard to any relevant objectives and policies and, as previously mentioned, an assessment of the effects of the changes as introduced by the variations.

This report has taken account of both of these matters in earlier sections with the conclusions being that this proposal is not contrary to any relevant objectives and policies with any actual or potential adverse effects generated by the proposed change being considered as less than minor in extent.



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6.2.11 Proposed Auckland Unitary Plan (PAUP)

While the earthworks rule, which has immediate effect under the PAUP, will be dealt with separately under another consent application the objectives and policies of the PAUP do require consideration under this application. The site is zoned City Centre and falls within the Queen Street Valley Precinct.

Objectives

- 1.The city centre is a globally significant centre for business.*
- 2.The city centre is an attractive place to live, work and visit with a 24-hour vibrant and vital business, entertainment and retail areas.*
- 3.Development in the city centre is managed to accommodate growth and the greatest intensity of development in Auckland and New Zealand while respecting its valley and ridgeline form and waterfront setting.*
- 4.The distinctive built form, scale, identified historic character and functions of particular areas within and adjoining the city centre are maintained and enhanced.*
- 5.A hub of an integrated regional transport system is located within the city centre and the city centre is accessible by a range of transport modes.*

Policies

Land use activities

- 1.Provide for a wide range and diverse mix of activities that enhance the vitality, vibrancy and amenity of the city centre including:*
 - a.commercial and residential activities*
 - b.arts, entertainment, events, civic and community functions*
 - c.high-quality visitor experiences, visitor accommodation and associated services*
 - d.learning, teaching and research activities, with a particular concentration in the learning precinct.*
- 2.Enable a significant and diverse residential population to establish within a range of living environments and housing sizes.*
- 3.Enable the most significant concentration of office activity in Auckland to locate in the city centre by providing an environment attractive to office workers, with a particular focus on the core central business district.*



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4. Provide for a wide range of retail activities throughout the city centre while maintaining and enhancing the vitality, vibrancy and amenity of core retail areas within the city centre and centres outside of the city centre. In particular:

a. enable small-scale, niche retail to occur throughout the city centre

b. encourage large department stores and integrated retail developments to locate within the core retail area

c. avoid large department stores and integrated retail developments locating outside the core retail area where they would adversely affect the amenity, vitality and viability of core retail areas within the city centre and/or centres outside of the city centre.

5. Provide for a wide range of activities along the waterfront, with particular emphasis on maritime, entertainment, culture, recreation, retail and tourism, while continuing to provide for those activities requiring a harbour location.

6. Enhance the waterfront as a major gateway to the city centre and Auckland.

7. Enable the efficient use and development of the Port of Auckland and identified marine and port activity areas.

8. Support the development of public transport, pedestrian and cycle networks and the ability to change transport modes.

Precincts

9. Identify and encourage specific outcomes in areas of the city centre that relate to:

a. a distinctive built character; and/or

b. a concentration of particular activities; and/or

c. activities that have specific functional requirements; and/or

d. significant transformational development opportunities.

10. Use framework plans to encourage comprehensive and integrated development of key development sites or precincts in the city centre.

11. Limit activities within the waterfront precincts that would have reverse sensitivity effects on established and future marine and port activities.



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12. Limit activities within the residential and learning precincts that would adversely affect the amenity and character of those precincts.

City form

15. Enable the tallest buildings and the greatest density of development to occur in the core central business district.

16. Manage adverse effects associated with building height by:

a. requiring building height and development densities to transition down to neighbourhoods adjoining the city centre and to the harbour edge

b. protecting sunlight to identified public open spaces and view shafts

c. requiring the height and form of new buildings to respect its valley and ridgeline form of the city centre and the existing established or proposed character of precincts

d. managing the scale and form of buildings to avoid adverse dominance and/or amenity effects on streets and public open space.

17. Maximise light and outlook around buildings.

18. Encourage public amenities to be provided within developments where possible, including publicly accessible open space, works of art and through-site links.

Public realm

19. Require building and development of the highest quality that contributes to the city centre's role as an international centre for business, learning, innovation, entertainment, culture and urban living.

20. Require building frontages along identified public open spaces and streets to be designed in a way that provides a sense of intimacy, character and enclosure at street level.

21. Require the demolition of buildings and structures to avoid, remedy or mitigate significant adverse effects on the pedestrian amenity of the city centre and the safety and efficiency of the road network.

22. Protect identified sightlines along streets and public open spaces from the city centre to the harbour, Rangitoto, the North Shore and identified sightlines along roads and public open spaces within the city centre to natural features and landmarks.

23. Enable high quality public open spaces along the waterfront that are accessible and provide spaces for recreational opportunities, facilities and events.



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Queen Street Valley Precinct (Applies to Half the Site)

Objective

The objectives are as listed in the City Centre zone in addition to those specified below.

1. The built and streetscape character and the amenity of the Queen Street Valley precinct is maintained and enhanced.

Policies

The policies are as listed in the City Centre zone in addition to those specified below.

1. Require building form and scale to maintain the character, sense of scale within the precinct and maintain sky views and sunlight access to streets.

2. Require building design to respect the form, scale and architecture of scheduled historic heritage places and pre-1940's buildings within the precinct.

3. Control demolition or removal of pre-1940s buildings, or parts of those buildings, to ensure it does not adversely affect the built form and streetscape character of the precinct.

4. Require proposals for new buildings or additions to existing buildings adjoining or adjacent to scheduled historic heritage places or pre-1940s buildings to be sympathetic and provide contemporary and high-quality design which enhances the precinct's built form and streetscape character.

Comment

The objectives and policies reflect the intent of the established objectives and policies of the Auckland District Plan (Central Area Section). These provisions effectively have no weight at this point in time and as a result a detailed analysis against these is not considered necessary except for acknowledging the consistency between the provisions.

7.0 Conclusion

7.1 This is a discretionary activity resource consent application (limited discretionary for the apartment mix), pursuant to s88 and s127 of the Act, seeking consent to vary and delete condition of the original resource consent and provide for the apartment mix proposed. The variations are required to facilitate the change of use and the new design by Paul Brown Architects.



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- 7.2 Our assessment concludes that the proposal is not contrary to the relevant objectives and policies of the District Plan and the Proposed Auckland Unitary Plan.
- 7.3 Overall our assessment also concludes that any actual or potential adverse effects on the environment arising from the proposal will be the same or similar and in some cases less than those approved as part of the underlying resource consent. On this basis we are satisfied that, pursuant to Section 95 of the RMA, this proposal can be processed without the requirement for notification and without the requirement for the written approval of any specific persons.
- 7.4 Accordingly it is considered that the statutory requirements of Section 104 and 104B of the RMA 1991 are satisfied. On this basis it is our opinion that land use consent can be granted for the proposal.

Report Prepared by:

A handwritten signature in black ink, appearing to read 'Nick Mattison', is written over a horizontal line.

Nick Mattison

Mt Hobson Group



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Town Planning & Resource Consent Solutions

ATTACHMENT ONE
ORIGINAL DECISION

RESOLUTIONS PASSED FOLLOWING A PLANNING HEARING BY
HEARING COMMISSIONERS HELD ON MONDAY, 24 SEPTEMBER 2007 AT 9.33AM,
TUESDAY, 25 SEPTEMBER 2007 AT 9.30AM AND THURSDAY 27 SEPTEMBER
2007 AT 9.30AM IN THE HEARINGS MEETING ROOM, LEVEL 1,
TOWN HALL, 301 QUEEN STREET, AUCKLAND

APPLICATION FOR A RESOURCE CONSENT
BY DAE JU HOUSING COMPANY LIMITED AT
106-108 ALBERT STREET, AUCKLAND CENTRAL, AUCKLAND
(LUC NO.: 20060773001)

COMMISSIONERS: Miss L A McGregor (Chair)
Cr F Storer
Cr G A Mulholland
Ms K Ryan
Mr J Hill

COUNCIL OFFICERS: Mr K Phyn Reporting Planner
Ms K Long Lead Senior Planner
Mr P Dayaram Traffic Engineer
Mr B Williams Operations Manager
Ms S Ensor Urban Designer
Ms L Durbin Hearings Co-ordinator
Ms P Naidoo Hearings Co-ordinator
Ms A Aranha Hearings Co-ordinator

APPLICANT: Dae Ju Housing Company Limited

APPEARANCES:
For the Applicant: Mr R Bartlett
Mr G Moller
Ms L Falconer
Mr B Rae
Mr P Curtis
Mr B Hall
Mr D Ashby
Mr J Gottler
Mr B Harries
Mr K Cook
Mr D Aitken (*under subpoena*)

Submitters: Mr C Lane
Auckland Regional Public Health Service represented by Ms A Richards
Kiwi Property Holdings Ltd, represented by Mr D Allan
Colwall Property Investment Ltd, represented by Mr A McKenzie
Sky City, represented by Ms H Andrews, Mr D Shields, Mr W Harding, Ms A Jones and Mr B Julyan
Phillips Fox, represented by Mr J McRae
Evidence was tabled on behalf of the Auckland Regional Transport Authority

The hearing of evidence concluded at 5.30pm on Thursday, 27 September 2007 and the public, including all Council officers except for Mr Phyn and Ms Durbin, excluded from the deliberations of the Commissioners.

Introduction

Dae Ju Housing Company Limited has applied to the Auckland City Council for resource consents it requires in order to construct a 67 level building on an inner city site located between Elliott Street, Victoria Street West and Albert Street. Buildings formerly located on the site have been demolished for some years and it is currently used for car-parking at the Elliott Street level, with a bungy operation being conducted on the Victoria Street West portion of the land closer to Albert Street.

The application was publicly notified on 14 January 2007, with 20 submissions being received by the Council, including 2 late submissions (considered below).

The site rises steeply from Elliott Street and on its highest boundary the topography is difficult, with Albert Street dividing into two southbound portions of road at this point leaving a narrow footpath on the upper part of Albert Street. A bus lane is presently being established adjacent to this footpath, with the detailed design of the affected intersections and street furniture and so forth still in its formative stages.

The building the Applicant intends to construct will be comprised of 6 levels of underground basement parking for 481 vehicles to be accessed from the lower part of Albert Street, a three level retail shopping podium to occupy the full width of the site, and a 57 level residential tower to be located on top of the podium and on its western half.

The residential tower will contain 259 apartments designed to comply with the standards set by Plan Change 2 to the District Plan, and will also include two sky gardens to break up the façade of the building, to assist with wind mitigation particularly at podium and street level, and also to provide common areas for the occupiers of the apartments. The retail podium will include landscaped areas as will the tower which will contribute both to the streetscape and to the outlook gained from a number of surrounding buildings. The building avoids having apartments that are only south-facing, and many apartments have both an eastern and western outlook. The development will accommodate a range of activities including residential apartments, retail outlets, food and beverage activities, and other uses permitted by the District Plan.

Solar panels, in the shape of large fins to be placed on the top of the tower, will heat all of the water required for the whole building (including the retail outlets) for 65% of each year.

The building design includes public pedestrian through-links inside the retail podium from Elliott Street to Albert Street and Victoria Street West, as well as an enclosed escalator access directly from Elliott Street to Albert Street on the southern exterior of the podium. In its evidence, the Auckland Regional Transport Authority supports the connectivity, accessibility and public access that will be provided by the redeveloped site as it would be efficient in terms of integrating land use and transport. On Albert Street, this public pedestrian access will exit onto a plaza which will link with the one already established outside the adjacent Rifleman Building. The public pedestrian areas within the new building will be closed overnight and there will be no public viewing from the residential tower at any time.

When completed, Elliot Tower will be the second tallest building in the central city and highly visible on the skyline. Under the Auckland District Plan (Central Area Section) an applicant is entitled to build to the height and size that this Applicant proposes. In fact, this will be a less bulky building than might otherwise be built, though somewhat higher, given the tower footprint only covers around 20% of the site. The fact that the tower on the development is to be used for residential purposes means that outlook and light will be maximised. A 1:13 floor plate would be permitted as a result of residential bonuses but is not being fully utilised in this case.

The site is located within the Core Strategic Management Area where building height is unlimited other than by special height controls that ensure sunlight access is maintained to Albert Park and to Aotea Square. There is no infringement of these controls, nor of the sightlines to the Museum and to Mount Eden which are included in the District Plan provisions.

The District Plan does not direct that central area development take a particular form or skyline outline. The current dominance of the city's skyline by the Sky Tower, as well as the views to be obtained from that structure, is not protected by the District Plan nor by any other method.

The consents the Applicant has sought are restricted discretionary activities under the District Plan, meaning that the Commissioners have power to decline or grant consent to the application. If consent is granted conditions may be imposed only by reference to the matters to which the Council has restricted its discretion; these matters are found in the District Plan and in the recent Plan Change 2 to the Plan's provisions.

This decision addresses the issues raised at the public hearing of the application. All the evidence presented and the content of all submissions made on the application have been taken into account, whether or not a particular submitter is mentioned in the following discussion.

Issues

The main issues in contention were the proposed inclusion of a porte cochere entrance on the Albert Street frontage of the building (including urban design concerns and the difficulties with footpath access and levels alluded to earlier); the impact of construction traffic on buildings in Elliott Street and the tower known as the "Phillips Fox Tower" in particular; and the height of the proposed tower, its urban design and visual impacts, and the effect on the telecommunications and broadcast facilities located in the upper part of the Sky Tower.

Each such issue, together with others that raised in submissions and/or in the course of the hearing, is addressed in turn.

Porte Cochere

The main entrance to the residential tower part of the development will be located on the Albert Street frontage of the building. It is intended to incorporate a public footpath into the configuration of this entrance and the Applicant presented two alternative designs for this for consideration. Both involve a large porte cochere on this face of the building.

Both design solutions make provision for vehicle access into the site from the intersection of Albert and Victoria Streets with the exit being located further along Albert Street toward the Rifleman Building. This exit would cross over the lower part of Albert Street and will require an air space licence to be granted by the Council. The first design incorporates angled vehicle access points, the second provides for right-angled access. Each option was explained in detail and scale models of both alternatives were provided.

The porte cochere arrangement was not supported by the Council's reporting urban designers or traffic consultant. However it had been supported in principle by the Urban Design Panel at its fourth meeting on the proposal, as long as traffic data indicated that potential conflicts between traffic and pedestrians were able to be appropriately managed. This support was confirmed by its chairman, Mr Aitken (who had been issued with a subpoena by the Applicant prior to giving his evidence). The Commissioners are satisfied after hearing the traffic evidence that, although not ideal, the potential traffic-pedestrian conflicts can be managed satisfactorily. The Council's urban designer, Ms Ensor, remained

opposed to the porte cochere after having heard all the evidence presented on behalf of the Applicant by three independent traffic engineers and its urban design consultant, Mr Rea. Her view is that a more active frontage is needed on this part of the building.

The Council's traffic engineering consultant advised the Commissioners that the porte cochere proposal is an improvement on the existing situation on the Albert Street – Victoria Street West intersection. But he still has some reservations about the proposed outcome, particularly with respect to the interaction between pedestrians and vehicles at the porte cochere entrance point and the difficulties for pedestrians caused by the big drop in the levels of Albert Street and the lower part of Albert Street and the need for easy pedestrian access. Here, there is a need for pedestrians to traverse this “gap” between the levels of the road to the upper part of Albert Street while at the same time traffic will require ongoing access to the lower part of Albert Street and also the porte cochere itself. This situation would be compounded by the number of vehicles, including delivery vehicles, which would be drawn to the 6-level parking basement of the building.

The Commissioners were also made aware that the Council is currently planning an upgrade to Albert Street and that the footpath design is included in its proposals. The exact configuration of the footpaths and roading in the immediate vicinity of the proposed building can therefore be designed to fit with the Council's requirements and the Applicant's proposal. This includes the extent to which the Victoria Street West footpath can 'stretch' toward the intersection of Albert Street and Victoria Street West. To the extent that the Applicant's proposal forces changes to the existing footpath configuration adjacent to its site, while the Council is responsible for designing a satisfactory outcome for pedestrians in the vicinity of the site, it is appropriate that the consent holder contribute to the cost of any changes that are required as a consequence of its proposal.

At the entrance to the porte cochere itself, the Commissioners agree with the Council's traffic engineering consultant that the roadway entrance must make it clear to vehicles entering the site that pedestrians have the right of way. After considering both options presented, the Commissioners' view is that the second option presented by the Applicant (Option B) should be adopted. Its right-angle configuration will provide a direct line of sight at the exit, and traffic entering the porte cochere area would be slowed as a result of the sharper angle. With the addition of some differentiation on the roadway surface – such as a slightly raised profile, or a rougher pavement treatment – there would be a clear signal at the entrance that traffic here has to give way to pedestrians walking through the porte cochere on a new upper Albert Street footpath or across the entrance to the footpath on lower Albert Street.

The footpaths under and alongside the porte cochere will be public footpaths (although in the first case it will be located within the Applicant's land). Such footpaths are required to be easily accessible, easy to traverse, well lit, provide weather protection, to include no steps, and to have a direct line of sight. The existing footpath at upper Albert Street is to continue with only the one step up from the roadway to the footpath itself, an important consideration given the changing levels in this area.

Given its close proximity to the site, the Commissioners are firmly of the view that the existing lights and pedestrian crossing arrangement for the Albert Street-Victoria Street West intersection is both complex and inadequate, and that a “Barnes Dance” configuration should be investigated in order for the intersection to function more effectively and safely, especially for the benefit of the elderly, disabled, and those accompanying babies and young children. This is clearly not a matter to be included as a condition of the Applicant's proposal as it lies outside the development site. But the Commissioners do want the Council itself to be aware of their serious concern about the existing situation at this major intersection, particularly given the right turn from the Albert Street bound Victoria Street car lane occurs immediately before the pedestrian lights (and there are problems if vehicles

turn on an amber/ red light) and pedestrians seeking to cross outside the pedestrian lights, when Victoria Street left car turning traffic is moving into Albert Street.

Pedestrian entrances to the retail podium are to be provided on Elliott Street, the corner of Elliott and Victoria Street West, and half way up Victoria Street. Public seating could possibly be provided near this latter entrance to provide some relief for older people and those with young children as the footpath is steep on this part of Victoria Street. Further up on the corner of the building where it faces the Albert Street-Victoria Street West intersection steps will lead to the entrance doors. The Council's urban designers have reservations about this stepped access, and consider the public plaza at the south western end of the new Albert Street frontage could extend to this area, and help to activate this frontage area of the building. However the Commissioners accept that the need for foyers, lifts, fire control and a management office will reduce the Albert Street frontage as an active edge, and note that there is limited retail activity in this section of Albert Street. In addition, the floor above includes a café close to the north west corner.

As the porte cochere will be a key access for people and vehicles associated with the residential tower, and there are concerns (as noted above) about the interaction between the public footpath and traffic using this entrance, the Commissioners believe that a porte cochere management plan should be developed and approved by the Council, with a follow-up review of its content to ensure that the arrangements are working in practice, including arrangements relating to access for delivery vehicles using the basement parking off the lower part of Albert Street. The Applicant was agreeable to this suggestion and advised that a concierge would be permanently based in the porte cochere entrance. It did not perceive any need for a further person to be stationed in the lower parking level because the surveillance equipment to be installed within the building might obviate any need for this. The Commissioners' preference is that if possible the porte cochere is to have visual oversight as well as electronic surveillance.

The Commissioners also consider that the pedestrian through-link to be sited alongside the south face of the building should open early in the morning and remain open until at least 10pm so that easy and well-lit access is provided from Elliot Street to Albert Street even if the retail shops in the podium have closed for the day.

To maintain an active frontage on the Elliott Street frontage of the podium, the doors to be provided for street level retail outlets must be kept unlocked and unobstructed (including no frosted glass) so that active pedestrian access is provided at all times when these outlets are open.

The Height of the Building and Telecommunications

The building height has been addressed earlier in this decision. The height of the residential tower portion of the development is of great concern to Sky City because of:

- (a) the effect Elliott Tower may have on the Sky Tower, in part because of its 'iconic' status in Auckland, and
- (b) the impact of the new structure in the blocking telecommunications and broadcast signals from the transmission facilities located in the upper parts of the Sky Tower, and
- (c) the impact of radiofrequency emissions from those facilities on the apartments in the upper storeys of Elliott Tower.

Accordingly, Sky City wants Elliott Tower to be reduced in terms of its overall height.

As to the first issue, the profile of Auckland's skyline is a consideration under the restricted discretionary activity criteria introduced by Plan Change 2. The Auckland Central Business District (CBD) is Auckland's identifiable centre of business, entertainment, education, shopping and an urban lifestyle. As such, significant development can be expected in this area, and change is ongoing. The proposed tower reinforces the primacy of the CBD, while the tower's set back from Elliott Street acknowledges the important pedestrian environment envisaged for that area. The Commissioners note that the Urban Design Panel (4 May 2006) was "satisfied that the overall height and design quality of the tower will make a positive contribution to the central area skyline" and that "the design concept has the potential to achieve an excellent urban design outcome."

As noted earlier there is no prohibition in the District Plan on the new building being constructed to the height proposed, nor is there an infringement of any sightlines or sunlight planes that might otherwise require a height reduction. The Sky Tower itself does not enjoy a protected status so far as its height or appearance is concerned. The height limits presently included in the District Plan for areas to its west do mean however that the Sky Tower will continue to be the tallest building to the west of the central area and will continue to serve as the demarcation point when the central city skyline is observed from the north and north-western Harbour and the North Shore areas. Mr Moller provided an interesting visual demonstration of the continuing evolution of the central Auckland skyline in the course of delivering his evidence. In addition two other architects/urban designers provided photomontages highlighting different perspectives of the proposed tower from both within and outside the CBD, and the tower's relationship with the broader CBD, including the Sky Tower.

The Sky Tower serves as a useful beacon to locating the central city from a distance, but as one witness observed, like Rangitoto Island its evenly-rounded profile means that from a distance it can still remain difficult to tell exactly which direction one is facing even when the Sky Tower is in full view. The addition of a lower building to one side of it could mean that the Sky Tower would serve as a more accurate compass than it does at present. The Commissioners acknowledge that, as with the Sky Tower, the proposed tower is likely to generate discussion about the merits of tall buildings, and their urban design and other implications.

Technical evidence on the effect of the proposed residential tower on the telecommunications and broadcast signals from the facilities established in the Sky Tower was presented by Mr Harding for Sky City and Mr Curtis for the Applicant. Although representing different parties, these experts agreed on the main issues.

None of the transmission paths of these facilities is designated, nor are the facilities themselves. There would be some obstruction of signals by the broad face of Elliott Tower, in whole or in part, in the lee of the tower and diagrams were presented to demonstrate the effect of this on the services that are received in areas to the east and north-east. This impact was estimated at 21% of the 360 degree coverage for those who presently receive the services in those affected areas.

In summary, the argument presented at the hearing was that the obstructions would result in inconvenience in that some repeaters would be required to be installed and/or that some existing antennas would require to be relocated. While this would result in some cost to those operators who would be affected, it was not suggested that these technical adjustments would be impossible to achieve. The construction manager for the Applicant advised that the residential tower would take approximately 2 1/2 years to complete, meaning that this timeframe is available for any adjustments to the facilities to be implemented. Mr Curtis suggested in his evidence that it is possible that technological advances could in any event mean that some of the technology currently employed might be outdated by this time.

The third main issue raised on behalf of Sky City was the effect of radiofrequency emissions from the Sky Tower infrastructure on occupiers of the upper floors of the Elliott Tower. The concern was that radios, phones and other electronic equipment in these upper apartments may not work as a result of emissions received from the Sky Tower. (The effect of such emissions on people is governed by the NZ Radiofrequency Standard 2772, to which the Sky Tower facilities are subject, and is accordingly not an issue in terms of Elliott Tower.)

In his evidence for Sky City, Mr Julyan produced a copy of the resource consent that was issued in 1993 to Brierley Properties Ltd for the construction and operation of the Sky Tower, described in that decision as an observation and telecommunications tower.

Condition (j) of the 1993 consent reads:

The applicant shall take all reasonable steps to ensure that radio frequency emissions from the site do not cause interference to other services, equipment and facilities. The adequacy of such steps to be determined as required by the [Manager] for the time being of the NZ Radio Frequency Service or alternatively, such other independent and appropriately qualified body or person specified by the Council.

Having had that condition drawn to their attention, the Commissioners' view is that Sky City's point is actually addressed by the requirements of its own consent and that any obligation in respect of interference to any equipment in the upper floors of Elliott Tower belongs to it.

Shadowing

Shadow diagrams for every quarter of the year were supplied by the Applicant. In the case of winter, this included shadow models for each hour of the day from 10am until 2pm. It appeared from these diagrams that there would be no adverse shadow effects on Aotea Square or Albert Park, and further that as a result of the narrowness of the residential tower, any shadow effects would be short-lived.

This evidence was not challenged.

In terms of the qualitative and quantitative assessment that is required for this potential effect the Commissioners are satisfied on the evidence that any shadowing effects from the building would be fleeting and would be minor.

Construction traffic

A number of options for construction traffic routes were discussed when this proposal was originally advanced. A series of consultation meetings with the Council, the Auckland Regional Transport Authority, and adjoining landowners and occupiers have taken place. Following these meetings a Project Information Group is being established by the Applicant so this consultation will be ongoing and any issues relating to traffic management will be addressed as they arise. Suggested construction traffic routes involving Darby Street, and alternatively access from Wellesley Street along the full length of Elliot Street, had been eliminated by the time the application was heard.

At the hearing, Kiwi Property Developments Ltd which owns the neighbouring building known as "Phillips Fox Tower" (although Mr McRae later informed the hearing that his firm no longer owns the naming rights to it) as well as Colwall Property Investment Ltd which also owns a neighbouring building, advised that an agreement had been reached with the Applicant about construction traffic access. Provided that the relevant condition of consent referred correctly to the plan agreed with the Applicant, these parties would be satisfied that consent to the application could be granted. This plan is formally described as the

“Construction Traffic Management Plan In Victoria/Out Elliott Option 4”, being drawing number 04163-52 prepared by Traffic Planning Consultants.

For Phillips Fox, which occupies the Kiwi Property Developments tower, Mr McRae explained the traffic congestion that accumulates on the Elliot Street-Victoria Street corner and the difficulties this causes for his firm and its clients. The firm has no desire for this situation to be exacerbated. He had not been shown the plan agreed to by the other parties (including the firm’s landlord).

In its evidence, the Applicant requested that the construction hours included in the conditions of consent recommended in Mr Phyn’s report to the Commissioners on behalf of the Council be amended to reflect an earlier finish time during the excavation phase of the project. This phase will generate the most significant amount of construction traffic. Approximately 120,000m³ of material will be excavated, and this exercise is expected to take around a year to complete. Removing the excavated material will involve about 5 truck movements an hour. As the landfills where the excavated material will be dumped are closed by 5pm, trucks that are loaded after 3.30pm are then held over on the construction site until the following day so they can arrive at the landfills at the start of the next day. Having considered this issue, including the evidence about landfill closure times, the Commissioners take the view that working hours on Saturdays should be extended to 5pm and further that trucks which have been pre-loaded with excavated material and held overnight should be permitted to leave the site after 7am in the mornings, to a maximum of 5 trucks an hour at this peak time. These trucks would travel against the peak hour flows.

This earlier finish time should go some way toward alleviating Phillips Fox concern about evening rush hour traffic at the Elliot Street - Victoria Street intersection.

Outlook from lower apartments in south western corner

There will be a minor infringement of the outlook requirement for some of the apartments that requires consent as part of this application. Development control 6.16 Outlook Space, introduced by Plan Change 2 modification to the District Plan, requires an outlook space to be provided from each face of accommodation buildings containing windows to principal living areas or bedrooms. The purpose of this control is to safeguard outlook, daylight, sunlight and privacy for the occupants of such buildings.

However this infringement was not an issue in contention in either the submissions or at the hearing. The orientation of the proposed building, the outlook that will be provided to the east and west, and the internal layout of the residential apartments are such that the Commissioners believe there would be no adverse effect as a result of allowing the infringement in this case.

District Plan Provisions

The specific objectives, policies and rules of the District Plan relating to the proposed development, and in particular the restricted discretionary activity criteria in both the District Plan and Plan Change 2, have been identified in the planning report prepared by Mr Phyn. These matters were all extensively addressed in submissions and evidence, particularly that of the planning consultants and urban designers who were called by each of the Applicant and Sky City and it is not necessary to repeat them in this decision. The restricted discretionary activity criteria are addressed in more detail later in this decision.

All the matters raised in the submissions filed, the reports provided and the evidence and submissions given at the hearing have been considered in coming to the decision on the application. The Commissioners are satisfied that any adverse effects on the environment will be minor and further that the proposal will be consistent with the policies of the District Plan and also the relevant regional planning instruments.

The Commissioners have considered the matters included in Part II of the Act in reaching their decision on this application. Given the view reached on effects on the telecommunications and broadcast facilities in the Sky Tower, they do not agree with Sky City's submissions as to Section 7 of the Act, and further have not found it necessary to resolve any actual or perceived conflict between the case-law authorities referred to by both the Applicant and Sky City with respect to the relationship between Part II and restricted discretionary activity criteria.

DECISION ONE

Pursuant to section 37 of the Resource Management Act 1991, the time for receiving submissions be extended to accept the late submission received from the Auckland Regional Transport Authority, Private Bag 92236, Auckland.

The submission by Wai-Bun Chan Tai Yip Holding Limited, 2/5 Paunui St, St Heliers, was not accepted due to its considerable lateness and also because it offered nothing of value in terms of achieving an adequate assessment of the effects of the proposal.

DECISION TWO

Pursuant to section 104C of the Resource Management Act 1991, the Commissioners have resolved that the restricted discretionary activity resource consent application by Dae Ju Housing Company Limited to construct a new 67 level building, to accommodate retail, commercial and residential and car parking activities, at 106-108 Albert St, Auckland City, legally described as Parcel: Lot 1 DP 339812 , Certificate of Title-163636 as described in the application material and plans by Moller Architects, all referenced by the Council as LUC20060773001 and which involves the following:

- Infringement of maximum Verandah Height provisions
- Parking for more than 100 vehicles - consent is sought to provide 481 car parking spaces
- Access to site with multiple frontages
- Vehicular crossing widths over footpaths
- Vehicle crossings and access within defined road boundary
- Reduction in parking space manoeuvring dimensions
- Redevelopment of a contaminated site
- Urban Design and appearance (Plan Change 2)
- Outlook Space(Plan Change 2)
- Overbridge over Lower Albert St.

shall be **granted consent** subject to the conditions which follow.

Pursuant to section 113 of the Resource Management Act 1991, the reasons for this restricted discretionary activity consent are:

- (a) In terms of section 104(1)(a) and 104C of the Act, any actual and potential adverse effects on the environment will be no more than minor and satisfy

the relevant criteria for which discretion has been applied. The overall design and appearance of the building is acceptable within this locality where the highest intensity of development is anticipated by the District Plan, in terms of its urban design quality, its overall design and appearance in relation to views of the building (both views of the skyline and within the CBD), and its relative scale and dominance at the streetscape environment.

- (b) Adverse effects of the height of the building are visually offset by the design, positioning and slender form of the residential tower and the varied architectural form of the building facades. The proposal complies with site intensity controls of the District Plan. In addition, subject to a particular condition requiring modification to the design of the Albert St/Victoria St pedestrian entrance and façade treatment, any potential adverse effects upon the character of public and pedestrian spaces adjacent to the proposal are considered to be less than minor.
- (c) Matters including shading, wind, glare are mitigated through compliance with standards in the District Plan and conditions. In addition, the proposal has a high level of residential amenity and outlook.
- (d) Adverse effects relating to traffic, car parking and construction traffic can be adequately mitigated subject to conditions of consent. In addition, the proposed methodologies for dealing with construction issues (including a requirement for a Construction and Traffic Management Plan) will also ensure any adverse effects are no more than minor. The proposal will have a less than minor effect on the capacity and operation of the surrounding road network and will not be inconsistent with the District Plan transportation objectives and policies.
- (e) Positive effects include the provision of pedestrian circulation, a public through-site link and interactive pedestrian plaza area.
- (f) In terms of section 104(1)(b) of the Act, the proposal is consistent with the relevant policy statements and plans, including the policies, objectives and assessment criteria of the Auckland City Operative District Plan Central Area Section 2004, in particular those relating to the Core Strategic Management Area (SMA 1), Queen St Precinct, Pedestrian Orientated Area Contamination and Transportation. The urban design and form of the proposal is consistent with the objectives, policies and criteria of Plan Change 2 and residential amenity.

The proposal is considered to satisfy the relevant criteria of the District Plan in relation to the above matters. In particular:

- The overall design is acceptable and will provide an attractive and interesting building with a modern appearance in this prominent Central Area location
- The proposal will result in the creation of publicly accessible and through-site links and plaza area
- Subject to conditions, the traffic generation, construction and access effects are considered minor, or can be mitigated so that such effects will be minor, and the proposal will not adversely affect the functioning and capacity of the road network

- **Subject to conditions of consent, including a redesign of the porte cochere area and the associated Albert St/Victoria St pedestrian entrance, there will be no more than minor adverse effects relating to the building's design upon the street and surrounding pedestrian environment, views of the building, both within the CBD context and beyond, and contamination and archaeological matters**
- **The creation of through-site links and the publicly accessible plaza space will help improve the amenity of the immediate neighbouring environment and increase connectivity from Elliott Street to Albert Street.**

The proposal is also consistent with the Auckland Regional Policy Statement, reinforcing the role the CBD plays in the regional context. The comprehensive redevelopment of this site will meet the Council's requirement under the Regional Growth Strategy and ARPS to promote urban intensification in the Central Area.

Section 104(1)(c):

In terms of section 104(1)(c) of the Act, all relevant matters have been taken into account including all submissions lodged, the Urban Design Panel's recommendations, and the reports and evidence provided to the Commissioners.

The proposal is considered to be consistent with Part II of the Act.

On the above basis the proposal can be granted consent pursuant to section 105 of the Act.

Relevant statutory provisions:

Pursuant to Section 113(1)(ab), (ac), (ad) and (ae) of the Act, the following statutory provisions have been taken into account in the assessment of this application:

Part II and sections 104 and 104C of the Resource Management Act 1991.

Relevant Plan provisions:

The following relevant Plan provisions have been taken into account in the consideration of this application:

Auckland City District Plan Central Area Section Operative 2004 including Part 4.1 - Core Strategic Management Area (SMA 1) Part 14.4 – Queen Street Valley Precinct, Part 6 – Development controls, Part 9 – Transportation, Part 11 – Contamination, Proposed Plan Change 2 and the Auckland Regional Policy Statement.

Issues in Contention:

The principal issues in contention are discussed above in the body of the decision.

Summary of Evidence:

The following evidence was considered by the Commissioners:

- **The applicant's assessment of effects and plans (including specialist reports)**
- **Urban Design Report - dated 29 June 2007 - Sue Evans – Senior Urban designer – Central Area Planning – Auckland City Council**

- **Infrastructure Comments: Memo – Auckland City – S Paton – ACE, Development Engineering Division 22 January 2007**
- **Infrastructure Comments: Water - Memo – Metro Water – Hemantha De Alwis – 12 February 2007**
- **Audit of Wind Report for Elliott Building - Building Aero Dynamics – Michael R Doon –February 12, 2007 on behalf of Council**
- **Traffic report of T² Engineers Ltd – Elliott Tower Proposed Residential and Commercial Development - dated 13 July 2007 for Council**
- **Contaminated Site Considerations: Memo – Environmental Health Specialist M Chetty – dated 5 July 2007**
- **Airspace Encroachments: Email - Mark Menzies Friday, 22 June 2007 - Subject: Re: Airspace Encroachments - 106-108 Albert ST -Consultant Asset Engineer: Transport Assets and Operations, Council**
- **Landscape Assessment –Sky gardens – Letter Ed Phillips– Boffa Miskel- 15 May 2007**
- **Traffic Matters: Refer email –Barry Williams - Operations Manager, Transport - Subject: Elliot Tower Date: 14 June 2007**
- **Traffic Matters: Email (Barry. Williams Operations Manager, Transport - Subject: Elliott Tower Construction TMP -24 July 2007**
- **Traffic Matters: Email –Barry Williams - Operations Manager, Transport - Subject: Elliot Tower Date: 14 June 2007**
- **Footpath, Truck Docks and Plaza -Email : M Perry-June 06, 2007 106-108 Albert Street**
- **Memo – Moller Architects – Response to Request for Additional Information – Gordon Moller – 06.12.06**
- **Memo – Moller Architects – Response to Request for Additional Information – Gordon Moller – 14.02.07.- Including Additional Plans –date stamped 14 Feb 2007 – Sketch Plans -View from Elliot St, Plaza Porte Cochere, Porte Cochere Albert St, Floor Plan Podium Level 02 RL 20 RC 003 Sheet 15, Floor Plan Podium Level 03 RL 26 RC 003 Sheet 16, Perspectives CAD Rendering – Moller Architects, Plaza Deck Extension over Lower Albert St Sheet 64- Additional Traffic Information – Letter TPC Traffic Planning Consultants Ltd ,14 February 2007 including attachment and plans date stamped 14 February 2007**
- **Elliot Tower Sky Gardens – Report of Linda Falconer – 23 November 2006**
- **Elliott Tower Planting Concept Report - Report of Linda Falconer Planting Consultant – 12 March 2007**
- **Uniservices Ltd Wind Tunnel Investigation of the Pedestrian Level Wind Environment in the Vicinity of the Proposed Development Known as: Auckland Elliott Towers – Ref 12135, 27 July 2006 Contamination Assessment Report – Dae Ju Housing Company Ltd, dated April 2006**

- **Revised plan: Floor Plan Podium –Level 03- Sheet RC 004 dated Revision C**
- **Archaeological Assessment of 106 -108 Albert St- For Dae Ju Housing co. – Geometric Ltd – May 2007**
- **Submitter: Letter DLA Phillip Fox dated 20 June 2007**
- **Plan Ref 04163-43 –TPC Traffic Planning Consultants- Construction Traffic Management Plan in Victoria St and out Elliott - Option 4 - dated 12.7.07**
- **Communications Investigations: Email : K Cook Subject: Elliott Tower - Additional Information Date: 11 July 2007 Summary of Communications Investigations (Peter Curtis, Kordia)**
- **Car Parking: Email –Karl Cooke – 29 June 2007**
- **The submissions and evidence presented at the hearing.**

Main Findings of Fact:

The main findings of fact are:

- (a) **The site is located in Strategic Management Area 1 (Core) of Auckland City within a pedestrian orientated activity area. The eastern part of the site is in the Queen Street Valley Precinct;**
- (b) **The proposal overall is to be considered as a restricted discretionary activity. Consent is required for a number of traffic and access elements including: 481 car parking spaces; multiple access and access within a defined road boundary; minor parking space infringements; verandah height infringement, and contaminated site requirements and building over the lower part of Albert Street. In addition the proposal is subject to the provisions of Plan Change 2;**
- (c) **The District Plan does not apply a general maximum height limit to this site, and the proposed building does not infringe on the height limits to Aotea Square or Albert Park designed to protect sunlight admissions during specific parts of the day;**
- (d) **The proposed level of development is consistent with the expected intensity levels for CBD location, complying with the bulk limits;**
- (e) **The alternative porte cochere design offered by the Applicant for the Albert Street frontage of the building represents a practical arrangement in the circumstances, particularly given the difficult topography in the immediate vicinity;**
- (f) **The construction traffic proposal agreed to between the Applicant and some submitters represents a practical outcome in terms of the management of the effects of that traffic;**
- (g) **While there will be impacts on some of the telecommunications and broadcast services provided from the Sky Tower, such services are not designated or otherwise protected, and can also be modified or redesigned to avoid or manage those impacts;**
- (h) **There will be no adverse shadow effects as a result of this proposal.**

Conditions of consent:

Pursuant to section 108 of the Resource Management Act 1991, this consent is subject to the following conditions:

General

1. Except where otherwise required by the conditions that follow, the proposal shall be substantially in accordance with the assessment of effects and supplementary information submitted with the application and as shown on the plans, prepared by Moller Architects, entitled "Elliott Tower, 106-108 Albert St, Resource Consent Application, Dae Ju Housing Co Ltd, October 2006", being:

Location

- Site Plan - Sheet 01 (RC 201)
- Key Site Plan – Sheet 02 (RC 203).

Context

- Context - Sheet 03 (Design Sketch)
- Sketch from North East – Sheet 04 (Design Sketch)
- Sketch from South East – Sheet 05 (Design Sketch)
- Sketch Showing 3 Level Retail Podium, Elliott St/Victoria St/Albert St – Sheet 06 (Design Sketch)
- Sketch Darby Street – Sheet 07 (Design Sketch)
- Sketch Looking North Along Elliott St – Sheet 08 (Design Sketch)
- Pedestrian Plaza to Albert St Looking North – Sheet 09 (Design Sketch)
- Entry at Level Two Retail from Victoria Street – Sheet 10 (Design Sketch)
- Sketch Galleria Through Site Link – Sheet 11 (Design Sketch)
- Atrium Retail – Sheet 12 (Design Sketch).

Plans

- Car Parking, Floor Plan, Basement Level B1, RL 11 - Sheet 13A (RC 001 Rev A)
- Car Parking, Floor Plan, Basement Level B2, RL 8 - Sheet 13B (RC 032 Rev A)
- Car Parking, Floor Plan, Basement Level B3, RL 5 - Sheet 13C (RC 033 Rev A)
- Car Parking, Floor Plan, Basement Level B4, RL 2- Sheet 13D (RC 034 Rev A)

- **Car Parking, Floor Plan, Basement Level B5, RL -1- Sheet 13E (RC 035 Rev A)**
- **Car Parking, Floor Plan, Basement Level B6, RL -4- Sheet 13F (RC 036 Rev A)**
- **Floor Plan, Podium, Level 01, RL 14 - Sheet 14 (RC 002 Rev A)**
- **Floor Plan, Podium, Level 02, RL 20 - Sheet 15 (RC 003 Rev D)**
- **Floor Plan, Podium, Level 03, RL 26 - Sheet 16 (RC 004 Rev D)**
- **Floor Plan, Podium, Level 04, RL 32 - Sheet 17 (RC 005 Rev B)**
- **Location Plan, Tower Plan on Podium, Level 06, RL 38 - Sheet 18 (RC 205 Rev A)**
- **Floor Plan, Level 06-15, Lower Level - Sheet 19 (RC 006 Rev A)**
- **Floor Plan, Level 06-15, Upper Level - Sheet 20 (RC 007 Rev A)**
- **Floor Plan, Level 16-25, Lower Level - Sheet 21 (RC 008 Rev A)**
- **Floor Plan, Level 16-25, Upper Level - Sheet 22 (RC 009 Rev A)**
- **Floor Plan, Level 26, Sky Garden Lower Level, RL98 - Sheet 23 (RC 010 Rev A)**
- **Floor Plan, Level 27, Sky Garden Upper Level, RL101 - Sheet 24 (RC 011 Rev A)**
- **Floor Plan, Level 28-48, Lower Level - Sheet 25 (RC 012)**
- **Floor Plan, Level 28-48, Middle Level - Sheet 26 (RC 013)**
- **Floor Plan, Level 28-48, Upper Level - Sheet 27 (RC 014)**
- **Floor Plan, Level 49, Sky Garden Lower Level, RL 167 - Sheet 28 (RC 015 Rev A)**
- **Floor Plan, Level 50, Sky Garden Upper Level, RL 170 - Sheet 29 (RC 016 Rev A)**
- **Floor Plan, Level 51-60, Lower Level - Sheet 30 (RC 017)**
- **Floor Plan, Level 51-60, Upper Level - Sheet 31 (RC 018)**
- **Floor Plan, Level 61-64, Lower Level - Sheet 32 (RC 019 Rev A)**
- **Floor Plan, Level 61-64, Upper Level - Sheet 33 (RC 020 Rev A)**
- **Floor Plan, Level 65, RL 215 - Sheet 34 (RC 021 Rev A)**
- **Floor Plan, Level 66, RL 218 - Sheet 35 (RC 022 Rev A)**
- **Floor Plan, Level 67, Plant/Lift Motor Room, RL 221 - Sheet 36 (RC 023)**

- **Floor Plan, Roof Plan - Sheet 37 (RC 025).**

Elevations

- **East Elevation: Elliot Street, West Elevation: Albert Street - Sheet 38 (RC 101 Rev A)**
- **North Elevation: Victoria Street, South Elevation: Galleria - Sheet 39 (RC102 Rev A)**
- **Section, Podium Galleria Cross Section - Sheet 40 (RC 207 Rev A)**
- **Longitudinal Section at Through Site Link - Sheet 41 (Design Sketch)**
- **View West on Victoria Street, View East on Victoria Street - Sheet 42 (CAD Rendering)**
- **View South on Albert Street, View North on Albert Street - Sheet 43 (CAD Rendering)**
- **North East Podium Entrance: Corner of Victoria and Elliott Street - Sheet 44 (CAD Rendering)**
- **North West Podium Entrance: Corner of Victoria and Albert Street - Sheet 45 (CAD Rendering)**
- **Façade Design - Sheet 46 (Four Sketches).**

Photomontages

- **Computer Generated Photomontages of Significant City Views – Sheets 47-50.**

CAD Model Validation

- **Elliott Tower CAD Model in Auckland City Model - Sheet 51.**

Shadow Study

- **Shadow Studies - Sheets 52-61.**

Addenda

- **Elliot Tower – Schedule of Apartment Areas - Sheet 62 (Spreadsheet)**
- **Development Control, Outlook Space, Southern Building Face - Sheet 63 (RC 202)**
- **Plaza Deck Extension Over Lower Albert Street - Sheet 64 (RC208)**
- **Site Pictures - Sheets 65-68**
- **GFA Plans - Sheets 69-91**

all referenced by the Council as LUC20060773001.

Development/Site

1. Prior to the commencement of any excavation or construction, the consent holder must obtain from the Auckland City Council Property Group an airspace lease over the Albert St (lower Albert St) road boundaries for the projections of the Plaza and associated area above Albert St.

Verandahs

2. The design of the verandahs over the street boundary shall be to the approval of the Council (Manager: Central Area Planning). Details of the proposed design shall be submitted prior to the lodging of an application for building consent.
3. The street verandahs shall comply with Rule 6.9 of the District Plan (other than for the height exceedance along the Albert St frontage as granted by this consent) and prior to occupation of the building, and lighting shall be provided under the street verandahs in accordance with Rule 6.9 of the District Plan. Written confirmation from an electrical engineer that the proposal meets the minimum standards of the District Plan shall be provided to the Council (Manager: Central Area Planning) prior to occupation of the building.
4. The final design of the access into the porte cochere on the Albert Street frontage shall be to the satisfaction of the Council (both the Manager Central Area Planning and the Group Manager Traffic Safety, Assets and Operations of the Council
5. The pedestrian throughway on the south face of the building shall be kept lit and open for public access from 7am each morning until at least 10pm each night.

Traffic, Loading and Access

6. The vertical height clearance of the loading access shall be not less than 3.8m.
7. A "car coming" pedestrian warning device is to be installed at the basement car park entrance to the satisfaction of the Council (both the Manager: Central Area Planning and the Group Manager Traffic Safety, Assets and Operations).
8. No use of the loading bay (Albert St) for loading purposes shall be permitted on normal working days between the hours of 7am to 9am and 4pm to 6pm.
9. The required off-street loading space and manoeuvring areas shall be kept clear and available at all times, free of charge and impediment, for vehicles used in conjunction with the particular activity to which the loading spaces relate on the site, and shall not be used for the deposit or storage of any goods or materials or for any other purpose.
10. Both the porte cochere and loading area (off Albert Street) are to be provided with 24 hour surveillance, either by way of electronic surveillance or by such methods as described in the Porte Cochere Management Plan required by these conditions, to the satisfaction of the Manager: Central Area Planning prior to the occupation of the building.
11. Any existing vehicle crossings made redundant as a result of the development are to be reinstated as footpath, kerb and channel to comply with Rule 9.7.3.3 Footpath Crossings in the District Plan and the cost of this is to be borne by the

consent holder to the approval of the Assets Manager, Transport and Group Manager Traffic Safety, Assets and Operations.

12. All vehicle crossings shall be designed and constructed to the same levels as the footpath on either side of such crossing, using the same materials, patterns and finish as the footpath on either side of the proposed crossing. The crossing levels must be the continuation of the levels of the footpath on either side of the proposed crossing and not changed to marry-in with site levels. Any such designs shall integrate with any proposed Council footpath upgrades to the satisfaction of Manager: Central Area Planning and Group Manager Traffic Safety, Assets and Operations.
13. Unless authorised by a separate resource consent, all car parking spaces to be provided within the building shall be used only ancillary to the permitted uses of the building and no parking spaces shall be leased or otherwise allowed to be used for activities not associated with the use on the site.
14. The parking spaces shall be assigned generally in accordance with the parking allocation ratios of Rule 9.7.1.1 of the District Plan (i.e. a maximum of 1 space per self-contained unit having a floor area of 79m² or less, and a maximum of 2 spaces per self-contained unit of 80m² or more).

Footpath Treatment

15. The design and final built form of the verandah and canopy structures and building edge shall take into account and integrate with CBD street upgrades including: the location of proposed trees, any street lighting provided by the development, bus stops and pedestrian crossings associated with the development, all to the satisfaction of the Manager: Central Area Planning.
16. Footpaths affected by the Elliott Tower development shall be reinstated by the consent holder in accordance with the design and standards as documented in the Auckland City Council's proposals for CBD streetscape upgrades of Victoria and Albert Streets. Any basalt kerbstones that are damaged by the consent holder or its activities are to be replaced at the consent holder's cost with basalt kerbing in the original chiselled format (as currently survives on the majority of the Elliot and Victoria Street frontages) including straight and radiused sections as appropriate.
17. Prior to any works commencing on the site, the consent holder shall obtain the approval of the Council (Operations Manager Transport) for the proposed method of protection of footpaths and underlying services affected by the movement of vehicles to and from the site and by works being carried out on the site. Generally the laying of timber planks or the provision of a reinforced concrete overlay will not be acceptable due to the high pedestrian volumes. Temporary commercial vehicle crossings constructed in accordance with Standard Engineering Detail 12908/302/1 shall be provided unless otherwise agreed with the Operations Manager Transport. The protection method selected will depend on how the footpath and footpath users will be impacted by vehicles. All temporary crossing areas shall be reinstated to the satisfaction of both the Operations Manager Transport and the Group Manager Traffic Safety, Assets and Operations.
18. Should any damage occur in the course of development of the site resulting from the proposal, the consent holder shall bear all costs relating to the reinstatement of the affected footpath, street furniture and trees and/or affected services. All reinstatement work shall be carried out at the direction and to the

satisfaction of the Council (Operations Manager Transport and the Group Manager Traffic Safety, Assets and Operations).

19. The footpath area and ramp along the Albert Street frontage and to the upper Albert St plaza shall be designed to the satisfaction of the Manager: City Planning, to provide a suitable grade for pedestrians and the footpath (pedestrian ramp) must be continuous, include no steps, and any vehicle access must be over the footpath (refer condition 12), to maintain pedestrian priority and convenience.
20. The upper Albert Street Plaza shall be redesigned to eliminate the need for steps and to optimise a grade transition from the Albert Street footpath to this area, to the satisfaction of the Manager: City Planning.
21. The two truck docks and the parking garage entry and exit of Albert St shall be redesigned to provide adequate footpath refuge for pedestrians between the entry and exit points, to the satisfaction of the Manager: Central Area Planning and Group Manager Traffic Safety, Assets and Operations.
22. The footpath to the Albert St slip lane building edge shall be a minimum width of 3m as shown on sheet 16 RC004D of the application plans. The vehicle crossing should comply with condition 12.
23. An easement in gross in favour of the Council (or an equivalent legal instrument to the same effect) is to be applied to that area of footpath and plaza within the site along the Albert Street frontage of the site as shown on the plan referenced as RC 004 D-16 to the satisfaction of the Manager: Central Area Planning. This easement (or equivalent) is to provide for continuous and interrupted public pedestrian access which shall be constructed and maintained by the consent holder to a public footpath standard.
24. The consent holder shall pay to the Council, in bank cheque or electronic transfer, a financial contribution of \$100,000 (GST inclusive) prior to the issue of the building consent for the development of appropriate traffic management options to address any adverse traffic implications on the intersection of Albert Street (including the lower part of Albert Street) and Victoria Street West and arising from the development. If the Council agrees, the consent holder may undertake all or some of the works required.

Construction Traffic, Other Construction and Excavation

25. Prior to any works commencing on site, the consent holder shall submit to the satisfaction of the Council (Manager: Resource Consents ACE, the Council's Transport Operations Manager and the Group Manager Traffic Safety, Assets and Operations), a Construction Traffic Management Plan (CTMP). All work on the site and excavation and construction traffic movements to and from the site shall be carried out in accordance with the approved CTMP required by this condition and also in accordance with the Construction Management Plan drawing Option 4 – No. 04163.52. The CTMP is required to include address all traffic management details listed in appendix 1 to this decision as well as other matters. The CTMP shall include an appropriate means of demonstrating consultation and ongoing liaison with affected adjoining property owners, the Council and the Auckland Regional Transport Authority.
26. The CTMP shall define all road routes of heavy vehicle excavation and construction traffic to and from the site, including those to the motorway system as well as the routes within the vicinity of the site. These routes shall

not include the use of Elliott St south of its intersection with Darby St or the use of Darby St unless agreed by the Operations Manager Transport and Group Manager Traffic Safety, Assets and Operations, and:

- **Entry and exit crossing sites to be excavated and relayed as commercial crossings (SED 12908/302/1) are to provide flush footpath transition, rather than overlaid**
 - **Pram crossings shall be provided in cut back of kerb on the eastern side of Elliott Street**
 - **Manual pedestrian control is to be provided on the eastern and western approaches to the Elliott and Victoria Streets intersection during truck entry**
 - **Pedestrian warning signs are to be installed either side of the site exit crossing on Elliott Street. The consent holder is to monitor the effectiveness of these signs. Should this monitoring demonstrate concerns about pedestrian safety, the consent holder will notify the Council (Operations Manager, Transport) and manual pedestrian control will be required for this exit to the satisfaction of the Operations Manager, Transport.**
- 27. The consent holder shall appoint a suitably qualified person as a Site Traffic Management Supervisor for the construction period with the responsibility and accountability for controlling traffic matters and also ensuring that the agreed Construction Traffic Management Plan is adhered to at all times.**
- 28. With the exception of a maximum of 5 trucks pre-loaded with excavation material which may have been held on the site overnight, there shall be no movement of heavy vehicles to and from the site during the peak traffic periods of normal working days between the hours of 7.00am to 9.00am, and 4.00pm to 6.00pm unless otherwise approved by the Council (Operations Manager Transport) having regard to any condition in this consent restricting hours of work.**
- 29. The consent holder shall provide an Excavation and Construction Management Plan to the satisfaction of the Council (Manager: Resource Consents Auckland City Environments and the Group Manager Traffic Safety, Assets and Operations) prior to any works commencing. This Plan is to specify:**
- **name and contact details of the site manager (phone, facsimile, postal address)**
 - **measures to be adopted to maintain the site in a tidy condition in terms of disposal/storage of rubbish, storage and unloading of building materials and similar construction activities**
 - **procedures for controlling sediment runoff and the removal of soil debris and construction materials from public roads or places**
 - **procedures for controlling and removal of construction materials from public roads or places**
 - **proposed numbers and timing of truck movements throughout the day**

- **ingress and egress to and from the site for demolition and construction vehicles and wheel washing treatment facilities**
 - **on-site sediment control**
 - **dust control measures**
 - **tree protection measures (i.e. trees on site as well as street trees)**
 - **parking arrangements for subcontractors and workers vehicles for each stage of the development**
 - **location of workers' conveniences (e.g. portaloos)**
 - **all pedestrian safety and traffic management measures required for construction activity where a separate CTMP is not required (Refer to Appendix 1).**
- 30. All work on the site and excavation and construction traffic movement to and from the site shall be carried out in accordance with the approved Construction Traffic Management Plan and Excavation and Construction Management Plan required by the above conditions 25 (including Appendix 1) and 29.**
- 31. The consent holder shall provide to the satisfaction of the Council (Team Leader: Compliance Monitoring) a Construction Noise Management Plan (CNMP) prior to any construction commencing on the site. The CNMP shall contain information relating to the demolition and construction methodologies and specify particular machinery to be used, stating clear noise reduction and elimination measures for machinery that has potential to breach the construction noise levels as set out in Rule 7.6.4 of the District Plan. Rock breaking or any other similar percussive techniques shall be specifically mentioned along with the tower crane type and noise specification. Noise monitoring procedures, consultation and notification of affected parties and any possible alternatives to noisy equipment shall be addressed in the CNMP in detail. A detailed programme of works shall be included.**
- 32. All work on the site must be carried out in accordance with the approved Construction Noise Management Plan required by the above condition.**
- 33. All construction works including mechanical digging equipment and/or commercial earth moving equipment and construction activities shall be restricted to the hours between 7.30am to 6.00pm Monday to Friday, and 8.00am to 5.00pm Saturday. No works shall be undertaken on Sundays and public holidays. This is to ensure amenity is maintained for surrounding neighbours. A number of activities (including crane erection and dismantling, concrete curing and finishing) may be undertaken outside of these hours but only with the express prior written approval of the Manager: Central Area Planning. Internal finishing and internal fit outs, complying with Rule 7.6.4 in the Auckland City Operative District Plan Central Area Section 2004, may take place at other times. All worker vehicles during any approved extended working hours shall be parked off street and no radios, hammering or power tools that are audible off site, shall be permitted during these extended hours.**
- 34. Prior to the commencement of excavation, the consent holder shall erect and maintain in place a screen wall of a minimum height of 1.8m along the boundaries of the site. This wall shall be constructed using either solid**

materials or heavy gauge wire mesh. It is to remain in place until the cessation of excavation works on the site.

35. The loading and unloading of all vehicles and storage of materials, plant and equipment associated with excavation and the building construction, shall take place within the site boundaries unless otherwise approved by the Council (Manager: Operations Manager Transport and Group Manager Traffic Safety, Assets and Operations) by way of an approved TMP.
36. A wheel wash and stabilised construction entrance shall be installed and used on the site during the full period of excavation and construction to ensure that loose material associated with excavation, removal of soil and debris and delivery of construction materials is not carried by vehicle tyres and deposited on public roads (note shall be taken of Annexure 8 of the City of Auckland Central Area Operative District Plan 2004, and ARC Publication TP90, when designing these). During such times the road carriageway adjacent to the site shall be hosed down at the end of each working day.
37. To prevent contamination of drains with water containing soil sediments there shall be no stock piling of excavated material on the site. Any surplus excavated material (except where this is to be reused on the site and retained to a reasonable standard) shall be removed from the site and deposited in an approved landfill.
38. The consent holder shall implement suitable sediment control measures during all earthworks to ensure that all stormwater runoff from the site is managed and controlled to ensure that no silt, sediment or water containing silt or sediment is discharged into stormwater pipes, channels or soakage systems in accordance with Annexure 8 Earthworks of the District Plan. These measures shall remain in place until the completion of the development. This includes the installation of approved Enviropods in all cesspits downhill, and/or adjacent to, the site.
39. Should any damage occur in the course of development of the site, the consent holder shall bear all costs relating to the reinstatement of the affected footpath, street furniture and trees and/or affected services. All reinstatement work shall be carried out at the direction and to the satisfaction of the Council (Transport Operations Manager and Group Manager Traffic Safety, Assets and Operations).
40. All site works shall be carried out so as not to create a dust nuisance on the site and the surrounding area. In order to prevent the dispersal of dust and other particles from adversely affecting other sites, the consent holder shall dampen the area of earthworks so that the emission of dust and other particles is minimised and implement the use of scrim netting and daily clean-up of work areas on each floor as well as regular wetting of bins positioned under construction debris chutes.
41. All construction activities carried out on the site shall be designed and conducted in a manner such that any noise from the site shall not exceed the noise limits in Rule 7.6.4 of the District Plan.

Miscellaneous

42. Prior to occupation of the building, the consent holder is to provide the Council (Manager: City Planning) with the details of a plaque, interpretive panel or similar recognition of the historic associations of the site, to be placed in the

development in a location generally accessible to the public during business hours.

43. Prior to the issue of a S224(c) certificate for any of the apartments within the building the consent holder is to prepare a management plan for the operation of the porte cochere, to the satisfaction of the Council (Manager Central Area Planning). The porte cochere management plan shall be substantially in accordance with that attached as Appendix 2 and shall include details of measures to enforce time restrictions on waiting vehicles, and will include a concierge being present on site between 7.00am and 10.00pm every day, and possibly at other times. The porte cochere shall be managed in accordance with the approved plan and no changes shall be made to that plan without the prior written approval of the Council (Manager: Central Area Planning).
44. The consent holder is to provide a brief written report to the Council (Manager: Central Area Planning) on the operation of the porte cochere, the loading bay, and access and egress arrangements after Elliot Tower has been in operation for two years. This report is to include details (including the time, date, persons involved, and any injuries to persons or property) of any incidents or complaints with respect to the management and operation of the porte cochere, and any changes made as a consequence of such events.

Urban Design

45. Prior to the lodgement of a building consent, the applicant shall submit samples of materials and colour swatches and finishes including glazing for approval prior to the lodgement of an application for building consent. The final details of exterior materials, colours and finishes for all parts of the building shall be to satisfaction of the Council (Manager: Central Area Planning).
46. Retail activities fronting Elliott St shall be re-designed to provide an entrance to each retail unit from the Elliott St frontage. Details of the design of such entrances shall be submitted for approval prior to the lodgement of the building consent application to the satisfaction of the Council (Manager: Central Area Planning). Each such entrance is to be kept unlocked and unobstructed (including no frosted glass being used) so that an active pedestrian access is achieved at all times during the hours when these premises are open for trading.

Roof

47. The final design details and materials, finishes of the exterior roof features (the three architectural roof structures) shall be to the satisfaction of the Council (Manager: Central Area Planning). Wind noise testing of the three architectural roof structures is to be conducted and the results of this testing are to be submitted along with the final details of these features to the Council (Manager: Central Area Planning) for approval prior to the lodgement of a building consent application.
48. With the exception of the features referred to in condition 47, all other rooftop projections as defined in section 6.6 of the District Plan shall be enclosed in within the structure of the building form, to the satisfaction of the Council (Manager: Central Area Planning). Note: Any future antennas located on the roof top area will require a further resource consent and should be designed to complement the approved roof design.

Sky Gardens

49. Prior to construction or the lodgement of above ground floor building consent the consent holder shall submit for the approval of the Council (Manager: Central Area Planning) detailed design arrangement plans, diagrams, details, schedules and specifications in accordance with the concept proposals for planting, irrigation, external lighting, planter finishes and climbing supports and guying and coordination of building structure and services design. Construction of above ground floor works shall not commence until full approval has been given. The detailed design of the 'sky gardens' must include:
- Maximisation of the height available for tree growth and solar access from the top of planter boxes to the underside of the floor plate above, and maximise the sense of a 'gap in the façade' from a distance
 - At the garden levels the minimum size of the trees at the time of planting should be no less than 400 litre commercial grade equivalent
 - The consent holder shall source larger trees in advance of their establishment within the garden areas, and demonstrate that sufficient hardening-off for trees has occurred and that the understorey planting is grown to a mature form
 - Planter depths and plant sizes at planting shall be as stipulated in the concept proposals, including 1.2m minimum depth for tree planters
 - Minimum unobstructed headroom of 5.4m and a minimum 1.8 metre and maximum 2.5m height shall apply to glass screens to the 'sky gardens'
 - All planted areas are to have an automatic irrigation programme.
50. The consent holder shall meet all costs of the Council approving those detailed design elements and reviewing as specified in condition 49.
51. Prior to construction, the consent holder shall submit an establishment maintenance specification and programme for the planting to be undertaken in accordance with condition 49, prior to the lodgement of above ground floor building consent application.
52. All detailed landscape design and construction supervision is to be carried out by an New Zealand Landscape Architects Institute accredited landscape practitioner. Six weeks prior to completion of the building works on site, the consent holder shall submit a Planting Management and Maintenance Plan outlining seasonally recurring activities and establishment period activities and design objectives. The Planting Management and Maintenance Plan will be a separate document from the initial establishment regime undertaken under the defects liability period and is to address longer-term management issues such as arbour programmes, plant replacements and replenishment of planting beds and shall be to the satisfaction of the Council (Manager Central Area Planning).
53. To ensure the successful establishment and on-going maintenance of the landscaping of the sky gardens (conditions 49-52) the consent holder shall pay a bond for the sum of one hundred thousand dollars (\$100,000) to the Council.

- (i) This bond shall be paid prior to the lodgement of the above ground floor building consent and shall be either in cash or guaranteed by a registered trading bank in accordance with Council's requirements.
- (ii) Following a period of two years from the date of completion of the planting of the sky gardens the Council shall release half of the bank bond where, in the opinion of the Council (Manager: City Planning), the planting establishment and ongoing maintenance has been carried out in accordance with the approved Management and Maintenance Plan. The remaining half shall be released only after five years from the date of completion of the final planting on the site and if in the opinion of the Council (Manager: Central Area Planning) the planting and on-going maintenance has been further carried out in accordance with the approved Management and Maintenance Plan.
- (iii) The bond documentation shall be prepared by the consent holder at his/her expense and submitted to the Council (Manager: Central Area Planning) for approval. Any costs incurred by the Council in the preparation, checking, assessment and release of the bond shall be met by the consent holder.

Contamination and Dust Management

54. Prior to excavation and construction works, the consent holder shall submit a contamination remediation action plan, to the satisfaction of Council Resource Consents Monitoring Team Leader, Auckland City Environments, and then undertake remediation works in accordance with the approved remediation plan.
55. Prior to excavation and removal of any contaminated material, the consent holder shall submit a Health and Safety Plan, to the satisfaction of the Team Leader Resource Consent Monitoring ACE, for the workers involved in the excavation, providing details of how the effects of the contaminated material will be minimised, in accordance with 'The Cleanup of Contaminated Sites, Occupational Safety & Health Service, Department of Labour, 1994' to the satisfaction of Council Resource Consents Monitoring Team Leader, Auckland City Environments.
56. Following completion of remediation works, the consent holder shall undertake a validation exercise to confirm the performance of the remediation works and to identify residual contamination at the site. It is then to provide, to the satisfaction of the Council (Resource Consents Monitoring Team Leader, Auckland City Environments) a Site Validation Report, which must include but not be limited to:
 - Soil test results for the excavated areas and capping materials (if any)
 - Scaled plans (plan and elevation views) showing the location and containment details (if any) of any contaminated materials relocated on the site
 - An on-going monitoring and management plan (if needed)
 - Evidence of disposal of contaminated materials in a licensed facility.
57. The consent holder must ensure that the contamination level of any imported soil complies with Section 5.5.48 of the Proposed Auckland Regional Plan: Air,

Land and Water, and The Ministry for Environment (MfE) 'A Guide to the Management of Cleanfills', January 2002, Ref. ME418.

58. The consent holder shall at all times control any dust in accordance with the Good Practice Guide for Assessing and Managing the Environmental Effects of Dust Emissions, published by the Ministry for the Environment (2001).

Noise and Vibration

59. All construction activities carried out on the site shall be designed and conducted in a manner such that any noise from the site shall not exceed the noise limits in Rule 7.6.4 of the Auckland City Operative District Plan 2004 Central Area Section.

60. All construction activities carried out on the site shall be designed and conducted in accordance with vibration Rule 7.6.5 of the Auckland City Operative District Plan 2004 Central Area Section.

61. Prior to occupation of any residential unit on the site, the consent holder shall submit a report from a suitably qualified acoustic engineer that confirms to the satisfaction of the Council (Resource Consents Monitoring Team Leader, Auckland City Environments) that the building has been designed and constructed to achieve the following internal noise levels:

- (i) In all bedrooms:

10.00 pm - 7.00 am, no more than 35dBA (L10)

7.00 am - 10.00 pm, no more than 45dBA (L10)

In all other habitable rooms: no more than 45dBA (L10)

This is based on both:

- the existing background noise levels including traffic between 10:00pm and 7:00am, at all facades of the building, with the average design spectrum to be determined by field measurements of the relevant noise sources and
- the noise levels and standards in Rule 7.6.3(a), Central Area Section, Auckland District Plan 2004.

- (ii) At the same time and under the same physical conditions as the internal noise levels in (i) above, all bedrooms and other habitable rooms must be adequately ventilated in accordance with the Building Code; and

- (iii) In assessing compliance with the ventilation requirements of the Building Code for the purposes of part (ii) of this condition above, no source or means of ventilation shall be taken into account unless it is available at all times while achieving the internal noise levels required under part (i) of this condition. For example, adjustable doors, windows or louvres may not be relied upon to meet the ventilation requirements of the Building Code if they can be adjusted to allow internal noise levels to exceed those specified in part (i) of this condition; and

- (iv) The noise shall be measured with a sound level meter complying at least with the International Standard IEC 651 (1979): Sound Level Metre, Type 1.

Wind and Glare

62. The building shall be designed and such changes made to the building as are necessary to comply with the following rules of the District Plan Central Area Section 2004:

- Rule 6.12 Wind Environment Control; and
- Rule 6.13 Glare Control.

(Note: See condition 49 also, the sky gardens have a role in mitigating wind conditions at the podium and street levels).

63. The solar panels to be installed on the roof of the residential tower are to be constructed and maintained using non-reflective materials.

Signs

64. No billboards or signage, except signage relating to on-site activities in accordance with the Auckland City signs bylaw, shall be permitted on the exterior of the building. No sandwich boards are to be placed on any public pedestrian areas, inside or outside the buildings, including for the avoidance of doubt the plaza on the Albert Street frontage.

Archaeological

65. The consent holder shall employ at its expense a qualified archaeologist who is to:

- i) Provide 10 working days' notice to the Council (Manager, Heritage Division) of a pre-commencement site meeting with all contractors, sub-contractors and construction staff involved in earthworks, including moving and relaying kerbstones. At this meeting the archaeologist is to outline the procedure if any archaeological features are found and provide to the Council (Manager, Heritage Division) minutes of this meeting once it has been held, including the names of those in attendance;
- ii) Monitor earthworks on the site until such works reach at least 2 metres below any building foundations, including the monitoring of surface stripping of the site, in order to establish whether any sub-surface archaeological features are present.
- iii) Certify to the Council (Manager: Heritage Division) in writing within one month of the completion of earthworks whether or not any archaeological features have been discovered.

66. If any archaeological sites, including human remains are exposed during site works then the following procedures shall apply:

- a. Immediately when it becomes apparent that an archaeological or traditional site has been exposed, all site works shall cease.
- b. The site supervisor shall immediately secure the area in a way that ensures that any artefacts or remains are untouched and arrange for the archaeologist to visit the site (if not already present).

- c. The site supervisor shall notify tangata whenua, the New Zealand Historic Places Trust, the Department of Conservation, City Planning at the Auckland City Council and in the case of human remains the Police, that an archaeological or traditional site has been exposed, so that appropriate action can be taken. This includes such persons being given a reasonable time as determined by the Council (Manager: Central Area Planning) to record and recover archaeological features discovered before work may recommence on the site.

Refuse

67. Prior to construction commencing, a copy of a waste management plan shall be lodged with the Council by the consent holder that shall include designated sites for refuse bins for the collection and storage of glass, paper, plastic and metal cans and collection details. The required plan shall be prepared to the satisfaction of the Council (Manager: Central Area Planning) and shall be in accordance with the Council's waste reduction policy.

Prior to issue of the Code Compliance Certificate, facilities for the storage, collection and disposal of refuse associated with the proposed activity shall be provided on the site in accordance with the approved waste management plan and shall continue to be provided at all times thereafter.

Bicycle Storage

68. Prior to construction commencing the consent holder shall prepare a plan and make secure provision for resident and visitor bicycles on the site, to the satisfaction of the Council (Manager: Central Area Planning). Bicycle storage facilities shall be provided in accordance with the lower basement and upper basement floor plans in accordance with the approved plan.

Height and site intensity

69. The building shall be designed, including any changes that result from any of these conditions, to comply with the following rules of the District Plan:
 - Rule 6.2.1 and 6.3 maximum height (Special height control - sunlight admission to Aotea Square). A certificate from a registered surveyor confirming compliance with this control shall be submitted to the Council (Manager: Central Area Planning) prior to construction commencing
 - Rule 6.7.3 Maximum Total Floor Area Ratio.

Number and Layout of Apartments

70. Prior to the occupation of the building following completion of construction, details of the number and layout of residential units shall be provided to the Council (Manager: City Planning). Unless authorised by another resource consent, the area of units shall not be less than that required under Rule 9.7.1.1A of the Auckland City District Plan - Central Area Section 2004 and the layout of each unit shall comply with Rule 6.15 and/or appendix 12 (as introduced by Proposed Plan Change: Plan Modification No. 2).
71. The sky gardens are to be maintained as open landscaped space. This is in order to mitigate adverse wind effects as well as to provide common amenity areas for residents of the building. In the event that any subdivision of or within Elliott Tower occurs, clear written notice must be provided to each new

owner, by way of consent notice if necessary, of their ongoing legal and financial responsibility for the continuance and maintenance of the common areas in the building (including in particular the sky gardens).

Review

72. Pursuant to section 128 of the Resource Management Act 1991, the Council may serve notice on the consent holder of its intention to review all the conditions of this resource consent:
- (i) at any time within 2 years following the grant of consent;
 - (ii) for the purpose of dealing with any adverse design, appearance, landscaping, construction and traffic effects on the environment which may arise from the exercise of the consent and which it is appropriate to deal with at a later stage. With particular regard to the design, appearance, landscaping and construction effects, the Council may require that the design, appearance, and construction methodology be changed. In the case of adverse traffic effects, the Council may adopt the best practicable option to avoid, remedy or mitigate any adverse effect on the environment.
 - (iii) The consent holder shall meet all costs associated with any review.
 - (iv) The consent holder is to provide a brief written report to the Council (Manager: Central Area Planning) on the operation of the porte cochere, the Albert Street loading bay, and access and egress arrangements after Elliot Tower has been in operation for two years. This report is to include details of any incidents or complaints with respect to the management of the porte cochere, and the Council may require additional measures to manage traffic movement within the porte cochere to address any identified concerns.

Financial Contribution

73. The resource consent holder shall have paid to the Council as a financial contribution prior to the commencement of any building development in accordance with this consent, an amount equal to 1% of the assessed value of works of the development as determined by the Council. For this purpose the value of works shall be as defined in the Auckland City Operative District Plan 2004 Central Area Section (refer also Advice note 7).

Monitoring

74. The consent holder shall pay a consent compliance monitoring charge of \$10,000 (GST exclusive) to the Council, plus any additional monitoring charge or charges to recover the actual and reasonable costs that are incurred to ensure compliance with the conditions attached to this consent. (This 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).
75. The consent compliance monitoring charge must be paid as part of the resource consent fee and the consent holder will be advised of the additional monitoring charge or charges as they fall due. Such additional charges are to be paid within one month of the date of invoice.

Administrative Charges

76. The consent holder shall pay any administrative charge fixed in accordance with section 36(1) of the Resource Management Act 1991 or any additional charge required pursuant to section 36(6) of the Resource Management Act 1991, wherever appropriate.
77. This resource consent will expire seven years after the date of commencement of consent unless: (a) it is given effect to before the end of that period; or, (c) Upon an application made prior to the expiry of that period (or such longer period as may be fixed under section 37 of the Resource Management Act), the Council fixes a longer period. The statutory considerations that apply to extensions are set out in section 125(1)(b) of the Resource Management Act 1991.

Note: The above conditions require a number of documents and plans to be submitted to a variety of Council officers at different times. For the assistance of the consent holder, the chart appended as Appendix 3 indicates which officers are to receive which documents. This is only a guide and the detail of all the conditions must be double-checked to ensure the required documentation is provided and all approvals are sought.

ADVICE NOTES

1. The consent holder needs to obtain all other necessary consents and permits, including those under the Building Act 2004, and to comply with all relevant Council Bylaws.
2. This consent does not constitute building consent approval. Please check as to whether or not a building consent is required under the Building Act 2004. If a building consent application is already lodged with Council or has already been obtained you are advised that unless otherwise stated, the use shall not commence until conditions of this resource consent indicate have been met.
3. Prior to the commencement of any construction or excavation, the consent holder shall have been granted all requisite regional council consents.
4. The consent holder is required to obtain any necessary authorisations that may be required under the Historic Places Act.
5. A copy of this consent should be held on site at all times during the establishment and construction phase of the activity and drawn to the attention of those working on the site.
6. The consent holder is requested to notify the Council, in writing, of its intention to begin works, a minimum of seven days prior to commencement. Such notification should be sent to the Team Leader Compliance Monitoring and include the following details:
 - name and telephone number of the project manager and site owner
 - site address to which the consent relates
 - activity to which the consent relates
 - expected duration of works.

7. Subject to Section 198 of the Local Government Act 2002 and Auckland City Council's Policy on Development Contributions, a development contribution is payable on this proposal. A notice of assessment will be sent out which outlines the quantum of the contribution payable for this consent. Please note that with respect to this development, building consents will not be released, code of compliance certificates will not be issued, and Section 224(c) certificates for subdivisions will not be issued until the development contribution is paid. If further consents are applied for in respect of this development the contribution amount may be re-calculated at that time. Please contact the Development Contributions team for any queries in this regard.
8. Any site contamination reports and plans should be prepared in accordance with the Contaminated Site Management Guidelines No. 1 Guidelines for Reporting on Contaminated Sites in New Zealand, Ministry for the Environment, 2003.
9. A geo-technical report with supporting documentation of construction techniques/methods will be required with any building consent application.
10. Final points of connection for drainage and water supply will need to be consented under a building consent application on the advice of Metrowater. The consent holder is required to be advised of Council requirements outlined in the Metrowater Development and Connection Standards issued Feb 2005.
11. Detail of on-site separation of private drainage reticulation, clearance requirements for works in relation to construction activities and water supply connections will be provided as part of the building consent application.
12. There may be limits in the water pressure available from the public water supply. Booster pumps and/or header tanks may be required for providing water for internal use by the development. Details are to be provided with the building consent application. All costs are to be met by the consent holder.
13. Any alteration of public assets e.g. road reserve and footpath requires Engineering Approval from Auckland City Environments Development Engineering prior to a building consent being issued. Abandoned private drainage shall be sealed off to the satisfaction of the Council. Details shall be supplied with the building consent application. A network utility charge may be applied with any application for connections of drainage and water supply services, refer Metrowater regarding advice on this.
14. If street works take place, the street kerbing surrounding the site on the two levels of Albert Street, Victoria Street West and Elliot Street frontages is to be replaced or reinstated with basalt kerbing in the original chiselled format (as currently exists on the majority of the Elliot and Victoria Street frontages), including straight and radiused sections as required. Any original "Mount Eden" basalt kerbing that is removed as a consequence of any off-site street works that may be required shall be retained by the Council and re-used in consultation with the Council's Chief Advisor, Heritage and/or its Heritage Manager.
15. The proposal is to be integrated into the Auckland City Council's CBD streetscape upgrades of Victoria and Albert Streets. Preliminary design for both streets will include the location of proposed trees, street lighting, bus stops and pedestrian crossings, and these design elements must be co-ordinated with the building form / canopy structure as proposed by the Council's Footpath Upgrade Project Manager

16. **Clear responsibility for management of amenities and areas common to the building and parts thereof including the porte cochere, loading bay, podium roof garden and the sky gardens should be addressed as part of any future subdivision consent application.**
17. **The consent holder should provide opportunities for the public to view the excavation and construction process from safe locations around the site that do not unduly convenience vehicular or pedestrian movement or construction works.**
18. **The consent holder should consider the use of names, for example of the retail area, that link the current use to past uses of the site – for example the Royal Hotel and Royal International Hotel.**
19. **If you disagree with any of the above conditions or with any additional charges relating to the processing of the application, you have a right of objection pursuant to section 357 of the Resource Management Act 1991 which shall be made in writing to the Council within 15 working days of notification of the decision. As soon as practicable the Council will consider the objection at a hearing.**

Miss L A McGregor

Chair: _____

Date: _____