



Notification and Consent Condition Variation Report for a Section 127 Application under the Resource Management Act 1991(RMA)

Application Description

Application Number: RVCC/2006/7730/1

Applicant's Name: NDG Asia Pacific (NZ) Limited

Original Consent Number: R/LUC/2006/7730

Site Address: 106-108 Albert Street

Legal Description: Lot 1 DP 339812 (CT – 163636)

Site Area: 4417m²

Operative Plan: Auckland Council District Plan (Auckland City Central Area Section 2004)

Strategic Management Area & Precinct: Core (1), Queen Street Valley (in part)

Activity Area: Pedestrian Orientated

General Height: Not applicable – Special height controls only

Special Height: Albert Park Sunlight Admission Control
Aotea Square Sunlight Admission Control

Site Intensity: BFAR 6:1, MTFAR 13:1

Bonus Area: 1

Designations & Heritage: Nil

Additional Limitations: Nil

Roading Class: Albert Street: Collector
Victoria Street West: District Arterial
Elliott Street: Local

Parking Road Type: Albert Street: Type 2

Victoria Street West: Type 1

Elliott Street: Type 2

Proposed Plan Change(s): Nil

Proposed Designation: Plan Modification 68-71 Note: The designation applies over the Lower Albert Street slip Lane.

Locality Plan



Application Documents (Plans and Reference Documents)

The following information has been provided:

Application Form, and Assessment of Environmental Effects prepared by Mt Hobson Group, dated 29 October 2013.

Specialist Reports as detailed below, and additional information.

Specialist Report Title	Prepared by	Rev	Dated
NDG Asia Pacific Limited – Elliott Tower – Application to Change Existing Consent Conditions	Berry Simons	-	01/11/2013
Traffic Impact Assessment	Traffic Planning Consultants Ltd	-	01/11/2013
Elliott Tower Design Report	Paul Brown & Architects	-	October 2013
Wind Tunnel Investigation	Auckland Uniservices Limited	-	17/09/2013

Existing Infrastructure Report	Norman Disney & Young	-	31/10/2013
Additional Traffic Information	Traffic Planning Consultants Ltd	-	22/11/2013
Additional Traffic Information	Traffic Planning Consultants Ltd	-	16/12/2013

Drawing reference number	Title	Revision
436-SK-010	Perspective West Elevation	D
436-SK-011	Perspective Eastern Elevation	D
436-SK-012	Perspective Northern Elevation	D
436-SK-015	Perspective View from corner of Elliott & Victoria Street	C
436-SK-016	Perspective View from North on Albert Street	D
436-SK-018	Perspective View from Darby & Queen Street	C
436-SK-019	Perspective View of Corner of Albert & Victoria Street	D
436-SK-020	Perspective Entry at Corner of Elliott & Victoria Street	C
436-SK-021	Perspective Through Site Link from Elliott Street	C
436-SK-027	Perspective Elliott Street Podium	A
436-SK-028	Perspective Exterior Entry	A
	Location Map	
436-RC-101	Site Survey Plan	H
436-RC-199	Reference Plan Basement Level B6	C
436-RC-200	Reference Plan Basement Level B5	L
436-RC-201	Reference Plan Basement Level B4	O
436-RC-202	Reference Plan Basement Level B3	P
436-RC-203	Reference Plan Basement Level B2	Q
436-RC-204	Reference Plan Basement Level B1	R
436-RC-205	Reference Plan Level 1	J
436-RC-206	Reference Plan Level 2	N

436-RC-207	Reference Plan Level 3	R
436-RC-208	Reference Plan Level 4	J
436-RC-209	Reference Plan Level 5	S
436-RC-210	Reference Plan Level 6	O
436-RC-211	Reference Plan Level 7	P
436-RC-212	Reference Plan Level 8	Q
436-RC-213	Reference Plan Level 9 Roof Deck	P
436-RC-214	Reference Plan Level 10 Pool/Gymnasium	N
436-RC-215	Reference Plan Level 11 Spa	H
436-RC-216	Reference Plan Level 12 Hotel Administration Office	H
436-RC-217	Reference Plan Level 3-16 Apartments	H
436-RC-218	Reference Plan Level 17-28 & 30-33 Hotel Rooms/Suites	I
436-RC-219	Reference Plan Level 29 Plant	I
436-RC-220	Reference Plan Level 42-43 Apartment/Hotel Rooms/VP Suite	H
436-RC-221	Reference Plan Level 44-45 Hotel Rooms/Presidential Suite	M
436-RC-222	Reference Plan Level 46 Plant	N
436-RC-223	Reference Plan Level 47 Restaurant	H
436-RC-224	Reference Plan Level 48 Restaurant	E
436-RC-225	Reference Plan Level 49 Roof/Plant	E
436-RC-226	Reference Plan Level 50 Plant	E
436-RC-227	Reference Plan Level 51 Plant	E
436-RC-228	Reference Plan Level 52 Roof	E
436-RC-250	Part Plan Level 2	F
436-RC-251	Part Plan Level 3	M
436-RC-301	East Elevation-Elliott Street West Elevation-Albert Street	G
436-RC-302	North Elevation-Victoria Street	H

	South Elevation	
436-RC-302_1	North Elevation – Victoria Street	B
	South Elevation	
436-RC-303	East Elevation-Elliott Street	G
436-RC-304	West Elevation-Albert Street	G
436-RC-305	North Elevation-Victoria Street	G
436-RC-306	South Elevation	H
436-RC-311	East Elevation – Elliott Street Podium	D
436-RC-312	West Elevation-Albert Street Podium	D
436-RC-313	North Elevation-Victoria Street Podium	E
436-RC-314	South Elevation - Podium	D
436-RC-350	Reference Sections	G
436-RC-352	Part Section	D
436-RC-352_1	Part Section	D
436-RC-353	Part Section	E
436-RC-353_1	Part Section	D
436-RC-354	Part Section	D
436-RC-355	Part Section	D
436-RC-356	Part Section	I
436-RC-357_1	Part Section	E
436-RC-360	Part Section	D

The information has been reviewed and assessed by the following specialist(s):

- Traffic Review dated 29/01/2013 by Andrew Gratton, Traffic & Transportation Engineers (review attached at Appendix B to this report).
- Urban Design review dated 3/12/2013 by Peter Joyce, Principle Specialist Urban Design (review attached at Appendix C to this report).
- Drainage & Water Supply Infrastructure report dated 12/11/2013 by Scott Paton, Development Engineering Division (review attached at Appendix D to this report).

The Proposal, Site and Locality Description

Background

Resource consent R/LUC/2006/7730 was approved on 19 October 2007 for the construction of a mixed retail-commercial and residential building with ancillary basement parking on the corner of Elliott Street, Victoria Street West and Albert Street. The proposed building rises 67 levels above ground comprising: a three level retail podium; 57 storey residential tower and six levels of basement car parking. From Albert Street the site is served by a porte-cochere. The consented development accommodates a range of activities including: residential apartments, retail, food and beverage activities and other uses permitted by the District Plan as well as 481 car parking spaces. Provided also is a through-site pedestrian link, with elevators from Elliott Street to Albert Street, internal pedestrian circulation and arcade areas, a plaza to Albert Street, a podium garden area and two sky garden areas within the tower structure.

Buildings formerly located on the site have been demolished for some years and it is currently used for car parking. This activity was formalised by resource consent R/LUC/2013/2635 granted in 27 September 2013 which provides for a mix of non-ancillary commuter and short-term (casual) public visitor car parking.

A reverse bungy operation is presently conducted on the Victoria Street West portion of the land close to Albert Street. This activity was established as a permitted activity on the site in June 1999.

Resource consent R/LUC/2013/4055 was granted 27 November 2013 for the installation of 6 temporary containers to provide food and beverage premises along the Elliott Street frontage of the site.

Proposal

A modified design for the consented development is proposed and accordingly the applicant is seeking approval from the Council to amend conditions of the existing resource consent. Drawing on principal changes identified by the agent, the following is a summary of the changes proposed:

- The slender tower form and its north-south axis is retained, within the envelope of the consented development. A new façade design treatment is proposed
- Increase the podium from three to eight levels
- The enlarged podium provides for retail, hotel lobby, cinema complex, ballroom, meeting rooms, restaurant and function spaces. Much of the available space is ancillary to the hotel function
- Provision of 36 residential apartments, down from the 259 approved

- Conversion of the balance of approved apartments to 269 hotel suites and ancillary space
- Reduction in on-site parking from 481 spaces to 300 spaces
- Gross floor area proposed at 56,903m² whereas consented development is 56,504m² and this represents an FAR of 12.7:1. Maximum permitted GFA is 57, 421m².
- Reduction in the number of storeys from 67 to 52 but retention of approved building height by increasing floor to ceiling heights

The application, addendum, plans and supporting documentation are attached at Appendix A to this report.

Site and surrounding environment description

The 4,417m² site is located at the corner of Elliott, Victoria and Albert Streets. The site rises steeply from Elliott Street to Albert Street with a 12-metre difference in level between the lowest point at Elliott Street and the highest point at Albert Street. Along this frontage of the site Albert Street divides into two southbound portions – a lower (slip) lane and the higher level main carriageway. This compromises pedestrian access resulting in narrow footpaths for both the lower and higher sections of the road.

The site is located on significant traffic arterial routes to and from the CBD, including Albert Street, a Collector Road; Victoria Street West, a District Arterial Road; Elliott Street and Darby Street are Local Roads serving the developments in the area.

As noted in the 'Background' section above a number of temporary activities occupy the site and represent a part of the existing environment. Surrounding development is characterised by commercial office towers, street level retail activities, hotel and residential towers.

Changes Sought to Consent

The application seeks to amend conditions 1, 2, 4, 12, 14, 19, 20, 22, 23, 43, 46 – 53, 61 – 63, 64, 71, 73 and deletion of Appendix 3 to the decision. One new condition is proposed. The agent, Nick Mattison of the Mt Hobson Group, describes the nature of the changes sought at Part 1.12 of the application statement and in an addendum to the application dated 31 January 2014. The following is a summary of these changes.

Condition 1 relates to documentation, plans and photomontages and other material submitted with the application. This material, particularly drawings, will require updating to reflect the changes sought.

Condition 2 requires Council approval for the design of street verandahs prior to the lodgement of building consent applications. The verandah strategy and subsequent designs, prepared by Paul Brown Architects, is well advanced and are supported by the Urban Design Panel and Council officers and hence the request to delete the condition and rely on Condition 1 only.

Condition 4 requires final detailed design of the access into the porte cochere on Albert Street to be submitted to the Council for approval. Changes to alignment, surface treatments and grades reflect discussions between the applicant and Council officers and consultants.

Condition 12 requires all vehicle crossings to align with Council footpath design for reasons of pedestrian priority. Again the changes sought reflect discussion between the parties involved.

Condition 14 requires parking spaces to be assigned in accordance with permitted standards. The requested change seeks greater clarity in the allocation of parking.

Condition 19 relates to the design of the footpath area and ramp along the Albert Street frontage and to the upper Albert Street plaza. The change in wording reflects changes in the footpath and plaza design fronting Albert Street.

Condition 20 requires the redesign of the upper Albert Street plaza to eliminate the need for steps and optimise a grade transition. The applicant requests the deletion of this condition as it no longer reflects the design submitted.

Condition 22 requires a minimum footpath width to the Albert Street slip lane. The requested change clarifies the location of a footpath and removes the reference to a redundant drawing.

Condition 23 requires an easement in favour of the Council protecting an area of footpath within the site. The condition's intent is retained but reference to a redundant drawing and plaza area is removed and consent holder responsibility clarified.

Condition 43 requires the submission and approval of a porte cochere management plan prior to occupation of the proposed tower. No change to the intent of the condition is sought, rather the condition is amended to reflect the new mix of apartment and hotel activity including a concierge being present 24/7.

Condition 46 requires the re-design of proposed retail activity along the Elliott Street frontage. This condition is rendered redundant having regard to design changes proposed by the applicant in response to Urban Design Panel recommendations. The applicant therefore requests the deletion of the condition.

Condition 47 requires special attention being given to the roof structures featured in the consented development. The request reflects a change to a more conventional roof top design.

Condition 48 directs all roof top projections, other than the roof structures referred to in Condition 47, being enclosed within the structure of the building form. The requested change retains the intent of the condition but removes reference to the particular roof structures that feature in the consented development.

Conditions 49 – 53 direct the nature, scope, establishment and on-going maintenance of the Sky Gardens for the consented development. Whilst retaining the sky decks for their function in modifying the wind sensitivity of the tower, providing fire refuges and air handling, the proposal does not offer the larger scale landscaping and planting that featured in the consented development, principally because there are questions as to the viability of planting in these locations. According to the applicant it is expected that detailed design of these spaces will include appropriate landscape details to improve the amenity of occupants but these will not be at a scale that will impact on the visual appearance of the tower. Accordingly, the applicant requests Conditions 49 – 53 be deleted.

Condition 61 requires specific acoustic and ventilation performance for all residential units in accordance with Part 7 of the District Plan. The requested change retains the intent of the original condition and adds reference to the hotel units.

Condition 62 requires building design to accord with District Plan rules relating to wind and glare performance. The requested change retains the intent of the original condition but removes the reference to “changes” and condition 49 which itself is deleted.

Condition 63 refers to the redundant solar panels of the consented development and therefore the deletion of this condition is requested.

Condition 64 relates to exterior signage on the building and the request seeks clarification in this respect. Note, further changes are recommended in this report for this condition.

Condition 71 requires the sky gardens to be maintained as open landscape space and for their function in mitigating adverse wind effects. The condition also requires the continuance and maintenance of the common areas in the building should any change in the legal structure of the building occur. This anticipates the predominantly residential apartment nature of the consented development. The proposal adopts the skydecks primarily for their wind mitigating function and, as the legal structure of the building changes from that originally anticipated, the condition is rendered redundant. Accordingly the applicant's request is that the condition is deleted.

Condition 73 relating to financial contributions is requested to be deleted. This is in response to changes in Council's policy regarding development contributions. An advice note to this effect is recommended.

Deletion of Appendix 3 to the original decision is requested as documents and officer delegations referred to are redundant.

A new condition is proffered by the applicant relating to lighting to ensure that 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.

The applicant therefore requests the following changes. Amendments are underlined or in ~~strikethrough~~, except for Condition 1 which is presented here in its requested form.

Condition 1

This Land Use Council (Council reference R/VCC/2006/7730/1) shall proceed in general accordance with the following documents submitted and approved by the Council as part of the application:

- Plans prepared by Paul Brown Architects dated 25/10/2013, titled "Elliott Tower Auckland City, Auckland", sheet references:

Drawing reference number	Title	Revision
436-RC-101	Site Survey Plan	H
436-RC-199	Reference Plan Basement Level B6	C
436-RC-200	Reference Plan Basement Level B5	L
436-RC-201	Reference Plan Basement Level B4	O
436-RC-202	Reference Plan Basement Level B3	P
436-RC-203	Reference Plan Basement Level B2	Q
436-RC-204	Reference Plan Basement Level B1	R
436-RC-205	Reference Plan Level 1	J
436-RC-206	Reference Plan Level 2	N
436-RC-207	Reference Plan Level 3	R
436-RC-208	Reference Plan Level 4	J
436-RC-209	Reference Plan Level 5	S
436-RC-210	Reference Plan Level 6	O
436-RC-211	Reference Plan Level 7	P
436-RC-212	Reference Plan Level 8	Q

436-RC-213	Reference Plan Level 9 Roof Deck	P
436-RC-214	Reference Plan Level 10 Pool/Gymnasium	N
436-RC-215	Reference Plan Level 11 Spa	H
436-RC-216	Reference Plan Level 12 Hotel Administration Office	H
436-RC-217	Reference Plan Level 3-16 Apartments	H
436-RC-218	Reference Plan Level 17-28 & 30-33 Hotel Rooms/Suites	I
436-RC-219	Reference Plan Level 29 Plant	I
436-RC-220	Reference Plan Level 42-43 Apartment/Hotel Rooms/VP Suite	H
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436-RC-352	Part Section	D
436-RC-352_1	Part Section	D
436-RC-353	Part Section	E
436-RC-353_1	Part Section	D
436-RC-354	Part Section	D
436-RC-355	Part Section	D
436-RC-356	Part Section	I
436-RC-357_1	Part Section	E
436-RC-360	Part Section	D

- *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.*
- *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.

Condition 2 - deleted

~~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.~~

Condition 4

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

Condition 12

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. ~~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 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) while aligning with the plans submitted to the Council. Manager: Central Area Planning and Group Manager Traffic Safety, Assets and Operations~~

Condition 14

The parking spaces shall be assigned generally 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. 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).

Condition 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 Council (Team Leader

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Compliance and Monitoring), ~~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. Note, Council officers recommend further changes to this condition.

Condition 20 - deleted

~~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.~~

Condition 22

The footpath on the subject site 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.

Condition 23

An easement in gross in favour of the Council (or an equivalent legal instrument to the same effect) is to be drafted by Council's nominated Solicitor at the consent holder's cost and 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 (436-RC-207 Rev R) prepared by Paul Brown Architects) ~~referenced as RC 004 D 16~~ to the satisfaction of the Council (Team Leader Compliance and Monitoring) 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.

The consent holder shall be responsible directly to Council's Solicitor for all legal fees, disbursements and other expenses incurred by Council in connection with the easement.

Condition 43

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) ~~(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 at all times 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 (Team Leader Compliance and Monitoring in conjunction with Auckland Transport)

(Manager: Central Area Planning).

Condition 46 - deleted

~~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.~~

Condition 47

The final design details and materials, finishes of the exterior roof features (the three architectural roof structures) shall be submitted to the Council (Team Leader Compliance and Monitoring) 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.~~

Condition 48

~~With the exception of the features referred to in condition 47, all 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 (Team Leader Compliance and Monitoring) (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.~~

Conditions 49 – 53 - deleted

~~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 these 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.~~

Condition 61

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 (Team Leader Compliance and Monitoring) (~~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 Council District Plan (Auckland City Central Area Section). 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.~~

Condition 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 40 also, the sky gardens have a role in mitigating wind conditions at the podium and street levels).~~

Condition 63 - deleted

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

Condition 71 - deleted

~~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).~~

Condition 73 - deleted

~~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).~~

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A new Condition 63A, titled "Lighting" is added as follows:

Lighting

63A 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.

APP 304/12/14
MHC 31/1/14

Reasons for the Application

The proposed changes are within the scope of the original consent. As this is an application for a variation to conditions under s127 the application is a discretionary activity.

Section 88 to 121 apply, though all references to resource consent and activity are replaced with reference to the change or cancellation of the condition, and the resultant effects.

Additional Reasons for Consent

In conjunction with the request for a change or cancellation of conditions, resource consent is also required for the following matter as a result of the proposed changes:

Modification of Rule 9.7.1.2 - *Loading* relating to minimum number of loading spaces is a restricted discretionary activity.

Modification of Rule 6.15(ii) - *Accommodation* relating to minimum apartment mix is a restricted discretionary activity.

Note: Regional Plan, National Environmental Standard ("NES"), Proposed Auckland Unitary Plan (PAUP)

Where a variation to an approved resource consent under s127 seeks to change/cancel a condition, and that change is within the scope of the original resource consent, consideration of the application does not extend to proposed rules (regardless of what their legal effect/status is) as part of the assessment of the variation. However, the applicant is aware of the need for compliance with the above Plans or to obtain resource consents for any infringements.

Status of the application

Overall, the application is to be considered a discretionary activity. I concur with the agent's identification and inclusion of the foregoing element requiring resource consent.

Public Notification Assessment (Sections 95A, 95C-95D)

The applicant has not requested public notification.

In accordance with a s92 request dated 18 November 2013 the applicant has provided all further information by the agreed date.

Adverse Effects Assessment (Section 95A)

The following assessment addresses the adverse effects on the environment from the variation.

Effects that must be disregarded.

Effects on persons who are owners and occupiers of the land in, on or over which the application relates, or of land adjacent to that land

In this case, I consider that adjacent land includes the following properties because these sites are adjoining the subject site, directly across the road or are close by such that they are considered to form part of the context of the subject site. The effects on these owners or occupiers have been disregarded.

The adjacent land includes the following properties:

Table 1

Address	Legal Description	Owner / Occupier
99 Albert Street	Lot 1 DP 450454 (CRS)	Multiple
105-107 Albert Street	Lot 1 DP 73175 (CRS)	Multiple
120-130 Albert Street	Units A, B & C UP 127004	Colwall Property Investment Ltd
8-18 Darby Street	Pt Allot 5 Sec 15 CoA	Civic House Ltd
205-225 Queen Street	Lot 1 DP 109984	Public Trust & Kiwi Property Holdings Ltd
22 Durham Street West	Lot 5 DP 375988	Augusta Capital Ltd
27-35 Victoria Street	Lot 1 DP 66467 (CRS)	Multiple
37-41 Victoria Street West	Lot 1 DP 87475	C Liu & F Liu
43 Victoria Street West	Pt Allot 9 Sec 16 CoA	C Liu & F Liu
98-102 Albert Street	Land on DP 4267	G M McRae & D E McCrae
51-63 Victoria Street West	Lot 1 DP 88284	City Construction Ltd

Any effect on a person who has given written approval to the application

No persons have provided their written approval.

Effects that may be disregarded – Permitted Baseline Assessment

The permitted baseline refers to the effects of permitted activities on the subject site.

As the application involves the variation of condition(s) of an existing resource consent, the permitted baseline is not considered relevant. It is only the adverse effects above and beyond those of the activity originally consented that are relevant for assessment.

An additional reason for consent is the modification of accommodation rule 6.15, where for residential apartment buildings containing more than 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. A total of 36 apartments are proposed, where 78% (28 units) are one-bedroom units whereas no more than 25 should be one-bedroom units. Accommodation is a permitted activity in the city centre and the predominant activity on the site being the provision of permanent accommodation together with non-permanent accommodation (hotel) is therefore consistent with the District Plan.

Adverse Effects of the Changes (s127(3)(b))

It is the effects of the change that are relevant in the following assessment. The appropriate comparison is between any adverse effects from the activity in its original form and any adverse effects that would arise from the proposal in its varied form. In his assessment of effects (Part 3 of the application statement), the agent traces the detailed review process undertaken and correctly identifies, I consider, the effects issues relating to the current proposal. These are identified as being:

- Porte Cochere/Traffic/ Parking/Construction Management;
- Design and Built Form;
- Apartment Mix;
- Infrastructure/Servicing;
- Lighting; and,
- Wind Effects.

Specialist Advice

The following specialist reports have been taken into account in determining the adverse effects of the changes sought and in determining adversely affected persons:

- Traffic Review dated 29/01/2013 by Andrew Gratton, Traffic & Transportation Engineers
- Urban Design review dated 3/12/2013 by Peter Joyce, Principle Specialist Urban Design
- Drainage & Water Supply Infrastructure report dated 12/11/2013 by Scott Paton, Development Engineering Division.

Porte Cochere/Traffic/ Parking/Construction Management

In transportation terms there is a focus on ensuring the design, function and management of the porte cochere does not give rise to adverse effects particularly in relation to impacts on the road network and pedestrian safety. The applicant's traffic consultant, Bryce Hall, Traffic Planning Consultants Ltd finds, and the Council's traffic advisor, Andrew Gratton, Traffic & Transportation Engineers Ltd agrees, that:

- The peak hour traffic generation of the proposal is similar or lower than the traffic generated by the consented development and hence can be accommodated with little or no additional effect.
- The level of traffic using the porte cochere is likely to increase but this increase can be accommodated on the road network with little or no effect and without adversely affecting pedestrian safety.
- There is a reduction in the amount of parking provided from 481 to 300 spaces and a consequent reduction in the number of basement levels from 6 to 5 levels.
- The reduction in the number of basement levels plus changes to proposed construction methodologies leads to a significantly reduced volume of excavation and this translates into reduced heavy truck movements to and from the site during the excavation phase of development. The excavation and site work period will therefore be reduced, thereby resulting in a level of adverse effects lower than consented with respect to construction traffic vehicle movements.

Overall, it is expected that the proposed variation will result in a reduction in traffic generation compared to the consented development.

According to Mr Hall, usage of the porte-cochere will increase by 250 to 500 traffic movements per day with hourly traffic generation increasing by about 40 traffic movements per hour from that previously consented. The porte cochere will be used for drop-offs and pick-ups of guests at the hotel and it is expected to accommodate a mix of tour buses, coaches, taxis and private vehicles. The porte cochere is expected to have sufficient room to accommodate eight cars or four buses without interfering with the passage of other vehicles through the site.

Mr Gratton notes that surveys of other hotels were submitted by the applicant as part of the Section 92 response requested by the Council. These surveys were undertaken at the Crowne Plaza Hotel, the Grande Hotel and Rydges Auckland Hotel. These hotels are all located in the Auckland CBD and have similar, though slightly more, hotel rooms than the proposed development. The surveys recorded a peak vehicle accumulation of nine vehicles at the Crowne Plaza Hotel at various times throughout the survey period. However, the Crowne Plaza has a greater number of rooms and when the vehicle accumulation is factored to account for the different number of rooms provided in the proposed development, peak vehicle accumulation would be approximately eight vehicles. This would be accommodated by the proposed porte-cochere. The surveys indicated that buses would not be present for the majority of the time and a peak of two buses was recorded at one site for a very short duration. Mr Gratton therefore anticipates that bus visits to the proposed hotel will be infrequent and that it is considered very unlikely that there will be a sufficient number of buses onsite to obstruct the porte cochere. However, to ensure that the porte cochere is adequately managed, the applicant has agreed that the porte cochere management plan required under Condition 43 also be subject to a review clause to allow changes to be made to the management plan should issues arise once the hotel is in operation.

The porte cochere will have a flush surface and will not incorporate kerbs or other level differences separating vehicles from pedestrians. Textured paving will be installed to visually delineate pedestrian paths from vehicle manoeuvring areas. This is expected to make pedestrians more alert when crossing 'vehicle areas' and are more likely to be alert to vehicles. Likewise motorists are expected to be more careful when crossing 'pedestrian paths'. In Mr Gratton's opinion, the porte cochere design is considered acceptable.

With respect to concerns held by AT including matters of detail design, integration with the CRL design and the management of the porte cochere, on-going discussion and exchange of information has occurred between Council's traffic engineer, the applicant's traffic advisor and AT officers. As a result design details including cross sections and long section details at street level (which show slopes and levels for both the porte cochere, proposed public footpath and access to car parking on the basement levels from Lower Albert Street level), have been supplied to and scrutinised by Council's traffic specialists and AT. This engagement and resolution of issues has allayed concerns of AT's Road Corridor Operations Team. In terms of the CRL Team the site is not subject to the proposed designation, however the vehicle accessway over lower Albert Street is. The applicant is fully aware of the need to obtain the necessary approvals from AT including air space lease and approval for construction management plans (existing Condition 25) and for ongoing discussions with the CRL project team to ensure that options for connecting the proposal to the project are maintained. Advice notes recommended by Mr Gratton and adopted by the author address these matters.

With regard to the effects of construction traffic Mr Gratton considers overall, the provision (and implementation) of an appropriate construction traffic management plan will ensure that construction traffic is dealt with appropriately and the effects mitigated appropriately. However there is uncertainty in terms of timing in relation to the CRL project and the commencement of construction of the proposed tower. According to Mr Gratton it is expected that the CRL designation will be approved early in 2014 well before construction of the tower is commenced and it is uncertain if the tower and the CRL will be constructed at the same time. Construction of the CRL is, according to Mr Gratton, scheduled to commence at the end of 2015 and the facility expected to be opened sometime in 2021. Against this background Mr Gratton recommends, that to ensure the adverse construction traffic impacts of each project on the central area road network are minimised, these issues and concerns are contained in an advice note to the applicant. This approach is supported.

Mr Gratton recommends that a new condition of consent be included that both the final detailed design (ie. before construction) and then the as-built construction of the porte cochere, shall be approved by the Council. This approach is supported and is acceptable to the applicant. Condition 43 of the consented development requires the preparation of a management plan for the operation of the porte cochere. Further, as recommended by Mr Gratton, Appendix 2 to the recommended consent conditions provides an updated list of specific matters to be addressed in the Porte Cochere Management Plan. Condition 43 has been reviewed and whilst it is acceptable to the parties including the applicant and AT, a review clause is included to enable the Council to impose additional restrictions on the use of the porte cochere or require alterations to the porte cochere management plan if vehicle queues extend onto the road or if the operation of the porte cochere creates adverse effects on pedestrian movement and the operation of the intersection and road fronting the site.

The Council's traffic advisors have reviewed other traffic aspects of the proposal including overall traffic generation, provision for parking, provision for cycle facilities, loading, vehicle access and effects of construction traffic. There are a number of technical infringements identified by Mr Gratton in relation to vehicle access and loading but having considered these matters he is satisfied that the applicant's design response is appropriate in the circumstances. Both traffic advisors are satisfied that overall traffic impacts are less than minor. A number of recommendations are made in mitigation, most of which are relating to matters of detail that are already incorporated with existing conditions, or readily can be, and with which the applicant agrees.

Traffic engineers, both for the applicant and the Council have, I consider, comprehensively addressed all relevant traffic and transportation matters relating to the varied proposal and compared its effects with those of the consented development. They find that the traffic related effects of the proposal are comparable to what have been considered acceptable effects in relation to the consented development. Indeed, the Council's traffic specialist concludes that traffic effects of the proposal are less than minor.

Design and Built Form

In his review Mr Joyce observes, and I agree, that the currently proposed tower is essentially of the same height and plan form as the previously consented development and the currently proposed podium is of the same plan form as the previously consented development, except that the height is considerably increased from the previous 3 levels to 8 levels and the architectural expression of the street facing elevations is entirely revised. Importantly, I consider, the overall design concept is retained and as Mr Joyce observes:

"The respective façade cladding details and architectural expression are consciously disparate and acknowledge that the 2 forms are predominantly perceived and experienced from different viewpoints: the tower more from a distance, contributing to the macro form of the city centre and the podium more from within the city's urban fabric, contributing to the nature and quality of the street environment. As a design concept this was supported by the AUDP (Urban Design Panel) and I concur."

Mr Joyce notes that from within the urban street environment of the CBD, the scale, mass and form of the podium will be experienced as having greater significance but not in any negative sense or context. As he states:

"When considered as a whole the volumetric proportions of the new podium's essentially cubic form, evokes a perception that it is of a scale, mass and strength more capable of providing base support and stabilisation for the slender form and height of the attached tower than the previous 3 storey podium."

The agent notes, in his assessment, that the form of the original podium was not determined or influenced by district plan rules and that the proposed podium and its relationship to the street complies with the permitted building envelope associated with the site. The podium design has been subject to rigorous design consideration and this is well recorded by the agent in the application statement. The matter is also given detailed consideration by Mr Joyce in his assessment and has for that matter, been well scrutinised by the Urban Design Panel. Mr Joyce asserts, and I agree, that the proposed podium provides a stronger sense of street enclosure than the previous 3 storey podium proposal. Its facades are predominantly fully glazed with various degrees of transparency to provide visual connections between the adjacent streets and the various internal activities at each

level together with creative treatment through subtle layering and vertical folding of large sections of the glazing.

At street level, fully glazed retail tenancies with entries opening onto the street will provide continuity along the Elliott and Victoria Street frontages thus further reinforcing the vitality of the pedestrian focussed shared space environment of Elliott Street.

No adverse effects issues related to the podium design in its original form and, for the reasons given above, I do not consider that any adverse effects arise from the proposal in its varied form. On the contrary, the adverse effects of the changed podium design are negligible.

Likewise, Mr Joyce finds the canopy design strategy to be a more fitting solution than that proposed on the previous podium which he considered was architecturally fragmented and structurally overstated. As Mr Joyce explains in relation to the continuous pedestrian canopy extending along Elliott Street and wrapping around into Victoria Street:

“The proposed canopy design is an elegant, relatively fine cantilevered level plane which defines a simple line of separation between the regular continuity of the retail frontage along the base of the podium and the architectural intricacies of the mid-level glazed walls above.”

With respect to pedestrian canopy protection on Albert Street over the porte cochere area Mr Joyce, I consider, well describes the applicant's architects' creative design response to what has been a challenging issue both in relation to the original proposal and the current proposal:

“On the Albert Street façade of the tower the glazed curtain wall doesn't continue down to street level but peels away from the tower façade in a horizontal curve towards the street. This creates a “grand” architectural gesture that both defines the hotel entry/porte cochere and forms a sheltering canopy for the pedestrian spaces below.”

Having considered Mr Joyce's review of the proposal, having taken into account the comments and recommendations of the Urban Design Panel and the applicant's submissions (agent and applicant's architect), I consider Mr Joyce speaks for all by stating in his conclusion that from an urban design perspective the proposal:

“... will result in a development that responds positively to the unique characteristics of the site and the surrounding urban environment.”

Indeed, as related by Mr Joyce in his review, aspects of the overall building design have been strengthened or even improved. This is reflected in his report where recommended conditions, including a condition on maintaining transparency of the podium glazing, are not for mitigation reasons but to ensure there is no reduction in quality of the proposal.

Apartment Mix

I consider there are no adverse effects relating to the proposal falling short of the 30/70% apartment mix, or if there are, they are negligible. In terms of the original mixed use/residential apartment development there may have been justification for the standard mix of apartments whereby one bedroom units and studios are not to exceed 70% of the total number of apartments within the building. Now given the predominant hotel use the proposed apartment mix, in the order of 78%, is considered not so relevant. The discrepancy relates to there being 3 less two-bedroom plus residential in the overall mix of apartments. However all apartments are designed to a high standard and exceed permitted standards in relation to their required size.

I agree with the agent's observation that the 36 units represent a small component of the overall accommodation yield provided on the site and in the context of this hotel activity the permanent residential unit mix is considered appropriate.

Infrastructure/Servicing

Public infrastructural services have the capacity to serve the current proposal so no effects issues arise above and beyond those considered in relation to the consented development. This is confirmed in the infrastructural review carried out by the Council's development engineering division. With respect to the original proposal no specific infrastructural issues, other than in relation to flooding within the road reserve area, a minor matter, were identified that could not be mitigated by conditions or dealt with through the building consent process. As with the current proposal, issues relating to the roading network infrastructure are addressed in the foregoing transportation section and geo-technical issues will be dealt with through separate consenting processes. Overall it was considered that any adverse effects in respect of infrastructure would be less than minor. On this basis and for the reasons discussed above, adverse infrastructural effects in respect of the varied proposal remain at less than minor.

Lighting

The distinctive roof feature of the consented proposal comprising three sloping roof baffle structures on the tower has been changed to a more conventional roof top form with a back-lit "crowning" element. Concern, was initially expressed by the Urban Design Panel, that the 'crown' feature approach could be very successful or alternatively could have negative visual impacts. This depended on how its design developed, in terms of understanding its faceting, materials, colour, transparency

and lighting. The applicant's response was positive and the Panel commended the developed design. The crown feature was redesigned to read as being more related to the tower's plan form and cladding component details. The crown's stepped form is fully glazed and appears on the drawings to be clearly defined by a change in glass colour and a recessed horizontal break at the termination of the main tower glazing. This is considered to be a very satisfactory design outcome. I agree with the applicant's architect that the resulting design is a more integrated whole that elegantly completes the tower whilst not overwhelming it.

As the agent notes lighting associated with the tower is an important element particularly in relation to the crown of the building, a matter acknowledged by the Urban Design Panel and to which the applicant has responded to positively. Lighting engineers were commissioned by the applicant to carry out a review and establish parameters for external lighting associated with the tower. That assessment has resulted in a condition of consent being offered to restrict lighting to certain levels applying to the building facades and the crown. This ensures that lighting associated with the development is to an appropriate standard and does not generate adverse effects upon the surrounding environment.

In terms of the effects of the change to the back-lit crown roof top feature, I consider that any adverse effects of the change in design of the roof top from the original proposal to the varied form, are less than minor.

Wind Effects

As noted in the foregoing urban design assessment the current proposal is essentially of the same height and plan form as the previously consented development, including canopies. Whilst principal tower and podium design elements are retained there is remodelling of the facades, and it is in this context that the applicant considered a review of the wind environment was necessary.

Wind tunnel testing for both the consented development and the varied proposal show the introduction of the model of both proposals cause significant changes to the wind comfort categories. Whilst this is not unexpected the important finding in both cases is that the wind environment on Elliott Street, Victoria Street West and Albert Street in the vicinity of the proposed building remain within the permissible wind comfort categories of B and C and therefore conform with District Plan wind control. A condition was included in the original consent in regard to compliance with the District Plan wind requirements and this is carried through with respect to the current proposal with a minor consequential deletion in reference to any changes made to the building. It is considered therefore that in relation to effects, any adverse effects on the wind environment caused by changes in design of the tower facades, are less than minor.

Special Circumstances

Despite the above, the council may publicly notify an application if special circumstances exist.

There are no special circumstances for this application because the proposed amendments to the building design are within the scope of the original consent and other reasons for consent identified above are envisaged by the District Plan provisions.

Leaving aside the discretionary activity status of this application under s127, all original consenting matters, and the additional consenting matters under s127 relate to either restricted controlled or restricted discretionary activities for which the Council has limited its discretion and analysis finds that these activities are consistent with District Plan requirements. Accordingly, there are no special circumstances existing in relation to the proposal that would require the application to be notified.

Public Notification Assessment Conclusion

This application can be processed without public notification for the following reasons:

- The foregoing effects assessment has sought to compare any adverse effects from the activity in its original form and any adverse effects that would arise from the proposal in its varied form. Overall, it has been found that any adverse effects of the amended proposal are less than minor.
- No special circumstances exist.

Limited Notification Assessment (Sections 95B, 95E-95F, s127((4))

If the application is not publicly notified, the council must decide if there are any affected persons, or customary rights or title groups. As a variation to condition(s) of an existing resource consent, the council in particular must consider every person who made a submission on the original application and who may be affected by the change or cancellation.

In deciding if a person is affected:

- A person is affected if the adverse effects of the variation on them are minor or more than minor (but are not less than minor).
- Adverse effects permitted by a rule in a plan may be disregarded.
- The adverse effects on those persons who have provided their written approval must be disregarded.

Limited Notification / Adversely Affected Persons Assessment

The following persons made a submission on the original application:

Table 3

Address	Legal Description	Owner / Occupier
15-31 Wellesley Street West	Lot 1 DP 21425	Mt Olympus Properties Ltd Wai-Bun Chan Tai Yip
27-35 Victoria Street West	UP 167841	Holding Ltd (NB: Late submission not accepted)
8-18 Darby Street	Pt Allot 5 Sec 15	Civic House Ltd
162 Grafton Road		Compass Communications Ltd
86 Federal Street PO Box 3903, Shortland Street	Lot 1 DP 46555	SKYCITY Auckland Ltd M Johnston
7E Whitaker Place PO Box 105331		Christopher Lane Heart of the City
253-261 Queen Street	Allot 9 Pts Allots 10, 11, Sec 15	Smith & Caughey Ltd
18 Mardon Road, Hamilton PO Box 1459, Auckland		Shaun Baishang Shen Transit New Zealand
209 Queen Street 1/29 Inkerman Street, Royal Oak	Lot 1 DP 109984	DLA Phillips Fox Peggy Haworth
84 Tory Street, Wellington		Team Talk Ltd
35 Ridings Road, Remuera		Brian Rankin
16 Rifleman Tower, 120 Albert Street		Colwall Property Investment Ltd
2 Durham Street East		New Zealand Historic Places Trust
Lv 2, Building 15, Cornwall Complex, Greenlane		Auckland Regional Public Health Service
Lv 3, 21 Pitt Street		Auckland Regional Transport Authority (NB: Late submission accepted)
C/- Ellis Gould, 23-29 Albert Street		Kiwi Property Holdings Ltd

No person who made a submission is considered adversely affected for the reasons discussed below.

District Plan development controls primarily relate to scale, form and intensity of development and the resultant effects on outlook, visual amenity, the roading network and the pleasantness and safety for pedestrians throughout the City Centre. It is therefore a reasonable public expectation that if a development proposal exceeds those controls relating to bulk, mass and height, it may result in adverse effects in terms of building dominance, overshadowing and loss of view and outlook. These are matters that could concern those persons excluded earlier from the section 95A assessment.

The consented development was considered on a notified basis attracting 20 submissions (one of these submissions subsequently not accepted by the Commissioners). It was designed to comply with the development controls of height and site intensity and the standards set by Plan Change 2 to the District Plan which was publicly notified in June 2005. This plan change introduced urban design and residential amenity controls.

In summary matters raised by submissions in opposition were:

- Design and appearance of the building
- Traffic, transportation and car parking
- Construction traffic
- Other construction effects
- Contrary to objectives, policies and assessment criteria of the District Plan and Plan Change 2; and contrary to purposes and principles of the RMA
- Other specific effects, including effects on radio communications, radioactive emissions, retail and residential use and archaeological matters.

At the hearing, held over a period of three days in September 2007, these concerns translated into the following main issues of contention:

- The proposed inclusion of a porte cochere entrance on the Albert Street frontage of the building
- The impact of construction traffic on buildings in Elliott Street, in particular the Phillips Fox Tower at 205-225 Queen Street
- Urban design and visual impacts associated with the height of the tower
- The height of the proposed building
- The effect Elliott Tower might have on the 'iconic' status of the Sky Tower

- 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.

Overall, commissioners hearing evidence and submissions preferred the evidence presented by the applicant's expert witnesses and the majority of the recommendations of the Council's planning report. The commissioners specifically determined that any actual and potential adverse effects on the environment would be no more than minor and satisfy the relevant criteria for which discretion had been applied and the matters raised in the submissions. Commissioners also determined that the application satisfied the relevant objectives and policies of the District Plan and the urban design and form of the proposal was consistent with the objectives, policies and criteria of Plan Change 2 and residential amenity.

In respect of the original proposal all relevant matters (which equally apply to the varied proposal) were thoroughly considered and resolved through the hearing process. An appeal followed the release of the hearing commissioners decision but this was later withdrawn. In the intervening period Plan Change 2 was made operative. Under the District Plan an applicant is entitled to build to the height and size that the consented development represents, and the varied proposal follows, which both notably have been designed to comply with the height and site intensity rules of the District Plan. The fact that the tower is to be used for accommodation purposes (both permanent and non-permanent) means that outlook and light will be maximised. A floor plate of maximum site intensity 13:1 is permitted as a result of accommodation bonuses which in this instance do not need to be fully utilised. In this context the proposal is not generating effects which previously were considered inappropriate.

The only additional consenting issues as a result of the proposed variation relate to the shortfall, in one case to the on-street provision of a courier loading space, and in the other, the proportion of one bed and studio apartment units to two bed, or greater, apartment units. Whereas the District Plan requires not more than 70% (that is 25) of the 36 proposed residential units to be one-bed and studio apartment units, the provision is 78% (equating to 28 units). Notwithstanding this 'discrepancy' all units conform with District Plan standards with respect to size, outlook and daylight. The issue in contention comes down to a matter of detail and, as the agent notes, the apartments all exceed permitted standards. Occupants of these units will not be adversely affected nor disadvantaged, nor any other persons, either on the site or neighbouring it. It is therefore considered that no persons are adversely affected by the slight shortfall in the required mix of apartment types. In terms of the shortfall on a loading space, the Council's traffic engineer has confirmed there will be less than minor effects as a result.

The former Auckland Regional Transport Authority (ARTA) was a submitter to the original application. ARTA supported the proposal but expressed concerns that the

function of Albert Street may be reduced due to increased traffic from the development site, which could impact the bus network and construction traffic may hinder bus services that use this route. ARTA's request was that the Council grant consent but ensure the bus services using Albert Street are not hindered in any way. ARTA did not appeal the commissioner's decision and it must therefore be assumed ARTA accepted this decision and attached conditions. ARTA no longer exists but its roles and responsibilities have been taken over by Auckland Transport (AT).

More recently AT, including the City Rail Link (CRL) team and the Road Corridor Operations Team, expressed concerns about the proposal and adequacy of information. Initial concerns related to the application being processed as a variation rather than a new consent as in their view different effects would arise with the porte cochere traffic associated with the hotel activity compared to the original proposal which was predominantly residential. Another matter related to the CRL project and the proposed development's integration with the CRL construction timeframe and station entrance designs. The original application was lodged and determined before the CRL Notice of Requirement (NOR) was publicly notified so the CRL does not form part of the existing environment and it is noted that no decision has been made, as of the date of this report, in respect of the NOR. As discussed AT's concerns have been addressed and their recommendations supported by the Council's traffic engineer which now form part of either amended or new conditions that the applicant has agreed to.

On the basis of the above discussion it is considered that neither Auckland Transport nor other previous submitters can be considered to be affected by the proposed changes including the additional consenting matters resulting from the proposed change to hotel and retention of some apartments.

Overall, I consider that any adverse effects relating to the varied proposal are less than minor, and that there are no persons adversely affected by the granting of consent to the varied proposal.

Limited Notification Assessment Conclusion

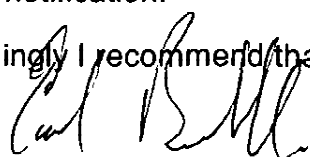
This application should be processed without limited notification because any adverse effects relating to the varied proposal are less than minor, and there are no persons adversely affected by the granting of consent to the varied proposal.

Notification Recommendation

Non-Notification

As discussed above this application may be processed without public notification or limited notification.

Accordingly I recommend that this application be processed non-notified.



31.01.2014

Earl Brookbanks

Date

Senior Planner: City Centre

Consideration of the Application

Statutory Considerations

In considering any variation under s127, Council must have regard to Part 2 of the RMA ("Purposes and Principles" – ss5 to 8), ss104, 104B, and 108 of the RMA. The weighing up under s104 is subject to Part 2.

Under s104B and s127, a consent authority may grant or refuse consent for a variation. If it grants the application, it may impose or vary conditions under s108 of the RMA.

Actual and potential effects on the environment

Section 104(1)(a) of the RMA requires the council to have regard to any actual and potential effects on the environment of allowing the variation. This includes both the positive and the adverse effects.

Adverse Effects

In considering the adverse effects of the change or cancellation of the condition(s) of consent, the council:

- must consider only those effects from the change or cancellation;
- may disregard those effects where the plan permits an activity with that effect;
- must disregard those effects on a person who has provided written approval.

The assessment and conclusion of the "permitted baseline" for the s95A adverse effects assessment are considered applicable to s104(2), and so not repeated here. No persons have provided written approvals.

The assessment of adverse effects undertaken for notification identified and evaluated adverse effects and these are adopted for the purposes of s104(1)(a). These relate to the use of the porte cochere, the volume of traffic generated by the proposal, construction management, design and built form, apartment mix, infrastructure, lighting and wind. Mitigation of identified adverse effects is achieved in part by the imposition of conditions of the original consent, revised conditions and newly added conditions to ensure that aspects of the proposal such as the temporary effects of construction activity, the design and construction of the building and the use of the building, are appropriately managed.

Positive Effects

A positive effect is the development of a well designed, high quality mixed commercial and accommodation facility displaying creativity, innovation and responsiveness to the local, central context together with the provision of high quality pedestrian facilities and defined entries along the eastern, northern and western edges of the building providing good connectivity and legibility within the locality.

Summary

Under section 127(3) consideration must be given to the effects of the change or cancellation of conditions. In relation to the section 127 component of the application, it was found that the adverse effects of the change or cancellation of conditions would be less than minor. Overall, actual and potential effects are acceptable.

Relevant statutory instruments

Section 104(1)(b) of the Act sets out that when considering an application for resource consent, the Council shall have regard to any relevant provisions of any national environmental standards, other regulations, policy statements (national and regional, including proposed regional policy statements), or plans or proposed plans. With respect to the Proposed Auckland Unitary Plan (PAUP) the Council is not entitled to apply new plan provisions, even those that have immediate effect from the date of notification, after the grant of the original consent if the variation falls within the scope of the original grant. It is considered that the proposal is of district and regional significance with the Auckland Council District Plan (Auckland City Central Area Section) and the Auckland Council Regional Policy Statement being relevant to the consideration of this proposal.

Auckland Council District Plan (Auckland City Central Area Section 2004)

A thorough analysis of relevant district and regional policy statement objectives and policies was undertaken in relation to the original application and it was found that these provisions offer considerable support for the proposal. In relation to the current proposal I consider the agent has adequately addressed the range of relevant district plan objectives and policies, in particular the Queen Street Valley Precinct provisions which provide greater clarity in terms of the planning direction for the area, specifically Objectives 14.4.3.1 (Activities enhancing the vitality & interest of the Precinct), 14.4.3.2 (Maintaining and enhancing the Precinct as an attractive, safe & comfortable environment) and 14.4.3.4 (Maintain & enhance the built & streetscape environment & built form).

Relevant objectives and policies

There is strong emphasis in Part 3 of the District Plan for the City Centre to be managed by the Council in a way that enables people and communities to provide for their social, economic and cultural well being and for their health and safety. Resource management issues are identified, strategies proposed, and anticipated environmental results expected.

One overarching resource management objective (3.5.4) is the City Centre being a place of opportunities and acknowledged as an outstanding centre in business, culture, arts, accommodation, entertainment and learning and is responsive to new ideas and change. Several relevant policies flow from this objective:

- Policy 3.5.4(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.”*
- Policy 3.5.4(b): *“By providing a wide variety of opportunities.”*
- Policy 3.5.4(c): *By facilitating and encouraging the varied reuse of buildings and infrastructure”.*
- Policy 3.5.4(d): *“By facilitating and encouraging redevelopment and construction of new buildings and infrastructure to meet the needs of business and other activities in the Central Area.”*

Promoting the City Centre as an exciting, appealing and distinctive centre with a wide variety of attractions reflecting its mix of people is another resource management objective (3.5.3). Relevant to this application is:

- Policy 3.5.3(a): *“By providing convenient access to community activities and facilities;*
- Policy 3.5.3(b): *“By managing the adverse effects of activities on each other, on people and on the environment.”*
- Policy 3.5.3(c): *“By encouraging high quality urban design that results in a safe, comfortable, distinctive and visually pleasing environment.”*

A quality environment for Auckland City is another resource management objective (3.5.1) and this will be achieved by managing the use and development of the City Centre’s natural, physical and cultural resources to protect heritage features and important view shafts and to ensure a healthy, clean and safe environment. Relevant policies to flow from this objective are:

- Policy 3.5.1(d): *“By protecting and conserving identified elements of the City’s heritage, including streetscapes, buildings and places.”*
- Policy 3.5.1(e): *“By providing for an urban form that encourages the concentration of taller buildings in the core and lower buildings towards the periphery.”*
- Policy 3.5.1(e): *“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.”*

Comment

The proposal, it is considered, satisfies these general objectives and associated policies. The proposal achieves a high standard of architecture and provides a safe, comfortable and attractive work, shopping and accommodation environment.

Entrances to the building are celebrated with the introduction of oversized glazed elements at the corners and the entrance to the through site link. These elements contain within them the ability to connect with the interior of the building to provide visual interest and create a streetscape that changes and responds to particular events over time. The proposed development is designed to conform with the bulk and location controls relevant to the area including special height provisions. Through an iterative design process, the Urban Design Panel commended the design refinements through this process and the quality of the architecture that evolved. So impressed was the Panel that a recommendation was that future design development ensures that the architectural intentions as illustrated in the rendered digital perspectives presented to the Panel are maintained. Recommended Condition 45 addresses this matter.

Strategic Management Area objectives and policies

The resource management strategy for the Core Strategic Management Area (SMA) is based on the recognition that it is the most densely developed and used part of the Central Area. The strategy aims to achieve a balance between maintaining a vital and attractive environment and retaining the function of the Central Area as the centre for a range of activities. The focus of the strategy though, is to sustain the area as the main commercial, administrative and entertainment centre for the City and the region.

The intent of the Core SMA objectives and policies is to achieve the foregoing strategy. However, turning for the moment to the Queen Street Valley Precinct provisions (which are addressed in detail below) it is noted that there is a degree of duplication both in Core SMA objectives and policies and those of the Precinct. Because the Precinct provisions tend to drill down in more detail, these are now addressed rather than the more general Core SMA objectives and policies.

Queen Street Precinct objectives and policies

The site is located, in part, within the Queen Street Valley Precinct (Part 14.4) of the Operative Plan. This precinct is formed around the Queen Street corridor which is the focus of retail and office activity within the Central Area. The precinct is diverse in terms of age, architectural style and character and there are clear contrasts between development to the west and east of the corridor and its fringes, one example being the area in which the site is located. Resource management issues (14.4.2) for the precinct relevant to consideration of the application are:

- *The potential for building bulk to dominate the area and result in a loss of daylight and visible sky (14.4.2(b))*
- *The opportunity to reinforce the relationship between the built form and open space including street space (14.4.2(d))*
- *The opportunity to reinforce and enhance the ease, comfort and safety of the pedestrian environment(14.4.2(e))*

- *The opportunity to provide for an environment which encourages good urban design and amenity qualities (14.4.2(f))*
- *The opportunity to retain and enhance a safe, convenient and interesting pedestrian environment by avoiding the location of additional servicing and loading facilities which interrupt street frontages (14.4.2(h))*
- *The maximisation of pedestrian use of the existing street system (14.4.2(n))*

The objectives, policies and methods of the precinct as they relate to the application are as follows:

Objective 14.4.3.1 seeks *“To foster an environment that encourages activities which will enhance the vitality and interest of the Precinct.”* The relevant policy to flow from this objective is:

- 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.”*

The method to achieve this policy is *“By applying an activities control which gives priority to activities at ground level and those which contribute to maintaining pedestrian activity.”*

Comment

The proposed building has been designed to incorporate street level activities that will activate and enliven the street level frontages of the building. Retail frontages are fully glazed and entries into individual retail tenancies will be provided from the street. Main entries into the podium space are located at all corners of the site and midway along the Victoria Street frontage. On Albert Street main entries into the podium are located at the southern end of the frontage and northern corner with Victoria Street, both being expressed with a glass lantern canopy. The entry to the through site link connecting Elliott Street directly to Albert Street is expressed by the street canopy being raised over the entry.

In regard to ground floor permeability, the applicant’s architect states:

“The activity control applies to the Elliott Street frontage where an elevation of retail shopfronts is interrupted at regular intervals by faceted stone clad structural columns. Whilst the activity control does not apply to the Victoria Street frontage this same strategy has been followed adjacent to the footpath. By offsetting internal floor levels along Victoria Street, three retail units have been created that visually and physically connect directly with the street.”

The facades of the proposed podium are predominantly fully glazed with various degrees of transparency to provide visual connections between the adjacent streets and the various internal activities at each level. This outcome was

commended by the Urban Design Panel with the panel considering transparency to be a critical factor in the success of the design. The panel noted that it would be important that a retail management plan be developed to assist in maintaining transparency. This is the thrust of recommended Condition 46B.

Objective 14.4.3.2 seeks *“To maintain and enhance the Precinct as an attractive, safe and comfortable environment where any adverse effects on the microclimate are avoided or mitigated.”* The relevant policies to flow from this objective are:

- “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.*
- h) By encouraging pedestrian pathways.”*

Methods to achieve these policies are as follows:

- i) Financial contributions are imposed on development to contribute towards the cost of Council initiated purchase and upgrading of public open space including roads.*
- ii) A requirement for verandah coverage along key pedestrian thoroughfares is applied.*
- iii) Rules to avoid, mitigate or remedy the adverse effects of activities on the amenities of the area including noise, parking and access, wind and glare are imposed.*
- iv) Defined sunlight planes are applied to protect sunlight access to identified public places.*
- ix) Vehicular and service access to sites in particular locations.”*

Comment

The proposed tower complies with the relevant sunlight admission controls applicable to the site. The building has also been subject to a full wind tunnel test to ensure that the new building will not significantly impact upon the street level wind environment. The applicant architects advise that the reflectivity of the external surfaces of the building will not exceed 20% of white light, thus ensuring that there is minimal glare and reflection.

The proposed design creates an attractive, safe and comfortable environment. The proposal has two entries to the third floor of the retail mall. There is a generous pedestrian plaza at this level with a generous pedestrian connection to a neighbouring plaza and a direct diagonal connection from the Albert/Victoria Street corner. The hotel entrance is clearly visible beneath the porte cochere that has been scaled to provide a positive impact on Albert Street. This will be a locale of constant activity with guests arriving and departing at all times creating interest and vitality. I agree with the applicant that the overlooking and monitoring that will be afforded by this activity will enhance pedestrian safety. All building entrances are clearly visible and accessible from the street and are differentiated in importance and function through modulation of the elevations. Major entrances to the shopping mall and cinemas are located at the corners of the site. The hotel entrance is located centrally on Albert Street under the porte cochere. The pedestrian plaza at the corner of Albert and Victoria Streets mediates between the functionally separate entrances on the site. Street frontages are either public open space or retail frontage at ground level. A through site link is provided from Elliott to Albert Street aided by visual cues. The public plaza space is accessible at grade from the new foot path located to the east of Lower Albert Street. There is only a change of material to indicate any change in status. This will enhance public 'ownership' of the plaza in front of the building. The vehicle crossings to Albert Street give access to the porte cochere for entry to the hotel. These have been designed to give priority to pedestrians through application of surface finishes and use of level changes to slow traffic. Service access is via the lower Albert Street service lane. One way in and out access from Albert Street is provided for arrivals and departures from the hotel and this has been found acceptable from both an urban design and transportation perspective in the circumstances.

Objective 14.4.3.4 seeks *"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.* The relevant policies to flow from this objective are:

- 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*
- 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.*

Methods to achieve these policies are as follows:

- i) *A frontage height and set back control is applied and off set by floor area exemptions*
- ii) *Floor area ratio restrictions are included*
- iii) *Resource consent applications for new buildings and building alterations and additions are required to be assessed against urban design criteria*
- iv) *Design guidelines are set out which assist the applicant with the design of buildings and facilitate the assessment of applications to ensure that the character and architectural style is maintained.*

Comment

There are design elements incorporated in the proposal which acknowledge the existing human scale and character of the area. In his architectural statement the applicant's architect, Paul Brown, explains the relationship of the proposal to surrounding block development. Under the Plan there is a desire that frontage height and design should have regard to existing buildings in the vicinity and maintain a consistent scale. Mr Brown explains that this respect for the general appearance of the surrounding blocks is maintained. He observes that the western side of Elliott Street exhibits significant variation in building height. Whilst higher than the Atrium building immediately to the south the proposed building podium is of a similar height to the neighbouring Crowne Plaza Hotel building. The podium is significantly higher than the podium of the building opposite on Elliott Street but this building is out of scale with the surrounding area by having such a low podium. The proposal should be seen as a partner to the Smith and Caughey building at the south end of Elliott Street and is of a comparable height to this existing department store. On Victoria Street the podium is of a similar scale to the newer buildings opposite. It is noted that the District Plan frontage height and setback control is not applicable to this site.

The frontages of the proposed building are composed of vertical elements that respect the historical scale of development in the Queen Street Valley. Larger scale openings are provided at street level then immediately above a fractured geometry that gives visual interest and other openings that allow the podium to be appreciated at a distance greater than the immediate locality. The proposed façade is therefore composed of a number of elements of differing scale that provides a legible expression of the activities inside. They also respect the largely vertical subdivision of historic facades found elsewhere within the area. According to Mr Brown the cues for the development of these elements are drawn largely from the heritage buildings in the vicinity rather than the immediate adjacent Atrium on Elliott development.

At street level in Elliott Street the elevation of retail shopfronts is interrupted at regular intervals by faceted stone clad structural columns. This same strategy has been followed in respect of the Victoria Street frontage where, by offsetting internal floor levels, three retail units have been created that visually and physically connect directly with the street.

Regarding the podium/tower form of the proposal, Mr Joyce in his urban design review remarks that although the respective plan shape, area and site location of the currently proposed podium and tower are essentially the same as the previously consented development, the architectural language of the two dominant forms has been completely restated. The respective façade cladding details and architectural expression are consciously disparate and acknowledge that the two forms are predominantly perceived and experienced from different viewpoints: the tower more from a distance, contributing to the macro form of the city centre and the podium more from within the city's urban fabric, contributing to the nature and quality of the street environment. As a design concept this was supported by the Urban Design Panel and Mr Joyce.

Transportation objectives and policies

Objectives and policies relating to transportation and the pedestrian environment are contained within section 9.2 of the Operative Plan. The following are considered relevant to the current application:

Objective 9.2.1 seeks *“To ensure that people can move easily around the Central Area.”* Policies associated with this objective relate to the movement of people around the Central Area and focus particularly on providing “safe, attractive, efficient and identifiable linkages”. The policy most relevant to this application is 9.2.1(b):

“By reducing conflict between pedestrians and vehicles, and particularly in those parts identified in the Plan as pedestrian-orientated areas.”

Objective 9.2.2 seeks *“To maintain accessibility to and from the Central Area.”* This objective contains policies that relate to maintaining the accessibility of the Central Area, in particular recognising the limited capacity of the road network and giving priority to passenger transport and service vehicles while discouraging traffic in areas where it would have significant adverse effects. The policies most relevant to this application are:

- “b) By acknowledging the limited capacity of the road system.”*
- “g) By encouraging the establishment of cycle facilities and cycle ways.”*
- “h) By providing for the efficient and safe movement of pedestrians.”*

Objective 9.2.4 seeks *“To reduce traffic congestion, improve traffic flow and manage the parking supply in the Central Area.”* This objective contains policies that relate to: ensuring the parking policy complements efforts aimed at improving the City’s passenger transport system while at the same time ensuring the Central Area can continue to function as the CBD; managing the provision of non-ancillary commuter parking facilities; minimising effects on the efficiency of the transport system and ensuring that the supply and use of parking encourages access for all users of the central Area. The policy most relevant to this application is:

“c) By making provision for car parking while minimising effects on the efficiency of the transport system.”

Comment

The proposal is consistent with the above objectives and policies since, as outlined in traffic reports of the applicant and Council and as concluded in those reports and discussed in the foregoing effects assessment, the expected level of traffic generated by the proposed development will have a less than minor effect on the capacity and operation of the surrounding road network and on the safe movement of pedestrians. It is also noted that above listed objectives and policies stress the importance of traffic management rather than effects avoidance, in recognition of the central area as a significant area of current and future intensification. To this end construction traffic, excavation & construction, and revised porte cochere management plans seek to ensure the outcomes sought by the above objectives and policies. The shortfall of one loading space being the on-street courier park is acceptable given there is space on site for such a service.

Other relevant Policy Statements, Plans or Proposed Plans

Strategic Policy 2.6.8(1) (Operative 21 March 2012) of the Auckland Council Regional Policy Statement seeks to achieve high quality urban design outcomes in new urban areas and management and promotion of change in existing urban areas in terms of liveability, vibrancy, connectedness, transport modes being integrated, incompatible uses avoided and sustainable management of natural and physical resources.

These provisions echo already established resource management strategies, objectives, policies and rules for the Central Area. The proposal is indicative of the diversity and vibrancy in the urban environment encouraged by these regional urban design policies.

When considering an application for resource consent within the Hauraki Gulf, its islands, and catchments, a consent authority must have regard to ss7 and 8 of the Hauraki Gulf Marine Park Act 2000 (HGMPA). These sections must be treated as a New Zealand coastal policy statement. Section 7 recognises the national significance of the Hauraki Gulf, its islands and catchments, while s8 outlines the objectives of the management of the Hauraki Gulf, its islands and catchments. The objectives are intended to protect, maintain and where appropriate enhance the life

supporting capacity of the environment of the Gulf and its islands. The site lies within one of the Gulf's catchments and accordingly the HGMPA is relevant to consideration of the application in relation to storm water management. These matters do not fall within the scope of the current application but will be addressed in relation to regional and possibly NES (soil) consenting matters the applicant is yet to address.

Relevant Assessment Criteria

The District Plan specifies the relevant assessment criteria to be considered in assessing applications for resource consent. However, I agree with the agent that a variation of a resource consent condition does not carry any specific assessment criteria with respect to the provisions of the District Plan notwithstanding that the application is to be progressed as if it were an application for a resource consent for a discretionary activity. Instead it is required that the assessment have regard to any relevant objectives and policies and an assessment of the effects of the changes as introduced by the variations. The applicant has provided a comprehensive analysis and commentary on relevant objectives and policies as has the author in this instance. Notwithstanding that under a variation application the emphasis is on determining the extent of effects of the changes or cancellation of conditions and achievement of objectives and policies both the specialists in transportation and urban design for the Council and applicant respectively have considered the proposal in terms of the relevant assessment criteria. I am satisfied that they have comprehensively addressed all relevant matters.

There is of course the additional consenting matter relating to the mix of apartment types where in this case, of the 36 units provided, only 8 instead of the required 11 units are 2 bedroom apartment units. Criteria contained in Rule 15.3.1.2b) apply when a modification of a development control provisions is sought. These criteria relate to the following:

- The extent of any adverse effects on the environment of the modification
- Whether the application would achieve the objectives and policies of the Plan and sustainable management of resources
- Whether the proposal meets the intent of the development control as contained in its associated explanation or it is unreasonable or impractical to enforce the control and
- Whether, where appropriate, conditions can be devised to avoid, remedy or mitigate any adverse effects of the proposed modification on the environment

For reasons discussed in the foregoing s95 notification assessment and analysis of objectives and policies, I do not consider the proposal raises further effects issues nor falls short of achieving the objectives and policies of the Plan. In the context of the current proposal I consider it would be unreasonable or impractical to enforce the control. With regard to the above criteria and as previously discussed all proposed residential units conform with District Plan standards with respect to size, outlook and daylight. They certainly do not represent the type of development that proliferated some years ago of developers constructing 'shoe-box' size apartments in buildings of relatively poor quality which prompted the Council at the time to introduce Plan Change 2 to address residential amenity.

With regard to the second consenting matter being the shortfall in the provision of an on street courier park, the Council's traffic engineer, in considering the matter, expects that couriers would park in the porte cochere bearing in mind the nature of their work. He considers it preferable that couriers park on-site as it avoids the need for additional on-street manoeuvres associated with on-street parallel parking. He therefore considers the non-provision of a dedicated on-street courier drop-off space as acceptable.

Overall, having taken into account the above provisions, I find the proposal to be in accordance with the relevant regional policy statements and relevant objectives, policies, assessment criteria and rules of the Operative Plan, including the relevant provisions of Part 3 – *Resource Management*, Part 4.1 – *Core Strategic Management Area*, Part 5 – *Activities*, Part 14.4 – *Queen Street Valley Precinct*, Part 9 – *Transportation*, Part 15 – *General Provisions* and with particular attention to transportation, design and appearance.

Any other matter – s104(1)(c)

City Centre Masterplan 2012

The *City Centre Masterplan 2012* (CCMP) is a 20-year vision that sets the direction for the future of the City Centre. Auckland city centre's future development is defined by a range of place-shaping factors, three relevant to the consideration of the proposal being the "*Changing Economic Picture*," "*Public Life*," and "*Quality Built Environment*". The CCMP envisages a prosperous city centre with a successful and expanding business services sector and diverse residential communities, complemented by world-class retail, dining and entertainment options. These are qualities that form an integral part of the proposal. In relation to "Public Life" the CCMP envisages making through-site links and public spaces (from private Development) criss-crossing the city centre more visible, as part of the public space network. This is a significant feature of the proposed development.

With respect to "*Quality Built Form*" the CCMP notes that prominent buildings, such as the proposed, act as landmarks and assist people with orientation when in the

city centre. Accordingly, all new development – particularly those that are prominent because of their location, design or height – must enhance the cityscape, as this represents the identity and image of Auckland's city centre. This is achieved by the proposal. In terms of the “*Good Design Principles*” of “Identity,” “Diversity,” “Integration” and “Efficiency” the proposal fulfils the requirements for a quality addition to the Auckland cityscape that will have a positive impact on the existing urban fabric.

City Rail Link (CRL) Designation

Six Notices of Requirement (NORs) for the CRL project were publicly notified in August 2012 with submissions closing March 2013. All NORs are seeking to designate land for purposes of construction, operation and maintenance of the CRL including stations and associated or ancillary facilities and activities. The NORs relate to surface, sub-strata or strata designations. A hearing of submissions took place in late 2013 and decisions are imminent.

The site itself is not directly affected by the NORs but a proposed bridge for exiting vehicles from the porte cochere traverses Lower Albert Street to the main carriageway of Albert Street and hence falls within the CRL designation. It is expected that the CRL designation will be confirmed and the applicant acknowledges that the approval of the CRL requiring authority will be required and an advice note to this effect has been included.

Other relevant RMA sections

Monitoring

The main components of this application which will require monitoring are ensuring that the works are carried out in accordance with the approved plans and the conditions of consent. In this instance, the monitoring charge paid as part of the original consent is considered to be sufficient to also monitor the works associated with this current application.

Conditions s108

Under the heading ‘Changes Sought to Consent,’ the conditions for which the applicant has sought either a change or cancellation are summarised, followed by a list of the conditions in their amended form or shown as deleted. In addition the applicant has offered a condition on ‘lighting’ and Council specialists in transportation and urban design have recommended either new conditions or changes to existing conditions. These conditions have been endorsed by the applicant. All agreed changes are set out in the following draft decision.

For completeness the original and varied conditions, together with additional conditions are attached to the decision. Because many of these conditions carry references to old delegations under the former Auckland City Council they are amended to bring in line with current delegations. Also Appendix 3 of the original decision is deleted due to significant changes in relation to documentation cited and officer delegations changing.

Development contributions

The applicant has requested deletion of condition 73 relating to the payment of a financial contribution under the District Plan. This requirement has now been superceded by Council Development Contribution Policy as levied under the Local Government Act 2002 and hence this request to delete is supported. An advice note is included in the decision regarding the development contributions payable.

Part 2 (Purpose and Principles)

Section 5 sets out the purpose of the RMA, and requires a broad judgement as to whether a proposal would promote the sustainable management of natural and physical resources. This exercise of this judgement is informed by the principles in sections 6 to 8, and considered in light of the particular circumstances of each application.

In this case I consider the proposal is complementary to the purposes set out in Section 5, does not impinge on the matters set out in Section 6 and in terms of Section 7 represents an efficient use and development of a physical resource that responds positively to the unique characteristics of the site and the surrounding urban environment.

Conclusion

Overall the proposal is consistent with the relevant objectives, policies, assessment criteria and rules of the Operative Plan and the actual and potential effects are acceptable. No adverse effects that cannot be avoided, remedied or mitigated by conditions, are considered to arise as a result of changes to conditions relating to the original consent.

Based on the assessment within this report, it is considered that the Council has the authority to grant consent subject to the imposition of additional conditions and changes to conditions of the original consent.

Recommendation

Under sections 104, 104B, and 127 of the RMA, I recommend that this non-notified s127 application is granted:

The reasons for this decision are detailed in the attached draft decision and recommended changes to conditions.

This report and recommendation prepared by:

Name: Earl Brookbanks

Title: Senior Planner: City Centre

Signed: 

Date: 31.01.2014

Approved for release

Recommendation approved for release to the Duty Planning Commissioner

Name: Karen Long

Title: Team Manager: City Centre

Signed: 

Date: 31.01.2014