

AUCKLAND COUNCIL

SUBJECT: Application for resource consent under section 88 of the Resource Management Act 1991 by Chelsea Commercial Limited for the establishment of 21 residential apartments within a single building on Business 9 zoned land in close proximity to Highbury Town Centre. Also the removal of Condition 8 from approved resource consent LN-2123157.

TO: Resource Consent Hearing Commissioners

FROM: Nick Mattison, Consultant Planner – Mt Hobson Group

DATE: 20 June 2011

NOTE: This report sets out the advice of the reporting planner. This report has yet to be considered by the Panel of Commissioners delegated by the Council to determine this application. The recommendation is not the decision on this application. A decision will only be made after the Commissioners have considered the application and heard the applicant and any submitters.

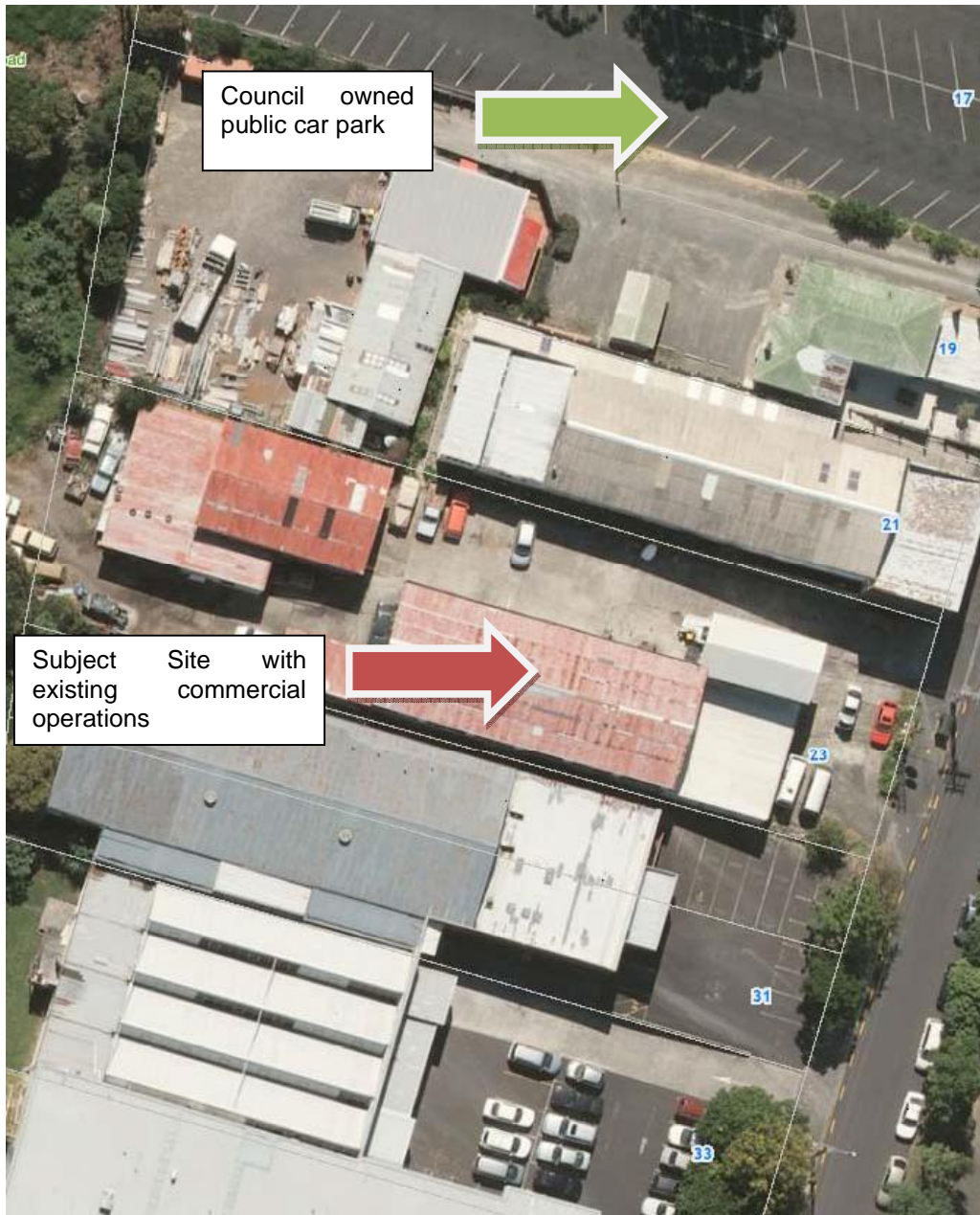
1.0 APPLICATION DESCRIPTION

1.1 Application and Property Details

Application Number:	LH-2132762
Reporting Officer:	Nick Mattison – Mt Hobson Group
Site Address:	23 Rawene Road, Birkenhead
Applicant's Name:	Chelsea Commercial Limited
Lodgement Date:	8 October 2011
Notification Date:	19 April 2011
Submissions Close Date:	17 May 2011
Number of Submissions Received:	One
Correspondence Received	Six

Appendix 1	Copy of Resource Consent Application
Appendix 2	Plans
Appendix 3	Supplementary Information and Assessment
Appendix 4	Council's Urban Design Report (Tracey Ogden-Cork)
Appendix 5	Acoustic Report (Duffy Visser – Environmental Health)
Appendix 6	Traffic Comment (Rajah Nadarajah)
Appendix 7	Asset Engineer (Siva Sivapalan)

1.2 Locality Plan



1.3 Application Documents (Plans and Reference Documents)

The list of application documents and plans is set out in Appendix 1 of this report.

1.4 Adequacy of Information

It is considered that the information submitted by the applicant is sufficiently comprehensive to enable the consideration of the following matters on an informed basis:

- a) The nature and scope of the proposed activity as it relates to the North Shore City District Plan.
- b) The extent and scale of any adverse effects on the environment.
- c) Persons who may be adversely affected.

A request for further information under section 92 of the RMA was made on Tuesday 19 October 2011. The applicant provided all of the information requested on 19 January 2011. It is noted that the additional information was submitted from the 2 December 2010 however the s92 matters were not completed until the 19 January 2011.

1.5 Report and Assessment Methodology

The application has been prepared to a standard to meet the requirements of the Resource Management Act incorporating a number of expert assessments. In recognition of the standard of this application, this report will not unnecessarily repeat descriptions or assessments made in the application. A separate and independent assessment of the proposal has been undertaken and independent experts have been engaged on behalf of the Auckland Council to review technical aspects as required. If the descriptions or assessments provided on various aspects of the proposal are agreed the report will simply confirm agreement with these aspects. If there are differences in opinion or matters that need more assessment, consideration or discussion in the report or indeed there are matters that are considered inaccurate, incorrect or that have been missed or there is disagreement with opinion or approaches, the report will detail conflicting assessments and opinions (of those of Council experts) where relevant. Where appropriate extracts from the application material or from the Council expert reports will be included to enable this report and assessment to flow and be clearly understood.

The assessment also relies upon reviews and advice from the following experts on behalf of the Council and specialist Auckland Council officers. These assessments are attached in Appendix 2 of this report:

- Tracy Ogden-Cork – Auckland Council's Consultant Urban Designer
- Rajah Nadarajah – Auckland Council's Traffic Engineer
- Siva Sivapalan – Auckland Council's Asset Engineer
- Duffy Visser – Auckland Council's Environmental Health Officer (acoustic)

2.0 EXECUTIVE SUMMARY

Resource consent is required as a discretionary activity under the North Shore City District Plan. The applicant, Chelsea Commercial Limited, are seeking consent for the establishment of 21 apartment units within a previously consented yet un-built commercial building. The proposal also seeks to remove a cash in lieu contribution for a parking shortfall associated with the original consented commercial development.

The proposal is required to be assessed against the relevant provisions of the North Shore City District Plan (**the Plan**) and Plan Change 30. With respect to the District Plan, relevant objectives include those objectives addressing Transportation (Chapter 12) and the control of adverse effects, encouragement of development and amenity in the Business zones (Chapter 15). In particular, the Objectives and Policies at Sections 12.3.1, 12.3.4, 15.3.4, 15.3.5 and 15.4.7 are relevant for the consideration of the appropriateness for the establishment of the mixed use development and cancellation of Condition 8 of the original consent (Council Reference LN-2123157).

The application has been assessed against Part II of the Resource Management Act and determined that it is an efficient use of a natural resource (land) while enhancing the economic vitality of Highbury Town Centre and ensuring that amenity values are maintained and enhanced.

The application has been assessed against the relevant provisions of the North Shore City District Plan, Plan Change 30 and the Resource Management Act. The proposal is considered appropriate for its environment and accordingly has been recommended to the hearing commissioners' for approval.

3.0 THE PROPOSAL, SITE AND LOCALITY DESCRIPTION

3.1 Proposal

The applicant is seeking consent for the conversion of a consented but as yet un-built, office building into 21

residential apartments (17 one bedroom and four two bedroom) spread over three floors. The residential development will also result in the internal courtyard between the two consented buildings being upgraded to provide onsite amenity for the occupiers of the residential units and for the use of the commercial tenants. The 5m rear landscape buffer (between Building B and the reserve to the west of the subject site) will also be altered to enable the ground floor units to have level and useable paved outdoor living spaces partially within this yard. The proposal seeks to rely upon the existing consented built forms, the basement garaging and access (all approved under resource consent LN-2123157). The plans clearly illustrate the proposal.

3.2 Site, locality, catchment and environs description

The site, its locality and the surrounding environment has been extensively canvassed within the AEE by MPC Planning. The main salient points to note are:

The Subject Site

- The site is 1,788m² and contains a furniture maker and a mechanic – both exist within typical commercial buildings.
- The site is covered in hardstand, has no landscaping associated with it and the mechanic appears to be utilising the reserve area to the west as an informal storage area.
- Dual vehicle accesses are adjacent to the northern and southern side boundaries.
- The site is adjoined by four neighbouring properties.

The Immediate Environment

- To the north of the subject site is the Council Public car park (located at 17 Rawene Road), commercial premises at 19 and 21 Rawene Road which include a school of design and manufacturing yard. The activities are housed in similar commercial style buildings to those located upon the subject site.
- To the south is the Rawene Centre (located at 31, 33 and 35 Rawene Road) which provides for a range of community services and classes and appears well utilised by several groups and organisations.
- To the east is a medical facility at 4 Rawene Road, and two residential town houses at 8 Rawene Road.

Any properties not included within this environment are believed to be sufficiently separated to ensure that they are adequately incorporated within the surrounding environment.

The Surrounding Environment

- The site is located 25m from the intersection of Birkenhead, Mokoia, Hinemoa and Rawene Roads being part of the Highbury Town Centre.
- The centre accommodates a large range of commercial activities and the Highbury Shopping Mall is one of its principal elements (it is noted that NZRPG – the owners of the mall – have plans for a plan change which will see a residential apartment tower being sought upon the site – these plans have yet to be formally lodged with the Council through the Plan Change process).
- Public Transport is well provided for with Birkenhead Transport operating bus services and Fullers operating ferry services from both Birkenhead and Northcote Points.
- Nell Fisher Reserve is located within relatively close proximity to the north east of the site and contains the newly developed Birkenhead Library, Community offices and Plunket.
- Along the eastern side of Rawene Road are residential dwellings. These are well separated as the road splits and provides a large grass embankment which is well vegetated and with the street level dropping on the eastern side the houses sit at a lower level than the primary roading corridor of Rawene Road.
- To the south, after the commercial zoned sites which incorporate the Rawene Centre, are residential properties.
- To the west is Rawene Road Reserve which is a large vegetated reserve which provides a green backdrop to the surrounding residential and commercial developments

3.3 Background

In April 2008, consent was granted for the re-development of 23 Rawene Road, Birkenhead by Chelsea Developments Limited (LN-2123157). The development involved the demolition of the existing buildings, excavation and site remediation works and the construction of one three-level and one four-level commercial buildings. Below the ground floors of these two buildings was a common basement car park with space for 56 car parks. Some parking was also located at ground level behind the showroom and provided for a total of 72 spaces. Resource consent was granted for the following

(being those matters which required consent under the North Shore City District Plan):

- Site works of 1509m².
- Excavations to a maximum depth of 4.5m
- 8 Stacked parking spaces.
- A technical parking shortfall of 15 spaces.
- Vehicle movements of up to 386 per day.
- Change of use of the site within a Buffer Strip.
- Height of the front office block being 12m within 30m of a Residential zone (only 6m of the 24m upper storey office blocks infringe)

3.4 Other Consents

There are no regional consents required. Building consent will follow any resource consent if the proposal is deemed suitable to its environment.

4.0 REASONS FOR THE APPLICATION

Resource consent is required under the provisions of the North Shore City District Plan.

4.1 District Plan

4.1.1 Operative District Plan

S127 Requirements

- 1) The applicant proposes to Cancel Condition 8 of LN-2123157.

Condition 8 as contained within the decision issued by the Council reads:

Cash in Lieu

- 8) *That the applicant offer reasonable cash in lieu contributions to the satisfaction of Council for public transport initiatives, pedestrian facilities and parking facilities improvement in the area for the parking shortfall of 5 spaces.*

The consent holder has requested this condition be cancelled in relation to the existing consent because there is no longer a cash in lieu provision associated with the District Plan and the cash in lieu was taken despite there being no requirement to mitigate an actual effect.

New Resource Consent Requirements

- 1) Rule 15.5.1.3 requires that alterations to a building or site within 30m of a recreation zone be considered as a Controlled activity (development within the buffer strip). *The proposal requires alterations to the site and the eastern and western facades of the development consented under LN-2123157.*
- 2) Rule 15.5.1.5(c) requires that any activities with a residential component within the Business 9 zone be considered as a Discretionary activity. *The proposal will involve the conversion of a consented three-storey office building in to 21 apartments split over the three levels.*
- 3) Rule 15.6.1.9 requires that any non-ground floor unit must have an unimpeded 10m outlook which is to be provided on site or over a road reserve. Control Flexibility is unlimited via a limited discretionary activity application. *Apartments 8-11 and 15-18 are all non-ground level units with west facing outlooks over the rear of the site being Rawene Road Reserve (a reserve under the Reserves Act and not Road Reserve so technically infringes the rule despite the level of outlook provided).*
- 4) Rule 15.6.2.8 requires that a 5m landscape amenity yard is provided where Business 9 zoned land adjoins a reserve. A reduction in the landscape amenity yard can be considered as a Limited Discretionary activity through control flexibility. *The proposal results in some ground floor patios of the western facing units protruding into the landscape amenity yard.*
- 5) Rule 12.4.2.1 and Table 12.1 establishes parking standards for various activities. Alternative

parking standards can be considered through control flexibility as a Limited Discretionary activity. *The proposal provides for 72 car parking spaces while the District Plan requires 88 spaces. A shortfall of 16 car parking spaces is proposed.*

- 6) Rule 12.4.2.7 requires that each parking space has access that is not restricted by another car in a stacked formation. Control flexibility provides for an alternative standard via a Limited Discretionary activity. *The proposal seeks to have 9 car parks stacked associated with the commercial operations upon the site.*

4.1.2 Proposed District Plan

Plan Change 30

- 7) Rule 15.5.1.3 requires that alterations to a building or site within 30m of a recreation zone be considered as a Controlled activity (development within the buffer strip). *The proposal requires alterations to the site and the eastern and western facades of the development consented under LN-2123157.*

Notes

All other infringements have been consented under resource consent LN-2123157. These additional infringements already consented are for site works exceeding 300m², excavations on a boundary greater than 1.5m in depth, Building A being over height in part and vehicle movements exceeding 100 per day. It is not considered necessary to reconsider these matters because the Hawthorne v Queenstown Council case established that consideration can be had to the lawfully established existing environment which includes existing resource consents.

4.2 Status of the application

4.2.1 Applications affected by plan changes

Section 88A of the Resource Management Act 1991 ("**RMA**") specifies that a plan change must be had regard to if the application for consent was made after the notification of a plan change. In this instance the proposed Plan Change was notified on 1 May 2008. This application was lodged at Council on 8 October 2010 therefore it is necessary to have regard to the proposed plan change in considering this application.

4.2.2 Overall, the application is considered to be a **discretionary** activity

5.0 NOTIFICATION AND SUBMISSIONS

5.1 Notification

Notice of the application was served on those persons identified as being adversely affected by the proposal in accordance with section 95E of the RMA. xxx

5.2 Submissions

At the close of the submission period, a total of one submission was received.

The single submission opposes the application. A summary of the issues raised in the submission together with the relief sought by the submitter is set out as follows:

5.2.1 Submissions – One (PA White & DE Brook)

Issues Raised

- (1) Entire tower block on Business 9 zoned land developed for residential purposes
- (2) Outlook and amenity of the apartments is compromised (location and orientation).
- (3) Size and design of the apartments are not appropriate

Relief Sought

- (A) Each tower block to be mixed use
- (B) Minimum apartment size to be 75m²

Wish to be heard

Yes

5.4 Written approvals

The applicant has obtained the written approval of the following persons:

Name	Address
Rawene Joyce Limited	31 Rawene Road, Birkenhead

In accordance with section 104(3)(b), the following section 104 assessment in Section of this report will disregard and not address any effect on the above persons from whom written approval has been obtained

For the commissioners' clarity the applicant managed to obtain the written approval of the following parties for the original resource consent:

Address	Legal Description	Owner/Occupier
19 Rawene Road, Birkenhead	Pt Lot 44 DP 415, Lot 1 DP 40222	JM & DE Brook, PA &
21 Rawene Road, Birkenhead	Lot 2 DP 40222	JM & DE Brook, PA & JM White
31 Rawene Road, Birkenhead	Pt Lot 46 DP 415, Pt Lot 47 DP 415	Rawene Joyce Limited

5.5 Location Plan



6.0 CONSIDERATION OF APPLICATION

6.1 Statutory Considerations

When considering an application for a discretionary activity the consent authority must have regard to Part 2 of the RMA (“Purposes and Principles” – sections 5 to 8), and sections 104, 104B and 108 of the RMA.

Subject to Part 2 of the RMA, when considering an application for resource consent and any submissions received a council must, in accordance with section 104(1) of the RMA have regard to:

- any actual and potential effects on the environment of allowing the activity;
- any relevant provisions of a NES, other regulations, national policy statement, a New Zealand coastal policy statement; a regional policy statement or proposed regional policy statement; a plan or proposed plan; and
- any other matter a council considers relevant and reasonably necessary to determine the application.

Section 104(2) allows any effects that may arise from permitted activities set out in a plan to be excluded from the assessment of effects related to the resource consent. This is known as the permitted baseline test. The ‘baseline’ constitutes the existing environment (excluding existing use rights) against which a proposed activity’s degree of adverse effect is assessed. Generally it is only the adverse effects over and above those forming the baseline that are relevant when considering whether the effects are minor. It is at the Council’s discretion whether to apply the assessment of the permitted baseline to any proposal. Essentially, the consent authority may disregard an adverse effect of any activity on the environment if an operative plan permits an activity with that effect.

When considering an application for resource consent, the consent authority must not have regard to trade competition or the effects of trade competition [section 104(3)(a)(i)] or any effect on a person who has given their written approval to the application [section 104(3)(a)(ii)].

Under section 104B a consent authority may grant or refuse consent for a discretionary activity or non complying activity and, if it grants the application, may impose conditions under section 108 of the RMA.

Section 108 provides for consent to be granted subject to conditions and sets out the kind of conditions that may be imposed.

All considerations are subject to Part 2 of the RMA, which sets out the purpose and principles that guide this legislation. This means the matters in Part 2 prevail over other provisions of the RMA or provisions in planning instruments (e.g. regional plans) in the event of a conflict. Section 5 states the purpose of the RMA and sections 6, 7 and 8 are principles intended to provide additional guidance as to the way in which the purpose is to be achieved.

The application of section 5 involves an overall broad judgement of whether a proposal will promote the sustainable management of natural and physical resources. The RMA's use of the terms "*use, development and protection*" are a general indication that all resources are to be managed in a sustainable way, or at a rate which enables people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, while sustaining the potential of natural and physical resources to meet the reasonably foreseeable needs of future generations, safeguarding the life-supporting capacity of air, water, soil and ecosystems, and avoiding, remedying and mitigating any adverse effects of activities on the environment. The enabling and management functions found in section 5(2) should be considered of equal importance and taken as a whole.

Sections 6, 7 and 8 of the RMA provide further context and guidance to the constraints found in section 5(2)(a),(b) and (c). The commencing words to these sections differ, thereby laying down the relative weight to be given to each section.

Section 6 of the RMA sets out the matters of national importance which need to be recognised and provided for and includes among other things and in no order of priority, the protection of outstanding natural features and landscapes, the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna, and the protection of historic heritage. In the case of this particular proposal there are no relevant Section 6 matters.

Section 7 of the RMA requires the consent authority to give particular regard to those matters listed in the section. Section 7 matters are not expressly ranked in order of priority. Therefore, all aspects of this section are to be considered equally. In the case of this particular proposal the following matters are considered relevant: Relevant matters are considered in the evaluation section of this report.

Section 8 of the RMA requires the consent authority to take into account the principles of the Treaty of Waitangi. This section of the RMA recognises the relationship of Tangata Whenua with natural and physical resources and encourages active participation and consultation with Tangata Whenua. There are no Treaty issues associated with this resource consent.

6.2 Section 104(1)(a) Actual and potential effects on the environment

6.2.1 Effects that must be disregarded

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

The written approval of the persons set out in section 5.4 of this report have been provided.

6.2.2 Effects that may be disregarded – Permitted Baseline Assessment

The permitted baseline refers to permitted activities on the subject site. In this case, this constitutes the permitted baseline and these adverse effects may be discounted as the level of adverse effect arising from those permitted activities is deemed to be acceptable. It is only any other or further adverse effects arising from the proposal over and above the permitted baseline which are to be assessed.

In this case the type and or complexity of effects associated with the proposed activity are such that the permitted baseline does not provide a useful comparison for the purpose of discounting effects.

6.2.3 Assessment of Effects

Having regard to the above and after an analysis of the application, including any proposed mitigation measures and specialist reports, and the submission from the adjoining property owner the following assessment addresses the adverse effects of the activity on the environment. As a discretionary activity the full range of adverse effects can be considered. It is important to note that several key elements will be the focus of this assessment as the built form has been previously consented and large portions of the development are still to remain as originally consented. A review of the relevant Assessment Criteria in 12.5.1.1, 12.5.1.2, 15.7.4.6 and 15.7.3.2 has been undertaken to ensure that all relevant matters have been covered within this assessment of adverse effects arising from the proposal.

Character

The building has already been consented for office purposes and the actual form of the building is to remain largely as consented. The applicant has sought to meet the urban design requirements through incorporating and expanding the balconies associated with each unit while also ensuring that ground floor living spaces are private and useable as well. Other small alterations have been included with respect to ingress/egress and these will enhance the functionality of the building from a residential perspective.

The building will be in keeping with the character of the Highbury Area. The building will look largely as originally consented and deemed appropriate for this environment. The alterations to the built form will actually enliven the building and create a softer facade which suits its location adjacent to a large bush clad recreational reserve.

The site is zoned Business 9 and has traditional commercial activities operating from some of the surrounding properties. It is considered that this zone is in transition and that a more intensive use of the surrounding sites will occur overtime considering the large parcels of land that are in close proximity to the town centre and the public car park which is to be expanded and redeveloped overtime. With the property situated on the edge of Highbury town centre the zoning changes from the Business 9 of the subject site to the Business 2 of the town centre. The town centre provides for apartments above ground level along the ridgeline and tucked in behind as a permitted activity. Highbury currently has several townhouse developments which are located behind the main retail strip and can be seen from several locations within the surrounding environment. The apartment building will be in keeping with the character of this mixed use development which sees commercial and residential activities interfacing with one another. The establishment of an apartment development within close proximity to the Highbury town centre and abutting a large bush clad recreational space is considered in keeping with the character of the area.

Intensity of Residential Component

Assessment Criteria 15.7.3.2(a) stipulates that:

“Any residential units located in the Business 9 zone will be one component of a mixed use development on any site not exceeding 25% of the gross area of the site..”

It is noted that for the calculation of this area that it is required to include any amenity spaces and parking. The gross area of the subject site is 1,788m². The areas of the site that are considered to be residential use include:

Area	M ²
Building B Footprint	397.8
Vegetated Amenity Strip and Outdoor Courtyard Area for Ground Floor Apartments	106
Landscaped Courtyard	189.5
Total	693m² or 38%

Notes:

- 1) The proposed car-parking and its associated access and manoeuvring areas for the new apartments is to be located within the basement level, therefore does not form part of the above calculation. It is noted that the area associated with parking and manoeuvring easily could fit

within the footprint of the building and therefore easily constitute another level of this building. Considering the size and layout of the development and the intent of the control it is not deemed necessary to include parking as an additional calculated area.

- 2) The entire area of the landscaped courtyard has been included as part of this calculation. However, it is noted that this outdoor space will be shared by residents and also persons working within Building A.
- 3) The vegetated amenity strip has also been included. This is a requirement for any business zoned site abutting a recreational space however it also provides an amenity space for those west facing units, especially those at ground level.

While the assessment criteria only anticipates 25% of the site being utilised for residential purposes it is not a standard or rule that requires strict adherence to. The applicant has sought a higher standard of amenity with this development (which is another criteria under 15.7.3.2) than is required by the District Plan. It is noted that the building footprint alone of 397.8m² equates to only 22% of the site. The decks or ground floor living patios can fall within the standards required for amenity associated with residential developments within a Business zone. The purely residential element of the proposal can meet the 25% anticipated and provided for within the criteria while the 38% exact calculation of all areas incorporates multipurpose areas which enhance the overall quality of the mixed use development. The layout and nature of the mixed use development is suited to this site, the zone and the intent of the criteria.

Nature of Apartments

The applicant is proposing to establish 17 one bedroom apartments and four two bedroom apartments within Building B. The submitter has stated that they would view the proposal more favourably subject to the apartments having a minimum size of 75m². It is also considered that the development could be enhanced through mixing the uses and establishing apartments on the top floors of both buildings' to capture the views.

There are no minimum apartment sizes associated with residential development in Business zones within North Shore City. It is noted that in Albany Basin and under Plan Change 37 there are minimum unit sizes. Within Plan Change 37 the units for the periphery of Takapuna CBD should be 45m² for single bedrooms and 70m² for two bedrooms. An application can be made to alter these standards which would be dependent on the quality of the living space. This is because size does not necessarily equate to a higher standard of living.

The four ground floor west facing apartments are all around 53m² while the other one bedroom apartments are around 47m². These apartments are considered sizeable for bedroom to living area ratio purposes. The two bedroom apartments are around 58m² and ensure an alternative living arrangement to the dominant element of single bedroom apartments'. A review of market conditions and the area has determined that this model of apartment development is the most practical (according to the applicant) and suited to the area. The design of the building, the provision of parking on site and the high quality amenity spaces (both private and communal) ensure that the apartments will not be dominated by one single element of society. The key with apartment living is to ensure a mixture of people which contribute to the wider environment. The large apartment spaces will be able to incorporate singles, couples and small family in the two bedrooms. The typology of the apartments will also increase peoples' reliance upon the surrounding services within the Highbury town centre, inclusive of public transport. The nature of the apartments is considered suitable to its environment.

It is noted that it would be feasible and possible to split the apartments and generate a mix of activities in each building as suggested by the submitter. The commercial realities of this are something which the applicant contends makes this unfeasible. Commercial operations down access ways with no road frontage have a tendency to struggle and therefore leasing of the space is difficult. The splitting of the uses still provides for a mixture of activities upon the site while catering to fundamentals of market demand when it comes to useable commercial space.

Loss of Business Zoned Land

The proposed residential use will occupy the three floors of Building B, for a total floor area of 1,140m². Building A is to remain in commercial and retail use, over a floor area of 1,700.78m². As a result of total floor area available on site the split will be roughly 40% residential with 60% commercial. The dominant element remains commercial on site as envisaged through the Business 9 provisions.

It is critical to review the nature of the site and those surrounding it. The area is a mixture of commercial and community services. The Business 9 zone has been eroded in this area mainly through its proximity to the town centre and the demand for large sites which can accommodate a mixture of uses. The redevelopment of the site will see the intensification of commercial activities upon the site and see an office and retail building that is significant within this locality and may be a catalyst for further intensification. To ensure that more people work and shop in the area it is critical to intensify the population through high density housing in close proximity to the services. The provision of the apartment building will aid in the overall commercial development of the area rather than undermine the business resource. The nature and mixture of commercial to residential is deemed appropriate within this environment.

Reverse Sensitivity

When apartments locate within commercial areas it can create adverse effects at the interface as residents seek a higher standard of amenity than a traditional commercial operator would require. To the north of the site are a gallery and art school and a storage yard. The Rawene Centre is located to the south which provides community space for various activities while to the west is a recreational reserve. There are no established activities that would give rise to any concern. However it is considered important to ensure that the development rights of the commercial land is not compromised in the future through having residential apartments located next door. It is also noted that to the South, the owner of the land tried to establish a 100% residential development upon the site which was turned down by the Environment Court. The land to the north, despite being in two parcels, is in single ownership and offers extensive development opportunities. It is considered unlikely that these sites to the north and south of the subject site will be utilised in the traditional commercial/industrial manner originally intended for the Business 9 zone as their proximity to Highbury ensures that extensive redevelopment should occur over time. Despite this the covenant proposed seeks to ensure that their development rights are not compromised through the consenting of residential apartments at 23 Rawene Road, Highbury.

To ensure that there are no unreasonable complaints (being those arising from activities complying with the permitted standards of the District Plan or occurring in accordance with existing use rights if any exist) about the standard operational practices of a commercial premise within the immediate environment the applicant has offered a 'no complaints covenant' which will be attached to the title of the units. This adequately addresses the issue of reverse sensitivity.

Amenity

The west facing units do not have a 10m outlook upon the site or across a road reserve as the permitted standard requires under the District Plan. The use of Control Flexibility is intended for circumstances like those associated with this proposed apartment development. The west facing units will all have expansive views across the bush clad recreational reserve which provide a high standard of amenity to these units. It is considered that the amenity standards associated with these views are much higher than the permitted 10m outlook associated with the eastern facing units.

The western ground floor units have been amended to have patio areas associated with them to ensure there is some private outdoor living space. These patios result in the 5m landscape amenity yard being slightly reduced. It is considered however that with apartments facing this amenity yard there will be a higher standard of care compared to the rear of an office building. It is also considered that due to the size of the recreational reserve adjacent the site that a small reduction in the 5m landscape amenity yard will not have any effect upon the surrounding environment.

The applicant originally proposed to retain the central courtyard as consented under resource consent LN-2123157. While the courtyard was originally an added benefit for the office development it is now considered an essential element for ensuring that there is a high standard of onsite amenity for the apartments. The applicant has revised the courtyard and now it will provide an enjoyable space for office workers during their day but also a highly useable area for the apartment dwellers. The space has been enhanced through the inclusion of seating options, landscaping and a communal BBQ area. This space will also be more visually appealing as people pass through the site or look upon it from their apartments'. This space enhances the amenity associated with the site.

The proposal also relies upon the communal rubbish areas that were approved under the original resource consent. These communal rubbish areas provide centralised rubbish and recycling disposal that will be required to be removed by private contractor. This scenario prevents a large amount of wheelie bins and rubbish being accumulated on the footpath during collection periods. This ensures that the amenity of the area is retained.

Parking

The parking ratios have changed through the apartments being added and the retail space being calculated as general retail compared to showroom. Under Section 12 of the District Plan the car parking requirement for the entire development is 88 spaces. The applicant is proposing to provide 72 car parks on site being a shortfall of 16 spaces. Under resource consent LN-2123157 the parking shortfall approved was 15 car park spaces (with five of the spaces being covered by a cash in lieu contribution). This application therefore only seeks to increase the parking shortfall by a single space. The shortfall is purely associated with the office and retail component of the site. The apartments will have allocated spaces that meet the District Plan standards. It is also noted that visitors to the site will also be able to utilise the office spaces during the evening when this component of the development is not operating. This shared use of parking spaces is beneficial and will ensure that onsite parking demand for the apartments can be catered for. It is also considered that people occupying the apartments will be able to rely upon public transport to some extent and in some circumstances. Highbury town centre provides a hub for buses servicing the North Shore Area and the Central City. There are also ferry services which depart from Birkenhead Wharf and Northcote Wharf and provide high quality services during peak travel periods to the central city predominately. These transport options provide a viable alternative and will ensure that there is a reduced demand upon the use of private motor vehicles. Finally, with respect to parking demand associated with the apartments the development is to occur right on the edge of the Highbury town centre which can cater for the demands of residents through the provision of goods and services. The site is within walking distance of all the essential services along with recreational opportunities. It is considered that the requirement for an apartment owner/occupier to have a car park is severely reduced through the location and proximity of services and recreational opportunities. The parking associated with the apartments is considered appropriate.

The front office building has been consented with a parking shortfall. Admittedly, under the original resource consent the parking shortfall would have been split between the two office blocks, however the effect of the shortfall would have been the same. The applicant is seeking an increase in the shortfall on site from 15 to 16 parking spaces. The proposal is supported by a traffic report by T2 which illustrates that the office building will be able to cater for demand on site and where overflow occurs this can be met within the surrounding network which includes the car park, 50m to the north of the subject site. It is considered best practice to have centrally located parking facilities which can cater for demand from a range of uses and support the commercial precinct of Highbury/Birkenhead. As with the residential uses, demand will be at a lower level through people living in the area and utilising public transport. The proposal has been reviewed by the Council's Consultant Traffic Engineer, Mr Rajah Nadarajah, who was involved in the consenting of the original development. Mr Nadarajah is supportive of the 16 space shortfall as he concurs with the findings of the T2 traffic report. Any potential adverse effects are considered to be less than minor from the proposed parking shortfall.

Traffic Movements

The proposal will have a lower level of traffic movements associated with it than has been already consented for the site. A reduction of 43 traffic movements per day will occur with the establishment of the apartment block instead of the second office building being established. The traffic engineers' have reviewed the vehicle movements proposed (amount and type) and consider that the parking, access and manoeuvring arrangements sufficient to accommodate demand. Conditions of consent have been designed to reinforce the original conditions. The applicant has reviewed these and has adopted them as part of their application.

Retailing

The retail unit is proposed to be utilised for general retailing purposes thereby opening it up to a broader category of tenants than the showroom use it is currently consented for. This flexibility is important to the applicant considering the economic times and the large over supply of commercial space within the Auckland Region. It is considered important to have this space integrate cohesively with the streetscape and provide an integrated functioning unit which enlivens this upper portion of Rawene Road.

The establishment of retail units within Business 9 zoned sites has become common practice across the North Shore. There are examples of general format retailing along Enterprise Street which is a Business 9 zoned street on the other side of Hinemoa Street. The Council considered these retailers could integrate cohesively and were of a nature where potential adverse effects would be less than minor. It is therefore considered that the establishment of a general retail tenant fronting Rawene Road on the edge of the Highbury town centre would have effects which are appropriate to its environment.

S127 – Effect of Removing Condition 8

The traffic reports have established that the parking shortfall will have a less than minor adverse effect upon the surrounding roading network. It is considered that due to the use of the site for commercial/office purposes and its proximity to a range of housing and the public transport network that a lower demand of parking will be associated with Building A. Even with a worst case scenario of all spaces being required and an overflow occurring there is a currently under utilised public car park within 50m of the site which can provide spaces to visitors of the site. It is also noted that there are temporary parking spaces available along Rawene Road and that these are not utilised at full capacity. The Council's Traffic Engineer is supportive of the cash in lieu provision being removed from the consent. I concur with this assessment.

The condition of consent was originally established by the Birkenhead Commissioners' as a policy determination because at the time the original consent was granted any car parking shortfall required cash in lieu contribution. The purpose of any condition is to mitigate an adverse effect. Since the potential adverse effects were, and under the new consent will continue to be less than minor in nature and appropriate for this environment. It is considered appropriate that the condition requiring a cash in lieu contribution within the original consent is removed.

Summary

The potential adverse effects associated with the establishment of 21 residential apartments within Building B (previously consented for office purposes) upon land zoned Business 9 have been evaluated and determined to be less than minor in nature. The units are part of a mixed development in close proximity to Highbury town centre with a large recreational reserve abutting the western boundary. Parking on site can meet demand and in times of extreme car parking demand there is a public car park located within 50m of the subject site. The removal of Condition 8 of resource consent LN-2123157 is a reflection that it was not established in the first place to mitigate an adverse effect. Parking supply on site is suited to the proposed development. Potential adverse effects are less than minor in nature.

6.3 Section 104(1)(b)(i) and (ii) Relevant provisions of National Environmental Standards and other regulations

There are no NES or other regulations in effect that apply to this application.

6.4 Section 104(1)(b)(iii) Relevant provisions of National Policy Statements

There are no National Policy Statements relevant to this application.

6.5 Section 104(1)(b)(iv) Relevant provisions of the New Zealand Coastal Policy Statement (NZCPS)

The **NZCPS** is not applicable to this application.

6.6 Section 104(1)(b)(v) Relevant provisions of the Auckland Regional Policy Statement

The Auckland Regional Policy Statement ("**ARPS**") is a strategic document which sets out the direction of managing the use, development and protection of the natural and physical resources of the Auckland region. This document became operative in 1999.

The strategic objectives and policies of the ARPS provide a framework to achieve the integrated, consistent and co-ordinated management of the Region's resources.

Under the ARPS, matters related to environmental protection, such as the coastal environment, water quality, water conservation and allocation and air quality have specific objectives, policies and methods to achieve sustainable and integrated management of major natural and physical resources in the Region.

In 2005, the Auckland Regional Council ("**ARC**") publicly notified Proposed Change 6, in response to the Local Government Amendment Act 2004 ("**LGAAA**") which sought to amend, amongst other things, the regional overview and strategic direction of the ARPS and mainly consisted of changes to Chapter 2 (Regional Overview and Direction) and Chapter 4 (Transport). These amendments sought to codify the growth and transport strategies that had been promulgated and agreed to in the Regional Growth Strategy and the associated Sector Agreements.

As at the 31 July 2007, the ARC released decisions regarding Proposed Change 6 and matters now lie within the appeal process. Given the stage in the statutory process that Proposed Change 6 is at, it is considered that some weighting should be given to the decision version of Plan Change 6 although the proposal must also be assessed against the operative policy statement.

The relevant provisions of the ARPS have been considered and it is concluded the proposal is consistent with the ARPS because the development seeks to intensify around a town centre which is clearly identified as a growth node. The establishment of apartments and the overall mixed use development is an efficient use of a currently under utilised land resource.

6.7 Section 104(1)(b)(vi) Relevant provisions of the relevant regional/district plan(s) objectives, policies and rules

The Plans applying to this proposal are set out in Sections 4.1 and 4.2 above.

6.7.1 Weighting of Proposed Plan Change

The proposal is able to meet the intent of Plan Change 30 and the operative provisions of the District Plan and therefore a weighting exercise is not required.

6.7.2 Relevant objectives and policies

With respect to the District Plan, relevant objectives include those objectives addressing Transportation (Chapter 12) and the control of adverse effects, encouragement of development and amenity in the Business zones (Chapter 15). In particular, the Objectives and Policies at Sections 12.3.1, 12.3.4, 15.3.4, 15.3.5 and 15.4.7 are relevant for the consideration of the appropriateness for the establishment of the mixed use development and cancellation of Condition 8 of the original consent (Council Reference LN-2123157). The following summarises what these provisions seek to achieve:

Section 12 – to ensure that adequate provision is made for parking, manoeuvring, access and those activities that are established are complementary to the transportation network.

Section 15 – to ensure that appropriate development in the business zones is encouraged while ensuring that adverse effects of business activities are avoided, remedied or mitigated. It is also important to ensure that amenity values should be maintained or enhanced for the business zone and the surrounding residential and recreational zones.

The varied proposal will result in built development that is generally in keeping with the existing consent. The varied development will not require additional site works, result in altered building height or bulk when viewed from public space or generally appear any different to the consented commercial buildings.

The redevelopment of the subject site will enhance the useability of the valuable land resource within close proximity to the Highbury town centre (an identified growth node). The site is currently occupied by two single level buildings providing mechanical services and a furniture maker. The redevelopment will establish a landscaped and active frontage to Rawene Road that integrates more cohesively and contributes to the overall visual appearance of the environment. The commercial component (Building A) is located at the front of the site and will contribute to the vitality of Highbury town centre through the provision of high quality office space that enables more people to work and live in the locality.

The apartment building is to the rear of the site and is orientated in an east and west direction thereby ensuring that the apartments overlook the internal landscaped courtyard or the recreational reserve thereby ensuring that the apartments are not orientated towards the adjoining commercial sites. The amenity standards of the units is far in excess of what the District Plan anticipates while the overall amenity of the site is enhanced through the inclusion of the apartments and the upgrade to the outdoor areas upon the site.

Whilst the proposal results in a 16 car-park shortfall, it is considered that this is a technical infringement only, and will not result in more than minor adverse effects on the environment, for the reasons given previously within this report. In particular, the original consent provided for a 15 car park shortfall, the proposal only seeks an additional space shortfall to that consented. The stacked arrangement of parking will see spaces specifically allocated to a single user for the commercial stacked spaces. It is noted that it is considered more beneficial to provide car parks in a stacked

arrangement rather than not at all. Considering the cost of developing basement parking it is the most efficient use of the resource. The residential use of Building B also reduces the amount of vehicle trips associated with the redevelopment of the site. It is also noted that there is a public car park within 50m of the subject site and this resource is currently under utilised. Increased use of this facility is considered important to contribute to future development as the Council was originally seeking to develop this parking facility in to a multi storey parking deck to provide off street parking to those visiting the Highbury commercial area. Overall, parking and traffic generation is appropriate considering the mixed use nature of the development and its proximity to the public car park.

Overall, the proposal is not considered contrary to any of the relevant objectives and policies of the District Plan. The proposal represents an efficient use of the site that is consistent with the expected outcomes in this particular Business 9 zoned site.

6.7.3 Relevant rules

The relevant criteria are located in Sections 12.5.1.1, 12.5.1.2, 15.7.4.6 and 15.7.3.2. In deciding whether to grant or refuse consent and if granted, deciding on conditions to be imposed, the Council must have regard to these criteria and any relevant matters in sections 104 and 104A to 104F of the RMA. The relevant rules and assessment criteria have formed the basis for the assessment of adverse effects and have been considered in depth within Part 6.2.3 of this report. In finding that the adverse effects would be less than minor and that overall the proposal would have positive effects on the environment, it is considered that the relevant assessment criteria have also been satisfied.

Overall, it is considered that the proposal is consistent with the intent of the rules and the relevant provisions of the assessment criteria.

6.8 Section 104(1)(c) Any other matters considered relevant and reasonably necessary to determine the application

Section 104(1)(c) requires that any other matter the consent authority considers relevant and reasonably necessary to determine the application be considered. In this case the following matters are considered relevant.

Joyce Building Ltd v North Shore City Council

It is important to address *Joyce Building Ltd V North Shore City Council* (Decision No A209/2003) when considering the appropriateness of residential development upon Business 9 zoned land on the edge of Highbury town centre. The subject decision relates to a proposed 24 unit residential development at the adjoining site at 31 Rawene Road, Birkenhead.

In summary the *Joyce Building* decision upheld Council's decision to decline the Non Complying application for a variety of reasons including its failure of the 'gateway' tests as they existed under the Resource Management Act prior to the 2003 amendment. In particular the decision was highly critical of the 100% residential composition of the development identifying the loss of Business 9 zoned land within the District as a significant issue.

The applicant has taken in to consideration the matters raised in the *Joyce Building* decision in designing a mixed use development at 23 Rawene Road. In particular the proposal maintains a commercially focused presentation to the street, to integrate with existing commercial uses in the Business 9 zone as well as provide a high level of amenity to apartments at the rear of the site. On the basis of these factors it is considered that the proposed mixed use development sits within the expectations of the Business 9 zone and is not at odds with matters raised within the *Joyce Building* decision.

Good Solutions Guide for Intensive Residential Development

The Good Solutions Guide was released by the Council in 2001 after consultation with key stakeholder groups as a non-statutory guide as to what the Council felt were best-practice ways of achieving optimal outcomes. As with Plan Change 1, the guide is focussed towards terraced styled, medium-level intensity developments.

The guide focuses on visual relief of monotonous and plain facades, as well as the use of landscaping and critically the use of modulation and material / treatment differentiation to improve the amenity of developments.

It is considered that the activity is consistent with this through the design features proposed and which have received endorsement from the Council's Urban Designer, Tracy Ogden-Cork.

Good Solutions Guide for Apartments

This guide was released by the Council in 2006 and builds upon the work in the Intensive Residential Development guide. While its focus is apartment style developments it reinforces the requirement for good design, useable living areas and relief and variation in the built form. The proposed development achieves these requirements and is considered to be consistent with the good solutions guide. This document is non-statutory but the applicant's ability to meet the standards in conjunction with District Plan criteria reinforces its suitability.

Auckland Regional Growth Strategy

The growth strategy seeks to accommodate growth to the year 2050 where up to 2 million people are expected to be living in Auckland. The Local Government (Auckland) Amendment Act 2004 required all Council's in the Auckland Region to give effect to the ARGs through making changes to their planning documents. The principal idea behind the strategy is greater intensification around key centres and transport corridors. The application has sought to achieve the intent of the growth strategy by intensive development in an area marked for intensification.

Auckland Regional Policy Statement, Auckland Regional Land Transport Strategy, Northern and Western Sectors Agreement and City Blueprint Action Plan.

All documents reinforce the requirement to intensify and develop around main nodes as outlined within the growth strategy. Birkenhead/Highbury has clearly been identified as an area for intensification.

6.9 Submission

The submission received by Council in the processing of this application has been reviewed and considered in the overall assessment of effects in this report.

6.10 Monitoring

Monitoring will be required throughout the development due to the scale of the redevelopment occurring and specifically the level of excavations occurring. It is also important to ensure that the amenity and landscape areas are completed to the standard envisaged by this resource consent.

6.11 Local Government Act 2002 - Development Contributions

Under the Local Government Act 2002, Councils were permitted to take development contributions towards the costs that capital growth imposes on the community. The financial contribution policy of the Council's Long Term Council Community Plan incorporates a development contribution based on the capital expenditure for infrastructure and community facilities for that ten year period. The development contribution estimated for this proposal is \$815,012.59 (incl. GST).

6.12 Consideration of Part 2 (Purpose and Principles) of the RMA

As established earlier in this report there are no relevant matters under Section 6 and 8 of the RMA. The following therefore only looks at the proposal against Sections 5 and 7 of the RMA.

Section 5 in Part 2 identifies the purpose of the RMA as being the sustainable management of natural and physical resources. This means managing the use of natural and physical resources in a way that enables people and communities to provide for their social, cultural and economic well-being while sustaining those resources for future generations, protecting the life supporting capacity of ecosystems, and avoiding, remedying or mitigating adverse effects on the environment.

Section 7 identifies a number of "other matters" to be given particular regard by a council in the consideration of any assessment for resource consent, and includes the efficient use of natural and physical resources, and the maintenance and enhancement of amenity values.

Overall the application is considered to meet the relevant provisions of Part 2 of the RMA. The proposal seeks to efficiently utilise a land resource that forms part of Highbury Town Centre. This pocket of Business 9 zoned land is underutilised at present with low scale commercial activities occurring upon the sites (not just the subject site). The redevelopment of the site will maximise the building envelope provided under the plan and therefore efficiently use a land resource which will contribute to the growth of Highbury Town Centre. There will be economic benefits to the landowner through this development occurring and also businesses within the area. Residents within the apartments will support the commercial operations within Highbury through shopping locally and utilising the services within this area.

The building will have a higher quality of architectural treatment through the breaking up of the facades with decking and glazing. The establishment of people on site 24hrs a day will also activate the central courtyard and contribute to overall character of the site. Considering the existing use of the site the proposal will maintain and enhance the amenity of the environment and be more consistent with the quality of built form expressed in the new public library and facilities across the road.

It is considered that the proposal will have a positive economic contribution to the Highbury area, will contribute to the amenity of the surrounding environment and any adverse effects have been avoided or mitigated through architectural treatment and the layout of the built form. The sites contribution to Highbury Town Centre will exceed that currently associated with it.

6.13 Lapsing of Consent

Section 125 of the RMA provides that if a resource consent is not given effect to within five years of the date of the commencement (or any other time as specified) it automatically lapses unless the consent authority has granted an extension. In this case, it is considered five years would not be an appropriate period because the current economic climate makes a development of this scale unfeasible. Market factors need to improve to enable a level of pre sales to occur and anchor tenants to be found to facilitate bank lending and enable the project to be started. Specifically, it is noted that the basement development for the entire site needs to occur prior to any floor area being built which can be leased or on sold ensuring a large investment up front. The applicant has requested a 10 year consent period. It is considered that this is an appropriate timeframe considering the nature and scale of the development and the existing market conditions.

6.14 Conclusion

Overall, it is considered that the proposal will have adverse effects that are less than minor in nature and is consistent with the relevant provisions of the District Plan, the decision in Joyce Building and the relevant provisions of the RMA.

7.0 RECOMMENDATION AND CONDITIONS

7.1 Recommendation 1

It is recommended that pursuant to sections 104, 104B and 108 of the RMA, consent is **granted** to the Discretionary activity application by Chelsea Commercial Limited to authorise a resource consent for the establishment of 21 apartments within Building B and all the associated works which require consideration as part of this development proposal at 23 Rawene Road, Birkenhead being Pt Lot 46 DP 415 and the consent referenced as LH-2132762.

7.2 Recommendation 2

It is recommended that pursuant to sections 104, 104B and 108 of the RMA, consent is **granted** to the Discretionary activity application by Chelsea Commercial Limited to cancel condition 8 of resource consent LN-2123157 thereby removing the requirement for cash in lieu to be paid for this commercial development.

The reasons for this decision are as follows:

- (a) In terms of section 104(1)(a) of the RMA, the potential adverse effects of the redevelopment of the site are less than minor. Principally this is because:

- The apartments are suited to the mixed character of the surrounding environment.
 - The mix of apartments to commercial use is appropriate within this environment.
 - The standard of amenity associated with the apartments is to a high standard and the overall site is enhanced through the central courtyard.
 - The car parking shortfall is appropriate to the use of the site. Any overflow can easily be accommodated in the public car park in close proximity to the subject site.
 - The ground floor retail premise will provide an active frontage to Rawene Road and relate well with the established town centre in close proximity.
- (b) In terms of section 104(1)(b) of the RMA, the proposal is consistent with the ARPS, the objectives and policies at 12.3.1, 12.3.4, 15.3.4, 15.3.5 and 15.4.7 and the assessment criteria at 12.5.1.1, 12.5.1.2, 15.7.4.6 and 15.7.3.2. Principally, the reasons for this are:
- The proposal seeks to intensify within an area identified as a growth node; the mixed use development has the commercial element to the street with the apartments located to the rear;
 - The footprint of the apartment building occupies only 22% of the site (38% inclusive of all multipurpose areas such as communal courtyards and amenity landscape spaces);
 - The redevelopment will enhance the business area; parking supply is appropriate for the activity proposed.
- (c) In terms of section 104(1)(c) of the RMA, other relevant matters, Joyce Building Ltd v North Shore City, Development Contributions and monitoring have been considered in the determination of the application. There are no other relevant matters that require consideration as part of this resource consent.

7.3 Conditions

Pursuant to section 108 of the RMA, this consent is subject to the following conditions.

Please note that the relevant conditions of resource consent LN-2123157 have been incorporated below to ensure that this consent as a single comprehensive set of conditions should the applicant choose to carry out this consent rather than implementation of consent LN-2123157

General Conditions

1. *This Land Use Consent (Council reference LH-2132762) shall proceed in accordance with the following documents submitted and approved by the Council as part of this application and relied on from approved resource consent LN-2123157:*

- *Plans prepared by Leuschke Group Architects, titled 23 Rawene Road Birkenhead – Proposed Commercial Development, Sheet references:*

<i>Drawing Title</i>	<i>Architect</i>	<i>Date</i>
Basement Plan	Leuschke Group Ltd	April 2006
Site Plan	Leuschke Group Ltd	November 2010
Ground Floor Plan RC05	Leuschke Group Ltd	May 2007
Landscape Courtyard Plan	Leuschke Group Ltd	November 2010
First Floor Plan	Leuschke Group Ltd	April 2006
Second Floor Plan	Leuschke Group Ltd	April 2006
Third Floor Plan	Leuschke Group Ltd	April 2006
Roof Plan	Leuschke Group Ltd	April 2006
Elevations	Leuschke Group Ltd	April 2006
Elevations	Leuschke Group Ltd	April 2006

- *The AEE prepared by MPC Planning, dated October 2010*
- *The response to the s92 request by MPC Planning, dated 31 November 2010.*
- *Letter from Chelsea Commercial Limited seeking removal of Condition 8, dated 21/10/10.*

- *The Engineering comment regarding Wastewater Flows by Paul Culley of MSC, dated 24 September 2008.*
- *The Traffic Impact Assessment titled 'Residential and Office Development 23 Rawene Road, Birkenhead' prepared by T² Traffic and Transportation Engineers Ltd, dated October 7 2010.*
- *The Acoustic Report prepared by JP Styles Ltd Acoustics and Vibration and dated 24 September 2008.*
- *The AEE prepared by Boulder Planning, dated September 2006.*
- *The Erosion and Sediment Control Plan prepared by MSC Consulting Group Ltd, dated May 2006.*
- *The Landscaping Plan prepared by Leuschke Group Architects dated November 2010.*
- *The Traffic Report prepared by Selwyn Green dated January 2007 along with email amendments dated 18 April 2007. .*
- *The Remedial Action and Site Validation Plan prepared by Engineering Design Consultants Ltd Dated 5 April 2007.*
- *Health and Safety Plan prepared by Engineering Design Consultants dated October 2007.*

In any instance during development of a variance between information stated within the application (i.e. the AEE or supporting documents) and information shown on plans, the stated information shall have precedence.

Extent of Infringements

2. The extent of the infringements shall be limited to that applied for being
 - Site works of 1509m²
 - Excavations to a maximum depth of 4.5m
 - 9 stacked parking spaces associated with the commercial premises.
 - A technical parking shortfall of 16 spaces
 - Vehicle movements of up to 343 per day.
 - Change of use of the site within a Buffer Strip
 - Height of the front office block being 12m within 30m of a Residential zone (only 6m of the 24m upper storey office block infringes).
 - Establishment of 21 residential apartments upon the site in Building B.
 - Reduction in the 5m landscape amenity yard.
 - The western facing units having an outlook on site of at least 5m but less than 10m.

All Charges Paid

3. Pursuant to section 116 of the RMA, this consent (or any part thereof) shall not commence until such time as all charges pursuant to section 36 of the RMA, owing at the time the Council's decision is notified are paid in full to the Council.

Predevelopment conditions –

Monitoring Charges

4. The consent holder shall pay the Council a consent compliance monitoring charge of \$ 550 (inclusive of GST), plus any further monitoring charge or charges to recover the actual and reasonable costs that have been incurred to ensure compliance with the conditions attached to this consent. (This charge is to cover the cost of inspecting the site, carrying out tests, reviewing conditions, updating files, etc, all being work to ensure compliance with the resource consent).
5. The \$550 (inclusive of GST) charge shall be paid as part of the resource consent fee and the consent holder will be advised of the further monitoring charge or charges as they fall due. Such further charges are to be paid within one month of the date of invoice.

Erosion and Sediment Control Plan

6. All site works and development shall proceed and be implemented in accordance with the Council stamped and approved Erosion and Sediment Control Plan prepared by MSC

Consulting Group Ltd dated May 2006 labelled Site Management Plan, including its supporting information.

Parking layout

Staff Parking

7. That the staff parking spaces be clearly marked out for the use of staff only of the same office or lessee.

Mobility Spaces

8. That the two operation mobility spaces are conveniently located in close proximity to the lift. Both the spaces shall be clearly marked/sign posted in accordance with the District Plan requirements.

Clearance above Mobility Spaces

9. That the headroom above mobility spaces and above vehicular access paths to and from those spaces shall comply with the New Zealand Building code.

Reverse Manoeuvring

10. That reverse manoeuvring on to Rawene Road from the site shall be prohibited via both the crossings.

Loading Space

11. That the loading space provided on site shall be constructed with the appropriate gradients stipulated in the District Plan and clearly marked out in accordance with the District Plan requirements.

Gradients of Access

12. Both the northern access leading to the ground floor car parking area and the southern access ramp leading to the basement car parking area is to meet the gradient requirements stipulated in the District Plan. It is recommended that appropriate transitions are provided to prevent scaping of the bottom of the vehicles.

Pedestrian Safety

13. Together with the 1.0m wide offset described in the traffic report at the northern vehicle crossing, a flashing vehicle approaching device stating "Car Coming" with beeping effects or similar be installed within the site at the boundary clearly visible to pedestrians on the footpath informing them that a vehicle is approaching the drive to exit the site at the northern crossing. A vehicle approaching device is also required to be established on the northern vehicle crossing. These devices shall be designed and constructed to the satisfaction of the Transport Infrastructure Services Manager.

Ramp Signal

14. That the design of the ramp signal leading to the basement car park (southern access) shall be designed and constructed to the satisfaction of the Road Corridor Operations Manager. It is recommended that the default setting be set to green for inbound vehicles so that queuing on Rawene Road is avoided. That no waiting across the footpath is permitted when entering the basement parking (southern access).

Flashing Sign

15. Together with the 2.0m wide offset described in the traffic report at the southern vehicle crossing, a flashing vehicle device stating "Car Coming" with beeping effects or similar shall be installed within the site at the boundary clearly visible to pedestrians on the footpath. This

device shall be designed and constructed to the satisfaction of the Road Corridor Operations Manager.

Front Fence/Retaining

16. The front fence/retaining is to be redesigned to create a more permeable frontage and ensure the front landscaping contributes to the surrounding environment. A reduced solid height is required. The first 2m of the wall may be solid (as depicted in the approved plans) however the remaining height must provide views in to the site to reduce potential dominance effects.

Balustrades

17. That the balustrades on the courtyard facing balconies are opaque. Frosted glass or similar is acceptable.

Security Lighting

18. Security lighting is to be installed along the access way from the street to the apartment entry lobby to ensure safety of pedestrian at night.

Pre-Construction Advice to Monitoring

19. The Council's Monitoring Officer shall be advised, in writing, seven (7) working days prior to any site works, including earthworks, and before construction commences. Please fill out and return the attached form by fax or post.

Site Contamination Remediation

20. The consent holder shall remediate the site contamination according to the Remedial Action and Site Validation Plan and additional information for 23 Rawene Road Birkenhead, prepared by Engineering Design Consultants Ltd stamped by the council with reference as LN-2123157.

Disposal of Soil

21. All contaminated materials must be disposed of in a landfill or a facility licensed to accept contaminated material. Evidence of disposal shall be provided to the council in the validation report.

Soil Quality

22. Any remaining soil that requires off-site disposal after the remediation excavation must be further tested and must meet Auckland Regional Council generic clean fill criteria.

Health and Safety Plan

23. Prior to commencement of remediation work, the consent holder shall submit a revised Health and safety plan for approval by Team Leader Environmental Health, Auckland Council.

Criteria

24. The site remediation and validation criteria must be soil and groundwater acceptance criteria for all exposure pathways for commercial land use selected according to Contaminated Land Management Guidelines No 2, Hierarchy and Application in New Zealand of Environmental Guideline Values, Ministry for the Environment, 2003.

Construction Management Plan

25. Prior to commencement of any excavation work, the consent holder shall submit a site management plan to the team leader, to detail the procedures for control of dust, noise and vibrations caused by the excavation and construction work for this redevelopment.

Validation Exercise

26. The consent holder shall, within three months of completion of the remediation works, undertake a validation exercise to confirm the performance of the remediation works and to identify residual contamination at the site and provide to the satisfaction of the Environmental Protection Team Leader – Auckland Council a Site Validation Report.

The Site Validation Report shall include the following where applicable:

- a) any monitoring results and actions undertaken for protection of remediation workers, and
- b) scaled plans (plan and elevation views) showing the location and *containment details*(if any) of any contaminated materials remaining on site; and
- c) Evidence of disposal of contaminated materials and ground water in a licensed facility, and
- d) On-going site management and monitoring plan

Prevention of Silt Run-off

27. The consent holder must comply with the approved Erosion and Sediment Control Plan prior to the commencement of earthworks.

Any erosion and sediment controls shall be designed and maintained having regard to Technical Publication No.90 of the Auckland Regional Council, and be implemented to the satisfaction of Council's Compliance Officer or Development Engineer.

The consent holder must ensure all necessary measures proposed in the Plan approved by Council have been implemented and provide a certificate of establishment to Council prior to the commencement of any construction works.

All site works including any bulk earthworks shall be carried out in accordance with the approved engineering drawings, any Erosion and Sediment Control Plan and in accordance with Section 9 of the North Shore City Operative District Plan. The work must take full account of the geotechnical report by Engineering Design Consultants Limited (EDC), dated 5 April 2007, reference 7606, and further comments dated 17 September 2007.

Manhole

28. The modifications to the manhole along the northern boundary shall be carried out generally as shown on MSC drawings # 27623 sheets 01, 02 & 03 dated 18 & 19 December 2007.

Engineering Works Application

29. The modifications to the manhole and the relaying of the sewer shall be carried out under a major engineering works application.

Stormwater Drainage

30. The consent holder shall provide a stormwater drainage system, the design of which shall be presented to the Council with the building consent application.

This stormwater drainage system shall comply with the Council's *Infrastructure Design Standards* and the Approved Stormwater Outfall Policy August 2004 (available on the Council's website at www.northshorecity.govt.nz). It shall cater for all stormwater runoff resulting from a 10-year / 20-year Average Recurrence Interval (ARI) storm for residential developments, including runoff from catchment areas above the site. The system shall attenuate runoff peaks such that there is no increase in runoff flow rates above predevelopment levels for 2- and 10-year ARI storms. There shall be a minimal increase in overall stormwater volumes above pre-development levels through on-site controls.

Design Drawings – Pre-Construction

31. The consent holder shall prepare complete engineering drawings, accompanied by a design certificate in the form of Schedule 1A of NZS 4404:2004, detailing all bulk earthworks, private accessways and proposed new or altered public assets (including details of proposed silt detention measures). These drawings shall be submitted as an Engineering Works Application (Major) for the assessment and written approval of the Council's Team Leader Development Engineer before the commencement of any works, unless otherwise specified within this consent.

Advice Notes:

- i) Construction works that require a building consent should be included in the engineering drawings.
- ii) All designs shall be in accordance with the council's "Infrastructure Design Standards" manual.

Geotechnical – Pre-Construction

32. The consent holder shall provide a geotechnical report with any building consent application necessary for structures or development works covered by this resource consent approval.

Development in progress conditions

Work in Accordance With Approved Plans

33. A copy of the consent conditions, the Council stamped, approved plans and the Council stamped, approved Erosion and Sediment Control Plan shall be kept on site at all times. All contractors and sub-contractors shall work in accordance with them. It is the responsibility of the consent holder to ensure that this happens.

Noise

34. Any construction, maintenance and demolition noise shall comply with the provisions of NZS 6803 P 1984 'The Measurement and assessment of Noise from Construction, Maintenance and Demolition Work' and the noise limits as table 1 and table 2:

Habitable Rooms

35. The building envelope shall be designed and constructed such that the noise received in all habitable rooms shall not exceed 35dBA L10 between the hours of 2300 and 0700.

Under grounding of Services

36. All services shall be placed underground.

Vibration

37. The consent holder shall engage a suitably qualified engineer to monitor the vibration levels and to provide a report with monitoring results confirming that the development works comply with the vibration limits as described in Part 10.7 of the North Shore City District Plan as follows:
 - Within one week of commencement of the excavation works, and
 - Within 24 hours of notification by the council of receiving public complaints

Paving of Parking and Access

38. All parking spaces, access-ways and manoeuvring areas shall be formed, drained and finished with an all-weather dust-free surface, in accordance with the Council stamped, approved plans. This shall be to the satisfaction of the Council's Monitoring Officer, and be completed prior to occupation of the buildings.

Driveway Gradient

39. In order to ensure the proposed driveway is constructed with no part of the gradient in excess of 1:4, with an average gradient of 1:5, the consent holder shall employ a registered surveyor at his/her own expense who shall, prior to the concrete for the driveway being poured, certify to the Council's Monitoring Officer in writing that no part of the driveway exceeds a gradient of 1:4 and that the average gradient is no steeper than 1:5.

Noise Limits

40. The consent holder is to note the provisions of the District Plan, which limits the hours of all noise-related activity on, and emitting from, the site.

Construction activity shall occur on the site in accordance with the following noise limits:

Weekdays:

7.30am - 6pm less than an L₁₀ level of 75 dBA

Saturdays:

7.30am - 6pm less than an L₁₀ level of 75 dBA

Sunday, Public Holidays and all other times:

No noise

The site is to comply with **NZS 6803P** at all times.

Note: The intent of the standard is that all noisy construction work will take place between 7.30am and 6pm, Monday to Saturday.

Erosion and Sediment Control Plan – During Construction

41. All personnel working on the site shall be made aware of the Erosion and Sediment Control Plan and its requirements. The approved Erosion and Sediment Control Plan shall be kept on site for inspection by the Council's Monitoring Officer.

Discharge of Washings

42. Washings from building activity (e.g. concrete products, wheelbarrows, paint or plastering) shall not be directed/discharged/deposited into any road, gutter, drain or stormwater system. If such material is discharged into one of the abovementioned features, the consent holder shall, at their expense take all necessary measures to remove the contaminant from the feature.

Dust Nuisance

43. The consent holder shall institute appropriate measures to control or mitigate any potential dust nuisance. All such measures initiated shall be maintained throughout the entire duration of the construction period. The Council reserves the right at all times to stop the works in and during periods of high winds. Note: No burning of any rubbish, vegetation or other material will be permitted.

Avoidance of Befouling of Public Roads

44. The consent holder shall implement, to the satisfaction of the Council's Monitoring Officer, suitable measures to prevent depositing of earth on surrounding streets by trucks moving fill and other materials to and from the site. In the event that any material is deposited on the street, the consent holder shall take immediate action, at their expense, to clean the street. The loading of earth, fill and other materials shall be confined to the subject site.

Inspections During Works

45. The consent holder shall arrange for inspections in accordance with the Council's *Environmental Services Quality Assurance Manual* to be carried out by a suitably qualified person during construction of all works on site. These inspections are to ensure that the works are constructed in accordance with the approved engineering drawings or any approved amendments to those drawings, the Council's standard requirements for the construction of land development projects, and sound engineering practice.

Recording of Inspections During Works

46. The consent holder must ensure that inspections undertaken in accordance with Condition 46 above are recorded in the Council's *Environmental Services Quality Assurance Manual*. The

manual, including the *Certificate of Practical Completion*, is to be completed and forwarded to Environmental Services at the completion of construction of all works.

Advice Note:

The sections of the Manual that are relevant to the proposed development will be forwarded to the consent holder at the time of Engineering Approval.

As Builts

47. Accurate as-built plans at a scale of 1 to 100 must be submitted for all Public Services, including Underground Services, Roding, Street Lighting and Landscaping, in accordance with the North Shore City Asset Data Standards Manual.

Geotechnical Report

48. All earthworks, foundations and retaining walls shall be designed in accordance with the recommendations of the Geotechnical Report by Engineering Design Consultants Limited, dated 5 April 2007, reference 7606, and further comments dated 17 September 2007.

Engineering Design Ltd

49. Engineering Design Consultants Limited or similar qualified and accredited engineers' shall be employed to observe and supervise all temporary earthworks for the entire period of their duration.

Development Limitations

50. Where the report provided under Condition 48 above provides that any area of the land possesses development limitations, the consent holder shall rework that area to remove the limitations if required to do so by the Council's Team Leader Development Engineer. Alternatively, the Council may allow an entry to be made in its Property Information Register, giving notice of the limitations or specific development requirements related to that land.

Water Meters

51. Provision shall be made for the installation of a separate Council installed water meter for each rateable unit within this development.

Fire Sprinklers

52. Fire sprinkler connection to the building shall be supplied through a back flow prevention device.

Landscape Plan - Implementation

53. The consent holder shall, at their expense, fully implement the Landscaping Plan prepared by Leuschke Group Architects and dated November 2010 to the satisfaction of the Council's Monitoring Officer before the end of the next planting season upon the completion of the construction works.

Advice Note

The completion of the construction works refers to the establishment of the buildings on site or a single building if the consent is staged and can be carried out while internal works (fit outs, painting or similar) are being completed.

Post Development condition

Compliance with Habitable Room Noise Standards

54. Prior to the occupation of the units pursuant to this consent, the consent holder shall submit, to the satisfaction of the Auckland Council, a report prepared by a suitably qualified and experienced acoustician that demonstrates compliance with condition 35. The report shall be based on field noise measurements. The measurements shall include the noise generated by

any mechanical ventilation system in operation that is necessary for compliance with clause G4 of the NZ Building Code.

Post-Construction Advice to Monitoring

55. The consent holder shall inform the Council's Monitoring Officer, in writing, upon:
- a) The commencement of the activity.
 - b) The completion of remediation works.
 - c) The completion of the building.
 - d) The completion of landscaping.

7.4 Advice notes

1. *Please read the conditions of this resource consent carefully and make sure that you understand all the conditions that have been imposed before commencing the development.*
2. *This resource consent will lapse ten years after the date of Council's decision unless:*
 - (a) *it is given effect to before the end of that period. To give effect to this consent, the activity allowed by this consent must be established and the conditions contained in the consent complied with. Please note that there must be compliance with all of the consent conditions once the land use has been established, or*
 - (b) *an application is made and granted prior to the expiry of that period for a time extension. The statutory considerations that apply to extensions are set out in section 125 of the RMA. (Delete and re-number accordingly if lapse date is specified in clause 10 under Conditions section above)*

N.B – all charges owing at the time council's decision is notified must be paid before a consent can commence.

3. *The consent holder shall obtain all other necessary consents and permits, including those under the Building Act 2004, and the Historic Places Trust Act 1993. This consent does not remove the need to comply with all other applicable Acts (including the Property Law Act 2007), regulations, relevant Bylaws, and rules of law. This consent does not constitute building consent approval. Please check whether a building consent is required under the Building Act 2004. Please note that the approval of this resource consent, including consent conditions specified above, may affect a previously issued building consent for the same project, in which case a new building consent may be required.*
4. *A copy of this consent should be held on site at all times during the establishment and construction phase of the activity. The consent holder is requested to notify Council, in writing, of their intention to begin works, a minimum of seven days prior to commencement. Such notification should be sent to the Takapuna Resource Consent Compliance and Monitoring Team, by Email TakapunaRC.Compliance@aucklandcouncil.govt.nz, Fax (09) 301 0100 or post Private Bag 92300, Auckland 1142 and include the following details:*
 - *name and telephone number of the project manager and the site owner;*
 - *site address to which the consent relates;*
 - *activity to which the consent relates; and*
 - *expected duration of works.*
5. *If you disagree with any of the above conditions, or disagree with the additional charges relating to the processing of the application you have a right of objection pursuant to sections 357A or 357B of the RMA. Any objection must be made in writing to Council within 15 working days of notification of the decision.*
6. *Compliance with the consent conditions will be monitored by Council in accordance with section 35(d) of the Resource Management Act. This will typically include site visits to verify compliance (or non compliance) and documentation (site notes and photographs) of the activity established under the Resource Consent. In order to recover actual and reasonable costs, inspections, in excess of those covered by the base fee paid, shall be charged at the relevant hourly rate applicable at the time. Only after all conditions of the Resource Consent have been met, will Council issue a letter on request of the consent holder*

Section E Definitions

(Delete definitions not used in the report)

COUNCIL:	means The Auckland Council
DISTRICT PLAN:	means any operative or proposed plan administered by any of the following former Territorial Authorities as at to 1 November 2010. Rodney District Council North Shore City Council Waitakere City Council Auckland City Council Manukau City Council Papakura District Council Franklin District Council
REGIONAL PLAN:	means any regional plan administered by the former Auckland Regional Council prior to 1 November 2010. Auckland Regional Plan; Sediment Control Auckland Regional Plan; Coastal Proposed Auckland Regional Plan; Air, Land and Water Auckland Regional Plan; Farm Dairy Discharges Transitional Auckland Regional Plan
ARPS:	means Auckland Regional Policy Statement
HGMPA:	means Hauraki Gulf Marine Park Act
LGAAA:	means Local Government Amendment Act 2004
Manager:	means an Auckland Council manager or nominated Auckland Council staff acting on the Managers behalf
NZCPS:	means New Zealand Coastal Policy Statement 1994
RMA:	means Resource Management Act 1991 and all amendments

WRHAA:

means Waitakere Ranges Heritage Area Act 2008

	Name and title of signatories	Signature	Date
Prepared by	Nick Mattison BPlan, MNZPI Consultant Planner – Mt Hobson Group		03/06/11
	<p><u>Confirmation of statutory compliance</u></p> <p>In accordance with section 76 of the Local Government Act 2002, this report is approved as:</p> <p>(a) Containing sufficient information about the options and their benefits and costs, bearing in mind the significance of the decisions; and,</p> <p>(b) Is based on adequate knowledge about, and adequate consideration of, the views and preferences of affected and interested parties bearing in mind the significance of the decision.</p>		
Peer Reviewed by	Name: _____ Position: _____		
Authorised for release by	Name: _____ Resource Consents Team Manager		
Authorised for release by	Name: _____ Manager Northern Consenting & Compliance		