



Annexure a)

Ref:\2769\A290317.doc

Assessment of Environmental Effects
Including
Commentary of the Relevant Provisions
of the
Dunedin City District Plan

Application
By
NZ Horizon Hospitality Group Ltd
at
Lot 1 193 to 143 Moray Place, Dunedin

1.0 Executive Summary

- 1.1 The Dunedin Moray Place Hotel proposal is the culmination of the Dunedin City Council's objective since 1989 of achieving a 5 star international quality hotel adjacent to the recently renovated Dunedin Centre in Moray Place. Together they will provide facilities unsurpassed within the lower South Island.



- 1.2 The applicant has a conditional sale and purchase agreement with the Dunedin City Council that enables the 5 Star hotel proposal to proceed upon the granting of the resource consent on acceptable conditions of consent. As noted below, the resource consent application is solely as a result of the various conditions attaching to the permitted activities in the Operative Dunedin City District Plan (odcdp), the land use performance standards in the reviewed district plan (2GP) that are not subject to a submission, and Council's long term expectations of a 5 Star hotel being developed on its land at 193 to 143 Moray Place.

- 1.3 The Dunedin Moray Place Hotel proposal is in accordance with the permitted activities listed for the site at lot 1 193 to 143 Moray Place, Dunedin in both the Central Activity zone (caz) in the odcdp and the Central Business District (cbd) in the proposed Dunedin City District Plan (2GP). Following pre-application consultation with Council departments, the Dunedin Moray Place Hotel is considered to be a “*Commercial Residential Activity*” as defined in the odcdp and “visitor accommodation Unit” as defined in the 2GP. In addition, there is to be a number of ancillary activities as listed in the formal application.
- 1.4 There are no submissions in respect to the zoning of lot 1 193 to 143 Moray Place as Central Business District in the 2GP. Zoning is a method of implementation adopted in the 2GP but may not in itself fall within the definition of a rule. As such, this assessment places greater weight on the relevant objectives and policies in the 2GP that generated both the mapping of lot 1 193 to 143 Moray Place as Central Business District and the relevant rules, compared to those in the odcdp.
- 1.5 There are conditions attaching to permitted activities in the odcdp and performance standards attached to development activities in the 2GP. Non-compliance with some of the conditions requires consideration as a restricted discretionary activity in terms of S104C RMA (rule 9.5.3) in terms of the odcdp. Rule 9.5.4 of the odcdp indicates that non-compliance with four of the conditions attaching to permitted activities relating to yards/verandah/identified pedestrian frontage/signage requires consideration as a non-complying activity in terms of S104D RMA. The 2GP rules that are subject to a submission cannot be made operative in terms of S86F RMA. However, those rules do provide “context” in terms of the relevant objectives and policies in the 2GP.
- 1.6 In addition, Lot 1 193 to 143 Moray Place is within Townscape Precinct TH03 in the odcdp and the external design and appearance of new buildings require consideration as a controlled activity. Council has reserved control over just the external design and appearance, including the building materials and external colour (but not the building height). The two assessment matters are addressed in both the attached architectural statement and in planning terms, later in this AEE. Consent to a controlled activity must be granted (S04A RMA) subject to conditions of consent that are related only to the matters over which Council has reserved its control. The Townscape Precinct mapping in the odcdp is a method for the identification of areas to which specific rules apply. The 2GP has deleted mapping of Townscape Precincts altogether but has mapped a Heritage Precinct which does not include lot 1 193 to 143 Moray Place. There are no submissions to that deletion. Mapping like zoning may not fall within the definition of a rule. As such, this assessment places greater weight on the relevant objectives and policies in the 2GP compared to those in the odcdp that relate to townscape.
- 1.7 There is early case law (1998) that the most stringent status applies to an application as a whole (a single bundle) and that is the practice being followed by the Council. Given the lack of submissions to the mapping and some of the relevant performance standard rules in the 2GP, the status of the proposal is a matter of legal submission. In planning terms, this assessment “unbundles” the following:
- The townscape issues relating to yards/frontage treatment/verandahs/signs, all of which create the non complying status via the odcdp
 - The single issue of the maximum building height which create the restricted discretionary activity via both the odcdp and the 2GP
 - Conditions that require vehicle access to/from the site for the required car parking, loading, and access.

This enables a more realistic assessment of the relative matters for consideration. This is because the rule breaches that give rise to non-complying activity status are not related to the height of the building and so are able to be assessed separately under their own activity status. The Council has, by the deliberate use of restricted

discretionary status in relation to the height rule breach, signaled its intention to limit the scope of the matters that are relevant to deciding whether to grant a resource consent.

- 1.8 As a result of pre-application consultation with Council Departments, the architect has been able to achieve a format for the required 5 Star hotel that satisfies the intended outcomes of the permitted activity conditions in the odcdp and the intent of the relevant objectives and policies in the 2GP. The following summaries the achievements:
- The building design communicates a high level of openness and engagement with the streetscape. Pedestrians on Moray Place are invited up to a highly-glazed façade above the podium floor via a generously-scaled public staircase. The design provides a positive pedestrian experience within this part of the Central Activity zone (odcdp) and the Central Business District (2GP) which is the focus of the relevant objectives and policies in both plans. The podium follows the Moray Place Street boundary except for the vehicle entry from Moray Place and vehicle egress onto Filleul Street. Both are required to accommodate tour coaches and so need to have sufficiently wide splays from and onto the carriageway.
 - The existing buildings in the area including Kingsgate Hotel, the Cathedral, Forsyth Barr House, the Dunedin Centre and the Dunedin Public Library form part of the existing environment. The precinct values recorded for Townscape Precinct TH03 in the odcdp acknowledge the presence of tall buildings as part of the existing townscape values of the precinct. The proposed design recognizes that the effects of the greater height than the permitted activity condition performance standard are able to be mitigated by contributing to Dunedin's cityscape within this part of the Central Activity zone/Central Business District through high quality and place-sensitive design.
 - The roof top identification feature is a celebration of the Council's long held expectation of a 5 Star hotel supporting the Council's Dunedin Centre. But that celebration has responded to the Council's "dark sky" policy by avoiding direct illumination of the roof top identification feature by the use of only reflective and/or diffuse back lighting so as to mitigate adverse visual effects on the nearby residential amenity.
- 1.9 For certainty, all of the relevant conditions attaching to the permitted activity in the odcdp have either been omitted or reworked within the 2GP. S86F RMA that was introduced as part of the 2009 amendment to the RMA provides the processing pathway in terms of the rules. Only rule 9.5.2 in the odcdp relating to the building height may remain valid because the 2GP rule 18.6.6.2 is the subject of a submission. The recommending report to the 2GP Hearings Panel at page 163 states in relation to the submissions on height within the cbd zone:
- "...the main concern of the 2GP in the commercial areas is to maintain streetscape amenity...Commercial activities that rely on natural light may need to locate in sites that can provide that, without shading effects from hills or neighbouring buildings".*
- 1.10 Given the above, it is the conclusion of this assessment that in terms of the statutory process and documents, the application does not raise any significant resource management issues.

2.0 Introduction

Section 88 (2)(b) of the Resource Management Act 1991 requires that every application for a resource consent is to include an assessment of environmental effects in such detail as corresponds with the scale and significance of the effects that the activity may have on the environment. This assessment is made in accordance with those requirements.

2.1 It is the conclusion of this assessment of environmental effects that the fundamental use of lot 1 193 to 143 Moray Place for commercial residential is provided for as a permitted activity in both the Operative Dunedin City District Plan (odcdp) and the proposed Dunedin District Plan (2GP). That conclusion is supported by the extensive list of the defined land uses in both the odcdp and the 2GP as follows:

- In the odcdp, the following are permitted activities (Central Activity Zone)
 - i- Commercial Activity
 - ii- Recreational Activity
 - iii- Residential Activity
 - iv- Community Support Activity
 - v- Large Scale Retail Activity
 - vi- Licensed Premises
 - vii- Commercial Residential Activity
 - viii- Signs permitted in the zone as specified in the Signs Section
- In the 2GP, the following are permitted activities (Central Business Zone)
 - i Ancillary licensed premises
 - ii Conference, meeting and function
 - iii Entertainment Conference, meeting, function
 - iv Retail
 - v Restaurant
 - vi Sport and recreation
 - vii All residential activities

2.2 What is clear is that lot 1 193 to 143 Moray Place is intended to be developed for the range of land uses proposed for the 5 Star hotel since at least the notification of the odcdp in 1995 and its review in 2015. The use of the site for the purpose of the 5 Star hotel is not in issue in respect to this application. Rather it is the conditions attaching to permitted activities/the development activity performance standards (and their related objectives and policies).

2.3 The relevant permitted conditions/performance standards and their related objectives and policies are assessed in detail below.

2.4 A summary of the relevant permitted condition/performance standards assessment is as follows:

- The 2GP recognizes that buildings across the entire street frontage of all sites in the cbd is no longer critical.
- Neither the odcdp nor the 2GP requires a verandah across the entire frontage of lot 1 193 to 143 along Moray Place.
- The 2GP objectives and policies in relation to building height in the cbd seeks to enhance the amenity of the streetscape and place no significance on avoiding the effects of additional shadows and/or loss of view shafts.
- Earthworks for the podium car parking and service area is extensive. It will be subject to specific engineering design and is entirely internal to the site.

2.5 Clearly the 2GP has moved on from the 1995 odcdp permitted activity conditions and in terms of S104(1)(b)(vi) RMA, that movement is significant to the assessment of the

resultant environmental effects in issue. There appears to be no submissions to many of the more relaxed 2GP cbd provisions.

- 2.6 Finally in terms of process, the King Salmon decision clarified that where there is sufficient clarity for decision making within the district plans objectives, policies and rules, it is not necessary to address the purpose of the Act (S5 RMA), the matters of national importance (S6 RMA), other matters (S7 RMA), or the Treaty (S8 RMA). This AEE concludes that the required clarity is available.
- 2.7 This assessment follows the requirements set out in Schedule 4 RMA in that the provision of the odcdp, informed by the relevant provisions in the 2GP, enables a full understanding and acceptance of the basis of the conclusion that the proposal will have no more than a minor effect on the existing and permitted environment.

3.0 Schedule 4:2(1)(a) Description of the Proposal

Land use consent to construct and operate a Commercial Residential Activity (odcdp) and Visitor Accommodation (2GP) involving 210 visitor accommodation rooms (hotel), 64 self-contained apartments, 4 self-contained penthouse suites, together with licensed premises, retail, conference, meeting facilities and on-site amenities, parking, servicing and the required earthworks, all as more particularly shown on the plans prepared by Thom Craig Architects dated 3 February 2017.

Subdivision consent to create lot 1 193 to 143 Moray Place and then subdivide the proposed building under the provisions of the Unit Titles Act 2010.

4.0 Schedule 4:2(1)(b): Description of site

The site is lot 1 193 to 143 Moray Place being shown on the proposed subdivision plan DP507559 with a total area of 3,660m².

5.0 Schedule 4:2(1)(c)

The owner is the Dunedin City Council, P O Box 5045 Dunedin. The occupiers are car park tenants, on a mix of long and short term leases and daily casual parking.

6.0 Schedule 2(1)(d): Description of any other activities that are part of the proposal

The proposal may involve the taking of ground water which would be the subject a resource consent application to the Otago Regional Council.

7.0 Schedule 4: 2(1)(e) Description of any other resource consent required

The proposal does not require any other resource consents, save for the possibility that a consent may be sought for ground water investigations and taking.

8.0 Schedule 4: 2(1)(f) Assessment against the matters set out in Part 2

The purpose and principles of the RMA as set out in Sections 5, 6 and 7 of the Act have informed both the odcdp and the 2GP. The result is the zoning of lot 1 193 to 143 Moray Place as Central Activity in the odcdp and Central Business District in the 2GP. The former has been settled since the district plan was made operative in 2006 while the latter is currently subject to the submission process. Given that the proposed land use activity is a permitted activity in the zones in both the odcdp and the 2GP and that the application is related only to the relevant conditions/performance standards, neither the purpose and principles of the Act nor the superior planning documents in the hierarchy inform the required decision making process.

9.0 Schedule 4:2(1)(g) Assessment against the relevant provisions referred to in S104(1)(b)

9.1 S104 (1)(b)(i) National Environmental Standards

- The search of the Council's records confirm that the site has not and is more likely than not to have never been used for a HAIL activity. Hence the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health does not apply.
- No other relevant National Environmental Standards have been identified.

9.2 S104 (1)(b)(ii) Other Regulations

1. No other Regulations of relevance have been identified

9.3 S10491(b)(iii) National Policy Statements

2. No relevant NPS of relevance has been identified

9.4 S104(1)(b)(iv) New Zealand Coastal Policy Statement

3. The NZCPS is not relevant to lot1 193 to 143 Moray Place Dunedin

9.5 S104(1)(b)(v) Regional Policy Statement or Proposed RPS

The RPS became operative on 1 October 1998 and is a statement about managing the use, development and protection of the natural and physical resources of the whole Otago region. The following are relevant:

Chapter 9 Built Environment

Objective 9.4.1 - To promote the sustainable management of Otago's built environment in order to:

- (a) Meet the present and reasonably foreseeable needs of Otago's people and communities
- (b) Provide for amenity values
- (c) Conserve and enhance environmental and landscape quality
- (d) Recognise and protect heritage values.

Policy 9.5.5 gives effect to that objective.

The PRPS contains a similar built environment objectives and policies.

Comment

Given that both the odcdp and the 2GP are required to be consistent with both the RPS and the PRPS, then the above are of little, if any assistance in determining this local matter that involves only permitted activity conditions/performance standards.

9.6 S104(1)(b)(vi) Plan or proposed Plan

- The subject site is zoned Central Activity on Planning Map 35 of the odcdp and in that zone the following are permitted activities provided that they comply with the relevant conditions:
 - Commercial activity
 - Recreational activity
 - Residential activity
 - Community Support activity
 - Large scale Retail activity
 - Licensed Premises
 - Commercial Residential activity
 - Signs permitted in the signs section

- 9.7 The proposal encompasses a combination of many of the permitted activities in the Central Activity zone of the odcdp but the whole of the premises will be a licensed under the Sale and Supply of Alcohol Act 2012. It also involves a commercial activity on level 4, a recreational activity on level 4 and 5, commercial residential activity on levels 6 to 12 and residential activity/commercial residential on levels 13 to 16. There are a number of permitted activity conditions which are addressed in detail below, as are the transportation considerations.
- 9.8 In the 2GP, lot 1 193 to 143 Moray Place is zoned Central Business District and in that zone the following are permitted activities:
- Ancillary Licensed Premises
 - Conference, meeting and Function
 - Entertainment and Exhibition
 - Office
 - Retail
 - Restaurants
 - Visitor Accommodation
 - Community and Leisure
 - Sport and Recreation
 - Residential
 - Industrial
- 9.9 Again, the proposal encompasses a combination of many of the permitted activities in the Central Business District in the 2GP with the principal activities being a combination of Visitor Accommodation, an Ancillary Licensed Premise, and Residential. It also involves a commercial activity on level 4, a recreational activity on level 4 and 5, commercial residential activity on levels 6 to 12 and residential activity/commercial residential on levels 13 to 16.
- 9.10 The 2GP provides that the frontage of lot 1 193 to 143 Moray Place is a secondary pedestrian frontage for which particular rules apply, and that Moray Place adjacent to the site is a commercial centre street which also has particular rules. Both are addressed later in this assessment. The site has an archaeological overlay which also has rules attached.
- 9.11 The rules in the 2GP are addressed in detail later in this assessment. Some of the rules have not yet replaced the rules in the odcdp and are still subject to the submission process. Some of the rules in the 2GP have are not subject to a submission and in terms of S87F RMA, those rules are to be treated as operative and any previous rule in the odcdp treated as inoperative. S104(1)(b)(vi) RMA requires that the rules in the 2GP, along with the objectives and policies are to be considered.
- 9.12 For the Schedule 4: 2(2) Assessment of any relevant Objectives and Policies and the Schedule 4: 2(3) Assessment of Effects, please refer to the following sections.

10.0 Schedule 4: 2(2) Assessment against a Plan or a Proposed Plan

Assessment of any relevant objectives & policies in the odcdp and 2GP

10.1 Section 4: Sustainability Objectives and Policies in the odcdp

The Objectives and Policies of Section 4 (Sustainability) have been reviewed and the following is noted:

Objective/Policy	Comment
4.2.1 Enhance the amenity values of Dunedin.	The 5 Star hotel will provide a level of amenity not presently available within the city. It will also provide a proposal that is consistent with the range of permitted land uses. Design attention has been given to the street frontage through the landscape treatment.
4.2.2 Ensure that the level of infrastructure services provided is appropriate.	The pre-application with Council departments confirms that the demand on the existing infrastructure is acceptable.
4.2.3 Sustainably manage infrastructure.	See above.
4.2.5 Provide comprehensive planning framework.	The 5 Star hotel is an exception within the Dunedin city context. It is consistent with the relevant expectations of the district plan objectives but cannot comply with all the permitted activity conditions.
4.3.7 Use zoning to provide for uses and developments which are compatible.	The proposal is consistent with the permitted activities in the Central Activity zone but not all of the permitted activity conditions.
4.3.8 Avoid the indiscriminate mixing of incompatible uses and developments	See above.

10.2 Section 9: Activity Zones in the odcdp

The Objectives and Policies of Section 9 (Activity Zones) have been reviewed and the following is noted:

Objective/Policy	Comment
9.2.1 Provides for business, recreational, social, cultural religious and commercial activities in the Central Activity zone....and enhance the amenity to make it pleasant for people.	The proposal is consistent with that range of land uses. Design attention has been given to the street frontage through the road frontage treatment.
9.2.3 Avoid, remedy or mitigate the adverse effects of activities.	The explanation identifies traffic, pedestrians, safety, impacts on amenity values and impacts upon heritage and townscape values. The design attention to the public space in Moray Place addresses traffic, pedestrian, safety, impacts on amenity values and townscape values. The Council's Urban Design input has been sought and incorporated into the design development.

9.2.5 Ensure that the Central Activity zone continues to develop as “people place(s)”.	The explanation cites people bring vitality and vibrancy to activity areas. The western quadrant of Moray Place currently has limited appeal for the public. It is the back end of St Pauls Cathedral and is only “peopled” when the Dunedin Centre is in use. The proposal will go a substantial way to address that existing situation by enhancing the frontage to lot 1 193 to 143 Moray Place through street frontage design.
9.2.6 Avoid conflict between pedestrian and vehicle use.	Vehicle access to the development requires two crossing. Both have been assessed in the attached traffic assessment as having sufficient visibility to avoid conflict with pedestrians.
Policy 9.3.3 Enhance amenity values in the Central Activity Zone	The explanation requires consideration of a number of factors including: • Sense of place, identity, ownership • Mix of functions • Pedestrian rather than car scale • Accessibility • Heritage, townscape, archaeological values • Admission of sunlight • Shelter • Reduced traffic, slower speeds • Safety • Lighting • Protect important vistas • Defined edges • Street furniture

Comment

These objectives and policies in the odcdp are to be informed by the relevant provisions in the 2GP, particularly those provisions in the 2GP that are not subject to a submission. Streetscape is and remains the dominant consideration within the Central Activity zone rather than the adjoining or adjacent zones. This is significant in terms of proposed buildings that are non-compliant with the permitted activity condition. The objectives and policies of the 2GP provide little, if any support for the visual and physical effects beyond the zone.

10.3 Section 13: Townscape in the odcdp

As noted above, townscape issues relating to yards/frontage treatment/verandahs/signs are inter-connected and can be ring fenced from the single issue of building height.

The objectives and policies in Section 13: townscape have been reviewed and the following noted:

Objective 13.2.4 Ensure that buildings and places that contribute to the townscape character are recognised and maintained.	The proposal will in-fill a vacant site that has been cleared of its earlier buildings by Council for the specific purpose of a 5 star hotel. Building to the front boundary to Moray Place is consistent with the earlier character of the area and its pedestrian scale.
--	--

Policy 13.3.3 New buildings on corner sites should reinforce the character of the central City precincts	Lot 1 193 to 143 Moray Place sits at the corner of Moray Place and Filleul Street which is currently used as an open car park. The Moray Place frontage will continue around the corner, save for the vehicle egress for tour coaches, service vehicle, and guest vehicles onto Filleul Street.
Policy 13.3.4 Protect and enhance the heritage and townscape values of the North Prices Street/Moray Place/Exchange townscape precinct.	The explanation is extensive and reinforces that the precinct in question has dominant townscape values. Note that the 2GP does not continue to identify any townscape precincts and that lot 1 193 to 143 Moray Place is <u>NOT</u> within a mapped heritage precinct. There are no submissions to the 2GP's deletion of the Townscape precinct mapping of lot 1 193 to 143 Moray Place. The 2GP Hearings Panel has confirmed that where there are no submissions to the mapping in the 2GP, the Panel has no jurisdiction to make any amendment to that mapping. Consequently little, if any weight can be given to the Townscape objectives and policies in the odcdp.

10.4 Section 2: Strategic Directions in the 2GP

The Objectives and Policies of Section 2 (Strategic Directions) have been reviewed and the following is noted:

2.3.3 Dunedin has a hierarchy of vibrant centres anchored around the one Central Business District which provides a focus for economic and employment growth.	Objective 2.3.3 is over-arching. The proposed 5 Star hotel is consistent with that objective.
2.4.3 Dunedin's Central Business District (is) vibrant, attractive and enjoyable spaces that are renowned ...for providing the highest level of pedestrian experience.	See above.
18.2.1 Dunedin has a well-structured and economically and socially successful range of commercial environments....the CBD which is the focus for employment, retail, entertainment leisure visitor accommodation and arts and culture activities.	See above.

Comment

The strategic directions in the 2GP have a similar intent to the over-arching sustainability objectives and policies in the odcdp. They provide a framework within which the individual zones must fit.

10.5 Section 18.0: Commercial and Mixed Use Zone in the 2GP

The objectives and policies in Section 18 have been reviewed and the following noted:

18.2.1 The CBD which is the focus for...visitor accommodation.	The proposal is consistent with that objective.
---	---

18.2.1.1 Provide for a wide range of ...activities to encourage vibrant and viable centres.	The proposal is consistent with that policy.
18.2.3 Maintain or enhance the amenity of the streetscape.	The proposal is consistent with that objective. The podium addresses the streetscape while the tower is broken up and set back to mitigate the effects of its height on the streetscape.
18.2.3.1 Require developments to maintain or enhance streetscape amenity by ensuring • An attractive street interface • Service area not visible from a public place • Building height reflects the general heights of the block • Architecturally interesting façade through building modulation and use of glazing.	The proposal has been designed in conjunction with Council Departments (including Urban Design) to achieve such outcomes. The podium presents the required frontage to Moray Place (odcdp), the service area is accessed from within the site, the building height is consistent with the taller buildings within the CBD but from a higher datum, and the façade of the tower has been modulated.
18.2.3.3 Require buildings in a secondary pedestrian street frontage to provide a good level of pedestrian amenity by • Providing a regular frontage along the street • Clear and direct visual connection between the street and the building interior • An architecturally interesting façade and human scale through building modulation and consistent alignment of windows • Providing shelter for pedestrian at pedestrian entrances.	The proposal has been designed in conjunction with Council Departments (including Urban Design) to achieve such outcomes. It has to be built to the Moray Place boundary as required by the odcdp and in a manner that provides an interesting façade and human scale as required by the policy.
18.2.3.7 Limit the size and number of ancillary signs to ensure they are able to convey information about name, location and nature of the business to passing pedestrians and vehicles	One name sign on the Moray Place frontage is proposed. See sheet 4 on the architect's drawings. The final detail will comply with the rule in the 2GP.

Comment

The objectives and related policies in the 2GP inform the consideration of the matters that Council considers to be of significance in respect to the intended development within the cbd zone in general and to lot 1 193 to 143 Moray Place in particular.

11.0 Assessment of any relevant rule, including any relevant requirement, condition or permission in a rule.

11.1 Section 9.5: Central Activity zone odcdp

The proposal involves a number of differently defined permitted activities. They retain that status only where there is compliance with the relevant conditions attaching to the permitted activity (rule 9.5.1). Rule 9.5.3 provides that non-compliance with some of the said permitted activity conditions requires consideration as a restricted discretionary activity, and rule 9.5.4 provides that any activity not otherwise identified by the rules requires consideration as non-complying activity. S86F RMA provides that rules in the

2GP that are not subject to a submission in opposition are to be treated as operative and any previous rule inoperative.

11.2 Save for S86F RMA, consent would be required in respect to the following:

- Condition 9.5.2(i) prohibits front and side yards (non complying activity) Compliance is achieved except for the vehicle access from Moray Place and to Filleul Street and both side yards
- Condition 9.5.2(ii) requires a minimum building height of 9m and a maximum building height of 11m (restricted discretionary activity). The podium achieves the required 9m height but the tower height is 57.6m above the existing ground level plus the lift core.
- Condition 9.5.2(iii) requires a verandah along 20m of the Filleul Street frontage of lot 2 DP 334892 and Pt Sec 16 (non complying activity). The vehicle access to Filleul Street (6M) complies.
- Condition 9.5.2(vi) restricts permitted signs (non-complying activity). Compliance is intended.
- Condition 17.7.3 limits earthworks adjacent to property boundaries and to a scale threshold related to both the change of ground level and volume .Exceedances requires consideration as a restricted discretionary activity (Rule 17.7.5). The maximum cut of 7.2m at the Porte Cochere will be engineered and provides the required minimum setback from the boundary. Equally, the engineered cut to the Moray Place boundary will be managed as part of the Construction Management Plan

Compliance is or will be achieved in respect to the following:

- Condition 9.5.2 (iv) Identified Pedestrian Frontage does not apply
- Condition 9.5.2 (v) Minimum car parking (see attached transportation assessment)
- Condition 9.5.2 (vii) Rubbish and Storage Areas (see attached plans)
- Condition 9.5.2 (viii) Loading and Access (see attached transportation assessment)
- Condition 9.5.2 (ix) Residential Activities (see attached plans)
- Condition 9.5.2 (x) Noise Insulation for Residential and Commercial Residential Activities (See attached engineering assessment)

11.3 The Assessment Matters for Section 9 (Common for all Activity Zones) are contained in Section 9.9 of the odcdp, a summary and comments are below:

9.9.1	Assessment Matter	Comment
1	Sustainability The Objective and Policies of the Sustainability section relate to: • Amenity values • Infrastructure • Protection of significant natural and physical resources • Plan integrity	Commenting on each of the objectives/policies: • Amenity values are discussed above. • Infrastructure is discussed above. • There is no significant natural resource. • The physical resource is confined to the sealed parking surface. Both the Council and the Applicant believe that the loss of the existing physical resource is insignificant compared to the benefits of the proposed 5 Star hotel. The 5 Star hotel, together with the site that is being made available are assessed being as a true exception, thus mitigating any concerns about plan integrity. There are few, if any similar sites in Dunedin that could be developed for a 5 Star hotel

		with such direct access to the Dunedin Centre. Council has held the site for a 5 Star hotel since the late 1980's. That is exceptional.
2	Manawhenua	The Objective and Policies of Section 5 are not known to have relevance to this application.
3	Adverse Effects on Other Areas	The consideration is the proximity to residential area. The Residential 4 zone abuts the rear of lot 193 to 143 Moray Place and continues through York Place and Cargill Street. Its development faces York Place and has little, if any relationship to the Central Activity zone.
4	Bulk and Location of buildings and structures	The proposal is non-compliant with conditions 9.5.2(i) (yards) and 9.5.2(ii) (height) which would require consideration as a non-complying activity and restricted discretionary activity respectively save for S86F RMA.. The proposal has been built to the Moray Place road boundary which effectively excludes landscape features on that frontage, with required vehicle accesses being provided at both side boundaries. A 5 Star hotel specification cannot fit within the height limits of 9 to 11m. This will result in some effects on adjoining properties (shading) and loss of view shafts from properties to the west. See below. It would be physically possible but unattractive to extend the podium to include the side boundaries and impractical to build a structure to comply with the no side yard requirement beyond the podium.
5	Amenity values in general	The conditions attaching to permitted activities establish the baseline amenity values of the area. Building to the front and side boundaries other than the required vehicle access has been achieved along the frontage. The additional shading from the tower will be transitory over the day/season and that mitigates the effect of the additional height on individual properties. This is common in an urban area. There is no statutory policy framework that elevates the effects of shading on adjoining properties as a matter of significance. Existing view shafts are part of the existing environment and any intrusion is mitigated by distance. The properties within the adjoining York Place hollow will be minimally affected and distance mitigates the loss from properties above Cargill Street. The amenity values of the area will be enhanced by the 5 Star hotel supporting The Dunedin Centre.

6	Noise	Compliance with the Central Activity noise condition is proposed and will be a matter detailed in the Building Consent documents. Construction noise standards will be complied with. No operational noise other than the movement of vehicles through the site is anticipated. The outdoor child play area, garden and courtyard have been included as a direct result of the pre-application consultation with Council departments. They can be removed or closed if their use is a source of unacceptable noise.
7	Glare and lighting	The exterior glazing will be low reflectivity, with exterior lighting being provided at the entrance and as part of the design along the Moray Place frontage. The roof feature will be "soft" lit except for special occasions that are being celebrated within the city.
8	Dust and odour	No discharges from the site are proposed. Dust and sediment will be mitigated by the Construction Management Plan.
9	Transportation	See the attached transportation assessment.
10	Cumulative effects	The 5 Star hotel specification is an exception in the context of the Central Activity zone. There is little likelihood of another similar development but if that did occur, then it would need to justify any non-compliances with the permitted activity conditions.
11	Intensity of Operation	A 5 Star hotel is a 24/7 operation in terms of visitor arrival/departures. It would be unacceptable to impose any operational constraints.
12	Access to Infrastructure	Council departments have confirmed that infrastructure constraints can be adequately managed via a specific site management plan.
13	Archaeological Sites	The site was part of Dunedin's initial development and so it may contain archaeological items. These are protected by the provisions of the Heritage NZ Act independently of the RMA.
14	Trees	There are no significant trees on the site.
15	Indigenous Vegetation & Fauna	There is no indigenous vegetation and fauna on the site.
16	Hazards	The HAIL property search by the DCC has confirmed that there is currently and more likely than not that a HAIL activity has used the site. The 2GP has not indicated that the site is subject to any other hazard.
17	Acoustic Insulation	This requirement will be met.

Expanding on the above, the podium achieves the permitted baseline issues within this part of Moray Place in the odcdp. It is built to the road frontage at the required 9m minimum height and provides pedestrian facilities. Vehicle accesses to and from the site are a requirement for a commercial residential activity. The verandah requirement on the

balance of the Filleul Street frontage conflicts with the requirement for coach access to and from the site.

The proposed height of the tower above the podium creates shading that is additional to the permitted baseline. Some of the fore ground shading that is shown on the shadow diagrams is permitted by a 9m to 11m building on the side boundaries, but the outer limits shown is additional shading. The shadow diagrams show how the outer perimeter of the shadow rotates around the tower in terms of both the season / time of day. Taking the equinox as the average, the additional shadow from the tower mostly falls within the commercial zones and /or commercially used land. Shading from buildings within the CBD is a common feature and was an accepted consequence of the three additional floor to Otago House on the corner of Moray Place and Princes Street. Equally, it is consequence of Council's expectations of a 5 Star hotel on its site at lot 1 193 to 143 Moray Place. The effects of the additional shading is not referred to directly in the assessment matters.

The proposed height of the tower above the permitted baseline will also obstruct existing vistas down towards the CBD and the harbour beyond but not the immediate views of the library, town hall entrance or the back of the cathedral, all of which would be lost behind the permitted baseline. The loss of the long vistas is mitigated by the viewing distance and tends to become an accepted part of the townscape over time. The effects on vistas is not referred to in the assessment matters.

- 11.4 The Assessment Matters for Section 13 (Townscape) are contained in Section 13.7 of the odcdp, a summary and comments are below:

13.7.3	Assessment Matter	Comment
(i)	Profile viewed from public places	The proposed building will have an imposing profile when viewed both close up and from a distance. Similar height buildings elsewhere within the city do make a similar statement and they are now just part of the city character,
(ii)	Style and character	See the architectural statement. From a planning perspective, the proposal is similar to Otago House but more modulated to reduce its visual bulk.
(iii)	Scale of original buildings	There is no current building on the site. There were two storied terrace houses on part of the site back in the early 1970's but they have long gone.
(iv)	Design and appearance	See architectural statement.
(v)	Townscape and heritage significance	There are 21 precinct values identified but few have any relevance to the north west quadrant of Moray Place. The infilling of lot 1 193 to 143 Moray Place with a quality building will make a positive townscape contribution.
(vi)	Relationship to buildings to the setting	The setting is a mixture of 2 storied buildings, carparks and the multi-storied extension to the Kingsgate hotel. Lot 1 193 to 143 Moray Place will sit in that setting rather than be integrated within it.

(vii).	Importance attributed to the heritage resource	The western quadrant of Moray Place does not have a high heritage profile within the community, save for the Town Hall entry. This is one of the least significant heritage areas within the Central Activity zone.
(ix)	Conservation principles within ICOMOS	Not relevant to a new structure
(x)	Authenticity of design	See architectural statement

11.5 Assessment Matters in Section 17 (Earthworks) as contained in clause 17.8 of the ocdp, a summary and comments for the estimated 10,000m³ of earthworks and the maximum depth of cut of up to 7m at the car park level are below:

17.8	Assessment Matter	Comment
17.8.1	Stability/Flooding	Not applicable to site
17.8.2	Effects on Neighbours	No direct effects other than machinery noise and additional heavy traffic movement. A Construction Management Plan will mitigate the environmental effects on neighbours of the site.
17.8.3	Visual amenity/landscape	Short term and for the building footprint only.
17.8.4	Archaeological/cultural sites	Heritage NZ have been consulted and a process agreed
17.8.5	Transportation	Material will be transported on existing roads to an approved disposal site. Construction Management Plan will provide mitigate
17.8.6	Sediment	Construction Management Plan will control and mitigate sediment run off.
17.8.7	Water bodies	Not applicable to site
17.8.8	Infrastructure	Construction Management Plan will control and mitigate effects on infrastructure.
17.8.9	National Grid	Not applicable to site

11.6 With regards to the Second Generation Plan:

It is a matter for legal submission as to whether the relevant rules in the 2GP are to be treated as operative and the previous rules as inoperative. What is not in issue is that the proposed land use activities are all permitted activities in terms of rule 18.3.3. In terms of rule 18.2.3, that status is independent of whether or not the development activity performance standards are complied with.

Rule 18.3.2.13 provides that where a permitted development activity does not meet one or more of the performance standards, then the development activity becomes a restricted discretionary. Buildings not in a heritage precinct are a permitted activity (Table 18.3.6.6) where they comply with all of the performance standards in rule 18.3.6.1 to 18.3.6.3.

Comment

The proposal is not in a heritage precinct but does not meet at least one of the performance standards (maximum height). **Where the relevant 2GP rules are not subject to a submission, the non-compliance with the performance standard is required to be processed as a restricted discretion in terms of S104C RMA.** This is a

significant change in process from the odcdp requirement and represents Council's current approach to managing the environmental effects within the cbd of the 2GP.

11.7 Assessment matters in Section 18 (Commercial and Mixed Use Zone)

18.9	Assessment Matter	Comment
18.9.3.5	Parking	See transportation assessment
18.9.3.6	Loading	See transportation assessment
18.9.4.1/2	Boundary treatment	See executive summary above
18.9.4.3	Earthworks	Subject to specific engineering design
18.9.4.10	Height	The proposal achieves objective 18.2.3, ie enhances the amenity of the streetscape. The Policy for additional height is to reflect the general heights of existing buildings in the block. There are several significant existing buildings in the area that exceed the permitted height of 16m.
18.9.4.12	Minimum glazing/modulation	Both achieved
18.9.4.13	Signage	Compliance to be achieved
18.9.4.14	Parking/loading/access	See transportation assessment
18.9.5	Subdivision	The owner will undertake the subdivision to create lot 1 193 to 143 Moray Place. The applicant seeks consent to a Unit Title subdivision of the proposed building. Refer to the attached subdivision proposal
18.9.6.6	Secondary pedestrian frontage	See executive summary above

11.8 The boundary treatment, minimum glazing/modulation, and secondary pedestrian frontage assessment criteria all support the priority of the streetscape amenity where the building exceeds the permitted height rule.

12.0 Schedule 4: 2(3) Assessment of Effects on the Environment / Environmental Effects (including Schedule 4: 6 and Schedule 4: 7)

12.1 The following is in such detail as corresponds with the scale and significance of the effects that the activity may have on the environment.

12.2 Schedule 4: 2(3)(a) and 6(1)(a)-Alternative locations/methods –

As the application is solely as a result of the various conditions attaching to permitted activities and Council has had a long term expectation of a 5 Star hotel on the subject site, alternative locations are not applicable. Alternative methods are equally at odds with the specification for a 5 Star hotel in Dunedin. Such an activity must have a minimum number of rooms, a certain level of in-house amenity and outstanding vistas for its international guests. The adverse environmental effects associated with the proposed height of the building are limited and in terms of view shafts, are mitigated by distance.

13.0 Schedule 4:2(3)(b)and 6(1)(b)-Actual or potential effects on the environment.

With the environment including:

- Ecosystems (including people and communities)
- All natural and physical resources
- Amenity values
- Social, economic, aesthetic and cultural

13.1 There will be no adverse environmental effect on the ecosystem, or on the natural and physical environment. Amenity values and the social, economic, aesthetic and cultural wellbeing has been assessed within the context of the statutory documents. Neither place any emphasis on the transitory effects of shadows or the loss of existing view shafts from proposed buildings that exceed the conditions attaching to permitted activities/development activity performance standards.

- **Hazardous Substances / Installations**

The proposal is likely to include the use of LPG in association with the commercial kitchen. The premise will be connected to the reticulated gas network, hence, no onsite storage of LPG is required.

- **Discharge of contaminants**

- The proposal is anticipated to involve no discharges. For example onsite management during excavation will mitigate any dust discharge to the air. While an air discharge consent is not anticipated but if required, an application will be made to the appropriate authority.

- **Mitigation Measures**

- Mitigation measures include:
 - The streetscape treatment along the Moray Place frontage.
 - The exterior design that breaks up the mass of the building when viewed from beyond the site.
 - The nearby residential area is either largely orientated away from the site i.e. northerly aspect for sun, or is positioned some distance from the subject site, with wide vistas (Cargill Street is over 150m from the subject site). Thus the effects of distance assists to mitigate the effects of the proposal.

- **Persons Affected/consultation**

- Council has advised on the proposed development and has insisted on the 5 Star hotel specification as a condition precedent to the conditional Sale and Purchase agreement. Iwi, Heritage NZ, Fire Service and Dark Skies Dunedin have been consulted, their feedback is attached.
- No consultation has been undertaken with in surrounding neighbours, as the applicant has requested the application be publically notified.

- **Monitoring**

- The scale and significance of the activity's effects are assessed as being of such parameters that no monitoring is considered necessary.

- **Effect on the exercise of a protected customary right**

- The activity is not known to effect the exercise of a protected customary rights.

14.0 Risk to the neighbourhood / wider community (natural hazards, use of hazardous substances or hazardous installations)

Not applicable to the site or proposal

15.0 Schedule 4: 3 Additional Information for some applications:

15.1 Details of any permitted activity that is part of the proposal:

All of the land uses are provided as permitted activities in both the odcdp and the 2GP subject to compliance with the conditions attaching to the permitted activities/land use performance standards

15.2 S124 / S165ZH91)(e): Not applicable

15.3 S85 of the Marine and Coastal Area: Not applicable

16.0 Schedule 4: 4 Subdivision Consent – Additional Information:

See attached report.

17.0 Schedule 4: 5 Reclamation Consent – Additional Information:

Not applicable

18.0 Conclusion

18.1 The use of lot 1 193 to 143 Moray Place for a hotel in association with the Dunedin Centre is consistent with the expectation of both the odcdp and the 2GP objectives and policies, as well as being in accordance with long held Council intentions for the site. It is only the form of the hotel that necessitates the resource consent application.

18.2 That form is dictated by the specification of a 5 Star hotel which Council as the current land owner is insisting on. A minimum capacity is required by the hotel operators of 5 Star hotels and the guest experience must be maximised to compete with alternative destinations. Low rise/boundary to boundary requirements are not appropriate for a 5 Star hotel development in Dunedin.

18.3 The resultant shading and interruption of view shafts of adjoining properties and from adjacent properties is assessed as being transitory or mitigated by distance.

18.4 Overall, the resource consent can be granted for the proposal, with few conditions.

Anderson & Co
Resource Management
29 March 2017