

**BEFORE THE ENVIRONMENT COURT
CHRISTCHURCH REGISTRY**

ENV

IN THE MATTER

of an appeal under section 120 of
the Resource Management Act
1991

BETWEEN

**NZ HORIZON HOSPITALITY
GROUP LIMITED**

Appellant

AND

DUNEDIN CITY COUNCIL

Respondent

**NOTICE OF APPEAL TO ENVIRONMENT COURT ON A RESOURCE
CONSENT**

**GALLAWAY COOK ALLAN
LAWYERS
DUNEDIN**

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To: The Registrar

Environment Court

Christchurch

1. NZ Horizon Hospitality Group Limited ("NZHHG") appeals the decision of the Dunedin City Council ("DCC" or "The Council") in relation to the following:

(a) Decision to decline land use and subdivision consents to construct and operate a commercial residential development comprising a building of 17 stories (with three lower levels partially below ground) at 143-193 Moray Place, Dunedin. The proposal involves 210 visitor accommodation rooms (hotel rooms), up to 64 self-contained apartments, 4 self-contained penthouse suites, together with licenced premises, retail, conference, meeting facilities and on-site amenities, parking and servicing. The land use consent sought also includes earthworks required for the proposed site development. Subdivision consent is sought for a unit title division of the proposed building.

2. NZHHG is the Applicant.

3. NZHHG received notice of the decision on 29 October 2017.

4. The decision was made by DCC.

5. NZHHG is not a trade competitor for the purposes of section 308D of the Resource Management Act 1991.

6. NZHHG is appealing the whole of the decision of the DCC to decline the consent.

7. This appeal is in reference to the plans received by the Council during the hearing process (Dated 16/08/2017 and attached as Appendix 2 of the decision). The reason for the appeal is as follows:

(a) The application should not be bundled as a single non-complying activity. Matters concerning the breach of the height standard for

permitted activities should be assessed as a discrete restricted discretionary activity under s.104C.

- (b) The decision was wrong where it held that the application failed both limbs of section 104D(1).
- (c) The application is not contrary with the Objectives and Policies of both the operative and proposed District Plans.
- (d) The critical objectives and policies of the Plan and Proposed Plan support development that enhances the vibrancy of the central city as a “people place”. The application gives effect to those provisions.
- (e) The decision gave inappropriate weight to the relative heights of the proposed building with existing buildings on the opposite side of Moray Place within the Octagon Townscape Precinct, when the relevance of such height relativity is not derived from the Plan or Proposed Plan.
- (f) The decision does not give adequate weight to the positive social and economic effects of the proposed hotel on the central city.
- (g) The decision of the DCC did not give adequate weight to the existing use of the site being a noncomplying activity, whereas a hotel is a permitted activity (Commercial Residential Activity) in both the Plan and Proposed Plan, subject to compliance with conditions.
- (h) The decision of the DCC did not give adequate weight to the existing use of the site (a ground level open-air carpark) comprising side and front yard breaches that are part of the existing environment that adversely affects the townscape values of Moray Place.
- (i) The existing use of the site fails to achieve any of the townscape objectives in either the Plan or Proposed Plan. Such failures will be remedied by the proposed activity.

- (j) That the proposal will not have unacceptable adverse effects on the identified values of the Octagon Townscape Precinct or North Princes Street/Moray Place/Exchange Townscape Precinct.
- (k) Dominant weight should be given to the Proposed District Plan's provisions concerning heritage and townscape, with which this application is consistent.
- (l) The Proposed District Plan does not carry over the townscape precinct overlay method from the District Plan for the site. That change in approach between the plans is beyond challenge by way of submissions on the Proposed Plan. Heritage considerations derived from the townscape precinct overlay on the application site under the District Plan therefore not apply pursuant to section 86F of the Resource Management Act 1991.
- (m) The decision was wrong to find that the architecture of the proposed building was of insufficient quality to warrant consent being granted.
- (n) Shading effects on the Octagon and St Paul's Cathedral will be minor and are outweighed by the importance of enhancing the vibrancy of the central city.
- (o) Inappropriate weight was given to adverse effects of shading on the Kingsgate Hotel. Kingsgate Hotel owners and guests have no legitimate expectation to direct sunshine across its side boundary.
- (p) Misbeary Holdings Limited is a trade competitor that is not adversely affected by the application and has no lawful status as a submitter.
- (q) Neither the Plan nor Proposed Plan contain any standard for changes to local wind or sunlight reflection conditions caused by new buildings. Inappropriate weight was given to these issues.
- (r) There are no relevant adverse effects that are incapable of being appropriately managed by conditions.

8. NZHHG seeks the following relief:

- (a) That the resource consent application is granted in its entirety.
- (b) Costs of and incidental to this appeal.

9. NZHL attaches the following documents to this notice:

- (a) A copy of the application;
- (b) A copy of the decision;
- (c) List of names and addressed of persons to be served with a copy of this notice.



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P J Page
Solicitor for the Appellant

19 October 2017
Date

Address for service

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Advice to Recipients of Copy of Notice**How to Become a Party to Proceedings**

You may be a party to the appeal if you made a submission on the matter of this appeal and you lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court, and serve copies on the other parties, within 15 working days after the period for lodging a notice of appeal ends. Your right to be a party to the proceedings in the Court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing requirements (see form 38).

How to Obtain Copies of Documents Relating to Appeal

The copy of this notice served on you does not attach a copy of the relevant decision. These documents may be obtained, on request, from the Appellant.

Advice

If you have any questions about this notice, contact the Environment Court in Auckland, Wellington or Christchurch.