



MEARES WILLIAMS
LAWYERS

19 January 2023

Tai Poutini Professional Services Limited
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AND by email – info@tpri.co.nz
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AND copy by email to – info@wrc.govt.nz
cc_admin@wrc.govt

West Coast Regional Council – Resource Consent RC2022-0032
Our client – Scenic Hotel Group Limited

1. We act for Scenic Hotel Group Limited and, by way of service, **enclose** our client's submission in opposition. A copy of the submission is being emailed to the Applicant. Would you please acknowledge receipt of this letter and the submission in due course.
2. We understand the activities for which consent is required include work in the Waiho riverbed, disturbing the riverbed and diverting the river. Would you please advise whether Council has applied for those consents. If it has, then for the reasons set out in its submission, our client considers it should have been served as an affected party to enable it to file a submission and be heard. If no application has been made, would you please advise why it is not required to enable our client to consider the position. Our client reserves its position on these matters.
3. We look forward to hearing from you.

Yours faithfully
MEARES WILLIAMS



Simon Johnston
Partner

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Submission on application concerning resource consent

To: WEST COAST REGIONAL COUNCIL

Name of submitter: SCENIC HOTEL GROUP LIMITED

This is a submission on an application from the WEST COAST REGIONAL COUNCIL for a resource consent RC-2022-0032. Land Use Consent, to undertake construction of new stop banks, raise existing stop banks and accidental discharge within the Waiho River bed.

I am not a trade competitor for the purposes of section 308B of the Resource Management Act 1991.

The specific parts of the application that my submission relates to are –

The whole of the application.

I seek the following decision from the consent authority: See attached sheets (3 pages).

I wish to be heard in support of my submission.



Signature of person authorised to sign
on behalf of submitter *Simon Johnston*

19 January 2023

Date

Electronic address for service of submitter: simon.johnston@meareswilliams.co.nz

Telephone: 03-3790-059

Postal address (or alternative method of service under section 352 of the Act): PO Box 660,
Christchurch 8140

Contact person: Simon Johnston

1. The submission of Scenic Hotel Group Limited (SHGL) is that:

1.1 SHGL owns the hotel property formerly known as the Mueller Hotel. The hotel is situated adjacent to the Waiho river and was badly damaged on 23 March 2016 when the Waiho River stopbank outside the hotel failed following unauthorised and unconsented work being undertaken in the riverbed and the diversion of the river towards the hotel. Claims in relation to the damage and flood are currently before the High Court. The insurers for SHGL consider that the Applicant (WCRC), the Westland District Council and their respective contractors were responsible for the flooding damage and are seeking recovery. SHGL does not want to see a repeat of work in the riverbed and on the stopbanks resulting in flooding or damage to its property in the future.

1.2 SHGL wishes to rebuild a new hotel on the site of the former Mueller Hotel, but cannot do so without being able to arrange bank financing and full insurance (that will be in place long term, for the life of the new hotel). In light of what has happened in the past and what lead to or caused the March 2016 flooding, including –

- (i) WCRC's failure to maintain the old stopbanks and to prevent contractors and locals from excavating and removing gravel from the stopbanks;
- (ii) WCRC's failure to require and properly police and monitor work in the riverbed and where gravel was taken from in the riverbed to ensure it was taken from places that were safe and did not endanger the property of third parties, such as SHGL;
- (iii) WCRC's failure to require anyone doing work in the riverbed or extracting material from the riverbed or the stopbanks to hold resource consents and to impose proper conditions to protect third parties.

it is important for SHGL and other third parties that the failures and practices of the past are not repeated to ensure that SHGL can get both long term funding and insurance for its new hotel. For that to happen it needs the protection of proper conditions that are continually monitored and enforced by and against WCRC.

1.3 While SHGL generally supports the proposal to increase the height of the stopbanks referred to in the applications by 2 metres, add rock armour and construct new stopbanks, it is concerned that:

- (i) the information the Applicant has provided with the application is inadequate and additional information is required to enable it to make an informed decision; and
- (ii) there are inadequate safeguards to protect the property and interests of SHGL and to ensure its banks and insurers will lend on and insure a new hotel long term.

1.4 In relation to the inadequate/incomplete information, SHGL requires:

- (i) full details of the locations from which gravel and material for the proposed works will be taken from the riverbed and the volume of material that will be taken from each location;
- (ii) full details of where the river will be diverted before, during and after the proposed works;
- (iii) the Applicant to provide a survey plan showing the location of the boundary of the SHGL land in relation to the boundary of the final work proposed on the Havill Wall stopbank to ensure that no work is undertaken within the SHGL property, no gravel

or other material is deposited on that property and there is no damage to the property;

- (iv) reports from suitable independent experts to confirm that the work referred to in the application for resource consent and the work referred to in (i) and (ii) above can be undertaken safely without putting the property of SHGL or any other person at risk; and
- (v) full details of the Applicants plan for the future monitoring, maintenance and repair of the stopbanks and updating that plan at periodic intervals.

1.5 In relation to safeguards to protect the property of SHGL, SHGL will require:

- (i) the expert reports referred to in point 1.4 which show that material can safely be extracted from the proposed riverbed locations in the specified quantities without endangering the property of SHGL;
- (ii) that all work is properly supervised and certified by a suitably qualified and experienced independent engineer; and
- (iii) ongoing monitoring, maintenance and repair of all the stopbanks by the Applicant and a long-term plan addressing those obligations.

2. SHGL requires the additional information to be provided and will require a reasonable time to consider the information and consult with its experts.

3. Additional resource consents will be required if the river is to be diverted to enable construction and work in the riverbed or if work is to be undertaken in the riverbed.

4. The application should be heard by an independent commissioner, not by the Applicant (WCRC).

5. SHGL seeks the following decision:

5.1 That the application should be declined unless:

- (a) all the additional information requested has been provided and (after checking) it has been established that the proposed works can then be implemented safely and without exposing the property of SHGL to risk of flooding or other damage.
- (b) conditions are imposed which protect the property and interests of SHGL. Those conditions must be acceptable to SHGL and will include:
 - (i) specifying the locations from which gravel and other material can be taken from the riverbed and the maximum quantities of material that can be taken from each location. These locations must be approved by SHGL.
 - (ii) specifying where and when the river can be diverted. Any diversions involving the river or any river channel being diverted towards or along the northern bank of the river (towards or by the Havill Wall and new NZTA stopbank) must be approved by SHGL.
 - (iii) requiring that work relating to the extraction of gravel and material from the specified riverbed locations, diverting the river and all other work in relation



to the proposals is undertaken under the direct supervision of an independent suitably qualified engineer who certifies all work prior to it being undertaken and that the specified work has been undertaken correctly after it has been completed. These certifications will also apply to ongoing repair and maintenance work.

- (iv) that no work is undertaken on the property of SHGL, no material is deposited on that property and there is no damage to that property.
- (v) requirements that the Applicant:
 - (a) is responsible for properly monitoring, maintaining and repairing all the stopbanks to keep them in good condition and safe. The stopbanks must be checked by an independent experienced engineer and reports provided by that engineer every 6 months from the date of completion; and
 - (b) provides a comprehensive plan dealing with the future ongoing monitoring, maintenance and repair of all the stopbanks and updates that plan at specified periodic intervals, such as every 3 years.

The conditions set out above ((i) to (v)) must be acceptable to SHGL. SHGL is willing to work with the Applicant to see if a mutually acceptable set of conditions can be agreed.

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