

PROHIBITION NOTICE

This notice is issued pursuant to sections 105 and 116 of the
Health and Safety at Work Act 2015

Notice issued to: Revingtons Properties Ltd

Address: Thompson Daly & Co, Chartered Accountants, 266 Hardy St, Nelson

Date of issue: Tuesday, 10 Dec 2019

Time: 04:35 p.m.

Details of person notice left with:

Name: Bruce Vercoe

Position: Director

Address: vercoe.bc@xtra.co.nz

I, Michael Blennerhassett

Being an inspector appointed under section 163(1) of the Health and Safety at Work Act 2015 (the Act):

Reasonably believe that, at the workplace specified below, an activity: (tick one option)

- ☐ is occurring that involves or will involve a serious risk to the health or safety of a person arising from an immediate or imminent exposure to a hazard.
- ☒ may occur and, if it occurs, will involve a serious risk to the health or safety of a person arising from an immediate or imminent exposure to a hazard.

The workplace is:

The former Revingtons Hotel building at 47 Tainui St in Greymouth.

Legislative provision being or likely to be contravened:

Health and Safety at Work Act 2015, Section 36(1)(a), Section 36(1)(b)

Basis for believing grounds exist:

Conclusions after enquiries are that asbestos has been removed from the former Revingtons Hotel building at 47 Tainui St in Greymouth, by a person who does not hold a Class A or Class B asbestos removal licence. The building is scheduled for demolition. Removal of asbestos containing materials by unlicensed people may cause exposure of these or other people to respirable asbestos fibres.

Matter or activity that gives rise or will give rise to the risk:

Any entry into the former Revingtons Hotel building at 47 Tainui St, Greymouth, other than competent and qualified people undertaking an asbestos demolition survey, or people holding an appropriate asbestos removal licence granted by WorkSafe.

I therefore prohibit the carrying on of the matter or activity in any way until an inspector is satisfied it has been remedied

Recommended measures to remedy:

Inform any person that you may reasonably suspect may enter the building that it may contain asbestos containing material, and instruct them not to enter.

Engage a person holding a BOHS P402 asbestos surveyor's qualification or equivalent to undertake an asbestos demolition survey of the building, to ensure that all asbestos that is likely to be disturbed by the demolition is identified. Refer to WorkSafe's Good Practice Guidelines for Management and Removal of Asbestos.

Postal address: PO Box 13278, City East, Christchurch 8141

Inspector's signature:

Contact email: mike.blennerhassett@worksafe.govt.nz



YOU MUST NOT RESUME THE MATTER OR ACTIVITY UNTIL YOU HAVE RECEIVED NOTICE FROM AN INSPECTOR THAT THIS NOTICE IS NO LONGER IN EFFECT. FAILING TO COMPLY WITH THIS NOTICE IS A SERIOUS OFFENCE.

A COPY OF THIS NOTICE MUST, AS SOON AS PRACTICABLE, BE DISPLAYED IN A PROMINENT PLACE AT OR NEAR THE WORKPLACE, OR PART OF THE WORKPLACE, AT WHICH WORK IS BEING CARRIED OUT THAT IS AFFECTED BY THE NOTICE. IT IS AN OFFENCE NOT TO DO SO, AND/OR TO INTENTIONALLY REMOVE, DESTROY, DAMAGE OR DEFACE THIS PROHIBITION NOTICE WHILE IT IS IN FORCE.

Information: If you wish to discuss the circumstances giving rise to this notice, in the first instance please contact the Inspector who issued the notice. Any other queries or correspondence related to this notice should be addressed to the manager at the address shown above.

Review and Appeal Rights

A person affected by the decision of the inspector to issue this notice (or their representative) may apply to WorkSafe for internal review of the decision within 14 days after the day on which the decision first came to their notice. The decision to issue the notice may also be appealed to a District Court on the grounds it is unreasonable, but only if it has first been reviewed by WorkSafe and WorkSafe has made a decision on the review. If there is anything you do not understand about your review and appeal rights, you should consult a lawyer.

SUMMARY OF KEY PROVISIONS IN THE HEALTH AND SAFETY AT WORK ACT 2015

SECTION 105 POWER TO ISSUE PROHIBITION NOTICE

An inspector may give a person who has control over the matter or activity a direction prohibiting the carrying on of the matter or activity, or the carrying on of the matter or activity in a specified way, until an inspector is satisfied that the matter or activity that gives or will give rise to the risk has been remedied. The inspector may do so in the following situations:

1. An inspector reasonably believes that:
 - (i) an activity is occurring at a workplace that involves or will involve a serious risk to the health or safety of a person arising from an immediate or imminent exposure to a hazard; or
 - (ii) an activity may occur at a workplace that, if it occurs, will involve a serious risk to the health or safety of a person arising from an immediate or imminent exposure to a hazard; or
2. In respect of any workplace, plant or substance, or work that is required to be authorised under subpart 2 of Part 5 of the Act or a mining operation (as defined in clause 2 of Schedule 3 of the Act), an inspector:
 - (i) believes that there is a serious risk to the health and safety of any person because of a failure to comply with this Act or regulations; or
 - (ii) believes on reasonable grounds that it is likely that a person will fail to comply with this Act or regulations, and that failure would be likely to cause a serious risk to the health and safety of any person.

The direction may be given orally, but must be confirmed by written notice (a prohibition notice) issued to the person as soon as practicable.

SECTION 107 COMPLIANCE WITH PROHIBITION NOTICE

A person who does not comply with a prohibition notice given or issued to the person commits an offence. The penalty is a maximum fine upon conviction of \$100,000 for an individual and \$500,000 for any other person. However, it is not an offence to fail to comply with recommendations in a prohibition notice.

SECTION 114 WORKSAFE MAY VARY OR CANCEL NOTICE

Other than minor changes, a notice issued by an inspector may be varied or cancelled only by WorkSafe, not the inspector.

SECTION 117 DISPLAY OF NOTICE AT WORKPLACE BY PERSON ISSUED WITH NOTICE

A person to whom a notice is issued must, as soon as practicable, display a copy of that notice at or near the workplace, or part of the workplace, at which work is being carried out that is affected by the notice. It is an offence to fail to comply with this requirement, or to intentionally remove, destroy, damage, or deface a displayed notice while it is in force. The penalty is a maximum fine upon conviction of \$5,000 for an individual and \$25,000 for any other person.

SECTION 118 INSPECTOR MAY DISPLAY NOTICE

An inspector who issues this notice may, either before or after issuing the notice, display a copy of the notice in a prominent place at or near the workplace, or part of the workplace, or part of the workplace, at which work is being carried out that is affected by the notice.

SECTION 119 WHEN WORKSAFE MAY CARRY OUT REMEDIAL ACTION

If the person to whom a notice is issued fails to take reasonable steps to comply with the notice, WorkSafe may take any remedial action it believes reasonable to make the workplace or situation safe after giving written notice to the person of:

- (a) WorkSafe's intention to take that action; and
- (b) the person's liability for the costs of that action.

SECTION 120 POWER OF WORKSAFE TO TAKE OTHER REMEDIAL ACTION

If WorkSafe reasonably believes that circumstances in which a prohibition notice can be issued exist, but a prohibition notice cannot be issued because, after taking reasonable steps, the person to whom the notice could be issued cannot be found, WorkSafe may take any remedial action necessary to make the workplace safe.

SECTION 121 COSTS OF REMEDIAL OR OTHER ACTION

WorkSafe may recover as a debt due to WorkSafe the reasonable costs of remedial action taken under:

- (a) SECTION 119 from the person to whom a prohibition notice was issued; or
- (b) SECTION 120 from any person to whom a prohibition notice could have been issued in relation to the matter.

SECTION 131 APPLICATION FOR INTERNAL REVIEW

A person affected by an inspector's decision to issue a prohibition notice may, within 14 days after the day on which the decision first came to the person's notice, apply to WorkSafe for a review of the decision. The application must be made in the manner and form required by WorkSafe.

SECTION 134 STAY OF A REVIEWABLE DECISION ON INTERNAL REVIEW

If an application is made to WorkSafe for an internal review of a decision, WorkSafe may stay the operation of the decision at its own initiative or on application from the person that has applied for a review. If WorkSafe has not made a decision within 3 working days of receiving an application for a stay then WorkSafe is to be treated as having made a decision to grant the stay.

SECTION 135 APPLICATION FOR APPEAL

A person affected by an inspector's decision to issue a prohibition notice may, if that decision has been reviewed by WorkSafe, appeal to a District Court against the decision on the grounds that it is unreasonable. The appeal must be lodged within 14 days after the day on which WorkSafe's decision on its review first came to the person's notice. If WorkSafe varies or cancels the notice, a person affected by that decision may appeal to the District Court against it on the grounds that it is unreasonable. The appeal must be lodged within 14 days after the day on which WorkSafe's decision first came to the person's notice.