

19-D-02284

s 9(2)(a)

Otago Daily Times

s 9(2)(a) [@odt.co.nz](mailto:s 9(2)(a)@odt.co.nz)

Dear s 9(2)(a)

Official Information Act request for information about Environmental Legal Assistance Fund applications and supporting information.

Thank you for your email of Thursday the 3rd of October requesting the following under the Official Information Act 1982 (the Act):

"I'm looking for the Ministry for the Environment's environmental legal assistance fund decision on an application from the Wanaka Community Supporting Our Northlake Neighbours Society."

"I am told by society president the application has been rejected. A copy of the decision would be appreciated."

I can confirm that there is one document within scope of your request. Please note, some information within this document has been withheld under the following section 9(2)(b)(ii) of the Act to protect information where the making available of the information would likely unreasonably prejudice the commercial position of the person who supplied or who is the subject of the information.

In terms of section 9(1) of the Act, I am satisfied that, in the circumstances, the withholding of this information is not outweighed by other considerations that render it desirable to make the information available in the public interest.

You have the right to seek an investigation and review by the Office of the Ombudsman of my decision to withhold information relating to this request, in accordance with section 28(3) of the Act. The relevant details can be found on their website at: www.ombudsman.parliament.nz.

Please note that due to the public interest in our work the Ministry for the Environment publishes responses to requests for official information on our [OIA responses page](#) shortly after the response has been sent.

If you have any queries about this, please feel free to contact our Executive Relations team.

Yours sincerely,



Kirsty Millard
Director, Legal, Procurement and Executive Relations

List of documents

Document no.	Document date	Content	Decisions	OIA sections applied
1	20/09/2019	19-B-02284 Confirmed minutes	Released in part	9(2)(b)(ii)

Released under the provision of
the Official Information Act 1982

Applicant Group		Application No
Wanaka Community Supporting Our Northlake Neighbors Incorporated Society		1034
Date Received	Application Type	
09/08/2019	New Application	
Total costs of case plus GST (if any)	Section 9(2)(b)(ii)	
Amount requested plus GST (if any)	\$50,000.00	
Applicant's contribution	\$0.00	
In-kind/pro-bono contribution	Section 9(2)(b)(ii)	
Proceedings	<i>Wanaka Community Supporting Our Northlake Neighbours Incorporated v Queenstown Lakes District Council (ENV-2019 CHC-118)</i> <i>Wanaka Community Supporting Our Northlake Neighbours Incorporated v Queenstown Lakes District Council (CIV 2019 TBC*</i>	
Group's status at proceeding	Appellant	
Conflicts	Andrew Beatson Phil Page	
<i>Conflicted members are not present during evaluations</i>		

Application for Funding

Key Details of the Group

The Wanaka Community Supporting Our Northlake Neighbours Incorporated (the Society) was established in response to resource consent application RM181903 to build a large scale hotel in the residential suburb of Northlake, Wanaka. The Society's initial purpose was to make a submission on behalf of Northlake residents who are prohibited from objecting to any resource consent or plan change application put forward by Northlake Investments Ltd.

Key Details of the Group's case and the proceedings

The group's legal submission questioned the legality of such broad and all-encompassing no-objection clauses as being contrary to public policy and unconscionable. It also challenged the decision of the Commissioners on the grounds of Part 2 of the RMA; prior consent RM160152; and the two section 104D threshold tests: effects, and objectives and policies.

The Society appeals the Decision: "to grant land use consent (referenced under RM181903) pursuant to Section 88 of the Act for the construction and operation of a 113-room hotel consisting of two main buildings, Building 1 (West) and Building 2 (East) including a restaurant, bar and gym, and associated car parking, access, coach parking, loading, landscaping, earthworks, provision of infrastructure, and signage, at Northlake Drive and Outlet Road, Wanaka."

Our general reasons for this appeal are that the Decision, in granting consent:

- is inappropriate and fails to promote sustainable management of resources and will not achieve the section 5 purpose of the Act;

- fails to maintain and enhance amenity values in accordance with section 7(b) of the Act;
- fails to maintain and enhance the quality of the environment in accordance with section 7(e) of the Act;
- is demonstrably contrary to the objectives and policies of the Operative Plan, and (to the extent applicable) the Proposed District Plan ("PDP");
- will result in effects that are more than minor and so the proposal fails the section 104D non-complying threshold test;
- will not meet the reasonably foreseeable needs of future generations of the neighbours and community affected by the application;
- will not enable social, economic and cultural well-being of the neighbours and community affected by the application;
- fails to achieve the integrated management of effects of the proposal, as the proposal does not integrate with the existing character, intensity, and scale of the residential development that surrounds the site;
- will not ensure the efficient use and development of natural and physical resources of the neighbours and community affected by the application;
- does not avoid, remedy or mitigate the adverse effects of the proposed activity on the neighbours and community affected by the application;
- creates an adverse precedent, which will effectively make it impossible for the Council to refuse amendments to ODPs notwithstanding development in accordance with and reliance on what is shown in an approved ODP; and
- otherwise fails to address all the matters raised in the Appellant's submission.
- The site of the hotel is surrounded by residential development acquired by residential owners in the expectation that the site would be developed according to the outline development plan (ODP) approved through RM160152, which showed two tennis courts and a business park, the latter with five small buildings.

Following on from the Environment Court issues, the group have filed an application to the High Court seeking:

1. A declaration that the "No-Objection Covenant" imposed by Northlake Investments Limited is invalid and / or unlawful, in particular to the extent that it:
 - (a) prevents any opposition to any development; and
 - (b) requires written approval to be given and / or a submission in support (if requested) to any development;
 no matter what the character, intensity or scale of the development, its effects, and / or how heavily the relevant provisions of the planning provisions, or the existing environment, weigh against the development.
2. A declaration that, to the extent that the No-Objection Covenant is valid and / or lawful, it does not prevent opposition to the current 113-room Hotel development currently being pursued by Northlake Investments Limited ("NIL").
3. Costs.

The Group wish for ELA funding to be specifically focused on the High Court proceeding.

