



Ref: s.7(2)(a) - protect the privacy

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28 June 2021

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s.7(2)(a)

- protect
the
privacy

Dear s.7

OFFICIAL INFORMATION REQUEST RELATING TO THE DEVELOPMENT AT 64 NILE STREET.

I am writing in response to the concerns you have raised (30 May 2021) in connection with my decision (28 May 2021) to withhold pre-application information relating to the potential development of 64 Nile Street (s.7(2)(a) -) and your request for further information.

Concerns about original decision

You have raised concerns about my original decision to withhold pre-application information relating to the proposed development at 64 Nile Street under section 7(2)(c)(i) of the Local Government Official Information and Meetings Act 1987 (LGOIMA). In particular, you have questioned whether public interest factors were properly considered taking into account the lodging of the resource consent application.

I note that the resource consent application was lodged only a few days before our decision on your LGOIMA request. I have now had the opportunity to broadly consider the contents of that resource consent application. To clarify, this consideration has been undertaken not as part of the statutory resource consent process under the Resource Management Act 1991 (RMA), but rather to better understand whether the reasons to withhold pre-application material are still relevant and to address your concerns around public interest.

As a result, I have decided to release the following reports; Major Projects team - 4 September 2020, Urban Design Panel - 28 October 2020 and 14 December 2020 along with the information that was tabled at these meetings in support. I note you have already been provided with a copy of the resource consent application and supporting documentation in our earlier response.

In relation to other pre-application information passing between the Council and the developer, I maintain the reasons to withhold this material under 7(2)(c)(i) LGOIMA are appropriate and relevant and that it is in the public interest that this type of information can freely pass between the parties, outside of any statutory process without scrutiny, until the developer formally lodges the resource consent application. In reaching this conclusion, the developer's views and likely prejudice have been taken into account where there had been an expectation that these communications would remain in confidence between the parties indefinitely.

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I consider that the public interest in transparency, accountability and public understanding of the pre-application process is met in these circumstances by the information that I have decided to provide to you, including the Major Projects Team and Urban Design Panel reports and other information referred to in this letter.

Further information request

Your e-mail of 30 May 2021 also requested further specific information relating to:

- The Major Projects Team process, including the names and roles of the project team;
- The Urban Design Processes, including the names and roles of those involved;
- Any other information regarding the development of 64 Nile Street.

Part of the information that you have requested is provided below and enclosed. However, we have decided to refuse your request for part of this information as set out below.

The Major Projects Team process, including the names and roles of the project team

Major Projects provides potential developers a more efficient forum by bringing together the many departments of Council into one meeting instead of them approaching each department separately. It is a free service offered by Council that offers an opportunity for a very early high level discussion on the specifics of a site, sometimes provided prior to the developer purchasing that site. It enables the developer to consider relevant factors, including factors to consider if they were to purchase and develop that site.

Major team meetings are initiated by a developer on request and result in a meeting with the group of relevant staff to discuss the project, while a summary report is also provided back to the applicant. Council staff from any of the following teams may attend: City Development, Consents and Compliance, Transport and Solid Waste, Utilities, Parks and Recreation. The Forum is currently managed by the City Development Team and Lisa Gibellini – Team Leader City Development coordinates meetings.

In relation to your request for the names and roles of the project team for the meeting on this site they are as follows; Lisa Gibellini - Team Leader City Development, Gabrielle Thorpe – Senior City Development Adviser, Sue McAuley – Team Leader Transport, Shane Overend – Senior Engineering Officer and Jean Hodson – Principal Planner Resource Consents.

The Urban Design Processes, including the names and roles of those involved.

The Urban Design Panel is a panel of experienced and qualified professionals from across New Zealand who come together to provide independent design reviews on projects to assist in the planning phase of a development, some time prior to an application for resource consent. The purpose of this free service is to encourage good urban design. The Nelson City Council and Tasman District Council share panel members and both Councils are signatories to the New Zealand Urban Design Protocol.

The Panel is a voluntary process, applicants are not required to go to a Panel nor are they bound by the Panel recommendations. Not all of the proposals that go to the Panel result in an application for resource consent or development.

In terms of process each Panel is run by a Chair (a panel member) and at least two other members. The meeting involves reviewing the developers draft plans and results in a panel report including any recommendations. Due to the sensitivity of the information that is being reviewed, in that it is of pre-application exploratory design nature, Panel members are required to keep information confidential. The Council staff member who coordinates the Panel and a resource consents planner also attends, although their roles are not participatory.

In Nelson the process is currently managed by Gabrielle Thorpe - Senior City Development Adviser, and Gabrielle was the convenor of the Panel meetings for this site. Other council staff that were involved in the Urban Design Panel meetings for this site included Thuja Johnson – Administrator City Development and Chris Miles - Senior Resource Consent Planner. Panel members were Graeme McIndoe (Chair), Jane Black and Den Aitken.

Any other information regarding the development of 64 Nile Street.

This part of your request is potentially very broad. We have interpreted your request to relate to information regarding the current proposed development of 64 Nile Street as we understand that this is the matter of concern to you.

Part of the information falling within the scope of this request has already been provided to you as referred to above. We have also enclosed further information that we hold that falls within the scope of this request.

We have decided to refuse your request for the balance of the information. This information relates to:

- Pre-application correspondence between Council and the developer that is subject to an obligation of confidence and withheld under section 7(2)(c)(i) LGOIMA as referred to above.
- Internal correspondence between Council officers, facilitating pre-application discussions with the developers and progressing review by the Major Projects Team and Urban Design Panel. We have decided to withhold this class of information as including information subject to an obligation of confidence that it is necessary to withhold under section 7(2)(c)(i) LGOIMA as referred to above.

We consider that the culmination of these discussions – the three reports referred to above and corresponding material tabled at those meetings attached, and the email from Heritage New Zealand (dated 9 December 2020) - and the application documents have been released to you, satisfies the related public interest considerations to be applied to your request.

- Correspondence between officers and with the developer that is refused under section 17(h) LGOIMA as it relates to trivial matters such as the scheduling and logistics of the meetings detailed above.

I do not consider that there are public interest factors that outweigh the need to withhold this information in these circumstances. As referred to above, I consider that the public interest is adequately met by the information that I have provided as part of this response.

You have the right to seek an investigation and review by the Ombudsman of this response. Information about how to make a complaint is available at www.ombudsman.parliament.nz or Freephone 0800 802 602.

If you wish to discuss this decision with us, please feel free to contact me on 03 546 0200 or clare.barton@ncc.govt.nz.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Clare Barton', with a stylized flourish at the end.

Clare Barton
Group Manager Environmental Management

Encl: Information in response to request (multiple documents)