



FORM 13: SUBMISSION

ON A RESOURCE CONSENT APPLICATION



Resource Management Act 1991 Section 96



TO // Queenstown Lakes District Council



YOUR DETAILS // Our preferred methods of corresponding with you are by **email** and **phone**.

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APPLICANT DETAILS

Applicant's Name: Northlake Investments Limited

Application Reference Number: RM181903

Details of Application:

Resource Consent is sought to construct and operate a 113 room hotel, with restaurant, bar and gym for hotel guests only; with associated earthworks, landscaping, car parking, access, loading and signage. It is proposed to construct and use off-site bus parking facilities. Consent is also sought to establish an Outline Development Plan for the part of Activity Area D1 in which this application relates to. The Hotel will consist of two main buildings – Building 1 (West) and Building 2 (East) and have a maximum height of 10 metres at Northlake Drive and Outlet Road, Wanaka. Legally described as Lot 1005 DP 515015 held in Record of Title 803942 and Lot 66 DP 371470 held in Record of Title 846779.

Location of Application:

Legally described as Lot 1005 DP 515015 held in Record of Title 803942 and Lot 66 DP 371470 held in Record of Title 846779.



SUBMISSION

I Support / I Oppose the application

I Do / I Do not wish to be heard in support of my submission



SIGNATURE

Signature (to be signed for or on behalf of submitter) **

Date 20/3/2019

** If this form is being completed on-line you may not be able, or required, to sign this form.



MY SUBMISSION IS // The particular parts of the application I support or object to are:

see attached



THE REASONS FOR MY SUBMISSION ARE:

see attached



MY SUBMISSION WOULD BE MET BY THE QUEENSTOWN LAKES DISTRICT COUNCIL MAKING THE FOLLOWING DECISION // Include any conditions sought:

see attached



Please receive this submission of **Quentin Smith**
and on behalf of the **silenced residents of Northlake.**

With regard to application RM181903

I am an Elected QLDC Councillors for the Wanaka Ward
I am Chair of the Wanaka Community Board
I am a Qualified and experienced Resource Management Planner
I am a Qualified and endorsed Resource Management Commissioner

While these are relevant to the weight of my submission i make this submission as a resident and layperson and not in my elected capacity.

I **oppose** the development in its entirety for the proposed Hotel at Northlake for the following reasons.

1. It is not in accordance with any approved Outline Development Plan and is in conflict with the Zones Objectives and Policies.
2. That the effects on the environment both within the development and on the wider community are more than minor.
3. That consent cannot be granted as it fails the 104d threshold test of the RMA.
4. That the core principles of Natural Justice are undermined by the consent application as affected parties have been actively excluded.

Status of the activity

For the purpose of this submission i have assessed the activity as a **Non Complying activity** pursuant to Rule 12.34.2.5 (viii) in that the proposed activity clearly is not and cannot be part of any approved ODP nor can consent be granted concurrently for a new ODP where it only covers part of activity area D1.

I expand on each of the points listed above in turn not only to demonstrate that consent should not be granted but that consent **cannot be granted** as no discretion to the commissioners to do so its provide under 104D of the RMA.

1. Outline Development Plan and Policy and Objectives

The operative policies and objectives and zone rules for “Section 12 - Special Zones (Northlake)” make provision and requirement for an Outline Development Plan (ODP) to be developed for the **whole** of Activity Area D1.

The policy framework of this zone seeks to use Outline Development Plans to manage the structure of the development to ensure the sought outcomes by the zone as described in the Purpose, issues, policy and objectives.

The incremental or dramatic change to development intensity and activity type away from that contained in any approved ODP clearly fails to achieve the zone purpose or intent of this objective and policy framework. In particular the integration of activity types and the protection of residential amenity are clearly evident in this structure for Northlake Special Zone.

While the policies do enable visitor accommodation they also seek compatibility and maintenance of residential amenity. It is self evident that a 113 unit hotel that doesn't comply with any approved ODP fails this test of planned integration and cannot maintaining any sense of residential character or amenity for adjoining residential activity as is sort by the zones policies and objectives.

While i accept it may be hard to undertake a development of this scale without minor changes to the ODP the scale and nature of the activities are neither minor nor have they been assessed in an integrated way through an ODP approval / reapproval process.

12.33.2 Objective 2

2.3 To require the use of Outline Development Plans in resource consent applications for Activity Areas B1 to B5, C1 to C4 and D1 in order to:

- implement the objectives and policies of the Zone and the relevant Activity Area and the Northlake Structure Plan;*
- determine the general location of anticipated future activities and built form within the Activity Area;*
- achieve any required density range within the relevant Activity Area;*
- achieve appropriate integration of anticipated future activities.*

2.4 To achieve a high level of integration through residential lot layout, street design, recreational areas (including walkways/ cycleways, parks and open spaces) and landscaping through the resource consent process using Outline Development Plans.

2.6 To enable visitor accommodation, commercial, retail and community activities and retirement villages within Activity Area D1 including limited areas of small scale neighbourhood retail to service some daily needs of the local community, while maintaining compatibility with residential amenity and avoiding retail development of a scale that would undermine the Wanaka Town Centre and the commercial core of the Three Parks Special Zone.

It is clear from the Rule 12.34.2.3 (ii) that this ODP is intended to be required at the onset of any development in that activity area and that the ODP would cover the **whole** of the activity area and cannot cover only part of the activity area and certainly not only one activity type.

While there is an approved ODP for D1 this proposal clearly does not comply with that ODP or any other part ODP. Consent is sought to gain concurrent approval for an ODP over only this site and without any connection or integration in the context of the wider activity area and zone.

I contend there is no provision in the plan to approve an ODP over part of activity area D1 and even if there was it clearly would not address the requirements of an ODP under the Zone Rules that are listed below and encourage integrated planning of the zone.

Below lists the areas of discretion and in turn outlines the information requirements of any ODP submitted for approval. Even the approved ODP fails to meet the information requirements of an ODP in particular the ii (b) that required the location and nature of any visitor accommodation to be identified and (l) being the integration of any ODP and consented developments.

ii. Residential, Visitor Accommodation, Commercial, Retail and Community Activities and Retirement Villages (all excluding buildings) in Activity Area D1

Any application for consent under this rule shall include a proposed Outline Development Plan as part of the proposed conditions of consent in respect of all of Activity Area D1. The exercise of Council's discretion shall be limited to:

- (a) Indicative subdivision design, density of residential units, lot configuration, maximum number of residential units proposed for any retirement village, and allotment sizes;
- (b) Location of any visitor accommodation, commercial, retail, retirement village and community activities;
- (c) Roading pattern and vehicle access arrangements, including integration with existing development;
- (d) Proposed road and street designs, including landscaping;
- (e) Location and suitability of pedestrian and cycling connections and linkages to surrounding pedestrian and cycling networks;
- (f) Location and suitability of open space and recreational amenity spaces;
- (g) The proposed methods of servicing by infrastructure;
- (h) Proposed methods of low impact stormwater disposal;
- (i) Proposals to protect and enhance conservation values;
- (j) Measures to address any adverse effects resulting from any contaminated sites;
- (k) The extent to which natural topography is respected, where practical;
- l) Integration of the Outline Development Plan with other parts of the zone, or with other consents with Outline Development Plans;
- (m) Design controls and implementation methods for managing outcomes on sites with internal setbacks of less than 1.5 m and / or lot sizes smaller than 400m²;

In my opinion the use of the ODP to ensure planned and integrated development as intended by the Zone rules and policies has not been correctly exercised in the administration of this zone. The ongoing removal of community amenities and the substantive changes in activities that have been allowed outside of the ODP and without the assessment of any amended ODP for the **whole** of the activity area is not correct. This inclusion of a large visitor accommodation that effects residential activities and in the absence of comprehensive early planning is clearly not what was intended.

It is my assessment that the proposal can only be contrary to any reasonable assessment of the policies and objectives.

2. Effects on the Environment

As a basis for establishing the effects on the environment we should look first at the environment that the Zone sought to create. The Purpose of the is stated in 12.33 as follows

The purpose of the Northlake Special Zone is to provide for a predominantly residential mixed use neighbourhood. The area will offer a range of housing choices and lot sizes ranging from predominantly low to medium density sections, with larger residential sections on the southern and northern edges. The zone enables development of the land resource in a manner that reflects the zone's landscape and amenity values.

The Northlake Special Zone includes a Structure Plan showing existing and proposed roads, the position of Activity Areas, Building Restriction Areas and Tree Protection Areas. Subsequent provisions refer to these terms. An important component of the Zone is the need to submit an Outline Development Plan as part of an application for consent to specified activities prior to development, to ensure the Zone is developed in an integrated manner.

Once again this Zone Purpose makes reference to the importance of the ODP to identify specific activities **PRIOR** to the development to ensure integration. This proposal clearly conflicts with that purpose and that unplanned and integrated large scale activities can only be considered to be more than minor in effect in this context.

12.33.1 (ii) Issues - Community

ii **Community**

Development in Northlake shall occur in a manner that provides for the integration of activities important for the social wellbeing of the

community. There is potential to establish a small precinct with community and commercial activities that meet some daily needs and act as a focal point for the Northlake community.

In the above Issue for community it describes commercial activities that contribute to the community rather than detract from it and has a focus on social wellbeing. It is hard to see how a hotel of this scale could not detract from the residential and community well being.

Once again i acknowledge that Visitor Accommodation is acknowledged in Activity Area D1 but it is clearly not intended by the zone to be of the scale proposed as it is not compatible with the residential character and small commercial precinct.

Rule 12.34.2.3 (regardless of any underlying non compliance) provides matters over which council is limited discretion for otherwise complying visitor accommodation buildings.

iv. Buildings for Visitor Accommodation, Commercial, Retail and Community Activities and Retirement Villages within Activity Area D1

The addition, external alteration or construction of buildings for visitor accommodation, commercial, retail and community activities and retirement villages within Activity Area D1, with the exercise of Council's discretion limited to:

- (a) The location, external appearance and design of buildings;
- (b) Infrastructure and servicing;
- (c) Associated earthworks and landscaping;
- (d) Access;
- (e) The amount of vehicle parking, its location and layout;
- (f) Location of buildings on the site;
- (g) Hours of operation; and
- (h) Integration between the proposed building and other consents with Outline Development Plans relevant to the site.

In assessing the application against these limits of discretion which include (h) integration with other consents with ODP and the associated assessment matters in 12.34.5.1 (v) which goes so far as to provide sketch drawings of the architectural style and scale anticipated (c), attractiveness of streetscape (b), whether it results in adverse effects on neighbouring properties (i) whether car parking is appropriately located (j) it becomes evident that plenty of scope exists within the limits of discretion to make a determination on the effects within the Northlake Community if the consent authority is minded to operate in these limits.

The proposed hotel bears no resemblance in scale or style to the architectural style described in the assessment matters and shown as sketches.

The zone rules and assessment matters are additional helpful in that they provide guidance on how to address changes to an ODP which are addressed below.

(k) In regard to Residential, Visitor Accommodation, Commercial, Retail and Community Activities and Retirement Villages in Activity Area D1, where a consent with an Outline Development Plan has previously been granted under Rule 12.34.2.3.ii

- (i) The extent to which a varied consent and Outline Development Plan takes into account, and enables integration with, existing Residential, Visitor Accommodation, Commercial, Retail, and Community Activities and Retirement Villages already developed in accordance with the previously consent and Outline Development Plan.
- (ii) The extent to which those activities may be of a nature, scale or frequency that would undermine the integrity of the consent and Outline Development Plan previously granted under Rule 12.34.2.3.ii.

When assessed against the above guidance i believe the assessment fails on both counts as it cannot integrate with the existing and mostly sold or established residential activities nor the established recreational reserves and facilities and open space, one of which is removed completely by the proposal.

With regards to whether the the proposal would undermine the integrity of the previously approved ODP it is equally clear that the replacement of a reserve with a large high intensity hotel adjacent to a residential activity the proposal and the amended (part) ODP equally fail.

I can only conclude with regard to the Purpose, Issues, Policies/Objectives and Rules of the zone, guidance of assessment matters and the intent of the ODP provisions that any activity of this scale particularly where it was not planned and integrated through an comprehensive ODP can only have effects that are more than minor. This is further compounded and exacerbated by the contrast of residential properties that could reasonably anticipate reserve and greens space adjacent that would now have a large hotel. This change on residential character is clearly more than minor.

3. Status of the activity and Part 104D of the RMA

If my assessment of the status of the activity is accepted as **non complying** the application must first be tested against the 104d threshold test outlined below and can only proceed if the consent authority is satisfied the effects are minor or that it is not contrary or the policies and objectives. (note that no assessment of the effect was made pursuant to notification as the applicant requested)

104D Particular restrictions for non-complying activities

- (1) Despite any decision made for the purpose of notification in relation to adverse effects, a consent authority may grant a resource consent for a non-complying activity only if it is satisfied that either—
 - (a) the adverse effects of the activity on the environment (other than any effect to which [section 104\(3\)\(a\)\(ii\)](#) applies) will be minor; or
 - (b) the application is for an activity that will not be contrary to the objectives and policies of—
 - (i) the relevant plan, if there is a plan but no proposed plan in respect of the activity; or
 - (ii) the relevant proposed plan, if there is a proposed plan but no relevant plan in respect of the activity; or
 - (iii) both the relevant plan and the relevant proposed plan, if there is both a plan and a proposed plan in respect of the activity.
- (2) To avoid doubt, [section 104\(2\)](#) applies to the determination of an application for a non-complying activity.

I have made a case above that the application has effects on the environment that are more than minor particularly when measured against the approved ODP and secondly the proposal is clearly contrary to the purpose, issues, policies and objectives set out in the North Lake special zone.

With this assessment i contend that it fails the 104d test and consent **cannot** be granted.

4. Natural Justice

The presence of a non objection and required support covenant is well documented and understood. This covenant also appears to be aggressively enforced by the developer.

The principal of natural justice is at the core of the RMA and indeed our legal system and the presence and enforcement of such a covenant is not only ethically questionable but also potentially unlawful.

I suggest that the consent authority must not have regard to any covenant and also in turn should disregard any affected party approval that has been provided under duress and legal threat. In our legal system witnesses or testimony that is coerced or in fact doesn't not represent the view of the witness is not only disregarded it could be deemed to be inadmissible. These principals

override and covenant or agreement and am confident would be found so if tested in the high court.

Conclusion

I contend not only that the consent authority **should** not grant consent but that the RMA does not allow a consent to be granted for non complying activity that fails this test and consent must be declined.

If however the activity is not assessed to be a Non Complying Activity and that the consent authority accept the position of the applicant that the activity is a Restricted Discretionary Activity and the assessment proceeds to a substantive assessment under 104(2) then the guidance provided by the assessment matters with regard to the higher order policy and objectives, the approved ODP and within the limits of discretion then i still believe that the proposed activity should be declined.

In making this assessment and in reading the rules and structure of the Special Zone rules it is very apparent to me that the structure of the Zone is very clear in what it intends and asks for in assessment. The requirement for integrated planning and the focus on well designed development runs all the way through from the Zone Purpose through to the assessment matters.

This application fundamentally undermines the Zone and the character of the Northlake Community. This proposal is well outside the scope of what was anticipated by the Zone, by the approved ODP and by the residents and character established and approval of such and activity would undermine the Operative QLDC District Plan and the communities confidence in its administration.

I call on the decision makers to uphold the integrity of the Northlake Zone and QLDC District Plan and to fulfil their obligations under the RMA and to protect the residents of Northlake, the future residents and the wider Wanaka Community particularly those that are silenced.

I wish to be heard in support of this submission.