

12 June 2018

Hon Gerry Brownlee
MP for Ilam

Email: [REDACTED]

Dear Hon Gerry Brownlee

REQUEST UNDER THE OFFICIAL INFORMATION ACT 1982

Thank you for your request to the Guardians of New Zealand Superannuation (“the **Guardians**”, the manager of the New Zealand Superannuation Fund (“the **Fund**”) dated 16 May 2018, under the Official Information Act 1982 (“**OIA**”).

Your Request

You have requested the following information:

1. *On what date did former CEO Adrian Orr attend a meeting with CERA in Christchurch at which he was asked what KiwiSaver Fund he represented.*
2. *The names of those who attended this meeting.*
3. *All written material, advice and communications provided in order to arrange the meeting.*
4. *All communications between the New Zealand Super Fund and CERA (including CCDU) between January 2012 and April 2016, including file notes of phone calls and correspondence between the New Zealand Super Fund and advisors/consultants to CERA/CCDU.*

Our Response

Questions 1, 2 and 3

Your request is refused on the basis that the Guardians does not hold any information or records noting the Kiwsaver comments that were reportedly made to former NZ Super Fund CEO Adrian Orr. We are therefore unable to identify the meeting concerned.

Question 4

Details of the information we have pertaining to your request, and our response in respect of that request, are set out in **Table 1 below** to this letter. The information we are releasing can be found **attached**, at **Appendix 1**.

For completeness, we note that in 2012 a Guardians employee was seconded to CERA for a period of three weeks. This employee did not work on the NZ Super IT system during the secondment. Therefore, we do not hold any records from that period.

We have withheld portions of certain documents on the basis that we have a good reason for doing so under section 9 of the OIA. In **Table 1** we have identified the particular grounds that apply to each document.

The general bases on which it is necessary for us to withhold the information, and the grounds under the OIA that we refer to, are as follows.

Section 9(2)(a) – *“Protect the privacy of natural persons”*. Staff names, contact details and personal and identifying information pertaining to individuals other than senior managers has been withheld in order to protect the privacy of natural persons. We cannot see any public interest in, or public benefit from, the release of this personal information. Information regarding the identity of these individuals is not required for the purposes of transparency and accountability of the Guardians’ activities.

Section 9(2)(b)(ii) – *“Protect information where the making available of the information would be likely to unreasonably prejudice the commercial position of the person who supplied or who is the subject of the information”*.

We carry out commercial activities in relation to the Fund, and in doing so work with and receive information from and relating to a variety of suppliers, advisors and investment partners, each commercial entities in their own competitive markets. These parties are concerned about protecting their commercial positions. We wish to protect information that could, if released, unreasonably prejudice their business activities.

As the Fund is set up for the benefit of current and future generations of New Zealanders, it is in the public interest that the Guardians maintains high standards of confidentiality and protects sensitive information provided to it, with those it works with. Releasing this information could mean such parties will not work with us or freely share information with us in the future.

Section 9(2)(ba)(i) – *“Protect information which is subject to an obligation of confidence...where the making available of the information would be likely to prejudice the supply of similar information, or information from the same source, and it is in the public interest that such information should continue to be supplied”*.

The Guardians conducts commercial discussions, on behalf of the Fund, with a range of companies in New Zealand. These discussions are conducted on a confidential basis. This confidentiality is essential to:

- Ensure that companies are willing to approach the Fund for investment;
- Protect the flow of information from companies to the Guardians;
- Ensure that the companies’ own commercial activities and negotiations are not prejudiced; and
- Ensure that the Fund’s commercial activities are not prejudiced.

The NZ Super Fund operates in a competitive environment for investment opportunities. In the event that confidential information is disclosed, it is likely that entities with which the Guardians might wish to invest, and other parties that the Guardians might wish to enter into a substantive commercial arrangement with, will be reluctant to engage with the Guardians because of the risk that their confidential information could be disclosed.

Due to the size and the nature of the investments we are responsible for, and the source of the funds we are investing, we hold a position of considerable influence with regard to the economic interests of New Zealand. All New Zealanders stand to benefit from the success of the Fund. It is in the public interest that this information continues to be supplied to the Guardians and that we are able to maintain high standards of confidentiality with those we work with in order to compete on a level playing field with other investors.

Section 9(2)(i) – *“enable a Minister of the Crown or any department or organisation holding the information to carry out, without prejudice or disadvantage, commercial activities.”*

Investing the Fund is a commercial activity. Our ability to compete will be prejudiced or disadvantaged if non-public information concerning our strategy and likely future

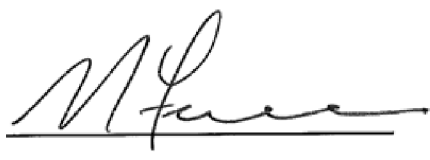
investment actions were made known to the relevant market participants. It would also be prejudicial to our negotiating position on potential future investments for information to be disclosed that gives potential future counterparties insight into the basis on which the Guardians is prepared to transact.

Potential future counterparties, suppliers and partners to potential investment transactions will be discouraged from dealing with the Guardians if they do not have trust in our ability to maintain the confidentiality of sensitive information provided by them to us in the course discussions. It is in the public interest that we maintain the highest standards of confidentiality and commercial sensitivity with those we work with, as well as our own commercial sensitivity.

General

You have the right to seek a review by the Office of the Ombudsman of our decision to withhold the information. Please note that we may choose to publish our response to your request on our website at www.nzsuperfund.co.nz.

Yours sincerely

A handwritten signature in black ink, appearing to read 'M Fennell', is written over a horizontal line. The signature is enclosed in a thin black rectangular border.

Mark Fennell
Acting Chief Investment Officer

Table 1

	Document Reference	Date	Document Name	Decision
1	<u>312877</u>	9/02/2012 and 19/04/2012	Emails between Medley Advisors (adviser to CERA) and NZSF - "RE: Christchurch Recovery Observations"	Released in full except for names and contact details, which have been withheld under section 9(2)(a)
2	<u>330252</u>	21/06/2012	Email between Medley Advisors and NZSF - "Re: Christchurch Update"	Released in full except for names and contact details, which have been withheld under section 9(2)(a)
3	<u>333238</u>	02/07/2012	Emails between Medley Advisors and NZSF - "Re Christchurch Central Development Unit (CCDU) and NZSF Engagement"	Released in full except for names and contact details, which have been withheld under section 9(2)(a)
4	<u>334898</u>	06/07/2012	Emails between Medley Advisors and NZSF - "Re Christchurch Central Development Unit (CCDU) and NZSF Engagement" Attachment – Email from Adrian Orr, NZSF to Warwick Isaacs, CCDU - "Catch"	Released in full except for names and contact details, which have been withheld under section 9(2)(a) Partially withheld under sections 9(2)(a), 9(2)(b)(ii), 9(2)(ba)(ii), 9(2)(i)
5	<u>336833</u>	13/07/2012	Email between Medley Advisors and Adrian Orr, NZSF - "CCDU"	Released in full except for names and contact details, which have been withheld under section 9(2)(a)
6	<u>337151</u>	16/07/2012	Email between Medley Advisors and NZSF - "FW: Bio"	Partially withheld: names, contact details and personal & identifying information withheld under section 9(2)(a)
7	<u>401922</u>	30/07/2012	Emails between CERA and Adrian Orr, NZSF - "RE: Christchurch Central Recovery Launch – this evening"	Released in full except for names and contact details, which have been withheld under section 9(2)(a)
8	<u>2077454</u>	27/03/2013	Email between Medley Advisors and NZSF - "Thursday"	Released in full except for names and contact details, which have been withheld under section 9(2)(a)

9	<u>861793</u>	13/05/2013	Emails between Cameron Partners and NZSF - "RE: Christchurch rebuild – market engagement"	Redactions - information withheld under sections 9(2)(a), 9(2)(b)(ii), 9(2)(ba)(ii), 9(2)(i)
10	<u>913520</u>	29/08/2013	Emails between NZSF staff - "file note ChCh discussion with Paul Silk (CCDU)"	Redactions - information withheld under sections 9(2)(a), 9(2)(b)(ii), 9(2)(ba)(ii), 9(2)(i)
11	<u>915506</u>	03/09/2013	Email between NZSF staff (file note on conversations between Adrian Orr and CERA staff) - "chch connections"	Released in full except for names and contact details, which have been withheld under section 9(2)(a)
12	<u>916370</u>	02/09/2013	File note on conversation between Adrian Orr and Roger Sutton - "Roger Sutton – ChCh CERA CEO"	Released in full except for names and contact details, which have been withheld under section 9(2)(a)
13	<u>936347</u>	17/10/2013	Emails between CERA and NZSF - "RE: Health Precinct – Christchurch"	Released in full except for names and contact details, which have been withheld under section 9(2)(a)