



## Decision and Reasons for Decision

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Citation:	<i>Mewburn and Bundaberg Regional Council; Honor (Third Party)</i> [2017] QICmr 20 (12 June 2017)
Application Number:	312856
Applicant:	Mewburn
Respondent:	Bundaberg Regional Council
Third Party:	Honor
Decision Date:	12 June 2017
Catchwords:	<b>ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - CONTRARY TO PUBLIC INTEREST INFORMATION - request for registers of interests for persons related to a councillor - request for job application and appointment information of Council employees related to a councillor - request for job application information of unsuccessful applicants - enhancing transparency, accountability and oversight of expenditure of public funds - contributing to informed debate on important issues - informing the community about Council operations - personal information and privacy - prejudice to business and commercial affairs - whether disclosure would, on balance, be contrary to the public interest - whether access may be refused under section 47(3)(b) of the <i>Right to Information Act 2009</i> (Qld)</b>

## REASONS FOR DECISION

### Summary

1. The applicant applied to Bundaberg Regional Council (**Council**) under the *Right to Information Act 2009* (Qld) (**RTI Act**) for access to registers of interests of persons related to a particular Councillor; resumes, appointment and tenure information for four Council officers related to the named Councillor; resumes of unsuccessful shortlisted applicants for the positions held by the four Council officers; and a list of Council employees in a particular department.
2. Council located relevant documents and decided to release 1 page<sup>1</sup> and refuse access to 13 pages<sup>2</sup> on the ground that their disclosure would, on balance, be contrary to the public interest.<sup>3</sup>

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<sup>1</sup> Being a list of Council employees in a particular department of Council.

<sup>2</sup> Constituting a register of interests of an individual related to the named Councillor.

<sup>3</sup> Decision dated 6 June 2016.

3. The applicant applied<sup>4</sup> to the Office of the Information Commissioner (**OIC**) for external review of Council's decision, seeking access to the refused information and contending that Council had not located all documents responsive to his application.
4. On external review, Council located an additional 447 pages of information and agreed to release 119 pages and 143 part pages.
5. A third party consulted by OIC during the external review objected to disclosure of four of the 143 part pages and has been joined as a participant.
6. For the reasons set out below, I vary Council's decision and find that:
  - the 13 page register of interests may be refused on the ground that disclosure of it would, on balance, be contrary to the public interest
  - four part pages may be released contrary to the Third Party's objection, as disclosure of this information would not, on balance, be contrary to the public interest; and
  - the resumes of unsuccessful applicants for the positions held by four Council officers related to the named Councillor may be refused, as disclosure of them would, on balance, be contrary to the public interest.

## Background

7. Council accepted OIC's view that there was no basis under the RTI Act to refuse access to 122 pages and 143 part pages of the 447 pages of additional information located on external review.
8. OIC considered that a number of individuals may be concerned about the disclosure of information relating to them among the 122 pages and 143 part pages and, therefore, consulted with those individuals.<sup>5</sup> One of the consulted individuals—the **Third Party**—objected to disclosure of four of the 143 part pages and applied to be joined<sup>6</sup> as a participant in the review.<sup>7</sup> The Third Party accepted OIC's view that the information that was the subject of the consultation—including the four part pages—was not outside the scope of, nor irrelevant to, the access application, and was not exempt information. The Third Party also accepted that there was no basis to refuse access to information other than the four part pages.<sup>8</sup>
9. The applicant confirmed that he wishes to access the four part pages. Also, he submitted that the 13 page register of interests and the resumes of unsuccessful applicants for the positions held by four individuals related to the named Councillor should be released to him. He accepted OIC's view that the remainder of the information located by Council on external review was either outside the scope of, or irrelevant to, the access application, or comprised highly personal information appearing on documents regarding

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<sup>4</sup> On 13 June 2016.

<sup>5</sup> Under section 37 of the RTI Act.

<sup>6</sup> Under section 89(3) of the RTI Act.

<sup>7</sup> Correspondence dated 28 February 2017.

<sup>8</sup> OIC conveyed a preliminary view to the Third Party on 21 February 2017. The Third Party was advised that if OIC did not receive a response to the preliminary view within a specified period, the Third Party would be taken to have accepted the preliminary view. The Third Party did not respond to OIC's preliminary view regarding these issues within the specified period, and has not since provided a response.

the four individuals related to the named Councillor,<sup>9</sup> the disclosure of which would, on balance, be contrary to the public interest.<sup>10</sup>

10. These and other significant procedural steps relating to the external review are set out in the Appendix.

### Reviewable decision

11. The decision under review is Council's decision dated 6 June 2016.

### Evidence considered

12. Evidence, submissions, legislation and other material I have considered in reaching this decision are disclosed in these reasons (including footnotes and Appendix).

### Information in Issue

13. Taking into consideration the preliminary views accepted by the external review participants,<sup>11</sup> and the matters therefore resolved informally during the review process, the **Information in Issue** remaining for consideration in this decision is:
  - the 13 page register of interests that Council decided to refuse to disclose (**Register**)
  - four part pages<sup>12</sup> of the information located by Council on external review that the Third Party contends should not be disclosed (**Third Party Information**); and
  - 120 pages<sup>13</sup> of the information located by Council on external review about individuals who unsuccessfully applied for Council positions held by four individuals related to the named Councillor (**Unsuccessful Applicant Information**).

### Procedural issues

14. Before considering the Information in Issue, it is necessary to deal with a number of procedural issues raised by the applicant.

### ***Request for submissions to be treated as confidential***

15. Submissions were provided to OIC by the applicant on a number of occasions.<sup>14</sup> The applicant purported to make those submissions under '*express confidence*' and requested that OIC treat his submissions as being '*fully confidential*' because he:

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<sup>9</sup> Namely, signatures where the identity of the signatory is ascertainable, contact details (such as email addresses, postal and residential addresses and mobile telephone numbers), referee details, social interests, remuneration details (including paypoint classifications), payroll and other officer identification numbers and student numbers (as identified in OIC's preliminary view to the applicant dated 10 March 2017).

<sup>10</sup> OIC conveyed a preliminary view to the applicant on 10 March 2017. The applicant was advised that if he did not respond to the preliminary view within a specified period, he would be taken to have accepted the preliminary view. The applicant did not respond to OIC's preliminary views regarding these issues within the specified period, and has not since provided a response.

<sup>11</sup> As set out at paragraphs 7-9 above.

<sup>12</sup> Being parts of pages 12-13 and 22-23 in File D.

<sup>13</sup> Being pages 48-118 in File B and pages 31-79 in File D.

<sup>14</sup> As set out in the Appendix.

- characterises his position as being that of a whistleblower<sup>15</sup>
  - considers that Council's internal complaint system is essentially 'a system for reprisal and denial of their liability and essentially dangerous for the complainant';<sup>16</sup> and
  - is concerned about the safety of the documents, his personal safety and the safety of his family members due to 'further likely illegal and/or criminal reprisals into the future'.<sup>17</sup>
16. The applicant further submits that there is no provision in the RTI Act which expressly allows OIC to breach his confidence.<sup>18</sup>
17. Under the RTI Act:
- the procedure to be followed in an external review is, subject to the RTI Act, at the Information Commissioner's discretion<sup>19</sup> and the Information Commissioner may give directions as to such procedure<sup>20</sup>
  - in conducting the external review, the Information Commissioner is required to adopt procedures that are fair to all participants;<sup>21</sup> and
  - the Information Commissioner is required to publish decisions and reasons for decisions.<sup>22</sup>
18. Consistent with the purpose of the RTI Act,<sup>23</sup> under the Information Commissioner's external review procedures, participants' submissions are not generally treated as confidential. Further, OIC's published decisions generally include the names of the participants to the external review, the facts relied on, details of the law used, details of submissions made by the participants and reasons for the decision. The applicant was advised of these matters on several occasions throughout the review.<sup>24</sup> In these circumstances, I am unable to accept that an obligation of confidence arises in relation to the applicant's submissions—and therefore cannot accept his contention that reference to relevant parts of his submissions in this decision breaches his confidence.
19. Further, while I appreciate that the applicant has concerns about the alleged '*instances of reprisals and coercion*' identified in his submissions, I am unable, on the information before me, to determine how reference to relevant aspects of the applicant's

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<sup>15</sup> The applicant characterises his position as such in terms of his multiple allegations and concerns about certain contractual arrangements and processes of Council (as summarised at paragraph 20 below). By letters dated 5 April 2017 and 24 April 2017, OIC advised the applicant that these matters were beyond OIC's jurisdiction to consider or address, and provided him with information about complaint handling bodies with relevant investigative powers that he may wish to approach regarding them. On 1 May 2017, the applicant submitted that he had taken the necessary steps to bring his concerns to the government's attention '*by the only means possible*'. On careful consideration of the material before me, I am satisfied that, in advising the applicant of relevant complaint bodies for his allegations and concerns, OIC has taken all necessary and appropriate action regarding them.

<sup>16</sup> Submissions received 21 April 2017.

<sup>17</sup> Submissions received 29 March 2017.

<sup>18</sup> Submissions received 5 May 2017. The applicant refers *Coco v AN Clark (Engineers) Ltd* [1969] RPC 41 at 48, *Ansell Rubber Co v Allied Rubber Industries* [1967] VR 37 and *Attorney-General (UK) v Heinemann Publishers Australia Pty Ltd* (1987) 10 NSWLR 86 at 189-190 in support of his submissions that 'OIC does not have the authority of standing to breach his confidential communications'.

<sup>19</sup> Section 95(1) of the RTI Act.

<sup>20</sup> Section 95(2) of the RTI Act.

<sup>21</sup> Section 97(2)(a) of the RTI Act.

<sup>22</sup> Section 110(6) of the RTI Act.

<sup>23</sup> Preamble and section 3 of the RTI Act.

<sup>24</sup> The applicant was notified of OIC's procedures in the attachment titled '*Information for applicant*' enclosed with OIC's letter dated 30 June 2016 and the attachment titled '*A guide for making a submission on external review*' enclosed with OIC's letter dated 10 March 2017. The general position that participants' submissions are not generally treated as confidential was also confirmed to the applicant in OIC's correspondence dated 5 April 2017, 24 April 2017 and 4 May 2017. The requirements for published decisions were set out in the attachment titled '*Information for applicant*' enclosed with OIC's letter dated 30 June 2016 and confirmed to the applicant in OIC's correspondence dated 5 April 2017 and 24 April 2017.

submissions in this decision could reasonably be expected to lead to such conduct occurring or reoccurring.

20. In these circumstances, exercising my discretion under section 95(1)(a) of the RTI Act, I have chosen not to depart from the general rule that participants' submissions are **not** treated as confidential. Accordingly, I have summarised and addressed the applicant's submissions below, to the extent they are relevant to the issues for determination. In respect of the submissions that are not relevant to the issues for determination, these generally relate to the applicant's concerns about:
- alleged enrichment of the named Councillor from contracts entered into by Council with that Councillor's personal businesses
  - alleged breaches of workplace and employment laws; and
  - perceived inadequacies in Council's supply arrangements, planning processes, recruitment processes and financial arrangements.
21. OIC's jurisdiction under the RTI Act relates only to decisions about access to and, where relevant, amendment of documents held by agencies and does not extend to any investigation of these matters.

### **Communication with the unsuccessful applicants**

22. The applicant also requested<sup>25</sup> that OIC consult with the unsuccessful applicants for the four Council positions held by relatives of the named Councillor regarding their resumes. The applicant gave 'express consent' for OIC to communicate a specific statement set out in his submissions<sup>26</sup> to those individuals, in order to seek their consent to disclosure of the Unsuccessful Applicant Information.
23. Where access to a document may be given, and that document that contains information the disclosure of which may reasonably be expected to be of concern to a person, section 37 of the RTI Act requires that steps be taken to obtain the views of that person. In the present circumstances, however, I am satisfied that a ground for refusing access applies to the Unsuccessful Applicant Information.<sup>27</sup> Accordingly, the requirement to take steps to obtain the views of the unsuccessful applicants about disclosure does not arise. In these circumstances, I am not required to consult with the unsuccessful applicants, and have not done so.
24. I will now turn to consideration of the substantive issues to be determined in this review.

### **Relevant law**

25. Under the RTI Act, a person has a right to be given access to documents of an agency.<sup>28</sup> The RTI Act is administered with a pro-disclosure bias, meaning that access should be given to a document unless giving access would, on balance, be contrary to the public

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<sup>25</sup> In submissions received 29 March 2017 and 1 May 2017.

<sup>26</sup> Being the statement set out in submissions received 29 March 2017: 'The RTI applicant seeks access to the documents in full regarding the awarding of this and three others positions to a councillor's family member(s) etc. There is apparent bias and nepotism present which requires public interest scrutiny due to the apparent unfair methods by council. The RTI applicant advises that the unsuccessful candidate(s) seek independent advice as to action that may be taken under workplace and employment law, including recruitment procedures and industrial relations protocols or workplace relations complaints'.

<sup>27</sup> For the reasons set out at paragraphs 64 to 82 below.

<sup>28</sup> Section 23 of the RTI Act.

interest.<sup>29</sup> The RTI Act sets out certain grounds on which access to information may be refused.<sup>30</sup> It is Parliament's intention that these grounds are to be interpreted narrowly.<sup>31</sup>

26. One such ground for refusal of access is where disclosure of the information would, on balance, be contrary to the public interest.<sup>32</sup>
27. In assessing whether disclosure of information would, on balance, be contrary to the public interest, a decision maker must:<sup>33</sup>
  - identify factors irrelevant to the public interest and disregard them
  - identify factors in favour of disclosure of information
  - identify factors in favour of nondisclosure of information; and
  - decide whether, on balance, disclosure of the information would be contrary to the public interest.

### Findings – Register

28. The *Local Government Regulation 2012 (Qld) (Regulation)* provides that the chief executive officer of a local government is required to maintain registers of interests of councillors, senior executive employees and persons who are 'related' to a councillor or senior executive employee.<sup>34</sup> A person is considered 'related' to a councillor if they meet specific criteria.<sup>35</sup>
29. The Register is a 13 page register of interests of an individual related to the named Councillor in accordance with this criteria.<sup>36</sup>

### Irrelevant factors

30. I have taken no irrelevant factors into account in making my decision.

### Factors favouring disclosure

31. The RTI Act gives rise to factors favouring disclosure in circumstances where disclosing information could reasonably be expected to:
  - promote open discussion of public affairs and enhance the Government's accountability<sup>37</sup>
  - contribute to positive and informed debate on important issues or matters of serious interest<sup>38</sup>
  - inform the community of the Government's operations, including, in particular, the policies, guidelines and codes of conduct followed by the Government in its dealings with members of the community<sup>39</sup>

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<sup>29</sup> Section 44(1) of the RTI Act.

<sup>30</sup> Section 47(3) of the RTI Act.

<sup>31</sup> Section 47(2)(a) of the RTI Act.

<sup>32</sup> Sections 47(3)(b) and 49 of the RTI Act.

<sup>33</sup> Section 49(3) of the RTI Act.

<sup>34</sup> Section 290(1) of the Regulation.

<sup>35</sup> Specified in section 289(2) of the Regulation.

<sup>36</sup> The Register appears to have been created using a form that refers to the *Local Government (Operations) Regulation 2010 (Qld)*, the repealed predecessor of the Regulation in terms of registers of interests. However, the date on which the Register was signed indicates that it was completed and lodged with Council in order to comply with the Regulation.

<sup>37</sup> Schedule 4, part 2, item 1 of the RTI Act.

<sup>38</sup> Schedule 4, part 2, item 2 of the RTI Act.

<sup>39</sup> Schedule 4, part 2, item 3 of the RTI Act.

- allow or assist inquiry into possible deficiencies in the conduct or administration of an agency or official<sup>40</sup>
- reveal or substantiate that an agency or official has engaged in misconduct or negligent, improper or unlawful conduct<sup>41</sup>
- reveal the reason for a government decision and any background or contextual information that informed the decision;<sup>42</sup> and
- reveal that the information was incorrect, out of date, misleading, gratuitous, unfairly subjective or irrelevant.<sup>43</sup>

32. The applicant submits that:

- he has 'public interest' concerns about alleged breaches of ethics and governance and defective administration by Council and its chief executive officer
- Council's decision to refuse access to the Register '*breaches multiple aspects of the provisions and purposes of Schedule 4 Part 2, factors favouring disclosure in the public interest*'<sup>44</sup>
- the individual, for whom '*OIC has purported public interest privacy*', is likely involved in, or will become involved in, the named Councillor's business interests, to which the applicant's concerns about Council's contracts relate,<sup>45</sup> and
- nondisclosure of the Register results in '*covering up of wrongdoing*'.<sup>46</sup>

33. The Regulation provides that:

- a register of interests of a councillor may be inspected by the public;<sup>47</sup> and
- a register of interests of a person related to a councillor is only open for inspection by a councillor, the chief executive officer or another person permitted by law to have access to information in the register;<sup>48</sup> and
- a register of interests of a person related to a councillor is *not* required to include any interest that is held jointly or in common with the councillor, or which is included in the councillor's register.<sup>49</sup>

34. In accordance with the Regulation, the register of interests of the relevant Councillor is publicly available on the Council's website. In contrast, the Register contains information about a person who is not a public service officer, and is not publicly available.

35. Insofar as the Register provides a general illustration of the manner in which Council records and maintains registers of interests, I consider that disclosure of the Register could reasonably be expected to enhance Council's accountability and transparency<sup>50</sup> and inform the community about Council operations,<sup>51</sup> and afford these factors some weight.

36. The applicant's concerns, as outlined in his submissions, are expressed in relation to the Councillor's business interests, as disclosed in the Councillor's publicly available register. The applicant contends that the Register should be disclosed, as the related

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<sup>40</sup> Schedule 4, part 2, item 5 of the RTI Act.

<sup>41</sup> Schedule 4, part 2, item 6 of the RTI Act.

<sup>42</sup> Schedule 4, part 2, item 11 of the RTI Act.

<sup>43</sup> Schedule 4, part 2, item 12 of the RTI Act.

<sup>44</sup> External review application.

<sup>45</sup> Submission received 29 March 2017.

<sup>46</sup> Submission received 21 April 2017.

<sup>47</sup> Sections 293(1) and 295 of the Regulation. Councillors' registers of interests are publicly available on Council's website at <http://www.bundaberg.qld.gov.au/council/about-council/councillors>.

<sup>48</sup> Section 293(3) of the Regulation.

<sup>49</sup> Section 291(2) of the Regulation.

<sup>50</sup> Schedule 4, part 2, items 1 and 11 of the RTI Act.

<sup>51</sup> Schedule 4, part 2, item 3 of the RTI Act.

person is, or will become, involved in the named Councillor's business interests, to which the applicant's concerns about Council's contracts relate.<sup>52</sup> Insofar as the Register reveals the extent to which the related person is involved in the Councillor's business interests, I do not consider that accountability and transparency considerations arise. As noted above, the related person is not a public service officer. Also, under the Regulation, the related person's Register need not record any interests that are held jointly or in common with the Councillor, or included in the Councillor's register. In these circumstances, I am unable to identify how Council's accountability or transparency would be enhanced by disclosure of the related person's interests.

37. The applicant's concerns about Council's contractual arrangements may also be construed as relating to interests owned by relatives of the named Councillor that, under the Regulation, need not be declared by the named Councillor himself. Apart from the applicant's submissions, I have no evidence before me of any alleged wrongdoing, breaches of ethics or governance, or defective administration by Council, its chief executive officer, the named Councillor or the related person. Also, while I am constrained as to the level of information I can provide regarding the Register,<sup>53</sup> I can confirm that I have carefully compared the interests recorded in the Register with those set out in the named Councillor's publicly available register of interests, in order to identify any overlap between the two registers and consider any interests appearing only in the Register. Given these considerations, in terms of the extent to which disclosure of the Register would reveal interests held only by the related person, and not included on the named Councillor's register, I am satisfied that the public interest in accountability and transparency,<sup>54</sup> informing the community about Council operations,<sup>55</sup> contributing to informed debate,<sup>56</sup> and in assisting inquiry into, or revealing, possible deficiencies in conduct or administration<sup>57</sup> of any persons, would be advanced to a limited extent, if any.
38. The Register contains information about financial and non-financial interests of the related person. Given the requirements for the content of such a register prescribed in the Regulation, and the nature of the information contained in the Register, I consider it unlikely that disclosure of the Register could reasonably be expected to reveal that its contents are incorrect, out of date, misleading, gratuitous, unfairly subjective or irrelevant.<sup>58</sup> For these reasons, I afford this factor favouring disclosure low to no weight.
39. I have carefully considered all factors listed in schedule 4, part 2 of the RTI Act, and can identify no other public interest considerations telling in favour of disclosure of the Register. I cannot see how disclosure of the Register could, for example, advance the fair treatment of individuals and other entities in accordance with the law in their dealings with agencies<sup>59</sup> or contribute to the administration of justice generally or for a person.<sup>60</sup>

### **Factors favouring nondisclosure**

40. The RTI Act recognises nondisclosure factors where disclosing information could reasonably be expected to:
- prejudice the protection of an individual's right to privacy;<sup>61</sup> and

<sup>52</sup> Submission received 29 March 2017.

<sup>53</sup> Section 108(3) of the RTI Act provides that the Information Commissioner must not, in a decision, include information that is claimed to be exempt information or contrary to the public interest information.

<sup>54</sup> Schedule 4, part 2, items 1 and 11 of the RTI Act.

<sup>55</sup> Schedule 4, part 2, item 3 of the RTI Act.

<sup>56</sup> Schedule 4, part 2, item 2 of the RTI Act.

<sup>57</sup> Schedule 4, part 2, items 5 and 6 of the RTI Act.

<sup>58</sup> Schedule 4, part 2, item 12 of the RTI Act.

<sup>59</sup> Schedule 4, part 2, item 10 of the RTI Act.

<sup>60</sup> Schedule 4, part 2, items 16 and 17 of the RTI Act.

<sup>61</sup> Schedule 4, part 3, item 3 of the RTI Act.



- cause a public interest harm if it would disclose personal information of a person, whether living or dead.<sup>62</sup>
41. The Register contains information, which is personal in nature, about an individual who is not a public service officer and who has provided information only by reason of being 'related' to a Councillor. The Register is not information that is publicly available.
42. I am satisfied that disclosure of the Register under the RTI Act would be a significant intrusion into the privacy of this individual and the extent of the public interest harm that could be anticipated from disclosure is significant. For these reasons, I find that the public interest factors relating to the protection of personal information and privacy<sup>63</sup> carry significant weight.
43. As a result of the applicant's submissions that the related person is likely involved in or will become involved in a Councillor's business interests, I have also considered the nondisclosure factors relating to the prejudice or harm to business, professional, commercial or financial affairs of entities.<sup>64</sup> Taking into account the nature of the Register, being a register of interests held by an individual, and the nature of the information in it (including any overlap between the interests in the Register and those set out in the name Councillor's register, and any interests appearing only in the Register<sup>65</sup>), I find that low to no weight should be afforded to this factor favouring nondisclosure.

### ***Balancing the public interest***

44. To the extent that disclosure would reveal the manner in which Council manages registers of interests, I afford relatively limited weight to the factors favouring disclosure relating to accountability and transparency<sup>66</sup> and informing the community about Council operations.<sup>67</sup> Also, in terms of revealing interests held by the related person that are not included in the named Councillor's register of interests, I consider that the material before me is insufficient to warrant affording any more than low weight to the factors relating to accountability and transparency,<sup>68</sup> informing the community about Council operations,<sup>69</sup> contributing to public debate<sup>70</sup> and assisting inquiry into, or revealing, possible deficiencies in conduct or administration.<sup>71</sup> Otherwise, I consider that low to no weight should be afforded to the factor regarding revealing that the Register is incorrect, out of date, misleading, gratuitous, unfairly subjective or irrelevant.<sup>72</sup> On the other hand, I am satisfied that the factors favouring nondisclosure, which relate to the protection of personal information and privacy,<sup>73</sup> should be afforded significant weight, and that this outweighs the weight of the factors favouring disclosure.

### ***Conclusion***

45. For the reasons outlined above, I find that disclosing the Register would, on balance, be contrary to the public interest and, accordingly, access to the Register may be refused under the RTI Act.

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<sup>62</sup> Schedule 4, part 4, item 6(1) of the RTI Act.

<sup>63</sup> Schedule 4, part 3, item 3 and schedule 4, part 4, item 6 of the RTI Act.

<sup>64</sup> Schedule 4, part 3, item 2 and schedule 4, part 4, item 7(1)(c) of the RTI Act.

<sup>65</sup> Section 108(3) of the RTI Act prevents me from being more specific in this regard.

<sup>66</sup> Schedule 4, part 2, items 1 and 11 of the RTI Act.

<sup>67</sup> Schedule 4, part 2, item 3 of the RTI Act.

<sup>68</sup> Schedule 4, part 2, items 1 and 11 of the RTI Act.

<sup>69</sup> Schedule 4, part 2, item 3 of the RTI Act.

<sup>70</sup> Schedule 4, part 2, item 2 of the RTI Act.

<sup>71</sup> Schedule 4, part 2, items 5 and 6 of the RTI Act.

<sup>72</sup> Schedule 4, part 2, item 12 of the RTI Act.

<sup>73</sup> Schedule 4, part 3, item 3 and schedule 4, part 4, item 6(1) of the RTI Act.

## Findings – Third Party Information

46. The Third Party Information comprises four part pages<sup>74</sup> of the information located by Council on external review that the Third Party contends should not be disclosed. The remainder of the information on these four pages constitutes highly personal information of the Third Party and is no longer in issue.<sup>75</sup>
47. The Third Party initially submitted<sup>76</sup> that the Third Party Information was outside the scope of, or irrelevant to, the access application. However, during the external review, the Third Party accepted that the Third Party Information fell within the scope of the access application<sup>77</sup> and, therefore could not be refused or deleted on this basis.
48. I remain satisfied that the Third Party Information is responsive to the applicant's access application—specifically, his request for resumes, appointment and tenure information for four Council officers related to the named Councillor—given that, on their face, the four part pages form part of a curriculum vitae of the Third Party, and given that the Third Party is a relative of the named Councillor.
49. The Third Party maintains that the Third Party Information should be refused on public interest grounds.

### **Irrelevant factors**

50. The Third Party has raised concerns about the reasons the applicant is seeking access to information in the Third Party Information and how that information could be used.<sup>78</sup>
51. The Information Commissioner has previously explained that:<sup>79</sup>

*An access applicant's motives for seeking access to information are irrelevant to a consideration as to whether access should be granted to requested information. Speculation as to the identity of a particular access applicant, the access applicant's reasons for lodging an application, and any intended use of the information are not generally matters to be taken into account in assessing the balance of the public interest.*

52. The applicant's reasons for seeking access to the Third Party Information are irrelevant and I have therefore not taken them, or any other irrelevant factor, into account.

### **Factors favouring disclosure**

53. As the Third Party Information forms part of the information submitted by the Third Party in support of the Third Party's application for the Council position to which the Third Party was appointed, disclosure of the Third Party Information would go some way to informing the applicant about Council's recruitment process for that position. This could

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<sup>74</sup> Being parts of pages 12-13 and 22-23 in File D.

<sup>75</sup> As noted at paragraph 9, the applicant accepted that disclosure of such information would be contrary to the public interest.

<sup>76</sup> Submission received 8 February 2017.

<sup>77</sup> As noted in paragraph 8 above.

<sup>78</sup> Submissions received 8 February 2017.

<sup>79</sup> *Helping Hands Network Pty Ltd and Department of Education, Training and Employment* (Unreported, Queensland Information Commissioner, 30 October 2012) at [66], citing *State of Queensland v Albietz* [1995] 1 Qd R 215 at 219 where de Jersey J observed that 'the Freedom of Information Act does not confer any discretion on the Information Commissioner, or the Supreme Court, to stop disclosure of information because of any particular motivation in the applicant'. See also the Victorian Supreme Court decision in *Victoria Police v Marke* [2008] VSCA 218, in which Weinberg JA noted at paragraph 66 '[the FOI Act] does not, in the normal course, contemplate that the motives of the person seeking access to a document should be scrutinised and characterised as either worthy or unworthy. These are value judgements, which are likely to be highly subjective, and have no place in a scheme that is designed to ensure the proper accountability of government.' I consider these observations apply equally to the RTI Act. See also *Rylsey Enterprises Pty Ltd and Cassowary Coast Regional Council* [2015] QICmr 13 at [14]-[16].

reasonably be expected to enhance the transparency and accountability of Council's recruitment process<sup>80</sup> and reveal background or contextual information that informed Council's appointment decision.<sup>81</sup> I also note that the position to which the Third Party was appointed is a publicly funded position to provide services to the public. In these circumstances, the public is entitled to scrutinise whether public funds have been expended reasonably and accountably. Accordingly, I am satisfied that disclosure of the Third Party Information could reasonably be expected to ensure transparency in and the oversight of the expenditure of public funds.<sup>82</sup>

54. Taking into account the nature of the Third Party Information, the employment information about the Third Party that has been disclosed to the applicant and the importance of transparent and accountable recruitment processes in the public sector (including ensuring effective oversight and expenditure of public funds), I afford moderate weight to these factors favouring disclosure.
55. It is my understanding that the applicant contends that the Third Party Information should be disclosed, as the Third Party is, or will become, involved in the named Councillor's business interests, to which the applicant's concerns about Council's contracts relate.<sup>83</sup> Apart from the applicant's submissions, I have no evidence before me of any alleged wrongdoing, breaches of ethics or governance, or defective administration by Council, its chief executive officer, the named Councillor or the Third Party. On the information before me, given the nature of the Third Party Information and the employment information about the Third Party that has been disclosed to the applicant, I am not satisfied that disclosure of the Third Party Information could reasonably be expected to allow or assist inquiry into possible deficiencies in Council's recruitment or procurement processes,<sup>84</sup> or reveal any negligent or improper conduct in those processes.<sup>85</sup>

#### **Factors favouring nondisclosure**

56. The Third Party Information contains the personal information of a public sector officer.
57. Information relating to the day-to-day work duties and responsibilities of a public sector employee may generally be disclosed under the RTI Act, despite it falling within the definition of personal information. Primarily, this approach is taken to ensure transparency and accountability in government processes and the performance of public duties.<sup>86</sup> Routine work information can include names, job titles and opinions given in a professional capacity.<sup>87</sup> However, information which is not wholly related to the day-to-day work activities of a public service officer is not considered routine. Such information is generally considered to fall outside of the day-to-day routine work category and will therefore, be subject to higher privacy considerations favouring nondisclosure.<sup>88</sup>
58. As the Third Party Information forms part of the Third Party's Curriculum Vitae submitted in support of her application for a Council position, I consider that it falls into the category of day-to-day routine work information. However, even if the Third Party Information falls outside of the day-to-day routine work category, it contains information relevant to the appointment of the Third Party to a publicly funded position. In these circumstances, I

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<sup>80</sup> Schedule 4, part 2, item 1 of the RTI Act.

<sup>81</sup> Schedule 4, part 2, item 11 of the RTI Act.

<sup>82</sup> Schedule 4, part 2, item 4 of the RTI Act.

<sup>83</sup> Submission received 29 March 2017.

<sup>84</sup> Schedule 4, part 2, item 5 of the RTI Act.

<sup>85</sup> Schedule 4, part 2, item 6 of the RTI Act.

<sup>86</sup> Schedule 4, part 2, items 1 and 11 of the RTI Act.

<sup>87</sup> *Underwood and Department of Housing and Public Works* (Unreported, Office of the Information Commissioner, 18 May 2012).

<sup>88</sup> Schedule 4, part 3, item 3 and part 4, item 6 of the RTI Act.

consider that the privacy surrounding the Third Party Information is diminished.<sup>89</sup> On this basis, I afford low weight to the factors favouring nondisclosure relating to the protection of the personal information and privacy<sup>90</sup> in respect of the Third Party Information.

59. The public interest factors listed in the RTI Act are not exhaustive. The Third Party's submissions<sup>91</sup> raise a further public interest factor favouring nondisclosure—that is, that disclosure could reasonably be expected to result in a person being subjected to lower level (that is, less than serious) harassment and intimidation.<sup>92</sup> However, given the nature of the information in the Third Party Information—and, in particular, that it excludes highly personal information<sup>93</sup>—I am unable to determine a nexus or connection between disclosure of the Third Party Information and reoccurrence of the conduct which the applicant considers to amount to harassment and intimidation. As a result, I am not satisfied that the conduct raised by the Third Party could reasonably be expected to reoccur as a result of disclosing the Third Party Information. In these circumstances, I am satisfied that a factor of this nature favouring nondisclosure cannot apply in this review.
60. The Third Party's submissions<sup>94</sup> also raise another public interest factor favouring nondisclosure—that is, that the Third Party Information could be used for forgery or identity theft. While I acknowledge the Third Party's concerns in this regard, I again note the nature of the information in the Third Party Information—and, in particular, that it excludes highly personal information. Given this position, on the information before me, I am unable to identify how fraud or identity theft could reasonably be expected to arise as a result of disclosure of the Third Party Information. Accordingly, I am satisfied that a factor of this nature favouring nondisclosure does not apply in this review.
61. I have considered all factors listed in schedule 4, parts 3 and 4 of the RTI Act, and can identify no other public interest considerations telling in favour of nondisclosure of the Third Party Information. I cannot see how disclosure of this information could, for example, prejudice the fair treatment of individuals,<sup>95</sup> impede the administration of justice, generally or for a person,<sup>96</sup> prejudice the ability of an agency to obtain confidential information<sup>97</sup> or prejudice the management functions of an agency.<sup>98</sup>

### ***Balancing the public interest***

62. I am satisfied that the moderate weight of the pro-disclosure factors outweigh the low weight of the nondisclosure factors relating to privacy and personal information. Accordingly, based on the information before me, I find that disclosure of the Third Party Information would **not**, on balance, be contrary to the public interest.

### ***Conclusion***

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<sup>89</sup> *Fitzpatrick and James Cook University* (Queensland Information Commissioner, 6 November 2012) (***Fitzpatrick***) at [83].

<sup>90</sup> Schedule 4, part 3, item 3 and schedule 4, part 4, item 6 of the RTI Act.

<sup>91</sup> Submissions received 8 February 2017.

<sup>92</sup> As noted in paragraph 8, the Third Party accepted OIC's preliminary view that the Third Party Information was not exempt information. In doing so, the Third Party accepted that the legal threshold for serious harassment and intimidation in schedule 3, section 10(1)(d) of the RTI Act was not satisfied.

<sup>93</sup> As noted at paragraph 46 above.

<sup>94</sup> Submissions received 8 February 2017.

<sup>95</sup> Schedule 4, part 3, item 6 of the RTI Act.

<sup>96</sup> Schedule 4, part 3, items 8 and 9 of the RTI Act.

<sup>97</sup> Schedule 4, part 3, item 16 of the RTI Act.

<sup>98</sup> Schedule 4, part 3, item 19 of the RTI Act.

63. For the reasons outlined above, I find that access to the Third Party Information cannot be refused under the RTI Act, as disclosure of this information would not, on balance, be contrary to the public interest.

### **Findings – Unsuccessful Applicant Information**

64. The Unsuccessful Applicant Information comprises 120 pages<sup>99</sup> of the information located by Council on external review. Various individuals, who are unrelated to the named Councillor, submitted this information in support of their unsuccessful applications for Council positions held by four individuals related to the named Councillor.

### **Irrelevant factors**

65. I have taken no irrelevant factors into account in making my decision.

### **Factors favouring disclosure**

66. The applicant submits that:
- refusing to provide the Unsuccessful Applicant Information '*essentially covers for unequal behaviour*' and '*prevents scrutiny of the decisions and decision makers and the merits of the other applicant for fair equitable employment*'<sup>100</sup>
  - the unsuccessful applicants in the recruitment processes have suffered pain, probable career harm and potentially other negative impacts due to '*council's CEO and others apparently bias decisions*'<sup>101</sup>
  - the applicant wishes to advocate on behalf of individuals '*who don't have a voice to object to the conduct and behaviour that they have suffered as a result of apparent nepotism*'<sup>102</sup>
  - future candidates for Council positions will not apply '*due to the manipulated employment opportunities via word of mouth and internal and external rumour, and social media*'<sup>103</sup>
  - the CEO and Council decision makers have '*exposed the public funding to legal liability*' due to their selection of the individuals, '*chosen above others*', who were appointed to the relevant Council positions;<sup>104</sup> and
  - nondisclosure of the Unsuccessful Applicant Information results in many negative outcomes, including '*lack of Council accountability for nepotism and bias*', preventing unsuccessful applicants from taking action against Council and '*preventing investigation of apparent workplace and employment law breaches*'.<sup>105</sup>
67. Employment information regarding the individuals who were appointed to the relevant Council positions has been disclosed to the applicant. The individuals who submitted the Unsuccessful Applicant Information to Council were not the successful applicants for the Council positions. I therefore find that the factor related to transparency in and the oversight of public funds<sup>106</sup> favouring disclosure of the Unsuccessful Applicant Information does not arise.
68. The Unsuccessful Applicant Information comprises only information submitted by the unsuccessful applicants to Council in support of their applications. It does not include

<sup>99</sup> Being pages 48-118 in File B and pages 31-79 in File D.

<sup>100</sup> Submissions received 29 March 2017.

<sup>101</sup> Submissions received 29 March 2017.

<sup>102</sup> Submissions received 29 March 2017.

<sup>103</sup> Submissions received 29 March 2017.

<sup>104</sup> Submissions received 21 April 2017.

<sup>105</sup> Submissions received 29 March 2017.

<sup>106</sup> Schedule 4, part 2, item 4 of the RTI Act.

any merits assessments by Council of the applications. Further, as acknowledged by the applicant,<sup>107</sup> the question of whether the individuals appointed to the relevant Council positions were the superior candidates in the relevant recruitment processes is not a matter that the applicant can assess. In these circumstances, I find that low to no weight should be afforded to the public interest factors relating to enhancing accountability and transparency in Council's recruitment processes<sup>108</sup> and informing the community about Council's recruitment policies and procedures.<sup>109</sup>

69. Apart from the applicant's submissions, I have no evidence before me which would indicate that Council's appointment decisions for the relevant positions breached workplace and employment laws. Further, on consideration of the nature of information contained in the Unsuccessful Applicant Information and noting the applicant's acceptance that the question of whether the individuals appointed to the relevant Council positions were the superior candidates is not a matter he can assess, I am unable to identify how the Unsuccessful Applicant Information could be used to demonstrate the veracity or otherwise of such conjecture. I am therefore not satisfied that disclosing the Unsuccessful Applicant Information could reasonably be expected to contribute to an informed debate on important issues<sup>110</sup> or assist inquiry into, or reveal, possible deficiencies in conduct or administration by an agency of official.<sup>111</sup>
70. The recruitment processes for the positions in question were conducted some time ago (in some cases, over 5 years ago). I consider it is likely that an unsuccessful applicant who wished to obtain feedback on the recruitment process in which their application was unsuccessful would have made enquiries of Council some time ago. I also have no information before me which supports the applicant's contention that the unsuccessful applicants have experienced the consequences outlined in the applicant's submissions, that they have no voice to object to the outcomes of the recruitment processes or that the appointments to the positions in question have negatively impacted Council's ability to attract candidates in subsequent recruitment processes. For these reasons, I am not satisfied that disclosure of the Unsuccessful Applicant Information could reasonably be expected to contribute to the administration of justice for the unsuccessful applicants<sup>112</sup> or advance the fair treatment of individuals in their dealings with Council.<sup>113</sup>
71. Having considered all factors favouring disclosure listed in schedule 4, part 2 of the RTI Act, I can, in this review, identify no other public interest considerations telling in favour of disclosure of the Unsuccessful Applicant Information. I cannot see how disclosure of the Unsuccessful Applicant Information could, for example, reveal that the information was incorrect, out of date, misleading, gratuitous, unfairly subjective or irrelevant<sup>114</sup> or contribute to the administration of justice generally.<sup>115</sup>

### **Factors favouring nondisclosure**

72. I am satisfied that the making of a job application is the personal information of the particular job applicant, as is the information included in the application. I am also satisfied that a privacy interest attaches to such information.

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<sup>107</sup> Submissions received 21 April 2017.

<sup>108</sup> Schedule 4, part 2, sections 1 and 11 of the RTI Act.

<sup>109</sup> Schedule 4, part 2, item 3 of the RTI Act.

<sup>110</sup> Schedule 4, part 2, item 2 of the RTI Act.

<sup>111</sup> Schedule 4, part 2, items 5 and 6 of the RTI Act.

<sup>112</sup> Schedule 4, part 2, item 17 of the RTI Act.

<sup>113</sup> Schedule 4, part 2, item 10 of the RTI Act.

<sup>114</sup> Schedule 4, part 2, item 12 of the RTI Act.

<sup>115</sup> Schedule 4, part 2, item 16 of the RTI Act.

73. The applicant submits that he would accept an ‘anonymised’ version of the Unsuccessful Applicant Information,<sup>116</sup> and that the unsuccessful candidates’ purpose for providing the Unsuccessful Applicant Information ‘*is irrelevant if the information is for public scrutiny and their information has been anonymised*’.<sup>117</sup> In support of this submission, the applicant referred to *Smith Kline and French Laboratories (Australia) Ltd and Others v The Secretary to Department of Community Services and Health and Another (Smith Kline)*<sup>118</sup> and *R v Department of Health; Ex parte Source Informatics Ltd (Source Informatics)*.<sup>119</sup>
74. The Unsuccessful Applicant Information identifies the unsuccessful applicants and includes personal information such as their contact details, qualifications and work histories.<sup>120</sup> Given this position, anonymising the information—as proposed by the applicant—would not remove all personal information that these individuals provided to Council in support of their job applications. Given this position, in at least some instances, the identities of the unsuccessful applicants would remain reasonably ascertainable<sup>121</sup> despite anonymisation. In any event, I also consider that it is likely that the unsuccessful applicants would have contemplated that the information they provided in support of their job applications would only be used by Council in the relevant recruitment processes, and would otherwise be kept confidential.
75. Insofar as the applicant’s submission suggests that job applications received by Council are ‘*for public scrutiny*’, there is no information before me to support this view. On this basis, I cannot accept the applicant’s contention that the Unsuccessful Applicant Information is for public scrutiny.
76. In terms of the applicant’s reliance on the decision in *Smith Kline*, I note that the issue to be determined by the Federal Court was whether confidential documents provided by a commercial entity in support of its application to obtain government approval<sup>122</sup> could be used by the government in considering an approval application by another entity.<sup>123</sup> The issue in *Smith Kline* was **not** whether such confidential information could be disclosed to persons who were not involved in the government approval process.<sup>124</sup> Relevantly, the Federal Court did note the following in its decision:<sup>125</sup>
- Confidential information is commonly supplied without payment: for example, by a prospective employee (or his referee) to support an application for employment. The understanding ordinarily would be that the prospective employer would not disclose the information to any third party...*
77. Here, the applicant did not, and does not, have any role in Council’s recruitment processes. Accordingly, I am satisfied that the decision in *Smith Kline* does not support disclosure of the Unsuccessful Applicant Information, whether anonymised or not, to the applicant.

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<sup>116</sup> The applicant’s submissions, dated 21 April 2017, gave the example of classifying the candidates’ information as candidate A, B, C and D for the specific positions.

<sup>117</sup> Submissions received 21 May 2017.

<sup>118</sup> [1991] 99 ALR 679.

<sup>119</sup> [2001] QB 424; [2000] 1 All ER 786.

<sup>120</sup> In his submissions received 21 April 2017, the applicant confirmed that, for the unsuccessful applicants, he sought access to credentials, work histories, experience and merits of the unsuccessful applicants.

<sup>121</sup> To determine whether an individual’s identity ‘*can reasonably be ascertained*’, information may be cross-referenced with additional information, taking into account how available the additional information is and how difficult it is to obtain; how many steps are required to identify the individual and how certain the identification will be; whether it will identify one specific individual or a group of people; and whether the individual receiving the information can use it to identify another individual—see *Mahoney and Ipswich City Council* (Unreported, Queensland Information Commissioner, 17 June 2011) at [21] citing *WL v La Trobe University* [2005] VCAT 2592.

<sup>122</sup> The approval sought related to the use of a pharmaceutical substance.

<sup>123</sup> The other entity’s application sought approval regarding a version of the same substance.

<sup>124</sup> Refer to *Smith Kline* at [20].

<sup>125</sup> At [46].

78. In terms of the applicant's reference to *Source Informatics*, I note that this was a decision of the United Kingdom Court of Appeal which dealt with the issue of whether the disclosure by doctors or pharmacists to a third party of prescription information, excluding information that would identify the patients, would constitute a breach of confidentiality. However, as noted in paragraph 74 above, I am satisfied that removing the names and other information identifying the unsuccessful applicants will not remove all the personal information appearing in the Unsuccessful Applicant Information. Accordingly, while I am not bound by this United Kingdom decision, I am satisfied that it does not support disclosure of an anonymised version of the Unsuccessful Applicant Information to the applicant.
79. On careful consideration of the nature of the Unsuccessful Applicant Information itself, I am satisfied that its disclosure under the RTI Act would be a significant intrusion into the privacy of the unsuccessful applicants, and the extent of the public interest harm that could be anticipated from disclosure is significant. As these individuals were not the successful applicants for the Council positions, their privacy has not been diminished by their appointment to public service roles.
80. In these circumstances, I find that the public interest factors relating to the protection of personal information and privacy<sup>126</sup> are afforded significant weight.

### ***Balancing the public interest***

81. I am satisfied that the significant weight of the nondisclosure factors relating to privacy and personal information outweigh the low weight of the pro-disclosure factors relating to accountability and transparency in and informing the public about Council's recruitment processes. Accordingly, based on the information before me, I find that disclosure of the Unsuccessful Applicant Information would, on balance, be contrary to the public interest.

### ***Conclusion***

82. For the reasons outlined above, I find that disclosing the Unsuccessful Applicant Information would, on balance, be contrary to the public interest and, accordingly, access to the Unsuccessful Applicant Information may be refused under the RTI Act.

### **DECISION**

83. I vary Council's decision and find that:
- access to the Register and the Unsuccessful Applicant Information may be refused under the RTI Act, as disclosure of this information would, on balance, be contrary to the public interest; and
  - there is no basis under the RTI Act to refuse access to the Third Party Information, as disclosure of it would not, on balance, be contrary to the public interest.
84. I have made this decision as a delegate of the Information Commissioner, under section 145 of the RTI Act.

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<sup>126</sup> Schedule 4, part 3, item 3 and schedule 4, part 4, item 6 of the RTI Act.



**Assistant Information Commissioner**

**Date: 12 June 2017**

## APPENDIX

## Significant procedural steps

Date	Event
13 June 2016	<b>OIC received the external review application.</b>
30 June 2016	OIC notified the applicant and Council that it had accepted the external review application and asked Council to provide additional information.
21 July 2016	OIC received the requested information from Council.
23 August 2016	OIC asked Council to provide the contact details of a number of individuals that OIC wished to consult.
7 September 2016	Council provided OIC with the requested contact details.
23 December 2016	OIC conveyed a preliminary view to Council that certain information was outside the scope of, or irrelevant, to the access application, or its disclosure would be contrary to the public interest; however, access to the remaining information could not be refused.  OIC consulted with a number of individuals, including the Third Party, seeking their views concerning the proposed disclosure of certain information.
1 February 2017	OIC received submissions from Council, partially accepting the preliminary view.
8 February 2017	OIC received submissions from the Third Party, objecting to disclosure of certain information.
9 February 2017	OIC conveyed a further preliminary view to Council.
17 February 2017	OIC received further submissions from Council, accepting the preliminary view.
21 February 2017	OIC conveyed a preliminary view to the Third Party that certain information was within the scope of the access application, and access to it could not be refused. OIC invited the Third Party to apply to participate in the external review and provide further submissions, if the third party objected to the preliminary view.
28 February 2017	OIC received an application to participate in the external review and further submissions from the Third Party.
3 March 2017	OIC conveyed a further preliminary view to the Third Party.
10 March 2017	OIC conveyed a preliminary view to the applicant that certain information was outside the scope of, or irrelevant to, the access application, or its disclosure would be contrary to the public interest; however, access to the remaining information could not be refused under the RTI Act. OIC invited the applicant to: <ul style="list-style-type: none"> <li>• provide submissions if he did not accept the preliminary view; and</li> <li>• confirm if he continued to seek access to the Third Party Information.</li> </ul> OIC asked Council to release documents to the applicant in accordance with OIC's preliminary view.
29 March 2017	OIC received submissions from the applicant, objecting to OIC's preliminary view regarding the Register and Unsuccessful Applicant Information, confirming that he wished to access the Third Party Information, and raising certain procedural issues.
5 April 2017	OIC conveyed a further preliminary view to the applicant.

Date	Event
6 April 2017	OIC notified the Third Party that the applicant continued to seek access to the information which was the subject of the Third Party's objections.
21 April 2017	OIC received further submissions from the applicant, reiterating and elaborating on aspects of his submissions made on 29 March 2017. The applicant also indicated that he had not received documents from Council in accordance with OIC's preliminary view. At OIC's request, Council resent documents to the applicant.
24 April 2017	OIC conveyed a further preliminary view to the applicant, addressed the procedural issues raised by him, and confirmed that documents had been resent by Council on 21 April 2017.
26 April 2017	OIC received the further submissions from the applicant, reiterating and elaborating on aspects of his earlier submissions. The applicant again advised that he had not received documents from Council.
27 April 2017	At OIC's request, Council resent documents to the applicant.
1 May 2017	OIC received the further submissions from the applicant, reiterating and elaborating on aspects of his earlier submissions, and further advice that he had not received documents from Council.
4 May 2017	At OIC's request, Council resent documents to the applicant.
5 May 2017	OIC received the further submissions from the applicant, reiterating and elaborating on aspects of his earlier submissions. The applicant also confirmed that he had received documents from Council.