



Decision and Reasons for Decision

Citation:	<i>Cowen and Queensland Building and Construction Commission [2016] QICmr 43 (14 October 2016)</i>
Application Number:	312749
Applicant:	Cowen
Respondent:	Queensland Building and Construction Commission
Decision Date:	14 October 2016
Catchwords:	ADMINISTRATIVE LAW - INFORMATION PRIVACY ACT - AMENDMENT APPLICATIONS - application to amend information relating to inspection of the applicant's residential property - statements about building defects attributed to the applicant in a report - whether applicant has obtained access to the information sought to be amended - whether information is the personal information of the applicant - whether information is inaccurate, incomplete or misleading - discretion to refuse amendment - section 72 of the <i>Information Privacy Act 2009 (Qld)</i>

REASONS FOR DECISION

Summary

1. The applicant applied to the Queensland Building and Construction Commission (**QBCC**) to amend information relating to his residential property. The property was the subject of a QBCC inspection in August 2015, arising out of concerns the applicant raised with QBCC about building work performed on the property.
2. The primary document which the applicant sought to have amended was a report prepared by the QBCC following inspection of the applicant's property (**Inspection Report**). The applicant also requested amendment of what he understood to be '*QBCC's advice to the Minister for Housing and Public Works that both my wife and I had refused to attend a mediation meeting*'.¹
3. QBCC decided to refuse amendment of any information under section 72 of the *Information Privacy Act 2009 (Qld)* (**IP Act**). QBCC was not satisfied that the information in the Inspection Report was inaccurate, incomplete, out of date or misleading.² QBCC was also unable to identify the specific personal information of concern to the applicant in any advice it had given to the Minister pertaining to the applicant's property issues, and therefore, refused to amend it on that basis.³ Despite its decision, QBCC advised that it would place a copy of the applicant's amendment application on the relevant files, to serve as a notation of his concerns.

¹ Amendment application dated 26 November 2015. The applicant separated his application into two discrete parts. In these reasons for decision, I have referred to Part 1 and Part 2 of the amendment application, as necessary.

² Section 72(1)(a)(i) of the IP Act.

³ Section 72(1)(a)(ii) of the IP Act.

4. The applicant applied to the Office of the Information Commissioner (**OIC**) for an external review of QBCC's decision to refuse his amendment application. On review, the applicant maintained that QBCC gave *'false advice'* to the Office of the Minister for Housing and emphasised that there was *'no evidence of any kind to support the accuracy of the claimed statements'* in the Inspection Report.⁴ The applicant provided OIC with extensive submissions during the external review process, including copies of independent consultant reports and photographs, which he submitted overwhelmingly refuted the contents of the Inspection Report. The applicant has strenuously contested the QBCC inspector's version of events and believes that the Inspection Report includes numerous misleading and *'fictitious statements'*.
5. In the circumstances of this case, I am satisfied that the information which the applicant seeks to amend in the Inspection Report represents the inspector's understanding of and opinions on building defects and related matters discussed during the inspection and that these opinions were actually held and accurately recorded in an official public record.
6. For the reasons set out below, I have decided to vary QBCC's decision as I have found that Part 1 of the application is invalid to the extent that it seeks to amend information to which the applicant has not obtained access.⁵ I do however, agree with QBCC's decision to refuse any amendment of the Inspection Report⁶ under section 72 of the IP Act, as I am not satisfied that the information is inaccurate, incomplete or misleading.

Background

7. Significant procedural steps relating to the application and external review process are set out in the Appendix.

Reviewable decision

8. The decision under review is QBCC's decision dated 15 January 2016 refusing amendment of documents, under section 72 of the IP Act.

Evidence considered

9. The evidence, submissions, legislation and other material I have considered in reaching this decision are referred to in these reasons (including footnotes and the Appendix).

Issue for determination

10. In this review, the primary issue for determination is whether the requested amendments, as set out in the amendment application, may be refused under section 72 of the IP Act. In examining this issue, the following questions arise for consideration:
 - a) Is the applicant entitled to apply for amendment?
 - b) Is the applicant seeking to amend his personal information?
 - c) Is the information sought to be amended inaccurate, incomplete, out of date or misleading?
11. The applicant provided detailed written submissions⁷ to OIC including photographs, several independent building and engineering reports,⁸ copies of complaints made to

⁴ Submission to OIC dated 10 March 2016.

⁵ Section 44(1) of the IP Act. See the discussion below at paragraphs 25 to 29 of this decision.

⁶ Part 2 of the amendment application.

⁷ Submissions to OIC dated 10 March, 22 March, 18 May, 15 June and 30 June 2016.

⁸ Report on Building Defects dated 24 May 2015, Engineering Report dated 25 May 2015 and Supplementary Engineering Report dated 3 September 2015 prepared by Morse Building Consultancy.

QBCC and correspondence between the applicant and his neighbour.⁹ QBCC also provided OIC with a copy of the Inspection Report and a copy of the inspector's notes taken during the inspection.¹⁰ I have carefully considered all of this information to the extent it is relevant to the issues for determination in this review.

12. The applicant submitted that OIC should obtain a further engineering report and additional photographs from QBCC as he considered they would support his submission that the information he seeks to amend is false, and would demonstrate that the inspector's notes do not match the photographs taken during the inspection. While I note the applicant's concerns, in the circumstances of this case, I have not found it necessary to obtain any additional material.¹¹
13. During the review, the applicant also raised a number of issues that are beyond OIC's external review jurisdiction under the IP Act.¹² Importantly, OIC does not have any power to investigate the QBCC inspector's qualifications, his authority to conduct property inspections, his conduct and performance of his role as a building inspector with QBCC generally, or the specific actions taken by the inspector in relation to the applicant's property inspection. As these matters fall outside OIC's external review jurisdiction, they are not addressed in these reasons for decision.
14. The applicant also notified OIC that, during the review, he had become aware that QBCC had distributed a copy of the Inspection Report without attaching a copy of his amendment application.¹³ OIC initially advised the applicant that this matter was beyond OIC's external review jurisdiction, noting that the applicant had not formally applied to QBCC to add a notation under section 76 of the IP Act. Notwithstanding those circumstances, OIC made enquiries with QBCC in an effort to assist the applicant. In response, QBCC advised that it would endeavour to include comments in its records management database to ensure that, in the future, the Inspection Report would be read in conjunction with the amendment application.¹⁴ OIC conveyed this to the applicant and therefore, this issue is not considered any further in these reasons.

Relevant law

15. The cumulative effect of sections 41 and 44(1) of the IP Act is to confer on an individual a right to apply for amendment of documents of an agency, or Minister, containing the individual's personal information, where the following requirements are satisfied:
 - (i) the applicant has previously **obtained access** to the documents said to contain the applicant's personal information
 - (ii) the information which the applicant seeks to amend is the **applicant's personal information**; and
 - (iii) the personal information is **inaccurate, incomplete, out of date or misleading**.

[emphasis added]
16. To satisfy element (i), an applicant does not need to have accessed the document under the IP Act or *Right to Information Act 2009* (Qld) (**RTI Act**). The relevant OIC Guideline provides that access may be established if the applicant has:

⁹ Dated 10 September and 16 October 2015.

¹⁰ Dated 17 August 2015.

¹¹ Refer paragraph 42 and footnote 49 below.

¹² Application for external review dated 12 February 2016 and submissions to OIC dated 10 March, 22 March, 18 May, 15 June and 30 June 2016.

¹³ As set out in paragraph 3 above, QBCC had indicated in its decision that it would attach a copy of the amendment application to the 'relevant files' to outline the applicant's concerns.

¹⁴ QBCC advised that this was the first amendment application of its kind which QBCC had received and therefore, QBCC had no established procedure in place for recording this type of notation.

- viewed the document on a computer screen
- read it but not been given a copy of it
- seen an extract from it; or
- had it read to them over the phone.¹⁵

17. In respect of element (ii), 'personal information' is defined in section 12 of the IP Act as:

information or an opinion, including information or an opinion forming part of a database, whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

18. For information to be considered 'inaccurate', the Information Commissioner has previously found that an applicant must establish not only that the information inaccurately represents the underlying events or issues, but that the authoring individual had not actually held and accurately entered into the official record their particular understanding of those events.¹⁶

19. The term 'misleading' is not defined in the IP Act. The ordinary dictionary definition¹⁷ of 'mislead', as set out below, is therefore relevant:

1. to lead or guide wrongly; lead astray.
2. to lead into error of conduct, thought or judgement.

20. In considering whether information is misleading, the Information Commissioner has previously observed¹⁸ that amendment provisions are aimed at:

...ensuring that personal information concerning an applicant and read by third persons, does not unfairly harm the applicant or misrepresent personal facts about the applicant. It is concerned that the third persons reading the personal information do not get the wrong impression...

21. If a decision-maker is satisfied that requirements (ii) and (iii) above are not met, amendment may be refused under section 72 of the IP Act. A decision-maker is not however, limited solely to the grounds in that section, thereby, conferring a discretion on a decision-maker to refuse amendment on other grounds.¹⁹ In *3DT2GH*, the Information Commissioner explained the operation of the discretion as follows:

To replace words actually used by the authoring officer with the text sought by the applicant would result in a contrived document containing invented contents, essentially putting words into the mouth of the author in a manner that would distort the official historical record. This alone would, in my view, justify an exercise of the discretion to refuse to amend the [document] in terms as requested by the applicant.

22. In deciding whether to exercise the discretion to amend information, a decision-maker may take various factors into account, including:

- (a) the character of the record, in particular whether it purports to be an objective recording of purely factual material or whether it merely purports to be the record of an opinion/report of one person;
- (b) whether the record serves a continuing purpose;
- (c) whether retention of the record in unamended form may serve a historic purpose;
- (d) whether the record is dated;

¹⁵ Processing amendment applications available at www.oic.qld.gov.au (accessed 5 October 2016).

¹⁶ *A4STL6K and Queensland Health* (Unreported, Queensland Information Commissioner, 6 September 2013) (**A4STL6K**) at [27].

¹⁷ Online Macquarie Dictionary: www.macquariedictionary.com.au (accessed 12 October 2016).

¹⁸ In *3DT2GH and Department of Housing and Public Works* (Unreported, Queensland Information Commissioner, 26 November 2012) (**3DT2GH**) at [15] citing *Buhagiar and Victoria Police* (1989) 2 VAR 530, per Jones J.

¹⁹ *3DT2GH* at [11].

- (e) whether amendment is being sought as a *de facto* means of reviewing another administrative decision;
- (f) the extent to which access to the record is restricted;
- (g) whether creation of the record or any of its contents was induced by malice;
- (h) whether the record is part of a group of records and, if so, whether the other records modify the impact of the record in dispute.²⁰

23. A decision-maker may also take into account the fact that it is not the purpose of the amendment provisions to:

- re-write history,²¹ as this destroys the integrity²² of the record-keeping process
- determine disputed questions of opinion (including expert opinion), when that opinion was actually held and accurately entered in the official record²³
- re-write a document in words other than the author's²⁴
- review the merits or validity of official action;²⁵ or
- correct any perceived deficiencies in the work undertaken by agencies or re-investigate matters.²⁶

24. In summary, the amendment provisions in the IP Act are limited in their scope and effect and are not intended to serve as a mechanism to re-investigate issues which an applicant considers have not been properly dealt with by the relevant agency. In most instances, there will be other avenues and processes for making such complaints. Importantly, the provisions are concerned with ensuring the accuracy of official public records, not with the merits or legality of the official action that has been recorded in them.²⁷ Similarly, the amendment provisions should not be used as a tool to question or discredit a public officer's qualifications or skills.

Findings

(a) *Is the applicant entitled to apply for amendment?*

25. Yes, but only in relation to the Inspection Report. The issue of access to the Inspection Report is undisputed. However, I am not satisfied that the applicant has had access to the information he seeks to have amended in 'QBCC's advice to the Minister'²⁸ and therefore, I find that this part of the application is invalid, for the reasons set out below.

26. The applicant requested that QBCC amend the advice which it allegedly provided to the Minister for Housing and Public Works that the applicant and his wife 'refused to attend a mediation meeting...'.²⁹ The applicant contends that neither he nor his wife were invited to any mediation meeting (or any other type of meeting) with the builder.³⁰ The applicant claims that this statement was read out over the phone to an ex-member of

²⁰ As set out in *Shaw and Medical Board of Queensland* (Unreported, Queensland Information Commissioner, 3 July 2008) (**Shaw**) at [41] quoting with approval the decision of Deputy President Todd of the Administrative Appeals Tribunal in *Cox and Department of Defence* (1990) 20 ALD 499 at [6].

²¹ *DenHollander and Department of Defence* [2002] AATA 866 at [96].

²² Not in terms of the contents of the document, but in a recordkeeping sense – to ensure that the document is preserved without any alteration, as a public record.

²³ *Crewdson v Central Sydney Area Health Service* [2002] NSWCA 345 (**Crewdson**) at [34].

²⁴ *Re Traynor and Melbourne and Metropolitan Board of Works* (1987) 2 VAR 186 (**Traynor**) at 190, cited in *3DT2GH* at [18]. *Traynor*, considered the requirements of the *Freedom of Information Act 1982* (Cth), the terms of which are substantially similar to the amendment provisions in the IP Act.

²⁵ *Crewdson* at [24].

²⁶ *Shaw* at [57].

²⁷ *Crewdson* at [24].

²⁸ In his submission to OIC dated 10 March 2016, the applicant explained that 'we understand [the information] was orally read out over the phone to an ex-Member of Parliament without our express or even implied permission or authority'.

²⁹ Amendment application, Part 1.

³⁰ Amendment application and submissions to OIC dated 30 June 2016.

Parliament who then relayed the statement back to the applicant.³¹ The applicant is of the view that he obtained access to the document 'as the contents were relayed back to [him] verbatim from a very trusted and normally very honest source'³² but accepts that he has not had 'any physical possession or physical access'³³ to the information.

27. QBCC was unable to locate 'any written information or reference' to the subject statement in its records and therefore, decided that there was no personal information of the applicant which he could apply to have amended.³⁴
28. As set out in paragraph 15 above, the applicant must have obtained access to the document said to contain the applicant's personal information before an amendment request may proceed. I acknowledge the applicant's submission that certain information was relayed to him by what he considers to be a trustworthy source. However, I have also had regard to the guidance in the relevant OIC guideline as to what may constitute access, and QBCC's decision that it could not locate any record of having communicated the subject statement to the Minister. Based on the available evidence, I am not satisfied that the applicant has established a sufficient nexus with the subject statement to establish that he has 'obtained access' for the purpose of requirement (i) above.
29. For the above reasons, I find that the applicant has obtained access to the Inspection Report but not to any other document which he seeks to have amended. In view of my finding on this issue, the remainder of these reasons only concern the amendments sought by the applicant in relation to the Inspection Report, ie. Part 2 of the application.

(b) Is the applicant seeking to amend his personal information?

30. Yes, for the reasons set out below.
31. In determining whether information is a particular individual's personal information for the purposes of the IP Act, it is relevant to firstly consider whether the individual can reasonably be identified from the information and if so, whether the information is about the individual.³⁵
32. The information which the applicant is seeking to amend appears throughout the Inspection Report prepared by the QBCC following a site inspection of the applicant's property. The Information Commissioner has previously found that 'information of significance to land owned by an individual' does not necessarily constitute their personal information.³⁶
33. For the following reasons, I am satisfied that there is a sufficient connection between the applicant and the information which he is seeking to amend, as set out in Appendix 2, to make the information the applicant's personal information. In most instances, the applicant is directly named as the person who has made the statements which he seeks to have amended, eg. 'Mr Cowen said...'.³⁷ The applicant is named as the only attendee at the inspection (in addition to the inspector) and the Inspection Report describes building defects discussed between the applicant and the inspector during the inspection. To this end, I consider the applicant's identity is reasonably ascertainable as he, the owner of the property and the individual alleging building defects, is the person

³¹ Submissions to OIC dated 10 March and 30 June 2016.

³² Submissions to OIC dated 30 June 2016.

³³ Submissions to OIC dated 30 June 2016

³⁴ Decision dated 15 January 2016.

³⁵ *Mahoney and Ipswich City Council* (Unreported, Queensland Information Commissioner, 17 June 2011) (*Mahoney*) at [19].

³⁶ *Mahoney* at [35].

³⁷ See Appendix 2.

who would have described the defects to the inspector, even if the complaints are not specifically attributed to him by name.

34. Based on the above, I am satisfied that the information which the applicant seeks to amend in the Inspection Report:
- represents statements made, views expressed or opinions held by the applicant
 - is about the applicant; and
 - therefore, comprises his personal information.

(c) *Is the information inaccurate, incomplete, out of date or misleading?*

35. No, for the reasons set out below.³⁸
36. The requirements of section 44 of the IP Act³⁹ are such that in an external review of a decision refusing amendment, a practical onus shifts to an applicant⁴⁰ to provide evidence to support their case in favour of amendment.⁴¹
37. The applicant makes 15 separate amendment requests in relation to the Inspection Report and seeks to have the *false claims withdrawn*.⁴² Broadly speaking, the applicant seeks to amend the descriptions of some of the building defects and the notes recorded by the inspector in relation to each complaint. The applicant wholly denies making some of the statements⁴³ and in some instances, contends that the words used do not accurately or sufficiently convey the statements he made or views he expressed to the inspector about the building defects. Throughout his submissions, the applicant emphasises that the Inspection Report is not supported by the content of the inspector's notes or photographs of the property. The applicant is very concerned about perceived inconsistencies between photographs and the content of the Inspection Report.
38. On its face, the Inspection Report sets out the defects as notified by the applicant at the inspection, summarises the inspector's observations made during the inspection and sets out the inspector's conclusions on the alleged building defects and complaints, as raised by the applicant. The Inspection Report also includes photographs corresponding to certain defects, and includes comments later obtained from the original builder.
39. I am satisfied that the Inspection Report represents a historical record which forms part of the chronology of the applicant's building dispute in relation to his residential property.⁴⁴ The inspector was nominated by QBCC to undertake the task of conducting the site inspection and has summarised his recollection of events in a particular manner. The inspector has confirmed to QBCC that the Inspection Report accurately reflects his recollection of matters discussed at the inspection.⁴⁵

³⁸ In reaching this conclusion, I have carefully considered all of the relevant evidence available to OIC, including the documents referred to in paragraph 11 above.

³⁹ Section 44(4) of the IP Act requires an applicant to, among other things, state both the way in which the applicant claims the information is inaccurate, incomplete, out of date or misleading and the amendments the applicant claims are necessary for the information to be accurate or not misleading. In his amendment application and various submissions to OIC, the applicant explained, at length, the basis for his requests and his preferred alterations to the Inspection Report content. In making this decision, I have carefully considered all of those submissions, however, I have not found it necessary to set out the applicant's submissions in detail in these reasons.

⁴⁰ Generally, on external review, the agency bears the onus to justify its decision (section 100(1) of the IP Act).

⁴¹ *Doelle and Legal Aid Office (Qld)* (1993) 1 QAR 207 at [18] in the context of equivalent provisions of the repealed *Freedom of Information Act 1992* (Qld).

⁴² Amendment application. Appendix 2 describes the amendment requests which comprise Part 2 of the application, together with the applicant's basis for the request, ie. that the information is inaccurate, incomplete or misleading. The applicant does not allege any information is 'out of date' and therefore, that element of requirement (iii) is not considered in these reasons.

⁴³ For example, requests (c) and (e), as set out in Appendix 2.

⁴⁴ I am also satisfied that the Inspection Report is a *functional record* (under section 72(2) of the IP Act) due to its ongoing role in managing the applicant's building dispute and therefore, amendment could not be refused under section 72(1)(b) of the IP Act.

⁴⁵ QBCC decision dated 15 January 2016.

40. Understandably, the applicant, as a home owner seeking to rectify building work at his property which he considers to be defective, feels strongly that the Inspection Report must accurately reflect the matters discussed at the inspection. I acknowledge that the applicant considers the Inspection Report should therefore, be modified to include content that is preferable to him. First and foremost however, the Inspection Report is a public record⁴⁶ which has been authored by an officer employed by a public authority, QBCC. In this regard, the integrity of public records must be upheld by ensuring information that was accurately recorded at the time of the record's creation is retained, particularly, for future use by the agency.
41. I have carefully considered the information which the applicant considers is inaccurate.⁴⁷ I have also taken into account the content of the inspector's contemporaneous notes⁴⁸ pertaining to this information. I consider that, while brief, the inspector's notes contain statements which reflect the way the defects are described in the Inspection Report. On this basis, I am satisfied that the inspector actually held and accurately entered his recollection of events into the Inspection Report at the time of its creation.
42. While the applicant has a different recollection of what he said at the inspection and has put forward extensive submissions as to why he believes the information inaccurately represents the underlying issues, the inspector's notes tend to corroborate the content of the Inspection Report. I acknowledge the applicant relies heavily on the content of independent building and engineering reports to support his requests. However, as the authors of those reports were not present at the QBCC inspection, I consider the reports to be of limited evidentiary value in disproving that the inspector actually held and accurately entered his recollection of events into the Inspection Report.⁴⁹ Accordingly, notwithstanding the applicant's submissions, I am unable to find that any of the information in the Inspection Report is inaccurate.
43. In considering the information which the applicant says is misleading,⁵⁰ I am not persuaded that the statements would lead a third party to the wrong impression nor cause any material detriment to the applicant. I have taken into account the alternative wording proposed by the applicant and do not consider the difference between what was recorded in the Inspection Report, and what the applicant believes should be said, are so materially different so as to result in a reader being misled. In my view, the statements the applicant is seeking to amend can justifiably be described as the incidental details, or minutiae, of the descriptions given to the building defects. Therefore, notwithstanding the applicant's submissions, I am satisfied that the information could not reasonably be expected to *'unfairly harm or misrepresent personal facts about the applicant'*⁵¹ and is therefore, not misleading.
44. With respect to the requests alleging incomplete information,⁵² the applicant does not contest the factual content of the statements but seeks to have additional information included to supplement the statements and convey his concerns in a much more comprehensive and detailed way. The fact that a statement is not as fulsome as an

⁴⁶ Section 6(1)(a) of the *Public Records Act 2002* (Qld).

⁴⁷ See requests (c), (e), (f), (g), (i), (j), (l), (m) and (o) in Appendix 2.

⁴⁸ Dated 17 August 2015.

⁴⁹ I have also not relied on the content of any photographs other than those which appear within the Inspection Report. The photographs within the Inspection Report are connected with its content, to the extent that the inspector considered the photographs represented the status of the building defects/complaints at the time of the inspection. None of the other photographs are date or time stamped and therefore, as their relevance cannot be accurately determined, I find they are of limited evidentiary value. To the extent the applicant is seeking to establish that certain photographs conflict with the content of the Inspection Report, I am satisfied that this is an attempt to reinvestigate the issues which were discussed at the inspection and later reported on. As explained earlier in these reasons, this is not the purpose of the amendment provisions.

⁵⁰ See requests (a), (b), (k), (n) in Appendix 2.

⁵¹ See paragraph 20 and footnote 18 above.

⁵² See requests (d) and (h) in Appendix 2.

applicant would like does not of itself, result in the statement being incomplete.⁵³ Public officers have a duty to be concise in their reporting and the amendment provisions are not intended to be used as a means of placing words into the mouth of the author. Accordingly, and notwithstanding the applicant's submissions, I am satisfied that, when objectively assessed, the relevant statements describe the concerns raised by the applicant during the inspection and summarise the inspector's independent assessment of the building defects. Therefore, I find that the statements are not incomplete.

45. Even if the applicant could demonstrate that the information was inaccurate, misleading or incomplete in any instance, I am satisfied that the discretion to refuse amendment could be exercised on the basis that to do so would essentially re-write history and destroy the integrity of a public record. The Inspection Report is dated and reflects the inspector's observations and conclusions at that point in time. I acknowledge that, following a complaint process, questions may arise about the direction taken, the evidence relied on, and conclusions expressed in a final report. However, such concerns are generally more appropriately addressed by way of a notation⁵⁴ or cross-referencing another document, as an alternative to amending or removing the original words used by the public officer.
46. As I have explained earlier in these reasons, the purpose of amendment provisions is not to determine disputed questions of opinion or to re-investigate issues of concern to an applicant. On this basis and taking into account the regulatory function of the QBCC and the role of inspection reports in the process of investigating and resolving building disputes, I consider amending the Inspection Report in the manner sought by the applicant would damage the integrity of the original record and create an artificial document divorced from the original.⁵⁵ This is not, in my view, an outcome which the amendment provisions in the IP Act were intended to permit. Accordingly, I am satisfied that amendment of the Inspection Report may be refused.

DECISION

47. For the reasons explained above, I vary the decision of QBCC and find that:
- Part 1 of the amendment application is invalid as it seeks to amend information to which the applicant has not had access; and
 - Part 2 of the amendment application may be refused under section 72(1)(a) of the IP Act as I am not satisfied the information is inaccurate, incomplete or misleading.
48. I have made this decision as a delegate of the Information Commissioner, under section 139 of the *Information Privacy Act 2009* (Qld).

Katie Shepherd
Assistant Information Commissioner

Date: 14 October 2016

⁵³ 3DT2GH at [33].

⁵⁴ Preferably using the formal application process in section 76 of the IP Act.

⁵⁵ A4STL6K at [32].

APPENDIX 1

Significant procedural steps

Date	Event
23 November 2015	QBCC received the amendment application.
15 January 2016	QBCC issued a decision refusing the applicant's requests for amendment.
12 February 2016	OIC received the external review application.
12 February 2016	OIC asked QBCC to provide relevant procedural documents.
16 February 2016	QBCC provided OIC with relevant procedural documents.
24 February 2016	OIC notified the applicant and QBCC that the external review application had been accepted. OIC conveyed a preliminary view to the applicant and invited him to provide submissions in response.
10 March 2016	The applicant provided submissions to OIC in response to the preliminary view. OIC requested information from QBCC and QBCC provided the information on this date.
22 March 2016	The applicant provided further submissions to OIC.
27 April 2016	QBCC provided OIC with additional information.
17 May 2016	OIC sought additional submissions from the applicant.
18 May 2016	The applicant provided further submissions and supporting information to OIC.
14 June 2016	OIC conveyed a further preliminary view to the applicant and invited him to provide final submissions in response.
15 June 2016	The applicant provided submissions to OIC in response to the preliminary view.
16 June 2016	OIC responded to the applicant's submissions and provided clarification about the extent of OIC's external review jurisdiction.
30 June 2016	The applicant provided final submissions to OIC.
8 July 2016	OIC sent the applicant and QBCC a written update on the status of the review.
29 August 2016	OIC sent the applicant and QBCC a written update on the status of the review.
31 August 2016	The applicant contacted OIC raising concerns about the distribution of the Inspection Report by QBCC without his amendment application attached as a notation. OIC conveyed the applicant's concerns to QBCC by phone.
2 September 2016	OIC spoke to the applicant and QBCC about the applicant's notation concerns. QBCC advised that the applicant could formally apply under section 76 of the IP Act to have a notation added to his personal information.
4 October 2016	OIC provided the applicant with a written update on the status of the review.

APPENDIX 2

Amendment Application - Part 2

No.	Subject information	Section of Inspection Report	Basis for request
2a	<i>'Mr Cowen is concerned with the inspections.'</i>	Cover page under 'General' heading	Misleading
2b	<i>'Mr Cowen advised the slab leaks during rain...'</i>	Complaint No. 1 under 'Notes'	Misleading
2c	<i>'The original storm water pipe on the footpath was damaged by the builder storing material over it.'</i>	Complaint No. 2 under 'Description of Defect as per site discussion'	Inaccurate
2d	<i>'Mr Cowen said the nib wall is not supposed to be there...'</i>	Complaint No. 3 under 'Notes'	Incomplete
2e	<i>'Mr Cowen said he had advised the builder he wanted to put a car hoist on the slab.'</i>	Complaint No. 5 under 'Description of Defect as per site discussion'	Inaccurate
2f	<i>'Mr Cowen had a photo showing most of the starter bars had been originally installed...'</i>	Complaint No. 5 under 'Notes'	Inaccurate
2g	<i>'Mr Cowen had a photo that showed a small section of under the slab did not have the vapour barrier visible.'</i>	Complaint No.5 under 'Notes'	Inaccurate
2h	<i>'Mr Cowen said... the [hydraulic] drawings were wrong...'</i>	Complaint No. 7 under 'Notes'	Incomplete
2i	<i>'Mr Cowen said he has not paid for the timber and his solicitor had told him not to interfere with anything.'</i>	Complaint No. 8 under 'Notes'	Inaccurate
2j	<i>'The owner had to brace them up...'</i>	Complaint No. 9 under 'Description of Defect as per site discussion'	Inaccurate
2k	<i>'...the owner wanted galvanized posts...'</i>	Complaint No. 9 under 'Description of Defect as per site discussion'	Misleading
2l	<i>'Mr Cowen advised that all of the windows, doors and fixed glass in the area of new work on the eastern side of the house were covered over by the builder.'</i>	Complaint No. 10 under 'Notes'	Inaccurate
2m	<i>'Mr Cowen said Urban Utilities had inspected the pipe and could find nothing wrong with it.'</i>	Complaint No. 11 under 'Notes'	Inaccurate
2n	<i>'Mr Cowen was concerned about paying for the driveway, plumbing and ground work.'</i>	Complaint No. 12 under 'Notes'	Misleading
2o	<i>'Mr Cowen said his signature had been falsified...'</i>	Complaint No. 13 under 'Notes'	Inaccurate