



Decision and Reasons for Decision

Citation:	<i>Zacka and Fraser Coast Regional Council; BGM Projects Pty Ltd (Third Party) & Ors [2019] QICmr 2 (14 February 2019)</i>
Application Number:	313755
Applicant:	Zacka
Respondent:	Fraser Coast Regional Council
Third Party:	BGM Projects Pty Ltd ACN 102 165 328
Fourth Party:	Bettson Properties Pty Ltd ACN 009 873 152
Fifth Party:	Tobsta Pty Ltd ACN 078 818 014
Decision Date:	14 February 2019
Catchwords:	ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - CONTRARY TO PUBLIC INTEREST INFORMATION - correspondence between legal representatives on a 'without prejudice' basis - history of disputes and ongoing litigation between the applicant, council and third parties regarding planning and development issues - accountability and transparency - fairness - prejudice ability to obtain confidential information - impede administration of justice - 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 (Qld)</i>

REASONS FOR DECISION

Summary

1. The applicant applied to Fraser Coast Regional Council (**Council**) under the *Right to Information Act 2009 (Qld)* (**RTI Act**) for access to documents relating to communications, reports or meetings with BGM Projects Pty Ltd (**BGM**)¹ or its hydraulic engineering consultants about flooding, overland flow, drainage or other hydrology matters (**Hydrology Matters**) in relation to land owned by the applicant and adjoining land owned by BGM.
2. Council refused access to all requested documents on the basis that disclosure would, on balance, be contrary to the public interest.² The applicant applied to the Office of the Information Commissioner (**OIC**) for external review of Council's refusal of access decision.

¹ BGM's legal representatives confirmed to OIC that they represent BGM and Fourth and Fifth Parties named in this review.

² Sections 47(3)(b) and 49 of the RTI Act.

3. On external review, OIC formed the view that some of the refused information could be disclosed and negotiated with Council and the third parties for its disclosure. After receiving that information, the applicant raised concerns about the sufficiency of Council's searches—these were resolved by Council locating and releasing some additional information. One of the additional documents located by Council, a 'without prejudice' letter, remains in issue and is the subject of disclosure objections by BGM.
4. For the reasons set out below, I find that access to the 'without prejudice' letter may be refused under section 47(3)(b) of the RTI Act on the basis that its disclosure would, on balance, be contrary to the public interest.

Background

5. The applicant and BGM have been in dispute for a number of years about drainage and overland flow in connection with their adjoining properties. The applicant contends that BGM's development led to drainage problems on his property and, in an effort to mitigate the alleged problems, erected a concrete structure, referred to by the parties as the 'bund'. BGM contends that, as a result of the bund, its property now also experiences drainage problems.
6. In 2009, Council commenced proceedings against the applicant in the Planning and Environment Court (**P&E Court**) seeking enforcement orders against the applicant in relation to operational works Council alleged had been carried out on the applicant's land without the necessary permit, including construction of the bund.³ In 2010, BGM commenced proceedings in the Supreme Court of Queensland with respect to, among other things, the bund that is the subject of Council's P&E Court proceeding.⁴ As at the date of this decision, three⁵ court matters involving the applicant, Council and BGM, remain current.⁶

Procedure

7. The decision under review is Council's decision dated 19 January 2018.
8. Significant procedural steps taken in the external review are set out in the Appendix. Evidence, submissions, legislation and other material considered in reaching this decision are referred to in these reasons (including footnotes and Appendix).
9. During the review, the applicant raised concerns about OIC's procedure and suggested that OIC should have adopted different evidentiary processes.⁷ The procedure to be followed on an external review is at the discretion of the Information Commissioner⁸ and OIC is required to ensure procedural fairness is afforded to any adversely affected party.⁹ To the extent possible and within the confines of the RTI Act¹⁰, OIC conveyed to the applicant a general description of the without prejudice letter and summarised the submissions made by Council. OIC issued three preliminary view letters to the applicant

³ Matter No. 2400/09 in the P&E Court. See <<https://www.courts.qld.gov.au/services/search-for-a-court-file/search-civil-files-ecourts>>.

⁴ Matter No. 7803/10.

⁵ Matter No. 2312/18 was commenced in the P&E Court in 2018, by BGM against Council, with the applicant listed as co-respondent.

⁶ As per the Supreme Court of Queensland eCourts search facility, cited at footnote 3 above.

⁷ Submissions dated 24 December 2018 and 18 January 2019.

⁸ Section 95(1)(a) of the RTI Act. Notably, OIC is not bound by the rules of evidence and may inform itself on any matter in any way the commissioner considers appropriate: section 95(1)(c) of the RTI Act. In practice, it is not uncommon for OIC to obtain submissions from review participants by telephone.

⁹ Section 97 of the RTI Act.

¹⁰ For example, section 107 and 108 of the RTI Act prevent OIC from conveying information to an access participant that is claimed to be contrary to the public interest to disclose. In practice, this meant that the specific content of the Letter could not be communicated to the applicant.

and afforded the applicant an opportunity to provide submissions in response.¹¹ In the circumstances, I am satisfied OIC has fulfilled its obligation to ensure procedural fairness was afforded to the applicant, as further demonstrated by the Appendix to these reasons which sets out the procedural steps taken during the review process.

Issue for determination

10. The only document remaining in issue¹² is a 'without prejudice' letter sent by Council's lawyers to BGM's lawyers following a meeting held between Council and BGM on 23 August 2017, conducted on a 'without prejudice' basis (**Letter**).
11. The issue for determination is whether access to the Letter may be refused under the RTI Act on the basis that its disclosure would, on balance, be contrary to the public interest.¹³

Relevant law

12. The RTI Act gives people a right to access information held by government agencies and is to be administered with a pro-disclosure bias.¹⁴ The RTI Act places some limits on this right, including grounds for refusing access—relevantly, access to information may be refused if its disclosure would, on balance, be contrary to the public interest.¹⁵ The RTI Act identifies various factors that may be relevant to deciding the balance of the public interest¹⁶ and also explains the steps that a decision-maker must take in deciding where the balance of the public interest lies.¹⁷

Findings

13. No irrelevant factors arise in the circumstances of this case and I have not taken any into account in making my decision.

Factors favouring disclosure

14. The applicant submits that there are numerous public interest factors weighing in favour of disclosure of the Letter.¹⁸ The applicant argues that *'issues in relation to flooding, overland flow, drainage or other hydrology matters are important and serious'* and that access to the Letter will contribute to informed debate about those issues.¹⁹ In addition, the applicant seeks to argue that these are *'matters of environmental risk related to public safety that affect surrounding properties'* including the applicant's land.²⁰
15. The applicant points to Council's involvement in *'litigation for over 8 years'* in relation to the Hydrology Matters and considers Council *'has expended substantial public funds'* on the litigation and negotiations with BGM. In this regard, the applicant considers

¹¹ Preliminary view letters dated 8 October 2018, 30 November 2018 and 24 December 2018.

¹² In December 2018, OIC explained to the applicant that it would proceed on the basis that the Letter was the only document remaining in issue and all other issues had been resolved. In its final submission to OIC dated 18 January 2019, the applicant did not raise any concerns with OIC's proposed approach to narrow the issues in this way.

¹³ Section 47(3)(b) of the RTI Act.

¹⁴ Sections 23 and 44 of the RTI Act.

¹⁵ Section 47(3)(b) and 49 of the RTI Act.

¹⁶ Schedule 4 of the RTI Act, though this list is not exhaustive so additional factors not listed may be relevant in a particular case.

¹⁷ Section 49(3) of the RTI Act provides that a decision-maker must (i) identify any irrelevant factors and disregard them, (ii) identify any relevant public interest factors favouring disclosure and nondisclosure, (iii) balance the relevant factors favouring disclosure and nondisclosure; and (iv) decide whether disclosure of the information in issue would, on balance, be contrary to the public interest.

¹⁸ Submissions dated 15 February 2018 and 18 January 2019.

¹⁹ Schedule 4, part 2, item 2 of the RTI Act.

²⁰ Schedule 4, part 2, item 14 of the RTI Act.

disclosure would provide oversight into the expenditure of Council funds²¹ and enhance Council's accountability as a 'model litigant'.²² The applicant also raises issues of 'fairness' to the extent that the ongoing litigation concerns the applicant's land and he should therefore, be entitled to know the nature of any negotiations conducted in connection with the litigation.²³

16. The applicant contends that disclosure will inform the community about Council's operations in the context of development approvals and compliance,²⁴ and will disclose background/contextual information that has informed Council's decisions both in relation to the planning/development issues and the litigation.²⁵
17. I agree that generally, disclosure of local government planning and development information would advance the pro-disclosure factors raised by the applicant. There is a significant public interest in transparent development and planning processes to ensure the community has proper insight into a local council's role in assessing any environmental issues and impacts on adjoining landholders and residents. This is reflected in the relevant legislative regime which provides that the land-use planning and development assessment system in Queensland is intended to be transparent.²⁶
18. In considering whether disclosure of the Letter 'could reasonably be expected to'²⁷ advance the public interest disclosure factors raised by the applicant, it is relevant to consider the particular nature of the information in the Letter. In addition, information that is already in the applicant's possession in relation to the Hydrology Matters will assist in determining the weight to be afforded to the disclosure factors.
19. The Letter, authored by Council's lawyers, particularises matters discussed between BGM and Council at an earlier 'without prejudice' meeting regarding the Hydrology Matters. Essentially, it comprises Council's summation of the matters discussed with BGM and sets out a proposal for a future course of action between the parties in relation to particular site/drainage works. I am constrained by the RTI Act from describing the Letter in any further detail.²⁸
20. Given the nature of the Letter described in the preceding paragraph, I consider its disclosure would moderately enhance Council's accountability in terms of revealing the nature and extent of matters discussed between Council and BGM during the 'without prejudice' meeting. I also consider disclosure of the Letter would moderately enhance Council's transparency in terms of demonstrating how Council fulfilled its obligations as

²¹ Schedule 4, part 2, item 4 of the RTI Act.

²² Schedule 4, part 2, item 1 of the RTI Act.

²³ Schedule 4, part 2, items 10 and 16 of the RTI Act.

²⁴ Schedule 4, part 2, item 3 of the RTI Act.

²⁵ Schedule 4, part 2, item 11 of the RTI Act.

²⁶ See section 3 and section 264 of the *Planning Act 2016* (Qld), as well as schedule 22 of the *Planning Regulation 2017* (Qld), which sets out an extensive list of documents that a local government must keep available for inspection and purchase. Similar provisions also applied under the now repealed *Sustainable Planning Act 2009* (Qld).

²⁷ This phrase is a key element of each public interest factor submitted by the applicant. The term 'could reasonably be expected to' requires that the expectation is reasonably based, that it is neither irrational, absurd or ridiculous, nor merely a possibility. Whether the expected consequence is reasonable requires an objective examination of the relevant evidence. *Attorney-General v Cockcroft* (1986) 64 ALR 97 at [106]; *Murphy and Treasury Department* (1995) 2 QAR 744 at [44] – [47] citing *Re B and Brisbane North Regional Health Authority* (1994) 1 QAR 279, at [154]-[160].

²⁸ Sections 107 and 108 of the RTI Act.

- a 'model litigant'²⁹, for example, by seeking to resolve disputes outside of a formal court process.³⁰
21. The Letter pertains to resolution of a specific dispute in relation to properties owned by the applicant and third parties. It does not particularise Council's broader planning and development operations, nor does it pertain to public land, or impact properties involving a broader segment of the community. To this end, the Letter is contextually specific to the particular dispute, and has limited broader application as there is no evidence to indicate that Council would take the same approach to drainage/planning issues in a different set of circumstances. For these reasons, I afford low weight to the public interest factor concerned with informing the community of Council's operations and also consider disclosure of the Letter would only contribute to positive and informed debate to a limited extent.
 22. The Letter contains no discussion of litigation expenses or costs incurred by Council in relation to the dispute. Therefore, I find that disclosure of the Letter would not allow any insight into Council's expenditure of public funds, accordingly, that public interest factor does not apply. Further, while I accept that the Hydrology Matters are connected with issues relating to public health and safety, I do not consider the disclosure of the Letter itself could reasonably be expected to *reveal* public health and safety risks. Therefore, I find that this factor does not apply.
 23. I have also considered whether disclosure of the Letter would advance the applicant's fair treatment and/or contribute to the administration of justice and/or procedural fairness. I am satisfied these factors apply, particularly given the applicant's involvement in litigation with Council and BGM. In affording weight to these factors, I have considered the extent of information already released to the applicant, as set out below.
 24. During this review, Council released to the applicant correspondence between BGM, the Fourth and Fifth Parties and Council (and consultants), records of Council meetings about the development, applications, planning/development forms and plans submitted to Council by (or on behalf of) BGM and the Fourth and Fifth Parties, and a development application decision notice issued to BGM by Council. I consider those released documents have afforded the applicant access to a variety of information about Council's actions and decision making processes regarding the Hydrology Matters generally, and the nature of Council's communications with BGM, the Fourth and Fifth Parties.
 25. As noted above, the parties are currently involved in litigation in connection with the Hydrology Matters, with the first proceeding having been commenced in 2009 by Council against the applicant seeking enforcement orders. Published court records reveal that an extensive amount of evidence has been exchanged between the parties in those proceedings. Notably, the 'without prejudice' meeting between Council and BGM is referred to in published court transcripts, and those transcripts also set out Council's general understanding of the outcomes proposed at that meeting regarding the involvement of hydraulic experts, approval processes and relevant site works.³¹

²⁹ The concept of the 'model litigant' developed at common law from judicial recognition of the Crown's obligations in legal proceedings. In *The Melbourne Steamship Co Ltd v Moorehead* (1912) 15 CLR 333 at 342 Sir Samuel Griffiths commented that the Crown is to observe a "traditional and almost instinctive standard of fair play". The importance of the State setting an example of "conscientious compliance with the procedures designed to minimise cost and delay" was also noted by King CJ in *Kenny v South Australia* (1987) 46 SASR 268. See also *Hughes Aircraft Systems International v Airservices Australia* (1997) 76 FCR 151 at 196-7.

³⁰ See "Model Litigant Principles" published by the Department of Justice and Attorney-General at <https://www.justice.qld.gov.au/_data/assets/pdf_file/0006/164679/model-litigant-principles.pdf>; *Scott v Handley* (1999) 58 ALD 373 at pp 383-384 recognised that "all three tiers of government" are obliged to comply with the model litigant principles, this was cited with approval in *Gill and Brisbane City Council* [2001] QICmr 4 (6 June 2001) at [102].

³¹ Matter 2400/09 in the P&E Court, 24 August 2017, T1-3 at lines 10-40 and 8 September 2017, T1-2 at lines 15-45 and T1-4 at lines 35-45.

26. I find that the nature and extent of information that has been released to the applicant under the RTI Act or made available to it through its involvement in the various court processes, particularly the court transcript discussion of the ‘without prejudice’ meeting, serves to significantly reduce the weight of the public interest factors referred to at paragraph 23 above. Accordingly, I afford these factors low weight in favour of disclosure.

Factors favouring nondisclosure

27. The RTI Act recognises that there is a public interest in the nondisclosure of information that could reasonably be expected to impede the administration of justice.³² As the Letter was exchanged between Council and BGM on a ‘without prejudice’ basis in a dispute resolution context, I consider this nondisclosure factor is relevant in this case.
28. ‘Without prejudice’ discussions are those held on the basis that any disclosures made will not otherwise affect a legal interest of a party.³³ The rationale is that there is a public interest in parties fully participating in attempts to resolve matters informally, without being concerned that their admissions will be used against them in future.³⁴ I consider this public interest is enshrined in the nondisclosure factor cited at paragraph 27 above.
29. Generally, the ‘without prejudice’ privilege operates to protect negotiations between opposing parties to litigation. However, there is some authority for the view that the privilege can extend to litigation that has a connection with the same subject matter as the negotiations which are the subject of the claim of privilege.³⁵ There is also authority to suggest that the relevant test may be whether *‘any of the documents or communications in question is protected from disclosure because it was made or brought into existence with a view to compromising a dispute likely to result in litigation’*.³⁶
30. In this review, the relevant question is whether disclosure of the Letter would, on balance, be contrary to the public interest. In reaching a finding on this point, it is relevant to consider the case law regarding ‘without prejudice’ communications. However, the RTI Act does not require me to determine whether ‘without prejudice’ privilege unequivocally applies to the Letter so as to make the document privileged from production in a legal proceeding—that is beyond the external review jurisdiction of the Information Commissioner. What is relevant to consider is the *nature* of the negotiations particularised in the Letter, and whether disclosing these types of communications could reasonably be expected to impede the administration of justice and Council’s ability to obtain confidential information in future negotiations.
31. The information available to me demonstrates that Council engaged in the ‘without prejudice’ negotiations with BGM in an effort to resolve the disputes between the various parties and consequently, the related legal proceedings. A Council officer present at the ‘without prejudice’ meeting submitted to OIC that the meeting was held on the understanding that it would remain confidential, unless otherwise agreed between the parties.³⁷ That officer also indicated that the willingness of parties to become involved in such ‘without prejudice’ negotiations is dependent upon assurances of confidentiality.

³² Schedule 4, part 3, item 8 of the RTI Act.

³³ Encyclopaedic Australian Legal Dictionary: *‘A statement made without an intention to affect the legal rights of the person making the statement’*.

³⁴ *Village/Nine Network Restaurants & Bars Pty Ltd v Mercantile Mutual Custodians Pty Ltd* [2001] 1 Qd R 276 at [27] Byrne J.

³⁵ *Ibid* at [18]-[20].

³⁶ *Glengallan Investments Pty Ltd & Ors v Arthur Andersen & Ors* [2002] 1 Qd R 233 at [38].

³⁷ Council’s Executive Manager of Planning and Growth made oral submissions to OIC on 26 November 2018. The court transcript in matter 2400/09 from 8 September 2017, T1-2 at lines 15-45 and T1-4 at lines 37-40, also supports the view that there was an understanding between the parties that the information discussed in the meeting would remain confidential unless an agreement was reached.

BGM also confirmed that it did not agree to disclosure of the Letter.³⁸ I find that this lends weight to the argument that there was a mutual understanding of confidentiality between the parties at the relevant time.

32. The applicant has raised a concern, and I accept, that at the time of the ‘without prejudice’ meeting, Council and BGM were not opposing parties to litigation. Both were however, involved in separate proceedings against the applicant with respect to the bund erected on the applicant’s land, and these proceedings remain current, in addition to the further proceeding which has since been commenced by BGM against Council in the P&E Court. Given that all three court proceedings concern the same subject matter, it is foreseeable that resolution of certain issues between the parties, may result in more than one (if not all) proceedings resolving. Court transcripts also indicate that several of the related proceedings may be settled at the same time by alternative dispute resolution.³⁹ In addition, Council has also applied to join BGM to matter no. 2400/09, but this has yet to be decided by the P&E Court. I consider this demonstrates that Council and BGM have opposing interests in relation to the Hydrology Matters and lends weight to the argument that their ‘without prejudice’ communications were conducted in an alternative dispute resolution context.
33. Engaging in alternative dispute resolution processes such as ‘without prejudice’ meetings demonstrates that Council is seeking to use government resources efficiently by identifying opportunities for settlement of disputes outside of the court process. This is supported by the obligations on Council as a model litigant to ‘*avoid, prevent and limit the scope of legal proceedings wherever possible, including by giving consideration in all cases to alternative dispute relation...*’.⁴⁰ Alternative dispute resolution benefits the judicial system as it reduces the burden on the Courts’ limited resources. For this reason, where parties enter such negotiations on the understanding of confidentiality (even where they are not litigating against each other) I am satisfied that the public interest favours protection of those discussions and any admissions made if an agreement cannot ultimately be reached.
34. If the Letter was released, I consider that Council’s ability to conduct future ‘without prejudice’ negotiations, particularly in a planning and environment context, would be prejudiced as other parties may be disinclined to engage in open negotiations with Council. Eroding the confidence afforded to ‘without prejudice’ discussions, and therefore, the viability of the alternative dispute resolution process, would not be in the public interest and could reasonably be expected to prejudice Council’s ability to obtain confidential information and impede the administration of justice generally.⁴¹
35. I afford these nondisclosure factors significant weight due to the immeasurable value of alternative dispute resolution processes to the community in terms of:
 - cost savings both to private citizens involved in litigation with Government and use of taxpayer funds to fund litigation
 - timely resolution of planning and environment issues that have commercial impacts on land owners/developers and practical impacts on the living circumstances of residents; and
 - efficient use of limited judicial resources.

³⁸ Telephone conversation on 20 December 2018.

³⁹ Matter 2400/09 in the P&E Court, 8 September 2017, T1-2 at lines 25-28.

⁴⁰ See the Department of Justice and Attorney-General “Model Litigant Principles” cited at footnote 31 above.

⁴¹ Schedule 4, part 3, item 8 and 16 and part 4, item 8(1) of the RTI Act.

36. The applicant submits that the released documents do not contain evidence that any of the meetings held between the Council and the third party were confidential.⁴² To confirm, the evidence I am relying on to find that Council and BGM mutually intended for the meeting and subsequent letter to remain confidential includes:
- the oral submissions provided by Council's Executive Manager of Planning and Growth who attended the relevant meeting
 - submissions made in the P&E Court by Council's representative in Matter No. 2400/09 on 7-8 October 2017 about the nature of the meeting
 - the content of the Letter itself, including the 'without prejudice' marking; and
 - BGM's objection to the release of the Letter.
37. The applicant also points to the disclosure of a record of another meeting between Council and BGM in support of its argument that the Letter should be released.⁴³ That document, released during the external review, was not marked 'without prejudice' and neither Council nor BGM objected to its release. Accordingly, I am unable to accept the applicant's submission that a similar approach should be taken to disclosure of the Letter as the circumstances surrounding release of the other meeting record can be readily distinguished.

Balancing the factors

38. I find that disclosure of the Letter could reasonably be expected to moderately enhance Council's accountability and transparency by revealing the nature and extent of matters discussed during the 'without prejudice' meeting and demonstrating how Council fulfilled its model litigant obligations. Given the limited context of the Letter and the information already released to the applicant through the RTI Act and various litigation proceedings, I have afforded low weight to the remaining applicable pro-disclosure factors for the reasons set out at paragraphs 21 to 26 above.
39. On the other hand, there is a public interest in protecting Council's ability to participate in alternative dispute resolution processes, especially in circumstances where the relevant litigation has been on foot for almost 10 years, and the parties appear to be experiencing serious and complex planning and environment issues. I am satisfied that disclosing confidential communications made in the course of attempting to resolve these issues would prejudice Council's ability to engage in such negotiations in the future. I find that disclosure of the Letter would impede the administration of justice as alternative dispute resolution is recognised as a valuable adjunct to the litigation process and is a critical component of Council's obligations as a model litigant. In these circumstances, I find the factors favouring nondisclosure warrant significant weight.
40. In view of the above, and taking into account the pro-disclosure bias, I am satisfied that the detriment to the public interest that could reasonably be expected to arise through disclosure of the 'without prejudice' Letter is significant. On balance, I am satisfied that the nondisclosure factors outweigh the disclosure factors and access to the Letter may therefore, be refused on the basis that disclosure would, on balance, be contrary to the public interest.⁴⁴

⁴² Applicant's submissions dated 18 January 2019.

⁴³ Ibid.

⁴⁴ Section 47(3)(b) and 49 of the RTI Act.

DECISION

41. I vary the decision under review and find that access to the Letter may be refused under section 47(3)(b) of the RTI Act.
42. I have made this decision under section 110 of the RTI Act, as a delegate of the Information Commissioner, under section 145 of the RTI Act.

K Shepherd
Assistant Information Commissioner

Date: 14 February 2019

APPENDIX

Significant procedural steps

Date	Event
15 February 2018	OIC received the external review application and supporting submissions from the applicant.
16 February 2018	OIC notified the applicant and Council that the application had been received and asked Council to provide the relevant procedural documents.
26 February 2018	OIC received the requested procedural documents from Council.
7 March 2018	OIC notified Council and the applicant that the external review application had been accepted. OIC asked Council to provide copies of the documents located in response to the application and records of searches conducted by Council.
19 March 2018	OIC provided the applicant with information about timeframes on review.
20 March 2018	OIC contacted the applicant and provided further information about OIC's process and the next steps in the review.
21 March 2018	OIC granted Council an extension of time to provide documents and search records.
22 March 2018	OIC provided the applicant with an update on the status of the review.
5 April 2018	OIC received the requested documents from Council.
10 April 2018	OIC provided the applicant with an update. OIC contacted Council to discuss its position on disclosure of the located documents.
20 April 2018	OIC provided the applicant with an update on the status of the review.
29 May 2018	OIC provided the applicant with an update by email, advising that the review may take some time as third party consultation was required.
22 June 2018	Council's Executive Manager of Development provided oral submissions to OIC.
3 July and 17 August 2018	OIC provided the applicant with an update on the status of the review.
31 August 2018	OIC conveyed a written preliminary view to Council, the Third, Fourth and Fifth Parties, that further information may be released and invited submissions in response. OIC provided the applicant with an update by email.
6 September 2018	Council advised of delays in providing its response to OIC's preliminary view.
20 September 2018	OIC received a response from the Third, Fourth and Fifth Parties accepting OIC's preliminary view.
21 September 2018	OIC received a response from Council accepting OIC's preliminary view.
8 October 2018	OIC conveyed a written preliminary view to the applicant.
15 October 2018	The applicant contacted OIC as Council had not yet provided copy of relevant documents.
16 October 2018	OIC contacted Council to request documents be released to the applicant in accordance with OIC's request on 8 October 2018.

Date	Event
17 October 2018	Council confirmed that the relevant documents had been sent to the applicant.
18 October 2018	The applicant requested, and OIC granted, an extension to 29 October 2018 as the relevant documents had been provided late by Council.
29 October 2018	OIC received a response to the preliminary view from the applicant.
5 November 2018	OIC requested further information from Council regarding its searches.
15 November 2018	The applicant contacted OIC and an update was provided.
16 November 2018	OIC received a response from Council confirming further documents had been located.
	OIC requested a submission from Council regarding whether the further located documents may be released.
22 November 2018	OIC contacted the applicant and provided update.
23 November 2018	Council provided a submission to OIC regarding whether further documents may be released.
26 November 2018	Council's Executive Manager of Planning and Growth provided oral submissions to OIC.
30 November 2018	OIC conveyed a second written preliminary view to the applicant.
	OIC requested that Council release further information to the applicant.
10 December 2018	Council advised of delays in releasing the further information to applicant.
14 December 2018	OIC received a response to the second preliminary view from the applicant.
20 December 2018	The Third, Fourth and Fifth Parties confirmed their objection to release of the Letter.
24 December 2018	Further submissions were received from the applicant.
	OIC conveyed a third preliminary view to the applicant.
18 January 2019	OIC received a response to the third preliminary view from the applicant.
12 February 2019	Legal representatives for BGM confirmed that they were acting for the parties listed as the Third, Fourth and Fifth Parties, in this review.