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Brisbane City Council ABN 72 002 765 795

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Our Reference: RTI/IP Appl 2024/25-340
Your Reference:

11 February 2025

Mr David Manteit
82 Rowe Terrace
DARRA QLD 4076

Email to: davidmanteit@hotmail.com

Dear Mr Manteit

Decision: Right to Information application for access to documents

I refer to your Right to Information application 2024/25-340, received by Brisbane City Council (Council) on 5 January 2025, compliant on 6 January 2025, in which you sought access to the following documentation pursuant to Section 23 of the *Right to Information Act 2009* (the RTI Act):

Development Application A006565555 - 128 Ashridge Road, Darra

1. *Documents relating to the amendment in red (dated 20/09/2024) of the approved plan (SK01 - copy provided).*
2. *Surface levels and invert levels of 6 pits and 2 kerb crossings that a engineer or Council officer has amended in red on Plan SK01.*
3. *Any documents indicating the quantity and location of fill required by Council on the site, which resulted in Conditions 12, 17 and 18 of the approval.*
4. *Any other stormwater and fill engineering input documents that formed part of the assessment process.*

I confirm that I am a delegated officer under Section 30 of the RTI Act with the power to deal with your application. The purpose of this letter is to notify you of my decision on your application.

Decision

I have decided to give partial access as per the attached schedule (**Attachment B**).

The schedule lists the documents that are held by, or under control of the Council, which were found to be relevant to your application, and lists deletions and exemptions. I have decided to:

- allow full access to 36 pages; and

- refuse access under Section 47(3)(b) of the RTI Act to 5 part pages on the basis that these parts are comprised of information, the disclosure of which is contrary to public interest under Section 49 of the RTI Act.

Reasons for Decision

Detailed reasons for my decision are set out in **Attachment A**.

Searches

Following receipt of your application, searches were conducted in the following location to identify documents that were relevant to your request:

- Development Services Branch, City Planning and Sustainability Division

These searches located 41 pages of documents relating to items 1 and 4 of the application scope. No documents were able to be located relating to items 2 and 3.

Accessing the Documents

In accordance with Section 68(3) of the RTI Act, if you have requested access to a document in a particular form (for example, by email), access must be given in that form unless giving access in the form requested would:

- interfere unreasonably with the operations of Council; or
- be detrimental to the preservation of the document or having regard to the physical nature of the document, would be inappropriate; or
- involve an infringement of the copyright of a person other than the State.

If one of the above reasons applies, I may refuse to give you access in the form you have requested and instead give access in another form.

I note that you requested access to the document by email/Sharefile link.

In accordance with your application, I will be providing you with a Sharefile link in the covering email to enable you to access the documents being released.

Processing and Access Charges

I note receipt of your non-refundable application fee of \$55.75.

I have formed the view that you are not liable to pay any processing charges for this application as described under Section 56 of the RTI Act. In addition, there are no access charges applicable as you have requested that the documents be given to you electronically.

Section 36(1)(b) of the RTI Act states that we must before the end of the processing period give you a notice of charges which are payable before access may be given, even when no processing charges apply.

Final Charges Notice

Items	Cost
Processing charges	\$0.00
Access Charges (Electronic no charge)	\$0.00
Total Cost	\$0.00

Review rights

If you think this decision is incorrect, you have the right to require Council to formally review the decision by conducting an internal review.

Prior to lodging an application for internal review, you may wish to discuss the decision by contacting me on 3403 6786 or via reply email.

An internal review application must be made in writing within 20 business days after the date of the written notice of this decision. Applications for internal review should be forwarded to:

Right to Information & Information Privacy
Brisbane City Council
GPO BOX 1434
Brisbane QLD 4001
Or via email- Brisbane.RTI@brisbane.qld.gov.au

Your internal review application will be referred to another officer of this agency who is at least as senior as the original decision-maker and who will consider the matter afresh.

You will be notified of the decision within 20 business days after the agency receives your internal review application.

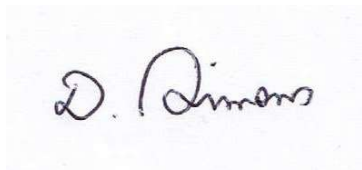
If you do not receive a decision within 20 business days, then an internal review decision affirming the original decision is deemed to have been made and you are entitled to apply to the Office of the Information Commissioner for external review. Applications for external review should be forwarded to:

Office of the Information Commission
PO Box 10143
Adelaide St
Brisbane QLD 4000
Telephone 07 3234 7373
Email administration@oic.qld.gov.au
Website www.oic.qld.gov.au

Alternatively, you may forgo the opportunity to seek internal review and apply directly to the Office of the Information Commissioner for an external review, in writing within 20 business days after the date of the written notice of the decision.

Should you have any questions concerning this matter, please contact David Simons on 3403 6786 or email Brisbane.RTI@brisbane.qld.gov.au quoting your application number as a reference.

Yours sincerely

A handwritten signature in black ink, appearing to read 'D. Simons', on a light-colored background.

David Simons
Senior Information and Policy Officer

REASONS FOR DECISION (Attachment A)

In making my decision, I considered the following:

- the provisions of the RTI Act, the IP Act and the *Human Rights Act 2019 (Qld)* (the **HR Act**)
- the nature of the information requested
- the results of the searches undertaken
- case law
- the pro-disclosure bias set out in the RTI Act
- the guidelines of the Office of the Information Commissioner (OIC)

The RTI Act gives the community a right of access to information held by government agencies, subject only to limited exceptions.

Where I have decided to refuse you access to information, I have done so in accordance with Section 47(3) of the RTI Act, which provides that access to documents, may be refused in certain circumstances, including to the extent they comprise of:

- exempt information under Section 48 of the RTI Act; and
- information the disclosure of which would, on balance, be contrary to the public interest under Section 49 of the RTI Act.

The reasons for my decision are grouped as follows:

- Deciding the Public Interest
 - Factors irrelevant
 - Factors favouring disclosure in the public interest
 - Factors favouring nondisclosure in the public interest
 - Factors favouring nondisclosure in the public interest because of public interest harm
- Summary

DECIDING THE PUBLIC INTEREST

The term 'public interest' refers to considerations affecting the good order and functioning of the community and government affairs for the well-being of residents. The RTI Act identifies various factors for and against disclosure that may be relevant to deciding the balance of the public interest.

In deciding where the public interest lies, I must:

- (a) identify any irrelevant factors and discard them;
- (b) identify relevant public interest factors favouring disclosure and nondisclosure;
- (c) balance the relevant factors favouring disclosure and nondisclosure; and
- (d) decide whether disclosure of the information in issue would, on balance, be contrary to the public interest.

I am also required to have regard to the fact that, when a factor in Schedule 4, Part 4 of the RTI Act applies, disclosure could reasonably be expected to cause public interest harm.

Factors irrelevant to deciding the public interest

Schedule 4, Part 1 of the RTI Act identifies a number of factors that are irrelevant in deciding the public interest.

I have considered the irrelevant factors set out in Schedule 4, Part 1 and found that none applies. I have not identified any other irrelevant factor. Therefore, no irrelevant factor influenced my consideration of whether disclosure would, on balance, be contrary to the public interest.

Factors favouring disclosure in the public interest

In deciding whether the disclosure of this information is contrary to the public interest I have considered the factors identified in Schedule 4 Part 2 of the RTI Act favouring disclosure and any other factors that I consider could favour disclosure. I have found the following to apply:

Openness and accountability of government

Sch 4 Pt 2 Factors favouring disclosure in the public interest

(1) Disclosure of the information could reasonably be expected to enhance the Government's accountability.

The Brisbane City Council adopts a pro-disclosure position in matters that are of public interest with the aim of advancing transparency, openness and the fair treatment of the public in their dealings with the Council.

I have formed the opinion that it is in the public interest to consider release of the requested documents as disclosure could reasonably be expected to enhance the Council's accountability in relation to the performance of its functions.

I am satisfied that the public interest in enhancing accountability and increasing transparency carries significant weight in favour of disclosure.

Factors favouring nondisclosure in the public interest

Schedule 4, Part 3 and Part 4 of the RTI Act set out the factors favouring nondisclosure in the public interest. I have found that the following apply:

Individual's right to privacy and personal information

Sch. 4 Pt. 3 Factors favouring nondisclosure in the public interest

(3) Disclosure of the information could reasonably be expected to prejudice the protection of an individual's right to privacy.

Sch. 4 Pt. 4 Factors favouring nondisclosure in the public interest because of public interest harm in disclosure

(6) (1) Disclosure of the information could reasonably be expected to cause a public interest harm if disclosure would disclose personal information of a person, whether living or dead

Section 12 of the IP Act defines personal information 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.

I have located personal information comprising of various individuals' personal details, as listed in the schedule (**Attachment B**).

I have not determined that the information was already known to you and have not obtained authorisation from the individuals concerned to release this personal information. I considered whether disclosure of the above information could reasonably be expected to:

- prejudice the protection of an individual's right to privacy; and
- cause a public interest harm as the information is personal information of another individual.

I have identified that disclosure of this information would constitute an unnecessary intrusion on the affairs of individuals. It is my opinion that nondisclosure of this information does not adversely affect your understanding of the documents being released to you. Therefore, I have given this factor significant weight and deleted the information.

Balancing the public interest

Following consideration of the above factors favouring disclosure and favouring non-disclosure, I am satisfied that, on balance, it would be contrary to the public interest to disclose the information identified in **Attachment B**.

SUMMARY

I have identified public interest factors which must be accorded weight in balancing the public interest, and where I have identified personal information, I have found that the release of this specific information is contrary to public interest and therefore, I have deleted this information accordingly.

I am satisfied that in the documents considered there is a general public interest in enhancing openness which is sufficient to address the public concern of accountability.

In making my decision I have had regard to Section 21 of the HR Act, which gives all individuals the right to seek and receive information. As a decision maker representing a public entity, I am satisfied that, as required under Section 58(1) of the HR Act, I have acted compatibly and given due consideration to relevant human rights when assessing and making my final decision on your RTI application.

Overall, in balancing the factors for and against disclosure, I am satisfied that the public interest is served in the disclosure of the documents being released. Therefore, I have made a decision to give partial access as per the Schedule in **Attachment B**.

ATTACHMENT B
RIGHT TO INFORMATION DOCUMENT SCHEDULE
2024/25-340

File Number or Name	Page Numbers	Document Description	Exemption: Entire or Partial	Reason for Exemption	Applicable Legislative Section
CPAS documents – combined (41 pages)	7, 18, 22, 26, 34		Partial	Personal information of an individual/s – face in photo, signature, opinion	CPI* Sch. 4(3)(3) Sch. 4(4)(6)(1)

*Contrary to the public interest

Documents considered: 41 pages
Full access: 36 pages
Partial access: 5 pages
Full exemption: 0 pages