

12 October 2023

Ruapehu District Council  
**TAUMARUNUI**

For: Clive Manley and Warrick Zander

By email only: [info@ruapehudc.govt.nz](mailto:info@ruapehudc.govt.nz); [clive.manley@ruapehudc.govt.nz](mailto:clive.manley@ruapehudc.govt.nz) and [warwick.zander@ruapehudc.govt.nz](mailto:warwick.zander@ruapehudc.govt.nz)

**Ruapehu District Council (RDC) Teitei Drive Ohakune – Ongoing Issues and failure to comply with the provisions of the LGOIM Act 1987**

1. I confirm I continue to be instructed by several parties and have been investigating the steps Council has taken to date in relation to its application to CIP funding for its “shovel ready” projects.
2. I acknowledge receipt of your letter of 11 October 2023 providing a small amount of information requested.
3. I record that my requests both under the LGOIM Act 1987 and Resource Management Act 1991 have not been fully answered, breaching the time limits specified in the Local Government Official Information and Meetings Act 1987 (LGOIMA) requests, the stated date for provision and the requirements in section 35 of the Resource Management Act for information to be available. As you will be aware a complaint to the Ombudsman has now been filed and acknowledged and I have instructions to bring proceedings for pre-litigation discovery which are being drafted.
4. The delays in providing the information have meant that I was unable to properly advise my clients and they in turn were unable to fully consult with their elected representatives prior to further attempts by the Chief Executive and Mayor to rectify what cannot be rectified and now (subject to my offer to Mr Vane) will result in a Judicial Review and injunction application being undertaken which is now necessary due to RDC’s comprehensive failure to provide the information sought.
5. I attach a summary of the questions asked to date and record in green which ones have been answered by you. It will be obvious which ones, therefore, have not been answered. The questions that are unanswered are marked up in yellow. The lack of answers to questions and lack documents has the effect of stalling my instructions and investigation. If this is not remedied by way of immediate provision of answers and supply of documents not already provided, then the lack of remediation will provide further support to my clients’ application and the claim for indemnity costs. Please supply answers and documents to the unanswered questions no later than Tuesday 17 October 2023 or provide a letter in reply setting out when the information will be reasonably available. For the avoidance of doubt any time beyond 10 working days will be considered unacceptable by my clients’.
6. I therefore write to you on an urgent basis in an attempt to forestall the necessity for such action as I am required to do ahead of an intended High Court Application. In that regard RDC is now on notice as to costs on an indemnity basis should this correspondence go unanswered within the time limits prescribed.



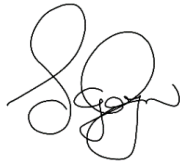
7. Additionally, you will note that RDC's lawyer Alan Vane has been copied into this letter. I have, following receipt of Mr Zanders only acknowledgment and provision of information, that was appreciated, avoided contacting Mr Vane directly until now.
8. I note the following:
  - a. On Wednesday 27 September 2023 at a full Council meeting the Teitei matter was on the agenda. Apparently, as I have come to understand, the mayor (at a public meeting) had agreed there would be a public meeting at which the project would be discussed. The undated report presented was authored by Ree Anderson, a consultant to the Council. The report appears to be an attempt to defend the actions of Council and the "consultations" that the Council has undertaken to comply with the Local Government Act 2002 and its policies. However, the initial report (now disclosed, but originally "secret") to the August 2020 meeting related to Taumarunui and not to Teitei Drive. This is clear from the OIA responses received from Kainga Ora to date.
  - b. At the meeting on 27 September 2023, which was live streamed on Facebook, it certainly appears that in accordance with standing orders there was a resolution to carry on being one of the options proposed in Ms Anderson's report. However, it is also clear that after 4 speakers had spoken there was a resolution proposed and seconded (and support provided by 6 Councillors – a majority) for the matter to lie upon the table. As a procedural motion under standing orders adopted by the current Council in late 2022 the Mayor was required to immediately put that procedural motion. He did not do so which will be a breach of the standing orders.
  - c. As above the report to Council by Ree Anderson attached an earlier confidential report provided to Councillors in August 2020 while Council was attempting to use its secrecy provisions of the LOGIMA (this excluding the public). This report detailed recommended resolutions for Councillors to pass and related to the then current CIP application regarding Taumarunui projects and consultation in relation to those projects. The report to Council for 27 September 2023 does not indicate whether these proposed resolutions were passed. Given what is currently known it appears likely that they were passed. Please confirm whether these resolutions were passed and provide copies of those resolutions.
  - d. There must have been more secret briefings of Councillors but again these are not properly detailed in the resolutions passed to exclude the public. As you will be aware section 48(3)(a) of the LGOIMA, which grants Councils the right to exclude the public, requires the general subject to be discussed to be detailed. To suggest it is a confidential briefing is not meeting that Act's requirements in that regard. Later similar attempts to exclude the public (as the negotiations between Council and CIP, then Kainga Ora (KO) and finally Housing New Zealand Build Limited and the change from a grant from CIP to Council as occurred with the first tranche for the 6 unit development and upgrade of other social housing) to a sale of land (at a peppercorn value?) to KO are all suspect and very concerning to my clients and will need to be disclosed ahead of my clients Judicial Review Application and injunction proceedings, and will be included in my clients application for pre-litigation disclosure. It is my view that these should all now be disclosed because of the advice that the contract has been signed and the appropriate course for Council is to now undertake that disclosure to its ratepayers and residents. RDC is again on notice as to indemnity costs.
  - e. Given that the matters relating to Teitei Drive land are now in the public domain (and I now have your responses to Mr Carnachan) and there has been a number of OIA disclosures I

consider that Council should (as is contemplated by Local Government NZ in its commentary on standing orders) now make available all resolutions passed by, and reports given to, Councillors in the meetings where the public was excluded and which relate to CIP, KO HNZ Build Limited and HUD funding of KO, and the Teitei Drive project. It is my view that these should all now be disclosed because of the advice that the contract has been signed and the appropriate course for Council is to now undertake that disclosure to its ratepayers and residents. RDC is again on notice as to indemnity costs.

- f. Apart from the consultation with respect to Teitei Drive, which my clients consider was not undertaken in accordance with the Local Government Act and RDC's own policy relating to engagement/consultation, there does not appear to have been any disclosure of a specific intention to sell Teitei land (or part thereof) in any Long-Term Plan (either the 3-year or 10-year plans). Nor does it appear that there is any Council resolution (as required by the Local Government Act) to sell the Teitei land – (subject to further disclosure).
  - g. I have not detailed any of my clients concerns as to Council's steps under the Resource Management Act as I have not been provided with the answers to my clients' questions. I reserve my position on those matters.
9. As indicated above (and noting that I have copied in Mr Vane for the reasons outlined) I offer to have a "without prejudice" meeting, except as to costs, with Mr Vane to:
- a. Discuss the actual steps Council has taken at its meetings and by its staff and consultants with respect to CIP funding, KO, Housing New Zealand Build Limited, Hud funding of KO.
  - b. Be shown all documents provided to Councillors in the "secret meetings".
  - c. Be shown the resolutions passed at those secret meetings.
  - d. Discuss the failure of the Council to follow standing orders at its meetings and the implications that result.
  - e. Show me the authority of the Chief Executive to sign a contract with Housing New Zealand Build Limited, a registered company and entity, which agreement appears to be a sale of land and also a commitment to expend monies on infrastructure connections to connect the land sold (not contained in the 2022/23 budget of RDC or the proposed 2023-24 year of the Long Term Plan.
  - f. Such other issues and documents as may arise in the discussions and disclosures.
10. This offer is open for acceptance on or before 4.00pm 16 October 2023, failing which my clients will take such steps as they consider appropriate.
11. This correspondence will be tendered in support of my clients' substantive application and application for costs should that be required.
12. In addition to the above matters, I have today forwarded a request for further information relating to various delegations. The request is, as explained in the email, quite nuanced and will likely not be an onerous job to extract the information sought. I attach a copy of that letter on the basis that it is anticipated that RDC will provide the information promptly.



Yours Faithfully  
**BYTALUS LEGAL**



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For: Alan Vane

