

RTI Release

Sch 3(7)

RTI Release

Sch 3(7)

RTI Release

Sch 3(7)

David Simons

From: Katherine Thompson
Sent: Friday, 3 December 2021 11:27 AM
To: 'Kathryn O'Hare'
Cc: 'Leanne O'Neill'; 'Vanessa Thompson'
Subject: RE: OP323122 - Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Hi Kathryn,

By way of update, I note Council's client area is considering progression of the matter in regard to obtaining Council approval to the same. This is required prior to finalisation of any proposed lease terms.

I will update you once I have received instructions.

Kind regards,
Katherine

Katherine Thompson

Solicitor | Planning and Development | City Legal
City Administration and Governance | **BRISBANE CITY COUNCIL**

Brisbane Square | Level 20, 266 George Street, Brisbane, Qld 4000
GPO Box 1434, Brisbane, Qld 4001
Phone: 07 3178 2704 | Fax 07 3334 0058
Email: Katherine.Thompson@brisbane.qld.gov.au



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From: Katherine Thompson
Sent: Friday, 26 November 2021 5:03 PM
To: Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>
Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Subject: RE: OP323122 - Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Hi Kathryn,

Thank you for the below. I have finalised my review of the proposed trust terms and am just seeking instructions / clarification on various points from my client area.

I hope to be in touch early next week with my comments.

Kind regards,
Katherine

Katherine Thompson

Solicitor | Planning and Development | City Legal
City Administration and Governance | **BRISBANE CITY COUNCIL**

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From: Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>
Sent: Monday, 22 November 2021 2:52 PM
To: Katherine Thompson <Katherine.Thompson@brisbane.qld.gov.au>
Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>
Subject: RE: OP323122 - Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Hi Katherine

Further to the below email exchange, do you have any update on when we will receive the Council's feedback in respect of the proposed key terms?

As our client has received an updated quote for the cost of constructing the bridge, which has increased from \$66,125 to \$72,135 (excl. GST) (see **attached**), it is keen to minimise any further delay to resolving this matter.

Kind regards

Kathryn O'Hare
Senior Associate



T +61 7 3231 2906 **E** Kathryn.O'Hare@cgw.com.au
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001
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From: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Sent: Monday, 15 November 2021 10:10 AM
To: katherine.thompson@brisbane.qld.gov.au
Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>
Subject: RE: OP323122 - Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Hi Katherine

Further to your below emails with Kathryn – do you have any update on when we will receive the Council's feedback on the proposed key terms?

(Also – are you the same Katherine Thompson who formerly worked at Sch 4 Pt 4(6)(1))

Kind regards

Vanessa Thompson

Special Counsel



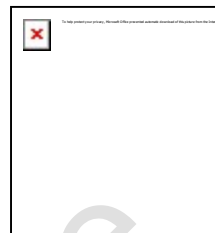
T +61 7 3231 2403 **M** +61 Sch 4 Pt 4(6)(1) **E** vanessa.thompson@cgw.com.au
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001
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From: Katherine Thompson <Katherine.Thompson@brisbane.qld.gov.au>
Sent: Monday, 8 November 2021 12:47 PM
To: Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>
Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Subject: RE: OP323122 - Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Hi Kathryn,

I will be reviewing the above matter including proposed key terms during the course of the week and will provide Council's response as soon as possible.

Kind regards,
Katherine

Katherine Thompson

Solicitor | Planning and Development | City Legal
City Administration and Governance **BRISBANE CITY COUNCIL**

Brisbane Square | Level 20, 266 George Street, Brisbane, Qld 4000
GPO Box 1434, Brisbane, Qld 4001
Phone: 07 3178 2704 | Fax 07 3334 0058
Email: Katherine.Thompson@brisbane.qld.gov.au



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From: Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>
Sent: Monday, 8 November 2021 9:22 AM
To: Katherine Thompson <Katherine.Thompson@brisbane.qld.gov.au>
Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Hi Katherine

Further to the below email chain, could you please advise when we can expect to receive the Council's response to our client's draft proposed key terms?

Kind regards

Kathryn O'Hare

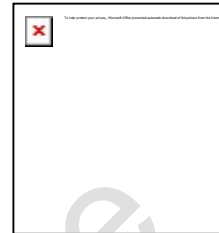
Senior Associate



T +61 7 3231 2906 **E** Kathryn.O'Hare@cgw.com.au
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From: Kathryn O'Hare
Sent: Monday, 1 November 2021 1:43 PM
To: Katherine Thompson <Katherine.Thompson@brisbane.qld.gov.au>
Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Hi Katherine

Further to the below, would you please advise when we can expect to receive the Council's response to our client's draft proposed key terms?

Kind regards

Kathryn O'Hare

Senior Associate



T +61 7 3231 2906 **E** Kathryn.O'Hare@cgw.com.au
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001
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From: Kathryn O'Hare
Sent: Friday, 22 October 2021 12:42 PM
To: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>
Cc: Katherine Thompson <Katherine.Thompson@brisbane.qld.gov.au>; Leanne O'Neill

<Leanne.ONeill@cgw.com.au>; Vanessa Thompson <Vanessa.Thompson@cgw.com.au>

Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Hi Elaine

Thank you for the update.

Katherine – would you please advise when we can expect to receive the Council's response to our client's draft proposed key terms?

Kind regards

Kathryn O'Hare

Senior Associate



T +61 7 3231 2906 **E** Kathryn.O'Hare@cgw.com.au

Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001

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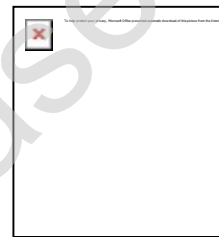
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From: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>

Sent: Friday, 22 October 2021 10:57 AM

To: Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>

Cc: Katherine Thompson <Katherine.Thompson@brisbane.qld.gov.au>

Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Hello Kathryn

This matter has been transferred to the Property team to be progressed and I have Cc'd in the solicitor who now has the carriage of this matter.

Kind Regards

Elaine Lawson

Solicitor | Planning and Development | City Legal

City Administration and Governance | **BRISBANE CITY COUNCIL**

Brisbane Square | Level 20, 266 George Street, Brisbane, Qld 4000

GPO Box 1434, Brisbane, Qld 4001

Phone: 07 3178 8176 | Fax 07 3334 0058

Email: elaine.lawson@brisbane.qld.gov.au

From: Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>

Sent: Thursday, 21 October 2021 11:07 AM

To: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>; Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>

Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>

Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Hi Elaine

Further to Vanessa's email below, would you please advise when we can expect to receive the Council's response to our client's draft proposed key terms?

Kind regards

Kathryn O'Hare

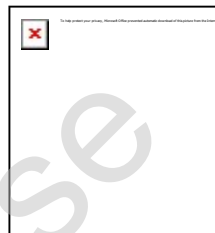
Senior Associate



T +61 7 3231 2906 **E** Kathryn.O'Hare@cgw.com.au
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From: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Sent: Wednesday, 13 October 2021 11:20 AM
To: elaine.lawson@brisbane.qld.gov.au
Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>
Subject: FW: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Hi Elaine

Further to Kathryn's below email, would you please advise when we can expect to receive the Council's response to our client's draft proposed key terms?

Kind regards

Vanessa Thompson

Special Counsel



T +61 7 3231 2403 **M** +61 **Sch 4 Pt 4(6)(1)** **E** vanessa.thompson@cgw.com.au
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001
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From: Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>
Sent: Wednesday, 29 September 2021 9:32 AM

To: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>; Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>
Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Good morning Elaine

Further to the below, please find **attached** our client's draft key terms in respect of the trustee lease.

Would you please **confirm** whether the Council is agreeable to the trustee lease on the basis of the draft key terms or, alternatively, suggest amendments to the draft key terms by **8 October 2021**.

Kind regards

Kathryn O'Hare
Senior Associate



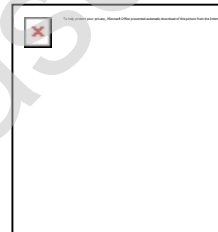
T +61 7 3231 2906 **E** Kathryn.O'Hare@cgw.com.au
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001
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From: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>
Sent: Thursday, 9 September 2021 12:18 PM
To: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>
Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Hello Vanessa

Thank you for providing below. I've attached a registered example of a trustee lease for your consideration, along with the Standard Terms and Mandatory Terms documents.

Kind Regards

Elaine Lawson

From: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Sent: Tuesday, 7 September 2021 5:18 PM
To: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>
Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>
Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Hi Elaine

I refer to your teleconference with Leanne O'Neill last Friday, 3 September 2021, in respect of the above matter.

We acknowledge the Council's delegation requirements and that consideration will need to be given to the existing easement on the adjacent land (Kenmore Plaza) prior to finalisation of the matter. We **attach** a copy of the easement and note:

- it is a right of way easement benefitting our client's land which was seemingly for the purpose of facilitating the far 'landing' of the pedestrian bridge on Kenmore Plaza's land, and its use by occupants of our client's estate
- a trustee lease to facilitate the use and maintenance of the pedestrian bridge would seem consistent with the purpose of the easement and, in any event, it would be a matter for our client to ensure use and maintenance of the bridge are in accordance with the easement terms, including obtaining any necessary consents from Kenmore Plaza
- there do not appear to be any easements over the 'reserve' land so there would be no need for the trustee lease to 'overlap' with the easement (albeit we recognise the practical implications of the bridge crossing both tenures).

As discussed, would you please forward copies of the Council's precedent trustee leases **as soon as practicable** so that we may ensure the draft key terms sheet closely aligns with the preferences of the Council.

Kind regards

Vanessa Thompson

Special Counsel



T +61 7 3231 2403 **M** +61 **Sch 4 Pt 4(6)(1)** **E** vanessa.thompson@cgw.com.au
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001
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From: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>

Sent: Thursday, 2 September 2021 1:52 PM

To: Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>

Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Vanessa Thompson <Vanessa.Thompson@cgw.com.au>

Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Good afternoon Kathryn

Council did receive a response from the State on 31 August 2021, further clarifying the necessary tenure of the pedestrian bridge.

So that my client can progress this matter, could you please provide a brief summary of the commercial terms your client would like to see in any trustee lease, including:

- Term
- Trustee Lease area
- Description of the use

- Maintenance and repair responsibilities; and
- Insurance responsibilities.

Happy to discuss any queries you may have.

Kind Regards

Elaine Lawson

Solicitor | Planning and Development | City Legal
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.....
Brisbane Square | Level 20, 266 George Street, Brisbane, Qld 4000
GPO Box 1434, Brisbane, Qld 4001
Phone: 07 3178 8176 | Fax 07 3334 0058
Email: elaine.lawson@brisbane.qld.gov.au

From: Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>
Sent: Tuesday, 31 August 2021 2:16 PM
To: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>
Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Good afternoon Elaine

Further to your below email, would you please advise whether there is any update in respect of the further response from the State.

Kind regards

Kathryn O'Hare
Senior Associate



T +61 7 3231 2906 **E** Kathryn.O'Hare@cgw.com.au
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001
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From: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>
Sent: Tuesday, 3 August 2021 8:54 AM
To: Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>
Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Subject: Re: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Good morning

Council has not yet received the further response from DNRME. I will update you once the further response is received.

Kind Regards

Elaine Lawson

Solicitor | Planning and Development | City Legal

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.....
Brisbane Square | Level 20, 266 George Street, Brisbane, Qld 4000

GPO Box 1434, Brisbane, Qld 4001

Phone: 07 3178 8176 | Fax 07 3334 0058

Email: elaine.lawson@brisbane.qld.gov.au

From: Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>

Sent: Monday, 2 August 2021 11:08 AM

To: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>

Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Vanessa Thompson <Vanessa.Thompson@cgw.com.au>

Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Good morning Elaine

I refer to your below email.

Would you please advise whether the Council has received the further response from DNRME and, if so, when we can expect to receive a response from the Council.

Kind regards

Kathryn O'Hare

Senior Associate



T +61 7 3231 2906 **E** Kathryn.O'Hare@cgw.com.au
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001
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From: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>
Sent: Monday, 19 July 2021 3:14:22 PM (UTC+10:00) Brisbane
To: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Subject: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Good afternoon Vanessa

I refer to my phone discussions with Katherine of your office and I appreciate your patience in this matter.

Council received an initial response from DNRME. However, further queries have been raised by Council regarding DNRME's position on 'improvements' under the *Land Act 1994* and upon a further response being received from DNRME, Council will be in a position to provide a more detailed update.

Kind Regards

Elaine Lawson

Solicitor | Planning and Development | City Legal

City Administration and Governance | **BRISBANE CITY COUNCIL**

.....
Brisbane Square | Level 20, 266 George Street, Brisbane, Qld 4000

GPO Box 1434, Brisbane, Qld 4001

Phone: 07 3178 8176 | Fax 07 3334 0058

Email: elaine.lawson@brisbane.qld.gov.au

From: Elaine Lawson
Sent: Monday, 31 May 2021 2:02 PM
To: 'Vanessa Thompson' <Vanessa.Thompson@cgw.com.au>
Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Good afternoon Vanessa

I refer to your below correspondence regarding your clients investigations into the history of the pedestrian bridge. Please see the **attached** documents which have been located:

- i. extract of Council minutes; and
- ii. offer to enter into deed.

Unfortunately, we have not been able to locate a copy of the deed referred to in item (ii). Any other relevant material located will be provided in due course.

In regards to items 1 – 6 below, if your client wishes to have documents provided in the timeframes set out in section 265 of the *Planning Act 2016*, please have them reconsider making an application for a planning and development certificate. A RTI search was merely suggested as a way of uncovering documentation that may not be obtainable through an application for a planning and development certificate or through Council's internal archive system. Nevertheless, the determination that "the information sought by my client is not of a confidential, personal or sensitive nature" is a matter for your client.

Council is corresponding with DNRME regarding obligations of parties stemming from the definitions of 'improvements' and 'development work' in section 46(3) of the *Land Act 1994*. An update will be provided once a response from DNRME is received.

Please contact me with any queries you may have.

Kind Regards

Elaine Lawson

Solicitor | Planning and Development | City Legal

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.....
Brisbane Square | Level 20, 266 George Street, Brisbane, Qld 4000

GPO Box 1434, Brisbane, Qld 4001

Phone: 07 3178 8176 | Fax 07 3334 0058

Email: elaine.lawson@brisbane.qld.gov.au

From: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>

Sent: Wednesday, 12 May 2021 3:53 PM

To: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>

Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>

Subject: FW: Pedestrian Bridge - St James Estate

Hi Elaine

Thank you for your email.

Request to access development assessment files

We do not accept that either an RTI application or planning and development certificate request are reasonable or required to facilitate access to the relevant development assessment files. In particular:

there is a recognised public interest in development applications and approvals (which attach to land) being accessible by the public, including obligations under section 264 of the *Planning Act 2016* and section 70 and schedule 22 of the *Planning Regulation 2017*, for such documents to be made available for inspection;

development assessment material held by the Council is generally available to freely access on its iDevelopment (formerly PD Online) database – albeit this only contains information relating to applications from approximately 2006 onwards. There does not seem to be a basis to withhold access to earlier development assessment files, which we understand the Council has located and are readily to hand, simply because they are not held electronically;

the information sought by our client is not of a confidential, personal or sensitive nature and any assessment against the RTI provisions, or by imposing a requirement for a costly planning and development search, would be an unnecessary regulatory burden and cost;

our client, the body corporate for the relevant development, seeks information for the development the body corporate relates to. There can be no question that it is reasonable and appropriate for our client to have access to development approvals and related documents, including approved plans and conditions which may be relevant to the on-going management and operation of the estate, including its potential obligations (including in relation to the bridge) and liabilities;

it is in our client and the Council's interest that access to the information is provided, as it may assist all parties involved to achieve an earlier resolution of the current uncertainty regarding the pedestrian bridge and relevant obligations;

without further information regarding the background relating to the bridge, including development approval documents and conditions, our client cannot determine its obligations in relation to the bridge, or accept responsibility for it. As such, it has no choice but to put the Council on notice that it does not and cannot accept any liability relating to the bridge and as such unfortunately we have no alternative but to wholly reserve our clients' rights including in relation to indemnity costs.

Of course, as you are well aware our client has always been committed to working cooperatively with Council to ensure the bridge can remain in situ, including offering to secure any suitable land tenure that may be available so it can 'take on' responsibility and cost for its maintenance etc. It simply needs the relevant regulatory bodies to facilitate a 'mechanism' for this to occur.

Please confirm by **17 May 2021** that access to the relevant development files will be provided. Our client reserves its rights in the event access is not provided.

Other matters

We note your response to the other matters raised in your below email. In particular, we look forward to being advised about options to facilitate our client's continued use and enjoyment of the pedestrian bridge.

Kind regards

Vanessa Thompson

Special Counsel



T 61 7 3231 2403 **M** Sch 4 Pt 4(6)(1) **E** vanessa.thompson@cgw.com.au
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001
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From: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>

Sent: Tuesday, 4 May 2021 10:01 AM

To: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>

Subject: RE: Pedestrian Bridge - St James Estate

Good morning Vanessa

I refer to your email to Michelle Manning dated 24 March 2021. Please see my response to your numbered items below:

1. Your client will be notified prior to Council carrying out any substantial work on the pedestrian bridge.
2. Your client may wish to make an application for a planning and development certificate and/or a Right to Information application. Both of these applications can be made online through Council's website and links to and further information on these applications can be found by accessing the below link:
 - <https://www.brisbane.qld.gov.au/planning-and-building/buying-selling-and-searches/previous-development-applications-and-approvals>
3. Thank you for providing the visual condition report - the report findings may assist Council determine its position more quickly.
4. I understand that Council's communications with the State were in relation to an easement (between the State and your client) over the pedestrian bridge. The State responded, advising that its policy is not to grant easements over trustee land and instead suggested a trustee lease (between Council as trustee and your client) be considered. The State's response, along with tenure and governance issues of a trustee lease over the pedestrian bridge, are currently being considered.
5. Thank you for the offer. Council does not require an on-site meeting at present, however, I will contact you to arrange a meeting if that position changes.

Please contact me with any further queries you may have.

Kind Regards

Elaine Lawson

Solicitor | Planning and Development | City Legal
City Administration and Governance | **BRISBANE CITY COUNCIL**

.....
Brisbane Square | Level 20, 266 George Street, Brisbane, Qld 4000
GPO Box 1434, Brisbane, Qld 4001
Phone: 07 3178 8176 | Fax 07 3334 0058
Email: elaine.lawson@brisbane.qld.gov.au

From: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>

Sent: Tuesday, 4 May 2021 8:22 AM

To: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>

Cc: Michelle Manning <Michelle.Manning@brisbane.qld.gov.au>

Subject: RE: Pedestrian Bridge - St James Estate

Hi Elaine

Further to the below email from Michelle, would you please provide an update regarding when access to the relevant development approval files will be provided, as well as a response to the other matters set out in my email of 24 March 2021 (copied below)?

Kind regards

Vanessa Thompson

Special Counsel



T 61 7 3231 2403 **M** 6 Sch 4 Pt 4(6)(1) **E** vanessa.thompson@cgw.com.au
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001

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From: Michelle Manning <Michelle.Manning@brisbane.qld.gov.au>

Sent: Thursday, 22 April 2021 3:59 PM

To: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>

Cc: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>

Subject: RE: Pedestrian Bridge - St James Estate

Hi Vanessa

Thanks for your patience as we continue to review this matter and options for resolution.

Elaine Lawson from Council's City Legal branch will take over as your primary point of contact on this matter including in responding to your request for assistance in accessing relevant development approvals relating to the St James Estate and pedestrian bridge.

Elaine will be in contact shortly but for your records her details are:

Elaine Lawson

Solicitor | Planning and Development | City Legal
City Administration and Governance | **BRISBANE CITY COUNCIL**

.....
Brisbane Square | Level 20, 266 George Street, Brisbane, Qld 4000
GPO Box 1434, Brisbane, Qld 4001
Phone: 07 3178 8176 | Fax 07 3334 0058
Email: elaine.lawson@brisbane.qld.gov.au

Regards
Michelle

Michelle Manning

Team Leader | Park Assets and Governance
Natural Environment, Water & Sustainability | **BRISBANE CITY COUNCIL**

.....
Brisbane Square | PO Box 1434, Brisbane City Qld 4001
Phone: +61-7-3403 4666 | Email: michelle.manning@brisbane.qld.gov.au
.....



Security Label: Official Use

From: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>

Sent: Wednesday, 24 March 2021 8:29 AM

To: Michelle Manning <Michelle.Manning@brisbane.qld.gov.au>

Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>
Subject: **SAVED: Pedestrian Bridge - St James Estate**

This email originates from outside of Brisbane City Council.

Hi Michelle

Thank you for your time on the phone last Thursday, 18 March 2021.

Further to our discussion:

Would you please confirm that the Council will not take steps to remove/demolish the bridge without further reference to us/our client.

I confirm my client's request for a copy of any relevant development approvals relating to the St James Estate and pedestrian bridge. As discussed, we consider the circumstances relating to the construction of the bridge, including conditions of any relevant development approval, may be relevant to the obligations of the parties and how the bridge is to be managed moving forward.

As requested, we **attach** a copy of a visual condition report commissioned by our client regarding the bridge in 2019. Whilst it identifies some areas of concern, it also provides that appropriate rectification works to address these matters 'will extend the life of the bridge to 50 years'. This highlights that with a relatively modest spend (I understand various quotes indicate costs in the order of approximately \$180,000) the bridge can continue to provide convenience to residents, reducing reliance on vehicles, in accordance with reasonable expectations that the bridge will remain. I also confirm that our client is willing to consider entering into an agreement with the Council to facilitate the payment of reasonable construction costs associated with rectification works.

I note your suggestion that a lease may be an appropriate way to facilitate our client securing the necessary 'rights' to manage and maintain the bridge, however, the State was not receptive to this option. Would you please clarify whether your discussions with the State were in the context of a trustee lease (that is, between Council as trustee and our client, albeit that the Council may require State approval)?

A representative of our client is also willing to meet with Council representatives on-site to discuss the potential for greater public access to the bridge (albeit, if this is something which would be of interest to the Council, it would be subject to further consideration by the body corporate). Our client has provided the **attached** sketch to show how this may be achieved.

We look forward to receiving your response to these matters.

Kind regards

Vanessa Thompson

Special Counsel



T 61 7 3231 2403 **M** 6 **Sch 4 Pt 4(6)(1)** **E** vanessa.thompson@cgw.com.au
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001
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From: SCHEFE Louise <Louise.Schefe@resources.qld.gov.au>
Sent: Friday, 4 June 2021 2:33 PM
To: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>
Cc: MONIN Bradley <Bradley.Monin@resources.qld.gov.au>; CROSS Debbie <Debbie.Cross@resources.qld.gov.au>; MCCOMISKIE Desley <Desley.McComiskie@resources.qld.gov.au>
Subject: RE: St James Estate - pedestrian bridge over reserve - Lot 21 on SL811444 and Lot 33 on SP110622 [your ref: TF49021075] [BCC-C1.URI18689385]

This email originates from outside of Brisbane City Council.

Elaine

The department disputes Council's position.

The definition of development work refers to

(c) filling, reclamation or any other works making the land suitable for use or the building or erection of a building or structure on the land.

i.e. the definition of development work relates to the filling, reclamation or any other works making the land suitable for use or the building or erection of and therefore for the *Land Act 1994* the bridge is not development work.

The bridge (an improvement as defined under the *Land Act 1994*) is the responsibility of Council as trustee.

Regards



Louise Schefe
A/Senior Land Officer
Land Administration and Acquisitions | Land and Native Title Operations
Department of Resources

P: 0746241548

E: SLAM-Brisbane@resources.qld.gov.au

A: Level 18, 275 George Street, Brisbane QLD 4000 | GPO Box 2771, BRISBANE QLD 4000

W: www.resources.qld.gov.au

From: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>
Sent: Monday, 31 May 2021 1:58 PM
To: SLAM - Brisbane

Subject: FW: St James Estate - pedestrian bridge over reserve - Lot 21 on SL811444 and Lot 33 on SP110622 [your ref: TF49021075] [BCC-C1.URI18689385]

Dear Sir / Madam

I refer to correspondence from Ray Palmer of DNRME to Council (Bi-LandUse) dated 25, 28 and 29 of October 2019 and correspondence from Annette Thomas of Council to DNRME dated 6 December 2019.

The correspondence dated 25 October 2019 stated that “as Brisbane City Council are trustees of the reserve, it is responsible for the ongoing management and maintenance of the land and any improvements on the land...”

Council has considered the relevant legislation set out below in further detail and requests that DNRME reconsider the advice provided to the Body Corporate of St James Estate.

Relevant legislation

Section 46 of the Land Act (the “Act”) states that (highlighted and underlining added by me):

46 Trustee’s administrative functions

(1) A trustee’s functions are to—

- (a) manage the trust land consistent with achieving the purpose of the trust; and
- (b) fulfil the trust within their conditions of appointment (if any); and
- (c) control noxious plants on the trust land; and
- (d) keep records required by the Minister or required under this and other Acts.

(2) A trustee has the responsibility for a duty of care for the trust land.

(3) **Unless the Minister otherwise decides, a trustee’s functions include protecting and maintaining, so far as is reasonable, all improvements on the trust land.**

(4) The Minister may direct a trustee to erect signs on trust land indicating the land has been granted in trust or dedicated as a reserve.

(5) The trustee must comply with the Minister’s direction.

The term “improvements” is defined to mean:

improvements means any—

- (a) building, fence or yard; and
 - (b) artificial watercourse or watering-place, bore, reservoir, well or apparatus for raising, holding or conveying water; and
 - (c) cultivation, garden, orchard or plantation; and
 - (d) building, structure or appliance that is a fixture for the working or management of land or stock pastured on the land or for maintaining, protecting or increasing the natural capabilities of the land;
- but does not include development work.**

Development Work is defined to mean:

development work for land means—

- (a) if clearing of trees enhances the productivity of the land—the clearing of trees; and
- (b) work performed for the rehabilitation and sustainability of the land; and
- (c) filling, reclamation or any other works making the land suitable for use **or the building or erection of a building or structure on the land.**

Structure is not defined in the Act and the Oxford Dictionary defines structure to be “a building or other object constructed from several parts”. The pedestrian bridge is clearly a structure.

The **attached** Council minutes detail the decision to approve the development on land now described as 50 Boblynne street, being the St James Estate Body Corporate. Also attached in the offer of acceptance regarding the bond to secure the works under the approval.

The pedestrian bridge has been constructed due to development work and is therefore not an improvement. Accordingly, Council as trustee is not required to protect or maintain the pedestrian bridge.

Could you please consider above and advise if DNRME disputes Council's position? Council intends of informing the Body Corporate's solicitor of its position under the Act (and why there isn't an intention to investigate a trustee lease further) and would appreciate a response first. I note that DNRME was conversing with Mr. White from the Body Corporate and would also appreciate you updating Mr. White directly (if DNRME does not dispute Council's position).

Happy to discuss any queries you may have.

Kind Regards

Elaine Lawson
Solicitor | Planning and Development | City Legal
City Administration and Governance | **BRISBANE CITY COUNCIL**

Brisbane Square | Level 20, 266 George Street, Brisbane, Qld 4000
GPO Box 1434, Brisbane, Qld 4001
Phone: 07 3178 8176 | Fax 07 3334 0058
Email: elaine.lawson@brisbane.qld.gov.au

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David Simons

From: Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>
Sent: Monday, 22 November 2021 2:52 PM
To: Katherine Thompson
Cc: Leanne O'Neill
Subject: RE: OP323122 - Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]
Attachments: Wagner Quote 20.08.21.pdf; Warner Quote 18.11.21.pdf

Categories: Filed to Records Manager

Hi Katherine

Further to the below email exchange, do you have any update on when we will receive the Council's feedback in respect of the proposed key terms?

As our client has received an updated quote for the cost of constructing the bridge, which has increased from \$66,125 to \$72,135 (excl. GST) (see **attached**), it is keen to minimise any further delay to resolving this matter.

Kind regards

Kathryn O'Hare

Senior Associate



T +61 7 3231 2906 **E** Kathryn.O'Hare@cgw.com.au
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001
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From: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Sent: Monday, 15 November 2021 10:10 AM
To: katherine.thompson@brisbane.qld.gov.au
Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>
Subject: RE: OP323122 - Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Hi Katherine

Further to your below emails with Kathryn – do you have any update on when we will receive the Council's feedback on the proposed key terms?

(Also – are you the same Katherine Thompson who formerly worked at Dibbs?)

Kind regards

Vanessa Thompson

Special Counsel



T +61 7 3231 2403 **M** +61 **Sch 4 Pt 4(6)(1)** **E** vanessa.thompson@cgw.com.au
 Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001
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From: Katherine Thompson <Katherine.Thompson@brisbane.qld.gov.au>
Sent: Monday, 8 November 2021 12:47 PM
To: Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>
Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Subject: RE: OP323122 - Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Hi Kathryn,

I will be reviewing the above matter including proposed key terms during the course of the week and will provide Council's response as soon as possible.

Kind regards,
 Katherine

Katherine Thompson
 Solicitor | Planning and Development | City Legal
 City Administration and Governance | **BRISBANE CITY COUNCIL**

Brisbane Square | Level 20, 266 George Street, Brisbane, Qld 4000
 GPO Box 1434, Brisbane, Qld 4001
 Phone: 07 3178 2704 | Fax 07 3334 0058
 Email: Katherine.Thompson@brisbane.qld.gov.au



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From: Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>
Sent: Monday, 8 November 2021 9:22 AM
To: Katherine Thompson <Katherine.Thompson@brisbane.qld.gov.au>
Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Hi Katherine

Further to the below email chain, could you please advise when we can expect to receive the Council's response to our client's draft proposed key terms?

Kind regards

Kathryn O'Hare
 Senior Associate



T +61 7 3231 2906 **E** Kathryn.O'Hare@cgw.com.au
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From: Kathryn O'Hare
Sent: Monday, 1 November 2021 1:43 PM
To: Katherine Thompson <Katherine.Thompson@brisbane.qld.gov.au>
Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Hi Katherine

Further to the below, would you please advise when we can expect to receive the Council's response to our client's draft proposed key terms?

Kind regards

Kathryn O'Hare
Senior Associate



T +61 7 3231 2906 **E** Kathryn.O'Hare@cgw.com.au
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001
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From: Kathryn O'Hare
Sent: Friday, 22 October 2021 12:42 PM
To: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>
Cc: Katherine Thompson <Katherine.Thompson@brisbane.qld.gov.au>; Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Hi Elaine

Thank you for the update.

Katherine – would you please advise when we can expect to receive the Council's response to our client's draft proposed key terms?

Kind regards

Kathryn O'Hare

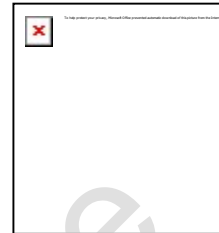
Senior Associate



T +61 7 3231 2906 **E** Kathryn.O'Hare@cgw.com.au
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From: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>
Sent: Friday, 22 October 2021 10:57 AM
To: Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>
Cc: Katherine Thompson <Katherine.Thompson@brisbane.qld.gov.au>
Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Hello Kathryn

This matter has been transferred to the Property team to be progressed and I have Cc'd in the solicitor who now has the carriage of this matter.

Kind Regards

Elaine Lawson
Solicitor | Planning and Development | City Legal
City Administration and Governance | **BRISBANE CITY COUNCIL**

Brisbane Square | Level 20, 266 George Street, Brisbane, Qld 4000
GPO Box 1434, Brisbane, Qld 4001
Phone: 07 3178 8176 | Fax 07 3334 0058
Email: elaine.lawson@brisbane.qld.gov.au

From: Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>
Sent: Thursday, 21 October 2021 11:07 AM
To: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>; Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>
Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>
Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Hi Elaine

Further to Vanessa's email below, would you please advise when we can expect to receive the Council's response to our client's draft proposed key terms?

Kind regards

Kathryn O'Hare

Senior Associate



T +61 7 3231 2906 **E** Kathryn.O'Hare@cgw.com.au

Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001

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From: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>

Sent: Wednesday, 13 October 2021 11:20 AM

To: elaine.lawson@brisbane.qld.gov.au

Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>

Subject: FW: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Hi Elaine

Further to Kathryn's below email, would you please advise when we can expect to receive the Council's response to our client's draft proposed key terms?

Kind regards

Vanessa Thompson

Special Counsel



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From: Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>

Sent: Wednesday, 29 September 2021 9:32 AM

To: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>; Vanessa Thompson <Vanessa.Thompson@cgw.com.au>

Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>

Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Good morning Elaine

Further to the below, please find **attached** our client's draft key terms in respect of the trustee lease.

Would you please **confirm** whether the Council is agreeable to the trustee lease on the basis of the draft key terms or, alternatively, suggest amendments to the draft key terms by **8 October 2021**.

Kind regards

Kathryn O'Hare

Senior Associate



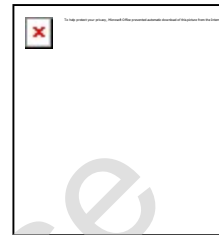
T +61 7 3231 2906 **E** Kathryn.O'Hare@cgw.com.au
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From: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>
Sent: Thursday, 9 September 2021 12:18 PM
To: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>
Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Hello Vanessa

Thank you for providing below. I've attached a registered example of a trustee lease for your consideration, along with the Standard Terms and Mandatory Terms documents.

Kind Regards

Elaine Lawson

From: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Sent: Tuesday, 7 September 2021 5:18 PM
To: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>
Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>
Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Hi Elaine

I refer to your teleconference with Leanne O'Neill last Friday, 3 September 2021, in respect of the above matter.

We acknowledge the Council's delegation requirements and that consideration will need to be given to the existing easement on the adjacent land (Kenmore Plaza) prior to finalisation of the matter. We **attach** a copy of the easement and note:

- it is a right of way easement benefitting our client's land which was seemingly for the purpose of facilitating the far 'landing' of the pedestrian bridge on Kenmore Plaza's land, and its use by occupants of our client's estate
- a trustee lease to facilitate the use and maintenance of the pedestrian bridge would seem consistent with the purpose of the easement and, in any event, it would be a matter for our client to ensure use and maintenance of the bridge are in accordance with the easement terms, including obtaining any necessary consents from Kenmore Plaza
- there do not appear to be any easements over the 'reserve' land so there would be no need for the trustee lease to 'overlap' with the easement (albeit we recognise the practical implications of the bridge crossing both tenures).

As discussed, would you please forward copies of the Council's precedent trustee leases **as soon as practicable** so that we may ensure the draft key terms sheet closely aligns with the preferences of the Council.

Kind regards

Vanessa Thompson

Special Counsel



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From: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>

Sent: Thursday, 2 September 2021 1:52 PM

To: Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>

Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Vanessa Thompson <Vanessa.Thompson@cgw.com.au>

Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Good afternoon Kathryn

Council did receive a response from the State on 31 August 2021, further clarifying the necessary tenure of the pedestrian bridge.

So that my client can progress this matter, could you please provide a brief summary of the commercial terms your client would like to see in any trustee lease, including:

- Term
- Trustee Lease area
- Description of the use
- Maintenance and repair responsibilities; and
- Insurance responsibilities.

Happy to discuss any queries you may have.

Kind Regards

Elaine Lawson

Solicitor | Planning and Development | City Legal
City Administration and Governance | **BRISBANE CITY COUNCIL**

.....
Brisbane Square | Level 20, 266 George Street, Brisbane, Qld 4000
GPO Box 1434, Brisbane, Qld 4001
Phone: 07 3178 8176 | Fax 07 3334 0058
Email: elaine.lawson@brisbane.qld.gov.au

From: Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>
Sent: Tuesday, 31 August 2021 2:16 PM
To: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>
Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Good afternoon Elaine

Further to your below email, would you please advise whether there is any update in respect of the further response from the State.

Kind regards

Kathryn O'Hare
Senior Associate



T +61 7 3231 2906 **E** Kathryn.O'Hare@cgw.com.au
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From: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>
Sent: Tuesday, 3 August 2021 8:54 AM
To: Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>
Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Subject: Re: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Good morning

Council has not yet received the further response from DNRME. I will update you once the further response is received.

Kind Regards

Elaine Lawson

Solicitor | Planning and Development | City Legal

City Administration and Governance | **BRISBANE CITY COUNCIL**

.....
Brisbane Square | Level 20, 266 George Street, Brisbane, Qld 4000

GPO Box 1434, Brisbane, Qld 4001

Phone: 07 3178 8176 | Fax 07 3334 0058

Email: elaine.lawson@brisbane.qld.gov.au

From: Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>
Sent: Monday, 2 August 2021 11:08 AM
To: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>
Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Good morning Elaine

I refer to your below email.

Would you please advise whether the Council has received the further response from DNRME and, if so, when we can expect to receive a response from the Council.

Kind regards

Kathryn O'Hare

Senior Associate



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Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001
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From: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>
Sent: Monday, 19 July 2021 3:14:22 PM (UTC+10:00) Brisbane
To: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Subject: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Good afternoon Vanessa

I refer to my phone discussions with Katherine of your office and I appreciate your patience in this matter.

Council received an initial response from DNRME. However, further queries have been raised by Council regarding DNRME's position on 'improvements' under the *Land Act 1994* and upon a further response being received from DNRME, Council will be in a position to provide a more detailed update.

Kind Regards

Elaine Lawson

Solicitor | Planning and Development | City Legal

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.....
Brisbane Square | Level 20, 266 George Street, Brisbane, Qld 4000

GPO Box 1434, Brisbane, Qld 4001

Phone: 07 3178 8176 | Fax 07 3334 0058

Email: elaine.lawson@brisbane.qld.gov.au

From: Elaine Lawson
Sent: Monday, 31 May 2021 2:02 PM
To: 'Vanessa Thompson' <Vanessa.Thompson@cgw.com.au>
Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Good afternoon Vanessa

I refer to your below correspondence regarding your clients investigations into the history of the pedestrian bridge. Please see the **attached** documents which have been located:

- i. extract of Council minutes; and
- ii. offer to enter into deed.

Unfortunately, we have not been able to locate a copy of the deed referred to in item (ii). Any other relevant material located will be provided in due course.

In regards to items 1 – 6 below, if your client wishes to have documents provided in the timeframes set out in section 265 of the *Planning Act 2016*, please have them reconsider making an application for a planning and development certificate. A RTI search was merely suggested as a way of uncovering documentation that may not be obtainable through an application for a planning and development certificate or through Council's internal archive system. Nevertheless, the determination that "the information sought by my client is not of a confidential, personal or sensitive nature" is a matter for your client.

Council is corresponding with DNRME regarding obligations of parties stemming from the definitions of 'improvements' and 'development work' in section 46(3) of the *Land Act 1994*. An update will be provided once a response from DNRME is received.

Please contact me with any queries you may have.

Kind Regards

Elaine Lawson

Solicitor | Planning and Development | City Legal

City Administration and Governance | **BRISBANE CITY COUNCIL**

.....
Brisbane Square | Level 20, 266 George Street, Brisbane, Qld 4000

GPO Box 1434, Brisbane, Qld 4001

Phone: 07 3178 8176 | Fax 07 3334 0058

Email: elaine.lawson@brisbane.qld.gov.au

From: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>

Sent: Wednesday, 12 May 2021 3:53 PM

To: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>

Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>

Subject: FW: Pedestrian Bridge - St James Estate

Hi Elaine

Thank you for your email.

Request to access development assessment files

We do not accept that either an RTI application or planning and development certificate request are reasonable or required to facilitate access to the relevant development assessment files. In particular:

there is a recognised public interest in development applications and approvals (which attach to land) being accessible by the public, including obligations under section 264 of the *Planning Act 2016* and section 70 and schedule 22 of the *Planning Regulation 2017*, for such documents to be made available for inspection;

development assessment material held by the Council is generally available to freely access on its iDevelopment (formerly PD Online) database – albeit this only contains information relating to applications from approximately 2006 onwards. There does not seem to be a basis to withhold access to earlier development assessment files, which we understand the Council has located and are readily to hand, simply because they are not held electronically;

the information sought by our client is not of a confidential, personal or sensitive nature and any assessment against the RTI provisions, or by imposing a requirement for a costly planning and development search, would be an unnecessary regulatory burden and cost;

our client, the body corporate for the relevant development, seeks information for the development the body corporate relates to. There can be no question that it is reasonable and appropriate for our client to have access to development approvals and related documents, including approved plans and conditions which may be relevant to the on-going management and operation of the estate, including its potential obligations (including in relation to the bridge) and liabilities;

it is in our client and the Council's interest that access to the information is provided, as it may assist all parties involved to achieve an earlier resolution of the current uncertainty regarding the pedestrian bridge and relevant obligations;

without further information regarding the background relating to the bridge, including development approval documents and conditions, our client cannot determine its obligations in relation to the bridge, or accept responsibility for it. As such, it has no choice but to put the Council on notice that it does not and cannot accept any liability relating to the bridge and as such unfortunately we have no alternative but to wholly reserve our clients' rights including in relation to indemnity costs.

Of course, as you are well aware our client has always been committed to working cooperatively with Council to ensure the bridge can remain in situ, including offering to secure any suitable land tenure that may be available so it can 'take on' responsibility and cost for its maintenance etc. It simply needs the relevant regulatory bodies to facilitate a 'mechanism' for this to occur.

Please confirm by **17 May 2021** that access to the relevant development files will be provided. Our client reserves its rights in the event access is not provided.

Other matters

We note your response to the other matters raised in your below email. In particular, we look forward to being advised about options to facilitate our client's continued use and enjoyment of the pedestrian bridge.

Kind regards

Vanessa Thompson

Special Counsel



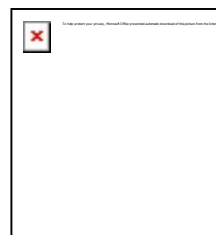
T 61 7 3231 2403 **M** 61 Sch 4 Pt 4(6)(1) **E** vanessa.thompson@cgw.com.au
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From: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>

Sent: Tuesday, 4 May 2021 10:01 AM

To: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>

Subject: RE: Pedestrian Bridge - St James Estate

Good morning Vanessa

I refer to your email to Michelle Manning dated 24 March 2021. Please see my response to your numbered items below:

1. Your client will be notified prior to Council carrying out any substantial work on the pedestrian bridge.

2. Your client may wish to make an application for a planning and development certificate and/or a Right to Information application. Both of these applications can be made online through Council's website and links to and further information on these applications can be found by accessing the below link:
 - <https://www.brisbane.qld.gov.au/planning-and-building/buying-selling-and-searches/previous-development-applications-and-approvals>
3. Thank you for providing the visual condition report - the report findings may assist Council determine its position more quickly.
4. I understand that Council's communications with the State were in relation to an easement (between the State and your client) over the pedestrian bridge. The State responded, advising that its policy is not to grant easements over trustee land and instead suggested a trustee lease (between Council as trustee and your client) be considered. The State's response, along with tenure and governance issues of a trustee lease over the pedestrian bridge, are currently being considered.
5. Thank you for the offer. Council does not require an on-site meeting at present, however, I will contact you to arrange a meeting if that position changes.

Please contact me with any further queries you may have.

Kind Regards

Elaine Lawson

Solicitor | Planning and Development | City Legal
City Administration and Governance | **BRISBANE CITY COUNCIL**

.....
Brisbane Square | Level 20, 266 George Street, Brisbane, Qld 4000
GPO Box 1434, Brisbane, Qld 4001
Phone: 07 3178 8176 | Fax 07 3334 0058
Email: elaine.lawson@brisbane.qld.gov.au

From: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Sent: Tuesday, 4 May 2021 8:22 AM
To: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>
Cc: Michelle Manning <Michelle.Manning@brisbane.qld.gov.au>
Subject: RE: Pedestrian Bridge - St James Estate

Hi Elaine

Further to the below email from Michelle, would you please provide an update regarding when access to the relevant development approval files will be provided, as well as a response to the other matters set out in my email of 24 March 2021 (copied below)?

Kind regards

Vanessa Thompson

Special Counsel



T 61 7 3231 2403 **M** 61 **Sch 4 Pt 4(6)(1)** **E** vanessa.thompson@cgw.com.au
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From: Michelle Manning <Michelle.Manning@brisbane.qld.gov.au>

Sent: Thursday, 22 April 2021 3:59 PM

To: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>

Cc: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>

Subject: RE: Pedestrian Bridge - St James Estate

Hi Vanessa

Thanks for your patience as we continue to review this matter and options for resolution.

Elaine Lawson from Council's City Legal branch will take over as your primary point of contact on this matter including in responding to your request for assistance in accessing relevant development approvals relating to the St James Estate and pedestrian bridge.

Elaine will be in contact shortly but for your records her details are:

Elaine Lawson

Solicitor | Planning and Development | City Legal
City Administration and Governance | **BRISBANE CITY COUNCIL**

.....
Brisbane Square | Level 20, 266 George Street, Brisbane, Qld 4000
GPO Box 1434, Brisbane, Qld 4001
Phone: 07 3178 8176 | Fax 07 3334 0058
Email: elaine.lawson@brisbane.qld.gov.au

Regards
Michelle

Michelle Manning

Team Leader | Park Assets and Governance
Natural Environment, Water & Sustainability | **BRISBANE CITY COUNCIL**

.....
Brisbane Square | PO Box 1434, Brisbane City Qld 4001
Phone: +61-7-3403 4666 | Email: michelle.manning@brisbane.qld.gov.au
.....



Security Label: Official Use

From: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>

Sent: Wednesday, 24 March 2021 8:29 AM

To: Michelle Manning <Michelle.Manning@brisbane.qld.gov.au>

Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>

Subject: SAVED: Pedestrian Bridge - St James Estate

This email originates from outside of Brisbane City Council.

Hi Michelle

Thank you for your time on the phone last Thursday, 18 March 2021.

Further to our discussion:

Would you please confirm that the Council will not take steps to remove/demolish the bridge without further reference to us/our client.

I confirm my client's request for a copy of any relevant development approvals relating to the St James Estate and pedestrian bridge. As discussed, we consider the circumstances relating to the construction of the bridge, including conditions of any relevant development approval, may be relevant to the obligations of the parties and how the bridge is to be managed moving forward.

As requested, we **attach** a copy of a visual condition report commissioned by our client regarding the bridge in 2019. Whilst it identifies some areas of concern, it also provides that appropriate rectification works to address these matters 'will extend the life of the bridge to 50 years'. This highlights that with a relatively modest spend (I understand various quotes indicate costs in the order of approximately \$180,000) the bridge can continue to provide convenience to residents, reducing reliance on vehicles, in accordance with reasonable expectations that the bridge will remain. I also confirm that our client is willing to consider entering into an agreement with the Council to facilitate the payment of reasonable construction costs associated with rectification works.

I note your suggestion that a lease may be an appropriate way to facilitate our client securing the necessary 'rights' to manage and maintain the bridge, however, the State was not receptive to this option. Would you please clarify whether your discussions with the State were in the context of a trustee lease (that is, between Council as trustee and our client, albeit that the Council may require State approval)?

A representative of our client is also willing to meet with Council representatives on-site to discuss the potential for greater public access to the bridge (albeit, if this is something which would be of interest to the Council, it would be subject to further consideration by the body corporate). Our client has provided the **attached** sketch to show how this may be achieved.

We look forward to receiving your response to these matters.

Kind regards

Vanessa Thompson

Special Counsel



T 61 7 3231 2403 **M** 61 **Sch 4 Pt 4(6)(1)** **E** vanessa.thompson@cgw.com.au
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From: SCHEFE Louise <Louise.Scheffe@resources.qld.gov.au>

Sent: Friday, 4 June 2021 2:33 PM

To: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>

Cc: MONIN Bradley <Bradley.Monin@resources.qld.gov.au>; CROSS Debbie <Debbie.Cross@resources.qld.gov.au>; MCCOMISKIE Desley <Desley.McComiskie@resources.qld.gov.au>

Subject: RE: St James Estate - pedestrian bridge over reserve - Lot 21 on SL811444 and Lot 33 on SP110622 [your ref: TF49021075] [BCC-C1.URI18689385]

This email originates from outside of Brisbane City Council.

Elaine

The department disputes Council's position.

The definition of development work refers to

(c) filling, reclamation or any other works making the land suitable for use or the building or erection of a building or structure on the land.

i.e. the definition of development work relates to the filling, reclamation or any other works making the land suitable for use or the building or erection of and therefore for the *Land Act 1994* the bridge is not development work.

The bridge (an improvement as defined under the *Land Act 1994*) is the responsibility of Council as trustee.

Regards



Louise Schefe

A/Senior Land Officer

Land Administration and Acquisitions | Land and Native Title Operations

Department of Resources

P: 0746241548

E: SLAM-Brisbane@resources.qld.gov.au

A: Level 18, 275 George Street, Brisbane QLD 4000 | GPO Box 2771, BRISBANE QLD 4000

W: www.resources.qld.gov.au

From: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>

Sent: Monday, 31 May 2021 1:58 PM

To: SLAM - Brisbane

Subject: FW: St James Estate - pedestrian bridge over reserve - Lot 21 on SL811444 and Lot 33 on SP110622 [your ref: TF49021075] [BCC-C1.URI18689385]

Dear Sir / Madam

I refer to correspondence from Ray Palmer of DNRME to Council (Bi-LandUse) dated 25, 28 and 29 of October 2019 and correspondence from Annette Thomas of Council to DNRME dated 6 December 2019.

The correspondence dated 25 October 2019 stated that "as Brisbane City Council are trustees of the reserve, it is responsible for the ongoing management and maintenance of the land and any improvements on the land..."

Council has considered the relevant legislation set out below in further detail and requests that DNRME reconsider the advice provided to the Body Corporate of St James Estate.

Relevant legislation

Section 46 of the Land Act (the "Act") states that (highlighted and underlining added by me):

46 Trustee's administrative functions

(1) A trustee's functions are to—

- (a) manage the trust land consistent with achieving the purpose of the trust; and
- (b) fulfil the trust within their conditions of appointment (if any); and
- (c) control noxious plants on the trust land; and
- (d) keep records required by the Minister or required under this and other Acts.

(2) A trustee has the responsibility for a duty of care for the trust land.

(3) **Unless the Minister otherwise decides, a trustee's functions include protecting and maintaining, so far as is reasonable, all improvements on the trust land.**

(4) The Minister may direct a trustee to erect signs on trust land indicating the land has been granted in trust or dedicated as a reserve.

(5) The trustee must comply with the Minister's direction.

The term "improvements" is defined to mean:

improvements means any—

- (a) building, fence or yard; and
- (b) artificial watercourse or watering-place, bore, reservoir, well or apparatus for raising, holding or conveying water; and
- (c) cultivation, garden, orchard or plantation; and
- (d) building, structure or appliance that is a fixture for the working or management of land or stock pastured on the land or for maintaining, protecting or increasing the natural capabilities of the land;

but does not include development work.

Development Work is defined to mean:

development work for land means—

- (a) if clearing of trees enhances the productivity of the land—the clearing of trees; and
- (b) work performed for the rehabilitation and sustainability of the land; and
- (c) filling, reclamation or any other works making the land suitable for use **or the building or erection of a building or structure on the land.**

Structure is not defined in the Act and the Oxford Dictionary defines structure to be "a building or other object constructed from several parts". The pedestrian bridge is clearly a structure.

The **attached** Council minutes detail the decision to approve the development on land now described as 50 Boblynne street, being the St James Estate Body Corporate. Also attached in the offer of acceptance regarding the bond to secure the works under the approval.

The pedestrian bridge has been constructed due to development work and is therefore not an improvement. Accordingly, Council as trustee is not required to protect or maintain the pedestrian bridge.

Could you please consider above and advise if DNRME disputes Council's position? Council intends of informing the Body Corporate's solicitor of its position under the Act (and why there isn't an intention to investigate a trustee lease further) and would appreciate a response first. I note that DNRME was conversing with Mr. White from the Body Corporate and would also appreciate you updating Mr. White directly (if DNRME does not dispute Council's position).

Happy to discuss any queries you may have.

Kind Regards

Elaine Lawson

Solicitor | Planning and Development | City Legal
City Administration and Governance | **BRISBANE CITY COUNCIL**

.....
Brisbane Square | Level 20, 266 George Street, Brisbane, Qld 4000
GPO Box 1434, Brisbane, Qld 4001
Phone: 07 3178 8176 | Fax 07 3334 0058
Email: elaine.lawson@brisbane.qld.gov.au

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RTI Release

Sch 3(7)

RTI Release

Sch 3(7)

RTI Release

Sch 3(7)

David Simons

From: Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>
Sent: Monday, 22 November 2021 2:52 PM
To: Katherine Thompson
Cc: Leanne O'Neill
Subject: RE: OP323122 - Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]
Attachments: Wagner Quote 20.08.21.pdf; Warner Quote 18.11.21.pdf

Categories: Filed to Records Manager

Hi Katherine

Further to the below email exchange, do you have any update on when we will receive the Council's feedback in respect of the proposed key terms?

As our client has received an updated quote for the cost of constructing the bridge, which has increased from \$66,125 to \$72,135 (excl. GST) (see **attached**), it is keen to minimise any further delay to resolving this matter.

Kind regards

Kathryn O'Hare
Senior Associate



T +61 7 3231 2906 **E** Kathryn.O'Hare@cgw.com.au
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001
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From: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Sent: Monday, 15 November 2021 10:10 AM
To: katherine.thompson@brisbane.qld.gov.au
Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>
Subject: RE: OP323122 - Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Hi Katherine

Further to your below emails with Kathryn – do you have any update on when we will receive the Council's feedback on the proposed key terms?

(Also – are you the same Katherine Thompson who formerly worked at Dibbs?)

Kind regards

Vanessa Thompson
Special Counsel



T +61 7 3231 2403 **M** +61 Sch 4 Pt 4(6)(1) **E** vanessa.thompson@cgw.com.au
 Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001
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From: Katherine Thompson <Katherine.Thompson@brisbane.qld.gov.au>
Sent: Monday, 8 November 2021 12:47 PM
To: Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>
Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Subject: RE: OP323122 - Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Hi Kathryn,

I will be reviewing the above matter including proposed key terms during the course of the week and will provide Council's response as soon as possible.

Kind regards,
 Katherine

Katherine Thompson
 Solicitor | Planning and Development | City Legal
 City Administration and Governance | **BRISBANE CITY COUNCIL**

Brisbane Square | Level 20, 266 George Street, Brisbane, Qld 4000
 GPO Box 1434, Brisbane, Qld 4001
 Phone: 07 3178 2704 | Fax 07 3334 0058
 Email: Katherine.Thompson@brisbane.qld.gov.au



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From: Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>
Sent: Monday, 8 November 2021 9:22 AM
To: Katherine Thompson <Katherine.Thompson@brisbane.qld.gov.au>
Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Hi Katherine

Further to the below email chain, could you please advise when we can expect to receive the Council's response to our client's draft proposed key terms?

Kind regards

Kathryn O'Hare
 Senior Associate



T +61 7 3231 2906 **E** Kathryn.O'Hare@cgw.com.au
 Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001
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From: Kathryn O'Hare
Sent: Monday, 1 November 2021 1:43 PM
To: Katherine Thompson <Katherine.Thompson@brisbane.qld.gov.au>
Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Hi Katherine

Further to the below, would you please advise when we can expect to receive the Council's response to our client's draft proposed key terms?

Kind regards

Kathryn O'Hare
 Senior Associate



T +61 7 3231 2906 **E** Kathryn.O'Hare@cgw.com.au
 Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001
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From: Kathryn O'Hare
Sent: Friday, 22 October 2021 12:42 PM
To: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>
Cc: Katherine Thompson <Katherine.Thompson@brisbane.qld.gov.au>; Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Hi Elaine

Thank you for the update.

Katherine – would you please advise when we can expect to receive the Council's response to our client's draft proposed key terms?

Kind regards

Kathryn O'Hare

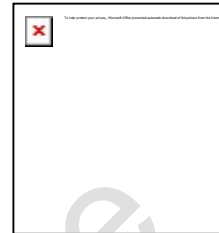
Senior Associate



T +61 7 3231 2906 **E** Kathryn.O'Hare@cgw.com.au
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From: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>
Sent: Friday, 22 October 2021 10:57 AM
To: Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>
Cc: Katherine Thompson <Katherine.Thompson@brisbane.qld.gov.au>
Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Hello Kathryn

This matter has been transferred to the Property team to be progressed and I have Cc'd in the solicitor who now has the carriage of this matter.

Kind Regards

Elaine Lawson
Solicitor | Planning and Development | City Legal
City Administration and Governance | **BRISBANE CITY COUNCIL**

Brisbane Square | Level 20, 266 George Street, Brisbane, Qld 4000
GPO Box 1434, Brisbane, Qld 4001
Phone: 07 3178 8176 | Fax 07 3334 0058
Email: elaine.lawson@brisbane.qld.gov.au

From: Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>
Sent: Thursday, 21 October 2021 11:07 AM
To: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>; Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>
Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>
Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Hi Elaine

Further to Vanessa's email below, would you please advise when we can expect to receive the Council's response to our client's draft proposed key terms?

Kind regards

Kathryn O'Hare

Senior Associate



T +61 7 3231 2906 **E** Kathryn.O'Hare@cgw.com.au
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001
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From: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>

Sent: Wednesday, 13 October 2021 11:20 AM

To: elaine.lawson@brisbane.qld.gov.au

Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>

Subject: FW: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Hi Elaine

Further to Kathryn's below email, would you please advise when we can expect to receive the Council's response to our client's draft proposed key terms?

Kind regards

Vanessa Thompson

Special Counsel



T +61 7 3231 2403 **M** +6 Sch 4 Pt 4(6)(1) **E** vanessa.thompson@cgw.com.au
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001
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From: Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>

Sent: Wednesday, 29 September 2021 9:32 AM

To: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>; Vanessa Thompson <Vanessa.Thompson@cgw.com.au>

Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>

Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Good morning Elaine

Further to the below, please find **attached** our client's draft key terms in respect of the trustee lease.

Would you please **confirm** whether the Council is agreeable to the trustee lease on the basis of the draft key terms or, alternatively, suggest amendments to the draft key terms by **8 October 2021**.

Kind regards

Kathryn O'Hare

Senior Associate



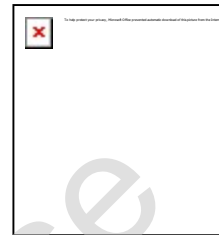
T +61 7 3231 2906 **E** Kathryn.O'Hare@cgw.com.au
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001
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From: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>
Sent: Thursday, 9 September 2021 12:18 PM
To: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>
Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Hello Vanessa

Thank you for providing below. I've attached a registered example of a trustee lease for your consideration, along with the Standard Terms and Mandatory Terms documents.

Kind Regards

Elaine Lawson

From: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Sent: Tuesday, 7 September 2021 5:18 PM
To: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>
Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>
Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Hi Elaine

I refer to your teleconference with Leanne O'Neill last Friday, 3 September 2021, in respect of the above matter.

We acknowledge the Council's delegation requirements and that consideration will need to be given to the existing easement on the adjacent land (Kenmore Plaza) prior to finalisation of the matter. We **attach** a copy of the easement and note:

- it is a right of way easement benefitting our client's land which was seemingly for the purpose of facilitating the far 'landing' of the pedestrian bridge on Kenmore Plaza's land, and its use by occupants of our client's estate
- a trustee lease to facilitate the use and maintenance of the pedestrian bridge would seem consistent with the purpose of the easement and, in any event, it would be a matter for our client to ensure use and maintenance of the bridge are in accordance with the easement terms, including obtaining any necessary consents from Kenmore Plaza
- there do not appear to be any easements over the 'reserve' land so there would be no need for the trustee lease to 'overlap' with the easement (albeit we recognise the practical implications of the bridge crossing both tenures).

As discussed, would you please forward copies of the Council's precedent trustee leases **as soon as practicable** so that we may ensure the draft key terms sheet closely aligns with the preferences of the Council.

Kind regards

Vanessa Thompson

Special Counsel



T +61 7 3231 2403 **M** + Sch 4 Pt 4(6)(1) **E** vanessa.thompson@cgw.com.au
 Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001
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From: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>

Sent: Thursday, 2 September 2021 1:52 PM

To: Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>

Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Vanessa Thompson <Vanessa.Thompson@cgw.com.au>

Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Good afternoon Kathryn

Council did receive a response from the State on 31 August 2021, further clarifying the necessary tenure of the pedestrian bridge.

So that my client can progress this matter, could you please provide a brief summary of the commercial terms your client would like to see in any trustee lease, including:

- Term
- Trustee Lease area
- Description of the use
- Maintenance and repair responsibilities; and
- Insurance responsibilities.

Happy to discuss any queries you may have.

Kind Regards

Elaine Lawson

Solicitor | Planning and Development | City Legal
City Administration and Governance | **BRISBANE CITY COUNCIL**

.....
Brisbane Square | Level 20, 266 George Street, Brisbane, Qld 4000
GPO Box 1434, Brisbane, Qld 4001
Phone: 07 3178 8176 | Fax 07 3334 0058
Email: elaine.lawson@brisbane.qld.gov.au

From: Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>
Sent: Tuesday, 31 August 2021 2:16 PM
To: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>
Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Good afternoon Elaine

Further to your below email, would you please advise whether there is any update in respect of the further response from the State.

Kind regards

Kathryn O'Hare
Senior Associate



T +61 7 3231 2906 **E** Kathryn.O'Hare@cgw.com.au
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001
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From: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>
Sent: Tuesday, 3 August 2021 8:54 AM
To: Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>
Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Subject: Re: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Good morning

Council has not yet received the further response from DNRME. I will update you once the further response is received.

Kind Regards

Elaine Lawson

Solicitor | Planning and Development | City Legal

City Administration and Governance | **BRISBANE CITY COUNCIL**

.....
Brisbane Square | Level 20, 266 George Street, Brisbane, Qld 4000

GPO Box 1434, Brisbane, Qld 4001

Phone: 07 3178 8176 | Fax 07 3334 0058

Email: elaine.lawson@brisbane.qld.gov.au

From: Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>
Sent: Monday, 2 August 2021 11:08 AM
To: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>
Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Good morning Elaine

I refer to your below email.

Would you please advise whether the Council has received the further response from DNRME and, if so, when we can expect to receive a response from the Council.

Kind regards

Kathryn O'Hare

Senior Associate



T +61 7 3231 2906 **E** Kathryn.O'Hare@cgw.com.au
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001
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From: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>
Sent: Monday, 19 July 2021 3:14:22 PM (UTC+10:00) Brisbane
To: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Subject: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Good afternoon Vanessa

I refer to my phone discussions with Katherine of your office and I appreciate your patience in this matter.

Council received an initial response from DNRME. However, further queries have been raised by Council regarding DNRME's position on 'improvements' under the *Land Act 1994* and upon a further response being received from DNRME, Council will be in a position to provide a more detailed update.

Kind Regards

Elaine Lawson

Solicitor | Planning and Development | City Legal

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.....
Brisbane Square | Level 20, 266 George Street, Brisbane, Qld 4000

GPO Box 1434, Brisbane, Qld 4001

Phone: 07 3178 8176 | Fax 07 3334 0058

Email: elaine.lawson@brisbane.qld.gov.au

From: Elaine Lawson
Sent: Monday, 31 May 2021 2:02 PM
To: 'Vanessa Thompson' <Vanessa.Thompson@cgw.com.au>
Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Good afternoon Vanessa

I refer to your below correspondence regarding your clients investigations into the history of the pedestrian bridge. Please see the **attached** documents which have been located:

- i. extract of Council minutes; and
- ii. offer to enter into deed.

Unfortunately, we have not been able to locate a copy of the deed referred to in item (ii). Any other relevant material located will be provided in due course.

In regards to items 1 – 6 below, if your client wishes to have documents provided in the timeframes set out in section 265 of the *Planning Act 2016*, please have them reconsider making an application for a planning and development certificate. A RTI search was merely suggested as a way of uncovering documentation that may not be obtainable through an application for a planning and development certificate or through Council's internal archive system. Nevertheless, the determination that "the information sought by my client is not of a confidential, personal or sensitive nature" is a matter for your client.

Council is corresponding with DNRME regarding obligations of parties stemming from the definitions of 'improvements' and 'development work' in section 46(3) of the *Land Act 1994*. An update will be provided once a response from DNRME is received.

Please contact me with any queries you may have.

Kind Regards

Elaine Lawson

Solicitor | Planning and Development | City Legal

City Administration and Governance | **BRISBANE CITY COUNCIL**

.....
Brisbane Square | Level 20, 266 George Street, Brisbane, Qld 4000

GPO Box 1434, Brisbane, Qld 4001

Phone: 07 3178 8176 | Fax 07 3334 0058

Email: elaine.lawson@brisbane.qld.gov.au

From: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>

Sent: Wednesday, 12 May 2021 3:53 PM

To: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>

Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>

Subject: FW: Pedestrian Bridge - St James Estate

Hi Elaine

Thank you for your email.

Request to access development assessment files

We do not accept that either an RTI application or planning and development certificate request are reasonable or required to facilitate access to the relevant development assessment files. In particular:

there is a recognised public interest in development applications and approvals (which attach to land) being accessible by the public, including obligations under section 264 of the *Planning Act 2016* and section 70 and schedule 22 of the *Planning Regulation 2017*, for such documents to be made available for inspection;

development assessment material held by the Council is generally available to freely access on its iDevelopment (formerly PD Online) database – albeit this only contains information relating to applications from approximately 2006 onwards. There does not seem to be a basis to withhold access to earlier development assessment files, which we understand the Council has located and are readily to hand, simply because they are not held electronically;

the information sought by our client is not of a confidential, personal or sensitive nature and any assessment against the RTI provisions, or by imposing a requirement for a costly planning and development search, would be an unnecessary regulatory burden and cost;

our client, the body corporate for the relevant development, seeks information for the development the body corporate relates to. There can be no question that it is reasonable and appropriate for our client to have access to development approvals and related documents, including approved plans and conditions which may be relevant to the on-going management and operation of the estate, including its potential obligations (including in relation to the bridge) and liabilities;

it is in our client and the Council's interest that access to the information is provided, as it may assist all parties involved to achieve an earlier resolution of the current uncertainty regarding the pedestrian bridge and relevant obligations;

without further information regarding the background relating to the bridge, including development approval documents and conditions, our client cannot determine its obligations in relation to the bridge, or accept responsibility for it. As such, it has no choice but to put the Council on notice that it does not and cannot accept any liability relating to the bridge and as such unfortunately we have no alternative but to wholly reserve our clients' rights including in relation to indemnity costs.

Of course, as you are well aware our client has always been committed to working cooperatively with Council to ensure the bridge can remain in situ, including offering to secure any suitable land tenure that may be available so it can 'take on' responsibility and cost for its maintenance etc. It simply needs the relevant regulatory bodies to facilitate a 'mechanism' for this to occur.

Please confirm by **17 May 2021** that access to the relevant development files will be provided. Our client reserves its rights in the event access is not provided.

Other matters

We note your response to the other matters raised in your below email. In particular, we look forward to being advised about options to facilitate our client's continued use and enjoyment of the pedestrian bridge.

Kind regards

Vanessa Thompson

Special Counsel



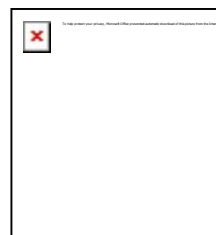
T 61 7 3231 2403 **M** 61 Sch 4 Pt 4(6)(1) **E** vanessa.thompson@cgw.com.au
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001
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From: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>

Sent: Tuesday, 4 May 2021 10:01 AM

To: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>

Subject: RE: Pedestrian Bridge - St James Estate

Good morning Vanessa

I refer to your email to Michelle Manning dated 24 March 2021. Please see my response to your numbered items below:

1. Your client will be notified prior to Council carrying out any substantial work on the pedestrian bridge.

2. Your client may wish to make an application for a planning and development certificate and/or a Right to Information application. Both of these applications can be made online through Council's website and links to and further information on these applications can be found by accessing the below link:
 - <https://www.brisbane.qld.gov.au/planning-and-building/buying-selling-and-searches/previous-development-applications-and-approvals>
3. Thank you for providing the visual condition report - the report findings may assist Council determine its position more quickly.
4. I understand that Council's communications with the State were in relation to an easement (between the State and your client) over the pedestrian bridge. The State responded, advising that its policy is not to grant easements over trustee land and instead suggested a trustee lease (between Council as trustee and your client) be considered. The State's response, along with tenure and governance issues of a trustee lease over the pedestrian bridge, are currently being considered.
5. Thank you for the offer. Council does not require an on-site meeting at present, however, I will contact you to arrange a meeting if that position changes.

Please contact me with any further queries you may have.

Kind Regards

Elaine Lawson

Solicitor | Planning and Development | City Legal
City Administration and Governance | **BRISBANE CITY COUNCIL**

.....
Brisbane Square | Level 20, 266 George Street, Brisbane, Qld 4000
GPO Box 1434, Brisbane, Qld 4001
Phone: 07 3178 8176 | Fax 07 3334 0058
Email: elaine.lawson@brisbane.qld.gov.au

From: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Sent: Tuesday, 4 May 2021 8:22 AM
To: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>
Cc: Michelle Manning <Michelle.Manning@brisbane.qld.gov.au>
Subject: RE: Pedestrian Bridge - St James Estate

Hi Elaine

Further to the below email from Michelle, would you please provide an update regarding when access to the relevant development approval files will be provided, as well as a response to the other matters set out in my email of 24 March 2021 (copied below)?

Kind regards

Vanessa Thompson

Special Counsel



T 61 7 3231 2403 **M** **Sch 4 Pt 4(6)(1)** **E** vanessa.thompson@cgw.com.au
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001
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From: Michelle Manning <Michelle.Manning@brisbane.qld.gov.au>

Sent: Thursday, 22 April 2021 3:59 PM

To: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>

Cc: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>

Subject: RE: Pedestrian Bridge - St James Estate

Hi Vanessa

Thanks for your patience as we continue to review this matter and options for resolution.

Elaine Lawson from Council's City Legal branch will take over as your primary point of contact on this matter including in responding to your request for assistance in accessing relevant development approvals relating to the St James Estate and pedestrian bridge.

Elaine will be in contact shortly but for your records her details are:

Elaine Lawson

Solicitor | Planning and Development | City Legal
City Administration and Governance | **BRISBANE CITY COUNCIL**

.....
Brisbane Square | Level 20, 266 George Street, Brisbane, Qld 4000
GPO Box 1434, Brisbane, Qld 4001
Phone: 07 3178 8176 | Fax 07 3334 0058
Email: elaine.lawson@brisbane.qld.gov.au

Regards
Michelle

Michelle Manning

Team Leader | Park Assets and Governance
Natural Environment, Water & Sustainability | **BRISBANE CITY COUNCIL**

.....
Brisbane Square | PO Box 1434, Brisbane City Qld 4001
Phone: +61-7-3403 4666 | Email: michelle.manning@brisbane.qld.gov.au
.....



Security Label: Official Use

From: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>

Sent: Wednesday, 24 March 2021 8:29 AM

To: Michelle Manning <Michelle.Manning@brisbane.qld.gov.au>

Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>

Subject: SAVED: Pedestrian Bridge - St James Estate

This email originates from outside of Brisbane City Council.

Hi Michelle

Thank you for your time on the phone last Thursday, 18 March 2021.

Further to our discussion:

Would you please confirm that the Council will not take steps to remove/demolish the bridge without further reference to us/our client.

I confirm my client's request for a copy of any relevant development approvals relating to the St James Estate and pedestrian bridge. As discussed, we consider the circumstances relating to the construction of the bridge, including conditions of any relevant development approval, may be relevant to the obligations of the parties and how the bridge is to be managed moving forward.

As requested, we **attach** a copy of a visual condition report commissioned by our client regarding the bridge in 2019. Whilst it identifies some areas of concern, it also provides that appropriate rectification works to address these matters 'will extend the life of the bridge to 50 years'. This highlights that with a relatively modest spend (I understand various quotes indicate costs in the order of approximately \$180,000) the bridge can continue to provide convenience to residents, reducing reliance on vehicles, in accordance with reasonable expectations that the bridge will remain. I also confirm that our client is willing to consider entering into an agreement with the Council to facilitate the payment of reasonable construction costs associated with rectification works.

I note your suggestion that a lease may be an appropriate way to facilitate our client securing the necessary 'rights' to manage and maintain the bridge, however, the State was not receptive to this option. Would you please clarify whether your discussions with the State were in the context of a trustee lease (that is, between Council as trustee and our client, albeit that the Council may require State approval)?

A representative of our client is also willing to meet with Council representatives on-site to discuss the potential for greater public access to the bridge (albeit, if this is something which would be of interest to the Council, it would be subject to further consideration by the body corporate). Our client has provided the **attached** sketch to show how this may be achieved.

We look forward to receiving your response to these matters.

Kind regards

Vanessa Thompson

Special Counsel



T 61 7 3231 2403 **M** 61 **Sch 4 Pt 4(6)(1)** **E** vanessa.thompson@cgw.com.au
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001
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RTI Release

David Simons

From: Katherine Thompson
Sent: Friday, 26 November 2021 5:03 PM
To: 'Kathryn O'Hare'
Cc: Leanne O'Neill; Vanessa Thompson
Subject: RE: OP323122 - Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Hi Kathryn,

Thank you for the below. I have finalised my review of the proposed trust terms and am just seeking instructions / clarification on various points from my client area.

I hope to be in touch early next week with my comments.

Kind regards,
Katherine

Katherine Thompson

Solicitor | Planning and Development | City Legal
City Administration and Governance | **BRISBANE CITY COUNCIL**

Brisbane Square | Level 20, 266 George Street, Brisbane, Qld 4000
GPO Box 1434, Brisbane, Qld 4001
Phone: 07 3178 2704 | Fax 07 3334 0058
Email: Katherine.Thompson@brisbane.qld.gov.au



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From: Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>
Sent: Monday, 22 November 2021 2:52 PM
To: Katherine Thompson <Katherine.Thompson@brisbane.qld.gov.au>
Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>
Subject: RE: OP323122 - Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Hi Katherine

Further to the below email exchange, do you have any update on when we will receive the Council's feedback in respect of the proposed key terms?

As our client has received an updated quote for the cost of constructing the bridge, which has increased from \$66,125 to \$72,135 (excl. GST) (see **attached**), it is keen to minimise any further delay to resolving this matter.

Kind regards

Kathryn O'Hare
Senior Associate



T +61 7 3231 2906 **E** Kathryn.O'Hare@cgw.com.au
 Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001
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From: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Sent: Monday, 15 November 2021 10:10 AM
To: katherine.thompson@brisbane.qld.gov.au
Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>
Subject: RE: OP323122 - Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Hi Katherine

Further to your below emails with Kathryn – do you have any update on when we will receive the Council's feedback on the proposed key terms?

(Also – are you the same Katherine Thompson who formerly worked at Dibbs?)

Kind regards

Vanessa Thompson
 Special Counsel



T +61 7 3231 2403 **M** +61 **Sch 4 Pt 4(6)(1)** **E** vanessa.thompson@cgw.com.au
 Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001
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From: Katherine Thompson <Katherine.Thompson@brisbane.qld.gov.au>
Sent: Monday, 8 November 2021 12:47 PM
To: Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>
Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Subject: RE: OP323122 - Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Hi Kathryn,

I will be reviewing the above matter including proposed key terms during the course of the week and will provide Council's response as soon as possible.

Kind regards,
Katherine

Katherine Thompson

Solicitor | Planning and Development | City Legal
City Administration and Governance | **BRISBANE CITY COUNCIL**

Brisbane Square | Level 20, 266 George Street, Brisbane, Qld 4000
GPO Box 1434, Brisbane, Qld 4001
Phone: 07 3178 2704 | Fax 07 3334 0058
Email: Katherine.Thompson@brisbane.qld.gov.au



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From: Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>
Sent: Monday, 8 November 2021 9:22 AM
To: Katherine Thompson <Katherine.Thompson@brisbane.qld.gov.au>
Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Hi Katherine

Further to the below email chain, could you please advise when we can expect to receive the Council's response to our client's draft proposed key terms?

Kind regards

Kathryn O'Hare
Senior Associate



T +61 7 3231 2906 **E** Kathryn.O'Hare@cgw.com.au
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001
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From: Kathryn O'Hare
Sent: Monday, 1 November 2021 1:43 PM
To: Katherine Thompson <Katherine.Thompson@brisbane.qld.gov.au>
Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Hi Katherine

Further to the below, would you please advise when we can expect to receive the Council's response to our client's draft proposed key terms?

Kind regards

Kathryn O'Hare

Senior Associate



T +61 7 3231 2906 **E** Kathryn.O'Hare@cgw.com.au
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001
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From: Kathryn O'Hare
Sent: Friday, 22 October 2021 12:42 PM
To: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>
Cc: Katherine Thompson <Katherine.Thompson@brisbane.qld.gov.au>; Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Hi Elaine

Thank you for the update.

Katherine – would you please advise when we can expect to receive the Council's response to our client's draft proposed key terms?

Kind regards

Kathryn O'Hare

Senior Associate



T +61 7 3231 2906 **E** Kathryn.O'Hare@cgw.com.au
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001
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From: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>
Sent: Friday, 22 October 2021 10:57 AM
To: Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>

Cc: Katherine Thompson <Katherine.Thompson@brisbane.qld.gov.au>
Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Hello Kathryn

This matter has been transferred to the Property team to be progressed and I have Cc'd in the solicitor who now has the carriage of this matter.

Kind Regards

Elaine Lawson

Solicitor | Planning and Development | City Legal
City Administration and Governance | **BRISBANE CITY COUNCIL**

Brisbane Square | Level 20, 266 George Street, Brisbane, Qld 4000
GPO Box 1434, Brisbane, Qld 4001
Phone: 07 3178 8176 | Fax 07 3334 0058
Email: elaine.lawson@brisbane.qld.gov.au

From: Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>
Sent: Thursday, 21 October 2021 11:07 AM
To: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>; Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>
Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>
Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Hi Elaine

Further to Vanessa's email below, would you please advise when we can expect to receive the Council's response to our client's draft proposed key terms?

Kind regards

Kathryn O'Hare
Senior Associate



T +61 7 3231 2906 **E** Kathryn.O'Hare@cgw.com.au
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001
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From: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Sent: Wednesday, 13 October 2021 11:20 AM
To: elaine.lawson@brisbane.qld.gov.au
Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>
Subject: FW: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Hi Elaine

Further to Kathryn's below email, would you please advise when we can expect to receive the Council's response to our client's draft proposed key terms?

Kind regards

Vanessa Thompson

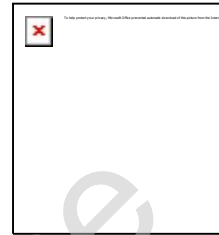
Special Counsel



T +61 7 3231 2403 **M** +6 **Sch 4 Pt 4(6)(1)** vanessa.thompson@cgw.com.au
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From: Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>
Sent: Wednesday, 29 September 2021 9:32 AM
To: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>; Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>
Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Good morning Elaine

Further to the below, please find **attached** our client's draft key terms in respect of the trustee lease.

Would you please **confirm** whether the Council is agreeable to the trustee lease on the basis of the draft key terms or, alternatively, suggest amendments to the draft key terms by **8 October 2021**.

Kind regards

Kathryn O'Hare

Senior Associate



T +61 7 3231 2906 **E** Kathryn.O'Hare@cgw.com.au
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001
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From: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>
Sent: Thursday, 9 September 2021 12:18 PM

To: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>
Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Hello Vanessa

Thank you for providing below. I've attached a registered example of a trustee lease for your consideration, along with the Standard Terms and Mandatory Terms documents.

Kind Regards

Elaine Lawson

From: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Sent: Tuesday, 7 September 2021 5:18 PM
To: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>
Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>
Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Hi Elaine

I refer to your teleconference with Leanne O'Neill last Friday, 3 September 2021, in respect of the above matter.

We acknowledge the Council's delegation requirements and that consideration will need to be given to the existing easement on the adjacent land (Kenmore Plaza) prior to finalisation of the matter. We **attach** a copy of the easement and note:

- it is a right of way easement benefitting our client's land which was seemingly for the purpose of facilitating the far 'landing' of the pedestrian bridge on Kenmore Plaza's land, and its use by occupants of our client's estate
- a trustee lease to facilitate the use and maintenance of the pedestrian bridge would seem consistent with the purpose of the easement and, in any event, it would be a matter for our client to ensure use and maintenance of the bridge are in accordance with the easement terms, including obtaining any necessary consents from Kenmore Plaza
- there do not appear to be any easements over the 'reserve' land so there would be no need for the trustee lease to 'overlap' with the easement (albeit we recognise the practical implications of the bridge crossing both tenures).

As discussed, would you please forward copies of the Council's precedent trustee leases **as soon as practicable** so that we may ensure the draft key terms sheet closely aligns with the preferences of the Council.

Kind regards

Vanessa Thompson

Special Counsel



T +61 7 3231 2403 **M** +61 [Sch 4 Pt 4\(6\)\(1\)](tel:+61732312403) **E** vanessa.thompson@cgw.com.au
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From: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>

Sent: Thursday, 2 September 2021 1:52 PM

To: Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>

Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Vanessa Thompson <Vanessa.Thompson@cgw.com.au>

Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Good afternoon Kathryn

Council did receive a response from the State on 31 August 2021, further clarifying the necessary tenure of the pedestrian bridge.

So that my client can progress this matter, could you please provide a brief summary of the commercial terms your client would like to see in any trustee lease, including:

- Term
- Trustee Lease area
- Description of the use
- Maintenance and repair responsibilities; and
- Insurance responsibilities.

Happy to discuss any queries you may have.

Kind Regards

Elaine Lawson

Solicitor | Planning and Development | City Legal
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Brisbane Square | Level 20, 266 George Street, Brisbane, Qld 4000
GPO Box 1434, Brisbane, Qld 4001
Phone: 07 3178 8176 | Fax 07 3334 0058
Email: elaine.lawson@brisbane.qld.gov.au

From: Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>

Sent: Tuesday, 31 August 2021 2:16 PM

To: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>

Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Vanessa Thompson <Vanessa.Thompson@cgw.com.au>

Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Good afternoon Elaine

Further to your below email, would you please advise whether there is any update in respect of the further response from the State.

Kind regards

Kathryn O'Hare

Senior Associate



T +61 7 3231 2906 **E** Kathryn.O'Hare@cgw.com.au

Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001

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From: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>

Sent: Tuesday, 3 August 2021 8:54 AM

To: Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>

Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Vanessa Thompson <Vanessa.Thompson@cgw.com.au>

Subject: Re: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Good morning

Council has not yet received the further response from DNRME. I will update you once the further response is received.

Kind Regards

Elaine Lawson

Solicitor | Planning and Development | City Legal

City Administration and Governance | **BRISBANE CITY COUNCIL**

.....
Brisbane Square | Level 20, 266 George Street, Brisbane, Qld 4000

GPO Box 1434, Brisbane, Qld 4001

Phone: 07 3178 8176 | Fax 07 3334 0058

Email: elaine.lawson@brisbane.qld.gov.au

From: Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>

Sent: Monday, 2 August 2021 11:08 AM

To: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>

Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Good morning Elaine

I refer to your below email.

Would you please advise whether the Council has received the further response from DNRME and, if so, when we can expect to receive a response from the Council.

Kind regards

Kathryn O'Hare

Senior Associate



T +61 7 3231 2906 **E** Kathryn.O'Hare@cgw.com.au
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001
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From: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>
Sent: Monday, 19 July 2021 3:14:22 PM (UTC+10:00) Brisbane
To: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Subject: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Good afternoon Vanessa

I refer to my phone discussions with Katherine of your office and I appreciate your patience in this matter.

Council received an initial response from DNRME. However, further queries have been raised by Council regarding DNRME's position on 'improvements' under the *Land Act 1994* and upon a further response being received from DNRME, Council will be in a position to provide a more detailed update.

Kind Regards

Elaine Lawson

Solicitor | Planning and Development | City Legal

City Administration and Governance | **BRISBANE CITY COUNCIL**

.....
Brisbane Square | Level 20, 266 George Street, Brisbane, Qld 4000

GPO Box 1434, Brisbane, Qld 4001

Phone: 07 3178 8176 | Fax 07 3334 0058

Email: elaine.lawson@brisbane.qld.gov.au

From: Elaine Lawson

Sent: Monday, 31 May 2021 2:02 PM

To: 'Vanessa Thompson' <Vanessa.Thompson@cgw.com.au>

Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Good afternoon Vanessa

I refer to your below correspondence regarding your clients investigations into the history of the pedestrian bridge. Please see the **attached** documents which have been located:

- i. extract of Council minutes; and
- ii. offer to enter into deed.

Unfortunately, we have not been able to locate a copy of the deed referred to in item (ii). Any other relevant material located will be provided in due course.

In regards to items 1 – 6 below, if your client wishes to have documents provided in the timeframes set out in section 265 of the *Planning Act 2016*, please have them reconsider making an application for a planning and development certificate. A RTI search was merely suggested as a way of uncovering documentation that may not be obtainable through an application for a planning and development certificate or through Council’s internal archive system. Nevertheless, the determination that “the information sought by my client is not of a confidential, personal or sensitive nature” is a matter for your client.

Council is corresponding with DNRME regarding obligations of parties stemming from the definitions of ‘improvements’ and ‘development work’ in section 46(3) of the *Land Act 1994*. An update will be provided once a response from DNRME is received.

Please contact me with any queries you may have.

Kind Regards

Elaine Lawson

Solicitor | Planning and Development | City Legal

City Administration and Governance | **BRISBANE CITY COUNCIL**

.....
Brisbane Square | Level 20, 266 George Street, Brisbane, Qld 4000

GPO Box 1434, Brisbane, Qld 4001

Phone: 07 3178 8176 | Fax 07 3334 0058

Email: elaine.lawson@brisbane.qld.gov.au

From: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>

Sent: Wednesday, 12 May 2021 3:53 PM

To: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>

Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>

Subject: FW: Pedestrian Bridge - St James Estate

Hi Elaine

Thank you for your email.

Request to access development assessment files

We do not accept that either an RTI application or planning and development certificate request are reasonable or required to facilitate access to the relevant development assessment files. In particular:

- there is a recognised public interest in development applications and approvals (which attach to land) being accessible by the public, including obligations under section 264 of the *Planning Act 2016* and section 70 and schedule 22 of the *Planning Regulation 2017*, for such documents to be made available for inspection;
- development assessment material held by the Council is generally available to freely access on its iDevelopment (formerly PD Online) database – albeit this only contains information relating to applications from approximately 2006 onwards. There does not seem to be a basis to withhold access to earlier development assessment files, which we understand the Council has located and are readily to hand, simply because they are not held electronically;
- the information sought by our client is not of a confidential, personal or sensitive nature and any assessment against the RTI provisions, or by imposing a requirement for a costly planning and development search, would be an unnecessary regulatory burden and cost;
- our client, the body corporate for the relevant development, seeks information for the development the body corporate relates to. There can be no question that it is reasonable and appropriate for our client to have access to development approvals and related documents, including approved plans and conditions which may be relevant to the on-going management and operation of the estate, including its potential obligations (including in relation to the bridge) and liabilities;
- it is in our client and the Council's interest that access to the information is provided, as it may assist all parties involved to achieve an earlier resolution of the current uncertainty regarding the pedestrian bridge and relevant obligations;
- without further information regarding the background relating to the bridge, including development approval documents and conditions, our client cannot determine its obligations in relation to the bridge, or accept responsibility for it. As such, it has no choice but to put the Council on notice that it does not and cannot accept any liability relating to the bridge and as such unfortunately we have no alternative but to wholly reserve our clients' rights including in relation to indemnity costs.

Of course, as you are well aware our client has always been committed to working cooperatively with Council to ensure the bridge can remain in situ, including offering to secure any suitable land tenure that may be available so it can 'take on' responsibility and cost for its maintenance etc. It simply needs the relevant regulatory bodies to facilitate a 'mechanism' for this to occur.

Please confirm by **17 May 2021** that access to the relevant development files will be provided. Our client reserves its rights in the event access is not provided.

Other matters

We note your response to the other matters raised in your below email. In particular, we look forward to being advised about options to facilitate our client's continued use and enjoyment of the pedestrian bridge.

Kind regards

Vanessa Thompson
Special Counsel



T 61 7 3231 2403 **M** 6 **Sch 4 Pt 4(6)(1)** **E** vanessa.thompson@cgw.com.au
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001
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From: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>
Sent: Tuesday, 4 May 2021 10:01 AM
To: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Subject: RE: Pedestrian Bridge - St James Estate

Good morning Vanessa

I refer to your email to Michelle Manning dated 24 March 2021. Please see my response to your numbered items below:

1. Your client will be notified prior to Council carrying out any substantial work on the pedestrian bridge.
2. Your client may wish to make an application for a planning and development certificate and/or a Right to Information application. Both of these applications can be made online through Council's website and links to and further information on these applications can be found by accessing the below link:
 - <https://www.brisbane.qld.gov.au/planning-and-building/buying-selling-and-searches/previous-development-applications-and-approvals>
3. Thank you for providing the visual condition report - the report findings may assist Council determine its position more quickly.
4. I understand that Council's communications with the State were in relation to an easement (between the State and your client) over the pedestrian bridge. The State responded, advising that its policy is not to grant easements over trustee land and instead suggested a trustee lease (between Council as trustee and your client) be considered. The State's response, along with tenure and governance issues of a trustee lease over the pedestrian bridge, are currently being considered.
5. Thank you for the offer. Council does not require an on-site meeting at present, however, I will contact you to arrange a meeting if that position changes.

Please contact me with any further queries you may have.

Kind Regards

Elaine Lawson

Solicitor | Planning and Development | City Legal

.....
Brisbane Square | Level 20, 266 George Street, Brisbane, Qld 4000
GPO Box 1434, Brisbane, Qld 4001
Phone: 07 3178 8176 | Fax 07 3334 0058
Email: elaine.lawson@brisbane.qld.gov.au

From: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Sent: Tuesday, 4 May 2021 8:22 AM
To: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>
Cc: Michelle Manning <Michelle.Manning@brisbane.qld.gov.au>
Subject: RE: Pedestrian Bridge - St James Estate

Hi Elaine

Further to the below email from Michelle, would you please provide an update regarding when access to the relevant development approval files will be provided, as well as a response to the other matters set out in my email of 24 March 2021 (copied below)?

Kind regards

Vanessa Thompson

Special Counsel



T 61 7 3231 2403 **M** 6 **Sch 4 Pt 4(6)(1)** **E** vanessa.thompson@cgw.com.au
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001
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From: Michelle Manning <Michelle.Manning@brisbane.qld.gov.au>
Sent: Thursday, 22 April 2021 3:59 PM
To: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Cc: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>
Subject: RE: Pedestrian Bridge - St James Estate

Hi Vanessa

Thanks for your patience as we continue to review this matter and options for resolution.

Elaine Lawson from Council's City Legal branch will take over as your primary point of contact on this matter including in responding to your request for assistance in accessing relevant development approvals relating to the St James Estate and pedestrian bridge.

Elaine will be in contact shortly but for your records her details are:

Elaine Lawson

Solicitor | Planning and Development | City Legal

.....
Brisbane Square | Level 20, 266 George Street, Brisbane, Qld 4000
GPO Box 1434, Brisbane, Qld 4001
Phone: 07 3178 8176 | Fax 07 3334 0058
Email: elaine.lawson@brisbane.qld.gov.au

Regards
Michelle

Michelle Manning

Team Leader | Park Assets and Governance
Natural Environment, Water & Sustainability | **BRISBANE CITY COUNCIL**

.....
Brisbane Square | PO Box 1434, Brisbane City Qld 4001
Phone: +61-7-3403 4666 | Email: michelle.manning@brisbane.qld.gov.au



Security Label: Official Use

From: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Sent: Wednesday, 24 March 2021 8:29 AM
To: Michelle Manning <Michelle.Manning@brisbane.qld.gov.au>
Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>
Subject: SAVED: Pedestrian Bridge - St James Estate

This email originates from outside of Brisbane City Council.

Hi Michelle

Thank you for your time on the phone last Thursday, 18 March 2021.

Further to our discussion:

Would you please confirm that the Council will not take steps to remove/demolish the bridge without further reference to us/our client.

I confirm my client's request for a copy of any relevant development approvals relating to the St James Estate and pedestrian bridge. As discussed, we consider the circumstances relating to the construction of the bridge, including conditions of any relevant development approval, may be relevant to the obligations of the parties and how the bridge is to be managed moving forward.

As requested, we **attach** a copy of a visual condition report commissioned by our client regarding the bridge in 2019. Whilst it identifies some areas of concern, it also provides that appropriate rectification works to address these matters 'will extend the life of the bridge to 50 years'. This highlights that with a relatively modest spend (I understand various quotes indicate costs in the order of approximately \$180,000) the bridge can continue to provide convenience to residents, reducing reliance on vehicles, in accordance with reasonable expectations that the bridge will remain. I also confirm that our client is willing to consider entering into an agreement with the Council to facilitate the payment of reasonable construction costs associated with rectification works.

I note your suggestion that a lease may be an appropriate way to facilitate our client securing the necessary 'rights' to manage and maintain the bridge, however, the State was not receptive to this option. Would you please clarify whether your discussions with the State were in the context of a trustee lease (that is, between Council as trustee and our client, albeit that the Council may require State approval)?

A representative of our client is also willing to meet with Council representatives on-site to discuss the potential for greater public access to the bridge (albeit, if this is something which would be of interest to the Council, it would be subject to further consideration by the body corporate). Our client has provided the **attached** sketch to show how this may be achieved.

We look forward to receiving your response to these matters.

Kind regards

Vanessa Thompson

Special Counsel



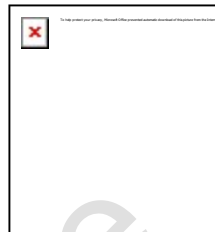
T 61 7 3231 2403 **M** 6 **Sch 4 Pt 4(6)(1)** **E** vanessa.thompson@cgw.com.au
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RTI Release

RTI Release

Sch 3(7)

From: Elaine Lawson
Sent: Monday, 30 August 2021 9:58 AM
To: 'SCHEFE Louise' <Louise.Schefe@resources.qld.gov.au>
Cc: 'Bradley.Monin@resources.qld.gov.au' <Bradley.Monin@resources.qld.gov.au>;
'Debbie.Cross@resources.qld.gov.au' <Debbie.Cross@resources.qld.gov.au>;
'Desley.McComiskie@resources.qld.gov.au' <Desley.McComiskie@resources.qld.gov.au>
Subject: FW: St James Estate - pedestrian bridge over reserve - Lot 21 on SL811444 and Lot 33 on SP110622 - OP323122 [BCC-C1.URI18689385]

Good morning Louise

Would you be able to provide any update on a timeframe for a response to my below email?

Kind Regards

Elaine Lawson

Solicitor | Planning and Development | City Legal
City Administration and Governance | **BRISBANE CITY COUNCIL**

Brisbane Square | Level 20, 266 George Street, Brisbane, Qld 4000
GPO Box 1434, Brisbane, Qld 4001
Phone: 07 3178 8176 | Fax 07 3334 0058
Email: elaine.lawson@brisbane.qld.gov.au

From: Elaine Lawson
Sent: Monday, 19 July 2021 3:26 PM
To: 'SCHEFE Louise' <Louise.Schefe@resources.qld.gov.au>
Subject: St James Estate - pedestrian bridge over reserve - Lot 21 on SL811444 and Lot 33 on SP110622 - OP323122 [BCC-C1.URI18689385]

Hello Louise

Council has considered your below response and seeks further information regarding the State's position that the pedestrian bridge is an improvement under the *Land Act 1994* (the Act).

It appears the State is relying on subsection (d) of the definition of improvements in the Act to assert its position that the pedestrian bridge is an improvement. For convenience, the definition of improvements under the Act is set out below (our underlining).

improvements means any—

- (a) building, fence or yard; and
 - (b) artificial watercourse or watering-place, bore, reservoir, well or apparatus for raising, holding or conveying water; and
 - (c) cultivation, garden, orchard or plantation; and
 - (d) building, structure or appliance that is a fixture for the working or management of land or stock pastured on the land or for maintaining, protecting or increasing the natural capabilities of the land;
- but does not include development work.

While Council concedes that the pedestrian bridge is a 'structure' that is a 'fixture' and therefore the first part of the subsection (d) definition is satisfied, Council does not consider that the pedestrian bridge is for the 'working or management of land' or for 'maintaining, protecting or increasing the natural capabilities of the land'. It appears that the pedestrian bridge purely acts as an elevated platform, carrying residents of St James Estate Body Corporate (only) over the relevant land entirely. Accordingly, Council seeks the State's advice on this aspect of the

improvements definition under the Act and wishes to understand exactly how the State believes the pedestrian bridge affects the land in question.

I look forward to receiving your response.

Kind Regards

Elaine Lawson

Solicitor | Planning and Development | City Legal
City Administration and Governance | **BRISBANE CITY COUNCIL**

Brisbane Square | Level 20, 266 George Street, Brisbane, Qld 4000
GPO Box 1434, Brisbane, Qld 4001
Phone: 07 3178 8176 | Fax 07 3334 0058
Email: elaine.lawson@brisbane.qld.gov.au

From: SCHEFE Louise <Louise.Schefe@resources.qld.gov.au>
Sent: Friday, 4 June 2021 2:33 PM
To: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>
Cc: MONIN Bradley <Bradley.Monin@resources.qld.gov.au>; CROSS Debbie <Debbie.Cross@resources.qld.gov.au>; MCCOMISKIE Desley <Desley.McComiskie@resources.qld.gov.au>
Subject: RE: St James Estate - pedestrian bridge over reserve - Lot 21 on SL811444 and Lot 33 on SP110622 [your ref: TF49021075] [BCC-C1.URI18689385]

This email originates from outside of Brisbane City Council.

Elaine

The department disputes Council's position.

The definition of development work refers to

(c) filling, reclamation or any other works making the land suitable for use or the building or erection of a building or structure on the land.

i.e. the definition of development work relates to the filling, reclamation or any other works making the land suitable for use or the building or erection of and therefore for the *Land Act 1994* the bridge is not development work.

The bridge (an improvement as defined under the *Land Act 1994*) is the responsibility of Council as trustee.

Regards



Louise Schefe
A/Senior Land Officer
Land Administration and Acquisitions | Land and Native Title Operations
Department of Resources

P: 0746241548

E: SLAM-Brisbane@resources.qld.gov.au

A: Level 18, 275 George Street, Brisbane QLD 4000 | GPO Box 2771, BRISBANE QLD 4000

W: www.resources.qld.gov.au

From: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>

Sent: Monday, 31 May 2021 1:58 PM

To: SLAM - Brisbane

Subject: FW: St James Estate - pedestrian bridge over reserve - Lot 21 on SL811444 and Lot 33 on SP110622 [your ref: TF49021075] [BCC-C1.URI18689385]

Dear Sir / Madam

I refer to correspondence from Ray Palmer of DNRME to Council (Bi-LandUse) dated 25, 28 and 29 of October 2019 and correspondence from Annette Thomas of Council to DNRME dated 6 December 2019.

The correspondence dated 25 October 2019 stated that "as Brisbane City Council are trustees of the reserve, it is responsible for the ongoing management and maintenance of the land and any improvements on the land..."

Council has considered the relevant legislation set out below in further detail and requests that DNRME reconsider the advice provided to the Body Corporate of St James Estate.

Relevant legislation

Section 46 of the Land Act (the "Act") states that (highlighted and underlining added by me):

46 Trustee's administrative functions

(1) A trustee's functions are to—

- (a) manage the trust land consistent with achieving the purpose of the trust; and
- (b) fulfil the trust within their conditions of appointment (if any); and
- (c) control noxious plants on the trust land; and
- (d) keep records required by the Minister or required under this and other Acts.

(2) A trustee has the responsibility for a duty of care for the trust land.

(3) **Unless the Minister otherwise decides, a trustee's functions include protecting and maintaining, so far as is reasonable, all improvements on the trust land.**

(4) The Minister may direct a trustee to erect signs on trust land indicating the land has been granted in trust or dedicated as a reserve.

(5) The trustee must comply with the Minister's direction.

The term "improvements" is defined to mean:

improvements means any—

- (a) building, fence or yard; and
 - (b) artificial watercourse or watering-place, bore, reservoir, well or apparatus for raising, holding or conveying water; and
 - (c) cultivation, garden, orchard or plantation; and
 - (d) building, structure or appliance that is a fixture for the working or management of land or stock pastured on the land or for maintaining, protecting or increasing the natural capabilities of the land;
- but does not include development work.**

Development Work is defined to mean:

development work for land means—

- (a) if clearing of trees enhances the productivity of the land—the clearing of trees; and
- (b) work performed for the rehabilitation and sustainability of the land; and
- (c) filling, reclamation or any other works making the land suitable for use **or the building or erection of a building or structure on the land.**

Structure is not defined in the Act and the Oxford Dictionary defines structure to be “a building or other object constructed from several parts”. The pedestrian bridge is clearly a structure.

The **attached** Council minutes detail the decision to approve the development on land now described as 50 Boblynn street, being the St James Estate Body Corporate. Also attached in the offer of acceptance regarding the bond to secure the works under the approval.

The pedestrian bridge has been constructed due to development work and is therefore not an improvement. Accordingly, Council as trustee is not required to protect or maintain the pedestrian bridge.

Could you please consider above and advise if DNRME disputes Council’s position? Council intends of informing the Body Corporate’s solicitor of its position under the Act (and why there isn’t an intention to investigate a trustee lease further) and would appreciate a response first. I note that DNRME was conversing with Mr. White from the Body Corporate and would also appreciate you updating Mr. White directly (if DNRME does not dispute Council’s position).

Happy to discuss any queries you may have.

Kind Regards

Elaine Lawson
Solicitor | Planning and Development | City Legal
City Administration and Governance | **BRISBANE CITY COUNCIL**

Brisbane Square | Level 20, 266 George Street, Brisbane, Qld 4000
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RTI Release

David Simons

From: Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>
Sent: Monday, 22 November 2021 2:52 PM
To: Katherine Thompson
Cc: Leanne O'Neill
Subject: RE: OP323122 - Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]
Attachments: Wagner Quote 20.08.21.pdf; Warner Quote 18.11.21.pdf

Hi Katherine

Further to the below email exchange, do you have any update on when we will receive the Council's feedback in respect of the proposed key terms?

As our client has received an updated quote for the cost of constructing the bridge, which has increased from \$66,125 to \$72,135 (excl. GST) (see **attached**), it is keen to minimise any further delay to resolving this matter.

Kind regards

Kathryn O'Hare

Senior Associate



T +61 7 3231 2906 **E** Kathryn.O'Hare@cgw.com.au
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001
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From: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>

Sent: Monday, 15 November 2021 10:10 AM

To: katherine.thompson@brisbane.qld.gov.au

Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>

Subject: RE: OP323122 - Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Hi Katherine

Further to your below emails with Kathryn – do you have any update on when we will receive the Council's feedback on the proposed key terms?

(Also – are you the same Katherine Thompson who formerly worked at Dibbs?)

Kind regards

Vanessa Thompson

Special Counsel



T +61 7 3231 2403 **M** + **Sch 4 Pt 4(6)(1)** **E** vanessa.thompson@cgw.com.au
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001
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From: Katherine Thompson <Katherine.Thompson@brisbane.qld.gov.au>
Sent: Monday, 8 November 2021 12:47 PM
To: Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>
Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Subject: RE: OP323122 - Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Hi Kathryn,

I will be reviewing the above matter including proposed key terms during the course of the week and will provide Council's response as soon as possible.

Kind regards,
Katherine

Katherine Thompson

Solicitor | Planning and Development | City Legal
City Administration and Governance | **BRISBANE CITY COUNCIL**

Brisbane Square | Level 20, 266 George Street, Brisbane, Qld 4000
GPO Box 1434, Brisbane, Qld 4001
Phone: 07 3178 2704 | Fax 07 3334 0058
Email: Katherine.Thompson@brisbane.qld.gov.au



This email and attachments are confidential, may contain legally privileged information and are intended solely for the named recipient(s).

From: Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>
Sent: Monday, 8 November 2021 9:22 AM
To: Katherine Thompson <Katherine.Thompson@brisbane.qld.gov.au>
Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Hi Katherine

Further to the below email chain, could you please advise when we can expect to receive the Council's response to our client's draft proposed key terms?

Kind regards

Kathryn O'Hare
Senior Associate



T +61 7 3231 2906 **E** Kathryn.O'Hare@cgw.com.au
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001
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From: Kathryn O'Hare
Sent: Monday, 1 November 2021 1:43 PM
To: Katherine Thompson <Katherine.Thompson@brisbane.qld.gov.au>
Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Hi Katherine

Further to the below, would you please advise when we can expect to receive the Council's response to our client's draft proposed key terms?

Kind regards

Kathryn O'Hare
Senior Associate



T +61 7 3231 2906 **E** Kathryn.O'Hare@cgw.com.au
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001
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From: Kathryn O'Hare
Sent: Friday, 22 October 2021 12:42 PM
To: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>
Cc: Katherine Thompson <Katherine.Thompson@brisbane.qld.gov.au>; Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Hi Elaine

Thank you for the update.

Katherine – would you please advise when we can expect to receive the Council's response to our client's draft proposed key terms?

Kind regards

Kathryn O'Hare

Senior Associate



T +61 7 3231 2906 **E** Kathryn.O'Hare@cgw.com.au

Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001

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From: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>

Sent: Friday, 22 October 2021 10:57 AM

To: Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>

Cc: Katherine Thompson <Katherine.Thompson@brisbane.qld.gov.au>

Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Hello Kathryn

This matter has been transferred to the Property team to be progressed and I have Cc'd in the solicitor who now has the carriage of this matter.

Kind Regards

Elaine Lawson

Solicitor | Planning and Development | City Legal
City Administration and Governance | **BRISBANE CITY COUNCIL**

Brisbane Square | Level 20, 266 George Street, Brisbane, Qld 4000

GPO Box 1434, Brisbane, Qld 4001

Phone: 07 3178 8176 | Fax 07 3334 0058

Email: elaine.lawson@brisbane.qld.gov.au

From: Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>

Sent: Thursday, 21 October 2021 11:07 AM

To: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>; Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>

Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>

Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Hi Elaine

Further to Vanessa's email below, would you please advise when we can expect to receive the Council's response to our client's draft proposed key terms?

Kind regards

Kathryn O'Hare

Senior Associate



T +61 7 3231 2906 **E** Kathryn.O'Hare@cgw.com.au
 Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001
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From: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Sent: Wednesday, 13 October 2021 11:20 AM
To: elaine.lawson@brisbane.qld.gov.au
Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>
Subject: FW: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Hi Elaine

Further to Kathryn's below email, would you please advise when we can expect to receive the Council's response to our client's draft proposed key terms?

Kind regards

Vanessa Thompson
 Special Counsel



T +61 7 3231 2403 **M** +61 **Sch 4 Pt 4(6)(1)** **E** vanessa.thompson@cgw.com.au
 Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001
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From: Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>
Sent: Wednesday, 29 September 2021 9:32 AM
To: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>; Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>
Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Good morning Elaine

Further to the below, please find **attached** our client's draft key terms in respect of the trustee lease.

Would you please **confirm** whether the Council is agreeable to the trustee lease on the basis of the draft key terms or, alternatively, suggest amendments to the draft key terms by **8 October 2021**.

Kind regards

Kathryn O'Hare

Senior Associate



T +61 7 3231 2906 **E** Kathryn.O'Hare@cgw.com.au
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001
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From: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>
Sent: Thursday, 9 September 2021 12:18 PM
To: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>
Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Hello Vanessa

Thank you for providing below. I've attached a registered example of a trustee lease for your consideration, along with the Standard Terms and Mandatory Terms documents.

Kind Regards

Elaine Lawson

From: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Sent: Tuesday, 7 September 2021 5:18 PM
To: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>
Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>
Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Hi Elaine

I refer to your teleconference with Leanne O'Neill last Friday, 3 September 2021, in respect of the above matter.

We acknowledge the Council's delegation requirements and that consideration will need to be given to the existing easement on the adjacent land (Kenmore Plaza) prior to finalisation of the matter. We **attach** a copy of the easement and note:

- it is a right of way easement benefitting our client's land which was seemingly for the purpose of facilitating the far 'landing' of the pedestrian bridge on Kenmore Plaza's land, and its use by occupants of our client's estate
- a trustee lease to facilitate the use and maintenance of the pedestrian bridge would seem consistent with the purpose of the easement and, in any event, it would be a matter for our client to ensure use and

maintenance of the bridge are in accordance with the easement terms, including obtaining any necessary consents from Kenmore Plaza

- there do not appear to be any easements over the 'reserve' land so there would be no need for the trustee lease to 'overlap' with the easement (albeit we recognise the practical implications of the bridge crossing both tenures).

As discussed, would you please forward copies of the Council's precedent trustee leases **as soon as practicable** so that we may ensure the draft key terms sheet closely aligns with the preferences of the Council.

Kind regards

Vanessa Thompson

Special Counsel



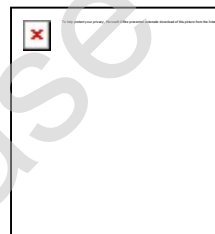
T +61 7 3231 2403 **M** + Sch 4 Pt 4(6)(1) **E** vanessa.thompson@cgw.com.au
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From: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>

Sent: Thursday, 2 September 2021 1:52 PM

To: Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>

Cc: Leanne O'Neill <Leanne.ONEill@cgw.com.au>; Vanessa Thompson <Vanessa.Thompson@cgw.com.au>

Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Good afternoon Kathryn

Council did receive a response from the State on 31 August 2021, further clarifying the necessary tenure of the pedestrian bridge.

So that my client can progress this matter, could you please provide a brief summary of the commercial terms your client would like to see in any trustee lease, including:

- Term
- Trustee Lease area
- Description of the use
- Maintenance and repair responsibilities; and
- Insurance responsibilities.

Happy to discuss any queries you may have.

Kind Regards

Elaine Lawson

Solicitor | Planning and Development | City Legal
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.....
Brisbane Square | Level 20, 266 George Street, Brisbane, Qld 4000
GPO Box 1434, Brisbane, Qld 4001
Phone: 07 3178 8176 | Fax 07 3334 0058
Email: elaine.lawson@brisbane.qld.gov.au

From: Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>
Sent: Tuesday, 31 August 2021 2:16 PM
To: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>
Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Good afternoon Elaine

Further to your below email, would you please advise whether there is any update in respect of the further response from the State.

Kind regards

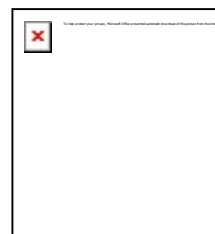
Kathryn O'Hare
Senior Associate



T +61 7 3231 2906 **E** Kathryn.O'Hare@cgw.com.au
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From: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>
Sent: Tuesday, 3 August 2021 8:54 AM
To: Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>
Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Subject: Re: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Good morning

Council has not yet received the further response from DNRME. I will update you once the further response is received.

Kind Regards

Elaine Lawson

Solicitor | Planning and Development | City Legal

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.....
Brisbane Square | Level 20, 266 George Street, Brisbane, Qld 4000

GPO Box 1434, Brisbane, Qld 4001

Phone: 07 3178 8176 | Fax 07 3334 0058

Email: elaine.lawson@brisbane.qld.gov.au

From: Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>

Sent: Monday, 2 August 2021 11:08 AM

To: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>

Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Vanessa Thompson <Vanessa.Thompson@cgw.com.au>

Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Good morning Elaine

I refer to your below email.

Would you please advise whether the Council has received the further response from DNRME and, if so, when we can expect to receive a response from the Council.

Kind regards

Kathryn O'Hare

Senior Associate



T +61 7 3231 2906 **E** Kathryn.O'Hare@cgw.com.au

Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001

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From: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>
Sent: Monday, 19 July 2021 3:14:22 PM (UTC+10:00) Brisbane
To: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Subject: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Good afternoon Vanessa

I refer to my phone discussions with Katherine of your office and I appreciate your patience in this matter.

Council received an initial response from DNRME. However, further queries have been raised by Council regarding DNRME's position on 'improvements' under the *Land Act 1994* and upon a further response being received from DNRME, Council will be in a position to provide a more detailed update.

Kind Regards

Elaine Lawson

Solicitor | Planning and Development | City Legal

City Administration and Governance | **BRISBANE CITY COUNCIL**

.....
Brisbane Square | Level 20, 266 George Street, Brisbane, Qld 4000

GPO Box 1434, Brisbane, Qld 4001

Phone: 07 3178 8176 | Fax 07 3334 0058

Email: elaine.lawson@brisbane.qld.gov.au

From: Elaine Lawson
Sent: Monday, 31 May 2021 2:02 PM
To: 'Vanessa Thompson' <Vanessa.Thompson@cgw.com.au>
Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Good afternoon Vanessa

I refer to your below correspondence regarding your clients investigations into the history of the pedestrian bridge. Please see the **attached** documents which have been located:

- i. extract of Council minutes; and
- ii. offer to enter into deed.

Unfortunately, we have not been able to locate a copy of the deed referred to in item (ii). Any other relevant material located will be provided in due course.

In regards to items 1 – 6 below, if your client wishes to have documents provided in the timeframes set out in section 265 of the *Planning Act 2016*, please have them reconsider making an application for a planning and development certificate. A RTI search was merely suggested as a way of uncovering documentation that may not be obtainable through an application for a planning and development certificate or through Council's internal archive system. Nevertheless, the determination that "the information sought by my client is not of a confidential, personal or sensitive nature" is a matter for your client.

Council is corresponding with DNRME regarding obligations of parties stemming from the definitions of 'improvements' and 'development work' in section 46(3) of the *Land Act 1994*. An update will be provided once a response from DNRME is received.

Please contact me with any queries you may have.

Kind Regards

Elaine Lawson

Solicitor | Planning and Development | City Legal

City Administration and Governance | **BRISBANE CITY COUNCIL**

.....
Brisbane Square | Level 20, 266 George Street, Brisbane, Qld 4000

GPO Box 1434, Brisbane, Qld 4001

Phone: 07 3178 8176 | Fax 07 3334 0058

Email: elaine.lawson@brisbane.qld.gov.au

From: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>

Sent: Wednesday, 12 May 2021 3:53 PM

To: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>

Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>

Subject: FW: Pedestrian Bridge - St James Estate

Hi Elaine

Thank you for your email.

Request to access development assessment files

We do not accept that either an RTI application or planning and development certificate request are reasonable or required to facilitate access to the relevant development assessment files. In particular:

there is a recognised public interest in development applications and approvals (which attach to land) being accessible by the public, including obligations under section 264 of the *Planning Act 2016* and section 70 and schedule 22 of the *Planning Regulation 2017*, for such documents to be made available for inspection;

development assessment material held by the Council is generally available to freely access on its iDevelopment (formerly PD Online) database – albeit this only contains information relating to applications from approximately 2006 onwards. There does not seem to be a basis to withhold access to earlier development assessment files, which we understand the Council has located and are readily to hand, simply because they are not held electronically;

the information sought by our client is not of a confidential, personal or sensitive nature and any assessment against the RTI provisions, or by imposing a requirement for a costly planning and development search, would be an unnecessary regulatory burden and cost;

our client, the body corporate for the relevant development, seeks information for the development the body corporate relates to. There can be no question that it is reasonable and appropriate for our client to have access to development approvals and related documents, including approved plans and conditions which may be relevant to the on-going management and operation of the estate, including its potential obligations (including in relation to the bridge) and liabilities;

it is in our client and the Council's interest that access to the information is provided, as it may assist all parties involved to achieve an earlier resolution of the current uncertainty regarding the pedestrian bridge and relevant obligations;

without further information regarding the background relating to the bridge, including development approval documents and conditions, our client cannot determine its obligations in relation to the bridge, or accept responsibility for it. As such, it has no choice but to put the Council on notice that it does not and cannot accept any liability relating to the bridge and as such unfortunately we have no alternative but to wholly reserve our clients' rights including in relation to indemnity costs.

Of course, as you are well aware our client has always been committed to working cooperatively with Council to ensure the bridge can remain in situ, including offering to secure any suitable land tenure that may be available so it can 'take on' responsibility and cost for its maintenance etc. It simply needs the relevant regulatory bodies to facilitate a 'mechanism' for this to occur.

Please confirm by **17 May 2021** that access to the relevant development files will be provided. Our client reserves its rights in the event access is not provided.

Other matters

We note your response to the other matters raised in your below email. In particular, we look forward to being advised about options to facilitate our client's continued use and enjoyment of the pedestrian bridge.

Kind regards

Vanessa Thompson

Special Counsel



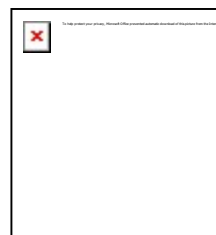
T 61 7 3231 2403 **M** 6 **Sch 4 Pt 4(6)(1)** **E** vanessa.thompson@cgw.com.au
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From: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>
Sent: Tuesday, 4 May 2021 10:01 AM
To: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Subject: RE: Pedestrian Bridge - St James Estate

Good morning Vanessa

I refer to your email to Michelle Manning dated 24 March 2021. Please see my response to your numbered items below:

1. Your client will be notified prior to Council carrying out any substantial work on the pedestrian bridge.

2. Your client may wish to make an application for a planning and development certificate and/or a Right to Information application. Both of these applications can be made online through Council's website and links to and further information on these applications can be found by accessing the below link:
 - <https://www.brisbane.qld.gov.au/planning-and-building/buying-selling-and-searches/previous-development-applications-and-approvals>
3. Thank you for providing the visual condition report - the report findings may assist Council determine its position more quickly.
4. I understand that Council's communications with the State were in relation to an easement (between the State and your client) over the pedestrian bridge. The State responded, advising that its policy is not to grant easements over trustee land and instead suggested a trustee lease (between Council as trustee and your client) be considered. The State's response, along with tenure and governance issues of a trustee lease over the pedestrian bridge, are currently being considered.
5. Thank you for the offer. Council does not require an on-site meeting at present, however, I will contact you to arrange a meeting if that position changes.

Please contact me with any further queries you may have.

Kind Regards

Elaine Lawson

Solicitor | Planning and Development | City Legal
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.....
Brisbane Square | Level 20, 266 George Street, Brisbane, Qld 4000
GPO Box 1434, Brisbane, Qld 4001
Phone: 07 3178 8176 | Fax 07 3334 0058
Email: elaine.lawson@brisbane.qld.gov.au

From: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Sent: Tuesday, 4 May 2021 8:22 AM
To: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>
Cc: Michelle Manning <Michelle.Manning@brisbane.qld.gov.au>
Subject: RE: Pedestrian Bridge - St James Estate

Hi Elaine

Further to the below email from Michelle, would you please provide an update regarding when access to the relevant development approval files will be provided, as well as a response to the other matters set out in my email of 24 March 2021 (copied below)?

Kind regards

Vanessa Thompson

Special Counsel



T 61 7 3231 2403 **M** 6 **Sch 4 Pt 4(6)(1)** **E** vanessa.thompson@cgw.com.au
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001
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From: Michelle Manning <Michelle.Manning@brisbane.qld.gov.au>

Sent: Thursday, 22 April 2021 3:59 PM

To: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>

Cc: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>

Subject: RE: Pedestrian Bridge - St James Estate

Hi Vanessa

Thanks for your patience as we continue to review this matter and options for resolution.

Elaine Lawson from Council's City Legal branch will take over as your primary point of contact on this matter including in responding to your request for assistance in accessing relevant development approvals relating to the St James Estate and pedestrian bridge.

Elaine will be in contact shortly but for your records her details are:

Elaine Lawson

Solicitor | Planning and Development | City Legal
City Administration and Governance | **BRISBANE CITY COUNCIL**

.....
Brisbane Square | Level 20, 266 George Street, Brisbane, Qld 4000
GPO Box 1434, Brisbane, Qld 4001
Phone: 07 3178 8176 | Fax 07 3334 0058
Email: elaine.lawson@brisbane.qld.gov.au

Regards
Michelle

Michelle Manning

Team Leader | Park Assets and Governance
Natural Environment, Water & Sustainability | **BRISBANE CITY COUNCIL**

.....
Brisbane Square | PO Box 1434, Brisbane City Qld 4001
Phone: +61-7-3403 4666 | Email: michelle.manning@brisbane.qld.gov.au
.....



Security Label: Official Use

From: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>

Sent: Wednesday, 24 March 2021 8:29 AM

To: Michelle Manning <Michelle.Manning@brisbane.qld.gov.au>

Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>

Subject: SAVED: Pedestrian Bridge - St James Estate

This email originates from outside of Brisbane City Council.

Hi Michelle

Thank you for your time on the phone last Thursday, 18 March 2021.

Further to our discussion:

Would you please confirm that the Council will not take steps to remove/demolish the bridge without further reference to us/our client.

I confirm my client's request for a copy of any relevant development approvals relating to the St James Estate and pedestrian bridge. As discussed, we consider the circumstances relating to the construction of the bridge, including conditions of any relevant development approval, may be relevant to the obligations of the parties and how the bridge is to be managed moving forward.

As requested, we **attach** a copy of a visual condition report commissioned by our client regarding the bridge in 2019. Whilst it identifies some areas of concern, it also provides that appropriate rectification works to address these matters 'will extend the life of the bridge to 50 years'. This highlights that with a relatively modest spend (I understand various quotes indicate costs in the order of approximately \$180,000) the bridge can continue to provide convenience to residents, reducing reliance on vehicles, in accordance with reasonable expectations that the bridge will remain. I also confirm that our client is willing to consider entering into an agreement with the Council to facilitate the payment of reasonable construction costs associated with rectification works.

I note your suggestion that a lease may be an appropriate way to facilitate our client securing the necessary 'rights' to manage and maintain the bridge, however, the State was not receptive to this option. Would you please clarify whether your discussions with the State were in the context of a trustee lease (that is, between Council as trustee and our client, albeit that the Council may require State approval)?

A representative of our client is also willing to meet with Council representatives on-site to discuss the potential for greater public access to the bridge (albeit, if this is something which would be of interest to the Council, it would be subject to further consideration by the body corporate). Our client has provided the **attached** sketch to show how this may be achieved.

We look forward to receiving your response to these matters.

Kind regards

Vanessa Thompson

Special Counsel



T 61 7 3231 2403 **M** 6 **Sch 4 Pt 4(6)(1)** **E** vanessa.thompson@cgw.com.au
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001
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Sch 3(7)

RTI Release

Sch 3(7)

RTI Release

Sch 3(7)

Sch 3(7)

From: SCHEFE Louise <Louise.Schefe@resources.qld.gov.au>

Sent: Friday, 4 June 2021 2:33 PM

To: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>

Cc: MONIN Bradley <Bradley.Monin@resources.qld.gov.au>; CROSS Debbie <Debbie.Cross@resources.qld.gov.au>; MCCOMISKIE Desley <Desley.McComiskie@resources.qld.gov.au>

Subject: RE: St James Estate - pedestrian bridge over reserve - Lot 21 on SL811444 and Lot 33 on SP110622 [your ref: TF49021075] [BCC-C1.URI18689385]

This email originates from outside of Brisbane City Council.

Elaine

The department disputes Council's position.

The definition of development work refers to

(c) filling, reclamation or any other works making the land suitable for use or the building or erection of a building or structure on the land.

i.e. the definition of development work relates to the filling, reclamation or any other works making the land suitable for use or the building or erection of and therefore for the *Land Act 1994* the bridge is not development work.

The bridge (an improvement as defined under the *Land Act 1994*) is the responsibility of Council as trustee.

Regards



Louise Schefe
A/Senior Land Officer
Land Administration and Acquisitions | Land and Native Title Operations
Department of Resources

P: 0746241548

E: SLAM-Brisbane@resources.qld.gov.au

A: Level 18, 275 George Street, Brisbane QLD 4000 | GPO Box 2771, BRISBANE
QLD 4000

W: www.resources.qld.gov.au

From: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>

Sent: Monday, 31 May 2021 1:58 PM

To: SLAM - Brisbane

Subject: FW: St James Estate - pedestrian bridge over reserve - Lot 21 on SL811444 and Lot 33 on SP110622 [your ref: TF49021075] [BCC-C1.URI18689385]

Dear Sir / Madam

I refer to correspondence from Ray Palmer of DNRME to Council (Bi-LandUse) dated 25, 28 and 29 of October 2019 and correspondence from Annette Thomas of Council to DNRME dated 6 December 2019.

The correspondence dated 25 October 2019 stated that "as Brisbane City Council are trustees of the reserve, it is responsible for the ongoing management and maintenance of the land and any improvements on the land..."

Council has considered the relevant legislation set out below in further detail and requests that DNRME reconsider the advice provided to the Body Corporate of St James Estate.

Relevant legislation

Section 46 of the Land Act (the "Act") states that (highlighted and underlining added by me):

46 Trustee's administrative functions

(1) A trustee's functions are to—

- (a) manage the trust land consistent with achieving the purpose of the trust; and
- (b) fulfil the trust within their conditions of appointment (if any); and
- (c) control noxious plants on the trust land; and
- (d) keep records required by the Minister or required under this and other Acts.

(2) A trustee has the responsibility for a duty of care for the trust land.

(3) Unless the Minister otherwise decides, a trustee's functions include protecting and maintaining, so far as is reasonable, all improvements on the trust land.

(4) The Minister may direct a trustee to erect signs on trust land indicating the land has been granted in trust or dedicated as a reserve.

(5) The trustee must comply with the Minister's direction.

The term "improvements" is defined to mean:

improvements means any—

(a) building, fence or yard; and

(b) artificial watercourse or watering-place, bore, reservoir, well or apparatus for raising, holding or conveying water; and

(c) cultivation, garden, orchard or plantation; and

(d) building, structure or appliance that is a fixture for the working or management of land or stock pastured on the land or for maintaining, protecting or increasing the natural capabilities of the land;

but does not include development work.

Development Work is defined to mean:

development work for land means—

(a) if clearing of trees enhances the productivity of the land—the clearing of trees; and

(b) work performed for the rehabilitation and sustainability of the land; and

(c) filling, reclamation or any other works making the land suitable for use or the building or erection of a building or structure on the land.

Structure is not defined in the Act and the Oxford Dictionary defines structure to be "a building or other object constructed from several parts". The pedestrian bridge is clearly a structure.

The **attached** Council minutes detail the decision to approve the development on land now described as 50 Boblynne street, being the St James Estate Body Corporate. Also attached in the offer of acceptance regarding the bond to secure the works under the approval.

The pedestrian bridge has been constructed due to development work and is therefore not an improvement. Accordingly, Council as trustee is not required to protect or maintain the pedestrian bridge.

Could you please consider above and advise if DNRME disputes Council's position? Council intends of informing the Body Corporate's solicitor of its position under the Act (and why there isn't an intention to investigate a trustee lease further) and would appreciate a response first. I note that DNRME was conversing with Mr. White from the Body Corporate and would also appreciate you updating Mr. White directly (if DNRME does not dispute Council's position).

Happy to discuss any queries you may have.

Kind Regards

Elaine Lawson

Solicitor | Planning and Development | City Legal

City Administration and Governance | **BRISBANE CITY COUNCIL**

.....
Brisbane Square | Level 20, 266 George Street, Brisbane, Qld 4000

GPO Box 1434, Brisbane, Qld 4001

Phone: 07 3178 8176 | Fax 07 3334 0058

Email: elaine.lawson@brisbane.qld.gov.au

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RTI Release

Sch 3(7)

RTI Release

Sch 3(7)

From: SCHEFE Louise <Louise.Schefe@resources.qld.gov.au>
Sent: Friday, 4 June 2021 2:33 PM
To: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>
Cc: MONIN Bradley <Bradley.Monin@resources.qld.gov.au>; CROSS Debbie <Debbie.Cross@resources.qld.gov.au>; MCCOMISKIE Desley <Desley.McComiskie@resources.qld.gov.au>
Subject: RE: St James Estate - pedestrian bridge over reserve - Lot 21 on SL811444 and Lot 33 on SP110622 [your ref: TF49021075] [BCC-C1.URI18689385]

This email originates from outside of Brisbane City Council.

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Regards



Louise Schefe
A/Senior Land Officer
Land Administration and Acquisitions | Land and Native Title Operations
Department of Resources

P: 0746241548

E: SLAM-Brisbane@resources.qld.gov.au

A: Level 18, 275 George Street, Brisbane QLD 4000 | GPO Box 2771, BRISBANE QLD 4000

W: www.resources.qld.gov.au

From: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>
Sent: Monday, 31 May 2021 1:58 PM

To: SLAM - Brisbane

Subject: FW: St James Estate - pedestrian bridge over reserve - Lot 21 on SL811444 and Lot 33 on SP110622 [your ref: TF49021075] [BCC-C1.URI18689385]

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Happy to discuss any queries you may have.

Kind Regards

Elaine Lawson

Solicitor | Planning and Development | City Legal
City Administration and Governance | **BRISBANE CITY COUNCIL**

.....
Brisbane Square | Level 20, 266 George Street, Brisbane, Qld 4000
GPO Box 1434, Brisbane, Qld 4001
Phone: 07 3178 8176 | Fax 07 3334 0058
Email: elaine.lawson@brisbane.qld.gov.au

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David Simons

From: Elaine Lawson
Sent: Friday, 22 October 2021 10:57 AM
To: 'Kathryn O'Hare'
Cc: Katherine Thompson
Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Hello Kathryn

This matter has been transferred to the Property team to be progressed and I have Cc'd in the solicitor who now has the carriage of this matter.

Kind Regards

Elaine Lawson

Solicitor | Planning and Development | City Legal
City Administration and Governance | **BRISBANE CITY COUNCIL**

Brisbane Square | Level 20, 266 George Street, Brisbane, Qld 4000
GPO Box 1434, Brisbane, Qld 4001
Phone: 07 3178 8176 | Fax 07 3334 0058
Email: elaine.lawson@brisbane.qld.gov.au

From: Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>
Sent: Thursday, 21 October 2021 11:07 AM
To: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>; Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>
Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>
Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Hi Elaine

Further to Vanessa's email below, would you please advise when we can expect to receive the Council's response to our client's draft proposed key terms?

Kind regards

Kathryn O'Hare

Senior Associate



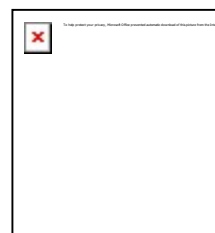
T +61 7 3231 2906 **E** Kathryn.O'Hare@cgw.com.au
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From: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Sent: Wednesday, 13 October 2021 11:20 AM
To: elaine.lawson@brisbane.qld.gov.au
Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>
Subject: FW: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Hi Elaine

Further to Kathryn's below email, would you please advise when we can expect to receive the Council's response to our client's draft proposed key terms?

Kind regards

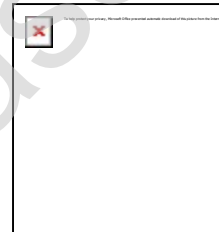
Vanessa Thompson
Special Counsel



T +61 7 3231 2403 **M** +6 Sch 4 Pt 4(6)(1) **E** vanessa.thompson@cgw.com.au
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001
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From: Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>
Sent: Wednesday, 29 September 2021 9:32 AM
To: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>; Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>
Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Good morning Elaine

Further to the below, please find **attached** our client's draft key terms in respect of the trustee lease.

Would you please **confirm** whether the Council is agreeable to the trustee lease on the basis of the draft key terms or, alternatively, suggest amendments to the draft key terms by **8 October 2021**.

Kind regards

Kathryn O'Hare
Senior Associate



T +61 7 3231 2906 **E** Kathryn.O'Hare@cgw.com.au
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001
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From: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>
Sent: Thursday, 9 September 2021 12:18 PM
To: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>
Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Hello Vanessa

Thank you for providing below. I've attached a registered example of a trustee lease for your consideration, along with the Standard Terms and Mandatory Terms documents.

Kind Regards

Elaine Lawson

From: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Sent: Tuesday, 7 September 2021 5:18 PM
To: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>
Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>
Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Hi Elaine

I refer to your teleconference with Leanne O'Neill last Friday, 3 September 2021, in respect of the above matter.

We acknowledge the Council's delegation requirements and that consideration will need to be given to the existing easement on the adjacent land (Kenmore Plaza) prior to finalisation of the matter. We **attach** a copy of the easement and note:

- it is a right of way easement benefitting our client's land which was seemingly for the purpose of facilitating the far 'landing' of the pedestrian bridge on Kenmore Plaza's land, and its use by occupants of our client's estate
- a trustee lease to facilitate the use and maintenance of the pedestrian bridge would seem consistent with the purpose of the easement and, in any event, it would be a matter for our client to ensure use and maintenance of the bridge are in accordance with the easement terms, including obtaining any necessary consents from Kenmore Plaza
- there do not appear to be any easements over the 'reserve' land so there would be no need for the trustee lease to 'overlap' with the easement (albeit we recognise the practical implications of the bridge crossing both tenures).

As discussed, would you please forward copies of the Council's precedent trustee leases **as soon as practicable** so that we may ensure the draft key terms sheet closely aligns with the preferences of the Council.

Kind regards

Vanessa Thompson
Special Counsel



T +61 7 3231 2403 **M** +61 Sch 4 Pt 4(6)(1) vanessa.thompson@cgw.com.au
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001
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From: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>

Sent: Thursday, 2 September 2021 1:52 PM

To: Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>

Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Vanessa Thompson <Vanessa.Thompson@cgw.com.au>

Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Good afternoon Kathryn

Council did receive a response from the State on 31 August 2021, further clarifying the necessary tenure of the pedestrian bridge.

So that my client can progress this matter, could you please provide a brief summary of the commercial terms your client would like to see in any trustee lease, including:

- Term
- Trustee Lease area
- Description of the use
- Maintenance and repair responsibilities; and
- Insurance responsibilities.

Happy to discuss any queries you may have.

Kind Regards

Elaine Lawson

Solicitor | Planning and Development | City Legal
City Administration and Governance | **BRISBANE CITY COUNCIL**

.....
Brisbane Square | Level 20, 266 George Street, Brisbane, Qld 4000
GPO Box 1434, Brisbane, Qld 4001
Phone: 07 3178 8176 | Fax 07 3334 0058
Email: elaine.lawson@brisbane.qld.gov.au

From: Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>

Sent: Tuesday, 31 August 2021 2:16 PM

To: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>

Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Good afternoon Elaine

Further to your below email, would you please advise whether there is any update in respect of the further response from the State.

Kind regards

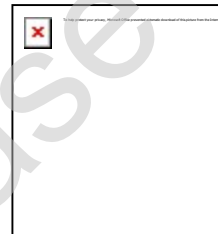
Kathryn O'Hare
Senior Associate



T +61 7 3231 2906 **E** Kathryn.O'Hare@cgw.com.au
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001
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From: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>
Sent: Tuesday, 3 August 2021 8:54 AM
To: Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>
Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Subject: Re: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Good morning

Council has not yet received the further response from DNRME. I will update you once the further response is received.

Kind Regards

Elaine Lawson

Solicitor | Planning and Development | City Legal

City Administration and Governance | **BRISBANE CITY COUNCIL**

.....
Brisbane Square | Level 20, 266 George Street, Brisbane, Qld 4000

GPO Box 1434, Brisbane, Qld 4001

Phone: 07 3178 8176 | Fax 07 3334 0058

Email: elaine.lawson@brisbane.qld.gov.au

From: Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>
Sent: Monday, 2 August 2021 11:08 AM
To: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>
Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Good morning Elaine

I refer to your below email.

Would you please advise whether the Council has received the further response from DNRME and, if so, when we can expect to receive a response from the Council.

Kind regards

Kathryn O'Hare
Senior Associate



T +61 7 3231 2906 **E** Kathryn.O'Hare@cgw.com.au
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001
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From: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>
Sent: Monday, 19 July 2021 3:14:22 PM (UTC+10:00) Brisbane
To: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Subject: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Good afternoon Vanessa

I refer to my phone discussions with Katherine of your office and I appreciate your patience in this matter.

Council received an initial response from DNRME. However, further queries have been raised by Council regarding DNRME's position on 'improvements' under the *Land Act 1994* and upon a further response being received from DNRME, Council will be in a position to provide a more detailed update.

Kind Regards

Elaine Lawson

Solicitor | Planning and Development | City Legal

City Administration and Governance | **BRISBANE CITY COUNCIL**

.....
Brisbane Square | Level 20, 266 George Street, Brisbane, Qld 4000

GPO Box 1434, Brisbane, Qld 4001

Phone: 07 3178 8176 | Fax 07 3334 0058

Email: elaine.lawson@brisbane.qld.gov.au

From: Elaine Lawson

Sent: Monday, 31 May 2021 2:02 PM

To: 'Vanessa Thompson' <Vanessa.Thompson@cgw.com.au>

Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Good afternoon Vanessa

I refer to your below correspondence regarding your clients investigations into the history of the pedestrian bridge. Please see the **attached** documents which have been located:

- i. extract of Council minutes; and
- ii. offer to enter into deed.

Unfortunately, we have not been able to locate a copy of the deed referred to in item (ii). Any other relevant material located will be provided in due course.

In regards to items 1 – 6 below, if your client wishes to have documents provided in the timeframes set out in section 265 of the *Planning Act 2016*, please have them reconsider making an application for a planning and development certificate. A RTI search was merely suggested as a way of uncovering documentation that may not be obtainable through an application for a planning and development certificate or through Council’s internal archive system. Nevertheless, the determination that “the information sought by my client is not of a confidential, personal or sensitive nature” is a matter for your client.

Council is corresponding with DNRME regarding obligations of parties stemming from the definitions of ‘improvements’ and ‘development work’ in section 46(3) of the *Land Act 1994*. An update will be provided once a response from DNRME is received.

Please contact me with any queries you may have.

Kind Regards

Elaine Lawson

Solicitor | Planning and Development | City Legal

City Administration and Governance | **BRISBANE CITY COUNCIL**

.....
Brisbane Square | Level 20, 266 George Street, Brisbane, Qld 4000

GPO Box 1434, Brisbane, Qld 4001

Phone: 07 3178 8176 | Fax 07 3334 0058

Email: elaine.lawson@brisbane.qld.gov.au

From: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Sent: Wednesday, 12 May 2021 3:53 PM
To: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>
Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>
Subject: FW: Pedestrian Bridge - St James Estate

Hi Elaine

Thank you for your email.

Request to access development assessment files

We do not accept that either an RTI application or planning and development certificate request are reasonable or required to facilitate access to the relevant development assessment files. In particular:

there is a recognised public interest in development applications and approvals (which attach to land) being accessible by the public, including obligations under section 264 of the *Planning Act 2016* and section 70 and schedule 22 of the *Planning Regulation 2017*, for such documents to be made available for inspection;

development assessment material held by the Council is generally available to freely access on its iDevelopment (formerly PD Online) database – albeit this only contains information relating to applications from approximately 2006 onwards. There does not seem to be a basis to withhold access to earlier development assessment files, which we understand the Council has located and are readily to hand, simply because they are not held electronically;

the information sought by our client is not of a confidential, personal or sensitive nature and any assessment against the RTI provisions, or by imposing a requirement for a costly planning and development search, would be an unnecessary regulatory burden and cost;

our client, the body corporate for the relevant development, seeks information for the development the body corporate relates to. There can be no question that it is reasonable and appropriate for our client to have access to development approvals and related documents, including approved plans and conditions which may be relevant to the on-going management and operation of the estate, including its potential obligations (including in relation to the bridge) and liabilities;

it is in our client and the Council's interest that access to the information is provided, as it may assist all parties involved to achieve an earlier resolution of the current uncertainty regarding the pedestrian bridge and relevant obligations;

without further information regarding the background relating to the bridge, including development approval documents and conditions, our client cannot determine its obligations in relation to the bridge, or accept responsibility for it. As such, it has no choice but to put the Council on notice that it does not and cannot accept any liability relating to the bridge and as such unfortunately we have no alternative but to wholly reserve our clients' rights including in relation to indemnity costs.

Of course, as you are well aware our client has always been committed to working cooperatively with Council to ensure the bridge can remain in situ, including offering to secure any suitable land tenure that may be available so it can 'take on' responsibility and cost for its maintenance etc. It simply needs the relevant regulatory bodies to facilitate a 'mechanism' for this to occur.

Please confirm by **17 May 2021** that access to the relevant development files will be provided. Our client reserves its rights in the event access is not provided.

Other matters

We note your response to the other matters raised in your below email. In particular, we look forward to being advised about options to facilitate our client's continued use and enjoyment of the pedestrian bridge.

Kind regards

Vanessa Thompson

Special Counsel



T 61 7 3231 2403 **M** 61 Sch 4 Pt 4(6)(1) **E** vanessa.thompson@cgw.com.au
Level 21, 400 George Str 4000 Australia | GPO Box 834, Brisbane 4001

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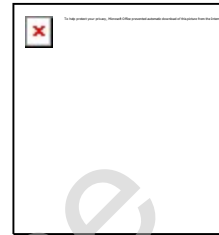
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From: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>

Sent: Tuesday, 4 May 2021 10:01 AM

To: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>

Subject: RE: Pedestrian Bridge - St James Estate

Good morning Vanessa

I refer to your email to Michelle Manning dated 24 March 2021. Please see my response to your numbered items below:

1. Your client will be notified prior to Council carrying out any substantial work on the pedestrian bridge.
2. Your client may wish to make an application for a planning and development certificate and/or a Right to Information application. Both of these applications can be made online through Council's website and links to and further information on these applications can be found by accessing the below link:
 - <https://www.brisbane.qld.gov.au/planning-and-building/buying-selling-and-searches/previous-development-applications-and-approvals>
3. Thank you for providing the visual condition report - the report findings may assist Council determine its position more quickly.
4. I understand that Council's communications with the State were in relation to an easement (between the State and your client) over the pedestrian bridge. The State responded, advising that its policy is not to grant easements over trustee land and instead suggested a trustee lease (between Council as trustee and your client) be considered. The State's response, along with tenure and governance issues of a trustee lease over the pedestrian bridge, are currently being considered.
5. Thank you for the offer. Council does not require an on-site meeting at present, however, I will contact you to arrange a meeting if that position changes.

Please contact me with any further queries you may have.

Kind Regards

Elaine Lawson

Solicitor | Planning and Development | City Legal
City Administration and Governance | **BRISBANE CITY COUNCIL**

.....
Brisbane Square | Level 20, 266 George Street, Brisbane, Qld 4000
GPO Box 1434, Brisbane, Qld 4001
Phone: 07 3178 8176 | Fax 07 3334 0058
Email: elaine.lawson@brisbane.qld.gov.au

From: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Sent: Tuesday, 4 May 2021 8:22 AM
To: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>
Cc: Michelle Manning <Michelle.Manning@brisbane.qld.gov.au>
Subject: RE: Pedestrian Bridge - St James Estate

Hi Elaine

Further to the below email from Michelle, would you please provide an update regarding when access to the relevant development approval files will be provided, as well as a response to the other matters set out in my email of 24 March 2021 (copied below)?

Kind regards

Vanessa Thompson

Special Counsel



T 61 7 3231 2403 **M** 6 **Sch 3(7)** **E** vanessa.thompson@cgw.com.au
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001
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From: Michelle Manning <Michelle.Manning@brisbane.qld.gov.au>
Sent: Thursday, 22 April 2021 3:59 PM
To: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Cc: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>
Subject: RE: Pedestrian Bridge - St James Estate

Hi Vanessa

Thanks for your patience as we continue to review this matter and options for resolution.

Elaine Lawson from Council's City Legal branch will take over as your primary point of contact on this matter including in responding to your request for assistance in accessing relevant development approvals relating to the St James Estate and pedestrian bridge.

Elaine will be in contact shortly but for your records her details are:

Elaine Lawson

Solicitor | Planning and Development | City Legal
City Administration and Governance | **BRISBANE CITY COUNCIL**

.....
Brisbane Square | Level 20, 266 George Street, Brisbane, Qld 4000
GPO Box 1434, Brisbane, Qld 4001
Phone: 07 3178 8176 | Fax 07 3334 0058
Email: elaine.lawson@brisbane.qld.gov.au

Regards
Michelle

Michelle Manning

Team Leader | Park Assets and Governance
Natural Environment, Water & Sustainability | **BRISBANE CITY COUNCIL**

.....
Brisbane Square | PO Box 1434, Brisbane City Qld 4001
Phone: +61-7-3403 4666 | Email: michelle.manning@brisbane.qld.gov.au



Security Label: Official Use

From: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Sent: Wednesday, 24 March 2021 8:29 AM
To: Michelle Manning <Michelle.Manning@brisbane.qld.gov.au>
Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>
Subject: **SAVED:** Pedestrian Bridge - St James Estate

This email originates from outside of Brisbane City Council.

Hi Michelle

Thank you for your time on the phone last Thursday, 18 March 2021.

Further to our discussion:

Would you please confirm that the Council will not take steps to remove/demolish the bridge without further reference to us/our client.

I confirm my client's request for a copy of any relevant development approvals relating to the St James Estate and pedestrian bridge. As discussed, we consider the circumstances relating to the construction of the bridge, including conditions of any relevant development approval, may be relevant to the obligations of the parties and how the bridge is to be managed moving forward.

As requested, we **attach** a copy of a visual condition report commissioned by our client regarding the bridge in 2019. Whilst it identifies some areas of concern, it also provides that appropriate rectification works to address these matters 'will extend the life of the bridge to 50 years'. This highlights that with a relatively modest spend (I understand various quotes indicate costs in the order of approximately \$180,000) the bridge can continue to provide convenience to residents, reducing reliance on vehicles, in accordance with reasonable expectations that the bridge will remain. I also confirm that our client is willing to consider entering into an agreement with the Council to facilitate the payment of reasonable construction costs associated with rectification works.

I note your suggestion that a lease may be an appropriate way to facilitate our client securing the necessary 'rights' to manage and maintain the bridge, however, the State was not receptive to this option. Would you please clarify whether your discussions with the State were in the context of a trustee lease (that is, between Council as trustee and our client, albeit that the Council may require State approval)?

A representative of our client is also willing to meet with Council representatives on-site to discuss the potential for greater public access to the bridge (albeit, if this is something which would be of interest to the Council, it would be subject to further consideration by the body corporate). Our client has provided the **attached** sketch to show how this may be achieved.

We look forward to receiving your response to these matters.

Kind regards

Vanessa Thompson

Special Counsel



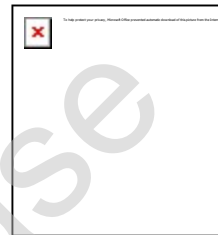
T 61 7 3231 2403 **M** 61 Sch 4 Pt 4(6)(1) **E** vanessa.thompson@cgw.com.au
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001
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David Simons

From: Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>
Sent: Thursday, 21 October 2021 11:07 AM
To: Vanessa Thompson; Elaine Lawson
Cc: Leanne O'Neill
Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Hi Elaine

Further to Vanessa's email below, would you please advise when we can expect to receive the Council's response to our client's draft proposed key terms?

Kind regards

Kathryn O'Hare

Senior Associate



T +61 7 3231 2906 **E** Kathryn.O'Hare@cgw.com.au
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001
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From: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Sent: Wednesday, 13 October 2021 11:20 AM
To: elaine.lawson@brisbane.qld.gov.au
Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>
Subject: FW: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Hi Elaine

Further to Kathryn's below email, would you please advise when we can expect to receive the Council's response to our client's draft proposed key terms?

Kind regards

Vanessa Thompson

Special Counsel



T +61 7 3231 2403 **M** +61 **Sch 4 Pt 4(6)(1)** **E** vanessa.thompson@cgw.com.au
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001
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From: Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>

Sent: Wednesday, 29 September 2021 9:32 AM

To: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>; Vanessa Thompson <Vanessa.Thompson@cgw.com.au>

Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>

Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Good morning Elaine

Further to the below, please find **attached** our client's draft key terms in respect of the trustee lease.

Would you please **confirm** whether the Council is agreeable to the trustee lease on the basis of the draft key terms or, alternatively, suggest amendments to the draft key terms by **8 October 2021**.

Kind regards

Kathryn O'Hare

Senior Associate



T +61 7 3231 2906 **E** Kathryn.O'Hare@cgw.com.au

Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001

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From: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>

Sent: Thursday, 9 September 2021 12:18 PM

To: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>

Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>

Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Hello Vanessa

Thank you for providing below. I've attached a registered example of a trustee lease for your consideration, along with the Standard Terms and Mandatory Terms documents.

Kind Regards

Elaine Lawson

From: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Sent: Tuesday, 7 September 2021 5:18 PM
To: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>
Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>
Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Hi Elaine

I refer to your teleconference with Leanne O'Neill last Friday, 3 September 2021, in respect of the above matter.

We acknowledge the Council's delegation requirements and that consideration will need to be given to the existing easement on the adjacent land (Kenmore Plaza) prior to finalisation of the matter. We **attach** a copy of the easement and note:

- it is a right of way easement benefitting our client's land which was seemingly for the purpose of facilitating the far 'landing' of the pedestrian bridge on Kenmore Plaza's land, and its use by occupants of our client's estate
- a trustee lease to facilitate the use and maintenance of the pedestrian bridge would seem consistent with the purpose of the easement and, in any event, it would be a matter for our client to ensure use and maintenance of the bridge are in accordance with the easement terms, including obtaining any necessary consents from Kenmore Plaza
- there do not appear to be any easements over the 'reserve' land so there would be no need for the trustee lease to 'overlap' with the easement (albeit we recognise the practical implications of the bridge crossing both tenures).

As discussed, would you please forward copies of the Council's precedent trustee leases **as soon as practicable** so that we may ensure the draft key terms sheet closely aligns with the preferences of the Council.

Kind regards

Vanessa Thompson

Special Counsel



T +61 7 3231 2403 **M** + Sch 4 Pt 4(6)(1) **E** vanessa.thompson@cgw.com.au
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001
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From: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>
Sent: Thursday, 2 September 2021 1:52 PM
To: Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>
Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Good afternoon Kathryn

Council did receive a response from the State on 31 August 2021, further clarifying the necessary tenure of the pedestrian bridge.

So that my client can progress this matter, could you please provide a brief summary of the commercial terms your client would like to see in any trustee lease, including:

- Term
- Trustee Lease area
- Description of the use
- Maintenance and repair responsibilities; and
- Insurance responsibilities.

Happy to discuss any queries you may have.

Kind Regards

Elaine Lawson

Solicitor | Planning and Development | City Legal
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.....
Brisbane Square | Level 20, 266 George Street, Brisbane, Qld 4000
GPO Box 1434, Brisbane, Qld 4001
Phone: 07 3178 8176 | Fax 07 3334 0058
Email: elaine.lawson@brisbane.qld.gov.au

From: Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>
Sent: Tuesday, 31 August 2021 2:16 PM
To: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>
Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Good afternoon Elaine

Further to your below email, would you please advise whether there is any update in respect of the further response from the State.

Kind regards

Kathryn O'Hare

Senior Associate



T +61 7 3231 2906 **E** Kathryn.O'Hare@cgw.com.au
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001
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From: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>
Sent: Tuesday, 3 August 2021 8:54 AM
To: Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>
Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Subject: Re: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Good morning

Council has not yet received the further response from DNRME. I will update you once the further response is received.

Kind Regards

Elaine Lawson

Solicitor | Planning and Development | City Legal

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.....
Brisbane Square | Level 20, 266 George Street, Brisbane, Qld 4000

GPO Box 1434, Brisbane, Qld 4001

Phone: 07 3178 8176 | Fax 07 3334 0058

Email: elaine.lawson@brisbane.qld.gov.au

From: Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>
Sent: Monday, 2 August 2021 11:08 AM
To: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>
Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>; Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Good morning Elaine

I refer to your below email.

Would you please advise whether the Council has received the further response from DNRME and, if so, when we can expect to receive a response from the Council.

Kind regards

Kathryn O'Hare
Senior Associate



T +61 7 3231 2906 **E** Kathryn.O'Hare@cgw.com.au
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001
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From: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>
Sent: Monday, 19 July 2021 3:14:22 PM (UTC+10:00) Brisbane
To: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Subject: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Good afternoon Vanessa

I refer to my phone discussions with Katherine of your office and I appreciate your patience in this matter.

Council received an initial response from DNRME. However, further queries have been raised by Council regarding DNRME's position on 'improvements' under the *Land Act 1994* and upon a further response being received from DNRME, Council will be in a position to provide a more detailed update.

Kind Regards

Elaine Lawson

Solicitor | Planning and Development | City Legal

City Administration and Governance | **BRISBANE CITY COUNCIL**

.....
Brisbane Square | Level 20, 266 George Street, Brisbane, Qld 4000

GPO Box 1434, Brisbane, Qld 4001

Phone: 07 3178 8176 | Fax 07 3334 0058

Email: elaine.lawson@brisbane.qld.gov.au

From: Elaine Lawson

Sent: Monday, 31 May 2021 2:02 PM

To: 'Vanessa Thompson' <Vanessa.Thompson@cgw.com.au>

Subject: RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]

Good afternoon Vanessa

I refer to your below correspondence regarding your clients investigations into the history of the pedestrian bridge. Please see the **attached** documents which have been located:

- i. extract of Council minutes; and
- ii. offer to enter into deed.

Unfortunately, we have not been able to locate a copy of the deed referred to in item (ii). Any other relevant material located will be provided in due course.

In regards to items 1 – 6 below, if your client wishes to have documents provided in the timeframes set out in section 265 of the *Planning Act 2016*, please have them reconsider making an application for a planning and development certificate. A RTI search was merely suggested as a way of uncovering documentation that may not be obtainable through an application for a planning and development certificate or through Council's internal archive system. Nevertheless, the determination that "the information sought by my client is not of a confidential, personal or sensitive nature" is a matter for your client.

Council is corresponding with DNRME regarding obligations of parties stemming from the definitions of 'improvements' and 'development work' in section 46(3) of the *Land Act 1994*. An update will be provided once a response from DNRME is received.

Please contact me with any queries you may have.

Kind Regards

Elaine Lawson

Solicitor | Planning and Development | City Legal

City Administration and Governance | **BRISBANE CITY COUNCIL**

.....
Brisbane Square | Level 20, 266 George Street, Brisbane, Qld 4000

GPO Box 1434, Brisbane, Qld 4001

Phone: 07 3178 8176 | Fax 07 3334 0058

Email: elaine.lawson@brisbane.qld.gov.au

From: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>

Sent: Wednesday, 12 May 2021 3:53 PM

To: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>

Cc: Leanne O'Neill <Leanne.ONeill@cgw.com.au>

Subject: FW: Pedestrian Bridge - St James Estate

Hi Elaine

Thank you for your email.

Request to access development assessment files

We do not accept that either an RTI application or planning and development certificate request are reasonable or required to facilitate access to the relevant development assessment files. In particular:

there is a recognised public interest in development applications and approvals (which attach to land) being accessible by the public, including obligations under section 264 of the *Planning Act 2016* and section 70 and schedule 22 of the *Planning Regulation 2017*, for such documents to be made available for inspection;

development assessment material held by the Council is generally available to freely access on its iDevelopment (formerly PD Online) database – albeit this only contains information relating to applications from approximately 2006 onwards. There does not seem to be a basis to withhold access to earlier development assessment files, which we understand the Council has located and are readily to hand, simply because they are not held electronically;

the information sought by our client is not of a confidential, personal or sensitive nature and any assessment against the RTI provisions, or by imposing a requirement for a costly planning and development search, would be an unnecessary regulatory burden and cost;

our client, the body corporate for the relevant development, seeks information for the development the body corporate relates to. There can be no question that it is reasonable and appropriate for our client to have access to development approvals and related documents, including approved plans and conditions which may be relevant to the on-going management and operation of the estate, including its potential obligations (including in relation to the bridge) and liabilities;

it is in our client and the Council's interest that access to the information is provided, as it may assist all parties involved to achieve an earlier resolution of the current uncertainty regarding the pedestrian bridge and relevant obligations;

without further information regarding the background relating to the bridge, including development approval documents and conditions, our client cannot determine its obligations in relation to the bridge, or accept responsibility for it. As such, it has no choice but to put the Council on notice that it does not and cannot accept any liability relating to the bridge and as such unfortunately we have no alternative but to wholly reserve our clients' rights including in relation to indemnity costs.

Of course, as you are well aware our client has always been committed to working cooperatively with Council to ensure the bridge can remain in situ, including offering to secure any suitable land tenure that may be available so it can 'take on' responsibility and cost for its maintenance etc. It simply needs the relevant regulatory bodies to facilitate a 'mechanism' for this to occur.

Please confirm by **17 May 2021** that access to the relevant development files will be provided. Our client reserves its rights in the event access is not provided.

Other matters

We note your response to the other matters raised in your below email. In particular, we look forward to being advised about options to facilitate our client's continued use and enjoyment of the pedestrian bridge.

Kind regards

Vanessa Thompson

Special Counsel



T 61 7 3231 2403 **M** 6 **Sch 4 Pt 4(6)(1)** **E** vanessa.thompson@cgw.com.au

Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001

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From: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>

Sent: Tuesday, 4 May 2021 10:01 AM

To: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>

Subject: RE: Pedestrian Bridge - St James Estate

Good morning Vanessa

I refer to your email to Michelle Manning dated 24 March 2021. Please see my response to your numbered items below:

1. Your client will be notified prior to Council carrying out any substantial work on the pedestrian bridge.
2. Your client may wish to make an application for a planning and development certificate and/or a Right to Information application. Both of these applications can be made online through Council's website and links to and further information on these applications can be found by accessing the below link:
 - <https://www.brisbane.qld.gov.au/planning-and-building/buying-selling-and-searches/previous-development-applications-and-approvals>
3. Thank you for providing the visual condition report - the report findings may assist Council determine its position more quickly.
4. I understand that Council's communications with the State were in relation to an easement (between the State and your client) over the pedestrian bridge. The State responded, advising that its policy is not to grant easements over trustee land and instead suggested a trustee lease (between Council as trustee and your client) be considered. The State's response, along with tenure and governance issues of a trustee lease over the pedestrian bridge, are currently being considered.
5. Thank you for the offer. Council does not require an on-site meeting at present, however, I will contact you to arrange a meeting if that position changes.

Please contact me with any further queries you may have.

Kind Regards

Elaine Lawson

Solicitor | Planning and Development | City Legal

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.....
Brisbane Square | Level 20, 266 George Street, Brisbane, Qld 4000

GPO Box 1434, Brisbane, Qld 4001

Phone: 07 3178 8176 | Fax 07 3334 0058

Email: elaine.lawson@brisbane.qld.gov.au

From: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>

Sent: Tuesday, 4 May 2021 8:22 AM

To: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>

Cc: Michelle Manning <Michelle.Manning@brisbane.qld.gov.au>
Subject: RE: Pedestrian Bridge - St James Estate

Hi Elaine

Further to the below email from Michelle, would you please provide an update regarding when access to the relevant development approval files will be provided, as well as a response to the other matters set out in my email of 24 March 2021 (copied below)?

Kind regards

Vanessa Thompson
Special Counsel



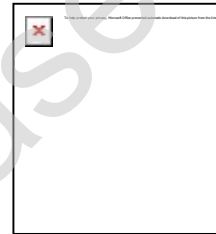
T 61 7 3231 2403 M 6 Sch 4 Pt 4(6)(1) E vanessa.thompson@cgw.com.au
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001
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From: Michelle Manning <Michelle.Manning@brisbane.qld.gov.au>
Sent: Thursday, 22 April 2021 3:59 PM
To: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Cc: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>
Subject: RE: Pedestrian Bridge - St James Estate

Hi Vanessa

Thanks for your patience as we continue to review this matter and options for resolution.

Elaine Lawson from Council's City Legal branch will take over as your primary point of contact on this matter including in responding to your request for assistance in accessing relevant development approvals relating to the St James Estate and pedestrian bridge.

Elaine will be in contact shortly but for your records her details are:

Elaine Lawson

Solicitor | Planning and Development | City Legal
City Administration and Governance | **BRISBANE CITY COUNCIL**

.....
Brisbane Square | Level 20, 266 George Street, Brisbane, Qld 4000
GPO Box 1434, Brisbane, Qld 4001
Phone: 07 3178 8176 | Fax 07 3334 0058
Email: elaine.lawson@brisbane.qld.gov.au

Regards
Michelle

Michelle Manning

.....
Brisbane Square | PO Box 1434, Brisbane City Qld 4001
Phone: +61-7-3403 4666 | Email: michelle.manning@brisbane.qld.gov.au
.....



Security Label: Official Use

From: Vanessa Thompson <Vanessa.Thompson@cgw.com.au>
Sent: Wednesday, 24 March 2021 8:29 AM
To: Michelle Manning <Michelle.Manning@brisbane.qld.gov.au>
Cc: Leanne O'Neill <Leanne.ONEill@cgw.com.au>
Subject: SAVED: Pedestrian Bridge - St James Estate

This email originates from outside of Brisbane City Council.

Hi Michelle

Thank you for your time on the phone last Thursday, 18 March 2021.

Further to our discussion:

Would you please confirm that the Council will not take steps to remove/demolish the bridge without further reference to us/our client.

I confirm my client's request for a copy of any relevant development approvals relating to the St James Estate and pedestrian bridge. As discussed, we consider the circumstances relating to the construction of the bridge, including conditions of any relevant development approval, may be relevant to the obligations of the parties and how the bridge is to be managed moving forward.

As requested, we **attach** a copy of a visual condition report commissioned by our client regarding the bridge in 2019. Whilst it identifies some areas of concern, it also provides that appropriate rectification works to address these matters 'will extend the life of the bridge to 50 years'. This highlights that with a relatively modest spend (I understand various quotes indicate costs in the order of approximately \$180,000) the bridge can continue to provide convenience to residents, reducing reliance on vehicles, in accordance with reasonable expectations that the bridge will remain. I also confirm that our client is willing to consider entering into an agreement with the Council to facilitate the payment of reasonable construction costs associated with rectification works.

I note your suggestion that a lease may be an appropriate way to facilitate our client securing the necessary 'rights' to manage and maintain the bridge, however, the State was not receptive to this option. Would you please clarify whether your discussions with the State were in the context of a trustee lease (that is, between Council as trustee and our client, albeit that the Council may require State approval)?

A representative of our client is also willing to meet with Council representatives on-site to discuss the potential for greater public access to the bridge (albeit, if this is something which would be of interest to the Council, it would be subject to further consideration by the body corporate). Our client has provided the **attached** sketch to show how this may be achieved.

We look forward to receiving your response to these matters.

Kind regards

Vanessa Thompson

Special Counsel



T 61 7 3231 2403 **M** 61 Sch 4 Pt 4(6)(1) **E** vanessa.thompson@cgw.com.au
Level 21, 400 George Str 4000 Australia | GPO Box 834, Brisbane 4001
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From: SCHEFE Louise <Louise.Scheffe@resources.qld.gov.au>

Sent: Friday, 4 June 2021 2:33 PM

To: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>

Cc: MONIN Bradley <Bradley.Monin@resources.qld.gov.au>; CROSS Debbie <Debbie.Cross@resources.qld.gov.au>; MCCOMISKIE Desley <Desley.McComiskie@resources.qld.gov.au>

Subject: RE: St James Estate - pedestrian bridge over reserve - Lot 21 on SL811444 and Lot 33 on SP110622 [your ref: TF49021075] [BCC-C1.URI18689385]

This email originates from outside of Brisbane City Council.

Elaine

The department disputes Council's position.

The definition of development work refers to

(c) filling, reclamation or any other works making the land suitable for use or the building or erection of a building or structure on the land.

i.e. the definition of development work relates to the filling, reclamation or any other works making the land suitable for use or the building or erection of and therefore for the *Land Act 1994* the bridge is not development work.

The bridge (an improvement as defined under the *Land Act 1994*) is the responsibility of Council as trustee.

Regards



Louise Schefe
A/Senior Land Officer
Land Administration and Acquisitions | Land and Native Title Operations
Department of Resources

P: 0746241548

E: SLAM-Brisbane@resources.qld.gov.au

A: Level 18, 275 George Street, Brisbane QLD 4000 | GPO Box 2771, BRISBANE
QLD 4000

W: www.resources.qld.gov.au

From: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>

Sent: Monday, 31 May 2021 1:58 PM

To: SLAM - Brisbane

Subject: FW: St James Estate - pedestrian bridge over reserve - Lot 21 on SL811444 and Lot 33 on SP110622 [your ref: TF49021075] [BCC-C1.URI18689385]

Dear Sir / Madam

I refer to correspondence from Ray Palmer of DNRME to Council (Bi-LandUse) dated 25, 28 and 29 of October 2019 and correspondence from Annette Thomas of Council to DNRME dated 6 December 2019.

The correspondence dated 25 October 2019 stated that "as Brisbane City Council are trustees of the reserve, it is responsible for the ongoing management and maintenance of the land and any improvements on the land..."

Council has considered the relevant legislation set out below in further detail and requests that DNRME reconsider the advice provided to the Body Corporate of St James Estate.

Relevant legislation

Section 46 of the Land Act (the "Act") states that (highlighted and underlining added by me):

46 Trustee's administrative functions

(1) A trustee's functions are to—

- (a) manage the trust land consistent with achieving the purpose of the trust; and
- (b) fulfil the trust within their conditions of appointment (if any); and
- (c) control noxious plants on the trust land; and
- (d) keep records required by the Minister or required under this and other Acts.

(2) A trustee has the responsibility for a duty of care for the trust land.

(3) **Unless the Minister otherwise decides, a trustee's functions include protecting and maintaining, so far as is reasonable, all improvements on the trust land.**

(4) The Minister may direct a trustee to erect signs on trust land indicating the land has been granted in trust or dedicated as a reserve.

(5) The trustee must comply with the Minister's direction.

The term "improvements" is defined to mean:

improvements means any—

- (a) building, fence or yard; and
- (b) artificial watercourse or watering-place, bore, reservoir, well or apparatus for raising, holding or conveying water; and
- (c) cultivation, garden, orchard or plantation; and
- (d) building, structure or appliance that is a fixture for the working or management of land or stock pastured on the land or for maintaining, protecting or increasing the natural capabilities of the land;
but does not include development work.

Development Work is defined to mean:

development work for land means—

- (a) if clearing of trees enhances the productivity of the land—the clearing of trees; and
- (b) work performed for the rehabilitation and sustainability of the land; and
- (c) filling, reclamation or any other works making the land suitable for use **or the building or erection of a building or structure on the land.**

Structure is not defined in the Act and the Oxford Dictionary defines structure to be "a building or other object constructed from several parts". The pedestrian bridge is clearly a structure.

The **attached** Council minutes detail the decision to approve the development on land now described as 50 Boblyne street, being the St James Estate Body Corporate. Also attached in the offer of acceptance regarding the bond to secure the works under the approval.

The pedestrian bridge has been constructed due to development work and is therefore not an improvement. Accordingly, Council as trustee is not required to protect or maintain the pedestrian bridge.

Could you please consider above and advise if DNRME disputes Council's position? Council intends of informing the Body Corporate's solicitor of its position under the Act (and why there isn't an intention to investigate a trustee lease further) and would appreciate a response first. I note that DNRME was conversing with Mr. White from the Body Corporate and would also appreciate you updating Mr. White directly (if DNRME does not dispute Council's position).

Happy to discuss any queries you may have.

Kind Regards

Elaine Lawson

Solicitor | Planning and Development | City Legal
City Administration and Governance | **BRISBANE CITY COUNCIL**

Brisbane Square | Level 20, 266 George Street, Brisbane, Qld 4000
GPO Box 1434, Brisbane, Qld 4001
Phone: 07 3178 8176 | Fax 07 3334 0058
Email: elaine.lawson@brisbane.qld.gov.au

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From: SCHEFE Louise <Louise.Scheffe@resources.qld.gov.au>
Sent: Friday, 4 June 2021 2:33 PM
To: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>
Cc: MONIN Bradley <Bradley.Monin@resources.qld.gov.au>; CROSS Debbie <Debbie.Cross@resources.qld.gov.au>; MCCOMISKIE Desley <Desley.McComiskie@resources.qld.gov.au>
Subject: RE: St James Estate - pedestrian bridge over reserve - Lot 21 on SL811444 and Lot 33 on SP110622 [your ref: TF49021075] [BCC-C1.URI18689385]

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Louise Scheffe
A/Senior Land Officer
Land Administration and Acquisitions | Land and Native Title Operations
Department of Resources

P: 0746241548

E: SLAM-Brisbane@resources.qld.gov.au

A: Level 18, 275 George Street, Brisbane QLD 4000 | GPO Box 2771, BRISBANE
QLD 4000

W: www.resources.qld.gov.au

From: Elaine Lawson <Elaine.Lawson@brisbane.qld.gov.au>

Sent: Monday, 31 May 2021 1:58 PM

To: SLAM - Brisbane

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Happy to discuss any queries you may have.

Kind Regards

Elaine Lawson

Solicitor | Planning and Development | City Legal
City Administration and Governance | **BRISBANE CITY COUNCIL**

.....
Brisbane Square | Level 20, 266 George Street, Brisbane, Qld 4000
GPO Box 1434, Brisbane, Qld 4001
Phone: 07 3178 8176 | Fax 07 3334 0058
Email: elaine.lawson@brisbane.qld.gov.au

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