

## David Simons

---

**From:** Elaine Lawson  
**Sent:** Thursday, 9 September 2021 12:18 PM  
**To:** Vanessa Thompson  
**Cc:** Leanne O'Neill; Kathryn O'Hare  
**Subject:** RE: Pedestrian Bridge - St James Estate [BCC-C1.URI18689385]  
**Attachments:** CA19 1058041 Facilities Operations - Indooroopilly Canoe Club Inc - Registered Trustee Lease Dealing No 719677687 - Indooroopilly ~ 16 Aug 2023.pdf; Standard Terms 714984264 and Mandatory Standard Terms 711932933.pdf

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](mailto:vanessa.thompson@cgw.com.au)  
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001  
To ensure the quickest response, please send all written communication by email rather than post.  
**View my profile Download my vCard Subscribe to CGW**

**Security precautions - always verify account details by telephone**

Before transferring or depositing money, please call us on a known or separately verified number to confirm account details. Access our **security statement** and **privacy collection statement** for more information.

**COVID-19 response and client resources**

Cooper Grace Ward has systems in place to provide a full-service capability, regardless of work location. Visit our **COVID-19 resource hub** for more information, including guidance on legal risks and issues.



---

**From:** Elaine Lawson <[Elaine.Lawson@brisbane.qld.gov.au](mailto:Elaine.Lawson@brisbane.qld.gov.au)>

**Sent:** Thursday, 2 September 2021 1:52 PM

**To:** Kathryn O'Hare <[Kathryn.O'Hare@cgw.com.au](mailto:Kathryn.O'Hare@cgw.com.au)>

**Cc:** Leanne O'Neill <[Leanne.ONeill@cgw.com.au](mailto:Leanne.ONeill@cgw.com.au)>; Vanessa Thompson <[Vanessa.Thompson@cgw.com.au](mailto: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](mailto:elaine.lawson@brisbane.qld.gov.au)

---

**From:** Kathryn O'Hare <[Kathryn.O'Hare@cgw.com.au](mailto:Kathryn.O'Hare@cgw.com.au)>

**Sent:** Tuesday, 31 August 2021 2:16 PM

**To:** Elaine Lawson <[Elaine.Lawson@brisbane.qld.gov.au](mailto:Elaine.Lawson@brisbane.qld.gov.au)>

**Cc:** Leanne O'Neill <[Leanne.ONeill@cgw.com.au](mailto:Leanne.ONeill@cgw.com.au)>; Vanessa Thompson <[Vanessa.Thompson@cgw.com.au](mailto: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



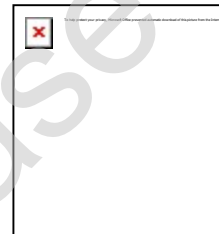
**T** +61 7 3231 2906 **E** [Kathryn.O'Hare@cgw.com.au](mailto:Kathryn.O'Hare@cgw.com.au)  
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001  
To ensure the quickest response, please send all written communication by email rather than post.  
**View my profile** **Download my vCard** **Subscribe to CGW**

**Security precautions - always verify account details by telephone**

Before transferring or depositing money, please call us on a known or separately verified number to confirm account details. Access our **security statement** and **privacy collection statement** for more information.

**COVID-19 response and client resources**

Cooper Grace Ward has systems in place to provide a full-service capability, regardless of work location. Visit our **COVID-19 resource hub** for more information, including guidance on legal risks and issues.



---

**From:** Elaine Lawson <[Elaine.Lawson@brisbane.qld.gov.au](mailto:Elaine.Lawson@brisbane.qld.gov.au)>  
**Sent:** Tuesday, 3 August 2021 8:54 AM  
**To:** Kathryn O'Hare <[Kathryn.O'Hare@cgw.com.au](mailto:Kathryn.O'Hare@cgw.com.au)>  
**Cc:** Leanne O'Neill <[Leanne.ONeill@cgw.com.au](mailto:Leanne.ONeill@cgw.com.au)>; Vanessa Thompson <[Vanessa.Thompson@cgw.com.au](mailto: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](mailto:elaine.lawson@brisbane.qld.gov.au)

---

**From:** Kathryn O'Hare <[Kathryn.O'Hare@cgw.com.au](mailto:Kathryn.O'Hare@cgw.com.au)>  
**Sent:** Monday, 2 August 2021 11:08 AM  
**To:** Elaine Lawson <[Elaine.Lawson@brisbane.qld.gov.au](mailto:Elaine.Lawson@brisbane.qld.gov.au)>  
**Cc:** Leanne O'Neill <[Leanne.ONeill@cgw.com.au](mailto:Leanne.ONeill@cgw.com.au)>; Vanessa Thompson <[Vanessa.Thompson@cgw.com.au](mailto: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](mailto:Kathryn.O'Hare@cgw.com.au)  
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001  
To ensure the quickest response, please send all written communication by email rather than post.  
**View my profile** **Download my vCard** **Subscribe to CGW**

**Security precautions - always verify account details by telephone**

Before transferring or depositing money, please call us on a known or separately verified number to confirm account details. Access our **security statement** and **privacy collection statement** for more information.

**COVID-19 response and client resources**

Cooper Grace Ward has systems in place to provide a full-service capability, regardless of work location. Visit our **COVID-19 resource hub** for more information, including guidance on legal risks and issues.



---

**From:** Elaine Lawson <[Elaine.Lawson@brisbane.qld.gov.au](mailto: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](mailto: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](mailto: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](mailto: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](mailto:elaine.lawson@brisbane.qld.gov.au)

---

**From:** Vanessa Thompson <[Vanessa.Thompson@cgw.com.au](mailto:Vanessa.Thompson@cgw.com.au)>

**Sent:** Wednesday, 12 May 2021 3:53 PM

**To:** Elaine Lawson <[Elaine.Lawson@brisbane.qld.gov.au](mailto:Elaine.Lawson@brisbane.qld.gov.au)>

**Cc:** Leanne O'Neill <[Leanne.ONeill@cgw.com.au](mailto: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



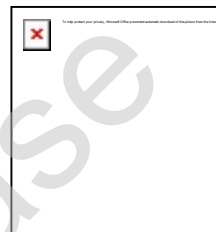
**T** 61 7 3231 2403 **M** 61 Sch 4 Pt 4(6)(1) **E** [vanessa.thompson@cgw.com.au](mailto:vanessa.thompson@cgw.com.au)  
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001  
To ensure the quickest response, please send all written communication by email rather than post.  
**View my profile Download my vCard Subscribe to CGW**

### Security precautions - always verify account details by telephone

Before transferring or depositing money, please call us on a known or separately verified number to confirm account details. Access our **security statement** and **privacy collection statement** for more information.

### COVID-19 response and client resources

Cooper Grace Ward has systems in place to provide a full-service capability, regardless of work location. Visit our **COVID-19 resource hub** for more information, including guidance on legal risks and issues.



---

**From:** Elaine Lawson <[Elaine.Lawson@brisbane.qld.gov.au](mailto:Elaine.Lawson@brisbane.qld.gov.au)>

**Sent:** Tuesday, 4 May 2021 10:01 AM

**To:** Vanessa Thompson <[Vanessa.Thompson@cgw.com.au](mailto: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](mailto:elaine.lawson@brisbane.qld.gov.au)

---

**From:** Vanessa Thompson <[Vanessa.Thompson@cgw.com.au](mailto:Vanessa.Thompson@cgw.com.au)>

**Sent:** Tuesday, 4 May 2021 8:22 AM

**To:** Elaine Lawson <[Elaine.Lawson@brisbane.qld.gov.au](mailto:Elaine.Lawson@brisbane.qld.gov.au)>

**Cc:** Michelle Manning <[Michelle.Manning@brisbane.qld.gov.au](mailto: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](mailto:vanessa.thompson@cgw.com.au)

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

To ensure the quickest response, please send all written communication by email rather than post.

**View my profile** **Download my vCard** **Subscribe to CGW**

**Security precautions - always verify account details by telephone**

Before transferring or depositing money, please call us on a known or separately verified number to confirm account details. Access our **security statement** and **privacy collection statement** for more information.

**COVID-19 response and client resources**

Cooper Grace Ward has systems in place to provide a full-service capability, regardless of work location. Visit our **COVID-19 resource hub** for more information, including guidance on legal risks and issues.



---

**From:** Michelle Manning <[Michelle.Manning@brisbane.qld.gov.au](mailto:Michelle.Manning@brisbane.qld.gov.au)>

**Sent:** Thursday, 22 April 2021 3:59 PM

**To:** Vanessa Thompson <[Vanessa.Thompson@cgw.com.au](mailto:Vanessa.Thompson@cgw.com.au)>

**Cc:** Elaine Lawson <[Elaine.Lawson@brisbane.qld.gov.au](mailto: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](mailto: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](mailto:michelle.manning@brisbane.qld.gov.au)



Security Label: Official Use

---

**From:** Vanessa Thompson <[Vanessa.Thompson@cgw.com.au](mailto:Vanessa.Thompson@cgw.com.au)>  
**Sent:** Wednesday, 24 March 2021 8:29 AM  
**To:** Michelle Manning <[Michelle.Manning@brisbane.qld.gov.au](mailto:Michelle.Manning@brisbane.qld.gov.au)>  
**Cc:** Leanne O'Neill <[Leanne.ONeill@cgw.com.au](mailto: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](mailto:vanessa.thompson@cgw.com.au)  
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001  
To ensure the quickest response, please send all written communication by email rather than post.  
**View my profile Download my vCard Subscribe to CGW**

**Security precautions - always verify account details by telephone**  
Before transferring or depositing money, please call us on a known or separately verified number to confirm account details. Access our **security statement** and **privacy collection statement** for more information.

**COVID-19 response and client resources**  
Cooper Grace Ward has systems in place to provide a full-service capability, regardless of work location. Visit our **COVID-19 resource hub** for more information, including guidance on legal risks and issues.



This communication (and any attachment) is confidential, may contain legally privileged information and is intended solely for the named addressee. If you receive this in error, please destroy it and advise the sender.

---

*The contents of this email message and any attachments are intended only for the addressee and may be confidential, private or the subject of copyright. If you have received this email in error please notify Brisbane City Council, by replying to the sender or calling +61 7 3403 8888, and delete all copies of the e-mail and any attachments.*

---

SECURITY LABEL: OFFICIAL

SECURITY LABEL: OFFICIAL

SECURITY LABEL: OFFICIAL

SECURITY LABEL: OFFICIAL

SECURITY LABEL: OFFICIAL

RTI Release



Dealing Number

Dealing No: 719677687

Date Lodged: 15/10/19



OFFICE USE ONLY

Privacy Statement

Collection of this information from this form is authorised by legislation and is used to maintain publicly searchable records. For more information see the Department's website.

1. Lessor

BRISBANE CITY COUNCIL AS TRUSTEE FOR RECREATION

Lodger (Name, address, E-mail & phone number)  
James Langham, Chief Legal Counsel for  
Brisbane City Council  
266 George Street, Brisbane Qld 4000  
Email: [City.Legal@brisbane.qld.gov.au](mailto:City.Legal@brisbane.qld.gov.au)  
Tel: (07) 3403 5631  
Ref: 221734

Lodger  
Code

259A

2. Lot on Plan Description

Lot 3 on SP172194

Title Reference

49104725

3. Lessee

Given names

Surname/Company name and number

(include tenancy if more than one)

INDOOROOPIILLY CANOE CLUB INC.  
Certificate of Incorporation lodged under  
Dealing No. 716452720

4. Interest being leased

Reserve for Recreation

5. Description of premises being leased

The whole of the land in Item 2.

6. Term of lease

Commencement date/event: 17 August 2019  
Expiry date: 16 August 2023  
Options: Nil

7. Rental/Consideration

SEE SCHEDULE

8. Grant/Execution

The Lessor leases the premises described in Item 5 to the Lessee for the term stated in Item 6 subject to the covenants and conditions contained in the attached schedule, Standard Terms Document No. 714984264 and Mandatory Standard Terms Document No. 711932933.

Witnessing officer must be aware of his/her obligations under section 162 of the Land Title Act 1994

..... signature

..... full name

..... qualification

Witnessing Officer

(Witnessing officer must be in accordance with Schedule 1 of Land Title Act 1994 eg Legal Practitioner, JP, C Dec)

/ /  
Execution Date

SEE ENLARGED PANEL

.....  
Lessor's Signature

9. Acceptance

The Lessee accepts the lease and acknowledges the amount payable or other considerations for the lease.

..... signature

..... full name

..... qualification

Witnessing Officer

(Witnessing officer must be in accordance with Schedule 1 of Land Title Act 1994 eg Legal Practitioner, JP, C Dec)

/ /  
Execution Date

SEE ENLARGED PANEL

.....  
Lessee's Signature

Title Reference 49104725

8. Grant/Execution

The Lessor leases the premises described in Item 5 to the Lessee for the term stated in Item 6 subject to the covenants and conditions contained in the attached schedule, Standard Terms Document No. 714984264 and Mandatory Standard Terms Document No. 711932933.

Witnessing officer must be aware of his/her obligations under section 162 of the Land Title Act 1994

The Seal of BRISBANE CITY COUNCIL was  
hereunto affixed this 14<sup>th</sup> day of October  
2019, by me JANINE Sch 4 Pt 4(6)(1) BOYD  
I being the proper officer to affix such seal.

*Janine Boyd*  
J E BOYD  
Appointed Officer

*Mirسادa Turcinovic*.....signature

Mirsada Turcinovic.....full name

JP (QUAL) 121684

.....qualification

Witnessing Officer

14/10/19  
Execution Date

.....  
Lessor's Signature

(Witnessing officer must be in accordance with Schedule 1  
of Land Title Act 1994 eg Legal Practitioner, JP, C Dec)

9. Acceptance

The Lessee accepts the lease and acknowledges the amount payable or other considerations for the lease.

The Common Seal of  
INDOOROPILLY CANOE CLUB INC.  
was hereunto affixed by

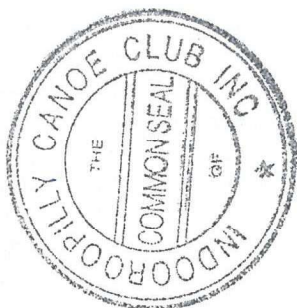
Sch 4 Pt 4(6)(1)

a Committee Member, and by

Sch 4 Pt 4(6)(1)

a Committee Member

who certify that they are the correct  
officers to affix the seal



Sch 4 Pt 4(6)(1)

9/10/19  
Execution Date

.....  
Lessee's Signature

**Title Reference 49104725**

**The Standard Terms Document No. 714984264 is amended as set out in parts A to D below:**

**PART A**

The following clauses are amended:

The following clause 5 is amended by the addition of subclause 5.4 to follow subclause 5.3:

**5. Use of the Premises**

- 5.4 The Trustee Lessee must ensure that in relation to all communications between coaches and crews and between crew members that megaphones, raised voices or other forms of amplification are not to be used once crews are on the river.

The following clause 6 is amended by the addition of subclauses 6.9 to 6.11 to follow subclause 6.8:

**6. Maintenance and Development of the Premises**

- 6.9 The Trustee Lessee must undertake annual maintenance inspections of the Premises and provide the Council with a list of maintenance works identified and completed.
- 6.10 The Trustee Lessee acknowledges that Council may undertake a condition audit of the Premises during the term of the lease. The Trustee Lessee must, if requested to do so by Council, provide Council with a new maintenance plan satisfactory to Council to replace the plan in Schedule 2 that addresses maintenance issues listed in the condition audit report.
- 6.11 The Trustee Lessee must keep the boat ramp and pontoon adjacent to the Premises clean and tidy and in good repair to the reasonable satisfaction of the Council.

**PART B**

The following clause is deleted: clause 7.

The following clause is inserted: clause 7

**7. Annual Evaluation**

On each anniversary of the Commencement Date, the Trustee Lessee will:

- 7.1 complete and return any evaluation regarding its use and/or occupation of the Premises;
- 7.2 provide a copy of the most recent audited financial statements and other financial information; and
- 7.3 provide a copy of the insurance certificates referred to in clause 20

to the Council.

**PART C**

The following clauses are inserted to follow clause 30:

**31. Alcohol and Gambling**

- 31.1 If the Trustee Lessee wishes to allow alcohol on the Premises, the Trustee Lessee must first apply in writing to the Council for the Council's consent.

**Title Reference 49104725**

- 31.2 In addition to clause 10 of the Mandatory Standard Terms Document, the Trustee Lessee will only allow alcohol on the Premises:
- (a) during the permitted hours of use of the Premises in Item 4 of Schedule 1; and
  - (b) in accordance with a Community Liquor Permit or Restricted Liquor Permit issued under the Liquor Act 1992.
- 31.3 The Trustee Lessee will pay any fees to register the Council as the owner of premises to which a Community Liquor Permit or Restricted Liquor Permit under the Liquor Act relates.
- 31.4 If the Trustee Lessee is granted a Community Liquor Permit or Restricted Liquor Permit under the Liquor Act, the Trustee Lessee:
- (a) must give the Council a copy of any return filed by the Trustee Lessee with the Chief Executive under the Liquor Act within 7 days of filing the return;
  - (b) authorises, and will do all things necessary to enable, the Trustee to inspect and obtain copies of all documents held by the Chief Executive which relate to the Community Liquor Permit or Restricted Liquor Permit;
  - (c) will pay the additional rent as set out in Item 3 of Schedule 1; and
  - (d) must obtain the prior written consent of the Trustee before:
    - (i) making any application to vary the Community Liquor Permit or Restricted Liquor Permit; or
    - (ii) making any application for a different type of licence or permit, including an extended hours permit.
- 31.5 The Trustee Lessee may only allow gambling on the Premises in the form of bingo and raffles for fundraising purposes.
- 31.6 In addition, the Trustee Lessee may only allow gambling as stated above to be carried on at the Premises:
- (a) during the permitted hours of use of the Premises in Item 4 of Schedule 1; and
  - (b) if authorised by law.
- 31.7 The Trustee Lessee must not allow gaming machines on the Premises.

**32. Lease and Trustee Lease**

- 32.1 The rent in Clause 3 includes the rent payable under a lease between the Council and the Trustee Lessee for the Term in respect of Certificate of Title 11085226 (the "Freehold Lease").
- 32.2 The maintenance plan expenditure in Schedule 2 in this lease includes the maintenance plan expenditure under the Freehold Lease.
- 32.3 Any breach by the Trustee Lessee in the performance of any of the terms and conditions of this lease will be a breach of the Freehold Lease.
- 32.4 Any breach by the Trustee Lessee in the performance of any of the terms and conditions in the Freehold Lease will be a breach of this lease.

Title Reference 49104725

- 32.5 In either case, the Council will have the same rights against the Trustee Lessee as if a breach by the Trustee Lessee had occurred in respect of the Freehold Lease, or in respect of this lease, as the case may be.
- 32.6 This lease is entered into subject to the contemporaneous execution by the parties of the Freehold Lease and to the consent of the Minister being obtained to the Trustee Lease.

**PART D**

Delete: SCHEDULE 1: LEASE DETAILS

Items 1 to 9

Insert: the following SCHEDULE 1: LEASE DETAILS:

**SCHEDULE 1: LEASE DETAILS**

**Item 1: Term**

Commencement Date: 17 August 2019

Expiry Date: 23 August 2023

**Item 2: Payment of rent**

The annual rent: Sch 4 Pt 3(2)

**Item 3: Additional rent**

Not applicable.

**Item 4: Use of Premises**

Permitted purposes of Trust Land: Reserve for Recreation

Permitted Use: The conduct of a canoe club, boat storage and associated clubhouse activities. Other community based activities as first approved in writing by the Council.

Times of Use of Premises: **Access to the Shed and Equipment**

24 Hours Per Day

The Trustee Lessee must ensure when accessing the Shed on the Premises between the hours of 8:00 pm and 6:00 am that all noise is minimised so as not to cause a disturbance to neighbours.

**For all other activities**

5:00 am to 9:00 pm Seven Days a Week

The Council acknowledges that the Trustee Lessee's committee will meet on the Premises one evening per month until 11:00 pm.

**Title Reference 49104725**

**Item 5: Insurance**

Amount of public liability insurance: As set out in Clause 14.1(a) of the Mandatory Standard Terms Document No. 711932933.

**Item 6: Alcohol and Gambling**

Refer clause 31.

**Item 7: Future Bikeway/Road Requirements**

Not applicable.

**Item 8: Interest on overdue payments**

Interest Rate: The standard contract default interest rate as specified from time to time by the Queensland Law Society.

**Item 9: Addresses for notices**

Trustee: Brisbane City Council  
266 George Street  
Brisbane Qld 4000  
Attention: The Divisional Manager, Lifestyle and Community

Services

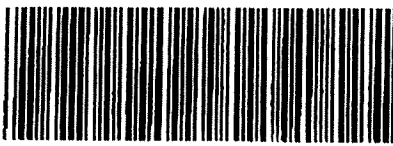
Trustee Lessee: Indooroopilly Canoe Club Inc  
P O Box 36  
Indooroopilly Qld 4068

**SCHEDULE 2: MAINTENANCE PLAN**

Before the expiration of the Fourth Year of the Term, the Trustee Lessee must carry out maintenance of the Premises to the value of at least [redacted] Sch 4 Pt 3(2) at a rate of not less than [redacted] Sch 4 Pt 4(6)(1) [redacted] Sch 4 Pt 4(6)(1) per annum, or at such a rate as otherwise agreed with Council, such maintenance to include both buildings and grounds.

QUEENSLAND LAND REGISTRY

## GENERAL REQUEST

FORM 14 Version 4  
Page 1 of 21

714984264

Duty Imprint

NO FEE

15/03/2013 13:06

BE 608

@

searchable registers in the land registry and the water register. For more information about privacy in NR&amp;W see the department's website.

## 1. Nature of request

Request to register Standard Terms Document for  
Trustee LeasesLodger (Name, address, E-mail & phone  
number)David Askern, Chief Legal Counsel for  
Brisbane City Council  
266 George Street, Brisbane Qld 4000  
Email: [karen.jacobsen@brisbane.qld.gov.au](mailto:karen.jacobsen@brisbane.qld.gov.au)  
Tel: (07) 3403 5313  
Ref: 158/40/446/2031-02 OP300337Lodger  
Code

259A

## 2. Lot on Plan Description

NOT APPLICABLE

County

Parish

Title Reference

## 3. Registered Proprietor/State Lessee

NOT APPLICABLE

## 4. Interest

NOT APPLICABLE

## 5. Applicant

BRISBANE CITY COUNCIL

## 6. Request

I hereby request that: pursuant to Section 318 of the Land Act 1994 the attached Standard Terms Document containing  
lease covenants for Brisbane City Council be registered.

## 7. Execution by applicant

J.P. (C.DEC.) QLD

LESLIE Sch 4 Pt 4(6)(1) ACWORTH

The Seal of BRISBANE CITY COUNCIL was  
hereunto affixed this 14th day of March  
2013, by me ELITHA Sch 4 Pt 4(6)(1) WIT  
I being the proper officer to affix such seal.  
E.M.W. WIT  
Appointed Officer

14/3/2013

Execution Date

Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

**Title Reference**

**STANDARD TERMS FOR LEASE OF TRUST LAND UNDER THE LAND ACT 1994**

**INTRODUCTION**

The Trustee Lessee acknowledges that the Trustee Lessee's occupation of the Premises is subject to this Trustee Lease.

This Trustee Lease is subject to the mandatory standard terms document for a Trustee Lease No. 711932933

**1. Interpretation**

In addition to the Definitions in clause 2 of the Mandatory Standard Terms Document, the following Definitions apply:

"All Groups Consumer Price Index (Brisbane)" means the All Groups Consumer Price Index for Brisbane published by the Australian Bureau of Statistics. If that index is suspended or discontinued or modified so that it does not reflect on a consistent basis changes which have occurred in the cost of living in Brisbane during any year of this Trustee Lease, these words mean:

- (a) an index which in the opinion of the Australian Statistician does reflect on a consistent basis changes which have occurred in the cost of living in Brisbane during any year of this Trustee Lease; or
- (b) if the Australian Statistician does not give any opinion, an index or method of measuring increases in the cost of living agreed between the Trustee Lessee and the Trustee or, if the Trustee Lessee and the Trustee cannot agree within 14 days, an index or method chosen by the President of the Australian Institute of Valuers and Land Economists (Qld) or his nominee.

"Expenses" means:

- (a) minimum water rates, excess water charges, water meter rental, minimum sewerage rates, cleansing dues and other charges which are assessed on or payable from time to time on the Premises;
- (b) fire service levies, rates, taxes, and other charges and levies, including all future rates, taxes, other charges and levies assessed on or payable in respect of the Premises;
- (c) costs for services (including electricity, gas and telephone) used on the Premises;

and in addition, any GST that may be imposed in relation to any item in (a), (b) or (c) above.

"GST" means a goods and services tax or other similar tax payable by the Trustee in respect of a supply under this Trustee Lease;

"Laws" means all statutes, regulations, ordinances, by-laws, industrial agreements, awards, determinations, orders, rules or requirements of any government authority, and governmental standards which concern the Premises, the Trustee Lessee's Chattels or the Trustee Lessee's use and occupation of the Premises, including, without limitation, all environmental laws;

"Improvements" means all, improvements, fixtures and fittings as constructed on the Premises from time to time, (including, without limitation, pipes, fences and playing fields), and items affixed to the improvements (including buildings), fixtures or fittings (including, without limitation, cold rooms, bars, alcohol serving equipment, gas control units and goal posts) ;



**Title Reference**

"Trustee Lessee's Chattels" means all movable chattels located on, but not affixed to, the Premises, which are owned by the Trustee Lessee, including, without limitation, signs, tables, chairs, sports equipment and computers;

"Trustee Manager" means the permanent head of the unit of administration of the Trustee, charged with or responsible for the administration of the Laws and ordinances relating to the particular matter in respect of which the term is used.

"Third Party Property" means all fixtures, fittings and chattels located on the Premises of which a person other than the Trustee Lessee, its sublessees or the Trustee, is and remains the owner.

**2. Consent of the Trustee**

Whenever the consent of the Trustee is required under this Trustee Lease:

- 2.1 The Trustee Lessee must make a written request to the Trustee Manager;
- 2.2 the consent may be given or withheld in the Trustee's absolute discretion;
- 2.3 the consent must be in writing; and
- 2.4 the consent may be given subject to conditions.

**TRUSTEE LESSEE'S RIGHTS AND OBLIGATIONS**

**3. Rent**

- 3.1 The Trustee Lessee will pay the Trustee the annual rent calculated under this clause annually in advance, beginning on the Commencement Date.
- 3.2 The annual rent for the first year of the Term is set out in Item 2 of Schedule 1.
- 3.3 The Renegotiation Dates for the annual rent are set out in Item 2 of Schedule 1.
- 3.4 The Trustee may choose to review the annual rent on all anniversaries of the Commencement Date except for the Renegotiation Dates ("Review Dates"), according to this formula:

$$AR = \frac{CPI1}{CPI2} \times PAR$$

where:

- AR = the annual rent payable for the year beginning on that Review Date;
- CPI1 = the All Groups Consumer Price Index (Brisbane) for the quarter year ending immediately before the Review Date;
- CPI2 = the All Groups Consumer Price Index (Brisbane) for the quarter year ending immediately before:
  - the last Review Date or Renegotiation Date on which the annual rent was reviewed, renegotiated, or recalculated, whichever occurred last, or
  - if the annual rent has not been reviewed, renegotiated or recalculated previously, the Commencement Date;
- PAR = the annual rent payable for the year ending on the day before that Review Date.

- 3.5 The Trustee and the Trustee Lessee agree to renegotiate the annual rent payable from each Renegotiation Date.

Title Reference

- 3.6 If the Trustee and the Trustee Lessee do not agree on the renegotiated annual rent within 6 months of the particular Renegotiation Date, the annual rent for the year commencing on that Renegotiation Date will be calculated using this formula:

$$AR = 150\% \times PAR,$$

where:

- AR = the annual rent payable for the year beginning on that Renegotiation Date;  
PAR = the annual rent payable for the year ending on the day before that Renegotiation Date

4. Other Payments

- 4.1 The Trustee Lessee must also pay:

- (a) the Expenses;
- (b) an additional rent to the Trustee as set out in Item 3 of Schedule 1;
- (c) the costs of preparing this Trustee Lease, including stamp duty, survey and registration fees, and the Trustee's reasonable legal costs; and
- (d) the Trustee's costs (including legal and administrative costs) of enforcing this Trustee Lease against the Trustee Lessee.

- 4.2 The Trustee Lessee must make these payments:

- (a) by the due date for payment, if they are assessed against the Trustee Lessee; or
- (b) to the Trustee on demand, if they are assessed against the Trustee.

4.3

- (a) Any consideration to be paid or provided by the Trustee Lessee to the Trustee under this Trustee Lease has been agreed without regard to GST. Notwithstanding any other provision in this Trustee Lease, if the Trustee makes a supply under or in connection with this Trustee Lease upon which GST is imposed then the consideration payable or to be provided by the Trustee Lessee under this Trustee Lease (including the amount payable under clause 4.3(d)) is increased by and the Trustee Lessee must pay to the Trustee in addition to that consideration an amount equal to the GST payable by the Trustee in respect of that supply so that the Trustee retains after payment of the GST in respect of that supply the amount of consideration which it would have retained but for the imposition of GST.
- (b) The Trustee Lessee must pay any amount payable under clause 4.3(a) on the earlier of the day upon which any monetary consideration is payable or the day upon which the Trustee is obliged to pay GST in respect of the supply upon which GST is imposed.
- (c) The Trustee must give the Trustee Lessee a tax invoice for any consideration received under this Trustee Lease.
- (d) When calculating the amount of any component of the Expenses which was assessed against the Trustee, the Trustee must calculate the cost of that

**Title Reference**

amount as the GST inclusive cost to the Trustee of that amount less the GST input tax credit for which the Trustee is eligible on that amount.

- (e) Words and expressions used in this clause which are defined in the *A New Tax System (Goods and Services Tax) Act 1999* have the same meaning in this clause as so defined.

**5. Use of the Premises**

**5.1 The Trustee Lessee must:**

- (a) use the Premises only for the Permitted Use set out in item 4 of Schedule 1, and in a reputable manner; and
- (b) comply with all Laws.

**5.2 The Trustee Lessee must not, without the prior written consent of the Trustee:**

- (a) use the Premises on any other times than those in Item 4 of Schedule 1;
- (b) allow any activity or thing on or near the Premises which may be illegal, or a nuisance, disturbance or annoyance to any person;
- (c) use any form of light, power or heat other than electric current or gas supplied through meters (except auxiliary power or lighting, other than an exposed flame, during power failures or restrictions) on the Premises;
- (d) use any flammable substance on the Premises, except in the normal course of the Trustee Lessee's business;
- (e) use the toilets, drains and other plumbing facilities on the Premises for any purpose other than those for which they were constructed; nor
- (f) interfere with any services to the Premises.

**5.3 No Adult Only activities:**

Notwithstanding any licence or permit that may be obtained from the Liquor Licensing Division or the Queensland Office of Gaming Regulation, the Trustee Lessee must not permit any activity that the Trustee in its absolute discretion does not consider consistent with the community purpose of the Permitted Use in item 4 of Schedule 1. For example: topless waitressing or any other activity of an adult only nature.

**6. Maintenance and Development of the Premises**

**6.1 Subject to Clause 6.2 the Trustee Lessee must keep the Premises:**

- (a) clean and tidy;
- (b) free from weeds and pests. To avoid doubt, the Trustee Lessee must obtain annual pest inspections and treatments, by a licensed pest controller, for any vermin, including, but not limited to, termites; and
- (c) in good repair in all circumstances, fair wear and tear, inevitable accident and structural defects not excepted, subject to any obligation of the Trustee to maintain the Premises under this Trustee Lease,

**Title Reference**

to the reasonable satisfaction of the Trustee.

- 6.2 The Trustee will effect and be responsible for the cost of any repairs to structural defects existing prior to the Commencement Date or the Trustee Lessee's lawful occupation of the Premises (whichever is the earlier).
- 6.3 To avoid confusion, and without limiting Clause 6.1, the Trustee Lessee will effect and be responsible for the cost of any structural repairs:
- (a) to chattels, fittings and fixtures affixed to the Premises by the Trustee Lessee; and
  - (b) to defects rendered necessary by any act, omission, neglect, default or misconduct of the Trustee Lessee or by the Trustee Lessee's use or occupancy of the Premises or by any fittings constructed by the Trustee Lessee.
- 6.4 Further, the Trustee Lessee must:
- (a) (at the election of the Trustee) erect, repair and renew, or reimburse the Trustee for the cost of erecting, repairing and renewing, all fences on the Premises;
  - (b) clean all drains and water pipes on the Premises;
  - (c) repair all damage to the Premises caused by the Trustee Lessee or the use of the Premises under this Trustee Lease;
  - (d) seal any area of the Premises which the Trustee requires to be used for parking with a surface to the Trustee's satisfaction.
- 6.5 The Trustee Lessee must not, without the prior written consent of the Trustee:
- (a) damage the Premises;
  - (b) alter the Premises, install any partitions or equipment or do any building work on the Premises;
  - (c) fence the Premises;
  - (d) display any signs or notices on the Premises;
  - (e) carry out any earthworks on the Premises; nor
  - (f) destroy, damage or remove any tree or shrub on the Premises.
- 6.6 The Trustee Lessee acknowledges that it is responsible for all costs of maintenance and removal of trees and shrubs on the Premises. To avoid confusion the parties acknowledge that the Trustee Lessee must obtain the Trustee's consent before commencement of any removal works.
- 6.7 The Trustee Lessee must comply with its 5 year maintenance plan contained in Schedule 2 and any subsequent or amended maintenance plan drawn up by the Trustee Lessee and approved by the Trustee to replace the maintenance plan in Schedule 2.

**Title Reference**

- 6.8 The Trustee Lessee must give the Trustee a new 5 year maintenance plan satisfactory to the Trustee to replace the plan in Schedule 2 on each of the Renegotiation Dates in Item 2 of Schedule 1.

**7. Annual Evaluation**

The Trustee Lessee will:

- 7.1 complete any evaluation regarding its use and/or occupation of the Premises, and
- 7.2 provide any records of accounts or activities, and
- 7.3 provide a copy of the insurance certificates referred to in clause 19,
- upon receipt of a reasonable request by the Trustee.

**8. Post Office Box**

The Trustee Lessee will maintain a post office box during the Term and will inform the Trustee of the number of the post office box.

**9. Transfer, Mortgage or Sublease**

- 9.1 A trustee lessee may only transfer or sublease a trustee lease under the Act, and if the Trustee Lessee applies for consent to transfer or sublease this Trustee Lease, pursuant to Clause 11 of the Mandatory Standard Terms Document, then the consent of the Trustee will not be unreasonably withheld where:
- (a) the Trustee Lessee is not in breach of this Trustee Lease;
  - (b) the proposed occupier is, in the reasonable opinion of the Trustee, a suitable person to occupy the Premises;
  - (c) the Trustee Lessee pays the Trustee's costs, including legal and administrative costs and the costs of any enquiries made by the Trustee about the suitability of the proposed occupier;
  - (d) the form and content of any sublease, including any fees to be charged by the Trustee Lessee to the proposed occupier, are satisfactory to the Trustee; and
  - (e) the proposed occupier and the Trustee Lessee enter into a deed with the Trustee in a form required by the Trustee's solicitor, which contains any clauses reasonably required by the Trustee.
- 9.2 A trustee lessee may only mortgage a trustee lease under the Act, and if the Trustee Lessee applies for consent to mortgage this Trustee Lease or obtain further advances under an existing mortgage, pursuant to Clause 11 of the Mandatory Standard Terms Document, then the consent of the Trustee will not be unreasonably withheld where:
- (a) the form and content of the mortgage are satisfactory to the Trustee's solicitor;
  - (b) the money to be obtained in connection with the mortgage or further advance is to be used for improving the Premises in a way approved by the Trustee; and
  - (c) the Trustee Lessee pays the Trustee's costs of the consent, including any legal costs and any production fees.

**Title Reference**

- 9.3 In order to optimise the use of the Premises in keeping with the purpose on which the Land was set apart as a reserve under the Land Act, the Trustee Lessee may, with the prior written consent and on terms approved by the Trustee, share use of the Premises in a manner that is consistent with the Permitted Use.

**10. Damage or Destruction**

- 10.1 If the Premises are damaged by an event beyond the reasonable control of the Trustee Lessee so that the Trustee Lessee cannot gain access to them or use them for the use in item 4 of Schedule 1, either Party may terminate this Trustee Lease by one month's written notice to the other Party.
- 10.2 The Trustee Lessee will do everything necessary to register a surrender of this Trustee Lease as soon as possible, in the Titles Office.
- 10.3 If the Premises are damaged by any insurable risk, the Party who receives any insurance money in respect of that damage must spend that money on repairing the damage to the Premises.
- 10.4 Subject to this clause, neither the Trustee or the Trustee Lessee is obliged to reinstate the Premises if they or the means of access to them are damaged by an event beyond the reasonable control of the Trustee Lessee so that the Trustee Lessee cannot gain access to them or use them for the use in Item 4 of Schedule 1.
- 10.5 Termination under this clause does not affect either Party's accrued rights before termination.

**11. Alcohol and Gambling**

- 11.1 Notwithstanding the provisions of Clause 10 of the Mandatory Standard Terms Document, the Trustee Lessee will only allow alcohol or gambling on the Premises in accordance with Item 6 of Schedule 1.

**12. Good Neighbour Processes**

- 12.1 The Trustee Lessee will appoint a Community Liaison Officer to represent the Trustee Lessee in dealings with the public and will notify the Trustee of the name and contact phone numbers of this person within 7 days of signing this Trustee Lease. The Trustee Lessee will keep this information current.
- 12.2 The Trustee Lessee agrees to observe the Good Neighbour Processes set out in Schedule 3, as varied or replaced from time to time by the Trustee.
- 12.3 The Trustee Lessee acknowledges that:
- (a) any breach of the Good Neighbour Processes will be a minor breach of this Trustee Lease; and
  - (b) three notifications under the Good Neighbour Processes within any 12 month period will be a minor breach of this Trustee Lease;
  - (c) three resident disputes under the Good Neighbour Processes within any 12 month period will be a minor breach of this Trustee Lease.

**Title Reference**

**13. Town planning application**

The Trustee Lessee will pay all costs in connection with the obtaining of any necessary approval of the assessment manager to any town planning application required for the use of the Premises under this Trustee Lease.

**14. Future Bikeway/road requirements**

The Trustee Lessee will restrict further development of the Premises as set out in Item 7 of Schedule 1.

**15. Quiet Enjoyment**

If the Trustee Lessee performs all its obligations in this Trustee Lease, the Trustee Lessee may occupy and use the Premises during the Term without any interruption by the Trustee, subject to the Trustee's rights under this Trustee Lease.

**TRUSTEE'S RIGHTS AND OBLIGATIONS**

**16. Trustee's right to enter**

16.1 The Trustee may enter on the Premises at any reasonable time after giving notice to the Trustee Lessee to:

- (a) make repairs to the Premises;
- (b) carry out alterations, additions or structural works on the Premises;
- (c) carry out any obligations of the Trustee Lessee which the Trustee Lessee has not done;
- (d) view the condition of the Premises; or
- (e) check the Trustee Lessee's compliance with this Trustee Lease.

16.2 In an emergency, the Trustee may enter at any time without giving the Trustee Lessee notice.

16.3 The Trustee will not interfere with the Trustee Lessee's use and occupation of the Premises more than is reasonably necessary, in the opinion of the Trustee.

16.4 The Trustee will not be liable to the Trustee Lessee for any inconvenience or loss suffered by the Trustee Lessee because of the Trustee's entry on to the Premises.

**17. Reservations to the Trustee**

The Trustee reserves the right to:

- 17.1 install, maintain, use and replace any pipes, ducts, conduits and wires passing through the Premises;
- 17.2 run water, air, electricity, sewerage or any other services through those pipes, ducts, conduits or wires; and
- 17.3 grant easements or consent to the granting of easements as applicable over the Trust Land.

**Title Reference**

**18. Availability to other organisations**

- 18.1 The Trustee reserves the right to direct the Trustee Lessee by at least 30 days' written notice to:
- (a) enter into a sub-lease of the Premises or part of the Premises; or
  - (b) share use of the Premises or part of the Premises in a manner that is consistent with, and does not unreasonably interfere with or limit the Permitted Use with a person nominated by the Trustee, on terms and conditions approved in writing by the Trustee.
- 18.2 The Trustee Lessee may impose further reasonable conditions, including the charging of a reasonable fee, upon the sub-lessee or person sharing the use of the Premises nominated by the Trustee under this clause.
- 18.3 If any dispute arises between the Trustee Lessee and any sub-lessee or person sharing the use of the Premises under this clause, it must be referred by the Trustee Lessee to the Trustee, whose decision on the matter is final.
- 18.4 The Trustee will not use its powers under this clause so as to substantially detract from the rights granted to the Trustee Lessee under this Trustee Lease.

**INSURANCE AND INDEMNITIES**

**19. Insurance**

- 19.1 The Trustee Lessee must maintain these insurance policies during the Term:
- (a) a damage policy covering all buildings, fixtures and improvements on the Premises against loss or damage by fire, flood and any other insurable risk, to their full replacement value;
  - (b) any other policy needed to ensure the Trustee Lessee is able to indemnify the Trustee as provided in this Trustee Lease.
- 19.2 The Trustee Lessee must take out the insurance policies:
- (a) before the Term commences; and
  - (b) at the cost of the Trustee Lessee.
- 19.3 The Trustee Lessee must give the Trustee certificates showing the currency of all the insurance policies within 10 business days of the commencement of each respective renewal period.
- 19.4 The Trustee Lessee will not do anything or allow anything to be done which might result in the Trustee's insurance on the Premises becoming void or voidable or which might increase the Trustee's premium on any policy.
- 19.5 The Trustee Lessee must pay any increase in premiums caused by the Trustee Lessee's use of the Premises.
- 19.6 Any insurance that the Trustee Lessee is required to obtain must provide for any GST payable by the Trustee Lessee upon receipt of an insurance payment so that the Trustee Lessee retains after payment of the GST, the amount the Trustee Lessee would have received if GST had not been payable.



**Title Reference**

**20. Indemnity**

The Trustee lessee indemnifies the Trustee in accordance with clause 15 of the Mandatory Standard Terms Document.

**21. Exclusion of Liability**

21.1 The Trustee does not warrant that the Premises:

- (a) are suitable for any purpose; or
- (b) are suitable for the use in item 4 of Schedule 1.

21.2 The Trustee Lessee leases the Premises at its own risk. The Trustee will not be liable to the Trustee Lessee or any other person for any loss, damage or injury caused directly or indirectly by any non-negligent act or omission of the Trustee.

21.3 The Trustee will not be liable to the Trustee Lessee or any other person for any loss, damage or injury because of the failure of the electricity or water supply or other services or facilities enjoyed by the Trustee Lessee on the Premises.

**TERMINATION BY TRUSTEE**

**22. Major and Minor Breaches**

22.1 Subject to clauses 12, 22.3 and 22.4:

(a) breaches of these clauses are major breaches of this Trustee Lease, which permit the Trustee to terminate this Trustee Lease:

- |        |     |   |
|--------|-----|---|
| (i)    | 3:  | Rent  |
| (ii)   | 4:  | Other Payments                              |
| (iii)  | 5:  | Use of the Premises                         |
| (iv)   | 6:  | Maintenance and Development of the Premises |
| (v)    | 9:  | Transfer, Mortgage or Sublease              |
| (vi)   | 11: | Alcohol and Gambling                        |
| (vii)  | 12: | Good Neighbour Processes                    |
| (viii) | 19: | Insurance; and                              |

(b) all breaches which are not major breaches are minor breaches.

22.2 If a minor breach occurs, the Trustee may:

- (a) serve a notice on the Trustee Lessee requiring it to remedy the minor breach within 14 days of the date of the notice; and
- (b) sue the Trustee Lessee for any damages suffered by Trustee as a result of the minor breach.

22.3 If a minor breach is capable of being remedied but is not remedied within 14 days of notice of the minor breach being served on the Trustee Lessee, the Trustee may elect to treat that minor breach as a major breach.

22.4 If three minor breaches occur, of which the Trustee has served notice under clause 22.2, the Trustee may treat the third minor breach as a major breach.

22.5 If a major breach occurs, the Trustee may:

**Title Reference**

- (a) serve a notice on the Trustee Lessee requiring it to remedy the major breach within a reasonable time;
- (b) if the major breach is not remedied within that time, terminate this Trustee Lease under clause 23; and/or
- (c) sue the Trustee Lessee for damages caused by the major breach.

**23. Termination of Lease by Trustee**

23.1 The Trustee may terminate this Trustee Lease if:

- (a) the Trustee Lessee enters into any form of liquidation, is wound up or dissolved, enters into a scheme of arrangement for creditors, is placed under official management or external administration, or a receiver and/or manager of any of its assets is appointed;
- (b) the interest of the Trustee Lessee under this Trustee Lease is taken in execution;
- (c) the Trustee Lessee is declared insolvent by a court of competent jurisdiction; or
- (d) the Trustee Lessee commits a major breach of this Trustee Lease and that major breach is not remedied within the time specified in the Trustee's notice served on the Trustee Lessee to remedy the major breach.

23.2 The Trustee may terminate this Trustee Lease by:

- (a) giving the Trustee Lessee written notice that it is terminating this Trustee Lease; or
- (b) re-entering the Premises (with reasonable force if necessary as permitted by law), ejecting the Trustee Lessee and any other persons from the Premises; or
- (c) doing both.

**24. Damages**

24.1 If the Trustee terminates this Trustee Lease under clause 23, the Trustee may recover all money payable by the Trustee Lessee under this Trustee Lease up to the Expiry Date in item 1 of Schedule 1. However, the Trustee must minimise its loss.

24.2 The Trustee's entitlement to damages is not limited or affected if:

- (a) the Trustee Lessee abandons the Premises;
- (b) the Trustee accepts any repudiation by the Trustee Lessee of this Trustee Lease; or
- (c) the conduct of the Trustee and the Trustee Lessee constitutes a surrender by operation of law.

24.3 The Trustee's rights under clauses 22, 23 and 24 are in addition to any of its other legal rights.

**Title Reference**

**25. Removal of Trustee Lessee's Chattels and condition of Premises on termination by Trustee or Trustee Lessee**

In addition to Clauses 18 and 19 of the Mandatory Standard Terms Document, the Trustee Lessee acknowledges that:-

- 25.1 On the expiration or earlier termination by the Trustee or Trustee Lessee of this Trustee Lease, all buildings, fixtures and improvements on the Premises, including any chattels, fittings and fixtures which the Trustee Lessee has affixed to the Premises, excluding Third Party Property, will become the property of the Trustee (and part of the Premises) without compensation to the Trustee Lessee.
- 25.2 Subject to clause 25.3, the Trustee Lessee must remove all Trustee Lessee's Chattels within 14 days of the termination by the Trustee or Trustee Lessee of this Trustee Lease.
- 25.3 If the Trustee Lessee does not remove the Trustee Lessee's Chattels or if the Trustee terminates this Trustee Lease and re-enters the Premises under clause 23, the Trustee may choose to:
- (a) have the Trustee Lessee's Chattels removed and stored as the Trustee thinks fit at the Trustee Lessee's cost; or
  - (b) treat the Trustee Lessee's Chattels as if the Trustee Lessee had abandoned them and they had become the property of the Trustee, without being liable to account to the Trustee Lessee.

**MISCELLANEOUS**

**26. Interest**

The Trustee Lessee will pay the Trustee interest, calculated daily, at the rate set out in Item 8 of Schedule 1 on any money due and payable but unpaid under this Trustee Lease.

**27. Power of Attorney**

The Trustee Lessee appoints the Trustee as the Trustee Lessee's attorney in accordance with clause 16 of the Mandatory Standard Terms Document.

**28. Dispute Resolution**

If any dispute, other than a resident dispute under the Good Neighbour Processes in Schedule 3, arises between the Trustee Lessee and the Trustee, they agree to be bound by the dispute resolution procedures in Schedule 4.

**29. General**

- 29.1 If any provision of this Trustee Lease is unenforceable for any reason, that provision will be severed from this Trustee Lease and the enforceability of the remaining provisions will not be affected.
- 29.2 Failure by the Trustee to require strict compliance with a provision of this Trustee Lease - including the obligation to pay any money by a certain date - will not be a waiver of the Trustee's rights to enforce that provision later. Any waiver by the Trustee of any breach of this Trustee Lease must be in writing.
- 29.3 A demand for rent or other money owing by the Trustee Lessee or the subsequent acceptance of rent or other money does not constitute a waiver by the Trustee of any earlier default by the Trustee Lessee.

**Title Reference**

- 29.4 Any obligations of the Trustee Lessee to be performed after termination by the Trustee or Trustee Lessee of this Trustee Lease survive that termination.
- 29.5 If the Trustee Lessee does not perform any obligation under this Trustee Lease, the Trustee may perform that obligation. The cost of performing that obligation will be a debt due to the Trustee from the Trustee Lessee.
- 29.6 All covenants implied in this Trustee Lease by sections 105, 107 and 109 of the Property Law Act 1974 are negatived. All other covenants implied by the Land Title Act 1994, if applicable, and Property Law Act 1974 are modified to the extent that they are inconsistent with any of the terms of this Trustee Lease.
- 29.7 This Trustee Lease contains the entire agreement between the Parties in relation to the Premises. The Trustee Lessee acknowledges that it has not been induced to enter into this Trustee Lease by any promise, warranty or representation by or on behalf of the Trustee which is not in this Trustee Lease.

**30. Notices**

- 30.1 All notices given under this Trustee Lease:
- (a) may be signed by an authorised officer of the Party giving the notice;
  - (b) must be in writing;
  - (c) may be given by being delivered, or sent by facsimile transmission or prepaid post to the address for service of the Party to whom the notice is addressed;
  - (d) if addressed to the Trustee Lessee, may be given by being left at the Premises;
  - (e) if sent by mail, are deemed to be given on the third day after mailing, and if sent by facsimile, are deemed to be given on the day after they are dispatched.
- 30.2 The address for service of each Party is the address set out in Item 9 of Schedule 1 or any other address which the Party specifies in writing to the other Party.

Title Reference

TABLE OF CONTENTS

INTRODUCTION .....	2
1. Interpretation.....	2
2. Consent of the Trustee .....	3
3. Rent .....	3
4. Other Payments .....	4
5. Use of the Premises.....	5
6. Maintenance and Development of the Premises .....	5
7. Annual Evaluation.....	7
8. Post Office Box .....	7
9. Transfer, Mortgage or Sublease .....	7
10. Damage or Destruction .....	8
11. Alcohol and Gambling .....	8
12. Good Neighbour Processes .....	8
13. Town planning application .....	9
14. Future Bikeway/road requirements .....	9
15. Quiet Enjoyment .....	9
16. Trustee's right to enter .....	9
17. Reservations to the Trustee .....	9
18. Availability to other organisations .....	10
19. Insurance.....	10
20. Indemnity.....	11
21. Exclusion of Liability .....	11
TERMINATION BY TRUSTEE.....	11
22. Major and Minor Breaches.....	11
23. Termination of Lease by Trustee.....	12
24. Damages.....	12

**Title Reference**

<b>25.</b>	<b>Removal of Trustee Lessee's Chattels and condition of Premises on termination by Trustee or Trustee Lessee.....</b>	<b>13</b>
	<b>MISCELLANEOUS.....</b>	<b>13</b>
<b>26.</b>	<b>Interest.....</b>	<b>13</b>
<b>27.</b>	<b>Power of Attorney .....</b>	<b>13</b>
<b>28.</b>	<b>Dispute Resolution .....</b>	<b>13</b>
<b>29.</b>	<b>General .....</b>	<b>13</b>
<b>30.</b>	<b>Notices.....</b>	<b>14</b>
	<b>SCHEDULE 1: LEASE DETAILS .....</b>	<b>17</b>
	<b>SCHEDULE 2: MAINTENANCE PLAN.....</b>	<b>18</b>
	<b>SCHEDULE 3: GOOD NEIGHBOUR PROCESSES .....</b>	<b>19</b>
	<b>SCHEDULE 4: DISPUTE RESOLUTION PROCEDURE.....</b>	<b>21</b>

**Title Reference**

**SCHEDULE 1: LEASE DETAILS**

**Item 1: Term**

Commencement Date: DD/MM/YYYY

Expiry Date: DD/MM/YYYY

**Item 2: Payment of rent**

The annual rent for the first year of this Trustee Lease: \$XXX (plus GST – see clause 4.3)

Renegotiation Dates: DD/MM/YYYY

**Item 3: Additional rent**

Date for payment DD/MM/YYYY

Amount: \$XXX

**Item 4: Use of Premises**

Permitted purposes of Trust Land:

Permitted Use:

Times of Use of Premises:

**Item 5: Insurance**

Amount of public liability insurance: twenty million dollars (\$20,000,000.00) or such higher amounts as may be reasonably required

**Item 6: Alcohol and Gambling**

The Trustee Lessee must not allow any alcohol or gambling on the Premises.

**Item 7: Future Bikeway/Road Requirements**

The Trustee Lessee will restrict further development of the Premises to within metres of Street frontage so as not to prejudice any possible future bikeway road widening purposes.

**Item 8: Interest on overdue payments**

Interest Rate: The standard contract default interest rate as specified from time to time by the Queensland Law Society.

**Item 9: Addresses for notices**

Trustee:  
Brisbane City Council  
266 George Street  
Brisbane QLD 4000

Attention: The Divisional Manager, Corporate Services Division

Trustee Lessee:  
<Name>  
<Address>

**Title Reference**

**SCHEDULE 2: MAINTENANCE PLAN**

RTI Release



**Title Reference**

**SCHEDULE 3: GOOD NEIGHBOUR PROCESSES**

**Introduction**

1. The Trustee and the Trustee Lessee wish to work together to minimise inconvenience to, and complaints from, residents in the neighbourhood of the Premises who are affected by the Trustee Lessee's use of the Premises ("residents"), including residents affected by noise coming from, or traffic connected with, the Trustee Lessee's use of the Premises, and to follow a procedure to resolve resident complaints in a way which satisfies the Trustee Lessee, the Trustee and the residents.

**General Good Neighbour Processes**

2. The Trustee Lessee will use its best endeavours to work together with residents to minimise inconvenience to residents caused by the Trustee Lessee's use of the Premises, and to develop close links between residents and the Trustee Lessee.
3. Examples of the way in which the Trustee Lessee will put Good Neighbour processes into practice include:
  - 3.1 notifying residents in the neighbourhood of the Premises of the activities of the Trustee Lessee, especially of any major events to be held at the Premises;
  - 3.2 appointing parking monitors to ensure that the Trustee Lessee does not create undue noise when entering and leaving the Premises, or in neighbouring streets, and to ensure that resident access to driveways etc is not obstructed;
  - 3.3 circulating details of the Community Liaison Officer to residents and asking them to contact that person with any concerns or question;
  - 3.4 attending any seminars or meetings organised by the Trustee about community leasing generally.

**Complaint Handling Procedures**

4. The Trustee Lessee agrees to participate in any course of action proposed by the Trustee under this Schedule.
5. If any person ("the complainant") makes a complaint to the Trustee which arises from the Trustee Lessee's use of the Premises, the Trustee may refer the complainant to the Trustee Lessee's Community Liaison Officer and will record that a "resident notification" has been made in relation to the Trustee Lessee.
6. If the complaint is referred to the Trustee Lessee's Community Liaison Officer the following provisions will apply:
  - 6.1 The Trustee will contact the complainant to find out the result of the referral.
  - 6.2 If, in the reasonable opinion of the Trustee, the complaint has not been resolved by the Trustee Lessee's Community Liaison Officer within 14 days of the complainant contacting the Community Liaison Officer, the Trustee will record that a "resident dispute" has arisen and may propose a method of solving the resident dispute to the complainant and the Trustee Lessee.

For example, the method chosen may involve:

- a meeting between the Trustee Lessee, the complainant and the Trustee;
- mediation (including a programme provided by the Community justice Programme of the Department of Justice and Attorney General);

**Title Reference**

- referral of the resident dispute to the appropriate statutory authority (for example, in the case of a resident dispute in relation to lights used on the Premises, to the Community Health Branch of the Trustee); or
- any other method determined by the Trustee.

7. The Trustee Lessee agrees to be bound by the outcome of any method of solving the resident dispute chosen by the Trustee.
8. If, in the reasonable opinion of the Trustee, the method does not resolve the resident dispute, the Trustee may require the Trustee Lessee to participate in further attempts to resolve the resident dispute.
9. If, in the reasonable opinion of the Trustee, the resident dispute is resolved, the Trustee may require the Trustee Lessee to enter into a legally enforceable agreement in a form satisfactory to the Trustee.
10. Nothing in this Schedule affects any rights of the Trustee under this Trustee Lease to terminate this Trustee Lease or take any other action.

RTI Release

**Title Reference**

**SCHEDULE 4: DISPUTE RESOLUTION PROCEDURE**

1. If the Trustee Lessee or the Trustee thinks that a dispute - other than a resident dispute under the Good Neighbour Processes in Schedule 3 - has arisen under this Trustee Lease, that Party may serve a notice upon the other Party (a "Dispute Notice") requiring it to follow this procedure and nominating a representative of that Party with authority to settle the dispute.
2. Within 7 days of receiving the notice, the Party receiving the Dispute Notice must serve a notice on the other Party (a "Reply Notice"), nominating a representative with authority to settle the dispute.
3. The representatives of each Party will meet within 7 days of the receipt of the Reply Notice and will use their best endeavours to resolve the dispute.
4. If the dispute is not resolved to the satisfaction of both parties within 14 days of the receipt of the Reply Notice, the Trustee will decide the method of dispute resolution and the procedure to be adopted to solve the dispute. For example, without limitation, the Trustee may decide to:
  - . refer the dispute to arbitration under the Commercial Arbitration Act 1990;
  - . refer the matter to the Community Justice Programme;
  - . appoint an expert (whose decision will be final and binding on the parties) to decide the dispute; or
  - . refer the dispute to mediation.
5. Each Party will continue to perform its obligations under this Trustee Lease during any dispute.

QUEENSLAND LAND REGISTRY  
Land Title Act 1984, Land Act 1994 and Water Act 2000

## GENERAL REQUEST

Duty Imprint

FORM 14 Version 4  
Page 1 of 2



711932933

NO FEE

19/09/2008 11:31

BE 608

NO FEE

1. Nature of request	Lodger (Name, address, E-mail & phone number)			Lodger Code
REQUEST TO REGISTER MANDATORY STANDARD TERMS FOR A TRUSTEE LEASE	SLAM - Policy GPO Box 2454 Brisbane Q 4001 <a href="mailto:SLAMPolicyCHO@nrw.qld.gov.au">SLAMPolicyCHO@nrw.qld.gov.au</a>			BE 2268
2. Lot on Plan Description	County	Parish	Title Reference	
NOT APPLICABLE				
3. Registered Proprietor/State Lessee				
NOT APPLICABLE				
4. Interest				
NOT APPLICABLE				
5. Applicant				
DEPARTMENT OF NATURAL RESOURCES AND WATER				
6. Request				
I hereby request that: PURSUANT TO SECTION 318A OF THE LAND ACT 1984 THE ATTACHED MANDATORY STANDARD TERMS DOCUMENT FOR A TRUSTEE LEASE BE REGISTERED.				
7. Execution by applicant				

17 19 2008  
Execution Date

Sch 4 Pt 4(6)(1)

Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant  
Graham Nicholas, A/Director, State Land Asset  
Management, Department of Natural Resources  
and Water a duly authorised delegate of  
the Minister under the current Land Act  
(Ministerial) Delegation

Corrected Vide Dealing No. 713298094  
C. H. 18-6-2010

Title Reference [ ]

eLVAS Case Id [ ]

### Mandatory standard terms for a Trustee Lease (Sections 318, 318A Land Act 1994)

For the *Land Act 1994*, this document contains provisions that are treated as terms of a further document, and applies to a document, that is a trustee lease under that Act. Those provisions are:

#### 1. INTRODUCTION

- 1.1 This Trustee Lease is subject to the provisions of the Act and if any clause or condition of this Trustee Lease is inconsistent with the Act, the provisions of the Act prevail.
- 1.2 A mandatory standard terms document for a trustee lease under the Act forms part of this Trustee Lease under the Act.
- 1.3 If there is a conflict between the Mandatory Standard Terms Document and the terms of another document for this Trustee Lease, the Mandatory Standard Terms Document prevails as provided for under section 320A of the Act.

#### 2. DEFINITIONS

2.1 In this Trustee Lease, unless the context requires otherwise:

- (a) "the Act" means the *Land Act 1994* (Q), as amended from time to time and if that Act is repealed, any Act which replaces that Act;
- (b) "Approval" means any approval, consent or permission required by law, including under the Act;
- (c) "Business Day" means any day in the State of Queensland which is not a Saturday, Sunday or public holiday either in the locality of the Premises or in Brisbane;
- (d) "Commencement Date" means the commencement date stated in Item 6 of the Form 7;
- (e) "Form 7" means the Form 7 lease which forms part of this Trustee Lease;
- (f) "Improvements" means all improvements, fixtures and fittings as constructed on the Premises from time to time;
- (g) "Mandatory Standard Terms Document" means the mandatory standard terms document lodged by the Minister in the land registry for a trustee lease under the Act;
- (h) "Minister" means the Minister administering the Act;
- (i) "Parties", other than in clause 15 (Release and Indemnity), means the Trustee and the Trustee Lessee;
- (j) "Premises" means the premises described in Item 5 of the Form 7 and the Improvements on those premises;
- (k) "Rent" means the rent stated in Item 7 of the Form 7;
- (l) "Term" means the term stated in Item 6 of the Form 7;
- (m) "Trust Land" means the land described in Item 2 of the Form 7;
- (n) "Trustee" means the lessor stated in Item 1 of the Form 7 and any trustee appointed under the Act in place of that lessor. Where the context permits, the definition also includes all of the Trustee's officers, employees, agents, contractors, consultants and invitees;
- (o) "Trustee Lease" means the Mandatory Standard Terms Document and any other document (including the Form 7, any schedule, plans and attachments) for a lease by the Trustee to the Trustee Lessee of the Premises for the Term;
- (p) "Trustee Lessee" means the lessee stated in Item 3 of the Form 7 and includes any personal representative or successor in title to the Trustee Lessee. Where the context permits, the definition also includes all of the Trustee Lessee's officers, employees, agents, contractors, consultants and invitees.

#### 3. SUPERSEDED ACTS ET CETERA

- 3.1 Where a law, person or body or other thing referred to in this Trustee Lease is renamed, superseded or replaced with another law, person or body or other thing (as the case may be), references in this Trustee Lease will be taken to be changed in a corresponding manner, except where the context requires otherwise.

Title Reference [ ]

eLVAS Case Id[ ]

#### 4. MINISTERIAL APPROVAL

4.1 This Trustee Lease is subject to and conditional on:

- (a) the Minister's written 'in principle' approval to the Trustee Lease under section 57(1) of the Act;
- (b) endorsement of the Minister's approval on this Trustee Lease under section 57(4) of the Act;
- (c) compliance with any conditions of an approval of the Minister that must be complied with before the Trustee may lease the Premises to the Trustee Lessee under this Trustee Lease; and
- (d) registration under the Act, as required by section 57(3) of the Act, of this Trustee Lease in the land registry.

Until paragraphs (a), (b), (c) and (d) are satisfied and despite the definitions of "Commencement Date" and "Term" in clause 2.1, the (purported) Trustee Lease does not take effect as a lease of the Premises and the Trustee Lessee has no right to the possession, occupation or use of the Premises.

#### 5. GRANT OF TRUSTEE LEASE

5.1 Subject to clause 4.1, the Trustee leases the Premises to the Trustee Lessee for the Term under this Trustee Lease.

#### 6. USE AND DEVELOPMENT, ACCESS AND SERVICES

6.1 The Trustee Lessee may only use or develop the Premises:

- (a) according to all relevant laws including, without limitation, any planning and environmental laws and any local laws;
- (b) where an Approval of any entity is required to undertake or carry out a use or development of the Premises, with the prior Approval of the relevant entity and according to that Approval;
- (c) subject to the terms of this Trustee Lease, according to any management plan for the Trust Land under section 48 of the Act.

6.2 Without limiting clause 6.1, if the purpose of this Trustee Lease is inconsistent with the purpose for which the Trust Land was dedicated or granted, all improvements built or placed by the Trustee Lessee on the Premises must first be approved by the Minister under section 59(2) of the Act.

6.3 In clause 6.1, 'develop' includes the construction of Improvements on the Premises.

6.4 Despite anything else, the Trustee Lessee holds this Trustee Lease so that the Trust Land (including the Premises) may be used for the purpose for which the Trust Land was dedicated or granted without undue interruption or obstruction.

6.5 Clause 6.4 does not apply to a building permitted to be built on the Trust Land.

6.6 If the Trustee Lease does not adjoin a dedicated road, or have some other legal access, the Trustee Lessee may access and provide services (including electricity, telephone, water and like services) to the Trustee Lease and Premises through the Trust Land via the most convenient route or location as determined by the Trustee and on any terms and conditions of the Trustee.

#### 7. DECLARED PEST PLANTS AND ANIMALS

7.1 The Trustee Lessee must control pest plants and animals on the Premises during the Term in accordance with the *Land Protection (Pest and Stock Route Management) Act 2002* and any requirements of the local government in whose local government area the Premises are situated.

Title Reference [ ]

eLVAS Case Id[ ]

## 8. CLEARING OF VEGETATION

8.1 The Trustee Lessee may only clear, remove or destroy any native vegetation ('clear') on the Premises if the:

- (a) clearing is permitted or not prohibited by law or, if required by law, the Trustee Lessee may under a development permit under the *Integrated Planning Act 1997* clear; and
- (b) Trustee has given its consent to the clearing.

## 9. ENVIRONMENT PROTECTION AND DUTY OF CARE

9.1 The Trustee Lessee must not dispose of or allow to be disposed of, any substance or thing (including refuse, garbage, oil or chemical) into any watercourse, the sea or onto the Trust Land (including the Premises). For this clause and without limitation, a substance or thing is disposed of if it leaks, or is washed, blown or otherwise enters, into any watercourse, the sea or onto the Trust Land (including the Premises).

9.2 Without limiting clause 9.1, the Trustee Lessee must:

- (a) store and keep all trade refuse and trade garbage in proper containers; and
- (b) dispose of all refuse and trade garbage regularly and hygienically at an approved rubbish dump without causing pollution or damage to the Trust Land (including the Premises), any land adjoining the Trust Land, a watercourse or the sea.

For this clause and without limitation, trade refuse and trade garbage includes debris from building works, chemicals from chemical works, medical waste and other waste of this nature but does not include general refuse and garbage that is collected regularly by or for the relevant local government.

9.3 The Trustee Lessee must:

- (a) use all reasonable endeavours to overcome and minimise any harmful effects on the environment arising from its use of the Premises; and
- (b) rehabilitate the Premises, and any watercourse, the sea, the Trust Land and any other land (the "affected areas") if there is any damage caused to the Premises and the affected areas by its use of the Premises and any other area of the Trust Land.

9.4 The Trustee Lessee has a responsibility for a duty of care for the Premises.

## 10. LIQUOR OR GAMING AND OTHER LICENCE

10.1 The Trustee Lessee must not store, sell or supply, or allow to be stored, sold or supplied, any liquor on or from the Premises:

- (a) except with the prior written consent of the Trustee and the Minister; and
- (b) according to any required licence or other authority under the *Liquor Act 1992*.

10.2 The Trustee Lessee must not operate the Premises under a gaming machine licence (as defined in the *Gaming Machine Act 1991*) without the prior written consent of the Trustee and the Minister.

10.3 The Trustee Lessee must not operate KENO facilities on the Premises. With the prior written consent of the Trustee and the Minister, this clause 10.3 will not apply if KENO facilities have been operating on the Premises under a previous lease from the Trustee for the Premises and where all necessary Approvals were obtained.

10.4 The Trustee Lessee must not operate TAB facilities on the Premises. With the prior written consent of the Trustee and the Minister, this clause 10.4 will not apply if TAB facilities have been operating on the Premises under a previous lease from the Trustee for the Premises and where all necessary Approvals were obtained.

Title Reference [ ]

aLVAS Case Id [ ]

**11. TRANSFER, MORTGAGE OR SUBLEASE**

- 11.1 The Trustee Lessee may not transfer, mortgage or sublease this Trustee Lease without the prior Approval of the Trustee and the Minister.

**12. NO HOLDING OVER AND OTHER DEALINGS**

- 12.1 The Trustee Lessee may not:

- (a) hold over, possess or occupy the Premises after the expiry of this Trustee Lease;
- (b) renew this Trustee Lease;
- (c) convert this Trustee Lease to another form of tenure; or
- (d) buy the Premises.

**13. THE MINISTER AND STATE OF QUEENSLAND NOT BOUND**

- 13.1 The Parties may not bind or subject the Minister or the State of Queensland to any agreement, or liability for costs, fees or expenses under this Trustee Lease.

**14. INSURANCE**

- 14.1 The Trustee Lessee must effect a public liability insurance policy with an insurer authorised under the *Insurance Act 1973* (Cth) or, in any other case, to the satisfaction of the Minister, naming the Trustee Lessee as the insured covering legal liability for any loss of or damage to any property and for the injury (including death) to any person arising out of anything done or omitted on or about the Premises and against all claims, demands, proceedings, costs, charges and expenses whatsoever in respect thereof subject to the terms and conditions of the insurance policy.

Such policy must:

- (a) be for an amount of not less than twenty million dollars (\$20,000,000.00) in respect of all claims arising out of a single event or such higher amounts as the Minister may reasonably require; and
  - (b) be effected on a "claims occurring" basis so that any claim made by the Trustee Lessee under the policy after the expiration of the period of policy cover but relating to an event occurring during the currency of the policy will be covered by the policy subject to the claim meeting the policy's other terms and conditions; and
  - (c) be maintained at all times during the currency of this Trustee Lease, and upon receipt of any Notice of Cancellation, the Trustee Lessee must immediately effect another public liability insurance policy in accordance with the terms and conditions of this Trustee Lease.
- 14.2 The Trustee Lessee must forward a certificate of currency to the Trustee within 10 business days of the commencement of each respective renewal period.
- 14.3 The Trustee must, within 10 business days of becoming aware of any of the following occurrences, inform the Minister in writing, of any such occurrences:
- (a) the Trustee Lessee's failure to renew the public liability insurance cover as required under the terms and conditions of this Trustee Lease;
  - (b) the Trustee Lessee's failure to forward to the Trustee within 10 business days after the commencement of a renewal period for such cover, a copy of the certificate of currency as required under this Trustee Lease;
  - (c) receipt by the Trustee of a Notice of Cancellation in relation to such cover.
- 14.4 Clauses 14.1 to 14.3 will be satisfied if the Trustee Lessee is the State of Queensland or a statutory authority eligible for cover under the Queensland Government Insurance Fund and is insured and continues to be insured by the Queensland Government Insurance Fund.



Title Reference [ ]

eLVAS Case Id[ ]

- 14.5 Clauses 14.1 to 14.3 will be satisfied if the Trustee Lessee is the Commonwealth of Australia or a statutory authority eligible for cover under the Comcover Insurance Fund and is insured and continues to be insured by Comcover.
- 14.6 Clauses 14.1 to 14.3 will be satisfied if the Minister approves by separate letter a replacement clause or clauses for inclusion in another document that forms part of this Trustee Lease. For this clause 14.6 to have effect, the replacement clause or clauses must be included in that other document and the original of the letter of approval must have been lodged in the land registry with a document that forms part of this Trustee Lease.
- 14.7 The Trustee Lessee must, as soon as practicable, inform the Minister and Trustee, in writing, of the occurrence of any event that the Trustee Lessee considers is likely to give rise to a claim under the policy of insurance effected and must ensure that the Minister and Trustee are kept fully informed of subsequent actions and developments concerning the claim.
- 14.8 To remove doubt, the requirements of clause 14 apply to any other area of the Trust Land used by the Trustee Lessee.

#### 15. RELEASE AND INDEMNITY

- 15.1 The Trustee Lessee indemnifies and agrees to keep indemnified the Minister, the State of Queensland, and the Trustee ("the indemnified parties") against all actions, suits, proceedings, claims, demands, costs, losses, damages and expenses ("Claim") arising out of or in any way connected to or resulting from the granting of this Trustee Lease to the Trustee Lessee or which is connected to or resulting from the Trustee Lessee's use and occupation of the Premises (all of which are referred to as "the indemnified acts or omissions") save to the extent that the Claim arises as a result of any negligent act or omission of the indemnified parties, however, any negligent act or omission of one of the indemnified parties does not negate the indemnity to any of the other indemnified parties.
- 15.2 The Trustee Lessee hereby releases and discharges the indemnified parties from any Claim relating to the indemnified acts or omissions which may be made against the indemnified parties, save to the extent that the Claim arises as a result of any negligent act or omission of the indemnified parties, however, any negligent act or omission of one of the indemnified parties does not negate the release and discharge in favour of any of the other indemnified parties.
- 15.3 To remove doubt, the Trustee Lessee specifically agrees that the indemnity provided by the Trustee Lessee in this clause 15 extends to any Claim (as defined by this clause 15) arising from the use of any other area of the Trust Land by the Trustee Lessee.

#### 16. POWER OF ATTORNEY

- 16.1 The Trustee Lessee, other than if the Trustee Lessee is the Commonwealth of Australia or the State of Queensland, appoints the Trustee to act as the Trustee Lessee's attorney and authorises the Trustee to execute all such documents and to perform such acts on the Trustee Lessee's behalf as are necessary to procure the registration of a surrender of this Trustee Lease to the Trustee.
- 16.2 The Trustee must not use its power pursuant to this clause unless:
- (a) the Trustee Lessee has breached a term or condition of this Trustee Lease;
  - (b) the Trustee has given written notice of the breach to the Trustee Lessee and has allowed the Trustee Lessee 20 business days (or such other time as the Trustee may allow after taking into account what needs to be done and the time required to remedy the breach) from the delivery of that written notice to remedy the breach; and
  - (c) the Trustee Lessee has not remedied the breach by the expiration of the 20 business day period (or such other time as the Trustee has allowed);

and the Trustee is entitled to end this Trustee Lease as provided for under this clause 16 and take possession of the Premises.

Title Reference [

1

eLVAS Case Id[

]

**17. SURRENDER**

- 17.1 The Trustee Lessee, with the Trustee's consent, may, at any time during the Term, surrender this Trustee Lease. On surrender, clause 18 applies.

**18. TRUSTEE LESSEE'S OBLIGATIONS AT THE END OF THIS TRUSTEE LEASE**

- 18.1 At the end of this Trustee Lease, if the Trustee Lessee removes its Improvements from the Premises under this Trustee Lease or otherwise, the Trustee Lessee must restore and otherwise make good the Premises to a similar condition the Premises were in before the Commencement Date to the satisfaction of the Trustee.
- 18.2 At the end of this Trustee Lease, the Trustee Lessee must leave the Premises in a clean and tidy condition to the satisfaction of the Trustee.
- 18.3 The Trustee Lessee must maintain any insurance it is required to effect under clause 14 during any period in which it may remove its Improvements (the 'removal period').
- 18.4 During the removal period, the Trustee Lessee indemnifies, releases and discharges those persons stated in clause 15 to the same extent provided for under clause 15.

**19. CANCELLATION OF TRUSTEE LEASE**

- 19.1 If this Trustee Lease is cancelled under section 65 of the Act:
- (a) this Trustee Lease ends and no person has a right to a claim for compensation; and
  - (b) any Improvements not removed from the Trust Land become the property of the Trustee.

**20. REVOCATION OF DEDICATION OF WHOLE OR PART OF RESERVE OR CANCELLATION OF A DEED OF GRANT IN TRUST**

- 20.1 If the Trust Land is a reserve under the Act:
- (a) the Minister may revoke the dedication of all or part of the reserve under section 33 of the Act;
  - (b) on revocation of all or part of the reserve, this Trustee Lease, in relation to the land the subject of the revocation, is cancelled from the day the revocation of the dedication of the reserve takes effect under section 34D of the Act;
  - (c) if this Trustee Lease is cancelled, no person has a right to a claim for compensation for the revocation (as provided under section 34F(f) of the Act), and the Trustee Lessee must immediately vacate the Premises as required under section 34G of the Act;
  - (d) on cancellation of this Trustee Lease under section 34F, Improvements (as defined in the Act) that have not been removed from the Trust Land become the property of the State subject to section 34H of the Act.
- 20.2 If the Trust Land is a deed of grant in trust under the Act:
- (a) the Governor in Council may cancel the deed of grant in trust under section 38 of the Act;
  - (b) on cancellation of the deed of grant in trust, this Trustee Lease is cancelled from the day the cancellation takes effect under section 38(6) of the Act;
  - (c) if this Trustee Lease is cancelled, no person has a right to a claim for compensation for the cancellation (as provided by section 38E(e) of the Act) and the Trustee Lessee must immediately vacate the Premises as required under section 38F of the Act;
  - (d) on cancellation of this Trustee Lease under section 38E, Improvements (as defined in the Act) that have not been removed from the Trust Land become the property of the State subject to section 38G of the Act.

END OF DOCUMENT

## David Simons

---

**From:** Elaine Lawson  
**Sent:** Thursday, 2 September 2021 1:52 PM  
**To:** 'Kathryn O'Hare'  
**Cc:** Leanne O'Neill; Vanessa Thompson  
**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](mailto: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](mailto:Kathryn.O'Hare@cgw.com.au)  
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001  
[To ensure the quickest response, please send all written communication by email rather than post.](#)  
**View my profile** **Download my vCard** **Subscribe to CGW**

**Security precautions - always verify account details by telephone**

Before transferring or depositing money, please call us on a known or separately verified number to confirm account details. Access our **security statement** and **privacy collection statement** for more information.

**COVID-19 response and client resources**

Cooper Grace Ward has systems in place to provide a full-service capability, regardless of work location. Visit our **COVID-19 resource hub** for more information, including guidance on legal risks and issues.



---

**From:** Elaine Lawson <[Elaine.Lawson@brisbane.qld.gov.au](mailto:Elaine.Lawson@brisbane.qld.gov.au)>  
**Sent:** Tuesday, 3 August 2021 8:54 AM  
**To:** Kathryn O'Hare <[Kathryn.O'Hare@cgw.com.au](mailto:Kathryn.O'Hare@cgw.com.au)>  
**Cc:** Leanne O'Neill <[Leanne.ONeill@cgw.com.au](mailto:Leanne.ONeill@cgw.com.au)>; Vanessa Thompson <[Vanessa.Thompson@cgw.com.au](mailto: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](mailto:elaine.lawson@brisbane.qld.gov.au)

---

**From:** Kathryn O'Hare <[Kathryn.O'Hare@cgw.com.au](mailto:Kathryn.O'Hare@cgw.com.au)>  
**Sent:** Monday, 2 August 2021 11:08 AM  
**To:** Elaine Lawson <[Elaine.Lawson@brisbane.qld.gov.au](mailto:Elaine.Lawson@brisbane.qld.gov.au)>  
**Cc:** Leanne O'Neill <[Leanne.ONeill@cgw.com.au](mailto:Leanne.ONeill@cgw.com.au)>; Vanessa Thompson <[Vanessa.Thompson@cgw.com.au](mailto: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](mailto:Kathryn.O'Hare@cgw.com.au)  
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001  
[To ensure the quickest response, please send all written communication by email rather than post.](#)  
**View my profile** **Download my vCard** **Subscribe to CGW**

**Security precautions - always verify account details by telephone**

Before transferring or depositing money, please call us on a known or separately verified number to confirm account details. Access our **security statement** and **privacy collection statement** for more information.

**COVID-19 response and client resources**

Cooper Grace Ward has systems in place to provide a full-service capability, regardless of work location. Visit our **COVID-19 resource hub** for more information, including guidance on legal risks and issues.



---

**From:** Elaine Lawson <[Elaine.Lawson@brisbane.qld.gov.au](mailto: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](mailto: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](mailto: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](mailto: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](mailto:elaine.lawson@brisbane.qld.gov.au)

---

**From:** Vanessa Thompson <[Vanessa.Thompson@cgw.com.au](mailto:Vanessa.Thompson@cgw.com.au)>

**Sent:** Wednesday, 12 May 2021 3:53 PM

**To:** Elaine Lawson <[Elaine.Lawson@brisbane.qld.gov.au](mailto:Elaine.Lawson@brisbane.qld.gov.au)>

**Cc:** Leanne O'Neill <[Leanne.ONeill@cgw.com.au](mailto: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](mailto:vanessa.thompson@cgw.com.au)

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

To ensure the quickest response, please send all written communication by email rather than post.

**View my profile** **Download my vCard** **Subscribe to CGW**



**Security precautions - always verify account details by telephone**

Before transferring or depositing money, please call us on a known or separately verified number to confirm account details. Access our **security statement** and **privacy collection statement** for more information.

**COVID-19 response and client resources**

Cooper Grace Ward has systems in place to provide a full-service capability, regardless of work location. Visit our **COVID-19 resource hub** for more information, including guidance on legal risks and issues.



---

**From:** Elaine Lawson <[Elaine.Lawson@brisbane.qld.gov.au](mailto:Elaine.Lawson@brisbane.qld.gov.au)>

**Sent:** Tuesday, 4 May 2021 10:01 AM

**To:** Vanessa Thompson <[Vanessa.Thompson@cgw.com.au](mailto: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](mailto:elaine.lawson@brisbane.qld.gov.au)

---

**From:** Vanessa Thompson <[Vanessa.Thompson@cgw.com.au](mailto:Vanessa.Thompson@cgw.com.au)>

**Sent:** Tuesday, 4 May 2021 8:22 AM

**To:** Elaine Lawson <[Elaine.Lawson@brisbane.qld.gov.au](mailto:Elaine.Lawson@brisbane.qld.gov.au)>  
**Cc:** Michelle Manning <[Michelle.Manning@brisbane.qld.gov.au](mailto: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



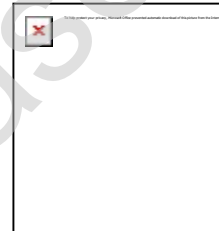
**T** 61 7 3231 2403 **M** 6 Sch 4 Pt 4(6)(1) **E** [vanessa.thompson@cgw.com.au](mailto:vanessa.thompson@cgw.com.au)  
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001  
[To ensure the quickest response, please send all written communication by email rather than post.](#)  
**View my profile Download my vCard Subscribe to CGW**

**Security precautions - always verify account details by telephone**

Before transferring or depositing money, please call us on a known or separately verified number to confirm account details. Access our **security statement** and **privacy collection statement** for more information.

**COVID-19 response and client resources**

Cooper Grace Ward has systems in place to provide a full-service capability, regardless of work location. Visit our **COVID-19 resource hub** for more information, including guidance on legal risks and issues.



---

**From:** Michelle Manning <[Michelle.Manning@brisbane.qld.gov.au](mailto:Michelle.Manning@brisbane.qld.gov.au)>  
**Sent:** Thursday, 22 April 2021 3:59 PM  
**To:** Vanessa Thompson <[Vanessa.Thompson@cgw.com.au](mailto:Vanessa.Thompson@cgw.com.au)>  
**Cc:** Elaine Lawson <[Elaine.Lawson@brisbane.qld.gov.au](mailto: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](mailto: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](mailto:michelle.manning@brisbane.qld.gov.au)



Security Label: Official Use

---

**From:** Vanessa Thompson <[Vanessa.Thompson@cgw.com.au](mailto:Vanessa.Thompson@cgw.com.au)>

**Sent:** Wednesday, 24 March 2021 8:29 AM

**To:** Michelle Manning <[Michelle.Manning@brisbane.qld.gov.au](mailto:Michelle.Manning@brisbane.qld.gov.au)>

**Cc:** Leanne O'Neill <[Leanne.ONeill@cgw.com.au](mailto: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](mailto:vanessa.thompson@cgw.com.au)  
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001  
[To ensure the quickest response, please send all written communication by email rather than post.](#)  
**View my profile Download my vCard Subscribe to CGW**

**Security precautions - always verify account details by telephone**

Before transferring or depositing money, please call us on a known or separately verified number to confirm account details. Access our **security statement** and **privacy collection statement** for more information.

**COVID-19 response and client resources**

Cooper Grace Ward has systems in place to provide a full-service capability, regardless of work location. Visit our **COVID-19 resource hub** for more information, including guidance on legal risks and issues.



This communication (and any attachment) is confidential, may contain legally privileged information and is intended solely for the named addressee. If you receive this in error, please destroy it and advise the sender.

---

*The contents of this email message and any attachments are intended only for the addressee and may be confidential, private or the subject of copyright. If you have received this email in error please notify Brisbane City Council, by replying to the sender or calling +61 7 3403 8888, and delete all copies of the e-mail and any attachments.*

---

SECURITY LABEL: OFFICIAL

SECURITY LABEL: OFFICIAL

SECURITY LABEL: OFFICIAL

## David Simons

---

**From:** Kathryn O'Hare <Kathryn.O'Hare@cgw.com.au>  
**Sent:** Tuesday, 31 August 2021 2:16 PM  
**To:** Elaine Lawson  
**Cc:** Leanne O'Neill; Vanessa Thompson  
**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  
[To ensure the quickest response, please send all written communication by email rather than post.](#)  
**View my profile** **Download my vCard** **Subscribe to CGW**

#### Security precautions - always verify account details by telephone

Before transferring or depositing money, please call us on a known or separately verified number to confirm account details. Access our **security statement** and **privacy collection statement** for more information.

#### COVID-19 response and client resources

Cooper Grace Ward has systems in place to provide a full-service capability, regardless of work location. Visit our **COVID-19 resource hub** for more information, including guidance on legal risks and issues.



---

**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](mailto: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](mailto:Elaine.Lawson@brisbane.qld.gov.au)>

**Cc:** Leanne O'Neill <[Leanne.ONeill@cgw.com.au](mailto:Leanne.ONeill@cgw.com.au)>; Vanessa Thompson <[Vanessa.Thompson@cgw.com.au](mailto: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](mailto:Kathryn.O'Hare@cgw.com.au)  
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001  
[To ensure the quickest response, please send all written communication by email rather than post.](#)  
**View my profile** **Download my vCard** **Subscribe to CGW**

**Security precautions - always verify account details by telephone**

Before transferring or depositing money, please call us on a known or separately verified number to confirm account details. Access our **security statement** and **privacy collection statement** for more information.

**COVID-19 response and client resources**

Cooper Grace Ward has systems in place to provide a full-service capability, regardless of work location. Visit our **COVID-19 resource hub** for more information, including guidance on legal risks and issues.



---

**From:** Elaine Lawson <[Elaine.Lawson@brisbane.qld.gov.au](mailto: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](mailto: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](mailto: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](mailto: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](mailto:elaine.lawson@brisbane.qld.gov.au)



---

**From:** Vanessa Thompson <[Vanessa.Thompson@cgw.com.au](mailto:Vanessa.Thompson@cgw.com.au)>  
**Sent:** Wednesday, 12 May 2021 3:53 PM  
**To:** Elaine Lawson <[Elaine.Lawson@brisbane.qld.gov.au](mailto:Elaine.Lawson@brisbane.qld.gov.au)>  
**Cc:** Leanne O'Neill <[Leanne.ONeill@cgw.com.au](mailto: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](mailto:vanessa.thompson@cgw.com.au)  
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001  
[To ensure the quickest response, please send all written communication by email rather than post.](#)  
**View my profile Download my vCard Subscribe to CGW**

### Security precautions - always verify account details by telephone

Before transferring or depositing money, please call us on a known or separately verified number to confirm account details. Access our **security statement** and **privacy collection statement** for more information.

### COVID-19 response and client resources

Cooper Grace Ward has systems in place to provide a full-service capability, regardless of work location. Visit our **COVID-19 resource hub** for more information, including guidance on legal risks and issues.



---

**From:** Elaine Lawson <[Elaine.Lawson@brisbane.qld.gov.au](mailto:Elaine.Lawson@brisbane.qld.gov.au)>

**Sent:** Tuesday, 4 May 2021 10:01 AM

**To:** Vanessa Thompson <[Vanessa.Thompson@cgw.com.au](mailto: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](mailto:elaine.lawson@brisbane.qld.gov.au)

---

**From:** Vanessa Thompson <[Vanessa.Thompson@cgw.com.au](mailto:Vanessa.Thompson@cgw.com.au)>  
**Sent:** Tuesday, 4 May 2021 8:22 AM  
**To:** Elaine Lawson <[Elaine.Lawson@brisbane.qld.gov.au](mailto:Elaine.Lawson@brisbane.qld.gov.au)>  
**Cc:** Michelle Manning <[Michelle.Manning@brisbane.qld.gov.au](mailto: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](mailto:vanessa.thompson@cgw.com.au)  
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001  
[To ensure the quickest response, please send all written communication by email rather than post.](#)  
**View my profile** **Download my vCard** **Subscribe to CGW**

**Security precautions - always verify account details by telephone**

Before transferring or depositing money, please call us on a known or separately verified number to confirm account details. Access our **security statement** and **privacy collection statement** for more information.

**COVID-19 response and client resources**

Cooper Grace Ward has systems in place to provide a full-service capability, regardless of work location. Visit our **COVID-19 resource hub** for more information, including guidance on legal risks and issues.



---

**From:** Michelle Manning <[Michelle.Manning@brisbane.qld.gov.au](mailto:Michelle.Manning@brisbane.qld.gov.au)>  
**Sent:** Thursday, 22 April 2021 3:59 PM  
**To:** Vanessa Thompson <[Vanessa.Thompson@cgw.com.au](mailto:Vanessa.Thompson@cgw.com.au)>

**Cc:** Elaine Lawson <[Elaine.Lawson@brisbane.qld.gov.au](mailto: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](mailto: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](mailto:michelle.manning@brisbane.qld.gov.au)



Security Label: Official Use

---

**From:** Vanessa Thompson <[Vanessa.Thompson@cgw.com.au](mailto:Vanessa.Thompson@cgw.com.au)>

**Sent:** Wednesday, 24 March 2021 8:29 AM

**To:** Michelle Manning <[Michelle.Manning@brisbane.qld.gov.au](mailto:Michelle.Manning@brisbane.qld.gov.au)>

**Cc:** Leanne O'Neill <[Leanne.ONeill@cgw.com.au](mailto: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](mailto:vanessa.thompson@cgw.com.au)  
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001  
[To ensure the quickest response, please send all written communication by email rather than post.](#)  
**View my profile Download my vCard Subscribe to CGW**

**Security precautions - always verify account details by telephone**

Before transferring or depositing money, please call us on a known or separately verified number to confirm account details. Access our **security statement** and **privacy collection statement** for more information.

**COVID-19 response and client resources**

Cooper Grace Ward has systems in place to provide a full-service capability, regardless of work location. Visit our **COVID-19 resource hub** for more information, including guidance on legal risks and issues.



This communication (and any attachment) is confidential, may contain legally privileged information and is intended solely for the named addressee. If you receive this in error, please destroy it and advise the sender.

---

*The contents of this email message and any attachments are intended only for the addressee and may be confidential, private or the subject of copyright. If you have received this email in error please notify Brisbane City Council, by replying to the sender or calling +61 7 3403 8888, and delete all copies of the e-mail and any attachments.*

---

SECURITY LABEL: OFFICIAL

SECURITY LABEL: OFFICIAL

RTI Release

## David Simons

---

**From:** Elaine Lawson  
**Sent:** Monday, 30 August 2021 9:58 AM  
**To:** 'SCHEFE Louise'  
**Cc:** 'Bradley.Monin@resources.qld.gov.au'; 'Debbie.Cross@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](mailto: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](mailto:elaine.lawson@brisbane.qld.gov.au)

---

**From:** SCHEFE Louise <[Louise.Scheffe@resources.qld.gov.au](mailto:Louise.Scheffe@resources.qld.gov.au)>

**Sent:** Friday, 4 June 2021 2:33 PM

**To:** Elaine Lawson <[Elaine.Lawson@brisbane.qld.gov.au](mailto:Elaine.Lawson@brisbane.qld.gov.au)>

**Cc:** MONIN Bradley <[Bradley.Monin@resources.qld.gov.au](mailto:Bradley.Monin@resources.qld.gov.au)>; CROSS Debbie <[Debbie.Cross@resources.qld.gov.au](mailto:Debbie.Cross@resources.qld.gov.au)>; MCCOMISKIE Desley <[Desley.McComiskie@resources.qld.gov.au](mailto: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](mailto:SLAM-Brisbane@resources.qld.gov.au)

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



---

**From:** Elaine Lawson <[Elaine.Lawson@brisbane.qld.gov.au](mailto: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](mailto:elaine.lawson@brisbane.qld.gov.au)

---

*The contents of this email message and any attachments are intended only for the addressee and may be confidential, private or the subject of copyright. If you have received this email in error please notify Brisbane City Council, by replying to the sender or calling +61 7 3403 8888, and delete all copies of the e-mail and any attachments.*

---

**SECURITY LABEL: OFFICIAL**

-----  
The information in this email together with any attachments is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. There is no waiver of any confidentiality/privilege by your inadvertent receipt of this material.

Any form of review, disclosure, modification, distribution and/or publication of this email message is prohibited, unless as a necessary part of Departmental business.

If you have received this message in error, you are asked to inform the sender as quickly as possible and delete this message and any copies of this message from your computer and/or your computer system network.

-----

**SECURITY LABEL: OFFICIAL**

## David Simons

---

**From:** Elaine Lawson  
**Sent:** Tuesday, 3 August 2021 8:54 AM  
**To:** Kathryn O'Hare  
**Cc:** Leanne O'Neill; Vanessa Thompson  
**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](mailto: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](mailto:Kathryn.O'Hare@cgw.com.au)  
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001  
[To ensure the quickest response, please send all written communication by email rather than post.](#)  
**View my profile** **Download my vCard** **Subscribe to CGW**

**Security precautions - always verify account details by telephone**

Before transferring or depositing money, please call us on a known or separately verified number to confirm account details. Access our **security statement** and **privacy collection statement** for more information.

**COVID-19 response and client resources**

Cooper Grace Ward has systems in place to provide a full-service capability, regardless of work location. Visit our **COVID-19 resource hub** for more information, including guidance on legal risks and issues.



---

**From:** Elaine Lawson <[Elaine.Lawson@brisbane.qld.gov.au](mailto: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](mailto: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](mailto: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](mailto: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**

.....

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](mailto:elaine.lawson@brisbane.qld.gov.au)

---

**From:** Vanessa Thompson <[Vanessa.Thompson@cgw.com.au](mailto:Vanessa.Thompson@cgw.com.au)>

**Sent:** Wednesday, 12 May 2021 3:53 PM

**To:** Elaine Lawson <[Elaine.Lawson@brisbane.qld.gov.au](mailto:Elaine.Lawson@brisbane.qld.gov.au)>

**Cc:** Leanne O'Neill <[Leanne.ONeill@cgw.com.au](mailto: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](mailto:vanessa.thompson@cgw.com.au)  
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001  
[To ensure the quickest response, please send all written communication by email rather than post.](#)  
**View my profile Download my vCard Subscribe to CGW**

### Security precautions - always verify account details by telephone

Before transferring or depositing money, please call us on a known or separately verified number to confirm account details. Access our **security statement** and **privacy collection statement** for more information.

### COVID-19 response and client resources

Cooper Grace Ward has systems in place to provide a full-service capability, regardless of work location. Visit our **COVID-19 resource hub** for more information, including guidance on legal risks and issues.



**From:** Elaine Lawson <[Elaine.Lawson@brisbane.qld.gov.au](mailto:Elaine.Lawson@brisbane.qld.gov.au)>

**Sent:** Tuesday, 4 May 2021 10:01 AM

**To:** Vanessa Thompson <[Vanessa.Thompson@cgw.com.au](mailto: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](mailto:elaine.lawson@brisbane.qld.gov.au)

---

**From:** Vanessa Thompson <[Vanessa.Thompson@cgw.com.au](mailto:Vanessa.Thompson@cgw.com.au)>  
**Sent:** Tuesday, 4 May 2021 8:22 AM  
**To:** Elaine Lawson <[Elaine.Lawson@brisbane.qld.gov.au](mailto:Elaine.Lawson@brisbane.qld.gov.au)>  
**Cc:** Michelle Manning <[Michelle.Manning@brisbane.qld.gov.au](mailto: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](mailto:vanessa.thompson@cgw.com.au)  
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001  
[To ensure the quickest response, please send all written communication by email rather than post.](#)  
**View my profile** **Download my vCard** **Subscribe to CGW**

**Security precautions - always verify account details by telephone**

Before transferring or depositing money, please call us on a known or separately verified number to confirm account details. Access our **security statement** and **privacy collection statement** for more information.



**COVID-19 response and client resources**

Cooper Grace Ward has systems in place to provide a full-service capability, regardless of work location. Visit our **COVID-19 resource hub** for more information, including guidance on legal risks and issues.

---

**From:** Michelle Manning <[Michelle.Manning@brisbane.qld.gov.au](mailto:Michelle.Manning@brisbane.qld.gov.au)>

**Sent:** Thursday, 22 April 2021 3:59 PM

**To:** Vanessa Thompson <[Vanessa.Thompson@cgw.com.au](mailto:Vanessa.Thompson@cgw.com.au)>

**Cc:** Elaine Lawson <[Elaine.Lawson@brisbane.qld.gov.au](mailto: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](mailto: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](mailto:michelle.manning@brisbane.qld.gov.au)



Security Label: Official Use

---

**From:** Vanessa Thompson <[Vanessa.Thompson@cgw.com.au](mailto:Vanessa.Thompson@cgw.com.au)>

**Sent:** Wednesday, 24 March 2021 8:29 AM

To: Michelle Manning <[Michelle.Manning@brisbane.qld.gov.au](mailto:Michelle.Manning@brisbane.qld.gov.au)>

Cc: Leanne O'Neill <[Leanne.ONeill@cgw.com.au](mailto: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](mailto:vanessa.thompson@cgw.com.au)

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

To ensure the quickest response, please send all written communication by email rather than post.

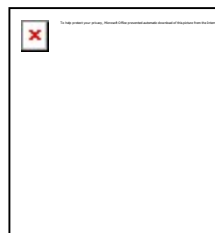
**View my profile** **Download my vCard** **Subscribe to CGW**

**Security precautions - always verify account details by telephone**

Before transferring or depositing money, please call us on a known or separately verified number to confirm account details. Access our **security statement** and **privacy collection statement** for more information.

**COVID-19 response and client resources**

Cooper Grace Ward has systems in place to provide a full-service capability, regardless of work location. Visit our **COVID-19 resource hub** for more information, including guidance on legal risks and issues.



This communication (and any attachment) is confidential, may contain legally privileged information and is intended solely for the named addressee. If you receive this in error, please destroy it and advise the sender.

---

*The contents of this email message and any attachments are intended only for the addressee and may be confidential, private or the subject of copyright. If you have received this email in error please notify Brisbane City Council, by replying to the sender or calling +61 7 3403 8888, and delete all copies of the e-mail and any attachments.*

---

SECURITY LABEL: OFFICIAL

RTI Release

## David Simons

---

**From:** Elaine Lawson  
**Sent:** Monday, 19 July 2021 3:26 PM  
**To:** 'SCHEFE Louise'  
**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](mailto: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](mailto: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](http://www.resources.qld.gov.au)

---

**From:** Elaine Lawson <[Elaine.Lawson@brisbane.qld.gov.au](mailto: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

.....  
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](mailto:elaine.lawson@brisbane.qld.gov.au)

---

*The contents of this email message and any attachments are intended only for the addressee and may be confidential, private or the subject of copyright. If you have received this email in error please notify Brisbane City Council, by replying to the sender or calling +61 7 3403 8888, and delete all copies of the e-mail and any attachments.*

---

**SECURITY LABEL: OFFICIAL**

-----  
The information in this email together with any attachments is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. There is no waiver of any confidentiality/privilege by your inadvertent receipt of this material.  
Any form of review, disclosure, modification, distribution and/or publication of this email message is prohibited, unless as a necessary part of Departmental business.  
If you have received this message in error, you are asked to inform the sender as quickly as possible and delete this message and any copies of this message from your computer and/or your computer system network.  
-----

**SECURITY LABEL: OFFICIAL**

RTI Release

Sch 3(7)



---

**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 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](mailto: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](http://www.resources.qld.gov.au)

**From:** Elaine Lawson <[Elaine.Lawson@brisbane.qld.gov.au](mailto: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](mailto:elaine.lawson@brisbane.qld.gov.au)

---

*The contents of this email message and any attachments are intended only for the addressee and may be confidential, private or the subject of copyright. If you have received this email in error please notify Brisbane City Council, by replying to the sender or calling +61 7 3403 8888, and delete all copies of the e-mail and any attachments.*

---

**SECURITY LABEL: OFFICIAL**

-----  
The information in this email together with any attachments is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. There is no waiver of any confidentiality/privilege by your inadvertent receipt of this material.

Any form of review, disclosure, modification, distribution and/or publication of this email message is prohibited, unless as a necessary part of Departmental business.

If you have received this message in error, you are asked to inform the sender as quickly as possible and delete this message and any copies of this message from your computer and/or your computer system network.

-----

**SECURITY LABEL: OFFICIAL**

## David Simons

---

**From:** Elaine Lawson  
**Sent:** Monday, 19 July 2021 3:14 PM  
**To:** 'Vanessa Thompson'  
**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](mailto: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](mailto:elaine.lawson@brisbane.qld.gov.au)

---

**From:** Vanessa Thompson <[Vanessa.Thompson@cgw.com.au](mailto:Vanessa.Thompson@cgw.com.au)>

**Sent:** Wednesday, 12 May 2021 3:53 PM

**To:** Elaine Lawson <[Elaine.Lawson@brisbane.qld.gov.au](mailto:Elaine.Lawson@brisbane.qld.gov.au)>

**Cc:** Leanne O'Neill <[Leanne.ONeill@cgw.com.au](mailto: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:

1. 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;
2. 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;
3. 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;
4. 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;
5. 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;
6. 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**

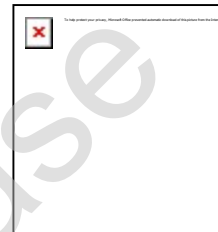
Special Counsel



**T** 61 7 3231 2403 **M** 6 **Sch 4 Pt 4(6)(1)** **E** [vanessa.thompson@cgw.com.au](mailto:vanessa.thompson@cgw.com.au)  
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001  
[To ensure the quickest response, please send all written communication by email rather than post.](#)  
**View my profile Download my vCard Subscribe to CGW**

### Security precautions - always verify account details by telephone

Before transferring or depositing money, please call us on a known or separately verified number to confirm account details. Access our **security statement** and **privacy collection statement** for more information.



### COVID-19 response and client resources

Cooper Grace Ward has systems in place to provide a full-service capability, regardless of work location. Visit our **COVID-19 resource hub** for more information, including guidance on legal risks and issues.

---

**From:** Elaine Lawson <[Elaine.Lawson@brisbane.qld.gov.au](mailto:Elaine.Lawson@brisbane.qld.gov.au)>

**Sent:** Tuesday, 4 May 2021 10:01 AM

**To:** Vanessa Thompson <[Vanessa.Thompson@cgw.com.au](mailto: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](mailto:elaine.lawson@brisbane.qld.gov.au)

---

**From:** Vanessa Thompson <[Vanessa.Thompson@cgw.com.au](mailto:Vanessa.Thompson@cgw.com.au)>  
**Sent:** Tuesday, 4 May 2021 8:22 AM  
**To:** Elaine Lawson <[Elaine.Lawson@brisbane.qld.gov.au](mailto:Elaine.Lawson@brisbane.qld.gov.au)>  
**Cc:** Michelle Manning <[Michelle.Manning@brisbane.qld.gov.au](mailto: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](mailto:vanessa.thompson@cgw.com.au)  
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001  
[To ensure the quickest response, please send all written communication by email rather than post.](#)  
**View my profile Download my vCard Subscribe to CGW**

**Security precautions - always verify account details by telephone**

Before transferring or depositing money, please call us on a known or separately verified number to confirm account details. Access our **security statement** and **privacy collection statement** for more information.

**COVID-19 response and client resources**

Cooper Grace Ward has systems in place to provide a full-service capability, regardless of work location. Visit our **COVID-19 resource hub** for more information, including guidance on legal risks and issues.



---

**From:** Michelle Manning <[Michelle.Manning@brisbane.qld.gov.au](mailto:Michelle.Manning@brisbane.qld.gov.au)>  
**Sent:** Thursday, 22 April 2021 3:59 PM  
**To:** Vanessa Thompson <[Vanessa.Thompson@cgw.com.au](mailto:Vanessa.Thompson@cgw.com.au)>  
**Cc:** Elaine Lawson <[Elaine.Lawson@brisbane.qld.gov.au](mailto: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](mailto: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](mailto:michelle.manning@brisbane.qld.gov.au)



Security Label: Official Use

---

**From:** Vanessa Thompson <[Vanessa.Thompson@cgw.com.au](mailto:Vanessa.Thompson@cgw.com.au)>  
**Sent:** Wednesday, 24 March 2021 8:29 AM  
**To:** Michelle Manning <[Michelle.Manning@brisbane.qld.gov.au](mailto:Michelle.Manning@brisbane.qld.gov.au)>  
**Cc:** Leanne O'Neill <[Leanne.ONeill@cgw.com.au](mailto: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:

1. Would you please confirm that the Council will not take steps to remove/demolish the bridge without further reference to us/our client.
1. 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.
1. 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.



2. 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)?
3. 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](mailto:vanessa.thompson@cgw.com.au)  
Level 21, 400 George Street, Brisbane 4000 Australia | GPO Box 834, Brisbane 4001  
[To ensure the quickest response, please send all written communication by email rather than post.](#)  
**View my profile Download my vCard Subscribe to CGW**

**Security precautions - always verify account details by telephone**

Before transferring or depositing money, please call us on a known or separately verified number to confirm account details. Access our **security statement** and **privacy collection statement** for more information.

**COVID-19 response and client resources**

Cooper Grace Ward has systems in place to provide a full-service capability, regardless of work location. Visit our **COVID-19 resource hub** for more information, including guidance on legal risks and issues.



This communication (and any attachment) is confidential, may contain legally privileged information and is intended solely for the named addressee. If you receive this in error, please destroy it and advise the sender.

---

*The contents of this email message and any attachments are intended only for the addressee and may be confidential, private or the subject of copyright. If you have received this email in error please notify Brisbane City Council, by replying to the sender or calling +61 7 3403 8888, and delete all copies of the e-mail and any attachments.*

---

RTI Release

Sch 3(7)

Sch 3(7)

RTI Release

---

**From:** SCHEFE Louise <[Louise.Schefe@resources.qld.gov.au](mailto:Louise.Schefe@resources.qld.gov.au)>

**Sent:** Friday, 4 June 2021 2:33 PM

**To:** Elaine Lawson <[Elaine.Lawson@brisbane.qld.gov.au](mailto:Elaine.Lawson@brisbane.qld.gov.au)>

**Cc:** MONIN Bradley <[Bradley.Monin@resources.qld.gov.au](mailto:Bradley.Monin@resources.qld.gov.au)>; CROSS Debbie <[Debbie.Cross@resources.qld.gov.au](mailto:Debbie.Cross@resources.qld.gov.au)>;  
MCCOMISKIE Desley <[Desley.McComiskie@resources.qld.gov.au](mailto: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](mailto: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](http://www.resources.qld.gov.au)

---

**From:** Elaine Lawson <[Elaine.Lawson@brisbane.qld.gov.au](mailto: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](mailto:elaine.lawson@brisbane.qld.gov.au)

---

*The contents of this email message and any attachments are intended only for the addressee and may be confidential, private or the subject of copyright. If you have received this email in error please notify Brisbane City Council, by replying to the sender or calling +61 7 3403 8888, and delete all copies of the e-mail and any attachments.*

---

**SECURITY LABEL: OFFICIAL**

-----  
The information in this email together with any attachments is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. There is no waiver of any confidentiality/privilege by your inadvertent receipt of this material.

Any form of review, disclosure, modification, distribution and/or publication of this email message is prohibited, unless as a necessary part of Departmental business.

If you have received this message in error, you are asked to inform the sender as quickly as possible and delete this message and any copies of this message from your computer and/or your computer system network.

-----

**SECURITY LABEL: OFFICIAL**

**SECURITY LABEL: OFFICIAL**

RTI Release

Sch 3(7)

Sch 3(7)

**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 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](mailto:SLAM-Brisbane@resources.qld.gov.au)

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



---

**From:** Elaine Lawson <[Elaine.Lawson@brisbane.qld.gov.au](mailto: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](mailto:elaine.lawson@brisbane.qld.gov.au)

---

*The contents of this email message and any attachments are intended only for the addressee and may be confidential, private or the subject of copyright. If you have received this email in error please notify Brisbane City Council, by replying to the sender or calling +61 7 3403 8888, and delete all copies of the e-mail and any attachments.*

---

**SECURITY LABEL: OFFICIAL**

-----

The information in this email together with any attachments is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. There is no waiver of any confidentiality/privilege by your inadvertent receipt of this material.

Any form of review, disclosure, modification, distribution and/or publication of this email message is prohibited, unless as a necessary part of Departmental business.

If you have received this message in error, you are asked to inform the sender as quickly as possible and delete this message and any copies of this message from your computer and/or your computer system network.

-----

**SECURITY LABEL: OFFICIAL**