

Case CASE-003132 (GROUND-0003311)
Contact Hamish Barnes
15 November 2023



Clive Manley
Chief Executive Officer
Ruapehu District Council

By email: info@ruapehudc.govt.nz

Tēnā koe Clive

Local Government Official Information and Meetings Act 1987 (LGOIMA) investigation Rebekah Crook's delay complaint

I write to you on behalf of the Chief Ombudsman, Peter Boshier.

Following from your telephone discussion on 8 November 2023 with Principal Investigator Victor Lee, he mentioned that the Ombudsman would be attending to the LGOIMA delay complaints about the Ruapehu District Council (the Council) as he receives them.¹

To date, you have received a letter dated 1 November 2023, from Manager Sarah Ramsay about a delay complaint from Mr Hamish Carnachan (**case 002930**) advising of the Ombudsman's likely opinion on that complaint.

It is likely that the Ombudsman will be investigating all delay complaints he receives concerning these Teitei Drive LGOIMA requests. This is in line with the Ombudsman's general approach to delay complaints.²

This letter is about a complaint that the Ombudsman has received from Ms Rebekah Crook about the Council's a delay in making and communicating a decision her LGOIMA request.

Accordingly, the Ombudsman has decided to investigate this complaint under section 27 of the LGOIMA and has asked me to assist him with this investigation. Given the nature of the complaint, and the facts as the Ombudsman understands them to be, it is likely that he would form the opinion that there has been a failure to meet the statutory obligations imposed by the LGOIMA.

Background

Ms Crook has advised that on 19 August 2023 she sent the following requests relating to the proposed development of land at Teitei Drive to the Council:

- <https://fyi.org.nz/request/23890-ceo-meetings-as-per-agenda-20211130>
- <https://fyi.org.nz/request/23889-ceo-meetings-as-per-agenda-20220921>

Concerning official information requests to the Council about the Teitei Drive Development.

² See: <https://www.ombudsman.parliament.nz/resources/ombudsmans-approach-delay-complaints-0>.

- <https://fyi.org.nz/request/23888-ceo-meetings-as-per-agenda-20220831>
- <https://fyi.org.nz/request/23886-ceo-meetings-as-per-agenda-20220525>
- <https://fyi.org.nz/request/23885-ceo-meetings-as-per-agenda-20210825>

Ms Crook's complained that she had not received decision on these requests.

Preliminary inquiries

As a result of preliminary inquiries from Assistant Investigator Hamish Barnes of our office, I understand:

- the request was received by the Council on 19 August 2023;
- a decision on the request was therefore required to have been made and communicated by 15 September at the latest;
- the decision on the request was made and communicated on 11 September and 31 October 2023 and was therefore outside the statutory timeframe;
- the reason for the delay is the difficulty the Council has had managing the volume of requests it has received relating to the Teitei Drive development; and
- The Council has taken the following steps to remedy the situation:
 - Apologised to Ms Crook for the delay.
 - Enlisted an external party to assist with research and collation of information.
 - The Council's partners in the Teitei Drive Development have created a website that hosts information in relation to Teitei Drive Development which helps provide faster response times.

Notwithstanding the Council's abovementioned steps, the Ombudsman considers it necessary to proceed with his investigation as there are ongoing delays in responding to official information requests.

The Ombudsman's likely opinion

On the basis of the information considered so far, it is likely that the Ombudsman would form the opinion that there has been a failure to meet the obligations imposed by 13 of the LGOIMA. Under this section, the Council should have:

- extended the maximum time limit for transferring or responding to the request; or
- made a decision and communicated it to the requester as soon as reasonably practicable and no later than 15 September 2023.

Accordingly, the Ombudsman would consider that a failure to meet these statutory obligations is contrary to law (section 30(1)(b) of the LGOIMA and section 22(1)(a) of the Ombudsmen Act 1975 refer).

Given that Ms Ramsay has already indicated the Ombudsman's likely recommendation in Mr Carnachan's complaint (**case 002930**), it is unnecessary for these recommendations to be repeated in this letter.

Should the Council require further assistance with its training on LGOIMA processes, it can contact the Ombudsman's Learning and Agency Development Team to continue to receive free learning sessions and guidance to support your staff. If the Council wishes to do so, it can contact the learning team through info@ombudsman.parliament.nz.

The Council may wish to implement the abovementioned improvements of its LGOIMA process at its earliest convenience to aid in the Council's forthcoming responses to further Teitei Drive LGOIMA requests.

For your information, we have received several other delay complaints that relate to the Council concerning Teitei Drive LGOIMA requests. The Ombudsman will be corresponding with you separately about these complaints in due course.

Your response

You are invited to provide any comment or additional information before the Ombudsman forms his final opinion and makes any recommendations on this complaint. If there are any other circumstances of which the Ombudsman should be aware, including any remedial action taken by your agency, please include this in your response. If you do wish to comment, please respond by **29 November 2023**.

For your reference, the Ombudsman's current approach to delay complaints can be found on the Ombudsman's website at: <https://www.ombudsman.parliament.nz/resources/ombudsmans-approach-delay-complaints-0>

Yours sincerely



Chloe Longdin-Prisk
Assistant Ombudsman