

# Request for information concerning the Mangrove Management Bill

<b>Legislation</b>	Local Government Official Information and Meetings Act 1987, (LGOIMA) section 13(3)
<b>Agency</b>	Thames Coromandel District Council
<b>Ombudsman</b>	Leo Donnelly
<b>Case number(s)</b>	468598
<b>Date</b>	March 2018

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## Summary

A requester, the Royal Forest and Bird Society, sought access to information concerning the Mangrove Management Bill, a local Bill proposed by the Thames Coromandel District Council (the Council), on which submissions had been invited by the Governance and Administration Select Committee. The Council decided to grant the request but fixed a charge of \$608 for the supply of the requested information. This figure was based on an estimate that it would take eight hours to search for and collate the requested information.

The Ombudsman formed the opinion that, in the circumstances of this case, a charge for supplying this information was unreasonable. He considered that there was a compelling public interest in availability of the information requested because it would enable the public to participate more effectively by making informed submissions to the Select Committee considering the Bill. In the circumstances of this particular case, the Ombudsman considered the strength of the public interest favoured disclosure of the information requested without charge.

## Background

1. The requester sought information relating to the Mangrove Management Bill from the Council. The Council decided to grant the request, but would supply the information on payment of a charge, estimated at \$608 for a projected eight hours work.
2. However, after further discussion between the requester and the Council, the request was narrowed to all emails to and from the Council relating to the Mangrove

Management Bill since the beginning of 2016. Anticipating at that stage that the work would take no more than one hour, the Council said it would not seek to fix a charge but noted that if this revised time estimate were incorrect, it reserved the right to fix a charge.

3. During the collation process, the scope of the required work became clear. The Council estimated that a further eight hours, in addition to work already completed, would be necessary to respond to the request and, as such, it advised the requester that it would fix a charge of \$608 before continuing to respond to the request. The Council has commented that if it had fixed a charge based on the actual time expended in collating the information requested, the charge would have been far in excess of the \$608 it settled on as the proposed charge.

## Investigation

4. Section 13(3) of the LGOIMA provides that any charge fixed for the supply of official information must be reasonable and *'regard may be had to the cost of the labour and materials involved in making the information available.'*
5. The Ombudsman formed the provisional opinion that while LGOIMA clearly enables councils to fix a charge for the supply of official information, in assessing whether the charge fixed is *'reasonable'* in the circumstances, one requirement is that due regard must be had to whether there is a compelling public interest in making the information available. Such a public interest may warrant remission or waiver of any charge that may otherwise have been fixed, having regard to the resources needed to supply the information.
6. In considering the public interest in availability of the information requested, the Ombudsman referred to section 4(a)(i) of the LGOIMA, which states one of the purposes of the Act as being (relevantly): *'to increase progressively the availability to the public of official information held by local authorities, ... in order... to enable more effective participation by the public in the actions and decisions of local authorities.'*
7. In this case, the requester sought the information to enable an informed submission to the Select Committee on the Mangrove Management Bill. The Ombudsman formed the opinion that the strength of the public interest in ensuring effective participation by the public in the making of laws and policies, as well as in the transparency of local authority actions and decisions more generally, warranted waiver of any charge for the supply of this information to the requester.
8. The Ombudsman considered the Council's concerns that the breadth of the request covered some information of an administrative nature where there was no obvious public interest in disclosure. However, the Ombudsman noted the onus is on the Council to communicate this to the requester, and to provide reasonable assistance in narrowing the scope of the request. While this had occurred, in this case the refined request covered the time period during which the Council was considering and drafting the local

Bill. The Ombudsman therefore considered that the scope of the request and the time required by the Council to collate the relevant information in order to respond, did not outweigh the public interest in the availability of the requested information free of charge.

## Outcome

9. The Council accepted the Ombudsman's provisional opinion, and agreed to advise the requester that it would waive the charge in this case. The Ombudsman finalised his investigation on this basis.