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**From:** official information  
**Sent:** Thursday, 20 May 2021 11:32  
**To:** [REDACTED]  
**Cc:** official information  
**Subject:** RESPONSE: LGOIMA 21094 - [REDACTED] - Private Developer Agreements 2005 - 2021.  
**Attachments:** PDA list for LGOIMA.xlsx

Kia Ora [REDACTED]

I refer to your **information request below**, sent on 23 March 2021. Hamilton City Council is able to provide the following response.

### Our Response

As per our email sent to you on 23 April, we have attached the following information regarding your request.

In addition, you responded to our email with the following **further requests**:

Good morning, Can you please identify whether your withholding of the information as per ( clauses s7(2) (b) / ( c)/ (i) is an act of parliament or a local bylaw. Please state which it is.

### Our Response

We are withholding the information as per the Local Government Official Information and Meetings Act 1987:

LGOIMA s 7(2)(b)  
LGOIMA s 7(2)(c)  
LGOIMA s 7(2)(i)

You have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to make a complaint is available at [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz) or freephone 0800 802 602.

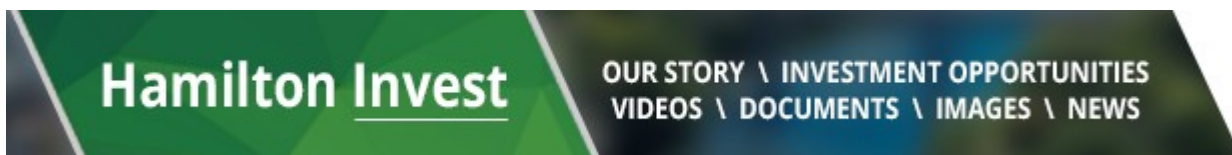
Kind Regards,

**Tatiana** | Official Information & Legal Support Advisor  
Legal Services & Risk | People and Organisational Performance  
Email: [officialinformation@hcc.govt.nz](mailto:officialinformation@hcc.govt.nz)



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**From:** official information <[officialinformation@hcc.govt.nz](mailto:officialinformation@hcc.govt.nz)>  
**Sent:** Friday, 23 April 2021 1:49 PM  
**To:** [REDACTED]  
**Cc:** official information <[officialinformation@hcc.govt.nz](mailto:officialinformation@hcc.govt.nz)>  
**Subject:** LGOIMA 21094 - [REDACTED] - Private Developer Agreements 2005 - 2021.  
**Importance:** High

Kia Ora,

I refer to your official information request below.

The LGOIMA requires that we advise you of our decision on your request no later than 20 working days after the day we received your request. We apologise for not being able to meet that deadline. We are therefore writing to notify you of an extension of the time to make our decision, to the 7 May 2021.

**That being said, please see our advice per your request:**

1. The following categories of information can and should be provided:
  - (a) the date of each agreement;
  - (4) the zoning or use; and
  - (e) whether there is a confidentiality clause in the agreement.
2. The following information will be withheld as per the withholding grounds below:
  - (b) the parties to each agreement;
  - (c) the full legal description of property/properties; and
  - (f) the type of activity being undertaken.

**Withholding grounds**

3. The applicable grounds for withholding information in this case are when disclosure would:
  - (a) unreasonably prejudice a third party's commercial interests (s7(2)(b));
  - (b) fail to protect confidential information where the release of information would be likely to prejudice supply of similar information or information from the same source (s 7(2)(c));
  - (c) prevent councils from carrying on negotiations without prejudice or disadvantage (s 7(2)(i)).

**Explanation**

*The parties to each agreement*

4. All PDAs contain a confidentiality clause. The parties to each PDA had a mutual understanding that the information would be confidential. So long as the clause does not exclude the parties' identities, Council would be in breach of the confidentiality clause by disclosing the requested information. Releasing parties' names would hinder developers willingness to enter into future PDA's with HCC. It is in the public interest that developers continue to be willing to enter into PDAs given that they allow opportunities for better outcomes for Council and developers that don't fit within standard DC approach. Parties' names will accordingly be withheld under s 7(2)(c).
5. In addition, a reluctance by developers to enter future PDAs with the Council could prejudice or disadvantage Council in carrying on future negotiations. Therefore this information will be withheld under the negotiation ground (s 7(2)(i)).

*The full legal description of property/properties*

6. The disclosure of an address would necessarily disclose the third party involved and therefore, this information could be withheld for the same reasons as in category (b).

*The type of activity being undertaken*

7. The disclosure of this aspect alone may not necessarily reveal any confidential or commercially sensitive information. However, combined with a date and zoning information, it may be sufficient to identify a developer or development. In doing so, it may lead to confidential or commercial prejudice in the same way as disclosing a party name and/or property description.

**If you are happy for us to proceed and provide the information we are able to, as per advice above – please let me know as soon as possible.**

You have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to make a complaint is available at [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz) or freephone 0800 802 602.

If you wish to discuss any aspect of your request with us, including this decision, please feel free to contact [details of contact person].

Kind Regards,

**Tatiyana** | Official Information & Legal Support Advisor  
Legal Services & Risk | People and Organisational Performance  
Email: [officialinformation@hcc.govt.nz](mailto:officialinformation@hcc.govt.nz)



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-----Original Message-----

From: [REDACTED]  
Sent: Tuesday, 23 March 2021 2:42 pm  
To: official information <[officialinformation@hcc.govt.nz](mailto:officialinformation@hcc.govt.nz)>  
Subject: Private Developer agreements 2005 to 2021. Summary

Good afternoon, please provide a summary of all Private Developer agreement for the above period. The information requested is (1) the date of each agreement (2) the parties to these agreements (3) the full legal description of property/ properties including the lot number, DP or DPS and title reference numbers (4) the zoning or use ie residential, commercial, residential, or a mix used activity (5) whether there is a confidentiality clause in the agreement ( 6 ) the type of activity being undertaken. Many thanks. [REDACTED]

Sent from my iPad