

By email [REDACTED]

Confidential - not for public release

[REDACTED]

FROM [REDACTED]

DDI [REDACTED]

MOBILE [REDACTED]

EMAIL [REDACTED]

MATTER NO 406-4634

DATE 25 July 2025

Attention Danny James De Hek

Dear Mr De Hek,

Without Prejudice Save as to Costs

Actionable Defamation Statements - "Exposing NexQloud: A Rinse-and-Repeat Crypto Ponzi Masquerading as Cloud Innovation"

1. We refer to your first email of 17 July 2025. We will respond separately to your second communication also of 17 July 2025.
2. We set out below the responses to some of the key issues raised in your first email (noting that any matters we have not covered below are not admitted).
3. You have asserted that your published statements are defensible under the legal doctrine of fair comment on matters of public interest.
4. The defence of 'fair comment' under New Zealand law is referred to as the defence of honest opinion under section 9 of the Defamation Act 1992. In order to receive the benefit of the honest opinion defence, your published statements would have to have been clearly expressed as your opinions and not as assertions of fact. In addition, you would need to be able to identify provable (in Court) facts supporting those opinions.
5. The defence of honest opinion is not available in respect of the statements complained of, as:
 - (a) they were expressed as facts; and
 - (b) they were not supported by provable matters of fact contained within the publication.
6. The purpose of the honest opinion defence is to allow for the expression of what is clearly conveyed as the opinion of the writer, in circumstances where the true factual basis for the opinion is included with the opinion, so as to permit readers to form their own view as to whether they agree with that opinion or not. Your published statements were clearly not of this nature.
7. We note that the Publications we have asked you to remove remain online and that you added a new publication on your YouTube account on 18 July 2025, which has also been linked on your website.
8. The new publication is similarly defamatory of our client. In particular:

- (a) each of the allegations made about our client (which were put to our client, but in relation to which you have not awaited or included our client's responses); and
 - (b) the description of our client as "a poor little scam company who can't afford their legal fees".
9. None of the content in your new publication has the benefit of an honest opinion defence, for the reasons set out earlier regarding your first publication.
10. Notwithstanding the above, we are instructed that our client's previous proposal for a full and final resolution remains open for you to accept until **5:00pm on 5 August 2025**. As in our previous letter dated 17 July 2025, our client requires you to:
- (a) Remove all content from the previously referred to Publications (including your recent Publication on YouTube), and any other platforms under your control referring to our client and/or any of their services;
 - (b) Provide a written and signed apology to NexQloud Technologies, the wording of which is to be agreed between the parties;
 - (c) Provide a written and signed undertaking that you will not make the same or any other similarly defamatory statements in relation to our client on any platform or in any media in the future; and
 - (d) Pay the requested sum of \$5000 to Bell Gully's trust account as a contribution towards the legal fees our client has had to incur; and towards other corrective actions as necessitated, as a result of your defamatory actions.
11. Although our client has been put to additional cost since 17 July 2025, it remains prepared to accept the sum set out at paragraph 10(d) above for the time being. Please note that the lack of apology to our client gives rise to a claim for aggravated damages in the event this matter is not resolved by agreement. If there are any further delays, our client will be claiming its additional costs and damages.

Please note that this letter is written and sent on a without prejudice save as to costs basis, and we may rely on this letter in Court in support of an application for increased or indemnity costs.

Our client reserves all of its rights and will be responding to the allegations put to them separately. It is our client's view that if you were truly interested in uncovering the truth, you would not have published further allegations about them, which you had put to them for response, without awaiting their response. That is a hallmark of, and particularly required for, the defence of responsible journalism to apply.

Yours faithfully
Bell Gully

Tania Goatley / Joyce Lin
Partner / Graduate