

Mail OSCAR

From: Mail OSCAR <mail@oscar.org.au>
Sent: Tuesday, 6 November 2018 19:12
To: 'Internet Mailbox Right to Information'
Subject: RE: Decision notice re OSCAR RTI application - Brisbane Road car park Mooloolaba
Importance: High

Dear Victor

We wish to formally seek an internal review in relation to our RTI Application (RTI17/046).

Our request relates to your decision letter dated 24 September 2018 and the material actually released to OSCAR.

Please note that our seeking of a review does not relate to the RTI process itself or your actions which have been professional and helpful at all times.

We accept that much of the material that has been redacted is duplicated material from other parts of the released materials. We also recognise that some redacted material has been correctly withheld under the RTI Act as it relates to budgetary information for local government or is deemed to be a breach of confidence (eg Jesob Group material) and we accept the appropriateness of your decision on those matters.

There are number of factors that relate to our request for review however:

- Your over reliance on section 47(3)(b) of the RTI Act on the basis of being contrary to public interest. You have given insufficient weight to the factors favouring disclosure and too much emphasis to those factoring nondisclosure.
- The release of financial figures relating to the valuation of the land (referred to as Option C in the Savills report and subsequent references to it) and the costs to Council of this project are completely within the realm of public interest as it is the ratepayers of the SCRC that would have been funding this project directly or through the financing of debt associated with the project.
- The following paragraphs from your decision letter (pages 3 & 4) are key to our review request. How can the community judge whether *"this project would deliver substantial benefits to ratepayers"* if the key financial material is withheld? This relevance of the *"ability to negotiate on competitive terms"* should be disregarded in the interests of transparency.

The nine allotments for the Brisbane Road Car Park site form a key strategic asset owned by Council. The aggregated 6,778 square metre area is one of the single largest key development sites within central Mooloolaba. Mayor Mark Jamieson says Council's priority has always been to ensure this project would deliver substantial benefits to ratepayers, and Divisional Councillor John Connolly has recognised that the community needs certainty around the site's future.³

In this context I consider that the balance of public interest considerations will favour disclosure of the majority of the information about development of the site, while also protecting information that would impede or prejudice Council's ability to negotiate on competitive terms to gain the best deal for ratepayers. This is effectively a competitive commercial activity.

- The very specific nature of this project, the particular developer and its contractual arrangements make your assertion that release of the requested material would result in the Council revealing its hand to future potential investors or developers is commercially naïve - our contention is supported on Folio 253 with the statement *"aspects of the commercial terms negotiated with Abacus are known in the marketplace"*! Therefore release of these figures to ratepayers would not jeopardise Council's ability to obtain good financial outcomes for a similar project (if it ever proceeds in any form with a different developer) or other projects the Council may undertake in Mooloolaba and should not be used as a justification for overriding the legitimate rights of the community to know how its funds would have been expended on this project or will be in future projects.
- You acknowledge on page 4 of the decision letter that the *"contract which did not eventuate"* but still give more weight to factors favouring nondisclosure rather than transparency.

We would also like to know why information referred to in the released material was not included. We seek clarification as to why two items referred to on Folio 133 (and subsequent Folios) do not fall into our RTI application's scope of *"including any attachments or accompanying material considered with the reports"*, namely:

- The name of the Council's recently appointed consultant to act as a Development Assessor – is it Ethos Urban who are referred to as the *"Council's appointed independent town planning assessor"* on Folio 161.
- We note that *"Council has engaged Vincent's Assurance and Risk Advisory (Vincent's) to provide probity advice throughout the tender process. Vincent's appointed advisor, Mr Peter Sheville, has attended meetings and procurement activities and provided written confirmation of his advice and observations throughout that transaction process"*. We believe the written advice provided by the probity advisor is relevant material in the terms of our initial application. Again, it would seem that the Council's interests and those of the public generally would be well served by that material being released.

We look forward to a favourable response.

Yours sincerely ... Greg Smith

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(Organisation Sunshine Coast Association of Residents)

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Note: Email is our preferred form of communication.

From: Internet Mailbox Right to Information [mailto:rti@sunshinecoast.qld.gov.au]

Sent: Friday, 26 October 2018 15:19

To: Mail OSCAR <mail@oscar.org.au>

Subject: RE: Decision notice re OSCAR RTI application - Brisbane Road car park Mooloolaba

Good afternoon Greg

An internal review application must be made in writing. Email is fine and you can send it to this address.

The OIC has published a guide which explains review rights for both internal and external review. You can access it here:

<https://www.oic.qld.gov.au/guidelines/for-community-members/information-sheets-access-and-amendment/explaining-your-review-rights-a-guide-for-applicants>

You do not need to provide any reasons or supporting information with your review application. However, by submitting arguments or information to support your case this may increase the likelihood of the reviewer deciding to give access to additional information. You may also wish to limit your review to discrete issues or documents, which will assist the reviewer and may enable the review decision to be provided sooner.

Kind regards

Victor Catchpoole | Right to Information Officer

Corporate Governance Branch | Office of Mayor and CEO
Sunshine Coast Regional Council

Phone: 07 5420 8819