



Recognising and upholding excellence in local government

Mail: PO Box 105
Coolum Beach QLD 4573

Email: mail@oscar.org.au

Mr Victor Catchpoole
RTI Officer
Sunshine Coast Regional Council

17 February 2021

Dear Victor

Re: Request to Sunshine Coast Regional Council for an RTI Internal Review

OSCAR wishes formally to seek an Internal Review in relation to our RTI Application (RTI20/011). Our request relates to your decision letter dated 18 January 2021 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.

Introduction

Our premise for seeking this information is underpinned by the preamble to the RTI Act as copied below:

An Act about rights to government and other information

Preamble

Parliament's reasons for enacting this Act are—

Parliament recognises that in a free and democratic society—

(a) there should be open discussion of public affairs; and

(b) information in the government's possession or under the government's control is a public resource; and

(c) the community should be kept informed of government's operations, including, in particular, the rules and practice followed by government in its dealings with members of the community; and

(d) openness in government enhances the accountability of government; and

(e) openness in government increases the participation of members of the community in democratic processes leading to better informed decision-making; and

(f) right to information legislation contributes to a healthier representative, democratic government and enhances its practice; and

(g) right to information legislation improves public administration and the quality of government decision-making; and

(h) right to information legislation is only 1 of a number of measures that should be adopted by government to increase the flow of information in the government's possession or under the government's control to the community.

General comments

In relation to specific redactions we recognise that some redacted material has been correctly withheld under the RTI Act Section 47(3)(b) as it relates to personal information such as mobile phone numbers and we accept the appropriateness of your decision on those matters.

Furthermore we assume that pages 130-134 have been redacted relating to the Decision Notice removal of irrelevant information under Section 73 of the RTI Act.

However, we are concerned that most of the material that has been redacted has been done so under provisions of sch3(7). We also suggest that there may be some missing communication.

OSCAR feels that you have given insufficient weight to the factors favouring disclosure and too much emphasis to those factoring nondisclosure.

Comments relating to specific pages and combinations of pages.

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

- Your over reliance on Schedule 3(7) of the RTI Act on the basis of being Exempt information, *“Information subject to legal professional privilege Information is exempt information if it would be privileged from production in a legal proceeding on the ground of legal professional privilege.”*

It would appear that most of the redactions have occurred under this provision. It is our understanding that none of the information requested is relevant to the current legal case in the Supreme Court. Should the Sunshine Coast Regional Council consider this is not the case, then OSCAR expects that all redacted information that is NOT legal advice will be released following the Supreme Court hearing, the date of which is within the time-frame for this request.

OSCAR has always maintained that this RTI is about community confidence in development decision-making being transparent, open and the genuine application of the law as per the Queensland Planning Act 2016. We are also concerned that this provision sch3(7) has been applied inconsistently. Specific pages, with commentary where possible are listed and discussed following:

- ✚ **pages 130-134** – are we correct in assuming that the redaction of these 4 pages are the pages referred to in the Decision Notice, **“Furthermore, I have also decided to delete certain information within 4 pages.....”?**
- ✚ **pages 916-988** – it would be helpful where such a significant amount of material has been redacted that reference be given to more than the schedule and section number. For example were the redactions made here related to the Badderam proposal? Is it specific legal advice or officer opinion relating to the comparison between the Badderam proposal and the Sekisui development proposal or something other? What is the legal relevance of this page to the Sekisui development application?
- ✚ **page 1083** redacted under sch3(7), relates to a response from Marc Cornell to James Ruprai where James Ruprai asked what grounds there are in the public interest to depart from the height restrictions (**p1019**). We assume that page 1083 is the response from Marc Cornell. If so, we find this redaction curious as Marc Cornell has already indicated the four grounds under which the sufficient grounds provision applies on **page 1082**. Also in his letter to both James Ruprai and Patricia Jensen (pages **1322 and 1323**) he has given evidence from a case in the P&E Court in 2018 relating to sufficient grounds test. Marc Cornell also comments that the sufficient grounds test is different to the community benefits test. Surely in the interests of all the reasons listed in the RTI Act Preamble, the response from Marc Cornell to James Ruprai should be released. We note that on page **1084** James Ruprai responds, *“Thanks Marc for the clarification”*. OSCAR would argue in the interests of transparency and accountability that the response redacted on page **1083** clearly is in the public interest unless SCRC is attempting under legal provisions to hide this information.
- ✚ **page 1089** is the same deletion as **p1083**
- ✚ **pages 1577-1724** appear to relate to the Special Meeting of Council scheduled for June 21. We note that in this redacted section there appears to be maps or graphics (landscape orientation). Is this a draft report to councillors due on the 13 June 2018? If so why has it been redacted? Given it is some 150 pages OSCAR feels that in the interests of transparency that some indication of the content should be supplied.
- ✚ **Pages 1923-1938** - previous to these pages there were bookings for the Yaroomba Beach “final count down”. Following these redacted pages James Ruprai sent an email to Crs/CEO re an Update meeting. If these are minutes or meeting notes then surely they should be available to the public as set out in the Preamble to the RTI Act and would assist in the public attempting to understand the decision-making processes of Councillors. If the redacted information relates to other matters, then clearly this should be indicated,
- ✚ **pages 1954-1957** – the prior pages relate to information from Arquis re the cost of additional time spent on the application and their attached invoice. We assume that these pages redacted may be their invoice. If not we would ask why as an expert adviser their response would be redacted?
- ✚ **pages 1987-1989** - the previous pages discussion related to the development of a fact sheet being developed by the Media unit. Again, if so, one wonders why these pages would be redacted.

✚ **page 2079** - the preceding pages from James Ruprai to Tom Jamieson and Jeanette Allom Hill relate to their calculating maintenance costs for 99 years for various components of the Infrastructure agreement. The following pages refer to the density/height comparisons. OSCAR seeks to find out whether the redacted page discusses or comments on the 13 million dollars savings for Council on maintenance by the Infrastructure agreement. Why would this page be redacted?

✚ **page 2217-2232** – the preceding pages to this page refer to an article in the media of 14 June 2018 relating to this development application. The comment was that the response might need to be adjusted depending on whether it is for internal or external reading. If the redacted page relates to such a comment and statement, OSCAR asks, why would the internal audience be told something different from an external audience?

- It is obvious that officers from other units (e.g. Strategic Planning) were consulted during the development assessment process, and they would have communicated with the officers named in the RTI application to provide their advice. Would that communication be within the parameters of this RTI request? This question relates to a response from Patricia Jensen to Marc Cornell on page **1326** that she has advice from Strategic Planning branch saying that there are sufficient planning grounds for approval of the proposed development. In the interests of transparency and accountability and referring again to the points raised in the Preamble of the RTI Act, it is important that such advice be available to the public. One assumes that such advice was in writing and was not just a verbal conversation.

Again we wish to reiterate that OSCAR is concerned about transparency and accountability of Sunshine Coast Regional Council with its community and the need for the community to have confidence in the decisions that their councillors make.

We look forward to a favourable response.

Yours sincerely



Melva Hobson PSM

President, OSCAR
(Organisation Sunshine Coast Association of Residents)
T: 0433214320
E: president@oscar.org.au
W: <https://www.oscar.org.au/>
P: PO Box 105, Coolum Beach QLD, 4573