

3 August 2021

Ms Melva Hobson
President
Organisation Sunshine Coast Association of Residents Incorporated
PO Box 105
COOLUM BEACH QLD 4573

Via email: mail@oscar.org.au

Dear Ms Hobson

**Re: Publication of submissions received on proposed Amendment to the
*Sunshine Coast Planning Scheme 2014***

Thank you for your correspondence of 17 April 2021 seeking further clarification of a number of matters relating to the publication of submissions received by Sunshine Coast Council on the *Proposed Planning Scheme Amendment – Additional South East Queensland Regional Plan Sites and Other Zoning Matters* (“proposed Planning Scheme amendment”).

I note your correspondence is in response to my letter dated 25 March 2021. In the interests of avoiding repetition, I do not propose to restate the information in my earlier letter.

Firstly, on behalf of Council, may I thank you for acknowledging the efforts Council has taken towards further increasing the transparency of its decision-making processes and the community’s access to information. I also acknowledge your interest in seeking greater clarity on why the public submissions received on the proposed Planning Scheme amendment have not been made publicly available.

I am advised that the practice of not publicly releasing submissions on proposed Planning Scheme amendments is one that has been followed for many years by Council and by many other local governments, including Ipswich, Logan, Gold Coast, Redlands, Toowoomba, Moreton Bay and Noosa councils. This practice reflects that submissions which contribute to, and inform, the deliberative process of government would not ordinarily be made public unless the intention to do so was made clear at the outset – noting that in the case of the Sunshine Coast Council, the substance of submissions received is contained in the Submissions Report that is submitted to Council for consideration. Exemption from release of information relating to deliberative processes has been the subject of a number of Information Commissioner decisions in relation to Right to Information (RTI) applications.

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Of principal concern in relation to the submissions received on this proposed Planning Scheme amendment is that – in line with the practice adopted for previous proposed Planning Scheme amendments – the invitation for submissions did not articulate that submissions made would be published. Without having made it clear at the commencement of the invitation for submissions period that any submissions received would be publicly available, it would not be appropriate for Council to now proceed to publish the submissions received, when submitters were not alerted to this intention prior to them deciding to make a submission. To unilaterally publish submissions after they have been received may be against the wishes of an individual submitter(s), who may have elected not to make a submission or may have decided not to include specific information in their submission if they had been alerted at the outset of the intention to publish.

As you are aware, in the case of RTI applications, if access to a document is to be granted under the *Right to Information Act 2009* and the granting of such access would be contrary to a third party's views, then the access to the document would be deferred to enable the third party to exercise their review rights. In the case of the submissions on the proposed Planning Scheme amendment, if Council were of a mind to unilaterally publish a submission, the submitter would not have been afforded an avenue for the review of that decision prior to the publication of the submission.

For these reasons, it is not proposed to recommend to Council that the 701 submissions received on the proposed Planning Scheme amendment be published.

I acknowledge that Council could take the step of corresponding with each of the submitters and seek their consent for publication. However, given the volume of submissions received, the concern this may cause for some submitters being advised of this intent after the event and as Council will be provided with a submissions report on the substance of the submissions received (along with Councillors being provided access to submissions on request), I am not proposing to take this course of action in this instance.

In this context, I note you have referred to the ability to redact information from a submission that may identify the submitter. As you may appreciate, many submissions identify individual properties and property owners. Even if identifying information were to be redacted from submissions or de-identified submissions were created, often the content may still provide sufficient information to identify one or more individuals and their personal information. Given Council did not alert submitters at the commencement of the invitation for submissions process of an intention to publish their submissions (even on a de-identified basis), I do not think it appropriate or responsible for Council to take an action now that may cause detriment or concern to an individual submitter(s).

Notwithstanding the above, I am prepared to examine the practices followed by Council to date and give consideration to whether – in the case of future planning scheme amendment proposals – the invitation for submissions should explicitly refer to an intention to publish submissions.

Under an approach of this nature, submitters could be advised that if they wish any or all of the information in their submission not to be made public, then they should expressly indicate as such and the reasons for confidentiality. As you may be aware, this approach is not

dissimilar to that followed by Committees of the Legislative Assembly in the Queensland Parliament.

In considering this alternative approach, balancing items will need to be taken into account including whether the practice could deter some people from making submissions on a proposed planning scheme amendment. Accordingly, it would also be my intention to propose that this alternative approach be considered as part of the Review of the Classification and Management of Council Information.

Thank you again for bringing your concerns to my attention. If you have any further queries in relation to this matter, please contact either Stephen Patey (Manager Strategic Planning) on (07) 5420 8953 or Roma Stevenson (Interim Coordinator Planning Scheme Amendments) on (07) 5420 8945.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Emma Thomas', followed by a period.

Emma Thomas
CHIEF EXECUTIVE OFFICER

Copies to: Mayor Mark Jamieson, Sunshine Coast Council
Cr Maria Suarez, Councillor for Division 9, Sunshine Coast Council
Cr David Law, Councillor for Division 10, Sunshine Coast Council