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Peter Berlyn
By email: foi+request-8844-85984953@righttoknow.org.au

Date: 7 June 2022
Our Ref: 40-2122SC
Enquiries: 03 5320 5659
Email: sarahcuthbert@ballarat.vic.gov.au

Dear Peter,

Your freedom of information request is valid and being processed

I refer to your request under the *Freedom of Information Act 1982* (Vic) (**FOI Act**) which we received on 2 May 2022.

You requested access to:

1. *I request a copy of correspondence , if any, sent to all affected proprietors , either by the Ballarat City Council in its own right or as agent for the State of Victoria, advising that zoning of their properties had altered(or was being altered and invited submissions for or against) from ' Residential' to 'Residential Growth'.*

On the 13th of April last, the Director of Planning reported to the Delegated Planning Committee Meeting that the change occurred in 2014 with an amendment in 2015. I am unable to verify these dates.

The geographic area affected is able to be loosely described as within the area to the east of Ballarat Grammar School, to the north by Norman Street, to the south by Howitt Street and to the west by Gillies. and contains a few excluded areas, eg Stockland Shopping Centre.

2. *Also requested are copies of the documents indirectly referred to in the Instrument of Delegation from Council latest iteration to each person appointed from time to time as a member of the Planning Delegated Committee and includes under ' Powers and Functions' ; 'relevant policies and guidelines expressed in the introduction, at item 1, the 'Planning Committee Terms of Reference' ,and, at item 2.3: ' guidelines or policies which from time to time Council adopts.'*

On 8 May 2022, you emailed Council the following:

Depending on what document/s (if any) is located one or more dates will be exposed and on this basis, I wish to amend my FOI request to include documentary evidence (if any) that expresses which entity (if any) had the responsibility for consulting, receiving objections and giving notice of the aforementioned one or two changes remembering that a number of old time residents claim not to have ever received anything.

On 16 May 2022 I advised you that in its present form, I considered that the request did not meet the requirement provided for in section 17 of the FOI Act. Without further clarification it may not be possible to identify all of the documents which you are seeking to access.

To assist you with the clarification of the terms of the application, the following information was provided, and questions posed.

Point 1

My understanding of this point is that you are seeking copies of the initial letters sent to affected property owners advising that zoning of their properties had been altered.

Furthermore, if the above does not exist you are seeking a document (in any form) which states which entity (if any) had the responsibility for consulting, receiving objections and giving notice of the aforementioned

Can you please confirm if my interpretation above is correct?

Point 2

In this Point of your application you have sought access to “copies of the documents indirectly referred to in the Instrument of Delegation from Council latest iteration to each person appointed from time to time as a member of the Planning Delegated Committee and includes under ' Powers and Functions' ;,'relevant policies and guidelines expressed in the introduction, at item 1, the 'Planning Committee Terms of Reference' ,and, at item 2.3:' guidelines or policies which from time to time Council adopts.'”.

My understanding is that in regard to ‘copies of the documents indirectly referred to in the Instrument of Delegation from Council latest iteration to each person appointed from time to time as a member of the Planning Delegated Committee?’ you are requesting the following documents which outline the Councillor Representation for Committees and External Bodies for 2022:

[Council Meeting agenda – 24 November 2021](#) (pg. 402)

[Council Meeting minutes – 24 November 2021](#) (pg. 22)

Furthermore, my understanding is that in regard to ‘item 2.3 ‘guidelines or policies which Council from time to time adopts’ you are requesting the following documents to which the Instrument of Delegation infers:

[Governance Rules](#)

[Committee Policy](#)

[Planning Delegated Committee Terms of Reference](#)

[Policy for Council Consideration of Planning Applications](#)

Can you please confirm if my interpretation above is correct? And if so each of these documents are publicly available, therefore I have included the relevant links.

Your response, by email, dated 2 June 2022, provided the following clarification:

To respond to your Point One, I seek copies of all (if any) formal communications to the roughly 350 affected properties in the defined geographic area that informed, invited contribution, offered an objection process relating to the two zoning changes from May 2010 where I have documentary evidence that it was Residential One through a change to Residential Medium Density and finally to the present zoning of Residential Growth. The window appears to be about five years.

As to you Point Two, , I took the description from the actual Instrument of Delegation and asked my question in an attempt to capture details of ALL relevant documents. I knew about all or most of what you have identified but there is nothing to evidence that what I know about is finitely definitive. My expectation is that you will list all that are relevant, indicate which of them are available on the website and supply any that are relevant but not

otherwise

disclosed.

Valid request

We received the application fee on 3 May 2022.

Your request is valid, and we are processing it. We have 30 days from the date we receive your request to provide you with a decision. As such, the due date for us to make a decision on your request is 2 July 2022.

Extension of time

We may need to extend the due date if we need to consult with third parties. Consultation is required if the documents you requested contain information relating to third parties. If we extend the time, we will notify you and advise you of why it has been extended and by how long.

We may also request your agreement for an extension of time, if we are unable to provide you with a decision on time.

Should you require further information in relation to your application, please do not hesitate to contact me directly on 03 5320 5659.

Regards,



Sarah Cuthbert
Statutory Compliance Officer