



## Department of Environment Land, Water and Planning

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Ref: 5541

Mr Peter Berlyn

By email: [foi+request-8845-d9870b64@righttoknow.org.au](mailto:foi+request-8845-d9870b64@righttoknow.org.au)

7 June 2022

Dear Mr Berlyn

### ***Freedom of Information Act 1982 – Notice of Decision***

I refer to the request you made under the *Freedom of Information Act 1982* (FOI Act) on 2 May 2022, seeking access to documents relating to rezoning of a residential area in Wendouree:

*I seek copies of correspondence sent to all affected land proprietors direct from your department or through an intermediary, for instance the City of Ballarat, that either informed them of a changed zoning from Residential to Residential Growth or sought their submissions for or against a proposed change, if any, in relation to the area loosely described as being within Ballarat Grammar School to the east, Norman Street to the north, Gillies Street to the west and Howitt Street to the south in the Ballarat suburb of Wendouree, with some exclusions including the shopping centre and Harvey Norman stores, reputedly made in 2014 with a modification in 2015 (unverified by me).*

In emails on 4, 6 and 8 May 2022, you provided additional information and amended your request. Your email on 8 May stated:

*...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 [zoning] changes...*

In an email on 6 May 2022, you also agreed to exclude personal information from your request.

#### **Privacy Statement**

Any personal information about you or a third party in your correspondence will be protected under the provisions of the Privacy and Data Protection Act 2014. It will only be used or disclosed to appropriate Ministerial, Statutory Authority, or departmental staff in regard to the purpose for which it was provided, unless required or authorised by law. Enquiries about access to information about you held by the Department should be directed to the Privacy Coordinator, Department of Environment, Land, Water and Planning, PO Box 500, East Melbourne, Victoria 8002

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## Document Searches

DELWP's Statutory Planning Services division conducted a thorough search and located four documents relating to Ballarat Planning Scheme Amendment No. C177, made in 2014, which rezoned the relevant part of Wendouree from Residential 1 Zone (R1Z) to Residential Growth Zone (RGZ1). However, DELWP does not hold any documents relating to public consultation or notification of affected landowners.

## Please Note

Statutory Planning Services advises that:

- Amendment C177, which came into effect on 9 October 2014, introduced new Reformed Residential Zones (please see this [fact sheet](#)) into the Ballarat Planning Scheme.
- The City of Ballarat was the planning authority responsible for consultation and notification concerning Amendment C177 and should hold documents relating to that process.
- The Residential Zones Standing Advisory Committee (RZSAC) was established in 2014 to assist Councils with implementing the new residential zones into local planning schemes.
- The City of Ballarat requested that the RZSAC consider the draft of Amendment C177. The RZSAC's Terms of Reference specified the public notification process Councils were required to undertake (refer to section 2.3 in Document 1 below).
- In its report on Amendment C177 (Document 2 below), the RZSAC considered evidence and submissions received through the Council's public notification process and public hearings held on 14 and 15 May 2014.
- Overall, the RZSAC concluded that, subject to some modifications, the planning scheme amendment proposed by the City of Ballarat was appropriate. Amendment C177 was subsequently approved by the Minister for Planning and was exempted from public notice under section 20(4) of the *Planning and Environment Act 1987* because public consultation had already occurred as part of the RZSAC's review.
- Zoning provisions for the relevant area have not changed since Amendment C177 was approved.

## Decision

I am an officer authorised under section 26 of the FOI Act to make decisions in relation to FOI requests. I have assessed the following documents and determined that they can be released to you with irrelevant material deleted:

Doc #	Date	Description	Pages	Decision
1	20/06/2014	Residential Zones Standing Advisory Committee: Stage One Overarching Issues Report		Available online at AustLII: <a href="#">Residential Zones SAC Stage 1 (AC) [2014] PPV 86 (20 June 2014)</a>
2	20/06/2014	Residential Zones (Stage One) Standing Advisory Committee Report: Ballarat Draft Amendment C177	43	Irrelevant material deleted
3	2013	Pre-Amendment: Ballarat Planning Scheme Map No. 15	1	Released in full
4	2014	Post-Amendment: Ballarat Planning Scheme Map No. 15	1	

#### Section 25 - Irrelevant Material

Section 25 of the FOI Act allows for exempt or irrelevant material to be deleted from documents to facilitate release. The irrelevant material deleted from documents in this instance is personal information (names, signatures etc), which you agreed to exclude from the request.

#### **Access Charges**

We have waived the access charges for this request.

#### **Documents for Release**

Please find the released documents **attached**.

If you wish to discuss this matter further, please contact me by email at [foi.unit@delwp.vic.gov.au](mailto:foi.unit@delwp.vic.gov.au).

Yours sincerely,

**Bena Asafu-Adjaye**  
FOI Officer