



22 June 2015

**By Email: [gerard@fastmail.com.au](mailto:gerard@fastmail.com.au)**

Mr Gerard McPhee  
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Dear Mr McPhee,

**FOI Request  
Link Road Project**

I refer to your FOI request, sent by email on Saturday 9 May 2015 and received by me on Monday 11 May 2015, and your FOI application fee received by me on 14 May 2015.

This letter is a notice under section 25A(1)(a) of the Act. Mt Buller Mt Stirling Resort Management (the **Agency**) intends to refuse access to the documents in your request, on the basis that to comply with the request would substantially and unreasonably divert the resources of the Agency from its other operations.

However, before the Agency makes that determination to refuse access, I invite you to consult with me with a view to reformulating your request, so that compliance with it would not substantially and unreasonably divert the resources of the Agency from its other operations.

In considering how your request might be reformulated, I draw your attention to the following matters:

- 1 Your request can effectively be broken down into 8 separate elements:
  - 1.1 Documents created for the Agency in order to "assist" it to "endorse" the project to build the Link Road;
  - 1.2 Any document containing business case material, including (but not limited to) costs of the proposed project, benefits of the proposed project, source of all funds, the resources to be allocated, the return on investment;
  - 1.3 The cost/benefit analysis on which the Board based its decision to proceed with the Link Road project;
  - 1.4 Any part of the Master Plan not included in the Master Plan published as Volume 1;
  - 1.5 Volume 2 of the Master Plan;
  - 1.6 Listings of all users of the Black Forest Lodge for the past 10 years, including dates of accommodation and all associated costs;
  - 1.7 Full costs incurred by "salaried public officials" over the past 10 years in occupying the Black Forest Lodge and all "associated costs"; and
  - 1.8 Full costs incurred by "salaried public officials" over the past 10 years in occupying sites other than the Black Forest Lodge and all "associated costs".

- 2 Documents relating to the Link Road project go back at least 9 years. To the extent that I have been able to identify likely locations of relevant documents so far, I advise that documents are located in at least 2 separate archiving venues, both on site and off site, and there are also additional hard copy materials in our office and an electronic archive also. I estimate that there is the equivalent of 12 archive boxes of documents containing approximately 24,000 pages of material, and an additional approximate 1,000 electronic files of unknown quantity of pages, relating to the Link Road project.
- 3 None of the personnel of the Agency involved in the Link Road project at its inception in 2006 remain employed by the Agency. No current serving Board member was on the Board in 2006. Board appointments typically come up for reappointment every 18 months to 3 years and board members change often.
- 4 I am the FOI officer with authority under the FOI Act to respond to FOI requests. I do not have any staff who are able to assist me with this task. It will be a substantial undertaking to identify the relevant documents you seek and then to determine which of them fall within the scope of your request, and then to determine which statutory exemptions apply to those documents.
- 5 There is a substantial volume of material from the inception of the project, relating to the negotiation and engagement of consultants and their contracts, extensive internal communications within the Agency (emails, file notes, drafts). Essentially, request 1.1 seeks every single document held by the Agency relating to the Link Road project. It is a vast and wide ranging request. Further, it will be virtually impossible to determine whether any given document "assisted" the Agency to "endorse" the Link Road project. That would require consulting with each former and current Board member of the Agency and producing to them every single document related to the Link Road project, and asking them to identify which document "assisted" them. The Board meets approximately 8 to 10 times per year and it will be necessary to review all Board Papers (to the extent they are still retained) for each meeting for each year of your request, namely 2006 – 2015.
- 6 Just about every document relating to the project will contain some element of "business case material". Drafts, internal emails, external emails to and from consultants, board papers just to name a few. The term "business case" is vague and not defined by you. It is difficult to determine what is included within that definition, and what is excluded.
- 7 It is not clear whether "any part of the Master Plan" includes material considered at draft stage but excluded from the final version.
- 8 It is not clear what "all associated costs" means, but as presently expressed, this will require me to undertake a detailed, line by line analysis of 10 years of financial records (or such years as might exist) to identify every single expense of the Black Forest Lodge, and then to determine whether particular expenses incurred by the Lodge are "associated" with any particular party's occupation. The scope of "associated" is unclear; for example, a meal expense might be readily understood as "associated"; but utility expenses (gas, electricity, and water), cleaning, staff costs etc are unlikely to be separately recorded or ascertainable as "associated".
- 9 It is not clear what or who you mean by the phrase "salaried public officials". The Agency is not in a position to ascertain the remuneration arrangements of current public servants, let alone those going back 10 years.
- 10 Having regard to the above matters, it would be of assistance if you could consider:
  - 10.1 reducing the number of different categories of documents sought, and applying some time limitations to the documents sought, so that there is a significant reduction in the work involved in processing the request;

- 10.2 identifying with more precision the exact documents you seek;
- 10.3 advising whether drafts, or final versions only, are sought;
- 10.4 advising whether commercial and contractual information relating to the retainer of consultants is sought;
- 10.5 advising whether all internal correspondence is sought, or whether some limitation can be imposed;
- 10.6 removing or reformulating criteria such as "assisted" so that there is some objective standard to apply in identifying relevant documents, without the necessity to consult with current and former Board Members and Agency staff;
- 10.7 removing or reformulating the reference to "salaried public officials" so that the Agency can understand what is intended by this phrase without the need to make assumptions about the personal remuneration arrangements of public servants or other guests at the Lodges;
- 10.8 advising some objective definition of "associated costs"; and
- 10.9 applying some limitations to "associated costs" such as time limitations (for example, one financial year only), and such as a financial threshold (for example, all individual itemised costs over \$1,000.00 only).

We are a small organisation with limited resources. I am the person with responsibility for FOI requests and I need to balance that with my responsibilities as Chief Financial Officer. In addition to that constraint, it is now peak snow season and all staff are fully committed to the operational demands of the alpine resorts and my workload is consequently significant. In these circumstances I am unable to devote the time required to deal with your request in its current form without substantially and unreasonably diverting my attention from my other duties.

Please consider the above matters and contact me as required to discuss reformulating your request.

Please submit any reformulated request within 4 weeks of the date of this letter. If you do not submit a reformulated request within 4 weeks, I will assume you do not intend to do so, and the Agency will then decide on your request in its current form. If however you require an extension, please contact me prior to the expiry of the 4 weeks.

If you submit a reformulated request, it will then be reviewed in light of the matters raised in this letter. If the reformulated request overcomes the substantial diversion of resources concern, the request will then be assessed for the application of any applicable statutory exemptions under the Act, and you will be advised of the outcome of your request.

Yours faithfully,



Glenn Thornton  
Chief Financial Officer &  
FOI Officer