

9 October 2020

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Request for Official Information responded to under the Local Government and Official Information and Meetings Act 1987 (LGOIMA) – reference: 7532962 (2021-079)

I refer to your information request addressed to Chief Executive Wayne Maxwell that we received on 15 September 2020; please find Council's response below.

1. *Please explain why these negotiations are commercial sensitive?*

The negotiations between Council and the Paraparaumu Beach Golf Club (PBGC) are commercially sensitive as the arrangements set out the commercial details of the arrangement between the Council and PBGC over the car parking. Council declines to provide any further information about arrangements between both parties therefore this is withheld under section 7(2)(h) of LGOIMA in which the withholding of the information is necessary to enable Council to carry out, without prejudice or disadvantage, commercial activities. I am satisfied that the withholding of this information is not outweighed by other considerations which render it desirable in the public interest that this information be made available.

2. *Please provide the costs associated for Cuttriss Consulting to provide parking support to KCDC in regard to privately owned Golf course land.*

Council declines to provide the costs paid to Cuttriss for planning support specifically related to the proposed parking at Paraparaumu Beach Golf Club (PBGC) as this is commercially sensitive information. We therefore withhold this under section 7(2)(h) of LGOIMA in which the withholding of the information is necessary to enable Council to carry out, without prejudice or disadvantage, commercial activities. I am satisfied that the withholding of this information is not outweighed by other considerations which render it desirable in the public interest that this information be made available.

3. *Does KCDC have to follow the requirements of the operative district plan?*

Yes, Council is required to follow the Operative District Plan.

4. *Please stipulate where in the District Plan it states that KCDC (or any developer) can rely on parking provided by a third party (ie the Golf Club) 300 metres from the development site as an acceptable solution for lack of onsite parking.*

At the time of writing, the Gateway Resource Consent application is still being considered by an independent planner and a decision has not yet been made. We recommend you seek your own legal advice if you require advice regarding the application of the District Plan to car parking requirements.

5. ***Please provide all baseline minimum documentation that I require to get my current clients (developer) Resource Consent approved using the same process KCDC staff are using for the Gateway for offsite parking on private land.***

Please refer to the response for question 4.

6. ***Is a letter of understanding enough to achieve Resource Consent approval? (when considering the need for adequate onsite parking cannot be met and the reliance of a third party***

Please refer to the response for question 4.

7. ***Is it acceptable to the KCDC resource consent team to bolster the shortfall in carparking by using a third-party property?***

Please refer to the response for question 4.

8. ***Would a letter of understanding be acceptable to receive resource consent approval? (on the issue of satisfying the parking requirements)***

Please refer to the response for question 4.

9. ***Would a formal contract be acceptable to receive resource consent approval? (on the issue of satisfying the parking requirements)***

Please refer to the response for question 4.

10. ***Would the private Golf course land be designated as user pays public parking in perpetuity?***

Please refer to the response for question 1.

11. ***If not in perpetuity What is an acceptable timeframe that would need to be approved/entered into to allow the parking provision to satisfy the conditions of a resource consent.?***

Please refer to the response for question 4.

12. ***Would the golf course be disadvantaged by this arrangement, if they wished to develop their land in the future.?***

It is not our intention to disadvantage any party by this proposal. We recommend that this question be directed to the PBGC.

13. ***Is a precedence being set by such an arrangement being acceptable to council, to allow future private developments in Kapiti to benefit from the same flexible parking provisions.?***

Please refer to the response for question 4.

14. ***Please provide the fee proposal accepted by KCDC for all work undertaken by Cuttriss Consulting to do survey work on private golf course land. If you cannot provide this due to contractual obligations. please provide the terms of the confidentiality agreement undertaken and agreed by both parties.***

Please refer to the response for question 2.

15. ***Is KCDC paying for any further work on the golf course land? I will be asking the Ombudsman for clarity on whether you can reasonably withhold this information from the rate payers. I believe there is NO commercial sensitivity this arrangement. You have moved into a realm around a user pays replacement carpark, having removed existing, free to use, community owned carparks.***

Council has not yet made a decision regarding the project.

As detailed in our response to question 1 above, Council declines to provide cost information as we regard this as commercially sensitive and it is subject to a confidentiality obligation.

16. ***Please provide All emails between Janice Hill and Wayne Maxwell regarding the Gateway between 1st April 2020 and 10th August 2020, if you feel this is too much work please provide a quote/fee proposal that I can forward onto the Ombudsman with my other questions and queries. You have used the excuse that there is a vast amount of work to do to provide all emails however I believe you can provide this information if only for transparency. and***
17. ***Please provide All emails between Janice Hill and James Jefferson regarding the Gateway between 1st April 2020 and 10th August 2020, again if you feel this is too much work please provide a quote/ fee proposal that I can forward onto the Ombudsman with my other questions and queries. and***
18. ***Please provide All emails between Janice Hill and Darryn Grant regarding the Gateway between 1st April 2020 and 10th August 2020, again if you feel this is too much work please provide a quote/fee proposal.***

Staff have already spent a considerable amount of time in assessing, collating and responding to this and other requests from you relating to the Gateway. Staff have considered the work that will be involved in collating the information to answer your questions 16 to 18 and have estimated that it will take approximately 18 hours to complete the work required.

As Council staff would have to spend a substantial amount of time collating and assessing records I refuse your request under section 17(f) of the Act as the information requested cannot be made available without substantial collation or research.

We have considered whether we would be able to respond to your request given extra time, or the ability to charge for the information requested. We have concluded that, in either case, the Council's ability to undertake its day to day work would be significantly impacted.

19. ***I requested all costings in my previous OIA for the Gateway Resource Consent and supporting consultants, lawyers, Geotech engineers etc ie ALL consultants and ALL charges. Your answer was to direct me to your KCDC website. This is Woefully out of date as the figure of \$250,000 was quoted by Alison Law at the 28th May council meeting. Due to the poor quality of the Resource Consent, a massive amount of work has been undertaken since 28th May, and this needs to be included in your response. As a Rate Payer I wish to know exactly how much money (ALL EXPENDITURE) has been spent on this Gateway resource consent application including up to today. I am sure the elected councillors would be interested how much KCDC management have spent even before they vote weather to move forward or not. Perhaps management will argue that a vast amount has already been spent so it must be pursued at any cost. I find it Interesting that you query the time and expenditure to delivery my OIA requests but are happy to pour tens of thousands dollars into this gateway consent without consulting the community that has to foot the bill.***

The total amount coded to the Gateway resource consent application (including specialists, internal charges (time), fees and consent development) up to 30 Sept 2020 is \$206,357.

20. ***Staff had mentioned at a council meeting they were keeping a record of non-billable staff hours spent on the gateway project. Please provide the number of staff hours that has been spent on the Gateway project to date.***

From February to September 2020, 840 hours have been coded to the project.

21. ***Please provide all cost estimates for the upgrading of footpaths, road crossings and signage between the proposed gateway and the user pay golf club parking area.***

There is already a safe route with road crossings, and a recently installed shared path with pedestrian shelters. It has not yet been determined if any changes are required to the current pedestrian route therefore there are no cost estimates available. Therefore we must decline your request for cost estimates under section 17(e) of LGOIMA as the information does not exist.

22. ***Is this footpath and road crossing work going to be funded by KCDC? ie ratepayers***

Please refer to the response for question 21.

23. ***In my previous OIA I had one word misspelt and you chose to respond with "Council does not understand what back check means" I find this disingenuous and typical of KCDC disregard for transparency. A simple phone call or email could have addressed this. So to repeat my question - Have you been advised by DOC that the bio-security portion of the building relating to bio-security checks / BAG checks can only be used for the purpose of BIO Security?***

Yes.

24. ***Will the toilet allocation within the Bio security portion of the building be solely for the duration of the Bio- security checks?***

The interior layout of the buildings has not yet been finalised.

25. Will the toilets be available all day for all visitors to the centre?

Please refer to the response for question 24.

26. As there is more than one toilet please explain the intended users of the toilets and the corresponding m2 of each toilet.

Please refer to the response for question 24.

27. Will the storage areas (as indicated on the architectural plans) be available to all visitors (to the Kapiti Coast) and ratepayers?

Please refer to the response for question 24.

28. Will the storage facilities be for the sole purpose of Tour Operators and DOC staff?

Please refer to the response for question 24.

29. Does the storage facility (and contents) have the same stringent Bio-security checks placed on it as visitors to the island?

Please refer to the response for question 24.

30. On what date did DOC inform KCDC that the Bio-security portion of the building could NOT be used for anything other than Bio-security?

On 10th March 2020, DOC advised Council that a core principle is “that the quarantine area is a single use space.”

31. Has KCDC formally asked DOC if the biosecurity portion of the building can be used for other community activities.

Please refer to the response for question 29.

32. Is the larger building of 160sqm, which contains the Bio-security area, available for community functions and activities?

Please refer to the response for question 24.

33. If yes, please calculate the square meterage that will benefit the community activities and wider functions outside of DOC and biosecurity functions.

Please refer to the response for question 24.

34. Your feedback that you obtained from the six neighbouring properties is incorrect and misleading. What council representative submitted this information?

The information was drawn directly from file notes, it has been verified and is correct.

35. Is James Jefferson & Darryn Grant aware that Janice Hill used old April 2020 drawing to present to the advisory group on May 19? and

36. Does James Jefferson or Darryn Grant see this as project manipulation and misleading given outdated documents were used for the only advisory group presentation? and

- 37. Is James Jefferson and Darryn Grant aware a more up to date set of plans were still being develop by Athfield architects and were available on or around May 15 but were never shown to the advisory group on May 19**

Questions 35, 36 and 37 are very similar to questions we have already answered in our letters to you on 21 August and 1 September 2020. On that basis I must decline this part of your request under section 17(h) of LGOIMA as the request is frivolous or vexatious and the information requested is trivial.

- 38. Is James Jefferson and Darryn Grant aware that the resource consent application for the Kapiti island lodge expansion and jetty has been legally put on hold by the Maori land court due to landowner disputes?**
- 39. Is KCDC aware that north end of Kapiti Island land owner disputes could jeopardise future tourist projection numbers?**

Questions 38 and 39 ask for the expression of opinion and do not fit the criteria of official information held by this Council and on that basis cannot be answered.

- 40. In your presentation to the PGF/PDU KCDC mentioned KCDC economic Development staff will operate from the new Gateway building. Is this in addition to trained tourism staff?**

Yes.

- 41. Now much space in metre squared will the KCDC staff occupy in the gateway?**

Please refer to the response for question 24.

- 42. How much space(m2) is useable by the ratepaying community on a day to day basis? outside of space committed to bio security, storage, office and admin in metre squared?**

Please refer to the response for question 24.

- 43. If you answer to question 42 is that you do not know. My next question is Why not? You want to spend \$3 million of ratepayer money and you do not know what the community space in m2 that is available.**

Please refer to the response for question 24.

- 44. Russell Spratt is a landowner on Kapiti Island and as chair of the trust has a financial benefit in Kapiti island tourism. Why was John Barrett removed for the governance group due to conflict of interest and Russell Spratt was allowed to remain as a member of the governance group.?**

Council was concerned about a potential conflict of interest regarding the proposed appointment of John Barrett as the Te Ati Awa representative and started the process of considering whether Mr Barrett was a suitable representative of Te Ati Awa.

The process of Te Ati Awa withdrawing Mr Barrett's nomination and nominating Russell Spratt instead was overseen by George Hickton as the intended Chair of the Governance Group.

This was resolved before Mr Barrett was required to attend any meeting of the Gateway Governance Group.

This was managed consistently with good board practice and the principles of Council's policy for managing conflicts of interest for elected members, a copy of which is available at this link: <https://www.kapiticoast.govt.nz/media/22633/policy-on-declaration-of-elected-member-interests.pdf>

Council is not aware of any other conflicts of interest in the Governance Group. Allegations of conflict of interest are always put to the persons concerned.

Mr Spratt did not raise or declare any conflict of interest.

Mr Spratt has confirmed that he does not have any additional interests that conflict with his role on the Governance Group and, in particular, that he does not have any conflicting pecuniary interests.

The Governance Group performs an advisory role for Council, not a decision making one. Its members are all required to be able to advise on and advocate for stakeholder interests of one kind or another. This does not necessarily create any relevant conflict of interest.

45. *Why was this Conflict of interest with Russell Spratt not declared on the PGF application?*

Please refer to the response for question 43.

46. *On a previous OIA, KCDC stated that the Governance group were purely in an advisory role. Therefore who, within KCDC made the final decision to proceed with the Athfield design?*

Council were advised of the preferred design via a briefing on 28th April 2020 by our Senior Leadership Team (SLT).

47. *As chair of the Governance group George Hickton has worked as an advisor to John Barrett and Kapiti Is Nature tours for a number of years. Given the lodgement of a Resource Consent application by Kapiti Island nature Tours (before the Gateway application) for expansion of the tourist lodge, a new Jetty and a New Bio security Building on the Island. Why was this conflict of interest not declared on the PGF application form?*

George Hickton declared (as the first item of the first meeting of the Gateway Governance Group) his involvement as a member of a voluntary unpaid group advising Kāpiti Island Nature Tours. The Governance Group considered this and determined that it did not create a conflict preventing Mr Hickton from undertaking the role as its Chair. Mr Hickton confirmed that he does not have any additional interests that conflict with his role on the Governance Group and, in particular, that he does not have any conflicting pecuniary interests.

The Governance Group performs an advisory role for Council, not a decision making one. Its members are all required to be able to advise on and advocate for stakeholder interests of one kind or another. This does not necessarily create any relevant conflict of interest.

- 48. The advisory groups had one presentation, via zoom on the 18,19 May by Janice Hill, no feedback was pursued at that time. Following that one and only presentation no consultation has been forthcoming. When is meaningful consultation scheduled for?**

Please refer to our website <https://www.kapiticoast.govt.nz/your-council/projects/kapiti-gateway-centre/#collapseTwentyNineA>

- 49. Please provide the terms of reference agreed for the Governance Group**

Please find attached a copy of Appendix 11 – Gateway Project DRAFT Terms of Reference.

- 50. Please provide evidence of any amendment to the Terms of Reference for the Governance Group.**

There has been no amendment.

Council is aware that there is considerable public interest in the Gateway project. For this reason a considerable amount of information has been proactively released by Council, as it becomes available. Council intends to continue to release information into the public domain.

Council notes that you, and related parties, have made a considerable number of requests for information. Many of these requests are repetitive and/or are seeking to question or debate matters that are either contained in the business case or in material that has been released by Council.

Clearly you are free to oppose the Gateway project. However, your continued requests for information are impacting on the ability of Council staff to carry out their substantive roles. In our view some of your requests could be regarded as frivolous or vexatious. In addition, Council will need to consider charging for responding to requests (in accordance with the Ministry of Justice guidelines) or extending time frames for responding to requests

You have the right to seek an investigation and review by the Ombudsman of the decisions made in this response. Information about how to make a complaint is available at www.ombudsman.parliament.nz or freephone 0800 802 602.

Ngā mihi



James Jefferson
Group Manager Place and Space
Te Kaihautū Takiwā, Waahi hoki