
From: Malcolm Gardam [REDACTED]
Sent: Thursday, 1 August 2019 11:20 AM
To: Bourke, Ilise (DPaC) [REDACTED]
Subject: Further to the Ulverston Consultation Session 31/7/19

Hi Ilise,

Thank you for the generous hearing we received last night – hope the final outcome makes it all worthwhile.

One very important issue that we didn't touch on but had included as Item 2 in the information previously provided in that:

2. Council continuing to sign third party contracts knowingly containing confidentiality clauses that they then offered up as contractually preventing disclosures including use of public monies to subsidise private enterprise (that council maintains no control over thereafter) and only provides opportunity for that enterprise to make money. Totally different to monies spent on community assets for the greater good of the community.

If we are going to get meaningful disclosures and accountability from councils then this practice (prominently used and offered up by DCC as reason for non-disclosure) has to stop.

Three examples in relation to DCC are:

- a) DCC engaged a "Food Ambassador" that was also being touted as a "secured tenant" in the food pavilion (now known as Providore Place) at the time. Has since become a tenant in partnership with his wife (now a councillor) When questioned as to how much the Food Ambassador was being paid and what did his role precisely entail the response from a councillor was to the effect that "We can't tell you as there is a confidentiality clause in the contract and he will sue us if we do. I guess he does what a food ambassador does."
- b) \$850,000 of public money was allocated as a provisional sum for Providore Place tenancy "fitouts" of which DCC has disclosed that over \$650,000 has been spent on 3 tenancies. This excludes costs for significant tenant-specific "base build" requirements. When questioned as to precisely how much had been spent on each tenancy DCC responded in writing with words to the effect that "It had asked the Head Lessee (the sole Director being the Lead Consultant for the council appointed Development Manager and whose spouse holds a 50% shareholdings in the head lessee company and one of the 3 tenancies plus 33% in a second tenancy let to date) and he had not agreed. We assume as a result of a confidentiality clause existing.
- c) DCC spruiked that there were 6 hotel developers interested in building a waterfront hotel at the time of proceeding with construction of Stage 1. The former mayor stated at the 2017 AGM that there had been 6 EOI's from hotel developers received. DCC refused to later confirm this was correct. It also refused to disclose exactly how many EOI's were received from hotel developers – we strongly suggest there was only one which places what council did in a different light not to mention the commercial advantages presented to a single developer. Tenderers often become aware of this as a matter of course during a tender or EOI process.

Experience from dealing with State Growth on contracts for some time now has been that while confidentiality clauses exist there has mostly been no confidential information identified. In essence State Growth maintains the right to

disclosure. That's not to say they hand it out willingly and we doubt that councils would be any different, but what must be removed is a council allowing itself to be prevented from disclosing the expenditure of public monies (suspect willingly as it provides a barrier to disclosure and accountability) It is untenable that there be no disclosure of the actual expenditure of public money and to do so requires approval of the beneficiary.

One DCC councillor stated in a meeting that if we have to disclose everything we do with private enterprise none of them will deal with us. WRONG... if private companies want to benefit from dealing with council and receive public money they need to accept the rules of disclosure and as we know businesses deal with State Growth and we suspect other government agencies all the time.

Councils need to be brought, kicking and screaming if necessary, into the real world. The reporting of "benefits" is covered by Section 77 of the Act – Grants and benefits – Ref. item 8 of our list provided last night. Although required to do it under S77 our Council doesn't do it as intended but rather does it in a way that is impossible to decipher. The reason we state reporting should be close to real time is because as an example if a "benefit" were bestowed in say July 2019 it may not be disclosed in any form until the Annual Report is released around October 2020; and even then more than likely it will be insufficiently detailed to provide meaningful disclosure.

Cheers,

Malcolm Gardam

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