

Contact: Ela Alexander
Telephone No: (03) 5153 9500
Email: foi@egipps.vic.gov.au
Reference: FOI477

Corporate Centre
273 Main Street (PO Box 1618)
Bairnsdale Victoria 3875
Telephone: (03) 5153 9500
National Relay Service: 133 677
Residents' Info Line: 1300 555 886
Facsimile: (03) 5153 9576
Email: feedback@egipps.vic.gov.au
ABN 81 957 967 765

13 May 2024

Ms Patsy Lisle

Via email only: foi+request-11357-1f70896f@righttoknow.org.au

Dear Ms Lisle

Your Freedom of Information Request

We refer to your email correspondence dated 25 April 2024 to East Gippsland Shire Council ("**Council**") in which you requested access to documents under the *Freedom of Information Act* 1982 (Vic) ("**FOI Act**") in the following terms:

"Could I please have a copy of the dilapidation report on the Bastion Point groyne wall prepared by Magryn and Associates, as well as a copy of the report on the wall commissioned from other consultants but not preferred by you? If there were more than the two reports received, I'd appreciate a copy of all of them." ("**Request**")

Validity

The FOI Act creates a right of access to documents of an agency, such as the Council. Section 13 of the FOI Act states that the right of access is to be exercised "in accordance with this Act". Section 17 of the FOI Act sets out the statutory prerequisites needing to be satisfied before a valid request for access to documents exists.

Application fee

One such requirement set out in section 17(2A) of the FOI Act is that a request must be accompanied by an application fee of \$31.80 or by an application for waiver of that fee on hardship grounds. Payment should be made by:

- In person at one of Council's Service or Outreach Centres by credit card, cheque, money order or cash; or
- Over the phone, by contacting Customer Service on (03) 5153 9500 and use reference **FOI477**; or
- Cheque or money order (made payable to East Gippsland Shire Council) posted to PO Box 1618 BAIRNSDALE VIC 3875

If you are unable to pay the application fee on the ground that payment would cause hardship, please state any reasons in writing and provide the Council with evidence which you believe would support that claim, such as a copy of your current pension or health care card.

Clarification

A further requirement of section 17(2) of the FOI Act is that a request must provide such information concerning the documents sought as is reasonably necessary to enable the agency to identify those documents. That is, an applicant must strive to define with as much precision as possible the documents sought in terms that will enable an appropriate officer of the agency to constructively search for those documents. If a request is ambiguous, unclear or otherwise ill defined, it does not comply with the FOI Act and need not be processed.

The Request is presently ambiguous and unclear, and does not provide sufficient information to enable the Council to identify the documents you seek within a reasonable time and with reasonable effort. As a result, I seek your clarification of some aspects of your Request and I provide the following information to assist you in doing so.

Your Request variously seeks: a copy of a dilapidation report on the Bastion Point Groyne Wall prepared by Magryn and Associates; a dilapidation report on the wall that was commissioned by other consultants but not preferred by the Council; and all other reports received by the Council in relation to the Bastion Point Groyne Wall.

From the information provided, we have assumed that you intend to seek to access to:-

“All dilapidation reports on the Bastion Point Groyne Wall held by the Council during 2022-2023”.

Could you please confirm in writing that my assumption is correct?

If our understanding is incorrect, then the Council invites you to consult with it with a view to amending or clarifying the Request, or removing any parts of the Request so that the Request complies with section 17 of the FOI Act and provides the information necessary to enable the Council to identify the documents sought. If you wish to consult, please email me at Fol@egipps.vic.gov.au.

Alternatively, you may wish to submit an amended request to clarify the issue raised above and/or removing parts of the Request.

Please note that until the Request is made in a manner required by section 17 of the FOI Act, it cannot be processed and the 30-day time period within which a decision must be made on the Request has not commenced to run.

If the no amended request is received or consultation about the Request has not commenced within 21 days of today, the Council may refuse to comply with the Request by treating the Request as having lapsed.

If you have any queries, please contact this office by telephone on (03) 5153 9500, or by writing to the mailing address shown at the top of this letter or by email to Fol@egipps.vic.gov.au and quote **FOI477**.

I look forward to hearing from you and receiving payment of the application fee.

Yours sincerely

Ela Alexander

ELA ALEXANDER
Freedom of Information Officer