

15 April 2016

Mr Chris Follett

By email to [foi+request-1735-aab9a090@righttoknow.org.au](mailto:foi+request-1735-aab9a090@righttoknow.org.au)

Dear Mr Follett

### Freedom of information request

I refer to your request to the Buloke Shire Council ("**Council**") in which you have sought access to an electronic copy of various documents under the *Freedom of Information Act 1982* ("**Act**").

The Act creates a right of access to documents of an agency. Section 13 of the Act states that the right of access is to be exercised "in accordance with this Act". Section 17 of the Act sets out the procedural requirements to be satisfied for a valid request for access to documents to exist.

One of those requirements is that the 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 Act and need not be processed. It should not be for the officers of the agency to be left guessing what documents you are actually seeking.

In my view, your request does not provide sufficient information for me to identify the documents you seek. At present your request is ambiguous and unclear for a number of reasons.

- (a) I assume that part 1 of your request seeks access to *all documents* and that the specific types of documents listed in the bullet points under paragraphs 1 (a) and (b) are referred to by way of illustration only. As you may be aware, the definition of a "document" in the Act is very broad and effectively includes anything on which information is stored. As such, any *particular types* of documents held by the Council to which you have referred would be captured in any event. Can you please confirm that my assumption is correct or else specify the particular types of documents you seek?

ALL CORRESPONDENCE TO:

WYCHEPROOF  
367 Broadway, PO Box 1  
Wycheproof VIC 3527

ALL ENQUIRIES:

Ph: (03) 5478 0100  
Fax: (03) 5493 7395

Email: [buloke@buloke.vic.gov.au](mailto:buloke@buloke.vic.gov.au)

DISTRICT OFFICES

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- (b) It is unclear what you mean by “all documents/communication” in part 2 of your request. Similarly to part 1, I assume this part of your request seeks access to *all documents* and not specific *types* of documents. Can you please confirm that my assumption is correct or else specify the particular documents you seek?
- (c) It is not precisely clear what you mean by “use of 62.03 of the Buloke Planning Scheme” in part 2 of your request. Subject to your clarification in (b), does this part of your request seek access to documents relating to where the exemption in clause 62.03 of the Buloke Planning Scheme was:
- i. sought and applied; or
  - ii. sought and not applied; or
  - iii. both i. and ii.
- (d) Subject to your clarification in (c), we have assumed in part 2 of your request that you seek documents relating to use of 62.03 of the Buloke Planning Scheme from 1 April 2015 for:
- i. any festival or event; or
  - ii. any of the land located at the Wooroonook Lakes.
- (e) It is unclear what you mean by “use or requirement of a Cultural Heritage Management Plan (CHMP)” in part 3 of the request. Does this part of your request seek access to documents where a Cultural Heritage Management Plan was required for an event but was not completed or approved, or where the Cultural Heritage Management Plan was required and subsequently approved by the Council, or both? Can you please clarify this aspect of your request?
- (f) I note that part 4 of your request seeks access to a “summary” of legal costs incurred. This part your request currently seeks access to information and not documents. The right of access under s 13 of the Act is to documents and not information. As such, this part of your request is not made in accordance with the Act. I assume that you are seeking access to a *document containing* a summary of legal costs incurred. Can you please confirm that my assumption is correct or else specify the particular document or documents you seek?

For the reasons stated above, a search for documents cannot reasonably be commenced until it is clear what documents you seek.

Accordingly, I invite you to consult with the Council with a view to amending or clarifying your request so that it is in a form which complies with s 17 of the Act and provides the information necessary to enable the Council to identify the documents sought.

Alternatively, you may wish to submit an amended request to clarify the issues raised above.

Please note that until your request is made in a manner required by s 17 of the Act it cannot be processed and the 45 day time period within which a decision must be made on your request has not commenced to run.

In anticipation of receiving an amended or clarified request, can you please let me know as soon as possible whether you are willing to receive edited copies of documents (with exempt or irrelevant material removed) or whether you insist on receiving whole, unedited copies of documents.

The Council looks forward to hearing from you or receiving an amended request so that it may expedite addressing your information needs.

If you have any queries, please contact me on (03) 5478 0119.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Bill Hutcheson', with a long, sweeping horizontal line extending to the right.

Bill Hutcheson  
**Director Corporate Services**

