

18 May 2016

Mr Chris Follett

By email to foi+request-1735-aab9a090@righttoknow.org.au

Dear Mr Follett

Freedom of Information Request

I refer to previous correspondence in relation to your request to the Buloke Shire Council ("**Council**") for access to an electronic copy of various documents under the *Freedom of Information Act 1982* ("**Act**").

The Council is satisfied the request became valid for the purposes of s 17 of the Act on 13 May 2016 upon receiving confirmation that you seek access to:

- (a) *all documents relating to the Maitreya Festival from 1 April 2015 to 13 May 2016.*
- (b) *all documents from 1 April 2015 to 13 May 2016 relating to where the exemption contained in clause 62.03 of the Buloke Planning Scheme was:*
 - i. *sought and/or applied for any festival or event within the Buloke Shire; and/or*
 - ii. *discussed internally by the Council.*
- (c) *all documents from 1 April 2015 to 13 May 2016 relating to where the exemption contained in clause 62.03 of the Buloke Planning Scheme was:*
 - i. *sought and/or applied for any purpose involving any land located at the Wooroonook Lakes; and/or*
 - ii. *discussed internally by the Council.*
- (d) *all documents from 1 April 2015 to 13 May 2016 relating to a Cultural Heritage Management Plan ("**CHMP**") for any land located at the Wooroonook Lakes where the CHMP was:*

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

DISTRICT OFFICES

WYCHEPROOF
BIRCHIP
CHARLTON
DONALD
SEA LAKE

- i. required and/or completed; and/or*
- ii. discussed internally by the Council.*

(e) any document containing a summary or total of legal costs incurred relating to the Maitreya Festival or any documents that collectively show the total legal costs incurred where a single document containing that information does not exist.

In relation to part (e), I confirm that you are happy for the Council to treat itemised amounts as irrelevant to the request where total amounts are available.

Notice

Under s 25A(6) of the Act it is the present intention of the Council to refuse access to the documents sought. This is **not a decision** to refuse to process the request at this stage.

The Council is presently satisfied that the work involved in processing the request would divert its resources substantially and unreasonably from its other operations. The resources referred to are those resources of the Council reasonably required to process the request consistent with attendance to other priorities.

In deciding to give you this notice, the Council has had regard to the resources which would be used:

- (a) in identifying, locating or collating the documents within our filing system;
- (b) in deciding whether to grant, refuse or defer access to the documents or to grant access to edited copies of such documents, including resources which would have to be used:
 - i. in examining the documents; and
 - ii. in consulting with any person or body in relation to the request;
- (c) in making a copy, or an edited copy, of the documents;
- (d) in notifying you of any interim or final decision on the request.

Consultation

Accordingly, I invite you to consult with the Council with a view to amending your request to be in a form that would remove this ground for refusal. Please telephone me on 5478 0119 to discuss the best way to conduct such consultation. Alternatively, you may wish to submit an amended request which narrows the scope of what is sought in a way that would be more manageable for the Council to process.

In order to assist you in making the request in a form which removes the ground for refusal, I make the following comments:

- Part (a) of the request is very broad and seeks access to all documents that relate in any way to the Maitreya Festival. As you can imagine, the number and types of documents likely to fall within this part of the request would be very numerous.
- The documents falling within scope of the request are conservatively estimated to consist of more than 1000 documents. Particularly given the broad scope of documents sought in part (a), the existence of many more documents could potentially come to light once a search is commenced and relevant documents identified.
- The documents exist in both electronic and hard copy form. The effort involved in seeking out, copying and collating those documents would be both difficult and time-consuming.
- The time period covered by part (a) of the request is very broad and covers more than 1 year. As you can imagine, many documents have been generated or received by the Council in connection with the Maitreya Festival over that period.
- The resources of the Council are usually ample to deal with the minimal numbers of FOI requests Council receives each year (2014/15 1 request). Generally these requests are straight forward in nature comprising a maximum of 20 documents to be sourced.
- In order to locate documents and assess their relevance, searches would need to be conducted by staff across at least 4 main areas of the Council. Specifically, the Council's Planning unit, Technical Services and Infrastructure unit, Media unit and the CEO's office. Given the broad scope of documents sought in part (a), it is likely that searches would need to be conducted across other areas of the Council. Each of the documents located would have to be individually reviewed to identify whether they fall within scope of the request. It is estimated that to search for and identify the relevant documents within those areas would take staff many hours. This does not include the time that would also be required of them to remove any duplication of documents and then to copy the relevant ones.
- It is apparent from the subject matter of the request that many of the documents would require the Council to consult with various individuals and businesses to determine their views about disclosure. Again this would be a very time-consuming task. It is estimated that this process alone would take in the tens of hours.

- The Council's Records unit is responsible for dealing with FOI requests and comprises a very small team of officers. The Council's Records unit consists of one full time staff member and two part time staff members. The full time staff member also works in Customer Services. Those staff members have extremely limited available time to respond to the request consistent with attendance to their core responsibilities and to provide input in relation to the documents to facilitate an informed decision. Responding to FOI requests forms only a very small part of their day to day duties and processing the request in its present form would divert them substantially and unreasonably from fulfilling their core roles.
- The full time staff member would have primary responsibility for responding to the request. At most, the full time staff member could reasonably allocate no more than 2 hours per day to processing the request. It is estimated that to examine the documents and make a decision on whether the relevant documents are exempt from disclosure taking into account all relevant facts and circumstances (including the outcome of any consultation) would take that staff member approximately 100 hours. Based on their availability I estimate it would take the staff member 50 working days or 10 weeks to examine the documents and make a final decision on the request alone. This does not include the many hours that would be required to identify the relevant documents beforehand or in consulting with various individuals and businesses to determine their views about disclosure
- To ensure the request was processed within the 45 day period it would therefore be necessary for the Council to employ additional staff, which is not practicable and which the Act does not anticipate or require.

Accordingly, when all relevant steps required are considered and in light of the relevant factors I have set out above, the period required in order to make a decision in relation to the request in its current form would clearly exceed the statutory 45 day response period, and would divert the Council's resources substantially and unreasonably from its other operations.

Invitation to narrow the request

In order to possibly remove the ground for refusal I suggest that you consider the following matters (and any other ways in which you believe the request could be narrowed in scope):

1. Perhaps you could significantly narrow the time period covered by part (a) of the request.
2. Perhaps you could limit the request to hardcopy documents or electronically stored documents, but not both.

3. Perhaps you could specify any kinds of information you do not seek or which you are willing not to receive if the documents are disclosed to you.
4. Perhaps you could limit part (a) of the request to particular documents or classes of documents. For example, you could limit any correspondence likely to be captured by this part of the request to correspondence specifically between MAMF Functions Pty Ltd and the Council.
5. Perhaps you could limit part (a) of the request so that it only seeks access to correspondence comprising emails or letters but not both.
6. Perhaps you could limit part (a) of the request so that it only seeks access to documents relating to the Maitreya Festival in connection with the exemption contained in clause 62.03 of the Buloke Planning Scheme and/or a Cultural Heritage Management Plan.
7. Perhaps you could limit part (a) of the request to internally generated documents or to documents sent or received from third parties but not both.
8. Perhaps you could limit the request to correspondence without attachments.

I will inform you your review rights in the event that an amended request is not forthcoming within a reasonable time or does not remove this ground for refusal, in which case access will be refused under s 25A(1) of the Act.

Yours sincerely



Bill Hutcheson
Director Corporate Services