

20 February 2019

File Number: 900.01  
Our Ref: F19.003

Sarah Prime

**via email only to:** [foi+request-5259-5a45b7b4@righttoknow.org.au](mailto:foi+request-5259-5a45b7b4@righttoknow.org.au)

Dear Ms Prime

**Re: Freedom of Information request**

I refer to your email dated 15 February 2019, where you sought access to documents under the *Freedom of Information Act 1982 [Vic]* (the FOI Act).

Specifically you advised you were seeking access to *"documentation in relation to proposed and actual works undertaken on Toms Road, Tawonga, Alpine Shire, specifically in relation to infrastructure within the road reserve. Specific documentation requested includes:*

- *Documentation and communication outlining the issues, complaints and proposed solutions to non-council infrastructure within the road reserve for the period 2000-2019.*
- *Safety reports and site reviews concerning Toms Road, Tawonga for the period 2000-2019.*
- *The chain of Council approval for works undertaken on Toms Road, Tawonga on 14 February 2019, including permits, licences and condition reports.*
- *Formal communication to impacted land owners regarding works undertaken on Toms Road, Tawonga on 14 February 2019.*
- *Safety reports and engineering reports pertaining to proposed future works along Toms Road, Tawonga."*

**Valid request**

Section 17 of the FOI Act requires all of the following requirements to be met before a request can be considered valid:

- (1) A person who wishes to obtain access to a document of an agency or an official document of a Minister shall make a request in writing to the agency or Minister as the case requires for access to the document.*
- (2) A request shall provide such information concerning the document as is reasonably necessary to enable a responsible officer of the agency, or the Minister, as the case may be, to identify the document.*
- (2A) A request must be accompanied by a fee of 2 fee units.*
- (2B) An application fee may be waived or reduced, whether or not the fee has been paid, if the payment of the fee would cause hardship to the applicant.*

## Application fee

As identified on the previous page, section 17(2A) of the FOI Act requires that an application fee of 2 fee units (**\$28.90**) accompanies a request for access to documents. As this fee has not been paid, your application cannot be processed until payment, or proof of hardship (such as a Centrelink concession card), is received.

Payment may be made either by submitting a cheque in the mail, or by phoning Council's customer service team during office hours on 03 5755 0555 to pay by credit card over the phone.

The statutory decision period will commence on the date your FOI application becomes valid in accordance with section 17.

## Clarification of request

Section 13 of the Act sets out the right of access, which is a right to obtain access to a document of an agency other than an exempt document. That is, a request must be for documents and not just information as such.

As it presently stands, aspects of your request are unclear and need to be clarified.

I draw your attention to section 17(2) of the Act, which states that a request shall provide such information concerning the document as is reasonably necessary to identify the document. In accordance with s17(4) of the Act, I invite you to consult with me to discuss how your request could be amended so that it is in a form that can be processed.

In order to assist you, I make the following specific comments in response to your request:

1. *"The chain of Council approval for works undertaken on Toms Road, Tawonga on 14 February 2019, including permits, licences and condition reports."*
  - a. A "chain of Council approval" is not a document that Council is able to search for. Please clarify whether you wish to search for permits, licences and condition reports regarding works undertaken on Toms Road, Tawonga on 14 February 2019? Alternatively, please clarify the documents you seek for this item.
2. *"Safety reports and site reviews concerning Toms Road, Tawonga for the period 2000-2019" and "Safety reports and engineering reports pertaining to proposed future works along Toms Road, Tawonga".*
  - a. These items are very similar – please confirm that you are seeking any safety reports, site reviews or engineering reports dated from 2000 onwards? Alternatively if you wish Council to treat these items separately, please advise.
3. *You have requested documents dated between 2000-2019 – a twenty year period.*
  - a. Please note that the considerable date range you have requested may require a large amount of search time and potential access charges for documents. You may wish to consider reducing the length of time you require documents, if this is of concern to you.

Please contact me at [foi@alpineshire.vic.gov.au](mailto:foi@alpineshire.vic.gov.au) or by phone on 03 5755 0555 to discuss this matter. Alternatively, you may wish to submit an amended request to clarify the issues raised above.

Until your request is made in the manner required by section 17 of the Act, it cannot be processed and the time period within which a decision must be made has not commenced.

### Form of access

Sections 28-38A of the FOI Act detail exemptions that apply to documents sought under the Act, including exemptions for documents affecting personal privacy, documents relating to material obtained in confidence, internal working documents, and council documents.

Please advise if you consent to personal information and other exempt material being removed from the documents (where applicable). If you do not agree to have personal and other exempt or irrelevant material removed from a document, an entire document may be exempt from release.

### Access charges

In addition to the application fee, once a formal decision regarding access to the documents has been made, access charges will also be payable prior to Council releasing documents to you.

Once you have clarified the terms of the request, if Council believes that the access charges are likely to exceed \$50, Council will provide you with details of those charges, and you will be required to pay a deposit. Access charges are set out by the *Freedom of Information (Access Charges) Regulations 2014 [Vic]*. Please note that should a deposit be required, the time by which Council must make a decision re-starts from the date that a deposit is paid (received by Council).

#### *Schedule of charges*

Charge	Defined by Regulations (\$ in 2018/19)
Search charges	1.5 fee units per hour or part of an hour ( <b>\$21.70 per hour</b> )
Supervision of inspection of documents	1.5 fee units per hour (to be calculated per quarter hour or part of a quarter hour) ( <b>\$5.425 per quarter hour</b> )
Black and white photocopying charges	<b>\$0.20 per A4 page</b>
Charge for providing copy of documents in accordance with s19 of the Act (electronic documents)	The reasonable costs incurred by the agency in providing the copy

### Consultation

If the documents identified as part of your request relate to the personal or business affairs of another person or organisation (a third party), Council is required to consult with that third party to obtain their views about the potential release of documents. Consultation also extends the time in which Council must make a decision from 30 days to 45 days from the date on which your request becomes valid.

Please advise whether you give Council permission to reveal your name as the FOI applicant. While not a requirement of the FOI Act, this can often expedite the consultation process if the third parties are aware to whom their personal or business information is being released.

Feel free to contact me at [foi@alpineshire.vic.gov.au](mailto:foi@alpineshire.vic.gov.au) or by phone on 03 5755 0555 to discuss your application. As previously advised, Council cannot commence processing your request until the application fee is paid, and the clarification points have been confirmed in accordance with section 17.

Yours sincerely,

*Original signed by*  
*B Schultz*

**Belinda Schultz**  
**Governance Officer**