



ACT
Government

Chief Minister, Treasury and
Economic Development

Freedom of Information Publication Coversheet

The following information is provided pursuant to section 28 of the *Freedom of Information Act 2016*.

FOI Reference: CMTEDDFOI 2018-0257

| Information to be published | Status |
|---|-----------|
| 1. Access application | Published |
| 2. Decision notice | Published |
| 3. Documents and schedule | Published |
| 4. Additional information identified | No |
| 5. Fees | N/A |
| 6. Processing time (in working days) | 26 |
| 7. Decision made by Ombudsman | N/A |
| 8. Additional information identified by Ombudsman | N/A |
| 9. Decision made by ACAT | N/A |
| 10. Additional information identified by ACAT | N/A |

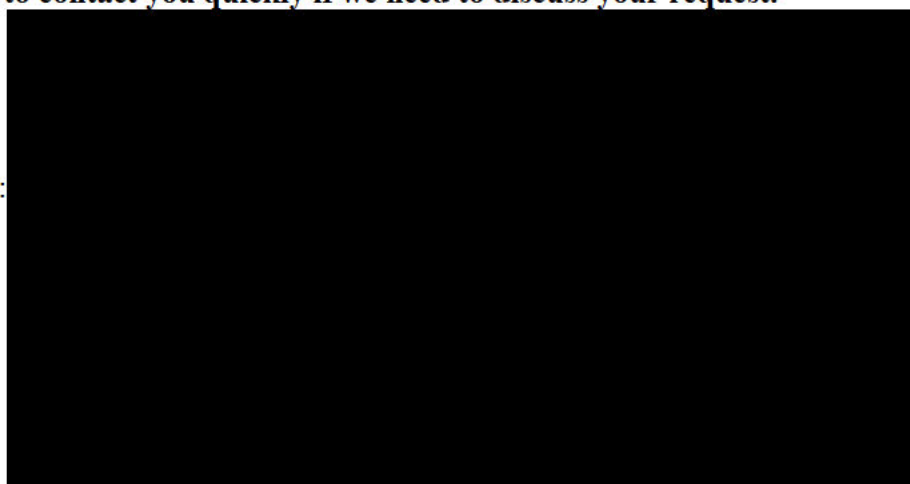
From: [REDACTED]
To: [CMTEDD.FOI](#)
Subject: Freedom of Information request
Date: Wednesday, 19 September 2018 11:18:36 AM

Please find online enquiry details below. Please ensure this enquiry is responded to within fourteen working days.

Your details

All fields are optional, however an email address OR full postal address must be provided for us to process your request. An email address and telephone contact number will assist us to contact you quickly if we need to discuss your request.

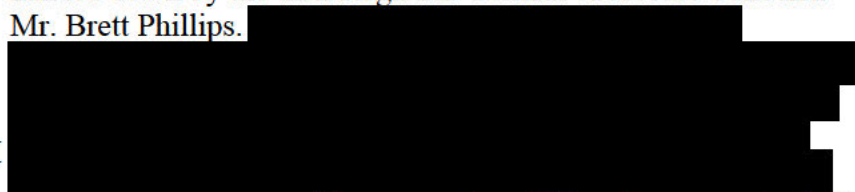
Title:
First Name:
Last Name:
Business/Organisation:
Address:
Suburb:
Postcode:
State/Territory:
Phone/mobile:
Email address:



Request for information

(Please provide as much detail as possible, for example subject matter and relevant dates, and also provide details of documents that you are not interested in.)

URGENT PLEASE - The document that I am requesting is dated the 27th March 2008, from over a decade ago. It is of a decision handed down by the then Registrar General of Access Canberra Mr. Brett Phillips.



Under the Freedom of Information Act 2016 I want to access the following document/s (*required field):

There were two different groups who both lodged Annual Return forms in February 2008 but the first group to register had done so deceptively, with no AGM held of the association and no elections - just politically inserted individuals to hijack the association from it's members. The document is the reversal and justification of the Registrar General's decision to change the registration of the committee and to correct the matter officially and legally. Thank You.

I do not want to access the following documents in relation to my request::

Thank you.

Freedom of Information Coordinator



ACT
Government

Chief Minister, Treasury and
Economic Development

Our ref: CMTEDDFOI 2018-0257



via email: 

Dear Ms Brankovic

FREEDOM OF INFORMATION REQUEST

I refer to your application under section 30 of the *Freedom of Information Act 2016* (the Act), received by the Chief Minister, Treasury and Economic Development Directorate (CMTEDD) on 19 September 2018, in which you sought access to:

- A decision handed down by the then Registrar General of Access Canberra Mr Brett Phillips on 27th March 2008.

Authority

I am an Information Officer appointed by the Director-General of CMTEDD under section 18 of the Act to deal with access applications made under Part 5 of the Act.

Timeframes

In accordance with section 40 of the Act, CMTEDD was required to provide a decision on your access application by 18 October 2018. However, as a result of third party consultation, this deadline was extended by 15 working days. The new deadline is 8 November 2018.

Decision on access

Searches were completed for relevant documents and 1 document was identified that fell within the scope of your request.

Following third party consultation I have decided to grant partial access to 1 document. The information redacted in the documents I consider to be information that would, on balance, be contrary to the public interest to disclose under the test set out in section 17 of the Act.

I have included as Attachment A to this decision the schedule of relevant documents. This provides a description of each document that falls within the scope of your request and the access decision for each of those documents.

My access decisions are detailed further in the following statement of reasons and the documents released to you are provided as Attachment B to this letter.

In accordance with section 54(2) of the Act a statement of reasons outlining my decision is below.

Statement of Reasons

In reaching my access decision, I have taken the following into account:

- the Act, particularly section 17 and schedule 2.2;
- the content of the documents that fall within the scope of your request;
- the *Human Rights Act 2004*.

Exemption claimed

My reasons for deciding not to grant access to the identified documents and components of these documents are as follows:

Public Interest

The Act has a presumption in favour of disclosure. As a decision maker I am required to decide where, on balance, public interests lies. As part of this process I must consider factors favouring disclosure and non-disclosure.

In *Hogan v Hinch* (2011) 243 CLR 506, [31] French CJ stated that when 'used in a statute, the term [public interest] derives its content from "the subject matter and the scope and purpose" of the enactment in which it appears'. Section 17(1) of the Act sets out the test, to be applied to determine whether disclosure of information would be contrary to the public interest. These factors are found in subsection 17(2) and Schedule 2 of the Act.

Taking into consideration the information contained in the documents found to be within the scope of your request, I have identified that the following public interest factors are relevant to determine if release of the information contained within these documents is within the 'public interest'.

Factors favouring disclosure (Schedule 2.1)

- Contribute to the administration of justice generally, including procedural fairness.

Factors favouring non-disclosure (Schedule 2.2)

- Prejudice the protection of an individual's right to privacy or other right under the *Human Rights Act 2004*.

Having considered the factors identified as relevant in this matter, I consider that release of information contained in these documents may contribute to contribute to the administration of justice generally, including procedural fairness by allowing you to have a complete record of the interactions between the Free Serbian Orthodox Church St George and the ACT Government and the steps taken to achieve compliance in committee registration.

However, when considering this finding against the factor favouring non-disclosure, I am satisfied that the protection of an individual's right to privacy, especially in the course of assisting in a line of enquiry with a government agency, is a significant factor as the

parties involved have provided their personal information for the purposes of meeting obligations under relevant legislation which, in my opinion, outweighs the benefit which may be derived from releasing the personal information of the individual's involved in this matter. These individuals are entitled to expect that the personal information they have supplied as part of this process will be dealt with in a manner that protects their privacy. Considering the type of information to be withheld from release, I am satisfied that the factors in favour of release can still be met while protecting the personal information of the individuals involved.

I therefore weight the factor for non-disclosure more highly than the factor in favour of release in this instance. As a result, I have decided that release of this information (contacts names, home addresses) could prejudice their right to privacy under the *Human Rights Act 2004*.

Having applied the test outlined in section 17 of the Act and deciding that release of personal information contained in the documents is not in the public interest to release, I have chosen to redact this specific information in accordance with section 50(2). Noting the pro-disclosure intent of the Act, I am satisfied that redacting only the information that I believe is not in the public interest to release will ensure the intent of the Act is met and will provide you with access to the majority of the information held by CMTEDD within the scope of your request.

Information that would, on balance, be contrary to the public interest to disclose under the test set out in section 17 of the Act

Folios 1 of the identified document contains information that I consider, on balance, to be contrary to the public interest to disclose under the test set out in section 17 of the Act.

Charges

Pursuant to *Freedom of Information (Fees) Determination 2017 (No 2)* processing charges are not applicable for this request because the total number folio's to be released to you is below the charging threshold of 50 pages.

Online publishing – Disclosure Log

Under section 28 of the Act, CMTEDD maintains an online record of access applications called a disclosure log. Your original access application, my decision and documents released to you in response to your access application will be published in the CMTEDD disclosure log after 31 October 2018. Your personal contact details will not be published.

You may view CMTEDD disclosure log at:

<https://www.cmtedd.act.gov.au/functions/foi/disclosure-log>.

Ombudsman Review

My decision on your access request is a reviewable decision as identified in Schedule 3 of the Act. You have the right to seek Ombudsman review of this outcome under section 73 of the Act within 20 working days from the day that my decision is published in CMTEDD disclosure log, or a longer period allowed by the Ombudsman.

If you wish to request a review of my decision you may write to the Ombudsman at:

The ACT Ombudsman
GPO Box 442
CANBERRA ACT 2601
Via email: actfoi@ombudsman.gov.au

ACT Civil and Administrative Tribunal (ACAT) Review

Under section 84 of the Act, if a decision is made under section 82(1) on an Ombudsman review, you may apply to the ACAT for review of the Ombudsman decision. Further information may be obtained from the ACAT at:

ACT Civil and Administrative Tribunal
Level 4, 1 Moore St
GPO Box 370
Canberra City ACT 2601
Telephone: (02) 6207 1740
<http://www.acat.act.gov.au/>

Should you have any queries in relation to your request please contact me by telephone on 6207 7754 or email CMTEDDFOI@act.gov.au.

Yours sincerely,



Daniel Riley
Information Officer
Information Access Team
Chief Minister, Treasury and Economic Development Directorate

26 October 2018



ACT
Government

Chief Minister, Treasury and
Economic Development

FREEDOM OF INFORMATION REQUEST SCHEDULE

| NAME | | WHAT ARE THE PARAMETERS OF THE REQUEST | | | | Reference NO. |
|------------------|-------------|---|-------------|-----------------|----------------------|-----------------------|
| | | A decision handed down by the then Registrar General of Access Canberra Mr Brett Phillips on 27th March 2008. | | | | 2018-0257 |
| Ref No | Page number | Description | Date | Status | Reason for Exemption | Online Release Status |
| 1 | 1-2 | Letter | 28-Mar-2008 | Partial release | Sch 2 s2.2 (a)(ii) | Yes |
| Total No of Docs | | | | | | |
| 1 | | | | | | |



A 256090

30/4/2008

OFFICE

A 256090

DEPARTMENT OF JUSTICE & COMMUNITY SAFETY

Sch 2 s2(a)(ii)

A00101
PRIVATE

Dear Sch 2 s2(a)(ii)

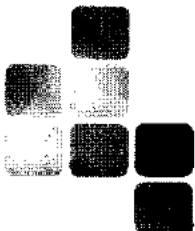
I refer for your application for Change of Committee Particulars lodged on the 11 February 2008, and subsequent telephone conversations with Shane Richards of this office in regard to 'The Free Serbian Orthodox Church St George in Canberra Diocese for Australia and New Zealand' (the Association), incorporated under the *Associations Incorporation Act 1991* (the Act). I also refer to a second Change of Committee Particulars that was received by this office on 22 February 2008.

The Registrar-General's Office is responsible for incorporating associations under the terms of the Act. Our role under the Act is to:

- incorporate non-profit associations, and establish and maintain a register of these associations;
- keep records of the management and financial affairs of incorporated associations; and,
- provide a facility for members of the public to search association names, office bearers, rules (constitutions) and the status of incorporated associations.

To maintain these records, associations are required to notify the office of any changes to the committee, public officer, rules, objects etc, and are also required to lodge annual returns that are accompanied by the audited financial statements for that year.

The Act and the association's constitution identify the process that is to be followed for these changes to be formally lodged on the public record.



CLIENT REGISTRATION SERVICES

255 CANBERRA AVENUE Fyshwick ACT 2609

PO BOX 225 CIVIC SQUARE ACT 2608 | PHONE 62070452 FAX 62070455

In this instance the Registrar-General used powers under section 13.2 of the Act, and required the persons submitting both documents to give the Registrar-General further documentation and information in order to form an opinion as to whether the Registrar-General could refuse to receive, or register the documents.

On the information provided to this office, the Registrar-General is of the opinion that the process followed by the party lodging the second Change of Committee Particulars that was received on the 22 February 2008 was conducted and completed in accordance with the Act and the Association's constitution.

As confirmed to you by telephone on the 27 March 2008, the Association's record has been updated to reflect the committee that was identified on Change of Committee Particulars Form lodged on 22 February 2008.

Please also be advised that in accordance with section 33 of the Act, changes to the rules of an association are of no effect until a notice has been lodged with this office setting out the particulars of the alteration, and includes a declaration by at least two members of the committee of the association to the effect that a special resolution was duly passed by the association to alter its rules/constitution.

Please do not hesitate to contact me 02 6207 0475 if you require any further information in regard to the above matter.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Dale Pegg', with several loops and flourishes.

Dale Pegg
Manager

Business Names, Associations & Charitable Collections
28 March 2008