

OFFICE OF THE INFORMATION COMMISSIONER (QLD)

Application 553/2004

(This decision has been edited to remove merely procedural information and may have been edited to remove personal or otherwise sensitive information.)

Participants:

Mr and Mrs Burtenshaw
Applicant

Department of Natural Resources, Mines and Water
Respondent

Mr Dunn
Third Party

DECISION AND REASONS FOR DECISION

CONTENTS

1. Background	2
2. Steps taken in the external review process	2
3. Matter in issue	3
4. Section 43(1) – Legal Professional Privilege.....	3
5. Section 44(1) - Personal Affairs.....	5
6. Section 11A - Documents to which the FOI Act does not apply.....	6
7. Section 22 – Documents publicly available	8
8. Matter outside scope of FOI access application	8
9. Decision	9

REASONS FOR DECISION

1. Background

- 1.1 The applicant seeks external review of a decision by the Department of Natural Resources, Mines and Water (DNRMW) to allow the third party access to certain documents regarding the application by the applicants for an upgrade of tenure of land.
- 1.2 By letter dated 2 February 2004, the third party applied for access under the *Freedom of Information Act 1992* Qld (the FOI Act) to:
- ...information relating to all contractual dealings between the Department of Natural Resources and Mines and [the applicants] as joint tenants of land with tenure reference...*
- These concern any changes and upgrading of tenure including amount of rent involved in the transaction.*
- 1.3 By letter dated 29 March 2004, the third party confirmed that he also sought access to a report by Mr Sinclair of DNRMW.
- 1.4 By letter dated 15 June 2004, Mr Zubrinich, Manager, Administrative Review, DNRMW advised the applicants that the DNRMW had received a request under the FOI Act seeking access to documents, as set out at 1.2 and 1.3 above, and he had decided to grant the third party access to folios that: were inside the scope of the application; and did not qualify for exemption under sections 43(1) or 44(1) of the FOI Act; or were not excluded from application of the FOI Act due to s.11A of the FOI Act; or were refused because they were publicly available in accordance with s.22 of the FOI Act.
- 1.5 By letter dated 9 July 2004, the applicants requested that the DNRMW conduct an internal review of Mr Zubrinich's decision.
- 1.6 By letter dated 28 July 2004, Mr Fanning, Director, Executive & Legal Services, DNRMW advised the applicants that he had conducted an internal review and decided to affirm Mr Zubrinich's decision dated 15 June 2004.
- 1.7 By letter dated 1 August 2004, the applicants applied to the Information Commissioner, under Part 5 of the FOI Act, for an external review of Mr Fanning's decision dated 28 July 2004.

2. Steps taken in the external review process

- 2.1 The matter in issue was examined.
- 2.2 During the course of this review members of the staff of this office, including myself, have communicated by telephone with the parties in this review to obtain further information from each regarding their claims in relation to the application of the FOI Act to the matter in issue, or otherwise in relation to matters relevant to this review. I have taken into account notes by staff of this office of the contents of such conversations in making my decision in this review.
- 2.3 By letter dated 25 February 2005, this office advised the applicants of specific issues that the applicants needed to address to maintain their claims that the matter in issue should not be disclosed under the FOI Act.
- 2.4 By emails dated 24 and 25 March 2005, and facsimile dated 24 March 2005, the

applicants provided submissions and further information in support of their claims that the matter in issue should not be disclosed under the FOI Act.

- 2.5 By email dated 13 April 2005, Mr Kernot, Department of Primary Industries, provided information sought by a member of the staff of this office in relation to this review.
- 2.6 By letters dated 3 and 6 February 2006, I advised the parties of my preliminary view in relation to disclosure of the matter in issue in this review under the FOI Act and requested that they advise this office whether they agreed with my preliminary view, or in the event that they did not agree, invited such parties to make further submissions in support of their claims in relation to disclosure of the matter in issue.
- 2.7 By letter dated 7 February 2006, Mr Zubrinich, Manager, Administrative Review, DNRMW, advised that the DNRMW accepted my preliminary view on the categories of matter in issue.
- 2.8 By letter dated 17 February 2006, I provided further information to the applicants to enable them to respond to my letter dated 3 February 2006.
- 2.9 By letter received 1 March 2006, the third party advised that they did not contest my preliminary view.
- 2.10 By telephone on 9 May 2006, the applicants advised myself of their response to my preliminary view letter dated 3 February 2006.
- 2.11 In making my decision in this review I have taken into account:
- the contents of the matter in issue;
 - the third party's application to the DNRMW for access dated 2 February 2004, and subsequent letter to DNRMW dated 29 March 2004;
 - the applicants' application to the DNRMW for internal review dated 9 July 2004 of Mr Zubrinich's decision;
 - the applicants' application to this office for external review dated 1 August 2004 of Mr Fanning's decision;
 - Mr Zubrinich's decision dated 15 June 2004, and Mr Fanning's decision dated 28 July 2004;
 - notes of telephone conversations between members of the staff of this office and the parties to this review during the course of this review;
 - correspondence from the applicants dated 24 and 25 March 2005;
 - correspondence from the DNRMW dated 17 February; and
 - 2006correspondence from the third party dated 1 March 2006.

3. Matter in issue

- 3.1 The matter in issue in this review is the documents identified by the DNRMW as being responsive to the third party's application for access under the FOI Act. Such documents were specifically identified in Schedule One to Mr Zubrinich's decision dated 15 June 2004, and comprise documents contained in 10 collections of documents from relevant DNRMW files.

4. Section 43(1) – Legal Professional Privilege

- 4.1 Matter was exempted from disclosure by the DNRMW on the ground of legal professional privilege. Documents to which access was denied on this ground were described in the DNRMW decision as constituting communications between staff of DNRMW's Legal Services unit and a client of that unit, or staff of the Legal Services unit and a member of counsel, in the course of seeking and providing legal advice.

4.2 Section 43(1) of the FOI Act provides:

43 Matter affecting legal proceedings

(1) Matter is exempt matter if it would be privileged from production in a legal proceeding on the ground of legal professional privilege.

4.3 Access was denied in full or in part to 80 folios in Collection 1, and 8 folios in Collection 2, pursuant to s.43(1).

4.4 In *Gill and Brisbane City Council* (2001) 6 QAR 45, Information Commissioner Albietz summarised the basic legal tests for whether a communication attracts legal professional privilege under Australian common law following the decision of the High Court in *Esso Australia Resources Ltd v Commissioner of Taxation* (1999) 201 CLR 49:

“Legal professional privilege attaches to confidential communications between a lawyer and client (including communications through their respective servants or agents) made for the dominant purpose of -

- (a) seeking or giving legal advice or professional legal assistance; or*
- (b) use, or obtaining material for use, in legal proceedings that had commenced, or were reasonably anticipated, at the time of the relevant communication.*

Legal professional privilege also attaches to confidential communications between the client or the client's lawyers (including communications through their respective servants or agents) and third parties, provided the communications were made for the dominant purpose of use, or obtaining material for use, in legal proceedings that had commenced, or were reasonably anticipated, at the time of the relevant communication.”

4.5 There are qualifications and exceptions to the above statement of the basic tests, which may affect the question of whether a document attracts the privilege, or remains subject to the privilege, however none arises for consideration in this review.

4.6 After considering all of the relevant folios I am satisfied that the exempt matter falls within the scope of confidential communications between the Legal Services unit of DNRM and its clients within the DNRM and communications with a member of counsel, in the course of seeking and providing legal advice and assistance. All such communications were made in pursuance to specific instructions for legal advice and assistance given to the Legal Services unit by those clients. The exempt matter also includes third party communications made for the dominant purpose of use, or obtaining material for use, in legal proceedings that were reasonably anticipated by DNRM.

Conclusion

4.7 I therefore find that the matter in issue specified at Schedule 1, part A, qualifies for exemption from disclosure under s.43(1) of the FOI Act.

5. Section 44(1) – Personal Affairs

5.1 Matter contained in some documents was exempted by the DNRMW on the ground that it concerns the personal affairs of a number of persons other than the applicant.

5.2 Section 44(1) of the FOI Act provides:

44 Matter affecting personal affairs

(1) Matter is exempt matter if its disclosure would disclose information concerning the personal affairs of a person, whether living or dead, unless its disclosure would, on balance, be in the public interest.

5.3 The type of information that the FOI Act envisages as information that concerns the personal affairs of an applicant was considered by Commissioner Albietz in *Re Stewart and Department of Transport* (1993) 1 QAR 227. It includes, for example, information about a person's relationships with other persons, a person's medical history and health records, and information about a person's personal financial affairs. Such information directly concerns a person, and that person should be in a position to exercise some influence or control over the dissemination of that information.

5.4 In *Re Stewart* Commissioner Albietz explained that the central concept of the phrase "information concerning the personal affairs of a person" in s.44(1) is that of information concerning the private aspects of a person's life. While there may be a substantial grey area within the ambit of the phrase "personal affairs", that phrase has a well-accepted core meaning which includes:

- family and marital relationships;
- health or ill health;
- relationships and emotional ties with other people; and
- domestic responsibilities or financial obligations.

5.5 Whether or not matter contained in a document comprises information concerning an individual's personal affairs is essentially a question of fact, to be determined according to the proper characterisation of the information in question. Information concerning the personal affairs of a person is *prima facie* exempt from disclosure under s.44(1): *Re Stewart*. Only countervailing public interest considerations of sufficient weight to found a judgment that disclosure would on balance be in the public interest, can operate to displace the *prima facie* entitlement to exemption that arises in respect of matter in a document that is properly characterised as information concerning the personal affairs of a person.

5.6 The information that I have identified as concerning the personal affairs of persons other than the third party, comprises personal phone numbers, information about such persons' family relationships, health, domestic arrangements, financial obligations, and other information of an inherently private nature that cannot be described without revealing exempt matter.

5.7 I note that I have identified one folio (folio 52 of collection 9) that I consider was incorrectly characterised by the DNRMW as personal affairs of a person other than the applicant, when in fact, it was the personal affairs of the third party, and therefore cannot be exempt under s.44(1) of the FOI Act.

5.8 I also consider several documents from which the DNRMW considered parts were exempt under s.44(1) to instead be outside the scope of the terms of the access application. (See paragraphs 8.1-8.3 below regarding documents that are not within the scope of the access application.)

5.9 I note that I have identified additional occurrences of personal affairs information, of the type described above, in the documents than was identified by the DNRMW. (Additional documents, or parts of documents are specified in Schedule 1, part B to this decision.) Therefore, I consider that such additional documents or parts of documents comprise information concerning the personal affairs of persons other than the applicant for access under the FOI Act.

5.10 As outlined above, information that I have characterised as concerning the personal affairs of a person other than the applicant is exempt from disclosure under the FOI Act, unless its disclosure would, on balance, be in the public interest. I have been unable to identify any public interest considerations that could apply in this instance. In doing so I have carefully considered the claims raised by the third party in this respect, including as reiterated in his letter received 1 March 2006. The nature of the personal affairs information is such that its disclosure would not contribute to the accountability of government in any way, nor would it be necessary to enhance opportunities for public participation in any government process, or to provide justice to an individual, all of which are recognised public interest considerations. In the absence of being able to identify any relevant public interest consideration favouring disclosure of the matter in issue, I am satisfied that the personal affairs information described above, and specifically identified in Schedule 1, part B to this decision, qualifies for exemption under s.44(1) of the FOI Act.

Conclusion

5.11 I am satisfied that the personal affairs information identified by the DNRMW, with the exception of folio 52 of Collection 9, qualifies for exemption from disclosure under s.44(1) of the FOI Act.

5.12 Further, I am satisfied that all additional information of the type I have characterised as information concerning the personal affairs of persons other than the applicant, where it occurs throughout the documents in issue and as specified in Schedule 1, part B, qualifies for exemption from disclosure under s.44(1) of the FOI Act.

6. Section 11A – Documents to which the FOI Act does not apply

6.1 Section 11A of the FOI Act provides:

11A. This Act does not apply to documents received, or brought into existence, in carrying out the activities of a GOC mentioned in schedule 2 to the extent provided under the application provision mentioned for the GOC in the schedule.

6.2 Schedule 2 relevantly provides:

APPLICATION OF ACT TO GOCs

Section 11A of the Act

GOC

Application provision

3. State electricity entity, within the meaning of the Electricity Act 1994 Electricity Act 1994, section 256

6.3 Section 256 of the Electricity Act provides:

256 Application of Freedom of Information Act and Judicial Review Act
(1) In this section—

commercial activities means activities conducted on a commercial basis.¹⁴³

community service obligations has the same meaning as in the GOC Act.

excluded activities means—

(a) commercial activities; or

(b) community service obligations prescribed under the regulations.

(2) A regulation may declare the activities of a State electricity entity that are taken to be, or are taken not to be, activities conducted on a commercial basis.

(3) The Freedom of Information Act 1992 does not apply to a document received or brought into existence by a State electricity entity in carrying out its excluded activities.

¹⁴³ Section 16 of the GOC Act (Meaning of corporatisation) defines corporatisation as a structural reform process for nominating government entities that, among other things, changes the conditions and (where required) the structure under which the entities operate so that they operate, as far as practicable, on a commercial basis and in a competitive environment (emphasis added).

6.4 Section 238 of the *Electricity Regulation 1994* provides:

238 Commercial and excluded activities for Act, s 256

(1) For the definition **excluded activities** in section 256 of the Act, a community service obligation for the charging of customers by an electricity entity that is a State electricity entity in accordance with price equalisation, or at a price fixed by the Minister, is a prescribed community service obligation.

(2) For section 256 of the Act, negotiations between the shareholding Ministers of an electricity entity that is a State authorised supplier and the electricity entity about costs and charges for the provision of electricity as a community service obligation is a commercial activity of the electricity entity.

(3) For section 256(2) of the Act, the activities of the Queensland System Operator are declared to be activities conducted on a commercial basis.

6.6 At the time of the FOI access application, Schedule 2 of the former *Government Owned Corporations Regulation 1995* provided that the Ergon Energy Corporation Limited was a Government Owned Corporation (GOC). I am therefore satisfied that Ergon Energy is a GOC and a State electricity entity, within the meaning of the Electricity Act. Accordingly, the question for determination is whether the documents in issue were received, or brought into existence, by Ergon Energy in carrying out its excluded activities.

6.7 I have considered the documents the DNRMW claimed to be exempt under s.11A. I note that I have identified further copies of the relevant documents in the matter in issue. The documents comprise correspondence received, or created, by Ergon Energy between Ergon Energy and DNRMW relating to the electrical infrastructure of Ergon Energy, which provides the basis for providing services to its customers, and thus its commercial activities. Having regard to the legislative framework for the application of s.11A, I am satisfied that such documents were brought into existence, or received, by Ergon Energy in carrying out its commercial activities.

Conclusion

6.8 I am therefore satisfied that the documents identified by DNRMW, and the additional copies of the documents I have identified, as specified in Schedule 1, part C to my decision, are not documents to which the FOI Act applies, by virtue of the operation of s.11A of the FOI Act.

7. Section 22 – documents publicly available

7.1 Access to specific documents was refused by the DNRMW on the basis that such documents were publicly available in accordance with s.22 of the FOI Act.

7.2 Section 22 of the FOI Act provided, at the time of the FOI access application:

22 Documents to which access may be refused

An agency or Minister may refuse access under this Act to—

(a) a document that is reasonably open to public access (whether or not as part of a public register) under another enactment, whether or not the access is subject to a fee or charge; or

(b) a document that is reasonably available for purchase by members of the community under arrangements made by an agency;

7.3 Documents to which access was refused by DNRMW on this basis were copies of:

- (a) plans that were available for purchase under the now repealed *Land Title Regulation 1994**;
- (b) leases that were available for purchase under the *Land Regulation 1995*;
- (c) tenure search documents that were available for purchase under the *Land Title Regulation 1994*;
- (d) documents listed as Integrated Valuation and Sales (IVAS) or Queensland Valuation Administration System (QVAS) documents available to public access, subject to payment of a standard fee required by the *Valuation of Land Act 1944* and the now repealed *Valuation of Land Regulation 1993**; and
- (e) Basic Land Information (BLIN) Maps or SmartMaps, which are available for purchase at offices of DNRMW.

*Note – The *Land Title Regulation 1994* has been replaced by the *Land Title Regulation 2005* and the *Valuation of Land Regulation 1993* has been replaced by the *Valuation of Land Regulation 2003*.

7.4 Neither the applicant or the third party have raised any issues in relation to the application of s.22 of the FOI Act to the documents listed above. I have reviewed the documents and am satisfied that the DNRMW was entitled to refuse access to the documents listed above under s.22(a) and (b) of the FOI Act.

Conclusion

7.5 I find that the documents listed in paragraph 7.3 above are documents to which the DNRMW is entitled to refuse access under s.22(a) and (b) of the FOI Act.

8. Documents outside the scope of the FOI access application

8.1 In my examination of each individual document, I have identified a number of documents that I believe contain information that is not within the terms of the third party's access application such as:

- documents regarding matters relating to other leases, freehold land and unallocated state land; and

- documents relating to complaints made, that do not relate to the application for upgrade to a more secure tenure, or were created or received after the date of the access application.

8.2 I have also identified some inconsistency in the classification by the DNRMW of documents that are outside the scope of the access application. This is particularly evident as across the several departmental files involved, there are many duplicates of the same documents, which need to be classified consistently.

Conclusion

8.3 I find that the documents identified in Schedule 1, part D to my decision, are matter outside the scope of the third party's access application, and therefore should not be disclosed under the FOI Act.

DECISION

9.1 I vary the decision under review (that is, the decision of Mr Fanning dated 28 July 2004) by finding that the matter in issue specified in:

- Schedule 1, part A to this decision – qualifies for exemption from disclosure under s.43(1) of the FOI Act;
- Schedule 1, part B to this decision – qualifies for exemption from disclosure under s.44(1) of the FOI Act;
- Schedule 1, part C to this decision – is not subject to the application of the FOI Act pursuant to s.11A of the FOI Act;
- paragraph 7.3 of the reasons for this decision – are documents to which the DNRMW is entitled to refuse access under s.22 of the FOI Act; and
- Schedule 1, part D to this decision – is outside the scope of the third party's FOI access application dated 2 February 2004.

9.2 I have made this decision as a delegate of the Information Commissioner's powers, under s.90 of the FOI Act.

R Rangihaeata
Assistant Information Commissioner

Date: 12 May 2006

Schedule 1

Part A: Matter qualifying for exemption under s.43(1) of the FOI Act

Collection	Folios
1	213
2	31, 66 (entry dated 19.07.1994)
3	426, 464 (entry dated 19.07.1994)
4	Nil
5	Nil
6	Nil
7	2-36
8	78, 135 (entry dated 19.07.1994), 169, 207 (entry dated 19.07.1994)
9	78, 414-438, 441
10	Nil

Part B: Matter qualifying for exemption under s.44(1) of the FOI Act

Collection	Folios
1	5 (Section titled "Remarks": Second sentence of second paragraph) 17 (3 rd and 5 th sentences: ie words commencing after "..into a viable proposition" and ending before "We have spent..."; words commencing after "...doing some fencing" and ending before "We work in with...") 19 (as for folio 17) 38 (Section titled "General Remarks": First sentence of second paragraph)
2	52 (3 rd and 5 th sentences: ie words commencing after "..into a viable proposition" and ending before "We have spent..."; words commencing after "...doing some fencing" and ending before "We work in with...") 147 (Second paragraph including personal telephone numbers)
3	46 (3 rd and 5 th sentences: ie words commencing after "..into a viable proposition" and ending before "We have spent..."; words commencing after "...doing some fencing" and ending before "We work in with...") 48 (as for folio 46), 448 (as for folio 46) 451 (2 nd paragraph: the words commencing after "... they require a tenure" to the end of that paragraph)
4	7 (Second paragraph: words after "...however will be" to the end of that paragraph) 108 (Second paragraph including personal telephone numbers)
5	165 (personal telephone number only) 202 (personal telephone number only)
6	102 (7 th paragraph) 116 (2 nd paragraph: last sentence; and 7 th paragraph: the words after "...has informed me" and before "and that she wishes to meet ...") 139 (1 st full sentence after the words "fallen off the process") 155 (2 nd paragraph: the words after "...has informed me" and before "and that she wishes to meet ...") 156 (Email dated 26 August 2002, 2 nd paragraph: last sentence) 157 (final paragraph) 163 (Email dated 26 August 2002, 2 nd paragraph: last sentence) 175 (The word before "Prevention of fires") 182 (1 st paragraph), 183 (Final 2 lines of text) 189 (Words after "...include s47B" and before "→not included...")
7	Nil
8	99 (3 rd and 5 th sentences: ie words commencing after "..into a viable proposition" and ending before "We have spent..."; words commencing after "...doing some fencing" and ending before "We work in with...") 191 (as for folio 99) 194 (2 nd paragraph: words after "...require a tenure" to the end of that

paragraph)
 212 (1st section: 5th bullet point; 3rd section: heading, words after "...number of" and before "need to be limited ...", and words after "particular connection or an" to the end of that sentence.)
 215 (personal telephone number)
 217 (personal telephone number)
 232 (2nd paragraph: last sentence; 7th paragraph: the words after "...has informed me" and before "and that she wishes to meet ...")
 238 (Address block; subject line; 2nd paragraph: the words after "...not to permit" and before "on Pastoral ..."; 1st bullet point: the words after "...a permit/licence for" and before "or provide a copy ..."; 2nd bullet point: the words after "the term" to the end of that bullet point; 3rd bullet point: the person's name; 4th bullet point: the words after "...no objection for a" to the end of that sentence; Final paragraph: the words after "... your request for" and before "will be referred to...".)
 239 (Subject line; 1st paragraph: words after "... in this office by" to the end of that sentence; 2nd paragraph: 1st bullet point: the words after "..that provides for a" to the end of that bullet point; 2nd bullet point: words after "location of the" to the end of that bullet point; 3rd paragraph; the words after "... or objection for a" to the end of that sentence)
 240 (Subject line; 1st paragraph: the word after "approval to allow" and before "on state leasehold ..."; the policy number; the word after "and protection of any" and before "on holdings")
 242 (Subject line; 1st paragraph: the word after "... the native title position with respect to" and before "in Coolgarra..."; 2nd paragraph: the word after "with respect to the" and before "I noted ..." and the word after "... that you consider" and before "to be private works..."; 3rd paragraph: 1st sentence: the words after "Management of" and before "differs depending upon ...", 2nd sentence: the word after "make submission for council approval for" and before "and council approval for" and the following words before "fees apply for both...", 5th sentence: the word after "...would apply to" and before "under private..."; 4th paragraph: the word after "...does not operate it's" and before "in this manner ..." and the final word of that sentence; 5th paragraph: the words after "... prevent her from" and before "was dedicated...".)
 243 (2nd paragraph: the words after " ... Council actually" to the end of that sentence)
 244 (1st paragraph: last word of first sentence; 2nd paragraph: the word after "...history of the" and before "with Andrea....", and the words after "..part of the" and before "was OL..." and final word of that paragraph)
 255 (Email dated 11 February 2003 2.13pm: the words after "Very briefly ...is" and before "(by accident ...)")
 271 (the words from and including the personal telephone number up to and including the date in the second sentence of that paragraph)
 278 (Subject line; 1st paragraph: the words after "will be an issue for" to the end of that sentence; 2nd paragraph: 1st sentence, 2nd sentence: the words after "...showing" and before "in order to..."; 3rd paragraph: 2nd sentence: the words after "... the future use of the" and before "could proceed...")
 279
 282 (section 'a': the words from and including the personal telephone number to the end of that line)
 376 (personal telephone number)
 404 (2nd paragraph: last sentence; 7th paragraph: the words after "...has informed me" and before "and that she wishes to meet ...")
 408 (1st section: 5th bullet point; 3rd section: heading, words after "...number of" and before "need to be limited ...", and words after "particular connection or an" to the end of that sentence.)
 409-411
 412 (Address block; subject line; 2nd paragraph: the words after "...not to

	<p>permit" and before "on Pastoral ..."; 1st bullet point: the words after "...a permit/licence for" and before "or provide a copy ..."; 2nd bullet point: the words after "the term" to the end of that bullet point; 3rd bullet point: the person's name; 4th bullet point: the words after "...no objection for a" to the end of that sentence; Final paragraph: the words after "... your request for" and before "will be referred to...".)</p> <p>413 (Subject line; 1st paragraph: words after "... in this office by" to the end of that sentence; 2nd paragraph: 1st bullet point: the words after "..that provides for a" to the end of that bullet point; 2nd bullet point: words after "location of the" to the end of that bullet point; 3rd paragraph; the words after "... or objection for a" to the end of that sentence)</p> <p>414 (Email dated 2 May 2002: subject line; the words after "...request in relation to" to the end of that sentence; Email dated 1 May 2002: subject line; the words after "...has been received from" and before "on the pastoral holding.")</p> <p>415 (Subject lines of each email; email dated 9 May 2002: the words after "...that if the" and before "is considered to be a ..."; email dated 8 May 2002: the words after "alternative place for" to the end of that sentence.)</p> <p>417 (item (3): the word after "written confirmation regarding" and before "future ...")</p> <p>419 (Section 1)</p> <p>433 (2nd paragraph: the words after "...advised that Council" to the end of that sentence)</p> <p>434 (Subject line; 1st paragraph: the word after "... the native title position with respect to" and before "in Coolgarra..."; 2nd paragraph: the word after "with respect to the" and before "I noted ..." and the word after "... that you consider" and before "to be private works..."; 3rd paragraph: 1st sentence: the words after "Management of" and before "differs depending upon ...", 2nd sentence: the word after "make submission for council approval for" and before "and council approval for" and the following words before "fees apply for both...", 5th sentence: the word after "...would apply to" and before "under private..."; 4th paragraph: the word after "...does not operate it's" and before "in this manner ..." and the final word of that sentence; 5th paragraph: the words after "... prevent her from" and before "was dedicated...".)</p> <p>437-440</p> <p>447 (1st paragraph: the word after "...email about the" at the end of the sentence.)</p> <p>456 (the handwritten annotation after the words "dams &" and before "?")</p>
9	<p>13 (2nd paragraph: the words after "...to enable them" and before "which the property...")</p> <p>23 (3rd and 5th sentences: ie words commencing after "..into a viable proposition" and ending before "We have spent..."; words commencing after "...doing some fencing" and ending before "We work in with...")</p> <p>149 (2nd paragraph: the words after "...returning it to the Department" to the end of that sentence)</p> <p>412</p> <p>413 (Subject line; 1st paragraph: the words after "will be an issue for" to the end of that sentence; 2nd paragraph: 1st sentence, 2nd sentence: the words after "...showing" and before "in order to..."; 3rd paragraph: 2nd sentence: the words after "... the future use of the" and before "could proceed...")</p>
10	Nil

Part C: Matter to which the FOI Act does not apply pursuant to s.11A of the FOI Act

Collection	Folios
1	250, 256-260
2	131-134, 149-152, 174

3	305-309
4	91-94, 109-112, 123
5	Nil
6	Nil
7	Nil
8	Nil
9	Nil
10	Nil

Part D: Matter that is outside the scope of the FOI access application

Collection	Folios
1	57-59 67 80 86 (items 1-9 and 11-15) 87 88 (Second paragraph, heading 7 and following paragraph) 89-94 138-178 184 204 211 240 (entry 16/12/99 and 1 st paragraph of entry 17/12/99) 264
2	1-4 70 73-74 79-95 171-173 175-227 244 (all except 4 th paragraph) 245-294
3	1-9 14-15 17 50-52 66-75 82-103 112-115 119-125 127 137 (items 1-9 and 11-15) 138 139 (Second paragraph, heading 7 and following paragraph) 140-146 193-213 216-217 245 (references to all lots other than Lot 228 on OL430) 261 263-276 287 (entry 16/12/99 and 1 st paragraph of entry 17/12/99) 312-313 348 (items 1-9 and 11-15) 349 350 (Second paragraph, heading 7 and following paragraph) 351-355 368-369

	396-409 418 (items 1-9 and 11-15) 419 420 (Second paragraph, heading 7 and following paragraph) 421-425 470
4	3 (filenames not related to OL228 or 230) 12 15-33 38-55 120-122 124-174 191-221
5	1-151 154 (1 st paragraph) 155 157-161 163-165 (Matter relating to land other than the relevant occupation leases, including Part 1 of 164-5) 169-201 204-362
6	1-101 103-112 117-138 141-152 164-174 190-289
7	1
8	104-120 139-155 272 (1 st paragraph and last 3 paragraphs) 280 282 (b) and (c) 283-324 328 (Email dated 20 August 2003 10.29am: 1 st and 2 nd paragraphs including heading; email dated 20 August 2003 9.33am: 1 st paragraph) 376 381-387 414 (Email dated 2 May 2002: the words after "...a similar request in relation to" to the end of that sentence)
9	4 48-55 109 128 (entry 16/12/99 and 1 st paragraph of entry 17/12/99) 143-144 145 (filenames not related to OL228 or 230) 152-229 232-275 408 442-443 (section titled "item 2") 444 (part 2 under "dealings") 474-488
10	Nil