



In reply please quote 2018/20783/01

Dear [REDACTED]

**NOTICE OF DETERMINATION - REQUEST FOR ACCESS TO DOCUMENTS
UNDER THE FREEDOM OF INFORMATION ACT 1991**

I refer to your application made under the *Freedom of Information Act 1991* (the Act) which was received by the Department of Planning, Transport and Infrastructure on 2 October 2018.

You have requested access to:

"...What person or persons wrote to Andrew Humby DPTI requesting Luckybay be zoned Coastal Conservation?"

I wish to advise you that—in line with Schedule 1 Clause 6(1) of the Act—DPTI will not be providing the name of any individual making the request in regards to the Coastal Conservation zoning of Lucky Bay.

However, DPTI is providing two documents that are relevant to the decision making process around the zoning.

The period for processing your application has now passed. A determination was due on 2 November 2018. This means that DPTI is deemed by section 19(2)(b) of the Act to have refused access to the documents requested.

However, nothing prevents an agency from choosing to release documents to you under section 19(2a). Therefore, I am releasing to you these documents in part.

If the application had been processed within the statutory timeframe, I would have refused access to the redacted information as it is either out of scope or exempt in accordance with Section 20(1)(a) and Schedule 1 Clause 6(1) of the Act which states:

20—Refusal of access

(1) An agency may refuse access to a document—

(a) if it is an exempt document;

6—Documents affecting personal affairs

(1) A document is an exempt document if it contains matter the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead).

Reasons for exemptions:

6(1)—

The information within the scope of this request contain the personal details of employees of both DPTI and other agencies who are not MPs. The release of this information would be an unreasonable disclosure of their personal affairs.

Attached is an explanation of the provisions of the Act which details your rights to review this determination, and the process to be followed.

In accordance with Premier and Cabinet Circular PC045, if you are given access to documents as a result of this FOI application, details of your application, and the documents to which access is given, will be published in the Agency's disclosure log within 90 days from the date of this determination. Any private information will be removed. A copy of PC045 can be found at <http://dpc.sa.gov.au/what-we-do/services-for-government/premier-and-cabinet-circulars>. If you have any objection to this publication, please contact us within 30 days of receiving this determination.

Should you have any enquiries concerning your application please contact [REDACTED] Freedom of Information Officer, on [REDACTED]

Yours sincerely,



Sam Rodrigues
Accredited Freedom of Information Officer

22 November 2018

YOUR RIGHTS TO REVIEW

INTERNAL REVIEW

If you are dissatisfied or concerned with the decision of this Agency regarding access to documents or the request for amendment to your personal records, you can apply for an Internal Review of that decision.

To apply for an Internal Review you must write a letter addressed to the Principal Officer or lodge an Internal Review application form with the Principal Officer of this Agency. The legislated application fee must accompany all applications, unless the fee was waived in the original Freedom of Information application, in which case there would be no fee payable for the application. The application must be lodged within 30 days after being notified of the decision.

The Agency will undertake the Internal Review and advise you of its decision within 14 days of receipt of the application.

Where the decision was made by the Minister or Principal Officer of the Agency, you are unable to request an Internal Review but you can apply for an External Review by the Ombudsman, or SACAT.

You are unable to apply for an Internal Review regarding a decision to extend the time limit for dealing with an application but you can apply for an External Review.

EXTERNAL REVIEW BY THE OMBUDSMAN

If the Agency does not deal with your Internal Review application within 14 calendar days (or you remain unhappy with the outcome of the Internal Review) you are entitled to an External Review by the Ombudsman SA.

You may also request an External Review by the Ombudsman if you have no right to an Internal Review.

The application for review by the Ombudsman should be lodged within 30 days after the date of a determination. The Ombudsman's Office, at their discretion, may extend this time limit.

Investigations by the Ombudsman are free. Further information is available from the Office of the Ombudsman by telephone on 8226 8699 or toll free 1800 182 150 (within SA).

REVIEW BY THE SOUTH AUSTRALIAN CIVIL AND ADMINISTRATIVE TRIBUNAL (SACAT)

If you are still dissatisfied with the decision made by this Agency after an Internal Review or after a review by the Ombudsman, you can request a review from SACAT.

You must exercise your right of review to SACAT within 30 calendar days after being advised of the determination or the results of any other Internal or Ombudsman Review. Any costs will be determined by SACAT, where applicable. For more information, contact;

South Australian Civil and Administrative Tribunal (SACAT)

Phone: 1800 723 767

Email: sacat@sacat.sa.gov.au

SCHEDULE OF DOCUMENTS - FREEDOM OF INFORMATION APPLICATION NUMBER 2018/20783/01

Determination
Release / Partial
Release / Refuse
Access

Schedule Clause
Applied

Document
Number

Description of Document

Date of
Document

Author

Document Number	Description of Document	Date of Document	Author	Determination Release / Partial Release / Refuse Access	Schedule Clause Applied
001	File Note	20 March 2013	DPTI	Partial Release	6(1); Out of Scope
002	Letter Regarding DPA	19 May 2009	DPTI	Partial Release	Out of Scope

RELEASED UNDER FOI ACT

FILE NOTE		STATUTORY PLANNING BRANCH PLANNING DIVISION	
DATE / TIME:	20 MARCH 2013, 10:30AM	FILE NO:	PLAN F2008/0114
SUBJECT:	FRANKLIN HARBOUR COASTAL & GENERAL DPA		

Meeting between 6(1) Personal (DEWNR – Coasts), Andrew Humby, Nadia Gencarelli.
affairs

Out of Scope

- noted extension of Coastal Settlement Zone at Lucky Bay; this is not supported. Also noted that the EPA also raised concerns regarding this site.

Nadia Gencarelli
20/03/2013

RELEASED UNDER FOI ACT

FILE NOTE		STATUTORY PLANNING BRANCH PLANNING DIVISION	
DATE / TIME:	5 JULY 2013, 10AM	FILE NO:	PLAN F2008/0114/2 & PLAN F2009/0803/3
SUBJECT:	FRANKLIN HARBOUR AND TUMBY BAY GENERAL AND COASTAL DPAS		

Meeting between ^{6(1) Personal affairs}
Gencarelli.

(DEWNR Coasts), Andrew Humby and Nadia

Out of Scope

- o Lucky Bay was used as an example where DEWNR considers proposed zoning to be inappropriate.
 - It is a location which may be effected by both coastal and inland flooding. ^{6(1) Personal affairs} considers that if this is the case, policies should be in place to address both risks.
 - Infrastructure approvals for the ferry/other shipping activities may be in place.
 - Tenure of the existing shacks is limited and they will not be freeholded.

Out of Scope

Nadia Gencarelli
11 July 2013



Department for Environment
and Heritage

DEH 33/1371

Date: 19 May 2009

Mr Bruce Francis
Chief Executive Officer
District Council of Franklin Harbour
PO Box 71
COWELL SA 5602

Conservation Policy and
Programs

Statutory Planning and
Assessment

Level 2
1 Richmond Rd
Keswick SA 5035

GPO Box 1047
Adelaide SA 5001
Australia
DX138

Ph: +61 8 8124 4704
Fax: +61 8 8124 4711

www.environment.sa.gov.au

Dear Mr Francis

Re: General and Coastal Development Plan Amendment

Thank you for inviting the Department for Environment and Heritage (DEH) to provide comments on the General and Coastal Development DPA. DEH's comments are attached.

DEH has a number of concerns relating to the adjustment of some coastal zone boundaries as proposed by this DPA, due to likely interface issues with known coastal hazards. This may result in risks to property and raise significant public liability issues. DEH therefore requests that Council provide advice on how the issues within this submission have been addressed.

If you have any questions, please contact Nadia Gencarelli, Environmental Planner, on telephone (08) 8463 4823 or email gencarelli.nadia@saugov.sa.gov.au, or contact the officer indicated in the attached comments.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Greg Leaman".

Greg Leaman
EXECUTIVE DIRECTOR
CONSERVATION POLICY AND PROGRAMS

CC: DPLG

Attachment 1

COASTAL ISSUES

Coastal zoning

In keeping with the mapping process which has been followed in this DPA, where there was a technical investigation of the existing Coastal Zone to rectify zone boundaries anomalies, DEH seeks to have land which includes sensitive coastal features (including areas subject to unaddressed coastal hazards) included within specific coastal zones.

The inclusion of the word 'coastal' in the name of the zone ensures that all development applications for land within the zone would be subject to referral to the Coast Protection Board in accord with Schedule 8 of the Development Regulations (see part 1(a)).

Land not containing any of the sensitive coastal features should be excluded from coastal zones provided that any re-zoning does not pose a threat to adjoining sensitive areas. Development on a non-coastal zone landward of a coastal zone would not require referral.

It is understood that the proposed General DPA is to essentially take advantage of the standard policy modules, structure and format for Development Plan's promoted by Planning SA as part of the Better Development Plans (BDP) project.

Out of Scope

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Out of Scope

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Out of Scope

Coastal Settlement Zone

Lucky Bay (see attached Map 4)

The Lucky Bay settlement is located on a migrating sand spit in a highly unstable environment. Changes in the shape of the spit as it migrates will progressively threaten shacks at different parts of the settlement. Sea level rise as a result of climate change will

exacerbate the existing problems at Lucky Bay, increasing rates of erosion and flooding risk. Protection is not considered practical in the longer term nor environmentally acceptable.

Lucky Bay shacks are held under Miscellaneous Lease 21290 by District Council of Franklin Harbour. The lease has 19 years to run and requires the lessee to obtain the written consent of the Minister prior to construction or erection of any improvements on the land. The possible freeholding of Lucky Bay shacks was previously considered, however it was determined that the shacks were unacceptable for freeholding as they cannot meet the established criteria as set out in the 1994 Coastal Hazard Report for the Shack Site Freeholding Committee (i.e. erosion/flooding).

The Minister for Environment and Conservation and the Coast Protection Board opposes the redevelopment of shack sites with the exception of minor upgrades (subject to the receipt of development and Ministerial approval) associated with the general upkeep and improvement of the existing property (this excludes any increase in floor or building area).

Given those constraints on development at Lucky Bay the proposed Coastal Settlement Zone provisions in the DPA are not appropriate. The provisions and the zone boundaries require a detailed review.

Out of Scope

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