



Review of Government Information Public Access Act 2009

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August 2014

Content

- 1. Paper v electronic records**
- 2. Copyright**
- 3. Preparing estimates**
- 4. Vexatious Applicants**
- 5. Open Access Information – Development Application related information**
- 6. Cap on processing hours**

1. Paper v Electronic Documents

The Act defines “government information” as information contained in a record held by an agency. Whilst this definition is broad and can encompass all information held by an agency, the way in which information is managed, supplied and maintained leans towards paper records.

BMCC has primarily moved to electronic based record keeping, however large amounts of records are held in hardcopy format, both on site and in a Government Records Repository (GRR).

Q – Can the Act better allow for the searching and processing of both electronic and hardcopy records?

2. Copyright

Copyright is a major issue for Council. The Act in its current form does not allow for information which may have Copyright protections. Especially when it comes to copies of plans and other information prepared by architects and consultants. Clearer guidelines on releasing copyrighted information would be of great benefit.

3. Preparing Estimates

As per s.64(1), Council may impose a charge for dealing with an access application. In order to request an advance deposit from an applicant, Council prepares a cost estimate. The time taken to prepare this estimate is often a lengthy and in depth process. Council needs to:-

- Identify how many potential files relate to the application;
- Roughly assess how many pages are relevant;
- Roughly assess how many pages might be exempt;
- Roughly assess how many pages might need redacting;
- Roughly assess if there are any third party consultations;

The time taken to “roughly assess” documents in order to produce a cost estimate can substantially eat into the 20 days processing time, especially if certain files are held offsite in the GRR. Currently, the Act does not allow for Council to charge for the time taken to prepare the estimate or take into account the time needed to produce one. Often after doing a large amount of research, an applicant will not proceed because of the cost involved.

Q – Can the OIC provide a cost calculator template for all agencies for consistency?

Q – Can agencies charge for the time taken to prepare an estimate?

Q – Is there a better way to identify applicants who are only “fishing” for information?

4. Vexatious Applicants

Council repeatedly receives formal access applications from the same people. These applicants usually have a grievance with Council and will ask for information that is similar in nature but different enough so that s60(1)(b) can be claimed. Often it can also be a process where the applicant is just “fishing” to find information.

Additionally these applicants will not be satisfied with Council's decision and will always request all review avenues available to them. Whilst they applying within the legislation, they are exhausting Council's limited resources.

Q – Can the OIC have determining powers to declare some applicants vexatious?

5. Open Access Information – Development Application related information

Council holds development application information dating back several decades. The Act considers all of this information open access, irrespective of the date. Currently Council receives on average 15-20 applications every week to access this information. We would like to see a cut-off date placed on DA related information which is considered open access. And any information prior to that considered a Formal Application for historical information.

Additionally, conveyancers and solicitors now realise they can access certain property information for free which is needed for the sale of properties. However, there are certificates that should be applied and paid for to correctly ascertain and provide this information i.e. 149 and 608 certificates. They are now by-passing this correct process providing a greater strain on resources and reducing Council's potential income.

Q – Can the Act define a date for DA related information being Open Access?

6. Cap on processing hours

When a cost estimate is completed, an estimate of time is also undertaken. Council would like to see a cap on processing hours to determine when an application would be considered an unreasonable and substantial diversion of resources.

Q – Can a guideline be given for a cap on processing hours?