



DEW Reference Number F0002875001

Your ref: 7671618

81-95 Waymouth Street
Adelaide SA 5000

GPO Box 1047
Adelaide SA 5001
Australia

Ph: +61 8463 6625

www.environment.sa.gov.au

Dear [REDACTED]

I refer to your application pursuant to the *Freedom of Information Act 1991* (the Act) received by the Department for Environment and Water (DEW) on 6 November 2019, seeking access to:

“Final report/s relating to the Autopsy on a dead Wedge Tailed Eagle collected near Waterloo wind farm in April 2012”

As advised via email on 26 November 2019, the time in which to respond to this application was extended under Section 14A(1)(a) or (b) of the Act to 24 December 2019.

DETERMINATION

Searches of the Department’s records have found one (1) document held by this agency within scope of your request.

Section 20 of the Act provides that an agency may refuse access to a document if it is an exempt document under the Act. As a DEW Accredited FOI Officer, I have determined to grant you partial access to this document and the reasons for refusal are explained below.

Information within this document that does not form a final report have been marked as out of scope to your request.

Schedule 1, Clause 9(1) of the Act states that:

9 — *Internal working documents*

(1) *A document is an exempt document if it contains matter—*

(a) *that relates to—*

- (i) *any opinion, advice or recommendation that has been obtained, prepared or recorded; or*
- (ii) *any consultation or deliberation that has taken place, in the course of, or for the purpose of, the decision-making functions of the Government, a Minister or an agency; and*

(b) the disclosure of which would, on balance, be contrary to the public interest.

Schedule 1, Clause 16(1) of the Act states that:

16 — Documents concerning operations of agencies

(1) A document is an exempt document if it contains matter the disclosure of which —

(a) could reasonably be expected—

...

(iv) to have a substantial adverse effect on the effective performance by an agency of the agency's functions;

...

(b) would, on balance, be contrary to the public interest.

Clause 9(1) and 16(1) of Schedule 1 of the Act requires me to weigh up the public interest when determining whether to allow access to the above information.

Factors I have considered in favour of the public interest from any such release are:

- Meeting the objects of the FOI Act, which promotes public access to documents.
- Promoting public participation in government

Factors I have considered contrary to the public interest for any such release are:

- Satisfying the elements of an exemption clause (9 and 16).
- Disclosure of information indicates an opinion that has been obtained in the course of the decision making process and its release would likely compromise the ability for Government to procure industry partnerships into the future (9 and 16).
- The opinion provided is preliminary and undeveloped in nature. It is not substantiated, but rather a formation of possible risks and outcomes relating to the relationship between the Department and a commercial third party (9).
- The information bares no relationship to the content of the autopsy report, which is the key interest point of this application (9 and 16).

In making my determination, I have considered the public interest factors in favour of disclosure, particularly the objects of the Act which promote full disclosure of documents. I have considered whether the public interest would be served by disclosure of the opinions of agency officers expressed during the course of managing this matter and how they directly relate to the topic of interest, being the cause of death of the Wedge-tailed Eagle found at Waterloo Wind Farm.

I have weighed this against the factors contrary to the public interest and consider the preliminary opinion recorded appears to be in the context of alerting and mitigating any risks or potential repercussions that may ensue from the management of this matter, noting this opinion was never substantiated. The information does not directly relate to the cause of death of the Wedge-tailed Eagle found at Waterloo Wind Farm nor inhibit the understanding of the document as a whole.

Based on the above considerations, I have determined that disclosure of this information is considered exempt, pursuant to clause 9(1)(a)(i) and 16(1)(a)(iv) of the Act, as disclosure would, on balance, be contrary to the public interest.

In accordance with Section 23(1)(b) of the FOI Act it states that an agency must notify an applicant in writing if the application relates to a document that is not held by the agency. With regards to the attached released document, it references that a post-mortem was conducted by the University of Adelaide. The department conducted a thorough search of its records to attempt to locate the post-mortem report, including accessing archive documents held at State Records of South Australia. Unfortunately all attempts to locate this document produced a null result.

In accordance with PC045 – Disclosure logs for Non-personal information once a determination has been provided, the agency is required to make available on our website information and documents that have been disclosed. Information will be publicized online at <http://www.environment.sa.gov.au/about-us/freedom-of-information/foi-disclosure-log>.

FEES AND CHARGES

There is no charge for processing this application.

YOUR APPEAL RIGHTS

If you are dissatisfied with this determination, you are entitled to exercise your rights to internal review and appeal as outlined in the attached documentation, by completing the attached Application for Review of Determination. If you decide to apply to exercise your rights to review, the completed form must be returned within 30 days to:

Chief Executive (Principal Officer FOI)
Department for Environment and Water
GPO Box 1047
ADELAIDE SA 5001

If you have any queries in relation to the above please contact a Freedom of Information Officer on telephone (08) 8463 6625 or email DEW.FOI@sa.gov.au.

Yours sincerely



Dylan Slape

Accredited Freedom of Information Officer, Department for Environment and Water

17/12/2019

Encl: 1. Release document
2. FOI Fact Sheet - Your Rights to Review and Appeal

Out of Scope

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MINUTES forming ENCLOSURE to

REF: 12SEC1578

PRIORITY

ROUTINE

TO: MINISTER FOR SUSTAINABILITY, ENVIRONMENT AND
CONSERVATION

THROUGH: CHIEF EXECUTIVE *[Signature]* 31/8/2012

SUBJECT: Death of a Wedge-tailed Eagle at Waterloo Wind Farm

ACTION SOUGHT

- That you note the information provided in relation to the death of a Wedge-tailed Eagle near Waterloo Wind Farm
- That you consider the attached letter of response to Mr Greg Hunt MP.

BACKGROUND

You are in receipt of a letter dated 9 August 12 from Mr Greg Hunt MP, Federal Member for Flinders, concerning the death of a Wedge-tailed Eagle near Waterloo Wind Farm in the Mid North. Mr Hunt has forwarded to you a copy of a letter sent to him by [redacted] [redacted] alleges that a report prepared by Mr Ian Falkenberg, District Manager Lower North/Mid North, Northern and Yorke Region, Department of Environment, Water and Natural Resources (DEWNR), confirms that the eagle was killed by a wind turbine operated by TRUenergy.

The South Australian Strategic Plan makes a commitment to developing renewable energy in the State, and the current government has set a target "of having 33% of our electricity generation come from renewable energy by 2020." Wind power will play an important part in reaching this target. Several wind farms have been established in the Mid North, with more in the planning stage. Some local community concerns have been raised regarding health, environmental and visual impacts of wind turbines on the landscape.

In April 2012, Mr Falkenberg was advised by a member of the public of the presence of a dead eagle lying 180 metres from a wind turbine managed by TRUenergy. Mr Falkenberg retrieved the eagle carcass and forwarded it to the University of Adelaide to conduct a post-mortem to establish cause of death. The post-mortem found that the eagle died of starvation resulting from a broken wing fractured by blunt trauma. This injury was consistent with the bird being struck by a wind turbine, but the exact circumstances could not be confirmed. Mr Falkenberg prepared a report summarising the findings of the post mortem and this was provided to TRUenergy by DEWNR. DEWNR staff offered to convene a meeting with TRUenergy to explore partnership opportunities and avenues to minimise the risk of bird-strike in the future. This offer was declined.

DEWNR advised TRUenergy that it was not intended for the post-mortem or summary report to be released publicly without consultation. [redacted] was provided with a copy of Mr

Contact: Craig Nixon on 8841 3408 or at craig.nixon@sa.gov.au
Date: 27 August 2012

Falkenberg's report on 6 August 2012 after [redacted] requested assistance in establishing the cause of death of a Wedge-tailed Eagle found on [redacted] property. It is apparent that [redacted] has forwarded this report to several people, including Steven Marshall MP, Hon David Ridgway MLC, Dan van Holst Pellekaan MP, and members of the local anti wind farm movement.

On 1 August 2012 the Regional Council of Goyder Development Assessment Panel (DAP) declined approval for TRUenergy to develop a wind farm at Stony Gap in the Mid North. A local TRUenergy employee has alleged that the post-mortem report was tabled at this DAP meeting, 5 days before it was released to [redacted]. The minutes of this meeting do not support this and DEWNR has not been able to find any other evidence that this allegation is true.

DISCUSSION

DEWNR has a limited role to play in regard to the approval process for and management of wind farms in the environment. This role is largely restricted to reducing impacts on threatened species through the *National Parks and Wildlife (NPWS) Act 1972*. Whilst Wedge-tailed Eagles are considered uncommon in the Mid North, they are currently not rated as a threatened species under the NPWS Act.

Since 2008, DEWNR (formerly Department for Environment and Heritage (DEH)) and Natural Resource Management (NRM) staff have attempted to broker a number of partnerships with wind generation companies in the Mid North, including TRUenergy. Whilst initial discussions around joint projects have generally been positive, companies have withdrawn support and few, if any, on ground works have resulted.

The release of the eagle post-mortem report has prompted TRUenergy to withdraw their support for a number of proposed joint projects, including revegetation of threatened ecosystems and Pygmy Blue-tongued Lizard habitat preservation.

9 - Internal Working Document, 16 - Documents concerning the operations of agencies

DEWNR is currently investigating the circumstances surrounding the release of the post-mortem report and the allegations made by the TRUenergy employee.

DEWNR intends to approach TRUenergy and develop opportunities to work together with the local community to undertake research and develop practices that will minimise future adverse effects of wind turbines on eagles and other native species.

CONSULTATION

Nil

RECOMMENDATION(S)

It is recommended:

- That you note the information provided in relation to the death of a Wedge-tailed Eagle near Waterloo Wind Farm
- That you consider the attached letter of response to Mr Greg Hunt MP.

Contact:	Craig Nixon on 8841 3408 or at craig.nixon@sa.gov.au
Date:	27 August 2012

APPROVED / NOT APPROVED or NOTED



John Schutz
Group Executive Director
Partnerships and Stewardship
DEPARTMENT OF ENVIRONMENT,
WATER AND NATURAL RESOURCE

Date: 31. 8. 12

HON PAUL CAICA MP
Minister for Sustainability, Environment and
Conservation

Date:

Contact:	Craig Nixon on 8841 3408 or at craig.nixon@sa.gov.au
Date:	27 August 2012

Out of Scope

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