

The *Freedom of Information Act 1991* and the GIA Report

1. On 18 June 2009, Greens Member of the Legislative Council, the Hon Mark Parnell MLC, sought FOI access to documents about the consultants involved in the preparation of the GIA report, and any interests which they disclosed in the GIA procurement process. Acting consistently with submissions made by the consultants, the department determined not to release the documents. Mr Parnell sought an external review of this determination by the Ombudsman.

On 24 June 2010, the Ombudsman determined that the documents should be released.¹

2. By a separate application also dated 18 June 2009, Mr Parnell applied for access to documents about one of the Mount Barker developers for whom the consultants were acting at the same time as being awarded the consultancy. After release was refused by the department, Mr Parnell requested an external review by the Ombudsman.

On 24 June 2010, the Ombudsman determined that the documents should be released.²

The developer appealed to the District Court,³ but in decision dated 12 December 2011, the court upheld the Ombudsman's determination.

3. By a third application dated 25 June 2009, Mr Parnell requested access to documents prepared by the consultants and other developers, for the government's Development Plan Amendment for the Gawler East area (one of the other areas identified in the GIA report). After release was refused by the department, Mr Parnell sought an external review by the Ombudsman.

On 24 June 2010, the Ombudsman determined that the documents should be released.⁴

4. By a fourth application dated 15 July 2009, Mr Parnell sought access to the GIA report produced by the consultants. After release was refused by the department, Mr Parnell applied for an external review by the Ombudsman.

By determination dated 7 July 2010,⁵ the Ombudsman found that the report was exempt from disclosure (under the Cabinet document exemption in the FOI Act). But

¹ Available at: <http://www.ombudsman.sa.gov.au/freedom-of-information/Parnell%20and%20the%20Department%20of%20Planning%20and%20Local%20Government%20-2010-%2095.pdf>

² Available at: <http://www.ombudsman.sa.gov.au/freedom-of-information/Parnell%20and%20the%20Department%20of%20Planning%20and%20Local%20Government%20-2010-%2093.pdf>

³ *Daycorp Pty Ltd & Ors v Parnell & Anor* [2011] SADC 191 (12 December 2011) available at: <http://www.austlii.edu.au/cgi-bin/sinodisp/au/cases/sa/SADC/2011/191.html?stem=0&synonyms=0&query=SADC%202011%20191%20or%202011%20SADC%20191>)

⁴ Available at: <http://www.ombudsman.sa.gov.au/freedom-of-information/Parnell%20and%20the%20Department%20of%20Planning%20and%20Local%20Government%20-2010-%2097.pdf>

the Ombudsman suggested that whilst the GIA report was exempt from disclosure, in light of the objects of the FOI Act, there may be good reason why it should nonetheless be released. The GIA report has not been released.

5. By a fifth application received by the department on 12 May 2010, an Opposition member (Ms Vickie Chapman MP) requested access to submissions made about the draft 30 Year Plan which had been received by the state government but which had been kept confidential at the request of the submitter. After release was refused by the department, Ms Chapman requested the Ombudsman to conduct an external review.

On 2 March 2011, the Ombudsman determined that the documents should be released.⁶

The department appealed to the District Court; and on 27 September 2012, the court dismissed the appeal and upheld the Ombudsman's determination.⁷

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⁵ Available at: <http://www.ombudsman.sa.gov.au/freedom-of-information/Parnell%20and%20the%20Department%20of%20Planning%20and%20Local%20Government%20-2010-%2091.pdf>.

⁶ Available at: <http://www.ombudsman.sa.gov.au/freedom-of-information/Chapman%20determination.pdf>

⁷ *Department of Planning & Local Government v Chapman* [2012] SADC 120 (27 September 2012) available at: <http://www.austlii.edu.au/au/cases/sa/SADC/2012/120.html>