

From: LC Clerk
Subject: FW: SO52 - Failure to return all documents for PMB 624
Date: 19 Jan 2024 at 17:01:06

Dear Mr Fang

Please see below the response received this afternoon from TCO in relation to your email message earlier this week.

Please do not hesitate to contact me if you wish to discuss this matter further.

Kind regards
David

David Blunt AM
Clerk of the Parliaments
Office of the Clerk
Legislative Council



Document tendered by
Hon Wes Fang MLC
Received by
Emily Whittington
Date: 5 / 2 / 2024
Resolved to publish Yes / No

From: Standing Order 52
Sent: Friday, 19 January 2024 2:37 PM
To: LC Clerk < >; Sarah Johnson

Cc: Standing Order 52
Legislative Council Returns to Order < >; Aleisha Essex
Amy Gray

Subject: RE: SO52 - Failure to return all documents for PMB 624

OFFICIAL

Dear David

Thank you for passing on the email from the Hon. Wes Fang MLC.

We hope the following explanation assists with the two matters raised in the email.

1. We understand that the former Department of Planning and Environment was unable to return all of the documents by the return date of 10 January 2024 as consideration is being given to which of the 11,000 plus documents contain personal information or are otherwise subject to privilege. In addition, the 20-day period between the date of the cover letter to the partial return (21 December 2023) and the return date comprised the NSW Government Christmas shutdown period (23 December 2023 to 7 January 2024 including weekends either side) and three working days for The Cabinet Office to comply with internal approvals processes before production to the Legislative Council.
2. The office of the Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage did not produce the public submissions as they are no longer held by the Minister's office – they were previously returned to the former Department of Planning and Environment. The Minister's Office also understood that they would be produced by the former Department of Planning and Environment in response to the Order.

The Department of Climate Change, Energy, Environment and Water have indicated that they anticipate providing their supplementary return to TCO on or before 2 February 2024. Noting that, we expect to deliver the supplementary return to the Legislative Council the following week (commencing 5 February 2024).

Best regards,
Amy



Amy Gray | A/Director (Ms/she/her)
Legal Branch, The Cabinet Office
Level 14, 52 Martin Place, Sydney | GPO Box 5341, Sydney NSW 2001

I acknowledge the traditional custodians of the land and pay respects to Elders past and present. I also acknowledge all the Aboriginal and Torres Strait Islander staff working with NSW Government at this time.

OFFICIAL

From: LC Clerk

Sent: Tuesday, 16 January 2024 5:12 PM

To: Sarah Johnson

Cc: Standing Order 52

Legislative Council Returns to Order

; LC Clerk

Subject: FW: SO52 - Failure to return all documents for PMB 624

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Dear Sarah and colleagues

Please see the below email received from the Hon. Wes Fang MLC earlier today.

Any advice you can provide in relation to the matters raised by Mr Fang would be greatly appreciated.

Kind regards

David

David Blunt AM

Clerk of the Parliaments

Office of the Clerk

Legislative Council



From: Wes Fang

Sent: Tuesday, 16 January 2024 3:33 PM

To: David Blunt

Cc: Emma Hurst

Subject: SO52 - Failure to return all documents for PMB 624

Dear David

On 29 Nov 2023, the House passed PMB 624. This motion moved by Ms Hurst, had an amended 42 day return date in place of the originally moved 21 days.

This amended return date, provided for the papers to be supplied by 10 Jan 2024.

I note a couple of matters in relation to the return.

1. As we previously discussed, the documents provided, do not include the 11,002 responses to the call for submissions from the Minister. Along with the return, Ms Thomas writes (on 21 December 2023, curiously some 20 days prior to the return date due) the following;

As part of the search process the department identified documents that collate more than 11,000 submissions and survey results. Due to the timeframe for responding to this order, the Christmas closedown period, and the resources required to assess the high volume of information, not all documents are being returned at this time. The remaining documents are being reviewed to determine whether any privilege or public interest immunity considerations apply to them.

I note, there appears to be no need to collate the submissions. The 11,002 individual submissions could have simply been provided in the return 'as is'.

I also note, the final sentence of Ms Thomas's explanation is at odds to the Minister Sharpe's contribution to PMB 624, where she indicates;

"We are happy to release the 11,000 submissions under the order for papers."

I can see no good reason why these documents were not included in the return, prior to the due date. I also believed the respondents were required to give advice prior and seek approval where a foreshadowed non-compliance was identified. Given Ms Thomas identified the department's non-compliance was an issue some 20 days prior to the deadline, it is reasonable this should have been advised at that time. I believe this, in and of itself, is an issue of non-compliance for SO52s.

2. In addition to this, I also note the contribution on 29 Nov 2023

from Minister Sharpe, included the following;

"Not only did they produce a summary for me but they also provided me with all of the submissions."

You will note however, the return includes correspondence from Mr Anthony Baker (CoS to Minister Sharpe), which states;

I certify to the best of my knowledge that no documents covered by the terms of the resolution and lawfully required to be provided are held by the Office of the Minister for Climate Change, Minister for Energy, Minister for the Environment and Minister for Heritage.

Given part (b) of the motion states the following;

all documents regarding the findings or results from the submissions and survey responses received to the proposed amendment to the Wild Horse Heritage Management Plan between 8 August 2023 and 11 September 2023,

I contend the Minister's Office has failed to return the documents required, in accordance with the motion passed by the House.

I take both of these matters seriously and would request The Cabinet Office (TCO) be made aware of my concerns. I would seek your assistance to resolve these issues as soon as possible.

Kind regards

Hon Wes Fang MLC



The Hon Wes Fang MLC

**Shadow Assistant Minister for Police & Emergency Services
Deputy Opposition Whip in the Legislative Council**
