



Jeremy Hanson CSC MLA

Australian Capital Territory

Member for Molonglo

Opposition Whip

Shadow Minister for Health, Police, Indigenous Affairs, Veterans' Affairs and Corrections

Ms. Meredith Hunter MLA
Chair
Select Committee on Privileges
ACT Legislative Assembly

For Information: Tom Duncan, Clerk

Dear Ms. Hunter, *Meredith,*

Please find attached further comments in relation to submissions to the Select Committee on Privileges.

Yours sincerely,

A handwritten signature in black ink, appearing to read "J. Hanson", with a long horizontal line extending to the right.

Jeremy Hanson, CSC, MLA

24 July 2009

**FURTHER COMMENTS TO THE
SELECT COMMITTEE ON PRIVILEGES
MR JEREMY HANSON, CSC, MLA**

1. As invited in the letter from the Select Committee on Privileges dated 22 July 2009 to make further comments on Mr Cormack's and my own submission to the Committee, I submit the following comments to the Committee.

2. In further comment to my own submission I submit the following additional guidance on ministerial responsibility that was provided by the Chief Minister on 24 July 2009. In response to a question asked on ABC 666 radio on 24 July 2009 whether the Emergency Services Commissioner, Mr Manson, had been gagged from speaking to the media by the Government; Mr Stanhope stated his position on ministerial responsibility for Ministers of his Government:

"I think it's quite appropriate for Ministers to accept Ministerial responsibility, after all they are held accountable for the operation of their agencies. The Emergency Services Agency is an agency within the Justice portfolio and Simon Corbell is the minister, and it's right and appropriate that the Minister accept responsibility for his agency - you know that's just in the nature and structure of 'ministerial responsibility'".

3. This definitive statement made by the Chief Minister with regard to Ministers in his own Government clearly validates arguments made in my original submission with regard to ministerial responsibility and accountability. Jon Stanhope's statement proves that my press release was appropriately addressed to the Minister and that Mr Cormack should not have written to me in response as he did. It demonstrates that Mr Cormack's response was in direct contradiction with the established conventions of ministerial responsibility and accountability adhered to by this Government as articulated by the Chief Minister.

4. In response to Mr Cormack's submission to the Select Committee on Privileges, I consider that the majority of matters raised in his submission are either fully addressed in my own submission, are not relevant to the terms of reference, or are simply a matter of his own opinion.

5. Importantly however, his submission confirms the fact that he misled the Estimates Committee and me in the lead up to the release of my press release on 21 May 2009.

6. At paragraph 21 to 23 of his submission he seeks to justify the FOI decision to delete the words "cellar door", "vineyard" and "bed and breakfast". I have dealt with this erroneous argument at paragraphs 38 to 44 of my own submission, however Mr Cormack's submission includes the statement at paragraph 23 that:

"I submit that information relating to planned development by an individual lessee could, when connected with an identified adjoining property, allow the lessee to be identified by a significant section, or a reasonably knowledgeable member, of the community."

7. In his submission, Mr Cormack asserts that the FOI deletion was appropriate because there was ***“planned development”*** relating to the “cellar door”, bed and breakfast and Vineyard.

8. His argument to justify the FOI decision that there was ***“planned development”*** is in absolute contradiction to his previous statements to me in the briefing of 17 April 2009 and to the Estimates Committee on 21 May 2009. At that time he stated that there were no such plans for a development. This is dealt with in paragraph 18 onwards in my submission but I highlight the following extract from Hansard of 21 May 2009:

MR HANSON: “When this was all going on, as well, there were allegations about a plan for a cellar door next door? We discussed this in the briefing as well. Can you extrapolate on those plans for the cellar door?”

Mr Cormack: “There were not any.”

9. His denial not only misled the Estimates Committee but also proved that he had misled me when denied that there were any plans for a “cellar door” in the briefing of 17 April 2009.

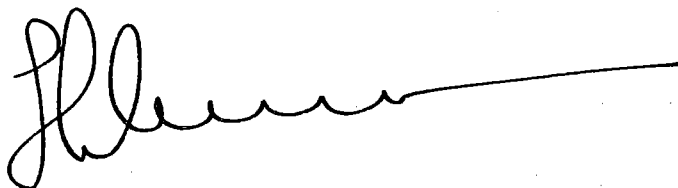
10. Of note, Mr Cormack’s denials at that briefing occurred in front of Mr O’Donoghue who was the authorised FOI officer responsible for making the decision to delete sections of the document released to the Opposition on 8 May 2009. A copy of Mr O’Donoghue’s covering letter to the FOI release is provided as attachment A.

11. As the document contained the evidence of the ***“planned development”*** of a cellar door, had it been released uncensored it would have shown that Mr Cormack had misled me during the briefing. This may explain why the words “cellar door”, “vineyard” and “bed and breakfast” were covered up in the document released to the Opposition under FOI.

12. Mr Cormack previously denied to the Estimates Committee and to me personally that there were any plans for a “cellar door” but is now arguing in his submission to the Privileges Committee that there was indeed such ***“planned development”***. He has completely changed his story in an attempt to justify the improper FOI deletions and has changed his story in response to the evidence being presented that has proved he was previously misleading Members of the Legislative Assembly.

13. In this context it is clear that his letter was not a simple attempt to correct the record but was an attempt to interfere with my pursuit of the truth of this matter which involved not only a misuse of the FOI process but also the damaging fact that Mr Cormack had misled Members of the Legislative Assembly on two separate occasions and had motive for the words ***“cellar door”***, ***“vineyard”*** and ***“bed and breakfast”*** to be deleted in the FOI release.

14. I therefore restate my opinion that in accordance with Standing Orders, and as outlined in my submission, Mr Cormack's letter was in fact an attempt by him to interfere and influence me in my conduct as a Member of the Legislative Assembly.

A handwritten signature in black ink, appearing to read 'J. Hanson', with a long horizontal line extending to the right.

JEREMY HANSON, CSC, MLA

24 July 2009

Attachment:

- A. Mr Ross O'Donoghue FOI Covering Letter dated 8 May 2009



Executive Coordination

Level 3, 11 Moore Street, Canberra City ACT 2601
GPO Box 825 Canberra ACT 2601
Phone: 13 22 81 or +61 13 22 81 from overseas
Website: www.health.act.gov.au
ABN: 82 049 056 234

File No: 09/4510

COPY

Our Ref: 09/07

Mr Zed Seselja MLA
ACT Legislative Assembly
GPO Box 1020
CANBERRA ACT 2601

Dear Mr Seselja

I refer to your letter that I received on 12 March 2009, in which you requested access under the *Freedom of Information Act 1989* (the Act) to copies of:

all documents and any other records that may exist regarding investigation into the purchase of land in Tharwa for use as a Bush Healing Centre.

As Executive Director, Policy Division, I am an officer authorised under section 22 of the Act to make a decision in relation to this matter.

After conducting a search we have located the enclosed folios that fall within the scope of your request. We have decided to exempt certain documents, or part thereof, under the following provisions of the Act:

s36 Internal working document

(1) subject to this section, a document is an exempt document if its disclosure under this Act-

(a) would disclose matter in the nature of, or relating to, opinion, advice or recommendation obtained, prepared or recorded, or consultation or deliberation that has taken place, in the course of. Or for the purposes of, the deliberative processes involved in the functions of an agency or Minister or the Territory;

s 39 Documents affecting financial or property interests of the Territory

(1) subject to subsection (2), a document is an exempt document if its disclosure under this Act would have a substantial adverse effect on the financial or property interests of the Territory or of an agency.

s41 Documents affecting personal privacy

- (1) A document is an exempt document if its disclosure under this Act would involve the unreasonable disclosure of personal information about any person (including a deceased person).

s42 Documents subject to legal professional privilege

- (1) A document is an exempt document if it is of such a nature that it would be privileged from production in legal proceedings on the ground of legal professional privilege.

s 43 Documents relating to business affairs etc

- (1) A document is an exempt document if its disclosure under this Act would disclose-
- (b) any other information having a commercial value that would be, or could reasonably be expected to be destroyed or diminished if the information were disclosed

If you wish to seek a review you should write to: -

The Principal Officer
C/- FOI Coordinator
ACT Health
GPO Box 825
CANBERRA ACT 2601

You have 28 days from the date of this letter to seek a review of the outcome or such other period as the Principal Officer / Secretary permits.

You also have the right to complain to the Ombudsman about the processing of your request. If you wish to lodge a complaint you should write to: -

The Ombudsman
GPO Box 442
CANBERRA CITY ACT 2601

Should you wish to discuss any aspect of this request please contact Annette McGorm, Freedom of Information Officer on (02) 62051340.

Yours sincerely



Ross O'Donoghue
Executive Director
Policy Division

8 May 09