

To: Alric Lindsay

By email: alric.lindsay@gmail.com

5 February 2025

Re: Ombudsman Appeal file Lindsay 202400544; FOI/110162

This is regarding your application to the Office of the Ombudsman regarding the Department of Environment's (DoE) decision to deny access to records requested under the Freedom of Information Act (2021 Revision) (FOIA).

On 11 July 2024, you submitted the following request:

The record(s) I request are:

The extent of the damage caused to the Cayman coral reef by the TDE Maritime superyacht M/Y Tatoosh in the year 2016.

Specifically, I am seeking the following information:

- 1. The documented extent of damage caused to the Cayman coral reef by the TDE Maritime superyacht M/Y Tatoosh.*
- 2. Whether the Government initiated legal action in respect of the incident.*
- 3. If the answer to 2 is "yes" please confirm what legal action was taken.*
- 4. If the answer to 2 is "no" please provide the reasons for the decision not to take legal action.*
- 5. Whether any charges were filed in respect of the incident.*
- 6. If the answer to 5 is "yes" please confirm what the charges were.*
- 7. If the answer to 5 is "no" please provide the reasons for the decision not to file charges.*
- 8. The total fines paid by or on behalf of the TDE Maritime superyacht M/Y Tatoosh as a result of the damage caused to the coral reef in the Cayman Islands.*

9. Whether any statements, admissions, or acknowledgments made by the owner or representatives of the TDE Maritime superyacht M/Y Tatoosh regarding the damage caused to the Cayman coral reef.

10. Whether any settlement agreement was signed. If yes, please provide a copy of the settlement agreement.

On 7 August 2024, the Deputy Information Manager (DIM) responded to you, informing you that the request was taking longer than expected as they were consulting with third parties. As such, the DIM extended the time for a response by another 30 calendar days.

On 5 September 2024, you received a response informing you that access to the responsive records was denied *“because any records that may exist are exempt under section 17(1)(b)(i) of the Freedom of Information Act. While the DOE is unable to confirm or deny exactly what records exist that are relevant to your request, as to do this would disclose exempt information, it would not be possible to respond to a request such as yours under the Freedom of Information Act because to do so would constitute an actionable breach of confidence.”*

You were also informed that some records responsive to the request already existed in the public domain, and copies of those records were provided. You were further informed that the Director of the DoE was consulted on the decision, therefore no internal review was possible.

On the same day, you appealed the DIM’s decision to the Ombudsman.

On 27 September 2024, we accepted the appeal.

As part of our investigation process, on 15 October 2024, we requested unredacted copies of the records responsive to your request. On 16 October 2024, the DIM asked for clarification on the information being sought, and we responded the same day with clarification. The DIM advised that there were some constraints within the Department and presented 30 October 2024 as a timeframe to respond. We outlined that our policy required a response within 10 calendar days, however, we agreed on the date based on the reasons given.

On 31 October 2024, the DIM sent us the requested information. As a result, we asked additional questions which were answered on 2 December 2024.



On 12 December 2024, we completed our review and shared our views concerning the exemption applied. The IM responded on 15 January 2025 providing further information in support of the exemption.

On 3 February 2025, we notified you that we concluded our investigation and determined that the application of s. 17(1)(b)(i) by the DoE was appropriate and within the scope of the request, as such, we proposed closing the matter. On the same day, you inquired if the additional information our office received could be disclosed. We advised citing sections 3(5)(g) and (6) of the FOI Act, section (9)(2) of the Ombudsman Act, and our FOI Appeals Policy which all speak to the confidentiality obligations of our office as reasons for nondisclosure. You acknowledged receipt of our response. As such, we have now closed this appeal.

Kind regards,

A handwritten signature in black ink, appearing to read "Shari Welcome".

Shari Welcome

Analyst, Information Rights

cc: Jerrica Campbell, Information Manager, DoE
Sonya van de Wouw, Deputy Information Manager, DoE