

COR/2019/05992

November 7, 2019

Dear Applicant:

**Re: Your request for access to information under Part II of the *Access to Information and Protection of Privacy Act* (Our File #: TW/1392019)**

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On October 16, 2019, the Department of Transportation and Works received your request for access to the following record:

*BNT/2019/0104 Meeting Note - Team Gushue Highway Route (September 5, 2019)*

I am pleased to inform you that a decision has been made by the Deputy Minister for Transportation and Works to provide to provide access to some of the requested information.

Access to some information contained within the records, has been refused in accordance with the following exceptions to disclosure, as specified in the *Access to Information and Protection of Privacy Act* (the Act):

*subsection 29(1)(a) The head of a public body may refuse to disclose to an applicant information that would reveal advice, proposals, recommendations, analyses or policy options developed by or for a public body or minister.*

*subsection 34(1)(a)(i) The head of a public body may refuse to disclose information to an applicant if the disclosure could reasonably be expected to harm the conduct by the government of the province of relations between that government and the following or their agencies: the government of Canada or a province.*

As required by 8(2) of the Act, we have severed information that is unable to be disclosed and have provided you with as much information as possible. In accordance with your request for a copy of the records, the appropriate copies have been enclosed.

Please be advised that you may appeal this decision and ask the Information and Privacy Commissioner to review the decision to provide partial access to the requested information, as set out in section 42 of the Act (a copy of this section of the Act has been enclosed for your reference). A request to the Commissioner must be made in writing within 15 business days of the date of this letter or within a longer period that may be allowed by the Commissioner. Your appeal should identify your concerns with the request and why you are submitting the appeal.

The appeal may be addressed to the Information and Privacy Commissioner is as follows:

Office of the Information and Privacy Commissioner  
2 Canada Drive  
P. O. Box 13004, Stn. A  
St. John's, NL. A1B 3V8

Telephone: (709) 729-6309  
Toll-Free: 1-877-729-6309  
Facsimile: (709) 729-6500

You may also appeal directly to the Supreme Court Trial Division within 15 business days after you receive the decision of the public body, pursuant to section 52 of the *Act* (a copy of this section of the *Act* has been enclosed for your reference).

Please be advised that responsive records will be published following a 72-hour period after the response is sent electronically to you or five business days in the case where records are mailed to you. It is the goal to have the responsive records posted to the Completed Access to Information Requests website within one business day following the applicable period of time. Please note that requests for personal information will not be posted online.

If you have any further questions, please contact me by telephone at 709-729-5351 or by email at [ATTW@gov.nl.ca](mailto:ATTW@gov.nl.ca).

Sincerely,

A handwritten signature in black ink that reads "Angela McIntyre".

**Angela McIntyre**  
ATIPP Coordinator

## Policy advice or recommendations

29. (1) The head of a public body may refuse to disclose to an applicant information that would reveal

(a) advice, proposals, recommendations, analyses or policy options developed by or for a public body or minister;

(b) the contents of a formal research report or audit report that in the opinion of the head of the public body is incomplete and in respect of which a request or order for completion has been made by the head within 65 business days of delivery of the report; or

(c) draft legislation or regulations.

(2) The head of a public body shall not refuse to disclose under subsection (1)

(a) factual material;

(b) a public opinion poll;

(c) a statistical survey;

(d) an appraisal;

(e) an environmental impact statement or similar information;

(f) a final report or final audit on the performance or efficiency of a public body or on any of its programs or policies;

(g) a consumer test report or a report of a test carried out on a product to test equipment of the public body;

(h) a feasibility or technical study, including a cost estimate, relating to a policy or project of the public body;

(i) a report on the results of field research undertaken before a policy proposal is formulated;

(j) a report of an external task force, committee, council or similar body that has been established to consider a matter and make a report or recommendations to a public body;

(k) a plan or proposal to establish a new program or to change a program, if the plan or proposal has been approved or rejected by the head of the public body;

(l) information that the head of the public body has cited publicly as the basis for making a decision or formulating a policy; or

(m) a decision, including reasons, that is made in the exercise of a discretionary power or an adjudicative function and that affects the rights of the applicant.

(3) Subsection (1) does not apply to information in a record that has been in existence for 15 years or more

### **Disclosure harmful to intergovernmental relations or negotiations**

34. (1) The head of a public body may refuse to disclose information to an applicant if the disclosure could reasonably be expected to

(a) harm the conduct by the government of the province of relations between that government and the following or their agencies:

- (i) the government of Canada or a province,
- (ii) the council of a local government body,
- (iii) the government of a foreign state,
- (iv) an international organization of states, or
- (v) the Nunatsiavut Government; or

(b) reveal information received in confidence from a government, council or organization listed in paragraph (a) or their agencies.

(2) The head of a public body shall not disclose information referred to in subsection (1) without the consent of

- (a) the Attorney General, for law enforcement information; or
- (b) the Lieutenant-Governor in Council, for any other type of information.

(3) Subsection (1) does not apply to information that is in a record that has been in existence for 15 years or more unless the information is law enforcement information.

### **Access or correction complaint**

**42.(1)** A person who makes a request under this Act for access to a record or for correction of personal information may file a complaint with the commissioner respecting a decision, act or failure to act of the head of the public body that relates to the request.

(2) A complaint under subsection (1) shall be filed in writing not later than 15 business days

(a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or

(b) after the date the head of the public body is considered to have refused the request under subsection 16(2).

(3) A third party informed under section 19 of a decision of the head of a public body to grant access to a record or part of a record in response to a request may file a complaint with the commissioner respecting that decision.

(4) A complaint under subsection (3) shall be filed in writing not later than 15 business days after the third party is informed of the decision of the head of the public body.

(5) The commissioner may allow a longer time period for the filing of a complaint under this section.

(6) A person or third party who has appealed directly to the Trial Division under subsection 52(1) or 53(1) shall not file a complaint with the commissioner.

(7) The commissioner shall refuse to investigate a complaint where an appeal has been commenced in the Trial Division.

(8) A complaint shall not be filed under this section with respect to

(a) a request that is disregarded under section 21;

(b) a decision respecting an extension of time under section 23;

(c) a variation of a procedure under section 24; or

(d) an estimate of costs or a decision not to waive a cost under section 26.

(9) The commissioner shall provide a copy of the complaint to the head of the public body concerned.

### **Direct appeal to Trial Division by an applicant**

**52.** (1) Where an applicant has made a request to a public body for access to a record or correction of personal information and has not filed a complaint with the commissioner under section 42, the applicant may appeal the decision, act or failure to act of the head of the public body that relates to the request directly to the Trial Division.

(2) An appeal shall be commenced under subsection (1) not later than 15 business days

(a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or

(b) after the date the head of the public body is considered to have refused the request under subsection 16(2).

(3) Where an applicant has filed a complaint with the commissioner under section 42 and the commissioner has refused to investigate the complaint, the applicant may commence an appeal in the Trial Division of the decision, act or failure to act of the head of the public body that relates to the request for access to a record or for correction of personal information.

(4) An appeal shall be commenced under subsection (3) not later than 15 business days after the applicant is notified of the commissioner's refusal under subsection 45(2).

**Meeting Note**  
**Department of Transportation and Works**  
**Meeting re: Team Gushue Highway Route**  
**Thursday, September 5, 2019, 2:00 – 2:30 p.m.**  
**TW Executive Boardroom**

**Attendees:**

- Department of Transportation and Works
  - Hon. Steve Crocker, Minister
  - Cory Grandy, ADM – Infrastructure
  - Tracy English, ADM – Strategic and Corporate Services
  - Eilanda Anderson, Executive Assistant to Minister Crocker
  
- Jim Lester, MHA – Mount Pearl North

**Purpose of Meeting:**

- The meeting was requested by MHA Lester to discuss the route to be chosen for the final segment of the Team Gushue Highway (TGH).

**Background:**

- The first section of the TGH, 2.3 km from the Outer Ring Road to Kenmount Road, opened in 2006. The next section, approximately 4 km from Kenmount Road to Topsail Road, opened in December 2018. The final phase will see the highway extended from Topsail Road to connect to Route 2, Pitts Memorial Drive, and Route 3, Robert E. Howlett Memorial Drive, to reach a total length of 9.6 km.
  
- The route design of the TGH (formerly the East-West Arterial) was developed approximately 30 years ago and, since that time, there have been significant changes to the surrounding environment that have impacted traffic volumes in the area, including:
  - Numerous residential developments in the Mount Pearl/St. John's area including Castle Bridge, Southlands, Brookside and Galway, resulting in an increase in traffic volume in the area.
  - New business developments associated with the Glencrest/Galway development, located west of the planned TGH connection to Routes 2 and 3, which will attract trips from non-residents which could affect traffic flow and volume in the area.
  - Increased commuter traffic from the southern shore utilizing the Team Gushue Highway to access St. John's.
  - Increased focus on provincial food security and enhanced efforts to encourage/accommodate farming activity, including that in the Brookfield Road area.
  
- As a result, on August 29, 2019, the department issued a Request for Proposals (RFP) seeking a professional traffic engineering consulting firm to engage in a detailed traffic study in the area. Specifically, the study will assess the impact of these and future developments to the existing Route 2/Route 3 Interchange and proposed connection of the TGH from a Capacity, Level of Service, Geometric and Safety perspective. The scope of work will also

include an assessment of the existing connection of the TGH to Topsail Road in terms of Capacity, Level of Service and Safety.

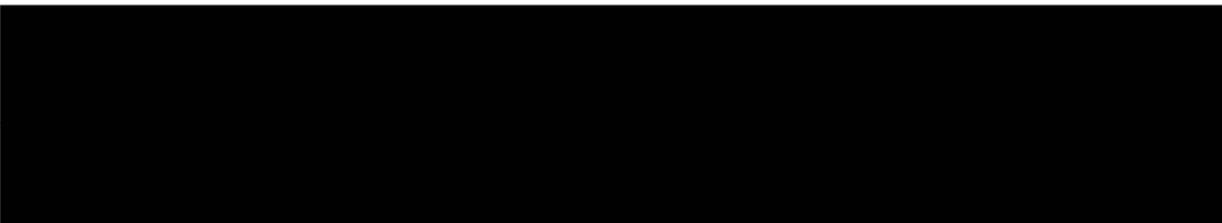
- The RFP is scheduled to close on September 13, 2019. The department aims to have a contract in place by the end of September and is targeting early October 2019 for an initial project kick-off meeting with the successful proponent. The consultant's final report will be due three months from the date of this initial meeting (i.e., early January, 2020).
- TW has acquired land to accommodate the TGH. In total, TW purchased five properties in the area of Brookfield Road and Heavy Tree Road: Leonards Holdings (23 acres), Estate of Madeline Parsons (9.65 acres), Manstan (1.47 acres), Moja Entertainment (21 acres) and Juanita Lester (6.93 acres) for a total of 62.05 acres.
- Additional land is required to complete the TGH, including land at the site of Agriculture Canada's experimental farm. Negotiations between the two levels of government are ongoing on the matter.

s.29(1)(a), s.34(1)(a)(i)

**Analysis:**

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- More land may be needed to accommodate the TGH, however, no further acquisitions will be undertaken until the traffic study has been completed and the final route chosen.

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s.29(1)(a)

**Potential Speaking Points:**

- The traffic study will provide the department with the engineering data and analysis needed to determine how and where the Team Gushue Highway will connect to Pitt's Memorial Drive, the Goulds Bypass Road and the Commonwealth Avenue/Brookfield Road/Heavy Tree Road intersections.
- More land may be needed to accommodate the TGH; however, no further acquisitions will be carried out until the traffic study has been completed and the final route chosen.

**Prepared/Approved by:** A. Marshall / J. Crummey/ C. Grandy / T. English

**Deputy Minister's Approval:** T. King

September 5, 2019