



FOI/61/2006

8 March 2007

Mr Dominic Creedon  
Solicitor,  
Philpott, Creedon & Co.,  
Solicitors,  
43 Grand Parade,  
Cork.

Your Ref: DC/SMCA/2535

Dear Mr Creedon,

I refer to previous telephone conversations regarding your request under the Freedom of Information (FOI) Act under your reference number above and to your letter of 23 January which was received here on 30 January 2007.

Unfortunately, as you will see from our online service, (<http://www.dcmnr.gov.ie/Marine/Coastal+Zone+Management/Coastal+Zone+Application+System.htm>), our computer based tracking system called "cozas" is solely application based and does not cater for cases involving unauthorised/alleged unauthorised developments. Accordingly, it is not possible to extract cases involving such developments on that system.

There are over 1,400 files in existence covering the counties of Cork and Kerry. In order to identify all cases which could fall within the ambit of your request, a manual examination of those files would have to be undertaken. Not only would the search and retrieval costs of such an undertaking at the present rate of €20.75 per hour be very significant, I would have no option but to invoke the provisions of Section 10 (1) (c) of the FOI Act. Section 10 (1) (c) provides for refusal to grant a request if "in the opinion of the head, granting the request would, by reason of the number or nature of the records concerned or the nature of the information concerned, require the retrieval and examination of such number of records or an examination of such kind of the records concerned as to cause a substantial and unreasonable interference with or disruption of the work of the public body concerned."

However, I have extracted details of all of the Cork and Kerry cases from our File Register, which is in excel format. I then searched that data for the word "unauthorised" and then searched for references to Bantry and Kenmare from the files found during that search. A list of the Kenmare areas is attached. No data found for Bantry.

If there are cases on that list for which you require information, please identify them and revert to me.

At this stage I cannot tell whether, any of the cases selected will contain records created on or after 21 April 1998 (i.e., non personal records which can be sought under the FOI Act) or whether the matter relates to the deliberative process (Section 20 as amended) or confidential information to which Section 26 (1) (a) applies, i.e., whether the information can be released.

In reality a development cannot be classified as unauthorised until it has been so found to be by the Courts. The Courts Service may be in a position to provide details of cases of unauthorised developments in the Bantry and Kenmare areas which have been decided under the Foreshore Act, 1933, as amended.

As developments on the Foreshore will usually require planning permission, the Local Authorities in the areas in question may be able to provide details of developments which have been carried out without the necessary planning permission.


Details of deeds issued relating to the Foreshore are posted on our website at [Deeds relating to Foreshore issued under the Foreshore Acts 1933-2005 and prior legislation .xls](#).

The general policy in relation to unauthorised developments is that where the Department receives complaints/becomes aware of unauthorised development on the foreshore, a site investigation is carried out and the Department's Engineering Division prepares a report on the matter. A decision is then taken as to the action to be taken in relation to the development. This could involve, for example, seeking a Court order authorising removal of the structure. Alternatively, the situation might be regularised, if the development was not seen as problematical, by the granting of a lease or licence.

I wish to advise you that, if for any reason you are not satisfied with the outcome of your request, you are entitled to seek a review of the case by appealing the decision to this Department's FOI Internal Review Board. To appeal, you need to write to Mr Frank O'Brien, FOI Unit, Department of Communications, Marine and Natural Resources, Elm House, Earlsvale Road, Cavan.

You must make your appeal within 4 weeks of the date of this letter, but the making of a late appeal may be permitted in appropriate circumstances. The appeal will involve a complete reconsideration of the matter by a more senior member of the staff of this Department.

Yours sincerely,



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**Clare O'Gorman**  
**Higher Executive Officer**  
**Foreshore Section**  
**Coastal Zone Management Division**



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**PHILPOTT, CREEDON & Co:**  
— Solicitors —

Our Ref: DC/SMCA/2535

Your Ref:

Date: 23-Jan-07

Ms. Claire O'Gorman,  
Dept. of Communications, Marine and Natural Resources,  
Clonakilty,  
CO. CORK

Re:- Freedom Request Information  
Your Ref. No. FOI/0061/2006



Dear Sirs,

We refer to our request for documents and records as outlined in our letter to you of the 3<sup>rd</sup> of August, 2006 and to our two subsequent telephone conversations with your offices concerning the extent and scope and wide nature of our application. You requested that we attempt to make our application more focused.

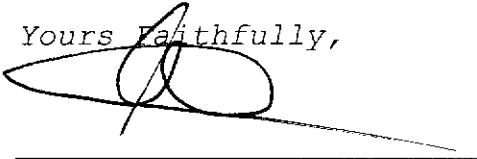
Having taken our client's instructions we have now been instructed that in relation to paragraph 1 of our letter of the 3<sup>rd</sup> of August that the documents which we seek can be confined to piers, slipways and coastal activities which have taken place in Bantry Bay and Kenmare Bay/Kenmare River.

In relation to item no. 2, the policy documents that we require relate to the Island of Ireland as a whole.

In relation to no. 3 in our request, this should be confined to Bantry Bay, Kenmare Bay/Kenmare River. Everything else in relation to our request, that is item 4 and 5 and 7, can be ignored except for item 6 which relates to the Island of Ireland as a whole. Any reference to County Cork and Kerry in relation to same should be excluded. An amended letter of request is **enclosed** dealing with the above and we await hearing from you. We have continued to use the same lettering as in our original request.

We trust that this reduces the extent of the documents and the workload in getting same. We await hearing.

Yours Faithfully,

A handwritten signature in black ink, appearing to be 'D. Creedon', written over a horizontal line.

**PHILPOTT CREEDON & CO.,**  
(DOMINIC CREEDON)

ENCL

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**PHILPOTT, CREEDON & CO.**  
— Solicitors —

Our Ref: DC/SMCA/2535

Your Ref:

Date:

3 August 2006

Ms. Mary Rabbitt,  
FOI Officer,  
Dept. of Communications, Marine & Natural Resources,  
Coastal Protection Section,  
Leeson Lane,  
DUBLIN 2  
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**Re:- Freedom of Information Request re Coastal Protection**

Dear Sirs,

In accordance with the Freedom of Information Act we make a formal application for copies of the following documents and records in accordance with the provisions of the Freedom of Information Act:-

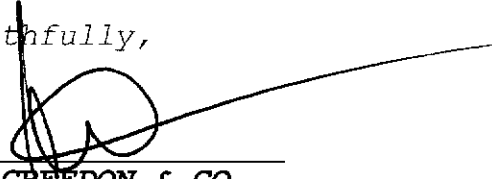
- 1) Records of any and all inspections of unauthorised developments in the form of piers and slipways or other coastal activities which have taken place in Bantry Bay, Kenmare Bay/Kenmare River since 1997. *changed - more found*
- 2) Copies of any policy documents arising upon or touching upon any policy of the Department of Communications, Marine and Natural Resources concerning inspection of unauthorised developments in the form of piers and slipways in the jurisdiction of the Island of Ireland. *changed - enlarged*
- 3) Copies of any complaints or correspondence or documents received in the nature of complaints received by the Department concerning alleged unauthorised developments in the forms of piers and slipways in Bantry Bay, Kenmare Bay/Kenmare River. *changed - more found*
- 4) Copies of any inspections and records of inspections and locations of inspections which result as a consequence of such complaints. *to change*
- 5) All memoranda, papers and documents concerning steps or actions taken by the Department of Communications consequent upon or arising out of such complaints and inspections in relation to alleged unauthorised developments. *to change*

✓ include  
the same  
✓ include

- 6) Records and memoranda concerning the granting or offering of leases to companies/developers/individuals in relation to piers and slipways under the provisions of Section 12(3) of the Foreshore Act in the Island of Ireland.
- 7) All memoranda, papers and records and policy documents in the possession of the Department setting out any criteria or terms and conditions and which were to be fulfilled in relation to the offer of leases in respect of piers and slipways in the Counties of Cork and Kerry and in particular with regard to the offer of piers and slipways whether authorised and in particular those which have been unauthorised.

We await hearing from you with the relevant documentation as soon as ever possible.

Yours Faithfully,



**PHILPOTT CREEDON & CO.,**  
(DOMINIC CREEDON)