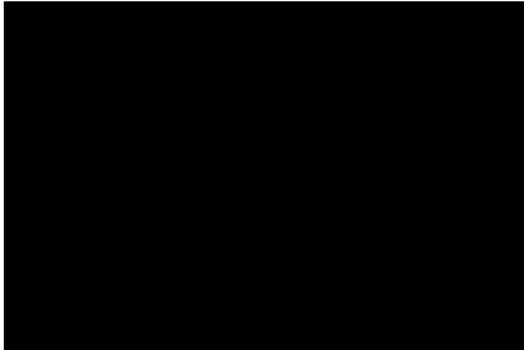




ACT
Government

Chief Minister, Treasury and
Economic Development

Our ref: CMTEDD 55/15-16



Freedom of Information Request – Agreed Memorandum of Understanding (MOU) on Procurement of Works and Services with UnionsACT

I refer to your application under the ACT *Freedom of Information Act 1989* (the Act), received by the Chief Minister, Treasury and Economic Development Directorate (CMTEDD) on 7 April 2016, in which you sought access to the following information:

“... all documents and any information held by the ACT Government in relation to the Agreed Memorandum of Understanding on Procurement of Works and Services by the ACT Government (MOU) signed by Mr. Barr and Unions ACT on 28 March 2016.”

Decision Maker

I am authorised under section 22 of the Act and have been appointed to make decisions on access to documents and liability for charges.

Charges

I have decided under section 29 of the Act not to impose processing charges for this request, as advised to you in my letter of 6 June 2016.

Identification of documents

Officers of CMTEDD have conducted searches of paper and electronic files and email accounts. As advised in previous letters, numerous documents that are relevant to your request have been located.

As promised, I am providing the first release of identified documents, set out in the attached schedule.

Decision on Access

I have decided to fully release some documents, partially release some documents and fully exempt some documents from release.

Chief Minister, Treasury and Economic Development

My reasons for not providing access to some documents and portions of documents are set out in the following statement of reasons and in the attached schedule.

I will provide further documents as processing is completed, noting that I anticipate providing the final documents by 31 July 2016.

Exemptions Claimed

Internal Working Documents

Dave Purser Inbox, Folios: 1, 2- 4, 14, 15, 16, 17, 18, 19-22

Section 36 of the FOI Act provides:

- (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 of the Territory; and*
 - b. *would be contrary to the public interest.*
- (2) *In the case of a document of the kind referred to in section 8 (1), the matter referred to in subsection (1) (a) of this section does not include matter that is used or to be used for the purpose of the making of decisions or recommendations referred to in section 8 (1).*
- (3) *This section does not apply to a document only because of purely factual material contained in the document.*
- (4) *This section does not apply to—*
 - a. *reports (including reports concerning the results of studies, surveys or tests) of scientific or technical experts, whether employed within an agency or not, including reports expressing the opinions of such experts on scientific or technical matters; or*
 - b. *reports of a prescribed body or organisation established within an agency; or*
 - c. *the record of, or a formal statement of the reasons for, a final decision given in the exercise of a power or of an adjudicative function.*
- (5) *Where a decision is made under part 3 that an applicant is not entitled to access to a document because of this section, the notice under section 25 shall state the ground of public interest on which the decision is based.*

I have decided to exempt these folios and components of these folios on the basis that they constitute internal working documents under section 36(1) of the Act. This material includes advice, opinion and recommendations to CMTEDD which have been used as part of deliberative processes. The exempted material includes different versions of

documents. I consider that it is clearly in the public interest that ACT Government officials be able to seek and provide advice freely while planning and drafting documents and policies for the Government. As substantial parts of these documents were not part of the final versions, disclosure of the exempted material could reasonably be expected to interfere with the ACT Public Service's capacity to effectively advise the Government of the day. I therefore consider that it is not in the public interest that this information is released.

Documents subject to legal professional privilege

George Tomlins Inbox from Michael Deasey, Folios: 1-78

George Tomlins Inbox from Dr Loretta Zamprogno, Folios: 1-81

Section 42 of the Act provides:

- (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.
- (2) A document of the kind referred to in section 8 (1) is not an exempt document under subsection (1) of this section only because of the inclusion in the document of matter that is used or to be used for the purpose of the making of decisions or recommendations referred to in section 8 (1).

I have decided to exempt these folios from release, under section 42, on the grounds that they are protected by legal professional privilege and their disclosure would diminish our capacity to undertake full and frank discussion with our lawyers.

Your right of review

Internal Review

Under section 59 (1) of the Act, you may request a review of my decision. You have 28 days after receiving notice of my decision to ask for a review, or a further period as allowed by the Director-General.

Your request should be addressed to:

Director-General

Chief Minister, Treasury and Economic Development Directorate

GPO Box 158

CANBERRA ACT 2601

Complaints to the Ombudsman

Under section 54 of the Act, you may complain to the Ombudsman about administrative matters relating to the processing of your FOI request. There is no fee for making a complaint. The Ombudsman will conduct an independent investigation into your complaint.

You can contact the Ombudsman either by telephone on 1300 362 072 or in writing to:
The Ombudsman
GPO Box 442
CANBERRA ACT 2601

Online FOI Publication Policy

I have assessed your request for information under the ACT Government's Online Freedom of Information Publication Policy and have determined that my decision on your request, not including your original application, will be published online. Personal information or business information will not be made available under this policy.

A copy of the policy, with details about what information may be published on the internet, is available online at: [http://www.cmd.act.gov.au/data/assets/pdf_file/0016/250333/FOI Web Release Policy - Final.pdf](http://www.cmd.act.gov.au/data/assets/pdf_file/0016/250333/FOI_Web_Release_Policy_-_Final.pdf)

Should you have any queries regarding my decision, please contact me on (02) 6207 8944.

Yours sincerely



George Tomlins
Executive Director
Procurement and Capital Works

24 June 2016