ACT Government
Chief Minister, Treasury and Economic Development

Freedom of Information Publication Coversheet

The following information is provided pursuant to section 28 of the *Freedom of Information Act 2016*.

FOI Reference: CMTEDDFOI 2018-0331

Information to be published	Status
1. Access application	Published
2. Decision notice	Published
3. Documents and schedule	Schedule only
4. Additional information identified	No
5. Fees	N/A
6. Processing time (in working days)	11
7. Decision made by Ombudsman	N/A
8. Additional information identified by Ombudsman	N/A
9. Decision made by ACAT	N/A
10. Additional information identified by ACAT	N/A

From: [redacted]
To: CMTEDD FOI
Subject: jackgreen, elementus FOI request
Date: Monday, 26 November 2018 8:23:14 AM

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hello

I am emailing to request copies of the advice provided to Minister Simon Corbell and the government in 2013 and 2014 in relation to the bid by One Sun Capital Solar Farm for a share of the ACT's solar feed-in tariff please.

My request is specifically for (but not limited to) the advice provided to Minister Simon Corbell and the government in relation to Jackgreen, a failed NSW energy retailer which was suspended from the national electricity market, and its executives including [redacted].

For context, [redacted] were also executives at Elementus/One Sun, the company which successfully bid for a feed-in tariff in the first auction.

I am seeking the internal and external advice provided to Minister Corbell and the government on this matter.

My request should be considered a freedom of information request.

thank you

Kirsten

[redacted]

ACT Government
Chief Minister, Treasury and Economic Development

Our ref: CMTEDDFOI2018-0331

[redacted]

via email: [redacted]

Dear [redacted]

FREEDOM OF INFORMATION REQUEST

I refer to your application under section 30 of the *Freedom of Information Act 2016* (the Act), received by the Chief Minister, Treasury and Economic Development Directorate (CMTEDD) on 26 November 2018, in which you sought access to advice provided to Minister Simon Corbell regarding the bid by One Sun Capital Solar Farm for a share in the ACT's solar feed-in tariff.

Specifically, you are seeking:

> *copies of the advice provided to Minister Simon Corbell and the government in 2013 and 2014 in relation to the bid by One Sun Capital Solar Farm for a share of the ACT's solar feed-in tariff.*

You further state that your request is:

> *specifically for (but not limited to) the advice provided to Minister Simon Corbell and the government in relation to Jackgreen, a failed NSW energy retailer which was suspended from the national electricity market, and its executives including* [redacted]

Authority

I am an Information Officer appointed by the Director-General of CMTEDD under section 18 of the Act to deal with access applications made under Part 5 of the Act.

Timeframes

In accordance with section 40 of the Act, CMTEDD is required to provide a decision on your access application by 24 December 2018.

Decision on access

Searches were completed for relevant documents and 2 documents were identified that fall within the scope of your request.

I have included as **Attachment A** to this decision the schedule of relevant documents. This provides a description of each document that falls within the scope of your request and the access decision for each of those documents.

I have decided to refuse access in whole to all identified documents as both documents are deemed contrary to the public interest information pursuant to section 1.6 of Schedule 1 of the Act.

In accordance with section 54(2) of the Act a statement of reasons outlining my decision is below.

Material considered

In reaching my access decision, I have taken the following into account:

- the Act, particularly section 1.6 of Schedule 1; and
- the content of the documents that fall within the scope of your request.

Exemption claimed

My reasons for deciding not to grant access to the identified document are as follows:

Cabinet Information (section 1.6 of Schedule 1 of the Act)

Both identified documents contain information that was prepared and brought into existence for consideration by Cabinet. The information in these documents is deliberative in nature.

In reviewing the document, I note the requirements of section 1.6 (2) of the Act which states that the exemption for Cabinet Information does not apply to 'purely factual information' unless the disclosure of the information would involve the disclosure of a deliberation or decision of Cabinet and the fact of the deliberation or decision has not been officially published. In the case of *Parnell & Dreyfus and Attorney-General's Department* [2014] AICmr 71, the Australian Information Commissioner stated that the term 'purely factual material' does not extend to factual material that is an integral part of the deliberative content and purpose of a document, or is embedded in or intertwined with the deliberative content in such a manner that it is impractical to separate it from the other content.

Having reviewed the documents, I consider that the purely factual information within the document identified is an integral part of the deliberative content and as such the analysis and views in the document would be robbed of their essential meaning without incorporation of this material. I am satisfied that disclosure of this purely factual information would involve the disclosure of a deliberation or decision of Cabinet.

Having considered the information contained in the documents, I am satisfied that the information contained in both of the documents is contrary to the public interest information pursuant to section 1.6 of Schedule 1 of the Act.

The relevant documents total 600 pages in length and as they are being wholly withheld, a document binder has not been sent to you. Should you wish to view the wholly redacted version of the documents, please contact this office to discuss arrangements.

Charges

Pursuant to *Freedom of Information (Fees) Determination 2017 (No 2)* processing charges are not applicable for this request because no documents are being released to you.

Online publishing – Disclosure Log

Under section 28 of the Act, CMTEDD maintains an online record of access applications called a disclosure log. Your original access application and my decision in response to your access application will be published in the CMTEDD disclosure log 3 working days after the decision. Your personal contact details will not be published.

You may view CMTEDD disclosure log at https://www.cmtedd.act.gov.au/functions/foi/disclosure-log.

Ombudsman Review

My decision on your access request is a reviewable decision as identified in Schedule 3 of the Act. You have the right to seek Ombudsman review of this outcome under section 73 of the Act within 20 working days from the day that my decision is published in CMTEDD disclosure log, or a longer period allowed by the Ombudsman.

If you wish to request a review of my decision you may write to the Ombudsman at:

The ACT Ombudsman
GPO Box 442
CANBERRA ACT 2601
Via email: actfoi@ombudsman.gov.au

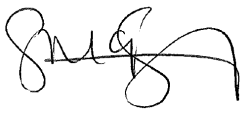
ACT Civil and Administrative Tribunal (ACAT) Review

Under section 84 of the Act, if a decision is made under section 82(1) on an Ombudsman review, you may apply to the ACAT for review of the Ombudsman decision. Further information may be obtained from the ACAT at:

ACT Civil and Administrative Tribunal
Level 4, 1 Moore St
GPO Box 370
Canberra City ACT 2601
Telephone: (02) 6207 1740
http://www.acat.act.gov.au/

Should you have any queries in relation to your request please contact me by telephone on 6207 7754 or email CMTEDDFOI@act.gov.au.

Yours sincerely,



Sarah McBurney
Information Officer
Information Access Team
Chief Minister, Treasury and Economic Development Directorate
11 December 2018

ACT Government
Chief Minister, Treasury and Economic Development

FREEDOM OF INFORMATION REQUEST SCHEDULE

NAME	WHAT ARE THE PARAMETERS OF THE REQUEST	Reference NO.
[redacted]	Advice provided to Minister Simon Corbell regarding the bid by One Sun Capital Solar Farm for a share in the ACT's solar feed-in tariff.	CMTEDDFOI2018-0331

Ref No	Page number	Description	Date	Status	Reason for Exemption	Online Release Status
1	1-49	Outcome of Stage 2 – Regular Stream of the Large-Scale Solar Auction	24/07/13	Exempt	Sch 1 s1.6	Yes
2	50-600	Solar Auction Review and Future Large-Scale Capacity Releases	4/02/14	Exempt	Sch 1 s1.6	Yes

Total No of Docs
2