ACT Government
Chief Minister and Treasury

Our ref: FOI CMTD 5/13-14

Dear

I refer to your request addressed to the Chief Minister and Treasury Directorate (CMTD), made under the *Freedom of Information Act 1989* (the Act), to access documents relating to **the Government's direct and indirect investments and information about the Territory Banking and Superannuation Provision Accounts' portfolios and any other investment accounts operated by the Territory as at 30 June 2013 or, where that is not available, the most recent information.**

Decision Maker

I am authorised under section 22 of the Act to make decisions on access to documents held by CMTD and liability for charges.

Charges

I have decided under section 29 of the Act not to impose processing charges for this request.

Identification of Documents

Officers of CMTD have conducted thorough searches of paper and electronic files for the documents you seek and those that are relevant to your request have been located in the Investment Branch.

As per our earlier correspondence, a list of the companies in which shares are directly-owned (holdings at 30 June 2013) was made available on the CMTD website and is available at:
http://apps.treasury.act.gov.au/__data/assets/pdf_file/0011/491564/AustralianEquitiesDirectHoldings.pdf.

Decision on access

I note that you do not request information relating to the Home Loan Portfolio.

In the identification and consideration of documents relevant to your request, I have interpreted the scope to refer to documents directly relating to the indirect and direct investments of the Territory Banking and Superannuation Provision Accounts. This includes information on trusts, companies, joint ventures, start-ups, and partnerships in which any investment has been made; investment information, including by Global Industry Classification System (GICS) code, and investment values; the application and incorporation of ESG considerations into the investment decision-making processes and any ESG issues arising as a consequence of investment in directly held ASX listed entities; and material enabling the monitoring of voting rights.

The documents located include financial year and half year review questionnaires; *ESG June 2013 Annual Report*; ESG responsible investment policy; Investment Manager ESG questionnaires; *Perpetual and Responsible Investment – Report on Progress 2011*; corporate governance and proxy voting policies; quarterly reviews and reports; *Real Estate ESG and Community Report 2012*; monthly financial statements; and proxy voting outcomes.

I have decided to release to you, in full, the majority of the documents (or portions of documents) located within the scope of this request. All relevant items identified are listed on the attached schedules with a summary of my decision in relation to each and copies of the material that I have released are attached to their respective schedules.

Exemptions claimed

Exemptions have been claimed on portions of the documents to protect the private affairs of individuals and businesses.

Under section 41(1) of the Act, I have exempted personal information that does not appear to have been communicated publicly; such as signatures and the name and contact details of an individual external to the ACT Public Service.

<u>Documents affecting personal privacy</u>
Section 41 of the Act provides:

> (1) *A document is an exempt document if its disclosure under this Act would involve the unreasonable disclosure of personal information about any person (including a deceased person).*
>
> (2) *Subject to subsection (3), subsection (1) does not apply to a request by a person for access to a document only because of the inclusion in the document of matter relating to that person.*
>
> (3) *Where—*
>
> > (a) *a request is made to an agency or Minister for access to a document of the agency, or an official document of the Minister, that contains information of a medical or psychiatric nature concerning the person making the request; and*
> >
> > (b) *it appears to the principal officer of the agency, or to the Minister, as the case may be, that the disclosure of the information to that person might be prejudicial to the physical or mental health or wellbeing of that person;*
>
> *the principal officer or Minister may direct that access to the document, so far as it contains that information, that would otherwise be given to that person is not to be given to that person but is to be given instead to a doctor to be nominated by that person.*

Where documents list the views of businesses that were expressed in confidence and which do not appear to have been publicly disclosed by the company or through media reports, I have decided to exempt from release the identity of these organisations under section 43(1)(c)(i) of the Act.

I also have considered that the confidential notions of particular businesses may impact existing or potential business relations. Therefore, I am of the view that the identification of these businesses could result in adversely affecting their reputation and business affairs and may also unreasonably disclose private business strategy or undertakings.

<u>Documents relating to Business Affairs</u>
Section 43 of the Act provides:

> *(1) A document is an exempt document if its disclosure under this Act would disclose—*
>
> *(a) trade secrets; or*
>
> *(b) any other information having a commercial value that would be, or could reasonably be expected to be, destroyed or diminished if the information were disclosed; or*
>
> *(c) information (other than trade secrets or information to which paragraph (b) applies) concerning a person in respect of his or her business or professional affairs or concerning the business, commercial or financial affairs of an organisation or undertaking, being information—*
>
> *(i) the disclosure of which would, or could reasonably be expected to, unreasonably affect that person adversely in respect of his or her lawful business or professional affairs or that organisation or undertaking in respect of its lawful business, commercial or financial affairs.*

Your right of review

Internal Review
You are entitled, under section 59 (1) of the Act, to request a review of my decision. This right of review extends to a review of the adequacy of the search for documents undertaken by the Directorate.

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 and Treasury 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 may conduct an independent investigation into your complaint. You can contact the Ombudsman either by telephone on 1300 362 072 or by writing to:

The Ombudsman
GPO Box 442
CANBERRA ACT 2601

Online FOI Policy

Please be aware that under the ACT Government's Online FOI Publication Policy information released to you in response to your Freedom of Information request may be released on the Internet.

Personal information or business affairs information will not be made available under this policy. If you think the content of your request would contain such information, please inform the FOI Coordinator immediately.

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

Should you have any queries regarding this matter please contact me on 620 70187.

Yours sincerely

Patrick McAuliffe
Director
Investment Branch

31 October 2013