



**ACT**  
Government

Economic Development

Dear

**Re: Freedom of Information Request – Canberra Brickworks**

I refer to your application under section 14 of the *Freedom of Information Act 1989* (FOI Act), received by the Economic Development Directorate (the Directorate) on 12 March 2014, in which you requested access to:

*Documents produced from 1 March 2011 until the present (12 March 2014) relating to development of the Canberra Brickworks and environs in Yarralumla.*

In particular you seek access to:

- *Reports on public consultations*
- *Development plans and options, any proposed subdivisions, and any evaluations of such plans and options*
- *Feasibility studies and cost/benefit analyses. This should include, amongst others, the Canberra Brickworks (Yarralumla) Mixed Use Feasibility Study prepared by consultants MacroPlan Dimasi*
- *Studies/reports on traffic impacts and traffic calming measures*
- *Contamination and remediation studies*
- *Correspondence with, and responses from, external bodies, specifically the ACT Heritage Council, ACTPLA, and the National Capital Authority.*

**Decision**

I am an officer authorised under section 22 of the Act to make decisions on access to documents held by the Land Development Agency (LDA), as the LDA has been identified as the agency under the Directorate that holds the relevant documents in this matter.

I advise that the LDA has identified a number of documents relevant to your request as outlined in the attached schedule. I have determined that some of the documents identified are considered exempt under the Act, and I have therefore decided not to release all of the identified documentation to you in accordance with the following exemption provisions and subsequent reasoning (as detailed below):

1. The documents are considered Executive documents - s35;
2. Internal working documents- s36;
3. The identified material is subject to legal professional privilege - s42;

4. Contact details are redacted where requested by a third party – s41; and
5. The information within the document is out of scope of the request

I have attached the full schedules identifying all documents identified and any decisions regarding access to the documents. The terms used are either 'Full release', 'Partial release' or 'Exempt'.

All public consultation reports for the Canberra Brickworks are available publically online at [www.lda.gov.au](http://www.lda.gov.au) and as such are excluded from the content of this application.

### **Section 35 Executive documents**

*(1) A document is an exempt document if it is—*

- (a) a document that has been submitted to the Executive for its consideration or is proposed by a Minister to be so submitted, being a document that was brought into existence for the purpose of submission for consideration by the Executive; or*
- (b) an official record of the Executive; or*
- (c) a document that is a copy of, or of a part of, or contains an extract from, a document referred to in paragraph (a) or (b); or*
- (d) a document the disclosure of which would involve the disclosure of any deliberation or decision of the Executive, other than a document by which a decision of the Executive was officially published.*

In respect of the privileged confidentiality of Cabinet, I have decided to exempt from release items that formed Cabinet submissions, official Executive documents and items that contain information that, if released, would disclose the deliberations of Cabinet.

The documents I am exempting under this section, as identified in the schedules, include draft and final submissions to Cabinet and their attachments, internal correspondence discussing the submissions and related briefings.

### **Section 36 Internal working documents**

*(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.*

Section 36 allows the exemption of internal working documents when disclosure under the FOI Act would not be in the public interest. The documents identified as exempt under this section include internal briefing notes, as well as documents which have been submitted to the LDA Board for review.

I consider that these documents are internal working documents in draft form and include opinion and the deliberative processes of the agency.

I do not believe disclosure in this circumstance would fairly disclose the ongoing decision making process and may impact on further deliberations on these matters.

In addition, I am of the view that disclosure of these documents at this time would create unnecessary debate and/or confusion about the subject matter. For these reasons I believe that disclosure is not in the public interest.

#### **Section 42 Documents subject to legal professional privilege**

*(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.*

A number of documents have been identified that I have decided to exempt under section 42 (legal professional privilege). These documents were gathered for the purpose of an ACT Civil and Administrative Tribunal (ACAT) matter. These documents relate to point six of your application. These documents have not been reflected in the schedule attached.

#### **Section 41 Documents affecting personal privacy**

*(1) A document is an exempt document if its disclosure under this Act would involve the unreasonable disclosure of information relating to the personal affairs of any person (including a deceased person).*

I have not exempted any document under this provision, however material has been redacted from some of the released documents as the information relates to the personal details of a third party. The redacted information includes information concerning contact details of third parties.

#### **Out of Scope**

Some information has been removed or redacted from particular documents, as outlined in the attached schedules, due to the information not pertaining to the subject matter of the request and is therefore out of scope. Any document or correspondence created after the original submission date of the request (12 March 2014) is also considered out of scope of the request.

#### **Review rights**

You have the right to seek a review of any decision made by the Directorate under section 59 of the Act. If you wish to seek a review you should write to:

The Director-General  
Economic Development Directorate  
C/- Freedom of Information Officer  
GPO Box 158  
CANBERRA ACT 2601

You have 28 days from the date of this letter to seek a review of the outcome or such other period as the Director-General permits.

Under section 54 of the Act, if you are concerned about the processing of your request or related administrative matters, you may complain to the Ombudsman, who may conduct an independent investigation into your complaint. There is no fee for this, and the contact details are as follows:

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 under this Freedom of Information Application 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 on 6205 2669 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](http://www.cmd.act.gov.au/data/assets/pdf_file/0016/250333/FOI_Web_Release_Policy_-_Final.pdf)

If you have any queries in relation to this matter, please contact the FOI Coordinator on 6205 2669 or at [EDDFreedomOfInformation@act.gov.au](mailto:EDDFreedomOfInformation@act.gov.au).

Yours sincerely

Paul Lewis  
Director, Urban Renewal  
Economic Development Directorate  
16 May 2014

