



Dear

I refer to your application received on 7 September 2011 in which you sought access under the *ACT Freedom of Information Act 1989* (the FOI Act) to:

“documents connected, both directly and indirectly, with the Reduction of Barriers to the Production of Live Music in the ACT Interdirectorate Committee (Live Music IDC) as established by the Chief Minister’s Office in 2009.

My request covers, but is not limited to, advice provided to the Live Music IDC by any third parties, as well as any internal documents. My request covers records of correspondence, meetings, and telephone conversations (including, but not limited to, letters, spreadsheets, file notes, emails, media releases, minutes, briefings, submissions etc) in connection, either directly or indirectly, with the Live Music IDC.”

I am the officer authorised under Section 22 of the FOI Act to make a decision in relation to this matter.

Decision

The Directorate has identified the following three files containing documents that meet the scope of your request, as outlined in the schedules attached to this letter.

File 10/21804

File 09/15607

File 10/17192

Released Information

All information has been considered with a view to releasing to you. However, some documents have been exempted or provided with deletions, the decisions made in relation to these documents are reflected in the attached schedules. Documents are either ‘Release’, ‘Partial Release’, ‘Exempt’, ‘Out of scope of the request’ or ‘Copy’.

Exempt or Partial Release

Some documents have been exempted in full or partially released under Section 35 Executive Documents and Section 41 Documents affecting Personal Privacy.

Where information is considered to be exempted in full or partially released, a reference is made in the attached schedules to the relevant section of legislation that applies to the decision. Excerpts of legislation referenced have been provided at **Attachment A**.

Section 35, Executive Documents

Section 35 permits the exemption of information which has either been submitted to the Executive or prepared for the purpose of submitting to the Executive for consideration. I believe the disclosure of the information, noted in the schedules, on Files 10/17192 and 10/21804, as exempted under Section 35, would involve the disclosure of deliberations of the Executive.

Section 41, Personal Information

The FOI Act allows for exemptions to be made in circumstances where the protection of certain matters is necessary, as in this case where the protection of personal privacy is required, section 41 of the FOI Act is applied.

Exemption under Section 41 of the FOI Act has been made where information contained within the documents may identify personal information for example contact details of attendees of the ACT Live Music Industry Forum. I believe to release this information to you would constitute an unreasonable disclosure of the personal information of the young people involved.

Information 'Outside the scope of the request'

In some instances I have also addressed information as 'Outside the scope of the request'. This term has been used when the document/information is deemed not relevant to your request, for example Directorate Ministerial Coordination Cover Sheets.

Copy

You will note that the decision in relation to some documents contain the term 'copy' and reference to folio and file number. Such references have occurred to minimize the release of repetitious information.

FOI Fees and Charges

I acknowledge receipt of your letter dated 26 September 2011, requesting the Directorate waive fees pursuant to section 30 of the Act on the grounds of public interest.

I have decided not to impose charges in relation to this request on this occasion.

Review Rights

My decision is appealable under the Act. This means that if you are dissatisfied with this outcome you have a right to seek a review under Section 59 of the Act. This right of review extends to a review of the adequacy of the search for documents undertaken by the Directorate. If you wish to pursue this course you should write to:

Executive Director
Policy and Organisational Services
Community Services Directorate
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 Executive Director permits.

Under Section 54 of the Act, if you are concerned about the processing of your request or related administrative matters, you have the right to approach the Ombudsman, who may conduct an independent investigation into your complaint. If you wish to do this you should write to:

ACT 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 published 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 Ms Margaret Puniard, Legal and Accountability Officer, Community Services Directorate on 6205 0274 immediately.

After 17 October 2011, a copy of the policy, with details about what information may be published on the internet, will be available online at http://www.cmd.act.gov.au/open_government

Yours sincerely



Sara Lynch
Acting Senior Director
Governance, Advocacy and Community Policy
14 October 2011

34 Documents affecting relations with Commonwealth and States

- (1) Subject to subsection (2), a document is an exempt document if disclosure of the document under this Act—
- (a) would, or could reasonably be expected to, cause damage to relations between the Territory and the Commonwealth or the Territory and a State; or
 - (b) would divulge information or matter communicated in confidence by or on behalf of the Commonwealth, a State or an authority of the Commonwealth or of a State to the Territory, to a Territory authority or to a person receiving the communication on behalf of the Territory or of a Territory authority.
- (2) This section does not apply to a document in respect of matter in a document the disclosure of which under this Act would, on balance, be in the public interest.

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.

Note Access to the Cabinet notebook is excluded under s 11 (2).

- (2) This section does not apply to a document (a *relevant document*)—
- (a) that is referred to in subsection (1) (a); or
 - (b) that is referred to in subsection (1) (b) or (c) and is a copy of, or of part of, or contains an extract from, a document that is referred to in subsection (1) (a);
- to the extent that the relevant document contains purely factual material unless—
- (c) the disclosure under this Act of that document would involve the disclosure of any deliberation or decision of the Executive; and
 - (d) the fact of that deliberation or decision has not been officially published.
- (3) A reference in this section to the Executive includes a reference to a committee of the Executive.

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.
- (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).

- (2) This section does not apply to a document the disclosure of matter in which under this Act would, on balance, be in the public interest.

40 Documents concerning certain operations of agencies

- (1) Subject to subsection (2), a document is an exempt document if its disclosure under this Act would, or could reasonably be expected to—

- (a) prejudice the effectiveness of procedures or methods for the conduct of tests, examinations or audits by an agency; or
- (b) prejudice the attainment of the objects of particular tests, examinations or audits conducted or to be conducted by an agency; or
- (c) have a substantial adverse effect on the management or assessment of personnel by the Territory or by an agency; or
- (d) have a substantial adverse effect on the proper and efficient conduct of the operations of an agency; or
- (e) have a substantial adverse effect on the conduct by or on behalf of the Territory or an agency of industrial relations.

- (2) This section does not apply to a document the disclosure of matter in which under this Act would, on balance, be in the public interest.

41 Documents affecting personal privacy

- (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.

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.
- (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).

43 Documents relating to business affairs etc

- (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