

Our ref: 11-31



Dear 

I refer to your Freedom of Information application received on 15 September 2011 requesting copies of documents relating to:

- *Any internal or external documents regarding the costings for the Capital Region Cancer Centre;*
- *Any cost/benefit analysis, conducted for or by ACT Health for the Capital Region Cancer Centre;*
- *Any independent peer reviews or financial analysis' commissioned by ACT Health or provided to ACT Health, including procurement methodologies, selection criteria and contracts relating to these reviews.*

As Executive Director, Service and Capital Planning, ACT Government Health Directorate, I am an officer authorised under Section 22 of the Act to make a decision in relation to this matter.

After conducting a thorough search of all relevant ACT Government Health Directorate records, documents were identified that fall within the ambit of your request. I have decided to exempt certain documents, or part thereof, under the following provisions of the FOI Act:

- **S21 Deletion of exempt matter;**
- **S35 Executive Documents;**
- **S36 Internal working documents;**
- **S41 Documents affecting personal privacy; and**
- **S43 Documents affecting business affairs.**

In making my decision I have considered the sections of legislation listed at **Attachment A** to this letter. In addition, I have provided a Statement of Reasons for my decisions, at **Attachment B**.

If you wish to seek a review of this decision you should write to:

The Principal Officer
c/- FOI Coordinator
Executive Coordination
Health Directorate
GPO Box 825
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 Principal Officer/ Secretary permits.

You also have the right to complain to the Ombudsman about the progression of your request. If you wish to lodge a complaint you should write to:

The Ombudsman
GPO Box 442
CANBERRA CITY ACT 2601

In accordance with the recent ACT Government policy on open government I advise that all written material made available to an applicant under an FOI will be published online within 15 days.

Should you have any queries in relation to this matter please contact Annette McGorm, Assistant Government Business Coordinator on telephone 6205 1340 or annette.mcgorm@act.gov.au

Yours sincerely



Mr Grant Carey-Ide
Executive Director
Service & Capital Planning

24 November 2011

Sections of relevant legislation that have been considered by the Decision Maker in determining the status of each document:

Freedom of Information Act 1989 (FOI Act)

Section 21 of the FOI Act – Deletion of exempt matter

- (1) Where—
 - (a) a decision is made not to grant a request for access to a document on the ground that it is an exempt document; and
 - (b) it is possible for the agency or Minister to make a copy of the document with such deletions that the copy would not be an exempt document and would not, because of the deletions, be misleading; and
 - (c) it is reasonably practicable for the agency or Minister, having regard to the nature and extent of the work involved in deciding on and making those deletions and the resources available for that work, to make such a copy;

the agency or Minister shall, unless it is apparent from the request or as a result of consultation by the agency or Minister with the applicant, that the applicant would not wish to have access to such a copy, make, and grant access to, such a copy.

- (2) Where access is granted to a copy of a document in accordance with subsection (1)—
 - (a) the applicant shall be informed—
 - (i) that it is such a copy; and
 - (ii) of the provision of this Act by virtue of which any matter deleted is exempt matter; and
 - (b) section 25 does not apply to the decision that the applicant is not entitled to access to the whole of the document unless the applicant requests the agency or Minister to give to the applicant a notice in writing in accordance with that section.

Section 35 of the FOI Act – Documents relating to 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:

Section 36 of the FOI Act – Documents relating to 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 the an agency or Minister or of the Territory;

Section 41 of the FOI Act - 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.

Section 43 of the FOI Act – Documents relating to business affairs

- (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; or

- (ii) the disclosure of which under this Act could reasonably be expected to prejudice the future supply of information to the Territory or an agency for the purpose of the administration of a law or the administration of matters administered by an agency.

Subsection (1) does not apply to a request by a person for access to a document –

- (a) only because of the inclusion in the document of information concerning that person in respect of his or her business or professional affairs; or
 - (b) only because of the inclusion in the document of information concerning the business, commercial or financial affairs of an undertaking where the person making the request is the proprietor of the undertaking or a person acting on behalf of the proprietor; or
 - (c) only because of the inclusion in the document of information concerning the business, commercial or financial affairs of an organisation where the person making the request is the organisation or person acting on behalf of the organisation.
- (2) A reference in this section to an undertaking includes a reference to an undertaking that is carried on by, or by an authority of, the Territory, the Commonwealth, a State or by a local government authority.

Statement of Reasons for decisions made in relation to documents within the scope of the applicant's request

Folio	Explanation
49 - 53	<p>In considering the release, non-release or partial release of these documents I have determined the following:</p> <ul style="list-style-type: none"> • Section 21 of the FOI Act has been applied to allow the document to be partially released to you. • Section 41 of the FOI Act has been applied as the document contains information that is personal information. There is no public interest test in relation to this provision of the FOI Act. • Other - Material has also been exempted as it is outside the scope of the request.
73 – 75	<p>In considering the release, non-release or partial release of these documents I have determined the following:</p> <ul style="list-style-type: none"> • Section 21 of the FOI Act has been applied to allow the document to be partially released to you. • Section 36 of the FOI Act has been applied as the document contains opinion and advice provided for deliberative purposes. In regard to the documents exempted I believe that the public interest is best served by non-disclosure so as to prevent the disclosure of partially considered matters that may mislead the public, and may negatively impact on the integrity of decision-making if disclosed. • Section 41 of the FOI Act has been applied as the document contains information that is personal information. There is no public interest test in relation to this provision of the FOI Act.
76 - 78	<p>In considering the release, non-release or partial release of these documents I have determined the following:</p> <ul style="list-style-type: none"> • Section 21 of the FOI Act has been applied to allow the document to be partially released to you. • Section 36 of the FOI Act has been applied as the document contains opinion and advice provided for deliberative purposes. In regard to the documents exempted I believe that the public interest is best served by non-disclosure so as to prevent the disclosure of partially considered matters that may mislead the public, and may negatively impact on the integrity of decision-making if disclosed. • Section 41 of the FOI Act has been applied as the document contains information that is personal information. There is no public interest test in relation to this provision of the FOI Act.
84 – 88	<p>In considering the release, non-release or partial release of these documents I have determined the following:</p> <ul style="list-style-type: none"> • Section 21 of the FOI Act has been applied to allow the document to be partially released to you. • Section 43 of the FOI Act has been applied as the documents contain information having a commercial value that could be destroyed or diminished on disclosure. There is no public interest test in relation to this provision of the FOI Act.

Folio	Explanation
89	In considering the release, non-release or partial release of this document I have determined that Section 43 of the FOI Act should be applied ass the document contains information having a commercial value that could be destroyed or diminished on disclosure. There is no public interest test in relation to this provision of the FOI Act.
90 – 95	In considering the release, non-release or partial release of these documents I have determined that Section 43 of the FOI Act should be applied ass the document contains information having a commercial value that could be destroyed or diminished on disclosure. There is no public interest test in relation to this provision of the FOI Act.
96 - 109	In considering the release, non-release or partial release of these documents I have determined that Section 43 of the FOI Act should be applied ass the document contains information having a commercial value that could be destroyed or diminished on disclosure. There is no public interest test in relation to this provision of the FOI Act.
110 - 113	<p>In considering the release, non-release or partial release of these documents I have determined the following:</p> <ul style="list-style-type: none"> • Section 21 of the FOI Act has been applied to allow the document to be partially released to you. • Section 43 of the FOI Act has been applied as part of the documents contain information having a commercial value that could be destroyed or diminished on disclosure. There is no public interest test in relation to this provision of the FOI Act.
114 - 235	In considering the release, non-release or partial release of these documents I have determined that Section 43 of the FOI Act should be applied ass the document contains information having a commercial value that could be destroyed or diminished on disclosure. There is no public interest test in relation to this provision of the FOI Act.
247 - 255	In considering the release, non-release or partial release of these documents I have determined that Section 43 of the FOI Act should be applied ass the document contains information having a commercial value that could be destroyed or diminished on disclosure. There is no public interest test in relation to this provision of the FOI Act.
256 - 321	In considering the release, non-release or partial release of these documents I have determined that Section 43 of the FOI Act should be applied ass the document contains information having a commercial value that could be destroyed or diminished on disclosure. There is no public interest test in relation to this provision of the FOI Act.
322 - 350	In considering the release, non-release or partial release of these documents I have determined that Section 43 of the FOI Act should be applied ass the document contains information having a commercial value that could be destroyed or diminished on disclosure. There is no public interest test in relation to this provision of the FOI Act.

Folio	Explanation
351 - 384	In considering the release, non-release or partial release of these documents I have determined that Section 43 of the FOI Act should be applied as the document contains information having a commercial value that could be destroyed or diminished on disclosure. There is no public interest test in relation to this provision of the FOI Act.
385 - 396	In considering the release, non-release or partial release of these documents I have determined that Section 43 of the FOI Act should be applied as the document contains information having a commercial value that could be destroyed or diminished on disclosure. There is no public interest test in relation to this provision of the FOI Act.
397 - 528	In considering the release, non-release or partial release of these documents I have determined that Section 43 of the FOI Act should be applied as the document contains information having a commercial value that could be destroyed or diminished on disclosure. There is no public interest test in relation to this provision of the FOI Act.
529 - 549	In considering the release, non-release or partial release of these documents I have determined that Section 43 of the FOI Act should be applied as the document contains information having a commercial value that could be destroyed or diminished on disclosure. There is no public interest test in relation to this provision of the FOI Act.
550 – 589	In considering the release, non-release or partial release of these documents I have determined that Section 43 of the FOI Act should be applied as the document contains information having a commercial value that could be destroyed or diminished on disclosure. There is no public interest test in relation to this provision of the FOI Act.
590 - 625	<p>In considering the release, non-release or partial release of these documents I have determined the following:</p> <ul style="list-style-type: none"> • Section 35 of the FOI Act has been applied as the documents formed part of the Budget process and are therefore exempt. There is no public interest test in relation to this provision of the FOI Act. • Section 36 of the FOI Act has been applied as the documents contain opinion and advice provided for deliberative purposes. In regard to the documents exempted I believe that the public interest is best served by non-disclosure so as to prevent the disclosure of partially considered matters that may mislead the public, and may negatively impact on the integrity of decision-making if disclosed.
626 - 670	In considering the release, non-release or partial release of these documents I have determined that Section 36 of the FOI Act should be applied as the documents contain opinion and advice provided for deliberative purposes. In regard to the documents exempted I believe that the public interest is best served by non-disclosure so as to prevent the disclosure of partially considered matters that may mislead the public, and may negatively impact on the integrity of decision-making if disclosed.

Folio	Explanation
671 - 691	<p>In considering the release, non-release or partial release of these documents I have determined that Section 35 of the FOI Act should be applied as the documents formed part of the Budget process and are therefore exempt. There is no public interest test in relation to this provision of the FOI Act.</p>
692 - 697	<p>In considering the release, non-release or partial release of these documents I have determined the following:</p> <ul style="list-style-type: none"> • Section 21 of the FOI Act has been applied to allow the document to be partially released to you. • Section 36 of the FOI Act has been applied as the document contains opinion and advice provided for deliberative purposes. In regard to the documents exempted I believe that the public interest is best served by non-disclosure so as to prevent the disclosure of partially considered matters that may mislead the public, and may negatively impact on the integrity of decision-making if disclosed. • Section 41 of the FOI Act has been applied as the document contains information that is personal information. There is no public interest test in relation to this provision of the FOI Act.
698 - 812	<p>In considering the release, non-release or partial release of these documents I have determined the following:</p> <ul style="list-style-type: none"> • Section 21 of the FOI Act has been applied to allow the document to be partially released to you. • Section 43 of the FOI Act should be applied as the document contains information having a commercial value that could be destroyed or diminished on disclosure. There is no public interest test in relation to this provision of the FOI Act.