



**ACT**  
Government

Commerce and Works

Dear

**Request under the Freedom of Information Act 1998**

in seeking access, under the ACT *Freedom of Information Act 1989* (FOI Act), to documents relating to:

You have requested the following:

*"the Subcontract, Sub-Subcontract and the Head Contract for the design and construction of fixed sports lighting at Manuka Oval in Canberra (tender number 19899.111), and in particular:*

1. *All requests by the ACT Government for Dialight or Abacus to complete and return statutory declarations;*
2. *All statutory declarations signed by Dialight or Abacus pursuant to the Head Contract with representations as to whether or not subcontractors had been paid including representations that all subcontractors engaged in the Project had been paid in full;*
3. *Any documents regarding:*
  - a. *the supply of the statutory declarations by Dialight or Abacus to the ACT Government;*
  - b. *the status of payments made to subcontractors engaged in connection with the Project from 17 July 2012 until 24 June 2013; and*
  - c. *the decision taken by the ACT Government to make payments to Dialight pursuant to the Head Contract;*
4. *Details of the Head Contract;*
5. *Any documents regarding:*
  - a. *the ACT Government's consideration of Abacus' submission in response to the ACT Tender Document;*
  - b. *Abacus' financial position and stability;*
  - c. *the ACT Government's decision to award the ACT Tender Document to Dialight.*

6. Any document between the ACT Government and the Superintendent appointed pursuant to the Head Contract (understood to be 'Cox Pty Ltd' or 'Cox Architecture Pty Ltd') regarding:
  - a. the conduct of work in relation the Project;
  - b. any interactions or dealings with Abacus; and
  - c. any interactions or dealings with Affinity; and
7. Any document regarding the appointment of administrators to Abacus or its related entities.'

I am the officer authorised under section 22 of the FOI Act to make a decision in relation to your request.

#### **Decision**

The Directorate has located relevant documents in files: 2012/7987; 2012/7989; 2012/9945; 2012/9946; 2012/12291; and 2012/14951, which relate to the Subcontract, Sub-Subcontract and the Head Contract for the design and construction of fixed sports lighting at Manuka Oval in Canberra (tender number 19899.111), which you refer to in your request.

I have decided to fully release the following folios (less those folios being duplications or already publicly available):

- (2012/7987) folios 34,83;
- (2012/7989) folios 32, 99-100;
- (2012/9945) folios 23, 33, ,35, 37-39, 53-56, 60, 64, 113-116, 139-140, 142, 152-153
- (2012/9946) folios 5, 39, 70, 97-98, 100-101, 107, 109-110, 138;
- (2012/12291) folios 4-8, 21, 35, 39-40, 46-54, 55-55(j), 56-57, 60, 65, 67, 70, 95, 155, 159-16, 162, 163, 170-171, 173; and
- (2012/14951) folios 26-29, 31-33, 36, 42, 59-62, 65-71, 76, 97-101, 115, 117.

I have decided to partially release the following folios (less those folios being duplications)

- (2012/7989) folios 66, 85;
- (2012/9945) folios 14, 20, 22, 40, 42, 44, 61, 65, 77, 83, 106-107, 112, 132;
- (2012/9946) folios 48-49, 103, 105;
- (2012/12291) folios 174; and
- (2012/14951) folios 3-4, 25, 30, 34-35, 38-39, 51-58, 63-64, 72-72(j), 73-75, 86-87, 96, 102-102(f), 109-109(b), 110, 116.

The following folios are exempt and are withheld from release:

- (2012/7989) folio 65; and
- (2012/9945) folio 13.

The partially redacted or exempt documents are not released in accordance with the following sections of the FOI Act:

- **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 personal information about any person (including a deceased person).*

I have determined material exempt pursuant to section 41(1) for:

- (2012/12291) folio 174

- **Section 43- Documents relating to business affairs etc.**

*{1} (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 or 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 of the administration of matters administered by an agency.*

I have determined material exempt pursuant to section 43(1)(c)(i) and (ii) for:

- (2012/7989) folio 66, 85;
- (2012/9945) folio 14, 20, 22, 40, 42, 43, 61, 65, 77, 83, 106, 107, 112, 132;
- (2012/9946) folios 48, 49, 103, 105; and
- (2012/14951) folio 116.

- **Section 45 – Documents containing material obtained in confidence**

*{1} A document is an exempt document if its disclosure under this Act would constitute a breach of confidence.*

I have determined material exempt pursuant to section 45(1) for:

- (2012/7989) folio 65, 66, 85;
- (2012/9945) folio 13, 14, 20, 22, 44, 61, 65, 77, 83, 106, 107, 112;
- (2012/9946) folios 48, 49, 103, 105; and
- (2012/14951) folio 3-4, 25, 30, 34-35, 38-39, 51-53, 54-58, 63-64, 72-72(j), 73, 74-75, 86-87, 96, 102(c), 102(f), 102-102(b), 109-109(b), 110.

Document have also been removed as indicated above due to duplication or already being publicly available.

Please find enclosed the folio schedule and copies of the fully released and partially released documents.

#### **Right of Review**

My decision to exempt certain documents is reviewable under section 59 of the FOI Act. If you wish to seek an internal review you should write to:

Director General  
Commerce and Works Directorate  
GPO Box 158  
Canberra ACT 2601

You have 28 days from the receipt of the response in which to lodge your request.

You also have the right to contact the Ombudsman about the processing of your request pursuant to section 54 of the FOI Act. If you wish to lodge a complaint you should write to:

The Ombudsman  
GPO Box 442  
Canberra ACT 2601

Should you have any queries about your request please contact Commerce and Works' FOI Coordinator on 02 620 53955.

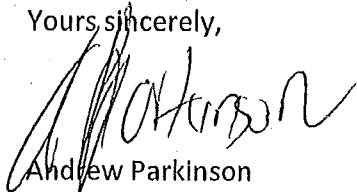
#### **Open Government**

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.

Under this policy personal information or business affairs information will not be made available. 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/open\\_government/report/freedom\\_of\\_information\\_online](http://www.cmd.act.gov.au/open_government/report/freedom_of_information_online)

Yours sincerely,



Andrew Parkinson  
A/g Director Civil Infrastructure  
Shared Services Procurement  
Commerce and Works Directorate

2 October 2013

