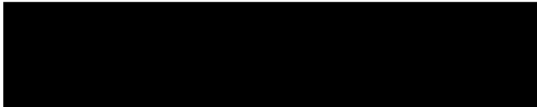




**ACT**  
Government

Chief Minister, Treasury and  
Economic Development

Our ref: CMTEDD 64/15-16



Dear 

## **Decision on Freedom of Information Request – University of Canberra Loans**

I am writing in relation to your access request, made under section 14 of the ACT *Freedom of Information Act 1989* (the Act) and received by the Chief Minister, Treasury and Economic Development Directorate (CMTEDD) on 31 May 2016.

In your revised request, provided to the Directorate on 25 July 2016, you are seeking:

- 1. Emails from David Lamont to the Chief Minister, Treasury and Economic Development Directorate [or former equivalent directorate] concerning possible, actual, or proposed loans (including loans under consideration) to the University of Canberra and/or (proposed or actual) student accommodation at the University of Canberra, between January 1 2010 and the 2012 election [being 20 October 2016]. Please include attachments to those emails.*
- 2. The business case relating to loans to the University of Canberra and university accommodation at the University of Canberra, including costs and fees for David Lamont's and/or his companies or associated companies or employers.*

### **Decision Maker**

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

I wish to apologise for the time it has taken to respond to your request.

### **Charges**

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

Chief Minister, Treasury and Economic Development

## Identification of Documents

CMTEDD officers have conducted thorough searches of paper and electronic records for documents that may relate to your request. For point one (1) of your request, no documents were located. From the advice I have received from Directorate staff, I am satisfied that no documents relevant to the first point of your request are held by CMTEDD.

For point two (2) of your request, the Directorate has identified one business case relating to “... loans to the University of Canberra and university accommodation at the University of Canberra”. The business case has five appendices attached.

## Decision on Access

I have decided to exempt the identified business case from release. My reasons for not providing access to this document are outlined in the following statement of reasons and in the attached schedule of documents.

Further, the appendices to the business case were prepared on behalf of the University of Canberra. I have decided, under section 27 of the Act, that the University of Canberra may reasonably wish to contend that the documents should be treated as exempt under section 43 (business affairs) of the Act. As decision-maker I am not bound by third party submissions, but I am bound to consider them in making my decision to release or exempt the documents.

I note your comment that consultation with the University of Canberra is not necessary as the University is subject to the ACT *Financial Management Act 1996* (the FMA 1996). I consider that it is appropriate to consult with the University of Canberra because although the University has obligations under the FMA 1996, it remains an external party under the Freedom of Information Act and has business affairs that are independent of its financial obligations under ACT legislation.

I shall forward to you my decision on whether the documents can be released as soon as possible after I receive third party submissions.

## Exemptions Claimed

### Section 35 – Executive Documents

Section 35 of the Act provides:

- 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.
- 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.

Due to the confidential nature of the considerations of Cabinet I have decided to fully exempt the business case from release under section 35(d) of the Act. This business case was considered by Cabinet and formed part of the Cabinet decision making process. Release of the business case would reveal the deliberations and decisions of the Executive that have not been officially published.

### **Your Right of Review**

#### Internal Review

Under section 59 (1) of the Act, you may request a review of my decision. 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, Treasury and Economic Development 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 Freedom of Information request. There is no

fee for making a complaint. The Ombudsman will conduct an independent investigation into your complaint.

You can contact the Ombudsman either by telephone on 1300 362 072 or in writing to:  
The Ombudsman  
GPO Box 442  
CANBERRA ACT 2601

### **Online FOI Policy**

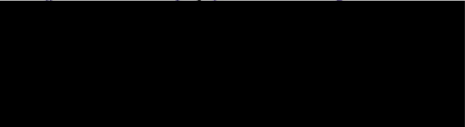
I have assessed your request for information under the ACT Government's Online Freedom of Information Publication Policy and have determined that my decision on your request will be published online. Personal information or business information will not be made available under this policy.

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)

Should you have any queries regarding this matter please contact me on (02) 6205 4961.

Yours sincerely



Simon Tennent  
Acting Director  
Strategy and Program

26 August 2016