



**ACT**  
Government

Chief Minister, Treasury and  
Economic Development

Our ref: CMTEDD 2/14-15

Dear

### **Request for documents**

I refer to your email received 13 November 2014 addressed to the Chief Minister, Treasury and Economic Development Directorate (CMTEDD) in which you now seek, after further scope reduction, access to documents under the *Freedom of Information Act 1989* (the Act) in connection with:

- Reports on viability and costings of CBRfree wifi; and
- Information relating to the award of contract to iiNet.

### **Decision Maker**

I am authorised under section 22 of the Act to make decisions on access to documents, and liability for charges, for the Chief Minister, Treasury and Economic Development Directorate (CMTEDD).

### **Charges**

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

### **Identification of Documents**

In considering your request under the Act, I have interpreted your application to cover any documents related to: the request for proposals for Free Public Wi-Fi; the assessment and evaluation of the iiNet proposal, including technical, non-technical, implementation, and financial viability, and cost accuracy; and the execution of the contract with iiNet.

In accordance with this interpretation, officers of CMTEDDD have conducted searches of paper and electronic files for documents that relate to your request and twenty documents have been located.

## Decision on Access

In accordance with section 21 of the Act, where it has been possible to delete exempt material from a relevant document in order to provide access to the remaining information I have done so. I have enclosed with this letter a copy of the documents I have released to you in full, and those I have partially released, along with their corresponding schedules.

## Exemptions claimed

### Documents Relating to Business Affairs

Under section 43 of the Act, I have decided to exempt from release, in full and partially, documents that contains commercially sensitive information, which if released could have a very serious impact on the competitive operations of the relevant businesses. As you would be aware, there is a very competitive market for Wi-Fi and communication services in Australia.

Section 43 of the Act provides:

- (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.*

### Documents Submitted to the Executive

Under section 35 of the Act, the full release of the brief to the Chief Minister concerning free public Wi-Fi Funding options would disclose unpublished deliberations and decisions of Cabinet.

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.

*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.

## **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 FOI 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**

The documents provided to you may be made public on the ACT Government Open Government Website.

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) 6207 3998.

Yours sincerely

Brook Dixon  
Director  
Regulatory Reform

6 February 2015