



ACT
Government
Economic Development

 Land
Development
Agency
CANBERRA FIRST

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Our ref: LDA 8/15-16

Dear [REDACTED]

Request for documents

I refer to your request under the *Freedom of Information Act 1989* (the Act) received on 11 November 2015 addressed to the Land Development Agency (LDA). Specifically, you are seeking:

1. The policy document for project acquisitions (this could be in the form of a policy, framework, guide, legislative instrument or any other document).
2. The message to staff notifying them of the above policy.
3. The minutes of the LDA meeting when the policy was discussed and endorsed.
4. The working document for how acquisitions are to be treated (e.g. business as usual, strategic or project).

As advised to you in a letter dated 12 November 2015, in undertaking a search for documents relevant to your request the LDA has interpreted part 1 of your request to relate to the policy document that underpins land acquisitions made by the LDA that would be classed as 'project' related land acquisitions (as opposed to strategic acquisitions), either in the form of policy, framework, guide, legislative instrument, or any other document. Further information is provided below.

Decision Maker

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

Charges

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

Identification of Documents

Officers from the LDA have conducted searches of paper and electronic files for documents that may relate to your request and 5 documents have been located. These are detailed in the attached schedule.

In relation to items 1 and 4 of your request the following information is provided as background to assist in explaining project acquisitions.

Section 32(1) of the *Planning and Development Act 2007* (the Act) outlines the functions of the LDA, which include developing land, carrying out works for the development and enhancement of land and carrying out strategic or complex urban development projects. Section 32(4)(b) of the Act refers to the LDA exercising its functions in accordance with the latest Statement of Intent. The LDA has previously, and continues to, purchase and release land under these provisions.

The LDA Statement of Intent sets out the LDA's key deliverables, which are based on the Statement of Government Policy. These deliverables include:

- deliver the Government's Indicative Land Release Programs for residential, commercial, industrial and community land uses;
- pursue development opportunities where such opportunities would be consistent with the Government's policy framework for land acquisitions.

The separation of these deliverables denotes a distinction between land development activities associated with the land release program (project related land acquisitions), and other development opportunities (strategic land acquisitions), with the latter explicitly tied to the Land Acquisition Policy Framework (*Planning and Development (Land Acquisition Policy Framework) Direction 2014 (No 1)*).

Consistent with this distinction, and in reference to the LDA's interpretation of part 1 your request, there is no separate policy document to distinguish business as usual projects.

In relation to item 2 of your request no relevant documents have been identified. From the advice I have received from Agency staff I am satisfied that no documents relevant to that item are held by the LDA.

The LDA has interpreted item 3 of your request to seek only the portion of the minutes of the specified meeting relevant to the subject of your FOI request, being land acquisition policy. The remainder of the minutes of the meeting are therefore beyond the scope of your request.

Decision on Access

Under section 11(1)(a) of the Act a person is not entitled to obtain access to documents if those documents are publicly available. Documents 1 – 3 identified as relevant to your request are available online at the addresses provided, and as such have not been provided.

In accordance with section 21 of the Act, I have decided to partially release documents 4 and 5. My reasons for not providing access are outlined in the following statement of reason and in the attached schedule of documents.

Exemptions claimed

Exemptions have been claimed to protect the considerations of Cabinet and the business affairs of the LDA.

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.*

In respect of the confidential nature of the considerations of Cabinet I have decided to exempt from release, under section 35(1)(c) of the Act, a portion of document 5 that contains an extract of a Cabinet submission.

Documents Relating to Business Affairs

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.*

Under section 43(1) (b) of the Act, I have decided to exempt from release portions of documents 4 and 5 that contain material relating to information concerning the LDA business, that if disclosed would potentially have an adverse affect on the organisation by making public information on its business undertakings. It is my view

that the disclosure of this information would reasonably be expected to diminish or destroy commercial value, and/or have an unreasonable effect on the LDA, as access to the document by competitors may allow exploitation of commercial information.

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 Chief Executive Officer.

Your request should be addressed to:

Chief Executive Officer
Land Development Agency
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 the documents relevant to your request, not including your original application, will be published online. Personal Information or business information will not be made available under this policy. If you think the content of your request would contain such information, please inform the Freedom of Information Coordinator immediately on (02) 6207 8175.

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

Should you have any queries regarding this matter, please contact me on
(02) 6207 1295.

Yours sincerely



Anita Hargreaves
Chief Financial Officer
Land Development Agency
11 December 2015