



ACT
Government

Justice and Community Safety

Our Reference: FOI: 2016/00006

Dear

FREEDOM OF INFORMATION REQUEST

I refer to your application received by the Justice and Community Safety Directorate on 10 March 2016, in which you sought access, under the *Freedom of Information Act 1989* (the FOI Act), to:

All documents and any information held by the Agency in relation to autonomous vehicles

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

Reasons for Decision

Although the FOI Act facilitates the objective of public access to documentation, the release of information is subject to a number of exemptions. In this instance, I am claiming both full and partial exemptions over some of the documents and information you have requested. The attached Schedule indicates which documents have had an exemption applied. I have also redacted information contained in the documents that does not fall within scope of your request.

Exemptions have been claimed in accordance with the following sections of the FOI Act:

Section 34 Documents affecting relations with Commonwealth and States

Section 34 provides that:

- (1) *Subject to subsection (2), a document is an exempt document if disclosure of the document under this Act:*
 - (a) *would, or could reasonably be expected to, cause damage to relations between the Territory and the Commonwealth or the Territory and a State; or*
 - (b) *would divulge information or matter communicated in confidence by or on behalf of the Commonwealth, a State or an authority of the Commonwealth or of a State to the Territory, to a Territory authority or to a person receiving the communication on behalf of the Territory or of a Territory authority.*
- (2) *This section does not apply to a document in respect of matter in a document the disclosure of which under this Act would, on balance be in the public interest.*

Documents prepared for or in relation to the Transport and Infrastructure Senior Official's Committee (TISOC) and the Transport and Infrastructure Council have been exempted under this provision. The Committee and the Council are operated by the Commonwealth Department of Infrastructure and Regional Development. Documents relating to matters before the Committee and the Council are generally not publically available and circulation is restricted to members.

Members participate on the basis that the discussions of the Committee and Council are confidential. Having regard to this, I have concluded that it would not be in the public interest to disclose these documents.

Section 35 Executive Documents

Section 35 provides that:

- (3) *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.*

The folios identified in the attached Schedule of Documents have been exempted in full under this exemption as they are documents that:

- were brought into existence for the purpose of consideration by the Executive;
- were provided to the Cabinet in confidence; and
- were used by Cabinet to formulate policy and make decisions.

Section 36 Internal Working Documents

Section 36 provides that:

- (1) *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 an agency or Minister or of the Territory; and*
 - (b) *would be contrary to the public interest.*

Documents have been exempted under this section as their disclosure would disclose matter that is in the nature of opinion or recommendations that were prepared or recorded, in the course of, or for the purposes of deliberative processes regarding the policy functions of the Directorate and preparation of documents for consideration of the Executive. I have determined that it would not be in the public interest to disclose these documents as it would impede the process of good government by inhibiting the Directorate's ability to provide full and frank advice.

Section 37A Documents affecting national security, defence or international relations

Section 37A provides that:

- (1) *A document is an exempt document if its disclosure under this Act:*
- (a) *would, or could reasonably be expected to, cause damage to-*
 - (i) *the security of the Commonwealth, the Territory or any State; or*
 - (ii) *the defence of the Commonwealth, the Territory or any State; or*
 - (iii) *the international relations of the Commonwealth; or*
 - (b) *would divulge any information or matter communicated in confidence by or for a foreign government, an authority of a foreign government or an international organization to the government of the Commonwealth or Territory, to an authority of the Commonwealth or Territory or to a person receiving the communication of the Commonwealth or Territory or of an authority of the Territory.*

Folios 1945-1954 have been exempted under this section of the FOI Act as they are documents that were provided in confidence by the New Zealand Government.

Section 41 Documents affecting personal privacy

Section 41 provides that:

- (1) *A document is an exempt document if its disclosure under this Act would involve the unreasonable disclosure of personal information about any person.*

Some of the documents provided to you contain personal information such as mobile phone numbers, personal email addresses and names of individuals acting in their personal capacity. I have redacted such personal information from these documents on the grounds of personal privacy. These redactions do not affect the substance of the documents.

Section 43 Documents relating to business affairs etc

Section 43 provides that:

- (1) *A document is an exempt document if its disclosure under this Act would disclose:*
 - (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.*

The information you have sought contained a number of documents that originated with Austroads. Austroads is a company limited by guarantee under the *Corporations Act 2001* (Cth). Austroads is an association of Australasian road and transport and traffic agencies. Its members consist of Commonwealth, State, Territory and International members. I have exempted matter under this provision as the documents contain information of commercial value and disclosure could reasonably be expected to prejudice the future supply of this information to the ACT Government and impede the ability of the Directorate to administer its functions.

Third Party Consultation

A large number of third parties were consulted in respect to your request and objections were raised to the release of certain documents. I have considered the objections raised by the third parties in applying the exemptions above. Due to the number of documents involved that were not authored by this Agency you may wish to consider lodging requests directly with the agencies which authored the documents, for example, the Commonwealth Department of Infrastructure and Regional Development and Austroads.

The ACT Government's Online Freedom of Information Publication Policy

I have also assessed your request for information under the ACT Government's Online Freedom of Information Publication Policy and have determined that where the remainder of the

document after exempt matter is redacted does not result in the document having no value to the public, the documents and this decision letter will be published online. For more information about the ACT Government's Online Freedom of Information Publication Policy, visit the link below. http://www.cmd.act.gov.au/open_government/report/freedom_of_information_online

Review Rights

You have a right to seek a review of this decision under section 59 of the Act. You have 28 days from the date of this letter, or such other period as the Director-General permits, to seek a review. This right of review extends to a review of the adequacy of the search for documents undertaken by the Directorate. If you wish to seek a review you should write to:

The Director-General
ACT Justice and Community Safety Directorate
C/- Freedom of Information Officer
GPO Box 158
CANBERRA ACT 2601

You also have the right to contact the Ombudsman regarding the processing of your request. If you wish to discuss this matter with the Ombudsman you should write to:

The Ombudsman
GPO Box 442
CANBERRA ACT 2601

Should you have any queries in relation to your request please feel free to contact the Freedom of Information Coordinator on (02) 6207 2167.

Yours sincerely



Ms Karen Greenland
Deputy Executive Director
Legislation, Policy and Programs

24 May 2016

Attachment A: Schedule of Documents