

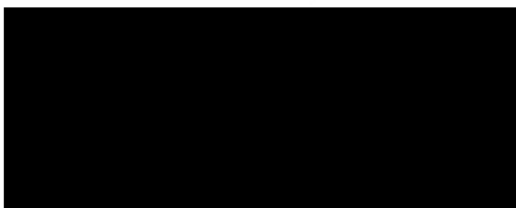


**ACT**  
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Our ref: LDA 13/16-17



## Freedom of Information – "Burraburoo" at Williamsdale

I refer to your request for access to documents under the *Freedom of Information Act 1989* (the Act) received by the Chief Minister, Treasury and Economic Development Directorate on 13 April 2017 and provided to the Land Development Agency (LDA) for processing.

In your request you sought "... all documents relating to the decision to purchase the 425 ha block, "Burraburoo" at Williamsdale specifically ... :

- *the business case*
- *the valuations*
- *documents setting out the rationale for the purchase and (sic) the authority for the purchase*
- *the name of the person or persons who requested the purchase and who authorised the purchase*
- *documents, including but not limited to, emails and messages that first mention the possibility of (or desire to, or idea of) purchasing this site and/or leasing the site from ActewAGL*
- *details of the lease agreement with the solar farm operators".*

### Decision Maker

I am authorised under section 22 of the Act to make decisions on access to documents in the possession of the LDA.

### Charges

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

### Identification of documents

A search of relevant files, electronic drives, and stored emails has been undertaken. Some documents that would normally be created as records of LDA processes do not exist in this instance as some members of the Board declared a potential conflict of interest. This necessitated in camera discussions and the recording of key decisions only.

I have interpreted the fifth point of your request as being the first mention of the possibility of purchasing the site at Williamsdale. This document was an email from Icon (formerly Actew Water) to a representative of the LDA on 23 August 2013 (at folio two).

Five documents were identified as being relevant to the scope of your request, as listed on the attached schedule.

### **Decision on access**

I have decided to fully release three documents to you and fully exempt one from release. My reasons for not providing access to this document are detailed in the following statement of reasons and in the attached schedule.

One document, folio five, is publicly available from the Land Titles Office for a fee. Section 11(1)(a) of the Act provides that a person is not entitled to obtain access to documents under the Act that are open to public access where that access is subject to a fee.

Folio three, being the handwritten notes taken by the Board Secretary at an LDA Board Meeting, contains information concerning other matters discussed at the meeting. As these matters are not relevant to the scope of your request I have decided not to release these components of the document.

### **Exemptions claimed**

#### Internal working documents

Section 36 provides:

- (1) *Subject to this section, 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.*
- (2) *In the case of a document of the kind referred to in section 8 (1), the matter referred to in subsection (1) (a) of this section does not include matter that is used or to be used for the purpose of the making of decisions or recommendations referred to in section 8 (1).*
- (3) *This section does not apply to a document only because of purely factual material contained in the document.*
- (4) *This section does not apply to—*
  - (a) *reports (including reports concerning the results of studies, surveys or tests) of scientific or technical experts, whether employed within an agency or not, including reports expressing the opinions of such experts on scientific or technical matters; or*
  - (b) *reports of a prescribed body or organisation established within an agency; or*

- (c) the record of, or a formal statement of the reasons for, a final decision given in the exercise of a power or of an adjudicative function.*
- (5) Where a decision is made under part 3 that an applicant is not entitled to access to a document because of this section, the notice under section 25 shall state the ground of public interest on which the decision is based.*

I consider that the valuation at folio 1, which formed part of LDA's valuation determination of the Williamsdale site, meets the criteria for deliberative documents described under section 36(1)(a) of the Act. This concerns the ability of the LDA to receive advice and analysis of issues and consider the optimal course of action for the Territory. Valuations received by the LDA are deliberative documents used to inform negotiating positions. It is in the public interest that the LDA achieves the best possible economic return for the Territory. Release of valuations would also have a prejudicial and deleterious effect on land prices due to the speculative nature of the property market.

#### Documents affecting personal privacy

Section 41 provides:

- (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).*
- (2) Subject to subsection (3), subsection (1) does not apply to a request by a person for access to a document only because of the inclusion in the document of matter relating to that person.*
- (3) Where—*
  - (a) a request is made to an agency or Minister for access to a document of the agency, or an official document of the Minister, that contains information of a medical or psychiatric nature concerning the person making the request; and*
  - (b) it appears to the principal officer of the agency, or to the Minister, as the case may be, that the disclosure of the information to that person might be prejudicial to the physical or mental health or wellbeing of that person;**the principal officer or Minister may direct that access to the document, so far as it contains that information, that would otherwise be given to that person is not to be given to that person but is to be given instead to a doctor to be nominated by that person.*

I have decided to exempt from release components of documents that would involve the unreasonable disclosure of personal information. The exempted information includes personal email addresses. I consider it would be an unreasonable breach of personal privacy to release this information.

#### **Your Right of Review**

##### Internal Review

Under section 59(1) of the FOI 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  
c/o Freedom of Information Coordinator  
Land Development Agency  
GPO Box 158  
CANBERRA ACT 2601  
Email: [CMTEDDFOI@act.gov.au](mailto:CMTEDDFOI@act.gov.au)

### Complaints to the Ombudsman

Under section 54 of the FOI 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 and the documents relevant to 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) 6207 5553.

Yours sincerely 



Tom Gordon  
Executive Director  
Greenfield

15 May 2017