



Dear 

I refer to your request of 11 April 2018 for an internal review on a decision made in response to your request under the *Freedom of Information Act 1989* (the Act) of 21 June 2017 for documents generated within the Chief Minister's Portfolio relating to the Land Development Agency's acquisition of the properties at Section 72, Dickson. Specifically, you have requested an internal review of the decisions to exempt or partially release information that is subject to legal professional privilege and documents relating to Executive documents and business affairs, as outlined in your request at Attachment A.

In accordance with section 22 of the Act, I am an officer authorised to make a decision in respect of a request for a review of decisions made for access to government information.

Section 59 of the Act provides the right for an internal review of the decision to refuse to grant access to a document. The Act states:

*(1) Where a decision has been made in relation to a request to an agency otherwise than by the responsible Minister or principal officer of the agency, being—*

*a) a decision refusing to grant access to a document in accordance with a request or deferring the provision of access to a document; (...)*

*the applicant may, within 28 days after the day on which that decision is notified to the applicant or within such further period as the principal officer of the agency allows, by application in writing to the principal officer of the agency, request a review of the decision in accordance with this section.*

A decision was made by Mr Bruce Fitzgerald, Executive Director, Urban Renewal on 10 April 2018 in response to your request for access to the following documents (original request):

*"... documents generated within the Chief Minister's portfolio relating to the decision making, valuations, assessments, deliberations, payments, negotiations, minutes, correspondence, payment advice, logs and other related information (including internal documents) relating to the LDA's acquisition of the properties at Section 72, Dickson.*

*I also ask for information relating to the sale of properties at Section 34, Dickson".*

I have considered the documents numbered 18, 19, 33, 50, 52-76 and 109, for which exemptions were claimed under section 42 of the Act (documents subject to legal professional privilege). The specific legal advices contained in the exempted documents were not released by the Auditor-General in *Report No. 3/2018: Tender for the sale of block 30 (formerly block 20) Section 34 Dickson* and remain subject to legal professional privilege. This exemption is not subject to a public interest test. I therefore confirm the original decision.

I have considered the documents numbered 30 and 44, for which exemptions were claimed under s 35 of the Act (Executive documents). These documents contain information which would, if released, disclose the deliberations of Cabinet. The document contains information that differs to the information publicly released in the Auditor-General's report, and thus it would make information in an Executive document public. This exemption is not subject to a public interest test. I therefore confirm the original decision.

I have considered the document number 121, for which an exemption was claimed under section 43 of the Act (business affairs). While the document contains matter that could affect the professional or commercial affairs of a business, there is also matter that could be released without causing this detriment. Therefore, I have decided to overturn the original decision and partially release the document.

The Directorate has conducted additional searches in response to your request for an internal review. Searches were undertaken to identify documents related to questions on notice, media enquiries and negotiations.

Seven additional documents have been identified. Please find a schedule of these documents at [Attachment B](#) and the documents at [Attachment C](#).

### **Review**

In accordance with section 60 of the Act, you may seek a review of my decision under internal review in the ACT Civil and Administrative Tribunal.

Under section 54 of the Act, if you are concerned about the processing of your request or related administrative matters, you may complain to the Ombudsman, who may conduct an independent investigation into your complaint. There is no fee for this, and the contact details are as follows:

The Ombudsman  
GPO Box 442  
CANBERRA ACT 2601

Email: [actfoi@ombudsman.gov.au](mailto:actfoi@ombudsman.gov.au)

### **Online FOI Publication Policy**

Please be aware that under the ACT Government's "*Online FOI Publication Policy*" (the Policy), the decision of an internal review under the Act may be released on the internet.

Personal information or business affairs information will not be made available under the policy. If you think the content of your request would contain such information, please inform our contact officer immediately.

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/open\\_government/report/freedom\\_of\\_information\\_online](http://www.cmd.act.gov.au/open_government/report/freedom_of_information_online)

Yours sincerely



Geoffrey Rutledge  
Deputy Director-General, Sustainability & the Built Environment  
Environment, Planning and Sustainable Development Directorate

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