



ACT
Government

Territory and Municipal Services

Dear :

Freedom of information request

I refer to your application made under the *Freedom of Information Act 1989* (the FOI Act) received on 19 July 2011, in which you sought access to documents held by the Territory and Municipal Services Directorate in relation to negotiations with the Commonwealth Government in relation to the Majura Parkway.

I thank you for agreeing to an extension of time and for the patience you have shown while the directorate processes your request.

Decision

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

Sixty-two documents have been located within the scope of your request. Documents provided by third parties (external and internal government agencies) were included in the search results. Under section 26 of the FOI Act, where a document is identified as falling within the scope of a request and contains matter originating from the Commonwealth and the Commonwealth may reasonably have objections to the release of the document, consultation is required before I can make a decision to release that document. The directorate consulted with the following Commonwealth agencies over the release of documents in response to your request:

- Department of Sustainability, Environment, Water, Population and Communities;
- National Capital Authority;
- Australian Federal Police;
- Department of Defence;
- Department of Infrastructure and Transport; and
- Infrastructure Australia.

The consultation process has been completed and the consulted agencies have advised that they have no objections to the release of the documents related to or provided by them.

I have decided that documents 1-5, 7-13, 15-20, 22-37 and 39-62 be released in full, but have deleted some out of scope information from documents 9, 10, 13, 27, 29, 35, 36, 40, 41 and 53.

Document 6 contains information relating to the preparation of a Cabinet submission and I have exempted some information pursuant to section 35(1)(d) of the FOI Act, which provides:

35 Executive documents

(1) A document is an exempt document if it is—

...

(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.

Some out of scope information from this document has also been deleted.

I have decided to exempt document 14 in full pursuant to section 46(c) of the FOI Act, which provides:

46 Document disclosure of which would be contempt of Legislative Assembly or a court

A document is an exempt document if public disclosure of the document would, apart from this Act and any immunity of the Crown—

...

(c) infringe the privileges of the Legislative Assembly, of the Commonwealth Parliament, of the Parliament of a State or of a House of such a Parliament or of the Legislative Assembly of the Northern Territory or of Norfolk Island.

I have decided that releasing the information contained in this document could infringe the privileges of the Legislative Assembly, and in particular the privilege of a member's freedom of speech.

Documents 21 and 38 contain personal information and I have made deletions in these documents pursuant to section 41(1) of the FOI Act, which provides:

41 Documents affecting personal privacy

- (1) A document is an exempt document if its disclosure under this Act would involve the unreasonable disclosure of information relating to the personal affairs of any person (including a deceased person).

The exempt material is the personal email address of a TAMS employee. Some out of scope information has also been deleted from document 38.

To assist you in understanding my decision, I have included a schedule of documents at Attachment A.

Fees and charges

As advised previously on 22 September 2011, I have accepted your explanation that your request has been made on public interest grounds, and have therefore decided to waive all charges associated with your request.

Right of review

My decision is reviewable. This means that if you are dissatisfied with my decision, you have a right to seek a review under section 59 of the FOI Act. The review process is explained for your information at Attachment B.

You have 28 days from the date of this letter to seek a review of my decision, or such other period as the Director-General permits.

For more information on this matter, please contact the directorate's FOI officer on 6205 5408 or tamsfoi@act.gov.au.

Yours sincerely



Paul Peters
Executive Director
Roads and Public Transport

19 December 2011

Freedom of Information Act 1989 – Review Processes

Internal Review

If you are dissatisfied with a decision made under the Freedom of Information Act 1989, you have a right to seek an internal review of the decision. If you wish to seek an internal review you should write to:

The Director-General
Territory and Municipal Services Directorate
C/- Freedom of Information Officer _____
GPO Box 158
CANBERRA ACT 2601

You have 28 days from the date of the decision letter to seek a review of the outcome or such other period as the Director-General permits.

ACT Civil and Administrative Tribunal

If you are still dissatisfied after the agency has conducted an internal review, you can seek an independent review of the decision by the ACT Civil and Administrative Tribunal. You have 28 days from the date of the internal review decision to seek a review from the Tribunal.

The Tribunal is an independent body. It can agree with, change or reject the original decision, substitute its own decision or send the matter back to the decision maker for reconsideration in accordance with Tribunal recommendations.

To apply to the Tribunal for a review you can obtain an application form from the Tribunal (www.acat.act.gov.au). The form outlines all the information needed by the Tribunal to process a review promptly. There is a fee for lodgment of an appeal with the Tribunal. This fee may be remitted under certain circumstances.

The postal address of the Tribunal is:

ACT Civil and Administrative Tribunal
GPO Box 370
CANBERRA ACT 2601

Ombudsman

You also have the right to complain to the Ombudsman about the processing of your request. If you wish to lodge a complaint you should write to:

The ACT Ombudsman
GPO Box 442
CANBERRA ACT 2601

Further information

For further information on your right to review of an FOI decision, please contact the directorate's FOI officer on 6205 5408 or tamsfoi@act.gov.au.