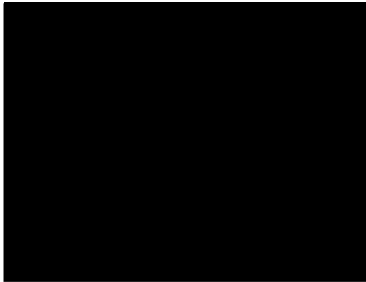




ACT
Government

Chief Minister, Treasury and
Economic Development

Our ref: CMTEDD IR 53/16-17



Internal Review of Decision on Freedom of Information request – Australia Forum Strategic and Delivery Options Analysis

I refer to your request, received by the Chief Minister, Treasury and Economic Development Directorate (CMTEDD) on 24 March 2017, seeking an internal review of Mr Peter Murray's release decision on your request under the *Freedom of Information (FOI) Act 1989* (the Act).

You have sought a review of Mr Murray's release decision of 21 March 2017 in response to your FOI request of 10 February 2017, where you sought:

"... all documents and any information held by the Directorate relating to advice provided by KPMG to the ACT Government, in particular:

- *All reports, documents and information provided by KPMG to the ACT Government concerning the 'infrastructure advisory services for Australia forum';*
- *All documents received by the ACT Government in exchange for the payment made to KPMG on 11th February 2015."* and

"... all documents and any information held by the Directorate relating to advice provided by KPMG to the ACT Government, in particular:

- *All documents received by the ACT Government in exchange for the payment made to KPMG on 22nd March 2016;*
- *All reports, documents and information provided by KPMG to the ACT Government concerning 'infrastructure advisory services for Australia Forum' and the results of these consultations in regards to the transaction that occurred on 22nd March 2016."*

In your request for review you stated that in your view all material redacted from the partially released document would not disclose the sort of business affairs information referred to in Mr Murray's decision. You also sought any correspondence between KPMG and the FOI Officer in relation to your request. The second part of your request will be responded to separately.

Chief Minister, Treasury and Economic Development

As previously advised, I am authorised under section 59(2) of the Act to undertake the requested internal review of the Freedom of Information (FOI) decision. I have now completed my review.

Decision on internal review (access)

I note that your request for internal review did not take issue with the original decision in relation to the interpretation of the scope of your request. I consider the interpretation to be appropriate and accordingly my review was of the release decision made on the *Australia Forum Strategic and Delivery Options Analysis – Final Report (Final Report)*.

At the time of your review request the *Final Report* was being considered for provision in response to the upcoming Standing Committee on Economic Development and Tourism 'Inquiry into a new convention centre for Canberra'. As part of this process further consultation was undertaken with third parties likely to be affected by the release of their business affairs information. I have taken into consideration in my review, the responses from those parties, and have decided that additional information, originally determined to be exempt under section 43 (business affairs) of the Act, could be released without detriment to these third parties.

Some information, however, specifically references to rent payable to the ACT Government by third parties, was identified as commercially sensitive and likely to cause detriment to third parties if released.

I have decided that the components of the *Final Report* referring to rent payable to the ACT Government are exempt under the relevant provisions contained in section 43 of the Act. Specifically, I consider that disclosure of this sensitive financial information is likely to unreasonably affect the business affairs of third parties (S43 (1) (c)(i)). I also consider that its release could also prejudice the future supply of information to the Territory (S43 (1) (c)(ii)).

I note that this financial information comprises a very small component of the *Final Report* and I consider that redaction of this information does not materially affect understanding of the remaining content.

Exemption claimed

Section 43 – Documents Relating to Business Affairs 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.

(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.

Review of this decision

My decision is appealable under sub-section 60(1) of the Act. If you are dissatisfied with this decision you may apply to the ACT Civil and Administrative Tribunal for a review within 28 days of receipt of this letter.

Further information may be obtained from the Tribunal at:

ACT Civil and Administrative Tribunal
Level 4, 1 Moore St
GPO Box 370
Canberra City ACT 2601
Telephone: (02) 6207 1740
<http://www.acat.act.gov.au/>

Under section 54 of the Act 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:

ACT Ombudsman
GPO Box 442
Canberra ACT 2601
<http://www.ombudsman.act.gov.au/>

Should you have any queries regarding this matter please contact me on (02) 6207 6569.

Yours sincerely



Glenn Bain
Executive Director
Procurement Projects
04 May 2017