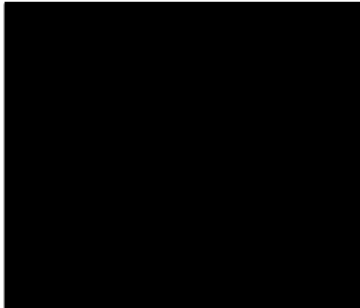




**ACT**  
Government

Chief Minister, Treasury and  
Economic Development

Our ref: CMTEDD2017/5847



## **Freedom of Information Request**

I refer to your access request under section 14 of the ACT *Freedom of Information Act 1989* (the FOI Act 1989), received by the Chief Minister, Treasury and Economic Development Directorate (CMTEDD) on 8 December 2017.

In your request you sought “...correspondence from the Commonwealth regarding the West Basin project.”

### **Decision Maker**

I am authorised under section 22 of the FOI Act 1989 and have been approved to make decisions on access to documents and liability for charges.

### **Charges**

I have decided, under section 29 of the FOI Act 1989, not to impose processing charges for this request.

### **Identification of documents and decision on access**

As advised to you on 20 December 2017, I decided to consult with relevant Commonwealth agencies as I considered that these agencies may reasonably wish to contend that documents may be exempt from release under section 34 of the FOI Act 1989. I have now received third party submissions and given consideration to these in making my release decision.

I have decided that all documents relevant to your request are exempt from release. My decision is detailed further in the below statement of reasons. Documents identified as relevant to your request and exemption provisions applied are listed on the attached schedule.

## Exemptions claimed

### Section 34 – Documents affecting relations with Commonwealth and States

- (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.*

I have decided that all documents relevant to your request are exempt from release under section 34 of the FOI Act 1989 as release is likely to damage the relationship between CMTEDD and the Commonwealth Government.

Correspondence relevant to your request was provided to CMTEDD, predominantly by the Commonwealth Department of Finance (Finance) and their Minister, for the purpose of assisting in the negotiation of an agreeable solution on land matters. Negotiations have been undertaken in confidence and remain in progress. I consider that disclosure could reasonably be expected to negatively affect these negotiations by damaging the continued level of trust and co-operation that exists between officers involved in the negotiation process.

It is my view that it is not in the public interest to release the identified documents. Maintaining good working relations between the ACT and the Commonwealth is crucial to the ongoing negotiations for both land matters involving the West Basin project and a number of other matters. Ultimately release may impair or prejudice the current or future flow of information between the ACT and the Commonwealth. As negotiations remain in progress, release of deliberative material contained in the identified documents is not in the public interest at this time.

Although release would promote the objects of the FOI Act 1989 and provide the ACT community with access to previously unavailable information about a Government project, I consider that on balance, these factors are outweighed by the likely detriment that would flow from release.

I do not consider it possible to edit exempt material from relevant documents without affecting Commonwealth/Territory relations or rendering the remaining content meaningless. For this reason, I have decided to exempt all documents from release.

## Section 41 – Documents affecting personal privacy

- (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).*

In addition to being exempt under section 34 of the FOI Act 1989, several of the documents relevant to your request contain the personal contact details of Commonwealth and ACT Government officers. I consider that release of this material would involve an unreasonable disclosure of personal information as described in section 41 of the FOI Act 1989.

CMTEDD has consulted and considered the views with Finance and the Commonwealth Department of Infrastructure, Regional Development and Cities on this FOI request.

### **Your right of review**

#### Internal Review

Under section 59(1) of the FOI Act 1989, 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 Director-General.

Your request should be addressed to:

Director-General

c/o Freedom of Information Co-ordinator

Chief Minister, Treasury and Economic Development Directorate

GPO Box 158

CANBERRA ACT 2601

Via email: [CMTEDDFOI@act.gov.au](mailto:CMTEDDFOI@act.gov.au)

#### Complaints to the Ombudsman

Under section 54 of the FOI Act 1989, you may complain to the Ombudsman about administrative matters relating to the processing of your FOI 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 FOI Publication Policy and have determined that my decision on 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)

If you would like to discuss this matter further please contact me on (02) 6205 0230.

Yours sincerely



Sam Angele  
A/g Executive Director  
Finance and Budget

24 January 2018