



ACT
Government
Economic Development

 Land
Development
Agency
CANBERRA FIRST

ABN 204 199 255 79

TransACT House
470 Northbourne Avenue
Dickson ACT 2602

GPO Box 158 Canberra ACT 2601

Phone: (02) 6205 0600

Fax: (02) 6207 5101

Email: lda@act.gov.au

Web: lda.act.gov.au

Our ref: LDA 17/15-16

Dear [REDACTED]

Freedom of Information Request – valuations for the paddle boat hire business on the lake

I am writing to acknowledge receipt of your request submitted under section 14 of the ACT *Freedom of Information Act 1989* (FOI Act), received by the Land Development Agency (LDA) on 1 June 2016.

Request for documents

In your request, you are specifically seeking:

“...the valuations for the paddle boat hire business on the lake that was recently acquired by the LDA... specifically:

- (1) *how many valuations were done*
- (2) *what were the various valuations*
- (3) *how much was paid to the business owner*
- (4) *please send the valuations”.*

The LDA is required to provide you with a decision on access to documents within the terms of the request within 30 days after the date the request was received, unless an extension of time has been negotiated with you. The due date in regards to your request for access is therefore **1 July 2016**.

Decision maker

I am authorised under section 22 of the FOI Act to make decisions on access to documents, and liability for charges, for the LDA.

Charges

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

Identification of documents

For ease of reference I have numbered the points of your request one (1) through to four (4).

In regards to points one (1) to three (3) of your request, the questions you have put to the LDA seek information rather than access to discrete documents. Section 16(1) of the FOI Act provides where it appears from a request that “the desire of the applicant is for information that is not available in discrete form” in documents of the agency, that the agency could produce a written document containing the information in discrete form. I have decided to create such a document, responding to your questions, in the form of this letter.

In regards to point four (4) of your request, officers of the LDA have conducted searches of paper and electronic files for documents that may be relevant. Three documents were identified.

Decision on access

In accordance with section 21 of the FOI Act, I have decided to fully exempt the three identified documents from release. My reasons for not providing access to these documents are outlined in the following statement of reasons.

In regards to the four points of your request, I provide the following responses:

(1) How many valuations were done?

The LDA sought three valuations for the business.

(2) What were the various valuations?

In line with the exemption provisions provided under section 43 of the FOI Act (Documents relating to business affairs, etc) I have decided not to release the valuation amounts. My reasons for exempting this information are provided in more detail below under point four (4).

(3) How much was paid to the business owner?

Under section 45 of the FOI Act I have decided not to release this information. A Deed of Confidentiality was signed between the parties on the settlement value; disclosure of this information would therefore constitute a breach of confidence.

Section 45 - Documents containing material obtained in confidence provides:

- (1) *A document is an exempt document if its disclosure under this Act would constitute a breach of confidence.*
- (2) *Subsection (1) does not apply to any document to the disclosure of which section 36 (1) (a) applies or would, but for section 36 (2), (3) or (4), apply, being a document prepared by—*
 - a) *a Minister; or*
 - b) *a member of the staff of a Minister or an officer of an agency in the course of his or her duties; or*
 - c) *a prescribed authority in the exercise of its functions;*

- d) *for purposes relating to the affairs of an agency or the official affairs of a Minister unless the disclosure would constitute a breach of confidence owed to a person or body other than—*
- e) *a person in the capacity of Minister, member of the staff of a Minister or officer of an agency; or*
- f) *an agency or the Territory.*

(4) Please send the valuations

I have exempted from release the valuation reports and the specific valuation amounts as I am satisfied the information falls within the exemptions set out under section 43 of the FOI Act regarding business affairs.

In addition to the private information of the acquired business, the reports contain information of commercial value pertaining to the business operations and methodology of the valuers and the LDA. It is reasonable to expect that the commercial value of this information may be diminished if disclosed. The disclosure of these reports may also affect the future supply of information to the LDA for the purpose of obtaining future valuations.

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 agency for the purpose of the administration of a law or the administration of matters administered by an agency.*

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
Land Development Agency
GPO Box 158
CANBERRA ACT 2601

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

Please be aware that under the ACT Government's Online FOI Publication Policy information released to you in response to your Freedom of Information request may be released on the Internet.

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 have any queries on this matter, please contact me on (02) 6205 5451.

Yours sincerely



Nicholas Hudson
Director
City to the Lake
Land Development Agency

22 June 2016