



**ACT**  
Government

Chief Minister, Treasury and  
Economic Development

Our ref: CMTEDD 11/16-17



Dear 

## **Decision on your Freedom of Information Request - Commissioner for International Engagement**

I refer to your request for documents on the above topic, made under the ACT *Freedom of Information Act 1989* (the Act) and received by the Chief Minister, Treasury and Economic Development Directorate (CMTEDD) on 11 August 2016.

Specifically, you sought:

- *All information, including, but not limited to, documents, communications, emails and advice, relating to the establishment of the position of Commissioner for International Engagement.*
- *All information, including, but not limited to, documents, communications, emails and advice, relating to the appointment of Brendan Smyth to that role.*
- *All information, including, but not limited to, documents, communications, emails and advice, relating to the appointment process and the consideration of any other candidates.*

### **Decision Maker**

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

### **Charges**

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

### **Identification of Documents**

CMTEDD officers have conducted thorough searches of paper and electronic records for documents that may relate to your request.

You will note that the folio reference numbers on the attached schedule are not sequential. A number of duplicate documents were provided by officers from across the Directorate and these duplicates have been removed. Some documents and components of documents originally identified as potentially relevant to your request have also been determined to be beyond the scope of your request; this material has not been released.

Chief Minister, Treasury and Economic Development

## **Decision on Access**

As I advised in my letter of 8 September 2016, I have undertaken consultation with relevant third parties. While I am not bound by third party submissions, I have given consideration to the responses when making my decision.

I have decided to fully release 21 documents to you.

I have decided to partially release four documents to you and fully exempt 24 documents from release. My reasons for not providing access to certain documents and components of documents are outlined in the following statement of reasons and in the attached schedule of documents.

## **Exemptions Claimed**

### Section 41 - Documents affecting personal privacy

#### **Refers to folio 90.**

Section 41 of the Act provides:

- (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).*

I have exempted from release a personal email address as I am satisfied this information falls within the exemption set out under section 41 of the FOI Act. Release of this personal information would constitute a breach of privacy. I consider that removal of such information does not materially affect the remaining content.

### Section 42 - Documents subject to legal professional privilege

**Refers to folios 19, 23, 24, 27, 29, 31, 32, 34, 37, 39, 42-44, 47, 50, 53, 55, 57, 71, 73, 75, 76, 78-86, 88 and 91.**

Section 42 of the Act provides:

- (1) *A document is an exempt document if it is of such a nature that it would be privileged from production in legal proceedings on the ground of legal professional privilege.*
- (2) *A document of the kind referred to in section 8 (1) is not an exempt document under subsection (1) of this section only because of the inclusion in the document of matter that is used or to be used for the purpose of the making of decisions or recommendations referred to in section 8 (1).*

I have decided to exempt these folios and components of these folios from release under section 42, on the grounds that they are protected by legal professional privilege and their disclosure would diminish CMTEDD's capacity to undertake full and frank discussion with our lawyers.

## Section 35 – Executive documents

**Refers to folios 21 and 46.**

Section 35 of the Act provides:

- (1) *A document is an exempt document if it is—*
- (a) *a document that has been submitted to the Executive for its consideration or is proposed by a Minister to be so submitted, being a document that was brought into existence for the purpose of submission for consideration by the Executive; or*
  - (b) *an official record of the Executive; or*
  - (c) *a document that is a copy of, or of a part of, or contains an extract from, a document referred to in paragraph (a) or (b); or*
  - (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.*

In respect of the confidential nature of the considerations of Cabinet I have decided to exempt the above listed folios from release under section 35(1)(a) of the Act. Folio 46 was submitted to Cabinet for consideration and its release would reveal deliberations or decisions of the Executive. Folio 21 was prepared for the Cabinet decision process and its release would also reveal the deliberations of the Executive.

### **Your Right of Review**

#### Internal Review

Under section 59 (1) of the 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 Director-General.

Your request should be addressed to:

Director-General  
Chief Minister, Treasury and Economic Development Directorate  
GPO Box 158  
CANBERRA ACT 2601

#### Complaints to the Ombudsman

Under section 54 of the 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**

I have assessed your request for information under the ACT Government's Online Freedom of Information 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)

Should you have any queries regarding this matter please contact me on (02) 6207 0569.

Yours sincerely



Sue Hall  
Executive Director  
Corporate

15 September 2016