



**ACT**  
Government

Economic Development

[REDACTED]

Dear Mr [REDACTED]

I refer to your request for internal review [REDACTED], submitted under section 59 of the *ACT Freedom of Information Act 1989* (the Act) received by the Economic Development Directorate (EDD) on 28 November 2013.

I am the officer authorised under section 59 of the Act to review the decision on access to documents previously identified, pertaining to the development of blocks 1582 and 1599 Belconnen ACT, as per your request dated 7 November 2013

#### **Decision**

I have taken into account your concerns as outlined in your request for review and carefully assessed all identified documentation in relation to the original request. As reflected in the attached schedule of documents I have decided to release some of the identified material to you. However, some of the material remains exempt for the following reasons:

1. The documents are considered Executive documents;
2. The documents are considered internal working documents and not in the public interest to release; and
3. The identified material is considered out of scope of the request

#### **Statement of reasons**

The following exemption provisions and subsequent reasons apply to the exempt documentation:

##### **35 Executive documents**

(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.

- The documents exempt from release under this provision are done so under sections 35(1)(a)(c)and(d) of the Act. These documents are considered Executive documents

as they were brought into existence for the purpose of creating a submission to Cabinet. These documents include draft Cabinet submissions, background papers, emails and briefs together with comments from representatives from EDD, and other Directorates across the ACT Government. Releasing these documents would disclose the deliberation process of the Executive and therefore are considered exempt.

### **Section 36 Internal working documents**

(1) A document is an exempt document if its disclosure under this Act—

- (a) would disclose matter in the nature of, or relating to, opinion, advice or recommendation obtained, prepared or recorded, or consultation or deliberation that has taken place, in the course of, or for the purposes of, the deliberative processes involved in the functions of an agency or Minister or of the Territory; and
- (b) would be contrary to the public interest.

- The material exempt under this provision has been exempted on the grounds that they are considered an internal working document as described under section 36 (1) (a) and (b) of the Act. It would not be in the public interest to release this information as it was part of a deliberative process, either in draft form or the opinion of individual officers in relation to preparing the submission to Cabinet. These documents include internal briefing notes and emails, as well as draft documents submitted to senior Executives for review. Disclosure of these documents may create unnecessary debate and/or confusion about the subject matter and in turn may adversely affect further deliberations on these matters without the entirety of the context in which material was produced. For these reasons it is not in the public interest to release this information.

### **Out of Scope**

All material created before 1 September 2012 is considered out of scope of the request and therefore remains exempt from release. Material has also been redacted from some of the documents (folios 125-135 and 149-152) due to information in the documents not pertaining to the development of blocks 1582 and 1599.

### **Review rights**

#### **ACT Civil and Administrative Tribunal**

You have the right to seek a review of any decision made by the Directorate under section 59 of the Act. If you are still not satisfied after the agency has conducted an internal review, you can then seek an independent review of the decision by the ACT Civil and Administrative Tribunal (ACAT). You have 28 days from the date of the internal review decision to appeal to the Tribunal. The postal address of the Tribunal is:

ACT Civil and Administrative Tribunal  
GPO Box 370  
CANBERRA CITY ACT 2601

### **Ombudsman**

Under section 54 of the Act, if you are concerned about the processing of your request or related administrative matters, you may complain to the Ombudsman, who may conduct an independent investigation into your complaint. There is no fee for this, and the contact details are as follows:

The Ombudsman  
GPO Box 442  
CANBERRA ACT 2601

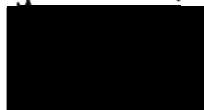
**Online Freedom of Information (FOI) Policy**

Please be aware that under the ACT Government's Online FOI Publication Policy, information released to you under this Freedom of Information Application will be released on the internet. 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)

In the meantime, should you have any further queries with regard to your request please do not hesitate to contact the FOI Coordinator on (02) 6207 5833 or email [EDDFreedomOfInformation@act.gov.au](mailto:EDDFreedomOfInformation@act.gov.au)

Yours sincerely



Daniel Stewart  
Deputy Director-General  
Land Development, Strategy and Finance

18 December 2013