



**ACT**  
Government

Environment and  
Sustainable Development

OFFICER :Heather Johnston  
EMAIL :ESDDFOI@act.gov.au  
PHONE :6207 1941  
REF :FOI 13/25293

Dear [REDACTED]

Freedom of Information Request – Royalla Solar Farm

I refer to your application under section 14 of the *Freedom of Information Act 1989* (the Act), received by the Environment and Sustainable Development Directorate (ESDD) on 6 December 2014, in which you requested the following documents:

“Any correspondence between ACTPLA and Minister Corbell in relation to the Royalla Solar Farm development application.

The DA number was 201222415.

In particular the information pack that was referred to the Minister from ACTPLA when Minister Corbell exercised section 158 of the planning and development ACT 2007 (Page 146 of <http://www.legislation.act.gov.au/a/2007-24/current/pdf/2007-24.pdf>)

The DA was lodged the 8-4-2013. The notice of decision from the minister was published 1-7-2013. Therefore the information should be between these dates.”

I note that after providing the “Index of Documentation” you refined the scope of the request by email on 11 February 2014 to attachments “A and B”.

I am an officer authorised to make a decision in respect of a request for information, under section 22 of the Act.

### **Schedule detailing decisions**

Please refer to the attached schedule that lists decisions regarding access to all documents, which have been identified as relevant to your request. The terms used on the schedule are either ‘Release’, ‘Partial release’ or ‘Exempt’. Where an exemption is made, a reference will be made on the schedule to the relevant section or combinations of sections of legislation that apply to the decision.

### **Decision**

The Directorate has identified twelve documents in its possession that meet the scope of your request, as identified in the schedule attached to this letter.

Under the Act, documents may be partially exempt/exempt or provided to applicants with deletions and I have decided to exempt some documents under sections 35 (Executive documents), 36 (Internal working documents), 41 (Documents relating to personal privacy) and 43 (Documents relating to business affairs).

### **Executive documents**

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.”*

I have exempted from release under section 35(1)(a)&(d) of the Act documents that have been submitted to the Executive for consideration. In addition, documents that refer to information that is contained in the submission is exempted under section 35(1)(d) of the Act. These documents include draft submissions, background papers, emails and briefs together with comments from officers of ESDD and other agencies that constituted part of the process of drafting the submissions.

To disclose this information would reveal the deliberations of the Executive.

### **Internal working documents**

Section 36 of the Act provides:

1. *Subject to this section, 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.*

Section 36 allows the exemption of internal working documents when disclosure under the FOI Act would not be in the public interest.

I consider these documents are internal working documents which are in draft format and include opinion and the deliberative processes of this agency.

I do not believe that disclosure in this circumstance would fairly disclose the ongoing decision making process and may impact on further deliberations on these matters.

In addition, I am of the view that disclosure at this time would create unnecessary debate and/or confusion about the subject matters. For these reasons I believe that disclosure is not in the public interest.

### **Personal Privacy**

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).*

A number of documents contain the personal information relating to community members and I believe that to release the information contained in these documents to you would constitute an unwarranted invasion of privacy on the people concerned.

### **Business affairs**

Section 43 of the Act 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; or*

*(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.*

Some documents contain the financial information of an organisation and the organisation has requested that these documents are exempt from release.

I consider that the submission provided by this organisation provides a sound argument that the release of their financial records would diminish the commercial value of the information and compromise the organisation's commercial and competitiveness.

### **Review rights**

My decision is appealable under the Act. This means that if you are dissatisfied with this outcome you have a right to seek a review under section 59 of the Act. This right of review extends to a review of the adequacy of the search for documents undertaken by ESDD. If you wish to seek a review you should write to:

The Director-General  
Environment and Sustainable Development Directorate  
GPO Box 1908  
CANBERRA ACT 2601

Email: [ESDDFOI@act.gov.au](mailto:ESDDFOI@act.gov.au)

You have 28 days from the date of this letter to seek a review of the outcome or such other period as the Director-General permits.

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

Email: [ombudsman@ombudsman.gov.au](mailto:ombudsman@ombudsman.gov.au)

### **Online FOI Publication Policy**

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

Personal information or business affairs information will not be made available under the policy. If you think the content of your request would contain such information, please inform our contact officer immediately.

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/open\\_government/report/freedom\\_of\\_information\\_online](http://www.cmd.act.gov.au/open_government/report/freedom_of_information_online)

If you have any queries in relation to this matter, please contact Heather Johnston on 6207 1941.

Yours sincerely



Jim Corrigan  
Executive Director  
Planning Delivery

**24** February 2014

