



ACT
Government
Environment and
Sustainable Development

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REF :FOI 42

Mr Alistair Coe MLA
Liberal Member for Ginninderra
ACT Legislative Assembly
CANBERRA ACT 2601

Dear Mr Coe

Freedom of Information Request – Communication between Minister for Planning and Infrastructure the Directorate

I refer to your application under section 14 of the *Freedom of Information Act 1989* (FOI Act), received by the Environment and Sustainable Development Directorate (ESDD) on 6 December 2012, in which you requested the following documents:

“communication between the Minister for Planning and Infrastructure (including members of their office) and the Directorate from 10 September-20 October 2012.”

Due to the broad ranging nature of the request, the Directorate has only included direct correspondence between the Minister and the Directorate. That is, the Directorate has not considered correspondence between a constituent and the Minister as within the scope of this request. In the Directorate’s view, this approach is consistent with Section 23 (1)(b)(i) of the FOI Act, that the work involved in giving access to all documents would substantially or unreasonably divert the resources of the agency from its other operations.

I am an officer authorised to make a decision in respect of a request for information, under section 22 of the FOI 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 seven documents in its possession that meet the scope of your request, as identified in the schedule attached to this letter.

Under the FOI Act, documents may be partially exempt/exempt or provided to applicants with deletions and I have decided to exempt some parts of some documents under sections 35 (Executive documents), and 41 (Documents relating to personal privacy).

Executive documents

Section 35 of the FOI 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 FOI Act documents that have been submitted to Cabinet for the consideration of its members. In addition, documents that refer to information that is contained in the Cabinet submissions are exempted under section 35(1)(d) of the FOI 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 Cabinet members. The resulting Cabinet decisions I have exempted under section 35(1)(b) of the Act.

Personal Privacy

Section 41 of the FOI 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.

Review rights

My decision is appealable under the FOI Act. This means that if you are dissatisfied with this outcome you have a right to seek a review under section 59 of the FOI 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

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 FOI 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

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

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

Yours sincerely

A handwritten signature in black ink that reads "Erin Brady". The signature is written in a cursive, flowing style with a large initial "E" and "B".

Erin Brady
Executive Director
City Planning

14 March 2013