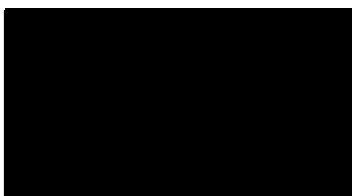




**ACT**  
Government

Chief Minister, Treasury and  
Economic Development

Our ref: CMTEDD 18/14-15



Dear 

### **Request for documents**

I refer to your letter of 15 September 2014 addressed to the Chief Minister, Treasury and Economic Development Directorate (CMTEDD) in which you seek access to documents under the *Freedom of Information Act 1989* (the Act). In your request you are seeking management plans (i.e. 'anything in a report form since it stopped being used as a brickworks') for the Old Canberra Brickworks held by the ACT Property Group.

### **Decision Maker**

I am authorised under section 22 of the Act to make decisions on access to documents, and liability for charges, for the Chief Minister, Treasury and Economic Development Directorate (CMTEDD).

I would also like to apologise for the time it has taken to provide you with a response to your application.

### **Charges**

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

### **Identification of Documents**

Officers from CMTEDDD have conducted searches of paper and electronic files for documents that may relate to your request and email correspondence has been located in the ACT Property Group.

### **Decision on Access**

In accordance with section 21 of the Act, where it has been possible to delete exempt material from a relevant document in order to provide access to the remaining information I have done so. I have enclosed with this letter a copy of the documents I

have released to you in full, and those I have partially released, along with their corresponding schedules.

## **Exemptions claimed**

### Documents Affecting Personal Privacy

#### **Folio 534-551 Pages 540, 542, 544**

I have exempted from release personal information about a person, or persons, as I am satisfied that the information falls within the exemption set out under Section 41 of the Act.

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).*
- (2) *Subject to subsection (3), subsection (1) does not apply to a request by a person for access to a document only because of the inclusion in the document of matter relating to that person.*
- (3) *Where—*
  - (a) *a request is made to an agency or Minister for access to a document of the agency, or an official document of the Minister, that contains information of a medical or psychiatric nature concerning the person making the request; and*
  - (b) *it appears to the principal officer of the agency, or to the Minister, as the case may be, that the disclosure of the information to that person might be prejudicial to the physical or mental health or wellbeing of that person;*

*the principal officer or Minister may direct that access to the document, so far as it contains that information, that would otherwise be given to that person is not to be given to that person but is to be given instead to a doctor to be nominated by that person.*

### Documents Relating to Business Affairs

Under section 43 of the Act, I have decided to exempt from release, the 'Report – Canberra Brickworks, Yarralumla Preferred Option Appraisal & Project Delivery Recommendations – March 2013' as it contains a substantial amount of material relating to the business and commercial affairs, being potential land development and associated commercialisation. Such information, if disclosed to the wider public and ultimately competitors in the field and potential investors, could ultimately prejudice the financial viability of the project.

Furthermore, I have exempted from release business affair details pertaining to a person's business, as I am satisfied that the information falls within the exemption set out under Section 43 of the Act.

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.*

#### Documents Submitted to the Executive

Under section 35 of the Act, the release of 'Report – Canberra Brickworks, Yarralumla Preferred Option Appraisal & Project Delivery Recommendations – March 2013' would disclose unpublished deliberations and decisions of Cabinet.

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.*

*Note* Access to the Cabinet notebook is excluded under s 11 (2).

- (2) *This section does not apply to a document (a **relevant document**)—*
- (a) *that is referred to in subsection (1) (a); or*
  - (b) *that is referred to in subsection (1) (b) or (c) and is a copy of, or of part of, or contains an extract from, a document that is referred to in subsection (1) (a);*
- to the extent that the relevant document contains purely factual material unless—*

- (c) the disclosure under this Act of that document would involve the disclosure of any deliberation or decision of the Executive; and*
  - (d) the fact of that deliberation or decision has not been officially published.*
- (3) A reference in this section to the Executive includes a reference to a committee 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**

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. If you think the content of your request would contain such information, please inform the Freedom of Information Coordinator immediately on (02) 620 53955.

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 3998.

Yours sincerely



Mr Daniel Bailey  
Director  
ACT Property Group  
Chief Minister, Treasury and Economic Development Directorate  
8 December 2014

