



ACT
Government

Chief Minister, Treasury and
Economic Development



Dear 

Freedom of Information Request – Beach Volleyball Facility in the ACT

The purpose of this letter is to give you a decision about access to documents that you requested under the ACT Freedom of Information Act 1989 (FOI Act).

Summary

I, Jenny Priest, Director Sport and Recreation Services, Chief Minister, Treasury and Economic Development Directorate (CMTEDD) am an officer authorised under section 22 of the FOI Act to make decisions on access to documents held by the Directorate.

You requested access to documents relating to the decision to support the establishment of a beach volleyball facility in the ACT on 27 May 2014. Specifically you sought access to:

- *all documents held by the relating to the decision to support the establishment of a beach volleyball facility in the ACT for the period covering 1 January 2012 to the date of this request (27 may 2014)*

My request covers but is not limited to records of correspondence, meetings, telephone conversations, documents on file, (including but not limited to letters, file notes, emails, media releases, minutes, briefings, submissions) and material provided by sporting associations in support of the funding request in connection with:

- *Project description, reports and studies, costings, financial transactions and tender processes.*
- *Interactions with relevant ACT Government s, agencies and ministers.*
- *Interactions with sporting and community organisations.*
- *All public announcements in relation to the decision to support beach volleyball in the ACT.*

On 12 June 2014 the Economic Development FOI Coordinator advised you via letter that, Under the FOI Act, when a request for information has been received by a

Directorate, and the documents identified by the Directorate contain information that may affect the personal or business affairs of a third party, the agency is required to consult third parties in accordance with section 27 of the Act. Section 27 of the Act allows for third parties to make submissions regarding the release of information under sections 41 and 43(1) of the Act.

As the decision maker in relation to this request, I am not bound by the contentions of the third parties make in their submission, but have given them consideration in making my final decision.

With regard to the documents you requested, the Directorate identified sixty two (62) documents which fell within the scope of your request. The attached three (3) schedules of documents provides a description of each document that falls within the scope of your request and the access decision for each of those documents. More information, including my reasons for my decision, is set out below.

Decision and reasons for decision

With regard to the documents identified in the attached schedule, I have decided:

- to grant access in full to documents as outlined in schedules 1, 2 & 3 attached to this letter;
- to grant access in part to documents as outlined in schedules 1, 2 & 3 attached to this letter with exempt material redacted under section 21(1)b and exempt under section 41 of the FOI Act as the information relates to the personal affairs of a third party;
- to grant access in part to documents 24 and 25 as outlined in schedule 2 attached to this letter. The information considered exempt has been redacted under section 21(1)b and exempt under section 43 of the FOI Act as the information relates to the business affairs of a third party; and
- to refuse access to documents 10,11,14,15 and 17 on the basis that the information is considered exempt under section 42 of the FOI Act as the information is subject to legal professional privilege.

Material taken into account

I have taken the following material into account in making my decision:

- the content of the documents that fall within the scope of your request;
- the FOI Act; and
- the views of third parties consulted by the under section 27 & 27A of the FOI Act.

The attached schedules indicate each document to which access is refused either in full or part. The terms used are either 'Full release', 'Partial release' or 'Exempt'. My reasons for refusing access are given below:

Decision – Documents Exempt - Partial Release

Section 41 Documents affecting personal privacy

- (1) A document is an exempt document if its disclosure under this Act would involve the unreasonable disclosure of information relating to the personal affairs of any person (including a deceased person).

Documents partially released under this provision have been redacted due to the information relating to the personal affairs of a third party. The redacted information includes names, contact details, signatures and any other information concerning the identity of third parties.

Decision – Documents Exempt - Partial Release

Section 43 Documents relating to business affairs etc

- (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.

Documents partially released under this provision, have been redacted due to the information relating to the business affairs of a third party. The redacted information includes details of a banking account of a third party.

Decision – Documents Exempt

Section 42 Documents subject to legal professional privilege

- (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.

The identified documents are email correspondence and advice provided by the ACT Government Solicitor. The purpose of the emails and advice was to seek legal opinion regarding a sub-lease arrangement between Sport and Recreation Services and Volleyball ACT.

Accordingly I am satisfied that the documents are exempt under section 42(1).

Review rights

You have the right to seek a review of any decision made by the Directorate 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 the Directorate. If you wish to seek a review you should write to:

The Director-General
Economic Development
Chief Minister, Treasury and Economic Development
C/- Freedom of Information Officer
GPO Box 158
CANBERRA ACT 2601

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.

Ombudsman

Under section 54 of the Act, if you are concerned about the processing of your request or related administrative matters, you may contact the Ombudsman, who may conduct an independent investigation into any complaint you may have. 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 not 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)

If you have any queries in relation to this matter, please contact the Economic Development FOI Coordinator on (02) 6207 5833 or email EDDFreedomofInforation@act.gov.au

Yours sincerely



Jenny Priest
Director
Sport and Recreation Services

4 August 2014

