



ACT
Government

Environment and Planning

Phone: 6207 1923
Reference: 14/30175

Dear [REDACTED]

Freedom of Information Request – Solar Auction and Reverse Auction Process

I refer to your application under section 14 of the *Freedom of Information Act 1989* (the Act), received by the Environment and Planning Directorate (EPD) on 19 December 2014, in which you requested the following documents:

“Please provide a full copy of any feasibility studies in to the solar auction and reverse auction process. For these feasibility studies please provide:

- 1. Who was involved in the study?*
- 2. Were any external consultants/companies used?*
- 3. The dates of the documents*
- 4. The dates anyone was involved*
- 5. Who in the government signed off on these documents and the date which it occurred?*

Please provide a full copy of the full review of the solar auction. The document on your website which was published in October 2013 seems to be a summary. With the full copy of the review please provide:

- 1. When the review was completed*
- 2. Who was involved in the review?*
- 3. Were external consultants/companies used?*
- 4. The dates of the document*
- 5. The dates anyone was involved*
- 6. Who in the government signed off on this document and the date which it occurred*

When was the Government response to the solar auction review published? Please provide a full copy of the full response including:

- 1. Who was involved in the review response?*
- 2. Were external consultants/companies used?*
- 3. The dates of the document*
- 4. The dates anyone was involved*
- 5. Who in the government signed off on this document and the date which it occurred*

What date was the small, undated, extract from the Government response put on your website (See http://www.environment.act.gov.au/__data/assets/pdf_file/0005/581603/Government_Response_to_Solar_Auction_Review_Recommendations.pdf)?

- 1. Who authorised this small, undated, extract from the Government response to be placed on the webpage?*
- 2. Why is the document very informal?*
- 3. Why is there no background information on the document?*

4. Why is there no government logo on the document?

5. Why is there no date?

6. Why is there no reference to the original review?

The solar auction "Request for Proposals" document sections 8.28-8.31 (Pages 48 of 55) discusses conflict of interest. Please provide all documentation relating to these sections being address for the Elementus proposal.

Provide all documentation regarding the analysis of impact on residents when preparing the solar "Request for Proposals".

Provide all documentation regarding the analysis of impact on residents when reviewing Elementus's response to the "Request for Proposals".

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

The FOI Act deals only with documents already in existence. As your request includes questions, which are outside the provisions of the act, these will be responded to below. Where relevant documents exist, they will be listed in the schedule.

Responses to questions

Q: Please provide a full copy of any feasibility studies in to the solar auction and reverse auction process. For these feasibility studies please provide:

1. Who was involved in the study?
2. Were any external consultants/companies used?
3. The dates of the documents
4. The dates anyone was involved
5. Who in the government signed off on these documents and the date which it occurred?

A: No feasibility studies were conducted into the solar auction process.

Between May and July 2009, the ACT Government conducted a solar industry expression of interest process into a proposed \$30m grant for a large-scale ACT-based solar generator. Through that process, the solar industry indicated a preference for a feed-in tariff scheme over a capital grant. The report on it is commercial in confidence and exempt from release via FOI under Section 43 which relates to business affairs, however the EOI's evaluation criteria are attached as is the Call for Expression of Interest document and its industry consultation document.

In November and December 2010, the ACT Government received two reports it commissioned from Heuris Partners on design considerations for a solar reverse auction process after the ACT Government Cabinet agreed to an auction process in September 2010. Copies of the reports are attached. Amongst other issues, the November 2010 report considered potential community opposition to the location of large solar farms and recommended a risk evaluation of such opposition, this issue was considered internally but it was considered best addressed through the development approval process.

In May 2011, the ACT Government conducted a consultation with the solar industry into the possible design of its reverse auction feed-in tariff process; a copy of the industry consultation paper is attached as is a summary of recommendations and comments on the paper, a consultant report on the industry consultation paper and the ministerial brief on the industry consultation process.

Cabinet agreed to the legislation that enabled the large-scale solar auction, *the Electricity Feed-in (Large-scale Renewable Energy Generation) Act 2011*, on 4 November 2011.

In January 2012 Minister Barr approved the Request for Proposals (RFP) document as well as associated auction guidelines, forms, deed of entitlement etc. A copy of the approved RFP is attached.

Q: Please provide a full copy of the full review of the solar auction. The document on your website which was published in October 2013 seems to be a summary.

With the full copy of the review please provide:

1. When the review was completed
2. Who was involved in the review?
3. Were external consultants/companies used?
4. The dates of the document
5. The dates anyone was involved
6. Who in the government signed off on this document and the date which it occurred"

A: The *ACT Solar Auction Review Technical Companion Report* (the full version of the solar auction review) contained solar auction proponent information and is commercial-in-confidence and exempt from release under FOI. The *ACT Solar Auction Review Summary Report* was a complete summary of information in the *Technical Companion Report* suitable for public release and is attached.

Q: When was the Government response to the solar auction review published? Please provide a full copy of the full response including:

1. Who was involved in the review response?
2. Were external consultants/companies used?
3. The dates of the document
4. The dates anyone was involved
5. Who in the government signed off on this document and the date which it occurred

A: The Government response to the solar auction review recommendations was published in February 2014. It was prepared by the then Environment and Sustainable Development Directorate (ESDD) and agreed for release by the Cabinet of the ACT Government in February 2014. There was no background material to the Government's response. A copy of the ministerial brief about the review is attached as is the review's consultant terms of reference and ESDD's preliminary responses to the review.

Q: What date was the small, undated, extract from the Government response put on your website (See http://www.environment.act.gov.au/__data/assets/pdf_file/0005/581603/Government_Response_to_Solar_Auction_Review_Recommendations.pdf)?

1. Who authorised this small, undated, extract from the Government response to be placed on the webpage?
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4. Why is there no government logo on the document?
5. Why is there no date?
6. Why is there no reference to the original review?

A: The response posted to the website was not an extract, it was the entirety of the Government's response. It is intended to simply indicate the Government's policy intentions with regard to the recommendations of the Solar Auction Review.

Q: The solar auction "Request for Proposals" document sections 8.28-8.31 (Pages 48 of 55) discusses conflict of interest. Please provide all documentation relating to these sections being address for the Elementus proposal.

A: The OneSun Solar proposal contains commercial-in-confidence information and cannot be released. However, no conflicts of interest related to the OneSun Solar solar auction proposal were identified.

Q: Provide all documentation regarding the analysis of impact on residents when preparing the solar "Request for Proposals".

A: 'Impact on residents' was not a consideration under the solar auction process and so was not covered in solar auction documentation.

Q: Provide all documentation regarding the analysis of impact on residents when reviewing Elementus's response to the "Request for Proposals".

A: 'Impact on residents' was not a consideration under the solar auction process and so was not covered in solar auction documentation. This was determined to be appropriately handled through the Development Approval process.

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.

Duplicate documents may be listed on the schedules, however where possible I have included only one copy with the released documents.

Decision

The Directorate has identified 23 individual documents and 3 cabinet files 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 exempt or provided to applicants with deletions and I have decided to exempt some documents under sections 35 (Executive documents) 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 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 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.

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.

I consider that the release of this information 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 EPD. If you wish to seek a review you should write to:

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

Email: EPDFOI@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

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 EPD's Customer Service Centre on 6207 1923 and ask for the Information Management Team.

Yours sincerely



Ann Lyons Wright
Executive Director
Sustainability and Climate Change
February 2015

3 March