



**ACT**  
Government

Environment and  
Sustainable Development

OFFICER :Heather Johnston  
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PHONE :6207 1941  
REF :FOI 14/00126

Dear [REDACTED]

### **Freedom of Information Request – Federal Golf Club**

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 19 December 2013, in which you requested the following documents:

*“Any correspondence or documents relating in any way to parts of the federal lease. Any documents within the date range 15/5/12 - 19/12/13”*

I note that you revised the request by telephone on 29 January 2014 to the following:

*“A letter from Red Hill Regenerators to Minister Corbell with a proposal about the federal Golf Club, documents relating to this letter.”*

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 twenty four 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) and 41 (Documents relating to personal privacy).

### **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.

### **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.

The documents I have exempted under this section of the Act include draft briefs for consideration by the Minister.

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.

## **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

13 February 2014