



**ACT**  
Government

Chief Minister, Treasury and  
Economic Development

Mr Andrew Wall MLA  
Member for Brindabella  
GPO Box 1020  
CANBERRA ACT 2601

Dear Mr Wall

**Re: Freedom of Information Request – Poker machine licensing**

The purpose of this letter is to advise you of the decision regarding access to documents requested by you under the ACT *Freedom of Information Act 1989* (the Act).

**Summary**

I, Louise Gilding, Executive Director, Policy, Projects and Legislation Branch, in the Chief Minister, Treasury and Economic Development Directorate (CMTEDD), am an officer authorised under section 22 of the Act to make decisions on access to documents held by CMTEDD.

You requested access to:

*“all documents and any information held by the Directorate in relation to any report or review into poker machine licensing commissioned by the ACT Government since 2012”*

With regard to your request, CMTEDD has identified ninety three (93) documents which fall within the scope of your request. The attached schedule ([Attachment A](#)) provides a description of those documents and the access decision for each. Further information, including the reasoning for my decisions, is set out below.

**Access decision and reasons**

For the documents identified, I have decided:

- to grant access in full to 31 as indicated by the term ‘Full Release’ in the schedule;
- to refuse access in full to 11 as indicated by the term ‘Exempt’ in the schedule, with those documents being exempt under sections 35, 36 and 43 of the Act; and
- not to provide copies of 51 publically available documents, in accordance with section 11 of the Act.

My reasons for refusing access are in line with the following sections of the Act:

**Section 35 Executive Documents**

- (1) A document is an exempt document if it —
- 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.

**Section 36 Internal working documents**

- (1) 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 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.

I have determined that scheduled documents 7, 9, 16, and 19 are exempt documents pursuant to sections 36 (a and b) and/or 43 (1) (c) of the Act. I consider the documents as 'working information' for internal deliberation that contain, in some instances, the commercial and financial details of several third party organisations.

I have determined that documents 86 to 92 are exempt documents pursuant to sections 35 (a and b) and 36 (1) (a and b) of the Act. These documents came into existence for the purpose of informing Cabinet about the gaming machine reform package and to develop the discussion paper 'An Electronic Gaming Machine Trading Scheme for the ACT'. These internal working documents are part of the deliberative processes of the directorate and as such their release would be contrary to the public interest. However, the final released version of this discussion paper has been provided and can be found as document 93.

#### **Publicly available documents**

Under section 11 of the Act, a person is not entitled to obtain access to a document that is publicly available. Certain documents held by the directorate have not been provided as they are publicly available via the internet. The electronic address for each of these documents has been provided in the schedule.

#### **Review rights**

Under section 59 of the Act you have the right to seek a review of any decision made by the directorate. This right of review extends to a review of the adequacy of the search for documents undertaken by the directorate. If you wish to request a review you should write to:

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

You have 28 days from the date of this letter to request a review of the outcome, or such other period as the Director-General permits.

#### **Australian Capital Territory 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 your complaint. There is no fee for the Ombudsman's services. Contact details are as follows:

Office of the ACT 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 be released on the ACT Open Government website. A copy of the policy, with details about what information may be published, is available 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 FOI Coordinator on (02) 6205 3955 or email [EDDFreedomofInformation@act.gov.au](mailto:EDDFreedomofInformation@act.gov.au).

Yours sincerely



Louise Gilding  
Executive Director, Policy, Projects and Legislation  
Economic Development  
Chief Minister, Treasury and Economic Development Directorate

September 2014

Sent to applicant  
12/9/14.