



**ACT**  
Government

Economic Development



Land  
Development  
Agency

CANBERRA FIRST

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Our ref: CMTEDD 14/15-16

Dear [REDACTED]

### Request for documents

I refer to your request under the *Freedom of Information Act 1989* (the Act) received 31 July 2015 addressed to the Chief Minister Treasury and Economic Development Directorate (CMTEDD). I appreciate your patience throughout this process and apologise for any inconvenience caused by the delays.

You are specifically seeking the following documents:

...copies of all documents including emails, ministerial advice, draft master plans, meeting notes, proposals, and any correspondence (emails and letters):

- Internal within the ACT Government
- Between the ACT Government and any MLA, including the Chief Minister
- Between the ACT Government and the Canberra Services Club (CSC)
- Between the ACT Government and Defence Housing Australia (DHA)

In relation to:

- Any documentation between those listed above in relation to the relocation of the CSC from its current location to the Manuka Occasional Childcare Centre Association (MOCCA) site in Griffith (Block 2 Section 41). Including;
  - Information on why the Canberra Services Club is relocating
  - When negotiations started with the CSC (including prior and post its amalgamation with the Canberra Club)
  - Any financial, or in-kind incentives to relocate
  - What sites were proposed/offered to the CSC
  - Why these sites were proposed
  - Why the MOCCA location was proposed as an alternative site
  - Why the footprint for the Griffith location expanded from Block 5 section 41 (adjacent to MOCCA) to then include the MOCCA site (Block 2 Section 41)

- Any communication with DHA in relation to the relocation from the original site
- Any incentives offered to DHA as part of a relocation, including increasing the footprint available at the MOCCA site
- What options exist for the Club to remain on its original site
- Any documentation between those listed above in relation to the possible future use of the Canberra Servicemen's Club site
  - Prior to 27 April 2011 (the date the venue was destroyed by fire)
  - Post 27 April 2011
- Any documentation between those listed above about the proposed use of this block and section as a hotel, including;
  - Proposed footprint of the hotel – including beyond the footprint of the club site (including the cricket nets, entry to the oval, Manuka Arts Precinct)
  - Any negotiations between the ACT Government, or an MLA, with any developers on the possible development of the site pre and post 27 April 2011
  - The proposed process that will be used to market the land, and how this would ensure the best returns to the ACT including how the money from any sale would be used
  - Proposed height of the hotel
  - Using the height of the proposed hotel to block light spill from Manuka Oval
  - How a proposed hotel would comply to precinct codes, residential amenity and heritage values of the area, including any consideration of traffic surveys and parking (including taxis), noting the nearby school, possible day-care development on Montgomery Oval and the use of Manuka Circle/Telopea Park as a main artery road between Canberra and Wentworth Avenues and the impact of the hotel on the nearby heritage site (fire station precinct – including solar access), nearby residential apartments and age car facility development on Canberra Avenue.

#### **Decision Maker**

I am authorised under section 22 of the Act and have been appointed to make a decision as to the imposition of charges and the provision of access to documents that fall within the scope of your request.

#### **Charges**

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

### **Identification of Documents**

Officers from CMTEDD and the Land Development Agency have conducted searches of paper and electronic files for documents that may relate to your request. A large number of documents have been located and are detailed in the attached schedule.

### **Decision on Access**

In accordance with section 21 of the Act, I have decided to fully release to you some documents and partially/fully exempt the remaining documents. My reasons for not providing access to these documents are outlined in the following statement of reasons and attached schedule.

Due to the size of this request, a data storage device (USB) containing the documents released to you is enclosed with this letter.

### **Exemptions claimed**

#### Documents Containing Material Obtained in Confidence

##### **Folios 1-9**

I have decided to exempt correspondence containing information disclosed in-confidence by external parties under section 45(1) of the Act.

It is manifestly in the public interest that ACT officials should be able to seek and receive advice and information in confidence from experts in particular fields in the course of their activities. It is reasonable to determine that the freedom of such exchanges and the preparedness of experts to engage with the ACT Public Services in the future would be undermined by those interchanges subsequently becoming public. It is my view that disclosure of these documents would constitute a breach of confidence.

Section 45 of the Act provides:

- (1) *A document is an exempt document if its disclosure under this Act would constitute a breach of confidence.*
- (2) *Subsection (1) does not apply to any document to the disclosure of which section 36 (1) (a) applies or would, but for section 36 (2), (3) or (4), apply, being a document prepared by—*
  - a. *a Minister; or*
  - b. *a member of the staff of a Minister or an officer of an agency in the course of his or her duties; or*
  - c. *a prescribed authority in the exercise of its functions;*
  - d. *for purposes relating to the affairs of an agency or the official affairs of a Minister unless the disclosure would constitute a breach of confidence owed to a person or body other than—*

- e. *a person in the capacity of Minister, member of the staff of a Minister or officer of an agency; or*
- f. *an agency or the Territory.*

Internal Working Documents

**Folios 11-28, 29, 33-41, 187-191, 195-197, 199-202, 213-214, 226-253, 255-257, 259-262, 271, 807-812, 817-843 and 851-853.**

Some of the identified documents contain information for which disclosure could be expected to interfere with ongoing capacity to effectively provide the Government with the best possible advice.

I consider that it is clearly in the public interest that ACT officials should be able to draft internal documents, deliberate and provide advice freely while in the process of working towards formal advice and assessment. I therefore consider that it is not in the public interest that those varied considerations which served as preliminary contributions to the deliberative process be released.

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.*
- (2) *In the case of a document of the kind referred to in section 8 (1), the matter referred to in subsection (1) (a) of this section does not include matter that is used or to be used for the purpose of the making of decisions or recommendations referred to in section 8 (1).*
- (3) *This section does not apply to a document only because of purely factual material contained in the document.*
- (4) *This section does not apply to—*
  - a. *reports (including reports concerning the results of studies, surveys or tests) of scientific or technical experts, whether employed within an agency or not, including reports expressing the opinions of such experts on scientific or technical matters; or*
  - b. *reports of a prescribed body or organisation established within an agency; or*
  - c. *the record of, or a formal statement of the reasons for, a final decision given in the exercise of a power or of an adjudicative function.*

(5) Where a decision is made under part 3 that an applicant is not entitled to access to a document because of this section, the notice under section 25 shall state the ground of public interest on which the decision is based.

#### Business Information

**Folios 159-163, 623-633, 637-647, 657-667, 751-753, 765-788, 802-803, and 817-843**

Under section 43 of the Act, I have exempted documents that if disclosed would potentially have an adverse affect on a particular organisation by making public information on its private business strategy or undertakings. It is my view that the disclosure of this information would reasonably be expected to diminish or destroy commercial value, and/or have an unreasonable effect on the parties involved. I believe that the unwarranted disclosure of this information would potentially prejudice the future supply of information and services to the Territory and would be an unreasonable breach of confidence.

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 Affecting Personal Privacy

**Folios 274, 308, 401, 441-442, 490, 521, 556-557, 617-619, 676, 732, 738, 768**

I have exempted from release the personal information of individuals as I am satisfied that the information falls within the exemption set out under Section 41 of the Act. The majority of information I have exempted under Section 41 is comprised of lessee details and pre-employment checks for individuals.

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.*

## **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:

Chief Executive Officer  
Land Development Agency  
GPO Box 158  
CANBERRA ACT 2601

### Complaints

If you are dissatisfied with the processing of your request, you may lodge a complaint directly to the CMTEDD Complaints Manager by email to [CMTEDDCorporate@act.gov.au](mailto:CMTEDDCorporate@act.gov.au) or on (02) 620 75883.

Under section 54 of the Act, you may also 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.

Information of personal or business affairs 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 78175.

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) 6205 4817.

Yours sincerely

A solid black rectangular box redacting the signature of the sender.

Ms Liz Lopa  
A/g Director, Office of the Coordinator General, Urban Renewal  
Chief Minister, Treasury and Economic Development Directorate

14 October 2015