



**ACT**  
Government

Justice and Community Safety

Our Reference: FOI:2016/00005



Dear [REDACTED]

### **FREEDOM OF INFORMATION REQUEST**

I refer to your email to Minister Corbell of 14 February 2016, in which you sought access, under the *Freedom of Information Act 1989* (the FOI Act), to:

*...Documents in your possession (including documents to and from the Supreme Court and the Chief Justice) touching the trial of Eastman, the need for a judge to hear the matter, the need for an additional judge to determine the matter, and material proposing a name, or names, for possible appointment. The request embraces a time period from August 2014...*

As previously advised, this request has been partially transferred to the Justice and Community Safety Directorate for processing.

I am the officer authorised under section 22 of the Act to make a decision in relation to your requests.

Although the Act facilitates the objective of public access to documentation, the release of information is subject to a number of exceptions. In this instance, I am claiming partial exemption for some of the information you have requested, in accordance with the following sections of the FOI Act:

#### **Section 35 Executive Documents**

Section 35 provides that:

- (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.*

Documents have been exempted in full where they contain information provided to Cabinet in confidence, the disclosure of which would reveal the deliberations of the Executive.

#### **Section 36 Internal Working Documents**

Section 36 provides that:

- (1) *A document is an exempt document if its disclosure under this Act –*

- (a) *Would disclosure 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.*

Information has been redacted where it forms part of an opinion or advice provided to the Executive to inform the deliberative process. It would not be in the public interest to release this information at this time as it relates to an ongoing matter and may also reasonably be expected to inhibit the Directorate's ability to provide full and frank advice in the future.

#### **Section 41 Documents affecting personal privacy**

Section 41 provides that:

- (1) *A document is an exempt document if its disclosure under this Act would involve the unreasonable disclosure of personal information about any person.*

The documents provided to you contain financial and other personal details of third parties, including individuals consulted as part of the judicial appointment process. Such information has been redacted from the documents where disclosure could be considered unreasonable on the grounds of personal privacy. These redactions do not affect the substance of the communications.

#### **Section 42 Documents subject to legal professional privilege**

Section 42 provides that:

- (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.*

Correspondence from the ACT Government Solicitor has been exempted where it is subject to legal professional privilege.

#### **Section 46 Documents disclosure of which would be contempt of a court**

Section 46 provides that:

- A document is an ext document if public disclosure of the document would –*  
(a) *be in contempt of court.*

Information has been redacted from the documents provided to you where it subject to a non-publication order issued by the ACT Supreme Court.

Limited information has also been redacted in accordance with Schedule 2(6) of the *Freedom of Information Regulations 1991*. This information is exempt from release under the FOI Act as it relates to the operation of a court and is not considered to be of an administrative nature.

I have also assessed your request for information under the ACT Government's Online Freedom of Information Publication Policy and have determined that most of the documents relevant to your request, including this decision letter, will be published online. For more information about

the ACT Government's Online Freedom of Information Publication Policy, visit the link below.  
[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)

You have a right to seek a review of this decision under section 59 of the Act. You have 28 days from the date of this letter, or such other period as the Director-General permits, to seek a review. 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:

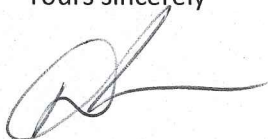
The Director-General  
ACT Justice and Community Safety Directorate  
C/- Freedom of Information Officer  
GPO Box 158  
CANBERRA ACT 2601

You also have the right to contact the Ombudsman regarding the processing of your request. If you wish to discuss this matter with the Ombudsman you should write to:

The Ombudsman  
GPO Box 442  
CANBERRA ACT 2601

Should you have any queries in relation to your request please feel free to contact the Freedom of Information Coordinator on (02) 6207 2167.

Yours sincerely



Ms Danielle Krajina  
Executive Director  
Governance

13 April 2016