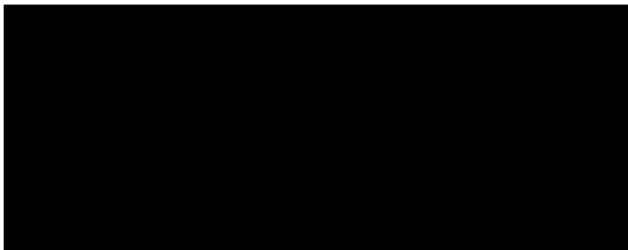




ACT
Government

Chief Minister, Treasury and
Economic Development

Our ref: CMTEDD 51/15-16



Dear 

Freedom of Information Request – Reports related to sale of the Brumbies' Griffith headquarters

I am writing in relation to your request submitted under section 14 of the ACT *Freedom of Information Act 1989* (the Act), received by the Chief Minister, Treasury and Economic Development Directorate (CMTEDD) on 29 March 2016.

In your request, you are specifically seeking:

- *“... copies of two documents held by the Chief Minister's directorate and the Land Development Agency which relate to the sale of the Brumbies' Griffith headquarters.*
 1. *The Deloitte report completed around March 2015*
 2. *The KPMG report completed around June 2015.”*

Decision Maker

I am authorised under section 22 of the Act to make decisions on access to documents and liability for charges.

Charges

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

Identification of Documents

Officers of CMTEDD have conducted searches of paper and electronic files for documents that may relate to your request.

Chief Minister, Treasury and Economic Development

GPO Box 158 Canberra ACT 2601 | phone: 132281 | www.act.gov.au

In relation to point one, a document titled *ACT Government Financial Health Check – Australian Capital Territory and Southern New South Wales Rugby Union Limited (Brumbies)* was located, as listed on the attached schedule.

In relation to point two, “...the KPMG report completed around June 2015,” the Directorate did not identify any documents in its possession. From the advice I have received from CMTEDD staff, I am satisfied that no documents relevant to point two are held by CMTEDD.

Consultation

In my letter of 27 April 2016 I explained that I would provide my decision on access to documents after consultation with relevant third parties who may wish to contend that documents should be exempt from release. Although I am not bound by third party submission, I have considered any submissions received in making my decision on access.

Decision on Access

I have decided to fully exempt from release the report *ACT Government Financial Health Check – Australian Capital Territory and Southern New South Wales Rugby Union Limited (Brumbies)*. My reasons for not providing access to this document are outlined in the following statement of reasons and in the attached schedule of documents.

Exemptions claimed

Documents relating to Business Affairs

Folio 1

I have decided to exempt the document from release as it contains the sensitive commercial, financial and operational information of an organisation. Information of this nature is not typically made available to the public and its release could have a serious impact on the competitive operations of the organisation. Deloitte undertook this work on the understanding that it would be retained by government. Public release of the document could hinder Deloitte undertaking similar work for either the ACT Government or Federal Government in the future.

I am satisfied that the information falls within the exemption set out under section 43 of the Act and that disclosure of this information would reasonably be expected to have an adverse affect on an organisation.

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.*
 - (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.*

Section 45 - Documents Containing Material Obtained in Confidence

Folio 1

In deciding to exempt the document in full, I have also considered that it contains information provided in confidence by external parties. The information provided for the purpose of preparing the report would likely not have been provided without an understanding of confidentiality. It is my view that disclosure of this information would constitute an unreasonable release of information that was obtained in confidence, in line with section 45 (1) of the Act.

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.*

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 Chief Executive Officer.

Your request should be addressed to:

Director-General
Chief Minister, Treasury and Economic Development Directorate
GPO Box 158
CANBERRA ACT 2601

Complaints to the Ombudsman

Under section 54 of the Act, you may 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

I have assessed your request for information under the ACT Government's Online Freedom of Information Publication Policy and have determined that my decision on your request will be published online. Personal Information or business information will not be made available under this policy.

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

Should you have any queries regarding this matter, please contact me on (02) 6207 8884.

Yours sincerely


Geoffrey Rutledge
Acting Deputy Director-General
Policy and Cabinet

19. May 2016