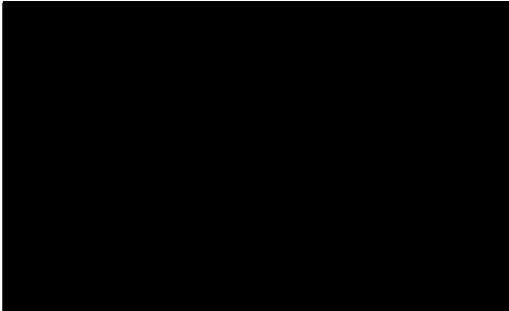




**ACT**  
Government

Chief Minister, Treasury and  
Economic Development

Our ref: CMTEDD 69/16-17



### **Decision on Freedom of Information Request – green bin trial**

I am writing in relation to your access request, made under section 14 of the ACT *Freedom of Information Act 1989* (the Act). Your request was received by the Transport Canberra and City Services Directorate on 3 April 2017 and transferred to the Chief Minister, Treasury and Economic Development Directorate (CMTEDD) on 10 April 2017.

In your request you sought, with reference to “the proposed green bin trial”:

“... a copy of the last document about the trial that your directorate created or received *before* cabinet decided to proceed with the trial. If this document is an email, I also seek access to the other emails in the discussion as well as any documents attached to the emails.

Please note that I am *not* seeking the cabinet submission about the trial but, rather, the last document created *before* the submission was created. That is, I am not seeking cabinet-in-confidence information.”

### **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.

Chief Minister, Treasury and Economic Development

GPO Box 158 Canberra ACT 2601 | phone: 132281 | [www.act.gov.au](http://www.act.gov.au)

## Identification of documents and decision on access

The Directorate has identified one email chain and an attachment relevant to the scope of your request. The email chain is described as two folios on the attached schedule to demonstrate that the attachment was attached to both emails.

I note that although your request seeks to exclude Cabinet-in-confidence information, the email chain and attachment, being the last documents created by this Directorate before the creation of the Cabinet Submission, contain information that would disclose the deliberations of Cabinet. I have therefore decided to exempt these documents from release. My reasons for not providing access are detailed further in the following statement of reasons.

Please note that earlier versions of the documents were considered out of scope and not included in the schedule (as they were not the last documents created or received). A preliminary assessment of these documents has identified that they also contain information that would disclose the deliberations of Cabinet. All documents about the green bin trial prepared by CMTEDD were created for the purpose of Cabinet consideration.

## Exemption claimed

### Executive documents

Section 35 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.*

*Note* Access to the Cabinet notebook is excluded under s 11 (2).

- (2) *This section does not apply to a document (a **relevant document**)—*
- (a) *that is referred to in subsection (1) (a); or*
  - (b) *that is referred to in subsection (1) (b) or (c) and is a copy of, or of part of, or contains an extract from, a document that is referred to in subsection (1) (a);*
- to the extent that the relevant document contains purely factual material unless—*
- (c) *the disclosure under this Act of that document would involve the disclosure of any deliberation or decision of the Executive; and*
  - (d) *the fact of that deliberation or decision has not been officially published.*

*(3) A reference in this section to the Executive includes a reference to a committee of the Executive.*

I have decided to exempt the identified email chain from release, under section 35(1)(d) of the Act, as it contains information that would reveal confidential Cabinet deliberations. The attachment to the email chain is an extract from a paper that was subsequently submitted to Cabinet for consideration. For this reason I consider that this document is exempt from release under section 35(1)(c) of the Act.

I do not consider that it is possible to release purely factual information contained in these documents without disclosing confidential Cabinet deliberations.

### **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:

Director-General  
c/o Freedom of Information Co-ordinator  
Chief Minister, Treasury and Economic Development Directorate  
GPO Box 158  
CANBERRA ACT 2601  
Via email: [CMTEDDFOI@act.gov.au](mailto:CMTEDDFOI@act.gov.au)

#### 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](http://www.cmd.act.gov.au/data/assets/pdf_file/0016/250333/FOI_Web_Release_Policy_-_Final.pdf)

I would be happy to elaborate on this decision with you and address any specific concerns or questions you may have. Please contact me to discuss on (02) 6205 0230.

Yours sincerely



Sam Engele  
Director  
Cabinet

| May 2017