



**ACT**  
Government

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Our ref: LDA 9/16-17

Dear 

## Freedom of Information – Rage Cage Sports Court – Release Two

I refer to your request for access to documents under the *Freedom of Information Act 1989* (the Act) received on 30 January 2017 seeking the following:

“...further documents relating to the Rage Cage sports court concrete slab as per previous request on 8 June 2016.

- 1) ...the TCCS Directorate certificates representing design approval and acceptance and handover/final certificate of the Rage Cage component of the Franklin CRIP site.
- 2) ...the CMTEDD - Procurement and Capital Works documents/records/invoicing and payments that this department holds in relation to the Rage Cage component of the Franklin CRIP site including the payment of funds from the LDA to the Superintendent (Red Box Design).
- 3) ...the CMTEDD documents in the principal contract which state if there are any VARIATIONS to the project, before payment was made to the Superintendent (Redbox Design) and the builder (Ram Construction)

The above requests should include everything in hard copy and electronic correspondence including emails, letters, minutes from contractor's superintendents and progress meeting reports which should report disputes, decisions and actions agreed upon, other than just progress of the project. The CMTEDD Procurement and Capital Works should also hold certification from Engineers, Superintendents and Contractors relating this (sic).”

As advised in my letter of 29 March 2017 a number of documents were located, the majority of which relate broadly to the Franklin Community Recreation Irrigated Park (CRIP) without specific identification of the Rage Cage Sports Court. For the purpose of thoroughness each of these documents has been reviewed, considered and release decisions made.

In my letter I provided you with my decision in regards to the documents relevant to your request that were not subject to third party consultation processes. Those documents relate to item 1 above. I explained that I would provide my decision on access to the remainder of the documents, as relevant to items 2 and 3 above, after I had consulted with external third parties under Sections 27 and 43 of the Act.

Those third parties have now provided me their comments in regards to the release of the documents. They have contended that the documents, in their entirety, fall under the provisions of Section 43 of the Act as they contain sensitive financial information of high commercial value that would be substantially diminished if disclosed. It has been contended that disclosure of this information could reasonably be expected to destroy or diminish its commercial value, thereby compromising the future business operations of the organisations.

### **Decision on Access – Release Two**

I have considered the comments of the third parties as I am required to do under the Act and I agree with the contentions made. I have decided to exempt from release, under section 43(1) of the Act, the remaining documents. My reasons for not providing access to these documents are outlined in the following statement of reasons and in the attached schedule of documents.

#### Documents relating to Business Affairs

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.*

I am satisfied that the documents contain commercially sensitive information, including financial and operational information of the organisations. Information of this nature is not typically made available to the public and its release could reasonably be expected to have a serious impact on the competitive operations of the organisations. It is my view that the disclosure of business information such as itemised rates could reasonably be expected to diminish or destroy commercial value. Access to the documents by competitors may allow exploitation of this information and affect future business opportunities regardless of the time that has passed since the creation of the documents.

I am satisfied that the information falls within the exemption set out under Section 43 of the Act.

This completes my decision in relation to your FOI request.

### **Your Right of Review**

#### **Internal Review**

Under section 59(1) of the FOI 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:

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

#### **Complaints to the Ombudsman**

Under section 54 of the FOI 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

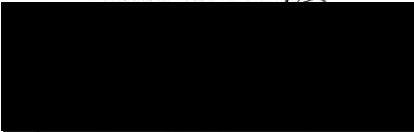
### **Online FOI Policy**

I have assessed your request for information under the ACT Government's Online Freedom of Information Publication Policy and have determined that the documents relevant to 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)

Should you have any queries regarding this matter, please contact me on (02) 6207 5553.

Yours sincerely 



Tom Gordon  
Executive Director  
Greenfield

12 April 2017