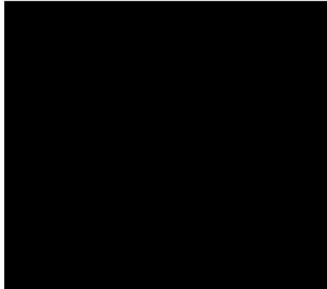




ACT
Government

Chief Minister, Treasury and
Economic Development

Our ref: CMTEDD 65/16-17



Decision on Freedom of Information Request – Chapman Public Housing

I am writing in relation to your access request, made under section 14 of the ACT *Freedom of Information Act 1989* (the Act) and received by the Chief Minister, Treasury and Economic Development Directorate (CMTEDD) on 27 March 2017.

In your request you sought the following information, specific to the “... *decision/s made by the Minister for Housing and Suburban Development, Yvette Berry, that resulted in the selection of the Chapman site on the corner of Kathner Street and Darwinia Terrace to house thirty three public housing dwellings ... Specifically information/documentation that support the following:*

1. *The basis on which the Chapman site was selected?*
2. *The number of suitable sites that were put to the Minister but excluded from her decision?*
3. *Why these sites were excluded from the Minister's decision in dot point 2 above?*
4. *The address of those sites (Block and Section number) excluded from her decision?*
5. *The factors considered by the Taskforce in the selection of the Chapman site?*
6. *The Brief provided to the Taskforce by the Minister, or her advisors, that was given to the [sic] Taskforce that commenced the process for selection of suitable sites for public housing?*
7. *All factors considered by the Minister in the selection of the Chapman site?*
8. *How was access to public transport considered in the selection of the Chapman site?*
9. *How was the accessibility of shops considered in the selection of this site?*
10. *What was the distance considered by both the Taskforce and the Minister as suitable for public housing tenants to walk in the making of the Minister's decision?*
11. *How were bush-fire factors considered in making this decision with specific reference to the fact this site is in a bush fire declared zone?*
12. *The criteria for public housing tenants to be considered as suitable for occupation at the Chapman site?*
13. *Copy of the DRAFT Development Application already in progress for the Chapman site?*
14. *How many suitable sites were excluded for the Minister electorate?”*

Chief Minister, Treasury and Economic Development

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

In a telephone conversation with me on 26 April 2017 and confirmed in your email of 30 April 2017, you agreed to limit your request to the following:

- Documents relating to the identification of the Chapman site;
- Documents outlining the process for site selection by the Taskforce;
- Documents relating to bushfire analysis;
- Documents relating to Community Facilities-zoned sites that were considered, other than Chapman; and
- Documents relating to the Minister's decision to include the Chapman site, why other sites were excluded, how many sites were considered in her electorate and why they were not considered suitable.

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.

Consultation

Some documents identified as relevant to your request contain information regarding third parties. As such I have decided, under section 27 of the Act, that these third parties may reasonably wish to contend that the documents should be treated as exempt under section 43 (business affairs) of the Act. As decision maker I am not bound by third party submissions, but I am bound to consider them in making my decision to release or exempt the documents.

I apologise that the requirement for consultation was not identified earlier and for the subsequent delay this has caused in finalising your request. I would be grateful if you would agree to an extended due date of 22 May 2017, noting that I intend to make my final release decision as soon as possible after receiving third party submissions. I have made release decisions on all remaining documents not subject to consultation processes.

Identification of documents and decision on access

I have interpreted the fourth point of your request to relate to documents generated within CMTEDD showing analysis undertaken by the Taskforce in order to be able to process your request without charges.

Documents specifically relating to the final point of your request do not exist. The decision making process regarding site selection, exclusion of sites and suitability of potential sites is captured in documents regarding site selection by the Taskforce and in documents prepared for and considered by Cabinet. I note that many of these documents are exempt from release as they reveal Cabinet deliberations, explained further in the following section on 'Exemptions claimed'.

I have decided to fully release some documents to you and fully exempt the remainder from release. Copies of the released documents are enclosed.

Some documents identified as relevant to your request contain information about matters unrelated to the five components of your request. The attached schedule indicates where out-of-scope information has not been released. Some documents listed on the schedule are beyond the scope of your request but have been listed for completeness as they formed part of a package of documents.

You will also note that folio numbers in the attached schedule are not sequential. This reflects where duplicate documents have been eliminated and also where documents have been removed because they are exclusively about other locations that were recently publicly identified as future public housing sites (this includes Monash, Wright, Holder and Mawson). I have included information concerning other sites where this information is contained in documents that also reference the Chapman site.

My reasons for not providing access to some documents and components of documents are detailed in the following statement of reasons and on the attached schedule.

Exemptions 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 from release, under section 35(1)(a) of the Act, documents that were prepared for the purpose of submission to and consideration by Cabinet. Release would reveal Cabinet deliberations and decisions that have not been officially published and would prejudice the confidential nature of Cabinet discussions.

For this reason I have also decided not to release documents that disclose the deliberations or decisions of the Cabinet. This includes several papers prepared for consideration of the Public Housing Renewal Steering Committee. This also includes documents that identify alternative proposed sites that were considered by Cabinet but were not progressed. I consider that these documents are exempt from release under section 35(1)(d) of the Act.

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

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 and the information released 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

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) 6207 1383.

Yours sincerely

A black rectangular redaction box covering the signature of David Collett.

David Collett
Executive Director
Public Housing Renewal Taskforce

10 May 2017