



ACT
Government

Chief Minister and Cabinet

Our ref: FOI CMCD 30/11-12

Dear

I refer to your letter received 30 March 2012 in which you sought access to all documentation: "relating to the Queen's Jubilee" under the *Freedom of Information Act 1989* (the Act).

Decision Maker

I am authorised under section 22 of the Act to make decisions on access to documents held by the Chief Minister and Cabinet Directorate (CMCD).

Identification of Documents

Officers of CMCD have conducted thorough searches of paper and electronic files and email accounts. Documents that are relevant to your request have been located in the business units of Chief Minister's Support and Protocol; Strategic Finance, Communications and my office, that of the Executive Director, Culture and Communications.

Decision on access

In the identification and consideration of documents held by CMCD relevant to your request, I have interpreted the scope to refer to documents directly relating to the activities planned by the ACT Government for the upcoming Queen's Jubilee.

Some of the identified documents contain information which is irrelevant to your request; for example, email correspondence that contains a range of topics. I have made my decisions on access in relation to the relevant portions of these documents. The remaining information in the documents is beyond the scope of your request and has been excluded.

All relevant documents identified are listed on the attached schedules with a summary of my decision in relation to each and copies of the documents which I have released in full are attached to their respective schedules. Duplicate documents have been listed on the schedules however, where applicable, only one copy has been included with the released documents.

Exemptions claimed

Documents affecting relations with Commonwealth and States

Section 34 of the Act provides:

- (1) *Subject to subsection (2), a document is an exempt document if disclosure of the document under this Act—*
 - (a) *would, or could reasonably be expected to, cause damage to relations between the Territory and the Commonwealth or the Territory and a State; or*
 - (b) *would divulge information or matter communicated in confidence by or on behalf of the Commonwealth, a State or an authority of the Commonwealth or of a State to the Territory, to a Territory authority or to a person receiving the communication on behalf of the Territory or of a Territory authority.*
- (2) *This section does not apply to a document in respect of matter in a document the disclosure of which under this Act would, on balance, be in the public interest.*

Documents containing material obtained in confidence

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;*
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—
 - (d) *a person in the capacity of Minister, member of the staff of a Minister or officer of an agency; or*
 - (e) *an agency or the Territory.*

Correspondence and information disclosed in-confidence by a Territory contact has been identified and, following consultation under section 26 of the Act, I have decided to exempt the documents under sections 34(1)(a) and 45(1) of the Act.

It is manifestly in the public interest that ACT officials participate in confidential discussions with their jurisdictional counterparts in the framing of intergovernmental agreements and work programs. I consider the openness with which information is shared with ACT Officials would be undermined if material were to be released under the Act.

Internal Working Documents

Section 36 of the Act provides:

- (1) *Subject to this section, a document is an exempt document if its disclosure under this Act—*
 - (a) *would disclose 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; and*
 - (b) *would be contrary to the public interest.*
- (2) *In the case of a document of the kind referred to in section 8 (1), the matter referred to in subsection (1) (a) of this section does not include matter that is used or to be used for the purpose of the making of decisions or recommendations referred to in section 8 (1).*
- (3) *This section does not apply to a document only because of purely factual material contained in the document.*
- (4) *This section does not apply to—*
 - (a) *reports (including reports concerning the results of studies, surveys or tests) of scientific or technical experts, whether employed within an agency or not, including reports expressing the opinions of such experts on scientific or technical matters; or*
 - (b) *reports of a prescribed body or organisation established within an agency; or*
 - (c) *the record of, or a formal statement of the reasons for, a final decision given in the exercise of a power or of an adjudicative function.*
- (5) *Where a decision is made under part 3 that an applicant is not entitled to access to a document because of this section, the notice under section 25 shall state the ground of public interest on which the decision is based.*

One identified document I have examined is a draft compilation of possible suggestions to celebrate the Queen's Jubilee; I have decided to exempt portions of this document under section 36 of the Act as they relate to preliminary ideas that had not been scoped for full costings and do not constitute any conclusive views, and comprise suggestions not seen by the relevant executives and ministers.

In considering the Public Interest test, I believe that full disclosure of this document would not be of benefit or concern to a substantial section of the community and that public interest is not served by the release of tentative and partially considered advice or drafting which may result in misguided speculation and expectation.

Documents affecting personal privacy

Section 41 of the Act provides:

- (1) *A document is an exempt document if its disclosure under this Act would involve the unreasonable disclosure of personal information about any person (including a deceased person).*
- (2) *Subject to subsection (3), subsection (1) does not apply to a request by a person for access to a document only because of the inclusion in the document of matter relating to that person.*
- (3) *Where—*
 - (a) *a request is made to an agency or Minister for access to a document of the agency, or an official document of the Minister, that contains information of a medical or psychiatric nature concerning the person making the request; and*
 - (b) *it appears to the principal officer of the agency, or to the Minister, as the case may be, that the disclosure of the information to that person might be prejudicial to the physical or mental health or wellbeing of that person;*

the principal officer or Minister may direct that access to the document, so far as it contains that information, that would otherwise be given to that person is not to be given to that person but is to be given instead to a doctor to be nominated by that person.

Under section 41 of the Act, I have exempted excerpts of correspondence that affect personal privacy.

Your right of review

Internal Review

You are entitled, under section 59 (1) of the Act, to request a review of my decision. This right of review extends to a review of the adequacy of the search for documents undertaken by the Directorate.

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
Chief Minister and Cabinet 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 FOI request. There is no fee for making a complaint. The Ombudsman may conduct an independent investigation into your complaint. You can contact the Ombudsman either by telephone on 1300 362 072 or by writing to:

The Ombudsman
GPO Box 442
CANBERRA ACT 2601

Online FOI Policy

Please be aware that under the ACT Government's Online FOI Publication Policy information released to you in response to your Freedom of Information request may be released on the Internet.

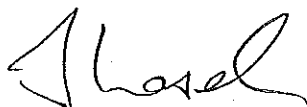
Personal information or business affairs information will not be made available under this policy. If you think the content of your request would contain such information, please inform the FOI Coordinator immediately on 620 50238.

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 620 79024.

Yours sincerely



Jeremy Lasek
Executive Director
Culture and Communications

10 May 2012