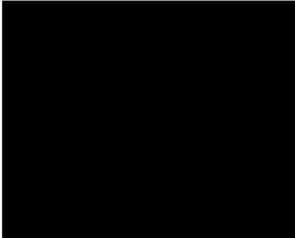




**ACT**  
Government

Chief Minister, Treasury and  
Economic Development

Our ref: CMTEDD 35/16-17



## **Freedom of Information Request – Request for Executive documents**

I refer to your request for access to documents on the above topic, made under the ACT *Freedom of Information Act 1989* and received by the Chief Minister, Treasury and Economic Development Directorate (CMTEDD) on 22 November 2016.

You have requested all documents (held by CMTEDD):

- “that are the subject of;
- that are related to;
- that were brought into existence because of; and
- that have been referred to or relied upon by any person during the course of the receipt, processing, and responding to the request for executive documents I made under the Territory Records Act 2002 on 17 March 2016 and the complaint I made to Ms Kathy Leigh on 30 August 2016.”

Clarification of the specific scope of your request was received via email dated 24 November 2016 and confirmed in an acknowledgement letter to you from Mr Sam Engele dated 8 December 2016.

### **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

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

As advised on 8 December 2016, given the nature of the request, documents are being released in two stages as searches are conducted and assessment processes completed.

The first release relates to 'contemporary' documents summarised as:

- email holdings of relevant communication between directorates;
- briefs to the Head of Service recommending release decision;
- email communication alerting Ministers to the release of Executive Documents; and
- email communication alerting directorate(s) to the release of Executive Documents.

The second release relates to 'historical' documents typically held on file for each of the Executive Documents originally requested (e.g. exposure draft Cabinet submission, Cabinet brief to the Chief Minister and Final Agency Comments). These documents will be released by 31 January 2017.

'Contemporary' documents identified as relevant to your request are listed on the attached schedule. These documents relate to the email holdings of one official and briefs to the Head of Service. Further contemporary documents are anticipated to be released and will be provided as part of the second release of documents.

## Decision on Access

I have decided to release the majority of documents in full, with partial exemptions applied to the remaining ones. My specific reasons for not providing access to some information are outlined below and in the document schedule.

CMTEDD processed different Executive Document release requests simultaneously. As a result, references to documents relating to these different requests exist in the identified documents. This information is not relevant to your request and therefore is not being released. The schedule identifies information that is considered to be out of scope.

## 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.*

This exemption has been applied to information that was already deemed to be exempt by a decision of the Head of Service, Ms Kathy Leigh and I concur with the rationale provided for that decision.

#### Documents subject to legal professional privilege

Section 42 of the Act provides:

- (1) *A document is an exempt document if it is of such a nature that it would be privileged from production in legal proceedings on the ground of legal professional privilege.*
- (2) *A document of the kind referred to in section 8 (1) is not an exempt document under subsection (1) of this section only because of the inclusion in the document of matter that is used or to be used for the purpose of the making of decisions or recommendations referred to in section 8 (1).*

I have decided to exempt these folios, or components of these folios, from release, under section 42, on the grounds they are protected by legal professional privilege and their disclosure would diminish CMTEDD's capacity to undertake full and frank discussion with our lawyers.

#### **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  
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

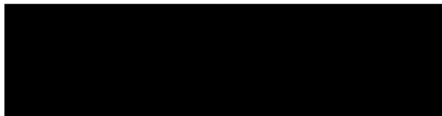
**Online FOI Policy**

I have assessed your request for information under the ACT Government's Online Freedom of Information Publication Policy and have determined that my response to your request and the documents released to you will be published online. Personal information contained within the documents will not be published.

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 8884.

Yours sincerely



Geoffrey Rutledge  
Deputy Director-General  
Policy and Cabinet

22 December 2016