



ACT
Government

Chief Minister, Treasury and
Economic Development

Our ref: CMTEDD 63/16-17

Mr Geoff Clarke

foi+request-3275-955c5c3a@righttoknow.org.au

Dear Mr Clarke,

Decision on Freedom of Information Request – identification and approval of sites for public housing renewal program

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 22 March 2017.

In your request you sought “... a copy of the Taskforce’s Report which details the analysis and decision making process behind the recommended subdivision of Stapylton Street Block 2 Section 21 for up to 30 supportive houses.”

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.

Identification of Documents

As I advised in my letter of 27 April 2017, a discrete report on “the analysis and decision making process behind the recommended subdivision of Stapylton Street Block 2 Section 21 for up to 30 supportive houses”, as requested in your Freedom of Information (FOI) application of 22 March 2017, does not exist.

In order to effectively respond to your request, I have considered for release a range of documents that describe the Government’s analysis and decision making process in regard to this site.

Chief Minister, Treasury and Economic Development

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

Decision on Access

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

Some documents identified as relevant to your request contain information that I consider not to be relevant to the scope of your request. This out-of-scope information has not been released. Also, some documents listed on the schedule are beyond the scope of your request but have been listed for completeness as they related to a Cabinet process. The attached schedule indicates where out-of-scope information has not been released. Please note that in some cases I have retained information in the documents that relates to public housing sites other than Holder.

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. In particular this includes several papers prepared for consideration of the Public Housing Renewal Steering Committee. I consider that this information is exempt from release under section 35(1)(d) of the Act.

Documents affecting financial or property interests of the Territory

Section 39 provides:

- (1) Subject to subsection (2), a document is an exempt document if its disclosure under this Act would have a substantial adverse effect on the financial or property interests of the Territory or of an agency.*
- (2) This section does not apply to a document the disclosure of matter in which under this Act would, on balance, be in the public interest.*

I have decided not to release, under section 39 of the Act, components of reports that contain cost estimates for site and establishment and development work. I consider that release of this information is likely to compromise the ACT Government's commercial negotiations with developers and construction contractors. Release of this information may adversely affect the ability of ACT Government to run effective and competitive tender processes in future, as it may unduly influence the pricing proponents submit in their applications or produce confusion amongst proponents if they are able to access different versions of pricing information. I consider that this would not be in the public interest as it would influence the ability of the ACT Government to achieve value for money in future processes.

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).*

I have exempted from release information contained in documents that discloses the home address of an individual. I am satisfied that the information falls within the exemption set out under section 41 of the Act and that release would be a breach of privacy.

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



David Collett

Executive Director

Public Housing Renewal Taskforce

3 May 2017