

Our reference: CFCFOI2021-002

[REDACTED]  
[REDACTED]  
[REDACTED]  
via email: [REDACTED]

Dear [REDACTED]

### **FREEDOM OF INFORMATION (FOI) REQUEST**

I refer to your application under section 30 of the *Freedom of Information Act 2016* (the act), received by the Cultural Facilities Corporation (CFC) on 25 January 2021.

Specifically, you have requested :

*I wish to access documents in relation to the Crown Lease Agreement between ACT Government and [REDACTED] for Lanyon Homestead. I would like full details of the Crown Lease agreement that relates to the property known as "Lanyon" that is managed by ACT Historic Places including buildings, paddocks and access roads within the property. In particular I would like to obtain the details of the lease that relate to [REDACTED] having access to the property managed by ACT Historic Places and [REDACTED] access to use the buildings within Lanyon Homestead managed by ACT Historic Places.*

### **Authority**

I am an Information Officer appointed by the Chief Executive Officer under section 18 of the Act to deal with access applications made under part 5 of the Act.

### **Timeframes**

In accordance with section 40 of the Act, CFC was required to provide a decision on your access application by 23 February 2021.

### **Decision on access**

I have decided to refuse to deal with your application in part under section 43 (1) (d) and section 45 (g), in part under section 43 (1) (c), and in part under section 43 (1) (e) of the act because the information you are seeking is publicly available for fee, the application involves an abuse of process, and the information requested relates to

government information of a stated kind and government information of that kind is taken to be contrary to the public interest to disclose under schedule 1. 17.

Section 43 (1) (d) states:

1) A respondent may refuse to deal with an access application wholly or in part only if—

- (d) the government information is already available to the applicant (see section 45)

Section 45 (g) states:

For section 43 (1) (d), government information is already available to the applicant only if the information—

- (g) is usually available for purchase.

More information can be found at <https://actlis.act.gov.au/>

Section 43 (1) (c) states:

A respondent may refuse to deal with an access application wholly or in part only if—

- (c) the application involves an abuse of process.

Subsection 43 (4) defines abuse of process as follows:

(4) In this section:

***abuse of process*** includes—

- (b) an unreasonable request for personal information about a person.

Section 43 (1) (e) states:

A respondent may refuse to deal with an access application wholly or in part only if—

- (e) the access application is expressed to relate to government information of a stated kind and government information of that kind is taken to be contrary to the public interest to disclose under schedule 1.

Schedule 1, item 1.2 provides for information relating to legal professional privilege is to be taken to be contrary to the public interest to disclose information. It relevantly says:

## **1.2 Information subject to legal professional privilege**

*Information that would be privileged from production or admission into evidence in a legal proceeding on the ground of legal professional privilege.*

## **Additional Charges**

Pursuant to *Freedom of information (Fees) Determination 2017 (No 2)* processing charges are not applicable for this request as no documents are being released to you.

## **On-line publishing – Disclosure Log**

Under section 28 of the Act, CFC maintains an online record of access applications called a disclosure log. Details regarding your application, decision notes, and information released to you must be recorded in the disclosure log and be made publicly available between three and ten working days after the decision on access has been given to you. Please be aware that while an application for personal information will not be included in the published information, all other information will be included in the disclosure log and published on <http://www.culturalfacilities.act.gov.au/>.

## **Ombudsman Review**

My decision on your access request is a reviewable decision as identified in Schedule 3 of the Act. You have the right to seek Ombudsman review of this outcome under section 73 of the Act within 20 working days from my deemed decision is published in CFC's disclosure log, or a longer period allowed by the Ombudsman.

If you wish to request a review of my decision you may write to the Ombudsman at :

The ACT Ombudsman  
GPO Box 442  
Canberra ACT 2601  
Via email: [actfoi@ombudsman.gov.au](mailto:actfoi@ombudsman.gov.au)

## **ACT Civil and Administrative Tribunal (ACAT) Review**

Under section 84 of the Act, if a decision is made under section 82(1) on an Ombudsman review, you may apply to the ACAT for review of the Ombudsman decision. Further information may be obtained from the ACAT at :

ACT Civil and Administrative Tribunal  
Level 4, 1 Moore Street  
GPO Box 370  
Canberra City ACT 2601  
Telephone : (02) 6207 1740  
<http://www.acat.act.gov.au/>

Should you have any queries in relation to your request please contact me by telephone on (02) 6205 2195 or email [ian.tidy@act.gov.au](mailto:ian.tidy@act.gov.au).

Yours sincerely

A handwritten signature in dark ink, appearing to read 'Ian Tidy', written in a cursive style.

Ian Tidy  
Chief Finance Officer  
Cultural Facilities Corporation  
23 February 2021