



## Department of Planning and Community Development

16 September 2011

Mr Terence Maxwell Davidson  
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FOI  
2011/053

Dear Mr Davidson

### NOTICE OF DECISION Freedom of Information (FOI) Request

I refer to your request under the *Freedom of Information Act 1982* (FOI Act), transferred to the Department of Planning and Community Development on 6 July 2011, seeking the following:

*"The document would either be described as a 'Business Plan' or a 'Feasibility Study' relating to the sale of the 'Fortuna' property in Bendigo by the Commonwealth Defence Department. The report was completed in 2010 (mid year?) and had a Regional Development staff member, Peter Marshall, as one of the authors along with some input from a consulting firm. We seek access to the entire document."*

As clarified by you on 22 August 2011, your request is for the following document:

*"A copy of the 'Fortuna Villa - Concept Development - Operational Analysis' Report prepared for Regional Development Victoria, completed on 12 April 2010".*

#### The FOI Act

The FOI Act establishes a general right of access to documents held by State Government agencies, including the Department of Planning and Community Development. In order to protect the public interest this right of access does not apply to documents identified by the FOI Act as exempt documents. For example, a document is exempt from release if it contains information about the personal affairs of another person, and if its release would be unreasonable.

The FOI Act also provides for documents containing exempt material to be released in part, after the exempt material has been deleted and where it is practicable to do so.

#### Decision

In response to your request a thorough and diligent search of the hardcopy and electronic records held by Regional Development Victoria was conducted. That search located the report; "Fortuna Villa - Concept Development - Operational Analysis" (the report).

### *Freedom of Information*

The report, totalling fifty nine (59) pages, was then assessed for release in accordance with the FOI Act, to determine whether it could be released to you in full, released to you in part, or whether it was exempt from release.

The following table provides a summary of my decision on access to the document:

<b>Release in Full (Full Access)</b>	<b>Exempt in Part (Part Access)</b>	<b>Exempt in Full (Access Denied)</b>
23 pages	1 page	32 pages

The documents to which access has been granted in full or in part under the FOI Act are enclosed. Material not released to you is exempt on the basis of s30(1) and s34(4)(a)(ii) of the FOI Act for the reasons outlined below.

In accordance with s25 of the FOI Act, where it has been possible to delete exempt or irrelevant material from the document and preserve the substance of the document for release, access has been provided to such document.

### *Internal Working Documents*

Section 30(1) of the FOI Act states that a document is exempt if its release would disclose opinions, advice or recommendations prepared by an officer or Minister, or consultation or deliberation that has occurred between officers and Ministers in the course of, or for the purpose of the deliberative processes involved in the functions of an agency, Minister, or of the government; and would be contrary to the public interest.

The report seeks to assess the operational opportunity for the development of Fortuna Villa. It aims to clarify the scope and direction of the proposition and includes financial analysis of the concept to support continuing decisions from within the Victorian Government and its potential partners. It is clearly a deliberative document.

No decision has yet been made on the site. At this stage, it is not known whether and to what extent the proposal detailed by the report will be taken up. The matter is currently the subject of discussion between the Victorian and Commonwealth Governments.

As a result, the following sections of the Report are exempt from release under s30(1):

- Section 2 – Fortuna Villa – Development Concept;
- Section 4 – Case Study – Abbotsford Convent, part titled '4.5 Some Insights for Fortuna';
- Section 5 – Fortuna Villa – Revenue Potential;
- Section 6 – Operating Result;
- Section 7 – Operating Model, part titled '7.4 Risk Assessment';
- Section 8 – Conclusions, parts discussing operational forecasts and potential tenants;
- Appendix A – Fortuna Redevelopment - Building Concepts;
- Appendix B – Historical Development Reference;

- Appendix C – Arts Facilities; and
- Appendix D – Profit & Loss Projections & Worksheets.

These portions of the report detail the concept proposal. Release of the material at this time has the potential to misrepresent the decision and future courses of action in relation to this matter, as the material is preliminary in nature and not reflective of a final outcome.

Within the report, Section 4 – Case Study – Abbotsford Convent contains a part titled '4.5 Some Insights for Fortuna'. The conclusions contained in that part are footnoted as based on a limited data set. For the reasons given above, disclosure of that material out of context would be potentially misleading and contrary to the public interest. It is exempt.

#### *Business Affairs of the Department*

Section 34(4)(a)(ii) of the FOI Act states that a document is exempt if the Department/Agency is engaged in trade or commerce, and the document discloses information of a business, commercial or financial nature that would be likely to expose the Department/Agency unreasonably to disadvantage.

The following sections of the Report are exempt from release under s34(4)(a)(ii):

- Section 2 – Fortuna Villa – Development Concept;
- Section 4 – Case Study – Abbotsford Convent, part titled '4.5 Some Insights for Fortuna';
- Section 5 – Fortuna Villa – Revenue Potential;
- Section 6 – Operating Result;
- Section 7 – Operating Model, part titled '7.4 Risk Assessment';
- Section 8 – Conclusions, parts discussing operational forecasts and potential tenants;
- Appendix A – Fortuna Redevelopment - Building Concepts;
- Appendix B – Historical Development Reference;
- Appendix C – Arts Facilities; and
- Appendix D – Profit & Loss Projections & Worksheets.

These portions of the report address the potential operational capacity of the Fortuna Villa site, and the financial implications of the proposal. The report itself notes that a more robust assessment is required of variables, operating scenarios and financial impact of the proposal. Also included is a preliminary listing of Bendigo based organisations contacted by the authors to ascertain demand for space at Fortuna.

Early release of this material would be likely to expose the Department (and potentially the City of Greater Bendigo) to commercial detriment, as negotiations with the Commonwealth have not yet been concluded in relation to the site. It may also disadvantage those agencies in undertaking future commercial negotiations concerning tenancy or usage of the site.

## Internal Review

Section 51 of the FOI Act provides you with the right to request an internal review within 28 days of receiving this letter if you are not satisfied with the decision upon your request (in respect of the exemptions applied). Any application for review should be addressed to the Secretary, Department of Planning and Community Development, GPO Box 2392V Melbourne Victoria 3001. **Access Charges**

Access charges are applicable under s22 of the FOI Act and the *Freedom of Information (Access Charges) Regulations 2004*. In this instance access charges have not been levied.

If you have any questions in relation to this decision, please feel free to telephone me on 03 9208 3112.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Andrew Weston', with a stylized flourish at the end.

Andrew Weston  
**Manager - Freedom of Information**