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SA Housing Authority
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Mr Chris Picton MP
Member for Kaurna
Shop 9, 760 Grand Boulevard
SEAFORD MEADOWS SA 5169

Dear Mr Picton

I refer to your application made under the *Freedom of Information Act 1991* (the FOI Act), previously lodged with Renewal SA, in which you requested access to:

1. *Tender documents for the sale of land on Commercial Road, Seaford Meadows by Renewal SA.*
2. *Contract of sale between the South Australian Housing Trust/Renewal SA and Hickinbotham Homes*

Due to recent Machinery of Government changes, the South Australian Housing Trust now has carriage of some functions previously managed by Renewal SA. Your Freedom of Information (FOI) application to Renewal SA falls within these changes, and as such, your FOI application and documents have been provided to the South Australian Housing Trust (SAHT), as the appropriate agency to now determine your application.

Unfortunately, your application was not determined within the 30-day timeframe set out in the Act. However, Section 19(2a) of the FOI Act allows an agency to continue processing an application and make a determination to give access to documents after this time.

Renewal SA had undertaken a comprehensive search of records and identified 23 documents as meeting the scope of your application. Documents 1-21 form part of the tender documents as requested in point 1 of your application, and documents 22 and 23 relate to the Contract of Sale as requested in point 2. A schedule of documents is attached which outlines any exemption clauses applied.

I have determined your application as follows:

- | | |
|---------------|-------------------|
| Document 1-21 | – Release in full |
| Document 22 | – Release in part |
| Document 23 | – Release in full |

My determination to release the Contract of Sale (Document 22) to you in part, is made in accordance with Section 20(4) of the FOI Act, and my decision for part release is based on Clauses 1(1)(e) and 16(2) of Schedule 1 of the FOI Act.

Some portions of text on page 16 of this document, relate to the deliberations and decisions of Cabinet and as such, are exempt from release pursuant to Clause 1(1)(e) of Schedule 1 of the FOI Act.

It is also considered that those same portions of text, together with one section of text on page 24, contain information that is of significant commercial sensitivity and value and, if released, would prejudice the competitiveness of both the SAHT, Renewal SA and the State Government in participating in commercial activities. I therefore consider this information exempt from release pursuant to Clause 16(2) of Schedule 1 of the FOI Act.

Property sales and commercial negotiations and investment are a core function of this agency and Renewal SA, and generate significant income for both agencies and ultimately, the State Government. The disclosure of clauses 11, 12 and 13 of the Contract of Sale Schedule, and Special Condition 3 in this document, would allow competitors to utilise that information in the preparation of future tenders and in negotiations with the Government in respect to the purchase of land, as well as to anticipate allotment pricing for the development.

They could also use advance details of the timing of the settlement to predict stage release timing, which may allow them to manipulate the timing and pricing of their own developments with a view to adversely impacting on sales in the Seaford Meadows development. The sale of land location at Seaford Meadows is currently within the settlement period. Should the contract of sale not proceed and the subject land be re-released for sale, disclosure of information in Clauses 11, 12 and 13 of the Contract of Sale Schedule would impede this agency's ability to negotiate the best price with future developers.

It is for the above reasons, that I have based my decision to exempt this information under Clause 16(2).

Information relating to the abovementioned Sections of the FOI Act, as well as exemption clauses under Schedule 1 of the Act, are outlined below for your information:

Section 19 – Determination of applications

- (2a) *However, nothing prevents an agency from making a determination to give access to a document on an application after the period within which it was required to deal with the application (and any such determination is to be taken to have been made under this Act).*

Clause 1 – Cabinet documents

- (1) *A document is an exempt document—*
- (e) *if it contains matter the disclosure of which would disclose information concerning any deliberation or decision of Cabinet;*

Clause 16—Documents concerning operations of agencies

- (2) *A document is an exempt document if—*
- (a) *it relates to an agency engaged in commercial activities; and*
- (b) *it contains matter the disclosure of which could prejudice the competitiveness of the agency in carrying on those commercial activities.*

If you disagree with my determination, you may seek an internal review of my decision by writing to the Principal Officer, South Australian Housing Authority. This must be done within 30 days of the date of this letter. I have enclosed a copy of *Your Rights to Review and Appeal*, which explains your review options.

Please note, in accordance with the requirements of Premier and Cabinet circular PC045, details of your FOI application and the documents to which you are given access, may be published on the agency's disclosure log. A copy of PC045 can be found at <http://dpc.sa.gov.au/what-we-do/services-for-government/premier-and-cabinet-circulars>.

If you have any questions in relation to this matter, please contact me on telephone 8207 0239 or by email at housingfreedomofinformation@sa.gov.au If you disagree with publication, you will need to advise me within two weeks of the date of this determination.

Housing SA's reference number is shown above and you should quote this number in any further correspondence concerning your application.

Yours sincerely



Fiona Sage
Accredited FOI Officer
SA Housing Authority

12 / 19 / 2018

SCHEDULE OF DOCUMENTS

*“Tender documents for the sale of land on Commercial Road, Seaford Meadows by Renewal SA
Contract of sale between the South Australian Housing Trust/Renewal SA and Hickinbotham Homes”*

Doc No	Date	Description of Document	No. of Pages	Determination
1	17/03/2014	Certificate of Title - Volume 6140 Folio 868	1	Release in full
2	1/06/2012	Site History AEC Environmental 2012	48	Release in full
3	30/06/2015	Site History Update Greencap 2015	26	Release in full
4	Undated	Site Map	1	Release in full
5	Undated	Affordable Housing Fact Sheet	7	Release in full
6	1/06/2015	Affordable Housing Land Management Agreement	12	Release in full
7	Undated	Contract for Sale (First Stage)	88	Release in full
8		Contract for Sale (subsequent stages)	88	Release in full
9		Development Deed (multiple settlements)	95	Release in full
10		Contract for Sale (single settlement)	84	Release in full
11		Development Deed (single settlement)	93	Release in full
12	4/12/2015	Plan of Easement for recycled water pipeline	2	Release in full
13		Land Release Information: SA Water	4	Release in full
14		Land Release Information: Department For Planning, Transport and Infrastructure	2	Release in full
15		Key Contacts	2	Release in full
16	15/07/2016	Form 1	68	Release in full
17		Form 1 searches and Annexures	140	Release in full
18	29/08/2016	EOI Addendum	7	Release in full
19		Expression of Interest	17	Release in full
20	4/12/2015	Location of recycled water pipeline	1	Release in full
21		Seaford Meadows Expression of Interest Brochure	5	Release in full
22	28/06/2017	Seaford Meadows Sale Contract - Hickinbotham	84	Release in part under clauses 1(1)(e) and 16(2)
23	28/06/2017	Seaford Meadows Development Deed - Hickinbotham	96	Release in full