



ACT
Government

Environment, Planning and
Sustainable Development

Phone: 6207 1923
Reference: 18/21919

Dear 

Freedom of information request: 18/21919 – Final briefing notes for Estimates Committee hearings held on 19, 28 and 29 June 2018

I refer to your application under section 30 of the *Freedom of Information Act 2016* (the Act), received by the Environment, Planning and Sustainable Development Directorate (EPSDD) on 30 July 2018, in which you sought access to the final briefing notes and documents for the 2018-19 Estimates hearings.

Specifically, you are seeking:

The final briefing notes and documents for the Select Committee on Estimates hearings held on 19, 28 and 29 June 2018.

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

As agreed by you, EPSDD is required to make a decision on your access application by 21 September 2018.

Decision on access

Searches were completed for relevant documents and five documents were identified as being within the scope of your request.

I have included as Attachment A to this decision letter, the schedule of relevant documents. The schedule provides a description and the access decision for each of those documents.

One document, the *Housing Affordability Report - March Quarter 2018*, contains data that was purchased and is therefore publicly available for a fee. In accordance with section 43(1)(d) of the Act access has been refused for this item and is not considered in my decision set out below.

Five documents identified as relevant to your request contain information that I consider, if released, to be:

- contrary to the public interest under Schedule 1; or
- that would, on balance, be contrary to the public interest to disclose under the test set out in section 17 of the Act.

I have decided to grant access, under section 50 of the Act, to copies of documents with deletions applied to information that I consider would be contrary to the public interest to disclose.

My access decisions are detailed further in the following statement of reasons and the documents released to you are provided as Attachment B to this letter.

Material considered

In reaching my access decision, I have taken the following into account:

- the FOI Act, particularly sections 17 and 43, and Schedules 1 and 2; and
- the content of the documents that fall within the scope of your request.

Exemptions claimed

My reasons for deciding to grant partial access to the five documents are set out below. The five documents that have been identified as falling within the scope of your request have been scheduled for 'partial release' under the Act. In reaching that decision, I have applied the public interest test under section 17 of the Act as follows:

Matters for which information disclosure is taken to be contrary to public interest under Schedule 1 of the Act include

1.2 Information subject to legal professional privilege

1.3 Information disclosure of which is prohibited under law:

- 1.3 (5) Information that is protected information under the *Housing Assistance Act 2007*, section 28 other than information disclosed to a person to whom the information relates

1.6 Cabinet Information.

Contrary to the public interest information under Schedule 2 of the Act

The Act recognises the right of every person to obtain access, under its provisions, to government information (see section 7, the Act). As an Information Officer I am required to allow access to information subject to the Act unless, on balance, disclosure would be contrary to the public interest (see section 17, the Act).

In assessing the public interest, I must apply the cascading test set out by section 17 of the Act which requires consideration of factors favouring disclosure, any favouring nondisclosure and the balance of those factors when considered cumulatively.

Personal information

I am satisfied that the disclosure of identified personal information could reasonably be expected to prejudice the protection of an individual's right to privacy under the *Human Rights Act 2004*. This is a factor favouring nondisclosure under Schedule 2.2 (a)(ii) of the Act.

In balancing public interest considerations I am satisfied that, on the information available, disclosure of the identified personal information of members of the public may constitute a breach of privacy and is therefore contrary to the public interest.

Business Affairs

I have considered the release of information that contains business information of an agency or person and whether the disclosure of that information would serve to further open discussion and government accountability – Schedule 2.1 (a)(i); informed debate – Schedule 2.1 (a)(ii); and the provision of contextual or background information – Schedule 2.1 (a)(viii).

I have also considered whether the release of the information would prejudice trade secrets, business affairs or research of an agency or person – Schedule 2.2 (a)(xi).

In balancing public interest considerations, I am satisfied that, based on the information available, the disclosure of business affairs information would be an unreasonable disclosure and may constitute a breach of confidence.

Online publishing – disclosure log

Under section 28 of the Act, EPSDD maintains an online record of access applications called a disclosure log. Your original access application, my decision and documents released to you in response to your access application will be published in the EPSDD disclosure log. Your personal contact details will not be published.

You may view the EPSDD's disclosure log at

<http://www.environment.act.gov.au/about/access-government-information/disclosure-log>

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 the day that my decision is published in the disclosure log, or a longer period allowed by the Ombudsman. For more information and the application form for Ombudsman review, please visit:

http://www.ombudsman.act.gov.au/data/assets/pdf_file/0026/79190/40A-Reviews-Factsheet-and-Application-Form-final-A1569634.pdf

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

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 St
GPO Box 370
Canberra City ACT 2601

Telephone: (02) 6207 1740

<http://www.acat.act.gov.au/>

If you have any queries concerning the Directorate's processing of your request, or would like further information, please contact EPSDD Customer Service on (02) 620 71923 and ask for the FOI team, or email to EPSDFOI@act.gov.au

Yours sincerely



Geoffrey Rutledge

Information Officer
Environment, Planning and Sustainable Development Directorate

20 September 2018