



ACT
Government

Environment, Planning and
Sustainable Development

Phone: 6207 1923
Reference: 18/31584

Freedom of information request: Ministerial Briefs

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 18 October 2018, in which you sought access to:

“a copy of all ministerial briefs produced by the Environment, Planning and Sustainable Development Directorate, provided to all relevant ministers, in the period from July 1, 2017 to October 18, 2018.”

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

On 5 November 2018, I informed you of my intention to refuse your application on the grounds of section 43 (1) (a). In accordance with section 46 (a) and (b) of the Act, you were provided with a reasonable opportunity to consult with EPSDD with a view to clarifying the scope of your request so as to remove the ground for refusal.

Under section 46 (4) of the Act, the period for consultation is ten working days from the day after notification, or as agreed to between the respondent and the applicant. In your case, the ten working day timeframe expired on 29 November 2018. I understand that you have not contacted EPSDD to seek additional time to respond to my letter of 5 November 2018 and have not provided any clarification of the scope of information sought.

Decision on access

I am now writing to inform you that I have decided to refuse to deal with your application in its current form under section 43 (1) (a) of the Act because to do so would require an unreasonable and substantial diversion of resources.

The reasons for my decision remain as set out in my notice of 5 November, which I have attached to this decision for your reference.

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 disclosure log from three days after the date of this decision. Your personal contact details will not be published.

You may view the EPSDD disclosure log at:

<https://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 62071923 and ask for the FOI team, or email to EPSDFOI@act.gov.au

Yours sincerely



Carolyn O'Neill

Information Officer
Environment, Planning and Sustainable Development Directorate

3 December 2018



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Sustainable Development

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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 18 October 2018, in which you sought access to:

“a copy of all ministerial briefs produced by the environment, planning and sustainable development directorate, provided to all relevant ministers, in the period from July 1, 2017 to October 18, 2018.”

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

EPSDD is required to make a decision on your access application (the application) by 15 November 2018.

Intention to refuse

I write to inform you that I intend to refuse to deal with your application in its current form under section 43 (1) (a) of the Act because to do so would require an unreasonable and substantial diversion of resources.

Your request does not specify any particular subject matter or topic. Therefore all briefs submitted to all relevant ministers for EPSDD over an extended period, and about any subject would be within scope.

To process the request would require the assignment of a full-time member of the Assurance and Legal team to manually assess over 8 thousand documents over a period of months to identify those relevant to the application. Further dedication of resourcing would be required to subsequently consider the application of the Act to the documentation, in particular the application of the public interest test and the potential obligation to consult with any third parties whose personal or business information was referenced in the documentation identified as falling within scope.

Section 38 of the Act states that I must take reasonable steps to consult with relevant third parties prior to deciding on access to documents. For this request, I would anticipate that a significant number of third parties would need to be consulted, and their views on release considered.

For these reasons, I am satisfied that the processing of the application as currently made would severely impact the operations of the EPSDD Assurance and Legal team and inhibit their ability to manage their primary business functions.

I have deliberated on the benefit and detriment reasonably expected to result by the diversion of resources required to respond to this request. I am particularly mindful that in order to process the application the workforce available to process all other access applications under the Act and assist EPSDD in its proactive release of information under the Open Access Information Scheme, would be reduced by one full-time officer (representing one quarter of the full team). Similarly, the provision of records management and related governance support for the Directorate would be diminished over this period.

It is my view that the public benefit in EPSDD identifying, locating, collating and examining documents captured by the broad scope of the application does not outweigh the detriment caused to the public by impeding the ability of the Assurance and Legal team to perform these functions and ensure the timely provision of access to information for all other applicants.

Section 46 of the Act provides you a consultation period of 10 working days starting the day after this letter is provided to you. You may consult with the FOI team during this period to negotiate a suitably revised scope. If following consultation, you submit an amended application, the original application is taken to have been made on the date the amended application is received.

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) 6207 1923 and ask for the FOI team, or email to EPSDFOI@act.gov.au

Yours sincerely



Carolyn O'Neill

Information Officer

Environment, Planning and Sustainable Development Directorate

13 November 2018