



ACT
Government

Environment, Planning and
Sustainable Development

Phone: (02) 6207 1923
Reference: 21/117250



Dear 

Decision on Freedom of Information Access Application 21/117250

I refer to your application made under section 30 of the *Freedom of Information Act 2016* (the Act) received by the Environment, Planning and Sustainable Development Directorate (EPSDD) on 17 November 2021, in which you sought access to documents relating to the City Renewal Authority and Suburban Land Agency Amendment Bill 2021.

Specifically, you are seeking:

any ministerial briefings around the development of the City Renewal Authority and Suburban Land Agency Amendment Bill 2021. Duplicate and draft documents may be excluded.

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

EPSDD requested a scope refinement on 19 November 2021 extending the decision date by three days. EPSDD must make a decision on your application on or by 20 December 2021.

Searches Conducted

Comprehensive searches were conducted and six documents containing information within the scope of your application were identified.

Decision on Access

I have included as **Attachment A** to this decision the schedule of relevant documents. The schedule provides a description of each document that falls within the scope of your application and the access decision for each of those documents.

I have decided to grant full access to five documents relevant to your application.

I have refused access to one document. This document is refused as the information is contrary to the public interest, under Schedule 1, 1.6(1)a (Cabinet Information) of the Act.

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 6, 17, and Schedules 1 and 2
- the content of the documents that fall within the scope of your request
- information publicly available

Public Interest Considerations

My reasons for deciding not to grant access to certain documents and components of these documents are as follows:

Information Disclosure – Contrary to the Public Interest under Schedule 1 of the Act

1.6 Cabinet information

(1) Information—

- a. that has been submitted, or that a Minister proposes to submit, to Cabinet for its consideration and that was brought into existence for that purpose; or
- b. that is an official record of Cabinet; or
- c. ...
- d. the disclosure of which would reveal any deliberation of Cabinet (other than through the official publication of a Cabinet decision).

The document referenced at 6 of the schedule at **Attachment A** is a cabinet briefing paper that I understand was submitted to Cabinet for its consideration in relation to the development of the City Renewal Authority and Suburban Land Agency Amendment Bill 2021. As Cabinet papers they are an official record of matters considered by Cabinet and disclosure, through release in response to your request, would reveal the deliberations of Cabinet.

Accordingly, schedule 1.6(1)(a), (b) and (d) apply to these documents and access is refused on the grounds that disclosure would be contrary to the public interest.

I have considered the documentation and am satisfied that it does not identify corruption or the commission of an offence by a public official or that the scope of a law enforcement investigation has exceeded the limits imposed by law.

Information Disclosure – 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.

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

Factors Favouring Disclosure

In applying the public interest test, I have determined that disclosure of the information could reasonably be expected to do the following:

- Schedule 2, 2.1(a)(iii) – inform the community of the governments operations, including the policies, guidelines and codes of conduct followed by the government in its dealing with members of the public.
- Schedule 2, 2.1(a)(viii) – reveal the reason for a government decision and any background or contextual information that informed the decision.

I consider, in terms of the public interest, that the disclosing of the contents of the scheduled items would help inform the community of the government's operations, specifically the ministerial briefing process relating to the way bill amendments are developed, communicated and passed into law.

Charges

In accordance with the *Freedom of Information (Fees) Determination 2018*, no charges are applicable to this application, as the number of pages to be released is below the minimum threshold of 50 pages.

Online Publication

Under section 28 of the Act, EPSDD maintains an online record of access applications called a disclosure log. Your original access application, this decision and documents released will be published in the EPSDD disclosure log no earlier than three days after you receive 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-us/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:

https://www.ombudsman.act.gov.au/_data/assets/pdf_file/0026/79190/Apply-for-Ombudsman-review.pdf

Alternatively, 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/>

Further Information

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,



Craig Simmons
Chief Operating Officer, Corporate Service and Operations
Environment, Planning and Sustainable Development Directorate

20th of December 2021