



ACT
Government

Environment, Planning and
Sustainable Development

Phone: (02) 6207 1923

Reference: 22/93771



By Email: [Redacted]

Dear [Redacted]

Decision on Freedom of Information Access Application 22/93771

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 22 July 2022, in which you sought access to various listed Ministerial briefs and Question Time briefs prepared in March and April 2022.

Specifically, you are seeking:

“a copy of the Ministerial Briefs with the titles outlined below. I would like my request to include the selected question time briefs for that period as outlined below. Duplicate documents as well as attachments to the ministerial briefs may be excluded”.

<ul style="list-style-type: none">• 22/08487 Ministerial Information Brief - Barr/Cheyne Draft Canberra Civic and Culture District Concept
<ul style="list-style-type: none">• 22/13191 Ministerial Information Brief - Barr - City Centre Marketing and Improvements Levy Advisory Group
<ul style="list-style-type: none">• 22/13193 Ministerial Information Brief - Barr - Civic Futures Report 2022
<ul style="list-style-type: none">• 22/11310 Ministerial-Arrangements Brief - Rattenbury- Australian Electric Vehicle (AEVA) Conference announcement - 7 April 2022
<ul style="list-style-type: none">• 22/18976 Ministerial Information Brief - Rattenbury- Green Power Products First Offer Exemption
<ul style="list-style-type: none">• DUE - 220317 - 22/22763 – DLO Request - Rattenbury- Record of Conversation “Redacted”- REIF Grants
<ul style="list-style-type: none">• 22/22934 Ministerial-Meeting Brief - Rattenbury-ACT Climate Change Council Meeting-19 April 2022
<ul style="list-style-type: none">• DUE - 220316 - 22/24357 - DLO Request - Rattenbury-ADVICE FOR MO - legal Aid lease - gas free
<ul style="list-style-type: none">• 22/25683 Ministerial Information Brief - Rattenbury- car free day options
<ul style="list-style-type: none">• 22/26122 Ministerial Information Brief - Rattenbury- Expression of Interest Outcome for the 50 Electric Vehicle Chargers Project
<ul style="list-style-type: none">• 22/26722 Ministerial Information Brief - Rattenbury- VHES Program name - low income households
<ul style="list-style-type: none">• 22/26917 Ministerial-Arrangements Brief - Rattenbury- Fleet Advisory Service launch- 4 April 2022

<ul style="list-style-type: none"> • 22/26943 Ministerial Information Brief -Joint TSY/EPSSDO - CMTEDD2022/853 - Electricity reference price determination for 2022-23
<ul style="list-style-type: none"> • 22/28561 Ministerial-Arrangements Brief - Rattenbury- Home Energy Support - Rebates for homeowners 31 March 2022
<ul style="list-style-type: none"> • DUE - 220322- 22/28959- DLO Request- Rattenbury- TALKING POINTS- Dr Paterson MLA- PMB
<ul style="list-style-type: none"> • 22/29229 Ministerial Information Brief - Rattenbury- 2022 Legislation Bid - Gas Transition Enabling Legislation Amendment Bill
<ul style="list-style-type: none"> • 22/30116 Ministerial Information Brief - Rattenbury- Climate Choices Brand Name Structure
<ul style="list-style-type: none"> • DUE - 220405 - 22/35109 – DLO Request - Rattenbury- URGENT ADVICE FOR MO - Proposal to extend the BattLab testing regime
<ul style="list-style-type: none"> • 22/23966 Ministerial Information Brief - Gentleman. 1- Conflict of Interest Management Review Audit
<ul style="list-style-type: none"> • 22/35500 Ministerial Information Brief - Berry- Freedom of Information Request - Notice to Ombudsman that decision was not made in time
<ul style="list-style-type: none"> • 22/12607 Ministerial-Information Brief- Gentleman- Direct Sale - Murray's Australia Pty limited - Change of Proponent's Name
<ul style="list-style-type: none"> • 22/22376 Ministerial-caveat Brief- Gentleman - ACT population projections
<ul style="list-style-type: none"> • DUE - 220330- 22/29414 - DLO Request - Gentleman - CALL CONSTITUENT –“ Redacted” Ashell Homes Pty Ltd/ Aussie Skip Bags Holdings f'ty ltd - Rent/lease land for industrial purpose
<ul style="list-style-type: none"> • 21/148928 Ministerial-Information Brief - Vassarotti - Loose fill asbestos insulation consumer education and awareness
<ul style="list-style-type: none"> • DUE - 220323 - 22/29474- DLO Request - Vassarotti - Advice for MO - Staffing and composition of the Asbestos Response Taskforce
<ul style="list-style-type: none"> • 22/31906 Ministerial-Arrangements Brief - Gentleman - Climate Change Adaptation in the ACT Symposium - 8 April
<ul style="list-style-type: none"> • 22/02286 Ministerial Information Brief - Vassarotti - Hazardous Materials Environment Protection Policy- review finalisation
<ul style="list-style-type: none"> • 22/16837 Ministerial Arrangements Brief - Vassarotti - EVENT: Mugga-Mugga Cottage, Symonston - POSTPONED
<ul style="list-style-type: none"> • 22/19985 Ministerial Information Brief -Vassarotti - Request for Independent Review- 2022 ACT and Region Heritage Festival
<ul style="list-style-type: none"> • 22/21211 Ministerial-Information Brief - Vassarotti & Gentleman - Environmental studies for the Western Edge
<ul style="list-style-type: none"> • DUE- 220309 - 22/22373 – DLO Request - Vassarotti - ADVICEFORMO – Noise process question
<ul style="list-style-type: none"> • 22/32139 Ministerial-Arrangements Brief - Vassarotti - Climate Change Adaptation in the ACT Launch - 8 April 2022
<ul style="list-style-type: none"> • 22/23791 Ministerial-Arrangements Brief - Rattenbury- CHIP Report - 22 March 2022
<ul style="list-style-type: none"> • 22/25401 Ministerial-Information Brief - Rattenbury- MDB FFA funding Schedule - implementation
<ul style="list-style-type: none"> • 22/24946 Ministerial-Information Brief - Gentleman & Rattenbury- PaGA Items AI(vii) and AI (viii)- Letter to transfer responsibility to Minister Rattenbury (ref: 21/151340)
<ul style="list-style-type: none"> • 22/30155 Ministerial-Meeting Brief - Gentleman - Gungahlin Community Council - Govts position on planning in Gungahlin 31 MARCH 2022

• 21/118197 Ministerial-Information Brief - Gentleman - DV369 livingInfrastructure in Residential Zones - next steps
• 22/28563 Meeting Brief – Barr "Redacted" redevelopment plans - 25 March 2022
• DUE - 220308- 22/21546- DLORequest- Gentleman-CALLCONSTITUENT "Redacted"- Planning concerns regarding corner blocks
• 22/22483 Ministerial Information Brief – Gentleman DA finder App communications package
• 22/22739 Ministerial Information Brief - Barr - Majura split blocks
• 22/27069 Ministerial Arrangements Brief- Berry- Whitlam Tour - 25 March 2022
• 22/21469 Ministerial-Meeting Brief -Vassarotti - Building Ministers' Meeting(BMM) - 28March2022
• DUE - 220330 - 22/32177 – DLO Request -Vassarotti - INPUT FOR MEETING "Redacted"
• 22/23551 Ministerial Arrangements Brief - Gentleman - Announcement of new Planning Bill - 16 March 2022

QTB 22-24 MARCH 2022

Question Time Briefs Planning and Land Management:

IMMEDIATE ISSUES

B	Environmental Offsets Monitoring Reports (obj ref 21/69472)
C	Stakeholder Consultation on Planning System Review and Reform Project
D	Manor House DV375
G	Living Infrastructure (including DV 369)
H	"Redacted" Development in Watson.
J	Duplication of William Hovell Drive
K	"Redacted" Rutherford Crescent, Ainslie
N	Agricultural Subdivision - "Redacted" - "Redacted"
Q	- "Redacted" - Subdivision proposal

ACT PARKS AND CONSERVATION SERVICE

6.	Bushfire Operations
9.	Fire Recovery

Planning and Land Management:

1.	Curtin Horse Paddock
2.	Western Edge Investigations
3.	Eastern Broadacre (including Majura Valley)
4.	Five Year Indicative Land Release Program
5.	Land and Property Trends
6.	Unit Titles Reform
9.	Single Touch Approvals
10.	Red Hill Integrated Plan
11.	North Watson Section 76
13.	East Lake
14.	Build to Rent Initiative
15	Affordable, Public and Community Housing (Urban Renewal / Housing and Suburban Development)
16	Kowen/Murrumbidgee
19	Kippax Flood Study and Erosion Downstream

All Questions Time Briefs for Minister for Housing and Suburban Development.

Question Time Briefs Water, Energy and Emissions Reduction

Immediate Issues:

A.	Costs and benefits of Climate Action
B.	Climate Change Strategy
C.	Transition to Zero Emissions Vehicles Action Plan
D.	Public Electric vehicle charging stations
E.	Electricity and gas prices
F.	ACT Climate Change policy- costs to community and consumers
G.	Transition from natural gas
H.	Minimum Energy Efficiency Standards for rental properties
I.	Vulnerable Household Energy Support Scheme
K.	Energy Efficiency Improvement Scheme
M.	Zero Emissions Government (including social cost of carbon)
N.	Cessation of Solar Business Program
O.	Scope 3 Emissions

Water:

4.	Sewage treatment plant
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Energy and Emissions Reduction:

9.	Living Infrastructure Plan (including DV369)
10.	Community Zero Emissions Grants Program
11.	Renewable energy programs <ul style="list-style-type: none"> • Next Generation Energy Storage program • Industry development/Renewable Energy Innovation Fund
12.	Energy Emergency Management

Question Time Briefs Environment

1.	Western edge - environmental values and conservator inputs (relating to the environmental assessment process) - NEW
4.	Defence Housing Consultation - Multiple Threatened
23.	Environment Grants
24.	Black Summer Commonwealth Funding

Question Time Brief Heritage

4.	Planting at The Bradfield
5	Heritage Nomination List
6	"Redacted" development at Mount Ainslie
9	Heritage Grants (NEW)

Question Time Briefs Sustainable Building and Construction

1.	Living Infrastructure Plan (including DV369)
2.	Property Developer licensing
5.	Government Response to the Building Quality Inquiry
6.	Building Reforms
7.	Energy Efficiency Standards
8.	Professional Indemnity insurance
10.	Building Quality Initiatives (Engineer Registration, Developer Licensing and Government Certifiers)
11.	Home Swimming Pool Safety
12.	Minimum Energy Efficiency Standards for rental properties
13.	ACT Government - Response to Asbestos
14.	Cladding rectification

QTB 5-7 April 2022

Question Time Briefs Planning and Land Management:

IMMEDIATE ISSUES

C	Stakeholder Consultation on Planning System Review and Reform Project
D	Manor House DV375
F.	Gungahlin Town Centre Land releases and DV364
G	Living Infrastructure (including DV 369)
H	"Redacted" Development in Watson.
J	Duplication of William Hovell Drive
K	"Redacted" Rutherford Crescent, Ainslie
O.	Molonglo Group Centre

ACT PARKS AND CONSERVATION SERVICE

6.	Bushfire Operations
8.	Black Summer Commonwealth Funding (NEW)
9.	Fire Recovery

Planning and Land Management:

1.	Curtin Horse Paddock
2.	Western Edge Investigations
3.	Eastern Broadacre (including Majura Valley)
4.	Five Year Indicative Land Release Program
5.	Land and Property Trends
6.	Unit Titles Reform
9.	Single Touch Approvals
10.	Red Hill Integrated Plan
11.	North Watson Section 76

All Questions Time Briefs for Minister for Housing and Suburban Development.

Question Time Briefs Water, Energy and Emissions Reduction

Immediate Issues:

A.	Costs and benefits of Climate Action
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H.	Minimum Energy Efficiency Standards for rental properties
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Energy and Emissions Reduction:

10.	Living Infrastructure Plan (including DV369)
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12.	Renewable energy programs <ul style="list-style-type: none">• Next Generation Energy Storage program• Industry development/Renewable Energy Innovation Fund
13.	Energy Emergency Management

Question Time Briefs Environment

1.	Western edge - environmental values and conservator inputs (relating to the environmental assessment process) - NEW
3.	Red Hill Integrated Plan - Environmental Impacts
4.	Defence Housing Consultation - Multiple Threatened
20.	Environmental Offsets Monitoring Reports
23.	Environment Grants
24.	Black Summer Commonwealth Funding

On 8 August 2022, you agreed to exclude Question Time Briefs where the information was identical, with the exception of the contact officer and/or date.

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

EPSSD must make a decision on your application on or by 14 October 2021.

Searches Conducted

Comprehensive searches were conducted and 143 documents containing information within the scope of your application were identified.

One document contains information that does not fall within the definition of 'government information' under the Act as it relates to information created or received by a Minister in the Minister's capacity as a member of the Legislative Assembly. The out-of-scope information has been redacted.

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 120 documents relevant to your application.

I have decided to grant partial access to 20 documents and, in accordance with section 50 of the Act, provide you with copies of documents with deletions applied to contrary to the public interest information.

I have refused access to 3 documents as I consider the information to be contrary to the public interest.

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, 45, 50, Schedules 1 and 2
- the content of the documents that fall within the scope of your request
- the *Human Rights Act 2004*
- the *Information Privacy Act 2014*
- information released to you previously
- 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

Some information relevant to your application has been identified to fall under Schedule 1, 1.2 and 1.6 of the Act and is taken to be contrary to the public interest to disclose. This information 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.

Schedule 1, 1.2 – Information subject to legal professional privilege

Two documents captured by your application contain confidential communications between the Directorate and the ACT Government Solicitor's Office, including summary information and advice. The disclosure of the documents would reveal confidential communications

made in the context of a legal practitioner-client relationship. This information is subject to legal professional privilege and its disclosure is taken to be contrary to the public interest as detailed in Schedule 1, section 1.2 of the Act. The documents are released with this information deleted.

Schedule 1, 1.6 (1) (a) and (d) – Cabinet Information

The Act identifies any official record of Cabinet or information which would reveal any Cabinet deliberation as being contrary to the public interest, a factor favouring non-disclosure under the public interest provisions. Three documents that you have requested contain information that falls within Schedule 1, section 1.6 of the Act as it is information which has been brought into existence to guide Cabinet in its decision making and assist it in its deliberations, and the disclosure of which would reveal those deliberations. Two of the documents are refused in their entirety and one is disclosed with the Cabinet information deleted.

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)(i) – promote open discussion of public affairs and enhance the government’s accountability
- Schedule 2, 2.1(a)(iv) – ensure effective oversight of expenditure of public funds
- Schedule 2, 2.1(a)(viii) – reveal the reason for a government decision and any background or contextual information that informed the decision.

Factors favouring Nondisclosure

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

- Schedule 2, 2.2(a)(ii) – prejudice the protection of an individual’s right to privacy or any other right under the *Human Rights Act 2004*
- Schedule 2, 2.2(a)(x) – prejudice intergovernmental relations
- Schedule 2, 2.2(a)(xi) – prejudice trade secrets, business affairs or research of an agency or person.
- Schedule 2, 2.2(a)(xvi) – prejudice a deliberative process of government.

I have given regard to the public interest and that the release of the requested information may assist in public understanding of government decisions. I have also given considerable regard to the advancing public understanding and transparency in government public affairs and information which reveal the contextual background to inform government decisions. It is for this reason that I have decided to release to you 120 documents in full (as outlined in the attached schedule).

Personal Information

17 documents contain information that falls within the meaning of personal information as defined by the Act, including names and contact details of non-ACT Government officials, personal mobile numbers, and personal associated references which could easily identify individuals. I have considered whether the release of the personal information identified would advance the public interest and it is my view that, in this instance, the release of this information would not serve to further open discussion, government accountability, informed debate and the provision of contextual or background information.

I am satisfied that the disclosure of this 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, section 2.2(a)(ii) of the Act.

To provide you with the information that I have determined to be in the public interest to release, copies of these documents have been prepared with personal information redacted in accordance with section 6 (Object of Act) and section 50 (Giving access—deletion of contrary to the public interest information) of the Act.

Business Information

Document 10 contains the details of the companies that were unsuccessful with their expressions of interest for Electric Vehicle Charges Project. Schedule 2 section 2.2(a)(xi) allows for government information to be withheld from release if disclosure of the information could reasonably be expected to prejudice the trade secrets, business affairs or research of an agency or person. The release of the information may cause reputational harm and could reasonably be expected to prejudice their business affairs.

Considering the type of information to be withheld from release, I am satisfied that the factors in favour of release can still be met while protecting the business affairs of the companies mentioned. I therefore weigh the factor for nondisclosure slightly higher than the factor in favour of disclosure in this instance and have decided to release the document with the business information deleted.

Deliberative process of government

I have decided to grant partial access to Document 1 and to withhold Document 23 from release in its entirety as I am advised by the relevant business areas that the information would disclose matter in nature of deliberation that has taken place for the purpose of the deliberative process involved in the functions of the Minister. Document 1 contains sensitive information relevant to another briefing process. Document 23 relates to a decision currently being considered by the Minister and has been prepared as a basis for intended deliberations. It would be contrary to the public interest to disclose the information given its deliberative nature and the works have not yet been achieved. At this

time, I am satisfied that the nondisclosure factor under Schedule 2, 2.2(a)(xvi) outweighs the factors favouring disclosure.

Document 40 – Various factors

Document 40, which contains Cabinet information and is taken to be contrary to the public interest to disclose, also contains details of land issues that are subject to ongoing confidential negotiations and deliberations and its disclosure could reasonably be expected to prejudice intergovernmental relations. The release of this documents could adversely affect these negotiations and deliberations by damaging continued level of trust and cooperation in the relations between the officers' conducting negotiations.

I consider that maintaining good working relations between the ACT and the Commonwealth are crucial to the ongoing negotiations on this issue and on future matters. I am satisfied that the release of the documents could prejudice intergovernmental relations and the Directorate's ability to obtain confidential information by impairing the future flow of information between the ACT and the Commonwealth.

The document also contains records of deliberations and consultation processes being undertaken to inform the decision-making process of the Directorate and Minister. As a result, this will prejudice the deliberative process of the Directorate.

Document 40 also contains personal information and business information about lessees, which could reasonably be expected to prejudice the protection of an individual's right to privacy under the *Human Rights Act 2004* and prejudice the trade secrets, business affairs or research of an agency or person.

I am satisfied that the factors favouring non-disclosure carry very significant weight.

Charges

No charges are applicable.

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

[Signed Electronically]

Craig Simmons
Information Officer
Chief Operating Officer
Environment, Planning and Sustainable Development Directorate

14 October 2022