



By Email: [REDACTED]

Dear [REDACTED]

Decision on Freedom of Information Access Application 23/130003

I refer to your application made under section 30 of the *Freedom of Information Act 2016* (the FOI Act) received by the Environment, Planning and Sustainable Development Directorate (EPSDD) on 19 December 2023, via transfer from Chief Minister, Treasury and Economic Development Directorate.

Specifically, you are seeking:

... all Declaration of Interests forms submitted by the following public servants from 1 October 2020 - 1 December 2023.

- *Ben Ponton;*
- *John Dietz;*
- *Matthew Kamarul;*
- *James Bennett;*
- *John Zuzek;*
- *Geoffrey Rutledge;*
- *Alison Kemp;*
- *Jeremy Smith;*
- *George Cilliers;*
- *Dr Sophie Lewis;*
- *Malcolm Snow;*
- *Dr Erin Brady; and*
- *Ben Green*

Please note:

Alison Kemp has not held an Executive position and is not required to complete a *Declaration of Private Interests* form.

No information is held in relation to John Zuzek.

Under section 40(1) of the FOI Act, EPSDD is required to decide your application on, or by, 8 February 2024. I am an Information Officer appointed under section 18 of the Act to deal with access applications made under part 5 and now write to provide notice of my decision in relation to your application.

Decision on access

In considering your application, I have taken the following into account:

- the FOI Act, particularly sections 6, 17 and schedule 2;
- the content of the documents that fall within the scope of your request;
- the *Freedom of Information (Volume 4 – Considering the public interest) Guidelines 2023* (Notifiable Instrument [NI2023-751](#))

- the *Human Rights Act 2004*; and
- the *Information Privacy Act 2014*.

I have decided to **refuse access** to the information requested.

Public interest considerations

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 the Act, section 7). 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 in section 17 of the Act, which requires consideration of factors favouring disclosure, any favouring nondisclosure and the balance of those factors when considered cumulatively.

I have considered how disclosure of the information could contribute to promoting open discussion and enhance government's accountability (a factor favouring disclosure under schedule 2, section 2.1(a)(i) of the FOI Act) by promoting transparency.

Decisions made by executives should be, and should be seen to be, professional, impartial and beyond reproach. Executives are aware their decisions are likely to be subject to both internal and external scrutiny. Maintaining public confidence in the integrity and honesty of the public sector is crucial to good governance.

The information requested was provided by individuals as a requirement of their employment as Senior Executive Service members under section 46 of the [Public Sector Management Standards 2016](#). The purpose of the declaration of private interests is to place on record any interest the individuals have that may conflict, or may be seen to conflict, with their public duty.

The information requested is the personal information of individuals and possibly their family members. These statements include financial, personal and other interests such as social or cultural activities as well as family or other personal relationships. This information is not information that relates to their routine day-to-day work activities as public servants.

The [Information Privacy Act 2014](#), outlines how personal information collected by public sector agencies should be protected and handled. Territory Privacy Principle (TPP) 6 states that if information is collected for a particular purpose, the agency must not use or disclose the information for another purpose unless under specific circumstances which do not apply in this case.

Section 12 of the [Human Rights Act 2004](#), states:

Everyone has the right –

(a) not to have their privacy, family, home or correspondence interfered with unlawfully or arbitrarily..

It is my view that disclosure of this information could prejudice the protection of an individual's right to privacy, which is a factor favouring nondisclosure under schedule 2, section 2.2(a)(ii) of the FOI Act.

I have considered the expectations of confidentiality held by the individuals. When providing this information, the individual, (and any family who have provided information) are advised that the information is provided to a small cohort of individuals, being the Director-General, the Head of Service and the relevant Minister(s). The information is stored securely, with limited access, and any request for access will be dealt with according to the relevant laws.

I have given significant weight to the factor favouring nondisclosure under schedule 2, section 2.2 of the FOI Act, and considered the detriment that could be caused to the individuals or their family members by disclosure of the information. On this basis I have determined that disclosure of the information is not in the public interest.

Right to review

Information regarding your right to review of this decision, the processing and publication of your request and this decision are set out at **Attachment A**.

Yours sincerely



Rory Martin
Information Officer
Executive Branch Manager, People and Capability

8 February 2024



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Environment, Planning and
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Decision Notice Fact Sheet

Online publication

Under section 28 of the Act, EPSDD maintains an online record of access applications called a disclosure log. The original access application, decision and documents released will be published in the EPSDD disclosure log no earlier than three days after you receive this decision. Personal contact details will not be published.

The EPSDD disclosure log at the following link:

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

Ombudsman review

Decisions on access requests are reviewable decisions 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 a 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/accountability-and-oversight/freedom-of-information/foi-complaints-and-reviews>

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
15 Constitution Avenue
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 EPSDFOI@act.gov.au or call (02) 6207 1923 and ask for the Information Governance team.