



ACT
Government

Environment, Planning and
Sustainable Development

Phone: 6207 1923
Reference: 18/17138

Dear [REDACTED]

Freedom of information request: 18/17138 - Feed-in Tariff - deeds of entitlement

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 21 June 2018, in which you sought access to documents associated with the Feed-in Tariff program.

Specifically, you are seeking:

“copies of the deeds of entitlement entered into between the ACT Government and each of the 10 generators granted entitlements under the Feed-In Tariff program.”

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

Following third party consultation and your agreement to extend the due date for decision, EPSDD is required to make a decision on your access application by 31 August 2018.

Decision on access

Searches were completed for relevant documents and 18 documents were identified that fall within the scope of your request.

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

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, 38 and schedules 1 and 2;
- the content of the documents that fall within the scope of your request;
- the views of third parties relating to the release of information concerning third parties; and

- information already accessible by the public.

Exemptions claimed

My reasons for deciding not to grant access to components of the identified documents are as follows:

Contrary to the public interest information under schedule 2 of 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 have considered the release of personal information and my view in this instance is that the identification of third parties 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 2.2 (a)(ii) of the Act.

On balance of these public interest considerations and the information available, I have concluded that 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 and whether the disclosure of that information would serve to further open discussion, government accountability, informed debate and the provision of contextual or background information.

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(xi) of the Act.

In accordance with section 38 of the Act, the views of relevant third parties were sought on whether government information identified within the scope of your request contained contrary to the public interest information. The third parties contested release of some of the information as it relates to personal private information and trade secrets, business affairs and research, both factors favouring nondisclosure in the public interest under schedule 2.2.

I am not satisfied that disclosure of the identified business information could reasonably be expected to further advance these matters as it is limited to specific aspects of third party business affairs.

On balance of these public interest considerations and the information available, I have concluded that the disclosure of trade secret and business affair information would be an unreasonable disclosure and may constitute a breach of confidentiality.

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 on the EPSDD disclosure log no

sooner than three days after the date of decision. Your personal contact details will not be published.

You may view the EPSDD's 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 6207 1923 and ask for the FOI team, or email to EPSDFOI@act.gov.au

Yours sincerely



Gene McGlynn

Information Officer
Environment, Planning and Sustainable Development Directorate

29 August 2018