



ACT
Government

Environment, Planning and
Sustainable Development

Phone: 6207 1923
Reference: 19/05086

Dear [REDACTED]

Freedom of information request: 19/05086

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 15 February 2019, in which you sought access to information related to the One Sun Solar bid, particularly, to “independent advice from a financial advisory company” referred to by then Minister Simon Corbell in this media article:

<https://www.canberratimes.com.au/national/act/uriarra-solar-farm-applicants-linked-to-failed-nsw-green-electricity-retailer-20141104-11gpix.html>.

Specifically, you are seeking:

- 1) a copy of the independent advice that Mr Corbell sought from a financial advisory company (as detailed in the above media article);
- 2) a copy of the instructions that Mr Corbell (or his representative) sent to that company setting out the scope of the advice he was requesting;
- 3) the name of the financial advisory company;
- 4) the date of the advice;
- 5) the cost of the advice; and
- 6) the names and positions of the people to whom the advice was provided (and/or copied and/or forwarded).

I also note that you subsequently clarified point 6 of your request to include information for the time the advice was received, but also in the following weeks/months until a decision was announced about the outcome of the first solar auction.

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

Decision on access

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

Two documents identified as relevant to your request contain information that I consider would, on balance, be contrary to public interest to disclose under the test set out in section 17 of the Act. I decided to grant access, under section 50 of the Act, to the copies of these documents with deletions applied to the information that I consider to be contrary to the public interest to disclose.

I decided to refuse access to one document as I consider it to be information that would, on balance, be contrary to the public interest to disclose under the test set out in section 17 of the Act.

I decided to refuse access to one document in accordance with section 43 (1) (d) of the Act, as this document is publicly available.

My access decisions are detailed further in the following statement of reasons.

Material considered

In reaching my access decision, I have taken the following into account:

- the FOI Act, particularly section 17 and Schedule 2;
- the *Information Privacy Act 2014*;
- views of relevant third parties; and
- the content of the documents that fall within the scope of your request.

Exemptions claimed

My reasons for deciding access to documents are set out below. In reaching my decision I have applied the public interest test under section 17 of the Act as follows:

Contrary to the public interest information under 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 cascading test set out by section 17 of the Act which requires consideration of factors favouring disclosure, any factors favouring nondisclosure and the balance of those factors when considered cumulatively.

Business affairs

Some documents contain business information relating to third parties, the release of which would reasonably prejudice trade secrets and business affairs, a factor favouring non-disclosure under Schedule 2.2 (a) (xi) of the Act. I have considered the release of business affairs information 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.

On balance of these public interest considerations and the information available, I have concluded that the disclosure of trade secrets and business affairs information would be an unreasonable disclosure and is, therefore, contrary to the public interest to release.

Personal information

I have considered the release of personal information and my view in this instance is that it 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 identified 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.

In balancing public interest considerations, I am satisfied that, on the information available, disclosure of the identified personal information may constitute a breach of privacy and is therefore contrary to the public interest.

Online publishing – disclosure log

Under section 28 of the Act, the 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. Your personal contact details will not be published.

You may view our disclosure log at <http://www.environment.act.gov.au/about/access-government-information/disclosure-log>.

Ombudsman review

My decision on your access application 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

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/>

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



Gene McGlynn

Information Officer

Environment, Planning and Sustainable Development Directorate

4 April 2019