



ACT
Government

Environment, Planning and
Sustainable Development

Phone: 6207 1923
Reference: 20/48824

[REDACTED]
[REDACTED]
Dear [REDACTED]

Freedom of Information - Decision Notice FOI 20/48824

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 20 July 2020, in which you sought access to information relating to:

Minutes and Agendas received by the Minister for Climate Change and Sustainability relating to the meeting of the National Cabinet Reform Committee for energy on 17 July 2020.

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 is due to make the decision on your application on or by 4 September 2020.

Searches Conducted

Comprehensive searches were conducted, and two documents were identified that fall within the scope of your application.

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 refuse both documents relevant to your application.

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 sections 17, 38, 50, and schedule 2;
- the content of the documents that fall within the scope of your request;
- views provided through Commonwealth Government consultation.

Public Interest Considerations

My reasons for deciding not to grant access to the documents is as follows:

Information Disclosure - Contrary to the Public Interest 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 of 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

Disclosure of the identified information could reasonably be expected to do the following:

- Schedule 2.1(a)(i) - promote open discussion of public affairs and enhance the government's accountability;
- Schedule 2.1(a)(ii) - contribute to positive and informed debate on important issues or matters of public interest;
- Schedule 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(a)(x) - prejudice intergovernmental relations

Intergovernmental relations

Consideration has been given to the relevant document and information held that relates to the negotiations and deliberations of the National Cabinet Reform Committee in confidence considerations, and whether the information contained within the documents contains information contrary to the public interest. The relevant documents include information provided in confidence, and subject to ongoing negotiations and deliberations between the Australian Capital Territory (ACT) and the Commonwealth.

The release of this information may serve to further open discussion, government accountability, informed debate and reveal the reason for a government decision and any contextual or background information. However, on balance the release of this information would be detrimental to intergovernmental relations between the ACT Government and the Commonwealth Government.

Based on the information available to me, I am satisfied that the disclosure of this information is not in the public interest. I have concluded that the disclosure of National Cabinet Committee meeting information would be an unreasonable disclosure and may prejudice intergovernmental relations of the ACT Government under Schedule 2.2(a)(x) of the Act and therefore, is contrary to the public interest to release.

Charges

No charges are applicable to this application as less than 50 pages to be released.

Online Publication

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 in the EPSDD disclosure log no earlier than three days after you receive this decision.

You will not be identified as the applicant in the published material. In respect of your business affairs, I have removed any information that I deemed would be an unreasonable disclosure through this process.

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:

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 EPSDFOI@act.gov.au



Information Officer

Deputy Director-General Sustainability and the Built Environment
Environment, Planning and Sustainable Development Directorate

7 September 2020