



By Email: [REDACTED]

Dear [REDACTED]

Decision on Freedom of Information Access Application 22/90930

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 12 July 2022.

Specifically, you are seeking:

...a copy of the Ministerial Briefs with the titles outlined below.

... 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.

1-2021/148876	21/148876 Ministerial-Information Brief - Rattenbury- Feed-in Tariff Contracts Update
1-2021/151340	21/151340 Ministerial-Information Brief - R, G & V - Update on gas connections commitments conflict with national energy laws
1-2021/154838	21/154838 Ministerial Information Brief – Rattenbury “Redacted”, Evoenergy-Application for Reasonable Costs Determination, 2022/23
1-2022/19034	22/19034 Ministerial Information Brief - Rattenbury- listening Report on the Minimum Energy Efficiency Standard for Rental Homes
1-2022/19738	22/19738 Ministerial Information Brief - Rattenbury- Renewable Energy Generators Deed Variations
1-2022/21210	22/21210 Ministerial-Arrangements Brief - Rattenbury- Next Generation Energy Storage program -10 March 2022
1-2022/13360	DUE - 220216 - 22/13360 - DLO Request - Rattenbury-Assistance to install electric car charging in complexes
1-2022/10506	22/10506 Ministerial Information Brief - Vassarotti - EPSDD 2022-23 Better Infrastructure Fund Allocation
1-2022/10499	22/10499 Ministerial Information Brief - Barr/Gentleman “Redacted” - Hindmarsh/Deakin land
1-2022/18544	22/18544 Ministerial-Arrangements Brief - Vassarotti - 2022-23 ACT Environment Grants Launch - 28 Feb 2022
1-2022/13700	DUE - 220214 - 22/13700 - DLO Request - Vassarotti - Blocks 4 and 5 Section 38 Campbell

1-2022/08794	22/08794 Ministerial Information Brief - Gentleman - 2021-22 Indicative Land Release Program - Mid Year Update
1-2022/17075	22/17075 Ministerial-Meeting Brief- Gentleman - meeting with SEARMS - Housing portfolios and property acquisition -MEETING 17 FEB
1-2022/08324	DUE - 220208 - 22/08324- DLO Request - Berry- DOT POINTS/CALL CONSTITUENT – Rent to Buy Scheme - Housing for vulnerable women in the ACT
1-2022/13804	DUE - 220216 - 22/13804- DLO Request -Gentleman - Construction of Odour Control Units in Umbagog District Park Latham
1-2022/15268	DUE - 220218 - 22/15268 - DLO Request - Gentleman -Annual report topic allocations and opening statement
1-2022/17773	DUE - 220223 - 22/17773 - DLO Request - Vassarotti -ADVICE FOR MO - Automatic Mutual Recognition Occupational Registrations Omnibus Bill
1-2022/09535	22/09535 Ministerial-Meeting Brief- Vassarotti - PACICERG - 7 March 2022

Question Time Briefs Planning and Land Management:

Immediate Issues:

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

Planning and Land Management:

	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
11.	North Watson Section 76
13.	East Lake (NEW)
14.	Build to Rent Initiative
15.	Affordable, Public and Community Housing (Urban Renewal / Housing and Suburban Development)
16.	Kowen/Murrumbidgee

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
J.	Vulnerable Household Energy Support Scheme
J.	Community Club Upgrades
K.	Energy Efficiency Improvement Scheme
M.	Zero Emissions Government (including social cost of carbon)
N.	Cessation of Solar Business Program

Water:

4.	Sewage treatment plant
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Energy and Emissions Reduction:

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

Question Time Briefs Environment

2.	Defence Housing Consultation - Multiple Threatened Species on Lawson Grasslands
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Question Time Brief Heritage

5.	Planting at The Bradfield
7.	"Redacted" development at Mount Ainslie

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
7.	Energy Efficiency Standards
9.	Implementation of Building Confidence Report in the ACT
12.	Minimum Energy Efficiency Standards for rental properties
13.	ACT Government - Response to Asbestos
14.	Cladding rectification
15.	Construction Industry Arrangements

On 14 July 2022, you agreed to exclude Question Time Briefs where the information was identical (with the exception of the contact officer and/or date), this included information which is publicly available via the EPSDD Disclosure Log.

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 must make a decision on your application on or by 20 September 2022.

Searches Conducted

Comprehensive searches were conducted and 54 documents containing information within the scope of your application were identified.

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 43 documents relevant to your application.

I have decided to grant partial access to 5 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 6 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, 50, Schedules 1 and 2
- the content of the documents that fall within the scope of your request
- 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 1.2 and 1.6 of the Act and is therefore, taken to be contrary to the public interest to disclose.

Schedule 1, 1.2 – Legal Professional Privilege

Some of the information captured by your application relates to correspondence, advice including summary information between the Agency and the ACT Government Solicitor's office. This information is subject to legal professional privilege.

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

Several of the documents in scope contain information submitted to Cabinet and Cabinet in Confidence decisions, considerations, and summaries. 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.

The disclosure of this information would not reveal 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.

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(xi) – prejudice trade secrets, business affairs or research of an agency or person.

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 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 43 documents in full (as outlined in the attached schedule).

Personal Information

In my review of the requested material, I have given regard to the pro-disclosure bias in the Act and the benefit of open government and transparency in government processes and decision-making. 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.

Some items are scheduled for partial release as they contain information that falls within the meaning of personal information as defined by the Act, including mobile numbers, and personal associated references which could easily identify individuals.

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.

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.

To provide you with the information that I have determined to be in the public interest to release, copies of some documents have been prepared with personal information redacted in accordance with section 50 and the Objects of the Act.

Business Information

One document in scope contains information relating to financial applications and business information provided to the Directorate under contractual agreements. The release of this information would reasonably prejudice trade secrets and business affairs, a factor in favour of non-disclosure under Schedule 2.2(a)(xi) of the Act. I have considered the release of business affairs information and whether its disclosure would provide relevant contextual, or background information.

In reaching my decision my decision I have weighed on balance these public interest considerations, the information available and contractual agreements with third parties. On balance I have decided that the detriment caused by the release of this information, which may constitute a breach of confidence, outweighs any anticipated benefit provided by its release.

I consider the information within the document should be exempt from release, as the release of the information would diminish the commercial value of the information and compromise the organisation's commercial and competitiveness and may prejudice the economy of the ACT Government under Schedule 2.2(a)(viii) of the Act and therefore, is contrary to the public interest to release.

Charges

In accordance with section 107(2)(e) of the Act any charges applicable to this application are waived.

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



Craig Simmons
Information Officer
Chief Operating Officer
Environment, Planning and Sustainable Development Directorate
20th of September 2022