



ACT
Government

Environment, Planning and
Sustainable Development

Phone: 6207 1923
Reference: 20/45469



Dear ,

Freedom of Information - Decision Notice FOI 20/45469

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

Final results for all surveys and polls commissioned or received by the ACT Government since my last request. Surveys and polls may include, but are not limited to, research performed by Orima Research Pty Ltd, Q&A Market Research, or received as part of a YourSay Community Panel or consultation.

These documents may include but are not limited to reports issued by the consultants or contractors and include questions, results, conclusions, analysis and/or recommendations.

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

As agreed by you, this decision is due on or by 4 September 2020. We appreciate your patience and assistance during the processing of your application.

Searches Conducted

Comprehensive searches were conducted, and twenty-five documents were identified to 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 grant full access to fourteen documents relevant to your application.

I have decided to refuse eleven documents relevant to your application, seven of these documents of which are publicly accessible via the link provided within the schedule and therefore; refused under section 45(a) of the Act.

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, 28, 42, 50, and schedules 1 and 2;
- the content of the documents that fall within the scope of your request;
- information contained within the public domain.

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

Cabinet

Several of the documents in scope contain information intended for submission to Cabinet. 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 of non-disclosure under the public interest provisions.

Information relevant to your application is identified to fall under Schedule 1.6 (1) and is therefore deemed to be contrary to the public interest to disclose.

This information does not identify 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 - 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)(xi) - prejudice trade secrets and business affairs

Business Affairs

One document within scope contains information relating to ongoing consideration by the Agency, the release of this information would reasonably prejudice trade secrets and business affairs of the Agency, 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 disclosure of the information would better serve to further open discussion, government accountability, and the provision of contextual, or background information.

In reaching my decision I have weighed on balance these public interest considerations, and the information available. I have concluded that the disclosure of trade secrets and Agency business affairs information would be an unreasonable disclosure 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 this instance, I have decided to waive fees associated with your access application under section 107 of the Act. I have determined that the information released to you, and publicly on the disclosure log, would assist in better informing the public about government processes and issues that concern the broader Canberra community.

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

Yours sincerely

Electronically signed

Karen Wilden

Information Officer
Environment, Planning and Sustainable Development Directorate

4 September 2020