



Freedom of Information Access Application - Decision Notice

[REDACTED]

Via email: [REDACTED]

Freedom of information access application: HACT 18/71

Dear [REDACTED]

I refer to your application under section 30 of the *Freedom of Information Act 2016* (the FOI Act), received by the Community Services Directorate (CSD) on 30 May 2018 in which you sought access to:

...copies of the minutes from the 25 Transforming Communities Partnership meetings since the partnership's inception to the end of the 2016/2017 financial year.'

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

The Directorate was required to provide a decision on your access application by 28 June 2018.

I note that on 31 May 2018, and subsequently on 21 June 2018, Ms Glenda Darling, FOI Officer, emailed you seeking an extension of time of 45 working days, under Section 41 (1) of the FOI Act, due to the large number of FOI access applications being received ahead of your access application by the Directorate. I note that on 25 June 2018, you agreed to the extension of time, bringing the statutory due date to **30 August 2018**.

The Directorate has been able to complete your application ahead of schedule on this occasion.

Public interest test

The FOI Act 2016 adopts a public interest test approach to determine whether government information should be made publicly available. Government information will not be released where an Information Officer decides that giving access to information is contrary to the public interest.

When determining whether the release of information would be in the public interest, Information Officers consider Schedules 1 and 2 of the FOI Act.

Information falling within one of the categories in Schedule 1 of the Act is presumed to be contrary to the public interest to disclose, except in very narrow circumstances.

Where the information does not fall within one of the categories identified in Schedule 1, the public interest test in section 17 must be applied to determine whether the information is contrary to the public interest information. Schedule 2 sets out factors to be considered when applying the public interest test in section 17 to determine whether the release of the information would be contrary to the public interest. Information Officers must consider all relevant factors for and against disclosure and must determine, on balance, whether it is in the public interest to release the information.

Search for documents and material considered

Searches were completed and documents relevant to the scope of your access application were identified:

- Table of Contents 1 – Meeting Minutes from the 25 Transforming Communities Partnership meetings (2014-2018)

Please note the search uncovered 29 Meeting Minutes from the Transforming Communities Partnership meetings that are captured by your FOI Access Application.

I have included as **Attachment B** to this decision the Table of Contents 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.

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

- the content of the documents that fall within the scope of your client's access application
- the FOI Act, Schedule 1 *Information disclosure of which is taken to be contrary to the public interest* (please refer to **Attachment A**)
- the FOI Act, Schedule 2 *Factors to be considered when deciding the public interest* (please refer to **Attachment A**)

Decision on access

My decision is:

- To grant access to the documents with the status of "full release" in the Table of Contents under s 35(1)(a) of the FOI Act.

- To refuse to give access to the information redacted in the documents with the status of “partial release” in the Table of Contents as the information is contrary to the public interest information under s 35(1)(c) of the FOI Act.

My access decision is detailed further in the following statement of reasons.

Statement of reasons

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

Contrary to the public interest information under Schedule 1 of the Act

There was no information identified that is considered contrary to the public interest under Schedule 1 of the FOI Act.

Information that would, on balance, be contrary to the public interest to disclose under the test set out in section 17 of the Act

Personal affairs of third parties

Some information contained in the documents contain personal information relating to third parties. The public interest test has been considered and I have decided the release of this information could prejudice the protection of an individual’s right to privacy under the *Human Rights Act 2004* (**Schedule section 2.2 (a) (ii) FOI Act 2016**).

I am unable to identify any factors favouring the disclosure of this personal information. Therefore, on balance, I am satisfied this information would be contrary to the public interest. For example, please refer to **folios 43-49 of Table of Contents 1**.

Online publishing – disclosure log

Under section 28 of the FOI Act, the Directorate 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 Directorate disclosure log. Publication of the information will occur, not before 3 working days and no longer than 10 working days after the date of decision. Your personal contact details will not be published.

You may view the Directorate’s disclosure log at

<http://www.communityservices.act.gov.au/home/disclosure-log>

How to request a decision review

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 the Ombudsman’s review of this

outcome under section 73 of the Act within 20 working days from the day that my decision is published in Directorate's disclosure log, or a longer period allowed by the Ombudsman.

If you wish to request a review of my decision you can access the review of decision form on the Ombudsman's website (<http://www.ombudsman.act.gov.au/Freedom-of-Information>). Alternatively, you can 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 Street
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, FOI Ref: HACT 18/71, or would like further information, please contact the FOI processing officer, Frank Zappia on 6205 9292.

Yours sincerely



Sally Gibson
Information Officer
3 August 2018

Freedom of Information Act 2016

Schedule 1 Information disclosure of which is taken to be contrary to the public interest

(see s 16)

Information mentioned in this schedule is taken to be contrary to the public interest to disclose unless the information identifies 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.

1.1 Information disclosure of which would be contempt of court or Legislative Assembly etc

Information the disclosure of which would, apart from this Act and any immunity of the Crown—

- (a) be in contempt of court; or
- (b) be contrary to an order made or direction given by a tribunal or other entity having power to take evidence on oath; or

Examples

- 1 board of inquiry under the Inquiries Act 1991
- 2 commission under the Judicial Commissions Act 1994
- 3 royal commission under the Royal Commissions Act 1991

Note: An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (c) infringe the privileges of—
 - (i) the Legislative Assembly; or
 - (ii) a house of the Commonwealth parliament; or
 - (iii) the parliament of a State; or
 - (iv) the Legislative Assembly of the Northern Territory.

1.2 Information subject to legal professional privilege

Information that would be privileged from production or admission into evidence in a legal proceeding on the ground of legal professional privilege.

1.3 Information disclosure of which is prohibited under law

- (1) Information that is confidential under the Adoption Act 1993, section 60 other than information disclosed to a person to whom the information relates.
- (2) Information that is protected information under the Children and Young People Act 2008, section 844, other than information disclosed to a person to whom it relates.
- (3) Information that is protected information under the Crimes (Child Sex Offenders) Act 2005, section 133A.
- (4) Information that is protected information under the Crimes (Restorative Justice) Act 2004, section 64.
- (5) Information that is protected information under the Housing Assistance Act 2007, section 28 other than information disclosed to a person to whom the information relates.
- (6) Any other information the disclosure of which is prohibited by a secrecy provision of a law.
- (7) In this section:
secrecy provision—a provision of a law is a secrecy provision if it—
 - (a) applies to information obtained in the exercise of a function under the law; and
 - (b) prohibits people mentioned in the provision from disclosing the information, whether the prohibition is absolute or subject to stated exceptions or qualifications.

Schedule 2

Factors to be considered when deciding the public interest

2.1 Factors favouring disclosure in the public interest

The following are factors favouring disclosure in the public interest:

- (a) disclosure of the information could reasonably be expected to do any of the following:
 - (i) promote open discussion of public affairs and enhance the government's accountability;
 - (ii) contribute to positive and informed debate on important issues or matters of public interest;
 - (iii) inform the community of the government's operations, including the policies, guidelines and codes of conduct followed by the government in its dealings with members of the community;

- (iv) ensure effective oversight of expenditure of public funds;
- (v) allow or assist inquiry into possible deficiencies in the conduct or administration of an agency or public official;
- (vi) reveal or substantiate that an agency or public official has engaged in misconduct or negligent, improper or unlawful conduct or has acted maliciously or in bad faith;
- (vii) advance the fair treatment of individuals and other entities in accordance with the law in their dealings with the government;
- (viii) reveal the reason for a government decision and any
- (ix) reveal that the information was—
 - (A) incorrect; or
 - (B) out-of-date; or
 - (C) misleading; or
 - (D) gratuitous; or
 - (E) unfairly subjective; or
 - (F) irrelevant;
- (x) contribute to the protection of the environment;
- (xi) reveal environmental or health risks or measures relating to public health and safety;
- (xii) contribute to the maintenance of peace and order;
- (xiii) contribute to the administration of justice generally, including procedural fairness;
- (xiv) contribute to the administration of justice for a person;
- (xv) contribute to the enforcement of criminal law;
- (xvi) contribute to innovation and the facilitation of research;
- (b) the information is personal information of—
 - (i) the person making the request; or
 - (ii) a child and the information is to be given to the child's parent or guardian and the disclosure of the information to the child's parent or guardian is reasonably considered to be in the best interests of the child; or
 - (iii) a deceased person and the person making the request for the information is an eligible family member of the deceased person.
- background or contextual information that informed the decision;

2.2 Factors favouring nondisclosure in the public interest

The following are factors favouring nondisclosure in the public interest:

- (a) disclosure of the information could reasonably be expected to do any of the following:
- (i) prejudice the collective responsibility of Cabinet or the individual responsibility of members to the Assembly;
 - (ii) prejudice the protection of an individual's right to privacy or any other right under the *Human Rights Act 2004*;**
 - (iii) prejudice security, law enforcement or public safety;
 - (iv) impede the administration of justice generally, including procedural fairness;
 - (v) impede the administration of justice for a person;
 - (vi) prejudice the security or good order of a correctional centre;
 - (vii) impede the protection of the environment;
 - (viii) prejudice the economy of the Territory;
 - (ix) prejudice the flow of information to the police or another law enforcement or regulatory agency;
 - (x) prejudice intergovernmental relations;
 - (xi) prejudice trade secrets, business affairs or research of an agency or person;
 - (xii) prejudice an agency's ability to obtain confidential information;
 - (xiii) prejudice the competitive commercial activities of an agency;
 - (xiv) prejudice the conduct of considerations, investigations, audits or reviews by the ombudsman, auditor-general or human rights commission;
 - (xv) prejudice the management function of an agency or the conduct of industrial relations by an agency;
 - (xvi) prejudice a deliberative process of government;
 - (xvii) prejudice the effectiveness of testing or auditing procedures;
 - (xviii) prejudice the conservation of any place or object of natural, cultural or heritage value, or reveal any information relating to Aboriginal or Torres Strait Islander traditional knowledge;
- (b) the information—
- (i) is personal information of a child and the disclosure of the

information is reasonably considered not to be in the best interests of the child; or

(ii) would be privileged from production in a legal proceeding on the ground of legal professional privilege; or

(iii) is personal information of a deceased person and the person making the request is an eligible family member of the deceased person and the disclosure of the information could reasonably be expected to impact on the deceased person's privacy if the deceased person were alive; or

(iv) is information disclosure of which is prohibited by an Act of the Territory, a State or the Commonwealth; or

(v) is about unsubstantiated allegations of misconduct or unlawful, negligent or improper conduct and disclosure of the information could prejudice the fair treatment of an individual.