



## Freedom of Information Access Application - Decision Notice

[REDACTED]  
email: [REDACTED]

**Freedom of Information request: CSD 19/05**

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 6 March 2019, in which you sought access to information on the banning of "Black Magic" from the 2019 Canberra Balloon Spectacular.

Specifically, you are seeking:

*"I would like to request access to any documents relating to [REDACTED] and also to the Black Magic hot air balloon, also referred to as Golly. Please could you add any information relating to the banning of the Black Magic balloon from flying as part of the Canberra Balloon Spectacular."*

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

The Directorate was required to provide a decision on your access application by 4 April 2019, however the Directorate wrote to you on 6 March 2019 seeking a further 45 working days extension due to the large number of applications held by CSD. On 6 March 2019, you agreed to the extension and the due date was extended to **13 June 2019**.

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 FOI 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 for relevant documents and 38 documents were identified that fall within the scope of your request.

I have included as Attachment A 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 access decision, I have taken the following into account:

- the FOI Act, particularly Schedule 2;
- the *Human Rights Act 2004*; and
- the content of the documents that fall within the scope of your request.

### **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 give access to documents and information 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.
- To refuse access to documents previously provided by another agency under s 45 (a) of the FOI Act.

I have decided to grant access, under section 50 of the FOI Act, to copies of documents with deletions applied to information that I consider would be contrary to the public interest to disclose.

My access decisions are detailed further in the following statement of reasons and the documents released to you are provided as Attachment A to this letter.

**Statement of reasons**

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

**Information identified that is considered contrary to the public interest under Schedule 1 of the FOI Act**

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

**Information identified that is considered contrary to the public interest under Schedule 2 of the FOI Act**

*Factors favouring disclosure under Schedule 2 of the FOI Act*

**Schedule 2, section 2.1 (a) (iii)** relates to informing the community of government's operations, including the policies, guidelines and codes of conduct followed by the government in its dealings with member of the community;

**Schedule 2, section 2.1 (a) (vii)** relates to advancing the fair treatment of individuals and other entities in accordance with the law in their dealings with the government; and

**Schedule 2, section 2.1 (a) (viii)** reveals the reason for a government decision and any background or contextual information that informed the decision.

*Factors favouring non- disclosure under Schedule 2 of the FOI Act*

**Schedule 2, section 2.2 (a) (ii)** relates to the protection of an individual's right to privacy or any other right under the *Human Rights Act 2004*.

Having considered the factors identified above, the release of information contained in the documents could reasonably be considered to reveal the reason for the decision or provide background or contextual information that was used to determine the decision to ban "Black Magic" from the 2019 Canberra Balloon Spectacular. However, significant weight is placed on the protection of people's privacy.

As the Information Officer, I need to take into consideration whether the release of information to the world at large, would be an unreasonable disclosure of personal information.

Information refused in folios 18-19, 22-23, 26-27 & 29-30 in the documents at Attachment A contains information contrary to disclose under **Schedule 2, section 2.2 (a) (ii)** and is based on the privacy of the personal details of individuals. Any benefit of releasing this information to you would be minimal and is significantly outweighed by the factor that it would be reasonable to consider that these individuals would expect that their personal information be dealt with in a manner that protects their privacy.

Documents previously provided through the access application lodged with CMTEDD has not been released by CSD. Access to documents may be refused if the government information is made publicly available by another agency (section 45 (a) of the FOI Act). These documents are listed as 'Publicly Available on the CMTEDD Disclosure Log' with the relevant page number in the Table of Contents at Attachment A.

To view the documents released by CMTEDD, please follow the link to CMTEDD's disclosure log

[https://www.cmtedd.act.gov.au/data/assets/pdf\\_file/0006/1350780/2019-049.pdf](https://www.cmtedd.act.gov.au/data/assets/pdf_file/0006/1350780/2019-049.pdf).

Having applied the public interest test in section 17, it is therefore my decision that information contained in the documents at Attachment A be released except where that information has been previously released or is considered to be the personal information of an individual.

### **Charges**

Processing charges are not applicable for this request because the total number of pages to be released to you does not exceed the charging threshold of 50 pages as defined in section 104 (4) of the FOI Act.

### **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's disclosure log no earlier than three (3) working days and no later than ten (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

<https://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 FOI Act. You have the right to seek the Ombudsman's review of this outcome under section 73 of the FOI Act within 20 working days from the day that

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](mailto:actfoi@ombudsman.gov.au)

ACT Civil and Administrative Tribunal (ACAT) review

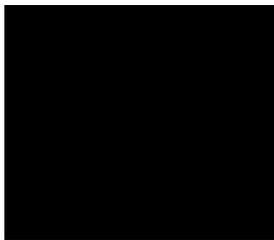
Under section 84 of the FOI Act, if a decision is made under section 82(1) on an Ombudsman review, you may apply to the ACAT for review of the Ombudsman decision.

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 CSD 19/05, or would like further information, please contact the FOI processing officer, Kay McGilvray on 6205 3445.

Yours sincerely



Robyn Calder  
Information Officer

9 May 2019