



DECISION ON FREEDOM OF INFORMATION ACCESS APPLICATION

I refer to your application under the *Freedom of Information Act 2016* (the Act), received by the Justice and Community Safety (JACS) Directorate on 26 November 2020, in which you sought access under the *Freedom of Information Act 2016* (the Act) to the following:

Copies of all correspondence from the ACT Emergency Services Agency Commissioner to the ACT Bushfire Council on September 22, 2020, and, copies of all correspondence from the council to the commissioner between September 22, 2020, and November 26, 2020.

As advised on 1 December 2020, third party consultation was needed in relation to some of the material within scope. This has now been finalised.

Authority

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.

Decision

Following extensive searches, 10 documents have been identified as containing information within the scope of your access application. These are outlined in the *Schedule of documents*.

I have decided to grant part access to all 10 documents.

Please see the reasons outlined in the 'reasons for decision' at [Attachment A](#).

Online publishing – disclosure log

Under section 28 of the Act, JACS 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 JACS disclosure log no later than 10 days after the decision. Your personal contact details will not be published.

You may view the JACS' disclosure log at:

<http://www.justice.act.gov.au/page/view/4049/title/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 JACS disclosure log, or a longer period allowed by the Ombudsman.

If you wish to request a review of my decision you may write to the Ombudsman at:

The ACT Ombudsman
GPO Box 442
CANBERRA ACT 2601

Via email: actfoi@ombudsman.gov.au

The review of decision application form is available at:

https://www.ombudsman.act.gov.au/_data/assets/pdf_file/0026/79190/Apply-for-Ombudsman-review.pdf

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

Ph: (02) 6207 1740

<http://www.acat.act.gov.au/>

If you have any queries concerning the Directorate's processing of your request, or would like further information, please contact JACS FOI via jacsfoi@act.gov.au or phone 6207 2167.

Yours sincerely



Ray Johnson
Deputy Commissioner,
Emergency Services Agency
Information Officer

19 January 2021

Attachment A – Reasons for decision

1. Material considered

In reaching my decision, I considered:

- your original access application
- the documents containing information that fall within the scope of your access application
- consultations with JACS officers
- the views of third parties
- *Freedom of Information Act 2016*
- *Human Rights Act 2004*

2. Reasons for my decision

As a decision maker, I am required to determine whether the information within scope is in the public interest to release. To make this decision, I am required to:

- assess whether the information would be contrary to public interest to disclose as per Schedule 1 of the Act
- perform the public interest test as set out in section 17 of the Act by balancing the factors favouring disclosure and factors favouring non-disclosure in Schedule 2

I have included below the factors relevant to my decision on access.

2.1. Public interest test

I have assessed the information against the factors favouring disclosure and factors favouring non-disclosure in Schedule 2. On balance, I have decided that the information is in the public interest to disclose with some minor redactions. I have included below the relevant factors in making my decision for your information.

Factors favouring disclosure

2.1 (a) *Factors favouring disclosure in the public interest:*

- (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;*
- (v) *allow or assist inquiry into possible deficiencies in the conduct or administration of an agency or public official;*
- (viii) *reveal the reason for a government decision and any background or contextual information that informed the decision;*
- (xi) *reveal environmental or health risks or measures relating to public health and safety.*

Factors favouring non-disclosure

2.2 (a) *Factors favouring nondisclosure in the public interest:*

(ii) prejudice the protection of an individual's right to privacy or any other right under the Human Rights Act 2004.

An important consideration is the protection of the personal privacy of individuals, such as the contact details of individuals who are not ACT government employees. I have redacted the mobile numbers and email addresses of ACT Bushfire Council members, as these are personal contact details. These redactions are minor in nature and do not significantly alter the substance of the material to be released.

Summary of my decision

In conclusion, I have decided to grant partial access to 10 documents.