

DECISION ON FREEDOM OF INFORMATION ACCESS APPLICATION

I refer to your application under the [Freedom of Information Act 2016](#) (the Act), transferred to the Justice and Community Safety (JACS) Directorate from the Chief Minister, Treasury and Economic Development Directorate (CMTEDD) on 31 March 2022, in which you sought access to:

“A copy of the Business Case undertaken for the Law Courts PPP Project, finalised by June 2016”

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

I have identified one document containing information within the scope of your access application as outlined in the *Schedule of documents*.

I have decided to grant part access to this document.

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 access application, my decision and documents released to you in response to your access application will be published on 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 Your personal contact details will not be published.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: <https://www.justice.act.gov.au/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 on 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:

OFFICIAL

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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 email jacsfoi@act.gov.au or phone 6207 2167.

Yours sincerely



Danielle Krajina
Information Officer
14 June 2022

Attachment A – Reasons for decision

1. Material considered

In reaching my decision, I considered:

- your original access application
- the documents containing the information that fall within the scope of your access application
- consultation with JACS and Chief Minister, Treasury and Economic Development Directorate (CMTEDD) officers
- third party consultation
- *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.A Information contrary to public interest to disclose

I have determined that none of the material within the scope of your request contains information that is taken to be contrary to the public interest to disclose under Schedule 1 of the Act. Whilst the document within scope was considered by Cabinet, a significant proportion of the information it contains is now publicly known as a result of the completion of the project and the publication of the [Law Courts Contract Summary](#).

2.B 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 redactions. I have included below the relevant factors for your information.

Factors favouring disclosure

2.1 (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;*
- (iv) *ensure effective oversight of expenditure of public funds;*

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- (viii) *reveal the reason for a government decision and any background or contextual information that informed the decision.*

It is reasonable to expect that there is public interest in the expenditure and the planning and procurement that led to the decision to fund the PPP ACT Court Facilities project. I have placed significant weight on the above factors and note that a considerable amount of the information within scope of this request is publicly available.

Factors favouring non-disclosure

2.2 (a) *disclosure of the information could reasonably be expected to do any of the following:*

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

I have assessed the contact details and signatures of both government and non-government employees as not within the public interest to release, but also note that these redactions are minor in nature and do not significantly alter the substance of the material to be released.

3. Summary of my decision

In conclusion, I have decided to grant you part access to one document.