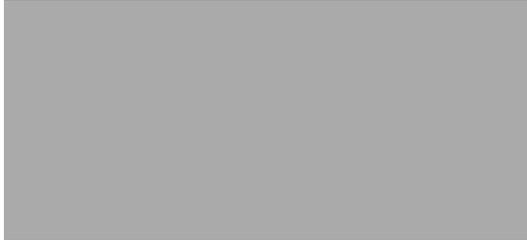




**ACT**  
Government

Justice and Community Safety

**For-Official-Use-Only**



### **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 9 May 2022, in which you sought access to:

*..... copy of the Ministerial Briefs with the titles outlined below:*

- *Approval of an Outside Provider of Emergency Services – JW Motorsport Services – February 2022*
- *Update on the ACT Fires Near Me Application*
- *Proposed listing and relisting of multiple terrorist organisations under the Criminal Code Act 1995 (Cth)*
- *Residential tenancy reform consultation outcomes and next steps*
- *Proposed Listing of Hamas as a Terrorist Organisation under the Criminal Code Act 1995 (Cth)*
- *Automatic Mutual Recognition: Determination to require notification of intention to work in the ACT – approved technicians (gaming machines)*
- *Electoral Amendment Bill 2021 – implications of imposing offence provisions on young people*

I can confirm that third party consultation has been finalised and I would like to thank you for agreeing to an extension of time to respond to this request.

#### **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 seven documents containing information within the scope of your access application. These are outlined in the *Schedule of documents*.

I have decided to:

- grant full access to three documents
- grant part access to two documents
- refuse access to two 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 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 Your personal contact details will not be published.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:

The ACT Ombudsman  
GPO Box 442  
CANBERRA ACT 2601

Via email: [actfoi@ombudsman.gov.au](mailto: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](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](mailto:jacsfoi@act.gov.au) or phone 6207 2167.

Yours sincerely



Naveen Wijemanne  
Information Officer

13 July 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
- consultations with JACS officers
- 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.A Information contrary to public interest to disclose

I have determined that some 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.

##### 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.*

#### Document 7

The Electoral Amendment Bill 2021 brief (document 7) contains information about the implications of imposing offence provisions on young people. Some paragraphs within the brief and an attachment to the brief contains or refers to legal advice and as such, cannot be released.

##### 1.6 Cabinet information

(1) *Information—*

- (a) *that has been submitted, or that a Minister proposes to submit, to Cabinet for its consideration and that was brought into existence for that purpose; or*

- (b) that is an official record of Cabinet; or*
- (c) that is a copy of, or part of, or contains an extract from, information mentioned in paragraph (a) or (b); or*
- (d) the disclosure of which would reveal any deliberation of Cabinet (other than through the official publication of a Cabinet decision).*

Document 4 and 7

Documents 4 and 7 contain information that is expected to go to Cabinet for consideration in the near future. I have decided not to release these briefing packages so as not to undermine or pre-empt the Cabinet process.

Document 6

Document 6 contains reference to policy deliberations of Cabinet, which have not been made publicly available. The disclosure of this information would undermine the confidentiality of the Cabinet process.

**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 bulk of 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**

- (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;*
- (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.*

Noting the broad nature of the briefings and work undertaken, I have placed considerable weight on the release of information where it will inform the community of the government's operations and provide insight into the diverse work being undertaken.

**Factors favouring non-disclosure**

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

- (xii) prejudice an agency's ability to obtain confidential information;*
- (xvi) prejudice a deliberative process of government.*

In relation to document 2, I have decided to partially redact some of the material as it could reasonably prejudice intergovernmental relations and impact on the relationships the Emergency Services Agency has with other jurisdictions.

In addition to the Cabinet considerations, the *Residential tenancy reform consultation outcomes and next steps* briefing to the Attorney-General (document 4) contains some personal information of third parties, information that if released could prejudice an agency's ability to obtain similar information in future consultations. The release of some of this material could also undermine a deliberative process of government as the policy options are still being worked on and considered. Similarly, information in document 7 relating to the *Electoral Amendment Bill 2021 – implications of imposing offence provisions on young people*, contains considerations that are yet to be deliberated by Cabinet.

### **3. Summary of my decision**

In conclusion, I have decided to:

- grant you full access to three documents
- grant you part access to two documents
- refuse access to two documents.