



Australian Government  
The Treasury



29 November 2024  
FOI ref: 3687

Ash Roth

By email: [foi+request-11806-d7e8354d@righttoknow.org.au](mailto:foi+request-11806-d7e8354d@righttoknow.org.au)

Dear Ash Roth

### FREEDOM OF INFORMATION REQUEST – DECISION

I refer to your request to Treasury on 31 July 2024 for access under the *Freedom of Information Act 1982 (FOI Act)*, revised on 30 October 2024, to the following:

*[Final version of formal briefing notes that address the 1.2 million homes target, that were provided to the Minister for Housing in the month of July 2024. This can exclude notes that have been prepared specifically for use in Parliament, or for meetings with external stakeholders (such as states or territories).*

I am an authorised decision maker under section 23 of the FOI Act.

#### **Decision**

The Treasury has identified one document within scope of your revised request (**Document 1**). I have decided to grant access to the document in part for the reasons outlined below. In view of your revised scope limiting the documents within scope of your request, I have also decided to waive in full the charge for processing your request, as notified in my charge decision dated 25 October 2024. The document is attached, edited under section 22 of the FOI Act to remove exempt and irrelevant information. As notified in our acknowledgement email to your request, irrelevant information in this case includes contact information of a Treasury SES officer and all personal information of a non-SES Treasury officer.

#### **Material Considered**

The material to which I have had regard in making this decision includes the scope of the request and content of the document subject to your request, the relevant provisions in the FOI Act and Guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (FOI Guidelines), and advice from subject matter experts within the Treasury and the Department of the Prime Minister and Cabinet.

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***Reasons for decision*****Cabinet documents – section 34**

Section 34(3) of the FOI Act provides that a document is exempt to the extent that it contains information the disclosure of which would reveal a Cabinet decision or deliberation, unless the existence of the deliberation or decision has been officially disclosed. I find this applies to part of Document 1. I have accordingly decided Document 1 is exempt in part under section 34(3) of the FOI Act.

**Agency operations – section 47E(d)**

Section 47E(d) of the FOI Act provides that a document is conditionally exempt if its disclosure would, or could reasonably be expected to, have a substantial adverse effect on the proper and efficient operations of an agency.

The relevant material comprises a preliminary assessment by another agency provided to the Treasury on the understanding the information was unverified and inappropriate for publication. The other part concerns Treasury opinion and advice to the Minister in relation to confidential negotiations.

One of the core functions of the Treasury is to provide sound, confidential and authoritative advice on issues of significance to the Cabinet. Document 1 also contains material, the disclosure of which, would reveal the Treasury's deliberative processes in relation to Cabinet and compromise the confidentiality of the Cabinet process. Some government processes are required to be kept confidential and this is one of them. The principle of protecting Cabinet confidentiality has long been recognized in Australian government processes and in the FOI Act (section 34).

I consider that disclosure of the relevant parts of Document 1 would prejudice the Treasury's operations to a substantial adverse extent. Accordingly, I find that Document 1 is conditionally exempt in part under section 47E(d) of the FOI Act. My consideration of the public interest test is set out below.

**Public interest**

Section 11A(5) of the FOI Act provides that conditionally exempt material must be released unless its disclosure would, on balance, be contrary to the public interest. Section 11B(3) sets out public interest factors favouring release, and section 11B(4) sets out factors that must not be taken into account. The FOI Guidelines set out factors in favour of, and against, releasing conditionally exempt material.

In favour of disclosure, I consider access to the conditionally exempt material would promote the objects of the FOI Act and increase scrutiny of the government's activities.

Against release of the conditionally exempt material in Document 1, I have considered the importance of agencies being able to develop recommendations and advice on core issues in a confidential environment preparatory to policy development by the Government, including through the Cabinet process.

On balance, I consider the public interest factors against disclosure outweigh the factor in favour of disclosure. I have therefore decided Document 1 is exempt in part under section 47E(d) of the FOI Act.

***Rights of Review***

A statement setting out your rights of review in this matter is attached.

***Disclosure Log***

The Treasury publishes documents disclosed in response to FOI requests on the Treasury website on the same day that the decision is sent to an applicant. This is consistent with the arrangements established by section 11C of the FOI Act. In this instance, I find the released document is appropriate for publication.

Yours sincerely

A handwritten signature in black ink, appearing to be 'ND', written in a cursive style.

Nicholas Dowie  
Assistant Secretary  
Housing Strategy Branch

## INFORMATION ON RIGHTS OF REVIEW

### 1. APPLICATION FOR INTERNAL REVIEW OF DECISION

Section 54 of the FOI Act gives you the right to apply for an internal review of the decision refusing to grant access to documents in accordance with your request.

An application for a review of the decision must be made in writing within 30 days of receipt of this letter.

No particular form is required but it would assist the decision-maker if you could set out in the application the grounds on which you consider that the decision should be reviewed.

An application for a review of the decision should be emailed to [FOI@Treasury.gov.au](mailto:FOI@Treasury.gov.au).

OR

### 2. APPLICATION TO AUSTRALIAN INFORMATION COMMISSIONER (INFORMATION COMMISSIONER) FOR REVIEW OF DECISION

Section 54L of the FOI Act gives you the right to seek a review of the decision from the Information Commissioner. An application for review must be made within 60 days of receiving the decision.

An application for review must be in writing and must:

- give details of how notices must be sent to you; and
- include a copy of the notice of decision.

You should send your application for review to:

The Information Commissioner  
Office of the Australian Information Commissioner  
GPO Box 5218  
SYDNEY NSW 2001

AND/OR

### 3. COMPLAINTS TO THE INFORMATION COMMISSIONER

Section 70 of the FOI Act provides that a person may complain to the Information Commissioner about action taken by an agency in the exercise of powers or the performance of functions under the FOI Act.

A complaint to the Information Commissioner must be in writing and identify the agency the complaint is about. It should be directed to the following address:

The Information Commissioner  
Office of the Australian Information Commissioner  
GPO Box 5218  
SYDNEY NSW 2001

The Information Commissioner may decline to investigate the complaint in a number of circumstances, including that you did not exercise your right to ask the agency, the Information Commissioner, a court or tribunal to review the decision.