



## Australian Government

## Department of Social Services

**Our reference:** FOI LEX 45489

**Decision date:** 6 October 2022

**Applicant name:** John Smith

**By email:** foi+request-9353-ac63d7fb@righttoknow.org.au

Dear Mr Smith

### Freedom of Information request FOI LEX 45489

1. I refer to your request received by the Department of Social Services (**the Department**) on 6 September 2022, in which you requested access, under the *Freedom of Information Act 1982 (FOI Act)* to:

*'the titles and delivery dates of all final reports and documents delivered to or produced by the Department, since 1 January 2017, on the topics of both land release (or land supply) and affordable housing (in the same report or document, exact match in terminology not required)'*

2. On 9 September 2022, the Department acknowledged your request and sought your agreement to the removal of the private email addresses, signatures and mobile numbers of all DSS staff, and the removal of the names of non-Senior Executive Service (**non-SES**) staff from any document provided in response to your request. You responded on the same day and agreed to the removal of this information.

### Decision

3. The Department has undertaken a reasonable search of its records and has identified seven (7) documents relevant to your request.
4. In accordance with subsection 17(2) of the FOI Act, I have decided that the Department could produce a written document containing the information you have requested in discrete form, in accordance with paragraph 17(1)(c) of the FOI Act and that in doing so would not substantially and unreasonably divert the resources of the Department from its other operations.
5. Accordingly, the Department has prepared a document that consists of a list of the titles and delivery dates of the 7 documents, in accordance with paragraph 17(1)(c) of the FOI Act (**the document**).
6. I have made a decision to grant access in full to the document.
7. The document that I have chosen to grant access to is listed at **Appendix 1**.

### Authority to make decision

8. I am an officer authorised by the Secretary of the Department to make decisions about access to documents in the possession of the Department in accordance with subsection 23(1) of the FOI Act.



## Background

9. As stated above, the Department received your request on 6 September 2022. Your request was formally acknowledged on 9 September 2022 and you were incorrectly advised that a response was due to you by 7 October 2022. The Department apologises for this error. The 30 day time frame for your FOI request expires on 6 October 2022.
10. As stated above, on 9 September 2022, you agreed to the removal of the private email addresses, signatures and mobile numbers of all DSS staff, and the removal of the names of non- SES staff from any document provided in response to your request

## Material taken into account

11. When making my decision I considered the following:
  - a) the terms of your request;
  - b) the types of information and documents that are in the Department's possession;
  - c) the content of the documents that fall within the scope of your request; and
  - d) consultation with relevant business areas on the documents falling within scope of your request.
12. I also particularly considered the following provisions of the FOI Act:
  - a) section 3, which outlines the objects of the FOI Act, including the Australian community's right of access to information held by the Government of the Commonwealth;
  - b) sections 11 and 11A, which give the Australian community a legally enforceable right to access information held by the Government of the Commonwealth; and
  - c) section 17, that allows the Department to produce a written document containing information in discrete form, if in doing so would not substantially and unreasonably divert the resources of the Department from its other operations.
13. Full extracts of provisions of the FOI Act I have relied on are in **Appendix 2**.
14. I have also had regard to the FOI Guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act.

## Access to documents

15. The document released to you in accordance with the FOI Act is enclosed.

## Publication of information in accessed documents

16. I am of the view that details of your request should be made available on the Department's FOI Disclosure Log. Accordingly, details of your request will be published on the Department's FOI Disclosure Log.



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17. Please note that the Department does not publish details of FOI applicants, it only publishes details of the FOI request and the documents released in response to the request.

### Your rights of review

18. Information about your rights to seek a review of this decision are at **Attachment A**.
19. Should you have any enquiries concerning this matter please do not hesitate to contact the FOI team by email at [FOI@dss.gov.au](mailto:FOI@dss.gov.au).

### Additional Information

20. The documents indicated in paragraph 3 above are publicly available documents. The Department will provide you with links to where you may access these documents on the world wide web.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'R Watt'.

R Watt

Director (A/g)

FOI Section

Legal Services Branch

6 October 2022



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**Department of Social Services**

**Appendix 1**

**Schedule of documents**  
**FOI LEX 45489**

<b>Document No.</b>	<b>No. of pages</b>	<b>Date</b>	<b>Description</b>	<b>Access Decision</b>
1	1	30 September 2022	Document	Full access



**Schedule of relevant provisions used in making this decision**

Excerpts from the *Freedom of Information Act 1982* (Cth)

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**3 Objects—general**

- (1) The objects of this Act are to give the Australian community access to information held by the Government of the Commonwealth or the Government of Norfolk Island, by:
  - (a) requiring agencies to publish the information; and
  - (b) providing for a right of access to documents.
- (2) The Parliament intends, by these objects, to promote Australia's representative democracy by contributing towards the following:
  - (a) increasing public participation in Government processes, with a view to promoting better informed decision-making;
  - (b) increasing scrutiny, discussion, comment and review of the Government's activities.
- (3) The Parliament also intends, by these objects, to increase recognition that information held by the Government is to be managed for public purposes, and is a national resource.
- (4) The Parliament also intends that functions and powers given by this Act are to be performed and exercised, as far as possible, to facilitate and promote public access to information, promptly and at the lowest reasonable cost.

**11 Right of access**

- (1) Subject to this Act, every person has a legally enforceable right to obtain access in accordance with this Act to:
  - (a) a document of an agency, other than an exempt document; or
  - (b) an official document of a Minister, other than an exempt document.
- (2) Subject to this Act, a person's right of access is not affected by:
  - (a) any reasons the person gives for seeking access; or
  - (b) the agency's or Minister's belief as to what are his or her reasons for seeking access.

**11A Access to documents on request**

*Scope*

- (1) This section applies if:
  - (a) a request is made by a person, in accordance with subsection 15(2), to an agency or Minister for access to:
    - (i) a document of the agency; or
    - (ii) an official document of the Minister; and
  - (b) any charge that, under the regulations, is required to be paid before access is given has been paid.

(2) This section applies subject to this Act.

Note: Other provisions of this Act are relevant to decisions about access to documents, for example the following:



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- (a) section 12 (documents otherwise available);
- (b) section 13 (documents in national institutions);
- (c) section 15A (personnel records);
- (d) section 22 (access to edited copies with exempt or irrelevant matter deleted).

#### *Mandatory access—general rule*

- (3) The agency or Minister must give the person access to the document in accordance with this Act, subject to this section.

#### *Exemptions and conditional exemptions*

- (4) The agency or Minister is not required by this Act to give the person access to the document at a particular time if, at that time, the document is an exempt document.

Note: Access may be given to an exempt document apart from under this Act, whether or not in response to a request (see section 3A (objects—information or documents otherwise accessible)).

- (5) The agency or Minister must give the person access to the document if it is conditionally exempt at a particular time unless (in the circumstances) access to the document at that time would, on balance, be contrary to the public interest.

Note 1: Division 3 of Part IV provides for when a document is conditionally exempt.

Note 2: A conditionally exempt document is an exempt document if access to the document would, on balance, be contrary to the public interest (see section 31B (exempt documents for the purposes of Part IV)).

Note 3: Section 11B deals with when it is contrary to the public interest to give a person access to the document.

- (6) Despite subsection (5), the agency or Minister is not required to give access to the document at a particular time if, at that time, the document is both:
  - (a) a conditionally exempt document; and
  - (b) an exempt document:
    - (i) under Division 2 of Part IV (exemptions); or
    - (ii) within the meaning of paragraph (b) or (c) of the definition of exempt document in subsection 4(1).

## **11B Public interest exemptions — factors**

### *Scope*

- (1) This section applies for the purposes of working out whether access to a conditionally exempt document would, on balance, be contrary to the public interest under subsection 11A(5).
- (2) This section does not limit subsection 11A(5).

### *Factors favouring access*

- (3) Factors favouring access to the document in the public interest include whether access to the document would do any of the following:
  - (a) promote the objects of this Act (including all the matters set out in sections 3 and 3A);
  - (b) Inform debate on a matter of public importance;
  - (c) promote effective oversight of public expenditure;
  - (d) allow a person to access his or her own personal information.



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#### *Irrelevant factors*

- (4) The following factors must not be taken into account in deciding whether access to the document would, on balance, be contrary to the public interest:
  - (a) access to the document could result in embarrassment to the Commonwealth Government, or cause a loss of confidence in the Commonwealth Government;
  - (b) access to the document could result in any person misinterpreting or misunderstanding the document;
  - (c) the author of the document was (or is) of high seniority in the agency to which the request for access to the document was made;
  - (d) access to the document could result in confusion or unnecessary debate.

#### *Guidelines*

- (5) In working out whether access to the document would, on balance, be contrary to the public interest, an agency or Minister must have regard to any guidelines issued by the Information Commissioner for the purposes of this subsection under section 93A.

## **15 Requests for access (as related to the requirements for requests)**

#### *Persons may request access*

- (1) Subject to section 15A, a person who wishes to obtain access to a document of an agency or an official document of a Minister may request access to the document.

#### *Requirements for request*

- (2) The request must:
  - (a) be in writing; and
  - (aa) state that the request is an application for the purposes of this Act; and
  - (b) provide such information concerning the document as is reasonably necessary to enable a responsible officer of the agency, or the Minister, to identify it; and
  - (c) give details of how notices under this Act may be sent to the applicant (for example, by providing an electronic address to which notices may be sent by electronic communication).
- (2A) The request must be sent to the agency or Minister. The request may be sent in any of the following ways:
  - (a) delivery to an officer of the agency, or a member of the staff of the Minister, at the address of any central or regional office of the agency or Minister specified in a current telephone directory;
  - (b) postage by pre-paid post to an address mentioned in paragraph (a);
  - (c) sending by electronic communication to an electronic address specified by the agency or Minister.

## **17 Requests involving use of computers etc**

- (1) Where:
  - (a) a request (including a request in relation to which a practical refusal reason exists) is made in accordance with the requirements of subsection 15(2) to an agency;



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- (b) It appears from the request that the desire of the applicant is for information that is not available in discrete form in written documents of the agency; and
- (ba) it does not appear from the request that the applicant wishes to be provided with a computer tape or computer disk on which the information is recorded; and
- (c) the agency could produce a written document containing the information in discrete form by:
  - (i) the use of a computer or other equipment that is ordinarily available to the agency for retrieving or collating stored information; or
  - (ii) the making of a transcript from a sound recording held in the agency;

the agency shall deal with the request as if it were a request for access to a written document so produced and containing that information and, for that purpose, this Act applies as if the agency had such a document in its possession.

- (2) An agency is not required to comply with subsection (1) if compliance would substantially and unreasonably divert the resources of the agency from its other operations.

#### **23 Decisions to be made by authorised persons**

- (1) Subject to subsection (2), a decision in respect of a request made to an agency may be made, on behalf of the agency, by the responsible Minister or the principal officer of the agency or, subject to the regulations, by an officer of the agency acting within the scope of authority exercisable by him or her in accordance with arrangements approved by the responsible Minister or the principal officer of the agency.
- (2) A decision in respect of a request made to a court, or made to a tribunal, authority or body that is specified in Appendix 1, may be made on behalf of that court, tribunal, authority or body by the principal officer of that court, tribunal, authority or body or, subject to the regulations, by an officer of that court, tribunal, authority or body acting within the scope of authority exercisable by him or her in accordance with arrangements approved by the principal officer of that court, tribunal, authority or body.