



ACT
Government

ACT Health

Our reference: **ACTHDFOI22-23.29**

Dear [REDACTED]

DECISION ON YOUR ACCESS APPLICATION

I refer to your application under section 30 of the *Freedom of Information Act 2016* (FOI Act), received by ACT Health Directorate (ACTHD) on **Friday 16 December 2022**.

This application requested access to:

'Any building condition reports relating to Calvary Public Hospital from January 1, 2020 to December 15, 2022.'

I am an Information Officer appointed by the Director-General of ACT Health Directorate (ACTHD) under section 18 of the FOI Act to deal with access applications made under Part 5 of the Act. ACTHD was required to provide a decision on your access application by **Thursday 9 February 2023**.

I have identified five documents holding the information within scope of your access application. These are outlined in the schedule of documents included at Attachment A to this decision letter.

Decisions on Access

I have decided to refuse access to all five documents.

In reaching my access decision, I have taken the following into account:

- The FOI Act;
- The contents of the documents that fall within the scope of your request;
- The views of relevant third parties; and
- The *Human Rights Act 2004*.

Refuse Access

I have decided to refuse access to the documents under Schedule 1.6 (1) Cabinet Information. These documents have been and are proposed to be, in future, provided to Cabinet as part of Cabinet considerations and were created or provided to the Directorate for that purpose. This information is taken to be contrary to the public interest to release as Schedule 1.6 (1)(a) and (d) as the disclosure would reveal any deliberation of Cabinet (other than through the official publication of a Cabinet decision).

As part of this process ACTHD has consulted third parties involved in the identified information and the views of these parties have formed part of my consideration.

In addition, the identified documents contain information that I consider, on balance, to be contrary to the public interest to disclose under the test set out in section 17 of the Act. As such the information contained in these documents is partially comprised of personal information, such as email addresses and phone numbers and the business affairs of non-government businesses.

Public Interest Factors Favouring Disclosure

The following factors were considered relevant in favour of the disclosure of the documents:

- *Schedule 2.1 (a) (i) promote open discussion of public affairs and enhance the government's accountability;*
- *Schedule 2.1 (a) (ii) contribute to positive and informed debate on important issues or matters of public interest;*
- *Schedule 2.1 (a) (iv) ensure effective oversight of expenditure of public funds; and*
- *Schedule 2.1 (a) (viii) reveal the reason for a government decision and any background or contextual information that informed the decision.*

Public Interest Factors Favouring Non-Disclosure

The following factors were considered relevant in favour of the non-disclosure of the documents:

- *Schedule 2.2 (a) (ii) prejudice the protection of an individual's right to privacy or any other right under the Human Rights Act 2004;*
- *Schedule 2.2 (a) (iii) prejudice security, law enforcement or public safety;*
- *Schedule 2.2 (a) (xi) prejudice trade secrets, business affairs or research of an agency or person;*
- *Schedule 2.2 (a) (xiii) prejudice the competitive commercial activities of an agency;*
- *Schedule 2.2 (a) (xv) prejudice the management function of an agency or the conduct of industrial relations by an agency; and*
- *Schedule 2.2 (a) (xvi) prejudice a deliberative process of government.*

In undertaking the public interest test I determine the information identified is contrary to the public interest and I have decided to refuse access to the documents. As specified against each document in the schedule, disclosure of this information would have the detrimental effect of prejudicing the business affairs of non-Government entities, reducing the competitive ability of non-government organisations as well as reasonable expectation to reduce the ability of Government to engage external contractors and/or prejudice the right to privacy of the individuals involved.

Charges

Processing charges are not applicable to this request.

Disclosure Log

Under section 28 of the FOI Act, ACTHD maintains an online record of access applications called a disclosure log. The scope of your access application, my decision and documents released to you will be published in the disclosure log not less than three days but not more than 10 days after the date of this decision. Your personal contact details will not be published.

<https://www.health.act.gov.au/about-our-health-system/freedom-information/disclosure-log>.

Ombudsman review

My decision on your access request is a reviewable decision as identified in Schedule 3 of the FOI 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 ACT Health's 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
Website: ombudsman.act.gov.au

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
Telephone: (02) 6207 1740
<http://www.acat.act.gov.au/>

Further assistance

Should you have any queries in relation to your request, please do not hesitate to contact the FOI Coordinator on (02) 5124 9831 or email HealthFOI@act.gov.au.

Yours sincerely



Liz Lopa
Executive Group Manager
Infrastructure, Communication and Engagement Division
ACT Health Directorate

08 February 2023

FREEDOM OF INFORMATION SCHEDULE OF DOCUMENTS

Please be aware that under the *Freedom of Information Act 2016*, some of the information provided to you will be released to the public through the ACT Government's Open Access Scheme. The Open Access release status column of the table below indicates what documents are intended for release online through open access.

Personal information or business affairs information will not be made available under this policy. If you think the content of your request would contain such information, please inform the contact officer immediately.

Information about what is published on open access is available online at: <http://www.health.act.gov.au/public-information/consumers/freedom-information>

APPLICANT NAME	WHAT ARE THE PARAMETERS OF THE REQUEST	FILE NUMBER
[REDACTED]	<i>'Any building condition reports relating to Calvary Public Hospital from January 1, 2020 to December 15, 2022.'</i>	ACTHDFOI22-23.29

Ref Number	Page Number	Description	Date	Status Decision	Factor	Open Access release status
1.	1 – 143	Calvary Public Hospital Bruce Condition Assessment Report – Northside Hospital Development Options Analysis	28 August 2020	Refuse Release	Schedule 1.6 Cabinet, Schedule 2, 2.2(a)(ii) Privacy, Schedule 2, 2.2(a)(xi) business affairs, Schedule 2, 2.2(a)(xiii) commercial activities, Schedule 2, 2.2(a)(xv) management function and Schedule 2, 2.2(a)(xvi) deliberative process of government.	NO
2.	144 – 306	Northside Hospital Development Options Analysis Report	7 September 2020	Refuse Release	Schedule 1.6 Cabinet, Schedule 2, 2.2(a)(ii) Privacy, Schedule 2, 2.2(a)(xi) business affairs, Schedule 2, 2.2(a)(xiii) commercial activities, Schedule 2, 2.2(a)(xv) management function and Schedule 2, 2.2(a)(xvi) deliberative process of government.	NO

3.	307 – 424	Northside Hospital Development Options Analysis Calvary Public Hospital Bruce SAMP	16 April 2021	Refuse Release	Schedule 1.6 Cabinet, Schedule 2, 2.2(a)(ii) Privacy, Schedule 2, 2.2(a)(xi) business affairs, Schedule 2, 2.2(a)(xiii) commercial activities, Schedule 2, 2.2(a)(xv) management function and Schedule 2, 2.2(a)(xvi) deliberative process of government.	NO
4.	425 – 441	Structural Assessment Calvary Hospital – Bruce Marian and Xavier Buildings	3 February 2022	Refuse Release	Schedule 1.6 Cabinet, Schedule 2, 2.2(a)(ii) Privacy, Schedule 2, Schedule 2.2 (a)(iii) prejudice security, law enforcement or public safety Schedule 2, 2.2(a)(xi) business affairs, Schedule 2, 2.2(a)(xiii) commercial activities, Schedule 2, 2.2(a)(xv) management function and Schedule 2, 2.2(a)(xvi) deliberative process of government.	NO
5.	442 - 465	Structural Condition Assessment - Xavier, Marian and Lewisham Buildings	14 October 2022	Refuse Release	Schedule 1.6 Cabinet, Schedule 2, 2.2(a)(ii) Privacy, Schedule 2, Schedule 2.2 (a)(iii) prejudice security, law enforcement or public safety Schedule 2, 2.2(a)(xi) business affairs, Schedule 2, 2.2(a)(xiii) commercial activities, Schedule 2, 2.2(a)(xv) management function and Schedule 2, 2.2(a)(xvi) deliberative process of government.	NO
Total Number of Documents						
5						