

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 **Monday 12 February 2024**.

This application requested access to:

'Correspondence, documentation and/or images pertaining to the Health Directorate's order to close "Turkish Pide House Belconnen/ Macquarie", including any correspondence or documents that explain why this closure was not listed on ACT Health's Food Offences Register.'

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 18 April 2024**.

I have identified 31 documents holding the information within scope of your access application.

Decisions

I have decided to:

- grant full access to 3 documents; and
- grant partial access to 28 documents.

The documents to be released to you have been deferred. My access decisions are detailed further in the following statement of reasons.

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*.

Full Access

I have decided to grant full access to documents at references 12, 29, and 31.

Partial Access

I have decided to grant partial access to documents at references 1-11, 13-28, and 30.

Redactions have been made to information in all documents 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. The information contained in these documents are partially comprised of email addresses, bank details, mobile phone numbers, signatures, and photos of ACT Government employees and non-ACT government employees.

Documents at references 16-17, and 24-25 contain information that may prejudice the business affairs of non-ACT Government agencies.

Documents at references 8, 17-18, 23, and 26 contain information that may prejudice the competitive commercial activities of non-ACT Government agencies.

Public Interest Factors Favouring Disclosure

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

- Schedule 2, 2.1(a)(i) promote open discussion of public affairs and enhance the government's accountability; and
- Schedule 2.1(a)(xi) reveal environmental or health risks or measures relating to public health and safety.

Public Interest Factors Favouring Non-Disclosure

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

- Schedule 2, 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, 2.2 (a)(xi) prejudice trade secrets, business affairs or research of an agency or person; and
- Schedule 2, 2.2 (a)(xiii) prejudice the competitive commercial activities of an agency.

Following the considerations of the above factors I have decided the factor favouring non-disclosure outweighed the factors favouring disclosure. Therefore, I have determined the information identified is contrary to the public interest and I have decided not to disclose this information.

Deferred Access

I have decided to defer access to 31 documents under section 38(6)(b) of the Act. As part of a consultation process, the relevant third party have provided objections to the release of this information. I have deferred access to this information to enable the third party to exercise their right in reviewing the request of the decision made.

The relevant third party may initiate an Ombudsman review process under part 8, section 73 of the Act. In accordance with section 74(1)(a)(i) of the Act, the third party will be provided a review period of 20 working days from the date this notice is published on the disclosure log. The release of the information will be deferred until this period has lapsed.

Furthermore, if an Ombudsman review process is commenced, the release of the information will be further deferred until a decision is reached by the Ombudsman.

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
Allara House
15 Constitution Avenue
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,



Victor Martin
Executive Branch Manager
Health Protection Services
ACT Health Directorate

18 April 2024