



ACT
Government

Territory and Municipal Services

Dear

Freedom of Information Request

I refer to your application under the *Freedom of Information Act 1989*, received by the Territory and Municipal Services Directorate (TAMS) on 12 April 2013, in which you sought access to documents related to the ACT's rabbit control program.

I am an officer authorised under section 22 of the Act to make a decision in relation to your request.

Decision

The Directorate has located 92 documents within the scope of your request. I have decided to:

- fully release 35 of these documents;
- partially release 56 documents; and
- exempt from release 1 document.

A schedule of documents has been included at [Attachment A](#). I have decided to fully release documents 9-11, 14-25, 27-35, 37-39, 44, 49, 53-54, 77, 89-90 and 92, but have deleted some out of scope information from documents 10, 20-22, 27, 33 and 38.

I have decided to partially exempt documents 1-8, 12-13, 26, 36, 40-43, 45-46, 48, 50-52, 55-57, 59-76, 78-88 and 91 pursuant to section 41 of the FOI Act, which provides:

41 Documents affecting personal privacy

- (1) A document is an exempt document if its disclosure under this Act would involve the unreasonable disclosure of information relating to the personal affairs of any person (including a deceased person).

The exempt material is the personal information of third party correspondents, including their names, email and residential addresses and telephone numbers. I have also removed the mobile details of rangers and TAMS employees as these numbers are provided to a limited number of people in the event of an emergency.

I have also deleted some out of scope information from documents 1-8, 13, 26, 42-43, 46, 51-52, 55, 59, 66, 71-75, 81 and 84.

I have partially exempted document 13 from release pursuant to section 43(1)(c)(i) of the Act, which provides:

43 Documents relating to business affairs

(1) A document is an exempt document if its disclosure under this Act would disclose—

[...]

- (c) information [...] concerning a person in respect of his or her business or professional affairs or concerning the business, commercial or financial affairs of an organisation or undertaking, being information—
- (i) the disclosure of which would, or could reasonably be expected to, unreasonably affect that person adversely in respect of his or her lawful business or professional affairs or that organisation or undertaking in respect of its lawful business, commercial or financial affairs[.]

The exempt material contains pricing information of a third party contractor, and I have decided that the release of this information would unreasonably affect that third party's business affairs, particularly if released to its competitors.

I have decided to partially exempt documents 45 and 47 from release and to fully exempt document 58 from release pursuant to section 36(1) of the Act, which provides:

36 Internal working documents

(1) Subject to this section, a document is an exempt document if its disclosure under this Act—

- (a) would disclose matter in the nature of, or relating to, opinion, advice or recommendation obtained prepared or recorded, or consultation or deliberation that has taken place, in the course of, or for the purposes of, the deliberative processes involved in the functions of an agency or Minister or of the Territory; and
- (b) would be contrary to the public interest.

The documents where I have applied the exemption in section 36(1) relate to individual officers' speculation on future events that did not occur. These documents are deliberative as they exercise judgement in developing strategies and brainstorming for responses to non-existent events.

Section 36(1)(b) of the Act requires me to consider the public interest when applying the exemptions in section 36. In conducting the required public interest test, I have taken the following factors into account when considering whether it is in the public interest to disclose the report:

- The general public interest in government-held information being accessible, particularly as expressed in the Act's object of extending as far as possible the right of the Australian community and, in particular, the citizens of the Territory, to access to information in the possession of the Territory; and
- The public interest in citizens being informed of the processes of government in running a publicly-funded pest management program.

I have taken the following factors into account when considering whether it is against the public interest to disclose these documents:

- The release of tentative, speculative and partially-considered opinions may mislead the public and encourage ill-informed speculation;
- The subject events of the documents did not occur; and
- The speculative opinions expressed in the documents do not reflect the opinion of the government.

In relation to documents 45 and 47, while these documents are deliberative in character I have decided that it would not be contrary to the public interest to release them in part. The documents provide transparency in the considerations that were made in reaching the final decision relating to a media enquiry about the use of Pindone for the rabbit control program. The documents do not, however, necessarily reflect the final decision which can be found in document 48.

In relation to document 58, I have decided that the entire document is speculative and does not necessary reflect founded facts nor does it reflect the opinion of the government. I have therefore decided, on balance, that it is not in the public's best interest to release this document and I have exempted the entire document from release.

You may also be interested in viewing the Rabbit Control Services contract (2011.15967.110) and associated documents which are publically available on the Shared Services Procurement website at:

http://www.procurement.act.gov.au/contracts/contracts_register/contracts/contracts/territory_and_municipal_services_directorate/2011.xxxx.xxx/2011.15967.110.

Out of scope information

Some information has been redacted from documents provided because it is considered out of the scope of your request. These redactions include information on the weed control program, budgeting, damaged signage, meeting locations, Aboriginal and European heritage sites and endangered species and their locations.

In relation to endangered species this information is considered sensitive because it can lead to illegal taking of species, or damage from people visiting the location. If information about the specific location of threatened species is made public, then a significant risk to the species may occur. Given that this information is not pertinent to your request about rabbit management, and is of a sensitive nature, any reference to the location of an endangered species has been deleted.

Fees and charges

Freedom of information requests attract fees and charges for time spent searching and retrieving documents, decision-making time and photocopying.

You have requested remission of any applicable charges on the basis that the release of the documents is in the public interest. I accept that, in this instance, there is a public interest in the release of these documents and I have agreed to remit all charges incurred in relation to this request.

Right of review

If you are dissatisfied with my decision, you have the right to seek an internal review. If you wish to seek an internal review you should write to:

The Director-General
Territory and Municipal Services Directorate
C/- Freedom of Information Officer
GPO Box 158
CANBERRA ACT 2601

You have 28 days from the date of the decision letter to seek a review of the outcome or such other period as the Director-General permits.

ACT Civil and Administrative Tribunal

If you are still dissatisfied after the directorate has conducted an internal review, you can seek an independent review of the decision by the ACT Civil and Administrative Tribunal. You have 28 days from the date of the internal review decision to seek a review from the Tribunal.

The Tribunal is an independent body. It can agree with, change or reject the original decision, substitute its own decision or send the matter back to the decision maker for reconsideration in accordance with Tribunal recommendations.

To apply to the Tribunal for a review you can obtain an application form from the Tribunal (www.acat.act.gov.au). The postal address of the Tribunal is:

ACT Civil and Administrative Tribunal
GPO Box 370
CANBERRA ACT 2601

Ombudsman

You also have the right to complain to the Ombudsman about the processing of your request. If you wish to lodge a complaint you should write to:

The ACT Ombudsman
GPO Box 442
CANBERRA ACT 2601

Further information

If you have any questions in relation to your request please contact the Directorate's FOI Coordinator on 6205 5408 or tamsfoi@act.gov.au.

Yours sincerely



Fay Steward
Executive Director
Parks and City Services Division

28 May 2013
