## 19 Access application decision notice

[Date]

Our reference: [agency reference]

[Name]
[Address]

Via email only: [Email address]

Dear [Name]

**DECISION ON YOUR ACCESS APPLICATION**

I refer to your access application made under the *Freedom of Information Act 2016* (**FOI Act**), dated [date of access application], and received by the [agency name] on [date received].

This application requested access to:

‘[quote scope of access application]’

[Insert any revisions the applicant made, any correspondence extending the processing time].

*Authority*

I am an information officer appointed by the Director-General of the [agency name] to make decisions about access to government information, in accordance with section 18 of the FOI Act.

*[include where deemed refusal]*

I note that you have not been provided with a decision notice within the statutory processing period.

This means that the decision on your access application is now a ‘deemed refusal’ by operation of section 39(1)(a) the FOI Act.

Nonetheless, we have continued to process your access application and my notice of decision is set out below.

*Decision*

[CHOOSE THE APPROPRIATE ONE]

1. [GIVING FULL/PARTIAL ACCESS]

I have identified [number of documents] documents containing information within the scope of your access application. These are outlined in the attached *Schedule of documents*.

I have decided to:

* grant full access to [X document/s]
* grant part access to [X document/s]
* refuse access to [X document/s]

For the reasons outlined in the attached *Reasons for decision*, I have refused access to some of the information that you have requested under section 35(1)(c) of the FOI Act. This is because it is contrary to the public interest information.

1. [REFUSE ACCESS TO ALL]

I have identified [number of documents] documents holding information within the scope of your access application. These are outlined in the in the attached *Schedule of documents.*

For the reasons outlined in the attached *Reasons for decision*, I have decided to refuse access to all these documents under section 35(1)(c) of the FOI Act. This is because they contain contrary to the public interest information.

1. [INFORMATION NOT HELD]

For the reasons outlined in the attached *Reasons for decision*, I have decided to refuse your access application under section 35(1)(b) of the FOI Act on the basis that the information sought is not held by our agency.

1. [REFUSE TO DEAL]

For the reasons outlined in the attached *Reasons for decision*, I have decided to refuse to deal with your access application under section 43 of the FOI Act because [insert grounds for refusal and explanation].

1. [REFUSE TO CONFIRM OR DENY]

For the reasons outlined at in the attached *Reasons for decision*, I have decided to refuse to confirm or deny the existence of the requested information under section 35(1)(e) of the FOI Act.

This is because the information, if it did exist, would be contrary to the public interest information, and confirming or denying that the information is held by the agency would, or could reasonably be expected to [insert relevant reasoning under 35(1)(e)(ii)].

Please also find relevant sections of the FOI Act attached.

*Disclosure of information*

The documents are attached.

[IF DEFERRING ACCESS]

[Third party objection]

Despite my decision, I have not yet provided you with a copy of the relevant documents. This is because a relevant third party has objected to disclosure of [some/all] of the identified information.

I am required to defer access to this information to give the third party the opportunity to apply for a review of my decision. They will have 20 working days to do so from when my decision is published on our disclosure log (see below).

I will provide you with a copy of the document when access is no longer deferred or advise you that a review process is underway so you can participate if you wish.

[Information to be made available shortly]

Despite my decision, I have not yet provided you with a copy of the relevant documents. This is because I have decided to defer access to the information requested under section 49 of the FOI Act.

I have done this because [reasons/explanation].

Access to the requested information will be provided by [date access will be provided – no longer than 3 months]. You will be sent a copy of the relevant documents on or before this date.

*Disclosure log*

Please note that section 28 of the FOI Act requires publication of access applications and any information subsequently released on our disclosure log [insert link].

This means that if access to the information is granted, it will also be made publicly available our website, unless the access application is an application for your personal, business, commercial, financial or professional information.

*Review rights*

You may apply to the ACT Ombudsman to review my decision under section 73 of the FOI Act.

An application for review must be made in writing within 20 days of my decision being published in the disclosure log on [date] [OR] An application for review must be made within 20 days of receipt of this decision notice.

You may submit a request for review of my decision to the ACT Ombudsman by writing in one of the following ways:

Email (preferred): actfoi@ombudsman.gov.au

Post: The ACT Ombudsman
GPO Box 442
CANBERRA ACT 2601

More information about ACT Ombudsman review is available on the ACT Ombudsman website at: <http://www.ombudsman.act.gov.au/improving-the-act/freedom-of-information>.

Yours sincerely

[INFORMATION OFFICER]

#### Schedule of documents

*[APPLICANT NAME] – [AGENCY REFERENCE NUMBER]*

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Document reference number | Page number | Date | Description | Decision | Category or Factor |
|  | [insert page numbers] | Click or tap to enter a date. | [insert document description] | Choose an item. | [insert schedule 1 or 2 reference] |
|  | [insert page numbers] | Click or tap to enter a date. | [insert document description] | Choose an item. | [insert schedule 1 or 2 reference] |
|  | [insert page numbers] | Click or tap to enter a date. | [insert document description] | Choose an item. | [insert schedule 1 or 2 reference] |

#### Reasons for decision

What you requested

 ‘[quote access application]’

What I took into account

In reaching my decision, I took into account:

* your original access application dated [date of access application]
* your revised access application dated [date of revised scope]
* correspondence between you and the agency dated [date of relevant correspondence, for example, clarifying the request]
* the documents containing the information that fall within the scope of your access application
* consultation with [a third party/third parties] about information concerning them
* consultation with other [ACT] Government agencies
* consultations with agency officers about:
	+ the nature of the documents
	+ the agency’s operating environment and functions
* the FOI Act
* the ACT Ombudsman FOI Guidelines

Reasons for my decision

I am authorised to make decisions under section 18 of the FOI Act.

I have decided that [all/some] documents OR [parts of documents] that contain the information you requested contain information that is taken to be contrary to the public interest to disclose under Schedule 1 of the FOI Act OR would, on balance, be contrary to the public interest to disclose under the test set out in section 17 of the FOI Act. My findings of fact and reasons are discussed below.

[Factor 1]

I have applied [factor] of the FOI to [parts/all] of [document reference].

[Factor] of the FOI Act provides that:

 ‘[quote the FOI Act]’

*[Element 1 of factor 1]*

Refer to any evidence/materials you used to base your decision on.

Explain the rational connection between findings of fact, evidence and the conclusion/decision you arrived at.

*[Element 2 of factor 1]*

*[Element 3 of factor 1]*

[Factor 2]

[Factor 3]

*Example*

Schedule 2, section 2.2(a)(ii)

I have applied Schedule 2, section 2.2(a)(ii) to parts of document 1.

Schedule 2, section 2.2(a)(ii) is a factor favouring nondisclosure if:

disclosure of the information could reasonably be expected to prejudice the protection of an individual’s right to privacy or any other right under the Human Rights Act 2004.

*Would disclosure of the information prejudice the protection of an individual’s right to privacy?*

I am satisfied the disclosure of some information contained in document 1 could reasonably be expected to prejudice the protection of an individual’s right to privacy.

The information I have decided not to disclose includes an individual’s personal contact phone numbers and medical information. In particular, I consider the information is not well-known or publicly available and the information was provided by the individual to the agency in their personal capacity.

On this basis, I am satisfied disclosure of some information contained in document 1 could reasonably be expected to prejudice the protection of an individual’s right to privacy.

*Public interest considerations*

The public interest test set out in section 17 of the FOI Act involves a process of balancing public interest factors favouring disclosure against public interest factors favouring nondisclosure to decide whether, on balance, disclosure would be contrary to the public interest.

When weighing up the public interest for and against disclosure under Schedule 2 of the FOI Act, I have taken into account relevant factors in favour of disclosure. In particular, I have considered the extent to which disclosure would promote the objects of the FOI Act and promote open discussion of public affairs and enhance the government’s accountability.

Based on the above, I have decided that in this instance, the public interest in disclosing the information in document 1 is outweighed by the public interest against disclosure because the disclosure of information of this nature would significantly prejudice the relevant individual’s privacy.

I have not taken into account any of the irrelevant factors set out in section 17(2) of the FOI Act in making this decision.

Summary of my decision

In conclusion, I have decided to:

* grant you full access to [X] document/s (document [doc ref number from schedule])
* grant you part access to [X] document/s (document [doc ref number from schedule])
* refuse access to [X] document/s (document [doc ref number from schedule])

#### Relevant sections of the FOI Act

[include sections 7, 16, 17, and relevant sections of Schedule 1 and/or Schedule 2]