



ACT
Government

Transport Canberra and
City Services

FREEDOM OF INFORMATION COVERSHEET

The following information is provided pursuant to section 28 of the *Freedom of Information Act 2016*.

FOI reference: TCCSFOI 18-055

| Information to be published | Status |
|---|---------------|
| 1. Access application | Published |
| 2. Decision notice and schedule | Published |
| 3. Documents | Not Published |
| 4. Additional information identified | n/a |
| 5. Fees | n/a |
| 6. Processing time (in working days) | 48 days |
| 7. Decision made by Ombudsman | n/a |
| 8. Additional information identified by Ombudsman | n/a |
| 9. Decision made by ACAT | n/a |
| 10. Additional information identified by ACAT | n/a |

Fee Waiver

If you wish to apply for a fee waiver, the Act sets out a number of provisions to do so:

- The information being requested was previously publicly available but no longer is.
- The information being requested is of special benefit to the public (Ombudsman guidelines see Section 66).
- The applicant is a concession card holder and demonstrates a material connection with the information requested (concession cards include a current health care or pensioner card issued under the [Social Security Act 1991](#); a current pensioner concession card issued in relation to a pension under the [Veterans' Entitlements Act 1986](#) or [the Military Rehabilitation and Compensation Act 2004](#); a current gold card; or a card prescribed by regulation).
- The applicant is a not-for-profit organisation and the application relates to the activities or purposes of the organisation.
- The applicant is a member of the Legislative Assembly.

[AGENCY] must waive any fees for providing information if the information was not publicly available and the agency makes the information publicly available before or within 3 working days after giving it to the applicant.

Fee waiver application (fill in if applicable. Otherwise leave blank)

I would like to apply for a fee waiver because (state reason/s from the list above).

[provide details and evidence of how this reason applies]

I would like

A list of the dates inspections were carried out in 2016, 2017 and 2018 in relation to concerns and complaints that were raised about kitten farming etc at [REDACTED].

In relation to each in the above list, an extract from the briefing of the findings, decisions and/or recommendations to either TAMS/TCCS directorate Executive/s or Minister/s.

APPLICANTS SIGNATURE

DATE OF REQUEST

[REDACTED]

5 July 2018



ACT
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Transport Canberra and
City Services

[REDACTED]

Dear Ms [REDACTED]

Freedom of information request: Reference 18-055

I refer to your application made under the *Freedom of Information Act 2016* (the FOI Act), received by the Transport Canberra and City Services Directorate (TCCS) on 5 July 2018, in which you sought access to:

1. a list of the dates inspections were carried out in 2016, 2017 and 2018 in relation to concerns and complaints that were raised about kitten farming at [REDACTED] and
2. to each of in the above list, an extract from the briefing of the findings, decisions and/or recommendations to either TAMS/TCCS directorate Executive/s or Minister/s.

I am an Information Officer appointed by the Director-General under section 18 of the Act to deal with access applications made under Part 5 of the Act and I apologise for the delay in responding to your request.

Decision on access

Part 1

I can confirm that a *list* of dates inspections were carried out in 2016, 2017 and 2018 at [REDACTED] has not been identified. However documents in relation to the investigations have been identified which provide dates that certain actions and activities were undertaken. These documents have been identified under part 2 of your request.

Part 2

In relation to any findings of inspections or investigations carried out during 2016 and 2017, Domestic Animal Services has located 28 documents (85 pages). I have included at Attachment A to this decision the schedule of the relevant documents. This provides a description of each document that falls within the scope of your request and the access decision for each of the documents.

In relation to the outcomes of inspections undertaken in 2018, the outcome and findings are yet to be decided. The matter is scheduled for consideration by the TCCS Licensing and Compliance Regulatory Advisory Committee (RAC) for advice to the Domestic Animal Registrar. On this basis there are no documents that fall within your request in relation to 2018. I will, however, make a decision to you on access of RAC's deliberations once this process has been finalised and have asked the FOI team to monitor progress of the matter.

In relation to the documents identified for 2016 and 2017 to your request, I have decided that the documents contain information that I consider to be, on balance, contrary to the public interest to disclose under the test set out in section 17 of the Act.

I have decided to grant access, under section 50 of the Act, to copies of documents (Attachment B) with deletions applied to information that I consider would be contrary to the public interest to disclose.

Statement of Reasons

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

The Act, in particular:

- Schedule 2

Factors favouring disclosure (Schedule 2)

- Section 2.1 (a)(vii) - advance the fair treatment of individuals and other entities in accordance with the law in their dealings with government;
- Section 2.1 (a)(viii) – reveal the reason for a government decision and any background or contextual information that informed the decision; and
- Schedule 2, Section 2.1 (b)(i) – the person making the request.

Factors favouring non-disclosure (Schedule 2)

- Section 2.2 (a)(ii) – prejudice the Protection of an Individual’s Right to Privacy.

I have decided to provide partial access to the documents with information deleted that would be contrary to public interest to disclose under Schedule 2, Section 2.2 (a)(ii) of the FOI Act. This section of the Act applies to the disclosure of personal information of a third party.

Schedule 2 of the FOI Act also lists factors favouring disclosure in the public interest. Section 2.1 (vii) favours the release of documents which ‘reveal the reason for a government decision and any background or contextual information that informed the decision’. Information contained in these documents identify the reasons and recommendations that were made by Domestic Animal Services in relation to this matter.

Considering the type of information I propose to withhold from release I am satisfied that the factors in favour of release can still be met while protecting the personal information of individuals involved. I find the protection of this information outweighs disclosure in this instance. As a result, I have decided that release of this information (name and contact details of third parties) could prejudice their right to privacy under the *Human Rights Act 2004*.

Charges

I have waived fees (\$12.00) associated with your access application because the documents being released marginally exceeds the fee-free threshold.

Online publishing – disclosure log

Under section 28 of the Act, TCCS maintains an online record of access applications called a disclosure log. Your original access application and my decision will be published in the TCCS disclosure log from 3 days after the date of this decision. Your personal details will not be published.

As this information is not part of the Open Access Information Scheme, the documents will not be published online. You may view TCCS' disclosure log at [www.tccs.act.gov.au/about-us/freedom of information](http://www.tccs.act.gov.au/about-us/freedom_of_information).

Ombudsman review

My decision on your access request is a reviewable decision as identified in Schedule 3 of the Act. You have the right to seek an Ombudsman review of this outcome under section 73 of the Act within 20 working days from the day that my decision is published in TCCS' 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: ombudsman@ombudsman.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 ACAT at:

ACT Civil and Administrative Tribunal
Level 4, 1 Moore Street
GPO Box 370
CANBERRA CITY ACT 2601
Telephone: (02) 6207 1740
www.acat.act.gov.au

If you have any questions concerning the directorate's processing of your request, or would like further information, please contact the directorate's FOI Coordinator on 6205 5408 or email tccs.foi@act.gov.au.

Yours sincerely



Cherie Hughes
Information Officer

12 September 2018