

2022

**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

TENTH ASSEMBLY

**Environment, Planning and Sustainable Development Directorate Notice provided to the
Ombudsman pursuant to Section 39 of the Freedom of Information Act 2016 – FOI 22/43004 &
FOI 22/52495**

**Presented by
Rebecca Vassarotti MLA
Minister for Sustainable Building and Construction
August 2022**



ACT
Government

Environment, Planning and
Sustainable Development

ACT Ombudsman

By email: ACTFOI@ombudsman.gov.au

Dear Ombudsman

Freedom of Information Request – Notice that decision was not made in time

I am writing to inform you that due to processing delays and staff absences, the decisions on the release of information on two *Freedom of Information Act 2016* (the FOI Act) access applications by the same applicant were not made in the time allowed under section 40 of the Act.

The access applications (22/43004 and 22/52495) received by the Environment, Planning and Sustainable Development Directorate (EPSDD) on 6 April and 28 April 2022 both sought information in relation to the Master Builders Fidelity Fund.

In relation to application 22/43004, the request was for access to documents that had previously been refused by EPSDD under an earlier access decision and currently subject to Ombudsman review. The Information Officer decided to consult a third party. Due to some unexpected staff absences due to illness, the letter to the third party was not dispatched by the Information Governance team within the required period. The Directorate contacted the applicant by email on 27 May 2022 seeking an extension of time under section 41(1) of the Act. The applicant refused this request. The legislated due date was 31 May 2022. The Directorate continued to process the application and a notice of decision was sent to the applicant on 30 June 2022.

In relation to application 22/52495, the request was for answers to questions rather than access to information. The Information Officer was already preparing a response to the questions, outside the FOI process but decided to undertake further searches to identify documents that may answer the applicant's question. Due to conflicting priorities, the Information Officer was unable to decide the application before leaving the position. A new Information Officer commenced in the role and decided the application. The legislated due date was 3 June 2022. The Directorate continued to process the application and a notice of decision was sent to the applicant on 18 July 2022.

The Directorate advised the applicant of the deemed refusals under section 39 of the Act, and the applicant was agreeable to receiving the decisions once finalised.

EPSDD is committed to meeting the deadlines prescribed by the Act and will be looking to minimise any potential for such delays to occur in the future.

Yours sincerely

A handwritten signature in black ink, appearing to read 'J. Bennett', written in a cursive style.

James Bennett

A/g Executive Branch Manager, Planning and Urban Policy

26 July 2022