

From: [Agostino, Julia](#)
To: [REDACTED]
Subject: Decision on your access application
Date: Tuesday, 8 September 2020 3:43:00 PM

OFFICIAL: Sensitive

Dear [REDACTED]

DECISION ON YOUR ACCESS APPLICATION

I refer to your access application made under the *Freedom of Information Act 2016 (FOI Act)*, dated 30 July 2020 and received by the Office of the Legislative Assembly (OLA) on that day.

I also refer to my email to you of 20 August 2020, in which I provided you with 'notice of intention to refuse to deal with your access application' and outlined next steps. You have not provided OLA with an amended application or any additional information relevant to your application within the timeframe given in that email.

Decision

I have decided to refuse to deal with your access application under section 43(1)(e) of the FOI Act.

I explained in my email of 20 August 2020 that your access application is expressed to relate to government information of a kind that is taken to be contrary to the public interest to disclose under Schedule 1 of the FOI Act. Schedule 1, Section 1.1(c)(i) of the FOI Act provides for non-disclosure where disclosing documents would infringe the privileges of the Legislative Assembly. As set out in my earlier email, the reasons for my decision are as follows:

The material that you have requested relates to the Speaker's consideration of matters that arise in connection with the members code of conduct (see Continuing Resolution 5 of Assembly Standing Orders) and Broadcasting Guidelines applying to, among other matters, filming within the Assembly precincts. The Speaker's consideration of these matters, and advice rendered to assist in her consideration, is protected by parliamentary privilege.

Parliamentary privilege attaches to words spoken and acts done in the course of, or for the purpose of or incidental to, the transacting of business in parliament. (*See Parliamentary Privileges Act 1987 (Cth) s 16(2). The parliamentary privileges of the Legislative Assembly are the same of those of the Commonwealth Parliament: see s24 of the Australian Capital Territory (Self-Government) Act 1988 (Cth).*)

The documents you have requested were created '*for the purpose of or incidental to, the transaction of business in parliament*' and are therefore protected by privilege and exempt from disclosure pursuant to Schedule 1 of the FOI Act.

A decision can be made not to disclose information where it is considered to be in a category listed in Schedule 1, without the need to weigh up any competing public interest factors for and against disclosure. Nonetheless, parliamentary privilege is an important protection ensuring that the Legislative Assembly is able to effectively perform its legislative representative and accountability related function.

It is critical to the working of the Assembly that any Member be able to approach the Clerk and other OLA staff for advice on a range of matters. Members do so with the expectation that advice is given confidentially and that it is protected by the privileges attached to the work of parliaments.

Disclosure log

The Act requires that details regarding your request such as your application, decision notices, and information released to you, must be recorded in the agency disclosure log and be made publicly available after the decision on access has been provided to you. Please be aware that while no personal information will be included in the published information, all other information will be published on the Assembly website.

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 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 the ACT Ombudsman review is available on their website at www.ombudsman.act.gov.au.

Yours sincerely

Julia Agostino

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Please note that I do not work every second Friday.



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