

Our reference: CIT2022–013/014/015/016

[REDACTED]

By email: [REDACTED]

Dear [REDACTED]

DECISION ON YOUR ACCESS APPLICATION

I refer to your access applications made under the *Freedom of Information Act 2016 (FOI Act)* received by the Canberra Institute of Technology (CIT) by email on 11 August 2022. In your applications you requested CIT provide you with the following information:

CIT FOI 2022-013: “a copy of the full contract C170363 between CIT and KPMG from 01.01.2016 – 31.12.2016” including “deadlines and deliverables as well as any reports or analyses prepared for CIT as a part of this contract”.

CIT FOI 2022-014: “a copy of the full contract C170487 between CIT and KPMG from 1.01.2017 – 31.12.2017” including “deadlines and deliverables as well as any reports or analyses prepared for CIT as a part of this contract”.

CIT FOI 2022-015: “a copy of the full contract C170488 between CIT and KPMG from 21.06.2017 and 31.12.2017” including “deadlines and deliverables as well as any reports or analyses prepared for CIT as a part of this contract”.

CIT FOI 2022-016: “a copy of the “Analysis of the Contribution of CIT to the ACT Economy and Community”, a KPMG Report prepared for CIT in September 2018” including “a full version of the aforementioned contract with KPMG, including deadlines and deliverables”.

On 28 September 2022, following a discussion with your office, the scope of the access request was refined to remove draft versions of deliverables on the basis information contained in the drafts is ostensibly the same as that provided in the final versions.

Authority

I am a Senior Executive Officer acting as the CIT Information Officer appointed to make decisions about access to government information, in accordance with section 18 of the FOI Act.

Third Party Consultation

In making this decision, consultation has been completed with relevant a relevant third party in accordance with section 38 of the FOI Act. The views of this third party were taken into account when making this decision.

Decision

A search of all CIT records has identified 13 documents containing information that is within the scope of your access application. I have decided not to grant access to the identified document on the basis that its release is contrary to the public interest in accordance with the definition in section 16(a) of the Act. A schedule of documents identified as part of this process is found at Attachment A to this letter.

My access decision is detailed further in the following statement of reasons provided in accordance with section 54(2) of the FOI Act.

Statement of Reasons

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

- Your original access applications.
- The documents that fall within the scope of your access application.
- The FOI Act.
- The ACT Ombudsman FOI Guidelines.
- Statements made by third parties identified for consultation.

Section 16(a) of the Act provides that information is considered to be contrary to the public interest in circumstances where the information requested falls with the categories prescribed in schedule 1 of the Act. In reviewing the material which is within the scope of your request and considering information provided to me by relevant third parties I have determined that the following schedule 1 factors apply:

- Schedule 1.14 – Law Enforcement or public safety information.

Specifically, I consider release of the information within the scope of your access application would *prejudice the investigation or possible contravention of the law in a particular case (schedule 1.14(a))* and *prejudice a person's fair trial or the impartial adjudication of a matter before a court or tribunal (schedule 1.14(e))*.

On 23 June 2022 the ACT Integrity Commission (the Commission) made a public announcement that it has commenced an investigation into “the circumstances surrounding the awarding of over \$8.5 million worth of consultancy contracts by the CIT to ThinkGarden and Redrouge Nominees Pty Ltd”. On

24 August 2022, the Commission informed the Select Committee on Estimates 2022-23 that the investigation was ongoing, with more than one million documents needing to be reviewed and about 20 witness examinations needing to occur.

In deciding this access application, I considered it necessary to consult with the Integrity Commissioner to ensure that release of the requested information did not fall within the purview of the documents referred to in their statement of 24 August 2022.

In response to my request for third party consultation, the Integrity Commission advised that the documents within the scope of your access request contain material related to, either directly or indirectly to the awarding of consultancy contracts by the CIT and has been assessed as having evidentiary value to the Commission's investigation. The Commission has advised that the need for secrecy particularly in their early stages of an investigation is imperative as it minimises the risk of prejudice to the investigation and the safety and reputation of witnesses and other persons of interest, being compromised. Further it ensures there is no contamination or interference with the evidence of any witnesses summonsed by the commission.

Having regard to the information contained in the documents subject to this request and the views of the third parties consulted pursuant to section 38 of the Act, I have decided that release of the information within the scope of your access request is not within the public interest.

Pursuant within section 35(c) of the Act I am required to refuse to provide access to the information requested.

Disclosure log

Please note that section 28 of the FOI Act requires publication of access applications and any information subsequently released on CIT's disclosure log at:
https://cit.edu.au/about/freedom_of_information/disclosure_log.

This means that if access to the information is granted, it will also be made publicly available on 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 19 October 2022.

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



Steven Wright
A/g Executive Director, Corporate Services &
Information Officer

29 September 2022