



Cat

By email: foi+request-13264-d347d6f4@righttoknow.org.au

Dear Cat

Freedom of Information Request 53952 – Decision on access

I refer to the *Freedom of Information Act 1982 (FOI Act)* request to the Department of Social Services (**Department**) on 6 June 2025. The request seeks access to:

1. *All documents, draft documents, correspondence and attachments created since commencement of the National Disability Insurance Scheme Amendment (Getting the NDIS Back on Track No. 1) Act 2024, relating to mapping NDIS supports lists to the Convention on the Rights of Persons with Disabilities (CRPD) for the purposes of the transitional or final NDIS Supports (s10) rule*
2. *Any training materials or briefings on CRPD matters for the purposes of the s10 rule*
3. *An indexed list of all evaluations and stakeholder consultations undertaken on the s10 rule between 1 November 2024 to 5 June 2025, representatives who attended these, and whether stakeholders were subject to confidentiality or non-disclosure agreements*

I am authorised to make decisions in respect of FOI requests under subsection 23(1) of the FOI Act.

Decision

I have decided to grant partial access to the documents sought by the request as they contain material that is:

- exempt under section 42 (legal professional privilege) of the FOI Act;
- conditionally exempt under section 47C (deliberative matter) of the FOI Act and access to that material would be contrary to the public interest; and/or
- irrelevant to the request and deleted under section 22 of the FOI Act.

The documents and my decision in relation to each are set out in the Schedule of Documents at **Attachment A (Schedule)**.

The reasons for my decision are set out in the Statement of Reasons at **Attachment B**.

Review rights and complaints

Information concerning how you may seek a review of this decision or make a complaint about the handling of this request is at **Attachment C**.

Publication

Section 11C of the FOI Act requires agencies to publish details on how to access documents released in response to FOI requests on their website within 10 days of release unless except where that publication would be unreasonable.

The documents released in response to this request do not contain any information that would be unreasonable to publish. As a result, details on how to access them will be published on the Department's disclosure log within 10 days of this decision.

Contact

If you would like to discuss any aspect of my decision, please contact me at foi@dss.gov.au.

Yours sincerely



Heather D
Authorised FOI Decision Maker

7 July 2025

Attachments

- A – Schedule of Documents
- B – Statement of Reasons
- C – Review Rights

SCHEDULE OF DOCUMENTS

Doc No	Description of document	Decision
1	<i>Email</i> Subject: CRPD table	<i>Release in part</i> Section 22 – non-SES staff personal information
1a	<i>Document</i> Supports, Impairments and the intersection with the CRPD	<i>Release in part</i> Section 47C – deliberative material
2	<i>Email</i> Subject: CRPD table	<i>Release in part</i> Section 22 – non-SES staff personal information
2a	<i>Document</i> Supports, Impairments and the intersection with the CRPD	<i>Release in part</i> Section 47C – deliberative material
3	<i>Email</i> FOR REVIEW & ACTION_ NDIS Supports CRPD Mapping and request for LSG advice	<i>Release in part</i> Section 22 – non-SES staff personal information Section 42 – legal advice Section 47C – deliberative material
3a	<i>Document</i> NDIS Supports - CRPD Mapping	<i>Release in part</i> Section 47C – deliberative material
3b	<i>Document</i> Attachment to Document 3	<i>Exempt in full</i> Section 42 – legal advice
4	<i>Email</i> FW_ CRPD table	<i>Release in part</i> Section 22 – non-SES staff personal information
4a	<i>Document</i> Supports, Impairments and the intersection with the CRPD	<i>Release in part</i> Section 47C – deliberative material
5	<i>Email</i> FW_ s10 mapping to the CRPD	<i>Release in part</i> Section 22 – non-SES staff personal information Section 47C – deliberative material
5a	<i>Document</i> s10 CRPD mapping	<i>Release in part</i> Section 47C – deliberative material
6	<i>Email</i> Mapping NDIS Supports to CRPD	<i>Release in part</i> Section 22 – non-SES staff personal information and Microsoft teams meeting details Section 47C – deliberative material

Doc No	Description of document	Decision
6a	<i>Document</i> DRAFT Bare-Hybrid-Specific NDIS Supports List for Cat A rule1	<i>Release in part</i> Section 47C – deliberative material
7	<i>Email</i> NDIS Supports mapping discussion	<i>Release in part</i> Section 22 – non-SES staff personal information and Microsoft teams meeting details Section 47C – deliberative material
7a	<i>Document</i> NDIS Supports Mapping	<i>Release in part</i> Section 47C – deliberative material
8	<i>Email</i> RE: s10 mapping to the CRPD	<i>Release in part</i> Section 22 – non-SES staff personal information Section 42 – legal advice Section 47C – deliberative material
9	<i>Email</i> RE: s10 mapping to the CRPD	<i>Release in part</i> Section 22 – non-SES staff personal information Section 42 – legal advice Section 47C – deliberative material
10	<i>Email</i> Request for advice	<i>Exempt in full</i> Section 42 – legal advice
10a	Attachment to Document 10	<i>Exempt in full</i> Section 42 – legal advice
10b	Attachment to Document 10	<i>Exempt in full</i> Section 42 – legal advice
10c	Attachment to Document 10	<i>Exempt in full</i> Section 42 – legal advice
11	<i>Email</i> Monday, 20 January 2025 3:21:41 PM	<i>Release in part</i> Section 22 – non-SES staff personal information Section 42 – legal advice
11a	<i>Document</i> Summary	<i>Exempt in full</i> Section 42 – legal advice
12	<i>Document</i> FOI Request – table of stakeholders	<i>Release in full</i>

STATEMENT OF REASONS

Material on which the decision is based

1. I relied on the following material in coming to this decision:
 - the terms of the FOI request;
 - the documents subject to the FOI request;
 - advice from subject matter experts within the Department regarding the nature and sensitivity of the documents subject to the request;
 - the FOI Act; and
 - the Guidelines issued by the Office of the Australian Information Commissioner under section 93A of the FOI Act (**FOI Guidelines**).

Section 22 – Irrelevant material

2. Under section 22 of the FOI Act, the Department may delete material from documents that it considers irrelevant to the scope of your request.
3. At the outset of this request, you agreed to exclude the following information from its scope:
 - a) group email addresses used for internal departmental purposes;
 - b) all personal information of members of the public;
 - c) all personal information of non-Senior Executive Service (SES) government staff;
 - d) all personal information of SES level government staff with the exception of the names of the Department's SES staff; and
 - e) Microsoft teams meetings dial-in information.
4. Where present in the documents, this information has been deleted under section 22 of the FOI Act.

Section 42 – Legal Professional Privilege

5. Section 42 of the provides that a document is an exempt document if it is of such a nature that it would be privileged from production in legal proceedings on the ground of legal professional privilege.
6. Certain documents subject to the request (as identified in the Schedule) contain legal advice and/or communication with legal advisors. I am satisfied that privilege over this material has not been waived, and accordingly that it is exempt under section 42 of the FOI Act.

Section 47C – Deliberative Matter

7. Section 47C of the FOI Act provides in part that a document is conditionally exempt if its disclosure would reveal matter (**deliberative matter**) in the nature of, or relating to, opinion, advice or recommendations obtained, prepared or recorded, or consultation or deliberation that has taken place, in the course of, or for the purposes of, the deliberative processes involved in the functions of an agency. Access to the conditionally exempt document may only be withheld where it is contrary to the public interest.
8. Certain documents subject to the request (as identified in the Schedule) contain early thinking of potential designs of the s 10 instrument for consideration by the Department. I am satisfied that this information meets the definition of deliberative matter as set out above and is therefore conditionally exempt under section 47C of the FOI Act.

9. When considering whether access to this deliberative matter is contrary to the public interest, I acknowledge that access would inherently promote the objects of the FOI Act, demonstrating full transparency of government. However, providing access may pre-empt the finalisation of the s 10 instrument design, and would adversely affect the Department's ability to finalise it on its current schedule. This adverse effect outweighs any benefit that could flow from disclosing that information.

10. As a result, I am satisfied that access to the deliberative matter would be contrary to the public interest and have decided to withhold access to it.

INFORMATION ON REVIEW RIGHTS

You may seek review of this decision via:

- (a) an internal review; or
- (b) the Australian Information Commissioner (**Information Commissioner**).

Internal review

If you apply for internal review, a fresh decision will be made by a different decision-maker within the Department. An application for internal review must be:

- (a) made in writing;
- (b) made within 30 days of receiving this letter; and
- (c) sent to foi@dss.gov.au.

The application should also include the reasons why you think this decision should be reviewed.

If the internal review decision results in you not being provided access to all of the documents to which you have requested access, you have the right to seek a further review by the Information Commissioner.

Information Commissioner review

You can apply for the Information Commissioner to review this decision either immediately or following an internal review decision. You must apply to the Information Commissioner within 60 days of the receipt of this decision letter.

Further details on this process can be found on the Information Commissioner's website at <https://www.oaic.gov.au/>.

COMPLAINTS TO THE INFORMATION COMMISSIONER

You may also make a complaint to the Information Commissioner concerning actions taken by the Department while exercising its powers or performing its functions under the FOI Act.

Further details on this process can be found on the Information Commissioner's website at <https://www.oaic.gov.au/>.