



Australian Government
**Australian Building and
Construction Commission**

20 October 2017

Slater and Gordon
Suite 15, Level 1
71 Leichhardt Street
Kingston ACT 2604

By email:

Dear Mr

Freedom of Information Request – Decision

I refer to your email and attached letter (both dated 14 September 2017) to the Australian Building and Construction Commission (the ABCC). By that correspondence you sought access to documents under the *Freedom of Information Act 1982 (the FOI Act)*. The email stated:

Dear Sir/Madam

Application for the purposes of the Freedom of Information Act

We act for the CFMEU General and Construction Division, ACT Branch.
Pursuant to the Freedom of Information Act 1982, please provide us with the following documents:

1. Documents which disclose the legal costs and disbursements paid or payable by the Fair Work Building Industry Inspectorate and/or the Australian Building and Construction Commission in the following legal proceedings:
 - i. Commissioner, Australian Building and Construction Commission v Dean Hall and Others No. CAG 78/2014.
 - ii. Director of the Fair Work Building Industry Inspectorate v Dean Hall and Others – No. ACD 65/2015
 - iii. Australian Building and Construction Commissioner v Dean Hall and Others – No. ACD 25/2017

(FOI request.)

The attached letter provided two contact sources (noted above).

Brief overview

The ABCC acknowledged receipt of the FOI request on 28 September 2017, and we informed you that, pursuant to section 15(5) of the FOI Act, the ABCC has 30 days to deal with an FOI request.

By this correspondence, the ABCC consulted with you with respect to the FOI request. We noted that the nature of the FOI request was one that sought access to certain documents that disclose legal costs paid or payable by the former Fair Work Building Industry Inspectorate as well as the ABCC. We then asked whether it was acceptable to you in respect of the FOI request to process it by providing the total amounts relevant to the legal costs in substitute for documents.

In a responding email on the same day you confirmed the following:

We agree with your proposal to provide "total amounts in response to the FOI request in substitution for documents", but only with the following provisos.
We reserve our rights to press the FOI claim further, if what is disclosed is not reasonable in terms of satisfying the FOI request.
The total legal costs (including disbursement) must disclosed separately for each of the three cases which are the subject of the FOI request.
We require confirmation for each matter that all of the costs and disbursements are being disclosed.

(Varied disclosure.)

I also confirm we wrote to you on 16 October 2017 indicating the ABCC would require additional time to process your request and would do so no later than 20 October 2017.

What follows is a decision to disclose information in the circumstances set out above.

Authority and material considered

I am authorised to make a decision under the FOI Act because of a delegation made by the ABC Commissioner on 8 September 2017. The delegation is accessible on the ABCC website (<https://www.abcc.gov.au/about/delegation-and-appointments>).

In reaching my decision I have had regard to:

- The terms of the FOI request and of the varied disclosure;
- The search conducted for the information relevant to the varied disclosure;
- The FOI Act and the relevant guidelines issued by the Office of the Australian Information Commissioner (OAIC), including: Parts 1 and 3 (particularly paragraphs 3.1-3.5, 3.75-3.77); and

The legal costs and disbursements paid by the Fair Work Building Industry Inspectorate and the Australian Building and Construction Commission in relation to the below matters are as follows:

No. CAG 78 of 2014

A. Item	B. Total (\$)
External legal provider	\$904,499.11
Counsel disbursements	\$62,359.70
Other costs	\$19,662.56
Total figure	\$986,521.37

No. ACD 65 of 2015

A. Item	B. Total (\$)
External legal provider	\$508,770.97
Counsel disbursements	\$136,315.31
Other costs	\$20,964.09
Total figure	\$666,050.37

No. ACD 25 of 2017

A. Item	B. Total (\$)
External legal provider	\$33,220.20
Counsel disbursements	\$9,090.91
Other costs	\$2,570.00
Total figure	\$44,881.11

No charges

I confirm that there are no charges for this FOI request.

Internal Review and Complaints

I am not the principal officer of the ABCC.

As a result, you are entitled to seek an internal review of the decision. You have 30 days from the date of this letter to seek an internal review application. You may do so in writing to: **Freedom of Information (ABCC)**, at either of the following contact addresses:

By post: GPO Box 9927 MELBOURNE VIC 3001 Australia
By email: foi@abcc.gov.au

Please note in your application the decision you wish to be reviewed.

You may also submit an information review request to the OAIC about the processing of your FOI request. More details are accessible from the OAIC's website: www.oaic.gov.au/

If you have any questions about this matter, please contact the ABCC's FOI Section (contact addresses listed above).

Yours sincerely



Ben Vallenge
Australian Building and Construction Commission