

HIGH COURT BACKS BRACKET CREEP SECRET

*By Matthew Moore, Sydney Morning Herald
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The High Court has narrowly rejected a landmark appeal on Freedom of Information laws upholding the view of the Treasurer, Peter Costello, that it was not in the public interest to release documents about the first home owners scheme and bracket creep.

In a three to two majority, the court found no error in law when the Treasurer signed documents, called conclusive certificates, which state the release of the documents was not in the public interest.

It was widely regarded as the most important court test on the Freedom of Information law since its inception 24 years ago.

In the case, the Freedom of Information editor of *The Australian* newspaper, Michael McKinnon, argued in the High Court that the Administrative Appeals Tribunal had not properly considered the competing facets of the public interest when it found the certificates had been lawfully imposed.

But the court found the tribunal was not allowed under the FOI law to assess for itself what the public interest required when deciding if the certificates had been correctly imposed. FOI experts said the decision would entrench the problems with the FOI Act and discourage the pursuit of documents such as those sought by McKinnon.

The shadow attorney-general, Nicola Roxon, said FOI had become a joke under what she called an arrogant, out-of-touch Government, but the law would clearly allow this situation to continue unless it was changed.

McKinnon had sought access to documents that included details of the number of wealthy people fraudulently claiming the \$7000 government grants offered under the first home owners scheme.

Source: <http://www.smh.com.au/news/national/high-court-backs-bracket-creep-secret/2006/09/06/1157222173260.html>