



**Freedom of Information 19/34123**

I refer to your application under section 30 of the *Freedom of Information Act 2016* (the Act), received by the Environment, Planning and Sustainable Development Directorate (EPSDD) on 29 October 2019, in which you sought access to documents relating to the SPIRE project located at the Canberra hospital.

Specifically, you are seeking:

*documents dated from 1 November 2016 related to change in the scope, location, timing and estimated cost of the Surgical Procedures Interventional Radiology and Emergency or SPIRE project.*

*In particular, seeking access to:*

- a) Briefs prepared for Ministers related to the SPIRE project including estimates briefs, annual reports briefs, question time briefs and all other types of briefs;*
- b) Documents related to the transfer of responsibility for the project from ACT Health and Canberra Health Services to Major Projects;*
- c) Communications strategy and related documents related to SPIRE including social media material;*
- d) Planning documents related to the SPIRE including traffic studies and other studies performed as part of developing the project;*
- e) Correspondence with other directorates, unions, professional organisations, community groups and other relevant persons about changes to the location, scope, timing or cost of the project;*
- f) Documents related to meetings to discuss SPIRE including agenda and minutes of meeting. This does not include documents of a purely administrative nature such as booking a room;*
- g) Documents related to consultation with Canberra Health Services staff, professional organisations, local residents, regional residents and other relevant bodies related to changes in the location, scope timing or cost of SPIRE;*
- h) Costing of the SPIRE project, including for its changed location and scope; and*
- i) Contracts related to planning for SPIRE Project Main Works and SPIRE Project Enabling Works and any relevant development applications related to the SPIRE project documents.*

I note that you have advised that you do not seek copies of duplicated material, automatically generated response emails, administration checklists and draft versions of documents where final copies are held.

I am an Information Officer appointed under section 18 of the Act to deal with access applications made under Part 5 of the Act.

With your agreement, EPSDD is required to make a decision on your access application on or before 10 December 2019.

### **Searches Undertaken**

Comprehensive searches have been conducted and 128 documents have been identified as relevant to your request.

The schedule of relevant documents can be found at **Attachment A** to this decision. This schedule provides a description of each document and the access decision of each.

### **Decision on Access**

ACT Health, as the lead agency for SPIRE boards and committees, will be responding to your application on SPIRE board/committee papers. To avoid duplication, these documents are not included in EPSDD's response.

I have decided to grant access in full to 86 documents which are considered relevant to your request.

One document contains duplicate information, this is noted on the schedule but not provided.

I have refused access to five documents. Four of these documents are refused under section 43(1)(d) as these documents have already been made available to the public. Hyperlinks to the public information have been provided in the schedule of documents at **Attachment A**. One document has been refused in full under Schedule 1.6 of the Act as it includes Cabinet information.

I have granted partial access to 36 documents in order to make information available to you where some of the information contained in these documents is contrary to the public interest to release. Section 50 of the Act provides that access may be given to a copy of a record from which the contrary to the public interest information has been deleted.

Copies of the documents (portions of the documents) released to you are provided as **Attachment B** to this letter.

I note that your Office has been notified that Development Application (DA) 201936089 is currently still under assessment and an arrangement was made to provide you with 41 public register documents for DA 201936089 by Access Canberra Environment, Planning and Land Shopfront Dickson.

### **Material Considered**

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

- the FOI Act, particularly sections 17, 43, 45, 50, Schedules 1 and 2;
- the content of the documents that fall within the scope of your request;
- the *Information Privacy Act 2014*.

### **Public Interest Considerations**

My reasons for deciding not to grant access to the identified documents and components of these documents are as follows:

### **Information Disclosure – Contrary to the Public Interest under Schedule 1 of the Act**

Information relevant to your application is identified to fall under Schedule 1.6 (1) and is therefore taken to be contrary to the public interest to disclose.

Scheduled item 102 has been submitted to Cabinet for its consideration was brought into existence for that purpose and is excluded from release under Schedule 1.6 (1)(a). Items 103 to 106 contain an extract from item 102 and therefore fall under section 1.6(1)(c) of the Act. I have further considered that the disclosure of this information would not serve to further open discussion, government accountability, informed debate and reveal the reasons for a government decision and any contextual or background information.

This information does not identify corruption or the commission of an offence by a public official or that the scope of a law enforcement investigation has exceeded the limits imposed by law.

### **Information Disclosure – Contrary to the Public Interest under Schedule 2 of the Act**

#### Personal Information

In assessing the public interest for this section, I must apply the test outlined under section 17 of the Act which requires consideration of factors favouring disclosure, any favouring nondisclosure and the balance of those factors when considered collectively.

#### *Factors favouring disclosure*

- Schedule 2.1 (a)(i) promote open discussion of public affairs and enhance the government's accountability;
- Section 2.1(a)(ii) contribute to positive and informed debate on important issues or matters of public interest;
- 2.1(a)(viii) reveal the reason for a government decision and any background or contextual information that informed the decision.

I have considered the release of the information relevant to your application may promote open discussion of public affairs and enhance government accountability, contribute to a positive and informed debate and reveal the reasons for a government decision.

I am satisfied that the disclosure of identified personal information could be reasonably be expected to prejudice the protection of an individual's right to privacy under the *Human Rights Act 2004*. This is a factor favouring nondisclosure under Schedule 2.2 (a)(ii) of the Act.

It is my view that the personal information identified in these documents would not serve to further the public interest and therefore I have decided to provide this information to you with personal information removed in accordance with section 50 of the Act.

#### **Charges**

Processing charges are not applicable for this application in accordance with the Act.

#### **Online Publication**

Under section 28 of the Act, EPSDD maintains an online record of access applications called a disclosure log. Your original access application, my decision and documents released to you in response to your access application will be published in the EPSDD disclosure log from three days after you have received this decision letter. Your personal contact details will not be published.

You may view the EPSDD's disclosure log at:

<https://www.environment.act.gov.au/about/access-government-information/disclosure-log>

## **Ombudsman Review**

My decision on your access request is a reviewable decision as identified in Schedule 3 of the Act. You have the right to seek Ombudsman review of this outcome under section 73 of the Act within 20 working days from the day that my decision is published in the disclosure log, or a longer period allowed by the Ombudsman.

For more information and the application form for Ombudsman review, please visit:

[http://www.ombudsman.act.gov.au/data/assets/pdf\\_file/0026/79190/40A-Reviews-Factsheet-and-Application-Form-final-A1569634.pdf](http://www.ombudsman.act.gov.au/data/assets/pdf_file/0026/79190/40A-Reviews-Factsheet-and-Application-Form-final-A1569634.pdf)

If you wish to request a review of my decision you may write to the Ombudsman at:

The ACT Ombudsman  
GPO Box 442  
CANBERRA ACT 2601

Via email: [actfoi@ombudsman.gov.au](mailto:actfoi@ombudsman.gov.au)

## **ACT Civil and Administrative Tribunal (ACAT) Review**

Under section 84 of the Act, if a decision is made under section 82(1) on an Ombudsman review, you may apply to the ACAT for review of the Ombudsman decision.

Further information may be obtained from the ACAT at:

ACT Civil and Administrative Tribunal  
Level 4, 1 Moore St  
GPO Box 370  
Canberra City ACT 2601

Telephone: (02) 6207 1740

<http://www.acat.act.gov.au/>

## **Further Information**

If you have any queries concerning the Directorate's processing of your request, or would like further information, please contact EPSDD Customer Service on 02 6207 1923 and ask for the FOI team, or email to [EPSDFOI@act.gov.au](mailto:EPSDFOI@act.gov.au)

Yours sincerely



Brett Phillips

Information Officer  
Environment, Planning and Sustainable Development Directorate

10 December 2019