



ACT
Government

Environment, Planning and
Sustainable Development

Phone: 02 6207 1923
Reference: 20/82441

By email: [REDACTED]

Dear [REDACTED]

Freedom of information request: 20/82441

I refer to your access application under section 30 of the *Freedom of Information Act 2016* (the Act), received by the Environment, Planning and Sustainable Development Directorate (EPSDD) on 21 October 2020, in which you sought access to information relating to DA201935337 since 6 July 2020.

Specifically, you are seeking:

Further information and all documentation and records relevant to DA201935337 since the last information was provided from you on 6 July 2020. This would comprise all records of communication both phone and electronic and record of meetings held with the applicant and/or proponent. Additionally, would you advise if there has been any further request for the developer to provide information either in the form of an s141 or otherwise or any further amendment submitted by the developer.

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

The EPSDD is required to make a decision on your access application on or by 18 November 2020.

I note that you that your correspondence originally addressed to Mr James Bennett at Planning and Delivery was subsequently forwarded to the Information Knowledge Management Team for processing under the *Freedom of Information Act 2016* (the ACT).

Decision on access

Searches were completed for relevant documents and five documents were located that fall within the scope of your request.

I have included as **Attachment A** to this decision the schedule relating to the relevant documents. The schedule provides a description of the documents that fall within the scope of your request and the access decision relating to these documents.

I have decided to grant full access to one document relevant to your application.

I have decided to grant access to four documents with exemptions applied to information that I consider would be contrary to the public interest to disclose, under section 50 of the Act. My access decision is detailed further in the following statement of reasons and the document released to you is provided as **Attachment B** to this letter.

Material Considered

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

- the FOI Act, particularly sections; 17, 50 and Schedule 2;
- the content of the document that falls within the scope of your request;
- the *Information Privacy Act 2014*
- Information informally released.

Public Interest Considerations

My reasons for deciding not to grant access to components of documents are explained below; these documents contain information that I consider to be contrary to the public interest to disclose.

Information Disclosure – Contrary to the Public Interest under schedule 2 of the Act

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

Factors Favouring Disclosure

Disclosure of the identified information could reasonably be expected to do the following:

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

I have given regard to the special public interest in the proposed development application of the Canberra recycling development and the release of some of the requested information may assist in public understanding of government decisions. I have also given regard to the advancing public understanding and transparency in government development application processes. It is for this reason that I have decided to release to you five documents in part or in full (as outlined in the attached schedule).

Factors favouring Non-disclosure

In applying the public interest test, I have determined that disclosure of the information could reasonably be expected to do the following:

- Schedule 2.2(a)(ii) – prejudice the protection of an individual's right to privacy or any other right under the *Human Rights Act 2004*

Personal Information

Some items are scheduled for partial release as they contain information that falls within the meaning of personal information as defined by the Act. I have considered the release of personal information and my view in this instance is that the identification of third parties would not serve to further open discussion, government accountability, informed debate and the provision of contextual or background information.

I am satisfied that the disclosure of this personal information could 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, section 2.2(a)(ii) of the Act. In balancing public interest considerations, I am satisfied that, on the information available, disclosure of the identified personal information may constitute a breach of privacy and is therefore contrary to the public interest.

Charges

Processing charges are not applicable to this application, as the number of pages released is below the minimum threshold.

Online publishing – disclosure log

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 released documents will be published in the EPSDD disclosure log. Your personal contact details will not be published.

You may view the EPSDD's disclosure log at:

<http://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

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

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:

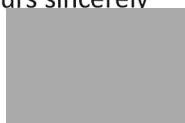
ACT Civil and Administrative Tribunal
Level 4, 1 Moore St
GPO Box 370
Canberra City ACT 2601
Telephone: (02) 6207 1740

<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 62071923 and ask for the FOI team, or email to EPSDFOI@act.gov.au

Yours sincerely



Brett Phillips
Information Officer
Executive Group Manager, Planning Delivery
Environment, Planning and Sustainable Development Directorate

17 November 2020