



ACT
Government

Environment, Planning and
Sustainable Development

Phone: 6207 1923
Reference: 19/22580

Dear Mr [REDACTED]

Freedom of Information Request: 19/22580

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 8 July 2019, in which you sought access to the Ministers "Call-in powers" related to DA201835109 (Block 21, Section 30 Dickson)."

As agreed via email on 16 August 2019, EPSDD is required to decide on your access application by 10 September 2019.

I am an Information Officer appointed under section 18 of the Act to deal with access applications made to EPSDD and am writing to provide you with my decision on access under the Act.

Identified records

A total of 258 documents, have been identified as relevant to the scope of your request, as set out in the schedule at **Attachment A**.

Decision on Access

As an Information Officer, I am required to allow access to information subject to the Act unless, on balance, disclosure would be contrary to the public interest. I have included, as **Attachment A** to this decision, the schedule of relevant documents. This schedule provides a description of each document that falls within the scope of your request and the access decision for each of those documents.

I am granting access to 204 documents in full, the partial release of 49 documents and refusal of two documents (Scheduled item 21 and 197 -Annexure A2) under section 43(d) of the Act as these publicly available for purchase and refusal of two documents (Scheduled item 21 and 184) as it contains business affairs of an agency. In addition, any identified duplicates of documents have not been provided.

Public Interest – section 17

The Act recognises the right of every person to obtain access, under its provisions, to government information (see section 7, the Act). As an Information Officer, I am required to allow access to information subject to the Act, unless, on balance, disclosure would be contrary to the public interest.

In assessing the public interest, I must apply the cascading test set out by section 17 of the Act which requires consideration of factors favouring disclosure, any favouring nondisclosure and the balance of those factors when considered cumulatively.

Personal Information

Some items are scheduled for partial release as they contain personal information of third-parties and the internal layout of a residence, which I consider, if disclosed, could reasonably be expected to prejudice the protection of an individual's right to privacy under the *Human Rights Act 2004*

I have considered the Territory Privacy Principles of the *Information Privacy Act 2014* and my view on the release of this information is that the identification of these third parties would not serve to further open discussion, government accountability, informed debate and the provision of contextual or background information.

I am further satisfied that the disclosure of identified 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 2.2(a)(ii) of the Act.

In balancing public interest considerations, I am satisfied that, on the information available, disclosure of the identified personal information of members of the public may constitute a breach of privacy and disclosure is therefore contrary to the public interest.

However, in line with section 50 of the Act, I have decided to grant access to these documents with redactions applied to the information that I am satisfied would be contrary to the public interest to disclose.

Business affairs

I have identified as relevant in considering your access application is the prejudice that could occur in releasing trade secrets, business affairs or research of an agency. Having reviewed the documents identified, I am satisfied that the documents contain information related to the business affairs of Coles. I am of the view that the information contained in the documents is sensitive in nature as it contains business affairs and personal information; this is a factor favouring nondisclosure under Schedule 2.2(a)(xi) of the Act.

I have considered the release of business affairs information and whether the disclosure of that information would serve to further open discussion, government accountability, informed debate and the provision of contextual or background information.

In balancing the factors in favour of release against the factors favouring nondisclosure, I have concluded that the disclosure of this business information would on balance, be contrary to public interest disclosure.

Online Publication – 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 documents released to you in response to your access application will be published in the disclosure log. Your personal contact details will not be published.

You may view our disclosure log at <http://www.environment.act.gov.au/about/access-government-information/disclosure-log>.

Ombudsman Review

My decision on your access application 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

Alternatively, 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

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

Yours sincerely


George Cilliers

Information Officer
Environment, Planning and Sustainable Development Directorate

10 September 2019

