



**ACT**  
Government

Environment, Planning and  
Sustainable Development

Phone: 6207 1923  
Reference: 19/21891

Dear [REDACTED]

### **Freedom of Information 19/21891**

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:

*“public information in regards to the DA Approval of works currently being undertaken on Block 20 Section 48 Belconnen and Block 13 Section 48 Belconnen, under the Freedom of Information Act 2016.*

*I am requesting all documentation, including relevant emails, their attachments and planning documentation pertaining to Block 20 Section 48 Belconnen and Block 13 Section 48 Belconnen.”*

On 9 August 2019, clarification of your application was provided, you are seeking:

- 1. public information in regards to the DA Approval of works currently being undertaken on Block 20 Section 48 Belconnen and Block 13 Section 48 Belconnen (Public register information from Development Applications lodged after January 2016)*
- 2. all documentation, including relevant emails, their attachments and planning documentation pertaining to Block 20 Section 48 Belconnen and Block 13 Section 48 Belconnen relating to Development Applications lodged after January 2016*

*Please limit documents to the following:*

- DA documents submitted limited to statement against criteria and plans only*
- Notice of decisions provided*
- Stamped plans provided*
- Entity advice from any notice of decisions”*

Documents relating to part one of your application have been provided by Access Canberra. This decision addresses part 2 of your application.

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

Thank you for agreeing to an extended due date of 20 September 2019.

Searches were completed for relevant documents and two development application files were identified as relevant to your request. A total of 224 documents were identified that

fall within the scope of your request: One hundred and thirty five documents relevant to DA201630289 and eighty nine documents relevant to DA201732800

I have included as **Attachment A** to this decision the schedule of relevant documents. This provides a description of each document that falls within the scope of your request and the access decision for each of those documents.

### **Decision on Access**

I have decided to grant access in full to 172 documents.

I have refused access to 18 documents in full, and 3 documents in part under section 43(1)(d) as this information is publicly available from <https://actlis.act.gov.au/>

Five documents are refused under Schedule 2.2 (a)(xi), documents relating to business affairs.

Documents identified as relevant to your request contain information that I consider to be information that would, on balance, be contrary to the public interest to disclose under the test set out in section 17 of the Act.

I have decided to grant access to these 26 documents under section 50 of the Act with deletions applied to information that I consider would be contrary to the public interest to disclose.

My access decisions are detailed further in the following statement of reasons and the documents released to you are 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 17, 43, 50 and Schedule 2
- the content of the documents that fall within the scope of your request
- the *Information Privacy Act 2014* (the Privacy Act)
- the *Human Rights Act 2004*

### **Public Interest Considerations**

My reasons for deciding not to grant access to the identified documents and 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**

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 factors favouring nondisclosure and the balance of those factors when considered cumulatively.

### Personal Information

I have considered the release of some of the personal information contained within the documents, and my view in this instance is that it 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 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.

### Business Affairs

Several documents identified in scope contain business information in the form of methodology used to determine property valuations. The release of this information would reasonably prejudice trade secrets and business affairs of an identified business, a factor favouring non-disclosure under Schedule 2.2(a)(xi) of the Act. I have considered the context of the information contained within the documents and whether disclosure of the information would serve to further open discussion, government accountability, and the provision of contextual, or background information.

In reaching my decision, I have weighed public interest considerations, and relevant factors under the provisions of the Act, and concluded that the disclosure of the identified trade secrets and business affairs information would be an unreasonable disclosure and may prejudice business affairs under Schedule 2.2(a)(xi) of the Act. Therefore, I have concluded that disclosure of this information is contrary to the public interest to release.

### **Online Publication**

Under section 28 of the Act, the 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 no earlier than three days after you receive this decision. 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)

Alternatively, 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



George Cilliers

Information Officer  
Environment, Planning and Sustainable Development Directorate

20 September 2019