



ACT
Government

Environment, Planning and
Sustainable Development

Phone: 6207 1923
Reference: 19/09329

Dear [REDACTED]

Freedom of information request: Notifiable Instrument 2010-382

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 18 March 2019, in which you sought access to technical amendment advice.

Specifically, you are seeking:

“a copy of the planning and land authority's advice, in relation to Technical Amendment 2010-20 (NI2010-382), that addressed the issue of whether the changes made in NI2010-382 were consistent with the description of Technical Amendments in Section 87 of the Planning and development Act.”

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

EPSDD is required to make a decision on your access application by 15 April 2019.

Decision on access

Searches were completed for documents relevant to your access request and 2 documents were identified that fall within the scope of your request.

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

I have decided to grant access, under section 50 of the Act, to copies of documents 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 Freedom of Information Act 2016, with consideration given to sections 17, 35 and Schedule 2;
- the content of the documents that fall within the scope of your request;
- the *Information Privacy Act 2014*

Exemptions claimed

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

Contrary to the public interest information under Schedule 2 of the FOI Act

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

Personal Information

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 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. Disclosure of the information could reasonably be expected to interfere with the protection of the privacy of the individual's concerned this is a factor favouring nondisclosure under Schedule 2.2 (a) (ii) of the Act.

On balance of these public interest considerations and the information available, I have concluded that disclosure of the identified personal information contained within the documents may constitute a breach of those individuals' privacy and is therefore contrary to the public interest.

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 documents released to you in response to your access application will be published in the EPSDD disclosure log from 3 days after the date of decision. 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/>

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



Kathy Cusack

Information Officer

Environment, Planning and Sustainable Development Directorate

10 April 2019

