



ACT
Government

Environment, Planning and
Sustainable Development

Phone: 6207 1923
Reference: 19/05088 & 19/07013

Dear [REDACTED]

Freedom of information request: 19/05088 and 19/07013 – Section 28 Greenway

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) and the Suburban Land Agency on 15 February 2019, in which you sought access to documents relating to Section 28 Greenway.

You are seeking:

Documents within the date range of January 2010 to 15 February 2019, in relation to the “Land” being any blocks of Section 28 Greenway as specified within your access application.

As your applications were similar a single portfolio response/decision will be provided.

On 1 March 2019, Transport Canberra and City Services partially transferred a request in which additional documents were included.

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.

An extension was granted by the ACT Ombudsman and therefore, the EPSDD is required to make a decision on your access application by 22 May 2019.

Decision on access

Searches were completed for relevant documents and 184 documents were identified that fall within the scope of your request.

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.

I have decided to grant access, in full to 72 of the documents.

One duplicated document is identified in the schedule and therefore not been provided. Forty-four documents identified within the scope of your request however, were assessed in previous completed access requests. These documents are available on the EPSDD disclosure log. A hyperlink has been provided on the schedule.

I have refused access to seven documents. These documents are either publicly available for purchase, or with redactions applied as they provide information of no additional value to your request.

I have decided to grant access under section 50 of the Act, to copies of documents with deletions applied to information that I consider out of scope of your request, or contrary to

the public interest to disclose. The release status of these 60 documents is indicated in the attached schedule as "Partial release".

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 decision, I have taken the following into account:

- the Act, particularly sections 17, 38, 50 and Schedule 2;
- the content of the documents that fall within the scope of your request;
- the *Information Privacy Act 2017* (Privacy Act); and
- the view of third parties relating to the release of information of their concern.

Exemptions Claimed

My reasons for deciding not to grant access to documents in full are as follows:

Contrary to the public interest information 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 favouring nondisclosure and the balance of those factors when considered cumulatively.

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 Territory Privacy Principles of the Privacy Act and the release of this information, and my view in this instance 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.

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 and my decision will be published in the EPSDD disclosure log from three 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

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 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



Brett Phillips
Information Officer
Environment, Planning and Sustainable Development Directorate

2) May 2019