



ACT
Government

Environment, Planning and
Sustainable Development

Phone: 6207 1923
Reference: 19/16094

By email: [REDACTED]

Dear [REDACTED]

Freedom of information request: 19/16094

I refer to your application under section 30 of the *Freedom of Information Act 2016* (the Act), received by Environment, Planning and Sustainable Development Directorate (EPSDD) on 28 May 2019, in which you sought access to documents relating to Development Application 201834426 for 9 Forbes Street Turner ACT 2612, for the period between 18 September 2018 and 28 May 2019.

Specifically, you are seeking:

"...I request all documents associated with DA201834426 (also known as 9 Forbes Street Turner ACT 2612), produced between 18 September 2018 and today 28 May 2019."

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 provide a decision on your access application in accordance with Section 41 of the Act, by 12 July 2019.

Decision on access

Searches were completed for relevant documents and 185 documents were located that fall within the scope of your request.

I have included as **Attachment A** to this decision the schedule of relevant documents. The 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 have decided to grant access to 126 documents in full.

I have decided to refuse access to three documents in full, as I consider the information contained within these documents to be contrary to the public interest.

Fifty-six documents identified as relevant to your request contain information that I consider 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 copies of these documents with deletions applied to this information.

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 16, 17, 23, 35 and Schedule 2;
- the content of the documents that fall within the scope of your request;
- The *Information Privacy Act 2014*; and
- information publicly available.

Public Interest Considerations

My reasons for deciding not to grant access to documents and portions of documents are as follows:

Information Disclosure - Contrary to the Public Interest under Schedule 2 of the FOI Act

In assessing the public interest, I must apply the test outlined under section 17 of the Act which requires consideration of 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 the factors I have considered to favour disclosure: to further to pen 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 this information could reasonably be expected to interfere with the protection of the privacy of the individuals concerned and this is a factor favouring nondisclosure under Schedule 2.2 (a) (ii) of the Act.

I have considered whether public benefit would be served by the release of this information and I have decided, on balance, that it would be contrary to the public interest to disclose the personal information identified.

Business Affairs

Several documents identified in scope contain business information. 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, 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 this decision date. 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/>

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

12 July 2019

