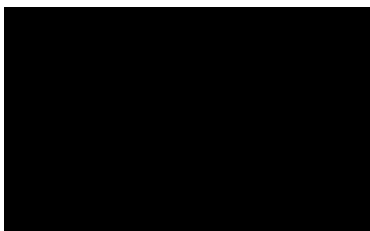




ACT
Government

Environment, Planning and
Sustainable Development

Phone: 6207 1923
Reference: 18/10023



Dear 

Freedom of information request: 18/10023 - Proposed changes to Gold Creek golf course

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 13 April 2018, in which you sought access to Gold Creek Golf Course Territory Plan and lease variation documents.

Specifically, you are seeking:

“documents since 1 July 2013 regarding possible or proposed changes to the Territory Plan or lease in relation to the Gold Creek golf course.”

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 deadline for this request is 17 July 2018 following extensions to provide for further processing time required for the large amount of documents and third party consultation in accordance with the Act.

Decision on access

I have decided to grant full access to 301 documents relevant to your request, partial access to 49 documents relevant to your request and I have decided to refuse access to eight documents. I consider the information not to be released:

- information that would, on balance, be contrary to the public interest to disclose under the test set out in section 17 of the Act; or
- already publicly available for purchase.

Material considered

In reaching my access decision, I have taken the following into account:

- the FOI Act, particularly sections 17, 38, 43, 45 and Schedule 1 and 2;
- the content of the documents that fall within the scope of your request;
- the views of third parties to whom disclosure of information may be reasonably expected to be of concern; and
- information already available in the public domain.

Public Interest Assessment

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 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 (see section 17, the Act).

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.

In relation to the documents identified as falling within the scope of your request (scheduled with the status of 'Partial Release' or 'Not for Release'), section 17 applies as follows.

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 or background 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*. 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 is therefore contrary to the public interest.

Business affairs

In accordance with section 38 of the Act, I sought the views of relevant third parties on whether government information identified within the scope of your request contained contrary to the public interest information. The third parties contested release of the information as it relates to trade secrets and business affairs, a factor favouring nondisclosure in the public interest under schedule 2.2(a)(xi).

I am not satisfied that disclosure of the business affairs information could reasonably be expected to benefit the public by enhancing government accountability, contributing to informed debate, or providing contextual information for government decisions as it is limited to specific aspects of businesses' affairs.

In balancing public interest considerations, I am satisfied that, on the information available, the disclosure of business affairs information would be an unreasonable disclosure and may constitute a breach of confidence.

Information already available for purchase

Information identified as relevant is already available publicly for purchase through the ACT Land Information System at <https://actlis.act.gov.au>. I am satisfied that this government information is already available to you and I have refused this portion of the application in accordance with section 43(1)(d) of the Act.

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 no sooner than three days after the date of decision. Your personal contact details will not be published.

You may view 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.

If you wish to request a review of my decision, you may apply for an Ombudsman review by completing the form at:

http://www.ombudsman.act.gov.au/data/assets/pdf_file/0026/79190/40A-Reviews-Factsheet-and-Application-Form-final-A1569634.pdf

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:

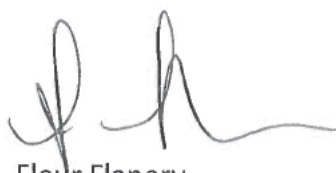
ACT Civil and Administrative Tribunal
Level 4, 1 Moore St
GPO Box 370
Canberra City ACT 2601

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 (02) 6207 1923 and ask for the FOI team, or email to EPSDFOI@act.gov.au.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Fleur Flanery', with a long horizontal flourish extending to the right.

Fleur Flanery

Information Officer

Environment, Planning and Sustainable Development Directorate

17 July 2018