



ACT
Government

Environment, Planning and
Sustainable Development

Phone: 6207 1923
Reference: 19/10805

Dear [REDACTED]

Freedom of information request: 19/10805- Rezoning Block 16, Section 7, Kambah

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 05 April 2019, in which you sought access to documents relating to Rezoning Block 16, Section 7, Kambah.

Specifically, you are seeking:

1. Correspondence (emails, letters and any other documents) between the Murrumbidgee Country Club (MCC), the Environment, Planning and Sustainable Development Directorate (EPSDD) and ACT Ministers during the period 01 January 2017 and 31 March 2019, including:
 - any preliminary scoping documents on any variation to the Territory plan to change the current lease on Block 16, Section 7, Kambah from PRZ2 to low-medium density housing;
 - any correspondence regarding changes to the concessional lease arrangements.Excluding:
 - the MCC's Planning Report to support a Territory Plan Variation, submitted by Purdon 4 April 2018.
2. The current state of progress and/or determination of any change of lease proposal(s) by the MCC and other agencies in relation to land currently leased to the MCC.

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

Third party consultation was required and therefore, the EPSDD is required to make a decision on your access application by 30 May 2019.

Decision on access

Searches were completed for relevant documents and 22 documents were identified that fall within the scope of your request.

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

Two duplicated documents have been identified in the schedule and therefore have not been provided. I have refused access to one document. This document is publicly available for purchase.

I have decided to grant access under section 50 to be 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 15 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 that may be of concern to them.

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 documents are identified in the schedule 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, my decision and documents released to

you in response to your access application will be published in the EPSDD disclosure log from three days after the date of 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

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 (02) 6207 1923 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

29 May 2019