



ACT
Government

Environment, Planning and
Sustainable Development

Phone: 02 6207 1923
Reference: 20/47294

Dear [REDACTED]

Freedom of Information 20/47294

I refer to your application made under section 30 of the *Freedom of Information Act 2016* (the Act) received by Environment, Planning and Sustainable Development Directorate (EPSDD) on 15 July 2020 seeking access to documents relating to Environmental Impact Statement (EIS) 201700053.

Specifically, you are seeking:

The following documents, correspondence and records in regard to the EIS201700053 process for Blocks 9 and 11 Section 8 Fyshwick;

- *Emails, records of phone conversations and all other communication between ACTPLA and Purdon Planning Pty Ltd and Capital Recycling Solutions Pty Ltd and any representatives of these companies with regard to the meeting organisation prior to the meeting held on 18 December 2019;*
- *All documents including the agenda and record of the meeting held on 18 December 2019 and subsequent communication between the Authority and representatives of CRS and Purdon Planning and any representatives of these companies;*
- *Copy of the CRS response to the ARUP Report provided to the Authority on 28 January 2020.*

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

As third party consultation was undertaken this decision is due on or by 2 September 2020.

Searches Conducted

Comprehensive searches were conducted and 19 documents within the scope of your application were located.

Decision on Access

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 application and the access decision for each of those documents.

I have decided to grant full access to seven documents relevant to your application.

I have decided to grant partial access to 11 documents and, in accordance with section 50 of the Act, provide you with copies of documents with deletions applied to contrary to the public interest information.

I have refused access to one document, in accordance with sections 43(1)(d) and 45(a) of the Act. This document is publicly available, a hyperlink is provided in **Attachment A**.

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.

A number of documents were identified to concern a relevant third party. Under section 38 of the Act, consultation was undertaken. My decision has taken into consideration the views and objections raised by the third party. Access to 16 of the documents is deferred to allow the third party the opportunity to seek a review of this decision.

Material Considered

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

- the FOI Act, particularly sections 6, 17, 37, 38, 43, 45, 50, and schedule 2 of the Act
- the content of the documents that fall within the scope of your request
- the *Information Privacy Act 2014*
- your views on the public interest in disclosing the requested government information
- the views of the third party consulted

Public Interest Considerations

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

Information Disclosure – 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 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 cumulatively.

Factors Favouring Disclosure

In applying the public interest test, I have determined that disclosure of the information could reasonably be expected to do the following:

- Schedule 2.1(a)(i) – promote open discussion of public affairs and enhance the government's accountability
- Schedule 2.1(a)(ii) – contribute to positive and informed debate on important issues of matters of public interest
- Schedule 2.1(a)(viii) – reveal the reason for a government decision and any background or contextual information that informed the decision

Further to these factors, I have given consideration to the views on public interest that you raised in your application.

I have given regard to the special public interest in decisions concerning EIS 201700053 and how the release of the relevant information would advance public understanding and transparency in government processes. It is for this reason I have decided to release to you 18 documents in part or in full (as outlined on the attached schedule).

Factors favouring Nondisclosure

In applying the public interest test, I have determined that disclosure of the information could reasonably be expected to do the following:

- Schedule 2.2(a)(ii) – prejudice the protection of an individual's right to privacy or any other right under the *Human Rights Act 2004*.

Personal Information

Documents relevant to your application contain personal information of individuals, including their contact information or signatures. I have considered how the public interest would be advanced by releasing this information in part or in whole. It is my view that the information if disclosed, could reasonably be expected to prejudice the protection of an individual's right to privacy. On balance, and the information available to me, I am satisfied that the disclosure of this personal information is not in the public interest.

To provide you with the information that I have determined to be in the public interest to release, copies of these documents have been prepared with the personal information redacted in accordance with section 50 and the Objects of the Act.

Charges

In accordance with section 107(2)(b) of the Act, any charges applicable for this application have been waived due to the public interest in the subject matter.

Online Publication

Under section 28 of the Act, EPSDD maintains an online record of access applications called a disclosure log. Your original access application, this decision and documents released will be published in the EPSDD disclosure log no earlier than three days after you receive this decision. Your personal contact details will not be published.

You may view the EPSDD 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:

https://www.ombudsman.act.gov.au/data/assets/pdf_file/0026/79190/Apply-for-Ombudsman-review.pdf

Alternately, 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



Brett Phillips
Information Officer
Executive Group Manager, Planning Delivery Division (E00700)
Environment, Planning and Sustainable Development Directorate

September 2020