



By Email: [REDACTED]

Dear [REDACTED]

Decision on Freedom of Information Access Application 24/036510

I refer to your application made under section 30 of the *Freedom of Information Act 2016* (the FOI Act) received by the Environment, Planning and Sustainable Development Directorate (EPSDD) on 8 April 2024.

Specifically, you are seeking:

"...I would like to request access to all of the documents relating to the deconcessionalisation of the lease for land occupied by Thoroughbred Park/Canberra Racing Club. The documents should include but be not limited to correspondence with Thoroughbred Park/Canberra Racing Club about deconcessionalising the lease, briefs prepared to the Minister and Director-General as well as copies on any valuation advice and calculations in determining the cost to deconcessionalise the lease."

In accordance with section 40 of the Act third party consultation was undertaken, and with your agreement a decision on your access application must be made on or by 19 June 2024.

I am an Information Officer appointed under section 18 of the Act to deal with access applications made under part 5 and now write to provide notice of my decision in relation to your application.

Decision on access

In response to your application, comprehensive searches were conducted by Statutory Planning, and 8 documents containing information within the scope of your application were identified.

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.

In considering your application, I have taken the following into account:

- the FOI Act, particularly sections 6, 17, 38, 43, 45, 50 and Schedule 2;
- the content of the documents that fall within the scope of your request;
- the *Freedom of Information (Volume 4 – Considering the public interest) Guidelines 2023* (Notifiable Instrument [NI2023-751](#)) and;
- the *Human Rights Act 2004*.

I have decided to:

- grant **full** access to 4 documents.
- grant **partial access** to 4 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.

Under section 43(1)(d) of the Act, a respondent may refuse to deal with an access application wholly or in part if the government information is already available to the applicant. Section 45 of the Act sets out the circumstances in which government information is already available to the applicant.

Those circumstances include where the information is available for purchase (section 45(g)).

Attachments to documents (a copy of the Crown Lease) itemised on the schedule are available via the ACT Land Titles website at: <https://actlis.act.gov.au/>

The documents released to you by my decision are provided at **Attachment B** to this letter.

Public interest considerations

Information Disclosure – Schedule 2 of the Act

In assessing whether disclosure of the remaining information identified in relation to your request would, on balance be contrary to the public interest, I must apply the test outlined under section 17 of the Act.

This requires consideration of factors favouring disclosure, any favouring nondisclosure and the balancing of those factors when considered cumulatively. Unless, on balance, disclosure would be contrary to the public interest, access to the information must be allowed.

In applying the public interest test to the documents identified in relation to your application, I have determined that disclosure of the information could reasonably be expected to do the following:

- Schedule 2, 2.2(a)(ii) – disclosure of the information could reasonably be expected to prejudice the protection of an individual's right to privacy or any other right under the *Human Rights Act 2004*; and

Several documents contain personal information, including signatures, mobile numbers, and email addresses of individuals. I am satisfied that the factors in favour of release can still be met while protecting relevant personal information. I have therefore weighed the factor for non-disclosure more highly than the factor in favour of release in this instance. As a result, I have decided that release of this information could prejudice the individual's right to privacy under the *Human Rights Act 2004*. Having applied the test outlined in section 17 of the Act and deciding that release of personal information contained in the documents is not in the public interest to release, I have chosen to redact this specific information in accordance with section 50(2) of the Act.

Charges

No charges are applicable to this application.

Right to review

Information regarding your right to review of this decision, the processing and publication of your request and this decision are set out at **Attachment C**.

Yours sincerely



Chris Gell
Information Officer
A/g Executive Branch Manager, Statutory Planning
Environment Planning and Sustainable Development Directorate.

18 June 2024