



**ACT**  
Government

Environment, Planning and  
Sustainable Development

Phone: 6207 1923  
Reference: 18/22772

Dear [REDACTED]

**Freedom of information request: 18/22772**

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 6 August 2018, in which you sought access to information relating to discussions and correspondence concerning land use, licencing and zoning for Block 11, Section 8 and Block 11, Section 47 in Fyshwick.

Specifically, you are seeking:

*all the correspondence between the parties and CRS consultants as referred to in an email dated 31 May 2018 14.02 pm from Access Recycling to Bruce Fitzgerald cc to Chris Sparke and specifically referring to a meeting on 11 April 2018 and the correspondence in the weeks preceding that meeting.*

*Including:*

- 1. Emails between Purdon Planning Pty Ltd, CRS Pty Ltd, Access Recycling Pty Ltd, any other consultant or party and entities and agencies and EPSDD, CMTEDD, TCCS and the NCA;*
- 2. All attachments contained in emails provided;*
- 3. Notes of telephone communication in regard to the parties identified in point 1 above;*
- 4. Records of meetings in regard to the parties identified in point 1 above;*
- 5. Any document relating to the zoning of Block 11 Section 8 and Block 11 Section 47*
- 6. Any document relating to the land use of Block 11 Section 8 and Block 11 Section 47 Fyshwick;*
- 7. Any document relating to sub-licence of the designated rail corridor, Block 11 Section 47 Fyshwick;*
- 8. Any document relating to permission to construct on unleased Territory land, Block 11 Section 8 Fyshwick without purchase;*

*You have confirmed with Mr Benn of the EPSDD Information Management Team that you also seek:*

- 9. Any development proposal submitted, but not officially lodged, for construction in the public rail corridor being Block 11 Section 45 Fyshwick; and*
- 10. Any application for a licence to use Block 11 Section 8 Fyshwick being unleased Territory land under TCCS as custodian (not just any existing licence).*

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

EPSDD is required to make a decision on your access application within timeframes specified by the Act. Under Section 40(2) of the Act, the standard 20-day timeframe is extended by 15 working days to allow for third party consultation on matters identified as relevant to your request. The date for a decision, as previously advised to you, is 21 September 2018.

### **Decision on access**

Searches were completed for relevant documents and 18 documents were identified that fall within the scope of your request.

I have included as **Attachment A** to this decision the schedule of relevant documents. This 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, under section 50 of the Act, to copies of documents with deletions applied to information that I consider would be contrary to the public interest to disclose.

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 access decision, I have taken the following into account:

- The FOI Act, particularly sections 17, 43 and 50 and Schedule 2 – Factors to be considered when deciding the public interest.
- The content of the documents that fall within the scope of your request.

### **Information not released - Contrary to the public interest information under schedule 2 of 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.

#### 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.

On balance of these public interest considerations and the information available, I have concluded that 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

I have considered the release of information that contains business information of an agency and whether the disclosure of that information would serve to further open discussion, government accountability, informed debate and the provision of contextual or background information.

I have also considered whether the release of the information would prejudice trade secrets, business affairs or research of an agency or person – schedule 2.2(xi) of the Act.

In accordance with section 38 of the Act, and as advised to you on 28 August 2018, the views of relevant third parties were sought on whether government information identified within the scope of your request contained contrary to the public interest information. The third parties contested release of some of the information as it relates to trade secrets and business affairs, both factors favouring nondisclosure in the public interest under schedule 2.2 of the Act.

I am not satisfied that disclosure of the identified business information could reasonably be expected to further advance these matters as it is limited to specific aspects of third party business affairs.

On balance of these public interest considerations and the information available, I have concluded that the disclosure of trade secret and business affair information would be an unreasonable disclosure and may constitute a breach of confidentiality.

#### **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. Your personal contact details will not be published.

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

If you wish to request a review of my decision you may write to the Ombudsman at:

The ACT Ombudsman  
GPO Box 442  
CANBERRA ACT 2601

Via email: [actfoi@ombudsman.gov.au](mailto: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](mailto:EPSDFOI@act.gov.au)

Yours sincerely



Bruce Fitzgerald

Information Officer

Environment, Planning and Sustainable Development Directorate

21 September 2018