



ACT
Government

Environment, Planning and
Sustainable Development

Phone: 6207 1923
Reference: 18/24587

Dear [REDACTED]

Freedom of information request: DA201733142

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 24 August 2018, in which you sought access to information regarding DA201733142.

Specifically, you are seeking:

“documents generated or received by the ACT Government in relation to Development Application No. 201733142. This may include the original application and supporting documents, any amendments to that application, internal and external correspondence relating to it, and/or notes or records of meetings with interested parties.”

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 by 21 September 2018.

Decision on access

Searches were completed for relevant documents and 78 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 in full to 60 documents relevant to your request.

Seventeen documents identified as relevant to your request contain information that I consider to be information that would, on balance, be contrary to the public interest to disclose under the test set out in section 17 of the Act.

Item 26 in the schedule is available for a fee at <https://actlis.act.gov.au/> and therefore, under section 43(1)(d) of the Act, I have refused access.

Where duplicated documents have been identified, they are mentioned in the schedule but have not been provided.

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. The release status of these documents is indicated on 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 access decision, I have taken the following into account:

- the FOI Act, particularly sections 17, 43 and 50 and schedule 2.2 (a) (ii);
- the content of the documents that fall within the scope of your request;
- the *Information Privacy Act 2014* (Privacy Act).

Exemptions claimed

My reasons for deciding not to grant access to some of the identified documents or components of these documents are explained below. These documents are entirely composed of, or contain, information that I consider, on balance, to be contrary to the public interest to disclose under the test set out in section 17 of the Act.

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 reason of Personal privacy, Schedule 2.2 (a)(ii)), section 17 applies as follows.

Personal Information

I have considered the Territory Privacy Principles of the Privacy Act and the release of personal information. My view in this instance is that the identification of individuals 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 disclosure is 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 my decision. Your personal contact details will not be published.

You may view the 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

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

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) 620 71923 and ask for the FOI team, or email to EPSDFOI@act.gov.au

Yours sincerely



Brett Phillips

Information Officer
Environment, Planning and Sustainable Development Directorate

21 September 2018