



ACT
Government

Environment, Planning and
Sustainable Development

Phone: 6207 1923
Reference: 18/34768

Dear [REDACTED]

Freedom of information request: 18/34768

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 20 November 2018, in which you sought access to documents relevant to Block 20 Section 48 Belconnen.

Specifically, you are seeking documents:

- *“the determination of the unimproved land value including valuations, supporting documentation and appeals of land value;*
- *all documents and correspondence relating to any lease variation for the site;*
- *any documents and correspondence relating to rates and or charges payable for the site including any notices issued.”*

Point 1 of your request was transferred to Chief Minister, Treasury and Economic Development Directorate.

On 27 November 2018, point 3 of your request was refined to *“charges relating to the lease variations and any related penalties”*.

On 17 January 2019, you confirmed the timeframe of the request as December 2013 to December 2018.

On 21 January 2019, you confirmed that all documents from relevant Lease Variation Development Applications (DAs) were requested with the exception of the public notification documents and emails notifying interested parties of the DA decisions.

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

Following refinement of your request and agreed extensions, the EPSDD is required to make a decision on your access application by 22 March 2019.

Decision on access

Searches were undertaken, and documents were identified that fall within the scope of your request.

As the information could be considered of concern to third parties, consultation was conducted.

I have included, at **Attachment A** to this decision, the schedule of relevant documents, providing a description of each scheduled item that falls within the scope of your request and the access decision for each of those items.

I have decided to grant access, in full, to 175 of the scheduled items.

Duplicated items are identified on the schedule, but not been provided.

I have decided to grant access, under section 50 of the Act, to copies of scheduled items with deletions applied to information that I consider would be contrary to the public interest to disclose. The release status of these 53 scheduled items is indicated on the attached schedule as 'partial release'.

I have refused access to seven scheduled items and one email attachment under section 43(1)(d) of the Act, as these documents are available for purchase from Land Titles or EPSDD.

I have decided to refuse access to six scheduled items as I consider it to be contrary to the public interest information under Schedule 2.2(a)(xi) of the Act.

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, 43, 45, 50, and Schedule 2;
- the content of the documents that fall within the scope of your request;
- the *Information Privacy Act 2014* (Privacy Act); and
- the views of third parties relating to the release of information of their concern.

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

Scheduled items indicated for partial release of **Attachment B** contain information that falls within the meaning of personal information as defined by the FOI 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.

Business Affairs

Six of the documents contain business information relating to third parties, the release of which would reasonably prejudice trade secrets and business affairs, a factor favouring nondisclosure under Schedule 2.2(a)(xi) of the Act. I have considered the release of this information and whether the disclosure of this information would serve to further open discussion, government accountability and informed debate.

In balancing public interest considerations, I have concluded that the disclosure of trade secrets and business affairs information within the document would be 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 application 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 send an email to EPSDFOI@act.gov.au.

Yours sincerely



Brett Phillips
Information Officer
Environment, Planning and Sustainable Development Directorate

19 March 2019