



ACT
Government

Suburban Land
Agency

FOI Reference: 19/07164

Email [REDACTED]

Dear [REDACTED]

Freedom of information application: 19/07164 – Coombs Play Space

I refer to your access application submitted to the Suburban Land Agency (the Agency) under section 30 of the *Freedom of Information Act 2016* (the Act) on 12 July 2019, in which you sought decision-making documents concerning the 'Coombs Play Space'.

You have applied for access to the following seven documents:

1. Coombs Residential Estate – EPD Design Response Report of August 2011 (including appendices A-K)
2. Minutes Active Living Improvements 23082017
3. Minutes TCCs Infrastructure negotiations 06082018
4. Coombs Play Space Survey
5. Correspondence relating to a variation for a toilet block
6. Email to Redbox – Edgeworth Parade Playground report
7. Redbox Design Toilet Block Study

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

Under section 40 (2) of the Act, the Agency must decide the application by 30 August 2019.

In recognition of the delays you experienced in obtaining a response to your initial informal request, the processing of your application was expedited.

Administrative Access

On 3 May 2019, you were provided the following documents:

1. Coombs Residential Estate Development Amendment
2. Landscape Consultation Brief (Stage 3A)
3. Coombs Residential Estate Development – Land Use Plan – Drawing #292347-C-LUP-01
4. Coombs Residential Estate Development – Landscape Masterplan – 10/852 LMP06
5. Coombs Residential Estate Development – Landscape Masterplan – 10/852 LMP07

Access Application Processing

Comprehensive searches were undertaken to identify and assess information relating to the Coombs Play Space. Seven documents (775 folios) were identified that fall within scope of your request.

The documents you have requested are listed in the schedule of documents (at **Attachment A**), which outlines my decision on release for each of those documents.

Decision on access

I have decided to grant full access to two of the six documents dealt with by this process (scheduled items 2 and 3).

In accordance with section 43(1)(d) of the Act, scheduled item 7 has not been dealt with as it is publicly available at the following link:

[https://s3.ap-southeast-2.amazonaws.com/hdp.au.prod.app.act-yoursay.files/6515/6291/2668/Wright and Coombs Toilet Block Study April 2019 - amended 12 July 2019.pdf](https://s3.ap-southeast-2.amazonaws.com/hdp.au.prod.app.act-yoursay.files/6515/6291/2668/Wright%20and%20Coombs%20Toilet%20Block%20Study%20April%202019%20-%20amended%2012%20July%202019.pdf)

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 four documents is indicated on the attached schedule as 'partial release'.

I have decided to refuse access to one document in full, under section 35 (1)(c) of the Act, as I consider the release of the document, or any part of the document, to be contrary to the public interest.

I have considered the content of the relevant documents and public interest considerations. In balancing the public interest in this case, I have considered factors for and against disclosure with recognition given to the pro-disclosure bias of the administration 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, 35, 38, 50 and Schedule 2
- the content of the documents that fall within the scope of your request
- the *Information Privacy Act 2014* (Privacy Act)
- response to third-party consultation

Exemptions Claimed

My reasons for deciding not to grant access to documents in full are set out in the statement of reasons below.

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 1,4,5 and 6 contain personal information, as defined by the Act, and are being partially released.

I have considered that the release of this information may promote open discussion of public affairs and enhance the government's accountability and reveal the reason for a government decision and any background or contextual information that informed the decision; these are factors favouring disclosure under Schedule 2.1(a)(i) and (viii) of the Act.

I have given regard to the Territory Privacy Principles of the Privacy Act and an individual's right to privacy under the *Human Rights Act 2004*; prejudicing an individual's right to privacy is a factor favouring nondisclosure under Schedule 2.2(a)(ii) of the Act.

I have deliberated whether public benefit would be served by the release of this information. It is my view that, in this instance, the personal information of identified third parties alone would not serve to benefit open discussion, government accountability, and the provision of contextual or background information of a government decision.

I have decided, on balance, that the potential detriment caused by the release of this personal information, which may constitute a breach of privacy, outweighs any anticipated benefit provided by its release.

I am therefore satisfied that, on the information available, disclosure of the identified personal information is contrary to the public interest.

Business Affairs

Scheduled item 5 contains information relating to business affairs.

In reaching my decision I have considered whether disclosure of this information would serve to advance open discussion of public affairs and enhance government accountability and reveal the reason for a government decision and any background or contextual information that informed the decision.

I have considered the objections raised by the relevant third-party, including that the release of commercial-in-confidence information would prejudice their trade secrets and business affairs.

I have given regard to how trade secrets, business affairs or research may be prejudiced by the disclosure of this information; this is a factor favouring nondisclosure under Schedule 2.2(a)(xi) of the Act.

I have deliberated on how the public interest is served by the information assessed to be released to you, what is in the public domain and what further benefit may be derived from the release of this information.

On balance, I have decided that the potential detriment caused by the release of this business affairs information, which may constitute a breach of confidence, outweighs any anticipated benefit provided by its release.

I am therefore satisfied that, on the information available, disclosure of the identified business affairs information is contrary to the public interest.

Online publishing – disclosure log

Under section 28 of the Act, the Environment, Planning and Sustainable Development Directorate, on behalf of the Agency, maintains an online record of access applications called a disclosure log. Your original access application and my decision will be published in the disclosure log from three working days following my decision being provided to you. 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

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

<http://www.acat.act.gov.au/>

if you have any queries concerning the 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



Tom Gordon
Information Officer
Suburban Land Agency

26 July 2019

