



ACT
Government

Suburban Land
Agency

FOI Reference: 19/18613



Dear [REDACTED],

Freedom of Information 19/18613

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 [date], in which you sought access to information regarding block 2, section 200 Belconnen.

Specifically, you are seeking:

"I am writing to request the release of public information in regards to the sale of (block 2 and section 200) Belconnen, under the Freedom of Information Act 2016.

I am requesting all documentation, including relevant emails, their attachments and planning documentation pertaining to block 2 Section 200 Belconnen and correspondence with the Canberra Labor Club between the dates 17 June 2015 to 11 June 2019..."

I am an Information Officer appointed by the Director-General under section 18 of the Act to deal with access applications made under Part 5 of the Act. The Environment, Planning and Sustainable Development Directorate (EPSDD) is required to provide a decision on your access application in accordance with Section 41 of the Act, by 25 October 2019

On the 24 July 2019 you agreed to a 20-day extension of time extending the due date to the 27 August 2019. On the 15 September 2019 you agreed to a further extension of time until the 17 September. As a result of third -party consultation a further extension changed the due date to the 9 October 2019.

A further extension of time was agreed on the 4 October 2019 with a due date of 16 October 2019, and subsequently another agreed on the 16 October 2019 for final decision 25 October 2019.

Decision on Access

Searches were completed for relevant documents and 112 documents were located that fall within the scope of your request.

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 request and the access decision for each of those documents.

I have decided to grant access, in full, to 48 documents relevant your request.

I have decided to refuse access to 17 documents as I consider them to be information that would, on balance, be contrary to public interest to disclose under the test set out in section 17 of the Act.

I have decided to defer access to eight

47 documents identified as relevant to your request contain information that I consider would, on balance, be contrary to the public interest to disclose under the test set out in section 17 of the Act. I have decided to grant access, under section 50 of the Act, to a copy of these documents with deletions applied to the information that I consider would be contrary to public interest to disclose

My access decisions are details 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, 38, 41, 50, Schedule 1 and 2;
- the content of the documents that fall within the scope of your request;
- the *Information Privacy Act 2014*
- the *Human Rights Act 2004*
- the views of third parties relating to the release of information that concerns them.

Public Interest Considerations

My reasons for deciding not to grant access to components of documents are explained below; these documents contain information that I consider to be contrary to the public interest to disclose.

Information Disclosure – Contrary to the Public Interest under schedule 1 of the Act

The Act identifies information that is contrary to the public interest. Information deemed to be contrary to the public interest is detailed in Schedule 1, section 1.2 of the Act.

Legal Professional Privilege

I have considered the release of information subject to legal professional privilege to be contrary to the public interest as described in Schedule, section 1.2 of the Act.

Information Disclosure – Contrary to the Public Interest under schedule 2 of the Act

In assessing the public interest, I must apply the descending test as outlined under section 17 of the Act which requires consideration of all the factors favouring disclosure, any favouring nondisclosure and the balance of those factors when considered collectively.

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 reasonable be expected to prejudice the protection of an individuals right to privacy under the *Human Rights Act 2004*. This is a factor favouring nondisclosure under Schedule 2, section 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 contrary to the public interest.

Online Publication

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 after 30 October 2019. 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 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/>

Further Information

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

Yours sincerely



Tom Gordon

25 October 2019