



ACT
Government

Environment, Planning and
Sustainable Development

Phone: 6207 1923
Reference: 19/37672

Dear [REDACTED]

Freedom of Information 19/37672

I refer to your application under section 30 of the *Freedom of Information Act 2016* (the Act), received by Environment, Planning and Sustainable Development Directorate (EPSDD) on 20 March 2020, in which you sought access to certain documents relating to development activity in Section 346 Kambah.

Specifically, you are seeking:

Documents for the period of 1 January 2019 – 17 March 2020

1. In relation to Development Application (DA) 201834203 (extension to the supermarket and shopping centre at Primmer Court, Kambah Village): documents evidencing the proposed waste facilities and the access for waste removal, and associated DA decision-making.
2. Documents that evidence how the removal of the footpath at the western end of the veranda on Block 37 Section 346 Kambah will resolve a 450mm step down from the end of footpath.
3. Documents that evidence how the damage caused by waste collection to the fence and gate of the property at Block 37 Section 346 Kambah will be resolved.
4. Documents that indicate the future waste arrangements of the BWS store as the supermarket operated by Woolworths is disposing of the BWS portion of their business (ASX announcement) and as such arrangements would need to be made for the generation of waste by the purchaser of BWS.
5. Correspondence on issues raised relating to DA-201834203 provided to EPSDD Information and Knowledge Management by the Transport Canberra and City Services Directorate (TCCS) on 13 January 2020.

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

As agreed by you, this decision is due on/by 24 April 2020. We appreciate your patience and assistance as we worked with you to identify the information you are seeking.

Searches Conducted

Comprehensive searches were conducted and 24 documents within the scope of your application were located.

No documents were identified in relation to points 2, 3 and 4 of your application.

I note that you have been in contact with TCCS in relation to waste arrangements, vehicle and pedestrian traffic as they manage these matters.

Decision on Access

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 application and the access decision for each of those documents.

I have decided to grant full access to 19 documents relevant to your application.

I have decided to grant partial access to five documents and, in accordance with section 50 of the Act, provide you with copies of documents with deletions applied to contrary to the public interest information.

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, 50, 58 and schedule 2 of the Act;
- the *Information Privacy Act 2014*;
- the content of the documents that fall within the scope of your request.

Public Interest Considerations

My reasons for deciding not to grant access to certain documents and components of these documents are as follows:

Information Disclosure – 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 test outlined under section 17 of the Act which requires consideration of factors favouring disclosure, any favouring nondisclosure and the balance of those factors when considered cumulatively.

Factors Favouring Disclosure

Disclosure of the identified information could reasonably be expected to do the following:

- Schedule 2.1(a)(i) – promote open discussion of public affairs and enhance the government's accountability;
- Schedule 2.1(a)(ii) – contribute to positive and informed debate on important issues or matters of public interest;

- Schedule 2.1(a)(viii) – reveal the reason for a government decision and any background or contextual information that informed the decision.

Factors favouring Nondisclosure

In applying the public interest test, I have determined that disclosure of the information could reasonably be expected to do the following:

- Schedule 2.2(a)(ii) – prejudice the protection of an individual's right to privacy or any other right under the *Human Rights Act 2004*

Personal Information

Documents relevant to your application contain information that includes the personal information of individuals, which I consider, if disclosed, could reasonably be expected to prejudice the protection of an individual's right to privacy under the *Human Rights Act 2004*. I have considered whether public benefit would be served by the release of this information and I have decided that public interest is not served by the release of this information.

To provide you with the information that I have determined to be in the public interest to release, copies of these documents have been prepared with the personal information redacted in accordance with section 50 and the Objects of the Act.

On balance, and the information available to me, I am satisfied that the disclosure of this personal information is not in 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 no earlier than three days after you receive 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 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:

https://www.ombudsman.act.gov.au/data/assets/pdf_file/0026/79190/Apply-for-Ombudsman-review.pdf

Alternately, 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


George Cilliers

Information Officer

Environment, Planning and Sustainable Development Directorate

24 April 2020