



**ACT**  
Government

Environment, Planning and  
Sustainable Development

Phone: (02) 6207 1923

Reference: 22/36123

[REDACTED]

By Email: [REDACTED]

Dear [REDACTED]

### **Decision on Freedom of Information Access Application 22/36123**

I refer to your application made under section 30 of the *Freedom of Information Act 2016* (the Act) received by the Environment, Planning and Sustainable Development Directorate (EPSDD) on 4 May 2022, in which you sought access to documents relating to Block 16 Section 10 City (70 Allara Street) development information since 2012.

Specifically, you are seeking:

*"...all documents relating to the proposed development of BLOCK 16 SECTION 10 CITY (70 Allara Street) as follows:*

- a. A copy of all documentation relating to any alteration in the last ten years to the original permissible use of the land at 70 Allara Street, including any and all reasons for altering the original permitted purpose.*
- b. A copy of all documentation relating to the granting of any lease in the last ten years of the land at 70 Allara Street, including any and all decisions relating to the granting the lease.*
- c. A copy of all documentation relating to any proposal in the last ten years, for development of the land at 70 Allara Street, including the Geocon proposal and any and all recommendations and decisions made to date in relation to the proposal to develop the site."*

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 must make a decision on your application on or by 5 May 2022.

### **Searches Conducted**

Comprehensive searches were conducted and two documents containing information within the scope of your application were identified.

### **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 one document relevant to your application.

I have refused to deal with your application in so far as it relates to information in one of the relevant provisions under section 43(1)(d) of the Act. Under section 43(1)(d) of the Act the respondent may refuse to deal with an access application wholly or in part if the government information is already available to the applicant. Section 45 sets out the circumstances in which the government information is already available to the applicant, under section 45(g) this includes information that is available for purchase. This document is a copy of the Crown Lease granted for Block 16 Section 10 City (70 Allara Street, City) (Volume 2276, Folio 28) and is available on the Access Canberra website at [ACT Land Information System Crown Lease Search](https://www.actlis.act.gov.au) at [www.actlis.act.gov.au](https://www.actlis.act.gov.au).

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 6, 17, 43, 45 and Schedule 2
- the content of the documents that fall within the scope of your request
- your views regarding the public interest
- information publicly available

### **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*

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

- Schedule 2, 2.1(a)(i) – Promote open discussion of public affairs and enhance the government's accountability.
- Schedule 2, 2.1(a)(ii) – Contribute to positive and informed debate on important issues or matters of public interest.
- Schedule 2, 2.1(a)(vii) – Advance the fair treatment of individuals or other entities in accordance with the law in their dealings with the government.
- Schedule 2, 2.1(a)(viii) – Reveal the reason for a government decision and any background or contextual information that informed the decision.

As you stated in your application the provision of this information will permit residents at 66 Allara Street, along with the broader Canberra community, to have visibility on the processes and issues relating to the sale and development of this site and engagement with the ACT Government, regarding the impact of the abovementioned development on 66 Allara Street and surrounding amenities.

The public interest in this matter is clearly related to the impact to residents in the adjacent building at 66 Allara Street and the surrounding amenities and the number of media articles on the sale and proposed development of this site as far back as 5 June 2020.

The documents in question are in the general public interest or in the interest of a substantial section of the public. The documents relate to an agency decision that has been a topic of public interest or discussion, and disclosure of the documents would better inform the public as to why or how the decision was made, including highlighting any problems or flaws that occurred in the decision-making process

Block 16 Section 10 City (70 Allara Street) is situated on National Land which means the relevant documents relating to the scope of your request will be held by the Commonwealth Government. Documents specific to your application may be available through the National Capital Authority or the Commonwealth Department of Finance.

In applying the public interest test, I have determined that no factors favouring nondisclosure are applicable to in the information within scope of the application.

### **Charges**

In accordance with the *Freedom of Information (Fees) Determination 2018* no charges are applicable to this application, the number of pages to be released is below the minimum 50-page threshold.

### **Online Publication**

Under section 28 of the Act, EPSDD maintains an online record of access applications called a disclosure log. Your original access application, this decision and documents released 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 disclosure log at

<https://www.environment.act.gov.au/about-us/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](https://www.ombudsman.act.gov.au/_data/assets/pdf_file/0026/79190/Apply-for-Ombudsman-review.pdf)

Alternatively, you may write to the Ombudsman at:

The ACT Ombudsman  
GPO Box 442  
CANBERRA ACT 2601

Via email: [actfoi@ombudsman.gov.au](mailto: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](mailto:EPSDFOI@act.gov.au).

Yours sincerely



~~James~~ Bennett

Information Officer

A/g Executive Branch Manager, DA Services and Support

Environment, Planning and Sustainable Development Directorate

29 April 2022