



ACT
Government

Environment, Planning and
Sustainable Development

Phone: 02 6207 1923
Reference: 20/55456

Dear [REDACTED]

Freedom of Information 20/55456

I refer to your application made under section 30 of the *Freedom of Information Act 2016* (the Act) transferred to the Environment, Planning and Sustainable Development Directorate (EPSDD) on 7 August 2020, by Chief Minister, Treasury and Economic Development Directorate (CMTEDD). In which you sought access to documents relating to Block 3 Section 21 Mawson.

Specifically, you are seeking:

In regards to the building work on Block 3 section 21 Mawson. A notice of exempt building work, and building work carried out on that block. A complaint was made about that building work carried on extending to adjoining blocks.

The Certifier, informed ACTPLA he was unaware of the actual building work completed and filed a stop work notice on the building work.

That stop work notice, subsequently had around three further Development Applications submitted, refused and or withdrawn as non-compliant.

There are a number of statutory declarations and application for special consideration filed within ACTPLA / Access Canberra seeking to have the development after the fact assessed outside of the legislative restrictions (preventing it being approved) under what is identified as a "Merit" assessment.

I request a copy of those statutory declarations filed by lessee holders William (bill) Aldcroft and Lisa Aldcroft (ne Taylor) and relevant information used to inform approval for the approved use of the "Merit" line of assessment.

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 and extension to the decision due date was requested and not refused the EPSDD must make a decision on your application on or by 25 September 2020.

Searches Conducted

Comprehensive searches were conducted and 35 documents within the scope of your application were located.

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 20 documents relevant to your application.

I have decided to grant partial access to eight 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.

I have refused access to seven documents. Three documents are refused in accordance with sections 43(1)(d) and 45(g) of the Act, these documents are available for purchase information is provided in **Attachment A**. Five documents are refused as I consider the information to be contrary to the public interest.

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, 50, and schedule 2 of the Act
- the content of the documents that fall within the scope of your request
- the *Information Privacy Act 2014*
- the *Human Rights Act 2004*

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 2.1(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 personal information of individuals. I have considered how the public interest would be advanced by releasing this information in part or in whole. It is my view that the information if disclosed, could reasonably be expected to prejudice the protection of an individual’s right to privacy under section 12 of the *Human Rights Act 2004*. On balance, and the information available to me, I am satisfied that the disclosure of this personal information is not in the public interest.

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

Charges

No charges are applicable to this application, the number of pages to be released (excluding those considered public register associated documents) is below the minimum 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/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
Executive Branch Manager, Planning Delivery Division (E01072)
Environment, Planning and Sustainable Development Directorate

21 September 2020