
From: [REDACTED]
Sent: Monday, 28 September 2020 10:18 AM
To: EPSDFOI; Stuart, Katharine; CMTEDD FOI; Dachs, Philip; Delahaye, Angelique; JACS FOI; Human Rights
Cc: #LCT SC Criminal & Appeals Unit; Farr, Douglas; Robertson, Neil; andrew.leigh.mp@aph.gov.au; HRCIntake; Attorney Correspondence; andrew.marich@aph.gov.au; Smith David (MP); COE; bec.cody@act.alp.org.au; Dr Marisa Paterson
Subject: Re: FOI 20/55456 – FREEDOM OF INFORMATION DECISION
Attachments: FOI 20_55456 - Decision Letter - signed.pdf; Attachment A - 20_55456-Schedule.pdf; Attachment B - 20_55456-Documents.pdf

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Dear ACT Government FOI reams responsible;

Thank you for the irrelevant information, it does not disclose the specific information that was actually requested nor identify that specific information redacted due to any compliant reason.

Please register this as a new FOi request for the same information. To assist in seeking the responsible officers disclose the existence of the information "lost" I provide the following for your assistance;

From: [REDACTED]
Sent: Wednesday, 14 October 2020 3:00 PM
To: EPSDFOI; Pascoe, Adam; Farr, Douglas; Green, Ben; Riches, Dominic; Stuart, Katharine; CMTEDD FOI; Dachs, Philip; Delahaye, Angelique; JACS FOI; Gibson, Roger; Keppell, Kassandra
Cc: andrew.marich@aph.gov.au; HRCIntake; Smith David (MP); #LCT SC Criminal & Appeals Unit; andrew.leigh.mp@aph.gov.au; Attorney Correspondence; COE; Robertson, Neil; bec.cody@act.alp.org.au; Dr Marisa Paterson; Human Rights
Subject: Re: 20/76947 - FOI applications received by the Environment, Planning and Sustainable Development Directorate (EPSDD)
Attachments: Untitled; Untitled

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Dear FOI EPSDD;

I acknowledge you are dealing with the two emails of 28 as one FOI.

I confirm the dates I am after are the dates the documents the FOI team previously supplied under FOI; being the documents that had been altered after the decision maker making the initial decision had in conference with me advised me of that decision and provided copies of all the information used and relied upon in that decision.

I note that the deputy Chief executive had instructed after the decision the "wall" measured and that the "documents" ultimately provided by your team show the surveyors expert documents had been amended, without his knowledge or consent and authority to make some suggestions that in 1 year prior to purchase the block at 3 Debenham Street Mawson and all the buildings and surrounding escarpment was suggested to have "sunk" by some 70 cm, without cause of a crack or other evidence.

The FOI team information details the information altered and realised, albeit extremely delayed for unknown reason and purpose, had been altered. The Authority has determined further decision based on this altered information and made some scandalous suggestions in support. I would like the dates that relevant alterations and decisions occurred within the public authority. As the delagated authority investigating determined that information should have been given, and was reframed from providing anything in reasonable time the FOI made and that was further delayed in producing this new undisclosed information regardless of deputy chief executive directions in 2018, the independent reviews of the material in late November 2018 and the meeting with the decision maker and disclosure and explanations provided to me personally in 2018!!!

I note your advise and information "DA-201629944 was lodged on 15/8/2016 and approved subject to conditions." **That confirms the attendance and provision of all information by the decision maker in meetings where he provided those conditions of final approval made, where the other documents FOI belatedly took time to now provided me as altered and amended without any apparent authority.**

I hope that helps direct the determination of dates I requested on the new content in information that at some stage since late November 2018.

To confirm the documents submitted in the relevant application, were the same expert documents provided in 2016 and then after the decision in 2018 and at that relevant time and no alteration had taken place via the deputy chief executive investigation and independent review were communicated. So the building works were carried out and completed and NEVER ALTERED from those determined and commissioned as conducted by the leasee and publicly notified and distributed as determined "**exempt works**" in completing the controlled activities prior to the deficient careless false and misleading final application was submitted seeking after the fact approval when the authority initiated investigation and determined the buildings were not exempt but controlled activities completed.

It is scandalous to suggest the authority, in consultation (same panel of officers administering the caused DA) completing controlled activities determined "exempt building works" ignored the contents of the

Application they caused. in considering the previously determined and completed "Exempt works" as complained about were not.

That is the information of consideration and reason missing in the FOI, and given the delays narrowing the focus, and documents and reconsiderations that may have taken place as a result of those alterations that is what is missing from the FOI material.

Right I hope that is clarification enough to support the FOI request for release of information or affirmation of error, within the public authority occurred.

As this relates to the incident Mr William Raymond Aldcroft has provided indemnity for costs. However, in seeking to minimise his costs I seek leave from payment of any fees for information disclosed under this public good facility.

Sincerely

On Monday, 12 October 2020, 3:49:47 pm AEDT, EPSDFOI <epsdfoi@act.gov.au> wrote:

OFFICIAL

Dear [REDACTED]

In regards to your two applications (attached) that were received by the Environment, Planning and Sustainable Development Directorate (EPSDD) on 28 September 2020.

In accordance with section 43(2) of the *Freedom of Information Act 2016* (the Act), these two applications will be considered as one.

Please confirm if you are seeking the dates of documents provided to EPSDD in relation to Development Application (DA) 20162994 referred to in your second email.

For your information no reconsideration was lodged, DA-201629300 was lodged 6/6/2016 and withdrawn 2/8/2016. A new DA-201629944 was lodged on 15/8/2016 and approved subject to conditions.

Please note under section 34 of the Act your application is suspended until clarification is received.

Kind Regards

Katharine

Katharine Stuart | Director | Information and Knowledge Management

Environment, Planning and Sustainable Development Directorate | ACT Government

Phone: 6207 4497 | Email: Katharine.stuart@act.gov.au

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From: Eric <figurebike@yahoo.com.au>

Sent: Monday, 28 September 2020 12:16 PM

To: Pascoe, Adam <Adam.Pascoe@act.gov.au>; Farr, Douglas <Douglas.Farr@act.gov.au>; Green, Ben <Ben.Green@act.gov.au>; Riches, Dominic <Dominic.Riches@act.gov.au>; Stuart, Katharine <Katharine.Stuart@act.gov.au>; EPSDFOI <EPSDFOI@act.gov.au>; CMTEDD FOI <CMTEDDFOI@act.gov.au>; Dachs, Philip <Philip.Dachs@act.gov.au>; Delahaye, Angelique <Angelique.Delahaye@act.gov.au>; JACS FOI <JACSFOI@act.gov.au>; Gibson, Roger <Roger.Gibson@act.gov.au>; Keppell, Cassandra <Kassandra.Keppell@act.gov.au>

Cc: andrew.marich@aph.gov.au; HRCIntake <HRCIntake@act.gov.au>; Smith David (MP) <david.smith.mp@aph.gov.au>; #LCT SC Criminal & Appeals Unit <#LCTSCCriminal&AppealsUnit@act.gov.au>; andrew.leigh.mp@aph.gov.au; Attorney Correspondence <attorney@ag.gov.au>; COE <COE@parliament.act.gov.au>; Robertson, Neil <Neil.Robertson@courts.act.gov.au>; bec.cody@act.alp.org.au; Dr Marisa Paterson <marisa.paterson@actlabor.org.au>; Human Rights <Human_Rights@act.gov.au>
Subject: New information, potential for fraud and misuse of the public authority confusing stake holders; ministers and the ACT Courts and Tribunal, unreasonably wasting public resources, community costs and reduced confidence in the public administration and p...

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Dear ACCESS Canberra and ACTPLA and ministers et al;

Under FOI 20/055456; a lot of **new unrequested, unknown information, to the decision makers at the time appears to have arisen, been created, or disclosed now and lied about and intentional not disclosed**, misrepresented and obfuscated in 2016. Damasking the capacity of Mr Barr and Mr Gentleman's administration of their portfolios to which they have caused to be at minute level involved in the administration of this particular this process. It is unclear for what, if any legal compliant or reasonable outcome was sought.

Specifically:

22/9/2016 Dominc Riches; J Teasdale; K Kepple minute of records, concede the retaining wall on block 2 & 3 section 21 Mawson was illegal and BPLA regulates structures structure designed to intentionally divert water from Site 3 on to another persons land site 2. (However the damage caused is a civil matter).

23/9/2016 Dominc Riches approved the DA on conditions, Notice of decision MERIT TRACK regardless as the wall was notified in **RED** as not part of the revised development application. **There were no other RED alterations to the plans approved by ACTPLA Delegate.** Those plans approved were provided, complete, to us that ACTPLA delegate under the Act used.

However: the FOI information Page 12/13 declares the information now, provided to be true and correct at the time early 2016! that does not correlate to the actual information ACTPLA and ACCESS Canberra had been administering since mid 2015.

As a result of this false and misleading or willfully careless application, There are legislative implications regarding the answer to this questions. In that the public authority, rightly or wrongly and for what ever purpose or intent, can give proper consideration and make decision after the expiry of prescribed periods. I formally request the public authority address and resolve this non-compliance and disclose documents records and notes on the happenings under the Act in relation to:

Firstly: 1)

The Development Application approved mid 2016 was **exactly the same** as those in determination, by the builder and certifier in early 2015 as **exempted building works**. That were built in 2015 based on that determination without any development approval was filed by same in mid 2016 that caused the "stop work notice" of the already completed building of a third house as **exempt building work**.

However: The "new" MERIT TRACK Application filed in mid 2016 disclosed under FOI " instructed by the lessee's of block 3 section 21" on page Page 10 of 13 states that preceding determination by the Ceritifier and licensed builder had published in 2015 was written **NO THAT PUBLISHED AND DISTRIBUTED TO THE COMMUNITY AT LARGE DETERMINATION OF "exempt from development approval"** was relied upon by delegate of the the lawful authority, DOMINIC RICHES, was fully informed, aware and communicated knowledge he personally knew that claim to be **false misleading and fraud**.

Within this new FOI I request the documents, records, communications of when this disclosed information released under FOI 20/055456 was created, made and the documented flow of correspondence detailing it was put for assessment before Mr D Riches in approving the MERIT TRACK development application. The correspondence documents, emails and records of why this information was previously undisclosed via a proper public process, previously withheld or at some point intentionally altered and put as different to what was informed occurring in 2016 in disclosures to the related parties concerned.

What date was the reconsideration of the application made on these altered documents?

Secondly: 2)

On Page 9 of 13 the disclosed document confirms, the determination rightly or wrongly as **exempt**, the Development of controlled activities were undertaken without legislative compliant approval. As such in the assessment the Authority required registered surveyor certificate to confirm location, and dimensions: confirming height, width, length dimensions and set back from block boundaries of the construction / development.; **Also:** location and nature of earth works; utility connections Sec 205 p&D Act 2007

The FOI disclosed: alterations appear on the "registered" certified surveyor certificate. However these were not present in 2016

when the delegate Domonic Riches, on approving the Merit Application copied those documents relied on by him and provided those unadulterated documents submitted for consideration by the registered certified surveyor. Within this FOI please provide any documents, emails notes or records of communications, to what who when where why and if these amendments after the fact were properly authorized, in some form of record, by the registered certified surveyor responsible?

What date was the reconsideration of the application made on these altered documents?

Thirdly 3)

Page 9 of 13 A declaration was also made for storm water in compliance with utility standards YES. The diverted storm water is non-compliant. As this is one of the points raised in formal complaint and known and recorded by ACTPLA in 2015, this can not have been the form Dominic Riches considered for approval; or their must be further documents and communications occurring substantively relevant to the provision of FOI yet disclosed in compliance with legislative obligation.

I meet with Dominic and communicated with numerous ACTPLA and ACCESS officers regarding this non-compliance with utility standards and diversion of storm water. Please disclose anything that supports the determination by Dominic Riches as fit and proper, what actions taken to address this non-compliance, and assist assure the approval of the back dated approval of the previously build, determined **exempt development of building works** those completed, might not have been a careless knowing or deliberately, negligent in light of the non-compliance raised. The non-compliance still exists unabated with what the Department can rectify at minimal cost and compliance, since 2015.

What date was the reconsideration of the application made on these altered documents?

Fourthly 4)

Page 8 of 13 Stated the proposal for erosion and sediment control documentation was NOT determined but that prescribed documentation had been submitted for referral to the entity. The authority was no prescribed documentation dealing with the erosion and sediment caused to date by the development that is a danger to the community since the controlled activities commenced unabated.

Within ACT Courts and Tribunal form matters in ACAT to Supreme Court of Appeal: Mr William Aldcroft has **conceded in submission** his use of a fence on the neighbors property (lot 2 section 21) was cause of imminent danger since 2016 for the residence on that adjoining property, as a result of then erosion and sediment caused from his uncontrolled development activities, in that 70 cm of loose fill pressed against a single pail wooden fence on that adjoining [property as the only retainer and control of sediment or erosion!

Mr Dominic Riches appears to have approved that use of a wooden fence on the neighbors property for 70cm of loose fill to hold the UN-controlled activities and building works on the neighbors block. Please provide all the documents, information, correspondence emails and notes and records of that assessment as fit and proper and not intentionally, willfully or carelessly negligent placing the up to 12 members of the public at imminent, unabated personal risk of illness and injury since 2015? This should form p[art of a separate FOI request please.

What date was the reconsideration of the application made on these altered documents?

Fifthly 5)

Mandatory requirements for the development to meet approval requires a 2.3 meter in high privacy screen erected inside the boundary line of block above the determined NGL the development was approved.

What date was the reconsideration of the application made on these altered documents? and when will a compliant 2.3 meter privacy screen be erected?

Under a new FOi request. Who signed off on the controlled activities in 2016 an approved those building works habitable meeting the mandatory conditions of approval? I need the date, person, officer or position, and when that determination and how that determination was record3d as being meet. William Aldcroft stated ion Supreme Court that "**final approval for occupance consisted of a hand sake and statement of "well done" made to him by some unidentified person.**

What date was the reconsideration of the application made on these altered documents?

Sixthly 6)

On Page 49/91 the evidentiary data relied for determination of approval records **RL 616** on the adjoining block the second Registered level is 11.45 meters away the the relevant block the development was approved **RL 617**. the analysis used in assessment and making of mandatory conditions is the NGL at the boundary line is quantified via assessment and determined in the decision making process of Dominic Riches as **NGL 616.59**.

These altered documents appear to suggest; in light of **no other authorized persons approval is disclosed considering the matter**; Domic Riches considered the NGL on assessment of calculation on the estimate boundary to be 616.59.and the finished floor level of the completed unapproved controlled activity seeking retrospective approval to be 57cm above NGL.

What date was the reconsideration of the application made on these altered documents?

Under a competent compliant matter made in "in time" then authorized registered surveyors certification, might have appeared prudent and proper to be relied by the authority. **However, that has been altered at some point in time by some body without any notice or identified authority in which any reasonable person might possible rely.**

In the event of any transgression from those submitted documents authorized by a registered expert who might be perceived as competent the authority is required to consider other data. Mr Riches appears to have been careless, reckless or incompetent in what appears his / or caused to be altered documents said backdated to his decision in 2016.

NGL is defined by Datum ground level determined by filed survey authorized by a registered surveyor: **As the documents submitted in compliance with that legislated requirement, now appear to have been altered and rendered unreliable by some after the fact manipulation of public records submitted.** What date was the reconsideration of the application made on these altered documents?

The records not disclosed under FOI of these alterations are:

- a) the records at time of operational acceptance of subdivision? Where are those and why aren't they disclosed? or*
- b) Notice of "no new earth works have occurred" who provided that certification and why was that nor disclosed in substance to the matter requested under FOI?*
- c) filed survey at the date the lease was granted for blocks 2 & 3 section 21?*
- d) where is the registered surveyors filed survey to provide "best estimate" and the documents of consideration by Dominic Riches that details those records and why that "estimate" might or could be made to over ride the "best estimate" of a registered surveyor who had been caused by William ALdcroft to make a formal reliable assessment and submission for approval within the "MERIT ASSESSMENT" Development Application was less reliable to that of some scribble and guesstimate by some unknown thing, person, officer at some unidentified date for unidentified reason. What date was the reconsideration of the application made on these altered documents?*

Sixthly 6)

While there are some margins the siting of a boundary fence is the "point" is to be within a prescribed distance from then boundary line. The mandatory conditions for privacy screen are fair and reasonable being specific in compliance

must be inside the boundary. Resting that requirement, that privacy screen must be 2.3 meters high from the NGL. The screen is less than 1.7 high.

The Application has not been adhered to, and appears to have been made carelessly and or knowingly to be false and deliberately misleading. What date was the reconsideration of the application made on these altered documents?

Seventhly 7)

It appears from the new documents provided under FOI, the brick walls encroaching nearly 1 meter, over the boundary up to the buildings on the adjoining property, are now "suggested" as approved by the deligate under the land and building Act. What date was the reconsideration of the application made on these altered documents?

Please identify, how the authority investigating complaint from 2015 to now, of un-approved development activity by ALdcroft, UN-approved building work by Aldcroft; and undertaking of registered activities by Aldcroft on teh neighbours block can possible have been approved in this development activity on and pover the boundary regardless of NGL? What date was the reconsideration of the application made on these altered documents?

Please provide all documents, communications, and notes and records of communications regarding that assessment.

Eighthly 8)

The attached below is the confirmation of documents that should have been provided in 2016. That were apparently not created or availabel or withheld from being provided in 2016, in whoich the ACTPLA (ACCESS CANBERRA) have written they will [provide those documents. ***no documents have been provided. What date was the reconsideration of the application amd requioements for discloser made on those documents pertaining to the "retaining wall" encroachment and siting on the neighbours property that upholds the non-compliant development approved by the deligate on issues outstanding in the above?***