



ACT
Government

Environment, Planning and
Sustainable Development

Phone: (02) 6207 1923

Reference: 23/131060

Dear [REDACTED],

Decision on Freedom of Information Access Application 23/131060

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 21 December 2023.

Specifically, you are seeking:

Between 22 September 2021 and 19 December 2023

- 1. Any communications between the Planning and Land Authority, its servants or agents, and Geocon Group and its servants, NG Land, NG Land Holdings No 15 Pty Ltd or the owner of unit 563 of UP14971 (Blocks 3 and 4, Section 7 Reid) or Agents thereof concerning UP14971, relating to the permissible uses to which the car parks, or specific numbers of car parks located in Unit 563 can be or must be put.*
- 2. Any communications between the Planning and Land Authority, its servants or agents, and Geocon Group and its servants, NG Land, NG Land Holdings No 15 Pty Ltd, Geocon Constructions (ACT) Pty Ltd and Purdon Town Planning regarding plans to develop Blocks 3 and 4 Section 7 Reid, specifically any plans, proposals or discussions on the introduction of publicly accessible and/or visitor parking to be delivered on the parcel of land (or any such parcels as previously registered in this location).*
- 3. Any communications between the Planning and Land Authority, its servants and agents, and the Reid Residents Association regarding plans to develop Block 3 & 4, Section 7, REID, specifically including any plans, proposals or discussions on the introduction of publicly accessible and/or visitor parking to be delivered on the parcel (or any such parcels as previously registered in this location).*

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

In accordance with section 40 of the Act, a decision on your access application must be made on or by 4 March 2024.

Searches Conducted

Comprehensive searches were conducted and 13 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 six documents relevant to your application
- grant partial access to seven 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
- refuse to deal with part of your application under sections 43(1)(d) and 45(g) of the Act.

An attachment to document 1 (Units Plan 14971) is available via the Land Titles public register on the Access Canberra website:

<https://www.accesscanberra.act.gov.au/building-and-property/search-the-act-land-titles-register>

Under section 43(1)(d) of the Act, a respondent agency 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 government information is already available to the applicant. Those circumstances include where the government information is available for purchase (section 45(g)).

Under section 38 of the Act, a third party was consulted on disclosure of the information. The third party objected to release of document 11. My decision has taken into consideration the views and objections raised. As I have decided to release the information in part, access to document 11 is deferred under section 38(6)(b) to allow the third party the opportunity to seek a review of my decision. You will be notified of the outcome of any review process, and the documents may be released to you pending that outcome.

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, 38, 43, 45, 50, and Schedule 2
- the content of the documents that fall within the scope of your request
- the *Human Rights Act 2004*
- the views of third party consulted
- information publicly available.

Public Interest Considerations

My reasons for deciding not to grant access to components of some 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)(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, 2.2(a)(ii) – prejudice the protection of an individual’s right to privacy or any other right under the *Human Rights Act 2004*
- Schedule 2, 2.2(a)(xii) – prejudice an agency’s ability to obtain confidential information.

Personal Information

Documents 1, 3, 4, 10, 11, 12 and 13 contain the personal information of individuals (name and contact information). 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 this personal information redacted in accordance with section 50 and the Objects of the Act.

Ability to Obtain Confidential Information

I have decided the disclosure of some information within documents 12 and 13 would be expected to prejudice EPSDD’s ability to obtain confidential information. The information provided to EPSDD, was communicated with an expectation of use only to obtain advice and information in relation to a specific issue. The information was only provided in

correspondence with one employee of EPSDD and is only known to a small group to whom the issue relates.

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 this information redacted in accordance with section 50 and the Objects of the Act.

Charges

In accordance with the *Freedom of Information (Fees) Determination 2018* no charges are applicable to this application.

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/accountability-and-oversight/freedom-of-information/foi-complaints-and-reviews>

Alternatively, 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
15 Constitution Avenue
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 EPSDFOI@act.gov.au or call (02) 6207 1923 and ask for the Information Governance team.

Yours sincerely

(signed electronically)

Craig Weller
Information Officer
Executive Branch Manager, Statutory Planning
Environment, Planning and Sustainable Development Directorate

1 March 2024