



ACT
Government

Environment, Planning and
Sustainable Development

Phone: 02 6207 1923
Reference: 20/76947

Dear [REDACTED]

Freedom of Information 20/76947

I refer to your two applications made under section 30 of the *Freedom of Information Act 2016* (the Act) received by the Environment, Planning and Sustainable Development Directorate (EPSDD) on 28 September 2020, in which you sought information relating to documents provided in FOI 20/55456.

Under section 43(2) of the Act, your two applications are considered one.

Specifically, you are seeking:

Part 1

New FOI request for the same information as processed in application ref: 20/55456

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That stop work notice, subsequently had around three further Development Applications submitted, refused and or withdrawn as non-compliant.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 and relevant information used to inform approval for the approved use of the "Merit" line of assessment.

Part 2, as confirmed on 14 October 2020.

The dates I am after are the dates the documents the FOI team previously supplied under FOI.

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 29 October 2020.

Searches Conducted

Comprehensive searches were conducted no additional documents relevant to part one 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. This document consists of screenshots from eDevelopment, the electronic Development Application (DA) lodgement system used by the public. This information provides the dates documents were uploaded by the DA applicant for DA-201629944.

Creation dates of other documents provided in FOI 20/55456 were noted in the document schedule provided to you on 22 September 2020.

As previously advised no reconsideration was lodged regarding this development. DA-201629300 was lodged on 6 June 2016 and withdrawn on 2 August 2016. A new DA-201629944 was lodged on 15 August 2016 and approved subject to conditions.

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 and schedule 2 of the Act
- 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

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.

No factors favouring nondisclosure apply to the document proposed for release.

Charges

No charges are applicable to this application, the number of pages to be released 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



Information Officer
Executive Branch Manager, Planning Delivery Division (E01072)
Environment, Planning and Sustainable Development Directorate

29 October 2020