



ACT
Government

Environment, Planning and
Sustainable Development

Phone: 6207 1923
Reference: 19/28356

Dear [REDACTED]

Freedom of Information request 19/28356

I refer to your application under section 30 of the *Freedom of Information Act 2016* (the Act), received by the Environment, Planning and Sustainable Development Directorate (EPSDD) on 9 September 2019, in which you sought access to documents relating to draft variation 302 and technical amendment 2012-06.

Specifically, you are seeking:

- 1. The advice obtained, in the preparation of Draft Variation 302 (Notifiable Instrument NI2011-573), on whether the precinct codes created by the variation complied with Section 55 ("Codes in Territory Plan") of the Planning and Development Act; and*
- 2. The advice obtained, in the preparation of Technical Amendment 2012-06 (Notifiable Instrument NI 2012-622), on whether the changes in the amendment were consistent with the Section 87 ("What are technical amendments") of the Planning and Development Act.*

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 is required to decide on your access application by 8 October 2019.

Decision on Access

A search of EPSDD records was undertaken, which indicates no specific advice was obtained on the sections of the *Planning and Development Act 2007* (the Act) as outlined in your request.

I understand that advice is obtained on an as needs basis to address or resolve uncertainty in the administrative decision-making process.

NI 2012-622 expressly addresses compliance with s 87 of the Act, providing a summary of the Directorate's application of that provision to the technical amendment. I direct you to page 2 of that Amendment (available at <https://legislation.act.gov.au/ni/2012-622/>).

I also understand that DV 302 was the subject of public consultation, including consideration by the then Standing Committee for Planning, Public Works and Territory and Municipal Services and subsequent public enquiry. I am not aware that this process identified any issues of non-compliance under s 55 of the Act that gave rise to the need for advice to be sought.

Online Publication

Under section 28 of the Act, EPSDD maintains an online record of access applications called a disclosure log. Your original access application and my decision in response to your access application will be published in the disclosure log. Your personal contact details will not be published.

You may view our 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:

http://www.ombudsman.act.gov.au/data/assets/pdf_file/0026/79190/40A-Reviews-Factsheet-and-Application-Form-final-A1569634.pdf

If you wish to request a review of my decision 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


Carolyn O'Neill
Information Officer
8 October 2019