



ACT
Government

Environment, Planning and
Sustainable Development

Phone: (02) 6207 1923
Reference: 23/058013

By Email: [REDACTED]

Dear [REDACTED],

Decision on Freedom of Information Access Application 23/058013

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 31 May 2023, in which you sought access to documents relating to compulsory acquisitions in the ACT.

Specifically, you are seeking:

“Data set of all compulsory acquisitions in the ACT in the last 10 years, isolating:

- 1. Date of acquisition*
- 2. Location or general location of property*
- 3. Price of acquisition”*

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 decide your application on or by 13 July 2023

Searches Conducted

Comprehensive searches were conducted and 1 document containing information within the scope of your application was identified.

EPSDD define a ‘compulsory acquisition’ as land that is acquired under the *Lands Acquisition Act 1994*. Further information on land acquisitions reported under the *Government Agencies (Land Acquisition Reporting) Act 2018* (which relates more broadly to land bought or obtained by the ACT Government, including termination, surrender and withdrawal of crown leases and other acquisitions) is available through the Affordable Housing Policy Coordination Team, Chief Minister Treasury and Economic Development Directorate (CMTEDD). If you would like to make a request in relation to acquisition reporting, it can be made directly to CMTEDD via CMTEDDFOI@act.gov.au.

Please note any compulsory acquisitions in progress or finalised after receipt of your application on 31 May 2023, but prior to this decision date have not been included as these are considered out of scope of the application.

Decision on Access

I have included as **Attachment A** to this decision the schedule of this relevant document. The schedule provides a description of the document that falls within the scope of your application and the access decision for the document.

I have decided to grant partial access to the document and, in accordance with section 50 of the Act, provide you with a copy of document with deletions applied to contrary to the public interest information.

My access decision is detailed further in the following statement of reasons and the document released to you is 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, 40, 50, and Schedule 2
- 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 the document is 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)(i) – promote open discussion of public affairs and enhance the government's accountability;
- Schedule 2.1(a)(iii) – inform community of government operations and its dealings with community members.

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)(xi) – prejudice trade secrets, business affairs or research of an agency or person.

Business Information

The document contains business information regarding ongoing negotiations between third parties. I have deliberated on how the public interest is served by the information assessed

to be released to you, and what further benefit may be derived from the release of this information.

I have considered the rights of lessees and confidential agreements regarding these negotiations which is not publicly available.

On balance, I have decided that the detriment caused by the release of this information which may constitute a breach of confidence, outweighs any anticipated benefit provided by its release.

I consider the information in the document should be exempt from release. The release of third-party information could cause detriment or disadvantage to current and future negotiations between third parties, the ACT Government and lessees, a factor favouring nondisclosure under Schedule 2.2(a)(xi) of the Act.

I am therefore satisfied that, on the information available, disclosure of the identified business affairs information is contrary to the public interest.

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/_data/assets/pdf_file/0026/79190/Apply-for-Ombudsman-review.pdf

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 EPSDD Customer Service on (02) 6207 1923 and ask for the FOI team, or email to EPSDFOI@act.gov.au.

Yours sincerely

Electronically signed

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

13 July 2023