



**ACT**  
Government

Environment, Planning and  
Sustainable Development

Phone: 6207 1923  
Reference: 20/82976

Dear [REDACTED]

### **Freedom of Information - Decision Notice FOI 20/82976**

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 27 October 2020, in which you sought access to information relating to:

*Pursuit to Section 7(1) of the Freedom of Information Act 2016, I seek the following documents relating to Block 59 (now known as Blocks 715 & 716) Majura Road, Majura ACT 2609:*

- 1. Heritage-listing related official determinations, minutes, draft determinations, and correspondence concerning the heritage listing of Majura House;*
- 2. Contour maps, topographical maps, soil and groundwater tests and reports, photographs, and blueprints relating to Majura House; and*
- 3. Historical information held by the Directorate concerning Majura House and which might assist historians to better understand the history of Majura House and its historical significance.*

*To assist with your response, Majura House is a slab annex and a shingle roof home built in the 1840s for Alfred Mayo, who was an overseer for Robert Campbell of Duntroon.*

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 due to make the decision on your application on or by 9 February 2021.

We appreciate your patience and assistance during the processing of your application.

#### **Searches Conducted**

Comprehensive searches were conducted, and thirty-two documents were identified to fall within the scope of your application.

#### **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 fifteen documents relevant to your application.

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

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 17, 28, 41, 50, and Schedule 2;
- the *Information Privacy Act 2014*;
- the content of the documents that fall within the scope of your request;
- views provided by third parties regarding disclosure of their information; and
- information publicly available

### **Public Interest Considerations**

My reasons for deciding not to grant access to certain documents and components of these documents are as follows:

#### **Information Disclosure - Contrary to the Public Interest under 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 of 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*

Disclosure of the identified 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)(ii) – contribute to positive and informed debate on important issues or matters of public interest;
- Schedule 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(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(a)(xviii) - prejudice the conservation of any place or object of natural, cultural or heritage value, or reveal any information relating to Aboriginal or Torres Strait Islander traditional knowledge;

### Personal information

In my review of the requested material, I have given regard to the pro-disclosure bias in the Act and the benefit of open government and transparency in government processes and decision-making. I have considered whether the release of the personal information identified would advance the public interest and it is my view that, in this instance, the release of this information would not serve to further open discussion, government accountability, informed debate and the provision of contextual or background information.

In balancing public interest considerations, and on the information available, I am satisfied that the disclosure of this personal information could reasonably be expected to prejudice the protection of an individual's right to privacy. This is a factor favouring nondisclosure under Schedule 2, Section 2.2(a)(ii) of the Act.

In balancing public interest considerations, I am satisfied that, on the information available, disclosure of the identified personal information of members of the public may constitute a breach of privacy and disclosure is therefore contrary to the public interest.

### Aboriginal Cultural Heritage Sites

I have given regard to the general interest of the Canberra community in the decision-making processes of the ACT Heritage Council and the impact of these decisions. I have further considered the public benefit of transparency in Government processes and the enduring protection of Aboriginal cultural heritage sites.

Some documents relevant to your application contain information that identifies the location of sites where items of Aboriginal cultural heritage may have previously been found. I have decided on balance, the disclosure of material that would assist in identifying these locations would be contrary to the public interest.

In accordance with section 50 and the Objects of the Act, I have decided to provide you copies of the documents with information contributing to location identification redacted.

It is for these reasons that I have decided to release to you thirty-two documents in part or in full (as outlined on the attached schedule).

### **Charges**

In this instance, I have decided to waive fees associated with your access application under section 107 of the Act. I have determined that the information released to you, and publicly on the disclosure log, would assist in better informing the public about government processes and issues that concern the broader Canberra community.

### **Online Publication**

Under section 28 of the Act, EPSDD maintains an online record of access applications called a disclosure log. Your original access application, my decision and documents released to you in response to your access application will be published in the EPSDD disclosure log no earlier than three days after you receive this decision.

You will not be identified as the applicant in the published material. In respect of your business or personal affairs, I have removed any information that I deemed would be an unreasonable disclosure through this process.

You may view the EPSDD's 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](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](mailto: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 [EPSDFOI@act.gov.au](mailto:EPSDFOI@act.gov.au).

Yours sincerely



Ian Walker

Information Officer

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Environment, Planning and Sustainable Development Directorate

31 January 2021