



ACT
Government

Environment, Planning and
Sustainable Development

Phone: (02) 6207 1923
Reference: 21/52093

Dear [REDACTED]

Freedom of Information 21/52093

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 11 June 2021, in which you sought access to information relating to 8 Casilda Street, Harrison.

Specifically, you are seeking:

Copies of all the documentation associated with my closed complaint (number AC-00203583) and planning documents associated with 8 Casilda Street, Harrison (block 4, section 154, Harrison), including but not limited to:

- *All correspondence between Access Canberra and the builder (BLD Homes).*
- *DA exemption and/or development approval forms and date they were lodged to Access Canberra.*
- *Copies of all submitted and approved plans for the building.*
- *The Compliance, Monitoring and Inspections Team's inspection results (i.e. measurement/physical inspection of non-compliances).*
- *Decision notice for the Exempt Declaration.*

Your application was partially transferred from Chief Minister, Treasury and Economic Development Directorate (CMTEDD) on 11 June 2021, in accordance with section 57 of the Act as EPSDD held information within the scope of your application.

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

As third party consultation was undertaken, EPSDD must make a decision on your application on or by 2 August 2021.

Searches Conducted

Comprehensive searches were conducted and 22 documents containing information within the scope of your application were identified.

No documents containing information in relation to point 4 of your application were identified as being held by EPSDD.

Third Party Consultation

As information within the scope of your application was considered to be of concern to third parties, in accordance with section 38 of the Act consultation was undertaken.

No responses were received from third parties.

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 contains information that falls within the scope of your application and the access decision for the information in each of those documents.

I have decided to give full access to all information in seven of the relevant documents.

I have decided to give partial access to some information in the remaining 15 relevant documents.

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 Act, particularly sections 6, 17, 38, 50 and schedule 2
- the content of the documents that fall within the scope of your request
- the *Human Rights Act 2004*

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)(xiii) – contribute to the administration of justice generally, including procedural fairness.

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*.

Personal Information

Having considered the factors identified as relevant in this matter, I consider that release of the information contained in the document may contribute to procedural fairness by allowing you to have a copy of the documents that fall within the scope of your request.

I consider that the protection of an individual’s right to privacy, especially in the course of their dealings with the ACT Government is a significant factor as the parties involved have provided their personal information for the purposes of working with the ACT Government. This, in my opinion, outweighs the benefit which may be derived from releasing the personal information of the individual’s involved in this matter.

Individuals are entitled to expect that the personal information they have supplied as part of the exemption application process will be dealt with in a manner that protects their privacy. Considering the type of information to be withheld from release, I am satisfied that the factors in favour of release can still be met while protecting the personal information of the individuals involved. I therefore weight the factor for non-disclosure more highly than the factor in favour of release in this instance.

As a result, I have decided that release of this information (descriptions of internal areas in floor plans, addresses, email addresses, signatures, identifying details and names of members of the public) could prejudice their right to privacy under the *Human Rights Act 2004*.

Having applied the test outlined in section 17 of the Act and deciding that release of personal information contained in the documents is not in the public interest to release, I have chosen to redact this information in accordance with section 50(2). Noting the pro-disclosure intent of the Act, I am satisfied that redacting only the information that I believe is not in the public interest to release will ensure that the intent of the Act is met and will provide you with access to the majority of the information held by EPSDD within the scope of your request.

Charges

Pursuant to the *Freedom of Information (Fees) Determination 2018*, processing charges are not applicable for this request as the total number of pages to be released to you is below the charging threshold of 50 pages.

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
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



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

2 August 2020