



**ACT**  
Government

Environment, Planning and  
Sustainable Development

Phone: (02) 6207 1923  
Reference: 23/081638

Dear [REDACTED]

**Decision on Freedom of Information Access Application 23/081638**

I refer to your application made under section 30 of the *Freedom of Information Act 2016* received by the Environment, Planning and Sustainable Development Directorate (EPSDD) on 4 August 2023, in which you sought access to documents relating to Plan Variation 2023 – N12023-215 Braddon and Ainslie ovals.

Specifically, you are seeking:

“...The [REDACTED] wishes to obtain documents that relate to *Planning and Development (Technical Amendment—FUA uplift and rezoning boundary and public land overlay changes) Plan Variation 2023 - NI2023-215, dated 27 April 2023. This request only concerns the section of this Technical Amendment that relates to the removal of the Public Land overlay from Braddon and Ainslie Ovals (for the purposes of this request this section of the Technical Amendment is referred to as the Pi overlay change).*

The [REDACTED] requests the following documents:

1. All ACT Government correspondence, briefings, notes, emails and other electronic communications relating to the period of time from when the Pi overlay change was first contemplated up until the date when the change came into effect (i.e. the approval of Technical Amendment NI2023-215).
2. All correspondence, briefings, notes, emails and other electronic communications relating to the Pi overlay change from parties external to ACT Government. This should include any communications from any external organisations, consultants or companies that either requested, provided advice or input for the development of the Pi overlay changes.
3. Copies of any public land management reports for the Ainslie Oval and Braddon Oval (respectively Ainslie section 26 block 19 and Braddon section 30 block 6) prepared by the relevant lease holders and submitted to the ACT Government.
4. Copies of the current leases for Ainslie section 26 block 19 and Braddon section 30 block 6.”

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 9 October 2023.

### **Searches Conducted**

Comprehensive searches were conducted and 22 documents containing information within the scope 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 8 documents relevant to your application.

I have decided to grant partial access to 14 documents and, in accordance with section 50 of the Act, provide you with copies of documents with deletions 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 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*
- any views of third parties consulted

### **Public Interest Considerations**

My reasons for deciding not to grant access to 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)(i) – promote open discussion of public affairs and enhance the government’s accountability;
- Schedule 2, 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, 2.2(a)(ii) – prejudice the protection of an individual’s right to privacy or any other right under the *Human Rights Act 2004*;

### Personal Information

Documents relevant to your application contain personal information of individuals including signatures, personal emails, and mobile phone numbers. I have considered how the public interest would be advanced by releasing this information in part or in whole. It is my view that the information if disclosed, could reasonably be expected to prejudice the protection of an individual’s right to privacy under section 12 of the *Human Rights Act 2004*. On balance, and the information available to me, I am satisfied that the disclosure of this personal information is not in the public interest.

To provide you with the information that I have determined to be in the public interest to release, copies of some documents have been prepared with personal information redacted in accordance with section 50 and the Objects of the Act.

### **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](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  
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](mailto:EPSDFOI@act.gov.au).

Yours sincerely



Ben Green  
Information Officer  
Executive Group Manager, Planning Urban Policy  
Environment, Planning and Sustainable Development Directorate

09 October 2023