



ACT
Government

Environment, Planning and
Sustainable Development

Phone: (02) 6207 1923
Reference: 24/023331

By Email: [REDACTED]

Dear [REDACTED]

Decision on Freedom of Information Access Application 24/023331 (Application 2)

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 6 March 2024.

Specifically, your revised application is seeking:

- 1. Sewerage plans for blocks 19, 21 & 22 in public interest. In particular, I am after sewerage plans that show a pink/red line for these blocks as shown for the other blocks at the following document made public by SLA
<https://www.rgoonline.act.gov.au/pubreq/TieBooks/N/MONCRIEFF/1/0115.pdf>
(accessed today i.e. 5 March 2023)*
- 2. Inspection reports for the above mentioned sewer infrastructure for blocks 19, 21 & 22 in public interest.*
- 3. Who (which company/contractor engaged by the SLA) has built the above-mentioned sewer infrastructure and the terms of the contract between SLA & the contractor. In particular, I am after the terms in relation to inspection, warranty and defect periods only. Commercial-in-confidence information can be redacted*
- 4. Documents submitted to the ACT government to register the community title scheme CT29 - 71-105 Limb Circuit & Bernard Heinze Ave, Moncreiff that's relevant to the abovementioned blocks. In particular, I am after the common property infrastructure plans submitted to obtain the approval. I think they might be called 'Master Plan' or something similar.*
- 5. Documents relating to due-diligence performed by ACT government when assessing these plans and approving the above mentioned Community Title scheme. In particular, I am after the criteria/standards used to assess the sewerage infrastructure. When it comes to Community Title Schemes, other state government regulations prohibit joint sewerage services. That is, each parcel of land must be serviced from a council sewer. I am trying to locate similar criteria which most likely exist for the ACT government. Hence, this request.*
- 6. Finally, complete guidance (policies, procedures etc.) on how complaints are handled by the SLA including timeframes for resolution, what cost benefit analysis is conducted before allocating governments resources in resolving complaints etc.*

In accordance with section 38 of the *Freedom of Information Act 2016* (the Act), third party consultation was undertaken, therefore EPSDD is required to decide your application on or by 14 May 2024. I am an Information Officer appointed under section 18 of the Act to deal with access applications made under part 5 and now write to provide notice of my decision in relation to your application.

Decision on access

In response to your application, comprehensive searches were conducted and 22 documents containing information within the scope of your application were identified. Your request was partially transferred to Chief Minister, Treasury and Economic Development Directorate (CMTEDD) regarding processing of documents in scope relating to point 3 of your request.

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.

In considering your application, 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 responses of third-parties consulted;
- the *Freedom of Information (Volume 4 – Considering the public interest) Guidelines 2023* (Notifiable Instrument [NI2023-751](#)) and;
- the *Human Rights Act 2004*.

I have decided to:

- grant **full** access to 14 documents.
- grant **partial** access to 7 documents.
- **refuse** access to one document.

The documents released to you by my decision are provided at **Attachment B** to this letter.

Public interest considerations

Information Disclosure – Schedule 2 of the Act

In assessing whether disclosure of the remaining information identified in relation to your request would, on balance be contrary to the public interest, I must apply the test outlined under section 17 of the Act.

This requires consideration of factors favouring disclosure, any favouring nondisclosure and the balancing of those factors when considered cumulatively. Unless, on balance, disclosure would be contrary to the public interest, access to the information must be allowed.

In applying the public interest test to the documents identified in relation to your application, I have determined that disclosure of the information could reasonably be expected to do the following:

- Schedule 2, 2.1(a)(viii) – reveal the reason for a government decision and any background or contextual information that informed the decision.

This factor demonstrates that the release of the requested information may assist in public understanding of government decisions and provide insights as to the context for them, promoting transparency and accountability.

I have however, also determined that there is a factor favouring nondisclosure:

- Schedule 2, 2.2(a)(ii) – disclosure of the information could reasonably be expected to prejudice the protection of an individual’s right to privacy or any other right under the *Human Rights Act 2004*; and
- Schedule 2, 2.2(a)(xi) – prejudice trade secrets, business affairs or research of an agency or person.

Several documents contain personal information, including signatures, mobile numbers, and email addresses of individuals. I am satisfied that the factors in favour of release can still be met while protecting relevant personal information. I have therefore weighed 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 could prejudice the individual’s 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 specific information in accordance with section 50(2) of the Act.

One document contains business information which has been provided in confidence under contractual agreement and details of negotiations for the tender submission in the development of a new suburb. I have considered the disclosure of business affairs information in accordance with Schedule 2, 2.2(a)(xi) and whether or not the disclosure would advance the public interest. In reaching my decision I have weighed the public interest considerations, the information available, and views of the third parties. On balance I have decided that there is a high potential of reputational harm in disclosing negotiations, payment rates, and tender negotiations, therefore this document is refused in accordance with schedule 2, 2.2(a)(xi) of the Act.

Right to review

Information regarding your right to review of this decision, the processing and publication of your request and this decision are set out at **Attachment C**.

Yours sincerely
Electronically signed

George Cilliers
Information Officer
Executive Group Manager, Statutory Planning
Environment, Planning and Sustainable Development Directorate

14 May 2024