



Dear 

**Freedom of information request: 18/14586 – Gold Creek golf course tender and lease documents**

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 31 May 2018, in which you sought access to Gungahlin Golf Investments P/L's (the Company) Gold Creek golf course tender and lease documents.

Specifically, you are seeking:

**In relation to the Crown Lease transferred to the lessee in 2006 or thereabouts:**

- 1. A copy of the sale agreement between the Territory and the Company; and**
- 2. Any other document which contains the terms, or reference to the terms, on which the Crown Lease over the golf course land was granted to the Company including documents arising in and from the tender process leading to the grant.**

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

Following third party consultation and your agreement to a request to extend the date for decision, we are required to make a decision on your access application by 6 September 2018.

A decision was made on a component of your request, known as PART ONE on 17 August 2018 which released to you and contained the Land Contract for Sale and specimen crown lease.

This decision is for the remainder of your request and is known as PART TWO.

## **Decision on access**

Searches were completed for relevant documents and four documents were identified that fall within the scope of your request.

I have included as **Attachment A** to this decision the document schedule. This provides a description of the documents falling within the scope of your request and associated access decision.

Portions of the documents identified as relevant to your request contain information that I consider to be information that would, on balance, be contrary to the public interest to disclose under the test set out in section 17 of the Act.

I have decided to grant access in full to one document.

I have decided to grant access, under section 50 of the Act, to a copy with deletions applied to the information that I consider would be contrary to the public interest to disclose.

My access decisions are 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 section 17 and Schedule 2; and
- the contents of the documents that fall within the scope of your request.

## **Exemptions claimed**

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

### **Contrary to the public interest information 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, 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 (see section 17, the Act).

In assessing the public interest, I must apply the cascading test set out by section 17 of the Act which requires consideration of factors favouring disclosure, any favouring nondisclosure and the balance of those factors when considered cumulatively.

In relation to the documents identified as falling within the scope of your request and scheduled with the status of 'Partial Release', section 17 applies as follows.

#### Personal Information

I have considered the release of the identified personal information and my view is that the identification of third parties would not serve the public interest by advancing open discussion, government accountability, informed debate and the provision of contextual or background information.

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 under the *Human Rights Act 2004*. This is a factor favouring nondisclosure under Schedule 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 is therefore contrary to the public interest.

#### Business affairs

I have considered the release of information that contains business information of an agency and whether the disclosure of that information would serve to further open discussion, government accountability, informed debate and the provision of contextual or background information.

I have also considered whether the release of the information would prejudice trade secrets, business affairs or research of an agency or person – schedule 2.2(xi) of the Act.

I am not satisfied that disclosure of the identified business information could reasonably be expected to further advance these matters as it is limited to specific aspects of third party business affairs.

On balance of these public interest considerations and the information available, I have concluded that the disclosure of trade secret and business affair information would be an unreasonable disclosure and may constitute a breach of confidentiality.

### **Online publishing – disclosure log**

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 document released to you in response to your access application will be published in the EPSDD disclosure log no sooner than three days after date of decision. Your personal contact details will not be published.

You may view the EPSDD 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:

[http://www.ombudsman.act.gov.au/\\_data/assets/pdf\\_file/0026/79190/40A-Reviews-Factsheet-and-Application-Form-final-A1569634.pdf](http://www.ombudsman.act.gov.au/_data/assets/pdf_file/0026/79190/40A-Reviews-Factsheet-and-Application-Form-final-A1569634.pdf)

If you wish to request a review of my decision 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/>

If you have any queries concerning the Directorate's processing of your request, or would like further information, please contact EPSDD Customer Service on 6207 1923 and ask for the FOI team, or email to [EPSDFOI@act.gov.au](mailto:EPSDFOI@act.gov.au)

Yours sincerely



Anthony Bailey  
Information Officer  
Suburban Land Agency

6 September 2018

