



**ACT**  
Government

Environment, Planning and  
Sustainable Development

Phone: (02) 6207 1923  
Reference: 24/052807



Dear 

## **Decision on Freedom of Information Access Application 24/052807**

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 19 May 2024.

Specifically, you are seeking:

*"...obtain access to the material named in the title of this e-mail (Wybalena Grove Assessment Material), which apparently relates to an assessment of a heritage nomination for Wybalena Grove, where I currently live. I am advised that the material dates from late 2004-2005."*

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

In accordance with section 40 of the Act, a decision on your access application must be made on or by 2 July 2024.

### **Searches Conducted**

Comprehensive searches were conducted and three 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 three documents relevant to your application.

EPSDD does not hold documents which directly relate to the heritage nomination, only a draft version can be provided relating to Wybalena Grove.

The document was created as a proposed draft under the *Land (Planning and Environment) Act 1991* by an external contractor in 2004-2005 for interim entry for the heritage register. The document does not represent any views of the Heritage Council. Information contained within the document may be considered out of date and is to be used for research purposes only.

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, and Schedule 2
- the content of the documents that fall within the scope of your request

### **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, 2.1(a)(i) – promote open discussion of public affairs and enhance the government's accountability.
- Schedule 2, 2.1(a)(ii) – contribute to positive and informed debate on important issues or matters of public interest.

#### *Factors favouring Nondisclosure*

No factors favouring nondisclosure of the information were identified.

### **Charges**

In accordance with the *Freedom of Information (Fees) Determination 2018* no charges are applicable to this application, the number of pages to be released is below the minimum 50 page threshold.

## **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/accountability-and-oversight/freedom-of-information/foi-complaints-and-reviews>

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 [EPSDFOI@act.gov.au](mailto:EPSDFOI@act.gov.au) or (02) 6207 1923 and ask for the Information Governance team.

Yours sincerely



Bren Burkevics  
Information Officer  
Environment, Planning and Sustainable Development Directorate

25 June 2024