



Freedom of information request: 18/09731 - Direct Sale Block 30 Section 34 DICKSON

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 11 April 2018, in which you sought access to direct sale documents.

Specifically, you are seeking:

“documents related to the Tradesman’s Union Club’s three direct sale applications in January 2010, August 2010, and November 2010 to purchase Block 30 Section 34 Dickson.”

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 your agreement to extend the timeframe for a decision and the requirement for third party consultation, EPSDD is required to make a decision on your access application by 15 August 2018.

Decision on access

Searches were completed for relevant documents and 58 documents were identified that fall within the scope of your request.

I have included as **Attachment A** to this decision the schedule of relevant documents. This provides a description of each document that falls within the scope of your request and the access decision for each of those documents.

I have decided to grant full access to 19 documents.

I have decided to grant partial access to 27 documents, as I consider them to contain:

- information that is outside the scope of your request; or
- 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 refuse access to 12 documents, as I consider them 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.
- information that is contrary to public interest under Schedule 1 of the Act; or
- information that is already publicly available to you.

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 17, 38 and 43(1)(d) and schedules 1 and 2;
- the content of the documents that fall within the scope of your request;
- the objection of the release of information concerning a third party; and
- information already available in the public domain.

Exemptions claimed

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 disclosure would be contrary to the public interest (see section 17, the Act).

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 1 of the Act

Some information relevant to your request is considered Cabinet Information. Cabinet Information is determined to be contrary to the public interest to release under Schedule 1.6 of the Act. This information is marked 'Schedule 1.6 Cabinet Information' in the document schedule and has not been released to you.

Contrary to the public interest information under Schedule 2 of 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.

Personal Information

I have considered the release of personal information and my view in this instance is that the identification of third parties would not serve to further 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 affairs or trade secrets and whether the disclosure of that information would serve to:

- further open discussion of public affairs and enhance government accountability – schedule 2.1(a)(i);
- contribute to informed debate – schedule 2.1(a)(ii);

- reveal the reason for a government decision and any contextual or background information – schedule 2.1(a)(viii).

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.

In accordance with section 38 of the Act, I sought the views of a relevant third parties on whether government information identified within the scope of your request contained contrary to the public interest information. The third parties contested release of the information as it relates to personal private information, trade secrets and business affairs, both factors favouring nondisclosure in the public interest under schedule 2.2.

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

In balancing public interest considerations, I am satisfied that, on the information available, the disclosure of trade secret and business affair information would be an unreasonable disclosure and may constitute a breach of confidentiality.

Information already available

Some information identified as relevant is already available publicly. I am satisfied that this government information is already available to you and I have refused this portion of the application in accordance with s43(1)(d) of the Act. A web link to the published document is provided in the schedule attached.

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 documents 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's 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

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

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 (02) 6207 1923 and ask for the FOI team, or email to EPSDFOI@act.gov.au

Yours sincerely



Bruce Fitzgerald
Information Officer
Environment, Planning and Sustainable Development Directorate

15 August 2018