



ACT
Government

Environment, Planning and
Sustainable Development

Phone: (02) 6207 1923
Reference: 24/007339

By Email: [REDACTED]

Dear [REDACTED]

Decision on Freedom of Information Access Application 24/007339

I refer to your application made under section 30 of the *Freedom of Information Act 2016* (the FOI Act) transferred in part from the Chief Minister, Treasury and Economic Development Directorate (CMTEDD), and received by the Environment, Planning and Sustainable Development Directorate (EPSDD) on 18 January 2024.

Specifically, you are seeking:

"...Incomplete building project at 36 Kitty McEwan Cct McKellar ACT (B8 S88).

- 1. Copies of all correspondence between ACT Planning and the developers or property owners involved in this building project, including letters, emails, and any other written communication.*
- 2. Inspection reports, compliance records, and any documentation related to site visits or assessments carried out by ACT Planning regarding this project.*
- 3. Any notices or warnings issued to the property owners or developers due to violations of building regulations or other relevant laws.*
- 4. Any documents or reports that outline the current status of the building project, including the reasons for its incomplete state."*

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 25 March 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 3 documents containing information within the scope of your application were identified.

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 **partial** access to 3 documents.

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

Several documents contain personal information, including signatures, 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.

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

Craig Weller

Information Officer

Executive Branch Manager, Statutory Planning, Planning and Sustainable Development.

25 March 2024



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Decision Notice Fact Sheet

Charges

No charges are applicable to this application as the number of pages to be released is below the minimum 50-page threshold.

Online publication

Under section 28 of the FOI Act, EPSDD maintains an online record of access applications called a disclosure log. As your application sought access to personal information your application and decision letter will not be published in accordance with section 28 (6) of the FOI Act

The EPSDD disclosure log is at the following link:

<https://www.environment.act.gov.au/about-us/access-government-information/disclosure-log>

Ombudsman review

Decisions on access requests are reviewable decisions 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 a decision is provided to you, 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

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 or call (02) 6207 1923 and ask for the Information Governance team.

