



**ACT**  
Government

Environment, Planning and  
Sustainable Development

Obj Ref: 18/00886  
Phone: 6207 1923

Dear [REDACTED]

**Freedom of information request: 18/00886 Direct Sale of Block 11 Section 8 Fyshwick**

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 2 January 2018, in which you sought access to:

Specifically, you are seeking:

1. *A copy with the date received by EDD of the Direct Sale of Land Eligibility Application, under the name of Somerset Rehabilitation and containing a signed, dated and witnessed copy of the Statutory Declaration required in SECTION I. I have attached for your reference the redundant copy dated 15/10/15 provided by EPD customer services in the DA 201630668 documents used to inform the assessment and notice of decision in regard to this DA. Your later updated version may be in the name of Access Recycling Pty Ltd or Capital Recycling Solutions Pty Ltd. CRS has since the 15/10/15 document purchased the old contaminated Shell site, Block 9 adjacent and this would be included in your updated version.*
2. *Correspondence with you as noted by Purdon Planning on p.4 of DA201630668 was included in the Direct Sale submission. I would greatly appreciate if you could provide me with a copy of this correspondence redacted if necessary.*
3. *Advice in regard to the current status of the Territory land, Block 11 Section 8;*
  - i. *Which company name was used in the final Direct Sale of Land Eligibility Application approved by EDD;*
  - ii. *Who made the required Statutory Declaration in SECTION I of the Direct Sale of Land Eligibility Application approved by EDD;*
  - iii. *What is the area of the land subject to the Direct Sale of Land Eligibility Application approved by EDD;*
  - iv. *Was the sale price of \$10,000 provided by the proponent as an estimate at 15/10/15 on page 16 SECTION F, adjusted in the final Direct Sale of Land Eligibility Application approved by EDD;*
  - v. *Was a valuation sought from an independent certified valuer and was this sale price used to inform the Direct Sale of Land Eligibility Application approved by EDD;*
  - vi. *What was the form of advertising or assessment of interest in this inner south land purchase undertaken by EDD that would support the Direct Sale of Land Eligibility Application be approved by EDD;*
  - vii. *What is the actual sale price of the land arrived at for SECTION F in the Direct Sale of Land Eligibility Application approved by EDD;*
  - viii. *When did EDD grant approval or conditional approval;*
  - ix. *Has the land in the Direct Sale of Land Eligibility Application approved by EDD now been purchased at the agreed price and*

- x. *At 31/12/17 who is the current lessee of the land in the Direct Sale of Land Eligibility Application approved by EDD?*
4. *A copy of the EDD Conditions of Purchase for the land which is subject to the Direct Sale of Land Eligibility Application approved by EDD.*
5. *A copy of the Economic scoping of the proposed rail use of the land which would have been used to inform EDD approval of the Direct Sale of Land Eligibility Application.*
6. *A copy of the Certificate of Incorporation provided with the Direct Sale of Land Eligibility Application approved by EDD.*
7. *The criteria and evidence provided by the purchaser which was used by EDD to assess SECTION G: PUBLIC BENEFIT relating to the Direct Sale of Land Eligibility Application approved by EDD.*

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

I am advised that you have agreed to an extension on the deadline of your request to provide you with a decision on your application by or on 23 February 2018, in accordance with section 41 of the Act.

### **Decision on Access**

I have decided to grant access in full to five documents relevant to your request. My access decisions are detailed further in the following statement of reasons. The documents released to you and corresponding schedule are provided as Attachment A to this letter.

My interpretations and decisions against each point of your request (as stated above) are as follows:

**Point 1** – You have requested a copy of a Direct Sale of Land Eligibility Application for DA201630668 more recent than 15 October 2017.

Response: Advice from the relevant business areas and thorough searches have concluded that the most recent Direct Sale of Land Eligibility Application for DA201630668 is dated 15 October 2017. A copy is provided for your reference however I am satisfied that the Directorate holds no relevant government information in response to this point of your request.

**Point 2** – You have requested correspondence between Mr Sparkes of the Urban Renewal Stream referenced on page 4 of DA201630668.

Response: Email correspondence from Mr Sparkes to Mr Perry of 3 May 2016 has been identified as the document you are seeking and is enclosed with this letter.

**Point 3** – You have requested advice regarding the current status of the Territory land, block 11, section 8 Fyshwick in 10 questions.

Response: The Act provides a right of access to government information contained in a record held by the agency or to which the agency is entitled access. I have considered that you are seeking answers to questions raised rather than access to government information as defined by the Act. Therefore, point 3(i)-(x) of your request has not been addressed by my deliberations under the Act. I am advised that the Information Management Team (IMT) has sourced responses from the Urban Renewal Stream and will provide you with a response to your queries directly. For further information, you may contact Genevra Donne (Senior Manager IMT) on (02) 6205 4753.

**Point 4** – You have requested a copy of the EDD Conditions of Purchase for block 11, section 8 Fyshwick.

Response: Advice from the business areas and thorough searches have concluded that no records titled “EDD Conditions of Purchase” are held by the Directorate for DA201630668. I have however considered that the direct sale letter of offer dated 17 October 2017 issued by the Suburban Land Agency is relevant to this point of your request as it includes the conditions of sale. This document was subject to third party consultation and access is deferred to provide a period of review as explained the subsequent section.

**Point 5** – You have requested a copy of economic scoping of the proposed rail use of the land which would have been used to inform the (former) Economic Development Directorate approval of the Direct Sale of Land Eligibility Application associated with DA201630668.

Response: Advice from the business areas and thorough searches have concluded that the Directorate holds no relevant documents in response to this point of your request. Given the small scale of the works proposed for DA201630668 and the advice provided to me, I am satisfied that relevant government information is not held by the Directorate.

**Point 6** – You have requested a copy of the Certificate of Incorporation provided with the Direct Sale of Land Eligibility Application for DA201630668.

Response: The Certificate of Registration on Change of Name, certifying Somerset Rehabilitation P/L changed its name to Capital Recycling Solutions P/L (issued on 19 January 2016) is identified under this point of your request; a copy is enclosed with this letter.

**Point 7** – You have requested a copy of the criteria and evidence provided by the purchaser which was used by EDD to assess SECTION G: PUBLIC BENEFIT relating to the Direct Sale of Land Eligibility Application approved by EDD.

Response: Advice from the business areas and thorough searches have concluded that the Directorate holds no relevant documents in response to this point of your request. Given the small scale of the works proposed for DA201630668 and the advice provided to me, I am satisfied that relevant government information is not held by the Directorate. It may be worth noting that the application template contains sections that may not be applicable for all proposed developments.

### Third Party Consultation

The document identified as relevant to point 4 of your request contains information that concerns a relevant third party. Section 38 of the Act applies where disclosure of government information is reasonably expected to be of concern the trade secrets, business affairs, or research of the relevant third party.

I have determined this document to concern the business affairs of the third party and consultation has been undertaken in accordance with the Act. This third party has objected to the release of this information and is entitled to seek review of my decision. In accordance with section 38 of the Act, access to this document is deferred to allow for a review by the Ombudsman. You will be provided written notice when access to this document is no longer deferred.

I have factored the views of the third party into my considerations on release and I have determined that the factors favouring disclosure outweigh the factors favouring non-disclosure and therefore I am obliged to release this government information as set out in the schedule enclosed with this letter.

### **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 three days after date of decision. Your personal contact details will not be published.

You may view 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 EPSDD disclosure log, or a longer period allowed by the Ombudsman.

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

Or via email to: [ombudsman@ombudsman.gov.au](mailto:ombudsman@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's Customer Service Centre on (02) 6207 1923 and ask for the Information Management Team or email [epsdfoi@act.gov.au](mailto:epsdfoi@act.gov.au).

Yours sincerely



Geoffrey Rutledge  
Deputy Director General, Sustainability and the Built Environment  
Environment, Planning and Sustainable Development Directorate

23 February 2018