



ACT
Government

Environment, Planning and
Sustainable Development

Phone: 02 6207 1923
Reference: 20/39544

Dear [REDACTED]

Freedom of Information 20/39544

I refer to your application made under section 30 of the *Freedom of Information Act 2016* (the Act) received by Environment, Planning and Sustainable Development Directorate (EPSDD) on 19 June 2020. In which you sought access to documents relating to the proposed development of Blocks 13 and 22 Section 22 Kingston by Geocon.

On 8 July 2020, EPSDD received clarification of the scope of your application to the following:

All information and documents, electronic and otherwise including records of conversations and meetings and attachments to emails, related to the development of a mixed-use residential building with basement car parking on Blocks 13 and 22 Section 22 Division Kingston. The applicant is Purdon Planning Pty Ltd acting on behalf of the developer Geocon Group.

Including all information and communication between government and developer or his representative in regard to the Variation of the Territory Plan that is required for this development to be realised.

Excluding documents being processed for a prior FOI application received regarding the submission to the National Capital Design Review Panel.

Excluding documents of an administrative nature (such as calendar invitations and internal coordination emails).

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

EPSDD is required to make a decision on access on or by 21 August 2020. Thank you for your patience and agreement to an extension.

Searches Conducted

Comprehensive searches were conducted and 14 documents within the scope of your application were identified.

No documents were identified relating to a variation of the Territory Plan for Blocks 13 and 22 Section 22, Kingston ACT.

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 one document relevant to your application.

I have decided to grant partial access to 11 documents and, in accordance with section 50 of the Act, provide you with copies of documents with deletions applied to contrary to the public interest information.

I have refused access to two documents, in accordance with section 45(g) of the Act. These documents can be purchased from ACT Land Titles office.

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.

Third-party consultation was conducted, no objections were raised.

Material Considered

In reaching my access decision, I have taken the following into account:

- the FOI Act, particularly sections 6, 7, 17, 38, 50, and schedule 2 of the Act;
- the *Information Privacy Act 2014*;
- the content of the documents that fall within the scope of your request.
- Views provided by third parties from consultation

Public Interest Considerations

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

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

Disclosure of the identified information could reasonably be expected to do the following:

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

Factors favouring Nondisclosure

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(a)(ii) – prejudice the protection of an individual’s right to privacy or any other right under the *Human Rights Act 2004*.

Personal Information

I have considered the release of personal information and my view in this is that the identification of third parties would not serve to further open discussion, of informed debate.

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 being a factor favouring nondisclosure under Schedule 2, section 2.2(a)(ii) of the Act.

To provide you with the information that I have determined to be in the public interest to release, copies of some of these documents have been prepared with the personal information redacted in accordance with section 50 and the Objects of the Act.

Online Publication

Under section 28 of the Act, EPSDD maintains an online record of access applications called a disclosure log. Your access application, my decision and documents released to you in response to your access application will be published in the EPSDD disclosure log no earlier than three days after you receive this decision. Your personal information will not be published.

You may view the EPSDD’s disclosure log at:

<http://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:

https://www.ombudsman.act.gov.au/_data/assets/pdf_file/0026/79190/Apply-for-Ombudsman-review.pdf

Alternately, 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/>

Further Information

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



George Cilliers

Information Officer
Environment, Planning and Sustainable Development Directorate

21 August 2020