



ACT
Government

Environment, Planning and
Sustainable Development

Phone: 6207 1923
Reference: 18/12049

Mr Shane Townsend

By email foi+request-4652-cao59c72@righttoknow.org.au

Dear Mr Townsend

Freedom of information request: Impact on Striped Legless Lizard by Development of Lawson

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 19 June 2018, in which you sought access to any documents that mention the impact on the Striped Legless Lizard because of the building or creation of the ACT suburb of Lawson.

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 third party consultation and your agreement to extend the due date for decision, EPSDD is required to make a decision on your access application by 2 October 2018.

Decision on access

Searches were completed for relevant documents and thirty five 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 defer access to two of the identified documents as an affected third party has objected to disclosure. This third party may apply for review of my release decision within 20 working days after my decision is published in the disclosure log, or a longer period allowed by the Ombudsman. I will write to you to advise when access is no longer deferred.

I have decided to grant access in full to seventeen documents relevant to your request.

Two documents identified as relevant to your request contain information that I consider 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.

I have decided to grant access, under section 50 of the Act, to copies of documents with deletions applied to information that I consider would be contrary to the public interest to disclose.

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 schedule 2;
- the content of the documents that fall within the scope of your request;
- the views of third parties relating to the release of information concerning third parties; and
- information already accessible to the public

Exemptions claimed

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 2 of the Act

Two of the identified documents contain information that I consider, on balance, to be contrary to the public interest to disclose under the test set out in section 17 of the Act.

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.

On balance of these public interest considerations and the information available, I have concluded that 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.

Publicly available

Section 43(1)(d) of the Act allows access to government information to be refused if it is already available to the applicant.

A number of documents are currently available online. Internet addresses for those documents are listed in the schedule.

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 disclosure log between 3 and 10 days after the date of this decision. Your personal contact details will not be published.

You may view the EPSDD 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:

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



Craig Simmons

Information Officer
Environment, Planning and Sustainable Development Directorate

2 October 2018

