



ACT
Government

Environment, Planning and
Sustainable Development

Phone: (02) 6207 1923
Reference: 21/09059

Andrew

By Email: foi+request-7044-f40790bf@righttoknow.org.au

Dear Andrew

Freedom of Information 21/09059

I refer to your application made under section 30 of the *Freedom of Information Act 2016* (the Act) received by the Environment, Planning and Sustainable Development Directorate (EPSDD) on 15 February 2021, in which you sought access to documents relating to the Strata Reform Project.

Specifically, you are seeking:

1. *From the formation of the Unit Titles Reform Consultative Group in 2019*
 - *Public consultation submissions (excluding personal identifying details of individuals).*
 - *Records and reports of consultation with the industry and community consultative group.*
2. *Reports containing overall recommendations of the reform project.*
3. *Any documents discussing “tenant rights of attendance at general meetings or election of tenant representatives”, to the extent that this covers any documents not already included in the other points.*

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

As an extension to the decision date was granted, EPSDD must make a decision on your application on or by 9 April 2021. Your patience in this matter is appreciated.

Further Information on the Unit Title Reform Project

Issues relating to tenants rights in a units plan is on the list of issues to be considered in stage two of the Unit Title Reform Project, for consideration by the Unit Title Reform Consultative Group.

Information on stage one of the ACT Government’s unit title reforms, known as the Managing Buildings Better reforms, is available here -

<https://www.planning.act.gov.au/build-buy-renovate/reviews-and-reforms/managing-buildings-better>

If you have further questions or comments on unit title reforms, please contact the Housing Strategy and Unit Title Reform team – stratareform@act.gov.au

Information on residential tenancies reforms, including tenant's rights and responsibilities, is available here - <https://justice.act.gov.au/renting-and-occupancy-laws/reforms-tenancy-and-occupancy-laws>

Searches Conducted

Comprehensive searches were conducted and 24 documents within the scope of your application were identified.

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 five documents relevant to your application.

I have decided to grant partial access to five 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 14 documents. These documents are refused as they consist of information taken to be contrary to the public interest as described in Schedule 1 of the Act.

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 6, 17, 45, 50, schedules 1 and 2 of the Act
- the content of the documents that fall within the scope of your request
- the *Information Privacy Act 2014*
- the *Human Rights Act 2004*
- information publicly available

Public Interest Considerations

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

Information Disclosure – Contrary to the Public Interest under Schedule 1 of the Act

Cabinet Information

Access to some information is refused under Schedule 1.6(1)(a) as information submitted to Cabinet for its consideration, or brought into existence for this purpose, and is taken to be contrary to the public interest.

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

This information does not identify corruption or the commission of an offence by a public official or that the scope of a law enforcement investigation has exceeded the limits imposed by law.

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

In applying the public interest test, I have determined that disclosure of the 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
- Schedule 2.1(a)(viii) – reveal the reason for a government decision and any background or contextual information that informed the decision.

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

Documents relevant to your application contain personal information of individuals representing an organisation. I have considered how the public interest would be advanced by releasing this information in part or in whole. It is my view that the information if disclosed, could reasonably be expected to prejudice the protection of an individual’s right to privacy under section 12 of the *Human Rights Act 2004*. On balance, and the information available to me, I am satisfied that the disclosure of this personal information is not in the public interest.

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

Charges

No charges are applicable to this application as the number of pages released has not met the minimum threshold.

Online Publication

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

You may view the EPSDD 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:

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

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
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

Signed Electronically

Bethel Sendaba
Information Officer
Executive Branch Manager, Planning and Urban Policy
Environment, Planning and Sustainable Development Directorate

9 April 2021