



**ACT**  
Government

Environment and  
Sustainable Development

Phone: 6207 1923  
Reference: FOI 14/06904

### Freedom of Information Request – EPBC 2012/6418

I refer to your application under section 14 of the *Freedom of Information Act 1989* (the Act), received by the Environment and Sustainable Development Directorate (ESDD) on 2 April 2014, in which you requested the following documents:

*"I am seeking access to documents relating to the referral EPBC 2012/6418("the referral") in relation to Block 9 Section 64, Watson and the extension of Negus Crescent; and the offsite construction of stormwater works in Justice Robert Hope Park.*

*We have previously lodged an FOI(14/03576) in relation to the referral and would like to access documents that were excluded from the scope of this request. Specifically, we request documents dated January 2013 and onwards.*

*I request access to the following documentation:*

*(a) Any documents held by the ESDD (including reports, enquiries, statements, ministerial briefings, internal correspondence including email correspondence) relating to the referral that has not been previously provided under FOI 14/03576.*

*(b) Any documents held by the ESDD (including reports, enquiries, statements, ministerial briefings, internal correspondence including email correspondence) recieved from or sent to the Department of Environment relating to the referral that has not been previously provided under FOI 14/03576.*

*(c) Any documents held by the ESDD (including reports, enquiries, statements, ministerial briefings, internal correspondence including email correspondence) recieved from or sent to the Land Development Agency relating to the referral that has not been previously provided under FOI 14/03576.*

*d) Any documents held by the ESDD (including reports, statements, ministerial briefings, correspondence including email correspondence) regarding discussions held with the Department of the Environment, Land Development Agency, ACT Planning and Land Authority or the Territory And Municipal Services in relation to the referral that have not previously been provided under FOI 14/03576."*

I am an officer authorised to make a decision in respect of a request for information, under section 22 of the Act.

### Schedule detailing decisions

Please refer to the attached schedule that lists decisions regarding access to all documents, which have been identified as relevant to your request. The terms used on the schedule are either 'Release', 'Partial release' or 'Exempt'. Where an exemption is made, a reference will be made on the schedule to the relevant section or combinations of sections of legislation that apply to the decision.

### Decision

The Directorate has identified 59 documents in its possession that meet the scope of your request, as identified in the schedule attached to this letter.

Under the Act, documents may be partially exempt/exempt or provided to applicants with deletions and I have decided to exempt some documents under sections 36 (Internal working documents), 41 (Documents relating to personal privacy) and 42 (legal professional privilege).

Access to documents not to apply to certain documents

### **Internal working documents**

Section 36 of the Act provides:

1. *Subject to this section, a document is an exempt document if its disclosure under this Act—*
  - a. *would disclose matter in the nature of, or relating to, opinion, advice or recommendation obtained, prepared or recorded, or consultation or deliberation that has taken place, in the course of, or for the purposes of, the deliberative processes involved in the functions of an agency or Minister or of the Territory; and*
  - b. *would be contrary to the public interest.*

Section 36 allows the exemption of internal working documents when disclosure under the FOI Act would not be in the public interest.

I consider these documents are internal working documents which are in draft format and include opinion and the deliberative processes of this agency.

### **Personal Privacy**

Section 41 of the Act provides:

1. *a document is an exempt document if its disclosure under this Act would involve the unreasonable disclosure of personal information about any person (including a deceased person).*

### **Legal Professional Privilege**

Section 42 of the Act provides:

1. *a document is an exempt document if it is of such a nature that it would be privileged from production in legal proceedings on the ground of legal professional privilege.*

Some documents have arisen out of a request for legal advice and representation and contains further correspondence relating to the instructions contained in the request for legal advice.

### **Review rights**

My decision is appealable under the Act. This means that if you are dissatisfied with this outcome you have a right to seek a review under section 59 of the Act. This right of review extends to a review of the adequacy of the search for documents undertaken by ESDD. If you wish to seek a review you should write to:

The Director-General  
Environment and Sustainable Development Directorate  
GPO Box 1908  
CANBERRA ACT 2601

Email: [ESDDFOI@act.gov.au](mailto:ESDDFOI@act.gov.au)

You have 28 days from the date of this letter to seek a review of the outcome or such other period as the Director-General permits.

Under section 54 of the Act, if you are concerned about the processing of your request or related administrative matters, you may complain to the Ombudsman, who may conduct an independent investigation into your complaint. There is no fee for this, and the contact details are as follows:

The Ombudsman  
GPO Box 442  
CANBERRA ACT 2601

Email: [ombudsman@ombudsman.gov.au](mailto:ombudsman@ombudsman.gov.au)

#### **Online FOI Publication Policy**

Please be aware that under the ACT Government's "*Online FOI Publication Policy*" (the Policy), information released to you under this Freedom of Information Application may be released on the internet.

Personal information or business affairs information will not be made available under the policy. If you think the content of your request would contain such information, please inform our contact officer immediately.

A copy of the policy, with details about what information may be published on the internet, is available online at: [http://www.cmd.act.gov.au/open\\_government/report/freedom\\_of\\_information\\_online](http://www.cmd.act.gov.au/open_government/report/freedom_of_information_online)

If you have any queries in relation to this matter, please contact Heather Johnston.

Yours sincerely



Jim Corrigan  
Executive Director  
Planning Delivery

21 May 2014