

**2022**

**THE LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY**

**Environment, Planning and Sustainable Development Directorate  
provided to the Ombudsman pursuant to Section 39 of the Freedom of Information Act 2016 –  
Decision not made in time - FOI 21/119698**

**Presented by  
Yvette Berry MLA  
Minister for Housing and Suburban Development  
April 2022**





**ACT**  
Government

Environment, Planning and  
Sustainable Development

ACT Ombudsman

By email: [ACTFOI@ombudsman.gov.au](mailto:ACTFOI@ombudsman.gov.au)

Dear Ombudsman

### **Freedom of Information Request – Notice that decision was not made in time**

I am writing to inform you that due to processing delays, and a human handling error, a decision on the release of information was not made in the time allowed under section 40 of the Act. The legislated decision due date 25 February 2022.

I refer to an access application (21/119698) received into the ACT Affordable Home Purchase mailbox monitored by the Housing Choice team within the Suburban Land Agency (the Agency) on 23 November 2021, made under the *Freedom of Information Act 2016* (the Act), relating to a request for *'Tender documents between ALN Construction Group Pty Ltd, and the Affordable Home Purchase Scheme, including any contracts held by the Directorate between parties.'*

On 24 November 2021 a member of the Housing Choice team progressed the access application request to the Governance and Reporting Manager (GaRM) responsible for the coordination of FOI requests within the Agency. On 24 November 2021 the GaRM progressed the application through to the Governance, Compliance and Legal area within the Environment, Planning and Sustainable Development Directorate (EPSDD). This area of EPSDD is responsible for undertaking the processing of all information access requests under the Act through a service agreement between the EPSDD and the Agency.

The applicant was notified on 1 December 2021 that their application had been received. The Directorate advised that the date by which a decision is to be made was 4 January 2022 but due to Christmas shutdown an extension to 18 January 2022 was sought. On 14 January 2022, the applicant was notified that third party consultation was required and the new due date was 9 February 2022.

The Directorate contacted the applicant by email on 8 February 2022 seeking an extension of time under section 41(1) of the Act to 25 February 2022. The Directorate also informed the applicant the documents were voluminous and required reprofiling to reduce the bit size of each document to process. The applicant was agreeable to the extension. The new deadline was transcribed incorrectly, and this led to the delayed decision. Procedures have since been reviewed by the Directorate to ensure such an error will be avoided in future.

The Directorate advised the applicant of the deemed refusal under section 39 of the Act, and the applicant was agreeable to receiving the decision once finalised.

Despite the time to decide having expired, the Directorate continued to process the application and the notice of decision and documents were sent to the applicant on 30 March 2022.

EPSDD is committed to meeting the deadlines prescribed by the Act and will be looking to minimise any potential for such delays to occur in the future.

Yours sincerely

A handwritten signature in black ink that reads "C. Simmons". The signature is written in a cursive, flowing style.

Craig Simmons  
Chief Operating Officer

1 April 2022