



ACT
Government

Suburban Land
Agency

FOI Reference: 19/05156

Dear [REDACTED]

Freedom of information request: 19/05156 – Block 1 Section 46 Throsby

I refer to your application under section 30 of the *Freedom of Information Act 2016* (the Act), received on 18 February 2019, in which you sought information regarding block 1, section 46, Throsby.

Specifically, you are seeking:

"...This request is in relation to the following land: Block 1, section 46 in the Division of Throsby (referred to here as "the Land")."

Please provide electronic copies of the following:

1. *All documents relating to the decision to zone the Land as NUZ3: HILLS, RIDGES AND BUFFER AREAS;*
2. *All documents dated prior to 1 July 2017 relating to the proposed siting of a "Woodlands Learning Centre" (howsoever described) on or around the Land, including but not limited to feasibility studies, contracts for consulting services, environmental impact statements, ministerial briefs, cabinet submissions, requests for funding, communication with potential joint venture partners;*
3. *All documents dated from 23 November 2016 to 31 December 2018, including but not limited to emails, memoranda, letters, faxes and reports, related to the sale of land in Throsby in late 2016 and early 2017 in particular by way of put and call options in respect of blocks contained in "superlots" 1 to 15 inclusive insofar as such documents refer to:*
 - a. *The proposed "Woodlands Learning Centre" on the Land; or*
 - b. *Requests and responses to extend the expiry date for call options in relation to any blocks; or*
 - c. *Delta Design and Construction Pty Ltd."*

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

I am advised that the FOI team has been engaging with you about the processing timeframe of your application and the deadline for this request is 17 May 2019, as agreed with you.

Contrary to the public interest information under 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 cascading test set out by section 17 of the Act which requires consideration of factors favouring disclosure, any favouring nondisclosure and the balance of those factors when considered cumulatively.

Protection of the environment

One document in scope of your request contains information identifying specific locations of endangered wildlife. Under Schedule 1 of the Act this information is contrary to the public interest to disclose, and if released would prejudice the wellbeing of the habitat of an animal.

Personal Information

Some items are scheduled for partial release as they contain information that falls within the meaning of personal information as defined by the Act.

I have considered the Territory Privacy Principles of the Privacy Act and the release of this information, and my view in this instance is that the identification of these third parties would not serve to further open discussion, government accountability, informed debate and the provision of contextual or background information.

I am further satisfied that the disclosure of identified 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.

In balancing public interest considerations, I am satisfied that, on the information available, disclosure of the identified personal information of members of the public may constitute a breach of privacy and disclosure is therefore contrary to the public interest.

Business Affairs/Economy of the Territory

Several of the documents within scope contain information relating to proposed valuation and benchmark values of land within a new developing suburb, the release of this information would reasonably prejudice trade secrets and business affairs, a factor in favour of non-disclosure under Schedule 2.2(a)(xi) of the Act. I have considered the release of business affairs information and whether disclosure of the information would better serve to further open discussion, government accountability, and the provision of contextual, or background information.

In reaching my decision I have weighed on balance these public interest considerations, and the information available. I have concluded that the disclosure of trade secrets and business affairs information would be an unreasonable disclosure and may prejudice the economy of

the ACT Government under Schedule 2.2(a)(viii) of the Act and therefore, is contrary to the public interest to release.

Legal professional privilege

Information within scope of your request contains advice that is subject to legal professional privilege. I am satisfied that communications were made in circumstances of confidentiality and satisfy the requirements for attracting legal professional privilege therefore, my decision is to refuse access to this information.

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 and my decision will be published in the EPSDD disclosure log after 23 May 2019. Your personal contact details 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:

http://www.ombudsman.act.gov.au/_data/assets/pdf_file/0026/79190/40A-Reviews-Factsheet-and-Application-Form-final-A1569634.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/>

If you have any queries concerning the Directorate's processing of your request, or would like further information, please contact EPSDD Customer Service on 62071923 and ask for the FOI team, or email to EPSDFOI@act.gov.au

Yours sincerely



Anthony Bailey

Information Officer
Suburban Land Agency

17 May 2019