

Dear [REDACTED]

Freedom of information request: 18/28930

I refer to your application under section 30 of the *Freedom of Information Act 2016* (the Act), received by the Suburban Land Agency (the Agency) on 2 October 2018, in which you sought access documents related to four peppercorn subleases granted by the Agency as referenced in the ACT Government's answer to Question No 1608 in Hansard.

In your application, you requested:

"all documents related to the four peppercorn leases granted by the Suburban Land Agency" as referenced in the ACT Government's answer to Question No 1608 (as per the link you have provided <http://www.hansard.act.gov.au/hansard/qtime/answer10.pdf>).

I note that you have subsequently advised the FOI team that you are specifically seeking access to copies of the existing leases for the four peppercorn subleases granted by the Agency, as referenced in Question No. 1608 in Hansard.

Following third party consultation, the Agency is required to make a decision on your access application by 19 November 2018.

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

Decision on access

Searches were completed for relevant documents and four 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.

Two of the documents that were identified as falling within the scope of your request are publicly available for a fee through the ACT Land Information System (<http://actlis.act.gov.au>). In accordance with section 43(1)(d) of the Act access has been refused for these documents and they were not considered in my decision set out below.

I have decided to defer access to one of the identified documents as affected third parties have objected to its disclosure. These third parties may apply for a review of my release decision within 20 working days after my decision is published in the Agency's disclosure log, or a longer period allowed by the Ombudsman. I will write to you to advise when access is no longer deferred.

One document identified as relevant to your request contains information that I consider, if released, 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 a copy of this document with deletions applied to the 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; and
- the views of third parties relating to the release of information concerning third parties.

Exemptions claimed

My reasons for deciding to grant partial access to identified documents are set out below. Two of the documents that have been identified as falling within the scope of your request have been scheduled for 'partial release' under the Act. In reaching my decision I have applied the public interest test under section 17 of the Act as follows:

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 factors favouring nondisclosure and the balance of those factors when considered cumulatively.

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 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 is therefore contrary to the public interest.

Online publishing – disclosure log

Under section 28 of the Act, the Agency maintains an online record of access applications as part of the Environment, Planning and Sustainable Development 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. Your personal contact details will not be published.

You may view our disclosure log at <http://www.environment.act.gov.au/about/access-government-information/disclosure-log>.

Ombudsman review

My decision on your access application 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 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


Anthony Bailey

Information Officer
Suburban Land Agency

16 November 2018

