



Dear [REDACTED]

Freedom of information request: 18/28456 Section 28 Greenway

I refer to your application under section 30 of the *Freedom of Information Act 2016* (the Act), received by the Environment, Planning and Sustainable Development Directorate (EPSDD) on 27 September 2018, in which you sought documents relating to Section 28 Greenway.

Specifically, you are seeking:

1. *Any engagement letter or documents containing instructions to Cardno P/L or Cardno Young P/L to undertake the uncontrolled Fill Assessment in relation to Block 2 Section 28 Greenway in the ACT of 6 June 2018 and associated soil testing.*
2. *Any engagement letter or documents containing instructions to Coffey Environments Australia P/L to undertake the Coffey Contamination Assessment Report.*
3. *Any communications between SLA or LDA and Coffey Environments Australia P/L prior to 18 February 2015 in relation to the scope of works for the Coffey Contamination Assessment Report.*
4. *Any communications between SLA or LDA and Coffey Environments Australia P/L relating to the Coffey Contamination Assessment Report.*
5. *Any communications between SLA or LDA and SMEC relating to their potential engagement to undertake testing on the land.*
6. *Any communications between SLA or LDA and any third party relating to their engagement or potential engagement, to undertake soil testing on the land.*
7. *Any documents relating to proposals by SLA or LDA to engage third parties to undertake soil testing on the land.*

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

Following third party consultation and your agreement to extend the due date for decision, EPSDD is required to make a decision on your access application by 14 December 2018.

Decision on access

Searches were completed for relevant documents and 20 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 schedule provides a description of each document that falls within the scope of your request and the access decision for each of those documents.

I have decided to grant access in full to one document relevant to your request.

I have refused access to one document.

I have decided to grant access, under section 50 of the Act to copies of documents with deletions applied to information that I consider would be contrary to the public interest to disclose. The release status of these 18 documents is indicated on the attached schedule as 'partial release'.

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, 50 and schedule 2;
- the content of the documents that fall within the scope of your request;
- the *Information Privacy Act 2014*.

Exemptions claimed

My reasons for deciding not to grant access to the identified documents and components of documents are explained below; these documents contain information that I consider to be contrary to the public interest to disclose.

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.

In relation to the documents scheduled with the reason of Schedule 2.2(a)(ii), Personal Privacy, section 17 applies as follows:

Personal Information

I have considered the release of personal information and in 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 disclosure is contrary to the public interest.

Business affairs

Consideration has been given to the documents and information provided by third parties, and whether the information identified within these documents contains information contrary to the public interest. The release of some of the information could prejudice the trade secrets and business affairs of an individual or agency, a factor favouring nondisclosure in the public interest under schedule 2.2(a)(xi).

I am not satisfied that disclosure of the deleted information could reasonably be expected to further open discussion, government accountability, informed debate and the provision of contextual or background information as these matters are limited to specific aspects of business affairs of an individual or agency.

In balancing public interest considerations, I am satisfied that, on the information available, the disclosure of business affairs information would be an unreasonable disclosure and may constitute a breach of confidence, and prejudice an agency's ability to obtain confidential information under schedule 2.2(a)(xii) of the Act as is, therefore contrary to the public interest.

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, my decision and documents released to you in response to your access application will be published in the EPSDD disclosure log from three days after date of decision. Your personal contact details will not be published.

You may view the EPSDD's 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:

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 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



Anthony Bailey

Information Officer
Suburban Land Agency

14 December 2018