



ACT
Government

Suburban Land
Agency

Dear [REDACTED]

Decision on Freedom of Information Access Application 24/046365

I refer to your application made under section 30 of the *Freedom of Information Act 2016* (the Act), [REDACTED], received by the Suburban Land Agency (SLA) on 1 May 2024.

Specifically, you are seeking:

“...copies of the following documents from the Suburban Land Agency:

- 1. A copy of all communication regarding the procurement process for both the CBRE contract (contract number: SL20210054) and Colliers International (contract number: SL20210053) both regarding Parkwood valuations.*
 - a. This should include all correspondence around the quotation process and decisions to seek quotes from both CBRE and Colliers,*
 - b. correspondence sent between the SLA and the Ministers office,*
 - c. correspondence sent from the SLA board regarding the Parkwood valuations,*
 - d. correspondence to the leader of the relevant team in charge of the Parkwood valuations*
 - e. Correspondence should include emails, briefings, meeting notes and minutes, Teams and Webex communication.*
- 2. A detailed copy of the (a) draft and (b) final contract provided to both firms.*
- 3. A draft copy of the valuations provided by both firms, including comments and correspondence regarding the draft.*
- 4. A final copy of the valuations provided by both firms, including comments and correspondence regarding the final valuation.”*

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

The initial due date for my decision on your access application was 5 July 2024. The Environment, Planning and Sustainable Development Directorate (EPSDD) did not respond to your application within timeframes as defined in section 40 of the Act. Under section 39(1)(a) of the Act, a decision not made in time is taken to be a refusal to give access. I am advised that EPSDD will notify the ACT Ombudsman of this deemed decision. I appreciate your patience while EPSDD has continued to deal with your application.

Searches Conducted

Comprehensive searches were conducted and 46 documents containing information within the scope of your application were identified.

Decision on Access

I have included as **Attachment A** to this decision the schedule of relevant documents. The schedule provides a description of each document that falls within the scope of your application and the access decision for each of those documents.

I have decided to:

- grant full access to seven documents
- grant partial access to 11 documents, and
- refuse access to 28 documents relevant to your application.

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 6, 17, 50 and Schedule 2
- the content of the documents that fall within the scope of your request
- the *Human Rights Act 2004*
- information publicly available.

Public Interest Considerations

My reasons for deciding not to grant access to certain documents and components of some documents are as follows:

Information Disclosure – 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 test outlined under section 17 of the Act which requires consideration of factors favouring disclosure, any favouring nondisclosure and the balance of those factors when considered cumulatively.

Factors Favouring Disclosure

In applying the public interest test, I have determined that disclosure of the information could reasonably be expected to do the following:

- Schedule 2, 2.1(a)(i) – promote open discussion of public affairs and enhance the government's accountability

- Schedule 2, 2.1(a)(iv) – ensure effective oversight of expenditure of public funds
- Schedule 2, 2.1(a)(viii) – reveal the reason for a government decision and any background or contextual information that informed the decision.

There is a compelling public interest in transparency about the management of public monies. The ability of the public to discuss and debate and hold the government accountable for its management of public monies is of fundamental importance for the proper working of representative democracy. All three pro-disclosure factors apply to this information to a degree that warrants considerable weighting.

Factors favouring Nondisclosure

In applying the public interest test, I have determined that disclosure of the information could reasonably be expected to do the following:

- Schedule 2, 2.2(a)(ii) – prejudice the protection of an individual’s right to privacy or any other right under the *Human Rights Act 2004*
- Schedule 2, 2.2(a)(xi) – prejudice trade secrets, business affairs or research of an agency or person
- Schedule 2, 2.2(a)(xii) – prejudice an agency’s ability to obtain confidential information
- Schedule 2, 2.2(a)(xiii) – prejudice the competitive commercial activities of an agency.

Some documents relevant to your application contain personal information of individuals. This information includes the mobile contact numbers of an ACT employee, and the names and contact information of third parties’ employees engaged in providing services to the SLA. I have considered how the public interest would be advanced by releasing this information in part or in whole. It is my view that the information, if disclosed, could reasonably be expected to prejudice the protection of an individual’s right to privacy under section 12 of the *Human Rights Act 2004*. On balance, and the information available to me, I am satisfied that the disclosure of this personal information is not in the public interest. To provide you with the information that I have determined to be in the public interest to release, copies of some documents have been prepared with personal information redacted in accordance with section 50 and the objects of the Act.

The valuations (drafts, final versions and excerpted information) were provided to the SLA with an expectation of a commercial in confidence application of the materials and methodology produced by CBRE and Colliers. These reports include substantial details outlining the methodology and research undertaken by these businesses, from which competitors could discern their approach and methodology, consequently leaving them at a disadvantage, a factor favouring nondisclosure under Schedule 2, 2.2(a)(xi) of the Act.

The information provides granular detail of the valuation process, price setting inputs and other commercial advice which is fundamental to the process of negotiating acquisitions in a commercial setting and is core to the SLA’s ability to operate in a commercial manner. The information has commercial value, as it is valuable for the purpose of carrying on the commercial activity in which the agency is engaged, being essential to the profitability or viability of continuing business or a pending ‘one off’ commercial transaction. Releasing this information would compromise the SLA’s ability to operate commercially in the land market and prejudice the competitive commercial activities of the SLA.

This information, if disclosed could prejudice the competitive commercial activities of an agency. Schedule 2, 2.2(a)(xiii) reflects that when the ACT Government engages or competes with commercial service providers in carrying out particular functions, to operate effectively, it is necessary that certain information relating to its functions is not disclosed. The SLA, established under the *City Renewal Authority and Suburban Land Agency Act 2017* (the CRASLA Act), carries out a range of activities in a competitive commercial environment, including ‘to buy and sell land on behalf of the Territory’ (section 39(a) of the CRASLA Act). The disclosure of

this information could reasonably be expected to prejudice the competitive commercial activities of the SLA by affecting its commercial negotiations.

Although the valuation information is from 2021, it does not mean that it does not retain its commercial value because it provides benchmarks for future valuations. Whilst I acknowledge that some dollar-value amounts relating to valuation and acquisition of 527 Parkwood Road is available publicly ([Report on acquisitions of land under the Government Agencies \(Land Acquisition Reporting\) Act 2018](#)), disclosure of the full valuation reports would be expected to prejudice SLA's competitive commercial activities and future negotiations.

In making my decision, I considered three factors favouring disclosure and four factors favouring nondisclosure. I gave moderate weight to the three factors favouring disclosure. I gave minor weight to personal information factor and substantial weight to the other three factors favouring nondisclosure.

Charges

In accordance with section 107(2)(e) of the Act, any charges applicable are waived.

Online Publication

Under section 28 of the Act, on behalf of the SLA, EPSDD maintains an online record of access applications called a disclosure log. Your original access application, this decision and documents released will be published in the EPSDD disclosure log no earlier than three days after you receive this decision. Your personal contact details will not be published.

You may view the EPSDD disclosure log at

<https://www.environment.act.gov.au/about-us/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:

<https://www.ombudsman.act.gov.au/accountability-and-oversight/freedom-of-information/foi-complaints-and-reviews>

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
15 Constitution Avenue

GPO Box 370
CANBERRA CITY ACT 2601

Telephone: (02) 6207 1740

<http://www.acat.act.gov.au/>

Further Information

If you have any queries concerning the Agency's processing of your request, or would like further information, please contact the Information Governance Team email to EPSDFOI@act.gov.au.

Yours sincerely



Joey Lee

Information Officer
Executive Director, Place Delivery

Suburban Land Agency

31 July 2024