



**ACT**  
Government

**Suburban Land**  
Agency

FOI Reference: 19/05095

Dear [REDACTED]

**Freedom of information request: 19/05095 – Surveys and Polls**

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 5 February 2019, in which you sought information regarding surveys and polls commissioned by the ACT Government since 6 December 2018.

Specifically, you are seeking:

*"I write to request under the Freedom of Information Act 2016 the final results for all surveys and polls commissioned by the ACT Government since the 6 December 2018. These documents may include but are not limited to reports issued by the consultants or contractors and include questions, results, conclusions, analysis and/or recommendations..."*

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

On the 5 March 2019 I sent you a notice under *section 41 (1)* of the *FOI Act 2016* requesting an extension of time of 20 days, on the same date you provided your agreement to extend the due date to the 16 April 2019. On the same date you consented to the requested extension of time.

On the 11 April 2019 I sent a notice to request a further extension of 20 days under *section 41 (1)* of the *FOI Act*, you responded to this request on the 12 April 2019 providing your agreement, thereby revising the due date to 20 May 2019.

**Decision on access**

Searches were undertaken, and 2 documents were identified that fall within scope of your request.

I have included, at **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.

I have decided to grant access, under section 50 of the Act, to the second document with a deletion applied to information that I consider would be contrary to the public interest to disclose. The release status of this document is indicated on the attached schedule as 'partial release'.

Information contrary to the public interest must be released unless, in the circumstances, access to that documents at this time would, on balance, be contrary to the public interest. The decision on where on balance the public interest lies, is based on the particular facts contained within the document at the time the decision was made.

I have considered public interest considerations, and factors in favour of disclosure. In balancing the public interest in this case, I have considered factors for and against disclosure.

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 decision, I have taken the following into account:

- the Act, particularly sections 17, 35, 41, 50 and Schedule 1 and 2
- the content of the documents that fall within the scope of your request;
- the *Information Privacy Act 2017* (Privacy Act):

#### **Exemptions Claimed**

My reasons for deciding not to grant access to documents in full are 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 favouring nondisclosure and the balance of those factors when considered cumulatively.

#### 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.

### **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 24 August 2018. 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](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](mailto: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](mailto:EPSDFOI@act.gov.au)

Yours sincerely



Anthony Bailey

Information Officer  
Suburban Land Agency

17 May 2019