



ACT
Government

Suburban Land
Agency



By Email: 

Dear 

Decision on Freedom of Information Access Application 23/081024

I refer to your application made under section 30 of the *Freedom of Information Act 2016* (the Act) received by the Suburban Land Agency (SLA) via partial transfer from Major Projects Canberra (MPC) on 2 August 2023 in which you sought access to documents relating to Labour Relations Training and Workplace Equity Plans.

Specifically, you are seeking:

Any document containing a Labour Relations Training and Workplace Equity Plan submitted by a person who is successful tenderer (the person awarded the contract, appointed to the panel, or otherwise required to perform the tender).

- *submitted pursuant to s.22G of the Government Procurement Act 2001 (the Act)*
- *in relation to any tenders for construction procurement (howsoever described) with a value of more than \$5 Million*
- *for territory funded construction work as defined in s.22F(b) of the Act*
- *where the Labour Relations Training and Workplace Equity Plan was lodged with a tender after 1 February 2022; and*
- *where the procurement is on Tenders ACT;*

and Only those parts of the tender documents that contain Labour Relations Training and Workplace Equity (LRTWE) Plans, rather than the whole response schedule, is sought.

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 27 September 2023 I made a decision regarding access to five documents identified as in scope of your application.

Following this decision five additional documents were identified as within scope of your application. In accordance with section 36 of the Act EPSDD may make a further decision under section 35 of the Act in relation to this additional government information.

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.

Under section 38 of the Act, third parties were consulted on release of the information. Some parties objected to release of information. My decision has taken into consideration the views and objections raised. Release of two documents is deferred under section 38(6)(b) to allow third parties the opportunity to seek a review of my decision. You will be notified of the outcome of the review process, and the documents will be considered for release to you pending that outcome.

I have decided to grant partial access to five documents and, in accordance with section 50 of the Act, provide you with copies of documents with deletions applied to contrary to the public interest information.

My access decisions are detailed further in the following statement of reasons and 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, 36, 38, 50 and Schedule 2
- the content of the documents that fall within the scope of your request
- the *Human Rights Act 2004*
- the views of third parties consulted
- information publicly available

Public Interest Considerations

My reasons for deciding not to grant access to certain documents and components of these 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 government's accountability.
- Schedule 2, 2.1(a)(viii) – reveal the reason for a government decision and any background or contextual information that informed the decision.

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)(xiii) - prejudice the competitive commercial activities of an agency.

Personal Information

Documents relevant to your application contain signatures and contact details of individuals. 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.

Business Affairs and Competitive Commercial Activities

Pricing, salary, and other commercially sensitive information is not in the public interest to release as it would have significant impact on the business affairs and competitive commercial activities of third-party entities.

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, business affairs and competitive commercial activity information redacted in accordance with section 50 and the Objects of the Act.

Charges

No charges are applicable to this application.

Online Publication

Under section 28 of the Act, EPSDD maintains an online record of access applications called a disclosure log. This decision and documents released will be added to the [existing published entry](#) 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/_data/assets/pdf_file/0026/79190/Apply-for-Ombudsman-review.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
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 EPSDD Customer Service on (02) 6207 1923 and ask for the FOI team, or email to EPSDFOI@act.gov.au.

Yours sincerely

Neil Bulless Digitally signed by Neil
Bulless
Date: 2023.11.27 12:01:52
+11'00'

Neil Bulless

Information Officer
Deputy Chief Executive Officer
Suburban Land Agency