



ACT
Government

Suburban Land
Agency



Dear 

Decision on Freedom of Information Access Application 24/041164

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) on 15 April 2024.

Specifically, you are seeking:

“Information about the Project Delivery Agreement (PDA) through which land was sold to the builder”

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

In accordance with section 40, in addition to third party consultation and an extension of time, a decision on your access application must be made on or by 1 July 2024.

Searches Conducted

Comprehensive searches were conducted and 14 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 four documents relevant to your application
- grant **partial** access to eight documents relevant to your application
- **refuse** access to two documents under schedule 1, 1.2 of the Act.

Deferred Release of Documents:

Under section 38 of the Act, a third party was consulted on the disclosure of the relevant information. The third party objected to the disclosure of the information contained in documents 9 through 12. My decision has taken into consideration the views and objections raised. As I have decided to release the information in part, access to documents 9 through to 12 are deferred under section 38(6)(b) of the Act to allow the third

party the opportunity to seek a review of my decision. You will be notified of the outcome of any review process, and the documents may be released to you pending that outcome.

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.

The additional queries which you had included as part of your access application have been responded to as **Attachment C** to this letter.

Material Considered

In reaching my access decision, I have taken the following into account:

- the FOI Act, particularly sections 6, 17, 38, 50, Schedules 1 and 2
- the content of the documents that fall within the scope of your request
- the *Human Rights Act 2004*
- the views of third party consulted.

Public Interest Considerations

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

Information Disclosure – Contrary to the Public Interest under Schedule 1 of the Act

Schedule 1 of the Act recognises a range of information that is taken to be contrary to the public interest to disclose unless the information identifies:

- corruption or
- the commission of an offence by a public official or
- that the scope of a law enforcement investigation has exceeded the limits imposed by law.

Information Subject to Legal Professional Privilege

Documents 5 through to 8, 11, 13 and 14 were identified to contain legal advice between legal representatives and the SLA in their respective manners. This information would be privileged from production or admission into evidence in a legal proceeding on the ground of legal professional privilege. This information is taken to be contrary to the public interest under schedule 1, 1.2 of the Act.

This information does not identify corruption or the commission of an offence by a public official or that the scope of a law enforcement investigation has exceeded the limits imposed by law.

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)(ii) – contribute to positive and informed debate on important issues or matters of public interest.
- Schedule 2, 2.1(a)(iii) – inform the community of the government’s operations, including the policies, guidelines and codes of conduct followed by the government in its dealings with members of the community.

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*.

Personal Information

Documents 1 and 5 through 12 contain personal information 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.

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.

Charges

Any charges applicable to this application are waived under section 107(2) of the Act.

Online Publication

Under section 28 of the Act, on behalf of the Agency, Environment Planning and Sustainable Development Directorate (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 information and 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 EPSDFOI@act.gov.au or call (02) 6207 1923 and ask for the Information Governance team.

Yours sincerely



Nicholas Holt

Information Officer
Executive Director, Thriving Communities Group
Suburban Land Agency

28 June 2024