



Dear [REDACTED]

**Freedom of information request: 18/28137 – Part 3 of 3**

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 25 September 2018, in which you sought access to documents related to Project Wing drone trials, including those in Royalla and Bonython.

In your application you requested:

*(1) Information on the scope, agreements of the drone trial between the ACT government for Project Wings conducted in ROYALLA. This includes the initial set ups, community consultations and final report on the outcome. I would also like the number of deliveries, type of delivery, number of complaints from residents on noise.*

*(2) Information on the scope, timeframe and agreements of the drone trial between the ACT government for Project Wings conducted in BONYTHON. This includes the initial set ups, community consultations, timeframe of the trial, contact details of all the involved parties (Project Wing, CASA). I would also like the number of deliveries, type of delivery, number of complaints from residents on noise.*

*(3) Information on Project Wing trials and all consultations with the ACT Government on current trials and any proposed future trials.*

I note that you have subsequently refined the scope of your application with the FOI team as follows – in relation to Project Wing drone trials in ACT to:

1. *Identify any that fall within the following categories:*
  - *Final documents showing government approvals;*
  - *Final documents showing approved project deliverables;*
  - *Final documents showing interactions between Project Wing/Google and members of the ACT Executive;*
  - *Final agreements, criteria and conditions imposed by the ACT Government on Project Wing; and*
  - *Avian study that formed part of the agreement between ACT Government and Project Wing.*
2. *Exclude the following categories of documents:*
  - *All documents provided and published by CASA (including risk assessment) in response to the FOI request of 16 November 2018 on CASA's disclosure log: <https://www.casa.gov.au/foi/standard-page/disclosure-log>;*
  - *Documents of administrative nature (including drafts and working documents); and*

- *General correspondence, such as that does not document government decisions or relate to general discussions surrounding the project.*

I also note that you have agreed to the three-part release of the documents with the third (final) part processed with the decision deadline of 15 March 2019.

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

### **Decision on access**

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 refuse access to one document in accordance with section 43 (1) (d) of the Act, as this document is available as a part of a public register.

I have decided to refuse access to 10 documents as I consider them to be information that would, on balance be contrary to public interest to disclose under the test set out in section 17 of the Act.

I have decided to defer access to the remaining documents as an affected third party have objected to their disclosure. The third party may apply for a review of my release decision within 20 working days after my decision is published the Agency's disclosure log, or a longer period allowed by the Ombudsman. I will write to you to advise when access is no longer deferred.

Two documents (Items 23 and 24) are subject to another FOI Request. Access to these documents is deferred pending third party review.

My access decisions are detailed further in the following statement of reasons.

### **Material considered**

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

- the FOI Act, particularly section 17, Schedule 1 and Schedule 2;
- the *Information Privacy Act 2014*;
- views of relevant third parties; and
- the content of the documents that fall within the scope of your request.

### **Exemptions claimed**

My reasons for deciding access to documents are set out below. In reaching my decision I have applied the public interest test under section 17 of the Act as follows:

#### **Contrary to the public interest information under Schedule 1 of the Act:**

One document contains information subject to legal professional privilege. This is information disclosure of which is taken to be contrary to public interest; therefore, access to this information is refused.

## **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 factors favouring nondisclosure and the balance of those factors when considered cumulatively.

### Business affairs

Some of these documents contain business information relating to third parties, the release of which would reasonably prejudice trade secrets and business affairs, a factor favouring non-disclosure under Schedule 2.2 (a) (xi) of the Act. I have considered the release of business affairs information and whether the disclosure of that information would serve to further open discussion, government accountability, informed debate and the provision of contextual or background information.

On balance of these public interest considerations and the information available, I have concluded that the disclosure of trade secrets and business affairs information would be an unreasonable disclosure and, therefore, contrary to the public interest to release.

### Personal information

I have considered the release of personal information and my view in this instance is that it 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 may constitute a breach of privacy and is therefore contrary to the public interest.

### **Online publishing – disclosure log**

Under section 28 of the Act, the EPSDD maintains an online record of access applications called disclosure log. Your original access application, my decision and documents released to you in response to your access application will be published in the disclosure log. Your personal contact details will not be published.

You may view our disclosure log at <http://www.environment.act.gov.au/about/access-government-information/disclosure-log>.

## **Ombudsman review**

My decision on your access application 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 (02) 6207 1923 and ask for the FOI team, or email to [EPSDFOI@act.gov.au](mailto:EPSDFOI@act.gov.au)

Yours sincerely



Brett Phillips

Information Officer  
Environment, Planning and Sustainable Development Directorate

8 March 2019