



ACT
Government

Environment, Planning and
Sustainable Development

Phone: 6207 1923
Reference: 17/31846

Dear [REDACTED]

Freedom of Information Request – Rural Land

I refer to your application under section 14 of the *Freedom of Information Act 1989* (the Act), received by the Environment and Planning Directorate (EPD) on 14 November 2017, in which you requested the following documents:

"I write to request under the Freedom of Information Act 1989 (FOI Act) documents relating to the planning and use of the Winslade (Blocks 435, 439, 440, 441, 456 and 476), Ginninderry (Blocks 1605 and 1606), and Wintergarden (Block 1491, 1492, 1587) properties as well as their acquisitions, including any Ministerial and Director-General directions"

I am an officer authorised to make a decision in respect of a request for information, under section 22 of the Act.

The Directorate has identified 1010 documents in its possession that meet the scope of your request.

810 are documents of the Directorate, and 200 are documents of the Suburban Land Agency (SLA). Your request has been subject to two decisions, one about the Directorate documents and one about the SLA documents. This letter is in regard to the Directorate documents, as identified in the attached schedule.

Schedule detailing decisions

Please refer to the attached schedule that lists decisions regarding access to all documents, which have been identified as relevant to your request. The terms used on the schedule are either 'release', 'partial release', 'exempt', 'duplicate' or 'out of scope'. Where an exemption is made, a reference will be made on the schedule to the relevant section or combinations of sections of legislation that apply to the decision.

Duplicate documents are listed on the schedules, however where possible I have included only one copy with the released documents.

Decision

Under the Act, documents may be exempt or provided to applicants with deletions and I have decided to exempt some documents under sections 35 (Executive documents), 36 (Internal working documents), 41 (Documents relating to personal privacy), 42 (legal professional privilege) and 43 (Documents relating to business affairs).

Access to documents not to apply to certain documents:

Executive documents

Section 35 of the Act provides:

1. *A document is an exempt document if it is—*
 - a. *a document that has been submitted to the Executive for its consideration or is proposed by a Minister to be so submitted, being a document that was brought into existence for the purpose of submission for consideration by the Executive; or*
 - b. *an official record of the Executive; or*
 - c. *a document that is a copy of, or of a part of, or contains an extract from, a document referred to in paragraph (a) or (b); or*
 - d. *a document the disclosure of which would involve the disclosure of any deliberation or decision of the Executive, other than a document by which a decision of the Executive was officially published.”*

I have exempted from release under section 35(1)(a)&(d) of the Act documents that refer to Cabinet discussion and decisions. To disclose this information would reveal the deliberations of the Cabinet members.

Internal working documents

Section 36 of the Act provides:

1. *Subject to this section, a document is an exempt document if its disclosure under this Act—*
 - a. *would disclose matter in the nature of, or relating to, opinion, advice or recommendation obtained, prepared or recorded, or consultation or deliberation that has taken place, in the course of, or for the purposes of, the deliberative processes involved in the functions of an agency or Minister or of the Territory; and*
 - b. *would be contrary to the public interest.*

Section 36 allows the exemption of internal working documents when disclosure under the FOI Act would not be in the public interest.

Some documents contain login and password information, the release of which would compromise the security of the login system.

Personal Privacy

Section 41 of the Act provides:

1. *a document is an exempt document if its disclosure under this Act would involve the unreasonable disclosure of personal information about any person (including a deceased person).*

Some documents contain names and other details that it would be unreasonable to release.

Legal Professional Privilege

Section 42 of the Act provides:

1. *a document is an exempt document if it is of such a nature that it would be privileged from production in legal proceedings on the ground of legal professional privilege.*

Some documents are correspondence between the Directorate and its legal advisor which are privileged and are thus exempt under this section.

Business affairs

Section 43 of the Act provides:

1. *a document is an exempt document if its disclosure under this Act would disclose—*

(a) trade secrets; or

(b) any other information having a commercial value that would be, or could reasonably be expected to be, destroyed or diminished if the information were disclosed; or

(c) information (other than trade secrets or information to which paragraph (b) applies) concerning a person in respect of his or her business or professional affairs or concerning the business, commercial or financial affairs of an organisation or undertaking, being information—

(i) the disclosure of which would, or could reasonably be expected to, unreasonably affect that person adversely in respect of his or her lawful business or professional affairs or that organisation or undertaking in respect of its lawful business, commercial or financial affairs; or

(ii) the disclosure of which under this Act could reasonably be expected to prejudice the future supply of information to the Territory or an agency for the purpose of the administration of a law or the administration of matters administered by an agency.

Some documents contain information related to financial or business affairs which could adversely impact on persons or organisations if it were released.

Review rights

My decision is appealable under the Act. This means that if you are dissatisfied with this outcome you have a right to seek a review under section 59 of the Act. This right of review extends to a review of the adequacy of the search for documents undertaken by EPD. If you wish to seek a review you should write to:

The Director-General
Environment and Planning Directorate
GPO Box 1908
CANBERRA ACT 2601

Email: EPDFOI@act.gov.au

Online FOI Publication Policy

Please be aware that under the ACT Government's "Online FOI Publication Policy" (the Policy), information released to you under this Freedom of Information Application may be released on the internet.

Personal information or business affairs information will not be made available under the policy. If you think the content of your request would contain such information, please inform our contact officer immediately.

A copy of the policy, with details about what information may be published on the internet, is available online at:


https://www.cmtedd.act.gov.au/data/assets/pdf_file/0016/250333/FOI_Web_Release_Policy_-_Final.pdf

If you have any queries in relation to this matter please contact EPD's Customer Service Centre on 6207 1923 and ask for the Information Management Team.

Yours sincerely



Fleur Flanery
Executive Director, Planning Policy
Environment, Planning and Sustainable Development Directorate

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