



**ACT**  
Government

Environment, Planning and  
Sustainable Development

Phone: (02) 6207 1923  
Reference: 22/26528



Dear 

### **Decision on Freedom of Information Access Application 22/26528**

I refer to your application made under section 30 of the *Freedom of Information Act 2016* (the Act) received by the Environment, Planning and Sustainable Development Directorate (EPSDD) on 15 March 2022.

Specifically, you are seeking access to the following document:

*“Mecone Consultancy report. It is understood that the consultant has undertaken an urban infill capacity assessment for areas around the Light Rail Stage 2b route.”*

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

You have granted an extension, consequently EPSDD must make a decision on your application on or by 29 April 2022.

### **Searches Conducted**

Comprehensive searches were conducted and one document containing information within the scope of your application was identified.

The document is a report of an investigation of the potential for residential and employment intensification in the Light Rail Stage 2b corridor. It is important to note that the document is from a third-party consultant and is technical in nature. It has not been reviewed nor endorsed by EPSDD Executive, the Chief Planner nor the Minister for Planning and Land Management. Additionally, it is important to note that the report is not a reflection of current Government policy nor does it reflect a Government position.

### **Decision on Access**

I have included as **Attachment A** to this decision the schedule of the relevant document. The schedule provides a description of the document that falls within the scope of your application and the access decision for that document.

I have decided to grant partial access to the document relevant to your application.

Under section 38 of the Act, a third party was consulted. The third party objected to release of some personal information within the report. My decision has taken into consideration the views and objections raised.

My access decisions are detailed further in the following statement of reasons and the document released to you is 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, 37, 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 party consulted
- your views regarding the public interest

### **Public Interest Considerations**

My reasons for deciding not to grant access to components of the document is 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 the government's accountability
- Schedule 2, 2.1(a)(ii) – contribute to positive and informed debate on important issues or matters of public interest.

I acknowledge that you are of the opinion that the report should be released in full.

#### *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

### Personal Information

The document relevant to your application contains personal information (names and signatures) of individuals associated with a third party. 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.

### Trade secrets, business affairs or research

The document relevant to your application contains information relating to the business affairs of an agency or person. Appendix 1 of the report includes information of commercial value to a number of proponents seeking advice for potential developments or Territory Plan Variations in various suburbs. 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 business affairs of an agency or person. On balance, and the information available to me, I am satisfied that the disclosure of this business 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**

In accordance with section 107(2)(d) of the Act any charges applicable are waived.

### **Online Publication**

Under section 28 of the Act, 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 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](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](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/>

### **Further Information**

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



Ben Green  
Information Officer  
A/g Executive Group Manager, Development and Implementation  
Environment, Planning and Sustainable Development Directorate

29 April 2022