



ACT
Government

Environment, Planning and
Sustainable Development

Phone: 6207 1923
Reference: 21/69263

Dear [REDACTED]

Freedom of information request: 21/69263

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 3 August 2021, in which you sought access to information relating to Traffic Remodelling Reports and Reviews.

On 3 August 2021 EPSDD accepted full transfer of your application from the Chief Minister, Treasury and Economic Development Directorate (CMTEDD).

The scope of your application was seeking:

The Traffic Modelling and Options Report for Parkes Way/ South West Corridors & Molonglo Valley Development for TCCS and EPSDD Project Brief Final. Version Dated: 30 July 2021 (tender 38561-DOC-130 Traffic Modelling and Options Report for Parkes Way/S-W Corridors and Molonglo Valley Development), Section: 3.1 Previously Completed Design/Studies.

The following studies are publicly available.

Study Name File Name

1. *PW Options Assessment (ARUP 2014).*

- *File: Parkes Way Options Assessment (ARUP 2014)*

2. *PW Feasibility Study (SMEC 2014).*

- *File: PW Feasibility Study (SMEC2014)*

3. *PW Tunnel Environment and Safety Risk Assessment and Design Furniture Operational Requirements (ARUP 2015).*

- *File: PW Tunnel Environment and Safety Risk Assessment (ARUP 2015)*

4. *PW Route Study (ARUP 2015).*

- *File: PW Route Study (ARUP 2015)*

5. *Molonglo East-West Arterial Road Feasibility Study and Molonglo Strategic Traffic Study, SMEC for EPSDD, April 2021.*

- *File: 3002754 EWA – Options Report – Rev 01*

6. *Molonglo 3 East Planning and Infrastructure Study, Phase 1 Planning and Infrastructure Outcomes Report, WSP/Roberts Day for EPSDD, March 2021.*

- *File: Molonglo 3 East Planning and Infrastructure Study, Phase 1 Planning and Infrastructure Outcomes Report, WSP/Roberts Day for EPSDD, March 2021*

7. *Molonglo 3 East Transport Planning and Modelling reviews, SMEC for EPSDD, March 2021*

Files:

- *3002666.114 M3 East Peer Review – Modelling Review Rev 0*
- *3002666.114 M3 East Peer Review – Reporting Review Rev 0*
- *3002666.114M3 East Peer Review – Transport Planning Review Rev 0*

8. *Molonglo 3 East Planning and Infrastructure Study, Transport Modelling Report, WSP/Roberts Day for EPSDD, January 2021.*

- *File: Molonglo 3 East Planning and Infrastructure Study, Transport Modelling Report, WSP/Roberts Day for EPSDD, January 2021*

9. *Bindubi Street grade separated intersection with William Hovell Drive – Preliminary Sketch Plan, AECOM for EPSDD, July 2019.*

- *File: 60588975_Bindubi St-William Hovell Drive_Feasibility Report_Rev.B*

10. *Molonglo Arterial Roads Feasibility Study, SMEC, 2013.*

- *File: 3002301 MARFS Rev2 Final Report*

11. *ACT Transport Corridors Study, AECOM, 2018.*

Files:

- *ACT-TC part 5 TransCAD Model Report Rev 3 (final) 23.10.2018*
- *P6C ACT Transport Corridors – Traffic Microsimulation Modelling Report_1*
- *P9 ACT Transport Corridors – Final Report v3_*

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

EPSDD is required to provide a decision on your access application in accordance with section 41 of the Act, by 1 December 2021. Thank you for your patience with this matter.

Searches conducted

Comprehensive searches were conducted by the EPSDD for documents relevant to your application. These documents contained personal and business information that concerns relevant third parties. Consultation with the relevant third parties was undertaken in accordance with section 38 of the Act.

Decision on Access

Eight documents were located that fall within the scope of your request.

I have included as **Attachment A** to this decision the schedule of documents relevant to the scope of your request. The schedule provides a description of each document and the access to these documents.

I have decided to refuse access to two documents as I consider information contained within these documents would, on balance, be contrary to the public interest to disclose.

I have decided to grant partial access to six documents relevant to your request as I consider information contained within these documents would, on balance, be contrary to public interest to disclose under the test set out in section 17 of the Act.

In regard to two documents, you have requested namely, the Molonglo Concept Plan and Active Travel Master Plan. Both documents are in the early initial stages of development with studies yet to be completed, and therefore do not yet exist.

I have decided to grant access, under section 50 of the Act, to copies of these documents with deletions applied to the information that I consider would be contrary to public interest to disclose. My access decision is detailed further in the following statement of reasons and the documents 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 17, 38, 41, 50, Schedule 2;
- the *Information Privacy Act 2014* and;
- the content of the documents that fell within the scope of your request and;
- the views of third parties relating to the release of information that concerns them.

Public Interest Considerations

My reasons for deciding to not grant access to documents, and components of the documents are explained below; these documents contain information that I consider to be contrary to the public interest to disclose.

Information Disclosure – Contrary to the Public Interest 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 accessing the public interest, I must apply the test outlined under section 17 of the Act which requires consideration of factors favouring disclosure, any favouring non-disclosure and the balance of those factors when considered cumulatively.

Factors Favouring Disclosure

Disclosure of the identified 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)(viii) – reveal the reason for a government decision and any background or contextual information that informed the decision.

Factors favouring non-disclosure

In applying the public interest test, I have determined that disclosure of the information could reasonably be expected to do the following and meet relevant factors favouring non-disclosure:

- 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)(viii) – prejudice the economy of the Territory
- Schedule 2, 2.2(a)(xi) – prejudice trade secrets, business affairs
- Schedule 2, 2.2(a)(xviii) – prejudice the conservation of any place or object of natural, cultural or heritage value, or reveal any information relating to Aboriginal or Torres Strait Islander traditional knowledge

Personal Information

Some items are scheduled for partial release as they contain information that falls within the meaning of personal information as defined by the Act.

I have considered the release of personal information and my view in this instance is that the identification of third parties 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 this 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, section 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.

Business Information / Economy of the Territory

Two of the documents in scope contain information relating to reports and business information provided to the Directorate under contractual agreements. The release of this information would reasonably prejudice trade secrets and business affairs, a factor in favour of non-disclosure under Schedule 2.2(a)(xi) of the Act. I have considered the release of business affairs information and whether its disclosure would provide relevant contextual, or background information.

In reaching my decision my decision I have weighed on balance these public interest considerations, the information available and objections provided by third parties. On balance I have decided that the detriment caused by the release of this information, which may constitute a breach of confidence, outweighs any anticipated benefit provided by its release.

I consider the documents contained within our files should be exempt from release, as the release of these documents would diminish the commercial value of the information and compromise the organisation's commercial and competitiveness and may prejudice the economy of the ACT Government under Schedule 2.2(a)(viii) of the Act and therefore, is contrary to the public interest to release.

Aboriginal Cultural Heritage Sites

I have given regard to the general interest of the Canberra community in the decision-making processes of Molonglo Valley development and the impact of the decision. I have further considered the public benefit of transparency in Government processes and the enduring protection of Aboriginal cultural heritage sites.

Some documents relevant to your application contain information that identifies the location of sites where items of Aboriginal cultural heritage may have previously been found. I have decided on balance, the disclosure of material that would assist in identifying these locations would be contrary to the public interest to disclose.

In accordance with section 50 of the Objects of the Act, I have decided to provide you copies of the documents with information contributing to location identification redacted.

Online publication

Under section 28 of the Act, EPSDD maintains an online record of access applications called a disclosure log. Under the Open Access Information Scheme, documents associated with access applications are published on the disclosure log no earlier than three days after a decision on access is provided to the applicant.

You may view the EPSDD's disclosure log at:

<http://www.environment.act.gov.au/about/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
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

Yours sincerely,



Lea Durie
Information Officer
Executive Branch Manager, Development and Implementation
Environment, Planning and Sustainable Development Directorate (EPSDD)
1 December 2021