

[REDACTED]

By Email: [REDACTED]

Dear [REDACTED]

### **Decision on Freedom of Information Access Application 23/037998**

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 3 April 2023, in which you sought access to a document relating to the East Lake Site Preparation.

Specifically, you are seeking:

*“East Lake Site Preparation Feasibility Study AECOM 2013”*

Please note that this is an older study that was informed by previous planning work for East Lake. Planning work, assumptions and studies have progressed since this study was prepared.

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

Due to the additional time allowed to undertake third party consultation EPSDD must decide on your application on or by 9 June 2023. Additional time was agreed by you to finalise this matter and your patience is greatly appreciated.

#### **Searches Conducted**

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

#### **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 and, in accordance with section 50 of the Act, provide you with a copy of the document with deletions applied to contrary to the public interest information.

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, 38, 50 and Schedule 2
- the age and content of the document that falls within the scope of your request
- information publicly available.

## **Public Interest Considerations**

My reasons for deciding not to grant access to components of the document are 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.
- 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 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)(xi) – prejudice trade secrets, business affairs or research of an agency or person.
- Schedule 2, 2.2(a)(xiii) – prejudice the competitive commercial activities of an agency.

#### Trade secrets, business affairs or research of an agency

In making my decision I have considered the business information within the documents and deliberated on the nature and detail of the information. The study is considered to include sensitive information regarding remediation, land values, land value per m<sup>2</sup>, dwellings values and adjusted value of land, based on the land size and research conducted by AECOM. I consider that this information should be exempt from release under Schedule 2, 2.2(a)(xi) of the Act, as release is likely to prejudice the business affairs of EPSDD.

### Competitive commercial activities of an agency

The study also contains a Cost Benefit Analysis of remediation options. I consider that financial information contained within the document should be exempt from release as the release of this information would diminish its commercial value and compromise the organisation's competitive commercial activities under Schedule 2.2(a)(xiii) of the Act and therefore, is contrary to the public interest to release.

In reaching my decision I have weighed on balance the public interest considerations, and the information available in the public domain. On balance, I have decided that the detriment caused by the release of this information outweighs any anticipated benefit provided by its release.

To provide you with the information that I have determined to be in the public interest to release, a copy of the document has been prepared with information relating to business affairs and competitive commercial activities redacted in accordance with section 50 and the Objects of the Act.

### **Charges**

In accordance with section 107(2)(b) 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 the document 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  
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 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

Signed electronically.

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

8 June 2023