



**ACT**  
Government

Environment, Planning and  
Sustainable Development

Phone: (02) 6207 1923

Reference: 21/52222

Dear [REDACTED]

### **Freedom of Information 21/52222**

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 June 2021, in which you sought access to documents relating to advice provided by the National Capital Design Review Panel (NCDRP).

Specifically, you are seeking:

*A copy of any Panel Advice provided by the National Capital Design Review Panel (NCDRP) to the Environment, Planning and Sustainable Development Directorate on the Molonglo Commercial Centre.*

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

As agreed EPSDD must make a decision on your application on or by 23 July 2021.

### **Searches Conducted**

One document containing information within the scope of your application was identified.

The document includes information regarding the requirements under legislation for 'prescribed developments' to provide a copy of the Panel's Advice and the proponents response to the advice when the Development Application is submitted. Please be advised that the *Planning and Development Act 2007* requires that 'prescribed developments' consult with the NCDRP before lodging a Development Application for assessment and that a written response to the Panel's Advice, as noted above, needs to be provided as part of any subsequent Development Application process. A prescribed development is a building with five or more storeys or a proposal to increase the floorspace of a shop by more than 2,000m<sup>2</sup>. The Molonglo Group Centre is not a 'prescribed development', as defined by the *Planning and Development Act 2007*, and as such the Panel's Advice are taken to be comments for the consideration of the proponent.

### **Decision on Access**

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.

I have included as **Attachment A** to this decision a 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 this document.

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, 50, schedule 2
- the content of the document that falls within the scope of your request
- the *Human Rights Act 2004*

### **Public Interest Considerations**

My reasons for deciding not to grant access to certain documents and components of these documents 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.

#### *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*.

### **Personal Information**

The documents relevant to your application contains personal information of individuals (names of NCDRP members). 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.

To provide you with the information that I have determined to be in the public interest to release, a copy of the document with personal information redacted in accordance with section 50 and the Objects of the Act.

### **Charges**

Pursuant to the *Freedom of Information (Fees) Determination 2018*, processing charges are not applicable for this request as the total number of pages to be released to you is below the charging threshold of 50 pages.

### **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



Bethel Sendaba  
Information Officer  
Executive Branch Manager, Planning and Urban Policy  
Environment, Planning and Sustainable Development Directorate  
23 July 2021