



ACT
Government

Environment, Planning and
Sustainable Development

Phone: 6207 1923
Reference: 19/20628

Dear [REDACTED]

Freedom of Information 19/20628

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 12 July 2019, in which you sought access to documents regarding Kama Reserve as part of the Molonglo Stage 3 Urban development.

Specifically, you are seeking:

- Correspondence (e.g. letters and emails), opinions, reports or recommendations;
- **limited to that which is from/to/by/** external experts/agencies and ACT Government;
- limited to the management of the Kama Reserve and/or its buffer **as part of the Molonglo Stage 3 Urban development** (this means we aren't looking for these sorts of documents outside of this development);
- **limited to October 2013 and 30 June 2019...**

On the 26 June 2019 you also made an initial application under the Act seeking:

"...screenshots of the ACT Government public consultation webpage related to the EIS exemption for Molonglo Valley Stage 3 urban development as at 4 July 2017, 24 July 2017, 8 August 2017 and 30 August 2017. To be clear, screenshots of the following website (at https://www.planning.act.gov.au/topics/design_build/da_assessment/environmental_assessment/exemption_from_requiring_an_eis_s211/molonglo-valley-stage-3-urban-development)"

On the 18 July 2019 EPSDD wrote to you and advised that in accordance with section 43(2) of the *Freedom of information Act 2016*, the Directorate is entitled to consider two or more FOI applications as one application. As your applications were combined, the due date for your requests was revised to 9 August 2019.

I note on the 5 August 2019 you agreed to a 15-day extension of time extending the due date to 30 August 2019. On the 13 August 2019 under agreement your application of the 26 June 2019 was released to you informally and identified as 'Part 1' of your request.

On the 26 August 2019 you agreed to a further extension of time in relation to the second part of your request for a further period of 15 days extending the due date until 20 September 2019. On the 18 September 2019 you agreed to a further extension of time of an additional 10 days, revising the due date 4 October 2019

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

EPSDD is required to make a decision on your access application by 4 October 2019.

Decision on Access

Searches were completed for documents relevant to your access request and 19 documents of 125 pages in total were identified that fall within the scope of your request.

I have included as **Attachment A** to this decision the schedule of relevant documents. This provides a description of each document that falls within the scope of your request and the access decision for each of those documents.

My access decisions are detailed further in the following statement of reasons.

Material considered

In reaching my decision, I have taken the following into account:

- the *Freedom of Information Act 2016*, with consideration given to sections 17, 34, 35, 38, 47, 50, Schedule 1 and 2;
- the content of the documents that fall within the scope of your request and the documents informally released;
- *The Information Privacy Act 2014*
- *The Human Rights Act 2004*

Public Interest Considerations

My reasons for deciding not to grant access to components of documents held on the schedule are as follows:

Contrary to the public interest information under schedule 2 of the FOI Act

In assessing the public interest, I must apply the descending test outlined under section 17 of the Act which requires consideration of all factors favouring disclosure, any favouring nondisclosure and the balance of those factors when considered collectively.

I have decided to grant access in full to 7 documents relevant to your request.

Documents identified as relevant to your request contain information that I consider to be information that would, on balance, be contrary to the public interest to disclose under the test set out in section 17 of the Act.

I have decided to grant access, under section 50 of the Act, to copies of documents with deletions applied to information that I consider would be contrary to the public interest to disclose.

My access decisions are detailed further in the following statement of reasons and the documents released to you are provided as **Attachment B** to this letter.

Personal Information

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 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. Disclosure of the information could reasonably be expected to interfere with the protection of the privacy of the individual's concerned and this is a factor favouring nondisclosure under Schedule 2.2 (a) (ii) of the Act.

On balance of these public interest considerations and the information available, I have concluded that the documents in scope include personal identifiers and correspondence received third parties. Third-party consultation was undertaken for the purpose of processing this request and no objections were received however; the disclosure of their personal information contained within the documents may constitute a breach of those individuals' privacy and is therefore on balance contrary to the public interest to disclose.

Online Publication

Under section 28 of the Act, EPSDD maintains an online record of access applications called a disclosure log. Your original access application, my decision and documents released to you in response to your access application will be published in the EPSDD disclosure log, no sooner than 3 days, and no later than 10 days after this decision is provided to you. Your personal contact details will not be published.

You may view the EPSDD's disclosure log at <https://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:

http://www.ombudsman.act.gov.au/data/assets/pdf_file/0026/79190/40A-Reviews-Factsheet-and-Application-Form-final-A1569634.pdf

If you wish to request a review of my decision 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


George Cilliers

Information Officer
Environment, Planning and Sustainable Development Directorate

04 October 2019