



**ACT**  
Government

Environment, Planning and  
Sustainable Development

Phone: 6207 1923  
Reference: 20/101215

Dear [REDACTED],

**Freedom of information request: 20/101215**

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 18 December 2020, in which you sought access to information relating to the transport and planning for Molonglo Valley Stage 2.

Your application sought:

*Documents may include, but not be limited to, briefs and directions, tender and contract documents, documents related to transport modelling and future infrastructure requirements including provision for public transport and proposed route alignments, traffic studies, related outcomes and reports, correspondence, and any other relevant documents.*

*Examples of documents that I expect would be captured in this request include:*

- *AECOM (2010) 'Molonglo Transport Model Review'. For ACTPLA.*
- *AECOM (2010) 'Molonglo stage 2 Background Investigations'. For ACTPLA*
- *SGS Economics and Planning (2011) 'Base Analysis report for the preparation of the draft planning and design framework.*
- *SGS Economics and Planning (2011) 'Molonglo Valley stage 2 draft planning and design framework – technical report'.*

I am an Information Officer appointed under section 18 of the Act to deal with access applications made under Part 5 of the Act. Under section 38 of the Act, consultation was required extending the due date by an additional 15 working days.

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

**Searches conducted**

Comprehensive searches were conducted by the EPSDD for documents relevant to your application.

## **Decision on Access**

Fifty-three documents were located that fall within the scope of your request. Refer [Attachment A](#) for the schedule. The schedule also provides a description of the documents and the access decision.

I have decided to grant full access to forty-eight documents relevant to your application.

I have decided to refuse access to one document, as I consider the information contained within the document to be contrary to the public interest.

I have decided to grant access to four documents with exemptions applied to information that I consider would be contrary to the public interest to disclose, under section 50 of the Act. My access decision is 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; 17, 38, 41, 50, Schedule 2;
  - the content of the document that falls within the scope of your request;
  - the *Information Privacy Act 2014*;
  - any views of third parties relating to the release of information that concerns them;
- and

## **Public Interest Considerations**

My reasons for deciding not to grant access to components of 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**

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

### *Factors Favouring Disclosure*

Disclosure of the identified information could reasonably be expected to do the following:

- Schedule 2.1(a)(i) – promote open discussion of public affairs and enhance the government's accountability;
- Schedule 2.1(a)(ii) – contribute to positive and informed debate on important issues or matters of public interest;
- Schedule 2.1(a)(viii) – reveal the reason for a government decision and any background or contextual information that informed the decision.

I have given regard to the public interest in the development of Molonglo Valley Stage 2 and the release of some of the requested information may assist in public understanding of government decisions. I have also given regard to the advancing public understanding and transparency in government development application processes. It is for this reason that I have decided to release to you forty-five documents in part or in full (as outlined in the attached schedule).

### *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:

- Schedule 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(a)(xi) – prejudice trade secrets, business affairs
- Schedule 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 Affairs*

One of the documents in scope contains 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, and the information available. I have concluded that the disclosure of trade secrets and business affairs information would be an unreasonable disclosure and may prejudice business affairs under Schedule 2.2(a)(xi) of the Act and therefore, 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 Stage 2 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.

### **Charges**

Pursuant to section 107(2)(b) of the Act, processing charges are waived for this application.

### **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. Documents containing your personal information will be published in redacted form to protect your privacy.

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](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

  
George Cilliers

Information Officer  
Executive Branch Manager Planning Delivery (E01072)  
Environment, Planning and Sustainable Development Directorate

1 April 2021