



Dear [REDACTED]

### **Decision on Freedom of Information Access Application 25/0201074**

I refer to your application made under Section 30 of the *Freedom of Information Act 2016* (the FOI Act) received by the Environment, Planning and Sustainable Development Directorate (EPSDD) on 16 May 2025.

Specifically, you are seeking:

*"...a copy of the report that resulted from a services agreement with JPS Engineering Consultants Pty Ltd dated April 2024. The report relates to the Provision of Stage 1 Site Investigation for the sites within Hawker, Charnwood, Kaleen and Macquarie group Centres."*

On 1 July 2025, the City and Environment Directorate (CED) was established, bringing together services previously delivered by Access Canberra, the Environment, Planning and Sustainable Development Directorate (EPSDD), Transport Canberra and City Services (TCCS), and the Better Regulation Taskforce.

Section 101 of the FOI Act provides that an access application made to an abolished agency is taken to have been made to the agency that acquired the abolished agency's functions.

I am an Information Officer appointed under section 18 of the Act to deal with access applications made under part 5 and now write to provide notice of my decision in relation to your application.

In accordance with section 38 of the *Freedom of Information Act 2016* (the Act), third party consultation was undertaken. EPSDD must decide your application on or by 22 July 2025.

### **Decision On Access**

In response to your application, comprehensive searches were conducted and four documents containing information within the scope of your application were identified.

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

In considering your application, I have taken the following into account:

- the FOI Act, particularly sections 6, 17, 38, 43, 45, 50 and Schedule 2
- the content of the documents that fall within the scope of your request
- the *Freedom of Information (Volume 4 – Considering the public interest) Guidelines 2023* (Notifiable Instrument [NI2023-751](#)).
- the views of Third Parties consulted

I have decided to:

- Grant **partial access** to 3 documents and, in accordance with Section 50 of the FOI Act, provide you with copies of documents with deletions applied to components, contrary to public interest information.
- Note that one document within scope of your application is already publicly available and therefore is not released in accordance with this FOI request.

Under section 43(1)(d) of the Act, a respondent may refuse to deal with an access application wholly or in part if the government information is already available to the applicant. Section 45 of the Act sets out the circumstances in which government information is already available to the applicant.

Those circumstances include where the information is publicly available (section 45(a)).

On 3 July EPSDD contacted you regarding the JPS Engineering Report for the Provision of Stage 1 Hawker Group Centre, advising as part of an Ombudsman review this document was released and is now available on our Disclosure log via:

<https://www.environment.act.gov.au/about-us/access-government-information/disclosure-log/disclosure-logs/epsdd-24134326>

The documents released to you by my decision are provided at **Attachment B** to this letter.

### **Public Interest Considerations**

#### Information Disclosure – Schedule 2 of the Act

In assessing whether disclosure of the remaining information identified in relation to your request would, on balance be contrary to the public interest, I must apply the test outlined under Section 17 of the FOI Act.

This requires consideration of factors favouring disclosure, any favouring nondisclosure and the balancing of those factors when considered cumulatively. Unless, on balance, disclosure would be contrary to the public interest, access to the information must be allowed.

#### *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 2.1(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;

#### *Factors Favouring Non-disclosure*

In applying the public interest test to the documents identified in relation to your application, I have determined that disclosure of the information could reasonably be expected to do the following:

- Schedule 2, 2.2(a)(ii) – disclosure of the information could reasonably be expected to prejudice the protection of an individual's right to privacy or any other right under the *Human Rights Act 2004*.

- 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

Three documents contain personal information, including mobile numbers, and signatures of individuals. I am satisfied that the factors in favour of release can still be met while protecting relevant personal information. I have therefore weighed the factor for non-disclosure more highly than the factor in favour of release in this instance. As a result, I have decided that release of this information could prejudice the individual's right to privacy under the *Human Rights Act 2004*. Having applied the test outlined in section 17 of the Act and deciding that release of personal information contained in the documents is not in the public interest to release, I have chosen to redact this specific information in accordance with section 50(2) of the Act.

### Aboriginal Cultural Heritage Sites

I have given regard to the general interest of the Canberra community in the decision-making processes regarding any future development of the Hawker, Charnwood, Kaleen and Macquarie Group Centres and the impact of decisions. I have further considered the public benefit of transparency in Government processes and the enduring protection of Aboriginal cultural heritage sites. One document relevant to your application contains 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 refuse documents that identify locations and sites along with their cultural and heritage significance.

### **Charges**

In accordance with section 107(2) 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 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 provided to you, 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/accountability-and-oversight/freedom-of-information/foi-complaints-and-reviews>

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 processing of your request, or would like further information, please email [EPSDFOI@act.gov.au](mailto:EPSDFOI@act.gov.au) or call 13 22 81 and ask for the Information Governance team.

Yours sincerely



Jeremy Smith

Information Officer  
Executive Group Manager, Transport Canberra  
City and Environment Directorate  
15 July 2025