



ACT
Government

Environment, Planning and
Sustainable Development

Phone: (02) 6207 1923
Reference: 21/76870

Dear [REDACTED]

Freedom of Information 21/76870

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 20 August 2021, in which you sought access to documents relating to Molonglo Commercial Centre (the request).

Specifically, you are seeking:

“Copies of all correspondence between the Suburban Land Agency and the Environment, Planning and Sustainable Development Directorate regarding the Molonglo Commercial Centre (also known as the Molonglo Group Centre and the Molonglo Town Centre) from 1 April 2021 to 20 August 2021 inclusive.”

You granted EPSDD an extension of time to process the request, and as such, a decision must be made on your application on or by 12 November 2021.

I now write to provide you a decision on the request in my capacity as an Information Officer appointed under section 18 of the Act to deal with access applications made under Part 5 of the Act.

Searches Conducted

Comprehensive searches were conducted by EPSDD, and the Suburban Land Agency (SLA) and 43 documents were located that are considered to fall within the scope of the request. I have included as **Attachment A** to this decision the schedule of relevant documents, which provides a description of each document and the access decision for each.

Decision on Access

I have decided to grant:

- full access to 26 documents relevant to your application and
- partial access to 17 documents and, in accordance with section 50 of the Act, provide you with copies of documents with deletions applied to contrary to the public interest information

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

Material Considered

The Act recognises the right of every person to obtain access, under its provisions, to government information (see section 7, the Act). In reaching my access decision, I have taken the following into account:

- the FOI Act, particularly sections 6, 9, 17, 50, and Schedule 2
- the content of the documents that fall within the scope of your request
- the *Human Rights Act 2004*
- information publicly available

Information Disclosure – Contrary to the Public Interest as per Section 17 of 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 relevant factors favouring disclosure, any favouring nondisclosure and the balancing of those factors when considered cumulatively.

Schedule 2 of the Act sets out factors to be considered when deciding the public interest.

Relevant factors favouring disclosure

In applying the public interest test, I have determined that disclosure of the information identified as relevant to the scope of your application 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)(iii) - inform community of government operations and its dealings with community members
- Schedule 2.1(a)(viii) - reveal the reason for a government decision and any background or contextual information that informed the decision.

I am satisfied that these are factors favouring disclosure in the public interest.

Relevant 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
- Schedule 2, 2.2(a)(xii) - prejudice an agency's ability to obtain confidential information

Personal Information – 2.2(a)(ii)

13 documents relevant to your application contain personal information of individuals (mobile phone numbers, signatures, third party names and contact information of members of the public). 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 remaining information in these documents that I have determined to be in the public interest to release, I have decided to grant partial release with the personal information redacted in accordance with section 50 and the Objects of the Act.

Ability to Obtain Confidential Information

The document at reference 43 of the schedule (Attachment A), is a report compiled by a third party on behalf of the ACT Government. In compiling this report, the third party undertook stakeholder engagement. I have considered the release of the findings of this engagement and whether disclosure of the key points raised would provide relevant contextual, or background information. In reaching my decision I have weighed on balance the public interest considerations, and the information available. I have concluded that the disclosure of the findings of the stakeholder engagement would be an unreasonable disclosure and may prejudice the agency's ability to obtain confidential information under Schedule 2.2(a)(xii) of the Act and therefore, is contrary to the public interest to release.

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 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

Alternatively, 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



Carolyn O'Neill
Information Officer
Executive Branch Manager, Planning and Urban Policy
Environment, Planning and Sustainable Development Directorate
12 November 2021