



**ACT**  
Government

Environment, Planning and  
Sustainable Development

Phone: (02) 6207 1923

Reference: 22/46256



### **Decision on Freedom of Information Access Application 22/46256**

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 April 2022.

Specifically, you are seeking:

- *“2013-2015 – Minutes, agendas and meeting papers, Ministerial briefings and associated emails of the LDA Working Group, set up to bring together a working group to examine the outstanding issues relating to the bushfire risk to the north-western edge of Molonglo 3; Denman Prospect and the Molonglo River Corridor. The establishment of this group is referenced in Appendix Two of the ABPP Report, BUSHFIRE RISK STRATEGY MOLONGLO STAGE 3, DENMAN PROSPECT & THE MOLONGLO RIVER CORRIDOR AUSTRALIAN CAPITAL TERRITORY PREPARED FOR THE LAND DEVELOPMENT AGENCY, 21 April 2016*
- *Report by Umwelt referred to in the ABPP report above as “ATTACHMENT A – BRIEFING NOTE KAMA NATURE RESERVE INTERFACE” UMWELT – 15th October 2013.*
- *Report by Umwelt referred to in the ABPP report above as “ANALYSIS OF VEGETATION STRUCTURE AND FIRE RISK – WEST DENMAN PROSPECT” UMWELT – April 2015.*
- *Report by Coleman Engineering referred to in the ABPP report above as “ATTACHMENT D – SETTING UP THE WESTERN EDGE OF MOLONGLO STAGES 2 AND 3 FOR FIRE MITIGATION” COLEMAN ENGINEERING SERVICES – AUGUST 2015.”*

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 third party consultation was undertaken and with your agreement to extensions to the decision due date EPSDD must make a decision on your application on or by 4 August 2022. Your patience during this time is appreciated.

## **Searches Conducted**

Comprehensive searches were conducted and 51 documents containing information within the scope of your application were identified.

Early recordkeeping within ACT Government agencies was limited by resourcing and technology available at the period, this led to inconsistent creation and retention of information. Coupled with multiple office movements, departing or transferring staff, and machinery of government changes, records have been periodically lost or damaged. Every effort has been made to locate records relevant to your request.

## **Decision on Access**

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.

I have decided to grant full access to 44 documents relevant to your application.

I have decided to grant partial access to seven 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 as **Attachment B** to this letter.

## **Material Considered and Third Party Consultation**

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

- the FOI Act, particularly sections 6, 17, 38, 50 and Schedule 2
- the content of the documents that fall within the scope of your request
- the *Human Rights Act 2004*
- the views of the third parties consulted
- information publicly available.

In accordance with section 38 of the Act, as information within the documents may have been of concern to a third party, consultation was undertaken.

One third party consulted objected to the release of employee names, however as the names of these individuals' and their participation in the working group is publicly available via the *Bushfire Risk Strategy Molonglo Stage 3; Denman Prospect & the Molonglo River Corridor* report, this information has not been redacted.

No response was received from one of the third parties consulted and it is assumed they have no objections to release.

## **Public Interest Considerations**

My reasons for deciding not to grant access to components of some 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
- Schedule 2, 2.1(a)(viii) – reveal the reason for a government decision and any background or contextual information that informed the decision.

#### *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*.

Documents relevant to your application contain personal information of individuals. This information includes mobile numbers, the names and contact information of the employees of a third party or 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 information that I have determined to be in the public interest to release, copies of some documents have been prepared with personal information redacted in accordance with section 50 and the Objects of the Act.

#### **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](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



Craig Simmons  
Information Officer  
Chief Operating Officer  
Environment, Planning and Sustainable Development Directorate  
04<sup>th</sup> of August 2022