



**ACT**  
Government

Environment, Planning and  
Sustainable Development

Phone: (02) 6207 1923  
Reference: 24/013859

[REDACTED]

By Email: [REDACTED]

Dear [REDACTED]

### **Decision on Freedom of Information Access Application 24/013859**

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 12 February 2024.

Specifically, you are seeking:

*"...all information relating to the removal of trees within the Murrumbidgee River Corridor between the Tharwa Bridge and Cuppacumbalong/De Salis cemetery over the past 5 years. This information might include, but not be limited to emails, briefs, notes, reports, talking points, records of phone calls or other documents relating to:*

- the assessment of the health of the trees within the Murrumbidgee River Corridor between the Tharwa Bridge and the Cuppacumbalong / De Salis Cemetery*
- the removal of invasive and dangerous trees that impact public safety*
- maps or other documents or instructions identifying trees to be removed and the manner in which they are to be /were to be removed*
- the proposed timeline for this work to be undertaken*
- the guidelines for how felled trees are to be managed, and the environmental recommendations for these actions*
- the work plans and approvals for the work to be undertaken*
- the Arborist Report/s about these trees*
- the budget for this work both planned and actual*
- any correspondence about and / or emergency work plans that are associated with tree removal in this section of the corridor for the last 5 years*
- any correspondence / proposals for community consultation around these projects*
- any further tree removal works to be completed and reasons/reports for this*
- any trees identified for removal and why, and why they may not yet have been removed"*

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

In accordance with section 40 of the Act, as third party consultation was undertaken, a decision on your access application must be made on or by 18 April 2024.

## **Searches Conducted**

Comprehensive searches were conducted and 33 documents containing information within the scope of your application were identified.

## **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 10 documents relevant to your application.

I have decided to grant partial access to 21 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**

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

- the FOI Act, particularly sections 6, 17, 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 third parties consulted

## **Public Interest Considerations**

My reasons for deciding not to grant access to certain documents and components of these 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)(ii) – contribute to positive and informed debate on important issues or matters of public interest.
- 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*.
- Schedule 2, 2.2(a)(xi) – prejudice trade secrets, business affairs or research of an agency or person.

### Personal Information

Documents relevant to your application contain personal information of individuals. 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.

### Business Information

Three documents within scope contain information relating to a third party, the release of this information would reasonably prejudice 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 disclosure of the information would better serve to further open discussion, government accountability, and the provision of contextual, or background information.

In reaching my decision I have weighed these public interest considerations and the information available in the public domain. On balance, I have decided that the detriment caused by the release of this information, which may constitute a breach of confidence, outweighs any anticipated benefit provided by its release.

### **Charges**

In accordance with section 107(2)(e) 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/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 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



Stephen Alegria  
Information Officer  
Executive Branch Manager, ACT Parks and Conservation Service  
Environment, Planning and Sustainable Development Directorate

18 April 2024