

Dear [REDACTED]

**Decision on Freedom of Information Access Application – CED FOI 25-048**

I refer to your application made under section 30 of the *Freedom of Information Act 2016* (the FOI Act) received by the City and Environment Directorate (EPSDD) on 21 August 2025.

In your application, you have sought access to:

*“The following studies relating to the Government's Western Edge investigation (2020 to present), raised by Jo Clay MLA in the 1 August Estimates hearings (QTON 179):*

Preliminary Bushfire Risk Assessment  
Preliminary Assessment of Engineering Opportunities and Constraints  
Cultural Heritage Assessment  
Capability & Suitability Assessment  
Capability & Suitability Assessment (additional amendments)  
Bushfire Risk Assessment (3 areas)  
Stakeholder Engagement Strategy  
Utilities (including Water, Sewerage/Wastewater and Electrical Power) Serviceability and Options Study  
Strategic Transport Assessment  
Social Needs Assessment including education, sports and recreational activities  
Economic and Market Analysis”

On 24 September 2025, you agreed to exclude six studies from your access application on the basis that they are either already publicly available or not yet finalised. As a result, the scope of your application was revised to:

The following studies relating to the Government's Western Edge investigation (2020 to present), raised by Jo Clay MLA in the 1 August Estimates hearings (QTON 179):

- *Cultural Heritage Assessment*
- *Capability & Suitability Assessment*
- *Capability & Suitability Assessment (additional amendments)*
- *Bushfire Risk Assessment (3 areas)*
- *Stakeholder Engagement Strategy*

## Timeframes

In accordance with section 40 of the FOI Act, a decision on your access application was to be made on or by 24 October 2025. Thank you for agreeing to an extension to 7 November 2025.

## Authority

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

## Decision on Access

Searches of CED records identified four documents within the scope of your application. I have decided to provide you:

- **full access** to one document
- **partial access** to three documents.

The reasons for my decision are detailed in the *statement of reasons* section below.

I would like to provide further clarity regarding the studies referred to as *Capability & Suitability Assessment* and *Capability & Suitability Assessment (additional amendments)*, and to expand on the information provided in the QTON. These studies are not separate documents. The amendment did not represent a new engagement. It was made solely to incorporate additional stakeholder feedback. There is only one final report. The amendment enhances its completeness and transparency—it does not initiate a separate or new project.

The documents identified as relevant to your application are listed in the schedule at **Attachment A**. The information being released to you is provided at **Attachment B**.

## Statement of reasons

The FOI Act has a pro-disclosure bias, which requires information to be disclosed unless doing so would be contrary to the public interest. As an Information Officer, I am responsible for determining whether disclosure of the information within the scope of your application would be contrary to the public interest.

My assessment begins with Schedule 1 of the FOI Act, which outlines categories of information that are taken to be contrary to the public interest to disclose. If the information does not fall within any of these categories, I must then apply the public interest test under section 17 of the FOI Act. This test involves weighing the factors favouring disclosure against those favouring nondisclosure, as set out in Schedule 2.

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

- the FOI Act
- the contents of the documents within the scope of your application
- the Human Rights Act 2004
- the Heritage Act 2004
- the Freedom of Information (Volume 4 – Considering the public interest) Guidelines 2023 (Notifiable Instrument NI2023-751)
- publicly available information
- the views of the third parties consulted.

I confirm that I have not considered any of the factors listed in section 17(2) of the FOI Act, which outlines a list of considerations that must not be taken into account when applying the public interest test.

### **Schedule 1 – Information taken to be contrary to the public interest**

- Schedule 1, section 1.3 – Information disclosure of which is prohibited under law

Documents 1 and 2 contain information declared to be *restricted information* under section 54 of the *Heritage Act 2004* (Heritage Act).

Under section 35(1)(c) of the FOI Act, an agency may refuse to give access to information if the information is considered contrary to the public interest. In this case, some of the information requested falls within the scope of Schedule 1, clause 1.3(6) of the FOI Act, which provides that “*any other information the disclosure of which is prohibited by a secrecy provision of a law*” is taken to be contrary to the public interest.

A *secrecy provision* is defined in clause 1.3(7) as a provision that:

- applies to information obtained in the exercise of a function under the law; and
- prohibits people mentioned in the provision from disclosing the information, whether the prohibition is absolute or subject to stated exceptions or qualifications.

The relevant secrecy provision in this case is section 55 of the Heritage Act, which provides that it is an offence to knowingly publish restricted information about a place or object. Accordingly, disclosure of some of the information you have requested is taken to be contrary to the public interest under Schedule 1, clause 1.3(6), and access to this information is refused under section 35(1)(c) of the FOI Act.

Section 57 of the Heritage Act provides that a person may apply to the Heritage Council for limited access to restricted information, conditional upon satisfying specific requirements set out in the Heritage Act. Application forms are available at <https://www.legislation.act.gov.au/af/2017-2/> and are submitted to [heritage@act.gov.au](mailto:heritage@act.gov.au).

### **Public interest test (Schedule 2)**

*Factors favouring disclosure (Section 2.1)*

- Schedule 2, section 2.1(a)(i) – disclosure of the information could reasonably be expected to promote open discussion of public affairs and enhance the government’s accountability.
- Schedule 2, section 2.1(a)(ii) – disclosure of the information could reasonably be expected to contribute to positive and informed debate on important issues or matters of public interest.
- Schedule 2, section 2.1(a)(viii) – disclosure of the information could reasonably be expected to reveal the reason for a government decision and any background or contextual information that informed the decision.

The ability for the public to have informed debates and discussions regarding government administrative processes, while holding the government accountable, is of fundamental significance for the proper workings of representative democracy.

Taken together, these factors strongly favour disclosure, particularly given the scale and significance of the Western Edge Investigation to the Canberra community. Transparency in this context supports informed public participation, enhances trust in government processes and aligns with the objectives of the FOI Act. These factors apply to the information to a degree which carries considerable weight and is relevant to the decision before me.

*Factors favouring nondisclosure (Section 2.2)*

- Schedule 2, section 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.
- Section 2.2(a)(xi) – disclosure of the information could reasonably be expected to prejudice trade secrets, business affairs or research of an agency or person.
- Schedule 2, section 2.2 (a)(xviii) – disclosure of the information could reasonably be expected to 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.

While there are strong public interest factors favouring disclosure, I have also considered the factors favouring nondisclosure under Schedule 2, section 2.2(a) of the FOI Act. Section 2.2(a)(xviii) is relevant where disclosure could prejudice the conservation of places or objects of natural, cultural or heritage value, or reveal sensitive information relating to Aboriginal or Torres Strait Islander traditional knowledge. Documents 1 and 2 contain site-specific data and maps, details of registered and recorded Aboriginal places, and cultural references that, if disclosed, could risk harm to the heritage value and breach confidentiality obligations. This factor carries substantial weight in the context of this decision and must be carefully balanced against the public interest in transparency.

Document 1 also contains stakeholder names and opinions provided to the contracted service provider in the course of preparing the material. This information was shared on the understanding that it would be treated confidentially. Disclosure could reasonably be expected to prejudice the business affairs of the of the contractor by breaching that confidence and potentially affecting future stakeholder engagement. This engages the nondisclosure factor under Schedule 2, section 2.2(a)(xi). It also engages section 2.2(a)(xviii) where stakeholder input relates to culturally sensitive or heritage matters.

Documents 1, 2 and 3 contain personal information (signatures and contact details) of staff members of the relevant contracted service providers. Disclosure of this information could reasonably be expected to prejudice the protection of individuals’ right to privacy.

*Balancing the factors*

In balancing the public interest, I find that the factors favouring disclosure carry considerable weight. However, I have also considered the potential harm that could arise from disclosing culturally sensitive material, personal information and stakeholder information collected by the third party. Specifically, disclosure may prejudice individuals’ privacy rights and risk harm to places or knowledge of cultural or heritage significance. While transparency is important, these risks warrant careful protection. On balance, I have determined that parts of the

information should be withheld to prevent these harms, while other material may be released where no such risks apply.

In accordance with section 50(2), I have found that the factors favouring disclosure can be satisfied by the deletion of information which is contrary to the public interest.

### **Charges**

Charges applicable to this application have been waived in accordance with section 107 of the FOI Act.

### **Online Publication – Disclosure Log**

Under section 28 of the Act, CED maintains an online record of access applications called a disclosure log. Your access application, my decision and documents released to you will be published within 3 to 10 business days. Your personal information will be deleted from these copies prior to their publication.

You may view the CED disclosure log at

[https://www.cityservices.act.gov.au/about-us/freedom\\_of\\_information/disclosure-log](https://www.cityservices.act.gov.au/about-us/freedom_of_information/disclosure-log)

### **Ombudsman Review**

My decision on your access application 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 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**

Should you have any queries in relation to the processing of your application, please email [CEDFOI@act.gov.au](mailto:CEDFOI@act.gov.au) or call (02) 6207 2987.

Yours sincerely



Lisa Johnson  
Information Officer  
City and Environment Directorate  
7 November 2025