



27 January 2023

[REDACTED]

Dear [REDACTED]

### **Freedom of Information application – decision**

I refer to your application under section 30 of the Freedom of Information Act 2016 (the Act), received by Icon Water Limited on 19 December 2022, in which you sought access to information in relation to the following:

1. The definition adopted by Icon Water when making assessments under the WSCC Code, in particular when determining whether an increase in Equivalent Population (EP) has occurred.
2. The source of this definition under ACT Legislation or National Building Codes.
3. Internal correspondence within Icon Water discussing and/or determining this definition since 19/11/2022 (inclusive).

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

Following your approval of our request for an extension of time, Icon Water is required to provide a decision on your access application by 27 January 2023.

### **Decision on access to Part 1 and 2 of your application**

I shall collectively respond to Part 1 and 2 of your application as they are related.

I have identified one document containing information within the scope of your access application. This is outlined in the **attached** Schedule of Documents.

I have decided to grant full access to the 'Current and new equivalent population including charge calculation methodology'.

I am also of the view that the following publicly accessible documents are relevant to your application and have provided the hyperlink to the documents:

- [Icon Water Water and Sewerage Capital Contributions submission pack](#)
- [ICRC Final Determination - Water and Sewerage Capital Contribution Code](#)
- [Utilities \(Water and Sewerage Capital Contribution Code\) Approval 2017](#)
- [STD-SPE-G-011 "Supplement to WSA 02-2014-3.2 Gravity Sewerage Code of Australia](#)
- [STD-SPE-G-012 "Supplement to WSA 03-2011-3.2 Water Supply Code of Australia](#)
- [Icon Water website](#)
- [Icon Water FAQ](#)
- [Icon Water calculator](#)
- [Utilities Act 2000](#)
- [Building Act 2004](#)
- [National Construction Code.](#)

### **Decision on access to Part 3 of your application**

I have identified ten documents containing information within the scope of your access application. These are outlined in the **attached** Schedule of Documents.

For the reasons outlined in the **attached** Reasons for Decision, I have decided to refuse access to all ten documents under section 35(1)(c) of the Act. This is because the information is contrary to the public interest information.

### **Online publishing – disclosure log**

Under section 28 of the Act, Icon Water maintains an online record of access applications called a disclosure log. Your original access application, my decision and documents released to you in response to your access application will be published in the Icon Water disclosure log after 27 January 2023.

You may view the Icon Water's disclosure log at <http://www.iconwater.com.au/About/Contact-Us/Freedom-of-Information.aspx>.

### **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 the ACT Ombudsman review of this outcome under section 73 of the Act within 20 working days from the day that my decision is published in Icon Water's disclosure log, or a longer period allowed by the Ombudsman.

If you wish to request a review of my decision 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)

More information about ACT Ombudsman review is available on the ACT Ombudsman website at: <http://www.ombudsman.act.gov.au/improving-the-act/freedom-of-information>

**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/>

If you have any queries concerning the processing of your request, or would like further information, please contact me on [iconwater.secretariat@iconwater.com.au](mailto:iconwater.secretariat@iconwater.com.au).

Yours faithfully



Alison Pratt  
Information Officer

## Schedule of Documents

 FOI application dated 19 December 2022

Document reference number	Page number	Date	Description	Decision	Factor
1.	7-11	26 March 2019	Current and new equivalent population including charge calculation methodology	Grant full access	N.A.
2.	N.A.	23 November 2022 (most recent)	Email correspondence containing deliberations	Refuse access	Schedule 2 section 2.2(a)(xvi)
3.	N.A.	30 November 2022 (most recent)	Email correspondence containing deliberations	Refuse access	Schedule 2 section 2.2(a)(xvi)
4.	N.A.	Undated	Draft internal memorandum containing deliberations	Refuse access	Schedule 2 section 2.2(a)(xvi)
5.	N.A.	5 December 2022 (most recent)	Email correspondence containing deliberations	Refuse access	Schedule 2 section 2.2(a)(xvi)
6.	N.A.	5 December 2022 (most recent)	Email correspondence containing deliberations	Refuse access	Schedule 2 section 2.2(a)(xvi)
7.	N.A.	15 December 2022 (most recent)	Email correspondence containing deliberations	Refuse access	Schedule 2 section 2.2(a)(xvi)
8.	N.A.	23 November 2022 (most recent)	Email correspondence containing deliberations	Refuse access	Schedule 2 section 2.2(a)(xvi)
9.	N.A.	23 November 2022 (most recent)	Email correspondence containing deliberations	Refuse access	Schedule 2 section 2.2(a)(xvi)
10.	N.A.	29 November 2022 (most recent)	Email correspondence containing deliberations	Refuse access	Schedule 2 section 2.2(a)(xvi)
11.	N.A.	29 November 2022 (most recent)	Email correspondence containing deliberations	Refuse access	Schedule 2 section 2.2(a)(xvi)

## Reasons for Decision

FOI application dated 19 December 2022

### What you requested

Internal correspondence within Icon Water discussing and/or determining this definition since 19/11/2022 (inclusive).

### What I took into account

In reaching my decision, I took into account:

- your original access application dated 19 December 2022
- the documents containing the information that fall within the scope of your access application
- consultation with agency officers about
  - the nature of the documents
  - the agency's operating environment and functions
- the FOI Act
- the ACT Ombudsman FOI Guidelines.

### Reasons for my decision

I am authorised to make decisions under section 18 of the FOI Act.

I have decided that documents 2 to 11 in the Schedule of Documents contain information that would, on balance, be contrary to the public interest to disclose under the test set out in section 17 of the FOI Act.

I have reviewed each of these documents individually. As they are related and similar in nature and purpose I am setting out my reasons in relation to the documents collectively.

Documents 2 to 11 include email correspondence, predominantly between Icon Water employees and a draft internal memo with comments from internal stakeholders relating to the determination of a net increase in Equivalent Population (EP) for single residential dwellings for the purposes of applying the Water and Sewerage Capital Contribution (WSCC) Code. These documents are for internal collaboration with the aim of attaining a whole-of-organisation decision. At the date of this decision, the memo is still to be finalised and presented to the relevant decision-maker in the agency for decision.

The public interest test set out in section 17 of the FOI Act involves a process of balancing public interest factors favouring disclosure against public interest factors favouring non-disclosure to decide whether, on balance, disclosure would be contrary to the public interest.

#### Public interest factors favouring disclosure

I have considered the factors favouring disclosure in the public interest and have identified that the following are relevant factors that favour disclosure:

- Schedule 2.1(a)(i) – *promote open discussion of public affairs and enhance the government's accountability* – the release of the documents may give insights into decision-making processes and considerations in relation to the WSCC Code which may increase public knowledge and understanding of government processes.
- Schedule 2.1(a)(ii) – *contribute to positive and informed debate on important issues or matters of public interest* – the application of the WSCC Code to single residential dwellings is a matter of public interest given it relates to the development of housing in the ACT and the equitable sharing of infrastructure costs. The release of the documents may provide more contextual information and contribute to debate on this topic.

- Schedule 2.1(a)(iii) – *inform the community of the government’s operations including the policies, guidelines and codes of conduct followed by the government in its dealings with members of the community* – the application of the WSCC Code does impact Icon Water’s dealings with members of the community. Release of the documents may provide more information in this regard, although the benefit of this is impacted by the content of the documents being internal collaboration and not including an approved position.

#### Public interest factors favouring non-disclosure

I have considered the factors favouring non-disclosure in the public interest and have identified that the following are relevant factors that favour non-disclosure:

- Schedule 2 section 2.2(a)(xvi) – *prejudice a deliberative process of government* – the release of the documents at this stage may impact on current decision-making in relation to the WSCC Code and may also impact on the ability of the agency to conduct necessary internal collaboration on other aspects of agency operations.

I have reviewed the nine pieces of email correspondence and the draft internal memorandum and I am satisfied that they are records of deliberations being undertaken to inform the decision-making process of Icon Water. They comprise internal opinions and appear to have been prepared to assist consideration within Icon Water with the aim to inform the decision-making process. The deliberations are not yet finalised and no decision has yet been made by the agency decision-maker.

In relation to current decision-making activities, release of the documents may impact the ability of the agency to finalise the gathering of internal views, present the outcomes to the relevant decision-maker for decision and determine the desirable next steps regarding public consultation and/or communication of these outcomes. The release of these documents may result in increased pressures on our customer-facing Urban Development Services team and adversely impact the integrity of the decision-making process.

In relation to future internal collaboration, the release of the documents may inhibit effective collaboration in the future and the ability of the agency to gather a range of views from internal stakeholders to fully explore options and better inform decisions.

I am satisfied disclosure of all of the information contained in documents 2 to 11 could reasonably be expected to prejudice the deliberative process of government.

#### Balancing of public interest factors

The public interest test set out in section 17 of the FOI Act involves a process of balancing public interest factors favouring disclosure against public interest factors favouring non-disclosure to decide whether, on balance, disclosure would be contrary to the public interest.

I accept that the application of the WSCC Code is a matter of public interest. I note the relevant information relating to the WSCC Code that is currently publicly available including through the websites of Icon Water and the ICRC. I acknowledge that disclosure of the information would provide some benefits, primarily through promotion of open discussion and contribution to debate.

The documents requested comprise internal communications regarding current deliberations. I am satisfied that the release of the documents would be contrary to the public interest insofar as it would adversely impact on the effectiveness of current deliberations and the ability to undertake future collaborative activities to inform decision-making.

Based on the above, I have decided that in this instance and on balance the public interest in disclosing the information in documents 2 to 11 is outweighed by the public interest against disclosure.

I have not taken into account any of the irrelevant factors set out in section 17(2) of the FOI Act in making this decision.

In conclusion, I have decided to refuse access to documents 2 to 11 of the Schedule of Documents.

## EN06.00.20

# Current and new equivalent population including charge calculation methodology



Responsible Branch Manager: Urban Development Services

Version date: 26 March 2019

Version: 2 Next review date: 26 March 2022

## 1. Purpose

This enabler describes the methodology to be used to calculate the:

- net increase in equivalent population (EP) of a development (PART A of this document); and
- corresponding dollar value charge required to be paid by a customer/developer for a 'Class 2 Infrastructure Charge – inside a precinct' (PART B of this document).

## 2. Scope

This enabler applies to all Icon Water staff involved in the calculation of a 'Class 2 Infrastructure Charge – inside a precinct' as specified under the 'Water and Sewerage Capital Contributions Code'.

### **PART A**

**NOTE:** Icon Water will be adopting the Water Services Association of Australia's (WSAA) standards in applying the equivalent population (EP) methodology. This will require table 1 in attachment A to be updated once this occurs and anytime updates occur in the future.

#### 2.1 Validate the existing EP

- Refer to the existing EP values (# units existing) documented on the latest form 'Form WSSS-2' submitted by the customer/developer.
- The following data sources should be used to validate the existing EP of an 'In-precinct' site:

Scenario		
Description	Out of precinct on the first Precinct Map?	Data source for existing EP
A building currently exists (or did exist)	N/A	- Development Application/Building Application where available - Properties of existing building (or last building prior to the lot becoming vacant)
Vacant land (never built on, but was zoned for a building)	Yes	Hydraulic Master Plan
Vacant land (never built on, but was zoned for a building)	No	At the discretion of Icon Water and will be determined on a case-by-case basis. Refer to Team Leader Developer Services

If EP data is not available in the data sources outlined above then see the Team Leader Development Services for assistance. The Team Leader Development Services can refer to the following additional sources of data and/or the Asset Strategy and Analytics Branch for assistance:

- on block information from the building approval administration tool;
- water meter usage from the customer database;
- the Water and Sewerage Service Standards and Guidelines; or
- population demographic data maps.

- 2.1.3 Populate the column '# Units Existing' in *Table 1 - Existing and Proposed # Units* at Attachment A using the values from the validation undertaken in step 2.1.2.
- 2.1.4 Multiply each value of the column '# Units Existing' with the corresponding value from the column 'Multiplier per unit' and record the values in column 'Sub-total Existing EP' in *Table 1 - Existing and Proposed # Units* at Attachment A.

## 2.2 Validate the proposed EP

- 2.2.1 Refer to the proposed EP values (# units proposed) documented on the latest form 'Form WSSS-2' submitted by the customer/developer.
- 2.2.2 Validate proposed EP values against the following data sources:
- For 'In-principle' submissions:
    - Submitted drawings (proposed plans)
  - For 'Detailed Design' submissions:
    - Submitted drawings (detailed design plans)
    - Development Application/Building Application

If EP data is not available in the data sources outlined above then see the Team Leader Development Services for assistance. The Team Leader Development Services can refer to the Asset Strategy and Analytics Branch for assistance.

- 2.2.3 Populate the column '# Units Proposed' in *Table 1 - Existing and Proposed # Units* at Attachment A using the values from the validation undertaken in step 2.2.2.
- 2.2.4 Multiply each value of the column '# Units Proposed' with the corresponding value from the column 'Multiplier per unit' and record the values in column 'Sub-total Proposed EP' in *Table 1 - Existing and Proposed # Units* at Attachment A.

## 2.3 Calculate the Net Increase in EP

NOTE: All references to values to be recorded for the remaining steps of the enabler are in *Table 2 – Net Increase in EP and Charge* at Attachment A.

- 2.3.1 Sum all of the values in column 'Sub-total Existing EP' and record the value in 'Total Existing EP'.
- 2.3.2 Sum all of the values in column 'Sub-total Proposed EP' and record the value in 'Total Proposed EP'.
- 2.3.3 Net Increase in EP = (Sub-total Proposed EP) – (Sub-total Existing EP). Record this value in 'Net Increase in EP'. **NOTE: If there is a net decrease in EP then the 'Class 2 Infrastructure – inside a precinct' is not applicable and there is need to continue with the remaining steps in this enabler.**

## **PART B**

### 2.4 Calculate the 'Class 2 Infrastructure – inside a precinct' no interest charge

- 2.4.1 Record the financial year that the Development Application (DA) was lodged against 'Year DA lodged'.
- 2.4.2 Record the Precinct Charge that was in force during the year that the DA was lodged against 'Relevant Precinct Charge no interest'. The Precinct Charge for:
- the current financial year is located in the [Miscellaneous Fees and Charges Schedule](#)
  - previous financial years is located *[insert location when known]*
- 2.4.3 'Class 2 Infrastructure Charge – inside a precinct no interest' = (Net Increase in EP) x (Relevant Precinct Charge no interest). Record this value in 'Class 2 Infrastructure Charge – inside a precinct no interest'.



**2.5 Check if the interest charge is applicable and calculate the interest charge**

- 2.5.1 Record the date the DA was lodged for approval against 'Date DA lodged'.
- 2.5.2 Record the date the customer/developer advised Icon Water about the completion date of the development. Record this value in 'Date Icon Water was advised about completion'.
- 2.5.3 'No. Days since DA lodged' = (Date Icon Water was advised about completion) – (Date DA lodged). Record this value in 'No. Days since DA lodged'.
- 2.5.4 'No. Days interest' = (No. Days since DA lodged) – 365 days. Record this value in 'No. Days interest'.
- 2.5.5 'Interest Charge' = (Relevant Precinct Charge no interest) x (2.5%/365 days) x (No. Days interest). Record this value in 'Interest Charge'. **NOTE: If the 'No. Days interest' is less than '1' then record the value '0' in 'Interest Charge'.**

**2.6 Calculate the 'Class 2 Infrastructure – inside a precinct'**

- 2.6.1 'Relevant Precinct Charge' = (Relevant Precinct Charge no interest) + (Interest Charge). Record this value in 'Relevant Precinct Charge'.
- 2.6.2 'Class 2 Infrastructure Charge – inside a precinct' = (Net Increase in EP) x (Relevant Precinct Charge). Record this value in 'Class 2 Infrastructure Charge – inside a precinct'.

**2.7 Authority to issue EP invoices**

- 2.7.1 An officer's actual delegated authority to authorise the issuing of EP tax invoices is determined by their manager, and may be set at any amount up to the maximum assignable authority specified by the General Manager Customer Engagement. This also includes staff formally authorised to act in the EP issuing position.
- 2.7.2 The following are the staff positions and corresponding sign-off limits, assigned by the General Manager Customer Engagement, that are authorised to issue EP tax invoices to customers/developers:

Staff position	Sign-off dollar limit
Team Leader Developer Services	\$100,000
Manager Urban Development Services	\$100,000 < \$1,000,000
General Manager Customer Engagement	>= \$1,000,000

## Attachment A – EP Calculation

Development Stage:  Detailed Design  Non-standard EP calculation (Attach supporting document)

Date: \_\_\_\_\_

Project File No.: \_\_\_\_\_ Project Name.: \_\_\_\_\_

HACS ID No.: \_\_\_\_\_ Suburb: \_\_\_\_\_ Section: \_\_\_\_\_ Block: \_\_\_\_\_

Prepared by.: \_\_\_\_\_ Reviewed by.: \_\_\_\_\_

**Table 1 – Existing and Proposed # Units**

Land Use	Form	Total # Units Before Development (A)	Total # Units After Development (B)	Units	Multiplier per unit (C)	Sub-total Existing EP (D) = (A) x (C)	Sub-total Proposed EP (E) = (B) x (C)
Residential <sup>1</sup>	Low density (Free standing houses) <sup>2</sup>			# of dwellings			
	Medium density (Semi-detached row & terrace)			# of dwellings			
	High density (Apartments, units, and flats) <sup>3</sup>			# of dwellings			
Commercial	Shops and offices			# of employees			
				Ha of Gross Floor Area			
	Public visitor or sporting buildings			# of short-stay visitors			
	Restaurants and clubs			# of seats			
	Tourist areas or hospitals			# of beds			
Institutional	Schools and education			# of students & staff			
Other	Dry trades			# of employees			
	Wet Trades			Assessed on a case by case basis			
<b>Totals</b>							

1, 2 & 3 refer Design Form Pack for guidance.

**Table 2 – Net increase in EP and Charge**

Item	Value
<b>Net increase</b>	
Total existing EP (D)	
Total proposed EP (E)	
Net increase in EP (F) = (E) – (D)	
<b>Class 2 Infrastructure Charge – inside a precinct (no interest)</b>	
Financial year DA lodged	
Relevant Precinct Charge no interest (G)	
Class 2 Infrastructure Charge – inside a precinct no interest (H) = (F) x (G)	
<b>Interest Charge</b>	
Date DA lodged (I)	
Date Icon Water was advised about completion (J)	
No. Days since DA lodged (K) = (J) – (I)	
No. Days interest (L) = (K) – 365	
Interest Charge (M) = (G) x (2.5%/365) x (L)	
<b>Class 2 Infrastructure Charge – inside a precinct</b>	
Relevant Precinct Charge (N) = (G) + (M)	
Class 2 Infrastructure Charge – inside a precinct (O) = (F) x (N)	