



**ACT**  
Government

Environment, Planning and  
Sustainable Development

Phone: 6207 1923  
Reference: 19/07984

Dear [REDACTED]

**Freedom of information request: activity on Googong Reservoir**

I refer to your application under section 30 of the *Freedom of Information Act 2016* (the Act), received by the Environment, Planning and Sustainable Development Directorate (EPSDD) on 11 March 2019, in which you sought access to information about activity on Googong Reservoir.

Specifically, you are seeking:

- *Advice as to the total number of permits in effect as at 1 March 2019 which allow the use of an electric powered boat on Googong Reservoir where that boat carries a disabled petrol outboard motor (noting that as issued permits appear to have a validity period of three years, this is likely to be the total number of permits issued since approx. 31 December 2015).*
- *A copy of all versions of the Safety Management System, including the Risk Assessment and Risk Management Plan, that have been in effect for the period 1 July 2013 to 1 March 2019 for any vessel operated by the ACT Government and ACT Government owned companies that have operated a petrol powered outboard motor on Googong Reservoir for the period 1 July 2013 to 1 March 2019.*
- *A copy of the Vessel Logbook records for any vessel operated by the ACT Government and ACT Government owned companies that have operated a petrol powered outboard motor on Googong Reservoir for the period 1 July 2013 to 1 March 2019. Note that I am seeking access only to log entries relating to operations on Googong Reservoir, and I am comfortable with the redaction of log entries not relating to operation on Googong Reservoir, other than those relating to the maintenance of the vessel.*
- *Advice as to the total number of commercial vessels permitted to operate using a petrol powered outboard motor on Googong Reservoir for the period 1 July 2013 to 1 March 2019. Under National Maritime legislation, this includes, but is not limited to vessels such as those operated by ACT Government and ACT Government owned companies, vessels operated by commercial entities, and NSW Government operated vessels such as those operated by NSW Roads and Maritime Services or NSW Police.*
- *Advice as to the total number of occasions when commercial vessels have been permitted to operate using a petrol powered outboard motor on Googong Reservoir for the period 1 July 2015 to 1 March 2019. Under National Maritime legislation, this includes, but is not limited to vessels such as those operated by ACT Government and*

*ACT Government owned companies, vessels operated by commercial entities, and NSW Government operated vessels such as those operated by NSW Roads and Maritime Services or NSW Police.*

- *Any document held by the Environment, Planning and Sustainable Development Directorate that sets out or relates to any specific plan of management for the operation of commercial vessels on Googong Reservoir.*
- [REDACTED]
- *A copy of any written instrument that provides for the Director-General, EPSD to make determination or decision in respect to the Canberra Water Supply (Googong Dam) Act 1974,* [REDACTED]

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

EPSDD is required to make a decision on your access application by 9 April 2019.

Some of the information is held by Icon Water. Icon Water has accepted a partial transfer and will respond to you separately.

#### **Answers to questions**

Some parts of your request ask for information as opposed to documents. I have addressed each of these points separately.

*Total number of permits in effect as at 1 March 2019, which allow the use of an electric powered boat on Googong Reservoir where that boat carries a disabled petrol outboard motor.*

A total of 237 permits have been issued since March 2017 for ACT lakes and Googong. These are 3 year permits that came into effect after February 2017. Permits issued prior to then were only issued for 12 months so they would now be expired. It is not possible to say how many permit holders have used their boats whilst also carrying a disabled petrol outboard motor at Googong.

*The total number of commercial vessels permitted to operate using a petrol powered outboard motor on Googong Reservoir for the period 1 July 2013 to 1 March 2019.*

The ACT Government vessel is classified a commercial vessel as defined by the Roads and Maritime Services (website). EPSDD operates one vessel on Googong. EPSDD does not maintain records of vessels operated by NSW authorities.

*The total number of occasions when commercial vessels have been permitted to operate using a petrol powered outboard motor on Googong Reservoir for the period 1 July 2015 to 1 March 2019.*

A log book for the use of the PCS petrol powered vessel during the period of time listed above was not maintained prior to October 2018. Whilst it is impossible to determine the number of occasions it has been used on Googong prior to October 2018, since that time it

has been used 6 times. You may wish to contact the relevant NSW authorities to provide information regarding the use of other petrol powered vessels on Googong as EPSDD does not hold this information. NSW authorities may include NSW Roads and Maritime Services, NSW Fisheries, NSW Police, NSW SES.

*A copy of any written instrument that provides for the Director-General, EPSD to make determination or decision in respect to the Canberra Water Supply (Googong Dam) Act 1974, as appears to have occurred in relation to my application to undertake a commercial activity on Googong Reservoir.*

I am unaware of any document that delegates power from the *Canberra Water Supply (Googong Dam) Act 1974* to the Director-General. The Act itself gives power to make decisions for the dam area to the ACT Executive, and then the Administrative Arrangements delegate all decision-making power over the dam area to the ACT Minister for the Environment and Heritage.

Any proposal for a recreational pursuit on Googong Dam, not already sanctioned needs to be considered by the Commonwealth Minister for the Environment and Heritage.

#### **Decision on access**

I have included as **Attachment A** to this decision, the schedule of relevant documents. This provides a description of each document that falls within the scope of your request and the access decision for each of those documents.

I have decided to grant access, in full, to thirteen of the scheduled items.

I have decided to grant access, under section 50 of the Act, to copies of scheduled items with deletions applied to information that I consider would be contrary to the public interest to disclose. The release status of these three scheduled items is indicated on the attached schedule as 'partial release'.

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 17, 50 and schedule 2;
- the content of the documents that fall within the scope of your request; and
- the *Information Privacy Act 2014*.

#### **Exemptions claimed**

My reasons for deciding not to grant access to documents in full are as follows:

##### **Contrary to the public interest information under 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 cascading test set out by section 17 of the Act which requires consideration of factors favouring disclosure, any favouring nondisclosure and the balance of those factors when considered cumulatively.

#### Personal information

Scheduled items identified for partial release contain information that falls within the meaning of personal information as defined by the Act.

I have considered the Territory Privacy Principles of the Privacy Act and the release of this information, and my view in this instance is that the identification of these third parties would not serve to further open discussion, government accountability, informed debate and the provision of contextual or background information.

I am further satisfied that the disclosure of identified personal information could reasonably be expected to prejudice the protection of an individual's right to privacy under the *Human Right Act 2004*. This is a factor favouring nondisclosure under Schedule 2.2 (a) (ii) of the Act.

In balancing public interest considerations, I am satisfied that, on the information available, disclosure of the identified personal information of members of the public may constitute a breach of privacy and disclosure is therefore contrary to the public interest.

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

Under section 28 of the Act, EPSDD 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 disclosure log from 3 days after the date of my decision. Your personal contact details will not be published.

You may view the EPSDD disclosure log at

<https://www.environment.act.gov.au/about/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:

[http://www.ombudsman.act.gov.au/data/assets/pdf\\_file/0026/79190/40A-Reviews-Factsheet-and-Application-Form-final-A1569634.pdf](http://www.ombudsman.act.gov.au/data/assets/pdf_file/0026/79190/40A-Reviews-Factsheet-and-Application-Form-final-A1569634.pdf)

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)

#### **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 Directorate's processing of your request, or would like further information, please contact EPSDD Customer Service on 62071923 and ask for the FOI team, or email to [EPSDFOI@act.gov.au](mailto:EPSDFOI@act.gov.au)

Yours sincerely



Daniel Iglesias

Information Officer  
Environment, Planning and Sustainable Development Directorate

9 April 2019