



ACT
Government

Environment, Planning and
Sustainable Development

Phone: (02) 6207 1923
Reference: 21/41494



Dear 

Freedom of Information 21/41494

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 9 May 2021, in which you sought access to documents relating to Heritage Council and EPSDD processing and decision to reject nomination for Original Canberra Aerodrome Remnants.

Specifically, you are seeking:

“the Directorate’s, Heritage Unit’s and Heritage Council’s files, emails, internal notes and briefings and reports and meeting records concerning processing of this nomination from the date of lodgement 15 June 2020 until the date of statutory notification via NI 2021-212.”

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, the due date was extended, and as such EPSDD must make a decision on your application on or by 29 June 2021.

Searches Conducted

Comprehensive searches were conducted and 38 documents within the scope of your application were located.

Third Party Consultation

Under section 38 of the Act, third parties were consulted. My decision has taken into consideration the views of third parties, and as there were no objections, there has been no impact on the release of information.

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 26 documents relevant to your application.

I have decided to grant partial access to 12 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 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*

Public Interest Considerations

My reasons for deciding not to grant access to certain 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 government's accountability.

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(a)(ii) – prejudice the protection of an individual's right to privacy or any other right under the *Human Rights Act 2004*.

Personal Information

Documents relevant to your application contain personal information of individuals. I have considered the release of this information, and my view in this instance is that the disclosure of these individuals' signatures and contact details would not serve to further open discussion or government accountability.

I have considered that the disclosure of identified personal information could reasonably be expected to prejudice the protection of an individual's right to privacy in accordance with Schedule 2.2(a)(ii) of the Act and is therefore contrary to the public interest.

Having applied the test outlined in section 17 of the Act and deciding that release of personal information contained in the document is not in the public interest to release, I have chosen to provide a copy of the document with this specific information deleted in accordance with section 50 of the Act. Noting the pro-disclosure intent of the Act, I am satisfied that deleting only the information that I believe is not in the public interest to release will ensure that the intent of the Act is met and will provide you with access to the majority of the information held by EPSDD within the scope of your application.

Charges

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

Alternatively, you may write to the Ombudsman at:

The ACT Ombudsman
GPO Box 442
CANBERRA ACT 2601

Via email: 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.

Yours sincerely



Ian Walker

Information Officer

Executive Group Manager, Environment Heritage and Water

Environment, Planning and Sustainable Development Directorate

29th June 2021