



**ACT**  
Government

Environment, Planning and  
Sustainable Development

Phone: (02) 6207 1923  
Reference: 21/115074

Dear [REDACTED]

### **Decision on Freedom of Information Access Application 21/115074**

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 10 November 2021, in which you sought access to documents relating to magpie attacks.

Specifically, you are seeking:

*“I would like to know for the year 2021, how many magpie attacks (meaning magpie made the physical contact with a human) and magpie swoops have been reported, when they were reported, and what actions were taken and when to neutralize the threat.”*

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

An extension to the decision due date was requested, no response was received.

EPSDD must make a decision on your application on or by 22 December 2021. Thank you for your patience on this matter.

### **Searches Conducted**

Comprehensive searches were conducted and one document containing information within the scope of your application was identified.

### **Decision on Access**

I have included as **Attachment A** to this decision the schedule of the relevant document. The schedule provides a description of the document that falls within the scope of your application and the access decision for the document.

I have decided to grant partial access to the document and, in accordance with section 50 of the Act, provide you with a copy of the document with deletions applied to contrary to the public interest information.

My access decisions are detailed further in the following statement of reasons and the document released to you is 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 Schedules 1 and 2

- the content of the document that falls within the scope of your request
- the *Human Rights Act 2004*
- information released to you previously

### **Public Interest Considerations**

My reasons for deciding not to grant access to certain components of this document are as follows:

#### **Information Disclosure – Contrary to the Public Interest under Schedule 1 of the Act**

##### Schedule 1, 1.14 Law enforcement or public safety information

The names and initials of ACT Parks and Conservation officers are considered contrary to the public interest under Schedule 1, 1.14(1)(d) as disclosure of the information would reasonably be expected to result in a person being subject to a serious act of harassment or intimidation.

Due to the nature of work conducted by ACT Parks and Conservation officers including euthanasia of animals, release of this information would be expected to result in harassment from members of the public who feel strongly regarding animal welfare.

This information does not identify corruption or the commission of an offence by a public official or that the scope of a law enforcement investigation has exceeded the limits imposed by law.

#### **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)(iii) – inform the community of the government’s operations, including policies, guidelines and codes of conduct followed by the government in its dealings with the community.

##### *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*.

## Personal Information

The document relevant to your application contains 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, a copy of the document has been prepared with personal information redacted in accordance with section 50 and the Objects of the Act.

## **Charges**

In accordance with the *Freedom of Information (Fees) Determination 2018*, no charges are applicable to this application, the number of pages to be released is below the minimum threshold of 50 pages.

## **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/\\_data/assets/pdf\\_file/0026/79190/Apply-for-Ombudsman-review.pdf](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](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

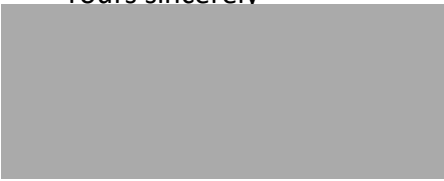
Telephone: (02) 6207 1740

<http://www.acat.act.gov.au/>

### **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



Ian Walker  
Information Officer  
Executive Group Manager, Environment, Heritage and Water  
Environment, Planning and Sustainable Development Directorate

21 December 2021