



ACT
Government

Environment, Planning and
Sustainable Development

Phone: (02) 6207 1923
Reference: 25/0016698



Dear 

Decision on Freedom of Information Access Application 25/0016698

I refer to your application made under section 30 of the *Freedom of Information Act 2016* (the FOI Act) received by the Environment, Planning and Sustainable Development Directorate (EPSDD) on 6 February 2025.

Specifically, you are seeking:

- *meeting/briefing preparation notes, meeting/briefing notes, and any miscellaneous internal material related to the drying of Ginninderra Falls from July 2023 onwards.*
- *meeting/briefing preparation notes, meeting/briefing notes, and any miscellaneous internal material involving the Minister for the Environment and Heritage, other government departments, agencies, or external stakeholders regarding the drying of Ginninderra Falls from July 2023 onwards.*
- *meeting/briefing preparation notes, meeting/briefing notes, and any miscellaneous internal material regarding potential environmental impacts on the Ginninderra Falls and surrounding conservation areas from July 2023 onwards.*
- *meeting/briefing preparation notes, meeting/briefing notes, any miscellaneous internal material and any correspondence between the Minister and landholders regarding the Netflix production currently filming a thriller at Ginninderra Falls from July 2023 onwards or from when correspondence commenced.*
- *meeting/briefing preparation notes, meeting/briefing notes, any miscellaneous internal material and any correspondence between the Minister and film production representatives regarding the Netflix production currently filming a thriller at Ginninderra Falls from July 2023 onwards or from when correspondence commenced.*
- *meeting/briefing preparation notes, meeting/briefing notes, any miscellaneous internal material and any correspondence between the Minister and Screen Australia, Screen NSW or Screen Canberra representatives regarding the Netflix production currently filming a thriller at Ginninderra Falls from July 2023 onwards or from when correspondence commenced.*

On 13 February 2025, it was confirmed “The drying of Ginninderra Falls” is in reference to the depressed water levels of the Ginninderra Falls and relevant tributaries.

As third party consultation was undertaken and your agreement to an extension to the decision due date, a decision on your access application must be made on or by 12 May 2025.

I am an Information Officer appointed under section 18 of the FOI Act to deal with access applications made under Part 5 of the Act. In considering your application, I have taken the following into account:

- the FOI Act, particularly sections 6, 17, 38, 43, 45, 50 and Schedule 2
- the content of the documents that fall within the scope of your request
- the *Human Rights Act 2004*
- the views of third parties consulted
- information released to you previously
- information publicly available.

Decision on Access

Nineteen documents containing information within the scope of your application were identified.

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 5 documents, and
- **partial** access to 14 documents relevant to your application.

Deferred release of documents

Section 38 of the Act provides that if the respondent (EPSDD) considers that disclosure of information may reasonably be expected to be of concern to a person or another entity, the respondent must take reasonable steps to consult with the relevant third party before deciding to give access to the information. In making this decision, I consulted with two third parties.

One of the third parties objected to the disclosure of their information. My decision has taken into consideration objections raised by the third party. As I have decided to release the information in part, and in accordance with section 38(6)(b) of the FOI Act, disclosure of scheduled document 13 to you is deferred to allow the third party the opportunity to seek a review of my decision by the ACT Ombudsman. You will be notified if an application for review of the decision is received or when access is no longer deferred.

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.

Statement of Reasons

The FOI Act recognises the right of every person to obtain access, under its provisions, to government information (see section 7, the FOI Act). As an Information Officer, I am required to allow access to information subject to the FOI 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 FOI 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)(ii) – contribute to positive and informed debate on important issues or matters of public interest.
- Schedule 2, 2.1(a)(viii) – reveal the reason for a government decision and any background or contextual information that informed the decision.

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*.
- Schedule 2, 2.2(a)(xi) – prejudice the trade secrets, business affairs or research of an agency or person.

Personal Information

Documents relevant to your application contain 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.

Business Affairs and Trade Secrets

Document 13 contains detailed information relating to the third party’s filming schedule and scenes. This information was communicated to ACT Government with an expectation of confidentiality. It could be expected that this information if released would negatively impact the trade secrets of a third party in a niche market. Though the filming location and approximate timings were publicly available via media, specific detail of timings and scenes were not publicly known. I have given this factor favouring nondisclosure significant weight.

To provide you with the information that I have determined to be in the public interest to release, copies of some documents have been prepared with personal information redacted in accordance with section 50 and the Objects of the Act.

Charges

In accordance with section 107(2)() of the FOI Act any charges applicable are waived.

Online Publication

Under section 28 of the FOI 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 FOI Act. You have the right to seek Ombudsman review of this outcome under section 73 of the FOI 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

ACT Civil and Administrative Tribunal (ACAT) Review

Under section 84 of the FOI 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
15 Constitution Avenue
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 EPSDD's processing of your request, or would like further information, please email EPSDFOI@act.gov.au or call (02) 6207 1923 and ask for the EPSDD Information Governance team.

Yours sincerely



Kieran Lawton
Information Officer
Executive Branch Manager,
Environment, Planning and Sustainable Development Directorate
12 May 2025