



ACT
Government

Environment, Planning and
Sustainable Development

Phone: (02) 6207 1923
Reference:19/16093

[Redacted]
[Redacted]
[Redacted]
[Redacted]

Via email: [Redacted]
[Redacted]

Dear [Redacted]

Freedom of Information Request: 19/16093

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 25 February 2019, in which you sought access to “documents pursuant to the provisions of the Freedom of Information Act covering a period of 5 years leading up to the date of our client's injury in relation to the 'Cotter Campground':

- “1. All records in relation to the incident and any other relevant documents;*
- 2. Number of picnic tables, their locations and maintenance records of all picnic tables including damaged or broken table reports;*
- 3. CCTV of the incident on 22 December 2018;*
- 4. All available ACT Emergency Services Agency plans to deal with emergencies in and around Cotter campground;*
- 5. All records about availability of any first aid equipment, public information about existence of such equipment in and around Cotter campground and their locations;*
- 6. Information in relation to the number of emergency phones in and around Cotter campground and their locations;*
- 7. All records about all emergency phones in and around Cotter campground including operational checks, date and time of any identified faults;*
- 8. Complaints about other incidents;*
- 9. All records about other incidents including incident reports; and*
- 10. All records listing actions taken by relevant authorities in relation to known, identified or raised issues including incident”*

I am an Information Officer appointed 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 1 July 2019, as agreed with you.

Some of the information requested is expected to be held by the Justice and Community Services Directorate (JACS). JACS has accepted a partial transfer of your application (specifically in relation to points 4, 6 and 7) and will respond to you directly.

Answers to questions

In addition to deciding release on the documents you have requested that are held by EPSDD, I have addressed each of your questions as follows:

1. *"All records in relation to the incident and any other relevant documents"*.

There is one record of the incident at Cotter Campground. This is an email from a Parks and Conservation Services (PCS) ranger to their team leader (scheduled item 2).

2. *"Number of picnic tables, their locations and maintenance records of all picnic tables including damaged or broken table reports"*.

The campground has approximately 17 picnic tables on the site; the exact number changes as new tables are added or moved during peak or quiet seasons. Accordingly, half of the tables are movable to accommodate campers wanting to set-up different social gathering. See attached pictures in scheduled items 3 and 4.

Staff monitor and assess tables during their work and the campsite is visited daily by PCS staff. If tables are identified to require maintenance, such as due to appearance or tops degrading, they are generally either brought back to the depot for repairs or work is undertaken onsite. Data is not currently held on these repairs.

3. *"CCTV of the incident on 22 December 2018"*.

There is no CCTV at the campground.

4. *"All available ACT Emergency Services Agency plans to deal with emergencies in and around Cotter campground"*.

This item has been transferred to JACS.

5. *"All records about availability of any first aid equipment, public information about existence of such equipment in and around Cotter campground and their locations"*.

Like most public picnic areas and campsites, there are no communal or public first aid kits maintained on the site. First aid kits, maintained to the manufacturer's standards, are available in all PCS vehicles, in the camp-host hut and at the PCS depot.

There is clear information available on emergency procedures at the campground including who to call if help is needed. See scheduled items 6 and 7.

“Information in relation to the number of emergency phones in and around Cotter campground and their locations “, and:

7. “All records about all emergency phones in and around Cotter campground including operational checks, date and time of any identified faults”.

Two emergency phones are located in the Cotter Precinct: one is at the campground in a central location, the other is located at Casuarina Sands. There is clear public signage identifying the phones which are available for anyone to use (schedule items 6 and 7).

These phones are assets managed by the Emergency Services Agency (ESA) in JACS however PCS staff periodically check their functioning whilst working in the area and promptly report any faults to the ESA. We have transferred this point of the application to JACS.

Details of the ESA contact are attached, as are photos of the phone, at scheduled items 6 and 7.

8. “Complaints about other incidents”.

No records of complaints about other incidents during the timeframe specified have been located.

9. “All records about other incidents including incident reports”

Please see scheduled items 12, 13, 14 and 15.

10. “All records listing actions taken by relevant authorities in relation to known, identified or raised issues including incidents”.

Please see scheduled item 13.

Decision on Access

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

I am granting access to six documents in full.

Access to five documents is refused in accordance with schedule 1 of the Act.

One duplicated item has been identified on the schedule but has not been provided.

I have decided to grant access, under section 50 of the Act, to copies of documents with deletions applied to information that I consider would be contrary to the public interest to disclose. The release status of these three documents 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 decision on access, I have taken the following into account:

- the Act, particularly sections 17, 50 and schedules 1 and 2;
- the *Information Privacy Act 2014* (Privacy Act); and
- the content of the documents that fall within the scope of your request.

Public Interest Considerations

My reasons for deciding not to grant access to the identified documents and components of documents are explained below.

Information Disclosure - Contrary to the Public Interest

Contrary to the public interest information under Schedule 1 of the Act

Access to scheduled items 8, 9, 10, 11 and 13 has been refused as the documents contain information that I consider to be contrary to the public interest under schedule 1.2 of the Act.

These documents contain advice prepared for ACT Parks and Conservation Service by the ACT Government Solicitor and cannot be disclosed on the grounds of legal professional privilege.

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

Some items are scheduled for partial release as they contain personal information of third-parties.

I have considered the Territory Privacy Principles of the *Information Privacy Act 2014* and my view on the release of this information 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 Rights 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 Publication – 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. Your personal contact details will not be published.

You may view our disclosure log at <http://www.environment.act.gov.au/about/access-government-information/disclosure-log>.

Ombudsman Review

My decision on your access application 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

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.

Yours sincerely



Ian Walker

Information Officer
Environment, Planning and Sustainable Development Directorate

01.07.2019