



ACT
Government

Environment, Planning and
Sustainable Development

Phone: 6207 1923
Reference: 19/39936

Dear [REDACTED]

Freedom of Information 19/39936

I refer to your application under section 30 of the *Freedom of Information Act 2016* (the Act), received by transfer from Transport Canberra and City Services (TCCS) to the Environment, Planning and Sustainable Development Directorate (EPSDD) on 11 December 2019, in which you sought access to documents relating to the Upgrade of Hall during 2018 and 2019

Specifically, you are seeking:

“all correspondence relating to the Hall Park or the Hall Park Upgrade between the Heritage Council and City Services for the period 2018 to 2019, in particular

- *All Heritage Council minutes or it’s sub-committee meeting minutes or notes relating to the Hall Park or the Hall Park Upgrade for the period 2018 to 2019.*
- *All reports received by the Heritage Council or it’s sub-committees, relating to the Hall Park or the Hall Park Upgrade for the period 2018 to 2019.*
- *Members of the Heritage Council Aboriginal Taskforce for 2018 and 2019*
- *The dates of Heritage Council sub-committee meetings, where minutes and no minutes were taken, that relate to the Hall Park or the Hall Park Upgrade for the period 2018 to 2019.”*

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

I appreciate your patience in the processing of your application and your agreement to extend the deadline to 23 January 2020.

Searches Conducted

Comprehensive searches were conducted and 108 documents within the scope of your application were located.

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.

The documents considered for release to you include the correspondence requested in the first point of your request as well as the record of decision making by the ACT Heritage

Council (Council) in relation to this matter. During 2018 and 2019, Council discussions were conducted by electronic correspondence and therefore the records are dated emails rather than recorded meeting minutes.

The members of the ACT Heritage Council and their sub-committees are available in an annexed report to the 2018-19 EPSDD Annual Report which is available online. A list of the members of the ACT Heritage Council and sub-committees is included in scheduled item 107 and 108.

I have decided to grant full access to 26 documents relevant to your application.

I have decided to grant partial access to 82 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 FOI Act, particularly sections 17, 43, 50, Schedules 2 of the Act;
- the content of the documents that fall within the scope of your request;
- information publicly available; and
- the *Information Privacy Act 2014*

Public Interest Considerations

I have set out my reasons for deciding access on your application 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

Disclosure of the identified information could reasonably be expected to do the following:

- Schedule 2.1(a)(i) – promote open discussion of public affairs and enhance the government's accountability
- Schedule 2.1(a)(ii) – contribute to positive and informed debate on important issues or matters of public interest;
- Schedule 2.1(a)(viii) – reveal the reason for a government decision and any background or contextual information that informed the decision.

I have given regard to the public interest in the decisions concerning the upgrade of the Hall Park, which is in the Hall Village Precinct, as listed on the ACT Heritage Register.

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*
- Schedule 2.2(a)(xviii) - prejudice the conservation of any place or object of natural, cultural or heritage value, or reveal any information relating to Aboriginal or Torres Strait Islander traditional knowledge;

Personal Information

I have considered whether public benefit would be served by the release of personal information (i.e. contact information and signatures of individuals) and whether this information, if disclosed, would advance the public interest.

On balance, I have determined that the release of this information would reasonably be expected to prejudice the protection of an individual’s right to privacy under the *Human Rights Act 2004*.

In accordance with section 50 and the Objects of the Act, I have decided to provide you copies of the documents with personal information redacted.

Aboriginal Cultural Heritage Sites

I have given regard to the general interest of the Canberra community in the decision-making processes of the ACT Heritage Council and the impact of these decisions. I have further considered the public benefit of transparency in Government processes and the enduring protection of Aboriginal cultural heritage sites.

Seventeen documents relevant to your application contain information that identifies the location of sites where items of Aboriginal cultural heritage may have previously been found. I have decided on balance, the disclosure of material that would assist in identifying these locations would be contrary to the public interest.

In accordance with section 50 and the Objects of the Act, I have decided to provide you copies of the documents with information contributing to location identification redacted.

It is for these reasons that I have decided to release to you 108 documents in part or in full (as outlined on the attached schedule).

Charges

I have decided to waive fees associated with this application under sections 107(2)(b) of the Act as Heritage protection matters concern the Canberra community and therefore the public may benefit from the release of the information provided to you.

Online Publication

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 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's 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

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

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

Environment, Planning and Sustainable Development Directorate

24th January 2020