



ACT
Government

Environment, Planning and
Sustainable Development

Phone: (02) 6207 1923

Reference: 24/128214



Dear [REDACTED]

Decision on Freedom of Information Access Application 24/128214

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 25 November 2024.

Specifically, you are seeking:

“For the purpose of this request the coroners report I refer to is this report:

https://www.parliament.act.gov.au/data/assets/pdf_file/0007/2412862/ACT-Coroners-Report-Drownings-in-ACT-Rivers.pdf

(1) Any document setting out a cost-benefit analysis, scoping study, scoping report, consideration of practicality, feasibility study/report, implementation pathway or similar relating to the recommendations of the coroner’s report, including the installation of water safety equipment and emergency call devices at public swimming locations in the ACT. For the purposes of this request we are seeking documents generated within the last 2 years.

(2) Any document setting out a cost-benefit analysis, scoping study, scoping report, consideration of practicality, feasibility study/report, implementation pathway or similar relating to the installation of water safety equipment and emergency call devices at public swimming locations in the ACT. For the purposes of this request we are seeking documents generated within the last 2 years.

(3) Any correspondence with the Royal Life Saving Society (RLS) arising from the recommendation of the coroner that the ACT Government engage in discussions with RLS regarding the practicality of installing rescue equipment in freshwater swimming sites. For the purposes of this request we are seeking documents generated within the last 2 years.

(4) A copy of any risk assessment including risk mitigation plan or similar regarding public swimming at the following sites:

-cotter bend

-tharwa sandwash

-kambah pool

-casuarina sands

For the purpose of this request we seek documents generated over the last 5 years.”

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 agreed, EPSDD must make a decision on your access application on or by **7 February 2025**.

Searches Conducted

Comprehensive searches were conducted and 28 documents containing information within the scope of your application were identified.

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 8 documents relevant to your application,
- grant **partial** access to 13 documents, and
- **refuse** access to 7 documents.

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 6, 17, 38, 43, 45, 50, Schedules 1 and 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 publicly available.

Public Interest Considerations

My reasons for deciding not to grant access to certain documents or components of documents are as follows:

Publicly Available Information – Section 43 and 45 of the Act

Under section 43(1)(d) and section 45(a) of the Act, a respondent may refuse to deal with an access application wholly or in part if the government information is already available to the applicant.

Four documents were identified to be publicly available via their respective websites, including:

Tabled in the ACT Legislative Assembly:

[ACT Coroners Report – Drownings in ACT Rivers](#)

[Government Response to ACT Coroners Report – Drownings in ACT Rivers](#)

Royal Life Saving Society Australia:

[Inland Waterways Report – Drownings in Rivers, Creeks, Lakes and Dams \(Royal Life Saving Society Australia\)](#).

Life Saving Support Services:

[National Aquatic and Recreational Signage Style Manual](#)

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

Schedule 1 of the Act recognises a range of information that is taken to be contrary to the public interest to disclose unless the information identifies:

- 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.

Schedule 1.6 of the Act provides that disclosure of the information is taken to be contrary to the public interest if it is Cabinet information. Schedule 1.6 (1) (a) of the Act applies to information that ‘has been submitted, or that a Minister proposes to submit, to Cabinet for its consideration and that was brought into existence for that purpose’. Schedule 1.6 (1) (b) of the Act applies to information that ‘is an official record of Cabinet’ in which includes; Cabinet submissions, briefing notes, agendas, notebooks, minutes and decisions.

Seven documents relevant to your application were identified to be official records of Cabinet. This information was submitted to Cabinet for its consideration and brought into existence for that purpose. As such, access to this information is refused under schedule 1.6(1)(a) and schedule 1.6(1)(b) of the Act.

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)(ii) – contribute to positive and informed debate on important issues or matters of public interest.
- Schedule 2, 2.1(a)(xi) – reveal environmental or health risks or measures relating to public health and safety.

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

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.

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)(b) 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-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/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 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:

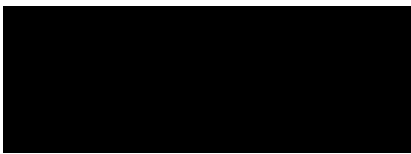
ACT Civil and Administrative Tribunal
15 Constitution Avenue
GPO Box 370
CANBERRA CITY ACT 2601
Telephone: (02) 6207 1740

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

Further Information

If you have any queries concerning the Agency'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



Michaela Watts
Information Officer
Executive Branch Manager, ACT Parks and Conservation Service
Environment, Planning and Sustainable Development Directorate

05 February 2025