



ACT
Government

Environment, Planning and
Sustainable Development

Phone: 6207 1923
Reference: 19/12472

Dear [REDACTED]

Freedom of information request: 19/12472 – Australian War Memorial

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 18 April 2019, in which you sought access to documents relating to the Australian War Memorial.

Specifically, you are seeking:

“Documents relating to a proposal by the Australian War Memorial to use Nature Park land off Treloar Cres, Campbell for temporary construction uses and/or permanent take-over of the land for expansion of the Memorial”

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

Your request was forwarded to, and accepted by Transport Canberra and City Services as they were understood to hold documents relevant to your request.

As third party consultation was undertaken the EPSDD is required to make a decision on your access application by 13 June 2019.

Decision on Access

Twenty documents have been identified as relevant to your request.

As some documents could be considered of concern to third parties, consultation was conducted.

I have included, at **Attachment A** to this decision, the schedule of relevant documents.

I have decided to grant access in full to seven documents relevant to your request.

Some documents identified as relevant to your request contain information that I consider that would, on balance, be contrary to the public interest to disclose under the test set out in section 17 of the Act.

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 or information that does not fall within the scope of your request. The release status of these nine documents are 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 access decision, I have taken the following into account:

- the Act, particularly sections 17, 38, 50 and Schedule 2;
- the content of the documents that fall within the scope of your request;
- the *Information Privacy Act 2014* (Privacy Act); and
- the views of third parties relating to the release of information of their concern.

Public Interest Considerations

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

Out of scope of the request

Some documents, as identified on the schedule contain information that is not within the scope of your request. This includes, but is not limited to information within meeting minutes or agenda items that are not relevant to your request.

Information Disclosure - Contrary to the Public Interest 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.

Nine of the identified documents scheduled for partial release; contain information that is considered to be contrary to the public interest under schedule 2 of the Act.

Personal Information

Scheduled items indicated for partial release of **Attachment B** contain information that falls within the meaning of personal information as defined by the FOI Act.

I have considered the Territory Privacy Principles of the Privacy Act and the release of this information and my view in this instance 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 Publications

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

from 3 days after the date of you are notified of 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:

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.

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/>

If you have any queries concerning the Directorate's processing of your request, or would like further information, please contact EPSDD Customer Service on 62071923 and ask for the FOI team, or email to EPSDFOI@act.gov.au

Yours sincerely



Kathy Cusack

Information Officer
Environment, Planning and Sustainable Development Directorate

13 June 2019