



ACT
Government

Environment, Planning and
Sustainable Development

Phone: 6207 1923
Reference: 21/21563



Dear 

Freedom of information request: 21/21563

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 9 March 2021, in which you sought access to information relating to ACT Place Names Committee Meetings since 1 July 2018.

Your original application sought:

Documents received or produced by the ACT Place Names Committee ("the Committee") relating to specific place names since 1 July 2018 including:

- *submissions or correspondence received by the Committee relating to any requested or suggested review of, or change to, a specific place name;*
- *documents relating to the Committee's consideration and conclusions of these submissions or correspondence; and documents relating to, or that helped inform, Part D of the ACT Place Names Committee & Guidelines Review of June 2019, including any direction from the Minister, Minister's Office or Directorate.*

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 provide a decision on your access application in accordance with section 41 of the Act, by 27 July 2021. Thank you for your patience with this matter.

Searches conducted

Comprehensive searches were conducted by the EPSDD for documents relevant to your application.

Decision on Access

One hundred and thirty-seven documents were located that fall within the scope of your request.

I have included as **Attachment A** to this decision the schedule of documents relevant to the scope of your request. The schedule provides a description of each document and the access to these documents.

I have decided to refuse access to 19 documents as I consider information contained within these documents would, on balance, be contrary to the public interest to disclose.

I have decided to grant access in full, to 33 documents relevant to the scope of your request.

I have decided to grant partial access to 85 documents relevant to your request as I consider information contained within these documents would, on balance, be contrary to 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 these documents with deletions applied to the information that I consider would be contrary to public interest to disclose. My access decision is detailed further in the following statement of reasons and the document released to you is 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, 41, 50, Schedule 2;
- the *Information Privacy Act 2014* and;
- the *Human Rights Commission Act 2004* and;
- the content of the documents that fell within the scope of your request and;
- information contained within the public domain.

Public Interest Considerations

My reasons for deciding to not grant access to components of the documents are explained below; these documents contain information that I consider to be contrary to the public interest to disclose.

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 accessing the public interest, I must apply the test outlined under section 17 of the Act which requires consideration of factors favouring disclosure, any favouring non-disclosure 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)(iii) – inform community of government operations and its dealings with community members;
- Schedule 2.1(a)(viii) – reveal the reason for a government decision and any background or contextual information that informed the decision.

Factors favouring Non-disclosure

In applying the public interest test, I have determined that disclosure of the information could reasonably be expected to do the following and meet relevant factors favouring non-disclosure:

- 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)(xi) – prejudice trade secrets, business affairs or research of an agency or person;
- 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

In my review of the requested material, I have given regard to the pro-disclosure bias in the Act and the benefit of open government and transparency in government processes and decision-making. I have considered whether the release of the personal information identified would advance the public interest and it is my view that, in this instance, the release of this information would not serve to further open discussion, government accountability, informed debate and the provision of contextual or background information.

Some items are scheduled for partial release as they contain information that falls within the meaning of personal information as defined by the Act, including engagement with family members for the purpose of consultation of ACT Place Names. Authors of documents and associated references could easily identify individuals and family members, and; therefore, this could cause any aggrieved and family members further distress.

I am satisfied that the disclosure of this 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, section 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 may constitute a breach of privacy including personal information provided by families consulted for the purpose of allocating and consideration of ACT Place Names, and subsequent concerns raised, signatures, contact details, and is therefore contrary to the public interest.

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

Business Information and research of an agency

Scheduled items contain information relating to business affairs, including that which is subject to copyright protection.

In reaching my decision I have also considered whether disclosure of information, including information in draft form identifying future proposals still under consideration for future development in the ACT and if disclosure would serve to advance open discussion of public affairs and enhance government accountability, contribute to positive and informed debate on important issues or matters of public interest. As these proposals and considerations remain under review for consideration with engagement yet to be made with associated third parties, I believe that the release of this information would not provide any background or contextual information that would inform any decision.

I have considered the rights of copyright owners, including that the release of this information would cause detriment to their revenue and market value and prejudice their trade secrets and business affairs. I have given regard to the disclosure of copyright information and how trade secrets, business affairs or research may be prejudiced; disclosure that is reasonably expected to prejudice trade secrets, business affairs or research is a factor favouring nondisclosure under Schedule 2.2(a)(xi) of the Act. I have deliberated on how the public interest is served by the information assessed to be released to you, what is in the public domain and what further benefit may be derived from the release of this information.

On balance, I have decided that the potential detriment caused by the release of this business affairs information, which may constitute a breach of confidence, and copyright infringement, and therefore outweighs any anticipated benefit provided by its release.

I am therefore satisfied that, on the information available, disclosure of the identified business affairs information is contrary to the public interest.

- 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.

Aboriginal Cultural Heritage conservation

Several scheduled items contain information relating to engagement with individual Aboriginal Communities, and their members.

I have given regard to Canberra Community interest in the decision-making process of applications for ACT Place Names and impact of these decisions. I have also considered public benefit in relation to transparency of Government processes and protection of Aboriginal cultural heritage.

Some documents contain information which identifies consultation and engagement with community members and locations of sites which remain of concern to Aboriginal cultural heritage and knowledge. I have decided, on balance, the disclosure of material that could identify individual tribal members and subsequent concerns regarding Aboriginal cultural heritage and knowledge regarding specific areas of concern within the ACT and surrounds, under consideration, to be contrary to the public interest.

Online publication

Under section 28 of the Act, EPSDD maintains an online record of access applications called a disclosure log. Under the Open Access Information Scheme, documents associated with access applications are published on the disclosure log no earlier than three days after a decision on access is provided to the applicant.

You may view the EPSDD's disclosure log at:

<http://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

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/>

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,



Brett Phillips
Information Officer
Executive Group Manager
Environment, Planning and Sustainable Development Directorate (EPSDD)

27 July 2021