



**ACT**  
Government

Transport Canberra and  
City Services

## FREEDOM OF INFORMATION COVERSHEET

The following information is provided pursuant to section 28 of the *Freedom of Information Act 2016*.

FOI reference: TCCSFOI 2018-069

Information to be published	Status
1. Access application	Published
2. Decision notice	Published
3. Documents	Not published
4. Additional information identified	No
5. Fees	n/a
6. Processing time (in working days)	32 days (extension granted)
7. Decision made by Ombudsman	n/a
8. Additional information identified by Ombudsman	n/a
9. Decision made by ACAT	n/a
10. Additional information identified by ACAT	n/a

From: [REDACTED]  
Sent: Friday, 17 August 2018 10:56 AM  
To: TCCS\_FreedomOfInformation  
Subject: Freedom of Information Request  
Attachments: FOI Request.pdf



Please find attached a Freedom of Information request in relation to a recent dog attack on me in [REDACTED]. I am happy for the requested information to be emailed to me at this email address.

Regards,  
[REDACTED]

18-067.

DUE 14/9



Freedom of Information – Access Application Form

**PRIVACY NOTICE**

The personal information you supply on this form will only be used for the purpose of processing your request. Your application must include an email or postal address to which the respondent can send notices under the Act. If all or some of this information is not collected, Transport Canberra and City Services may not be able to communicate with you, inhibiting their obligations under the Act. This could mean the request cannot be dealt with. Your personal information will not be disclosed to a third party without your consent unless statutory obligations require otherwise.

The Transport Canberra and City Services Privacy Policy contains information on how you can access or seek to correct any of your personal information that is held by the Transport Canberra and City Services, as well as the process for lodging a complaint about an alleged breach of the *Information Privacy Act 2014*. The Privacy Policy can be found on the Transport Canberra and City Services Website at [www.tccs.act.gov.au](http://www.tccs.act.gov.au)

Applicant Details	
I wish to make an access application to Transport Canberra and City Services (TCCS) under the <i>Freedom of Information Act 2016</i> .	
Name	[REDACTED]
Address (where notices relating to this request can be sent – either postal or electronic)	[REDACTED]
Telephone Contact Residential	[REDACTED]
Telephone Contact Mobile	[REDACTED]
Email Contact	[REDACTED]

What documents are you requesting under the Act?
<ul style="list-style-type: none"><li>• To help Transport Canberra and City Services (TCCS) process your request, please include enough detail in your application so that we can fully understand what government information you want.</li><li>• You may wish to include a statement about how the release of information is in the public interest.</li><li>• If your application is for access to your own personal information you must include evidence of your identity. If you are an agent acting for an applicant, please supply evidence of your authorisation and evidence of the identity of the agent.</li><li>• If for reasons in section 30 of the Act is not compliant and your application cannot be processed, TCCS will take reasonable steps to assist you and give you reasonable time to amend your application if you wish.</li></ul>



I would like the following information in relation to a dog attack [REDACTED] that occurred in [REDACTED] on [REDACTED] 2018 at approximately 0705 hrs:

- The name and address of the TCCS registered owner of the dog involved in the incident.
- The full name of the person residing at [REDACTED] in the Australian Capital Territory who was identified [REDACTED] as the owner of the dog on the morning of [REDACTED] 2018 (if different to the person in the dot point above).
- The name of the dog, its breed, weight and any photographs of the dog held by TCCS.
- Information verifying the destruction of the dog by TCCS.
- Verification if the dog involved in the attack on me on [REDACTED] 2018 had been previously identified as a "dangerous dog" within the meaning of Section 22 of the *Domestic Animals Act 2000*.
- If in the dot point above the dog that attacked me had been previously identified as a "dangerous dog", information on the owner's compliance with conditions associated with keeping a dangerous dog.
- Information on any previous reports/complaints to TCCS relating to the dog associated with the attack on me on [REDACTED] 2018.
- Information on any other complaints made to TCCS about any other dogs owned by the resident of [REDACTED] in the Australian Capital Territory.

a copy of these documents sent to the above email address



Fee Waiver	
<p>If you wish to apply for a fee waiver, the Act sets out a number of provisions to do so:</p> <ul style="list-style-type: none"><li>• The information being requested was previously publicly available but no longer is.</li><li>• The information being requested is of special benefit to the public (Ombudsman guidelines see Section 66).</li><li>• The applicant is a concession card holder and demonstrates a material connection with the information requested (concession cards include a current health care or pensioner card issued under the <u>Social Security Act 1991</u>; a current pensioner concession card issued in relation to a pension under the <u>Veterans' Entitlements Act 1986</u> or the <u>Military Rehabilitation and Compensation Act 2004</u>; a current gold card; or a card prescribed by regulation).</li><li>• The applicant is a not-for-profit organisation and the application relates to the activities or purposes of the organisation.</li><li>• The applicant is a member of the Legislative Assembly.</li></ul> <p>[AGENCY] must waive any fees for providing information if the information was not publicly available and the agency makes the information publicly available before or within 9 working days after giving it to the applicant.</p>	
Fee waiver application (fill in if applicable, otherwise leave blank)	
<p>I would like to apply for a fee waiver because (state reason/s from the list above).</p> <p>[provide details and evidence of how this reason applies]</p>	
APPLICANT'S SIGNATURE	DATE OF REQUEST
	17 August 2018



[REDACTED]

Dear [REDACTED]

I refer to your application made under the *Freedom of Information Act 2016* (the Act), which was received by Transport Canberra and City Services Directorate (TCCS) on 17 August 2018, in which you sought documents in relation to a dog attack that occurred in [REDACTED] [REDACTED] 2018, specifically:

- the name and address of the TCCS registered owner of the dog involved in the incident;
- the full name of the person residing at [REDACTED] in the ACT who was identified [REDACTED] as the owner of the dog on the morning of [REDACTED] 2018 (if different to the person in the dot point above);
- the name of the dog, its breed, weight and any photographs of the dog held by TCCS;
- information verifying the destruction of the dog by TCCS;
- verification if the dog involved in the attack on you on [REDACTED] 2018 had been previously identified as a "dangerous dog" within the meaning of Section 22 of the Domestic Animals Act 2000;
- if in the dot point above the dog that attacked you had been previously identified as a "dangerous dog", information on the owner's compliance with conditions associated with keeping a dangerous dog;
- information on any previous reports/complaints to TCCS relating to the dog associated with the attack on you on [REDACTED] 2018; and
- information on any other complaints made to TCCS about any other dogs owned by the resident of [REDACTED] in the ACT.

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

TCCS was required to provide a decision on your access application on 14 September 2018, however, I note that you agreed to an extension to 4 October 2018.

#### **Decision on access**

Searches were completed for relevant documents and 26 documents (86 pages) have been identified that fall within the scope of your request.

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

Documents identified as relevant to your request contain information that I consider to be, on balance, 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 (Attachment B) with deletions applied to information that I consider would be contrary to the public interest to disclose.

I note that you have been provided with the name and address of the owner of dog [REDACTED] under Section 55A of the Domestic Animal Act 2000.

**Statement of Reasons**

In reaching my access decision, I have taken the following into account:

The Act, in particular:

- Schedule 1.4 – Sensitive Information
- Schedule 2

**Factors favouring disclosure (Schedule 2)**

- Section 2.1 (a)(vii) – advance the fair treatment of individuals and other entities in accordance with the law in their dealings with government;
- Section 2.1 (a)(viii) – reveal the reason for a government decision and any background or contextual information that informed the decision; and
- Schedule 2, Section 2.1 (b)(i) – the person making the request.

**Factors favouring non-disclosure (Schedule 2)**

- Section 2.2 (a)(ii) – prejudice the Protection of an Individual's Right to Privacy
- Section 2.2 (a)(xvi) – prejudice a deliberative process of government
- Schedule 2, Section 2.2 (b)(ii) – would be privileged from production in a legal proceeding on the ground of legal professional privilege
- Schedule 2, Section 2.2 (a)(xii) – prejudice an agency's ability to obtain confidential information; and
- Health Records (Privacy and Access) Act 1997.

I have decided to provide partial access to the documents referenced number 2, 3, 10, 13, 16, 18 and 20-25 with information deleted that would be contrary to public interest to disclose under Section 1.4, Schedule 1 and Section 2.2 (a)(ii) of Schedule 2 of the FOI Act. Schedule 2 of the FOI Act also lists factors favouring disclosure in the public interest. Section 2.1 (vii) favours the release of documents which 'reveal the reason for a government decision and any background or contextual information that informed the decision'. Information contained in these documents identify the background information presented to the Registrar of Domestic Animal Services in relation to the investigation undertaken to date in relation to this matter.

Considering the type of information I propose to withhold from release, I am satisfied that the factors in favour of release can still be met while protecting the personal information of individuals involved. I find the protection of this information outweighs disclosure in this instance. As a result, I have decided that release of this information (name of third parties, including the owner of [REDACTED]) could prejudice their right to privacy under the *Human Rights Act 2004*.

I have decided to delete in part document referenced number 23 which is a statement from the owner of dog [REDACTED], after a careful consideration of Schedule 2, Section 2.2 (a) (xii) of the Act and the *Information Privacy Act 2014*. I understand that the release of this information can provide background or contextual information that informed the actions undertaken as part the investigation regarding this matter. However, when considering the factors favouring non-disclosure, I am satisfied that the protection of an individual's right to privacy, especially in the course of assisting in an investigation is a significant factor as the parties involved have provided personal information for the purpose of the investigation, which in my opinion, outweighs the benefit which may be derived from release of personal information of individuals involved in this matter.

Furthermore, the release of a witness statement could prejudice the directorate's ability to obtain confidential information. For an investigation to work effectively, cooperation between the directorate and the person being investigated is required. The release of such documents could reasonably be expected to reduce the frankness and candour of an investigation by a person being investigated, resulting in the effectiveness of future investigation whereby persons being investigated or providing statements are less likely to cooperate or participate. It is expected by all parties involved that this kind of information is treated in a confidential manner. For these reasons, I have attributed significant weight to both factors.

In relation to documents referenced number 20 and 25, these documents contain deliberations undertaken at the Regulatory Advisory Committee on legal considerations and recommendations that, at the time the documents were created, had not been decided on by the Domestic Animal Services Registrar. I have considered whether the documents may be deliberative in nature or are working documents and whether the release of such documents would be contrary to the public interest because it might prejudice deliberative processes of government. Releasing recommendations prior to the decision being made by the Registrar could impact the outcome of the investigation and impact on individuals involved in this matter. I consider that the release of the information is contrary to the public interest and that protecting this specific information, on balance, outweighs its release in this instance. I have decided that access in part to this information could be prejudicial to disclose. I have applied Schedule 2, Section 2.2 (a)(xvi) of the Act (prejudice a deliberative process of government) to these documents.

Lastly, documents that contain medical information of your health records under the *Health Records (Privacy and Access) Act 1997* are provided further protection from release under Section 12 of the FOI Act. I note that you provided this information but have instructed Domestic Animal Services to remove your Medicare information from the documents that we hold on our records.

#### Charges

No fee is payable as the number of pages being released minimally exceeds the fee-free threshold and is a personal matter concerning you as the applicant.

**Online publishing – disclosure log**

Under section 28 of the Act, TCCS maintains an online record of access applications called a disclosure log. Your original access application and my decision will be published in the TCCS disclosure log from 3 days after the date of this decision. Your personal details will not be published.

The documents will not be published as it is not in the public interest to publish online documents comprising a release sought in response to a personal legal matter.

You may view TCCS' disclosure log at [www.tccs.act.gov.au/about-us/freedom\\_of\\_information](http://www.tccs.act.gov.au/about-us/freedom_of_information).

**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 an Ombudsman review of this outcome under section 73 of the Act within 20 working days from the day that my decision is published in TCCS' disclosure log or a longer period allowed by the Ombudsman.

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: [ombudsman@ombudsman.gov.au](mailto:ombudsman@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 ACAT at:

ACT Civil and Administrative Tribunal  
Level 4, 1 Moore Street  
GPO Box 370  
CANBERRA CITY ACT 2601  
Telephone: (02) 6207 1740  
[www.acat.act.gov.au](http://www.acat.act.gov.au)

If you have any questions concerning the directorate's processing of your request, or would like further information, please contact the directorate's FOI Coordinator on 6205 5408 or email [tccs.foi@act.gov.au](mailto:tccs.foi@act.gov.au).

Yours sincerely

A handwritten signature in black ink, appearing to read 'Cherie Hugues', with a long horizontal flourish extending to the right.

Cherie Hugues  
Information Officer

3 October 2018