



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 2018-080

Information to be published	Status
1. Access application	Published
2. Decision notice	Published
3. Documents and schedule	Not published
4. Additional information identified	No
5. Fees	n/a
6. Processing time (in working days)	36 days
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

Contact: [REDACTED]
Direct Line: [REDACTED]
Email Address: [REDACTED]
Supervisor: [REDACTED]
Our Reference: [REDACTED]

4 September 2018

Territory and Municipal Services
Canberra ACT

ATTENTION: Freedom of Information Officer

By email only: tamsfoi@act.gov.au

Dear Madam or Sir

RE: [REDACTED]

We act for the abovenamed.

Our client was injured at the Wannlassa Shops on [REDACTED]

We request the following documents pursuant to the provisions of the *Freedom of Information Act*:

1. All records in relation to the outskirts of the Wannlassa Shops, including, but not limited to:
 - a. Regulations and service of food;
 - b. Barbeque zone permits;
 - c. Outdoor dining permits;
 - d. Complaints regarding positioning and use of area near shops for barbeque zones; and
 - e. Reports of injuries relating to use of barbeques at Wannlassa Shops.

We ask for all the above records for the period of 3 years prior to 23 September 2017 and to date.

If this request should be made to, or relevant material may be held by another agency, please provide your assistance under s14(4) of the Act.

We undertake to make any payment necessary pursuant to the Act.

We **enclose** our client's authority.

Yours faithfully

[REDACTED]

[REDACTED]

GENERAL AUTHORITY

TO: TAMS

RE: [REDACTED]

You are hereby authorised, directed and requested by me to provide to my Solicitors, [REDACTED] Lawyers, whatever and all information, documentation and/or reports in your power or possession, as may be required by the said Solicitors, including but not limited to information orally conveyed with respect to my state of mind.

DATED this 4 day of September 20 18.

[REDACTED]



ACT
Government

Transport Canberra and
City Services

[REDACTED]
Solicitor
[REDACTED]

Dear [REDACTED] – Reference 18-080

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 4 September 2018. I note on 21 September 2018 you provided further clarification on the documents you are seeking, being:

All records in relation to the outskirts of the Wanniasa Shops (located at Sangster Place), including, but not limited to:

1. regulations and service of food
2. barbeque zone permits
3. outdoor dining permits
4. complaints regarding positioning and use of area near shops for barbeque zones; and
5. reports of injuries relating to use of barbeques at the shops.

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 20 October 2018, however, I note that you agreed to an extension to 26 October 2018.

Decision on access

A search for relevant documents has identified five documents (42 pages). These documents relate to an application to use a public place.

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.

Statement of Reasons

In reaching my access decision, I have taken the following into account factors favouring disclosure and factors favouring non-disclosure.

Factors favouring disclosure (Schedule 2)

- Section 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 (Schedule 2)

- Section 2.2 (a)(ii) – prejudice the Protection of an Individual's Right to Privacy.

I have decided to provide partial access to the documents with information deleted that would be contrary to public interest to disclose under 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 approval process for obtaining permits to use public place.

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 third parties. 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) could prejudice their right to privacy under the *Human Rights Act 2004*.

A search of the City Rangers database identified no complaints relating to barbeque zones or any injuries relating to the use of barbeques at the shops.

Furthermore, Transport Canberra and City Services do not authorise the release of outdoor land for dining and do not regulate the service of food.

Charges

No fee is payable as the number of pages being released are within the fee free threshold.

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.

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: 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 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

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.

Yours sincerely



Cherie Hugues
Information Officer

26 October 2018