

Dear [REDACTED]

DECISION ON YOUR ACCESS APPLICATION

I refer to your application under section 30 of the *Freedom of Information Act 2016* (FOI Act) received by ACT Health Directorate (ACTHD) on Friday 22 May 2020.

This application requested access to:

"I would like a copy of the report of action taken by officers of the Health Protection Service (HPS) in relation to a food handling complaint (HPS reference number 200000950) lodged on 5 May 2020 dealing with the premises at 2 Wanganeen Ave, Ngunnawal ACT 2913. The release of the information is in the public interest because as the HPS assert, effective public health management is reliant on partnerships with the community. By knowing what action has been taken, I can judge whether this important partnership is operating effectively."

I am an Information Officer appointed by the Director-General of ACT Health Directorate (ACTHD) under section 18 of the FOI Act to deal with access applications made under Part 5 of the Act. ACTHD was required to provide a decision on your access application by **Tuesday 23 June 2020**.

I have identified one document holding the information within the scope of your access application. This is outlined in the schedule of documents included at [Attachment A](#) to this decision letter.

Decisions

I have decided to:

- grant part access to one document.

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.

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

- The FOI Act;
- The contents of the documents that fall within the scope of your request; and
- The *Human Rights Act 2004*.

Partial Access

I have decided to grant partial access to one document at reference 1.

Public Interest Factors Favouring Disclosure

The following factors were considered relevant in favour of the disclosure of the documents:

- Schedule 2.1(a)(i) promote open discussion of public affairs and enhance the government's accountability;
- Schedule 2.1(a)(xi) reveal environmental or health risks or measures relating to public health and safety.

Public Interest Factors Favouring Non-Disclosure

The following factors were considered relevant in favour of the non-disclosure of the documents:

- 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*.

The information that has been redacted is related to a staff signature and personal information of a non-government third party. On balance, I determined the information identified is contrary to the public interest and I have decided not to disclose this information.

Charges

Processing charges are not applicable to this request.

Disclosure Log

Under section 28 of the FOI Act, ACTHD maintains an online record of access applications called a disclosure log. The scope of your access application, my decision and documents released to you will be published in the disclosure log not less than three days but not more than 10 days after the date of this decision. Your personal contact details will not be published.

<https://www.health.act.gov.au/about-our-health-system/freedom-information/disclosure-log>.

Ombudsman review

My decision on your access request is a reviewable decision as identified in Schedule 3 of the FOI 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 ACT Health's 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
Website: ombudsman.act.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 assistance

Should you have any queries in relation to your request, please do not hesitate to contact the FOI Coordinator on (02) 5124 9831 or email HealthFOI@act.gov.au.

Yours sincerely



Conrad Barr
Executive Branch Manager
Health Protection Service

11 June 2020

FREEDOM OF INFORMATION SCHEDULE OF DOCUMENTS

Please be aware that under the *Freedom of Information Act 2016*, some of the information provided to you will be released to the public through the ACT Government's Open Access Scheme. The Open Access release status column of the table below indicates what documents are intended for release online through open access.

Personal information or business affairs information will not be made available under this policy. If you think the content of your request would contain such information, please inform the contact officer immediately.

Information about what is published on open access is available online at: <http://www.health.act.gov.au/public-information/consumers/freedom-information>

APPLICANT NAME	WHAT ARE THE PARAMETERS OF THE REQUEST	FILE NUMBER
[REDACTED]	<i>"I would like a copy of the report of action taken by officers of the Health Protection Service (HPS) in relation to a food handling complaint (HPS reference number 200000950) lodged on 5 May 2020 dealing with the premises at 2 Wanganeen Ave, Ngunnawal ACT 2913. The release of the information is in the public interest because as the HPS assert, effective public health management is reliant on partnerships with the community. By knowing what action has been taken, I can judge whether this important partnership is operating effectively."</i>	FOI20/15

Ref Number	Page Number	Description	Date	Status Decision	Factor	Open Access release status
1.	1-5	Food Premises Inspection Report	13/05/2020	Partial release	Schedule 2, 2.2(a)(ii) prejudice the protection of an individual's right to privacy or any other right under the <i>Human Rights Act 2004</i> ;	Yes
Total Number of Documents						
1.						



ACT Health

Food Premises Inspection Report

This report is a lawful assessment of the food premises against the requirements of the *Food Act 2001 (ACT)* and *Australia New Zealand Food Standards Code*

Business Name	Ngunnawal Bakery		Reg No	██████
Proprietor	██████		Date & Time	Start: 13 May 2020 02:10 PM Finish: 13 May 2020 02:59 PM
Premises Address	Shop 2, Wanganeen Ave, Ngunnawal 2913		Reason	Complaint
Business/Mobile Phone	02-6242-4108 ██████	Email	Authorised Officer	Aaron Clifford
Compliance	Compliant			
C=Complies Mi = Minor Non Compliant Ma = Major Non Compliant Cr = Critical Non Compliant NA=Not Applicable NO = Not Observed				
		Result	Comments	
General Requirements				
1	Registration – Is the food business registration current and accurate? [s91, 97 <i>Food Act 2001</i>]	C		
2	Registration conditions – Is the food business complying with any specific registration conditions (if applicable)? [s99 <i>Food Act 2001</i>]	C		
3	Registration – Is the current certificate of registration displayed? [s98A <i>Food Act 2001</i>]	C		
4	Food Safety Supervisor (FSS) – Does the food business have a current FSS? [s117 <i>Food Act 2001</i>]	C		
5	Food Safety Supervisor (FSS) – Is the FSS's certificate available at the premises? [s19 <i>Food Regulation 2002</i>]	C		
6	Food Safety Program (FSP) – Is a FSP required?	NA		
7	Food Safety Program (FSP) – Is the FSP available at the premises? [s13(2) <i>Food Regulation 2002</i>]	NA		
8	Food Safety Program (FSP) – Has a copy been provided to the HPS? [s13(2) <i>Food Regulation 2002</i>]	NA		
Food Handling Controls				
9	Food receipt – Is all food protected from contamination? [Standard 3.2.2 cl 5(1) <i>Food Standards Code</i>]	C		
10	Food receipt – Are supplier details available for food on the premises and all food items labelled appropriately (with a prescribed name where applicable)? [Standard 3.2.2 cl 5(2) <i>Food Standards Code</i>]	C		
11	Food receipt – Are all practical measures taken to ensure potentially hazardous food is received under temperature control? [Standard 3.2.2 cl 5(3)–(4) <i>Food Standards Code</i>]	C		
12	Food storage – Is all food protected from contamination? [Standard 3.2.2 cl 6(1)(a) <i>Food Standards Code</i>]	C		
13	Food storage – Are food storage conditions appropriate? [Standard 3.2.2 cl 6(1)(b) <i>Food Standards Code</i>]	C		

14	Food storage – Is potentially hazardous food stored under temperature control? [Standard 3.2.2 cl 6(2) Food Standards Code]	C		
15	Food processing – When processing, is all food: <ul style="list-style-type: none"> • safe and suitable; • prevented from being contaminated; and • adequately processed to make safe? [Standard 3.2.2 cl 7(1) Food Standards Code]	C		
16	Food processing – Are potentially hazardous ready-to-eat foods out of temperature control for minimum time while being processed?? [Standard 3.2.2 cl 7(2) Food Standards Code]	C		
17	Food processing – Is potentially hazardous food cooled/reheated correctly? [Standard 3.2.2 cl 7(3) Food Standards Code]	C		
18	Food display – Is food on display protected from contamination? [Standard 3.2.2 cl 8(1), (4) Food Standards Code]	C		
19	Food display – Do self-service areas have: <ul style="list-style-type: none"> • supervision; • separate utensils; and • protective barriers? [Standard 3.2.2 cl 8(2) Food Standards Code]	C		
20	Food display – Is potentially hazardous food displayed under temperature control? [Standard 3.2.2 cl 8(5) Food Standards Code]	C		
21	Food display – If potentially hazardous food is not displayed under temperature control, is there a documented alternate method of compliance? [Standard 3.2.2 cl 25 Food Standards Code]	C		
22	Food packaging – Is food packaged in a manner that protects it from contamination, using appropriate material? [Standard 3.2.2 cl 9 Food Standards Code]	C		
23	Food transportation – Is all food protected from contamination during transportation? [Standard 3.2.2 cl 10(a) Food Standards Code]	NA		
24	Food transport vehicles – Are food transport vehicles suitable? [Standard 3.2.3 cl 17 Food Standards Code]	NA		
25	Food transportation – Is all potentially hazardous food transported under temperature control? [Standard 3.2.2 cl 10(b), (c) Food Standards Code]	NA		
26	Food disposal – Is food for disposal kept separately from all other food and in a designated area? [Standard 3.2.2 cl 11(1) Food Standards Code]	C		
27	Food recall – Is there a documented recall system in place? [Standard 3.2.2 cl 12 Food Standards Code]	C		
Health and Hygiene Requirements for Food Handlers				
28	Health of food handlers – Do food handlers report illness and exclude themselves from food handling if they are suffering from a foodborne disease and/or condition? [Standard 3.2.2 cl 14(1), (2) Food Standards Code]	C		

29	Hygiene of food handlers – Do food handlers exercise good hygiene practices? [Standard 3.2.2 cl 15(1) Food Standards Code]	C		
30	Hand washing – Do food handlers wash their hands before commencing/recommencing work? [Standard 3.2.2 cl 15(2), (3) Food Standards Code]	C		
31	Hand washing – Do food handlers wash and dry hands thoroughly using designated hand washing facilities? [Standard 3.2.2 cl 15(4) Food Standards Code]	C		
32	Hand washing – Are the hand washing facilities appropriately located? [Standard 3.2.3 cl 14(1) Food Standards Code]	C		Make sure that the hand wash basin remain unobstructed at all times. This may require relocating the deep fryer.
33	Hand washing – Are the hand washing facilities: <ul style="list-style-type: none"> • permanent fixtures; • provided with a supply of warm running potable water through a single spout; • of an adequate size; and • used only for the washing of hands, arms and faces? [Standard 3.2.3 cl 14(2) Food Standards Code] 	C		
Health and Hygiene Requirements for Food Businesses				
34	Hygiene of food handlers (duties of food businesses) – Does the business have easily accessible hand washing facilities that include: <ul style="list-style-type: none"> • soap; • single use towel; and • a container for used towels? [Standard 3.2.2 cl 17 Food Standards Code]	C		
35	Health of food handlers (duties of food businesses) – Are actions taken to ensure staff members do not engage in food handling if they are suffering from a foodborne disease or condition? [Standard 3.2.2 cl 16 Food Standards Code]	C		
36	General duties of food businesses – Does the food business take all practical measures to ensure all people within the food business avoid contaminating food? [Standard 3.2.2 cl 18 Food Standards Code]	C		
Cleaning, Sanitising and Maintenance				
37	Cleanliness – Are the floors, walls and ceilings maintained in a clean condition? [Standard 3.2.2 cl 19(1) Food Standards Code]	C		
38	Cleanliness – Are the fixtures, fittings and equipment maintained in a clean condition? [Standard 3.2.2 cl 19(2) Food Standards Code]	C		
39	Sanitising – Are food contact surfaces and eating and drinking utensils sanitised using appropriate sanitising methods? [Standard 3.2.2 cl 20 Food Standards Code]	C		
40	Maintenance – Are premises, fixtures, fittings, equipment and utensils maintained in a good state of repair and working order? [Standard 3.2.2 cl 21 Food Standards Code]	C		
41	Thermometer – Does the business have a readily accessible digital probe thermometer accurate to $\pm 1^{\circ}\text{C}$? [Standard 3.2.2 cl 22 Food Standards Code]	C		

42	Single use items – Are single use items protected from contamination and not reused? [Standard 3.2.2 cl 23 Food Standards Code]	C		
43	Animals and pests – Is the premises free from animals and pests? [Standard 3.2.2 cl 24(1)(a)(b) Food Standards Code]	C		
44	Animals and pests – Does the business take all practical measures to eradicate and prevent the entry and harbourage of pests? [Standard 3.2.2 cl 24(1)(c)(d) Food Standards Code]	C		
Design and Construction				
45	General requirements – Is the food premises appropriate for its activities? [Standard 3.2.3 cl 3 Food Standards Code]	C		
46	Water supply – Is there an adequate supply of potable water? [Standard 3.2.3 cl 4 Food Standards Code]	C		
47	Sewage and waste water disposal – Does the premises have an adequate sewage and waste water disposal system? [Standard 3.2.3 cl 5 Food Standards Code]	C		
48	Garbage storage – Does the premises have adequate storage facilities for garbage and recyclable matter? [Standard 3.2.3 cl 6 Food Standards Code]	C		
49	Ventilation – Does the premises have adequate natural or mechanical ventilation? [Standard 3.2.3 cl 7 Food Standards Code]	C		
50	Lighting – Does the premises have sufficient lighting? [Standard 3.2.3 cl 8 Food Standards Code]	C		
51	Floors – Are floors appropriate for the food business' activities? [Standard 3.2.3 cl 10 Food Standards Code]	C		
52	Walls and ceilings – Are walls and ceilings designed and constructed in a way that is appropriate for the food business' activities? [Standard 3.2.3 cl 11 Food Standards Code]	C		
53	Fixtures, fittings and equipment – Are fixtures, fittings and equipment adequate and fit for their intended purpose and able to be effectively cleaned (and sanitised if applicable)? [Standard 3.2.3 cl 12 Food Standards Code]	Mi		The baking racks, oven, and trays have some rust present. Ensure all rust is removed or replace all these fittings and equipment. Due next routine inspection (2021)
54	Storage facilities – Does the premises have adequate storage facilities? [Standard 3.2.3 cl 15 Food Standards Code]	C		
55	Toilet facilities – Are there adequate toilet facilities available for the use of food handlers? [Standard 3.2.3 cl 16 Food Standards Code]	C		
56	Toilet facilities – Is the toilet fitted with an air lock if it opens to a food preparation area? [Standard 3.2.3 cl 3 Food Standards Code]	C		
Other				
57	Labelling – Does food labelling comply with the Food Standards Code? [Food Standards Code]	C		
58	Kilojoule displays – Does the food business display kilojoule information (only applicable to standard food outlets)? [s110–111 Food Act 2001]	C		
59	Skills and knowledge – Do food handlers have appropriate skills and knowledge in food safety and hygiene matters to handle food safely? [Standard 3.2.2 cl 3 Food Standards Code]	C		

SUMMARY COMMENTS/ACTION TO BE TAKEN			
<p>Remove rust from fittings.</p> <p>Inspection due to complaint of not washings hands. Issue of not understanding English well did not allow a good response for the customer.</p> <p>You did discuss when to wash hands well. Please purchase hand sanitiser and provide for staff and customers.</p>			
Please rectify identified non-compliances by the due date. Contact the Officer for any enquiries.			Follow-Up Date:
I have read and I understand the contents of this assessment.			
Proprietor/Staff Signature:			Authorised Officer Signature:
Proprietor/Staff Name:			Authorised Officer Name: Aaron Clifford