

Public Place Names (Whitlam) Determination 2019 (No 1)

Disallowable instrument DI2019–253

made under the

Public Place Names Act 1989, s 3 (Minister to determine names)

EXPLANATORY STATEMENT

Overview

Background

The *Public Place Names Act 1989* (the Act) sets out the process and criteria for the naming of divisions and public places. Section 2 of the Act defines a “public place” as including “an avenue, road, street, geographical feature or place that the public is entitled to use, and any unleased land”.

Section 3 of the Act gives the Minister the power to determine the name of a division or public place. The determination of the Minister is a disallowable instrument and as such must be notified in the ACT Legislation Register.

The factors that the Minister must have regard to in determining a name are set out in sections 2, 3 and 4 of the Act. Section 3 (3) (a) of the Act requires the Minister to consider the *Public Place Names (Naming of Public Places) Guidelines 2014 (No 1)* (guidelines) when naming a public place. The guidelines are made under section 4A of the Act and are notified at <http://www.legislation.act.gov.au/ni/2014-643/default.asp>.

The Determination

The *Public Place Names (Whitlam) Determination 2019 (No 1)* determines the names of twenty-two roads for the public places indicated in the diagram in the schedule to the determination.

The names are consistent with the theme for Whitlam which is ‘arts and culture’. The purpose of this determination is to commemorate the names of people who made important contributions to Australian cultural life including painters, arts administrators, designers, musicians, sculptors and visual artists and the names of three historic theatre venues.

This determination is consistent with section 4 (2) (b) and (d) of the Act and the requirement of the Minister (or delegate) to have regard to the names of persons who have made notable contributions to the existence of Australia as a nation and to the names of things characteristic of Australia or Australians. This determination is also consistent with the guidelines.

Consultation

If a public place is proposed to be named after a particular person reasonable steps should be taken to obtain prior permission from the person's relatives, close colleagues or a relevant professional organisation, under clause 6 of the guidelines. Consultation was undertaken in this instance in accordance with the guidelines.

Gender representation

Section 3 (2) (b) of the Act requires that the Minister (or delegate) consider whether the names of women are well-represented when making a determination about the naming of a public place. This instrument commemorates the names of thirteen women and nine men. Two roads are named after more than one person and three roads commemorate non-personal names.

Regulatory Impact Statement (RIS)

The *Legislation Act 2001* (Legislation Act) requires a RIS for regulations and disallowable instruments subject to specified exceptions. In this case, a RIS is not required because the determination does not impose any appreciable costs on the community or part of the community (s 34 (1) of the Legislation Act). Further, a RIS is also not required because, while the determination of place names is culturally and socially significant, it does not adversely affect rights or impose liabilities on a person (s 36 (1) (b) of the Legislation Act).

Human Rights

Section 12 of the *Human Rights Act 2004* creates a right to privacy and reputation. Conceivably, the naming of a place has the potential to infringe the right to privacy and reputation of a person after whom a place is named. In this case the process through which places are named ensures that this right is not infringed and that only appropriate information is included in a determination. This process includes the consultation described above. Additionally, in relation to places named after people, only the names of deceased persons are determined.

Delegation

This determination is made by a delegate of the Minister. The Minister has delegated the power under section 3 of the Act to name a division or public place to the people occupying the positions of Director-General and Deputy Director-General of the Environment, Planning and Sustainable Development Directorate, refer to the *Legislation (Environment, Planning and Sustainable Development Directorate) Delegation 2018 (No 1)*, NI2018-216.

Status of this Explanatory Statement

This explanatory statement relates to the *Public Place Names (Whitlam) Determination 2019 (No 1)* as made by the delegate of the Minister and presented to the ACT Legislative Assembly. It has been prepared in order to assist the reader of the

disallowable instrument. It does not form part of the disallowable instrument and has not been endorsed by the Assembly.

Clause Notes

Clause 1 – Name of Instrument

This clause names the instrument.

Clause 2 – Commencement

This clause provides for the commencement of the instrument.

Clause 3 – Determination of Place Names

This clause names the public places as specified in the schedule.