

Public Place Names (Spence) Determination 2023

Disallowable instrument DI2023–86

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. A division in relation to land means a division under section 6 of the *Districts Act 2002*. The formal naming under the Act is as a division, however most people would know this naming as a suburb.

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.

Section 46 of the *Legislation Act 2001* (the *Legislation Act*) specifies that power given under an Act to make an instrument includes the power to amend or repeal the instrument.

The Determination

The *Public Place Names (Spence) Determination 2023* (the *determination*) revokes the determination of the Minister for State for the Interior of 5 October 1972 of the name for the Division of Spence, published in Commonwealth Gazette No. 103 dated 2 November 1972.

The origin and significance information in the 1972 determination relating to Spence, is revoked and re-made in the determination, to co-name the division to recognise two separate people.

The determination provides for equal recognition of both William Guthrie Spence (1846–1926) and Catherine Helen Spence (1825–1910), two significant leaders in Australian history. The location of the division is indicated in the diagram in the schedule to the determination.

This determination is consistent with section 4 (1) 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 when making a determination in respect of the naming of a division. This determination responds positively to community calls to commemorate women as leaders through public commemoration.

Consultation

If a division is proposed to be named after a particular person, reasonable steps should be taken to obtain prior permission from the person's relatives, associates, an appropriate cultural group, or a relevant professional organisation. Consultation was undertaken in this instance in accordance with established practice. The broader community was provided an opportunity to comment on the co-naming of the Division of Spence through YourSay community engagement commencing on 20 October 2022 for six weeks.

Gender representation

Section 3(2) of the Act requires the Minister, if making a determination about the naming of a division after a person, to consider the number of women and men after whom divisions have been named in the last 10 years and whether the names of women are well-represented. This instrument commemorates the contribution to Australia by one woman and one man.

Regulatory Impact Statement (RIS)

The 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 (section 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 (section 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 (Spence) Determination 2023* as made by the delegate of the Minister and presented to the 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 – Revocation

This clause revokes the determination of one division name.

Clause 4 – Determination of division name

This clause names the division as specified in the schedule.