

Australian Capital Territory

Public Place Names (Gungahlin) Amendment Determination 2016

Disallowable instrument DI2016-61

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. A determination by 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 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>.

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

The Amendment

This instrument amends the *Public Place Names (Gungahlin) Determination 2004 (No 2)* (DI2004-19) by reducing the area of the road reservation named Hamer Street. The name Hamer Street no longer applies west of Section 234 in the Division of Gungahlin. The amendment makes no change to the name of any roads which have been constructed. Only that portion of the road reservation to the east of Section 234 has been constructed as Hamer Street. The wide road reservation between Flemington Road and Anthony Rolfe Avenue, indicated as Hamer Street on the plan

in DI2004-19, was redesigned in 2010 to create Section 234. The purpose of this determination is to amend the extent of the area of the road reservation named Hamer Street to enable the ACT Cadastre to reflect the development approval for the construction of an extension of Manning Clark Crescent between Flemington Road and Anthony Rolfe Avenue [refer to *Planning and Development (Approval of application – 201528441 Extension of Manning Clark Crescent, Gungahlin) Notice 2016* (NI2016-20)]. The extension of the name Manning Clark Crescent is consistent with the provisions of the *Australian and New Zealand Rural and Urban Addressing Standard AS/NZS 4819-2011*.

Consultation

If a public place is proposed to be named after a particular person reasonable steps are taken to obtain prior permission from the person's relatives, close colleagues or a relevant professional organisation. This consultation and related steps are undertaken in accordance with the guidelines. The family of Vera Hamer has been consulted on the amendment to the extent of the road name.

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 (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 Director-General of the Environment and Planning Directorate and other senior officers within the Directorate, refer to the *Legislation (Environment and Planning Directorate) Delegation 2014 (No 1)*, notifiable instrument NI2016-146.

Status of this Explanatory Statement

This explanatory statement relates to the *Public Place Names (Gungahlin) Amendment Determination 2016* 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 – Amendment of Place Name

This clause amends the public place as specified in the schedule.