



ACT
Government

Chief Minister, Treasury and
Economic Development

Freedom of Information Publication Coversheet

The following information is provided pursuant to section 28 of the *Freedom of Information Act 2016*.

FOI Reference: CMTEDDFOI 2019-177

| Information to be published | Status |
|---|-----------|
| 1. Access application | Published |
| 2. Decision notice | Published |
| 3. Documents and schedule | Published |
| 4. Additional information identified | No |
| 5. Fees | N/A |
| 6. Processing time (in working days) | 9 |
| 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 |

From: [Nowlan, Andrew](#)
To: [CMTEDD FOI](#)
Subject: FW: Freedom of Information Request
Date: Monday, 5 August 2019 12:09:48 PM
Attachments: [image001.png](#)
[image002.png](#)

Please find attached an FOI request in relation to a matter concerning the ACT Gambling and Racing Commission.

Please use me as a point of contact for any required information.

Thank you,
Andrew.

Andrew Nowlan | A/g Director
Liquor, Gaming, Community & Industry Licensing
T: 02 6205 2534 | E: andrew.nowlan@act.gov.au
Licensing and Registrations Branch | Access Canberra | ACT Government



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From: AC, Liquor
Sent: Thursday, 1 August 2019 4:01 PM
To: Miles, Matthew <Matthew.Miles@act.gov.au>; Nowlan, Andrew <Andrew.Nowlan@act.gov.au>
Subject: FW: Freedom of Information Request

Melissa Wytkamp |Licensing Officer |Liquor and Gaming
Phone: 02 6207 8774 | Email: Melissa.wytkamp@act.gov.au
Access Canberra | Chief Minister Treasury and Economic Development Directorate | ACT Government
GPO Box 158, Canberra City ACT 2601 | www.act.gov.au/accessCBR



Access Canberra | Chief Minister, Treasury and Economic Development Directorate | ACT Government

From: [REDACTED]
Sent: Thursday, 1 August 2019 3:16 PM
To: AC, Liquor <ACLiquor@act.gov.au>
Subject: Freedom of Information Request

Good Afternoon,

I wish to make a Freedom of Information request in the ACT to the relevant gaming body. My request relates to access to a document showing the permit and date of lodgement for the same permit for a competition in 2013.

The permit was given in relation to a competition likely to have been called 'Coles One Direction Competition' which ran from about June – September 2013.

I understand that Access Canberra deal with information requests, however I need to know the relevant Department which deals with such permits for the purposes of my application.

Any help/info as to where to make such an application, documents required and costs ect.. would be greatly appreciated.

Kind Regards,

[REDACTED]
[REDACTED]
[REDACTED]



ACT
Government

Chief Minister, Treasury and
Economic Development

Our ref: CMTEDDFOI 2019-177

[REDACTED]

via email [REDACTED]

Dear [REDACTED]

FREEDOM OF INFORMATION REQUEST

I refer to your application under section 30 of the *Freedom of Information Act 2016* (the Act), received by the Chief Minister, Treasury and Economic Development Directorate (CMTEDD) on 5 August 2019.

Specifically, you are seeking: "Documents indicating the date of lodgement of an application for a permit, and the permit itself, for a competition. The competition is likely titled 'Coles One Direction Competition' which ran roughly from June - September 2013."

Authority

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.

Timeframes

In accordance with section 40 of the Act, CMTEDD is required to provide a decision on your access application by 10 September 2019.

Decision on access

Searches were completed for relevant documents and one document was identified that falls within the scope of your request.

I have included as **Attachment A** to this decision the schedule of the relevant document. This provides a description of the document that falls within the scope of your request and the access decision for that document.

I have decided to grant partial access to the document as I consider it to contain information that would, on balance, be contrary to the public interest to disclose under the test set out in section 17 of the Act.

My access decision is detailed further in the following statement of reasons and the documents released to you are provided as **Attachment B** to this letter.

In accordance with section 54(2) of the Act a statement of reasons outlining my decisions is below.

Statement of Reasons

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

- the Act;
- the content of the documents that fall within the scope of your request; and
- the *Information Privacy Act 2014*.

Exemption claimed

My reasons for deciding not to grant access to the identified documents and components of these documents are as follows:

Public Interest

The Act has a presumption in favour of disclosure. As a decision maker I am required to decide where, on balance, public interests lies. As part of this process I must consider factors favouring disclosure and non-disclosure.

In *Hogan v Hinch* (2011) 243 CLR 506, [31] French CJ stated that when ‘used in a statute, the term [public interest] derives its content from “the subject matter and the scope and purpose” of the enactment in which it appears’. Section 17(1) of the Act sets out the test, to be applied to determine whether disclosure of information would be contrary to the public interest. These factors are found in subsection 17(2) and Schedule 2 of the Act.

Taking into consideration the information contained in the documents found to be within the scope of your request, I have identified that the following public interest factors are relevant to determine if release of the information contained within these documents is within the ‘public interest’.

Factors favouring disclosure in the public interest:

- (a) *disclosure of the information could reasonably be expected to do any of the following:*
- (viii) *reveal the reason for a government decision and any background or contextual information that informed the decision.*

Factors favouring nondisclosure in the public interest:

- (a) *disclosure of the information could reasonably be expected to do any of the following:*
- (ii) *prejudice the protection of an individual’s right to privacy or any other right under the Human Rights Act 2004.*

The document contains information about the permit, including submission date, draw times and other information required to be granted a permit. I consider the release of this information would provide background information and context in relation to the granting of the permit.

When considering the above finding against the factor favouring non-disclosure, I am satisfied that the protection of an individual’s right to privacy, especially in the process of complying with ACT Government regulations is a significant factor as the person involved has provided their personal information ACT Government to comply with certain obligations and has an expectation that their privacy will be maintained. I am satisfied in

this instance that this factor favouring non-disclosure should be afforded significant weight as it relates to the individuals' privacy.

Having applied the test outlined in section 17 of the Act and deciding that release of personal information contained in the documents is not in the public interest to release, I have chosen to redact this specific information in accordance with section 50(2). Noting the pro-disclosure intent of the Act, I am satisfied that redacting only the information that I believe is not in the public interest to release will ensure that the intent of the Act is met and will provide you with access to the majority of the information held by CMTEDD within the scope of your request.

Charges

Pursuant to *Freedom of Information (Fees) Determination 2017 (No 2)* processing charges are not applicable for this request because the total number of pages to be released to you does not exceed the charging threshold of 50 pages.

Online publishing – Disclosure Log

Under section 28 of the Act, CMTEDD maintains an online record of access applications called a disclosure log. Your original access application, my decision and documents released to you in response to your access application will be published in the CMTEDD disclosure log three working days after the date of my decision. Your personal contact details will not be published.

You may view CMTEDD disclosure log at

<https://www.cmtedd.act.gov.au/functions/foi/disclosure-log>.

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 Ombudsman review of this outcome under section 73 of the Act within 20 working days from the day that my decision is published in CMTEDD 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 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/>

Should you have any queries in relation to your request please contact me by telephone on 6207 7754 or email CMTEDDFOI@act.gov.au.

Yours sincerely,



Daniel Riley
Information Officer
Information Access Team
Chief Minister, Treasury and Economic Development Directorate

14 August 2019



ACT
Government

Chief Minister, Treasury and
Economic Development

FREEDOM OF INFORMATION REQUEST SCHEDULE

| NAME | WHAT ARE THE PARAMETERS OF THE REQUEST | Reference NO. |
|------------|---|--------------------|
| [REDACTED] | Documents indicating the date of lodgement of an application for a permit, and the permit itself, for a competition. The competition is likely titled 'Coles One Direction Competition' which ran roughly from June - September 2013. | CMTEDDFOI 2019-177 |

| Ref No | Page number | Description | Date | Status | Reason for Exemption | Online Release Status |
|-------------------------|-------------|----------------------|------------|-----------------|--|-----------------------|
| 1 | 1 | Screenshot of permit | 6-Aug-2019 | Partial release | Schedule 2 2.2(a)(ii) – Personal privacy | Yes |
| Total No of Docs | | | | | | |
| 1 | | | | | | |

Permit Number: 201301528 **Permit Status:** **Lapsed**
Permit Issued Date: 01 May 2013 **Application Received Date:** 29 Apr 2013

Organisation: Coles Supermarkets Australia Pty Ltd
Agency: Focal Promotions **Clear Agency**

Trade Promotion:
Promotion Name: Coles One Direction Competition
Prize Value: \$1,022,000.00 **Fee Payable:** \$2,842.00 **Start Date:** 05 Jun 2013
Closing Date: 30 Jul 2013 **Draw Date:** 09 Aug 2013
Results Date: 12 Aug 2013 **1900/SMS/MMS:** **State:** NSW

Contact:
Title: Sch 2 2.2(a)(ii)
First Name: [REDACTED]
Surname: [REDACTED]

CR Number: 104085
Amount Paid: \$2,842.00

Amendments:

| Date | By |
|----------------------|----------------|
| 20 May 2013 11:17:21 | Mark McCormick |
| 01 May 2013 09:59:20 | May Bennison |

Extract obtained from the ACT Gambling and Racing Commission Lotteries Database on 6 August 2019