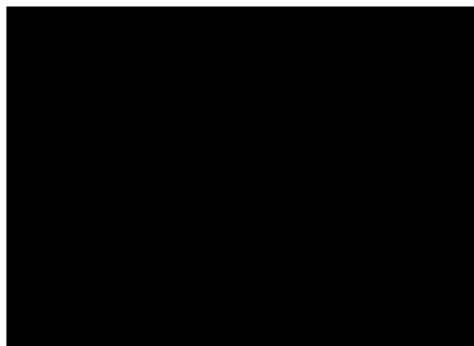




**ACT**  
Government

Chief Minister, Treasury and  
Economic Development

Our ref: CMTEDD 8/16-17



### **Internal Review of a Decision under the *Freedom of Information Act 1989***

I refer to your email and letter of 21 October 2016 seeking an internal review of Ms Jenny Priest's decision dated 23 September 2016 on your request for access under the *Freedom of Information Act 1989* (the Act) to documents concerning the ACT Model Car Racing Club (ACTMCRC).

I note that your letter to the Director-General of the Chief Minister, Treasury and Economic Directorate (CMTEDD) also posed a number of questions about the Government's decision to allow the ACTMCRC facility on Kambah Oval No 3. I am advised that a separate letter is being prepared in response to these questions.

I am an authorised delegate and I have undertaken the requested internal review of the Freedom of Information (FOI) decision in accordance with section 59 of the Act.

Your request specifically seeks reconsideration of:

- the decision not to release "internal emails discussing general administrative matters" deemed to be irrelevant; and
- the decision to redact components of records of noise tests conducted by Environment Protection Officers.

You have also restated your request for a copy of the noise measurement manual provided for in the *Environment Protection Regulation 2005*, s. 29A.

### **Decision on internal review (access)**

Firstly, I wish to apologise that the Environment Protection Noise Measurement Manual was not provided in response to your original request. While the manual is publicly available, the link provided was not adequate to direct you to its location. I have included a copy of the manual with this letter, and you may also find the manual online at: <http://www.legislation.act.gov.au/sl/2005-38/di.asp>.

Chief Minister, Treasury and Economic Development

GPO Box 158 Canberra ACT 2601 | phone: 132281 | [www.act.gov.au](http://www.act.gov.au)

In response to your request for a review of Ms Priest's release decisions, I have carefully examined all documents identified as relevant to your request and those that were determined to be beyond the scope of your request. I have decided to affirm the release decisions made by Ms Priest, with the exception of the release of two additional emails from constituents that I have chosen to release. I have also determined that in some instances, additional information deemed to be irrelevant to the scope of your request can be released without detriment. I have provided further detail on my decisions in the subheadings below.

I have also reviewed the use of the section 41 (personal privacy) and section 43 (business affairs) exemption provisions to justify non-release of identifying personal information and information concerning the ACTMCRC's insurance policy. I have determined that the redacted information is exempt material and I concur with the reasons provided in Ms Priest's letter of 23 September 2016. I also do not consider that release of this information would contribute to public understanding of Government decision making.

I am also satisfied that appropriate and thorough searches were undertaken by CMTEDD in preparing the original decisions.

- *The decision not to release "internal emails discussing general administrative matters" deemed to be irrelevant*

It is usual for the Directorate to provide only the information relevant to an applicant's request. I have reviewed all information that was not provided to you and can advise that the redacted information is internal correspondence about the preparation of responses to correspondence received from constituents. It does not provide further context about the Government's decision to allow the ACTMCRC facility at Kambah Oval.

Although I agree with Ms Priest's identification of the information as 'out of scope', I consider that the redacted information can be released without detriment. I have attached an updated document package that includes all administrative emails redacted in the original decision. Material redacted on personal privacy grounds remains exempt from release. The documents associated with the schedules titled 'Correspondence with ACTMCRC' and 'Information regarding Licence and Noise Testing' are not included as no administrative material was redacted from these documents.

I note your specific question about the lack of documentation after Mr Rodney Dix's email to Mr Timothy Gibb on 5 September 2012. I can advise that a phone message from Mr Gibb was left with Mr Brian Ashcroft on the same day (transcription provided with this letter). I am satisfied that no further documentation is held after this date.

I have also identified two emails from constituents that were originally deemed to be out of scope that I consider may be released. These emails are provided with this letter. I have exempted from release, under section 41 of the Act, any information in these emails that would identify individuals external to the Government.

I do not consider that any further information has been withheld that would contribute to public understanding of the decision made by Government to grant a licence to the ACTMCRC for use of Kambah Oval No. 3.

- *The decision to redact components of records of noise tests conducted by the Environment Protection Officers*

The decision to redact information from notebook entries made by Environment Protection Officers was made on the basis that the information was beyond the scope of your request. I have reviewed the information in the notebooks and I affirm Ms Priest's decision not to release this information. The same notebook is used by Environment Protection Officers to document noise testing conducted at various sites. I consider that it is appropriate to only provide the components of the notebooks that relate to the ACTMCRC. The redacted information, in addition to being unrelated to the ACTMCRC, identifies a private residence where noise testing was undertaken and also contains personal information about the inspector's work hours. I consider that this information would qualify for exemption under section 41 (personal privacy) of the FOI Act.

#### **Review of this decision**

My decision is appealable under sub-section 60(1) of the Act. If you are dissatisfied with this decision you may apply to the ACT Civil and Administrative Tribunal for a review within 28 days of receipt of this letter.

Further information may be obtained from the Tribunal 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/>

Under section 54 of the Act you also have the right to complain to the Ombudsman about the processing of your request. If you wish to lodge a complaint you should write to:

ACT Ombudsman  
GPO Box 442  
Canberra ACT 2601  
<http://www.ombudsman.act.gov.au/>

Should you have any queries regarding this matter please contact me on (02) 6207 4791.

Yours sincerely

  
David Miller  
Director, Skills Canberra  
14 November 2016