



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 2020-204

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)	25
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: [REDACTED]
To: [CMTEDD.FOI](#)
Subject: Freedom of Information request
Date: Tuesday, 27 October 2020 3:20:40 PM

CAUTION: This email originated from outside of the ACT Government. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Please find online enquiry details below. Please ensure this enquiry is responded to within fourteen working days.

Your details

All fields are optional, however an email address OR full postal address must be provided for us to process your request. An email address and telephone contact number will assist us to contact you quickly if we need to discuss your request.

Title:

First Name:

Last Name:

Business/Organisation

Address:

Suburb:

Postcode:

State/Territory:

Phone/mobile:

Email address:

Request for information

(Please provide as much detail as possible, for example subject matter and relevant dates, and also provide details of documents that you are not interested in.)

We received a letter dated 12 October 2020 from the Chief Ministers, Treasury and Economic Development Department ref no: 20436. The letter stated Access Canberra received a complaint about noise coming from our property on 5 October 2020. The person making the complaint believes the noise from amplified music is excessive and is affecting their wellbeing.

Under the Freedom of Information Act 2016 I want to access the following document/s (*required field):

[REDACTED] e would like further details regarding the complaint including details of who made the complaint along with copies of any evidence submitted to substantiate the complaint. We believe the complaint was made by [REDACTED] at [REDACTED]

I do not want to access the following documents in relation to my request::

Thank you.
Freedom of Information Coordinator

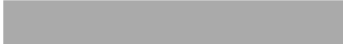


ACT
Government

Chief Minister, Treasury and
Economic Development

Our ref: CMTEDDFOI 2020-204





via email 

Dear 

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 27 October 2020, in which you sought access to documents relating to a noise complaint at your address.

Specifically, you are seeking:

"... further details regarding the complaint including details of who made the complaint along with copies of any evidence submitted to substantiate the complaint. We believe the complaint was made by our  ."

Authority

As an appointed Information Officer under section 18 of the Act, I am authorised to make a decision on access or amendment to government information in the possession or control of CMTEDD.

Timeframes

In accordance with section 40 of the Act, CMTEDD is required to provide a decision on your access application by 24 November 2020 however, following on from third party consultations, the due date is now 15 December 2020.

Third Party Consultation

In making this decision, third party consultation was completed in accordance with section 38 of the Act. The views of the relevant third parties were taken into consideration when making this decision.

Decision on access

Searches were completed for relevant documents and five documents were identified that fall within the scope of your request.

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

I have decided to grant partial access to five documents relevant to your request.

My access decisions are 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;
- the *Human Rights Act 2004*.

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:*
- (b) (xiii) *contribute to the administration of justice generally, including procedural fairness.*

Having considered the factors identified as relevant in this matter, I consider that release of the information contained in the document may contribute to procedural fairness by allowing you to have a copy of the documents that fall within the scope of your request.

Factors favouring nondisclosure in the public interest:

(a) *disclosure of the information could reasonably be expected to do any of the following:*

(b) (ii) *Prejudice the protection of an individual's right to privacy or other rights under the Human Rights Act 2004;*

Having reviewed the documents, I consider that the protection of an individual's right to privacy, especially in the course of dealings with the ACT Government is a significant factor as the parties involved have provided their personal information for the purposes of working with the ACT Government. This, in my opinion, outweighs the benefit which may be derived from releasing the personal information of the individual's involved in this matter.

Individuals are entitled to expect that the personal information they have supplied as part of this process will be dealt with in a manner that protects their privacy. Considering the type of information to be withheld from release, I am satisfied that the factors in favour of release can still be met while protecting the personal information of the individuals involved. I therefore weight the factor for non-disclosure more highly than the factor in favour of release in this instance. As a result, I have decided that release of this information (addresses, mobile numbers, identifying details and names of individuals not employed by the ACT Public Service) could prejudice their right to privacy under the *Human Rights Act 2004*.

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

Processing charges are not applicable for this request the number of pages to be released to you is below 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 after 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-2020>.

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.

We recommend using this form [Applying for an Ombudsman Review](#) to ensure you provide all of the required information. Alternatively, 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



Philip Dachs
Information Officer
Information Access Team
Chief Minister, Treasury and Economic Development Directorate

1 December 2020



ACT
Government

Chief Minister, Treasury and
Economic Development

FREEDOM OF INFORMATION REQUEST SCHEDULE

WHAT ARE THE PARAMETERS OF THE REQUEST

Reference NO.

We would like further details regarding the complaint including details of who made the complaint along with copies of any evidence submitted to substantiate the complaint.

CMTEDDFOI 2020-204

Ref No	Page number	Description	Date	Status	Reason for Exemption	Online Release Status
1	1-2	Environment Protection Complaint – 6CPSS6R8	3 Oct 2020	Partial release	Sch 2 s2.2 (a)(ii)	Yes
2	3-4	Environment Protection Complaint – 2YMSGBY5	3 Oct 2020	Partial release	Sch 2 s2.2 (a)(ii)	Yes
3	5-6	Environment Protection Complaint – S6B76Y25	5 Oct 2020	Partial release	Sch 2 s2.2 (a)(ii)	Yes
4	7-8	Environment Protection Complaint – G3ZBXCZ6	5 Oct 2020	Partial release	Sch 2 s2.2 (a)(ii)	Yes
5	9-10	Outcomes by case with incidents	12 Oct 2020	Partial release	Sch 2 s2.2 (a)(ii)	Yes
Total No of Docs						
5						

Environment Protection Complaint - Submission confirmation

Your submission has been successful. Please keep a copy of this receipt for your records.

Date and time

03 Oct 2020 6:06:09 PM

Reference code

6CPS56R8

Environment Protection
Access Canberra

Phone: 13 22 81

Call details

CSO initials *

JJ

Date

03/10/2020

Time

18:06

Is this a police request? *

Yes

No

Caller information

Title

Sch 2.2(a)(ii)

Given name *

Sch 2.2(a)(ii)

Family name *

Sch 2.2(a)(ii)

Primary phone number *

Sch 2.2(a)(ii)

Other phone number

Caller address

Interstate

Address line 1 *

Sch 2.2(a)(ii)

Address line 2

Suburb *

Sch 2.2(a)(ii)

State *

ACT

Postcode *

2914

Address of complaint

Address line 1 *

Address line 2

Suburb *

State *

Postcode *

Complaint details

Type of complaint *

Noise

How many times has the caller phoned about the complaint previously? *

0

Details *

Would Like To Make A Noise Complaint About Sch 2.2(a)(ii) Who Keeps Hitting His Soccer Ball Against The Fence Everyday Between 4pm To 6pm Weekends All Days From 11am To 6pm, Last Night Was 3:30 To 10pm

Has this call been made after hours? *

Yes No

Time reported *

6:05pm

Name of inspector to attend *

unknown

Environment Protection Complaint - Submission confirmation

Your submission has been successful. Please keep a copy of this receipt for your records.

Date and time

03 Oct 2020 7:07:32 PM

Reference code

2YMSGBY5

Environment Protection
Access Canberra

Phone: 13 22 81

Call details

CSO initials *

LG

Date

03/10/2020

Time

19:07

Is this a police request? *

Yes

No

Caller information

Title

Given name *

Sch 2.2(a)(ii)

Family name *

Sch 2.2(a)(ii)

Primary phone number *

Sch 2.2(a)(ii)

Other phone number

Caller address

Interstate

Address line 1 *

Sch 2.2(a)(ii)

Address line 2

Suburb *

Sch 2.2(a)(ii)

State *

ACT

Postcode *

2914

Address of complaint

Address line 1 *

Address line 2

Suburb *

State *

Postcode *

Complaint details

Type of complaint *

Noise

How many times has the caller phoned about the complaint previously? *

2 or more

Details *

From 6:30pm The Banging From The Sch 2.2(a)(ii) Have Begun Again. They're Using A Soccer Ball Against The Wooden Fencing. Alleged Source Is Act 2914.

Has this call been made after hours? *

Yes No

Time reported *

18:57

Name of inspector to attend *

Patrick

Environment Protection Complaint - Submission confirmation

Your submission has been successful. Please keep a copy of this receipt for your records.

Date and time

05 Oct 2020 7:07:09 PM

Reference code

S6B76Y25

Environment Protection
Access Canberra

Phone: 13 22 81

Call details

CSO initials *

AP

Date

05/10/2020

Time

19:08

Is this a police request? *

Yes

No

Caller information

Title

Given name *

Family name *

Sch 2.2(a)(ii)

Sch 2.2(a)(ii)

Primary phone number *

Other phone number

Sch 2.2(a)(ii)

Caller address

Interstate

Address line 1 *

Sch 2.2(a)(ii)

Address line 2

Suburb *

State *

Postcode *

Sch 2.2(a)(ii)

ACT

2914

Address of complaint

Address line 1 *

Address line 2

Suburb *

State *

Postcode *

Complaint details

Type of complaint *

Noise

How many times has the caller phoned about the complaint previously? *

2 or more

Details *

The ^{Sch 2.2(a)(ii)} Is Delivery Kicking A Soccer Ball At The Fence And Bouncing It On The Ground Nonstop. Caller Claims This Is 90 Decibels. This Is An Ongoing Issue, ^{Sch 2.2(a)(ii)} Reported It Before.

Has this call been made after hours? *

Yes No

Time reported *

19:00

Name of inspector to attend *

N/A

Environment Protection Complaint - Submission confirmation

Your submission has been successful. Please keep a copy of this receipt for your records.

Date and time

05 Oct 2020 7:34:38 PM

Reference code

G3ZBXCZ6

Environment Protection
Access Canberra

Phone: 13 22 81

Call details

CSO initials *

dct

Date

05/10/2020

Time

19:34

Is this a police request? *

Yes

No

Caller information

Title

Sch 2.2(a)(ii)

Given name *

Sch 2.2(a)(ii)

Family name *

Sch 2.2(a)(ii)

Primary phone number *

Sch 2.2(a)(ii)

Other phone number

Caller address

Interstate

Address line 1 *

Sch 2.2(a)(ii)

Address line 2

Suburb *

Sch 2.2(a)(ii)

State *

ACT

Postcode *

2914

Address of complaint

Address line 1 *

Address line 2

Suburb *

State *

Postcode *

Complaint details

Type of complaint *

Noise

How many times has the caller phoned about the complaint previously? *

1

Details *

Caller Advised That The People At This Location Are Having A Huge Party, Lots Of Loud Music...screaming, Cursing Etc.

Has this call been made after hours? *

Yes



No

Outcomes by case with incidents

Outcome/action type	Actions taken	Created By	Text	Date time of action
Notes	201009-001097 - First advisory letter sent to AM	Matt [Redacted]	No Value	12/10/2020 03.37 PM
Incident note	201009-001097	Matt [Redacted]	Customer Proxy Environment Protection complaint Form data summary Customer service operator initials: dctCaller name: [Redacted] Complaint address: [Redacted] Suburb: [Redacted] Police officer name: Complaint type: NoiseNumber of times complained about noise: 1Complaint details: Caller Advised That The People At This Location Are Having A Huge Party, Lots Of Loud Music...screaming, Cursing Etc.Inspector contacted: Tracking code: G3ZBXCZ6Submission ID: G3ZBXCZ6	09/10/2020 12.05 PM
Incident note	201009-001097	Matt [Redacted]	Note From: Bacon, Patrick <Patrick.Bacon@act.gov.au> Sent: Thursday, 8 October 2020 12:52 PM To: AccessCanberraCMT <AccessCanberraCMT@act.gov.au> Subject: FW: Environment Protection complaint, G3ZBXCZ6, [Redacted] [SEC=UNCLASSIFIED, DLM=Sensitive: Personal] OFFICIAL Hello CMT, Could you please create a new case for the attached incident? Thank you Patrick Bacon Environment Protection Officer Environment Protection Phone: 02 6207 2142 email: patrick.bacon@act.gov.au Environment Protection Authority Access Canberra ACT Government Dame Pattie Menzies House, Challis Street, Dickson GPO BOX 158 CANBERRA ACT 2601 www.environment.act.gov.au From: Dix, Rodney <Rodney.Dix@act.gov.au> Sent: Tuesday, 6 October 2020 12:51 PM To: Bacon, Patrick <Patrick.Bacon@act.gov.au> Subject: FW: Environment Protection complaint, G3ZBXCZ6, [Redacted] [SEC=UNCLASSIFIED, DLM=Sensitive: Personal] Rodney Dix Manager Phone: +61 2 6207 2586 Fax: +61 2 6207 6084 Email: rodney.dix@act.gov.au Environment Protection Access Canberra ACT Government Dickson Office Building 480 Northbourne Ave Dickson GPO Box 158 Canberra ACT 2601 www.environment.act.gov.au	09/10/2020 12.05 PM

Incident note

201009-001097

Matt sbn 2.2(a)(ii)

12/10/2020 03:37 PM

Staff Account

Dear sbn 2.2(a)(ii)

Thank you for contacting Access Canberra.

From the details you have provided, an information letter advising of noise restrictions has been sent to [REDACTED]

Most noise concerns are short-term and can usually be resolved through discussion between whoever is causing then noise and the affected parties.

Our experience is that until notified of a possible breach of legislation, an occupant may not be aware of their responsibilities. Often our initial contact will compel the respondent act appropriately. If the issue is still occurring after 26/10/2020, please let us know by replying to this email.

Kind regards,

Matt | Complaints Management Team

Phone 13 22 81

Access Canberra | ACT Government