



**SECTION**

# D.1. Public Interest Disclosure

## PUBLIC INTEREST DISCLOSURE (PID) PROCEDURES

The *Public Interest Disclosure Act 2012* (the PID Act) requires ACT Government Directorates to publish specific procedures detailing how public interest disclosures will be managed.

During 2013-14, the Directorate operated under draft *Public Interest Disclosure Procedures* addressing the requirements of the PID Act. The Directorate's draft procedures are based on the Commissioner for Public Administration's *Public Interest Disclosure Guidelines 2013* (notifiable instrument number NI2013-40) and provides additional support for disclosers (if they wish), reflecting the recommendations from the *Whistling While They Work* report.

The Public Sector Management Group within the Chief Minister and Treasury Directorate (CMTD) has reviewed the Directorate's draft procedures and advised that the additional support for disclosers provided in the procedures was innovative and could be used as a model for other directorates.

The Commissioner's Guidelines have been under review during the second half of the financial year which has delayed the finalisation of the Directorate's *Public Interest Disclosure Procedures*.

## PID STATISTICS

During the 2013-14 reporting year the Directorate was referred one (anonymous) complaint, from the ACT Auditor-General. Careful consideration was given to the complaint, including a consultant being engaged to investigate the matter. Following this process, it was assessed that the complaint did not amount to a public interest disclosure for the purposes of the PID Act. The Auditor-General was advised accordingly. The process took approximately six months.

Towards the end of the reporting year, CMTD implemented the Public Interest Disclosure Tracking System, to assist with future annual reporting on disclosures, as well as assist Disclosure Officers to meet the obligations and timeframes stipulated in the (PID Act).

### Further information may be obtained from:

Director, Corporate  
Ph: (02) 6207 8207

## D.2. Freedom of Information

The ACT *Freedom of Information Act 1989* (the FOI Act)

- provides for general access to documents of agencies and official documents of Ministers, subject to certain exemptions;
- provides for the amendment of records about personal affairs of an applicant that the applicant believes to be incorrect, incomplete, out of date or misleading;
- establishes a system to review certain decisions at various levels; and
- requires the publication of information on the functions and official documents of an agency, and that particular documents be available for inspection and sale.

During the reporting year an internal audit was undertaken of the administration of the FOI Act within the Directorate and the Land Development Agency (LDA). The objective was to provide assurance to the Directorate Audit Committee and LDA Board Audit and Risk Committee that the statutory obligations under the FOI Act were being met. The audit awarded the highest internal control effectiveness rating of 'Adequate', finding that the FOI function was operating effectively, that all statutory timeframes were being met and the public and stakeholders were being well advised of their review rights. The audit identified opportunities for improvement in relation to information for staff, and documentation of processes.

### SECTION 7 STATEMENT

Section 7 of the FOI Act requires the Directorate to prepare and publish a statement outlining the organisation's functions and powers, the categories of documents available and facilities provided for access to documents.

### ORGANISATION FUNCTION AND POWERS

Information regarding functions and operations of the Directorate can be found in section B.1 of this report. Legislation administered by the Directorate is listed on the ACT Legislation Register under "Administrative Arrangements".

### PUBLIC PARTICIPATION IN DECISION MAKING

Arrangements for public participation in decision making include public submissions to inquiries, discussion at public meetings, consultative committees for specific purposes, access to records through Freedom of Information (FOI) requests, comments on draft documents, comments on Bills before the Assembly and contact with the relevant Minister.

### CATEGORIES OF DOCUMENTS

The Directorate holds the following categories of documents:

- those that are freely available on request or via the website and without charge;
- those that are exempt under the FOI Act; and
- all other kinds of documents that may be made available under the FOI Act.

## Documents available on request and without charge

Documents within this category include publications by the Directorate on various aspects of its activities. These documents are usually distributed at events, from the offices of the Directorate, and are generally available on the Directorate's website. Other documents include discussion papers, information pamphlets and annual reports.

## Documents available under the Freedom of Information Act

Documents of other kinds that may be available under the FOI Act include:

- general records, including internal, interdepartmental and public documents such as minutes of meetings, agendas and background papers, policy statements, correspondence and administrative records;
- personnel records;
- records held on microfilm, computer or paper in connection with directorate functions;
- photographs, videos and film;
- maps, plans and brochures;
- technical and scientific reports and discussion papers;
- financial records;
- details of contracts and tenders;
- files on applicants and clients; and
- leases and deeds of agreement.

## FACILITIES FOR ACCESS

Those seeking information are encouraged to contact the Directorate before resorting to the more formal FOI procedure. In many cases, it may be possible to access information more quickly and efficiently through such an approach.

The Directorate's contact for FOI is:

The FOI Coordinator

Chief Minister, Treasury and Economic Development Directorate

GPO Box 158

Canberra ACT 2601

Telephone: +61 2 6205 0238

Fax: +61 2 62075886

Email: [EDDFreedomofInformation@act.gov.au](mailto:EDDFreedomofInformation@act.gov.au)

The Directorate is located in the Canberra Nara Centre, corner of Constitution Avenue and London Circuit, Canberra City. Several bus stops are close to the Nara Centre on London Circuit. Short-term car parking is located opposite the Centre and a disabled car park space is available on Nangari Street. Information regarding bus routes and timetables can be obtained from ACTION ([www.action.act.gov.au/timetables](http://www.action.act.gov.au/timetables) and maps), or by telephone 131 710.

## SECTION 8 STATEMENT

Section 8 of the FOI Act requires the principal officer to prepare and make available a statement listing all publicly accessible documents that are used by the Directorate in making decisions under a legislative scheme. A copy of the Section 8 statement is available online at [www.economicdevelopment.act.gov.au](http://www.economicdevelopment.act.gov.au)

## FREEDOM OF INFORMATION GUIDELINES

The Directorate's FOI Help Guide is available on the Directorate's website, which aims to assist prospective applicants to make an FOI request. The Directorate is currently finalising updated *Freedom of Information Guidelines 2014* and creating an accompanying procedures document for the FOI Coordinator, decision makers and action officers. The Directorate is also revising the Guidelines for Action Officers and Managers. These guidelines inform decision makers and action officers about the FOI Act, their roles and responsibilities in managing responses to applications in accordance with the FOI Act.

## SECTION 79 STATEMENT

Section 79 of the FOI Act requires the Directorate to include in the Annual Report details of applications made to the Directorate during the year. Access decisions in relation to FOI requests are categorised in terms of: full access granted; partial access granted; entirely exempt; access refused to all documents (technical refusal); decision still pending; transferred; and withdrawn.

During the 2013-14 financial year, the Directorate received 30 applications under the FOI Act for access to documents.

## TIME TAKEN TO FINALISE FOI REQUESTS

Number of FOI Requests Received	30 Days or less	31 to 45 Days	46 to 60 Days	61 to 90 Days	91 Days or more	Not yet finalised as of 30 June 2014
30	23	1 <sup>1</sup>	2 <sup>1</sup>	0	0	4

## ACCESS DECISIONS

Full Access	Partial Access	Entirely Exempt	Technical Refusal	Withdrawn	Transferred to another Directorate	Not yet provided
2	10 <sup>2</sup>	1	6 <sup>3</sup>	6	1	4

## DECISIONS APPEALED

Requests for Internal Review	Decision Affirmed	Partial Access	Overtaken	Not yet finalised as of 30 June 2014
3	0	1 <sup>4</sup>	1 <sup>4</sup>	1

## REFERRALS TO THE ACT CIVIL AND ADMINISTRATIVE TRIBUNAL (ACAT)

Request to ACAT	Affirmed	Overtured	Not yet finalised	Withdrawn
1 <sup>5</sup>	0	0	0	1

## FEES AND CHARGES (FOR REQUESTS WITH >10 HOURS PROCESSING TIME)

Fees Charged	Total Amount Collected
\$1,290.00 <sup>6</sup>	nil

## APPLICANT TYPE

Member of the Public	Solicitor	Association/ Organisation	MLA	Company
10 <sup>7</sup>	6	2	11 <sup>8</sup>	1

<sup>1</sup> These figures include the completion of the two requests that were not yet finalised as at 30 June 2013 (one completed within 60 days under third party consultation timeframe, while the other was completed one day later than the 30 day deadline). The other request completed within 46-60 days involved third party consultation which allows for completion within 60 days.

<sup>2</sup> These figures include the completion of the two requests that were not yet finalised as at 30 June 2013. Decisions granting partial access were made for both requests.

<sup>3</sup> Technical Refusals refers to requests in which the Directorate holds no documents within the scope of the applicant's request, or requests that were refused access under section 23 of the Act as they were too large to process.

<sup>4</sup> This figure includes one original decision being overturned and the applicant being given full remission on charges; and one decision was partially overturned on access to some documents.

<sup>5</sup> This figure refers to one referral to the ACAT, which was later withdrawn.

<sup>6</sup> These charges relate to one request; the decision to charge was later overturned on internal review.

<sup>7</sup> Members of the public had a variety of interests including sport facilities, the Northbourne Avenue and City Hill Precinct; and the Direct Sales process.

<sup>8</sup> MLAs had interest in a variety of the Directorate's activities including: the *Planning and Development (Project Facilitation) Amendment Bill 2014*, the Capital Metro project; and the National Broadband Network (NBN).

## REQUESTS TO AMEND PERSONAL RECORDS (SECTION 48)

Section 48 of the FOI Act provides for a person, under specified circumstances, to ask for personal information in the documents to be amended if he or she believes they are incomplete, incorrect, out of date, or misleading – providing the person establishes one of these grounds. No requests to amend personal records were received during 2013-14.

### Further information may be obtained from:

Director, Corporate  
Ph: (02) 6207 8207

Section A

Section B

Section C

Section D

Section E

Section F

## D.3. Human Rights Act

### EDUCATION AND TRAINING OF AGENCY STAFF ON HUMAN RIGHTS PRINCIPLES

The Directorate continued to actively work towards creating a positive work culture with ongoing promotion of the Respect, Equity and Diversity (RED) framework. RED training continues to be compulsory for all staff. During the reporting period thirty-eight staff participated in RED training.

The Human Rights Commission is referred to in the Directorate's Induction Manual which is supplied to all new staff, and also in various human resource policies and fast facts, available to all staff via the Intranet.

The Directorate is committed to making information available on our various websites accessible to individuals with disabilities. During the reporting period, training on creating accessible documents was provided to staff on an as needs basis. The EDD Online Working Group (chaired by the Head of the Communications Branch) was established to implement the Web Content Accessibility Guidelines (WCAG) and is continuing to work to bring the Directorate's websites into compliance with the requirements of WCAG.

### INTERNAL DISSEMINATION OF INFORMATION TO AGENCY STAFF ON THE LEGISLATIVE SCRUTINY PROCESS

The Cabinet Handbook requires that all Cabinet Submissions must provide details of any human rights implications. The Government agreed that from 1 March 2013, triple bottom line (TBL) assessments be incorporated into all Cabinet submissions proposing policy changes. One of the TBL requirements is for an assessment of the social impacts including an evaluation of the proposal's impact on the *Human Rights Act 2004* (HRA).

The Directorate's Ministerial, Assembly and Cabinet Coordination section provides advice to relevant staff during the preparation of Cabinet submissions.

### LIAISON WITH THE HUMAN RIGHTS ADVISOR ON HUMAN RIGHTS PRINCIPLES OR THE LEGISLATIVE SCRUTINY PROCESS

During 2013-14, the Directorate prepared approximately 30 Cabinet submissions which included the consideration of human rights issues. Two compatibility statements were issued during the reporting period requiring consultation with the Human Rights Coordination and Scrutiny Group of the Justice and Community Safety Directorate. These compatibility statements were in regard to the:

- *Gaming Machine (Red Tape Reduction) Amendment Bill 2013* (no adverse comment); and
- *Totalisator Bill 2013*.

In relation to the *Totalisator Bill 2013*, the Standing Committee on Justice and Community Safety performing the role of Scrutiny of Bills (the Committee) commented on the Bill in its report of 18 February 2014. A key objective of the regulation of totalisators is to ensure the protection of the general public and minimise instances for the infiltration of the industry by criminal elements. As such strict regulatory safeguards were implemented. The licensee



is also an entity and not an individual and human rights considerations also need to be viewed in that context. The Committee raised concerns on:

- conferral of administrative powers;
- reasonable grounds for exercising powers, and
- trespass on personal rights and liberties.

While the issues raised on the conferral of administrative powers was considered appropriate, two minor amendments were implemented to provide clarification on powers to be exercised under the Act.

The Committee also suggested that consideration be given to inserting that powers only be exercised where there were reasonable grounds for doing so. The Committee's suggested amendments were not applied given that the powers were constrained by the 'grounds' that must apply before exercising those powers. Further narrowing those powers would hamper the regulatory functions of the ACT Gambling and Racing Commission in a highly regulated industry.

The Committee further raised concerns in relation to the right to privacy and reputation, specifically the supply of personal information by individuals and whether a reasonable excuse defence could be provided for failure to provide information. During the development of the legislation an assessment was made that there were not any less restrictive means available to verify a person's identity to ensure that the person was appropriate to be involved in gaming activities in the Territory.

Based on the Committee's concern two amendments were also made to provide a procedural fairness mechanism for suspending a licence, and to clarify that the Minister could only give a direction to a licensee if the Minister was satisfied that the integrity of the totalisator may be seriously compromised.

To ensure greater clarity and justification for the human rights limitations applied in the Act a revised Explanatory Statement was also submitted to the Legislative Assembly.

## **REVIEWS OR PREPARATIONS FOR REVIEWS OF EXISTING LEGISLATION FOR COMPATIBILITY WITH THE HRA**

The Directorate is currently undertaking reviews of the legislation administered by the Directorate for compliance with human rights principles and the relevance of each Act to current processes and procedures. As some Acts pre-date 1960, priority is being given to the Acts that require immediate review where there are unnecessary regulatory burdens placed on individuals or business (in line with the Government's priority on red tape reduction). The reviews are ongoing and subject to time constraints due to the complexities involved.

## **LITIGATION**

During the year the Directorate was not involved in any litigation which involved human rights.

### **Further information may be obtained from:**

Director, Corporate

Ph: (02) 6207 8207

## D.4. Territory Records Act

The ACT Government plays an important role in ensuring records documenting Government decisions and/or the heritage of the ACT are available to Canberra residents and government officials when required. Records provide evidence and proof of a particular action and provide support and transparency around the business conducted by the Territory.

Records management emphasises the value of knowledge and information as a resource. Ensuring that records are created, stored and retained in a structured manner enables information to be retrieved and accessed quickly as needed. This allows staff to fully dedicate their energies to their work tasks knowing that their information can be easily retrieved. The record life cycle extends from the time records are received or created, through processing and use, to placement in storage and retrieval systems until eventual destruction or permanent archival retention.

### Records management policy and procedures

The records created by the Directorate come in many formats: documents, maps, plans, drawings, negatives, slides, costumes, artworks, models, crown leases, investigation reports, medical profiles, and athlete training programs. Regardless of the format, these records tell a story about the work of the agency and give context to each task. The recording of this history is invaluable in painting a picture of what has occurred in Canberra over the years.

A major achievement of the Directorate in 2013-14 was the development of a Records Management Program (RMP), which complies with Section 16 of the *Territory Records Act 2002* (the Act). The RMP outlines how the Directorate will manage, retain and dispose of its records, in accordance with Whole-of-Government Thesaurus and Disposal schedules, and local policies, procedures and instructions. The RMP and supporting documentation is available to staff via the Directorate's intranet, and the RMP is available to the public via the Directorate's website.

The Directorate continues to investigate how records management can be improved, in particular by exploring the validity of implementing an Electronic Document Record Management System (EDRMS). This would greatly increase the business efficiency of the Directorate, streamline processes for staff, reduce business risks and improve accountability.

### Training

The Governance section of the Directorate has been delivering in-house training to staff in basic Records Management policy and procedures since 2011, which includes individual support as required. This financial year saw 45 Directorate staff undertake an in-house course in *Information and Records Management*, bringing the total number of staff trained since the inception of the training program (December 2011) to 169.

The Directorate uses the TRIM database for the management and storage of records, primarily hard copy files. To support the records management area, a Power User Network was established in the Directorate to manage the creation and tracking of the physical files in TRIM.

In addition to tracking hard copy files, TRIM is used by the Action Tracking Team to manage Directorate Ministerial matters and approval processes electronically in TRIM. A separate training session and ongoing support is also provided to these staff members; during the reporting year seven staff were trained in TRIM Power User and Ministerial Action Tracking, bringing the total number of staff trained to 56 since December 2011.

## Records Statistics

	Number of Records 2012-13	Number of Records 2013-14
<b>Records created on TRIM</b>		
Electronic	8,050	8,927
Hard Copy Files	3,274	3,883
<b>Total</b>	<b>11,324</b>	<b>12,810</b>
<b>Records sent to offsite storage</b>		
	2,879	2,356
<b>Records legally disposed of</b>		
	347	362

The data above is inclusive of records created by or for the Directorate, Land Development Agency, ACT Gambling and Racing Commission and the Exhibition Park Corporation (EPC), as all of these agencies utilise a shared TRIM database.

The 2013-14 data continues to show a shift towards more electronic documents needing approval being registered into TRIM. The increase in the number of hard copy files is a reflection of the rise in the number of bulk order files for new land development and sales event files.

## Access to records

In accordance with the Act, the Directorate has an arrangement in place to preserve records containing information that allow people to establish links with their Aboriginal or Torres Strait Islander heritage. The Directorate does not expect that any of its records will contain information that may allow people to establish links with their Aboriginal or Torres Strait Islander heritage, however if such a record is created, received or identified, the Directorate will endorse the record with the notation "File contains records with Aboriginal or Torres Strait Islander heritage information – Do Not Destroy".

Public Access provisions of the Act allow access to records that are more than 20 years old. In 2013-14 the Directorate received two public access requests for records and information compared to four in 2012-13.

Members of the public can seek access to the Directorate's records by contacting:

ArchivesACT

GPO Box 158,

Canberra City ACT 2601

Email to: [archives@act.gov.au](mailto:archives@act.gov.au)

Fax Number +61 2 6207 5835

Phone Numbers:

Reference Archivist (Government records) +61 2 6207 5726

Access Support Officer +61 2 6205 3510

Under section 28 of the Act, the Directorate may apply to the Director of Territory Records to make a declaration to exempt certain records or classes of records from public access under prescribed provisions of the *Freedom of Information Act 1989*. Access to a record to which a declaration applies is prohibited under the Act.

In compliance with section 30 of the Act, the Directorate maintains an approved register of section 28 declarations which is incorporated into the Territory Records Office consolidated version (available for government use on their intranet site).

## Disposal of records

In addition to the Whole-of-Government Thesaurus and Disposal Schedules, which are used to manage retention length and disposal of administrative records, agency specific records are managed in accordance with the below notifiable instruments.

Records Disposal Schedule Name	Effective	Year and No.
Business Development	9 January 2009	NI2009—9
Gambling and Racing Regulation Records	15 December 2004	NI2004—476
Government Coordination Records	14 September 2007	NI2007—280
Industry Development Records	26 September 2006	NI2006—347
Land Development	21 April 2006	NI2006—136
Sport and Athlete Development Records	14 December 2006	NI2006—448
Tourism	14 November 2003	NI2003—455
Venue and Event Management Records	28 October 2005	NI2005—402

At present there are two disposal freezes that are relevant to the Directorate. The aim of a disposal freeze on records is to minimise the risk of losing crucial evidence at, or around the time when an issue has been identified. They are:

- The Federal Post Cornwell Superannuation Case Litigation - Processing of Additional Claims; Instruction 23 – TRO Records Advice No. 59. Records Disposal Freeze – Superannuation Records 2010-2015; and
- Royal Commission into Institutional Responses to Child Sexual Abuse - Territory Records (Records Disposal Schedule - Protection of records relevant to the Royal Commission into Institutional Responses to Child Sexual Abuse) Approval 2013 (No 1).

The Directorate will continue to retain records identified under the disposal freezes until the litigation and commission come to an end and the disposal freezes are lifted.

### Further information may be obtained from:

Director, Corporate  
Ph: (02) 6207 8207

## D.5. Legal Services Directions

The Directorate had the following measures in place to ensure awareness and compliance with legal services directions:

- The Director-General through the Senior Executive Committee meetings is regularly advised on the status of all current litigation and legal proceedings.
- All of the Directorate's legal services are provided through the ACT Government Solicitor (ACTGS).
- Policies and procedures will continue to be developed and reviewed to ensure compliance with the legal services directions.

There were no breaches of the legal services directions by the Directorate in 2013-14.

### **Further information may be obtained from:**

Chief Finance Officer  
(02) 6207 9114

Section A

Section B

Section C

Section D

Section E

Section F

## D.7. Bushfire Risk Management

Stromlo Forest Park, managed by Territory Venues and Events adheres to a Bushfire Operational Plan (BOP) that has been prepared in association with the Territory and Municipal Services Directorate Fire Management Unit.

The BOP for the Park includes controlled burns to be conducted by the Parks and City Services Division (PCS) Fire Management Unit and the Rural Fire Service (RFS). The BOP also includes the slashing of key fire trails prior to and during the fire season and the grazing of Block 498 (Stromlo West) to reduce fuel levels. Fuel levels within the Park are monitored by the PCS Fire Management Unit.

In 2012-13, Territory Venues and Events prepared a Strategic Bushfire Management Plan (SBMP) for Stromlo Forest Park. The SBMP includes an updated and comprehensive operational plan to complement the existing BOP and provides a framework to deliver fire fuel management and fire containment measures over a five-year period. The SBMP has been developed in consultation with the Emergency Services Authority and also addresses the development of an Outer Asset Protection Zone along the boundary with the Molonglo subdivision developments.

In 2013-14, planning has progressed to undertake the first stage clearing of an Outer Asset Protection Zone along Swallowtail Road in Wright. All approvals have been granted and works will commence in winter 2014.

In 2014-15, the Government is providing \$1.65 million over three years to implement the Stromlo Forest Park SBMP.

### **Further information may be obtained from:**

Venue and Event Services

Ph: (02) 6207 5369

## D.8. Commissioner for the Environment

The Economic Development Directorate provided information to the Office of the Commissioner for Sustainability and the Environment, in relation to recommendations in the *2011 State of the Environment Report*. This information is to be included in the Commissioner's Annual Report 2013-14.

No investigations of Directorate functions have been undertaken by the Commissioner during the reporting year.

### **Further information may be obtained from:**

Director, Corporate  
Ph: (02) 6207 8207

Section A

Section B

Section C

Section D

Section E

Section F