



27 August 2010

Barry Wilson
Chairperson
The Rivermouth Action Group Inc
PO Box 268
Morningside QLD 4170

Dear Barry

**RE: APPLICATION FOR ACCESS TO DOCUMENTS UNDER
THE FREEDOM OF INFORMATION ACT 1982**

I refer to your written request sent seeking access under the provisions of the Freedom of Information Act 1982 ("the FOI Act"), to:

As you stated in your last email, Airservices Australia have a POLICY which sets out the way in which aircraft noise complaints are counted.

1 I request a copy of the approved approx 15 years old policy (mentioned in your last email) which sets out how aircraft noise complaints are to be recorded/counted by Airservices Australia including the signature and name and position of who approved the policy and when it came into effect.

2 I also request a copy all various draft copies and all precursors to the policy's adoption.

3 Any one or more document/s that lists all the members of the committee and their positions which were involved in the development of the said policy on aircraft noise complaints which limits as you say, to one complaint per day per person.

4 A copy of the Section of any Act of Parliament or Regulation allowed this POLICY to come into force?

5 Any documents the Department holds which relates to how are international aircraft noise complaints recorded or counted?

6 Any document containing the number of individual aircraft complained about by members of the public in Brisbane about the Brisbane Airport over a recent 12 month period or if not available a copy of every individual complaints over the past 12 months which were made without disclosing who made them.

7 Any document which sets out how individual aircraft noise complains are to be recorded by Airservices under the following conditions:

- a *More than one phone call per day from the same person complaining about a different aircraft's noise;*
 - b *More than one fax per day from the same person complaining about a different aircraft's noise;*
 - c *More than one email per day from the same person complaining about a different aircraft's noise;*
 - d *More than one SMS or other mobile phone transmission such as MMS per day from the same person complaining about a different aircraft's noise;*
- 8 Any document which sets out how Airservices policies are to be developed and approved.
- 9 Any documents which show how consultation was carried out before the one complaint per person per day came into force.

Attached is the Airservices' FOI access decision. Also contained within the decision is a section containing information regarding avenues of appeal or review available to you, should you not agree with the access decisions made in response to your request, or the way in which Airservices Australia has handled your request.

If you have any queries in relation to this advice, please contact this office directly on (02) 6268 5108.

Yours sincerely



Sasha Pestic
FOI and Inquiries Co-ordinator

Freedom of Information Act 1982

FOI ACCESS DECISION

**Rivermouth Action Group
Barry Wilson**

1. THE APPLICATION

Barry Wilson through the Rivermouth Action Group ("the applicant") made an application to Airservices Australia ("Airservices") in their letter, seeking access under the provisions of the Freedom of Information Act 1982 ("FOI Act"), to;

As you stated in your last email, Airservices Australia have a POLICY which sets out the way in which aircraft noise complaints are counted.

1 I request a copy of the approved approx 15 years old policy (mentioned in your last email) which sets out how aircraft noise complaints are to be recorded/counted by Airservices Australia including the signature and name and position of who approved the policy and when it came into effect.

2 I also request a copy all various draft copies and all precursors to the policy's adoption.

3 Any one or more document/s that lists all the members of the committee and their positions which were involved in the development of the said policy on aircraft noise complaints which limits as you say, to one complaint per day per person.

4 A copy of the Section of any Act of Parliament or Regulation allowed this POLICY to come into force?

5 Any documents the Department holds which relates to how are international aircraft noise complaints recorded or counted?

6 Any document containing the number of individual aircraft complained about by members of the public in Brisbane about the Brisbane Airport over a recent 12 month period or if not available a copy of every individual complaints over the past 12 months which were made without disclosing who made them.

7 Any document which sets out how individual aircraft noise complains are to be recorded by Airservices under the following conditions:

a More than one phone call per day from the same person complaining about a different aircraft's noise;

b More than one fax per day from the same person complaining about a different aircraft's noise;

c More than one email per day from the same person complaining about a different aircraft's noise;

d More than one SMS or other mobile phone transmission such as MMS per day from the same person complaining about a different aircraft's noise;

8 Any document which sets out how Airservices policies are to be developed and approved.

9 Any documents which show how consultation was carried out before the one complaint per person per day came into force.

DOCUMENTS LOCATED

Upon receiving the request inquiries were made of Airservices' staff in order to locate all the documents which could fall within the scope of the request. In this regard the following documents were located and received:

Document source	Documents located	Relevant documents	Documents outside scope
Safety & Environment Unit Corporate & International Affairs	5	5	0

DOCUMENT REVIEW

Review of the content of the documents indicated they fell into two categories:

- Category A Documents which can be released in their entirety
- Category B Documents which do not exist or cannot be found, under the provisions of section 24A

Category A – Documents which can be released in their entirety

I have decided to release the documents under the FOI Act, as identified in the attached schedule. These documents can be identified in the schedule by the use of the word 'Release', in the final column. These documents related to points 6, 7 and 8 mentioned above under section 1.

Category B - Documents that do not exist or cannot be found under the provisions of Section 24A (a) (ii) of the FOI Act

Section 24A of the FOI Act states:

"24A Requests may be refused if documents cannot be found or do not exist.

An agency or Minister may refuse a request for access to a document if:

- (a) all reasonable steps have been taken to find the documents; and*
- (b) the agency or Minister is satisfied that the document:*
 - (i) is in the agency's or Minister's possession but cannot be found; or*
 - (ii) does not exist."*

Following consultation with the relevant areas of Airservices, I am advised that Airservices Australia holds no document/information in relation to point 1, 2, 3,

4, 5,7d and 9 per section one mentioned above. Further searches were conducted in other areas that the documents may have been placed and no files were found.

Airservices Australia is able to offer the following information,

1 I request a copy of the approved approx 15 years old policy (mentioned in your last email) which sets out how aircraft noise complaints are to be recorded/counted by Airservices Australia including the signature and name and position of who approved the policy and when it came into effect.

Document does not exist.

2 I also request a copy all various draft copies and all precursors to the policy's adoption.

Document does not exist.

3 Any one or more document/s that lists all the members of the committee and their positions which were involved in the development of the said policy on aircraft noise complaints which limits as you say, to one complaint per day per person.

Document does not exist.

4 A copy of the Section of any Act of Parliament or Regulation allowed this POLICY to come into force?

Document does not exist.

5 Any documents the Department holds which relates to how are international aircraft noise complaints recorded or counted?

Document does not exist – For airports outside of Australia this information is often found within the airports complaints/enquiries website.

*7 Any document which sets out how individual aircraft noise complains are to be recorded by Airservices under the following conditions:
d) More that one SMS or other mobile phone transmission such as MMS per day from the same person complaining about a different aircraft's noise;*

Document does not exist – The Noise Enquiry Unit does not receive complaints via SMS or MMS.

9 Any documents which show how consultation was carried out before the one complaint per person per day came into force

Document does not exist.

Accordingly, as the documents sought within the request are not known to Airservices Australia, nor can Airservices Australia identify any documents relating to the request Airservices Australia is refusing access to the documents in accordance with the provisions of Section 24A (a) (ii) of the FOI Act, i.e. on the grounds that they do not exist.

AVENUES OF REVIEW AND COMPLAINT

If you do not agree with the decision made on access to the documents you have requested, there are several review avenues available:

Internal Review

This is the first step you should take to have a decision reviewed.

Under Section 54 of the FOI Act, you may request an Internal Review of a decision refusing to grant access to a document in accordance with your request. An application for an internal Review should be made in writing within 30 days of notification of the original decision, and addressed to:

Office of Legal Counsel
Airservices Australia
GPO Box 367
CANBERRA ACT 2601

An application fee of \$40.00 is to accompany requests for Internal Review.

An Internal Review is a complete review of the original decision by another officer of Airservices. The decision may be confirmed, altered or overturned by this review. You should be advised of the outcome of the Internal Review within 30 days of receipt of your application.

Administrative Appeals Tribunal

If you are dissatisfied with the decision of the Internal Review you may under Section 55 of the FOI Act apply to the Administrative Appeals Tribunal (AAT) for a review.

An application for review by the AAT should be addressed to:

The Registrar
Administrative Appeals Tribunal
GPO Box 9955
(Any capital city)

within 60 days of notification of a decision on Internal Review. An application fee of \$777 is to accompany requests for review by the AAT.

The AAT is an independent body whose function is to review specified administrative decisions. It can review most decisions made under the FOI Act and has the power to affirm, alter, overturn or replace decisions.

Commonwealth Ombudsman

Finally, Section 57 of the FOI Act provides that a person may complain to the Ombudsman if dissatisfied with the way in which an application for access to documents is being handled by Airservices Australia. The Ombudsman may then undertake an investigation into the complaint. (The Ombudsman usually

prefers applicants to seek internal review of a decision before taking up a complaint about that decision).

A complaint about action by Airservices Australia should be directed to the Commonwealth Ombudsman's Office in the applicant's State capital city. An applicant may complain by telephone, in person, or in writing. However, it will assist the Ombudsman to consider an applicant's concerns if an explanation is provided as to why the applicant believes Airservices' handling of the Freedom of Information request has not been appropriate.

AIRSERVICES AUSTRALIA'S DECISION-MAKER FOR THE REQUEST

Name : SASHA PESIC

Signature of Decision-Maker : 

Authorisation : Authorised Officer for the Purposes of the Freedom of Information Act 1982

Location : Office of Legal Counsel
Airservices Australia
Canberra

Date of Decision : 27 August 2010

