



**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 2018-0033

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)	20
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](#)  
**Cc:** [REDACTED]  
**Subject:** FW: FOI request regarding Developer Land Tax Exemption  
**Date:** Saturday, 10 February 2018 12:44:47 PM  
**Attachments:** [FOI questions.docx](#)

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Hello

I would like to make an FOI request regarding the Commissioner for ACT Revenue's administration of section 11 of the Land Tax Act 2004.

I am interested in the Commissioner's interpretation of the section, and how it has been applied to certain circumstances.

I request the following information: For the last 3 years, the number of land tax exemption applications, and the dollar value of those applications, for each of the circumstances outlined in the attached table.

In the event that the Commission does not maintain the statistics under these headings, I would welcome the opportunity to discuss the categories used by the Commissioner, to determine whether the Commissioner's standard categories could satisfy my needs.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

### FOI questions

How many, and for what value, were applications for a Builder's Land Tax Exemption under section 11(2) of the *Land Tax Act 2004* received during the last 3 years? How many, and what value of these applications fell into the following categories?

	Applications received	Exemption granted – effective from date of original purchase of land	Exemption granted – effective from amalgamation of blocks	Exemption granted – effective from strata title	Exemption granted – effective from other time	Exemption refused
Single residence on single block						
Single residence on a site requiring amalgamation of blocks (no strata title at end)						
Multi-unit development on a single block and without strata title at completion						
Multi-unit development on a site requiring amalgamation of blocks, but with NO strata title at completion						
Multi-unit development on a site requiring amalgamation of blocks and with strata title at completion						
Multi-unit development on a single block and with strata title at completion						
Other						
TOTAL						



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Economic Development

Our ref: CMTEDDDOI 2018-0033



via email: [REDACTED]

Dear [REDACTED]

### **FREEDOM OF INFORMATION REQUEST**

I refer to your application received by the Chief Minister, Treasury and Economic Development Directorate (CMTEDD) on 12 February 2018 in which you sought access to information under the *Freedom of Information Act 2016* (the Act).

Specifically, you are seeking access to the following information:

1. *For the last 3 years, the number of land tax exemption applications, and the dollar value of those applications, for each of the circumstances outlined in the attached table. (Part 1)*

As advised to you in the email dated 22 February 2018, CMTEDD does not hold documents with all the information you have requested. However, some of the information can be compiled and provided to you in the table template you provided.

On the same day, you requested further information to be provided in addition to the table proposed. Specifically you asked for:

2. *Copies of the Commissioner's policy documents and/or written instructions to assessing staff for determining the eligibility for the s11(2) exemption generally, and in particular, in situations where the property involved has an amalgamation of blocks during the process and/or a strata title near the end. (Part 2)*
3. *Copies of any legal advice held by the Commissioner regarding whether the step of strata titling a block constitutes a change to the designation of the land." (Part 3)*

### **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.

### **Timeframes**

In accordance with section 40 of the Act, CMTEDD is required to provide a decision on your access application by 13 March 2018.

## **Decision on Access**

A search of all business areas within CMTEDD which may hold information relevant to your request was completed. The search resulted in some information relevant to part 1 of your access application being found. This information will be released in the table template you provided as part of your original request. The remainder of the information requested in part 1 of your application was not found to be in the possession of CMTEDD or would require an unreasonable and substantial diversion of resources to identify, locate and collate.

In relation to part 2 of your access request, I have decided to refuse to deal with this part as the information you have requested is publically available.

In relation to part 3 of your request, a search of CMTEDD files was undertaken and no documents that fall within the scope of your request were found.

I have included as Attachment A to this decision the schedule of relevant documents that are able to be released to you. This attachment provides a description of each of the documents that fall within the scope of your request and the access decision for each of those documents.

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 decision for each part of your request is below.

### **Statement of Reasons – Part 1**

1. *“For the last 3 years, the number of land tax exemption applications, and the dollar value of those applications, for each of the circumstances outlined in the attached table.”*

The Chief Minister, Treasury and Economic Development Directorate does not collect data at the specific level you have requested in your original access request. To assist you with your enquiry, and to promote the objectives of the Act, CMTEDD created a document using the template you provided which provides the number of approved applications for a land tax exemption under section 11(2) of the *Land Tax Act 2004*. This document is provided at Attachment B of this letter.

In compiling the information you requested, a search of CMTEDD records was conducted and resulted in no information being identified in relation to builder’s exemptions on:

- whether leases have been consolidated; and
- whether the final dwellings are strata titled.

In regards to your request for information regarding;

- the value (by land tax otherwise payable) of exemptions; and
- the number of applications refused,

I am advised by the relevant business area that this information does not exist and would need to be created using other data points. In relation to the Value (by land tax otherwise payable) of exemptions under section 11(2) of the *Land Tax Act 2004* received during the last 3 years, the information you have requested could only be compiled by looking at all exemptions provided (3,688) over 2014-15, 2015-16, 2016-17 and 2017-18 (year to date), and calculating a value for each by reference to the land value and the length of the exemption. This would require a considerable use of resources as there are no IT systems capable of extracting the data required to perform the calculations. These calculations would have to be done manually.

In relation to the number of applications for an exemption under section 11(2) of the *Land Tax Act 2004* refused, the information you have requested could only be compiled by examining email records over the period in question and cross checking all the Builders Exemption requests with the Revenue Office IT system to determine which were approved/refused. The ACT Revenue Office receives over 60,000 emails each year. I am satisfied that collation of this information would require a considerable use of Directorate resources.

#### Proposed Decision on Access

Based on the number of pages and the estimated time it would take to process your request, I am proposing to refuse to deal with your request for the value (by land tax otherwise payable) of exemptions and the number of applications refused under s43(1)(a) of the Act.

I am satisfied that dealing with this request in its current form would require an unreasonable and substantial diversion of CMTEDD resources pursuant to s44(1)(a) of the Act, as the time taken to identify, collate and examine the information held by CMTEDD would substantially inhibit the ability of the CMTEDD to exercise its functions.

#### Consultation Period

Pursuant to s46(1), prior to refusing to deal with this part of your request under s43(1)(a) of the Act, I am required to provide you with the opportunity to amend your application. The time allowed to allow you to amend your request under s46(4)(a) of the Act is 10 working days. You are required to amend the scope of your request by 27 March 2018.

If no response is received from by 27 March 2018, I will make a decision to refuse to deal with this part of your application under s43(1)(a) of the Act.

### **Statement of Reasons – Part 2**

- 2. Copies of the Commissioner's policy documents and/or written instructions to assessing staff for determining the eligibility for the s11(2) exemption generally, and in particular, in situations where the property involved has an amalgamation of blocks during the process and/or a strata title near the end.*

In relation to the second point of your request, a circular providing guidance regarding the builder's exemption has been identified during the document search. This document is available at the ACT Revenue Office's website under the category 'Land Tax' at <https://www.revenue.act.gov.au/publications/circulars>.

Pursuant to subsection 43(1)(d), I am refusing to deal with this part of your request as the information you have requested is already publically available in accordance with subsection 45(a) of the Act.

### **Statement of Reasons – Part 3**

- 3. Copies of any legal advice held by the Commissioner regarding whether the step of strata titling a block constitutes a change to the designation of the land."*

A search of CMTEDD documents was conducted and no information has been found that falls within the scope of your request. I am satisfied that these searches were conducted correctly and that no documents within the scope of your request are held by CMTEDD.

### **Charges**

Pursuant to *Freedom of Information (Fees) Determination 2017 (No 2)* processing charges are not applicable for this request as the total 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 16 March 2018. 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: [ombudsman@ombudsman.gov.au](mailto:ombudsman@ombudsman.gov.au)

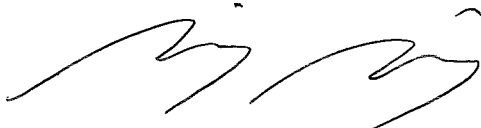
**ACT Civil and Administrative Tribunal (ACAT) Review**

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](mailto:CMTEDDFOI@act.gov.au)

Yours sincerely,



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

13 March 2018





**ACT**  
Government

Chief Minister, Treasury and  
Economic Development

## FREEDOM OF INFORMATION REQUEST SCHEDULE

NAME	WHAT ARE THE PARAMETERS OF THE REQUEST	Reference NO.
[REDACTED]	<ul style="list-style-type: none"> <li>For the last 3 years, the number of land tax exemption applications, and the dollar value of those applications, for each of the circumstances outlined in a table provided;</li> <li>Copies of the Commissioner's policy documents and/or written instructions to assessing staff for determining the eligibility for the s11(2) exemption generally, and in particular, in situations where the property involved has an amalgamation of blocks during the process and/or a strata title near the end; and</li> <li>Copies of any legal advice held by the Commissioner regarding whether the step of strata titling a block constitutes a change to the designation of the land.</li> </ul>	CMTEDDFOI 2018-0033

Ref No	Page number	Description	Date	Status	Reason for Exemption	Online Release Status
1	1	Table	undated	Full release	n/a	Yes
<b>Total No of Docs</b>						
1						

The number of approved applications for a land tax exemption under section 11(2) of the Land Tax Act 2004, categorised by either new leases or existing leases and whether the lease contains either a single dwelling or multiple dwellings, are shown in the table below:

<i>Land Tax Act 2004</i> Section 11(2) Builders' Exemption Approvals	Total Approvals				Granted at purchase date (New lease)				Granted after purchase date (existing lease)			
	2014-15	2015-16	2016-17	YTD 2017- 18*	2014-15	2015-16	2016-17	YTD 2017- 18*	2014-15	2015-16	2016-17	YTD 2017- 18*
Single dwelling	270	146	215	66	7	12	15	1	263	134	200	65
Multiple dwellings	808	283	1458	442	30	3	63	185	778	280	1395	257

\* 2017-18 Year to date, February 2018.

The ACT Revenue Office does not hold information in relation to the builders' exemption on:

- whether leases have been consolidated;
- whether the final dwellings are strata titled.
- the value (by land tax otherwise payable) of exemptions. This information could be compiled by looking at all exemptions provided, and calculating a value for each by reference to the land value and the length of the exemption. This would require a considerable use of resources.

The number applications refused can be obtained, however, this would involve looking through three years' worth of emails to the Revenue Office then cross checking all the Builders Exemption with our IT system to determine which were approved/refused. This would require a considerable use of resources.